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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, FIRST SESSION

SENATE—*Tuesday, October 13, 1987*

The Senate met at 9 a.m., and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"God is our refuge and strength, a very present help in trouble. Therefore will not we fear * * *."

In the words of the Navy hymn we pray for all personnel in the Persian Gulf and elsewhere, and their families:

"Eternal Father, strong to save, Whose arm hath bound the restless wave, Who bids the mighty ocean deeps its own appointed limits keep. O hear us when we cry to Thee for those in peril on the sea.

"O Christ, the Lord of hill and plain, O'er which our traffic runs a-main. By mountains pass or valley low: Wherever Lord, our brethren go, Protect them by Thy guardian hand From every peril on the land.

"O Spirit Whom the Father sent to spread abroad the firmament: O Wind of heaven, by Thy might Save all who dare the eagle's flight, And keep them by Thy watchful care; From every peril in the air. Amen."

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 13, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **DASCHLE** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The majority leader.

THE JOURNAL

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. **BYRD.** Mr. President, I thank the Chaplain for his prayer. It is a good way to start off the week and the day.

Someone wrote it into a poem titled "The Secret:"

I met God in the morning
When my day was at its best,
And His presence came like sunrise,
With a glory in my breast.
All day long the Presence lingered,
All day long He stayed with me,
And we sailed in perfect calmness
O'er a very troubled sea.
Other ships were blown and battered,
Other ships were sore distressed,
But the winds that seemed to drive them
Brought to us both peace and rest.
Then I thought of other mornings,
With a keen remorse of mind,
When I too had loosed the moorings,
With the Presence left behind.
So I think I know the secret,
Learned from many a troubled way:
You must seek Him in the morning
If you want Him through the day!

THE PASSING OF GOVERNOR ALF LANDON

Mr. **BYRD.** Mr. President, yesterday, America lost one of its most highly regarded citizens, Gov. Alfred Moss Landon, who passed away at the age of 100. Alf Landon, as he preferred to be called, was the father of our esteemed colleague, Senator NANCY KASSEBAUM, and the Republican nominee for President in 1936.

It was his landslide loss to President Franklin Roosevelt in 1936 for which Governor Landon was, perhaps, best known. But this single defeat should never be allowed to overshadow a lifetime of victories.

Before entering politics, Mr. Landon had been a successful businessman, including, among many business adventures, helping to develop the Nation's western oil fields.

In 1932, in the height of the Great Depression and a nationwide Democratic electoral sweep, he was the only Republican gubernatorial candidate west of the Mississippi River to be elected.

In 1934, in the midst of another Democratic electoral avalanche, he was reelected Governor—the only Republican gubernatorial candidate in the country to be elected that year.

Following his 1936 loss to President Roosevelt, Governor Landon never again sought public office. Instead, in the words of the New York Times, "he became a genial, unassuming pillar of the business community in Topeka."

He also became an admired symbol of his political party and a respected statesman whose opinions of contemporary political events were often sought and highly regarded.

In 1978 came what he called "The thrill of a lifetime." His daughter Nancy was elected to the U.S. Senate.

My wife Erma and I now join Senator KASSEBAUM in mourning the death of her father and we extend our condolences to his wife of 57 years, Theo, and their children and grandchildren.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the Republican leader be reserved during the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. Mr. President, this has been a doubleheader day. We had two fine prayers this morning, one by the Chaplain and one by the majority leader. They are both a great inspiration. I am glad I was on the floor to hear both of them.

THE MERGER MANIA HITS WISCONSIN AND THE NATION HARD

Mr. PROXMIRE. Mr. President, any Senator who believes that the so-called merger mania is just rhetoric should consider what has happened to the firms in his State. My State of Wisconsin is, in many ways, typical. With 50 States in the Union, the average State has about 2 percent of the population. Wisconsin has just that: about 2 percent of the population. Per capita income in Wisconsin is very close to the national average. Our State is slightly stronger in both manufacturing and agriculture than the typical American State and slightly less strong in services. But the difference is only slight. Unemployment and inflation in Wisconsin have been consistently close to the national median. Wisconsin does have fewer of the very rich and fewer of the very poor than would be its average share. For that reason it has more of the economic middle class.

The year 1987 has been like no other year in our State's economic history in one major respect. We have lost ownership of more of our largest and most profitable and efficient firms to out-of-country and out-of-State buyouts than ever before. Four of Wisconsin's twelve biggest firms, measured by sales were taken over, all by out-of-State groups in the first 9 months of 1987. The third and fourth biggest firms in Wisconsin were bought out by foreign firms. Were these firms taken over because they were lazy, incompetently run, unprofitable firms that were not rewarding their stockholders with an adequate return on their investment? No way. Three of the four firms reported extraordinary returns on their equity in 1986. The returns for the fourth were not publicly available.

Consider: the State's third biggest firm and the largest firm that was bought out was the Heileman Brewing Co. of La Crosse, WI. Was it profitable? Heileman enjoyed a return on equity of 15.2 percent, an excellent return under any circumstances and at anytime. The second largest firm taken over was Manpower, Inc. Was Manpower, Inc. of Glendale, WI, an unprofitable business? Mr. President, in 1986 Manpower earned a sensational return on equity of 30.4 percent. It was one of the real stars of the New York Stock Exchange. Each of these companies enjoyed sales of more than a billion dollars in 1986. Now who bought these two extraordinarily profitable and efficiently managed Wisconsin firms? Both were bought by takeover specialists from foreign countries. Heileman was bought by an Australian corporation: Bond Corp. Holdings. Manpower was bought by a United Kingdom firm, England's Blue Arrow. Both of these large and highly successful Wisconsin firms were taken over after a bitter struggle. In the Heileman case, the Wisconsin State Legislature was able to pass defensive legislation which enabled Heileman to negotiate a settlement that both rewarded the Heileman stockholders and saved the jobs, the excellent Heileman management and a big part of the economic base of the Wisconsin community where Heileman is located.

The third largest Wisconsin firm hit by a takeover raid, Rexnord of Brookfield, WI, did not issue publicly available statistics on growth and profits. But this Senator remembers a much more human element of that fine company. Beginning in 1952, 36 years ago, when I started running for Governor of Wisconsin, I used to stand at the Nordberg factors gates shaking hands with workers and managers as they went to work beginning at about 6:30 a.m. and right on until 7:30 a.m. There was a fine management-worker relationship at that firm and great pride by its workers in Milwaukee and Wisconsin.

The fourth largest Wisconsin firm taken over last year was the Godfrey Co. of Waukesha, WI. How about Godfrey's competence and efficiency? Was this firm that had $664 million in sales in 1986 inefficient, unprofitable, a poorly run operation? Take a look at the record. In 1986 Godfrey's return to its stockholders was a sensational 22.5 percent on equity. And this was a pattern that Godfrey had established over the years. Between 1981 and 1986 Godfrey averaged an astonishing 24.7 percent return. Was Godfrey growing? Between 1985 and 1986 its profits grew by more than 52 percent.

Mr. President, the takeover of this country's most highly efficient and profitable firms represents a serious threat to our economic competitiveness. Time and time again these takeovers are paid for by massive increases in corporation debt that forces cash flow into paying interest on that debt and away from research and development, manpower training and buying more efficient equipment. Takeovers, especially hostile takeovers pour millions of dollars into the pockets of a few investment bankers, lawyers, and stock manipulators. But they are bad economic news for our State and for our country.

This is why a bill that would deal with this situation reported out by the Senate Banking Committee on September 30 by a 14 to 6 vote and now on the calendar is so critical for our country's economic future.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR REID

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nevada is recognized for not to exceed 15 minutes.

Mr. REID. Thank you, Mr. President.

CORPORATE TAKEOVERS

Mr. REID. We have heard a statement by the Senator from Wisconsin about his pleasure of being here this morning. I feel the same. The prayer of the Chaplain and of course the recitation by the majority leader were moving. But I state to the Senator from Wisconsin I am happy to be here to hear his statement and to tell him how much I appreciate the work he has done in this very vital area.

As the Senator from Wisconsin knows, I spent a great deal of time on the floor 2 weeks ago relating to a problem in Nevada. It is interesting in this country today; companies that are sound and fiscally doing well are punished by corporate takeovers. So I commend and applaud the Senator for the work his committee has done and the leadership that the Senator from Wisconsin has shown in this very vital area to this country. Over 80,000 jobs have been lost as a result of corporate takeovers, jobs in States like Wisconsin, Nevada, and North Carolina. So the Senate and the country, I am sure, join me in applauding the leadership of the Senator from Wisconsin.

NOMINATION OF JUDGE ROBERT BORK

Mr. REID. Mr. President, over the past weeks, this body has faced one of its most important duties. We must review the qualifications of a man nominated by the President for the highest Court in the land. As the process began, I set out to build a logical basis for voting to confirm Judge Robert Bork, the President's nominee.

It seemed an easy task, because it was my solemn belief that if the President nominated someone who was qualified for the job then that person should be confirmed. We all have our own personal agenda, issues which mean a great deal to us based on our own moral commitments such as the right of the unborn, freedom of religion, equal protection and privacy. I did not, however, feel that those questions of particular votes in particular cases should be applied in confirming a justice, and accordingly though I preferred a judge who interpreted the law, not a judge who legislated the law—a practitioner of judicial restraint, I believed the Senate's role to be quite limited.

The Constitution, after all, does not provide that we nominate, instead we advise and consent. Accordingly, I accepted the common wisdom of the past decade that the Senate reviewed a nominee for honesty, intellect, and morality, and ignored his judicial philosophy. Whether a nominee was a liberal or conservative, an activist or a believer in judicial restraint, was it seemed to me a question for the President.

As with all decisions of magnitude where there is time for study, I began my analysis of the Bork nomination with a review of history. That reading was enlightening to say the least. It led me to the conclusion that the phrase "advice and consent" was intended by the Founding Fathers, and certainly demonstrated by American history to include much more than passive review of a President's nominee.

Having reached the conclusion that a Supreme Court nomination merited more than just a determination that a nominee met minimal qualifications, I began with my staff an indepth review of Judge Bork. His writing, his decisions, his testimony, and the testimony and analysis of others were closely scrutinized. Staff attorneys were assigned to debate his qualifications, and analyze the meaning and impact of Judge Bork's positions.

I must admit I entered the process with a bias. I wanted a conservative Justice to fill that vacant seat. It has long been my belief that in some areas the Court has gone much too far in its judicial activism, and I hoped to see a restraining brake applied. Try as I might, however, I could not conclude that Robert Bork is qualified to sit on the Supreme Court of the United States. Raw intellect alone is not enough; there are other compelling considerations.

For me, it was in the final analysis the question of Judge Bork's lack of consistency which led me to the decision that he is simply not qualified.

Our system of law is based upon a central foundation; every action we take which affects another should cause a result predictable by application of established principles of law. The importance of that concept to the efficient ordering of our society cannot be overstated.

At other times or in other places than this, the law has been a mystery to those whose lives it governed. The actions which would lead one man to the executioner's block would have no effect on another. The only difference between them was often an accident of birth.

It was against that unpredictability that our forefathers revolted in 1776. They recognized that the law must be a code of conduct which applied one standard to all.

As a former prosecutor and defense attorney, I have often stressed the need for certainty in the criminal law. It is not as important that punishment be severe, as that it be swift, sure and certain.

As a practicing attorney and small businessman, I came to recognize that the need for certainty in day-to-day affairs was equally necessary. Everyone needs to know that their actions will have certain legal effects, and that they can presume that they have rights which are created based on a code of law which remains constant from day to day.

It is because of that need for certainty that I have repeatedly expressed my desire for the appointment to the Supreme Court of conservative justices who believe in judicial restraint. Certainly, the law is a living thing, and certain it is that the Court has reinterpreted the Constitution to recognize the changes which must occur when a set of fixed principles is applied to an ever evolving society.

I believe, however, that the Founding Fathers in their divinely inspired wisdom designed the Court to act as a brake on the whims of that society, just as this body was designed to cool the passions of the House of Representatives. A judge who sprints to the forefront of novel concepts may not be wicked or unintelligent, but he is certainly someone who should not sit on the judicial body which interprets the highest law of our land.

It is upon that need for certainty that I have based my decision on Judge Robert Bork, because the only consistent thing about his life has been his continuing pattern of inconsistency. As others have pointed out on this floor, his wild swings in philosophy—from flirtation with the fanatical, even to socialism, to libertarianism, to conservatism, to his most recent swerve back to the middle of the road, smacks of intellectual extremism.

His most recent change in philosophy, the so-called "confirmation conversion," coming as it did on the heels of his nomination, and apparently based on a White House decision to portray him as a moderate, has also given me considerable pause. I am not alone in that scepticism.

Bruce Fine of the very conservative and respected Heritage Foundation said he thought it was a shame that Judge Bork was "bending his views to improve his confirmation chances." Mr. Fine concluded that Judge Bork's "ambition perhaps exceeds his intellectual devotion."

Similarly, Senator **Sanford**, whose academic credentials include being the president of Duke University, reached his conclusion that Judge Bork lacked academic and intellectual honesty and true scholarship because of his wide swings from one opposing position to another.

We have heard repeatedly from some during these hearings that consistency is the hobgoblin of little minds. In this day of accuracy in quotations, I would remind my friends that what Emerson actually said is that "a foolish consistency is the hobgoblin of little minds."

There is as I have pointed out a great deal to be said for a wise, and conscious, and reasoned consistency in the application of the law to the affairs of men. It is that lack of consistency in Judge Bork's writings, opinions, and statements that sorely troubles me.

Robert Bork has endorsed the right of States to impose poll taxes and literacy tests. Anyone who would endorse that concept in the abstract without recognizing the fact that such laws were designed to prevent average people with common sense from voting because of their race or social condition, is disconnected from reality.

The fact is, that if the law was what Bork said it was, my mother and father, and many, many other Americans below the poverty level or without an education could have been disqualified from voting.

Robert Bork has opposed the concept of one man one vote, saying he cannot find it in the Constitution. Anyone who takes that position in the abstract without recognizing the fact that millions of Americans had been disenfranchised under prior gerrymandered systems, is out of touch with reality.

The fact is, that if the law was what Judge Bork said it was, Barbara Jordan would have never begun a political career, and this Nation would have been denied her eloquent and forceful voice for equality. There are those who serve in the U.S. Senate, both Democrats and Republicans, who got their start in the House of Representatives based on one man one vote, reapportionment.

Robert Bork has written that laws which prevent hotels and motels from discriminating against customers because of their race were based on "a principle of unsurpassed ugliness." Anyone who would endorse that concept in the abstract without recognizing the fact that it denies many, many Americans the right to travel freely in interstate commerce is disconnected from reality.

The fact is that if the law was what Judge Bork said it was many could not travel in our Nation where and when they chose for no reason other than their race.

The respected National Catholic Register is dubious about Robert Bork's view of the rights of the unborn. This publication reminds us that Judge Bork testified against the Helms human life bill. He said it would infringe upon the Courts role to enunciate fetal personhood.

Even this publication is concerned that he could be far more dedicated to limiting peoples' rights than he would be in promoting the unborn's right to enter this world alive.

John Wilke, president of the National Right to Life Committee says "we're not sure Bork is against abortion. In our circles there is substantial doubt that he is."

Bork's preconfirmation stance was clearly in disagreement with Roe versus Wade. During confirmation he changed and said there may be some basis for the decision.

I have a 100-percent prolife voting record. I find it difficult to comprehend that any of Judge Bork's support comes from the prolife community. There simply is no logical basis for predicting his decisions in this vital area.

The fact is that if the law was what Judge Bork said it is or was it would be even more uncertain than it now is.

Although he told the Judiciary Committee that he believes in judicial restraint, Robert Bork has stated that Congress is institutionally incapable of fashioning antitrust policy. Anyone who believes that in the abstract without recognizing the fact that the legislature has a role in the national government is out of touch with the reality of any concept of congressional intent.

The fact is, that if the law was what Judge Bork said it was, the octopus of the trusts would still grip this Nation in its tentacles as it did in the era of the robber barons. It was Congress which fashioned the policy which broke that grip.

Robert Bork has supported the right of individuals to enter into restrictive covenants to prevent someone from buying a house because of their race or religion. Anyone who would endorse that concept in the abstract without recognizing the fact that it is a pernicious contradiction to what America means is disconnected from reality.

The fact is, that if the law was what Judge Bork said it was, my wife, and many, many other Americans of Jewish birth could not live where they chose.

Robert Bork has espoused a philosophy of Madisonian majoritarianism which could allow a majority of Americans to deny to a minority the free exercise of their religion. Anyone who endorses that concept without recognizing the fact that it could deny to Jews, Mormons, Mennonites, and many others the fundamental rights of religious freedom is disconnected from reality.

The fact is, if the law was what Judge Bork said it was, our Nation could lose the most important guarantee of our Constitution—the guarantee that my family and your family, and everyone else's family may worship God in the way that we choose without fear of interference.

Judge Bork says his views have changed. I do not believe him. His statements, his testimony, his writings are those of an activist, and as Senator HEFLIN, formerly of the Alabama Supreme Court, has pointed out an activist from the right is just as bad as one from the left.

It is that lack of conviction, that inconsistency, those wild swings in philosophy, which doom the Bork nomination. He will not lose the upcoming vote because of partisanship, or some flexing of congressional muscle in a contest with the President. Rather, Robert Bork does not possess the qualifications to be a Supreme Court Justice. He simply lacks the intellectual and moral foundation of a John Marshall, an Oliver Wendell Holmes, a Felix Frankfurter, a Hugo Black, a Byron White, or an Antonin Scalia. That lack of calm and reasoned temperament was further demonstrated by his recent pronouncements on his determination to keep vacant a seat on the Court as long as possible, without regard to the needs of the Nation or his duty to a system of law which has conferred upon him so many benefits.

I believe that our Constitution was divinely inspired. It was created only because of the faith and prayer of our Founding Fathers. It was not a perfect document, but it was the best there could be, and it represented a great compromise and a magnificent beginning. That Constitution mandates the separation of powers and provides the obligation of this body to participate as a coequal partner with the Executive in the selection of members of the third branch, the Supreme Court.

Based on that responsibility. I will without hesitation vote no on the Bork nomination. My affirmative vote will be reserved for the future for a truly qualified, conservative nominee who believes in judicial restraint.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for not to exceed 5 minutes, with Senators permitted to speak therein for 1 minute each.

ALF LANDON—1887-1987: A CENTURY OF ACHIEVEMENT—OCTOBER 13, 1987

Mr. DOLE. Mr. President, one of the giants of American politics—Alf Landon—passed away yesterday in Topeka—and today Kansas is mourning.

I am proud to say that Alf Landon was a friend of mine. He was also a mentor. When it came to running for office in my State, Alf Landon was the role model. He earned the respect of Kansans and the rest of America—Republicans, Democrats, and independents—with a career whose hallmark was integrity: He taught generations of politicians what common sense and leadership were all about.

A CENTURY OF ACHIEVEMENT

He was called the "grand old man of the Grand Old Party," but it was not just because he lived to be 100 years old—it was because his life was a solid century of achievement.

Alf Landon was an outstanding two-term Governor, a visionary Presidential candidate, and a wellspring of wisdom for politicians who recognized that the "sage of Topeka" was always way ahead of his times.

THE LANDON LEGACY LIVES ON

Mr. President, we are honored to have the proud legacy of Alf Landon continue on in this Chamber in the person of our exceptional colleague, Senator NANCY LANDON KASSEBAUM. It is a personal honor for me to represent Kansas with her in the U.S. Senate. I know my colleagues join me today in extending our sympathies and prayers to Senator KASSEBAUM and the rest of the Landon family.

It was only a few weeks ago that President and Mrs. Reagan traveled to Topeka to help the Governor celebrate his 100th birthday. Today I choose to remember that happy occasion, a celebration of a man whose remarkable life guarantees him a place in the history of this great land.

Mr. President, I ask unanimous consent to have printed in the RECORD a New York Times and a Washington Times article on Alf Landon.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 12, 1987]

ALF LANDON, G.O.P. STANDARD-BEARER, DIES AT 100

TOPEKA, KAN., Oct. 12.—Alf Landon, the former Kansas Governor who was a landslide loser to Franklin D. Roosevelt in the 1936 Presidential election, died today. He observed his 100th birthday Sept. 9.

Mr. Landon, the father of Senator Nancy Landon Kassebaum, Republican of Kansas, was hospitalized Sept. 28 at Stormont-Vail Regional Medical Center after complaining of pain. He was treated for a gallstone and a mild case of bronchitis before returning home Oct. 10.

Mr. Landon received President Reagan and his wife, Nancy, at his home Sept. 6 in honor of his 100th birthday.

LIVING DOWN LANDSLIDE

In his landslide loss to President Roosevelt in 1936, Mr. Landon carried only two states, Maine and Vermont. He later said of the defeat, "As Maine goes, so goes Vermont."

He displayed the same sense of humor a month after the election, when, as the outgoing Governor of Kansas, he addressed the Gridiron Club, an organization of Washington newspapermen.

"If there is one state that prepares a man for anything, it is Kansas," he said. "The Kansas tornado is an old story. But let me tell you of one. It swept first the barn, then the outbuildings. Then it picked up the dwelling and scattered it all over the landscape.

"As the funnel-shape cloud went twisting its way out of sight, leaving nothing but splinters behind, the wife came to, to find her husband laughing.

"She angrily asked him, 'What are you laughing at, you darned old fool?'

"And the husband replied, 'At the completeness of it.' "

523 ELECTORAL VOTES TO 8

Roosevelt, running for his second term, won 27,747,636 votes to 16,679,543 for his Republican rival. Mr. Landon received 8 electoral votes to Roosevelt's 523.

The plurality of 11,068,093 in the popular vote stood as a record until 1964, when with 30 million more voters President Johnson defeated Barry Goldwater by 15,948,746 votes. Even so, the Arizona Republican carried six states with 52 electoral votes.

The plurality mark was broken again in 1972 when President Nixon won reelection by 17,998,388 more votes than George McGovern. The South Dakota Democrat carried only Massachusetts and the District of Columbia, for 17 electoral votes.1

But Mr. Landon's 36.5 percent of the popular vote remained below Mr. Goldwater's 38.5 percent and Mr. McGovern's 37.5 percent in tallies gathered by Congressional Quarterly.

DID NOT FEAR ROOSEVELT

Mr. Landon could bear his defeat with equanimity partly because he had had no real hope of winning and partly because he did not fear for the future of the nation, as did many of his fellow Republicans, if Roosevelt was reelected.

Throughout his life Mr. Landon was a member of his party's liberal wing. As Governor of Kansas he endorsed many of the most controversial aspects of the New Deal. He respected and admired Roosevelt.

Despite all this, Mr. Landon came to be thought of in later years as the prototype of Middle Western provincialism and conservatism.

After his 1936 defeat, Mr. Landon did not seek public office again. He became a genial, unassuming pillar of the business community in Topeka, which was the headquarters of the oil-well business that had made him a millionaire by the late 1920's.

But he was often asked his opinion, and he did not hesitate to take strong stands. In the 1930's he disagreed with Republicans who supported the Neutrality Act; he feared it would mislead Nazi Germany into thinking the United States was unwilling to fight. World War II he argued against lend-leasing military equipment, urging instead that Britain be given $5 billion outright.

BACKED MARSHALL PLAN

He supported President Truman on aid to Greece and Turkey against Communist threats and backed his Marshall Plan for reconstruction of Europe even while opposing high domestic spending and a "welfare state."

He argued that the United States should join Europe's Common Market in 1961, when President Kennedy urged only cooperation. In President Johnson's Administration, Mr. Landon supported Medicare and other Great Society programs.

In November 1962, when he was asked to describe his political philosophy, Mr. Landon said: "I would say practical progressive, which means that the Republican Party or any political party has got to recognize the problems of a growing and complex industrial civilization. And I don't think the Republican Party is really wide awake to that."

Mr. Landon never renounced his party allegiance, and in the 1964 Presidential campaign heeded the pleas of party leaders to remain silent on his choice between President Johnson and Senator Goldwater.

FATHER AN OIL PROSPECTOR

Alfred Mossman Landon, who preferred to be known as Alf, was born Sept. 9, 1887, in his maternal grandfather's Methodist parsonage in West Middlesex, Pa. His father, John Manuel Landon, was an oil prospector and promoter in the Pennsylvania fields.

The family lived for a time in Marietta, Ohio. In 1904, when Alf Landon was 17, the Landons followed the search for oil westward to the fields of southwestern Kansas.

From his home in Independence, Kan., Mr. Landon went to the University of Kansas. At his father's insistence, Mr. Landon attended the university's law school, but after his graduation in 1908 he went to work for an Independence bank as a bookkeeper. On a salary that ranged from $75 to $90 a month, he saved money and invested in oil ventures. Four years later he formed his own oil business.

MET PROGRESSIVE REPUBLICANS

In the same year, 1912, he attended the Bull Moose convention in Chicago that nominated Theodore Roosevelt for the Presidency. The elder Mr. Landon was a delegate. The younger Mr. Landon met the leaders of progressive Republicanism, including William Allen White, editor of The Emporia Gazette in his home state, and the experience shaped his political thinking for the rest of his life.

The young businessman enlisted in the Army in World War I. He received a commission in the chemical warfare corps but was still in training at Lakewood, N.J., when the Armistice was signed.

Mr. Landon became head of the Republican state organization in 1928 and delivered the largest percentage of any state in the nation for Herbert Hoover's election victory.

In 1932 Mr. Landon ran for Governor himself. Wearing his oilfield work-clothes, laced boots, a leather jacket and the battered brown fedora that was to become a trademark, he campaigned in crossroads villages across the state.

He defeated the Democratic incumbent, Harry H. Woodring, who was later appointed Secretary of War by President Roosevelt, by 5,637 votes. With the Depression on, he was the only Republican gubernatorial candidate west of the Mississippi to survive the New Deal avalanche.

In 1934, Mr. Landon increased his margin of victory to 60,000 votes. That year, he was the only Republican gubernatorial candidate in the country to be elected.

Republican national leaders, desperate for a candidate to oppose Roosevelt in 1936, began turning up in Topeka to confer with Mr. Landon, even though the New Deal echoes in his two inaugural addresses might have given them pause.

"Our problems," he had asserted in 1932, "have been intensified by the great industrial plutocracy we have built since the last depression of 1893."

He went on to express doubt that "the Jeffersonian theory that the best government is the one that governs the least can be applied today—I think that as civilization becomes more complex, government power must be increased."

While the Governor criticized Roosevelt's "slapdash, jazzy methods," he endorsed the goals of the Roosevelt Administration and most of its new laws.

But the Republican leaders preferred to note that Mr. Landon had reduced his state's operating expenses, including his own salary, and had balanced the budget. And, they noted, he had been elected twice.

Under the guidance of his campaign manager, John D.M. Hamilton, the Governor declined to enter any Presidential primaries, or even to stir off his front porch, to seek the nomination, but he was chosen by acclamation on the first ballot when the Republicans convened in Cleveland.

The pictures of Mr. Landon that began to appear on billboards and in newspapers showed a smiling, round-faced man with thinning, sandy hair whose gray eyes viewed the world shrewdly through rimless glasses. Millions of sunflowers, his state's flower, blossomed in bottons and posters.

The Governor's theme was, at the start, that a Republican administration could carry out the necessary reforms in the country's social and economic structure more efficiently and honestly than the New Deal.

COINED "NEW FRONTIER"

"America at the Crossroads," a slim volume published in 1936, outlined his "program for American government." The first chapter was titled "The New Frontier," a phrase that President Kennedy was to make a good deal better known.

When the President began his campaign, it soon became apparent that the election would be no contest. Roosevelt seldom mentioned Mr. Landon, or for that matter the Republicans. He cited the country's recovery from the 1932 depths of the Depression and asserted that the forces of reaction were seeking to undo these gains.

As the trend toward the President became unmistakable, Mr. Landon's campaign lost coherence. At the urging of his advisers, he moved to the right on some issues and contradicted himself on others.

Mr. Landon was married to Theo Cobb in 1930. His first wife, Margaret Fleming, whom he had wed in 1915, had died. He had three children—Margaret Anne by the first marriage and Nancy and John by the second.

[From the Washington Times, Oct. 13, 1987]

Alf Landon, Grand Old Man of GOP, Dies at Home at 100

TOPEKA, KAN.—Alf Landon, the former Kansas governor whose presidential hopes were swamped in Franklin Roosevelt's 1936 landslide but who became the grand old man of the Grand Old Party, died yesterday at his home at the age of 100.

Mr. Landon, the father of Sen. Nancy Kassebaum, Kansas Republican, wryly described himself "a lawyer who never had a case, an oilman who never made a million and a presidential candidate who carried only Maine and Vermont."

He refused to be nettled about his epic loss, and in later years gave his grandchildren ponies named for the two states he won.

"They might have forgotten me if it had been close," he once said.

Mr. Landon was hospitalized Sept. 28 at Stormont-Vail Regional Medical Center after complaining of internal pain. He was treated for a gallstone and a mild case of bronchitis before returning home Saturday.

As the decades put the 1936 drubbing further and further behind him, Mr. Landon became a beloved symbol of his party. He received President Reagan at his home last month on the occasion of his 100th birthday.

Mr. Reagan, in a statement, called him "a true elder statesman, whose expertise and views were sought and valued by many of us in public life." He "exemplified the very best in public service," the president said. "He deeply loved his country and he was motivated by a genuine desire to help his fellow man."

Dubbed "the Kansas Coolidge," his campaign was symbolized by the sunflower, his battered felt hat and the slogan "Life, Liberty and Landon." He condemned New Deal policies as "dangerous and cockeyed."

Mr. Landon, who emerged as the GOP's bright hope by being the only Republican governor to win reelection in 1934, received eight electoral votes. Walter Mondale received 13 electoral votes in 1984, the second-lowest number in modern political history.

Mr. Landon never sought office again.

Alfred Mossman Landon was born Sept. 9, 1887, in West Middlesex, Pa., the son of an oil explorer who began drilling in Kansas near the turn of the century.

Young Alf spent his college summers working with the oil field wildcatters, doing menial chores. He graduated from the University of Kansas with a degree in law in 1908, then went back to the oil fields, this time on his own.

Mr. Landon met and married Margaret Fleming of Oil City, Pa., in January 1915 when he was 28 and on his way to affluence in the oil business.

She died 3½ years later, leaving him with a year-old daughter, Margaret Anne. Heartbroken, Mr. Landon joined the Army as a lieutenant and after leaving the service in 1919 went to Independence, Kan., to make a home.

A decade later, he married Theo Cobb, a Topeka socialite who was fascinated by his politics. They had two children, Nancy, born in 1932, and John Cobb, born a year later. He had 10 grandchildren and nine great-grandchildren.

Mr. Landon's activity in Republican politics—and his reputation as a maverick—dated to 1912, when he worked in the Bull Moose campaign.

His father was one of the delegates to the GOP National Convention who joined Theodore Roosevelt's Bull Moose revolt, which split the party and helped Democrat Woodrow Wilson oust Republican William Howard Taft from the White House. Twelve years later, the Landons supported the anti-Klan independent gubernatoral candidacy of editor William Allen White, a party split that gave the Democrats the Statehouse.

In 1928, Mr. Landon was campaign manager for Clyde M. Reed, who was elected governor, then became Mr. Reed's state GOP chairman. He won the governorship himself in 1932 and was elected to a second two-year term by 10 times the margin of his first race.

At the 1972 GOP National Convention in Miami Beach, he was honored as one of the party's "distinguished senior citizens." Four years later, when the convention was in Kansas City, he got a standing ovation.

In his mid-80s, he would call party leaders and let them know what he felt should be done. They didn't always do it, but they listened to the "voice from the heartland," as Richard Nixon once described Mr. Landon's letters.

His eyesight began to fail and his hearing grew so weak he found it difficult to follow conversations, but he continued to show great interest in the events of the day.

Mrs. Kassebaum's U.S. Senate victory in 1978, when Mr. Landon was 91, was "the thrill of a lifetime," he said.

He helped her all he could and appeared at a Kassebaum rally in a Topeka park, his first appearance on behalf of a candidate in 20 years.

"My whole record shows I was something of a maverick," he once told an interviewer. "I've always been free to act as I wanted. It was my own personal decision, and I've never regretted it. I've rather relished my role."

Mr. DOLE. Mr. President, I reserve the remainder of my time.

CALL OF THE ROLL

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 29]

Byrd
Cohen
Daschle
Hecht

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have previously been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Mississippi [Mr. COCHRAN], the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Indiana [Mr. LUGAR], the Senator from Oklahoma [Mr. NICKLES], the Senator from Delaware [Mr. ROTH], the Senator from Vermont [Mr. STAFFORD], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I also announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 12, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—67

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Cohen
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Humphrey
Inouye
Johnston
Karnes
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Thurmond
Trible
Warner
Wilson

NAYS—12

Bond
Chafee
Conrad
Evans
Hecht
Helms
Kasten
Murkowski
Quayle
Symms
Wallop
Weicker

NOT VOTING—21

Armstrong
Biden
Burdick
Chiles
Cochran
Danforth
Dodd
Garn
Glenn
Gore
Heinz
Kassebaum

Kennedy
Lugar
Nickles
Pell
Roth
Simon
Stafford
Stevens
Wirth

So the motion was agreed to.

The PRESIDING OFFICER. With the additional Members voting who did not answer the quorum, a quorum is present.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MEDICARE CATASTROPHIC ILLNESS COVERAGE ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1127) to provide for Medicare catastrophic illness coverage, and for other purposes.

The Senate resumed consideration of the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Catastrophic Loss Prevention Act of 1987".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.
Sec. 2. Scope of benefits under part A.
Sec. 3. Deductibles and coinsurance under part A.
Sec. 4. Limitation on cost-sharing.
Sec. 5. Increase in part B premium.
Sec. 6. Supplemental premium for catastrophic illness coverage.
Sec. 7. Medicare coverage of home health services on a daily basis.
Sec. 8. Clarification of requirement that individual be confined to home to be eligible for home health services.
Sec. 9. Annual notice to medicare beneficiaries.
Sec. 10. Adjustment of AAPCC's and contracts for risk-based eligible organizations.
Sec. 11. Study of treatment of prescription drugs.
Sec. 12. Hospice care.
Sec. 13. Voluntary certification of medicare supplemental health insurance policies.
Sec. 14. Determination of medicaid savings; State plan requirement.
Sec. 15. Studies of long-term care.
Sec. 16. Case management demonstration projects.
Sec. 17. Repeal of authority to administer proficiency examinations.
Sec. 18. Trustee comments on actuarial soundness of basic and supplemental catastrophic benefit premiums.
Sec. 19. Technical amendment relating to waivers for home and community-based services.
Sec. 20. Technical amendments relating to New Jersey respite care pilot project.
Sec. 21. Effective dates.

SEC. 2. SCOPE OF BENEFITS UNDER PART A.

(a) FOR INDIVIDUALS COVERED UNDER PARTS A AND B.—Section 1812 (42 U.S.C. 1395d) is amended to read as follows:

"SCOPE OF BENEFITS FOR INDIVIDUALS COVERED UNDER PARTS A AND B

"SEC. 1812. (a) The benefits provided by the insurance program under this part to an individual who is covered by such program and by the insurance program under part B shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

"(1) inpatient hospital services;

"(2) extended care services for up to 150 days during any calendar year;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under subsection (c)(1).

"(b) Payment under this part for services furnished to an individual who is covered by the insurance programs established under this part and part B may not be made for—

"(1) extended care services furnished to him during a calendar year after such services have been furnished to him for 150 days during that year; or

"(2) inpatient psychiatric hospital services furnished to him after such services have been furnished to him for a total of 190 days during his lifetime.

"(c)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and one subsequent period of 30 days during the individual's lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this title.

"(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

"(i) hospice care provided by another hospice program (other than under arrangements made by the particular hospice program) during the period, and

"(ii) services furnished during the period that are determined (in accordance with guidelines of the Secretary) to be—

"(I) related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made, or

"(II) equivalent to (or duplicative of) hospice care;

except that clause (ii) shall not apply to physicians' services furnished by the individual's attending physician (if not an employee of the hospice program) or to services provided by (or under arrangements made by) the hospice program.

"(B) After an individual makes such an election with respect to a 90- or 30-day period, the individual may revoke the election during the period, in which case—

"(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subparagraph (A), subsection (a)(4), and section 1812A(a)(4)) the individual shall be deemed to have been provided such benefits during such entire period, and

"(ii) the individual may at any time after the revocation execute a new election for a subsequent period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

"(C) An individual may, once in each such period, change the hospice program with respect to which election is made and such change shall not be considered a revocation of an election under subparagraph (B).

"(D) For purposes of this title, an individual's election with respect to a hospice program shall no longer be considered to be in effect with respect to that hospice program after the date the individual's revocation or change of election with respect to that election takes effect.

"(d) For purposes of subsection (b), inpatient psychiatric hospital services and extended care services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1814(a), made with respect to such services under this part.".

(b) FOR INDIVIDUALS COVERED UNDER PART A ONLY.—Part A of title XVIII is amended by inserting after section 1812 the following:

"SCOPE OF BENEFITS FOR INDIVIDUALS COVERED UNDER PART A ONLY

"SEC. 1812A. (a) The benefits provided by the insurance program under this part to an individual who is covered by such program but not by the insurance program under part B shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

"(1) inpatient hospital services for up to 150 days during any spell of illness minus 1 day for each day of inpatient hospital services in excess of 90 days received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless the individual specifies in accordance with regulations of the Secretary that the individual does not desire to have such payment made);

"(2)(A) post-hospital extended care services for up to 100 days during any spell of illness, and (B) to the extent provided in subsection (f), extended care services that are not post-hospital extended care services;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under section 1812(c)(1).

"(b) Payment under this part for services furnished during a spell of illness to an individual who is covered by the insurance program under this part but not by the insur-

ance program under part B may not (subject to subsection (c)) be made for—

"(1) inpatient hospital services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell minus 1 day for each day of inpatient hospital services in excess of 90 days received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

"(2) post-hospital extended care services furnished to the individual during such spell after such services have been furnished to the individual for 100 days during such spell; or

"(3) inpatient psychiatric hospital services furnished to the individual after such services have been furnished to the individual for a total of 190 days during the lifetime of the individual.

"(c) If an individual is an inpatient of a psychiatric hospital on the first day of the first month for which he is entitled to benefits under this part, the days on which he was an inpatient of such a hospital in the 150-day period immediately before such first day shall be included in determining the number of days limit under subsection (b)(1) insofar as such limit applies to (1) inpatient psychiatric hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness (but shall not be included in determining such number of days limit insofar as it applies to other inpatient hospital services or in determining the 190-day limit under subsection (b)(3)).

"(d) The provisions of section 1812(c) shall apply to individuals who are covered by the insurance program under this part but not by the insurance program under part B in the same manner and to the same extent as those provisions apply to individuals who are covered under both such programs.

"(e) For purposes of subsections (b) and (c), inpatient hospital services, inpatient psychiatric hospital services, and post-hospital extended care services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1814(a), made with respect to such services under this part.

"(f)(1) The Secretary shall provide for coverage, under subsection (a)(2)(B), of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, and under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this title and will not alter the acute care nature of the benefit described is subsection (a)(2).

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of services described in subsection (a)(2)(B) and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886, for such restrictions and alternatives on the amounts and methods of payment for services described in such subsection,

as may be necessary to carry out paragraph (1).".

(c) Conforming Changes.—

(1)(A) Section 1814(e) (42 U.S.C. 1395f(e)) is amended by inserting "or section 1812A" after "section 1812".

(B) Section 1861(dd)(2)(A)(iii) (42 U.S.C. 1395x(dd)(2)(A)(iii)) is amended by striking "section 1812(d)" and inserting in lieu thereof "section 1812(c)".

(C) Section 1903(g)(1) (42 U.S.C. 1396a(g)(1)) is amended by inserting "or section 1812A" after "1812".

(2)(A) Section 1811 (42 U.S.C. 1395c) is amended by striking "related post-hospital" and inserting in lieu thereof "extended care services".

(B) Section 1814(a)(2)(B) is amended—

(i) by inserting "(i)" after "(B)",

(ii) by striking the semicolon at the end thereof and inserting in lieu thereof ", and", and

(iii) by adding at the end thereof the following:

"(ii) in the case of extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitative services, which as a practical matter can only be provided in a skilled nursing facility;".

(C) Section 1814(a)(6) (42 U.S.C. 1395f(a)(6)) is amended—

(i) by inserting ", extended care services," after "inpatient hospital services" the first place it appears, and

(ii) by inserting ", further extended care services," after "inpatient hospital services" the second place it appears.

(D) Section 1861(v)(1)(G)(i) (42 U.S.C. 1395x(v)(1)(G)(i)) is amended—

(i) by striking "post-hospital extended care services" each place it appears and inserting in lieu thereof "extended care services or post-hospital extended care services", and

(ii) by striking "and such extended care services" and inserting in lieu thereof "and such services".

(E) Paragraphs (2) and (3) of section 1861(v) (42 U.S.C. 1395x(v)) are each amended by inserting ", extended care services," after "psychiatric hospital services)".

(F) For related conforming amendments to paragraphs (2) and (3) of section 1861(y) (42 U.S.C. 1395x(y)), see section 3(c)(3) of this Act.

(G) Section 1866 (42 U.S.C. 1395cc) is amended—

(i) in subsection (b)(3), by inserting ", extended care services," after "psychiatric hospital services)", and

(ii) in subsection (d), by inserting "extended care services or" after "or for".

(H) Subsections (d) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by striking "post-hospital extended care services" each place it appears and inserting in lieu thereof "extended care services or post-hospital extended care services".

SEC. 3. DEDUCTIBLES AND COINSURANCE UNDER PART A.

(a) For Individuals Covered Under Parts A and B.—Section 1813 (42 U.S.C. 1395e) is amended to read as follows:

"DEDUCTIBLES AND COINSURANCE FOR INDIVIDUALS COVERED UNDER PARTS A AND B

"Sec. 1813. (a)(1)(A) Subject to subparagraph (C), the amount payable for inpatient hospital services furnished to an individual who is covered by the insurance programs under this part and part B during the individual's first period of hospitalization to begin during a calendar year shall be reduced by a deduction equal to the inpatient hospital deductible for that year or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(B) For purposes of subparagraph (A), the term 'period of hospitalization' means, with respect to an individual, the period beginning on the first day the individual is furnished inpatient hospital services and ending on the individual's date of discharge (as established by the Secretary for purposes of section 1886) from the hospital (or, in the case of a transfer, hospitals) involved.

"(C) In the case of an individual with respect to whom—

"(i) a period of hospitalization begins during December of any calendar year,

"(ii) an inpatient hospital deductible is imposed with respect to such period of hospitalization, and

"(iii) a period of hospitalization begins during January of the following calendar year,

no inpatient hospital deductible shall be imposed with respect to a period of hospitalization beginning in January of such following year (and such period of hospitalization shall not be taken into account in determining the application of an inpatient hospital deductible to any period of hospitalization beginning for such individual after January 31 of such following year).

"(2) The amount payable to any provider of services under this part for services furnished during any calendar year to an individual who is covered by the programs established under this part and part B shall be further reduced by a deduction equal to the cost of the first 3 pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to him as part of such services during that year.

"(3)(A) The amount payable for extended care services furnished in any calendar year to an individual who is covered by the insurance programs established under this part and part B shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each of the first 10 days on which he is furnished such services during any stay in a skilled nursing facility, but in no event shall a coinsurance amount be imposed under this paragraph with respect to an individual for more than 10 days in any calendar year.

"(B) Before September 1 of each year (beginning with 1987), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for extended care services that will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1987), promulgate the coinsurance amount that shall apply to extended care services furnished in the succeeding year. Such amount shall be equal to 15 percent of the national average per diem cost estimated under subparagraph (B) for that year. If the coinsurance amount determined under the preceding sentence is not a multiple of $1, it shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

"(4)(A) The amount payable for hospice care shall be reduced—

"(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to

an amount (not to exceed $5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

"(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1814(i) to that program for respite care;

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term 'hospice coinsurance period' means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1812(c) is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

"(B) During the period of an election by an individual under section 1812(c)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.

"(b)(1) The inpatient hospital deductible for 1987 shall be $520. The inpatient hospital deductible for any succeeding year shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by the applicable percentage increase (as defined in section 1886(b)(3)(B)) which is applied under section 1886(d)(3)(A) for discharges in the fiscal year that begins on October 1 of such preceding calendar year, and adjusted to reflect changes in real case mix (determined on the basis of the most recent case mix data available). Any amount determined under the preceding sentence which is not a multiple of $4 shall be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, the next higher multiple of $4).

"(2) The Secretary shall promulgate the inpatient hospital deductible and all coinsurance amounts under this section between September 1 and September 15 of the year preceding the year to which they will apply.".

(b) For Individuals Covered Under Part A Only.—Part A of title XVIII is amended by inserting after section 1813 the following:

"DEDUCTIBLES AND COINSURANCE AMOUNTS FOR INDIVIDUALS COVERED UNDER PART A ONLY

"Sec. 1813A. (a)(1) The amount payable for inpatient hospital services furnished during any spell of illness to an individual who is covered by the insurance program under this part but not by the insurance program under part B shall be reduced by a deduction equal to the inpatient hospital deductible or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed. Such amount shall be further reduced by a coinsurance amount equal to—

"(A) one-fourth of the inpatient hospital deductible for each day (before the 91st day) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell; and

"(B) one-half of the inpatient hospital deductible for each day (before the day following the last day for which such individual is entitled under section 1812A(a)(1) to have payment made on his behalf for inpatient hospital services during such spell of illness) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 90 days during such spell;

except that the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for such services (and for this purpose, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed).

"(2) The amount payable to any provider of services under this part for services furnished during any spell of illness to an individual who is covered by the insurance program under this part but not by the insurance program under part B shall be further reduced by a deduction equal to the cost of the first 3 pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to him as part of such services during such spell of illness.

"(3) The amount payable for post-hospital extended care services furnished during any spell of illness to an individual who is covered by the insurance program under this part but not by the insurance program under part B shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which the individual is furnished such services after such services have been furnished to the individual for 20 days during such spell.

"(b) The provisions of section 1813(a)(4) shall apply to individuals who are covered by the insurance program under this part but not by the insurance program under part B in the same manner and to the same extent as those provisions apply to individuals covered under both such programs.

"(c)(1) For purposes of this section, the 'inpatient hospital deductible' for a year is the inpatient hospital deductible promulgated under section 1813 for that year.

"(2) The inpatient hospital deductible for a year shall apply to—

"(A) the deduction under the first sentence of subsection (a)(1) for the year in which the first day of inpatient hospital services occurs in a spell of illness, and

"(B) to the coinsurance amounts under subsection (a) for inpatient hospital services and post-hospital extended care services furnished in that year.".

(c) Conforming Changes.—

(1) Section 1814 (42 U.S.C. 1395f) is amended—

(A) in subsection (b) by striking "sections 1813 and 1886" in the matter preceding paragraph (1) and inserting in lieu thereof "sections 1813, 1813A, and 1886", and

(B) in subsections (d) and (f) by striking "section 1813" each place it appears and inserting in lieu thereof "sections 1813 and 1813A".

(2) Section 1833(d) (42 U.S.C. 1395l(d)) is amended by inserting "or section 1813A" after "section 1813".

(3) Section 1861(y) (42 1395x(y)) is amended by striking paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) Notwithstanding any other provision of this title, payment may not be made under part A for services furnished to an individual who is covered by the insurance programs under such part and part B in a skilled nursing facility to which paragraph (1) applies unless such individual elects, in accordance with regulations, for a calendar year to have such services treated as extended care services for purposes of such part; and payment under part A may not be made for extended care services—

"(i) furnished to an individual during such year in a skilled nursing facility to which paragraph (1) applies after—

"(I) such services have been furnished to him in such a facility for 30 days during such year, or

"(II) such services have been furnished to him during such year in a skilled nursing facility to which such paragraph does not apply; or

"(ii) furnished to an individual during such year in a skilled nursing facility to which paragraph (1) does not apply after such services have been furnished to him during such year in a skilled nursing facility to which such paragraph applies.

"(B) In the case of an individual who is covered by the insurance program under part A but not by the insurance program under part B, the provisions of subparagraph (A) shall be applied by substituting 'spell of illness' for 'calendar year', by substituting 'spell' for 'year' each place it appears, and by substituting 'post-hospital extended care services' for 'extended care services' each place it appears.

"(3)(A) The amount payable under part A for extended care services furnished during any calendar year in a skilled nursing facility to which paragraph (1) applies to an individual who is covered by the insurance programs established under such part and part B shall be reduced by a coinsurance amount equal to the coinsurance amount established under section 1813(a)(3)(C) for each day before the 10th day.

"(B)(i) The amount payable under part A for post-hospital extended care services furnished during any calendar year to an individual who is covered by the insurance program established under such part but not by the insurance program established under part B in a skilled nursing facility to which paragraph (1) applies shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day before the 31st day on which the individual is furnished such services in a facility during such spell (and the reduction under this paragraph shall be in lieu of any reduction under section 1813A(a)(3).

"(ii) For purposes of this subparagraph—

"(I) the 'inpatient hospital deductible' for a year is the inpatient hospital deductible promulgated under section 1813 for that year, and

"(II) the inpatient hospital deductible for a year shall apply to the coinsurance amounts under clause (i) for post-hospital extended care services furnished in that year.".

(4) Section 1866(a)(2) (42 U.S.C. 1395cc(a)(2)) is amended—

(A) in subparagraph (A) by striking "section 1813(a)(1), (a)(3), or (a)(4)," and inserting in lieu thereof "paragraph (1), (3), or (4) of section 1813, paragraph (1) or (3) of section 1813A,", and

(B) in subparagraph (C) by inserting "or section 1813A(a)(2)" after "section 1813(a)(2)".

(5) Section 1886 (42 U.S.C. 1395ww) is amended by striking "section 1813" each place it appears in subsections (b)(1) and

(d)(1)(A) and inserting in lieu thereof "sections 1813 and 1813A".

SEC. 4. LIMITATION ON COST-SHARING.

(a) Scope of Benefits.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following:

"(3) entitlement to have payment made to him or on his behalf (subject to the provisions of this title) for any catastrophic medical expenses (as defined in section 1861(ff)(1)) for a calendar year.".

(b) Payment of Benefits.—

(1) Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(5) in the case of catastrophic medical expenses described in section 1832(a)(3), 100 percent of such expenses.".

(2) The first sentence of section 1833(b) is amended—

(A) by striking "and" at the end of clause (3), and

(B) by inserting before the period the following: ", and (5) such deductible shall not apply with respect to the benefits described in section 1832(a)(3)".

(3) Section 1833(d) (42 U.S.C. 1395l(d)) is amended by inserting "(except as provided by subsection (a)(5))" before the period.

(4) Section 1833 (42 U.S.C. 1395l) is amended by inserting after subsection (e) the following new subsection:

"(f) In applying subsection (a)(5) in the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876 or in the case of a renal dialysis facility—

"(1) the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect, in the aggregate, the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract or with respect to individuals furnished services through the facility if payments were to be made on an individual-by-individual basis, and

"(2) the organization or facility shall provide assurances satisfactory to the Secretary that the organization or facility will not undertake to charge an individual during a year for any catastrophic medical expenses (as defined in section 1861(ff)(1)) incurred for that year.".

(c) Establishment of Ceiling.—

(1) Section 1833 (42 U.S.C. 1395l) is further amended by adding at the end the following:

"(m)(1) Not later than November 15 of each year (beginning with 1987), the Secretary shall promulgate the medicare catastrophic limit under this subsection for the succeeding year.

"(2) The medicare catastrophic limit for 1988 is $1,700. The medicare catastrophic limit for any succeeding year shall be an amount equal to the medicare catastrophic limit for the preceding year increased by the applicable increase percentage determined under section 215(i) in the previous year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(2) Section 1861 (42 U.S.C. 1395x) is amended by adding at the end thereof the following:

"(ff)(1) The term 'catastrophic medical expenses' means, with respect to an individual for a calendar year (beginning with 1988), any beneficiary cost sharing amounts (as defined in paragraph (2)) incurred by an individual in the year after the individual has incurred out-of-pocket medical expenses (as defined in paragraph (3)) in the year in an amount equal to the medicare catastrophic limit established under section 1833(m) for the year.

"(2) The term 'beneficiary cost sharing amounts' means the amounts of expenses that an individual who is covered by the insurance program established under part B incurs that are attributable to—

"(A) the deductions and coinsurance amounts established under section 1813(a) and under subsection (y)(3),

"(B) the deductions established under section 1833(b), or

"(C) the difference between the payment amount provided under part B and the payment amount that would be provided if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in section 1833(a), in section 1833(i)(2), in section 1835(b)(2), and in subsections (b)(2) and (b)(3) of section 1881.

"(3) The term 'out-of-pocket medical expenses' means the amounts expended by an individual who is covered under the insurance program established under part B that are—

"(A) beneficiary cost sharing amounts,

"(B) amounts expended by an individual described in subsection (s)(2)(J) for immunosuppressive drugs furnished after the 1-year period specified in such subsection (in amounts not to exceed the reasonable charges for such drugs), and

"(C) amounts expended for qualified examinations for the early detection of cancer (in amounts not to exceed the reasonable charges for such examinations).

"(4) An examination that is performed with respect to an individual covered by the insurance program under part B shall be treated as a 'qualified examination for the early detection of cancer' if the examination is—

"(A) a routine mammogram for the purpose of the diagnosis of breast cancer that is performed with respect to an individual who—

"(i) has attained age 55, and

"(ii) has not had a mammogram on a routine basis during the preceding 36 months; or

"(B) a routine colorectal examination for the purpose of the diagnosis of colorectal cancer that is performed with respect to an individual who—

"(i) has attained age 65, and

"(ii) has not had a colorectal examination on a routine basis during the preceding 12 months.".

(3) Subsections (c) and (g) of section 1833 (42 U.S.C. 1395l) are each amended by striking "(a) and (b)" and inserting in lieu thereof "(a), (b), and (f)".

(b) Limitation on Charges Where Medicare Catastrophic Limit is Reached.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)), as amended by section 3(c)(4) of this Act, is further amended by adding at the end the following new sentence: "A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1833(a)(5) (relating to catastrophic medical expenses).".

SEC. 5. INCREASE IN PART B PREMIUM.

(a) In General.—Section 1839 (42 U.S.C. 1395r) is amended—

(1) in paragraph (1) of subsection (a), by striking all after "(a)(1)" and inserting in lieu thereof the following: "(A) The Secretary shall, during September of 1987 and of each year thereafter, determine the monthly actuarial basic rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs that the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding catastrophic coverage benefits and related administrative costs). In calculating the monthly actuarial basic rate, the Secretary shall include an appropriate amount for a contingency margin.

"(B) For purposes of this paragraph, the term 'catastrophic coverage benefits' has the meaning given to such term in subsection (g)(2)(C)(i).";

(2) in paragraph (3) of subsection (a) by striking "subsection (e)" and inserting in lieu thereof "subsections (e) and (g)";

(3) by striking paragraph (4) of subsection (a) and inserting in lieu thereof the following:

"(4)(A) The Secretary shall also, during September of 1987 and of each year thereafter, determine the monthly actuarial basic rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding catastrophic coverage benefits and related administrative costs) In calculating the monthly actuarial basic rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

"(B) For purposes of this paragraph, the term 'catastrophic coverage benefits' has the meaning given to such term in subsection (g)(2)(C)(i).";

(4) in paragraph (1) of subsection (e) by striking "monthly actuarial rate" and inserting in lieu thereof "monthly actuarial basic rate"; and

(5) by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other provision of this section, except as provided in paragraph (3), the monthly premium otherwise determined under this section for an individual for each month in calendar year

1988 after March, and for every month in any succeeding calendar year, shall be increased by an amount equal to the applicable monthly catastrophic coverage premium amount for that year.

"(2)(A)(i) The monthly catastrophic coverage premium amount for 1988 for individuals who are covered by the insurance programs under part A and this part shall be $4. The monthly catastrophic coverage premium amount for such individuals for any succeeding calendar year shall be the monthly catastrophic coverage premium amount determined under this subparagraph for the preceding calendar year, increased (or decreased) by the percentage increase (or decrease) in the per enrollee actuarial comprehensive catastrophic benefit amount for the year for which the determination is made over the per enrollee actuarial comprehensive catastrophic benefit amount for such preceding year. For purposes the preceding sentence, in determining the percentage increase (or decrease) in the per enrollee actuarial comprehensive catastrophic benefit amount for calendar year 1989 over the per enrollee actuarial comprehensive catastrophic benefit amount for calendar year 1988, the total of the catastrophic coverage benefits (and related administrative costs) payable with respect to enrollees under this part in calendar year 1988 shall be computed as if the medicare catastrophic limit under section 1833(m) applied to out-of-pocket medical expenses incurred for the entire calendar year. For any calendar year beginning after 1992, the Secretary shall adjust the monthly catastrophic coverage premium amount by the percentage determined under section 1839A(b)(2)(B)(ii)(IV).

"(ii) The monthly catastrophic coverage premium amount for any calendar year for individuals who are covered by the insurance program under this part but not by the insurance program under part A shall be an amount that bears the same ratio to the monthly catastrophic coverage premium amount determined under clause (i) for such year as the actuarial part B catastrophic benefit amount for such year bears to the actuarial comprehensive catastrophic benefit amount for such year.

"(B) If any monthly premium amount determined under subparagraph (A) is not a multiple of 10 cents, such premium amount shall be rounded to the nearest multiple of 10 cents.

"(C) For purposes of this paragraph—

"(i) the term 'catastrophic coverage benefits' means benefits payable under this title by reason of the enactment of the amendments made by sections 2(a), 3(a), 4, and 7(b) of the Medicare Catastrophic Loss Prevention Act of 1987,

"(ii) the term 'per enrollee actuarial comprehensive catastrophic benefit amount' means, with respect to a year, an amount equal to the actuarial comprehensive catastrophic benefit amount for the year divided by the total number of individuals that the Secretary estimates will be enrolled under this part for the year,

"(iii) the term 'actuarial comprehensive catastrophic benefit amount' means, with respect to a calendar year, the amount that the Secretary estimates will equal the total of the catastrophic coverage benefits (and related administrative costs) that will be payable from the Federal Supplementary Medical Insurance Trust Fund and from the Federal Hospital Insurance Trust Fund in such calendar year with respect to enrollees under this part, and

"(iv) the term 'actuarial part B catastrophic benefit amount' means, with respect to a calendar year, the amount the Secretary estimates will equal the total of the catastrophic coverage benefits (and related administrative costs) that will be payable from the Federal Supplementary Medical Insurance Trust Fund in such calendar year with respect to such enrollees (excluding any amounts transferred pursuant to section 1841(j)).

"(3) For any calendar year after 1988, if an individual is entitled to monthly benefits under section 202 or 223 for November and December of the preceding year, and if the monthly premium of the individual under this section for December and for January is deducted from those benefits under section 1840(a)(1), the monthly premium otherwise determined under this section for an individual for that year shall not be increased, pursuant to paragraph (1), to the extent that such increase would reduce the amount of benefits payable to that individual for that January below the amount of benefits payable to that individual for that December (after the deduction of the premium under this section).".

(b) Transfers to HI Trust Fund.—Section 1841 is amended by adding at the end the following:

"(j) There shall be transferred from time to time from the Trust Fund to the Federal Hospital Insurance Trust Fund amounts from the premiums under this part that are attributable to the changes (under sections 2(a), 3(a), and 7(b) of the Medicare Catastrophic Loss Prevention Act of 1987) in services performed and related administrative costs incurred in such calendar year with respect to individuals who are covered under the insurance program established by part A.".

SEC. 6. SUPPLEMENTAL PREMIUM FOR CATASTROPHIC ILLNESS COVERAGE.

(a) In General.—Part B of title XVIII is amended by inserting after section 1839 the following:

"SUPPLEMENTAL PREMIUM FOR INDIVIDUALS COVERED BY PART B

"Sec. 1839A. (a)(1) Any individual described in paragraph (2) shall pay the applicable supplemental premium in the manner provided in subsection (c).

"(2) An individual is described in this paragraph if such individual—

"(A) is covered by the insurance program established under this part for any portion of any taxable year occurring after December 31, 1987, and

"(B) has Federal income tax liability for such taxable year in an amount not less than $150.

"(b) For purposes of this section—

"(1) The term 'applicable supplemental premium' means an amount equal to the product of—

"(A) the number of months in the taxable year during which the individual was covered by the insurance program established under this part, multiplied by

"(B) the supplemental premium.

"(2)(A) The term 'supplemental premium' means an amount equal to the product of—

"(i) the premium rate for the taxable year, multiplied by

"(ii) the amount determined by dividing—

"(I) the individual's Federal income tax liability for such taxable year, by

"(II) $150.

If any amount determined under clause (ii) is not a whole number, such amount shall be rounded to the next lowest whole number.

"(B)(i) The premium rate for any taxable year beginning before 1989 is $1.02. The premium rate for any taxable year beginning in a calendar year after 1988 is the premium rate determined under this clause for taxable years beginning in the preceding calendar year, increased or decreased by the premium rate adjustment under clause (ii) for taxable years beginning in the calendar year for which the determination is made.

"(ii)(I) For purposes of clause (i), the premium rate adjustment for taxable years beginning in a calendar year after 1988 is the percentage increase or decrease in the per enrollee actuarial comprehensive catastrophic benefit amount (within the meaning of section 1839(g)(2)(C)(ii)) for such calendar year over such amount for the preceding calendar year.

"(II) The Secretary shall adjust the premium rate for any calendar year beginning after 1992 (without regard to this subclause and subclause (IV)) to appropriately reflect any percentage increase or decrease in the estimated average Federal income tax liability of individuals described in subsection (a)(2) for such calendar year over such average for the preceding calendar year.

"(III) In determining the percentage increase (or decrease) under subclause (I) for calendar year 1989, the total of the catastrophic coverage benefits (within the meaning of section 1839(g)(2)(C)(i)) (and related administrative costs) payable with respect to enrollees under this part in calendar year 1988 shall be computed as if the medicare catastrophic limit under section 1833(m) applied to out-of-pocket medical expenses incurred for the entire calendar year.

"(IV) If the Secretary determines for any calendar year beginning after 1992 that the estimated total catastrophic coverage benefits (within the meaning of section 1839(g)(2)(C)(i)) and related administrative costs for such calendar year will exceed the estimated total revenues collectable with respect to such calendar year from the premiums under this section and the monthly catastrophic coverage premiums (within the meaning of section 1839(g)(2)(A)), the Secretary shall increase the premium rate under this section and the monthly catastrophic coverage premium for such calendar year by the percentage necessary to increase the estimated total revenues for such calendar year by the amount of such excess.

"(3)(A)(i) In the case of a taxable year beginning in a calendar year after 1987 and before 1993, the applicable supplemental premium for any individual shall not exceed the amount which bears the same ratio to the amount determined under the table in clause (ii) as—

"(I) the number of months determined under paragraph (1)(A), bears to

"(II) 12.

"(ii) For purposes of clause (i)—

"If the taxable year begins in:	The amount is:
1988	$ 800
1989	850
1990	900
1991	950
1992	1,000.

"(B) In the case of a taxable year beginning in a calendar year after 1992, the applicable supplemental premium for any individual shall not exceed an amount equal to 65 percent of the product of—

"(i) the number of months determined under paragraph (1)(A), multiplied by

"(ii) the excess of—

"(I) the sum of 200 percent of the monthly actuarial basic rate for enrollees age 65 or over (as determined under section 1839), and the monthly per enrollee actuarial com-

prehensive catastrophic benefit amount for such calendar year, over

"(II) the sum of the basic and catastrophic monthly premiums for such year (as determined under section 1839 without regard to subsections (f)(2) and (g)(3) thereof).

"(4)(A) Except as provided in this paragraph, in the case of married individuals (within the meaning of section 7703 of the Internal Revenue Code of 1986)—

"(i) who file a joint return under section 6013 of such Code, and

"(ii) 1 or both of whom are described in subsection (a)(2) with respect to such taxable year,

the applicable supplemental premiums shall be determined by treating such individuals as 1 individual.

"(B) If subparagraph (A) applies, the number of months taken into account under paragraph (1)(A) (other than for purposes of paragraph (3)) shall be determined by reference to the spouse who was covered by the insurance program established under this part for the longer period during the taxable year (or if covered for the same period, either spouse).

"(C) If subparagraph (A) applies and both spouses are covered during the taxable year by the insurance program established under this part, the limitation under paragraph (3) shall be equal to the sum of the limitations computed separately under paragraph (3) for each of the spouses.

"(c)(1) Except as provided in paragraph (2), for purposes of the Internal Revenue Code of 1986 (other than section 15 of such Code), any applicable supplemental premium required to be paid under subsection (a)(1) shall be treated as an addition to the tax imposed by chapter 1 of such Code for the taxable year to which such premium relates.

"(2) Any applicable supplemental premium required to be paid under subsection (a)(1) shall not be treated as an addition to the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for purposes of determining—

"(A) the amount of any credit allowable under such chapter, or

"(B) the amount of the minimum tax imposed by section 55 of such Code.

"(d)(1) For purposes of this section, the term 'Federal income tax liability' means—

"(A) the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (without regard to this section), reduced by

"(B) the amount of the credits allowed under part IV of subchapter A of such chapter (other than sections 31, 33, and 34).

"(2) For purposes of section 213(d)(1)(C) of the Internal Revenue Code of 1986, the applicable supplemental premium under subsection (a)(1) shall be treated as a premium paid under this part in the taxable year following the taxable year to which such premium relates.

"(e) The Secretary of the Treasury shall, from time to time, transfer from the general fund of the Treasury to the Federal Supplementary Medical Insurance Trust Fund amounts equal to the sum of—

"(1) the aggregate monthly supplemental premiums paid pursuant to this section, plus

"(2) the amount which the Secretary estimates Federal outlays are reduced under title XIX of this Act by reason of the amendments made by sections 2(a), 3(a), 4, and 7(b) of the Medicare Catastrophic Loss Prevention Act of 1987 (after taking into account the provisions of section 14 of such Act). Such transfer shall be appropriately adjusted to the extent that prior transfers were in excess of or less than the amounts required to be transferred.".

(c) Information Reporting.—

(1) Section 6050F(a)(1) of the Internal Revenue Code of 1986 (relating to returns relating to Social Security benefits) is amended—

(A) by striking out "and" at the end of subparagraph (B), and

(B) by inserting after subparagraph (C) the following:

"(D) the number of months any individual is covered by the insurance program established under part B of title XVIII of the Social Security Act for such calendar year, and".

(2) Section 6050F(b) of such Code is amended—

(A) by inserting "or determining the months of coverage" after "payments" in paragraph (1), and

(B) by inserting "and the number of months of coverage," after "reductions," in paragraph (2).

(3) Section 6050F(c)(1)(A) of such Code is amended by inserting "and months of coverage described in subsection (a)(1)(D)" after "section 86(d)(1)(A)".

(d) Conforming Amendment.—Subsection (a)(1) of section 1840 (42 U.S.C. 1395s) is amended by striking out "(except as provided in subsections (b)(1) and (c))" and inserting in lieu thereof "(except as provided in section 1839A(a)(2) and subsections (b)(1) and (c) of this section)".

SEC. 7. MEDICARE COVERAGE OF HOME HEALTH SERVICES ON A DAILY BASIS.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), nursing care and home health aide services may be provided under such paragraphs seven days a week (with one or more visits per day) for a period of up to 21 days with a physician's certification of the need for such care and services on such a basis.".

(b) Additional Days for Certain Individuals.—Section 1861(m) (42 U.S.C. 1395x(m)), as amended by subsection (a), is further amended by adding at the end the following: "In the case of an individual who is covered under the insurance program established under part B, and who is furnished nursing care and home health aide services within 30 days after being discharged from a hospital or a skilled nursing facility, the preceding sentence shall be applied by substituting '45 days' for '21 days'.".

SEC. 8. CLARIFICATION OF REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME TO BE ELIGIBLE FOR HOME HEALTH SERVICES.

(a) Part A.—Section 1814(a) (42 U.S.C. 1395f(a)) is amended by adding at the end thereof the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker) or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration.".

(b) Part B.—Section 1835(a) (42 U.S.C. 1395n(a)) is amended by adding at the end thereof the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker) or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration.".

(c) Effective Date.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 9. ANNUAL NOTICE TO MEDICARE BENEFICIARIES.

(a) Notice Required.—The Secretary of Health and Human Services (in this section referred to as the Secretary) shall notify each individual who is entitled to benefits under title XVIII of the Social Security Act of—

(1) the benefits that are available under the insurance programs established under such title (and the major categories of health care that are not covered under those programs),

(2) the limitations on payment (including deductibles and coinsurance amounts) that are imposed under such programs, and

(3) the ways in which such limitations differ for individuals who are covered under the program established under part B and individuals who are not covered under such program.

(b) Timing.—The Secretary shall provide the notice described in subsection (a)—

(1) when an individual applies for benefits under part A or enrolls under part B on or after January 1, 1988, and

(2) in November of 1987 and annually thereafter.

(c) Consultation Required.—The notice required by subsection (a) shall be prepared in consultation with groups representing the elderly and with health insurers.

SEC. 10. ADJUSTMENT OF AAPCC'S AND CONTRACTS FOR RISK-BASED ELIGIBLE ORGANIZATIONS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(1) modify any adjusted average per capita cost determined under section 1876(a) of the Social Security Act for an eligible organization with a risk-sharing contract to take into account the amendments made by sections 2(a), 3(a), 4, and 7(b) of this Act,

(2) modify each such contract, for portions of contract years occurring after December 31, 1987, to reflect the modifications made pursuant to paragraph (1), and

(3) require each such organization to make appropriate adjustments in the terms of its agreements with medicare beneficiaries to take into account such amendments.

(b) Effective Date.—Subsection (a) shall become effective on the date of enactment of this Act.

SEC. 11. STUDY OF TREATMENT OF PRESCRIPTION DRUGS.

(a) Study Required.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall request the National Academy of Sciences, acting through the Institute of Medicine (in this section referred to as the "Academy" and the "Institute", respectively), to enter into a contract under which the Institute, in consultation with representatives of appropriate research and health-care organizations, will conduct a study to identify additional drugs, available by prescription only, the expenditures for which might appropriately be covered under title XVIII of the Social Security Act or be treated as out-of-pocket medical expenses (as defined in section 1861(ff)(3) of the Social Security Act) for purposes of making the determination described in section 1861(ff)(1) of such Act. The study shall include analyses and recommendations with respect to appropriate limitations on the amounts to be recognized as reasonable for such purposes.

(b) Study Expenses.—The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by subsection (a).

(c) Reports.—

(1) Not later than six months after the date of the enactment of this Act, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, an interim report with respect to the study required by subsection (a). The report shall describe the manner in which the study is being conducted and may include tentative findings and recommendations based upon the study.

(2) Not later than twelve months after the date of the enactment of this Act, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a final report with respect to the study required by subsection (a). The report shall include specific findings and recommendations based upon the study.

SEC. 12. HOSPICE CARE.

(a) Extension of Coverage Period.—

(1) Section 1812 (42 U.S.C. 1395d) is amended—

(A) in subsection (a)(4), by striking "and one subsequent period of 30 days" and inserting in lieu thereof ", a subsequent period of 30 days, and a subsequent extension period";

(B) in subsection (d)(1), by striking "and one subsequent period of 30 days" and inserting in lieu thereof ", a subsequent period of 30 days, and a subsequent extension period"; and

(C) in subsection (d)(2)(B), by inserting "or a subsequent extension period" after "30-day period".

(2) Section 1812A(a)(4), as added by section 2(b) of this Act, is amended by striking "and one subsequent period of 30 days" and inserting in lieu thereof ", a subsequent period of 30 days, and a subsequent extension period".

(b) Continued Certification of Terminal Illness for Extended Benefits.—Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the semicolon at the end of clause (ii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) Effective Date.—The amendments made by this section shall apply with respect to services provided on or after the date of enactment of this Act.

SEC. 13. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

(a) Free-Look Period.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1), by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c); and", and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following:

"(3) may, during a period of not less than 30 days after the policy is issued, be returned for a full refund of any premiums paid (without regard to the manner in which the purchase of the policy was solicited).".

(b) Reporting of Information Relating to Loss Ratios.—Section 1882(b)(1), as amended by subsection (a), is further amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by redesignating subparagraph (C) as subparagraph (D),

(3) by inserting after subparagraph (B) the following:

"(C) provides that—

"(i) information with respect to the actual ratio of benefits provided to premiums collected under such policies will be reported to the State on forms conforming to those developed by the National Association of Insurance Commissioners for such purpose, or

"(ii) such ratios will be monitored under the program in an alternative manner approved by the Secretary; and", and

(4) in subparagraph (D), as redesignated by paragraph (2), by striking "(A) and (B)" and inserting in lieu thereof "(A), (B), and (C)".

(c) Consumer Information.—Section 1882(e) is amended—

(1) by inserting "(1)" after "(e)", and

(2) by adding at the end thereof the following:

"(2) The Secretary shall—

"(A) inform all individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) of—

"(i) the actions and practices that are subject to sanctions under subsection (d), and

"(ii) the manner in which they may report any such action or practice to an appropriate official of the Department of Health and Human Services, and

"(B) establish a toll-free telephone number for individuals to report suspected violations of the provisions of such subsection.

"(3) The Secretary shall provide individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) with a listing of the addresses and telephone numbers of State and Federal agencies and offices that provide information and assistance to individuals with respect to the selection of medicare supplemental policies.".

(d) Revision of Model Standards.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (a) by striking "Such certification" and inserting in lieu thereof "Subject to subsection (k)(3), such certification",

(2) in subsection (b) by striking "(for so long as" and inserting in lieu thereof "(subject to subsection (k)(3), for so long as", and

(3) by adding at the end thereof the following new subsection:

"(k)(1)(A) If, within the period specified in subparagraph (B), the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') amends the NAIC Model Regulation adopted on June 6, 1979 (as it relates to medicare supplemental policies) to reflect the changes in law made by the Medicare Catastrophic Loss Prevention Act of 1987, subsection (g)(2)(A) shall be applied, effective on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the Model Regulation as amended by the Association in accordance with this paragraph (in this subsection referred to as the 'amended NAIC Model Regulation').

"(B) The period specified in this subparagraph is the period beginning on the date of the enactment of the Medicare Catastrophic Loss Prevention Act of 1987 and ending on the ninetieth day after such date.

"(C) The date specified in this subparagraph is the date that is 365 days after the date (within the period specified in subparagraph (B)) on which the National Association of Insurance Commissioners announces the adoption of the amendments referred to in subparagraph (A).

"(2)(A) If the Association does not amend the NAIC Model Regulation referred to in subsection (g)(2)(A) during the period specified in paragraph (1)(B), the Secretary shall issue Federal model standards (in this subsection referred to as 'Federal model standards') for medicare supplemental policies not later than 90 days after the last day of such period. Federal model standards issued by the Secretary pursuant to this subparagraph shall reflect the changes in law made by the Medicare Catastrophic Loss Prevention Act of 1987.

"(B) Effective on and after the date that is 365 days after the date on which the Secretary issues Federal model standards pursuant to subparagraph (A), this section shall be applied as if any reference to NAIC Model Standards were a reference to the Federal model standards .

"(3) Notwithstanding any other provision of this section, on and after the date specified in paragraph (1)(C) or the date specified in paragraph (2)(B) (as the case may be)—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(B) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the stand-

ards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be).".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall become effective on the date on which the amended NAIC Model Standards (or Federal model standards) become effective under section 1882 of the Social Security Act (in accordance with subsection (k) of such section).

(2) The amendments made by subsection (c) shall become effective on the date of the enactment of this Act.

(3) The amendment made by subsection (d) shall be effective as provided in such amendment.

SEC. 14. DETERMINATION OF MEDICAID SAVINGS; STATE PLAN REQUIREMENT.

(a) DETERMINATION OF SAVINGS; NOTICE TO STATES.—Before the beginning of each fiscal year (or portion thereof) for which this section applies to a State, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(1) estimate and determine, with respect to each State with a State plan approved under title XIX of the Social Security Act, the total amount that would have been expended from State funds under such plan for such fiscal year (or portion thereof) but for the amendments made by sections 2(a), 3(a), 4, and 7(b) of this Act, and

(2) notify each such State of such amount.

(b) STATE PLAN REQUIREMENT.—

(1) Each State plan shall provide, as a condition of approval under section 1902(a) of the Social Security Act, that—

(A) an amount equal to the amount of savings that are estimated by the Secretary pursuant to subsection (a) to accrue to the State for such fiscal year (or portion thereof) by reason of the amendments made sections 2(a), 3(a), 4, and 7(b) of this Act, will be expended from State funds for such fiscal year for one or more of the purposes specified in paragraph (2), and

(B) the amounts expended pursuant to subparagraph (A) will be in addition to any amounts that would have been expended from State funds for such purposes for such fiscal year (or portion thereof) under the State plan (as in effect on the day before the date of the enactment of this Act).

(2) The purposes specified in this paragraph are—

(A) to provide coverage under the State plan, pursuant to section 1902(a)(10)(E) of the Social Security Act, for individuals described in section 1905(p)(1) of such Act, and

(B) to increase the maintenance needs monthly income levels applicable under the plan for the community spouses of institutionalized individuals.

(3) A State may provide coverage pursuant to paragraph (2)(A) without regard to section 1902(m)(3) of the Social Security Act.

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), this section shall apply to the calendar quarter beginning on January 1, 1988, and 11 consecutive calendar quarters thereafter.

(2)(A) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(B) In the case of a State plan with respect to which the requirement imposed by subsection (b) first becomes effective, pursuant to subparagraph (A), for a calendar quarter beginning after January 1, 1988, this section shall apply to such calendar quarter and 11 consecutive calendar quarters thereafter.

SEC. 15. STUDIES OF LONG-TERM CARE.

(a) INSTITUTE OF MEDICINE STUDY.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall request the National Academy of Sciences, acting through the Institute of Medicine (in this subsection referred to as the "Academy" and the "Institute", respectively), to enter into a contract under which the Institute will conduct a study to—

(A) explore the options for the private funding of a portion of long-term care (including methods by which changes in Federal laws, including tax laws, could facilitate the development of such funding),

(B) analyze the effect that the provision of various types of private funding of long-term care would have on public funding of such care,

(C) review various options for public sector long-term care coverage, both means-tested and universal, with respect to their effects on both current and future State and Federal spending for health care,

(D) review the effectiveness and the cost implications of community-based long-term care services, including the types of limits necessary to prevent the overutilization of such services, and

(E) analyze, for each approach to the provision of long-term care, the relative payments derived from users of long-term care, non-utilizing elderly, and employed persons (including both pre-funding and pay-as-you-go payments).

(2) In conducting the study under paragraph (1), the Institute shall take into account—

(A) the effect that impending demographic changes (both near-term and long-term) will have on the various approaches to service utilization and funding, and

(B) the effect that membership in different socioeconomic groups has on the need, and ability to pay, for long-term care.

(3) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by paragraph (1).

(4) Not later than October 1, 1989, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report that—

(A) describes the study conducted under this subsection,

(B) includes a statement of the data obtained under the study, and

(C) specifies administrative actions and changes in law that the Institute considers to be appropriate to implement the findings of the study.

(b) STUDY OF TAX INCENTIVES FOR PURCHASE OF COVERAGE FOR LONG-TERM CARE.—

(1) The Secretary of the Treasury (in this subsection referred to as the "Secretary") shall conduct a study of Federal tax policies to promote the private financing of long-term care. The study shall identify alternative methods of creating incentives, through the tax system, to encourage individuals to purchase insurance coverage for long-term care.

(2) The Secretary shall conduct the study required by paragraph (1) in consultation with representatives of the insurance industry and providers of long-term care.

(3) The Secretary shall report the results of the study required by paragraph (1) to the Congress not later than April 1, 1988, together with the Secretary's recommendations for any changes in Federal law that the Secretary determines to be appropriate to promote the private financing of long-term care.

(4) For purposes of this subsection, the term "long-term care" includes care and services provided by nursing homes, home health agencies, and other mechanisms for the delivery of long-term care services.

SEC. 16. CASE MANAGEMENT DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish not less than six demonstration projects under which a utilization and quality control peer review organization with a contract with the Secretary under part B of title XI of the Social Security Act (in this section referred to as a "PRO") agrees to provide case management services to medicare beneficiaries with selected catastrophic illnesses.

(b) PURPOSE OF PROJECTS.—It is the purpose of the demonstration projects established under this section to provide the Secretary and the Congress with the information necessary—

(1) to evaluate the appropriateness of providing case management services under the medicare program for individuals with catastrophic illnesses, and

(2) to determine the most effective approach to implementing a case management system under the program for such individuals.

(c) AGREEMENT.—The agreement entered into under subsection (a) shall specify—

(1) the catastrophic illnesses with respect to which case management services will be provided under the project,

(2) the payments to be made to the PRO for carrying out the project, and

(3) such other terms and conditions as the Secretary and the PRO may agree to.

(d) WAIVERS.—The Secretary shall waive any provisions of part B of title XI of the Social Security Act and title XVIII of such Act that the Secretary determines would prevent the establishment of a demonstration project under this section.

(e) DURATION.—

(1) Except as provided in paragraph (2), a demonstration project under this section shall be conducted for a one-year period.

(2) The Secretary may terminate a demonstration project before the end of the one-year period specified in paragraph (1) if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into under subsection (a).

(f) INFORMATION AND REPORTS.—

(1) A PRO with an agreement under subsection (a) shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the PRO.

(2)(A) The Secretary shall submit to the Congress an interim report on the projects conducted under this section based upon information that is derived from the first six months of project operations and shall set forth any interim findings, recommendations, and conclusions that the Secretary determines to be appropriate.

(B) The Secretary shall submit to the Congress a final report on the demonstration projects conducted under this section based upon data derived from the 12 months in which the projects were in operation and shall update the findings, recommendations, and conclusions set forth in the interim report submitted under paragraph (1).

(g) AUTHORIZATION TO USE CERTAIN FUNDS.—

(1) The Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund amounts not to exceed a total of $2,000,000 for the purpose of carrying out the demonstration projects under this section. Amounts shall be transferred under this paragraph without regard to amounts appropriated in advance in Appropriation Acts.

(2) Subject to paragraph (1), payments shall be made from each of the trust funds specified in paragraph (1) in such amounts as the Secretary determines to be fair and equitable.

SEC. 17. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

(a) REPEAL.—Effective October 1, 1987, section 1123 (42 U.S.C. 1320a-2) is repealed.

(b) EFFECT OF REPEAL.—Nothing in the amendment made by subsection (a) shall be construed as affecting—

(1) the authority of the Secretary of Health and Human Services to conduct the program established under section 1123 of the Social Security Act prior to October 1, 1987, or

(2) the qualification of any individual, who has been determined under such program to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.

SEC. 18. TRUSTEE COMMENTS ON ACTUARIAL SOUNDNESS OF BASIC AND SUPPLEMENTAL CATASTROPHIC BENEFIT PREMIUMS.

(a) HI TRUST FUND.—Section 1817(b) (42 U.S.C. 1395i(b)) is amended by inserting “an evaluation of the extent to which the premiums collected under sections 1839(g) and section 1839A are sufficient to pay for catastrophic coverage benefits (as defined in section 1839(g)(2)(C)(i)) and related administrative expenses payable from the Trust Fund and” after “also include”.

(b) SMI TRUST FUND.—Section 1841(b) (42 U.S.C. 1395t(b)) is amended by inserting “an evaluation of the extent to which the premiums collected under sections 1839(g) and section 1839A are sufficient to pay for catastrophic coverage benefits (as defined in section 1839(g)(2)(C)(i)) and related administrative expenses payable from the Trust Fund and” after “also include”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports submitted for fiscal year 1988 and each fiscal year thereafter.

SEC. 19. TECHNICAL AMENDMENT RELATING TO WAIVERS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) WAIVERS FOR HOME AND COMMUNITY-BASED SERVICES.—Section 1915(c)(3) (42 U.S.C. 42 U.S.C. 1396n(c)(3)) is amended by striking “and section 1902(a)(10)(B) (relating to comparability)” and inserting in lieu thereof “, section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to single standard for income and resource eligibility)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 20. TECHNICAL AMENDMENTS RELATING TO NEW JERSEY RESPITE CARE PILOT PROJECT.

(a) CONDITIONS OF AGREEMENT.—Section 9414(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively,

(2) by inserting after paragraph (1) the following new paragraph:

“(2) provide that the State may submit a detailed proposal describing the project (in lieu of a formal request for the waiver of applicable provisions of title XIX of the Social Security Act) and that submission of such a description by the State will be treated as such a request for purposes of subsection (g),”, and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by striking “if the project” and all that follows through “Act” the second place it appears and inserting in lieu thereof “the State shall utilize a post-eligibility cost-sharing formula based on the available income of participants with income in excess of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)”.

(b) DEFINITIONS.—

(1) Section 9414(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking “elderly and disabled individuals” and inserting in lieu thereof “eligible individuals”.

(2) Section 9414(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

“(c) Definitions.—For purposes of this section—

“(1) the term ‘eligible individual’ means an individual—

“(A) who is elderly or disabled,

“(B)(i) whose income (not including the income of the spouse or family of the individual) does not exceed 300 percent of the amount in effect under section 1611(a)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act), or

“(ii) in the case of an individual and spouse who are both dependent on a caregiver, whose combined incomes do not exceed such amount,

“(C) at the option of the State, who meets a resource standard established by the State,

“(D) who is at risk of institutionalization unless the individual's caregiver is provided with respite care, and

“(E) who has been determined to meet the requirements of subparagraphs (A) through (D) in accordance with an application process designed by the State; and

“(2) the term ‘respite care services’ shall include—

“(A) short-term and intermittent—

“(i) companion or sitter services (paid as well as volunteer),

“(ii) homemaker and personal care-services,

“(iii) adult day care, and

“(iv) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual), and

“(B) peer support and training for family caregivers (using informal support groups and organized counseling).”.

(c) PROVISIONS SUBJECT TO WAIVER.—Section 9414(g) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting “section 1902(a)(10)(C)(i)(III),” after “section 1902(a)(10)(B),”.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 21. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall apply to items and services furnished after, and premiums for months beginning after, December 31, 1987.

(b) EXCEPTIONS.—

(1) Notwithstanding section 1813(a)(1) of the Social Security Act, as amended by section 3(a)(2) of this Act, in the case of an individual with respect to whom—

(A) a spell of illness (as defined in section 1861(a) of the Social Security Act) begins before January 1, 1988, and

(B) a period of hospitalization (as defined in section 1813(a)(1) of the Social Security Act), which is included within that spell of illness, begins on or after January 1, 1988, and before February 1, 1988,

no inpatient hospital deductible shall be imposed with respect to such period of hospitalization (and such period of hospitalization shall not be taken into account in determining the application of such deductible to any subsequent period of hospitalization beginning for such individual on or before December 31, 1988).

(2) Notwithstanding sections 1812(a)(2)(A), 1812(b)(2), and 1813(a)(3) of the Social Security Act, as amended by sections 2(a)(2)(C), 2(a)(3)(B), and 3(a)(4) of this Act, respectively, in the case of an individual with respect to whom post-hospital extended care services (as defined in section 1861(i) of the Social Security Act) are furnished on December 31, 1987, the provisions of such sections (as they applied to post-hospital extended care services furnished on December 31, 1987) shall continue to apply to such individual until the end of the spell of illness during which such services were furnished.

(3) Notwithstanding section 1861(ff)(1) of the Social Security Act, as added by section 4(c)(2) of this Act, in determining when an individual has incurred out-of-pocket medical expenses (as defined in section 1861(ff)(3) of such Act) for calendar year 1988 that are equal to the medicare catastrophic limit established under section 1833(m) of such Act for that year, only expenses incurred on or after July 1, 1988, shall be taken into account.

(4) The monthly catastrophic coverage premium required by section 1839(g) of the Social Security Act (as added by section 5 of this Act) shall apply to months after March, 1988.

(5) The amendments made by section 6 shall apply to taxable years ending after December 31, 1987.

(6) Sections 8 through 20 shall be effective as provided in such sections.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate is now on the catastrophic illness legislation, and the managers are here. We can begin.

In the meantime, I wonder if I may address a question to the Republican leader.

Would it be possible, in the event cloture is invoked in the Verity nomination today, to wind up the vote on that nomination at a reasonably early hour after the vote? There is no problem on this side of the aisle.

Mr. DOLE. If the majority leader will yield, I will be happy to check on this side. There was some rumor around that maybe we would not have to vote a cloture vote, but that has not been relayed to me directly. We might be able to reach some agreement to avoid the cloture vote. I will be happy to check and get back to the majority leader.

Mr. BYRD. My next question is with respect to the Bork nomination. The distinguished Republican leader was on national TV Sunday and indicated, I believe, that he would prefer an early vote. The report at the time the committee voted on the nomination was not to be filed, I believe, until Friday. We can take that nomination up by unanimous consent prior to the filing of the report or if we have to wait until the report is filed the 2-day rule would be in effect.

If there were no report filed, of course, the 2-day rule does not apply.

I take it that the report will be filed, in which case we will have to run the 2-day rule, except by unanimous consent.

Mr. DOLE. If the majority leader will yield, I am advised that the so-called minority views have gone to the printer. I am not certain about the committee majority views. Perhaps if we could check during our luncheons, we might be able to see if we might be able to waive the requirement. I have not discussed this privately with the majority leader, but I think I can say on this side there is the feeling that we would like to bring up that matter and have a reasonable time for debate and have a vote. I do not think that interferes with anything on the majority leader's schedule this week. Sooner or later, we will have to do it.

Mr. BYRD. It will conflict with other matters on the schedule, but the Bork nomination was on the schedule. Personally, I would like to see us bring up that nomination and debate it for a reasonable length of time. I do not consider a reasonable length of time being days and days. It would seem to me that most Senators probably have made up their minds. Some have stated what their positions are; some have not. Mr. Bork wants a vote on the nomination and I think he is entitled to it. But I do not think we ought to spend a lot of time debating that nomination.

I would hope the debate would not be divisive or contentious, but I am afraid it will be. I am going to do everything I can to make it otherwise. It seems to me it does not help Mr. Bork and it does not help the country if we are going to spend several days in a contentious and very divisive floor debate on a nomination that is not going anywhere.

I will be happy to schedule that vote, as far as I am concerned. I want to talk to my conference also. But I would like to schedule it, if we could, for an early moment and agree to a vote after a day or so of debate.

Mr. DOLE. If the majority leader will yield, I will be pleased to also check with our side and convey to you what I have found out after our policy luncheon.

Mr. BYRD. Very well.

Mr. President, there will not be any rollcall votes today after 4:30. It may be that debate could go forward on the catastrophic illness legislation or on other matters at that time, and any rollcall votes that would be ordered after 4:30 would be put over until tomorrow.

Mr. DOLE. If the majority leader will yield at that point, I appreciate his accommodating our schedule. We have had a meeting that has been on tap for some time. It is my understanding that about 35 Senators on this side will be attending. I will find out who the 11 are. They are Senators who might be interested in catastrophic or continuing to debate so we would not lose that couple of hours.

Mr. BYRD. Yes. I certainly thank the distinguished Republican leader for whatever accommodations may be worked out. We also on this side want to accommodate the other side in this matter.

Mr. President, I think our manager, Mr. BENTSEN, is here. I yield the floor.

Mr. BENTSEN. Mr. President, today the Senate will consider the Medicare Catastrophic Loss Prevention Act of 1987 (S. 1127)—the largest single reform of the Medicare Program since its inception in 1965. Twenty members of the Senate Committee on Finance voted unanimously to bring an added measure of security to the 31 million elderly and disabled Americans who rely on Medicare to help protect them against financial ruin from an acute care illness.

We owe a debt of gratitude to President Reagan and his Secretary of Health and Human Services, Dr. Otis Bowen, for bringing to the Nation's attention the gaps that remain in Medicare coverage and for proposing recommendations to close those gaps. S. 1127 builds on the President's approach, and offers the most vulnerable citizens needed additional protection.

I wish to express particular appreciation to my colleagues the minority leader, Senator DOLE, Senator MITCHELL, Senator DURENBERGER, and Senator BRADLEY for their special contributions to the development of the legislation we have before us today.

While Medicare was always designed to offer only an acute care benefit, it currently leaves unprotected precisely the most vulnerable beneficiaries—those with catastrophic illnesses who incur the largest bills for covered services. For example, in 1989, the average Medicare beneficiary will face out-of-pocket costs of $524, but those who are hospitalized more than once will pay $1,250. Under S. 1127, not only will the average expenditure fall to $409, but beneficiaries who must enter the hospital would pay considerably less than under current law. Just as important to me, S. 1127 will simplify a program that has become unduly complex and confusing to beneficiaries and their families.

Importantly, S. 1127 will not increase the deficit, according to the estimates of the Congressional Budget Office and the Joint Committee on Taxation. I believe that members of the Committee on Finance are to be commended for their collective insistence on keeping the cost of the new catastrophic benefit reasonable, and for approving a new and innovative mechanism for financing the costs associated with these benefit changes. In testimony before the Committee on Finance, Medicare beneficiaries told us they themselves are more than willing to bear the expense of catastrophic insurance because added peace of mind is well worth the cost of added premiums. We want to help them have that peace of mind. S. 1127 incorporates a financing mechanism which asks each beneficiary to pay at least something for catastrophic insurance through an additional monthly premium, but which asks those who can best afford it to finance proportionally more of the cost of these new benefits.

Let me turn for a moment to some of the criticisms that have been leveled against this and other catastrophic health insurance proposals under consideration here in this Congress. There are those who say we have not gone far enough, that the bill does nothing to help with the devastating costs of nursing home or other long-term care, which can run $22,000 annually. S. 1127 does offer a measure of added protection against the costs of immunosuppressive drugs, but otherwise does not alter Medicare policy with respect to drugs. Others point to the fact that 37 million Americans under the age of 65—11 million of them children—have no health insurance at all. To these critics, I respond by saying: I agree. I regret that budget constraints prevent us from adding many justifiable benefits, and I share your hope that continued improvements in Medicare and other private and public health programs will soon address these needs. To act responsibly in these areas, however, we need better information. S. 1127 provides for studies of options for financing long-term care and prescription drugs, and I hope that the studies' results will allow us to take further steps in the future. Moreover, I have asked GAO to provide the committee with a comprehensive review of the barriers facing those who cannot obtain needed private or public insurance coverage. So we are addressing those issues in a realistic, responsible manner.

In our desire to reform Medicare's benefits, the committee has improved upon the legislation proposed by President Reagan. Among other things, we lowered the out-of-pocket cap from $2,000 to $1,700. Let us not now take actions whereby we fashion a bill which the President finds unacceptable, or which overburden the elderly through excessive premium costs. The great tragedy would be to risk the loss of a major piece of legislation on the theory that this bill does not achieve perfection.

There are others who argue that S. 1127 will go too far, that it will add more than $6 billion to Medicare spending by fiscal year 1992 and that the new premium mechanism is a radical departure for Medicare that will financially burden the elderly and disabled. To these critics, I would point out that many older Americans now cannot afford supplementary "MediGap" insurance policies, whose costs reflect an added administrative load of 30 percent on average. While the program offered by S. 1127 will be voluntary, I have heard over and over again from older Americans that they are willing to pay the costs of this added protection against catastrophic expenses, and in this spirit, S. 1127 will not cost the Federal Government one additional penny. I ask my colleagues, is a spending increase of $6.7 billion in fiscal year 1992—an estimated Medicare increase of 4.7 percent—too much to pay for 8.1 percent of enrollees who will no longer face an untenable choice between foregoing needed health care and impoverishment?

Let me turn now to describing the basic benefits and financing of S. 1127. Under S. 1127, any Medicare beneficiary enrolled in part B of the program, which is voluntary, will receive catastrophic insurance protection. In 1988, beneficiaries' liability for out-of-pocket costs for Medicare covered services would be limited to no more than $1,700. This amount would be increased each year based on the increase in the Social Security cost-of-living adjustment, the same index applied to increases in Social Security benefits.

Under S. 1127, there are several significant improvements in hospital and post-acute care benefits. The elderly and disabled would be required to pay no more than one hospital deductible annually, and would be eligible for 365 days of hospital care annually. As in the President's proposal, Medicare hospital coinsurance, which currently is imposed on patients with the longest stays, would be eliminated.

Unlike the administration's catastrophic insurance proposal, S. 1127 includes significant improvements in Medicare's skilled nursing facility [SNF] and home health benefits, which are a critical component of the transition to recovery after an acute illness. The bill eliminates the 3-day prior hospitalization requirement for SNF care. Beneficiaries would be entitled to 150 days of SNF care per year, and, more consistent with private insurance practice, would pay for up to 10 days of coinsurance at the beginning of an SNF stay. Currently, Medicare benefits are limited to 100 days per spell of illness and patients who stay more than 20 days must pay coinsurance. SNF coinsurance under S. 1127 would be set at 15 percent of the national average cost of an SNF day. Under the current coinsurance of one-eighth of the hospital deductible, daily coinsurance can exceed the total cost of a patient's care.

S. 1127 clarifies the current law requirement that a patient be "homebound" to receive the home health benefit and that Medicare covers 3 weeks of daily home health care, which I hope will bring some national consistency to this important post-acute care benefit. Under the bill, patients discharged from a hospital or SNF would be entitled to 45 days of daily home health care, more than twice the number of days permitted under current law.

Under S. 1127, the current limit of 210 days of hospice care would be eliminated altogether.

The bill abolishes the "spell-of-illness" concept for beneficiaries enrolled in part B. This concept is unique to the Medicare Program. Its application is administratively complex and confusing to beneficiaries and their families.

S. 1127 makes several improvements in part B benefits as well. Beneficiaries receiving immunosuppressive drugs after an organ transplant would be allowed to count the cost of these drugs—which Medicare does not reimburse after the first year—toward the $1,700 cap. In an effort to encourage preventive health care and early intervention when the potential for catastrophic illness is discovered, beneficiaries would also be able to count the costs of routine cancer detection—mammography and colorectal examinations—toward the cap.

The Committee on Finance recognized the important role that private MediGap insurance plays for the 65 percent of the elderly. S. 1127 strengthens this private sector role while making Medicare benefits, and the benefits of supplementary insurance, less confusing for beneficiaries. I am grateful to my colleague Senator BAUCUS for his continued leadership in adapting the Federal standards for these policies to the new benefit package under the bill. Under S. 1127, beneficiaries would be notified annually of Medicare coverage rules, which I hope will help the elderly and disabled become better informed consumers as they purchase private MediGap insurance. The HHS Secretary would be required to work with private insurers and representatives of the elderly to develop these notices.

As I indicated earlier, S. 1127 requires a study of alternatives, including private-sector options for the financing of long-term care, and a study of prescription drug coverage under Medicare.

The Committee on Finance discussed at length changes in Medicaid as part of S. 1127. Because expansion of Medicare benefits under the bill will permit States that "buy in" to Medicare for the low-income elderly to achieve some savings, the committee agreed that these savings ought to be reinvested in health care protection for the elderly and disabled who will bear the full cost of the new "catastrophic" benefits policy. Under S. 1127, the Secretary of HHS is required to estimate the savings to each State, and States would then use these savings to expand coverage of the elderly and disabled or to address spousal impoverishment by protecting a portion of joint income and assets of spouses of those individuals who must be institutionalized. The committee determined that these Medicaid changes are the best way to maintain the bill's premise of improving financial protection against catastrophic illness without imposing an excessive fiscal burden on the States.

Mr. President, the second part of S. 1127 deals with financing the new catastrophic benefits. Just as we have a responsibility to the elderly and disabled, we also have a responsibility to all Americans to ensure that the new benefits do not expand the Federal deficit.

In crafting a financing package, the members of the Committee on Finance felt very strongly that the new catastrophic benefit program should be self-financing, both for the short term and the long term. This Nation badly needs the benefits which will be provided by the new program, but it also needs a fiscally responsible way of financing those benefit improvements.

Because the budget deficit precludes us from simply increasing expenditures from the general fund, we were faced with two fundamental alternatives: Taxes could be raised for the population as a whole, or the program could be financed with a premium payable from those who benefit.

The Finance Committee decided on the latter approach. Only those who voluntarily choose to participate in the program will pay the premiums which finance the program.

To achieve the goal, it was decided that the additional premiums would be treated as an increase in the current part B premium. As such, they would be optional. If an eligible individual does not desire to receive part B coverage, he or she can elect not to participate in the program and thus avoid all premiums.

In designing the premium structure to finance the program, we followed two other priniciples—that all who benefit from the new program should pay something for the coverage, and that those with higher income should pay progressively more than those with lower income. In other words, the bill reflects the view that the financing mechanism for the new catastrophic benefits should be based, in part, on the ability to pay. Any other approach would place an unacceptable burden on low and moderate income elderly.

Under current law, eligible individuals are allowed to elect part B coverage if they elect to pay the part B premium. The part B premium for 1987 is $17.90 per month or $215 per year. S. 1127 finances the new catastrophic benefits with a two-pronged increase in the current part B premium. The first element of our proposal would be a flat increase of $4 per month, $48 per year, in the basic part B premium. The second element would be an additional increase in the part B premium of $1.02 per month for each $150 of income tax liability. We call this second element the "supplemental premium."

As with the current part B premium, the additional $4 increase in the monthly premium and the supplemental premium would be prorated based on the number of months during the year that the individual is enrolled in part B.

The supplemental premium would be capped to insure that no individual pays more for the benefits than the benefits are worth. In fact, every enrollee would continue to receive a sizable Federal subsidy.

The cap would be set at $800 per part B enrollee for 1988 and would increase by $50 per year through 1992. Thereafter the cap would be adjustable annually so that no individual would pay more than 65 percent of the value of the total benefits provided under part B plus benefits provided under part A which are added as a part of the catastrophic package. The cap would also be prorated based on the number of months during the applicable year that the individual is enrolled in part B.

Since the program is optional, the cap was set at a level which would not drive people out of the program. The Federal subsidy for the entire package for someone paying premiums at the cap will remain at a level between 20 and 35 percent of total costs. It would cost significantly more to acquire an equivalent benefit package from the private sector.

In addition, only a small percentage of beneficiaries will be paying at the cap. The Joint Committee on Taxation estimates that only 3 percent of beneficiaries will be paying the maximum premium. In order for a married couple who are both covered under part B to reach the cap, their actual income—before deductions, exemptions and credits—would have to be approximately $100,000 or more. A single individual would not reach the cap unless he or she had actual income well in excess of $50,000.

The premiums paid under S. 1127 are deductible on the enrollee's Federal income tax return in the same way that other payments for medical insurance, including the current part B premium, are deductible. In other words, the premiums are treated as a medical expense and may be deducted under Internal Revenue Code section 213 to the extent the threshold in that section is reached.

With enactment of S. 1127, the increase in the part B premium would be collected in two parts. The $4 per month increase in the basic part B premium would be collected at the same time and in the same manner as the current part B premium—that is, it would be deducted monthly from the Social Security, Railroad Retirement, or Civil Service check of the beneficiary. The supplemental premium would be collected at the same time and in the same manner as the enrollee's income tax.

Mr. President, I believe that this proposal equitably distributes the burden of financing the catastrophic benefits. All part B enrollees must pay something more, but not so much more than the premium will take an excessive portion of their income. According to the Joint Committee on Taxation, for those with income under $50,000, the percentage reduction in after-tax income would be about one-half of 1 percent.

The Joint Committee on Taxation has prepared a table showing the distributional effects of S. 1127. I ask unanimous consent that the table be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. Mr. President, in addition, I ask unanimous consent that a set of tables comparing the additional premiums paid at various income levels under the committee bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BENTSEN. Mr. President, the package we are proposing is intended to be revenue neutral over the next 5 years, as estimated by the Congressional Budget Office and the Joint Committee on Taxation. In other words, the proposal collects enough in additional premiums to pay for the benefits provided.

Moreover, both the basic premium increase and the supplemental premium would be indexed directly to increase in the cost of the catastrophic benefits provided under the proposal. As a result, the financing mechanism will be linked to the cost of the benefits in the future. The overall package will not result in increased Federal deficits in the years beyond the 5-year revenue estimating window used by the Congressional Budget Office and the Joint Committee on Taxation.

Mr. President, in summary, the committee financing package is based on several underlying premises. First, that the program should be self-financing in both the short term and the long term. Second, that the costs of the program should be borne by those who derive the benefit from the program. Third, that all who benefit from the proposal should pay something for those additional benefits, but that premiums should be based, at least in part, on the ability to pay.

I believe that the committee bill achieves each of those objectives. By indexing the premiums directly to increases in the cost of the program, the bill ensures that the Catastrophic Benefit Program will remain self-financing. By combining a small increase in the basic part B premium with an innovative income-based premium, the bill raises the required revenue to finance the program in a fair and equitable manner. Finally, by tying the new premiums to the current part B premium, the bill imposes additional expense only on those who receive the catastrophic coverage; as with the current part B premium, a participant can voluntarily decide not to pay the additional premium by electing not to take part B coverage.

Mr. President, I ask my colleagues to support this bill.

It is a good bill.

It is a fiscally responsible bill.

It is a bipartisan bill.

And, most important, it is a bill that provides badly needed protection for the elderly and disabled Americans.

EXHIBIT 1

DISTRIBUTIONAL EFFECT OF S. 1127: MEDICARE CATASTROPHIC LOSS PROTECTION ACT OF 1987

[1989 law at 1989 income levels]

Income class (thousands of 1987 dollars)	Number returns [1] (1,000's)	Average change in premium per enrollee	Change in premium as percent of after-tax income [2]	Distribution of premium increase	
				Dollars in billions	Percent
0 to $10	8,000.5	$40	−0.6	0.3	7.9
$10 to $20	7,838.0	58	−0.4	0.5	12.6
$20 to $30	4,770.6	97	−0.3	0.6	14.7
$30 to $40	2,591.6	151	−0.7	0.6	14.0
$40 to $50	1,187.4	275	−0.9	0.5	10.9
$50 to $75	1,083.5	460	−1.2	0.7	16.4
75 to $100	406.1	736	−1.4	0.4	9.4
$100 to $200	342.0	836	−1.1	0.4	0.7
$200 and over	148.6	880	−0.3	0.2	4.4
Total	26,373.0	131	−0.7	4.3	100.0

[1] Number of returns includes elderly and disabled tax units that have no tax liability.

[2] Income concept does not include value of Medicare coverage or benefits.

Note.—Estimates take into account deductibility of premium as an itemized medical expense (under sec. 213 of the Code).

Source: Joint Committee on Taxation, July 30, 1987.

EXHIBIT 2

HYPOTHETICAL EXAMPLES OF SUPPLEMENTAL PREMIUM FOR ELDERLY TAXPAYERS UNDER FINANCE COMMITTEE BILL, 1988

Income [1]	Adjusted gross income	Tax liability [2]	Combined premiums—Finance Committee
Single returns.—One individual entitled to Medicare parts A and B (Income includes $5,000 of Social Security benefits):			
$11,700	6,700	150.00	60.24
$19,166	14,166	1,269.90	145.92
$42,202	39,702	7,200.00	635.52
$51,770	49,270	9,900.10	848.00
Joint returns.—Two individuals entitled to Medicare parts A and B (Income includes $7,500 of Social Security benefits):			
$18,600	11,100	150.00	$108.24
$34,555	28,332	2,734.80	316.32
$79,091	75,341	14,400.00	1,271.04
$96,010	92,260	19,650.30	1,696.00

[1] Income is defined as adjusted gross income plus untaxed social security benefits. Taxpayers are assumed not be have tax exempt interest or foreign-source income.

[2] Taxpayers are assumed to use the standard deduction, not to be blind, not to contribute to an individual retirement account, and not to be subject to alternative minimum tax.

Source: Joint Committee on Taxation, July 28, 1987.

Mr. BENTSEN. Mr. President, I send to the desk a modification of the committee amendment.

The PRESIDING OFFICER. Without objection, the committee amendment is so modified.

The committee amendment, as modified, is as follows:

Committee modification: replace pages 85, 102, 115, and 127.

Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding catastrophic coverage benefits and related administrative costs). In calculating the monthly actuarial basic rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

"(B) For purposes of this paragraph, the term 'catastrophic coverage benefits' has the meaning given to such term in subsection (g)(2)(C)(i).";

(4) in paragraph (1) of subsection (e) by striking "monthly actuarial rate" and inserting in lieu thereof "monthly actuarial basic rate"; and

(5) by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other provision of this section, except as provided in paragraph (3), the monthly premium otherwise determined under this section for an individual for each month in calendar year 1988 after January, and for every month in any succeeding calendar year, shall be incresed by an amount equal to the applicable monthly catastrophic coverage premium amount for that year.

"(2)(A)(i) The monthly catastrophic coverage premium amount for 1988 for individuals who are covered by the insurance program under part A and this part shall be $4.

SEC. 11. STUDY OF TREATMENT OF PRESCRIPTION DRUGS.

(a) STUDY REQUIRED.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall request the National Academy of Sciences, acting through the Institute of Medicine (in this section referred to as the "Academy" and the "Institute", respectively), to enter into a contract under which the Institute, in consultation with representatives of appropriate research and health-care organizations, will conduct a study to identify additional drugs, available by prescription only, the expenditures for which might appropriately be covered under title XVIII of the Social Security Act or be treated as out-of-pocket medical expenses (as defined in section 1861(ff)(3) of the Social Security Act) for purposes of making the determination described in section 1861(ff)(1) of such Act. The study shall include analyses and recommendations with respect to appropriate limitations on the amounts to be recognized as reasonable for such purposes.

(b) STUDY EXPENSES.—The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by subsection (a).

The Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund amounts necessary for funding such study.

(c) REPORTS.—

(1) Not later than six months after the date of the enactment of this Act, the Institute shall submit to the

(A) (the effect that impending demographic changes (both near-term and long-term) will have on the various approaches to service utilization and funding, and

(B) the effect that membership in different socioeconomic groups has on the need, and ability to pay, for long-term care.

(3) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by paragraph (1).

The Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund amounts necessary for funding such study.

(4) Not later than October 1, 1989, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report that—

(A) describes the study conducted under this subsection,

(B) includes a statement of the data obtained under the study, and

(C) specifies administrative actions and changes in law that the Institute considers to be appropriate to implement the findings of the study. (as added by section 5 of this Act) shall apply to months after January, 1988.

(5) The amendments made by section 6 shall apply to taxable years ending after December 31, 1987.

(6) Sections 8 through 20 shall be effective as provided in such sections.

Mr. PRESSLER. Mr. President, I commend the Senator from Texas on his remarks.

I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. We are glad to have the distinguished Senator as a cosponsor of this piece of legislation. It will be of considerable help.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I rise today to offer an amendment that is directly related to the field of catastrophic health. My amendment would promote the field of geriatrics, that is, specialized medicine for the elderly. This amendment, which is similar to my bill, S. 1112, would establish centers of excellence for geriatric training at 10 medical schools throughout the country. However, I understand that the distinguished chairman of the Finance Committee would like to keep this bill free of extraneous amendments.

Mr. BENTSEN. Mr. President, the Senator from Tennessee is correct. I wonder if the Senator's concerns could be accommodated on a more appropriate vehicle for his amendment. For example, the Public Health Service Act will be considered in the Committee on Labor and Human Resources and would seem an attractive vehicle for such an amendment. Does the chairman of that committee wish to speak to this possibility?

Mr. KENNEDY. Yes, Mr. President, I support Senator SASSER's efforts to improve the quality of health care for our Nation's elderly and I would be pleased for him to attach this amendment to legislation reauthorizing the Public Health Service Act. The Senator has my assurances that this reauthorization bill will be before the

Senate early in 1988. Furthermore, I would indicate to the Senator from Tennessee that I will support his amendment at that time.

Mr. SASSER. I am very grateful to the Senator from Massachusetts. Based on his assurances, I will withhold my amendment at this time. I will offer the amendment when the Senate considers the reauthorization of the Public Health Service Act early next year.

Mr. MATSUNAGA. Mr. President, I rise in support of S. 1127. At the outset I would like to commend the chairman of the Finance Committee, Senator **Bentsen**, for his leadership in bringing S. 1127, the Medicare Catastrophic Prevention Act of 1987, to the floor of the Senate. While Congress has been making changes in the Medicare Program over time, the legislation we are considering today, represents the first major reexamination of coverage in the 22 years since the inception of Medicare.

Many individual beneficiaries and organizations representing elderly individuals have observed that S. 1127 and the House version, H.R. 2470, only go part of the way in providing protection against high out-of-pocket health care expenses. I agree. Nevertheless, S. 1127, of which I am an original cosponsor, is an important step in the right direction.

S. 1127 establishes an annual limit of $1,700 on out-of-pocket expenses incurred under part A and part B for Medicare-covered services. This catastrophic cap is indexed to the annual Social Security cost-of-living adjustment.

The bill provides protection for those needing repeated or extended hospitalization by eliminating all hospital coinsurance and the current limit on the number of hospital days. Only one hospital deductible would be required. The 3-day prior hospitalization requirement for Medicare-covered skilled nursing facility care, or SNF care, is also eliminated. Beneficiaries may receive up to 45 days of daily home health care it they have been in a hospital or skilled nursing facility. S. 1127 also eliminates the current 210-day limit on hospice coverage for all beneficiaries.

In addition, this legislation counts costs for immunosuppressive drugs, mammography, and colorectal examinations toward the catastrophic cap. It also improves standards for private insurance Medicare supplemental policies and requires the Secretary of Health and Human Services to notify annually each Medicare beneficiary of the benefits available and categories of health care not covered under Medicare and Medicare payment limitations.

The catastrophic benefits are financed through a combination of a basic $4 monthly premium and an income-related supplemental premium. After 1988, the basic premium increase would not exceed the beneficiary's Social Security cost-of-living increase. The supplemental premium is capped and would be collected by the Internal Revenue Service.

The method of financing the additional benefits is based on the following principles: First, catastrophic coverage should be voluntary like current part B Medicare covered; second, the funding method should cover the costs of the additional coverage; and third, and those benefiting from the additional coverage should pay something for it, but the burden should be based partly on the ability to pay.

Mr. President, I remain concerned, along with members of the Finance Committee over the current inadequacies of the Medicare outpatient mental health benefit, which remains unchanged since the beginning of the Medicare program. Earlier this year I introduced S. 718 to remove the current $250 a year limit on outpatient psychiatric treatment. This maximum, in constant dollars, buys only about $57 worth of care today. The benefit cap would have to be raised to $1,100 a year in order to give beneficiaries equivalent purchasing power. During the Finance Committee markup of S. 1127, I was prepared to offer an amendment to expand the outpatient mental health benefit. I held off; as did several of my colleagues interested in improving this benefit, in order to hold hearings and to develop a more comprehensive proposal to reform the Medicare mental health benefits.

There are certainly other areas of the Medicare Program that need to be improved. There are many uncovered services which add up to high out-of-pocket expenses for beneficiaries including prescription drugs, eyeglasses, dentures, hearing aids, dentures, and balance billing charges. The area of greatest concern is that of long-term care services. With nursing home costs estimated to average $29,000 per year in 1987, such expenses are a disasterous financial drain for most individuals and families.

S. 1127 does make some improvements with regard to long-term care. For example, the bill eliminates the 3-day prior hospitalization requirement for SNF care and expands covered days for home health care and SNF care. In addition, S. 1127 requires an institute of medicine study of public and private options for long-term care financing and service delivery. The Secretary of the Treasury also is required to study tax incentives for long-term care insurance.

During the June 12, 1987, Health Subcommittee hearing of the Senate Finance Committee on the financing of long-term care, the witnesses agreed that the solution to the problem of financing long-term care must come from both the public and private sectors. No single source of funding, whether it be private insurance, or public programs such as Medicaid, can meet the long-term care needs of everyone who will require such services. Mr. President, I would like to take this opportunity to commend the Senator from Maine [Mr. **Mitchell**], chairman of the Finance Committee's Health Subcommittee for his active leadership in examining this most complex and pressing problem.

Mr. President, I believe S. 1127 makes significant progress in filling some of Medicare's gaps with savings in administrative costs for providing the additional coverage as compared with MediGap policies. I urge my colleagues to approve this progressive legislation.

Mr. CHILES. Mr. President, I support the Medicare Catastrophic Loss Prevention Act. I do so with the expectation that we will make some changes here on the Senate floor to make it a stronger bill.

I cosponsored the original bill when it was introduced by the chairman of the Finance Committee, Senator **Bentsen**. I said then, and it is still the case, that this bill is a vitally important first step toward protecting the elderly from catastrophic health care costs.

The bill makes important and long overdue Medicare improvements. It puts an annual cap on the total amount of out-of-pocket costs borne by all Medicare beneficiaries. On average, beneficiary liability would be reduced by 22 percent. For the first time it authorizes payment for long hospital stays which now represent a catastrophic expense for beneficiaries—for some, thousands of dollars. It expands coverage for home health visits, skilled nursing home stays, and hospice care. And it provides for additional Medicaid payment for out-of-pocket health care expenses of the low-income elderly.

The bill before us represents the largest expansion of Medicare benefits since the program began. It is a truly historic step.

Even so, we all recognized that the original bill did not take care of all the catastrophic health care costs for the elderly. We recognized that the costs of nursing home care, constituting the single largest catastrophic health expense for many elderly, were not included.

We recognized that coverage for prescription drugs, another truly catastrophic expense for many elderly with chronic conditions, was not included.

SUPPORT FOR COVERAGE OF PRESCRIPTION DRUGS

Since the time we originally introduced the bill, a number of my colleagues have been spending a great deal of time wrestling with these issues, particularly with the issue of coverage for prescription drugs. I think we will have an opportunity to add important drug coverage to the original committee-reported bill here on the Senate floor, and I anticipate supporting that amendment.

LONG TERM CARE—THE NEXT STEP

On the vital issue of long-term care, I intend to offer an amendment to establish a congressional, Bipartisan National Commission on Comprehensive Health Care. The Commission would make detailed recommendations to Congress for legislative initiatives to assure access for the elderly and disabled to comprehensive long-term care services.

Mr. President, I would like to think we could now make this bill a truly comprehensive one by adding financing for long-term care. But we are not yet ready to do that. There will be a tremendous cost involved. The Medicare Program cannot sustain that cost. The budget can't absorb that cost.

Nonetheless, we cannot put off this issue much longer. The bill we have before us now is a huge first step in plugging the gaps. But we all know that there is yet another, even larger, step which must soon be taken. We can no longer ask the elderly to sustain the entire cost of long-term care. We have to make plans to bite the bullet and formulate a national policy on long-term care in the very near future. That is what I expect the Commission to set in motion.

PREMIUMS MUST BE KEPT AS LOW AS POSSIBLE

Mr. President, there is another issue in this bill which has to be squarely addressed.

I know I speak not only for myself when I say that many of us have had some rather sobering experiences recently talking with elderly constituents who have concerns about the costs of this bill—and how much they will have to pay through additional premiums. That has been a concern to many even without the addition of a new benefit, such as drug coverage. There are many elderly who fear that the premiums charged to pay for these new benefits will escalate rapidly beyond their own ability to pay.

Certainly we have had that experience with Medicare before. It is very difficult to predict accurate future costs for Medicare benefits. I think it is safe to say that when we have made a mistake—and that has happened many times—our mistake was always on the side of being too conservative in our cost estimate.

We are paying for our errors now—tightening up on reimbursement to hospitals and doctors to save the basic program. We've done a lot of unpopular things over the last few years, and we're not finished yet. There'll be more. And we'll continue hearing from providers.

But we also hear from the elderly, who are affected more than anyone else. As the costs rise in the part B side of the program, their premiums rise. We've just had an announcement of the largest single premium increase in the history of the program—an increase necessary under current law because part B costs per Medicare enrollee went up by 22 percent during the first 6 months of this year.

And now we are about to pass a bill in which the elderly themselves will assume the full costs of new catastrophic benefits through part B premiums.

It would be disastrous if we were to embark on this without doing everything we could to make sure that we have the tightest cost controls possible. One of the most important things we can do with this bill is to be as cautious as we possibly can to make sure that the premium amounts are kept well within affordable ranges.

I know that members of the Finance Committee are sensitive to this issue also. The bill crafted by the committee pays careful attention to the impact of the additional premiums on middle-income elderly, and it is much fairer than the premium structure in the House bill. There is a cap on the amount of supplemental premiums which would be paid in any one year in both bills. In the Senate bill, that premium cap would not be hit by an individual until income levels are about $60,000. In the House bill, however, the cap would be reached at an income level of about $20,000.

Mr. President, we have what seems to be a dilemma here when we talk about our concern for premiums, and yet we want to increase the costs of the program by adding benefits. But I am convinced that most of the elderly who will be paying for these new benefits are going to be more willing to do so if drug coverage is included. Many more people will benefit from drug coverage than from the basic protection against catastrophic acute care costs.

And I applaud the action of the bill sponsors to hold the line on prescription drug costs. Several steps have been taken to keep bill costs and premiums down. I hope by the time we get into conference with the House on this bill, we might be able to find even more ways to contain costs.

Mr. President, this issue of keeping premiums affordable is so important to the success of the new catastrophic program that I intend to offer an amendment instructing the conferees to make this their No. 1 priority as they make final decisions on items in this bill.

I think we will see the Senate pass a good solid bill—one with affordable premiums, one which includes valuable prescription drug coverage, and one which makes every effort to see that future costs are contained. We need to make sure we preserve that balance in the final product.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak on another subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I rise to speak on the Sioux Nation Black Hills land claim, the so-called Bradley bill. This bill would give to certain Indian tribes in South Dakota the public lands in western South Dakota.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. PRESSLER. Yes.

Mr. BYRD. Is this a matter that is germane to the pending business?

Mr. PRESSLER. No; it is not.

The PRESIDING OFFICER. No; but the Senator received consent to speak on another matter.

Mr. BYRD. He did. For what length of time, may I ask?

The PRESIDING OFFICER. No time.

Mr. BYRD. Would the Senator give us an idea of how much time he would need?

Mr. PRESSLER. Five minutes.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

BLACK HILLS LAND CLAIM

Mr. PRESSLER. Mr. President, I rise to speak on the Sioux Nation Black Hills Act, S. 705, a bill that would give much of the Federal lands in western South Dakota to certain Indian tribes.

This matter has been a point of contention in our State for many years. Recently a number of editorials were run in South Dakota newspapers expressing adamant opposition to the Sioux Nation Act. These editorials echo the position of the entire South Dakota congressional delegation which opposes this piece of legislation.

In 1980, the Supreme Court upheld an earlier Court of Claims ruling granting monetary compensation to the Indian tribes for the land in question. I felt very involved in the Supreme Court ruling since I supported efforts, while serving in the House of Representatives, to waive res adjudicata and bring the matter before the Supreme Court.

The Supreme Court ruled that the Indian tribes were entitled to over 100 million dollars' worth of compensation. This judgment award has now grown to nearly $200 million because the tribes have refused to accept the money.

Now, the tribes are attempting to receive legislatively what they failed to be awarded through the judicial branch of Government.

Mr. President, I know that there are many sides to this debate, but a vast majority of the citizens of our State have opposed this legislation very strongly. In fact, many Indians are opposed to it because they believe that the compensation should be distributed among the Indian people. The Indians realize that the possibility of getting these lands is very slim. Even if the tribes received the lands, they may not be any better off financially.

The issue of returning the Black Hills to the Sioux Nation has been largely romanticized by Members of the Senate and the House, many from east coast States, who have cosponsored this legislation. I understand the House companion bill, H.R. 1506, now has about 17 cosponsors, and 3 Senators have added their names to S. 705.

Mr. President, I shall be submitting as an attachment to this speech an historical article surrounding this subject. I also will be speaking on the Senate floor from time to time, as I have done previously, to provide the Senate with additional facts on this matter.

Furthermore, I have asked the author of that legislation for a potential series of debates in the public arena on the Sioux Nation Act legislation because the actual historical and legal facts surrounding the issue are quite different from the public's perception of this issue.

Mr. President, also let me say that the existence of this bill has heightened racial tensions in our State, which greatly concerns me. I have worked very hard to be close to the Indian people of our State during my time in public service. I was one of the original authors of the Tribally Controlled Community College Act and have cosponsored reauthorization of this act several times. I have been honored by Sinte Gleska College, a tribal college in my State and I continue to work closely with all of the Sioux tribal leaders. Indeed, a large portion of my time is spent on working on Indian matters. I am personally acquainted with many of the Indian leaders and tribal leaders in our State.

Over the years, I have had senior citizen advisers who are from the Indian community and I have spent a great deal of time on our reservations.

So I come to this subject as one who has done his homework, so to speak, but I am very concerned about the very existence of this bill and the reasons behind its introduction.

Recently, the author struck language from the bill which gave the Sioux additional portions of Federal land in Wyoming. I felt that this was a political move to narrow the congressional delegation opposition down to one State. However, our neighbors in Wyoming should be aware that if this bill is passed, I am sure there will be legislation introduced to take in Wyoming based on precedent.

Mr. President, this is not Indian lands question, it is a public lands question.

The lands in question are now open to the public, Indian and non-Indian alike. I feel that is fair to all who enjoy the beauty and majesty of the Black Hills.

Mr. President, my time has expired. I have additional historical material I would like to add to this and so I ask unanimous consent that an article written by Watson Parker, professor emeritus in the Department of History at the University of Wisconsin—Oshkosh, appear in the RECORD after my remarks. Watson Parker delivered his article on the Black Hills controversy at a 1984 history conference in South Dakota, and I believe his research sheds an important light on this subject. I thank the Chair and thank the leader for the opportunity to speak.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BLACK HILLS CONTROVERSY

(By Watson Parker)

The problems of the Sioux Indians and the Black Hills have over many years developed into a highly emotional and increasingly misunderstood tangle of sympathies, treaties, laws, Acts of Congress, and the decisions of many courts. The more there is to know about this controversy over the Black Hills the less those who talk and write about it seem to know about its details, and the more deeply their emotions seem to become involved in what they have to say. A hundred and ten or twenty years ago fervent statements excoriating the Indians and in favor of the government position, as well as expressions of heartfelt sympathy for the Indians were heard, although nowadays such fervency seems to be more exclusively pro-Indian. Some thirty years ago I myself wrote about this controversy in a way in which, if it contained no gross inaccuracies, was at least highly flavored by my own sympathies and emotions. And a few years ago I met a young journalist who had prepared a vigorous account of the Treaty of Fort Laramie of 1868, without ever having read that document. All of these things, and of course many more examples of similar writings and orations, set me to thinking about this whole issue of the Sioux and the Black Hills, and I decided to look into the matter in as much detail as I could assemble, and to share with you this evening what it seemed that I had found.

To begin with, it seems to be almost an article of faith with anybody who mentions the matters nowadays that the Sioux Indians had lived in the Black Hills from the time immemorial, and there in the heart of those high and rugged mountains they worshipped the Great Spirit, and that they were somehow immorally and illegally driven out of the area by the evil machinations of the white man and the federal government. This is the way that most people think about the matter, and it is apparently the way they like to think about it, and I am somewhat loath to disturb so comfortable and so long-standing a belief. Inasmuch, however, as the way to succeed in history is to find something that everybody believes and then try to prove that it isn't so, I hope that I may be pardoned if I, at a Conference of Dakota History, endeavor to give a more full, and I hope more accurate, account of this whole controversy of the Sioux and the Black Hills, disturbing perhaps a few beliefs, and joggling a few of the popularly held but insecure assumptions.

Let us first grapple with the related notions that the Sioux lived long in the Black Hills, and that the area was a sacred one to them. To begin with, when the French first made contact with the Sioux these Indians were east of the Allegheny Mountains.[1] Under pressure from eastern tribes they moved westward, reaching Minnesota about 1630. Nothing in recent Sioux tradition seems to place them anywhere else but along the headwaters of the Mississippi. As the noted Dakota historian Doane Robinson put it:

"I have been told by a grave old man of one of the bands that the Dakota come from the far-off land of the setting sun, and within the hour another equally reverend old romancer of the same band has informed me that they come from where the sun rises.

"No reliance whatever may be placed upon their inventions unless collateral matters may be found in substantiation.

"According to all of their traditions they originated north of the Mississippi, about the Mille Lakes of northern Minnesota." [2]

Furthermore, the Sioux, once they got the horse about the middle 1700's, were a wide-ranging, nomadic people, and their presence was occasionally noted from as far north as Hudson's Bay clear down to the Gulf of Mexico, and from the Alleghenies westward to the Rocky Mountains.[3] To say that this gave them some kind of an ancestral claim to any particular area of the West is a bit like saying that a tourist has an ancestral claim on Yellowstone Park because he was once a summer visitor in its vicinity. Nor were Indian notions of land occupation and ownership like those of modern times. They thought of the land much as the ocean fisherman thinks of the sea, as a resource over which they roamed but which it was not possible to claim as a personal or even a tribal possession.

In 1804 Lewis and Clark's map of the locations of the various western Indian tribes showed the Sioux no farther west in Dakota than the banks of the Missouri River, with the Cheyennes in the general area of the Black Hills. In 1822 or so, the Crows vigorously protested Sioux incursions around the Black Hills, and were badly defeated at "The Hill Where the Crows Were Killed" somewhere to the north of present-day Belle Fourche.[4] Sometime in the middle 1800's—and I have seen it put as late as the

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Footnotes at end of article.

1850's—the Sioux encountered and defeated the Kiowas in a bloody battle on what is now called Battle Mountain near Hot Springs. By 1856 Lieutenant G. K. Warren, the famous map maker of the west, encountered Minneconjous, Uncpapas and Blackfoot Dakotas hunting in the vicinity of Inyan Kara Mountain, just over the South Dakota border in Wyoming.[5] All of this is, I think, an indication that the Sioux came rather late to, and had to fight for, the area around the Hills. The very earliest estimates of their presence in the area bring them there in 1776,[6] the year of the American Revolution, and from that time onward they encountered fierce resistance from the Plains tribes already there. If the Sioux wandered in the area of the Black Hills no more than two or three generations it is hard to see how in that short and hectic period they could have worked the Hills up into a religious area; there just wasn't time, I think, to sanctify the Black Hills properly.

Nor were the Sioux—or any other tribes—actually very much in the Black Hills themselves, that wooded area which lies within, but does not completely fill, the land between the Cheyenne and Belle Fourche Rivers in southwestern South Dakota. Almost any primitive people who came near the Hills tended to camp and hunt in the foothills were game was more plentiful, the slow-growing jack pines needed for tepee poles were more readily available, and the land was more easily traversed, for the diligent beaver who flooded the Black Hills valleys made travel through that country on horseback nearly impossible; I know, for I have tried it. The many opportunities for hostile ambush in a land so long disputed made trips into the higher Hills seem dangerous as well as difficult, and let any responsible family man to prefer to camp on the perimeter of the area. No doubt young men then, as young men now, occasionally went higher into the Hills in search of adventure—and if they found members of an opposing tribe, or a den of grizzly bears they no doubt found all of the adventure that they wanted—but in the main, almost everybody stayed out of the Black Hills.

Indeed, this is exactly what the Indians said themselves. As old Robe Raiser told Colonel R.I. Dodge in 1875.

The Indians never lived here, and did not and would not live here now; they did not want the country, and would have sold it or given it away long ago to the whites, but the "squaw men" about the reservation urged them to make a "big fuss" and they would be sure to get a "big price." [7]

Robe Raiser himself had been around the Hills all his life, but had never come into them until he accompanied Colonel Dodge and the Jenny expedition into the Hills during the summer of 1875. Dodge also noted, as did the geologist Walter P. Jenney, that the nearly ineradicable trails made by dragging tepee poles were nowhere to be seen within the Hills, and from this negative evidence they surmised that no significant occupation of the area had ever taken place.[8] That same year another Indian, Crow Feather, reported to the Commissioners of 1875 that he had camped all around the Black Hills but had not, apparently, ever ventured to go inside of them.[9]

In 1932 Chief Standing Bear, recalling a happy childhood, wrote that the Lakota and the buffalo had both entered the Black Hills through a pass—which he identified as present-day Buffalo Gap—"which in places narrowed so that the tall pines at the top of the cliffs arched their bows, almost touching as they swayed in the wind." [10] Nobody who had ever actually passed through Buffalo Gap could imagine that it was such a ravine, or that it was so narrow that branches could almost touch across it. A memory like Standing Bear's memory may be valuable as literature but as evidence of his having been in the Hills the critical reader will find it to be in some ways defective.

Part of the Indian avoidance of the interior of the Black Hills (and the inner Hills are singularly devoid of Indian, or even aboriginal, artifacts) may have derived from a superstitious dread of the rumbling thunder, the vicious and all too noticeable strokes of lightning which shattered the tall pines, the frequent forest fires, and the existence of vague legends of long standing which portrayed the Black Hills as a forbidden as well as a somewhat forbidding land. Edwin Thompson Denig, for many years a fur trader along the Missouri River, wrote in the 1830's that.

"Much superstition is attached to the Black Hills by the Indians. The principal peak, called The Hill of Thunder, is volcanic and in 1833 was in almost constant eruption. The Indians believe a Great White Giant was buried there." [11]

There does not seem to be any volcano in the Hills, and none around them that could have been active so recently. Perhaps Denig's informants confused a long-smouldering forest fire in the Black Hills timber for a volcanic eruption. At any rate his story is typical of the legends which surrounded the area.

Similarly the Reverend Samuel D. Hinman, who visited the Hills with a military escort during the late summer of 1874, and who was extremely sympathetic to the Sioux, reported that the Hills were said by the Indians "to be inhabited by the thunder-gods, ever angry and jealous with hot displeasure at intrusions upon their sanctuary and mountain home." He went on to point out that the Black Hills were attractive only in comparision to places like the neighboring Bad Lands.[12]

Other recollections of the Hills as a sacred place of the Sioux seem to trace back to the 1930's memoirs of Black Elk (the father, I believe of Ben Black Elk, whose gentle dignity so long graced the terraces viewing Mount Rushmore) who recalled, as recorded by John G. Neihardt, going to the top of Harney Peak in order to obtain a vision. Alas for evidence: he went there not in reality, but in a dream. It is easier to visit Harney Peak that way than it is to go on foot: I've tried both.[13]

Throughout the record of the negotiations for the sale of the Black Hills, negotiations which were conducted in 1875 and 1876, the reader will search in vain for any indication that the Sioux sellers regarded the area as in any way sacred or holy. In the words of the old joke, they were merely "haggling about the price." They did not ask for compensation for sacred sites surrendered, or for permission to visit such sites within the Hills, or make any reference to sacred sites at all. This lack of any real use of the Hills for religious purposes has been nowadays converted into evidence of the sacredness of the area: modern claimants allege that the Hills were so Holy that their ancestors didn't live in them at all, or even go anywhere near them.[14] This is, of course, one of the advantages of declaring a spot sacred: you can from that simple allegation derive almost any argument you want. This, perhaps, is why the federal government today tends to view such claims with a somewhat jaundiced eye.

Lastly, this whole notion of the Black Hills as a holy land seems to have been, except for the kind of legends, just cited, a fairly recent invention, created for the tourists by Black Hills publicists after the first World War; for a good many centuries prior to that time the Sioux religion had gotten along without the Black Hills, and it is easy to see why this would be so, for having come into the Black Hills area relatively recently the Sioux would not, as already remarked, have had much time to build it up into a legendary shrine.[15]

Viewed in this manner, on what is of course only a sampling of the evidence, it does seem that claims that the Sioux occasionally make nowadays that the Black Hills were their religious and ancestral home should probably not be taken too seriously: not much evidence supports such claims, and a good deal of evidence refutes them. Let us turn, now, to the way in which the Sioux did achieve a legitimate title to the Black Hills and to much else, and to the way in which they surrendered that brief title.

Treaty-making with the Sioux seems to have been a sort of a hobby with the government of the United States. As early as 1805 Lieutenant Zebulon Montgomery Pike bought from the Sioux the site of what was to become Fort Snelling at the mouth of the Minnesota River, the present location of the thriving little village of Minneapolis.[16] In 1815 a treaty "re-establishing peace and friendship" with the Sioux of the Lakes was signed at Portage des Sioux as the federal government continued its endeavors to preserve the peace of the frontier.[17] In 1825 various additional treaties with the Teton, Yancton, Yanctonies and Oglala Sioux "for the purpose of perpetuating the friendship" of all concerned were agreed to at Fort Lookout on the Missouri River.[18] In 1851, at Fort Laramie, the "Sioux or Dahcotah" and the United States agreed "to abstain in future from all hostilities whatever against each other" and the Sioux recognized the right of the United States to establish roads and military posts within the Indian territory, in exchange for which the United States agreed to pay the Indians the sum of $50,000 a year for ten years, a payment which could be continued for five years more if the President so decreed.[19] In 1858 treaties with the Yankton Sioux and the Sioux in Minnesota and with the Sisseton and Wahpeton bands provided for various land cessions and payments, and pledged, again, that all concerned would be peaceful and well-conducted toward each other.[20] The Civil War and the bloody Sioux uprising and reprisals in Western Minnesota in 1862 of course lapped over into the Dakotas and did much to exacerbate ill-feeling between both peoples in those areas. In 1865, however, treaties with the various Sioux tribes, again involving peace and payments, were agreed to, but again it didn't seem to do much good, and resulted only in the various Sioux depredations along the Bozeman trail in Wyoming and Montana, hostilities which came to be known as "Red Cloud's war." [21] In accordance with the Treaty of 1851 the United States Army had established Forts Reno, C.F. Smith and Phil Kearny along the Bozeman Trail, but by 1868 Indian hostilities forced the Army to abandon or to agree to abandon all of these posts, and in 1868 the defeated United States was forced to agree to the famous Treaty of Fort Laramie of that year,[22] in which the government acquiesced in the

Sioux conquest of various lands which up to that time had been vigorously disputed by other western tribes.

The Treaty of Fort Laramie of 1868 provided the Sioux with a title to a reservation comprising the western half of what is today South Dakota, from the Missouri River westward to the Wyoming border, thence northward to a line just north of the present boundary between North and South Dakota. In addition, hunting rights to the west of the reservation were agreed to, much to the irritation of the other western tribes, and especially the Crows, who thus saw what they considered their own lands given away to their enemies. The treaty prohibited, except for governmentally authorized personnel, white entry upon the reservation, and provided for small cash payments and for the erection of various educational and economic facilities of benefit to the Sioux. The treaty further provided that the federal government would provide the Sioux with rations for the next four years, and that any cession of the lands thus granted would require the approval of three-fourths of the adult male Indians, two provisions which we will shortly meet again.

The various Sioux tribes, on their part, undertook in the treaty to permit the construction of various roads and railroads then being built across the plains in their vicinity, and to keep the peace forever. A considerable number of the Sioux, under the leadership of Sitting Bull and Crazy Horse, did not agree to the treaty at all, but nonetheless by their acceptance of its benefits appeared to acquiesce in it. It is interesting to speculate on where the descendants of these "non-treaty Sioux" believe they get their claims to any of the reservation area. For all practical purposes, of course, acceptance by the tribes in general involved acceptance by the entire group, whether any band or member of the band had individually agreed to the treaty or not. It is from the interpretation of the combination of obligations and responsibilities granted and assumed, and in the existence of the "non-treaty Sioux" who enjoyed the benefits but did not accept the responsibilities of the treaty that much of the subsequent difficulty and many of the later misunderstandings have evolved.

To begin with, the Sioux did not keep the peace. The Record of Engagements of the U.S. Army, published in 1882,[23] recounts, year after year, robberies, rapes, thefts and murders committed specifically by the Sioux in areas outside their reservation, and it is likely that many of the other listed atrocities which were committed in appropriate areas but not identified as to the perpetrators may also be laid at their door. Furthermore, the Army for the most part recorded only the soldiers and scouts who were killed, leaving the other Indian and civilian deaths to be recorded by the civil authorities. By 29 June 1876, Dakota Representative Jefferson P. Kidder was able to present to Congress a list of what he termed "utter disregard of their treaty stipulations" identifying "more than two hundred American citizens" who had been killed, outside of the reservation area, by the Sioux since they had signed the treaty of peace at Fort Laramie in 1868, and none of these 200 deaths included the casualties incurred in the 1876 Sioux War or due to the miners' invasion of the Black Hills. These "nameless crimes the contemplation of which makes humanity's warm life-blood congeal at its source and stand still in its fastness" [24] seemed to Kidder, and to Congress, and may well seem to us today, to constitute a breach by the Sioux of those provisions of the Treaty of 1868 which promised that "from this day forward all war between the parties to this agreement shall forever cease." The Treaty of Fort Laramie had been negotiated with one purpose: to preserve the peace of the frontier, but almost from its signing that peace was broken repeatedly. As General George Crook put it in 1876, "the treaty has been regarded by the Indians as an instrument binding upon us but not binding on them" [25] and he pointed out, as had Kidder, that since signing treaty the "Indians have without interruption attacked persons at home, murdered and scalped them, stolen their stock, and in fact violated every leading feature of the treaty." [26]

If making treaties was a hobby of the United States government, making war was something of a hobby with the Sioux. The Plains sign language gesture for them was said to be a cutting of the throat, graphically indicating their inclinations and proclivities as these were apparently to their neighbors. As Lieutenant G. K. Warren pointed out when, in 1856, the Sioux that he encountered refused his presents if these might obligate them not to make war upon their enemies, "War with them was not only a necessity, but a pastime." [27] They repeatedly plundered the Crows to the north and west, and the Pawnees to the west and south, killing, in both cases, such white settlers and travelers as they might encounter in the process. In spite of the Treaty of Fort Laramie war still lay heavily upon the West.

Gold had been known to exist in the Black Hills since 1804 when the Spanish authorities in New Orleans were informed of it by Regis Loisel.[28] It was publicized in 1868 in J. Ross Browne's governmentally authorized account of the mineral wealth of the nation included in the Report of the Secretary of the Interior for that year, and it was publicized again by F. V. Hayden, who described his Black Hills gold discoveries in the foothills in the Proceedings of the American Philosophical Society in 1869.

It was not, therefore, to discover gold in the Black Hills that Brevet Major General George Armstrong Custer and his 7th Cavalry Regiment were sent into the area in the summer of 1874. Custer, as a glance at his instructions will show,[29] was sent out to reconnoiter a route to Bear Butte, to explore the Black Hills, and to find a site for a military post from which the ongoing depredations of the Sioux, northwestward into Montana and North Dakota, and southwestward into Nebraska and Wyoming, might be suitably controlled, and the Sioux coerced by military force into keeping the peace which they had agreed to keep. As might be expected of an exploratory expedition, Custer did take with him anthropologists, botanists, paleontologists, a geologist, and a couple of grizzled old "practical miners." The geologist didn't find any gold in the Hills at all, probably because he searched for lode deposits which are not easy to find around present-day Custer City, near which the General made his principal camp, but the miners did find gold in placer deposits in the valleys.

The publicity given to Custer's gold discoveries—for he was not a man to hide his light under a bushel—coupled with already existing knowledge of gold in the Hills set off a series of gold rushes to the area. The first of these, usually referred to as "The Gordon Party" reached the area around present-day Custer about Christmas of 1874. Five military expeditions were sent out from the surrounding military posts to locate and extract these mimers from the Hills, and the last of these the expeditions, that of Captain John Mix, succeeded in extracting the miners in April of 1875.[30] The publicity which the Gordon Party's discoveries and removal engendered of course led to still further miners' expeditions, more than one of which had its wagons burned by the Army and its personnel herded back under guard to the surrounding military posts, and by the summer of 1875 General Crook had come into the Hills with a major force to remove the miners, leaving behind a military post at Custer which continued to capture and expell any remaining or new invaders. Alas, the soliders in the Hills tended by their desertion to augment the numbers of the miners in the area, and in November of 1875 the troops at Custer were withdrawn, and by the spring of 1876 the miners flowed into the Hills in increasing numbers. It is sometimes alleged that it was this miners' invasion of the Black Hills, contrary to the Treaty of Fort Laramie, which initiated the subsequent Sioux War, but as has already been recounted, such a war was already an ongoing reality, and indeed later court decisions held that the miners' invasion of the Black Hills was not a factor.[31]

Thus, within a year before or after Custer's expedition to the Black Hills in the summer of 1874 three other important events took place: The Sioux continued their raids upon their neighbors; the miners entered the Black Hills, and, almost entirely overlooked in later histories, the rationing provisions of the 1868 Treaty of Laramie expired, and by 1876 the government had, even though hostilities were in progress, continued to spend millions of dollars to support the Sioux, who had not, as had been envisioned in the treaty, moved appreciably toward becoming self-supporting on their reservation. It is in this expiration of the four years of rationing that the key to subsequent Black Hills history appears. In the summer of 1875 a Commission appointed to treat with the Sioux reported that "nearly seven years have passed away [since 1868] and these Indians are no nearer a condition of self-support than they were when the treaty was signed," and the Commissioners concluded that "a failure to receive Government rations for a single season would reduce them to starvation. . . . The Government, granting large help which the Sioux are obliged to ask, is entitled to ask for something in return. On this basis of mutual benefit the purchase of the Black Hills should proceed." [32]

The Indians, however eager they might be to exchange the Black Hills which they had rarely visited for rations of which they could make good use, had a good notion of striking a bargain, a vague idea of the value of the Hills, and an unfortunate degree of ineptness with large numbers. The Commissioners suggested that a fair price for the Hills would be $6,000,000, or a lease for $400,000 a year, but the Indians, having heard of the gold in the Hills, suggested a price of $70,000,000, or possibly $700,000,000. It has been suggested, that they, being unfamiliar with figures of this magnitude, probably intended to ask for "seventy hundred thousands" or $7,000,000, a figure in actuality not far from the $6,000,000 which the Commissioners had offered.[33]

There is little question, when one reads over the discussions which took place with the Commissioners of 1875, that the Black Hills were for sale, and that the argument was only over the price that should be paid for them: the Indians' remarks on the subject cast a clear light upon their attitude. Red Dog, for example, suggested that food and clothing for seven generations, plus horses, cattle, guns and ammunition, would be about right.[34] Little Bear enlarged upon this notion and said "we want to be helped and taken care of forever." [35] Spotted Bear wanted $70,000,000—or whatever he conceived was meant by that figure—and houses, farms, wagons, cattle and tools for all.[36] Red Cloud listed similar goods, so that in time it would be possible, as he put it, "to take a white man out of the Indians," a process which he correctly assumed would be a long and expensive undertaking.[37] Misunderstanding, the timidity of the Commissioners and the limited options left open to them by the government, and the increasingly hostile demonstrations of the Indians brought the negotiations of 1875 to an end without accomplishing anything, and indeed, inasmuch as the Indians went on receiving government rations to which they were no longer entitled, it may be said that the Sioux got what they wanted from the Commission without having to give up anything at all to get it. Negotiations with this sort of outcome have a tendency to make subsequent discussions even less fruitful than before.[38]

In 1876 the Sioux War of that year broke out as a result of the continuing depredations of Sitting Bull's band, some 3,000 Indians in all, providing some six or eight hundred warriors whose activities along the North Dakota and Montana trails was a considerable annoyance to travelers and surveyors in the area. These warriors, "plundering, robbing, and frequently taking the lives of settlers, but extending their hostilities to every tribe of Indians in their vicinity . . ." [39] made constant and often successful efforts to induce the more peaceful Indians on the reservation to join the hostiles in their warfare, and they thus formed, as one Indian agent put it, "an asylum for outlaws among the Indians." [40] It was for this reason that the Secretary of the Interior in December of 1875 ordered them all to return to the agencies where they could be controlled. Some of them complied, others showed a willingness to return when better weather permitted, but others not only didn't comply with the order but made it clear that they would never do so at all. It was on this basis that the Indians away from their agencies were, on 31 January 1876, declared to be hostile—as indeed in fact they were—and military operations aimed at returning them to their reservation were begun against them, much to the relief of both the Indians and the white men in the off-reservations areas which they were occupying.

It was against this dual background of ongoing war and imminent Sioux starvation that a second group of Government Commissioners met with the Sioux during the summer of 1876. An agreement was reached on 15 August 1876, but open hostilities continued well into 1877, even though the various tribes had by then already pledged themselves to "at all times maintain peace with the citizens and the Government of the United States," a point of agreement on which a three-quarters vote of approval by the male Indians was certainly not required. The government rations, too, continued during these hostilities, until at last in desperation the Congress threatened to withhold them totally if an agreement for peace, relinquishment of the Black Hills, and further rationing could not be amicably reached.

The Commissioners of 1876 were very sympathetic to the plight of the Indians, and noted that "at times they told their story of wrongs with such impassioned earnestness that our cheeks were crimsoned with shame." [41] Nevertheless, the Commissioners recommended to the government that "if they [The Sioux] do not consent [to this agreement], the government should withhold all supplies" [42] in order to coerce them into acquiescence. Allegations which were to surface during subsequent court battles that the Commissioners of 1876 got the Indian leaders drunk in order that some of them could be fooled into affixing their signatures to the agreement seem likely to be ill-founded. Were I a commissioner, bargaining in the midst of a hostile tribe with hostilities going on around me, the last thing I would want to do would be to provide liquor for anyone in the vicinity. In any case, such allegations of duress and undue influence were in 1942 found by the United States Court of claims to be without justification in the record.[43] At any rate, the agreement of 1876 was eventually signed by the leaders of the Sioux tribes, a delegation of authority common among the Indians of that day, and indeed the same process by which the Indians had ratified the earlier Treaty of Laramie, and the Commissioners, whose sympathy for the Indians was deep and pervasive, urged the Congress to enact this agreement into law, regardless of any conflicts which it might have with the Treaty of 1868. Perhaps it should be noted, further, that had the Commissioners been able to get the signatures of three-quarters of the male adult Indians on the agreement to cede the Black Hills, the same allegations of duress, chicanery, intoxication and deceit would have in later years been leveled against them. It is very hard to draw up a treaty of peace during wartime without incurring charges that duress was brought to bear upon the losers.

The agreement of 1876 [44] contained some little known and certainly interesting provisions. The provisions of the Treaty of 1868 in regard to peace and friendship were continued. The boundaries of the Sioux reservation, which had under the Treaty of Laramie of 1868 extended across South Dakota from the Missouri River to the Wyoming border, were markedly cut back to the Cheyenne River and the 103° meridian, but also extended to include 917,000 additional acres south of the Cannon Ball River in what is now North Dakota. Wagon roads across the remaining reservation to the Black Hills and the Montana mines were allowed, Sioux hunting privileges west of the Dakota-Wyoming boundary were abandoned, and in consideration of these concessions the government agreed to expand the Sioux Reservation into North Dakota, and to provide rations to the Indians "until the Indians are able to support themselves," a period which, of course, was indefinite, but which the Sioux Commissioners had indicated to Congress might well be for at least a generation. The government had bought, and the Indians had sold, the Black Hills, a bargain which subsequent generations appear to have confirmed by their continued acceptance of its benefits.

We now turn to the legal history of the various claims and court cases involving the Black Hills. It is one of the few times in my life that I have wished that I was a lawyer, so that I might better understand and more clearly convey to you the gist of what went on from the earliest claims on down to the present, continuing, ones. The heart of the matter appears to lie in three points: did the United States legally acquire title to the Black Hills; was the compensation, or as the lawyers say, "the consideration" suitable; and have the Indian claims for justice been adquately heard? The story is a complex and tangled one.

In 1884 an agreement was proposed between the Sioux and the United States to purchase a further section of the then existing reservation, and although the Indians refused to ratify this proposed agreement, and the Congress refused to impose it upon them, it was pointed out by J.H. Teller, one of the Commissioners, that by agreeing to and living under the provisions of the agreement signed in 1876, and enacted by Congress in 1877, the Sioux and the government both had in effect abrogated the treaty of 1868, and especially its provisions that any cession of Sioux lands should be agreed to by three-quarters of the Indians, and it was pointed out by the Commissioners in general that as in the past it was not the sale but the price which had been at issue.[45]

In 1889, however, the government did negotiate a further sale of reservations land, approved at that time by three-fourths of the adult male Indians, an agreement which moreover specifically confirmed the cessions and concessions made in the agreement of 1876, and restored to the public domain all lands remaining outside the then agreed to reduced Sioux Reservation. Apparently at this time the price was right: for as one of the Sioux leaders, Spotted Horse, commented:

"Suppose the Government will sum up all the damage the Sioux Indians have done since the adoption of the Treaty of 1868. Why, it would take all that has been promised us to pay it up. All our personal property . . . would scarely pay for the mischief we have done. . . . What benefit are we to the whites that they should have fed and provided for us all these years? . . . We have violated more of our obligations than the Government has." [46] Spotted Horse was doubtless in a minority, but the justice of his comments may have played some part in persuading his compatriots to touch the pen to the agreement of 1889. It is worth while to note that this agreement was made at about the same time that South Dakota was admitted to statehood, and also about the time of the Ghost Dance uprising and the tragedy at Wounded Knee, and that all three of these events are to some degree—and in ways beyond the scope of this paper—related to each other.

This agreement, which refutes claims that the government took the land without ever getting the approval of three-quarters of the adult male Indians, did not play an important part in the subsequent deliberations of the courts, for it was held from the beginning to be immaterial, Congress having had, as will be seen, the authority to take the Black Hills without reaching any agreement whatsoever with the Indians. It is good to see that this agreement will be the subject of a paper at this year's Dakota History Conference.[47]

In 1920 the Congress by "an act authorizing the Sioux Tribe of Indians to submit claims to the Court of Claims" [48] provided an opportunity for the Sioux specifically to present their grievances, which they did in 1923, the Court of Claims eventually rejecting all of their allegations in 1942.[49]

In 1946, however, the Congress established the Indian Claims Commission, authorized to allow compensation for takings, "with appropriate deductions for all payments made by the United States" on such claims, including, the Act provided, both money and property expended or given gratuitously to the applicants for reimbursement.[50] Claims for reimbursement under several headings were again submitted by the Sioux in 1951, this time to the Indian Claims Commission, which again dismissed their petition alleging that the Sioux had been given an unconscionably small compensation for the taking of the Black Hills in 1877. This decision the Sioux appealed to the United States Court of Claims, which, in a decision which was later vacated by the Court itself, held in favor of the government and again dismissed the Sioux claims.[51] The Court held that it was not the agreement of 1876 which took the Black Hills from the Sioux, but the Act of Congress of 1877, and the Court reasonably pointed out that "treaties with Indians are no different than any other public laws and are subject to contrary legislation by the Congress when it is felt to be in the interest of the country." [52] Indeed, the Court held that Congress could have taken the Hills from the Indians without having reached any agreement with them at all—a course which had been recommended by the Commissioner of 1875—and the Court of Claims held that all that was required of the government was that the compensation for the taking of the Hills be a just one, as determined by the value of the property at the time. As the attorneys for the Sioux had already admitted to the Claims Commission that "based on projected land values in 1877 the Indians have been overpaid" the Court found that a payment of $57,000,000 made up to 1953 was adequate.[53] It is hard to see how the court could have decided otherwise, for if the value of a purchased property can be over the years adjusted upward by each successive generation no purchase and no payment could ever be a final one.

New attorneys have been hired by the Sioux, and the notion presented that new evidence might be available, the Court of Claims in 1958 decided to vacate its earlier decision,[54] and to remand the case to the Indian Claims Commission for another hearing along the lines of the Court's decision.

In 1974 the Sioux again appealed to the Congress and in the "Act Authorizing Appropriations for the Indian Claims Commission for the Year 1975" the Congress inserted specifically on behalf of the Sioux a change in the rules under which the Indian Claims commission operated, declaring that "expenditures for food, rations or provisions shall not be deemed payments." [55] It is difficult to tell what the Congress had in mind by declaring, ex post facto, and 99 years later, that most of the compensation already paid by the government for the purchase of the Black Hills was null and void. The only testimony provided when the Bill was reported into the Senate was provided by "The Committee of the Sioux Tribes" and offered two justifications for this change in the rules: first, that the rations paid were not a consideration for the taking of the Black Hills but merely a compensation for depriving the Sioux of "their traditional hunting areas," [56] and second, that it would take so much time and effort in manpower—the General Services Administration estimated that it would take fifteen men a year, and even then the record might not be complete—to count up the rations and other compensations given to the Sioux, that therefore it would be to the government's advantage to omit this item from the consideration paid, as an economy, sparing the government the expense of counting up how much they had already paid the Indians for the Hills.[57]

In any event, the Sioux by 1975 had renewed their claim before the Indian Claims Commission and this time, the Sioux having at last won a favorable decision, the government appealed the decision to the United States Court of Claims.[58] In its appeal the government not unreasonably held that the matter had already been amply decided, and that the doctrine of what was termed res judicata, "the thing has been decided" applied. The government also disputed the new decision of the Indian Claims Commission which had now awarded the Sioux further reimbursement for the Black Hills in the amount of some $17,000,000, and in addition interest thereon at a rate of 5%, a sum which of course by 1975 far exceeded the basic award. The Court of Claims on this appeal decided in favor of the initial case award, but against the payment of interest on it, the discussion revolving around the tangled question of whether the government had "taken" the Black Hills, in which case interest was applicable, or merely somehow swindled the Indians, which moral claim, the Court held, was beyond its authority to decide.[59]

In 1978 the Congress again took a hand in the matter, ordering that in this particular case the government's defense of res judicata should be disregarded,[60] and the case once more tried before the Court of Claims. In 1979 the case was thus again re-heard, and this time, without the presentation of any new or additional evidence, the Court held that an initial payment plus interest, totaling some $105,000,000, should be paid to the Sioux. The Court laid great stress on the absence of "consideration" and on whether or not the Congress in 1877 had considered that the price that they were paying for the Black Hills was an adequate compensation for the property taken. The Indian Commissioners of 1875 and 1876 had put forward to Congress that the rations to be given to the Sioux would be "in consideration" of their cession of the Hills, and the Agreement of 1876 and the Act of Congress of 1877 putting that cession into effect both contained that very word, but its presence was insufficient to convince the Court that the Congress had given sufficient study to the matter. The Court apparently put no value on the 917,000 acres in North Dakota which had been in 1877 added to the Great Sioux Reservation, an oversight which the Court did not explain. All other claims for compensation were denied, and there the matter rests today, except for the refusal of some of the Sioux to accept any money at all, complaining that what they wanted all along—although they had not previously mentioned it in court—was to have the Black Hills back again. A suit to that effect was rejected by the United States District Court for the Western Division of the District of South Dakota on 11 September 1980.

Whether the Courts were correct in these many cases, or right in some and wrong in others, I do not pretend to know. One does get the vague impression from the record that whenever the Sioux lost in court they went to the Congress and got the law changed in their favor. On the other hand, it is easy to believe that any favors shown to these long suffering people are probably well merited. I cannot help but think that in some ways this long-standing involvement in legal proceedings must have been pernicious, leading some of the Indians to look not to their own efforts but to the successful conclusion of a lawsuit for their success and progress in the world.[61] That the United States has been conscientious and has done its best to right wrongs so disputed and so long ago is a credit to us all, but inasmuch as these wrongs appear to be redefined by each succeeding generation the process of righting them seems likely to go on more or less forever as each new generation finds new causes for complaint. I cannot but believe that sooner or later a "statute of limitations" must eventually limit our efforts to redress wrongs, if wrongs they be, wrought so long ago to people and by persons now long in their graves. Perhaps General Crook, nearly a hundred years ago, had a message for us today when he counseled the Indians that "Instead of complaining of the past they had better think of the future."

FOOTNOTES

[1] Colonel C. F. Bates, "The Redman and the Black Hills," *Outlook*, 27 July 1927.

[2] Doane Robinson, *A History of the Dakota or Sioux Indians*, South Dakota State Historical Society *Collections* II, (1904), p. 15.

[3] *Ibid.*, p. 27.

[4] Doane Robinson, "Indians at the Ra-Sapas", *The Sunshine State*, October 1925.

[5] Lt. G. K. Warren, *Explorations in Nebraska and Dakota*, (Washington: U.S. Government Printing Office, reprinted 1875), pp. 18 *et. seq.*

[6] Robinson, "Indians at the Ra-Sapas" puts it at 1796.

[7] Richard Irving Dodge, *The Black Hills* (New York: J. Miller, 1876), pp. 137–38.

[8] *Ibid.*

[9] *Report* of the Commissioner of Indian Affairs for 1875, "Relinquishment of the Black Hills," p. 190.

[10] Chief Standing Bear, *Land of the Spotted Eagle* (New York: Houghton-Mifflin Company, 1933), pp. 42-43.

[11] Edwin Thompson Denig, ed. by John C. Ewers, *Five Indian Tribes of the Upper Missouri* (Norman: University of Oklahoma Press, 1961), p. 6. Denig was heavily copied by F. V. Hayden, who in turn was copied by Annie Tallent in her notable book on *The Black Hills* (St. Louis: Nixon-Jones, 1899).

[12] Samuel D. Hinman, Letter to the Rev. W. H. Hare, 10 November 1874, pp. 94-5 of the *Report* of the Commissioner of Indian Affairs for 1874. Hinman's letter was reprinted in *Bits and Pieces*, V (November 1969).

[13] John G. Neihardt, *Black Elk Speaks* (New York, William Morrow and Company, 1932), p. 43.

[14] U.S. Department of Agriculture, Forest Service, Rocky Mountain Region, Black Hills National Forest, "Environmental Assessment, Yellow Thunder Camp Special Use Application," 1981, p. 26.

[15] James Hanson, Chadron State College, as quoted in the Sioux Falls *Argus Leader*, 3 December 1982.

[16] Robinson, *History of the Sioux*, pp. 76–77.

[17] Charles J. Kappler, *Indian Affairs: Laws and Treaties* (Washington: Government Printing Office, 1904), pp. 113, 128–30.

[18] *Ibid.*, pp. 227-32.

[19] *Ibid.*, pp. 594-96.

[20] *Ibid.*, pp. 776-89.

[21] *Ibid.*, pp. 905-908 & *passim.*

[22] *Ibid.*, pp. 998 *et seq*; the treaty may also be found in Donald Jackson, *Custer's Gold* (New Haven: Yale University Press, 1966), pp. 127–36.

[23] General Philip H. Sheridan, *Record of Engagements* (Washington: Government Printing Office, 1882), *passim.* The *Report* of the Commissioner of Indian Affairs for 1877, p. 14 points out that Sitting Bull and the "non-treaty Sioux" were in almost constant violation of the treaty.

[24] George Martin Kingsbury, *History of Dakota Territory*, II (Chicago: S.J. Clarke Publishing Company, 1915), pp. 931–37. The quotation, which has a Shakespereian twang to it, is on p. 934.

[25] Mark H. Brown, *Plainsmen of the Yellowstone* (New York: G.P. Putnam's Sons, 1961), p. 219. Harry H. Anderson, of the Milwaukee Historical So-

ciety has provided some cogent criticism of Brown's theories and statements.

[26] Brown, p. 230.

[27] Robinson, *History of the Sioux*, p. 229.

[28] Pierre Antoine Tabeau, ed. by Annie Heloise Abel, *Tabeau's Narrative of Loisel's Expedition to the Upper Missouri* (Norman: University of Oklahoma Press, 1939).

[29] Captain William Ludlow, *Report of a Reconnaissance of the Black Hills of Dakota Made in the Summer of 1875* (Washington: Government Printing Office, 1875), p. 7. General Philip H. Sheridan, in the *Report* of the Secretary of War for 1873, p. 42.

[30] Captain Mix's *Report* was published, edited by Watson Parker, in *South Dakota History*, VII (Fall 1977).

[31] 97 Court of Claims p. 634 (1 June 1942).

[32] *Report* of the Commissioner of Indian Affairs for 1875, p. 8.

[33] *Ibid.* Kingsbury, p. 916, points out the Indian confusion over large numbers, and their use of "million" when they meant "one hundred thousand".

[34] Kingsbury, p. 913.

[35] *Ibid.*, p. 914.

[36] *Ibid.*

[37] *Ibid.*

[38] George E. Hyde, *Spotted Tail's Folk* (Norman: University of Oklahoma Press, 1961), p. 215 points out the satisfaction of the Sioux at this outcome of the negotiations; only their leaders realized that they had failed to strike a bargain while they could. Hyde's *Red Cloud's Folks* (Norman: University of Oklahoma Press, 1937) is similarly valuable for its insights and comprehensive history.

[39] *Report* of the Commissioner of Indian Affairs for 1876, p. XIV.

[40] *Ibid.*

[41] *Ibid.*, p. 8.

[42] *Ibid.*, p. 194.

[43] 97 Court of Claims, p. 650 (1 June 1942).

[44] South Dakotans will probably most easily find the treaties and agreements (after 1871 the government entered only into "agreements" with the Indians) of 1868, 1876, and 1889 in Kingsbury, I, 756-63, 947-54, and 1283-91.

[45] Kingsbury, 1245-49.

[46] *Ibid.*, p. 1262.

[47] The agreement of 1889 may be found in Kappler, *Indian Affairs: Laws and Treaties*, I, 328-339, as well as in Kingsbury. It was of course both a law and an Act of Congress.

[48] 66th Congress, Session II, Chapter 222, Act of 3 June 1920, 41 Statutes 739.

[49] 97 Court of Claims p. 613-689, 1 June 1942. This decision is a thorough review of the entire matter up to that date.

[50] Act of August 13, 1946; 60 Statutes 1049, U.S.C.A. # #70a.

[51] The Sioux Tribe of Indians, et al., v. the United States, No. 4-55. United States Court of Claims 7 November 1956; 146 Federal Supplement p. 229-240; vacated 5 November 1958.

[52] The right of the President to abrogate Indian treaties is spelled out in the 1946 Claims Commission Act, Chapter 2A. #72. The 1956 decision's holding in regard to treaties is found in 146 Federal Supplement pp. 230, 235, and 236.

[53] *Ibid.*, p. 235.

[54] 182 U.S. Court of Claims pp. 912-13, 6 February 1961.

[55] Public Law 93-494, 27 October 1974, S. 3007.

[56] 93rd Congress, 2nd Session, Senate Report No. 93-863, 21 May 1974, p. 4.

[57] *Ibid.*

[58] 207 Court of Claims pp. 234-254, 25 June 1975.

[59] *Ibid.*, 243 *et seq.*

[60] Public Law 95-243. 92 Statutes 153, 13 May 1968. I am much indebted to Bob Lee of Sturgis for copies of the mass of materials offered in support of this bill when it was presented to the Congress.

[61] A friend has suggested that perhaps the continuing excitement of these court cases serves as a substitute, in a traditionally warrior society, for the earlier plains Indian raids and warfare.

[The case eventually came before the United States Supreme Court, as *U.S. v. Sioux Nation of Indians* (448 U.S. 371, 65 L. Ed. 2d 844, 100 S. Ct. 2716, 1980), in which the Court on 30 June 1980 affirmed the decision of the lower court, Mr. Justice Rehnquist dissenting. An interesting study of the Court's uses of history is by Wilcomb E. Washburn in the August 1983 OAH *Newsletter*.]

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at any time for the majority leader after consultation with the minority leader to proceed to the consideration of H.R. 2890, the transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader.

RECESS UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 a.m. today.

There being no objection, the Senate, at 10:48 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BYRD].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of West Virginia, suggests the absence of a quorum.

The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business, not to extend beyond the hour of 11:30 a.m. today, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

THE SPECTER OF SEQUESTER

Mr. CHILES. Mr. President, unless something can be worked out to reduce the deficit by $23 billion, the President of the United States will issue his initial sequester order 1 week from today.

As a practical matter, here is what that means. A whole range of programs—including both domestic programs and defense—will be pushed in front of the buzz saw and big pieces will be cut off. It will take place automatically. We won't have to do a thing. In fact, if that is what actually happens, it will mean we have not done anything at all.

If we end up with a sequester, we will have a lot of bystanders left behind. But some of those will be innocent bystanders—the people served by the programs cut—and some will be guilty, the people who had the chance to act but did not.

In the last couple of weeks, I have heard some talk that maybe it would be allright to just accept the sequester. A lot of that talk is coming from the other end of Pennsylvania Avenue where there has been resistance to just about everything we have tried to do about the Federal deficit.

Under these conditions, it would be a mistake to say the Nation had to put up with automatic sequester because Congress would not act. The truth is, we would end up with Presidential sequester because the White House would not help.

It seems to me the only sensible and responsible course of action would be for Congress and the President to get together and work out an agreement to avoid any kind of sequester at all. That is what we have been trying to do on this side of the aisle all year long.

So, today, I want to extend still another invitation to the White House to join us in the effort to move ahead with this deficit-reduction effort. And to those who seem willing to accept a Presidential sequester, let me take a few minutes to explain what a mistake it would be.

To give the Senate some idea of just what a sequester would mean, let us talk a little about the impact it would have on education programs.

Mr. President, I think every American understands that education has been the key element in our climb to world leadership. And when you look inside that basic fact, people understand education makes a practical difference in their everyday lives.

Education is the difference between a job and a good job. It is the difference between a job and no job at all. Education is, and has been, the way millions of Americans have made their lives better and together have helped make the Nation stronger.

That is why, when the administration proposed massive cuts in education programs at the beginning of the year, there was such universal opposition, not just in the Congress but around the country.

Let us be clear about something. The opposition did not come from some narrow, special interest group that wanted to save some pet programs. In fact, what sounded like opposition was really a broad and positive statement from people around the country who understand we are challenged by other countries and we have to be at our best.

How would sequester effect that effort?

It would cut discretionary appropriations for the Department of Education $1.4 billion below the 1987 baseline. Put another way, we would lose $2.5 billion worth of increases reflected in the Senate-passed appropriations bill for 1988.

Those are big numbers, Mr. President. But when you look more carefully at key education programs, the impact is even bigger.

About $350 million would be cut from programs for disadvantaged children under chapter 1. It would mean depriving the program of the $535 million increase provided in the 1988 appropriations bill.

The cuts would come at a time when the number of kids is increasing who have already been short-changed both in the classroom and economically, as well.

It would mean reduced service to the 400,000 children now served by chapter 1 programs, and denying service to over 650,000 new participants. By doing nothing—by letting a Presidential sequester take place—we would be saying to something like 1 million children "it may be tougher for you, but it will be easier for us."

Sequester would be worse than just standing pat. It would be more like standing aside to let the competition pass. In 1982, the advanced math students in this country scored 5.3 percentage points below the international mean, and 13.4 points below Japanese students.

A Presidential sequester would actually cut math and science education programs by $7.1 million. That would put us at a level of funding, $20 million below the appropriations for 1985. So just at the time when we need to be bold enough to make investments in our future, a sequester would take us several steps back in time.

And it would also be taking back promises we made to people who want to give their best to this country if we are wise enough to help. A Presidential sequester would cut $154 million from programs for education of the handicapped. It would reduce the funding levels $300 million below the levels set in the 1988 appropriations bill.

If those cuts are allowed to happen, we will be going against the grain of demographics. In the 1976-77 school year, about 3.7 million students were enrolled in programs for education of the handicapped. In the 1984-85 school year, the number had risen to 4.4 million students. So there is a clear need for the programs, and another solid reason for avoiding a sequester.

Sequester would take $78 million out of vocational education programs. Student financial aid would be cut by $485 million, even though the cost of higher education is going up. And just at the time when people are demanding better results for the education dollar, a sequester would cut $17.4 million for the Office of Educational Research and Improvement activities. This cut could not come at a worse time. Federal taxpayers and many of us in this building are demanding more information about Federal expenditures on education. We are interested to know what we get for each dollar spent on improving the minds and lives of this country's future decisionmakers. Without sufficient funding, more than this sequester would provide, OERI will never be able to upgrade its information collection and dissemination function.

Mr. President, I hear it said that a sequester is something like a benign option since it is just a different kind of pain in a process that is painful regardless of how the deficit's reduced. That is wrong. It actually amounts to an admission that policymakers are unwilling to make policy, reluctant to make choices, and comfortable with the idea that it is OK to let things ride.

Sequester was never intended as a "way out" or a "way around." I have always thought that when reasonable people see a train coming, they will find a way to get moving.

As things stand right now, the President is the engineer of the "Sequester Special." The Members of the Congress are the switchmen. If we do not talk to each other, we run the risk of derailment. But with a little communication, we can get the deficit-reduction effort on track and keep moving ahead.

So I would say to my colleagues in the Senate and the House as well as to the President, let us not settle for sequester. Let us get together and make choices. I know it's not easy. But there is nothing so tough that we cannot get it done if we only make the effort.

Mr. President, I ask unanimous consent that a factsheet detailing the impact of a sequester on education programs be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

FACTSHEET—IMPACT OF POTENTIAL SEQUESTER ON EDUCATION

Under a full sequester of $23 billion, Department of Education discretionary appropriations would be cut $1.4 billion below the 1987 current services baseline. DOE appropriations would fall to $18.8 billion, a little more than the 1986 pre-sequester funding level. In this year's Budget Resolution, Congress made a strong commitment to substantially boost federal spending for education. If a full sequester takes place, education programs would lose $2.5 billion of increases over last year's spending bill provided under the Senate Appropriations Committee-passed 1988 appropriations bill.

If the 1988 Labor-HHS-Education appropriations bill (H.R. 3058) is signed into law before November 20, discretionary appropriations would be cut by $1.6 billion.

Education programs for disadvantaged children, Chapter 1, would be reduced $350 million at a time when the population of educationally and economically deprived kids is increasing. A cut of this size would return funding to a level approved on the Senate floor for the 1985 program. If the full sequester is enacted, Chapter 1 would not receive the $535 million increase provided in the Senate Appropriations Committee bill for 1988.

A loss of $350 million under enactment of a full sequester would mean reduced educational services to over 400,000 current Chapter 1 children. Even worse, if Congress fails to approve the Appropriation Committee's $535 increase over last year's appropriation, we won't be able to provide services to over 650,000 potential new participants. The aggregate loss would result in Congress choosing to deny services to over one million children who need a little extra educational help to reach their full potential.

If H.R. 3058 is signed into law, Chapter 1 would be cut by $381 million.

A full sequester would cut math and science education grants by $7.1 million, allowing funding to slip $20 million below the 1985 appropriation. This cut would make a mockery of Congress's rhetoric calling upon the nation to invest more in education, specifically in those programs which prepare our children to compete against other industrialized countries. Mathematics scores for 17-year-olds on the SAT increased by only three points from school year 1974-85 to 1985-86 (472-475). In 1982, American advanced mathematics students scored 5.3 percentage points below the international mean, and 13.4 percentage points below Japanese students.

If H.R. 3058 is signed into law, math/science grants would be reduced by $12.8 million.

Education of the handicapped programs would be cut by $154 million, $300 million below the Senate Appropriations Committee 1988 mark. This cut would reduce by $16 million funds for preschool handicapped education grants. In 1986, Congress reauthorized handicapped education programs with the recognition that early intervention is socially and economically efficient. When enrolled in preschool education, developmentally delayed children achieve higher educational levels. Reducing expenditures for these programs flies in the face of demographic trends: In school year 1976-77, 3.7 million students were enrolled in handicapped education programs; in 1984-85, that number increased to 4.4 million students.

If H.R. 3058 is signed into law, education programs for handicapped children would be cut by $167.2 million.

Vocational education would be cut by $78 million, reverting to $9 million less than the 1986 appropriation; $109 million below the Senate Appropriations Committee-passed level for 1988.

If H.R. 3058 is signed into law, vocational education would lose $80.7 million.

Student financial aid would be cut by $485 million, taking these programs back to their 1985 appropriated level. As the costs of attending postsecondary institutions continue to rise, more students and families will seek financial aid to help pay education bills. In 1976, 10.9 million people were enrolled in postsecondary institutions; by 1984, that number had increased to 12.2 million.

If H.R. 3058 is signed into law, student aid would be reduced $500 million.

At a time when the public demands improved measurable outcomes for tax dollars invested in education, a sequester would cut by $17.4 million Office of Educational Research Improvement activities. This would return us to the 1985 appropriated level.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING MORNING BUSINESS FOR 5 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes and Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

(The remarks of Mr. Dixon pertaining to the introduction of legislation will appear later in the Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, under the order previously entered I have authority to proceed to the consideration of the Labor-HHS appropriations bill after consultation with the distinguished minority leader. That consultation has been had. The minority leader was aware, earlier today, that we were hoping to bring up the Labor/HHS appropriations bill today. As a matter of fact, he hoped to expedite that through the staff.

So I shall ask the Chair, just in a moment, to lay that before the Senate. This means that there would be about four matters, four tracks going here with the Verity nomination to be the first and highest priority by virtue of the fact that we will have a cloture vote today.

Following that, the war powers has next priority. Following that, catastrophic illness, and then, fourthly, the Labor-HHS appropriations bill.

Under the previous order, the Senate was to go into executive session at noon and debate the Verity nomination for 45 minutes. I do not know that Senators want to debate that at this time.

At any rate, Mr. Helms is here. Would there be any problem in, say, going on to Labor-HHS and have the two managers—they probably have some preliminary motions they want to make.

Would the distinguished Senator from North Carolina have any problem holding the nomination for 10 or 15 minutes? Perhaps for 10 minutes or less?

Mr. HELMS. Mr. Leader, I am sorry?

Mr. BYRD. It would be 10 minutes or less that would be needed for this exercise here.

Mr. HELMS. So the leader is saying delay the Verity nomination for 10 minutes?

Mr. BYRD. Yes, delay going into executive session for 10 minutes.

Mr. HELMS. That would be fine. If the distinguished leader would not mind if 2 or 3 minutes beyond 12:45 may be needed?

Mr. BYRD. Yes, surely.

If it would be agreeable to Mr. Hollings and Mr. Helms, if the executive session went, then, 10 minutes beyond what it otherwise would have been.

Mr. HELMS. That will be fine.

Mr. BYRD. Is that agreeable to the Senator from South Carolina?

Mr. HOLLINGS. What is the request?

Mr. BYRD. The Senate was to go into executive session at noon and have a debate until 12:45.

Mr. HOLLINGS. Right.

Mr. BYRD. What I am saying, in order to accommodate the two managers on the Labor-HHS appropriations bill, that we take 10 minutes now, get that bill laid down, and they have some preliminary motions, perhaps; and then go on Verity at 10 after 12, continue Verity until 12:55, if need be. Would that be agreeble?

Mr. HOLLINGS. Yes, sir.

Mr. BYRD. Mr. President, I thank the Senator from South Carolina and I thank the Senator from North Carolina.

Mr. President, I ask unanimous consent that the order for going into executive session on the Verity nomination be delayed for 10 minutes; that in the meantime, the Senate proceed with the consideration of the Labor-HHS appropriations bill, H.R. 3058, and that the 12:45 recess time be extended to 12:55 p.m. today if it becomes necessary in the opinion of those who are handling the Verity nomination.

The PRESIDING OFFICER (Mr. Adams). Is there objection? Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

The PRESIDING OFFICER. The clerk will report the bill, H.R. 3058.

The bill clerk read as follows:

A bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 3058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

Employment and Training Administration

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$73,896,000**]** *$74,027,000* together with not to exceed **[**$46,425,000**]** *$43,855,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, *the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act,* **[**$3,511,185,000**]** *$3,877,201,000* plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989, of which **[**$62,370,000**]** *$62,700,000* shall be for carrying out section 401, **[**$70,480,000**]** *$66,500,000* shall be for carrying out section 402, **[**$10,409,000**]** *$10,575,000* shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, **[**$3,000,000**]** *$5,000,000* shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, *$2,000,000 shall be for service delivery areas under the Job Training Partnership Act with high concentrations of American Samoans in addition to amounts otherwise provided under Section 202 of the Act,* and $8,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

[For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $128,500,000, to be available for obligation for the period July 1, 1988 through June 30, 1991.]

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $50,000,000.

For activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, [$8,000,000] *$12,000,000, of which $2,000,000 shall be for carrying out section 738 of the Act.*

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $269,880,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $76,120,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $141,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $23,400,000, together with not to exceed [$2,536,012,000] *$2,470,812,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1988, and of which $22,700,000 together with not to exceed [$732,500,000] *$677,300,000* of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1988, through June 30, 1989, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $182,866,000 (including not to exceed $4,600,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1988.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1989; $30,000,000.

Labor-Management Services

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $81,192,000, of which $13,600,000 for a pension plan data base shall remain available until September 30, 1989.

Pension Benefit Guaranty Corporation

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1988, for such Corporation: *Provided,* That not to exceed $40,034,000 shall be available for administrative expenses of the Corporation.

Employment Standards Administration

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, [$217,085,000] *$216,952,000,* of which not to exceed $8,000,000 shall be available for obligation through September 30, 1989, for acquisition of computer equipment and software for the Federal Employees' Compensation Program's ADP system, together with $488,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS
(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, [$257,177,000] *$174,000,000,* together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1988.

BLACK LUNG DISABILITY TRUST FUND
(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, [$646,842,000] *$649,169,000,* of which $594,522,000 shall be available until September 30, 1989, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which [$28,293,000] *$28,217,000* shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and [$23,521,000] *$25,924,000* for transfer to Departmental Management, Salaries and Expenses, and $506,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, [$244,001,000] *$247,901,000,* including not to exceed $42,327,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, [$164,874,000] *$169,765,000,* including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, [$184,833,000] *$183,833,000,* of which $9,184,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $43,419,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That $7,694,000 shall remain available until September 30, 1989.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including [$2,434,000] *$2,507,000* for the President's Committee on Employment of the Handicapped, $120,041,000, together with not to exceed $286,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $145,826,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, [$38,224,000] *$38,700,000,* together with not to exceed $6,476,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

General Provisions

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OFFICE OF THE SECRETARY

[PRIORITY DISEASE CONTROL AND RESEARCH (AIDS)

[For carrying out the Public Health Service Act with respect to Acquired Immune Deficiency Syndrome, $945,430,000, of which $38,500,000 shall be for the Health Resources and Services Administration, $306,750,000 shall be for the Centers for Disease Control, $93,946,000 shall be for the National Cancer Institute, $25,839,000 shall be for the National Heart, Lung and Blood Institute, $3,310,000 shall be for the National Institute of Dental Research, $3,500,000 shall be for the National Institute of Diabetes, Digestive, and Kidney Diseases, $12,755,000 shall be for the National Institute of Neurological and Communicative Disorders and Stroke, $223,323,000 shall be for the National Institute of Allergy and Infectious Diseases, $2,500,000 shall be for the National Institute of General Medical Sciences, $9,928,000 shall be for the National Institute of Child Health and Human Development, $4,000,000 shall be for the National Eye Institute, $4,091,000 shall be for the National Institute of Environmental Health Sciences, $377,000 shall be for the National Institute on Aging, $25,661,000 shall be for Research Resources, $533,000 shall be for the National Center for Nursing Research, $1,200,000 shall be for the John E. Fogarty International Center, $61,465,000 shall be for the Office of the Director, $101,252,000 shall be for the Alcohol, Drug Abuse and Mental Health Administration, $1,500,000 shall be for the Office of Minority Health, and $25,000,000 shall be for the Office of the Secretary: *Provided*, That of the amounts appropriated under this heading, $40,000,000 shall remain available until expended, including $10,000,000 for section 1610(b): *Provided further*, That amounts appropriated herein may be transferred between the institutes and agencies named herein upon the approval by the House and Senate Committees on Appropriations of a reprogramming request submitted by the Secretary of Health and Human Services.]

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, *X*, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, **[$1,343,476,000]** *$1,640,813,000* of which not to exceed $750,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $100,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *of which $25,000,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers; of which $4,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients: Provided further, That Florida Agricultural and Mechanical University School of Pharmacy shall be an eligible recipient of the Excellence in Minority Health Education and Care program without respect to section 788A.(c): Provided further, That funds remaining unobligated in the National Health Service corps program shall be transferred to the Community Health Centers program to support the costs associated with the private placement assignment of corps personnel: Provided further, that the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: Provided*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out title III, *XVII, and XIX* and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, **[$221,977,000]** *$802,987,000*, of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further, That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the FY 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to states or municipalities as assignees under authority of Section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be exempt from full-time equivalent employment limitation, administrative ceiling or target. In addition, the full-time equivalent ceiling for other organizations within the Department of Health and Human Services shall not be reduced to accommodate the full-time equivalent ceiling exempt provisions for State assignees: Provided further, That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by February 15, 1988, as approved and funded by the Congress in Public Law 100-71, of which $9,500,000 for the mass mailing shall remain available until September 30, 1988.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, **[$1,448,411,000]** *$1,527,054,000.*

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, **[$990,808,000]** *$1,000,349,000.*

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, **[$128,965,000]** *$131,559,000.*

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, **[$563,768,000]** *$549,784,000.*

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, **[$554,039,000]** *$550,172,000.*

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, **[$439,667,000]** *$661,458,000.*

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, **[$666,037,000]** *$653,117,000.*

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, [$405,673,000] *$408,334,000.*

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, [$234,382,000] *$231,529,000.*

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, [$225,724,000] *$220,709,000.*

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, [$203,034,000] *$199,642,000.*

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$154,632,000] *$153,867,000.*

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, [$338,991,000] *$367,415,000, of which $25,000,000 shall remain available until expended to provide for the acquisition, repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: Provided,* That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, [$24,744,000] *$23,566,000, of which $750,000 shall be used to support the planning of a nursing research facility at the Oregon Health Sciences University, School of Nursing, Portland, Oregon.*

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, [$12,128,000] *$15,866,000* of which $1,934,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, [$71,465,000] *$70,399,000.*

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$71,389,000] *$61,284,000,* including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, [$30,000,000] *$50,000,000,* to remain available until expended.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, [$401,782,000] *$1,469,313,000, of which $5,000,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and* of which $200,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $65,587,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,725,000 which shall be available through September 30, 1989 for Federal activities authorized by sections 6 and 9 of the Act: *Provided,* That funds appropriated under this heading may be used for multi-year contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: *Provided further,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

Office of Assistant Secretary for Health

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $118,609,000, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $2,000,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,300,000 will come from the Federal Hospital Insurance Trust Fund and $700,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: Provided, That in addition to amounts provided herein, up to $16,000,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $6,086,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

Health Care Financing Administration

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended.

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, [$25,893,000,000] *$25,364,000,000.*

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $102,580,000, together with not to exceed [$1,421,578,000] *$1,411,828,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided,* That [$80,000,000] *$120,200,000* of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further, notwithstanding any other provision of law, $120,200,000 shall be made available for use by the Secretary within 30 days after the enactment of any Medicare legislation or changes in contractor workload or performance requirements: Provided further,* That all funds derived in accordance with 31 U.S.C 9701, are to be credited to this appropriation[: *Provided further,* That of the amount transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, $2,000,000 shall be made available for patient outcome assessment research, as authorized by section 9316 of Public Law 99-509].

Social Security Administration

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $105,298,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, [$651,452,000] *$663,452,000,* to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,680,921,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $50,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That [$65,400,000] *$55,400,000* for automatic data processing and telecommunications activities shall remain available until expended: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States: *Provided further, That notwithstanding any other provision of law, amounts appropriated by this Act for the Social Security Administration shall be used to maintain not less than 70,345 Federal full-time equivalent positions.*

Family Support Administration

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, [$1,822,265,000] *$1,237,000,000.*

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), [$320,885,000] *$389,597,000.*

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $96,669,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, [$408,200,000] *$407,000,000,* of which [$18,700,000] *$21,000,000* shall be for carrying out section 681(a)(2)(A), [$4,000,000] *$4,200,000* shall be for carrying out section 681(a)(2)(D), [$3,000,000] *$3,250,000* shall be for carrying out section 681(a)(2)(E), [$7,000,000] *$6,130,000* shall be for carrying out section 681(a)(2)(F), *$250,000 shall be for carrying out section 681(a)(3),* [$3,000,000] *$4,000,000* shall be for carrying out section 408 of Public Law 99-425 and $2,500,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, [$74,913,000] *$83,619,000.*

Assistant Secretary for Human Development Services

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, *the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities),* title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV *and section 1110* of the Social Security Act, [$1,641,456,000] *$2,565,785,000.*

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000.

Departmental Management

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, [$66,359,000] *$70,859,000*, together with not to exceed $7,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, *of which $4,500,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia.*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $37,361,000, together with not to exceed $40,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,070,000, together with not to exceed $4,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,090,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay, special pay, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control Research and Training", and "Federal Subsidy for Saint Elizabeths Hospital"*: Provided further, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.*

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948[, only to those persons who are licensed to practice medicine, except that this provision shall not apply to individuals receiving such allowances prior to January 1, 1988].

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. All funds appropriated to the National Institutes of Health in this Act shall be apportioned at the individual appropriation level. The Executive Branch may not require the NIH to consolidate its apportionments at the mechanism level, nor apportion to any Institute at a level below the appropriation level.

SEC. 215. Notwithstanding any other provision of law, no personnel ceilings may be imposed nor any action may be taken to restrict the full-time equivalent (FTE) levels for Public Health Service programs, projects, and activities funded by this or any other Act.

SEC. 216. Funds made available under this Act to carry out title X of the Public Health Service Act (42 U.S.C. 300 et seq.) may only be expended in accordance with Department of Health and Human Services regulations and guidelines in effect as of August 31, 1987.

SEC. 217. Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 *of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).*

Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986), any modification in the agreement with the State of Iowa under section 1 shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, [$4,595,000,000] *$4,478,000,000,* of which [$10,000,000] *$7,500,000* shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining [$4,585,000,000] *$4,470,500,000* shall become available on July 1, 1988, and remain available until September 30, 1989: *Provided,* That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), [$278,000,000] *$285,000,000* shall be available for purposes of section 554(a)(2)(A), $158,000,000 shall be available for purposes of section 554(a)(2)(B), $34,000,000 shall be available for purposes of section 554(a)(2)(C) and $40,000,000 shall be available for purposes of section 554(b)(1)(D).

For carrying out section 418A of the Higher Education Act, $8,000,000*: Provided, That $200,000 of the amount made available for the College Assistance Migrant Program shall be awarded to the highest ranking unfunded project applicant for grants made pursuant to the fiscal year 1987 appropriation: Provided further, That the Secretary shall make such grant awards for a two-year period.*

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), [$735,000,000] *$677,000,000,* of which [$22,000,000] *$10,000,000* shall be for entitlements under section 2 of said Act and [$713,000,000] *$667,000,000* shall be for entitlements under section 3 of said Act of which [$568,000,000] *$550,000,000* shall be for entitlements under section 3(a) of said Act: *Provided,* That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement*:* *Provided further,* That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further, That payments of less than $30,000 shall not be made to any local educational agency under section 3(a) or section 3(b) unless such payments amount to at least 5 per centum of such agencies total current expenditures:* *Provided further,* That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further, That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: Provided further, That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985:* [*Provided further,* That none of the funds appropriated in this Act shall be used for the recovery of payments made to any local educational agency under section 2 and section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), for fiscal years prior to 1987, but in the case of section 3 only on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, as amended:] *Provided further, That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.*

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), [$22,500,000] *$24,000,000* which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $9,000,000 shall be for awards under section 10 of said Act, [$9,000,000] *$10,500,000* shall be for awards under sections 14(a) and 14(b) of said Act, and $4,500,000 shall be for awards under sections 5, 9 and 14(c) of said Act*: Provided further, That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b).*

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, [$529,337,000] *$530,137,000,* of which [$29,337,000] *$30,137,000* shall be for programs and projects authorized under subchapter D of said Act, including $10,700,000 for programs and projects authorized under subsection 583(a)(1) of said Act; [$4,500,000] *$3,250,000* shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $1,000,000 to any recipient for national impact demonstration or research projects; [$7,800,000] *$8,200,000* for activities authorized under subsection 583(b)(1) of said Act; [$3,337,000] *$3,587,000* for programs authorized under subsection 583(b)(2) of said Act; [and $3,000,000] *$4,000,000* for activities authorized under subsection 583(b)(4) of said Act [including support for the center for law related education providing a statewide K-12 program]*; and $400,000 for national school volunteer programs: Provided,* That $500,000,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, [$25,000,000] *$24,000,000.*

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,500,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $5,000,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $2,000,000.

For carrying out activities authorized under Public Law 92-506, as amended, [$2,000,000] *$2,500,000*: *Provided*, That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, [$200,000,000] *$250,000,000*, of which [$161,000,000] *$207,000,000* for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989*: Provided, That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools.*

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $75,000,000: *Provided*, That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

For carrying out the provisions of title II of the Education for Economic Security Act, [$55,000,000 of which $50,000,000 for State grants] *$150,000,000 of which $136,500,000 for grants to States and outlying areas* under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of Part C of title V of the Higher Education Act, [$7,177,000] *$10,000,000*, to become available July 1, 1988, and to remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $2,000,000.

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, [$7,500,000] *$3,750,000* to become available July 1, 1988, and remain available through September 30, 1989.

For carrying out activities authorized under the Follow Through Act, [$7,800,000] *$7,100,000.*

For carrying out activities authorized under H.R. 3, as passed by the Senate on July 21, 1987, relating to dropout prevention, $25,000,000.

For carrying out activities authorized under H.R. 3, as passed by the Senate on July 21, 1987, relating to workplace literacy, $10,000,000.

For carrying out activities authorized under H.R. 3, as passed by the Senate on July 21, 1987, relating to State schools, $20,000,000.

For carrying out the Academic Institute for Minority Scholars under EIN 1590624459A1, $700,000.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, [and section 501 of the Refugee Education Assistance Act of 1980,] and title VI of the Education Amendments of 1984, $198,981,000, of which $105,701,250 shall be for part A, $10,370,000 shall be for part B, and $37,023,750 shall be for part C of title VII of the Elementary and Secondary Education Act and $30,000,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, [$1,913,800,000] *$1,966,990,000*, of which [$1,490,000,000] *$1,500,886,000* for section 611, [and $189,000,000] *$216,000,000 for section 619, and $75,000,000 for section 685* shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided*, That [$150,000 shall be available to operate a model program for deaf, hearing impaired, and handicapped students under section 625 of said Act.] *notwithstanding section 621(e) of the Education of the Handicapped Act, up to $500,000 may be used for section 621(d) of that Act: Provided further, That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.*

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended [$1,561,940,000] *$1,619,395,000*, of which [$1,350,000,000] *$1,409,000,000* shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, *$16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), of which $750,000 shall be made available for making a grant to the Louise Rude Center for Deaf Adults in Anchorage, Alaska, for the construction of a residential center for deaf adults to facilitate the delivery of rehabilitation services to deaf adults, as under section 311 of the Rehabilitation Act of 1973, except that no limitation contained in that Act shall apply to this amount,* and $4,800,000 shall be for the Helen Keller National Center: *Provided, That $500,000 shall be available for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: Provided further, That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.*

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, [$1,029,600,000] *$1,072,450,000* which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided*, [*That $13,000,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act including $6,000,000 for section 404 and $450,000 for section 415 of said title*] *That $22,050,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,600,000 shall be for part A, including $6,000,000 for section 404, $10,450,000 shall be for part B, including $10,000,000 for section 410 and $4,000,000 shall be for part C of said title*: *Provided further*, That [$7,900,000] *$8,500,000* shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further*, That [$6,300,000] *$8,000,000* shall be made available to carry out title III-A [and $33,500,000,] *$35,000,000* shall be made available for title III-B, *and $20,000,000 shall be for title III-E* of said Vocational Education Act: *Provided further*, That $3,900,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act*: Provided further, That section 202 of the Carl D. Perkins Vocational Education Act is amended—*

(1) by inserting (a) after the section designation, and

(2) by adding at the end thereof the following new subsection:

"(b) Funds described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, [$5,806,000,000] *$5,837,598,000*, which shall remain available until September 30, 1989: *Provided*, That the maximum Pell grant that a student may receive in the 1988-89 award year shall be [$2,300] *$2,100*.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, [$2,425,000,000] *$2,935,600,000*, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, [$180,000,000, of which up to $20,000,000 for] *$138,300,000, of which up to $20,000,000 for section 332 of* part C of title III of said Act shall remain available until expended: *Provided*, That [$84,533,000] *$68,300,000* of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subparts 4 and 6 of part A of title IV; [part B and] subpart 1 of part D of title V; titles VI and VIII, parts [A,] B, C, D, E, and F of title IX, *notwithstanding section 971(g)*; [parts B and] *part* D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; [$391,900,000] *$356,798,000*, [*of which $29,500,000 for parts B and D of title VII and $8,000,000 for subpart 6 of part A of title IV*] *of which $22,500,000 for part D of title VII* of said Act shall remain available until expended: *Provided*, That $8,000,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a))*: Provided further, That $250,000 of the amount provided for part B of title IX shall be allocated to the National Consortium for Educational Access.*

For carrying out sections 772, 773, [and 775] *775, and 776* of part G of title VII of the Higher Education Act, [and] sections 1-5 of Public Law 99-608, *title III, section 303 of Public Law 98-480, and planning and feasibility studies under EIN 1576001153A1 and EIN 1576000254A1*, [$12,550,000] *$16,850,000* to remain available until expended.

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in *sections 702(a) and 721(a)(2) shall not apply.*

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $20,000,000 to be available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: *Provided*, That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be [$90,000,000] *$40,000,000*. Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal year in which the discounted transaction occurs.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, [$73,801,000] *$69,231,000*, of which [$14,486,000] *$12,686,000* shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,900,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: *Provided*, That $4,000,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, [$144,500,000] *$136,600,000*: *Provided*, That [$22,500,000] *$23,600,000* of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, [$5,510,000] *$5,500,000*.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For [carrying out the National Technical Institute for the Deaf] *the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986* (20 U.S.C. 4301 et seq.), $33,000,000, *of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: Provided, That none of the funds provided herein may be used to subsidize the tuition of foreign students.*

GALLAUDET UNIVERSITY

For [carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet University (20 U.S.C. 4301, as amended,] *the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.)*, including continuing education activities, existing extension centers and the National Center for Law and the Deaf, [$65,925,000] *$64,000,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$179,865,000] *$174,230,000*.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $251,753,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $42,333,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $18,341,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [$162,191,000] *$173,491,000*.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1990, [$238,000,000] *$248,000,000*: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $25,601,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,080,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), [$750,000] *$791,000.*

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100-71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $932,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $139,019,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $7,316,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,147,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,130,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,752,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $368,000,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $60,434,000, to be derived from the railroad retirement accounts: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: *Provided further,* That $500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): *Provided further,* That not to exceed $2,500,000 of funds provided under this head in Public Law 99-591 shall remain available until September 30, 1988, only for retirement claims processing automation activities.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $14,445,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $2,310,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, [$36,647,000] *$38,303,000*: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $16,132,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Insitute of Peace as authorized in the United States Institute of Peace Act, $5,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $22,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1988".

Mr. CHILES addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Florida.

Mr. CHILES. Mr. President, the bill and report before the Members provide for $129.4 billion for the Departments of Labor, Health and Human Services, Education and Related Agencies. Of this amount, only $38.9 billion is for discretionary programs over which the Appropriations Committee has direct control. This is an $8.9 billion increase over the President's request and $2.6 billion more than enacted in fiscal year 1987 for discretionary programs.

The increase for the Public Health Service agencies in this bill represents a 10.7-percent increase for our health programs. The overall increase for education is approximately 9 percent, and the increase for discretionary Labor programs is approximately 7 percent. For the Social Security Administration we have included the necessary funding and language to add 1,000 full-time equivalent positions over the requested level.

These recommendations accommodate as best as possible the many requests we have received from the other Members of the Senate, as well as the many interest groups who have contacted us. In the process of developing these recommendations we have consulted carefully with the authorizing committees to also reflect as best as possible their concerns and priorities.

These recommendations have been scored by the Budget Committee, and we are at our amended allocation ceiling. As many of the Members know, we had a protracted 302(b) process in the Appropriations Committee with 14 separate votes to divide among our 13 subcommittees the allocation from the budget resolution. In this process the Labor-HHS-Education Subcommittee lost $300 million in discretionary outlays from the level provided by the Budget Resolution. Our Senate allocation is also $824 million in discretionary outlays below the House allocation. This has made it difficult to provide even larger increases than are recommended in the committee bill.

The Low Income Energy Program is funded at $1.237 billion or the level requested by the administration. This is $585 million less than this year's funding level but hopefully with over $3 billion of oil overcharge moneys the States will help meet the shortfall.

For AIDS, this recommendation includes an increase of $180 million over the President's request, for a total AIDS budget of $946.4 million, or approximately $1 million more than the House level. In developing the AIDS budget we solicited a separate review by the Institute of Medicine and had the General Accounting Office interview public health officials around the country to help us determine the shortfalls in the President's request. I want to thank Senator WEICKER and Senator KENNEDY and their staffs for the advice and assistance they have given us in formulating the AIDS package. The effort we have made in this regard is to find the best advice we can from all interested parties and reflect that in our numbers. I hope we have succeeded.

The bill was also drafted with special attention to programs for children and older Americans. For children we are recommending the fully authorized level for a number of programs including Maternal and Child Health, Immunization, Developmental Disabilities, Head Start, Drug Free Schools, Community and Migrant Health Centers, and $25 million for a new Infant Mortality Initiative.

For older Americans, a number of health care initiatives are provided, including a 25-percent increase for Alzheimer's disease research and more funds for arthritis, foot care, and dental health. In addition to health research programs, additional funding is included for training geriatric health professionals, support services, centers, and nutrition programs for the elderly.

Mr. President, for too many of our senior citizens their so-called golden years often are tarnished by anxiety, illness, and financial hardship. This bill attempts to address some of those problems.

At this time, Mr. President, I call upon the ranking member, Senator WEICKER, who participated all the way through our exercise in trying to put together this bill, to make such statement as he desires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Florida and compliment him on the hard work he did in bringing this bill before the body.

The bill before us today totals more than $129 billion and includes funding for job training programs, biomedical research, education for the disadvantaged and disabled, services for older Americans, and a whole host of other vital human service programs.

Given the budgetary constraints imposed on this bill and on the entire appropriations process, this bill provides for needed increases in many programs and restores funding for others which the administration would have had us totally eliminate.

But this is not a perfect bill. The funds provided for basic biomedical research are extremely limited when they are compared to the overwhelming health needs we are faced with in this country and around the world. The funding levels for special education are still below the promise of Public Law 94-142, the landmark legislation which guaranteed all handicapped children a free appropriate education; and the Low-Income Home Energy Assistance Program is cut by nearly $600 million below last year's level. I intend to offer an amendment to restore these funds which are essential to all those Americans who rely on this assistance to heat their homes.

Mr. President, with the exception of the funding level proposed for the Low-Income Home Energy Assistance Program, and given the budgetary constraints under which we are forced to work, I support the bill which is before the Senate this afternoon and commend the chairman for all of his efforts to meet the needs of the programs and the people who benefit from the dollars in this bill. I only wish we could be doing more and I will continue to argue that we should be spending more in this country on the business of life than is reflected in our current budget priorities.

Basically, this bill does as well as can be expected, considering the budgetary strictures placed on the subcommittee and its jurisdiction. My own feeling is that health, science, education, safety, training and job opportunities are the matters that should be the highest priority to the Nation. Sad to say, they are not. Not all the rhetoric on this floor changes the fact that the business of life takes a back seat to the business of death insofar as the activities of this Government are concerned.

An easy comparison would be the National Institutes of Health who are our front-line fighters against disease of all types and sorts—cancer, heart, diabetes, every disease, every affliction. Not just AIDS, but every affliction that curses this Nation and the world. That is the mission of the National Institutes of Health.

And yet the NIH budget will be somewhere in the area of $6 billion. The defense budget is around $300 billion. So after we get all through talking, the fact is the business of life is one-fiftieth the importance of the business of death.

So be it. That is what we have before us. I do not agree with it. I will never agree to that. But it is the Nation that is going to have to call for a change in its priorities, not a handful of U.S. Senators.

One last point, and that is the matter of low-income home energy assistance. We could not deal with this problem, considering its magnitude, within the full Appropriations Committee. The sum of $600 million is needed if low-income home energy assistance is to be at the same level as last year. Unless that money is provided, families are going to go cold, families will suffer, people will die.

I wish I could say the price of oil has gone down since last year. It has not. It has risen. So even at last year's level, fewer will be served.

Winter is hard upon us and now the decision is hard upon us.

I will present an amendment to restore the Low Income Home Energy Assistance Program to last year's level. I suspect there will be plenty of scratching of heads and plenty of debate on the subject. I would hope, however, that in some way we can prevail.

Again, my compliments to the chairman of the committee for his efforts.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill, as thus amended, be considered original text for the purpose of further amendment, provided that no point of order will be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, will the Senator restate the request?

Mr. CHILES. That the committee amendments be agreed to en bloc.

Mr. HELMS. Will the Senator withhold that and let me think about it?

Mr. BYRD. Mr. President, was the Senate to go into executive session at 10 after?

The PRESIDING OFFICER. That is correct.

Mr. CHILES. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill as thus amended be considered as original text for the purpose of further amendment providing no point of order be waived by this agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments were agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stay in legislative session for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 953

(Purpose: To restore funding for the Low Income Home Energy Assistance Program)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 953.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, line 26, strike out "1,237,000,000" and insert in lieu thereof "1,822,265,000".

Mr. WEICKER. Mr. President, this amendment restores the low income home energy assistance to the House level. I realize it is going to be a matter for debate and further thinking in the process itself, and I will ask unanimous consent that the amendment be set-aside to permit the committee to continue its work on all other matters.

The PRESIDING OFFICER. Is that the request of the Senator?

Mr. WEICKER. I do not think at this point there is any purpose to asking for it, but I just wanted to indicate to my colleagues that it is not my intention to have this the matter for debate at the outset; rather, the amendment has been submitted and it will be set-aside during the course of the debate on this bill.

The PRESIDING OFFICER. The amendment is pending to the bill.

EXECUTIVE SESSION

The PRESIDING OFFICER. The hour of 12:10 having arrived, under the previous order, the Senate will go into executive session and proceed to the consideration of C. William Verity, Jr., of Ohio, to be Secretary of Commerce.

The clerk will report the nomination.

DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of C. William Verity, Jr., of Ohio, to be Secretary of Commerce.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Commerce Committee has acted promptly regarding the nomination of C. William Verity to be the new Secretary of Commerce. We conducted a hearing on this nomination almost immediately upon returning from the August recess, and we reported it to the floor in mid-September most favorably on a 17-to-1 vote. I am grateful for the assistance and cooperation of our ranking Republican, Senator DANFORTH, which made possible the expeditious handling of this nomination by the committee.

For the past 4 weeks, we have been waiting most anxiously for the full Senate to take up this nomination. With the trade bill now in conference, we need to fill this vacancy at the head of a department which has so many responsibilities concerning international trade. Fortunately, we have a nominee before us—a distinguished business leader with the highest of qualifications—who is most deserving of swift approval by the Senate. That nominee is Bill Verity.

It was with mixed emotions that the committee considered this nomination—while the thoughts of Mac Baldrige were still very much in mind. In an administration which has very little to show for itself on international trade and the preservation of America's industrial might, Mac provided some of the few bright spots. He understood many of the problems American firms are experiencing in the global marketplace. And he recognized that Government does, indeed, have a role to play as we seek to nurture the development of new technologies and win the world economic competition. We will miss him.

But we must move ahead. Clearly, now is the time to act to preserve and enhance our industrial capacity and our world technological leadership. The trade bill now before the conference committee is a very important step in this direction—but it is only a step. We need a new attitude here in Washington. We need to recognize the realities of world trade and face some of the obvious facts about doing business in this new global marketplace. And fact No. 1 is that there is no such thing as free enterprise in world trade. The reality is government-to-government enterprise. We've been in a trade war for years, and our Government has refused to get in there and compete.

We must start competing. We must begin enforcing some of the trade laws already on our books. We must recognize that Government can have a role. And we must initiate a sound fiscal policy that reduces these outrageous budget deficits that have driven up our dollar on the international markets, thus making our goods and services too expensive and our trade deficits too high.

The Secretary of Commerce can be a vital player in the administration on these and many other issues.

Mr. Verity's resume is impressive. He brings to us solid credentials as a businessman and industrialist. Shortly after his graduation from Yale in 1939, he joined Armco, Inc., of Middletown, OH, a firm founded by his grandfather which had become one of the Nation's largest steelmakers. He was elected president and chief executive officer of Armco in 1965 and chairman of the board in 1971. He headed the company until his retirement in 1982.

In 1980 and 1981, Mr. Verity served as Chairman of the U.S. Chamber of Commerce. President Reagan appointed him in 1981 to serve as Chairman of the President's Task Force on Private Sector Initiatives, which issued recommendations aimed at encouraging businesses to take a more active role in community service. In 1984, he served as cochairman of the U.S.-U.S.S.R. Trade and Economic Council, an organization which seeks to increase nonstrategic trade between the two countries.

Although Mr. Verity has never held a Government post, his many years in the steel industry has given him frontline experience in meeting the challenges which now face the whole of American industry. I look forward to working with him toward the goal of making America more competitive in the world marketplace.

I urge my colleagues to invoke cloture on this nomination, and then vote to confirm Bill Verity as Secretary of Commerce.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina has yielded the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair very much for recognizing me. Cloture is going to be voted this afternoon. There is no question about that. But before it is, there are some Senators who wish to express some concerns, and I am one of those Senators. I shall speak relatively briefly now and a little more in detail after the cloture vote occurs.

I am deeply concerned, Mr. President, by this nomination. Mr. President, I have nothing personal against Mr. Verity. I am sure he is eveything that my able friend from South Carolina said. It is largely, however, because of Mr. Verity and some businessmen like him that the Soviet Union today poses such a serious military threat to the United States and the free world.

Mr. Verity and his business colleagues have been and are now literally selling the Soviets the rope with which to hang the free world. Now, I came to this conclusion not hastily and not without study of the record, which I will discuss briefly in a moment and more in detail later on this afternoon.

Mr. President, when you get down to it, export control is a form of arms control. If we do not understand that, then we lack an understanding of what is at stake in terms of the world today.

Mr. Verity and his kind of business friends do not believe in export control. In fact, I am persuaded that they wish to eliminate export controls for the Communist world so that a profit can be made, a profit to be made at the expense of building and spreading communism across the face of this Earth. So, by building the Soviet economy, these men are propelling the arms race to ever more dangerous proportions.

At the same time, it is instructive to bear in mind that this kind of trade is costing the American taxpayer countless billions of dollars for the increased defense expenditures which are needed to counter the increased capability of the Soviet military-industrial complex.

I find myself wondering what Mr. Verity and his business associates at the U.S.-U.S.S.R. Trade and Economic Council, which is the main lobby for virtually unlimited trade with the Soviets, thought when the reports were confirmed last week that the Soviets had used Hawaii for target practice. It was a matter of the Soviets testing their nuclear weapons system, bracketing Hawaii, on September 29 and 30. Were they proud of all these years of commercial activity involving the most sophisticated technology in building the Soviet military-industrial base? Were they pleased by the accuracy of the Soviet missile warheads which simulated a first strike at the United States?

Just this morning, Mr. President, the Washington Times had a front page story entitled "Gorbachev Approved Missile Test Near Hawaii." The article is written by Gregory Fossedal of the Copley Wire Service, and it stated:

"Soviet leader Mikhail Gorbachev not only approved tests that sent unarmed missile warheads * * * within a few hundred miles of Pearl Harbor, but he possibly spent hours during the test deep in an underground bunker near Moscow, U.S. intelligence sources say."

Mr. President, so that Senators may have this article readily available, I ask unanimous consent to have it printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, Senators will recall that the Soviets also targeted U.S. observation aircraft with laser light beams as well as electronic countermeasures that were so powerful as to destroy the monitoring systems in one of the aircraft.

While we are on the subject, I found myself deeply disturbed by a remark attributed by the Washington Times to Mr. Bob Linhard, a Director for Arms Control Policy at the National Security Council. The news story quotes his reaction to the Soviets' first-strike test against the United States at Hawaii as follows: "I hope this never gets out."

Mr. Linhard's apparent desire to conceal from the American people highly provocative Soviet behavior has no place in this administration or any other. It is the same sort of desire to conceal from the American people the facts about U.S. business and financial corporations engaging in trade with the Communist countries which characterizes the attitude of Mr. Verity and his associates at the U.S.-U.S.S.R. Trade and Economic Council.

That is the reason why I proposed two reporting requirements in 1984 and the year following, included in the Export Administration Act revision. They are section 14(d) and section 14(e).

The first report requires a listing of American corporations, the general type of product they receive an export license for, and where the product is going. The second report requires an assessment of the impact of trading with Communist countries, the impact on the U.S. economy, particularly in the area of production and job displacement.

Mr. President, Mr. Verity and his fellow lobbyists have consistently sought to deny this information to the American people, and thus far they have been successful. They want to keep making money from trading with the Communist countries, but they do not want the American people to know about the magnitude of the trade, for one simple reason—that the American people would be aghast if they knew the truth and had it available.

Unfortunately, the Department of Commerce has participated in what amounts to a coverup of the trade of American corporations and banks with the Communist world. The Department clearly does not want the American people to have the truth. Rather than protect the American people, there seems clearly to be an effort to protect the trade lobby dealing with the Communists. The Commerce Department, for the better part of 2 years, flatly refused to comply with my repeated requests for this information.

So, one day last week, I went to see the President of the United States about the Verity nomination. I told him that if I could receive the information that I had been seeking for 2 years, I would have no problem about letting the process function in terms of this nomination. I do not favor the Verity nomination, but I am willing to let the process work. The President apparently acted immediately, because the same afternoon, within just a few hours, the information was delivered to me at my office, and I wish Senators could look at it.

This is one printout after another of dealing with the Communists. This happens to be a general list. Here is one to Bulgaria. Here is one to East Germany. I will not unroll it all. Here is another one. Here is another computer printout—this is to Czechoslovakia, containing all sorts of sophisticated technology.

I could go down the list. Here is another one, a thick one. Here is another one. And so forth.

When the Department of Commerce delivered this information to me, the Department stipulated that one copy had been delivered to the Banking Committee and that only members of the Banking Committee could see it. I could not believe my ears when I heard that restriction, particularly since, in my judgment, that interpretation is a violation of the law.

Here is a cover letter that accompanied the list of this pile of computer printouts. It is signed by Mr. Bruce Smart, who is acting Secretary of Commerce. He said:

> I deem this data to be covered by the confidentiality provisions of Section 12(c) of the Act.

He goes on to say:

> I have, therefore, exercised my discretion under Section 12(c) and have determined that it is in the national interest to provide the data to you subject to the condition that it not be publicly disclosed without the approval of a Congressional committee of appropriate jurisdiction.

Mr. President, I ask unanimous consent that the entire letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Commerce,
Washington, DC, October 2, 1987.

Hon. Jesse A. Helms,
U.S. Senate,
Washington, DC.

Dear Senator Helms: In response to your request, I enclose that portion of the Fiscal Year 1986 annual report under Section 14(d) of the Export Administration Act of 1979, as amended, which lists by country the companies receiving licenses for exports to controlled countries, and shows the type of goods or technology exported.

On the basis of legislative history, recent court interpretations, and the terms on which this information was furnished in license applications, I deem this data to be covered by the confidentiality provisions of Section 12(c) of the Act.

I appreciate that you are the author of the 1985 amendment that requires the submission of this information to the Congress with each annual report. You have a proper interest in seeing how we are complying with this amendment. I have, therefore, exercised my discretion under Section 12(c) and have determined that it is in the national interest to provide the data to you subject to the condition that it not be publicly disclosed without the approval of a Congressional committee of appropriate jurisdiction.

Sincerely,

Bruce Smart,
Acting Secretary of Commerce.

Mr. HELMS. Here we go again. We are going to see about that, Mr. President. The Soviets and other Communist countries know what they have bought from U.S. corporations. They know of the financial dealings with U.S. banks and other financial institutions. The Department of Commerce knows as does the U.S. Government. The only people left out of this little transaction are the American people who have the most at stake.

So, Mr. President, that is about all I am going to say at the moment. I am going to abide, for the time being, by the confidentiality restrictions. I am not even going to show any of this to the Senator. I am going to put it back in my safe until we can resolve the conflict of opinion about whether this information should be made public as I stipulated at the time I offered the amendments to the Export Control Act.

Mr. President, I thank you very much. I yield the floor.

EXHIBIT 1

[From the Washington Times, Oct. 13, 1987]

GORBACHEV APPROVED MISSILE TEST NEAR HAWAII

(By Gregory Fossedal)

Soviet leader Mikhail Gorbachev not only approved tests that sent unarmed missile warheads to a spot in the Pacific within a few hundred miles of Pearl Harbor, but he possibly spent hours during the tests deep in an underground bunker near Moscow, U.S. intelligence sources say.

Communications intercepted by the United States indicate that a number of other top Soviet officials went into the deep underground bunkers near Moscow during the tests on Sept. 29 and 30.

These conclusions are reported to have been presented to National Security Adviser Frank Carlucci about Oct. 7, after an interagency meeting on the provocative incident.

If true, U.S. officials believe, the findings suggest a Soviet willingness to test the resolve of a politically disabled Ronald Reagan.

"Gorbachev stuck his thumb in Reagan's eye and got away with it," one defense aide on Capitol Hill said. "He's going to remember that come the summit."

Many details of the incident remain classified, but U.S. officials knew, for example, about the tests as early as Sept. 22 and no later than Sept. 26, as the Soviet Union began to notify international navigators to avoid the area targeted by its TT-09 missiles.

However, the United States did not protest until the afternoon of Sept. 30. The first public reports of the tests appeared in The Washington Times on Oct. 1.

When a three-sentence cable, drafted by Mark Parris, regarded as a State Department "soft-liner," was sent to the Soviets, it raised only mild objections. "In keeping with the cooperative spirit and the desire for new relations," the message read, the United States requested that the nearly completed tests be halted, and that future tests "not choose the Hawaiian Islands as an impact area."

The message, officials say, made no mention of the Soviet's having fired at least three lasers at U.S. reconnaissance planes during the tests—one powerful enough to knock out most of one U.S. plane's electronic gear—at once acts of belligerence and violations of arms control treaties that ban interference with technical verification of missile tests.

Neither the State Department nor the White House noted that the missile itself appears to violate several provisions of the second strategic arms limitation treaty (SALT II) that was not ratified by the U.S. Senate but has been observed by both superpowers.

That U.S.-Soviet pact limits the Soviets to one new-type intercontinental missile. The TT-09 is the third such missile the Soviets have developed. Its range and throwweight also place the TT-09 well above ceilings established in the 1979 pact.

Moreover, the missile is only about one-third of the way through its testing program. There was thus a better-than-normal chance of damage to U.S. property and people. "You would never fire a missile with so little testing toward U.S.," a Pentagon weapons consultant said, "unless you wanted to be deliberately provocative."

Some officials evidently expected the incident might escape notice. "I hope this never gets out," said Bob Linhard, the director for arms control policy on the National Security Council, when he was informed that the Soviets also had fired ship-based laser weapons at several U.S. reconnaissance planes trying to observe the tests.

Why are all of those congressmen and senators saying that Soviet warheads are flying on Pearl Harbor?

However, several Republican legislators, notably Sen. Malcolm Wallop of Wyoming and Sen. Jesse Helms of North Carolina, began asking questions. Mr. Helms called Mr. Carlucci and demanded that official reports on the tests be declassified. Most were.

Contrary to early reports, however, the Soviet lasers did not injure U.S. pilots seriously. They were outfitted with protective headgear.

However, one government official conversant with the incident said the Soviets hit not two U.S. aircraft with lasers, but three. The third plane, a reconnaissance craft, was aloft over the Pacific well after the State Department filed its mild protest.

This plane was hit with a beam of such power that most of its electronic surveillance equipment was knocked out instantly.

Some U.S. officials recalled that the White House reacted with similar timidity to the Soviet seizure of Nicholas Daniloff, Moscow correspondent for U.S. News & World Report, on the eve of the Reykjavik summit. These officials worry that Mr. Gorbachev, strengthened by his glasnost campaign, may be emboldened to make dramatic demands on a U.S. president whose administration allowed the Hawaii tests to pass with impunity.

Mr. THURMOND and Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Before I yield to my distinguished colleague, let me as the manager of this nomination acknowledge the particular statement made by my friend from North Carolina. I certainly join the Senator from North Carolina in the definite feeling that all of us in the American public should be informed on this score, and there should be no hanky-panky with only letting certain people know.

However, that is not Mr. Verity's record. Mr. Verity's record is not as one responsible for the concealing of this information, nor for the missile test that landed out there near Hawaii. He has been living calmly down in my own back yard, enjoying the sea breezes of Beaufort, SC. I have many, many fine marines down there at Parris Island that are ready, willing, and able to come up here and testify for this distinguished American.

The truth of the matter is that President Reagan some 3 years ago announced that he was going to try to explore ways to expand trade and develop more stable relationships with the Soviets, a more constructive relationship with the Soviets through international trade. At that particular time, there was raised a question, for example, about strategic materials and oil drilling equipment. And it was brought out at that time those materials would not be included because they could be used in a strategic sense.

Let me read an article appearing in the New York Times entitled "Trade Talks With Soviet Planned" dated in November of 1984, 3 years ago:

WASHINGTON, Nov. 6.—The United States and the Soviet Union have agreed to sit down in Moscow early next year and explore ways to expand trade, American officials said today

The meeting will be the highest-level economic talks between the two superpowers in six years. Although some Defense Department officials are wary of more trade with the Russians, the talks scheduled for Jan. 8-10 are seen here as a step toward what President Reagan has called a "more constructive relationship" with the Soviet Union.

Asked for comment on the meeting, Sergei L. Divilkovskiy, counselor for press affairs at the Soviet Embassy in Washington, said, "I cannot help you because I am not prepared to give you a meaningful reply."

Should the meeting go well, it could lead to a ministerial conference a few months later between Commerce Secretary Malcolm Baldrige and the Soviet Union's Foreign Trade Minister, Nikolai Patolichev.

Lionel H. Olmer, Under Secretary of Commerce for International Trade, who will lead the American delegation, said in an interview that the January meeting should contribute to "a better working relationship" but probably would not result in a sharp rise in trade between the two countries, which totals a little more than $2 billion a year.

"I don't view the Soviet market as having enormous potential," he said. "But there is room for expansion on a modest scale. If I were an American businessman producing nonstrategic goods, I would take heart."

Because of opposition from some people in the Administration, Mr. Olmer will not offer advanced oil exploration equipment, which the Russians have been eager to buy.

The agreement to hold trade talks follows actions by the Reagan Administration in recent months to relax American-Soviet tensions, including the 10-year renewal last summer of an economic cooperation accord between the two nations and stepped-up cultural exchanges.

The United States and the Soviet Union have also agreed to hold talks on Nov. 28 on controlling the spread of nuclear weapons to other nations.

Although the Administration's attitude has softened, there is still a conflict between Republican hard-liners who oppose accommodation with Moscow (mostly found in the Defense Department) and those who want better relations (mostly found in the State and Commerce Departments).

"I'm all in favor of talking to the Soviets," said Asssitant Defense Secretary Richard N. Perle, a leader of the hard-line school. "Whether the trip will serve our interests remains to be seen.

"I am confident," he continued in an interview, "that it will not produce a resumption of the profligate transfer of sensitive technology that was characteristic of some previous trade missions."

Secretary of State George P. Shultz said two weeks ago in a speech in Los Angeles that the "way is wide open" to sustain progress in relations with the Russians, but he said he expected no immediate breakthroughs.

POLICY OF 'LINKAGE' OPPOSED

He criticized the policy of "linkage" in which the United States had applied trade sanctions against Moscow in retaliation against imprisonment of dissident, military intervention in Afghanistan and imposition of martial law in Poland.

"We should not sacrifice long-term interests in order to express immediate outrage," Mr. Shultz declared.

What Mr. Olmer can offer the Russians will be a much more restricted list of products than was taken to Moscow 12 years ago by Peter G. Peterson, then the Secretary of Commerce, who negotiated the first trade agreement between the countries.

But the agreement never went into effect. Two years later Congress passed the Jackson-Vanik amendment to the 1974 Trade Act. The amendment linked trade expansion to elimination of impediments to Jewish emigration from the Soviet Union. Mr. Perle, then an aide to Senator Henry M. Jackson, the Democrat from Washington who died last year, was its principal author.

Moscow wants American technology and drilling equipment to help open up the Barents Sea oilfields, considered one of the most promising areas for oil exploration. But the sanctions imposed after Afghanistan and Poland prevent the sale by American companies of advanced exploration equipment and technology.

"The agenda is not being crafted with a view of selling oil and gas equipment and technology," Mr. Olmer said.

Defense Secretary Caspar W. Weinberger and Mr. Perle have been the principal advocates of continued oil equipment sanctions on the ground that oil exports are the Russians' principal source of foreign exchange. They argue that such earnings bolster Soviet military strength.

Some oil exploration technology has military applications, Mr. Perle said. Seismic technology, for instance, is relevant to equipment used in antisubmarine warfare.

"We are not talking about altering the existing policies of technology transfer, but we think that within the existing policies there are still a number of areas of opportunity for American suppliers," Mr. Olmer said.

In recent years American exports to the Soviet Union have averaged $2 billion a year, of which wheat, corn and other food products accounted for about two-thirds to three-quarters. Other exports include phosphoric acid, pressure-sensitive tape, tractor parts and drilling equipment.

The exports are four to five times the imports, which have not exceeded $500 million in recent years. Principal Soviet products shipped to the United States include anhydrous ammonia (used in making fertilizers) and some minerals, fuels and lubricants.

The meeting between Mr. Olmer and Moscow's Deputy Foreign Trade Minister, Aleksei Manzhulo, will be the highest-level encounter on general trade issues since December 1978, when Commerce Secretary Juanita M. Kreps represented the United States in the Joint Commercial commission of the two countries.

That commission was set up to discuss economic issues under the long-term economic cooperation accord. Commission meetings were suspended by the United States after the Russians entered Afghanistan in 1979.

I yield to my distinguished senior colleague.

Mr. HELMS. May I have just 30 seconds? If Mr. Verity will agree, which he has not yet done, to release this information, I have no problem with the nomination. But I think if the Senator will check with him, he does not favor the release of this information.

Mr. HOLLINGS. I will certainly check that because I think we are both entitled to this information. No question about it.

Mr. HELMS. Exactly.

Mr. HOLLINGS. Yes.

Mr. HELMS. I thank the Senator.

Mr. HOLLINGS. I yield 2 minutes to my distinguished senior colleague.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Mr. C. William Verity, the President's nominee to be the new Secretary of Commerce and hope the Senate will vote for cloture.

Mr. Verity is a distinguished individual, who is well qualified for the position of Secretary of Commerce. He has worked with Armco Steel for 35 years, rising through the ranks to become the chairman of the board and its chief executive officer. Regarding his formal education, Mr. Verity is a graduate of Yale University, and holds nine honorary degrees.

Mr. Verity has been a member of many distinguished organizations dedicated to the improvement of the business climate in the United States. He was appointed by the President to serve as chairman of the task force on private sector initiatives. He also served as chairman of the U.S. Chamber of Commerce. Further, Mr. Verity has dedicated his time to educational institutions: He served as a trustee of the Colgate Darden Graduate School of Business at the University of Virginia; a trustee of Phillips Exeter Academy; and an honorary trustee of the Univesity of Dayton.

In summary, his credentials are impeccable and he has taken an active interest in American business and education throughout his life.

During the August recess, I had the pleasure of meeting with Mr. Verity to discuss his nomination and his views on trade. Mr. President, if the current pace of the trade deficit increases, 1987 will be another record year for the American trade deficit. I discussed the problem with Mr. Verity and the need to improve our competitive position worldwide. I am confident that Mr. Verity will respond to the needs of American industries, especially those like the textile industry that have been hard hit by foreign imports. I believe he will make a diligent effort to reduce the massive trade deficit we currently face.

Some of my colleagues have raised concerns about Mr. Verity and his position on trade with the Soviet Union. I have been assured by Mr. Verity that he is opposed to any trade with the Soviet Union that is not beneficial to the United States or that involves strategic materials which could pose a threat to our national security.

I hope that my colleagues will carefully consider his qualifications and I urge my colleagues to vote for Mr. Verity's confirmation and to vote for cloture.

Thank you, Mr. President. I wish to thank my able colleague.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. HOLLINGS. Mr. President, I yield time to my distinguished friend from California.

The PRESIDING OFFICER. The Senator from South Carolina yields to the Senator from California.

The Senator from California is recognized.

Mr. CRANSTON. I thank my friend from South Carolina.

Mr. President, I rise once again to speak on behalf of the nomination of William Verity to be Secretary of Commerce. It is tragic that a vacancy occurred in this important position with the death of Malcolm Baldrige. We have a fine trading negotiator in Clayton Yeutter presently handling that repsonsibility. But it is very unfortunate that we have had a long and needless delay in dealing with the nomination of William Verity. We all know that our trade problems are immense. We need a Secretary of Commerce working on those problems and a man with the capacity that William Verity brings to that position. This morning's newspaper reports "Trade gap with Japan gets wider." We need a Secretary of Commerce working on this problem. We need progress in coping with this trade deficit. And William Verity has all the attributes that I believe are needed for this very important position.

He has a remarkable background in the business world which I outlined when I spoke last Thursday and as others have done so. I will not go into those details once again except to underscore that he has provided remarkable leadership in the business world, and in the trade world. And we need that leadership in our Nation now at the helm of the Department of Commerce.

On the matter of trade with the Soviet Union, I think the President pro tempore stated very well that situation when STROM THURMOND said that while Mr. Verity favors trade with the Soviet Union, he obviously does not favor trade with the Soviet Union that in any way does damage to our country or could do so. And he would not specifically favor any trade that would give them technological secrets to our disadvantage.

It would be very helpful to have expanded trade with the Soviet Union, first, to help cope with our trade deficit; second, because when you trade with a nation, you develop relationships that are likely to reduce the sort of misunderstanding that could lead, in the case of our relationship with the Soviet Union, to tragedy if we do not manage those relationships wisely and well. A trade relationship would be an important part of the process of developing a more stable and peaceful relationship with the Soviet Union.

On the matter of trade with that country, we have had difficulties, obviously, in protecting technology but, on the other hand, I think we have leaned over far too far in inhibiting trade of a peaceful and nonsecurity-related nature. And I trust that William Verity, like Malcolm Baldrige, will provide leadership to us on that front where we need it to see to it that we do not inhibit trade that is to our advantage as well as to the advantage of the Soviet Union.

For all those reasons, I trust that the Senate will move speedily to break this filibuster and to proceed to uphold the nomination.

The PRESIDING OFFICER. The Senator has yielded the floor. Who yields time?

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 15 minutes. The Senator from South Carolina has 49 seconds.

Mr. HELMS. Mr. President, the suggestion of a filibuster does not quite fit. As I recall, the distinguished Senator from New York spoke about 40 minutes the other night. I spoke about 22 minutes. If that constitutes a filibuster, then I am unaware of what the situation is.

Mr. CRANSTON. Will the Senator yield?

Mr. HELMS. Mr. President, I yield such time as he may require to the distinguished Senator from New York.

Mr. CRANSTON. Will the Senator from New York yield for a question?

The PRESIDING OFFICER. The Senator from New York has been yielded time.

Mr. D'AMATO. I see my colleague from California would like the floor. I certainly would like to accommodate him.

Mr. CRANTSON. I appreciate that very much, since the Senator from North Carolina did not choose to yield.

I just wanted to ask why it was necessary to file a cloture motion, since, apparently, it was, given the delays this nomination had.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. HELMS. Will the Senator from New York yield to me for just a moment?

Mr. D'AMATO. Certainly.

Mr. HELMS. The distinguished Senator from California is the assistant majority leader and the majority leader made the judgment about filing the cloture motion. I suggest he talk to him about it.

Mr. CRANSTON. It was plain to the majority leader, who knows how this body works as well as any Member of this body and probably better, and he came to the conclusion that a cloture motion was necessary in order to bring this nomination to a vote.

The PRESIDING OFFICER. The Senator from New York has been yielded time and is recognized.

Mr. D'AMATO. Mr. President, let me address myself to the issue of cloture. I think it is fair to say that a number of us in the Senate, including myself, were sufficiently concerned about this nomination and the manner in which, I believe, it was rushed toward a conclusion—without our colleagues having adequate time to focus their attention on this matter—that we decided it required further debate.

I spoke at length on Thursday. That was for some 40-odd minutes. I think it is fair to say the attention of the Senate has been taken up by another nomination, a nomination that has totally dominated the attention of most of my colleagues, a good part of my attention, and a good part of the media attention. We are, I think—confronted with—a rather serious situation. We are confronted with it in such a short period that we almost have got to rush to judgment.

I am not suggesting that the Commerce Committee did not fulfill its role as it should. But I am suggesting to you that one should take the time to research the record of Mr. Verity, the nominee for Secretary of Commerce. When they do that, many of my colleagues have indicated that they are rather shocked at what they find. They are shocked by Verity's past statements.

Notwithstanding that, there seems to be a silent acquiescence to his confirmation, based upon the feeling that, "Well, he will only be there for a year." Then among my Republican colleagues, there is the view that, "Look, we don't want to oppose the President. He is having a tough enough time with the Bork nomination and other matters. Do we really want to do this? How will I be perceived by my constituents back home?"

If you want to talk about someone who is not being judged on his record—we have heard a lot about that—I suggest it is C. William Verity.

What exactly are Mr. Verity's views? I began last Thursday to review that record and to bring to the attention of my colleagues some of his testimony.

Responding to a question as to whether he opposed Jackson-Vanik when it was passed, at Verity's confirmation hearing, he said:

> I wasn't in a position to oppose it.

Later he said:

> And I really am still on a two point thing on this. We have got to support Jackson-Vanik, but we also must find a way to increase emigration out of the Soviet Union that is not tied to trade. There are better ways to do this.

This is the Secretary of Commerce designee.

Following up on that, he said:

> I honestly believe, Senator, that more can be done that way than by Jackson-Vanik, although I think that the Soviets through proper negotiation perhaps will raise the level of emigration to the point that maybe we can get a waiver on Jackson-Vanik.

Then Mr. Verity was asked if he would advise the President to suggest repeal of Jackson-Vanik. Here is what he responded:

> I would suggest to the President that he bring up the issue with President Gorbachev and explain this is something that is very, very important to the United States, and would he assure him—him, President Reagan—that he would look into the possible increase of emigration as a means of improving relationships between our two countries.

Since that reply was not responsive to the question about Verity's position on repeal of Jackson-Vanik, he was asked again what his recommendation would be and to explain it. Here is what he replied:

> I would have to say that Jackson-Vanik from a trade point of view in my opinion has been counterproductive.

Now, I wonder how my friends and colleagues here can say, "Well, we think he has changed. He has modified his view." Either we are saying Jackson-Vanik is out of step with the times and should be repealed or we are saying that a Secretary designate, a Secretary of Commerce who will be the point man on this important human rights issue, that he is going to be out of step with U.S. policy and is going to put this country in a position where we are saying one thing and doing another.

Then he was asked at a later point if Jackson-Vanik is effective. This is what he said: "My interest, Senator, is to increase trade with the Soviet Union." That is his interest.

He said:

> And I believe that if we could resolve the Jewish emigration problem, that the Jewish community would be willing to make waivers in the Jackson-Vanik which would allow MFN to the Soviet Union.

He was asked if he thought that it was sufficiently worthwhile to increase trade with the Soviet Union that we should not be using trade as a lever for emigration. I think it is worthwhile to note that part of his response. Now, remember, "Should it not be used as a lever"—that is the question. He said: "I have a problem anytime we use trade as a lever."

Well, I have a problem with anyone, a Secretary of Commerce in particular, who says that he has a problem any time we use trade as a lever.

Then he goes on to conclude:

> This is the one situation where I think that it is clear that human rights is such an important problem or of interest to the United States that Jackson-Vanik should be kept on the books until the emigration is such that there would be a willingness by the Congress and by the Jewish community to waive those limitations.

Last Thursday, I stated that the thrust of Mr. Verity's confirmation testimony was his overriding desire and intent to increase trade with the Soviet Union. Regardless of what the situation is, whether it is Afghanistan, whether it is human rights, whether it is Soviet Jewry, or whether it is the oppression of Pentecostalists, Baptists, Catholics, Ukrainians, Balts, or other ethnics, you do not use trade as a lever, he says.

I was not able to complete my review of his testimony last Thursday, but I have now put before the Senate over these 2 days Mr. Verity's views on this subject. And they are rather revealing.

What I think they show is that Mr. Verity is a man who has not undergone a confirmation conversion. We talk about others who have undergone a confirmation conversion. I suggest that we take a look at Mr. Verity's record and see what he has done, what he has said, and what he says now. And, indeed, his views have remained remarkably consistent. He is not shy about them. When he said, "My interest, Senator, is to increase trade with the Soviet Union," he could not have been any more direct or any more honest in his views.

And when he speaks about human rights, his views are equally clear. During my speech last Thursday, I quoted part of Mr. Verity's response to questions during his confirmation hearing. In a sentence which I omitted, Mr. Verity said:

> But in addition to all that, Jackson-Vanik was put on the books because of the concern for human rights that is peculiar to America.

Mr. President, I ask you to listen to that.

His choice of words caught my attention: "* * * the concern for human rights that is peculiar to America."; I am not going to criticize Mr. Verity's diction. I suspect, however, that in this choice of words he may have revealed more about his views than he intended to.

Reading his statements, I looked for compassion and understanding. All I found were statements in which he grudgingly recognized the influence of powerful interests.

For his confirmation hearing, he made the minimum possible retreat from his past stated positions, qualifying his views just enough to allow his confirmation. In this, I cannot fault his integrity or his honesty. But I can and do challenge his suitability to be the next Secretary of Commerce, because his record and his views are incompatible with established U.S. policy.

Looking at his current statements, I have to ask what lessons he may have learned from the collapse of détente. I fear the only lesson he learned was that he was denied the opportunity to profit from his deals with the Soviet Union.

The rest of us learned other lessons. First among them was that the Soviet Union had not forgone its imperial ambitions around the world and that it was willing to pursue them directly by force of arms. The second lesson was that rights promised to its people by the Soviet Government when it signed various international agreements, including the Helsinki Final Act, could be snatched away when the international situation was no longer promising. The third lesson was that economic ties developed under détente only bound one party—the United States—and not the Soviet Union. This last lesson is particularly important in today's debate over Mr. Verity's confirmation.

We had a full-scale test of the real-world effectiveness of the idea that trade is a road to increased understanding, cooperation, and peace. That was called détente. It was a failure. The arrival of Soviet airborne troops in Kabul, Afghanistan, showed it for what it was.

Those Soviet troops, or their replacements, are still in Kabul, still killing the citizens of Afghanistan. We went through a difficult period, responding to this act of armed aggression with all the measures in our power to show our displeasure.

We did terminate trade with the Soviet Union, to the extent that it was possible to do so. We did boycott the Moscow Olympics. We did take a variety of diplomatic measures. Yet the Soviet Government pressed ahead with its Asian adventure.

We also suffered for the decisions we made to back up our principles. Our farmers were hurt by the grain embargo. Others, whose jobs depended upon the ties forged during the heyday of détente, were hurt.

Where, in Mr. Verity's testimony, is any understanding of this? What lessons did he learn? He is still trying to tear down barriers to United States-Soviet trade. While we were traveling to international meetings to criticize the Soviet Government for the worst post-Stalin domestic oppression, Mr. Verity was traveling to international meetings to work with Soviet officials in preparation for the day when the floodgates of trade—and profit—could be opened again.

While we were marveling the heroism and moral stature of Andrei Sakharov, Yelena Bonner, Juri Orlov, and Natan Sharansky, and working for Soviet compliance with their human rights promises, Mr. Verity was exhorting his colleagues to work for expanded trade.

While we were seeking to reunite families torn asunder by Soviet oppression, he was hobnobbing with his Soviet friends on the council. While we were compiling lists of prisoners of conscience and trying to determine in which labor camp, prison, or special psychiatric hospital they were confined, he was making lists of new United States-Soviet business projects and settling on the site for the next meeting of the council.

Mr. President, this man does not appear to believe in the primacy of human rights. He believes in profit. His concern for the human suffering of victims of Soviet oppression extends only far enough to ensure his confirmation. Once he is in office, he has higher priorities to serve—trade and profit.

I will say it again—I urge my colleagues to think twice, to review Mr. Verity's remarks and record, and vote against his confirmation as Secretary of Commerce.

That is why this Senator said: Let us not rush to judgment. Let us look at the record.

Mr. President, I ask unanimous consent that we place in the RECORD the text of the recent editorial from the New York Post and, Mr. President, I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MR. VERITY—THE WRONG MAN

Senator Alfonse D'Amato is mounting a heroic fight against the confirmation of C. William Verity as Secretary of Commerce. The vote on Verity is likely to take place this week. And while D'Amato knows that the President's nominee is all but certain to be confirmed, this is a battle that must be fought to the end.

There are issues of principle at stake: Verity—one of the leading champions of U.S.-Soviet trade in American corporate life—is an altogether inappropriate choice for the commerce post. The fact that this corporate detentist is being elevated to the cabinet by—of all people—President Ronald Reagan, serves only to make the whole episode even more distressing.

The former chief executive of Armco, Inc.—the nation's fifth largest steel company—Verity was cordially received by the Senate Commerce Committee, which promptly recommended his confirmation.

D'Amato, thus far, has secured the promise of only seven opposing votes. Still, those seven votes—and any more that can be garnered—will represent a symbolic protest, as well as a warning to Verity. The new commerce secretary, whose job centers on shaping U.S. trade policy, will know that he is being watched.

From a purely pragmatic standpoint, it's understandable that Verity should have been a staunch friend of trade with Moscow. Armco—Verity's family firm—did a good deal of business with the Soviets.

Indeed, in 1979, the company was on the verge of building an entire steel plant in the Soviet Union. The papers had already been signed when the U.S. government—in the wake of the Soviet invasion of Afghanistan—killed the deal.

The project would have meant many millions in profits for Verity and Armco—his disappointment, therefore, isn't surprising.

But in terms of national security, the Armco-Soviet joint undertaking was bad news. In retrospect, the mere fact that a U.S. company almost built a state-of-the-art steel plant in the USSR boggles the mind. It doesn't take an engineering degree to fathom the uses to which steel can be put.

That Verity—a past chairman of the U.S.-Soviet Trade and Economic Council—should join the administration at this particular moment is especially disquieting. The issue of East-West strategic trade has come to the fore. Many of the European allies, not to speak of the Japanese, are willing to sell the Soviets anything—without regard to the strategic or military utility of the transferred technology. The Toshiba affair was but one manifestation of this disposition toward unfettered East-West trade.

If the U.S. is to continue the battle against the transfer of sophisticated technology, it will need strong, tough leadership—not just from the White House and the Pentagon, but also from Commerce.

Verity, to be sure, now claims to oppose the sale of sensitive technology to Moscow. But his record gives little cause for optimism.

And there's another reason for concern about this appointment—Verity's longstanding opposition to linking U.S.-Soviet trade with the Kremlin's performance in the human rights field. On more than one occasion, Verity has argued explicitly for scrapping the Jackson-Vanik amendment, which links Most Favored Nation trade status for the Soviets to increased Jewish emmigration.

Verity's opponents in the Senate may not be able to prevent his confirmation—but they can certainly cramp his style. And that's reason enough for senators who are concerned about these issues to join Al D'Amato in voting "No."

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. The Senator from North Carolina yields back the remainder of his time. The Senator from South Carolina yields back the remainder of his time. All time has been yielded back. All time has expired.

Under the previous order, the time having expired, the Senate will now stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 12:55 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Sanford].

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of C. William Verity, of Ohio, to be Secretary of Commerce.

Robert C. Byrd, Chuck Grassley, Kit Bond, John H. Chafee, Ted Stevens, Phil Gramm, J.J. Exon, Frank Lautenberg, Patrick Leahy, George J. Mitchell, Bob Dole, Bob Kasten, Bob Packwood, Robert Stafford, Larry Pressler, Wendell Ford, and Dennis DeConcini.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of C. William Verity, Jr., of Ohio, to be Secretary of Commerce, shall be brought to a close. The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from New Jersey [Mr. Lautenberg], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. Stafford] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. Kassebaum] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Kansas [Mrs. Kassebaum] would vote "yea."

Mr. BYRD. Mr. President, regular order.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 320 Ex.]

YEAS—85

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Harkin
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—8

D'Amato
Grassley
Hatch
Helms
Humphrey
McClure
Wallop
Wilson

NOT VOTING—7

Dodd
Gore
Kassebaum
Lautenberg
Metzenbaum
Simon
Stafford

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF C. WILLIAM VERITY

Mr. BYRD. Mr. President, I yield myself 5 minutes under the cloture rule.

May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the cloture vote was a very decisive vote, 85 to 8. I wonder if we might be able to get an agreement as to a time to vote on this nomination this afternoon, say, 3 o'clock, 3:30.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I am advised that the Senator from New York would like about 10 minutes. I do not know how much time the distinguished Senator from North Carolina would like. So far as I know, there are no other requests on this side.

Mr. HELMS. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. HELMS. If it can be arranged that I will be allocated 30 minutes, or whatever we can work out with the other Senators, it will be fine with me.

Mr. D'AMATO. I would not need more than 15 minutes. I will probably take less.

Mr. BYRD. Do I hear anyone on this side?

Mr. HOLLINGS. I would like equal time to sum up.

Mr. DANFORTH. I would like about 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the nomination of Mr. Verity occur today at 4 p.m., provided that Mr. HELMS has 30 minutes, Mr. D'AMATO 15 minutes, Mr. DANFORTH 10 minutes, Mr. HOLLINGS 15 minutes, Mr. THURMOND 5 minutes, Mr. ARMSTRONG 10 minutes, and that the remainder of the time be equally divided and under the control of Mr. HOLLINGS and Mr. DOLE or his designee.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NOMINATION OF JUDGE BORK

Mr. BYRD. Mr. President, I will take whatever time is necessary out of my time under the rule, anent the nomination of Mr. Bork.

Mr. LEAHY. May we have order, Mr. President, so that we can hear the majority leader?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I thank the Senator from Vermont, and I thank the Chair.

The President has urged that there be a quick vote on the Bork nomination. I may not be using precisely the same words the President has used, but Mr. Bork, himself, has asked for a vote on his nomination. I think Mr. Bork is entitled to that vote on the nomination. I do not believe, however, that the debate ought to be prolonged in reaching that vote.

The distinguished Republican leader has indicated, I believe, on Sunday, on television, that he would be agreeable to a reasonably quick vote. The report has not been filed, but the nomination can be called up by unanimous consent prior to the filing of the report. In addition, the two leaders may, between themselves, agree to waive the 2-day rule on the filing of the report or on the availability of the report.

The President, in today's New York Times, says he favors a vote on Mr. Bork this week.

Mr. President, we need not wait to begin that debate beyond this afternoon, if it is agreeable with the distinguished Republican leader. We an waive the availability of that report, and we certainly do not need to string this debate out the rest of the week. I think the important thing is to give Mr. Bork the vote he has asked for, let the Senate work its will, let the Senate take its position, let the Senate speak as a body, with a reasonable amount of debate before that decision by the Senate.

The Judiciary Committee conducted thorough hearings, very ably and fairly chaired by the distinguished Senator from Delaware [Mr. BIDEN]; and the fact that he did conduct himself with preeminent fairness was attested to by members on both sides of the committee, Democrats and Republicans.

I think that the sooner the Senate speaks, the better—the better for Mr. Bork, the better for the Court, the better for the Senate, and the country. The administration will need to send another nomination up, in the event that the Senate rejects this nominee, and every indication is to that end.

Therefore, it would seem to be the wise approach for the nominee to be voted on very soon, that the administration send up the name of another nominee, and that the Judiciary Committee in the Senate then begin at the earliest reasonable date to examine the qualifications of that nominee.

Having said that, and I just discussed this in a very cursory way with the Republican leader a moment ago, I ask unanimous consent that the Senate proceed, following the vote on the nomination of Mr. Verity, to the nomination of Judge Bork, that the availability of the committee report be waived together with the hearings, and that a vote occur on the Bork nomination no later than tomorrow afternoon at 6 p.m., with the time to be equally divided between the chairman and the ranking member of the Judiciary Committee.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, reserving the right to object, and if I could just be heard briefly on the reservation—

Mr. BYRD. Yes.

Mr. DOLE. I say first of all we did have a discussion in our policy luncheon about disposition of the Bork nomination. And I did have a unanimous-consent request which I read to the membership which would dispose of the nomination after 2½ or 3 days of discussion. But I have not had a chance to go all around because all the Members were not at the luncheon. Different Members have different ideas on how lengthy the debate should be. But I think as a general consensus on this side that it should not be 3 days. But I must say until I do that, I would be constrained to object.

I think we should keep in mind just the perspective that it was 72 days between the nomination and the hearings; 12 days of hearings; 120 witnesses. And even though the outcome may be a foregone conclusion, I read in the Boston Globe, for example, this weekend how there was great planning on how to stall the nomination so that the opposition could gear up. That is how the 72-day delay came about.

There are other things that I think ought to be discussed in any debate on the nomination insofar as the process is concerned because there will be another nomination, if the Bork nomination is not confirmed.

Let me at least hope that there will be some Members, after hearing hopefully a high level and reasonable debate, who will feel compelled to change their position. It would not take very many days to confirm Judge Bork, but I do believe that the proposal of the distinguished majority leader would not provide adequate time to the proponents or the opponents. It would be only 1 day, and it would be about 7 or 8 hours of debate.

It is not the nomination of Judge Bork that is very important. Judge Bork decided he wanted a vote up or down. I think the majority leader is right. He deserves that. I think he also deserves an opportunity to have the record set straight in many areas, where he feels that it is distorted.

I hope it is not an acrimonious debate. This Senator does not intend to engage in that kind of debate. But I do believe it would take additional time.

I had a chance to visit with the distinguished ranking Republican on the Judiciary Committee, Senator THURMOND. What we want to do is to get together this afternoon. Maybe I could come back and visit privately with the majority leader.

In the meantime, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, let it be said that the 72 days, I think, in this particular instance can be explained in large part by the fact that there was the August recess which by law consumed 30 or 31 or 32 days of that 72 days.

Additionally, I think a great deal of time was required to prepare for these hearings. After all, Judge Bork had a good many lectures, writings, statements, and speeches, and whatnot that needed to be researched. The administration could have saved itself a great deal of time, trouble, and grief, it could have saved Judge Bork a great deal of grief and traumatic experience if it had listened to the advice that was given; namely, that if Judge Bork's name was sent to the Senate there would be a difficult fight on that nomination for the very reasons that we have seen. And that advice fell upon deaf ears.

As a matter of fact, I was shown a list of names, 10, 12, or 14 on 1 day. I only recognized Judge Bork's name on the list as I recall. There might have been one other name that I recognized. But the very next day Judge Bork's name was sent up to the Senate which indicated to me that minds were made up and closed downtown before I was shown the list of names.

I am not so presumptuous as to say that the President has to name someone that suits me. I indicated that at that time I might vote for Judge Bork, or I might vote against him. It was my judgment at that time that he probably would be confirmed. But there would be a very, very difficult fight, and it would need a lightning rod because of his statements and viewpoints that had been expressed in the classrooms and on the bench that would certainly have to be gone into quite carefully and thoroughly. So much for that.

I think it is important that the administration listen and counsel with some of the people in this body, at least on the other side of the aisle, before it sends up another nomination. And it will be conducive to a reasonably—I hate to use the word "expedited," but for now I will use that word. Let me put it this way: It would be conducive to the action by the Senate within a reasonable time on the next nomination if the administration does seek some advice within the Senate before sending up another name.

Moreover, may I say to my colleagues that it will be conducive to the Senate's acting within a reasonable time on the next nomination if we keep our voices lowered here in connection with the upcoming debate on the Bork nomination.

Mr. JOHNSTON. Mr. President, would the Senator yield?

Mr. BYRD. If I may just continue, and I will be happy to yield. I will be brief.

Mr. President, if this deteriorates into a contentious, devisive, and bitter debate on the Bork nomination or in relation to the Bork nomination, it will not be helpful in the action that will be taken on the next nomination. In the first place, we do not have a lot of time. We will take whatever time is necessary but I think most Members have reached a judgment on the Bork nomination. It should not take long.

I have heard that the debate will be on the "process." Well, we can debate that process. But I just hope that Senators would restrain themselves, use a little judicial restraint, restrain themselves and their comments, recognize that the Senate is going to vote on the nomination one way or the other, and that in the interest of getting on with our work, filling the vacancy on the Court, and speeding up in a reasonable way the logical and methodical way the action on the next nominee, we keep our tempers lowered and do not allow ourselves to get carried away with our own rhetoric.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. JOHNSTON. I thank the Senator for yielding.

I would simply point out that in my judgment asking for 3 legislative days to deal with the Bork nomination is vastly excessive. My bill on energy and water appropriations has been on this calendar now for over a month waiting for time. There are less than 30 legislative days between now and the scheduled recess date. To take over 10 percent of that when we have not dealt with the appropriation bills—and we have a filibuster to overcome on that energy-water; no way to avoid that.

We have a filibuster to overcome on defense appropriations once it gets here. We have all the taxation matters. We have an impending sequestration coming up. And with all that, to take 3 legislative days, I just think is excessive, and I hope that the majority leader will not accede to that request unless we put it after all the other legislative business.

In other words, in my view, unless we can get a prompt disposal of a matter that is already decided—let us face it, there is no longer an issue on this. It is just a question of debate, to be charitable; I hope we will not take over 10 percent of the remaining part of the year and fritter in away on an issue already decided.

Mr. BYRD. Mr. President, the Senator from Louisiana made a good point. I share that hope, I also hope that we will do what we can to depoliticize this nomination. I hope that we do not gin up the policitization of the next nominee. So the less rhetoric, it would seem to me, the better. The shorter the time, the better.

Mr. BIDEN. Mr. President, if the Senator will yield for just a moment.

Mr. BYRD. Yes.

Mr. BIDEN. The President of the United States indicates he wants a vote this week. Everyone knows what the outcome of this vote is likely to be. Over half of our colleagues—as a matter of fact all but 7 of our colleagues have publicly spoken for or against Judge Bork thus far out of 100 of our colleagues.

To delay another week, to go to the 22d before we vote, consuming the time in the meantime, I am quite frankly worried that I know what will happen. The President hopefully will promptly send us another nominee. The entire Senate is going to look to the Judiciary Committee and say, "Now, we want you to hold hearings promptly. We'd like you to have the hearings completed. And we'd like you to have this back before the recess on the 21st and we'd like to vote on the 21st or before then."

The fact of the matter is, Mr. President, it takes the FBI weeks to do their background checks before they even send us a nominee. I hope the administration has that underway. Some of the nominees, potential nominees who have been mentioned, are a total blank slate to me and I suspect to 95 percent of the Members of the U.S. Senate and of the committee.

For us to waste a week when the President says he wants a vote now seems to me to, in a sense, cast the die on the probability of the Judiciary Committee being able to get their work done and report back to the Senate before we recess.

I will respond to the will of the body in how they want me to proceed and chair the committee. But, quite frankly, if those who wish to speak to the process—and I think that is their right to speak to the process. Why do we not vote and speak to the process every morning in morning business? Why do we not vote tomorrow and while the other nominee is underway and we are doing our work, let all those who wish to speak to the process come and vilify the chairman of the committee and anyone else they would like to go after, and so be it? But let them do it while we have the committee hearings, while I can be preparing in my committee the hearings for the next nominee.

Quite frankly, I would just suggest, as my colleagues talk about the process, unless they have changed their minds, I believe all but one of my colleagues on the Judiciary Committee went out of the way, while the hearings were going on and before they were concluded, to talk about what exemplary hearings they were and how fairly they were conducted. Now, if they want to talk about changing their minds about them now being unfair, that is their right. But why do we not do that during morning business and at the press conferences and let us get on with the business of confirming or rejecting Judge Bork?

As I said, the President wants it. I am ready. The committee report will be finished tonight. Obviously, you have to waive the 2-day rule, but it will be finished tonight. We are ready to go. But to take another 7 days before we vote on this, it seems to me to be making it convincingly more difficult to get to the point where we are going to have a nominee before this body that can be confirmed by the time we leave here.

Mr. BYRD. Mr. President, we have a request for 1 hour 25 minutes of time. I ask unanimous consent that the vote on the nomination occur at 4:15 p.m. today rather than 4 o'clock.

Mr. SIMPSON. Mr. President, do you have the floor, Mr. Leader?

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DANFORTH. Reserving the right to object. I take it, Mr. Leader, you are talking about the Verity nomination?

Mr. BYRD. Yes, I am trying to accommodate Mr. DOLE and some of the other Members on that side of the aisle.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to say just a few brief remarks with regard to the Bork situation. First, let me pay my respects to the Senator from Delaware, who conducted a very fair hearing. There is not any question about that. I do not think anybody is going to get up and say that the chairman of the Judiciary Committee did not. I know no one on our side is going to say it was not fair. I think it was very fair. We surely all would have liked a little more time. We started with a half hour and there was no way to accommodate everyone. Then we came to 10 minutes, then we came to 5. Then we all used our 5 for a quick statement because we did not want to allow the witnesses any time to answer or it would have used up all our time. But it was done very fairly, and I have no problem with that at all.

But what I would share in just a brief time is that only 14 of us participated—there were 14 of us there—and there are 86 of you that did not. There are 86 of our colleagues that did not see or hear or stick with the 32 hours of testimony of Judge Bork or hear the witnesses. It is all there. There is a record.

I think all I want to express to my colleagues is that this is a situation where our function here is not to make a contribution through public statements or keeping score as to who is for or who is against. Our function under the Constitution is called advice and consent. And the only way you have advice and consent is to have a debate. And the only way to have a debate is to have it on the floor of the U.S. Senate. And that is what I am saying, that, you know, this is a very poor way to do the business of advice and consent.

We heard a lot about the Constitution in these last days with Judge Bork. But the great threat to this body is in not doing our job and the job to be done right here on the floor of the U.S. Senate.

I have no desire to take it for 2 weeks. I think we could reach a time certain for next week; have it 5 o'clock Thursday, if we are to start Friday; a time certain to vote. I see no need to stretch that on into any great period of time.

But there is a very definite need here for those who do support Judge Bork. Not to get into terrible things, not to get into bitterness and some of the phrases that the majority leader uses. That is not what we are intending to do, I can assure the majority leader.

What we do intend to do is to be able to present a case like the American Cyanamid case in more than 5 minutes. So that the people of America can know that it was not a pleasant experience for Judge Bork to give a determination that women had the option of voluntarily sterilizing themselves. That case needs to be described. That is what came up in the television ads, that this was a man who seemed to get some kind of—I do not know how to describe it—that he did not seem to mind that women had the choice of voluntary sterilization. It does not take a half hour to describe the American Cyanamid case. You describe it as the OSHA board of review saying that had to be done or they would shut down the plant.

Then that it was the unanimous decision of that court; and people can see that the three judges were unanimous; and one can see that the full court chose to do nothing with it. The Supreme Court chose not to hear it. The reason was because it was a tough and hidious decision to make and some women chose that voluntary sterilization and, somehow all that has been placed upon Judge Bork.

I think that is unfair. That needs a little bit of explanation.

The other one, and there are several: the poll tax. The poll tax was used in the exact phrase as equated with racism. Yet Hugo Black, in the case 2 years before, said this issue of the poll tax has nothing to do with discrimination.

Those are the things we need to present. That, and the fact that somehow this man was the central sinister cog at Watergate and flog that old dog again—as we did in the hearings—and that somehow, Bork is the center of all that. And all of it (Watergate) got resolved just the way the American people wanted it.

And we should review the true issue of fact as to his being hostile to women, that he discriminated against women in discrimination based upon gender. Every one of you that voted to exempt women from the draft discriminated against women on the basis of their gender. Those are those flash words that were used. They were not used by the chairman. They were used by the opponents.

When you here voted in this body to exempt women from the draft, you were discriminating against women on the basis of their gender alone. Those are the things that popped up. They need a little bit of explanation. They do not need a lot, but they need some thoroughness and those are the things that we will be presenting.

Even a smattering of anti-Semitism came up in the hearings. So we want to present those things. We can set a time. It is nothing more than what I would express as something that I think we all deeply understand here. It is called fairness. That is what I hope we can do and do it in a timely manner and have the other 86 of you present to do it.

You must know, too, please, and I will conclude, that a great part of the impetus of this comes from the three children of Judge Bork and his wife who would like it to be expressed that their husband and father was not the person portrayed in the hearing process and that he is simply not any of these things that have been discussed. That is something that I think should enter the fray in our busy lives.

We get carried away with the process. We get carried away with a lot of things in this remarkable arena. But we forget the human dimension, and there is a human dimension here and it may not take 3 days to resolve it and move on.

I assure you that I will assist the majority leader in doing that.

Mr. HOLLINGS. Mr. President, I believe now we are under the unanimous-consent and controlled time. I remind you of the particular nomination. I will conserve that amount of time so we can fit in the 30 minutes for Senator HELMS, the 15 minutes for Senator D'AMATO, the 10 minutes for Senator DANFORTH, the 5 for Senator THURMOND and the 10 for Senator ARMSTRONG.

Perhaps they can conserve a little time, too, so we can make sure we can all fit in.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri?

Mr. DANFORTH. Mr. President, it is with genuine enthusiasm that I endorse the nomination of Bill Verity to be the next Secretary of Commerce. I commend the President for sending us a man of such considerable accomplishment and substance.

I was both a friend and a fan of Mac Baldrige. He helped put the Commerce Department back on the map in Washington. He not only knew about business—both domestic and international—but also he knew how to run one. He took a "hands-on" approach to everything he did, and he was a good listener. He actively sought advice from the Hill, and either incorporated that advice in his actions or told us why he wouldn't. He was a pragmatist on international trade who played a very constructive role in promoting fairness and understanding in international economic matters. His counsel and his voice are missed.

I, for one, doubted that we would be able to replace Mac Baldrige with someone of comparable ability, experience, and temperament. Now I believe I was wrong. Bill Verity strikes me as an ideal successor to Mac Baldrige.

Bill was in the steel business for more than 40 years. What better training ground to learn about the rise and fall and rise again of U.S. heavy industry. What better vantage point for watching the erosion of the U.S. competitive edge in international business, for learning what both fair and unfair foreign competition can do to U.S. companies.

Just as Armco steel is more than a steel company, so is Bill Verity more than a steel man. He has an impressive record of voluntary service to community and country. Throughout his career at Armco, he urged his employees to be good, active community citizens. His record at Armco made him a logical choice to chair the President's "Task Force on Private Sector Initiatives," a group which made many constructive recommendations encouraging businesses to do a better job serving their communities.

Like any man of high accomplishment and substance, Bill Verity has spoken out publicly over the years about things he felt strongly about. Some of his past statements and actions raised questions in the minds of Members of the Senate and groups on the outside whose views we respect and care about.

All issues of controversy received extensive discussion at the Commerce Committee's hearings and in written responses to members' questions. Considerable time was spent discussing his views on Soviet human rights violations, the Jackson-Vanik amendment, export controls, trade with the Soviet Union, and the Reserve Mining Co. controversy of the early 1970's. I think most of us were impressed with his answers, whether or not we agreed with all of his conclusions.

I particularly liked the fact that he believes there should be a trade bill enacted into law this year. He believes that the Senate and House bills contain the elements for a bill which will be good for the country. The challenge is to eliminate the major weak points in both bills.

I think there are some in this administration who believe that there should be no trade bill. I think that would be a terrible mistake. We need Bill Verity's voice and experience at the table to improve our chances of fashioning a bill the administration can accept. I urge my colleagues to support a candidate we need—a man we are very fortunate to have.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I would like to join with my distinguished colleague, the senior Senator from Missouri, in his praise of our former Secretary of Commerce, Mac Baldrige. He was a man who had the kind of balance and presence that lent great purpose to our ideals; to tearing down artificial barriers; and to using trade and commerce effectively in the area of foreign policy. Mac Baldrige believed in using trade and commerce to protect the national security and interests of this Nation and to protect something that is so much more fundamental than preventing advanced materials, technology, and machinery from falling into the hands of the Soviets, our principal support for human rights.

But, whether or not we are really committed to individual human rights and the dignity of men and women regardless of their religion, regardless of their nationality, Mac Baldrige was such a man.

I have to part with my colleague from Missouri in so far as his statement relates to the nominee who was submitted to fill that position. C. William Verity fails this test. We have only to look at his record and his words to find that it is replete with a total disdain for the principles of human rights and total disdain with respect to Soviet violations of the Helsinki Final Act; the Soviet war in Afghanistan, where they are killing innocent children; and to Soviet violations of the terms of other international human rights agreements they have adhered to.

Mr. President, I have spoken on this issue a number of times, so I will attempt in just a few minutes to point out several areas that I think make it impossible not only for this Senator but I think for all Senators to support Mr. Verity. If we were to look at the record and examine Verity's views instead of voting as a pack, Verity would not be confirmed.

What we have, however, is pack mentality, pack voting. We come down to the floor and ask, "How are you voting?"

"Well, he is not so good, but, you know. We do not want to embarrass the President."

I will tell you, I have a question: Where are those groups who talk about civil rights, those groups who talk about human rights, those groups who come to see me about these issues? I ask my constituency in New York, I wonder where they are on the Verity nomination? I have some ideas about how they could remain silent on Virity. But their silence is incredible to this Senator, absolutely incredible.

In 1977 William Verity said, "Soviet trade has to be increased." He opposes barriers. "We have to increase Soviet trade."

In 1979, in a Washington Star interview, now rather famous, Mr. Verity said, with reference to Soviet Jewish emigration: "The American Jewish community can never be satisfied in this matter. Their desires will ever be escalating." What an outrageous view to take. But, after all, that was in 1979. Maybe Verity changed his views.

But then if we look at the record again, we see in 1984, in an interview with Radio Moscow, Verity's remarks denouncing Jackson-Vanik. He said, "I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians."

He goes on, "It does no good."

Mr. President, we see a litany, a history, of long, outspoken objections to anything that interferes with trade.

Coming forward from the early 1970's, to 1979, to 1984, I now read part of an editorial from the Washington Times dated October 1987.

Mr. Verity's zest for making money from trade with Moscow seems to be in indirect relation to his concern for the victims of Soviet repression. In 1979, he contributed to the book published by the American Committee on East-West Accord entitled Common Sense in United States-Soviet Trade. Mr. Verity assailed the Jackson-Vanik amendment which tied Soviet trade status to Jewish emigration.

The editorial next talks about the plight of more than 400,000 Soviet refuseniks. Verity is worried that the Soviets are going to say that our concerns about them is an interference with domestic affairs.

This is the man we are now going to make Secretary of Commerce? Voting to confirm him is like putting the fox in the chicken coop as it relates to the principles of human rights.

You might say, "Well, maybe he had a change of heart. After all, those are the views that he held as a businessman."

Al Smith, the famous Governor of New York, said, "Let's look at the record."

I would refer us to the record, the record of the Commerce Committee's confirmation hearings, just concluded. Let us see if Mr. Verity changed his position.

He was asked about Jackson-Vanik, about the repeal of Jackson-Vanik, and he said, "I would have to say that Jackson-Vanik from a trade point of view in my opinion has been counterproductive."

That is Mr. Verity. He has not changed his views. The questioner went on and asked if Jackson-Vanik was effective and Mr. Verity replied, "My interest, Senator, is to increase trade with the Soviet Union."

Mr. Verity is quite clear, he is honest. That is his interest.

His interests are not human rights, not those who are enslaved. His interests are not to free those in the slave labor camps. His interests are not those being oppressed in Afhganistan. His interests are not that the Soviets are financing revolution in South America, in Central America.

No, "My interest is to increase trade with the Soviet Union"—I will supply with my own emphasis, "at any cost."

Verity was then asked if he thought it was sufficently worthwhile to increase trade with the Soviet Union, that we should not be using trade as a lever for emigration. I will tell you how he responded. He said, "I have a problem any time we use trade as a lever, any time."

Mr. President, let me just make one observation. Maybe human rights are a peculiar concern to America. That is what Mr. Verity says, I would like to think it is not a peculiar concern. Human rights, the dignity of men and women and freedom—because that is what rights are, human rights, they are freedom—are a special concern to America, a special concern. That is a concern that the Secretary of Commerce should have, and that all of my colleagues, I hope, will have.

When he says Jackson-Vanik was put on the books because of the concern for human rights that is peculiar to America, I think he identifies himself as someone who has a very different view of America than I do, and hopefully than most of my colleagues do.

I think human rights, freedom, democracy, are all a special concern to America, and I want to have a Secretary who understands that.

The record is clear on Mr. Verity. He does not appreciate those values.

For that reason, Mr. President, I will urge my colleagues to vote no and I intend to vote no. I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me.

As I indicated this morning, there was no question how the cloture vote would turn out. I hope it is clear that this Senator takes no pleasure in opposing nominations by any President, especially a nomination offered by a long-time friend, this President of the United States.

But as I said this morning, I have deep concerns about the nomination of Mr. Verity. In fact, as I review the record, I can think of almost no one else less suited to the job from the standpoint of our national security.

I am not going to say that he intends it that way. I am saying, as Senator D'AMATO has so eloquently said, that you judge by the fruits.

The nomination of one of the leading proponents of America's Western trade with the Communist world, C. William Verity, Jr., as Secretary of Commerce, may have serious, long-term consequences for the future of this country as well as for the future of the free world.

I genuinely hope and pray that I am wrong in these apprehensions, but I would not be fulfilling my duty as I see it if I did not state my concerns in some detail.

Mr. President, let me go back to the point that I made this morning, a point which admittedly has nothing to do with Mr. Verity. But Mr. Verity, if confirmed, will have the power to change the situation. It has to do with the policies of the Commerce Department, some of the bureaucracy there, and it has to do with an unwise law passed by the Senate and the House of Representatives and signed into law by the President of the United States.

Senator HOLLINGS and I have discussed this law, and we have some tentative plans to try to change it so that the American people can have access to the information about the United States corporations and financial institutions that have been doing perilous business with the Soviet Union, perilous in the sense that the security of the free world is laid on the line.

Now, Senator D'AMATO has eloquently addressed the record of Mr. Verity in terms of putting profits before security. Admittedly, Mr. President, that is the view of those of us who have taken the time to study Mr. Verity's record. And I say quickly that there is nothing personal in my opposition to his nomination. I am sure he is a nice man and means well. But his utter disregard for such things as Jackson-Vanik, his willingness to export goods and services including sensitive, sophisticated technology to not only the Soviet Union but other Communist countries around the world has made me apprehensive about him in this very sensitive spot.

Now, for 2 years, Mr. President, I have had what amounts to a running battle with the administration, the Secretary of Commerce, who was a friend of mine, and the bureaucrats in the Department of Commerce and, as I said earlier, with the Congress of the United States. We have the absurd situation where hundreds of millions of dollars' worth of goods and technology have been exported to Communist countries and are being exported to Communist countries—the Soviet Union, Bulgaria, and countless others. And you know what, Mr. President? All of this information has been kept secret. For 2 years I have been pleading with the administration to furnish that information, and I always got a response saying, "Well, we are working on it; we don't have it; maybe next month," and so forth.

So in the past couple weeks I went down to see the President, and I told him quite candidly that I believed the American people would take care of a great many of my concerns if this administration would simply make available to the American people the information to which I believed the people of this country are entitled, to wit: the names of those companies which are shipping goods and sensitive material to the Soviet Union and other Communist countries.

Well, the President, in all candor, was surprised that I was having such difficulty getting the information, and without going into any details about our conversation, suffice to say, Mr. President, within 3 hours after my visit with the President there was hand delivered to me this batch of computer printouts. However, the policy of the Commerce Department and the law, depending on how you interpret it, restricts that information as of now to the Senators who happen to belong to the Senate Banking Committee. Unless you are a member of the Banking Committee, you cannot get it. But the President of the United States, I imagine, got on the telephone and said, "Get Helms that information so we can move this Verity nomination."

That afternoon it was delivered; but with a cover letter saying in effect, "You can have this but you can't let the American people know about it."

Now, the point, Mr. President, is this: The Soviets and the other Communist countries know what they are getting in terms of goods and sophisticated technology from the United States. Our Commerce Department knows and has known. The Senators who happen to belong to the Senate Banking Committee know.

Mr. President, in my reading of the law, the Secretary of Commerce has full power to waive confidentiality. And I go further than that. If you read the law closely no confidentiality at all is required for the information my 1985 amendments require.

Mr. President, my amendment, section 14(d) of the Export Administration Act [EAA] requires a detailed report which lists every export license granted for exports to controlled countries, including three types of information: first, names to whom the license was granted; second, the type of goods or technology exported, and third, the country receiving the goods or technology. The legislative history shows that my intent in offering the amendment was to make this information available "to Congress and the American people." That was my intention.

However, in the conference Committee, a proviso was added that 14(d) would be subject to 12(c), on confidentiality. What does 12(d) say?

Section 12(c) says "information obtained under this Act * * * which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest. Information obtained under this act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning the license applications under this Act * * * shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest."

So we see, Mr. President, that in the first place, the Secretary can issue a waiver if he deems it is in the national interest.

In the second place, a reasonable interpretation of the act is that the name of the country, the type of goods to be exported, and the country to which it is to be exported is not "information obtained for the purpose of consideration of license applications." Rather, it is information issued by the Commerce Department after the consideration is completed, and upon issuance of the license. No proprietary information, such as financial or technological data would be revealed. The fact of the issuance of the license should be public information, and is required for debate of public policy.

Finally, Mr. President, there is no reason why, even if the strained interpretation is maintained that complete confidentiality is required under the law, there is no reason why the information couldn't be released to the Committee on Foreign Relations. The law states [12(c)(2)] that "any information obtained at any time under this act shall be made available to any committee or subcommittee of appropriate jurisdication upon request of the chairman or ranking member of such committee." Senate rule 25 says that the jurisdiction of the Committee on Foreign Relations includes "Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad."

So there is no reason at all to block disclosure of this information. The Soviets know, the Commerce Department knows, and the Banking Committee knows. But nobody else is supposed to know, least of all the American people, whose liberties and security may well be at stake in this matter.

Now, I cannot read this computer list and I will not, and I have about 15 computer lists, by the way, broken down by countries.

Mr. President, I suggest that you look at these. Each one of these lines represents a substantial shipment of sophisticated technology to a Communist country, broken down by countries. Let me unfold this so you can see how long this one is.

Let me show you another one, just as long.

Here is another one, and so on. And now I will put the whole stack aside.

Now, bear in mind that as I stand on the Senate floor, I cannot reveal one name of an exporter, a United States corporation, let alone a financial institution, that is dealing in the most sensitive of ways with the Soviet Union.

Senator Hollings, and I admire him for it, was appropriately indignant about this situation when it was brought to his attention, and he came to me and said, "Well, the Secretary can't do much about this." But the Secretary can, and I think Mr. Verity would do well by himself and certainly by the American people, Mr. President, if he said right now that "this is information that ought to be available to the American people and the minute I am sworn in as Secretary of Commerce, I am going to order that it be released."

A few questions come to mind, obvious questions: for example, would Mr. Verity have us make our profits by becoming partners in what might be called Gulag, Incorporated? Does he believe that we can improve the U.S. economy by exporting American jobs to an economy where the workers have few rights, if any, and the rest are slaves in the literal sense of the word?

Now, our intelligence community knows where all of these gulags are and they still number in the hundreds. Our intelligence community knows that the railroads which haul these goods, this sensitive, sophisticated technology, to market were built by work gangs under police guard at a frightful cost in human life and suffering. Our intelligence community knows that the mines which produce the commodities used in Soviet plants are worked by men and women under a sentence to work themselves to death.

Mr. President, I will never forget a decade ago when I first met a man named Alexandr Solzhenitsyn. Prior to my meeting Solzhenitsyn in person, I had been in correspondence with him. Subsequent to that we had many transatlantic telephone conversations. He came to my home when he first came to America, and we sat for the better part of an evening in which he said to me over and over again, "Do your leaders not understand, can they not comprehend what the Soviets are up to?" The man was intense, he was frustrated because he had been in that gulag for a long, long time. His grievous sin was that he dared to raise his voice in protest as a citizen of the Soviet Union.

I think about Solzhenitsyn, Sakharov, and others frequently, almost constantly. And I think about my grandchildren and their prospects for living in the kind of society that I was blessed to be born in and thus far have enjoyed. Maybe that is the reason why I look twice at all the statements that, inferentially at least, say, "Well, the big thing is to make a profit, the fast buck. Let us deal with them." "Them," of course, being the Communists.

Mr. Verity, himself, in his testimony asserted that trade should be divorced from politics. Well, that depends. The truth is that Mr. Verity obviously views trade as the only valid politics. For him, trade is the same as a philosophy or a religion. But if the lure of trade is used as a weapon against the American people to bring the United States into compliance with the Soviet goal of world domination, both economic and military, then Mr. Verity's rhetoric stands revealed for what it is. I do not doubt his sincerity. I just believe that he has been sincerely wrong.

Mr. President, as I have said, I can think of almost no one less suited to the job from the standpoint of our national security than Mr. Verity. As one of the leading proponents of American and Western trade with the Communist world, his confirmation would have serious long term consequences for the future of our country as well as for the future of the free world.

I shall in due course discuss the issues raised by Mr. Verity's nomination. But first, let me draw the picture in a few broad strokes.

First of all, as Senator D'Amato has indicated, it is abundantly clear that Mr. Verity does not believe the Soviet Union is an evil empire. He does not understand that building communism through finance and trade with the Soviet bloc directly threatens the survival of our Constitution and our way of life.

Mr. Verity has been the key agent in the United States for developing the Soviet trade. He promotes and has promoted policies which would result in the sacrifice of our friends in the developing world, particularly in Latin America, in order to build communism in the so-called Socialist economies. This sacrifice of our friends would be required by the supposed desireability of shifting investments from the developing world, burdened by the debt crisis and political instability, to our antagonists in the Comecon countries, especially the Soviet Union, where stability is provided by Soviet troops, border troops, and the KGB.

Mr. Verity doesn't seem to realize that by building communism, in place of a policy of promoting free economic growth and development in the Third World and other areas eager for developing the free market economy, our long-term national security interests are put at risk.

Moreover, at the very time when Congress was trying to legislate responsible controls for East-West trade, Mr. Verity and his associates were bending every effort to prevent, circumvent, or destroy such legislation. Indeed, one member of Mr. Verity's group promoting the Soviet trade was successful in destroying the intricate system of checks and balances in the mechanisms in the executive branch which supervised this trade from a national security standpoint.

Finally, Mr. President, Mr. Verity's long and intimate association with the U.S.-U.S.S.R. Trade and Economic Council, the primary lobby for the Soviet trade, is reason enough to vote against his confirmation as Commerce Secretary. The Council is quite simply an arm of the Soviet Government, under KGB control, whose purpose is to subvert the U.S. economy. The Communists have always believed in war on all fronts—military, diplomatic, social, and economic. The Council is an instrument of that subversion.

Mr. Verity, as a key agent of influence for the Soviet trade, has unceasingly promoted a simplistic globalist viewpoint, as out of date as the rhetoric which used to accompany the old one-world school of thought, a school which has changed its tactics, but not its goals. It still hopes for an ultimate convergence, or merging, of the United States and the Soviet Union, into a common culture, economy, philosophy, and despotism.

Mr. Verity asserts that trade should be divorced from politics. But the truth is that Mr. Verity conceives of trade as the only valid politics. For Mr. Verity, trade is the same as a philosophy or a religion. But if the lure of trade is used as a weapon against the American people to bring the United States into compliance with the Soviet goal of world domination, both economic and military, Mr. Verity's false rhetoric stands revealed.

Such views disqualify anyone from a position of public trust. They certainly disqualify Mr. Verity.

GUIDELINES FOR ASSESSING THE SOVIET TRADE

Mr. President, I shall shortly set forth the details and specifics to support these broad points I have made. But first it is necessary to point out that Mr. Verity's nomination comes at a crucial moment in world economic policy. We have reached a watershed which may well be the dividing point in our history. At this crucial time, there are 10 fundamental issues, 10 fundamental questions to be answered, 10 fundamental decisions which we, as a nation, must face up to if we are going to maintain our independence and freedom as a sovereign country. It is not an exaggeration to call the Soviet trade a life or death issue because what is at stake is the long-term survival of the United States as a sovereign nation, our Constitution as the fundamental law of the land and bedrock of justice, and our way of life based on Judeo-Christian principles. Communism, Marxist-Leninism, and Soviet imperialism are irretrievably opposed to our survival on that basis.

Mr. President, it is clear then, that these 10 points constitute the minimum basis for U.S. policy in this area. These, then, are the guidelines:

First, U.S. export controls over goods and services to the Soviet Union should be strengthened.

Second, the NATO Coordinating Committee [Cocom] system of export controls over goods and services to the Soviet Union should be strengthened.

Third, the Soviet Union should be denied membership in the International Monetary Fund [IMF], the World Bank [IBRD], the Asian Development Bank, and any other Western multilateral economic and financial institution.

Fourth, the Soviet Union should be denied membership in the General Agreement on Trade and Tariffs [GATT] and the Multi-Fiber Arrangement.

Fifth, the Soviet Union should be denied official and private subsidies of any kind by any free world ally.

Sixth, the Soviet Union should be denied access to free world securities markets.

Seventh, the Soviet Union should be denied untied general purpose loans from free world commercial banks.

Eighth, the Soviet Union should be denied any significant free world participation in Soviet energy related projects.

Ninth, the Soviet Union should be denied participation in inter-ministerial meetings on Western economic policy held by the United States and our European allies including any East-West economic conferences held under the Helsinki framework.

Tenth, the Soviet controlled COMECON organization should be denied any formal relationship with the European Economic Community.

Mr. President, if we uphold these 10 principles, our national identity and freedom will likewise be upheld. If we deviate from them, our future is foredoomed.

Nevertheless, Mr. President, the deeply disturbing thing about Mr. Verity is that, based upon everything I have heard him say, and everything I have read about his views, I am convinced that he is opposed to all 10 points. I have to conclude that he will be an agent of opportunity, within the U.S. Government, within the Cabinet itself, working to break down our economic defenses against Communist influence and interdependence. While this city sleeps, he will be awake, unbarring the very gates that keep out the enemy.

VERITY—KEY AGENT FOR THE SOVIET TRADE

Mr. President, Mr. Verity has made a career out of promoting economic détente with the Soviet Union and its satellites behind the Iron Curtain. He is one of the leading personalities in the American business community who are willing to seek short term profits on the Soviet trade while looking the other way at the betrayal of our long term national security interests. Other prominent personalities in this well-organized and well-financed group promoting the Soviet trade include David Rockefeller, Dwayne Andreas, Donald Kendall, and Armand Hammer. It is not too strong to describe this as a cabal.

As a leading business figure promoting the Soviet trade, Mr. Verity served from March 1978 to July 1984 as co-chairman of the shadowy U.S.-U.S.S.R. Trade and Economic Council. This organization was established in 1973 as a result of a diplomatic protocol, signed by then Secretary of the Treasury George Shultz, between the United States and the Soviet Union. Businessmen such as Mr. Verity played a major role in lobbying for this protocol.

Mr. Verity has been a leading member of the Council since its inception. This organization, which serves as a Soviet-American chamber of commerce, has unceasingly lobbied for expanded trade with the Communist world. Half of its board of directors are private United States businessmen; but, by contrast, the other half are all Soviet Government officials. This imbalance—private businessmen on our side and all Soviet Government officials on the other—is very significant. It demonstrates that the Council is an arm of the Soviet Government. Of course, there are no private businessmen in the Soviet Union, a fact which emphasizes the impropriety in any trade relationship.

According to David Rockefeller, in an article entitled "Chase Manhattan's Transactions in the U.S.S.R." which appeared in the October/November 1977 issue of the Journal of the U.S.-U.S.S.R. Trade and Economic Council, the Council had its origins in a meeting of the Dartmouth conference. The Dartmouth conference, like the Pugwash conference, is one of several international groups devoted to promoting convergence of United States-Soviet relations. The Dartmouth conference was founded in November 1960 under the sponsorship of the Ford Foundation. Since 1968, the Conference has been funded and administered by the Kettering Foundation.

Mr. Rockefeller stated:

> And it was at the seventh session of the Dartmouth Conference in Hanover in 1972 that the idea of forming a high-level Trade and Economic Council was first proposed.

Mr. President, I ask unanimous consent that the article by Mr. Rockefeller entitled "Chase Manhattan's Transactions in the U.S.S.R." be printed in the RECORD at the conclusion of my remarks as exhibit 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, there has been a good deal of public concern raised by Mr. Verity's nomination. Examples of this growing concern can be found in a recent nationally syndicated column by Evans and Novak; in a feature article in Insight magazine; and in the press statement of Mr. Anthony Harrigan, president of the U.S. Business and Industrial Council, on behalf of the Ad Hoc Coalition to Oppose the Verity Nomination on the day of the Verity confirmation hearing.

Mr. President, I ask unanimous consent that the Evans and Novak column which appeared in the Washington Post on September 26, 1987; the Insight magazine article entitled, "Verity's Views on Soviet Trade Setting off a Few Fireworks," which appeared on September 14, 1987; and the statement of Mr. Anthony Harrigan representing the Ad Hoc Coalition to Oppose the Verity Nomination of September 10, 1987, be printed in the RECORD at the conclusion of my remarks as exhibit 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. Mr. President, Mr. Verity's hostility to the traditional use of trade as an effective instrument of national policy is well known. Indeed, in an article entitled, "U.S.-U.S.S.R. Trade: A Vital Need." which appeared in the Journal of the U.S.-U.S.S.R. Trade and Economic Council he stated:

> Trade all too often was used as a foreign policy lever: The trade agreement between the U.S. and U.S.S.R. was never signed because of the Jackson-Vanik amendment, which offended the Soviets because they viewed this as the United States meddling in their internal affairs.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks as exhibit 3.

Mr. Verity's callous disregard for fundamental human rights and religious freedom with respect to Soviet minorities and particularly Soviet Jewry has drawn sharp criticism. Indeed, the White House felt compelled to reaffirm a commitment to the Jackson-Vanik and Stevenson amendments which link United States trade benefits with Soviet emigration policies.

Mr. President, I ask unanimous consent that an article by Bill Gertz entitled, "Reagan Affirms Links Between Soviet Trade, Emigration," which appeared in the Washington Times on September 15, 1987, be printed in the RECORD at the conclusion of my remarks as exhibit 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

LATIN AMERICA AND THE SOVIET TRADE—A STRUGGLE FOR THIRD PLACE

Mr. HELMS. Mr. President, I am deeply concerned about the potential consequences of an expansion of financial and commercial relations with the Soviet Union. The transfer of goods and technology to the Soviet Union directly and indirectly contributes to Soviet military capabilities. The installation of turnkey projects for manufacturing in the Soviet Union deprives American workers of jobs and impairs our export markets in third countries for downstream finished goods which these manufacturing facilities produce. The Soviet trade impairs economic development in the Third World and particularly Latin America.

The Under Secretary of Commerce, Bruce Smart, gave an address to the 10th annual members meeting of the U.S.-U.S.S.R. Trade and Economic Council in which he drew specific attention to such turnkey projects as the installation of complete factories in the Soviet Union. In volume 12, No. 1, 1987, of the council's journal carrying this address, he is quoted as stating to the meeting:

> Complete factories can be exported to the Soviet Union totally comparable to new factories that would be built in the United States with all the most modern equipment including process controls.

A deeply disturbing aspect of the Soviet trade is linked to the international debt crisis which has affected the developing world and Latin America in paricular. All too often the fact that the Soviet Union and Eastern Europe are also part of the debt crisis is overlooked. The Soviet bloc has a debt of some $112 billion. Given the global competition for investment capital there are fundamental choices that are made as to the placement of this investment capital. These choices have long-range strategic consequences which bear directly upon our national security and the shape of the world that we live in.

Mr. President, as we look at the international economic situation today we find what some economists refer to as the "international division of labor" has resulted in five general categories of economic status. In the first rank are the United States, Western Europe, and Japan. In the second rank are the newly industrialized countries such as South Korea, Taiwan, and Singapore. We then find a struggle for the third rank between Latin America and the Soviet bloc. The loser will be in the fourth rank. In the fifth and last rank we find Africa.

Among the fundamental policy choices that we face within this context is whether or not we will sacrifice the economic development and future well-being of our friends and allies in Latin America in order to assist Gorbachev hold the Soviet empire together.

Mr. President, the Soviets are quite frank that the real reason behind Gorbachev's so-called glasnost propaganda offensive is to pave the way for increased Western financing of the Soviet empire and for increased commercial relations in order to rescue and to build communism in the Soviet empire. The Soviets want United States banks to finance communism. If this expansion of finance and trade with the Soviet bloc does materialize, it will certainly be at the expense of Latin American and other parts of the developing world. The Soviets want a special relationship.

Mr. President, so that Senators might better understand the Soviet plan to develop permanent financial relationships with American banks, I ask unanimous consent that an article entitled "Cooperation with U.S. Banks: Prospects for the Future," by Victor Gerashckenko, First Deputy Chairman of the Board of the Soviet Bank for Foreign Trade which appeared in the nine-page special advertising section carried by the Wall Street Journal on August 24, 1987, be printed in the RECORD at the conclusion of my remarks as exhibit 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. HELMS. Mr. President, at this time, there is no new capital for productive investment moving into Latin America owing to the debt situation there as well as to the problem of political stability and the investment climate. Of course, the State Department by supporting socialist governments throughout the hemisphere, as well as elsewhere in the world, has played a major role in causing the disintegration of political stability and the investment climate in Latin America.

The lobby for the Soviet trade—and Mr. Verity is a driving force in it—seeks to shift investment capital into the Soviet bloc and to expand trade with the Soviet bloc at the expense of Latin America in particular and the Third World generally. From the Kremlin's standpoint, such access to Western finance, goods, and technology will be used to prevent the Soviet bloc from falling below Latin America in development status while continuing its unprecedented military buildup.

The Kremlin cannot allow the Soviet empire to fall below Latin America in development status for reasons of not only international prestige but also of ideological necessity. If communism is the wave of the future that Marxist-Leninism would have us believe then the Soviet bloc must be perceived as developing economically. Seven decades of experience have demonstrated that communism as an economic system cannot function without a bailout from the West. This is where business leaders such as Mr. Verity come in. Their role is to assist in building Soviet communism through trade and finance.

Mr. President, instability and economic disintegration in Latin America is not in the long-term interest of the United States. To the contrary, economic development in Latin America based upon productive investment and trade with the United States is a fundamental interest because it contributes to the general peace and prosperity of this hemisphere, the New World.

The Communist world, however, does not want to see economic progress in Latin America for the reasons that I have just outlined. This is one of the major underlying factors behind Communist aggression in this hemisphere.

This is why the Soviets have been bending every effort to destabilize Chile for example. Chile, by engaging in productive capitalism, has registered the most significant economic progress in Latin America. The Soviets don't want Chile's example for progress in development to be used as a model for other Latin American and Third World countries.

Of course, the Soviets also want to expand their empire geographically and drain Third World countries of their mineral, agricultural, and fisheries production.

Socialist regimes also are to the Soviet Union's advantage. These regimes offer more possibilities for Communist penetration and subversion. They also result in a lack of economic development which produces discontent. The Communists then take advantage of this discontent in order to promote their own subversive designs.

Mr. President, I should add that the New York banks find important profit centers in their lending to countries plunged into debt by Socialist regimes. It is an interesting convergence of interests between Communists, Socialists, and the big New York banks. Under socialist regimes, these countries naturally go further and further into debt because socialism as an economic system does not work. International bankers are sophisticated enough to know this and to profit from it.

The New York banks find the profit from the interest on this sovereign debt to be critical to their balance sheets. Up until now, this has been an essentially riskless game for the banks because the IMF and the World Bank have stood ready to bail the banks out with our taxpayer's money. In today's conditions, however, the debt problem has arrived at almost unmanageable proportions. Undoubtedly, the American taxpayer one way or another will be asked to bail the banks out.

Mr. President, we simply should not sacrifice our friends in the developing world, and particularly in Latin America, to the special interests of the lobby for the Soviet trade and its partners in the Kremlin. Yet, this is precisely what Mr. Verity and his associates in the US.-U.S.S.R. Trade and Economic Council would have us do.

NATIONAL SECURITY AND THE SOVIET TRADE

As the ranking minority member of the Foreign Relations Committee, I would draw Senators' attention to the economic dimension of our policy toward the Soviet Union and the Communist world. Commercial policy toward foreign nations, either on a bilateral or on a multilateral basis, is an important element in foreign policy and in national strategy. Sound national strategy must combine diplomatic, economic, political, psychological, and military elements in a comprehensive, systematic, and integrated manner in order to protect and to advance long-range national interests in the foreign realm.

Mr. President, on any number of occasions I have stated my view that export control is an important form of arms control. By denying the Soviet Union and its satellites the capability to manufacture weapons systems, including nuclear weapons systems, we are in fact contributing to arms control. The masters of the Kremlin gain such capabilities through the acquisition of Western goods and technology as well as through the access to capital markets and finance.

The policy of the United States should be to close off unrestricted Soviet and Comecon access to such Western trade and finance in order systematically to roll back development in the Soviet military-industrial complex. By denying the Soviet bloc access to Western trade and finance, particularly in the areas of strategic equipment and technology and untied credits, we contribute to arms control and ultimately to world peace.

Mr. President, the control and supervision of our trade with the Soviet bloc from a national security standpoint should be a central element in our foreign policy and national security planning. It should be a fundamental element of a sound national strategy. I am deeply concerned with the trend in the administration by those sharing Mr. Verity's views to assist Soviet economic development on a wide front by means of an economic détente.

Executive branch mechanisms for the control and supervision of trade have been all but dismantled since 1985 by those sharing Mr. Verity's views. A range of proposals to bail the Soviet Empire out of its economic morass has been advanced by those sharing Mr. Verity's views. Such proposals include the membership of the the Soviet Union in the International Monetary Fund [IMF], in the General Agreement on Trade and Traiffs [GATT], in the World Bank, and in the multifiber arrangement as well as allowing future Soviet participation in the Eurobond and other securities markets.

Mr. Verity has a long and highly visible record as a key advocate of expanded trade and financial relations with the Communist world. He has actively opposed the responsible control of trade with the Soviet Union acting in concert with such leading business figures as I noted earlier.

It is significant that a close associate of Mr. Verity in promoting the Soviet trade, Mr. Dwayne Andreas, as Chairman of the President's Task Force on Private Sector Initiatives, in December 1984, recommended the dismantling of the policymaking structure set in place during the first term of the Reagan Administration to control and to supervise United States trade with the Soviet bloc. These recommendations were implemented in April 1985 and the stage was set for a renewal of economic détente with the Soviet Union.

CONGRESS AND THE SOVIET TRADE

Mr. President, on February 23, 1984, I introduced S. 2342, a bill whose purpose was to strengthen our national security by strengthening our controls over exports to Communist countries. Working closing with our distinguished colleagues from Pennsylvania [Mr. HEINZ], Utah [Mr. GARN], and Wisconsin [Mr. PROXMIRE], certain features of my bill incorporated into their bill S. 979, the Export Administration Act of 1984, whose purpose also was to control trade to Communist countries. S. 979 was a fine bill but its passage was sabotaged in 1984 at the last minute by the lobby for the Soviet trade including our own Department of Commerce. Ultimately, the bill passed in the following year and became known as the Export Administration Act of 1985 and I was pleased to support it.

The significance of the Export Administration Act of 1985 was that it was intended to reserve a disintegration, which began in 1969, of our traditional export controls over trade with the Communists. The background of export control in the United States started with the Trading With the Enemy Act of 1917. Congress recognized that during World War I certain industrial and banking circles were doing business with the Germans and the Axis powers. This trade and comerical activity strengthened German warmaking power. Congress wisely banned such trade. Similar procedures were employed during World War II to inhibit Nazi warmaking power.

In the postwar period, the Export Control Act of 1949 together with the Mutual Defense Assistance Control Act of 1951 enbodied the principles that exports should be controlled to hostile countries and that the foreign availability of goods and technology should be reduced by close cooperation with our allies through a process of bilateral and multilateral negotiation. Within the NATO alliance, the Coordinating Committee for Multilateral Export Control [Cocom] was established in 1950.

In 1969, Henry Kissinger, who was then the National Security Adviser, together with the lobby for the Soviet trade and the pro-Soviet detente group within the administration, began to change the central thrust of our export control legislation. With the support of Kissinger and George Shultz, who held a number of important positions in the Nixon administration including that of the Secretary of the Treasury, additional weakening of long-standing legislation took place in 1972 and 1974. Senators may recall that Shultz during this period played a leading role as the architect of economic detente with the Soviets.

Under the Carter administration further legislative weakening of our export controls took place in 1977 and 1979. The Soviet invasion of Afghanistan, however, resulted in the imposition of a range of sanctions against Moscow although they have not remained in place.

Mr. President, throughout this period, the main players promoting the Soviet trade were the same. The same U.S. business interests were at the forefront of lobbying for an expansion of the Soviet trade. C. William Verity, Jr., was at the forefront of the efforts to expand trade with the Communist world and to destroy our controls over such trade with Communists. Thanks to our distinguished colleagues—Senator HEINZ, Senator GARN, and Senator PROXMIRE, in particular—the Export Control Act of 1985 was passed by Congress in order to strengthen our controls and, thereby, our national security.

THE ANDREAS-VERITY COUP

Mr. President, while we were hard at work in Congress to strengthen our controls over exports to the Communists, Mr. Verity's friends and associates were hard at work in the business community and in the executive branch to overturn the effect of our legislation and to dismantle the system and procedures in the executive branch for controlling and for supervising such trade.

The President's Task Force on International Private Enterprise, headed by Dwayne Andreas, was the principal instrument used by the lobby for the Soviet trade. I would point out to Senators that Mr. Andreas replaced Mr. Verity as the co-Chairman of the United States-U.S.S.R. Trade and Economic Council in 1984. The other cochairman is a Soviet official.

During the first term of the Reagan administration, the Senior Interagency Group for International Economic Policy [SIG/IEP], which was a part of the National Security Council structure, was responsible for formulating recommendations for the President on international economic policy. Through the National Security Adviser, or directly in National Security Council meetings, such recommendations were presented to the President.

Such deliberations placed major international economic and trade issues into the broader context of American foreign policy and national security objectives. While the SIG/IEP was chaired by the Secretary of the Treasury, the Executive Secretary was domiciled in the NSC staff and the NSC, CIA, and DOD were full and regular members of the SIG.

When Dwayne Andreas became the Chairman of the President's Task Force on International Private Enterprise, the primary objective on his hidden agenda was to destroy the ability of Congress and the executive branch national security agencies to supervise and to help control and manage economic relations with the Communist bloc. The key target was the SIG/IEP.

Mr. President, I would point out to Senators that Mr. Andreas succeeded Mr. Verity as Co-Chairman of the United States-U.S.S.R. Trade and Economic Council in 1984. As I have already indicated, this organization acts as the main Soviet-American Chamber of Commerce. So what we had was the co-Chairman of the United States-U.S.S.R. Trade and Economic Council lobby as the chairman of a Presidential task force which made recommendations affecting East-West trade.

Andreas, in his task force recommendations, called for the establishment of an "Economic Security Council" which would replace the SIG/IEP structure and eliminate the active and central role of the NSC, CIA, and DOD in helping ensure that our international economic policy conformed to vital national security and foreign policy requirements.

Mr. President, I ask unanimous consent that an excerpt from the task force recommendations entitled "Establishing an Economic Security Council" be printed in the RECORD at the conclusion of my remarks as exhibit 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 6.]

Mr. HELMS. Mr. President, in this new structure, the council would, in the absence of the President, have the Secretary of the Treasury as the acting chairman with the Executive Secretary being drawn from the Office of the Chief of Staff at the White House. CIA, DOD, and the NSC would be eliminated as full and regular members of this Cabinet level body. Reporting of recommendations would be through the Secretary of the Treasury and the Chief of Staff directly to the President with no mandatory vetting through the National Security Council apparatus.

I am told by a number of informed sources that this policy recommendation by late 1984 was supported by then Chief of Staff James Baker and his aide Richard Darman as well as by Treasury Secretary Don Regan and by Secretary of State George Shultz. According to these sources, this policy concensus was actually part of the understanding involved in the job swap between Jim Baker and Don Regan.

The coup took place on April 11-12, 1985 when the Andreas recommendations were actually implemented. The "Economic Policy Council" (EPC) was created with virtually no interagency consultation and the SIG/IEP system was abolished. The NSC, DOD, and CIA were shut out as full members of the deliberations on international economic policy and invited to participate only as deemed appropriate.

Mr. President, I ask unanimous consent that the Presidential statement of April 11, 1985 on the creation of the Economic Policy Council be printed in the RECORD at the conclusion of my remarks as Exhibit 7.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 7.]

Mr. HELMS. Mr. President, under the SIG/IEP system in the first term of the Reagan administration, the President made substantial progress in the area of economic and financial security. The President eliminated subsidized terms on all official Government-backed loans to the Soviet Union.

The President was successful in getting the Organization for Economic Cooperation and Development [OECD] in July 1982 to eliminate subsidized terms on such official credits to the Soviet Union.

The President was also successful in getting the International Energy Agency [IEA] in May of 1983 to place a ceiling on West European imports of Soviet natural gas at the level already contracted by year-end 1982.

The President was successful in strengthening COCOM in a number of areas during the high-level meetings in April 1983.

Finally, the President was successful in forging an allied NATO concensus on the security aspects of East-West trade which is embodied in the NATO Ministerial Communique of June 1983. This concensus was reinforced at the Williamsburg Summit in May 1983.

Mr. President, all of these successes were owing to the SIG/IEP system and the inclusion of the NSC, CIA, and DOD in all SIG deliberations as full participating members so that our international economic policy reinforced our overall national security planning and policy.

Because this system was so successful in defending our national interests with respect to our international economic policy, the lobby for the Soviet trade bent every effort to change the system and replace it with one amenable to its special interests. For this lobby, profits from the Soviet trade supercede foreign policy and national security considerations.

The Andreas-Verity coup has had serious consequences for our long range national security all of which will lead to a strengthening of the Soviet military-industrial complex. The American taxpayer is currently subsidizing trade with the Soviet Union. The fine 1985 proposal by our distinguished colleague from Utah, Senator GARN, S. 812, which would have granted the President discretionary authority to control Western financial flows to the Soviet Union was opposed by the Economic Policy Council system. Foreign policy controls on the shipments of United States oil and gas equipment to the Soviet Union have been lifted. The very important Kemp-Roth International Financial Security Act of 1987, H.R. 3095, is being opposed by the Economic Policy Council. A similar bill, S. 786, the Financial Export Control Act, has been introduced in the Senate by Senator GARN. It is a fine bill which I have been pleased to cosponsor.

VERITY AND THE U.S.-U.S.S.R. TRADE AND ECONOMIC COUNCIL

Mr. President, the leading role of Mr. Verity in the shadowy U.S.-U.S.S.R. Trade and Economic Council [USTEC] is a fundamental consideration recommending against his confirmation. As I have pointed out, this organization is the principal lobby for the Soviet trade. Mr. Verity has served as cochairman of that organization from 1978-84. As chairman of Armco, which is the fifth largest steel producer in the United States and which was founded by his grandfather, Mr. Verity has for years been engaged in promoting trade with the Soviet Union in various business and political organizations.

In fact, during the late 1970's his family company, Armco, had negotiated a several hundred million dollar deal to erect a steelmaking facility in the Soviet Union. Fortunately, the deal did not go through owing to sanctions imposed after the Soviets invaded Afghanistan in 1979.

Mr. President, it is amazing to me that to this day the Department of State and the Department of Commerce maintain the fiction that the U.S.-U.S.S.R. Trade and Economic Council is a private organization. This is simply not the case in light of the facts which State and Commerce apparently wish to suppress or to forget.

On March 5 of this year, I submitted a series of questions in writing at the nomination hearing of Mr. Jack F. Matlock, Jr., for Ambassador to the Soviet Union. Two of my questions dealt directly with the U.S.-U.S.S.R. Trade and Economic Council.

I question 22, I asked Mr. Matlock the following:

> What is the exact status of the U.S.-U.S.S.R. Trade and Economic Council? What instrument between the United States and the Soviet Union created this entity? Please provide a copy of this instrument with your response.
>
> The United States-U.S.S.R. Trade and Economic Council [USTEC] is a nonprofit organization incorporated in the State of New York whose purpose is to promote United States-Soviet trade. Half of its shares are held by private United States interests and the other half are held by the Soviet equivalent of the National Chamber of Commerce which includes representatives from the Ministry of Foreign Trade, GOSPLAN, and the Committee on Science and Technology. The U.S. Government did not create USTEC.

In Question 23, I asked the following:

> Precisely which American banks, financial corporations, trading companies, manufacturing companies and other United States corporations are members of U.S.-U.S.S.R. Trade and Economic Council?
>
> Please provide a complete listing of these companies.

Mr. Matlock answered as follows, and I quote:

> The Department of State does not maintain a list of private American firms that participate in USTEC, since it is a private corporation.

Mr. President, I was surprised that Mr. Matlock and the Department of State did not include a copy of the 1973 protocol between the United States and the Soviet Union which called for the establishment of a United States-U.S.S.R. Chamber of Commerce. It was also of interest to note that Mr. Matlock did admit that one-half of the stock of the United States-U.S.S.R. Trade and Economic Council is held by the Soviet Union. Presumably, this would make the organization a quasi-governmental organ of the Soviet state in which private United States business interests participate.

The fact is that this organization was founded as a result of a diplomatic protocol between the United States and the Soviet Union which was signed on June 22, 1973, by George Shultz as Secretary of the Treasury and by Nikolai Patolichev as Soviet Minister of Trade. In the protocol, and in the Commerce Department press release describing the event, the organization is described as the United States-U.S.S.R. Chamber of Commerce. Undoubtedly, owing to potential public opposition to such body, the name was altered to "U.S.-U.S.S.R. Trade and Economic Council" in order to mask its objectives.

Mr. President, I ask unanimous consent that the text of the Protocol calling for the establishment of the "United States-U.S.S.R. Chamber of Commerce" be printed in the Record at the conclusion of my remarks as exhibit 8.

The PRESIDING OFFICER. Without objection, it is so ordered

[See exhibit 8.]

Mr. HELMS. Mr. President, I ask unanimous consent that the text of the Commerce Department press release of July 12, 1973 entitled, "Commerce Secretary Hosts Meeting to Discuss Formation of United States-U.S.S.R. Chamber of Commerce" and the text of the speech by Secretary Dent at the meeting be printed in the RECORD at the conclusion of my remarks as exhibit 9.

The PRESIDING OFFICER. Without objection, it is so ordered

[See exhibit 9.]

Mr. HELMS. Mr. President, I ask unanimous consent that a background paper prepared by the United States-U.S.S.R. Trade and Economic Council about its activities which was received by the Congressional Research Service in May 1974 be printed at the conclusion of my remarks as exhibit 10.

The PRESIDING OFFICER. Without objection, it is so ordered

[See exhibit 10.]

Mr. HELMS. Mr. President, I would draw Senators' attention to a report entitled "Intelligence Collection in the U.S.S.R. Chamber of Commerce and Industry" which was prepared in an unclassified version by the State Department and based upon a classified CIA study.

This report documents the fact that the KGB and the Soviet GRU military intelligence organization both have numerous agents working in this chamber whose sole purpose is to target United States and Western companies for the acquisition of information of value to the Soviet state. The report states that this Chamber has representatives working within the United States-U.S.S.R. Trade and Economic Council offices in New York City.

It is highly interesting that the report describes that chairman of the U.S.S.R. Chamber of Commerce, Yevgeniy Petrovich Pitovranov as a KGB Lieutenant general. Mr. Pitovranov is a colleague of Mr. Verity's on the executive committee of the United States-U.S.S.R. Trade and Economic Council. Further details provided in the report show that Mr. Pitovranov was the KGB resident in the Embassies in Berlin (1953-54) and in Beijing (1959-61). The further indicates that he was the head of the KGB Training School (1962-64).

From this and similar reports, one can only conclude that Mr. Verity was, as cochairman, presiding over an organization which is deeply penetrated by Soviet intelligence services.

Mr. President, so that Senators might better understand Soviet intelligence activities in the trade area, I ask unanimous consent that the key judgments section and sections describing the intelligence connections of officials of the U.S.S.R. Chamber of Commerce from an unclassified report entitled, "Intelligence Collection in the U.S.S.R. Chamber of Commerce" be printed at the conclusion of my remarks as exhibit 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 11.)

VERITY, COMMUNISM, AND THE GLOBALIST VIEWPOINT

Mr. HELMS. Mr. President, the nomination of C. William Verity, Jr., for Secretary of Commerce is deeply disturbing for many reasons. The nomination sends a signal around this town, around Moscow, and around international financial and commerical centers, that our trade policy with respect to Communist countries is wide open and anything goes.

All the progress that was registered during the first term of the Reagan administration will be for nought. All of the careful work done by the Senate and Congress back in 1983, 1984, and 1985 in crafting the Export Administration Act of 1985 will be for nought.

The nomination of C. William Verity, Jr., is deeply disturbing because he embodies that point of view which holds the movement of history as a convergence, or merging, of the Soviet and United States systems. Today this viewpoint is called globalism. Not so long ago, this viewpoint was called the One-World" view by its critics. The phrase is no longer fashionable among sophisticates yet the phrase is still apt because noting has changed in the minds and actions of those promoting policies consistent with its fundamental tenets.

Mr. President, in the globalist point of view nation-states and national boundaries do not count for anything. Political philosophies and political principles are merely relative. Liberty and tyranny are neither necessarily good nor evil.

In this point of view, for example, the United States and the Soviet Union rather than opposing each other should become more and more alike and ultimately the two systems should become integrated within a global system.

In this point of view, the activities of international financial and commerical forces should be oriented to bringing this one-world design into being. Mr. Verity and his friends argue that trade should be separated from political considerations involving national security.

Mr. President, I ask unanimous consent that an article appearing in the New York Times on May 25, 1984, which describes a New York meeting of the U.S.-U.S.S.R. Trade and Economic Council and in which Mr. Verity is quoted as saying that "trade is trade" and should be separated from political issued be printed at the conclusion of my remarks as exhibit 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 12.)

Mr. HELMS. Mr. President, the report that Mr. Verity gave as cochairman to this May 1984 meeting is contained in volume 9, No. 3 of the Journal of the U.S.-U.S.S.R. Trade and Economic Council. In his speech he stated that, and I quote, "We urgently need to find a way to coexist on this small planet" and indicated that, and I quote, "In the absence of common institutions and similar approaches to an economic and political way of life, we must continue to reach out for ways and means that will bring us together."

Mr. Verity puts aside the realities of Soviet global expansionism and its impact on the peoples of Afghanistan, Nicaragua, Ethiopia, Angola, and Mozambique among others. There is not one indication of compassion for those who are under the Kremlin's heel whether within the Soviet Union, in its satellites, or in countries confronted by Soviet aggression.

Mr. President, I ask unanimous consent that the report that Mr. Verity made as cochairman to the May 1984 meeting of the U.S.-U.S.S.R. Trade and Economic Council be printed in the RECORD at the end of my remarks as exhibit 13.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 13.)

Mr. HELMS. Mr. President, in the globalist point of view, the deep spiritual values of Judeo-Christian Western civilization and commitment to individual freedom and to liberty are sentimental relics of the past. What becomes important is short term profiteering from the Soviet trade which itself is subsidized by the American taxpaper. Of course, this trade builds communism and takes jobs away from the American worker.

In the globalist point of view, the movement of history is conceived of as leading to the erection of a uniform global technological civilization devoid of spiritual content and based upon materialist and rationalist ideologies. Such a system would ultimately be dominated and managed by the international banking structure and the multinational corporations under its sphere of influence. The governments of nation-states would merely take their cue from these economic interests which have such tremendous influence over these governments. Such a system of global organization is conceived by the one-worlders as the most rational way to run the world.

In the globalist point of view, there is no conflict in the relationship with the Communist world that cannot be overcome through negotiating processes. Trade is seen as an instrument to create so-called interdependence. Indeed, the masters of the Kremlin are to become copartners in global management with Western banking and multinational corporate interests in a condominium arrangement. In this way, the Soviets can build a strong constituency for destroying the integrity of our sovereignty and independence.

The Soviet First Deputy Minister of Foreign Trade, V. Malkevich, in describing the purpose of the nine-page Special Advertising Section of the Wall Street Journal of August 24, 1987, which I alluded to earlier stated that:

> The purpose of this supplement, as we see it, is to help improve contacts between business circles of our two countries, which in turn, would promote a rapprochement between our two countries.

In this thinking, détente leads to rapprochement which leads to cooperation and finally to condominium.

As I described in some detail on February 29, 1984 in a speech before this body, Western financial and business interests assisted in the coup d'etat which brought the Communists to power in the Soviet Union in 1917. Prof. Anthony Sutton, a leading economic historian formerly associated with Stanford University, has characterized the activity on the part of these interests in the following words:

> The gigantic Russian market was to be converted into a captive market and a technical colony to be exploited by a few high-powered American financiers and corporations under their control.

In the globalist point of view, individual nation-states and their governments merely get in the way of the cosmopolitan economic forces which seek to organize and dominate life around the globe. From their point of view, it is necessary for these economic forces to create political lobbies strong enough to neutralize and to overcome resistance to such issues as the Soviet trade by security-minded government officials and parliamentarians in executive and legislative branches in Western countries.

Such is the globalist view and its political strategy. Such is the view of Mr. Verity and his associates involved in promoting the Soviet trade. In the cochairman's report which I noted above, Mr. Verity stated:

> Our job, in this council, is to build a climate of trust and friendship between our two countries so that our governments can again sit down at the negotiating table.

Mr. President, it is certainly clear to this Senator that the bottom line of this nomination is an economic bailout for the Soviet Union and its satellites and a sell out of our national security. Mr. Verity is committed, and his record shows it, to the building of communism through the expansion of financial and commercial relations between the Soviet Union and the West.

Mr. President, this is not the type of record suitable for a Cabinet position. A member of our Cabinet must place the long-range national security interests of the United States and the maintenance of our constitutional system above and beyond short-term profiteering off of the Soviet trade. The nomination of a leading member of the lobby for the Soviet trade for the position of Secretary of Commerce is not only ill-advised, it is downright dangerous.

Mr. President, I hope that Senators consider very carefully all of the issues involved in the Verity nomination and the long-term consequences for these United States should Mr. Verity be confirmed by the Senate. I would emphasize to Senators that these consequences involve the survival of our Constitution and our way of life.

Mr. President, I reserve the remainder of my time. I thank the Chair.

EXHIBIT 1

JOURNAL OF THE US-USSR TRADE AND ECONOMIC COUNCIL

CHASE MANHATTAN'S TRANSACTIONS IN THE U.S.S.R.

(By David Rockefeller)

(David Rockefeller, chairman of the Chase Manhattan Bank and a Director of the US-USSR Trade and Economic Council, recalls his bank's activities in the Soviet Union from the early 1920s, some of its earliest business transactions with Soviet enterprises and how, despite non-trade related impediments, the relationship has been uninterrupted.)

At this juncture in U.S.-Soviet governmental relations which, of course, have always had their litmus effect on business and trade, it is of interest to recall that at The Chase Manhattan Bank we can look back to an unbroken relationship with Russian financial institutions that straddles well over 50 years. In fact, one of my older Chase colleagues, now retired, recently reminded me that although the U.S. Export-Import Bank was not able to carry out its original mandate of financing U.S. exports to the Soviet Union in the 1930s, the commercial banking relationship of our institution was never interrupted even in the darkest days.

When, in the early 1920s, the Soviet Union set about to rebuild its textile industry, representatives of the All-Russian Textile Syndicate approached Chase, then known as Chase National Bank, and obtained the credits necessary to pay for their first imports of U.S. cotton. And in 1924, when the Amtorg Trading Corp. was incorporated as the Soviet Union's sole export-import agency in New York, Chase National agreed to handle its promissory notes as the "paying agent" for the Soviet Foreign Trade Bank. To facilitate Soviet exports of fur, timber, and precious metals purchasers' letters of credit were opened, with Chase National assuming some of the risk that these goods would reach their destination. They always did.

Furthermore, although Amtorg trade paper was sold at substantial discounts on the secondary market in New York for a time, Chase, as the paying agent, was witness to the punctiliousness with which the Soviet Foreign Trade Bank honored its commitments. During World War II, Chase became Amtorg Trading Corp.'s principal U.S. bank. By then, the U.S. government's lend-lease program was launched, and Amtorg's staff, both Soviet and American, was increased to 800 people.

I have a very personal memory of all this. When I started in Chase's International Department, John McLean, who was in charge of the Amtorg relationship, occupied the desk in front of mine. After the war, when the Soviet Union found it necessary to purchase grain from abroad, Chase offered to finance purchases in the United States, an offer not yet taken up. Then, in 1960, James Bergford, who today coordinates all of Chase's lending activities in Europe and the Middle East, as well as in the Soviet Union and Eastern Europe, traveled to Moscow to establish personal contact with the new administration at Gosbank. As he and his travel companion, Crawford Wheeler, recall, they arrived at a particularly propitious moment. A U.S. aircraft carrier had just plucked the last survivor of a Soviet shipwreck out of the Pacific, ushering in one of those periods of transcending goodwill between our two countries. But as so frequently happens, this goodwill was soon dashed by another unforeseen political development; the U-2 incident.

Almost on the heels of this came the Cuban missile crisis of 1962, which threatened to bring to an abrupt conclusion the Third Dartmouth Conference of prominent U.S. and Soviet citizens. Happily, this worthwhile effort to search for a common ground through private dialogue weathered even that storm. We went ahead anyway. And it was at the seventh session of the Dartmouth Conference in Hanover in 1972 that the idea of forming a joint high-level Trade and Economic Council was first proposed. This in turn led me to think that we ought to be doing something more at Chase and to establish a unit specifically to deal with the Soviet Union. The Chase representative office in Moscow, the first to be opened by a U.S. banking institution after World War II, grew out of this as did our first major postwar credit to the Soviet Union.

This credit opportunity developed out of the gigantic undertaking by the Soviet Union to build the world's largest truck plant on the Kama River at Naberezhnye Chelny, or KamAZ. The $86.5 million credit Chase agreed to extend for this project was matched by the U.S. Export-import Bank, which was finally allowed to open its doors to the Soviet Union under the 1972 Trade Agreement. Vladimir Alkhimov, then Deputy Minister of Foreign Trade and today chairman of the State Bank, commented at the time that it had taken Soviet bankers 34 years to be allowed through the doors of an institution originally set up to further U.S.-Soviet trade. So much for the vagaries of politics.

At Chase we felt that 'Kama I' was only our first step to a long and expanding relationship in financing trade with the Soviet Union. As the main U.S. bank for KamAZ, we were again selected by Vneshtorgbank (The Bank for Foreign Trade) in 1974 to head a syndicate of banks that put together 'Kama II' for $67.5 million, again matched with Exim Bank funds. About 100 American companies, many of them small machine tool makers, made deliveries under thse credits. Despite this, the misconception seems to persist that trade with the Soviet Union is restricted only to large companies.

To raise another $36 million credit to finance U.S. purchases for Moscow's International Trade Center, we sought the participation of European banks. However, all three loans were funded from the United States at terms and conditions adjusted to the prime borrowing rates applicable to our very best customers. So far, the Soviet foreign trade organization, Prommashimport, has awarded 42 contracts worth $70 million to large, small and medium-size U.S. companies under these and matching Eximbank facilities. With deliveries stretching to the middle of next year the list of U.S. suppliers to this very visible project, which is bound to facilitate our trade relationship, is still not complete.

Through participation in international banking consortia Chase has also participated in all three branches of the credits raised by the International Investment Bank in Moscow to finance purchases in the U.S. and elsewhere of equipment for the joint CMEA project of a natural gas pipeline connecting the Orenburg fields with terminals in Eastern and Western Europe.

On still another front, to assist corporations (particularly U.S. companies) in what was to many a new and unfamiliar market, and to help Soviet organizations in a similar way in the U.S., we launched Chase World Information Corp. It has signed an agreement with Licensintorg to market Soviet technology in the United States and has helped more than 20 U.S. companies develop permanent business relationships of their own with the Soviet Union. A periodical survey of business news, Eastwest Markets, published by C.W.I.C. every other week, has kept its subscribers abreast of business developments. Many of our customers are active members of the Council.

Beyond my involvement in Chase's banking relations with the Soviet Union, I have continued to participate in the work of the Dartmouth Conference. In August this Conference met for the eleventh session, this time at Jurmala, near Riga, at which I had the privilege to co-chair a working group concerned with enlarging economic relations between our two countries.

At this Conference it was generally agreed that the Carter Administration should initiate action in Congress to remove discriminatory tariff treatment by the U.S. on Soviet exports; the limitation of Export-Import Bank credits to the Soviet Union and the linkage of trade and economic matters to other aspects of the Soviet-American relations. We also found that notwithstanding the current constraints on U.S.-Soviet trade, both countries have an interest in the development of new energy resources, and agreed that the possibility of cooperation in the development of certain Soviet energy resources (a part of which would be exported) should be studied.

With respect to banking, the communique issued at the close of the Conference stated: "It would be useful to examine how the technical obstacles associated with the 10 percent of capital limitation of loans to a single obligor by U.S. banks could be resolved."

While Chase has not yet reached its legal lending limit to Vneshtorgbank, it would certainly enhance our ability to offer more credits, if selected foreign trade organizations with substantial hard currency cash flow could begin to arrange for U.S. banking credits on their own account. I also suggested that, if the Soviet Union intends to play as large a role in international trade as its size, resources and state of economic development warrant, it would be well to increase the extent to which the ruble can serve as a convertible currency. Moreover, it hardly needs to be said that if more were known about the level of the country's reserve assets, including its holdings and production of gold, it would help to silence a lot of unjustified criticism of U.S. private lenders' exposure with the Soviet Union. Certainly if the full facts were available, in all probability there would be less criticism because the magnitude of the Soviet economy and its large export potential clearly can support a very sizable international debt.

Much remains to be done on both sides before trade can be truly normalized. In the meantime, I believe the US-USSR Trade and Economic Council continues to serve as an excellent channel for American business to communicate with Soviet foreign trade officials. Today, while to some extent we are again marketing time, it is important to keep this organization active. Certainly Chase's experience during the past 50 years and more has shown that trade has a way of maintaining ties between our two countries even at times of political disagreement.

EXHIBIT 2

[From the Washington Post, Aug. 26, 1987]

A DÉTENTIST AT COMMERCE

(By Rowland Evans and Robert Novak)

Although C. William Verity's enthusiasm for U.S.-Soviet trade was known at the White House before he was named secretary of commerce, nobody there seems to have read his past comments that American Jewish demands for Soviet emigration "can never be satisfied" and are regarded by the Kremlin as "interference with domestic affairs."

Those eight-year-old comments suggest the retired industrialist's Senate confirmation may not be so smooth as advertised. While the organized Jewish community is not opposing him, the Union of Councils for Soviet Jews is. Add in right-wing hostility, and Verity could be eating past words before his inevitable confirmation.

Picking the former head of Armco Steel points to what's afoot in the Reagan administration's fading months. His appointment fits the new primacy of improved U.S.-Soviet relations. Not only has Verity plugged ceaselessly for détente, but he has rejected the administration's policy of linkage between trade and Soviet behavior.

In fact, he weighed in against linkage when that issue split the Carter administration. He said the Soviets were "offended" by the Jackson-Vanik amendment's restrictions on U.S.-Soviet trade linked to Jewish emigration, and he called for their removal. "Let us also remember that they regard such efforts as interference with domestic affairs," Verity wrote.

In a 1979 interview with The Washington Star noting that year's record high of 50,000 Jews permitted to leave the Soviet Union, he contended the United States bowed to Jewish pressure linking emigration to trade. "The American Jewish community can never be satisfied on this matter," he said. "Their desires will ever be escalating." Soon after, the Kremlin closed the doors. Jewish emigration dropped to 914 in 1986, and under Mikhail Gorbachev's *glasnost* it has risen to 4,218 this year.

If the White House staff was unaware of Verity's words, it is understandable. Verity did not appear on the commerce secretary short list compiled by Robert Tuttle's personnel office. His name came from the White House East Wing—from Nancy Reagan, who has become the archangel of détente. In turn, according to one administration official, the suggestion to the first lady was made by her friend and former aide, Michael Deaver.

Advocates of controlling export of technology to the Soviet Union were appalled. "I find it a very strange appointment," Zbigniew Brzezinski told us—his views as President Carter's national security adviser were opposed by Verity a decade ago.

Verity, former head of the U.S.-Soviet Trade Council, belongs to the détente-minded American Committee on U.S.-Soviet Relations. Harvard Professor Marshall Goldman, a leading détentist, says Verity "has a fetish for Soviet trade." Fetish or not, his views are economically grounded. Armco's multibillion-dollar plans in the Soviet Union were killed by the Carter administration after the invasion of Afghanistan.

Amid current assaults on "privatized" diplomacy, Verity fits the tradition of American entrepreneurs from Armand Hammer to Dwayne Andreas in dealing directly with the Kremlin's masters. In 1984, after meeting with senior Soviet officials including Prime Minister Nikolai Tikhonov, Verity returned to Washington to submit Soviet "suggestions" to Robert McFarlane.

While Verity's trade delegation was in Moscow, ex-NSC director Brent Snowcroft—carrying a secret Reagan letter to Soviet leader Konstantin Chernenko—was left cooling his heels in a hotel. "That was their way of telling the president he's just bad news," Verity said upon returning. Actually, the attempt to establish another Soviet channel was scotched by the State Department.

A month later, Verity was one of the American industrialists rubbing shoulders with Soviet trade bureaucrats on the dais at Manhattan's Waldorf-Astoria Hotel. When a State Department official blamed the Kremlin for deteriorated U.S.-Soviet relations, Verity accused him of "very poor judgment" and praised the Russians for not responding.

The record is so full that even administration officials wonder how the president could appoint him. The answer is that Reagan probably sees Verity as a fellow septuagenarian, who frequently appeared on guest lists for White House state dinners put together by Deaver and who headed the commission on private initiative that tickled the president's fancy.

Sooner or later, the gap on linkage must be resolved. Verity could truly eat his words, or the administration might buy his dictum that "trade is trade." If neither happens and the old industrialists goes his own way out of control, the president can repent in leisure his hasty appointment.

VERITY'S VIEWS ON SOVIET TRADE SETTING OFF A FEW FIREWORKS

(Summary: Some hail C. William Verity for his dedication to free enterprise. Others are alarmed by his efforts to increase trade with the Soviet bloc. The former steel company executive's nomination as commerce secretary came as a surprise. If confirmed, he will join the Cabinet too late to influence a pending trade bill greatly, and he may be unable to steer the nation on a less protectionist course.)

A favorite motto of the late Secretary of Commerce Malcolm Baldrige was "underpromise and overdeliver." It was one of those American virtues thought extinct, and it earned him the respect of most of official Washington as a man of substance with a refreshingly low profile. The man named to replace him, C. William Verity, 70, will find himself trying to fill the boots of one of the best-liked and most politically effective Cabinet officials in the Reagan administration.

The appointment of Verity, former chairman of Armco Inc., a steel maker headquartered in Middletown, Ohio, and former chairman of the U.S. Chamber of Commerce, came as something of a surprise. He was reportedly not on a list of possible candidates that had been prepared by White House staff for President Reagan's approval and was said to have been picked personally by Reagan as the result of the good impression he made when he headed the President's Task Force on Private Sector Initiatives, a panel set up in the early 1980s to encourage corporations, nonprofit organizations and individual donors to tackle major social problems.

But some insiders have hinted the appointment came via a suggestion from Nancy Reagan, who is said to have picked up the idea from former White House aide Michael K. Deaver. Deaver and Verity share an influential acquaintance, the industrialist Armand Hammer, who is perhaps the best-known and most important advocate in the United States of expanded trade with and closer ties to the Soviet Union. Verity, though, may run a close second, and this could provide the only fireworks in his confirmation hearings.

Defense Department sources say Verity may want to remove some of the security restrictions that keep sensitive technology out of the hands of the Soviets and intermediary nations that might serve as conduits to the Soviet bloc. Verity was cochairman of the US-USSR Trade and Economic Council from 1977 to 1984, and he handpicked current council President James H. Giffen, a former Armco vice president.

Verity has said that the United States "is shooting itself in the foot" with export controls and embargoes against the Soviet bloc. He believes the Soviet Union should have most-favored-nation trading status and presumably would favor rescinding the Jackson-Vanik amendment to the Trade Act of 1974, which bars such status for communist countries that do not, in the president's view, allow those who want to leave the country to do so. Some trace Verity's interest in opening Soviet trade to the fact that his steel firm reportedly lost a $353 million contract to build a steel mill in the Soviet Union after the U.S. government canceled the licenses in reaction to the Soviet invasion of Afghanistan in 1979.

As a result of Verity's past statements on U.S.-Soviet trade, the United States Business and Industrial Council has already spoken out against the nomination. The council's president, Anthony Harrigan, says that Verity is "unsuitable" to hold the title of secretary of commerce. Says Harrigan: "It's just completely out of character for the Reagan administration to name someone so closely identified with the effort to cut back on export controls to the Soviet Union." Harrigan claims the public does not understand the true nature and character of the US-USSR Trade and Economic Council, which, he says, is not simply a trade facilitator like similar organizations between Western nations, although it may be viewed that way by the American companies that participate. The State Department lends considerable support to Harrigan's claim in an intelligence report released earlier this year.

The report was taken from declassified portions of an investigation of the USSR Chamber of Commerce and Industry conducted by the Central Intelligence Agency and released to the State Department. It says the Soviet chamber is, in fact, a hotbed of industrial espionage and recruitment of Soviet agents in Western countries and notes that fully one-third of its members have been identified as known or suspected KGB agents. The State Department says there are probably KGB agents not yet identified, as well as agents for the Soviets' military intelligence agency, the GRU. The chamber is believed to use these agents as counterparts to Western businessmen in bilateral organizations such as the US-USSR Trade and Economic Council.

The report identifies a Soviet member of the economic council's executive committee as a top official in the KGB: Yevgeny Petrovich Pitovranov, a reserve lieutenant general. Once jailed during a Stalin purge of intelligence officers, Pitovranov, 71, was head of the KGB training school from 1962 to 1964. He is chairman of the Soviet chamber of commerce.

Council chief Giffen has in the past denied that his organization in any way supports Soviet causes. The council in July sent Mailgrams to members asking them to press senators to oppose an amendment to the proposed trade bill that would bar imports from nations (such as the Soviet Union) that use convict or slave labor. It was proposed by Republican Sen. William L. Armstrong of Colorado and passed.

While Verity and other critics have tried to portray U.S. bans on exports as frivolous, such efforts as the Kama River truck factory in the Soviet Union, built by a West European and U.S. consortium, showed the military application of apparently innocent projects. Trucks made there helped the Soviets invade Afghanistan.

The battle to stop the transfer of security-sensitive technology has been a hallmark of the Reagan administration, pursued with increasing vigor since 1981. In 1985, the process of review was incorporated in the newly created Defense Technology Security Administration. Sources at the agency voice concern about Verity's support of Soviet trade. They fear the Commerce Department, which they say is already too lax, may become even more so.

They cite examples of past Commerce errors: approval for the sale of 200 military radios to a Libyan fig farm, the sale of a material used in bulletproof vests to West Germany for reexport to Syria, the approval of 1,300 IBM System 2 desktop computers to a tiny florist in Hong Kong (for Star & Twinkle, a front company whose ties were not identified), the sale of ruggedized computers (that could be used in remote outdoor locations) to a Singapore company for reexport to Bulgaria and the sale of computers to the Islamic News Agency in Iran, where they could aid Ayatollah Ruhollah Khomeini's propaganda efforts in the Persian Gulf. In all these cases, the security agency intervened, stopping the sales.

A 1985 pilot study by the agency claimed that in 1983 and 1984 export controls saved the West $7.3 billion to $14.6 billion it would have needed to spend to counter improved Soviet military capability from such sales. Verity has claimed that the United States has lost as much as $10 billion a year in sales to the Soviet bloc due to export restrictions, but a Defense spokesman questions this: "We don't believe the Soviet Union has $10 billion to spend."

Because the Defense Department has institutionalized its review of many sales, some think Verity could not make any dramatic rollback in export controls. Acquisition of Western technology is often said to be the driving force behind Soviet leader Mikhail Gorbachev's *glasnost* and arms control initiatives, because the East Bloc has fallen farther and farther behind the West in technological prowess. A source in the review agency adds, "We had a lot to do with increasing the gap."

The appointment of Verity comes at a time when more and more observers believe that President Reagan, long a purveyor of free trade rhetoric, is moving close to, if not embracing, the so-called fair trade position of Baldrige as a political expedient to forestall a wholesale abandonment of free trade principles by an increasingly protectionist Congress. It is expected that Verity will reinforce this trend, and the U.S. Chamber of Commerce is already singing his praises. "He's not a protectionist at all," according to Richard Breault, group vice president. "He's a strong international trade enthusiast, even though his industry has been hit to a great extent." He insists, "Bill Verity is steeped in the American enterprise system." Verity has avoided interviews with the press before his confirmation hearings.

On Capitol Hill, protectionist pressure has gained momentum over the past three years as the trade deficit has grown to staggering levels. It reached a full head of steam this year, as the deficit continued to be high despite a two-year effort to reduce it by lowering the value of the dollar relative to the currencies of U.S. trading partners. (In terms of volume, the U.S. export sector is making dramatic gains, even as imports are beginning to be pinched, but the falling dollar increases the value of imports as it reduces the value of exports.)

Increasingly dominated by pragmatic insiders such as Treasury Secretary James A. Baker III and White House Chief of Staff Howard H. Baker Jr., the administration appears to have abandoned any idea of defeating a new trade bill with a presidential veto—despite warnings by administration officials that many of its provisions are "veto bait." Instead, it seems likely that there will be a concerted behind-the-scenes effort to remove from both the House and Senate versions of a sweeping omnibus trade bill hundreds of provisions that could damage trade, according to Jeffrey Schott, research fellow at the Institute for International Economics. Among these are provisions that would remove presidential discretion in enforcing trade laws and would make retaliation mandatory against trade practices deemed unfair.

Two very different trade bills enter a politically vulnerable phase known as the conference committee Sept. 14, when House and Senate panels negotiate compromises. With 52 senators and 37 representatives already appointed to the committee, the conference could be one of the largest in Congress's history. It may also be lengthy. Says William T. Archey, vice president of the U.S. Chamber of Commerce: "My hunch is you won't get a bill until October or November."

Assistant U.S. Trade Representative Roger Bolton is hopeful the administration can prevail and remove hundreds of bothersome provisions in the final bill. Some political economists speculate that Congress may have vented its spleen on the two early versions and may resort to a more responsible position on trade in the conference. Many congressmen recognized in private that the bill will not solve the trade deficit problem but for political reasons must toe an increasingly protectionist line.

Free traders think the whole administration strategy is flawed. "The trade bills are an abomination," says Fred Smith, president of the Competitive Enterprise Institute. "The president should work to sustain a veto because there's no way you can work to turn this frog into a prince." He believes the repeated efforts of the administration to conciliate protectionists have only emboldened them: "It's made it logical to be a protectionist." Smith argues that a new trade bill will add even more to the "protectionist tax" on consumers in the form of higher prices on imported goods to protect American producers. He estimates consumers already pay a "tax" of $55 billion to $60 billion a year and warns that Reagan could earn the title of "Herbert Hoover II" while the Democrats "will get all the credit for protecting American industry."

A commerce secretary who is strong on free trade could have sent a signal that the administration was prepared to fight to maintain the moral high ground and world leadership in free trade, according to Sven W. Arndt, an economist at the University of California at Santa Cruz and head of the independent and newly established Commons Institute for International Economic Studies in Santa Cruz. "But even the best of commerce secretaries won't be enough" to stop Congress's headlong rush into protectionism, he says, adding that "even Baldrige" would not have succeeded.

Arndt says the real problem is that the United States "is becoming one of the major offenders of the principles of free trade." He chides Reagan for failing to speak out against "the pretty disastrous provisions" of the two trade bills. "The president doesn't appear to care," he says. "Therefore the country believes there's not a whole lot to worry about." The end result, he says, is that "those in Congress who could be persuaded won't be persuaded" to dump the bill's many protectionist provisions.

The conference committee will be chaired on the Senate side by Texan Lloyd Bentsen, a Democrat and chairman of the Finance Committee, and on the House side by Dan Rostenkowski, an Illinois Democrat and chairman of the Ways and Means Committee.

Congress is where Baldrige's magic could have worked best—but the rodeo enthusiast's fatal accident in July, in which he was crushed by his horse while trying to rope a calf, has deprived the administration of perhaps its best trade asset. In spite of his fair trade preachments, Baldrige was ultimately committed to free trade. The burden of influencing Congress's final trade bill will now fall more heavily on Treasury Secretary Baker, U.S. Trade Representative Clayton Yeutter and Commerce Under Secretary Bruce Smart Jr.

Assuming his nomination is approved, Verity may get in on the tail end of the process, but most Washington insiders doubt he will have any real impact. Senate Commerce Committee Chairman Ernest F. Hollings, a South Carolina Democrat, was expected to begin confirmation hearings Sept. 10. With no Democratic opposition on the horizon, the controversy surrounding Verity's positions on trade with the Soviet Union is not expected to impede Senate approval, and Hollings will likely expedite the confirmation hearing because it is for a Cabinet-level position—*Robert England*

STATEMENT BY ANTHONY HARRIGAN, PRESIDENT, U.S. BUSINESS AND INDUSTRIAL COUNCIL

Ladies and Gentlemen: I am Anthony Harrigan, president of the United States Business and Industrial Council.

Our organization, which represents approximately 1,500 member companies, is opposed to strategic trade with the Soviet Union and the conferring of most-favored-nation trade status on Marxist countries. We also are deeply concerned about technology transfers to the Soviets.

Therefore, we oppose the nomination of C. William Verity, Jr., as Secretary of Commerce. Next to Armand Hammer, he is the American businessman most closely identified with the efforts to expand trade with the Soviets, to weaken export licensing requirements, and to eliminate strategic and human rights considerations in making trade deals with the Soviet regime.

We believe it is completely inappropriate—indeed shocking—that the next Secretary of Commerce be the former co-chairman and, for seven years, a member of the Executive Committee of the US-USSR Trade and Economic Council (USTEC), an organization set up to promote most-favored-nation status for the Soviet Union. We don't believe that the American people or the Congress would approve of Mr. Verity's ideas and activities if they knew what they were.

Indeed, in the light of the Toshiba-Kongsberg case, which involved the sale of technology to the Soviet Union that has placed America's undersea warfare forces at a great disadvantage, it strikes us as incredible that someone should be nominated for Secretary of Commerce—for oversight of hardware sales and technology transfers—who wants to relax export controls. It's a case of putting the fox in charge of the chicken house.

Let me add that I don't believe the Senate would aprove this nomination if the senators were fully briefed on the US-USSR Trade and Economic Council, and Mr. Verity's statements in its Journal.

One wonders how many members of the Senate are aware of the 1987 U.S. State Department report entitled "Intelligence Collection in the USSR Chamber of Commerce and Industry." This is an organization that plays a major role in USTEC meetings. The State Department report says it collects intelligence information "while acting as a trade promoter and facilitator of excellent access to Western firms."

One also wonders whether the members of the Commerce Committee have looked at this State Department report and noted that one of the Soviet board members of the US-USSR Trade and Economic Council, Mr. Verity's organization, is KGB Lt. Gen. Yevgeniy Pitovravnov. That's on page 2 of the report.

I wonder whether Dr. Richard Lesher, president of the U.S. Chamber of Commerce, and Mr. Alexander Trowbridge, president of the National Association of Manufacturers—both permanent directors of USTEC—realize that they are sitting down with a KGB general at USTEC board meetings.

Our Council believes the U.S. Senate should be concerned with Mr. Verity's insistence that US-USSR trade is a "vital need." That's from his report to USTEC. Is the Senate in agreement with Mr. Verity that "U.S. administrations have hurt trade relationships by linking political considerations with crucial trade matters." That's a direct quote—page 13 of the Verity speech to his board. I don't believe the U.S. Senate agrees with Mr. Verity at all. The Senate believes that the U.S. should be concerned about human rights violations by the Soviets, including the war against Afghanistan and the oppression of Jews in the Soviet Union. If the Senate remains true to that concern, it will reject the Verity nomination. With Mr. Verity at Commerce, one can be sure that the Soviet's won't have to worry about fresh U.S. objections to barriers against Jewish immigration.

The Senate also should take into consideration that, according to the U.S. Defense Department, 5,000 Soviet military research projects depend on acquisitions of U.S. and NATO hardware and technology. The U.S. government has stated that "The assimilation of Western technology is so broad that the United States and other Western nations are thus subsidizing the Soviet military buildup." This technology acquisition program is the most extensive in the history of the Soviet Union.

The only way to prevent a flow of sensitive hardware and technology is to be very strict in connection with export licenses. Time and again in the USTEC Journal, Mr. Verity has urged relaxation of controls, saying "We should take a more reasoned approach to the whole subject." (USTECH Journal, 1983)

Mr. Verity says that 'there is plenty of trade that is not strategic.' But everyone knows that the Soviets aren't interested in buying washing machines and refrigerators. They want computers, computer-controlled milling machines, sensors with applications for submarine warfare and new optic equipment. Mr. Verity's record gives no one confidence that he will oppose trade in high-tech equipment with a dual-use military capability. On the contrary, he says he sees the Soviet Union as a huge market. Yes, but it is a market for goods and services that will enhance the USSR's military machine.

Mr. Verity doesn't want to offend the Soviets. He is on record as complaining that the Jackson-Vanik amendment "offended the Soviet Union" and was regarded by them as "meddling in their internal affairs." Mr. Verity is too sensitive to Soviet objections and too insensitive to the beliefs of Americans who are concerned about human rights in the Soviet Union.

Therefore, we hope that the U.S. Senate will listen to the organizations and publications that are objecting to the appointment and refuse to confirm C. William Verity, Jr., as Secretary of Commerce. The U.S. Senate has a duty to withhold consent from a Cabinet nominee who holds view hurtful to the national interest.

EXHIBIT 3

[From the Journal, United States-U.S.S.R. Trade and Economic Council]

UNITED STATES-U.S.S.R. TRADE: A VITAL NEED?

(C. William Verity, Jr., Cochairman of the United States-U.S.S.R. Trade and Economic Council and Chairman of the Executive Committee, Armco Inc., explains why the trade is important to both countries)

Is US-USSR trade a vital need?

The short answer is yes.

But so large an issue as U.S.-Soviet trade never lends itself to a short answer. There are other considerations.

To truly answer the question, it is necessary to go back over the complicated, controversial history of U.S.-Soviet trade.

In the early 1970's trade—the mechanism for mutual exchange based on mutual benefit—was singled out in the new Nixon administration policy of détente as an area of development that offered tangible evidence that the United States and the Soviet Union could work together. Both Presidents Nixon and Brezhnev agreed that détente was a sensible goal and one of the principal means would be increased trade.

It was a timely idea. The Soviet Union, in the implementation of its 9th Five Year Plan, sought from Western suppliers an increasing number of goods and technology. And American business, feeding its voracious appetite for new markets, recognized clearly that the Soviet Union was a market of enormous potential.

It was at this time, as we moved out of the Cold War toward a more stable relationship with the Soviet Union, that the US-USSR Trade and Economic Council was formed—the result of a Protocol signed in 1973 by then-US Secretary of the Treasury George Shultz, and Nikolai S. Patolichev, the Minister of Foreign Trade of the USSR.

The Council, formed as a private organization with a binational Board of Directors that included 30 Chief Executive Officers of major U.S. corporations and an equal number of officials of Soviet foreign trade enterprises, opened for business in New York and Moscow. It had one clear objective: Provide a bridge between the different ideological systems that would help facilitate the rapid expansion of trade between the two countries. Such trade would, of course, provide stimulus to the U.S. domestic economy:

From the beginning the problems were many. Trade all too often was used as a foreign policy lever. The Trade Agreement between the US and USSR was never signed because of the Jackson-Vanik Amendment, which offended the Soviets because they viewed this as the United States meddling in their internal affairs. Since then, there have been at one time or another restrictions on technology exchanges . . . an Olympic boycott . . . a grain embargo that had a devasting effect on US grain sales to the Soviet Union . . . extraterritoriality claims on the transfer of US technology to the Soviet Union . . . the list goes on and on.

I don't want to argue the wisdom—or lack of wisdom—of using the denial of trade as an instrument of foreign policy, although I can't let the subject pass without saying that I have yet to see it work successfully. Rather, I wish to address myself to the subject at hand—the vital nature of US-Soviet trade.

Everyone here knows the importance of foreign trade to the US economy. Eighty percent of all new manufacturing jobs are dependent on overseas sales and one of every three farms acres produces crops for export. Trade means jobs. It means a positive balance of payments that contributes to monetary stability. It enhances capital formation. It allows us to meet our financial commitments around the world.

But Soviet trade? How important is Soviet trade?

Ask the American farmer and he'll tell you it is very important. And his reaction is understandable. Prior to the 1980 grain embargo, US farmers accounted for close to 80 percent of Soviet grain purchases. Today that figure comes in about 19 percent.

It is a market that, despite the new grain agreement, is now lost in large measure to foreign competitors—Argentina, Canada and others. Still, it is a market important to American farmers—for some critically important, the difference between profit and loss.

And it's more than just grain sales. There is the ripple effect that spreads quickly through the interdependent agribusiness economy. Cut production because of decreased sales or income because of depressed prices, and you also cut back on farmers purchases—chemicals, equipment and related farm technology, not to mention cars, refrigerators and such.

Add this to a domestic market in deep recession and you come up with an even more damaging impact on the economy.

I can't put too much emphasis on the agricultural sector of US-Soviet trade. Right now it totals nearly 75 percent of export sales. It's the reason why the US-USSR Trade and Economic Council devoted so much of its activity this past year to the development of the agribusiness market in the Soviet Union.

The Council last month provided a rather dramatic vehicle for potential trade and proved to be—as it had on other occasions in the past—a sea-anchor in troubled waters—at times indeed virtually the only clear channel for positive dialogue that had the support of both governments. The Council sponsored in Moscow an Agribusiness Exhibition that was the first all-American exhibition in the Soviet Union since 1978 and the first US agribusiness fair ever.

And it was a great success!

The participants included companies like John Deere which wanted to sell huge sophisticated combines and powerful tractors: International Harvester that wanted to demonstrate a new rotary combine; Caterpillar that wanted to sell some new earth-moving equipment.

There were chemical companies, such as Stauffer, Du Pont, Dow and many others, selling a broad spectrum of agricultural chemical products. Ralston Purina was selling soybean products. There were grain, dairy and food-processing companies who went to Moscow to sell a range of diverse products, equipment and technology. There was even a small Brooklyn, New York company selling pasta-making equipment and a blini machine that turns out more than 600 of the small pancakes every hour.

In total 109 American companies, with about $5 million in equipment went to Moscow to participate in that show. And they all report that the show was well worth their time and investment.

The reasons are many. But key to it all was the enthusiastic response from the Soviets, who showed a great interest in the equipment and technology on display at Agribusiness U.S.A. One barometer of success was the unusually high level of visitors who came to the show—Nikolai Baibakov, the First Deputy Prime Minister and Chairman of Gosplan, to Ministers and Deputy Ministers of the most important segments of the agribusiness industry in the Soviet economy. The presence at the show of these officials, and the thousands of end-users and decision-makers who make the purchasing decisions, reflected the Soviet interest in what the American companies had to offer.

I don't yet have the totals on sales, but we do know that more than 90 percent of the exhibited equipment was bought off the floor. Equally significant, there were contacts made that I'm sure will lead to additional contracts, generating considerable optimism about the possibility of future sales.

The exhibition was a major success. It coincided—by no coincidence—with a ten-year food industry development program now being implemented by the Soviets to increase their agricultural productivity and crop yields. Hundreds of billions of rubles have been allocated to fund this program, which ranges from the farm to the table. So the market for Western and American products met a ready and interested audience. American companies by their presence demonstrated they were ready and willing to sell their products to the Soviet market. It was clearly by the Soviet attendance and purchases that the interest was mutual.

Trade, independent of the political turbulence, can be a success—it can make a difference. In the past, US Administrations have hurt trade relationships by linking political consideration with crucial trade matters. Just one personal experience:

This year, the President decided not to use economic sanctions. He allowed our exhibition to go ahead—and the Department of Commerce endorsed the exhibition—and continued to endorse it as consistent with US trade policy with the Soviet Union after the September 1 incident. The Ambassador to the Soviet Union—Arthur Hartman—attended the opening ceremonies of the exhibition and reaffirmed the US interest in pursuing nonstrategic trade with the Soviet Union.

Agribusiness, of course, is only a part—now a large part—of the total US exports to the Soviet Union. Let me give you just a few statistics.

Exports for 1982 totalled $2.5 billion, of which $1.8 billion was agricultural and $733 million nonagricultural. Without a doubt, and despite a general decline for the first half of 1983, these figures are certain to increase as a result of the recently-signed grain agreement that calls for sales of nine to twelve million tons of grain annually over the next five years.

But the potential for trade is not limited just to agriculture. Deputy Foreign Trade Minister Sushkov told a press conference in Moscow during the exhibit that the top Soviet economic priority is energy, followed by agriculture and consumer products.

So, there is a large market out there, largely untapped. The potential is very real. As difficult as the times seem, the US and the Soviet Union continue to be natural trading partners. We both have large economies with similar demands—what works in one all too often is a natural fit for the other.

EXHIBIT 4

[From the Washington Times, Sept. 15, 1987]

REAGAN AFFIRMS LINKS BETWEEN SOVIET TRADE, EMIGRATION

(By Bill Gertz)

President Reagan attacked growing anti-Semitism in the Soviet Union yesterday and said his administration remains firmly committed to laws curbing trade with Moscow until free emigration is permitted.

Mr. Reagan's statement contrasted markedly with testimony last week by C. William Verity, his nominee to head the Commerce Department.

In a letter to an American Jewish group, Mr. Reagan acknowledged recent progress by the Soviets in loosening restrictions on Jewish emigration.

But in some of the harshest rhetoric from the the White House in recent months, the president said the Soviets' release of a small number of Jewish dissidents appeared to be a propaganda gesture.

"These positive steps are not only far from enough, their timing and nature suggest a quest for diplomatic effect, not justice," Mr. Reagan told the Union of Councils for Soviet Jews. "And they coexist with ominous indicators of possible future tightening on emigration and of a growth in anti-Semitism in some Soviet quarters."

Mr. Reagan also said the administration will not waver in its support of the Jackson-Vanik and Stevenson amendments linking U.S. trade benefits with Soviet emigration policies.

"Let me assure you that I and the whole of my administration support the continuation of the Jackson-Vanik and Stevenson amendments and shall scrupulously abide by their provisions," Mr. Reagan said.

Mr. Verity, in testimony at his Senate confirmation hearing Thursday, said he would uphold the law but called the Jackson-Vanik restrictions "counterproductive."

The Jackson-Vanik amendment to a 1974 trade bill banned nations that placed restrictions on emigration from receiving most-favored-nation trade relations with the United States. It was named after its sponsors, the later Sen. Henry M. Jackson, Washington, Democrat, and former Rep. Charles Vanik, Ohio Republican.

The 1974 Stevenson amendment, which linked limits on U.S. bank credits with Soviet emigration, was named after its sponsor, former Sen. Adlai Stevenson III, Illinois Democrat.

The President's letter was delivered to the Union of Councils for Soviet Jews yesterday by Fritz Ermarth, the National Security Council staff director for Soviet affairs.

Calling for "justice, not gestures," Mr. Ermath said in a speech to the group that the modest relation of Soviet emigration controls was "a transparent and manipulative policy" that could be reversed.

Mr. Verity testified Thursday that he believed emigration levels of between 15,000 and 25,000 per year would be enough for him to consider lifting the ban on granting the Soviets most-favored-nation status.

Asked about Mr. Verity's position, Mr. Ermath dismissed such suggestions and said, "It's morally repugnant to get into the body-bargaining business."

Mr. Ermath said he believed Soviet glasnost and "restructuring" policies will lead to economic, social and political turbulence posing "dangers and perils" for Soviet Jews.

Soviet Jews are "vulnerable to popular anti-Semitism, vulnerable to official, if sub rosa, victimization and scapegoating," he said.

"We already see some of this; it's hard to measure its extent," Mr. Ermath said. "It is unfortunately more apparent, however, that there is a rising trend of popular anti-Semitism in Soviet society."

Natan Sharansky, the Jewish activist who was imprisoned by the Soviets and released last year, told The Washington Times this week that a neo-fascist group called the Memory Society, which advocates anti-Semitism, has prospered under Mikhail Gorbachev's policies.

Also, Mr. Sharansky said the Soviets recently imposed a new emigration law that make about 90 percent of the 400,000 Jews wishing to emigrate ineligible to do so.

About 1.8 million Jews live in the Soviet Union. Jewish emigration levels reached 50,000 per year in 1979 and then dropped dramatically in the early 1980s. Some 970 Jews were permitted to emigrate last year.

EXHIBIT 5

[From the Wall Street Journal, Aug. 24, 1987]

COOPERATION WITH U.S. BANKS: PROSPECTS FOR THE FUTURE

(By Victor Gerashchenko)

The present-day network of correspondents of the U.S.S.R. Vneshtorgbank in the U.S. includes major commercial banks such as Citibank, Chase Manhattan Bank, Bankers' Trust, First National Bank of Chicago, Manufacturers Hanover, Chemical Bank, Morgan Guaranty and others, as well as medium-sized and small regional banks. In addition, among the U.S.S.R. Vneshtorgbank correspondents are many branches and subsidiaries of U.S. banks in third countries.

The system of relations between the U.S.S.R. Vneshtorgbank and U.S. banks is based on a whole set of correspondence relations, various payments, currency and financial operations, among others, which reflect the conjuncture and specific features of the international banking business today. Through joint efforts a mechanism of interbanking relations has been created and is now in operation. This mechanism brings first-rate services to trade, economic, currency and financial relations between the U.S.S.R. and the U.S. At present, however, this mechanism is not utilized to the full.

WHAT IS THE REASON FOR THAT?

The mechanism of interbank relations can and must operate effectively on the basis of a large volume of trade and stable relations between countries. However, such a basis in the relations between U.S. and Soviet banks is clearly inadequate. The level of currency and financial relations exerts an important influence on the development of trade and economic cooperation, serving as the wheels for the accelerating train of international trade. This pertains, above all, to the relations between nations in the area of financing and mutual trade in machinery, equipment, and other investment goods.

It is safe to say, I believe, that in recent years, American and Soviet business partners have shown a growing interest in the promotion of trade ties and are actively considering a number of projects to boost cooperation in the engineering, power, chemical and petrochemical, medical industries, as well as in the agro-industrial complex. However, certain factors are blocking the conclusion of a large number of deals. One of the most important factors is that the American side is not yet prepared to offer competitive terms of financing these projects under study.

This situation is quite different as regards other Western nations, especially in Europe. Trade and financial relations with many of these countries are based on a long-term and stable foundation, independent of the present political structure. Governments promote these mutually beneficial relations in every way. It is indicative that many U.S. banks understand this situation clearly, and compete with their West European counterparts in striving to make good use of the business advantages offered by the level of trade and financial cooperation between the U.S.S.R. and those countries. Through their European branches and subsidiaries, a number of U.S. based banks actively seek oppportunities, and often find them, for participating in financing Soviet trade with countries such as Italy, the U.K., the F.R.G., and others.

CERTAIN HEADWAY HAS BEEN MADE

Despite the quite inadequate level of relations in the long-term and medium-term financing of trade, interbank cooperation has developed in a number of other areas of banking activity. The international banking industry has at its disposal a big arsenal of various payments (for commercial as well as non-commercial dealings), currency, financial and other transactions which are used to a varying degree in the relations between U.S. and Soviet banks. It is gratifying to note that certain positive changes have recently become evident in this area.

Operations involving U.S. banks in the bank acceptance market have been developing since 1984. Corresponding agreements have been signed with 11 American banks to date, involving considerable sums. Given favorable conditions in the U.S. money market as compared to the Eurodeposit market, good use is made of these credits.

FOREIGN EXCHANGE OPERATIONS, DEPOSIT TRADING

Conversion operations and, to a lesser extent, deposit of money are conducted with a number of banks. These operations can be promoted on the basis of reciprocity and competitiveness of the conditions of the deal offered. For its part, the U.S.S.R. Vneshtorgbank is ready to expand cooperation in this area.

In recent years, a number of agreements on medium-term financial credits have been concluded.

There are opportunities for developing relations with banks and other financial institutions in the area of international capital markets, including the new instruments of these markets. It goes without saying that due to the relative novelty for the U.S.S.R. of such operations, the U.S.S.R. Vneshtorgbank is cautious in developing them. However, there is potential for cooperation in this field.

At present, a number of U.S. firms are discussing possible joint enterprises with Soviet organizations. I feel certain that in this area we also have some interesting opportunities for interbank cooperation.

ANALYSIS AND FEASIBILITY STUDY OF PROJECTS

American banks have a good deal of expertise and skill in the financial analysis of projects for joint enterprises, including those with socialist countries, and in developing and realizing methods for their financing. This expertise would be very useful in formulating projects for joint Soviet-American enterprises. The U.S.S.R. Vneshtorgbank will give careful consideration to any relevant proposals by American banks.

The more active Soviet external economic policy and its orientation towards developing new markets opens up good prospects for cooperation in financing economic cooperation projects in third countries, including those with the participation of U.S. companies. Some such projects are already being discussed.

Unfortunately, it should be noted that efforts to put up additonal artificial obstacles in the way of cooperation are continuing in the U.S. Various political discrimination measures directed against the U.S.S.R. (the Garn-Proxmire bill, recent proposals put forward by a group of Congressmen headed by Jack Kemp) seriously undermine the basis for promoting businesslike relations, and introduce an additional element of instability.

BLOCKING OF ASSETS

Much damage to interbank cooperation is done by moves such as the one late last year aimed at illegally blocking the assets of the U.S.S.R. Vneshtorgbank held in accounts in an American bank. Improved relations between our countries depend in no small measure on whether it will prove possible to overcome the unconstructive attitude of certain U.S. political circles regarding cooperation with the U.S.S.R., and whether it will prove possible to overcome the lack of more open political thinking.

ROLE OF THE ASTEC FINANCE COMMITTEE

In conclusion, I would like to emphasize the important role in developing currency and financial cooperation between the U.S.S.R. and the U.S. that has been played by the ASTEC Finance Committee, the executive organ of the Council comprising the banking and financial organizations of the two countries. The Finance Committee includes as its members the largest U.S. banks and financial institutions, among them Citibank, Chase Manhattan, First National Bank of Chicago, Bankers Trust, Salomon Brothers and others.

It should be recognized that the operation of the Committee is hampered by inadequate Soviet-U.S. trade and economic relations. At the same time, the Finance Committee has helped to develop busineslike cooperation between U.S. and Soviet banks. At present, its role in the framework of Soviet-U.S. trade and economic relations is growing, along with the practical orientation of its work.

Regular business contacts within the Finance Committee will enable representatives of American banks to get a better insight into the economic transformations now underway in the U.S.S.R., and to find new areas of mutually beneficial cooperation. For our part, we will be glad to welcome, as members of the U.S.-U.S.S.R. Trade and Economic Council and its Finance Committee, American banks and financial companies. We are ready to promote the active development of mutually profitable relations with them in diverse fields.

EXHIBIT 6

THE PRESIDENT'S TASK FORCE ON INTERNATIONAL PRIVATE ENTERPRISE: REPORT TO THE PRESIDENT

ESTABLISHING AN ECONOMIC SECURITY COUNCIL

During the course of our work it became clear that any efforts by the U.S. Government to specifically encourage the growth of private enterprise for development, particularly through our foreign assistance programs, will be hampered if other U.S. economic policies are askew or contradictory. The interconnection of so many aspects of government policy—such as trade, finance, agriculture, foreign relations—as well as the need to enhance the way we organize U.S. Government resources, gave rise to our analysis of the U.S. economic policy formulation process. As a result of these deliberations, we recommend establishment of a new mechanism of the White House, namely the Economic Security Council, and the creation of the position of Assistant to the President for Economic Affairs.

Finding

In order to cope with the new and changing circumstances, a new institutional structure is needed to ensure better formulation and coordination of U.S. international and domestic economic policy.

Overview: High stakes are involved in the integration of U.S. domestic and international economic policies. The executive branch must be structured so that those decisions that are crucial to our economic future are given thorough and fully coordinated consideration.

Recommendation

The President should establish an Economic Security Council (ESC) to formulate and coordinate domestic and international economic policy.

Discussion: As the world's markets grow more internationalized, other nations increasingly approach international policies as, to paraphrase Clausewitz, an extension of economic policy by other means. Our government institutional arrangements should reflect this new reality.

The increasing complexity of international economic problems, cutting as they do across the jurisdictions of the individual cabinet departments, makes the need for a coordinating point within the Executive Office of the President almost self-evident.

We propose that the President establish, initially by Executive Order, a White House council called the Economic Security Council. This council would be chaired by the President and include those cabinet rank officials needed to fulfill the ESC mandate.

The ESC would parallel the NSC in its advisory and operating capacities, raising economic policy issues to a level comparable to that of international political issues. Ultimately, legislation should be proposed to institutionalize the ESC structure and thus to assure its permanence and the development of an institutional memory and appropriate linkages among various cabinet departments. The ESC would advise the President on all aspects of domestic and international economic policy; oversee the formulation, coordination, and implementation of U.S. economic policy; and serve as the focal point for economic policy decision making.

Among other functions, we would expect the ESC to:

Examine the domestic, foreign policy, and national security implications of international economic policy issues.

Identify ways in which the various U.S. Government resources can be used to increase U.S. trade with developing countries and strengthen their economies.

Develop common priorities and government-wide guidelines for specific agency actions affecting international economic policy.

Insure that international economic considerations are brought to bear in the development of domestic policy.

Coordinate preparations for international economic summit conferences; and

Assure the consideration of developing country issues in the policy deliberation process.

With the Economic Security Council in place, it should be possible to streamline the present cabinet council structure. The ESC would need a minimum staff to provide, within the White House, an interdisciplinary reservoir of those skills and backgrounds necessary to the analysis of economic issues and their wide-ranging impacts. It would maintain close liaison with the various departments and agencies, ensuring that issues needing ESC attention received that attention. It would also provide an institutional memory through which past experience could be readily brought to bear on current issues.

The ESC, thus structured, would be in a position to analyze such questions as, for example, the effect of economic sanctions against another country on U.S. industry and agriculture, the trade implications of U.S. Monetary policy, or the impact of pollution or anti-trust regulations on U.S. productivity and international competitiveness. Issues addressed elsewhere in this report, such as those related to the foreign assistance budget, trade policies, and P.L. 480 funding levels would, of course, be within the province of the ESC.

Recommendation

The President should designate an Assistant to the President for Economic Affairs who would participate in the Economic Security Council.

Discussion: An organizational structure, a set of principles, and a system cannot assure the necessary level of attention to a multitude of policy issues. The way in which a policymaking system operates also depends on the people involved. Presidential decisions are often influenced by the personal and professional relationships that exist between the President and his chief advisers and agency heads. A point of contact and coordination in the person of a close trusted expert adviser who would have the President's ear is needed to insure that the economic dimensions—both domestic and international—of pending issues are taken fully into account in the presidential decision-making process and that this is done early enough in the process to let the economic considerations work their way through it. The Assistant to the President for Economic Affairs must be such an individual.

The assistant to the President would be unconstrained by departmental jurisdiction boundaries and constituency interests and would have a "presidential" perspective. The assistant could identify for the President points of view that might not otherwise be adequately represented within existing policy coordinating groups. This official could also call attention to emerging issues that might not, at the time, seem important to any single department or agency, but that could offer prospects for positive action or pose serious problems if not dealt with.

Such a senior adviser to the President would insure that linkages between domestic and international economic concerns, including those linkages that deal with developing nations, are adequately factored into presidential decision making.

Not long ago, it was common in government circles for international economics to be consigned, like other arcane matters, to the specialists with the hope that it would intrude as little as possible on the consciousness of those charged with the more "glamorous" work of looking after the nation's political relationships. But economic concerns can no longer be separated from political concerns. Economic welfare can no longer be separated from human welfare. The structure of the executive branch must reflect this interweaving of economic considerations through the whole fabric of domestic and international politics.

In the advanced technological age we are now entering, the changing dynamics of the world's interlocking economies will hold the key to the future for the next generation. This is true of the developing and developed nations alike. We believe that these organizational changes—the creation of an Economic Security Council and designation of an Assistant to the President for Economic Affairs—taken together, will equip the executive branch with the means to give economic issues the quality and degree of attention they will need if we are to master that future.

EXHIBIT 7

ECONOMIC POLICY COUNCIL AND DOMESTIC POLICY COUNCIL

STATEMENT ON THE CREATION OF TWO CABINET-LEVEL BODIES, APRIL 11, 1985

Today I am announcing the creation of two Cabinet-level bodies—the Economic Policy Council and the Domestic Policy Council—to assist me in the formulation and execution of domestic and economic policy. I will chair both Councils. These two Councils will replace the seven existing Cabinet Councils and the Senior Interagency Group-International Economic Policy. The new entities will streamline policy development and decisionmaking. Together with the National Security Council, they will serve as the primary channels for advising me on policy matters.

The Economic Policy Council will be composed of the Secretaries of State, Treasury, Agriculture, Commerce, and Labor, the Director of Office of Management and Budget, the United States Trade Representative, and the Chairman of the Council of Economic Advisers. It will provide advice to me concerning all aspects of national and international economic policy. The heads of the national security community departments and agencies and the Assistant to the President for National Security Affairs will participate in Council meetings whenever international policy or budget matters are discussed. In my absence the Secretary of the Treasury will serve as Chairman pro tempore.

The Domestic Policy Council will be composed of the Attorney General, the Secretaries of the Interior, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education, and the Director of the Office of Management and Budget. It will provide advice to me on domestic and social policy. In my absence the Attorney General will serve as Chairman pro tempore.

The heads of nonmember departments and agencies will be invited to participate in either Council's deliberations whenever matters affecting their organizations are on the agenda. The Vice President and Chief of Staff will serve as ex officio members of both Councils.

The new, streamlined decisionmaking process enhances my commitment to Cabinet government. It will provide for added accountability and efficiency in formulating and implementing policy.

EXHIBIT 8

PROTOCOL

Considering the interest expressed by Soviet foreign trade organizations and United States companies in the development of organizational arrangements for increased cooperation, and

Recognizing that such increased cooperation would contribute to the promotion of contacts between businessmen of the USSR and the USA, which in turn would assist in the development of mutually beneficial trade between the two countries,

The Secretary of Commerce of the USA will meet at an early date with members of the United States business and financial community to discuss the desirability of establishing in the United States private sector a USSR-US Chamber of Commerce. The Minister of Foreign Trade of the USSR will continue similar consultations with Soviet foreign trade and other organizations.

The results of these consultations shall be reported promptly to the Joint USSR-US Commercial Commission.

Done this 22nd day of June, 1973, at Washington, in duplicate, in the Russian and English languages, both texts being equally authentic.

For the Government of the Union of Soviet Socialist Republics: Nikolai S. Patolichev, Minister of Foreign Trade.

For the Government of the United States of America: George P. Shultz, Secretary of the Treasury.

EXHIBIT 9

Commerce Secretary Hosts Meeting To Discuss Formation of U.S.-U.S.S.R. Chamber of Commerce

In a move to strengthen trade ties and economic relations between American businessmen and the Soviet Union, Secretary of Commerce Frederick B. Dent met today with 24 U.S. business and financial leaders to discuss formation of a "U.S.-U.S.S.R. Chamber of Commerce."

The meeting is an outgrowth of the summit talks of President Nixon and Secretary Brezhnev in which a Protocol was signed June 22 directing the Secretary of Commerce to discuss the desirability of establishing such an organization in the United States private sector.

The U.S.S.R. Minister of Foreign Trade is to pursue similar consultations with Soviet foreign trade and other organizations, according to terms of the Protocol, with the view of forming a comparable group in the Soviet Union.

Noting that U.S. trade with the Soviet Union has shown significant growth in the last two years as a result of President Nixon's initiatives in going to Moscow, Secretary Dent said, "A U.S.-U.S.S.R. Chamber of Commerce, privately financed and operated by American businessmen, can assist American companies and Soviet trade organizations in doing increased business with each other."

In addition to Secretary Dent, the business group was also addressed by Soviet Ambassador Anatoly F. Dobrynin during the meeting at the Commerce Department Building.

As envisioned, Dent said, a U.S.-U.S.S.R. Chamber of Commerce would have offices both in this country and the Soviet Union. Once formed, the group would function as a non-profit corporation.

Some of the duties it could perform, Dent added, would be to provide information on economic developments in both countries, collect statistical data on member firms, disseminate information on market potential and business opportunities, on foreign exchange and customs regulations, on legislation governing the protection of industrial property, and on transportation, insurance, tourism, exhibits, and trade fairs. "In short, such a Chamber could be the focal point to which American business could turn in its pursuit of commercial dealings with the Soviet Union," the Secretary said.

Invited to today's meeting were:

Donald M. Kendall, Chairman of Pepsico; Howard L. Clark, Chairman of American Express Company; C. William Verity, Chairman of Armco Steel Company; Stephen D. Bechtel, Jr., President of Bechtel Corporation; William H. Franklin, Chairman of Caterpillar Tractor Company; Arthur J. Santry, Jr., President of Combustion Engineering, Inc.; Michel Fribourg, President of Continental Grain Company; C. B. McCoy, Chairman of E. I. du Pont de Nemours and Company; Milton F. Rosenthal, President of Engelhard Minerals and Chemicals Corporation; Reginald H. Jones, Chairman of General Electric Company; Richard C. Gerstenberg, Chairman of General Motors Corporation; Frank T. Cary, Chairman of IBM Corporation; Edgar F. Kaiser, Chairman of Kaiser Industries Corporation.

Also, Harry Heltzer, Chairman of Minnesota Mining and Manufacturing Company; Dr. Armand Hammer, Chairman of Occidental Petroleum Corporation; William T. Seawell, Chairman of Pan American World Airways; Samuel B. Casey, Jr., President of Pullman Incorporated; Willard F. Rockwell, Jr., Chairman of Rockwell International; Donald P. Kircher, President of the Singer Company; G. William Miller, President of Textron, Incorporated; C. Peter McColough, Chairman of Xerox Corporation; A. W. Clausen, President, Bank of America; Benjamin F. Crane, Partner, Cravath, Swaine and Moore; Philip O. Geier, Jr., Chairman of Cincinnati Milacron, Inc.

Representatives of the National Association of Manufacturers and the Chamber of Commerce of the United States attended as observers.

Statement by Secretary Dent at Meeting Establishing U.S.S.R.-U.S. Chamber of Commerce, Washington, July 12, 1973

One of the most important agreements signed during the recent meeting in Washington of President Nixon and Secretary Brezhnev relates to the creation of a U.S.S.R.-U.S. Chamber of Commerce in the United States. This organization can make a major contribution toward broadening commercial contacts between our countries.

Today we welcome an action group of 24 American business and financial leaders who will carry forward with the agreement made by President Nixon and Secretary Brezhnev to build stronger economic ties between the United States and the Soviet Union.

To have real meaning, an agreement between nations requires that life be breathed into it at many levels. Public and private institutions and individuals all down the line must help fulfill it; otherwise it will remain only a dream.

The leaders from America's private sector who have helped form the U.S.S.R.-U.S. Chamber of Commerce symbolize the support being given by Americans generally to President Nixon's initiatives for peaceful expansion of our trade ties with the rest of the world.

On the President's behalf, I welcome their interest and support, as well as that of everyone in the United States who will benefit from the new job opportunities for American workers that will flow from the increased exports resulting from the agreement.

EXHIBIT 10

Background Paper On The U.S.-U.S.S.R. Trade and Economic Council, Inc.

MISSION

The U.S.-U.S.S.R. Trade and Economic Council was formed to accelerate the free flow of commerce between two divergent government and economic systems. A new and unique organization, the Council is a product of detente, the result of a protocol signed during the summit meeting between President Nixon and Secretary General Breshnev held in Washington in June, 1973. Its mission is to bring together American businessmen and Soviet government officials so that they can develop and implement expanded trade between their respective countries in a climate of mutual trust and understanding.

HELPING THE BUSINESSMEN

The U.S.-U.S.S.R. Trade and Economic Council is uniquely qualified to assist new business in the Soviet Union. The Council maintains offices in the U.S.S.R. (Moscow) and the U.S. (New York) that are staffed with a mix of American and Soviet professionals thoroughly experienced in the techniques of conducting business in both countries. The Council can assist a prospective U.S. businessman through all phases of selling his product or technology to the Soviet Union.

For example. A medium-sized company in Columbus, Ohio, manufactures a range of heavy earth-moving equipment which it has been successfully marketing in major markets in Europe and South America for the past eight years. The company wants to expand its overseas sales and feels there is good sales potential in the U.S.S.R. for its product line. But no one in the company knows how to go about selling in the Soviet Union.

When the company first began to look into overseas sales in Europe and South America, it conducted some preliminary research and found an abundance of reliable market intelligence on its overall product line in established major overseas markets. The company also found a number of reputable international sales organizations and exhibition platforms ready and willing to help it get started, if it decided not to build its own "in-house" export marketing organization.

Selling a product in the Soviet Union, however, presents an entirely different set of marketing circumstances. The Columbus marketing manager learned (quite rightly) that there is a growing market for heavy machinery in the U.S.S.R. But beyond that, he has had little access to additional information; and, he is not really in much of a position to search it out—even with a trip to Moscow. Trying to handle that on his own, he would quickly find out that a sales trip to Moscow, if it is not carefully planned and meticulously scheduled, can be a complete waste of time. For the American businessman. And, for the Soviet official he might try to contact.

The U.S.-U.S.S.R. Trade and Economic Council was formed to handle just such a prospective sales situation. As a member company of the Council, that Columbus machinery company would have available to it a range of services tailored to its specific product and marketing needs.

For example. A Council project officer in New York would be assigned to review and analyze the company's basic sales proposal. The project officer, as a first step, would determine the overall marketability of the product in the Soviet Union. Calling upon appropriate resources at the Council offices in New York and Moscow, he would see if there is a specific need for such a product in the U.S.S.R. The project officer might even request his Moscow counterpart to make preliminary inquiry at the Soviet Foreign Trade Ministry to find out if there would be specific interest in buying that particular type of equipment. In addition, he would provide detailed counsel on exporting to the Soviet Union, such as advice on what financing is available, if the product is affected by U.S. export controls (few are), and basic information on such subjects as documentation, insurance and shipping procedures.

The Council project officer in the U.S.S.R. would make the necessary appointments in Moscow if the prospects for selling the product warranted a trip to the Soviet Union by a representative of the company. The Moscow project officer would schedule the appointments and accompany the U.S. visitor during his government contacts, providing appropriate counsel, office, telex, secretarial and translation services as required. And, after the visit, the Council project officers would continue to serve as a liaison between the government ministry and the company, helping to maintain a smooth flow of communication—always difficult—between the buyer and the seller until the transaction is completed.

THE COUNCIL ROLE

The Council has, as its broad mandate, the promotion of a greatly expanded U.S.-U.S.S.R. trade. In line with this, the Council has created a service-oriented organization with a practical and operational program designed to render meaningful assistance to U.S. businessmen seeking trade opportunities in the Soviet Union. Equally, it offers a similar service for Soviet business men seeking an outlet for their products in the United States.

These services include:

A full range of economic and statistical information on the levels and patterns of trade between the U.S. and the U.S.S.R., as well as comparative data with other major world trading partners for each of these countries.

Identify trade opportunities for Council membership in the U.S. and U.S.S.R. in specific product categories by reporting expressions of interest of business/government contacts and the results of independent research.

Counseling for member companies on the best methods of presenting sales proposals in the United States or the Soviet Union.

Setting up business meetings and appointments in both countries and counseling U.S. and Soviet businessmen on procedures and policies appropriate for the conduct of these meetings.

Logistical support for traveling businessmen in Moscow and New York, including office space, telex and secretarial facilities, translators, press relations, statistical data, and professional consultation as required.

Monitoring each potential transaction until it reaches fruition or fails and providing such continuing service as requested by members to complete negotiations.

Advise member companies on necessary procedures when prospective transactions have real or potential governmental involvement (Export-Import Bank participation, export controls or regulatory agency involvement); and, if desired, arrange discussions with appropriate government officials.

Assist in the execution of agreements leading to exchanges of science and technology.

Set up an early warning system for Council membership on possible trade deterrents.

The Council will maintain close relations with both governments to perform these functions. The Council, however, is not a political body and cannot engage in any political or non-commercial activities in either country.

ORIGIN OF THE COUNCIL

The idea for the Council took shape at the Washington summit meeting between President Nixon and Secretary General Breshnev in June, 1973. Both governments recognized the benefits from an expanded economic relationship and the need for a specialized organization to deal with the problems of trade development between the two countries.

Other developed nations have been doing business with the Soviet Union for many years, but, as a result of more than a quarter-century of Cold War, U.S.-Soviet trade has been at a very low level. And, while the potential for trade expansion is large—many American and Soviet business interests are now anxious to explore trade opportunities in the other's country—the problems are many. Few American businessmen have any clear understanding of how foreign trade is conducted by state trading monopolies, nor do the Soviets who want to export to the United States really know how to go about doing it.

Against this backdrop, the Council was viewed as an organization that could serve the multiple business interests of its members and, at the same time, strengthen the economic ties between the two nations. With this view in mind, Secretary General Breshnev committed the Soviet Union to cooperate in the development of the Trade and Economic Council and President Nixon pledged the best efforts of his government to urge American business to cooperate in the venture.

Secretary of the Treasury George P. Shultz and Soviet Minister of Foreign Trade Nikolay S. Patolichev signed a protocol reflecting this view and the Council began to take shape. Acting on behalf of the United States, Secretary of Commerce Frederick B. Dent convened a group of 26 chief executive officers of major U.S. corporations having a direct interest in expanding U.S. Soviet trade. The group was given a mandate to work with the Soviets in developing an organization responsive to the protocol. Donald M. Kendall, Chairman of the Board of PepsiCo, was designated Chairman of the organizing Board.

Following a series of conversations with the Soviets, the U.S.-U.S.S.R. Trade and Economic Council, Inc., was legally constituted in October of 1973. A Board of Directors consisting of the 26 organizing U.S. directors and 26 Soviet economic officials was named and the Council's mission, organization budget and objectives were confirmed in principal. The Council formally opened for business at its permanent offices in New York City on December 26, 1973.

THE STRUCTURE OF THE COUNCIL

To effectively develop the Council's programs and objectives, the Board of Directors has provided for a mixed U.S.-Soviet staff organized on a highly functionalized basis. There is one President who is the chief executive officer responsible to the Board through an Executive Committee. Under the President (a U.S. national), the Council is staffed with competent professionals from both countries with specialized skills and business experience. The headquarters of the Council is New York City, where the staff will assist and advise member companies and carry forward a program of trade promotion. A comparable officer will be opened in Moscow early in 1974, managed by a Senior Vice President (a U.S. national) and staffed by U.S. and Soviet professionals. The Moscow office will provide the consulting and logistic support necessary to U.S. business needs in Moscow.

MEMBERSHIP

The Council seeks the broadest possible base of U.S. membership. Any company or individual with a direct or indirect interest in U.S.-Soviet trade, is eligible for Council membership. All Soviet enterprises having export potential will be Council members. The Council will assist all members equally. There will be no discrimination based on the size of the particular company or the present or potential level of business. It is the firm conviction of the Council that expanded trade depends as much on increasing the number of companies engaged in U.S.-Soviet trade as in the volume of trade.

COST OF MEMBERSHIP

The Council is not-for-profit organization. Its expenses will be met by annual dues paid by member companies. The Soviet Union will contribute 50% of Council costs during the first year. Thereafter, the Soviet contribution will be based on comparative work load. U.S. members paying dues will also contribute 50% of the costs. The Board of Directors has established the following dues structure:

Annual sales:	*Annual Dues*
Over $1 billion	$10,000
$500 million to $1 billion	5,000
100-500 billion	2,500
$100 million	1,000

(Dues structure for service organization to be included later.)

There will be no initiation fee, nor will there be any charge for the use of regular Council Services.

BOARD OF DIRECTORS

Honorary Directors.

George P. Shultz, U.S. Secretary of the Treasury.

Nikolay S. Patolichev, U.S.S.R. Foreign Trade Minister.

U.S. Directors

Donald M. Kendall, Chairman of PepsiCo., Inc., (U.S. Co-Chairman).

Arch Booth, Chief Executive Officer, U.S. Chamber of Commerce.

Howard L. Clark, Chairman of American Express Company and Chairman of the Membership Committee.

A.W. Clausen, President, of the Bank of America and Chairman of the Finance Committee.

Frank T. Cary, Chairman of IBM Corporation.

Samuel B. Casey, Jr., President, of Pullman, Inc., and Chairman of the Program Committee.

Benjamin F. Crane, Partner; Cravath, Swaine and Moore.

William F. Franklin, Chairman of Caterpillar Tractor Company.

Michel Fribourg, President of Continental Grain Company.

Philip O. Geier, Jr., Chairman of Cincinnati Milacron, Inc.

Richard C. Gerstenberg, Chairman of General Motors Corporation.

Dr. Armand Hammer, Chairman of Occidental Petroleum Corporation.

Harry B. Heltzer, Chairman of Minnesota Mining and Manufacturing Co.

Reginald H. Jones, Chairman of General Electric Company.

Edgar F. Kaiser, Chairman of Kaiser Industries Corporation.

E. Douglas Kenna, President of National Association of Manufacturing.

Donald P. Kircher, President of the Singer Company.

C. Peter McColough, Chairman of Xerox Corporation.

G. William Miller, President of Textron, Inc.

David Rockefeller, Chairman of Chase Manhattan Bank.

Willard F. Rockwell, Jr., Chairman of Rockwell International.

Milton R. Rosenthal, President of Engelhard Minerals and Chemicals Corporation.

Arthur J. Santry, Jr., President of Combustion Engineering, Inc.

William T. Seawall, Chairman of Pan American World Airways.

Mr. Irving S. Shapiro, Chairman of E.I. duPont de Nemours and Co.

C. William Verity, Jr., Chairman of Armco Steel Corporation.

U.S.S.R. Directors.

Vladimir S. Alkhimov, Deputy Minister of Foreign Trade (Soviet Co-Chairman).

Nikolay G. Ospipov, Deputy Minister of Foreign Trade.

Boris A. Borisov, Chairman of USSR Chamber of Commerce and Industry.

Konstantin B. Aroutjunov, Deputy Minister of Ministry for Instrument Making, Automation and Control Systems.

Nikolay D. Maljtsev, Deputy Minister of Ministry for Energetics and Electrification.

Yuriy A. Ivanov, Chairman of the Board, Bank of Foreign Trade of the USSR.

Viktor K. Boichenko, Chairman of the Board, VAO "Intourist."

Nikolay V. Burov, Chief, Central Department of International Aerial Lines "Aeroflot."

Sergey G. Karpovich, Chairman of the Board, "Ingosstrakh."

Viktor I. Rodnov, Chief, Main Export Department for Industrial Equipment, Foreign Trade Ministry.

Vladimir N. Sushkov, Chief, Main Department of Imports of Machines and Equipment from Capitalist Countries.

Ivan M. Maslov, President, V/O Stankoimport.

Leonid K. Lukjanov, President, V/O Techmasimport.

Nikolay P. Maksimov, President, V/O Metallurgimport.

Georgiy A. Zarubkin, President, V/O Energomashexport.

Yevgeniy F. Manakhov, President, V/O Almazjuvelirexport.

Boris Z. Nikolaenko, Boris, V/O Sojuzpromexport.

Yuriy V. Branovsky, President, V/O Sojuzgazexport.

Vladimir A. Salimovsky, President, V/O Licensintorg.

Anatoliy M. Plakhov, Chief Engineer, Kamaz Plant.

Yevgeniy N. Altunin, Chief, Glavtjumengazprom.

Mikhail M. Berman, Director, Moscow Machinebuilding Plant of Automatic Lines.

Nikolay A. Turik, Director Voroshilovgrad Diesel Locomotive Building Plan.

Gennadiy A. Shishov, Director, Leningrad Metallic Plant.

Dmitriy A. Paramonov, Director, Second Moscow Watch Plant.

Sergei A. Mkrtumov, Trade Representative of the USSR in the USA.

EXHIBIT 11

INTELLIGENCE COLLECTION IN THE USSR CHAMBER OF COMMERCE AND INDUSTRY

INTELLIGENCE COLLECTION IN THE USSR CHAMBER OF COMMERCE AND INDUSTRY

The USSR Chamber of Commerce and Industry plays an important role in the Soviet effort to collect Western economic information of value to Soviet industry. It carries out that role while acting as a trade promoter and facilitator with excellent access to Western firms. Among other things, the chamber:

Introduces Western firms to Soviet foreign trade and industrial organizations.

Provides foreign trade data to Soviet agencies.

Carries out official trade functions, including hosting exhibitions and facilitating patent work.

Maintains representations in at least 14 countries.

Of the chamber's known staff of 140, about a third are KGB officers. The chamber also maintains ties to the GRU.

Some of the chamber's trade promotion activities involve exploiting or misleading Western business and government leaders by:

Systematically using international trade exhibitions and seminars for economic collection.

Falsifying end-user documentation during inspection of Western equipment coming into the USSR.

The chamber's collection priorities—if it has any—are unknown. However, since at least the 1960s, it has tried—often successfully—to collect information on a wide range of Western technology, including:

Robot technology.

Marine technology, including that dealing with submarines doing deep-sea research.

Industrial chemicals.

The chamber's contribution to the overall Soviet effort to collect information on Western technology is difficult to gauge. However, its trade promotion activities—hosting over 200 trade exhibitions and about 100 Western business delegations annually and inspecting thousands of goods each year—give its employees extraordinary access to imported equipment and uncounted contacts with foreign companies, particularly US or US-affiliated firms.

THE CHAIRMAN

KGB Lt. Gen. (Res.) Yevgeniy Petrovich Pitovranov has been an officer in the chamber since 1966. He is on the Executive Committee (governing board) of the US-USSR Trade and Economic Council.

Pitovranov has studied at the Moscow Electromechanical Institute for Railway Transport Engineers. He joined the Communist Party (CPSU) In 1938. From the late 1930s until 1951 he served in the People's Commissariat of Internal Affairs and successive intelligence organizations. In 1951 Pitovranov began an 18-month imprisonment during then General Secretary Josif Stalin's purge of intelligence officers who had associated with secret police chief Laverntiy Beriya. After the post-Stalin regime released him, Pitovranov served as Deputy High Commissioner in Berlin (1953-54), KGB resident in the Embassies in Berlin (1955-58) and Beijing (1959-61), and head of the KGB Training School (1962-64). He then attended the CPSU Higher Party School; upon graduation, he joined the chamber as a deputy chairman. He was promoted to first deputy chairman in 1972. His responsibilities in his first two chamber posts included supervising international exhibitions and registering patents and trademarks. Pitovranov, 71, speaks German. He is not believed to speak English. He and his wife, Yelizaveta Vasil'yevna, have three grown children.

INSPECTION OFFICIALS

Yurity Maksimovich Levin, Chamber Inspector, Nissho-Iwai, Japan.

Age 47 . . . serving for fifth time in same post with this firm (previous tours have been less than a year) . . . know KGB affiliation . . . uses State Committee for Science and Technological credentials . . . has often contacted Japanese manufacturers to request technical details on equipment Soviets purportedly interested in buying . . . has played on manufacturers' eagerness to make sales to obtain technical specifications and procedures.

Vladimir Ivanovich Gornostayev, Chief, Goods Inspection Administration (since about 1968).

Age 73 . . . possibly involved in GRU illegal operations . . . director of Soviet industrial and trade exhibitions in Australia 1961 and in Turkey 1963-65 . . . described as reserved, rather unsocial, difficult to influence, and ambitious but not conniving.

Gennadiy Fedorovich Solntsev, Chief, Fenno-Soviet Chamber of Commerce, Helsinki (since 1984).

Age 65 . . . affiliated with the KGB . . . 1949 graduate of Institute of Foreign Trade . . . first secretary in Embassy economic section in Austria 1956-60 . . . commercial attache, Soviet trade mission, Canada, 1967-71 . . . joined chamber in about 1976 as deputy chief of Foreign Exhibitions Department . . . deputy general director of V/O Ekspotsentr during 1977 and 1981-84 . . . worked in United States as deputy chairman of Kama River Purchasing Commission 1978-81 . . . low-key, polite, knowledgeable . . . described as effective with US businessmen . . . in late 1970s tried to coax US diplomat in Moscow into sending him technical literature from a seminar . . . speaks good English.

V/O SOVINTSENTR OFFICIALS

Aleksandr Fedorovich Khlystov, Deputy General Director, V/O Sovintsentr (since at least 1980).

Age 53 . . . administrator of International Trade Center . . . probably KGB colonel . . . translator at New York World's Fair in 1959 . . . foreign trade employee in London 1961-65 . . . adviser and counselor at Soviet pavillion at Expo-70 in Tokyo . . . deputy division chief in chamber in 1974 . . . drinks heavily.

Gennadiy Nikolayevich Tapeshko, Director, Firm Interkongress, V/O Sovintsentr (since April 1985).

Age 46 . . . suspected KGB officer . . . employee (non-diplomatic), Office of Commercial Counsel, Embassy, Colombo, 1963-64 . . . became Inturist representative in Trade Mission, New Delhi, 1968 . . . while driving an automobile in 1972, killed Indian bicyclist; lacked diplomatic immunity and left India abruptly . . . joined chamber in about 1976, probably as chief of protocol in V/O Ekspotsentr . . . served in Soviet-Belgian Chamber of Commerce, Brussels, from about 1977 until 1981 . . . became deputy director, Firm Interkongress, in about 1982.

PATENTING AND PUBLICATIONS OFFICIALS

Mikhail L'vovich Gorodisskiy, Chief, Patenting of Inventions Administration—now Soyuzpatent (since at least 1969).

Age 60 . . . has had extensive contact with Americans through international organizations dealing in trade and patents . . . has degree in international law from Institute of Foreign Trade . . . senior legal adviser in foreign trade organization V/O Mashinoimport 1957-63 . . . official in Main Engineering and Technical Administration of Foreign Trade Ministry from 1963 until about 1965, when he joined chamber . . . described as shrewd, amiable, and talkative . . . speaks English.

Svyatoslav Viktorovich Filippov, Deputy Chief, Patenting of Inventions Administration—now Soyuzpatent (since at least 1981).

Age 58 . . . KGB staff officer . . . doctor of juridical sciences and specialist on US legal system . . . served in Office of Legal Affairs of UN Secretariat in New York 1965-69 . . . analyst in Institute of the USA and Canada and consultant to USSR Supreme Soviet in late 1970s . . . described as good observer and judge of personalities . . . has good feel for arguments that will counter US positions . . . gives impression he is wheeler-dealer . . . visits high-level US Government and business officials during frequent trips to United States to study and to attend conferences . . . speaks English.

Sergey Pavlovich Lyubimov, Chief, Information and Publications Administration (since at least 1978).

Age 68 . . . KGB agent or staff officer dealing with S&T . . . graduated from Tula Mechanical Institute in 1941 and Academy of Foreign Trade in 1952 . . . worked in Ministry of Foreign Trade in early 1950s . . . probably joined chamber in about 1957 . . . served in United States during 1963-66 as correspondent for TASS, where he concentrated on obtaining technical information on behalf of KGB residency in New York . . . identified as chief of chamber's Foreign Relations Department in 1966 . . . commercial counselor in Ethiopia from 1972 until about 1976 . . . speaks English and German.

EXHIBITIONS OFFICIALS

Marlen Khorenovich Akopov, Director of Soviet Exhibitions (since about 1976).

Age 46 . . . suspected KGB affiliation . . . served in Embassy in Nepal as interpreter during 1961-62 . . . joined chamber as translator in about 1971 . . . worked in Exhibitions Abroad and Foreign Relations Administrations . . . representative to Board of International Expositions in Paris since 1966 . . . has often traveled to United States for negotiations on exhibitions and 1982 World's Fair . . . friendly, gregarious, and able to draw people out . . . cultivates relationships with US officials who have high-level political contacts . . . described as shrewd and tough . . . speaks excellent English.

Konstantin Fedorovich Afanas'yev, Deputy General Director, V/O Ekspotsentr (since at least 1981); Director, Firm Inovystavka, Ekspotsentr (since at least 1983).

Age 66 . . . KGB colonel . . . probably responsible for S&T matters . . . served in trade mission in Cologne as staff employee during 1957-60 . . . was refused visa for second tour in 1962 because of prior activities and contacts . . . during 1964-68 was first secretary at trade mission in Vienna . . . joined chamber in about 1969 as deputy director of specialized foreign exhibits . . . speaks fluent German; good French and English.

Khachik Gevorkovich Oganesyan, Former Deputy General Director, V/O Ekspotsentr (1978-84).

Age 72 . . . retired in 1984 . . . supervised all Soviet agents in Tehran during 1946-50 as second secretary and consul . . assigned to Vienna as chief of an illegals section of Ministry of Internal Affairs (MVD) 1950-53 . . . deputy chief, MVD Counterintelligence Section, East Berlin, 1954-59; there he ran illegals and handled sabotage operations and for most of the time was attached as adviser to East German Ministry of State Security . . . first identified in chamber in 1969 as deputy chief of Foreign and International Exhibitions Department . . . advised US companies on types of equipment chamber wanted them to display . . . described as cordial and helpful on exhibition administrative details.

Ivan Luk'yanovich Rozhkov, Director, Firm Informreklama, V/O Ekspotsentr (since about 1983).

Age 67 . . . suspected GRU officer . . . was field army radio operator and then captain in engineer corps during World War II . . . foreign trade representatives in Italy 1964-67 . . . first secretary in Bolivia from 1970 until he was declared persona non grata in 1972.

EXHIBIT 12

[From the New York Times, May 24, 1984]

U.S.-SOVIET TRADE BARS SAID TO COST $10 BILLION

(By Raymond Bonner)

American companies are losing at least $10 billion a year in sales to the Soviet Union because of United States Government restrictions, C. Williams Verity Jr., the chairman of the executive committee of Armco, Inc., said yesterday.

Mr. Verity, who is co-chairman of the U.S.-U.S.S.R. Trade and Economic Council, a private organization of 220 American companies and 125 Soviet foreign trade enterprises, said "trade is trade" and should be separated from political issues.

Mr. Verity's remarks came during a news conference and interview yesterday at the conclusion of two days of meetings of the council in New York. The council, which was set up in 1973 as part of détente, last met in 1982.

Clarence J. Brown, Deputy Secretary of Commerce, told the council during a luncheon address that "trade cannot be separated from everything else." Export controls are needed for national security and foreign policy reasons, he said.

A high-level Soviet trade and economic delegation was headed by Vladimir N. Sushkov, the Deputy Minister of Foreign Trade and co-chairman of the trade council with Mr. Verity, and Nikolai N. Inozemtsev, the deputy chairman of Cosplan, the state planning committee. Anatoly F. Dorbynin, the Soviet Ambassdador to the United States, also attended.

That the Soviet Union went ahead with the meeting, in contrast with its cancellation of participation in the Olympics, suggests that the Russians view improved relations with the American business community as having political as well as economic benefits. Mr. Verity said the Soviet leaders had an inflated view of how much influence American business leaders have in Washington.

The business cameraderie that marked the council's meeting was reflected on the dais for yesterday's closing luncheon. David Rockefeller; Donald M. Kendall, chairman of Pepsico Inc.; Dwayne O. Andreas, chairman of the Archer-Daniels-Midland Company, and John J. Murphy, chairman of Dresser Industries, sat side by side with Communist leaders, including Mr. Dobrynin.

But the spirit of cooperation was marred by a speech Wednesday by Robie M. Palmer, Deputy Assistant Secretary of State for European Affairs. Mr. Palmer made only passing reference to trade and blamed the Soviet Union for the deterioration in relations between the two countries.

"It was very poor judgment," Mr. Verity said, reflecting the business leaders' widespread anger at Mr. Palmer's remarks. "Fortunately, no Soviet felt he had to respond."

Trade between the United States and the Soviet Union, which fell to $2.3 billion last year, from $4.5 billion in 1979, could be in the $22 bilion to $25 billion range, Mr. Sushkov said.

PROTESTS OF SOVIET ACTIONS

Many of the restrictions, usually in the form of export license denials, have been in protest of Soviet actions, such as the military intervention in Afghanistan and imposition of martial law in Poland. In addition, the Reagan Administration has sought to deny the Russians access to much of American technology.

Mr. Verity said yesterday that, in most instances, the Russians were able to purchase the technology elsewhere, and thus only American companies were being harmed.

James Giffen, who will leave his post as corporate vice president at Armco to become head of the council on June 1, described what he called a "classic case." In December 1979, Armco signed a $353 million agreement to build an electrical steel mill for the Russians.

But after the Russian intervention in Afghanistan, the export licenses were canceled and a French company took over the contract, Mr. Giffen said.

Last year, the Russians bought $40 billion in goods from Western Europe and Japan, Mr. Verity said yesterday. And Mr. Dobrynin noted in his luncheon address that nonagricultural imports from the United States were barely $500 million, about the same level of United States trade with Trinidad and Tobago.

EXHIBIT 13

[From the Journal, U.S.-U.S.S.R. Trade and Economic Council, Inc., Vol. 9, No. 3, 1984]

As all of us know, a great deal has happened since our last meeting which was in Moscow in November of 1982. All of us who were there will remember that that was one of the really memorable meetings of this Council. It occurred just at the time of a change of leadership in the Soviet Union. As you will recall, we were there just one week after President Brezhnev had died. And all of us recall the great hospitality that was accorded our group under those very difficult circumstances for our Soviet hosts. And I think we recall with pleasure in particular the hospitality of Prime Minister Tikhonov at the banquet in the Kremlin in the Faceted Palace. It is, I'm sure, something that each of us wishes to replicate here in New York to show our appreciation and our determination to press forward with the work of the Council.

All of us at the meeting particularly enjoyed hearing Foreign Trade Minister Patolichev. He is a remarkable man. It is he and Secretary of State George Shultz who signed the protocol for establishing our Council. George Shultz is still very much interested in the Council. He sent me a note regretting that he couldn't speak at our dinner tonight, but did send his best wishes for our success and a warm welcome to our Soviet guests.

If one theme pervades the 11-year history of the Council, it is that this organization, on both the American and Soviet sides, continues to demonstrate its true mettle during times of trouble and adversity, when relations between our two countries are cooled or strained by political posturing, and trade, a political hostage, is sadly below the great potential we all know exists. We urgently need to find a way to coexist on this small planet, in the absence of common institutions and similar approaches to an economic and political way of life, we must continue to reach out for ways and means that will bring us together. Calling each other names that only generate heat, heighten tensions and suspicions, is not conducive to establishing a satisfactory relationship. The nuclear threat dwarfs all other matters between our two countries. We must deal rationally with the arms race, first finding a way to reduce the number of warheads, and abolishing them completely. I look forward to the day when we acknowledge that nuclear weapons are useless, because there can only be losers in a nuclear war.

What is needed now are ways to reduce tensions and to start rebuilding a relationship that can eventually lead to peace. And there are some bright spots. President Reagan, in his Jan. 16th speech, cited the need for improving relations. In that speech he outlined a new policy in regard to our relationship with the USSR. This is now United States policy Soviet General Secretary Chernenko has called for a return to the spirit of detente and for normalized relations. We have a grain agreement in place that does ensure at least an uninterrupted flow of a minimum of sales of grain. Last year, the Council sponsored an agribusiness exhibit in Moscow. Thanks to a lot of hard work on the part of Minister Sushkov and his associates in Moscow, and Dudley Miller and Yuri Legeev here in New York, it was highly successful. Bill Stiritz of Ralston Purina chaired this effort, and as a result of that there were 109 American companies that exhibited, displaying a range of agricultural equipment, technology and products valued at some $8 million. Just about everything exhibited in Moscow was sold. The U.S. companies are still talking about how pleased they were at attending the exhibition, and for some it has resulted in new business; for others, broader avenues of market penetration. Another positive result of the exhibit was that scores of officials and representatives, the decision makers and influencers of decisions in Moscow, came to the five-day exhibit. Among the official guests were Nikolia Baibakov, the Deputy Prime Minister of the USSR and Chairman of Gosplan, and other officials including the Mayor of Moscow. The US government also did its part. Secretary of Commerce Malcolm Baldrige gave the exhibit enthusiastic support. He provided the Council the full support of the Commerce Department's Office of Trade Assistance in promoting the show. Ambassador Arthur Hartman helped open the exhibit, along with Dwayne Andreas, who represented the US side of the Council.

Even the current US-Soviet trade statistics give some cause for optimism, at least in agriculture. Exports for 1983 totaled $2 billion, of which $1.4 million was agricultural and $540 million non-agricultural. Without a doubt, these figures are certain to increase as a result of the new grain agreement that calls for sales of 9-12 million tons of grain annually over the next five years. The first-quarter 1984 figures support this view, with a 10-percent increase in grain trade over 1983. US imports from the USSR in 1983 reached $341 million, a significant increase from the preceding year but still unrealistically low. The first-quarter 1984 figures are encouraging, moving up to $134 million. But, as we all know, these figures are ridiculously low and we all need to strive to increase them. As an example, contrast the US export statistics with Soviet trade figures with western Europe and Japan. Prime Minister Tikhonov just several months ago told me that that amounted to $40 billion in 1983. So there is great opportunity, but we need to find out how to increase our share.

The presence here today of Vladimir Sushkov and our other distinguished Soviet guests whom he has brought with him does indicate that the Soviet government is interested in doing business with the United States. And certainly the presence of such large numbers of American businessmen is ample evidence of American business interest in US-Soviet trade.

But it takes more than expressions of support and good will. There are problems, obstacles and impediments to trade that hopefully we, as a nation, can deal with. I do not intend to dwell on them. You know them too well—the need for contract sanctity, greater clarification on export control procedures, a more realistic view of the foreign availability of equipment and technology, a working relationship with the Administration and Congress to increase exports, and ways to improve America's image as a reliable trading partner.

Perhaps our governments should learn what we in the Council have learned through this past decade of practical experience. No matter how bad times get, we have to get together frequently to talk with each other. That's the essential step in building bridges of understanding between ourselves as human beings. After that, you then can get down to the serious business of negotiating differences.

I've been Cochairman of the Council now for seven years, and during that time I'm sure I've heard every difference that separates our two countries. I've also heard about every solution that's been suggested to solve the problems. I am sure of one thing. There are constructive approaches available and our Council can be a key factor in bringing them about.

Where today, outside of the Council, could you find scores of Soviets and Americans sitting down together—many old friends, many new friends in the making—for the purpose of deciding how to best achieve mutually-beneficial goals? The lesson in this, I think, is that we have to leave to others the things that we cannot do. Let us concentrate on what we can do, the changes we can bring about that will help improve relations and increase trade between our two countries. This is the primary mission of the Council.

To make our Council more effective, the Board of Directors yesterday afternoon approved some important measures. First we elected two Vice Chairmen on the US side, Dwayne Andreas, Chairman of Archer Daniels Midland and Jack Murphy, Chairman of Dresser Industries. Also they approved the restructuring of the internal organization of the Council to make it more responsive to the needs of members, to increase its communications, seminars, exhibits, relations with government and Congress, and others who can improve our performance. As of June 1st we will have a new president in Jim Giffen. His single most important function will be to develop programs and policies that will lead to increased trade between our two countries. Dudley Miller, who is up here on the podium, has done a fine job as president for the past three years. He will continue with the Council as vice president in charge of government liaison and will be stationed in Washington.

Jim Giffen and his Council staff have an operating plan approved by the Board of Directors that will increase substantially the activities of the Council. This plan was reviewed by the Executive Committee yesterday and by the Board. They must find ways to bring our membership to the direct attention to the foreign trade organizations in Moscow, so that US companies are given consideration and more inquiries. Mr. Sushkov has assured me that he will aggressively lead such an effort.

We are opening wide the doors of the Council to new membership, and are mounting a vigorous campaign using all of our resources—Soviets, Americans, directors and members—all aimed at adding new members to the Council. We are upgrading the quality of the Council Journal, including its advertising program, to bring information about American companies to greater numbers of Soviet decision makers, and to increase information with respect to US-Soviet transactions, inquiries or leads. With increased advertising and circulation, we expect the Journal to break even this year.

Of great importance to the work of the Council, of course, are our committees. Yesterday morning we had very, very good meetings of seven of our committees. I won't mention them all except to say that at the Small Business Committee meeting there were so many of you who wanted to sit in on it—110 people—that we had to find another room to hold the meeting. This, to me, is indicative of the tremendous interest on the part of smaller companies throughout our country in trying to find ways to trade with the Soviet Union.

A US exhibit on the environment, recycling and energy is being planned to be held in Moscow in late 1985. This is under the Science and Technology Committee. They will determine when it would be best to hold this exhibit, and we hope that it will be as successful as the agribusiness exhibit last October. This exhibit should open up opportunities for the sale of environmental control equipment, recycling equipment and energy projects. The Commerce Department has assured us that they will grant the necessary export licenses.

Also in your folders you have a new list from the Department of Commerce on products that can be exported to the Soviet Union. We first had such a list in Moscow in November of 1982. The Department of Commerce has now brought this up to date and added some new products and pieces of equipment.

The Council's Science and Technology Committee also has under consideration a technology exhibit of Soviet products and equipment. This exhibit could travel throughout the United States in 1986. Some of the Soviet technology being considered is a way of reprocessing rubber to make new rubber, cattle feed made from natural gas which is as rich in vitamins and proteins as soybeans, and the utilization of the residue from fruits after squeezing for food enrichment. The Soviets say they may exhibit another product, which I believe will be an instant success in the United States. They claim that they have an ingredient which, added to vodka, will eliminate hangovers. Chairman Baibakov told me about this, and told me that he personally had tried this—that he and an associate had gone to his dacha and consumed 120 grams of vodka. That is much more, he said, than he had ever had in his life, because he doesn't drink very much. And yet, the next morning, he woke up with no hangover. So I think this is good news to all of us, and we hope our Soviet friends are very successful with this new product.

We are also planning a series of regional meetings around the United States to make American businessmen more aware of trade opportunities in the Soviet Union. And, equally important, we are increasing the seminars by United States companies in Moscow, from 30 that were held in 1983 to 40-50 in 1984.

When I returned from Moscow in March of this year I reported to the President on my trip. I explained, thanks to Minister Sushkov, that I had visited with 10 Soviet ministers, that I had been received warmly, that each minister I visited was concerned about our political relationship, that each thought steps could be taken to start normalization of relations. All of them thought that it was up to the United States to make the first move. I think many Americans are aware of the fact that some of us feel that it's up to the Soviets to make the first move. Our job, in this Council, is to build a climate of trust and friendship between our countries so that our governments can again sit down at the negotiating table.

President Reagan was most interested in my report. He said he appreciated the work of the Council. He wished us well for this meeting, and then he sent me this letter, which he asked that I read to you today:

"I appreciate the opportunity to welcome Soviet participants in the plenary session of the US-USSR Trade and Economic Council. It is encouraging that leading representatives of American industry and their Soviet counterparts can meet to discuss trade and economic issues of mutual interest. The US government supports mutually-beneficial, nonstrategic trade between our two countries. Your meeting, and the activities of the Council, including the Agribusiness 83 trade show in Moscow last October, demonstrate that a key element of the structure for trade between our two countries remains in place, and that we can build upon it if an improvement in international conditions permits. I look forward to hearing the results of your most important meeting."

Signed, Ronald Reagan.

We on the American side truly want to welcome our Soviet friends to this meeting in New York.

I also want to thank the United States companies that are represented here today and the large contingent of directors that we had yesterday, and our Executive Committee for their support for the Council's activities over the years.

We can build bridges between our two countries through our activities. We must keep the dialogue going between us. And, if we can, I think that we can reach the mission that I believe we have all set for ourselves—peaceful coexistence, reduced tensions, normalized relations and friendship.

And that, ladies and gentlemen, is what this Council is all about, and what is needed if we are going to increase trade.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, we are momentarily awaiting the attendance to the floor of the Senator from Colorado [Mr. ARMSTRONG], and the Senator from South Carolina [Mr. THURMOND].

Let me comment on a couple of points with respect to trade. Of course, the Congress itself compromises. We have the Afghanistan crisis. The Congress votes to cut off grain trade with the Soviets. Then, of course, the Congress comes back under this particular administration and votes to resume trade, particularly the grain. That could be a critical material. They say in the infantry, Senator, that the army marches on its stomach. If you feed them good, you will get a good march. If you do not, they are not going to march very far.

I am not trying to be supertechnical, and I think the Senator from North Carolina is right on target with his listing of the computerization and communcations material, and everything else which I am going to check into along with him. But on the subject of trade, there are those who believe that we shall not have any trade with the Soviet Union. They believe we ought to have a confrontational approach to this because even if you put up Pizza Huts over there, then you somehow have given the Communist system some viability, some sustainability, and a chance at success whereby if left alone, it is going to fall on its own record—die, drift away. I do not think so.

I think we have to bring out capital system right in contest with the Communists. I do not have any doubt which will prevail. So in addition to having music, sports events, cultural visits, everybody looking around and smiling and grinning, I think we ought to use trade as a weapon so long as we are not really advancing strategic materials to our Communist counterparts in the Soviet.

So believing in trade, I also believe in the matter of leverage. The Senator from New York was correct in his quotations. But it should have been in the context of what Mr. Verity was saying just a month ago, on September 10, when he appeared before our committee. Senator DANFORTH, our ranking member, was questioning him. And I quote Senator DANFORTH:

> And I take it that your view is that while America is a country which should stand for principle, we also have commercial interests. We also have economic interests. And we have to be on the lookout for ways of taking a position as a country and standing strong as a country, but at the same time not always being the ones who are going to let somebody else have an advantage in international trade.
>
> MR. VERITY. I am afraid the situation has deteriorated to the point, Senator, that we can no longer afford that idea that we can let everybody else take our markets. We are really in not a war but close to it of trying to recapture markets that we have allowed to get away from us.
>
> One of the problems with sanctions or other things is that you have made or we have made the American businessman unreliable in markets. He has made a deal, and then all of a sudden a sanction comes along and he has to abrogate that deal. And so then the next time you try to make a contract with whoever it is, they consider you an unreliable trading partner. We cannot afford to be unreliable trading partners.

That is not the full record. I am taking that out on page 91 and 92. I read on page 21 where Senator DANFORTH asked the distinguished nominee about his view on Jackson-Vanik, and I quote here:

Mr. Verity:

> I think the easiest thing to do is for me to tell you my view on Jackson-Vanik. And it is an item that I have worked with for many years.
>
> Jackson-Vanik is the law of the land, and I intend to uphold that. And that's exactly what Mac Baldrige did. And it seems to me that it is a well-founded position.
>
> But in addition to all that, Jackson-Vanik was put on the books because of the concern for human rights that is peculiar to America. And it was put into a trade bill as a means of trying to get the Soviets to increase emigration of Jews from the Soviet Union. I have supported that. I believe that it is an important instrument for the Jewish community to have as a lever to try to encourage the Soviet government to increase their emigration so that I shall support Jackson-Vanik.
>
> I would like to qualify that by saying that I do believe that if the Soviet government would be willing to increase emigration by some amount—and I don't know what that amount is—I believe that the Jewish community in this country would be willing to work with the Congress on some modification, a waiver perhaps, which would make it possible to increase trade between the Soviet Union and the United States.
>
> So, I shall support Jackson-Vanik. I know why it was put there. I respect the reason it was put there. I believe that if we can get the Soviets' attention on this important subject, it would be possible to get a waiver which I think would be a very good thing.

But I think in fairness to the nominee that is equivocating. On Jackson-Vanik, we in the committee wanted to be assured; and that is why the gentleman received the 17-to-1 vote of approval.

Since I am commenting on trade, I ask unanimous consent at this point to put into the RECORD the "Agreed Report of the Eighth Session of the Joint U.S.-U.S.S.R. Commercial Commission". The delegation was headed by Macolm Baldrige, Secretary of the U.S. Department of Commerce. That was in 1985.

I ask unanimous consent to include that in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGREED REPORT OF THE EIGHTH SESSION OF THE JOINT U.S.-U.S.S.R. COMMERCIAL COMMISSION

The eighth session of the Joint U.S.-U.S.S.R. Commercial Commission, established by a joint communique in May 1972, was held in Moscow on May 20-21, 1985. N.S. Patolichev, Minister of Foreign Trade of the U.S.S.R., headed the Soviet delegation and presided over the session. The U.S. delegation was headed by Malcolm Baldrige, Secretary of the United States Department of Commerce.

During the word of the Commission, Secretary Baldrige was received by the Secretary General of the Central Committee of the CPSU, Mr. M.S. Gorbachev, and had talked with Ministers A.A. Yezevskiy and V.P. Lein.

In opening the session, Minister N.S. Patolichev said that definite prospects exist for developing equitable and mutually beneficial Soviet-American trade. Secretary Baldrige stated that the United States wants to develop a more constructive working relationship with the U.S.S.R. The U.S. side is of the opinion that an expansion of trade can be part of such a relationship and believes that both sides should take concrete steps to expand trade where that is now possible.

The U.S. side stated its belief that while useful steps to improve trade could be taken now, a fundamental change in trade relations could not take place without parallel improvements in other aspects of the bilateral relationship.

The Soviet side stated that it is opposed to tying trade to aspects of bilateral relations which in its view have no bearing on trade. It believes that the development of trade between the two countries can contribute to the improvement of bilateral relations as a whole.

The Commission adopted the following agenda:

1. Status and Prospects for Trade
2. Report of the Working Group of Experts
3. Trade Expansion Including Projects
4. Business Facilitation

STATUS AND PROSPECTS FOR TRADE

Assessing the statue of U.S.-Soviet trade, the Commission noted that although bilateral trade grew sharply in 1984 to $3.8 billion (3.1 billion rubles), the range of products traded continued to be limited.

The Commission agreed that an expansion in trade of mutual interest was desirable and possible and that it was the policy of each side to take steps to support such expansion.

The Commission noted that the potential for bilateral trade was not being utilized: Soviet exports to the United States remained at a low level, and U.S. manufactured goods exports were continuing to fall.

Both sides agreed that the main task of the Commission is to work toward elimination of obstacles to mutually-beneficial trade. They intend to provide assistance and support to the business communities of both countries in identifying areas of possible cooperation and concrete projects, and in restoring a climate of mutual confidence.

The Commission also discussed the current state of maritime and civil aviation relations. It agreed that progress toward the resolution of outstanding differences in these areas would contribute to further development of bilateral economic and trade relations. Both sides welcomed the resumption of bilateral exchanges of views on maritime and civil aviation questions and hoped that these would achieve concrete results.

REPORT OF THE WORKING GROUP OF EXPERTS

The Commission approved the reports of the heads of delegations to the fourth meeting of the Working Group of Experts held in Moscow Jan. 8-9, 1985, in accordance with the provisions of the long-term Agreement on Facilitation of Economic, Industrial and Technical Cooperation, which was extended for 10 years on June 29, 1984.

The Commission noted that it was the Working Group's frank exchange of views on the obstacles to trade, the steps each side sought for their resolution, and the prospects for expanding trade in various sectors, which laid the groundwork for a meeting of the Joint Commercial Commission.

The Commission agreed that the fifth meeting of the Experts Working Group would take place in Washington, D.C., in 1986, at a time to be agreed upon between the Cochairmen of the Commission before the end of 1985.

TRADE EXPANSION, INCLUDING PROJECTS

To aid trade expansion and the conclusion of mutually beneficial contracts, both sides agreed to assist in identifying appropriate sectors and projects which would be of interest both to U.S. firms and Soviet organizations.

The Commission analyzed the course of negotiations between U.S. firms and Soviet foreign trade organizations on a number of commercial projects and noted the interest of both sides in bringing them to a positive conclusion.

The Soviet side noted the absence of progress on questions of normalizing the conditions of mutual trade and providing export credits for the sale of American machinery and equipment to the U.S.S.R. It stated that U.S. firms had lost the reputation of being reliable suppliers in the Soviet market, and this had resulted in a reduction of orders for supplying machinery and equipment. The Soviet side believes that restoring this reputation is important for normalizing trade, and it will welcome appropriate steps by the Administration, Congress and the U.S. business community.

The U.S. side expressed its continued recognition of the importance of maintaining the reliability of our supplier relationship. It cited the Administration's support for new legislation which would provide a high degree of contract certainty to American firms and their foreign trade partners. With regard to normalizing conditions for trade, the U.S. side noted that official credits and Most-Favored-Nation (MFN) treatment for Soviet goods were dependent upon progress in other aspects of the bilateral relationship. The U.S. side stated that it hoped to see such progress soon.

The Commission believes that the process of improving conditions for trade expansion can be started by a gradual elimination of obstacles, where that is now possible. This would demonstrate to the business communities of both countries the intention of each side to contribute to strengthening mutually-beneficial economic cooperation.

In this spirit of cooperation, the U.S. side announced that it would introduce legislation in the Congress to eliminate the 34-year-old import embargo on seven types of furskins from the Soviet Union. It also stated that, to the extent consistent with present trade laws and the federal-state relationships in the United States, the U.S. side would attempt to see that Soviet Foreign Trade Organizations were not discriminated against in their efforts to sell in the United States.

In this same spirit of cooperation, the Soviet side stated that it would inform Soviet Foreign Trade Organizations of the Soviet side's interest in expanding trade with the United States, and that Soviet Foreign Trade Organizations would address bid inquiries to interested U.S. firms. It also stated that the Soviet Foreign Trade Organizations would consider U.S. proposals fully on their economic merits, taking into account foreign trade laws and regulations existing in the United States.

The U.S. side stated it was pleased that an increasing number of U.S. firms had received invitations to bid from Soviet firms since January 1985 and the several contracts totaling over $400 million had been signed. The U.S. side expressed its interest in having American firms serve as suppliers for appropriate Soviet projects under the upcoming 12th Five Year Plan.

The Commission discussed the U.S. analysis of over 30 projects which the Ministry of Foreign Trade had indicated as having potential for U.S.-Soviet cooperation. The U.S. side also identified over 20 other projects it believed to be of mutual interest. The U.S. side pointed out that most of the items related to these projects may currently be exported without a specific license and that, where required, a validated license would generally be approved for appropriate equipment associated with the projects listed.

In order to continue the efforts begun at this session of the Commission, both sides agreed to establish the practice of regular meetings between their representatives in Washington and Moscow for the specific purpose of attempting to identify and eliminate, where possible, obstacles to the completion of mutually-beneficial projects.

The Commission took note of the important role the U.S.-U.S.S.R. Trade and Economic Council (USTEC) has played in identifying areas for trade expansion and agreed that its efforts have been a useful starting point for concentrating attention on projects. The Commission agreed to continue to work closely with USTEC and to encourage it to develop additional detailed proposals.

BUSINESS FACILITATION

The Commission noted the importance of working conditions for firms and organizations engaged in bilateral commerce, and discussed the problems currently faced by firms and organizations of each country.

In order to expand commercial contacts and assist in the identification of concrete business opportunities, the U.S. side announced that the U.S. Department of Commerce will initiate a modest program for export promotion events in the Soviet Union beginning in 1985. These events may include trade missions, sales seminars and miniexhibits at the U.S. Commercial Office, as well as American participation in appropriate Soviet trade exhibits and fairs. The Soviet side agreed to furnish the necessary support for U.S. Government-supported events at the U.S. Commercial Office. These events will contribute to the development of trade and economic cooperation.

The Commission noted the importance of the business facilitation mechanism which has been utilized until 1980. Recognizing that business facilitation questions have accumulated since that time, both sides agreed to resume the practice of regular business facilitation meetings between their representatives in Moscow and in Washington.

Recognizing that the participation of small and medium-sized U.S. firms in bilateral trade requires special attention and assistance, the Commission asked the business facilitation group and the U.S.-Soviet Trade and Economic Council to consider possibilities on how to overcome the difficulties such firms encounter in trying to sell in the Soviet Union.

SUMMARY OF RESULTS

Summing up the results of the present session, the Commission believes that mutually-beneficial trade can contribute to the development of more constructive relations between the two countries. It also recognizes the economic benefits of this trade and supports its expansion.

Both sides recognize that in order to enhance the role of trade, it is necessary to respect the interests of the other side. Each side will consider possible steps toward improving conditions for a more complete trade relationship and will consult with the other.

Both sides agree that there are possibilities for the expansion of mutually-beneficial trade and economic cooperation. Noting the positive results and anticipated further benefits from trade in agricultural products, the two sides will take steps to expand trade in those industrial goods and services identified as being of mutual interest.

These steps will include the removal of obstacles to trade expansion where possible and consistent with the laws and regulations of each country. Both sides welcome the efforts of firms and organizations to explore prospects for expanding trade. Each government will encourage officials and buyers to visit the trade exhibitions sponsored by the other.

The U.S. Government is interested in American companies serving as suppliers for appropriate Soviet projects under the upcoming 12th Five-Year Plan. The Soviet side states that interested U.S. firms will receive bid inquiries, will have full opportunity to participate in Soviet projects and purchases open to foreign participation, and will have access to Soviet trade and purchasing officials. Within U.S. law and practice, the U.S. side will use its best offices to prevent discrimination against Soviet Foreign Trade Organizations.

Each side intends to expand trade and economic cooperation in accordance with its own laws, national security interests, and market demands. Accordingly, both sides agree to concentrate their activities in areas where concern due to these reasons will be minimal.

The head of the U.S. delegation announced that he would publicize the contents of the Agreed Minutes in the official magazine of the Department of Commerce, along with a message encouraging U.S. businesses to explore trading opportunities in the U.S.S.R. and mentioning President Reagan's desire for a more constructive working relationship with the Soviet Union.

The head of the Soviet delegation announced that he would send a letter to the Soviet Foreign Trade Organizations enclosing the contents of the Agreed Minutes. He stated his letter would inform foreign trade organizations of the Soviet side's desire to: see commercial cooperation with the United States increase by providing bid inquiries to interested U.S. firms; consider U.S. proposals fully on their economic merit; and provide U.S. firms with access to Soviet trade and purchasing officials, always taking into account foreign trade laws and regulations existing in the United States.

ON THE NINTH SESSION OF THE COMMISSION

The Commission decided to hold its next (ninth) session in Washington in 1986. The date and agenda will be agreed upon by the Chairman of the U.S. and U.S.S.R. sections of the Commission in accordance with its Terms of Reference and Rules of Procedure.

Done in Moscow, May 21, 1985, in two copies, each in the English and Russian languages, both texts being equally authentic.

MALCOLM BALDRIGE,
Head of the U.S. Delegation to the Eighth Session of the Joint U.S.-U.S.S.R. Commercial Commission.

NIKOLAI S. PATOLICHEV,
Head of the Soviet Delegation to the Eighth Session of the Joint U.S.-U.S.S.R. Commercial Commission.

THE SOVIET MARKET: HAS ANYTHING CHANGED?

The Joint U.S.-U.S.S.R. Commercial Commission meeting in Moscow May 20-21, which Secretary of Commerce Malcolm Baldrige co-chaired along with Soviet Foreign Trade Minister Nikolai Patolichev, was the first Cabinet-level trade meeting with the Soviet Union in seven years. Because of the significance of the meeting and the widespread interest in its implications for American business, *Business America* presents the following interview with the Secretary.

Q. Could you tell us about the purpose of your trip to Moscow and why a meeting of the Joint Commercial Commission was held?

A. My visit to Moscow and participation in the Joint Commercial Commission were a part of President Reagan's effort to seek better working relationships with the Soviet Union. The President believes that trade can contribute to this effort. Our purpose in Moscow was to reestablish a mechanism for resolving commercial and economic problems, to explore the opportunities for peaceful trade, to improve market access for U.S. companies in the Soviet Union, and to solve some trade problems where that was possible.

By "peaceful trade" we mean trade in goods and services that are not prohibited for national security reasons, and trade that is consistent with our existing laws and policies. We are not interested in, and will not even consider, any weakening in the effectiveness of the multilateral system of export controls aimed at protecting strategic technologies.

A broad range of products can be exported to the Soviet Union under our regulations. Most of our $3.3 billion of exports to the Soviet Union are agricultural products. We see room for expansion there, but we also believe that there are prospects for an expansion of nonstrategic manufactured goods as well. We think there are good prospects, for example, in food processing, agricultural chemicals, building materials, pulp and paper equipment, pollution control equipment, irrigation equipment, and a broad range of consumer goods production equipment, to name a few.

Q. What did the meeting accomplish?

A. I think the main accomplishment was that Soviet Foreign Trade Minister Patolichev and I reestablished a structure for regular high-level review and resolution of bilateral trade and economic problems. We convened the Joint Commercial Commission for the first time in seven years, and had practical discussions that resulted in several specific steps that should lead to an increase in trade. The importance which both governments place on expanding peaceful trade was underlined by my two-hour meeting with General Secretary Gorbahev. I gave him a letter from President Reagan, and we discussed trade and other aspects of our relationship. As a result of these meetings, I believe that the environment for bilateral trade has improved, and American business will find a more interested attitude on the part of Soviet purchasing officials.

Q. What steps did the Soviets agree to take?

A. The most important step was that Minister Patolichev agreed to take some actions which we believe will improve market access for American firms. The Soviets agreed that all interested U.S. firms would receive bid inquiries from Soviet Foreign Trade Organizations. This is critical to doing business in the U.S.S.R. the way their system works. If you don't receive an inquiry from a Soviet trade organization, you are simply shut out of the market. Many U.S. companies trying to do business in the U.S.S.R. the last couple of years have told us this is what happened to them. We expect this to change.

Minister Patolichev agreed to send a letter to all the Soviet Foreign Trade Organizations, telling them that the proposals of American firms should be considered fully on their economic merits and that U.S. companies should have access to Soviet trade and purchasing officials. Also, the Soviets agreed to end their restrictions on holding U.S. company seminars and exhibitions at the U.S. Commercial Office in Moscow.

Q. What other actions were agreed to?

A. For our part, we announced that we would introduce legislation to end a 34-year-old import embargo on Soviet furskins. This is not a major step, but it will eliminate an irritant in the trade relationship. Lifting the ban won't greatly affect Soviet exports or the U.S. industry. Roughly 80 percent of U.S. mink production, for example, is exported and already competes successfully with Soivets furskins in world markets. We also agreed that we would attempt to see, to the extent consistent with U.S. laws and policies, that Soviets Foreign Trade Organizations were not discriminated against in efforts to sell in the United States.

Finally, both sides agreed to set up a "Projects Subcommittee" of the Commission to follow-up on U.S. company business proposals, to reestablish a business facilitation committee to help resolve problems of office space and the like, and to begin discussions later this year aimed at obtaining a new bilateral maritime agreement.

Q. Will these steps result in a major change in our trade relations with the Soviet Union?

A. No. I made it quite clear in Moscow that there could not be a fundamental change in our trade relationship without parallel improvements in other aspects of our relationship. The U.S.S.R., for example, does not have Most-Favored-Nation (MFN) treatment in the United States. U.S. law, the Jackson-Vanik Amendment to the Trade Act of 1974, links MFN and official credits to the issue of emigration. The position of the Administration and the American people on this issue has not changed, and there will not be progress on MFN or credits in the absence of improvement in emigration.

Q. What do you see as the outlook for U.S.-Soviet trade?

A. While trade should grow as a result of the steps we agreed to take at the Commission meeting, we should not expect too much at this time. The reason for our meeting was to set up a mechanism so that we could start talking and solving some of the problems we have. This can create the basis for steady, solid steps—depending on what happens in the rest of the relationship, because we can't view trade in isolation.

Overall, I think the outlook is for modest trade growth. For some individual companies, of course, there would be some major contracts that would be a significant boost to their business and to U.S. jobs. Under an optimistic scenario, our exports to the Soviet Union, now $3.3 billion, might reach as much as $5 billion within a few years; but it will take more than a Commission meeting or two for trade to reach that level.

Q. What is the Department of Commerce going to do in following up on the agreements reached at the Commission?

A. We need to see that the commitments made by both sides are carried out. We will want to see that U.S. companies actually get the kind of access they need in Moscow. As

> U.S. companies put forward proposals for projects in the Soviet Union, we will follow up through the newly-established Projects Subcommittee of the Commission. This subcommittee will meet periodically to review proposals with the Soviets, in cases where U.S. companies want us to do that, and to help bring these projects to completion. As companies come to us with problems involving office space in Moscow, telephones, visas, and other practical matters, we will try to resolve these through the reconstituted business facilitation group.
>
> This fall we plan to begin a program of trade promotion events in the Soviet Union. We are planning a full range of company seminars and exhibitions at the Commerce Department's U.S. Commercial Office in Moscow. We are thinking about some trade missions, and we are also contemplating participation in some Soviet trade fairs in Moscow.
>
> Q. What do you advise U.S. companies to do? Is this a good time for them to look at the Soviet market?
>
> A. For the experienced company with the right products, I would say yes, this is a good time to look at prospects in the U.S.S.R. In the first place, we have assurances from the Soviets that they will provide full access for U.S. companies and that they will take U.S. company proposals seriously, looking at them on the basis of their economic merits. Secondly, I think the Commission meeting generated increased Soviet interest in doing business with U.S. companies. And third, the Soviets are putting the final touches on the new Five-Year Plan, that will run from 1986 to 1990. Companies showing an interest in projects under that plan will have a good chance to compete for business.
>
> The Soviet market remains a tough one in which to try to do business. Actually making sales will require careful analysis, perseverance and commitment. And companies have to be sure they understand our export control regulations to ensure that what they want to sell is acutally exportable.

Mr. HOLLINGS. My reason for its conclusion is that we are all hearing the praise of the late Secretary and it is more than justified. But it is saying that while he was just grand, his successor, Mr. Verity, is a man of a different stripe. I think not. I think that Mac Baldrige headed up that same United States-U.S.S.R. kind of economic summit as I entered in the RECORD earlier today, with respect to President Reagan's policy. So we do not have a wild card that is out willy-nily trying to beef up trade with the Soviets land disregarding the fundamental tenents of President Reagan's administration, or this Government.

Mr. President, the Senator from North Carolina raises a concern, which is mine also, about the confidentiality of the records of the shippers export declarations. The policy has been set on confidentiality under the Export Administration Act of 1979 as amended in 1985, and without reading the entire act, it says:

> All information obtained at any time under this act or previous acts regarding the control of exports, including any report on license application required under this act, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request to the chairman or ranking minority member of such committee or subcommittee.
>
> No such committee or subcommittee or member thereof shall disclose any information obtained under this act or previous acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interests.

Now it so happens the Senator from North Carolina and the Senator from South Carolina believe it is in the national interests that we not withhold. But apparently from the act itself and the policy by the Congress, the law on the statute books, I think any Secretary would have to try to be very cautious that he not reveal confidential information which the Congress has set in this particular policy.

While there is a clause in here whereby the Secretary can release such information if determined by the Secretary to be in the national interests, it seems the Congress determined that it is in the national interests to have confidentiality. And where he is given that volition I think it ought to be made clear. And I would join with the Senator from North Carolina in making that clear so that we can pass an act and we can all know what is going on with business in America as well as even the Soviets know what is going on with business in America, as the distinguished Senator from North Carolina has emphasized.

I think more than anything else it will give the public of America an understanding about the so-called strategic materials and prohibition against the shipment thereof to the Soviets. It appears to me from the computer printouts that much of the equipment and products, materiel, if you please, is of that nature.

I am rather surprised to see it all listed there. And I know we are into a situation whereby we have got to study whether that kind of computerization could be easily available from 5 to 10 other countries. And, if so, we do not want to lose the business. And yet, at the same time, there has got to be some kind of a policy where there are certain strategic materials—we are into Cocom in Europe. We all sit down and agree on this and we want to make certain we are adhering to that policy.

I retain the balance of my time.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I spoke this morning before cloture in behalf of Mr. Verity, and I now would like to make a few more remarks in regard to it.

Mr. President, I would like to reiterate my support for Mr. Verity. By definition, commerce means "the buying and selling of goods, business, and trade." Mr. President, we need a businessman at the Department of Commerce and Mr. Verity is the man for that job.

The best testament to one's ability is the adulation of his peers. Mr. Frederick B. Dent, president of Mayfair Mills in Arcadia, SC, and a former Secretary of Commerce under President Nixon, has the following to say about Mr. Verity:

> Mr. Verity's familiarity with and commitment to the success of American business is exemplified by his service as Chairman of the Chamber of Commerce of the United States several years ago. He also has an extensive list of civic and charitable affiliations which clearly indicates his respect for fellow man. As a matter of fact, Yale University has recognized him for his enlightened leadership by awarding him an honorary doctor's degree. He is an excellent choice for this Cabinet position and I strongly recommend your support of it.

Mr. President, Mr. Verity is a distinguished businessman and a leader. I believe that he will fulfill well his duties as our next Secretary of Commerce, and I urge my colleagues to vote for his confirmation.

As I stated this morning, some of my colleagues have raised concerns about his position on trade with the Soviet Union. So I talked to Mr. Verity in my office, and I asked him questions. And I have been assured by him that he is opposed to any trade with the Soviet Union that is not beneficial to the United States or that involves strategic materials which could pose a threat to our national security.

Mr. President, in view of the assurances he has given me, in views of his fine record as a businessman, a successful businessman, as a past president of the U.S. Chamber of Commerce, as a distinguished educator, and as a great humanitarian, I hope my colleagues will see fit to confirm him.

Mr. HELMS. Mr. President, I believe I have 5 minutes left, and I will not take that.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I am so grateful to the able Senator from South Carolina—both of them; I am bracketed in between the South Carolinians here—but I want Senator HOLLINGS to know that I am genuinely grateful for his interest in correcting the one flaw that concerns me most and that is leaving the American people out of the mixture in terms of knowledge.

As I said earlier, the American people are the only ones who do not know what is going on. I think the finest discipline to protect against all kinds of mistakes, and errors is to let the people know. I have, as the Senator does, an innate faith in the judgment of the American people. But if they do not know, if they are prohibited from knowing about these goods, technology, and sophisticated equipment that are just rolling forth into the Soviet Union, then they have no way of making a judgment.

I hope Mr. Verity is the best Secretary of Commerce we ever had. I thought highly of Mac Baldrige, as did we all. But I hope that Mr. Verity will be the best.

As to Jackson-Vanik, I am encouraged by Mr. Verity's statement that he will enforce Jackson-Vanik despite his earlier statements which Senator D'AMATO has read into the record. I note that Mr. Verity still does not say that he personally supports Jackson-Vanik, only that he will enforce it as written. It should be noted that he wants the law changed. So I hope I can give him the benefit of the doubt.

Now, as for the competitive situation in trading with the Communists, let us get one thing straight: They buy on price. We have entered into all sorts of LTA's, long-term grain agreements and so forth, and they have broken every one of them. They go where the price is best. They may say, "Well, the United States is a reliable supplier"—and that is true—but the fact remains when it serves Soviet interests to go somewhere else, an agreement does not mean a thing to the Communists in the Kremlin.

So I think that we have a duty to look after the national security of the United States. I know the Senator from South Carolina feels that way. I want to thank him for the comments that he has made this afternoon.

I repeat, Mr. President, I wish Mr. Verity well. I want to work with him, and will. But I reserve the right to discuss with him in the future any failure—if indeed he does fail—any failure to exercise the discretion which is permitted to the Secretary of Commerce, under the law, to make this information available to the American people.

I thank the Chair and I yield back the balance of my time, or I will yield it to the Senator from Colorado in addition to the time he already has.

Mr. ARMSTRONG. Mr. President, I am thankful to my friend from North Carolina for his generosity in yielding some of his time. I believe that under the unanimous-consent agreement that I have been allocated 10 minutes to address the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. And that would be plenty.

Mr. President, I think the President of the United States is entitled to great latitude in selection of people to serve in his Cabinet. By the very nature of it, a Cabinet appointment is a very personal appointment by the President of the United States. People who serve as the heads of the great Cabinets of our Government enjoy positions of special trust and responsibility in which ultimately they are accountable to the public as a whole to perform duties under the Constitution, but in a very personal way they are accountable to the President. Because they are not only his eyes and ears, they are the people who are charged with the responsibility of administering these departments.

So I think the President, any President, President Reagan, President Carter—whoever it is, is entitled to a presumption that he gets whoever he wants to run these Cabinet departments.

Only under extraordinary circumstances, I would think, would the Senate be justified in turning down the nomination of a person sent up here for a Cabinet department having been selected by the President.

Having said that, Mr. President, let me say that the fact that the President is entitled to great discretion does not necessarily mean that a President will wisely use that discretion. I will tell you, frankly, I have some doubt that in sending up the name of C. William Verity to be Secretary of Commerce, that President Reagan has acted wisely. The record which has been referred to at some length by other Senators, and I will not recapitulate it now, leaves open to substantial doubt, at least in my mind, whether or not Mr. Verity really stands for the same kind of policies that President Reagan does; whether or not, for example, he is as concerned about human rights, about the refuseniks seeking to leave the Soviet Union; about restraint on issues of strategic trade with the Soviet Union, as I think most Senators would wish to be and indeed as I think the President would wish to be.

The record is ambiguous about that and I, like the Senator from North Carolina, when Mr. Verity is confirmed—and I guess that is going to happen in the next few minutes, I have no doubt that he will be confirmed—I wish him well. I hope he will be a great Secretary of Commerce. But I think the record of his past public statements as reported from a wide variety of news media indicate that Senators have some reason to be concerned.

I am concerned that a very distinguished group of citizens in my own State, the Colorado Committee of Concern for Soviet Jewry, an organization and group of men and women in our State whom I have known and worked with and admired for many, many years, are sufficiently concerned about this that they have submitted a statement for the record during Mr. Verity's confirmation hearing which I will read a brief excerpt from and then would ask permission to print the entire statement in the RECORD.

In brief, the Colorado Committee of Concern for Soviet Jewry, a member of the Union of Councils for Soviet Jews submits the following materials:

> Our organization urges the Senate to: Reject Mr. Verity's nomination; and, two, schedule hearings forthwith to ascertain the Reagan Administration's policy on:
>
> (a) Subsidizing or facilitating capital transfers to finance Soviet trade; and
>
> (b) Using taxpayer-backed credits and loans in a hostage swap for a quota of Soviet Jews.

Over the years, as reported in a number of places, in the Wall Street Journal, in the Evans and Novak column, and elsewhere, Mr. Verity is quoted as saying things which were critical of the Jackson-Vanik amendment.

I talked to Mr. Verity about this and he says that he supports the Jackson-Vanik amendment. So, I guess if he says he now supports it, we have no reason to doubt his word on it. But it is disturbing to me that at a time when relations between this country and the Soviet Union were tense, that he made some statement such as the following. This is quoted, again, from the material submitted by the Colorado Committee of Concern for Soviet Jewry:

> I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians.

Perhaps history will record Mr. Verity as correct. I do not think that is true but perhaps that will be the outcome. The issue, though, is whether we ought to put international trade first or human rights first. I want to say this very cautiously, but I do not mean to accuse Mr. Verity unduly and I think there is some statute of limitations on statements that anybody in public life makes. I have certainly made some 5, 6, 7, 8, 10, 20 years ago that I would not like to have thrown up to me today. I expect other Senators could make the same observation.

But he evidently did make such statements and I just think it is important for the President to know and for Secretary-designate Verity to understand that these are matters of substantial concern.

Particularly let me say I am concerned because over and over again I have seen the Senate stand up to be counted on issues of human rights versus international trade and many, many times human rights have come out in second place when the question was, Should we sell grain to the Soviet Union? Should we sell equipment for an international gas pipeline to the Soviet Union?

Whenever we have had a direct, head on collision between human rights and economic concerns, there is a real doubt as to how that is going to turn out. It is not true that human rights have lost on every occasion. There are certainly some outstanding examples to the contrary. But I think the better tradition of the United States is that we care about human rights far above any considerations of international trade. I just want to make that a part of the record, that that is my view and my position.

Notwithstanding what Mr. Verity has said on previous occasions including on Radio Moscow and in various other forums at different times, I hope that, as Secretary of Commerce, he will understand that it is the policy of this Government, I believe it to be the policy of the President of the United States and at least on most occasions it has been the policy of the U.S. Senate, that human rights are first and international trade is second.

I remember that Winston Churchill once said something to the effect that over the course of my long public career I have frequently been forced to eat my own words and, on the whole, have found them to be very tasty.

Perhaps that would be the experience that Mr. Verity will have: Upon reflection, he will not want to further undermine the Jackson-Vanik amendment and other measures of human rights. I hope that, as he assumes an official responsibility, that he will have a broader gauged perspective of this than has been necessarily the case in his private role.

So, Mr. President, despite my concerns I am going to vote to confirm Mr. Verity. I could have decided the opposite because of some statements he has made over the years which I completely disagree with. But I think upon reflection, and particularly in light of some assurances that he has given me in private conversations, I think that the wiser course is to note these reservations and note these concerns and submit for the Record what the Colorado Committee of Concern for Soviet Jewry and others are saying and then simply make it clear to Mr. Verity we are interested, we are concerned and hope that he will conduct the Office of Secretary of Commerce accordingly.

Without question, Mr. Verity has years of experience both in the domestic business community and in the international arena. He was the former head of Armco Steel, and he served as national cochairman of the U.S.-U.S.S.R. Trade and Economic Council. From such a background, it is reasonable to assume that Mr. Verity would be able to deal with the complexities of international commerce.

Unfortunately, his record with respect to other areas that will be under his jurisdiction leaves a number of open questions that are vital to this Nation's position as leader of the free world.

Taken, for instance, the concerns raised by the Colorado Committee of Concern for Soviet Jewry, an outstanding human rights organization from my home State:

First, Mr. Verity advocated weakening United States human rights laws during one of the most repressive periods in recent Soviet history. He did so on Radio Moscow.

Second, Mr. Verity's policies would harm American consumers and businesses.

Third, Mr. Verity recommends a hostage swap, granting the U.S.S.R. most favored-nation trade status and taxpayer-backed credits and loans in exchange for a quota of Soviet Jews, which would harm human rights and damage long-term United States interests.

The committee notes that on Radio Moscow, Mr. Verity stated:

> I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians * * * I believe that the Jackson-Vanik amendment can be amended so that it won't have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because its just a barrier to trade with the Soviet Union and it does no good.

I would point out to my colleagues the effect of the Jackson-Vanik amendment has been to make it clear to the Soviets that the United States is committed to basic human rights. Andrei Sakharov, the distinguished Soviet physicist stated in an open letter to the United States Congress more than a decade ago that Jackson-Vanik is a "policy of principle." If it was rejected, it would signify "a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall."

On the specific issue of the emigration of Jews, I believe it is important to note one particular statement by Mr. Verity. A recent Evans/Novak editorial quoted Mr. Verity as saying, "The American Jewish community can never be satisfied on this matter." I would like to point out that the American Jewish community is not alone in its lack of satisfaction. I, for one, and I know I am joined by many of my colleagues, am not satisfied. And I will not be satisfied until the Soviet Union permits free emigration. Surely there can be no reasonable justification to keep average people, the type of people who make up this Nation of immigrants, from changing their country of residence if they choose.

Recently, Mr. Verity stated in his confirmation hearing before the Senate Commerce Committee that even though he viewed the Jackson-Vanik amendment that specifically mentions emigration as "counterproductive," he intends to uphold the law if he is confirmed. I hope that he will do more than merely uphold the law, but rather that he will work diligently and forcefully to insist upon improved human rights before any trade concessions are granted to the Soviet Union.

The most obvious litmus test of human rights compliance is freedom of emigration. At his confirmation hearing in September, Mr. Verity was asked what level of emigration from the Soviet Union would be considered satisfactory for easing trade restrictions. Mr. Verity stated that "a reasonable figure of somewhere between 15,000 and 25,000 a year would be a good starting point." In light of the fact that Soviet Jewry groups estimate that some 400,000 Jews would like to emigrate, Mr. Verity's figures seems terribly low.

The Colorado Committee of Concern for Soviet Jewry has made the following statement regarding Mr. Verity's views on Soviet emigration:

> Our organization considers the policy articulated by Mr. Verity morally reprehensible, legally indefensible and totally unacceptable. Americans who opposed buying hostages from Iran will properly oppose using tax dollars to ransom a quota of Soviet Jews.

As Commerce Secretary, Mr. Verity will have a role in balancing foreign policy with trade. In this regard, I am particularly concerned about his views on the issue of Soviet forced labor. The importation of goods made with forced labor has been banned since 1930 due to the often brutal conditions we know exist in many prisons and labor camps.

Despite the fact that we know conditions are deplorable in the Soviet Union, the United States presently bans not a single product from importation from the Soviet Union. I don't believe that reasonable people in America would willingly purchase goods made by people who are suffering in Soviet labor camps. Unfortunately, if we increase trade with the Soviet Union without any regard to the conditions under which those goods maybe produced, we will be adding to their suffering.

At a hearing held in the Senate Finance Committee in 1985, Vladimir Bukovsky, a noted scholar and former prisoner, spoke strongly in favor of banning goods made with forced labor. He states:

> I believe such action will lead to a decrease in the use of forced labor. I also believe that such action might force the Soviet authorities to consider broader economic changes and reforms in labor laws. This would be definitely a step in the right direction, and an important message from America to Russian people—a message of concern about the latter's well-being and freedom.

Earlier this year, the Senate attached an Armstrong/Moynihan amendment to the trade bill to ban seven products from importation that are made with forced labor in the

Soviet Union. With respect to that amendment, the AFL-CIO stated:

> It is both immoral and economically unconscionable to encourage Soviet exploitation of their workers or to reward such cruelty by contributing to a mounting trade deficit.

In addition to the effect on Soviet labor, it is important to think about the results of increasing trade with the Soviet Union when a number of those who will be negatively affected are Americans. Think about the worker who knows that he might lose his job because products being made with forced labor are entering the United States to compete against the same products he is making. Simply put, wage-earning workers cannot hope to compete against those who receive no wages beause they are imprisoned.

Before any new trade arrangements are made with the Soviet Union, I hope Mr. Verity, if he is confirmed, will take into consideration the effects that increased imports from the Soviet Union will have on human rights in the Soviet Union and on American workers.

The Colorado Committee of Concern for Soviet Jewry brings up another important point on how Mr. Verity's appointment could affect Americans. The Committee states the following:

> Mr. Verity failed to address important consequences of Soviet trade which could hurt consumers, businesses and U.S. interests in a variety of ways * * *.
>
> Americans don't accept nonconvertible Soviet rubles for their goods; they expect dollars. Those dollars would come from U.S. banks. That capital would be less available for American borrowers.
>
> Soviet borrowing would bid up interest rates, making loans for Americans more expensive. In contrast, Soviet loans would likely be syndicated at rates below market, making American borrowers pay higher rates to subsidize below-market Soviet borrowing.
>
> By advocating waiver of the Jackson-Vanik amendment, Mr. Verity would give the Kremlin access to taxpayer backed credits and loans from the Export-Import Bank and other government agencies, promoting subsidized transactions unable to survive on the open market.

If Mr. Verity is confirmed, I hope he will be as concerned about the impact on the American as he is with promoting business interests.

Another area in which Mr. Verity will have a pivotal role is in U.S. export control policy. As the recent export control case involving submarine propeller milling equipment indicates, we must be extremely careful about the transfer of technology and the resulting higher costs to be overcome due to lost advantages.

At his recent confirmation hearing, Mr. Verity addressed the issue of export controls by stating, "If we had reasonable controls, we could substantially increase trade with the Soviet Union." I agree that reasonable controls can be useful to increasing trade. However, I am concerned about the word "reasonable."

There were many divergent ideas of what constitutes reasonable controls. They range from relaxing controls on all but the most highly sensitive military technology to clamping down on a vast array of items that have been openly available on the market for years. Certainly, a balance must be struck, but it must not be at the expense of security for America and the free world.

In this regard, I sincerely hope that Mr. Verity will do more that he has indicated to date. I would urge him to lead the effort to encourage legitimate exports, but only when our national security interests are properly and effectively safeguarded.

In my remarks today, I have listed several priority items that must be addressed by any nominee for the position of Commerce Secretary. Therefore, I hope Mr. Verity is listening carefully. Those of us who have raised questions today have not done so simply to hear ourselves speak. Instead, we have serious, legitimate concerns about the future of this Nation's trade and foreign policy.

Past statements by Mr. Verity leave considerable doubt in my mind regarding his suitability as the caretaker and promoter of U.S. trade, foreign policy, and human rights interests. From the record, it would appear that Mr. Verity is lacking in sensitivity and compassion for those who are forced to remain in a totalitarian state. It would appear that he has less interest in security goals than is necessary to maintain a proper balance in overall U.S. policies. And it would appear that Mr. Verity is more interested in promoting trade regardless of the consequences than is appropriate for the position of Commerce Secretary.

The need to improve the United States' trading position is clear. However, it is equally if not more important that the United States maintain its effectiveness as the leader of the free world.

America is a trading nation, and as such it must continue to pursue opportunities. However, America is also a symbol of human freedom, and that designation carries a heavy responsibility. If we falter in our commitment to freedom around the world, if we falter in defending our Nation and our allies, we bear the full responsibility.

In closing, I would like to once again quote from the Colorado Committee of Concern for Soviet Jewry:

> Mr. Verity said on Radio Moscow that Soviet trade was "an important bridge to peace" which could lessen unemployment "which is a problem in our country." Would the Senate approve a Cabinet nominee who broadcast similar advice in 1937 over Radio Tokyo or Radio Berlin?
>
> History has judged harshly those in the 1930's whose misguided policies aided totalitarianism. Those whose policies would do so today will be judged more harshly.

Personally, I am concerned over Mr. Verity's nomination because of the many questions regarding his views on human rights, export controls and other issues. I hope he will give high priority to these concerns when he is confirmed as Secretary of Commerce.

With that explanation, Mr. President, I do send to the desk the material which I have referred to and ask that it be printed in full in the RECORD at this point.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

OPPOSITION TO NOMINATION OF MR. C. WILLIAM VERITY, JR.

The Colorado Committee of Concern for Soviet Jewry, a member of the Union of Councils for Soviet Jews, submits the following materials in opposition to the nomination of Mr. C. William Verity, Jr. as Secretary of Commerce.

RECOMMENDATIONS

Our organization urges the Senate to:

1. Reject Mr. Verity's nomination; and
2. Schedule hearings forthwith to ascertain the Reagan administration's policy on:
   (a) subsidizing or facilitating capital transfers to finance Soviet trade; and
   (b) using taxpayer-backed credits and loans in a hostage swap for a quota of Soviet Jews.

SYNOPSIS

Mr. Verity advocated weakening U.S. human rights law during one of the most repressive periods in recent Soviet history. He did so on Radio Moscow.

Mr. Verity's policies would harm American consumers and businesses.

Mr. Verity recommends a hostage swap, granting the USSR Most Favored Nation trade status and taxpayer-backed credits and loans in exchange for a quota of Soviet Jews, which would harm human rights and damage long-term U.S. interests.

STATEMENTS ON RADIO MOSCOW

On March 7, 1984, Radio Moscow broadcast an interview with Mr. Verity, who visited Moscow as co-chairman of the "U.S.-U.S.S.R. Trade and Economic Council." A transcript of the broadcast's salient points is attached as Exhibit A.

Using Soviet airwaves, Mr. Verity attacked bipartisan U.S. human rights policies:

On increased trade and other aspects of the Soviet relationship:

"I don't think it's really possible at this time to separate trade from the political environment, they're just too closely tied together, and that's unfortunate, because trade should not be tied to political situations."

On Congress and the Jackson-Vanik amendment:

"I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians . . . I believe that the Jackson-Vanik amendment can be amended so that it won't have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because it's just a barrier to trade with the Soviet Union and it does no good." [1]

On Most Favored Nation status for the USSR:

"In 1972, a trade agreement was made in which one of the purposes was to grant Most Favored Nation to the Soviet Union. I believe that still is a possibility and I believe it should be done."

Should the U.S. have a Commerce Secretary who used Radio Moscow to denounce a U.S. human rights law? Who did so while Russian civil rights workers supporting the American law at personal peril were being persecuted?

OPPOSING HUMAN RIGHTS LEGISLATION

Along with Dr. Armand Hammer, Mr. Verity was among the founding Directors of the "U.S.-U.S.S.R. Trade and Economic Council," an organization described by a scholar from the Harvard Russian Research Center as a de facto lobby against the Jackson-Vanik amendment: [2]

> The Trade Council was inaugurated on October 1, 1973, at a dinner in the Granovitovaya Palata in the Kremlin. Earlier in the day, Treasury Secretary Shultz had met with Brezhnev to discuss the Nixon's administration's strategy for squelching Henry Jackson's [Jackson-Vanik] amendment . . .
>
> The next day, Shultz met for two hours with Kosygin and [Council officials] gave a news conference to announce the Council's formation. Most of the conference was taken up with the subject of granting the Soviet Union most-favored-nation (MFN) status. . . .[3]

On September 10, 1987, Mr. Verity testified before the Senate Commerce Committee that the "first time I realized that Jackson-Vanik was a problem with trade was in 1975." Mr. Verity's claim is incredible, since he was among the Council's founding Directors two years earlier in 1973.

WARNINGS FROM CIVIL RIGHTS WORKERS

Mr. Verity's nomination contravenes warnings by former and present Soviet citizens who risked their lives to promote trade in people and ideas.

Attached as Exhibit B is a statement by former Soviet civil rights campaigner Vladimir Bukovsky made in 1985 to the Coalition for a Democratic Majority, the organization founded on the principles of the late Senator Henry Jackson.

Mr. Bukovsky urged that MFN, credits and loans be made dependent on complete, not partial, Soviet compliance with its existing human rights agreements:

> Some misguided individuals in the U.S. are advising President Reagan that he can promote human rights by increasing Soviet trade. Their advice contradicts the essence of the human rights movement. Andrei Sakharov himself warned, "Weakness, or even the hint of weakness and vulnerability to blackmail, is inconsistent with the defense of human rights and can lead to tragic consequences.". . . If President Reagan succumbs to the canard that compliance with human rights agreements depends on "better relations," he will assist the Politburo in vaporizing the final molecules of the Helsinki Accords.

In addition to supporting the Jackson-Vanik amendment, which Mr. Verity opposed, Nobel Peace Price laureate Dr. Andrei Sakharov wrote:

> Speaking of trade, industrial and general economic relations, Soviet propaganda usually stresses their mutually profitable nature. These assertions should be analyzed with care. Of course, once a particular company or Western country has gotten a jump on its competitors, it may realize temporary benefits, but on the whole, it is the USSR and the countries of Eastern Europe which are vitally interested in acquiring technology and credits. It will be totally unforgivable if the West fails to use this leverage to open up Soviet society.[4]

Mr. Verity opposed U.S. human rights efforts which Soviet citizens risked their lives endorse. His record shows acceptance of even the most repressive status quo.

Would Senator Henry Jackson vote to confirm Mr. Verity?

ECONOMIC CONSEQUENCES NOT ADDRESSED BY MR. VERITY

Mr. Verity failed to address important consequences of Soviet trade which could hurt consumers, businesses and U.S. interests in a variety of ways, described below in broad terms.

a. Capital Transfers

Americans don't accept noncovertible Soviet rubles for their goods; they expect dollars. Those dollars would come from U.S. banks. That capital would be less available for American borrowers.

Soviet borrowing would bid up interest rates, making loans for Americans more expensive. In contrast, Soviet loans would likely be syndicated at rates below market, making American borrowers pay higher rates to subsidize below-market Soviet borrowing.

By advocating waiver of the Jackson-Vanik amendment, Mr. Verity would give the Kremlin access to taxpayer backed credits and loans from the Export-Import Bank and other government agencies, promoting subsidized transactions unable to survive on the open market.

The USSR appears to use hard currency borrowing from western banks to sustain its empire and finance expansion. Such capital transfers could also give the Kremlin leverage in U.S. policymaking, empowering the Politburo to threaten future administrations with nonpayment.

b. Dumping and Countervailing Duty Laws

Mr. Verity's policies harm domestic producers and American workers. A loophole exists in U.S anti-dumping laws, exempting the USSR and east bloc regimes from countervailing duty penalties for dumping cheap, subsidized imports into the U.S. economy. Attempts by Congress to plug this loophole have been opposed by the administration.

Mr. Verity's policies would open the floodgates to Soviet goods produced for wages unacceptable in the west, sacrificing American jobs, hurting U.S. business.

c. Forced Labor

Closely related to dumping is the use of forced labor to run the Soviet economy. The Reagan administration has repeatedly frustrated efforts by Congress to apply U.S. laws on forced labor to Soviets imports.

Under U.S. law, forced labor is defined as: "All work or service exacted from any person under menace or any penalty for its nonperformance and for which the worker does not offer himself voluntarily." 19 USC § 1307

Article 60 of the Soviet constitution provides in pertinent part that "evasion of socially useful work is incompatible with the principles of socialist society." Article 209 of the RSFSR's legal code punishes "parasitism," in practice, one's refusal to accept "socially useful work" as decided by the authorities.

In Congressional testimony, former Soviet political prisoner Vladmimir Bukovsky, and Tom Kahn, Assistant to the President of the AFL-CIO, argued that all labor in the USSR could be viewed as forced labor, as defined under 19 U.S.C. § 1307, since it is exacted under threat of penalty for nonperformance and is not offered voluntary.[5]

Mr. Kahn testified:

> Not only has the administration failed to propose steps to enforce the law, but it appears to have moved toward the view that the problem is either nonexistent or beyond remedy . . .
>
> One might well argue that [in the USSR] forced labor is not confined to the 4 million workers in the camps. Considering the parasitism laws, the internal passport system, and other restrictions on the rights of workers to move freely and choose their own employment—restrictions all the more coercive in the absence of a genuine trade union movement—we could conclude that practically everything we import from the Soviet Union is produced in the words of Smoot-Hawley [Tariff Act of 1930] "wholly or in part" by forced labor . . . Forced labor is not confined to camps or prisons.[6]

Mr. Bukovsky agreed, and assessed the value of a U.S. embargo on Soviet imports:

> I believe such action will lead to a decrease in the use of forced labor. I also believe that such action might force the Soviet authorities to consider broader economic changes and reforms in labor laws. This would be definitely a step in the right direction, and an important message from America to Russian people—a message of concern about the latter's well-being and freedom.[7]

We agree.

A PROPOSED HOSTAGE SWAP

The Jackson-Vanik amendment states that if the President wishes to waive its restrictions by Executive order, he must certify that the USSR does not deny its citizens the right or opportunity to emigrate, or that he has received assurances that the USSR's emigration practices henceforth will lead to that objective.[8]

The statute does not mention quotas, nor does it mention Soviet Jews.

Nevertheless, Mr. Verity testified at his confirmation hearing that he would support waiving Jackson-Vanik if the Kremlin allowed approximately two percent of Soviet Jews to leave annually:

> Senator KASTEN. I'd like it I could to . . . ask you to state your position and the position that you would advocate in the Cabinet with the policy on human rights and trade relative to the actual numbers of immigrants that we would want to see be able to see leave the Soviet Union before we would entertain a relaxation of trade restrictions.

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[1] Nobel laureate Dr. Andrei Sakharov called the Jackson-Vanik amendment "a moral approach to political problems, in accord with the moral principles of American democracy." Alarm & Hope, Vintage Books (1978) p. 26.

[2] Finder, Joseph, *Red Carpet*, Holt, Rinehart & Winston (1983) p. 254.

[3] *Id.* at p. 259.

[4] Sakharov, A., Alarm & Hope, Vintage Books (1978) p. 109.

[5] Hearing Before the Subcommittee on International Trade of the Senate Finance Committee, July 9, 1985, (53-513) pp. 57-65.

[6] *Id.* at p. 57.

[7] *Id.* at p. 65.

[8] 19 U.S.C. § 2432

You may recall that in 1979, the number was approximately 50,000 immigrants who were allowed out of the Soviet Union. Is that a fair standard? Is that a fair benchmark?

VERITY. No I don't think 50,000 is. I think that was what you call a blip. But I do feel that there is a level and I don't know exactly what that level is.

Senator KASTEN. But you believe it would be less than 50,000?

VERITY. I believe it would be less than 50,000. . . . I would say that a reasonable figure is someplace between 15 and 20-25,000. Perhaps that will not be satisfactory, that's certainly a good starting point . . .

Our organization considers the policy articulated by Mr. Verity morally, reprehensible, legally indefensible and totally unacceptable.

Americans who opposed buying hostages from Iran will properly oppose using tax dollars to ransom a quota of Soviet Jews.

We oppose policies which substitute flesh peddling for the rule of law. Financing totalitarianism and abandoning millions to a police state damages U.S. interests.

We oppose any waiver of Jackson-Vanik until the Kremlin unconditionally and completely fulfills the human rights contracts it signed at Helsinki and removes its illegal barriers to people and ideas.

SPEAKING FOR AMERICAN JEWS

Mr. Verity said at his confirmation hearing that some Jewish leaders indicated that if Soviet Jewish emigration increased sufficiently, American Jews would support a waiver of Jackson-Vanik. Mr. Verity's belief is unfounded.

When the press revealed that Edgar Bronfman, who heads the World Jewish Congress and Morris Abram, who heads the National Conference on Soviet Jewry, secretly travelled to Moscow in March, 1987 and negotiated a hostage swap, the Jewish community reacted with outrage. Messrs. Bronfman and Abram were denounced by American human rights groups and by Soviet Jews themselves.

Longtime refusenik Vladimir Slepak declared that Mr. Bronfman and Mr. Abram "are definitely persona non grata in our [refusenik] community." [9] At New York's "Solidarity Sunday" rally for Soviet Jews, before a crowd of over 200,000 participants (including Mayor Koch), Messrs. Bronfman and Abram were publicly denounced, told to stay out of Moscow and warned to stop their harmful actions.

Messrs. Bronfman and Abram are the "Jewish leaders" whom Mr. Verity cites and whose actions he praises.

Mr. Verity has a quasi-conflict of interest in this matter. Mr. Bronfman serves on the Board of Governors of the "U.S.-U.S.S.R. Trade and Economic Council," the organization Mr. Verity co-chaired. Mr. Abram, an administration appointee, has estranged himself from the human rights community; among other things, he supports constructive engagement of the Kremlin, instead of divestment as recommended by Natan (Anatoly) Sharansky.

Neither American nor Soviet Jews support the hostage-swap, and the Senate should not confirm someone who does. Hearings should be convened promptly to determine to what extent the administration supports the hostage-swap.

UNACCEPTABLE ADMINISTRATION DOUBLE-THINK

We reject the recent self-serving statement from the administration paying lip service to the Jackson-Vanik amendment. The administration demonstrates pure double-think. Appointing an opponent of Jackson-Vanik doesn't support it.

We urge the Senate to compare Mr. Verity's present claims with his previous actions, and to reject as not credible representations which fly in the face of his unambiguous record described herein.

Would Senator Henry Jackson vote to confirm Mr. Verity?

CONCLUSION

Mr. Verity said on Radio Moscow that Soviet trade was "an important bridge to peace" which could lessen unemployment "which is a problem in our country." Would the Senate approve a Cabinet nominee who broadcast similar advice in 1937 over Radio Tokyo or Radio Berlin?

History has judged harshly those in the 1930's whose misguided policies aided totalitarianism. Those whose policies would do so today will be judged.

We urge the Senate to reject the nomination of Mr. C. William Verity, Jr. to head the Commerce Department.

We ask that hearings be convened promptly to determine administration policy on subsidizing or facilitating Soviet trade and on swapping credits and loans for a quota of hostages.

Dated: September 16, 1987.

LILLIAN HOFFMAN, *Co-Chair.*
RHODA FRIEDMAN, *Co-Chair.*
WILLIAM S. PEARL, *Policy Analyst.*

TRANSCRIPT OF MR. C. WILLIAM VERITY, JR., ON RADIO MOSCOW

Source: Radio Moscow, North American Service English language, shortwave.
Broadcast Date: March 7, 1984.
Time: 6:45, 8:45, 10:45 p.m. EST.

(Condensed text; ellipses show deletions)

ANNOUNCER. In 1951, at the height of the Cold War, the U.S. withdrew Most Favored Nation status from the Soviet Union. As a result, this country lost the standard trading rights granted by the United States to the vast majority of countries. . . Mr. Verity comments on this in the following way:

VERITY. It is true that the, tariff or the duties, uh, for soviet products on the American market is higher than they are on other European countries. In 1972, a uh trade agreement was made in which one of the purposes was, uh, to grant Most Favored Nation to the Soviet Union. I believe that is a possibility and I believe it should be done. . . .

ANNOUNCER. In spite of the importance of exports to the United States economy, the Congress passed the Jackson-Vanik amendment to the Trade Reform Act of 1974 which prevented Soviet-American trade from any substantial expansion. Mr. Verity holds the following view of this discriminatory trade legislation:

VERITY. I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians. . . I believe that the Jackson-Vanik amendment can be amended, uh, so that it won't uh, have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because it's just a, a barrier to trade with the Soviet Union and it does no good.

ANNOUNCER. Mr. Verity also mentioned that despite the pesent difficulties in Soviet-American trade, the Soviet side is willing to do its best to stabilize it and hopefully to expand. Mr. Verity goes on to say:

VERITY. I find that they would like to deal, with uh, with the United States. I think there's a friendship between our two countries, particularly between people. We like each other. They know that it's more difficult to deal with the United States right now, and they'll tell us that, that uh, really because of "your unreliability and the political problems it's easier for us to deal with France or Italy or Japan. But nevertheless we would like to deal with you and can't we work out a way?" Uh, thats happened with every Ministry that we've, uh, have been to on this visit. I believe that there is a reservior of good will sitting here, and that if we could eliminate the, the political morass that we find ourselves in, that there would be all kinds of trade opportunities. Uh, certainly, our Soviet-friends, uh, are available and want us to do business with us. The reason I, I feel so strongly about trade is that I think it's an important bridge to peace, so I think it's extremely important that, to keep it alive and help it grow as much as we can.

ANNOUNCER. Taking part in this program about Soviet-American trade was William Verity, Jr., Chairman of ARMCO, Inc. and co-chairman of the US-USSR Trade and Economic Council. You are listening to Radio Moscow.

THE VERITY NOMINATION

Mr. PROXMIRE. Mr. President, I will vote against the confirmation of C. William Verity as Secretary of Commerce. Mr. Verity has impressive credentials. He is the former chairman of Armco, the large steel company. He is a former chairman of the U.S. Chamber of Commerce and he cochaired the U.S.-U.S.S.R. Trade and Economic Council.

Clearly he has experience in the matters of jurisdiction to the Department of Commerce. But just as clearly his positions on trade with the U.S.S.R. and his record with regard to the environment do not recommend him for confirmation.

Mr. Verity has been an ardent and consistent opponent of the Jackson-Vanik legislation and he has often voiced his opposition to tying our economic relations with the U.S.S.R. to their improvement on the Soviet Jewish emigration issue. In taking this stance, he moves away from the mainstream of a primary American diplomatic initiative of two decades. Now it is true that in his confirmation hearing, Mr. Verity seemed to back away from his prior point of view but he did so in a way which did not disguise his lingering doubts about using U.S. trade policies for human rights purposes. And in so doing, he raised additional doubts in the mind of this Senator.

Trade with the Soviet Union is a complex and ever-changing condition in our bilateral relationship. In recent years we have been particularly concerned about the illegal flow of high technology to the Soviets—technology that one day may come back to haunt our own military establishment. The Senate Banking Committee has examined this problem and passed legislation to tighten the barriers to this hemorrhage of our industrial expertise. Mr. Verity has not shown in his testimony or his prior statements that he fully understands the seriousness of unlimited and open trade with the U.S.S.R. Nor does he appreciate the leverage that this trade allows us to exert on that regime through subtle as well as direct means.

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[9] New York Jewish Week, June 5, 1987.

Troubling as these matters are, it is Mr. Verity's environmental record which most convinces me to oppose his confirmation. Here is an individual who now says he will support the antipollution efforts of the National Oceanic and Atmospheric Administration as well as the EPA. That sounds good. But his record speaks of another commitment and resolve—that of unabashed pollution of our lakes and waterways.

That is a tough conclusion Mr. President. But it is backed by the facts. Mr. Verity was the principal public spokesman opposing enforcement of antipollution laws applying to his subsidiary firm, Reserve Mining, Inc., of Silver Bay, MN. That company was dumping 67,000 tons of iron ore tailings daily into Lake Superior—a body of water bordering on my State of Wisconsin. It took a suit by the Federal Government and three States, including my own, to bring this practice to a halt—over the objections of Mr. Verity up to the last minute. As one expert said about this incident, Mr. Verity was "pleasant, cooperative, self-confident and unapologetic."

As Hubert H. Humphrey III concluded based on extensive experience with Mr. Verity: "Mr. Verity remains an unrepentant polluter."

Mr. President, under these circumstances I cannot support this nominee. He carries with him too much of the past and he shows too little inclination that this past no longer fits the needs of our Nation.

Ms. MIKULSKI. Mr. President, I rise today to support the nomination of William C. Verity, Jr., to become Secretary of Commerce—and raise, at the same time, some reservations about confirming him.

My concerns relate to Mr. Verity's assertion that noneconomic factors such as human rights have no legitimate place in the discussion of tradematters. In Mr. Verity's own words, taken from an article in the American Banker in 1980:

> Our dated view of the world leads . . . to what I call "moral imperialism." This is where we try to dictate to other countries our ideas of what is right and what is wrong. We have been mixing this trade policy with human rights and other social and political objectives for far too long. We haven't recast the world. We have only succeeded in cutting out many trading partners by creating ill will. Our drive to reconstruct the world in our image has served only, directly, to make American business less competitive.

According to Mr. Verity, this "moral imperialism" extends to the Jackson-Vanik amendment to the Trade Act of 1974. That amendment, linking most-favored-nation status to the Soviet Union's performance on human rights issues, was characterized by Mr. Verity as "one of the terrible mistakes that was made by American politicians." Based on that assertion, Mr. Verity also said that he would do away completely with the Jackson-Vanik amendment.

During his confirmation hearings, Mr. Verity changed his position. He stated then that he will abide by the law, and not try to do away with this crucial amendment.

Mr. President, I am willing to take Mr. Verity at his word. I have no reason to doubt his sincerity. At the same time, I am putting him on notice that I am depending on him not to go back on that promise. The issue at stake here—human rights—is a vital one.

I, too, favor expanded trade for the United States, and I want to see increased opportunities for American business. At the same time, however, I want to know that these opportunities are not inconsistent with U.S. policies overall. Trade does not exist in a vacuum. If it did, we wouldn't have minimum wage or child labor laws and we wouldn't have laws that protect the security of the United States. Everything would be decided on the basis of dollars and cents—rubles and kopeks—marks and pfennigs. And that is not the kind of world that I think most Americans want to live in.

In conclusion, I want to quote from an article by one of the former chairman of a major U.S. corporation. In the article, which talks about the connection between the business world and the community at large, the author says the following:

> Businesses can't survive for long without profits, but neither can they survive for long if all around them is crumbling at their feet. Ignoring the wider world in which we do business not only brings us profit without honor, but will in the fullness of time bring us no profit at all.

I agree with those words. Whether we are talking about the rights of Christians and Jews to practice religion or free speech in the Soviet Union, or the right to demand fair wages and safe working conditions, we are talking about questions that cannot be answered in terms of profit alone. They are moral considerations, and, yes, questions of honor.

I hope very sincerely that Mr. Verity believes the words that I have just quoted above. He wrote them in 1982, and I hope, as Secretary of Commerce, he will be guided by the same words and noble principles that he has set out for others.

Thank you, Mr. President.

Mr. DURENBERGER. Mr. President, I rise to express my reasons for voting in support of the nomination of C. William Verity, Jr., as Secretary of Commerce. In reaching this decision, I have carefully considered Mr. Verity's qualifications and past record as chief executive officer of Armco Steel, chairman of President Reagan's Task Force on Private Sector Initiatives, chairman of the U.S. Chamber of Commerce, as a member of the President's Export Council, and as member of the board of directors of the Chase Manhattan Bank.

Two weeks ago, I met with William Verity to discuss some of my concerns about his nomination. Mr. Verity had served as Armco's CEO during a period of time that Armco, as co-owner of Reserve Mining of Silver Bay and Babbit Minnesota, was engaged in a highly charged lawsuit brought by the U.S. Government and the States of Minnesota, Wisconsin, and Michigan. In many ways, this lawsuit reflected how a company that in the 1950's and 1960's brought jobs and wealth to Minnesota, ultimately could not cope with the environmental demands that we expect of corporate citizens today.

I believe it is necessary to provide some background to this contentious litigation that polarized nearly all of my constituents. In 1922, Armco, which had been frozen out of the national ore fields by the larger and more dominant steel companies, entered into a research arrangement with the University of Minnesota to try to find a way to commercialize taconite ore. It took nearly 20 years for Armco and the University to develop such a process. Finally, Armco developed a pelletizing process for the taconite ore that effectively doubled the production of America's blast furnaces.

Armco worked with the State of Minnesota and the Army Corps of Engineers to determine a suitable location for a pelletizing plant. Ultimately, Silver Bay, MN, was selected as the site for the plant. One of the key factors in reaching this decision was the economic savings that would result if the taconite tailings from the plant were disposed of in a deep trough in Lake Superior.

In pioneering the commercial processing of taconite in the 1950's, Reserve was seen as "an economic savior" of the Minnesota Iron Range. At the peak of its operations, Reserve brought nearly 3,200 jobs to the State and broadened the tax base of rural Minnesota.

However, it is clear to me that if in the 1950's the Federal Government and the State of Minnesota had been aware of the environmental implications of disposing of taconite tailings in Lake Superior, I am sure that the U.S. Corps of Engineers and the State of Minnesota would not have approved permits for such dumping. And had there been that environmental awareness, I trust Reserve would have developed a nonpolluting land disposal system that would have enabled Reserve to continue operating today.

Unfortunately, the State of Minnesota and the U.S. Government engaged in nearly 8 years of protracted litigation seeking to end lake dumping. Although Reserve could have decided to close down its taconite operations, the company committed nearly $172 million to developing a nonpolluting land disposal system. The decision to continue operations saved nearly 2,800 jobs on the Iron Range in the late 1970's.

But the subsequent economic plight of the steel industry in the 1980's, with worldwide overcapacity and plunging commodity prices, proved fatal for Reserve. When Armco's partner in Reserve, LTV, filed for bankruptcy last year, Armco found it impossible to continue the Reserve operation. Babbit and Silver Bay have yet to recover from this decision. This is a tragedy that has affected all of the citizens of my State.

Mr. President, I think Reserve could have worked harder to develop the technology to dispose of taconite tailings in a more environmentally satisfactory way. Mr. Verity, at his confirmation hearings expressed his regret over this entire matter:

> One of the things I regretted most was that we were not able to find a solution to the problem sooner. Had I known the feelings of those people for Lake Superior, I think I would have been more sensitive sooner.

Although Mr. Verity's statement cannot redress the grievances of the people of my State, I accept it as an apology to the citizens of Minnesota for the actions of the company that he headed.

Mr. President, I believe William Verity's longstanding association with the steel industry will make him especially effective in helping to reinvigorate the domestic steel industry, which will significantly benefit the iron ore workers of my State. While he is a strong supporter of a free and open international trading system, he is well aware of the fact that some of our trading partners have severely hurt our dometic industries by engaging in unfair trading practices, especially predatory dumping.

As Armco's chief executive, he frequently criticized the dumping of steel imports on the U.S. market at artificially low, subsidized prices. And he was instrumental in convincing both this administration and the previous administration to curb the practice by limiting the imports from nations that supported the unfair practices. As recent corporate reports show, the President's steel import program is working, and many companies are returning to profitability.

I believe his experience in fighting unfair trading practices will send a signal to our trading partners that America will not tolerate predatory pricing that destroys our industrial base. And I strongly support his view that while our export control laws should be modified so that sensitive technology products should not be exported to the East bloc, our export control laws should not prevent American companies from exporting products that are generally available from our trading partners.

Moreover, William Verity does not believe that American exporters should be held hostage to American foreign policy. And to me, that means we will have a Commerce Secretary who will not advocate a shoot-ourselves-in-the-foot policy of embargoing American grain to further a foreign policy objective.

Finally, Mr. President, I want to thank the attorney general of Minnesota, Hubert "Skip" Humphrey III, and Grant J. Merritt, former director of the Minnesota Pollution Control Agency for bringing to my attention the fact that while William Verity served on the board of directors of the Chase Manhattan Bank, it approved loans to develop Brazilian iron-ore reserves. As many of you know, Brazil has been exporting a large volume of iron ore in recent years which has underpriced Minnesota iron ore and taken a large market share from Minnesota companies.

I have asked Mr. Verity what, if any, role he had in the placement of these loans, and he indicated to me that when the issue of granting a further extension of a line of credit to the Brazilians was raised in 1979, he was unaware that the proceeds were being used to develop Brazil's iron-ore facilities. No vote was ever taken on the extension of this line of credit. And when the original line of credit was established in the early 1970's, and the merits of the project were fully debated, William Verity was not a member of the Chase board.

Mr. President, the tragic and untimely death of Malcom Baldrige has created a void at the Department of Commerce at a critical time for our Nation's international economic relations. I believe that William Verity has the depth of international business experience that will enable him to serve effectively as the next Commerce Secretary.

I cannot condone the activities of Reserve Mining during the protracted litigation in the 1970's. However, I believe that today William Verity has a better recognition of the sensitivities and needs of the people of Minnesota. I will therefore vote to confirm him for this important position.

Mr. BENTSEN. Mr. President, I support this nomination. I have known William Verity for many years. He is a man of integrity. He is a man of competence. He is a "can-do" administrator. He is not an ideolog. He has indicated a willingness to work with Congress during the waning days of the current administration, and to help this country solve its considerable trade problems. I believe that these are the reasons the President nominated William Verity to fill the shoes of the late Commerce Secretary, Malcolm Baldrige.

There are approximately 15 months left in this administration's term. It is nearly over. But the problems still unsolved are as pressing as ever. To the extent that he can, I believe that this nominee will help us to try to solve these problems, and will do so in an effective, nonconfrontational manner. I do not believe that we could ask for very much more.

I know that there have been some questions raised about the nominee's actions when he was in the private sector and about his views on trade with the Soviet Union. I have heard these criticisms. I have listened closely to the nominee's answers. They have been candid. They have been placed in context.

Based on the testimony before the Commerce Committee by William Verity's supporters and detractors alike, I think the criticisms, while important to listen to, nevertheless miss the mark. This is not a nomination to be administrator of the Environmental Protection Agency. This is not a nomination to be Secretary of State. It is to be Secretary of Commerce. As important as environmental matters are, they will not be his responsibility. As significant as human rights are in the Soviet Union, they are not something he will be called upon to deal with daily.

I think that we have gone on for too long now without a permanent Secretary of Commerce. We need one. I know that C. William Verity will make a good one. Mr. President, I hope that the Senate will confirm him.

Mr. WALLOP. Mr. President, I oppose the nomination of Mr. C. William Verity because I remain unconvinced that Mr. Verity understands the fundamental connection between human rights and business as usual relations with any country, but especially with a nation whose system of government is the model for modern tyranny: the Soviet Union.

His avowed interest in expanding United States-Soviet trade without any linkage to human rights or the fate of Soviet Jewry in the Soviet

Union makes him, in my judgment, unfit to hold the Office of Secretary of Commerce in the Reagan administration. His critical remarks of the Jackson-Vanik amendment, which he described in an interview with Radio Moscow as a "terrible mistake(s) that was made by American politicians," demonstrates that he neither understands nor cares to understand the nature of the United States-Soviet conflict.

Mr. President, we can expect from Mr. Verity only the pursuit of expanded United States-Soviet trade on its own terms. His statements that we might link trade directly to the release of Soviet Jews and others are morally repugnant. The Government of the United States should not and cannot be seen as willing to trade for human beings.

Mr. President, at a time when the United States is already setting aside its concerns about Soviet human rights abuses in the pursuit of an arms control agreement the the Soviet Union, we should not be sending yet another signal of weakness on the human rights front to the Soviet leadership.

This senator believes that it is an irreconcilable contradiction to vote for Mr. Verity and support the ideals that this Senate embodied in the Jackson-Vanik amendment. I urge all my colleagues who support those ideals to vote against Mr. Verity's nomination.

Mr. LEAHY Mr. President, because of the nomination on the floor today, it is appropriate to raise the issue of whale protection.

The Secretary of Commerce must, as Secretary Baldridge did, negotiate with the Japanese on whaling practices. I am voting for Mr. Verity today because, among things, he has publically stated his support for whale conservation and his commitment to employ economic sanctions against the Japanese if they refuse to abide by international agreements.

Japan will soon commence "scientific whaling" despite the resolution by the International Whaling Commission [IWC] and in disregard of the agreement negotiated between our two nations.

When the IWC adopted its worldwide moratorium on commercial whaling in 1984 the Japanese Government filed an objection and refused to observe the moratorium. Under U.S. law the administration could have invoked sanctions against Japan's fishing industry for diminishing the effectiveness of the IWC, but instead it chose to offer Japan a phase-out of whaling over a longer period of time. In 1984, Secretary Baldrige entered into a good faith agreement with the Japanese Government whereby our Government would withhold sanctions in return for Japan's commitment to end commercial whaling after April 1988. Thus, the 1986-87 season was to be the last for Antarctic whaling.

The agreement was controversial because it allowed the Japanese whaling industry two more years of Antarctic whaling. However, it did result in a withdrawal of Japan's formal objection to the moratorium and an agreement that whaling would be halted 2 years later.

Now Japan has advised us that they will not only allow whaling, but also subsidize expeditions to kill hundreds of whales in the name of scientific research. A resolution adopted by the IWC last June specifically addressed the scientific merits of the proposed Japanese program and called upon Japan to refrain from conducting that research whaling. To kill the whales under these circumstances would be to violate both the IWC resolution and the spirit of the bilateral agreement.

In the Senate confirmation hearings, Mr. Verity stated his support for the IWC's conservation program and said that he would certify Japan if the Government does not follow the IWC resolution. The Japanese Government should be on notice that certification under the Packwood-Magnuson and Pelly amendments will be forthcoming if their proposal is implemented.

For many years the United States has played a leading role in international efforts to conserve the great whales. I believe it is essential for our Government to continue this strong commitment to conservation and to have as our Secretary of Commerce a person who will work toward this goal.

NOMINATION OF C. WILLIAM VERITY TO BECOME SECRETARY OF COMMERCE

Mr. CHILES. Mr. President, I would like to say a few words about the nomination of William Verity for the position of Secretary of Commerce. Mr. Verity's professional and leadership credentials are impressive. His position on the President's Task Force on Private Sector Initiative, his chairmanship of the Armco Steel Co. and the U.S. Chamber of Commerce have provided him with the breadth of experience to carry out his responsibilities in an exemplary fashion.

My sole concern does not regard Mr. Verity's capabilities, nor his achievements. Rather, it is the question of whether Mr. Verity intends to uphold the Jackson-Vanik amendment, as he has pledged to do. In my view, it is extremely important that Mr. Verity fully support a basic policy which maintains that until all of those who wish to emigrate from the Soviet Union are allowed to do so, we cannot ease existing trade restrictions. After studying Mr. Verity's statements on this matter, I will accept that Mr. Verity does understand the importance of this matter. With this in mind, I shall vote for his confirmation.

Mr. HATCH. Mr. President, I take no pleasure in opposing the President's nominee to succeed my friend Malcolm Baldrige. In fact, I would be happy to support Bill Verity for another post in the administration as long as it does not deal with the Soviet Union. But the Secretary of Commerce has important influence on our trade policy toward the Soviets, and Mr. Verity has a severe blind spot in that area that disqualifies him in this Senator's view.

Now, Mr. President, I know the White House is defending Bill Verity by claiming that he was just ordered by President Nixon to carry out détente policy and that it was Nixon and Henry Kissinger who instructed him. But the White House lobbyists have no explanation for what Bill Verity said on Radio Moscow 3½ years ago on March 7, 1984. This interview is the reason I must oppose Bill Verity as Secretary of Commerce.

Mr. President, one of my highest priorities has been to obtain the release of Soviet Jews and their emigration to Israel or elsewhere. I visited the Moscow Choral Synagogue in August 1983 to discuss the case of a number of Jewish refuseniks. I have adopted one family, the Khassins of Moscow, and been attacked in the Moscow Evening News for my activity on behalf of the Khassin family. Anatoly Scharansky has kept me informed about their progress in obtaining visas to Israel. So, from my own personal involvement, I have reviewed Bill Verity's record. His Radio Moscow interview stands out as the main symbol of why he is unsuited for this post.

On March 7, 1987, Bill Verity made three points to his Soviet audience that I believe speak for themselves. I am confident that President Reagan was not aware of this incident when he approved his nominee.

First, Mr. Verity said, "I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians." All my fellow Senators who vote to confirm Mr. Verity should consider that sentence and what it means. My fellow Senators should consider whether they approve of this criticism of Jackson-Vanik being made over Radio Moscow. Now I know that our Commerce Committee chairman Senator HOLLINGS just quoted Mr. Verity's testimony to the Commerce Committee that Mr. Verity said he intends to obey the law on Jackson-Vanik, the same way Mac Baldrige did, but what did the chairman expect? Could Verity say he would disobey the law of the land and still expect confirmation? I think not.

The second point with which I disagree in Mr. Verity's Radio Moscow interview is denial of any linkage between trade and diplomacy. I quote:

> I don't think it's really possible at this time to separate trade from the political environment, and that's unfortunate, because

trade should not be tied to political situations.

That is it. Our nominee does not want to use linkage to obtain the release of Soviet Jews, as I read this interview. And, what is worse, he is telling it to the Soviets directly on Radio Moscow.

The third point in this Radio Moscow interview is the worst. Mr. Verity comments on most-favored-nation status for the Soviet Union. I quote:

> In 1972, a trade agreement was made in which one of the purposes was to grant most-favored-nation status to the Soviet Union. I believe that still is a possibility, and I believe it should be done.

I remember very well in 1973 when the most-favored-nation status was blocked by the efforts of Senator Scoop Jackson, while George Shultz, then our Secretary of the Treasury, met with Leonid Brezhnev in Moscow to reassure him on Jackson-Vanik. It was a mistake, and the Congress reversed it with the Jackson-Vanik amendment. I hope Secretary Shultz doesn't make the same mistake again. The Senator from Colorado has made an important point that he is concerned about this issue but wishes to vote to confirm anyway. I feel that the message of concern will be a little stronger by my voting against Mr. Verity because of his insensitivity on the issue of Jewish emigration from the U.S.S.R., an issue I have been deeply concerned about. Frankly, I believe Bill Verity should recuse himself from this issue in the Cabinet.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. ARMSTRONG. I do, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, most of the time now has been yielded back. I think the vote has been set exactly at 4:15, so we will be yielding to the majority leader for a quorum call momentarily.

Let me say the fundamental principle involved is not something categorical or relative to trade as a lever. The distinguished Senator from Colorado said he hoped that Mr. Verity would carry out President Reagan's policy.

I can give you an update on President Reagan's policy. That policy is not to use trade as a lever. I refer particularly to our ally down in the Pacific there, New Zealand.

I happened to have headed the delegation there in 1976. Senator Baker, Senator Griffin, Senator Culver—we went down and we talked with then Prime Minister Muldoon. We had the policy change where the Prime Minister allowed the acceptance of Navy vessels, nuclear vessels in port at New Zealand.

Now we have tried to exact that same thing out of Prime Minister Langley in New Zealand. At the time the negotiations were carried on, it was emphasized in the press by Secretary Shultz that trade was not a leverage.

I think back at the time when President Lyndon Johnson was in office. At the time of the war in Vietnam, LBJ, in his famous way said: "Well, now, we will take all your lamb in the United States." And in return New Zealand joined in with our troops in Vietnam.

We have economic weapons that must be used in the overall national interest. I happen to believe in leverage. I happen to believe in Jackson-Vanik. But there has been a footdragging in this administration with respect to that leverage.

So, I think Mr. Verity has made himself clear. I know he comes to our State with the highest of recommendations. He has only been there momentarily, as a retiree, and only for a few months. I have already heard from a distinguished member of our State legislature, Ms. Harriet Keyserling; the mayor of Beaufort, Mr. Chambers; the former Secretary of Commerce, Fred Dent; another member of our Department of Commerce, Mr. John Trask; and a former president of the U.S. Chamber of Commerce, Mr. Bob Thompson. I have a long list, Mr. President, who immediately upon the Verity nomination contacted me to tell me what an outstanding individual he is. I believe it and I am proud to support that nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I believe the speakers have taken all the time that they seem to want to consume. The vote was earlier scheduled to begin at 4:15 p.m., I believe, and it would have been a 15-minute vote. Thus, it should have ended at 4:30 p.m. today.

I ask unanimous consent, Mr. President, that the vote begin now and that at 4:30 p.m. today a call for regular order be automatic.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of C. William Verity, Jr., to be Secretary of Commerce. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. STAFFORD] is necessarily absent.

I also announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Kansas [Mrs. KASSEBAUM] would vote "Yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 11, as follows:

[Rollcall Vote No. 321 Ex.]

YEAS—84

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Harkin
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—11

D'Amato
DeConcini
Dixon
Grassley
Hatch
Helms
Humphrey
Kasten
Proxmire
Reid
Wallop

NOT VOTING—5

Dodd
Gore
Kassebaum
Simon
Stafford

So, the nomination was confirmed.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JUDGE BORK

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not he has been able to ascertain, through his conversations, the possibility of our getting an agreement to begin forthwith on the Bork nomination and complete action thereon tomorrow at 6 o'clock.

Mr. DOLE. Mr. President, if the majority leader will yield, we have made a number of inquiries on this side, and we are still in that process.

The distinguished ranking member of the Judiciary Committee, Senator THURMOND, I think, is agreeable to a vote this week. It is a matter that I will take up when we have about 40 Senators together in one place later this afternoon. It is pretty hard to track them down. I hope to be able to give the majority leader some definitive word tomorrow morning, either way.

I understand that the majority leader does not want it to be pending several days. I wonder whether, as an alternative, if we cannot agree to take it up this week, we could agree to take it up, say, next Tuesday morning and vote Wednesday evening.

Mr. BYRD. Mr. President, the report will be filed tonight and will be printed and available tomorrow. Under the rules, the distinguished Republican leader and I can take it upon ourselves and jointly waive the 2-day rule. I am not only ready but eager to do that.

I hope that if we cannot get consent today to waive the report and get to the nomination this evening, the distinguished Republican leader and I can join tomorrow morning to waive the 2-day rule and get the nomination up.

The President says he wants to vote this week. Let us give Mr. Bork a vote, not only this week but earlier than the end of the week, so that we can do some other things.

We have appropriation bills. We have the War Powers amendment around. We have catastrophic illness legislation. We have the Labor-HHS appropriation bill. That has been called up. Hopefully, we can get action on those before the week is out, also.

So I cannot do more than urge or request unanimous consent to take up the nomination today. I am helpless to take it up, under the rules, as I have already indicated. Except by unanimous consent, the 2-day rule cannot be waived. The report is going to be filed. The one alternative is that the two leaders waive it. There is nothing I can do today to get it up.

Tomorrow morning, I will revisit this matter with the distinguished Republican leader, and I hope at that time we can join in waiving this requirement for the report, get on the nomination, have a good, long day of debate tomorrow thereon, and vote Thursday afternoon at 3 o'clock or 4 o'clock. In that way, we could easily get 15 hours of debate on the nomination, by 4 o'clock on Thursday.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I am glad to yield.

Mr. DOLE. Let me discuss that again with my colleagues, and let me get back to the majority leader in the morning. I think there are some on this side who just do not want to vote this week. We will discuss it this afternoon, and I will be back to the majority leader.

Mr. BYRD. I thank the minority leader.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. BYRD. Mr. President, there will not be any more rollcall votes today.

The matters that may be discussed this afternoon are the War Powers Resolution, the Labor-HHS appropriation bill, catastrophic illness. Not on either of the latter two can action be taken, because a number of Senators on both sides are trying to work out an amendment on catastrophic illness. On the Labor-HHS appropriation bill, we cannot finish that this evening because some of the Senators will not be here. They will be leaving. I do not think we are ready to get an agreement on the War Powers matter.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be morning business for not to exceed 1 hour and that Senators may speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Republican leader and all Senators.

PRESIDENT ARIAS RECEIVES NOBEL PRIZE

Mr. HARKIN. Mr. President, the Nobel Committee has just awarded this year's peace prize to Oscar Arias Sanchez, President of Costa Rica.

The selection of President Arias is in keeping with the tradition of leaders given this award, such as Lech Walesa of Solidarity, Bishop Desmond Tutu of South Africa, Andrei Sakharov of the Soviet Union, and Martin Luther King of the United States, to name just a few of the recipients of this award. All would be proud to have Oscar Arias join them on the roster of promoters of peace.

For the work he has done in promoting peace in Central America, President Arias richly deserves this reward. Back in February, President Arias first announced his proposal to bring peace with democracy to Central America. This proposal, which marked the first time the Central Americans themselves stepped forward to control their own political destiny, at first was given little chance of success. However, we did not realize then that President Arias' initiative would crystallize the longstanding desire of the Central Americans to put an end to the civil wars that had caused so much death and so much destruction for so long to their respective countries. It was this desire, plus the personal intervention of President Arias, that led to the signing of the peace accord by the five Central American Presidents on August 7.

This plan, in my estimation, is a masterful work of diplomacy. It does not rely on the good faith of the Sandinistas or the good faith of the government of Napoleon Duarte or the intentions of the President of Guatemala, President Cerezo; nor does it place blind trust in their desire to institute, on their own, democratic reforms. Rather, the Arias plan is designed as a process—with each step taken toward a democratic opening, leading to another irreversible step in the process. In short, it is visionary yet realistic, and offers all of us, in the United States and Central America, a way out of the cycle of violence that has gripped Central America for the past decade.

And by most accounts the process is working. Reconciliation commissions have been created in El Salvador, Guatemala, and Nicaragua. Peace talks between guerrillas and government representatives for El Salvador and Guatemala have begun.

In Nicaragua, censorship has been lifted both for the radio stations and for the newspapers. La Prensa and Radio Catolica can now operate free of any interference or prior censorship. Dialog has resumed between the government and the internal political opposition.

So, Mr. President, a lasting peace may be some way off in Central America but the process has taken a giant leap forward.

The Arias plan has also had an irreversible impact on the policy debate in the United States. For the past 7 years, the domestic political debate in Congress has centered on the question, "Do you support aid to the Contras?"

Now, as a result of the Arias initiative, the question now on the table is whether or not you support the peace process.

The Nobel Committee, by designating President Oscar Arias the recipient of its 1987 Nobel Peace Price Award, has clearly and unequivocally answered this question.

The issue that Congress will face within the next month is whether it joins the international community in endorsing the central Americans' desire for peace as expressed in the Arias peace proposals.

A new era of independence is dawning throughout Latin America. Through the Contadora process initiated in 1983 and now in the Arias plan, our Latin neighbors have begun grappling with their own political problems, and set a middle course free from Soviet interference and independent of unilateral dictates of the United States.

Thanks to the leadership of Oscar Arias, Latin America has embarked on a rendezvous with its political future. I hope that Congress exercises the good sense to heed the call for independence now stirring in Latin America.

So I join, Mr. President, with countless others, in extending my congratulations and a hearty "Well done" to President Oscar Arias for receiving the 1987 Nobel Peace Prize.

Mr. **KENNEDY**. Will the Senator yield?

Mr. **HARKIN**. I am delighted to yield to my distinguished colleague.

Mr. **KENNEDY**. Will the Senator yield for a question?

First, let me join the distinguished Senator from Iowa in commending the Nobel Committee for selecting President Oscar Arias of Costa Rica as the recipient of the 1987 Nobel Peace Prize. In citing President Arias as a spokesman for "democratic ideals, with freedom and equality for all," the Nobel Committee selected a man of vision, determination, and courage who has worked tirelessly to promote peace and democratic values in Central America.

Since his election as President 1½ years ago, President Arias has achieved what many believed impossible—a peace plan signed by all five Central American Presidents. Despite lack of support from this administration, despite criticism that the countries of the rgion would never abide by it and despite seemingly overwhelming obstacles to a negotiated settlement of the internal and external difficulties of each of the individual countries, President Arias forged forward, explored, and quietly negotiated an extraordinary document.

On November 7, the success of the Arias plan will not be certain. Its progress will not be perfect; its weaknesses will be visible and its omissions will be criticized. But this plan is the best hope for peace in the region in many years. For 7 years we have tried the military option of this administration—which has only brought us further from our goals. The time has arrived for us to try a negotiated, peaceful, and Central American solution.

Would the Senator from Iowa agree that in the selection of Oscar Arias that the Nobel Prize is following in the proud tradition of Lech Walesa, Andrei Sakharov, Desmond Tutu, Amnesty International, Anwar Sadat, Mother Teresa, and most recently Elie Wiesel? They are extraordinary men and women of our times, extraordinary individuals who have demonstrated exemplary personal and political courage in combating the causes of violence, and of discrimination in their respective countries or regions.

Would the Senator agree with me that Oscar Arias certainly falls within that tradition and that the Nobel Committee has made a very wise choice in using its extraordinary prestige to advance the cause for peace in Central America?

Mr. **HARKIN**. I think the Senator has hit the nail on the head.

Yes, Oscar Arias does join that pantheon of individuals, such as Lech Walesa and Martin Luther King, individuals who have understood that peace does not just come from the barrel of a gun. As many of those who supported the Contras for so many years, and who still do, who believe that the only path to peace in Central America is through the barrel of a gun, do not recognize that there is another path the path of peace and reconciliation through mediation, through amnesty, and through healing the wounds that tore them apart in the first place.

These were the ideals that Lech Walesa, Martin Luther King, and so many others stood for. Oscar Arias stands for that tradition.

Mr. **KENNEDY**. Perhaps the Senator had the chance to hear Oscar Arias advancing his proposal before the Senate Foreign Relations Committee. Shortly afterward, the Senate voted overwhelmingly, 97 to 1, in favor of this plan.

Would the Senator agree with me that there are men and women not only in Central America but in other parts of the world who have a strong commitment to democratic values, democratic ideals, and democratic sensibilities as do the Members of the Congress and Americans themselves? And this extraordinary individual, Oscar Arias, has demonstrated a willingness to take a chance for peace.

I remember those words of Oscar Arias when he said, Let us try and "Give peace a chance." It might just work. No one was minimizing the complexities or the difficulties his plan faces. No one is naive about the problems of implementing that program. But would the Senator agree just with me that is a challenge we cannot ignore in this body?

Mr. **HARKIN**. I think the Senator is absolutely right. We cannot ignore it. The Nobel Committee has recognized just what the Senator has spoken of—the tremendous desire of so many Central Americans to seek a peaceful solution to the years and years of bloodshed and anguish that they have suffered—by rewarding the individual who is foremost in the fight for a peaceful resolution of those conflicts.

Sometime, we are going to have to discuss openly in front of the American people all of the little things that have been done to President Arias over the last year to try to thwart him, to get him to back off on his peace proposal, the economic pressures that were placed on him, the threats that were made in terms of what might happen to economic assistance to Costa Rica if in fact he pushed ahead with this proposal, the fact that when he ran for President in Costa Rica that right-wing groups in this country poured money into an opponent of his to defeat this man of peace, this man who wants to bring peace to Central America.

Fortunately the people of Costa Rica had the good sense not to listen to the propaganda on the other side, and he was elected President.

The success of the Arias proposals shows the strong desire of the Central Americans for peace. I am just greatly upset when I find that elements in this administration have been using the threats of withholding economic aid or in some way restricting the kind of economic aid that he can get for his country to pressure on Oscar Arias not to move ahead with his peace proposal. I find this bordering on the unconscionable.

The American people ought to know about this activity especially now in light of the fact that President Arias has attained a world stature for being worthy of the Nobel Peace Prize.

Mr. **KENNEDY**. Mr. President, I commend the Senator from Iowa for bringing the matter to the Senate. I know that he speaks, as I do, for a great number of Members of this body who have the high regard and respect for this extraordinary patriot and statesman.

I thank the Senator.

Mr. **HARKIN**. I thank the Senator from Massachusetts for his statements in this regard.

I yield the floor.

Mr. **PELL**. Mr. President, President Oscar Arias of Costa Rica deserves the congratulations of this entire body on the occasion of his being awarded the Nobel Prize for Peace in Stockholm today. This courageous and dedicated man, against the most formidible of obstacles, has forged and molded a plan that is the best opportunity for peace that Central America has seen for years. Many of us in the Congress have strongly supported President Arias and the Central American peace plan based on his original proposal. On his recent visit to this country, I took the opportunity to personally tell him of my gratitude for his dedication to peace.

The momentum toward peace that is now taking place in Central America because of the work of President Arias is a credit to this man of deep conviction. Who would have believed that with their seemingly intransigent positions, the Government of El Salvador and the FMLN/FDR armed opposition would be holding peace talks? Who would have believed that the Government of Guatemala and the leaders of the guerrilla insurgency would be meeting for the first time in over two decades? Who would have believed that the Sandinista government in Nicaragua would be taking major steps toward national reconciliation so that Nicaraguans of all political persuasions could participate in their nation's political life? It was a dream to many of us but to President Oscar Arias it was a vision that could become a reality.

The international acclaim embodied by the Nobel Prize for Peace for President Arias is recognition by the entire world that the long-suffering people of Central America deserve the peace that this man envisioned. It is incumbent upon all peace-loving people of the world to continue their support for President Arias and to help him in the task of bringing a real and lasting peace to the region. Congratulations to President Oscar Arias and to the people of Costa Rica.

Mr. BIDEN. Mr. President, today it was announced that President Oscar Arias of Costa Rica will be the recipient of this year's Nobel Peace Prize.

I would like to extend congratulations to President Arias and to applaud the wisdom of those who selected him to be the recipient of the prestigious award.

The Arias plan is the most significant step toward peace in Central America in memory. It is an historic initiative, born of the dreams of a man who believed that the solution to the problems of his region could be found through diplomacy rather than gunfire. Such dreams are what the Nobel Peace Prize is all about.

President Arias and our other allies in Central America are painfully aware that the agreement they signed in Guatemala City with the Sandinistas is only the first step down a long and bumpy road. There is an enormous amount of work to be done in the days and weeks ahead, and it will require determination, perseverance, and above all, patience.

In honoring President Arias today, I urge my colleagues and President Reagan to honor not just the letter but the spirit of the Arias plan. This is the time for the United States to demonstrate its full commitment to a negotiated solution to the problems of Central America. We must become a positive participant in the regional peace effort—not an obstacle to its progress. In so doing, we will enter a new era in our long partnership with Central America: an era of peace, prosperity, and democracy.

The PRESIDING OFFICER. The Senator from Colorado.

THE NOMINATION OF JUDGE BORK

Mr. ARMSTRONG. Mr. President, Judge Robert Bork, who has been nominated by President Reagan to be a member of the U.S. Supreme Court, has been subjected to a bitter, personal, vindictive, savage personal attack over the last several months. Now that the Judiciary Committee has had its turn at bat and the interest groups have had their chance to express their opinion, I think it is about time that some of the rest of us who are not members of the Judiciary Committee but who have watched the proceedings before that body, and, what is worse, the campaign of political terrorism throughout the country conducted in the newspapers and on the television stations of this country, I think it is about time that some of the rest of us, who have been indirectly involved, now step forward, as the debate begins in this Chamber, to express our concern and indignation over the way that this matter has been handled.

Mr. President, from the very day that the news was announced that Judge Bork was President Reagan's choice for the Supreme Court, Mr. Bork has been the target of the most extraordinary and unfounded accusations that I can recall. Now, my experience here goes back about 15 years, and I suppose that in some decades past that there may be some historic parallel. But the better traditions of the Senate are that, in considering matters of serious import, particularly the nomination by a President of the United States to the Supreme Court, Senators and commentators in the media and interest groups have been far more restrained and far more truthful than has been the case in the Bork nomination.

I started to make the point that even before the nomination was officially before the Senate, they started unlimbering a barrage of charges which have been repeated endlessly; charges which, if true, would disqualify Judge Bork from consideration by the Senate and confirmation. But these charges are not true.

In fact, they are exactly what Washington Post Columnist Edwin Yoder wrote a couple of months ago. And I quote: "This twaddle"—and, by the way, Mr. President, that is a word that one does not often hear, but I think it accurately sums up some of the discussion about Judge Bork. But, to return to quoting Mr. Yoder: "This twaddle is what Adlai Stevenson used to call 'white collar McCarthyism.' "

Mr. President, that is exactly what it is. It is a technique which McCarthy used and others over the years have used from time to time of repeating endlessly, in variation, over and over again, in a coordinated, concerted attack, untruthful statements and telling them so often that they begin to assume a life of their own and, pretty soon, people begin to believe what they hear.

When interest groups take out ads and Senators make statements and Congressmen make statements over and over again, it is only natural that thoughtful people, whose day-to-day attention is not focused on the matter, begin to believe what is being said.

Most people, at least the ones I talk to at home, are not thinking about the Supreme Court every day. They are not thinking about the Senate every day. They are preoccupied with the more ordinary concerns of making a living and raising their families and making ends meet. And so, when they hear endlessly repeated statements of an extreme nature about a person who has been nominated for the U.S. Supreme Court, it is only natural that concerns arise.

Mr. President, it is not my purpose today to deal with all of these or to try to put the entire matter into perspective. But I want to start that process today and, over the next few days prior to the time that we come to a vote on the Bork nomination later this week or next week, I hope to comment on several aspects of it.

But the beginning of it is to say a word about the nature of the campaign, a political campaign against Judge Bork. Now, there is nothing wrong with a political campaign. Every Senator here got here as a result of a political effort.

But to politicize the selection and confirmation of members of the judiciary in the way that has been the case in this instance, I think is not only unfortunate—indeed, it may well be tragic for Judge Bork and those who are close to him, and I do not happen to be; he is an acquaintance of mine, a person whom I have admired. But there is an element of personal tragedy for him. That is not my primary concern.

My concern is when ads, such as this one which appeared in the New York Times a few days ago, start to show up around the country making charges which are not substantiated, which are not factual, and which, in fact, are misleading and untruthful, it pollutes the process. And, indeed, even if the charges which were raised here were entirely true—and they are not; they are completely off the mark, let me say—there is a serious doubt in my mind that the public interest is well served by politicizing the process. And those are the two issues which I would like to address briefly today.

Mr. President, this particular, advertisement, which did appear in the New York Times on September 15, has a headline which says: "Robert Bork Versus the People." It goes on to make these observations, among others: "The nomination of Robert Bork for a vacant seat on the Supreme Court has caused a lot of controversy and has a lot of people worried. With good reason. Robert Bork is a Federal judge and former law school professor with extremist legal views."

Now that is brief—the ad goes on at some length—is the kind of thing which Mr. Yoder correctly called "twaddle" and which the Chicago Tribune summed up in these words, not referring to this particular article or to this particular ad, but to the general campaign against Mr. Bork which has so often emphasized this question of whether or not he is a legal extremist or whether he is in the mainstream. The Chicago Tribune wrote the following:

> The American Civil Liberties Union has become the latest lobby group to condemn the nomination of Robert Bork to the Supreme Court, accusing him of being a "radical." In the words of the ACLU's executive director, "He thinks the highest right in this society is the right of local majorities to make law and to impose their morality on the rest of society."
>
> Allowing for the gross exaggeration that has come to be the rule in attacks on Judge Bork, the ACLU's complaint is that Judge Bork has a bias in favor of democratic government. In this respect he is a radical like Thomas Jefferson.
>
> In fact, the rhetoric of opposition is getting so extreme and misshapen that it is threatening to disfigure not only the nominee but everyone involved.

I am not going to read the entire editorial, but I do ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Disfigured Debate Over Bork

The American Civil Liberties Union has become the latest lobby to condemn the nomination of Robert Bork to the Supreme Court, accusing him of being a "radical." In the words of the ACLU's executive director, "He thinks the highest right in this society is the right of local majorities to make law and to impose their morality on the rest of society."

Allowing for the gross exaggeration that has come to be the rule in attacks on Judge Bork, the ACLU's complaint is that Judge Bork has a bias in favor of democratic government. In this respect he is a radical like Thomas Jefferson.

In fact, the rhetoric of opposition is getting so extreme and misshapen that it is threatening to disfigure not only the nominee but everyone involved.

Judge Bork has been accused in the New York Review of Books of being a "constitutional radical who rejects a requirement of the rule of law that all sides * * * had previously accepted" because he regards "central parts of settled constitutional doctrine mistakes now open to repeal." This charge of radicalism is a repeating refrain among his opponents. But if the willingness to reverse mistaken court decisions is radicalism, then so was the first school desegregation case, because it overturned a decision that had sanctioned the racist Jim Crow system.

Beyond trying to make Judge Bork out to be a radical, the critics cannot seem to agree on exactly what is so bad about him. In a letter to the editor in the New York Times, for example, Yale Law School professor accused Judge Bork of "a dogmatic commitment to a comprehensive or general theory . . ." Apparently he had not read the New York Review of Books, which attacked Judge Bork for not having a theory. Or the New Yorker, which derided Judge Bork for being "concerned less with theory than with results."

Judge Bork has been accused by pro-abortion advocates of favoring "compulsory pregnancy." Meanwhile, in the New Republic, Renata Adler insisted that the consequence of his position would permit laws that "impose abortions—on welfare mothers, say, or on single mothers . . ." And the New Yorker went one step further by shrieking that Judge Bork's jurisprudence could countenance a law "requiring everyone of every race to be blond. And nothing—perhaps this is more serious—[would] prevent the State from enforcing a majoritarian preference that all single mothers should be sterilized. Or all women with an I.Q. below 130. Or all mothers under eighteen.

The folks who are writing these wildly overblown things show absolutely no shame. After smearing Judge Bork in wildly inflated terms, they are perfectly capable of turning around, as the New Republic article did, and accusing him of a "relentless habit of extreme overstatement."

And sometimes the case against Judge Bork seems to be a game of "heads I win, tails you lose."

In the New Republic, for example, Judge Bork was accused of arguing in favor of greater 1st Amendment protection in a particular libel suit because he was engaged in a "lobbying effort, through his judicial opinions, for a position on the Court." The charge had a familiar ring. Justice Antonin Scalia, who participated in that same case in the U.S. Court of Appeals, was accused of precisely the same offense. Except he came out exactly opposite from Judge Bork, arguing against more 1st Amendment protection.

University of Chicago law professor Philip Kurland, in an article on the Tribune's op-ed page, went so far as to include in his list of horrible things Judge Bork has argued over the years several positions that Prof. Kurland himself has shared (including one position Prof. Kurland presented to the Supreme Court). Prof. Kurland apparently won't take yes for an answer, at least when it comes from Judge Bork.

By now Judge Bork must be wondering who this person is that everyone is so upset about, because the grotesque caricatures bear so little resemblance to his real record.

Lloyd Cutler, who served as President Carter's White House counsel and who supports the nomination, got closer to the reality in a piece he wrote for the National Law Journal. Mr. Cutler estimates that on the U.S. Court of Appeals, Judge Bork voted with his liberal colleagues 75 percent of the time. In 10 discrimination cases in which the scope of individual rights was at issue, Mr. Cutler found that he voted in favor of the victim of discrimination seven times. And in two of the three cases in which he voted against the plaintiff, his position was upheld by the Supreme Court. In fact, of 11 cases in which Judge Bork voted with the majority that have been accepted by the Supreme Court for review, not a single one has been reversed. Some wild-eyed radical.

This is not the first time a struggle over confirmation of a judge has sunk to an ugly level. U.S. Court of Appeals Judge Abner Mikva had a hard time with conservatives when he was nominated by President Carter. During that fight, the liberals had the better position. Sen. Kennedy said, "The question is whether [the nominee] is willing and able to interpret the law as we and those before us have written it. The answer does not turn on politics; it turns on ability, sensitivity, and perhaps most importantly, integrity." And Sen. Joseph Biden, the Senate Judiciary Committee chairman, said, "The real issue with a judicial nominee is whether he is capable of objectively reviewing questions of law and fact. He must be able to put aside personal prejudice he might have on matters before him . . . To apply any other standard would be to disquality from the judiciary virtually any public person who has been willing to take positions on judicial issues."

They were right, of course. Judge Mikva deserved to be confirmed because he is smart, thoughtful, skillful in the law, intellectually honest and in the mainstream of legal thinking. If Paul Simon someday becomes president, and nominates his old friend Judge Mikva to be a justice, he will deserve confirmation again, even if it happens to change the balance on the Supreme Court.

The same is true of Robert Bork and for the same reasons. The campaign to smear him has become, quite simply, a disgrace.

Mr. ARMSTRONG. But I would like to call the attention of my colleagues to the way the Chicago Tribune sums up.

> The campaign to smear him has become, quite simply, a disgrace.

I believe that is true. I believe that when over and over again the public is told in various ways things which are simply unsupported, which are unfair characterizations, which are not backed up by facts, that it does disfigure the process and dishonor the confirmation process in this body.

Mr. President, I think that our colleague from Utah, Senator Hatch, did a great service when he came before the Senate recently to comment on the newspaper ad which I mentioned a moment ago, "Bork Versus the People." He put into the Record—and I am not going to recap it—but he did put into the Record no less than 67 specific points on which this full page ad was off the mark, either drawing unfair conclusions or stating facts which were unsubstantiated in some way.

The extremist issue is one which Senator HATCH correctly took issue with. I would like to quote briefly our colleague's observations about that, because he nailed it down tight. He said: "Those calling him"—meaning Judge Bork—"an extremist would not know a judicial mainstream from a judicial jetstream."

Now, in fact, people like Justice Warren Burger have explicitly declared that Judge Bork is in the mainstream. The distinguished jurist from our own State, Byron White, who has served so long and with such great distinction on the Supreme Court in one way or another has said more or less the same thing.

But the fact of the matter is that you do not have to take anybody's opinion—not ORRIN HATCH'S not Warren Burger's, not BILL ARMSTRONG'S, not anybody's opinion on the matter. The facts speak for themselves.

Judge Bork has been serving as a member of the Circuit Court of Appeals, one of the most important courts of this land. He was confirmed for that post by the U.S. Senate on a unanimous vote. During the years he has been on that court, he has established a record which any citizen can look to and evaluate and make a determination of whether or not he is a crazy judge, whether he is an extreme judge, whether he is a person that has veered off into the hinterlands and swamps and marshes of judicial thought, or whether or not he is, as Justice Burger said, in the mainstream.

Well, in 5 years on the bench, Judge Bork has joined in 95 majority opinions written by his colleagues. Not one of them has, to date, ever been reversed by the U.S. Supreme Court.

He has been, while a member of the Circuit Court, in the majority in 94 percent of the cases that he has heard. A fair-minded person might well ask, what about the other 6 percent? What about the times when he was not in the majority?

Well, in fact, in a number of cases, Judge Bork has dissented.

The **PRESIDING OFFICER**. The Senator's 10 minutes have elapsed.

Mr. **ARMSTRONG**. Mr. President, I would ask unanimous consent to proceed for an additional 5 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ARMSTRONG**. I thank the Chair and I thank my colleagues.

To return to the discussion of the times when he has not been in the majority, in 5 years on the bench, Judge Bork has dissented 25 times, in 25 cases. He has written the dissent in 9 instances and in 7 cases, the partial dissents.

It is instructive to realize that the Supreme Court has granted certiorari and has overruled the majority on the circuit court, siding with Judge Bork, in six of the nine cases.

This hardly describes a judge who is out of the mainstream. And yet day after day there is this drumbeat of criticism implying—and not just implying but in fact stating, in the strongest, indeed in the most exaggerated terms—that Judge Bork is some kind of a legal extremist.

Mr. President, the record shows that he is nothing of the kind. The fear merchants scurry around the country, trying to portray him in those terms and for the time being they may convince a majority of the people of this country. It may be that they will delude some newspaper writers to think that they are correct. And it is possible that they may, even, convince a majority of U.S. Senators that Judge Bork is an extremist.

I do not think that history will make that conclusion because the facts do not bear that out and in a time of less passion, after the newspaper ads and the television commercials have long been forgotten, I think historians, legal scholars will look back and recognize Judge Bork, not as an extremist, indeed as an eminent jurist.

The other matter I wanted to address today in connection with the Bork nomination is this. Even if these charges were truthful instead of spiteful and untruthful, there is a real question in my mind about the process and what we are doing to it when we subject a nominee to this kind of a political test.

I want to say this very clearly. I believe that the majority ought to rule. I think in this country that when there is a majority, the majority is entitled to have its way. In this Chamber, in the other body, in the country at large.

I believe that while the general public will make some mistakes, in the long run, if we do not put our faith in the people, there is no other dependable place where we may repose our trust for the decisions and for the future of this country. But I do not believe, any more than did the founders of this country, that it is wise to simply submit every question and every issue to a popular vote or to a popular referendum; and that there ought to be, as one of the founders said, a time for cooling off.

There are distinct functions of government and it is a unique feature of American Government that we expect the Congress of the United States, particularly the House of Representatives and to a lesser extent the Senate, to be the expression of the popular will at any particular time.

Every 2 years we elect a new U.S. House of Representatives so every 2 years the public could dismiss all or any proportion of the Members of the lower House. In each biennium, one-third of the Members of the Senate are up, so once again the public has a chance to express its opinion. Of course supremely above every thing else, the President of the United States is the embodiment of the popular will because he is the person who is elected by all the people in the country and the only one who is in fact so elected.

I think that is good and we expect both the executive and legislative branch to reflect, if not to mirror at least in broad terms to reflect, the popular sentiment on issues of the day.

The judicial branch has quite a different function. It is, in part, the function of the judiciary to protect the persons and the causes which are not at any moment popular; which do not have a majority. So, to the extent that we subject judicial nominees, whether they are for the Supreme Court, District Court, Circuit Court of Appeals or whatever it is, to a political test, we run the risk of undermining and eroding the very function which is at the heart and soul of the judicial process.

If every judge has to prove himself before the bar of public opinion; has to take a stand on every controversial issue that may come up before his court; the risk is, the danger—and I do want to say this cautiously because in the final analysis the people have their way and are entitled to have their way—but if on every judicial appointment that comes along we face the prospect of a test of popular will and referendum on that person's views, then we do undermine one of the distinct and unique and precious functions of the judiciary. That function is to interpret the Constitution, which is our compact with the past, with those who preceded us and who have a stake, an investment in the decisions made by every court in this land.

We interfere with that contract with the past, just as we do with the contract of those who are our successors, who are the future.

Mr. President, I do not want to overemphasize this theme, though I will come back to it, perhaps, when I have an opportunity to speak again on this matter. But if the political tests applied to Robert Bork were entirely above board, entirely fair, couched in the most dispassionate of political rhetoric, I, for one, would have some reservations about whether it was really appropriate in this case. Because I do not want to put all the Federal judges who come through this body for confirmation through that political test. That is not what the framers of the Constitution had in mind. It is not consistent with the better traditions of this body.

I would have some doubt and reservations if that were the case. But if the rhetoric is florid, unfair, spiteful, when it is what somebody has called, as I mentioned earlier, white-collar McCarthyism, the big lie technique, then I think it is not only a tragedy for Judge Bork, not merely how the vote turns out, it is a tragedy for the country.

When we begin the formal consideration of this nomination, we are going to render a verdict on Judge Bork. But by the way we handle this matter, by the precedents which we set and by the traditions which we honor, we shall call into question our own competence and our own honor. The people of this country and history will render a verdict on us as well.

Mr. President, I yield the floor.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. ARMSTRONG, if the following numbers on the Executive Calendar have been cleared on that side of the aisle. Calendar No. 355 through 363?

Mr. ARMSTRONG. Mr. President, if the distinguished leader will yield, in fact these have been cleared on our side and we are ready to go forward.

Mr. BYRD. Mr. President, I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the Calendar Orders No. 355 through 363; that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table, the President be immediately notified of the confirmation of the nominees and that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

Frederick Phillips Brooks, Jr., of North Carolina, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1992.

NATIONAL ADVISORY COUNCIL ON EDUCATION RESEARCH & IMPROVEMENT

Noreen C. Thomas, of Washington, to be a member of the National Advisory Council on Education Research and Improvement for a term expiring September 30, 1988.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Moneesa L. Hart, of Virginia, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1990.

Judith D. Moss, of Ohio, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1990.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Lt. Gen. William W. Quinn, U.S. Army, retired, of the District of Columbia, to be a member of the board of trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 6 years.

Dean Burch, of Maryland, to be a member of the board of trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 6 years.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jerald Conway Newman, of New York, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Aram Bakshian, Jr., of the District of Columbia, to be a member of the National Council on the Humanities for a term expiring January 26, 1992.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Joy Cherian, of Maryland, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1988.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2782.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 2782) to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

(The amendment of the House is printed in the RECORD of October 8, 1987 beginning at page 26967.

Mr. HOLLINGS. Mr. President, after several months of negotiations with the House, I am pleased to present H.R. 2782, the fiscal year 1988 NASA authorization bill.

Mr. President, I am not going to try to fool anybody. H.R. 2782 is not a panacea; it does not solve the budgetary and policy problems of the National Aeronautics and Space Administration or the Civil Space Program. Compared to the needs of NASA, the authorization of $9,573.8 million is modest. But it is the best that we can do in a period of fiscal constraint—and that has me worried.

In March of this year, the Congressional Budget Office released a staff working paper entitled, "The FY 1988 Budget and the Future of the NASA Program." Let me quote from that report:

> Expectations for civil space activities exceed the budget allotted to the current program of the National Aeronautics and Space Administration [NASA]. In considering the NASA budget for fiscal year 1988, the Congress will have to decide how much of the present NASA program can be afforded as it competes with other important spending priorities and as it starts to recover from the Challenger accident and its consequences.
>
> The most immediate consequence has been to increase the cost of all space activity at the very time that NASA was turning to its next major program and budget commitment, a permanently manned space station to be deployed in the mid 1990's. No less significant, but less direct, is a reexamination of major aspects of the currently planned program, including the role of the manned space shuttle versus unmanned rockets, the usefulness of the present space station in relation to large increases in its estimated costs, the role and cost of large space science projects, and their effect on the viability of small, less costly space science projects. In order to continue NASA's agenda at its preaccident level, this analysis estimated that the cost of program additions in space transportation, space science, and the space station would increase the NASA budget by $14.0 billion above the Congressional Budget Office [CBO] baseline for the fiscal years 1988 through 1992.

Mr. President, as somebody recently said, "we have been trying to put 10 pounds of potatoes into a 5-pound bag for too long." The CBO study clearly manifests this syndrome and the fact that our civil space program expectations exceed our available resources. So impressive was this analysis that the Senate Commerce Committee has asked CBO to do a more comprehensive analysis of NASA's future budget requirements and to cost out the long-term goals and objectives of the Paine and Ride reports.

The reason I highlight this CBO report is to put into perspective the budget dilemma that confronts the committees of jurisdiction and the Congress with regard to the civil space program. If the Congress wants a civil space program, it must be willing to provide the necessary resources. To paraphrase the finding of the "Seaman's Committee on the Space Station Report," you cannot develop the civil space program on the cheap.

In light of these realities, H.R. 2782 provides $9,573.8 million for NASA in fiscal year 1988. This is $93.8 million above the President's fiscal year 1988 budget request that did not provide any funding for ELV's or critical wind tunnel rehabilitation and contained inadequate funding for anomaly resolution activities. The latter issue was resolved in the fiscal year 1987 supplemental appropriations, and it is our intent in this bill to propose a partial remedy for the other deficiencies. We have included $41 million to initiate rehabilitation of the 12-foot wind tunnel at the NASA Ames Research Center and $60 million for the procurement of expendable launch vehicles and commercial launch services. These are small steps toward restoration of our space program to its former preeminence, but they are important steps in the right direction.

In addition to these increases, there are a series of pluses and minuses to other programs to stay within the regime of an acceptable budget. Some programs, such as the orbiting maneuvering vehicle, the tracking data and relay system, space shuttle structural spares, space station facilities, and the civilian space technology initiative, were reduced because of more pressing concerns or other actions that reduced the fiscal year 1988 budget requirements. Even the research and program management account was reduced by $15 million. In the case of R&PM, the members assumed that any reduction in this account could be offset by savings due to the implementation of the Federal employment retirement system.

Other space science and applications programs, such as the Mars Observer Program, the Explorer Program, the suborbital and solid Earth observations programs, materials processing in space, the aeronautics research and technology, and the advanced communications technology satellite, were increased in H.R. 2782. These increases reflect the committees' strong support of space science and applications and a balanced civil space program.

Mr. President, the final budget recommendations proposed in H.R. 2782 are modest when compared to the requirements of NASA. But they are adequate for the tasks proposed in fiscal year 1988. The problem is they are inadequate for the tasks proposed in fiscal year 1989-92. I want each member to understand clearly that we are at a critical juncture—we can either make the necessary commitment and maintain our leadership in space or we can watch the mantle of leadership shift to the Soviet Union, the European Space Agency, Japan, or China.

As for the policy content of this bill, I would like to focus on one issue, an issue that literally consumed the members of the two committees. That issue is the Advanced Solid Rocket Motor Program.

Mr. President, last year language was included in the fiscal year 1987 NASA authorization bill that instructed the administrator of NASA to first, issue a request for proposal for a second source for a redesigned motor, or second, issue a request for proposal for an upgraded motor. The instruction stated that the "administration should issue such a request upon completion of the solid rocket motor redesign and the upgraded motor evaluation efforts, and the determination of a safe and reasonable flight rate, but before signing or extending any production contract for solid rocket motors beyond those currently under contract."

A lot has happened since last year when that language was drafted and the bill was vetoed, and I am pleased with what has happened as regards the advanced solid rocket motor.

First, in March of this year, NASA submitted the "space shuttle solid rocket motor: proposed acquisition strategy and plan." So important are the findings of this report that I would like to quote directly from that plan:

> NASA has assessed the Space Shuttle Solid Rocket Motor [SRM] program to develop a procurement strategy and planning for the future. This assessment evaluated various SRM design concepts including the monolithic propellant grain designs and variations of the current four segment design. Study contracts were initiated with the five major solid rocket motor contractors for design and program planning support. The output of these studies were assessed by a NASA technical team and the results used in the preparation of the acquisition strategy and plan. A variety of options for SRM procurement were developed and evaluated. Each option's advantages, disadvantages, resource requirements, and projected schedules were considered. The principle objectives for these options were to: improve SRM reliability, increase procurement competition, and improve shuttle performance. Secondary objectives included cost effectiveness and implementation schedules. The viable options are:
>
> Option I.—Competition of Redesigned SRM;
>
> Option II.—Continued Single Source Procurement of the Redesigned SRM;
>
> Option III.—Competition of Advanced (Upgraded) SRM.
>
> After careful consideration of each Option, NASA concludes that Option III best satisfies the agency's objectives. This option provides:
>
> Improved reliability and flight safety;
>
> Improved flight performance;
>
> Procurement competition;
>
> Development of a modern, high technology, automated SRM facility to improve quality control, minimize hazards and reduce labor costs.
>
> NASA is prepared to proceed with program implementation of a Phase B engineering effort in fiscal years 1987 and 1988 using funds available within agency resources which will provide the necessary information for the fiscal year 1989 budget process, leading to a potential decision to proceed with a development and production program.

As a proponent of an advanced solid rocket motor, especially a monolithic motor, I was most pleased with the findings of this report and with NASA's willingness to expedite implementation by using existing funds.

Second, two independent groups evaluating aspects of the civil space program also strongly endorsed the advanced solid rocket program. These were the National Research Council's Panel for the Technical Evaluation of the Redesign of the Space Shuttle Solid Rocket Motor and the National Research Council's Committee on the Space Station.

Let me quote from the most recent of these reports, "Report of the Committee on Space Station," issued on September 14, 1987:

> The Committee strongly supports NASA's plans to develop an Advanced Solid Rocket Motor.
>
> An improved motor is the preferred way to enhance the space transportation system at this time.
>
> Advanced solid rocket motors with improved performance and reliability should be developed for the shuttle.

So strong is the Committee on Space Station's support of the ASRM that during the congressional briefing it was noted that if budget constraints restrict initiation of an ASRM, it would be more prudent to slip space station in order to have the necessary funding to proceed with ASRM. In the opinion of this NRC committee, ASRM should be available for the deployment of the space station.

Third, during the first week of August 1987, NASA issued five contracts for a phase B engineering effort for an advanced solid rocket motor. These contracts represent a 9-month program and went to each of the major solid rocket motor manufacturers.

Finally, since this year's fiscal year 1988 bill was drafted, NASA has submitted its fiscal year 1989 budget request to OMB. This request includes funding for an ASRM program. If this program is approved by OMB, the RFP for an ASRM program could be issued next year prior to signing or extending any contract with the existing manufacturer of the redesigned solid rocket motor. I should indicate that both the fiscal year 1987 NASA authorization bill and the fiscal year 1988 NASA authorization bill before the Senate today prohibit the administrator of NASA from signing or extending any contract for the purchase of additional solid rocket motors until an RFP for an advanced solid rocket motor has been issued.

Mr. President, in the course of the last year, the ASRM program has gained the support of the NASA hierarchy, the NASA Offices of Space Flight and Space Station, the National Academy of Sciences and the U.S. Senate. However, it took many hours of discussion with the House before they committed to this program; and even then, it required the inclusion of some language concerning the second sourcing of the proposed redesigned motor. The discussions were tough—at times acrimonious. But I think we have made the right decision, and I am optimistic that OMB will give NASA the authority to aggressively pursue the ASRM program, bescause the ASRM program is in the best interest of the Nation and in the best interest of the space program.

Mr. President, the formulation of H.R. 2782 has been a long and arduous process. Sometimes shortcuts are not the most direct route to completion of a bill. Whatever, I strongly endorse H.R. 2782 and ask for my colleagues to support this measure.

I also am pleased to say that the final bill has been crafted in such a manner as to bypass any threat of a veto. With the support of the Senate, there will be a fiscal year 1988 NASA authorization bill.

Mr. RIEGLE. Mr. President, the Senate has before it H.R. 2782, the fiscal year 1988 NASA authorization bill. After several months of discussion, the Senate reached a consensus with the House of Representatives on further amendments to the Senate-passed provisions of this bill.

H.R. 2782 would authorize $9,573.8 million for the Nation's civilian space and aeronautics activities and will provide the necessary budget and policy framework to conduct NASA's programs in fiscal year 1988. The amount authorized is slightly above the President's original recommendation. The increase is required to accommodate two additional fiscal year 1988 requirements that surfaced after the submission of the fiscal year 1988 budget submission—the acquisition of expendable launch vehicles and the rehabilitation of the 12-foot wind tunnel at the NASA Ames Research Center.

Perhaps the most significant element of the bill is the $767 million that is authorized for the space station. This is the full request of the administration. By authorizing this amount, the Congress is stating its conviction that the space station is a national priority, critical to the U.S. leadership in space, and must be constructed. At the same time, the Congress will be telling the American people and our international partners that we will honor our duty and obligation to remain in space on a permanent basis, and it will be providing tangible proof to other nations that we will honor the commitments that we have made to build a space station.

There has been considerable discussion in recent weeks concerning the overall cost, design, schedule and purpose of the space station. Indeed, there are some who are saying that the United States does not need a space station, that it will be too expensive, and that no purposes for the space station can be identified. I believe that the entire future of America's civil space program rests squarely upon a permanently manned facility in low Earth orbit. Other nations have already made a commitment to remain in space permanently, the Soviet Union has its third generation space station circling the Earth, the Japanese are aggressively pursuing space development on all fronts, and the Europeans, who are partners in the space station with the United States, have made it very clear that they will continue to explore and exploit space for scientific and commercial purposes.

During the last year and a half, the members of the House Science, Space and Technology and the Senate Commerce Committees have assessed the issues of whether the United States should develop a space station and what that space station configuration should look like. They also have addressed the related issue of whether the United States should take the necessary steps to guarantee its place in space or descope its role in this arena after pioneering all exploration and development for a quarter of a century. Having made their assessments, the committees reflect their findings with a strong endorsement of the space station program in the fiscal year 1988 NASA authorization bill. The committees feel this Nation is capable of undertaking such a bold endeavor—both technically and economically. The only thing required in making the space station program a reality is a commitment, and we have tried to reflect that ingredient in this bill.

I also am pleased to note that the Senate's language concerning space station uses has been included in the final bill, and the Senate's interpretation of this language has been accepted too.

In addition to the space station initiative, there are a number of other important initiatives that have been made in the fiscal year 1988 NASA authorization bill to strengthen and to enhance the space program. Among them are:

First. An authorization to begin the purchase of expendable launch vehicles and services. This will enable NASA to diversify its launch capabilities, insure access to space, and be a step closer toward the mixed fleet concept that is critical to NASA's future.

Second. The bill provides additional funds for the Mars Observer Program in order to guarantee its launch in 1992 and to provide for adequate planetary spares. This mission is key to the restoration of our interplanetary sciences effort, which has been dormant since the last mission in 1978. Never again should there be a 10-year gap in our planetary sciences programs.

Third. The Advanced Communications Technology Satellite [ACTS] Program is restored in H.R. 2782. This program has been eliminated by the administration the last 3 consecutive years but revived by the Congress. ACTS represents the next generation in communications satellites; and without an aggressive research and development program by NASA in this area, the United States could lose its competitive position in this vital technology to foreign competitors. The committee strongly supports this cooperative applied research program and feels it represents the fruits of industry/government cooperation.

Fourth. The legislation provides NASA with the means to begin long-range research and technology initiatives to meet the needs of the space program in the next few decades. $234 million is provided for the Civilian Space Technology Initiative that was initiated in fiscal 1988 in direct response to the recommendations of the Paine Commission and the urging of the Senate Commerce Committee. NASA must begin today the planning and development work on new propulsion systems, the next generation of Earth-to-orbit vehicles, new processing and production systems, and improved automation and robotic capabilities that will be necessary in the future to sustain and expand our presence in space.

The CSTI Program is the first step in preparing the civil space program for the challenges of the future and represents the most significant R&T effort in NASA since the Apollo Program.

Fifth. Funds are provided to begin the rehabilitation of the 12-foot wind tunnel at the Ames Research Facility in California. This wind tunnel is critical to the design and development of new aircraft technologies, both civil and military. This wind tunnel has suffered major structural cracks which require a complete rehabilitation. Without this work, the tunnel cannot meet the needs of the aircraft industry. In addition, the committee found that NASA's entire facilities inventory is in desperate need of repair and modernization and has ordered that a complete survey of needs and projected costs be prepared.

In the eyes of the committee, the situation at the Ames Research Center warrants serious attention. The NASA wind tunnels are critical to the continued dominance of world markets by U.S. aerospace contractors, and the United States must be willing to make the necessary investment in this infrastructure to retain this lead and our favorable balance of trade.

Sixth. The bill initiates the National Space Grant College and Fellowship Program. In my view, NASA and the Federal Government are not doing enough to train scientists and engineers and to attract top technical talent to its workforce. One method of creating and maintaining a pool of available professionals is through the support of graduate fellows around the Nation. During the Apollo Program, for example, NASA supported an average of 800 fellows annually, most of whom joined NASA and contributed to the early successes of the space program.

NASA is currently supporting an average of 50 graduate fellows annually, which is insufficient to meet the needs of either the current or the future space program. To address this concern, $10 million is authorized for the National Space Grant College and Fellowship Program which will support, in cooperation with private organizations, graduate fellows in universities throughout the United States.

The Space Grant College and Fellowship Program also encourages the creation of interdisciplinary and multidisciplinary programs of space research within the university community and promotes the development of space grant colleges and regional consortia.

This initiative is the creation of Senator BENTSEN, and I think he should be complimented for his work in getting this provision into a form that makes it acceptable to NASA and the administration.

Seventh. The legislation states forcefully the position of the Congress with regard to an Advanced Solid Rocket Motor [ASRM]. NASA has indicated its intentions to pursue this program, which will lead to a more reliable and more capable solid rocket motor, and the committee strongly endorses capable solid rocket motors, and the committees strongly endorse this initiative. The space shuttle will be an integral part of the space transportation system throughout the next decade. In order to exploit fully the capabilities of the shuttle and to meet the needs of the Space Station Program, an advanced solid rocket motor will be necessary. This legislation will give NASA that opportunity, and we are hopeful that this program will begin shortly.

I am pleased to note that the ASRM Program and its goals have been strongly endorsed by both the Stever's and Seaman's Panels of the National Research Council of the National Academy of Sciences.

So, Mr. President, I believe that we have produced a bill that does meet NASA's current needs; and under the policies of this legislation, NASA can continue its recovery efforts, move toward more balance in the civil space program, and begin to look ahead to future space activities. But this is not to say that the authorization bill addresses all of the current difficulties that are seen in the space program. Some of those difficulties are related to the budgetary confines under which we all labor. Other difficulties are more deeply rooted and arise from the lack of policy direction and coherent space strategy that is evident in the government today.

The Senate previously agreed to a provision in the Senate-passed authorization bill that would have re-created the National Space Council under the direction of the Vice President. This organization functioned effectively during the era of the Apollo Program and would provide an appropriate forum today for a national space policy to be formulated.

Last year, the NASA authorization bill was vetoed by the President because the National Space Council provision was included. We received the same message from the President with respect to inclusion of this provision in the fiscal year 1988 NASA authorization bill, H.R. 2782. We reluctantly agreed with the House to remove the council provision in order to ensure that a NASA authorization bill would be enacted into law this year. We continue to feel, however, that the council, or some similar mechanism is needed to bring together all facets of the national space program—defense, civil, and commercial—and to create a national strategy for the continued exploration and use of space. National resources are far too precious to permit duplication of effort or inefficient allocation of efforts. I will continue to pursue the council idea and hope that we will be able to create a better space policymaking mechanism with the support and cooperation of the White House.

Mr. President, the U.S. space program is approaching a major crossroads in its history. The *Challenger* accident has caused a major reassessment of the structure of the current program to occur as well as beginning a debate on the overall future of the program. We must, as a nation, commit ourselves to a program with realistic and attainable goals. I do not believe that the United States can continue to conduct a space program without a coherent strategy and without clearly defined goals. To protect our technological leadership in space, to ensure the exploitation of commercial benefits from space, and to guarantee a sustained program of exploration and space science, we must formulate a coherent strategy that is strongly supported by the American public.

I believe that this bill will provide an important first step toward that strategy, but it is only a first step, and we must redouble our efforts in the coming year to craft the policies and begin the technological development that will ensure our place in space for the future.

Mr. President, I would be remiss if I did not briefly highlight for the Members of the Senate some of the other provisions included in the fiscal year 1988 NASA authorization bill and provide an outline of the budget discussions.

Besides the fiscal year 1988 NASA authorization, H.R. 2782 contains the fiscal year 1988 authorization for the Department of Transportation Office of Commercial Space Transportation. $4.5 million is included in H.R. 2782 for this office which is responsible for the licensing and regulation of the commercial, expendable launch vehicle industry.

The bill also includes language that would permit NASA to accept donations toward the construction of a new orbiter. In the aftermath of the *Challenger* disaster, NASA received many donations from a variety of sources toward the construction of a new orbiter. However, NASA is currently prohibited from accepting donations for such a specific purpose. This language would permit NASA to put those donations to good use.

In addition, the bill includes technical amendments to the Land Remote Sensing Commercialization Act of 1984 that are intended to clarify the intent of the Congress with regard to the sale and use of experimental data and the reproduction of data.

As for the proposed fiscal year 1988 NASA budget, the proposed bill authorizes $9,573.8 million for NASA in fiscal year 1988. This is $47 million less than the Senate-passed bill and $52 million more than the House-passed bill. Compared to the President's request of $9,481.0 million, the bill is a modest $93 million higher. However, as indicated above, this increase reflects the cost of two later requirements that were not included in the President's budget submission but have been authorized in H.R. 2782—$60 million to initiate a NASA ELV program and $41 million to initiate the rehabilitation of the NASA Ames Research Center 12-foot wind tunnel.

Mr. President, at this point, I would like to request unanimous consent to place two tables in the RECORD. The first table compares the House and Senate bills, and the second table compares the final bill to the President's fiscal year 1988 budget request.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NASA BUDGET SPREAD SHEET FOR FISCAL YEAR 1988

[In millions of dollars]

	Fiscal year— 1987 operating plan	1988 request	1988 Senate authorization	1988 House authorization	Final compromise
I. Research and Development	(3,120.7)	(3,623.2)	(3,721.0)	(3,697.0)	(3,719.0)
1. Space Station	420.0	767.0	767.0	767.0	767.0
2. Space transportation capability development	491.1	568.6	592.6	538.6	553.6
Spacelab	(73.9)	(73.5)			
Upper stages	(156.1)	(159.7)	(181.7)		(159.7)
Engineering and tech. base	(133.4)	(139.8)			
Payload ops and sup. equip	(44.5)	(83.4)	(85.4)	(73.4)	(73.4)
Advanced programs	(27.6)	(24.9)			
Tethered satellite system	(10.6)	(7.3)			
Orbital maneuvering vehicle	(45.0)	(80.0)		(60.0)	(75.0)
3. Space Science	983.4	949.0	973.7		976.7
A. Physics and astronomy	(552.8)	(567.1)	(591.8)	(577.1)	(581.8)
Hubble space telescope dev	101.3	98.4			
Gamma ray observatory dev	50.5	49.1			
Shuttle/Spacelab payload dev	90.1	95.4			
Explorer development	56.7	60.3	80.3	70.3	70.3
Mission operation and data analysis	125.7	128.1			
Research and analysis	53.4	60.1			
Suborbital program	75.1	75.7	80.4		80.4
B. Life Sciences	(72.2)	(74.6)	(74.6)	(74.6)	(74.6)
C. Planetary exploration	(358.4)	(307.3)	(307.3)	(342.2)	(320.3)
Galileo development	71.2	55.3			
Magellan	97.3	59.6			
Ulysses	10.3	10.8			
Mars observer	35.8	29.3		64.3	42.3
Mission ops and data analysis	75.8	77.0			
Research and analysis	68.0	75.3			
4. Space applications	569.2	559.3	651.4	604.3	651.4
A. Solid Earth observations	(75.6)	(76.8)	(80.8)	(76.8)	(80.8)
Shuttle/spacelab payloads	21.6	21.1			
Geodynamics	32.1	33.1			
Research and analysis	21.9	22.6	26.6		26.6
B. Environmental observations	(320.9)	(393.8)	(393.8)	(393.8)	(393.8)
Applied research data analysis and related activities	142.8	141.3			
Shuttle/spacelab payload development	12.0	19.4			
Scatterometer	32.9	22.7			
Upper Atmos. Res. Satellite (UARS)	114.2	95.4			
Ocean Topography Experiment (TOPEX)	19.0	90.0			
Global Geospace Science	0	25.0			
C. Materials Processing in Space	(47.9)	(45.9)	(50.0)	(45.9)	(50.0)
D. Communications	(103.5)	(20.5)	(104.5)	(65.5)	(104.5)
E. Information Systems	(21.3)	(22.3)	(22.3)	(22.3)	(22.3)
5. Commercial programs	40.9	54.0	49.0	49.0	49.0
Technology utilization	(15.7)	(18.3)	(18.3)	(18.3)	(18.3)
Commercial use of space	(25.2)	(35.7)	(30.7)	(30.7)	(30.7)
6. Aeronautical Research and Technology	374.0	375.0	375.0	399.0	387.0
Research and technology base		(285.2)		(305.2)	(295.2)
Systems technology programs		(89.8)		(93.8)	(91.8)
Rotorcraft systems technology		5.0			
High-perf. aircraft systems technology		14.6		16.6	
Advanced prop. systems technology		30.5		32.5	
Numerical aerodynamic simulation		39.7			
7. Transatmospheric research and technology	45.0	66.0	66.0	66.0	66.0
8. Space research and technology	168.0	250.0	212.0	250.0	234.0
9. Safety reliability and quality assurance	12.0	16.2	16.2	16.2	16.2
10. Tracking and data advanced systems	17.1	18.1	18.1	13.1	18.1
II. Space flight control and data communications	(5,799.5)	(4,064.3)	(4,081.3)	(3,974.0)	(4,045.3)
1. Space shuttle productions/operations capability	1,005.1	1,229.6	1,150.6	1,174.6	1,174.6
Orbiter operational capability		(403.2)	(324.2)	(348.2)	(348.2)
Launch and mission support		(249.3)			
Propulsion systems		(552.1)			
Changes and systems upgrading		(25.0)			
2. Replacement orbiter	2,100.0				
3. Space transportation operations	1,847.0	1,885.8	1,885.8	1,885.8	1,885.8
Flight operations	(557.7)	(561.1)			
Flight hardware	(936.0)	(923.1)			
Launch and landing operations	(353.3)	(401.6)			
4. Space tracking and data acquisition	845.4	948.9	944.9	913.9	924.9
Space network		(481.5)		(446.5)	(461.5)
Ground network		(257.1)			
Communications and data systems		(210.3)			
5. Expendable launch vehicle operations	2.0	0	100.0	60.0	60.0
III. Construction of facilities	(166.3)	(195.5)	(210.7	(185.5)	(216.4)
IV. Research and program management	(1,460.5)	(1,598.0)	(1,608.0)	(1,605.0)	[1] (1,593.0)
Total NASA	1,054.7	9,481.0	9,621.0	9,522.0	[2] 9,573.8

[1] Includes $10,000,000 for the Space Grant College and Fellowship Program.

[2] Assumes that an additional $44,000,000 will be available in fiscal year 1988—$22,000,000 for Upper Stages and $22,000,000 for the Mars Observer Mission—from unobligated fiscal year 1987 funds.

Compromise Bill Compared to President's Budget Request

[Dollars in millions]

Orbiting maneuvering vehicle	−5.0
Payload development	−10.0
Upper stages	(1)
Explorer program	+10.0
Mars Observer	[2] +13.0
Microgravity research	+4.1
Solid Earth observation	+4.0
Suborbital programs	+4.7
Advanced communications technology satellite	+84.0
Commercial programs	−5.0
Civil space technology initiative	−16.0
Structural spares	−55.0
Tracking data relay satellite replacement	−20.0
Expendable launch vehicles	+60.0
Tracking	−4.0
Space station facilities	−25.8
Space grant college	+10.0
Research and program management	−15.0
Aeronautics research and technology	+12.0
Wind Tunnel rehabilitation	+41.0
Launch Complex 39	+5.8
Total adjustment	+92.8

[1] Assumes use of $22 million of unobligated prior year moneys to meet fiscal year 1988 requirements.

[2] Also assumes a reprogramming of $22 million pursuant to section 101(e).

Mr. RIEGLE. As a result of our negotiations, I can say with certainty that both the House and the Senate realize that there must be a diversified Civil Space Program with a robust space transportation infrastructure that balances the needs of the manned and unmanned programs. This attitude is reflected in the proposed bill by the increases for the Mars Observer program, materials processing, the Explorer programs, the creation of a new expendable launch vehicle program, and continued support of the space shuttle anomaly resolution program.

I also think it is clear to say that the members of both committees realize that if the United States is to maintain its leadership in space, the Civil Space Program budget needs to be increased in the very near future. At present, the Senate Commerce Committee has the Congressional Budget Office looking into the future budget requirements of NASA, and the committee is hopeful that a thorough analysis of these requirements will be available next January.

It might interest Members to know that resolution of the budget differences between the House- and Senate-passed bills was the easy part of this year's process. The resolution of policy matters, however, reflects strong differences of opinion between the two committees as to what NASA should be doing and what the respective roles of two committees should be. Quite clearly, a consensus needs to be formulated on the scope, direction, policies, and goals of the Civil Space Program—and this consensus must emerge soon.

Mr. President, I am quite pleased with the final bill that I am presenting to the Senate today. The numbers and the policy statements are more modest than I would have preferred, but I think it is a well-crafted document. The final bill represents compromise on the part of both the House and Senate, but in no way does it compromise the program. What H.R. 2782 does do is manifest the commitment of the Congress to the Civil Space Program and to the technological leadership of the United States in space.

Mr. President, I urge my colleagues to support H.R. 2782, as further amended by the House, and to commit to work with me to rebuild the Nation's Civil Space Program and to regain our leadership in space.

Would the distinguished chairman of the Senate Commerce Committee yield for a question?

Mr. HOLLINGS. I would be pleased to yield to the distinguished chairman of the Subcommittee on Science, Technology, and Space who has done such an able job in formulating the NASA authorization bill.

Mr. RIEGLE. For the record, would the Chairman please give his interpretation of section 121 of H.R. 2782?

Mr. HOLLINGS. Section 121 of the bill is intended to instruct NASA to proceed in a most deliberate manner with the release of a request for proposal for the design and development of an advanced solid rocket motor. The Senate strongly supports an advanced solid rocket motor program and feels that it will improve the reliability, safety, and performance of the shuttle program. I might note that the Senate's position is strongly endorsed by several committees of the National Academy of Sciences and by NASA.

Simply put, section 121 tells NASA that it should proceed immediately with the advanced solid rocket motor program because it is in the best interest of the space shuttle program and the best interest of the Nation.

Mr. RIEGLE. Would the Senator please explain why subsection (d) is included in section 121?

Mr. HOLLINGS. Despite the consensus that exists with regard to the need for an advanced solid rocket motor, some Members of the House still questioned NASA's intent. This subsection was added to placate these Members. However, it is the Senate position that this subsection will never be required.

Mr. RIEGLE. Does subsection (d) require the second sourcing of the redesigned sold rocket motor?

Mr. HOLLINGS. I am glad you asked that question since it was one of the key points of disagreement during our negotiations with the House.

For all practical purposes, the answer to that question is "no." The reason I say that is because it is the congressional intent and NASA's intent to develop an advanced solid rocket motor. The only time that second sourcing or recompetition of the redesigned sold rocket motor would kick in would be if we do not proceed with the advance solid rocket motor—a decision that would not be in the best interest of the Space Program.

I also should indicate that at one point during our negotiations the House proposed that NASA must second source or recompete the redesigned solid rocket motor even if NASA proceeds with an advanced solid rocket motor. The Senate rejected that approach because of the severe technical, financial, safety, reliability and quality assurance issues that it surfaces.

What the Senate expects to see in the next calendar year is the issuance of a request for proposals by NASA for an advanced solid rocket motor. It does not expect to see NASA issuing any request for proposals for second sourcing or recompetition of the redesigned motor until it is absolutely clear that the advanced solid rocket motor program is not a viable option. However, as I indicated above, it is doubtful that we will ever reach the point.

Mr. DANFORTH. Would the distinquished chairman of the Subcommittee on Science, Technology, and Space yield for a moment?

Mr. RIEGLE. I would be pleased to yeild to the distinguished ranking member of the Senate Commerce Committee. But before I do I would like to thank him for his cooperation in formulating this year's NASA authorization bill. Thanks to the distinguished Senator's intervention, some of the more difficult policy issues were resolved quite easily.

Mr. DANFORTH. I thank the Senator from Michigan for his kind remarks. I totally concur with the interpretation of section 121 just described in the discussion between the Senator from Michigan and the Senator from South Carolina. NASA and the National's Space Program need an advanced Solid Rocket Motor Program, and we should proceed with its implementation as soon as possible.

I look forward to NASA's fiscal year 1989 budget request for this program and will continue to work with my colleagues to see that it is implemented.

Mr. PRESSLER. Would the Senator from Michigan yield?

Mr. RIEGLE. I would be pleased to yield to the Senator from South Dakota and the able ranking member of the subcommittee. As always, it was a pleasure to work with my colleague in formulating the NASA authorization bill.

Mr. PRESSLER. I would just like to note that I too agree with the interpretation offered for section 121 of H.R. 2782. I might also note that the committee addressed this issue in some detail in the committee report on the fiscal year 1988 NASA authorization bill [S. Report 100-87] and that the committee's conclusion in the report was that second sourcing of the redesigned solid rocket motor was not warranted and that the emphasis should be directed to an advanced solid rocket motor.

Mr. RIEGLE. I thank the Senator from South Dakota and the other members of the committee for participating in this discussion. I think that the Senate's position on the issue of an advanced solid rocket motor is quite clear and I look forward to working with my colleagues to get the advanced Solid Rocket Motor Program approved and funded. I also hope that the Office of Management and Budget, which is currently reviewing NASA's fiscal year 1989 budget request, a request which includes funding for an advanced solid rocket motor, will acknowledge the advanced Solid Rocket Motor Program as a high national priority.

Mr. PRESSLER. Would the Senator from Michigan yield for one additional question?

Mr. RIEGLE. I would be pleased to yield.

Mr. PRESSLER. Is it the intent of section 107(b) that NASA totally reassess the options for a space station program or is the intent that NASA indicate what options were reviewed with and by the National Research

Council and provide that analysis to the committee?

Mr. RIEGLE. As you know, this Senator thinks we have discussed configurations for too long already and the time has come to commit to the development phase of the Space Station Program. Therefore, it is our intent to be provided with the National Research Council analysis so as to put to rest the configuration issue. I might note that the National Research Council concluded that none of the alternative configurations examined by the Space Station Committee were judged to be as satisfactory as the current Block I configuration and that Block I was a satisfactory starting point for the space station that reflected thoughtful compromises among the priorities.

Mr. PRESSLER. I thank the subcommittee chairman for his interpretation of the language and agree that we are well beyond the point where alternatives should be further evaluated.

Mr. RIEGLE. I thank the Senator from South Dakota and now recommend that we move to final passage of H.R. 2782, the fiscal year 1988 NASA authorization bill, and send this bill to the President for signature.

Mr. DANFORTH. Mr. President, I join the chairman of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS, and the chairman of the Subcommittee on Science, Technology, and Space, Senator RIEGLE, in commending to the Senate H.R. 2782, the fiscal year 1988 NASA authorization bill. As you will recall, on July 10 the Senate approved S. 1164, the fiscal year 1988 NASA authorization bill that the Commerce Committee had favorably reported on June 24. Since that time, the Commerce Committee has been negotiating with the House Science, Technology, and Space Committee to resolve the differences in the Senate and House bills.

The bill before the Senate today, H.R. 2782, reflects the compromise that has recently been struck between the Senate and House negotiators and, in my opinion, incorporates the most responsible funding levels and policy provisions from each bill. This compromise bill authorizes $9.574 billion, compared to the original Senate authorization of $9.621 billion and the original House authorization of $9.522 billion.

Mr. President, now I would like to comment on some of the funding levels and provisions in this compromise bill. First, this bill authorizes the administration's request of $767 million for the space station program, truly our space program's next major step. This funding is significant in that it will permit the actual development of the space station to move into high gear. Furthermore, this authorization will send a signal to our international partners in this program—the European Space Agency, Japan, and Canada—that we are truly committed to the completion of this program on schedule.

I believe that it is worth noting at this time that the recently completed report of the National Research Council on the space station program endorsed NASA's space station design and concluded that the space station will "be a visible demonstration of American technological and operational prowess in space." This endorsement should remove any doubt that NASA is on the right track in terms of its space station program. Also, as we consider funding for the space station program, we should not overlook the fact that since 1971 the Soviet Union has had an operational space station orbiting over the United States every 90 minutes. Any delays that are imposed on our space station program will only cause us to fall further behind in terms of manned space operations. For this reason alone, it is imperative that we move out aggressively in the development of our space station.

This compromise bill also authorizes $977 million for NASA's space science programs, a funding level that fully supports the administration's fiscal year 1988 request and maintains the schedule for the launch of our major observatories and planetary missions, such as the Hubble space telescope, the Galileo mission to Jupiter, the Magellan mission to Venus, and the Mars Observer mission.

The space applications authorization in this bill fully funds the advanced Communications Technology Satellite [ACTS] Program and supports its scheduled launch date of 1991. Furthermore, this bill provides $387 million for aeronautical research and technology and $66 million for transatmospheric research and technology. The latter two authorizations support the administration's budget request in areas that are key to our Nation's competitive posture in aeuronautical technology and sales. I am particularly pleased with the authorization for transatmospheric research and technology, which supports NASA's role in the joint NASA/DOD national aerospace plane program. This program not only holds the key to a revolutionary new dimension in our space launch capabiltity—a single-stage Earth-to-orbit vehicle, but it also could open up new markets for our commercial aircraft companies by taking advantage of a supersonic or hypersonic capability.

Mr. President, another important authorization in this bill is that of $3.0 billion for the space shuttle program. This funding level continues to support the redesign of the shuttle's solid rocket motor [SRM] and other safety related shuttle modifications. NASA is making steady progress in its redesign of the SRM and appears to be on track toward meeting its next scheduled shuttle launch in June 1988. This schedule leading to a June 1988 launch is, by all accounts, a tight schedule; yet I am encouraged by the progress NASA has made to date and by NASA's efforts to incorporate safety, reliability, and quality assurance into each aspect of the shuttle program.

One lesson that we learned fro the *Challenger* accident is that we must develop a more robust and diversified space transportation system. To that end, this bill authorizes $60 million for NASA to initiate the procurement of expendable launch vehicle [ELV] services for two upcoming space science missions—the roentgen satellite and the extreme ultraviolet explorer.

Related to this authorization of $60 million for the two ELV's is this bill's provision that grants NASA multiyear contracting authority for the procurement of ELV services. Currently, NASA is prohibited from obligating appropriated funds for more than 2 years at a time. This prohibition, unless legislatively corrected, would continue to prevent NASA from procuring ELV services, an activety which is considered critical to the success of a U.S. commercial ELV industry. The language in this bill will allow NASA to enter into launch service contracts which foreseeably could require advance payments over several years and will allow NASA to budget for contingent liability, in the event the Government has to terminate the contract for its convenience.

Finally, Mr. President, this bill includes language that emphasizes the need to initiate a competitive procurement for an advanced solid rocket motor [ASRM]. The ASRM, as it is presently envisioned, could, among other things, enhance the shuttle's performance to the point that space station deployment and assembly would be facilitated significantly. This provision states, however, that if a request for proposals is not submitted by the submission to the fiscal year 1990 budget request, NASA must issue an RFP to recompete the redesigned SRM or to establish a second source for the redesigned SRM. This provision maintains the competitive element in NASA's SRM Program, while emphasizing the need to develop an advanced solid rocket motor.

Mr. President, the pressures of our budget deficits impose a necessary requirement of fiscal responsibility as we consider all authorization and appropriations bills. This authorization bill is more than responsive to those concerns. Yet, this bill also provides NASA the support that is needed to ensure the recovery of our space program. This legislation has been passed by the House, and Senate passage today will send to the President a fiscal year 1988 NASA authorization bill that will help the U.S. space program reaffirm its previous leadership. I urge my colleagues to approve H.R. 2782 as a visible show of support for NASA and our Nation's endeavors in aeronautics and space.

Mr. **PRESSLER.** Mr. President, as ranking Republican member of the Subcommittee on Science, Technology, and Space, I rise in support of H.R. 2782, the fiscal year 1988 NASA authorization. This bill before the Senate is compromise legislation that incorporates, what I believe, are the best aspects of fiscal year 1988 NASA authorization bills that the Senate and House have previously approved.

The total authorization in this bill is $9.573 billion, a funding level that essentially splits the difference between the Senate authorization of $9.621 billion and the House authorization of $9.522 billion. Not only is this bill responsive to the pressures that our Federal budget deficit continues to impose on the budget process, but it also supports the critical budget requirements for the continued recovery of our space program. For these two reasons, I believe that this compromise legislation is in the best interests of our space program and our Nation.

Mr. President, NASA's No. 1 priority in the aftermath of the *Challenger* accident has been, and still is, the restoration of the space shuttle system. Central to this restoration is a new emphasis on safety, reliability, and quality assurnance, which I am pleased to report is having an extremely positive effect on our overall space program and the shuttle program, in particular. Moreover, NASA has made significant progress to date in its shuttle recovery effort. An example of this progress is the successful test firing in August of the redesigned solid rocket motor. The $3.0 billion authorization in this bill for NASA's space shuttle production and operations capability account and the space transportation operations account will continue to strongly support NASA's shuttle recovery efforts, which are focused on a first launch in June 1988 launch.

This authorization bill also provides strong support for NASA's space transportation capability development account, which includes, among other things, the development of the orbital maneuvering vehicle [OMV]. This bill's authorization for the OMV is $75 million, which should enable NASA to deliver the OMV on a schedule that will support the OMV reboost of the Hubble space telescope in 1991.

This authorization is also significant in that it fully funds the administration's request of $767 million for the space station program. Furthermore, within this bill's authorization, NASA's space science programs are funded at a level of $977 million, a funding level which accommodates the budget request in space science research and analysis and augments the explorer program. I am particularly pleased with the funding of these two space science programs, as they are critical to the vitality and health of our Nation's university space science programs.

The authorization for space applications includes $84 million for the advanced communications technology satellite [ACTS] program, which is important if the United States expects to maintain its competitive edge in comunications technology and sales in the global marketplace. Also, this space applications authorization provides $4 million for NASA to initiate, in cooperation with the U.S. Geological Survey, the National Oceanic and Atmospheric Administration, and other appropriate Federal agencies, the capabilities for receiving directly from foreign remote sensing satellites data collected over the United States. At a time when the future of our own satellite land remote sensing capabilities grows more uncertain, establishing this new capability will enable us to meet our own scientific requirements for satellite remotely sensed data.

This bill also authorizes $60 million for NASA to procure two expendable launch vehicles [ELV's] or, if commercially available, the launch services that would support the launch of two space science missions schedule for launch in 1990 and 1991. This is a new initiative in NASA's budget and is intended to remedy a deficiency in our space program that was painfully revealed as a consequence of the *Challenger* accident. In the aftermath of this tragedy, it became eminently clear that we can no longer rely solely on the shuttle for the conduct of civil space launches. We must incorporate more flexibility and resiliency into our space launch capability, and this authorization of $60 million for ELV services is a step in the right direction.

To the end of incorporating more flexibility and resiliency into our space launch capability, this bill also grants to NASA multiyear contracting authority for the procurement of launch services. Over the past 3 years, Congress and the administration have been working to remove unnecessary and inintended obstacles to the successful commercialization of ELV's. That NASA has been without this multiyear contracting authority has been cited repeatedly as one such obstacle. With the passage of this bill and this provision, we will have taken the commercialization of ELV's one step closer to fruition.

Mr. President, one other provision of this bill about which I would like to comment is that which calls for NASA to initiate an advanced solid rocket motor [ASRM] development program. Even though NASA has, by all accounts to date, chosen and begun to test a safe and reliable solid rocket motor [SRM] redesign, this redesigned SRM will not provide the performance that will be needed for many of our shuttle missions of the future, most notable of which are those associated with space station deployment and assembly. For that reason, it is generally believed that an ASRM is a necessary enhancement to the shuttle system.

Furthermore, this provision specifically calls for a competitive procurement of the ARRM. However, if, for some reason, NASA has not released by the date of the fiscal year 1990 budget submission a request for proposals [RFP] for an ASRM, NASA is instructed to issue an RFP to recompete the production of the redesigned SRM or to establish a second source of the redesigned SRM. In either case, this provision establishes and maintains the critical element of competition in NASA's solid rocket motor program.

Mr. President, it is no secret that our space program is at its most critical juncture. If we want a space program that again distinguishes itself as a true leader among the space programs of the world, then we must be willing to make the resource commitment to support such a program. However, if we choose to have a space program that does not distinguish itself from the space programs of a half dozen other nations, we must be willing to accept the fact that we are conceding part of the competitive struggle for world leadership in science and technology. Passage of this bill will help us in this struggle and will maintain our space program on its road to recovery. Therefore, I urge my colleagues to approve by unanimous consent H.R. 2782, which provides well-reasoned and balanced support for the future of our Nation's endeavors in aeronautics and space.

Mr. **BYRD.** Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. **ARMSTRONG.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COAST GUARD AUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 224, S. 1459, the Coast Guard authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1459) to authorize appropriations for the Coast Guard for fiscal years 1988 and 1989, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Is there further debate on the measure?

Mr. BYRD. Mr. President, may we proceed to third reading?

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the House companion bill, Calendar Order 245, H.R. 2342.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

Mr. HOLLINGS. Mr. President, I rise today to urge Senate passage of H.R. 2342, the Coast Guard Authorization Act of 1987.

This bill provides the core authorizations for the next 2 fiscal years. The operating expense authorizations of $1,950 million for fiscal year 1988 and $2,085 million for fiscal year 1989 will force the Coast Guard to manage its funds carefully. But this level of funding will enable the agency to carry out its many and varied missions without serious reduction. And it will permit Coast Guard units to conduct maritime drug interdiction activities at the level envisioned by Congress upon enactment of the Anti-Drug Abuse Act of 1986.

Because of the continuing national concern over the Federal budget deficit, the Commerce Committee did not approve all the funding the Coast Guard might reasonably want for these years. For example, the commandant has indicated that over a thousand additional personnel will be required to operate new equipment that is coming on line and that the Coast Guard Reserve's manning levels are less than 50 percent of its mobilization requirements. Unfortunately, we had to hold the line, and the commandant and his able staff will have to devise ways to deal with these problems. At this point, though, let me stress that these authorization limits constitute a bare minimum for operating funds. In congressional testimony this year, the commandant has indicated that if $90 million less were provided, three 270-foot cutters would have to be taken out of operation, a number of search-and-rescue facilities would be shut down, and helicopter flight hours for drug law enforcement would have to be cut substantially.

S. 1459 takes a similarly conservative approach to capital funding. The bill authorizes $278 million for fiscal year 1988 and $289 million for fiscal year 1989 to maintain and modernize vessels, aircraft, equipment, and shore facilities. The commandant has testified that $500 to $600 million a year is an appropriate level for keeping in operation a capital plant as extensive as the Coast Guard's. However, we have elected to approve a figure that will permit the agency's ongoing procurements and other capital projects to proceed in the short term, recognizing that funding in this area will probably have to be increased substantially in future years. In fact, it is conceivable that the fiscal year 1989 figure will have to be amended next year if it appears necessary to commence acquisition of replacement polar icebreakers. In this regard, S. 1459 calls on the administration to carry out a fresh review of national icebreaking needs and to report to Congress on the review by January 1, 1988, complete with funding and legislative recommendations.

Other funding authorizations in the bill cover research and development, retired pay, and alteration of bridges obstructing navigable waters. In addition, authorizations are provided for end-of-year strengths of 39,042 military personnel for fiscal year 1988 and 39,500 for fiscal year 1989. This increase of 458 personnel is a partial response to alleviating the anticipated shortage of positions as new equipment comes on line in the next few years. The bill also authorizes average military training loads for recruits and special training, flight training, professional training, and officer acquisition.

In addition to authorizations, S. 1459 contains a number of provisions amending existing law applicable to the Coast Guard. These include:

A provision that extends to Coast Guard legal personnel the legal malpractice liability limits already applicable to the personnel of the other armed forces;

A change to the Inland Navigational Rules to conform provisions applicable to mineclearance vessels to those in place for international navigation;

A nonnavigability declaration for a drainage ditch in Camden, NJ, so as to eliminate a bridge permit requirement over the ditch and thus speed the way for completion of a badly needed solid waste recovery facility;

A housing assistance provision to extend to the Coast Guard the benefits of an existing Defense Department program to help employees whose homes have lost their marketability as a result of an installation closure;

A requirement for a helicopter base in South Carolina to ensure that the growing coastal population has sufficient search-and-rescue protection;

A requirement for a study of the merits of acquiring a mobile semisubmersible facility for drug law enforcement purposes; and

A prohibition on foreign construction of Coast Guard vessels.

I would like to make a few brief comments about the bill's prohibition on foreign construction of Coast Guard cutters, including its polar icebreakers. First, the language of the ban is virtually identical to the wording of section 7309 of title 10, United States Code, which says that "no naval vessel, and no vessel of any other military department, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard." It was a mere accident of phraseology that section 7309 has been interpreted not to cover the Coast Guard, which becomes a specialized service of the U.S. Navy in time of war. Had the drafters of section 7309 referred to the vessels "of any armed force" instead of those "of any military department," the provision in S. 1459 would have been unnecessary. Second, like section 7309, this bill contains a provision allowing the President to authorize exceptions to the prohibition if the President determines it is in the national security interest of the country to do so. Third, this prohibition will help bolster our national industrial shipbuilding capability and will eliminate the need for extra security precautions that would most likely be required in the event of overseas construction.

Before closing, let me say that the Coast Guard is an invaluable national resource, ready to respond to any demands that arise off our shores. I note with appreciation that the Coast Guard has recently assumed important new leadership in the military defense of the coast and in maritime air interdiction. However, no matter how important these new roles, we cannot allow the neglect of this agency's proud tradition as protector of life and property at sea.

Mr. President, I reiterate my support for prompt passage of the Coast Guard authorization bill.

Mr. BYRD. Mr. President, I move that all after the enacting clause be stricken and that inserted in lieu thereof be the language of the bill S. 1459.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2342), as amended, was ordered to a third reading, was read the third time, and passed, as follows:

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coast Guard Authorization Act of 1987".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,949,813,000 for fiscal year 1988 and $2,085,000,000 for fiscal year 1989.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $277,893,000 for fiscal year 1988 and $289,000,000 for fiscal year 1989, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000 for fiscal year 1988 and $20,500,000 for fiscal year 1989, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000 for fiscal year 1988 and $390,000,000 for fiscal year 1989, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,400,000 for fiscal year 1989.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) The Coast Guard is authorized an end-of-year strength for active duty personnel of thirty-nine thousand and forty-two for fiscal year 1988 and thirty-nine thousand five hundred for fiscal year 1989. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,600 student-years for fiscal year 1988 and 4,100 student-years for fiscal year 1989.

(2) For flight training, one hundred and twenty student-years for fiscal year 1988 and one hundred and thirty student-years for fiscal year 1989.

(3) For professional training in military and civilian institutions, 400 student-years for fiscal year 1988 and 400 student-years for fiscal year 1989.

(4) For officer acquisition, nine hundred fifty student-years for fiscal year 1988 and nine hundred student-years for fiscal year 1989.

DEFENSE OF CERTAIN SUITS

SEC. 4. Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or the United States Coast Guard" immediately after "title 32)"; and

(2) in subsection (g), by inserting ", the Secretary of Transportation," immediately after "Defense".

INLAND NAVIGATIONAL RULES

SEC. 5. (a) Rule 3(g)(v), which appears under the heading of part A of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2003(g)(v)), is amended by striking "minesweeping" and inserting in lieu thereof "mineclearance".

(b) Rule 27, which appears under the heading of part C of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2027), is amended—

(1) in subsection (b), by striking "minesweeping" and inserting in lieu thereof "mineclearance"; and

(2) by amending subection (f) to read as follows:

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in rule 23 or to the lights or shape prescribed for a vessel at anchor in rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.".

DESIGNATION OF A NONNAVIGABLE WATERWAY

SEC. 6. The unnamed tributary of Newton Creek, located at block 641 in the city of Camden, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

HOUSING ASSISTANCE TO CERTAIN COAST GUARD EMPLOYEES

SEC. 7. Section 92 of title 14, United States Code, is amended by inserting immediately after paragraph (d) the following:

"(e) perform all functions of the Secretary of Defense under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), for purposes of assisting civilian and military employees of the Coast Guard as if they were employees of the Department of Defense with regard to any closing, in whole or in part, of an installation ordered by the Coast Guard, except that—

"(1) funds available to the Secretary for such purpose shall be limited to such sums as may, from time to time, be appropriated for operations and expenses of the Coast Guard; and

"(2) any such funds shall be maintained in a separate account in the fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(d)) for activities of the Secretary under this paragraph.".

HELICOPTER BASE

SEC. 8. Not later than six months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a full-time, permanent base at Charleston, South Carolina, for the operation of at least one HH65 short-range recovery helicopter, together with necessary support and operational personnel.

MOBILE LAW ENFORCEMENT BASE

SEC. 9. The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than three months after the date of enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

ICEBREAKER STUDY

SEC. 10. The Secretary of Transportation, in consultation with the Secretary of Defense, the Secretary of Commerce, the Director of the National Science Foundation, and the heads of affected departments or agencies of the Federal Government, shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than January 1, 1988, the Secretary shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national needs.

CONSTRUCTION OF CERTAIN VESSELS

SEC. 11. (a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"665. Restriction on construction of vessels in foreign shipyards.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the House bill, as amended, was passed.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED IN SUBJECTS ON THE TABLE

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 224, S. 1459, be placed in the "subjects on the table" section of the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

1988 OLYMPIC COMMEMORATIVE COIN ACT

Mr. BYRD. Mr. President, I inquire of the Senator from Colorado if Calendar Order 373 has been cleared on his side.

Mr. ARMSTRONG. Mr. President, calendar item 373 has been cleared on this side.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 373.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2741) to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

On page 4, line 24, strike "December 31, 1988" and insert "June 30, 1989."

So as to make the bill read:

H.R. 2741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1988 Olympic Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) Five Dollar Gold Coins.—

(1) Issuance.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than one million five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) Design.—The design of such five dollar coins shall be emblematic of the participation of American athletes in the 1988 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1988", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall issue not more than ten million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) Design.—The design of such dollar coins shall be emblematic of the participation of American athletes in the 1988 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1988", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) Legal Tender.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) Silver Bullion.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) Gold Bullion.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the United States Olympic Committee and the Commission of Fine Arts.

SEC. 5. SALE OF THE COINS.

(a) Sale Price.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) Prepaid Orders at a Discount.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) Surcharge Required.—All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) Gold Coins.—The five dollar coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) Silver Coins.—The one dollar coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike each such quality.

(c) Sunset Provision.—No coins shall be minted under this Act after [December 31, 1988] *June 30, 1989.*

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used by the United States Olympic Committee solely to train United States Olympic athletes, to support local or community amateur athletic programs, and to erect facilities for the training of such athletes.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

(b) Adequate Security for Payment Required.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

Mr. PROXMIRE. Mr. President, I am pleased to send to the floor H.R. 2741, the 1988 Olympic Commemorative Coin Act, which was reported favorably out of the Senate Banking Committee on September 30, 1987.

This bill will authorize the mint to strike up to 11 million legal tender coins commemorating U.S. athletes competing in the 1988 winter and summer Olympic games. Up to 1 million $5 gold pieces and up to 10 million $1 silver pieces are authorized. Surcharges collected of $35 and $7, respectively, will be paid to the U.S. Olympic Committee. The legislation directs that the program be carried out at no net cost to the Government.

All across America, our finest amateur athletes have been preparing for these games—many of them training up to 4 to 6 hours a day for years for the privilege of representing the United States.

From February 13-28, 1988, Calgary, Alberta, Canada, will host the games of the XV Winter Olympiad. A record number of 51 nations is expected to participate in such sporting events as ice hockey, figure skating, downhill skiing, nordic skiing, speedskating, bobsledding, and luge. From September 17-October 2, 1988, Seoul, Korea, will host the games of the XXIV Olympiad—popularly known as the summer Olympics. Invitations to participate in these summer games have recently been sent to the 167 national Olympic committees which are members of the International Olympic Committee. Competition will be keen in such familiar sports as track and field, swimming, basketball, gymnastics, wrestling, field hockey, volleyball, diving and water polo, archery, and shooting and equestrian sports.

Raising money through the sale of commemorative coins for the U.S. Olympic Committee is not a new idea. In 1982 Congress authorized a similar program for the 1984 Olympics. Over $73.5 million was raised by means of surcharges and presented to the USOC to be used solely to train U.S. Olympic athletes, support local athletic programs, and erect facilities for the training of such athletes. While those funds were put to good use, the USOC funding process is an ongoing process. This legislation will help ensure that the United States—through the generosity and support of its citizens—continues to produce world-class amateur athletes who will represent the United States at the 1988 Olympic games and beyond.

The PRESIDING OFFICER. The question is on agreeing to committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 2741) was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION OF AMENDMENT NO. 938 TO S. 1394

Mr. BYRD. Mr. President, I ask unanimous consent that amendment No. 938 to S. 1394, passed by voice vote on October 8, 1987, be altered to reflect previously agreed upon language that was inadvertently omitted.

Lines 16 through 19 should read as follows:

Add the following item, after item (7) of section (b):

(8) The United States applauds public and private statements by the South Korean Minister of Defense, senior officers and top government officials that they support the democratization process, and will work to see the process fully implemented.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 2969

Mr. BYRD. Mr. President, I ask unanimous consent to place on the calendar H.R. 2969, a bill dealing with employee benefits in cases where companies file for bankruptcy.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MR. ALFRED M. LANDON, POLITICIAN AND STATESMAN

Mr. THURMOND. Mr. President, on Monday, October 12, 1987, Alfred M. Landon, former Governor of Kansas and 1936 Republican Presidential candidate, died at the age of 100. Alf was an outstanding public servant who was greatly admired by millions of Americans.

Serving as Governor of Kansas for two terms, Alf cared deeply about the needs of those he represented, and provided continuity for his party at a time when few Republicans could be elected. His commitment to the Republican Party and the Nation was evidenced in his famous campaign for the Presidency against Franklin Roosevelt in 1936. He was known as the grand old man of the Grand Old Party.

Alf was widely respected as a public-spirited citizen. He was a true patriot, serving his country, in WWI as a first lieutenant in the U.S. Army, and as an advisor in national and State politics and policy for 50 years. His dedication and the fine examples he set can still be seen today in the service of his daughter, Senator Nancy Landon Kassebaum. The distinguished Landon legacy of public service continues.

A successful businessman, a devoted family man, and a dedicated and charitable American, Alf Landon will be remembered fondly by colleagues, friends, and family for years to come. We are saddened by the death of Alfred M. Landon, and I join with my colleagues in extending deepest sympathy to his lovely wife, Theo, and their children, Jack Landon, Nancy Landon Kassebaum, and Peggy Landon Mills during this time of bereavement.

Mr. D'AMATO. Mr. President, I rise today to pay tribute to the grand old man of the GOP, Alf Landon. Alf Landon passed away yesterday at his home in Topeka, KS. Just 1 month ago, he was joined by President Reagan in celebrating his 100th birthday in his home.

Alf Landon was, curiously, best known for his landslide defeat to FDR in the 1936 Presidential race. Carrying only two States, Vermont and Maine, Alf Landon showed his good humor by giving his two grandchildren ponies named for those States. After that, Landon served out his term as Governor of Kansas, and then retired from politics. He returned to private life and the oil business at which he had been so successful.

Landon's first gubernatorial race in 1932 proved to be a large success. His defeat of the Democratic incumbent, Harry Woodring, by 5,637 votes made him the only Republican candidate west of the Mississippi to survive depression era elections. In 1934, he was relected and this time the only Republican gubernatorial candidate in the country to be elected.

Landon was a beloved public figure known for his unique philosophy of traditional conservatism and economic progressiveness. His image of a midwestern conservative only went so far, for he was quite vocal on his endorsement of many controversial aspects of the New Deal. He had definite beliefs and never hesitated to take a strong stand. His support of the Republican Party and his intelligence, keen wit, and love for country will long be remembered.

Thank you, Mr. President.

TRIBUTE TO ALFRED M. LANDON

Mr. LEVIN. Mr. President, "Alf" Landon was an American legend. In a lifetime that spanned a century, he knew both victory and defeat. And he accepted them both with an equanimity that few other national leaders have matched.

The highlight of his public life had to be the Presidential campaign of 1936. Landon's was to be no easy task: taking on the "champ," President Franklin Roosevelt who was bidding for a second term. Landon knew, right from the beginning, that he would have little chance against Roosevelt. But he ran anyway and, when it was over, he walked away with the electoral votes of only two States but with his dignity and reputation enhanced.

Alf Landon performed a real service for the country by running for President in 1936. His record as Governor of Kansas indicates that he would have been a good, progressive President had he been elected. But he also performed an important service by running and losing.

In American life, 1936 was a turbulent year. The economy was still in depression. Dictatorships had seized control abroad and both communism and fascism were picking up adherents here. There was a strong possibility, one that President Roosevelt fretted over, that an extremist of one stripe or another might contest him for the Presidency. America was, perhaps, ripe for that kind of candidacy in 1936.

Luckily, the candidate chosen to oppose Roosevelt was Landon. He made the case against the New Deal without invective or excess. He went out of his way not to attack the President personally and even gave credit to F.D.R. for some of his accomplishments. When the campaign was all over, Landon called on Americans to unite behind the reelected President and returned to private life. It was a mark of the kind of campaign he had run that President Roosevelt offered Landon a Cabinet post in his administration. It's hard to imagine that type of thing happening today.

Mr. President, we all owe a debt of gratitude to Alf Landon both for his 1936 campaign and for the half-century since—years that he has served as a voice for common sense and moderation. We also owe him a debt for the presence in the Senate of his daughter, Nancy Landon Kassebaum, who is carrying on her father's proud tradition. I hope that Nancy and other members of Alf Landon's family take some comfort in the fact that so many join them both in celebrating the life Alf Landon lived.

BICENTENNIAL MINUTE

OCTOBER 11, 1972 (FOR OCTOBER 13); SENATE NAMES OFFICE BUILDINGS

Mr. DOLE. Mr. President, 15 years ago this week, on October 11, 1972, the Senate officially named its two office buildings, the newest of which had already stood on Constitution Avenue for more than 15 years. For many years, the buildings had simply been called the Old Senate Office Building and the New Senate Office Building. I remember when I first came to Congress as a Representative in 1961 wondering about the Old Senate Office Building and the New Senate Office Building across Capitol Hill. In October 1972, the two buildings finally were named for two of the Senate's most distinguished leaders. They were Richard Brevard Russell, a Georgia Democrat and President pro tempore who had served the Senate for almost 40 years, from 1933 until his death the year before in 1971, and Everett McKinley Dirksen, a Republican from Illinois and minority leader, who served from 1951 until his death in office in 1969.

In 1904 the Senate authorized construction of a fireproof office building to meet its pressing need for working space. Along with the House, the Senate awarded a contract to a prominent New York architectural firm, which designed buildings for both bodies as identical four-sided structures. The First Street side of the Senate's building wasn't completed until 1933. The Russell Building encloses 315,000 square feet of floor space and cost $8.4 million.

Congress authorized the Senate's second building, the Dirksen Building, in 1948. The site was purchased and cleared, but the Korean war delayed groundbreaking until 1955. Ready for use in 1958, the Dirksen Building has 419,000 square feet of floor space and cost $24 million. The third and newest of the Senate's three buildings, occupied in 1982, was dedicated in June 1987 to the memory of Michigan Democrat Philip A. Hart. The Hart Building has nearly 1 million square feet of floor space and cost $138 million.

MESSAGES FROM THE HOUSE

At 2:44 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

H.R. 2782. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1574. An act to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account", and for other purposes;

H.R. 1567. An act to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in the U.S. Claims Court docket numbered 53-811, and for other purposes;

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug-Free America to be allowed travel expenses, and for other purposes; and

H.J. Res. 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. Stennis].

At 4:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1417) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

The message also announced that the House has passed the following bill, without amendment:

S. 1666. An act to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2969. An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2969. An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 13, 1987, he had presented to the President of the United States the following enrolled bill:

S. 1574. An act to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account," and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with the recommendation that the nomination be rejected:

Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States (with additional, minority, and supplemental views) (Exec. Rept. No. 100-7).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself, Mr. Riegle, Mr. Simon, Mr. Shelby, Mr. Sasser, Ms. Mikulski, Mr. Kasten, and Mr. Proxmire):

S. 1785. A bill to amend section 601 of title 17 of the United States Code, the Copyright Act; to the Committee on the Judiciary.

By Mr. DIXON:

S.J. Res. 200. A joint resolution to designate the period commencing on November 8, 1987, and ending on November 14, 1987, as "National Food Bank Week"; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. Glenn, Mr. Adams, Mr. Armstrong, Mr. Bentsen, Mr. Bond, Mr. Boren, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Conrad, Mr. D'Amato, Mr. Danforth, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Evans, Mr. Exon, Mr. Fowler, Mr. Gore, Mr. Graham, Mr. Grassley, Mr. Hatch, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Hollings, Mr. Humphrey, Mr. Johnston, Mrs. Kassebaum, Mr. Kennedy, Mr. Levin, Mr. Matsunaga, Mr. McCain, Mr. McClure, Mr. Metzenbaum, Ms. Mikulski, Mr. Moynihan, Mr. Murkowski, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Quayle, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr. Rudman, Mr. Sanford, Mr. Simon, Mr. Stennis, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Wilson, and Mr. Wirth):

S.J. Res. 201. A joint resolution to designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle *Challenger;* to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE:

S. Res. 296. A resolution authorizing supplemental expenditures by the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. LUGAR (for himself, Mr. Boschwitz, Mr. D'Amato, Mr. Garn, Mr. Nickles, Mr. Bradley, Mr. Kennedy, Mr. Kerry, and Mr. Leahy):

S. Con. Res. 82. A concurrent resolution urging the German democratic chief of state Erich Honecker to repeal permanently the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall, and to issue an order to tear down the Berlin Wall; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. Riegle, Mr. Simon, Mr. Shelby, Mr. Sasser, Ms. Mikulski, Mr. Kasten, and Mr. Proxmire):

S. 1785. A bill to amend section 601 of title 17 of the United States Code, the Copyright Act; referred to the Committee on the Judiciary.

MANUFACTURING CLAUSE OF THE COPYRIGHT ACT

Mr. DIXON. Mr. President, today I am joined by Senators Riegle, Shelby, Simon, Sasser, Mikulski, Kasten, and Proxmire in introducing legislation which would provide a permanent extension of the manufacturing clause of the Copyright Act.

For 95 years—until June 30 of last year—the manufacturing clause has been the trade law for the printing industry. Under its requirements, our Nation's printing industry has grown to become our sixth largest industry with 1.3 million workers across all 50 States.

The manufacturing clause has required that most printed material of a preponderantly nondramatic literary nature and written in the English language by an American author domiciled in the United States must be printed in the United States or Canada in order to enjoy the full and unqualified protection of the U.S. copyright laws.

Despite its overall size, printing is our Nation's largest and most important sector of small manufacturers. Of the more than 50,000 printing businesses, three-fourths of the firms employ 20 or fewer workers. Clearly, small- and medium-sized businesses cannot afford to lose their competitive edge. For many of these firms, because of their heavy capital investment, the loss of just a few printing jobs to overseas competition would mean possible economic ruin.

Because they do not have the resources to move their operations overseas and compete with foreign printers or large U.S. printers with overseas operations, tens of thousands of small- and medium-sized printing companies may eventually be forced to close their doors due to overseas competition.

The loss of employment in the printing industry would greatly affect those who are least able to recover. A recent book manufacturers institute study has indicated that 60 percent of printing industry workers are either unskilled or semiskilled workers. These workers would be among the first workers to be struck by job losses. These job losses would be even more tragic because the tight Federal budget limits the funds available for unemployment compensation or job training if these workers lose their jobs.

Although printing is a competitive and productive industry, it is increasingly threatened by high levels of import penetration. In fact, in 1985 and 1986, the United States, for the first time since World War I, was a net importer of books. The most recent trade figures indicate a worsening trade deficit in books and a growing deficit in other printed material.

The revised extension would be a tool for fair trade in printed materials. Fully consistent with the GATT, the legislation would extend and expand the manufacturing clause, but would suspend its requirements until an injuriously high level of imports is reached. Once reached, the clause would remain effective until the import level returned to the acceptable range or until the end of a 1-year period, whichever is later.

During the last several years, one important manufacturing industry after another has been crippled by imports. Millions of jobs have been lost. Thousands of factories have closed their gates. Worst of all, many of these industries and jobs will not return to our shores.

A recent study of foreign printing concludes that the highly developed, but low-wage, printing industries in Hong Kong, Malaysia, and Singapore are already producing large quantities of printed material for the United States markets. In addition, printers in China, Indonesia, Thailand, and Korea are also increasing their penetration of the United States market. In the absence of the manufacturing clause, we can expect these, and other Pacific and Caribbean Basin countries, to flood the U.S. markets with printed materials which will cripple our domestic printing industry.

The proposed manufacturing clause legislation is both fair and effective. The passage of this legislation would have an extraordinarily beneficial impact on more than 50,000 printing establishments and more than a million hard-working men and women.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that when the percentage of printing and publishing imports relative to domestic printing and publishing production for a calendar year equals or exceeds four times the percentage of printing and publishing imports relative to domestic printing and publishing production for the 1986 calendar year, such level of import penetration would cause serious injury or the threat of serious injury to the United States printing and publishing industry, within the meaning of article XIX of the General Agreement on Tariffs and Trade.

Sec. 2. Section 601(a) of title 17, United States Code, is amended by—

(1) striking out "literary"; and

(2) striking out "Prior to July 1, 1986, and except"; and inserting in lieu thereof "Except".

Sec. 3. Section 601(b) of title 17, United States Code, is amended—

(1) in paragraph (1) by—

(A) striking out "neither a national nor a domiciliary" and inserting in lieu thereof "not a national"; and

(B) striking out "or domiciliary";

(2) by striking out "or" at the end of paragraph (5);

(3) by striking out "or" at the end of paragraph (6);

(4) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; or"; and

(5) by adding at the end thereof the following:

"(8) where, on the date when importation is sought or public distribution is made in the United States, the percentage of printing or publishing imports relative to domestic printing and publishing production for the previous calendar year equals or exceeds four times the percentage of printing and publishing imports relative to domestic printing and publishing production for the 1986 calendar year, as provided in subsection (f).".

SEC. 4. Section 601 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f)(1) For purposes of paragraph (8) of subsection (a), the provisions of such paragraph, once imposed, shall apply for one year, or until the Secretary of Commerce certifies that the percentage of printing and publishing imports relative to domestic printing and publishing production is less than four times the percentage of printing and publishing imports relative to domestic printing and publishing production for the 1986 calendar year, whichever is later.

"(2) The provisions of paragraph (8) of subsection (a) shall not apply to materials subject to the provisions of this section which were manufactured prior to the date on which the provisions of such paragraph apply to such importation or distribution, or to such materials manufactured after such date pursuant to any contract, agreement, or understanding entered into, or reasonable expectation relied upon, prior to such date and imported during a period of 24 months after such date.".

● Mr. SIMON. Mr. President, today I join with my colleague from Illinois in reintroducing a bill to create a permanent extension of the manufacturing clause of the Copyright Act.

The printing industry in the United States is in a state of peril. For the first time since World War I, the United States is running a deficit in the trade of printed materials. More and more printing is being sourced overseas, undermining our domestic industry.

Like many of our industries, the printing industry is highly labor-intensive. As a result, U.S. producers are unable to compete on a price basis against the lower wages paid overseas. Our printers should not be punished for paying a wage that allows their employees a decent standard of living.

Printing is currently one of our strongest industries, with over a million employees nationwide. It has always been particularly strong in my State of Illinois, with thousands of print workers located in the Chicago area.

What makes this industry particularly sensitive to imports is that this industry is made up not of a couple large corporations, but thousands of small businesses. Printing is in fact the Nation's largest "small business industry," with 80 percent of its 53,500 plants employing 20 or fewer workers.

Due to their size, these plants are unable to make the structural changes necessary to match the prices of their foreign competitors. So, like other small businesses faced with unmanageable foreign competition, they simply close their doors and another American industry goes under.

By extending the manufacturing clause permanently we can save our print industry and the jobs associated with it. I urge my colleagues to support this vital piece of legislation.●

By Mr. DIXON:

S.J. Res. 200. Joint resolution to designate the period commencing on November 8, 1987, and ending on November 14, 1987, as "National Food Bank Week"; to the Committee on the Judiciary.

NATIONAL FOOD BANK WEEK

Mr. DIXON. Mr. President, I rise today to introduce a joint resolution declaring the week of November 8 through 14, National Food Bank Week.

Hunger and homelessness are a national disgrace, and the problems are not diminishing. The latest studies confirm that more than 20 million Americans, including 4 million children, go hungry at some time during every month. Despite signs of an improving economy, the problem continues to grow.

Since 1980 there have been over 15 studies addressing the problems of domestic hunger. These reports all reach the same conclusion—for millions of Americans, hunger is a tragic fact of life.

Mr. President, one out of every five children lives in poverty, and is at risk of being hungry or malnourished. Between 1983-85 the average number of households seeking emergency food rose by almost 40 percent. Despite these facts, however, Federal food programs under the Reagan administration have been cut by more than $12 billion. The administration's response to this chronic problem has been to cut the budget and eliminate vital programs which help place food on the table and a roof over the heads of the needy.

In my own State of Illinois, requests for hunger assistance have increased tremendously. For example, since 1982 food pantries in the city of Rockford have experienced an increase in demand for client services of over 470 percent. In September of 1986, one food pantry in Springfield served 286 meals. In September 1987 this same food pantry served 615 meals. This problem is growing, and it is growing nationwide.

Mr. President, today Illinois alone has 1,290 agencies distributing over 28 million pounds of food. The Chicago Food Depository Services 497 pantries, kitchens and charities in Chicago. In 1986 these 497 outreach groups distributed over 17 million pounds of food. In Springfield there are 275 agencies which last year provided over 4 million pounds of food. Last year the agencies involved in Rockford's Hunger Connection Network received 700,000 pounds of food, translating into over 420,000 meals to the needy.

I believe the Federal Government must take an active role in fighting hunger and homelessness. The Federal Government, however, should not be the only participant, and indeed, it is not. Mr. President, those involved in the Nation's food bank network, as well as the thousands of charities, pantries, soup kitchens and shelters, have done an outstanding job. The dedication and commitment of all those involved, from the volunteers at the grassroots level to the executives of the national corporations which donate food, help ensure that the vital objectives of these programs will be accomplished.

The efforts of these groups to feed our hungry has been extraordinary. Today there is a national network of food banks, spearheaded by an outstanding organization known as Second Harvest. Second Harvest is a Chicago-based nonprofit organization committed to bringing food to the hungry—food which would otherwise go to waste. During 1986 national corporations contributed 128.5 million pounds of nutritious food to Second Harvest. More than 265 national food companies vigorously participate in this food network. In addition, the 203 food banks of Second Harvest's Network collected 224 million pounds of food from local manufacturers, supermarket chains, and canned food drives. The Second Harvest National Food Bank Network reached more than 38,000 outreach programs serving the hungry in their communities.

I commend the work of all these compassionate people, and the groups and agencies which they represent. National Food Bank Week will increase the public's awareness of the serious problem posed by hunger in America. In addition, it pays tribute to the thousands of dedicated individuals whose tireless work contributes so much to the eventual eradication of this terrible problem.

Mr. President, the sad fact is that we had this problem licked once. As a nation, we Americans first became aware that many of our citizens were hungry and malnourished when thousands of men were rejected for service on those grounds during World War II. Programs were put in place which worked to virtually eliminate hunger and malnutrition across our bountiful land. We did the job then. We can do it again—now.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 200

Whereas an influential report has indicated that at least 20 million Americans go hungry at some time during every month, even though America is a land of abundant food resources;

Whereas the assistance of the private sector is needed to meet the increasing demands of families, children, the elderly, unemployed workers, and the homeless for food;

Whereas an extraordinary yearlong effort to feed the hungry is being coordinated by Second Harvest, America's Food Bank Network;

Whereas the 200 local food banks of the non-profit Second Harvest network are committed to channeling the surplus products of food manufacturers and retailers to the needy;

Whereas Second Harvest food banks rely upon the generous donations of hundreds of national food corporations, thousands of local food companies, and million of concerned individuals;

Whereas in 1986 Second Harvest was able to distribute 325 million pounds of wholesome, nutritious food valued at $500,000,000 to 38,000 charitable feeding programs nationwide; and

Whereas the upcoming Thanksgiving season is a time not only to count one's own blessings, but to support those who are extending a helping hand to their fellow Americans: Now, therefore, be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 8, 1987, and ending on November 14, 1987, is designated as "National Food Bank Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

By Mr. GARN (for himself, Mr. Glenn, Mr. Adams, Mr. Armstrong, Mr. Bentsen, Mr. Bond, Mr. Boren, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Conrad, Mr. D'Amato, Mr. Danforth, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Evans, Mr. Exon, Mr. Fowler, Mr. Gore, Mr. Graham, Mr. Grassley, Mr. Hatch, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Hollings, Mr. Humphrey, Mr. Johnston, Mrs. Kassebaum, Mr. Kennedy, Mr. Levin, Mr. Matsunaga, Mr. McCain, Mr. McClure, Mr. Metzenbaum, Ms. Mikulski, Mr. Moynihan, Mr. Murkowski, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Quayle, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr. Rudman, Mr. Sanford, Mr. Simon, Mr. Stennis, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Wilson, and Mr. Wirth):

S.J. Res. 201. Joint resolution to designate January 28, 1988, as "National Challenger Center Day," to honor the crew of the space shuttle *Challenger*; to the Committee on the Judiciary.

NATIONAL CHALLENGER CENTER DAY

Mr. GARN. Mr. President, today on behalf of the distinguished Senator from Ohio, John Glenn, and 57 of our colleagues, I propose a joint resolution to proclaim January 28, 1988, as National *Challenger* Center Day. We passed a similar joint resolution last year and President Reagan signed it into law as Public Law 100-3.

I would like, first of all, to thank those Senators and the members of their staffs who responded quickly and enthusiastically to offer their support as cosponsors to this measure. Their willingness to be helpful affirms the validity of the *Challenger* Center's cause and is a measure of strong interest in both remembering and honoring the *Challenger* crew and their families.

We are approaching the 2-year anniversary of the tragic accident when we lost seven brave and wonderful people as the space shuttle *Challenger* was destroyed shortly after launch. As you all know, the families of the *Challenger* crew decided in the aftermath of that accident to establish a space education center called the *Challenger* Center as a living memorial to their loved ones. Their hope is that this center will continue the final mission of the *Challenger* and help to complete the dream of those who flew her.

The center will provide the children and young people of the Nation with an opportunity to experience the sciences, especially the space sciences, at work. It will help teachers learn how to be more effective in teaching the concepts embodied in space science. And it will serve as a focus point to bring together the best talents, skills and resources to continue to improve learning and teaching opportunities for generations to come.

The center has made significant strides in establishing a Washington headquarters, as well as regional mission sites and affiliated museums across the country. Over 10,000 individuals have contributed in excess of $2 million, and the families and friends of the *Challenger* Center have traveled thousands of miles to communicate the purpose of the *Challenger* Center and to garner valuable support for its programs.

Focusing on the *Challenger* Center is an appropriate way to mark the anniversary of the shuttle accident. By looking to the dreams of Dick Scobee, Mike Smith, Ron McNair, Ellison Onizuka, Judy Resnik, Greg Jarvis, and Christa McAuliffe, we can find solace. By forwarding their dreams in the pursuit of a functioning and completed *Challenger* Center, we can find purpose.

Passage of this joint resolution will aid the cause of the *Challenger* Center by again focusing public attention on the living memorial that the center will be. It will also remind us again of those seven wonderful people and the sacrifices they made. For these reasons, I encourage prompt consideration and passage of this joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 201

Whereas the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

Whereas the members of the Challenger crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed;

Whereas an appropriate form for such a tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research; and

Whereas the Challenger Center is the only institution expressly established by the immediate families of the crew of the Challenger for the above-named purposes, and is intended to be the living expression of the nation's commemoration of the Challenger crew: Now, therefore, be it

Resolved by the Senate and House of Representative of the United States of America in Congress assembled, That January 28, 1988, is designated as "National Challenger Center Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day—

(1) by resolving that in the course of their regular activities the people of the United States will remember both the Challenger astronauts who died while serving their country, and the importance of the Challenger Center in honoring the accomplishments of the Challenger crew by continuing their goal of the expansion of interest and ability in space and science education; and

(2) with other appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 303

At the request of Mr. Bradley, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 303, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes.

S. 1157

At the request of Mr. Bradley, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 1157, a bill to make demonstration grants to local educational agencies eligible to receive assistance under title I of the Elementary and Secondary Education Act of 1965, as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981, in order to strengthen the educational partnership between the family and the school, and for other purposes.

S. 1345

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1345, a bill to allow the National Association of State Racing Commissioners, State racing commissions and regulatory authorities that regulate parimutuel wagering to receive and share Federal Government criminal identification records.

S. 1453

At the request of Mr. HEINZ, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1453, a bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

S. 1489

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1561

At the request of Mr. BOND, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1598

At the request of Mr. DOLE, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of S. 1598, a bill to provide for the increased use of motor fuel blended with ethanol in order to enhance the energy security of the United States and to expand markets for agricultural commodities.

S. 1611

At the request of Mr. KENNEDY, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1611, a bill to amend the Immigration and Nationality Act to effect changes in the numerical limitation and preference system for the admission of immigrants.

S. 1692

At the request of Mr. MURKOWSKI, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1692, a bill to amend title 38, United States Code, to provide for the payment of a veterans' disability benefit in the case of certain veterans who have non-Hodgkin's lymphoma.

SENATE JOINT RESOLUTION 41

At the request of Mr. GLENN, the names of the Senator from Georgia [Mr. NUNN], the Senator from Colorado [Mr. WIRTH], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Utah [Mr. GARN], the Senator from North Carolina [Mr. SANFORD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Georgia [Mr. FOWLER], the Senator from New York [Mr. MOYNIHAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Illinois [Mr. SIMON], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 41, joint resolution to designate the period commencing on November 22, 1987, and ending on November 29, 1987, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. BRADLEY, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Colorado [Mr. WIRTH], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 172, joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 181, joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 196

At the request of Mr. BRADLEY, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 196, joint resolution to designate February 4, 1988, as "National Women in Sports Day."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. STEVENS, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. MCCLURE], the Senator from Missouri [Mr. BOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE CONCURRENT RESOLUTION 82—RELATING TO THE SHOOT TO KILL ORDER OF THE EAST GERMANS AT THE BERLIN WALL AND ISSUANCE OF AN ORDER TO TEAR DOWN THE BERLIN WALL

Mr. LUGAR (for himself, Mr. BOSCHWITZ, Mr. D'AMATO, Mr. GARN, Mr. NICKLES, Mr. BRADLEY, Mr. KENNEDY, Mr. KERRY, and Mr. LEAHY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 82

Whereas the United States is committed to promoting freedom for people throughout the world and recognizes that respect for basic human rights is the cornerstone of freedom;

Whereas the Berlin Wall was erected in 1961, more than a quarter-century ago, and has since imprisoned more than 17,000,000 East Germans behind an artificial barrier that limits access to the free world;

Whereas the Berlin Wall continues to serve as a cruel barrier between peoples and remains a stark reminder that basic human rights are denied to East German citizens by the East German government;

Whereas the East German government has issued orders to border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall;

Whereas East German guards have killed many East Germans in border incidents;

Whereas, in the year ending August 13, 1987, there were 63 attempted escapes from East Germany, 16 during which shots were fired, and 3 persons were possibly killed while attempting to escape; and

Whereas these policies, which deny basic human rights and limit personal freedoms, are unacceptable to the people of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress urges the German Democratic chief of state Erich Honecker to repeal permanently the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall, and to issue an order to tear down the Berlin Wall.

SENATE RESOLUTION 296—AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 296

Resolved, That section 21, of Senate Resolution 80, 100th Congress, agreed to on January 28, 1987, is amended by striking out

"$842,335" and inserting in lieu thereof "$902,335."

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

WEICKER AMENDMENT No. 953

Mr. WEICKER proposed an amendment to the bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On Page 36, line 26, strike out "1,237,000,000" and insert in lieu thereof "1,822,265,000."

CONTINUING AUTHORIZATION FOR INDEPENDENT COUNSEL

LEVIN (AND COHEN) AMENDMENT No. 954

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. COHEN) on behalf of the Committee on Government Affairs, submitted an amendment intended to be proposed by them to the bill (S. 1293) to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes; as follows:

On page 33, line 11, after "Severability" insert "and Sunset".

On page 36, line 16, before "during" insert "applicable".

On page 36, line 17, before "during" insert "applicable".

On page 37, lines 2 and 3, strike "a person described in subsection (b)(4)" and insert "the Attorney General".

On page 39, line 24, and page 40, lines 1 and 2, strike "involved if there is conflicting or inconclusive evidence of the state of mind of such person" and insert "unless there is clear and convincing evidence that the person lacked such state of mind".

On page 44, line 18, after the period, insert the following: "The division of the court shall select an individual to serve as an independent counsel from those attorneys with appropriate prosecutorial experience. The determination of the division of the court on prosecutorial experience shall not be subject to judicial review.".

On page 49, line 19, after the period, insert the following: "Notwithstanding any other provision of law, the Department of Justice shall pay all costs relating to the establishment and operation of any independent counsel and shall be reimbursed for these expenditures out of the fund established pursuant to section 1304 of title 31, United States Code. The Attorney General shall submit to the Congress on a quarterly basis a report of the reimbursements from the fund. There is authorized to be appropriated such sums as may be necessary to reimburse the fund established by section 1304 of title 31, United States Code, for any withdrawals made pursuant to this subsection.".

On page 55, line 8, before "Access" insert "(A)".

On page 55, line 11, after the period designate the sentence that follows as subparagraph "(B)".

On page 55, line 17, after "Procedure." designate the sentence that follows as subparagraph "(C)".

On page 56, beginning on line 11 with the dash strike all through line 16 and insert the following: "serve as counsel or co-counsel to a person who is the subject of proceedings under this chapter.".

On page 57, lines 5 and 6, strike "shall be exempt from paragraph (2)(B) during their current terms of office but".

On page 57, line 7, strike "all other" and insert "the ".

On page 61, lines 1 and 2, strike "the division of the court and, if such removal was based on error of law or fact," and insert "a United States district court and".

On page 62, between lines 6 and 7, insert the following new subsection:

"(c) AUDIT.—Upon termination of the office of an independent counsel, an audit of the expenditures of such office shall be conducted by the General Accounting Office and a report shall be provided to the appropriate committees in Congress.

On page 62, line 9, strike "; Resolution of Disputes".

On page 63, line 1, after "Severability" insert "and Sunset".

On page 63, line 2, after the quotation marks, insert "(a) SEVERABILITY PROVISION.—".

On page 63, line 6, strike the quotation marks and the second period.

On page 63, between lines 6 and 7, insert the following new subsection:

"(b) SUNSET PROVISION.—This chapter shall cease to have effect 5 years after the date of the enactment of the Independent Counsel Reauthorization Act of 1987, except that this chapter shall continue in effect with respect to the pending matters before an independent counsel that in the judgment of such independent counsel require such continuation until that independent counsel determines such matters have been completed.".

On page 64, line 22, after "Columbia" insert "Circuit".

On page 64, line 25, after the quotation marks insert a period.

On page 64, after line 25, insert the following new subsection:

(e) SAVINGS PROVISION.—Each appointment, agreement, and contract which has been made under chapter 39 of title 28, United States Code, as such title was in effect prior to the date of enactment of this Act, shall, after the date of enactment of this Act, continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law. No criminal investigation or prosecution under chapter 39 of title 28, United States Code, as such title was in effect prior to the date of enactment of this Act, shall abate by reason of the enactment of this Act.

● Mr. LEVIN. Mr. President, S. 1293, the Independent Counsel Reauthorization Act of 1987, was ordered reported to the full Senate on July 1, 1987, by the Governmental Affairs Committee. The committee ordered the bill reported with an amendment in the nature of a substitute. S. 1293, as amended by the substitute, has been on the Senate calendar since July 24. Certain issues which arose at or after the committee markup had since been resolved in an amendment which the committee will offer on the floor to modify its substitute to S. 1293. To facilitate understanding of the committee amendment, I ask unanimous consent that an explanation of its provisions, as well as its text, be included in the RECORD at this time.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF COMMITTEE FLOOR AMENDMENT TO S. 1293

(1) Sunset provision.—The bill as introduced and the Committee substitute would have made the independent counsel process a permanent part of our criminal justice system. However, because the bill makes several changes in the current statute and the activity by sitting independent counsels is expected to provide additional information about the statute over the next few years, the Committee floor amendment postpones a permanent authorization, in lieu of a five-year sunset provision. This sunset provision, which has been used in previous independent counsel legislation, will ensure a comprehensive review of the statute by the Congress in five years' time to correct any problems. It also provides, as does current law, that any cases pending at the time of expiration will continue without disruption.

(2) Prosecutorial experience.—In response to concerns expressed at the markup about the background of those chosen to be independent counsels, the Committee floor amendment requires the special court, when selecting individuals to serve as independent counsels, to choose attorneys with "appropriate prosecutorial experience." In assessing such experience, the court is expected to consider the character and extent of an attorneys experience, how recent such experience is, and its relationship to the particular case at issue. Use of the word "appropriate" is intended to permit the court to apply the standard in a flexible manner according to the type of case before it and the available pool of candidates. The provision also states that the special court's determination on the adequacy of an individual's prosecutorial experience is not subject to judicial review, thereby precluding legal challenges to the appointment of an independent counsel on the basis of that counsel's prior experience.

(3) Audits.—The Committee floor amendment increases still further the fiscal controls over independent counsel proceedings by requiring an audit of the expenditures of every independent counsel, upon the completion of the independent counsel's activities. The audit is to be conducted by the General Accounting Office. A report containing the findings and conclusions of the audit is to be filed with the appropriate committees of Congress, namely the House and Senate committees with oversight, authorization and appropriations responsibilities for the independent counsel process. These audits and reports will permit a more informed analysis on whether Congress needs to impose additional fiscal controls.

(4) Recusal.—The bill as introduced would have required the Attorney General's recusal from all cases which: (a) involve a person with whom the Attorney General has a personal or financial relationship, or (b) involve certain high-level Justice Department officials, including the Attorney General. Section 591(c)(1). The second part of this recusal obligation is overly broad, since there may be cases involving Justice Department officials in which the Attorney General may not have the type of relationship or involvement for which recusal is required.

The Committee floor amendment therefore narrows the Attorney General's recusal obligation to cases which: (a) involve a person with whom the Attorney General has a personal or financial relationship, or (b) involve the Attorney General personally. Examples of personal involvement are instances where the Attorney General performed or played a material role in the conduct being questioned, participated in the decisionmaking process to plan or approve such conduct, provided specific legal advice on such conduct, or otherwise is a material witness in the case. As applied to cases involving other Justice Department officials, the provision requires the Attorney General to determine recusal by evaluating his or her relationship with those officials.

(5) State of mind.—The bill was amended in subcommittee to clarify the circumstances under which an Attorney General may close a case in the early stages of the independent counsel process when the Attorney General believes criminal intent would be difficult to prove. The bill currently states that the Attorney General may not close a case in these early stages if there is "conflicting or inconclusive evidence" on the person's state of mind. Section 592(a)(3)(B).

The Committee floor amendment modifies this provision by replacing "conflicting or inconclusive" with "clear and convincing." The modified provision reads that an Attorney General may not close a case in the early stages of the independent counsel process due to a lack of criminal intent, unless the Attorney General has clear and convincing evidence that the subject of the case lacked the state of mind necessary to commit a crime. Using a phrase, "clear and convincing," does not change the substance of the bill as reported by committee, but clarifies it by incorporating a more common legal standard which has a body of law interpreting its application. The bill's current standard, "conflicting or inconclusive evidence," has no such body of law to explain it.

(6) Backup appointments.—The bill was amended in subcommittee to prohibit sitting independent counsels from simultaneously holding any other federal office. Section 594(1)(2)(B). This prohibition was included to prevent an actual or apparent impropriety which may arise when an independent counsel holds a position in the same administration in which he or she is investigating another official. The Committee floor amendment deletes this prohibition, because it would prevent independent counsels from accepting so-called "backup appointments" from the Department of Justice. Such appointments may be needed or appropriate. In accepting such "backup appointments" or appointments to other federal office, however, independent counsels should remain sensitive to their continuing obligation to avoid even an appearance of a conflict of interest in their activities.

(7) Judicial review.—Current law and the bill as introduced permit judicial review of a decision by an Attorney General to remove an independent counsel from office. Section 596(a)(3). The provision specifies the standard for judicial review and lodges authority in the special court. The Committee floor amendment modifies this provision in two ways. First, the federal court in which judicial review may be obtained is changed from the special court to Article III district courts in order to make use of the district courts' expertise in such matters. Second, the specified standard for reviewing a removal decision is deleted in order to permit the district courts to develop the appropriate standard for review, consistent with existing case law and the Constitution.

(8) Technical corrections.—The Committee floor amendment also makes a number of technical corrections in the bill as reported to the floor. It corrects the name of the United States Court of Appeals for the District of Columbia Circuit; corrects several captions; inserts paragraph headings in a subsection on storage of records from closed independent counsel cases; inserts words which were omitted from a subsection describing the time period during which the statute applies to campaign officials; clarifies certain budgeting and accounting procedures for independent counsel cases; and adds a savings clause to protect existing cases from any disruption when the bill is enacted.●

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a joint hearing before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources and the Selection Committee on Indian Affairs.

The hearing is scheduled for October 28, 1987, beginning at 9 a.m. in room 562 of the Dirksen Senate Office Building. Testimony is invited regarding S. 1415, the Colorado Ute Indian Water Rights Settlement Act of 1987.

For further information regarding the hearing, you may wish to contact Russell R. Brown of the subcommittee staff at 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Water and Power, room SD-364, Dirksen Senate Office Building, Washington, DC. 20510.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, October 13, 1987, in closed session to receive testimony on the military balance in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, October 13, 1987 to receive testimony concerning S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, October 13, 1987, to conduct oversight hearings on the globalization of securities markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOW RURAL WATER DISTRICTS PROMOTE GOOD COMMUNITY LIVING

● Mr. BOREN. Mr. President, each year the Oklahoma Farmers Union sponsors a speech contest for high school students. One of this year's winners was Miss Kendra Jimison of Frederick, OK.

I ask that Miss Jimison's speech be inserted in the Congressional Record.

The speech follows:

How Rural Water Districts Promote Good Community Living

I always love getting together with my family and listening to Grandma talk about her life on a small farm in Oklahoma when she was young. There were always the usual chores to be done, like cleaning, feeding the animals and hauling water for the wash basin. Today, that chore is pretty much a thing of the past, thanks to the Oklahoma Rural Water Association and its districts. Just being able to reach out and turn on that faucet is something many of us take for granted, but it wasn't always that easy.

Hello, I'm Kendra Jimison and I'd like to tell you how rural water districts have and still are making community living a little better by supplying us with the water that we need.

My rural water district consists of Comanche, Kiowa, and Tillman counties and includes my hometown of Frederick. Rural water districts in Oklahoma are very well diversified. They range from serving 18 members, as in the case of Kay County and Woods County, the smallest in the state, right on up to Rogers County in Northeast Oklahoma which serves 3000 members.

Not only can the Rural Water Association serve many, but can bring the luxury of having water on tap to as wide an area as 200 miles of distribution line, which is contained in Caddo County, the largest service area in our state.

Now that we know who the rural water districts serve, let's find out why. Drinking water in many rural areas of Oklahoma contained substances so harmful it was left veritably unused. Many of my rural Oklahoma ancestors hauled water because their wells could only meet their bare needs. The blessed coming of rural water systems greatly improved the quality and availability of water to rural Oklahomans.

Rural residents in my area of Tillman and Commanche counties, who once consumed water so high in nitrates that it was deemed hazardous to expectant mothers and the elderly can now have a safe, sufficient water supply. Finally, let's focus on the average rural water district. It serves 450 members. Statewide, about 1 out of every 5 Oklahomans (which equals 650,000 people) are served by a rural water system. Why, everyday, ⅔ of a million Oklahomans turn their hydrants on to receive water provided by 475 rural water districts, but the Oklahoma Rural Water Association doesn't stop with supplying those 650,000 rural Oklahomans with water. It also spends a great deal of time and effort in educating districts in efficient operation and maintenance as well as stressing the need for water conservation. Yes, it's safe to say that there is a future for rural water districts.

Here in Oklahoma our rural population is continually in need of clean and pure water, and thanks to the Oklahoma Rural Water Assocaition and its districts we will have that water with the ease that makes for better living.

Yes, many people take for granted being able to reach out and turn on that faucet, but with organizations like the Farmers Union who have allowed me to bring this matter to your attention, we as a state can be informed about this tremendous service and say "Thank You" to the Oklahoma Rural Water Districts for promoting good community and allowing my generation to experience the chore of hauling in the water only in Grandma's stories.●

PERSECUTION OF THE BAHA'IS

● Mr. HEINZ. Mr. President, I want to draw my colleagues' attention to section 511 of the State Department authorization bill, which was passed by the Senate last Thursday. This section, inserted in committee deliberations by Senator PAUL SIMON of Illinois, is a ringing condemnation of the Iranian Government's persecution of the Baha'is of Iran.

The Senate is not powerless in attempting to protect a beleagured minority such as the Baha'is of Iran. Past experience has shown that Iran's religious and political leadership are sensitive to world opinion as expressed in congressional resolutions and resolutions by the United Nations General Assembly and the United Nations Commission on Human Rights.

The Bahai faith is not considered a religion by Iran's intolerant religious warlords. It is rather considered a heresy, a political conspiracy, a challenge to the extremist and all-inclusive religious claims of Shi'te Islam. As recently as last week two Baha'is were executed in Tehran. These men, whose only crime was to practice freedom of conscience, were shot at the very time that U.N. Secretary General Perez de Cuellar was visiting the region to work out a cease-fire in the Iran-Iraq war.

The Baha'is of Iran have only the Senate and other concerned outsiders to protect them. And our only method of helping the Baha'is at this time is to speak out, to speak out loudly and remind the mullahs in Tehran that the world's eyes are on them and their barbarism. Islam is a great religion and the Iranian people have a long proud history and a rich cultural tradition reaching back nearly 3,000 years.

But the extremists of Iran have besmirched the name of Islam by their persecution of the Baha'is. So long as the Iranian leadership persists in oppressing the loyal and patriotic Baha'is of Iran, solely for their profession of faith, Iran will be regarded as outside the community of civilized nations.

Unfortunately, the sickness of religious persecution against Baha'is is not limited to Iran. In Egypt, 48 Baha'is have been convicted of sedition, while it is crystal clear that they are being persecuted for their refusal to recant their faith. Egypt's brand of Islam is generally far more tolerant than that now ruling Iran. But even in Egypt, extremists seek to destroy the Bahai faith, which they consider a heresy.

It is not clear what will happen with the Egyptian Baha'is. My hope is that the Egyptian Government will ensure that Egypt's democratic principles will be upheld with respect to the Bahai religious minority. The United States is a close partner in security, in economic development, in efforts for regional peace. This partnership would be seriously damaged by any acts in Egypt that run counter to the democratic and tolerant values our two countries share. I urge our friends in Egypt to avoid damaging the close and special ties between our two countries.

Egypt's example is especially important, because many moderate Islamic countries in Asia and Africa will be influenced by Egyptian policy toward religious minorities. Iran is increasingly isolated in the Islamic world. Iranian extremism is increasingly rejected. Egyptian maturity and tolerance should be confirmed as the proper model for emulation throughout the Islamic world.

Mr. President, I urge my colleagues to speak out on the persecution of the Baha'is of Iran and other countries. Our cherished American traditions of freedom of conscience and religion are at the center of this controversy. If there is anything that America stands for, it is the right of people such as the Baha'is of Iran to worship God in a manner of their choosing. Their cause is our cause. Let the Baha'is of Iran know, and their oppressors be put on warning, that their fate is of vital concern to Americans and civilized people around the world.

To better inform my colleagues about the persecution of the Bahai community, I ask that a report from the National Spiritual Assembly be printed in the RECORD.

The report follows:

TWO PROMINENT BAHA'IS EXECUTED IN IRAN—DIPLOMATS FEAR LESS SUPPORT FOR U.N. ACTION ON IRAN/HUMAN RIGHTS—EGYPTIAN BAHA'IS CONVICTED ON RELIGIOUS CHARGES

Two executions in Iran: Two Baha'is executed in Tehran September 28 had been members of the last elected Baha'i National Assembly of Iran, the group disbanded by Iranian government decree in 1983. The latest victims, Mr. Ardeshir Akhtari and Mr. Amir Husayn Naderi, had been in prison since September 12, 1984 and were among the 14 Baha'i prisoners whose fate has been a source of acute concern since the beginning of this year.

Their death sentences were imposed while U.N. Secretary General Perez de Cuellar was visiting Iran in an effort to end the Iran-Iraq war.

Five Baha'is have been executed this year. Since 1979, 188 Iranian Baha'is have been killed for religious reasons, while 15 others (including several elected leaders of the community) have disappeared and are presumed dead.

There has been no significant change in the situation of the Iranian Baha'i community since 1985. Although the number of executions is far below 1983-1984 levels and fewer Baha'is are in prison than in prior years, Baha'is continue to be persecuted solely because of their religious beliefs, and to suffer physical, social and economic intimidation as Iranian officials seek to compel them to recant their faith. The Baha'i Faith is not recognized as a religion but is treated as a heresy and political conspiracy.

Iranian government actions against Baha'is include executions; summary arrests; detention without trial; torture; denial of education; deprivation of the means to earn a livelihood; confiscation of business and personal property; and denial of religious freedom.

U.N. General Assembly Action Urgent: Some diplomats fear a loss of support among U.N. member-nations for a proposed resolution condemning Iran's human rights practices.

Because Baha'is have no rights or protections under the constitution and laws of Iran, they are especially dependent on the support of the international community, particularly the U.N. It is vital to their security and survival that the General Assembly approve at its current session a resolution condemning Iran's human rights practices, with specific reference to the situation of the Baha'i religious minority.

Similar resolutions were adopted by the General Assembly in 1985 and 1986, despite intense Iranian opposition. There is no doubt that these resolutions and other expressions of concern have deterred Iranian actions against Baha'is.

Experts fear a falloff in support, possibly even defeat of the Iran resolution at the current session of the General Assembly, which will consider a report by the U.N. Special Representative for Iran.

The resolution on Iran barely survived defeat in the 1987 session of the U.N. Commission on Human Rights when a motion to defer action (in effect, to kill the measure) lost on a 16-16 tie vote. The U.N. Commission on Human Rights then approved the resolution with a smaller majority than in prior years.

Iran has lobbied vigorously against action by the UNCHR and the General Assembly and has not allowed the Special Representative to visit Iran, as proposed by the UNCHR.

Failure to adopt a strong U.N. resolution condemning Iran's continuing violations of basic human rights would probably lead to escalation of persecution of Iranian Bahi'is.

Egyptian Baha'is appeal convictions on religious charges: Forty-eight Egyptian Baha'is were convicted in Cairo May 11 and sentenced to the maximum of three years in jail for allegedly violating a 1960 edict banning Baha'i activities. Two others originally charged were acquitted after they proved they were Muslims, not Baha'is.

Acquittal of the two Muslims clearly demonstrates that religious beliefs rather than the alleged activities were the central issue. Although Egypt ratified the International Covenant on Civil and Political Rights on January 14, 1982, the Judge stated that the rights specified by the Covenant apply only to religions recognized by the Egyptian Government, and not to the Baha'i Faith, which is not recognized as a religion in Egypt.

American Baha'is are concerned not only for the fate of the Egyptian Baha'i community (there are fewer than 500 Baha'is in Egypt today) but for the impact of Egypt's example on Sunni Muslim nations in Africa and southeast Asia, where there are ten of thousands of Baha'is.

Appeals of 14 of the Baha'is are to be heard in the District Court for the South of Cairo on October 7. Nine of the 48 were not in Egypt at the time of the trial and were convicted in absentia. Cases of 25 others who were not represented in court by a lawyer are to be re-heard in the Misdemeanor Court on November 16; if the verdicts are confirmed, those Baha'is would then have the right to appeal to the District Court.

Charges against Baha'is: The Baha'is were arrested during a midnight sweep of six Egyptian cities on February 24, 1985. Their homes were searched and Baha'i books and documents seized. They were initially charged with "holding ideas that run counter to the divinely revealed religions on which the system of government in Egypt is based," and of belonging to an "apostate religion."

When the Egyptian State Security Prosecutor found that those charges did not constitute a crime under Egypt's penal code, he transferred the cases to the Abdin Misdemeanor Court in Cairo for prosecution under laws forbidding the use of religion to promote seditious ideas and under the 1960 law banning organized Baha'i activity.

Charges against the Baha'is included gathering in small groups, praying together in private homes and being in possession of Baha'i holy writings and prayer books.

Islamic fundamentalist pressures: To date the Egyptian parliament has not adopted legislation introduced by Islamic fundamentalists in 1985, calling for fines and harsh punishment for Baha'i belief or membership in a Baha'i group.

Fundamentalists have called for a general boycott of Baha'is, "spilling of the blood of the Baha'is" and the Islamic punishment of death for Baha'is. The Islamic Center of Cairo's Al-Azhar Mosque and University, the foremost seat of learning in the Sunni Islamic world, has publicly attacked the Baha'is, and other Islamic groups have urged the government to exterminate the Baha'is. Since the 1985 arrests, attacks on Baha'is have appeared regularly in the Egyptian press, with allegations of heresy, atheism, immorality, espionage and promoting "Zionism."

American Baha'i Vice Chairman Firuz Kazemzadeh calls recent actions in Egypt "alarming, since they indicate that the wave of persecution which still afflicts the Baha'is of Iran is now spreading over other Muslim countries, based on the same fanatical arguments and motivated by the same spirit of religious intolerance."●

GAMING ON INDIAN LANDS

● Mr. INOUYE. Mr. President, in its business meeting today, the Senate Select Committee on Indian Affairs unanimously adopted a resolution regarding legislation that might be offered with the intent or effect of altering current law with respect to gaming on Indian lands. The statement follows:

> It has come to the attention of the Senate Select Committee on Indian Affairs that an effort or efforts may be undertaken to adopt an amendment to an upcoming appropriations measure that would alter the existing state of the law with respect to gaming on Indian lands. The Indian Affairs Committee is actively considering substantive legislation to address this issue in a comprehensive manner. Therefore, the position of the Select Committee on Indian Affairs is that, at this time, the Committee strongly opposes any efforts to address the issue of gaming by Indian tribes through amendment to spending measures as inappropriate, premature and an infringement of the Committee's legislative process.●

S. 305—A BILL TO IMPROVE THE COMMODITY SCHOOL LUNCH PROGRAMS

● Mr. McCLURE. Mr. President, I have been asked to withdraw my request for consideration in any time agreement on S. 328 the Prompt Payment Act. I do not wish to delay or detain this bill in any way and I hope to find a way to allow this bill to move forward today. However, I would like to clarify my position and explain why I requested time on this bill. I am very interested in providing alternatives to the Commodity School Lunch Programs and have supported an extension of a small program which allows specific school districts to receive commodity letters of credit or cash instead of commodities. The original program authorization expired on July 1, and it was necessary to extend the program for the next school year. It was necessary to find a legislative vehicle which was scheduled to come to the Senate floor before the expiration date.

At the time S. 328, the prompt payment bill was cleared for Senate floor action and I requested 30 minutes of time to discuss this issue on any time agreement under consideration. This was granted but another Member of the Senate objected to considering this extension amendment on S. 328.

My colleagues on the Senate Agriculture Committee were at this time preparing for subcommittee markup on a bill, S. 305, which makes changes to the Commodity School Lunch Program. The chairman of the subcommittee and the chairman of the full committee agreed to include language extending the cloc and cash program for 2 years. Unfortunately, this bill was not reported out of committee prior to the expiration date. Thus I was anxious to continue my efforts to find a bill to which I could bring an amendment to extend the programs.

As the Senate Agriculture Committee has now reported out S. 305 and has filed the report, S. 305 is now ready for Senate consideration. I hope that the leadership will quickly move toward consideration of this bill. I understand that the House of Representatives has a similar bill which will be reported out of the House on August 3 under a suspension of the rules and that this bill includes language extending the cash and cloc programs and that a preconference will be held in order to facilitate passage of this measure by the conference committee.

● Mr. LEAHY. Mr. President, my colleague Mr. McClure is correct, we expect no opposition to this measure and expect quick Senate floor action. Discussions have already been started with House Members and I expect and will work toward fast Senate passage and conferencing of this measure. I expect that this measure will be reported out of conference and passed by both houses and sent to the President for signature by August 7, 1987.

I appreciate Mr. McClure's concerns and hope that given this time table he will withdraw his request for consideration of the cash and cloc extension on the prompt payment bill.

● Mr. McCLURE. Mr. President, I do appreciate the efforts my colleagues Mr. Leahy and Mr. Harkin have made toward including this extension in S. 305. I do not wish to delay consideration of S. 328, thus I will rely on their assistance that they will press toward fast action and passage of S. 305. Mr. President, I withdraw my request for time on S. 328, the prompt payment bill.●

REMEMBERING A. WILLIAM "BILL" BISHOP

● Mr. RIEGLE. Mr. President, on October 16, 1987, the Flint Community will honor Mr. A. William Bishop at the anniversary dinner/dance of the Clayton K. Stroup Foundation. This foundation is dedicated to funding substance abuse treatment for the less fortunate in the community, and has chosen its first anniversary celebration to pay tribute to the life and works of Mr. Bishop. The following statement will appear in the program in remembrance of Mr. Bishop's important contribution to the Flint community and I ask that a copy of this statement be included in the Record.

Bill Bishop's numerous contributions to the community, whether acts of charity or civic accomplishment, demonstrate the character and unselfishness of a man who dedicated much of his life to helping others.

A. William "Bill" Bishop's roots are traced to his grandfather, Arthur Giles Bishop, for whom Flint's Bishop Airport is dedicated. His grandfather was a local banker and philanthropist credited with helping develop the area's automotive industry. Many historians consider his business proposition that lured the Weston-Mott Company of New York as the founding of General Motors. A Giles Bishop serves as the president of the Genesee County Savings Bank, currently Genesee Bank, in addition to serving on the boards of GM, Chevrolet, Monroe Motors and the Coleman Electric Stove Company. The A.G. Bishop Charitable Trust was established as a stipulation of his will.

His parents, Russell Spencer Bishop and Mary Beasom Bishop, were also local volunteers and philanthropists. His father, Russell Spencer Bishop, was a regent at the University of Michigan-Ann Arbor as well as chairman of the Board of Genesee Bank, treasurer of the Genesee Red Cross Chapter, Urban League member and president of the City Club of Flint. His mother was national vice president of the Girl Scouts of America and regional president of the local Girl Scout Council. She was also active in the local arts.

While Bill Bishop may be remembered for his wry, subtle humor, his quiet acts of generosity and leadership by example will not be forgotten by friends and associates who knew him well. He held a position on a committee concerned for the progress of downtown Flint and was one of the innovators of the Downtown Development Authority. His tremendous interest in helping Flint's "street people" resulted in the Vista Drop-In Center which provides clothing, food and essentials for the community's poorest residents.

As owner of the Allsports Equipment Co. and the Crystal Water Co., Bishop was active in Flint's business community. For several years he served as a director of Genesee Bank and was a member of many local organizations, including the Flint Golf Club, Flint City Club, the University Club and Alcoholics Anonymous. Up until his death he served as the trustee of the A. Giles Bishop Trust, which has contributed significant amounts to local nonprofit health care chemical dependency agencies.

Bishop will be remembered for his active involvement in local substance abuse issues. He and the esteemed Dr. Clayton K. Stroup, for whom Hurley Medical Center dedicated a floor in honor of Stroup's commitment to treating chemically dependent residents, were successful in convincing area hospitals to treat inebriates. A recovering alcoholic, Bishop became unswerving in his efforts to help those trying to recover from alcoholism. He was a board member of the National Council on Alcoholism and was instrumental in promoting AA locally. In addition, he was a charter board member of Insight, a nonprofit substance abuse and mental health treatment agency.

His concern for his fellow man was evidenced by his work after moving to Delray Beach, FL where he became involved in a local substance abuse center.

Bishop has been referred to by many as "unostentatious", a man whose unsung devotion helped countless people, whether they were personal friends, less fortunate strangers or fellow AA members. A tremendous debt of gratitude is owed to Bill Bishop—not only for his numerous civic accomplishments—but for the good humor and generous spirit he consistently gave to his fellow man.

"Let your light shine" and "To whom much has been given much will be required" are two creeds which epitomize Bill Bishop's philosophy of living and are reflective of his quiet dignity.

It is only fitting that the community honor a man whose financial and personal generosities have enriched the lives of countless people from all walks of life.●

IS RESTRICTIVE TRADE LEGISLATION WISE?

● Mr. ARMSTRONG. Mr. President, as the time for decisionmaking on a number of pieces of trade legislation is approaching, it is important for Senators and the public to have the best possible information available.

Within the next few months, Congress is likely to address the trade bill, the textile bill, the United States-Canada Free Trade Agreement and other legislation that will have a tremendous impact on the future of our trade relations with other countries. None of these issues should be taken lightly because the consequences for the Nation are critical if we are to continue to experience economic growth.

In order to obtain a straightforward assessment of the wisdom of pending trade legislation, Julian Simon and Robert Crandall polled a number of economists about their views. When the political and parochial issues are removed from the trade debate, Simon and Crandall found that these economists are deeply concerned about where the Nation may be heading.

I urge my colleagues to read the following Simon/Crandall article. It is thought provoking and well worth considering.

The article follows:

[From the Washington Times, Sept. 10, 1987]

SINGULAR ECONOMIC RESPONSE

(By Julian Simon and Robert Crandall)

The 1987 foreign trade bill, now in congressional conference and about to be sent to the president, is another example of politics subverting economics. As often happens, economic theory and America's most highly respected economists are on one side; the politicians on the other.

Some in Congress think that by bashing our competitors they can curry favor with job-worried workers. The economists know better, and feel strongly that the protectionist trade bill will damage both the U.S. economy and those of other countries.

Ever since President Harry S Truman's jibe about wanting a one-armed economist because he was tired of hearing "on the one hand this—and on the other hand that," the public has thought that economists disagree about most things. But on a wide range of matters—especially international trade—economists speak with one voice. All trade barriers are bad, they say.

While Congress debated trade policy, we polled the current and past presidents of the American Economic Association—a mainstream organization whose presidents are considered at the top of their profession. The survey results are representative, and more authoritative than selected "experts" testifying before Congress. On the issue of trade an economist who argues for restricting trade is almost as common today as a physician who favors leeching patients.

We asked the economists whether the president should veto legislation containing the main provisions of the Senate and House bills. The economists felt strongly on this one: Fourteen said "yes, veto," one said "no." None was "undecided," though one didn't answer this question. The verdict is clear.

Both the Senate and House bills call for sanctions against nations with large trade surpluses with the United States—Japan, Taiwan, Hong Kong and Singapore, for example.

The House version of the sanctions proposal, drafted by Missouri Rep. Richard Gephardt, would penalize countries that sell more than they buy from the United States—the equivalent of penalizing Nebraska because it sells more to Massachusetts than Massachusetts sells to Nebraska. Such formulas, of course, fail to take into account the fact that every pair of states shows an imbalance. What matters is the entire trade network, which tends to balance out, not just the relationship between two countries or states.

We asked the economists whether the economy would benefit from the so-called Gephardt sanctions. Sixteen said "no"; none said "yes."

The trade bill also increases the authority of the U.S. International Trade Commission to decide whether an industry has been "injured" by imports, and to prescribe a "remedy." The bill reduces the president's authority. Among our blue-ribbon panel, just two approved of this proposal, 12 disapproved, and two were undecided.

In answer to the general question: "In comparison to present regulations, what sort of general policy would be best for the U.S. economy?" None said "tougher," five said "about the same as at present," 11 said "less tough."

We also asked about the trade regulation that has been most in the news recently: the control of computer chip sales. When questioned whether "intervention with respect to computer chips" has been "good or bad for the United States, compared to no intervention," none said "good," 11 said "bad," and five were undecided.

The economists are sure that tougher trade barriers means a lower U.S. standard of living. Trade barriers raise the prices of protected goods and invite retaliation. Though the protected industries may benefit for a while from the barriers, in the long run they usually fail.

The cost to the U.S. taxpayers and consumers is tremendous. For example, "saving" jobs in the textile and apparel industry has cost about $40,000 per year per job, more than double the wages of those whose jobs are temporarily "saved."

The top economists do not agree on everything, however. The trade bill contains a provision requiring employers to notify their workers some months in advance of a plant closing. The poll split on this issue—six said it would economically benefit the United States in the long run, six said it wouldn't two were undecided. The economists split in their views because—unlike ideas about trade—this judgment is not based on a single clear-cut economic principle.

If trade restrictions are out-and-out evil, why do politicians embrace them?

Let's be charitable and assume that most politicans sincerely don't know any better and think they are being helpful. This raises the question: How can so many politicians be so ignorant?

The answer was supplied more than a century ago by the great economic journalist Frederic Bastiat. He wrote that the most important element in sound economic reasoning lies in paying attention both to "what is seen" and to "what is not seen."

Henry Hazlitt, in "Economics in One Lesson," put it thus: "The art of economics consists in looking not merely at the immediate but at the longer effects of any act or policy; it consists in tracing the consequences of that policy not merely for one group but for all groups."

Foreshadowing the current battle over the protectionism, Mr. Hazlitt warned about "the persistent tendency of men to see only the immediate effects of a given policy, or its effects only on a given group, and to neglect to inquire what the long-run effects of that policy will be not only on that special group but on all groups. It is the fallacy of overlooking secondary consequences."

The propensity for foreseeing secondary consequences—especially the myriad ways the market will behave to evade and undo the devices that government employs to achieve political ends—is what distinguishes the trained economist from the person who thinks economics is just the common sense of business writ large.

At rare shining times in history the economic wisdom of free trade has overcome ignorance and political cynicism, and a country has flourished because of it.

Perhaps the defenders of free trade in Congress can still find the strength to keep the lamp of free trade shining in the United States. And if Congress does not, the best-respected economists in the United States; in a concerted voice, have told the president what to do: Veto.●

THE 18TH ANNUAL CONVENTION OF THE PUERTO RICAN CONGRESS OF NEW JERSEY

● Mr. LAUTENBERG. Mr. President, the Puerto Rican Congress of New Jersey, which has contributed so much to the growth and development of the Hispanic community in my State, holds its annual convention on October 17. I rise to recognize the Congress for its work and to commend the participants at the convention.

The Puerto Rican community in New Jersey has faced a great many challenges in its efforts to secure for its members the opportunities that should be available of all Americans. Confronted too often by the ugly face of discrimination, they strive for what we all strive for: Decent housing, employment opportunity, and the kind of education for our children that will give them the chance to be all they can be.

The Puerto Rican Congress has worked to fulfill these goals. The congress began in 1970. It involved political leaders, local governmental officials, and Hispanic leaders throughout the State. The annual convention has provided a positive forum for the assessment of problems facing the Puerto Rican community, and the development of strategies to address those problems.

I commend the work of Jose Morales, executive director of the congress, Carlos Pacheo, chairman of the congress, and Angel Dominguez, president of this year's convention and wish them and other participants well in their work.●

SYLVANUS THAYER AWARD

● Mr. McCAIN. Mr. President, on September 24, Senator Barry Goldwater, who served the State of Arizona in the Senate for 30 years, was presented with the 1987 Sylvanus Thayer Award to commemorate his long and selfless service to his country.

This prestigious award is presented by the Association of Graduates of the United States Military Academy to a U.S. citizen whose outstanding character, accomplishments, and stature as a civilian symbolize the ideal of West Point, as expressed in its motto, "Duty, Honor, Country." I can think of no one more deserving of such a high award than Senator Goldwater. He well deserves the honor of joining the ranks of such distinguished Thayer Award recipients as John Foster Dulles and Dwight Eisenhower.

Barry Goldwater's life has been one of outstanding service to the citizens of the United States. His career started as a Reserve officer in the Army in 1930. He served with the Air Transport Command during World War II, organized and directed the Arizona National Guard from 1947 to 1952, and continued with the Air Force Reserve until his retirement as a major general in 1967. During his three decades as Senator, Barry Goldwater established a national reputation for honesty, candor, and love of country. He consistently supported the men and women of the Armed Forces, pressed for a balanced budget and proved to be a stable and skillful leader during the Watergate crisis of 1974. His leadership, legislative skill, and sense of duty make him truly deserving of such a great honor as the Sylvanus Thayer Award.

Upon receiving this prestigious award, Senator Goldwater made a fitting speech for the occasion by addressing the principles of duty, honor, and country. These ideals have been vitally important to the history of our country and, I believe, will be even more essential to its future. Mr. President, I ask that Senator Goldwater's speech be printed in the RECORD.

The speech follows:

SYLVANUS THAYER AWARD

(Speech by the Honorable Barry M. Goldwater)

The Thayer award is the greater honor I have ever received. I am grateful beyond my capacity for expression to the Association of Graduates for selecting me.

The Academy, and it's honor code, have influenced me all my life. Fifty-nine years ago I was graduated from the Staunton Military Academy in Virginia. My greatest desire then was to sit where you cadets are sitting tonight. I wanted the military life. I wanted to live the inspiration of men such as Washington, Madison, Jefferson and Franklin, who had so much to do with creating the United States of America.

Those men had not been cadets, of course. There was no military academy then. But they were men who lived the principles of duty, honor, country. They applied them in originating this wonderful country of ours. And this Academy has done more than any other educational institution in America to preserve these principles of democracy.

My father's illness in 1928, however, prevented me from becoming one of you.

As cadets, you may have heard more about duty, honor, country than you care to hear from an old curmudgeon like me. But, ladies and gentlemen of the Corps, the principles of your code are without peer in the history of this world. They were the basis of the formation of Ancient Greece. They created the Roman Empire. They brought Lafayette to colonial America to help form the United States. Erosion of those principles brought the demise of those and other great civilizations. May we in our country never let the code escape us.

No free nation ever was formed without men and women who lived those values. No country ever survives without them.

I have tried to live the code—even though it was never drilled into my heart and mind here at the academy. I learned it from my parents and grandparents, who moved West to help settle Arizona. They learned those basic truths from their parents, just as Sylvanus Thayer did from his Puritan forebearers, who settled in New England early in the Seventeenth century.

Without their vision of integrity, there would have been no land of the free. Our forefathers survived because they lived it. Those standards of conduct were perpetuated in the home, in church and in school. That's the way we older Americans learned about serving one another, about preserving our country, and about integrity.

There would not have been a Constitution without the sense of duty felt by men like Washington, Jefferson, and Madison. That document of liberty would not have survived for these 200 years without the basis of honor, which its authors wrote into the Constitution. There would have been no country without the loyalty that these men felt to freedom—and without the same devotion of men and women who followed them.

Living an honor code becomes automatic. There is just no other way to act. You may be accused of shooting from the hip, of being fast with the lip, or making statements that are judged dumb politically. But your instincts will be right. You will be proud. You will be honorable. You will be an outstanding soldier. You will be a great American. You will hold the respect of your peers. And you will get as much satisfaction as you will experience in your lifetime.

The Military Academy has lived up to its responsibilities. It is the premier educational institution in America teaching integrity as well as academic subjects. It has faced serious challenges to its own observance of duty and honor. Some dozen or more years ago, this Academy suffered a cheating scandal, culprits violated their honor. Some liberal educators, some politicians, some editorial writers and many pantywaists publicly advised the superintendent only to slap the culprits' wrists a bit. They said cheating was only a minor crime, common in colleges and universities throughout the land. Punish the guilty with demerits, put them on probation, but let them stay here, they argued. The Academy stood firm. It discharged the lot.

An institution vital to the nation's future could not violate its own honor. I am proud it did not fail itself.

I speak as an outsider. I am not of the Long Gray Line. But I see West Point as one of the critical institutions offering the nation men and women who will preserve the United States of America. God has not ordained that Americans shall be forever free or that the United States shall live eternally. Our liberty is not guaranteed. It must be fought for every day of our lives. Every citizen must be in the fight. That means every Congressman and Senator, every soldier, every business executive, every educator, every worker, and yes, even every journalist. None of us has a higher calling than preserving the freedom handed down to us by our ancestors—almost all from foreign lands.

Even so, all men and women do not see the light. Serving them, guiding them, influencing them is the task of leadership. And leadership is what this institution is all about.

One person, one leader, can make a difference. Colonel Thayer proved that 170 years ago. The Academy was a chaotic place when he arrived. Most of the cadets were absent. The superintendent actually was forced to advertise in newspapers asking cadets to return to West Point. There was no discipline, no harmony, no inspiration. Colonel Thayer created a new Academy, essentially the one we have today. He rejected congressional tampering. He picked a select group of men to help him. He created high scholastic standards, instilled discipline and patriotism. And today we have a unique organization, the pride of the nation—as a result of one man's leadership.

Our country has been in deep trouble many times in our two centuries. And it was men of leadership, men instilled with duty, honor, country, who bailed us out. Many of these leaders came from this Academy, and many more will come from it in the future. The Eisenhowers, the MacArthurs, the Pattons, the Lees, the Taylors, the Grants—and their civilian counterparts, the Lincolns, the Roosevelts, the Trumans. They led us in desperate times. And some of you here tonight will lead us through future difficulties.

Our nation is in trouble now. Foreign armies are not on our shores, it is more corrosion than invasion. It is evident at all levels of our society, both in the public and private sectors. We are experiencing a flight from basic principles of character.

Some Congressmen and Senators are substituting public opinion surveys for leadership. They are influenced by financial contributions. They are looking to the next election rather than to the country.

Congress is sticking its nose too deeply in foreign policy, a constitutional responsibility of the President. Television preachers are raising millions of dollars, supposedly for God, and injecting politics into religion in a society that always has believed in separation of church and state. Men in high places have lied and quibbled. Our growing national debt darkens our future. Our government is oversize. And the military is under constant attack in Congress and in the press.

We need our public officials and all citizens to understand what duty, honor, country means. There would have been no Watergate, no Iran scandal, under the honor code. Neither would our country be in trouble.

This nation needs you—you cadets—to lead us in the future, to devote your lives even after your military careers are over, to our country. There is no Last Hurrah in the struggle to remain free, unless it might be that time when the Lord calls us back home.●

INFORMED CONSENT: OREGON

● Mr. HUMPHREY. Mr. President, as you know, I have been presenting the issue of informed consent to this body every day it is in session. I do it every day for several reasons—first, because every day across the country, women are choosing to have an abortion without first being apprised of all the risks, effects, and alternatives. This has led to a great deal of trauma for many women across these United States. Second, my office has received so many letters detailing such trauma that I feel it is only just for the women who wrote the letters to get a fair hearing before the Senate and the American people. Lastly, it is an issue we can do something about.

My informed-consent legislation, S. 272 and S. 273, will go far toward rectifying this injustice by requiring medical personnel to fully inform those considering abortion of the risks, effects, and alternatives. I urge my colleagues to support this legislation, and I ask that letters from women in Oregon be entered into the RECORD.

The letters follow:

FEBRUARY 18, 1987.

SENATOR HUMPHREY: I am 31 years old. I had an abortion 9½ years ago. My husband and I were not married at the time, but were planning to be. I was using an I.U.D., which I obtained thru Planned Parenthood. I was having trouble with my cycle months before my abortion, but they told me everything was alright and the I.U.D. was fine. In looking back at the signs and symptoms I had those months I can say now I had two miscarriages. They denied the possibility to me. Then I became sick with flu symptoms which continued for many weeks. After seeing two separate doctors, the second one suggested a pregnancy test. I didn't think it was a possibility because I was continually spotting or having light periods as before. The test was positive. I was in shock. All I could think about was that I didn't want to be pregnant, I didn't want to "have" to get married, and what would everybody think. I never once considered the baby. I saw a doctor after the test. He asked me what I wanted to do. I said "have an abortion." He then gave me information on where to go without any further discussion. The only people I told were my husband to be and my sister, who I knew had previously had an abortion. I was seen in the clinic for a brief talk prior to scheduling me for the abortion. Not once did they tell me anything about the baby, its development, etc. They said, they thought I was about 12 weeks along and that was the latest they could do a (suction) abortion. In my case they would go ahead and schedule me soon. They explained the procedure basically, but they didn't tell of the intense pain you feel during the procedure or the emotions you have afterwards.

It was a couple of years later that the reality of what I had done hit me. When my husband and I had our first child. I read books during pregnancy and heard the heart beat at 10 weeks! and felt movement at 18 weeks. I have anguished over what I did, I have felt tremendous guilt, sorrow, remorse . . . and anger. I have cried many times over the child I chose to kill. I will never get over the pain or forgive myself. The only way I can cope with the fact is knowing that God has forgiven me through his son Jesus Christ.

I definitely believe that if someone had sat me down and told me about what was inside me, that that baby is a person and showed me how it develops, I wouldn't have had the abortion. I never once thought of it as a baby—only that I was pregnant. There were opportunities for a couple of professional people to do this, but they never said a word.

I pray for your victory on this bill thru Christ.

OREGON.

MARCH, 1987.

SENATOR HUMPHREY: I had three boys (2 toddlers) and a faltering marriage when I found out I was pregnant. I was devastated. How could I possibly take care of all these people alone?

Abortion was legalized that year, 1973. So I went to see about getting one, worried about how I could convince them that I needed it. I was called into the "counselling" room. After the name, address information was taken she asked me why did I want an abortion. I said, "Well, I have 3 boys . . ." She interrupted me there and laughed and said, "That's all the reason you need." End of "counsel."

I was required to see a film before the abortion took place. It snowed heavily that day and I couldn't get out of my driveway. So I called them and was told that it would be okay to miss the film—no problem.

Next I went in for the seaweed stick to be inserted into the cervix to start dilation. Then back a day or so later for the abortion.

There were approximately 12 of us there that night. They took in 1 or 2 at a time. I was about 8th on the list. I was a nervous wreck about the whole thing. I was absolutely flabbergasted at the conversation around me. Not one woman was a single girl "in trouble." All were married and this pregnancy was just an inconvenience. All, except me and one other, were pregnant with first babies.

I was called in and prepped. The nurse explained that the anesthesia doesn't always take effect on everyone. If there was pain, I could squeeze her hand. They couldn't stop doing the abortion if that happened, but the pain would only last 30 seconds, so hang in there and watch the clock. One side of my uterus did not "take." I wondered how many others this happened to, since the clock was set up for pain watching. Those 30 seconds were the most horrid pain I've ever experienced before or since.

We were monitored an hour afterwards to see if anyone were bleeding badly (one was). Then I went home . . . not pregnant any more.

No one prepared me for the guilt or the nightmares to follow. The nightmares have quit and the guilt has changed to more of a sorrow now. I've since been found by Jesus and I know he's forgiven me for murdering my baby. I wonder if the female problems I'm dealing with now could be some of the results of the abortion.

Yes, counseling as to what an abortion really is and all the medical facts concerned with the surgical procedure and what the possible harm to the mother could result should be given before the abortion.

For His Glory.

LaRae Hickman,

Oregon.●

TALIESIN WEST

● Mr. McCain. Mr. President, I rise today to bring to the attention of my colleagues an important milestone in the history of a remarkable institution. On October 23, the Frank Lloyd Wright Foundation celebrates the 50th anniversary of the establishment in Scottsdale, AZ of Taliesin West, Frank Lloyd Wright's winter home, office and architectural school.

Frank Lloyd Wright's contributions to art, architecture, culture and education in America during the 70 years of his career are widely recognized. His creation of an American architecture, a style which expresses freedom and democratic ideals in its use of space, is exemplified in the National Landmark of Taliesin West.

Taliesin West is a monument to Frank Lloyd Wright's spirit of enterprise. It exemplifies his contributions to art, architecture, culture and education in America and throughout the world. I ask my colleagues to join me in commemorating the 50th anniversary of this fine institution.●

IN SUPPORT OF H.R. 1366, THE CONVEYANCE OF LAND TO THE PAYSON SCHOOL DISTRICT

● Mr. McCAIN. Mr. President, I would like to take this opportunity to voice my support for the enactment of H.R. 1366, which concerns the conveyance of 60 acres of Forest Service land to Payson School District No. 10.

A community rich in history and heritage, the town of Payson is justifiably proud of the academic achievements the school district has attained. Since their establishment as a frontier community, the Payson School District has implemented an educational program that ensures equity, yet does not compromise educational excellence. But, the current problem the school district has encountered regarding the Forest Service land could pose a serious challenge to their continued pursuit of educational excellence.

Mr. President, in 1961, Payson School District No. 10 entered into an agreement with the National Forest Service which permitted them to lease 45 acres for the purpose of building school facilities. In 1965, the Forest Service granted another permit which extended the leased land by an additional 15 acres.

This agreement had worked reasonably well up until the last few years when rising land values caused leasing costs to rise rapidly. The land was usually reappraised by the Forest Service every 5 years but, because of unanticipated delays in its appraisals between 1980 to 1986, the town was hit with a 200-percent increase for 1987. Furthermore, lease payments are estimated to rise by 515 percent between 1986 and 1989. This substantial and unexpected increase would pose a problem even for a well financed school district, but for a relatively small district such as Payson, this incredulous increase is financially devastating.

The Payson community is very cognizant of the importance of adequate levels of funding for the school district and is not averse to seeking alternative funding methods. Twice in the last 5 years the community has approved bond issues totaling more than $9 million. The school had previously invested $4.3 million into buildings and improvements on the leased land, and is in the process of completing several more buildings worth $8 million. It is unlikely, however, that the community would approve another bond election for the outright purchase of the Forest Service property. Moreover, Payson has almost reached its maximum bonding capacity, thereby, precluding this avenue as a viable alternative.

The ability of Payson School District No. 10 to complete these pending projects moves Payson closer to their goal of continuing to provide a quality education in a small community with limited funds. It also reflects the Department of Education's philosophy which reintroduces excellence into our educational system by providing specialized instruction, improved textbooks, and better teachers.

Another problem the Payson School District faces is its limited tax base, which stems mainly from the fact that it is surrounded by National Forest land. The fact that the town of Payson is unable to increase its land base is an inhibiting factor, and one that has plagued city officials for many years. But their inability to expand does not reflect the fact that the town's population has grown by almost 50 percent over the last few years. Furthermore, the student enrollment is expected to grow by 66 percent by the year 1995.

To keep and improve the land Payson has developed over the last 20 years, the town is faced with only one viable alternative; the passage of H.R. 1366. H.R. 1366, which has already passed the House of Representatives, would allow the Payson School District to apply for conveyance of the land within the next 30 years by adhering to the provisions set forth by this legislation. It permits the school district to make payments, not to exceed $12,500 per year, while continuing to use the school grounds. The land will be bought by the school at fair market value, less amounts paid out by the school district in the past for the lease. The passage of this legislation will allow the Payson School District to shoulder the financial burden of acquiring the land while allowing them to continue to upgrade and expand their facilities. In addition, the integrity of this legislation is protected by a clause which reverts the land back to the Government if ownership of the property is transferred.

Mr. President, I believe that the enactment of H.R. 1366 is in the best interests of the American taxpayer, our Nation, and the residents of Payson, AZ. I would appreciate its immediate passage.●

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I thank Mr. Armstrong for his cooperation in conducting morning business.

Mr. ARMSTRONG. Mr. President, I thank the distinguished leader and note with anticipation and approval that I think he is preparing to recess or adjourn.

I note with extraordinary pleasure that it may yet be daylight outside. That would be a wonderful precedent. I hope it would be a habit-forming experience, I say to the leader, and I hope we can do it often in the future.

Mr. BYRD. It just goes to show if we can get in early enough, we get our work done earlier.

Mr. ARMSTRONG. I would not want to draw this out, but I would say publicly to the leader what I have said privately, that I appreciate his having votes early in the morning. I know there are Senators who do not like to have bed-check votes, but I think we ought to get them in early, get on with our work, and if we continue to do that, and I hope he will persevere, I hope that we can get out at a reasonable hour in the evenings.

Mr. BYRD. Mr. President, I thank the distinguished Senator. We cannot always get out as early as we would like, but I find that the early votes get Senators to the Capitol. They call up their amendments; they begin debate on the legislation that is on the floor; we get an earlier start, whereas otherwise we have to wait around 2 or 3 hours before we can get Senators to come to the floor. Those who do not participate in the debate on the floor can go on to their committee meetings and do other things. It seems to me that it is working out all right.

I thank the distinguished Senator for his observations. They are helpful.

REPORT ON BORK NOMINATION

Mr. BYRD. Mr. President, I ask unanimous consent that the committee on the Judiciary may have until 9 o'clock this evening to file the report on the Bork nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I have a parliamentary inquiry. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is H.R. 3058 making appropriations for the Departments of Labor, Health and Human Services.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate will come in at 8:45 and, after the two leaders have been recognized for not to exceed 7½ minutes each, the Senate would then resume consideration of the pending business, which is the Labor-HHS appropriation bill, following a rollcall on the motion to instruct the Sergeant at Arms. That rollcall will occur beginning at 9 o'clock, and I will ask in a moment that the regular order be automatic at 9:30.

Following that rollcall vote, the Senate will be on the pending business. I misstated it earlier. I hope that action can be completed on that measure relatively early tomorrow.

Senators have been busy discussing an amendment to the catastrophic illness bill, and I understand that progress is being made, in which case, hopefully, action can be completed on that bill early tomorrow.

Also, the distinguished Republican leader and I, in the morning, will again discuss the taking up of the Bork nomination. The report will have been filed, and I hope that the leader and I, if we cannot get consent, can press ahead and join in waiving the rule and take up that nomination and let the Senate get started on it. There is not anything to be gained, in my view, in a long, drawn-out discussion of this nomination. The Sun has set pretty much on this nomination, and it seems to me that we all should be thinking in terms of the next nomination and filling the vacancy at a reasonably early date, as soon as the confirmation process can be reasonably concluded.

Mr. President, I ask unanimous consent that it be in order now to order the yeas and nays on the motion to instruct the Sergeant at Arms tomorrow morning to request the attendance of absent Senators at circa 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion to instruct the Sergeant at Arms.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:45 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the prayer tomorrow, the two leaders be recognized under the standing order for not to exceed 7½ minutes each; that upon the conclusion of those two orders or the reservation of time therefrom, the Senate resume consideration of the now pending business, the Labor-HHS appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. At that time, I will suggest the absence of a quorum. Upon the calling of the roll and the announcement by the Chair that a quorum is not present, I will move to instruct the Sergeant at Arms to request the attendance of absent Senators. The yeas and nays will be held on that motion, they having already been ordered.

I ask unanimous consent that the regular order be called on that rollcall vote at 9:30 a.m. or at the conclusion of the 30 minutes, whichever is the later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate will then resume consideration of the Labor-HHS appropriation bill.

I know of nothing else to come before the Senate today, unless the distinguished Republican leader has a statement or wishes to transact further business.

Mr. President, I ask unanimous consent that the entire order for tomorrow be slipped 15 minutes, so that instead of coming in at 8:45 a.m., the Senate will come in at 9. The orders will end and the quorum call will begin at 9:15. The regular order will be called at 9:45, and we will be on our way.

I thank the distinguished Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to, and at 5:24 p.m., the Senate recessed until tomorrow, Wednesday, October 14, 1987, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 13, 1987:

DEPARTMENT OF COMMERCE

C. WILLIAM VERITY, JR., OF OHIO, TO BE SECRETARY OF COMMERCE.

NATIONAL SCIENCE FOUNDATION

FREDERICK PHILLIPS BROOKS, JR., OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1992.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH & IMPROVEMENT

NOREEN C. THOMAS, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL OF EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1988.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

MONEESA L. HART, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON WOMEN'S

EDUCATIONAL PROGRAMS FOR A TERM EXPIRING MAY 8, 1990.

JUDITH D. MOSS, OF OHIO, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS FOR A TERM EXPIRING MAY 8, 1990.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

LIEUTENANT GENERAL WILLIAM W. QUINN, U.S. ARMY, RETIRED, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS.

DEAN BURCH, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JERALD CONWAY NEWMAN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARAM BAKSHIAN, JR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1992.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOY CHERIAN, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1988.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, October 13, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as You have given us a vision of a world where people of different traditions can live in peace, so may we see a vision of how each of us can do the things that make for understanding in our own lives and in a dangerous world. May we be peacemakers of words and deeds, of prayers and supplications, that by so doing, we may preserve and protect that gift that is above every gift, the gift of life itself. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes; and

H.J. Res. 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327);

S. 864. An act to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes;

S. 865. An act to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes;

S. 866. An act to authorize certain construction at military installations for fiscal years 1988 and 1989, and for other purposes;

S. 1174. An act to authorize appropriations for fiscal year 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; and

S. 1750. An act to amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal employee, and to provide for the payment of certain travel and transportation expenses of civil service career appointees.

HOUR OF MEETING ON THURSDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday next, it adjourned to meet at 11 a.m. on Thursday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

MEDICAL WASTE TRACKING ACT

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I am introducing legislation today along with my colleagues from New Jersey, Mr. HUGHES and Mr. HOWARD, that would create a manifest tracking system for medical waste and raise the penalties for those who dump such materials in the ocean.

It was alarming enough to watch people picking up used syringes from New Jersey beaches in August, and then to read about a youngster who actually had one of these needles become imbedded in his hand while playing in the surf.

But it was even more alarming to find out that there is no Federal mechanism for tracking this dangerous material from the time it is removed from a hospital or clinic until the time it actually reaches a point of disposal.

This legislation gives the EPA the power not just to regulate the disposal of medical waste, but also to conduct onsite inspections and raises fines from a maximum $50,000 to $100,000 per occurrence.

I believe this is a tough, no-nonsense kind of bill which answers many of the concerns that have been raised about medical waste and the dumping of those wastes in the ocean.

AMERICAN INDIAN WEEK

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, today I am pleased to introduce a House joint resolution honoring the first Americans whose ancestors were here to greet European explorers to the New World. This commemorative would designate Thanksgiving Week, November 22, 1987, through November 28, 1987, as "American Indian Week."

This resolution is especially appropriate in 1987, the year of our Nation's bicentennial of our Constitution. Often our history books do not focus on the many achievements American Indians have contributed to our Government, especially the principles enunciated in the Constitution. Indeed, the Iroquois Confederacy was a model for the Articles of the Confederacy, our first form of government as an independent nation. In addition, the Iroquois Confederacy was a source of the revolutionary political concept incorporated in the Declaration of Independence, that one purpose of Government was to insure to all individuals the right to pursue happiness.

It is appropriate that Thanksgiving Week be set aside to acknowledge the contributions of American Indians to our society, culture, and Government. This great American holiday reflects the tradition of giving and sharing which is the cornerstone of all native cultures. Indeed, it was this tradition which led to the first Thanksgiving and the assistance offered by American Indians to the first colonists. That assistance allowed the colonists to survive their first years in what seemed to them a new and harsh land.

I hope you will join me in the sponsorship of this resolution as one small gesture of appreciation and recognition of the great contributions Indian individuals and tribes have made to this great country.

THE OMNIBUS TAXPAYER BILL OF RIGHTS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, today we are taking a major step toward restoring public faith in the Internal Revenue Service. For too long, innocent taxpayers have suffered abuse or mistreatment by the IRS. To end a pattern of growing mistrust between the IRS and our citizens, we are today introducing the omnibus taxpayer bill of rights.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

Our legislation is not an attempt to punish the IRS, but a reasonable approach correcting major flaws in IRS operations. It protects taxpayers rights under civil investigation and audit, yet allows the IRS to operate effectively. It should indeed, blend well with the leadership of the most dynamic IRS Commissioner of our era, Lawrence Gibbs. Commissioner Gibb's dedication to taxpayer service is reflected in the thrust of our legislation.

Finally, our effort complements other legislation introduced by our distinguished oversight subcommittee chairman, Jake Pickle. I urge my colleagues to join us in our efforts to restore taxpayer faith and compliance with our revenue collection system.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. MONTGOMERY. Mr. Speaker, on behalf of the chairman of the Committee on Armed Services, I ask unanimous consent to take from the Speaker's table the Senate bill [S. 1174] to authorize appropriations for fiscal years 1988 and 1989 for military activities for the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the armed services, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. KYL. Mr. Speaker, reserving the right to object, may I ask the gentleman from Mississippi if he will please explain the reason behind this request?

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. KYL. Certainly, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, the Senate in adopting the basic bill authorizing appropriations for the Department of Defense for fiscal years 1988 and 1989 passed four versions: the basic bill, and also the bill divided into three separate components, S. 864, the Research and Development Section, S. 865, the Department of Energy, Stockpiles, and Civil Defense, and S. 866, Military Construction. We are sending these bills back, Mr. Speaker, for the Senate to appoint conferees, and we on the House side are not asking to appoint conferees today. What we are doing is giving the Senate the opportunity to appoint conferees on the House bill.

Mr. KYL. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1988 and 1989".

SEC. 2. ORGANIZATION

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

SEC. 100. SHORT TITLE

Short Title.—This division may be cited as the "Department of Defense Authorization Act, 1988 and 1989".

TITLE I—PROCUREMENT

Part A—Funding Authorizations

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for procurement for the Army as follows:

(1) For aircraft:
(A) $2,805,859,000, for fiscal year 1988.
(B) $2,643,083,000, for fiscal year 1989.
(2) For missiles:
(A) $2,412,928,000, for fiscal year 1988.
(B) $2,367,461,000, for fiscal year 1989.
(3) For weapons and tracked combat vehicles:
(A) $3,410,437,000, for fiscal year 1988.
(B) $3,144,212,000, for fiscal year 1989.
(4) For ammunition:
(A) $2,131,239,000, for fiscal year 1988.
(B) $2,166,732,000, for fiscal year 1989.
(5) For other procurement:
(A) $5,522,163,000, for fiscal year 1988.
(B) $6,030,274,000, for fiscal year 1989.

SEC. 102. NAVY AND MARINE CORPS

(a) Navy.—Funds are hereby authorized to be appropriated for procurement for the Navy as follows:

(1) For aircraft:
(A) $9,562,607,000, for fiscal year 1988.
(B) $5,160,280,000, for fiscal year 1989.
(2) For weapons (including missiles and torpedoes):
(A) $6,219,532,000, for fiscal year 1988.
(B) $3,044,459,000, for fiscal year 1989.
(3) For shipbuilding and conversion:
(A) $10,081,455,000, for fiscal year 1988.
(B) $2,936,400,000, for fiscal year 1989.
(4) For other procurement:
(A) $4,967,627,000, for fiscal year 1988.
(B) $1,094,201,000, for fiscal year 1989.

(b) Marine Corps.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,378,440,000, for fiscal year 1988.
(2) $810,006,000, for fiscal year 1989.

SEC. 103. AIR FORCE

(a) Funds are hereby authorized to be appropriated for procurement for the Air Force as follows:

(1) For aircraft:
(A) $13,754,873,000, for fiscal year 1988.
(B) $9,272,047,000, for fiscal year 1989.
(2) For missiles:
(A) $9,137,539,000, for fiscal year 1988.
(B) $7,164,439,000, for fiscal year 1989.
(3) For other procurement:
(A) $8,210,782,000, for fiscal year 1988.
(B) $8,453,171,000, for fiscal year 1989.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for Defense Agencies as follows:

(1) $1,276,891,000, for fiscal year 1988.
(2) $863,622,000, for fiscal year 1989.

SEC. 105. RESERVE COMPONENTS

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces in the amount of $300,000,000.

(b) Authorizations in Addition to Other Amounts.—The authorization of appropriations contained in subsection (a) is in addition to any other amounts authorized to be appropriated by this or any other Act.

SEC. 106. CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1987, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended—

(1) by striking out "fiscal year 1987" each place it appears and inserting in lieu thereof "fiscal years 1988 and 1989"; and

(2) by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO and other follow-on support agreements for the NATO E-3A between the United States Government and the commander of the NATO E-3A Force," after "December 6, 1978,".

Part B—Program Requirements, Restrictions, and Limitations

SEC. 121. ARMY PROGRAMS

(a) Forward Area Air Defense Heavy System.—Funds appropriated or otherwise available to the Army for procurement for fiscal year 1988 may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to Army solicitation number DAAH01-87-R-A988 unless the Secretary of the Army determines that the system meets the full system requirements specified in that solicitation.

(b) Stinger Missile.—Section 107(e) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3827) is repealed.

(c) RDX Facility.—The Secretary of the Army may award one or more contracts, in advance of appropriations therefor, for the design and construction of an RDX manufacturing plant if each such contract limits the amount of payments that the Federal Government is obligated to make under such contract to the amount of appropriations available, at the time such contract is awarded, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods.

(d) Army Truck Program.—Funds appropriated to the Department of Defense before, on, or after the date of the enactment of this Act or otherwise made available to the Department of Defense may not be obligated for purposes of procuring tactical transport trucks with a capacity in excess of 4000 pounds unless the trucks are acquired after a competition based on performance specifications that satisfy the Department of the Army's requirements for such vehicles.

(e) Lightweight Tacfire.—Funds appropriated to the Department of Defense before, on, or after the date of the enactment of this Act or otherwise made available to the Department of Defense may not be obligated to enter into any contract for purposes of acquiring the Lightweight Tacfire fire support system.

SEC. 122. NAVY PROGRAMS

(a) H-53 Aircraft.—Of the funds appropriated to the Navy for fiscal year 1988 for the procurement of the H-53 aircraft, not more than 30 percent of such funds may be obligated until the Secretary of the Navy has submitted to Congress a report containing the preliminary results of dynamic structural tests on the H-53 aircraft and the recommendations of the Secretary regarding the advisability of continuing procurement of such aircraft.

(b) Land-Based Tankers.—Funds appropriated to the Navy before, on, or after the date of enactment of this Act or otherwise made available to the Navy may not be obligated or expended for the purpose of acquiring or operating land-based tanker aircraft unless the Secretary of Defense has certified to Congress that the Department of the Air Force and the Department of the Navy will not enter into a memorandum of agreement regarding Air Force support of Navy land-based tanker requirements. For the purposes of this section, the KC-130T aircraft operated by the Marine Corps is not considered a land-based tanker aircraft.

(c) Lease or Charter of New Tankers.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for militarily useful tanker vessels constructed in the United States.

SEC. 123. AIR FORCE PROGRAMS

(a) T-46 Aircraft.—Funds appropriated to the Air Force for fiscal years 1986 and 1987 may not be obligated or expended for procurement of the T-46 aircraft (other than those aircraft under contract on the date of the enactment of this Act for lot one aircraft) or in connection with a competition for trainer aircraft.

(b) A-7 Close Air Support Aircraft.—Of the amount appropriated or otherwise made available to the Air Force for fiscal year 1988 for procurement of aircraft, $10,000,000 shall be available only for the procurement of equipment, facilities, and services for the modification of A-7 aircraft under the A-7 Plus program. None of such funds may be obligated until the Secretary of Defense has certified to Congress, in writing, that the A-7 Plus program is a cost-effective approach to modernizing close air support and battlefield air interdiction squadrons in the Air Force and the Air National Guard.

PART C—MILESTONE AND MULTIYEAR CONTRACT AUTHORIZATIONS

SEC. 131. MILESTONE AUTHORIZATIONS FOR PROCUREMENT

(a) Mobile Subscriber Equipment.—(1) Of the funds appropriated to the Army pursuant to section 101, $1,019,800,000 of the amount appropriated for fiscal year 1988 and $995,700,000 of the amount appropriated for fiscal year 1989 may be obligated only for Mobile Subscriber Equipment.

(2) Funds are authorized to be appropriated to the Army for procurement of Mobile Subscriber Equipment as follows:

(A) For fiscal year 1990, $976,200,000.

(B) For fiscal year 1991, $360,000,000.

(b) Army Tactical Missile System.—(1) Of the amount appropriated to the Army pursuant to section 101, $16,925,000 of the amount appropriated for fiscal year 1988 and $81,300,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) Funds are authorized to be appropriated to the Army for procurement of the Army Tactical Missile System as follows:

(A) For fiscal year 1990, $158,200,000.

(B) For fiscal year 1991, $209,000,000.

(C) For fiscal year 1992, $88,200,000.

(c) Trident II Missile.—(1) Of the amount appropriated to the Navy pursuant to section 102, $2,251,331,000 of the amount appropriated for fiscal year 1988 and $2,227,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program and equipment described in the preceding sentence.

(2) Funds are authorized to be appropriated to the Navy for procurement of the Trident II missile as follows:

(A) For fiscal year 1990, $2,215,000,000.

(B) For fiscal year 1991, $2,090,500,000.

(C) For fiscal year 1992, $1,977,000,000.

(d) T-45 Training System.—(1) Of the amount appropriated to the Navy pursuant to section 102, $371,500,000 of the amount appropriated for fiscal year 1988 and $417,500,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are authorized to be appropriated to the Navy for procurement of the T-45 Training System as follows:

(A) For fiscal year 1990, $437,700,000.

(B) For fiscal year 1991, $596,300,000.

(C) For fiscal year 1992, $652,300,000.

(e) Medium Launch Vehicle.—Of the amount appropriated to the Air Force pursuant to section 103, $197,900,000 of the amount appropriated for fiscal year 1988 and $204,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Medium Launch Vehicle.

(f) Application of Section 2437 of Title 10.—Programs referred to in subsections (a) through (e) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

SEC. 132. MULTIYEAR CONTRACTS FOR FISCAL YEAR 1988

(a) Army.—Subject to subsection (d), the Secretary of the Army may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(1) High Mobility Multipurpose Wheeled Vehicle.

(2) TOW 2 Missile (for the Army and Marine Corps).

(3) AN/ALQ-136(V)2 Radar Jammer.

(b) Navy.—Subject to subsection (d), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Hawk Missile System.

(c) Air Force.—Subject to subsection (d), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Meteorological Satellite Program.

(d) Limitations on Authorized Multiyear Procurements.—The Secretary concerned may not enter into a multiyear contract authorized by this section for a program unless the total anticipated cost for the program over the period of the contract is no more than 88 percent of the total anticipated cost of carrying out such program through annual contracts.

PART D—CHEMICAL WEAPONS

SEC. 141. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for purposes of the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $87,400,000.

SEC. 142. REVISIONS TO CHEMICAL DEMILITARIZATION PROGRAM

(a) Definition.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) Environmental Impact Statement.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) Disposal Technologies.—(1) Funds appropriated pursuant to this Act for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for any Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense provides to Congress a written certification that the concept plan under the program includes the following:

(A) Evaluation of alternative technologies for disposal of the existing stockpile and selection of one such technology to be used for such purpose.

(B) Full-scale operational verification of the technology selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) Alternative Concept Plan.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the matters determined under subsections (b) and (c); and

(2) specify any revised schedule and revised funding requirements necessary to enable the Secretary to meet the requirements under subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) Surveillance and Assessment Program.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing chemical stockpile; and

(2) assessment of the condition of the stockpile.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) In General.—Funds are hereby authorized to be appropriated for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:

(A) $5,474,460,000, for fiscal year 1988.

(B) $2,860,598,000, for fiscal year 1989.

(2) For the Navy (including the Marine Corps):

(A) $10,268,737,000, for fiscal year 1988.

(B) $3,182,370,000, for fiscal year 1989.

(3) For the Air Force:

(A) $16,346,598,000, for fiscal year 1988.

(B) $7,967,780,000, for fiscal year 1989.

(4) For the Defense Agencies:

(A) $8,699,452,000, for fiscal year 1988, of which—

(i) $178,217,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $104,221,000 is authorized for the Director of Operational Test and Evaluation.

(B) $3,870,680,000, for fiscal year 1989, of which—

(i) $186,128,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $149,657,000 is authorized for the Director of Operational Test and Evaluation.

(b) Authorization of Unbudgeted Amounts for Certain Purposes.—There are authorized to be appropriated for fiscal years 1988 and 1989, in addition to the amounts authorized to be appropriated in subsection (a), such amounts as may be necessary for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided by funds authorized to be appropriated in subsection (a).

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 221. ARMY PROGRAMS

(a) Rifle-Launched Munitions.—Of the funds appropriated to the Army pursuant to section 201 of the Department of Defense Authorization Act, 1987 (Public Law 99-661), $11,827,000 may be obligated only for a lightweight rifle-launched anti-armor munitions program approved by the Assistant Secretary of Defense for Special Forces and Low Intensity Conflict.

(b) Improved Mask Drinking System.—Of the funds appropriated to the Army pursuant to section 201 for fiscal year 1988, $600,000 may be obligated only for the Improved Mask Drinking System.

(c) Stinger Electronic Security System.—Of the funds appropriated pursuant to section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

SEC. 222. NAVY PROGRAMS

(a) Pegasus Engine.—Section 203(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3838), is repealed.

(b) EMPRESS Program.—The Secretary of the Navy may not carry out, during fiscal year 1988, an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator program for ships (EMPRESS).

SEC. 223. LINCOLN LABORATORY MODERNIZATION PROGRAM

(a) In General.—The Secretary of the Air Force may enter into a contract with the Massachusetts Institute of Technology (hereafter in this section referred to as MIT) under which MIT will agree to carry out a program for the modernization and expansion of the Lincoln Laboratory complex at Hanscom Air Force Base, Massachusetts. The program may include new construction and additions to and modifications of existing research offices, laboratory spaces, and supporting facilities needed to perform the Lincoln Laboratory mission. The costs incurred under such a contract may include construction, acquisition and installation of associated equipment, inspection and supervision of construction, and financing charges (including financing charges on amounts provided by MIT for the program), but may not include any fee or profit for MIT or Lincoln Laboratory.

(b) Restrictions and Limitations.—The total cost of the program referred to in subsection (a) may not exceed $135,000,000. Such program shall be completed not later than 12 years after the date of the enactment of this Act.

(c) Availability of Funds.—Funds available to the Department of Defense for research, development, test, and evaluation in any fiscal year may be used in such fiscal year to make any payment required to be made during such fiscal year in connection with the program referred to in subsection (a).

(d) United States Ownership of Facilities.—Title to the facilities and all associated equipment paid for under a contract entered into under subsection (a) shall be transferred to the United States after construction has been completed and has been approved by the Secretary.

(e) Use of Facilities and Equipment by MIT.—In consideration for the services of MIT under the contract referred to in subsection (a), MIT shall be entitled to use the facilities and equipment at the Lincoln Laboratory complex in the manner and to the extent agreed upon by the Secretary of the Air Force and MIT and specified in the contract. No right of ownership of any facility or equipment at the Lincoln Laboratory complex shall accrue to MIT by virtue of its services under a contract referred to in subsection (a).

SEC. 224. EXTENDED AIR DEFENSE

Of the funds appropriated to the Defense Agencies pursuant to section 201, $100,000,000 may be obligated only upon approval by the Director of Defense Research and Engineering for the purpose of research and development in connection with antitactical missile systems or extended air defense systems. In the event any such funds are made available to firms in allied countries, such funds shall be available for obligation only after the Secretary of Defense has entered into cooperative programs with such allied countries for that purpose.

SEC. 225. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the funds appropriated pursuant to this title, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 226. ADVANCED LAUNCH SYSTEM

(a) In General.—(1) Funds authorized to be appropriated to the Department of Defense before, on, or after the date of the enactment of this Act for research, development, test, and evaluation for the Department of Defense or any of its components for any activities associated directly or indirectly with the Advanced Launch System/Heavy Lift Launch Vehicle (hereinafter in this section referred to as the "ALS") may not be obligated or expended until the Secretary of Defense, with the concurrence of the Administrator of the National Aeronautics and Space Administration, has submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a certification that includes the following information:

(1) A copy of the agreement between the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration on the most cost-effective design approach for the ALS and on a joint management plan to implement the program so as to make maximum use of the expertise and unique testing facilities of the National Aeronautics and Space Administration, especially with respect to rocket propulsion systems.

(2) A detailed description of the ALS program management plan, including identification of the specific roles and responsibilities to be fulfilled by the Defense Agencies, the Air Force, and the National Aeronautics and Space Administration.

(3) A copy of the formal cost-sharing agreement entered into by all participants in the ALS program which (A) identifies the program's total costs (in current and constant dollars) for research, development, test, and evaluation, procurement, and facilities construction, and (B) includes the budgetary resources intended to be dedicated annually by each participant in fiscal years 1988 through 1992.

(b) ALS Propulsion Systems.—Funds authorized to be appropriated to the Department of Defense before, on, or after the date of the enactment of this Act for research, development, test, and evaluation of liquid oxygen/hydrocarbon rocket propulsion systems, liquid oxygen/liquid hydrogen rocket propulsion systems, and alternative solid rocket booster propulsion systems, associated directly or indirectly with the ALS, or for the construction of test facilities for such propulsion systems, may be obligated and expended only for research, development, test, and evaluation, and construction, activities in conjunction with the National Aeronautics and Space Administration and only at the site of existing research and testing facilities of the National Aeronautics and Space Administration except that construction of the J-6 Large Rocket Test Facility at Arnold Engineering Development Center for testing of large, solid-propellant rocket motors in a simulated flight-altitude environment shall be paid for out of funds authorized to be appropriated to the Air Force for military construction.

SEC. 227. SPACE LAUNCH RECOVERY

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation, a total of up to $50,000,000 may be transferred from the Army and the

Navy to the Air Force for activities related to space launch recovery.

SEC. 228. CRUISE MISSILE GUIDANCE

Of the funds appropriated pursuant to section 201, $20,000,000 may be obligated only for carrying out a program for an advanced technology demonstration of a near-zero CEP seeker for future and existing cruise missile designs intended to increase accuracy and mission planning flexibility while achieving optimal cost effectiveness. The Secretary of Defense shall determine which of the military departments and Defense Agencies are to carry out such program and the amount to be expended by each such department or agency for such program.

SEC. 229. DEPARTMENT OF DEFENSE HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT PROGRAM

(a) AUTHORIZATION.—(1) Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201 for research, development, test, and evaluation, $60,520,000 of the amount appropriated for fiscal year 1988 and $60,520,000 of the amount appropriated for fiscal year 1989, may be obligated only for research and development relating to superconductivity at high critical temperatures.

(2) Of the amount that may be obligated under paragraph (1) for each of fiscal years 1988 and 1989, $10,520,000 may be obligated only for support of research and development activities that—

(A) are conducted under the superconductor program of the Defense Advanced Research Project Agency of the Department of Defense or under the superconductor program of any other entity involved in superconductor research and development; and

(B) accelerate advanced development of superconductor technology to support the Electric Drive program of the Department of Defense.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of Defense shall determine, with respect to the amounts appropriated or otherwise made available to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for research, development, test, and evaluation for each of fiscal years 1988 and 1989, the amount to be derived from the Army, Navy, Air Force, and each of the Defense Agencies in each such fiscal year to carry out the high-temperature superconductivity research and development activities of the Department of Defense under this section.

(2) The Under Secretary of Defense for Acquisition or his designee shall—

(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

(B) ensure that such research and development—

(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

(ii) complements rather than duplicates such activities.

(c) The Under Secretary of Defense for Acquisition shall take appropriate action—

(1) to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector in accordance with (A) the amendments made by the Federal Technology Transfer Act of 1986 (Public Law 99-502; 100 Stat. 1785) to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), and (B) Executive Order Number 12591, dated April 10, 1987; and

(2) in consultation with the Secretary of Energy, to ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer of such technology to the private sector.

SEC. 230. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) FINDINGS.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) PURPOSES.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) DEFINITIONS.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) AUTHORITY TO MAKE GRANTS.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) ADVISORY COUNCIL.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) Responsibilities of the Comptroller General.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) Export of Semiconductor Manufacturing Technology.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) Protection of Information.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) Authorization.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

SEC. 230A. NUCLEAR MONITORING RESEARCH PROGRAM

Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201(a)(4) for research, development, test, and evaluation, $25,000,000 of the amount appropriated for fiscal year 1988 may be obligated only for the nuclear monitoring research program of the Defense Advanced Research Projects Agency.

SEC. 230B. BIOENVIRONMENTAL HAZARDS RESEARCH

Of the funds authorized to be appropriated to the Armed Forces pursuant to section 201(a) not more than $33,000,000 may be obligated through the Office of the Under Secretary of Defense for Acquisition for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes.

SEC. 230C. CENTER FOR ADVANCED TECHNOLOGIES

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds may not be obligated for such purpose until a memorandum of understanding has been entered into by the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility. Funds may not be obligated for such purpose without the approval of the Secretary of Defense. Funds may not be obligated for such purpose until sixty days after a report has been submitted to the Armed Services Committees of the Senate and the House of Representatives.

Part C—Strategic Defense Initiative

SEC. 231. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

Of the amounts appropriated pursuant to authorizations in section 201 or otherwise available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $4,120,000,000 may be obligated for the Strategic Defense Initiative for such fiscal year.

SEC. 232. REPORT ON STRATEGIC DEFENSE INITIATIVE FUNDING

(a) In General.—The Director of the Strategic Defense Initiative Organization shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The Director shall set out the amount of such funds allocated for each program, project, or activity within each appropriation account.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation providing funds for the Strategic Defense Initiative for fiscal year 1988.

SEC. 233. LIMITATION ON DEVELOPMENT OR TESTING OF SPACE-BASED AND OTHER MOBILE ANTI-BALLISTIC MISSILE SYSTEMS

(a) Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test anti-ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

(b) The limitation in subsection (a) shall cease to apply if—

(1) the President submits to Congress a comprehensive report on the systems or components which the President proposes to develop or test; and

(2) after such report is received by Congress, a joint resolution described in subsection (c) is introduced and such joint resolution is enacted.

(c)(1) A joint resolution referred to in subsection (b) shall be one without a preamble, the matter after the resolving clause of which is as follows: "That section 233 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 is repealed.".

(2) Such a joint resolution introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. Such a joint resolution introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 15th day after its introduction. If the committee to which such a resolution is referred does not report such resolution (or an identical resolution) at the end of 60 days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Such a resolution shall be considered in the House of Representatives and the Senate in accordance with paragraphs (5) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936).

SEC. 234. REPORTS ON STRATEGIC DEFENSE INITIATIVE PROGRAMS

(a) In General.—At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each of the fiscal years 1989 and 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and other programs, if any, relating to defense against ballistic missiles. Each such report shall include the following:

(1) Details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles.

(2) A clear definition of the objectives of the Strategic Defense Initiative.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned Strategic Defense Initiative development and testing programs with existing arms control agreements, including the anti-ballistic missile treaty.

(6) A review of possible Soviet countermeasures to specific Strategic Defense Initiative programs and an evaluation of the adequacy of the Strategic Defense Initiative programs outlined in this report to respond to such countermeasures.

(7) Details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending the United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of Strategic Defense Initiative technologies might help to accomplish.

(9) For each of the near-term military missions listed in (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish these missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach these operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of these architectures or systems against current and projected Soviet threats.

(b) Repeals.—Section 1102 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2431 note), and section 215 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3843), are repealed.

SEC. 235. ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) Findings.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for system level design and integration issues related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization assessed alternative types of organizations to provide technical support to the Strategic Defense Initiative program, including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories, and determined that a new federally funded research and development center would be the best type of organization to provide technical support to the Strategic Defense Initiative program.

(3) To ensure the independence and objectivity of any such new FFRDC and to control its expense, certain conditions need be met.

(4) Competitive selection of a contractor to establish and operate a federally funded research and development center to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of technological and system level Strategic Defense Initiative program issues.

(b) Authorization of Appropriations.—Funds appropriated to the Department of Defense for the Strategic Defense Initiative program may be used for the purpose of awarding a contract to operate a federally funded research and development center established to support the Strategic Defense Initiative program if such center is established under competitive procedures which emphasize cost considerations: *And provided further,* That—

(1) the Secretary of Defense has solicited proposals for such contract from existing federally funded research and development centers, universities, commercial entities, and any new organizations, and has made maximum efforts to obtain more than one proposal for such contract;

(2) the Secretary of Defense has submitted the 3 best contract proposals, together with a copy of the proposed sponsoring agreement for the new FFRDC, to peer review by 3 persons designated by the Defense Science Board from a list of six or more persons compiled by the National Academy of Science;

(3) the persons performing the peer review referred to in clause (3)—

(A) have evaluated the extent to which each proposal and the sponsoring agreement foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) have reported their evaluation to the Secretary;

(4) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (b) include a provision stating that no officer or employee of the Secretary of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(5) the Secretary of Defense has issued a directive requiring that at least 5 percent of the total amount of funds available for the new FFRDC is to be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(6) the Secretary of Defense has issued a directive (A) imposing a limitation on the compensation payable to each high-level executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to high-level executives of comparable federally funded research and development centers for similar services, and (B) imposing a requirement that the new FFRDC publicly disclose the salary of its chief executive officer;

(7) the Secretary of Defense has issued a directive (A) prohibiting current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees if such members constitute ten or more percent of the Board of Trustees or from serving as officers of the new FFRDC, and (B) requiring that the contract referred to in clause (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC except the President of the new FFRDC if the Board is comprised of 10 or more members;

(8) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (1) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, has served in the Strategic Defense Initiative Organization within 2 years before the date on which such person is to be employed by the new FFRDC;

(9) the Secretary of Defense has issued a directive providing for a separate line item within the Department of Defense budget for all funds for the new FFRDC;

(10) the Secretary of Defense has issued a directive requiring that any contract referred to in clause (b) include a provision requiring that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program;

(11) the Secretary of Defense shall not decide upon or announce the award of any contract before January 30, 1989 and, before awarding a contract for the operation of the new FFRDC, the Secretary of Defense shall submit to Congress no sooner than January 30, 1989—

(A) a copy of the proposed final contract;

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC; and

(C) shall withhold the award of such contract and approval of such sponsoring agreement for at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives such copies and report.

(c) Continuity of Congressional Session.—For purposes of subsection (a)(11), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress; however, in computing a 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain shall be excluded.

(d) Sunset Provision.—No funds shall be available for the new FFRDC 5 years after the award of its initial contract.

Part D—Milestone Authorizations

SEC. 241. MILESTONE AUTHORIZATIONS

(a) Army Tactical Missile System.—(1) Of the amount appropriated to the Army pursuant to section 201, $112,208,000 of the amount appropriated for fiscal year 1988 and $86,618,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) The sum of $49,000,000 is authorized to be appropriated to the Army for fiscal year 1990 for research, development, test, and evaluation in connection with the Army Tactical Missile System.

(b) Trident II Missile.—(1) Of the amount appropriated to the Navy pursuant to section 201, $1,098,463,000 of the amount appropriated for fiscal year 1988 and $581,740,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program and equipment described in the preceding sentence.

(2) Funds are authorized to be appropriated to the Navy for research, development, test and evaluation of the Trident II missile as follows:

(A) For fiscal year 1990, $338,300,000.

(B) For fiscal year 1991, $164,700,000.

(C) For fiscal year 1992, $103,000,000.

(c) T-45 Training System.—(1) Of the amount appropriated to the Navy pursuant to section 201, $96,015,000 of the amount appropriated for fiscal year 1988 and $87,822,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are authorized to be appropriated to the Navy for research, development, test and evaluation of the T-45 Training System, as follows:

(A) For fiscal year 1990, $23,700,000.

(B) For fiscal year 1991, $24,000,000.

(d) Medium Launch Vehicle.—(1) Of the amount appropriated to the Air Force pursuant to section 201, $8,900,000 of the amount appropriated for fiscal year 1988 and $6,000,000 of the amount appropriated for 1989 may be obligated only for the Medium Launch Vehicle.

(2) Funds are authorized to be appropriated to the Air Force for research, development, test, and evaluation of the Medium Launch Vehicle as follows:

(A) For fiscal year 1990, $6,000,000.

(B) For fiscal year 1991, $6,000,000.

(C) For fiscal year 1992, $5,000,000.

(e) Application of Section 2437 of Title 10.—Programs referred to in subsections (a) through (d) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

Part E—Balanced Technology Initiative

SEC. 251. BALANCED TECHNOLOGY INITIATIVE

(a) Purpose.—It is the purpose of this section to authorize funds for a Balanced Technology Initiative program.

(b) Program Focus.—The focus of such program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of Soviet and Warsaw Pact equipment, doctrine, and tactics. Such focus shall give particular emphasis to the following:

(A) Armor/anti-armor initiatives.

(B) Defenses against armed helicopters.

(C) Hypervelocity missiles for ground combat use.

(D) Defense against anti-ship missiles, including those with "stealth" characteristics.

(E) "Smart" mines for both land and ocean warfare.

(F) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(G) Improved conventional anti-submarine warfare munitions.

(H) "Smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges.

(c) Amounts Authorized.—(1) Of the amount appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1988—

(A) not less than $300,000,000 shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3845); and

(B) not less than $200,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under section 222 of the Department of Defense Authorization Act, 1987.

(2) Of the amount appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, not less than $400,000,000 shall be obligated for research and development in connection with the Balanced Technology Initiative.

(3) The Conventional Defense Initiative provided for in section 221 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3845), is not an element of the Balanced Technology Initiative, and funds made available for the purpose of this subsection may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

(d) Identification of Funds To Be Transferred.—(1) The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (c)) for the Balanced Technology Initiative. Such determination shall be made on a merit basis, taking into consideration ongoing technology research and exploitation opportunities.

(2) Funds designated under subsection (c)(1)(B) shall be derived from programs, projects, and activities that have a low potential for enhancing the advantages of the United States and its allies in conventional defense technology.

(e) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction may be applied against the funds specified in subsection (c) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (c).

(f) Prohibition on Use of Funds.—None of the funds specified in subsection (c) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(g) Report.—(1) Not later than 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Such report shall include—

(A) the allocation by project of the amounts specified in subsection (c);

(B) the identification of other ongoing research and development projects that should be included in a balanced defense technology effort to improve conventional defense; and

(C) for each program, project, or activity for which funds have been allocated under subsection (c) or which is identified under clause (B) of this paragraph, a 5-year funding plan sufficient to maintain significant progress in such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving such milestones.

(2) None of the funds allocated pursuant to subsection (c) may be obligated until—

(A) the report required by paragraph (1) has been received by the committees named in paragraph (1); and

(B) a period of 30 days has elapsed following the date on which the report is received by the committees.

TITLE III—OPERATION AND MAINTENANCE

Part A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army:

(A) $21,691,300,000, for fiscal year 1988.

(B) $22,583,196,000, for fiscal year 1989.

(2) For the Navy:

(A) $25,088,159,000, for fiscal year 1988.

(B) $25,590,098,000, for fiscal year 1989.

(3) For the Marine Corps:

(A) $1,899,966,000, for fiscal year 1988.

(B) $1,906,735,000, for fiscal year 1989.

(4) For the Air Force:

(A) $20,979,747,000, for fiscal year 1988.

(B) $21,532,955,000, for fiscal year 1989.

(5) For the Defense Agencies:

(A) $7,393,551,000, for fiscal year 1988.

(B) $7,689,758,000, for fiscal year 1989.

(6) For the Army Reserve:

(A) $872,178,000, for fiscal year 1988.

(B) $915,050,000, for fiscal year 1989.

(7) For the Naval Reserve:

(A) $940,754,000, for fiscal year 1988.

(B) $983,626,000, for fiscal year 1989.

(8) For the Marine Corps Reserve:

(A) $68,972,000, for fiscal year 1988.

(B) $73,485,000, for fiscal year 1989.

(9) For the Air Force Reserve:

(A) $1,010,352,000, for fiscal year 1988.

(B) $1,037,429,000, for fiscal year 1989.

(10) For the Army National Guard:

(A) $1,849,664,000, for fiscal year 1988.

(B) $1,955,715,000, for fiscal year 1989.

(11) For the Air National Guard:

(A) $1,968,974,000, for fiscal year 1988.

(B) $2,002,820,000, for fiscal year 1989.

(12) For the National Board for the Promotion of Rifle Practice:

(A) $4,099,000, for fiscal year 1988.

(B) $4,285,000, for fiscal year 1989.

(13) For the Defense Claims:

(A) $198,574,000, for fiscal year 1988.

(B) $198,574,000, for fiscal year 1989.

(14) For the Court of Military Appeals:

(A) $3,461,000, for fiscal year 1988.

(B) $3,522,000, for fiscal year 1989.

(15) For Environmental Restoration, Defense:

(A) $402,800,000, for fiscal year 1988.

(B) $420,851,000, for fiscal year 1989.

(b) AUTHORIZATION OF UNBUDGETED AMOUNTS FOR CERTAIN PURPOSES.—There are authorized to be appropriated for fiscal years 1988 and 1989 in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs;

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a); and

(3) for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital funds in amounts as follows:

(1) For the Army Stock Fund:

(A) $236,907,000, for fiscal year 1988.

(B) $349,929,000, for fiscal year 1989.

(2) For the Navy Stock Fund:

(A) $364,000,000, for fiscal year 1988.

(B) $434,581,000, for fiscal year 1989.

(3) For the Air Force Stock Fund:

(A) $293,406,300, for fiscal year 1988.

(B) $224,738,000, for fiscal year 1989.

(4) For the Defense Stock Fund:

(A) $186,840,000, for fiscal year 1988.

(B) $122,700,000, for fiscal year 1989.

SEC. 303. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) AUTHORIZATION OF FUNDS.—Funds are hereby authorized to be appropriated for the purpose of carrying out cooperative agreements entered into by the Secretary of Defense under chapter 142 of title 10, United States Code, to furnish procurement technical assistance to business entities, as follows:

(1) $7,500,000, for fiscal year 1988.

(2) $7,500,000, for fiscal year 1989.

(b) AVAILABILITY OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Funds available to the Defense Agencies for fiscal years 1988 and 1989 may be used to defray the administrative expenses incurred by the Secretary of Defense during such fiscal years in carrying out the procurement technical assistance cooperative agreement program provided for in chapter 142 of title 10, United States Code, including expenses related to the employment of additional personnel necessary to administer such program.

(c)(1) Of the amounts appropriated pursuant to subsection (a) for fiscal years 1988 and 1989, $500,000 shall be available each year only for procurement technical assistance cooperative agreement outreach programs targeted to the problems caused by the unique geographical circumstances facing Indian-owned enterprises located on or near Indian reservations. Such programs shall concentrate on the formation of new businesses as well as furthering procurement opportunities for existing businesses.

(2) Notwithstanding section 2413(b) of title 10, United States Code, the Secretary of Defense shall defray the full cost of a procurement technical assistance cooperative agreement outreach program when the cooperative agreement is made under this section with a federally-recognized tribe or Indian organization.

PART B—PROGRAM CHANGES, REQUIREMENTS, AND LIMITATIONS

SEC. 321. OPERATION OF UNITED STATES ARMY SCHOOL OF THE AMERICAS

(a) IN GENERAL.—(1) Chapter 407 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4415. United States Army School of the Americas

"(a) The Secretary of the Army may operate the military education and training facility known as the United States Army School of the Americas.

"(b) The School for the Americas shall be operated for the purpose of providing military education and training to military personnel of Central and South American countries and Caribbean countries.

"(c) The fixed costs of operating and maintaining the School for the Americas may be paid from funds available for operation and maintenance of the Army.

"(d) Tuition fees charged for personnel receiving military education and training from the school may not include the fixed costs of operating and maintaining the school.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4415. United States Army School of the Americas.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1987.

SEC. 322. AVAILABILITY OF UNITED STATES PRODUCTS AT DEFENSE PACKAGE STORES OVERSEAS

(a) TREATMENT OF WINES.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2489. Overseas package stores: treatment of United States wines

"(a) GENERAL RULE.—The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a packaged form (commonly referred to as a 'package store') that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2489. Overseas package stores: treatment of United States wines.".

(b) REGULATIONS DEADLINE.—(1) The Secretary of Defense shall prescribe regulations to implement section 2489 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

SEC. 323. CONTRACTS FOR THE OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

Funds appropriated pursuant to authorizations in this Act may not be obligated or expended for the overhaul, repair, or maintenance of any naval vessel unless, in the evaluation of bids or proposals for such activity, the Secretary of the Navy complies with the requirement of section 7299a of title 10, United States Code.

SEC. 324. PRIMUS AND NAVCARE CLINICS

Of the funds appropriated or otherwise made available to the Army, Navy, and Air Force for maintenance and operation for fiscal year 1988, the following amounts shall be available only for the operation and maintenance of the Primary Medical Care for the Uniformed Services (PRIMUS) clinics and Naval Primary Care (NAVCARE) clinics:

(1) $24,800,000 for the Army.

(2) $22,181,000 for the Navy.

(3) $13,200,000 for the Air Force.

SEC. 325. AUTHORITY OF THE SECRETARY OF DEFENSE TO REPAIR AND MAINTAIN MEMORIALS AND HISTORIC SITES ON THE ISLAND OF CORREGIDOR

The Secretary of Defense is authorized to repair and maintain memorial monuments and historic sites on the Island of Corregidor in the Republic of the Philippines and may use funds appropriated pursuant to section 301, not to exceed $50,000 for operation and maintenance of the Navy for such purpose.

SEC. 326. NEW THREAT UPGRADE (NTU) PROGRAM

(a) No funds appropriated pursuant to this title or otherwise made available for operations and maintenance for the Navy for fiscal year 1988 and used for the New Threat Upgrade (NTU) overhaul program may be used for work performed on a cost plus contract basis unless the Secretary of the Navy certifies in writing to the Committees on Armed Services of the Senate and the House of Representatives that such NTU overhaul work to be performed at either a public or private shipyard can be performed at a lower cost to the Government on the basis of a cost plus contract, or that there exist overriding national security considerations.

(b) In the event of any such certification, no action pursuant thereto may be taken for a 30 day period following notification.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) AUTHORIZATION OF FUNDS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance organizations at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION AND CODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES

(a) IN GENERAL.—(1) Chapter 20 of title 10, United States Code, is amended—

(A) by redesignating sections 404, 405, and 406 as sections 405, 406, and 407, respectively; and

(B) by inserting after section 403 the following new section:

"§ 404. Transportation of humanitarian relief supplies to foreign countries

"(a) The Secretary of Defense may transport to any country, without charge, goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such goods and supplies may be transported only on a space available basis.

"(b)(1) The Secretary shall institute procedures, including inspection before acceptance for transport, for determining that—

"(A) the transportation of such goods and supplies is consistent with the foreign policy of the United States;

"(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

"(C) there is a legitimate humanitarian need for such goods and supplies by the people for whom they are intended;

"(D) the goods and supplies will in fact be used for humanitarian purposes; and

"(E) adequate arrangements have been made for the distribution of such goods and supplies in the destination country.

"(2) Goods and supplies may not be transported under this section unless they meet the conditions set out in paragraph (1).

"(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

"(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods or supplies.

"(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

"(e) At the end of each 180-day period, the Secretary of State shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives, a report identifying the origin, contents, destination, and disposition of all goods and supplies transported under this section during such 180-day period.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 404, 405, and 406, and inserting in lieu thereof the following:

"404. Transportation of humanitarian relief supplies to foreign countries.
"405. Annual report to Congress.
"406. Definition of humanitarian and civic assistance.
"407. Expenditure limitation.".

(3) The first report under section 404(e) of title 10, United States Code, as added by paragraph (1), shall be submitted not more than 180 days after the date on which the most recent report was submitted under section 1540(e) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 985 Stat. 2638).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1987.

SEC. 333. STUDY OF NORTH ATLANTIC TREATY ORGANIZATION

Of the funds appropriated pursuant to section 301(a)(5)(A), $50,000 shall be provided to the North Atlantic Interparliamentary Assembly for a Study on the Future of the North Atlantic Treaty Organization.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized strengths for active-duty personnel as follows:

(1) For the Army:
(A) 780,900, as of September 30, 1988.
(B) 780,900, as of September 30, 1989.
(2) For the Navy:
(A) 593,200, as of September 30, 1988.
(B) 602,800, as of September 30, 1989.
(3) For the Marine Corps:
(A) 199,600, as of September 30, 1988.
(B) 200,100, as of September 30, 1989.
(4) For the Air Force:
(A) 598,700, as of September 30, 1988.
(B) 600,600, as of September 30, 1989.

PART B—RESERVE FORCES

SEC. 421. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as follows:

(1) The Army National Guard of the United States:
(A) 454,200, as of September 30, 1988.
(B) 455,700, as of September 30, 1989.
(2) The Army Reserve:
(A) 322,100, as of September 30, 1988.
(B) 324,300, as of September 30, 1989.
(3) The Naval Reserve:
(A) 151,500, as of September 30, 1988.
(B) 152,600, as of September 30, 1989.
(4) The Marine Corps Reserve:
(A) 43,600, as of September 30, 1988.
(B) 44,300, as of September 30, 1989.
(5) The Air National Guard of the United States:
(A) 115,900, as of September 30, 1988.
(B) 116,700, as of September 30, 1989.
(6) The Air Force Reserve:
(A) 82,400, as of September 30, 1988.
(B) 84,000, as of September 30, 1989.
(7) The Coast Guard Reserve:
(A) 13,500, as of September 30, 1988.
(B) 15,300, as of September 30, 1989.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 422. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the end strengths prescribed in section 421, the reserve components of the Armed Forces are authorized the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States:
(A) 25,390, as of September 30, 1988.
(B) 25,720, as of September 30, 1989.
(2) The Army Reserve:

(A) 12,867, as of September 30, 1988.
(B) 13,307, as of September 30, 1989.
(3) The Naval Reserve:
(A) 21,991, as of September 30, 1988.
(B) 22,571, as of September 30, 1989.
(4) The Marine Corps Reserve:
(A) 1,945, as of September 30, 1988.
(B) 2,145, as of September 30, 1989.
(5) The Air National Guard of the United States:
(A) 7,836, as of September 30, 1988.
(B) 7,886, as of September 30, 1989.
(6) The Air Force Reserve:
(A) 669, as of September 30, 1988.
(B) 669, as of September 30, 1989.

SEC. 423. NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1988.—(1) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	175	125	13
E-8	2,295	390	400	74".

(2) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,500	850	550	105
Lieutenant Colonel or Commander	1,152	520	295	70
Colonel or Navy Captain	348	185	184	25".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1987.

(b) FISCAL YEAR 1989.—(1) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(2) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,600	875	575	110
Lieutenant Colonel or Commander	1,250	520	300	75
Colonel or Navy Captain	348	185	190	25".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1988.

PART C—MILITARY TRAINING

SEC. 431. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—The components of the Armed Forces are authorized average military training student loads as follows:
(1) The Army:
(A) 82,503, for fiscal year 1988.
(B) 81,320, for fiscal year 1989.
(2) The Navy:
(A) 68,993, for fiscal year 1988.
(B) 70,044, for fiscal year 1989.
(3) The Marine Corps:
(A) 20,341, for fiscal year 1988.
(B) 19,873, for fiscal year 1989.
(4) The Air Force:
(A) 38,574, for fiscal year 1988.
(B) 39,972, for fiscal year 1989.
(5) The Army National Guard of the United States:
(A) 18,501, for fiscal year 1988.
(B) 19,707, for fiscal year 1989.
(6) The Army Reserve:
(A) 15,075, for fiscal year 1988.
(B) 15,950, for fiscal year 1989.
(7) The Naval Reserve:
(A) 2,841, for fiscal year 1988.
(B) 2,841, for fiscal year 1989.
(8) The Marine Corps Reserve:
(A) 3,970, for fiscal year 1988.
(B) 3,977, for fiscal year 1989.
(9) The Air National Guard of the United States:
(A) 2,508, for fiscal year 1988.
(B) 2,366, for fiscal year 1989.
(10) The Air Force Reserve:
(A) 1,968, for fiscal year 1988.
(B) 1,965, for fiscal year 1989.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

SEC. 432. R.O.T.C. FINANCIAL ASSISTANCE PROGRAM

Subsection (h) of section 2107 of title 10, United States Code, is amended to read as follows:

"(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time. The Secretary of Defense shall determine the number of cadets and midshipmen appointed under this section who may be in the financial assistance program at any one time in each military department.".

PART D—CIVILIAN PERSONNEL

SEC. 441. WAIVER OF AUTHORIZATION REQUIREMENT

Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal years 1988 and 1989 or with respect to the appropriation of funds for such years.

SEC. 442. LIMITATION ON FUNDS FOR CIVILIAN PERSONNEL

Of the funds appropriated or otherwise available to the Department of Defense—

(1) not more than $35,075,945,000 may be obligated or expended for civilian personnel for fiscal year 1988; and

(2) not more than $35,404,364,000 may be obligated or expended for civilian personnel for fiscal year 1989.

TITLE V—MILITARY PERSONNEL

SEC. 501. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

(a) IN GENERAL.—Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 502. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS

(a) GRADE DETERMINATION AUTHORITY FOR RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of title 10, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 503. EXTENSION OF SINGLE PARENT ENLISTMENT AUTHORITY IN THE RESERVE COMPONENTS

Section 523(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3871), is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1989".

SEC. 504. AUTHORITY TO TRANSFER BETWEEN SERVICES AUTHORIZATIONS FOR APPOINTMENTS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL

(a) IN GENERAL.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Subject to paragraphs (2) and (3), the President may make appointments in the Army, Navy, Air Force, and Marine Corps in the grade of lieutenant general or general or in the grade of vice admiral or admiral in a number in excess of the number of appointments that might otherwise be made in that grade in that armed force (by reason of the limitations specified in subsection (b)).

"(2) For each appointment made under paragraph (1) in any armed force in the grade of lieutenant general or general or in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one.

"(3)(A) The number of general officers and flag officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under paragraph (1) may not exceed a number equal to 10 percent of the total number of general officers and flag officers that may otherwise be serving on active duty in those grades in all of the armed forces (other than the Coast Guard).

"(B) The number of general officers and flag officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under paragraph (1) may not exceed a number equal to 15 percent of the total number of general officers and flag officers that may otherwise be serving on active duty in those grades in all of the armed forces (other than the Coast Guard).

"(4) When an appointment is made under paragraph (1) in any armed force, the President shall specify the armed force (other than the Coast Guard) in which a reduction is to be made pursuant to paragraph (2).

"(5) Upon the termination of the assignment of a member of an armed force to a position of importance and responsibility which was made in connection with an increase under paragraph (1) in the number of officers who may be serving on active duty in such armed force in the grade of lieutenant general or vice admiral or general or admiral, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of such increase shall no longer be in effect.".

(b) SAVINGS PROVISION.—Notwithstanding section 525(b) of title 10, United States Code, a number of members of the Armed Forces serving on active duty on September 30, 1987, in the grades of lieutenant general and vice admiral equal to the number in excess of the number of members authorized to be serving on active duty in such grades on October 1, 1987, and a number of such members serving on active duty on September 30, 1987, in the grades of general and admiral equal to the number in excess of the number of members authorized to be serving on active duty in such grades on October 1, 1987, may continue to serve on active duty in such grades, respectively, after September 30, 1987, until—

(1) the duty assignments in which a number of members serving on active duty in such grades, respectively, on September 30, 1987, equal to such excess number are terminated;

(2) the number of members serving on active duty in such grades, respectively, on September 30, 1987, who are retired or otherwise separated from active duty on or after such date equals such excess number; or

(3) the total of the number of duty assignments referred to in clause (1) that are terminated after September 30, 1987, and the number of members who retire or are otherwise separated from active duty on or after such date is equal to the number of members serving on active duty in excess of the number authorized to be serving in such grades, respectively, on such date.

SEC. 505. WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

"SEC. 774. RELIGIOUS APPAREL: WEARING WHILE IN UNIFORM

"(a) GENERAL RULE.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) EXCEPTIONS.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) In circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the members' military duties; or

"(2) If the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) REGULATIONS.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) RELIGIOUS APPAREL DEFINED.—In this section, the term 'religious apparel' means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.

"775. Applicability of chapter.".

(c) REGULATIONS.—The Secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by the subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1988

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

(b) FOUR PERCENT INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 4 percent effective on January 1, 1988.

(c) FOUR PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out "$494.40" and inserting in lieu thereof "$514.20".

SEC. 602. BAQ FOR CERTAIN MARRIED MEMBERS

(a) IN GENERAL.—Section 403(c) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking out "A member" each place it appears and inserting in lieu thereof "Except as provided in paragraph (3), a member"; and

(2) by adding at the end the following new paragraph:

"(3) A member of a uniformed service who is—

"(A) in a pay grade above E-3;

"(B) assigned to sea duty; and

"(C) married to a member of a uniformed service on active duty (other than active duty for training),

may elect not to occupy assigned quarters adequate only for such member and, subject to section 421 of this title, receive in lieu of such quarters a basic allowance for quarters permitted by this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1987. No member may be paid a basic allowance for quarters under the amendment made by subsection (a) for any period before such date.

SEC. 603. VARIABLE HOUSING ALLOWANCE

(a) IN GENERAL.—Section 403a(a) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(5) In the case of a member with dependents—

"(A) who is a pay grade above E-6;

"(B) who is assigned to sea duty; and

"(C) who elects not to occupy assigned quarters adequate only for such member,

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month following the month in which this Act is enacted. No member may be paid a variable housing allowance under such amendment for any period before that effective date.

SEC. 604. HOUSEHOLD GOODS WEIGHT ALLOWANCES FOR SENIOR ENLISTED PERSONNEL

(a) IN GENERAL.—Section 406(b)(1)(A) of title 37, United States Code, is amended by adding at the end the following: "The weight allowances prescribed pursuant to the first sentence of this subparagraph shall provide, with respect to permanent changes of station, that the allowances for personnel serving in pay grade E-7 are not less than those for personnel serving in pay grade O-1, for personnel serving in pay grade E-8 are not less than those for personnel serving in pay grade O-2, and for personnel serving in pay grade E-9 are not less than those for personnel serving in pay grade O-3.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later, and shall apply to the transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects commenced on or after that effective date.

SEC. 605. ALLOWANCE FOR CIVILIAN CLOTHING

(a) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended—

(1) by redesignating sections 419 and 420 as sections 420 and 421, respectively;

(2) by inserting after section 418 the following new section:

"§ 419. Civilian clothing allowance

"Under regulations prescribed by the Secretary of Defense, a member of an armed force who is assigned to a permanent duty station at an overseas location is entitled to a civilian clothing allowance if such member is required by competent authority to wear civilian clothing all or a substantial portion of the time in the performance of his official duties. A clothing allowance under this section is in addition to any uniform allowance to which a member is otherwise entitled under this title."; and

(3) by striking out the items relating to sections 419 and 420 in the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"419. Civilian clothing allowance.
"420. Allowances while participating in international sports.
"421. Allowances: no increase while dependent is entitled to basic pay.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1987. No member may be paid a clothing allowance under section 419 of title 37, as added by subsection (a) for any period before such date.

SEC. 606. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) REPEAL.—Section 614(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3879), is repealed.

(b) NEW EFFECTIVE DATE.—(1) The amendments made by section 614(a) of the Department of Defense Authorization Act, 1987, shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act and shall apply with respect to travel performed on or after the date of implementation.

(2) Section 8(a) of the Defense Technical Corrections Act of 1987 (Public Law 100-26; 101 Stat. 284), is amended by striking out ", and such amendments shall be effective as provided in section 614(b) of the Defense Authorization Act".

PART B—TRAVEL AND TRANSPORTATION

SEC. 621. AUTHORIZATION TO PAY DISLOCATION ALLOWANCE IN ADVANCE

Section 407 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) An allowance payable under this section may be paid in advance.".

SEC. 622. TRANSPORTATION ALLOWANCE TO ENCOURAGE VOLUNTARY EXTENSION OF TOURS OF DUTY IN FOREIGN COUNTRIES

(a) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411f the following new section:

"§ 411g. Travel and transportation allowances: transportation incident to voluntary extensions of tours of duty in foreign countries

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service may be provided transportation allowances described in subsection (b) for himself and for dependents who are authorized to, and in fact, accompany the member at the member's permanent duty station, if the member—

"(1) is stationed outside the United States; and

"(2) voluntarily agrees to extend his overseas tour of duty for a period at least equal to one-half of the overseas tour prescribed for his current permanent duty station.

"(b) Transportation allowances authorized by this section may be provided in connection with authorized leave from a member's permanent duty station to a place approved by the Secretary concerned or, in the case of a member without dependents, to a place no farther distant than the member's home of record, and from that place to the member's designated permanent duty station.

"(c) The transportation allowances authorized by this section may not be provided an enlisted member who elects to receive tour extension incentives under section 314 of this title or under section 705 of title 10.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 411f the following new item:

"411g. Travel and transportation allowances: transportation incident to voluntary extensions of tours of duty in foreign countries.".

SEC. 623. TRANSPORTATION OF FAMILY MEMBERS OF SERIOUSLY ILL OR INJURED MEMBER

(a) IN GENERAL.—Chapter 7 of title 37, United States Code, as amended by section 622, is amended by inserting after section 411g the following new section:

"§ 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members

"(a)(1) Under uniform regulations prescribed by the Secretaries concerned, round-trip transportation may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member is necessary for the member's health and welfare.

"(2) A member referred to in paragraph (1) is a member who—

"(A) is serving on active duty;

"(B) is seriously ill or seriously injured; and

"(C) is hospitalized in a medical facility in or outside the United States.

"(b)(1) In this section, 'family member' means—

"(A) the spouse;

"(B) children, including stepchildren, adopted children, and illegitimate children;

"(C) parents or persons in loco parentis, as provided in paragraph (2);

"(D) brothers; and

"(E) sisters.

"(2) Parents or persons in loco parentis include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

"(c)(1) The transportation provided under subsection (a) of this section is authorized between the home of the family member and the location of the medical facility in which the member is hospitalized.

"(2) The Secretaries concerned may provide—

"(A) transportation in-kind;

"(B) a monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned; or

"(C) reimbursement for the commercial cost of transportation.

Reimbursement for transportation may not exceed the cost of government-procured commercial round-trip air travel. An allowance payable under this subsection may be paid in advance.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 622, is amended by inserting after the item relating to section 411g the following new item:

"411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective only in the case of travel that occurs on or after the effective date of regulations issued pursuant to section 411h of title 37, United States Code, as added by this section.

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "is owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

PART C—BONUSES AND SPECIAL INCENTIVE PAYS

SEC. 631. SPECIAL PAY FOR AVIATION CAREER OFFICERS

(a) IN GENERAL.—Section 301b of title 37, United States Code, is amended—

(1) in subsection (a), by striking out clause (5) of the first sentence and all that follows through the second sentence and inserting in lieu thereof the following:

"(5) has not previously been paid special pay authorized by this section;

"(6) executes a written agreement to remain on active duty in aviation service for at least three years; and

"(7) is in an aviation specialty designated as critical,

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed $4,000 for each year covered by that agreement if the officer agrees to remain on active duty for three years or an amount not to exceed $6,000 for each year covered by that agreement if the officer agrees to remain on active duty for four years.";

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) During the period beginning on October 1, 1987, and ending on September 30, 1989, an agreement under this section may be accepted only if the agreement—

"(A) is executed by an officer of the Navy; and

"(B) requires the officer to remain on active duty in aviation service for three or four years.

"(2) An agreement that requires an officer to remain on active duty in aviation service for six years may also be accepted during such period if the officer meets the requirements of this section and has completed less than eight years of active duty. An officer from whom such an agreement is accepted may be paid an amount not to exceed $8,000 for each year covered by the agreement."; and

(3) in subsection (f) by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) Effective Date.—(1) The amendments made by this section shall take effect on October 1, 1987, and shall apply to agreements entered into on or after such date.

(2) The amendments made by subsection (a) shall not affect an agreement entered into under section 301b of title 37, United States Code, as in effect on the day before the effective date of such amendments, and the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

SEC. 632. INCREASE IN SUBMARINE DUTY INCENTIVE PAY

(a) In General.—Subsection (b) of section 301c of title 37, United States Code, is amended to read as follows:

"(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	"Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$225	$225	$225	$270	$295	$310	$315
E-8	225	225	225	250	270	295	310
E-7	225	225	225	250	255	265	275
E-6	155	170	175	215	230	245	255
E-5	140	155	155	175	190	195	195
E-4	80	95	100	170	175	175	175
E-3	80	90	95	95	140	90	90
E-2	75	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

"Pay grade	"Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9	$330	$345	$355	$355	$355	$355	$355
E-8	315	330	330	345	345	345	345
E-7	295	310	310	310	310	310	310
E-6	265	265	265	265	265	265	265
E-5	195	195	195	195	195	195	195
E-4	175	175	175	175	175	175	175
E-3	90	90	90	90	90	90	90
E-2	90	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

"COMMISSIONED OFFICERS

"Pay grade	"Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
0-10	$355	$355	$355	$355	$355	$355	$355
0-9	355	355	355	355	355	355	355
0-8	355	355	355	355	355	355	355
0-7	355	355	355	355	355	355	355
0-6	595	595	595	595	595	595	595
0-5	595	595	595	595	595	595	595
0-4	365	365	365	405	595	595	595
0-3	355	355	355	390	595	595	595
0-2	235	235	235	235	235	235	355
0-1	175	175	175	175	175	175	355

"Pay grade	"Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
0-10	$355	$355	$355	$355	$355	$355	$355
0-9	355	355	355	355	355	355	355
0-8	355	355	355	355	355	355	355
0-7	355	355	540	535	535	410	355
0-6	595	595	595	595	595	595	595
0-5	595	595	595	595	595	595	595
0-4	595	595	595	595	595	595	595
0-3	595	595	595	595	595	595	595
0-2	355	355	355	355	355	355	355
0-1	355	355	355	355	355	355	355

"WARRANT OFFICERS

	"Years of service computed under section 205						
"Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-4	$235	$310	$310	$355	$355	$355	$355
W-3	235	310	310	355	355	355	355
W-2	235	310	310	355	355	355	355
W-1	235	310	310	355	355	355	355

	"Years of service computed under section 205						
"Pay grade	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-4	$355	$355	$355	$355	$355	$355	$355
W-3	355	355	355	355	355	355	355
W-2	355	355	355	355	355	355	355
W-1	355	355	355	355	355	355	355".

SEC. 633. CAREER SEA PAY

(a) IN GENERAL.—Section 305a of title 37, United States Code, is amended to read as follows:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b) of this section.

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

	"Years of sea duty						
"Pay grade	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
E-4	50	60	120	150	160	160	160
E-5	50	60	120	150	170	315	325
E-6	100	100	120	150	170	315	325
E-7	100	100	120	175	190	350	350
E-8	100	100	120	175	190	350	350
E-9	100	100	120	175	190	350	350

	"Years of sea duty						
"Pay grade	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13
E-4	160	160	160	160	160	160	160
E-5	350	350	350	350	350	350	350
E-6	350	350	365	365	365	380	395
E-7	375	390	400	400	410	420	450
E-8	375	390	400	400	410	420	450
E-9	375	390	400	400	410	420	450

	"Years of sea duty		
"Pay grade	Over 14	Over 16	Over 18
E-4	160	160	160
E-5	350	350	350

	"Years of sea duty		
"Pay grade	Over 14	Over 16	Over 18
E-6	410	425	450
E-7	475	500	500

	"Years of sea duty		
"Pay grade	Over 14	Over 16	Over 18
E-8	475	500	520
E-9	475	520	520

"WARRANT OFFICERS

	"Years of sea duty						
"Pay grade	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
W-1	130	135	140	150	170	175	200
W-2	150	150	150	150	170	260	265
W-3	150	150	150	150	170	270	280
W-4	150	150	150	150	170	290	310

"Pay grade	"Years of sea duty Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 14
W-1	250	270	300	325	325	340	360
W-2	265	270	310	340	340	375	400
W-3	285	290	310	350	375	400	425
W-4	310	310	310	350	375	400	450

"Pay grade	"Years of sea duty Over 16	Over 18	Over 20
W-1	375	375	375
W-2	400	400	400

"Pay grade	"Years of sea duty Over 16	Over 18	Over 20
W-3	425	450	450

"Pay grade	"Years of sea duty Over 16	Over 18	Over 20
W-4	450	500	500

"COMMISSIONED OFFICERS

"Pay grade	"Years of sea duty Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9
0-1	150	160	185	190	195	205	215
0-2	150	160	185	190	195	205	215
0-3	150	160	185	190	195	205	215
0-4	185	190	200	205	215	220	220
0-5	225	225	225	225	230	245	250
0-6	225	230	230	240	255	265	280

"Pay grade	"Years of sea duty Over 10	Over 11	Over 12	Over 14	Over 16	Over 18	Over 20
0-1	225	225	240	250	260	270	280
0-2	225	225	240	250	260	270	280
0-3	225	225	240	260	270	280	290
0-4	225	225	240	270	280	290	300
0-5	260	265	265	285	300	315	340
0-6	290	300	310	325	340	355	380

"(c) Under regulations prescribed by the President, a member of a uniformed service, other than a member in a paygrade E-5 through E-9 with over 5 years of sea duty, who is entitled to career sea pay under this section and who has served 36 consecutive months of sea duty is entitled to a career sea pay premium of $100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.

"(d)(1) For the purpose of determining the years of sea duty with which a member shall be credited under this section, the term 'sea duty' means duty performed by a member while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship or while serving as a member of the off-crew of a two-crewed submarine.

"(2) For the purpose of determining entitlement to career sea pay under this section, the term 'sea duty' means duty performed by a member—

"(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while underway, or while serving as a member of the off-crew of a two-crewed submarine; or

"(B) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

A ship is considered away from its homeport for purposes of clause (B) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport.".

(b) Savings Provision.—A member who, for the 90-day period preceding the effective date of the rate established by section 305a of title 37, United States Code, as amended by subsection (a), for the member's pay grade and years of sea duty, was entitled to sea pay at a rate higher than the rate so established shall continue to receive the higher rate until such time as the member is permanently reassigned to duty for which the member is not entitled to that pay.

(c) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987, except that—

(1) the rates of monthly pay provided in the tables in section 305a(b) of title 37, United States Code, as amended by subsection (a), in the case of members in pay grades above E-4 with five or more years of sea duty; and

(2) the provisions of section 305a(c), as amended by subsection (a),

may take effect on a date later than October 1, 1987, as prescribed in regulations approved by the President, but in no event later than October 1, 1988.

SEC. 634. DIVING PAY FOR MEMBERS OF RESERVE COMPONENTS

(a) In General.—Section 304 of title 37, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to 1/30 of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase for as long as he is qualified for such pay—

"(1) for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or a holiday; or

"(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the first day of the fourth calendar month following the month in which this Act is enacted and shall apply only with respect to diving duty performed on or after such day.

SEC. 635. SELECTIVE REENLISTMENT BONUSES

(a) In General.—Paragraph (1) of section 308(b) of title 37, United States Code, is amended to read as follows:

"(1) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be 50 percent of the total bonus amount.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to bonuses paid for reenlistment or extension of enlistment agreements entered into after September 30, 1987.

SEC. 636. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES

Sections 308b(g), 308c(f), 308e(e), 308g(h), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

PART D—MISCELLANEOUS

SEC. 641. EXTENSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

(a) IN GENERAL.—Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note), is amended by striking out "above grade GS-4 (or its equivalent)" and inserting in lieu thereof "in grade GS-1 through GS-15 (including any such position that is under the performance management and recognition system provided in chapter 54 of title 5)".

SEC. 642. DEFINITION OF DEPENDENT FOR PURPOSES OF ALLOWANCES UNDER TITLE 37, UNITED STATES CODE

Section 401 of title 37, United States Code, is amended by adding at the end the following new sentence: "The Secretaries concerned shall prescribe uniform regulations to describe, for purposes of this section, in what cases an unmarried person who is not covered by clause (2) and who resides as a member of the household of a member of the uniformed services is a dependent child of the member.".

SEC. 643. AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN

(a) AUTHORITY TO WITHDRAW.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

(2) An individual referred to in paragraph (1) is an individual who—

(A) is providing coverage for a spouse or for a spouse and child under the Plan;

(B) remarried before November 8, 1985, but on such date had been remarried less than one year;

(C) at the time of remarriage was a participant in the Plan, but did not have an eligible spouse beneficiary under the Plan; and

(D) on March 1, 1986, has been married for one year or longer.

(b) APPLICABLE PROVISIONS.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to such election, the one-year period referred to in clause (ii) of such subparagraph shall extend for a period of one year after the date of the enactment of this Act.

(c) TREATMENT OF PRIOR CONTRIBUTIONS.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a).

SEC. 644. AGE FOR NONTERMINATION OF SBP SURVIVING SPOUSE ANNUITY AFTER REMARRIAGE

(a) RESUMPTION OF ANNUITY UPON TERMINATION OF DIC FOR REMARRIAGE.—Section 1450(k)(1) of title 10, United States Code, is amended by striking out "60" and inserting in lieu thereof "55".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 643(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3886).

SEC. 645. REIMBURSEMENT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Child adoption benefits

"(a) The Secretary concerned shall reimburse a member of the armed forces, as provided in this section, for the qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

"(b) An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)), but does not include an adoption in which one of the adopting parents is the biological parent of the adopted child.

"(c) Benefits may be paid under this section in the case of an adoption only after the adoption is final.

"(d) A benefit may not be paid under this section for any expense paid from any funds received by a member of the armed forces under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

"(e)(1) Not more than $2,000 may be paid to a member of the armed forces under this section for expenses incurred in the adoption of a child.

"(2) Not more than $5,000 may be paid to a member of the armed forces under this section for adoptions by such member in any calendar year.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.

"(g) In this section:

"(1) The term 'qualifying adoption expenses' means reasonable and necessary expenses that are directly related to the legal adoption of a child, but only if such adoption is arranged—

"(A) by a State or local government agency which has responsibility under State or local law for child placement through adoption;

"(B) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption; or

"(C) through a private placement.

"(2) The term 'qualifying adoption expenses' does not include any expense incurred—

"(A) in the adoption of a child who was conceived—

"(i) by artificial insemination;

"(ii) by embryo transplantation;

"(iii) by in vitro fertilization; or

"(iv) in so-called 'surrogate parenthood', including conception by any person who serves as a surrogate voluntarily and without remuneration;

"(B) for any adopting parent's travel outside the United States, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(C) in connection with an adoption arranged in violation of Federal, State, or local law.

"(3) The term 'reasonable and necessary expenses' includes—

"(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

"(B) placement fees, including fees charged adoptive parents for counseling;

"(C) legal fees, including court costs;

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in clause (2)(B), transportation expenses relating to the adoption.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1055. Child adoption benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of qualifying adoption expenses incurred after September 30, 1987.

SEC. 646. RETIRED GRADE OF CERTAIN RESERVE ENLISTED MEMBERS

(a) ARMY.—(1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members.".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members.".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

PART A—MEDICAL READINESS

SEC. 701. REVISION OF RESERVE FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAM

(a) IN GENERAL.—Chapter 105 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

"Subchapter	Sec.
I. Health Professions Scholarship Program for Active Service	2120
II. Health Professions Stipend Program for Reserve Service	2128

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM FOR ACTIVE SERVICE";

(2) by striking out "chapter" each place it appears in sections 2120, 2123, 2124, and 2127 and inserting in lieu thereof "subchapter";

(3) by striking out "6,000" in section 2124 and inserting in lieu thereof "5,000"; and

(4) by adding at the end the following new subchapter:

"SUBCHAPTER II—HEALTH PROFESSIONS STIPEND PROGRAM FOR RESERVE SERVICE

"Sec.
"2128. Financial assistance: health-care professionals in reserve components.
"2129. Reserve service: required active duty for training.
"2130. Penalties, limitations, and other administrative provisions.

"§ 2128. Financial assistance: health-care professionals in reserve components

"(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions specialties critically needed in wartime, the Secretary of each military department may establish and maintain a program to provide financial assistance under this subchapter to persons engaged in training in such specialties. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in training in certain health care specialties in return for a commitment by such person to perform subsequent service in the Ready Reserve.

"(b) PHYSICIANS IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is a graduate of an accredited medical school;

"(B) is eligible to be commissioned as a Reserve in the Medical Corps of the Army or Navy or, in the case of a member of the Air Force, to be commissioned as a Reserve and designated as a medical officer under section 8067(a) of this title; and

"(C) is enrolled in a residency program for physicians in a medical specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e)(1), for the remainder of the period of the residency program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon successful completion of the residency program, in the Ready Reserve for a period described in clause (A), (B), or (C) of subsection (e)(1) as specified in the agreement.

"(c) GRADUATE NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is a nurse;

"(B) is eligible to be commissioned as a Reserve in the Nurse Corps of the Army or Navy or to be designated as an Air Force nurse under section 8067(e) of this title; and

"(C) is enrolled in an accredited graduate program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e)(1), for the remainder of the period of the graduate nursing program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon successful completion of the graduate nursing program, in the Ready Reserve for a period described in clause (A), (B), or (C) of subsection (e)(1) as specified in the agreement.

"(d) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is eligible to be commissioned in a reserve component of the armed forces; and

"(B) is enrolled in the third or fourth year of—

"(i) an accredited baccalaureate nursing program; or

"(ii) an accredited baccalaureate program leading to a degree in any other health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a monthly stipend, in an amount determined under subsection (e)(2), for the remainder of the period of the baccalaureate program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

"(e) AMOUNT OF STIPEND.—(1) The amount of a stipend under an agreement under subsection (b) or (c) shall be—

"(A) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve three years in the Selected Reserve for each year, or part thereof, for which the stipend is provided;

"(B) three-fourths of that rate, if the participant has agreed to serve two years in the Selected Reserve and one year in the Individual Ready Reserve for each year, or part thereof, for which the stipend is provided; or

"(C) one-half of that rate, if the participant has agreed to serve three years in the Individual Ready Reserve for each year, or part thereof, for which the stipend is provided.

"(2) The amount of a stipend under an agreement under subsection (d) shall be equal to one-seventh of the rate referred to in paragraph (1)(A). The amount of the stipend computed under this paragraph shall be rounded to the next higher multiple of $1.

"(f) INDIVIDUAL READY RESERVE DEFINED.—In this subchapter, the term 'Individual Ready Reserve' means that element of the Ready Reserve of an armed force other than the Selected Reserve.

"§ 2129. Reserve service: required active duty for training

"(a) SELECTED RESERVE.—A person who is required under an agreement under section 2128 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

"(b) IRR SERVICE.—A person who is required under an agreement under section 2128 of this title to serve in the Individual Ready Reserve shall serve—

"(1) not less than 30 days of initial active duty; and

"(2) not less than five days of active duty for training each year during the period of service required by the agreement.

"§ 2130. Penalties, limitations, and other administrative provisions

"(a) Reserve Service for Failure To Complete Program.—A member receiving financial assistance under section 2128 of this title who fails to complete the health-care professional program covered by the agreement under that section within the time specified in the agreement may, at the discretion of the Secretary concerned, be required to perform military duty in the Ready Reserve.

"(b) Recoupment for Failure To Complete Program or Serve Satisfactorily.—(1) A person who receives financial assistance under section 2128 of this title and who fails to complete the health-care professional program covered by the agreement under that section within the time specified in the agreement, or who fails to serve satisfactorily in the Ready Reserve in accordance with the agreement, shall be required to pay to the United States the amount equal to the amount of the financial assistance paid to the person by the United States under the agreement.

"(2) An obligation to reimburse the United States under paragraph (1) is, for all purposes, a debt owed to the United States. A discharge in bankruptcy under title 11 does not discharge a person from a debt arising under this paragraph.

"(c) Prohibitions of Duplicate Benefits.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

"(d) Suspension of Program When Involuntary Induction is Authorized.—An agreement may not be entered into under section 2128 of this title during any period that the President is authorized to induct persons into the armed forces involuntarily.

"(e) Limitation on Number of Participants.—The number of persons who may be designated as members of the program for training in each health profession shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 10,200.

"(f) Regulations.—This subchapter shall be administered under regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of subtitle A of such title are each amended by striking out the item relating to chapter 105 and inserting in lieu thereof the following:

"105. Armed Forces Health Professions Financial Assistance Programs.......... 2120".

(c) Repeal of Prior Program.—(1) Section 672 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 663), is repealed.

(2) The repeal of section 672 of the Department of Defense Authorization Act, 1986, by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement.

(d) Effective Dates.—(1) The repeal made by subsection (c) shall take effect on October 1, 1987.

(2) An agreement entered into by the Secretary of a military department under section 2128 of title 10, United States Code, as added by subsection (a), may not obligate the United States to make a payment for any period before October 1, 1987.

SEC. 702. EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1989".

SEC. 703. STANDBY CAPABILITY FOR SELECTIVE SERVICE REGISTRATION OF HEALTH CARE PERSONNEL

Section 10(h) of the Military Selective Service Act (50 U.S.C. App. 460(h)) is amended—

(1) by striking out "If at" and all that follows through "nevertheless," and inserting in lieu thereof "The Selective Service system shall"; and

(2) by inserting "(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)" in clause (a) after "national emergency".

SEC. 704. AGE QUALIFICATIONS FOR PERSONNEL IN CRITICAL MEDICAL SPECIALTIES

(a) Army Personnel.—Section 3855 of title 10, United States Code, is amended to read as follows:

"§ 3855. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except section 3846, the Secretary of the Army may, with the officer's consent, retain in an active status—

"(1) any reserve officer in the Medical Corps, Dental Corps, Veterinary Corps, the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps, the Army Nurse Corps, or the Army Medical Specialists Corps, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer in the Chaplains, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The item relating to section 3855 in the table of sections at the beginning of chapter 363 of such title is amended to read as follows:

"3855. Retention of certain officers in active status.".

(b) Navy Personnel.—(1) Chapter 573 of title 10, United States Code, is amended by inserting after section 6391 the following new section 6392:

"§ 6392. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except subsections (b), (d), and (e) of section 6383, the Secretary of the Navy may, with the officer's consent, retain in an active status—

"(1) any reserve officer of the Navy or Marine Corps who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, nurse, or biomedical sciences officer, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer in the Chaplain Corps, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6391 the following new item:

"6392. Retention of certain officers in active status.".

(c) Air Force Personnel.—(1) Section 8855 of title 10, United States Code, is amended to read as follows:

"§ 8855. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except section 8846, the Secretary of the Air Force may, with the officer's consent, retain in an active status—

"(1) any reserve officer of the Air Force who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, Air Force nurse, or biomedical sciences officer, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer of the Air Force who is designated as a chaplain, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The item relating to section 8855 in the table of sections at the beginning of chapter 863 of such title is amended to read as follows:

"8855. Retention of certain officers in active status.".

(d) Maximum Age for Initial Appointment as a Reserve Officer To Serve in an Understrength Critical Health Professions Specialty.—(1) Section 591 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The Secretary concerned shall prescribe a maximum age qualification for initial appointment of persons as Reserves of the armed forces to serve in critical health professions specialties for which the Secretary concerned has determined that there is a personnel shortage. Such maximum age may not be less than 47 years of age.".

(2) The Secretary of the Armed Force concerned shall issue regulations implementing subsection (e) of section 591 of title 10, United States Code, as added by paragraph (1), within 90 days after the date of the enactment of this Act.

PART B—PEACETIME HEALTH CARE

SEC. 721. CATASTROPHIC LOSS PROTECTION UNDER CHAMPUS FOR ACTIVE-DUTY DEPENDENTS

(a) In General.—Section 1079(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) An individual or family group may not be required by reason of this subsection to pay a total of more than $1,000 in any fiscal year for the cost of health care authorized by subsection (a).".

(b) Effective Date.—Paragraph (5) of section 1079(b) of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 722. TWO-YEAR PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES

During fiscal years 1988 and 1989, the Secretary of Defense may not impose a fee for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 723. POSTPONEMENT OF THE USE OF DIAGNOSIS-RELATED GROUPS

Section 701(d)(4) of the Department of Defense Authorization Act, 1987 (100 Stat. 3898; 10 U.S.C. 1101 note) is amended—

(1) in clause (A), by striking out "1987" and inserting in lieu thereof "1987, or as soon thereafter as is feasible"; and

(2) in clause (B), by striking out "1988" and inserting in lieu thereof "1988, or as soon thereafter as is feasible".

SEC. 724. FEDERAL PREEMPTION REGARDING CONTRACTS FOR MEDICAL AND DENTAL CARE

(a) In General.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1103. Federal preemption regarding contracts for medical and dental care

"The provisions of any contract under this chapter which relate to the nature and extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1103. Federal preemption regarding contracts for medical and dental care.".

SEC. 725. AUTHORITY TO PROVIDE DENTAL PROSTHESES TO DEPENDENTS

Section 1077(b)(2)(B) of title 10, United States Code, is amended by striking out "and artificial eyes" and inserting in lieu thereof ", artificial eyes, and dental prostheses".

SEC. 726. ADDITIONAL REQUIREMENTS FOR CHAMPUS REFORM INITIATIVE

(a) Clarification of Requirements for Demonstration Phase.—The Secretary shall award contracts in the case of solicitation number MDA903-87-R-0047 (issued by the Secretary of Defense for the demonstration phase of the CHAMPUS reform initiative) by October 1, 1987, or as soon thereafter as is feasible, unless the Secretary determines that the award of such contracts in connection with such solicitation would not be in the interests of the United States.

(b) Prohibition on Alternative Projects of Inadequate Scope and Nature.—The Secretary of Defense (and the Secretaries of the military departments) may not conduct any demonstration project in addition to the CHAMPUS reform initiative demonstration project unless such additional demonstration project meets the following requirements:

(1) The project applies to each of the military departments.

(2) The project is designed, with respect to the number and location of demonstration sites and otherwise, to ensure that the results of such project will likely be representative of the results of a nationwide demonstration project.

(3) The alternative demonstration project provides for the same reports as are required for the CHAMPUS reform initiative demonstration project under section 702 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), and for phased implementation in the same manner provided in such section.

(c) Clarification of Schedule For Phased Implementation of the CHAMPUS Reform Initiative.—If necessary to meet the implementation schedule provided in subsection (c) of section 702 of the Department of Defense Authorization Act, 1987, the Secretary of Defense may consolidate the two implementation phases provided in such subsection if the Secretary meets all other requirements in such section relating to the results of the demonstration project, including the required reports to Congress.

(d) Requirement Regarding Any Change in the Enrollment Program Included In the CHAMPUS Reform Initiative.—The Secretary of Defense, in the administration of the health care enrollment program established under section 1099 of title 10, United States Code, may not require, as part of the CHAMPUS reform initiative or otherwise, persons entitled to receive medical or dental care under chapter 55 of title 10, United States Code, to receive health care exclusively in facilities of the uniformed services or exclusively from particular civilian health care providers, unless the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives, at least 90 days before the date on which such requirement is imposed, that the requirement will not—

(1) undermine or otherwise adversely affect efforts of the Department of Defense to improve medical readiness by promoting the fullest possible utilization of facilities of the uniformed services for the types of medical and surgical care most related to wartime specialty requirements;

(2) impose excessive administrative burdens on facilities of the uniformed services or the beneficiaries of CHAMPUS; or

(3) eliminate the freedom of a beneficiary under CHAMPUS to receive medical or dental care from the civilian health care provider of his choice.

(e) Definitions.—In this section:

(1) The term "CHAMPUS reform initiative" has the same meaning as is provided in section 702(d)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3900).

(2) The term "CHAMPUS reform initiative demonstration project" means the demonstration project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899).

(3) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(4) The term "uniformed services" has the same meaning as is provided in section 101(43) of title 10, United States Code.

SEC. 727. SUDDEN INFANT DEATH SYNDROME CHAMPUS COVERAGE

Subsection 1079(a) of title 10 is revised by striking the word "and" at the end of clause (13) and inserting therein a semicolon, and by striking the period at the end of clause (14) and inserting therein the word "and", and by adding a new clause (15) as follows:

."(15) Coverage may be provided for electronic cardio-respiratory home monitoring equipment (apnea monitors) for home use when a physician prescribes and supervises the use of the monitors for infants who have had an apparent life threatening event, who are subsequent siblings of a Sudden Infant Death Syndrome victim, or whose birth weight was 1500 grams or less, in which case the coverage may include the cost of the equipment, hard copy analysis of physiological alarms, professional visits, diagnostic testing, family training on how to respond to apparent life threatening events, and assistance necessary for proper use of the equipment.".

SEC. 728. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of United States crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply from the producing nations of the Persian Gulf;

(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.

Part C—Miscellaneous

SEC. 731. REPEAL OF CERTAIN REQUIREMENTS RELATING TO ACQUISITION OF MEDICAL INFORMATION SYSTEMS

Section 704 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3900) is repealed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. THRESHOLD TEST BAN TREATY COMPLIANCE REPORT

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) FORM AND CONTENT OF REPORT.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976, which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely violation of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered nonviolations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

SEC. 802. REPORT ON COMPETITIVE STRATEGIES

(a) IN GENERAL.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Competitive Strategies. Such report shall be provided in classified and unclassified versions and shall include the following:

(1) A discussion of the Competitive Strategy concept.

(2) An assessment of Soviet and Warsaw Pact weaknesses, including military, political, and systemic weaknesses that could be candidates for exploitation through competitive strategies.

(3) A discussion of the initial areas selected for examination in the Competitive Strategy initiative, including a discussion of the rationale for the areas selected.

(4) A discussion of the initial findings resulting from the Competitive Strategy process.

(b) DEADLINE FOR REPORT.—The report described in subsection (a) shall be submitted not later than January 15, 1988.

SEC. 803. FUNCTIONS OF THE DIRECTOR, OPERATIONAL TEST AND EVALUATION

Section 138 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.".

SEC. 804. NATO TRAINING CENTER

It is the sense of the Congress that—

(1) the National Training Center at Fort Irwin, California, offers units of the United States Army a valuable opportunity to train in a demanding, realistic environment;

(2) the training and coordination of the military forces of the member nations of the North Atlantic Treaty Organization (NATO) would be greatly improved if they could train together at a facility similar to the National Training Center; and

(3) NATO should vigorously pursue the development of a new training center that would be similar to the National Training Center.

SEC. 805. DISSEMINATION OF UNCLASSIFIED INFORMATION CONCERNING PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

(a) IN GENERAL.—Chapter 4 of title 10, United States Code, as amended by section 9 of the Defense Technical Correction Act of 1987 (Public Law 100-26; 101 Stat 287) is amended by adding at the end the following new section:

"§ 142. Dissemination of unclassified information concerning physical protection of special nuclear material

"(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

"(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

"(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

"(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1) of this subsection—

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

"(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

"(b) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

"(c) The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons or the theft, diversion, or sabotage of special nuclear materials, equipment, or facilities, as specified under subsection (a) of this section; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"142. Dissemination of unclassified information concerning physical protection of special nuclear material.".

SEC. 806. REPEAL OF CERTAIN TESTING REQUIREMENTS

(a) REPEAL OF SECTION 2366 OF TITLE 10.—Section 2366 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2366.

SEC. 807. OVERSIGHT OF COST OR SCHEDULE VARIANCES IN CERTAIN MAJOR ACQUISITION PROGRAMS

(a) Enhanced Program Stability.—Section 2435(b)(1) is amended by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) the total cost of completion of the stage will exceed by 15 percent or more, in the case of a development stage, or by 5 percent or more, in the case of a production stage, the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will be missed by more than 90 days; or".

(b) Baseline Description Requirement.—For purposes of a program for which a milestone authorization is provided in section 131 or 241, the baseline description required by section 2435 of title 10, United States Code, shall be—

(1) the Selected Acquisition Report as of December 31, 1986, if one is required for such program; or

(2) a baseline description submitted consistent with section 2435.

(c) Defense Enterprise Program.—Section 2436(d)(1) of title 10, United States Code, is amended by striking out "concerned" and inserting in lieu thereof "concerned and with the approval of the Under Secretary of Defense for Acquisition".

SEC. 808. CONTRACT GOAL FOR MINORITIES

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973), is amended by striking out the period at the end of clause (3) and inserting in lieu thereof the following: ", including any nonprofit institution that was an integral part of a historically Black college or university before the date of the enactment of this Act.".

SEC. 809. ADJUDICATION OF INELIGIBILITY FOR A JOB WITH THE FEDERAL GOVERNMENT ON THE BASIS OF FAILURE TO REGISTER UNDER THE MILITARY SELECTIVE SERVICE ACT

Section 3328(b) of title 5, United States Code, is amended—

(1) by striking out "within the Office" in the second sentence; and

(2) by inserting after the third sentence the following: "Such procedures may provide that determinations of eligibility under the requirements of this section shall be adjudicated by the Executive agency making the appointment for which the eligibility is determined.".

SEC. 810. ELIMINATION OF ONE OF THE STATUTORY POSITIONS OF ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY

(a) In General.—Section 5149 of title 10, United States Code, is amended—

(1) by striking out subsection (b);

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) by striking out subsection (e) and inserting in lieu thereof the following:

"(d) When subsection (c) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the Assistant Judge Advocate General of the Navy shall perform the duties of the Judge Advocate General.".

(b) Savings Provision.—An officer in the Judge Advocate General's Corps of the Navy who is detailed as Assistant Judge Advocate General of the Navy and serving in the grade of rear admiral (lower half) on the day before the date of the enactment of this Act may continue to serve in such position, may continue to hold that grade so long as he is detailed as the Assistant Judge Advocate General of the Navy, and shall be entitled to the same retirement benefits in the same manner and to the same extent as if this section had not been enacted.

SEC. 811. ARMS CONTROL NEGOTIATIONS

(a)(1) Since the United States and the Soviet Union are currently engaged in negotiations to conclude a Treaty on Intermediate Nuclear Forces (INF) and are continuing serious negotiations on other issues of vital importance to our national security;

(2) Since the current discussions are a culmination of years of detailed and complex negotiations, pursuing an American policy objective consistently advocated over the past two Administrations regarding nuclear arms control in the European theater, and which reflect delicate compromises on both sides;

(3) Since the Senate recognizes fully, as provided in clause 2, section 2, article II of the Constitution, that the President has the "power, by and with the advice and consent of the Senate, to make treaties.";

(4) Since the Senate also recognizes the special responsibility conferred on it by the Founding Fathers to give its advice and consent to the President prior to the ratification of a treaty, that it is accountable to the people of the United States and has a duty to ensure that no treaty is concluded which will be detrimental to the welfare and security of the United States;

(5) Since in recognition of this responsibility, the Senate established a special continuing oversight body, the Arms Control Observer Group which has functioned over the last 2½ years to provide advice and counsel, when appropriate, on a continuing basis during the course of the negotiations;

(6) Since the Senate and the President both have a constitutional role in making treaties and since the Congress has a constitutional role in regulating expenditures, including expenditures on weapons systems that may be the subject of treaty negotiations;

(7) Since the Senate will reserve judgment on approval of any arms control Treaty until it has conducted a thorough examination of the provisions of such treaty, has assured itself that they are effectively verifiable, and that they serve to enhance the strength and security of the United States and its allies and friends.

(b) Therefore the Senate hereby—

(1) Declares that the Senate of the United States fully supports the efforts of the President to negotiate stabilizing, equitable and verifiable arms reduction treaties with the Soviet Union;

(2) Endorses the principle of mutuality and reciprocity in our arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union;

(3) Urges the President to take care that no provisions are agreed to which would be harmful to the security of the United States or its allies and friends.

SEC. 812. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR

(a) Findings.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) Sense of Congress.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 813. PROCUREMENT OF MANUAL TYPEWRITERS

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Procurement of manual typewriters

"Funds appropriated to or for the use of the Department of Defense may not be used for the procurement of manual typewriters which contain one or more components manufactured in a country which is a member of the Warsaw Pact unless such country has a most favored nation trading status with the United States.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410. Procurement of manual typewriters.".

SEC. 814. PROHIBITION AGAINST CERTAIN CONTRACTS

(a) In General.—Funds appropriated to or for the use of the Department of Defense for any fiscal year pursuant to an authorization contained in this or any other Act may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) Temporary Suspension of Prohibition Upon Certification of the Secretary of Defense.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) Exceptions for Certain Contracts.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract was entered into before the date of the enactment of this Act;

(2) the contract is to be performed within the United States; or

(3) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems.

(d) In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

SEC. 815. COOPERATIVE SDI RESEARCH PROJECTS

(a) The prohibition in subsection (a) of section 814 shall not apply to any contract awarded to a foreign government or a foreign firm by the Strategic Defense Initiative Organization if that foreign government or foreign firm agrees to fund a substantial portion of the total contract cost.

(b) In this section, "foreign firm" has the same definition as in subsection (d) of section 814.

SEC. 816. STRATEGIC DEFENSE SYSTEMS

Notwithstanding any other provision of law, no agency of the Federal Government may plan for, fund, or otherwise support the development of architectures, components, or subcomponents for strategic defense against air-breathing or ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative real-time human decision at an appropriate level of authority.

SEC. 817. ABM TREATY LIMITATIONS, ABSENCE OF, REPORT

(a) REPORT ON NO ABM TREATY LIMITATIONS.—The Secretary of Defense shall submit to Congress a report concerning the effect of no ABM Treaty limitations on the Strategic Defense Initiative Program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of no ABM Treaty limitations on the development under the Strategic Defense Initiative program of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets. This analysis should compare research and development programs pursued under the restrictive interpretation, the less restrictive interpretation, and no ABM Treaty limitations, including a comparative analysis of—

(A) the overall cost of the research and development programs,

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early- to mid-1990's.

(2) A list of options under no ABM Treaty limitations that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) REPORT CLASSIFICATION.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

SEC. 818. REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

(a) IN GENERAL.—Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress each year, at the same time as the President submits the budget to Congress under section 1105(a) of title 31 for any fiscal year or years, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget for the support programs, projects, and activities of the Department of Defense.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to budgets submitted to Congress by the President under section 1105(a) of title 31, United States Code, for fiscal years after fiscal year 1988.

SEC. 819. RIGHTS IN TECHNICAL DATA

(a) IN GENERAL.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the respective rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense.";

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) by redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of technical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release or disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release or disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means, in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

SEC. 820. NATO COOPERATIVE PROJECT AGREEMENTS

Clause (C) of section 27(b)(1) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C)) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

SEC. 821. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than 2 years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) MODIFICATION OF DEFINITION OF JOINT DUTY ASSIGNMENT.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion offi-

cers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than one year after the date of the enactment of this Act.

SEC. 822. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) Additional Assistant Secretary of Defense.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Temporary Increase in Level IV Positions.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 823. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Exclusion.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 824. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

SEC. 825. TRANSPORTATION OF CERTAIN BENEFICIARIES OF THE VETERANS' ADMINISTRATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT

(a) In General.—Section 5011 of title 38, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Secretary of Defense and the Administrator shall enter into an agreement that provides for the transportation of any primary beneficiary of the Veterans' Administration on any Department of Defense aircraft operating under the aeromedical evacuation system of the Department of Defense.

"(2) An agreement entered into under paragraph (1) of this subsection shall include the following provisions:

"(A) Transportation shall be furnished to a person on an aircraft referred to in paragraph (1) of this subsection only if—

"(i) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the person needs or has been furnished care and services in Veterans' Administration medical facilities and the Administrator requests such transportation in connection with the travel of such person to or from the Veterans' Administration facility where the care and services are to be furnished or were furnished to such person;

"(ii) there is space available for such person on that aircraft; and

"(iii) there is an adequate number of medical and other service attendants to care for all persons being transported on such aircraft.

"(B) The persons eligible for transportation include persons located outside the continental United States and persons returning to their residences outside the continental United States.

"(C) A charge may not be imposed on any primary beneficiary of the Veterans' Administration or on the Veterans' Administration for transportation services furnished to such beneficiary by the Department of Defense under this section.".

(b) Implementation Requirement.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 5011(g) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

SEC. 826. SENSE OF THE CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) Findings.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributor to democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to both the United States and Japan have significantly increased since 1976, principally as the result of the Soviet Union's occupation of Afghanistan, the continued expansion and buildup of Soviet military forces (particularly Soviet expansionist efforts in the South Pacific and the buildup of the Soviet Pacific fleet), the Vietnamese occupation of Cambodia, and instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 Williamsburg summit meeting that "the security of our countries is indivisible and must be approached on a global basis", the Japanese government has raised its defense spending by an average of 5 percent per annum since 1981, rescinded a limit on annual expenditures for defense of 1 percent of the gross national product, and is fulfilling Prime Minister Suzuki's pledge to defend Japan's territory, airspace, and sea lanes to a distance of 1,000 miles by 1990.

(4) Congress applauds the actions referred to in paragraph (3) that have been taken by Japan and the Japanese commitment to implement a 1,000 mile defense capability. However, Japan has the world's second largest gross national product, is a major creditor nation, has a large private savings rate, but lags far behind other industrialized democracies in terms of the percent of gross national product devoted to national defense expenditures and expenditures for global security and stability.

(b) Sense of Congress.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

SEC. 827. SOVIET UNION EMBASSY AGREEMENTS

(a) Findings.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) New Agreement With Soviet Union.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) Embassy Agreements.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in

Moscow and Washington", entered into force on May 16, 1969; and

(2) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

SEC. 828. POLICY TOWARD PANAMA

(a) FINDINGS.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces; and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) POLICY.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to reallocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

SEC. 829. IRANIAN VESSEL SINKING JUSTIFICATION

It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessel known to have on board any citizen of the United States of America: *Provided further*, That this section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 830. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) TREATMENT OF PAYMENT.—Costs incurred by a contractor for the acquisition of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) RIGHT OF UNITED STATES TO SPECIAL TOOLING AND TEST EQUIPMENT.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) EFFECTIVE DATE.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

SEC. 831. REPORT REGARDING NATO DEFENSES

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Supreme Allied Commander, Europe, shall submit to Congress a report on the options available to the North Atlantic Treaty Organization (NATO) to ensure continued deterrence against war in Europe and continued NATO unity in light of the proposed Intermediate Range Nuclear Treaty (INF) between the United States and the Soviet Union. The report shall include, at a minimum, the following:

(1) Requirements for nuclear modernization of NATO.

(2) Non-nuclear forces that would be needed to support the operational concept of Follow-on-Forces Attack (FOFA).

(3) The status for improvements being made in the air defenses of NATO in Europe.

(4) Possible effects of a conventional arms control agreement on the military balance between NATO and Warsaw Pact forces.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (a) not later than January 31, 1988, or before the President submits to the Senate for its advice and consent any treaty relating to intermediate range nuclear missiles in Europe, whichever occurs first.

SEC. 832. REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME

(a) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime, describing the number and skills of personnel currently available in the Department of Defense to perform these functions, and assessing the adequacy of these resources for the effective performance of this mission.

(b)(1) The report described in subsection (a) shall identify the total number of current Department of Defense full-time employees or military personnel, the grades of such personnel, and the special knowledge, experience, and expertise of such personnel to carry out each of the following Missile Control Technology Regime tasks:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(2) The report shall contain the Secretary's assessment of the adequacy of staffing in the categories specified above in sections (b)(1) (A) to (F), and shall make recommendations on measures, including legislation if necessary, to eliminate any identified staffing deficiencies, and to improve interagency coordination.

SEC. 833. UNITED NATIONS SALARY REMISSION ARRANGEMENTS

(a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for each fiscal year by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

SEC. 834. TESTING PROGRAM FOR DRUG, CHEMICAL, AND ALCOHOL USE AND DEPENDENCY PRIOR TO ENTRY OR REENTRY INTO THE ARMED FORCES

(a) Under uniform regulations prescribed by the Secretary of Defense, testing shall be required for drug, chemical, and alcohol use and dependency for any individual prior to entry into the Armed Forces.

(b) Testing required under paragraph (a) shall be conducted as part of a pre-registration physical prior to entry into Active, Reserve, or National Guard Units whether under the direct accession or delayed entry programs.

(c) Failure to consent to the testing program prescribed in paragraph (a) shall disqualify an individual for entry into the units described in paragraph (b).

(d)(1) The Secretary of Defense shall prescribe regulations to implement this section not later than 45 days after the date of the enactment of this Act.

(2) The effective date for initiation of the testing program prescribed by this section shall be no later than 180 days after the enactment of this Act.

SEC. 835. STUDY RELATING TO CAPABILITIES FOR THE CONTROL OF DRUG SMUGGLING INTO THE UNITED STATES

(a) In General.—The Comptroller General of the United States shall conduct a comprehensive study regarding illegal drug smuggling into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether any cost savings and increased effectiveness and efficiencies could be expected to result if the national drug interdiction effort were consolidated under the authority of the Department of Defense;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation (for the Coast Guard), and the Treasury Department (for the Customs Service) for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to utilize effectively the detection output of the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to utilize the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) Authority to Contract Out.—The Comptroller General may contract for the performance of all or any part of the study required under subsection (a) with the Rand Corporation, the Center for Naval Analysis, or any other Federal contract research center, but the Comptroller General shall retain management, direction, and control of the study.

(c) Report.—Not later than March 31, 1988, the Comptroller General shall report the results of the study required under subsection (a), together with such comments and recommendations as he considers appropriate, to the Committees on Armed Services, the Committees on the Judiciary, and the Committees on Appropriations of the Senate and the House of Representatives, the Senate Caucus on International Narcotics Control, and the House Select Committee on Narcotics Abuse and Control. The Comptroller General shall submit the report in both classified and unclassified form.

(d) Transfer of Funds.—Of the funds appropriated pursuant to the authorizations contained in this division, the Secretary of Defense shall transfer to the Secretary of Transportation funds to provide for the Law Enforcement Detachment program of the Coast Guard in the following amounts:

(1) $3,000,000 for fiscal year 1988.

(2) $6,000,000 for fiscal year 1989.

SEC. 836. SENSE OF THE SENATE REGARDING THE CONTRIBUTIONS AND ROLES OF SPOUSES OF MILITARY PERSONNEL IN SUPPORTING THE MILITARY COMMUNITY

(a)(1) the spouses of military personnel have contributed greatly to the well-being and to the support of the military community in the Armed Forces for decades;

(2) the spouses of military personnel have voluntarily lent their time and talents to support military personnel, their families, and the military community as a whole, in time of war and in time of peace;

(3) in 1987, when more than 72 percent of all active duty military officers and 52 percent of all active duty enlisted military personnel are married, the voluntary service of spouses of military personnel in support of the military community is ever increasing in scope and importance;

(4) at the same time, the pressures on the spouses of military personnel to be employed outside of the home are increasing, reflecting American society as a whole;

(5) neither the Armed Forces, the Congress, nor the American people have a right to expect or demand that spouses of military personnel voluntarily contribute their time or talents to support the Armed Forces or the military community, beyond that expected of all good citizens.

(b)(1) Therefore, it is the sense of the Senate that the spouses of military personnel are to be thanked and congratulated for their unswerving support and work on behalf of military personnel, their families and the military community as a whole.

(2) And further, it is the sense of the Senate that the decision by spouses of military personnel to be employed, either in addition to or rather than voluntarily participating in activities relating to the Armed Forces, must be viewed as a personal decision which is of no official consequence to the Armed Forces.

SEC. 837. TRAVEL REIMBURSEMENT

Notwithstanding any limitation on amounts that may be otherwise paid for travel and transportation allowances, a civilian employee of the Department of Defense or Department of Transportation or a member of the Armed Forces of the United States, accompanying a Member of Congress, an employee of such a Member, or an employee of Congress on official travel may be authorized reimbursement for actual travel and transportation expenses in an amount not to exceed that approved for official congressional travel when that travel is directed or approved by the Secretary of Defense or the Secretary of the executive agency or military department, or a designee of the Secretary concerned, having jurisdiction over the employee or member.

SEC. 838. TULALIP TRIBES, WASHINGTON

The Secretary of the Navy is authorized to provide to the Tulalip Tribes of Washington, $3,400,000 from the authorization for appropriations provided in section 2204(a)(1), to settle tribal claims for loss of access to and displacement from usual and accustomed fishing grounds and stations arising from the construction and operation of the Navy Homeport at Everett, Washington, pursuant to the Memorandum of Agreement dated July 22, 1987, between the United States Navy and the Tulalip Tribes of Washington. Before payment in final settlement of the tribal claims is made, the Navy must obtain from the Tulalip Tribes a release by which the tribes waive any claims against the United States for displacement from the Homeport site while the site is owned by the United States, and for additional displacement resulting from Homeport construction-related activities in Port Gardner to the extent provided by the Memorandum of Agreement. The release will also waive any claims the tribes may have against the United States or any or its successors in interest for loss of access resulting from the permanent structures constructed for the Homeport. Nothing herein shall be construed to diminish in any way the reserved rights of the Tulalip Tribes of Washington, except as provided in the Memorandum of Agreement.

SEC. 839. STARS AND STRIPES CENSORSHIP

The Comptroller General shall conduct a study of allegations of censorship in the Department of Defense newspaper, Stars and Stripes. The report of the Comptroller General shall be transmitted to the Congress not later than 90 days after the date of enactment of this Act and such report shall include the Comptroller General's findings regarding the validity of the allegations and any recommendations concerning those allegations which the Comptroller General believes appropriate.

SEC. 840. SMALL BUSINESS SET-ASIDE PROGRAM

(a) FAIR PROPORTION OF FEDERAL CONTRACTS; AWARD AT FAIR AND REASONABLE PRICES.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) in paragraph (3), by striking out "in each industry category" and inserting in lieu thereof "of the total awards (utilizing the product and services codes of the Federal Procurement Data System established pursuant to section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))";

(2) by striking out the matter that begins "For purposes of clause (3) of the first sentence of this subsection" up to the last sentence; and

(3) by striking the period, inserting in lieu thereof a comma, and the words "determined on the basis of an evaluation of the prices offered in response to the solicitation by all eligible offerors, by other techniques of price analysis, or by cost analysis for the purpose of establishing that the anticipated contract award price will be fair and reasonable to the Government.".

(b) SMALL BUSINESS SMALL PURCHASE RESERVE EXCLUDED FROM ANNUAL GOALS.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence.

(c) SUBCONTRACTING LIMITATIONS.—(1) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by—

(A) striking out "unless the concern agrees that" in paragraph (1) and inserting in lieu thereof "unless the concern agrees to expend its best efforts so that";

(B) inserting a flush sentence at the end of paragraph (1) as follows:

"Higher percentages of permissible subcontracting may be authorized in an individual contract solicitation by the contracting officer.";

(C) by striking out "in that industry category" in paragraph (2) and inserting in lieu thereof "for that size standard"; and

(D) by striking out all after the phrase "general and specialty construction" in paragraph (3) and inserting in lieu thereof a period.

(2) The amendments made by section 921(c) of the Defense Acquisition Improvement Act of 1986 (Public Law 99-661) shall apply to solicitations issued on or after October 1, 1987.

(d) REPEALER.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

(e) CONFORMING AMENDMENTS.—Section 8(a)(14) (15 U.S.C. 637(a)(14)) of the Small Business Act is amended—

(1) in subparagraph (A) by striking out "the concern agrees that" and inserting in lieu thereof "the concern agrees to expend its best efforts so that";

(2) in subparagraph (B) by striking out "in that industry category" and all that follows in the subparagraph and inserting in lieu thereof "for that size standard."; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The Administration shall establish, through public rulemaking, requirements similar to those established in subparagraph (A) to be applicable to contracts for general and specialty construction.".

(f) INITIAL REVIEW OF SIZE STANDARDS.—Section 921(h) of the "Defense Acquisition Improvement Act of 1986" (Public Law 99-661) is amended by striking in the last sentence the words "until October 1, 1987" and substituting in lieu thereof the words "prior to March 31, 1988".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later.

SEC. 841. ANNUAL PLAN ON DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE

(a) IN GENERAL.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 380. Annual plan on Department of Defense drug law enforcement assistance

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress the following:

"(A) A detailed list of all forms of assistance that is to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service, during the fiscal year for which such budget is submitted.

"(B) A detailed plan for lending equipment and rendering drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following matters:

"(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

"(B) Communications equipment, including secure communications.

"(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

"(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

"(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

"(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a list and plan submitted under subsection (a), shall convene a conference of the heads of all Federal Government law enforcement agencies having jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies during the fiscal year for which the list and plan are submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is available by adding at the end the following:

"380. Annual plan on Department of Defense drug law enforcement assistance.".

SEC. 842. MILITARY FORCES STATIONED IN EUROPE

The Senate finds that with respect to the level of United States military forces permanently stationed in Europe in fiscal year 1988 and fiscal year 1989:

(a)(1) the agreement in principal between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implication for the viability of NATO's defense posture;

(2) the presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the Alliance;

(3) NATO Defense Ministers stated on May 26-27, 1987 that: "The continued presence of United States forces at existing levels in Europe plays an irreplacable role in the defense of North America as well as Europe";

(b)(1) therefore, it is the sense of the Senate that the number of United States military personnel stationed in Europe play an indispensable role for peace and deterrence and such commitment of forces should be continued at existing levels: *Provided*, That all existing basing agreements remain in effect; and

(2) furthermore, the actual number of United States forces in Europe at any one time may fall below this level due to administrative fluctuations or determination by the President of other national security considerations.

SEC. 843. SMALL ICBM AND MX RAIL MOBILE BASING MODE

(a) The Senate finds—

(1) it is essential that our defense priorities be carefully analyzed so as to properly fund the Armed Forces of the United States;

(2) the status of forces of the United States and our allies will become more important if an INF agreement is concluded between the United States and the Soviet Union;

(3) it is both desirable and possible to reduce NATO's reliance on nuclear weapons for the defense of all members of the Alliance if NATO asserts the political will and establishes sound defense priorities;

(4) the United States is currently procuring one land-based intercontinental ballistic missile while developing another such weapon at significant cost;

(5) it is imperative for the economic wellbeing of the United States the Federal deficit be reduced, and our efforts to reduce that deficit will continue to require limits on all discretionary Federal spending including defense spending; and

(6) such restraints on the defense budget are likely to exist for the foreseeable future.

(b) Therefore, it is the sense of the Senate that authorization of funds for research and development of the Small ICBM and the rail-mobile basing mode for the MX ICBM does not constitute a commitment or express an intent to procure and deploy either or both.

SEC. 844. BUDGET SUBMISSIONS RELATING TO SPECIAL ACCESS PROGRAMS

(a) IN GENERAL.—(1) Each year, the President shall include in the budget submitted to Congress for the Department of Defense under section 1105 of title 31, United States Code, a separate report to the Committees on Armed Services and the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives on each major defense acquisition program in such budget which is designated as a special access program (provided for under Executive Order 12356, dated April 2, 1982, or any successor order).

(2) A report submitted under paragraph (1) in the case of any program shall contain—

(A) a brief description of such program;

(B) a brief discussion of the major milestones established for such program; and

(C) the actual cost of such program for each fiscal year during which the program has been conducted before the fiscal year in which such budget is submitted, the estimated cost of such program for each additional fiscal year during which the program is expected to be conducted, and the estimated total cost of such program.

(b) FORM OF REPORT.—A report required by subsection (a) may be submitted in classified or unclassified form.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirements of subsection (a) in the case of any program for which the Secretary determines that the disclosure of the existence of such program would adversely affect national security. If the Secretary exercises the waiver authority in this subsection, he shall provide the information required by subsection (a) and the justification for such waiver to the chairman and ranking minority members of the Committees on Armed Services and the Defense subcommittees of the Committees on Appropriations.

(d) CLASSIFICATION POLICY.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives, at the same time as the President submits the budget for fiscal year 1989 to Congress under section 1105 of title 31, United States Code, a report containing the policy for classifying reports for the purpose of this section. The policy shall provide for consistent classifications for all such reports, except that such policy may provide for exceptions to the requirement for consistent classification of such reports if such policy contains specific criteria and procedures for determining the exceptions.

(2) After submitting the policy referred to in paragraph (1) as provided in such paragraph, the President shall promptly notify the Committees referred to in such paragraph of any modification or termination of such policy. The notification shall contain the reasons for the modification or termination, as the case may be, and, in the case of a modification, the provisions of the policy as modified.

(e) DEFINITION.—As used in this section, the term "major defense acquisition program" means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars), but does not include any program that the Secretary of Defense determines is a program conducted primarily for the purpose of facilitating intelligence-gathering activities, intelligence analysis activities, or counterintelligence activities.

SEC. 845. FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE

(a) IMPROVEMENT OF PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures that ensure that, whenever, in connection with a criminal investigation conducted by or for a military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used any controlled substance—

(A) such specimen is in a condition that is suitable for forensic examination when delivered to the forensic laboratory; and

(B) the investigative agency which submits the specimen to the laboratory receives the results of the forensic examination in writing within such period as is necessary to present such results in a court-martial or other criminal proceeding resulting from the investigation.

(2) The procedures prescribed under paragraph (1) shall—

(A) ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

(B) insofar as is practicable, require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in paragraph (1)(A).

(b) TESTS FOR USE OF LSD.—The Secretary of Defense shall ensure that whenever, in connection with a criminal investigation conducted by or for any military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used lysergic acid diethylamide, such specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of such specimen, whether such individual has used lysergic acid diethylamide.

(c) Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal proceeding.

(d) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1988, a report describing the procedures prescribed under subsection (a).

SEC. 846. DEFENSE AGAINST AERIAL THREATS

(a)(1) Since no element of the Armed Forces of the United States currently has the mission to defend the United States from ballistic missiles and other aerial threats;

(2) Since the Joint Chiefs of Staff have established a set of ballistic missile defense requirements as part of the Defense Acquisition Board process;

(3) Since six SDI programs have passed the Milestone I review of the Defense Acquisition Board and have entered the demonstration and validation phase;

(b) Therefore, it is the sense of the Senate that the Secretary of Defense should, not later than 60 days after the date of enactment of this Act, assign to one or more appropriate elements of the Department of Defense the mission—

(1) to defend to the fullest extent possible the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles; and

(2) in the event of war, to provide access to, provide intelligence from, and secure and retain control of space for the military forces of the United States.

SEC. 847. STUDY OF EARLY DECOMMISSIONING OF TWO AIRCRAFT CARRIERS

(a) IN GENERAL.—The Secretary of Defense shall conduct a comprehensive study that compares—

(1) the current Department of Defense plan to decommission one aircraft carrier when the USS George Washington (CVN73) is commissioned in fiscal year 1992 and decommission a second aircraft carrier when CVN74 is commissioned in fiscal year 1997.

(2) an alternative plan that would decommission one aircraft carrier and deactivate one Navy air wing when the aircraft carrier USS Abraham Lincoln (CVN72) is commissioned in fiscal year 1990 and decommission a second aircraft carrier when the aircraft carrier USS George Washington (CVN73) is commissioned in fiscal year 1992.

(b) Matters To Be Included.—The study shall determine the following implications of adopting the alternative plan for aircraft carrier retirements as compared to the current plan—

(1) the total direct and indirect outlay and budget authority savings in constant fiscal year 1988 dollars through fiscal year 1997;

(2) the effect on naval aircraft requirements through fiscal year 1997 assuming the aircraft from the deactivated wing are reassigned in the active force;

(3) the implications for Navy endstrength requirements through fiscal year 1997;

(4) the effect on requirements for naval surface ship combatants and support ships through fiscal year 1997;

(5) the cost and feasibility of making available to the active naval fleet for operation during a time of national emergency—

(A) an aircraft carrier that is in the Service Life Extension Program (SLEP); and

(B) an aircraft carrier that has been decommissioned, but is still under the jurisdiction of the Navy.

(c) Deadline for Submission.—Not later than November 15, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted by him pursuant to paragraphs (a) and (b) together with such comments and recommendations as the Secretary considers appropriate.

SEC. 848. STUDIES OF NUCLEAR WARHEAD FOR ATACMS MISSILE

(a) Funds appropriated before, on, or after the date of the enactment of this Act, or otherwise made available to the Department of Defense or to the Department of Energy for any fiscal year may be obligated or expended for studies and analyses of the military utility and cost of a nuclear warhead option for the Army Tactical System (ATACMS).

(b) No funds may be obligated or expended for the purpose of developing, testing, producing, or integrating nuclear warheads for the Army Tactical Missile System (ATACMS) unless—

(1) the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Army Tactical Missile System has achieved an initial operational capability with United States Army units permanently stationed in the Federal Republic of Germany;

(2) such development, testing, production, or integration has been specifically authorized by legislation enacted after the date of the enactment of this Act; and

(3) the Secretary of Defense has submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a comprehensive analysis of the options available to the United States to preserve an adequate theater nuclear capability in Europe in the aftermath of an INF agreement between the United States and the Soviet Union.

SEC. 849. STRATEGIC ARMS REDUCTION TALKS IMPLICATION REPORT

Not later than June 30, 1988, the Secretary of Defense shall provide to Congress a report in both classified and unclassified versions describing:

(1) The quantitative and qualitative implications of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva for our strategic modernization program. Special, but not exclusive, attention in this report should be paid to the implications for the Trident SSBN program, the rail-garrison Peacekeeper program, and the Small ICBM program.

(2) The advantages and drawbacks of following the recommendations made in the 1983 report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) above on United States force modernization and arms control policy.

SEC. 850. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES

(a) Findings.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disporportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) Policy.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) the President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations;

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution or the mutual defense burden among our allies and consider whether additional legislation is appropriate.

SEC. 851. IRANIAN MINE-LAYING ACTIVITIES COMMEND ARMED FORCES FOR THWARTING

(a)(1) The Armed Forces of the United States are engaged in escort operations in the Persian Gulf in support of American national security interests and the principle of freedom of navigation;

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in on-going activities to disrupt shipping in the Persian Gulf;

(3) On September 21-22 a joint operation of United States Army and Naval forces succeeded in detecting in the act, tracking and neutralizing an Iranian mine-laying activity;

(4) The success of that joint operation, by serving notice on Iran that the United States will react decisively and effectively to such activity, may lead to a reduced risk to American interests and armed forces from such activity;

(5) There is precedent throughout American history for Congress to recognize and commend similar operations by United States Armed Forces, including the action of the Congress February 3, 1801, in praising "the gallant conduct" of the members of a United States Naval force in the Wars with the Barbary Powers.

(b) Therefore, it is the sense of the Senate of the United States that:

(1) The members of the United States Armed Forces who participated in the September 21-22 operation acted in the finest traditions of the Armed Forces, and displayed exemplary professionalism, skill and dedication.

(2) The aforementioned members of the Armed Forces, and all United States Armed Forces personnel who supported their operation, are commended for their participation in this important and successful endeavor.

SEC. 852. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) In General.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s, including a specific discussion concerning this issue in the event the United States and the Soviet Union agree to a treaty which requires reduction or elimination of types of delivery systems or reductions in the numbers of nuclear weapons deployed in Western Europe.

(b) Form and Content of Report.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems not limited by the proposed treaty which the Secretary of Defense recommends for deployment in the European theater under the terms of an arms control agreement likely to be agreed to by the United States and the Soviet Union.

(2) A description of any nuclear modernization program the Secretary of Defense has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the impact that a reduction in the number of nuclear warheads deployed by NATO in Western Europe will likely have on NATO's ability to maintain an effective flexible response strategy and credible deterrence.

(4) A discussion of any plans for redeployment in peacetime to Western Europe, in the event an agreement referred to in subsection (a) is successfully concluded, of nuclear forces of the United States that are currently deployed outside Western Europe.

(5) A discussion of the balance of non-nuclear forces in the NATO theater and the potential impact of an agreement limiting non-nuclear forces on that balance.

(6) A discussion of the feasibility of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(7) A discussion of all feasible candidate nuclear weapons delivery systems that might be deployed by NATO, including all delivery systems currently in the inventories of the United States and NATO and any new systems that may become available during the time period covered by the reports required by subsection (a).

(8) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR) on the issues in items (1) through (6) above.

(c) DEADLINE FOR REPORT.—The report required by subsection (A) shall be submitted—

(1) not later than 90 days after the date of enactment of this Act; or

(2) not later than the date on which the President submits to the Senate for its advice and consent an arms control treaty limiting deployment of intermediate-range nuclear forces (INF) in Western Europe, whichever date is earlier.

SEC. 853. REPORT ON M1A1 TANK

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any actual or proposed plans of the Department of Defense regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams tank. The Secretary shall specifically include in such report the following:

(1) Whether the Secretary of Defense has entered into or proposes to enter into negotiations with any foreign country for the sale of the M1 or M1A1 Abrams tank to such foreign country.

(2) The nature and extent of any negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of such tank by the United States and such country.

(3) The possible consequences of the sale of such tank to a foreign country and of an agreement for the co-production or co-assembly of such tank by the United States and a foreign country.

(4) A comparison of the effects on United States industry and labor of a direct sale of such tank to a foreign country with the production of such tank under a co-production or co-assembly arrangement with a foreign country.

(5) The impact that the sale of such tank to a foreign country or an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States in view of the sensitive nature of the high technology involved in the production of such tank.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) NATURE OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

(d) CONDITION ON AUTHORITY OF SECRETARY.—The Secretary may not enter into any agreement with any foreign country regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams or any variant of such tank until the report required by this section has been received by Congress.

SEC. 854. NUCLEAR RISK REDUCTION CENTERS

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust by both sides and lead to expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis management and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

SEC. 855. TRADE WITH VIETNAM

(a) FINDINGS.—The Congress finds that—

(1) 140,000 Vietnamese troops invaded Cambodia in early 1978;

(2) for the past 9 years, the vast majority of Western powers have pledged to maintain embargoes or developmental aid to Vietnam until these troops are removed;

(3) Japan initially participated in this embargo, freezing some $135,000,000 in grants and concessionary loans, and reducing trade levels from $220,000,000 in 1978 to $120,000,000 the following year;

(4) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a present day trade level of $230,000,000, and this includes developmental trade;

(5) the Japanese Government has consistently refused to discourage private investment by its private business sector which initiates this trade;

(6) Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) IN GENERAL.—The Congress hereby—

(1) renews its condemnation of the continued Vietnamese occupation of the sovereign state of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law, and the Congress reconfirms its call for Vietnam to withdraw from Cambodia for only in this way can Vietnam expect to end its self induced economic isolation, and

(2) strongly urges the government of Japan to—

(A) prevent its private business sector from engaging in developmental trade with the Socialist Republic of Vietnam, and

(B) discontinue specific Japanese trading practices with Vietnam which provide long-term credits and developmental equipment, including equipment for—

(i) oil and exploration development,

(ii) forestry and fishery production,

(iii) development of commodities for light industries, and

(iv) the upgrading of production capacities for export purposes.

SEC. 856. PROHIBIT IMPORTS FROM IRAN

FINDINGS.—The Congress finds that—

(a) The actions of Iran in continuing mine-laying activities, launching Silkworm missiles against Kuwait and refusing to accept the United Nations-proposed cease-fire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf.

(b) In recent years, the United States, on annual average, has imported approximately $500,000,000 to $600,000,000 worth of products of Iran.

(c) The provision of this hard currency to Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as mine-laying.

(d) A formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war; nor to surrender the flexibilty to shape our conduct in response to the policies and conduct of the belligerents in that war.

(e) In light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran.

(f) As the provisions of the Algiers Accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the products of Iran, in the claims settlement process established under the Accord.

SEC. 857. PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN

(a) Effective upon the date of enactment of this section, the import into the United States of all products of Iran is prohibited.

(b) For the purposes of this section, the term "products of Iran" means an article grown, mined, produced or manufactured (in whole or in part) in Iran.

(c) The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement subsection (a).

SEC. 858. WAIVER OF PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.

(a) Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition for up to 180 days following enactment of this section.

(b) Should the President, under the authority of subsection (a), delay implementation of the prohibition for any period up to the 180-day limit, he shall submit to the Congress a written report, explaining the reasons for that decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) Should the President decide to delay implementation of the prohibition through the procedure outlined in subsection (b) for the full 180 days, the prohibition shall go into effect on the 181st day following enactment of this section, unless the Congress, by joint resolution, extends the 180-day period.

SEC. 859. AMENDMENTS RELATED TO THE ENACTMENT OF THE GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

(a) AMENDMENTS TO PUBLIC LAW 99-433.—(1) The table contained in section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 995) is amended by striking out "chapter 3" above the right hand column and inserting in lieu thereof "chapter 144".

(2) Section 202(b)(2) of such Act (100 Stat. 1011) is amended by inserting "the first place it appears" immediately before the semicolon.

(3) Section 532(c)(1) of such Act (100 Stat. 1063) is amended by striking out "section" and inserting in lieu thereof "sections".

(4) Section 602(e)(3)(B) of such Act (100 Stat. 1067) is amended by striking out "and strength" and inserting in lieu thereof "end strength".

(b) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 152 is amended by striking out the section heading and inserting in lieu thereof the following:

"§ 152. Chairman: appointment; grade and rank".

(B) The table of sections at the beginning of chapter 5 is amended by striking out the item relating to section 152 and inserting in lieu thereof the following:

"152. Chairman: appointment; grade and rank.".

(2) Section 155 is amended—

(A) in subsection (f)(4)(B), by inserting "or Congress" after "the President"; and

(B) in subsection (g)(2), by inserting "the President or" after "declared by".

(3) Section 194(e)(2) is amended by inserting "the President or" after "declared by".

(4)(A) The heading for section 743 is amended by adding at the end "; **Commandant of the Marine Corps**".

(B) The table of sections at the beginning of chapter 43 is amended by inserting "; Commandant of the Marine Corps" after "Air Force" in the item relating to section 743.

(5) Section 1406(i) is amended—

(A) by inserting "AND VICE CHAIRMEN" after "CHAIRMEN" in the subsection heading; and

(B) by inserting "or Vice Chairman" after "Chairman" in paragraph (1).

(6) Sections 3014(f)(4), 5014(f)(4), and 8014(f)(4) are each amended by inserting "the President or" after "declared by".

(7) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5898 and inserting in lieu thereof the following:

"5898. Action on reports of selection boards.".

(8) Section 8062(e) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(c) AMENDMENTS TO TITLE 37.—(1) Section 413 of title 37, United States Code, is amended to read as follows:

"§ 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

"The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chairman and Vice Chairman of the Joint Chiefs of Staff.".

(d) MISCELLANEOUS AMENDMENTS.—Footnote 2 in the table in section 411(a) of title 38, United States Code, is amended by inserting "or Vice Chairman" after "Chairman".

(2) Section 1344(b)(4) of title 31, United States Code, is amended by inserting "the members and Vice Chairman of" before "the Joint Chiefs of Staff".

(3) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (37 U.S.C. 1009 note) is amended by inserting "or Vice Chairman" after "Chairman".

(4) Section 1302(b)(3) of the Department of Defense Authorization Act, 1986 (37 U.S.C. 431 note), is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(2) The amendments made by subsections (c)(1), (d)(3), and (d)(4) shall take effect as of October 1, 1986.

SEC. 860. TECHNICAL AND CLERICAL AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(14) is amended by inserting "a" after "means".

(2) Section 179 is amended by realigning subsection (e) so as to appear flush to the left margin.

(3) The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 423 and inserting in lieu thereof the following:

"423. Authority to use proceeds from counterintelligence operations of the military departments.".

(4) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 686 from the end of such table to appear immediately below the item relating to section 685.

(5) Section 1102(c)(2) is amended by striking out ", United States Code" in the second sentence.

(6) Section 2321 is amended—

(A) in subsection (d)(4)(A), by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) in subsection (i), by inserting "or subcontractor" after "contractor".

(7) Section 2322(b) is amended by inserting a period at the end.

(8) Section 2327(d) is amended by inserting "(1)" after "APPLICABILITY.—".

(9) The heading of section 2342 is amended by inserting a hyphen between the first and second words.

(10)(A) Section 2364 is amended by striking out "milestone O, I, and II decisions" in subsection (b)(5) and inserting in lieu thereof "milestone O, milestone I, and milestone II decisions".

(B) The heading of such section is amended by revising the fifth word so that the first letter is lower case.

(C) The item relating to that section in the table of sections at the beginning of chapter 139 is amended to conform to the amendment made by subparagraph (B).

(11) Section 2366(e)(1)(B) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(12) The item relating to section 2367 in the table of sections at the beginning of chapter 139 is amended so that the initial letter of the third word is lower case.

(13) Section 2406(f)(2)(A) is amended by inserting "section" after "is defined in".

(14) Section 2436(c)(5) is amended by inserting "law," after "auditing,".

(15) Section 2801(c)(3) is amended by striking out "defense agencies" and inserting in lieu thereof "Defense Agencies".

(16) Section 3723 is amended by striking out the comma after "disease".

(17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

(18)(A) Sections 1089(g), 2002(b), 2141(c), 2143(c), and 2145(b) are amended by inserting "the term" after "In this section,".

(B) Section 2356(b) is amended by inserting ", the term" after "In this section".

(19)(A) Sections 3251 and 8251 are amended by inserting ", the term" after "In this chapter".

(B) Sections 4801, 8368(a), and 9801 are amended by inserting "the term" after "In this chapter,".

(20) Section 101(20) is amended by striking out " 'Rate" at the beginning of the second sentence and inserting in lieu thereof "The term 'rate".

(b) AMENDMENTS TO TITLE 37.—Section 303(2) of title 37, United States Code, is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon; and

(2) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; or".

(c) AMENDMENTS TO PUBLIC LAW 100-26.—Public Law 100-26 is amended—

(1) in section 7(b)(3)(A), by inserting "in subsection (a)," before "by";

(2) in section 7(k)(1)(C), by inserting "(2)" after "paragraphs (1),"; and

(3) in section 8(d)(7), by striking out "Section 406" and inserting in lieu thereof "Section 406b".

(d) MISCELLANEOUS AMENDMENT.—Section 956(b)(1) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661 and in title X of section 101(c) of Public Laws 99-500 and 99-

591) is amended by inserting "the first place it appears" before the semicolon.

(e) Effective Dates.—(1) The amendments made by subsection (c) shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).

(2) The amendment made by subsection (d) shall apply as if included in the enactment of Public Laws 99-500, 99-591, and 99-661.

SEC. 861. ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY AND CHAIRMAN OF NUCLEAR WEAPONS COUNCIL

(a) Statutory Establishment of Position of Assistant to the Secretary of Defense for Atomic Energy.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(b) Exception to Senate Confirmation.—The person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 (42 U.S.C. 2037) on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 of title 10, United States Code (as added by subsection (a)), without the advice and consent of the Senate.

(c) Amendment to Title 5, United States Code.—Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense".

SEC. 862. STATE DEPARTMENT FREEDOM OF EXPRESSION

(a) Short Title.—This section may be cited as the "United States Department of State Freedom of Expression Act of 1987".

(b) Finding.—Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) Prohibition.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 861. TECHNICAL AND CONFORMING AMENDMENTS

(a) Amendments to Title 10.—(1) Section 113(g)(1) of title 10, United States Code, is amended by inserting "or, in the case of biennial budgets, biennially," after "annually".

(2)(A) Section 152 of such title is amended by striking out the section heading and inserting in lieu thereof the following:

SEC. 863. REPORT ON ELIMINATION OF BALLISTIC MISSILES

(a) Not later than 30 days after the date of enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives examining the military consequences of any arms control agreement that would provide for the elimination of all United States and Soviet strategic ballistic missiles.

(b) Such report shall be submitted in classified and unclassified form and shall include a discussion of the strategic, budgetary and force structure implications of this proposal for:

(1) United States and allied conventional defenses in Europe, the Far East and other regions vital to United States national security;

(2) United States tactical nuclear deterrence in such areas;

(3) United States strategic offensive retaliatory systems not affected by this proposal, including United States bomber forces and cruise missiles;

(4) United States air defenses needed to counter Soviet bomber forces and cruise missiles;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) Any new programs which may be deemed necessary to maintain the position of the United States in light of the relative advantage conferred by this proposal on other nuclear powers, including the Peoples Republic of China, whose strategic ballistic missiles would not be limited.

SEC. 864. SALT II COMPLIANCE AMENDMENT

Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and until the following have occurred:

(a) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(b) The Senate has given its advice and consent to the Treaty;

(c) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned; and

(d) Each party has ratified the Treaty in accordance with its own constitutional processes.

SEC. 865. LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS

(a) Short Title.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act".

(b) Limitation on Obligation of Funds.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1988, to overhaul, maintain, operate, or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) Exceptions.—The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this Act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed Intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) Notification of Plans for Compliance.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) New Agreement.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) Definitions.—For purposes of this section:

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicle" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" means launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act, 1988 and 1989".

TITLE I—ARMY

Part A—Fiscal Year 1988

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $49,790,000.

Fort Campbell, Kentucky, $12,410,000.

Fort Carson, Colorado, $2,050,000.

Fort Devens, Massachusetts, $1,840,000.

Fort Greely, Alaska, $6,400,000.

Fort Hood, Texas, $11,500,000.

Fort Hunter, Liggett, California, $1,000,000.

Fort Irwin, California, $4,450,000.

Fort Lewis, Washington, $960,000.

Fort McCoy, Wisconsin, $720,000.

Fort Ord, California, $6,890,000.

Fort Pickett, Virginia, $390,000.

Fort Polk, Louisiana, $490,000.

Fort Riley, Kansas, $4,850,000.

Fort Sam Houston, Texas, $3,300,000.

Fort Stewart, Georgia, $13,570,000.

Fort Wainwright, Alaska, $69,970,000.

Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.

Hawaii Various, $12,300,000.

Schofield Barracks, Hawaii, $33,900,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $15,610,000.

Fort Benjamin Harrison, Indiana, $6,900,000.

Fort Benning, Georgia, $11,700,000.

Fort Bliss, Texas, $1,240,000.

Fort Dix, New Jersey, $1,650,000.

Fort Hamilton, New York, $960,000.

Fort Knox, Kentucky, $3,400,000.

Fort Lee, Virginia, $14,350,000.

Fort Leonard Wood, Missouri, $4,600,000.

Fort McClellan, Alabama, $4,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $1,460,000.

Anniston Army Depot, Alabama, $2,100,000.

Army Materials Technology Laboratory, Watertown, Massachusetts, $15,000,000.

Corpus Christi Army Depot, Texas, $2,950,000.

Dugway Proving Ground, Utah, $9,200,000.

Fort Wingate, New Mexico, $370,000.

Hawthorne Army Ammunition Plant, Nevada, $6,500,000.

Letterkenny Army Depot, Pennsylvania, $2,000,000.

Lexington-Blue Grass Depot Activity, Kentucky, $570,000.

Navajo Depot Activity, Arizona, $4,000,000.

Pine Bluff Arsenal, Arkansas, $2,000,000.

Pueblo Depot Activity, Colorado, $620,000.

Red River Army Depot, Texas, $7,950,000.

Redstone Arsenal, Alabama, $21,000,000.

Seneca Army Depot, New York, $1,250,000.

Sierra Army Depot, California, $2,600,000.

Tooele Army Depot, Utah, $6,700,000.

Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $2,170,000.

Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $11,400,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $3,800,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.

Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan, Various, $11,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.

Camp Castle, Korea, $3,200,000.

Camp Hovey, Korea, $11,800,000.

Camp Howze, Korea, $4,150,000.

Camp Jackson, Korea, $4,350,000.

Camp Kyle, Korea, $2,750,000.

Camp Market, Korea, $2,200,000.

Camp Mercer, Korea, $720,000.

Camp Nimble, Korea, $2,200,000.

Camp Page, Korea, $5,900,000.

Camp Red Cloud, Korea, $8,500,000.

Korea, Various, $4,850,000.

Yongsan, Korea, $3,750,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY FORCES COMMAND, OVERSEAS

Honduras, $4,150,000.

Panama, $6,700,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.

Baumholder, Germany, $10,800,000.

Einsiedlerhof, Germany, $5,900,000.

Giessen, Germany, $7,350,000.

Grafenwoehr, Germany, $5,700,000.

Hanau, Germany, $1,300,000.

Hohenfels, Germany, $15,500,000.

Mainz, Germany, $1,100,000.

Manheim, Germany, $14,400,000.

Rheinberg, Germany, $23,350,000.

Schweinfurt, Germany, $9,500,000.

Stuttgart, Germany, $12,400,000.

Various, Germany, $19,500,000.

Vilseck, Germany, $81,750,000.

Weisbaden, Germany, $22,450,000.

Wildflecken, Germany, $16,100,000.

Zweibruecken, Germany, $1,900,000.

SEC. 2102. FAMILY HOUSING

The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Wainwright, Alaska, one hundred and fifty units, $29,000,000.

Fort Irwin, California, two hundred and twenty-five units, $24,000,000.

Fort Ord, California, two hundred and eleven units, $19,000,000.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 2103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Kwajalein, Marshall Islands, two hundred and forty-eight units, $41,000,000.

Fort Clayton, Panama, four hundred units, $21,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $141,886,000, of which $9,223,000 is available only for energy conservation projects.

SEC. 2104. NEW CUMBERLAND ARMY DEPOT, PENNSYLVANIA

Section 101(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended by increasing the authorization for United States Army Materiel Command, New Cumberland Army Depot, Pennsylvania, from $88,000,000 to $90,000,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,676,639,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $438,230,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $390,230,000.

(3) For military construction projects inside the United States authorized by section 101 of the Military Construction Authorization Act, 1986, $32,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $128,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $414,476,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,255,183,000, of which not more than $36,734,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $143,396,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and,

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4019), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4020), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(3) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(4) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(5) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Military personnel administration center in the amount of $2,650,000 at Presidio of Monterey, California.

(2) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(3) Ammunition storage in the amount of $850,000 at Amberg, Germany.

(4) Boiler plant automation in the amount of $6,000,000 at Bamberg, Germany.

(5) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(6) Military operations on urbanized terrain in the amount of $3,250,000 at Hohenfels, Germany.

(7) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(8) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(9) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(10) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(11) Upgrade multi-purpose building in the amount of $800,000 at Elefsis, Greece.

(12) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(13) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(14) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(16) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(17) Unaccompanied personnel housing complex in the amount of $2,550,000 at Yongin, Korea.

(18) Water pollution abatement in the amount of $770,000 at Army Materials and Mechanics Research Center, Massachusetts.

(19) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(20) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(21) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(22) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(23) Army Aviation Museum in the amount of $2,500,000 at Fort Rucker, Alabama.

PART B—FISCAL YEAR 1989

SEC. 2121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects at Fort Wainwright, Alaska, in the amount of $39,700,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Rheinberg, Germany, $5,800,000
Vilseck, Germany, $33,390,000

SEC. 2122. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $145,968,000 of which $1,916,000 is available only for energy conservation projects.

SEC. 2123. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,760,859,000 as follows:

(1) For military construction projects inside the United States authorized by section 2121(a), $39,700,000.

(2) For military construction projects outside the United States authorized by section 2121(b), $39,190,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $126,710,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $165,968,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,371,091,000, of which not more than $48,458,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $150,111,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART B.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2123 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE II—NAVY

PART A—FISCAL YEAR 1988

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property, may carry out military construction projects, and may construct, improve, rehabilitate, and operate and maintain historic facilities in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $31,860,000.

Marine Corps Air Station, Camp Pendleton, California, $5,810,000.

Marine Corps Base, Camp Pendleton, California, $56,320,000.

Marine Corps Air Station, Cherry Point, North Carolina, $29,400,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $35,200,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia, $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $32,700,000.

Marine Corps Air Station, Yuma, Arizona, $9,280,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Weapons Center, China Lake, California, $850,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater Systems Center, New London, Connecticut, $11,230,000.

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Forces Central Command, Pearl Harbor, Hawaii, $2,260,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $42,700,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $37,000,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.

Naval Air Station, Key West, Florida, $15,580,000.

Naval Station, Lake Charles, Louisiana, $15,300,000.

Naval Amphibious Base, Little Creek, Virginia, $23,320,000.

Naval Station, Mayport, Florida, $1,480,000.

Naval Tactical Interoperability Support Activity, Detachment Six, Mayport, Florida, $500,000.

Naval Station, Mobile, Alabama, $40,700,000.

Naval Submarine Base, New London, Connecticut, $2,900,000.

Naval Station, Charleston, South Carolina, $1,400,000.

Naval Station, New York, New York, $32,900,000.

Naval Air Station, Norfolk, Virginia, $4,970,000.

Naval Air Station, Oceana, Virginia, $9,540,000.

Naval Station, Pascagoula, Mississippi, $42,100,000.

Naval Air Station, Pensacola, Florida, $28,200,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $76,200,000.

Naval Air Station, Alameda, California, $11,400,000.

Naval Submarine Base, Bangor, Washington, $5,070,000.

Naval Amphibious Base, Coronado, California, $2,760,000.

Naval Station, Everett, Washington, $30,800,000.

Naval Air Station, Lemoore, California, $2,560,000.

Naval Station, Long Beach, California, $5,120,000.

Naval Magazine, Lualualei, Hawaii, $5,310,000.

Naval Air Station, Miramar, California, $6,500,000.

Naval Air Station, North Island, California, $25,270,000.

Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.

Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.

Naval Station, Pearl Harbor, Hawaii, $430,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.

Naval Station, San Diego, California, $36,680,000.

Naval Submarine Base, San Diego, California, $8,160,000.

Naval Station, Treasure Island, San Francisco, California, $29,150,000.

Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Surface Warfare Officers School Command Detachment, Coronado, California, $4,130,000.

Naval Air Station, Corpus Christi, Texas, $1,180,000.

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.

Naval Guided Missiles School, Dam Neck, Virginia, $550,000.

Naval Training Center, Great Lakes, Illinois, $6,910,000.

Naval Air Station, Kingsville, Texas, $850,000.

Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $16,300,000.

Naval Air Station, Memphis, Tennessee, $11,220,000.

Naval Education and Training Center, Newport, Rhode Island, $3,640,000.

Naval Training Center, Orlando, Florida, $12,400,000.

Naval Technical Training Center, Pensacola, Florida, $8,170,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, California, $7,200,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Training Center, San Diego, California, $3,150,000.

Submarine Training Facility, San Diego, California, $4,630,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Oceanography Command, Bay St. Louis, Mississippi, $1,600,000.

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL INTELLIGENCE COMMAND

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Jacksonville, Florida, $4,720,000.

Navy Clothing and Textile Research Facility, Natick, Massachusetts, $1,870,000.

Naval Supply Center, Norfolk, Virginia, $7,210,000.

Naval Supply Center, Pearl Harbor, Hawaii, $4,080,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

Pacific Missile Test Center, Point Mugu, California, $650,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $10,450,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $12,570,000.

Navy Public Works Center, San Diego, California, $10,520,000.

Various Locations, Historic Properties, $6,800,000.

Various Locations, Land Acquisition, $23,800,000.

NAVAL SEA SYSTEMS COMMAND

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $8,290,000.

Naval Weapons Station, Earle, New Jersey, $41,640,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $18,170,000.

Naval Weapons Station, Seal Beach, California, $23,940,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $30,850,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $4,000,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $95,025,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $6,300,000.

Marine Corps Air Station, Futenma, Okinawa, Japan, $1,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Support Facility, Antigua, West Indies, $3,250,000.

Naval Facility, Argentia, Newfoundland, $400,000.

Naval Air Station, Bermuda, $3,150,000.

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $17,170,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $14,290,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $5,700,000.

Naval Ship Repair Facility, Guam, $13,560,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Activities, London, United Kingdom, $600,000.

Naval Support Activity, Naples, Italy, $750,000.

Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $4,970,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.

Naval Security Group Activity, Terceira Island, Azores, $700,000.

Naval Security Group Activity, Galeta Island, Panama, $1,000,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 2202. FAMILY HOUSING

The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, three hundred units, $27,840,000.

Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.

Nuclear Power Training Unit, Ballston Spa, New York, one hundred units, $8,810,000.

Naval Station, New York, New York, one hundred and twenty-five units, $13,490,000.

Marine Corps Base, Camp Pendleton, California, two hundred units, $17,760,000.

Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.

Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.

Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.

Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.

Naval Station, Keflavik, Iceland, two hundred fifty units, $20,367,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in the amount of $47,943,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,398,538,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,331,045,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $124,827,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,655,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $14,000,000.

(7) For construction, improvements, rehabilitation, and Operations and Maintenance of historic facilities as authorized in section 2201(a), $6,800,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $202,224,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $530,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects Authorized in Part A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(b) Extension of Authorization of Certain Fiscal Year 1986 Projects.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) LAMPS Mark III training building in the amount of $305,000 at the Fleet Combat Training Center, Pacific, San Diego, California.

(4) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(5) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(6) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(7) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

SEC. 2206. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) Projects.—In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts for which funds have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Naval Air Station, Memphis, Tennessee, Road Improvements, $1,570,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(b) Family Housing.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

(c) Effective Date.—The provisions of this section shall take effect on the date of the enactment of this Act.

PART B—FISCAL YEAR 1989

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property, may carry out military construction projects, and may construct, improve, rehabilitate, and operate and maintain historic facilities in the amounts shown for each of the following installations and locations inside the United States:

CHIEF OF NAVAL OPERATIONS

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $38,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $1,690,000.

Naval Station, Ingleside, Texas, $31,850,000.

Naval Station, Lake Charles, Louisiana, $5,000,000.

Naval Station, Mobile, Alabama, $19,700,000.

Naval Station, New York, New York, $10,480,000.

Naval Station, Pascagoula, Mississippi, $25,700,000.

Naval Air Station, Pensacola, Florida, $14,320,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Everett, Washington, $86,950,000.

Naval Station, Long Beach, California, $5,460,000.

Naval Station, Treasure Island, San Francisco, California, $15,180,000.

NAVAL SEA SYSTEMS COMMAND

Naval Weapons Station, Earle, New Jersey, $30,050,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $57,730,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Guam, $2,820,000.

SEC. 2222. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in the amount of $59,689,000.

SEC. 2223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,122,714,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $342,190,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $2,820,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $147,333,000.

(5) For military housing functions—

(A) for construction and acquisition of military family housing and facilities, $66,004,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $548,067,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART B.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE III—AIR FORCE

PART A—FISCAL YEAR 1988

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $48,900,000.

Kelly Air Force Base, Texas, $30,650,000.

McClellan Air Force Base, California, $1,400,000.

Newark Air Force Station, Ohio, $580,000.

Robins Air Force Base, Georgia, $15,500,000.

Tinker Air Force Base, Oklahoma, $2,300,000.

Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.

Brooks Air Force Base, Texas, $2,750,000.

Cape Canaveral Air Force Station, Florida, $910,000.

Edwards Air Force Base, California, $9,450,000.

Eglin Air Force Base, Florida, $23,050,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.

Columbus Air Force Base, Mississippi, $1,050,000.

Goodfellow Air Force Base, Texas, $5,500,000.

Keesler Air Force Base, Mississippi, $6,300,000.

Lackland Air Force Base, Texas, $7,500,000.

Laughlin Air Force Base, Texas, $4,072,000.

Lowry Air Force Base, Colorado, $7,050,000.

Mather Air Force Base, California, $4,800,000.

Randolph Air Force Base, Texas, $5,800,000.

Reese Air Force Base, Texas, $610,000.

Sheppard Air Force Base, Texas, $13,700,000.

Vance Air Force Base, Oklahoma, $3,190,000.

Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Maxwell Air Force Base, Alabama, $15,100,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $10,165,000.

Elmendorf Air Force Base, Alaska, $11,000,000.

Shemya Air Force Base, Alaska, $38,350,000.

Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.

Andrews Air Force Base, Maryland, $22,650,000.

Dover Air Force Base, Delaware, $5,050,000.

Kirtland Air Force Base, New Mexico, $61,400,000.

McGuire Air Force Base, New Jersey, $3,140,000.

Scott Air Force Base, Illinois, $7,080,000.

Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Station, Hawaii, $460,000.

Hickam Air Force Base, Hawaii, $900,000.

Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.

Cavalier Air Force Station, North Dakota, $3,750,000.

Clear Air Force Base, Alaska, $4,000,000.

Falcon Air Force Station, Colorado, $2,150,000.

Peterson Air Force Base, Colorado, $12,150,000.

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $800,000.

Beale Air Force Base, California, $7,180,000.

Blytheville Air Force Base, Arkansas, $600,000.

Carswell Air Force Base, Texas, $5,010,000.

Castle Air Force Base, California, $1,200,000.

Dyess Air Force Base, Texas, $3,600,000.

Ellsworth Air Force Base, South Dakota, $11,550,000.

Fairchild Air Force Base, Washington, $3,950,000.

F.E. Warren Air Force Base, Wyoming, $2,408,000.

Grand Forks Air Force Base, North Dakota, $1,600,000.

Griffiss Air Force Base, New York, $6,350,000.

Holbrook Radar Bomb Score Site, Arizona, $1,890,000.

K.I. Sawyer Air Force Base, Michigan, $3,030,000.

Loring Air Force Base, Maine, $17,480,000.

Malmstrom Air Force Base, Montana, $27,310,000.

McConnell Air Force Base, Kansas, $2,550,000.

Minot Air Force Base, North Dakota, $3,700,000.

Offutt Air Force Base, Nebraska, $10,660,000.

Vandenberg Air Force Base, California, $1,300,000.

Wilder, Idaho, $2,350,000.

Wurtsmith Air Force Base, Michigan, $13,620,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.

Base 39, $8,450,000.

Base 51, $610,000.

Base 52, $600,000.

Bergstrom Air Force Base, Texas, $9,190,000.

Cannon Air Force Base, New Mexico, $7,000,000.

Davis-Monthan Air Force Base, Arizona, $8,000,000.

England Air Force Base, Louisiana, $5,700,000.

George Air Force Base, California, $210,000.

Holloman Air Force Base, New Mexico, $7,750,000.

Indian Springs Auxiliary Air Field, Nevada, $4,400,000.

Langley Air Force Base, Virginia, $23,150,000.

Luke Air Force Base, Arizona, $3,650,000.

MacDill Air Force Base, Florida, $6,791,000.

Mountain Home Air Force Base, Idaho, $1,900,000.

Nellis Air Force Base, Nevada, $14,050,000.

Seymour-Johnson Air Force Base, North Carolina, $3,500,000.

Shaw Air Force Base, South Carolina, $4,980,000.

Tyndall Air Force Base, Florida, $1,300,000.

Various Locations, $6,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Base 75, $89,300,000.

Classified Location, $1,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.

Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Base 44, $4,000,000.

Camp Humphreys, Korea, $5,550,000.

Clark Air Base, Republic of the Philippines, $16,540,000.

Diego Garcia Air Base, Indian Ocean, $18,600,000.

Kadena Air Base, Japan, $5,000,000.

Kunsan Air Base, Korea, $10,750,000.

Kwang-Ju Air Base, Korea, $900,000.

Osan Air Base, Korea, $17,440,000.

Suwon Air Base, Korea, $3,650,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $5,100,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Panama, $18,940,000.

Masirah, Oman, $3,325,000.

Seeb, Oman, $8,260,000.

Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $3,040,000.

Ankara Air Station, Turkey, $3,200,000.

Araxos Air Base, Greece, $1,800,000.

Aviano Air Base, Italy, $1,450,000.

RAF Bentwaters, United Kingdom, $11,500,000.

Bitburg Air Base, Germany, $4,690,000.

Buchel Air Base, Germany, $2,000,000.

Camp New Amsterdam, The Netherlands, $2,600,000.

RAF Chicksands, United Kingdom, $1,250,000.

Comiso Air Station, Italy, $5,810,000.

RAF Croughton, United Kingdom, $900,000.

RAF Fairford, United Kingdom, $11,550,000.

Florennes Air Base, Belgium, $9,950,000.

RAF Greenham Common, United Kingdom, $2,140,000.

Hahn Air Base, Germany, $5,770,000.

Incirlik Air Base, Turkey, $7,530,000.

RAF Lakenheath, United Kingdom, $3,620,000.

Memmingen Air Base, Germany, $2,000,000.

RAF Molesworth, United Kingdom, $450,000.

Pruem Air Station, Germany, $2,000,000.

Ramstein Air Base, Germany, $13,360,000.

San Vito Air Station, Italy, $390,000.

Sembach Air Base, Germany, $1,100,000.

Spangdahlem Air Base, Germany, $5,050,000.

RAF Upper Heyford, United Kingdom, $5,600,000.

RAF Welford, United Kingdom, $1,200,000.

Wenigerath Storage Site, Germany, $1,750,000.

RAF Wethersfield, United Kingdom, $1,300,000.

Woensdrecht Air Base, The Netherlands, $22,280,000.

Wueschheim Air Station, Germany, $5,640,000.

Zweibruecken Air Base, Germany, $2,650,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 2302. FAMILY HOUSING

The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units $2,530,000.

Woensdrecht Air Base, The Netherlands, four hundred units, $35,500,000.

Clark Air Base, Philippines, three hundred units, $23,260,000.

RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $151,520,000.

(b) WAIVER OF SPACE LIMITATION FOR GENERAL OFFICER'S QUARTERS.—(1) To support the United States Central Command (USCENTCOM), the Tactical Air Command (TAC), and the United States Transportation Command, the Secretary of the Air Force may carry out family housing improvement projects to add to and alter existing family housing units and (notwithstanding section 2826(a) of title 10, United States Code) increase the net floor area of one family housing unit at Shaw Air Force Base, South Carolina, to not more than 2,600 square feet, and increase the net floor area of one family housing unit at McDill Air Force Base, Florida, and three converted family housing units at Scott Air Force Base, Illinois, to not more than 3,000 square feet.

(2) For purposes of this subsection the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,201,083,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $858,129,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $289,985,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $120,336,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $220,140,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $692,393,000 of which not more than $8,809,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,033,200 may be obligated or expended for the leasing of military family housing units in foreign countries.

SEC. 2305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a Classified Location, overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, The Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODDS Site 5 in Portugal.

(8) Florennes, Belgium, Four Hundred units, $29,200,000.

(9) Ramstein Air Base, Germany, Four Hundred units, $30,000,000.

(10) Camp New Amsterdam, The Netherlands, Ninety units, $7,444,000.

SEC. 2306. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) IN GENERAL.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts for which funds have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of Philippines, as follows:

(A) Aerospace systems branch, $1,050,000.

(B) Alter unaccompanied enlisted personnel housing, $1,850,000.

(C) Alter unaccompanied enlisted personnel housing, $3,150,000.

(D) Child care center, $2,000,000.

(E) COPE THUNDER operations facility, $4,650,000.

(F) Essential maintenance facility, phase II, $4,600,000.

(G) Fire station, $760,000.

(H) Petroleum operations facility, $1,600,000.

(I) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

PART B—FISCAL YEAR 1989

SEC. 2321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $18,000,000.

Various Locations, $37,750,000.

STRATEGIC AIR COMMAND

Base 57, $10,345,000.

Base 61, $10,450,000.

Dyess Air Force Base, Texas, $1,410,000.

Ellsworth Air Force Base, South Dakota, $1,300,000.

Fairchild Air Force Base, Washington, $4,700,000.

Grand Forks Air Force Base, North Dakota, $16,370,000.

McConnell Air Force Base, Kansas, $3,050,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

PACIFIC AIR FORCES

Base 44, $2,450,000.

TACTICAL AIR COMMAND

Masirah, Oman, $2,850,000.

Seeb, Oman, $7,300,000.

SEC. 2322. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $165,280,000.

SEC. 2323. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,164,383,000 as follows:

(1) For military construction projects inside the United States authorized by section 2321(a), $99,530,000.

(2) For military construction projects outside the United States authorized by section 2321(b), $12,600,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $135,733,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $172,280,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $727,740,000 of which not more than $21,795,100 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $85,747,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

TITLE IV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1988

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Naval Station Anacostia, District of Columbia, $30,170,000.

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $1,484,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $11,100,000.

Defense Depot, Memphis, Tennessee, $11,361,000.

Defense General Supply Center, Richmond, Virginia, $22,300,000.

Defense Fuel Support Point, Mukilteo, Washington, $7,290,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.

Kings Bay, Georgia, $6,600,000.

Malmstrom Air Force Base, Montana, $16,500,000.

McGuire Air Force Base, New Jersey, $550,000.

Lackland Air Force Base, Texas, $1,350,000.

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $33,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $8,450,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.

Classified Location, $43,148,000.

DEPARTMENT OF DEFENSE SECTION 6 SCHOOLS

Hanscom Air Force Base, Massachusetts, $4,432,000.

STRATEGIC DEFENSE INITIATIVE

Falcon Air Station, Colorado, $100,000,000.

Fort Monmouth, New Jersey, $3,450,000.

White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.

RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.

Classified, $7,000,000.

Rheinberg, Germany, $2,250,000.

Iraklion Air Station, Greece, $340,000.

Naval Air Station, Sigonella, Italy, $20,000,000.

San Vito Air Station, Italy, $670,000.

Camp Lester, Japan, $1,400,000.

Misawa Air Base, Japan, $4,700,000.

Echternacht, Luxembourg, $15,500,000.

Woensdrecht, The Netherlands, $7,160,000.

Subic Bay, Republic of the Philippines, $3,500,000.

Clark Air Force Base, Republic of the Philippines, $40,000,000.

Incirlik Air Base, Turkey, $15,260,000.

RAF Fairford, United Kingdom, $7,300,000.

RAF Weathersfield, United Kingdom, $740,000.

RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitburg, Germany, $2,413,000.

Schweinfurt, Germany, $5,320,000.

Sembach, Germany, $2,930,000.

Stuttgart, Germany, $3,030,000.

Wuerzburg, Germany, $10,913,000.

San Miguel, Republic of the Philippines, $2,960,000.

Fort Buchanan, Puerto Rico, $1,200,000.

Incirlik Air Base, Turkey, $7,746,000.

NATIONAL SECURITY AGENCY

Classified, $12,000,000.

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire four family housing units (including land acquisition) at classified locations in the total amount of $1,000,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve existing military family housing units in an amount not to exceed $186,000.

SEC. 2404. HAZARDOUS WASTE STORAGE

Section 2404(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661), is amended to read as follows:

"(a) Authority to Construct.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 and using not more than $11,400,000 appropriated for fiscal year 1988, carry out military construction projects not otherwise authorized by law for the construction of hazardous waste storage facilities."

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $776,505,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $339,978,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $219,227,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For military construction projects at San Diego, California, authorized by section 201(a) of the Military Construction Authorization Act of 1981, $7,400,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $10,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $11,400,000.

(9) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $57,800,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $18,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects Authorized in Part A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2406. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) In General.—In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg Air Force Base, California, in the amount of $1,900,000 for which funds have been appropriated for such project before the date of the enactment of this Act.

(b) Effective Date.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 2407. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of a Fiscal Year 1985 Project.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407), authorization for a Conforming Storage Facility in the amount of $1,950,000 at the Defense Property Disposal Office, Pearl Harbor Naval Shipyard, Hawaii, authorized in section 401 of that Act, and extended by section 2406 of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) Extension of Authorization of Certain Fiscal Year 1986 Projects.—(1) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 401 of that Act shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(A) Conforming Storage Facility in the amount of $1,390,000 at Defense Property Disposal Office, Anchorage, Alaska.

(B) Facility Rehabilitation in the amount of $1,320,000 at Defense Property Disposal Office, Alameda, California.

(C) Conforming Storage Facility in the amount of $825,000 at Defense Property Disposal Office, Barstow, California.

(D) Conforming Storage Facility in the amount of $625,000 at Defense Property Disposal Office, Groton, Connecticut.

(E) Covered Storage in the amount of $1,020,000 at F.E. Warren Air Force Base, Cheyenne, Wyoming.

(2) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later.

Part B—Fiscal Year 1989

SEC. 2421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may acquire real property and may carry out military construction projects at Kirtland Air Force Base, New Mexico, in the amount of $2,550,000.

SEC. 2422. IMPROVEMENTS TO MILITARY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 414(a)(10)(A), existing military family housing units in an amount not to exceed $112,000.

SEC. 2423. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $169,250,000 as follows:

(1) For military construction projects inside the United States authorized by section 2421(a), $2,550,000.

(2) For military construction projects at Fort Sam Houston, Texas, authorized by section 2403(a) of the Military Construction Authorization Act, 1987, $23,000,000.

(3) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $59,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,100,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $112,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,488,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects Authorized in Title IV.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, or any other cost variations authorized by law, the total cost of all projects carried out under section 2421 may not exceed the total amount authorized to be appropriated under paragraph (1) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Part A—Fiscal Year 1988

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $386,000,000.

PART B—FISCAL YEAR 1989

SEC. 2521. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2522 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2521, in the amount of $402,100,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1988

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $165,030,000; and

(B) for the Army Reserve, $88,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $68,737,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $154,116,000; and

(B) for the Air Force Reserve, $74,300,000.

PART B—FISCAL YEAR 1989

SEC. 2621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $150,100,000; and

(B) for the Army Reserve, $100,000,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $52,923,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $128,000,000; and

(B) for the Air Force Reserve, $55,900,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

PART A—FISCAL YEAR 1988

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in part A of titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATES

Part A of titles I, II, III, IV, V, and VI shall take effect on October 1, 1987, or the date of enactment of a Military Construction Authorization Act for fiscal year 1988 and fiscal year 1989, whichever is sooner.

PART B—FISCAL YEAR 1989

SEC. 2721. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in part B of titles I, II, III, IV, V, and VI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2722. EFFECTIVE DATE

Part B of titles I, II, III, IV, V, and VI shall take effect on October 1, 1988.

TITLE VIII—GENERAL PROVISIONS

PART A—PROGRAM CHANGES

SEC. 2801. GUARD AND RESERVE MINOR CONSTRUCTION

Section 2233a(b) of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

SEC. 2802. CLARIFICATION REGARDING INTERCHANGE OF SUPPLIES AND REAL ESTATE

Section 2571(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "The authority to transfer supplies and real estate without compensation from one armed force to another under this section shall include supplies and real estate of an armed force that have been reported to the Administrator of General Services for disposal until such time as formal arrangements have been completed for the disposal of such services and supplies.".

SEC. 2803. WAIVER OF LIMITATIONS ON LEASE

(a) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2694. Waiver of certain limitations on leases

"Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a), shall not apply to a lease, or to the renewal of an existing lease, of real property by the Department of Defense if the Secretary of Defense determines that the application of such section to such lease would interfere with an essential mission of the Department of Defense.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end:

"2694. Waiver of certain limitations on leases.".

SEC. 2804. MINOR CONSTRUCTION THRESHOLD

Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "$1,000,000" in the second sentence and inserting in lieu thereof "$2,000,000"; and

(2) in subsection (b)(1), by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

SEC. 2805. MOBILIZATION CONSTRUCTION AUTHORITY

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended—

(1) by redesignating sections 2809, 2810, and 2811 as sections 2810, 2811, and 2812, respectively; and

(2) by inserting after section 2808 the following new section:

"§ 2809. Construction authority during a period of mobilization

"(a) If, at any time, the President determines that there is an imminent threat to the national security and determines that the threat is of such a nature that mobilization of the armed forces may be required, the Secretary of Defense, without regard to any other provision of law, may undertake such military construction projects and may authorize the Secretaries of the military departments to undertake such military construction projects, not otherwise authorized by law, as may be necessary to support mobilization of the armed forces.

"(b) When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify the appropriate committees of Congress of that decision and of the estimated cost of the construction projects, including the cost of any real estate acquisition pertaining to those construction projects.

"(c)(1) A project carried out under this section shall be carried out with funds appropriated for military construction, including funds appropriated for family housing, that remain unobligated.

"(2) The maximum amount that the Secretary may obligate in any fiscal year under this section is $100,000,000.

"(d) The authority to initiate projects under this section on the basis of a determination referred to in subsection (a) shall terminate 180 days after the date on which the determination is made.".

(b) CONFORMING AMENDMENTS.—The table of sections of subchapter I of such chapter is amended by striking out the items relating to sections 2809, 2810, and 2811 and inserting in lieu thereof the following:

"2809. Construction authority during a period of mobilization.
"2810. Test of long-term facilities contracts.
"2811. Construction projects for environmental response actions.
"2812. Renovation of facilities.".

SEC. 2806. LONG-TERM FACILITIES CONTRACTS

(a) NEW COVERAGE.—Section 2810(a)(1)(B) of title 10, United States Code, as redesignated by section 2805, is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) by inserting after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) EXTENSION.—Section 2810(c) of such title, as redesignated by section 2805, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 2807. NO-COST ACQUISITION OF FAMILY HOUSING

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired by the Department of Defense without consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 14 days elapses after the notification is received by those committees.".

SEC. 2808. FAMILY HOUSING IMPROVEMENT THRESHOLD

Section 2825 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 2809. COST THRESHOLD FOR INDIVIDUAL UNITS AND MAXIMUM NUMBER OF UNITS LEASED IN FOREIGN COUNTRIES

Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "$16,800" and inserting in lieu thereof "$20,000"; and

(2) in paragraph (2), by striking out "32,000" and inserting in lieu thereof "36,000".

SEC. 2810. COST THRESHOLD FOR MULTIPLE UNITS

Section 2828(f) of title 10, United States Code, is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

SEC. 2811. FAMILY HOUSING LEASING WITHIN THE UNITED STATES

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "Secretary of a military department" and inserting in lieu thereof "Secretary concerned"; and

(B) by inserting "or rehabilitated to residential use" after "constructed";

(2) by adding at the end of paragraph (8) the following new subparagraph:

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph—

"(i) the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units;

"(ii) the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units;

"(iii) the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units; and

"(iv) the Secretary of Transportation, for the Coast Guard, may enter into one or more contracts under this subsection for not more than a total of 300 family housing units."; and

(3) in paragraph (9), by striking out "September 30, 1988." and inserting in lieu thereof "September 30, 1989.".

SEC. 2812. COST VARIATIONS

Paragraph (1) of section 2853(a) of title 10, United States Code, is amended to read as follows:

"(1) Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the amount specified by law as the maximum amount for a minor construction project) may be increased by not more than 25 percent of the total amount appropriated for such projects by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is less, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.".

SEC. 2813. FAMILY HOUSING IMPROVEMENTS

Section 2853(c) of title 10, United States Code, is amended by striking out "construction" and inserting in lieu thereof "construction, improvement,".

SEC. 2814. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Secretaries of the military departments" and inserting in lieu thereof "Secretary of a military department or the head of a Defense Agency";

(2) in subsection (a)(2), by inserting "or the head of the Defense Agency concerned" after "concerned"; and

(3) in subsection (b), by inserting "or the head of a Defense Agency" after "military department".

SEC. 2815. SETTLEMENT OF CONTRACTOR CLAIMS

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts. The Secretary concerned may use any unobligated funds available to the Secretary for military construction or family housing construction, as the case may be, for the payment of such claims.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2863. Payment of contractor claims.".

SEC. 2816. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a), by—

(A) inserting ", the Secretary of Transportation, with regard to the Coast Guard, or the head of a Defense Agency" after "military department"; and

(B) inserting "or rehabilitated to residential use" after "to be constructed";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by inserting "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term" after "renewed";

(4) in subsection (b)(11), by inserting ", the Secretary of Transportation, with regard to the Coast Guard, or the head of the Defense Agency concerned" after "military department concerned";

(5) by striking out subsections (f) and (g); and

(6) by redesignating subsection (h) as subsection (f).

SEC. 2817. BROOKE ARMY MEDICAL CENTER

(a) AMENDMENT TO PUBLIC LAW 99-661.—Section 2401(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4034), is amended by striking out "$135,000,000" in the item relating to Fort Sam Houston, Texas under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$241,000,000".

(b) PROJECT INCREASE.—The limitation on the total cost of projects carried out under section 2401 of such Act shall be increased by $106,000,000.

SEC. 2818. DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

PART B—REAL PROPERTY TRANSACTIONS

SEC. 2821. LAND EXCHANGE, HAMILTON AIR FORCE BASE, CALIFORNIA

(a) IN GENERAL.—The Secretary of the Army and the Secretary of the Navy may enter into one or more agreements for the exchange of land and interest in real property with the purchaser of certain land at Hamilton Air Force Base declared, before the date of the enactment of this Act, to be excess to the needs of the United States.

(b) CONDITIONS ON EXCHANGES.—Exchanges of land and interests in real property under this section shall be made on condition that the United States receive land or interests in real property at least equal in value (as determined by the Secretary of the Army or the Secretary of the Navy, as the case may be) to the land and interests in real property conveyed by the United States.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys that are satisfactory to the Secretary of the Army or the Secretary of the Navy, as the case may be. The cost of such surveys shall be borne by the purchaser referred to in subsection (a).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army and the Secretary of the Navy may require such additional terms and conditions under this section as each such Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA

(a) AUTHORITY TO CONVEY.—Subject to subsection (b), the Secretary of the Navy is authorized to convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California, together with the improvements on such land.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of land consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the land and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed by Orange County under subsection (b), the County shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of such surveys shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LEASE OF PROPERTY, SAN DIEGO, CALIFORNIA

(a) IN GENERAL.—The Secretary of the Navy is authorized to enter into a lease for approximately 175,000 square feet of dry storage and 100,000 square feet of cold storage facilities at the Port of San Diego 10th Avenue terminal, San Diego, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, but in no event for more than 30 years.

(c) CONSIDERATION.—The Secretary shall pay no more than fair market rental for the property leased under this section and may require such terms and conditions in connection with the lease as he considers appropriate to protect the interest of the United States.

SEC. 2824. LAND CONVEYANCE, FORT BENJAMIN HARRISON, INDIANA

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army is authorized to convey to Lawrence Township, Marion County, Indiana, all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) CONDITIONS OF SALE.—In consideration for the conveyance authorized by subsection (a), the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States.

(c) RECAPTURE RIGHTS.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of war or a national emergency declared by the President or Congress.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2825. MINERAL RIGHTS AT WHITE SANDS MISSILE RANGE, NEW MEXICO

(a) AUTHORITY TO GRANT INTEREST.—The Secretary of the Army may grant to the State of New Mexico an interest in the minerals in or on the land described in subsection (d).

(b) INTEREST, TERMS, AND CONDITIONS OF GRANT.—The extent of the interest granted to the State of New Mexico pursuant to subsection (a), and the other terms and conditions of such grant, shall be those prescribed by the Attorney General.

(c) SETTLEMENT OF CLAIMS.—The acceptance by the State of New Mexico of any grant of mineral rights made to such State pursuant to this section shall be in full settlement of the claims of such State against the United States as set forth in the case of Humphries v. United States, United States Claims Court (case number 94-79L).

(d) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located within the boundaries of the White Sands Missile Range, New Mexico, which were owned by the State of New Mexico at the time of the condemnation of such lands by the Federal Government during World War II.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions as the Secretary, in consultation with the Attorney General, considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

Subsection (e)(1) of section 840 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) for a water systems improvement project at Fort Jackson at an estimated cost of $2,300,000, and for family housing improvement projects at Fort Jackson at an estimated cost not to exceed $6,400,000.".

SEC. 2827. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years with an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement by the Secretary; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) Use of Funds.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority to Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for the construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, CHANUTE AIR FORCE BASE, ILLINOIS

(a) Authority to Sell.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of that track of land (together with any improvements thereon) which comprises the Chapman Court Housing Annex, a housing complex near Chanute Air Force Base, Illinois, consisting of 49 acres, more or less.

(b) Conditions of Sale.—Before the Secretary enters into a contract for the sale of any or all of the property referred to in subsection (a), the prospective buyer shall be required—

(1) to carry out the following projects at Chanute Air Force Base in accordance with specifications mutually agreed upon by the Secretary and the prospective purchaser:

(A) Widen and extend Heritage Drive.

(B) Construct a new entrance gate (including a gate guardhouse) to serve as the main entrance from U.S. Route 45.

(C) Construct a visitor reception center and parking lot to serve such center.

(D) Construct new streets or alter existing streets in order to effectively reroute automobile traffic (on the Air Force Base) to and from the proposed new gate.

(c) Competitive Bid Requirement and Minimum Sale Price.—(1) The sale of any of the land referred to in subsection (a) shall be carried out under publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value, as determined by the Secretary.

(d) Report Requirements.—(1) The Secretary may not enter into any contract for the sale of any or all of the land referred to in subsection (a) unless—

(A) the Secretary has submitted to the appropriate committees of Congress a report containing the details of the contract proposed to be entered into by the Secretary under this section; and

(B) a period of 21 days has expired following the date on which the report referred to in clause (A) is received by such committees.

(2) Any report submitted under paragraph (1) shall include—

(A) a description of the price and terms of the proposed sale;

(B) a description of the procedures used in selecting a buyer for the land; and

(C) all pertinent information regarding the appropriate project selected by the Secretary.

(e) Use of Excess Funds.—If the fair market value of the property conveyed to a buyer under this section is greater than the fair market value of the facilities constructed by the buyer for the United States, as determined by the Secretary, the buyer shall pay the difference to the United States. Any such amount paid to the Secretary shall be deposited into the general fund of the Treasury.

(f) Legal Description of Land.—The exact acreage and legal description of any land conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the buyer.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2829. DISPOSITION OF REAL PROPERTY AT AIR FORCE MISSILE SITES

(a) In General.—Chapter 949 of title 10, United States Code, is amended by adding at the end the following:

"§ 9781. Disposition of real property at Air Force missile sites

"(a) In General.—(1) The Secretary of the Air Force shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

"(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Air Force that—

"(A) is not required for the needs of the Air Force and the discharge of the responsibilities of the Air Force, as determined by the Secretary of the Air Force;

"(B) does not exceed 25 acres;

"(C) was used by the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

"(D) is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety.

"(b) Preference for Sale to Owners of Surrounding Lands.—The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person.

"(c) Determination of Fair Market Value.—The Secretary shall determine the fair market value of the interest of the United States to be conveyed under this section.

"(d) Waiver of Requirement To Determine Whether Property is Excess or Surplus Property.—The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) before disposing of such tract shall not be applicable to the disposition of such tract under this section.

"(e) Additional Terms and Conditions.—The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States.

"(f) Legal Description of Lands.—The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Secretary. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

"(g) Other Disposition of Property.—If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with the Federal Property and Administrative Services Act of 1949.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 949 of such title is amended by adding at the end the following:

"9781. Disposition of real property at Air Force missile sites.".

SEC. 2830. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) Authority To Exchange.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (and improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) Condition.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the

United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) Legal Description of Real Property.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) Report.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be entered into by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

SEC. 2830A. LAND CONVEYANCE, FORT DERUSSY, HAWAII

(a) In General.—Notwithstanding any other provision of law restricting the sale, lease, rental, or other disposition of any lands which comprise a portion of Fort De Russy, Hawaii, the Secretary of the Army may convey to the State of Hawaii or the City and County of Honolulu, Hawaii, at fair market value (as determined by the Secretary), all right, title, and interest of the United States in and not to exceed 45 acres of land (together with improvements thereon) which lie northeast of Kalia Road in Honolulu and which constitute a portion of Fort DeRussy, Hawaii.

(b) Authority of the Secretary To Acquire Other Lands and Construct Replacement Facilities.—The Secretary may acquire land in the vicinity of Honolulu, Hawaii, and design and construct on such land such facilities as may be necessary to replace those facilities on the land conveyed pursuant to subsection (a). The Secretary may also relocate activities currently located on the land conveyed pursuant to subsection (a) to the replacement facilities.

(c) Use and Disposition of Funds.—The proceeds of the sale authorized by subsection (a) shall be available without fiscal year limitation to acquire land and replacement facilities authorized to be acquired and constructed pursuant to subsection (b) and to pay associated relocation costs. Any funds which may remain after the acquisition of such land and replacement facilities and the payment of associated relocation costs shall be deposited in the Treasury as miscellaneous receipts.

(d) Legal Description and Surveys.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city and county of Honolulu.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance authorized in subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830B. RENTAL PAYMENT COST ESCALATION

Notwithstanding the requirements of the Competition in Contracting Act, 10 U.S.C. 2304, et seq. or any other provision of law, the Service Secretaries are authorized to modify the agreements authorized by section 802 of the Military Construction Authorization Act of 1984, as amended (10 U.S.C. 2821 note) and existing on the date of enactment of this Act to reflect the amendments made by section 2713 of the National Defense Authorization Act for fiscal year 1987 (Public Law 99-661), to permit a 25-year guarantee period and to allow for cost escalation of the entire rental payment over the guarantee period.

SEC. 2830C. ASBESTOS INSULATION, FAIRCHILD AIR FORCE BASE, WASHINGTON

Replace asbestos insulation in the amount of $2,050,000 at Fairchild Air Force Base, Washington.

SEC. 2830D. LEASE OF PROPERTY, SAN FRANCISCO, CALIFORNIA

(a) In General.—The Secretary of the Army shall lease to the County of San Francisco the facility at the Presidio in San Francisco, California, formerly operated as a hospital by the Public Health Service, for use by such County as a facility for the care and treatment of persons with acquired immune deficiency syndrome (AIDS) or acquired immune deficiency syndrome related complex (ARC).

(b) Terms of Lease.—(1) The lease entered into with the County of San Francisco pursuant to subsection (a) shall be for a term of 10 years and shall be made without consideration to the United States. The term of the lease shall begin at such time as the Secretary shall prescribe after the transfer referred to in subsection (d) has been completed.

(2) The Secretary may require such other terms and conditions in connection with the lease as he considers appropriate to protect the interests of the United States.

(c) Determination by Secretary of the Army; Analysis by Comptroller General.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall determine the most economically feasible manner of accomplishing the transfer of activities described in subsection (d) and report such determination, together with an estimate (and underlying analysis) of the cost of accomplishing the transfer, to the Comptroller General of the United States.

(2) Not later than 30 days after receiving such determination and estimate from the Secretary of the Army, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an analysis of such determination and estimate.

(d) Transfer of Activities.—(1) The Secretary of the Army or the Secretary of Defense, as appropriate, shall complete the transfer of the Defense Language School and any other activity being carried out at the Presidio in the facility described in subsection (a) to such other location as the Secretary determines to be appropriate. The transfer shall be made as soon as practicable after the date on which the report referred to in subsection (c)(2) is received by the committees named in such subsection or the date on which the County of San Francisco provides the certification described in subsection (e) to the Secretary of the Army, whichever is later.

(e) Certification of Financial Ability.—The Secretary of the Army shall not enter into a lease under subsection (a) or initiate any action to transfer the facilities referred to in subsection (d) until the County of San Francisco has certified to the Secretary of the Army that the County is financially prepared to assume possession of and operate the facility referred to in subsection (a) as a facility for the care and treatment of persons with AIDS or ARC.

(f) Recapture Rights.—The Secretary shall include in the terms of the lease a condition that in the event the leased facility is not used by the County of San Francisco as a facility for the care and treatment of persons with AIDS or ARC, the Secretary shall have the right of immediate reentry and the lease shall be automatically terminated.

(g) Consideration of Cooperative Use of Facility.—The Secretary of the Army, and the Administrator of Veterans' Affairs, shall immediately enter into discussions with the appropriate official of the County of San Francisco to determine the feasibility of utilizing the facility referred to in subsection (a), jointly or in conjunction with the County of San Francisco, for the care and treatment of veterans and members of the Armed Forces who have AIDS or ARC.

Part C—Miscellaneous Provisions

SEC. 2831. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may expend not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1988 pursuant to an authorization contained in this division and not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1989 pursuant to an authorization contained in this division to provide planning assistance to communities located near Gulf Coast homeports proposed under the Naval Strategic Dispersal Program, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

TITLE IX—REQUIREMENT TO LEASE LANDS TO THE CITY OF BARLING, ARKANSAS

SEC. 2901. BARLING, ARKANSAS LEASES

(a) In General.—The Secretary of the Army shall lease to the city of Barling, Arkansas, for the use by that city in the treatment of sewage, the following tracts of land at Fort Chaffee, Arkansas:

(1) A tract consisting of 320 acres and more particularly described as the NE ¼ and the NW ¼ of section 34, Township 8 North, Range 31 West.

(2) A tract 40 feet wide running from the northern boundary of the tract described in paragraph (1) to the Arkansas River, as may be agreed upon by the Secretary and the city of Barling.

(b) Lease Requirements.—(1) The lease shall authorize the city of Barling to construct and maintain a wastewater treatment facility on the land leased under subsection (a). Upon termination of the lease, the United States shall have all right, title, and interest in and to any improvements on the land.

(2) The lease shall be for such period, not less than 55 years, as may be agreed upon by the Secretary of the Army and the city of Barling.

(3) The lease shall require the city of Barling to pay rent for the use of the land in an amount to be agreed upon by the Secretary and the city. The amount of the rent may not exceed $1,600 per year.

SEC. 2902. ALTERNATIVE OPTIONS

(a) IN GENERAL.—(1) In lieu of leasing to the city of Barling the lands described in section 1(a), the Secretary may lease to the city other lands under the jurisdiction of the Secretary adjacent to existing lagoons at Fort Chaffee, Arkansas, for use by the city in the treatment of sewage.

(2) Land leased to the city pursuant to paragraph (1) shall be leased at an annual rate of not more than $5 per acre.

(3) Any lease entered into pursuant to paragraph (1) shall be subject to paragraphs (1) and (2) of section 1(b).

(b) USE OF ARMY SEWAGE TREATMENT FACILITY.—The Secretary may permit the city of Barling to use the sewage treatment facilities of Fort Chaffee under an agreement which would require the city to pay a reasonable cost for the use of such facilities and any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city of Barling.

SEC. 2903. ADDITIONAL PROVISIONS

(a) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of any land to be leased under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the city of Barling.

(b) ADDITIONAL TERMS AND CONDITIONS.—Any lease or other agreement entered into under this Act shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 3101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,714,300,000.

(2) For materials production, $1,479,039,000.

(3) For defense nuclear waste and transportation management, $546,598,000.

(4) For verification and control technology, $120,500,000.

(5) For nuclear materials safeguards and security technology development programs, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $30,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $33,000,000.

Project 88-D-122, facilities capability assurance program, various locations, $19,200,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $20,000,000.

Project 87-D-102, environmental compliance and cleanup, Lawrence Livermore National Laboratory, Livermore, California, $9,000,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $37,016,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defense facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrading, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, TRIDENT II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $96,129,000.

(2) For materials production:

Project 88-D-XXX, New Production Reactor, unspecified location, $15,000,000.

Project 88-D-146, general plant projects, various locations, $39,030,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $5,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $68,860,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $13,200,000.

(3) For defense nuclear waste and transportation management:

Project 88-D-171, general plant projects, various locations, $32,736,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $25,000,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 87-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, National Engineering Laboratory, Idaho, $742,000.

Project 86-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $6,000,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring Site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $321,230,000.

(B) For materials production, $101,400,000.

(C) For defense waste and transportation management, $44,425,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $50,000,000.

SEC. 3113. UNDISTRIBUTED REDUCTIONS

(a) Total Authorization.—Notwithstanding sections 3111 and 3112, the total amount authorized to be appropriated to the Department of Energy in this division for fiscal year 1988 for national security programs is $7,824,400,000.

(b) Requirement for Project Reductions.—The Secretary of Energy shall reduce such projects listed in sections 3111 and 3112 in such amounts as he determines appropriate to achieve a total reduction of $270,000,000.

SEC. 3114. STRATEGIC DEFENSE INITIATIVE

(a) Limitation on Funds for SDI.—Of the total funds appropriated pursuant to sections 3111 and 3112, not more than $380,000,000 may be obligated or expended for research, development, test, and evaluation, and other purposes, in connection with the Strategic Defense Initiative program.

Part B—Recurring General Provisions

SEC. 3121. REPROGRAMMING

(a) Notice to Congress.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Limitation on Amount Obligated.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) In General.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) Report to Congress.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) In General.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3112 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) In General.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) Specific Authority Required.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for operating expenses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 3131. REPEAL OF LIMITATION ON MX WARHEADS

Section 1426(a) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 753), is repealed.

SEC. 3132. TIMELY DETERMINATIONS ON PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES

Section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (Public Law 99-661; 100 Stat. 4061) is amended by striking out the last sentence and inserting in lieu thereof the following: "Such decision shall be made within 180 days after the date of the request by the contractor for waiver of such rights. The Secretary of Energy shall use Government-wide standard contract provisions to ensure that if a decision is not made within such 180-day period, the rights and title to the invention or discovery accrues to the contractor in the same manner and with the same effect as such rights and title would accrue to a contractor of the Department of Defense.

SEC. 3133. ACQUISITION STRATEGY FOR A NEW PRODUCTION REACTOR

(a) The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the Secretary for new production capacity as soon as possible after the date of enactment of this Act, but not later than February 1, 1988.

(b) The report in subsection (a) should contain but not be limited to, an evaluation of the alternative sites and technologies, including all safety features considered, their associated costs and schedules, and the recommendation of the Secretary of Energy with respect to the preferred alternatives. The report in subsection (a) shall also include the recommendations of the Secretary of Energy with respect to an acquisition strategy, either in a phased approach or concurrently, for eventual procurement of two reactors with different technologies in different locations.

PART D.—THE DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE

SEC. 3141. FINDINGS

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments, and (B) other changes in the nature of foreign competition.

(4) The principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshalling all of the government, industry, and academic resources needed to achieve that goal.

(5) Although the United States semiconductor industry leads all other principal United States industries in terms of its reinvestment in research and development, this has been insufficient by worldwide standards.

(6) Electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximately 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research.

(7) The Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research.

(8) It is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors.

(9) The most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses of such technology.

(10) In order to meet the national defense needs of the United States and to insure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of the semiconductor technology base in the United States.

(11) The national laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help insure the success of such initiatives.

SEC. 3142. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH INITIATIVE

The Secretary of Energy shall initiate and carry out a program of research on semiconductor manufacturing research technology and on the practical applications of such technology (such program hereinafter in this subtitle referred to as the "Initiative"). The Secretary shall carry out the Initiative in a way as to complement the activities of a consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 3143. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY

(a) MISSION OF NATIONAL LABORATORIES.—Each national laboratory of the Department of Energy shall participate in research and development projects under the Initiative in conjunction with the Department of Defense, any consortium, college or university carrying out any such project for or in cooperation with the consortium referred to in section 3142, to the extent that such participation does not detract from the primary mission of the national laboratory.

(b) AGREEMENTS.—The Secretary of Energy shall enter into such agreements with the Secretary of Defense, with any consortium referred to in section 3142 and with any college or university as may be necessary to provide for the active participation of the national laboratories of the Department of Energy in the Initiative.

(c) REQUIRED PROVISIONS.—The Initiative shall include provisions for one or more national laboratories of the Department of Energy to conduct research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new processing equipment.

SEC. 3144. PERSONNEL EXCHANGES

The Initiative shall include provisions for temporary exchanges of personnel between any domestic firm, the consortium referred to in section 3142 and the national laboratories of the Department of Energy that are participating in such Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions as the Secretary of Energy consider necessary in the interest of national security.

SEC. 3145. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL

The Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherance of this Initiative any facilities, personnel, equipment, services and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative consistent with section 3143(a).

SEC. 3146. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

SEC. 3147. COST-SHARING AGREEMENTS

(a) Permitted Provisions.—The director of each national laboratory of the Department of Energy that is participating in the Initiative or the contractor operating any such national laboratory may include in any research and development agreement entered into with a domestic firm in connection with such Initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) Cost Sharing Arrangements.—The director of each national laboratory of the Department of Energy that is participating in the Initiative shall submit a proposal to the Department of Energy defining cost sharing arrangements and the appropriate level of funding for approval.

(c) Limitations.—(1) Not more than an amount equal to 1 percent of any National Laboratory's annual budget shall be received from nonappropriated funds derived from contracts entered into under the Initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of nonappropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 3148. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE

(a) Provisions Relating to Disapproval and Modification of Agreements.—If the Secretary of Energy or his designee desires an opportunity to disapprove or require the modification of any such agreement under section 3147, the agreement shall provide a 90-day period within which such action be taken beginning on the date the agreement is submitted to the Secretary.

(b) Record of Agreements.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 3149. AVOIDANCE OF DUPLICATION

In carrying out the Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the national laboratories of the Department of Energy) that are participating in such initiative.

SEC. 3150. AUTHORIZATION OF APPROPRIATIONS

(a) In General.—There is authorized to be appropriated to the Department of Energy for each fiscal year 1988 and 1989, the additional sum of $25,000,000 for the activities of the Department of Energy under the Initiative.

(b) Relationship to Other Funds Available to the Department of Defense.—Funds available to the Secretary of Energy in connection with activities of the Department of Energy under the Initiative shall be in addition to amounts available to the Department of Defense for semiconductor manufacturing technology research and development.

SEC. 3151. TECHNOLOGY TRANSFER

(a) In General.—The Secretary of Energy shall adopt procedures to provide for timely and efficient transfer of semiconductor technology developed under the Initiative pursuant to applicable laws, executive orders, and regulations followed by the Department of Defense.

(b) Plan for Commercialization Enhancement.—(1) Not later than one year after the date on which funds are first appropriated to conduct the Initiative, the Secretary of Energy shall transmit to the committees of Congress named in paragraph (2) a plan for the transfer of semiconductor technology and information generated by the Initiative.

(2) The committees of Congress referred to in paragraph (1) are the Committees on Armed Services of the Senate and House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Science and Technology of the House of Representatives.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 3201. REVISIONS OF STOCKPILE GOALS

Section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)) is amended—

(1) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "Subject to subsections (c) and (d), the"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) The stockpile goal for any material may be revised only as provided in paragraphs (2) and (3).

"(2) A stockpile goal may be reduced by 10 percent or less or increased only if the President has included a full explanation and justification for the reduction or increase, as the case may be, in the annual material plan submitted to Congress under section 11(b) for the fiscal year in which the goal is to be so reduced or increased.

"(3) A stockpile goal may be reduced by more than 10 percent (or eliminated) only if the President has included a full explanation and justification for the reduction (or elimination) in the annual material plan submitted to Congress under section 11(b) for the fiscal year in which the goal is to be so reduced (or eliminated) and the reduction (or elimination) has been expressly approved by law.

"(4) For the purposes of this subsection, the term 'stockpile goal' means, with respect to any material, the goal for the quantity of that material to be stockpiled as in effect on October 1, 1984, and as may be subsequently revised in accordance with this subsection.

"(d) The quantity of any material in the stockpile may be increased at any time if the President determines the increase is required in the interest of national security. The authority of the President under this subsection may not be delegated except in time of national emergency declared by Congress or the President or in time of war.".

SEC. 3202. DEADLINE FOR ANNUAL REPORT

Section 11(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98-2(b)) is amended by striking out "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year," and inserting in lieu thereof "not later than February 15 of each year".

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATIONS FOR CIVIL DEFENSE FUNCTIONS

There is hereby authorized to be appropriated for the fiscal year ending September 30, 1988, to carry out the provisions of the Federal Civil Defense Act of 1950, the sum of $134,806,000.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Montgomery moves to strike all after the enacting clause of the Senate bill, S. 1174, and to insert in lieu thereof the provisions of H.R. 1748, as passed by the House, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1988".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS.

This Act is divided into 3 divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

SEC. 100. SHORT TITLE.

This division may be cited as the "Department of Defense Authorization Act, 1988".

TITLE I—PROCUREMENT

SEC. 101. ARMY.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for procurement for the Army as follows:

(1) For aircraft, $2,703,124,000 for fiscal year 1988.

(2) For missiles:

(A) $2,270,175,000 for fiscal year 1988.

(B) $1,221,166,000 for fiscal year 1989.

(3) For weapons and tracked combat vehicles, $3,345,737,000 for fiscal year 1988.

(4) For ammunition, $2,238,808,000 for fiscal year 1988.

(5) For other procurement:

(A) $5,071,920,000 for fiscal year 1988, of which—

(i) $942,560,000 is for tactical and support vehicles;

(ii) $3,036,355,000 is for communications and electronics equipment; and

(iii) $1,151,005 is for other support equipment.

(B) $156,900,000 for fiscal year 1989.

The total of the amounts provided under clauses (i), (ii), and (iii) of paragraph (5)(A) is hereby reduced by $58,000,000 as an undistributed reduction.

(b) Authorized Multiyear Contracts.—(1) Subject to paragraph (2), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(A) High-Mobility Multipurpose Wheeled Vehicle program.

(B) AN/ALQ-136 jammer.

(2) A multiyear contract authorized by paragraph (1) may not be entered into unless the anticipated cost over the period of the contract is no more than 88 percent of the anticipated cost of carrying out the same program through annual contracts.

SEC. 102. NAVY AND MARINE CORPS.

(a) Aircraft.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy as follows:

(A) $9,253,177,000 for fiscal year 1988.

(B) $2,980,378,000 for fiscal year 1989.

(2) Of the funds appropriated or otherwise made available for procurement of aircraft for the Navy for fiscal year 1988:

(A) $5,729,763,000 is available only for combat aircraft programs as follows:

For the A-6F program, $853,224,000.

For the EA-6B program, $521,571,000.

For the F-14A/D program, $873,848,000.

For the FA-18 program, $2,580,222,000.

For the SH-60B program, $143,641,000.

For the SH-60F program, $329,961,000.

For the E-2C program, $427,296,000.

(B) $833,193,000 is available only for modification of aircraft programs as follows:

For the A-6 series, $219,651,000.

For the H-2 series, $45,108,000.

For the P-3 series, $172,865,000.

For the S-3 series, $142,522,000.

For the ES-3 series, $115,200,000.

For the E-2 series, $71,139,000.

For common electronic countermeasures (ECM) equipment, $66,708,000.

(b) Weapons.—Funds are hereby authorized to be appropriated for fiscal year 1988 in the total amount of $5,815,815,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(1) For missile programs, $5,230,085,000.

(2) For torpedo programs, $354,462,000, as follows:

For the MK-48 torpedo program, $243,444,000.

For the MK-30 mobile target program, $31,495,000.

For the antisubmarine rocket (ASROC) program, $9,522,000.

For the modification of torpedoes and related equipment, $16,015,000.

For the torpedo support equipment program, $33,348,000.

For the antisubmarine warfare range support program, $20,638,000.

(3) For other weapons, $101,540,000, of which $28,023,000 is for the MK-15 close-in weapon system program.

(4) For spares and repair parts, $129,728,000.

(c) Shipbuilding and Conversion.—(1) Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $9,923,955,000 for fiscal year 1988.

(B) $7,832,900,000 for fiscal year 1989.

(2) Amounts authorized under paragraph (1) are available for shipbuilding and conversion programs as follows:

For the Trident submarine program, $1,330,800,000 for fiscal year 1988 and $1,398,300,000 for fiscal year 1989.

For the CVN aircraft carrier program, $644,000,000 for fiscal year 1988 and $797,000,000 for fiscal year 1989.

For the SSN-688 nuclear attack submarine program, $1,736,900,000 for fiscal year 1988 and $1,527,800,000 for fiscal year 1989.

For the SSN-21 nuclear attack submarine program, $257,600,000 for fiscal year 1988.

For the aircraft carrier service life extension program (SLEP), $729,755,000 for fiscal year 1988.

For the CG-47 Aegis cruiser program, $3,328,900,000 for fiscal year 1988 and $825,000,000 for fiscal year 1989.

For the DDG-51 guided missile destroyer program, $5,500,000 for fiscal year 1988 and $2,196,900,000 for fiscal year 1989.

For the LHD-1 amphibious assault ship program, $772,900,000 for fiscal year 1988 and $741,100,000 for fiscal year 1989.

For the LSD-41 cargo variant program, $324,200,000 for fiscal year 1988.

For the TAO-187 fleet oiler program, $279,100,000 for fiscal year 1988 and $256,400,000 for fiscal year 1989.

For the strategic sealift program, $43,400,000 for fiscal year 1988 and $35,400,000 for fiscal year 1989.

For the sealift enhancement program, $17,800,000 for fiscal year 1988.

For the landing craft, air cushion program, $43,700,000 for fiscal year 1988.

For the TACS auxiliary crane ship program, $53,100,000 for fiscal year 1988 and $55,000,000 for fiscal year 1989.

For service craft, $12,500,000 for fiscal year 1988.

For outfitting and post delivery, $343,800,000 for fiscal year 1988.

(d) Other Procurement, Navy.—Funds are hereby authorized to be appropriated for fiscal year 1988 for other procurement for the Navy in the amount of $4,901,766,000 as follows:

(1) For the ship support equipment program, $759,780,000.

(2) For the communications and electronics equipment program, $1,666,323,000.

(3) For aviation support equipment, $688,337,000.

(4) For the ordnance support equipment program, $861,172,000.

(5) For programs for civil engineering support equipment, supply support equipment, and personnel/command support equipment, a total of $625,328,000.

(6) For spares and repair parts, $308,826,000.

(e) Procurement, Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,286,195,000.

(f) Multiyear Procurement.—The Secretary of the Navy may not carry out multiyear procurement for the Navy AGM-84A Harpoon missile program or for the Marine Corps Hawk missile program.

SEC. 103. AIR FORCE.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for procurement for the Air Force as follows:

(1) For aircraft:

(A) $11,557,844,000 for fiscal year 1988.

(B) $3,053,277,000 for fiscal year 1989.

(2) For missiles:

(A) $7,296,259,000 for fiscal year 1988.

(B) $1,280,815,000 for fiscal year 1989.

(3) For other procurement, $8,360,679,000 for fiscal year 1988, of which—

(A) $763,139,000 is for munitions and associated support equipment;

(B) $223,961,000 is for vehicular equipment;

(C) $2,088,320,000 is for electronics and telecommunications equipment; and

(D) $5,296,259,000 is for other base maintenance and support equipment.

(b) Mechanical Diverters Program.—None of the amount provided by subsection (a) for other procurement for the Air Force is available for the mechanical diverters program. The amount provided in subsection (a) for other procurement for fiscal year 1988, and the amount provided for munitions and associated support equipment, are each hereby reduced by $9,807,000.

SEC. 104. DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1988 for the Defense Agencies in the amount of $1,240,269,000.

SEC. 105. RESERVE COMPONENTS.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $65,000,000.

For the Air National Guard, $238,000,000.

For the Army Reserve, $90,000,000.

For the Air Force Reserve, $163,500,000.

For the Marine Corps Reserve, $40,000,000.

(b) Authorizations in Addition to Other Amounts.—The authorizations of appropriations contained in subsection (a) are in addition to any other amount authorized to be appropriated by this or any other Act.

SEC. 106. AUTHORIZATION FOR CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $389,100,000, of which—

(1) $94,100,000 shall be for operation and maintenance;

(2) $3,500,000 shall be for research, development, test and evaluation;

(3) $144,500,000 shall be for procurement; and

(4) $147,000,000 shall be for military construction for the Army.

SEC. 107. EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AWACS PROGRAM.

Effective on October 1, 1987, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1987" both places it appears and inserting in lieu thereof "fiscal years 1988 and 1989".

SEC. 108. ARMY PROGRAMS.

(a) AH-64 Apache Attack Helicopter.—Of the AH-64 Apache helicopters acquired with funds provided for aircraft procurement for the Army for fiscal year 1988, one battalion (consisting of 18 of such aircraft) shall be designated for the Army National Guard.

(b) AHIP Scout Helicopter.—Funds provided for fiscal year 1988 for advance procurement of AHIP aircraft may not be obligated unless the Secretary of Defense, based on operational test results, determines that the AHIP aircraft is the most cost-effective scout helicopter available to the Army and certifies that determination to the Committees on Armed Services of the Senate and House of Representatives.

(c) Bradley Fighting Vehicle.—Of the amount provided for fiscal year 1988 for advance procurement for the Bradley Fighting Vehicle program, $10,000,000 may not be obligated until the Secretary of Defense—

(1) ensures that production of components for such vehicle is consistent with production of end items; and

(2) certifies to the Committees on Armed Services of the Senate and House of Representatives that production of such components will be consistent with production of end items.

(d) HEMTT Truck Program.—(1) The Secretary of the Army shall award contracts for procurement of Heavy Expanded Mobility Tactical Truck (HEMTT) vehicles for fiscal years after fiscal year 1988 using full and open competitive procedures, with a competition based on the technical data package for the vehicle. Any competition for such a contract may propose minor substitutions or modifications to the vehicle, so long as the competitor warrants that the performance of the vehicle as proposed will meet or exceed the specifications for performance of the current HEMTT vehicle.

(2) The Secretary of the Army shall reevaluate whether there is a valid requirement for a palletized loading system. If the Secretary determines that there is a requirement for such a system, the Secretary shall reexamine the specifications for the system and incorporate into solicitations for the HEMTT vehicle a requirement that the Government have an option to purchase a palletized loading system for the vehicle at a fixed price.

(3) The Secretary of the Army shall structure deliveries under the fiscal year 1988 production contract for the HEMTT vehicle and Army plans and schedules so that (assuming that production funds are provided for fiscal year 1989 for heavy trucks) a competition may be held as required by paragraph (1) and a contract awarded with deliveries to the Army under the fiscal year 1989 contract to begin no later than the final delivery of vehicles produced under the fiscal year 1988 contract.

(4) Of the funds appropriated or otherwise made available for procurement of tactical and support vehicles for the Army for fiscal year 1988, $239,297,000 shall be available only for procurement of 1,388 HEMTT vehicles. Of the vehicles procured with such funds—

(A) 159 shall be designated for the Army National Guard;

(B) 141 shall be designated for the Army Reserve; and

(C) not more than 200 may be equipped with a palletized loading system.

The amount provided in section 101(a)(5) for tactical and support vehicles is hereby increased by $58,000,000.

(e) REDUCTION.—The amount provided in section 101(a)(5) for other procurement, Army is hereby reduced by $58,000,000.

(f) RULE OF CONSTRUCTION.—The provisions of the third sentence of paragraph (4) of subsection (d) and the provisions of subsection (e) shall have no force and effect.

SEC. 109. NAVY AIRCRAFT PROVISIONS.

(a) H-53 MODIFICATIONS.—Of the amount appropriated for procurement of aircraft for the Navy for fiscal year 1988, $25,000,000 shall be available only for safety-related modifications of the H-53 series aircraft.

(b) P-3 AIRCRAFT.—From funds appropriated or otherwise made available for procurement of aircraft for the Navy for fiscal year 1988, the Secretary of the Navy may not obligate more than a total of $207,011,000 for—

(1) procurement of P-3C aircraft; and

(2) modifications to existing P-3 aircraft.

(c) OBOGS SYSTEM.—Aircraft may not be procured under the A-6F, F-14D, or FA-18 aircraft programs using funds made available for fiscal year 1988 except for aircraft configured with an On Board Oxygen Generating System (OBOGS).

(d) SUPER STALLION HELICOPTERS.—The Secretary of the Navy may not accept delivery of any Super Stallion C/MH-53E helicopter contracted for using funds appropriated for a fiscal year after fiscal year 1987 unless the helicopter incorporates design changes to improve flight stability that are approved by the Secretary of the Navy based upon recommendations resulting from the flight stability deficiency correction program for such helicopter being carried out as of May 18, 1987.

SEC. 110. AIR FORCE PROVISIONS.

(a) TRANSFERS OF T-46 FUNDS TO NAVAL AIRCRAFT PROGRAMS.—(1) Funds appropriated for procurement of aircraft for the Air Force that were originally provided for the terminated T-46 program (as such funds are described in paragraph (2)) shall, to the extent provided in appropriation Acts, be made available for aircraft programs of the Navy as described in paragraph (3), and may not be used for any other purpose.

(2) Air Force aircraft procurement funds to be made available for the purposes described in paragraph (3) are $151,000,000 appropriated for fiscal year 1987 and $149,000,000 appropriated for fiscal year 1986.

(3) Funds provided for Navy aircraft programs under this subsection shall be used as follows:

(A) $146,700,000 for procurement of EA6-B Prowler aircraft.

(B) $4,900,000 for advance procurement of EA-6B Prowler aircraft.

(C) $12,600,000 for EA-6B spares.

(D) $42,400,000 for A-6 aircraft modifications.

(E) $48,700,000 for E-2 aircraft modifications.

(b) TRANSFER OF OTHER PROCUREMENT AIR FORCE FUNDS.—Of funds appropriated for other procurement for the Air Force for fiscal year 1987 that are available for the BDU-50 practice bomb, $8,000,000 shall, to the extent provided in appropriations Acts, be made available for other procurement for the Navy for fiscal year 1988 and shall be used only for procurement of BDU-45 practice bombs.

(c) PAVE TIGER SYSTEM.—The amount of $95,800,000 authorized for research, development, test, and evaluation for the Air Force for fiscal year 1985 for which funds were appropriated is hereby reauthorized for procurement of the PAVE Tiger System, and such funds may not be used for any other purpose.

(d) DEFENSE METEOROLOGICAL SYSTEM SATELLITE.—The Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Meteorological System Satellite program.

(e) TRANSPORT AIRCRAFT.—Funds provided for fiscal year 1988 for procurement of aircraft may not be used to purchase or modify transport aircraft unless the aircraft are equipped with ground proximity warning systems.

SEC. 111. REPORT ON CONDITION OF CERTAIN C-130 AIRCRAFT.

(a) INSPECTION.—The Secretary of the Air Force, in conjunction with the Air National Guard, shall inspect the eight C-130H aircraft stored since 1974 at Air Force Plant No. 6 in Marietta, Georgia, in order to determine the current condition of such aircraft and the work required to return such aircraft to operating status.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the inspection under subsection (a). The report shall include the Secretary's estimate of the amount it would cost to put such aircraft in useful service for the Air National Guard. The report shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 112. REVISION OF CHEMICAL DEMILITARIZATION PROGRAM.

(a) DEFINITION.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) ENVIRONMENTAL IMPACT STATEMENT.—(1) The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(2) After considering such environmental impact statement, the Secretary shall decide, by February 1, 1988, whether to carry out the chemical stockpile demilitarization program by onsite destruction, through regional destruction centers, or through a national destruction site.

(c) DISPOSAL TECHNOLOGIES.—(1) Funds provided for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense provides to Congress a written certification that the concept plan under the program includes the following:

(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of one such technology to be used for such purpose.

(B) Full-scale operational verification of the technology selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) REVISED CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a revised concept plan for the program. The revised plan—

(1) shall incorporate the matters determined under subsections (b) and (c); and

(2) shall specify any revised schedule and revised funding requirements necessary to enable the Secretary to meet the requirements under subsections (b) and (c).

The revised plan shall be submitted by March 15, 1988.

(e) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing chemical stockpile; and

(2) assessment of the condition of the stockpile.

SEC. 113. ASSESSMENT OF CAPABILITIES OF B-1B TO PENETRATE ENEMY AIR DEFENSES.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Defense shall provide for an independent assessment of the ability of the B-1B aircraft to penetrate air defenses of potential enemies. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel such resources as are necessary, including technical assistance by private contractors, to assist it in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(b) CONFIGURATIONS TO BE CONSIDERED.—The panel shall estimate the air defense penetration capabilities of the B-1B aircraft in all of its mission profiles as it is estimated to be configured at each of the following times:

(1) Initial operational capability.

(2) The time the assessment is conducted.

(3) The completion of the developmental test and evaluation/initial operational test and evaluation period in fiscal year 1989.

(4) The completion of the baseline modifications program in fiscal year 1991.

(c) Threats To Be Considered.—The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described in—

(1) the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(2) the 1986 Strategic Bomber Force Study; and

(3) the most current threat baseline established by the intelligence community.

(d) DOD Cooperation.—The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(e) Reports.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(1) an initial report on the assumptions that are to be used by the panel in the assessment;

(2) periodic reports on the development and progress of the assessment; and

(3) the final report of the panel (together with such comments as the Secretary considers appropriate), to be submitted in conjunction with the submission of the President's budget for fiscal year 1989.

(f) Funding.—Of the amounts appropriated for aircraft procurement for the Air Force for fiscal year 1988, $1,000,000 shall be available only for the conduct of the assessment under this section.

SEC. 114. TREATMENT OF CERTAIN SPECIAL ACCESS PROGRAMS.

(a) Sense of Congress.—It is the sense of Congress—

(1) that the Advanced Technology Bomber program, the Advanced Cruise Missile program, and the Advanced Tactical Aircraft program involve the development and production of new advanced technologies that are critical to United States national security;

(2) that, in conjunction with the national security interest, it is appropriate and necessary that certain information involving the technological characteristics and performance of those systems remain classified; and

(3) that it would be consistent with the public interest and would not jeopardize the national security for the Secretary of Defense to disclose, in a nonclassified form, information about each of those systems with respect to total program cost, the amount of the annual program budget request, and a general description of program schedule.

(b) Competition Initiative for ATB Program.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish a means to provide ongoing competition for production of the Advanced Technology Bomber.

(2) Among the options to be considered by the Under Secretary of Defense for Acquisition in carrying out paragraph (1) are the following:

(A) Contracting for a production-management study of the Advanced Technology Bomber program to be conducted by one or more contractors which are experienced in the field of aircraft production and which are selected for such study through the use of competitive procedures.

(B) Initiation of a competition for total system integration, final assembly, and check-out of aircraft systems.

(C) Releasing a solicitation for proposals for establishing a second production source for the Advanced Technology Bomber.

(3) Of the funds provided for procurement of aircraft for the Air Force for fiscal year 1988, $100,000,000 shall be made available directly to the Under Secretary of Defense for Acquisition only for the purposes of paragraph (1). If the competition initiative required by paragraph (1) is not implemented by October 1, 1988, no funds may be obligated for the Advanced Technology Bomber program after October 1, 1988, until the competition initiative is implemented.

(4) Not later than April 1, 1988, the Secretary of Defense shall submit to Congress a report on the competition initiative required by paragraph (1). The report shall include a description of the steps taken to that time to implement such initiative and the steps planned to be taken.

(c) Report on IOC Capabilities for ATB.—(1) The Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a classified report on the expected capabilities of the Advanced Technology Bomber when it achieves initial operational capability. The report shall be prepared in consultation with the Under Secretary of Defense for Acquisition.

(2) The report shall include a description of—

(A) the performance of the aircraft and its subsystems;

(B) expected mission capability;

(C) required maintenance and logistical standards;

(D) expected levels of crew training and performance; and

(E) product improvements that are planned before the initial operational capability of the aircraft to be made after the initial operational capability of the aircraft.

(3) Such report shall be submitted not later than 90 days after the date of the enactment of this Act.

(d) Annual Reports on ATB Testing.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on developmental testing, and an annual report on operational testing, with respect to the Advanced Technology Bomber. Each such report with respect to developmental testing shall be prepared through the Under Secretary of Defense for Acquisition, and each such report with respect to operational testing shall be prepared through the Director of Operational Test and Evaluation.

(e) Selected Acquisition Reports.—In the case of each program referred to in subsection (a)(1), the Secretary of Defense shall submit a Selected Acquisition Report, with appropriate classification, twice each year, notwithstanding that such program is not otherwise subject to requirements for the submission of Selected Acquisition Reports.

(f) GAO Report on Criteria for Designating Special Access Programs.—The Comptroller General shall study the criteria used by the Secretary of Defense in determining whether to designate a program as a special access program and shall submit a report on such study to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1988.

(g) Strategic Bomber Force Composition.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report updating the 1986 Strategic Bomber Force Study. The report shall include—

(1) the total number of advanced technology bombers required for the strategic bomber force;

(2) the Secretary's assessment of the effect of potential arms control developments on the bomber force;

(3) a description of any current plans for the use of the B-1B aircraft as a dedicated stand-off mission aircraft;

(4) a description of plans for retirement of the current B-52 fleet; and

(5) an assessment as to the potential for changes in the Soviet threat and other factors that may affect the capabilities of the strategic bomber force to penetrate Soviet air defenses.

The report shall be submitted with the budget of the President submitted for fiscal year 1989.

SEC. 115. LIMITATION ON CERTAIN PROCUREMENT.

None of the funds appropriated to the Department of Defense may be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning Program of the Department of Defense unless—

(1) such injector or component is manufactured in the United States by a company which is an existing producer under the industrial preparedness program at the time the contract is awarded and which—

(A) has executed a Department of Defense Form 1519,

(B) has received all required regulatory approvals, and

(C) has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

(2) the Secretary of Defense determines that such procurement from a source in addition to a source described in paragraph (1) is critical to United States national security.

SEC. 116. BRADLEY FIGHTING VEHICLE.

(a) Limitation of Funds and Plan to Improve Survivability and Operational Performance.—Funds appropriated for fiscal year 1988 may not be obligated or expended to procure any Bradley Fighting Vehicles until 15 days of continuous session of Congress have passed after the last of the following occurs:

(1) The tests of the Bradley Fighting Vehicle required by section 121(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), are completed and the Secretary of Defense submits the report on the results of such tests to Congress required by section 121(f)(1) of such Act.

(2) The Secretary of Defense certifies to Congress in writing that the survivability modifications selected by the Secretary for the Bradley Fighting Vehicle maximize casualty reductions while considering fiscal concerns and without jeopardizing operational effectiveness.

(3) The Secretary of Defense submits to Congress a report containing—

(A) a plan to incorporate into all Bradley Fighting Vehicles intended for use in combat the survivability modifications selected;

(B) a plan for initiation of production or development efforts, as appropriate, for such modifications not later than May 1, 1988; and

(C) a description of each survivability modification considered by the Secretary (including those not selected) and the relative costs (including logistics and storage) and the schedules of each such modification, a schedule for completion of the modifications selected, and the rationale for not selecting those modifications that were considered but not selected.

(4) The Secretary of Defense submits to Congress a report—

(A) identifying those instances (including deficient swim capability, transmission failures, electrical problems with the vehicle and turret distribution boxes, and inadequacies in the Integrated Sight Unit and TOW missile launchers) in which—

(i) there are reliability, quality, or operational problems;

(ii) the vehicle does not meet the military requirements specified for the vehicle in a program contract; or

(iii) the performance of a Government contractor under a program contract is deficient; and

(B) setting forth a plan to correct each instance identified under subparagraph (A).

(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General shall—

(1) review all materials of the Department of Defense used to develop the certification under subsection (a)(2) and the plans under subsections (a)(3) and (a)(4); and

(2) not later than 30 days after the date on which the last is submitted, submit to Congress a report giving the assessment of the Comptroller General as to the conclusions and recommendations of the Secretary of Defense.

(c) CONTINUITY OF SESSION.—For purposes of determining the 15 days of continuous session of Congress specified in subsection (a)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 15-day period.

SEC. 117. WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE.

United States chemical munitions stored in Europe on the date of the enactment of this Act may not be removed from Europe unless they are replaced with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1988 and for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

(1) For the Army:

(A) $4,556,517,000 for fiscal year 1988.

(B) $850,300,000 for fiscal year 1989.

(2) For the Navy (including the Marine Corps):

(A) $7,843,775,000 for fiscal year 1988.

(B) $942,389,000 for fiscal year 1989.

(3) For the Air Force:

(A) $15,800,427,000 for fiscal year 1988.

(B) $876,233,000 for fiscal year 1989.

(4) For the Defense Agencies:

(A) $7,357,780,000 for fiscal year 1988.

(B) $255,000,000 for fiscal year 1989.

(5) For testing activities for fiscal year 1988—

(A) $169,217,000 for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(B) $91,221,000 for the Director of Operational Test and Evaluation.

SEC. 202. LIMITATION OF FUNDS FOR THE ARMY.

(a) AAWS–M AND MILAN II PROGRAMS.—(1) Of the funds authorized in section 201 for the Army for fiscal year 1988, $59,146,000 is available only for the Advanced Anti-Tank Weapon System-Medium (AAWS-M) program and, of such amount, no more than $30,000,000 may be obligated for that program until the Secretary of the Army certifies to the Committees on Armed Services of the Senate and the House of Representatives that the Army has completed the Milan II evaluation.

(2) For purposes of paragraph (1), the term "Milan II evaluation" means evaluation of the Milan II system as an interim alternative medium-range anti-tank weapons system, as directed in the joint explanatory statement of the committee of conference accompanying the conference report on House Joint Resolution 738 (House Report 99-1005, page 555). Such evaluation shall be based on full operational testing of the Milan II system.

(3) For the purposes of paragraph (2), full operational testing consists of use by several operational units of battalion size or greater for a period of at least six months.

(b) OTHER SPECIFIED ACTIVITIES.—Of the funds authorized in section 201 for the Army for fiscal year 1988—

(1) $7,500,000 is available only for the development of the Wide-Area Side Penetrating Mine (WASPM);

(2) $10,000,000 is available only for development of the Composite Helicopter Rotor System;

(3) $6,000,000 is available only for the Common Module Tunable Laser program; and

(4) $200,000 is available only for the Secretary of the Army to conduct a study to evaluate the capability of polymer and process technologies that meet or exceed NATO specifications for the configuration of medium- and large-caliber ammunition.

(c) UNFUNDED PROGRAMS.—Of the funds appropriated pursuant to the authorization in section 201 for the Army for fiscal year 1988, no funds may be obligated for the Patriot Anti-Tactical Missile System or for the Aquila Remotely Piloted Vehicle program.

SEC. 203. ARMY HELICOPTER PROGRAMS.

(a) LHX LIMITATION.—No more than $10,000,000 appropriated or otherwise made available to the Department of Defense for fiscal year 1988 may be used for research, development, test, and evaluation for the concept development of the Light Helicopter Experimental (LHX) program.

(b) APACHE, BLACKHAWK, AND AHIP PROGRAMS.—Of the funds appropriated for research, development, test, and evaluation for the Department of Defense for fiscal year 1988—

(1) $25,000,000 shall be available only for the AH-64 Apache attack helicopter program;

(2) $25,000,000 shall be available only for the UH-60 Blackhawk utility helicopter program;

(3) $10,000,000 shall be available only for the OH-58 AHIP scout helicopter program; and

(4) $125,000,000 shall be available only for the T-800 helicopter engine program.

(c) STUDY.—(1) The Secretary of Defense shall carry out a study evaluating—

(A) development programs of the Army for rotary-wing aircraft;

(B) Army force structure for rotary-wing aircraft; and

(C) Army mission requirements for rotary-wing aircraft.

(2) Of the funds appropriated pursuant to this title, $5,000,000 shall be available only for the study under paragraph (1).

(3) The Secretary shall submit to Congress a report on such study no later than February 15, 1988.

SEC. 204. LIMITATION ON FUNDS FOR THE NAVY.

(a) INTEGRATED AIRCRAFT AVIONICS.—(1) Of the funds authorized in section 201 for the Navy for fiscal year 1988, $28,375,000 is available only for the Integrated Aircraft Avionics program, of which—

(A) $23,000,000 is available only for the Integrated Electronic Warfare system (INEWS); and

(B) $3,000,000 is available only for development of the Integrated Communication Navigation Identification Avionics (ICNIA) system.

(2) Of the funds authorized in section 201 for the Navy for fiscal year 1989, $22,093,000 is available only for continuation of the Integrated Aircraft Avionics program.

(b) OTHER SPECIFIED ACTIVITIES.—Of the funds authorized in section 201 for the Navy for fiscal year 1988—

(1) $13,988,000 is available only for the development of the V-22 Anti-Submarine Warfare Variant Aircraft;

(2) $24,642,000 in fiscal year 1988 and $25,870,000 in fiscal year 1989 is available only for the Low-Cost Anti-Radiation Seeker development program;

(3) $26,035,000 is available only for the Marine Corps Assault Vehicles program; and

(4) $15,000,000 is available only for the Quick Reaction Surveillance System development program.

(c) UNFUNDED PROGRAMS.—Of the funds authorized in section 201 for the Navy for fiscal year 1988, no funds may be obligated for the following programs:

(1) The Advanced Air-to-Air Missile program.

(2) The Advanced Lightweight Torpedo program.

(3) The Battle Group Passive Horizon Extension System Trainer program.

(d) INDUSTRIAL PREPAREDNESS.—Of the amount authorized in section 201 for the Navy for fiscal year 1988, $43,393,000 is available only for the Navy Industrial Preparedness (Navy Manufacturing Technology Program) program element. The amount authorized in such section for the Navy for fiscal year 1988 is hereby increased by $13,393,000.

SEC. 205. NAVY ATTACK SUBMARINE PROGRAM.

(a) ADVANCED SUBMARINE TECHNOLOGY.—(1) There is hereby established an Advanced Submarine Technology Program to be carried out by the Secretary of Defense through the Director, Defense Advanced Research Projects Agency. In carrying out the program, the Director shall conduct research, development, test, and evaluation of advanced submarine technology that may be applied to submarines of the SSN-688 class, SSN-21 class, or other classes of submarines. Technology to be examined through the program includes technology relating to polymers, compliant coating, propulsion, techniques for hull drag reduction, materials, weapon control systems, acoustic and nonacoustic signature reduction, and sensors.

(2) The objective of the program shall be to obtain prototype hardware of promising submarine technologies in the shortest possible time.

(3) Of the funds provided for the Navy for fiscal year 1988 for research, development, test, and evaluation, $112,899,000 shall be made available to the Director, Defense Advanced Research Projects Agency for the advanced submarine technology program. The Secretary of Defense shall make such amount available to the Director within 30 days after enactment of a law making appropriations for fiscal year 1988 for research, development, test, and evaluation for the Navy.

(b) REPORT REQUIREMENT.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed plan for the conduct of the program. The report shall include—

(A) information on the technologies to be studied and developed,

(B) milestones for significant achievements,

(C) plans for prototype hardware development, and

(D) a description of anticipated costs.

(2) Not later than six months after the submission of the report required by paragraph (1), the Secretary of Defense shall submit a report updating the information in the initial report, including any additional information the Secretary considers appropriate to the conduct of the program.

(c) LIMITATION ON FUNDS.—None of the funds appropriated by this or any other Act for the research and development of the SSN-21 Seawolf Attack Submarine program may be obligated or expended during any period of time in which a report required by subsection (b) is overdue.

(d) CONCEPT STUDIES FOR SSN-688 IMPROVEMENT.—Of the funds authorized in section 201 for the Navy for fiscal year 1988, $15,000,000 is available only for concept and design studies, together with cost estimates, for accomplishing the following on SSN-688 Los Angeles class submarines:

(1) Providing greater operational/tactical and maximum speed than the present SSN-688 class submarine.

(2) Using HY-100 steel to permit greater operational depths.

(3) Providing greater acoustic and nonacoustic quieting.

(4) Providing greater weapons carrying capacity than either the SSN-688 submarine or the proposed SSN-21 submarine.

(e) INDEPENDENT STUDIES.—The Secretary of Defense shall obtain an independent concept study in accordance with subsection (d) from two qualified independent shipbuilders and shall provide the results of the Navy concept study and of the shipbuilders' studies, together with development and deployment schedules and cost estimates under each, to the Committees on Armed Services of the Senate and House of Representatives not later than March 1, 1988.

SEC. 206. LIMITATION ON FUNDS FOR THE AIR FORCE.

(a) SPACE DEFENSE SYSTEM.—(1) Of the funds authorized in section 201 for the Air Force for fiscal year 1988, not more than $50,000,000 is available for the Space Defense System development program, of which—

(A) $40,000,000 is for the Air-Launched Miniature Vehicle program; and

(B) $10,000,000 is for the Ground-Based Laser Technology program.

(2) None of the funds authorized in section 201 are available for production verification of the miniature homing vehicle portion of the Space Defense System program.

(b) ALTERNATE ICBM BASING TECHNOLOGIES.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, not more than $250,000,000 is available for alternate ICBM basing technologies.

(c) TACTICAL AIRCRAFT.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, not more than $196,264,000 is available for the F-111 Squadron, F-15 Squadron, F-16 Squadron, F-4G Wild Weasel Squadron, and A-7 Squadron programs.

(d) ADVANCED STRATEGIC MISSILE SYSTEM.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $154,162,000 is available only for the Advanced Strategic Missile System effort.

(e) OTHER SPECIFIED ACTIVITIES.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988—

(1) $46,650,000 is available only for the Excimer Mid-Range Laser Development (EMRLD) program;

(2) $150,000,000 is available only for the development of the Boost Surveillance Tracking Satellite (BSTS), to be administered only by the Secretary of the Air Force;

(3) at least $10,714,000 is available only for the development of the Integrated Electronic Warfare system and the Integrated Communication Navigation Identification Avionics system for the full-scale engineering development program;

(4) $27,607,000 is available only for the Sensor Fuze Weapons project;

(5) $15,000,000 is available only for the Precision Location Strike System development program;

(6) $41,117,000 is available only for the development of the Side Looking Airborne Radar program;

(7) $25,995,000 is available only for the Traffic Control/Approach Landing Systems Program, of which—

(A) $14,330,000 is available only for the Microwave Landing System,

(B) $5,000,000 is available only for the Air Traffic Control Survivability project,

(C) $5,000,000 is available only for the Rapid Deployable Air Traffic Control System; and

(8) $15,000,000 is available only for Non-Acoustic Anti-Submarine Warfare related activity.

(9) $50,000,000 is available only for the Pave Tiger program;

(10) $10,000,000 is available only for the TR-1 Propulsion Upgrade program;

(11) $94,967,000 is available only for the Manufacturing Technology (MANTECH) program, of which—

(A) $35,000,000 is available only for programs associated with the revitalization of the United States machine tool industry, and

(B) $5,000,000 is available only for the National Center for Manufacturing Sciences;

(12) $8,973,000 is available only for the Space and Missile Rocket Propulsion program, of which $3,300,000 is available only for the Integrated Stage Technology project; and

(13) $150,000,000 is available only for development of the Advanced Launch System.

(f) F-4D AIR DEFENSE AIRCRAFT.—The Secretary of the Air Force may spend not more than $30,000,000 to complete development of a derivative of the F-4D aircraft for the air defense mission. Funds to be used for such purpose are funds appropriated to the Air Force for fiscal year 1987 for research, development, test, and evaluation but not authorized.

(g) CONVENTIONAL MUNITIONS PROGRAM.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $40,722,000 is available only for the Conventional Munitions Program. The amount provided in section 201 for the Air Force for fiscal year 1988 is hereby increased by $9,807,000.

SEC. 207. B-1B BOMBER PROGRAM.

(a) FUNDING LIMITATION.—Of the funds authorized in section 201, not more than $375,672,000 shall be available for research, development, test, and evaluation for the B-1B bomber program during fiscal year 1988.

(b) QUARTERLY STATUS REPORTS.—Before the end of each quarter of fiscal year 1988, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a status report on the B-1B baseline program. Each such report shall address the ability of the B-1B aircraft to meet—

(1) performance objectives;

(2) technical and fiscal problems; and

(3) significant milestones.

(c) LIMITATION ON AIRCRAFT ENHANCEMENT.—Funds described in subsection (a) may not be used for modernization of the B-1B bomber aircraft. The Secretary of Defense shall submit a description of any planned aircraft enhancement to the Committees on Armed Services of the Senate and the House of Representatives, together with—

(1) full justification for such enhancements;

(2) the total program costs; and

(3) schedule.

Any such enhancement may be initiated only if specific authorization and appropriation for the enhancement are provided by law.

(d) SYSTEMS INTEGRATION.—The Secretary of the Air Force shall request proposals from contractors to perform the function of B-1B systems integration and shall report to the Committees on Armed Services of the Senate and the House of Representatives on the feasibility and cost of using a contractor, rather than the Air Force, for that function.

(e) EVALUATION OF B-1B FLIGHT TEST PROGRAM.—In order to ensure the adequacy of the proposed flight test program for the B-1B aircraft, the Director of Operational Test and Evaluation of the Department of Defense shall assume the responsibilities and exercise the authorities of the Director under section 138 of title 10, United States Code, with respect to the use of funds provided for fiscal year 1988 for such flight test program insofar as the use of such funds involves operational test and evaluation functions (as defined in such section).

SEC. 208. LIMITATION ON FUNDS FOR DEFENSE AGENCIES.

(a) SPECIFIED ACTIVITIES.—Of the funds authorized in section 201 for the Defense Agencies for fiscal year 1988—

(1) $293,450,000 is available only for Strategic Technology, of which—

(A) $5,500,000 is available only for optical processor research,

(B) $50,000,000 is available only for the Light Sat program, and

(C) $4,000,000 is available only for the Amos Large Optical System program;

(2) $122,136,000 is available only to the Defense Advanced Research Projects Agency for tactical technology, of which $7,600,000 is available only for the Vector Thrust program;

(3) $25,000,000 is available only to the Defense Advanced Research Projects Agency for the Hypersonic Weapons Technology program;

(4) $2,000,000 is available only to the Defense Advanced Research Projects Agency for metallurgy research;

(5) $8,000,000 is available only for manufacturing technology associated with guided ordnance;

(6) $10,000,000 is available only for a pilot project to acquire quality semiconductor circuits;

(7) $2,000,000 is available only for personnel radiation protection research;

(8) $20,000,000 is available only for X-Ray lithography research;

(9) $15,000,000 is available only for medical applications of the free electron laser program for medical research and material;

(10) $5,000,000 is available only for the Rankine Cycle Energy Recovery (RACER) system; and

(11) $10,000,000 is available only to the Director, Defense Advanced Research Projects Agency for the Advanced Torpedo Program.

(b) Landsat Program.—Of the funds provided for research, development, test, and evaluation for the Defense Agencies for fiscal years 1988 and 1989, funds shall be provided to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence to be used for LANDSAT data acquisition and for development of LANDSAT satellites numbers 6 and 7 (including launch costs) as follows:

(1) For fiscal year 1988, $25,000,000.

(2) For fiscal year 1989, $45,000,000.

(c) University Research Initiatives.—Of the funds available under section 201 for the Defense Agencies, $200,000,000 is available only for the University Research Initiatives (URI) program in fiscal year 1988 and $210,000,000 is available only for that program in fiscal year 1989.

(d) Semiconductor Manufacturing Technology.—Of the funds provided under section 201 for the Defense Agencies for fiscal year 1988, $15,000,000 shall be available only for semiconductor manufacturing technology in addition to other amounts authorized for such purpose. The amount provided in section 201 for the Defense Agencies for fiscal year 1988 is hereby increased by $15,000,000.

SEC. 209. ADVANCED TACTICAL FIGHTER AIRCRAFT.

Funds appropriated for fiscal year 1988 may not be used for the Advanced Tactical Fighter aircraft program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives written certification that the prototype aircraft will include all physical and structural modifications necessary to satisfy fully the requirements of the Navy concerning aircraft carrier catapults and arresting gear.

SEC. 210. ELECTRONIC WARFARE PROGRAMS.

(a) Funding.—(1) Of the funds authorized to be appropriated by this title for fiscal year 1988, not more than $443,347,000 shall be for electronic warfare programs, to be appropriated to the Secretary of Defense and allocated as provided in subsection (b).

(2) None of such funds may be appropriated to the Secretary of a military department for electronic warfare programs.

(b) Allocation of Funds.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall allocate among the military departments funds appropriated for fiscal year 1988 for electronic warfare programs in such manner as the Secretary determines appropriate.

(c) Submission of Master Plan.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed master plan for electronic warfare programs. Such plan shall—

(1) describe joint service electronic warfare programs that will satisfy electronic warfare requirements against the current and future threat; and

(2) identify those electronic warfare systems that will be terminated.

(d) Obligation Limitation.—Not more than 50 percent of the funds allocated to each of the military departments under subsection (b) may be obligated or expended for electronic warfare programs until the report required by subsection (c) is submitted to the Committees on Armed Services of the Senate and House of Representatives and a period of 15 legislative days has expired.

SEC. 211. TECHNOLOGY BASE PROGRAMS.

Of the funds authorized in section 201, the following amounts are available only for technology base programs:

(1) For the Army:

(A) $790,399,000 of funds authorized for fiscal year 1988.

(B) $850,300,000 of funds authorized for fiscal year 1989.

(2) For the Navy:

(A) $784,920,000 of funds authorized for fiscal year 1988.

(B) $894,426,000 of funds authorized for fiscal year 1989.

(3) For the Air Force:

(A) $776,409,000 of funds authorized for fiscal year 1988.

(B) $876,233,000 of funds authorized for fiscal year 1989.

SEC. 212. CONVENTIONAL DEFENSE INITIATIVE.

(a) In General.—In this Act, Congress continues the program of Conventional Defense Initiatives begun in Public Law 99-661 to provide an emphasis on improving the conventional weapons of the Armed Forces (and the testing of such weapons) and to enhance cooperation with the other member nations of the North Atlantic Treaty Organization and other major non-NATO allies. The initiative is intended to improve the fighting power and survivability of the combat forces of the United States and to raise the threshold for nuclear war.

(b) Army.—Of the funds authorized in section 201 for the Army for fiscal year 1988, $136,100,000 is available only for the Conventional Defense Initiative, of which—

(1) $500,000 is available only for the Ammunition Containerization Development,

(2) $5,000,000 is available only for Guard and Reserve unique research and development,

(3) $8,000,000 is available only for the Combat Vehicle Support Systems program,

(4) $10,000,000 is available only for Milan II evaluation and $10,000,000 is available only for Bofars Bill evaluation,

(5) $600,000 is available only for the Chemical Mask Improved Drinking system program,

(6) $13,000,000 is available only for Multi-Purpose Assault Weapon evaluation,

(7) $9,000,000 is available only for the Combat Diesel Engine program,

(8) $5,000,000 is available only for Ardvark/LVS integration,

(9) $10,000,000 is available only for Recovery Vehicle ARV-90 development, and

(10) $3,000,000 is available only for the evaluation of the Weasel.

(c) Navy.—Of the funds authorized in section 201 for the Navy for fiscal year 1988, $78,600,000 is available only for the Conventional Defense Initiative, of which—

(1) $50,000,000 is available for the Laser Communication development program,

(2) $6,000,000 is available only for the Electro-Magnetic Catapult program,

(3) $8,000,000 is available for the Autonomous Piloted aircraft program,

(4) $8,600,000 is available only for the Acoustic Video Processor program,

(5) $5,000,000 is available only for the Ring Laser Gyro program, and

(6) $1,000,000 is available only for the evaluation of small rotary engines for use in unmanned aircraft vehicles.

(d) Air Force.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $84,000,000 is available only for the Conventional Defense Initiative, of which—

(1) $70,000,000 is available for a classified aircraft program,

(2) $4,000,000 is available only for an Advanced Tactical Transport system program,

(3) $8,000,000 is available only for Popeye evaluation, and

(4) $2,000,000 is available only for an activated metals program.

SEC. 213. PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY.

During fiscal year 1988, the Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships (EMPRESS).

SEC. 214. SPECIFICATION OF FUNDS FOR TESTING ACTIVITIES.

The amount provided in section 201 for the activities of the Deputy Under Secretary of Defense, Test and Evaluation, is hereby increased by $24,432,000. Of such amount—

(1) $75,238,000 is available only for the Development, Test and Evaluation program, of which—

(A) $14,979,000 is available only for the Joint Live Fire project, of which $6,000,000 is available only for foreign equipment assets testing; and

(B) $7,842,000 is available only for the Test and Evaluation Independent Activities project;

(2) $10,800,000 is available only for the Live Fire Testing program; and

(3) $12,928,000 is available only for the Joint Technical Coordinating Group for the Aircraft Survivability program.

Part B—Strategic Defense Initiative

SEC. 221. FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE.

(a) Amount Authorized.—Of the amounts authorized in section 201 for fiscal year 1988, not more than $2,846,000,000 is available for the Strategic Defense Initiative (SDI) program of the Department of Defense and the Advanced Launch System and the Boost Surveillance Tracking Satellite programs of the Air Force.

(b) Specified Activities.—Of the funds available for the Strategic Defense Initiative program under subsection (a)—

(1) $25,000,000 is available only for the study of a ground-based defense system for use in defense against accidental launch of strategic ballistic missiles; and

(2) $75,000,000 is available only for a classified laser program.

SEC. 222. REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT COSTS.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the total cost to develop, produce, deploy, operate, and maintain the missile defense system described in the 1987 report entitled "Report of the Technical Panel on Missile Defense in the 1990s" prepared by the George C. Marshall Institute.

(b) Deadline for Report; Classification.—The report shall be submitted no later than six months after the date of the enactment of this Act and shall be submitted in unclassified form.

SEC. 223. ANNUAL REPORT ON STRATEGIC DEFENSE INITIATIVE BUDGET.

(a) Report Requirement.—Not later than March 1 each year, the Secretary of Defense shall submit to Congress a report on the budget for the Strategic Defense Initiative for each of the next two fiscal years. Each such report shall provide—

(1) a detailed breakdown of that budget (by program element, project, and task) for each of the fiscal years covered by the report;

(2) a descriptive summary of each program element of the Strategic Defense Initiative for each of the fiscal years covered by the report; and

(3) the total funding for the Strategic Defense Initiative planned for each year of the current five-year defense plan.

(b) Classification of Report.—The report under subsection (a) shall be submitted in both an unclassified form and a classified form.

SEC. 224. LIMITATION ON ABM SYSTEMS.

(a) Limitation.—Funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended to develop, test, or deploy an antiballistic missile (ABM) system or component which is sea-based, air-based, space-based, or mobile land-based.

(b) Removal of Limitation.—The limitation in subsection (a) shall cease to apply if the President certifies to the Congress—

(1) that he has notified the Soviet Union that extraordinary events related to the subject matter of the limitation in subsection (a) have jeopardized the supreme interests of the United States, necessitating United States actions inconsistent with the limitation of subsection (a), and

(2) that such notification to the Soviet Union included a statement of the extraordinary events he regards as having jeopardized the supreme interests of the United States.

SEC. 225. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR.

(a) Findings.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long leadtime element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missle early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) Sense of Congress.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 226. PROHIBITION ON DEPLOYMENT OF ANTIBALLISTIC MISSILE SYSTEM UNLESS AUTHORIZED BY LAW.

The Secretary of Defense may not deploy any antiballistic missile system unless such deployment is specifically authorized by law after the date of the enactment of this Act.

SEC. 227. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION.

Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to the Soviet Union by the United States (or with the consent of the United States) unless—

(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

(2) Congress approves that determination by a joint resolution.

SEC. 228. SENSE OF CONGRESS REGARDING THE STRATEGIC DEFENSE INITIATIVE.

(a) Findings.—The Congress finds the following:

(1) The Strategic Defense Initiative program (hereinafter referred to in this section as the "SDI program") has made substantial progress in identifying the research and technology development that must be completed to be able to specify and define an effective ballistic missile defense system.

(2) The Secretary of Defense has in the last two years proposed to expand the scope of the SDI program to include demonstration projects and plans for early deployment that deviate from and that may be detrimental to the objectives of the program.

(3) The Secretary of Defense has not submitted plans and supporting data sufficient for the Congress to understand how the SDI program will progress toward its objectives year by year and phase by phase.

(4) While it is impractical to accurately estimate the ultimate architecture, cost, or effectiveness of a ballistic missile defense system at this time, Congress and the Secretary of Defense must reach a mutual agreement on the plans, funding levels, and the probable time period needed to achieve the research and technology development referred to in paragraph (1) in order for the SDI program to be run in an efficient and economic manner, to attract and hold top scientific talent, and to achieve the objectives outlined in the President's address of March 23, 1983.

(b) Sense of Congress.—It is the sense of Congress that—

(1) vigorous research and technology development that could lead to the creation of a strategic defense system which would make the security of the United States less dependent on the decisions of the Soviet leadership to employ nuclear weapons, in consonance with the objectives outlined in the President's address of March 23, 1983, should continue to be supported by the Congress;

(2) such research and technology development would provide the technical knowledge required to support an informed decision in the early 1990's on whether or not to develop and deploy a ballistic missile defense system for the United States and its allies capable of achieving the President's objectives;

(3) funding for the SDI program should not be increased in any substantial way over the foreseeable future until the Congress is convinced that plans which call for an increased level of funding are feasible and consistent with the objectives of the program;

(4) the Secretary of Defense should develop a plan which provides for a first phase of the SDI program (the research and technology development phase) and provides for that phase a description of necessary research and technology development, its annual cost, and its time of completion, which would be defined as the time when subsequent phases can be defined and described and estimates can be made of their cost, timing, and effectiveness; and

(5) the Secretary of Defense should annually submit by March 1, beginning with March 1, 1988, a report in classified and unclassified form describing the progress made in SDI research and technical development activity and containing any recommended revisions of the plan referred to in paragraph (4).

SEC. 229. PROHIBITION AGAINST CERTAIN CONTRACTS.

(a) In General.—Funds appropriated to or for the use of the Department of Defense for any fiscal year pursuant to an authorization contained in this or any other Act may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) Temporary Suspension of Prohibition Upon Certification of the Secretary of Defense.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) Exceptions for Certain Contracts.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract was entered into before the date of the enactment of this Act; or

(2) the contract is to be performed within the United States; or

(3) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems.

(d) DEFINITIONS.—In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

SEC. 230. PURPOSES OF SDI PROGRAM.

(a) PURPOSES.—The purpose of the Strategic Defense Initiative is to carry out research, development, testing, and evaluation and the engineering and production of technology and systems in order to provide strategic defense for the United States and its allies against nuclear and conventional armed missiles.

(b) ANNUAL REPORT.—The Secretary of Defense shall include in the Secretary's annual report to Congress under section 113(c) of title 10, United States Code, a review of Strategic Defense Initiative systems, including progress on such systems, and specifically describing progress toward deployment of such systems.

SEC. 231. REAFFIRMATION OF UNITED STATES RIGHT OF SELF DEFENSE.

The United States hereby reaffirms its right under the Constitution of the United States and International Law to defend and protect its citizens and its territory from ballistic missile attack through the deployment of ballistic missile defenses.

PART C—ADVANCED ANTI-TACTICAL BALLISTIC MISSILE PROJECTS

SEC. 235. DEMONSTRATION PROJECTS UNDER SDI PROGRAM.

(a) FUNDING.—Of the funds provided for the Strategic Defense Initiative program for fiscal year 1988, $73,000,000 shall be available only for experiments and demonstration projects relating to antitactical ballistic missile (ATBM) systems. Such experiments and demonstration projects shall be conducted within 3 years after the date of the enactment of this Act.

(b) DEMONSTRATION PROJECTS.—(1) Such projects shall include exploration of the potential for anti-ballistic missile purposes of—

(A) terminal defense missiles,

(B) hypervelocity kinetic energy weapons, and

(C) high energy laser components.

(2) To the maximum extent practical, such projects should also include exploration of battle management and command, control, communications, and intelligence requirements for system architectures for an antitactical ballistic missile.

(c) COOPERATION WITH ALLIES.—Such projects shall be conducted on a matching fund cooperative program basis with United States allies that have signed Memoranda of Understanding (MOU's) for participation in the Strategic Defense Initiative program.

SEC. 236. ARMY PROGRAM.

Of the funds authorized in section 201 for the Army, $50,000,000 is available only for the joint development and deployment, on a matching fund cooperative program basis, of an Anti-Tactical Ballistic Missile (ATBM) system with United States allies. Such system shall be designed to be no less capable than the SA-X-12 system of the Soviet Union.

PART D—MISCELLANEOUS

SEC. 241. COOPERATIVE MEDICAL RESEARCH WITH THE VETERANS' ADMINISTRATION.

Of the amount authorized in section 201 for the Defense Agencies, $25,000,000 is available only for Cooperative Medical research to be administered by the Secretary of Defense and the Administrator of Veterans' Affairs.

SEC. 242. LINCOLN LABORATORY IMPROVEMENT PROJECT.

(a) MODERNIZATION AND EXPANSION PROJECT.—The Secretary of the Air Force is authorized to enter into a contract with the Massachusetts Institute of Technology necessary to carry out the activities of the Lincoln Laboratory.

(b) PROJECT COST AND DURATION.—The amount obligated under the contract for the modernization and expansion project may not exceed $135,000,000. The project shall be completed in not more than 12 years. Costs incurred under the contract may include costs of financing charges (including financing charges on amounts provided by the Massachusetts Institute of Technology for the project), but may not include a fee or profit for the Massachusetts Institute of Technology or for Lincoln Laboratory.

(c) FUNDING.—Payments under a contract under subsection (a) shall be made from appropriations available to the Secretary of the Air Force for research, development, test, and evaluation for the year for which the contract requires the payment to be made.

(d) TITLE.—Title to the facilities, and to associated equipment, funded by such contract shall be conveyed to the United States upon completion of the project and acceptance of the facilities by the Secretary.

(e) USE OF FACILITIES.—The right of the Massachusetts Institute of Technology to use such facilities and equipment shall be as provided by contracts with the United States.

(f) BUDGET ACT.—The authority of the Secretary of the Air Force to enter into a contract under subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 243. FUNDS FOR COOPERATIVE PROJECTS WITH MAJOR NON-NATO ALLIES.

Of the funds appropriated pursuant to the authorizations of appropriations for fiscal year 1988 in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies under section 1105 of the Department of Defense Authorization Act, 1987 (division A of Public Law 99-961).

SEC. 244. HIGH-SPEED PATROL BOAT.

The Secretary of the Navy is encouraged to (1) evaluate a new 80-foot reconnaissance assault and missile boat that has been designed to project power in coastal, harbor, river, and island waterways and on closed seas, and (2) consider procuring a prototype of such boat for extensive testing and evaluation. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives any report on the evaluation of any such boat.

SEC. 245. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM.

Of the funds appropriated for the Army for fiscal year 1988 for research, development, test, and evaluation, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 246. ANTI-ARMOR WEAPONS TESTING.

(a) TESTS.—In order to correct the lack of close-in individual solder or squad-level tank killing capability, the Secretary of Defense shall conduct a comparative operational test of shoulder-fired squad-level anti-tank weapons comparing, at a minimum, the following existing weapons:

(1) The German Panzerfaust III.

(2) The Swedish AT-4 (or United States variant).

(3) The United Kingdom LAW 80.

(4) The French Apilas.

(5) The French Strim.

(6) The United States Marine Corps SMAW.

(7) The Israel B-300.

(8) The United States 3.5 inch rocket launcher with modern Belgian ammunition.

(b) TEST SPECIFICATIONS.—The tests shall include maximum rate-of-kill firings against realistic, moving, company-size or larger tank target arrays by pairs of operational, average-skill gunners (with an assistant gunner for each). Each target array shall be presented over realistic European-type terrain on courses unfamiliar to every gunner, with large distances varying from 30 to 300 meters. Each pair of gunners shall have available to them for firing in each target array presentation the number of anti-tank rounds that would normally be carried by foot by a combat-loaded rifle squad. Total anti-tank system weight for the squad (launchers, ammunition, and accessories) shall not exceed 70 pounds. Gunners shall be thoroughly trained in each weapon using live ammunition firings.

(c) USE OF SOVIET TANKS.—The tests shall compare the weapons for lethality, under the supervision of the Joint Live Fire Test program, against actual combat-loaded Soviet tanks.

(d) REPORTS.—The Secretary of the Army, the Secretary of the Navy (with respect to the Marine Corps), the Army National Guard, and the Office of the Secretary of Defense shall each submit to Congress independent and uncoordinated reports addressing—

(1) the adequacy of the tests,

(2) the firing results, and

(3) a recommended best weapon.

SEC. 247. ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTISATELLITE WEAPONS.

(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

TITLE III—OPERATION AND MAINTENANCE

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1988 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

For the Army, $20,661,994,000.

For the Navy, $23,787,230,000.
For the Marine Corps, $1,875,067,000.
For the Air Force, $19,894,482,000.
For the Defense Agencies, $7,330,307,000.
For the Army Reserve, $855,803,000.
For the Naval Reserve, $951,215,000.
For the Marine Corps Reserve, $70,261,000.
For the Air Force Reserve, $1,020,457,000.
For the Army National Guard, $1,896,552,000.
For the Air National Guard, $1,984,192,000.
For the National Board for the Promotion of Rifle Practice, $4,099,000.
For Defense Claims, $193,574,000.
For the Court of Military Appeals, $3,461,000.
For Environmental Restoration, Defense, $392,800,000.
For Military Health Care, $2,116,800,000.

(b) General Authorization for Contingencies.—There are authorized to be appropriated, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1988 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds, in amounts as follows:

For the Army Stock Fund, $193,207,000.
For the Navy Stock Fund, $329,400,000.
For the Air Force Stock Fund, $226,007,000.
For the Defense Stock Fund, $132,600,000.

SEC. 303. LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENT ITEMS.

Funds appropriated for fiscal year 1988 for operation and maintenance of the Department of Defense may not be used to purchase any item with a unit cost of $5,000 or more if purchases of such item during fiscal year 1987 were chargeable to appropriations made to the Department of Defense for procurement.

SEC. 304. AVAILABILITY OF UNITED STATES PRODUCTS AT DEFENSE PACKAGE STORES OVERSEAS.

(a) Treatment of Wines.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2489. Overseas package stores: treatment of United States wines

"(a) General Rule.—The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a package form (commonly referred to as a 'package store') that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.

"(b) Annual Report.—The Secretary shall submit to Congress an annual report on the implementation of this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2489. Overseas package stores: treatment of United States wines.".

(b) Regulations Deadline.—(1) The Secretary of Defense shall prescribe regulations to implement section 2489 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(2) Not later than 180 days after such date of enactment, the Secretary shall submit to Congress a report on the implementation of such section and of the regulations prescribed under paragraph (1).

(c) Initial Report.—The first report under subsection (b) of such section shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 305. NONAPPROPRIATED-FUND BEER AND WINE PURCHASES.

(a) Purchases From Sources Within State.—Section 2488(a)(2) of title 10, United States Code, is amended by striking out "purchased for resale on a military installation located in the contiguous States".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to purchases of malt beverages and wine after the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 306. PRICING AT COMMISSARY STORES.

(a) In General.—(1) Section 2486 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary of Defense shall prescribe regulations establishing uniform pricing policies for merchandise authorized for sale by this section. The policies in the regulations shall—

"(1) require the establishment of a sales price of each item of merchandise at a level which will recoup the actual product cost of the item (consistent with this section and sections 2484 and 2685 of this title); and

"(2) promote the lowest practical price of merchandise sold at commissary stores.".

(2) The heading for section 2486 of such title is amended to read as follows:

"§ 2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing"

(3) The item relating to section 2486 in the table of sections at the beginning of such chapter is amended to read as follows:

"2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.".

(b) Regulations Deadline.—The Secretary of Defense shall prescribe the regulations required by section 2486(d) of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(c) Conforming Amendments.—(1) Sections 4621 and 9621 of such title are each amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively.

SEC. 307. LIMITATIONS ON ARMY DEPOT MAINTENANCE FUNDING AND CIVILIAN PERSONNEL.

(a) Army Depot Maintenance.—Of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1988 for operation and maintenance, not less than $1,031,000,000 shall be available for Army depot maintenance functions performed by civilian personnel of the Army.

(b) Civilian Personnel Strength.—During fiscal year 1988, the average level of civilian personnel under the Army Materiel Command who are performing Army depot maintenance functions shall be not less than 20,500 persons.

SEC. 308. PROHIBITION ON MANAGING CIVILIAN PERSONNEL BY END STRENGTHS.

(a) Prohibition on Management by End Strength.—Section 129(a) of title 10, United States Code, is amended—

(1) by inserting "and" before "(2)";

(2) by striking out ", and (3)" and all that follows through "such fiscal year"; and

(3) by striking out the period at the end of the second sentence and inserting in lieu thereof "or any constraint or limitation (known as an 'end-strength') on the number of such personnel who may be employed on the last day of such fiscal year.".

(b) Elimination of Requirement That Civilian Personnel End Strengths Be Authorized By Law.—Section 115(b) of such title is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2) and in subparagraph (A) of that paragraph—

(A) by striking out "annual" before "active duty" the first place it appears in the first sentence;

(B) by striking out "the annual civilian personnel end strength level" in the first sentence and inserting in lieu thereof "projecting civilian personnel strength levels";

(C) by striking out "next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year" and inserting in lieu thereof "next fiscal year. The Secretary shall include in that report justification for the strength levels recommended for active duty end strengths and projected for civilian personnel and an explanation of the relationship between such strength levels";

(3) by redesignating paragraph (4) as paragraph (3) and in that paragraph striking out "or civilian"; and

(4) by redesignating paragraph (5) as paragraph (4).

SEC. 309. REPORT ON OPERATING AND SUPPORT COSTS OF MAJOR WEAPONS SYSTEMS.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the operating and support costs of major weapons systems of the Department of Defense.

(b) Matters To Be Included in Report.—The Secretary shall include in the report required by subsection (a) the following:

(1) An explanation of the reasons why there is a positive correlation between the increase in dollar value of major weapons systems of the Department of Defense and the increase in operating and support costs of the Department, including—

(A) how or whether the programming and budget process has contributed to the relationship; and

(B) how the relationship applies at more detailed levels.

(2) An examination of the link between operating and support costs and readiness of the Department of Defense.

(3) An examination of the feasibility of providing Congress an annual report on the operating and support costs of each major weapon system.

(4) Identification of the specific budget accounts and appropriations which cover the operation and support costs for the major weapons systems.

(5) An examination of the feasibility of treating the operation and support costs of each major weapon system as overhead of the weapon system, to be automatically included in the budget and appropriation for such weapon system.

(c) DEADLINE.—The report required by subsection (a) shall be submitted not later than February 1, 1988.

SEC. 310. FUNDING LIMITATION AND STUDY ON DUAL SOURCE MAINTENANCE FOR F-15 AIRCRAFT.

(a) FUNDING LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1988 may be used to establish a second source of maintenance for the F-15 aircraft at McClellan Air Force Base.

(b) STUDY REQUIREMENT.—The Secretary of Defense shall conduct a study on contracting for maintenance of the F-15 aircraft from more than one source for the purposes of determining—

(1) the cost of establishing a second source of maintenance for the F-15 aircraft at McClellan Air Force Base, Sacramento, California;

(2) the future growth of the F-15 aircraft maintenance workload; and

(3) whether a second source of maintenance for the F-15 aircraft is necessary.

(c) REPORT TO CONGRESS.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, by September 1, 1988, a report on the study required by subsection (b). The report shall include the findings of the study and the Secretary's recommendations on whether a second source of maintenance for the F-15 aircraft should be established.

SEC. 311. REPORT ON EFFORTS TO MEASURE READINESS.

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of Department of Defense efforts to—

(1) identify and measure readiness of the Department of Defense; and

(2) relate such identification and measurement to the budget process.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than February 1, 1988.

SEC. 312. EXTENSION OF AUTHORIZATION FOR CERTAIN HUMANITARIAN ASSISTANCE.

(a) TRANSPORTATION OF RELIEF SUPPLIES TO AFGHAN REFUGEES.—Section 305(a)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), is amended by striking out "for fiscal year 1986 the sum of $10,000,000 and for fiscal year 1987" and inserting in lieu thereof "for each of fiscal years 1986, 1987, and 1988".

(b) TRANSPORTATION OF RELIEF SUPPLIES TO CERTAIN COUNTRIES.—Section 1540(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525), is amended by striking out "fiscal year 1987" and inserting in lieu thereof "fiscal years 1987, 1988, and 1989".

SEC. 313. REPEAL OF REQUIREMENT TO PAY CERTAIN EXPENSES INCIDENTAL TO VOLUNTEER SERVICES FROM NONAPPROPRIATED FUNDS.

The last sentence of section 1588(c) of title 10, United States Code, is hereby repealed.

SEC. 314. AUTHORITY TO PROVIDE FREE SHUTTLE SERVICE FOR MEMBERS AND FAMILIES IN REMOTE AREAS.

(a) IN GENERAL.—Section 2632 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In the case of a military installation located in a remote area (as determined by the Secretary concerned), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

"(1) may waive the requirement for a fare for transportation under subsection (a); and

"(2) may provide such transportation to persons attached to, or employed in, that department and dependents of such persons.".

(b) REGULATIONS.—The regulations described in section 2632(e) of such title, as added by subsection (a), shall be prescribed no later than 30 days after the date of the enactment of this Act.

SEC. 315. ALTERATION, OVERHAUL, AND REPAIR OF NAVAL VESSELS AND AIRCRAFT IN PUBLIC AND PRIVATE FACILITIES.

The proviso beginning with *"Provided further"* and ending with "Circular A-76" in the paragraph with the heading "Operation and Maintenance, Navy" in title II of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is repealed.

SEC. 316. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF MAINTENANCE FUNCTIONS AT CERTAIN ARMY DEPOTS.

(a) PROHIBITION.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance by contractor personnel of any maintenance function at the following Army depots:

(1) Anniston Army Depot, Anniston, Alabama.

(2) Corpus Christi Army Depot, Corpus Christi, Texas.

(3) Crane Army Ammunition Plant, Crane, Indiana.

(4) Fort Wingate Army Depot, Gallup, New Mexico.

(5) Letterkenny Army Depot, Letterkenny, Pennsylvania.

(6) Lexington-Blue Grass Army Depot, Lexington, Kentucky.

(7) McAlester Army Ammunition Plant, McAlester, Oklahoma.

(8) New Cumberland Army Depot, Harrisburg, Pennsylvania.

(9) Pueblo Army Depot, Pueblo, Colorado.

(10) Red River Army Depot, Texarkana, Texas.

(11) Rock Island Arsenal, Rock Island, Illinois.

(12) Watervliet Arsenal, Watervliet, New York.

(13) Sacramento Army Depot, Sacramento, California.

(14) Savanna Army Depot, Savanna, Illinois.

(15) Seneca Army Depot, Romulus, New York.

(16) Sharpe Army Depot, Stockton, California.

(17) Sierra Army Depot, Herlong, California.

(18) Tobyhanna Army Depot, Tobyhanna, Pennsylvania.

(19) Toole Army Depot, Toole, Utah.

(20) Umatilla Army Depot, Umatilla, Oregon.

(b) EXCEPTION.—The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is under contract for performance by contractor personnel.

SEC. 317. AUTHORITY FOR CONTRACTORS TO SETTLE CLAIMS RELATING TO MOVEMENT OF HOUSEHOLD GOODS DIRECTLY WITH OWNERS OF GOODS.

(a) AUTHORITY TO SETTLE CLAIMS.—The Secretary of Defense shall provide that, in the case of a covered household goods claim arising out of a shipment within the United States of household goods having a weight in excess of 2,000 pounds, the contractor may settle the claim directly with the member of the Armed Forces concerned. If the contractor and the member concerned do not reach an amicable settlement of the claim, the claim shall be determined in accordance with otherwise applicable laws and regulations.

(b) COVERED CLAIMS.—For purposes of subsection (a), a covered household goods claim is a claim by a member of the Armed Forces against a contactor described in subsection (c) for loss or damage of the member arising from the shipment by the contractor of household goods belonging to the member.

(c) CONTRACTORS COVERED.—Subsection (a) applies to a contractor under contract with the Department of Defense for the shipment of household goods belonging to members of the Armed Forces.

(d) UNITED STATES DEFINED.—For purposes of this section, the term "United States" means the States and the District of Columbia.

(e) EFFECTIVE DATE.—Subsection (a) applies with respect to claims arising after April 30, 1987.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1988, as follows:

(1) The Army, 780,900.

(2) The Navy, 592,200.

(3) The Marine Corps, 199,600.

(4) The Air Force, 598,700.

SEC. 402. STRENGTH OF ACTIVE-DUTY OFFICER CORPS.

(a) ONE-YEAR DELAY IN REQUIRED PERCENTAGE REDUCTIONS.—The table in section 403(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), is amended—

(1) by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1989"; and

(2) by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) GAO STUDY.—(1) The Comptroller General shall conduct a study of the growth since 1980 in the size of the active-duty officer corps and how that growth relates to requirements of the Armed Forces for commissioned officers on active duty. The study shall particularly examine those requirements in light of the reductions required by section 403(a) of Department of Defense Authorization Act, 1987, and shall consider alternatives for reducing the number of officers on active duty with the minimum effect on readiness.

(2) The Comptroller General shall submit a report on the study under paragraph (1) to the Committees on Armed Services of the Senate and House of Representatives not later than December 31, 1987. The report shall identify legislative changes that would be necessary to implement required officer strength reductions under alternative pro-

posals recommended by the Comptroller General.

SEC. 403. FUNDS SAVINGS.

Amounts authorized to be appropriated for fiscal year 1988 for military personnel of the Department of Defense are reduced, by reason of savings attributable to reductions during fiscal year 1987 in the number of commissioned officers on active duty required by section 403(a) of Department of Defense Authorization Act, 1987 (Public Law 99-661), as follows:

(1) For "Military Personnel, Army", $49,438,000.

(2) For "Military Personnel, Navy", $46,461,000.

(3) For "Military Personnel, Air Force", $50,057,000.

(4) For "Military Personnel, Marine Corps", $9,080,000.

Part B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) In General.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as of September 30, 1988, as follows:

(1) The Army National Guard of the United States, 457,270.

(2) The Army Reserve, 327,645.

(3) The Naval Reserve, 155,404.

(4) The Marine Corps Reserve, 42,800.

(5) The Air National Guard of the United States, 113,429.

(6) The Air Force Reserve, 79,562.

(7) The Coast Guard Reserve, 14,000.

(b) Waiver Authority.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 5 percent.

(c) Adjustments.—The end strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) In General.—Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1988, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.

(2) The Army Reserve, 13,329.

(3) The Naval Reserve, 21,476.

(4) The Marine Corps Reserve, 1,745.

(5) The Air National Guard of the United States, 7,631.

(6) The Air Force Reserve, 665.

(b) Waiver Authority.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 5 percent.

SEC. 413. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) Senior Enlisted Members.—The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	589	201	163	18
E-8	2,406	404	488	74".

(b) Officers.—The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,191	1,000	615	115
Lieutenant Colonel or Commander	1,376	520	422	75
Colonel or Navy Captain	348	188	184	25".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1987.

Part C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) In General.—For fiscal year 1988, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 82,503.

(2) The Navy, 68,993.

(3) The Marine Corps, 20,341.

(4) The Air Force, 38,574.

(5) The Army National Guard of the United States, 18,501.

(6) The Army Reserve, 15,075.

(7) The Naval Reserve, 2,841.

(8) The Marine Corps Reserve, 3,970.

(9) The Air National Guard of the United States, 2,508.

(10) The Air Force Reserve, 1,968.

(b) Adjustments.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

TITLE V—MILITARY PERSONNEL

SEC. 501. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.

Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 502. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) Grade Determination Authority for Reserve Medical Officers.—Sections 3359(b) and 8359(b) of title 10, United States Code, are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) Promotion Authority for Certain Reserve Officers Serving on Active Duty.—Sections 3380(d) and 8380(d) of such title are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(c) Years of Service for Mandatory Transfer to the Retired Reserve.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 503. EXTENSION OF SINGLE-PARENT ENLISTMENT AUTHORITY IN RESERVE COMPONENTS.

Section 523(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3871), is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1990".

SEC. 504. AUTHORITY TO AWARD DEGREE OF MASTER OF LAWS IN MILITARY LAW.

(a) Army Judge Advocate General's School.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4315. The Judge Advocate General's School: master of laws in military law

"Under regulations prescribed by the Secretary of the Army, the Commandant of the Judge Advocate General's School of the Army may, upon recommendation by the faculty of such school, confer the degree of master of laws (LL.M.) in military law upon graduates of the school who have fulfilled the requirements for that degree.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4315. The Judge Advocate General's School: master of laws in military law.".

SEC. 505. WITHHOLDING OF STATE AND LOCAL INCOME TAXES FOR NATIONAL GUARD AND RESERVE DRILL PAY.

Subchapter II of chapter 55 of title 5, United States Code, is amended—

(1) by striking out "do not" in section 5517(d); and

(2) by inserting "(other than service described in section 5517(d) of this title)" in the third sentence of section 5520(a) after "Armed Forces".

SEC. 506. ONE-YEAR DELAY IN MINIMUM PERCENTAGE OF AIR FORCE ENLISTEES REQUIRED TO BE WOMEN.

Section 551(a) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 8251 note), is amended by striking out "fiscal year 1988" and inserting in lieu thereof "fiscal year 1989".

SEC. 507. PROHIBITION OF CERTAIN INTERAGENCY FUNDS TRANSFERS.

The Secretary of Defense (or Secretary of a military department) may not use funds appropriated to the Department of Defense for fiscal year 1988 or fiscal year 1989 to make deposits or payments under section 229(b) of the Social Security Act (42 U.S.C 429(b)) or for any other purpose in connection with that section.

SEC. 508. STUDY OF WARTIME MOBILIZATION REQUIREMENTS OF THE COAST GUARD.

(a) 10-Year Plan.—The Secretary of Transportation shall submit to Congress a plan to enable the Coast Guard to meet 95 percent of its wartime mobilization requirements by September 30, 1998. Such plan shall include recommendations with respect to—

(1) annual increases in authorized end strengths for Coast Guard Selected Reserve personnel;

(2) recruiting and training resources; and

(3) equipment and other logistic support necessary to enable the Coast Guard to meet that requirement.

(b) DEADLINE.—The plan required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 509. WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM.

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

"§ 774. Religious apparel: wearing while in uniform

"(a) GENERAL RULE.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) EXCEPTIONS.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) in circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the member's military duties; or

"(2) if the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) REGULATIONS.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) RELIGIOUS APPAREL DEFINED.—In this section, the term 'religious apparel' means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.
"775. Applicability of chapter.".

(c) REGULATIONS.—The Secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

SEC. 510. MILITARY EDUCATION PROGRAM FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS.

(a) RELATIONSHIP TO MILITARY PROMOTIONS.—A civilian technician of the Army National Guard who is unable to complete required training under the Military Education Program for civilian technicians of the Army National Guard established on August 1, 1985, may not be denied a military promotion by reason of the failure to complete such training if the reason for such failure was lack of availability of training spaces.

(b) REPORT.—Not later than February 15, 1988, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Military Education Program referred to in subsection (a). The report shall describe—

(1) the cost effectiveness of the program;

(2) the effect of the program on readiness; and

(3) the effect of the program on the sick leave, annual leave, and other benefits of civilian technicians of the Army National Guard and any resulting effect on their morale.

SEC. 511. REMOVAL OF MILITARY DEPARTMENT CEILINGS ON NUMBER OF ROTC SCHOLARSHIPS.

Section 2107(h) of title 10, United States Code, is amended to read as follows:

"(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1988.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

(b) THREE PERCENT INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1988.

(c) THREE PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out "$494.40" and inserting in lieu thereof "$509.23".

PART B—TRAVEL AND TRANSPORTATION

SEC. 611. TRANSPORTATION ALLOWANCE TO ENCOURAGE VOLUNTARY EXTENSIONS OF TOURS OF DUTY IN FOREIGN COUNTRIES.

(a) IN GENERAL.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who—

"(1) is stationed outside the United States; and

"(2) voluntarily agrees to extend his overseas tour of duty for a period equal to at least one-half of the overseas tour prescribed for his permanent duty station; is entitled to the transportation allowance described in subsection (b) for himself and each dependent who is authorized to, and does, accompany him.

"(b) The transportation allowance authorized by subsection (a) is an allowance provided in connection with authorized leave for transportation—

"(1) from a member's permanent duty station to a place approved by the Secretary concerned (or his designee) and from that place to his permanent duty station; or

"(2) from a member's permanent duty station to a place no farther distant than his home of record (if he is a member without dependents) and from that place to his permanent duty station.

"(c) The transportation allowance authorized by this section may not be provided to an enlisted member who, with respect to an extension of duty described in subsection (a)—

"(1) elects to receive special pay under section 314 of this title for duty performed during such extension of duty; or

"(2) elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 for such extension of duty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.".

(b) EFFECTIVE DATE.—Section 433 of title 37, United States Code, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 612. REPEAL OF CERTIFICATION REQUIREMENT TO IMPLEMENT LODGINGS PLUS PER DIEM AMENDMENTS.

(a) REPEAL OF CERTIFICATION REQUIREMENT.—Section 614 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3879), is amended—

(1) by striking out subsection (b); and

(2) by striking out "(a) IN GENERAL.—".

(b) EFFECTIVE DATE.—The amendments to section 404(d) of title 37, United States Code, made by section 614 of such Act shall apply with respect to travel performed after the end of the 90-day period beginning on the date of the enactment of this Act.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

SEC. 621. CAREER SEA PAY.

(a) IN GENERAL.—Section 305a of title 37, United States Code, is amended to read as follows:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

Pay grade	Years of sea duty						
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
E-4	$50	$60	$120	$150	$160	$160	$160
E-5	50	60	120	150	170	315	325
E-6	100	100	120	150	170	315	325
E-7	100	100	120	175	190	350	350

"ENLISTED MEMBERS—Continued

Pay grade	Years of sea duty						
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
E-8	100	100	120	175	190	350	350
E-9	100	100	120	175	190	350	350
	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13
E-4	$160	$160	$160	$160	$160	$160	$160
E-5	350	350	350	350	350	350	350
E-6	350	350	365	365	365	380	395
E-7	375	390	400	400	410	420	450
E-8	375	390	400	400	410	420	450
E-9	375	390	400	400	410	420	450
			Over 14	Over 16	Over 18		
E-4			$160	$160	$160		
E-5			350	350	350		
E-6			410	425	450		
E-7			475	500	500		
E-8			475	500	520		
E-9			475	520	520		

"WARRANT OFFICERS

Pay grade	Years of sea duty						
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
W-1	$130	$135	$140	$150	$170	$175	$200
W-2	150	150	150	150	170	260	265
W-3	150	150	150	150	170	270	280
W-4	150	150	150	150	170	290	310
	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13
W-1	$250	$270	$300	$325	$325	$340	$360
W-2	265	270	310	340	340	375	400
W-3	285	290	310	350	375	400	425
W-4	310	310	310	350	375	400	450
			Over 16	Over 18	Over 20		
W-1			$375	$375	$375		
W-2			400	400	400		
W-3			425	450	450		
W-4			450	500	500		

"OFFICERS

Pay grade	Years of sea duty					
		Over 3	Over 4	Over 5	Over 6	
0-1		$150	$160	$185	$190	
0-2		150	160	185	190	
0-3		150	160	185	190	
0-4		185	190	200	205	
0-5		225	225	225	225	
0-6		225	230	230	240	
	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12
0-1	$195	$205	$215	$225	$225	$240
0-2	195	205	215	225	225	240
0-3	195	205	215	225	225	240
0-4	215	220	220	225	225	240
0-5	230	245	250	260	265	265
0-6	255	265	280	290	300	310
		Over 14	Over 16	Over 18	Over 20	
0-1		$250	$260	$270	$280	
0-2		250	260	270	280	
0-3		260	270	280	290	
0-4		270	280	290	300	
0-5		285	300	315	340	
0-6		325	340	355	380	

"(c) Under regulations prescribed by the President, a member of a uniformed service, except for a member in pay grades E-5 through E-9 with more than five years of sea duty, who is entitled to career sea pay under this section and who has served 36 consecutive months of sea duty, is entitled to a career sea pay premium of $100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.

"(d)(1) For the purpose of determining the years of sea duty with which a member shall be credited under this section, the term 'sea duty' means duty performed by a member while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship or while serving as a member of the off-crew of a two-crewed submarine.

"(2) For the purpose of determining entitlement to career sea pay under this section, the term 'sea duty' means duty performed by a member—

"(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way or while serving as a member of the off-crew of a two-crewed submarine; or

"(B) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

A ship is considered away from its homeport for purposes of subparagraph (B) when it is at sea or in a port that is more than 50 miles from its homeport.".

(b) TRANSITION.—A member entitled to career sea pay during the 3-month period ending on the effective date of this section, at a rate higher than the rate established by this Act for the member's pay grade and years of sea duty, shall continue to receive the higher rate until such time as the member is permanently reassigned to duty for which the member is not entitled to the pay.

(c) EFFECTIVE DATE.—Section 305a of title 37, United States Code, as amended by subsection (a), shall take effect on October 1, 1987, except that—

(1) the amendments to the tables in section 305a(b) for members in pay grades above E-4 with five or more years of sea duty; and

(2) the amendments to section 305a(c),

may be effective on a different date if such date is no later than October 1, 1988, and is specified under regulations prescribed by the President.

SEC. 622. EXTENSION OF AVIATION OFFICER CONTINUATION PAY.

Section 301(b) of title 37, United States Code, is amended by striking out "September 30, 1987" in subsections (e)(2), (e)(3), and (f) and inserting in lieu thereof "September 30, 1989".

SEC. 623. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES.

(a) FIVE-YEAR EXTENSION OF ACTIVE-DUTY BONUSES.—Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1992".

(b) Three-Year Extension of Reserve Component Bonuses.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of such title are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1990".

Part D—Miscellaneous

SEC. 631. AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN.

(a) Authority To Withdraw.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

(2) An individual referred to in paragraph (1) is an individual who—

(A) is providing coverage for a spouse or for a spouse and child under the Plan; and

(B) remarried before March 1, 1986, and at a time when such individual was a participant in the Plan but did not have an eligible spouse beneficiary under the Plan.

(b) Applicable Provisions.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to subsection (a), the one-year period referred to in clause (ii) of such subparagraph shall extend until the end of the one-year period beginning 90 days after the date of the enactment of this Act.

(c) Treatment of Prior Contributions.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a).

SEC. 632. LAW APPLICABLE TO OCCUPANCY BY COAST GUARD PERSONNEL OF SUBSTANDARD FAMILY HOUSING UNITS.

(a) In General.—Section 2830 of title 10, United States Code, is amended—

(1) by striking out "the Secretary of a military department" in subsection (a) and inserting in lieu thereof "the Secretary concerned";

(2) by striking out "Subject to" in subsection (b) and all that follows through "military department" and inserting in lieu thereof "(1) The Secretary concerned"; and

(3) by adding at the end of subsection (b) the following new paragraph:

"(2) The authority to enter into leases under paragraph (1) shall be exercised—

"(A) in the case of a lease by the Secretary of a military department, subject to regulations prescribed by the Secretary of Defense; and

"(B) in the case of a lease by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, subject to regulations prescribed by that Secretary.".

(b) Conforming Amendments.—(1) Section 2801(d) of such title is amended by inserting "(other than section 2830)" after "This chapter".

(2) Section 475 of title 14, United States Code, is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 633. COLLECTION OF AMOUNTS OWED TO SERVICE RELIEF SOCIETIES FROM FINAL PAY OF MEMBERS.

(a) In General.—Section 1007 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(h) Under regulations prescribed by the Secretary concerned, an amount that a member owes to the Army Emergency Relief, the Air Force Aid Society, or the Navy Relief Society may be deducted from the pay on final statement of such member and paid to the relief society to which the amount is owed.".

(b) Effective Date.—Section 1007(h) of such title, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 634. COST REDUCTIONS FOR FISCAL YEAR 1988.

(a) Selective Reenlistment Bonus.—During fiscal years 1988 and 1989, the Secretary concerned may not pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

(b) Reserve Unit and Individual Training.—During fiscal year 1988, the amount spent for reserve unit and individual training may not exceed $4,644,582,000.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Defense Health Care Amendments of 1987".

Part A—Medical Readiness

SEC. 711. REVISION OF RESERVE FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAM.

(a) In General.—Chapter 105 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

"Subchapter Sec.
I. Health Professions Scholarship Program for Active Service 2120
II. Health Professions Stipend Program for Reserve Service 2128

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM FOR ACTIVE SERVICE";

(2) by striking out "chapter" each place it appears in sections 2120, 2123, 2124, and 2127 and inserting in lieu thereof "subchapter"; and

(3) by adding at the end the following new subchapter:

"SUBCHAPTER II—HEALTH PROFESSIONS STIPEND PROGRAM FOR RESERVE SERVICE

"Sec.
"2128. Financial assistance: health-care professionals in reserve components.
"2129. Reserve service: required active duty for training.
"2130. Penalties, limitations, and other administrative provisions.

"§ 2128. Financial assistance: health-care professionals in reserve components

"(a) Establishment of Program.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions specialties critically needed in wartime, the Secretary of each military department may establish and maintain a program to provide financial assistance under this subchapter to persons engaged in training in such specialties. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in training in certain health care specialties in return for a commitment to subsequent service in the Ready Reserve.

"(b) Physicians in Critical Specialties.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is a graduate of a medical school;

"(B) is eligible for appointment, designation, or assignment as a medical officer in the Reserve of the armed force concerned; and

"(C) is enrolled or has been accepted for enrollment in a residency program for physicians in a medical specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as a medical officer for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, two years in the Ready Reserve for each year, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

"(c) Graduate Nurses in Critical Specialties.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is a registered nurse;

"(B) is eligible for appointment, designation, or assignment as a Reserve officer in the Nurse Corps of the Army or Navy or as an Air Force nurse; and

"(C) is enrolled or has been accepted for enrollment in an accredited program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the graduate nursing program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment in the Nurse Corps of the Army, Navy, or as an Air Force nurse for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, two years in the Ready Reserve for each year, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

"(d) Baccalaureate Students in Nursing or Other Health Professions.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) will, upon completion of the program, be eligible to be appointed, designated, or assigned as a reserve officer for duty as a nurse or other health professional; and

"(B) is enrolled, or has been accepted for enrollment in the third or fourth year of—

"(i) an accredited baccalaureate nursing program; or

"(ii) any other accredited baccalaureate program leading to a degree in a health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend of $100 per month for the period or the remainder of the period of the baccalaureate program in which the participant enrolls or is enrolled; and

"(B) the participant shall not be eligible to receive such stipend before enlistment in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

"(e) Amount of Stipend.—The amount of a stipend under an agreement under subsection (b) or (c) shall be—

"(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

"(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve.

"(f) Individual Ready Reserve Defined.—In this subchapter, the term 'Individual Ready Reserve' means that element of the Ready Reserve of an armed force other than the Selected Reserve.

"§ 2129. Reserve service: required active duty for training

"(a) Selected Reserve.—A person who is required under an agreement under section 2128 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

"(b) IRR Service.—A person who is required under an agreement under section 2128 of this title to serve in the Individual Ready Reserve shall serve—

"(1) not less than 30 days of initial active duty for training; and

"(2) not less than five days of active duty for training each year during the period of service required by the agreement.

"§ 2130. Penalties, limitations, and other administrative provisions

"(a) Failure to Complete Program of Training.—(1) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in training, or for other reasons, shall be required, at the discretion of the Secretary concerned—

"(A) to perform one year of active duty for each year (or part thereof) for which such person was provided financial assistance under this section; or

"(B) repay the United States an amount equal to the total amount paid to such person under the program.

"(2) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member participating in the program who is dropped from the program from any requirement that may be imposed under paragraph (1), but such relief shall not relieve him from any military obligation imposed by any other law.

"(b) Prohibitions of Duplicate Benefits.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

"(c) Regulations.—This subchapter shall be administered under regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendments.—The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended by striking out the item relating to chapter 105 and inserting in lieu thereof the following:

"105. Armed Forces Health Professions Financial Assistance Programs .... 2120".

(c) Repeal of Prior Program.—(1) Section 672 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 663), is repealed.

(2) The repeal of section 672 of the Department of Defense Authorization Act, 1986, by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement.

(d) Funding Limit for Fiscal Year 1988.—The total amount obligated during fiscal year 1988 under agreements under section 2128 of title 10, United States Code, as added by subsection (a), may not exceed $9,000,000.

(e) Effective Dates.—(1) The repeal made by subsection (c) shall take effect on October 1, 1987.

(2) An agreement entered into by the Secretary of a military department under section 2128 of title 10, United States Code, as added by subsection (a), may not obligate the United States to make a payment for any period before October 1, 1987.

SEC. 712. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.

(a) Critically Needed Wartime Skills Residency Requirement Permitted.—Section 2122 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "To be eligible"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary of Defense may require, as part of the agreement under subsection (a)(2), that a person must agree to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.".

(b) 2500 Scholarships Targeted for Critically Needed Wartime Skills.—

(1) In General.—Section 2124 of title 10, United States Code, is amended by striking out "except that" and all that follows through the end of the section and inserting in lieu thereof the following: "except that—

"(1) the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 6,000; and

"(2) of the total number of persons so designated, at least 2500 shall be persons—

"(A) who are in the final two years of their course of study; and

"(B) who have agreed to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.".

(2) Effective Date.—Section 2124(2) of such title, as added by paragraph (1), shall take effect on October 1, 1988.

SEC. 713. EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.

(a) Coverage of Certain Loans to Nurses.—Subsection (a)(3) of section 2172 of title 10, United States Code, is amended by inserting "or under part B of title VIII of such Act (42 U.S.C. 297 et seq.)" after "seq.)".

(b) Extension of Date for Initial Appointment.—Subsection (d) of such section is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1990".

SEC. 714. CONSTRUCTIVE SERVICE CREDIT FOR OFFICERS APPOINTED WITH HEALTH PROFESSIONS EXPERIENCE.

(a) Regular Components.—Section 533(b)(1)(B) of title 10, United States Code, is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.".

(b) Army Reserve.—Section 3353(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Army.".

(c) Naval Reserve and Marine Corps Reserve.—Section 5600(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Navy or Marine Corps, as appropriate.".

(d) Air Force Reserve.—Section 8353(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Air Force.".

SEC. 715. STANDBY CAPABILITY FOR SELECTIVE SERVICE REGISTRATION OF HEALTH CARE PERSONNEL.

Section 10(h) of the Military Selective Service Act (50 U.S.C. App. 460(h)) is amended—

(1) by striking out "If at" and all that follows through "nevertheless," and inserting in lieu thereof "The Selective Service system shall"; and

(2) by inserting "(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)" after "national emergency".

SEC. 716. REMOVAL OF CEILINGS ON SPECIAL PAY FOR MEDICAL OFFICERS.

(a) CEILING REMOVAL.—Section 302(b) of title 37, United States Code, is amended—

(1) by striking out "in an amount not to exceed $8,000" in paragraph (1); and

(2) by striking out paragraph (3).

(b) LIMIT ON OBLIGATIONS.—The Secretary concerned may not obligate funds during fiscal year 1988 for incentive special pay under section 302(b) of such title in an amount which is more than the amount proposed to be available for such purpose in the budget presentation materials submitted to Congress for fiscal year 1988.

SEC. 717. AGE FOR MANDATORY RETIREMENT OF MEDICAL OFFICERS.

Section 1251 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (a), a regular commissioned officer of the Army, Navy, or Air Force who is a medical officer or dental officer shall be retired on the first day of the month following the month in which the officer becomes 67 years of age.".

PART B—PEACETIME HEALTH CARE

SEC. 721. CATASTROPHIC LOSS PROTECTION UNDER CHAMPUS.

(a) IN GENERAL.—(1) Section 1079(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) An individual or family group may not be required by reason of this subsection to pay a total of more than $1,000 for health care in any fiscal year under a plan under subsection (a).".

(2) Section 1086(b) of such title is amended by adding at the end the following new paragraph:

"(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title may not be required to pay a total of more than $3,000 for health care in any fiscal year under a plan contracted for under section 1079(a) of this title.".

(b) EFFECTIVE DATE.—Paragraph (5) of section 1079(b) of title 10, United States Code, and paragraph (4) of section 1086(b) of such title, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 722. TWO-YEAR PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES.

During fiscal years 1988 and 1989, the Secretary of Defense may not impose a fee for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 723. ALLOCATION TO HEALTH PROFESSIONS OF SPECIFIED PORTION OF NAVY OFFICER ACCESSIONS AND GROWTH IN END STRENGTHS.

The Secretary of the Navy shall ensure that—

(1) not less than 25 percent of the number of original appointments made in officer grades in the Navy during each of fiscal years 1988 and 1989 shall be made in health profession specialties (or with a view to assignment of the officer to a health profession specialty); and

(2) not less than 15 percent of any increase in authorized end strength for the Navy for each of fiscal years 1988 and 1989 over the end strength of the Navy authorized for fiscal year 1987 shall be dedicated to personnel to be assigned to duty in the health professions.

PART C—HEALTH CARE MANAGEMENT

SEC. 731. IMPLEMENTATION OF MILITARY HEALTH CARE ACCOUNT.

(a) REQUIREMENT FOR IMPLEMENTATION.—The Secretary of Defense shall, in the budget request for each fiscal year, request appropriations for the Military Health Care Account established under section 1100 of title 10, United States Code, for the purpose of carrying out functions with respect to the Civilian Health and Medical Program of the Uniformed Services. The amount of the request for such health care account shall be the total amount of funds that the Secretary determines is necessary to carry out such functions. The Secretary may not request operation and maintenance appropriations in other accounts to carry out such functions.

(b) AMENDMENT TO ACCOUNT.—Section 1100 of such title is amended by striking out subsection (b) and redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 732. AIR FORCE DEMONSTRATION PROJECTS ON ALTERNATIVE HEALTH CARE DELIVERY SYSTEM.

(a) DEMONSTRATION PROJECT.—The Secretary of the Air Force shall conduct two projects designed to demonstrate the alternative health care delivery system described in subsection (b). The projects—

(1) shall begin during fiscal year 1988 and continue for not less than two years, and in no event shall terminate before the demonstration project required by section 733 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3894) (as amended by section 733 of this Act), has continued for one year; and

(2) shall include all covered beneficiaries within one catchment area of a medical facility of the uniformed services.

(b) ALTERNATIVE HEALTH CARE DELIVERY SYSTEM.—The alternative health care delivery system that the projects shall demonstrate is a system in which the commander of a medical facility of the uniformed services is responsible for all funding and all medical care of the covered beneficiaries in the catchment area of the facility. The commander may use any type of health care delivery system, for any scope of coverage, as he considers appropriate.

(c) AUTHORITY.—For purposes of carrying out this section, the Secretary of the Air Force shall have the authority given to the Secretary of Defense in sections 1079, 1086, 1092, 1097, 1098, and 1099 of title 10, United States Code.

(d) QUARTERLY FUNDING NOT REQUIRED.—For purposes of carrying out this section, the limitation in section 1100(b) of title 10, United States Code (as redesignated by section 731(b)), relating to quarterly requests for funds and quarterly availability of funds does not apply.

(e) REPORT.—The Secretary of the Air Force shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the demonstration projects. The report shall be submitted at the same time as the report on the demonstration project of the CHAMPUS reform initiative is submitted (as described in section 702(c)(1)(C) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899)). Such report shall include—

(1) a description of the results of the demonstration projects; and

(2) a comparison of the costs of providing health care under the system used in the demonstration projects with the costs of providing health care under CHAMPUS and under the CHAMPUS reform initiative demonstration project required by section 702 of such Act.

(f) DEFINITIONS.—In this section:

(1) The term "catchment area" means the area within approximately 40 miles of a medical facility of the uniformed services.

(2) The term "CHAMPUS" has the meaning given such term by section 1072(4) of title 10, United States Code.

(3) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code.

SEC. 733. ADDITIONAL REQUIREMENTS FOR CHAMPUS REFORM INITIATIVE.

(a) EVALUATION METHODOLOGY REQUIRED FOR DEMONSTRATION PHASE OF CHAMPUS REFORM INITIATIVE.—(1) Section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration project required by paragraph (1) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such methodology. The Secretary may not award a contract under Solicitation No. MDA903-87-R-0047 for such demonstration project until 60 days elapse after the date on which the Secretary submits the report.".

(2) Section 702(c)(1)(C)(i) of such Act is amended by inserting before the semicolon the following: ", evaluated in accordance with the methodology developed under subsection (a)(4)".

(b) ONE CONTRACT PER CONTRACTOR ALLOWED UNDER SOLICITATION FOR DEMONSTRATION PHASE OF CHAMPUS REFORM INITIATIVE.—No contractor may be awarded more than one contract for subregions I, II, and III under Solicitation No. MDA903-87-R-0047 (issued for the CHAMPUS reform initiative demonstration project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899)).

(c) LIMITATIONS ON ISSUANCE OF REQUESTS FOR PROPOSALS.—

(1) REQUIREMENT FOR ONE YEAR OF OPERATION OF CHAMPUS DEMONSTRATION PROJECT.—Section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), is amended by adding at the end the following new paragraph:

"(2) The Secretary may not issue a request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative until—

"(A) all principal features of the demonstration project, including networks of providers of health care, have been in operation for not less than one year; and

"(B) 60 days elapse after the date on which the Secretary submits the report described in paragraph (1)(C).".

(2) REQUIREMENT FOR INCLUSION OF ENROLLMENT SYSTEM.—Section 702(c) is further amended by adding at the end the following new paragraph:

"(3) In any request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative, the Secretary shall include a requirement for the inclusion of a health care enrollment system that meets the requirements specified in section 1099 of title 10, United States Code, with respect to—

"(A) covered beneficiaries included in the demonstration project; and

"(B) facilities of the uniformed services located in the geographical areas covered by the demonstration project.".

(3) REQUIREMENT FOR AVAILABILITY OF 90-DAY INSURANCE COVERAGE.—Section 702(c) is further amended by adding at the end the following new paragraph:

"(4) In any request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative, the Secretary shall include a requirement for the contractor to offer an option to elect an insurance plan which meets the following requirements:

"(A) The plan shall be available at the election of an individual losing eligibility to be a covered beneficiary under chapter 55 of title 10, United States Code (for reasons such as discharge or release from active duty or a change in family status (including divorce or annulment, or, in the case of a child, reaching age 22)).

"(B) The plan shall provide for coverage of benefits similar to the coverage of benefits available to the individual under the CHAMPUS reform initiative, without a waiting period and regardless of any pre-existing condition.

"(C) The plan shall provide such benefit coverage for a period of a minimum of 90 days, beginning on the date on which coverage under chapter 55 of title 10, United States Code, normally would terminate (absent coverage under this plan).

"(D) The plan shall provide that enrollees in the plan shall pay the full periodic charges for the benefit coverage.".

(d) FUNDING LIMITATIONS.—

(1) CONTRACT FOR DEMONSTRATION PROJECT.—None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of entering into a contract for the demonstration phase of the CHAMPUS reform initiative required by section 702(a)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), until the requirements of section 702(a)(4) of such Act (as added by subsection (a)) are met.

(2) REQUESTS FOR PROPOSALS.—None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of requesting a proposal for the second (or any subsequent) phase of the CHAMPUS reform initiative as described in section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), until the requirements of sections 702(c), (2), (3), and (4) of such Act (as added by subsection (c)) are met.

(e) ADDITIONAL DEMONSTRATION PROJECTS REQUIRED IN CONJUNCTION WITH CHAMPUS REFORM INITIATIVE DEMONSTRATION PROJECT.—

(1) GENERAL REQUIREMENT.—The Secretary of Defense shall conduct the projects described in paragraph (2) for the purpose of demonstrating alternatives to health care under CHAMPUS and under the CHAMPUS reform initiative. The demonstration projects shall be carried out in accordance with this subsection and in conjunction with the CHAMPUS reform initiative demonstration project.

(2) LIST OF DEMONSTRATION PROJECTS.—The demonstration projects are as follows:

(A) The Tidewater mental health demonstration project (Solicitation No. MDA906-86-C-0001).

(B) The Fort Drum demonstration project.

(C) The civilian-run primary care clinics known as PRIMUS and NAVCARE.

(D) The New Orleans demonstration project (Solicitation No. MDA903-87-R-0047), to be considered both as part of the CHAMPUS reform initiative demonstration project and as a separate demonstration project under this subsection.

(E) A fiscal intermediary demonstration project, to be implemented by amending an existing Department of Defense contract with a fiscal intermediary in a State or region to require the intermediary to undertake management of a health care network through cost-containment initiatives, including utilization review, pre-admission screening, second surgical opinions, and contracting for care on a discounted basis.

(F) Two Air Force alternative health care delivery system demonstration projects, required pursuant to section 732 of this Act.

(G) A demonstration project for non-active duty beneficiaries in the catchment area of the Philadelphia Naval Hospital that uses a managed health care network, including health care enrollment (as provided in section 1099 of title 10, United States Code), and is funded on a fixed-price per capita basis.

(3) REPORT ON DEMONSTRATION PROJECTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that provides an outline and discussion of the manner in which the Secretary intends to structure and conduct each demonstration project required under this subsection.

(4) EVALUATION METHODOLOGY.—The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration projects required under this subsection. The methodology shall be developed in conjunction with the methodology developed under section 702(a)(4) of the Department of Defense Authorization Act, 1987 (Public Law 99-661) (as added by section 733(a) of this Act) and shall be included in the report submitted to Congress pursuant to such section 702(a)(4).

(5) LENGTH OF PROJECTS.—Each project required under this subsection—

(A) shall run concurrently with the CHAMPUS reform initiative demonstration project;

(B) shall begin during fiscal year 1988 (or shall continue in the case of a project begun before fiscal year 1988); and

(C) shall continue until at least one year of operation of all principal features (including networks of providers of health care) of the CHAMPUS reform initiative demonstration project has taken place.

(6) REPORT.—The Secretary of Defense shall evaluate the demonstration projects required by this subsection, using the methodology developed under paragraph (3), as alternatives to methods of providing health care under CHAMPUS, the CHAMPUS reform initiative demonstration project, and the CHAMPUS reform initiative if fully implemented. The Secretary shall include the results of the evaluation in the report required by section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

(7) DEFINITION.—In this subsection:

(A) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as that term is defined by section 1072(4) of title 10, United States Code.

(B) The term "CHAMPUS reform initiative demonstration project" means the project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3894).

SEC. 734. MEDICAL INFORMATION SYSTEMS ACQUISITION AMENDMENTS.

(a) REQUIREMENT FOR CONDUCT OF OPERATIONAL TEST.—Section 704(b)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3901), is amended by adding at the end the following new sentence: "During the entire duration of the test (as described in paragraph (2)(B)), each system of each vendor shall be complete, with all hardware and Level I and II software components of the system (as defined in Solicitation No. DAHC 26-85-R-0009) in operation.".

(b) EXTENSION OF VETERANS' ADMINISTRATION DECENTRALIZED HOSPITAL COMPUTER PROGRAM.—Section 704(c)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3901), is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1988".

(c) FUNDING LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of the acquisition of the Composite Health Care System until the operational testing required by section 704(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3901)—

(1) is carried out for each of the four vendors which has submitted a medical information system for testing under paragraphs (1) and (2) of such section; and

(2) is carried out in accordance with such section (as amended by subsection (a)).

(d) REPORT REQUIREMENT AMENDMENTS.—(1) Subparagraphs (B) and (C) of section 704(a)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3900), are amended to read as follows:

"(B) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report described in paragraph (2); and

"(C) 30 days elapse after the report required by subsection (d)(2) is submitted.".

(2) Section 704(d)(2) of such Act is amended by striking out "such testing is completed" and inserting in lieu thereof "the report required by subsection (a)(1)(B) is submitted".

SEC. 735. ELIGIBILITY OF CERTAIN INSTITUTIONS THAT PROVIDE TREATMENT FOR HEART AND LUNG CONDITIONS TO RECEIVE REIMBURSEMENT UNDER CHAMPUS.

(a) IN GENERAL.—

(1) ACTIVE-DUTY DEPENDENTS.—Section 1079 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(l) A hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions may not be denied payment for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) solely on the basis that such hospital does not impose a legal obligation on patients to pay for such services.".

(2) CERTAIN MEMBERS, FORMER MEMBERS, AND THEIR DEPENDENTS.—Section 1086 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) A hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions may not be denied payment for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) solely on the basis that such hospital does not impose a legal obligation on patients to pay for such services.".

(b) Effective Date.—Section 1079(l) of title 10, United States Code (as added by subsection (a)(1)), and section 1086(h) of such title (as added by subsection (a)(2)) shall apply with respect to medical care received after September 30, 1987, and before October 1, 1988.

SEC. 736. GAO REPORT ON PAYMENT OF CERTAIN MEDICAL EXPENSES.

(a) Review.—The Comptroller General shall review and evaluate the practices under various insurance plans with respect to payments to hospitals for charges for medical services in cases where the hospital does not impose a legal obligation on patients to pay for such services. In the review, the Comptroller General shall—

(1) look at the practices with respect to such payments of private sector insurance plans, including self-insured plans, as well as federally sponsored or funded programs, including Medicare, Medicaid, and the Federal Employees' Health Benefit Plan; and

(2) provide an assessment and comparison of the practices with respect to such payments under regulations of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), along with any recommendations for changing such practices in CHAMPUS and an analysis of the costs involved.

(b) Report.—Not later than December 31, 1987, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review described in subsection (a).

TITLE VIII—GENERAL PROVISIONS

SEC. 801. TRANSFER AUTHORITY.

(a) Authority To Transfer Authorizations.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Effect on Obligation Limitations.—A transfer made under the authority of this section increases by the amount of the transfer the obligation limitation provided on the account (or other amount) to which the transfer is made.

(d) Notice to Congress.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 802. EXPIRATION OF AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1989.

Authorizations for appropriations in this Act for fiscal year 1989 shall be effective only with respect to appropriations made during the first session of the One Hundredth Congress.

SEC. 803. CONTRACT GOAL FOR MINORITIES.

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973), is amended—

(1) by striking out "or" at the end of paragraph (2) and inserting in lieu thereof "and"; and

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof the following: ", including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.".

SEC. 804. CLARIFICATION OF LIMITATION ON CONTRACTING FOR SHORT-TERM NAVAL VESSEL REPAIR WORK.

Subsection (d) of section 7299a of title 10, United States Code (as added by section 1201(a) of the Department of Defense Authorization Act, 1987), is amended to read as follows:

"(d)(1) Before issuing a solicitation for a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall determine if there is adequate competition available among firms able to perform the work at the homeport of the vessel. If the Secretary determines that there is adequate competition among such firms, the Secretary—

"(A) shall issue such a solicitation only to firms able to perform the work at the homeport of the vessel; and

"(B) may not award such contract to a firm other than a firm that will perform the work at the homeport of the vessel.

"(2) Paragraph (1) applies notwithstanding subsection (b) or any other provision of law.

"(3) Paragraph (1) does not apply—

"(A) in the case of voyage repairs; or

"(B) in the case of a vessel that is assigned to the Naval Reserve force and homeported on the West Coast of the United States.

"(4) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.".

SEC. 805. RATES FOR PROGRESS PAYMENTS ON CERTAIN NAVAL SHIP REPAIR CONTRACTS.

(a) In General.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7312. Repair or maintenance of naval vessels: progress payments under certain contracts

"(a) Rates.—The Secretary of the Navy shall provide that the rate for progress payments on naval ship contracts to which this section applies shall be—

"(1) 90 percent, in the case of firms considered to be small businesses, and

"(2) 85 percent, in the case of all other firms.

"(b) Covered Contracts.—This section applies to any contract awarded by the Secretary of the Navy for repair, maintenance, or overhaul of a naval vessel (other than a nuclear-powered vessel) for work required to be performed in one year or less.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7312. Repair or maintenance of naval vessels: progress payments under certain contracts.".

(b) Transition.—The amendment made by subsection (a) does not apply to a contract awarded pursuant to a solicitation issued before the date of the enactment of this Act.

SEC. 806. DOMESTIC CONSTRUCTION OF CERTAIN VESSELS.

Section 7309(a) of title 10, United States Code, is amended by striking out "no naval vessel, and no vessel of any other military department," and inserting in lieu thereof "no vessel to be constructed for any of the armed forces".

SEC. 807. IMPROVED CONGRESSIONAL OVERSIGHT OF SPECIAL ACCESS PROGRAMS.

(a) In General.—(1) Chapter 2 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 119. Special access programs: congressional oversight

"(a) Disclosure of Total Amount Budgeted for Special Access Programs.—The Secretary of Defense shall submit to the defense committees each year, at the same time that the President's budget is transmitted for the next fiscal year under section 1105 of title 31, an unclassified report setting forth the total amount requested in that budget for special access programs of the Department of Defense (as defined in subsection (e)).

"(b) Annual Notice and Justification for New Special Access Programs.—(1) Not later than November 1 of each year, the Secretary of Defense shall provide in writing to the chairman and ranking minority member of each defense committee, with respect to each new special access program—

"(A) notice of the designation of the program as a special access program; and

"(B) justification for such designation.

"(2) A notice and justification under paragraph (1) with respect to a program shall include—

"(A) the current estimate of the total program cost for the program; and

"(B) an identification of existing programs or technologies—

"(i) that are not treated so as to conceal their existence or scope; and

"(ii) that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

"(3) In this subsection, the term 'new special access program' means a special access program that has not previously been covered in a notice and justification under this subsection.

"(c) Access by Other Members; Responses.—(1) Any member of a defense committee, upon submitting a request in writing to the chairman of that committee, shall be permitted to read any notice and justification received by the chairman of that committee under subsection (b).

"(2) If the Secretary receives a timely response from a member of a defense committee with respect to a notice and justification provided under subsection (b), the Secretary shall respond in writing to any question or concern raised in such response not later than 30 days after the receipt of such response.

"(3) For purposes of paragraph (2), the term 'timely response' means a written communication that—

"(A) pertains to a program described in a notice and justification received under subsection (b); and

"(B) is received by the Secretary of Defense not less than 30 days after the date on which the notice and justification to which the communication pertains was received under subsection (b).

"(d) Reports on Modifications To Special Access Criteria.—(1) The Secretary of Defense shall submit to the defense committees a report describing any change in the criteria for designating a program of the Department of Defense as a special access program.

"(2) Any such report shall be submitted not later than 30 days before the date on which the change takes effect.

"(e) Definitions.—In this section:

"(1) The term 'special access program' means a program of the Department of Defense that is designated within the department—

"(A) as a special access program or compartmentalized program; or

"(B) in any other manner that results in the program being treated in a manner that conceals from public disclosure the existence or scope of the program.

"(2) The term 'defense committees' means—

"(A) the Committees on Armed Services of the Senate and House of Representatives; and

"(B) the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.

"(3) The term 'program of the Department of Defense' does not include any of the following:

"(A) A program of an agency or other entity of the United States outside the Department of Defense which receives funds through amounts appropriated to the Department of Defense.

"(B) A program of an agency or other entity of the Department of Defense which is funded through the national foreign intelligence program or which is considered to be an intelligence-related activity.

"(C) A special operations activity.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"119. Special access programs: congressional oversight.".

(b) Five-Year Reference Amounts.—The first report under subsection (a) of section 119 of title 10, United States Code (as added by subsection (a)), shall set forth—

(1) the total amount requested in the President's budget for each of the five previous fiscal years for special access programs of the Department of Defense that were included in that budget; and

(2) the total amount appropriated for each such year for such programs.

(c) Initial Notice and Justification for Special Access Program Designations.—The first notice and justification under subsection (b) of section 119 of title 10, United States Code (as added by subsection (a)), shall cover each existing special access program.

(d) Initial Report on Criteria for Special Access Designation.—(1) The Secretary of Defense shall submit to the defense committees a report on the criteria used for designating a program of the Department of Defense as a special access program.

(2) The report under paragraph (1) shall be submitted not later than 60 days after the date of the enactment of this Act.

(e) Definitions.—The definitions in subsection (e) of section 119 of title 10, United States Code (as added by subsection (a)), apply to subsections (b) through (d).

SEC. 808. CONVENTIONAL DEFENSE ADVISORY BOARD.

(a) Creation of Board; Functions.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 180. Conventional Defense Advisory Board

"(a) Establishment.—There is within the Department of Defense a Conventional Defense Advisory Board.

"(b) Purpose and Responsibilities.—(1) The Board shall examine and survey all aspects of conventional warfare relating to the fighting ability and sustainability of the armed forces, particularly with regard to the conventional defense of Europe.

"(2) The Board shall (within the scope of its functions under paragraph (1)) specifically examine, survey, and make recommendations concerning the sufficiencies and deficiencies of—

"(A) research and development programs;

"(B) weapons procurement programs;

"(C) ammunition procurement programs; and

"(D) programs affecting the sustainability of forces in the field.

"(c) Membership and Support.—(1) The members of the Board shall be appointed by the Secretary of Defense and shall include representatives of—

"(A) the Department of Defense;

"(B) defense industry; and

"(C) the academic and research community.

"(2) The Secretary of Defense shall make available to the Board such information as it may require in the performance of its duties.

"(d) Reports.—(1) The Board shall report to the Secretary of Defense by March 1 each year concerning the relationship between the current programs of the Department of Defense and the requirements for more adequate conventional defense. With respect to such relationship, the report shall, at a minimum, specify—

"(A) shortfalls;

"(B) excess; and

"(C) recommendations for correcting these imbalances.

"(2) The Secretary of Defense shall forward the report required under paragraph (1) to Congress within 30 days of its receipt, together with such additional views as the Secretary may desire.

"(3) The Secretary of Defense may require such additional reports from the Board as the Secretary considers necessary.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"180. Conventional Defense Advisory Board.".

SEC. 809. REACTIVATION OF RIVERBANK ARMY AMMUNITION PLANT.

The Secretary of the Army shall reactivate Riverbank Army Ammunition Plant, California, no later than September 30, 1988.

SEC. 810. OUTLAY SAVINGS FROM DELAY OF CERTAIN PAYMENTS

The Secretary of Defense shall direct that (notwithstanding any other provision of law) any payment which would otherwise be made to a contractor (other than a small business concern) by any component of the Department of Defense during the last 12 days of September 1988 shall be made not earlier than October 1, 1988.

SEC. 811. ELIGIBILITY OF MAJOR NON-NATO ALLIES TO COMPETE ON CERTAIN MAINTENANCE CONTRACTS.

(a) In General.—Any major non-NATO ally shall be eligible to bid under competitive procedures on any Department of Defense contract for maintenance, repair, and overhaul associated with the European Workload Program. Any contract with such a non-NATO ally may be carried out in the ally's facilities or in facilities in Europe.

(b) Definition.—For purposes of subsection (a), the term "major non-NATO ally" has the meaning given that term by section 1105(g)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

SEC. 812. LIMITATIONS ON DEPLOYMENT OF STRATEGIC NUCLEAR WEAPONS CONSISTENT WITH EXISTING ARMS LIMITATIONS AGREEMENTS.

(a) Notwithstanding any other provision of law, after the end of the 60-day period beginning on the date of the enactment of this Act, funds may not be obligated or expended for the deployment or maintenance of—

(1) launchers for more than 820 intercontinental ballistic missiles carrying multiple independently targetable reentry vehicles (MIRVs);

(2) launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying MIRVs and submarine-launched ballistic missiles carrying MIRVs;

(3) an aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers; or

(4) a number of MIRVs on an individual ballistic missile in excess of the limitations included in the SALT II agreement, its agreed statements and common understanding;

unless the President certifies to the Congress that the Soviet Union, after the date of enactment of this Act, has exceeded the limitations specified in any of the limitations specified in paragraphs (1) through (4). Such certification shall be accompanied by a report, in both classified and unclassified versions, providing information upon which the President bases his certification.

(b) For purposes of this section—

(1) launchers of intercontinental ballistic missiles and submarine-launched ballistic missiles equipped with multiple independently targetable reentry vehicles are launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine-launched ballistic missiles equipped with multiple independently targetable reentry vehicles; and

(2) air-launched cruise missiles are unmanned, self-propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

(c) Within 30 days of enactment of this Act, the President shall notify Congress of his plans for carrying out the provisions of subsection (a).

SEC. 813. UNITED STATES MILITARY PERSONNEL IN NATO COUNTRIES.

None of the funds appropriated pursuant to the authorizations in this division may be used during fiscal year 1988 to take any action which would result in the number of United States military personnel stationed in countries which are members of the

North Atlantic Treaty Organization being reduced below the number of such personnel stationed in such countries at the end of fiscal year 1987.

SEC. 814. AUTHORITY OF COMMANDING OFFICERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES.

(a) Authority.—The Secretary of Defense shall direct that the commanding officer of each military installation (under regulations prescribed by the Secretary of Defense and subject to the authority, direction, and control of the Secretary) shall have the authority and the responsibility to carry out the following:

(1) Prepare an inventory each fiscal year of commercial activities carried out by Government personnel on the military installation.

(2) Decide which commercial activities shall be reviewed under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy).

(3) Conduct a solicitation for contracts for those commercial activities selected for conversion to contractor performance under the Circular A-76 process.

(4) To the maximum extent practicable, find suitable employment for any employee of the Department of Defense who is displaced because of a contract entered into with the private sector for performance of a commercial activity on the military installation.

(b) Deadline for Regulations.—The Secretary shall prescribe the regulations required by subsection (a) no later than 60 days after the date of the enactment of this Act.

(c) Definition.—In this section, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

SEC. 815. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.

(a) In General.—Section 2693 of title 10, United States Code, is amended in subsection (a) by inserting "or security-guard" after "firefighting".

(b) Clerical and Conforming Amendments.—

(1) Subsection (b) of such section is amended by striking out "the function" and inserting in lieu thereof "a function".

(2) The heading for such section is amended to read as follows:

"§ 2693. Prohibition on contracts for performance of firefighting or security-guard functions".

(3) The item relating to section 2693 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2693. Prohibition on contracts for performance of firefighting or security-guard functions.".

SEC. 816. CONFLICT OF INTEREST IN DEFENSE PROCUREMENT.

Section 2397b(a)(1) of title 10, United States Code, is amended by striking out "acted as a primary representative" in subparagraph (C) and inserting in lieu thereof "acted as one of the primary representatives".

SEC. 817. LIMITATION ON COMPENSATION OF RETIRED MILITARY OFFICERS LIMITED TO TWO YEARS.

Section 281 of title 18, United States Code (to the extent that such section was not repealed by section 2 of Public Law 87-849 (76 Stat. 1126; approved October 23, 1962)), shall apply to a retired officer of the Armed Forces only for the two-year period beginning on the date on which the officer retires.

SEC. 818. REPEAL OF PROHIBITION OF USE OF INTERPORT DIFFERENTIAL FOR CERTAIN SHIP MAINTENANCE CONTRACTS.

Section 9085 of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is repealed.

SEC. 819. IMPLEMENTATION OF SPECIAL OPERATIONS FORCES REORGANIZATION.

(a) Direction to Secretary of Defense.—Upon the establishment of the unified combatant command for special operations forces under section 167 of title 10, United States Code, the Secretary of Defense shall ensure that all necessary measures are taken to provide adequate and sufficient resources for the commander of the command to discharge his responsibilities under such section, including particularly his responsibilities involving development and acquisition of special operations-peculiar equipment and in management of all resources for special operations as a separate budget activity.

(b) Appointment of Civilian Personnel to Headquarters Staff; Acquisition Authority.—Subsection (e) of section 167 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(3) The Secretary of Defense shall establish not to exceed 120 civilian personnel positions as part of the headquarters staff of the special operations command. Personnel in such positions shall assist the commander of the command in carrying out the functions of the commander under paragraph (1).

"(4) Within the civilian positions provided under paragraph (3), the Secretary of Defense may establish—

"(A) professional engineering positions primarily concerned with research and development of special operations-peculiar equipment;

"(B) professional scientific positions in the physical and natural sciences, medicine, communications, electronics, and aviation; and

(C) professional management positions in program management, administration, contracting, warehousing and depot operations, testing, procurement, and financial, budgeting and automation systems.

"(5) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command (in carrying out his functions and exercising his authority under paragraph (1)(G) to develop and acquire special operations-peculiar equipment and acquire special operations-peculiar material, supplies, and services) shall have authority to exercise the functions of the head of an agency under chapter 137 of this title. The commander may conduct internal audits and inspections of purchasing and contracting actions through the inspector general of the special operations command.".

(c) Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.—Section 136(b)(4) is amended by adding at the end the following new sentences: "The Assistant Secretary is the principal advisor to the Secretary of Defense on special operations and low intensity conflict matters and is the principal special operations and low intensity conflict official within the senior management of the Department of Defense. That authority, direction, control, and supervision of special operations and low-intensity conflict matters (including activities of the commander of the special operations command under section 167(e) of this title) exercised by the Secretary of Defense through the Office of the Secretary of Defense shall be exercised through the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.".

(d) Resources and Programming.—Section 1311(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), is amended by adding at the end the following new sentence: "Activities described in subsection (e) of section 167 of title 10, United States Code, shall be programmed, and resources for such activities shall be provided, through such major force program category and in accordance with customary defense resource allocation policies.".

SEC. 820. PREFERENCES IN AWARDING DEFENSE CONTRACTS.

(a) Preference.—The Secretary of Defense or Secretary of the military department concerned shall award a contract for procurement of any manufactured product in accordance with this section. In evaluating bids or proposals to determine the lowest responsible offeror for such a contract, the Secretary shall increase by 50 percent the amount proposed in a bid or offer from any firm proposing to provide a product other than a qualifying country product. In evaluating such bids or proposals after adding such price differential, the Secretary shall give special consideration to a domestic firm if the product, if awarded to that firm, would be manufactured in an area with a surplus of labor, as determined by the President.

(b) Qualifying Country Product.—(1) A product is a qualifying country product for purposes of this section if the product will be manufactured substantially all from articles, materials, and supplies mined, produced, or manufactured in the United States or any other qualifying country.

(2) For purposes of paragraph (1), a manufactured product shall be considered to be manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States or another qualifying country if at least 50 percent by value of the constituent elements in the product are mined, produced, or manufactured (as the case may be) in the United States or such other country.

(c) Qualifying Countries.—A country is a qualifying country for purposes of subsection (b) if—

(1) the country is a member of the North Atlantic Treaty Organization; or

(2) the country is designated as a major non-NATO ally for purposes of section 1105 of the Department of Defense Authorization Act, 1987 (division A of Public Law 99-661).

(d) Exceptions.—This section does not apply—

(1) if the Secretary of Defense or Secretary of the military department concerned determines that the application of this section to a contract or product would be inconsistent with the public interest;

(2) if the products to be procured are for use outside the United States; or

(3) if products of the class or kind to be procured, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(e) Definition.—For purposes of this section, the term "product" includes articles, materials, and supplies.

(f) Effective Date.—This section applies with respect to contracts awarded pursuant to solicitations issued after the end of the 90-day period beginning on the date of the enactment of this Act.

(g) Further Exception.—Notwithstanding any other provision of this section, after a mutual defense cooperative agreement between a qualifying country and the United States that is in effect on the date of the enactment of this Act expires or is renewed or extended, the United States shall require that any new agreement with such country (or such agreement as is revised or extended) shall provide that if there is a bid or proposal from a firm described in the third sentence of subsection (a), 5 percent shall be added to each bid or proposal from a firm proposing to manufacture substantially all (as determined under subsection (b)(2)) of such product in such country.

SEC. 821. LIMITED COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) The Secretary of Defense is authorized and directed to institute a program of counterintelligence polygraph examinations for military, civilian and contractor personnel of the Department of Defense, military departments, and the armed forces whose duties involve access to classified information.

(b) Limitation on Number of Examinations.—The number of persons required to take a counterintelligence polygraph examination under this section—

(1) may not exceed 20,000 during each of fiscal years 1988, 1989, and 1990; and

(2) may not exceed 10,000 during any fiscal year after fiscal year 1990 for which Congress has not otherwise authorized a specific number by law.

(c) The program instituted pursuant to subsection (a) shall provide that, in the case of such individuals whose duties involve access to classified information within special access programs established pursuant to section 4.2(a) of Executive Order 12356, a counterintelligence polygraph examination shall be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(d) In the case of individuals whose duties involve access to classified information other than that information covered in subsection (b) of this section, a counterintelligence polygraph examination may be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(e) A counterintelligence polygraph examination conducted pursuant to this section shall be limited to technical questions necessary to the polygraph technique and questions directly related to espionage, sabotage, terrorism and unauthorized disclosures of classified information.

(f) The authority of the Secretary of Defense under this section to provide for the use of polygraph examinations shall be in addition to any other authority the Secretary possesses on the date of enactment of this Act to provide for such examinations under applicable laws and regulations.

(g) Nonapplication of Section.—This section does not apply—

(1) to an individual assigned or detailed to the Central Intelligence Agency or to any expert or consultant under a contract with the Central Intelligence Agency;

(2) to (A) an individual employed by or assigned or detailed to the National Security Agency, (B) an expert or consultant under a contract to the National Security Agency, (C) an employee of a contractor of the National Security Agency, or (D) an individual applying for a position in the National Security Agency; or

(3) to an individual assigned to a space where sensitive cryptologic information is produced, processed, or stored.

(h) Annual Report.—Subsection (c)(2) of section 1221 of the Department of Defense Authorization Act, 1985 (Public Law 99-125), is amended by striking out "December 31, 1986" and inserting in lieu "December 31 of each year" and striking out "fiscal year 1986" and inserting in lieu "the previous fiscal year".

SEC. 822. LIVE-FIRE TESTING.

(a) Coverage of Significant Product Improvement Programs.—(1) Subsection (a) of section 2366 of title 10, United States Code, is amended—

(A) by inserting "(1)" after "Requirements.—";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by adding at the end the following:

"(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until realistic vulnerability testing (in the case of a product improvement to a covered system) or realistic lethality testing (in the case of a product improvement to a major munitions program or a missile program) is completed in accordance with this section.

"(3) For purposes of this section, a covered product improvement program is a program under which—

"(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the vulnerability of such system; or

"(B) a modification or upgrade will be made to a major munitions program or a missile program which (as determined by the Secretary of Defense) is likely to affect significantly the lethality of the munition or missile produced under the program.".

(2) Subsection (b) of such section is amended by striking out "or missile" and inserting in lieu thereof "missile, or product modification or upgrade".

(3) Subsection (c) of such section is amended by striking out "or missile program" and inserting in lieu thereof "missile program, or covered product improvement program".

(4) Subsection (e)(4) of such section is amended by inserting "(or a covered product improvement program for a covered system)" after "in the case of a covered system".

(5) Subsection (e)(5) of such section is amended by inserting "(or a covered product improvement program for such a program)" after "missile program".

(b) Vulnerability Testing.—Such section is further amended—

(1) by striking out "survivability" each place it appears in the text of the section (other than the second place it appears in subsection (e)(4)) and inserting in lieu thereof "vulnerability"; and

(2) by striking out "and survivability" in subsection (e)(4).

(c) Time for Live-Fire Testing.—Subsection (b)(1) of such section is amended by striking out the period at the end and inserting in lieu thereof the following: "and to allow any such proposed design correction to be tested in comparison with the originally tested design of the system, munition, missile, or product improvement.".

(d) Explanation for Waivers by Secretary of Defense.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The Secretary shall include with any such certification a report explaining how the Secretary plans to evaluate the vulnerability or lethality of the system or program and assessing possible alternatives to testing the full system or program.".

(e) Designated OSD Official for Live-Fire Testing.—Such section is further amended—

(1) by redesignating subsections (d) and (e) (as amended by subsections (a) and (b)) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Designated OSD Official for Live-Fire Testing.—(1) The Secretary of Defense shall designate a civilian official in the Department of Defense who is responsible to the Under Secretary of Defense for Acquisition to have principal responsibility within the Office of the Secretary of Defense for the vulnerability and lethality testing required under subsection (a).

"(2) Before full-scale engineering development with respect to a covered system, major munitions program, missile program, or covered product improvement program begins, the official designated under paragraph (1)—

"(A) shall review the adequacy of the plan of the Secretary of the military department concerned for testing of that system or program under subsection (a) (including the schedule and proposed funding for such testing); and

"(B) shall report to the Under Secretary of Defense for Acquisition on the adequacy or inadequacy of such plan and (if such official designated under paragraph (1) determines that the plan is inadequate) on what such official considers would constitute an adequate test plan.

"(3)(A) While testing under subsection (a) with respect to a covered system, major munitions program, missile program, or covered product improvement program is carried out, the official designated under paragraph (1) shall continue to review the adequacy and progress of the testing.

"(B) That official—

"(i) may observe any test under subsection (a) conducted by the Secretary of a military department; and

"(ii) shall have access to all test data and reports produced by the Secretary of a military department with respect to a test under subsection (a).

"(C) At the conclusion of testing under subsection (a) for a covered system, major munitions program, missile program, or covered product improvement program, the official designated under paragraph (1) shall submit a report on the testing to the defense committees of Congress (as defined in section 2362(e)(3) of this title).

"(4)(A) The official designated under paragraph (1) shall carry out programs to improve the conduct of realistic vulnerability testing and realistic lethality testing by the Department of Defense and shall develop improved methods, instruments, and facilities for such testing.

"(B) That official shall have the authority—

"(i) to procure threat munitions and test targets for such testing; and

"(ii) to coordinate Department of Defense procurement of such munitions and targets.

"(5) The Secretary shall provide to the official designated under paragraph (1)—

"(A) an adequate staff to enable that official to carry out the duties of that official under this subsection; and

"(B) specific funds for the functions of that official under paragraph (4)(A).".

(f) CLERICAL AMENDMENTS.—(1) Paragraph (1)(B) of subsection (f) of such section (as redesignated by subsection (e)) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(2)(A) The heading of such section is amended to read as follows:

"§ 2366. Major systems and munitions programs: vulnerability and lethality testing; operational testing".

(B) The item relating to such section in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2366. Major systems and munitions programs: vulnerability and lethality testing; operational testing.".

SEC. 823. CLARIFICATION.

A country may be considered to be a qualifying country under subsection (c) of the section in this title with the heading "PREFERENCES IN AWARDING DEFENSE CONTRACTS" only if the country has in effect with the United States a reciprocal defense procurement memorandum of understanding.

SEC. 824. LIMITATION ON AVAILABILITY OF FUNDS.

(a) EXCESS FUNDS.—The Secretary of Defense may not obligate or expend for any purpose any amount appropriated to the Department of Defense for any program, project, or activity that is in excess of the amount needed to carry out that program, project, or activity. Excess amounts that may not be obligated or expended by reason of the preceding sentence include savings in a program, project, or activity due to—

(1) changes in inflation;

(2) excess working capital fund costs;

(3) foreign currency fluctuations; or

(4) any other source.

(b) FAILURE TO INITIATE PROGRAM WITHIN THREE YEARS OF FUNDING AVAILABILITY.—Except as otherwise provided by law, the availability for obligation of funds appropriated for any program, project, or activity of the Department of Defense expires at the end of the three-year period beginning on the date that such funds initially become available for obligation unless before the end of such period the Secretary of Defense enters into a contract for such program, project, or activity.

SEC. 825. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

"(3) Nothing in this subsection shall be construed to transfer the responsibility for the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) to the Department of Defense.".

(b) CONFORMING AMENDMENT.—Section 375 of such title is amended by inserting "(other than under section 374(e))" after "under this chapter".

SEC. 826. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.

(a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

SEC. 827. MISSILE TECHNOLOGY CONTROL REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded the Missile Technology Control Regime, designed to limit the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

SEC. 828. OIL SHIPMENTS FOR USE OF MILITARY FACILITIES.

Section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406) is amended by adding at the end the following:

"(k) OIL EXPORTS FOR USE BY UNITED STATES MILITARY FACILITIES.—For purposes of subsection (d) of this section, and for purposes of any export controls imposed under this Act, shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities shall not be considered to be exports.".

SEC. 829. RESTRICTION ON FUNDING.

None of the funds available to the Department of Defense may be obligated or expended for the purpose of providing command and control data, including voice and digital information, for drug interdiction purposes between the Sector Operations Control Center at Tyndall Air Force Base, Florida, and any other drug interdiction operation or facility unless such operation or facility is located adjacent to such Sector Operations Control Center.

SEC. 830. PAYMENT OF CLAIM.

(a) PAYMENT OF CLAIM.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $809,609, to the Merchants National Bank of Mobile, Alabama, for compensation for losses sustained during the period beginning on January 1, 1976, and ending on December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions and misrepresentations of the Defense Logistics Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

(b) FULL SETTLEMENT OF CLAIM.—The payment made pursuant to subsection (a) shall constitute full settlement of the legal and equitable claims by the Merchants National Bank of Mobile, Alabama, against the United States, covered by that subsection.

(c) LIMITATION ON ATTORNEYS' FEES.—No part of the amount appropriated in this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 831. STUDY OF CLASSIFIED INFORMATION.

(a) In General.—The Secretary of Defense, in his capacity as Executive Agent for computer security and communication security, shall conduct a study for the purpose of declassifying, while providing adequate protection for the national security, a substantial portion of the material which is classified information on the date of the enactment of this Act.

(b) Report.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Committee on Armed Services of the Senate and the House of Representatives of the findings and conclusions of the study carried out under this section.

(c) Implementation.—The Secretary may, for the purpose described in subsection (a), implement the findings and conclusions of the study carried out under this section at any time after 30 days after the date on which the report is transmitted pursuant to subsection (b).

SEC. 832. PUBLICATION.

The Secretary of Defense shall provide for the publication, on an annual basis, of a document that contains an unclassified net assessment of the defense programs and capabilities of the United States and of the Soviet Union.

SEC. 833. ANNUAL REPORT ON SOVIET ABM TREATY COMPLIANCE.

Not later than February 1, 1988, and not later than February 1 of each following year, the Secretary of Defense shall submit to the Congress a report (in both classified and unclassified versions) on the compliance of the Soviet Union with the 1972 Treaty on the Limitation of Anti-Ballistic Missile Systems. The report shall include—

(1) the findings of the Secretary with respect to such compliance during the previous year including, if necessary, the military implications of, and possible United States military responses to, violations by the Soviet Union of such treaty; and

(2) any additional information the Secretary considers necessary to keep the Congress currently informed about such compliance.

SEC. 834. STUDY OF DEFENSE EXPENDITURES IN JAPAN.

(a) In General.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interest in the Far East.

(b) Report.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Congress which shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the effect that increases in national defense expenditures by Japan would have on United States defense expenditures in support of United States security interests in the Far East;

(4) the projections for national defense expenditures by the United States directly in support of Japan for each such fiscal year; and

(5) the projections for national defense expenditures by Japan directly in support of the United States forces stationed in Japan for each such fiscal year.

SEC. 835. STUDY.

(a) In General.—The Secretary of the Air Force shall carry out a study of the requirements necessary to establish and conduct a centralized manned and unmanned military space operation which would be part of the Consolidated Space Operations Center near Colorado Springs, Colorado.

(b) Report.—The Secretary shall, within 60 days after the date of the enactment of this Act, transmit to the Committee on Armed Services of the Senate and the House of Representatives a report containing the findings and conclusions of the study carried out under subsection (a).

SEC. 836. RESTRICTION ON PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES.

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2406. Restriction on purchase of foreign-made administrative motor vehicles

"None of the funds appropriated or otherwise made available to the Department of Defense may be used to purchase administrative motor vehicles that are manufactured in a country other than the United States or Canada unless—

"(1) the contract or agreement is for an amount less than $50,000, or

"(2) the purchase of such motor vehicles is specifically authorized by law.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2406. Restriction on purchase of foreign-made administrative motor vehicles."

SEC. 837. SURCHARGE AUTHORITY OF DEFENSE LOGISTICS AGENCY.

(a) Authority.—Except as provided in subsection (b), the Director of the Defense Logistics Agency of the Department of Defense may include in the amount the Director charges the Secretary of a military department for supplies provided by the Director to the Secretary a surcharge for the purpose of recovering costs of the Defense Logistics Agency for the following:

(1) Maintenance and repair of fuel storage facilities.

(2) Leasing of facilities and purchase of equipment for storage facilities.

(3) Maintenance and repair costs associated with the operation of the Defense Logistics Agency supply centers and depots.

(b) Exception.—Subsection (a) does not apply to items procured by the Defense Logistics Agency for resale through the military resale system of the Department of Defense (including commissary stores, exchanges, school lunch programs, clubs, and other morale, welfare, and recreation activities).

(c) Effective Date.—The authority provided by subsection (a) takes effect on October 1, 1987.

SEC. 838. CHANGE IN REPORTING REQUIREMENT.

Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended by striking out "President" both places it appears and inserting in lieu thereof "Director of Central Intelligence.".

SEC. 839. REPORT ON MILITARY USE OF NASA MANNED SPACE STATION.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the activities planned by the Department of Defense to be conducted on or in conjunction with the permanently manned space station to be developed and operated by the National Aeronautics and Space Administration. The report shall include a description of—

(1) those planned activities, including research projects the Department intends to conduct from the space station;

(2) the eventual applications for which the Department intends such research to be used; and

(3) the relationship of those planned activities to activities of the Department of Defense for which funds are authorized by this Act (including offensive and defensive weapons systems) and how such activities will be coordinated.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than January 1, 1988.

SEC. 840. PURCHASES OF CANVAS PRODUCTS.

Section 9011 of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is amended by inserting "canvas products," after "synthetic fabric," both places it appears.

SEC. 841. SENSE OF CONGRESS ON PREPARATION OF CERTAIN ECONOMIC IMPACT AND EMPLOYMENT INFORMATION CONCERNING NEW ACQUISITION PROGRAMS.

It is the sense of Congress that the Secretary of Defense should not, before an acquisition program is approved to proceed into full-scale development, prepare any material, report, list, or analysis with respect to economic benefits or the employment impact of that program in a particular State or congressional district.

SEC. 842. FUNCTIONS OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

Section 138(d) of title 10, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end the following:

"(2) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.".

SEC. 843. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS.

(a) Definition of Cost or Pricing Data.—Subsection (g) of section 2306a of title 10, United States Code, is amended—

(1) by inserting "(1)" before "In this section";

(2) by striking out "all information that is verifiable and" and inserting in lieu thereof "verifiable data, facts, or information";

(3) by striking out "price negotiations significantly" and inserting in lieu thereof "significantly the cost of performing the contract or price negotiations"; and

(4) by adding at the end the following:

"(2) Business plans, projections, or strategies that are based on judgment or speculation shall not be considered to be cost or pricing data under paragraph (1) until an officer or employee of a contractor, subcontractor, or offeror (acting within the scope of his authority) makes a decision to act upon or implement such plans, projections, or strategies and such decision, if implemented, could reasonably be expected to affect significantly the cost of performing the contract or price negotiations. Verifiable data, facts, or information on which any such business plans, projections, or strategies are based shall be considered to be cost or pricing data.".

(b) Technical Amendments.—(1) Subsection (a)(5) of such section is amended—

(A) by striking out the first sentence; and

(B) by striking out "such a waiver" and inserting in lieu thereof "a waiver under subsection (b)(2)".

(2) Subsection (e)(2) of such section is amended to read as follows:

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.".

(c) Effective Dates.—(1) The amendments made by subsection (a) shall apply with respect to contracts, or modifications to contracts, entered into after the end of the 90-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply with respect to contracts, or modifications on contracts, entered into after the end of the 120-day period beginning on October 18, 1986.

SEC. 844. EXTENSION OF PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) Authorization of Appropriations.—There are authorized to be appropriated $7,000,000 for fiscal year 1988 to be available for the purpose of furnishing assistance to carry out procurement technical assistance programs under cooperative agreements entered into under chapter 142 of title 10, United States Code.

(b) Technical Revision of Fund Distribution Method.—Section 2415 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b); and

(2) by striking out "(c) For any amount" and all that follows through "$3,000,000, the" and inserting in lieu thereof "The".

(c) Effective Date.—The amendments made by subsection (b) shall take effect on October 1, 1987.

SEC. 845. ALLOWABLE COSTS MAY NOT INCLUDE GOLDEN PARACHUTE PAYMENTS.

(a) In General.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(K) Golden parachute payments.—For purposes of this section, the term 'golden parachute payment' is an amount which—

"(1) is an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(2) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.".

(b) Effective Date.—Section 2324(e)(1)(K) of title 10, United States Code, as added by subsection (a), shall apply to any contract entered into on or after October 1, 1987.

SEC. 846. REQUIREMENT FOR SUBSTANTIAL PROGRESS ON MINORITY AND SMALL BUSINESS CONTRACT AWARDS.

(a) Requirement for Substantial Progress.—The Secretary of Defense shall ensure that substantial progress is made in increasing awards of Department of Defense contracts to section 1207(a) entities.

(b) Regulations.—The Secretary shall carry out the requirement of subsection (a) through the issuance of regulations which do the following:

(1) Provide guidance to contracting officers for making advance payments under section 2307 of title 10, United States Code, to section 1207(a) entities.

(2) Establish procedures or guidance for contracting officers to—

(A) set goals which Department of Defense prime contractors should meet in awarding subcontracts, including subcontracts to minority-owned media, to section 1207(a) entities, with a minimum goal of 5 percent for each contractor which is required to submit a subcontracting plan under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)); and

(B) provide incentives for such prime contractors to increase subcontractor awards to section 1207(a) entities.

(3) Require contracting officers to emphasize awards to section 1207(a) entities in all industry categories, including those categories in which section 1207(a) entities have not traditionally dominated.

(4) Provide guidance to Department of Defense personnel on the relationship among the following programs:

(A) The program implementing section 1207 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973).

(B) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(C) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

(5) Require that a business which represents itself as a section 1207(a) entity in seeking a Department of Defense contract maintain such status at the time of contract award.

(6) With respect to a Department of Defense procurement for which there is a reasonable likelihood that the procurement will be set aside for section 1207(a) entities, require to the maximum extent practicable that the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

(7) Establish policies and procedures which will ensure that there shall be no reduction in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act and under the small business set-aside program established under section 15(a) of the Small Business Act in order to meet the goal of section 1207 of the Department of Defense Authorization Act, 1987.

(8) Implement section 1207 of the Department of Defense Authorization Act, 1987, in a manner which shall not alter the procurement process under the program established under section 8(a) of the Small Business Act.

(9) Require that one factor used in evaluating the performance of contracting officers shall be the ability of the officer to increase contract awards to section 1207(a) entities.

(10) Allow a contract with a section 1207(a) entity to be awarded at a price not exceeding fair market cost by more than 10 percent, regardless of the method of procurement used in awarding the contract.

(11) Provide for partial set-asides for section 1207(a) entities.

(12) Establish a procedure for awarding a contract to a section 1207(a) entity, without providing for full and open competitive procedures, in circumstances where a market survey and Commerce Business Daily sources sought notice resulted in the identification of only one responsible section 1207(a) entity.

(13) Provide for increased technical assistance to section 1207(a) entities.

(14) Require that a concern may not be awarded a contract under section 1207 of the Department of Defense Authorization Act, 1987, unless the concern agrees to comply with the requirements of section 15(o)(1) of the Small Business Act.

(c) Definition of Section 1207(a) Entities.—For purposes of this section, the term "section 1207(a) entities" means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973).

SEC. 847. LIMITATION ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT.

(a) Limitation.—Funds appropriated to the Department of Defense may not be obligated or expended for the purpose of introducing United States Armed Forces into or over Nicaragua for combat.

(b) Definition of Combat.—As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) Exceptions to Limitation.—This section does not apply with respect to an introduction of United States Armed Forces into or over Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions or its allies;

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States Embassy;

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens; or

(D) to respond to hijacking, kidnaping, or other acts of terrorism involving citizens of the United States or citizens of any ally of the United States.

(d) Existing Provisions Preserved.—Nothing in this section shall invalidate any provision of Public Law 93-148.

(e) Treaty Authority Preserved.—Nothing in this section shall invalidate any authority of the United States to act under the provisions of the Inter-American Treaty of Reciprocal Assistance.

(f) Expiration Upon Escalation.—This section shall not apply when Mig aircraft, or other aircraft of similar design or capability, or nuclear missiles or any other nuclear weapons are introduced into Nicaragua.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SECTION 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act, 1988".

TITLE I—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $43,710,000.

Fort Campbell, $12,410,000.

Fort Carson, Colorado, $2,050,000.

Fort Devens, Massachusetts, $1,840,000.

Fort Greely, Alaska, $6,400,000.

Fort Hood, Texas, $31,500,000.

Fort Hunter Liggett, California, $1,000,000.

Fort Irwin, California, $4,450,000.

Fort Lewis, Washington, $960,000.

Fort McCoy, Wisconsin, $720,000.

Fort McPherson, Georgia, $1,400,000.

Fort Ord, California, $6,890,000.

Fort Pickett, Virginia, $390,000.

Fort Polk, Louisiana, $490,000.

Fort Riley, Kansas, $4,850,000.

Fort Sam Houston, Texas, $3,300,000.

Fort Stewart, Georgia, $12,570,000.

Fort Wainwright, Alaska, $25,100,000.

Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.

Hawaii Various, $12,300,000.

Schofield Barracks, Hawaii, $10,550,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $10,110,000.

Fort Benning, Georgia, $11,000,000.

Fort Bliss, Texas, $13,040,000.

Fort Dix, New Jersey, $7,750,000.

Fort Hamilton, New York, $960,000.

Fort Lee, Virginia, $14,350,000.

Fort Leonard Wood, Missouri, $10,000,000.

Fort McClellan, Alabama, $4,700,000.

Fort Rucker, Alabama, $5,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $7,160,000.

Anniston Army Depot, Alabama, $2,100,000.

Corpus Christi Army Depot, Texas, $2,950,000.

Dugway Proving Ground, Utah, $5,250,000.

Fort Wingate, New Mexico, $370,000.

Lake City Army Ammunition Plant, Missouri, $21,000,000.

Letterkenny Army Depot, Pennsylvania, $2,000,000.

Lexington-Blue Grass Depot Activity, Kentucky, $570,000.

Navajo Depot Activity, Arizona, $4,000,000.

Pine Bluff Arsenal, Arkansas, $2,000,000.

Pueblo Depot Activity, Colorado, $620,000.

Red River Army Depot, Texas, $7,950,000.

Redstone Arsenal, Alabama, $21,000,000.

Savanna Army Depot, Illinois, $2,550,000.

Seneca Army Depot, New York, $1,250,000.

Sierra Army Depot, California, $2,600,000.

Tooele Army Depot, Utah, $6,700,000.

Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $1,250,000.

Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $14,800,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $1,300,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.

Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan Various, $13,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.

Camp Castle, Korea, $3,200,000.

Camp Hovey, Korea, $11,800,000.

Camp Howze, Korea, $4,150,000.

Camp Jackson, Korea, $4,350,000.

Camp Kyle, Korea, $2,750,000.

Camp Mercer, Korea, $720,000.

Camp Nimble, Korea, $2,200,000.

Camp Page, Korea, $5,900,000.

Camp Red Cloud, Korea, $8,500,000.

Korea, Various, $4,850,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY SOUTH

Honduras, $4,150,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.

Baumholder, Germany, $10,800,000.

Einsiedlerhof, Germany, $5,900,000.

Giessen, Germany, $1,250,000.

Grafenwoehr, Germany, $5,700,000.

Hanau, Germany, $1,300,000.

Hohenfels, Germany, $19,250,000.

Mainz, Germany, $1,100,000.

Rheinberg, Germany, $8,650,000.

Stuttgart, Germany, $14,200,000.

Various, Germany, $19,500,000.

Vilseck, Germany, $60,400,000.

Wiesbaden, Germany, $38,900,000.

Wildflecken, Germany, $16,100,000.

Zweibruecken, Germany, $1,900,000.

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2104(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Irwin, California, two hundred and seventy units, $30,000,000.

Fort Ord, California, two hundred and eleven units, $19,000,000, of which not more than twenty-four units may be constructed at Fort Hunter Liggett, California.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 2103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Saint Louis Support Center, Illinois, one hundred units, $9,700,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort A.P. Hill, Virginia, twenty-five units, $2,200,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2104(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $21,900,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve, using amounts appropriated pursuant to section 2104(a)(6)(A), existing military family housing units in an amount not to exceed $100,000,000, of which $9,223,000 is available only for energy conservation projects.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Sharpe Army Depot, California, thirty units $1,300,000.

Fort McNair, District of Columbia, four units $220,000.

Fort Riley, Kansas, one hundred and twenty-eight units, $5,100,000.

Selfridge Air National Guard Base, Michigan, two hundred and ten units, $8,000,000.

Fort Leonard Wood, Missouri, fifteen units $600,000.

Fort Bliss, Texas, one hundred and forty-four units, $5,300,000.

Fort Belvoir, Virginia, one hundred and ninety-eight units, $8,800,000.

Giessen, Germany, one hundred and forty-four units, $5,152,000.

Various locations, Germany, convert unused attic space and upgrade one hundred and two units into three hundred and thirty adequate units, $24,388,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,508,333,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $400,610,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $335,530,000.

(3) For military construction projects inside the United States at New Cumberland Army Depot, Pennsylvania, authorized by section 101 of the Military Construction Authorization Act, 1986, $30,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $133,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $309,490,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,281,183,000, of which not more than $36,008,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $144,122,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) Limitation on Total Cost of Construction Projects Authorized in This Title.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) Planning Assistance.—Of the amount appropriated pursuant to subsection (a)(5), the Secretary of the Army shall use at least $250,000 for community planning assistance for communities located near the newly established Light Infantry Division Post at Ft. Drum, New York.

SEC. 2105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS.

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) Extension of Authorization of Certain Fiscal Year 1985 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(3) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(4) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(5) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(c) Extension of Authorization of Certain Fiscal Year 1986 Projects.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Military personnel administration center in the amount of $2,650,000 at Presidio of Monterey, California.

(2) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(3) Ammunition storage in the amount of $850,000 at Amberg, Germany.

(4) Boiler plant automation in the amount of $6,000,000 at Bamberg, Germany.

(5) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(6) Military operations on urbanized terrain in the amount of $3,250,000 at Hohenfels, Germany.

(7) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(8) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(9) Flight simulator building in the amount of $2,900,000 at Weisbaden, Germany.

(10) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(11) Upgrade multi-purpose building in the amount of $800,000 at Elefsis, Greece.

(12) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(13) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(14) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(16) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(17) Unaccompanied personnel housing complex in the amount of $2,550,000 at Yongin, Korea.

(18) Water pollution abatement in the amount of $770,000 at Army Materials and Mechanics Research Center, Massachusetts.

(19) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(20) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(21) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(22) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(23) Museum site preparation and utilities in the amount of $2,500,000 at Fort Rucker, Alabama.

TITLE II—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $38,705,000.

Marine Corps Air Station, Camp Pendleton, California, $3,350,000.

Marine Corps Base, Camp Pendleton, California, $25,410,000.

Marine Corps Air Station, Cherry Point, North Carolina, $28,500,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $24,153,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $18,420,000.

Marine Corps Air Station, Yuma, Arizona, $3,870,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Tactical Interoperability Support Activity Detachment Six, Mayport, Florida, $500,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $20,920,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $24,190,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.

Naval Air Station, Key West, Florida, $6,580,000.

Naval Station, Lake Charles, Louisiana, $2,770,000.

Naval Amphibious Base, Little Creek, Virginia, $16,720,000.

Naval Station, Mayport, Florida, $1,480,000.

Naval Station, Mobile, Alabama, $40,700,000.

Naval Submarine Base, New London, Connecticut, $5,200,000.

Naval Station, New York, New York, $16,200,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

Naval Air Station, Norfolk, Virginia, $4,970,000.

Naval Air Station, Oceana, Virginia, $4,540,000.

Naval Station, Pascagoula, Mississippi, $42,100,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $44,200,000.

Naval Air Station, Alameda, California, $11,400,000.

Trident Refit Facility, Bangor, Washington, $1,080,000.

Naval Amphibious Base, Coronado, California, $2,760,000.

Naval Station, Everett, Washington, $37,500,000.

Naval Air Station, Lemoore, California, $2,560,000.

Naval Magazine, Lualualei, Hawaii, $5,310,000.

Naval Air Station, Miramar, California, $6,500,000.

Naval Air Station, North Island, California, $25,270,000.

Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.

Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.

Naval Station, Pearl Harbor, Hawaii, $430,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.

Naval Station, San Diego, California, $36,680,000.

Naval Submarine Base, San Diego, California, $4,120,000.

Naval Station, Treasure Island, San Francisco, California, $4,430,000.

Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Corpus Christi, Texas, $1,180,000.

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.

Naval Guided Missiles School, Dam Neck, Virginia, $550,000.

Naval Training Center, Great Lakes, Illinois, $2,310,000.

Naval Air Station, Kingsville, Texas, $10,000,000.

Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $10,800,000.

Naval Air Station, Memphis, Tennessee, $11,220,000.

Naval Education and Training Center, Newport, Rhode Island, $7,480,000.

Naval Training Center, Orlando, Florida, $3,050,000.

Naval Air Station, Pensacola, Florida, $28,200,000.

Naval Technical Training Center, Pensacola, Florida, $8,170,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Norfolk, Virginia, $1,310,000.

Naval Supply Center, Pearl Harbor, Hawaii, $3,280,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $2,950,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $5,870,000.

Navy Public Works Center, San Diego, California, $5,700,000.

Navy Public Works Center, San Francisco, California, $11,700,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $1,400,000.

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $6,720,000.

Naval Weapons Station, Earle, New Jersey, $3,540,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $8,170,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $14,000,000.

Naval Weapons Station, Seal Beach, California, $15,970,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $22,880,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $86,415,000.

VARIOUS LOCATIONS

Land Acquisition, $8,091,000.

(b) Outside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $4,790,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $14,120,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $1,490,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $8,460,000.

Naval Ship Repair Facility, Guam, $5,100,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Support Office, La Maddalena, Italy, $7,480,000.

Naval Activities, London, United Kingdom, $600,000.

Naval Support Activity, Naples, Italy, $25,650,000.

Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $770,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.

Naval Security Group Activity, Terceira Island, Azores, $700,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 2202. FAMILY HOUSING.

(a) Construction and Acquisition.—The Secretary of the Navy may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2205(a)(8)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, five hundred and eighty units, $52,840,000.

Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.

Nuclear Power Training Unit, Ballston Spa, New York, two hundred units, $15,810,000.

Naval Station, New York, New York, two hundred and fifty units, $25,490,000.

Marine Corps Base, Camp Pendleton, California, two hundred and sixty-eight units, $25,760,000.

Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.

Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.

Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.

Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.

Naval Station, Keflavik, Iceland, two hundred fifty units, $20,000,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2205(a)(8)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $6,248,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve, using amounts appropriated pursuant to section 2205(a)(8)(A), existing military family housing units in the amount of $28,943,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $14,207,800.

Navy Public Works Center, Great Lakes, Illinois, sixty units, $1,996,300.

Navy Public Works Center, Great Lakes, Illinois, five units, $164,100.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $4,725,500.

Naval Air Station, Brunswick, Maine, two hundred and twenty-four units, $8,130,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty-two units, $2,251,700.

Naval Security Group Activity, Winter Harbor, Maine, ten units, $294,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Naval Air Engineering Center, Lakehurst, New Jersey, four units, $190,000.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $3,398,400.

Naval Weapons Station, Yorktown, Virginia, twenty units, $625,300.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

Naval Station, Roosevelt Roads, Puerto Rico, two hundred and sixteen units, $6,840,000.

SEC. 2204. DEFENSE ACCESS ROADS.

The Secretary of the Navy may, using funds appropriated pursuant to section 2205(a)(7), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Naval Construction Battalion Center, Huenneme, California, $800,000.

Naval Air Station, Moffett Field, California, $400,000.

Naval Station, San Diego, California, $350,000.

Naval Station, Norfolk, Virginia, $1,200,000.

Naval Submarine Base, Groton, Connecticut, $1,250,000.

Naval Station, Everett, Washington, phase I, $10,000,000.

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,119,390,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $992,244,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $121,147,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For military construction projects at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act, 1987, $19,500,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $148,655,000.

(7) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $14,000,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $234,857,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $543,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2206. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) PROJECTS.—(1) In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(2) Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by paragraph (1) may not exceed the total amount authorized for such projects by such paragraph.

(b) FAMILY HOUSING.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 2207. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS.

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(3) Heating, Ventilation and Air Conditioning System, in the amount of $4,540,000 at the Naval Air Station, Alameda, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) LAMPS Mark III training building in the amount of $305,000 at the Fleet Combat Training Center, Pacific, San Diego, California.

(4) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(5) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(6) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(7) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

(8) Special intelligence support facility in the amount of $1,520,000 at the Marine Corps Base, Camp Pendleton, California.

(9) Combat swimmer trainer facility in the amount of $3,000,000 at the Naval Amphibious Base, Coronado, California.

(10) Communications facilities in the amount of $2,750,000 at the Naval Station, Guantanamo Bay, Cuba.

(11) Bachelor enlisted quarters in the amount of $15,300,000 at the Naval Station, Long Beach, California.

(12) Seabee material transit facility in the amount of $6,960,000 at the Naval Construction Battalion Center, Port Hueneme, California.

SEC. 2208. NAVAL WEAPONS STATION, EARLE, NEW JERSEY.

Section 2201(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661) is amended by striking out "Naval Weapons Station, Earle, New Jersey, $34,760,000" and inserting in lieu thereof "Naval Weapons Station, Earle, New Jersey, $54,760,000".

TITLE III—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $36,300,000.

Kelly Air Force Base, Texas, $19,750,000.

McClellan Air Force Base, California, $23,100,000.

Newark Air Force Base, Ohio, $580,000.

Robins Air Force Base, Georgia, $15,500,000.

Tinker Air Force Base, Oklahoma, $11,500,000.

Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.

Brooks Air Force Base, Texas, $4,100,000.

Edwards Air Force Base, California, $5,750,000.

Eglin Air Force Base, Florida, $22,150,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.

Columbus Air Force Base, Mississippi, $5,450,000.

Goodfellow Air Force Base, Texas, $5,500,000.

Keesler Air Force Base, Mississippi, $6,300,000.

Lackland Air Force Base, Texas, $13,900,000.

Laughlin Air Force Base, Texas, $1,872,000.

Mather Air Force Base, California, $7,100,000.

Randolph Air Force Base, Texas, $8,100,000.

Reese Air Force Base, Texas, $1,660,000.

Sheppard Air Force Base, Texas, $13,700,000.

Vance Air Force Base, Oklahoma, $3,190,000.

Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $8,800,000.

Maxwell Air Force Base, Alabama, $24,200,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $5,465,000.

Elmendorf Air Force Base, Alaska, $4,300,000.

Shemya Air Force Base, Alaska, $38,350,000.

Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.

Andrews Air Force Base, Maryland, $20,000,000.

Dover Air Force Base, Delaware, $2,300,000.

Kirtland Air Force Base, New Mexico, $46,000,000.

Little Rock Air Force Base, Arkansas, $5,880,000.

McGuire Air Force Base, New Jersey, $1,640,000.

Pope Air Force Base, North Carolina, $11,000,000.

Scott Air Force Base, Illinois, $7,080,000.

Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Base, Hawaii, $460,000.

Hickam Air Force Base, Hawaii, $2,450,000.

Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.

Cavalier Air Force Station, North Dakota, $3,750,000.

Clear Air Force Base, Alaska, $4,000,000.

Peterson Air Force Base, Colorado, $1,650,000.

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $2,900,000.

Beale Air Force Base, California, $2,180,000.

Blytheville Air Force Base, Arkansas, $5,900,000.

Carswell Air Force Base, Texas, $5,010,000.

Castle Air Force Base, California, $10,650,000.

Dyess Air Force Base, Texas, $1,300,000.

Ellsworth Air Force Base, South Dakota, $11,550,000.

Fairchild Air Force Base, Washington, $6,000,000.

F.E. Warren Air Force Base, Wyoming, $2,108,000.

Grand Forks Air Force Base, North Dakota, $1,600,000.

Griffiss Air Force Base, New York, $12,730,000.

Holbrook Radar Bomb Score Site, Arizona, $1,890,000.

K.I. Sawyer Air Force Base, Michigan, $840,000.

Loring Air Force Base, Maine, $3,630,000.

Malmstrom Air Force Base, Montana, $14,460,000.

McConnell Air Force Base, Kansas, $4,750,000.

Minot Air Force Base, North Dakota, $8,600,000.

Offutt Air Force Base, Nebraska, $3,950,000.

Plattsburgh Air Force Base, New York, $2,900,000.

Vandenberg Air Force Base, California, $6,200,000.

Whiteman Air Force Base, Missouri, $89,300,000.

Wilder, Idaho, $2,350,000.

Wurtsmith Air Force Base, Michigan, $10,200,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.

Base 51, $610,000.

Base 52, $600,000.

Bergstrom Air Force Base, Texas, $9,190,000.

Davis-Monthan Air Force Base, Arizona, $4,650,000.

England Air Force Base, Louisiana, $2,300,000.

George Air Force Base, California, $210,000.

Holloman Air Force Base, New Mexico, $6,400,000.

Indian Springs Auxiliary Air Field, Nevada, $4,400,000.

Langley Air Force Base, Virginia, $9,150,000.

Luke Air Force Base, Arizona, $2,800,000.

MacDill Air Force Base, Florida, $3,041,000.

Mountain Home Air Force Base, Idaho, $1,900,000.

Nellis Air Force Base, Nevada, $8,650,000.

Seymour-Johnson Air Force Base, North Carolina, $11,150,000.

Shaw Air Force Base, South Carolina, $4,980,000.

Tyndall Air Force Base, Florida, $2,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Classified Location, $1,500,000.

(b) Outside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.

Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Camp Humphreys, Korea, $5,550,000.

Clark Air Base, Republic of the Philippines, $15,140,000.

Diego Garcia Air Base, Indian Ocean, $18,600,000.

Kadena Air Base, Japan, $12,350,000.

Kunsan Air Base, Korea, $11,000,000.

Osan Air Base, Korea, $16,640,000.

Suwon Air Base, Korea, $3,650,000.

Yokota Air Base, Japan, $2,600,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $3,600,000.

TACTICAL AIR COMMAND

Masirah, Oman, $3,325,000.

Seeb, Oman, $8,260,000.

Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $2,150,000.

Aviano Air Base, Italy, $1,450,000.

RAF Bentwaters, United Kingdom, $11,210,000.

Bitburg Air Base, Germany, $4,690,000.

Camp New Amsterdam, The Netherlands, $2,600,000.

RAF Chicksands, United Kingdom, $1,250,000.

RAF Croughton, United Kingdom, $900,000.

RAF Fairford, United Kingdom, $2,950,000.

Hahn Air Base, Germany, $7,670,000.

RAF Lakenheath, United Kingdom, $3,620,000.

Pruem Air Station, Germany, $2,000,000.

Ramstein Air Base, Germany, $3,460,000.

San Vito Air Station, Italy, $390,000.

Sembach Air Base, Germany, $1,100,000.

Spangdahlem Air Base, Germany, $5,050,000.

RAF Upper Heyford, United Kingdom, $2,400,000.

RAF Welford, United Kingdom, $1,200,000.

Wenigerath Storage Site, Germany, $1,750,000.

RAF Wethersfield, United Kingdom, $1,300,000.

RAF Woodbridge, United Kingdom, $1,650,000.

Zweibrucken Air Base, Germany, $4,500,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2305(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units, $2,530,000.

Clark Air Base, Philippines, three hundred units, $23,260,000.

RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2305(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve, using amounts appropriated pursuant to section 2305(a)(6)(A), existing military family housing units in an amount not to exceed $110,000,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, twenty units, $758,000; fifty-six units, $2,710,000.

Eielson Air Force Base, Alaska, sixty-eight units, $5,504,000.

Elmendorf Air Force Base, Alaska, twelve units, $760,000; sixty-four units, $4,669,000.

Edwards Air Force Base, California, one hundred units, $4,024,000.

Lowry Air Force Base, Colorado, one unit, $74,000.

Peterson Air Force Base, Colorado, six units, $363,000.

Eglin Air Force Base, Florida, eighty-two units, $2,422,000.

Homestead Air Force Base, Florida, one hundred and fifty units, $5,287,000.

Eglin Auxiliary Airfield No. 9, Florida, one hundred and sixty-four units, $3,177,000.

MacDill Air Force Base, Florida, seven units, $556,000; one unit, $110,000.

Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.

England Air Force Base, Louisiana, one hundred and six units, $3,465,000.

Andrews Air Force Base, Maryland, five units, $325,000.

Offutt Air Force Base, Nebraska, two hundred units, $8,122,000.

Pease Air Force Base, New Hampshire, two hundred units, $7,177,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,263,000.

Holloman Air Force Base, New Mexico, one hundred and sixty-four units, $6,102,000.

Plattsburgh Air Force Base, New York, twenty-nine units, $2,800,000.

Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; one hundred and thirty-one units, $4,702,000.

Carswell Air Force Base, Texas, one hundred and thirty-six units, $7,904,000.

Kelly Air Force Base, Texas, eighteen units, $1,356,000.

Lackland Air Force Base, Texas, one unit, $46,000.

Randolph Air Force Base, Texas, five units, $400,000; eighty units, $2,619,000.

Langley Air Force Base, Virginia, seven units, $540,000; one hundred and thirty-two units, $4,039,000.

Ramstein Air Base, Germany, eight units, $536,000; nine units, $350,000; two hundred and forty units, $11,202,000; two hundred and eighty units, $16,990,000.

Kadena Air Base, Japan, eighty-two units, $4,143,000; four units, $407,000; one hundred and ninety-nine units, $12,177,000.

Yokota Air Base, Japan, ninety-five units, $5,061,000.

Torrejon Air Base, Spain, two units, $68,000.

RAF Mildenhall, United Kingdom, two units, $183,000.

SEC. 2304. DEFENSE ACCESS ROADS.

The Secretary of the Air Force may, using funds appropriated pursuant to section 2305(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Havre Air Force Station, Montana, in an amount not to exceed $4,100,000.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,990,423,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $806,909,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $192,365,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $124,536,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $143,120,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $703,393,000 of which not more than $8,818,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,024,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2353 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2306. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) IN GENERAL.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of Philippines, as follows:

(A) Aerospace systems branch, $1,050,000.

(B) Alter unaccompanied enlisted personnel housing, $1,850,000.

(C) Alter unaccompanied enlisted personnel housing, $3,150,000.

(D) Child care center, $2,000,000.

(E) COPE THUNDER operations facility, $4,650,000.

(F) Essential maintenance facility, phase II, $4,600,000.

(G) Fire station, $760,000.

(H) Petroleum operations facility, $1,600,000.

(I) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) LIMITATION.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by subsection (a) may not exceed the total amount authorized for such projects by such subsection.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 2307. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS.

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986, (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a Classified Location, overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, The Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODDS Site 5 in Portugal.

(8) Florennes, Belgium, Four Hundred units, $29,200,000.

(9) Ramstein Air Base, Germany, Four Hundred units, $30,000,000.

(10) Camp New Amsterdam, The Netherlands, Ninety units, $7,444,000.

TITLE IV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $13,565,000.

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $805,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $9,400,000.

Defense General Supply Center, Richmond, Virginia, $3,800,000.

Defense Fuel Support Point, Mukilteo, Washington, $7,290,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.

Kings Bay, Georgia, $6,600,000.

Malmstrom Air Force Base, Montana, $16,500,000.

McGuire Air Force Base, New Jersey, $550,000.

Lackland Air Force Base, Texas, $1,350,000.

Langley Air Force Base, Virginia, $1,500,000.

Naval Air Station, Whidbey Island, Washington, $16,500,000.

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOL

Hanscom Air Force Base, Massachusetts, $4,432,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $5,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $4,950,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.

Classified Location, $43,148,000.

STRATEGIC DEFENSE INITIATIVE

Fort Monmouth, New Jersey, $3,450,000.

White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.

RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.

Classified, $7,000,000.

Rheinberg, Germany, $2,250,000.

Iraklion Air Station, Greece, $340,000.

Naples, Italy, $30,000,000.

San Vito Air Station, Italy, $670,000.

Camp Lester, Japan, $1,400,000.

Misawa Air Base, Japan, $4,700,000.

Woensdrecht, The Netherlands, $360,000.

Subic Bay, Republic of the Philippines, $3,500,000.

RAF Fairford, United Kingdom, $7,300,000.

RAF Weathersfield, United Kingdom, $740,000.

RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitberg, Germany, $2,413,000.

Schweinfurt, Germany, $5,320,000.

Sembach, Germany, $2,930,000.

Spangdahlem, Germany, $7,300,000.

Stuttgart, Germany, $3,030,000.

Wuerzburg, Germany, $3,153,000.

San Miguel, Republic of the Philippines, $2,960,000.

Fort Buchanan, Puerto Rico, $1,200,000.

RAF Bicester, United Kingdom, $5,650,000.

RAF Upwood, United Kingdom, $3,900,000.

NATIONAL SECURITY AGENCY

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 2402. FAMILY HOUSING.

The Secretary of Defense may construct or acquire four family housing units (including land acquisition), using amounts appropriated pursuant to section 2405(a)(9)(A), at classified locations in the total amount of $1,000,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 2405(a)(9)(A), existing military family housing units in an amount not to exceed $186,000.

SEC. 2404. DEFENSE ACCESS ROADS.

The Secretary of Defense may, using funds appropriated pursuant to section 2405(a)(8), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Brooke Army Medical Center, San Antonio, Texas, in an amount not to exceed $8,600,000.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $522,312,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $173,201,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $141,011,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $62,800,000.

(8) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $8,600,000.

(9) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $18,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) PROJECT.—Of the amount appropriated pursuant to the authorization in subsection (a)(7), at least $2,000,000 shall be used for the planning and design of a bridge for route 32 over the Gladys Spellman Memorial Parkway providing access to the National Security Agency.

SEC. 2406. AUTHORIZATION OF PROJECTS FOR WHICH APPROPRIATIONS HAVE BEEN MADE.

(a) IN GENERAL.—In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and may carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg Air Force Base, California, in the amount of

$1,900,000 which has been appropriated for such project before the date of the enactment of this Act.

(b) Limitation.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the project authorized by subsection (a) may not exceed the total amount authorized for such project by such subsection.

(c) Effective Date.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 2407. EXTENSION OF PRIOR YEAR AUTHORIZATIONS.

Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later.

SEC. 2408. BROOKE ARMY MEDICAL CENTER.

(a) Report.—The Secretary of Defense shall, not later than March 1, 1988, transmit a report to the Committees on Armed Services of the Senate and the House of Representatives containing—

(1) a cost estimate for the construction of such medical facility authorized by section 2401 of the Military Construction Authorization Act, 1987, at Brooke Army Medical Center, San Antonio, Texas, with space for 450 beds;

(2) a cost estimate for the construction of such medical facility with space for 200 beds, and an estimate of the costs likely to be incurred as a result of the transfer of services from Brooke Army Medical Center to Wilford Hall Air Force Hospital; and

(3) a cost estimate of the expansion of such medical facility from 200 to 450 beds.

(b) Repeal.—Section 2403(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is repealed.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization infrastructure program as authorized by section 2501, in the amount of $396,000,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $163,734,000, plus $602,000; and

(B) for the Army Reserve, $95,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $67,637,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $126,475,000; and

(B) for the Air Force Reserve, $67,370,000.

TITLE VII—GENERAL PROVISIONS

Part A—Expiration of Authorizations; Effective Date

SEC. 2701. EXPIRATION OF AUTHORIZATIONS.

(a) In General.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefore) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) Exception.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE.

Except as otherwise provided, the provisions of this division shall take effect on October 1, 1987.

Part B—Military Construction Program Changes

SEC. 2711. TURN-KEY SELECTION PROCEDURES FOR DEFENSE AGENCIES.

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "The Secretaries of the military departments, with the approval of the Secretary of Defense," and inserting in lieu thereof "The Secretary concerned", and

(B) by adding at the end the following new sentence: "Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense."; and

(2) in subsection (b), by inserting after "The" the following: "Secretary of Defense, with respect to any Defense Agency, or the".

SEC. 2712. LONG-TERM FACILITIES CONTRACTS.

(a) New Coverage.—Section 2809(a)(1)(B) of title 10, United States Code, is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) by adding after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) Extension.—Section 2809(c) is amended by striking out "1987" and inserting in lieu thereof "1988".

(c) Report.—Each Secretary who has entered into a contract under section 2809 of title 10, United States Code, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives by February 15, 1988, containing—

(1) the date and duration of, the other party to, and the nature of the activities carried out under each contract entered by the Secretary under such section; and

(2) recommendations, and the reasons therefor, concerning whether the authority to enter into contracts under such section should be extended.

SEC. 2713. SETTLEMENT OF CONTRACTOR CLAIMS.

(a) In General.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts using any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.".

(b) Technical Amendment.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2863. Payment of contractor claims.".

(c) Effective Date.—The amendment made by subsection (a) shall apply only to funds appropriated after the date of enactment of this Act.

SEC. 2714. GUARD AND RESERVE MINOR CONSTRUCTION.

Section 2233a(b) of title 10, United States Code, is amended by striking "$100,000" and inserting in lieu thereof "$200,000".

SEC. 2715. FAMILY HOUSING IMPROVEMENT THRESHOLD.

Section 2825(b)(1) of title 10, United States Code, is amended by striking out "$30,000" and inserting in lieu thereof "$35,000".

SEC. 2716. FAMILY HOUSING LEASING.

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting after "constructed" the following: "or rehabilitated to residential use"; and

(2) by adding the following new subparagraph at the end of paragraph (8):

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph, the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units, the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units, and the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units.".

SEC. 2717. FAMILY HOUSING RENTAL GUARANTEE PROGRAM.

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a)—

(A) by inserting after "constructed" the following: "or rehabilitated to residential use"; and

(B) by striking out "The Secretary of a military department," and inserting in lieu thereof "The Secretary concerned, ";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by adding before the semicolon at the end the following: "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term"; and

(4) in subsection (b)(11), by striking out "of the military department".

SEC. 2718. NO-COST ACQUISITION OF FAMILY HOUSING.

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired for no consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 21 days elapses after the notification is received by those committees.".

SEC. 2719. HIGH COST THRESHOLD.

Section 2828(e)(1) of title 10, United States Code, is amended by striking out "$16,800" and inserting in lieu thereof "$20,000".

SEC. 2720. ENCROACHMENT ON INSTALLATIONS.

Section 2391(b)(1) of title 10, United States Code, is amended to read as follows:

"(b)(1)(A) Subject to subparagraph (B), the Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments, and regional organizations composed of State and local governments, in planning community adjustments required—

"(i) by the proposed or actual establishment, realignment, or closure of a military installation,

"(ii) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(iii) by the encroachment of a surrounding civilian community on an installation.

"(B) The Secretary may carry out subparagraph (A) only if the Secretary determines that—

"(i) the action described in clause (i) or (ii) of such subparagraph is likely to impose a significant impact on the affected community; or

"(ii) in the case of action described in clause (iii) of such subparagraph, the encroachment of the surrounding civilian community is likely to impair the continued operational utility of the military installation.".

SEC. 2721. MINOR CONSTRUCTION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Section 2805(c) of title 10, United States Code, is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) The authority provided in paragraph (1) may not be used with respect to any exercise-related unspecified military construction project outside the continental United States.".

(b) ADDITIONAL LIMITATION.—Section 2805(a) of such title is amended—

(1) by striking out "Within" and inserting in lieu thereof "(1) Except as provided in paragraph (2), within"; and

(2) by adding at the end the following new paragraph:

"(2) No Secretary may use more than $5,000,000 for exercise-related unspecified minor military construction projects outside the continental United States during any fiscal year.".

Part C—Miscellaneous Provisions

SEC. 2731. PILOT PROGRAM FOR MILITARY FAMILY HOUSING.

(a) IN GENERAL.—(1) The Secretary of Defense shall, using funds appropriated pursuant to the authorization in subsection (f), establish and carry out a pilot program for the purpose of assisting units of general local government to increase the amount of affordable family housing available to military personnel.

(2) In establishing and carrying out such program, the Secretary shall select at least five units of general local government which are severely impacted by the presence of military bases and personnel and which meet the criteria in subsection (b).

(b) SELECTION CRITERIA.—The Secretary shall select such local governments on the basis of the following criteria:

(1) The extent, or the potential extent, of a joint civilian-military effort to increase, or prevent the decrease of, affordable housing units in the community served by the local government.

(2) The extent of willingness, or potential extent of willingness, of private corporations to contribute or loan money for the purpose of assisting in the effort described in paragraph (1).

(3) A commitment by the local government to assure that a reasonable proportion, taking into consideration the extent of Federal funding, of the housing units provided as a result of the effort described in paragraph (1) will be made available to military personnel.

(c) TYPES OF ASSISTANCE.—In carrying out this section, the Secretary may make grants, enter into cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist units of general local government and housing and redevelopment authorities and nonprofit housing corporations authorized by such local governments.

(d) USE OF FUNDING.—Funds made available under this section may be used for—

(1) funding a revolving housing loan fund established and administered by a government, authority, or corporation described in subsection (c);

(2) funding a housing loan guarantee fund established and administered by such a government, authority, or corporation to ensure repayment of housing loans made by a private lender;

(3) funding feasibility studies of potential housing programs;

(4) funding one-time start-up costs of housing programs;

(5) funding joint community-military technical advisory organizations; and

(6) other similar and related activities,

in order to expand the supply or prevent the loss of affordable family housing.

(e) REPORT.—The Secretary of Defense shall make a report to the Committee on Armed Services of the Senate and the House of Representatives no later than March 15 of 1988, 1989, 1990, and 1991 with respect to activities carried out under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1988, 1989, and 1990, a total of not more than $1,000,000 for the purpose of carrying out this section.

(g) TERMINATION.—The authority to provide assistance under this section shall terminate on September 30, 1990.

SEC. 2732. FORT DeRUSSY, HAWAII.

(a) DESIGNATION.—Congress hereby designates Fort DeRussy, Hawaii, as the primary Armed Forces Recreation Center for the Pacific. The Secretary of the Army shall administer that fort as the primary rest and recreation area for members of the Armed Forces and their families throughout the Pacific.

(b) PROHIBITION.—Funds appropriated or otherwise available to the Department of Defense or any other department, agency, or instrumentality of the United States may not be used in any way for the express purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land constituting Fort DeRussy, Hawaii (as constituted on the date of the enactment of this Act).

(c) CONSTRUCTION OF SECTION.—Subsection (b) applies notwithstanding any other provision of law, including subsection (b) of the fiscal year 1987 Treasury-Postal section.

(d) TERMINATION OF SUPERSEDED AUTHORITY.—Any authority provided by subsections (c) and (d) of the fiscal year 1987 Treasury-Postal section shall not have any force or effect after the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "fiscal year 1987 Treasury-Postal section" means section 509 of the Act entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes", as contained in section 101(m) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (H.J. Res. 738; Public Laws 99-500 and 99-591).

SEC. 2733. RESTRICTIONS ON USE OF CERTAIN FUNDING.

(a) NELLIS AIR FORCE BASE, NEVADA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 474th Tactical Fighter Wing stationed at Nellis Air Force Base, Nevada.

(b) MATHER AIR FORCE BASE, CALIFORNIA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, in connection with (including any study made with respect to) any closure or realignment of Mather Air Force Base, California.

(c) FORT MONMOUTH, NEW JERSEY.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to relocate the headquarters element and the elements of the several directorates of the Joint Tactical Command, Control, and Communications Agency at Fort Monmouth, New Jersey.

(d) STRATEGIC HOMEPORTING.—(1) Funds appropriated pursuant to the authorizations in section 2208 of the Military Construction Authorization Act, 1987, and in section 2205 of this Act for Naval Station Everett, Washington, may not be obligated or expended for such purpose until—

(A) all Federal, State, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued, including all permits required pursuant to, or otherwise in connection with, the Federal Water Pollution Control Act; and

(B) the State of Washington has appropriated in fiscal year 1987 its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(2) The provisions of this subsection shall apply to any activity carried out after November 14, 1986.

(e) MINOT AIR FORCE BASE, NORTH DAKOTA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 5th Fighter Intercepter Squadron, stationed at Minot Air Force Base, North Dakota.

(f) AIR DEFENSE RADAR STATIONS.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish the air defense radar stations located at Calumet Air Force Station, Michigan; Port Austin Air Force Station, Michigan; Makah Air Force Station, Washington; Port Arena Air Force Station, California; and Oceana, Virginia.

(g) None of the funds available for use by the Department of Defense in fiscal years 1987 and 1988 may be used by the Department of Defense, directly or indirectly, before January 1, 1988, to take, or condemn, or close, any portion of the Port Chicago Highway which lies within the Concord Naval Weapons Station in Concord, California.

SEC. 2734. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM.

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this Act may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2735. PENTAGON ANNEX DESIGN.

Section 2725 of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4043) is hereby repealed.

SEC. 2736. COMMUNITY PLANNING ASSISTANCE.

The Secretary of Defense may use not more than $250,000 from funds appropriated to the Department of Defense for fiscal year 1988 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Everett, Washington, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

SEC. 2737. PROHIBITION ON CERTAIN EXPENDITURE.

None of the funds available to the Department of Defense for any fiscal year may be expended in accordance with the directive which is under the heading "Claims, Defense" in title II of the Department of Defense Appropriations Act, 1987, in Public Laws 99-500 and 99-591, and which concerns the construction of the Norfolk Navy Steam Plant, except that payments shall be made, in accordance with such directive, for losses incurred during the period beginning on October 18, 1986, and ending at the close of the date of the enactment of this Act.

Part D—Real Property Transactions.

SEC. 2741. LEASE OF FACILITY, SAN FRANCISCO, CALIFORNIA.

(a) IN GENERAL.—The Secretary of Defense shall enter into a lease with the City and County of San Francisco, California, which shall provide for the use, without consideration and for a 10-year period, by such City and County of the former Public Health Service facility located in the Presidio of San Francisco, California, and currently administered by the Secretary of the Army and used for a language school, storage, and other purposes.

(b) EFFECTIVE DATE.—Such lease shall be executed no later than 6 months after the date of enactment of this Act and shall provide for immediate occupancy by the City and County at the end of such 6-month period.

(c) USE OF PROPERTY.—The property is to be used by the City and County throughout the term of such lease for an AIDS treatment and research center.

(d) REVERTER.—If the City and County fails to use the facility for the purpose described in subsection (c), the Secretary of Defense shall terminate the lease and provide the facility for use by the Secretary of the Army.

SEC. 2742. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 43.72 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate facilities located on such property.

(b) CONSIDERATION.—In consideration for the real property and improvements described in subsection (a), the purchasers of such property and improvements shall pay the United States—

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) SALE AND REPLACEMENT ACTIVITIES.—The Secretary may use any amount received from the purchaser as described in paragraphs (1) and (2) of subsection (b) for the purpose of carrying out this section.

(d) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) COMPETITIVE BID PROCEDURES.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2743. LAND CONVEYANCE, LAWRENCE TOWNSHIP, INDIANA.

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey to Lawrence Township, Marion County, Indiana all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) CONDITIONS OF SALE.—(1) In consideration for the sale and conveyance, the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(2) The Township shall execute and file the deed of conveyance in the appropriate registry.

(c) RECAPTURE RIGHTS.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of a national emergency or declaration of war.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2744. LAND TRANSFERS: ROCK ISLAND, ILLINOIS, AND FORT SAM HOUSTON, TEXAS.

(a) AUTHORITY TO TRANSFER.—Subject to subsections (b) through (d), the Secretary of the Army may transfer, without consideration, to the administrative jurisdiction of the Administrator of Veterans' Affairs—

(1) two parcels of real property, and improvements thereon, totaling approximately 17.17 acres, comprising a portion of the Rock Island Arsenal, Rock Island, Illinois; and

(2) a parcel of real property, and improvements thereon, totaling approximately 8.5 acres, comprising a portion of Fort Sam Houston, Texas.

(b) CONDITIONS ON CONVEYANCE.—The Administrator shall—

(1) use the real property described in subsection (a) for cemeteries which are to be part of the National Cemetery System;

(2) transfer any such real property back to the administrative jurisdiction of the Secretary of the Army, if it is not used for such a cemetery; and

(3) enter into an agreement with the Secretary to carry out the purposes of this section.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the Administrator.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2745. PROPERTY TRANSFER, BROOKLYN, NEW YORK.

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Navy the excess six story building and associated land, known as Dayton Manor, located near Fort Hamilton, Brooklyn, New York, for rehabilitation and use as military family housing.

SEC. 2746. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA.

(a) TRANSFER.—Subject to subsection (b), the Secretary of the Navy may convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon, consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of real property, with improvements thereon, consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin.

(c) PAYMENT BY COUNTY.—If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property conveyed by Orange County under subsection (b), the county shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) OBLIGATIONS OF PARTIES.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2747. USE OF LAND AT FORT A.P. HILL FOR NATIONAL SCOUT JAMBOREES.

(a) IN GENERAL.—The Secretary of the Army may grant a license to the National Council of the Boy Scouts of America for the use of certain land and facilities at Fort A.P. Hill, Virginia, by the Boy Scouts of America as a permanent site for National Scout Jamborees.

(b) TERMS AND CONDITIONS.—Any land and facilities made available by the Secretary for use by the Boy Scouts of America under this section shall be made available without charge, but shall be made available subject to such other terms and conditions as the Secretary of the Army considers appropriate to protect the interests of the United States.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property and the exact facilities to be subject to a license under this section shall be determined by the Secretary of the Army. The cost of any surveys necessary to establish such legal description shall be borne by the Boy Scouts of America.

SEC. 2748. TRANSFER OF LAND, JOLIET ARMY AMMUNITION PLANT, ILLINOIS.

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) and (c), the Secretary of the Army shall convey to the Administrator of Veterans' Affairs not less than 200 acres of real property, including improvements thereon, located on the Joliet Army Ammunition Plant, Illinois, and with access to State Route 53.

(b) USE OF LAND.—(1) The Administrator shall use the real property conveyed under subsection (a) for a national cemetery.

(2) A national cemetery established on such real property shall become part of the National Cemetery System and shall be administered under chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal descriptions of any property conveyed under this section shall be based on surveys which are satisfactory to the Secretary. The Administrator shall bear the cost of such surveys.

SEC. 2749. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years and an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) USE OF FUNDS.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) AUTHORITY TO DEMOLISH AND CONSTRUCT FACILITIES.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for construction of new facilities on such land for the use of the Port of Oakland.

(f) REPORT.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2750. AUTHORITY TO RELEASE CERTAIN RIGHTS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Army may release, discharge, waive, and quitclaim all right, title, and interest which the United States might have by virtue of the quitclaim deed dated November 22, 1957, in approximately 46.1186 acres of real property, with improvements thereon, in Tarrant County, Texas.

(b) CONDITION.—The Secretary may carry out subsection (a) only after obtaining satisfactory assurances that the State of Texas shall obtain, in exchange for the real property referred to in subsection (a), a tract of real property—

(1) which is at least equal in value to the real property referred to in subsection (a); and

(2) which shall be, on the date on which the State obtains it, subject to the same restrictions and covenants with respect to the Federal Government as are applicable on the date of the enactment of this Act to the real property referred to in subsection (a).

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal descriptions of the real property referred to in subsection (a) shall be based upon surveys which are satisfactory to the Secretary.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 3101. SHORT TITLE.

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,523,225,000 for fiscal year 1988, to be allocated as follows:

(A) For research and development, $769,019,000.

(B) For weapons testing, $396,550,000.

(C) For production and surveillance, $1,893,830,000.

(D) For nuclear directed energy weapons research, development, and testing, $240,000,000.

(E) For the defense inertial confinement fusion program, $149,000,000.

(F) For program direction, $74,826,000.

(2) For defense nuclear materials production, $1,424,521,000 to be allocated as follows:

(A) For uranium enrichment for naval reactors, $141,500,000.

(B) For other uranium enrichment, $11,500,000.

(C) For production reactor operations, $540,035,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $485,700,000, of which $80,000,000 shall be used for special isotope separation.

(E) For supporting services, $221,747,000.

(F) For program direction, $24,039,000.

(3) For environmental restoration and management of defense waste and transportation, $578,519,000, to be allocated as follows:

(A) For environmental restoration, $97,798,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $411,597,000.

(C) For waste research and development, $51,082,000.

(D) For hazardous waste process planning, $7,112,000.

(E) For transportation management, $8,400,000.

(F) For program direction, $2,530,000.

(4) For verification and control technology, $128,290,000 for fiscal year 1988, of which $102,975,000 shall be used for detection technology, to be allocated as follows:

(A) $10,800,000 for on-site monitoring, of which $3,500,000 shall be allocated for CORRTEX hydrodynamic yield estimation technology training and equipment, $3,500,000 shall be allocated to improve the accuracy at low thresholds of nuclear test yield estimation using the CORRTEX hydrodynamic yield estimation technology, and $1,000,000 shall be used to support a program to develop seismic, gravity, and electromagnetic methods for on-site monitoring of suspected clandestine nuclear test sites.

(B) $47,000,000 for satellite instrumentation, of which $3,000,000 shall be allocated for a nuclear test monitoring payload for the Boost Surveillance and Tracking System, and $9,000,000 be allocated for multiyear procurement of nuclear detection payloads for the Defense Support Program satellite.

(C) $18,300,000 for seismic monitoring, of which $9,000,000 shall be used for development and fabrication of a Deployable Seismic Verification System.

(D) $2,000,000 for debris and effluent monitoring.

(E) $8,000,000 for other technical means of verification, of which $1,000,000 shall be allocated for a study evaluating the efficiency of an integrated comprehensive or low-threshold nuclear test ban verification system consisting of seismic monitoring systems, satellite monitoring systems and on-site inspections, and $4,000,000 shall be allocated for the development of alternative and confirming nonseismic means of verifying nuclear testing limitations, including infrasound research, improved data processing capabilities, and extremely low frequency monitoring technologies.

(F) $3,900,000 for directed energy verification.

(G) $12,975,000 for advanced concepts and technology development, of which $4,000,000 shall be allocated for research and development of technologies to support monitoring of a negotiated agreement to dismantle nuclear warheads and monitoring of a negotiated agreement halting the production of plutonium and uranium for nuclear weapons.

(5) For nuclear materials safeguards and security technology development program, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $24,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project-D-103, seismic upgrade, Building 111, Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $26,500,000.

Project 88-D-122, facilities capability assurance program, various locations, $15,400,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $29,400,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health upgrade, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $76,929,000.

(2) For materials production:

New production reactor, location to be determined, $20,000,000.

Project 88-D-146, general plant projects, various locations, $31,230,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $35,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $55,160,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 84-D-135, process facility modifications, Richland, Washington, $10,000,000.

Project 83-D-148, non-radioactive hazardous waste management, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $10,600,000.

(3) For defense waste and transportation management:

Project 88-D-171, general plant projects, various locations, $20,436,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $7,500,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $742,000.

Project 85-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $4,800,000.

Project 88-N-102, expanded core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $266,230,000, of which $17,000,000 shall be allocated for nuclear directed energy weapons and $10,000,000 shall be allocated for the defense inertial confinement fusion program.

(B) For materials production, $91,285,000.

(C) For defense waste and transportation management, $43,687,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $45,000,000.

SEC. 3113. FUNDING LIMITATIONS.

(a) Programs, Projects, and Activities of the Department of Energy Relating to the Strategic Defense Initiative.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) Inertial Confinement Fusion.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not less than $159,000,000 shall be used for the defense inertial confinement fusion program.

(c) Reprogramming Prohibition.—No amount appropriated to the Department of Energy for fiscal year 1988 for operating expenses for verification and control technology may be used for any other program.

Part B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) Notice to Congress.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Limitation on Amount Obligated.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) In General.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) Report to Congress.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) In General.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3012 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN.

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for operating expenses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES.

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 3131. ALLOWABLE COSTS TO INCLUDE CERTAIN INFORMATION PROVIDED TO CONGRESS AND STATE LEGISLATURES.

(a) ALLOWABLE COSTS.—Section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 42 U.S.C. 7256a(b)), is amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

"(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

"(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.".

(b) EFFECTIVE DATE.—Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) shall be prescribed not later than 90 days after the date of the enactment of this Act. Such regulations shall apply as if included in the original regulations prescribed under such section.

SEC. 3132. LIVERMORE NATIONAL LABORATORY.

(a) REDESIGNATION.—The Ernest Orlando Lawrence Livermore National Laboratory facilities at Livermore, California, which were so named by section 212(d)(2) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164; 93 Stat. 1265), shall be known hereafter as the "Livermore National Laboratory". Any reference in any law, regulation, map, document, or record of the United States to such facilities shall be deemed hereafter to be a reference to the Livermore National Laboratory.

(b) REPEAL.—Section 212(d)(2) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164; 93 Stat. 1265) is hereby repealed.

SEC. 3133. MODERNIZATION OF NUCLEAR WEAPONS COMPLEX.

(a) STUDY.—The President shall conduct a study, in consultation with experts in both the Federal Government and the private sector, on the nuclear weapons complex for the purpose of determining the overall size and productive capacity necessary to support national security objectives.

(b) PLAN.—The President shall formulate a plan, based on the study conducted under subsection (a), to modernize the nuclear weapons complex by achieving the necessary size and capacity determined under the study. Such plan shall include—

(1) actions necessary to ensure operation of facilities in the nuclear weapons complex in a safe and environmentally acceptable manner;

(2) a schedule for implementation of the plan; and

(3) the estimated costs of implementation of the plan.

(c) REPORT.—The President shall submit a report to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives containing recommendations resulting from the study required by subsection (a) and a description of the plan required by subsection (b). The report shall be submitted by February 15, 1988.

(d) NUCLEAR WEAPONS COMPLEX DEFINITION.—In this section, the term "nuclear weapons complex" includes facilities for nuclear weapons research, development, and testing, nuclear materials production, nuclear weapons components manufacture, and assembly of nuclear weapons.

SEC. 3134. NUCLEAR WEAPONS COUNCIL AMENDMENTS.

(a) UNDER SECRETARY OF DEFENSE FOR ACQUISITION TO BE CHAIRMAN.—Section 179(a) of title 10, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Under Secretary of Defense for Acquisition.".

(b) ASSISTANT TO SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"There is an Assistant to the Secretary of Defense for Atomic Energy, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(3) Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy".

SEC. 3135. NUCLEAR TESTING LIMITATION.

(a) LIMITATION.—Effective 90 days after the date of the enactment of this Act, funds appropriated for fiscal year 1988 may not be obligated or expended to carry out a nuclear explosion with a yield exceeding one kiloton, or a nuclear explosion that is conducted outside a designated test area, unless the President certifies to Congress—

(1) that the Soviet Union, after the end of the 90-day period beginning on the date of the enactment of this Act, has carried out a nuclear explosion with a yield exceeding one kiloton;

(2) that the Soviet Union, after the end of such 90-day period, has carried out a nuclear explosion outside a designated test area; or

(3) that the Soviet Union has refused to accept and implement reciprocal in-country monitoring arrangements to take effect not later than the last day of such 90-day period and extend through the remainder of fiscal year 1988.

(b) TERMINATION FOR CERTAIN NEW AGREEMENTS.—The limitation on nuclear explosions in subsection (a) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union establishing significant limits on nuclear explosions by such countries that is negotiated after the date of the enactment of this Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "in-country reciprocal monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through the emplacement by each country of seismic monitoring stations on the national territory of the other so that the seismic monitoring network of each nation will be capable of detecting and identifying nuclear explosions with a yield exceeding one kiloton at known nuclear weapons test sites of the other nation and at any other site of the other nation that currently has the capability to accommodate decoupled nuclear explosions with a yield exceeding one kiloton.

(2) The term "designated test area" means an area within the Soviet Union or the United States which—

(A) is known to be composed of strong-coupling rock; and

(B) is located within the boundaries of a single existing nuclear weapons testing site in such country.

SEC. 3136. ANNUAL REPORT ON SAFETY OF THE NUCLEAR WEAPONS COMPLEX.

(a) Requirement for Annual Report.—(1) The Secretary of Energy shall request the National Academy of Sciences to submit an annual report on the status of the nuclear weapons complex. Each such report shall include—

(A) an evaluation of the safety of current facilities and steps that are required to assure the continued safe operation of such facilities;

(B) an evaluation of the environmental impact of the operation of those facilities;

(C) an estimation of the approximate maximum production capability for each nuclear reactor of the Department of Energy consistent with safe operation;

(D) the approximate date on which a replacement will be required for each such reactor; and

(E) findings and recommendations.

(2) The report shall be submitted concurrently to Congress and the Secretary not later than February 1 of each year, beginning with February 1, 1988.

(b) Review and Comment by Secretary.—(1) The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

(A) the Secretary's comments on such findings and recommendations; and

(B) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

(2) The Secretary shall submit the report required by paragraph (1) no later than 30 days after receipt of the report required by subsection (a).

SEC. 3137. REQUIREMENTS TO ENSURE SAFE OPERATION OF N REACTOR.

(a) Report by National Academy of Sciences.—The Secretary of Energy shall request the National Academy of Sciences to submit by October 1, 1987, a report summarizing its findings, conclusions, and recommendations relating to the safety of operation of the N Reactor at the Hanford Reservation, Washington (hereafter in this section referred to as the "N Reactor"). Such report shall be prepared from the Academy's current assessment of safety and technical issues at Department of Energy class A reactors being conducted pursuant to section 3136 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (division C of Public Law 99-661; 100 Stat. 4064). The report may include a review of the reports and recommendations of the so-called Roddis panel and shall be in addition to any other report submitted by the Academy on the N Reactor to the Department of Energy. The report shall be submitted to—

(1) the Secretary of Energy; and

(2) the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(b) Restriction on Operation of N Reactor.—The Secretary of Energy—

(1) may not operate the N Reactor before November 1, 1987; and

(2) may not operate the N Reactor until the Secretary submits to the Committees specified in subsection (a) a certification that the N Reactor is safe to operate.

(c) Effect on Environmental Impact Statement.—No requirement or restriction in this section (including the delay in operation of the N Reactor until at least October 31, 1987) shall affect or be considered in the application or interpretation of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) to the N Reactor.

(d) Operation Defined.—For purposes of this section, the term "operation" with respect to the N Reactor means any activity carried out for the purpose of producing special nuclear materials by achieving a state of criticality.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 3201. SHORT TITLE.

This title may be cited as the "Strategic and Critical Materials Stock Piling Amendments of 1987".

SEC. 3202. STOCKPILE REQUIREMENTS.

(a) Purpose of Stockpile.—Section 2 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a) is amended by adding at the end the following new subsection:

"(c) It is the intent of Congress—

"(1) that the National Defense Stockpile be used to serve the interest of national defense only and not be used for economic or budgetary purposes; and

"(2) that the quantities of materials stockpiled under this Act should be sufficient to sustain the United States for a period of not less than three years during a war emergency situation that would necessitate total mobilization of the economy of the United States for a conventional global war of indefinite duration.".

(b) Establishment of Stockpile Requirements by Law.—Section 3 of such Act (50 U.S.C. 98b) is amended to read as follows:

"ESTABLISHMENT BY LAW OF STOCKPILE REQUIREMENTS

"Sec. 3. (a) The materials that are strategic and critical materials for the purposes of this Act, and the quality and quantity of each such material to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored, shall be established by law.

"(b) Such materials when acquired, together with the other materials described in section 4, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the 'stockpile').

"(c) Determinations under subsection (a) shall be known as 'stockpile requirements'.".

(c) Initial Level of Stockpile Requirements.—The determinations in effect as of October 1, 1984, under section 3(a) of the Strategic and Critical Materials Stock Piling Act shall be the stockpile requirements for the purposes of such section, as amended by this Act, until otherwise provided by law.

SEC. 3203. TRANSFER OF CERTAIN STOCKPILE FUNCTIONS TO THE SECRETARY OF DEFENSE.

(a) In General.—Sections 5, 6, 6A, 10, and 11 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d, 98e, 98e-1, 98h-1, 98h-2) are amended by striking out "President" each place it appears and inserting in lieu thereof "Secretary".

(b) Definition of Secretary.—Section 12 of such Act (50 U.S.C. 98h-3) is amended by adding at the end the following new paragraph:

"(3) The term 'Secretary' means the Secretary of Defense.".

SEC. 3204. ANNUAL RECOMMENDATION OF STOCKPILE REQUIREMENTS BY SECRETARY OF DEFENSE.

The Strategic and Critical Materials Stock Piling Act is amended by adding at the end the following new section:

"ANNUAL REPORT ON STOCKPILE REQUIREMENTS

"Sec. 14. (a) In General.—In order to assist Congress in determining stockpile requirements under section 3, the Secretary shall submit to Congress an annual report on stockpile requirements. Each such report shall be submitted with the annual report submitted under section 11(b) and shall include—

"(1) the Secretary's recommendations with respect to stockpile requirements; and

"(2) the matters required under subsection (b).

"(b) National Emergency Planning Assumptions.—Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary, based upon total mobilization of the economy of the United States for a conventional global war for a period of not less than three years. Assumptions to be set forth include assumptions relating to each of the following:

"(1) Length and intensity of the assumed emergency.

"(2) The military force structure to be mobilized.

"(3) Losses from enemy action.

"(4) Military, industrial, and essential civilian requirements to support the national emergency.

"(5) Budget authority to meet the total mobilization, military, industrial, and essential civilian requirements.

"(6) The availability of supplies of strategic and critical materials from foreign sources, taking into consideration possible shipping losses.

"(7) Domestic production of strategic and critical materials.

"(8) Civilian austerity measures.".

SEC. 3205. STOCKPILE MANAGEMENT.

The Strategic and Critical Materials Stock Piling Act is amended by adding after section 14 (as added by section 3204) the following new sections:

"INTERAGENCY AGREEMENTS

"Sec. 15. (a) Authority to Enter Into Agreements.—The Secretary may enter into an interagency agreement with the head of any other department or agency for the performance of functions of the Secretary relating to section 6.

"(b) Reimbursement.—The Secretary shall reimburse the head of any such agency for expenses incurred by that agency in the administration of functions relating to the stockpile assigned to that agency by the Secretary under such an interagency agreement.

"APPROPRIATIONS TO BE MADE TO DEPARTMENT OF DEFENSE

"Sec. 16. Appropriations for the operation and management of the stockpile and for deposit to the National Defense Stockpile Transaction Fund shall be made as part of appropriations made to the Department of Defense for the military functions of the Department.".

SEC. 3206. USES OF STOCKPILE TRANSACTION FUND.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C.

98h(b)(2)) is amended by striking out subparagraph (F).

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATION.

There is hereby authorized to be appropriated $134,806,000 for fiscal year 1988 for the purpose of carrying out the Federal Civil Defense Act of 1950.

SEC. 3302. PROHIBITION.

Notwithstanding any other provision of law, funds available to the Federal Emergency Management Agency for fiscal years 1987 and 1988 for obligation and expenditure under the Federal Civil Defense Act of 1950 may not be withheld or withdrawn at any time (before, on, or after the date of the enactment of this Act) during such fiscal years from any State or any other entity on the basis of such State or other entity's failure to participate, or determination not to participate, in a simulated nuclear attack exercise.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain activities of the Department of Defense, and for other purposes."

A motion to reconsider was laid on the table.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1988 AND 1989

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 864) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

SHORT TITLE.—This Act may be cited as the "Department of Defense Authorization Act, 1988 and 1989".

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for procurement for the Army as follows:

(1) For aircraft:

(A) $2,805,859,000, for fiscal year 1988.

(B) $2,643,083,000, for fiscal year 1989.

(2) For missiles:

(A) $2,412,928,000, for fiscal year 1988.

(B) $2,367,461,000, for fiscal year 1989.

(3) For weapons and tracked combat vehicles:

(A) $3,410,437,000, for fiscal year 1988.

(B) $3,144,212,000, for fiscal year 1989.

(4) For ammunition:

(A) $2,131,239,000, for fiscal year 1988.

(B) $2,166,732,000, for fiscal year 1989.

(5) For other procurement:

(A) $5,522,163,000, for fiscal year 1988.

(B) $6,030,274,000, for fiscal year 1989.

SEC. 102. NAVY AND MARINE CORPS

(a) NAVY.—Funds are hereby authorized to be appropriated for procurement for the Navy as follows:

(1) For aircraft:

(A) $9,562,607,000, for fiscal year 1988.

(B) $5,160,280,000, for fiscal year 1989.

(2) For weapons (including missiles and torpedoes):

(A) $6,219,532,000, for fiscal year 1988.

(B) $3,044,459,000, for fiscal year 1989.

(3) For shipbuilding and conversion:

(A) $10,081,455,000, for fiscal year 1988.

(B) $2,936,400,000, for fiscal year 1989.

(4) For other procurement:

(A) $4,967,627,000, for fiscal year 1988.

(B) $1,094,201,000, for fiscal year 1989.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,378,440,000, for fiscal year 1988.

(2) $810,006,000, for fiscal year 1989.

SEC. 103. AIR FORCE

(a) Funds are hereby authorized to be appropriated for procurement for the Air Force as follows:

(1) For aircraft:

(A) $13,754,873,000, for fiscal year 1988.

(B) $9,272,047,000, for fiscal year 1989.

(2) For missiles:

(A) $9,137,539,000, for fiscal year 1988.

(B) $7,164,439,000, for fiscal year 1989.

(3) For other procurement:

(A) $8,210,782,000, for fiscal year 1988.

(B) $8,453,171,000, for fiscal year 1989.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for Defense Agencies as follows:

(1) $1,276,891,000, for fiscal year 1988.

(2) $863,622,000, for fiscal year 1989.

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces in the amount of $300,000,000.

(b) AUTHORIZATIONS IN ADDITION TO OTHER AMOUNTS.—The authorization of appropriations contained in subsection (a) is in addition to any other amounts authorized to be appropriated by this or any other Act.

SEC. 106. CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1987, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended—

(1) by striking out "fiscal year 1987" each place it appears and inserting in lieu thereof "fiscal years 1988 and 1989"; and

(2) by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO and other follow-on support agreements for the NATO E-3A between the United States Government and the commander of the NATO E-3A Force," after "December 6, 1978,".

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 121. ARMY PROGRAMS

(a) FORWARD AREA AIR DEFENSE HEAVY SYSTEM.—Funds appropriated or otherwise available to the Army for procurement for fiscal year 1988 may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to Army solicitation number DAAH01-87-R-A988 unless the Secretary of the Army determines that the system meets the full system requirements specified in that solicitation.

(b) STINGER MISSILE.—Section 107(e) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3827) is repealed.

(c) RDX FACILITY.—The Secretary of the Army may award one or more contracts, in advance of appropriations therefor, for the design and construction of an RDX manufacturing plant if each such contract limits the amount of payments that the Federal Government is obligated to make under such contract to the amount of appropriations available, at the time such contract is awarded, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods.

(d) ARMY TRUCK PROGRAM.—Funds appropriated to the Department of Defense before, on, or after the date of the enactment of this Act or otherwise made available to the Department of Defense may not be obligated for purposes of procuring tactical transport trucks with a capacity in excess of 4000 pounds unless the trucks are acquired after a competition based on performance specifications that satisfy the Department of the Army's requirements for such vehicles.

(e) LIGHTWEIGHT TACFIRE.—Funds appropriated to the Department of Defense before, on, or after the date of the enactment of this Act or otherwise made available to the Department of Defense may not be obligated to enter into any contract for purposes of acquiring the Lightweight Tacfire fire support system.

SEC. 122. NAVY PROGRAMS

(a) H-53 AIRCRAFT.—Of the funds appropriated to the Navy for fiscal year 1988 for the procurement of the H-53 aircraft, not more than 30 percent of such funds may be obligated until the Secretary of the Navy has submitted to Congress a report containing the preliminary results of dynamic structural tests on the H-53 aircraft and the recommendations of the Secretary regarding the advisability of continuing procurement of such aircraft.

(b) LAND-BASED TANKERS.—Funds appropriated to the Navy before, on, or after the date of enactment of this Act or otherwise made available to the Navy may not be obligated or expended for the purpose of acquiring or operating land-based tanker aircraft unless the Secretary of Defense has certified to Congress that the Department of the Air Force and the Department of the Navy will not enter into a memorandum of agreement regarding Air Force support of Navy land-based tanker requirements. For the purposes of this section, the KC-130T aircraft operated by the Marine Corps is not considered a land-based tanker aircraft.

(c) Lease or Charter of New Tankers.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for militarily useful tanker vessels constructed in the United States.

SEC. 123. AIR FORCE PROGRAMS

(a) T-46 Aircraft.—Funds appropriated to the Air Force for fiscal years 1986 and 1987 may not be obligated or expended for procurement of the T-46 aircraft (other than those aircraft under contract on the date of the enactment of this Act for lot one aircraft) or in connection with a competition for trainer aircraft.

(b) A-7 Close Air Support Aircraft.—Of the amount appropriated or otherwise made available to the Air Force for fiscal year 1988 for procurement of aircraft, $10,000,000 shall be available only for the procurement of equipment, facilities, and services for the modification of A-7 aircraft under the A-7 Plus program. None of such funds may be obligated until the Secretary of Defense has certified to Congress, in writing, that the A-7 Plus program is a cost-effective approach to modernizing close air support and battlefield air interdiction squadrons in the Air Force and the Air National Guard.

Part C—Milestone and Multiyear Contract Authorizations

SEC. 131. MILESTONE AUTHORIZATIONS FOR PROCUREMENT

(a) Mobile Subscriber Equipment.—(1) Of the funds appropriated to the Army pursuant to section 101, $1,019,800,000 of the amount appropriated for fiscal year 1988 and $995,700,000 of the amount appropriated for fiscal year 1989 may be obligated only for Mobile Subscriber Equipment.

(2) Funds are authorized to be appropriated to the Army for procurement of Mobile Subscriber Equipment as follows:

(A) For fiscal year 1990, $976,200,000.

(B) For fiscal year 1991, $360,000,000.

(b) Army Tactical Missile System.—(1) Of the amount appropriated to the Army pursuant to section 101, $16,925,000 of the amount appropriated for fiscal year 1988 and $81,300,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) Funds are authorized to be appropriated to the Army for procurement of the Army Tactical Missile System as follows:

(A) For fiscal year 1990, $158,200,000.

(B) For fiscal year 1991, $209,000,000.

(C) For fiscal year 1992, $88,200,000.

(c) Trident II Missile.—(1) Of the amount appropriated to the Navy pursuant to section 102, $2,251,331,000 of the amount appropriated for fiscal year 1988 and $2,227,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program and equipment described in the preceding sentence.

(2) Funds are authorized to be appropriated to the Navy for procurement of the Trident II missile as follows:

(A) For fiscal year 1990, $2,215,000,000.

(B) For fiscal year 1991, $2,090,500,000.

(C) For fiscal year 1992, $1,977,000,000.

(d) T-45 Training System.—(1) Of the amount appropriated to the Navy pursuant to section 102, $371,500,000 of the amount appropriated for fiscal year 1988 and $417,500,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are authorized to be appropriated to the Navy for procurement of the T-45 Training System as follows:

(A) For fiscal year 1990, $437,700,000.

(B) For fiscal year 1991, $596,300,000.

(C) For fiscal year 1992, $652,300,000.

(e) Medium Launch Vehicle.—Of the amount appropriated to the Air Force pursuant to section 103, $197,900,000 of the amount appropriated for fiscal year 1988 and $204,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Medium Launch Vehicle.

(f) Application of Section 2437 of Title 10.—Programs referred to in subsections (a) through (e) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

SEC. 132. MULTIYEAR CONTRACTS FOR FISCAL YEAR 1988

(a) Army.—Subject to subsection (d), the Secretary of the Army may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(1) High Mobility Multipurpose Wheeled Vehicle.

(2) TOW 2 Missile (for the Army and Marine Corps).

(3) AN/ALQ-136(V)2 Radar Jammer.

(b) Navy.—Subject to subsection (d), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Hawk Missile System.

(c) Air Force.—Subject to subsection (d), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Meteorological Satellite Program.

(d) Limitations on Authorized Multiyear Procurements.—The Secretary concerned may not enter into a multiyear contract authorized by this section for a program unless the total anticipated cost for the program over the period of the contract is no more than 88 percent of the total anticipated cost of carrying out such program through annual contracts.

Part D—Chemical Weapons

SEC. 141. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for purposes of the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $87,400,000.

SEC. 142. REVISIONS TO CHEMICAL DEMILITARIZATION PROGRAM

(a) Definition.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) Environmental Impact Statement.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) Disposal Technologies.—(1) Funds appropriated pursuant to this Act for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for any Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense provides to Congress a written certification that the concept plan under the program includes the following:

(A) Evaluation of alternative technologies for disposal of the existing stockpile and selection of one such technology to be used for such purpose.

(B) Full-scale operational verification of the technology selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) Alternative Concept Plan.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the matters determined under subsections (b) and (c); and

(2) specify any revised schedule and revised funding requirements necessary to enable the Secretary to meet the requirements under subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) Surveillance and Assessment Program.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing chemical stockpile; and

(2) assessment of the condition of the stockpile.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Part A—Authorizations of Appropriations and Program Limitations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) In General.—Funds are hereby authorized to be appropriated for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:

(A) $5,474,460,000, for fiscal year 1988.

(B) $2,860,598,000, for fiscal year 1989.

(2) For the Navy (including the Marine Corps):

(A) $10,268,737,000, for fiscal year 1988.

(B) $3,182,370,000, for fiscal year 1989.

(3) For the Air Force:

(A) $16,346,598,000, for fiscal year 1988.

(B) $7,967,780,000, for fiscal year 1989.

(4) For the Defense Agencies:

(A) $8,699,452,000, for fiscal year 1988, of which—

(i) $178,217,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $104,221,000 is authorized for the Director of Operational Test and Evaluation.

(B) $3,870,680,000, for fiscal year 1989, of which—

(i) $186,128,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $149,657,000 is authorized for the Director of Operational Test and Evaluation.

(b) AUTHORIZATION OF UNBUDGETED AMOUNTS FOR CERTAIN PURPOSES.—There are authorized to be appropriated for fiscal years 1988 and 1989, in addition to the amounts authorized to be appropriated in subsection (a), such amounts as may be necessary for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided by funds authorized to be appropriated in subsection (a).

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 221. ARMY PROGRAMS

(a) RIFLE-LAUNCHED MUNITIONS.—Of the funds appropriated to the Army pursuant to section 201 of the Department of Defense Authorization Act, 1987 (Public Law 99-661), $11,827,000 may be obligated only for a lightweight rifle-launched anti-armor munitions program approved by the Assistant Secretary of Defense for Special Forces and Low Intensity Conflict.

(b) IMPROVED MASK DRINKING SYSTEM.—Of the funds appropriated to the Army pursuant to section 201 for fiscal year 1988, $600,000 may be obligated only for the Improved Mask Drinking System.

(c) STINGER ELECTRONIC SECURITY SYSTEM.—Of the funds appropriated pursuant to section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

SEC. 222. NAVY PROGRAMS

(a) PEGASUS ENGINE.—Section 203(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3838), is repealed.

(b) EMPRESS PROGRAM.—The Secretary of the Navy may not carry out, during fiscal year 1988, an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator program for ships (EMPRESS).

SEC. 223. LINCOLN LABORATORY MODERNIZATION PROGRAM

(a) IN GENERAL.—The Secretary of the Air Force may enter into a contract with the Massachusetts Institute of Technology (hereafter in this section referred to as MIT) under which MIT will agree to carry out a program for the modernization and expansion of the Lincoln Laboratory complex at Hanscom Air Force Base, Massachusetts. The program may include new construction and additions to and modifications of existing research offices, laboratory spaces, and supporting facilities needed to perform the Lincoln Laboratory mission. The costs incurred under such a contract may include construction, acquisition and installation of associated equipment, inspection and supervision of construction, and financing charges (including financing charges on amounts provided by MIT for the program), but may not include any fee or profit for MIT or Lincoln Laboratory.

(b) RESTRICTIONS AND LIMITATIONS.—The total cost of the program referred to in subsection (a) may not exceed $135,000,000. Such program shall be completed not later than 12 years after the date of the enactment of this Act.

(c) AVAILABILITY OF FUNDS.—Funds available to the Department of Defense for research, development, test, and evaluation in any fiscal year may be used in such fiscal year to make any payment required to be made during such fiscal year in connection with the program referred to in subsection (a).

(d) UNITED STATES OWNERSHIP OF FACILITIES.—Title to the facilities and all associated equipment paid for under a contract entered into under subsection (a) shall be transferred to the United States after construction has been completed and has been approved by the Secretary.

(e) USE OF FACILITIES AND EQUIPMENT BY MIT.—In consideration for the services of MIT under the contract referred to in subsection (a), MIT shall be entitled to use the facilities and equipment at the Lincoln Laboratory complex in the manner and to the extent agreed upon by the Secretary of the Air Force and MIT and specified in the contract. No right of ownership of any facility or equipment at the Lincoln Laboratory complex shall accrue to MIT by virtue of its services under a contract referred to in subsection (a).

SEC. 224. EXTENDED AIR DEFENSE

Of the funds appropriated to the Defense Agencies pursuant to section 201, $100,000,000 may be obligated only upon approval by the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems or extended air defense systems. In the event any such funds are made available to firms in allied countries, such funds shall be available for obligation only after the Secretary of Defense has entered into cooperative programs with such allied countries for that purpose.

SEC. 225. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the funds appropriated pursuant to this title, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 226. ADVANCED LAUNCH SYSTEM

(a) IN GENERAL.—(1) Funds authorized to be appropriated to the Department of Defense before, on, or after the date of the enactment of this Act for research, development, test, and evaluation for the Department of Defense or any of its components for any activities associated directly or indirectly with the Advanced Launch System/Heavy Lift Launch Vehicle (hereinafter in this section referred to as the "ALS") may not be obligated or expended until the Secretary of Defense, with the concurrence of the Administrator of the National Aeronautics and Space Administration, has submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a certification that includes the following information:

(1) A copy of the agreement between the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration on the most cost-effective design approach for the ALS and on a joint management plan to implement the program so as to make maximum use of the expertise and unique testing facilities of the National Aeronautics and Space Administration, especially with respect to rocket propulsion systems.

(2) A detailed description of the ALS program management plan, including identification of the specific roles and responsibilities to be fulfilled by the Defense Agencies, the Air Force, and the National Aeronautics and Space Administration.

(3) A copy of the formal cost-sharing agreement entered into by all participants in the ALS program which (A) identifies the program's total costs (in current and constant dollars) for research, development, test, and evaluation, procurement, and facilities construction, and (B) includes the budgetary resources intended to be dedicated annually by each participant in fiscal years 1988 through 1992.

(b) ALS PROPULSION SYSTEMS.—Funds authorized to be appropriated to the Department of Defense before, on, or after the date of the enactment of this Act for research, development, test, and evaluation of liquid oxygen/hydrocarbon rocket propulsion systems, liquid oxygen/liquid hydrogen rocket propulsion systems, and alternative solid rocket booster propulsion systems, associated directly or indirectly with the ALS, or for the construction of test facilities for such propulsion systems, may be obligated and expended only for research, development, test, and evaluation, and construction, activities in conjunction with the National Aeronautics and Space Administration and only at the site of existing research and testing facilities of the National Aeronautics and Space Administration except that construction of the J-6 Large Rocket Test Facility at Arnold Engineering Development Center for testing of large, solid-propellant rocket motors in a simulated flight-altitude environment shall be paid for out of funds authorized to be appropriated to the Air Force for military construction.

SEC. 227. SPACE LAUNCH RECOVERY

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation, a total of up to $50,000,000 may be transferred from the Army and the Navy to the Air Force for activities related to space launch recovery.

SEC. 228. CRUISE MISSILE GUIDANCE

Of the funds appropriated pursuant to section 201, $20,000,000 may be obligated only for carrying out a program for an advanced technology demonstration of a near-zero CEP seeker for future and existing cruise missile designs intended to increase accuracy and mission planning flexibility while achieving optimal cost effectiveness. The Secretary of Defense shall determine which of the military departments and Defense Agencies are to carry out such program and the amount to be expended by each such department or agency for such program.

SEC. 229. DEPARTMENT OF DEFENSE HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT PROGRAM

(a) AUTHORIZATION.—(1) Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201 for research, development, test, and evaluation, $60,520,000 of the amount appropriated for fiscal year 1988 and $60,520,000 of the amount appropriated for fiscal year 1989, may be obligated only for research and development relating to superconductivity at high critical temperatures.

(2) Of the amount that may be obligated under paragraph (1) for each of fiscal years 1988 and 1989, $10,520,000 may be obligated only for support of research and development activities that—

(A) are conducted under the superconductor program of the Defense Advanced Research Project Agency of the Department of Defense or under the superconductor program of any other entity involved in superconductor research and development; and

(B) accelerate advanced development of superconductor technology to support the Electric Drive program of the Department of Defense.

(b) Administrative Provisions.—(1) The Secretary of Defense shall determine, with respect to the amounts appropriated or otherwise made available to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for research, development, test, and evaluation for each of fiscal years 1988 and 1989, the amount to be derived from the Army, Navy, Air Force, and each of the Defense Agencies in each such fiscal year to carry out the high-temperature superconductivity research and development activities of the Department of Defense under this section.

(2) The Under Secretary of Defense for Acquisition or his designee shall—

(A) coordinate the research and development activities of the Department of Defense relating to high-termperature superconductivity; and

(B) ensure that such research and development—

(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

(ii) complements rather than duplicates such activities.

(c) The Under Secretary of Defense for Acquisition shall take appropriate action—

(1) to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector in accordance with (A) the amendments made by the Federal Technology Transfer Act of 1986 (Public Law 99-502; 100 Stat. 1785) to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), and (B) Executive Order Number 12591, dated April 10, 1987; and

(2) in consultation with the Secretary of Energy, to ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer of such technology to the private sector.

SEC. 230. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) Findings.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) Purposes.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) Definitions.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) Authority To Make Grants.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) Memorandum of Understanding.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) Construction of Memorandum of Understanding.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) Advisory Council.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by

the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) EXPORT OF SEMICONDUCTOR MANUFACTURING TECHNOLOGY.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) PROTECTION OF INFORMATION.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) AUTHORIZATION.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

SEC. 230A. NUCLEAR MONITORING RESEARCH PROGRAM

Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201(a)(4) for research, development, test, and evaluation, $25,000,000 of the amount appropriated for fiscal year 1988 may be obligated only for the nuclear monitoring research program of the Defense Advanced Research Projects Agency.

SEC. 230B. BIOENVIRONMENTAL HAZARDS RESEARCH

Of the funds authorized to be appropriated to the Armed Forces pursuant to section 201(a) not more than $33,000,000 may be obligated through the Office of the Undersecretary of Defense for Acquisition for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes.

SEC. 230C. CENTER FOR ADVANCED TECHNOLOGIES

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds may not be obligated for such purpose until a memorandum of understanding has been entered into by the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility. Funds may not be obligated for such purpose without the approval of the Secretary of Defense. Funds may not be obligated for such purpose until sixty days after a report has been submitted to the Armed Services Committees of the Senate and the House of Representatives.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 231. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

Of the amounts appropriated pursuant to authorizations in section 201 or otherwise available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $4,120,000,000 may be obligated for the Strategic Defense Initiative for such fiscal year.

SEC. 232. REPORT ON STRATEGIC DEFENSE INITIATIVE FUNDING

(a) IN GENERAL.—The Director of the Strategic Defense Initiative Organization shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The Director shall set out the amount of such funds allocated for each program, project, or activity within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation providing funds for the Strategic Defense Initiative for fiscal year 1988.

SEC. 233. LIMITATION ON DEVELOPMENT OR TESTING OF SPACE-BASED AND OTHER MOBILE ANTI-BALLISTIC MISSILE SYSTEMS

(a) Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test anti-ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

(b) The limitation in subsection (a) shall cease to apply if—

(1) the President submits to Congress a comprehensive report on the systems or components which the President proposes to develop or test; and

(2) after such report is received by Congress, a joint resolution described in subsection (c) is introduced and such joint resolution is enacted.

(c)(1) A joint resolution referred to in subsection (b) shall be one without a preamble, the matter after the resolving clause of which is as follows: "That section 233 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 is repealed.".

(2) Such a joint resolution introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. Such a joint resolution introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 15th day after its introduction. If the committee to which such a resolution is referred does not report such resolution (or an identical resolution) at the end of 60 days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Such a resolution shall be considered in the House of Representatives and the Senate in accordance with paragraphs (5) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936).

SEC. 234. REPORTS ON STRATEGIC DEFENSE INITIATIVE PROGRAMS

(a) IN GENERAL.—At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each of the fiscal years 1989 and 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and other programs, if any, relating to defense against ballistic missiles. Each such report shall include the following:

(1) Details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles.

(2) A clear definition of the objectives of the Strategic Defense Initiative.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned Strategic Defense Initiative development and testing programs with existing arms control agreements, including the anti-ballistic missile treaty.

(6) A review of possible Soviet countermeasures to specific Strategic Defense Initiative programs and an evaluation of the adequacy of the Strategic Defense Initiative

programs outlined in this report to respond to such countermeasures.

(7) Details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending the United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of Strategic Defense Initiative technologies might help to accomplish.

(9) For each of the near-term military missions listed in (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish these missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach these operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of these architectures or systems against current and projected Soviet threats.

(b) REPEALS.—Section 1102 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2431 note), and section 215 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3843), are repealed.

SEC. 235. ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for system level design and integration issues related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization assessed alternative types of organizations to provide technical support to the Strategic Defense Initiative program, including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories, and determined that a new federally funded research and development center would be the best type of organization to provide technical support to the Strategic Defense Initiative program.

(3) To ensure the independence and objectivity of any such new FFRDC and to control its expense, certain conditions need be met.

(4) Competitive selection of a contractor to establish and operate a federally funded research and development center to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of technological and system level Strategic Defense Initiative program issues.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds appropriated to the Department of Defense for the Strategic Defense Initiative program may be used for the purpose of awarding a contract to operate a federally funded research and development center established to support the Strategic Defense Initiative program if such center is established under competitive procedures which emphasize cost considerations: And provided further, That—

(1) the Secretary of Defense has solicited proposals for such contract from existing federally funded research and development centers, universities, commercial entities, and any new organizations, and has made maximum efforts to obtain more than one proposal for such contract;

(2) the Secretary of Defense has submitted the 3 best contract proposals, together with a copy of the proposed sponsoring agreement for the new FFRDC, to peer review by 3 persons designated by the Defense Science Board from a list of six or more persons compiled by the National Academy of Science;

(3) the persons performing the peer review referred to in clause (3)—

(A) have evaluated the extent to which each proposal and the sponsoring agreement foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) have reported their evaluation to the Secretary;

(4) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (b) include a provision stating that no officer or employee of the Secretary of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(5) the Secretary of Defense has issued a directive requiring that at least 5 percent of the total amount of funds available for the new FFRDC is to be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(6) the Secretary of Defense has issued a directive (A) imposing a limitation on the compensation payable to each high-level executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to high-level executives of comparable federally funded research and development centers for similar services, and (B) imposing a requirement that the new FFRDC publicly disclose the salary of its chief executive officer;

(7) the Secretary of Defense has issued a directive (A) prohibiting current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees if such members constitute ten or more percent of the Board of Trustees or from serving as officers of the new FFRDC, and (B) requiring that the contract referred to in clause (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC except the President of the new FFRDC if the Board is comprised of 10 or more members;

(8) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (1) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, has served in the Strategic Defense Initiative Organization within 2 years before the date on which such person is to be employed by the new FFRDC;

(9) the Secretary of Defense has issued a directive providing for a separate line item within the Department of Defense budget for all funds for the new FFRDC;

(10) the Secretary of Defense has issued a directive requiring that any contract referred to in clause (b) include a provision requiring that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program;

(11) the Secretary of Defense shall not decide upon or announce the award of any contract before January 30, 1989 and, before awarding a contract for the operation of the new FFRDC, the Secretary of Defense shall submit to Congress no sooner than January 30, 1989—

(A) a copy of the proposed final contract;

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC; and

(C) shall withhold the award of such contract and approval of such sponsoring agreement for at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives such copies and report.

(c) CONTINUITY OF CONGRESSIONAL SESSION.—For purposes of subsection (a)(11), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress; however, in computing a 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain shall be excluded.

(d) SUNSET PROVISION.—No funds shall be available for the new FFRDC 5 years after the award of its initial contract.

PART D—MILESTONE AUTHORIZATIONS

SEC. 241. MILESTONE AUTHORIZATIONS

(a) ARMY TACTICAL MISSILE SYSTEM.—(1) Of the amount appropriated to the Army pursuant to section 201, $112,208,000 of the amount appropriated for fiscal year 1988 and $86,618,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) The sum of $49,000,000 is authorized to be appropriated to the Army for fiscal year 1990 for research, development, test, and evaluation in connection with the Army Tactical Missile System.

(b) Trident II Missile.—(1) Of the amount appropriated to the Navy pursuant to section 201, $1,098,463,000 of the amount appropriated for fiscal year 1988 and $581,740,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program and equipment described in the preceding sentence.

(2) Funds are authorized to be appropriated to the Navy for research, development, test and evaluation of the Trident II missile as follows:

(A) For fiscal year 1990, $338,300,000.

(B) For fiscal year 1991, $164,700,000.

(C) For fiscal year 1992, $103,000,000.

(c) T-45 Training System.—(1) Of the amount appropriated to the Navy pursuant to section 201, $96,015,000 of the amount appropriated for fiscal year 1988 and $87,822,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are authorized to be appropriated to the Navy for research, development, test and evaluation of the T-45 Training System, as follows:

(A) For fiscal year 1990, $23,700,000.

(B) For fiscal year 1991, $24,000,000.

(d) Medium Launch Vehicle.—(1) Of the amount appropriated to the Air Force pursuant to section 201, $8,900,000 of the amount appropriated for fiscal year 1988 and $6,000,000 of the amount appropriated for 1989 may be obligated only for the Medium Launch Vehicle.

(2) Funds are authorized to be appropriated to the Air Force for research, development, test, and evaluation of the Medium Launch Vehicle as follows:

(A) For fiscal year 1990, $6,000,000.

(B) For fiscal year 1991, $6,000,000.

(C) For fiscal year 1992, $5,000,000.

(e) Application of Section 2437 of Title 10.—Programs referred to in subsections (a) through (d) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

Part E—Balanced Technology Initiative

SEC. 251. BALANCED TECHNOLOGY INITIATIVE

(a) Purpose.—It is the purpose of this section to authorize funds for a Balanced Technology Initiative program.

(b) Program Focus.—The focus of such program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of Soviet and Warsaw Pact equipment, doctrine, and tactics. Such focus shall give particular emphasis to the following:

(A) Armor/anti-armor initiatives.

(B) Defenses against armed helicopters.

(C) Hypervelocity missiles for ground combat use.

(D) Defense against anti-ship missiles, including those with "stealth" characteristics.

(E) "Smart" mines for both land and ocean warfare.

(F) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(G) Improved conventional anti-submarine warfare munitions.

(H) "Smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges.

(c) Amounts Authorized.—(1) Of the amount appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1988—

(A) not less than $300,000,000 shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3845); and

(B) not less than $200,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under section 222 of the Department of Defense Authorization Act, 1987.

(2) Of the amount appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, not less than $400,000,000 shall be obligated for research and development in connection with the Balanced Technology Initiative.

(3) The Conventional Defense Initiative provided for in section 221 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3845), is not an element of the Balanced Technology Initiative, and funds made available for the purpose of this subsection may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

(d) Identification of Funds To Be Transferred.—(1) The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (c)) for the Balanced Technology Initiative. Such determination shall be made on a merit basis, taking into consideration ongoing technology research and exploitation opportunities.

(2) Funds designated under subsection (c)(1)(B) shall be derived from programs, projects, and activities that have a low potential for enhancing the advantages of the United States and its allies in conventional defense technology.

(e) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction may be applied against the funds specified in subsection (c) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (c).

(f) Prohibition on Use of Funds.—None of the funds specified in subsection (c) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(g) Report.—(1) Not later than 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Such report shall include—

(A) the allocation by project of the amounts specified in subsection (c);

(B) the identification of other ongoing research and development projects that should be included in a balanced defense technology effort to improve conventional defense; and

(C) for each program, project, or activity for which funds have been allocated under subsection (c) or which is identified under clause (B) of this paragraph, a 5-year funding plan sufficient to maintain significant progress in such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving such milestones.

(2) None of the funds allocated pursuant to subsection (c) may be obligated until—

(A) the report required by paragraph (1) has been received by the committees named in paragraph (1); and

(B) a period of 30 days has elapsed following the date on which the report is received by the committees.

TITLE III—OPERATION AND MAINTENANCE

Part A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army:

(A) $21,691,300,000, for fiscal year 1988.

(B) $22,583,196,000, for fiscal year 1989.

(2) For the Navy:

(A) $25,088,159,000, for fiscal year 1988.

(B) $25,590,098,000, for fiscal year 1989.

(3) For the Marine Corps:

(A) $1,899,966,000, for fiscal year 1988.

(B) $1,906,735,000, for fiscal year 1989.

(4) For the Air Force:

(A) $20,979,747,000, for fiscal year 1988.

(B) $21,532,955,000, for fiscal year 1989.

(5) For the Defense Agencies:

(A) $7,393,551,000, for fiscal year 1988.

(B) $7,689,758,000, for fiscal year 1989.

(6) For the Army Reserve:

(A) $872,178,000, for fiscal year 1988.

(B) $915,050,000, for fiscal year 1989.

(7) For the Naval Reserve:

(A) $940,754,000, for fiscal year 1988.

(B) $983,626,000, for fiscal year 1989.

(8) For the Marine Corps Reserve:

(A) $68,972,000, for fiscal year 1988.

(B) $73,485,000, for fiscal year 1989.

(9) For the Air Force Reserve:

(A) $1,010,352,000, for fiscal year 1988.

(B) $1,037,429,000, for fiscal year 1989.

(10) For the Army National Guard:

(A) $1,849,664,000, for fiscal year 1988.

(B) $1,955,715,000, for fiscal year 1989.

(11) For the Air National Guard:

(A) $1,968,974,000, for fiscal year 1988.

(B) $2,002,820,000, for fiscal year 1989.

(12) For the National Board for the Promotion of Rifle Practice:

(A) $4,099,000, for fiscal year 1988.

(B) $4,285,000, for fiscal year 1989.

(13) For the Defense Claims:

(A) $198,574,000, for fiscal year 1988.

(B) $198,574,000, for fiscal year 1989.

(14) For the Court of Military Appeals:

(A) $3,461,000, for fiscal year 1988.

(B) $3,522,000, for fiscal year 1989.

(15) For Environmental Restoration, Defense:

(A) $402,800,000, for fiscal year 1988.

(B) $420,851,000, for fiscal year 1989.

(b) Authorization of Unbudgeted Amounts for Certain Purposes.—There are authorized to be appropriated for fiscal years 1988 and 1989 in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs;

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a); and

(3) for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital funds in amounts as follows:

(1) For the Army Stock Fund:

(A) $236,907,000, for fiscal year 1988.

(B) $349,929,000, for fiscal year 1989.

(2) For the Navy Stock Fund:

(A) $364,000,000, for fiscal year 1988.

(B) $434,581,000, for fiscal year 1989.

(3) For the Air Force Stock Fund:

(A) $293,406,300, for fiscal year 1988.

(B) $224,738,000, for fiscal year 1989.

(4) For the Defense Stock Fund:

(A) $186,840,000, for fiscal year 1988.

(B) $122,700,000, for fiscal year 1989.

SEC. 303. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) Authorization of Funds.—Funds are hereby authorized to be appropriated for the purpose of carrying out cooperative agreements entered into by the Secretary of Defense under chapter 142 of title 10, United States Code, to furnish procurement technical assistance to business entities, as follows:

(1) $7,500,000, for fiscal year 1988.

(2) $7,500,000, for fiscal year 1989.

(b) Availability of Funds for Administrative Expenses.—Funds available to the Defense Agencies for fiscal years 1988 and 1989 may be used to defray the administrative expenses incurred by the Secretary of Defense during such fiscal years in carrying out the procurement technical assistance cooperative agreement program provided for in chapter 142 of title 10, United States Code, including expenses related to the employment of additional personnel necessary to administer such program.

(c)(1) Of the amounts appropriated pursuant to subsection (a) for fiscal years 1988 and 1989, $500,000 shall be available each year only for procurement technical assistance cooperative agreement outreach programs targeted to the problems caused by the unique geographical circumstances facing Indian-owned enterprises located on or near Indian reservations. Such programs shall concentrate on the formation of new businesses as well as furthering procurement opportunities for existing businesses.

(2) Notwithstanding section 2413(b) of title 10, United States Code, the Secretary of Defense shall defray the full cost of a procurement technical assistance cooperative agreement outreach program when the cooperative agreement is made under this section with a federally-recognized tribe or Indian organization.

Part B—Program Changes, Requirements, and Limitations

SEC. 321. OPERATION OF UNITED STATES ARMY SCHOOL OF THE AMERICAS

(a) In General.—(1) Chapter 407 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4415. United States Army School of the Americas

"(a) The Secretary of the Army may operate the military education and training facility known as the United States Army School of the Americas.

"(b) The School for the Americas shall be operated for the purpose of providing military education and training to military personnel of Central and South American countries and Caribbean countries.

"(c) The fixed costs of operating and maintaining the School for the Americas may be paid from funds available for operation and maintenance of the Army.

"(d) Tuition fees charged for personnel receiving military education and training from the school may not include the fixed costs of operating and maintaining the school.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4415. United States Army School of the Americas.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect October 1, 1987.

SEC. 322. AVAILABILITY OF UNITED STATES PRODUCTS AT DEFENSE PACKAGE STORES OVERSEAS

(a) Treatment of Wines.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2489. Overseas package stores: treatment of United States wines

"(a) General Rule.—The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a packaged form (commonly referred to as a 'package store') that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2489. Overseas package stores: treatment of United States wines.".

(b) Regulations Deadline.—(1) The Secretary of Defense shall prescribe regulations to implement section 2489 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

SEC. 323. CONTRACTS FOR THE OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

Funds appropriated pursuant to authorizations in this Act may not be obligated or expended for the overhaul, repair, or maintenance of any naval vessel unless, in the evaluation of bids or proposals for such activity, the Secretary of the Navy complies with the requirement of section 7299a of title 10, United States Code.

SEC. 324. PRIMUS AND NAVCARE CLINICS

Of the funds appropriated or otherwise made available to the Army, Navy, and Air Force for maintenance and operation for fiscal year 1988, the following amounts shall be available only for the operation and maintenance of the Primary Medical Care for the Uniformed Services (PRIMUS) clinics and Naval Primary Care (NAVCARE) clinics:

(1) $24,800,000 for the Army.

(2) $22,181,000 for the Navy.

(3) $13,200,000 for the Air Force.

SEC. 325. AUTHORITY OF THE SECRETARY OF DEFENSE TO REPAIR AND MAINTAIN MEMORIALS AND HISTORIC SITES ON THE ISLAND OF CORREGIDOR

The Secretary of Defense is authorized to repair and maintain memorial monuments and historic sites on the Island of Corregidor in the Republic of the Philippines and may use funds appropriated pursuant to section 301, not to exceed $50,000 for operation and maintenance of the Navy for such purpose.

SEC. 326. NEW THREAT UPGRADE (NTU) PROGRAM

(a) No funds appropriated pursuant to this title or otherwise made available for operations and maintenance for the Navy for fiscal year 1988 and used for the New Threat Upgrade (NTU) overhaul program may be used for work performed on a cost plus contract basis unless the Secretary of the Navy certifies in writing to the Committees on Armed Services of the Senate and the House of Representatives that such NTU overhaul work to be performed at either a public or private shipyard can be performed at a lower cost to the Government on the basis of a cost plus contract, or that there exist overriding national security considerations.

(b) In the event of any such certification, no action pursuant thereto may be taken for a 30 day period following notification.

Part C—Humanitarian and Other Assistance

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) Authorization of Funds.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance organizations at or near the border between Thailand and Cambodia.

(b) Authority To Transfer Funds.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) Transportation Under Direction of the Secretary of State.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) Means of Transportation To Be Used.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) Availability of Funds.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION AND CODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES

(a) IN GENERAL.—(1) Chapter 20 of title 10, United States Code, is amended—

(A) by redesignating sections 404, 405, and 406 as sections 405, 406, and 407, respectively; and

(B) by inserting after section 403 the following new section:

"§ 404. Transportation of humanitarian relief supplies to foreign countries

"(a) The Secretary of Defense may transport to any country, without charge, goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such goods and supplies may be transported only on a space available basis.

"(b)(1) The Secretary shall institute procedures, including inspection before acceptance for transport, for determining that—

"(A) the transportation of such goods and supplies is consistent with the foreign policy of the United States;

"(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

"(C) there is a legitimate humanitarian need for such goods and supplies by the people for whom they are intended;

"(D) the goods and supplies will in fact be used for humanitarian purposes; and

"(E) adequate arrangements have been made for the distribution of such goods and supplies in the destination country.

"(2) Goods and supplies may not be transported under this section unless they meet the conditions set out in paragraph (1).

"(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

"(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods or supplies.

"(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

"(e) At the end of each 180-day period, the Secretary of State shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives, a report identifying the origin, contents, destination, and disposition of all goods and supplies transported under this section during such 180-day period.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 404, 405, and 406, and inserting in lieu thereof the following:

"404. Transportation of humanitarian relief supplies to foreign countries.
"405. Annual report to Congress.
"406. Definition of humanitarian and civic assistance.
"407. Expenditure limitation.".

(3) The first report under section 404(e) of title 10, United States Code, as added by paragraph (1), shall be submitted not more than 180 days after the date on which the most recent report was submitted under section 1540(e) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 985 Stat. 2638).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1987.

SEC. 333. STUDY OF NORTH ATLANTIC TREATY ORGANIZATION

Of the funds appropriated pursuant to section 301(a)(5)(A), $50,000 shall be provided to the North Atlantic Interparliamentary Assembly for a Study on the Future of the North Atlantic Treaty Organization.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized strengths for active-duty personnel as follows:

(1) For the Army:
(A) 780,900, as of September 30, 1988.
(B) 780,900, as of September 30, 1989.
(2) For the Navy:
(A) 593,200, as of September 30, 1988.
(B) 602,800, as of September 30, 1989.
(3) For the Marine Corps:
(A) 199,600, as of September 30, 1988.
(B) 200,100, as of September 30, 1989.
(4) For the Air Force:
(A) 598,700, as of September 30, 1988.
(B) 600,600, as of September 30, 1989.

PART B—RESERVE FORCES

SEC. 421. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as follows:

(1) The Army National Guard of the United States:
(A) 454,200, as of September 30, 1988.
(B) 455,700, as of September 30, 1989.
(2) The Army Reserve:
(A) 322,100, as of September 30, 1988.
(B) 324,300, as of September 30, 1989.
(3) The Naval Reserve:
(A) 151,500, as of September 30, 1988.
(B) 152,600, as of September 30, 1989.
(4) The Marine Corps Reserve:
(A) 43,600, as of September 30, 1988.
(B) 44,300, as of September 30, 1989.
(5) The Air National Guard of the United States:
(A) 115,900, as of September 30, 1988.
(B) 116,700, as of September 30, 1989.
(6) The Air Force Reserve:
(A) 82,400, as of September 30, 1988.
(B) 84,000, as of September 30, 1989.
(7) The Coast Guard Reserve:
(A) 13,500, as of September 30, 1988.
(B) 15,300, as of September 30, 1989.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 422. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the end strengths prescribed in section 421, the reserve components of the Armed Forces are authorized the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States:
(A) 25,390, as of September 30, 1988.
(B) 25,720, as of September 30, 1989.
(2) The Army Reserve:
(A) 12,867, as of September 30, 1988.
(B) 13,307, as of September 30, 1989.
(3) The Naval Reserve:
(A) 21,991, as of September 30, 1988.
(B) 22,571, as of September 30, 1989.
(4) The Marine Corps Reserve:
(A) 1,945, as of September 30, 1988.
(B) 2,145, as of September 30, 1989.
(5) The Air National Guard of the United States:
(A) 7,836, as of September 30, 1988.
(B) 7,886, as of September 30, 1989.
(6) The Air Force Reserve:
(A) 669, as of September 30, 1988.
(B) 669, as of September 30, 1989.

SEC. 423. NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1988.—(1) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	175	125	13
DE-8	2,295	390	400	74".

(2) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,500	850	550	105
Lieutenant Colonel or Commander	1,152	520	295	70
Colonel or Navy Captain	348	185	184	25".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1987.

(b) FISCAL YEAR 1989.—(1) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(2) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,600	875	575	110
Lieutenant Colonel or Commander	1,250	520	300	75
Colonel or Navy Captain	348	185	190	25".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1988.

PART C—MILITARY TRAINING

SEC. 431. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—The components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army:

(A) 82,503, for fiscal year 1988.

(B) 81,320, for fiscal year 1989.

(2) The Navy:

(A) 68,993, for fiscal year 1988.

(B) 70,044, for fiscal year 1989.

(3) The Marine Corps:

(A) 20,341, for fiscal year 1988.

(B) 19,873, for fiscal year 1989.

(4) The Air Force:

(A) 38,574, for fiscal year 1988.

(B) 39,972, for fiscal year 1989.

(5) The Army National Guard of the United States:

(A) 18,501, for fiscal year 1988.

(B) 19,707, for fiscal year 1989.

(6) The Army Reserve:

(A) 15,075, for fiscal year 1988.

(B) 15,950, for fiscal year 1989.

(7) The Naval Reserve:

(A) 2,841, for fiscal year 1988.

(B) 2,841, for fiscal year 1989.

(8) The Marine Corps Reserve:

(A) 3,970, for fiscal year 1988.

(B) 3,977, for fiscal year 1989.

(9) The Air National Guard of the United States:

(A) 2,508, for fiscal year 1988.

(B) 2,366, for fiscal year 1989.

(10) The Air Force Reserve:

(A) 1,968, for fiscal year 1988.

(B) 1,965, for fiscal year 1989.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

SEC. 432. R.O.T.C. FINANCIAL ASSISTANCE PROGRAM

Subsection (h) of section 2107 of title 10, United States Code, is amended to read as follows:

"(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time. The Secretary of Defense shall determine the number of cadets and midshipmen appointed under this section who may be in the financial assistance program at any one time in each military department.".

PART D—CIVILIAN PERSONNEL

SEC. 441. WAIVER OF AUTHORIZATION REQUIREMENT

Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal years 1988 and 1989 or with respect to the appropriation of funds for such years.

SEC. 442. LIMITATION ON FUNDS FOR CIVILIAN PERSONNEL

Of the funds appropriated or otherwise available to the Department of Defense—

(1) not more than $35,075,945,000 may be obligated or expended for civilian personnel for fiscal year 1988; and

(2) not more than $35,404,364,000 may be obligated or expended for civilian personnel for fiscal year 1989.

TITLE V—MILITARY PERSONNEL

SEC. 501. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

(a) IN GENERAL.—Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 502. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS

(a) GRADE DETERMINATION AUTHORITY FOR RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of title 10, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 503. EXTENSION OF SINGLE PARENT ENLISTMENT AUTHORITY IN THE RESERVE COMPONENTS

Section 523(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3871), is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1989".

SEC. 504. AUTHORITY TO TRANSFER BETWEEN SERVICES AUTHORIZATIONS FOR APPOINTMENTS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL

(a) IN GENERAL.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Subject to paragraphs (2) and (3), the President may make appointments in the Army, Navy, Air Force, and Marine Corps in the grade of lieutenant general or general or in the grade of vice admiral or admiral in a number in excess of the number of appointments that might otherwise be made in that grade in that armed force (by reason of the limitations specified in subsection (b)).

"(2) For each appointment made under paragraph (1) in any armed force in the grade of lieutenant general or general or in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one.

"(3)(A) The number of general officers and flag officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under paragraph (1) may not exceed a number equal to 10 percent of the total number of general officers and flag officers that may otherwise be serving on active duty in those grades in all of the armed forces (other than the Coast Guard).

"(B) The number of general officers and flag officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under paragraph (1) may not exceed a number equal to 15 percent of the total number of general officers and flag officers that may otherwise be serving on active duty in those grades in all of the armed forces (other than the Coast Guard).

"(4) When an appointment is made under paragraph (1) in any armed force, the President shall specify the armed force (other than the Coast Guard) in which a reduction is to be made pursuant to paragraph (2).

"(5) Upon the termination of the assignment of a member of an armed force to a position of importance and responsibility which was made in connection with an increase under paragraph (1) in the number of officers who may be serving on active duty in such armed force in the grade of lieutenant general or vice admiral or general or admiral, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of such increase shall no longer be in effect.".

(b) SAVINGS PROVISION.—Notwithstanding section 525(b) of title 10, United States Code, a number of members of the Armed Forces serving on active duty on September 30, 1987, in the grades of lieutenant general and vice admiral equal to the number in excess of the number of members authorized to be serving on active duty in such grades on October 1, 1987, and a number of such members serving on active duty on September 30, 1987, in the grades of general and admiral equal to the number in excess of the number of members authorized to be serving on active duty in such grades on October 1, 1987, may continue to serve on active duty in such grades, respectively, after September 30, 1987, until—

(1) the duty assignments in which a number of members serving on active duty in such grades, respectively, on September 30, 1987, equal to such excess number are terminated;

(2) the number of members serving on active duty in such grades, respectively, on September 30, 1987, who are retired or otherwise separated from active duty on or after such date equals such excess number; or

(3) the total of the number of duty assignments referred to in clause (1) that are terminated after September 30, 1987, and the number of members who retire or are otherwise separated from active duty on or after such date is equal to the number of mem-

bers serving on active duty in excess of the number authorized to be serving in such grades, respectively, on such date.

SEC. 505. WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM

(a) In General.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774;

"SEC. 774. RELIGIOUS APPAREL: WEARING WHILE IN UNIFORM

"(a) General Rule.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) Exceptions.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) In circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the members' military duties; or

"(2) If the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) Regulations.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) Religious Apparel Defined.—In this section, the term 'religious apparel' means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.

"775. Applicability of chapter.".

(c) Regulations.—The Secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by the subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Part A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1988

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

(b) Four Percent Increase in Basic Pay, BAQ, and BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 4 percent effective on January 1, 1988.

(c) Four Percent Increase in Cadet and Midshipman Pay.—Effective January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out "$494.40" and inserting in lieu thereof "$514.20".

SEC. 602. BAQ FOR CERTAIN MARRIED MEMBERS

(a) In General.—Section 403(c) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking out "A member" each place it appears and inserting in lieu thereof "Except as provided in paragraph (3), a member"; and

(2) by adding at the end the following new paragraph:

"(3) A member of a uniformed service who is—

"(A) in a pay grade above E-3;

"(B) assigned to sea duty; and

"(C) married to a member of a uniformed service on active duty (other than active duty for training),

may elect not to occupy assigned quarters adequate only for such member and, subject to section 421 of this title, receive in lieu of such quarters a basic allowance for quarters permitted by this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987. No member may be paid a basic allowance for quarters under the amendment made by subsection (a) for any period before such date.

SEC. 603. VARIABLE HOUSING ALLOWANCE

(a) In General.—Section 403a(a) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(5) In the case of a member with dependents—

"(A) who is a pay grade above E-6;

"(B) who is assigned to sea duty; and

"(C) who elects not to occupy assigned quarters adequate only for such member,

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day of the first month following the month in which this Act is enacted. No member may be paid a variable housing allowance under such amendment for any period before that effective date.

SEC. 604. HOUSEHOLD GOODS WEIGHT ALLOWANCES FOR SENIOR ENLISTED PERSONNEL

(a) In General.—Section 406(b)(1)(A) of title 37, United States Code, is amended by adding at the end the following: "The weight allowances prescribed pursuant to the first sentence of this subparagraph shall provide, with respect to permanent changes of station, that the allowances for personnel serving in pay grade E-7 are not less than those for personnel serving in pay grade O-1, for personnel serving in pay grade E-8 are not less than those for personnel serving in pay grade O-2, and for personnel serving in pay grade E-9 are not less than those for personnel serving in pay grade O-3."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later, and shall apply to the transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects commenced on or after that effective date.

SEC. 605. ALLOWANCE FOR CIVILIAN CLOTHING

(a) In General.—Chapter 7 of title 37, United States Code, is amended—

(1) by redesignating sections 419 and 420 as sections 420 and 421, respectively;

(2) by inserting after section 418 the following new section:

"§ 419. Civilian clothing allowance

"Under regulations prescribed by the Secretary of Defense, a member of an armed force who is assigned to a permanent duty station at an overseas location is entitled to a civilian clothing allowance if such member is required by competent authority to wear civilian clothing all or a substantial portion of the time in the performance of his official duties. A clothing allowance under this section is in addition to any uniform allowance to which a member is otherwise entitled under this title."; and

(3) by striking out the items relating to sections 419 and 420 in the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"419. Civilian clothing allowance.

"420. Allowances while participating in international sports.

"421. Allowances: no increase while dependent is entitled to basic pay.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987. No member may be paid a clothing allowance under section 419 of title 37, as added by subsection (a) for any period before such date.

SEC. 606. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) Repeal.—Section 614(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3879), is repealed.

(b) New Effective Date.—(1) The amendments made by section 614(a) of the Department of Defense Authorization Act, 1987, shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act and shall apply with respect to travel performed on or after the date of implementation.

(2) Section 8(a) of the Defense Technical Corrections Act of 1987 (Public Law 100-26; 101 Stat. 284), is amended by striking out ", and such amendments shall be effective as provided in section 614(b) of the Defense Authorization Act".

Part B—Travel and Transportation

SEC. 621. AUTHORIZATION TO PAY DISLOCATION ALLOWANCE IN ADVANCE

Section 407 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) An allowance payable under this section may be paid in advance.".

SEC. 622. TRANSPORTATION ALLOWANCE TO ENCOURAGE VOLUNTARY EXTENSION OF TOURS OF DUTY IN FOREIGN COUNTRIES

(a) In General.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411f the following new section:

"§ 411g. Travel and transportation allowances: transportation incident to voluntary extensions of tours of duty in foreign countries

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service may be provided transportation allowances described in subsection (b) for himself and for dependents who are authorized to, and in fact, accompany the member at the member's permanent duty station, if the member—

"(1) is stationed outside the United States; and

"(2) voluntarily agrees to extend his overseas tour of duty for a period at least equal to one-half of the overseas tour prescribed for his current permanent duty station.

"(b) Transportation allowances authorized by this section may be provided in connection with authorized leave from a member's permanent duty station to a place approved by the Secretary concerned or, in the case of a member without dependents, to a place no farther distant than the member's home of record, and from that place to the member's designated permanent duty station.

"(c) The transportation allowances authorized by this section may not be provided an enlisted member who elects to receive tour extension incentives under section 314 of this title or under section 705 of title 10.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 411f the following new item:

"411g. Travel and transportation allowances: transportation incident to voluntary extensions of tours of duty in foreign countries.".

SEC. 623. TRANSPORTATION OF FAMILY MEMBERS OF SERIOUSLY ILL OR INJURED MEMBER

(a) IN GENERAL.—Chapter 7 of title 37, United States Code, as amended by section 622, is amended by inserting after section 411g the following new section:

"§ 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members

"(a)(1) Under uniform regulations prescribed by the Secretaries concerned, round-trip transportation may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member is necessary for the member's health and welfare.

"(2) A member referred to in paragraph (1) is a member who—

"(A) is serving on active duty;

"(B) is seriously ill or seriously injured; and

"(C) is hospitalized in a medical facility in or outside the United States.

"(b)(1) In this section, 'family member' means—

"(A) the spouse;

"(B) children, including stepchildren, adopted children, and illegitimate children;

"(C) parents or persons in loco parentis, as provided in paragraph (2);

"(D) brothers; and

"(E) sisters.

"(2) Parents or persons in loco parentis include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

"(c)(1) The transportation provided under subsection (a) of this section is authorized between the home of the family member and the location of the medical facility in which the member is hospitalized.

"(2) The Secretaries concerned may provide—

"(A) transportation in-kind;

"(B) a monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned; or

"(C) reimbursement for the commercial cost of transportation.

Reimbursement for transportation may not exceed the cost of government-procured commercial round-trip air travel. An allowance payable under this subsection may be paid in advance.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 622, is amended by inserting after the item relating to section 411g the following new item:

"411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective only in the case of travel that occurs on or after the effective date of regulations issued pursuant to section 411h of title 37, United States Code, as added by this section.

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "is owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

PART C—BONUSES AND SPECIAL INCENTIVE PAYS

SEC. 631. SPECIAL PAY FOR AVIATION CAREER OFFICERS

(a) IN GENERAL.—Section 301b of title 37, United States Code, is amended—

(1) in subsection (a), by striking out clause (5) of the first sentence and all that follows through the second sentence and inserting in lieu thereof the following:

"(5) has not previously been paid special pay authorized by this section;

"(6) executes a written agreement to remain on active duty in aviation service for at least three years; and

"(7) is in an aviation specialty designated as critical,

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed $4,000 for each year covered by that agreement if the officer agrees to remain on active duty for three years or an amount not to exceed $6,000 for each year covered by that agreement if the officer agrees to remain on active duty for four years.";

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) During the period beginning on October 1, 1987, and ending on September 30, 1989, an agreement under this section may be accepted only if the agreement—

"(A) is executed by an officer of the Navy; and

"(B) requires the officer to remain on active duty in aviation service for three or four years.

"(2) An agreement that requires an officer to remain on active duty in aviation service for six years may also be accepted during such period if the officer meets the requirements of this section and has completed less than eight years of active duty. An officer from whom such an agreement is accepted may be paid an amount not to exceed $8,000 for each year covered by the agreement."; and

(3) in subsection (f) by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on October 1, 1987, and shall apply to agreements entered into on or after such date.

(2) The amendments made by subsection (a) shall not affect an agreement entered into under section 301b of title 37, United States Code, as in effect on the day before the effective date of such amendments, and the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

SEC. 632. INCREASE IN SUBMARINE DUTY INCENTIVE PAY

(a) IN GENERAL.—Subsection (b) of section 301c of title 37, United States Code, is amended to read as follows:

"(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay as follows:

"ENLISTED MEMBERS

	"Years of service computed under section 205						
"Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$225	$225	$225	$270	$295	$310	$315
E-8	225	225	225	250	270	295	310
E-7	225	225	225	250	255	265	275
E-6	155	170	175	215	230	245	255
E-5	140	155	155	175	190	195	195
E-4	80	95	100	170	175	175	175
E-3	80	90	95	95	140	90	90
E-2	75	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

	"Years of service computed under section 205						
"Pay grade	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9	$330	$345	$355	$355	$355	$355	$355
E-8	315	330	330	345	345	345	345
E-7	295	310	310	310	310	310	310
E-6	265	265	265	265	265	265	265
E-5	195	195	195	195	195	195	195
E-4	175	175	175	175	175	175	175
E-3	90	90	90	90	90	90	90
E-2	90	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

"COMMISSIONED OFFICERS

	"Years of service computed under section 205						
"Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
0-10	$355	$355	$355	$355	$355	$355	$355
0-9	355	355	355	355	355	355	355
0-8	355	355	355	355	355	355	355
0-7	355	355	355	355	355	355	355
0-6	595	595	595	595	595	595	595
0-5	595	595	595	595	595	595	595
0-4	365	365	365	405	595	595	595
0-3	355	355	355	390	595	595	595
0-2	235	235	235	235	235	235	355
0-1	175	175	175	175	175	175	355

	"Years of service computed under section 205						
"Pay grade	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
0-10	$355	$355	$355	$355	$355	$355	$355
0-9	355	355	355	355	355	355	355
0-8	355	355	355	355	355	355	355
0-7	355	355	540	535	535	410	355
0-6	595	595	595	595	595	595	595
0-5	595	595	595	595	595	595	595
0-4	595	595	595	595	595	595	595
0-3	595	595	595	595	595	595	595
0-2	355	355	355	355	355	355	355
0-1	355	355	355	355	355	355	355

"WARRANT OFFICERS

	"Years of service computed under section 205						
"Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-4	$235	$310	$310	$355	$355	$355	$355
W-3	235	310	310	355	355	355	355
W-2	235	310	310	355	355	355	355
W-1	235	310	310	355	355	355	355

	"Years of service computed under section 205						
"Pay grade	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-4	$355	$355	$355	$355	$355	$355	$355
W-3	355	355	355	355	355	355	355
W-2	355	355	355	355	355	355	355
W-1	355	355	355	355	355	355	355".

SEC. 633. CAREER SEA PAY

(a) In General.—Section 305a of title 37, United States Code, is amended to read as follows:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b) of this section.

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

	"Years of sea duty						
"Pay grade	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
E-4	50	60	120	150	160	160	160
E-5	50	60	120	150	170	315	325
E-6	100	100	120	150	170	315	325
E-7	100	100	120	175	190	350	350
E-8	100	100	120	175	190	350	350
E-9	100	100	120	175	190	350	350

	"Years of sea duty						
"Pay grade	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13
E-4	160	160	160	160	160	160	160
E-5	350	350	350	350	350	350	350
E-6	350	350	365	365	365	380	395
E-7	375	390	400	400	410	420	450
E-8	375	390	400	400	410	420	450
E-9	375	390	400	400	410	420	450

	"Years of sea duty		
"Pay grade	Over 14	Over 16	Over 18
E-4	160	160	160
E-5	350	350	350
E-6	410	425	450
E-7	475	500	500
E-8	475	500	520
E-9	475	520	520

"WARRANT OFFICERS

	"Years of sea duty						
"Pay grade	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
W-1	130	135	140	150	170	175	200
W-2	150	150	150	150	170	260	265
W-3	150	150	150	150	170	270	280
W-4	150	150	150	150	170	290	310

	"Years of sea duty						
"Pay grade	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 14
W-1	250	270	300	325	325	340	360
W-2	265	270	310	340	340	375	400
W-3	285	290	310	350	375	400	425
W-4	310	310	310	350	375	400	450

	"Years of sea duty		
"Pay grade	Over 16	Over 18	Over 20
W-1	375	375	375
W-2	400	400	400
W-3	425	450	450
W-4	450	500	500

"COMMISSIONED OFFICERS

	"Years of sea duty						
"Pay grade	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9
0-1	150	160	185	190	195	205	215
0-2	150	160	185	190	195	205	215
0-3	150	160	185	190	195	205	215
0-4	185	190	200	205	215	220	220
0-5	225	225	225	225	230	245	250
0-6	225	230	230	240	255	265	280

	"Years of sea duty						
"Pay grade	Over 10	Over 11	Over 12	Over 14	Over 16	Over 18	Over 20
0-1	225	225	240	250	260	270	280
0-2	225	225	240	250	260	270	280
0-3	225	225	240	260	270	280	290
0-4	225	225	240	270	280	290	300
0-5	260	265	265	285	300	315	340
0-6	290	300	310	325	340	355	380

"(c) Under regulations prescribed by the President, a member of a uniformed service, other than a member in a paygrade E-5 through E-9 with over 5 years of sea duty, who is entitled to career sea pay under this section and who has served 36 consecutive months of sea duty is entitled to a career sea pay premium of $100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.

"(d)(1) For the purpose of determining the years of sea duty with which a member shall be credited under this section, the term 'sea duty' means duty performed by a member while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship or while serving as a member of the off-crew of a two-crewed submarine.

"(2) For the purpose of determining entitlement to career sea pay under this section, the term 'sea duty' means duty performed by a member—

"(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while underway, or while serving as a member of the off-crew of a two-crewed submarine; or

"(B) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

A ship is considered away from its homeport for purposes of clause (B) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport.".

(b) Savings Provision.—A member who, for the 90-day period preceding the effective date of the rate established by section 305a of title 37, United States Code, as amended by subsection (a), for the member's pay grade and years of sea duty, was entitled to sea pay at a rate higher than the rate so established shall continue to receive the higher rate until such time as the member is permanently reassigned to duty for which the member is not entitled to that pay.

(c) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1987, except that—

(1) the rates of monthly pay provided in the tables in section 305a(b) of title 37, United States Code, as amended by subsection (a), in the case of members in pay grades above E-4 with five or more years of sea duty; and

(2) the provisions of section 305a(c), as amended by subsection (a),

may take effect on a date later than October 1, 1987, as prescribed in regulations approved by the President, but in no event later than October 1, 1988.

SEC. 634. DIVING PAY FOR MEMBERS OF RESERVE COMPONENTS

(a) In General.—Section 304 of title 37, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to 1/30 of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase for as long as he is qualified for such pay—

"(1) for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or a holiday; or

"(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the first day of the fourth calendar month following the month in which this Act is enacted and shall apply only with respect to diving duty performed on or after such day.

SEC. 635. SELECTIVE REENLISTMENT BONUSES

(a) In General.—Paragraph (1) of section 308(b) of title 37, United States Code, is amended to read as follows:

"(1) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be 50 percent of the total bonus amount.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to bonuses paid for reenlistment or extension of enlistment agreements entered into after September 30, 1987.

SEC. 636. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES

Sections 308b(g), 308c(f), 308e(e), 308g(h), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

PART D—MISCELLANEOUS

SEC. 641. EXTENSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

(a) IN GENERAL.—Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note), is amended by striking out "above grade GS-4 (or its equivalent)" and inserting in lieu thereof "in grade GS-1 through GS-15 (including any such position that is under the performance management and recognition system provided in chapter 54 of title 5)".

SEC. 642. DEFINITION OF DEPENDENT FOR PURPOSES OF ALLOWANCES UNDER TITLE 37, UNITED STATES CODE

Section 401 of title 37, United States Code, is amended by adding at the end the following new sentence: "The Secretaries concerned shall prescribe uniform regulations to describe, for purposes of this section, in what cases an unmarried person who is not covered by clause (2) and who resides as a member of the household of a member of the uniformed services is a dependent child of the member.".

SEC. 643. AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN

(a) AUTHORITY TO WITHDRAW.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

(2) An individual referred to in paragraph (1) is an individual who—

(A) is providing coverage for a spouse or or a spouse and child under the Plan;

(B) remarried before November 8, 1985, but on such date had been remarried less than one year;

(C) at the time of remarriage was a participant in the Plan, but did not have an eligible spouse beneficiary under the Plan; and

(D) on March 1, 1986, has been married for one year or longer.

(b) APPLICABLE PROVISIONS.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to such election, the one-year period referred to in clause (ii) of such subparagraph shall extend for a period of one year after the date of the enactment of this Act.

(c) TREATMENT OF PRIOR CONTRIBUTIONS.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a).

SEC. 644. AGE FOR NONTERMINATION OF SBP SURVIVING SPOUSE ANNUITY AFTER REMARRIAGE

(a) RESUMPTION OF ANNUITY UPON TERMINATION OF DIC FOR REMARRIAGE.—Section 1450(k)(1) of title 10, United States Code, is amended by striking out "60" and inserting in lieu thereof "55".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 643(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3886).

SEC. 645. REIMBURSEMENT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Child adoption benefits

"(a) The Secretary concerned shall reimburse a member of the armed forces, as provided in this section, for the qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

"(b) An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)), but does not include an adoption in which one of the adopting parents is the biological parent of the adopted child.

"(c) Benefits may be paid under this section in the case of an adoption only after the adoption is final.

"(d) A benefit may not be paid under this section for any expense paid from any funds received by a member of the armed forces under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

"(e)(1) Not more than $2,000 may be paid to a member of the armed forces under this section for expenses incurred in the adoption of a child.

"(2) Not more than $5,000 may be paid to a member of the armed forces under this section for adoptions by such member in any calendar year.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.

"(g) In this section:

"(1) The term 'qualifying adoption expenses' means reasonable and necessary expenses that are directly related to the legal adoption of a child, but only if such adoption is arranged—

"(A) by a State or local government agency which has responsibility under State or local law for child placement through adoption;

"(B) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption; or

"(C) through a private placement.

"(2) The term 'qualifying adoption expenses' does not include any expense incurred—

"(A) in the adoption of a child who was conceived—

"(i) by artificial insemination;

"(ii) by embryo transplantation;

"(iii) by in vitro fertilization; or

"(iv) in so-called 'surrogate parenthood', including conception by any person who serves as a surrogate voluntarily and without remuneration;

"(B) for any adopting parent's travel outside the United States, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(C) in connection with an adoption arranged in violation of Federal, State, or local law.

"(3) The term 'reasonable and necessary expenses' includes—

"(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

"(B) placement fees, including fees charged adoptive parents for counseling;

"(C) legal fees, including court costs;

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in clause (2)(B), transportation expenses relating to the adoption.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1055. Child adoption benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of qualifying adoption expenses incurred after September 30, 1987.

SEC. 646. RETIRED GRADE OF CERTAIN RESERVE ENLISTED MEMBERS

(a) ARMY.—(1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members.".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members.".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

PART A—MEDICAL READINESS

SEC. 701. REVISION OF RESERVE FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAM

(a) IN GENERAL.—Chapter 105 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

"Subchapter	Sec.
I. Health Professions Scholarship Program for Active Service	2120
II. Health Professions Stipend Program for Reserve Service	2128

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM FOR ACTIVE SERVICE";

(2) by striking out "chapter" each place it appears in sections 2120, 2123, 2124, and 2127 and inserting in lieu thereof "subchapter";

(3) by striking out "6,000" in section 2124 and inserting in lieu thereof "5,000"; and

(4) by adding at the end the following new subchapter:

"SUBCHAPTER II—HEALTH PROFESSIONS STIPEND PROGRAM FOR RESERVE SERVICE

"Sec.

"2128. Financial assistance: health-care professionals in reserve components.

"2129. Reserve service: required active duty for training.

"2130. Penalties, limitations, and other administrative provisions.

"§ 2128. Financial assistance: health-care professionals in reserve components

"(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions specialties critically needed in wartime, the Secretary of each military department may establish and maintain a program to provide financial assistance under this subchapter to persons engaged in training in such specialties. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in training in certain health care specialties in return for a commitment by such person to perform subsequent service in the Ready Reserve.

"(b) PHYSICIANS IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is a graduate of an accredited medical school;

"(B) is eligible to be commissioned as a Reserve in the Medical Corps of the Army or Navy or, in the case of a member of the Air Force, to be commissioned as a Reserve and designated as a medical officer under section 8067(a) of this title; and

"(C) is enrolled in a residency program for physicians in a medical specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e)(1), for the remainder of the period of the residency program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon successful completion of the residency program, in the Ready Reserve for a period described in clause (A), (B), or (C) of subsection (e)(1) as specified in the agreement.

"(c) GRADUATE NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is a nurse;

"(B) is eligible to be commissioned as a Reserve in the Nurse Corps of the Army or Navy or to be designated as an Air Force nurse under section 8067(e) of this title; and

"(C) is enrolled in an accredited graduate program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e)(1), for the remainder of the period of the graduate nursing program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon successful completion of the graduate nursing program, in the Ready Reserve for a period described in clause (A), (B), or (C) of subsection (e)(1) as specified in the agreement.

"(d) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a member of a reserve component who—

"(A) is eligible to be commissioned in a reserve component of the armed forces; and

"(B) is enrolled in the third or fourth year of—

"(i) an accredited baccalaureate nursing program; or

"(ii) an accredited baccalaureate program leading to a degree in any other health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a monthly stipend, in an amount determined under subsection (e)(2), for the remainder of the period of the baccalaureate program in which the participant is enrolled; and

"(B) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

"(e) AMOUNT OF STIPEND.—(1) The amount of a stipend under an agreement under subsection (b) or (c) shall be—

"(A) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve three years in the Selected Reserve for each year, or part thereof, for which the stipend is provided;

"(B) three-fourths of that rate, if the participant has agreed to serve two years in the Selected Reserve and one year in the Individual Ready Reserve for each year, or part thereof, for which the stipend is provided; or

"(C) one-half of that rate, if the participant has agreed to serve three years in the Individual Ready Reserve for each year, or part thereof, for which the stipend is provided.

"(2) The amount of a stipend under an agreement under subsection (d) shall be equal to one-seventh of the rate referred to in paragraph (1)(A). The amount of the stipend computed under this paragraph shall be rounded to the next higher multiple of $1.

"(f) INDIVIDUAL READY RESERVE DEFINED.—In this subchapter, the term 'Individual Ready Reserve' means that element of the Ready Reserve of an armed force other than the Selected Reserve.

"§ 2129. Reserve service: required active duty for training

"(a) SELECTED RESERVE.—A person who is required under an agreement under section 2128 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

"(b) IRR SERVICE.—A person who is required under an agreement under section 2128 of this title to serve in the Individual Ready Reserve shall serve—

"(1) not less than 30 days of initial active duty; and

"(2) not less than five days of active duty for training each year during the period of service required by the agreement.

"§ 2130. Penalties, limitations, and other administrative provisions

"(a) RESERVE SERVICE FOR FAILURE TO COMPLETE PROGRAM.—A member receiving financial assistance under section 2128 of this title who fails to complete the health-care professional program covered by the agreement under that section within the time specified in the agreement may, at the discretion of the Secretary concerned, be required to perform military duty in the Ready Reserve.

"(b) Recoupment for Failure To Complete Program or Serve Satisfactorily.—(1) A person who receives financial assistance under section 2128 of this title and who fails to complete the health-care professional program covered by the agreement under that section within the time specified in the agreement, or who fails to serve satisfactorily in the Ready Reserve in accordance with the agreement, shall be required to pay to the United States the amount equal to the amount of the financial assistance paid to the person by the United States under the agreement.

"(2) An obligation to reimburse the United States under paragraph (1) is, for all purposes, a debt owed to the United States. A discharge in bankruptcy under title 11 does not discharge a person from a debt arising under this paragraph.

"(c) Prohibitions of Duplicate Benefits.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

"(d) Suspension of Program When Involuntary Induction is Authorized.—An agreement may not be entered into under section 2128 of this title during any period that the President is authorized to induct persons into the armed forces involuntarily.

"(e) Limitation on Number of Participants.—The number of persons who may be designated as members of the program for training in each health profession shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 10,200.

"(f) Regulations.—This subchapter shall be administered under regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of subtitle A of such title are each amended by striking out the item relating to chapter 105 and inserting in lieu thereof the following:

"105. Armed Forces Health Professions Financial Assistance Programs .... 2120".

(c) Repeal of Prior Program.—(1) Section 672 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 663), is repealed.

(2) The repeal of section 672 of the Department of Defense Authorization Act, 1986, by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement.

(d) Effective Dates.—(1) The repeal made by subsection (c) shall take effect on October 1, 1987.

(2) An agreement entered into by the Secretary of a military department under section 2128 of title 10, United States Code, as added by subsection (a), may not obligate the United States to make a payment for any period before October 1, 1987.

SEC. 702. EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1989".

SEC. 703. STANDBY CAPABILITY FOR SELECTIVE SERVICE REGISTRATION OF HEALTH CARE PERSONNEL

Section 10(h) of the Military Selective Service Act (50 U.S.C. App. 460(h)) is amended—

(1) by striking out "If at" and all that follows through "nevertheless," and inserting in lieu thereof "The Selective Service system shall"; and

(2) by inserting "(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)" in clause (a) after "national emergency".

SEC. 704. AGE QUALIFICATIONS FOR PERSONNEL IN CRITICAL MEDICAL SPECIALTIES

(a) Army Personnel.—Section 3855 of title 10, United States Code, is amended to read as follows:

"§ 3855. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except section 3846, the Secretary of the Army may, with the officer's consent, retain in an active status—

"(1) any reserve officer in the Medical Corps, Dental Corps, Veterinary Corps, the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps, the Army Nurse Corps, or the Army Medical Specialists Corps, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer in the Chaplains, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The item relating to section 3855 in the table of sections at the beginning of chapter 363 of such title is amended to read as follows:

"3855. Retention of certain officers in active status.".

(b) Navy Personnel.—(1) Chapter 573 of title 10, United States Code, is amended by inserting after section 6391 the following new section 6392:

"§ 6392. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except subsections (b), (d), and (e) of section 6383, the Secretary of the Navy may, with the officer's consent, retain in an active status—

"(1) any reserve officer of the Navy or Marine Corps who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, nurse, or biomedical sciences officer, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer in the Chaplain Corps, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6391 the following new item:

"6392. Retention of certain officers in active status.".

(c) Air Force Personnel.—(1) Section 8855 of title 10, United States Code, is amended to read as follows:

"§ 8855. Retention of certain officers in active status

"(a) Notwithstanding any other section of this chapter except section 8846, the Secretary of the Air Force may, with the officer's consent, retain in an active status—

"(1) any reserve officer of the Air Force who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, Air Force nurse, or biomedical sciences officer, but not later than the date on which the officer becomes 67 years of age; and

"(2) any reserve officer of the Air Force who is designated as a chaplain, but not later than the date on which the officer becomes 60 years of age.

"(b) An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(2) The item relating to section 8855 in the table of sections at the beginning of chapter 863 of such title is amended to read as follows:

"8855. Retention of certain officers in active status.".

(d) Maximum Age for Initial Appointment as a Reserve Officer To Serve in an Understrength Critical Health Professions Specialty.—(1) Section 591 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The Secretary concerned shall prescribe a maximum age qualification for initial appointment of persons as Reserves of the armed forces to serve in critical health professions specialties for which the Secretary concerned has determined that there is a personnel shortage. Such maximum age may not be less than 47 years of age.".

(2) The Secretary of the Armed Forces concerned shall issue regulations implementing subsection (e) of section 591 of title 10, United States Code, as added by paragraph (1), within 90 days after the date of the enactment of this Act.

Part B—Peacetime Health Care

SEC. 721. CATASTROPHIC LOSS PROTECTION UNDER CHAMPUS FOR ACTIVE-DUTY DEPENDENTS

(a) In General.—Section 1079(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) An individual or family group may not be required by reason of this subsection to pay a total of more than $1,000 in any fiscal year for the cost of health care authorized by subsection (a).".

(b) Effective Date.—Paragraph (5) of section 1079(b) of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 722. TWO-YEAR PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES

During fiscal years 1988 and 1989, the Secretary of Defense may not impose a fee for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 723. POSTPONEMENT OF THE USE OF DIAGNOSIS-RELATED GROUPS

Section 701(d)(4) of the Department of Defense Authorization Act, 1987 (100 Stat. 3898; 10 U.S.C. 1101 note) is amended—

(1) in clause (A), by striking out "1987" and inserting in lieu thereof "1987, or as soon thereafter as is feasible"; and

(2) in clause (B), by striking out "1988" and inserting in lieu thereof "1988, or as soon thereafter as is feasible".

SEC. 724. FEDERAL PREEMPTION REGARDING CONTRACTS FOR MEDICAL AND DENTAL CARE

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1103. Federal preemption regarding contracts for medical and dental care

"The provisions of any contract under this chapter which relate to the nature and extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1103. Federal preemption regarding contracts for medical and dental care.".

SEC. 725. AUTHORITY TO PROVIDE DENTAL PROSTHESES TO DEPENDENTS

Section 1077(b)(2)(B) of title 10, United States Code, is amended by striking out "and artificial eyes" and inserting in lieu thereof ", artificial eyes, and dental prostheses".

SEC. 726. ADDITIONAL REQUIREMENTS FOR CHAMPUS REFORM INITIATIVE

(a) CLARIFICATION OF REQUIREMENTS FOR DEMONSTRATION PHASE.—The Secretary shall award contracts in the case of solicitation number MDA903-87-R-0047 (issued by the Secretary of Defense for the demonstration phase of the CHAMPUS reform initiative) by October 1, 1987, or as soon thereafter as is feasible, unless the Secretary determines that the award of such contracts in connection with such solicitation would not be in the interests of the United States.

(b) PROHIBITION ON ALTERNATIVE PROJECTS OF INADEQUATE SCOPE AND NATURE.—The Secretary of Defense (and the Secretaries of the military departments) may not conduct any demonstration project in addition to the CHAMPUS reform initiative demonstration project unless such additional demonstration project meets the following requirements:

(1) The project applies to each of the military departments.

(2) The project is designed, with respect to the number and location of demonstration sites and otherwise, to ensure that the results of such project will likely be representative of the results of a nationwide demonstration project.

(3) The alternative demonstration project provides for the same reports as are required for the CHAMPUS reform initiative demonstration project under section 702 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), and for phased implementation in the same manner provided in such section.

(c) CLARIFICATION OF SCHEDULE FOR PHASED IMPLEMENTATION OF THE CHAMPUS REFORM INITIATIVE.—If necessary to meet the implementation schedule provided in subsection (c) of section 702 of the Department of Defense Authorization Act, 1987, the Secretary of Defense may consolidate the two implementation phases provided in such subsection if the Secretary meets all other requirements in such section relating to the results of the demonstration project, including the required reports to Congress.

(d) REQUIREMENT REGARDING ANY CHANGE IN THE ENROLLMENT PROGRAM INCLUDED IN THE CHAMPUS REFORM INITIATIVE.—The Secretary of Defense, in the administration of the health care enrollment program established under section 1099 of title 10, United States Code, may not require, as part of the CHAMPUS reform initiative or otherwise, persons entitled to receive medical or dental care under chapter 55 of title 10, United States Code, to receive health care exclusively in facilities of the uniformed services or exclusively from particular civilian health care providers, unless the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives, at least 90 days before the date on which such requirement is imposed, that the requirement will not—

(1) undermine or otherwise adversely affect efforts of the Department of Defense to improve medical readiness by promoting the fullest possible utilization of facilities of the uniformed services for the types of medical and surgical care most related to wartime specialty requirements;

(2) impose excessive administrative burdens on facilities of the uniformed services or the beneficiaries of CHAMPUS; or

(3) eliminate the freedom of a beneficiary under CHAMPUS to receive medical or dental care from the civilian health care provider of his choice.

(e) DEFINITIONS.—In this section:

(1) The term "CHAMPUS reform initiative" has the same meaning as is provided in section 702(d)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3900).

(2) The term "CHAMPUS reform initiative demonstration project" means the demonstration project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899).

(3) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(4) The term "uniformed services" has the same meaning as is provided in section 101(43) of title 10, United States Code.

SEC. 727. SUDDEN INFANT DEATH SYNDROME CHAMPUS COVERAGE

Subsection 1079(a) of title 10 is revised by striking the word "and" at the end of clause (13) and inserting therein a semicolon, and by striking the period at the end of clause (14) and inserting therein the word "and", and by adding a new clause (15) as follows:

"(15) Coverage may be provided for electronic cardio-respiratory home monitoring equipment (apnea monitors) for home use when a physician prescribes and supervises the use of the monitors for infants who have had an apparent life threatening event, who are subsequent siblings of a Sudden Infant Death Syndrome victim, or whose birth weight was 1500 grams or less, in which case the coverage may include the cost of the equipment, hard copy analysis of physiological alarms, professional visits, diagnostic testing, family training on how to respond to apparent life threatening events, and assistance necessary for proper use of the equipment.".

SEC. 728. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of United States crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply from the producing nations of the Persian Gulf;

(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.

PART C—MISCELLANEOUS

SEC. 731. REPEAL OF CERTAIN REQUIREMENTS RELATING TO ACQUISITION OF MEDICAL INFORMATION SYSTEMS

Section 704 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3900) is repealed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. THRESHOLD TEST BAN TREATY COMPLIANCE REPORT

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) FORM AND CONTENT OF REPORT.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976, which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely violation of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered nonviolations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

SEC. 802. REPORT ON COMPETITIVE STRATEGIES

(a) IN GENERAL.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Competitive Strategies. Such report shall be provided in classified and unclassified versions and shall include the following:

(1) A discussion of the Competitive Strategy concept.

(2) An assessment of Soviet and Warsaw Pact weaknesses, including military, political, and systemic weaknesses that could be candidates for exploitation through competitive strategies.

(3) A discussion of the initial areas selected for examination in the Competitive Strategy initiative, including a discussion of the rationale for the areas selected.

(4) A discussion of the initial findings resulting from the Competitive Strategy process.

(b) DEADLINE FOR REPORT.—The report described in subsection (a) shall be submitted not later than January 15, 1988.

SEC. 803. FUNCTIONS OF THE DIRECTOR, OPERATIONAL TEST AND EVALUATION

Section 138 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.".

SEC. 804. NATO TRAINING CENTER

It is the sense of the Congress that—

(1) the National Training Center at Fort Irwin, California, offers units of the United States Army a valuable opportunity to train in a demanding, realistic environment;

(2) the training and coordination of the military forces of the member nations of the North Atlantic Treaty Organization (NATO) would be greatly improved if they could train together at a facility similar to the National Training Center; and

(3) NATO should vigorously pursue the development of a new training center that would be similar to the National Training Center.

SEC. 805. DISSEMINATION OF UNCLASSIFIED INFORMATION CONCERNING PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

(a) IN GENERAL.—Chapter 4 of title 10, United States Code, as amended by section 9 of the Defense Technical Correction Act of 1987 (Public Law 100-26; 101 Stat 287) is amended by adding at the end the following new section:

"§ 142. Dissemination of unclassified information concerning physical protection of special nuclear material

"(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

"(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

"(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

"(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1) of this subsection—

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

"(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

"(b) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

"(c) The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons or the theft, diversion, or sabotage of special nuclear materials, equipment, or facilities, as specified under subsection (a) of this section; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"142. Dissemination of unclassified information concerning physical protection of special nuclear material.".

SEC. 806. REPEAL OF CERTAIN TESTING REQUIREMENTS

(a) REPEAL OF SECTION 2366 OF TITLE 10.—Section 2366 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2366.

SEC. 807. OVERSIGHT OF COST OR SCHEDULE VARIANCES IN CERTAIN MAJOR ACQUISITION PROGRAMS

(a) ENHANCED PROGRAM STABILITY.—Section 2435(b)(1) is amended by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) the total cost of completion of the stage will exceed by 15 percent or more, in the case of a development stage, or by 5 percent or more, in the case of a production stage, the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will be missed by more than 90 days; or".

(b) BASELINE DESCRIPTION REQUIREMENT.—For purposes of a program for which a milestone authorization is provided in section 131 or 241, the baseline description required by section 2435 of title 10, United States Code, shall be—

(1) the Selected Acquisition Report as of December 31, 1986, if one is required for such program; or

(2) a baseline description submitted consistent with section 2435.

(c) DEFENSE ENTERPRISE PROGRAM.—Section 2436(d)(1) of title 10, United States Code, is amended by striking out "concerned" and inserting in lieu thereof "concerned and with the approval of the Under Secretary of Defense for Acquisition".

SEC. 808. CONTRACT GOAL FOR MINORITIES

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973), is amended by striking out the period at the end of clause (3) and inserting in lieu thereof the following: ", including any nonprofit institution that was an integral part of a historically Black college or university before the date of the enactment of this Act.".

SEC. 809. ADJUDICATION OF INELIGIBILITY FOR A JOB WITH THE FEDERAL GOVERNMENT ON THE BASIS OF FAILURE TO REGISTER UNDER THE MILITARY SELECTIVE SERVICE ACT

Section 3328(b) of title 5, United States Code, is amended—

(1) by striking out "within the Office" in the second sentence; and

(2) by inserting after the third sentence the following: "Such procedures may provide that determinations of eligibility under the requirements of this section shall be adjudicated by the Executive agency making the appointment for which the eligibility is determined.".

SEC. 810. ELIMINATION OF ONE OF THE STATUTORY POSITIONS OF ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY

(a) IN GENERAL.—Section 5149 of title 10, United States Code, is amended—

(1) by striking out subsection (b);

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) by striking out subsection (e) and inserting in lieu thereof the following:

"(d) When subsection (c) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the Assistant Judge Advocate General of the Navy shall perform the duties of the Judge Advocate General.".

(b) SAVINGS PROVISION.—An officer in the Judge Advocate General's Corps of the Navy who is detailed as Assistant Judge Advocate General of the Navy and serving in the grade of rear admiral (lower half) on the day before the date of the enactment of this Act may continue to serve in such position, may continue to hold that grade so long as he is detailed as the Assistant Judge Advocate General of the Navy, and shall be entitled to the same retirement benefits in the same manner and to the same extent as if this section had not been enacted.

SEC. 811. ARMS CONTROL NEGOTIATIONS

(a)(1) Since the United States and the Soviet Union are currently engaged in negotiations to conclude a Treaty on Intermediate Nuclear Forces (INF) and are continuing serious negotiations on other issues of vital importance to our national security;

(2) Since the current discussions are a culmination of years of detailed and complex negotiations, pursuing an American policy objective consistently advocated over the past two Administrations regarding nuclear arms control in the European theater, and which reflect delicate compromises on both sides;

(3) Since the Senate recognizes fully, as provided in clause 2, section 2, article II of the Constitution, that the President has the "power, by and with the advice and consent of the Senate, to make treaties.";

(4) Since the Senate also recognizes the special responsibility conferred on it by the Founding Fathers to give its advice and consent to the President prior to the ratification of a treaty, that it is accountable to the people of the United States and has a duty to ensure that no treaty is concluded which will be detrimental to the welfare and security of the United States;

(5) Since in recognition of this responsibility, the Senate established a special continuing oversight body, the Arms Control Observer Group which has functioned over the last 2½ years to provide advice and counsel, when appropriate, on a continuing basis during the course of the negotiations;

(6) Since the Senate and the President both have a constitutional role in making treaties and since the Congress has a constitutional role in regulating expenditures, including expenditures on weapons systems that may be the subject of treaty negotiations;

(7) Since the Senate will reserve judgment on approval of any arms control Treaty until it has conducted a thorough examination of the provisions of such treaty, has assured itself that they are effectively verifiable, and that they serve to enhance the strength and security of the United States and its allies and friends.

(b) Therefore the Senate hereby—

(1) Declares that the Senate of the United States fully supports the efforts of the President to negotiate stabilizing, equitable and verifiable arms reduction treaties with the Soviet Union;

(2) Endorses the principle of mutuality and reciprocity in our arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union;

(3) Urges the President to take care that no provisions are agreed to which would be harmful to the security of the United States or its allies and friends.

SEC. 812. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 813. PROCUREMENT OF MANUAL TYPEWRITERS

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Procurement of manual typewriters

"Funds appropriated to or for the use of the Department of Defense may not be used for the procurement of manual typewriters which contain one or more components manufactured in a country which is a member of the Warsaw Pact unless such country has a most favored nation trading status with the United States.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410. Procurement of manual typewriters.".

SEC. 814. PROHIBITION AGAINST CERTAIN CONTRACTS

(a) IN GENERAL.—Funds appropriated to or for the use of the Department of Defense for any fiscal year pursuant to an authorization contained in this or any other Act may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract was entered into before the date of the enactment of this Act;

(2) the contract is to be performed within the United States; or

(3) the contract is exclusively for research, development, test, or evaluation in connec-

tion with antitactical ballistic missile systems.

(d) In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

SEC. 815. COOPERATIVE SDI RESEARCH PROJECTS

(a) The prohibition in subsection (a) of section 814 shall not apply to any contract awarded to a foreign government or a foreign firm by the Strategic Defense Initiative Organization if that foreign government or foreign firm agrees to fund a substantial portion of the total contract cost.

(b) In this section, "foreign firm" has the same definition as in subsection (d) of section 814.

SEC. 816. STRATEGIC DEFENSE SYSTEMS

Notwithstanding any other provision of law, no agency of the Federal Government may plan for, fund, or otherwise support the development of architectures, components, or subcomponents for strategic defense against air-breathing or ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative real-time human decision at an appropriate level of authority.

SEC. 817. ABM TREATY LIMITATIONS, ABSENCE OF, REPORT

(a) REPORT ON NO ABM TREATY LIMITATIONS.—The Secretary of Defense shall submit to Congress a report concerning the effect of no ABM Treaty limitations on the Strategic Defense Initiative Program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of no ABM Treaty limitations on the development under the Strategic Defense Initiative program of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets. This analysis should compare research and development programs pursued under the restrictive interpretation, the less restrictive interpretation, and no ABM Treaty limitations, including a comparative analysis of—

(A) the overall cost of the research and development programs,

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early- to mid-1990's.

(2) A list of options under no ABM Treaty limitations that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) REPORT CLASSIFICATION.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

SEC. 818. REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

(a) IN GENERAL.—Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress each year, at the same time as the President submits the budget to Congress under section 1105(a) of title 31 for any fiscal year or years, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget for the support programs, projects, and activities of the Department of Defense.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to budgets submitted to Congress by the President under section 1105(a) of title 31, United States Code, for fiscal years after fiscal year 1988.

SEC. 819. RIGHTS IN TECHNICAL DATA

(a) IN GENERAL.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the respective rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense.";

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) by redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of technical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release or disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release or disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means, in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

SEC. 820. NATO COOPERATIVE PROJECT AGREEMENTS

Clause (C) of section 27(b)(1) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C)) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

SEC. 821. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment pon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than 2 years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) MODIFICATION OF DEFINITION OF JOINT DUTY ASSIGNMENT.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion officers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event

later than one year after the date of the enactment of this Act.

SEC. 822. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) Additional Assistant Secretary of Defense.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Temporary Increase in Level IV Positions.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 823. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Exclusion.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 824. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

SEC. 825. TRANSPORTATION OF CERTAIN BENEFICIARIES OF THE VETERANS' ADMINISTRATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT

(a) In General.—Section 5011 of title 38, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Secretary of Defense and the Administrator shall enter into an agreement that provides for the transportation of any primary beneficiary of the Veterans' Administration on any Department of Defense aircraft operating under the aeromedical evacuation system of the Department of Defense.

"(2) An agreement entered into under paragraph (1) of this subsection shall include the following provisions:

"(A) Transportation shall be furnished to a person on an aircraft referred to in paragraph (1) of this subsection only if—

"(i) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the person needs or has been furnished care and services in Veterans' Administration medical facilities and the Administrator requests such transportation in connection with the travel of such person to or from the Veterans' Administration facility where the care and services are to be furnished or were furnished to such person;

"(ii) there is space available for such person on that aircraft; and

"(iii) there is an adequate number of medical and other service attendants to care for all persons being transported on such aircraft.

"(B) The persons eligible for transportation include persons located outside the continental United States and persons returning to their residences outside the continental United States.

"(C) A charge may not be imposed on any primary beneficiary of the Veterans' Administration or on the Veterans' Administration for transportation services furnished to such beneficiary by the Department of Defense under this section.".

(b) Implementation Requirement.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 5011(g) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

SEC. 826. SENSE OF THE CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) Findings.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributor to democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to both the United States and Japan have significantly increased since 1976, principally as the result of the Soviet Union's occupation of Afghanistan, the continued expansion and buildup of Soviet military forces (particularly Soviet expansionist efforts in the South Pacific and the buildup of the Soviet Pacific fleet), the Vietnamese occupation of Cambodia, and instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 Williamsburg summit meeting that "the security of our countries is indivisible and must be approached on a global basis", the Japanese government has raised its defense spending by an average of 5 percent per annum since 1981, rescinded a limit on annual expenditures for defense of 1 percent of the gross national product, and is fulfilling Prime Minister Suzuki's pledge to defend Japan's territory, airspace, and sea lanes to a distance of 1,000 miles by 1990.

(4) Congress applauds the actions referred to in paragraph (3) that have been taken by Japan and the Japanese commitment to implement a 1,000 mile defense capability. However, Japan has the world's second largest gross national product, is a major creditor nation, has a large private savings rate, but lags far behind other industrialized democracies in terms of the percent of gross national product devoted to national defense expenditures and expenditures for global security and stability.

(b) Sense of Congress.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

SEC. 827. SOVIET UNION EMBASSY AGREEMENTS

(a) Findings.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) New Agreement With Soviet Union.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) Embassy Agreements.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Con-

struction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

SEC. 828. POLICY TOWARD PANAMA

(a) Findings.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces; and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) Policy.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to reallocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

SEC. 829. IRANIAN VESSEL SINKING JUSTIFICATION

It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessel known to have on board any citizen of the United States of America: *Provided further*, That this section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 830. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) In General.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) Treatment of Payment.—Costs incurred by a contractor for the acquisition of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) Right of United States to Special Tooling and Test Equipment.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) Effective Date.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

SEC. 831. REPORT REGARDING NATO DEFENSES

(a) In General.—The Secretary of Defense, in consultation with the Supreme Allied Commander, Europe, shall submit to Congress a report on the options available to the North Atlantic Treaty Organization (NATO) to ensure continued deterrence against war in Europe and continued NATO unity in light of the proposed Intermediate Range Nuclear Treaty (INF) between the United States and the Soviet Union. The report shall include, at a minimum, the following:

(1) Requirements for nuclear modernization of NATO.

(2) Non-nuclear forces that would be needed to support the operational concept of Follow-on-Forces Attack (FOFA).

(3) The status for improvements being made in the air defenses of NATO in Europe.

(4) Possible effects of a conventional arms control agreement on the military balance between NATO and Warsaw Pact forces.

(b) Deadline for Report.—The Secretary shall submit the report required by subsection (a) not later than January 31, 1988, or before the President submits to the Senate for its advice and consent any treaty relating to intermediate range nuclear missiles in Europe, whichever occurs first.

SEC. 832. REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME

(a) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime, describing the number and skills of personnel currently available in the Department of Defense to perform these functions, and assessing the adequacy of these resources for the effective performance of this mission.

(b)(1) The report described in subsection (a) shall identify the total number of current Department of Defense full-time employees or military personnel, the grades of such personnel, and the special knowledge, experience, and expertise of such personnel to carry out each of the following Missile Control Technology Regime tasks:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(2) The report shall contain the Secretary's assessment of the adequacy of staff-

ing in the categories specified above in sections (b)(1) (A) to (F), and shall make recommendations on measures, including legislation if necessary, to eliminate any identified staffing deficiencies, and to improve interagency coordination.

SEC. 833. UNITED NATIONS SALARY REMISSION ARRANGEMENTS

(a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for each fiscal year by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

SEC. 834. TESTING PROGRAM FOR DRUG, CHEMICAL, AND ALCOHOL USE AND DEPENDENCY PRIOR TO ENTRY OR REENTRY INTO THE ARMED FORCES

(a) Under uniform regulations prescribed by the Secretary of Defense, testing shall be required for drug, chemical, and alcohol use and dependency for any individual prior to entry into the Armed Forces.

(b) Testing required under paragraph (a) shall be conducted as part of a pre-registration physical prior to entry into Active, Reserve, or National Guard Units whether under the direct accession or delayed entry programs.

(c) Failure to consent to the testing program prescribed in paragraph (a) shall disqualify an individual for entry into the units described in paragraph (b).

(d)(1) The Secretary of Defense shall prescribe regulations to implement this section not later than 45 days after the date of the enactment of this Act.

(2) The effective date for initiation of the testing program prescribed by this section shall be no later than 180 days after the enactment of this Act.

SEC. 835. STUDY RELATING TO CAPABILITIES FOR THE CONTROL OF DRUG SMUGGLING INTO THE UNITED STATES

(a) In General.—The Comptroller General of the United States shall conduct a comprehensive study regarding illegal drug smuggling into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether any cost savings and increased effectiveness and efficiencies could be expected to result if the national drug interdiction effort were consolidated under the authority of the Department of Defense;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation (for the Coast Guard), and the Treasury Department (for the Customs Service) for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to utilize effectively the detection output of the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to utilize the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) Authority to Contract Out.—The Comptroller General may contract for the performance of all or any part of the study required under subsection (a) with the Rand Corporation, the Center for Naval Analysis, or any other Federal contract research center, but the Comptroller General shall retain management, direction, and control of the study.

(c) Report.—Not later than March 31, 1988, the Comptroller General shall report the results of the study required under subsection (a), together with such comments and recommendations as he considers appropriate, to the Committees on Armed Services, the Committees on the Judiciary, and the Committees on Appropriations of the Senate and the House of Representatives, the Senate Caucus on International Narcotics Control, and the House Select Committee on Narcotics Abuse and Control. The Comptroller General shall submit the report in both classified and unclassified form.

(d) Transfer of Funds.—Of the funds appropriated pursuant to the authorizations contained in this division, the Secretary of Defense shall transfer to the Secretary of Transportation funds to provide for the Law Enforcement Detachment program of the Coast Guard in the following amounts:

(1) $3,000,000 for fiscal year 1988.

(2) $6,000,000 for fiscal year 1989.

SEC. 836. SENSE OF THE SENATE REGARDING THE CONTRIBUTIONS AND ROLES OF SPOUSES OF MILITARY PERSONNEL IN SUPPORTING THE MILITARY COMMUNITY

(a)(1) the spouses of military personnel have contributed greatly to the well-being and to the support of the military community in the Armed Forces for decades;

(2) the spouses of military personnel have voluntarily lent their time and talents to support military personnel, their families, and the military community as a whole, in time of war and in time of peace;

(3) in 1987, when more than 72 percent of all active duty military officers and 52 percent of all active duty enlisted military personnel are married, the voluntary service of spouses of military personnel in support of the military community is ever increasing in scope and importance;

(4) at the same time, the pressures on the spouses of military personnel to be employed outside of the home are increasing, reflecting American society as a whole;

(5) neither the Armed Forces, the Congress, nor the American people have a right to expect or demand that spouses of military personnel voluntarily contribute their time or talents to support the Armed Forces or the military community, beyond that expected of all good citizens.

(b)(1) Therefore, it is the sense of the Senate that the spouses of military personnel are to be thanked and congratulated for their unswerving support and work on behalf of military personnel, their families and the military community as a whole.

(2) And further, it is the sense of the Senate that the decision by spouses of military personnel to be employed, either in addition to or rather than voluntarily participating in activities relating to the Armed Forces, must be viewed as a personal decision which is of no official consequence to the Armed Forces.

SEC. 837. TRAVEL REIMBURSEMENT

Notwithstanding any limitation on amounts that may be otherwise paid for travel and transportation allowances, a civilian employee of the Department of Defense or Department of Transportation or a member of the Armed Forces of the United States, accompanying a Member of Congress, an employee of such a Member, or an employee of Congress on official travel may be authorized reimbursement for actual travel and transportation expenses in an amount not to exceed that approved for official congressional travel when that travel is directed or approved by the Secretary of Defense or the Secretary of the executive agency or military department, or a designee of the Secretary concerned, having jurisdiction over the employee or member.

SEC. 838. TULALIP TRIBES, WASHINGTON

The Secretary of the Navy is authorized to provide to the Tulalip Tribes of Washington, $3,400,000 from the authorization for appropriations provided in section 2204(a)(1), to settle tribal claims for loss of access to and displacement from usual and accustomed fishing grounds and stations arising from the construction and operation of the Navy Homeport at Everett, Washington, pursuant to the Memorandum of Agreement dated July 22, 1987, between the United States Navy and the Tulalip Tribes of Washington. Before payment in final settlement of the tribal claims is made, the Navy must obtain from the Tulalip Tribes a release by which the tribes waive any claims against the United States for displacement from the Homeport site while the site is owned by the United States, and for additional displacement resulting from Homeport construction-related activities in Port Gardner to the extent provided by the Memorandum of Agreement. The release will also waive any claims the tribes may have against the United States or any or its successors in interest for loss of access resulting from the permanent structures constructed for the Homeport. Nothing herein shall be construed to diminish in any way the reserved rights of the Tulalip Tribes of Washington, except as provided in the Memorandum of Agreement.

SEC. 839. STARS AND STRIPES CENSORSHIP

The Comptroller General shall conduct a study of allegations of censorship in the Department of Defense newspaper, Stars and Stripes. The report of the Comptroller General shall be transmitted to the Congress not later than 90 days after the date of enactment of this Act and such report shall include the Comptroller General's findings regarding the validity of the allegations and any recommendations concerning those allegations which the Comptroller General believes appropriate.

SEC. 840. SMALL BUSINESS SET-ASIDE PROGRAM

(a) FAIR PROPORTION OF FEDERAL CONTRACTS; AWARD AT FAIR AND REASONABLE PRICES.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) in paragraph (3), by striking out "in each industry category" and inserting in lieu thereof "of the total awards (utilizing the product and services codes of the Federal Procurement Data System established pursuant to section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))";

(2) by striking out the matter that begins "For purposes of clause (3) of the first sentence of this subsection" up to the last sentence; and

(3) by striking the period, inserting in lieu thereof a comma, and the words "determined on the basis of an evaluation of the prices offered in response to the solicitation by all eligible offerors, by other techniques of price analysis, or by cost analysis for the purpose of establishing that the anticipated contract award price will be fair and reasonable to the Government.".

(b) SMALL BUSINESS SMALL PURCHASE RESERVE EXCLUDED FROM ANNUAL GOALS.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence.

(c) SUBCONTRACTING LIMITATIONS.—(1) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by—

(A) striking out "unless the concern agrees that" in paragraph (1) and inserting in lieu thereof "unless the concern agrees to expend its best efforts so that";

(B) inserting a flush sentence at the end of paragraph (1) as follows:

"Higher percentages of permissible subcontracting may be authorized in an individual contract solicitation by the contracting officer.";

(C) by striking out "in that industry category" in paragraph (2) and inserting in lieu thereof "for that size standard"; and

(D) by striking out all after the phrase "general and specialty construction" in paragraph (3) and inserting in lieu thereof a period.

(2) The amendments made by section 921(c) of the Defense Acquisition Improvement Act of 1986 (Public Law 99-661) shall apply to solicitations issued on or after October 1, 1987.

(d) REPEALER.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

(e) CONFORMING AMENDMENTS.—Section 8(a)(14) (15 U.S.C. 637(a)(14)) of the Small Business Act is amended—

(1) in subparagraph (A) by striking out "the concern agrees that" and inserting in lieu thereof "the concern agrees to expend its best efforts so that";

(2) in subparagraph (B) by striking out "in that industry category" and all that follows in the subparagraph and inserting in lieu thereof "for that size standard."; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The Administration shall establish, through public rulemaking, requirements similar to those established in subparagraph (A) to be applicable to contracts for general and specialty construction.".

(f) INITIAL REVIEW OF SIZE STANDARDS.—Section 921(h) of the "Defense Acquisition Improvement Act of 1986" (Public Law 99-661) is amended by striking in the last sentence the words "until October 1, 1987" and substituting in lieu thereof the words "prior to March 31, 1988".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later.

SEC. 841. ANNUAL PLAN ON DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE

(a) IN GENERAL.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 380. Annual plan on Department of Defense drug law enforcement assistance

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress the following:

"(A) A detailed list of all forms of assistance that is to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service, during the fiscal year for which such budget is submitted.

"(B) A detailed plan for lending equipment and rendering drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following matters:

"(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

"(B) Communications equipment, including secure communications.

"(C) Support available from the reserve components of the Armed Forces for drug interdiction operations of civilian drug law enforcement agencies.

"(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

"(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

"(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a list and plan submitted under subsection (a), shall convene a conference of the heads of all Federal Government law enforcement agencies having jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies during the fiscal year for which the list and plan are submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is available by adding at the end the following:

"380. Annual plan on Department of Defense drug law enforcement assistance.".

SEC. 842. MILITARY FORCES STATIONED IN EUROPE

The Senate finds that with respect to the level of United States military forces permanently stationed in Europe in fiscal year 1988 and fiscal year 1989:

(a)(1) the agreement in principal between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implication for the viability of NATO's defense posture;

(2) the presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the Alliance;

(3) NATO Defense Ministers stated on May 26-27, 1987 that: "The continued presence of United States forces at existing levels in Europe plays an irreplacable role in the defense of North America as well as Europe";

(b)(1) therefore, it is the sense of the Senate that the number of United States military personnel stationed in Europe play an indispensable role for peace and deterrence and such commitment of forces should be continued at existing levels: *Provided*, That all existing basing agreements remain in effect; and

(2) furthermore, the actual number of United States forces in Europe at any one time may fall below this level due to administrative fluctuations or determination by the President of other national security considerations.

SEC. 843. SMALL ICBM AND MX RAIL MOBILE BASING MODE

(a) The Senate finds—

(1) it is essential that our defense priorities be carefully analyzed so as to properly fund the Armed Forces of the United States;

(2) the status of forces of the United States and our allies will become more important if an INF agreement is concluded between the United States and the Soviet Union;

(3) it is both desirable and possible to reduce NATO's reliance on nuclear weapons for the defense of all members of the Alliance if NATO asserts the political will and establishes sound defense priorities;

(4) the United States is currently procuring one land-based intercontinental ballistic missile while developing another such weapon at significant cost;

(5) it is imperative for the economic wellbeing of the United States the Federal deficit be reduced, and our efforts to reduce that deficit will continue to require limits on all discretionary Federal spending including defense spending; and

(6) such restraints on the defense budget are likely to exist for the foreseeable future.

(b) Therefore, it is the sense of the Senate that authorization of funds for research and development of the Small ICBM and the rail-mobile basing mode for the MX ICBM does not constitute a commitment or express an intent to procure and deploy either or both.

SEC. 844. BUDGET SUBMISSIONS RELATING TO SPECIAL ACCESS PROGRAMS

(a) In General.—(1) Each year, the President shall include in the budget submitted to Congress for the Department of Defense under section 1105 of title 31, United States Code, a separate report to the Committees on Armed Services and the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives on each major defense acquisition program in such budget which is designated as a special access program (provided for under Executive Order 12356, dated April 2, 1982, or any successor order).

(2) A report submitted under paragraph (1) in the case of any program shall contain—

(A) a brief description of such program;

(B) a brief discussion of the major milestones established for such program; and

(C) the actual cost of such program for each fiscal year during which the program has been conducted before the fiscal year in which such budget is submitted, the estimated cost of such program for each additional fiscal year during which the program is expected to be conducted, and the estimated total cost of such program.

(b) Form of Report.—A report required by subsection (a) may be submitted in classified or unclassified form.

(c) Waiver Authority.—The Secretary of Defense may waive the requirements of subsection (a) in the case of any program for which the Secretary determines that the disclosure of the existence of such program would adversely affect national security. If the Secretary exercises the waiver authority in this subsection, he shall provide the information required by subsection (a) and the justification for such waiver to the chairman and ranking minority members of the Committees on Armed Services and the Defense subcommittees of the Committees on Appropriations.

(d) Classification Policy.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives, at the same time as the President submits the budget for fiscal year 1989 to Congress under section 1105 of title 31, United States Code, a report containing the policy for classifying reports for the purpose of this section. The policy shall provide for consistent classifications for all such reports, except that such policy may provide for exceptions to the requirement for consistent classification of such reports if such policy contains specific criteria and procedures for determining the exceptions.

(2) After submitting the policy referred to in paragraph (1) as provided in such paragraph, the President shall promptly notify the Committees referred to in such paragraph of any modification or termination of such policy. The notification shall contain the reasons for the modification or termination, as the case may be, and, in the case of a modification, the provisions of the policy as modified.

(e) Definition.—As used in this section, the term "major defense acquisition program" means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars), but does not include any program that the Secretary of Defense determines is a program conducted primarily for the purpose of facilitating intelligence-gathering activities, intelligence analysis activities, or counterintelligence activities.

SEC. 845. FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE

(a) Improvement of Procedures.—(1) The Secretary of Defense shall prescribe procedures that ensure that, whenever, in connection with a criminal investigation conducted by or for a military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used any controlled substance—

(A) such specimen is in a condition that is suitable for forensic examination when delivered to the forensic laboratory; and

(B) the investigative agency which submits the specimen to the laboratory receives the results of the forensic examination in writing within such period as is necessary to present such results in a court-martial or other criminal proceeding resulting from the investigation.

(2) The procedures prescribed under paragraph (1) shall—

(A) ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

(B) insofar as is practicable, require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in paragraph (1)(A).

(b) Tests for Use of LSD.—The Secretary of Defense shall ensure that whenever, in connection with a criminal investigation conducted by or for any military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used lysergic acid dyethylamide, such specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of such specimen, whether such individual has used lysergic acid diethylamide.

(c) Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal proceeding.

(d) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1988, a report describing the procedures prescribed under subsection (a).

SEC. 846. DEFENSE AGAINST AERIAL THREATS

(a)(1) Since no element of the Armed Forces of the United States currently has the mission to defend the United States from ballistic missiles and other aerial threats;

(2) Since the Joint Chiefs of Staff have established a set of ballistic missile defense requirements as part of the Defense Acquisition Board process;

(3) Since six SDI programs have passed the Milestone I review of the Defense Acquisition Board and have entered the demonstration and validation phase;

(b) Therefore, it is the sense of the Senate that the Secretary of Defense should, not later than 60 days after the date of enactment of this Act, assign to one or more appropriate elements of the Department of Defense the mission—

(1) to defend to the fullest extent possible the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles; and

(2) in the event of war, to provide access to, provide intelligence from, and secure and retain control of space for the military forces of the United States.

SEC. 847. STUDY OF EARLY DECOMMISSIONING OF TWO AIRCRAFT CARRIERS

(a) In General.—The Secretary of Defense shall conduct a comprehensive study that compares—

(1) the current Department of Defense plan to decommission one aircraft carrier when the USS George Washington (CVN73) is commissioned in fiscal year 1992 and decommission a second aircraft carrier when CVN74 is commissioned in fiscal year 1997.

(2) an alternative plan that would decommission one aircraft carrier and deactivate one Navy air wing when the aircraft carrier USS Abraham Lincoln (CVN72) is commissioned in fiscal year 1990 and decommission a second aircraft carrier when the aircraft carrier USS George Washington (CVN73) is commissioned in fiscal year 1992.

(b) Matters To Be Included.—The study shall determine the following implications of adopting the alternative plan for aircraft carrier retirements as compared to the current plan—

(1) the total direct and indirect outlay and budget authority savings in constant fiscal year 1988 dollars through fiscal year 1997;

(2) the effect on naval aircraft requirements through fiscal year 1997 assuming the aircraft from the deactivated wing are reassigned in the active force;

(3) the implications for Navy endstrength requirements through fiscal year 1997;

(4) the effect on requirements for naval surface ship combatants and support ships through fiscal year 1997;

(5) the cost and feasibility of making available to the active naval fleet for operation during a time of national emergency—

(A) an aircraft carrier that is in the Service Life Extension Program (SLEP); and

(B) an aircraft carrier that has been decommissioned, but is still under the jurisdiction of the Navy.

(c) Deadline for Submission.—Not later than November 15, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted by him pursuant to paragraphs (a) and (b) together with such comments and recommendations as the Secretary considers appropriate.

SEC. 848. STUDIES OF NUCLEAR WARHEAD FOR ATACMS MISSILE

(a) Funds appropriated before, on, or after the date of the enactment of this Act, or otherwise made available to the Department of Defense or to the Department of Energy for any fiscal year may be obligated or expended for studies and analyses of the military utility and cost of a nuclear warhead option for the Army Tactical System (ATACMS).

(b) No funds may be obligated or expended for the purpose of developing, testing, producing, or integrating nuclear warheads for the Army Tactical Missile System (ATACMS) unless—

(1) the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Army Tactical Missile System has achieved an initial operational capability with United States Army units permanently stationed in the Federal Republic of Germany;

(2) such development, testing, production, or integration has been specifically authorized by legislation enacted after the date of the enactment of this Act; and

(3) the Secretary of Defense has submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a comprehensive analysis of the options available to the United States to preserve an adequate theater nuclear capability in Europe in the aftermath of an INF agreement between the United States and the Soviet Union.

SEC. 849. STRATEGIC ARMS REDUCTION TALKS IMPLICATION REPORT

Not later than June 30, 1988, the Secretary of Defense shall provide to Congress a report in both classified and unclassified versions describing:

(1) The quantitative and qualitative implications of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva for our strategic modernization program. Special, but not exclusive, attention in this report should be paid to the implications for the Trident SSBN program, the rail-garrison Peacekeeper program, and the Small ICBM program.

(2) The advantages and drawbacks of following the recommendations made in the 1983 report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) above on United States force modernization and arms control policy.

SEC. 850. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES

(a) Findings.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disporportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) Policy.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) the President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution or the mutual defense burden among our allies and consider whether additional legislation is appropriate.

SEC. 851. IRANIAN MINE-LAYING ACTIVITIES COMMEND ARMED FORCES FOR THWARTING

(a)(1) The Armed Forces of the United States are engaged in escort operations in the Persian Gulf in support of American national security interests and the principle of freedom of navigation;

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in on-going activities to disrupt shipping in the Persian Gulf;

(3) On September 21-22 a joint operation of United States Army and Naval forces succeeded in detecting in the act, tracking and neutralizing an Iranian mine-laying activity;

(4) The success of that joint operation, by serving notice on Iran that the United States will react decisively and effectively to such activity, may lead to a reduced risk to American interests and armed forces from such activity;

(5) There is precedent throughout American history for Congress to recognize and commend similar operations by United States Armed Forces, including the action of the Congress February 3, 1801, in praising "the gallant conduct" of the members of a United States Naval force in the Wars with the Barbary Powers.

(b) Therefore, it is the sense of the Senate of the United States that:

(1) The members of the United States Armed Forces who participated in the September 21-22 operation acted in the finest traditions of the Armed Forces, and displayed exemplary professionalism, skill and dedication.

(2) The aforementioned members of the Armed Forces, and all United States Armed Forces personnel who supported their operation, are commended for their participation in this important and successful endeavor.

SEC. 852. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) In General.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s, including a specific discussion concerning this issue in the event the United States and the Soviet Union agree to a treaty which requires reduction or elimination of types of delivery systems or reductions in the numbers of nuclear weapons deployed in Western Europe.

(b) Form and Content of Report.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems not limited by the proposed treaty which the Secretary of Defense recommends for deployment in the European theater under the terms of an arms control agreement likely to be agreed to by the United States and the Soviet Union.

(2) A description of any nuclear modernization program the Secretary of Defense has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the impact that a reduction in the number of nuclear warheads deployed by NATO in Western Europe will likely have on NATO's ability to maintain an effective flexible response strategy and credible deterrence.

(4) A discussion of any plans for redeployment in peacetime to Western Europe, in the event an agreement referred to in subsection (a) is successfully concluded, of nuclear forces of the United States that are currently deployed outside Western Europe.

(5) A discussion of the balance of non-nuclear forces in the NATO theater and the potential impact of an agreement limiting non-nuclear forces on that balance.

(6) A discussion of the feasibility of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(7) A discussion of all feasible candidate nuclear weapons delivery systems that might be deployed by NATO, including all delivery systems currently in the inventories of the United States and NATO and any new systems that may become available during the time period covered by the reports required by subsection (a).

(8) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR) on the issues in items (1) through (6) above.

(c) DEADLINE FOR REPORT.—The report required by subsection (A) shall be submitted—

(1) not later than 90 days after the date of enactment of this Act; or

(2) not later than the date on which the President submits to the Senate for its advice and consent an arms control treaty limiting deployment of intermediate-range nuclear forces (INF) in Western Europe, whichever date is earlier.

SEC. 853. REPORT ON M1A1 TANK

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any actual or proposed plans of the Department of Defense regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams tank. The Secretary shall specifically include in such report the following:

(1) Whether the Secretary of Defense has entered into or proposes to enter into negotiations with any foreign country for the sale of the M1 or M1A1 Abrams tank to such foreign country.

(2) The nature and extent of any negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of such tank by the United States and such country.

(3) The possible consequences of the sale of such tank to a foreign country and of an agreement for the co-production or co-assembly of such tank by the United States and a foreign country.

(4) A comparison of the effects on United States industry and labor of a direct sale of such tank to a foreign country with the production of such tank under a co-production or co-assembly arrangement with a foreign country.

(5) The impact that the sale of such tank to a foreign country or an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States in view of the sensitive nature of the high technology involved in the production of such tank.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) NATURE OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

(d) CONDITION ON AUTHORITY OF SECRETARY.—The Secretary may not enter into any agreement with any foreign country regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams or any variant of such tank until the report required by this section has been received by Congress.

SEC. 854. NUCLEAR RISK REDUCTION CENTERS

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust by both sides and lead to expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis management and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

SEC. 855. TRADE WITH VIETNAM

(a) FINDINGS.—The Congress finds that—

(1) 140,000 Vietnamese troops invaded Cambodia in early 1978;

(2) for the past 9 years, the vast majority of Western powers have pledged to maintain embargoes or developmental aid to Vietnam until these troops are removed;

(3) Japan initially participated in this embargo, freezing some $135,000,000 in grants and concessionary loans, and reducing trade levels from $220,000,000 in 1978 to $120,000,000 the following year;

(4) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a present day trade level of $230,000,000, and this includes developmental trade;

(5) the Japanese Government has consistently refused to discourage private investment by its private business sector which initiates this trade;

(6) Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) IN GENERAL.—The Congress hereby—

(1) renews its condemnation of the continued Vietnamese occupation of the sovereign state of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law, and the Congress reconfirms its call for Vietnam to withdraw from Cambodia for only in this way can Vietnam expect to end its self induced economic isolation, and

(2) strongly urges the government of Japan to—

(A) prevent its private business sector from engaging in developmental trade with the Socialist Republic of Vietnam, and

(B) discontinue specific Japanese trading practices with Vietnam which provide long-term credits and developmental equipment, including equipment for—

(i) oil and exploration development,

(ii) forestry and fishery production,

(iii) development of commodities for light industries, and

(iv) the upgrading of production capacities for export purposes.

SEC. 856. PROHIBIT IMPORTS FROM IRAN

FINDINGS.—The Congress finds that—

(a) The actions of Iran in continuing mine-laying activities, launching Silkworm missiles against Kuwait and refusing to accept the United Nations-proposed cease-fire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf.

(b) In recent years, the United States, on annual average, has imported approximately $500,000,000 to $600,000,000 worth of products of Iran.

(c) The provision of this hard currency to Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as mine-laying.

(d) A formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war; nor to surrender the flexibilty to shape our conduct in response to the policies and conduct of the belligerents in that war.

(e) In light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran.

(f) As the provisions of the Algiers Accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the products of Iran, in the claims settlement process established under the Accord.

SEC. 857. PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN

(a) Effective upon the date of enactment of this section, the import into the United States of all products of Iran is prohibited.

(b) For the purposes of this section, the term "products of Iran" means an article grown, mined, produced or manufactured (in whole or in part) in Iran.

(c) The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement subsection (a).

SEC. 858. WAIVER OF PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN

(a) Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition for up to 180 days following enactment of this section.

(b) Should the President, under the authority of subsection (a), delay implementation of the prohibition for any period up to the 180-day limit, he shall submit to the Congress a written report, explaining the reasons for that decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) Should the President decide to delay implementation of the prohibition through the procedure outlined in subsection (b) for the full 180 days, the prohibition shall go into effect on the 181st day following enactment of this section, unless the Congress, by joint resolution, extends the 180-day period.

SEC. 859. AMENDMENTS RELATED TO THE ENACTMENT OF THE GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

(a) Amendments to Public Law 99-433.—(1) The table contained in section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 995) is amended by striking out "chapter 3" above the right hand column and inserting in lieu thereof "chapter 144".

(2) Section 202(b)(2) of such Act (100 Stat. 1011) is amended by inserting "the first place it appears" immediately before the semicolon.

(3) Section 532(c)(1) of such Act (100 Stat. 1063) is amended by striking out "section" and inserting in lieu thereof "sections".

(4) Section 602(e)(3)(B) of such Act (100 Stat. 1067) is amended by striking out "and strength" and inserting in lieu thereof "end strength".

(b) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 152 is amended by striking out the section heading and inserting in lieu thereof the following:

"§ 152. Chairman: appointment; grade and rank".

(B) The table of sections at the beginning of chapter 5 is amended by striking out the item relating to section 152 and inserting in lieu thereof the following:

"152. Chairman: appointment; grade and rank.".

(2) Section 155 is amended—

(A) in subsection (f)(4)(B), by inserting "or Congress" after "the President"; and

(B) in subsection (g)(2), by inserting "the President or" after "declared by".

(3) Section 194(e)(2) is amended by inserting "the President or" after "declared by".

(4)(A) The heading for section 743 is amended by adding at the end "**; Commandant of the Marine Corps**".

(B) The table of sections at the beginning of chapter 43 is amended by inserting "; Commandant of the Marine Corps" after "Air Force" in the item relating to section 743.

(5) Section 1406(i) is amended—

(A) by inserting "AND VICE CHAIRMEN" after "CHAIRMEN" in the subsection heading; and

(B) by inserting "or Vice Chairman" after "Chairman" in paragraph (1).

(6) Sections 3014(f)(4), 5014(f)(4), and 8014(f)(4) are each amended by inserting "the President or" after "declared by".

(7) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5898 and inserting in lieu thereof the following:

"5898. Action on reports of selection boards.".

(8) Section 8062(e) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(c) Amendments To Title 37.—(1) Section 413 of title 37, United States Code, is amended to read as follows:

"§ 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

"The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chairman and Vice Chairman of the Joint Chiefs of Staff.".

(d) Miscellaneous Amendments.—Footnote 2 in the table in section 411(a) of title 38, United States Code, is amended by inserting "or Vice Chairman" after "Chairman".

(2) Section 1344(b)(4) of title 31, United States Code, is amended by inserting "the members and Vice Chairman of" before "the Joint Chiefs of Staff".

(3) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (37 U.S.C. 1009 note) is amended by inserting "or Vice Chairman" after "Chairman".

(4) Section 1302(b)(3) of the Department of Defense Authorization Act, 1986 (37 U.S.C. 431 note), is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

(e) Effective Dates.—(1) The amendments made by subsection (a) shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(2) The amendments made by subsections (c)(1), (d)(3), and (d)(4) shall take effect as of October 1, 1986.

SEC. 860. TECHNICAL AND CLERICAL AMENDMENTS

(a) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(14) is amended by inserting "a" after "means".

(2) Section 179 is amended by realigning subsection (e) so as to appear flush to the left margin.

(3) The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 423 and inserting in lieu thereof the following:

"423. Authority to use proceeds from counterintelligence operations of the military departments.".

(4) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 686 from the end of such table to appear immediately below the item relating to section 685.

(5) Section 1102(c)(2) is amended by striking out ", United States Code" in the second sentence.

(6) Section 2321 is amended—

(A) in subsection (d)(4)(A), by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) in subsection (i), by inserting "or subcontractor" after "contractor".

(7) Section 2322(b) is amended by inserting a period at the end.

(8) Section 2327(d) is amended by inserting "(1)" after "APPLICABILITY.—".

(9) The heading of section 2342 is amended by inserting a hyphen between the first and second words.

(10)(A) Section 2364 is amended by striking out "milestone O, I, and II decisions" in subsection (b)(5) and inserting in lieu thereof "milestone O, milestone I, and milestone II decisions".

(B) The heading of such section is amended by revising the fifth word so that the first letter is lower case.

(C) The item relating to that section in the table of sections at the beginning of chapter 139 is amended to conform to the amendment made by subparagraph (B).

(11) Section 2366(e)(1)(B) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(12) The item relating to section 2367 in the table of sections at the beginning of chapter 139 is amended so that the initial letter of the third word is lower case.

(13) Section 2406(f)(2)(A) is amended by inserting "section" after "is defined in".

(14) Section 2436(c)(5) is amended by inserting "law," after "auditing,".

(15) Section 2801(c)(3) is amended by striking out "defense agencies" and inserting in lieu thereof "Defense Agencies".

(16) Section 3723 is amended by striking out the comma after "disease".

(17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

(18)(A) Sections 1089(g), 2002(b), 2141(c), 2143(c), and 2145(b) are amended by inserting "the term" after "In this section,".

(B) Section 2356(b) is amended by inserting ", the term" after "In this section".

(19)(A) Sections 3251 and 8251 are amended by inserting ", the term" after "In this chapter".

(B) Sections 4801, 8368(a), and 9801 are amended by inserting "the term" after "In this chapter,".

(20) Section 101(20) is amended by striking out " 'Rate" at the beginning of the second sentence and inserting in lieu thereof "The term 'rate".

(b) Amendments to Title 37.—Section 303(2) of title 37, United States Code, is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon; and

(2) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; or".

(c) Amendments to Public Law 100-26.—Public Law 100-26 is amended—

(1) in section 7(b)(3)(A), by inserting "in subsection (a)," before "by";

(2) in section 7(k)(1)(C), by inserting "(2)" after "paragraphs (1),"; and

(3) in section 8(d)(7), by striking out "Section 406" and inserting in lieu thereof "Section 406b".

(d) Miscellaneous Amendment.—Section 956(b)(1) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661 and in title X of section 101(c) of Public Laws 99-500 and 99-

591) is amended by inserting "the first place it appears" before the semicolon.

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (c) shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).

(2) The amendment made by subsection (d) shall apply as if included in the enactment of Public Laws 99-500, 99-591, and 99-661.

SEC. 861. ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY AND CHAIRMAN OF NUCLEAR WEAPONS COUNCIL

(a) STATUTORY ESTABLISHMENT OF POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(b) EXCEPTION TO SENATE CONFIRMATION.—The person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 (42 U.S.C. 2037) on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 of title 10, United States Code (as added by subsection (a)), without the advice and consent of the Senate.

(c) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense".

SEC. 862. STATE DEPARTMENT FREEDOM OF EXPRESSION

(a) SHORT TITLE.—This section may be cited as the "United States Department of State Freedom of Expression Act of 1987".

(b) FINDING.—Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 863. REPORT ON ELIMINATION OF BALLISTIC MISSILES

(a) Not later than 30 days after the date of enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives examining the military consequences of any arms control agreement that would provide for the elimination of all United States and Soviet strategic ballistic missiles.

(b) Such report shall be submitted in classified and unclassified form and shall include a discussion of the strategic, budgetary and force structure implications of this proposal for:

(1) United States and allied conventional defenses in Europe, the Far East and other regions vital to United States national security;

(2) United States tactical nuclear deterrence in such areas;

(3) United States strategic offensive retaliatory systems not affected by this proposal, including United States bomber forces and cruise missiles;

(4) United States air defenses needed to counter Soviet bomber forces and cruise missiles;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) Any new programs which may be deemed necessary to maintain the position of the United States in light of the relative advantage conferred by this proposal on other nuclear powers, including the Peoples Republic of China, whose strategic ballistic missiles would not be limited.

SEC. 864. SALT II COMPLIANCE AMENDMENT

Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or in part, unless and until the following have occurred:

(a) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(b) The Senate has given its advice and consent to the Treaty;

(c) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned; and

(d) Each party has ratified the Treaty in accordance with its own constitutional processes.

SEC. 865. LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act".

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1988, to overhaul, maintain, operate, or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this Act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed Intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1988, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicle" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" means launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MONTGOMERY moves to strike all after the enacting clause of the Senate bill, S. 864, and to insert in lieu thereof the following:

Section 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Authorization Act, 1988".

TITLE I—PROCUREMENT

SEC. 101. ARMY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for procurement for the Army as follows:

(1) For aircraft, $2,703,124,000 for fiscal year 1988.

(2) For missiles:

(A) $2,270,175,000 for fiscal year 1988.

(B) $1,221,166,000 for fiscal year 1989.

(3) For weapons and tracked combat vehicles, $3,345,737,000 for fiscal year 1988.

(4) For ammunition, $2,238,808,000 for fiscal year 1988.

(5) For other procurement:

(A) $5,071,920,000 for fiscal year 1988, of which—

(i) $942,560,000 is for tactical and support vehicles;

(ii) $3,036,355,000 is for communications and electronics equipment; and

(iii) $1,151,005 is for other support equipment.

(B) $156,900,000 for fiscal year 1989.

The total of the amounts provided under clauses (i), (ii), and (iii) of paragraph (5)(A) is hereby reduced by $58,000,000 as an undistributed reduction.

(b) Authorized Multiyear Contracts.—(1) Subject to paragraph (2), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(A) High-Mobility Multipurpose Wheeled Vehicle program.

(B) AN/ALQ-136 jammer.

(2) A multiyear contract authorized by paragraph (1) may not be entered into unless the anticipated cost over the period of the contract is no more than 88 percent of the anticipated cost of carrying out the same program through annual contracts.

SEC. 102. NAVY AND MARINE CORPS.

(a) Aircraft.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy as follows:

(A) $9,253,177,000 for fiscal year 1988.

(B) $2,980,378,000 for fiscal year 1989.

(2) Of the funds appropriated or otherwise made available for procurement of aircraft for the Navy for fiscal year 1988:

(A) $5,729,763,000 is available only for combat aircraft programs as follows:

For the A-6F program, $853,224,000.

For the EA-6B program, $521,571,000.

For the F-14A/D program, $873,848,000.

For the FA-18 program, $2,580,222,000.

For the SH-60B program, $143,641,000.

For the SH-60F program, $329,961,000.

For the E-2C program, $427,296,000.

(B) $833,193,000 is available only for modification of aircraft programs as follows:

For the A-6 series, $219,651,000.

For the H-2 series, $45,108,000.

For the P-3 series, $172,865,000.

For the S-3 series, $142,522,000.

For the ES-3 series, $115,200,000.

For the E2 series, $71,139,000.

For common electronic countermeasures (ECM) equipment, $66,708,000.

(b) Weapons.—Funds are hereby authorized to be appropriated for fiscal year 1988 in the total amount of $5,815,815,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(1) For missile programs, $5,230,085,000.

(2) For torpedo programs, $354,462,000, as follows:

For the MK-48 torpedo program, $243,444,000.

For the MK-30 mobile target program, $31,495,000.

For the antisubmarine rocket (ASROC) program, $9,522,000.

For the modification of torpedoes and related equipment, $16,015,000.

For the torpedo support equipment program, $33,348,000.

For the antisubmarine warfare range support program, $20,638,000.

(3) For other weapons, $101,540,000, of which $28,023,000 is for the MK-15 close-in weapon system program.

(4) For spares and repair parts, $129,728,000.

(c) Shipbuilding and Conversion.—(1) Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $9,923,955,000 for fiscal year 1988.

(B) $7,832,900,000 for fiscal year 1989.

(2) Amounts authorized under paragraph (1) are available for shipbuilding and conversion programs as follows:

For the Trident submarine program, $1,330,800,000 for fiscal year 1988 and $1,398,300,000 for fiscal year 1989.

For the CVN aircraft carrier program, $644,000,000 for fiscal year 1988 and $797,000,000 for fiscal year 1989.

For the SSN-688 nuclear attack submarine program, $1,736,900,000 for fiscal year 1988 and $1,527,800,000 for fiscal year 1989.

For the SSN-21 nuclear attack submarine program, $257,600,000 for fiscal year 1988.

For the aircraft carrier service life extension program (SLEP), $729,755,000 for fiscal year 1988.

For the CG-47 Aegis cruiser program, $3,328,900,000 for fiscal year 1988 and $825,000,000 for fiscal year 1989.

For the DDG-51 guided missile destroyer program, $5,500,000 for fiscal year 1988 and $2,196,900,000 for fiscal year 1989.

For the LHD-1 amphibious assault ship program, $772,900,000 for fiscal year 1988 and $741,100,000 for fiscal year 1989.

For the LSD-41 cargo variant program, $324,200,000 for fiscal year 1988.

For the TAO-187 fleet oiler program, $279,100,000 for fiscal year 1988 and $256,400,000 for fiscal year 1989.

For the strategic sealift program, $43,400,000 for fiscal year 1988 and $35,400,000 for fiscal year 1989.

For the sealift enhancement program, $17,800,000 for fiscal year 1988.

For the landing craft, air cushion program, $43,700,000 for fiscal year 1988.

For the TACS auxiliary crane ship program, $53,100,000 for fiscal year 1988 and $55,000,000 for fiscal year 1989.

For service craft, $12,500,000 for fiscal year 1988.

For outfitting and post delivery, $343,800,000 for fiscal year 1988.

(d) Other Procurement, Navy.—Funds are hereby authorized to be appropriated for fiscal year 1988 for other procurement for the Navy in the amount of $4,901,766,000 as follows:

(1) For the ship support equipment program, $759,780,000.

(2) For the communications and electronics equipment program, $1,666,323,000.

(3) For aviation support equipment, $688,337,000.

(4) For the ordnance support equipment program, $861,172,000.

(5) For programs for civil engineering support equipment, supply support equipment, and personnel/command support equipment, a total of $625,328,000.

(6) For spares and repair parts, $308,826,000.

(e) Procurement, Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,286,195,000.

(f) Multiyear Procurement.—The Secretary of the Navy may not carry out multiyear procurement for the Navy AGM-84A Harpoon missile program or for the Marine Corps Hawk missile program.

SEC. 103. AIR FORCE.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for procurement for the Air Force as follows:

(1) For aircraft:

(A) $11,557,844,000 for fiscal year 1988.

(B) $3,053,277,000 for fiscal year 1989.

(2) For missiles:

(A) $7,296,259,000 for fiscal year 1988.

(B) $1,280,815,000 for fiscal year 1989.

(3) For other procurement, $8,360,679,000 for fiscal year 1988, of which—

(A) $763,139,000 is for munitions and associated support equipment;

(B) $223,961,000 is for vehicular equipment;

(C) $2,088,320,000 is for electronics and telecommunications equipment; and

(D) $5,296,259,000 is for other base maintenance and support equipment.

(b) Mechanical Diverters Program.—None of the amount provided by subsection (a) for other procurement for the Air Force is available for the mechanical diverters program. The amount provided in subsection (a) for other procurement for fiscal year 1988, and the amount provided for munitions and associated support equipment, are each hereby reduced by $9,807,000.

SEC. 104. DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1988 for the Defense Agencies in the amount of $1,240,269,000.

SEC. 105. RESERVE COMPONENTS.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $65,000,000.

For the Air National Guard, $238,000,000.

For the Army Reserve, $90,000,000.

For the Air Force Reserve, $163,500,000.

For the Marine Corps Reserve, $40,000,000.

(b) Authorizations in Addition to Other Amounts.—The authorizations of appropriations contained in subsection (a) are in addition to any other amount authorized to be appropriated by this or any other Act.

SEC. 106. AUTHORIZATION FOR CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $389,100,000, of which—

(1) $94,100,000 shall be for operation and maintenance;

(2) $3,500,000 shall be for research, development, test and evaluation;

(3) $144,500,000 shall be for procurement; and

(4) $147,000,000 shall be for military construction for the Army.

SEC. 107. EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AWACS PROGRAM.

Effective on October 1, 1987, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1987" both places it appears and inserting in lieu thereof "fiscal years 1988 and 1989".

SEC. 108. ARMY PROGRAMS.

(a) AH-64 Apache Attack Helicopter.—Of the AH-64 Apache helicopters acquired with funds provided for aircraft procurement for the Army for fiscal year 1988, one battalion (consisting of 18 of such aircraft) shall be designated for the Army National Guard.

(b) AHIP Scout Helicopter.—Funds provided for fiscal year 1988 for advance procurement of AHIP aircraft may not be obligated unless the Secretary of Defense, based on operational test results, determines that the AHIP aircraft is the most cost-effective scout helicopter available to the Army and certifies that determination to the Committees on Armed Services of the Senate and House of Representatives.

(c) Bradley Fighting Vehicle.—Of the amount provided for fiscal year 1988 for advance procurement for the Bradley Fighting Vehicle program, $10,000,000 may not be obligated until the Secretary of Defense—

(1) ensures that production of components for such vehicle is consistent with production of end items; and

(2) certifies to the Committees on Armed Services of the Senate and House of Representatives that production of such components will be consistent with production of end items.

(d) HEMTT Truck Program.—(1) The Secretary of the Army shall award contracts for procurement of Heavy Expanded Mobility Tactical Truck (HEMTT) vehicles for fiscal years after fiscal year 1988 using full and open competitive procedures, with a competition based on the technical data package for the vehicle. Any competition for such a contract may propose minor substitutions or modifications to the vehicle, so long as the competitor warrants that the performance of the vehicle as proposed will meet or exceed the specifications for performance of the current HEMTT vehicle.

(2) The Secretary of the Army shall reevaluate whether there is a valid requirement for a palletized loading system. If the Secretary determines that there is a requirement for such a system, the Secretary shall reexamine the specifications for the system and incorporate into solicitations for the HEMTT vehicle a requirement that the Government have an option to purchase a palletized loading system for the vehicle at a fixed price.

(3) The Secretary of the Army shall structure deliveries under the fiscal year 1988 production contract for the HEMTT vehicle and Army plans and schedules so that (assuming that production funds are provided for fiscal year 1989 for heavy trucks) a competition may be held as required by paragraph (1) and a contract awarded with deliveries to the Army under the fiscal year 1989 contract to begin no later than the final delivery of vehicles produced under the fiscal year 1988 contract.

(4) Of the funds appropriated or otherwise made available for procurement of tactical and support vehicles for the Army for fiscal year 1988, $239,297,000 shall be available only for procurement of 1,388 HEMTT vehicles. Of the vehicles procured with such funds—

(A) 159 shall be designated for the Army National Guard;

(B) 141 shall be designated for the Army Reserve; and

(C) not more than 200 may be equipped with a palletized loading system.

The amount provided in section 101(a)(5) for tactical and support vehicles is hereby increased by $58,000,000.

(e) Reduction.—The amount provided in section 101(a)(5) for other procurement, Army is hereby reduced by $58,000,000.

(f) Rule of Construction.—The provisions of the third sentence of paragraph (4) of subsection (d) and the provisions of subsection (e) shall have no force and effect.

SEC. 109. NAVY AIRCRAFT PROVISIONS.

(a) H-53 Modifications.—Of the amount appropriated for procurement of aircraft for the Navy for fiscal year 1988, $25,000,000 shall be available only for safety-related modifications of the H-53 series aircraft.

(b) P-3 Aircraft.—From funds appropriated or otherwise made available for procurement of aircraft for the Navy for fiscal year 1988, the Secretary of the Navy may not obligate more than a total of $207,011,000 for—

(1) procurement of P-3C aircraft; and

(2) modifications to existing P-3 aircraft.

(c) OBOGS System.—Aircraft may not be procured under the A-6F, F-14D, or FA-18 aircraft programs using funds made available for fiscal year 1988 except for aircraft configured with an On Board Oxygen Generating System (OBOGS).

(d) Super Stallion Helicopters.—The Secretary of the Navy may not accept delivery of any Super Stallion C/MH-53E helicopter contracted for using funds appropriated for a fiscal year after fiscal year 1987 unless the helicopter incorporates design changes to improve flight stability that are approved by the Secretary of the Navy based upon recommendations resulting from the flight stability deficiency correction program for such helicopter being carried out as of May 18, 1987.

SEC. 110. AIR FORCE PROVISIONS.

(a) Transfers of T-46 Funds to Naval Aircraft Programs.—(1) Funds appropriated for procurement of aircraft for the Air Force that were originally provided for the terminated T-46 program (as such funds are described in paragraph (2)) shall, to the extent provided in appropriation Acts, be made available for aircraft programs of the Navy as described in paragraph (3), and may not be used for any other purpose.

(2) Air Force aircraft procurement funds to be made available for the purposes described in paragraph (3) are $151,000,000 appropriated for fiscal year 1987 and $149,000,000 appropriated for fiscal year 1986.

(3) Funds provided for Navy aircraft programs under this subsection shall be used as follows:

(A) $146,700,000 for procurement of EA6-B Prowler aircraft.

(B) $4,900,000 for advance procurement of EA-6B Prowler aircraft.

(C) $12,600,000 for EA-6B spares.

(D) $42,400,000 for A-6 aircraft modifications.

(E) $48,700,000 for E-2 aircraft modifications.

(b) Transfer of Other Procurement Air Force Funds.—Of funds appropriated for other procurement for the Air Force for fiscal year 1987 that are available for the BDU-50 practice bomb, $8,000,000 shall, to the extent provided in appropriations Acts, be made available for other procurement for the Navy for fiscal year 1988 and shall be used only for procurement of BDU-45 practice bombs.

(c) PAVE Tiger System.—The amount of $95,800,000 authorized for research, development, test, and evaluation for the Air Force for fiscal year 1985 for which funds were appropriated is hereby reauthorized for procurement of the PAVE Tiger System, and such funds may not be used for any other purpose.

(d) Defense Meteorological System Satellite.—The Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Meteorological System Satellite program.

(e) Transport Aircraft.—Funds provided for fiscal year 1988 for procurement of aircraft may not be used to purchase or modify transport aircraft unless the aircraft are equipped with ground proximity warning systems.

SEC. 111. REPORT ON CONDITION OF CERTAIN C-130 AIRCRAFT.

(a) Inspection.—The Secretary of the Air Force, in conjunction with the Air National Guard, shall inspect the eight C-130H aircraft stored since 1974 at Air Force Plant No. 6 in Marietta, Georgia, in order to determine the current condition of such aircraft and the work required to return such aircraft to operating status.

(b) Report.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the inspection under subsection (a). The report shall include the Secretary's estimate of the amount it would cost to put such aircraft in useful service for the Air National Guard. The report shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 112. REVISION OF CHEMICAL DEMILITARIZATION PROGRAM.

(a) Definition.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) Environmental Impact Statement.—(1) The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(2) After considering such environmental impact statement, the Secretary shall decide, by February 1, 1988, whether to carry out the chemical stockpile demilitarization program by onsite destruction, through regional destruction centers, or through a national destruction site.

(c) Disposal Technologies.—(1) Funds provided for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense provides to Congress a written certification that the concept plan under the program includes the following:

(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of one such technology to be used for such purpose.

(B) Full-scale operational verification of the technology selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) Revised Concept Plan.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a revised concept plan for the program. The revised plan—

(1) shall incorporate the matters determined under subsections (b) and (c); and

(2) shall specify any revised schedule and revised funding requirements necessary to enable the Secretary to meet the requirements under subsections (b) and (c).

The revised plan shall be submitted by March 15, 1988.

(e) Surveillance and Assessment Program.—The Secretary shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing chemical stockpile; and

(2) assessment of the condition of the stockpile.

SEC. 113. ASSESSMENT OF CAPABILITIES OF B-1B TO PENETRATE ENEMY AIR DEFENSES.

(a) Independent Assessment.—The Secretary of Defense shall provide for an independent assessment of the ability of the B-1B aircraft to penetrate air defenses of potential enemies. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel such resources as are necessary, including technical assistance by private contractors, to assist it in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(b) Configurations To Be Considered.—The panel shall estimate the air defense penetration capabilities of the B-1B aircraft in all of its mission profiles as it is estimated to be configured at each of the following times:

(1) Initial operational capability.

(2) The time the assessment is conducted.

(3) The completion of the developmental test and evaluation/initial operational test and evaluation period in fiscal year 1989.

(4) The completion of the baseline modifications program in fiscal year 1991.

(c) Threats To Be Considered.—The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described in—

(1) the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(2) the 1986 Strategic Bomber Force Study; and

(3) the most current threat baseline established by the intelligence community.

(d) DOD Cooperation.—The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(e) Reports.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(1) an initial report on the assumptions that are to be used by the panel in the assessment;

(2) periodic reports on the development and progress of the assessment; and

(3) the final report of the panel (together with such comments as the Secretary considers appropriate), to be submitted in conjunction with the submission of the President's budget for fiscal year 1989.

(f) Funding.—Of the amounts appropriated for aircraft procurement for the Air Force for fiscal year 1988, $1,000,000 shall be available only for the conduct of the assessment under this section.

SEC. 114. TREATMENT OF CERTAIN SPECIAL ACCESS PROGRAMS.

(a) Sense of Congress.—It is the sense of Congress—

(1) that the Advanced Technology Bomber program, the Advanced Cruise Missile program, and the Advanced Tactical Aircraft program involve the development and production of new advanced technologies that are critical to United States national security;

(2) that, in conjunction with the national security interest, it is appropriate and necessary that certain information involving the technological characteristics and performance of those systems remain classified; and

(3) that it would be consistent with the public interest and would not jeopardize the national security for the Secretary of Defense to disclose, in a nonclassified form, information about each of those systems with respect to total program cost, the amount of the annual program budget request, and a general description of program schedule.

(b) Competition Initiative for ATB Program.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish a means to provide ongoing competition for production of the Advanced Technology Bomber.

(2) Among the options to be considered by the Under Secretary of Defense for Acquisition in carrying out paragraph (1) are the following:

(A) Contracting for a production-management study of the Advanced Technology Bomber program to be conducted by one or more contractors which are experienced in the field of aircraft production and which are selected for such study through the use of competitive procedures.

(B) Initiation of a competition for total system integration, final assembly, and check-out of aircraft systems.

(C) Releasing a solicitation for proposals for establishing a second production source for the Advanced Technology Bomber.

(3) Of the funds provided for procurement of aircraft for the Air Force for fiscal year 1988, $100,000,000 shall be made available directly to the Under Secretary of Defense for Acquisition only for the purposes of paragraph (1). If the competition initiative required by paragraph (1) is not implemented by October 1, 1988, no funds may be obligated for the Advanced Technology Bomber program after October 1, 1988, until the competition initiative is implemented.

(4) Not later than April 1, 1988, the Secretary of Defense shall submit to Congress a report on the competition initiative required by paragraph (1). The report shall include a description of the steps taken to that time to implement such initiative and the steps planned to be taken.

(c) Report on IOC Capabilities for ATB.—(1) The Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a classified report on the expected capabilities of the Advanced Technology Bomber when it achieves initial operational capability. The report shall be prepared in consultation with the Under Secretary of Defense for Acquisition.

(2) The report shall include a description of—

(A) the performance of the aircraft and its subsystems;

(B) expected mission capability;

(C) required maintenance and logistical standards;

(D) expected levels of crew training and performance; and

(E) product improvements that are planned before the initial operational capability of the aircraft to be made after the initial operational capability of the aircraft.

(3) Such report shall be submitted not later than 90 days after the date of the enactment of this Act.

(d) Annual Reports on ATB Testing.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on developmental testing, and an annual report on operational testing, with respect to the Advanced Technology Bomber. Each such report with respect to developmental testing shall be prepared through the Under Secretary of Defense for Acquisition, and each such report with respect to operational testing shall be prepared through the Director of Operational Test and Evaluation.

(e) Selected Acquisition Reports.—In the case of each program referred to in subsection (a)(1), the Secretary of Defense shall submit a Selected Acquisition Report, with appropriate classification, twice each year, notwithstanding that such program is not otherwise subject to requirements for the submission of Selected Acquisition Reports.

(f) GAO Report on Criteria for Designating Special Access Programs.—The Comptroller General shall study the criteria used by the Secretary of Defense in determining whether to designate a program as a special access program and shall submit a report on such study to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1988.

(g) Strategic Bomber Force Composition.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report updating the 1986 Strategic Bomber Force Study. The report shall include—

(1) the total number of advanced technology bombers required for the strategic bomber force;

(2) the Secretary's assessment of the effect of potential arms control developments on the bomber force;

(3) a description of any current plans for the use of the B-1B aircraft as a dedicated stand-off mission aircraft;

(4) a description of plans for retirement of the current B-52 fleet; and

(5) an assessment as to the potential for changes in the Soviet threat and other factors that may affect the capabilities of the strategic bomber force to penetrate Soviet air defenses.

The report shall be submitted with the budget of the President submitted for fiscal year 1989.

SEC. 115. LIMITATION ON CERTAIN PROCUREMENT.

None of the funds appropriated to the Department of Defense may be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning Program of the Department of Defense unless—

(1) such injector or component is manufactured in the United States by a company which is an existing producer under the industrial preparedness program at the time the contract is awarded and which—

(A) has executed a Department of Defense Form 1519,

(B) has received all required regulatory approvals, and

(C) has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

(2) the Secretary of Defense determines that such procurement from a source in ad-

dition to a source described in paragraph (1) is critical to United States national security.

SEC. 116. BRADLEY FIGHTING VEHICLE.

(a) Limitation of Funds and Plan to Improve Survivability and Operational Performance.—Funds appropriated for fiscal year 1988 may not be obligated or expended to procure any Bradley Fighting Vehicles until 15 days of continuous session of Congress have passed after the last of the following occurs:

(1) The tests of the Bradley Fighting Vehicle required by section 121(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), are completed and the Secretary of Defense submits the report on the results of such tests to Congress required by section 121(f)(1) of such Act.

(2) The Secretary of Defense certifies to Congress in writing that the survivability modifications selected by the Secretary for the Bradley Fighting Vehicle maximize casualty reductions while considering fiscal concerns and without jeopardizing operational effectiveness.

(3) The Secretary of Defense submits to Congress a report containing—

(A) a plan to incorporate into all Bradley Fighting Vehicles intended for use in combat the survivability modifications selected;

(B) a plan for initiation of production or development efforts, as appropriate, for such modifications not later than May 1, 1988; and

(C) a description of each survivability modification considered by the Secretary (including those not selected) and the relative costs (including logistics and storage) and the schedules of each such modification, a schedule for completion of the modifications selected, and the rationale for not selecting those modifications that were considered but not selected.

(4) The Secretary of Defense submits to Congress a report—

(A) identifying those instances (including deficient swim capability, transmission failures, electrical problems with the vehicle and turret distribution boxes, and inadequacies in the Integrated Sight Unit and TOW missile launchers) in which—

(i) there are reliability, quality, or operational problems;

(ii) the vehicle does not meet the military requirements specified for the vehicle in a program contract; or

(iii) the performance of a Government contractor under a program contract is deficient; and

(B) setting forth a plan to correct each instance identified under subparagraph (A).

(b) Review by Comptroller General.—The Comptroller General shall—

(1) review all materials of the Department of Defense used to develop the certification under subsection (a)(2) and the plans under subsections (a)(3) and (a)(4); and

(2) not later than 30 days after the date on which the last is submitted, submit to Congress a report giving the assessment of the Comptroller General as to the conclusions and recommendations of the Secretary of Defense.

(c) Continuity of Session.—For purposes of determining the 15 days of continuous session of Congress specified in subsection (a)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 15-day period.

SEC. 117. WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE.

United States chemical munitions stored in Europe on the date of the enactment of this Act may not be removed from Europe unless they are replaced with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal year 1988 and for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

(1) For the Army:

(A) $4,556,517,000 for fiscal year 1988.

(B) $850,300,000 for fiscal year 1989.

(2) For the Navy (including the Marine Corps):

(A) $7,843,775,000 for fiscal year 1988.

(B) $942,389,000 for fiscal year 1989.

(3) For the Air Force:

(A) $15,800,427,000 for fiscal year 1988.

(B) $876,233,000 for fiscal year 1989.

(4) For the Defense Agencies:

(A) $7,357,780,000 for fiscal year 1988.

(B) $255,000,000 for fiscal year 1989.

(5) For testing activities for fiscal year 1988—

(A) $169,217,000 for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(B) $91,221,000 for the Director of Operational Test and Evaluation.

SEC. 202. LIMITATION OF FUNDS FOR THE ARMY.

(a) AAWS-M and Milan II Programs.—(1) Of the funds authorized in section 201 for the Army for fiscal year 1988, $59,146,000 is available only for the Advanced Anti-Tank Weapon System-Medium (AAWS-M) program and, of such amount, no more than $30,000,000 may be obligated for that program until the Secretary of the Army certifies to the Committees on Armed Services of the Senate and the House of Representatives that the Army has completed the Milan II evaluation.

(2) For purposes of paragraph (1), the term "Milan II evaluation" means evaluation of the Milan II system as an interim alternative medium-range anti-tank weapons system, as directed in the joint explanatory statement of the committee of conference accompanying the conference report on House Joint Resolution 738 (House Report 99-1005, page 555). Such evaluation shall be based on full operational testing of the Milan II system.

(3) For the purposes of paragraph (2), full operational testing consists of use by several operational units of battalion size or greater for a period of at least six months.

(b) Other Specified Activities.—Of the funds authorized in section 201 for the Army for fiscal year 1988—

(1) $7,500,000 is available only for the development of the Wide-Area Side Penetrating Mine (WASPM);

(2) $10,000,000 is available only for development of the Composite Helicopter Rotor System;

(3) $6,000,000 is available only for the Common Module Tunable Laser program; and

(4) $200,000 is available only for the Secretary of the Army to conduct a study to evaluate the capability of polymer and process technologies that meet or exceed NATO specifications for the configuration of medium- and large-caliber ammunition.

(c) Unfunded Programs.—Of the funds appropriated pursuant to the authorization in section 201 for the Army for fiscal year 1988, no funds may be obligated for the Patriot Anti-Tactical Missile System or for the Aquila Remotely Piloted Vehicle program.

SEC. 203. ARMY HELICOPTER PROGRAMS.

(a) LHX Limitation.—No more than $10,000,000 appropriated or otherwise made available to the Department of Defense for fiscal year 1988 may be used for research, development, test, and evaluation for the concept development of the Light Helicopter Experimental (LHX) program.

(b) Apache, Blackhawk, and AHIP Programs.—Of the funds appropriated for research, development, test, and evaluation for the Department of Defense for fiscal year 1988—

(1) $25,000,000 shall be available only for the AH-64 Apache attack helicopter program;

(2) $25,000,000 shall be available only for the UH-60 Blackhawk utility helicopter program;

(3) $10,000,000 shall be available only for the OH-58 AHIP scout helicopter program; and

(4) $125,000,000 shall be available only for the T-800 helicopter engine program.

(c) Study.—(1) The Secretary of Defense shall carry out a study evaluating—

(A) development programs of the Army for rotary-wing aircraft;

(B) Army force structure for rotary-wing aircraft; and

(C) Army mission requirements for rotary-wing aircraft.

(2) Of the funds appropriated pursuant to this title, $5,000,000 shall be available only for the study under paragraph (1).

(3) The Secretary shall submit to Congress a report on such study no later than February 15, 1988.

SEC. 204. LIMITATION ON FUNDS FOR THE NAVY.

(a) Integrated Aircraft Avionics.—(1) Of the funds authorized in section 201 for the Navy for fiscal year 1988, $28,375,000 is available only for the Integrated Aircraft Avionics program, of which—

(A) $23,000,000 is available only for the Integrated Electronic Warfare system (INEWS); and

(B) $3,000,000 is available only for development of the Integrated Communication Navigation Identification Avionics (ICNIA) system.

(2) Of the funds authorized in section 201 for the Navy for fiscal year 1989, $22,093,000 is available only for continuation of the Integrated Aircraft Avionics program.

(b) Other Specified Activities.—Of the funds authorized in section 201 for the Navy for fiscal year 1988—

(1) $13,988,000 is available only for the development of the V-22 Anti-Submarine Warfare Variant Aircraft;

(2) $24,642,000 in fiscal year 1988 and $25,870,000 in fiscal year 1989 is available only for the Low-Cost Anti-Radiation Seeker development program;

(3) $26,035,000 is available only for the Marine Corps Assault Vehicles program; and

(4) $15,000,000 is available only for the Quick Reaction Surveillance System development program.

(c) Unfunded Programs.—Of the funds authorized in section 201 for the Navy for fiscal year 1988, no funds may be obligated for the following programs:

(1) The Advanced Air-to-Air Missile program.

(2) The Advanced Lightweight Torpedo program.

(3) The Battle Group Passive Horizon Extension System Trainer program.

(d) Industrial Preparedness.—Of the amount authorized in section 201 for the Navy for fiscal year 1988, $43,393,000 is available only for the Navy Industrial Preparedness (Navy Manufacturing Technology Program) program element. The amount authorized in such section for the Navy for fiscal year 1988 is hereby increased by $13,393,000.

SEC. 205. NAVY ATTACK SUBMARINE PROGRAM.

(a) Advanced Submarine Technology.—(1) There is hereby established an Advanced Submarine Technology Program to be carried out by the Secretary of Defense through the Director, Defense Advanced Research Projects Agency. In carrying out the program, the Director shall conduct research, development, test, and evaluation of advanced submarine technology that may be applied to submarines of the SSN-688 class, SSN-21 class, or other classes of submarines. Technology to be examined through the program includes technology relating to polymers, compliant coating, propulsion, techniques for hull drag reduction, materials, weapon control systems, acoustic and nonacoustic signature reduction, and sensors.

(2) The objective of the program shall be to obtain prototype hardware of promising submarine technologies in the shortest possible time.

(3) Of the funds provided for the Navy for fiscal year 1988 for research, development, test, and evaluation, $112,899,000 shall be made available to the Director, Defense Advanced Research Projects Agency for the advanced submarine technology program. The Secretary of Defense shall make such amount available to the Director within 30 days after enactment of a law making appropriations for fiscal year 1988 for research, development, test, and evaluation for the Navy.

(b) Report Requirement.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed plan for the conduct of the program. The report shall include—

(A) information on the technologies to be studied and developed,

(B) milestones for significant achievements,

(C) plans for prototype hardware development, and

(D) a description of anticipated costs.

(2) Not later than six months after the submission of the report required by paragraph (1), the Secretary of Defense shall submit a report updating the information in the initial report, including any additional information the Secretary considers appropriate to the conduct of the program.

(c) Limitation on Funds.—None of the funds appropriated by this or any other Act for the research and development of the SSN-21 Seawolf Attack Submarine program may be obligated or expended during any period of time in which a report required by subsection (b) is overdue.

(d) Concept Studies for SSN-688 Improvement.—Of the funds authorized in section 201 for the Navy for fiscal year 1988, $15,000,000 is available only for concept and design studies, together with cost estimates, for accomplishing the following on SSN-688 Los Angeles class submarines:

(1) Providing greater operational/tactical and maximum speed than the present SSN-688 class submarine.

(2) Using HY-100 steel to permit greater operational depths.

(3) Providing greater acoustic and nonacoustic quieting.

(4) Providing greater weapons carrying capacity than either the SSN-688 submarine or the proposed SSN-21 submarine.

(e) Independent Studies.—The Secretary of Defense shall obtain an independent concept study in accordance with subsection (d) from two qualified independent shipbuilders and shall provide the results of the Navy concept study and of the shipbuilders' studies, together with development and deployment schedules and cost estimates under each, to the Committees on Armed Services of the Senate and House of Representatives not later than March 1, 1988.

SEC. 206. LIMITATION ON FUNDS FOR THE AIR FORCE.

(a) Space Defense System.—(1) Of the funds authorized in section 201 for the Air Force for fiscal year 1988, not more than $50,000,000 is available for the Space Defense System development program, of which—

(A) $40,000,000 is for the Air-Launched Miniature Vehicle program; and

(B) $10,000,000 is for the Ground-Based Laser Technology program.

(2) None of the funds authorized in section 201 are available for production verification of the miniature homing vehicle portion of the Space Defense System program.

(b) Alternate ICBM Basing Technologies.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, not more than $250,000,000 is available for alternate ICBM basing technologies.

(c) Tactical Aircraft.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, not more than $196,264,000 is available for the F-111 Squadron, F-15 Squadron, F-16 Squadron, F-4G Wild Weasel Squadron, and A-7 Squadron programs.

(d) Advanced Strategic Missile System.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $154,162,000 is available only for the Advanced Strategic Missile System effort.

(e) Other Specified Activities.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988—

(1) $46,650,000 is available only for the Excimer Mid-Range Laser Development (EMRLD) program;

(2) $150,000,000 is available only for the development of the Boost Surveillance Tracking Satellite (BSTS), to be administered only by the Secretary of the Air Force;

(3) at least $10,714,000 is available only for the development of the Integrated Electronic Warfare system and the Integrated Communication Navigation Identification Avionics system for the full-scale engineering development program;

(4) $27,607,000 is available only for the Sensor Fuze Weapons project;

(5) $15,000,000 is available only for the Precision Location Strike System development program;

(6) $41,117,000 is available only for the development of the Side Looking Airborne Radar program;

(7) $25,995,000 is available only for the Traffic Control/Approach Landing Systems Program, of which—

(A) $14,330,000 is available only for the Microwave Landing System,

(B) $5,000,000 is available only for the Air Traffic Control Survivability project,

(C) $5,000,000 is available only for the Rapid Deployable Air Traffic Control System; and

(8) $15,000,000 is available only for Non-Acoustic Anti-Submarine Warfare related activity.

(9) $50,000,000 is available only for the Pave Tiger program;

(10) $10,000,000 is available only for the TR-1 Propulsion Upgrade program;

(11) $94,967,000 is available only for the Manufacturing Technology (MANTECH) program, of which—

(A) $35,000,000 is available only for programs associated with the revitalization of the United States machine tool industry, and

(B) $5,000,000 is available only for the National Center for Manufacturing Sciences;

(12) $8,973,000 is available only for the Space and Missile Rocket Propulsion program, of which $3,300,000 is available only for the Integrated Stage Technology project; and

(13) $150,000,000 is available only for development of the Advanced Launch System.

(f) F-4D Air Defense Aircraft.—The Secretary of the Air Force may spend not more than $30,000,000 to complete development of a derivative of the F-4D aircraft for the air defense mission. Funds to be used for such purpose are funds appropriated to the Air Force for fiscal year 1987 for research, development, test, and evaluation but not authorized.

(g) Conventional Munitions Program.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $40,722,000 is available only for the Conventional Munitions Program. The amount provided in section 201 for the Air Force for fiscal year 1988 is hereby increased by $9,807,000.

SEC. 207. B-1B BOMBER PROGRAM.

(a) Funding Limitation.—Of the funds authorized in section 201, not more than $375,672,000 shall be available for research, development, test, and evaluation for the B-1B bomber program during fiscal year 1988.

(b) Quarterly Status Reports.—Before the end of each quarter of fiscal year 1988, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and House of Representatives a status report on the B-1B baseline program. Each such report shall address the ability of the B-1B aircraft to meet—

(1) performance objectives;

(2) technical and fiscal problems; and

(3) significant milestones.

(c) Limitation on Aircraft Enhancement.—Funds described in subsection (a) may not be used for modernization of the B-1B bomber aircraft. The Secretary of Defense shall submit a description of any planned aircraft enhancement to the Committees on Armed Services of the Senate and the House of Representatives, together with—

(1) full justification for such enhancements;

(2) the total program costs; and

(3) schedule.

Any such enhancement may be initiated only if specific authorization and appropriation for the enhancement are provided by law.

(d) Systems Integration.—The Secretary of the Air Force shall request proposals from contractors to perform the function of B-1B systems integration and shall report to the Committees on Armed Services of the Senate and the House of Representatives on the feasibility and cost of using a contractor, rather than the Air Force, for that function.

(e) Evaluation of B-1B Flight Test Program.—In order to ensure the adequacy of the proposed flight test program for the B-1B aircraft, the Director of Operational Test and Evaluation of the Department of Defense shall assume the responsibilities and exercise the authorities of the Director under section 138 of title 10, United States Code, with respect to the use of funds provided for fiscal year 1988 for such flight test program insofar as the use of such funds involves operational test and evaluation functions (as defined in such section).

SEC. 208. LIMITATION ON FUNDS FOR DEFENSE AGENCIES.

(a) Specified Activities.—Of the funds authorized in section 201 for the Defense Agencies for fiscal year 1988—

(1) $293,450,000 is available only for Strategic Technology, of which—

(A) $5,500,000 is available only for optical processor research,

(B) $50,000,000 is available only for the Light Sat program, and

(C) $4,000,000 is available only for the Amos Large Optical System program;

(2) $122,136,000 is available only to the Defense Advanced Research Projects Agency for tactical technology, of which $7,600,000 is available only for the Vector Thrust program;

(3) $25,000,000 is available only to the Defense Advanced Research Projects Agency for the Hypersonic Weapons Technology program;

(4) $2,000,000 is available only to the Defense Advanced Research Projects Agency for metallurgy research;

(5) $8,000,000 is available only for manufacturing technology associated with guided ordnance;

(6) $10,000,000 is available only for a pilot project to acquire quality semiconductor circuits;

(7) $2,000,000 is available only for personnel radiation protection research;

(8) $20,000,000 is available only for X-Ray lithography research;

(9) $15,000,000 is available only for medical applications of the free electron laser program for medical research and material;

(10) $5,000,000 is available only for the Rankine Cycle Energy Recovery (RACER) system; and

(11) $10,000,000 is available only to the Director, Defense Advanced Research Projects Agency for the Advanced Torpedo Program.

(b) LANDSAT Program.—Of the funds provided for research, development, test, and evaluation for the Defense Agencies for fiscal years 1988 and 1989, funds shall be provided to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence to be used for LANDSAT data acquisition and for development of LANDSAT satellites numbers 6 and 7 (including launch costs) as follows:

(1) For fiscal year 1988, $25,000,000.

(2) For fiscal year 1989, $45,000,000.

(c) University Research Initiatives.—Of the funds available under section 201 for the Defense Agencies, $200,000,000 is available only for the University Research Initiatives (URI) program in fiscal year 1988 and $210,000,000 is available only for that program in fiscal year 1989.

(d) Semiconductor Manufacturing Technology.—Of the funds provided under section 201 for the Defense Agencies for fiscal year 1988, $15,000,000 shall be available only for semiconductor manufacturing technology in addition to other amounts authorized for such purpose. The amount provided in section 201 for the Defense Agencies for fiscal year 1988 is hereby increased by $15,000,000.

SEC. 209. ADVANCED TACTICAL FIGHTER AIRCRAFT.

Funds appropriated for fiscal year 1988 may not be used for the Advanced Tactical Fighter aircraft program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives written certification that the prototype aircraft will include all physical and structural modifications necessary to satisfy fully the requirements of the Navy concerning aircraft carrier catapults and arresting gear.

SEC. 210. ELECTRONIC WARFARE PROGRAMS.

(a) Funding.—(1) Of the funds authorized to be appropriated by this title for fiscal year 1988, not more than $443,347,000 shall be for electronic warfare programs, to be appropriated to the Secretary of Defense and allocated as provided in subsection (b).

(2) None of such funds may be appropriated to the Secretary of a military department for electronic warfare programs.

(b) Allocation of Funds.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall allocate among the military departments funds appropriated for fiscal year 1988 for electronic warfare programs in such manner as the Secretary determines appropriate.

(c) Submission of Master Plan.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed master plan for electronic warfare programs. Such plan shall—

(1) describe joint service electronic warfare programs that will satisfy electronic warfare requirements against the current and future threat; and

(2) identify those electronic warfare systems that will be terminated.

(d) Obligation Limitation.—Not more than 50 percent of the funds allocated to each of the military departments under subsection (b) may be obligated or expended for electronic warfare programs until the report required by subsection (c) is submitted to the Committees on Armed Services of the Senate and House of Representatives and a period of 15 legislative days has expired.

SEC. 211. TECHNOLOGY BASE PROGRAMS.

Of the funds authorized in section 201, the following amounts are available only for technology base programs:

(1) For the Army:

(A) $790,399,000 of funds authorized for fiscal year 1988.

(B) $850,300,000 of funds authorized for fiscal year 1989.

(2) For the Navy:

(A) $784,920,000 of funds authorized for fiscal year 1988.

(B) $894,426,000 of funds authorized for fiscal year 1989.

(3) For the Air Force:

(A) $776,409,000 of funds authorized for fiscal year 1988.

(B) $876,233,000 of funds authorized for fiscal year 1989.

SEC. 212. CONVENTIONAL DEFENSE INITIATIVE.

(a) In General.—In this Act, Congress continues the program of Conventional Defense Initiatives begun in Public Law 99-661 to provide an emphasis on improving the conventional weapons of the Armed Forces (and the testing of such weapons) and to enhance cooperation with the other member nations of the North Atlantic Treaty Organization and other major non-NATO allies. The initiative is intended to improve the fighting power and survivability of the combat forces of the United States and to raise the threshold for nuclear war.

(b) Army.—Of the funds authorized in section 201 for the Army for fiscal year 1988, $136,100,000 is available only for the Conventional Defense Initiative, of which—

(1) $500,000 is available only for the Ammunition Containerization Development,

(2) $5,000,000 is available only for Guard and Reserve unique research and development,

(3) $8,000,000 is available only for the Combat Vehicle Support Systems program,

(4) $10,000,000 is available only for Milan II evaluation and $10,000,000 is available only for Bofars Bill evaluation,

(5) $600,000 is available only for the Chemical Mask Improved Drinking system program,

(6) $13,000,000 is available only for Multi-Purpose Assault Weapon evaluation,

(7) $9,000,000 is available only for the Combat Diesel Engine program,

(8) $5,000,000 is available only for Ardvark/LVS integration,

(9) $10,000,000 is available only for Recovery Vehicle ARV-90 development, and

(10) $3,000,000 is available only for the evaluation of the Weasel.

(c) Navy.—Of the funds authorized in section 201 for the Navy for fiscal year 1988, $78,600,000 is available only for the Conventional Defense Initiative, of which—

(1) $50,000,000 is available for the Laser Communication development program,

(2) $6,000,000 is available only for the Electro-Magnetic Catapult program,

(3) $8,000,000 is available for the Autonomous Piloted aircraft program,

(4) $8,600,000 is available only for the Acoustic Video Processor program,

(5) $5,000,000 is available only for the Ring Laser Gyro program, and

(6) $1,000,000 is available only for the evaluation of small rotary engines for use in unmanned aircraft vehicles.

(d) Air Force.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $84,000,000 is available only for the Conventional Defense Initiative, of which—

(1) $70,000,000 is available for a classified aircraft program,

(2) $4,000,000 is available only for an Advanced Tactical Transport system program,

(3) $8,000,000 is available only for Popeye evaluation, and

(4) $2,000,000 is available only for an activated metals program.

SEC. 213. PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY.

During fiscal year 1988, the Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships (EMPRESS).

SEC. 214. SPECIFICATION OF FUNDS FOR TESTING ACTIVITIES.

The amount provided in section 201 for the activities of the Deputy Under Secretary of Defense, Test and Evaluation, is hereby increased by $24,432,000. Of such amount—

(1) $75,238,000 is available only for the Development, Test and Evaluation program, of which—

(A) $14,979,000 is available only for the Joint Live Fire project, of which $6,000,000 is available only for foreign equipment assets testing; and

(B) $7,842,000 is available only for the Test and Evaluation Independent Activities project;

(2) $10,800,000 is available only for the Live Fire Testing program; and

(3) $12,928,000 is available only for the Joint Technical Coordinating Group for the Aircraft Survivability program.

PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE.

(a) AMOUNT AUTHORIZED.—Of the amounts authorized in section 201 for fiscal year 1988, not more than $2,846,000,000 is available for the Strategic Defense Initiative (SDI) program of the Department of Defense and the Advanced Launch System and the Boost Surveillance Tracking Satellite programs of the Air Force.

(b) SPECIFIED ACTIVITIES.—Of the funds available for the Strategic Defense Initiative program under subsection (a)—

(1) $25,000,000 is available only for the study of a ground-based defense system for use in defense against accidental launch of strategic ballistic missiles; and

(2) $75,000,000 is available only for a classified laser program.

SEC. 222. REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT COSTS.

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the total cost to develop, produce, deploy, operate, and maintain the missile defense system described in the 1987 report entitled "Report of the Technical Panel on Missile Defense in the 1990s" prepared by the George C. Marshall Institute.

(b) DEADLINE FOR REPORT; CLASSIFICATION.—The report shall be submitted no later than six months after the date of the enactment of this Act and shall be submitted in unclassified form.

SEC. 223. ANNUAL REPORT ON STRATEGIC DEFENSE INITIATIVE BUDGET.

(a) REPORT REQUIREMENT.—Not later than March 1 each year, the Secretary of Defense shall submit to Congress a report on the budget for the Strategic Defense Initiative for each of the next two fiscal years. Each such report shall provide—

(1) a detailed breakdown of that budget (by program element, project, and task) for each of the fiscal years covered by the report;

(2) a descriptive summary of each program element of the Strategic Defense Initiative for each of the fiscal years covered by the report; and

(3) the total funding for the Strategic Defense Initiative planned for each year of the current five-year defense plan.

(b) CLASSIFICATION OF REPORT.—The report under subsection (a) shall be submitted in both an unclassified form and a classified form.

SEC. 224. LIMITATION ON ABM SYSTEMS.

(a) LIMITATION.—Funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended to develop, test, or deploy an antiballistic missile (ABM) system or component which is sea-based, air-based, space-based, or mobile land-based.

(b) REMOVAL OF LIMITATION.—The limitation in subsection (a) shall cease to apply if the President certifies to the Congress—

(1) that he has notified the Soviet Union that extraordinary events related to the subject matter of the limitation in subsection (a) have jeopardized the supreme interests of the United States, necessitating United States actions inconsistent with the limitation of subsection (a), and

(2) that such notification to the Soviet Union included a statement of the extraordinary events he regards as having jeopardized the supreme interests of the United States.

SEC. 225. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR.

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long leadtime element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missle early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

SEC. 226. PROHIBITION ON DEPLOYMENT OF ANTIBALLISTIC MISSILE SYSTEM UNLESS AUTHORIZED BY LAW.

The Secretary of Defense may not deploy any antiballistic missile system unless such deployment is specifically authorized by law after the date of the enactment of this Act.

SEC. 227. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION.

Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to the Soviet Union by the United States (or with the consent of the United States) unless—

(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

(2) Congress approves that determination by a joint resolution.

SEC. 228. SENSE OF CONGRESS REGARDING THE STRATEGIC DEFENSE INITIATIVE.

(a) FINDINGS.—The Congress finds the following:

(1) The Strategic Defense Initiative program (hereinafter referred to in this section as the "SDI program") has made substantial progress in identifying the research and technology development that must be completed to be able to specify and define an effective ballistic missile defense system.

(2) The Secretary of Defense has in the last two years proposed to expand the scope of the SDI program to include demonstration projects and plans for early deployment that deviate from and that may be detrimental to the objectives of the program.

(3) The Secretary of Defense has not submitted plans and supporting data sufficient for the Congress to understand how the SDI program will progress toward its objectives year by year and phase by phase.

(4) While it is impractical to accurately estimate the ultimate architecture, cost, or effectiveness of a ballistic missile defense system at this time, Congress and the Secretary of Defense must reach a mutual agreement on the plans, funding levels, and the probable time period needed to achieve the research and technology development referred to in paragraph (1) in order for the SDI program to be run in an efficient and economic manner, to attract and hold top scientific talent, and to achieve the objectives outlined in the President's address of March 23, 1983.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) vigorous research and technology development that could lead to the creation of a strategic defense system which would make the security of the United States less dependent on the decisions of the Soviet leadership to employ nuclear weapons, in consonance with the objectives outlined in the President's address of March 23, 1983, should continue to be supported by the Congress;

(2) such research and technology development would provide the technical knowledge required to support an informed decision in the early 1990's on whether or not to develop and deploy a ballistic missile defense system for the United States and its allies capable of achieving the President's objectives;

(3) funding for the SDI program should not be increased in any substantial way over the foreseeable future until the Congress is convinced that plans which call for an increased level of funding are feasible and consistent with the objectives of the program;

(4) the Secretary of Defense should develop a plan which provides for a first phase of the SDI program (the research and technology development phase) and provides for that phase a description of necessary research and technology development, its annual cost, and its time of completion, which would be defined as the time when subsequent phases can be defined and described and estimates can be made of their cost, timing, and effectiveness; and

(5) the Secretary of Defense should annually submit by March 1, beginning with March 1, 1988, a report in classified and un-

classified form describing the progress made in SDI research and technical development activity and containing any recommended revisions of the plan referred to in paragraph (4).

SEC. 229. PROHIBITION AGAINST CERTAIN CONTRACTS.

(a) IN GENERAL.—Funds appropriated to or for the use of the Department of Defense for any fiscal year pursuant to an authorization contained in this or any other Act may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract was entered into before the date of the enactment of this Act; or

(2) the contract is to be performed within the United States; or

(3) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems.

(d) DEFINITIONS.—In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

SEC. 230. PURPOSES OF SDI PROGRAM.

(a) PURPOSES.—The purpose of the Strategic Defense Initiative is to carry out research, development, testing, and evaluation and the engineering and production of technology and systems in order to provide strategic defense for the United States and its allies against nuclear and conventional armed missiles.

(b) ANNUAL REPORT.—The Secretary of Defense shall include in the Secretary's annual report to Congress under section 113(c) of title 10, United States Code, a review of Strategic Defense Initiative systems, including progress on such systems, and specifically describing progress toward deployment of such systems.

SEC. 231. REAFFIRMATION OF UNITED STATES RIGHT OF SELF DEFENSE.

The United States hereby reaffirms its right under the Constitution of the United States and International Law to defend and protect its citizens and its territory from ballistic missile attack through the deployment of ballistic missile defenses.

PART C—ADVANCED ANTI-TACTICAL BALLISTIC MISSILE PROJECTS

SEC. 235. DEMONSTRATION PROJECTS UNDER SDI PROGRAM.

(a) FUNDING.—Of the funds provided for the Strategic Defense Initiative program for fiscal year 1988, $73,000,000 shall be available only for experiments and demonstration projects relating to antitactical ballistic missile (ATBM) systems. Such experiments and demonstration projects shall be conducted within 3 years after the date of the enactment of this Act.

(b) DEMONSTRATION PROJECTS.—(1) Such projects shall include exploration of the potential for anti-ballistic missile purposes of—

(A) terminal defense missiles,

(B) hypervelocity kinetic energy weapons, and

(C) high energy laser components.

(2) To the maximum extent practical, such projects should also include exploration of battle management and command, control, communications, and intelligence requirements for system architectures for an antitactical ballistic missile.

(c) COOPERATION WITH ALLIES.—Such projects shall be conducted on a matching fund cooperative program basis with United States allies that have signed Memoranda of Understanding (MOU's) for participation in the Strategic Defense Initiative program.

SEC. 236. ARMY PROGRAM.

Of the funds authorized in section 201 for the Army, $50,000,000 is available only for the joint development and deployment, on a matching fund cooperative program basis, of an Anti-Tactical Ballistic Missile (ATBM) system with United States allies. Such system shall be designed to be no less capable than the SA-X-12 system of the Soviet Union.

PART D—MISCELLANEOUS

SEC. 241. COOPERATIVE MEDICAL RESEARCH WITH THE VETERANS' ADMINISTRATION.

Of the amount authorized in section 201 for the Defense Agencies, $25,000,000 is available only for Cooperative Medical research to be administered by the Secretary of Defense and the Administrator of Veterans' Affairs.

SEC. 242. LINCOLN LABORATORY IMPROVEMENT PROJECT.

(a) MODERNIZATION AND EXPANSION PROJECT.—The Secretary of the Air Force is authorized to enter into a contract with the Massachusetts Institute of Technology for a modernization and expansion project at the Lincoln Laboratory complex at Hanscom Air Force Base, Massachusetts. The project includes construction of, and additions and modifications to, research offices, laboratory spaces, and supporting facilities necessary to carry out the activities of the Lincoln Laboratory.

(b) PROJECT COST AND DURATION.—The amount obligated under the contract for the modernization and expansion project may not exceed $135,000,000. The project shall be completed in not more than 12 years. Costs incurred under the contract may include costs of financing charges (including financing charges on amounts provided by the Massachusetts Institute of Technology for the project), but may not include a fee or profit for the Massachusetts Institute of Technology or for Lincoln Laboratory.

(c) FUNDING.—Payments under a contract under subsection (a) shall be made from appropriations available to the Secretary of the Air Force for research, development, test, and evaluation for the year for which the contract requires the payment to be made.

(d) TITLE.—Title to the facilities, and to associated equipment, funded by such contract shall be conveyed to the United States upon completion of the project and acceptance of the facilities by the Secretary.

(e) USE OF FACILITIES.—The right of the Massachusetts Institute of Technology to use such facilities and equipment shall be as provided by contracts with the United States.

(f) BUDGET ACT.—The authority of the Secretary of the Air Force to enter into a contract under subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 243. FUNDS FOR COOPERATIVE PROJECTS WITH MAJOR NON-NATO ALLIES.

Of the funds appropriated pursuant to the authorizations of appropriations for fiscal year 1988 in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies under section 1105 of the Department of Defense Authorization Act, 1987 (division A of Public Law 99-961).

SEC. 244. HIGH-SPEED PATROL BOAT.

The Secretary of the Navy is encouraged to (1) evaluate a new 80-foot reconnaissance assault and missile boat that has been designed to project power in coastal, harbor, river, and island waterways and on closed seas, and (2) consider procuring a prototype of such boat for extensive testing and evaluation. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives any report on the evaluation of any such boat.

SEC. 245. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM.

Of the funds appropriated for the Army for fiscal year 1988 for research, development, test, and evaluation, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 246. ANTI-ARMOR WEAPONS TESTING.

(a) TESTS.—In order to correct the lack of close-in individual soldier or squad-level tank killing capability, the Secretary of Defense shall conduct a comparative operational test of shoulder-fired squad-level anti-tank weapons comparing, at a minimum, the following existing weapons:

(1) The German Panzerfaust III.

(2) The Swedish AT-4 (or United States variant).

(3) The United Kingdom LAW 80.

(4) The French Apilas.

(5) The French Strim.

(6) The United States Marine Corps SMAW.

(7) The Israel B-300.

(8) The United States 3.5 inch rocket launcher with modern Belgian ammunition.

(b) TEST SPECIFICATIONS.—The tests shall include maximum rate-of-kill firings against realistic, moving, company-size or larger tank target arrays by pairs of operational, average-skill gunners (with an assistant gunner for each). Each target array shall be presented over realistic European-type terrain on courses unfamiliar to every gunner, with large distances varying from 30 to 300 meters. Each pair of gunners shall have available to them for firing in each target array presentation the number of anti-tank rounds that would normally be carried by foot by a combat-loaded rifle squad. Total anti-tank system weight for the squad (launchers, ammunition, and accessories) shall not exceed 70 pounds. Gunners shall be thoroughly trained in each weapon using live ammunition firings.

(c) USE OF SOVIET TANKS.—The tests shall compare the weapons for lethality, under the supervision of the Joint Live Fire Test program, against actual combat-loaded Soviet tanks.

(d) REPORTS.—The Secretary of the Army, the Secretary of the Navy (with respect to the Marine Corps), the Army National Guard, and the Office of the Secretary of Defense shall each submit to Congress independent and uncoordinated reports addressing—

(1) the adequacy of the tests,

(2) the firing results, and

(3) a recommended best weapon.

SEC. 247. ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTISATELLITE WEAPONS.

(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

TITLE III—OPERATION AND MAINTENANCE

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1988 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

For the Army,	$20,661,994,000.
For the Navy,	$23,787,230,000.
For the Marine Corps,	$1,875,067,000.
For the Air Force,	$19,894,482,000.
For the Defense Agencies,	$7,330,307,000.
For the Army Reserve,	$855,803,000.
For the Naval Reserve,	$951,215,000.
For the Marine Corps Reserve,	$70,261,000.
For the Air Force Reserve,	$1,020,457,000.
For the Army National Guard,	$1,896,552,000.
For the Air National Guard,	$1,984,192,000.
For the National Board for the Promotion of Rifle Practice,	$4,099,000.
For Defense Claims,	$193,574,000.
For the Court of Military Appeals,	$3,461,000.
For Environmental Restoration, Defense,	$392,800,000.
For Military Health Care,	$2,116,800,000.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1988 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds, in amounts as follows:

For the Army Stock Fund,	$193,207,000.
For the Navy Stock Fund,	$329,400,000.
For the Air Force Stock Fund,	$226,007,000.
For the Defense Stock Fund,	$132,600,000.

SEC. 303. LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENT ITEMS.

Funds appropriated for fiscal year 1988 for operation and maintenance of the Department of Defense may not be used to purchase any item with a unit cost of $5,000 or more if purchases of such item during fiscal year 1987 were chargeable to appropriations made to the Department of Defense for procurement.

SEC. 304. AVAILABILITY OF UNITED STATES PRODUCTS AT DEFENSE PACKAGE STORES OVERSEAS.

(a) TREATMENT OF WINES.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2489. Overseas package stores: treatment of United States wines

"(a) GENERAL RULE.—The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a packaged form (commonly referred to as a 'package store') that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.

"(b) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on the implementation of this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2489. Overseas package stores: treatment of United States wines.".

(b) REGULATIONS DEADLINE.—(1) The Secretary of Defense shall prescribe regulations to implement section 2489 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(2) Not later than 180 days after such date of enactment, the Secretary shall submit to Congress a report on the implementation of such section and of the regulations prescribed under paragraph (1).

(c) INITIAL REPORT.—The first report under subsection (b) of such section shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 305. NONAPPROPRIATED-FUND BEER AND WINE PURCHASES.

(a) PURCHASES FROM SOURCES WITHIN STATE.—Section 2488(a)(2) of title 10, United States Code, is amended by striking out "purchased for resale on a military installation located in the contiguous States".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to purchases of malt beverages and wine after the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 306. PRICING AT COMMISSARY STORES.

(a) IN GENERAL.—(1) Section 2486 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary of Defense shall prescribe regulations establishing uniform pricing policies for merchandise authorized for sale by this section. The policies in the regulations shall—

"(1) require the establishment of a sales price of each item of merchandise at a level which will recoup the actual product cost of the item (consistent with this section and sections 2484 and 2685 of this title); and

"(2) promote the lowest practical price of merchandise sold at commissary stores.".

(2) The heading for section 2486 of such title is amended to read as follows:

"§ 2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing"

(3) The item relating to section 2486 in the table of sections at the beginning of such chapter is amended to read as follows:

"2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.".

(b) REGULATIONS DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2486(d) of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS.—(1) Sections 4621 and 9621 of such title are each amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively.

SEC. 307. LIMITATIONS ON ARMY DEPOT MAINTENANCE FUNDING AND CIVILIAN PERSONNEL.

(a) ARMY DEPOT MAINTENANCE.—Of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1988 for operation and maintenance, not less than $1,031,000,000 shall be available for Army depot maintenance functions performed by civilian personnel of the Army.

(b) CIVILIAN PERSONNEL STRENGTH.—During fiscal year 1988, the average level of civilian personnel under the Army Materiel Command who are performing Army depot maintenance functions shall be not less than 20,500 persons.

SEC. 308. PROHIBITION ON MANAGING CIVILIAN PERSONNEL BY END STRENGTHS.

(a) PROHIBITION ON MANAGEMENT BY END STRENGTH.—Section 129(a) of title 10, United States Code, is amended—

(1) by inserting "and" before "(2)";

(2) by striking out ", and (3)" and all that follows through "such fiscal year"; and

(3) by striking out the period at the end of the second sentence and inserting in lieu thereof "or any constraint or limitation (known as an 'end-strength') on the number of such personnel who may be employed on the last day of such fiscal year.".

(b) ELIMINATION OF REQUIREMENT THAT CIVILIAN PERSONNEL END STRENGTHS BE AUTHORIZED BY LAW.—Section 115(b) of such title is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2) and in subparagraph (A) of that paragraph—

(A) by striking out "annual" before "active duty" the first place it appears in the first sentence;

(B) by striking out "the annual civilian personnel end strength level" in the first sentence and inserting in lieu thereof "projecting civilian personnel strength levels";

(C) by striking out "next fiscal year, and shall include in that report justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year" and inserting in lieu thereof "next fiscal year. The Secretary shall include in that report justification for the strength levels recommended for active duty end strengths and projected for civilian personnel and an explanation of the relationship between such strength levels";

(3) by redesignating paragraph (4) as paragraph (3) and in that paragraph striking out "or civilian"; and

(4) by redesignating paragraph (5) as paragraph (4).

SEC. 309. REPORT ON OPERATING AND SUPPORT COSTS OF MAJOR WEAPONS SYSTEMS.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the operating and support costs of major weapons systems of the Department of Defense.

(b) Matters To Be Included in Report.—The Secretary shall include in the report required by subsection (a) the following:

(1) An explanation of the reasons why there is a positive correlation between the increase in dollar value of major weapons systems of the Department of Defense and the increase in operating and support costs of the Department, including—

(A) how or whether the programming and budget process has contributed to the relationship; and

(B) how the relationship applies at more detailed levels.

(2) An examination of the link between operating and support costs and readiness of the Department of Defense.

(3) An examination of the feasibility of providing Congress an annual report on the operating and support costs of each major weapon system.

(4) Identification of the specific budget accounts and appropriations which cover the operation and support costs for the major weapons systems.

(5) An examination of the feasibility of treating the operation and support costs of each major weapon system as overhead of the weapon system, to be automatically included in the budget and appropriation for such weapon system.

(c) Deadline.—The report required by subsection (a) shall be submitted not later than February 1, 1988.

SEC. 310. FUNDING LIMITATION AND STUDY ON DUAL SOURCE MAINTENANCE FOR F-15 AIRCRAFT.

(a) Funding Limitation.—None of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1988 may be used to establish a second source of maintenance for the F-15 aircraft at McClellan Air Force Base.

(b) Study Requirement.—The Secretary of Defense shall conduct a study on contracting for maintenance of the F-15 aircraft from more than one source for the purposes of determining—

(1) the cost of establishing a second source of maintenance for the F-15 aircraft at McClellan Air Force Base, Sacramento, California;

(2) the future growth of the F-15 aircraft maintenance workload; and

(3) whether a second source of maintenance for the F-15 aircraft is necessary.

(c) Report to Congress.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, by September 1, 1988, a report on the study required by subsection (b). The report shall include the findings of the study and the Secretary's recommendations on whether a second source of maintenance for the F-15 aircraft should be established.

SEC. 311. REPORT ON EFFORTS TO MEASURE READINESS.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of Department of Defense efforts to—

(1) identify and measure readiness of the Department of Defense; and

(2) relate such identification and measurement to the budget process.

(b) Deadline.—The report required by subsection (a) shall be submitted no later than February 1, 1988.

SEC. 312. EXTENSION OF AUTHORIZATION FOR CERTAIN HUMANITARIAN ASSISTANCE.

(a) Transportation of Relief Supplies to Afghan Refugees.—Section 305(a)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), is amended by striking out "for fiscal year 1986 the sum of $10,000,000 and for fiscal year 1987" and inserting in lieu thereof "for each of fiscal years 1986, 1987, and 1988".

(b) Transportation of Relief Supplies to Certain Countries.—Section 1540(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525), is amended by striking out "fiscal year 1987" and inserting in lieu thereof "fiscal years 1987, 1988, and 1989".

SEC. 313. REPEAL OF REQUIREMENT TO PAY CERTAIN EXPENSES INCIDENTAL TO VOLUNTEER SERVICES FROM NONAPPROPRIATED FUNDS.

The last sentence of section 1588(c) of title 10, United States Code, is hereby repealed.

SEC. 314. AUTHORITY TO PROVIDE FREE SHUTTLE SERVICE FOR MEMBERS AND FAMILIES IN REMOTE AREAS.

(a) In General.—Section 2632 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In the case of a military installation located in a remote area (as determined by the Secretary concerned), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

"(1) may waive the requirement for a fare for transportation under subsection (a); and

"(2) may provide such transportation to persons attached to, or employed in, that department and dependents of such persons.".

(b) Regulations.—The regulations described in section 2632(e) of such title, as added by subsection (a), shall be prescribed no later than 30 days after the date of the enactment of this Act.

SEC. 315. ALTERATION, OVERHAUL, AND REPAIR OF NAVAL VESSELS AND AIRCRAFT IN PUBLIC AND PRIVATE FACILITIES.

The proviso beginning with "*Provided further*" and ending with "Circular A-76" in the paragraph with the heading "Operation and Maintenance, Navy" in title II of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is repealed.

SEC. 316. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF MAINTENANCE FUNCTIONS AT CERTAIN ARMY DEPOTS.

(a) Prohibition.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance by contractor personnel of any maintenance function at the following Army depots:

(1) Anniston Army Depot, Anniston, Alabama.

(2) Corpus Christi Army Depot, Corpus Christi, Texas.

(3) Crane Army Ammunition Plant, Crane, Indiana.

(4) Fort Wingate Army Depot, Gallup, New Mexico.

(5) Letterkenny Army Depot, Letterkenny, Pennsylvania.

(6) Lexington-Blue Grass Army Depot, Lexington, Kentucky.

(7) McAlester Army Ammunition Plant, McAlester, Oklahoma.

(8) New Cumberland Army Depot, Harrisburg, Pennsylvania.

(9) Pueblo Army Depot, Pueblo, Colorado.

(10) Red River Army Depot, Texarkana, Texas.

(11) Rock Island Arsenal, Rock Island, Illinois.

(12) Watervliet Arsenal, Watervliet, New York.

(13) Sacramento Army Depot, Sacramento, California.

(14) Savanna Army Depot, Savanna, Illinois.

(15) Seneca Army Depot, Romulus, New York.

(16) Sharpe Army Depot, Stockton, California.

(17) Sierra Army Depot, Herlong, California.

(18) Tobyhanna Army Depot, Tobyhanna, Pennsylvania.

(19) Toole Army Depot, Toole, Utah.

(20) Umatilla Army Depot, Umatilla, Oregon.

(b) Exception.—The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is under contract for performance by contractor personnel.

SEC. 317. AUTHORITY FOR CONTRACTORS TO SETTLE CLAIMS RELATING TO MOVEMENT OF HOUSEHOLD GOODS DIRECTLY WITH OWNERS OF GOODS.

(a) Authority to Settle Claims.—The Secretary of Defense shall provide that, in the case of a covered household goods claim arising out of a shipment within the United States of household goods having a weight in excess of 2,000 pounds, the contractor may settle the claim directly with the member of the Armed Forces concerned. If the contractor and the member concerned do not reach an amicable settlement of the claim, the claim shall be determined in accordance with otherwise applicable laws and regulations.

(b) Covered Claims.—For purposes of subsection (a), a covered household goods claim is a claim by a member of the Armed Forces against a contactor described in subsection (c) for loss or damage of the member arising from the shipment by the contractor of household goods belonging to the member.

(c) Contractors Covered.—Subsection (a) applies to a contractor under contract with the Department of Defense for the shipment of household goods belonging to members of the Armed Forces.

(d) United States Defined.—For purposes of this section, the term "United States" means the States and the District of Columbia.

(e) Effective Date.—Subsection (a) applies with respect to claims arising after April 30, 1987.

TITLE IV—PERSONNEL AUTHORIZATIONS

Part A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1988, as follows:

(1) The Army, 780,900.

(2) The Navy, 592,200.

(3) The Marine Corps, 199,600.

(4) The Air Force, 598,700.

SEC. 402. STRENGTH OF ACTIVE-DUTY OFFICER CORPS.

(a) One-Year Delay in Required Percentage Reductions.—The table in section 403(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), is amended—

(1) by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1989"; and

(2) by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) GAO Study.—(1) The Comptroller General shall conduct a study of the growth since 1980 in the size of the active-duty officer corps and how that growth relates to requirements of the Armed Forces for commissioned officers on active duty. The study shall particularly examine those requirements in light of the reductions required by section 403(a) of Department of Defense Authorization Act, 1987, and shall consider alternatives for reducing the number of officers on active duty with the minimum effect on readiness.

(2) The Comptroller General shall submit a report on the study under paragraph (1) to the Committees on Armed Services of the Senate and House of Representatives not later than December 31, 1987. The report shall identify legislative changes that would be necessary to implement required officer strength reductions under alternative proposals recommended by the Comptroller General.

SEC. 403. FUNDS SAVINGS.

Amounts authorized to be appropriated for fiscal year 1988 for military personnel of the Department of Defense are reduced, by reason of savings attributable to reductions during fiscal year 1987 in the number of commissioned officers on active duty required by section 403(a) of Department of Defense Authorization Act, 1987 (Public Law 99-661), as follows:

(1) For "Military Personnel, Army", $49,438,000.

(2) For "Military Personnel, Navy", $46,461,000.

(3) For "Military Personnel, Air Force", $50,057,000.

(4) For "Military Personnel, Marine Corps", $9,080,000.

Part B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) In General.—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as of September 30, 1988, as follows:

(1) The Army National Guard of the United States, 457,270.

(2) The Army Reserve, 327,645.

(3) The Naval Reserve, 155,404.

(4) The Marine Corps Reserve, 42,800.

(5) The Air National Guard of the United States, 113,429.

(6) The Air Force Reserve, 79,562.

(7) The Coast Guard Reserve, 14,000.

(b) Waiver Authority.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 5 percent.

(c) Adjustments.—The end strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) In General.—Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1988, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.

(2) The Army Reserve, 13,329.

(3) The Naval Reserve, 21,476.

(4) The Marine Corps Reserve, 1,745.

(5) The Air National Guard of the United States, 7,631.

(6) The Air Force Reserve, 665.

(b) Waiver Authority.—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 5 percent.

SEC. 413. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) Senior Enlisted Members.—The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	589	201	163	18
E-8	2,406	404	488	74".

(b) Officers.—The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander.	3,191	1,000	615	115
Lieutenant Colonel or Commander.	1,376	520	422	75
Colonel or Navy Captain.	348	188	184	25".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1987.

Part C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) In General.—For fiscal year 1988, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 82,503.

(2) The Navy, 68,993.

(3) The Marine Corps, 20,341.

(4) The Air Force, 38,574.

(5) The Army National Guard of the United States, 18,501.

(6) The Army Reserve, 15,075.

(7) The Naval Reserve, 2,841.

(8) The Marine Corps Reserve, 3,970.

(9) The Air National Guard of the United States, 2,508.

(10) The Air Force Reserve, 1,968.

(b) Adjustments.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

TITLE V—MILITARY PERSONNEL

SEC. 501. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.

Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 502. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) Grade Determination Authority for Reserve Medical Officers.—Sections 3359(b) and 8359(b) of title 10, United States Code, are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) Promotion Authority for Certain Reserve Officers Serving on Active Duty.—Sections 3380(d) and 8380(d) of such title are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(c) Years of Service for Mandatory Transfer to the Retired Reserve.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 503. EXTENSION OF SINGLE-PARENT ENLISTMENT AUTHORITY IN RESERVE COMPONENTS.

Section 523(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3871), is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1990".

SEC. 504. AUTHORITY TO AWARD DEGREE OF MASTER OF LAWS IN MILITARY LAW.

(a) Army Judge Advocate General's School.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4315. The Judge Advocate General's School: master of laws in military law

"Under regulations prescribed by the Secretary of the Army, the Commandant of the Judge Advocate General's School of the Army may, upon recommendation by the faculty of such school, confer the degree of master of laws (LL.M.) in military law upon graduates of the school who have fulfilled the requirements for that degree.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4315. The Judge Advocate General's School: master of laws in military law.".

SEC. 505. WITHHOLDING OF STATE AND LOCAL INCOME TAXES FOR NATIONAL GUARD AND RESERVE DRILL PAY.

Subchapter II of chapter 55 of title 5, United States Code, is amended—

(1) by striking out "do not" in section 5517(d); and

(2) by inserting "(other than service described in section 5517(d) of this title)" in the third sentence of section 5520(a) after "Armed Forces".

SEC. 506. ONE-YEAR DELAY IN MINIMUM PERCENTAGE OF AIR FORCE ENLISTEES REQUIRED TO BE WOMEN.

Section 551(a) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 8251 note), is amended by striking out "fiscal year 1988" and inserting in lieu thereof "fiscal year 1989".

SEC. 507. PROHIBITION OF CERTAIN INTERAGENCY FUNDS TRANSFERS.

The Secretary of Defense (or Secretary of a military department) may not use funds appropriated to the Department of Defense for fiscal year 1988 or fiscal year 1989 to make deposits or payments under section 229(b) of the Social Security Act (42 U.S.C 429(b)) or for any other purpose in connection with that section.

SEC. 508. STUDY OF WARTIME MOBILIZATION REQUIREMENTS OF THE COAST GUARD.

(a) 10-Year Plan.—The Secretary of Transportation shall submit to Congress a plan to enable the Coast Guard to meet 95 percent of its wartime mobilization requirements by September 30, 1998. Such plan shall include recommendations with respect to—

(1) annual increases in authorized end strengths for Coast Guard Selected Reserve personnel;

(2) recruiting and training resources; and

(3) equipment and other logistic support necessary to enable the Coast Guard to meet that requirement.

(b) Deadline.—The plan required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 509. WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM.

(a) In General.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

"§ 774. Religious apparel: wearing while in uniform

"(a) General Rule.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) Exceptions.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) in circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the member's military duties; or

"(2) if the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) Regulations.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) Religious Apparel Defined.—In this section, the term 'religious apparel' means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.

"775. Applicability of chapter.".

(c) Regulations.—The Secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

SEC. 510. MILITARY EDUCATION PROGRAM FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS.

(a) Relationship to Military Promotions.—A civilian technician of the Army National Guard who is unable to complete required training under the Military Education Program for civilian technicians of the Army National Guard established on August 1, 1985, may not be denied a military promotion by reason of the failure to complete such training if the reason for such failure was lack of availability of training spaces.

(b) Report.—Not later than February 15, 1988, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Military Education Program referred to in subsection (a). The report shall describe—

(1) the cost effectiveness of the program;

(2) the effect of the program on readiness; and

(3) the effect of the program on the sick leave, annual leave, and other benefits of civilian technicians of the Army National Guard and any resulting effect on their morale.

SEC. 511. REMOVAL OF MILITARY DEPARTMENT CEILINGS ON NUMBER OF ROTC SCHOLARSHIPS.

Section 2107(h) of title 10, United States Code, is amended to read as follows:

"(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Part A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1988.

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

(b) Three Percent Increase in Basic Pay, BAQ, and BAS.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1988.

(c) Three Percent Increase in Cadet and Midshipman Pay.—Effective January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out "$494.40" and inserting in lieu thereof "$509.23".

Part B—Travel and Transportation

SEC. 611. TRANSPORTATION ALLOWANCE TO ENCOURAGE VOLUNTARY EXTENSIONS OF TOURS OF DUTY IN FOREIGN COUNTRIES.

(a) In General.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who—

"(1) is stationed outside the United States; and

"(2) voluntarily agrees to extend his overseas tour of duty for a period equal to at least one-half of the overseas tour prescribed for his permanent duty station;

is entitled to the transportation allowance described in subsection (b) for himself and each dependent who is authorized to, and does, accompany him.

"(b) The transportation allowance authorized by subsection (a) is an allowance provided in connection with authorized leave for transportation—

"(1) from a member's permanent duty station to a place approved by the Secretary concerned (or his designee) and from that place to his permanent duty station; or

"(2) from a member's permanent duty station to a place no farther distant than his home of record (if he is a member without dependents) and from that place to his permanent duty station.

"(c) The transportation allowance authorized by this section may not be provided to an enlisted member who, with respect to an extension of duty described in subsection (a)—

"(1) elects to receive special pay under section 314 of this title for duty performed during such extension of duty; or

"(2) elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 for such extension of duty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.".

(b) Effective Date.—Section 433 of title 37, United States Code, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 612. REPEAL OF CERTIFICATION REQUIREMENT TO IMPLEMENT LODGINGS PLUS PER DIEM AMENDMENTS.

(a) Repeal of Certification Requirement.—Section 614 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3879), is amended—

(1) by striking out subsection (b); and

(2) by striking out "(a) In General.—".

(b) Effective Date.—The amendments to section 404(d) of title 37, United States Code, made by section 614 of such Act shall apply with respect to travel performed after the end of the 90-day period beginning on the date of the enactment of this Act.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

SEC. 621. CAREER SEA PAY.

(a) IN GENERAL.—Section 305a of title 37, United States Code, is amended to read as follows:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

Pay grade	Years of sea duty						
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
E-4	$50	$60	$120	$150	$160	$160	$160
E-5	50	60	120	150	170	315	325
E-6	100	100	120	150	170	315	325
E-7	100	100	120	175	190	350	350
E-8	100	100	120	175	190	350	350
E-9	100	100	120	175	190	350	350
	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13
E-4	$160	$160	$160	$160	$160	$160	$160
E-5	350	350	350	350	350	350	350
E-6	350	350	365	365	365	380	395
E-7	375	390	400	400	410	420	450
E-8	375	390	400	400	410	420	450
E-9	375	390	400	400	410	420	450
			Over 14	Over 16	Over 18		
E-4			$160	$160	$160		
E-5			350	350	350		
E-6			410	425	450		
E-7			475	500	500		
E-8			475	500	520		
E-9			475	520	520		

"WARRANT OFFICERS

Pay grade	Years of sea duty						
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6
W-1	$130	$135	$140	$150	$170	$175	$200
W-2	150	150	150	150	170	260	265
W-3	150	150	150	150	170	270	280
W-4	150	150	150	150	170	290	310
	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13
W-1	$250	$270	$300	$325	$325	$340	$360
W-2	265	270	310	340	340	375	400
W-3	285	290	310	350	375	400	425
W-4	310	310	310	350	375	400	450
			Over 16	Over 18	Over 20		
W-1			$375	$375	$375		
W-2			400	400	400		
W-3			425	450	450		
W-4			450	500	500		

"OFFICERS

Pay grade	Years of sea duty					
		Over 3	Over 4	Over 5	Over 6	
O-1		$150	$160	$185	$190	
O-2		150	160	185	190	
O-3		150	160	185	190	
O-4		185	190	200	205	
O-5		225	225	225	225	
O-6		225	230	230	240	
	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12
O-1	$195	$205	$215	$225	$225	$240
O-2	195	205	215	225	225	240
O-3	195	205	215	225	225	240
O-4	215	220	220	225	225	240
O-5	230	245	250	260	265	265
O-6	255	265	280	290	300	310
		Over 14	Over 16	Over 18	Over 20	
O-1		$250	$260	$270	$280	
O-2		250	260	270	280	
O-3		260	270	280	290	

"OFFICERS—Continued

Pay grade	Years of sea duty			
	Over 3	Over 4	Over 5	Over 6
O-4	270	280	290	300
O-5	285	300	315	340
O-6	325	340	355	380

"(c) Under regulations prescribed by the President, a member of a uniformed service, except for a member in pay grades E-5 through E-9 with more than five years of sea duty, who is entitled to career sea pay under this section and who has served 36 consecutive months of sea duty, is entitled to a career sea pay premium of $100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.

"(d)(1) For the purpose of determining the years of sea duty with which a member shall be credited under this section, the term 'sea duty' means duty performed by a member while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship or while serving as a member of the off-crew of a two-crewed submarine.

"(2) For the purpose of determining entitlement to career sea pay under this section, the term 'sea duty' means duty performed by a member—

"(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way or while serving as a member of the off-crew of a two-crewed submarine; or

"(B) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

A ship is considered away from its homeport for purposes of subparagraph (B) when it is at sea or in a port that is more than 50 miles from its homeport.".

(b) Transition.—A member entitled to career sea pay during the 3-month period ending on the effective date of this section, at a rate higher than the rate established by this Act for the member's pay grade and years of sea duty, shall continue to receive the higher rate until such time as the member is permanently reassigned to duty for which the member is not entitled to the pay.

(c) Effective Date.—Section 305a of title 37, United States Code, as amended by subsection (a), shall take effect on October 1, 1987, except that—

(1) the amendments to the tables in section 305a(b) for members in pay grades above E-4 with five or more years of sea duty; and

(2) the amendments to section 305a(c),

may be effective on a different date if such date is no later than October 1, 1988, and is specified under regulations prescribed by the President.

SEC. 622. EXTENSION OF AVIATION OFFICER CONTINUATION PAY.

Section 301(b) of title 37, United States Code, is amended by striking out "September 30, 1987" in subsections (e)(2), (e)(3), and (f) and inserting in lieu thereof "September 30, 1989".

SEC. 623. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES.

(a) Five-Year Extension of Active-Duty Bonuses.—Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1992".

(b) Three-Year Extension of Reserve Component Bonuses.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of such title are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1990".

Part D—Miscellaneous

SEC. 631. AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN.

(a) Authority To Withdraw.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

(2) An individual referred to in paragraph (1) is an individual who—

(A) is providing coverage for a spouse or for a spouse and child under the Plan; and

(B) remarried before March 1, 1986, and at a time when such individual was a participant in the Plan but did not have an eligible spouse beneficiary under the Plan.

(b) Applicable Provisions.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to subsection (a), the one-year period referred to in clause (ii) of such subparagraph shall extend until the end of the one-year period beginning 90 days after the date of the enactment of this Act.

(c) Treatment of Prior Contributions.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a).

SEC. 632. LAW APPLICABLE TO OCCUPANCY BY COAST GUARD PERSONNEL OF SUBSTANDARD FAMILY HOUSING UNITS.

(a) In General.—Section 2830 of title 10, United States Code, is amended—

(1) by striking out "the Secretary of a military department" in subsection (a) and inserting in lieu thereof "the Secretary concerned";

(2) by striking out "Subject to" in subsection (b) and all that follows through "military department" and inserting in lieu thereof "(1) The Secretary concerned"; and

(3) by adding at the end of subsection (b) the following new paragraph:

"(2) The authority to enter into leases under paragraph (1) shall be exercised—

"(A) in the case of a lease by the Secretary of a military department, subject to regulations prescribed by the Secretary of Defense; and

"(B) in the case of a lease by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, subject to regulations prescribed by that Secretary.".

(b) Conforming Amendments.—(1) Section 2801(d) of such title is amended by inserting "(other than section 2830)" after "This chapter".

(2) Section 475 of title 14, United States Code, is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 633. COLLECTION OF AMOUNTS OWED TO SERVICE RELIEF SOCIETIES FROM FINAL PAY OF MEMBERS.

(a) In General.—Section 1007 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(h) Under regulations prescribed by the Secretary concerned, an amount that a member owes to the Army Emergency Relief, the Air Force Aid Society, or the Navy Relief Society may be deducted from the pay on final statement of such member and paid to the relief society to which the amount is owed.".

(b) Effective Date.—Section 1007(h) of such title, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 634. COST REDUCTIONS FOR FISCAL YEAR 1988.

(a) Selective Reenlistment Bonus.—During fiscal years 1988 and 1989, the Secretary concerned may not pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

(b) Reserve Unit and Individual Training.—During fiscal year 1988, the amount spent for reserve unit and individual training may not exceed $4,644,582,000.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Defense Health Care Amendments of 1987".

Part A—Medical Readiness

SEC. 711. REVISION OF RESERVE FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAM.

(a) In General.—Chapter 105 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

"Subchapter	Sec.
I. Health Professions Scholarship Program for Active Service	2120
II. Health Professions Stipend Program for Reserve Service	2128

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM FOR ACTIVE SERVICE";

(2) by striking out "chapter" each place it appears in sections 2120, 2123, 2124, and 2127 and inserting in lieu thereof "subchapter"; and

(3) by adding at the end the following new subchapter:

"SUBCHAPTER II—HEALTH PROFESSIONS STIPEND PROGRAM FOR RESERVE SERVICE

"Sec.
"2128. Financial assistance: health-care professionals in reserve components.
"2129. Reserve service: required active duty for training.
"2130. Penalties, limitations, and other administrative provisions.

"§ 2128. Financial assistance: health-care professionals in reserve components

"(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions specialties critically needed in wartime, the Secretary of each military department may establish and maintain a program to provide financial assistance under this subchapter to persons engaged in training in such specialties. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in training in certain health care specialties in return for a commitment to subsequent service in the Ready Reserve.

"(b) PHYSICIANS IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is a graduate of a medical school;

"(B) is eligible for appointment, designation, or assignment as a medical officer in the Reserve of the armed force concerned; and

"(C) is enrolled or has been accepted for enrollment in a residency program for physicians in a medical specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as a medical officer for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, two years in the Ready Reserve for each year, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

"(c) GRADUATE NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is a registered nurse;

"(B) is eligible for appointment, designation, or assignment as a Reserve officer in the Nurse Corps of the Army or Navy or as an Air Force nurse; and

"(C) is enrolled or has been accepted for enrollment in an accredited program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the graduate nursing program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment in the Nurse Corps of the Army, Navy, or as an Air Force nurse for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, two years in the Ready Reserve for each year, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

"(d) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) will, upon completion of the program, be eligible to be appointed, designated, or assigned as a reserve officer for duty as a nurse or other health professional; and

"(B) is enrolled, or has been accepted for enrollment in the third or fourth year of—

"(i) an accredited baccalaureate nursing program; or

"(ii) any other accredited baccalaureate program leading to a degree in a health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend of $100 per month for the period or the remainder of the period of the baccalaureate program in which the participant enrolls or is enrolled; and

"(B) the participant shall not be eligible to receive such stipend before enlistment in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

"(e) AMOUNT OF STIPEND.—The amount of a stipend under an agreement under subsection (b) or (c) shall be—

"(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

"(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve.

"(f) INDIVIDUAL READY RESERVE DEFINED.—In this subchapter, the term 'Individual Ready Reserve' means that element of the Ready Reserve of an armed force other than the Selected Reserve.

"§ 2129. Reserve service: required active duty for training

"(a) SELECTED RESERVE.—A person who is required under an agreement under section 2128 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

"(b) IRR SERVICE.—A person who is required under an agreement under section 2128 of this title to serve in the Individual Ready Reserve shall serve—

"(1) not less than 30 days of initial active duty for training; and

"(2) not less than five days of active duty for training each year during the period of service required by the agreement.

"§ 2130. Penalties, limitations, and other administrative provisions

"(a) FAILURE TO COMPLETE PROGRAM OF TRAINING.—(1) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in training, or for other reasons, shall be required, at the discretion of the Secretary concerned—

"(A) to perform one year of active duty for each year (or part thereof) for which such person was provided financial assistance under this section; or

"(B) repay the United States an amount equal to the total amount paid to such person under the program.

"(2) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member participating in the program who is dropped from the program from any requirement that may be imposed under paragraph (1), but such relief shall not relieve him from any military obligation imposed by any other law.

"(b) PROHIBITIONS OF DUPLICATE BENEFITS.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

"(c) REGULATIONS.—This subchapter shall be administered under regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended by striking out the item relating to chapter 105 and inserting in lieu thereof the following:

"105. Armed Forces Health Professions Financial Assistance Programs.......... 2120".

(c) REPEAL OF PRIOR PROGRAM.—(1) Section 672 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 663), is repealed.

(2) The repeal of section 672 of the Department of Defense Authorization Act, 1986, by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement.

(d) FUNDING LIMIT FOR FISCAL YEAR 1988.—The total amount obligated during fiscal year 1988 under agreements under section 2128 of title 10, United States Code, as added by subsection (a), may not exceed $9,000,000.

(e) EFFECTIVE DATES.—(1) The repeal made by subsection (c) shall take effect on October 1, 1987.

(2) An agreement entered into by the Secretary of a military department under section 2128 of title 10, United States Code, as added by subsection (a), may not obligate

the United States to make a payment for any period before October 1, 1987.

SEC. 712. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.

(a) Critically Needed Wartime Skills Residency Requirement Permitted.—Section 2122 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "To be eligible"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary of Defense may require, as part of the agreement under subsection (a)(2), that a person must agree to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.".

(b) 2500 Scholarships Targeted for Critically Needed Wartime Skills.—

(1) In General.—Section 2124 of title 10, United States Code, is amended by striking out "except that" and all that follows through the end of the section and inserting in lieu thereof the following: "except that—

"(1) the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 6,000; and

"(2) of the total number of persons so designated, at least 2500 shall be persons—

"(A) who are in the final two years of their course of study; and

"(B) who have agreed to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.".

(2) Effective Date.—Section 2124(2) of such title, as added by paragraph (1), shall take effect on October 1, 1988.

SEC. 713. EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.

(a) Coverage of Certain Loans to Nurses.—Subsection (a)(3) of section 2172 of title 10, United States Code, is amended by inserting "or under part B of title VIII of such Act (42 U.S.C. 297 et seq.)" after "seq.)".

(b) Extension of Date for Initial Appointment.—Subsection (d) of such section is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1990".

SEC. 714. CONSTRUCTIVE SERVICE CREDIT FOR OFFICERS APPOINTED WITH HEALTH PROFESSIONS EXPERIENCE.

(a) Regular Components.—Section 533(b)(1)(B) of title 10, United States Code, is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.".

(b) Army Reserve.—Section 3353(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Army.".

(c) Naval Reserve and Marine Corps Reserve.—Section 5600(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Navy or Marine Corps, as appropriate.".

(d) Air Force Reserve.—Section 8353(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Air Force.".

SEC. 715. STANDBY CAPABILITY FOR SELECTIVE SERVICE REGISTRATION OF HEALTH CARE PERSONNEL.

Section 10(h) of the Military Selective Service Act (50 U.S.C. App. 460(h)) is amended—

(1) by striking out "If at" and all that follows through "nevertheless," and inserting in lieu thereof "The Selective Service system shall"; and

(2) by inserting "(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)" after "national emergency".

SEC. 716. REMOVAL OF CEILINGS ON SPECIAL PAY FOR MEDICAL OFFICERS.

(a) Ceiling Removal.—Section 302(b) of title 37, United States Code, is amended—

(1) by striking out "in an amount not to exceed $8,000" in paragraph (1); and

(2) by striking out paragraph (3).

(b) Limit on Obligations.—The Secretary concerned may not obligate funds during fiscal year 1988 for incentive special pay under section 302(b) of such title in an amount which is more than the amount proposed to be available for such purpose in the budget presentation materials submitted to Congress for fiscal year 1988.

SEC. 717. AGE FOR MANDATORY RETIREMENT OF MEDICAL OFFICERS.

Section 1251 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (a), a regular commissioned officer of the Army, Navy, or Air Force who is a medical officer or dental officer shall be retired on the first day of the month following the month in which the officer becomes 67 years of age.".

PART B—PEACETIME HEALTH CARE

SEC. 721. CATASTROPHIC LOSS PROTECTION UNDER CHAMPUS.

(a) In General.—(1) Section 1079(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) An individual or family group may not be required by reason of this subsection to pay a total of more than $1,000 for health care in any fiscal year under a plan under subsection (a).".

(2) Section 1086(b) of such title is amended by adding at the end the following new paragraph:

"(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title may not be required to pay a total of more than $3,000 for health care in any fiscal year under a plan contracted for under section 1079(a) of this title.".

(b) Effective Date.—Paragraph (5) of section 1079(b) of title 10, United States Code, and paragraph (4) of section 1086(b) of such title, as added by subsection (a), shall take effect on October 1, 1987.

SEC. 722. TWO-YEAR PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES.

During fiscal years 1988 and 1989, the Secretary of Defense may not impose a fee for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 723. ALLOCATION TO HEALTH PROFESSIONS OF SPECIFIED PORTION OF NAVY OFFICER ACCESSIONS AND GROWTH IN END STRENGTHS.

The Secretary of the Navy shall ensure that—

(1) not less than 25 percent of the number of original appointments made in officer grades in the Navy during each of fiscal years 1988 and 1989 shall be made in health profession specialties (or with a view to assignment of the officer to a health profession specialty); and

(2) not less than 15 percent of any increase in authorized end strength for the Navy for each of fiscal years 1988 and 1989 over the end strength of the Navy authorized for fiscal year 1987 shall be dedicated to personnel to be assigned to duty in the health professions.

PART C—HEALTH CARE MANAGEMENT

SEC. 731. IMPLEMENTATION OF MILITARY HEALTH CARE ACCOUNT.

(a) Requirement for Implementation.—The Secretary of Defense shall, in the budget request for each fiscal year, request appropriations for the Military Health Care Account established under section 1100 of title 10, United States Code, for the purpose of carrying out functions with respect to the Civilian Health and Medical Program of the Uniformed Services. The amount of the request for such health care account shall be the total amount of funds that the Secretary determines is necessary to carry out such functions. The Secretary may not request operation and maintenance appropriations in other accounts to carry out such functions.

(b) Amendment to Account.—Section 1100 of such title is amended by striking out subsection (b) and redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 732. AIR FORCE DEMONSTRATION PROJECTS ON ALTERNATIVE HEALTH CARE DELIVERY SYSTEM.

(a) Demonstration Project.—The Secretary of the Air Force shall conduct two projects designed to demonstrate the alternative health care delivery system described in subsection (b). The projects—

(1) shall begin during fiscal year 1988 and continue for not less than two years, and in no event shall terminate before the demonstration project required by section 733 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3894) (as amended by section 733 of this Act), has continued for one year; and

(2) shall include all covered beneficiaries within one catchment area of a medical facility of the uniformed services.

(b) Alternative Health Care Delivery System.—The alternative health care delivery system that the projects shall demonstrate is a system in which the commander of a medical facility of the uniformed services is responsible for all funding and all medical care of the covered beneficiaries in the catchment area of the facility. The commander may use any type of health care delivery system, for any scope of coverage, as he considers appropriate.

(c) Authority.—For purposes of carrying out this section, the Secretary of the Air Force shall have the authority given to the Secretary of Defense in sections 1079, 1086, 1092, 1097, 1098, and 1099 of title 10, United States Code.

(d) Quarterly Funding Not Required.—For purposes of carrying out this section, the limitation in section 1100(b) of title 10, United States Code (as redesignated by section 731(b)), relating to quarterly requests for funds and quarterly availability of funds does not apply.

(e) REPORT.—The Secretary of the Air Force shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the demonstration projects. The report shall be submitted at the same time as the report on the demonstration project of the CHAMPUS reform initiative is submitted (as described in section 702(c)(1)(C) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899)). Such report shall include—

(1) a description of the results of the demonstration projects; and

(2) a comparison of the costs of providing health care under the system used in the demonstration projects with the costs of providing health care under CHAMPUS and under the CHAMPUS reform initiative demonstration project required by section 702 of such Act.

(f) DEFINITIONS.—In this section:

(1) The term "catchment area" means the area within approximately 40 miles of a medical facility of the uniformed services.

(2) The term "CHAMPUS" has the meaning given such term by section 1072(4) of title 10, United States Code.

(3) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code.

SEC. 733. ADDITIONAL REQUIREMENTS FOR CHAMPUS REFORM INITIATIVE.

(a) EVALUATION METHODOLOGY REQUIRED FOR DEMONSTRATION PHASE OF CHAMPUS REFORM INITIATIVE.—(1) Section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration project required by paragraph (1) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such methodology. The Secretary may not award a contract under Solicitation No. MDA903-87-R-0047 for such demonstration project until 60 days elapse after the date on which the Secretary submits the report.".

(2) Section 702(c)(1)(C)(i) of such Act is amended by inserting before the semicolon the following: ", evaluated in accordance with the methodology developed under subsection (a)(4)".

(b) ONE CONTRACT PER CONTRACTOR ALLOWED UNDER SOLICITATION FOR DEMONSTRATION PHASE OF CHAMPUS REFORM INITIATIVE.—No contractor may be awarded more than one contract for subregions I, II, and III under Solicitation No. MDA903-87-R-0047 (issued for the CHAMPUS reform initiative demonstration project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899)).

(c) LIMITATIONS ON ISSUANCE OF REQUESTS FOR PROPOSALS.—

(1) REQUIREMENT FOR ONE YEAR OF OPERATION OF CHAMPUS DEMONSTRATION PROJECT.—Section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), is amended by adding at the end the following new paragraph:

"(2) The Secretary may not issue a request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative until—

"(A) all principal features of the demonstration project, including networks of providers of health care, have been in operation for not less than one year; and

"(B) 60 days elapse after the date on which the Secretary submits the report described in paragraph (1)(C).".

(2) REQUIREMENT FOR INCLUSION OF ENROLLMENT SYSTEM.—Section 702(c) is further amended by adding at the end the following new paragraph:

"(3) In any request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative, the Secretary shall include a requirement for the inclusion of a health care enrollment system that meets the requirements specified in section 1099 of title 10, United States Code, with respect to—

"(A) covered beneficiaries included in the demonstration project; and

"(B) facilities of the uniformed services located in the geographical areas covered by the demonstration project.".

(3) REQUIREMENT FOR AVAILABILITY OF 90-DAY INSURANCE COVERAGE.—Section 702(c) is further amended by adding at the end the following new paragraph:

"(4) In any request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative, the Secretary shall include a requirement for the contractor to offer an option to elect an insurance plan which meets the following requirements:

"(A) The plan shall be available at the election of an individual losing eligibility to be a covered beneficiary under chapter 55 of title 10, United States Code (for reasons such as discharge or release from active duty or a change in family status (including divorce or annulment, or, in the case of a child, reaching age 22)).

"(B) The plan shall provide for coverage of benefits similar to the coverage of benefits available to the individual under the CHAMPUS reform initiative, without a waiting period and regardless of any pre-existing condition.

"(C) The plan shall provide such benefit coverage for a period of a minimum of 90 days, beginning on the date on which coverage under chapter 55 of title 10, United States Code, normally would terminate (absent coverage under this plan).

"(D) The plan shall provide that enrollees in the plan shall pay the full periodic charges for the benefit coverage.".

(d) FUNDING LIMITATIONS.—

(1) CONTRACT FOR DEMONSTRATION PROJECT.—None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of entering into a contract for the demonstration phase of the CHAMPUS reform initiative required by section 702(a)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), until the requirements of section 702(a)(4) of such Act (as added by subsection (a)) are met.

(2) REQUESTS FOR PROPOSALS.—None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of requesting a proposal for the second (or any subsequent) phase of the CHAMPUS reform initiative as described in section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899), until the requirements of sections 702(c), (2), (3), and (4) of such Act (as added by subsection (c)) are met.

(e) ADDITIONAL DEMONSTRATION PROJECTS REQUIRED IN CONJUNCTION WITH CHAMPUS REFORM INITIATIVE DEMONSTRATION PROJECT.—

(1) GENERAL REQUIREMENT.—The Secretary of Defense shall conduct the projects described in paragraph (2) for the purpose of demonstrating alternatives to health care under CHAMPUS and under the CHAMPUS reform initiative. The demonstration projects shall be carried out in accordance with this subsection and in conjunction with the CHAMPUS reform initiative demonstration project.

(2) LIST OF DEMONSTRATION PROJECTS.—The demonstration projects are as follows:

(A) The Tidewater mental health demonstration project (Solicitation No. MDA906-86-C-0001).

(B) The Fort Drum demonstration project.

(C) The civilian-run primary care clinics known as PRIMUS and NAVCARE.

(D) The New Orleans demonstration project (Solicitation No. MDA903-87-R-0047), to be considered both as part of the CHAMPUS reform initiative demonstration project and as a separate demonstration project under this subsection.

(E) A fiscal intermediary demonstration project, to be implemented by amending an existing Department of Defense contract with a fiscal intermediary in a State or region to require the intermediary to undertake management of a health care network through cost-containment initiatives, including utilization review, pre-admission screening, second surgical opinions, and contracting for care on a discounted basis.

(F) Two Air Force alternative health care delivery system demonstration projects, required pursuant to section 732 of this Act.

(G) A demonstration project for non-active duty beneficiaries in the catchment area of the Philadelphia Naval Hospital that uses a managed health care network, including health care enrollment (as provided in section 1099 of title 10, United States Code), and is funded on a fixed-price per capita basis.

(3) REPORT ON DEMONSTRATION PROJECTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that provides an outline and discussion of the manner in which the Secretary intends to structure and conduct each demonstration project required under this subsection.

(4) EVALUATION METHODOLOGY.—The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration projects required under this subsection. The methodology shall be developed in conjunction with the methodology developed under section 702(a)(4) of the Department of Defense Authorization Act, 1987 (Public Law 99-661) (as added by section 733(a) of this Act) and shall be included in the report submitted to Congress pursuant to such section 702(a)(4).

(5) LENGTH OF PROJECTS.—Each project required under this subsection—

(A) shall run concurrently with the CHAMPUS reform initiative demonstration project;

(B) shall begin during fiscal year 1988 (or shall continue in the case of a project begun before fiscal year 1988); and

(C) shall continue until at least one year of operation of all principal features (including networks of providers of health care) of the CHAMPUS reform initiative demonstration project has taken place.

(6) REPORT.—The Secretary of Defense shall evaluate the demonstration projects required by this subsection, using the methodology developed under paragraph (3), as alternatives to methods of providing health care under CHAMPUS, the CHAMPUS reform initiative demonstration project, and the CHAMPUS reform initiative if fully implemented. The Secretary shall include the results of the evaluation in the report required by section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

(7) DEFINITION.—In this subsection:

(A) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as that term is defined by section 1072(4) of title 10, United States Code.

(B) The term "CHAMPUS reform initiative demonstration project" means the project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3894).

SEC. 734. MEDICAL INFORMATION SYSTEMS ACQUISITION AMENDMENTS.

(a) REQUIREMENT FOR CONDUCT OF OPERATIONAL TEST.—Section 704(b)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3901), is amended by adding at the end the following new sentence: "During the entire duration of the test (as described in paragraph (2)(B)), each system of each vendor shall be complete, with all hardware and Level I and II software components of the system (as defined in Solicitation No. DAHC 26-85-R-0009) in operation.".

(b) EXTENSION OF VETERANS' ADMINISTRATION DECENTRALIZED HOSPITAL COMPUTER PROGRAM.—Section 704(c)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3901), is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1988".

(c) FUNDING LIMITATION.—None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of the acquisition of the Composite Health Care System until the operational testing required by section 704(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3901)—

(1) is carried out for each of the four vendors which has submitted a medical information system for testing under paragraphs (1) and (2) of such section; and

(2) is carried out in accordance with such section (as amended by subsection (a)).

(d) REPORT REQUIREMENT AMENDMENTS.—(1) Subparagraphs (B) and (C) of section 704(a)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3900), are amended to read as follows:

"(B) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report described in paragraph (2); and

"(C) 30 days elapse after the report required by subsection (d)(2) is submitted.".

(2) Section 704(d)(2) of such Act is amended by striking out "such testing is completed" and inserting in lieu thereof "the report required by subsection (a)(1)(B) is submitted".

SEC. 735. ELIGIBILITY OF CERTAIN INSTITUTIONS THAT PROVIDE TREATMENT FOR HEART AND LUNG CONDITIONS TO RECEIVE REIMBURSEMENT UNDER CHAMPUS.

(a) IN GENERAL.—

(1) ACTIVE-DUTY DEPENDENTS.—Section 1079 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(l) A hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions may not be denied payment for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) solely on the basis that such hospital does not impose a legal obligation on patients to pay for such services.".

(2) CERTAIN MEMBERS, FORMER MEMBERS, AND THEIR DEPENDENTS.—Section 1086 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) A hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions may not be denied payment for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) solely on the basis that such hospital does not impose a legal obligation on patients to pay for such services.".

(b) EFFECTIVE DATE.—Section 1079(l) of title 10, United States Code (as added by subsection (a)(1)), and section 1086(h) of such title (as added by subsection (a)(2)) shall apply with respect to medical care received after September 30, 1987, and before October 1, 1988.

SEC. 736. GAO REPORT ON PAYMENT OF CERTAIN MEDICAL EXPENSES.

(a) REVIEW.—The Comptroller General shall review and evaluate the practices under various insurance plans with respect to payments to hospitals for charges for medical services in cases where the hospital does not impose a legal obligation on patients to pay for such services. In the review, the Comptroller General shall—

(1) look at the practices with respect to such payments of private sector insurance plans, including self-insured plans, as well as federally sponsored or funded programs, including Medicare, Medicaid, and the Federal Employees' Health Benefit Plan; and

(2) provide an assessment and comparison of the practices with respect to such payments under regulations of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), along with any recommendations for changing such practices in CHAMPUS and an analysis of the costs involved.

(b) REPORT.—Not later than December 31, 1987, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review described in subsection (a).

TITLE VIII—GENERAL PROVISIONS

SEC. 801. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section increases by the amount of the transfer the obligation limitation provided on the account (or other amount) to which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 802. EXPIRATION OF AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1989.

Authorizations for appropriations in this Act for fiscal year 1989 shall be effective only with respect to appropriations made during the first session of the One Hundredth Congress.

SEC. 803. CONTRACT GOAL FOR MINORITIES.

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973), is amended—

(1) by striking out "or" at the end of paragraph (2) and inserting in lieu thereof "and"; and

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof the following: ", including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.".

SEC. 804. CLARIFICATION OF LIMITATION ON CONTRACTING FOR SHORT-TERM NAVAL VESSEL REPAIR WORK.

Subsection (d) of section 7299a of title 10, United States Code (as added by section 1201(a) of the Department of Defense Authorization Act, 1987), is amended to read as follows:

"(d)(1) Before issuing a solicitation for a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall determine if there is adequate competition available among firms able to perform the work at the homeport of the vessel. If the Secretary determines that there is adequate competition among such firms, the Secretary—

"(A) shall issue such a solicitation only to firms able to perform the work at the homeport of the vessel; and

"(B) may not award such contract to a firm other than a firm that will perform the work at the homeport of the vessel.

"(2) Paragraph (1) applies notwithstanding subsection (b) or any other provision of law.

"(3) Paragraph (1) does not apply—

"(A) in the case of voyage repairs; or

"(B) in the case of a vessel that is assigned to the Naval Reserve force and homeported on the West Coast of the United States.

"(4) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.".

SEC. 805. RATES FOR PROGRESS PAYMENTS ON CERTAIN NAVAL SHIP REPAIR CONTRACTS.

(a) IN GENERAL.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7312. Repair or maintenance of naval vessels: progress payments under certain contracts

"(a) Rates.—The Secretary of the Navy shall provide that the rate for progress payments on naval ship contracts to which this section applies shall be—

"(1) 90 percent, in the case of firms considered to be small businesses, and

"(2) 85 percent, in the case of all other firms.

"(b) Covered Contracts.—This section applies to any contract awarded by the Secretary of the Navy for repair, maintenance, or overhaul of a naval vessel (other than a nuclear-powered vessel) for work required to be performed in one year or less.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7312. Repair or maintenance of naval vessels: progress payments under certain contracts.".

(b) Transition.—The amendment made by subsection (a) does not apply to a contract awarded pursuant to a solicitation issued before the date of the enactment of this Act.

SEC. 806. DOMESTIC CONSTRUCTION OF CERTAIN VESSELS.

Section 7309(a) of title 10, United States Code, is amended by striking out "no naval vessel, and no vessel of any other military department," and inserting in lieu thereof "no vessel to be constructed for any of the armed forces".

SEC. 807. IMPROVED CONGRESSIONAL OVERSIGHT OF SPECIAL ACCESS PROGRAMS.

(a) In General.—(1) Chapter 2 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 119. Special access programs: congressional oversight

"(a) Disclosure of Total Amount Budgeted for Special Access Programs.—The Secretary of Defense shall submit to the defense committees each year, at the same time that the President's budget is transmitted for the next fiscal year under section 1105 of title 31, an unclassified report setting forth the total amount requested in that budget for special access programs of the Department of Defense (as defined in subsection (e)).

"(b) Annual Notice and Justification for New Special Access Programs.—(1) Not later than November 1 of each year, the Secretary of Defense shall provide in writing to the chairman and ranking minority member of each defense committee, with respect to each new special access program—

"(A) notice of the designation of the program as a special access program; and

"(B) justification for such designation.

"(2) A notice and justification under paragraph (1) with respect to a program shall include—

"(A) the current estimate of the total program cost for the program; and

"(B) an identification of existing programs or technologies—

"(i) that are not treated so as to conceal their existence or scope; and

"(ii) that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

"(3) In this subsection, the term 'new special access program' means a special access program that has not previously been covered in a notice and justification under this subsection.

"(c) Access by Other Members; Responses.—(1) Any member of a defense committee, upon submitting a request in writing to the chairman of that committee, shall be permitted to read any notice and justification received by the chairman of that committee under subsection (b).

"(2) If the Secretary receives a timely response from a member of a defense committee with respect to a notice and justification provided under subsection (b), the Secretary shall respond in writing to any question or concern raised in such response not later than 30 days after the receipt of such response.

"(3) For purposes of paragraph (2), the term 'timely response' means a written communication that—

"(A) pertains to a program described in a notice and justification received under subsection (b); and

"(B) is received by the Secretary of Defense not less than 30 days after the date on which the notice and justification to which the communication pertains was received under subsection (b).

"(d) Reports on Modifications To Special Access Criteria.—(1) The Secretary of Defense shall submit to the defense committees a report describing any change in the criteria for designating a program of the Department of Defense as a special access program.

"(2) Any such report shall be submitted not later than 30 days before the date on which the change takes effect.

"(e) Definitions.—In this section:

"(1) The term 'special access program' means a program of the Department of Defense that is designated within the department—

"(A) as a special access program or compartmentalized program; or

"(B) in any other manner that results in the program being treated in a manner that conceals from public disclosure the existence or scope of the program.

"(2) The term 'defense committees' means—

"(A) the Committees on Armed Services of the Senate and House of Representatives; and

"(B) the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.

"(3) The term 'program of the Department of Defense' does not include any of the following:

"(A) A program of an agency or other entity of the United States outside the Department of Defense which receives funds through amounts appropriated to the Department of Defense.

"(B) A program of an agency or other entity of the Department of Defense which is funded through the national foreign intelligence program or which is considered to be an intelligence-related activity.

"(C) A special operations activity.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"119. Special access programs: congressional oversight.".

(b) Five-Year Reference Amounts.—The first report under subsection (a) of section 119 of title 10, United States Code (as added by subsection (a)), shall set forth—

(1) the total amount requested in the President's budget for each of the five previous fiscal years for special access programs of the Department of Defense that were included in that budget; and

(2) the total amount appropriated for each such year for such programs.

(c) Initial Notice and Justification for Special Access Program Designations.—The first notice and justification under subsection (b) of section 119 of title 10, United States Code (as added by subsection (a)), shall cover each existing special access program.

(d) Initial Report on Criteria for Special Access Designation.—(1) The Secretary of Defense shall submit to the defense committees a report on the criteria used for designating a program of the Department of Defense as a special access program.

(2) The report under paragraph (1) shall be submitted not later than 60 days after the date of the enactment of this Act.

(e) Definitions.—The definitions in subsection (e) of section 119 of title 10, United States Code (as added by subsection (a)), apply to subsections (b) through (d).

SEC. 808. CONVENTIONAL DEFENSE ADVISORY BOARD.

(a) Creation of Board; Functions.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 180. Conventional Defense Advisory Board

"(a) Establishment.—There is within the Department of Defense a Conventional Defense Advisory Board.

"(b) Purpose and Responsibilities.—(1) The Board shall examine and survey all aspects of conventional warfare relating to the fighting ability and sustainability of the armed forces, particularly with regard to the conventional defense of Europe.

"(2) The Board shall (within the scope of its functions under paragraph (1)) specifically examine, survey, and make recommendations concerning the sufficiencies and deficiencies of—

"(A) research and development programs;

"(B) weapons procurement programs;

"(C) ammunition procurement programs; and

"(D) programs affecting the sustainability of forces in the field.

"(c) Membership and Support.—(1) The members of the Board shall be appointed by the Secretary of Defense and shall include representatives of—

"(A) the Department of Defense;

"(B) defense industry; and

"(C) the academic and research community.

"(2) The Secretary of Defense shall make available to the Board such information as it may require in the performance of its duties.

"(d) Reports.—(1) The Board shall report to the Secretary of Defense by March 1 each year concerning the relationship between the current programs of the Department of Defense and the requirements for more adequate conventional defense. With respect to such relationship, the report shall, at a minimum, specify—

"(A) shortfalls;

"(B) excess; and

"(C) recommendations for correcting these imbalances.

"(2) The Secretary of Defense shall forward the report required under paragraph (1) to Congress within 30 days of its receipt, together with such additional views as the Secretary may desire.

"(3) The Secretary of Defense may require such additional reports from the Board as the Secretary considers necessary.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"180. Conventional Defense Advisory Board.".

SEC. 809. REACTIVATION OF RIVERBANK ARMY AMMUNITION PLANT.

The Secretary of the Army shall reactivate Riverbank Army Ammunition Plant, California, no later than September 30, 1988.

SEC. 810. OUTLAY SAVINGS FROM DELAY OF CERTAIN PAYMENTS

The Secretary of Defense shall direct that (notwithstanding any other provision of law) any payment which would otherwise be made to a contractor (other than a small business concern) by any component of the Department of Defense during the last 12 days of September 1988 shall be made not earlier than October 1, 1988.

SEC. 811. ELIGIBILITY OF MAJOR NON-NATO ALLIES TO COMPETE ON CERTAIN MAINTENANCE CONTRACTS.

(a) IN GENERAL.—Any major non-NATO ally shall be eligible to bid under competitive procedures on any Department of Defense contract for maintenance, repair, and overhaul associated with the European Workload Program. Any contract with such a non-NATO ally may be carried out in the ally's facilities or in facilities in Europe.

(b) DEFINITION.—For purposes of subsection (a), the term "major non-NATO ally" has the meaning given that term by section 1105(g)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

SEC. 812. LIMITATIONS ON DEPLOYMENT OF STRATEGIC NUCLEAR WEAPONS CONSISTENT WITH EXISTING ARMS LIMITATIONS AGREEMENTS.

(a) Notwithstanding any other provision of law, after the end of the 60-day period beginning on the date of the enactment of this Act, funds may not be obligated or expended for the deployment or maintenance of—

(1) launchers for more than 820 intercontinental ballistic missiles carrying multiple independently targetable reentry vehicles (MIRVs);

(2) launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying MIRVs and submarine-launched ballistic missiles carrying MIRVs;

(3) an aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers; or

(4) a number of MIRVs on an individual ballistic missile in excess of the limitations included in the SALT II agreement, its agreed statements and common understanding;

unless the President certifies to the Congress that the Soviet Union, after the date of enactment of this Act, has exceeded the limitations specified in any of the limitations specified in paragraphs (1) through (4). Such certification shall be accompanied by a report, in both classified and unclassified versions, providing information upon which the President bases his certification.

(b) For purposes of this section—

(1) launchers of intercontinental ballistic missiles and submarine-launched ballistic missiles equipped with multiple independently targetable reentry vehicles are launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine-launched ballistic missiles equipped with multiple independently targetable reentry vehicles; and

(2) air-launched cruise missiles are unmanned, self-propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

(c) Within 30 days of enactment of this Act, the President shall notify Congress of his plans for carrying out the provisions of subsection (a).

SEC. 813. UNITED STATES MILITARY PERSONNEL IN NATO COUNTRIES.

None of the funds appropriated pursuant to the authorizations in this division may be used during fiscal year 1988 to take any action which would result in the number of United States military personnel stationed in countries which are members of the North Atlantic Treaty Organization being reduced below the number of such personnel stationed in such countries at the end of fiscal year 1987.

SEC. 814. AUTHORITY OF COMMANDING OFFICERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES.

(a) AUTHORITY.—The Secretary of Defense shall direct that the commanding officer of each military installation (under regulations prescribed by the Secretary of Defense and subject to the authority, direction, and control of the Secretary) shall have the authority and the responsibility to carry out the following:

(1) Prepare an inventory each fiscal year of commercial activities carried out by Government personnel on the military installation.

(2) Decide which commercial activities shall be reviewed under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy).

(3) Conduct a solicitation for contracts for those commercial activities selected for conversion to contractor performance under the Circular A-76 process.

(4) To the maximum extent practicable, find suitable employment for any employee of the Department of Defense who is displaced because of a contract entered into with the private sector for performance of a commercial activity on the military installation.

(b) DEADLINE FOR REGULATIONS.—The Secretary shall prescribe the regulations required by subsection (a) no later than 60 days after the date of the enactment of this Act.

(c) DEFINITION.—In this section, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

SEC. 815. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.

(a) IN GENERAL.—Section 2693 of title 10, United States Code, is amended in subsection (a) by inserting "or security-guard" after "firefighting".

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (b) of such section is amended by striking out "the function" and inserting in lieu thereof "a function".

(2) The heading for such section is amended to read as follows:

"§ 2693. Prohibition on contracts for performance of firefighting or security-guard functions".

(3) The item relating to section 2693 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2693. Prohibition on contracts for performance of firefighting or security-guard functions.".

SEC. 816. CONFLICT OF INTEREST IN DEFENSE PROCUREMENT.

Section 2397b(a)(1) of title 10, United States Code, is amended by striking out "acted as a primary representative" in subparagraph (C) and inserting in lieu thereof "acted as one of the primary representatives".

SEC. 817. LIMITATION ON COMPENSATION OF RETIRED MILITARY OFFICERS LIMITED TO TWO YEARS.

Section 281 of title 18, United States Code (to the extent that such section was not repealed by section 2 of Public Law 87-849 (76 Stat. 1126; approved October 23, 1962)), shall apply to a retired officer of the Armed Forces only for the two-year period beginning on the date on which the officer retires.

SEC. 818. REPEAL OF PROHIBITION OF USE OF INTERPORT DIFFERENTIAL FOR CERTAIN SHIP MAINTENANCE CONTRACTS.

Section 9085 of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is repealed.

SEC. 819. IMPLEMENTATION OF SPECIAL OPERATIONS FORCES REORGANIZATION.

(a) DIRECTION TO SECRETARY OF DEFENSE.—Upon the establishment of the unified combatant command for special operations forces under section 167 of title 10, United States Code, the Secretary of Defense shall ensure that all necessary measures are taken to provide adequate and sufficient resources for the commander of the command to discharge his responsibilities under such section, including particularly his responsibilities involving development and acquisition of special operations-peculiar equipment and in management of all resources for special operations as a separate budget activity.

(b) APPOINTMENT OF CIVILIAN PERSONNEL TO HEADQUARTERS STAFF; ACQUISITION AUTHORITY.—Subsection (e) of section 167 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(3) The Secretary of Defense shall establish not to exceed 120 civilian personnel positions as part of the headquarters staff of the special operations command. Personnel in such positions shall assist the commander of the command in carrying out the functions of the commander under paragraph (1).

"(4) Within the civilian positions provided under paragraph (3), the Secretary of Defense may establish—

"(A) professional engineering positions primarily concerned with research and development of special operations-peculiar equipment;

"(B) professional scientific positions in the physical and natural sciences, medicine, communications, electronics, and aviation; and

"(C) professional management positions in program management, administration, contracting, warehousing and depot operations, testing, procurement, and financial, budgeting and automation systems.

"(5) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command (in carrying out his functions and exercising his authority under paragraph (1)(G) to develop and acquire special operations-peculiar equipment and acquire special operations-peculiar material, supplies, and services) shall have authority to exercise the functions of the head of an agency under chapter 137 of this title. The commander may conduct internal audits and inspections of purchasing and contracting actions through the inspector general of the special operations command.".

(c) Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.—Section 136(b)(4) is amended by adding at the end the following new sentences: "The Assistant Secretary is the principal advisor to the Secretary of Defense on special operations and low intensity conflict matters and is the principal special operations and low intensity conflict official within the senior management of the Department of Defense. That authority, direction, control, and supervision of special operations and low-intensity conflict matters (including activities of the commander of the special operations command under section 167(e) of this title) exercised by the Secretary of Defense through the Office of the Secretary of Defense shall be exercised through the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.".

(d) Resources and Programming.—Section 1311(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), is amended by adding at the end the following new sentence: "Activities described in subsection (e) of section 167 of title 10, United States Code, shall be programmed, and resources for such activities shall be provided, through such major force program category and in accordance with customary defense resource allocation policies.".

SEC. 820. PREFERENCES IN AWARDING DEFENSE CONTRACTS.

(a) Preference.—The Secretary of Defense or Secretary of the military department concerned shall award a contract for procurement of any manufactured product in accordance with this section. In evaluating bids or proposals to determine the lowest responsible offeror for such a contract, the Secretary shall increase by 50 percent the amount proposed in a bid or offer from any firm proposing to provide a product other than a qualifying country product. In evaluating such bids or proposals after adding such price differential, the Secretary shall give special consideration to a domestic firm if the product, if awarded to that firm, would be manufactured in an area with a surplus of labor, as determined by the President.

(b) Qualifying Country Product.—(1) A product is a qualifying country product for purposes of this section if the product will be manufactured substantially all from articles, materials, and supplies mined, produced, or manufactured in the United States or any other qualifying country.

(2) For purposes of paragraph (1), a manufactured product shall be considered to be manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States or another qualifying country if at least 50 percent by value of the constituent elements in the product are mined, produced, or manufactured (as the case may be) in the United States or such other country.

(c) Qualifying Countries.—A country is a qualifying country for purposes of subsection (b) if—

(1) the country is a member of the North Atlantic Treaty Organization; or

(2) the country is designated as a major non-NATO ally for purposes of section 1105 of the Department of Defense Authorization Act, 1987 (division A of Public Law 99-661).

(d) Exceptions.—This section does not apply—

(1) if the Secretary of Defense or Secretary of the military department concerned determines that the application of this section to a contract or product would be inconsistent with the public interest;

(2) if the products to be procured are for use outside the United States; or

(3) if products of the class or kind to be procured, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(e) Definition.—For purposes of this section, the term "product" includes articles, materials, and supplies.

(f) Effective Date.—This section applies with respect to contracts awarded pursuant to solicitations issued after the end of the 90-day period beginning on the date of the enactment of this Act.

(g) Further Exception.—Notwithstanding any other provision of this section, after a mutual defense cooperative agreement between a qualifying country and the United States that is in effect on the date of the enactment of this Act expires or is renewed or extended, the United States shall require that any new agreement with such country (or such agreement as is revised or extended) shall provide that if there is a bid or proposal from a firm described in the third sentence of subsection (a), 5 percent shall be added to each bid or proposal from a firm proposing to manufacture substantially all (as determined under subsection (b)(2)) of such product in such country.

SEC. 821. LIMITED COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) The Secretary of Defense is authorized and directed to institute a program of counterintelligence polygraph examinations for military, civilian and contractor personnel of the Department of Defense, military departments, and the armed forces whose duties involve access to classified information.

(b) Limitation on Number of Examinations.—The number of persons required to take a counterintelligence polygraph examination under this section—

(1) may not exceed 20,000 during each of fiscal years 1988, 1989, and 1990; and

(2) may not exceed 10,000 during any fiscal year after fiscal year 1990 for which Congress has not otherwise authorized a specific number by law.

(c) The program instituted pursuant to subsection (a) shall provide that, in the case of such individuals whose duties involve access to classified information within special access programs established pursuant to section 4.2(a) of Executive Order 12356, a counterintelligence polygraph examination shall be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(d) In the case of individuals whose duties involve access to classified information other than that information covered in subsection (b) of this section, a counterintelligence polygraph examination may be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(e) A counterintelligence polygraph examination conducted pursuant to this section shall be limited to technical questions necessary to the polygraph technique and questions directly related to espionage, sabotage, terrorism and unauthorized disclosures of classified information.

(f) The authority of the Secretary of Defense under this section to provide for the use of polygraph examinations shall be in addition to any other authority the Secretary possesses on the date of enactment of this Act to provide for such examinations under applicable laws and regulations.

(g) Nonapplication of Section.—This section does not apply—

(1) to an individual assigned or detailed to the Central Intelligence Agency or to any expert or consultant under a contract with the Central Intelligence Agency;

(2) to (A) an individual employed by or assigned or detailed to the National Security Agency, (B) an expert or consultant under a contract to the National Security Agency, (C) an employee of a contractor of the National Security Agency, or (D) an individual applying for a position in the National Security Agency; or

(3) to an individual assigned to a space where sensitive cryptologic information is produced, processed, or stored.

(h) Annual Report.—Subsection (c)(2) of section 1221 of the Department of Defense Authorization Act, 1985 (Public Law 99-125), is amended by striking out "December 31, 1986" and inserting in lieu "December 31 of each year" and striking out "fiscal year 1986" and inserting in lieu "the previous fiscal year".

SEC. 822. LIVE-FIRE TESTING.

(a) Coverage of Significant Product Improvement Programs.—(1) Subsection (a) of section 2366 of title 10, United States Code, is amended—

(A) by inserting "(1)" after "Requirements.—";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by adding at the end the following:

"(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until realistic vulnerability testing (in the case of a product improvement to a covered system) or realistic lethality testing (in the case of a product improvement to a major munitions program or a missile program) is completed in accordance with this section.

"(3) For purposes of this section, a covered product improvement program is a program under which—

"(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the vulnerability of such system; or

"(B) a modification or upgrade will be made to a major munitions program or a missile program which (as determined by the Secretary of Defense) is likely to affect significantly the lethality of the munition or missile produced under the program.".

(2) Subsection (b) of such section is amended by striking out "or missile" and inserting in lieu thereof "missile, or product modification or upgrade".

(3) Subsection (c) of such section is amended by striking out "or missile program" and inserting in lieu thereof "missile program, or covered product improvement program".

(4) Subsection (e)(4) of such section is amended by inserting "(or a covered product improvement program for a covered system)" after "in the case of a covered system".

(5) Subsection (e)(5) of such section is amended by inserting "(or a covered product improvement program for such a program)" after "missile program".

(b) Vulnerability Testing.—Such section is further amended—

(1) by striking out "survivability" each place it appears in the text of the section (other than the second place it appears in subsection (e)(4)) and inserting in lieu thereof "vulnerability"; and

(2) by striking out "and survivability" in subsection (e)(4).

(c) Time for Live-Fire Testing.—Subsection (b)(1) of such section is amended by striking out the period at the end and inserting in lieu thereof the following: "and to allow any such proposed design correction to be tested in comparison with the originally tested design of the system, munition, missile, or product improvement.".

(d) Explanation for Waivers by Secretary of Defense.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The Secretary shall include with any such certification a report explaining how the Secretary plans to evaluate the vulnerability or lethality of the system or program and assessing possible alternatives to testing the full system or program.".

(e) Designated OSD Official for Live-Fire Testing.—Such section is further amended—

(1) by redesignating subsections (d) and (e) (as amended by subsections (a) and (b)) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Designated OSD Official for Live-Fire Testing.—(1) The Secretary of Defense shall designate a civilian official in the Department of Defense who is responsible to the Under Secretary of Defense for Acquisition to have principal responsibility within the Office of the Secretary of Defense for the vulnerability and lethality testing required under subsection (a).

"(2) Before full-scale engineering development with respect to a covered system, major munitions program, missile program, or covered product improvement program begins, the official designated under paragraph (1)—

"(A) shall review the adequacy of the plan of the Secretary of the military department concerned for testing of that system or program under subsection (a) (including the schedule and proposed funding for such testing); and

"(B) shall report to the Under Secretary of Defense for Acquisition on the adequacy or inadequacy of such plan and (if such official designated under paragraph (1) determines that the plan is inadequate) on what such official considers would constitute an adequate test plan.

"(3)(A) While testing under subsection (a) with respect to a covered system, major munitions program, missile program, or covered product improvement program is carried out, the official designated under paragraph (1) shall continue to review the adequacy and progress of the testing.

"(B) That official—

"(i) may observe any test under subsection (a) conducted by the Secretary of a military department; and

"(ii) shall have access to all test data and reports produced by the Secretary of a military department with respect to a test under subsection (a).

"(C) At the conclusion of testing under subsection (a) for a covered system, major munitions program, missile program, or covered product improvement program, the official designated under paragraph (1) shall submit a report on the testing to the defense committees of Congress (as defined in section 2362(e)(3) of this title).

"(4)(A) The official designated under paragraph (1) shall carry out programs to improve the conduct of realistic vulnerability testing and realistic lethality testing by the Department of Defense and shall develop improved methods, instruments, and facilities for such testing.

"(B) That official shall have the authority—

"(i) to procure threat munitions and test targets for such testing; and

"(ii) to coordinate Department of Defense procurement of such munitions and targets.

"(5) The Secretary shall provide to the official designated under paragraph (1)—

"(A) an adequate staff to enable that official to carry out the duties of that official under this subsection; and

"(B) specific funds for the functions of that official under paragraph (4)(A).".

(f) Clerical Amendments.—(1) Paragraph (1)(B) of subsection (f) of such section (as redesignated by subsection (e)) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(2)(A) The heading of such section is amended to read as follows:

"§ 2366. Major systems and munitions programs: vulnerability and lethality testing; operational testing".

(B) The item relating to such section in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2366. Major systems and munitions programs: vulnerability and lethality testing; operational testing.".

SEC. 823. CLARIFICATION.

A country may be considered to be a qualifying country under subsection (c) of the section in this title with the heading "PREFERENCES IN AWARDING DEFENSE CONTRACTS" only if the country has in effect with the United States a reciprocal defense procurement memorandum of understanding.

SEC. 824. LIMITATION ON AVAILABILITY OF FUNDS.

(a) Excess Funds.—The Secretary of Defense may not obligate or expend for any purpose any amount appropriated to the Department of Defense for any program, project, or activity that is in excess of the amount needed to carry out that program, project, or activity. Excess amounts that may not be obligated or expended by reason of the preceding sentence include savings in a program, project, or activity due to—

(1) changes in inflation;

(2) excess working capital fund costs;

(3) foreign currency fluctuations; or

(4) any other source.

(b) Failure To Initiate Program Within Three Years of Funding Availability.—Except as otherwise provided by law, the availability for obligation of funds appropriated for any program, project, or activity of the Department of Defense expires at the end of the three-year period beginning on the date that such funds initially become available for obligation unless before the end of such period the Secretary of Defense enters into a contract for such program, project, or activity.

SEC. 825. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES.

(a) In General.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

"(3) Nothing in this subsection shall be construed to transfer the responsibility for the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) to the Department of Defense.".

(b) Conforming Amendment.—Section 375 of such title is amended by inserting "(other than under section 374(e))" after "under this chapter".

SEC. 826. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.

(a) Review and Assessment.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

(b) Determination of Consistency with National Security.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) Classification of Report.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

SEC. 827. MISSILE TECHNOLOGY CONTROL REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded the Missile Technology Control Regime, designed to limit the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

SEC. 828. OIL SHIPMENTS FOR USE OF MILITARY FACILITIES.

Section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406) is amended by adding at the end the following:

"(k) OIL EXPORTS FOR USE BY UNITED STATES MILITARY FACILITIES.—For purposes of subsection (d) of this section, and for purposes of any export controls imposed under this Act, shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities shall not be considered to be exports.".

SEC. 829. RESTRICTION ON FUNDING.

None of the funds available to the Department of Defense may be obligated or expended for the purpose of providing command and control data, including voice and digital information, for drug interdiction purposes between the Sector Operations Control Center at Tyndall Air Force Base, Florida, and any other drug interdiction operation or facility unless such operation or facility is located adjacent to such Sector Operations Control Center.

SEC. 830. PAYMENT OF CLAIM.

(a) PAYMENT OF CLAIM.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $809,609, to the Merchants National Bank of Mobile, Alabama, for compensation for losses sustained during the period beginning on January 1, 1976, and ending on December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions and misrepresentations of the Defense Logistics Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

(b) FULL SETTLEMENT OF CLAIM.—The payment made pursuant to subsection (a) shall constitute full settlement of the legal and equitable claims by the Merchants National Bank of Mobile, Alabama, against the United States, covered by that subsection.

(c) LIMITATION ON ATTORNEYS' FEES.—No part of the amount appropriated in this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 831. STUDY OF CLASSIFIED INFORMATION.

(a) IN GENERAL.—The Secretary of Defense, in his capacity as Executive Agent for computer security and communication security, shall conduct a study for the purpose of declassifying, while providing adequate protection for the national security, a substantial portion of the material which is classified information on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Committee on Armed Services of the Senate and the House of Representatives of the findings and conclusions of the study carried out under this section.

(c) IMPLEMENTATION.—The Secretary may, for the purpose described in subsection (a), implement the findings and conclusions of the study carried out under this section at any time after 30 days after the date on which the report is transmitted pursuant to subsection (b).

SEC. 832. PUBLICATION.

The Secretary of Defense shall provide for the publication, on an annual basis, of a document that contains an unclassified net assessment of the defense programs and capabilities of the United States and of the Soviet Union.

SEC. 833. ANNUAL REPORT ON SOVIET ABM TREATY COMPLIANCE.

Not later than February 1, 1988, and not later than February 1 of each following year, the Secretary of Defense shall submit to the Congress a report (in both classified and unclassified versions) on the compliance of the Soviet Union with the 1972 Treaty on the Limitation of Anti-Ballistic Missile Systems. The report shall include—

(1) the findings of the Secretary with respect to such compliance during the previous year including, if necessary, the military implications of, and possible United States military responses to, violations by the Soviet Union of such treaty; and

(2) any additional information the Secretary considers necessary to keep the Congress currently informed about such compliance.

SEC. 834. STUDY OF DEFENSE EXPENDITURES IN JAPAN.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interest in the Far East.

(b) REPORT.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Congress which shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the effect that increases in national defense expenditures by Japan would have on United States defense expenditures in support of United States security interests in the Far East;

(4) the projections for national defense expenditures by the United States directly in support of Japan for each such fiscal year; and

(5) the projections for national defense expenditures by Japan directly in support of the United States forces stationed in Japan for each such fiscal year.

SEC. 835. STUDY.

(a) IN GENERAL.—The Secretary of the Air Force shall carry out a study of the requirements necessary to establish and conduct a centralized manned and unmanned military space operation which would be part of the Consolidated Space Operations Center near Colorado Springs, Colorado.

(b) REPORT.—The Secretary shall, within 60 days after the date of the enactment of this Act, transmit to the Committee on Armed Services of the Senate and the House of Representatives a report containing the findings and conclusions of the study carried out under subsection (a).

SEC. 836. RESTRICTION ON PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2406. Restriction on purchase of foreign-made administrative motor vehicles

"None of the funds appropriated or otherwise made available to the Department of Defense may be used to purchase administrative motor vehicles that are manufactured in a country other than the United States or Canada unless—

"(1) the contract or agreement is for an amount less than $50,000, or

"(2) the purchase of such motor vehicles is specifically authorized by law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2406. Restriction on purchase of foreign-made administrative motor vehicles.".

SEC. 837. SURCHARGE AUTHORITY OF DEFENSE LOGISTICS AGENCY.

(a) AUTHORITY.—Except as provided in subsection (b), the Director of the Defense Logistics Agency of the Department of Defense may include in the amount the Director charges the Secretary of a military department for supplies provided by the Director to the Secretary a surcharge for the purpose of recovering costs of the Defense Logistics Agency for the following:

(1) Maintenance and repair of fuel storage facilities.

(2) Leasing of facilities and purchase of equipment for storage facilities.

(3) Maintenance and repair costs associated with the operation of the Defense Logistics Agency supply centers and depots.

(b) EXCEPTION.—Subsection (a) does not apply to items procured by the Defense Logistics Agency for resale through the military resale system of the Department of Defense (including commissary stores, exchanges, school lunch programs, clubs, and other morale, welfare, and recreation activities).

(c) EFFECTIVE DATE.—The authority provided by subsection (a) takes effect on October 1, 1987.

SEC. 838. CHANGE IN REPORTING REQUIREMENT.

Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended by striking out "President" both places it appears and inserting in lieu thereof "Director of Central Intelligence.".

SEC. 839. REPORT ON MILITARY USE OF NASA MANNED SPACE STATION.

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the activities planned by the Department of Defense to be conducted on or in conjunction with the permanently manned space station to be developed and operated by the National Aeronautics and Space Administration. The report shall include a description of—

(1) those planned activities, including research projects the Department intends to conduct from the space station;

(2) the eventual applications for which the Department intends such research to be used; and

(3) the relationship of those planned activities to activities of the Department of Defense for which funds are authorized by this Act (including offensive and defensive weapons systems) and how such activities will be coordinated.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than January 1, 1988.

SEC. 840. PURCHASES OF CANVAS PRODUCTS.

Section 9011 of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is amended by inserting "canvas products," after "synthetic fabric," both places it appears.

SEC. 841. SENSE OF CONGRESS ON PREPARATION OF CERTAIN ECONOMIC IMPACT AND EMPLOYMENT INFORMATION CONCERNING NEW ACQUISITION PROGRAMS.

It is the sense of Congress that the Secretary of Defense should not, before an acquisition program is approved to proceed into full-scale development, prepare any material, report, list, or analysis with respect to economic benefits or the employment impact of that program in a particular State or congressional district.

SEC. 842. FUNCTIONS OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

Section 138(d) of title 10, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end the following:

"(2) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.".

SEC. 843. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS.

(a) DEFINITION OF COST OR PRICING DATA.—Subsection (g) of section 2306a of title 10, United States Code, is amended—

(1) by inserting "(1)" before "In this section";

(2) by striking out "all information that is verifiable and" and inserting in lieu thereof "verifiable data, facts, or information";

(3) by striking out "price negotiations significantly" and inserting in lieu thereof "significantly the cost of performing the contract or price negotiations";

(4) by adding at the end the following:

"(2) Business plans, projections, or strategies that are based on judgment or speculation shall not be considered to be cost or pricing data under paragraph (1) until an officer or employee of a contractor, subcontractor, or offeror (acting within the scope of his authority) makes a decision to act upon or implement such plans, projections, or strategies and such decision, if implemented, could reasonably be expected to affect significantly the cost of performing the contract or price negotiations. Verifiable data, facts, or information on which any such business plans, projections, or strategies are based shall be considered to be cost or pricing data.".

(b) TECHNICAL AMENDMENTS.—(1) Subsection (a)(5) of such section is amended—

(A) by striking out the first sentence; and

(B) by striking out "such a waiver" and inserting in lieu thereof "a waiver under subsection (b)(2)".

(2) Subsection (e)(2) of such section is amended to read as follows:

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to contracts, or modifications to contracts, entered into after the end of the 90-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply with respect to contracts, or modifications on contracts, entered into after the end of the 120-day period beginning on October 18, 1986.

SEC. 844. EXTENSION OF PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for fiscal year 1988 to be available for the purpose of furnishing assistance to carry out procurement technical assistance programs under cooperative agreements entered into under chapter 142 of title 10, United States Code.

(b) TECHNICAL REVISION OF FUND DISTRIBUTION METHOD.—Section 2415 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b); and

(2) by striking out "(c) For any amount" and all that follows through "$3,000,000, the" and inserting in lieu thereof "The".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on October 1, 1987.

SEC. 845. ALLOWABLE COSTS MAY NOT INCLUDE GOLDEN PARACHUTE PAYMENTS.

(a) IN GENERAL.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(K) GOLDEN PARACHUTE PAYMENTS.—For purposes of this section, the term 'golden parachute payment' is an amount which—

"(1) is an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(2) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.".

(b) EFFECTIVE DATE.—Section 2324(e)(1)(K) of title 10, United States Code, as added by subsection (a), shall apply to any contract entered into on or after October 1, 1987.

SEC. 846. REQUIREMENT FOR SUBSTANTIAL PROGRESS ON MINORITY AND SMALL BUSINESS CONTRACT AWARDS.

(a) REQUIREMENT FOR SUBSTANTIAL PROGRESS.—The Secretary of Defense shall ensure that substantial progress is made in increasing awards of Department of Defense contracts to section 1207(a) entities.

(b) REGULATIONS.—The Secretary shall carry out the requirement of subsection (a) through the issuance of regulations which do the following:

(1) Provide guidance to contracting officers for making advance payments under section 2307 of title 10, United States Code, to section 1207(a) entities.

(2) Establish procedures or guidance for contracting officers to—

(A) set goals which Department of Defense prime contractors should meet in awarding subcontracts, including subcontracts to minority-owned media, to section 1207(a) entities, with a minimum goal of 5 percent for each contractor which is required to submit a subcontracting plan under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)); and

(B) provide incentives for such prime contractors to increase subcontractor awards to section 1207(a) entities.

(3) Require contracting officers to emphasize awards to section 1207(a) entities in all industry categories, including those categories in which section 1207(a) entities have not traditionally dominated.

(4) Provide guidance to Department of Defense personnel on the relationship among the following programs:

(A) The program implementing section 1207 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973).

(B) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(C) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

(5) Require that a business which represents itself as a section 1207(a) entity in seeking a Department of Defense contract maintain such status at the time of contract award.

(6) With respect to a Department of Defense procurement for which there is a reasonable likelihood that the procurement will be set aside for section 1207(a) entities, require to the maximum extent practicable that the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

(7) Establish policies and procedures which will ensure that there shall be no reduction in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act and under the small business set-aside program established under section 15(a) of the Small Business Act in order to meet the goal of section 1207 of the Department of Defense Authorization Act, 1987.

(8) Implement section 1207 of the Department of Defense Authorization Act, 1987, in a manner which shall not alter the procurement process under the program established under section 8(a) of the Small Business Act.

(9) Require that one factor used in evaluating the performance of contracting officers shall be the ability of the officer to increase contract awards to section 1207(a) entities.

(10) Allow a contract with a section 1207(a) entity to be awarded at a price not exceeding fair market cost by more than 10 percent, regardless of the method of procurement used in awarding the contract.

(11) Provide for partial set-asides for section 1207(a) entities.

(12) Establish a procedure for awarding a contract to a section 1207(a) entity, without providing for full and open competitive procedures, in circumstances where a market survey and Commerce Business Daily sources sought notice resulted in the identification of only one responsible section 1207(a) entity.

(13) Provide for increased technical assistance to section 1207(a) entities.

(14) Require that a concern may not be awarded a contract under section 1207 of the Department of Defense Authorization Act, 1987, unless the concern agrees to comply with the requirements of section 15(o)(1) of the Small Business Act.

(c) DEFINITION OF SECTION 1207(a) ENTITIES.—For purposes of this section, the term "section 1207(a) entities" means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973).

SEC. 847. LIMITATION ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT.

(a) LIMITATION.—Funds appropriated to the Department of Defense may not be obligated or expended for the purpose of introducing United States Armed Forces into or over Nicaragua for combat.

(b) DEFINITION OF COMBAT.—As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) EXCEPTIONS TO LIMITATION.—This section does not apply with respect to an introduction of United States Armed Forces into or over Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions or its allies;

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States Embassy;

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens; or

(D) to respond to hijacking, kidnaping, or other acts of terrorism involving citizens of the United States or citizens of any ally of the United States.

(d) EXISTING PROVISIONS PRESERVED.—Nothing in this section shall invalidate any provision of Public Law 93-148.

(e) TREATY AUTHORITY PRESERVED.—Nothing in this section shall invalidate any authority of the United States to act under the provisions of the Inter-American Treaty of Reciprocal Assistance.

(f) EXPIRATION UPON ESCALATION.—This section shall not apply when Mig aircraft, or other aircraft of similar design or capability, or nuclear missiles or any other nuclear weapons are introduced into Nicaragua.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain activities of the Department of Defense, and for other purposes."

A motion to reconsider was laid on the table.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1988

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 865) to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,714,300,000.

(2) For materials production, $1,479,039,000.

(3) For defense nuclear waste and transportation management, $546,598,000.

(4) For verification and control technology, $120,500,000.

(5) For nuclear materials safeguards and security technology development programs, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 112. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $30,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $33,000,000.

Project 88-D-122, facilities capability assurance program, various locations, $19,200,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $20,000,000.

Project 87-D-102, environmental compliance and cleanup, Lawrence Livermore National Laboratory, Livermore, California, $9,000,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $37,016,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defense facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrading, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, TRIDENT II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $96,129,000.

(2) For materials production:

Project 88-D-XXX, New Production Reactor, unspecified location, $15,000,000.

Project 88-D-146, general plant projects, various locations, $39,030,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $5,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $68,860,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $13,200,000.

(3) For defense nuclear waste and transportation management:

Project 88-D-171, general plant projects, various locations, $32,736,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $25,000,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 87-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, National Engineering Laboratory, Idaho, $742,000.

Project 86-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $6,000,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring Site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $321,230,000.

(B) For materials production, $101,400,000.

(C) For defense waste and transportation management, $44,425,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $50,000,000.

SEC. 113. UNDISTRIBUTED REDUCTIONS

(a) Total Authorization.—Notwithstanding sections 111 and 112, the total amount authorized to be appropriated to the Department of Energy in this division for fiscal year 1988 for national security programs is $7,824,400,000.

(b) Requirement for Project Reductions.—The Secretary of Energy shall reduce such projects listed in sections 111 and 112 in such amounts as he determines appropriate to achieve a total reduction of $270,000,000.

SEC. 114. STRATEGIC DEFENSE INITIATIVE

(a) Limitation on Funds for SDI.—Of the total funds appropriated pursuant to sections 111 and 112, not more than $380,000,000 may be obligated or expended for research, development, test, and evaluation, and other purposes, in connection with the Strategic Defense Initiative program.

Part B—Recurring General Provisions

SEC. 121. REPROGRAMMING

(a) Notice to Congress.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Limitation on Amount Obligated.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 112 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 124. FUND TRANSFER AUTHORITY

Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 121, amounts appropriated pursuant to this title for operating expenses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 131. REPEAL OF LIMITATION ON MX WARHEADS

Section 1426(a) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 753), is repealed.

SEC. 132. TIMELY DETERMINATIONS ON PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES

Section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (Public Law 99-661; 100 Stat. 4061) is amended by striking out the last sentence and inserting in lieu thereof the following: "Such decision shall be made within 180 days after the date of the request by the contractor for waiver of such rights. The Secretary of Energy shall use Government-wide standard contract provisions to ensure that if a decision is not made within such 180-day period, the rights and title to the invention or discovery accrues to the contractor in the same manner and with the same effect as such rights and title would accrue to a contractor of the Department of Defense.

SEC. 133. ACQUISITION STRATEGY FOR A NEW PRODUCTION REACTOR

(a) The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the Secretary for new production capacity as soon as possible after the date of enactment of this Act, but not later than February 1, 1988.

(b) The report in subsection (a) should contain but not be limited to, an evaluation of the alternative sites and technologies, including all safety features considered, their associated costs and schedules, and the recommendation of the Secretary of Energy with respect to the preferred alternatives. The report in subsection (a) shall also include the recommendations of the Secretary of Energy with respect to an acquisition strategy, either in a phased approach or concurrently, for eventual procurement of two reactors with different technologies in different locations.

PART D.—THE DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE

SEC. 141. FINDINGS

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments, and (B) other changes in the nature of foreign competition.

(4) The principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshalling all of the government, industry, and academic resources needed to achieve that goal.

(5) Although the United States semiconductor industry leads all other principal United States industries in terms of its reinvestment in research and development, this has been insufficient by worldwide standards.

(6) Electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximately 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research.

(7) The Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research.

(8) It is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors.

(9) The most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses of such technology.

(10) In order to meet the national defense needs of the United States and to insure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of

the semiconductor technology base in the United States.

(11) The national laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help insure the success of such initiatives.

SEC. 142. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH INITIATIVE

The Secretary of Energy shall initiate and carry out a program of research on semiconductor manufacturing research technology and on the practical applications of such technology (such program hereinafter in this subtitle referred to as the "Initiative"). The Secretary shall carry out the Initiative in a way as to complement the activities of a consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 143. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY

(a) MISSION OF NATIONAL LABORATORIES.—Each national laboratory of the Department of Energy shall participate in research and development projects under the Initiative in conjunction with the Department of Defense, any consortium, college or university carrying out any such project for or in cooperation with the consortium referred to in section 142, to the extent that such participation does not detract from the primary mission of the national laboratory.

(b) AGREEMENTS.—The Secretary of Energy shall enter into such agreements with the Secretary of Defense, with any consortium referred to in section 142 and with any college or university as may be necessary to provide for the active participation of the national laboratories of the Department of Energy in the Initiative.

(c) REQUIRED PROVISIONS.—The Initiative shall include provisions for one or more national laboratories of the Department of Energy to conduct research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new processing equipment.

SEC. 144. PERSONNEL EXCHANGES

The Initiative shall include provisions for temporary exchanges of personnel between any domestic firm, the consortium referred to in section 142 and the national laboratories of the Department of Energy that are participating in such Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions as the Secretary of Energy consider necessary in the interest of national security.

SEC. 145. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL

The Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherance of this Initiative any facilities, personnel, equipment, services and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative consistent with section 143(a).

SEC. 146. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

SEC. 147. COST-SHARING AGREEMENTS

(a) PERMITTED PROVISIONS.—The director of each national laboratory of the Department of Energy that is participating in the Initiative or the contractor operating any such national laboratory may include in any research and development agreement entered into with a domestic firm in connection with such Initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) COST SHARING ARRANGEMENTS.—The director of each national laboratory of the Department of Energy that is participating in the Initiative shall submit a proposal to the Department of Energy defining cost sharing arrangements and the appropriate level of funding for approval.

(c) LIMITATIONS.—(1) Not more than an amount equal to 1 percent of any National Laboratory's annual budget shall be received from nonappropriated funds derived from contracts entered into under the Initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of nonappropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 148. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE

(a) PROVISIONS RELATING TO DISAPPROVAL AND MODIFICATION OF AGREEMENTS.—If the Secretary of Energy or his designee desires an opportunity to disapprove or require the modification of any such agreement under section 147, the agreement shall provide a 90-day period within which such action be taken beginning on the date the agreement is submitted to the Secretary.

(b) RECORD OF AGREEMENTS.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 149. AVOIDANCE OF DUPLICATION

In carrying out the Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the national laboratories of the Department of Energy) that are participating in such initiative.

SEC. 150. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—There is authorized to be appropriated to the Department of Energy for each fiscal year 1988 and 1989, the additional sum of $25,000,000 for the activities of the Department of Energy under the Initiative.

(b) RELATIONSHIP TO OTHER FUNDS AVAILABLE TO THE DEPARTMENT OF DEFENSE.—Funds available to the Secretary of Energy in connection with activities of the Department of Energy under the Initiative shall be in addition to amounts available to the Department of Defense for semiconductor manufacturing technology research and development.

SEC. 151. TECHNOLOGY TRANSFER

(a) IN GENERAL.—The Secretary of Energy shall adopt procedures to provide for timely and efficient transfer of semiconductor technology developed under the Initiative pursuant to applicable laws, executive orders, and regulations followed by the Department of Defense.

(b) PLAN FOR COMMERCIALIZATION ENHANCEMENT.—(1) Not later than one year after the date on which funds are first appropriated to conduct the Initiative, the Secretary of Energy shall transmit to the committees of Congress named in paragraph (2) a plan for the transfer of semiconductor technology and information generated by the Initiative.

(2) The committees of Congress referred to in paragraph (1) are the Committees on Armed Services of the Senate and House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Science and Technology of the House of Representatives.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 201. REVISIONS OF STOCKPILE GOALS

Section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)) is amended—

(1) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "Subject to subsections (c) and (d), the"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) The stockpile goal for any material may be revised only as provided in paragraphs (2) and (3).

"(2) A stockpile goal may be reduced by 10 percent or less or increased only if the President has included a full explanation and justification for the reduction or increase, as the case may be, in the annual material plan submitted to Congress under section 11(b) for the fiscal year in which the goal is to be so reduced or increased.

"(3) A stockpile goal may be reduced by more than 10 percent (or eliminated) only if the President has included a full explanation and justification for the reduction (or elimination) in the annual material plan submitted to Congress under section 11(b) for the fiscal year in which the goal is to be so reduced (or eliminated) and the reduction (or elimination) has been expressly approved by law.

"(4) For the purposes of this subsection, the term 'stockpile goal' means, with respect to any material, the goal for the quantity of that material to be stockpiled as in effect on October 1, 1984, and as may be subsequently revised in accordance with this subsection.

"(d) The quantity of any material in the stockpile may be increased at any time if the President determines the increase is required in the interest of national security. The authority of the President under this subsection may not be delegated except in time of national emergency declared by Congress or the President or in time of war.".

SEC. 202. DEADLINE FOR ANNUAL REPORT

Section 11(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98-2(b)) is amended by striking out "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year," and inserting in lieu thereof "not later than February 15 of each year".

TITLE III—CIVIL DEFENSE

SEC. 301. AUTHORIZATION OF APPROPRIATIONS FOR CIVIL DEFENSE FUNCTIONS

There is hereby authorized to be appropriated for the fiscal year ending September 30, 1988, to carry out the provisions of the Federal Civil Defense Act of 1950, the sum of $134,806,000.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MONTGOMERY moves to strike out all after the enacting clause of the Senate bill, S. 865, and to insert in lieu thereof the following:

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 101. SHORT TITLE.

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 111. OPERATING EXPENSES.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,523,225,000 for fiscal year 1988, to be allocated as follows:

(A) For research and development, $769,019,000.

(B) For weapons testing, $396,550,000.

(C) For production and surveillance, $1,893,830,000.

(D) For nuclear directed energy weapons research, development, and testing, $240,000,000.

(E) For the defense inertial confinement fusion program, $149,000,000.

(F) For program direction, $74,826,000.

(2) For defense nuclear materials production, $1,424,521,000 to be allocated as follows:

(A) For uranium enrichment for naval reactors, $141,500,000.

(B) For other uranium enrichment, $11,500,000.

(C) For production reactor operations, $540,035,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $485,700,000, of which $80,000,000 shall be used for special isotope separation.

(E) For supporting services, $221,747,000.

(F) For program direction, $24,039,000.

(3) For environmental restoration and management of defense waste and transportation, $578,519,000, to be allocated as follows:

(A) For environmental restoration, $97,798,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $411,597,000.

(C) For waste research and development, $51,082,000.

(D) For hazardous waste process planning, $7,112,000.

(E) For transportation management, $8,400,000.

(F) For program direction, $2,530,000.

(4) For verification and control technology, $128,290,000 for fiscal year 1988, of which $102,975,000 shall be used for detection technology, to be allocated as follows:

(A) $10,800,000 for on-site monitoring, of which $3,500,000 shall be allocated for CORRTEX hydrodynamic yield estimation technology training and equipment, $3,500,000 shall be allocated to improve the accuracy at low thresholds of nuclear test yield estimation using the CORRTEX hydrodynamic yield estimation technology, and $1,000,000 shall be used to support a program to develop seismic, gravity, and electromagnetic methods for on-site monitoring of suspected clandestine nuclear test sites.

(B) $47,000,000 for satellite instrumentation, of which $3,000,000 shall be allocated for a nuclear test monitoring payload for the Boost Surveillance and Tracking System, and $9,000,000 be allocated for multiyear procurement of nuclear detection payloads for the Defense Support Program satellite.

(C) $18,300,000 for seismic monitoring, of which $9,000,000 shall be used for development and fabrication of a Deployable Seismic Verification System.

(D) $2,000,000 for debris and effluent monitoring.

(E) $8,000,000 for other technical means of verification, of which $1,000,000 shall be allocated for a study evaluating the efficiency of an integrated comprehensive or low-threshold nuclear test ban verification system consisting of seismic monitoring systems, satellite monitoring systems and on-site inspections, and $4,000,000 shall be allocated for the development of alternative and confirming nonseismic means of verifying nuclear testing limitations, including infrasound research, improved data processing capabilities, and extremely low frequency monitoring technologies.

(F) $3,900,000 for directed energy verification.

(G) $12,975,000 for advanced concepts and technology development, of which $4,000,000 shall be allocated for research and development of technologies to support monitoring of a negotiated agreement to dismantle nuclear warheads and monitoring of a negotiated agreement halting the production of plutonium and uranium for nuclear weapons.

(5) For nuclear materials safeguards and security technology development program, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 112. PLANT AND CAPITAL EQUIPMENT.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $24,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project-D-103, seismic upgrade, Building 111, Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $26,500,000.

Project 88-D-122, facilities capability assurance program, various locations, $15,400,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $29,400,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health upgrade, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $76,929,000.

(2) For materials production:

New production reactor, location to be determined, $20,000,000.

Project 88-D-146, general plant projects, various locations, $31,230,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $35,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $55,160,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 84-D-135, process facility modifications, Richland, Washington, $10,000,000.

Project 83-D-148, non-radioactive hazardous waste management, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $10,600,000.

(3) For defense waste and transportation management:

Project 88-D-171, general plant projects, various locations, $20,436,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $7,500,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $742,000.

Project 85-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $4,800,000.

Project 88-N-102, expanded core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $266,230,000, of which $17,000,000 shall be allocated for nuclear directed energy weapons and $10,000,000 shall be allocated for the defense inertial confinement fusion program.

(B) For materials production, $91,285,000.

(C) For defense waste and transportation management, $43,687,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $45,000,000.

SEC. 113. FUNDING LIMITATIONS.

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not less than $159,000,000 shall be used for the defense inertial confinement fusion program.

(c) REPROGRAMMING PROHIBITION.—No amount appropriated to the Department of Energy for fiscal year 1988 for operating expenses for verification and control technology may be used for any other program.

PART B—RECURRING GENERAL PROVISIONS

SEC. 121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3012 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN.

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for operating expenses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 128. ADJUSTMENTS FOR PAY INCREASES.

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 131. ALLOWABLE COSTS TO INCLUDE CERTAIN INFORMATION PROVIDED TO CONGRESS AND STATE LEGISLATURES.

(a) ALLOWABLE COSTS.—Section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 42 U.S.C. 7256a(b)), is amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

"(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

"(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.".

(b) EFFECTIVE DATE.—Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) shall be prescribed not later than 90 days after the date of the enactment of this Act. Such regulations shall apply as if included in the original regulations prescribed under such section.

SEC. 132. LIVERMORE NATIONAL LABORATORY.

(a) REDESIGNATION.—The Ernest Orlando Lawrence Livermore National Laboratory facilities at Livermore, California, which were so named by section 212(d)(2) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164; 93 Stat. 1265), shall be known hereafter as the "Livermore National Laboratory". Any reference in any law, regulation, map, document, or record of the United States to such facilities shall be deemed hereafter to be a reference to the Livermore National Laboratory.

(b) REPEAL.—Section 212(d)(2) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164; 93 Stat. 1265) is hereby repealed.

SEC. 133. MODERNIZATION OF NUCLEAR WEAPONS COMPLEX.

(a) STUDY.—The President shall conduct a study, in consultation with experts in both the Federal Government and the private sector, on the nuclear weapons complex for the purpose of determining the overall size and productive capacity necessary to support national security objectives.

(b) PLAN.—The President shall formulate a plan, based on the study conducted under subsection (a), to modernize the nuclear weapons complex by achieving the necessary size and capacity determined under the study. Such plan shall include—

(1) actions necessary to ensure operation of facilities in the nuclear weapons complex in a safe and environmentally acceptable manner;

(2) a schedule for implementation of the plan; and

(3) the estimated costs of implementation of the plan.

(c) REPORT.—The President shall submit a report to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives containing recommendations resulting from the study required by subsection (a) and a description of the plan required by subsection (b). The report shall be submitted by February 15, 1988.

(d) NUCLEAR WEAPONS COMPLEX DEFINITION.—In this section, the term "nuclear weapons complex" includes facilities for nuclear weapons research, development, and testing, nuclear materials production, nuclear weapons components manufacture, and assembly of nuclear weapons.

SEC. 134. NUCLEAR WEAPONS COUNCIL AMENDMENTS.

(a) UNDER SECRETARY OF DEFENSE FOR ACQUISITION TO BE CHAIRMAN.—Section 179(a) of title 10, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Under Secretary of Defense for Acquisition.".

(b) ASSISTANT TO SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"There is an Assistant to the Secretary of Defense for Atomic Energy, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(3) Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy".

SEC. 135. NUCLEAR TESTING LIMITATION.

(a) LIMITATION.—Effective 90 days after the date of the enactment of this Act, funds appropriated for fiscal year 1988 may not be obligated or expended to carry out a nuclear explosion with a yield exceeding one kiloton, or a nuclear explosion that is conducted outside a designated test area, unless the President certifies to Congress—

(1) that the Soviet Union, after the end of the 90-day period beginning on the date of the enactment of this Act, has carried out a nuclear explosion with a yield exceeding one kiloton;

(2) that the Soviet Union, after the end of such 90-day period, has carried out a nucle-

ar explosion outside a designated test area; or

(3) that the Soviet Union has refused to accept and implement reciprocal in-country monitoring arrangements to take effect not later than the last day of such 90-day period and extend through the remainder of fiscal year 1988.

(b) TERMINATION FOR CERTAIN NEW AGREEMENTS.—The limitation on nuclear explosions in subsection (a) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union establishing significant limits on nuclear explosions by such countries that is negotiated after the date of the enactment of this Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "in-country reciprocal monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through the emplacement by each country of seismic monitoring stations on the national territory of the other so that the seismic monitoring network of each nation will be capable of detecting and identifying nuclear explosions with a yield exceeding one kiloton at known nuclear weapons test sites of the other nation and at any other site of the other nation that currently has the capability to accommodate decoupled nuclear explosions with a yield exceeding one kiloton.

(2) The term "designated test area" means an area within the Soviet Union or the United States which—

(A) is known to be composed of strong-coupling rock; and

(B) is located within the boundaries of a single existing nuclear weapons testing site in such country.

SEC. 136. ANNUAL REPORT ON SAFETY OF THE NUCLEAR WEAPONS COMPLEX.

(a) REQUIREMENT FOR ANNUAL REPORT.—(1) The Secretary of Energy shall request the National Academy of Sciences to submit an annual report on the status of the nuclear weapons complex. Each such report shall include—

(A) an evaluation of the safety of current facilities and steps that are required to assure the continued safe operation of such facilities;

(B) an evaluation of the environmental impact of the operation of those facilities;

(C) an estimation of the approximate maximum production capability for each nuclear reactor of the Department of Energy consistent with safe operation;

(D) the approximate date on which a replacement will be required for each such reactor; and

(E) findings and recommendations.

(2) The report shall be submitted concurrently to Congress and the Secretary not later than February 1 of each year, beginning with February 1, 1988.

(b) REVIEW AND COMMENT BY SECRETARY.—(1) The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

(A) the Secretary's comments on such findings and recommendations; and

(B) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

(2) The Secretary shall submit the report required by paragraph (1) no later than 30 days after receipt of the report required by subsection (a).

SEC. 137. REQUIREMENTS TO ENSURE SAFE OPERATION OF N REACTOR.

(a) REPORT BY NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to submit by October 1, 1987, a report summarizing its findings, conclusions, and recommendations relating to the safety of operation of the N Reactor at the Hanford Reservation, Washington (hereafter in this section referred to as the "N Reactor"). Such report shall be prepared from the Academy's current assessment of safety and technical issues at Department of Energy class A reactors being conducted pursuant to section 3136 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (division C of Public Law 99-661; 100 Stat. 4064). The report may include a review of the reports and recommendations of the so-called Roddis panel and shall be in addition to any other report submitted by the Academy on the N Reactor to the Department of Energy. The report shall be submitted to—

(1) the Secretary of Energy; and

(2) the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(b) RESTRICTION ON OPERATION OF N REACTOR.—The Secretary of Energy—

(1) may not operate the N Reactor before November 1, 1987; and

(2) may not operate the N Reactor until the Secretary submits to the Committees specified in subsection (a) a certification that the N Reactor is safe to operate.

(c) EFFECT ON ENVIRONMENTAL IMPACT STATEMENT.—No requirement or restriction in this section (including the delay in operation of the N Reactor until at least October 31, 1987) shall affect or be considered in the application or interpretation of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) to the N Reactor.

(d) OPERATION DEFINED.—For purposes of this section, the term "operation" with respect to the N Reactor means any activity carried out for the purpose of producing special nuclear materials by achieving a state of criticality.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 201. SHORT TITLE.

This title may be cited as the "Strategic and Critical Materials Stock Piling Amendments of 1987".

SEC. 202. STOCKPILE REQUIREMENTS.

(a) PURPOSE OF STOCKPILE.—Section 2 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a) is amended by adding at the end the following new subsection:

"(c) It is the intent of Congress—

"(1) that the National Defense Stockpile be used to serve the interest of national defense only and not be used for economic or budgetary purposes; and

"(2) that the quantities of materials stockpiled under this Act should be sufficient to sustain the United States for a period of not less than three years during a war emergency situation that would necessitate total mobilization of the economy of the United States for a conventional global war of indefinite duration.".

(b) ESTABLISHMENT OF STOCKPILE REQUIREMENTS BY LAW.—Section 3 of such Act (50 U.S.C. 98b) is amended to read as follows:

"ESTABLISHMENT BY LAW OF STOCKPILE REQUIREMENTS

"SEC. 3. (a) The materials that are strategic and critical materials for the purposes of this Act, and the quality and quantity of each such material to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored, shall be established by law.

"(b) Such materials when acquired, together with the other materials described in section 4, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the 'stockpile').

"(c) Determinations under subsection (a) shall be known as 'stockpile requirements'.".

(c) INITIAL LEVEL OF STOCKPILE REQUIREMENTS.—The determinations in effect as of October 1, 1984, under section 3(a) of the Strategic and Critical Materials Stock Piling Act shall be the stockpile requirements for the purposes of such section, as amended by this Act, until otherwise provided by law.

SEC. 203. TRANSFER OF CERTAIN STOCKPILE FUNCTIONS TO THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—Sections 5, 6, 6A, 10, and 11 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d, 98e, 98e-1, 98h-1, 98h-2) are amended by striking out "President" each place it appears and inserting in lieu thereof "Secretary".

(b) DEFINITION OF SECRETARY.—Section 12 of such Act (50 U.S.C. 98h-3) is amended by adding at the end the following new paragraph:

"(3) The term 'Secretary' means the Secretary of Defense.".

SEC. 204. ANNUAL RECOMMENDATION OF STOCKPILE REQUIREMENTS BY SECRETARY OF DEFENSE.

The Strategic and Critical Materials Stock Piling Act is amended by adding at the end the following new section:

"ANNUAL REPORT ON STOCKPILE REQUIREMENTS

"SEC. 14. (a) IN GENERAL.—In order to assist Congress in determining stockpile requirements under section 3, the Secretary shall submit to Congress an annual report on stockpile requirements. Each such report shall be submitted with the annual report submitted under section 11(b) and shall include—

"(1) the Secretary's recommendations with respect to stockpile requirements; and

"(2) the matters required under subsection (b).

"(b) NATIONAL EMERGENCY PLANNING ASSUMPTIONS.—Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary, based upon total mobilization of the economy of the United States for a conventional global war for a period of not less than three years. Assumptions to be set forth include assumptions relating to each of the following:

"(1) Length and intensity of the assumed emergency.

"(2) The military force structure to be mobilized.

"(3) Losses from enemy action.

"(4) Military, industrial, and essential civilian requirements to support the national emergency.

"(5) Budget authority to meet the total mobilization, military, industrial, and essential civilian requirements.

"(6) The availability of supplies of strategic and critical materials from foreign sources, taking into consideration possible shipping losses.

"(7) Domestic production of strategic and critical materials.

"(8) Civilian austerity measures.".

SEC. 205. STOCKPILE MANAGEMENT.

The Strategic and Critical Materials Stock Piling Act is amended by adding after section 14 (as added by section 3204) the following new sections:

"INTERAGENCY AGREEMENTS

"SEC. 15. (a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an interagency agreement with the head of any other department or agency for the performance of functions of the Secretary relating to section 6.

"(b) REIMBURSEMENT.—The Secretary shall reimburse the head of any such agency for expenses incurred by that agency in the administration of functions relating to the stockpile assigned to that agency by the Secretary under such an interagency agreement.

"APPROPRIATIONS TO BE MADE TO DEPARTMENT OF DEFENSE

"SEC. 16. Appropriations for the operation and management of the stockpile and for deposit to the National Defense Stockpile Transaction Fund shall be made as part of appropriations made to the Department of Defense for the military functions of the Department.".

SEC. 206. USES OF STOCKPILE TRANSACTION FUND.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended by striking out subparagraph (F).

TITLE III—CIVIL DEFENSE

SEC. 301. AUTHORIZATION OF APPROPRIATION.

There is hereby authorized to be appropriated $134,806,000 for fiscal year 1988 for the purpose of carrying out the Federal Civil Defense Act of 1950.

SEC. 302. PROHIBITION.

Notwithstanding any other provision of law, funds available to the Federal Emergency Management Agency for fiscal years 1987 and 1988 for obligation and expenditure under the Federal Civil Defense Act of 1950 may not be withheld or withdrawn at any time (before, on, or after the date of the enactment of this Act) during such fiscal years from any State or any other entity on the basis of such State or other entity's failure to participate, or determination not to participate, in a simulated nuclear attack exercise.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

Mr. SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to authorize appropriations for fiscal year 1988 for defense activities of the Department of Energy, and for other purposes."

A motion to reconsider was laid on the table.

□ 1215

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1988 AND 1989

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 866) to authorize certain construction at military installations for fiscal years 1988 and 1989, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Military Construction Authorization Act, 1988 and 1989".

TITLE I—ARMY

PART A—FISCAL YEAR 1988

SEC. 101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $49,790,000.
Fort Campbell, Kentucky, $12,410,000.
Fort Carson, Colorado, $2,050,000.
Fort Devens, Massachusetts, $1,840,000.
Fort Greely, Alaska, $6,400,000.
Fort Hood, Texas, $11,500,000.
Fort Hunter, Liggett, California, $1,000,000.
Fort Irwin, California, $4,450,000.
Fort Lewis, Washington, $960,000.
Fort McCoy, Wisconsin, $720,000.
Fort Ord, California, $6,890,000.
Fort Pickett, Virginia, $390,000.
Fort Polk, Louisiana, $490,000.
Fort Riley, Kansas, $4,850,000.
Fort Sam Houston, Texas, $3,300,000.
Fort Stewart, Georgia, $13,570,000.
Fort Wainwright, Alaska, $69,970,000.
Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.
Hawaii, Various, $12,300,000.
Schofield Barracks, Hawaii, $33,900,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $15,610,000.
Fort Benjamin Harrison, Indiana, $6,900,000.
Fort Benning, Georgia, $11,700,000.
Fort Bliss, Texas, $1,240,000.
Fort Dix, New Jersey, $1,650,000.
Fort Hamilton, New York, $960,000.
Fort Knox, Kentucky, $3,400,000.
Fort Lee, Virginia, $14,350,000.
Fort Leonard Wood, Missouri, $4,600,000.
Fort McClellan, Alabama, $4,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $1,460,000.
Anniston Army Depot, Alabama, $2,100,000.
Army Materials Technology Laboratory, Watertown, Massachusetts, $15,000,000.
Corpus Christi Army Depot, Texas, $2,950,000.
Dugway Proving Ground, Utah, $9,200,000.
Fort Wingate, New Mexico, $370,000.
Hawthorne Army Ammunition Plant, Nevada, $6,500,000.
Letterkenny Army Depot, Pennsylvania, $2,000,000.
Lexington-Blue Grass Depot Activity, Kentucky, $570,000.
Navajo Depot Activity, Arizona, $4,000,000.
Pine Bluff Arsenal, Arkansas, $2,000,000.
Pueblo Depot Activity, Colorado, $620,000.
Red River Army Depot, Texas, $7,950,000.
Redstone Arsenal, Alabama, $21,000,000.
Seneca Army Depot, New York, $1,250,000.
Sierra Army Depot, California, $2,600,000.
Tooele Army Depot, Utah, $6,700,000.
Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $2,170,000.
Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $11,400,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $3,800,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.
Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan, Various, $11,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.
Camp Castle, Korea, $3,200,000.
Camp Hovey, Korea, $11,800,000.
Camp Howze, Korea, $4,150,000.
Camp Jackson, Korea, $4,350,000.
Camp Kyle, Korea, $2,750,000.
Camp Market, Korea, $2,200,000.
Camp Mercer, Korea, $720,000.
Camp Nimble, Korea, $2,200,000.
Camp Page, Korea, $5,900,000.
Camp Red Cloud, Korea, $8,500,000.
Korea, Various, $4,850,000.
Yongsan, Korea, $3,750,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY FORCES COMMAND, OVERSEAS

Honduras, $4,150,000.
Panama, $6,700,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.
Baumholder, Germany, $10,800,000.
Einsiedlerhof, Germany, $5,900,000.
Giessen, Germany, $7,350,000.
Grafenwoehr, Germany, $5,700,000.
Hanau, Germany, $1,300,000.
Hohenfels, Germany, $15,500,000.
Mainz, Germany, $1,100,000.
Manheim, Germany, $14,400,000.
Rheinberg, Germany, $23,350,000.
Schweinfurt, Germany, $9,500,000.
Stuttgart, Germany, $12,400,000.
Various, Germany, $19,500,000.
Vilseck, Germany, $81,750,000.
Wiesbaden, Germany, $22,450,000.
Wildflecken, Germany, $16,100,000.
Zweibruecken, Germany, $1,900,000.

SEC. 102. FAMILY HOUSING

The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Wainwright, Alaska, one hundred and fifty units, $29,000,000.

Fort Irwin, California, two hundred and twenty-five units, $24,000,000.

Fort Ord, California, two hundred and eleven units, $19,000,000.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Kwajalein, Marshall Islands, two hundred and forty-eight units, $41,000,000.

Fort Clayton, Panama, four hundred units, $21,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

SEC. 103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $141,886,000, of which $9,223,000 is available only for energy conservation projects.

SEC. 104. NEW CUMBERLAND ARMY DEPOT, PENNSYLVANIA

Section 101(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended by increasing the authorization for United States Army Materiel Command, New Cumberland Army Depot, Pennsylvania, from $88,000,000 to $90,000,000.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,676,639,000 as follows:

(1) For military construction projects inside the United States authorized by section 101(a), $438,230,000.

(2) For military construction projects outside the United States authorized by section 101(b), $390,230,000.

(3) For military construction projects inside the United States authorized by section 101 of the Military Construction Authorization Act, 1986, $32,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $128,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $414,476,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,255,183,000, of which not more than $36,734,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $143,396,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and,

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) Limitation on Total Cost of Construction Projects Authorized in Part A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4019), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) Extension of Authorization of Certain Fiscal Year 1985 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4020), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(3) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(4) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(5) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(c) Extension of Authorization of Certain Fiscal Year 1986 Projects.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Military personnel administration center in the amount of $2,650,000 at Presidio of Monterey, California.

(2) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(3) Ammunition storage in the amount of $850,000 at Amberg, Germany.

(4) Boiler plant automation in the amount of $6,000,000 at Bamberg, Germany.

(5) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(6) Military operations on urbanized terrain in the amount of $3,250,000 at Hohenfels, Germany.

(7) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(8) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(9) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(10) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(11) Upgrade multi-purpose building in the amount of $800,000 at Elefsis, Greece.

(12) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(13) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(14) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(16) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(17) Unaccompanied personnel housing complex in the amount of $2,550,000 at Yongin, Korea.

(18) Water pollution abatement in the amount of $770,000 at Army Materials and Mechanics Research Center, Massachusetts.

(19) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(20) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(21) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(22) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(23) Army Aviation Museum in the amount of $2,500,000 at Fort Rucker, Alabama.

Part B—Fiscal Year 1989

SEC. 121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects at Fort Wainwright, Alaska, in the amount of $39,700,000.

(b) Outside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Rheinberg, Germany, $5,800,000

Vilseck, Germany, $33,390,000

SEC. 122. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $145,968,000 of which $1,916,000 is available only for energy conservation projects.

SEC. 123. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,760,859,000 as follows:

(1) For military construction projects inside the United States authorized by section 121(a), $39,700,000.

(2) For military construction projects outside the United States authorized by section 121(b), $39,190,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $126,710,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $165,968,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,371,091,000, of which not more than $48,458,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $150,111,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000.

(b) Limitation on Total Cost of Construction Projects Authorized in Part B.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 123 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE II—NAVY

Part A—Fiscal Year 1988

SEC. 201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Navy may acquire real property, may carry out military construction projects, and may construct, improve, rehabilitate, and operate and maintain historic facilities in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $31,860,000.

Marine Corps Air Station, Camp Pendleton, California, $5,810,000.

Marine Corps Base, Camp Pendleton, California, $56,320,000.

Marine Corps Air Station, Cherry Point, North Carolina, $29,400,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $35,200,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia, $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $32,700,000.

Marine Corps Air Station, Yuma, Arizona, $9,280,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Weapons Center, China Lake, California, $850,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater Systems Center, New London, Connecticut, $11,230,000.

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Forces Central Command, Pearl Harbor, Hawaii, $2,260,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $42,700,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $37,000,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.

Naval Air Station, Key West, Florida, $15,580,000.

Naval Station, Lake Charles, Louisiana, $15,300,000.

Naval Amphibious Base, Little Creek, Virginia, $23,320,000.

Naval Station, Mayport, Florida, $1,480,000.

Naval Tactical Interoperability Support Activity, Detachment Six, Mayport, Florida, $500,000.

Naval Station, Mobile, Alabama, $40,700,000.

Naval Submarine Base, New London, Connecticut, $2,900,000.

Naval Station, Charleston, South Carolina, $1,400,000.

Naval Station, New York, New York, $32,900,000.

Naval Air Station, Norfolk, Virginia, $4,970,000.

Naval Air Station, Oceana, Virginia, $9,540,000.

Naval Station, Pascagoula, Mississippi, $42,100,000.

Naval Air Station, Pensacola, Florida, $28,200,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $76,200,000.

Naval Air Station, Alameda, California, $11,400,000.

Naval Submarine Base, Bangor, Washington, $5,070,000.

Naval Amphibious Base, Coronado, California, $2,760,000.

Naval Station, Everett, Washington, $30,800,000.

Naval Air Station, Lemoore, California, $2,560,000.

Naval Station, Long Beach, California, $5,120,000.

Naval Magazine, Lualualei, Hawaii, $5,310,000.

Naval Air Station, Miramar, California, $6,500,000.

Naval Air Station, North Island, California, $25,270,000.

Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.

Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.

Naval Station, Pearl Harbor, Hawaii, $430,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.

Naval Station, San Diego, California, $36,680,000.

Naval Submarine Base, San Diego, California, $8,160,000.

Naval Station, Treasure Island, San Francisco, California, $29,150,000.

Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Surface Warfare Officers School Command Detachment, Coronado, California, $4,130,000.

Naval Air Station, Corpus Christi, Texas, $1,180,000.

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.

Naval Guided Missiles School, Dam Neck, Virginia, $550,000.

Naval Training Center, Great Lakes, Illinois, $6,910,000.

Naval Air Station, Kingsville, Texas, $850,000.

Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $16,300,000.

Naval Air Station, Memphis, Tennessee, $11,220,000.

Naval Education and Training Center, Newport, Rhode Island, $3,640,000.

Naval Training Center, Orlando, Florida, $12,400,000.

Naval Technical Training Center, Pensacola, Florida, $8,170,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, California, $7,200,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Training Center, San Diego, California, $3,150,000.

Submarine Training Facility, San Diego, California, $4,630,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Oceanography Command, Bay St. Louis, Mississippi, $1,600,000.

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL INTELLIGENCE COMMAND

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Jacksonville, Florida, $4,720,000.

Navy Clothing and Textile Research Facility, Natick, Massachusetts, $1,870,000.

Naval Supply Center, Norfolk, Virginia, $7,210,000.

Naval Supply Center, Pearl Harbor, Hawaii, $4,080,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

Pacific Missile Test Center, Point Mugu, California, $650,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $10,450,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $12,570,000.

Navy Public Works Center, San Diego, California, $10,520,000.

Various Locations, Historic Properties, $6,800,000.

Various Locations, Land Acquisition, $23,800,000.

NAVAL SEA SYSTEMS COMMAND

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $8,290,000.

Naval Weapons Station, Earle, New Jersey, $41,640,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $18,170,000.

Naval Weapons Station, Seal Beach, California, $23,940,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $30,850,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $4,000,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $95,025,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $6,300,000.

Marine Corps Air Station, Futenma, Okinawa, Japan, $1,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Support Facility, Antigua, West Indies, $3,250,000.

Naval Facility, Argentia, Newfoundland, $400,000.

Naval Air Station, Bermuda, $3,150,000.

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $17,170,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $14,290,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $5,700,000.

Naval Ship Repair Facility, Guam, $13,560,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Activities, London, United Kingdom, $600,000.

Naval Support Activity, Naples, Italy, $750,000.

Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $4,970,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.

Naval Security Group Activity, Terceira Island, Azores, $700,000.

Naval Security Group Activity, Galeta Island, Panama, $1,000,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 202. FAMILY HOUSING

The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, three hundred units, $27,840,000.

Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.

Nuclear Power Training Unit, Ballston Spa, New York, one hundred units, $8,810,000.

Naval Station, New York, New York, one hundred and twenty-five units, $13,490,000.

Marine Corps Base, Camp Pendleton, California, two hundred units, $17,760,000.

Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.

Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.

Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.

Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.

Naval Station, Keflavik, Iceland, two hundred fifty units, $20,367,000.

SEC. 203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in the amount of $47,943,000.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,398,538,000 as follows:

(1) For military construction projects inside the United States authorized by section 201(a), $1,331,045,000.

(2) For military construction projects outside the United States authorized by section 201(b), $124,827,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,655,000.

(6) For advances to the Secretary of Transportation for construction of defense

access roads under section 210 of title 23, United States Code, $14,000,000.

(7) For construction, improvements, rehabilitation, and operations and maintenance of historic facilities as authorized in section 201(a), $6,800,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $202,224,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $530,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithtanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) LAMPS Mark III training building in the amount of $305,000 at the Fleet Combat Training Center, Pacific, San Diego, California.

(4) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(5) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(6) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(7) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

SEC. 206. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) PROJECTS.—In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts for which funds have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Naval Air Station, Memphis, Tennessee, Road Improvements, $1,570,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(b) FAMILY HOUSING.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

PART B—FISCAL YEAR 1989

SEC. 221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property, may carry out military construction projects, and may construct, improve, rehabilitate, and operate and maintain historic facilities in the amounts shown for each of the following installations and locations inside the United States:

CHIEF OF NAVAL OPERATIONS

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $38,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $1,690,000.

Naval Station, Ingleside, Texas, $31,850,000.

Naval Station, Lake Charles, Louisiana, $5,000,000.

Naval Station, Mobile, Alabama, $19,700,000.

Naval Station, New York, New York, $10,480,000.

Naval Station, Pascagoula, Mississippi, $25,700,000.

Naval Air Station, Pensacola, Florida, $14,320,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Everett, Washington, $86,950,000.

Naval Station, Long Beach, California, $5,460,000.

Naval Station, Treasure Island, San Francisco, California, $15,180,000.

NAVAL SEA SYSTEMS COMMAND

Naval Weapons Station, Earle, New Jersey, $30,050,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $57,730,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Guam, $2,820,000.

SEC. 222. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in the amount of $59,689,000.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,122,714,000 as follows:

(1) For military construction projects inside the United States authorized by section 221(a), $342,190,000.

(2) For military construction projects outside the United States authorized by section 221(b), $2,820,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $147,333,000.

(5) For military housing functions—

(A) for construction and acquisition of military family housing and facilities, $66,004,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $548,067,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART B.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE III—AIR FORCE

PART A—FISCAL YEAR 1988

SEC. 301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $48,900,000.

Kelly Air Force Base, Texas, $30,650,000.

McClellan Air Force Base, California, $1,400,000.

Newark Air Force Station, Ohio, $580,000.

Robins Air Force Base, Georgia, $15,500,000.

Tinker Air Force Base, Oklahoma, $2,300,000.

Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.

Brooks Air Force Base, Texas, $2,750,000.

Cape Canaveral Air Force Station, Florida, $910,000.

Edwards Air Force Base, California, $9,450,000.

Eglin Air Force Base, Florida, $23,050,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.

Columbus Air Force Base, Mississippi, $1,050,000.

Goodfellow Air Force Base, Texas, $5,500,000.

Keesler Air Force Base, Mississippi, $6,300,000.

Lackland Air Force Base, Texas, $7,500,000.

Laughlin Air Force Base, Texas, $4,072,000.

Lowry Air Force Base, Colorado, $7,050,000.

Mather Air Force Base, California, $4,800,000.

Randolph Air Force Base, Texas, $5,800,000.

Reese Air Force Base, Texas, $610,000.

Sheppard Air Force Base, Texas, $13,700,000.

Vance Air Force Base, Oklahoma, $3,190,000.

Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Maxwell Air Force Base, Alabama, $15,100,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $10,165,000.

Elmendorf Air Force Base, Alaska, $11,000,000.

Shemya Air Force Base, Alaska, $38,350,000.

Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.

Andrews Air Force Base, Maryland, $22,650,000.

Dover Air Force Base, Delaware, $5,050,000.

Kirtland Air Force Base, New Mexico, $61,400,000.

McGuire Air Force Base, New Jersey, $3,140,000.

Scott Air Force Base, Illinois, $7,080,000.

Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Station, Hawaii, $460,000.

Hickam Air Force Base, Hawaii, $900,000.

Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.

Cavalier Air Force Station, North Dakota, $3,750,000.

Clear Air Force Base, Alaska, $4,000,000.

Falcon Air Force Station, Colorado, $2,150,000.

Peterson Air Force Base, Colorado, $12,150,000.

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $800,000.

Beale Air Force Base, California, $7,180,000.

Blytheville Air Force Base, Arkansas, $600,000.

Carswell Air Force Base, Texas, $5,010,000.

Castle Air Force Base, California, $1,200,000.

Dyess Air Force Base, Texas, $3,600,000.

Ellsworth Air Force Base, South Dakota, $11,550,000.

Fairchild Air Force Base, Washington, $3,950,000.

F.E. Warren Air Force Base, Wyoming, $2,408,000.

Grand Forks Air Force Base, North Dakota, $1,600,000.

Griffiss Air Force Base, New York, $6,350,000.

Holbrook Radar Bomb Score Site, Arizona, $1,890,000.

K.I. Sawyer Air Force Base, Michigan, $3,030,000.

Loring Air Force Base, Maine, $17,480,000.

Malmstrom Air Force Base, Montana, $27,310,000.

McConnell Air Force Base, Kansas, $2,550,000.

Minot Air Force Base, North Dakota, $3,700,000.

Offutt Air Force Base, Nebraska, $10,660,000.

Vandenberg Air Force Base, California, $1,300,000.

Wilder, Idaho, $2,350,000.

Wurtsmith Air Force Base, Michigan, $13,620,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.

Base 39, $8,450,000.

Base 51, $610,000.

Base 52, $600,000.

Bergstrom Air Force Base, Texas, $9,190,000.

Cannon Air Force Base, New Mexico, $7,000,000.

Davis-Monthan Air Force Base, Arizona, $8,000,000.

England Air Force Base, Louisiana, $5,700,000.

George Air Force Base, California, $210,000.

Holloman Air Force Base, New Mexico, $7,750,000.

Indian Springs Auxiliary Air Field, Nevada, $4,400,000.

Langley Air Force Base, Virginia, $23,150,000.

Luke Air Force Base, Arizona, $3,650,000.

MacDill Air Force Base, Florida, $6,791,000.

Mountain Home Air Force Base, Idaho, $1,900,000.

Nellis Air Force Base, Nevada, $14,050,000.

Seymour-Johnson Air Force Base, North Carolina, $3,500,000.

Shaw Air Force Base, South Carolina, $4,980,000.

Tyndall Air Force Base, Florida, $1,300,000.

Various Locations, $6,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Base 75, $89,300,000.

Classified Location, $1,500,000.

(b) Outside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.

Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Base 44, $4,000,000.

Camp Humphreys, Korea, $5,550,000.

Clark Air Base, Republic of the Philippines, $16,540,000.

Diego Garcia Air Base, Indian Ocean, $18,600,000.

Kadena Air Base, Japan, $5,000,000.

Kunsan Air Base, Korea, $10,750,000.

Kwang-Ju Air Base, Korea, $900,000.

Osan Air Base, Korea, $17,440,000.

Suwon Air Base, Korea, $3,650,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $5,100,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Panama, $18,940,000.

Masirah, Oman, $3,325,000.

Seeb, Oman, $8,260,000.

Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $3,040,000.

Ankara Air Station, Turkey, $3,200,000.

Araxos Air Base, Greece, $1,800,000.

Aviano Air Base, Italy, $1,450,000.

RAF Bentwaters, United Kingdom, $11,500,000.

Bitburg Air Base, Germany, $4,690,000.

Buchel Air Base, Germany, $2,000,000.

Camp New Amsterdam, The Netherlands, $2,600,000.

RAF Chicksands, United Kingdom, $1,250,000.

Comiso Air Station, Italy, $5,810,000.

RAF Croughton, United Kingdom, $900,000.

RAF Fairford, United Kingdom, $11,550,000.

Florennes Air Base, Belgium, $9,950,000.

RAF Greenham Common, United Kingdom, $2,140,000.

Hahn Air Base, Germany, $5,770,000.

Incirlik Air Base, Turkey, $7,530,000.

RAF Lakenheath, United Kingdom, $3,620,000.

Memmingen Air Base, Germany, $2,000,000.

RAF Molesworth, United Kingdom, $450,000.

Pruem Air Station, Germany, $2,000,000.

Ramstein Air Base, Germany, $13,360,000.

San Vito Air Station, Italy, $390,000.

Sembach Air Base, Germany, $1,100,000.

Spangdahlem Air Base, Germany, $5,050,000.

RAF Upper Heyford, United Kingdom, $5,600,000.

RAF Welford, United Kingdom, $1,200,000.

Wenigerath Storage Site, Germany, $1,750,000.

RAF Wethersfield, United Kingdom, $1,300,000.

Woensdrecht Air Base, The Netherlands, $22,280,000.

Wueschheim Air Station, Germany, $5,640,000.

Zweibruecken Air Base, Germany, $2,650,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 302. FAMILY HOUSING

The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units $2,530,000.

Woensdrecht Air Base, The Netherlands, four hundred units, $35,500,000.

Clark Air Base, Philippines, three hundred units, $23,260,000.

RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

SEC. 303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $151,520,000.

(b) WAIVER OF SPACE LIMITATION FOR GENERAL OFFICER'S QUARTERS.—(1) To support the United States Central Command (USCENTCOM), the Tactical Air Command (TAC), and the United States Transportation Command, the Secretary of the Air Force may carry out family housing improvement projects to add to and alter existing family housing units and (notwithstanding section 2826(a) of title 10, United States Code) increase the net floor area of one family housing unit at Shaw Air Force Base, South Carolina, to not more than 2,600 square feet, and increase the net floor area of one family housing unit at McDill Air Force Base, Florida, and three converted family housing units at Scott Air Force Base, Illinois, to not more than 3,000 square feet.

(2) For purposes of this subsection the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,201,083,000 as follows:

(1) For military construction projects inside the United States authorized by section 301(a), $858,129,000.

(2) For military construction projects outside the United States authorized by section 301(b), $289,985,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $120,336,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $220,140,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $692,393,000 of which not more than $8,809,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,033,200 may be obligated or expended for the leasing of military family housing units in foreign countries.

SEC. 305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a Classified Location, overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, the Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODDS Site 5 in Portugal.

(8) Florennes, Belgium, Four Hundred units, $29,200,000.

(9) Ramstein Air Base, Germany, Four Hundred units, $30,000,000.

(10) Camp New Amsterdam, The Netherlands, Ninety units, $7,444,000.

SEC. 306. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) IN GENERAL.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts for which funds have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of Philippines, as follows:

(A) Aerospace systems branch, $1,050,000.

(B) Alter unaccompanied enlisted personnel housing, $1,850,000.

(C) Alter unaccompanied enlisted personnel housing, $3,150,000.

(D) Child care center, $2,000,000.

(E) COPE THUNDER operations facility, $4,650,000.

(F) Essential maintenance facility, phase II, $4,600,000.

(G) Fire station, $760,000.

(H) Petroleum operations facility, $1,600,000.

(I) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

PART B—FISCAL YEAR 1989

SEC. 321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $18,000,000.

Various Locations, $37,750,000.

STRATEGIC AIR COMMAND

Base 57, $10,345,000.

Base 61, $10,450,000.

Dyess Air Force Base, Texas, $1,410,000.

Ellsworth Air Force Base, South Dakota, $1,300,000.

Fairchild Air Force Base, Washington, $4,700,000.

Grand Forks Air Force Base, North Dakota, $16,370,000.

McConnell Air Force Base, Kansas, $3,050,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

PACIFIC AIR FORCES

Base 44, $2,450,000.

TACTICAL AIR COMMAND

Masirah, Oman, $2,850,000.

Seeb, Oman, $7,300,000.

SEC. 322. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $165,280,000.

SEC. 323. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,164,383,000 as follows:

(1) For military construction projects inside the United States authorized by section 321(a), $99,530,000.

(2) For military construction projects outside the United States authorized by section 321(b), $12,600,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $135,733,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $172,280,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $727,740,000 of which not more than $21,795,100 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $85,747,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

TITLE IV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1988

SEC. 401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Naval Station Anacostia, District of Columbia, $30,170,000.

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $1,484,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $11,100,000.

Defense Depot, Memphis, Tennessee, $11,361,000.

Defense General Supply Center, Richmond, Virginia, $22,300,000.

Defense Fuel Support Point, Mukilteo, Washington, $7,290,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.

Kings Bay, Georgia, $6,600,000.

Malmstrom Air Force Base, Montana, $16,500,000.

McGuire Air Force Base, New Jersey, $550,000.

Lackland Air Force Base, Texas, $1,350,000.

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $33,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $8,450,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.

Classified Location, $43,148,000.

DEPARTMENT OF DEFENSE SECTION 6 SCHOOLS

Hanscom Air Force Base, Massachusetts, $4,432,000.

STRATEGIC DEFENSE INITIATIVE

Falcon Air Station, Colorado, $100,000,000.

Fort Monmouth, New Jersey, $3,450,000.

White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.

RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.

Classified, $7,000,000.

Rheinberg, Germany, $2,250,000.

Iraklion Air Station, Greece, $340,000.

Naval Air Station, Sigonella, Italy, $20,000,000.

San Vito Air Station, Italy, $670,000.

Camp Lester, Japan, $1,400,000.

Misawa Air Base, Japan, $4,700,000.

Echternacht, Luxembourg, $15,500,000.

Woensdrecht, The Netherlands, $7,160,000.

Subic Bay, Republic of the Philippines, $3,500,000.

Clark Air Force Base, Republic of the Philippines, $40,000,000.

Incirlik Air Base, Turkey, $15,260,000.

RAF Fairford, United Kingdom, $7,300,000.

RAF Weathersfield, United Kingdom, $740,000.

RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitburg, Germany, $2,413,000.

Schweinfurt, Germany, $5,320,000.

Sembach, Germany, $2,930,000.

Stuttgart, Germany, $3,030,000.

Wuerzburg, Germany, $10,913,000.

San Miguel, Republic of the Philippines, $2,960,000.

Fort Buchanan, Puerto Rico, $1,200,000.

Incirlik Air Base, Turkey, $7,746,000.

NATIONAL SECURITY AGENCY

Classified, $12,000,000.

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 402. FAMILY HOUSING

The Secretary of Defense may construct or acquire four family housing units (including land acquisition) at classified locations in the total amount of $1,000,000.

SEC. 403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve existing military family housing units in an amount not to exceed $186,000.

SEC. 404. HAZARDOUS WASTE STORAGE

Section 2404(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 and using not more than $11,400,000 appropriated for fiscal year 1988, carry out military construction projects not otherwise authorized by law for the construction of hazardous waste storage facilities."

SEC. 405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $776,505,000 as follows:

(1) For military construction projects inside the United States authorized by section 401(a), $339,978,000.

(2) For military construction projects outside the United States authorized by section 401(b), $219,227,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For military construction projects at San Diego, California, authorized by section 201(a) of the Military Construction Authorization Act of 1981, $7,400,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $10,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $11,400,000.

(9) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $57,800,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $18,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN PART A.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 406. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) IN GENERAL.—In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg Air Force Base, California, in the amount of $1,900,000 for which funds have been appropriated for such project before the date of the enactment of this Act.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 407. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF A FISCAL YEAR 1985 PROJECT.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407), authorization for a Conforming Storage Facility in the amount of $1,950,000 at the Defense Property Disposal Office, Pearl Harbor Naval Shipyard, Hawaii, authorized in section 401 of that Act, and extended by section 2406 of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—(1) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 401 of that Act shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later:

(A) Conforming Storage Facility in the amount of $1,390,000 at Defense Property Disposal Office, Anchorage, Alaska.

(B) Facility Rehabilitation in the amount of $1,320,000 at Defense Property Disposal Office, Alameda, California.

(C) Conforming Storage Facility in the amount of $825,000 at Defense Property Disposal Office, Barstow, California.

(D) Conforming Storage Facility in the amount of $625,000 at Defense Property Disposal Office, Groton, Connecticut.

(E) Covered Storage in the amount of $1,020,000 at F.E. Warren Air Force Base, Cheyenne, Wyoming.

(2) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1989, or the date of enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later.

PART B—FISCAL YEAR 1989

SEC. 421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may acquire real property and may carry out military construction projects at Kirtland Air Force Base, New Mexico, in the amount of $2,550,000.

SEC. 422. IMPROVEMENTS TO MILITARY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 414(a)(10)(A), existing military family housing units in an amount not to exceed $112,000.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $169,250,000 as follows:

(1) For military construction projects inside the United States authorized by section 421(a), $2,550,000.

(2) For military construction projects at Fort Sam Houston, Texas, authorized by section 403(a) of the Military Construction Authorization Act, 1987, $23,000,000.

(3) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $59,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,100,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $112,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,488,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects Authorized in Title IV.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, or any other cost variations authorized by law, the total cost of all projects carried out under section 421 may not exceed the total amount authorized to be appropriated under paragraph (1) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

PART A—FISCAL YEAR 1988

SEC. 501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $386,000,000.

PART B—FISCAL YEAR 1989

SEC. 521. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 522 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2521, in the amount of $402,100,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1988

SEC. 601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $165,030,000; and

(B) for the Army Reserve, $88,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $68,737,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $154,116,000; and

(B) for the Air Force Reserve, $74,300,000.

PART B—FISCAL YEAR 1989

SEC. 621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities fór the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $150,100,000; and

(B) for the Army Reserve, $100,000,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $52,923,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $128,000,000; and

(B) for the Air Force Reserve, $55,900,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

PART A—FISCAL YEAR 1988

SEC. 701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) Expiration of Authorizations After Two Years.—Except as provided in subsection (b), all authorizations contained in part A of titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) Exception.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 702. EFFECTIVE DATES

Part A of titles I, II, III, IV, V, and VI shall take effect on October 1, 1987, or the date of enactment of a Military Construction Authorization Act for fiscal year 1988 and fiscal year 1989, whichever is sooner.

PART B—FISCAL YEAR 1989

SEC. 721. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) Expiration of Authorizations After Two Years.—Except as provided in subsection (b), all authorizations contained in part B of titles I, II, III, IV, V, and VI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 722. EFFECTIVE DATE

Part B of titles I, II, III, IV, V, and VI shall take effect on October 1, 1988.

TITLE VIII—GENERAL PROVISIONS

PART A—PROGRAM CHANGES

SEC. 801. GUARD AND RESERVE MINOR CONSTRUCTION

Section 2233a(b) of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

SEC. 802. CLARIFICATION REGARDING INTERCHANGE OF SUPPLIES AND REAL ESTATE

Section 2571(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "The authority to transfer supplies and real estate without compensation from one armed force to another under this section shall include supplies and real estate of an armed force that have been reported to the Administrator of General Services for disposal until such time as formal arrangements have been completed for the disposal of such services and supplies.".

SEC. 803. WAIVER OF LIMITATIONS ON LEASE

(a) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2694. Waiver of certain limitations on leases

"Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a), shall not apply to a lease, or to the renewal of an existing lease, of real property by the Department of Defense if the Secretary of Defense determines that the application of such section to such lease would interfere with an essential mission of the Department of Defense.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end:

"2694. Waiver of certain limitations on leases.".

SEC. 804. MINOR CONSTRUCTION THRESHOLD

Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "$1,000,000" in the second sentence and inserting in lieu thereof "$2,000,000"; and

(2) in subsection (b)(1), by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

SEC. 805. MOBILIZATION CONSTRUCTION AUTHORITY

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended—

(1) by redesignating sections 2809, 2810, and 2811 as sections 2810, 2811, and 2812, respectively; and

(2) by inserting after section 2808 the following new section:

"§ 2809. Construction authority during a period of mobilization

"(a) If, at any time, the President determines that there is an imminent threat to the national security and determines that the threat is of such a nature that mobilization of the armed forces may be required, the Secretary of Defense, without regard to any other provision of law, may undertake such military construction projects and may authorize the Secretaries of the military departments to undertake such military construction projects, not otherwise authorized by law, as may be necessary to support mobilization of the armed forces.

"(b) When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify the appropriate committees of Congress of that decision and of the estimated cost of the construction projects, including the cost of any real estate acquisition pertaining to those construction projects.

"(c)(1) A project carried out under this section shall be carried out with funds appropriated for military construction, including funds appropriated for family housing, that remain unobligated.

"(2) The maximum amount that the Secretary may obligate in any fiscal year under this section is $100,000,000.

"(d) The authority to initiate projects under this section on the basis of a determination referred to in subsection (a) shall terminate 180 days after the date on which the determination is made.".

(b) CONFORMING AMENDMENTS.—The table of sections of subchapter I of such chapter is amended by striking out the items relating to sections 2809, 2810, and 2811 and inserting in lieu thereof the following:

"2809. Construction authority during a period of mobilization.
"2810. Test of long-term facilities contracts.
"2811. Construction projects for environmental response actions.
"2812. Renovation of facilities.".

SEC. 806. LONG-TERM FACILITIES CONTRACTS

(a) NEW COVERAGE.—Section 2810(a)(1)(B) of title 10, United States Code, as redesignated by section 805, is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) by inserting after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) EXTENSION.—Section 2810(c) of such title, as redesignated by section 805, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 807. NO-COST ACQUISITION OF FAMILY HOUSING

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired by the Department of Defense without consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 14 days elapses after the notification is received by those committees.".

SEC. 808. FAMILY HOUSING IMPROVEMENT THRESHOLD

Section 2825 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 809. COST THRESHOLD FOR INDIVIDUAL UNITS AND MAXIMUM NUMBER OF UNITS LEASED IN FOREIGN COUNTRIES

Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "$16,800" and inserting in lieu thereof "$20,000"; and

(2) in paragraph (2), by striking out "32,000" and inserting in lieu thereof "36,000".

SEC. 810. COST THRESHOLD FOR MULTIPLE UNITS

Section 2828(f) of title 10, United States Code, is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

SEC. 811. FAMILY HOUSING LEASING WITHIN THE UNITED STATES

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "Secretary of a military department" and inserting in lieu thereof "Secretary concerned"; and

(B) by inserting "or rehabilitated to residential use" after "constructed";

(2) by adding at the end of paragraph (8) the following new subparagraph:

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph—

"(i) the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units;

"(ii) the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units;

"(iii) the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units; and

"(iv) the Secretary of Transportation, for the Coast Guard, may enter into one or more contracts under this subsection for not more than a total of 300 family housing units."; and

(3) in paragraph (9), by striking out "September 30, 1988." and inserting in lieu thereof "September 30, 1989.".

SEC. 812. COST VARIATIONS

Paragraph (1) of section 2853(a) of title 10, United States Code, is amended to read as follows:

"(1) Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the amount specified by law as the maximum amount for a minor construction project) may be increased by not more than 25 percent of the total amount appropriated for such projects by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is less, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.".

SEC. 813. FAMILY HOUSING IMPROVEMENTS

Section 2853(c) of title 10, United States Code, is amended by striking out "construction" and inserting in lieu thereof "construction, improvement,".

SEC. 814. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Secretaries of the military departments"

and inserting in lieu thereof "Secretary of a military department or the head of a Defense Agency";

(2) in subsection (a)(2), by inserting "or the head of the Defense Agency concerned" after "concerned"; and

(3) in subsection (b), by inserting "or the head of a Defense Agency" after "military department".

SEC. 815. SETTLEMENT OF CONTRACTOR CLAIMS

(a) In General.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts. The Secretary concerned may use any unobligated funds available to the Secretary for military construction or family housing construction, as the case may be, for the payment of such claims.".

(b) Conforming Amendment.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2863. Payment of contractor claims.".

SEC. 816. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a), by—

(A) inserting ", the Secretary of Transportation, with regard to the Coast Guard, or the head of a Defense Agency" after "military department"; and

(B) inserting "or rehabilitated to residential use" after "to be constructed";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by inserting "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term" after "renewed";

(4) in subsection (b)(11), by inserting ", the Secretary of Transportation, with regard to the Coast Guard, or the head of the Defense Agency concerned" after "military department concerned";

(5) by striking out subsections (f) and (g); and

(6) by redesignating subsection (h) as subsection (f).

SEC. 817. BROOKE ARMY MEDICAL CENTER

(a) Amendment to Public Law 99-661.—Section 2401(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4034), is amended by striking out "$135,000,000" in the item relating to Fort Sam Houston, Texas under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$241,000,000".

(b) Project Increase.—The limitation on the total cost of projects carried out under section 2401 of such Act shall be increased by $106,000,000.

SEC. 818. DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) In General.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) Determinations.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) Listing of Foreign Countries.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) Definitions.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

Part B—Real Property Transactions

SEC. 821. LAND EXCHANGE, HAMILTON AIR FORCE BASE, CALIFORNIA

(a) In General.—The Secretary of the Army and the Secretary of the Navy may enter into one or more agreements for the exchange of land and interest in real property with the purchaser of certain land at Hamilton Air Force Base declared, before the date of the enactment of this Act, to be excess to the needs of the United States.

(b) Conditions on Exchanges.—Exchanges of land and interests in real property under this section shall be made on condition that the United States receive land or interests in real property at least equal in value (as determined by the Secretary of the Army or the Secretary of the Navy, as the case may be) to the land and interests in real property conveyed by the United States.

(c) Legal Description and Surveys.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys that are satisfactory to the Secretary of the Army or the Secretary of the Navy, as the case may be. The cost of such surveys shall be borne by the purchaser referred to in subsection (a).

(d) Additional Terms and Conditions.—The Secretary of the Army and the Secretary of the Navy may require such additional terms and conditions under this section as each such Secretary considers appropriate to protect the interests of the United States.

SEC. 822. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA

(a) Authority to Convey.—Subject to subsection (b), the Secretary of the Navy is authorized to convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California, together with the improvements on such land.

(b) Consideration.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of land consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin, California.

(c) Payment of Excess Into Treasury.—If the fair market value of the land and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed by Orange County under subsection (b), the County shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(d) Legal Description of Lands.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of such surveys shall be borne by Orange County.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 823. LEASE OF PROPERTY, SAN DIEGO, CALIFORNIA

(a) In General.—The Secretary of the Navy is authorized to enter into a lease for approximately 175,000 square feet of dry storage and 100,000 square feet of cold storage facilities at the Port of San Diego 10th Avenue terminal, San Diego, California.

(b) Term of Lease.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, but in no event for more than 30 years.

(c) Consideration.—The Secretary shall pay no more than fair market rental for the property leased under this section and may require such terms and conditions in connection with the lease as he considers appropriate to protect the interest of the United States.

SEC. 824. LAND CONVEYANCE, FORT BENJAMIN HARRISON, INDIANA

(a) Authority To Sell.—Subject to subsections (b) through (e), the Secretary of the Army is authorized to convey to Lawrence Township, Marion County, Indiana, all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) Conditions Of Sale.—In consideration for the conveyance authorized by subsection (a), the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States.

(c) Recapture Rights.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of war or a national emergency declared by the President or Congress.

(d) Legal Description Of Lands.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) Additional Terms And Conditions.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 825. MINERAL RIGHTS AT WHITE SANDS MISSILE RANGE, NEW MEXICO

(a) Authority To Grant Interest.—The Secretary of the Army may grant to the State of New Mexico an interest in the minerals in or on the land described in subsection (d).

(b) Interest, Terms, and Conditions of Grant.—The extent of the interest granted to the State of New Mexico pursuant to subsection (a), and the other terms and conditions of such grant, shall be those prescribed by the Attorney General.

(c) Settlement of Claims.—The acceptance by the State of New Mexico of any grant of mineral rights made to such State pursuant to this section shall be in full settlement of the claims of such State against the United States as set forth in the case of *Humphries v. United States*, United States Claims Court (case number 94-79L).

(d) Description of Land.—The land referred to in subsection (a) is land located within the boundaries of the White Sands Missile Range, New Mexico, which were owned by the State of New Mexico at the time of the condemnation of such lands by the Federal Government during World War II.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions as the Secretary, in consultation with the Attorney General, considers appropriate to protect the interests of the United States.

SEC. 826. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

Subsection (e)(1) of section 840 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) for a water systems improvement project at Fort Jackson at an estimated cost of $2,300,000, and for family housing improvement projects at Fort Jackson at an estimated cost not to exceed $6,400,000.".

SEC. 827. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA

(a) In General.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) Term of Lease.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years with an option to extend for a term not to exceed 25 years.

(c) Replacement and Relocation Payments.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement by the Secretary; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) Use of Funds.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority to Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for the construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 828. LAND CONVEYANCE, CHANUTE AIR FORCE BASE, ILLINOIS

(a) Authority to Sell.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of that track of land (together with any improvements thereon) which comprises the Chapman Court Housing Annex, a housing complex near Chanute Air Force Base, Illinois, consisting of 49 acres, more or less.

(b) Conditions of Sale.—Before the Secretary enters into a contract for the sale of any or all of the property referred to in subsection (a), the prospective buyer shall be required—

(1) to carry out the following projects at Chanute Air Force Base in accordance with specifications mutually agreed upon by the Secretary and the prospective purchaser:

(A) Widen and extend Heritage Drive.

(B) Construct a new entrance gate (including a gate guardhouse) to serve as the main entrance from U.S. Route 45.

(C) Construct a visitor reception center and parking lot to serve such center.

(D) Construct new streets or alter existing streets in order to effectively reroute automobile traffic (on the Air Force Base) to and from the proposed new gate.

(c) Competitive Bid Requirement and Minimum Sale Price.—(1) The sale of any of the land referred to in subsection (a) shall be carried out under publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value, as determined by the Secretary.

(d) Report Requirements.—(1) The Secretary may not enter into any contract for the sale of any or all of the land referred to in subsection (a) unless—

(A) the Secretary has submitted to the appropriate committees of Congress a report containing the details of the contract proposed to be entered into by the Secretary under this section; and

(B) a period of 21 days has expired following the date on which the report referred to in clause (A) is received by such committees.

(2) Any report submitted under paragraph (1) shall include—

(A) a description of the price and terms of the proposed sale;

(B) a description of the procedures used in selecting a buyer for the land; and

(C) all pertinent information regarding the appropriate project selected by the Secretary.

(e) Use of Excess Funds.—If the fair market value of the property conveyed to a buyer under this section is greater than the fair market value of the facilities constructed by the buyer for the United States, as determined by the Secretary, the buyer shall pay the difference to the United States. Any such amount paid to the Secretary shall be deposited into the general fund of the Treasury.

(f) Legal Description of Land.—The exact acreage and legal description of any land conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the buyer.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 829. DISPOSITION OF REAL PROPERTY AT AIR FORCE MISSILE SITES

(a) In General.—Chapter 949 of title 10, United States Code, is amended by adding at the end the following:

"§ 9781. Disposition of real property at Air Force missile sites

"(a) In General.—(1) The Secretary of the Air Force shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

"(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Air Force that—

"(A) is not required for the needs of the Air Force and the discharge of the responsibilities of the Secretary of the Air Force, as determined by the Secretary of the Air Force;

"(B) does not exceed 25 acres;

"(C) was used by the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

"(D) is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety.

"(b) Preference for Sale to Owners of Surrounding Lands.—The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person.

"(c) Determination of Fair Market Value.—The Secretary shall determine the fair market value of the interest of the United States to be conveyed under this section.

"(d) Waiver of Requirement To Determine Whether Property is Excess or Surplus Property.—The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) before disposing of such tract shall not be applicable to the disposition of such tract under this section.

"(e) Additional Terms and Conditions.—The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States.

"(f) Legal Description of Lands.—The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Secretary. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

"(g) Other Disposition of Property.—If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with the Federal Property and Administrative Services Act of 1949.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 949 of such title is amended by adding at the end the following:

"9781. Disposition of real property at Air Force missile sites.".

SEC. 830. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) Authority To Exchange.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (and improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) Condition.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) Legal Description of Real Property.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) Report.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be entered into by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

SEC. 830A. LAND CONVEYANCE, FORT DERUSSY, HAWAII

(a) In General.—Notwithstanding any other provision of law restricting the sale, lease, rental, or other disposition of any lands which comprise a portion of Fort DeRussy, Hawaii, the Secretary of the Army may convey to the State of Hawaii or the City and County of Honolulu, Hawaii, at fair market value (as determined by the Secretary), all right, title, and interest of the United States in and not to exceed 45 acres of land (together with improvements thereon) which lie northeast of Kalia Road in Honolulu and which constitute a portion of Fort DeRussy, Hawaii.

(b) Authority of the Secretary To Acquire Other Lands and Construct Replacement Facilities.—The Secretary may acquire land in the vicinity of Honolulu, Hawaii, and design and construct on such land such facilities as may be necessary to replace those facilities on the land conveyed pursuant to subsection (a). The Secretary may also relocate activities currently located on the land conveyed pursuant to subsection (a) to the replacement facilities.

(c) Use and Disposition of Funds.—The proceeds of the sale authorized by subsection (a) shall be available without fiscal year limitation to acquire land and replacement facilities authorized to be acquired and constructed pursuant to subsection (b) and to pay associated relocation costs. Any funds which may remain after the acquisition of such land and replacement facilities and the payment of associated relocation costs shall be deposited in the Treasury as miscellaneous receipts.

(d) Legal Description and Surveys.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city and county of Honolulu.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance authorized in subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 830B. RENTAL PAYMENT COST ESCALATION

Notwithstanding the requirements of the Competition in Contracting Act, 10 U.S.C. 2304, et seq. or any other provision of law, the Service Secretaries are authorized to modify the agreements authorized by section 802 of the Military Construction Authorization Act of 1984, as amended (10 U.S.C. 2821 note) and existing on the date of enactment of this Act to reflect the amendments made by section 2713 of the National Defense Authorization Act for fiscal year 1987 (Public Law 99-661), to permit a 25-year guarantee period and to allow for cost escalation of the entire rental payment over the guarantee period.

SEC. 830C. ASBESTOS INSULATION, FAIRCHILD AIR FORCE BASE, WASHINGTON

Replace asbestos insulation in the amount of $2,050,000 at Fairchild Air Force Base, Washington.

SEC. 830D. LEASE OF PROPERTY, SAN FRANCISCO, CALIFORNIA

(a) In General.—The Secretary of the Army shall lease to the County of San Francisco the facility at the Presidio in San Francisco, California, formerly operated as a hospital by the Public Health Service, for use by such County as a facility for the care and treatment of persons with acquired immune deficiency syndrome (AIDS) or acquired immune deficiency syndrome related complex (ARC).

(b) Terms of Lease.—(1) The lease entered into with the County of San Francisco pursuant to subsection (a) shall be for a term of 10 years and shall be made without consideration to the United States. The term of the lease shall begin at such time as the

Secretary shall prescribe after the transfer referred to in subsection (d) has been completed.

(2) The Secretary may require such other terms and conditions in connection with the lease as he considers appropriate to protect the interests of the United States.

(c) Determination by Secretary of the Army; Analysis by Comptroller General.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall determine the most economically feasible manner of accomplishing the transfer of activities described in subsection (d) and report such determination, together with an estimate (and underlying analysis) of the cost of accomplishing the transfer, to the Comptroller General of the United States.

(2) Not later than 30 days after receiving such determination and estimate from the Secretary of the Army, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an analysis of such determination and estimate.

(d) Transfer of Activities.—(1) The Secretary of the Army or the Secretary of Defense, as appropriate, shall complete the transfer of the Defense Language School and any other activity being carried out at the Presidio in the facility described in subsection (a) to such other location as the Secretary determines to be appropriate. The transfer shall be made as soon as practicable after the date on which the report referred to in subsection (c)(2) is received by the committees named in such subsection or the date on which the County of San Francisco provides the certification described in subsection (e) to the Secretary of the Army, whichever is later.

(e) Certification of Financial Ability.—The Secretary of the Army shall not enter into a lease under subsection (a) or initiate any action to transfer the facilities referred to in subsection (d) until the County of San Francisco has certified to the Secretary of the Army that the County is financially prepared to assume possession of and operate the facility referred to in subsection (a) as a facility for the care and treatment of persons with AIDS or ARC.

(f) Recapture Rights.—The Secretary shall include in the terms of the lease a condition that in the event the leased facility is not used by the County of San Francisco as a facility for the care and treatment of persons with AIDS or ARC, the Secretary shall have the right of immediate reentry and the lease shall be automatically terminated.

(g) Consideration of Cooperative Use of Facility.—The Secretary of the Army, and the Administrator of Veterans' Affairs, shall immediately enter into discussions with the appropriate official of the County of San Francisco to determine the feasibility of utilizing the facility referred to in subsection (a), jointly or in conjunction with the County of San Francisco, for the care and treatment of veterans and members of the Armed Forces who have AIDS or ARC.

Part C—Miscellaneous Provisions

SEC. 831. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may expend not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1988 pursuant to an authorization contained in this division and not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1989 pursuant to an authorization contained in this division to provide planning assistance to communities located near Gulf Coast homeports proposed under the Naval Strategic Dispersal Program, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

TITLE IX—REQUIREMENT TO LEASE LANDS TO THE CITY OF BARLING, ARKANSAS

SEC. 901. BARLING, ARKANSAS LEASES

(a) In General.—The Secretary of the Army shall lease to the city of Barling, Arkansas, for the use by that city in the treatment of sewage, the following tracts of land at Fort Chaffee, Arkansas:

(1) A tract consisting of 320 acres and more particularly described as the NE ¼ and the NW ¼ of section 34, Township 8 North, Range 31 West.

(2) A tract 40 feet wide running from the northern boundary of the tract described in paragraph (1) to the Arkansas River, as may be agreed upon by the Secretary and the city of Barling.

(b) Lease Requirements.—(1) The lease shall authorize the city of Barling to construct and maintain a wastewater treatment facility on the land leased under subsection (a). Upon termination of the lease, the United States shall have all right, title, and interest in and to any improvements on the land.

(2) The lease shall be for such period, not less than 55 years, as may be agreed upon by the Secretary of the Army and the city of Barling.

(3) The lease shall require the city of Barling to pay rent for the use of the land in an amount to be agreed upon by the Secretary and the city. The amount of the rent may not exceed $1,600 per year.

SEC. 902. ALTERNATIVE OPTIONS

(a) In General.—(1) In lieu of leasing to the city of Barling the lands described in section 1(a), the Secretary may lease to the city other lands under the jurisdiction of the Secretary adjacent to existing lagoons at Fort Chaffee, Arkansas, for use by the city in the treatment of sewage.

(2) Land leased to the city pursuant to paragraph (1) shall be leased at an annual rate of not more than $5 per acre.

(3) Any lease entered into pursuant to paragraph (1) shall be subject to paragraphs (1) and (2) of section 1(b).

(b) Use of Army Sewage Treatment Facility.—The Secretary may permit the city of Barling to use the sewage treatment facilities of Fort Chaffee under an agreement which would require the city to pay a reasonable cost for the use of such facilities and any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city of Barling.

SEC. 903. ADDITIONAL PROVISIONS

(a) Legal Description of Lands.—The exact acreage and legal description of any land to be leased under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the city of Barling.

(b) Additional Terms and Conditions.—Any lease or other agreement entered into under this Act shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Montgomery moves to strike out all after the enacting clause of the Senate bill (S. 866) and to insert in lieu thereof the following:

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Construction Authorization Act, 1988".

TITLE I—ARMY

SEC. 101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $43,710,000.
Fort Campbell, $12,410,000.
Fort Carson, Colorado, $2,050,000.
Fort Devens, Massachusetts, $1,840,000.
Fort Greely, Alaska, $6,400,000.
Fort Hood, Texas, $31,500,000.
Fort Hunter Liggett, California, $1,000,000.
Fort Irwin, California, $4,450,000.
Fort Lewis, Washington, $960,000.
Fort McCoy, Wisconsin, $720,000.
Fort McPherson, Georgia, $1,400,000.
Fort Ord, California, $6,890,000.
Fort Pickett, Virginia, $390,000.
Fort Polk, Louisiana, $490,000.
Fort Riley, Kansas, $4,850,000.
Fort Sam Houston, Texas, $3,300,000.
Fort Stewart, Georgia, $12,570,000.
Fort Wainwright, Alaska, $25,100,000.
Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.
Hawaii Various, $12,300,000.
Schofield Barracks, Hawaii, $10,550,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $10,110,000.
Fort Benning, Georgia, $11,000,000.
Fort Bliss, Texas, $13,040,000.
Fort Dix, New Jersey, $7,750,000.
Fort Hamilton, New York, $960,000.
Fort Lee, Virginia, $14,350,000.
Fort Leonard Wood, Missouri, $10,000,000.
Fort McClellan, Alabama, $4,700,000.
Fort Rucker, Alabama, $5,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $7,160,000.
Anniston Army Depot, Alabama, $2,100,000.
Corpus Christi Army Depot, Texas, $2,950,000.
Dugway Proving Ground, Utah, $5,250,000.
Fort Wingate, New Mexico, $370,000.
Lake City Army Ammunition Plant, Missouri, $21,000,000.
Letterkenny Army Depot, Pennsylvania, $2,000,000.
Lexington-Blue Grass Depot Activity, Kentucky, $570,000.
Navajo Depot Activity, Arizona, $4,000,000.
Pine Bluff Arsenal, Arkansas, $2,000,000.
Pueblo Depot Activity, Colorado, $620,000.
Red River Army Depot, Texas, $7,950,000.
Redstone Arsenal, Alabama, $21,000,000.

Savanna Army Depot, Illinois, $2,550,000.

Seneca Army Depot, New York, $1,250,000.

Sierra Army Depot, California, $2,600,000.

Tooele Army Depot, Utah, $6,700,000.

Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $1,250,000.

Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $14,800,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $1,300,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.

Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan Various, $13,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.

Camp Castle, Korea, $3,200,000.

Camp Hovey, Korea, $11,800,000.

Camp Howze, Korea, $4,150,000.

Camp Jackson, Korea, $4,350,000.

Camp Kyle, Korea, $2,750,000.

Camp Mercer, Korea, $720,000.

Camp Nimble, Korea, $2,200,000.

Camp Page, Korea, $5,900,000.

Camp Red Cloud, Korea, $8,500,000.

Korea, Various, $4,850,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY SOUTH

Honduras, $4,150,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.

Baumholder, Germany, $10,800,000.

Einsiedlerhof, Germany, $5,900,000.

Giessen, Germany, $1,250,000.

Grafenwoehr, Germany, $5,700,000.

Hanau, Germany, $1,300,000.

Hohenfels, Germany, $19,250,000.

Mainz, Germany, $1,100,000.

Rheinberg, Germany, $8,650,000.

Stuttgart, Germany, $14,200,000.

Various, Germany, $19,500,000.

Vilseck, Germany, $60,400,000.

Wiesbaden, Germany, $38,900,000.

Wildflecken, Germany, $16,100,000.

Zweibruecken, Germany, $1,900,000.

SEC. 102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 104(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Irwin, California, two hundred and seventy units, $30,000,000.

Fort Ord, California, two hundred and eleven units, $19,000,000, of which not more than twenty-four units may be constructed at Fort Hunter Liggett, California.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Saint Louis Support Center, Illinois, one hundred units, $9,700,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort A.P. Hill, Virginia, twenty-five units, $2,200,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 104(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $21,900,000.

SEC. 103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve, using amounts appropriated pursuant to section 104(a)(6)(A), existing military family housing units in an amount not to exceed $100,000,000, of which $9,223,000 is available only for energy conservation projects.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Sharpe Army Depot, California, thirty units $1,300,000.

Fort McNair, District of Columbia, four units $220,000.

Fort Riley, Kansas, one hundred and twenty-eight units, $5,100,000.

Selfridge Air National Guard Base, Michigan, two hundred and ten units, $8,000,000.

Fort Leonard Wood, Missouri, fifteen units $600,000.

Fort Bliss, Texas, one hundred and forty-four units, $5,300,000.

Fort Belvoir, Virginia, one hundred and ninety-eight units, $8,800,000.

Giessen, Germany, one hundred and forty-four units, $5,152,000.

Various locations, Germany, convert unused attic space and upgrade one hundred and two units into three hundred and thirty adequate units, $24,388,000.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,508,333,000 as follows:

(1) For military construction projects inside the United States authorized by section 101(a), $400,610,000.

(2) For military construction projects outside the United States authorized by section 101(b), $335,530,000.

(3) For military construction projects inside the United States at New Cumberland Army Depot, Pennsylvania, authorized by section 101 of the Military Construction Authorization Act, 1986, $30,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $133,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $309,490,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,281,183,000, of which not more than $36,008,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $144,122,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) PLANNING ASSISTANCE.—Of the amount appropriated pursuant to subsection (a)(5), the Secretary of the Army shall use at least $250,000 for community planning assistance for communities located near the newly established Light Infantry Division Post at Ft. Drum, New York.

SEC. 105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS.

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(3) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(4) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(5) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Military personnel administration center in the amount of $2,650,000 at Presidio of Monterey, California.

(2) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(3) Ammunition storage in the amount of $850,000 at Amberg, Germany.

(4) Boiler plant automation in the amount of $6,000,000 at Bamberg, Germany.

(5) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(6) Military operations on urbanized terrain in the amount of $3,250,000 at Hohenfels, Germany.

(7) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(8) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(9) Flight simulator building in the amount of $2,900,000 at Weisbaden, Germany.

(10) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(11) Upgrade multi-purpose building in the amount of $800,000 at Elefsis, Greece.

(12) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(13) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(14) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(16) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(17) Unaccompanied personnel housing complex in the amount of $2,550,000 at Yongin, Korea.

(18) Water pollution abatement in the amount of $770,000 at Army Materials and Mechanics Research Center, Massachusetts.

(19) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(20) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(21) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(22) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(23) Museum site preparation and utilities in the amount of $2,500,000 at Fort Rucker, Alabama.

TITLE II—NAVY

SEC. 201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $38,705,000.

Marine Corps Air Station, Camp Pendleton, California, $3,350,000.

Marine Corps Base, Camp Pendleton, California, $25,410,000.

Marine Corps Air Station, Cherry Point, North Carolina, $28,500,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $24,153,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia, $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $18,420,000.

Marine Corps Air Station, Yuma, Arizona, $3,870,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Tactical Interoperability Support Activity Detachment Six, Mayport, Florida, $500,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $20,920,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $24,190,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.

Naval Air Station, Key West, Florida, $6,580,000.

Naval Station, Lake Charles, Louisiana, $2,770,000.

Naval Amphibious Base, Little Creek, Virginia, $16,720,000.

Naval Station, Mayport, Florida, $1,480,000.

Naval Station, Mobile, Alabama, $40,700,000.

Naval Submarine Base, New London, Connecticut, $5,200,000.

Naval Station, New York, New York, $16,200,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

Naval Air Station, Norfolk, Virginia, $4,970,000.

Naval Air Station, Oceana, Virginia, $4,540,000.

Naval Station, Pascagoula, Mississippi, $42,100,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $44,200,000.

Naval Air Station, Alameda, California, $11,400,000.

Trident Refit Facility, Bangor, Washington, $1,080,000.

Naval Amphibious Base, Coronado, California, $2,760,000.

Naval Station, Everett, Washington, $37,500,000.

Naval Air Station, Lemoore, California, $2,560,000.

Naval Magazine, Lualualei, Hawaii, $5,310,000.

Naval Air Station, Miramar, California, $6,500,000.

Naval Air Station, North Island, California, $25,270,000.

Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.

Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.

Naval Station, Pearl Harbor, Hawaii, $430,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.

Naval Station, San Diego, California, $36,680,000.

Naval Submarine Base, San Diego, California, $4,120,000.

Naval Station, Treasure Island, San Francisco, California, $4,430,000.

Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Corpus Christi, Texas, $1,180,000.

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.

Naval Guided Missiles School, Dam Neck, Virginia, $550,000.

Naval Training Center, Great Lakes, Illinois, $2,310,000.

Naval Air Station, Kingsville, Texas, $10,000,000.

Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $10,800,000.

Naval Air Station, Memphis, Tennessee, $11,220,000.

Naval Education and Training Center, Newport, Rhode Island, $7,480,000.

Naval Training Center, Orlando, Florida, $3,050,000.

Naval Air Station, Pensacola, Florida, $28,200,000.

Naval Technical Training Center, Pensacola, Florida, $8,170,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Norfolk, Virginia, $1,310,000.

Naval Supply Center, Pearl Harbor, Hawaii, $3,280,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $2,950,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $5,870,000.

Navy Public Works Center, San Diego, California, $5,700,000.

Navy Public Works Center, San Francisco, California, $11,700,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $1,400,000.

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $6,720,000.

Naval Weapons Station, Earle, New Jersey, $3,540,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $8,170,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $14,000,000.

Naval Weapons Station, Seal Beach, California, $15,970,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $22,880,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $86,415,000.

VARIOUS LOCATIONS

Land Acquisition, $8,091,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $4,790,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $14,120,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $1,490,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $8,460,000.

Naval Ship Repair Facility, Guam, $5,100,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Support Office, La Maddalena, Italy, $7,480,000.

Naval Activities, London, United Kingdom, $600,000.

Naval Support Activity, Naples, Italy, $25,650,000.

Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $770,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.

Naval Security Group Activity, Terceira Island, Azores, $700,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 205(a)(8)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, five hundred and eighty units, $52,840,000.

Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.

Nuclear Power Training Unit, Ballston Spa, New York, two hundred units, $15,810,000.

Naval Station, New York, New York, two hundred and fifty units, $25,490,000.

Marine Corps Base, Camp Pendleton, California, two hundred and sixty-eight units, $25,760,000.

Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.

Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.

Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.

Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.

Naval Station, Keflavik, Iceland, two hundred fifty units, $20,000,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 205(a)(8)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $6,248,000.

SEC. 203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve, using amounts appropriated pursuant to section 205(a)(8)(A), existing military family housing units in the amount of $28,943,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $14,207,800.

Navy Public Works Center, Great Lakes, Illinois, sixty units, $1,996,300.

Navy Public Works Center, Great Lakes, Illinois, five units, $164,100.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $4,725,500.

Naval Air Station, Brunswick, Maine, two hundred and twenty-four units, $8,130,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty-two units, $2,251,700.

Naval Security Group Activity, Winter Harbor, Maine, ten units, $294,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Naval Air Engineering Center, Lakehurst, New Jersey, four units, $190,000.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $3,398,400.

Naval Weapons Station, Yorktown, Virginia, twenty units, $625,300.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

Naval Station, Roosevelt Roads, Puerto Rico, two hundred and sixteen units, $6,840,000.

SEC. 204. DEFENSE ACCESS ROADS.

The Secretary of the Navy may, using funds appropriated pursuant to section 205(a)(7), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Naval Construction Battalion Center, Huenneme, California, $800,000.

Naval Air Station, Moffett Field, California, $400,000.

Naval Station, San Diego, California, $350,000.

Naval Station, Norfolk, Virginia, $1,200,000.

Naval Submarine Base, Groton, Connecticut, $1,250,000.

Naval Station, Everett, Washington, phase I, $10,000,000.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,119,390,000 as follows:

(1) For military construction projects inside the United States authorized by section 201(a), $992,244,000.

(2) For military construction projects outside the United States authorized by section 201(b), $121,147,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For military construction projects at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act, 1987, $19,500,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $148,655,000.

(7) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $14,000,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $234,857,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $543,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 206. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) PROJECTS.—(1) In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(2) Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by paragraph (1) may not exceed the total amount authorized for such projects by such paragraph.

(b) FAMILY HOUSING.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 207. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS.

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(3) Heating, Ventilation and Air Conditioning System, in the amount of $4,540,000 at the Naval Air Station, Alameda, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) LAMPS Mark III training building in the amount of $305,000 at the Fleet Combat Training Center, Pacific, San Diego, California.

(4) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(5) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(6) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(7) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

(8) Special intelligence support facility in the amount of $1,520,000 at the Marine Corps Base, Camp Pendleton, California.

(9) Combat swimmer trainer facility in the amount of $3,000,000 at the Naval Amphibious Base, Coronado, California.

(10) Communications facilities in the amount of $2,750,000 at the Naval Station, Guantanamo Bay, Cuba.

(11) Bachelor enlisted quarters in the amount of $15,300,000 at the Naval Station, Long Beach, California.

(12) Seabee material transit facility in the amount of $6,960,000 at the Naval Construction Battalion Center, Port Hueneme, California.

SEC. 208. NAVAL WEAPONS STATION, EARLE, NEW JERSEY.

Section 2201(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661) is amended by striking out "Naval Weapons Station, Earle, New Jersey, $34,760,000" and inserting in lieu thereof "Naval Weapons Station, Earle, New Jersey, $54,760,000".

TITLE III—AIR FORCE

SEC. 301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $36,300,000.

Kelly Air Force Base, Texas, $19,750,000.

McClellan Air Force Base, California, $23,100,000.

Newark Air Force Base, Ohio, $580,000.

Robins Air Force Base, Georgia, $15,500,000.

Tinker Air Force Base, Oklahoma, $11,500,000.

Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.

Brooks Air Force Base, Texas, $4,100,000.

Edwards Air Force Base, California, $5,750,000.

Eglin Air Force Base, Florida, $22,150,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.

Columbus Air Force Base, Mississippi, $5,450,000.

Goodfellow Air Force Base, Texas, $5,500,000.

Keesler Air Force Base, Mississippi, $6,300,000.

Lackland Air Force Base, Texas, $13,900,000.

Laughlin Air Force Base, Texas, $1,872,000.

Mather Air Force Base, California, $7,100,000.

Randolph Air Force Base, Texas, $8,100,000.

Reese Air Force Base, Texas, $1,660,000.

Sheppard Air Force Base, Texas, $13,700,000.

Vance Air Force Base, Oklahoma, $3,190,000.

Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $8,800,000.

Maxwell Air Force Base, Alabama, $24,200,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $5,465,000.

Elmendorf Air Force Base, Alaska, $4,300,000.

Shemya Air Force Base, Alaska, $38,350,000.

Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.

Andrews Air Force Base, Maryland, $20,000,000.

Dover Air Force Base, Delaware, $2,300,000.

Kirtland Air Force Base, New Mexico, $46,000,000.

Little Rock Air Force Base, Arkansas, $5,880,000.

McGuire Air Force Base, New Jersey, $1,640,000.

Pope Air Force Base, North Carolina, $11,000,000.

Scott Air Force Base, Illinois, $7,080,000.

Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Base, Hawaii, $460,000.

Hickam Air Force Base, Hawaii, $2,450,000.

Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.

Cavalier Air Force Station, North Dakota, $3,750,000.

Clear Air Force Base, Alaska, $4,000,000.

Peterson Air Force Base, Colorado, $1,650,000.

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $2,900,000.

Beale Air Force Base, California, $2,180,000.

Blytheville Air Force Base, Arkansas, $5,900,000.

Carswell Air Force Base, Texas, $5,010,000.

Castle Air Force Base, California, $10,650,000.

Dyess Air Force Base, Texas, $1,300,000.

Ellsworth Air Force Base, South Dakota, $11,550,000.

Fairchild Air Force Base, Washington, $6,000,000.

F.E. Warren Air Force Base, Wyoming, $2,108,000.

Grand Forks Air Force Base, North Dakota, $1,600,000.

Griffiss Air Force Base, New York, $12,730,000.

Holbrook Radar Bomb Score Site, Arizona, $1,890,000.

K.I. Sawyer Air Force Base, Michigan, $840,000.

Loring Air Force Base, Maine, $3,630,000.

Malmstrom Air Force Base, Montana, $14,460,000.

McConnell Air Force Base, Kansas, $4,750,000.

Minot Air Force Base, North Dakota, $8,600,000.

Offutt Air Force Base, Nebraska, $3,950,000.

Plattsburgh Air Force Base, New York, $2,900,000.

Vandenberg Air Force Base, California, $6,200,000.

Whiteman Air Force Base, Missouri, $89,300,000.

Wilder, Idaho, $2,350,000.

Wurtsmith Air Force Base, Michigan, $10,200,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.

Base 51, $610,000.

Base 52, $600,000.

Bergstrom Air Force Base, Texas, $9,190,000.

Davis-Monthan Air Force Base, Arizona, $4,650,000.

England Air Force Base, Louisiana, $2,300,000.

George Air Force Base, California, $210,000.

Holloman Air Force Base, New Mexico, $6,400,000.

Indian Springs Auxiliary Air Field, Nevada, $4,400,000.

Langley Air Force Base, Virginia, $9,150,000.

Luke Air Force Base, Arizona, $2,800,000.

MacDill Air Force Base, Florida, $3,041,000.

Mountain Home Air Force Base, Idaho, $1,900,000.

Nellis Air Force Base, Nevada, $8,650,000.

Seymour-Johnson Air Force Base, North Carolina, $11,150,000.

Shaw Air Force Base, South Carolina, $4,980,000.

Tyndall Air Force Base, Florida, $2,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Classified Location, $1,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.

Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Camp Humphreys, Korea, $5,550,000.

Clark Air Base, Republic of the Philippines, $15,140,000.

Diego Garcia Air Base, Indian Ocean, $18,600,000.

Kadena Air Base, Japan, $12,350,000.

Kunsan Air Base, Korea, $11,000,000.

Osan Air Base, Korea, $16,640,000.

Suwon Air Base, Korea, $3,650,000.

Yokota Air Base, Japan, $2,600,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $3,600,000.

TACTICAL AIR COMMAND

Masirah, Oman, $3,325,000.

Seeb, Oman, $8,260,000.

Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $2,150,000.

Aviano Air Base, Italy, $1,450,000.

RAF Bentwaters, United Kingdom, $11,210,000.

Bitburg Air Base, Germany, $4,690,000.

Camp New Amsterdam, The Netherlands, $2,600,000.

RAF Chicksands, United Kingdom, $1,250,000.

RAF Croughton, United Kingdom, $900,000.

RAF Fairford, United Kingdom, $2,950,000.

Hahn Air Base, Germany, $7,670,000.

RAF Lakenheath, United Kingdom, $3,620,000.

Pruem Air Station, Germany, $2,000,000.

Ramstein Air Base, Germany, $3,460,000.

San Vito Air Station, Italy, $390,000.

Sembach Air Base, Germany, $1,100,000.

Spangdahlem Air Base, Germany, $5,050,000.

RAF Upper Heyford, United Kingdom, $2,400,000.

RAF Welford, United Kingdom, $1,200,000.

Wenigerath Storage Site, Germany, $1,750,000.

RAF Wethersfield, United Kingdom, $1,300,000.

RAF Woodbridge, United Kingdom, $1,650,000.

Zweibrucken Air Base, Germany, $4,500,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 305(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units, $2,530,000.

Clark Air Base, Philippines, three hundred units, $23,260,000.

RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 305(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve, using amounts appropriated pursuant to section 305(a)(6)(A), existing military family housing units in an amount not to exceed $110,000,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, twenty units, $758,000; fifty-six units, $2,710,000.

Eielson Air Force Base, Alaska, sixty-eight units, $5,504,000.

Elmendorf Air Force Base, Alaska, twelve units, $760,000; sixty-four units, $4,669,000.

Edwards Air Force Base, California, one hundred units, $4,024,000.

Lowry Air Force Base, Colorado, one unit, $74,000.

Peterson Air Force Base, Colorado, six units, $363,000.

Eglin Air Force Base, Florida, eighty-two units, $2,422,000.

Homestead Air Force Base, Florida, one hundred and fifty units, $5,287,000.

Eglin Auxiliary Airfield No. 9, Florida, one hundred and sixty-four units, $3,177,000.

MacDill Air Force Base, Florida, seven units, $556,000; one unit, $110,000.

Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.

England Air Force Base, Louisiana, one hundred and six units, $3,465,000.

Andrews Air Force Base, Maryland, five units, $325,000.

Offutt Air Force Base, Nebraska, two hundred units, $8,122,000.

Pease Air Force Base, New Hampshire, two hundred units, $7,177,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,263,000.

Holloman Air Force Base, New Mexico, one hundred and sixty-four units, $6,102,000.

Plattsburgh Air Force Base, New York, twenty-nine units, $2,800,000.

Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; one hundred and thirty-one units, $4,702,000.

Carswell Air Force Base, Texas, one hundred and thirty-six units, $7,904,000.

Kelly Air Force Base, Texas, eighteen units, $1,356,000.

Lackland Air Force Base, Texas, one unit, $46,000.

Randolph Air Force Base, Texas, five units, $400,000; eighty units, $2,619,000.

Langley Air Force Base, Virginia, seven units, $540,000; one hundred and thirty-two units, $4,039,000.

Ramstein Air Base, Germany, eight units, $536,000; nine units, $350,000; two hundred and forty units, $11,202,000; two hundred and eighty units, $16,990,000.

Kadena Air Base, Japan, eighty-two units, $4,143,000; four units, $407,000; one hundred and ninety-nine units, $12,177,000.

Yokota Air Base, Japan, ninety-five units, $5,061,000.

Torrejon Air Base, Spain, two units, $68,000.

RAF Mildenhall, United Kingdom, two units, $183,000.

SEC. 304. DEFENSE ACCESS ROADS.

The Secretary of the Air Force may, using funds appropriated pursuant to section 305(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Havre Air Force Station, Montana, in an amount not to exceed $4,100,000.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,990,423,000 as follows:

(1) For military construction projects inside the United States authorized by section 301(a), $806,909,000.

(2) For military construction projects outside the United States authorized by section 301(b), $192,365,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $124,536,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $143,120,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $703,393,000 of which not more than $8,818,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,024,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2353 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 306. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) IN GENERAL.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of Philippines, as follows:

(A) Aerospace systems branch, $1,050,000.

(B) Alter unaccompanied enlisted personnel housing, $1,850,000.

(C) Alter unaccompanied enlisted personnel housing, $3,150,000.

(D) Child care center, $2,000,000.

(E) COPE THUNDER operations facility, $4,650,000.

(F) Essential maintenance facility, phase II, $4,600,000.

(G) Fire station, $760,000.

(H) Petroleum operations facility, $1,600,000.

(I) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) LIMITATION.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by subsection (a) may not exceed the total amount authorized for such projects by such subsection.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 307. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS.

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986, (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a Classified Location, overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, The Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODDS Site 5 in Portugal.

(8) Florennes, Belgium, Four Hundred units, $29,200,000.

(9) Ramstein Air Base, Germany, Four Hundred units, $30,000,000.

(10) Camp New Amsterdam, The Netherlands, Ninety units, $7,444,000.

TITLE IV—DEFENSE AGENCIES

SEC. 401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $13,565,000.

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $805,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $9,400,000.

Defense General Supply Center, Richmond, Virginia, $3,800,000.

Defense Fuel Support Point, Mukilteo, Washington, $7,290,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.
Kings Bay, Georgia, $6,600,000.
Malmstrom Air Force Base, Montana, $16,500,000.
McGuire Air Force Base, New Jersey, $550,000.
Lackland Air Force Base, Texas, $1,350,000.
Langley Air Force Base, Virginia, $1,500,000.
Naval Air Station, Whidbey Island, Washington, $16,500,000.

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOL

Hanscom Air Force Base, Massachusetts, $4,432,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $5,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $4,950,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.
Classified Location, $43,148,000.

STRATEGIC DEFENSE INITIATIVE

Fort Monmouth, New Jersey, $3,450,000.
White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.
RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.
Classified, $7,000,000.
Rheinberg, Germany, $2,250,000.
Iraklion Air Station, Greece, $340,000.
Naples, Italy, $30,000,000.
San Vito Air Station, Italy, $670,000.
Camp Lester, Japan, $1,400,000.
Misawa Air Base, Japan, $4,700,000.
Woensdrecht, The Netherlands, $360,000.
Subic Bay, Republic of the Philippines, $3,500,000.
RAF Fairford, United Kingdom, $7,300,000.
RAF Weathersfield, United Kingdom, $740,000.
RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitberg, Germany, $2,413,000.
Schweinfurt, Germany, $5,320,000.
Sembach, Germany, $2,930,000.
Spangdahlem, Germany, $7,300,000.
Stuttgart, Germany, $3,030,000.
Wuerzburg, Germany, $3,153,000.
San Miguel, Republic of the Philippines, $2,960,000.
Fort Buchanan, Puerto Rico, $1,200,000.
RAF Bicester, United Kingdom, $5,650,000.
RAF Upwood, United Kingdom, $3,900,000.

NATIONAL SECURITY AGENCY

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 402. FAMILY HOUSING.

The Secretary of Defense may construct or acquire four family housing units (including land acquisition), using amounts appropriated pursuant to section 405(a)(9)(A), at classified locations in the total amount of $1,000,000.

SEC. 403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 405(a)(9)(A), existing military family housing units in an amount not to exceed $186,000.

SEC. 404. DEFENSE ACCESS ROADS.

The Secretary of Defense may, using funds appropriated pursuant to section 405(a)(8), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Brooke Army Medical Center, San Antonio, Texas, in an amount not to exceed $8,600,000.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $522,312,000 as follows:

(1) For military construction projects inside the United States authorized by section 401(a), $173,201,000.

(2) For military construction projects outside the United States authorized by section 401(b), $141,011,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $62,800,000.

(8) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $8,600,000.

(9) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $18,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) PROJECT.—Of the amount appropriated pursuant to the authorization in subsection (a)(7), at least $2,000,000 shall be used for the planning and design of a bridge for route 32 over the Gladys Spellman Memorial Parkway providing access to the National Security Agency.

SEC. 406. AUTHORIZATION OF PROJECTS FOR WHICH APPROPRIATIONS HAVE BEEN MADE.

(a) IN GENERAL.—In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and may carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg Air Force Base, California, in the amount of $1,900,000 which has been appropriated for such project before the date of the enactment of this Act.

(b) LIMITATION.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the project authorized by subsection (a) may not exceed the total amount authorized for such project by such subsection.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 407. EXTENSION OF PRIOR YEAR AUTHORIZATIONS.

Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later.

SEC. 408. BROOKE ARMY MEDICAL CENTER.

(a) REPORT.—The Secretary of Defense shall, not later than March 1, 1988, transmit a report to the Committees on Armed Services of the Senate and the House of Representatives containing—

(1) a cost estimate for the construction of such medical facility authorized by section 2401 of the Military Construction Authorization Act, 1987, at Brooke Army Medical Center, San Antonio, Texas, with space for 450 beds;

(2) a cost estimate for the construction of such medical facility with space for 200 beds, and an estimate of the costs likely to be incurred as a result of the transfer of services from Brooke Army Medical Center to Wilford Hall Air Force Hospital; and

(3) a cost estimate of the expansion of such medical facility from 200 to 450 beds.

(b) REPEAL.—Section 2403(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is repealed.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization infrastructure program as authorized by section 501, in the amount of $396,000,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $163,734,000, plus $602,000; and

(B) for the Army Reserve, $95,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $67,637,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $126,475,000; and

(B) for the Air Force Reserve, $67,370,000.

TITLE VII—GENERAL PROVISIONS

PART A—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

SEC. 701. EXPIRATION OF AUTHORIZATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefore) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 702. EFFECTIVE DATE.

Except as otherwise provided, the provisions of this division shall take effect on the date of the enactment of this Act.

PART B—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 711. TURN-KEY SELECTION PROCEDURES FOR DEFENSE AGENCIES.

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "The Secretaries of the military departments, with the approval of the Secretary of Defense," and inserting in lieu thereof "The Secretary concerned", and

(B) by adding at the end the following new sentence: "Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense."; and

(2) in subsection (b), by inserting after "The" the following: "Secretary of Defense, with respect to any Defense Agency, or the".

SEC. 712. LONG-TERM FACILITIES CONTRACTS.

(a) NEW COVERAGE.—Section 2809(a)(1)(B) of title 10, United States Code, is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) by adding after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) EXTENSION.—Section 2809(c) of such title is amended by striking out "1987" and inserting in lieu thereof "1988".

(c) REPORT.—Each Secretary who has entered into a contract under section 2809 of title 10, United States Code, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives by February 15, 1988, containing—

(1) the date and duration of, the other party to, and the nature of the activities carried out under each contract entered by the Secretary under such section; and

(2) recommendations, and the reasons therefor, concerning whether the authority to enter into contracts under such section should be extended.

SEC. 713. SETTLEMENT OF CONTRACTOR CLAIMS.

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts using any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2863. Payment of contractor claims.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to funds appropriated after the date of enactment of this Act.

SEC. 714. GUARD AND RESERVE MINOR CONSTRUCTION.

Section 2233a(b) of title 10, United States Code, is amended by striking "$100,000" and inserting in lieu thereof "$200,000".

SEC. 715. FAMILY HOUSING IMPROVEMENT THRESHOLD.

Section 2825(b)(1) of title 10, United States Code, is amended by striking out "$30,000" and inserting in lieu thereof "$35,000".

SEC. 716. FAMILY HOUSING LEASING.

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting after "constructed" the following: "or rehabilitated to residential use"; and

(2) by adding the following new subparagraph at the end of paragraph (8):

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph, the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units, the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units, and the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units.".

SEC. 717. FAMILY HOUSING RENTAL GUARANTEE PROGRAM.

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a)—

(A) by inserting after "constructed" the following: "or rehabilitated to residential use"; and

(B) by striking out "The Secretary of a military department," and inserting in lieu thereof "The Secretary concerned, ";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by adding before the semicolon at the end the following: "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term"; and

(4) in subsection (b)(11), by striking out "of the military department".

SEC. 718. NO-COST ACQUISITION OF FAMILY HOUSING.

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired for no consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 21 days elapses after the notification is received by those committees.".

SEC. 719. HIGH COST THRESHOLD.

Section 2828(e)(1) of title 10, United States Code, is amended by striking out "$16,800" and inserting in lieu thereof "$20,000".

SEC. 720. ENCROACHMENT ON INSTALLATIONS.

Section 2391(b)(1) of title 10, United States Code, is amended to read as follows:

"(b)(1)(A) Subject to subparagraph (B), the Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments, and regional organizations composed of State and local governments, in planning community adjustments required—

"(i) by the proposed or actual establishment, realignment, or closure of a military installation,

"(ii) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(iii) by the encroachment of a surrounding civilian community on an installation.

"(B) The Secretary may carry out subparagraph (A) only if the Secretary determines that—

"(i) the action described in clause (i) or (ii) of such subparagraph is likely to impose a significant impact on the affected community; or "(ii) in the case of action described in clause (iii) of such subparagraph, the encroachment of the surrounding civilian community is likely to impair the continued operational utility of the military installation.".

SEC. 721. MINOR CONSTRUCTION OUTSIDE THE UNITED STATES.

(a) In General.—Section 2805(c) of title 10, United States Code, is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) The authority provided in paragraph (1) may not be used with respect to any exercise-related unspecified military construction project outside the continental United States.".

(b) Additional Limitation.—Section 2805(a) of such title is amended—

(1) by striking out "Within" and inserting in lieu thereof "(1) Except as provided in paragraph (2), within"; and

(2) by adding at the end the following new paragraph:

"(2) No Secretary may use more than $5,000,000 for exercise-related unspecified minor military construction projects outside the continental United States during any fiscal year.".

Part C—Miscellaneous Provisions

SEC. 731. PILOT PROGRAM FOR MILITARY FAMILY HOUSING.

(a) In General.—(1) The Secretary of Defense shall, using funds appropriated pursuant to the authorization in subsection (f), establish and carry out a pilot program for the purpose of assisting units of general local government to increase the amount of affordable family housing available to military personnel.

(2) In establishing and carrying out such program, the Secretary shall select at least five units of general local government which are severely impacted by the presence of military bases and personnel and which meet the criteria in subsection (b).

(b) Selection Criteria.—The Secretary shall select such local governments on the basis of the following criteria:

(1) The extent, or the potential extent, of a joint civilian-military effort to increase, or prevent the decrease of, affordable housing units in the community served by the local government.

(2) The extent of willingness, or potential extent of willingness, of private corporations to contribute or loan money for the purpose of assisting in the effort described in paragraph (1).

(3) A commitment by the local government to assure that a reasonable proportion, taking into consideration the extent of Federal funding, of the housing units provided as a result of the effort described in paragraph (1) will be made available to military personnel.

(c) Types of Assistance.—In carrying out this section, the Secretary may make grants, enter into cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist units of general local government and housing and redevelopment authorities and nonprofit housing corporations authorized by such local governments.

(d) Use of Funding.—Funds made available under this section may be used for—

(1) funding a revolving housing loan fund established and administered by a government, authority, or corporation described in subsection (c);

(2) funding a housing loan guarantee fund established and administered by such a government, authority, or corporation to ensure repayment of housing loans made by a private lender;

(3) funding feasibility studies of potential housing programs;

(4) funding one-time start-up costs of housing programs;

(5) funding joint community-military technical advisory organizations; and

(6) other similar and related activities,

in order to expand the supply or prevent the loss of affordable family housing.

(e) Report.—The Secretary of Defense shall make a report to the Committee on Armed Services of the Senate and the House of Representatives no later than March 15 of 1988, 1989, 1990, and 1991 with respect to activities carried out under this section.

(f) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years 1988, 1989, and 1990, a total of not more than $1,000,000 for the purpose of carrying out this section.

(g) Termination.—The authority to provide assistance under this section shall terminate on September 30, 1990.

SEC. 732. FORT DERUSSY, HAWAII.

(a) Designation.—Congress hereby designates Fort DeRussy, Hawaii, as the primary Armed Forces Recreation Center for the Pacific. The Secretary of the Army shall administer that fort as the primary rest and recreation area for members of the Armed Forces and their families throughout the Pacific.

(b) Prohibition.—Funds appropriated or otherwise available to the Department of Defense or any other department, agency, or instrumentality of the United States may not be used in any way for the express purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land constituting Fort DeRussy, Hawaii (as constituted on the date of the enactment of this Act).

(c) Construction of Section.—Subsection (b) applies notwithstanding any other provision of law, including subsection (b) of the fiscal year 1987 Treasury-Postal section.

(d) Termination of Superseded Authority.—Any authority provided by subsections (c) and (d) of the fiscal year 1987 Treasury-Postal section shall not have any force or effect after the date of the enactment of this Act.

(e) Definition.—For purposes of this section, the term "fiscal year 1987 Treasury-Postal section" means section 509 of the Act entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes", as contained in section 101(m) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (H.J. Res. 738; Public Laws 99-500 and 99-591).

SEC. 733. RESTRICTIONS ON USE OF CERTAIN FUNDING.

(a) Nellis Air Force Base, Nevada.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 474th Tactical Fighter Wing stationed at Nellis Air Force Base, Nevada.

(b) Mather Air Force Base, California.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, in connection with (including any study made with respect to) any closure or realignment of Mather Air Force Base, California.

(c) Fort Monmouth, New Jersey.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to relocate the headquarters element and the elements of the several directorates of the Joint Tactical Command, Control, and Communications Agency at Fort Monmouth, New Jersey.

(d) Strategic Homeporting.—(1) Funds appropriated pursuant to the authorizations in section 2208 of the Military Construction Authorization Act, 1987, and in section 205 of this Act for Naval Station Everett, Washington, may not be obligated or expended for such purpose until—

(A) all Federal, State, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued, including all permits required pursuant to, or otherwise in connection with, the Federal Water Pollution Control Act; and

(B) the State of Washington has appropriated in fiscal year 1987 its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(2) The provisions of this subsection shall apply to any activity carried out after November 14, 1986.

(e) Minot Air Force Base, North Dakota.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 5th Fighter Interceptor Squadron, stationed at Minot Air Force Base, North Dakota.

(f) Air Defense Radar Stations.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish the air defense radar stations located at Calumet Air Force Station, Michigan; Port Austin Air Force Station, Michigan; Makah Air Force Station, Washington; Port Arena Air Force Station, California; and Oceana, Virginia.

(g) None of the funds available for use by the Department of Defense in fiscal years 1987 and 1988 may be used by the Department of Defense, directly or indirectly, before January 1, 1988, to take, or condemn, or close, any portion of the Port Chicago Highway which lies within the Concord Naval Weapons Station in Concord, California.

SEC. 734. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM.

(a) In General.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this Act may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(b) Exception.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 735. PENTAGON ANNEX DESIGN.

Section 2725 of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4043) is hereby repealed.

SEC. 736. COMMUNITY PLANNING ASSISTANCE.

The Secretary of Defense may use not more than $250,000 from funds appropriated to the Department of Defense for fiscal year 1988 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Everett, Washington, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

SEC. 737. PROHIBITION ON CERTAIN EXPENDITURE.

None of the funds available to the Department of Defense for any fiscal year may be expended in accordance with the directive which is under the heading "Claims, Defense" in title II of the Department of Defense Appropriations Act, 1987, in Public Laws 99-500 and 99-591, and which concerns the construction of the Norfolk Navy Steam Plant, except that payments shall be made, in accordance with such directive, for losses incurred during the period beginning on October 18, 1986, and ending at the close of the date of the enactment of this Act.

PART D—REAL PROPERTY TRANSACTIONS.

SEC. 741. LEASE OF FACILITY, SAN FRANCISCO, CALIFORNIA.

(a) IN GENERAL.—The Secretary of Defense shall enter into a lease with the City and County of San Francisco, California, which shall provide for the use, without consideration and for a 10-year period, by such City and County of the former Public Health Service facility located in the Presidio of San Francisco, California, and currently administered by the Secretary of the Army and used for a language school, storage, and other purposes.

(b) EFFECTIVE DATE.—Such lease shall be executed no later than 6 months after the date of enactment of this Act and shall provide for immediate occupancy by the City and County at the end of such 6-month period.

(c) USE OF PROPERTY.—The property is to be used by the City and County throughout the term of such lease for an AIDS treatment and research center.

(d) REVERTER.—If the City and County fails to use the facility for the purpose described in subsection (c), the Secretary of Defense shall terminate the lease and provide the facility for use by the Secretary of the Army.

SEC. 742. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 43.72 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate facilities located on such property.

(b) CONSIDERATION.—In consideration for the real property and improvements described in subsection (a), the purchasers of such property and improvements shall pay the United States—

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) SALE AND REPLACEMENT ACTIVITIES.—The Secretary may use any amount received from the purchaser as described in paragraphs (1) and (2) of subsection (b) for the purpose of carrying out this section.

(d) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) COMPETITIVE BID PROCEDURES.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 743. LAND CONVEYANCE, LAWRENCE TOWNSHIP, INDIANA.

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey to Lawrence Township, Marion County, Indiana all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) CONDITIONS OF SALE.—(1) In consideration for the sale and conveyance, the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(2) The Township shall execute and file the deed of conveyance in the appropriate registry.

(c) RECAPTURE RIGHTS.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of a national emergency or declaration of war.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 744. LAND TRANSFERS: ROCK ISLAND, ILLINOIS, AND FORT SAM HOUSTON, TEXAS.

(a) AUTHORITY TO TRANSFER.—Subject to subsections (b) through (d), the Secretary of the Army may transfer, without consideration, to the administrative jurisdiction of the Administrator of Veterans' Affairs—

(1) two parcels of real property, and improvements thereon, totaling approximately 17.17 acres, comprising a portion of the Rock Island Arsenal, Rock Island, Illinois; and

(2) a parcel of real property, and improvements thereon, totaling approximately 8.5 acres, comprising a portion of Fort Sam Houston, Texas.

(b) CONDITIONS ON CONVEYANCE.—The Administrator shall—

(1) use the real property described in subsection (a) for cemeteries which are to be part of the National Cemetery System;

(2) transfer any such real property back to the administrative jurisdiction of the Secretary of the Army, if it is not used for such a cemetery; and

(3) enter into an agreement with the Secretary to carry out the purposes of this section.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the Administrator.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 745. PROPERTY TRANSFER, BROOKLYN, NEW YORK.

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Navy the excess six story building and associated land, known as Dayton Manor, located near Fort Hamilton, Brooklyn, New York, for rehabilitation and use as military family housing.

SEC. 746. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA.

(a) TRANSFER.—Subject to subsection (b), the Secretary of the Navy may convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon, consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of real property, with improvements thereon, consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin.

(c) PAYMENT BY COUNTY.—If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property conveyed by Orange County under subsection (b), the county shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) OBLIGATIONS OF PARTIES.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 747. USE OF LAND AT FORT A.P. HILL FOR NATIONAL SCOUT JAMBOREES.

(a) IN GENERAL.—The Secretary of the Army may grant a license to the National Council of the Boy Scouts of America for the use of certain land and facilities at Fort A.P. Hill, Virginia, by the Boy Scouts of America as a permanent site for National Scout Jamborees.

(b) TERMS AND CONDITIONS.—Any land and facilities made available by the Secretary for use by the Boy Scouts of America under this section shall be made available without charge, but shall be made available subject to such other terms and conditions as the Secretary of the Army considers appropriate to protect the interests of the United States.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property and the exact facilities to be subject to a license under this section shall be determined by the Secretary of the Army. The cost of any surveys necessary to establish such legal description shall be borne by the Boy Scouts of America.

SEC. 748. TRANSFER OF LAND, JOLIET ARMY AMMUNITION PLANT, ILLINOIS.

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) and (c), the Secretary of the Army shall convey to the Administrator of Veterans' Affairs not less than 200 acres of real property, including improvements thereon, located on the Joliet Army Ammunition Plant, Illinois, and with access to State Route 53.

(b) USE OF LAND.—(1) The Administrator shall use the real property conveyed under subsection (a) for a national cemetery.

(2) A national cemetery established on such real property shall become part of the National Cemetery System and shall be administered under chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal descriptions of any property conveyed under this section shall be based on surveys which are satisfactory to the Secretary. The Administrator shall bear the cost of such surveys.

SEC. 749. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years and an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) USE OF FUNDS.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) AUTHORITY TO DEMOLISH AND CONSTRUCT FACILITIES.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for construction of new facilities on such land for the use of the Port of Oakland.

(f) REPORT.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 750. AUTHORITY TO RELEASE CERTAIN RIGHTS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Army may release, discharge, waive, and quitclaim all right, title, and interest which the United States might have by virtue of the quitclaim deed dated November 22, 1957, in approximately 46.1186 acres of real property, with improvements thereon, in Tarrant County, Texas.

(b) CONDITION.—The Secretary may carry out subsection (a) only after obtaining satisfactory assurances that the State of Texas shall obtain, in exchange for the real property referred to in subsection (a), a tract of real property—

(1) which is at least equal in value to the real property referred to in subsection (a); and

(2) which shall be, on the date on which the State obtains it, subject to the same restrictions and covenants with respect to the Federal Government as are applicable on the date of the enactment of this Act to the real property referred to in subsection (a).

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal descriptions of the real property referred to in subsection (a) shall be based upon surveys which are satisfactory to the Secretary.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER. The gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 1 hour.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

I might inform the Members, all we are doing is giving the other body the opportunity to appoint conferees on the military authorization bills.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to authorize certain construction at military installations for fiscal year 1988, and for other purposes."

A motion to reconsider was laid on the table.

WINDFALL PROFITS REPEAL

(Mr. ENGLISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGLISH. Mr. Speaker, I rise today to once again bring to the attention of my colleagues in the House the urgent need to repeal the windfall profits tax. As most of you know, this provision is contained in the Senate version of the trade bill currently pending before the House-Senate conference committee.

When this tax was first implemented 7 years ago, the intent was to capture over $227 billion in revenue by 1988. Well, we are just 3 months short of 1988, and to date this tax has generated only $77 billion which, by the way, was collected when the price of oil exceeded $30-plus per barrel. What does this tell Congress about this particular tax measure? Without question, it tells us that we must strike it from the books and allow American energy producers to explore and produce oil and gas without the harassment of over $700 million each year in associated paperwork, all of which results in little or no revenue to the Federal Government.

Mr. Speaker, this tax serves only to deter domestic energy production and, ultimately, our national energy security. I urge my colleagues who are conferees on the trade bill to carefully consider the benefits of repealing the windfall profits tax and take the appropriate steps to accomplish this urgent task.

CONGRATULATIONS TO PRESIDENT ARIAS FOR WINNING NOBEL PEACE PRIZE

(Mr. KONNYU asked and was given permission to address the House for 1 minute.

Mr. KONNYU. Mr. Speaker, 1 month ago I spent an hour with President Oscar Arias of Costa Rica. Today I join the world in congratulating him on winning the 1987 Nobel Peace Prize.

It is important to note that the joint leadership of our own Speaker, JIM WRIGHT, and our own President, Ronald Reagan, played the key role in the 1987 Central American Peace Treaty.

That is so because once Comandante Ortega of Nicaragua saw the Wright-Reagan plan, he knew he was outflanked, so rather than accept the united American plan, he was forced to sign the modified Arias plan.

It is important to note that our two leaders took risks in developing their joint peace initiative. Each man defined the conventional wisdom in his own party and went out on a limb at great political risk. Our Congress needs to apply such political courage to the several international challenges facing us; and instead of political gridlock, we can make noble efforts toward noble goals deserving of more Nobel prizes.

PRESIDENT REAGAN'S CONTRA AID POLICY UNDERMINES PEACE

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, today's events bring both inspiration and tragedy home to the American people. We are inspired by President Oscar Arias' receipt of the Nobel Peace Prize. Yet, tragically as the Nobel Committee bestows its highest honor on President Arias of Costa Rica, the Reagan administration here at home is again on Capitol Hill seeking further aid to the Contras.

Contra aid can only undermine peace. Our President is out of touch with reality in Central America.

The President's policy of aiding the Contras has been repudiated by virtually everyone outside the administration, the Congress, the nations of the region, most of the rest of the world, and by the American people.

The administration stands alone, actively undermining the efforts of a statesman who has been granted the highest honor to which a political leader can aspire—the Nobel Peace Prize. The President should demonstrate courage and foresight, reverse his course, and end our support for the Contras.

He should support the peace plan, and he should support President Arias, who has been appropriately rewarded by the Nobel Committee earlier today.

SPACE EXPLORATION VITAL TO NATION'S SECURITY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I was appalled this weekend as I picked up a copy of the Sunday Gazette Telegraph newspaper from Colorado Springs and read the headlines: "Two U.S. Firms Seek Satellite Launches on Soviet Rockets."

I was also saddened by the evidence that we have let the preeminent space plan in the world deteriorate to the point that we find ourselves relying on the Soviets to get our satellites into space. This cannot be.

Space has become too important to our Nation's security, economic well-being, and future prosperity to let our launch capabilities deteriorate to the point we now find ourselves.

If we launch a shuttle next June as we plan, we will, for all practical purposes, have been without access to space for the last 2½ years. I repeat, this cannot be.

We talked about building a space station. The Soviets already have one.

We say we need to develop rockets that will lift heavy loads into space; the Soviets are doing this right now.

We dream of a Mars mission, while the Soviets develop the technologies necessary for successful manned interplanetary flight.

While we talk, debate and ponder and bask in the glory of past achievements, the Soviets are moving ahead to conquer this latest and greatest frontier. America dare not let itself fall further behind in space.

MINNESOTA TWINS WIN AMERICAN LEAGUE PENNANT

(Mr. SIKORSKI asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, today the American League pennant flies proudly over Minnesota. Just a week ago, commentators were telling us that the Minnesota Twins' presence in the American League playoffs was a fluke, an aberration. For them to win seven games would be a surprise. To win four out of five would be stunning; but as one commentator said this morning, for a week, they forgot about destiny, faith, and the breaks of the game. When they had to win, they did.

The Twins outpitched and outhit baseball's biggest winners, and they did it with convincing conviction.

Once again, we have been shown that the underdogs can win, and they can win with style. Congratulations to the Minnesota Twins, and keep it up.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. SIKORSKI. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman, Mr. SIKORSKI, for yielding to me.

Mr. Speaker, I just want to join with the gentleman and offer my congratulations to the Minnesota Twins for a well-deserved victory in just four out of five games against the good Detroit team, winning the American League championship in a spectacular manner. The Tigers were no match for the aroused Minnesota Twins; they outhit, outran, and outplayed this fine Detroit team.

After 22 years, we look forward to the Minnesota Twins return to the World Series, which opens at the Hubert Humphrey Dome in Minnesota on Saturday. We are all very proud at home in Minnesota and beyond of this sparkling Twin performance.

This never say die, underdog baseball team is an inspiration to the Minnesotans and a credit to the American athlete and the great American game of baseball. We look forward to the opening game at the Humphrey Dome Saturday, Mr. Speaker, when we take on the National League champs for what I'm sure will prove to be one of the best World Series ever.

SOVIET DISINFORMATION

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the Soviet Union is spreading disinformation claiming that the AIDS epidemic was created by the United States as a biological weapon. It is a fact that the Soviet Union is behind this attempt to generate anti-American sentiment all over the world. Let me show you this cartoon that appeared in the Soviet newspaper Pravda. The caption underneath reads.

> The AIDS virus, a terrible disease for which up to now no known cure has been found, was, in the opinion of some Western Researchers, created in the Laboratories of the Pentagon.

The words on the flag emanating from the beaker state; Virus "AIDS." Caption below the cartoon reads; "Pentagon (AIDS) Specialists."

This progaganda campaign is very dangerous to our national security. United States ships have already been denied port calls in Costa Rica and many African nations may also follow suit.

If this is Mr. Gorbachev's idea of glasnost, the American people have had enough.

NOBEL AWARD FOR PRESIDENT ARIAS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the Noble Committee has awarded its Peace Prize for 1987 this morning to President Oscar Arias Sanchez of Costa Rica.

This is a richly deserved honor, and one for which this House should unanimously acclaim President Arias.

I spent last Saturday evening and Sunday morning in Costa Rica, discussing the peace initiative with President Arias. It is evident from that conversation, and from my discussions with leaders of Guatemala, El Salvador, and Nicaragua over the weekend, that a unique opportunity for peace is at hand.

The Arias plan does not offer a guarantee of democracy: such guarantees do not exist in the real world.

President Arias' initiative offers instead the means for moving toward regional peace, national reconciliation, and economic development which are the precursors of political stability.

The awarding of the Nobel Peace Prize provides additional momentum for that peace process. We salute President Arias and the Nobel Committee for helping that process to move forward so that we can end the killing and the instability and, in the worlds of President Arias in this Chamber last month, "give peace a chance" in Central America.

OPPOSITION TO HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION ACT

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, tomorrow the House will be considering the misnamed "High Risk Occupational Disease Notification Act." I say it's misnamed because the only high risk it involves is the high risk of an explosion of unfounded lawsuits. A better name for it would be the "Lawyers Job Opportunities Enhancement Act."

But leaving aside the problems specific to this bill, I think it is important to remember that this is the second of a series of labor bills in this Congress that, taken together, will have a devastating impact on American competitiveness.

Like the dual shop bill, mandated parental leave, plant closing restrictions, Davis-Bacon expansion, and the minimum wage hike, occupational disease notification will add to the overhead on American business and make it much more difficult for U.S. firms to compete abroad.

Virtually every industry that is involved in head-to-head international competition with the Japanese and others opposes this bill. The machine tool industry, for example—on which virtually every heavy manufacturing industry in the United States depends—has estimated that the bill will add 4 to 8 percent to the wholesale costs of its products. That's enough of a margin to cause plants to close and employees to be thrown out of work.

The issue then is not occupational disease. Existing law combined with new provisions in the Henry-Jeffords substitute are more than adequate to deal with hazards in the workplace. This issue is competitiveness.

We cannot pass the Occupational Disease Notification Act without making a mockery of all our efforts to narrow our trade deficit and preserve a dynamic, growing, competitive American economy.

TRIBUTE TO ALFRED M. LANDON

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, Kansas and the Nation mourn today the passing of the senior statesman of the Grand Old Party.

Alf Landon, the former Governor of Kansas and 1936 Republican Presidential candidate, died yesterday at his home in Topeka.

During a political career that began in the early days of this century, Alf Landon personified the best of Kansas politics.

I always admired Alf Landon's courageous independence and his commonsense approach to government. He was a statesman and a man of vision who had the courage to speak his mind and stand by his convictions.

He will be missed by all who had the privilege of knowing him.

Linda joins me in extending our heartfelt sympathies to the Landon family.

□ 1230

1990 CENSUS DATA

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, when the Office of Management and Budget proposed elimination of about 30 questions from the 1990 census questionnaire, I received many letters from professional groups, statisticians, demographers, universities, and departments of state and local governments protesting this decision. I wrote to Dr. Wendy Gramm and urged OMB to retain the questions as proposed by the Census Bureau. I'm pleased that OMB reconsidered its original position and reinstated most of the questions after the 90-day public comment period.

However, Mr. Speaker, I am still extremely concerned that vital questions dealing with cost of utilities will be eliminated. This is detrimental in determining the proportion of income spent on housing by the elderly and the poor. It will also hamper equitable ratesetting of public utilities used by the population.

Furthermore, shifting most of the housing questions from the long form to the sample form will result in diluted data because the proportion of those who will receive the sample form will be reduced. A major value of the census is that characteristics of small population subgroups, such as minority elderly, disabled veterans et cetera, can be identified. By reducing the sample size, these groups are not represented or they are so insignificantly represented that it is extremely difficult to draw generalizations and conclusions from the data.

As I wrote to Dr. Gramm, I believe that a better accounting occurs during a complete census count when thorough information is tabulated. The data is vital, and I am not convinced that a piecemeal survey would be less burdensome to the respondent or that it would reduce the paperwork. Though I received numerous letters protesting elimination of questions, I was not contacted about the census form being burdensome.

Mr. Speaker, I appreciate this opportunity to express my views and I hope that Congress will protect the coordinated data-gathering process so that the tabulated information is complete and useful for planning purposes in the Federal, State, and local level and in the private sector.

CONGRATULATIONS TO PRESIDENT ARIAS ON NOBEL PEACE PRIZE

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I want to add my voice and congratulations to the rest of the world in support of Oscar Arias' winning of the Nobel Peace Prize.

Mr. Speaker, President Arias has won the peace prize because he is a man of courage attempting to forge a peaceful solution to a violent situation. He also received the Noble Peace Prize because the Nobel committee likes to shake things up.

There is a profound message in his award of that prize that this administration must pay attention to. That message is simply that the United States Government is alone in its support of the Contras as a way of bringing democracy to Nicaragua. Now the United States administration must deal with President Arias, not only as a strong voice in a small nation attempting to forge a peaceful solution, they are now dealing with a Nobel laureate who stands before the whole world courageously saying no to the violence that has been brought to Central America; standing alone, but with the voice of millions of our world citizens who recognize that this is the path we all must follow.

ARIAS DESERVING OF NOBEL PEACE PRIZE, BUT GOAL FOR CENTRAL AMERICA STILL UNATTAINED

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, President Oscar Sanchez Arias of Coasta Rica today received the Nobel Peace Prize. This coveted prize is bestowed upon those who make extraordinary efforts to foster peace in our often-troubled world.

President Arias deserves this prize. We all applaud him for his efforts to get a peace process underway in Central America.

But Mr. Speaker, let me point out that the gold ring which we are striving for in Central America is still unattained. We do not have peace and democracy in Nicaragua.

There is still an "odd man out" among the Central American democracies. Nicaraguan President Ortega's speech at the United Nations demonstrates that the Sandinistas disdain the democratic process and seek confrontation rather than internal reconciliation.

So while we are pleased by President Arias' award, we should not lose sight of the ultimate goal—which remains unrealized at the moment—of genuine peace and democracy in Central America.

WARMEST CONGRATULATIONS TO COSTA RICA'S PRESIDENT OSCAR ARIAS ON RECEIPT OF NOBEL PEACE PRIZE

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I would like to extend my warmest congratulations to Costa Rica's President Oscar Arias on his receipt of the Nobel Peace Prize. President Arias is indeed deserving of his award. Since his election to the Presidency in 1986, Mr. Arias has devoted his skills and energy to creating a plan for peace in Central America. In that short period he has succeeded in drafting an accord that all five Presidents of the Central American Republics could agree on. His leadership in bringing these countries together under one common plan for peace has earned him a reputation as a man of great foresight and competency.

I can think of no other person today who is more deserving of this distinction. We, in this Chamber, should recognize that for the first time in many years we have a true opportunity for peace in Central America.

Let us all show President Arias the same confidence and respect that he has earned from the Nobel committee, and give his accord the chance it deserves.

PRESIDENT ARIAS HAS WON NOBEL PEACE PRIZE, BUT WE HAVE NOT WON PEACE IN CENTRAL AMERICA

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, President Arias deserves the congratulations of the membership of this House and all Americans for his winning the Nobel Peace Prize. He has won the Nobel Peace Prize, but we have not won peace in Central America.

There is for peace as we know it an insurance policy, and that is freedom, that is democracy. President Arias seeks freedom and democracy in Nicaragua as insurance for peace. We have had the experience of peace prizes won, but peace not won. We hark back to Southeast Asia when Henry Kissinger and Le Duc Tho won a global peace prize they shared for the peace accords. And what happened? We got 50 million enslaved; genocide in Cambodia; 100,000 lying at the bottom of the South China Sea as they sought to escape.

There is an effort for peace and that is peace with freedom. That is the effort for peace that is meaningful. Let us not forget it. Let us help President Arias achieve real peace in Central America, peace with freedom and democracy.

UNDER REAGAN, THE RICH GET RICHER

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, over the past 2 years, the number of billionaires has quadrupled from 14 to 49, according to a recent issue of Forbes magazine. For the wealthiest in our Nation, morning in America is more beautiful than ever.

Taxes for individuals and businesses have been cut twice; the stock market, fueled by mergers and acquisitions, has soared to record levels and real estate values continue to climb. In 1986, the New York Times reported that the richest 1 percent of Americans combined are wealthier than all but 10 percent. At the same time that the rich have experienced this enormous windfall, Reagan administration policies have slashed low income support programs and has presided over the ominous trends that have placed increasing numbers of families below the poverty level.

This is the trickle down theory in reality. The rich get richer while the rest of the country waits endlessly for the promised benefits.

America has followed this sugar-coated path before. During the 1920's taxes for businesses and the wealthy were reduced 4 times. Wealth became highly concentrated and investments became highly speculative. We all know the results—the stock market crash in 1929 and the onset of the Great Depression.

Today, there are many signs of another economic collapse, given the current policies which spur higher deficits and greater dependence on foreign investments. Even Wall Street has begun to show nervousness about the economy. Last week saw the largest drop in the Dow Jones average in the market's history. Interest rates have begun to creep up again as fears of inflation have resurfaced.

Mr. Speaker, we all should be proud of the individual success stories that are represented by many of those on the Forbes list. But there is something troubling when the cumulative wealth of this country becomes too highly concentrated in the hands of such a small group of Americans.

SAVE THE 1990 CENSUS QUESTIONNAIRE

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, in preparing for the 1990 decennial census, the Census and Population Subcommittee, which I chair, has worked closely with the Bureau of the Census as it developed the contents of the census questionnaire to be used for the 1988 dress rehearsal.

The dress rehearsal questionnaire is the prototype for the 1990 census questionnaire.

When the questionnaire was submitted for approval, OMB first recommended eliminating about 30 questions from the census. OMB's final decision, while not as far reaching as its original proposal, is nevertheless very damaging.

The decision consists of shifting 7 of the 10 housing-related questions from the 100-percent form to the sample form; eliminating 3 of the 4 energy questions; and reducing the sample sizes.

It is not necessary to be a statistician to understand the immediate impact of this decision.

Reducing the sample rate, coupled with reducing the questions on the 100-percent questionnaire, means less detailed data.

Under OMB's ruling, we will lack precise information about our population which guides policymaking and is used to administer major Federal programs.

Mr. Speaker, I urge my colleagues to pay closer attention to this issue because I believe the motive behind OMB's decision is far from what it claims to be. The adverse effect of this ruling may become the determining factor in the future of many Federal programs.

Perhaps it is too late to restore the 1988 dress rehearsal questionnaire. The final decision, however, on the 1990 decennial census is far from complete.

Let us stop OMB and save the 1990 decennial census questionnaire.

THE NEW CHAMPIONS OF THE AMERICAN LEAGUE

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, Hubert Humphrey would be proud, in fact, he would be pleased as punch the stadium that bears his name, the Hubert H. Humphrey Metrodome, is home to the new champions of the American League. For the first time in 22 years, Minnesotans can celebrate the winning ways of their own Minnesota Twins and prepare to cheer them on to victory in the World Series. It's been a long dry spell since Tony, Killer, and Carew. Now, when we're talkin' baseball in Minnesota, it's Bruno, Kirby, and Hrbek—but they're only the beginning. From Manager Tom Kelly to championship series MVP, Gary Gaetti, and those amazing pitchers—Bylyeven, Viola, Berenguer, and Reardon—all the Twins contributed to this victory. This victory built on the winning spirit developed several years ago when Carl Pohlad bought the ball club demonstrating his belief that the Twins belonged in Minnesota.

One of the signs last week in the Metrodome read: "USA—Do You Believe Now?" Well, this five-game win over the Tigers made believers out of a lot of Americans and in the days ahead, the Twins will make believers of the rest.

Last night, Pitcher Bert Blyleven appealed to Twins' fans: "Now going into the World Series, we've got 24 guys here . . . that want to do one thing. We want a World Series Championship here in Minnesota and we need your support." From Minnesota Twins' fans here in Washington and throughout the United States, we want you to know: You have our unqualified support. We're proud of you. In fact, to borrow Humphrey's phrase—we're pleased as punch.

CENSUS PROPOSAL FOR 1990

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, I rise in opposition to the proposals of the Office of Management and Budget to remove some vital questions from the 1990 census.

As we all know, the Federal census is held but once every 10 years. It plays a vital role in countless areas of our Nation's life. The data provided are critical for all areas of public planning. Local governments better understand their own communities and their needs based on the census. The private sector also finds the census invaluable for its information needs. In short, the census is an indispensible resource.

Yet it will lose its value if its quality and depth are allowed to erode.

I urge my colleagues to join this gentleman from California in opposing the OMB's effort to lessen the quality of information collected in our decennial census.

CONGRATULATIONS TO PRESIDENT OSCAR ARIAS FOR NOBEL PEACE PRIZE

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, I rise to congratulate President Oscar Arias Sanchez, who today received the Nobel Prize for Peace. President Arias richly deserves the Nobel Prize for standing for peace and democracy in Central America. He has begun to change the history of our hemisphere. He has achieved more in a few months than President Reagan has in 6 years of funding the Contras. In Costa Rica, they do not have an army, but they have had 40 years of democracy.

□ 1245

Now from the oldest and best democracy in Latin America comes the last best hope of peace in Central America. The Presidents of Central America have begun down the road to peace. We ought to be putting our shoulders to the wheel as well.

The real issue here is whether or not we are going to support that process. The Nobel Prize and President Arias say yes to peace and no to the Contras. The peace plan is working. There is a cease-fire in Nicaragua. La Prensa is publishing again. Catholic radio is on the air. President Ortega has appointed Archbishop Obando to head a Nicaraguan peace commission.

Never has there been a clearer choice between peace and pointless bloodshed, between democracy and violations of human rights, between progress and stagnation. It is time for America to get on board the peace plan. We need a better approach than one that says Contras, Contras, Contras, when the Presidents of Central America are saying peace, democracy, and reconciliation.

The future belongs to peace in Central America. The Contras belong to the past. It is morning in Central America, President Reagan, if you get on board the Arias peace plan.

THE PRESIDENT MUST INVOKE THE WAR POWERS ACT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Iran now says that they possess United States-made Stinger missiles. Iran continues to make threats against American troops. In fact, Iran continues to attack our troops in the gulf. Any American with any sense can see that our troops are in troubled hostile waters, that is, every American except the President. While he continues to play the fiddle, our troops face fire in the Persian Gulf. His excuse that the War Powers Act is unconstitutional is nothing more than a farce, absolutely a farce. If he truly believes that he should challenge that in Court, not in the press, not with rhetoric, but in the Court.

This President must invoke the War Powers Act. He is breaking the law.

Mr. Speaker, one other thing that I think is very important, I believe this President is now beginning to flirt with a disastrous day in American history.

WE MUST STAND BEHIND THE CENTRAL AMERICAN PEACE PLAN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, for saying, "Give peace a chance," President Arias of Costa Rica won the most prestigious prize of them all, the Nobel Peace Prize. Next year the Nobel Committee should consider our

Speaker, JIM WRIGHT, for a similar honor. Without JIM WRIGHT there would be no peace process.

Recently developments in Central America demonstrate an increasing willingness by the region's leadership to comply with the Central American peace plan. In Nicaragua leaders of the democratic coordination group have met with 15 opposition parties and are set to begin open ended national dialog with the Government.

La Prensa has opened.

The Catholic radio station is also scheduled to broadcast in the near future.

The Contras are releasing Sandinista prisoners.

In El Salvador President Duarte begins peace talks with the leftist rebels for the first time in 3 years.

President Duarte has stressed nonviolence as the key to the peace process.

These negotiations in the early stages are an important step toward a common goal of peace in Central America. This common goal of peace, however, is threatened by an outside policy and that is the policy of the military solution. In a direct attempt to undermine the Guatemalan accords, this administration emphasizes that it will request an additional $270 million in military aid for the Contra rebels. The administration's policy serves only to interrupt the process of peace already in motion.

Mr. Speaker, I urge my colleagues to stand behind the Central American peace plan. We cannot let this administration spoil one of the most important peace plans of our time.

UNDER REPORTING OF AIDS

(Mr. ROWLAND of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Georgia. Mr. Speaker, the underreporting of AIDS cases is an issue that I am very conerned about. Recently, I have received a letter from an AIDS victim who was infected by a blood transfusion. Although his information was not gathered scientifically, he shares his conerns about the epidemic being much worse than what is being reported.

This is a paragraph from his letter:

> Since I have joined an AIDS support group, I have become aware of the awesome number of AIDS persons, yet very few are counted in the CDC official account. Furthermore, the number of deaths is probably many times the reported number, because all the persons who have died of AIDS that I know have had their official death shown as heart failure.

This is just one person's perspective.

For many reasons I believe AIDS in underreported, and I am concerned.

ONCE AGAIN A UNILATERAL COMMITMENT TO WAR

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY of Washington. Mr. Speaker, this morning the Washington Post reported that the administration is considering expanding our role in the Persian Gulf by authorizing our military forces to protect ships of all nations, not simply those carrying the U.S. flag. As the Post report notes, such a move would effectively strip away the last vestige of United States neutrality in the 7-yar-old Iran-Iraq war and put United States forces in the troubled region on a virtually war footing with Iran.

In other words, it would mean that once again a President would be unilaterally committing the Nation to war. It may seem obvious but once again it seems to be necessary to remind the adminisration that we are a nation of laws and our basic law is the Constitution which says that Congress and only Congress shall have the power to declare war.

Another of our laws is the War Powers Act, which requires the President to consult the Congress before committing U.S. forces to situations involving hostilities or imminent hostilities. We all know, the world knows, that the U.S. forces in the Perisan Gulf are clearly already involved in the situation of hostilities or imminent hostilities as defined by the War Powers Act.

In the meantime, Mr. President, while we are waiting for you to comply with the law, to file the required report of the War Powers Act, do not commit us even further down that road to war that Congress and only Congress under the Constitution has the authority to declare.

CONGRATULATIONS TO PRESIDENT ARIAS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I join the chorus of applause across our great land and throughout the world at large to President Arias of Costa Rica for having been designated by the Nobel Peace Prize Committee to be this year's recipient of the Nobel Peace Prize.

When President Arias joined us here and spoke to Members of Congress recently, he said that the problem in Central America is poverty and that the force of democracy is stronger in the battle against communism than the tanks and guns of militarism.

President Arias has shown our country the way to peace in Central America. I hope now, Mr. Speaker, that our President will strongly support the Contadora process and the initiatives of President Arias.

Mr. Speaker, I would add that we should at least give honorable mention to our own beloved Speaker, JIM WRIGHT, for assisting President Arias in arranging for the support of the Arias Plan. The Speaker worked closely with President Arias in the development of both the "Wright-Reagan plan" and the Arias plan. He remained in close contract with the Costa Rican leader throughout the crucial period in August, when the historic advances toward peace were made. The bipartisan initiative announced by the Speaker and President Reagan on August 5 was used by Arias to persuade Nicaragua to join its neighbors 2 days later in signing the peace agreement.

The world has now recognized Nobel laureate Arias' leadership in transforming the Central American peace idea into an agreement. Let us remember, as well, that our Speaker played an essential role in that noble effort.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the conclusion of legislative business.

PHYSICIANS COMPARABILITY ALLOWANCE EXTENSION

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1666) to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

The Clerk read as follows:

S. 1666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS.

(a) PHYSICIANS COMPARABILITY ALLOWANCES.—Section 5948(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "$7,000" and inserting in lieu thereof "$14,000";

(2) in paragraph (2) by striking out "$10,000" and inserting in lieu thereof "$20,000"; and

(3) by adding at the end thereof (after and below paragraph (2)) the following:

"For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114 of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician."

(b) EXTENSION OF AUTHORITY.—The second sentence of section 5948(d) of title 5, United States Code, is amended to read as follows: "No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992.".

SEC. 2. SPECIAL PAY FOR PSYCHOLOGISTS IN THE PUBLIC HEALTH SERVICE CORPS.

(a) SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: psychologists in the Public Health Service Corps

(a) A member who is—

"(1) an officer in the Regular or Reserve Corps of the Public Health Service and is designated as a psychologist; and

"(2) has been awarded a diploma as a Diplomate in Pschology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).

"(b) The rate of special pay to which an officer is entitled pursuant to subsection (a) shall be—

"(1) $2,000 per year, if the officer has less than 10 years of creditable service;

"(2) $2,500 per year, if the officer has at least 10 but less than 12 years of creditable service;

"(3) $3,000 per year, if the officer has at least 12 but less than 14 years of creditable service;

"(4) $4,000 per year, if the officer has at least 14 but less than 18 years of creditable service;

"(5) $5,000 per year, if the officer has 18 or more years of creditable service.".

(b) CONFORMING AMENDMENTS.—(1) Section 303a of title 37, United States Code, is amended by inserting "302c," after "302b," each place it appears.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: psychologists in the Public Health Service Corps.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987 or on the date of the enactment of this Act, whichever is later, and shall apply with respect to pay periods beginning on or after that effective date.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

S. 1666, which was approved unanimously by the Post Office and Civil Service Committee, provides for a 3-year extension of the Federal Physicians Comparability Allowance Act of 1978. That measure authorizes Federal agencies which are experiencing problems recruiting and retaining physicians to enter into service contracts with physicians, in return for special allowances.

Since its original passage, the act has been extended three times. S. 1666 would extend the program for another 3 years.

The bill also incorporates changes recommended by the Office of Personnel Management, including an increase in the maximum allowances payable to physicians. The new maximums would be $14,000 for physicians with less than 2 years' Government service—and $20,000 for physicians with more than 2 years' Government service.

S. 1666 would also establish special pay for psychologists in the Commissioned Corps of the Public Health Service. That provision, in section 2, falls within the jurisdiction of the Energy and Commerce Committee, and the chairman of that committee has indicated that he has no objection to it. I am grateful to the chairman for his cooperation.

The Congressional Budget Office estimates that the amendments contained in section 1 would cost approximately $2 million in additional outlays this fiscal year, and that the total cost of section 2 would be exceeded no more than $100,000. These amounts would be absorbed by the employing agencies. I include for the record CBO's report, dated October 9.

Finally, S. 1666, as passed by the Senate, does not include an amendment to section 3 of the original act, Public Law 95-603. That section, as amended, currently provides:

> The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective September 30, 1989.

Although section 3 of Public Law 95-603 has been amended in the past—for example, by section 102 of Public Law 96-168—the Committee on Post Office and Civil Service agrees with the Senate that such an amendment is unnecessary. Clearly, it is the intent of Congress, by enacting this legislation, to extend the amendments made by Public Law 95-603, and thereby specifically extend the statutory authority to pay comparability allowances to physicians.

Mr. Speaker, without an extension of this program, Federal agencies would be at a serious disadvantage in competing for physicians in the labor market. I urge my colleagues to support passage of S. 1666.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 9, 1987.
Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR CHAIRMAN: In response to your request, the Congressional Budget Office has prepared the attached cost estimate for S. 1666, a bill to provide for the extension of physicians comparability allowances and to provide for special pay for psychologists in the commissioned corps of the Public Health Service, as ordered reported by the House Committee on Post Office and Civil Service October 6, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes.

Sincerely,

JAMES L. BLUM
(For Edward M. Gramlich, Acting Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1666

2. Bill title: None.

3. Bill status:

As ordered reported from the House Committee on Post Office and Civil Service on October 6, 1987.

4. Bill purpose:

The purpose of this bill is to increase the value of the bonuses which federal physicians may receive under the Federal Physicians Comparability Allowance Act of 1978 and to provide special pay for psychologists in the Public Health Service Corps.

5. Estimated cost to the Federal Government:

(by fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Physicians comparability allowances:					
Estimated authorization level	10	12	13	15	15
Estimated outlays	10	12	13	15	15
Special pay for psychologists:					
Estimated authorization level	([1])	([1])	([1])	([1])	([1])
Estimated outlays	([1])	([1])	([1])	([1])	([1])
Bill total:					
Estimated authorization level	10	12	13	15	15
Estimated outlays	10	12	13	15	15

[1] Less than $500,000.

The costs of this bill fall within function 550.

Basis of the Estimate:

The Federal Physicians Comparability Allowance Act of 1978 authorizes agency heads to determine categories of physicians for which a significant recruitment and retention problem exists. S. 1666 amends and extends this Act. Currently, physicians in these categories are eligible to receive an annual pay bonus of up to $7,000 per year if they have served as federal physicians for two years or less, and up to $10,000 per year if they have served for over two years. These bonuses increase physicians' total compensation above their scheduled salary. S. 1666 raises the monetary value of these bonuses. Under the bill, federal physicians with less than two years of service would be eligible for an annual pay bonus of up to $14,000 per year while those with over two years of service would be eligible for a bonus of up to $20,000 per year. In addition, the bill would extend through September 30, 1990, the period during which heads of agencies may enter into service agreements, with physicians in exchange for special alowances, and would extend through September 30, 1992, the period of service that may be covered by such agreements.

By conducting a survey of the agencies covered by the Federal Physicians Comparability Allowances Act, we found that approximately $8 million in bonuses were paid to roughly 950 federal physicians in fiscal year 1987. In the estimate, this $8 million cost was inflated to obtain costs ranging from $10 million in fiscal year 1988 to $15 million in fiscal year 1992.

S. 1666 also amends title 37 of the United States Code by providing special pay for psychologists in the Public Health Service Corps. Under the bill, a member who is an officer in the Regular or Reserve Corps of the PHS, is designated as a psychologist, and has been awarded a diploma as a Diplomate in Psychology by the American Board of Professonal Psychology would be entitled to special pay. The rate of special pay to which an officer would be entitled is $2,000 per year, if the officer has less than 10 years of creditable service; $2,500 per year, if the officer has at least 10 but less than 12 years of creditable service; $3,000 per year, if the officer has at least 12 but less than 14 years of creditable service; $4,000 per year, if the officer has at least 14 but less than 18 years of creditable service; or $5,000 per year, if the officer has 18 or more years of creditable service.

Based on information obtained from the Commissioned Corps of the Public Health Service there are presently between 15 and 20 psychologists on board of which only 2 would be eligible for the special pay rate. If in the near future the remaining psychologists were to meet the criteria stated above and become eligible for the special pay rate, total cost to the federal government would exceed no more than $100,000.

Authorization levels are assumed to be fully appropriated at the beginning of each fiscal year.

6. Estimated cost to State and local government: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Michael Namian (226-2820).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

COMMITTEE ON POST OFFICE
AND CIVIL SERVICE,
Washington, DC, September 30, 1987.

Mr. EDWARD M. GRAMLICH,
Acting Director, Congressional Budget Office, U.S. Congress, Washington, DC.

DEAR MR. GRAMLICH: Enclosed is a copy of S. 1666, as passed by the Senate on September 16, 1987. Also enclosed is a copy of a legislative proposal of the Office of Personnel Management relating to this matter. I expect the Senate bill to be ordered reported, without substantive change, by the Committee at its meeting on October 6, 1987.

Please furnish an estimate of any additional costs that would result from the enactment of S. 1666, together with the other budget scorekeeping information required by section 308(a) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Your staff may contact Bob Lockhart (X-54054) for any additional information.

With kind regards,
Sincerely,

WILLIAM D. FORD,
Chairman.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1666, legislation which will reauthorize the Federal Physicians Comparability Act of 1978. As the ranking Republican on the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, I have reviewed this bill and support its passage by the House of Representatives.

This proposal reauthorizes the heads of executive agencies to offer service agreements to certain categories of Federal physicians and dentists in order to alleviate recruitment and retention problems experienced by the Federal Government. The bill authorizes a maximum comparability allowance of up to $20,000 to senior physicians.

This special allowance was reauthorized in 1979, 1981, and 1983 and is used only when there is a significant recruitment and retention problem. In fact, in May 1986 it was reported that 948 of the 1,562 physicians employed by the U.S. Government were receiving the special comparability allowance. In 1986, the allowance averaged $8,102 annually.

Recent statistics indicate that in the last 3 years, the percentage of physicians receiving the special bonus pay has grown from 53 percent to 61 percent governmentwide. The largest category of physicians receiving the allowance are researchers—92 percent. In fact, even with comparability allowances these physicians have a pay gap with private sector physicians ranging anywhere from 28 to 75 percent.

As a result, many Federal agencies are currently experiencing a shortage of much valued researchers. These particular physicians are the medical professionals that we rely upon to find the many health answers that plague our society. Whether it is much needed AIDS research, finding new drugs to treat cancer patients, or looking for clues to solve the Alzheimer's disease mystery, Government physicians do an excellent job of solving medical concerns and deserve to compensated fairly.

The bill will also expand special pay coverage to psychologists in the commissioned corps of the Public Health Service who have been certified by the American Board of Professional Psychology.

Mr. Speaker, I hope my colleagues will join in support of this legislation that will ensure that topnotch Government physicians are recruited and retained by the Government.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA], who is a member of the committee and does excellent work on this committee at every committee meeting.

Mrs. MORELLA. Mr. Speaker, I rise today in support of S. 1666, a bill extending the Federal Physicians Comparability Allowance Program for 3 years, through fiscal year 1990. I particularly applaud the increase provided in the maximum allowance for physicians.

I have introduced a bill in the House to make the physicians comparability allowance provisions a permanent part of the law. Federal agencies continue to have problems recruiting and retaining physicians, and Congress must ensure that action is taken to reduce the pay gap between physicians in the Government and the private sector. I am honored to represent the National Institutes of Health where so much critical health research is taking place.

Mr. Speaker, I applaud the leadership shown by the chairman and ranking member of the subcommittee in bringing this bill to the House. I urge my colleagues to support this bill, and I hope this body will act in the future to make these provisions permanent.

□ 1300

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], another member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I rise in support of S. 1666, the physicians comparability allowance extension. S. 1666 extends the Federal Physicians Comparability Allowance Program through fiscal year 1990 and increases the maximum allowance payable to Federal physicians.

The Federal Physicians Comparability Allowance Act of 1978 authorized Federal agencies unable to recruit or retain physicians to enter into service agreements with physicians in exchange for special allowances ranging from a maximum of $7,000 to $10,000, commensurate with length of previous Government service. The authority to enter into such agreements originally expired in September 1979, but has been extended several times since then. The present authority for physician service agreements expired September 30, 1987. No agreement may extend beyond fiscal year 1989.

The Congress must move on this legislation immediately if we are to ensure our Nation's Public Health Service and our Nation's hospitals qualified physicians. Accordingly, I urge my colleagues to support the legislation.

Mr. MYERS of Indiana. Mr. Speaker, I thank the two Members from the Republican side, and I urge all the Members to support the legislation. Without the passage of this bill, we would not have the physicians, the dentists, and the psychologists who are vitally needed not only in seeing patients but particularly in conducting the research that is taking place today. These services would not continue, and this is vitally important to our country. So we urge all our Members to support this vitally important legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I thank the ranking minority member of the subcommittee for his support, his kind words, his understanding, and his cooperation, along with the rest of the Members of the minority and all the members of the subcommittee and the full committee.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the Senate bill, S. 1666.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on S. 1666, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1987

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 1417) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

The Clerk read as follows:

Senate amendment to House amendments: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SHORT TITLE

SEC. 1. This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

TITLE I—GENERAL PROVISIONS

FINDINGS AND PURPOSES

SEC. 101. Section 101 is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) persons whose disabilities occur during their developmental period frequently have severe disabilities which are likely to continue indefinitely;

"(3) notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences;

"(4) family and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with necessary support services;

"(5) persons with developmental disabilities and their families often require specialized lifelong assistance to be provided in a coordinated manner by many agencies and others in order to eliminate barriers for such persons and to meet the needs of such persons;

"(6) generic service agencies and agencies providing specialized services to persons with disabilities sometimes overlook, inappropriately address the needs of, or exclude persons with developmental disabilities in their planning and delivery of services;

"(7) public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and

"(8) it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

"(b) The purposes of this title are—

"(1) to provide assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, and integration into the community;

"(2) to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential; and

"(3) to make grants to support a system in each State to protect the legal and human rights of persons with developmental disabilities.".

DEFINITIONS

SEC. 102. Section 102 is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private share holder or individual.";

(2) by redesignating paragraph (4) as paragraph (3);

(3) by striking out paragraph (5);

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (4), (5), (6), and (7), respectively;

(5) by redesignating paragraph (10) as paragraph (8), and in such paragraph, by striking out "nonhandicapped" each place it appears and inserting in lieu thereof "nondisabled";

(6) by striking out paragraph (11);

(7) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (17), (18), (19), and (20), respectively;

(8) by inserting after paragraph (8) (as redesignated by paragraph (5) of this section) the following new paragraphs:

"(9) The term 'priority area activities' includes, with respect to Federal priority areas or a State priority area—

"(A) activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and their families and to enhance coordination among entities;

"(B) the—

"(i) conduct of studies and analyses;

"(ii) gathering of information;

"(iii) development of model policies, and procedures; and

"(iv) presentation of information, models, findings, conclusions, and recommendations to policymakers,

in order to enhance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(C) the demonstration of new ways to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under this title, including new ways to enhance specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(D) outreach activities for persons with developmental disabilities to enable such persons to obtain assistance in Federal priority areas or a State priority area, including access to specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(E) the training of persons with developmental disabilities, family members of such persons, and personnel, including professionals, paraprofessionals, students, and volunteers, to obtain access to, or to provide, services and other assistance in the area, including specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons; and

"(F) similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of persons with developmental disabilities through the State on a comprehensive basis.

"(10) The term 'Federal priority areas' means community living activities, employment activities, child development activities, and case management activities.

"(11) The term 'State priority area' means priority area activities in an area considered essential by the State Planning Council.

"(12) The term 'community living activities' means such priority area activities as

will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements and supports in the community (including nonfinancial supports and family support services).

"(13) The term 'employment activities' means such priority area activities as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings.

"(14) The term 'supported employment' means competitive work in integrated work settings—

"(A) for persons with developmental disabilities for whom competitive employment has not traditionally occurred; or

"(B) for persons for whom competitive employment has been interrupted or intermittent as a result of a developmental disability, and who because of their disability need on-going support services to perform such work.

"(15) The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(16) The term 'case management activities' means priority area activities to establish a potentially life-long, goal-oriented process for coordinating the range of assistance needed by persons with developmental disabilities and their families, which is designed to ensure accessibility, continuity of supports and services, and accountability and to ensure that the maximum potential of persons with developmental disabilities for independence, productivity, and integration into the community is attained.";

(9) by striking out "facility or facilities" in subparagraph (A)(ii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program or programs";

(10) by striking out "facilities" each place it appears in paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "programs";

(11) by striking out "paragraph (13)" in subparagraph (A)(iii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "paragraph (18)";

(12) by striking out "facility" the first place it appears in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program";

(13) by striking out "public or nonprofit facility" in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program operated by a public or nonprofit private entity";

(14) by inserting ", including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers," before "which is" in subparagraph (A) of paragraph (18) (as redesignated by paragraph (7) of this section);

(15) by striking out "the facility" in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "a facility"; and

(16) by adding at the end thereof the following new paragraphs:

"(21) The term 'family support services' means services designed to—

"(A) strengthen the family's role as primary caregivers;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home. Such term includes respite care, personal care, parent training and counseling, support for elderly parents, and other individualized services.

"(22) The term 'assistive technology' means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment, transportation, and independent living and other community living arrangements.

"(23) The term 'early intervention services' means services provided to infants, toddlers, young children, and the families of such to—

"(A) identify, assess, and treat developmental disabilities at the earliest possible time to prevent more serious disability;

"(B) ensure the maximum growth and development of a person within the above classes who has a developmental disability; and

"(C) assist families in raising a child with a developmental disability.".

REPORTS

SEC. 103. (a) Section 107(a) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) a description of the State Planning Council's response to significant actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State; and

"(5) a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f).".

(b) Section 107(c)(1) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) the progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f);

"(D) the significant Federal policies that impact on the ability of States to address the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

"(E) the number of meetings held by the interagency committee established under section 108(b) during the period for which the report is made, which agencies were represented at each such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.".

TITLE II—STATE ASSISTANCE PROGRAM

PURPOSE

SEC. 201. (a) Section 121 is amended to read as follows:

"PURPOSE

"SEC. 121. The purpose of this part is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with developmental disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.".

(b) The heading for part B is amended by striking out "AND SERVICE" and inserting in lieu thereof "PRIORITY AREA".

STATE PLAN REQUIREMENTS

SEC. 202. (a) Section 122(b) is amended by striking out "for the provision of services for persons with developmental disabilities" in the matter preceding paragraph (1).

(b)(1)(A) Section 122(b)(1) is amended—

(i) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the establishment of a State Planning Council in accordance with section 124.";

(ii) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this part referred to as the 'designated State agency'). Except as provided in subsection (e), the designated State agency may be—

"(i) the State Planning Council required under subparagraph (A) if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to persons with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office."; and

(iii) by striking out "each" in subparagraph (C) and inserting in lieu thereof "the".

(B) Section 122 is amended by adding at the end thereof the following new subsection:

"(e)(1) If a State agency that provides or pays for services for persons with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 and the Governor of the State determines, before June 30, 1988, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(2) The determination of the Governor of a State under paragraph (1) shall be at the discretion of the Governor and shall be made by the Governor after the Governor has considered the comments of the general

public and the non-State agency members of the State Planning Council with respect to the designation of such State agency, and after the Governor has made an independent assessment of the impact that the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons with developmental disabilities.

"(3) If the Governor of a State determines not to retain the designation of a State agency in effect on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Governor shall, by October 1, 1990, designate another agency as the State agency in accordance with the requirements of subsection (b)(1)(B).

"(4) After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any designation of a State agency shall be made in accordance with the requirements of subsection (b)(1)(B)."

(2) Section 122(b)(2) is amended—

(A) by inserting a comma and "activities," after "programs" in subparagraph (A);

(B) by striking out clause (i) of subparagraph (C) and inserting in lieu thereof "(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans or federally assisted State programs that the State conducts and in which persons with developmental disabilities are eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, aging, programs for children with special health care needs, housing, comprehensive health and mental health, and such other plans as the Secretary may specify, and"; and

(C) by striking out "priority services being or to be provided" in subparagraph (D) and inserting in lieu thereof "Federal and State priority areas which are addressed or which will be addressed".

(3) Section 122 (as amended by paragraph (1)(B) of this subsection) is further amended—

(A) by redesignating paragraphs (3) through (7) of subsection (b) as paragraphs (4) through (8), respectively;

(B) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The plan must describe a process and timetable for the completion, by January 1, 1990, by the State Planning Council in the State, of the reviews, analyses, and final report described in subsection (f)."; and

(C) by adding at the end thereof the following new subsection:

"(f)(1) Each State Planning Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies which provide public assistance) which affect or which potentially affect the ability of persons with developmental disabilities to achieve the goals of independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) Each State Planning Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of persons with developmental disabilities receiving services from each such agency, and if appropriate, shall include their families.

"(3) Each State Planning Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) By January 1, 1990, each State Planning Council shall prepare and transmit to the Governor of the State and the legislature of the State a final written report concerning the review and analyses conducted under paragraphs (1) and (2). The report shall contain recommendations by the State Planning Council concerning—

"(A) the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and

"(B) the steps to be taken to include the data and recommendations obtained through the conduct of the reviews and analyses under paragraphs (1) and (2) in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities.

"(5) By January 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By April 1, 1990, the Secretary shall transmit a summary of such reports to the appropriate committees of the Congress.".

(4) Section 122(b)(4) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "strengthening services for" in subparagraph (A) and inserting in lieu thereof "enhancing the independence, productivity, and integration into the community of"; and

(B) by striking out "or agencies" each place it appears in subparagraph (C).

(5) Section 122(b)(5) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the examination, not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area. Such examination shall be made consistent with subparagraph (B).";

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must provide for the review and revision, not less often than once every three years, of the comprehensive Statewide plan to ensure the existence of appropriate planning, financial support and coordination, and to otherwise appropriately address, on a Statewide and comprehensive basis, urgent needs in the State for the provision of services for persons with developmental disabilities and the families of such persons. Such review and revision, and examination under subparagraph (A), shall take into account the reviews and analyses conducted, and the report prepared, under subsection (f), and shall, at a minimum, include—

"(i) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may be causing persons with developmental disabilities to be excluded from receiving such services;

"(iii) an analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

"(iv) an analysis of existing and projected fiscal resources;

"(v) an analysis of any other issues identified by the State Planning Council; and

"(vi) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (i) through (v) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.";

(C) by striking out subparagraph (C);

(D) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (C), (D), and (E), respectively;

(E) by striking out "service activities in the priority services" in clause (i) of subparagraph (D) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (v) of subparagraph (B), and the implementation of paragraph (3) and subsection (f)";

(F) by striking out "service activities for persons with developmental disabilities, and" in clause (ii) of such subparagraph;

(G) by inserting "priority area activities for" after "administration of" in such clause; and

(H) by striking out "the provision of such services" in such clause and inserting in lieu thereof "persons with developmental disabilities".

(6) Section 122(b)(6) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "services furnished" in clause (i) of subparagraph (A) and inserting in lieu thereof "programs";

(B) by striking out "furnished" in such clause and inserting in lieu thereof "operated"; and

(C) by striking out "delivery of services" in clause (ii) of such subparagraph and inserting in lieu thereof "programs".

(7) Section 122(b)(7)(B) (as redesignated by paragraph (3)(A) of this subsection) is amended by striking out "alternative community living arrangement services" and inserting in lieu thereof "community living activities".

HABILITATION PLANS

SEC. 203. Section 123(b) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The plan shall be developed jointly by (A) the person for whom the plan is established, (B) where appropriate, such person's parent or guardian or other representative, and (C) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established."; and

(2) by striking out "program coordinator who will be responsible for" in paragraph (3)(C) and inserting in lieu thereof "case manager who will be responsible for coordinating".

STATE PLANNING COUNCILS

SEC. 204. Section 124 is amended—

(1) by redesignating subsection (b) as subsection (d) and, in paragraph (1) of such subsection—

(A) by striking out "or agencies"; and

(B) by striking out ", including the specification of services under section 122(b)(4)(B)" and inserting in lieu thereof the following: "including the specifications of Federal and State priority area activities under section 122(b)(5)(D)(i)"; and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for all persons with developmental disabilities.

"(b)(1) The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State.

"(2) The Governor of each State shall make appropriate provisions for the rotation of membership on the State Planning Council.

"(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, the State agency that administers funds provided under the Older Americans Act of 1965, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

"(4) At least one-half of the membership of each State Planning Council shall consist of persons who—

"(A) are persons with developmental disabilities;

"(B) are parents or guardians of such persons; or

"(C) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

and who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

"(5) Of the members of the State Planning Council described in paragraph (4)—

"(A) at least one-third shall be persons with developmental disabilities; and

"(B)(i) at least one-third shall be individuals described in subparagraph (C) of paragraph (4), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

"(c)(1) Each State Planning Council may prepare and approve a budget using amounts paid to the State under this part to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

"(2) The staff and other personnel of a State Planning Council, while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.".

STATE ALLOTMENTS

SEC. 205. (a) Section 125(a) is amended—

(1) by striking out "$100,000" in clause (i) of paragraph (3)(A) and inserting in lieu thereof "$160,000";

(2) by striking out "$250,000" in clause (ii) of such paragraph and inserting in lieu thereof "$300,000";

(3) by striking out "$47,000,000" in paragraph (4) and inserting in lieu thereof "$60,000,000";

(4) by striking out "$160,000" in subparagraph (A) of such paragraph and inserting in lieu thereof "$200,000";

(5) by striking out "$300,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$350,000"; and

(6) by adding at the end thereof the following new paragraph:

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

(b) Section 125(b) is amended to read as follows:

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.".

WITHHOLDING

SEC. 207. Section 127(1) is amended by inserting ", particularly sections 122(b)(3) or 122(f)" after "State plan".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 130 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 130. For allotments under section 125, there are authorized to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.".

TITLE III—PROTECTION AND ADVOCACY

REQUIREMENTS FOR SYSTEM

SEC. 301. (a) Section 142(a)(2) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (E), (F), and (G), respectively;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) have the authority to—

"(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such persons within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of minority groups; and

"(ii) provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

"(B) have the authority to investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

"(C) on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system;

"(D) establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system;"; and

(3) by striking out subparagraph (G) (as redesignated by clause (1) of this subsection) and inserting in lieu thereof the following:

"(G) have access to all records of—

"(i) any person with developmental disabilities who is a client of the system if such person, or the legal guardian, conservator, or other legal representative of such person, has authorized the system to have such access; and

"(ii) any person with developmental disabilities—

"(I) who, by reason of the mental or physical condition of such person, is unable to authorize the system to have such access;

"(II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

"(III) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such person has been subject to abuse or neglect;".

(b) Section 142(c) is amended—

(1) by striking out "$11,000,000" in subparagraph (A) of paragraph (1) and inserting in lieu thereof "$20,000,000";

(2) by striking out "$80,000" in clause (i) of such subparagraph and inserting in lieu thereof "$107,000";

(3) by striking out "$150,000" in clause (ii) of such subparagraph and inserting in lieu thereof "$200,000";

(4) by striking out "$11,000,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$20,000,000";

(5) by striking out "$50,000" in such subparagraph and inserting in lieu thereof "$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than $80,000";

(6) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(7) by inserting after paragraph (1) the following new paragraph:

"(2) In any case in which the total amount appropriated under section 143 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 143 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 143 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 143 for such preceding fiscal year.".

(c) Section 142 is further amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) (as amended by subsection (b) of this section) as subsection (b); and

(3) by adding at the end thereof the following new subsection:

"(c) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 143 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 143. For allotments under section 142, there are authorized to be appropriated $20,000,000 for fiscal year 1988, $22,000,000 for fiscal year 1989, and $24,200,000 for fiscal year 1990.".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

PURPOSE

SEC. 401. (a) Section 151 is amended—

(1) by striking out "facilities" and inserting in lieu thereof "programs"; and

(2) by striking out "the conduct of service demonstration programs" and inserting in lieu thereof "the demonstration of exemplary services and technical assistance".

(b) The heading for part D is amended by striking out "FACILITIES" and inserting in lieu thereof "PROGRAMS".

GRANT AUTHORITY

SEC. 402. (a) Section 152(a) is amended—

(1) by striking out "section 154" and inserting in lieu thereof "section 154(a)";

(2) by striking out "facilities" and inserting in lieu thereof "programs"; and

(3) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)".

(b) Section 152 is further amended—

(1) by striking out subsections (b) and (d);

(2) by redesignating subsection (c) as subsection (d) and (in such subsection)—

(A) by striking out "The" and inserting in lieu thereof "From amounts appropriated under section 154(a), the";

(B) by inserting "and may compete for grants under subsections (b) and (c)" before the period at the end of the second sentence; and

(C) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)";

(3) by inserting after subsection (a) the following new subsections:

"(b)(1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants of sufficient size and scope to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as described in paragraph (2)), programs for elderly persons with developmental disabilities (as described in paragraph (3)), and community-based service programs (as described in paragraph (4)).

"(B) The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.

"(C) Grants under this subsection may be used by university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for persons with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide, or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.

"(3) Grants under this subsection for training projects with respect to programs for elderly persons with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly persons with developmental disabilities.

"(4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing interdisciplinary training to personnel who will provide direct supports and services for persons with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for persons with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with local programs.

"(c) From amounts appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

"(1) The provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such persons, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

"(2) The conduct of an applied research program designed to produce more efficient and effective methods for (A) the delivery of services to persons with developmental disabilities, and (B) the training of professionals, paraprofessionals, and parents who provide such services."; and

(4) by adding at the end thereof the following new subsection:

"(e) From amounts appropriated under section 154(a), the Secretary may make a grant to a university or a public or nonprofit entity which is associated with, or is an integral part of, a college or university, to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the university is located for such a program or center. The amount of a grant under this subsection may not exceed $35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.".

APPLICATIONS

SEC. 403. (a) Section 153(a) is amended—

(1) by striking out "facilities" in the first sentence and inserting in lieu thereof "programs";

(2) by inserting "all" before "persons with developmental disabilities" in the second sentence; and

(3) by striking out "section 102(13)" in the second sentence and inserting in lieu thereof "section 102(18)".

(b) Section 153(b) is amended—

(1) by striking out "section 152" in the matter preceding paragraph (1) and inserting in lieu thereof "section 152(a)";

(2) by striking out "facility" each place it appears in paragraph (2) and inserting in lieu thereof "program";

(3) by striking out "is making" in clause (i) of subparagraph (B) of such paragraph and inserting in lieu thereof "will make";

(4) by striking out "and" at the end of such subparagraph;

(5) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(6) by adding at the end thereof the following new paragraphs:

"(4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 122; and

"(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.".

(c) Section 153(c) is amended—

(1) by striking out "facility" and inserting in lieu thereof "program"; and

(2) by striking out "section 152" and inserting in lieu thereof "section 152(a)".

(d) Section 153(d) is amended—

(1) by striking out "facility" each place it appears and inserting in lieu thereof "program";

(2) by striking out "section 154" each place it appears and inserting in lieu thereof "section 154(a)";

(3) by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$200,000";

(4) by striking out "$75,000" in paragraph (1) and inserting in lieu thereof "$150,000"; and

(5) by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the preceding fiscal year.

"(B) Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite centers under this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

"(C) The Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served by the program or center, if such application proposes to serve the population of an entire State.".

(e) Section 153 (as amended in this section) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall by regulation require appropriate technical and qualitative peer review of applications for assistance under this part by peer review groups established under paragraph (4).

"(2) Regulations promulgated under paragraph (1) shall provide that the review of the application required by such paragraph shall be conducted by groups established under paragraph (4) that are composed of non-Federal individuals who, by experience or training, are highly qualified to assess the comparative quality of applications for assistance.

"(3)(A) The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.

"(4) The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

"(A) the provisions of title 5, United States Code, concerning appointments to the competitive service;

"(B) the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, concerning classification and General Schedule pay rates;

establish such peer review groups as are necessary to carry out this subsection, and appoint and set the rates of pay for members of such groups.

"(5) The Secretary may waive the provisions of paragraph (3) concerning approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Section 154 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 154. (a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $9,400,000 for fiscal year 1988, $10,200,000 for fiscal year 1989, and $11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated $4,500,000 for fiscal year 1988, $5,000,000 for fiscal year 1989, and $5,500,000 for fiscal year 1990.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).

"(d) Of the amounts appropriated under subsection (b), at least 75 percent shall be used for grants under section 152(b) and the remainder shall be used for grants under section 152(c).".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

SEC. 501. (a) Section 161 is amended by striking out "for demonstration projects" and inserting in lieu thereof "and contracts for projects of national significance".

(b) The heading for part E is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

GRANT AUTHORITY

SEC. 502. (a) Section 162(a) is amended—

(1) by inserting "and enter into contracts with" after "make grants to" in the matter preceding paragraph (1);

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, and pursue Federal interagency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and"; and

(3) by inserting "the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and" after "otherwise improving" in paragraph (2).

(b) The last sentence of section 162(b) is amended—

(1) by striking out "for each" and inserting in lieu thereof "in such"; and

(2) by striking out "in which an applicant's project will be conducted".

(c) Section 162 is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 163 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 163. (a) To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1988, $3,650,000 for fiscal year 1989, and $3,650,000 for fiscal year 1990.

"(b) Of the amounts appropriated under subsection (a) for any fiscal year, $600,000 shall be available for grants and contracts under section 162(a)(1) for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 162(a)(1) for such projects within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.".

TITLE VI—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 601. This Act, and the amendments made by this Act, shall become effective on October 1, 1987.

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the consideration of the piece of legislation that is before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us is the product of extensive deliberations between members of the Energy and Commerce Committee's Subcommittee on Health and the Environment and members of the Senate Committee on Labor and Human Resources' Subcommittee on the Handicapped. I am pleased to announce that it was not necessary to convene a conference committee to resolve the differences between S. 1417 and the House amendment reflecting the provisions of H.R. 1871.

I want to recognize and commend the contributions of the gentleman from Pennsylvania [Mr. WALGREN] and the gentleman from Illinois [Mr. MADIGAN] for their tireless work on the reauthorization of this important program.

I also want to commend our colleagues on the Senate side, Senator HARKIN, chairman of the Subcommittee on the Handicapped and Senator WEICKER, the subcommittee's ranking minority member, for the spirit of cooperation in which they approached our discussions. The strength of this Federal program is due in large measure to the personal commitment and concern of these Senators and Congressmen for the needs and potential of developmentally disabled individuals.

Mr. Speaker, S. 1417 extends for 3 fiscal years the authorization of appropriations for the programs which comprise the Developmental Disabilities Assistance and Bill of Rights Act. These programs include: First, formula grants to States; second, grants to support protection and advocacy systems; third, grants for special projects; and fourth, grants to university affiliated facilities.

In addition, the legislation includes a number of provisions which strengthen the administration and efficiency of these important programs. I ask that the following statement explaining the Senate amendment in greater detail be printed in the RECORD.

Mr. Speaker, continued support for these Federal programs is vitally important to the millions of Americans with developmental disabilities. The success of these programs is well established and has made them popular with the public, the Congress and the administration.

I urge support for the legislation.

JOINT HOUSE-SENATE EXPLANATION OF S. 1417

The Substitute amendment to S. 1417, under consideration today, incorporates many of the provisions contained in the Senate bill and the major principles included in the House amendment. This joint statement will focus only on the major differences between the Senate bill and the Substitute amendment.

SPECIALIZED SERVICES OR SPECIALIZED ADAPTATIONS OF GENERIC SERVICES

Section 102(8) of the Senate bill includes illustrations of "specialized services or special adaptations of generic services" ("services") with respect to each of the Federal priority areas (case management activities, child development activities, community living activities, and employment activities) and "services" with respect to two or more Federal priority areas or "services" with respect to a State priority area.

The Senate bill included the illustrations in order to describe what a comprehensive State system of services might include; it was not intended to suggest that funds provided under the basic State grant were to be used to pay for a particular service included in the list of illustrations. Funds provided under the basic State grant are to be used for priority area activities which include, among other things, activities to increase the capacities and resources of agencies to develop such a system of services, the conduct of studies and analyses, gathering of information, development of model policies, presentation to policymakers, demonstrations, outreach and training.

In order to avoid any confusion regarding the purposes for which basic State grant funds are to be used (priority area activities), the Substitute amendment deletes the illustrations of "specialized services or special adaptations of generic services" from the legislation. However, because these illustrations reflect possible components of a comprehensive State system, we are including them in this joint explanatory statement.

With respect to case management activities, the term "specialized services or special adaptions of generic services" includes—

(1) participation by a case manager in the development of a comprehensive individualized habilitation plan under section 123;

(2) referral to, and coordination of, social, health, educational, support and other services as identified in such individualized habilitation plan;

(3) monitoring to ensure the access, by the person with developmental disabilities and the family of such person, to appropriate services and to determine progress in meeting goals and objectives specified in such individualized habilitation plan; and

(4) the provision of assistance to a person with developmental disabilities to enable such person to obtain access to all services to which such person is entitled, and to effect changes in the service delivery system that will result in increased access to services for such person.

With respect to child development activities, the term "specialized services or special adaptations of generic services" includes early intervention services.

With respect to community living activities, the term "specialized services or special adaptations of generic services" includes—

(1) in-home services, such as personal aides and attendants and other domestic assistance and supportive services;

(2) special living arrangements;

(3) group living services;

(4) recreation, socialization, and leisure time services;

(5) nonvocational social development services; and

(6) placement and continuing support services;

With respect to employment activities, the term "specialized services or special adaptations of generic services" includes—

(1) services such as employment preparation and training leading to supported employment and on-going support services;

(2) follow-along services;

(3) incentive programs for employers who hire persons with developmental disabilities;

(4) services to assist transition from special education to employment;

(5) services to assist transition from sheltered work settings to supported employment and nonsupported employment in integrated work settings; and

(6) job placement services.

With respect to activities which are within two or more Federal priority areas or activities which are within a State priority area, the term "specialized services or special adaptations of generic services" includes—

(1) outreach and identification activities;

(2) diagnosis; assessment, and periodic reassessment to determine each person's goals, strengths, functional limitations, and needs for specific services and other assistance;

(3) information and referral services;

(4) treatment;

(5) family support services;

(6) respite care;

(7) foster care;

(8) day care;

(9) assistive technology;

(10) counseling of a person with developmental disabilities and the family of such person;

(11) transportation;

(12) protective and other social and sociolegal services;

(13) education and training of personnel, persons with developmental disabilities, and family members of such persons; and

(14) services to promote and coordinate activities to prevent developmental disabilities.

FOCUS OF THE LEGISLATION ON THE FAMILY

In recognition of the central role played by the family, the Substitute amendment clarifies that priority area activities should not only enhance services for persons with developmental disabilities but should also address the needs of their families. The Substitute amendment also includes "supports for the elderly parent" as an example of a "family support service" and includes "family support services" and "nonfinancial supports" as illustrations of "community living activities." (The Senate bill had included only "nonfinancial supports".) Consistent with these changes, it is our intent that State Planning Councils should describe family support service activities undertaken by States in their annual reports to the Secretary.

By including express reference in the legislation to family support services, we do not intend to restrict efforts by States to develop programs for involving friends, neighbors, and other members of the community in enhancing opportunities for persons with developmental disabilities nor do we intend to restrict in any way the freedom of adults with developmental disabilities to select their living arrangements. To the contrary, it is our intent that persons with developmental disabilities have the opportunity to select friends, neighbors, and other members of the community to live with or to provide assistance in accessing and obtaining the supports and services necessary to enhance their independence, productivity, and integration into the community.

STATE PRIORITY AREA

The Substitute amendment defines a "State priority area" as an area in the State considered essential by the State Planning Council. This will provide flexibility to the Council to include, at its discretion, an additional focus to the basic State grant. Priority area activities in two or more Federal Priority areas, which was included in the definition of "State priority area" in the Senate bill, has been deleted. Such activities should be included under the applicable Federal priority areas.

EARLY INTERVENTION SERVICES

The Substitute amendment defines the term "early intervention services" to mean services provided to infants, toddlers, young children and their families to identify, assess, and treat developmental disabilities at the earliest possible date to prevent more serious disability, to ensure maximum growth and development, and to assist families in raising a child with a developmental disability.

It is our intent that early intervention services address infants', toddlers', and young children's needs in the areas of physical and cognitive development, language and speech development, psycho-social development, self-help skills and include the following services: family training, counseling and home visits, special instruction, speech pathology and audiology, occupational therapy, physical therapy, psychological services, medical and health services, nutrition services, and early identification, screening and assessment services.

It is our intent that the State Planning Councils coordinate their planning and advocacy activities in the area of child development with the Early Intervention Councils authorized under part H of the Education of the Handicapped Act.

REPORT ON FEDERAL POLICIES IMPACTING ON PERSONS WITH DEVELOPMENTAL DISABILITIES

The Substitute amendment directs the Secretary to include in the annual report required by section 107(c) of the Act, Federal policies that impact on the ability of States to address the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments.

DESIGNATED STATE AGENCY

The Substitute amendment includes the provision in the Senate bill explicitly authorizing a State Planning Council to be the designated agency if such Council may be so designated under the laws of the State.

SUPPLEMENT, NOT SUPPLANT

The Substitute bill does not change the provision in current law that basic State grant funds must be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds. It is our intent, however, that the Secretary develop objective standards for determining whether a State is in compliance with this provision and that these standards be included in the regulations.

REVIEW AND REVISION OF THE STATE PLAN

The Substitute amendment includes the provision in current law (deleted by the Senate bill) which specifies that the plan must provide for the review and revision of, a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of services for persons with developmental disabilities and their families. The Substitute amendment also specifies that this review and revision must occur not less often than once every three years and that it must include the reviews and analyses conducted and report prepared under section 122(f) and contain, at a minimum, the analyses which were set out in section 122(b)(5)(A) of the Senate bill and which are now set out in section 122(b)(5)(B) of the Substitute amendment.

DATA COLLECTED UNDER EDUCATION OF THE HANDICAPPED ACT

The Substitute amendment reinserts section 122(b)(4)(D) in current law (deleted by the Senate bill) which specifies that the plan must be developed after consideration of the data collected by the State educational agency under section 618(b)(3) of the Education of the Handicapped Act (pertaining to the number of children exiting the special education system each year).

65% OF THE BASIC STATE GRANT TO BE USED FOR FEDERAL AND STATE PRIORITIES

The Substitute amendment clarifies congressional intent that the State plan must provide that 65% of the basic State grant be expended for priority area activities. However, only activities in the priority area of employment are mandatory. Activities in the other Federal priority areas are adopted at the discretion of the State as is the decision whether or not to pursue a State priority area or use these funds for the analyses specified in sections 122(b)(3), 122(b)(5), and 122(f).

DATES FOR THE COMPLETION OF THE SPECIAL REPORT

The Substitute amendment specifies that the special report required by section 122(b)(3) and section 122(f) must be completed by January 1, 1990 (instead of April 1, 1990); the report must be submitted by the Governor of each State to the Secretary by January 15, 1990 (instead of April 15, 1990); and the Secretary must complete a summary of these reports and submit it to Congress by April 1, 1990 (instead of September 30, 1990). These changes will ensure that the data contained in these reports will be available to Congress in a timely fashion as it prepares for the reauthorization of the legislation.

CARRYOVER AND LIQUIDATION

The policy governing the carryover of funds currently set out in section 1914(2) of the Public Health Services Act is made applicable to the basic State grant and grants to support protection and advocacy systems.

With respect to the liquidation of obligations by grantees, it is our intent that all obligations incurred pursuant to a grant made under the Act for a specific Federal fiscal year must be liquidated within two years of the close of the Federal fiscal year in which the grant was awarded. Further, the Commissioner may waive these requirements when State law impedes implementation or the amount of obligated funds to be liquidated is in dispute. Our expression of intent regarding liquidation also applies to protection and advocacy systems.

WITHHOLDING

The Substitute amendment deletes the changes to current law included in the Senate bill and clarifies that the Secretary's responsibility to withhold funds applies particularly to a failure to comply substantially with sections 122(b)(3) or 122(f) pertaining to the special analyses and reports to be completed by the State Planning Council. The intent of this change is to indicate the importance we place in ensuring compliance with these new sections; it is not our intent that the Secretary include a separate standard for ensuring compliance with these sections.

FEASIBILITY STUDY

The Substitute amendment includes the provision in the Senate bill authorizing the Secretary to make grants to universities to study the feasibility of establishing new university affiliated programs and satellite centers in those States which currently do not have them. A grant may not exceed $35,000. It is our intent that the authority to fund such studies should not be construed to permit the Secretary to require an applicant for a new university affiliated program or satellite center to complete such a study as a condition to applying for such a program or center.

CONSIDERATION BY UAP OR SATELLITE OF PUBLIC COMMENT BEFORE SUBMISSION OF GRANT APPLICATION

It is our intent that the UAP or satellite center receive and respond to the needs of the State in which the program will be conducted. Requirements concerning public comments and comments from the Council may be satisfied by establishing a broad based advisory council with appropriate representation from the State Planning Council and interested consumer advocacy organizations and members of the general public or arranging for a systematic program to provide review and comment through the duration of the UAP or satellite center.

Moreover, the phrase "general public" is intended to provide for and encourage comments outside of the formal processes established by the State Planning Councils as necessary and appropriate. However, the provision requiring comment from the general public shall not be construed as requiring the publication of applications in general circulation newspapers or the convening of public hearings on a Statewide basis.

FUNDING FOR TRAINING IN AREAS OF EMERGING NATIONAL SIGNIFICANCE

It is our intent that of the funds appropriated for training in areas of emerging national significance under section 152(b), an equal one-third, share should be allocated to aging, early intervention and paraprofessional training, respectively. Further, any additional funds made available pursuant to section 154(c) shall be used for training grants authorized under section 152(b) and not for grants under section 152(c). Moreover, grants issued under this new authority must be widely dispersed geographically.

NEW UAPS AND SATELLITE CENTERS; REVIEW OF EXISTING UAPS AND CENTERS

The Substitute amendment makes it clear that the Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served if such application proposes to serve the population of an entire State.

Further, the Substitute amendment directs the Secretary, by regulation, to require appropriate technical and qualitative peer review of applications for assistance under section 154 of the Act; specifies the qualifications of the persons conducting the reviews; and directs the Secretary to approve an application received for fiscal year 1990 and thereafter only if such application has been recommended by the persons conducting the reviews subject to waiver authority included in the legislation.

It is our intent that peer review groups will be composed of individuals with expertise and experience in the fields appropriate to the activities conducted by university affiliated programs and satellite centers. The Secretary shall ensure that it uses procedures to preclude conflicts of interest between grantees and individuals who may serve on the peer review group.

SPECIAL PROJECTS

In addition to funding the specific categories of projects set out in section 162(a)(1), it is our intent that the Secretary fund projects which support and enhance the ability of the State Planning Councils, the Protection and Advocacy Systems, and the University Affiliated Programs and Satellite Centers to implement the amendments made by the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987. For example, funds could be used to support a project providing technical assistance to State Planning Councils in planning, conducting, and reporting the policy analyses required by sections 122(b)(4)(B) and 122(f) of the Act, as added by the Substitute amendment.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1417 reauthorizes the activities of the Developmental Disabilities Assistance and Bill of Rights Act for 3 fiscal years. This program which is well supported by both the Congress and the administration awards grants to States and universities to provide treatment and other services to the severely and chronically disabled.

S. 1417 was passed by the other body on September 30, 1987. The text of the legislation represents a bipartisan agreement reached by the members of the Committee on Energy and Commerce and the Senate Committee on Labor and Human Resources. S. 1417 includes much of the Senate passed bill and the major provisions of H.R. 1871, which was passed by this House on the Suspension Calendar on August 4, 1987.

I urge my colleagues to join me in supporting S. 1417. I believe the legislation will enhance the productivity, independence, and integration into the community of persons with developmental disabilities.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise to express my suport for this legislation which reauthorizes programs so vital to the health and welfare of our Nation's disabled citizens. I am particularly pleased that the compromise version retains language recognizing the central role of the family. While we enhance services for persons with developmental disabilities we must also address the needs of their families. This is essential.

The developmental disability programs protect the rights of handicapped individuals and I believe it is imperative that we vote to concur in the Senate amendments and pass this legislation today.

Mr. LENT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, while I am a strong supporter of developmental disabilities programs, and I support passage of the Developmental Disabilities Reauthorization Act, I note with great misgiving that the original language of the act, which established as its first purpose "services to persons whose needs could not otherwise be met by programs under the Rehabilitation Act or any other Health, Education or Welfare Program," has been abandoned. This misgiving deepens as I reflect on the fact that references to service have been struck from the text of the act in favor of terms such as "analysis," "study," and "review." This carries with it a potentially devastating impact for States like Nevada.

I caution my colleagues to monitor carefully the implementation of this reauthorization measure, being mindful that our first concern is that those for whom there are no other services, not be lost in the new direction taken by S. 1417.

It is purported that a host of national organizations are supporting this version of the reauthorization of the Developmental Disabilities Act; however, I have learned that there is little knowledge of what the bill's true impact will be at the local level. In the past few weeks I have heard from Nevada's representatives of these organizations, officials in Nevada's State agencies that work together to provide services for our developmentally disabled, and from numerous parents and other family members of those affected—all expressing strong reservations about S. 1417.

For me and for them there are many unanswered questions as to the methodology to be used in implementing the extensive studies called for in S. 1417. For a State the size of Nevada, this is particularly crucial.

Nevada has identified at least 20 agencies that would require comprehensive review and analysis by our Developmental Disabilities Council in every facet of their operation. There are disturbing factors in this requirement and I would like to bring two to your attention.

First, the term "developmental disability" is not exclusive to the population of persons with mental retardation. It is a complex formula restrictively defined in law, which is applicable to many disabilities, both physical and mental. This legal definition, while used by all programs established under this particular act, has not been applied by other Federal and State entities. Therefore, data kept by those programs is not available for the developmental disabilities population as defined in law. How, then, will this data required by S. 1417 be collected for millions of developmentally disabled persons and at what cost?

Also, whatever the cost of the newly required studies, the funding will be taken from the dollars currently used by our State and many others to provide services to our developmentally disabled population in the absence of any other resource. The only funds we have in Nevada to conduct such studies are those we now use for services. The many Nevada parents, community service organizations, and State officials who have contacted me have all expressed grave concern that the results of these studies will not justify the loss of these critical and flexible services.

The Developmental Disabilities Program is one of the few Federal programs that not only allows, but encourages each State to individualize the functions carried out under its State allotment to meet the needs of its own disabled population in the best way possible. The original language in the developmental disabilities legislation was written in recognition that there are gaps in service delivery to this very special population, which are not bridged by the plethora of Federal programs. Congress intentionally established a highly flexible program of assistance to States designed to allow them to direct those resources to areas deficient in their particular service delivery system—to plug those gaps.

This flexibility has met the unique needs, resources and deficits in my State of Nevada—particularly for those in isolated rural areas of our State in which no other service exists. Also, we have been able to provide service recognizing the unique cultural needs of our developmentally disabled Latino, Indian, black, and Asian populations. I am concerned that we not change the focus from the intended purpose of the Developmental Disabilities Act—that the potential benefits of this worthy legislation not be lost to those disabled people for whom there are no services.

In closing, I thank my Nevada colleagues in the Senate who recently participated in a colloquy for the RECORD, guaranteeing continued provision of at least some of the essential individualized services, which might otherwise have been lost with passage of S. 1417.

Mr. LENT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 1417.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments was concurred in.

A motion to reconsider was laid on the table.

HEALTH SERVICES RESEARCH EXTENSION ACT OF 1987

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3189) to amend the Public Health Service Act to revise and extend the program for the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics, as amended.

The Clerk read as follows:

H.R. 3189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Services Research Extension Act of 1987".

SEC. 2. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.

(a) NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ASSESSMENT.—Section 308(i)(1) of the Public Health Service Act (42 U.S.C. 242m(i)(1)) is amended in the first sentence—

(1) by striking "and" after "1986,";

(2) by striking the period and inserting a comma; and

(3) by adding at the end the following: "$30,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal year 1989.".

(b) NATIONAL CENTER FOR HEALTH STATISTICS.—Section 308(i)(2) of the Public Health Service Act (42 U.S.C. 242m(i)(2)) is amended—

(1) by striking "and" after "1986,";

(2) by striking the period and inserting a comma; and

(3) by adding at the end the following: "$55,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

SEC. 3. REQUIREMENTS WITH RESPECT TO CERTAIN USES OF APPROPRIATED FUNDS.

Section 308(i)(1) of the Public Health Service Act (42 U.S.C. 242m(i)(1)) is amended—

(1) in the third sentence—

(A) by striking "(e),"; and

(B)(i) by striking "and" after "1986,";

(ii) by striking the period and inserting a comma; and

(iii) by adding at the end the following: "and $4,500,000 for each of the fiscal years 1988 and 1989."; and

(2) by inserting after the fourth sentence the following new sentence: "For grants under section 309, the Secretary shall make available from funds appropriated under this paragraph not more than $750,000 for each of the fiscal years 1988 and 1989. Of such amounts made available, the Secretary shall, with respect to non-Federal contributions made available by grantees pursuant to section 309(a)(2)(B), obligate during each such fiscal year such amounts as may be necessary to pay the Federal share appropriate under such section as a result of such contributions.".

SEC. 4. ESTABLISHMENT OF CERTAIN RURAL PROGRAMS OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ASSESSMENT.

Section 305 of the Public Health Service Act (42 U.S.C. 242c) is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) In carrying out section 304(a), the Secretary, acting through the Center, shall undertake and support research, evaluation, and demonstration projects (which may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act and the Social Security Amendments of 1967) respecting the delivery of health care services in rural areas, which may include projects with respect to—

"(1) the future of the rural hospital;

"(3) long-term health care for the rural elderly;

"(3) hospital care for the rural poor and uninsured; and

"(4) alternative health care delivery systems and managed health care in rural areas.".

SEC. 5. DUTIES AND COMPOSITION OF NATIONAL ADVISORY COUNCIL ON HEALTH CARE TECHNOLOGY ASSESSMENT.

Section 305(h) of the Public Health Service Act (as redesignated in section 4(1) of this Act) is amended—

(1) in paragraph (1), by striking "shall assist the Director in developing" and inserting "shall make recommendations to the Director with respect to the development of"; and

(2) by amending paragraph (3) to read as follows: "(3)(A) The Secretary shall appoint to the Council—

"(i) six individuals distinguished in the fields of medicine, engineering, and science (including social science);

"(ii) four individuals distinguished in the fields of law, ethics, economics, and management; and

"(iii) two individuals representing the interests of consumers of health care services.

"(B) The Secretary shall ensure that members of the Council, as a group, are representative of professions and entities concerned with, or affected by, health care technology.".

SEC. 6. REQUIREMENT OF PEER REVIEW GROUPS FOR EVALUATIONS OF GRANT PROPOSALS.

Section 308(b) of the Public Health Service Act (42 U.S.C. 242m(b)) is amended—

(1) in paragraph (1), by striking "prescribe." and inserting "prescribe and unless a peer review group referred to in paragraph (2) has recommended the application for approval."; and

(2) by amending paragraph (2) to read as follows:

"(2)(A) Each application submitted for a grant or contract under section 304 or 305, in an amount exceeding $50,000 of direct costs and for a health services research, evaluation, or demonstration project, shall be submitted to a peer review group for an evaluation of the technical and scientific merits of the proposals made in each such application. The Secretary, acting through the Director of the National Center for Health Services Research and Health Care Technology Assessment (or, as appropriate, through the Director of the National Center for Health Statistics), shall establish such peer review groups as may be necessary to provide for such an evaluation of each such application.

"(B) A peer review group to which an application is submitted pursuant to subparagraph (A) shall report its finding and recommendations respecting the application to the Secretary, acting through the Director involved, in such form and manner as the secretary shall by regulation prescribe. The Secretary may not approve an application described in such subparagraph unless a peer review group has recommended the application for approval.

"(C) The Secretary, acting through the Directors, shall make appointments to the peer review groups required in subparagraph (A) from among persons who are not officers or employees of the United States and who possess appropritate technical and scientific qualifications.".

SEC. 7. REQUIREMENT WITH RESPECT TO AMOUNT OF NON-FEDERAL CONTRIBUTIONS IN GRANT PROGRAM FOR COUNCIL ON HEALTH CARE TECHNOLOGY.

Section 309(a)(2)(B) of the Public Health Service Act (42 U.S.C. 242n(a)(2)(B)) is amended by striking "for." and inserting the following: "for, except that for fiscal year 1988, the Secretary may only require expenditures from non-Federal sources in an amount not less than the amount of the grant applied for.".

SEC. 8. PROHIBITION AGAINST ALTERING CERTAIN ADMINISTRATIVE RELATIONSHIPS.

With respect to carrying out section 305 of the Public Health Services Act (42 U.S.C. 242c), the Secretary may not alter the administrative relationship between the Assistant Secretary for Health and the Director of the National Center for Health Services Research and Health Care Technology Assessment, as in effect during fiscal year 1986.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

Section 308(i)(1) of the Public Health Service Act (42 U.S.C. 242m(i)(1)) is amended—

(1) in the second sentence, by striking "percentum" each place it appears and inserting "percent";

(2) in the third sentence, by striking "305" and inserting "305,";

(3) in the fourth sentence, by striking "309" and inserting "309,"; and

(4) in the last sentence, by striking "year" and inserting "year,".

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Waxman].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I might consume.

The purpose of H.R. 3189 is to extend the authorization of appropriations for the research activities and programs of the National Center for Health Statistics and the National Center for Health Services Research and Health Care Technology Assessment. The legislation also includes provisions to strengthen federally supported health services research by: First, requiring outside peer review of research awards; and second, committing additional research resources toward improving the delivery of health care sevices in rural areas. The two national centers conduct critically important research on the state of our Nation's health care delivery system and the health of the American people.

The legislation was reported by the committee with strong bipartisan support. I want to recognize the contributions of the ranking minority member, Mr. Madigan, and the gentleman from Kansas [Mr. Whittaker] for their support and contribution to development of this legislation. I also want to commend the gentleman from Pennsylvania, [Mr. Walgren] for his role in strengthening the peer review requirements of the bill.

Mr. Speaker, the maintenance of a viable statistical base on the Nation's health and the ongoing support of health services research are vital to promoting efficiency in the health care system and holding down costs. H.R. 3189 reflects the committee's continued support for the programs of the national centers.

I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the Subcommittee on Health and the Environment in supporting the reauthorization of the National Center for Health Statistics and the National Center of Health Services Research and Health Care Technology Assessment. These centers provide the reseach and data collection absolutely necessary in making Federal health care delivery and financing decisions.

H.R. 3189 reauthorizes the National Center for Health Services Research for 2 years and the National Center for Health Statistics for 3 years. In addition the bill requires peer review of grants larger than $50,000, requires increased support of research regarding rural health care delivery, and makes several technical changes to the current statute.

H.R. 3189 received bipartisan support when it was considered by the Subcommittee on Health and the Environment and the Committee on Energy and Commerce. Therefore, I urge my colleagues to join me in supporting this legislation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. I am happy to yield to my colleague, the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3189, the Health Services Research Extension Act of 1987. I would also like to commend the gentleman from California [Mr. Waxman] for his work on this fine bill and again for his dedication to improving and expanding the medical field. I would also like to acknowledge the ranking member of the Health Committee, the gentleman from Illinois [Mr. Madigan] for his assistance in getting this measure to the floor today.

H.R. 3189 authorizes $30 million in fiscal year 1988 for the National Center for Health Services Research and Health Care Technology Assessment. The NCHSR/HCTA provides information to the Government, the health industry, and consumers on improving the effectiveness, efficiency, and distribution of health-care services, as well as performing health technolgy assessments of Medicare coverage decisions relating to the safety, effectiveness, and acceptability of new medical technology.

Mr. Speaker, of particular concern to a number of my constituents is a provision of H.R. 3189 that would require the NCHSR to provide demonstration projects on delivery of health-care services in rural areas. Specifically, the NCHSR must assess the provisions of long-term health services to the elderly, health care to the poor and uninsured, and the development of alternative health-care delivery systems and managed health care in rural areas.

The Health Services Research Extension Act also authorizes the National Center for Health Statistics at $55 million in fiscal year 1988. The NCHS is the sole source of data on illness and disability, utilization of health-care services, health resources, vital statistics, and health-care costs and financing. This information can prove invaluable to many people of the health industry in their research, as well as providing Members of Congress and other Government officials with reliable data so that we can make more responsible, effective decisions affecting health-care services.

The Health Services Research Extension Act enjoys strong bipartisan support and is endorsed by President Reagan and his administration. Accordingly, I ask my colleagues to join today in voting for H.R. 3189, the Health Services Research Extension Act.

Mr. WAXMAN. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

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Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Murtha). The question is on the motion offered by the gentleman from California [Mr. Waxman] that the House suspend the rules and pass the bill, H.R. 3189, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1987

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2961) to amend the Communications Act of 1934 to reauthorize the Federal Communications Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Communications Commission Authorization Act of 1987".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 6. There are authorized to be appropriated for the administration of this Act by the Commission $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989. Prior to the end of such fiscal years, the Commission shall not prescribe or enforce any regulation or policy to the extent that such regulation or policy prevents or deters the receipt or consideration of any information, communication, or expression of views from the Congress or a committee, subcommittee, member, officer, or employee of the Congress.".

SEC. 3. TRAVEL REIMBURSEMENT PROGRAM.

Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking out "1987" and inserting "1989".

SEC. 4. ANNUAL MANAGEMENT REPORT.

Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is deleted.

SEC. 5. FEE SCHEDULE.

Section 8(b)(1) of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by striking out "the date of enactment of this section" the first place it appears and inserting "April 1, 1987".

SEC. 6. OLDER AMERICANS PROGRAM.

(a) Authority To Make Grants and Cooperative Agreements.—During fiscal year 1988 and 1989, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the Commission's regulations.

(b) Certification Required.—Prior to awarding any grant or entering into any agreement under subsection (a), the office of managing director of the Commission shall certify to the Commission that such grant or agreement will not—

(1) result in the displacement of individuals currently employed by the Commission;

(2) result in the employment of any individual when any other individual is on layoff status from the same or substantially equivalent job within the jurisdiction of the Commission;

(3) result in filling a position prior to (A) publicly announcing the availability of such position, and (B) attempting to fill such position in accordance with regular employment procedures; or

(4) affect existing contracts for services.

(c) Conflict of Interest.—Participants in any program under a grant or cooperative agreement pursuant to this section shall—

(1) execute a signed statement with the Commission in which they certify that they will adhere to the standards of conduct prescribed for regular employees of the Commission (47 C.F.R., part 19); and

(2) execute a confidential statement of employment and financial interest (F.C.C. Form A-54) prior to commencement of work under the program.

Failure to comply with the terms of the signed statement shall result in termination of the individual under the grant or agreement.

(d) Prohibition on Service in Decision or Policymaking Positions.—Nothing in the section shall be construed to permit employment of any such participant in any decisionmaking or policymaking position.

(e) Grants and Agreements Subject to Appropriations.—Grants or agreements under this section shall be subject to prior appropriation Acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Markey] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. Rinaldo] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2961, authorizing appropriations for activities of the Federal Communications Commission. The legislation authorizes $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, and would account for required nondiscretionary cost increases.

The finding level for fiscal year 1988 represents an increase of approximately $5 million over the fiscal year 1987 budget. The increased funding provides for a newly implemented Fee Collection Program and for the Commission's request of an extenstion of the Travel Reimbursement Program. The Travel Reimbursement Program will allow the Commission to continue to accept reimbursement from sponsors of conferences and meetings for necessary expenses incurred by Commission officials. At the request of the Commission, the authorizing legislation will eliminate the Commission's annual management report, which essentially duplicates the Commission's annual budget submission and annual report. Elimination of the annual management board will contribute to significant savings of Commission resources.

This legislation also would preclude the Commission from prescribing or enforcing any regulation that prevents or deters the receipt or consideration of any information, communication or expression of views from the Congress. The legislation would ensure that the Commission's ex parte rules, particularly those provisions barring third-party contacts with the Commission during the so-called "sunshine period", the 7-day period before a matter is to be considered at a Commission meeting, not be applied to congressional contacts. I should note that, subsequent to the Energy and Commerce Committee's action on this legislation, and as a result of congressional expressions of concern, the FCC modified its ex parte rules to accommodate the concerns expressed in this legislation.

The subcommittee and the full committee by unanimous voice vote reported out H.R. 2961. The legislation represents a joint, cooperative effort among the members of the subcommittee. I very much appreciate the efforts of Chairman Dingell and the ranking minority members of the full committee and subcommittee, Mr. Lent and Mr. Rinaldo, for their efforts to ensure expeditious consideration of this legislation.

I must note, however, that, notwithstanding this authorization, I have real concerns about the Commission's policy direction and its attitude toward the Congress. On more than one occasion in recent months, the Commission seems to have lost sight of the reality that it is a creature of Congress, and by law is required to implement those policies the Congress develops. Further, it must be clearly understood by the Commission that the Congress has an affirmative obligation to oversee the regulatory and enforcement activities of the Commission.

Because of my concerns about the Commission, I intend to ensure that the Subcommittee on Telecommunications and Finance continues to monitor closely the Commission's activities. As a result of our oversight activities to date, I have become increasingly concerned about many of the Commission's procedures. For that reason, I intend to work closely with the Commission to consider changes in the Commission's processes and procedures to ensure regulated entities and, more importantly, the American people that the Commission's activities are thorough, but fair. I believe that this authorizing legislation and the attached report are a start in the right direction. For that reason, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of the FCC Authorization Act. This bill authorizes to the FCC the necessary operating funds for the next 2 fiscal years.

I am glad that this bill is free of controversial subjects that can be more appropriately, and effectively, dealt with directly, rather than as add-ons to a funding bill.

In addition to funding, the bill provides for a noncontroversial test program for the hiring of older Americans at the FCC. This program was first suggested by my friend from Texas [Mr. Fields]. As the ranking Republican on the Aging Committee, I am hopeful that this program will provide one more way for older Americans to continue to make valuable contributions to society, and for the Government to gain the benefit of their expertise.

The report accompanying this bill does address several matters on which there was widespread committee agreement, including the continuing imbalance of telecommunications trade, the plight of am-radio "daytime only" stations, and the special problems for licensing low power and translator stations in mountainous western areas.

We have managed to bring this bill to the floor quickly and amicably. I wish to thank the chairman of the Telecommunications Subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and the gentleman from New York [Mr. LENT], the ranking minority of the full committee, for their willingness to work on effective, consensus legislation. This is a good bill, and I urge its adoption.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman for yielding me this time.

First I would like to commend the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee, and the gentleman from New Jersey [Mr. RINALDO], the ranking member, for their leadership on a variety of FCC issues.

I rise in strong support of this bill. However, I would like to make several points relating to FCC activities which are of great concern.

The first is that there seems to be an attitude that a fiefdom is developing over at the FCC, and there is disregard for the courts and the Congress.

Specifically on children's television, so far the FCC has ignored a court order to set some definitive rulemaking; and I was most concerned with an FCC decision to totally disregard the fairness doctrine. I do not think the fairness doctrine is any great shakes. Nonetheless, I do think the FCC's almost utter contempt for overwhelming votes in Congress to retain the fairness doctrine shows an attitude of disregard, and even disrespect, for the elected institutions in this country.

I am also extremely concerned about the attitude towards minority ownership. For many years the FCC had made some very definitive progress in the area of minority ownership, in the area of minority distress sales.

With one sweep of the pen, the FCC decision literally set back the cause of minority ownership in communications, which is the industry and the arena of the future, rather rapidly and rather insensitively.

I think it is critically important that the FCC recognize that it has responsibility to all Americans, not just the broadcasting industry; and I think that is one of the main concerns of many Members of Congress.

Last, there is a Member of the FCC, Patricia Diaz Dennis, a very fine young woman with a broad intellect. She is a New Mexican. Nonetheless, I am concerned that her role in the Commission has not been defined, because she seems to take positions that are really no positions.

In testimony before the Congress, and in public statements, she keeps saying she is a rookie, and she is formulating her point of view. She has been a rookie for over a year now; and every statement, every response she gives relates to the fact that she is still making up her mind.

She is on that Commission to represent the views of all Americans. As a Hispanic and as a woman, it is critically important that she retain a considerable amount of issues that affect those different groups.

So far she is not doing it, and we are eager to see the kind of role she is going to take.

There is a vacancy on the Commission right now, and it is critically important that the appointment goes to somebody that knows something about broadcasting, but also respects the courts and the Congress, somebody that cares about eliminating needless deregulation, but recognizing that the role of Government and the Congress is one of protecting the people.

I rise in support of this legislation; yet, I think these concerns about the FCC in the future need to be addressed.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding me this time.

During the hearing on this bill it came to the attention of the committee again that the FCC has generally been extremely slow in filing the official notices and orders on actions that it has been taking, leaving people who are affected by those orders to have really only the FCC's public relations release to rely on to know what it is precisely they are supposed to do.

In discussing this with the chairman of the committee at the hearing, the chairman indicated that he too believed this was an inappropriate amount of delay.

I talked with the chairman, and the chairman suggested that we not put an amendment in this authorization this year that would set a rigid time limit on which the Commission should make a turnaround, and get the official paper out, so that people who are being regulated know what it is officially they are supposed to respond to. The chairman did suggest that it was a legitimate concern.

The committee has expressed this concern in the markups at subcommittee and full committee. It is in the hearing record, and it is in the report filed on this bill.

Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. MARKEY], the chairman, and the gentleman from New Jersey [Mr. RINALDO], the ranking Republican member, for their support in simply sending a very strong signal, but not with specific statutory language, to the FCC at this point that they should get the official business done in time, so that people that have to have the exact meaning and words of the Commission on record to know what it is they are supposed to do will have that information available in that time.

Mr. Speaker, I thank the gentleman for yielding to me, so we can make that point again in the legislative process.

Mr. MARKEY. Mr. Speaker, I note there are no other Members who are requesting time on our side, so once again I would like to compliment the gentleman from New Jersey [Mr. RINALDO], the ranking minority member, for the cooperative spirit that has made it possible for us to bring out this bill.

This is not a typical occurrence having the FCC authorization come onto the floor in such an amicable fashion, and it is a tribute to the cooperative nature which we have developed on these issues.

Mr. Speaker, with that, I yield back the balance of my time.

Mrs. COLLINS. Mr. Speaker, with great reluctance, I rise in support of H.R. 2961, a bill authorizing appropriations for the Federal Communications Commission [FCC] for fiscal years 1988 and 1989.

Time and again, the FCC, like every executive agency in the Reagan administration, has gone out of its way to "thumb its nose" at Congress by defying our legislative mandates. The most notable examples of the Commission's refusal to enforce our enactments are its attitude toward programs enhancing the role of minorities and women in the broadcast industry and the fairness doctrine.

Of foremost concern to me is the FCC's efforts to restrict, if not abolish, programs improving the representation of minorities and women in the broadcast industry. A year ago, in a legal challenge to the constitutionality of its longstanding regulations granting a preference to both groups in the issuance of a broadcast license, the FCC argued against the validity of its OWN program. To "compound the felony," it prevailed upon a Federal appeals court to remand this case so it could reexamine this program.

Over the past year, the Commission has been conducting this reexamination. Based on the Commissioners' statements, I am deeply disturbed that they are committed toward eliminating many of the regulatory incentives which minorities and women need to be active participants in this industry. For that reason, I strongly endorse language adopted by the Senate Appropriations Committee barring the FCC from going forward with this rulemaking and I hope it eventually will be enacted into law.

Equally important, the FCC has failed to enforce its equal employment opportunity regulations. In March, the office of communications of the United Church of Christ analyzed the FCC's own employment data and found minorities have made little, if any, progress in securing professional employment in the industry. And the news is certainly no better for women. Again, I have no expectation this situation will improve during the remainder of this administration's term.

Finally, the Commission's failure to enforce the fairness doctrine provides additional evidence of its attitude toward Congress. On many occasions, we have reaffirmed our support for this doctrine, and the important objective it serves in promoting a balanced exchange of vital public information on our Nation's airwaves. Notwithstanding our directive, the current Commission first challenged, then argued against, and, finally, succeeded in destroying this doctrine. I anticipate we will reenact this doctrine but I have grave doubts the current FCC will enforce it.

When any executive agency repeatedly turns a "deaf ear" to the wishes of Congress, there are serious questions whether we should continue funding this agency. I sincerely hope the FCC will keep this in mind as it conducts its business in the future.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2961, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill [H.R. 2472] to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, as amended.

The Clerk read as follows:

H.R. 2472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,718,000 for fiscal year 1988, and $15,000,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

SEC. 2. SEMIANNUAL MINORITY RECRUITING GOALS AND REPORTS.

(a) RECRUITING GOALS.—The Administration shall, for each of the fiscal years for which funds are authorized under section 1 of this Act, establish semiannual goals for recruiting and hiring minority members and women to the staff of the Administration. Such goals shall be published in the Federal Register not later than thirty days before such fiscal year begins.

(c) SEMIANNUAL REPORTS.—The Administration shall, not later than January 15 and July 15 of each such fiscal year, submit a report on its success in achieving the goals established under subsection (b) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 3. IMPROVEMENT OF COORDINATION IN PUBLIC TELEVISION FACILITIES GRANTS FOR LOW-POWER TRANSLATOR STATIONS.

The Administrator of the National Telecommunications and Information Administration shall enter into discussions with the Federal Communications Commission for the purposes of determining the feasibility of awarding public television facilities program grants for low power translator stations that are conditional on the approval by the Commission of a license for that station. The Administrator shall work with the Commission in establishing expedited schedules for the consideration of such grants and licenses. The Administrator shall report to the Congress within one hundred and eighty days after the date of enactment of this Act on progress made in carrying out the requirements of this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am very pleased to bring to the floor, H.R. 2472, which authorizes all of the funds requested by the National Telecommunications and Information Administration for fiscal years 1988 and 1989. The bill authorizes $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989 together with the sums necessary for nondiscretionary costs for each fiscal year.

H.R. 2472 is a bipartisan product. Thanks to the efforts of Chairman DINGELL and ranking minority member Mr. LENT of the Energy and Commerce Committee and Mr. RINALDO, ranking member of the Telecommunications and Finance Subcommittee, the bill was approved by both the Subcommittee on Telecommunications and Finance and the Energy and Commerce Committee by voice vote without dissent.

Passage of this legislation will enable NTIA to continue as an important influence in the formation of our national telecommunications policies. As telecommunications products and services become increasingly important to the well being of our economy, the need for coherent, forward-looking policies becomes ever more critical. Last year, the telecommunications industry contributed over $200 billion to our gross national product [GNP], provided employment for over 1½ million Americans and stimulated capital investment in excess of $256 billion. Further, telecommunications is one segment of the economy where the United States has been successful internationally and its continued growth is essential to our international competitiveness.

Although some of my colleagues and I sometimes disagree with the recommendations made and the positions promoted by NTIA, we all agree that NTIA has a vital function in crystalizing debate and shaping public policy for the critical telecommunications industry. They have professionally and capably administered the Federal use of the radio spectrum and have adequately operated and disbursed grants under the Public Television Facilities Program [PTFP]. NTIA deserves special praise in their international outreach programs that have advanced U.S. trade and competitiveness.

H.R. 2472 represents a bipartisan effort designed to give NTIA the funds it needs to serve as an effective agency, supporting the expansion of the telecommunications industry. Its past performance merits our continued support. I urge my colleagues to support its passage.

Mr. Speaker, once again I want to compliment the ranking minority member for the way in which his staff and the full committee staff has made it possible for us to in fact work out an agreeable presentation to the full committee.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2472. This bill authorizes appropriations for the National Telecommunications and Information Administration for fiscal years 1988 and 1989. I also want to note for the benefit of my colleagues that the funding levels do not exceed the levels requested by the President's budget.

I am pleased that this bill, like the FCC authorization bill, is free of controversy. This bill, in addition to authorizing the requested funds, also directs the NTIA to coordinate with the FCC on how to expedite grants for TV translator stations which will carry public television. I applaud this provision, which will make public TV more available to the citizens of the West, where TV reception is at its worst.

Finally, I am gratified that the committee in its report has urged NTIA to take action in two specific areas—information services and telecommunications trade.

Like the FCC bill, we have managed to bring this legislation to the floor with bipartisan support and in an expeditious manner.

I wish to thank the chairman of the Telecommunications Subcommittee, the gentleman from Massachusetts [Mr. Markey], for his willingness to work on consensus and effective legislation, for his ability to forge a partnership and bring it to the floor as quickly as possible.

I also wish to acknowledge the contributions of the chairman of the full committee, the gentleman from Michigan [Mr. Dingell], and the ranking minority member of the full committee, the gentleman from New York [Mr. Lent].

Mr. Speaker, this is a good bill and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, I support this legislation because NTIA continues to make an indispensable contribution to the development of telecommunications policy in the United States. NTIA provides important perspectives when it participates in congressional hearings, FCC rulemaking proceedings and other policy forums. In the past year, NTIA has studied proposals to reimpose syndicated exclusivity rules on cable operators, the impact of station ownership rules on the AM radio market, multisystem AM stereo equipment, the trade effects of lifting restrictions on the bell operating companies, and alternatives to rate of return regulations for AT&T and local telephone companies.

There is also no question that NTIA's management of the Government's use of the electromagnetic spectrum is essential to our national defense, air traffic control, weather monitoring, and many other governmental services. Last year, the Interdepartmental Radio Advisory Committee, chaired by NTIA, took action on over 82,000 Federal agency radio frequency assignments. NTIA certified that spectrum space will be available for 38 new Federal Government radio communications systems including segments for over-the-horizon radar, leasecraft, advanced communications satellite system, the strategic defense initiative, space station, and next generation radar for wind shear detection. NTIA also coordinated 26 foreign satellite systems to ensure that the U.S. telecommunications industry is protected from interference.

While it is true that I have expressed serious concerns over how NTIA has administered its Public Telecommunications Facilities Program, I think that an amendment I introduced which was adopted by the Energy and Commerce Committee goes a long way in addressing the problems. The provision requires NTIA to enter into discussions with the FCC to determine the feasibility of awarding conditional public telecommunications facilities grants to low-power stations that are conditioned on FCC approval on station licenses. I believe this provision will speed up the process of getting funding for facilities and equipment to rural areas and members of minority groups and others so that they can offer noncommercial television services on an expedited basis.

Mr. Speaker, the bill also contains report language to ensure that the NTIA in the future does more to recruit minorities into its ranks. Telecommunications is an area that is a key to the future in terms of future growth for this country and it is important that minorities participate in this growth.

I would also like to state that I believe that the head of the NTIA, Mr. Alfred Sikes, is a responsive individual whenever he has had difficulties with some of the provisions of the gentleman from New Mexico. He has been most responsive and has tried to do a job adequate to the charter of his agency.

Mr. Speaker, I wish to commend the chairman and the staff of the subcommittee for incorporating many of the amendments of the gentleman from New Mexico and for their leadership on this very important issue; the same with the gentleman from New Jersey [Mr. Rinaldo] who is very sensitive to some of the issues that have been raised in the course of the deliberations of the NTIA.

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume, and that it is time just once again to note that it took considerable compromise in order to arrive at the package which we have before us. The gentleman from New Mexico [Mr. Richardson] has noted some of the more difficult points that we had to reconcile in terms of his concerns, but it took the active and cooperative efforts of the minority as well in order to put this package together.

Once again, Mr. Speaker, I will note that this is not a regular occurrence, that is, that the NTIA would be authorized in this fashion. I believe it is a compliment to the minority in working with the majority that we were able to put together and fashion this piece of legislation. I would like again to publicly commend them.

Mr. Speaker, I yield back the balance of my time.

Mrs. COLLINS. Mr. Speaker, I am pleased to join my colleagues on the Energy and Commerce Committee in support of H.R. 2472, legislation authorizing appropriations for the National Telecommunications and Information Administration [NTIA]. As the lead agency for development of domestic and international communications policy, it is important that we authorize the necessary $29,718,000 million operating budget for fiscal years 1988 and 1989.

It is no secret that while I support NTIA's input on the trade reform measure, their work on common carrier issues, advice on HDTV technology, and the like, my attention this Congress has centered on the administration of the public communications facilities program.

While the Federal Government has a distinct responsibility to support and encourage quality public television and radio programming, the NTIA has an equal duty to identify and fund community based entities capable of producing exceptional programming, especially diverse, quality programs offered by minority entities.

During the Telecommunications Subcommittee's consideration of this measure, I requested information on the number of minority grants awarded in fiscal year 1986. Of the 145 total grants awarded, 42 went to blacks, Hispanics, Asians and American Indians. I also sought to learn the reasoning behind a language change dealing with criteria for grant selection in 1982. This change had to do with NTIA eliminating the criterion which provided a preference for minorities and women in the second consideration. Since then, minorities and women are provided special consideration as part of the "other" consideration.

My major concern is that since the 1982 change, minorities have not substantially benefited from either the number of grants issued or the amount of moneys awarded. Consequently, a more detailed explanation concerning the different direction undertaken by the agency is needed. Along that line, let me again stress the need to give special consideration to grants submitted by minorities. Such consideration will work to ensure greater diversity in the PTFP. I look forward to working more closely with NTIA in this regard.

Let me also express my support for the Richardson employment language adopted in subcommittee. This language requires NTIA to establish semi-annual minority recruiting goals and reports. I know I join my colleagues in looking forward to agency implementation of this provision.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 2472, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MONTANA NATURAL RESOURCES PROTECTION AND UTILIZATION ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2090) to designate certain National Forest System lands in the State of Montana for release to the forest planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Montana Natural Resources Protection and Utilization Act of 1987".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified areas, which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's RARE II and other studies of National Forest System lands in the State of Montana and the related congressional review of such lands have identified certain National Forest System lands in the State of Montana which should not now be designated as components of the National Wilderness Preservation System but which possess exceptional scenic, fish and wildlife, and recreational values and should be specially managed to protect those exceptional values; and

(4) the Department of Agriculture's RARE II of National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude and physical and mental challenge.

(2) designate certain National Forest System lands in the State of Montana for special management and special study in order to promote, and conserve their exceptional scenic, wildlife and fish, and recreational values; and

(3) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

WILDERNESS DESIGNATION

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 the following lands in the State of Montana are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System.

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, Montana, which comprise approximately 28,500 acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately 25,000 acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed," dated September 1987, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately 79,500 acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed," dated September 1987, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately 6,500 acres, as generally depicted on a map entitled "Tobacco Root Wilderness—Proposed," dated September 1987, and which shall be known as the Tobacco Root Wilderness.

(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, Montana, which comprise approximately 70,500 acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed," dated September 1987, and which shall be known as the Stony Mountain Wilderness.

(6) Certain lands in the Bitterroot and Lolo National Forests, Montana, which comprise approximately 55,600 acres, as generally depicted on a map entitled "Selway-Bitterroot Wilderness Additions—Proposed," dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.

(7) Certain lands in the Bitterroot National Forest, Montana, which comprise approximately 28,500 acres, as generally depicted on a map entitled "Frank Church-River of No Return Wilderness Additions—Proposed" (Bluejoint), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Frank Church-River of No Return Wilderness Additions.

(8) Certain lands in the Custer National Forest, Montana, which comprise approximately 10,500 acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed," dated September 1987, and which shall be known as the Lost Water Canyon Wilderness.

(9) Certain lands in the Custer National Forest, Montana, which comprise approximately 6,000 acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline, Mystic Lake), dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(10) Certain lands in the Deerlodge and Helena National Forests, Montana, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Electric Peak Wilderness—Proposed", dated September 1987, and which shall be known as the Blackfoot Meadows Wilderness.

(11) Certain lands in the Deerlodge National Forests, Montana, which comprise approximately 41,000 acres, as generally depicted on a map entitled "Flint Creek Range Wilderness—Proposed", dated September 1987, and which shall be known as the Flint Creek Range Wilderness.

(12) Certain lands in the Deerlodge and Bitterroot National Forests, Montana, which comprise approximately 65,000 acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated September 1987, and which shall be known as the Sapphires Wilderness.

(13) Certain lands in the Flathead National Forests, Montana, which comprise approximately 118,000 acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck Mt. Hefty, Thompson-Seton)", dated September 1987, and which shall be known as the North Fork Wilderness.

(14) Certain lands in the Flathead, Lolo and Lewis and Clark National Forests, Montana, which comprise approximately 237,000 acres, as generally depicted on a map entitled "Bob Marshall Wilderness—Additions—Proposed" (Limestone Cave, Slippery Bill, Rocky Mountain Front, Clearwater-Monture, Silver King-Falls Creek), dated September 1987, and which shall be deemed to be part of the Bob Marshall Wilderness.

(15) Certain lands in the Flathead National Forests, Montana, which comprise approximately 960 acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1987, and which are incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(16) Certain lands in the Flathead National Forests, Montana, comprising approximately 129,500 acres, as generally depicted

on a map entitled "Jewel Basin/Swan Wilderness—Proposed", dated September 1987, and those lands comprising the west slope of the Bob Marshall Wilderness shall be deemed to be a part of the Bob Marshall Wilderness and the remaining lands shall be known as the Swan Crest Wilderness.

(17) Certain lands in the Gallatin National Forest, Montana, which comprise approximately 500 acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" (Republic Mountain), dated September 1987, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(18) Certain lands in the Gallatin National Forest, Montana, which comprise approximately 23,000 acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1987, and which are hereby incorporated in and shall be considered part of the Lee Metcalf Wilderness.

(19) Certain lands in the Gallatin National Forest, which comprise approximately 22,000 acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1987, and which shall be known as the Earthquake Wilderness.

(20) Certain lands in the Helena National Forest, Montana, which comprise approximately 26,000 acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1987, and which shall be known as the Camas Creek Wilderness.

(21) Certain lands in the Helena National Forest, Montana, which comprise approximately 15,000 acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1987, and which shall be known as the Mount Baldy Wilderness.

(22) Certain lands in the Helena National Forest, Montana, which comprise approximately 10,500 acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1987, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(23) Certain lands in the Helena National Forest, Montana, which comprise approximately 8,500 acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1987, and which shall be known as the Black Mountain Wilderness.

(24) Certain lands in the Helena National Forest, Montana, which comprise approximately 21,000 acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated September 1987, which shall be known as the Nevada Mountain Wilderness.

(25) Certain lands in the Kootenai National Forest, Montana, which comprise approximately 51,500 acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1987, and which shall be known as the Scotchman Peaks Wilderness.

(26) Certain lands in the Kootenai National Forest, Montana, which comprise approximately 33,000 acres, as generally depicted on a map entitled "Ten Lakes Wilderness—Proposed", dated September 1987, and which shall be known as the Ten Lakes Wilderness.

(27) Certain lands in the Kootenai National Forest, Montana, which comprise approximately 35,500 acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated September 1987, and which are hereby incorporated in and shall be a part of the Cabinet Mountains Wilderness.

(28) Certain lands in the Lewis and Clark National Forest, Montana, which comprise approximately 21,500 acres, as generally depicted on a map entitled "Big Snowies Wilderness Area—Proposed", dated September 1987, and which shall be known as the Big Snowies Wilderness.

(29) Certain lands in the Lolo National Forest, Montana, which comprise approximately 89,600 acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated September 1987, and which shall be known as the Great Burn Hoodoo Wilderness.

(30) Certain lands in the Lolo National Forest, Montana, which comprise approximately 49,000 acres, as generally depicted on a map entitled "Quigg Wilderness—Proposed", dated September 1987, and which shall be known as the Quigg Wilderness.

WILDERNESS MAPS, DESCRIPTIONS AND ADMINISTRATION

SEC. 4. (a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in section 3 of this Act, any reference to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SCAPEGOAT AND GREAT BEAR WILDERNESS NAMES

SEC. 5. In order to consolidate existing contiguous wilderness areas, those lands comprising the Great Bear Wilderness Area designated by Public Law 95-946 and any amendments thereto and the Scapegoat Wilderness Area designated by Public Law 92-395 and any amendments thereto are hereby incorporated in and deemed to be a part of the Bob Marshall Wilderness. The designations of the Great Bear Wilderness and Scapegoat Wilderness will refer to units within the Bob Marshall Wilderness.

RELEASE TO NONWILDERNESS USES

SEC. 6. (a) The Congress finds that—

(1) the Department of Agriculture had adequately met the wilderness study requirements of Public Law 94-557 and Public Law 95-150;

(2) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management planning for National Forests; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Montana, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Montana;

(2) with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture in wilderness studies conducted pursuant to Public Law 94-557 and Public Law 95-150, in RARE II, and in the unit plans and the Forest plan for the Beaverhead National Forest which were in effect prior to completion of RARE II, that such reviews shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) except as may be specifically provided in sections 8-11 of this Act, those areas in the State of Montana referred in subparagraph (2) of this subsection which were not designated wilderness shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Mon-

tana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousands acres in size.

ADJACENT MANAGEMENT

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Montana lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SPECIAL MANAGEMENT AREAS

SEC. 8. (a) For the purposes of conserving and protecting the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made.

(1) The West Pioneers National Recreation Area located in the Beaverhead National Forest and comprising approximately 169,800 acres, as generally depicted on a map entitled "West Pioneers National Recreation Area—Proposed", dated September 1987.

(2) The Mount Helena National Education and Recreation Area located in the Helena National Forest and comprising approximately 5,400 acres as generally depicted on a map entitled "Mount Helena Education and Recreation Area—Proposed", dated September 1987.

(3) The Ross Creek Cedars National Recreation Area located in the Kootenai National Forest and comprising approximately 700 acres, as generally depicted on a map entitled "Ross Creek Cedars Biological Area—Proposed", dated September 1987.

(4) The Gibson Reservoir National Recreation Area located in the Lewis and Clark National Forest, and comprising approximately 26,400 acres, as generally depicted on a map entitled "Gibson Reservoir National Recreation Area—Proposed", dated September 1987.

(5) The Cottonwood Lake National Recreation Area located in the Deerlodge National Forest, and comprising approximately 8,300 acres, as generally depicted on a map entitled "Cottonwood Lake National Recreation Area—Proposed", dated September 1987.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer, the areas designated in subsection (a) of this section so as to achieve the purposes of their designation as National Recreation Areas in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the areas are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) Management activities may be permitted by the Secretary of Agriculture if compatible with the purposes for which the areas were designated: Provided, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) The use of motorized equipment may be allowed if compatible with the purposes for which the areas are designated.

(5) The grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to applicable law and regulations of the Secretary.

(6) Any activities which would otherwise be permitted in an area designated as wilderness pursuant to the Wilderness Act of 1964 shall also be permitted in the areas designated in subsection (a) of this section.

(7) The Forest Service shall manage the Mt. Helena National Education and Recreation Area and the Hyalite National Education and Recreation Area (designated in Section 11) with a focus on education. All management activities shall be conducted in a way that provides the public with an education on natural resources protection and management.

(d) All areas designated in subsection (a) of this section shall be administered as components of the National Forests wherein they are located. Land and resource management plans for the affected National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall emphasize achieving the purposes for which the areas are designated.

ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA

SEC. 9. (a) The area of the Helena and Deerlodge National Forests comprising approximately 175,700 acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1987, shall hereafter be managed generally as a national recreation area that emphasizes enhancement of big game habitat. Where compatible with such emphasis, management also shall provide for recreational opportunities and the maintenace and enhancement of habitat for nongame species. Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" and as shown on the above map shall remain roadless, except that motorized equipment may be used by the Secretary after hearings and a finding that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and the map shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designated as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothremal and mineral leasing laws.

SPECIAL STUDY AREAS

SEC. 10. The following provisions shall apply to the managment and administration of the described areas in the National Forests in Montana.

(a) The West Big Hole. That area located on the Beaverhead National Forest comprising approximately 124,700 acres, as generally depicted on a map entitled "West Big Hole", dated September 1987. The Secretary shall prepare a watershed management study to address the effects of alternative forest management activities on future water quality and quantity. The study with recommendations of the Secretary shall be submitted to the Committee on Energy and Natural Resources, United States Senate and the Committee on Interior and Insular affairs, House of Representatives no later than three years from the date of enactment of this Act. For the period of the study and for two years from the date of submittal of the study to the Congress (but no less than five years from the date of enactment of this Act), the Secretary shall protect the wilderness character of the area and shall manage the area consistent with a further planning designation under RARE II.

(b) The Crazy Mountains Wilderness Study Area in the Gallatin and Lewis and Clerk National Forests comprising approximately 131,500 acres, as generaliy depicited on a map entitled "Gallatin and Lewis and Clerk Land Consolidation Study", dated September 1987. This area shall be managed in accordance with the provisions of Public Law 95-150. The Forest Service shall complete a study of public and private land consolidation alternatives for this area which shall be submitted to the appropriate committes of Congress no later than January 1, 1991.

(c) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map shall have the same force and effect as if included in this Act: Provided, that correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

GALLATIN RANGE

SEC. 11. (a) Certain lands in the Gallatin National Forest which comprise approximately 24,000 acres, generally depicted as "wilderness" on a map entitled "Gallatin Wilderness Area—Proposed", dated September 1987 are hereby designated as wilderness and as a component of the National Wilderness Preservation System and shall be known as the "Gallatin Wilderness".

(b)(1) Certain lands in the Gallatin National Forest which comprises approximately 26,000 acres generally depicted as "National Education and Recreation Area" on the map referenced in subsection (a) shall hereby be designated the "Hyalite National Education and Recreational Area".

(2) The Secretary shall administer the area so as to achieve the purposes of a National Recreation Area in accordance with the laws and regulations applicable to the National Forest System.

(3) Subject to valid existing rights, all federally owned lands within the area are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public lands laws, and disposition under the geothermal and mineral leasing laws.

(4) Timber harvesting on Federal land shall not be permitted within the boundary of the National Education and Recreation Area except, that nothing in this subsection shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(5) The use of motorized equipment may be allowed if compatible with the purposes for which the area is designated and if such use will not degrade the resources of the area.

(6) The grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to applicable law and regulations of the Secretary.

(c) The provisions of Section 6 shall be applicable to (a) and (b) above as appropriate.

(d) Lands in Hyalite/Porcupine/Buffalo Horn Wilderness Study Area not referred to in subsections (a) and (b) and which comprise approximately 123,000 acres, as generally depicted as "Land Consolidation Study" on the map referenced in subsection (a) shall be known as the Gallatin Range Land Consolidation Study Area and shall be managed in accordance with the provisions of Public Law 95-150

The Forest Service shall complete a study of public and private land consolidation alternatives for this area which shall be submitted to the appropriate committees of Congress no later than January 1, 1989.

(e) Notwithstanding any other provision of law, the Secretary shall not permit any road to be constructed into any portion of the area designated in (a) or (d) above and any easements granted prior to enactment of this Act shall be terminated upon enactment of this Act. The Secretary may approve an easement application after the date of enactment of this Act providing a completed Environmental Impact Statement has been submitted to the appropriate Committees of the Congress and the Congress has taken affirmative action to provide authority to the Secretary to grant such an easement.

(f) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and this map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in this map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

BURLINGTON NORTHERN LAND EXCHANGE

SEC. 12. The Secretary shall exchange lands and interests in lands with Burlington Northern Railroad Company in accordance with the following provisions:

(a) Subject to the provisions of this section, if the Burlington Northern Railroad Company offers to the United States the fee title to all the lands depicted on a map entitled "Burlington Northern Proposed Exchange Lands", dated September 1987, the Secretary is authorized and directed to accept a warranty deed to such lands and, in exchange, therefore, and subject to valid existing rights, convey by quitclaim deed the fee title to all the lands depicted on a map entitled "National Forest Proposed Exchange Lands", dated September 1987. The National Forest System lands depicted on such map shall be conveyed subject to the following reservation and exceptions:

(1) Existing ditches and canals as authorized by the Act of August 30, 1890 (26 Stat. 391,43 U.S.C. 945).

(2) The right of the United States and its assigns to the Buck Creek Ridge Road Numbered 2599 in connection with the protection, administration, management, and utilization of National Forest System lands, including right of use by the public. Said Buck Creek Ridge Road is located over and across sections 29, 21, and 32, Township 7 South, Range 4 East, Principal Montana Meridian, the rights-of-way being 60 feet in width, lying equally on each side of the center line as built.

(3) Rights which are subject to oil and gas leases Numbers 49432, 28085, 32843, 55325, and 31787 are excepted. Upon termination or relinquishment of the said leases, all the rights and interests therein in the lands depicted on the map entitled "National Forest Proposed Exchange Lands" and included in said leases shall automatically vest in Burlington Northern Incorporated, its successors and assigns.

(4) Such other terms and conditions, reservations or exceptions as may be agreed upon by the Secretary and Burlington Northern.

(b) The maps referred to in subsection (a) are subject to such minor corrections as the Secretary and Burlington Northern may agree.

(c) It is the sense of Congress that the exchange authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act. The Secretary is authorized to use other existing acquisition authorities if the exchange authorized by this section is not completed within a reasonable time after the expiration of such ninety-day period.

(d) With respect to the lands of Burlington Northern depicted on the map entitled "Burlington Northern Proposed Exchange Lands", the Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there have been no encumbrances to the title which are unacceptable to the Secretary and no reduction in values of said lands or interests therein. If the Secretary finds an unacceptable encumbrance on the title or that a reduction in the value of the lands or interests therein has occurred, the Secretary shall not carry out the exchange but may exercise discretion to undertake an exchange on other terms and conditions in accordance with other provisions of law.

MISCELLANEOUS PROVISIONS

SEC. 13. (a) The Secretary is directed to conduct a study for a potential horse trail in the Swan Range west of the Jewel Basin on the Flathead National Forest, Montana. The study shall be completed within two years and submitted, to the Committee on Energy and Natural Resources, United States Senate and the Committee on Interior and Insular Affairs, House of Representatives. No action to construct any such horse trail shall be initiated until at least 90 days after the date of submittal of the report.

(b) Those lands comprising the Rattlesnake National Recreation Area and Wilderness as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(c) The acreage cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

SEVERED MINERALS EXCHANGE

SEC. 14. (a) Congress finds that:

(1) Underlying certain areas in Montana designated by this Act are mineral rights owned by the Burlington Northern Railroad Company or its affiliates (hereafter "Company");

(2) There are federally owned minerals underlying lands of the Company lying outside such areas;

(3) The Company has agreed in principle with the Department of Agriculture as to the potential exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas;

(4) It is desirable to authorize and facilitate such an exchange or exchanges, and that it is desirable that any such exchanges be completed within two years of the date of enactment of this Act.

(b) Pursuant to an exchange agreement which may be made by the Secretary and the Company, the Secretary may acquire by exchange any mineral interest owned by the Burlington Northern Railroad Company or any affiliate thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Bob Marshall Wilderness Additions—Proposed" (Clearwater-Monture area) and "Gallatin Wilderness Area—Proposed", dated September 1987, or in any fractional sections adjacent to such areas. In exchange for such mineral interests owned by the Company, the Secretary of the Interior shall convey, subject to valid existing rights, federally owned mineral interests which are specifically identified in an exchange agreement.

(c) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information. To assure that the wilderness or other natural values of the areas are not affected, a formal appraisal shall not be required for any mineral interest proposed for exchange: *Provided*, That the Secretary and the Company will fully share all available information on the quality and quantity of mineral interests. In the absence of adequate information regaridng values of minerals proposed for exchange, the Secretary and the Company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) Any mineral interests conveyed by the United States pursuant to this Act shall underlie lands the surface of which are owned by the Company. In the event that there are not sufficient federally owned mineral interests of approximately equal value underlying Company lands, then the Secretary and the Bureau of Land Management may identify for exchange any other federally owned mineral interest in Montana for which the surface estate is in private ownership.

(e) Any exchange agreement and the inclusion in such agreement of any federally owned mineral interests lying outside the boundaries of any National Forest shall be made in consultation with the Bureau of Land Management. Notwithstanding any provision of law, the Secretary of the Interior shall convey the federally owned mineral interests identified in any final exchange agreement.

(f) For purpose of this section, "mineral interests" shall include all locatable and leaseable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) Any exchange agreement and implementing actions made pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act.

AUTHORIZATION

SEC. 15. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2090, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2090, sponsored by my colleague from Montana, [Mr. WILLIAMS], determines the future management of over 6 million acres of national forest roadless lands in Montana—almost all of this area in western Montana, the district Congressman PAT WILLIAMS represents so well. The resources of these lands are of national significance. Not only do they contain minerals, range, timber, and oil and gas in varying amounts, but they also include wildlands unsurpassed in beauty and pristine quality. This wilderness resource is noted for its spectacular high mountain scenery, large, contiguous blocks of undeveloped land containing outstanding opportunities for solitude and escape from the sights and sounds of civilization.

Moose, deer, bear, bighorn sheep, mountain goats, wolverines and the Nation's largest elk herds are thriving on these roadless acres. Several threatened and endangered species are counted in these wilderness areas—making a last stand on these same lands. The grizzly bear, gray wolf, peregrine falcon, bald eagle and the grayling are all residents whose very survival is dependent on the future management of these roadless areas.

Montana is one of three Western States that does not have a statewide wilderness act determining how much of this roadless land should be released for potential development. The lack of a statewide act has prolonged the wilderness controversy in Montana, seriously limits the development of Montana's economy and denies protection to some of America's most scenic and pristine wildlands. H.R. 2090 resolves the roadless area issue in Montana and allows the Forest Service and industry to get on with their jobs while at the same time adding some outstanding acres to the National Wilderness Preservation System.

The bill designates 31 wilderness additions and areas totaling 1.3 million acres, seven special management areas totaling 412,000 acres and three special study areas with 379,000 acres. It releases 4.2 million acres to potential development to the FMP which have all been completed by the U.S. National Park Service.

Mr. Speaker, your Subcommittee on Interior, the Parks and Public Lands Subcommittee, has followed the regular process on this issue, field visits by members and staff, extensive followup work with the land managing professionals, in this case the National Forest Service, followed by subcommittee hearings at which scores of witnesses were heard and finally markup writing the legislation with extensive debate and discussion. It surely is good when we can agree as policymakers and act in concert. That is not the case today but this is a balanced measure that deserves the House of Representatives support.

Mr. Speaker, I urge my colleagues to support this bill which will contribute to Montana's economy, protect the State's wildlands and enhance America's National Wilderness Preservation System.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, lest there be any question, let me say that as a Representative of one-half of the people of the State of Montana, I am vehemently opposed to this legislation, the so-called Montana Natural Resources and Protection Utilization Act of 1987, H.R. 2090.

□ 1345

As the ranking member on the Subcommittee on National Parks and Public lands, I aggressively oppose this bill.

As an outdoor enthusiast I oppose this bill.

I object to the process by which my esteemed colleague, who represents the environmental faction, rammed this bill down the throats of those who think of recreation as something other than wilderness. I am not alone in my opposition. Depending on whose poll you take, 62 percent to 70 percent of Montanans think that there is already enough or that there is too much wilderness in the State of Montana.

Who are these groups of opposition? They include the Farm Bureau, Chamber of Commerce, Trail Bikers, Trail Bike Riders Association, Montana Forest Practices Committee, county commissioners, Intermountain Forest Industry, Montana Wood Products Association, Montana Wood Products Industry, Montana Loggers Association, and the Montana Mining Association. As a matter of fact and as a matter of information while hearings were being conducted here in Washington, DC demonstrations were taking place in the State of Montana in different cities and towns throughout the State, demonstrations against the fact that we were creating such an all-encompassing wilderness legislation.

Mr. Chairman, recognizing the already overabundance of wilderness and the vastness of this bill and the potential damage that this legislation could cause, the Secretary of Interior in a letter to the gentleman from Arizona [Mr. UDALL], dated October 9, stated:

> We oppose enactment of H.R. 2090, as reported by the committee, which would create vast new areas of wilderness in the State of Montana.

The Secretary of Agriculture stated in a letter dated October 9:

> The Administration strongly opposes H.R. 2090. This legislation would designate almost twice as many acres of wilderness in the State of Montana as was recommended by the Forest Service in recently completed forest plans.

Mr. Speaker, because of the vast amount of opposition, the lack of consensus in the Montana delegation, because of the potential damage to the economy of the State of Montana and to the people who live there and work and earn their living there, because of the committee's refusal to reaffirm the rights of hunters in the wilderness areas, and because of the selfish refusal of the committee and the wilderness advocates to consider the needs of the handicapped and the elderly, I will seek a veto of this abusive legislation unless it is changed or moderated.

This would be a great bill if there were not people living in the State of Montana, but there are people, people who depend on public lands for their livelihood, people who depend on public lands for recreation, people who have been there all of their lives, people who have protected the environment, who have protected the wildlife resources that we have. They now find that they are being shut out of those areas that they so ably protected for years and years.

Less acres and access are now available to Montanans than was available 10 years ago. They find that by legislation such as H.R. 2090 their options to manage those lands for future needs of recreation and harvesting the renewable resources are being precluded by a Congress that does not understand the needs of the people of the State of Montana. We went through a committee process here in Washington DC, whereby we had a strict partyline vote on every single amendment that I offered in subcommittee and that I offered in full committee. It saddens my heart to think that the people of eastern Montana would have their rights usurped because of a political partisanship that I have seldom if ever seen in the committee process in this Congress of the United States of America.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], the sponsor of this measure.

Mr. Speaker, I might say in doing so that I want to commend the gentleman from Montana for an excellent work product in this effort in his area.

Mr. WILLIAMS. Mr. Speaker, 10 years ago this Congress received from the Forest Service their recommendations for the management of America's roadless lands.

That survey is the Forest Service's second Roadless Area Review and Evaluation—RARE II, for short. The aim was to determine the most appropriate uses of the very best of America's wildest lands. More than 62 million acres nationwide were examined and then discussed at national town meetings across the country.

The various congressional delegations from all but three States have passed Federal legislation to settle the fate of the lands within their borders. Montana is one of the three which have not, and we need to get on with the task at hand. Jobs for our workers, the future of our State's economy, and the fate of some of the most pristine lands on this continent depend on resolving RARE II—and doing it now. Our miners deserve to know where they can dig, our loggers where they can cut, our oil riggers where they can drill. Our outdoors and tourism industry must also know which lands will be available for recreation. And, of course, we have an obligation to ourselves and our children to set aside the very best of the Big Sky for the generations to come.

The Forest Service had studied approximately 6 million acres of Federal land in Montana.

This legislation recommends 1.3 million of that for wilderness.

We recommend approximately 410,000 acres as national recreation areas.

We place three areas in further study—350,000 acres.

The legislation releases 4.1 million acres to the Forst Service.

Let me share briefly with my colleagues the various areas in Montana which are affected by this legislation.

We add approximately 412,000 acres to the nationally renowned Bob Marshall Wilderness. Those new additions, particularly along the Rocky Mountain Front, are important to protect not only the scenic beauty but also to preserve some of the most impressive wildlife resources in the United States. The Rocky Mountain Front is home to America's largest herd of bighorn sheep and the Nation's second largest herd of elk.

The legislation preserves as wilderness some of the lands bordering both Glacier National Park and Canada. The United States must be clear in its commitment to preservation of our lands and waters along the Canadian border.

One of Montana's and America's great fisheries is the Blue Ribbon Trout Stream known as Rock Creek. This bill preserves the headwater of that drainage.

In the industrial heartland of western Montana the legislation assures appropriate timber harvest. Every planned timber sale is allowed to go forward. Mining is encouraged. All patented mining claims, and of course all active mining operations, are protected.

In two areas, near Helena and Bozeman, the legislation creates national education and recreation areas. These will encourage enhanced enjoyment and understanding of the wild lands.

This explanation is only a short synopsis of this bill. It represents a balanced consideration of the management of Montana's public lands.

Some would have us set aside millions of acres more in Wilderness. Others would protect none of these acres.

This legislation represents what I believe to be responsible protection and utilization of Federal land. We protect motorized recreation, leaving open, for example, 2,300 miles of snowmobiling trails. We protect the timber industry by unlocking more than 4 million acres, much of it good timberlands, for harvest.

We set aside for exploration and production the vast majority of the best potential mineral oil and gas areas.

Finally, we pass on to other generations 1.3 million acres of America's last best wild places.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, again I want to commend the gentleman from Montana [Mr. WILLIAMS]. This has been a difficult issue. There is a great area of land at stake. As I described to one of my colleagues, with all due respect to Colorado, I think that western Montana is about 2 Colorados, from what I can see. I was delighted to be out there and be hosted by the gentleman from Montana [Mr. WILLIAMS] and the other gentleman from Montana [Mr. MARLENEE] who had us over for some social visits and so forth. We were just delighted. I think the gentleman has done an outstanding job. The gentleman puts his finger on the issue, we all differ over what the acres and the outlines ought to be, but we have to move on and make the decision. Everyone will not agree around here, and if we were going to wait for total agreement we would not accomplish this effort. It would be nice, but if we are going to make decisions, nothing frustrates the public process more than not coming up with decisions. I thank the gentleman for the work he has done. I wish there were absolute agreement but we are following the normal process and I think we will end up with one.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for his remarks. The gentleman is kind and I am appreciative of his assistance as well as the assistance of the gentleman from Arizona [Mr. UDALL], the chairman of the full committee.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I want to express my thanks to the gentleman from Montana [Mr. WILLIAMS] for the good work that he has done on this bill, and to thank the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands for a good solid legislative performance. This is a good bill. It was handled in the best tradition of the House and I hope the House will adopt it.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the contention that this piece of legislation is a piece of legislation that will release lands for development and for jobs, I believe, needs to be corrected because it is in fact erroneous and does contain error.

I have with me today an article where lands were released, where we did have a study and where we did have a forest management plan. This article indicates that "Nature groups appeal plan for Custer National Forest."

Even though we did have a plan and even though there was a Forest Service plan whereby these lands should have been open for recreation and management as the Forest Service saw fit, we have appeals by the obstructionists, namely the environmental organizations. This piece of legislation does absolutely nothing to preclude those kinds of suits and those kinds of appeals from being filed.

The question of how much wilderness is enough wilderness also arises. I would like the people of this Nation and particularly the people of Montana to know that already within the State of Montana we have with the forest lands, the refuges and the national parks, 4½ million acres of wilderness that is basically off limits to the average recreationist. That is 4½ million acres.

Let me emphasize to you how much 4½ million acres really is. If we took a strip of land 1 mile wide and we stretched that wilderness area all the way from New York City westward, it would run to Tokyo, Japan. That is 1 mile wide. That is a piece of wilderness 1 mile wide all the way from Washington, DC, to Tokyo, Japan. With the addition of the wilderness bill of the gentleman from Montana [Mr. WILLIAMS], we could stretch that right on almost to the middle of the Soviet Union or to Moscow. That is a piece of wilderness 1 mile wide all the way from Washington, DC, to Moscow.

I think that for 5 percent of the people to use this much land as recreational land for their pursuits is far too much land.

Let me examine some of the other myths of wilderness.

Mr. Speaker, Montana needs the options of management that are available from nonwilderness prescription. We need those areas to be managed under a Forest Service plan. Mr. Speaker, I would urge the defeat of this legislation and I reserve the balance of my time.

MYTH NO. 1

Tourism is dependent on wilderness.

FACT

Additional wilderness will have a negative impact on tourism. Tourists who enjoy Montana, many times also come to see Yellowstone and Glacier Park. They drive the scenic "Going to the Sun Highway," they camp in trailers and campers at fishing bridge campground; they stay at hotels; they eat at restaurants. According to information from the Montana Department of Tourism, tourism is up by 29 percent from 1982 to 1986. However, Forest Service data shows wilderness use in Montana down by 27 percent during the same period. Backpackers who fly in with freeze-dried food do not sustain Montana's tourism industry.

MYTH NO. 2

Recreation is dependent on wilderness.

FACT

It becomes a question of how many recreational activities you want to exclude, not include, from the public lands by putting lands into wilderness. Forest Service data shows that only 5 percent of the total recreational use occurs in wilderness areas. The other 95 percent occurs at developed or dispersed recreational sites.

MYTH NO. 3

The only way to protect these lands is by putting them into wilderness.

FACT

Many of the lands proposed for wilderness will be protected by roadless management prescriptions provided for by forest service plans. Of the areas where some activity is proposed, the Forest Service must follow the National Forest Management Act, the National Environmental Policy Act, the Endangered Species Act, the Clean Water Act, and a whole list of other environmental law which protect wildlife, water, and scenic values.

MYTH NO. 4

This is a recreation/protection bill versus a road/development bill.

FACT

Wilderness designation is so strict and severe that it actually inhibits recreation. Five years ago, no one had heard of a Mountain bike, and yet these nonmotorized bicycles are acutally prohibited in wilderness areas. Further, because the Forest Service has a mandate to protect the wilderness, it is controlling how many people go where and how long they stay in the wilderness. The strict regulation of wilderness with its limits of no acceptable change does not contribute to recreation for most Montana residents.

MYTH NO. 5

Montanans will decide this issue by having the legislative process move forward.

FACT

Montana people will be left out of the process by allowing a committee in Washington, DC, which is for the most part prowilderness, proenvironmentalists to legislate a bill which does not have consensus or even a majority of support in Montana.

MYTH NO. 6

Montana's protected lands are few and need expanding.

FACT

Eighty-eight million acres of wilderness already exist nationally. In the three State region of Montana, Idaho, and Wyoming there are 11 million acres. Montana alone provides 4.3 million acres of wilderness. In addition there is 1 million acres of wildlife refuges and another 1 million of national park land which is protected, for a grand total of 6.3 million acres of protected lands which we Montanans cherish and protect.

MYTH NO. 7

Motorized recreation has plenty of opportunity.

FACT

The Forest Service is closing hundreds of miles of existing roads and proposing to close new roads associated with planned timber harvests to protect wildlife. On the Kootenai National Forest, 2,500 miles of roads, or nearly 40 percent of the total road system is under some kind of closure for wildlife protection or to protect streams from sedamentation. In the Gallatin, 500 miles of trails available for motorized recreation would be off limits if the hyalite-porcupine-buffalo Horn Area becomes wilderness.

MYTH NO. 8

This is a jobs bill.

FACT

How can this be a jobs bill when it has been stated that mills which have been operating for over 50 years were constructed in the wrong place and should be closed?

How can you call this a jobs bill when the legislation does not, I repeat, does not prevent delays, lawsuits, and appeals?

MYTH NO. 9

This bill accommodates mining and oil and gas.

FACT

Some of the highest potential oil and gas areas along the overthrust belt are off limits to exploration. Another 20 areas containing strategic and critical minerals are locked up in wilderness. This bill puts into wilderness patented mining claims. Thousands of additional unpatented claims also exist.

MYTH NO. 10

Wildlife depends on wilderness.

FACT

Wilderness ties the hands of the professional land managers and wildlife experts. Grizzlies, elk, and other wildlife need open areas for food, which can be made available by prescribed burning and or timber harvesting. The Forest Service actually proposes several of the areas contained in this bill for grizzly management. Putting those areas into wilderness will preclude those management options.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding, because I wish to respond to my friend and colleague from Montana. The reason that ending this wilderness question in Montana is in fact good for jobs is because until the Congress does end the question, Montana suffers by having 6 million acres of our public lands locked up and off limits from any exploration, production, drilling, or cutting. Harvesting of any kind is now off limits in 6 million acres in our State.

This legislation frees up, releases more than 4 million of those acres. With regard to my colleague's interesting comment about the fact that there are enough lands set aside in designation to cause a 1-mile wide strip to reach from Washington, DC, to Tokyo, I simply remind him that the lands we release in this bill for planning by the Forest Service, much of that land to be explored and drilled, cut, the land we release in this bill would also be a mile wide and reach from Washington, DC, to Tokyo.

By the way, lest any of my colleagues misunderstand it, we do not have 4½ million acres of wilderness in Montana. We have about 3.5 million acres of wilderness. And almost half of that is in one place, that is the Bob Marshall Wilderness Complex, one of the first great wilderness areas in the United States.

Montana shares in Yellowstone Park. We have all of Glacier National Park in our State.

Combined, those areas make up 1 million acres, not of wilderness but of areas that are used by all Americans.

Let me just make one final point. And that is that the setting aside of America's and Montana's wild places as national parks, wildlife habitat areas including bird refuges, the setting aside of great wild places into wilderness, all of those combined represent the highest form of national thrift. And it is in that spirit that I offer this legislation today and urge my colleagues to vote "aye."

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Montana.

Mr. MARLENEE. If my colleague from the western part of the State, Mr. WILLIAMS, would yield for a question, I would ask him if he claims Glacier National Park as part of the State of Montana which park in fact includes almost, I believe it is, 1 million acres of wilderness in itself? The 3.5 million acres to which he referred were Forest Service wilderness acres. Add those to Glacier National Park, which is off limits, of course, to motorized recreation, add it to the BLM wilderness and the National Wildlife Refuges and you do come up with 4.5 million acres. And if the gentleman would yield further, when he stated that we also would release a strip of land 1 mile wide for multiple-use and recreation from Washington, D.C., to Tokyo, that would not be wilderness.

Let me state therein lies the misconception and misunderstanding of creating wilderness, because 5 percent of the people use the 3.5 million acres or 4.5 million acres, whatever the wilderness area is, and 85 percent of the rest of the people are crowded into campgrounds and crowded into the other area.

We are setting aside half of the land and essentially that is what happened on some of our forests already, almost half of it is set-aside in special use; 50 percent set-aside for 5 percent of the people, 50 percent for the other 85 percent. I say it is time we start considering the other 85 or 95 percent.

I thank my colleague for yielding.

Mr. VENTO. Reclaiming my time, it is clear to me that the great State of Montana has some of the most outstanding lands, some of the most outstanding resources; topographic features, geologic formations, some of the most natural. It is between Yellowstone on the south and Glacier on the north, joining our neighbor with Canada. In between I think my colleagues can understand there are some magnificent resources here. It should be I think a point of pride with a State like Montana. I do not come from Montana but I am very proud of the fact that these lands remain and are in public ownership and we are trying to classify them in such a way that some of those areas will remain in their natural state. The process we have perhaps is not as perfect, does not work as perfect, but I think a great deal that is offered. I think many Members of this Congress come to this committee and are seeking some sort of recognition of the national significance of the resources that they have in their States. Obviously Montana has these natural resources that are very significant that have to be available to all the people. While some of them might not be able to utilize wilderness today or utilize other areas, for instance, in terms of timber harvest, we find there are enough resources here that will in fact support and provide availability, providing we are good stewards, good conservationists with the direction that we are moving.

The fact is that this legislation in and of itself frees up two-thirds of the land that was studied for other uses, under the Forest Management plan. Some of those will be recreational, some for mining, some for timber harvest and so forth.

That is what this legislation immediately does. We have to come to a decision I understand. But there are disagreements with regard to this and what direction we ought to go. I think we can all agree that we are talking about 6 million-plus acres and it would be almost a miracle.

The fact is that our staff has served us well; Jim Bradley working on my staff along with Dale Crane, my Chief of Staff as well as Will Brook working for the distinguished gentleman from Montana [Mr. MARLENEE] and Art Noonan working with Pat Williams; they have done a good job. We have clear messages; I think we have had a good working relationship and hopefully we can move toward this legislation today and try to resolve this issue.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Speaker, I, too, along with the chairman of the committee, would like to commend the staff on both sides. I think they have done an excellent job. We certainly did not agree, and I admit that we were snookered somewhat, but that is the way the committee process works in this House of Representatives. But I would like to sincerely thank the chairman of the committee for his consideration, his trip to the State of Montana, and to all the staff, Will Brook, Jim, the majority staff, for the assistance that they rendered in this legislation.

Mr. VENTO. I think we have had a good working relationship and hopefully we can move forward and legislate today.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2090, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1415

THE VIRGINIA AND WEST VIRGINIA WILDERNESS ACT

Mr. VOLKMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2878) to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas, as amended.

The Clerk read as follows:

H.R. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the States of Virginia and West Virginia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the George Washington National Forest, which comprise approximately 9,300 acres, as generally depicted on a map entitled "Rough Mountain Wilderness Area-Proposed", dated June 1987, and which shall be known as the Rough Mountain Wilderness Area;

(2) certain lands in the George Washington National Forest, which comprise approximately 6,450 acres, as generally depicted on a map entitled "Rich Hole Wilderness Area-Proposed", dated June 1987, and which shall be known as the Rich Hole Wilderness Area;

(3) certain lands in the Jefferson National Forest, and George Washington National Forest which comprise approximately 5,700 acres, as generally depicted on a map entitled "Barbours Creek Wilderness Area-Proposed", dated June 1987, and which shall be

known as the Barbours Creek Wilderness Area;

(4) certain lands in the Jefferson National Forest and George Washington National Forest, which comprise approximately 3,665 acres, as generally depicted on a map entitled "Shawvers Run Wilderness Area" dated October 1987, and which shall be known as the Shawvers Run Wilderness Area;

(5) certain lands in the Jefferson National Forest, which comprise approximately 72 acres, as generally depicted on a map entitled "Lewis Fork Wilderness Area Addition-Proposed", dated June 1987, and which shall be known as the Lewis Fork Wilderness Area; and

(6) certain lands in the Jefferson National Forest, which comprise approximately 2,500 acres, as generally depicted on a map entitled "Mountain Lake Wilderness Area Addition-Proposed", dated June 1987, and which shall be known as the Mountain Lake Wilderness Area.

SEC. 2. ADMINISTRATION OF WILDERNESS AREAS.

Subject to valid existing rights, lands designated as wilderness by section 1 shall be included within the national forest system and administered in accordance with the laws and regulations applicable to national forest wilderness areas, including the provisions of the Wilderness Act (16 U.S.C. 1131-1136) and the Virginia Wilderness Act of 1984 (Public Law 98-586; 98 Stat. 3105).

SEC. 3. MAPS AND BOUNDARIES.

As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. REPEAL OF STUDY.

Subsection (d) of section 6 of the Virginia Wilderness Act of 1984 (98 Stat. 3108) is hereby repealed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is a second demanded?

Mr. MORRISON of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. VOLKMER] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Agriculture is pleased to bring before the House H.R. 2878, designating certain national forest lands in Virginia and West Virginia as wilderness. This measure was referred jointly to our committee and to the Committee on Interior and Insular Affairs which also favorably reported the bill.

H.R. 2878 would add about 25,200 acres of wilderness in Virginia and 2,500 acres in West Virginia. The bill is supported by our colleagues who represent the areas involved, by conservation groups and industry, and in large part by the Department of Agriculture, Forest Service.

H.R. 2878 follows up on the Virginia Wilderness Act of 1984, which set aside four areas in the State for further study due partly to the concerns of the Westvaco Corp., which operates a paper mill in Covington, VA. After considering the effects of wilderness designations for these areas on its Covington operations, Westvaco has withdrawn its objections.

The four areas—Rough Mountain, Rich Hole Barbours Creek, and Shawvers Run—encompass slightly more than 25,000 acres in the George Washington National Forest and Jefferson National Forest in Virginia. Of this area, the Forest Service recommended designation of all but about 42 acres.

The Forest Service raised concerns about privately owned mineral rights on these 42 acres, but the committee believes the wilderness qualities of the areas are significant enough to warrant protection.

In addition to the designation of these four areas, H.R. 2878 would expand the boundaries of two existing wilderness areas, Lewis Fork and Mountain Lake.

The 72-acre addition to the Lewis Fork area, which is supported by the Forest Service, corrects an omission from the 1984 act and provides a more manageable wilderness boundary.

The proposed 2,500-acre Mountain Lake Wilderness addition is located in the State of West Virginia and is contiguous with the Mountain Lake Wilderness area in Virginia. The Forest Service has consistently recommended this area for inclusion in the wilderness system and continues to support its designation.

The Virginia Wilderness Act of 1984 mandated an air quality study to be conducted by the Secretary of Agriculture in consultation with the Environmental Protection Agency and the State of Virginia. This investigation was to relate to those areas that were set aside for further study in the act. Because these areas would be designated as wilderness by H.R. 2878, the study is no longer necessary and would be repealed.

Mr. Speaker, this bill has moved smoothly through our committee and the Interior Committee largely because of the willingness of elected officials, conservation groups, industry, the Forest Service, and others to work together to accommodate the diverse views concerning forest management. I commend those who have worked so diligently on this legislation for their efforts.

Mr. Speaker, I reserve the balance of my time.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to concur with our subcommittee chairman, the gentleman from Missouri [Mr. VOLKMER], that this bill does represent perhaps the best of all worlds as far as wilderness consideration is concerned. It does reflect study areas that were set aside a number of years, with objections to them, with local opposition. That opposition is all worked out now with all parties, and the Forest Service and all members of the Virginia delegation are in support of this particular measure.

So I congratulate all parties involved and indicate to the full House that the subcommittee and the Committee on Agriculture did hold appropriate hearings and acted in full consideration of all matters related to wilderness. So we are pleased to bring this legislation to the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentleman from Washington [Mr. MORRISON], and I take this time to reiterate what has been said by my friend, the gentleman from Washington, that in this matter in times past there has been some controversy. There was opposition previously expressed by a number of people in the local area and by at least one important economic entity in Virginia. But the real concern about the adverse effect of this legislation on jobs and economic opportunity in that area has been negotiated satisfactorily and in the interests of all concerned.

So as a cosponsor of the legislation, I take this time to rise in support of it and to extend to my colleagues from Virginia my commendation for their efforts in this area. I think what is being achieved will be to the benefit of all.

Mr. Speaker, I thank the gentleman again for yielding this time to me.

Mr. VOLKMER. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. OLIN], who is the primary sponsor of this legislation and the Member who has been primarily active in moving it forward.

Mr. OLIN. Mr. Speaker, I thank my subcommittee chairman for yielding this time to me.

Mr. Speaker, I rise in support of this legislation. I want to thank my colleagues, the gentleman from Virginia [Mr. BOUCHER], for his help on this legislation, and also the gentleman from West Virginia [Mr. STAGGERS] for his help.

As the subcommittee chairman has stated, this bill would add about 25,000 acres in Virginia and 2,500 acres in West Virginia to the 56,000 acres approved in 1984 as Virginia wilderness. It basically completes the wilderness system that was contemplated at that time. The four areas that were set side for study to consider air quality issues are now being added to the wilderness area, and all opposition that existed to the original bill has been withdrawn.

The areas to be added include Rough Mountain and Rich Hole in the George Washington National Forest in my district, Barbours Creek and Shawvers Run in the Ninth Congressional District in both the Jefferson and George Washington National Forests, and in addition there are a number of technical corrections made to the original bill, and a section of West Virginia, 2,500 acres adjacent to the Mountain Lake Wilderness area, is being added in as recommended by the Forest Service.

The Virginia delegations in both the House and the Senate are solidly behind this bill. There has been a companion bill introduced in the Senate, and we expect it to be acted on expeditiously. The Forest Service supports the legislation, and as has been stated, the original objection of the Westvaco Co. in Covington has been withdrawn, and it is a great credit to that company that it came forward and announced to all of us that the fears they had turned out to be unfounded and have been removed.

With the passage of this bill, those who live in Virginia and those who come to Virginia to visit are going to be able to see and experience the national forest in its natural state free from the works of man. They are going to be able to hunt and camp and fish and ride horseback if they want to and take part in all kinds of activities without using motorized vehicles. It is going to be a very nice addition to the State. It is a real legacy for the future.

This bill adds 50 percent to the wilderness areas in Virginia, but it only brings the total amount of wilderness up to 5 percent of the national forest in Virginia. That is not a lot of area compared to some of the areas in other parts of the country. These areas may be smaller, but they are no less special than the wilderness areas elsewhere.

Mr. Speaker, I urge favorable action on H.R. 2878.

Mr. Speaker, H.R. 2878 represents cooperative effort in every sense of the word. The Virginia delegation on both sides of the Capitol has been involved in assuring that additional wilderness is protected without adversely affecting the economic base of our Commonwealth or restricting the multiple-use concept of the national forest system.

It has been a cooperative effort best symbolized by Westvaco, a major employer in western Virginia which had serious—and appropriate—concerns about nearby wilderness when the original system was proposed in 1984.

When the 98th Congress approved about 56,000 acres as wilderness in Virginia, it also set aside four of the areas in H.R. 2878 as "wilderness study areas," in response to concerns raised by Westvaco.

Westvaco uses a vast quantity of forest products in its operation of a paper mill in Covington, VA. Just as importantly, Westvaco plays a key role in woodlands management and forest research in the wood products industry.

In 1984, with major expansion of its Covington plant just getting started, Westvaco was properly interested in what effect nearby wilderness would have on its ability to continue its operations there. Of particular interest was the possibility that stringent air quality standards would prevent plant expansion.

Those of us advocating wilderness designation felt pretty certain that our proposal would not impede Westvaco's future operations, but we understood the economic necessity of further study to assure the validity of our contention that we could both protect jobs and protect wilderness.

So the four proposed wilderness areas closest to Westvaco were set aside as wilderness study areas and an air quality study was mandated—with a completion date of 2 years following passage of the legislation.

The air quality study was delayed due to budgetary limitations imposed on the Forest Service, but was expected to be completed this summer.

Early this spring, however, I was contacted by officials of Westvaco, who informed me that the company's own air quality analysis—done in preparation for further plant expansion—had shown that Westvaco would not be adversely affected by wilderness designation for the four study areas.

Westvaco notified me in April that, based on its air quality data, the company was withdrawing its earlier opposition to wilderness designation.

That brings us to the harmonious position we find ourselves in today.

I deeply appreciate Westvaco's generous display of good will in voluntarily sharing its air quality analysis and in withdrawing its opposition to these wilderness areas. I also want the record to show—as it did in the 1984 deliberations—that the Virginia delegation solidly backs Westvaco's stance in opposition to any future upgrading of air quality standards from class II to class I. I would echo the pledge Senator WARNER made when we introduced this legislation July 1: I will not seek or support the redesignation of these or former wilderness areas as class I areas.

I still believe that it is possible to protect jobs and to protect wilderness simultaneously. Westvaco has completed a major expansion since the 1984 bill passed and has just begun a $20 million renovation of its wood yard in Covington. It is committed to remaining in western Virginia. Jobs are being preserved; these four special areas in Virginia now need the protection of wilderness designation.

The four areas are split between Congressman BOUCHER's Ninth District and my own Sixth District. The two I'm most familiar with are the 9,300-acre Rough Mountain Wilderness Area, lying primarily in Bath County, and the 6,450-acre Rich Hole Wilderness Area in Rockbridge and Alleghany counties, both in the George Washington National Forest in the Sixth District.

Both Rough Mountain and Rich Hole were identified for wilderness designation by the Forest Service as part of its RARE II evaluation.

Rough Mountain is just what its name tells you—one rough mountain. It offers the experience of rugged hiking and the isolation of a real wilderness experience. Yet, it is close enough to a good primary highway—Virginia 42—to allow easy access for a day's retreat onto a mountain trail. I've hiked in each of the wilderness areas and proposed wilderness areas in my district. Rough Mountain provides a workout.

To give you an indication of the conditions on Rough Mountain—even the loggers crusade for wilderness designation here. They contend that wilderness is just what it is; it might as well be officially designated.

Rich Hole, on the other hand, is a lusher, friendlier environment. It lies just west of Interstate 64 in Rockbridge and Alleghany Counties. The wilderness boundaries have been extended a bit since 1984 because of the acquisition by the Forest Service of a large estate that fits naturally into the wilderness area. It has stands of virgin timber; it is watered by small streams that cascade down the steeper slopes. Its trails are favorites of recreational hikers and sportsmen.

Very quickly, I would like to comment on other provisions of the bill.

The 5,700-acre Shawvers Run Wilderness and the 3,665-acre Barbours Creek Wilderness are primarily in the Ninth Congressional District; both lie mostly in the Jefferson National Forest and extend slightly into the George Washington.

The 2,500-acre expansion of the Mountain Lake Wilderness Area into West Virginia has been advocated by the Forest Service since the RARE II evaluation. It has the support of the West Virginia delegation and seems a logical extension of a wilderness that offers a wide range of recreational activities in a strikingly beautiful setting.

Subsection 5 of section 1 of the bill makes a technical correction to the 1984 bill. When the official map of the Lewis Fork Wilderness Area was filed, 72 acres which were meant to be included as wilderness were left out by mistake. The Lewis Fork map is corrected by this legislation.

H.R. 2878 also amends the 1984 act by deleting the mandated air quality study. The purpose of that requirement was to determine whether industry would be adversely affected by wilderness designation; that determination has now been made without the necessity of the study. The Forest Service had about $200,000 set aside to complete this work this summer. By repealing the mandate for a now unnecessary study, the Forest Service can apply the funding to other budgetary needs.

The repeal is accomplished in section 4 of the bill.

The substance of this bill is the promise it offers to future generations—who may live in cities, endure traffic snarls and tolerate the tensions of high-stress jobs: Our Virginia wilderness areas will offer welcome retreats into the solitude of nature. Their opportunity to study wildflowers, to go birdwatching, to ride a horse, to hunt, to fish, to climb rocks, to wade in cool streams, to sleep under the stars in an area undisturbed by the creations of man will be our legacy.

But they can have that opportunity only if we take the opportunity afforded us to set aside special areas as wilderness.

H.R. 2878 is modest in comparison to other wilderness proposals being considered this year. But its effect is no less important. These 25,000 acres increase our Virginia wilderness system by almost 50 percent and bring our total to just about 5 percent of the national forest acreage in Virginia.

Our special areas may be smaller—but they are just as special.

Mr. MORRISON of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. VOLKMER. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the legislation and wish to commend the chairman of the subcommittee and the ranking member for the excellent way in which they have worked on this legislation.

Mr. Speaker, I rise today in support of H.R. 2878, a bill to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas. This bill is cosponsored by all but one Member of the Virginia delegation and by our colleague from West Virginia, Mr. STAGGERS, in whose district H.R. 2878 would designate additional wilderness. The bill is also supported by local elected officials.

The bill completes the process of wilderness designation in Virginia that was begun in 1984 with enactment of the Virginia Wilderness Act. Given the breadth of support for this bill, I believe that it clearly warrants adoption by the House today.

H.R. 2878 is one of a number of wilderness bills that have been considered by the House in recent years. Legislation designating wilderness areas in national forests in 28 States have been enacted into law since passage of the Wilderness Act of 1964.

Jurisdiction for legislation designating wilderness in the national forests is shared by the Committee on Agriculture and the Committee on Interior and Insular Affairs. However, by prior agreement between the Committees, the Committee on Interior and Insular Affairs has maintained primary jurisdiction over the designation of wilderness in forest reserves created from the public domain, while the Committee on Agriculture and the Committee on Interior have shared responsibility for designating wilderness on acquired forest lands. This has meant that wilderness bills in the eastern States have been reviewed by both committees prior to their consideration by the House. Such was the case with H.R. 2878 which was brought to the floor by the Committee on Agriculture today. Jurisdiction over forestry and forest management throughout the National Forest System remains primarily with the Committee on Agriculture.

Mr. Speaker, this longstanding agreement between the Committee on Agriculture and the Committee on Interior and Insular Affairs has served to simplify a rather complex problem that has confused and confounded members of the committees, members who have sponsored wilderness bills, and others with an interest in wilderness. For this reason, I am certain that our committees will continue to adhere to this agreement and operate in the spirit of cooperation that has benefited both the public and the natural resources that we have been entrusted to oversee.

Mr. VOLKMER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BOUCHER], in whose district lies much of this wilderness area.

Mr. BOUCHER. Mr. Speaker, I rise in support of the Virginia and West Virginia Wilderness Act of 1987.

I want to commend my colleague from Virginia, Mr. OLIN, for his leadership. We also welcome the cosponsorship of this measure by the gentleman from West Virginia, Mr. STAGGERS.

Three years ago, the Virginia Wilderness Act became law. It designated 56,000 acres in Virginia as wilderness, including seven areas in my congressional district. Today's bill serves as a followup to that act by adding approximately 25,000 acres in Virginia and one tract of 2,500 acres in West Virginia to the National Wilderness System.

Wilderness designation of the two areas in Craig County in Virginia's Ninth Congressional District, Shawvers Run and Barbours Creek, is strongly supported by the Craig County Board of Supervisors. Wilderness designation of these two areas, which total just over 9,300 acres, will preserve in perpetuity some of the outstanding natural resources of Southwest Virginia. Shawvers Run is noted for its mature hardwood forest and plentiful mountain laurel as well as its excellent fishing. Barbours Creek offers numerous opportunities for primitive recreation with its two fishing streams and black bear and wild turkey habitat. The two areas are easily accessible to those living along the Interstate 81 corridor.

The bill also adds 2,500 acres in West Virginia to the adjoining Mountain Lake Wilderness Area in Giles County, VA. The addition of this acreage to Mountain Lake's present 8,253 acres will complete the natural boundary of the area which is now divided due to the West Virginia/Virginia State border and enhance the management of Mountain Lake Wilderness by the Forest Service.

H.R. 2878 also makes a technical correction to the Lewis Fork Wilderness Area. Mistakenly, 72 acres were omitted from the official map for this area following passage of the Virginia Wilderness Act of 1984. This mistake is corrected by the addition of the 72 acres in this legislation.

H.R. 2878 will increase the acreage of lands in Virginia's wilderness system by 50 percent. Our State's proud tradition of treasuring its natural heritage is further enhanced by the protection of these resources.

I thank the gentleman from Missouri, Mr. VOLKMER, and the gentleman from Minnesota, Mr. VENTO, for their expeditious handling of our bill and for yielding this time to me.

Mr. MORRISON of Washington. Mr. Speaker, I yield back the balance of my time.

Mr. VOLKMER. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. STAGGERS], in whose district lies the land in West Virginia which is designated as wilderness and involved in this bill.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding this time to me, and I thank the gentleman and also the ranking member for their hard work. I rise in support of this bill and wish to commend all my colleagues from Virginia for their hard work and dedication to this worthy cause.

The Virginia wilderness bill provides us with one of those rare opportunities to pass a piece of legislation to which there is no known opposition. In 1981, there was some opposition in West Virginia to the small part that is included in this bill, but at recent town meetings I found that this opposition had disappeared. In fact, some of the people who had earlier opposed it are now in full support of the legislation.

Mr. Speaker, I urge my colleagues to support this bill which would designate approximately 25,000 acres in Virginia and 2,500 acres in my Congressional District in West Virginia as part of the National Wilderness System.

The tract of land in Monroe County, WV is located in the Jefferson National Forest and lies adjacent to the Mountain Lake Wilderness Area in Virginia. This bill would include the 2,500 acres of West Virginia land as part of this wilderness area. The designation is deserved because the area has no roads, has low timber values, is primarily Federal property, and offers numerous primitive recreation and wilderness experiences. The West Virginia tract of land would add a rich variety of wildlife, spectacular overlooks, diverse vegetation, and numerous recreational opportunities for hiking, hunting, fishing, and camping to the mountain lake wilderness area.

With the addition of this tract of land in West Virginia to the National Wilderness System, the total acreage of beautiful, pristine wilderness in the mountain State would be raised to over 80,000 acres and the number of wilderness areas would be raised to five.

I urge my colleagues to support the passage of H.R. 2878 and invite each of you to come to West Virginia to experience "almost heaven" in glorious mountain wilderness.

□ 1430

Mr. VOLKMER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], who is the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time, and for managing this bill. The fact is that the gentleman has adequately explained this measure.

Mr. Speaker, H.R. 2878 would designate as wilderness six areas, five in Virginia and one in West Virginia, which total about 27,600 acres. Four of the areas were designated as wilderness study areas in the Virginia wilderness bill enacted in 1984. The other two areas are additions to existing areas which that act designated as wilderness.

One of these additions would enlarge the Lewis Fork Wilderness by some 72 acres. According to the Forest Service, the acreage in question was an apparently unintended omission from that area, and its inclusion in the wilderness will make for better management of the area.

The other addition consists of about 2,500 acres which is a logical extension of the Mountain Lake Area. This tract was designated as a wilderness study area in the Eastern Wilderness Act of 1973, and after the study the Forest Service did recommend its designation as wilderness. However, it was omitted from the 1984 Virginia Wilderness Act because it lies over the State line, in West Virginia. It currently is being managed as a roadless, nonmotorized area and the Forest Service supports its designation as wilderness as does Representative STAGGERS, within whose district it is located and who is a cosponsor of the bill.

The other four areas dealt with in the bill were designated as study areas in 1984 because of concerns expressed by the Westvaco Corp., which operates a large paper mill in Covington, VA. Westvaco said that they were concerned about the possible effects of wilderness designation on their plans for plant expansion, especially because they had questions about possible implications of such designation in terms of the Clean Air Act.

Now, however, Westvaco has concluded that they have no objections to designation of these areas as wilderness. With those objections withdrawn, Representatiaves OLIN and BOUCHER (within whose districts the areas are located) took the lead in introducing H.R. 2878, which is cosponsored by eight other Members of the Virginia and West Virginia delegations.

Our committee's review of the legislation has shown that the bill has wide bipartisan support and that all the areas dealt with have outstanding values that deserve protection through inclusion in the National Wilderness Preservation System, as discussed in detail in the Interior Committee's report.

The areas, of course, are small ones compared with some of the wilderness areas that have been designated in western States. But that reflects the inherent differences between those western areas and areas in the eastern States. Unlike the western forests, which were created by reservation from the public domain, the eastern forests have been established through acquisitions from non-Federal ownership, over time, and for the most part only after extensive timber harvesting or other developmental activities have taken place. The portions of these eastern national forests which qualify for wilderness designation are thus relatively few and relatively small. But they are worthy of protection.

Mr. Speaker, H.R. 2878 is a good bill. I am glad to join in urging its passage. I also want to express my appreciation for the personal interest in this matter that has been shown by the distinguished gentleman from Texas [Mr. DE LA GARZA], and for the assistance he has provided in enabling this bill to be brought to the floor of the House in an expeditious way. Much credit should also go to the gentlemen from Virginia [Mr. OLIN and Mr. BOUCHER] and the gentleman from West Virginia [Mr. STAGGERS] for their leadership on this matter. I am happy to be able to join the gentlemen in moving this matter forward, and I urge the House to approve H.R. 2878 without delay.

Mr. VOLKMER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. VOLKMER] that the House suspend the rules and pass the bill, H.R. 2878, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2878, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

RETIREE BENEFITS BANKRUPTCY PROTECTION ACT OF 1987

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2969) to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees, as amended.

The Clerk read as follows:

H.R. 2969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Benefits Bankruptcy Protection Act of 1987".

SEC. 2. RETIREE BENEFITS.

(a) BENEFITS.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Payment of insurance benefits to retired employees

"(a) For purposes of this section, the term 'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

"(b)(1) For purposes of this section, the term 'authorized representative' means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

"(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections 1102 and 1103 of this title for the purpose of carrying out the purposes of sections 1114 and 1129(a)(12) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

"(c)(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless (A) such labor organization elects not to serve as the authorized representative of such persons, or (B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

"(2) In cases where the labor organization referred to in paragraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to paragraph (1) finds different representation of such persons appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

"(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement.

"(e)(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section 'trustee' shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

"(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section; or

"(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments:

after which such benefits as modified shall continue to be paid by the trustee.

"(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

"(f)(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

"(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

"(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

"(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

"(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

"(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities;

except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f): *Provided, however,* That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3); and: *Provided further,* That neither the trustee nor the authorized representative is precluded from making more than one motion for a modification order governed by this subsection.

"(h)(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

"(2) Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee.

"(3) The implementation of such interim changes does not render the motion for modification moot.

"(i) No retiree benefits paid between the filing of the petition and the time a plan confirmed under section 1129 of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

"(j) No claim for retiree benefits shall be limited by section 502(b)(7) of this title.

"(k)(1) Upon the filing of an application for modifying reitree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

"(2) The court shall rule on such application for modification within 90 days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within 90 days after the date of the commencement of the hearing, or within such additional time as the trustees and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

"(3) The court may enter such protective orders, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(l) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the 12 months preceding the filing of the bankruptcy petition equals or exceeds $250,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.".

(b) PLAN.—Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.".

(c) TECHNICAL AMENDMENT.—The table of sections for subchapter I chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Payment of insurance benefits to retired employees.".

SEC. 3. CONFORMING AMENDMENTS.

(a) PUBLIC LAW 99-591.—(1) Section 608(a) of the second title VI of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591), is amended by—

(1) by striking "Notwithstanding" and all that follows through "Code" and inserting "(1) Subject to paragraphs (2), (3), (4), and (5), and notwithstanding title 11 of the United States Code",

(2) by striking "until" and all that follows through "1987", and

(3) by adding at the end thereof the following:

"(2) The level of benefits required to be paid by this subsection may be modified prior to confirmation of a plan under section 1129 of such title if—

"(A) the trustee and an authorized representative of the former employees with respect to whom such benefits are payable agree to the modification of such benefit payments; or

"(B) the court finds that a modification proposed by the trustee meets the standards of section 1113(b)(1)(A) of such title and the balance of the equities clearly favors the modification.

If such benefits are covered by a collective bargaining agreement, the authorized representative shall be the labor organization that is signatory to such collective bargaining agreement unless there is a conflict of interest.

"(3) The trustee shall pay benefits in accordance with this subsection until—

"(A) the dismissal of the case involved; or

"(B) the effective date of a plan confirmed under section 1129 of such title which provides for the continued payment after confirmation of the plan of all such benefits at the level established under paragraph (2) of this subsection, at any time prior to the confirmation of the plan, for the duration of the period the debtor (as defined in such title) has obligated itself to provide such benefits.

"(4) No such benefits paid between the filing of a petition in a case covered by this section and the time a plan confirmed under section 1129 of such title with respect to such case becomes effective shall be deducted or offset from the amount allowed as claims for any benefits which remain unpaid, or from the amount to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future benefits or from any benefit not paid as a result of modifications allowed pursuant to this section.

"(5) No claim for benefits covered by this section shall be limited by section 502(b)(7) of such title.".

(2) Section 608(b) of the second title VI of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591), is amended by inserting before the period the following: "and before the date of the enactment of the Retiree Benefits Bankruptcy Protection Act of 1987".

(b) PUBLIC LAW 99-656.—Section 2 of the Act entitled "An Act to amend the interest provisions of the Declaration of Taking Act", approved Novermber 14, 1986 (Public Law 99-656), is repealed.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RODINO] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2969 will ensure that compaines filing chapter II bankruptcy will continue paying health, life, and disability benefits to retired workers. Retired workers who were promised these benefits by their former employers are often completely dependent on them. If such benefits are cut off—as happened when one major corporation filed bankruptcy last year—retirees may not be able to replace them because of high cost or lack of insurability.

This is the second time this body has considered legislation to protect retiree benefits in bankruptcy. Over a year ago, the Judiciary Committee reported H.R. 5490 to the floor, and this body passed it unanimously. The other body, however, did not act on the matter and the Congress passed temporary, stop-gap legislation. That temporary legislation, though twice extended, will expire just 2 days from now. H.R. 2969 will provide retirees permanent legislation to protect their benefits. For chapter II bankruptcies filed after the date of enactment, H.R. 2969 incorporates title I—the retiree benefit provisions—of S. 548, legislation passed by the other body. For pending chapter II cases, the bill modifies and makes permanent the protections in the temporary stop-gap legislation. H.R. 2969 mandates that chapter II debtors continue to pay retiree health, life, and disability benefits as administrative expenses during a bankruptcy proceeding. Discretion is provided to the bankruptcy court, though, to order a modification of the amount paid while the case is pending if necessary to permit a successful reorganization of the debtor. This discretion is very important, for it would serve neither the retirees, nor the economy as a whole, if a company was forced to liquidate because of fixed, unalterable retiree benefit costs.

H.R. 2969 as brought up today is not perfect legislation, but I have no question that it will protect retiree benefits as much as possible in a bankruptcy. Retirees, who have made important contributions to our economy and our Nation, deserve this kind of security.

I urge Members to give them this security by passing H.R. 2969.

H.R. 2969 is on the floor today because the temporary stop-gap legislation passed by Congress last year (Public Law 99-591), which has been extended twice, is due to expire on October 15—just 2 days from now. The time has come to provide retired workers with the security and peace of mind that comes from permanent legislation—not with just another extension of temporary legislation that leaves retirees constantly worried that they might lose their benefits as soon as the temporary legislation expires.

The Subcommittee on Monopolies and Commercial Law of the Judiciary Committee has held two hearings over the past 15 months on the issue of retiree benefits in bankruptcy—most recently in September 10, 1987. The subcommittee has received further comments on this issue from bankruptcy experts and retiree groups from across the country. The important thing now is to provide a permanent solution. H.R. 2969, as amended, provides a permanent solution.

The Secretary of Labor, William E. Brock, has written a letter endorsing S. 548. This letter was reprinted in the CONGRESSIONAL RECORD on July 24, 1987, the day the Senate passed that bill.

In its application to future cases, H.R. 2969, as amended, is identical to S. 548. In its application to pending cases, this bill makes the temporary legislation permanent and modified it to reflect the same substantive provisions regarding payment of retiree benefits during the chapter 11 case and treatment of retiree benefits in a plan of confirmation that apply to future cases.

Indications from the Department of Labor and the Office of Management and Budget have been favorable to this bill. Representatives of both organizations have agreed to do what they can to ensure that the President signs this bill by October 15. At this point, no one anticipates any problem in getting the President to sign this bill promptly.

Mr. Speaker, I include a letter from the United Steelworkers of America, dated October 13, and a letter from the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America [UAW], dated October 13, 1987, for the RECORD.

The letters referred to are as follows:

UNITED STEELWORKERS OF AMERICA,
Washington, DC, October 13, 1987.

Hon. PETER RODINO,
House of Representatives
Washington, DC.

DEAR CONGRESSMAN RODINO: Retirees must be assured some degree of stability with regard to their health care benefits in bankruptcy. These benefits should not be suspended upon the filing for Chapter 11 bankruptcy; should be maintained until modification; and protected in the post-confirmation period.

USWA is assured that the revised Rodino bill (amendment in the nature of a substitute to H.R. 2969) will accomplish these purposes. The union extends its support to the measure and would anticipate that it would be an important contribution to permanent law in this area. However, we are well aware that health care costs for employees, in general, and retirees, in particular, need a much wider approach than bankruptcy reform.

Nevertheless, this reform measure is absolutely necessary. We strongly urge the passage of the Rodino bill before October 15, the cutoff date for the stopgap measure now in place. Additionally, we are concerned that there not be any time gap in protecting these benefits for those retirees whose companies are currently in bankruptcy.

Passage of the Rodino bill is, therefore, very important to those retirees whose health care benefits can so easily be threatened under current law.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, DC, October 13, 1987.

DEAR REPRESENTATIVE: We understand that Chairman Rodino intends to offer a substitute measure for the proposed "Retiree Benefits Protection Act of 1987" (H.R. 2969) which will be considered today on the House floor under suspension of the rules. The UAW strongly supports this substitute measure, and urges you to vote in favor of it.

The problems associated with the treatment of retiree insurance benefits in bankruptcy proceedings were brought to the forefront of public attention in July 1986 when LTV Corporation unilaterally terminated the insurance benefits for approximately 80,000 retirees upon filing for bankruptcy. Since that time, other companies, such as Allis Chalmers and A.H. Robbins, have also filed for bankruptcy, thereby jeopardizing the insurance benefits of thousands of additional retirees.

Congress reponded to this problem by enacting a temporary, stop-gap measure at the end of the 99th Congress, which requires companies in bankruptcy proceedings to continue paying retiree insurance benefits until May 15, 1987. This interim measure has twice been extended by Congress, and is now scheduled to expire on October 15th. Clearly there is an urgent need for Congress to enact a permanent solution to this problem.

The UAW believes that the substitute measure which will be offered by Chairman Rodino provides a good solution. For future bankruptcy cases, it would establish a new section 1114 of the Bankruptcy Code dealing specifically with the treatment of retiree insurance benefits for both union and non-union retirees alike. This new section would prohibit companies from unilaterally terminating retiree insurance benefits upon filing for bankruptcy. Instead, companies would have to continue paying such benefits until the authorized representative of the retirees agrees to modifications, or a court determines that modifications are necessary to permit reorganization of the company and are fair and equitable to the retirees and all other interested parties. Any plan of reorganization would have to provide for continued payment of retiree insurance benefits at the level determined by the court to be "necessary, fair, and equitable". For pending bankruptcy cases, the substitute measure would provide similar protections by making permanent the interim law passed by Congress, with certain adjustments.

The UAW commends Chairman Rodino for his efforts to work out a solution to this difficult problem. In our judgment, the substitute measure which he intends to offer under suspension of the rules is a good bill which will ensure that retirees are treated fairly and equitably in bankruptcy proceedings. We therefore urge you to give this bill your enthusiastic support.

Your consideration of our views on this issue will be appreciated. Thank you.

Sincerely,

DICK WARDEN,
Legislative Director.

Mr. FISH. Mr. Speaker, I yield 3 minutes to the gentleman form California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I strongly believe that retirees' benefits must be protected by law, but I have some problems with the substitute which we are considering today which did not go through the ordinary committee process.

The resulting amendment in the nature of a substitute differs dramatically from his original bill and closely tracks Senate-passed language insofar as it relates to future cases.

The need for congressional action to provide safeguards against unilateral terminations of health, disability, and death benefits in bankruptcy has been apparent since the LTV Corp. initially terminated retiree benefits last year in the context of a reorganization case. I served as Republican floor manager of a bill in the 99th Congress designed to clarify that retiree benefit-related provisions of collective bargaining agreements are entitled to the protection of Bankruptcy Code section 1113. The other body, however, opted last year for stop-gap relief—leaving a permanent solution to the 100th Congress.

Retirees, in my view, must be protected against the potentially severe consequences of benefit terminations. I am pleased that we are focusing in the 100th Congress on extending safeguards to retirees who are not covered by collective bargaining agreements as well as to retirees who are covered by such agreements. Health care is vital to both groups of retirees—and the consequences of benefit cutoffs can be catastrophic to retirees regardless of whether they have belonged to a union.

This legislation treats retiree health, disability, and death benefit claims as administrative expenses entitled to first priority among unsecured claims. The administrative expense approach raises serious concerns about whether the effort to help retirees may discourage trade creditors from doing business with companies involved in the reorganization process—or whether some companies in reorganization will have the necessary cash to retain their work force.

Successful reorganizations, of course, may be vital to current employees, retirees, and entire communities. My hope is that this legislation can be interpreted to recognize the legitimate interests of the various creditors and maintain the viability of the reorganization process.

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Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I thank the distinguished chairman for yielding this time to me.

Mr. Speaker, I rise in strong support of this legislation that is now pending on the floor. I want to take this opportunity to commend the gentleman from New Jersey, the distinguished chairman of the Judiciary Committee, for bringing this legislation to the floor. In doing so, I also want to commend him for the long hard work he has done over the last several months in trying to create legislation that would properly protect these retirees, not only of LTV, but those retirees throughout the country in protection of their health and insurance benefits.

Mr. Speaker, I would ask the gentleman at this time if he would indulge me in a brief colloquy.

The question is with reference to those retirees who are in the so-called pipeline at the time, that is, having pending applications at the time that the LTV went into bankruptcy. Would those cases be properly protected under this legislation, may I ask the distinguished chairman?

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I am delighted to yield to the distinguished chairman.

Mr. RODINO. Mr. Speaker, if the gentleman is asking whether pending cases are covered by the bill, the answer to the gentleman's inquiry is yes. The pending cases are covered. They are covered even as they were in the continuing resolution, as the gentleman knows, that we passed on several occasions; however, while those pending cases are protected and made permanent, there is some modification. The modification is to provide the court with the opportunity to step in at such time as its deems important to be able to give both parties, the employers and the employees, the right to continue under a reorganization plan.

Mr. STOKES. I appreciate the gentleman's explanation, but in understanding the implications of the modification, if those individuals were in the pipeline, it is the intention that they would be covered under this legislation?

Mr. RODINO. It is correct that pending cases are covered.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. RODINO. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I yield back to the chairman to reply to my last question.

Mr. RODINO. I would just clarify, Mr. Speaker, that if the gentleman in referring to the pipeline is referring to prepetition claims in pending cases, the bill does not change current law.

Mr. STOKES. By prepetition cases, the gentleman is referring to those who had applications pending at the time of the bankruptcy?

Mr. RODINO. No, I would not consider that so. Let me say to the gentleman that the word "pipeline" has been used to apply to some prepetition debts in current cases. If this is what the gentleman means by pipeline, the bill is neutral on these. It does not change the current law.

Mr. STOKES. I would assume then that those cases would be properly protected.

Mr. RODINO. That is correct to whatever extent they are protected under current law.

Mr. STOKES. Mr. Speaker, I proudly rise in strong support of H.R. 2969, the Retiree Benefit Protection Act of 1987. In doing so I join with thousands of retirees throughout America, in expressing my deep gratitude to Chairman RODINO of the Judiciary Committee for the outstanding work he has done in getting this bill to the floor today. In the many years that I have known Chairman RODINO, I have always found him to be fair and open to the needs of the people of this Nation. Throughout his distinguished tenure, he has become known throughout America as one of the greatest champions for working men and women ever to serve in this Congress. I am therefore proud to have been able to work with him over the past year to reach the point where we are today, and move forward with this urgently needed legislation to secure the protection of the health and medical benefits of the Nation's retirees.

Mr. Speaker, in bringing this bill to the floor, let us remember where we have come from in the many weeks that we have sought a solution to the retiree benefits issue. Several months ago, we found ourselves confronted with a very real crisis, when on July 17, 1986, the LTV Corp., the Nation's second largest domestic steel manufacturer, filed for protection from its creditors under chapter 11 of the United States Bankruptcy Code. On that same day, LTV notified its retirees that it had terminated their life and medical insurance coverage, leaving 78,500 senior citizens and their dependents without coverage for serious illness, including 30,000 retirees in the Cleveland, OH, area alone.

In carrying out its actions, LTV sent a letter to each of its retirees, stating that such a cutoff of their benefits was not only permitted under reorganization laws, but was required because of "restraints posed by chapter 11."

Mr. Speaker, at the time that these events occurred, we found ourselves in a very tragic situation, where many innocent citizens were "left out in the cold," being provided no avenue of protection from circumstances that were beyond their control.

Shortly following the actions taken by the LTV Corp., Senator HOWARD METZENBAUM and I introduced legislation to respond to this urgent situation facing our constituents. On July 29, 1986, I introduced H.R. 5283, while Senator METZENBAUM introduced a companion bill, S. 2690. Both of these bills sought to compel LTV to continue paying medical and life insurance coverage to its retirees. In introducing our legislation, Senator METZENBAUM and I were seeking to get to the heart of the problem brought on by the LTV announcement, that being the issue of how the Bankruptcy Code affects the obligation of a reorganizing company to provide insurance benefits to its retirees. Furthermore, it was our belief that the laws which established the Bankruptcy Code were never intended to provide a shortfall that would permit thousands of retired persons to lose their hard-earned benefits.

On February 19 of this year, I introduced H.R. 1186, "The Retiree Benefits Security Act of 1987." In proposing this legislation, I sought to ensure that our Nation's retirees, both union and nonunion, would never again have their health care benefits subjected to a unilateral modification or termination. Specifically, H.R. 1186 clarifies the meaning of title 11, section 1113 of the Bankruptcy Code, to ensure that retiree benefits in a collective-bargaining agreement receive the same treatment as other benefits. Second, the bill addresses the conflict of interest facing labor organizations when attempting to represent both retirees and present employees in court, and provides relief to this situation by allowing the court to appoint a committee of retired employees to serve as representative agents. Furthermore, under H.R. 1186, new protections are provided for both union and nonunion employees, to prevent health benefits from either being modified or terminated without a court order, or an agreement between the representative agent and the employer.

The chairman's bill before us today, H.R. 2969, effectively resolves the problems that I and many others have fought for, and permanently ensures that America's retirees need never again fear the loss of their benefits because of a chapter 11 filing. These are our Nation's elderly, those who built this Nation, and whose sweat and hard work have made it possible for this Nation to thrive and grow. Mr. Chairman, your actions today will ensure that the final years of their lives will indeed be golden, and that those who follow them will never face the pain of the crisis that we have struggled with these many months.

Mr. Speaker, H.R. 2969 includes many important provisions which secure the protection of retiree benefits. As amended, the bill includes provisions that prevent the unilateral termination of retiree insurance benefits upon the filing of chapter 11 petitions, and provides that employers must continue to pay retiree insurance benefits in full, as an expense of administration, until the authorized representative of the retirees agrees to modifications, or a court determines that the modification of benefits is necessary, and fair to all parties.

H.R. 2969 ensures that reorganization laws will treat retirees fairly, by recognizing that these citizens cannot be treated like unsecured company creditors. Retirees and their families cannot absorb the loss of their health insurance coverage by making an adjustment to a balance sheet, and cannot pass their losses on to someone else.

Mr. Speaker, I lend my full support to the immediate passage of this historic legislation, and I urge my colleagues to join me in supporting this bill which offers a permanent solution to ensuring the protection of benefits for our Nation's retirees.

Mr. FISH. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I would like to pursue the colloquy that has just been conducted between the gentleman from New Jersey [Mr. RODINO] and the gentleman from Ohio [Mr. STOKES], because I am concerned about the health insurance claims that were in the pipeline. I believe that the legislative history of this bill ought to be perfectly clear so that when a court interprets that, there will be a clear answer.

I do not think that the text of the legislation is clear. I grant the body that it is confusing, because we are amending a provision that was contained in last year's continuing resolution; but I think that we can divide the types of claims into three claims.

One are claims filed, but not paid, before the corporation filed for chapter 11.

Second are claims that are filed the corporation filed for chapter 11 and before the effective dates of this Act.

The third type of claims are those that are filed after the efffective date of this act by covered employees.

I am wondering if the gentleman from New Jersey [Mr. RODINO] or the gentleman from Ohio [Mr. STOKES] can very clearly and succinctly state whether these claims will be paid for each of the three categories.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Speaker, I, too, was seeking to obtain clarification on the three specific categories which the gentleman has so lucidly enunciated.

I would like to ask the gentleman to yield to the distinguished chairman of the Judiciary Committee in order to clarify that for the record.

Mr. SENSENBRENNER. Mr. Speaker, I have the time and I yield to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Let me state, Mr. Speaker, that the temporary legislation in the CR that applies to pending cases would be modified and made permanent. The modifications protect the health, life and disability benefits of retired workers in pending cases, but also provide the flexibility to change the amount of the benefits, if necessary, in order for the company to reorganize. If a change in the level of benefits is needed, it can be accomplished in one of two ways, either by voluntary agreement between the authorized representative of the retired workers and the debtors, or by court order if the court finds that such a change is necessary in order for the debtor to reorganize and that the balance of the equities clearly favors the modification. In this manner, the protection given by the continuing resolution to the health, life and disability benefits of retired workers in pending cases, is continued in this legislation.

Mr. FISH. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, the statement of the gentleman from New Jersey is not entirely clear. Section 608 of the continuing resolution, Public Law 99-591, appears to require the trustee to pay all of these claims in each of the three cases that I mentioned in my previous colloqy with the gentleman from Ohio. The modification that is contained in this bill does not provide that guarantee, so it is possible that the trustee could refuse to pay the claims in the pipeline of the first two types of cases that I mentioned.

The trustee under the present legislation before the House does not have the discretion to deny payment of the claims for the third type of claim that I mentioned, that is, where a company files for chapter 11 following the effective date of this act.

Again, I would like to get a specific citation in the substitute amendment that will answer the question of the first two types of cases. The reason I ask for this is that it shows some of the problems that we have without considering legislation going through the committee system and bringing up a complicated bill that affects thousands of workers' rights under suspension of the rules when the final text of the legislation was only available a couple hours before it comes up before the House; but I would hope that the chairman or someone from the committee could please inform me which specific section the amendment in the nature of a substitute protects the first two classes of claims that I mentioned in my colloquy earlier on today.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am happy to yield to the distinguished gentleman from New Jersey to answer that question.

Mr. RODINO. Mr. Speaker, will the gentleman again specify the first two types of cases the gentleman mentioned?

Mr. SENSENBRENNER. The first two types of claims that I mentioned in my colloquy are as follows:

First, claims that were filed, but not paid, before the debtor filed for chapter 11.

Second, claims that were filed from the time the debtor filed for chapter 11 until the effective date of this legislation.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. Mr. Speaker, I would like the chairman of the committee to answer the question, because he sets the legislative history. If I have time remaining after I get an answer, I will be happy to yield to the gentleman from Texas.

Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I am advised that so far as the first class the gentleman referred to, we do not address that in this legislation. Current law prevails there.

As far as class two is concerned, the continuing resolution extension protects that situation.

Mr. SENSENBRENNER. Well, reclaiming my time, Mr. Speaker, the current law is in the continuing resolution and it says that the trustee is required to pay benefits under the first two classes.

Now, if what the gentleman from New Jersey has just said, that that continues, that is in conflict with the gentleman's earlier statements that would either not address that in the case of class one, or in the case of class two, it would be at the court's discretion.

Mr. RODINO. Mr. Speaker, if the gentleman will yield, in class two, section 3(a) of the bill is the part that protects retirees in pending cases.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I would like to rise in strong support of the legislation offered by Chairman RODINO and wish to thank the chairman for his leadership in bringing this measure to the floor. This is a critical piece of legislation that affects approximately 5,000 retired workers in my district, in the Dallas-Fort Worth area of Texas, and of course, the corporate headquarters of LTV is located in Dallas, TX.

Mr. Chairman, if I may follow on with the question that was asked just a moment ago, the class two situation that the gentleman was just describing, of course, are the bulk of the LTV claims. Those are people whose cases were pending and then the health claims were filed while they were pending. It is a pending case in the bankruptcy court right now.

If I understood the gentleman correctly, clearly that class is covered.

Mr. RODINO. They are clearly covered.

Mr. FROST. There is no question that the LTV situation is covered by this legislation as a pending case.

Mr. RODINO. That is correct.

Mr. FROST. Mr. Speaker, I would point out again that this is a critical piece of legislation that attempts to address a very significant problem of what happens when a major corporation files for Chapter 11 and the health and life insurance claims of its retirees, which can number in the thousands in the LTV case, and number somewhere in the neighborhood of 70,000 nationwide and 5,000 or more in my own congressional district.

Again I thank the chairman for his work on this legislation. It is a change in the law that clearly needs to be made and should be adopted by the House.

Mr. Speaker, I rise in support of the measure offered by Chairman RODINO and wish to thank the chairman for his leadership in bringing this measure to the floor.

Adoption of the bill will at last bring a degree of assurance and peace of mind to thousands of retirees that I represent in Texas and tens of thousands of retirees throughout the country. For over 16 months, retirees of LTV corporation have faced fear and uncertainty regarding their ability to obtain health care for themselves and their families. When the company filed for reorganization under chapter 11 of the Bankruptcy Code on July 17, 1986, the health and life insurance benefits of all its retirees were unilaterally canceled. At that time, LTV took the position that the company not only was permitted but was "required" under our bankruptcy laws to terminate these benefits.

Only after being pressured by Congress and organized labor did LTV reinstate the benefits. Retiree life and health insurance protection has remained in place until now because of emergency, stop-gap legislation approved by Congress.

Certainly, when our bankruptcy laws were drafted, there was no intention to leave retirees vulnerable to an arbitrary, unannounced cancellation of their benefits. Clearly, we must remove all doubt that life and health insurance benefits worked for and earned by retirees during their most productive years are protected from unilateral reduction or termination when companies file for chapter 11 reorganization.

The bill before us provides a permanent framework to protect all retirees of companies that may file for chapter 11 reorganization in the future. In a separate and for the most part substantively identical section, the protection is also provided to LTV retirees and all other retirees of companies that have filed for chapter 11 since July 17, 1986.

The only concern regarding the bill I wish to mention involves the issue of payments to insurance administrators. In the case of LTV Corporation, Blue Cross served as a third-party insurance administrator. As such, Blue Cross would credit health care providers when services were provided to beneficiaries and then present a bill to LTV. When LTV filed for reorganization, a certain amount of claims were still in the "pipeline," and Blue Cross has not yet been paid. I share the concern of many that these claims could be returned to the health care provider and ultimately returned to beneficiaries for payment. This so called "pipeline problem" is addressed in the bill for future bankruptcies, but the language for currently pending cases is ambiguous, and it is my hope that it will be clarified prior to any retiree being asked to make payment for services covered under their health insurance plan.

I want to stress, however, that this is an excellent bill. So often company life and health insurance benefits make the critical difference between health and illness, security and poverty for retired Americans. This measure recognizes that company retirees are a special class of creditors who suffer severe hardship when a company does not fulfill its obligation to them.

The protections in the bill are consistent with those included in H.R. 1186 which I joined with many other members in sponsoring on February 19, and they are consistent with S. 548 which was approved by the Senate on July 24.

Under the measure, for chapter 11 cases pending since July 17, 1986 and for all future chapter 11 cases, retirees will be provided the right to representation before the Bankruptcy Court. Union retirees will be represented by the union, and a representative for salaried retirees will be appointed by the bankruptcy judge.

Retiree life and health insurance benefits will be given administrative priority, with the company required to continue benefits unless a modified level is agreed upon between the company and retirees or unless a modification is ordered by the court. Under these procedures, both the company and retirees are allowed to go back and petition the court for a change in benefit levels. If the company's condition worsens, it can petition to reduce benefits. If it improves, retirees can petition to increase benefits.

Finally, the bill adds a new provision to the criteria which the court now uses in approving a plan of reorganization. The new provision requires that retiree life and health insurance benefits be continued at the level established during the pendency of the bankruptcy proceedings.

Approximately 5,000 LTV retirees live in and around my congressional district in Texas. I have heard first hand the many hardships they faced when their life and health insurance benefits were terminated, and I know first hand their fear that benefits could again be abruptly halted. This bill will alleviate their fears and protect their benefits. It acknowledges that life and health insurance were not only promised to retirees, but earned by them during their most productive years.

I again thank Chairman RODINO for responding to the need for clarification in our bankruptcy statutes and providing legislation that protects the life and health insurance benefits of retired Americans.

Mr. FISH. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I approach the vote on this bill with misgivings both because the process is seriously flawed and because the product before us raises troublesome concerns. In spite of my reservations, I will vote favorably and urge my colleagues to do likewise in the hope that the bill, on balance, will do retirees more good than harm and generally will not thwart successful reorganizations.

Mr. Speaker, I believe Members of Congress and the American people share a deep concern for the welfare of retirees when companies face financial distress.

I should remind my colleagues that what we are considering today is only those companies who have sought protection under chapter 11.

Mr. Speaker, terminations of retiree health, disability, and death benefits can subject individuals and families to severe hardships. Options for safeguarding these benefits for all retirees of all companies—perhaps through prefunding or the establishment of a contributory guarantee program—must be explored. The limited resources available in bankruptcy cases often will prove insufficient to safeguard health, disability, and death benefits. Legislative remedies within the context of the Bankruptcy Code may prove inadequate in spite of our best efforts because we are focusing on businesses which may be the least able to meet their obligations. The limited jurisdiction of the Judiciary Committee, however, does not permit us to explore nonbankruptcy solutions.

With this caveat in mind, the Judiciary Committee has studied the retiree benefits issue in some detail. The decision by LTV Corporation to terminate benefits provided the impetus for a hearing in the 99th Congress. In September 1986, this body passed a bill designed to settle the controversy over whether section 1113 of the Bankruptcy Code covers retirees as well as employees. This was a Judiciary Committee reported bill clarifying that the protection against unilateral termination or alternation of collective bargaining agreement provisions in section 1113 embraces retiree benefit-related provisions. On September 10, 1987, the Judiciary Committee held a hearing on H.R. 2969, a bill introduced by Chairman RODINO that creates a new fifth priority for limited retiree health, disability, and death benefits and provides protections against benefit modifications or terminations. The Committee received thoughtful testimony from a number of knowledgeable witnesses.

After all this effort and input, which should have led to a carefully crafted Judiciary Committee reported bill, we are left instead with an unreported amendment in the Nature of a substitute—submitted at the eleventh hour—that uncritically incorporates the other body's work product on retiree benefits except for its retroactivity provision. Confronted with an October 15 termination of stop-gap relief legislation, we face the alternatives of either passing the pending bill or leaving retirees without protection. I do not think we want to face this latter prospect.

The Legislation before us gives retiree benefit payments in reorganization cases the status of allowed administrative expenses—thus giving them priority over all other categories of unsecured claims including third priority wage claims. The major issue is whether administrative expense status is consistent with the goal of facilitating reorganization. If we prevent businesses from reorganizing, we may be hurting rather than helping both employees and retirees.

While the approach we bring to the floor is not without its critics, it is argued that the retiree benefits provisions of S. 548—which are substantially incorporated in the pending bill—provide sufficient flexibility for bankruptcy courts to protect the reorganization process by authorizing necessary benefit modifications.

My hope is that this forecast will prove accurate. Uncertainty, however, surrounds the impact of administrative priority treatment for retiree benefits on the willingness of third parties to provide businesses in reorganization with necessary goods and services—and on the confidence of workers that they will be paid for future work. The interests of the various administrative expense claimants must not be overlooked if the reorganization process is to succeed.

There are other problems with the measure before us: The amendment in the nature of a substitute limits relief to retirees in reorganization cases in spite of the fact that retirees in liquidation cases have the same need for protection. Our failure to protect retirees in liquidation cases creates a danger of giving other creditors an incentive to defeat reorganization. We are giving other creditors a reason for finding chapter 7—liquidation—more favorable to their interests.

The pending legislation unfortunately leaves unresolved the issue of whether Bankruptcy Code section 1113 applies to—or continues to apply to—retiree benefit-related provisions of collective bargaining agreements. The report of the Senate Committee on the Judiciary, discussing the similar language of S. 548, observes:

> In addressing the modification of retiree benefits arising under a collective bargaining agreement, the committee makes no judgment as to whether trustees may seek modification of such retiree benefits under section 1114 without first complying with the provisions of section 1113 of the Bankruptcy Code.

Surely we could have clarified this point in statutory language rather than bucking the issue to the courts.

The admendment in the nature of a substitute provides in a separate section for continuation of retiree benefits in certain pending cases—thus avoiding retroactive changes in the Bankruptcy Code. The advantage of mandating continued payments in this way—rather than following the other body's more direct approach of applying Bankruptcy Code changes to certain pending cases—is unclear. There is at least the potential for different results in some bankruptcy cases.

The imminent expiration of stop-gap relief legislation means that many retirees may face benefit cutoffs if we don't act today to provide protections. I therefore ask my colleagues to vote favorably on this legislation.

Mr. RODINO. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the triggering event for H.R. 2969 was bankruptcy of LTV Steel, which occurred on July 15, 1986.

Since that time, I really commend the chairman, the gentleman from New Jersey [Mr. RODINO] for the enormous time and effort, and the gentleman from New York [Mr. FISH], for the enormous effort that he has put into this extremely complex, puzzling and interlocking case, which has been very difficult to untangle. The chairman has exhibited great patience and ingenuity in trying to untangle these problems.

Mr. Speaker, I want to deal with one aspect of this case. Two days after July 15, on July 17 the Reserve Mining Co. in Minnesota, a subsidiary in a sense of LTV, because LTV and ARMCO were partners in coownership of the Reserve Mining Co., but in a way that established a corporate veil that could not be pierced to go back to the two parent corporations, declared bankruptcy. Reserve was put into bankruptcy, because one of its parents went into bankruptcy. As a result, some 400 Reserve Mining Company salaried employees are in retirement and will be bereft of their health and retirement benefits if the language of the pending bill, as I understand it, is enacted into law.

□ 1500

I was hopeful that we could find some way of continuing to make them eligible for life and health insurance benefits if there are assets of the corporation available to do so. I was hopeful there could be some temporary language to continue the payment.

I would ask the gentleman from New Jersey [Mr. RODINO], the chairman of the full committee, because I know he has wrestled with this, and the Reagan administration has opposed that provision in the bill, H.R. 5363, which the House passed last year even to the extent of sending a memorandum to the Justice Department last fall after Congress had sent the bill to the White House for signature.

Will the gentleman respond to the particular extraordinary circumstances of the Reserve Mining Company case?

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New Jersey.

Mr. RODINO. The gentleman of course expresses concerns that affect his constituents, and rightfully so.

The gentleman has expressed them before, and I would hope that we might have been able to deal with his particular concern in this legislation. As the gentleman has also correctly stated, this is a complicated piece of legislation dealing with the Bankruptcy Code. The Constitution requires that the bankruptcy laws be uniform.

The President has made it clear that he believes the so-called reserve mining amendments to the Declaration of Taking Act are unconstitutional. In his November 14, 1986 statement on signing the Declaration of Taking Act into law, he said, referring to the reserve mining amendments:

> Under the Constitution, the Congress is authorized to establish "uniform Laws on the subject of Bankruptcies throughout the United States" (U.S.C. Const. art. I, sec. 8, cl. 4). Section 2 of the bill requires that bankruptcy trustees in specified cases continue to pay certain benefits to retired former employees, and subsection (b)(3) identifies such a case by reference to the circumstances of its bankruptcy proceedings. This amounts to a private bankruptcy law, which is beyond the Congress' constitutional authority to enact, and the provision is accordingly without force or effect. I am advised by the Attorney General that, because of the constitutional nature of this provision, it should not be defended.

When he signed into law S. 903, which in part extended the deadline of this amendment, the President reiterated his concerns:

> I must note my serious concern, however, with the extension of subsection 2(b)(3) of Public Law 99-656. That provision requires a particular bankruptcy trustee, in a case identified by reference to the circumstances of its bankruptcy proceedings, to continue to pay certain benefits to retired former employees. Under the Constitution, the Congress is authorized to establish "uniform Laws on the subject of Bankruptcies throughout the United States." Subsection 2(b)(3) singles out a specific firm. It amounts to a private bankruptcy law, which is beyond the Congress' constitutional authority to enact. I believe, therefore, the extension of this provision is unconstitutional.
>
> In considering this legislation, I am of course aware that when the Congress enacted the temporary bankruptcy provisions of Public Law 99-591 and 99-656 it did so for the express purpose of "freezing" the *status quo*, while it considered possible permanent amendments of the Bankruptcy Code in the area of pension benefits. I understand that these deliberations are still under way. For that reason, and because the extensions contained in S. 903 are both temporary and brief, I am persuaded in this unique circumstance to give the Congress additional time to ponder a more permanent and constitutionally sound response to the problems facing retired workers by approving S. 903.
>
> In approving this legislation, however, I must once again underscore my belief that the purported extension of subsection 2(b)(3) of Public Law 99-656 constitutes an unconstitutional private bankruptcy law. Because of its unconstitutional nature, I have directed the Attorney General not to defend it. (Statement by the President dated May 15, 1987.)

Finally, in signing the most recent extension, S. 1577, the President stated:

> I am signing S. 1577, a bill "To extend certain protections under title 11 of the United States Code, the Bankruptcy Code." In so doing, I reaffirm the statement I issued on May 15, 1987, when I signed S. 903, the prior extension of this temporary legislation. I understand that the permanent legislation that the Congress is presently considering does not contain the unconstitutional non-uniform provision found in the temporary bills. (Statement by the President dated August 19, 1987.)

Therefore, it would seem that if we were to include the provision that the gentleman is interested in in this legislation, it would then in my judgment vitiate the constitutionality of this legislation. So we should not do damage to what is good law, we should not include a provision that the President feels is constitutionally suspect.

We hope that the President will sign this. His Secretary of Labor has already indicated in the past that this legislation is not objectionable, and that the administration goes along with it.

So I urge the gentleman from Minnesota [Mr. OBERSTAR] to proceed and I will try to help him in any way we can to protect those individuals.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for that explanation.

Mr. Speaker, I include for the RECORD the specific language of the bill concerning Reserve Mining Co. retirees to which the chairman has referred:

(3) in cases under title 11, United States Code, involving a partnership which was in existence prior to July 17, 1986, and was the subject of a petition under chapter 11 of title 11, United States Code, upon which an order for relief was entered by a bankruptcy court on August 7, 1986, and where one of the partners received bankruptcy court authorization on August 6, 1986, approving rejection of a partnership agreement.

(c) If any provision of this section or the application thereof to any person or circumstance is held invalid, the provisions of every other part of this section and the first section shall not be affected thereby.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. DAVIS].

Mr. Speaker, I call for an aye vote on this legislation and I reserve the balance of my time.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I oppose very vigorously the modification clause that exists in this legislation. I do not mean to lock horns with one of America's greatest chairmen who has distinguished himself for many years and I am sure he is bringing forth a piece of legislation that he feels is about the best thing he can do. But I think it is time we take a look at something.

When our seniors were working for LTV or Likes, or Youngstown Sheet and Tube, and by the way I have the largest bulk of them in my district, almost 12,000, they were paid in 2 ways. First they were paid at the time they agreed to a certain pay that they would receive then in the form of wages. They also agreed that in the future their medical and life insurance benefits would be paid.

Now we come up with a scenario that a company has interpreted the law differently than any other corporation in American history and they shaft these seniors.

Now what we do with this legislation is we leave a subjective opportunity for some judge in some courtroom to say whether or not these benefits will be paid. I do not doubt the integrity and purpose of our chairman but I am concerned that this President has appointed 50 percent of the Federal judges and those Federal judges are not concerned about in many cases these seniors.

My people have been getting screwed and this is another phase of it. I am upset that this is brought up under suspension and Members like myself cannot bring forward an opportunity to change that law.

We should at least have had an opportunity to offer an amendment to say this: That in chapter 11 filings no hospital or medical benefit can be rejected, and take it out of the hands of the court. If Congress would have said no, I could have lived with it. But I do not like the fact that we brought it forward under a rule like this and it really bothers me. I agree it is better than what we have but it is not what is in the best interests for the American people.

I think people better start looking at areas like mine because I say to my colleagues that they are next.

I think we are going to have a depression that will make the 1929 crash look like a fender bender and I am not sure we are taking care of the needs of the people down here in the Congress.

Mr. RITTER. Mr. Speaker, retiree health, disability, and life insurance benefits are vital to the economic security of our senior citizens. However, these benefits are today being jeopardized by bankruptcies.

For example, on July 17, 1986, the LTV Steel Corp. filed for reorganization under chapter 11 of the Bankruptcy Code. The company, in its July 1986 letter to retirees and surviving spouses, suddenly and without warning informed over 78,000 retirees that their promised medical and life insurance benefits would no longer be provided. In essence, LTV unilaterally cut off vital health and life insurance benefits without prior notice or warning.

And while LTV was a recent public example, other companies have used bankruptcy proceedings as a way to shed responsibility for benefits they promised to retirees and have together shed over $2 billion—to the Federal Pension Benefits Guaranty Agency.

Arbitrary action by employers to default on prior promises and contracts made in good faith, especially where it concerns essential benefits, must not be allowed to occur under the protection of bankruptcy proceedings. Our retirees deserve fairer treatment than sudden unilateral termination of their beneifts.

We need to close loopholes which have been used counter to the intent of the law. We need to assure over 30 million citizens who rely on company-provided retirement benefits that the promises made to them by their employers will not be easily broken, particularly when promises are broken to gain a competitive advantage.

And when health and life insurance benefits are terminated certain retiree groups are hit disproportionately by the loss of these benefits.

Older retirees or survivors or older retirees who are unable to afford MediGap coverage are hit extremely hard.

When there is a unilateral cancellation of health and life insurance and accompanying survivor beneifts, the widow or widower of a retiree may be left, not only with no health insurance, but with less income for basic survival.

Another group of concern to me are those who retired early. Many in this group retired early only because of the promise of the continuation of employer-provided health insurance. According to a Department of Labor survey, approximately 2.6 million retirees and their dependents covered by private sector employer-provided health insurance are early retirees who are under the age of 65. This group is particularly vulnerable when their health insurance is unilaterally cancelled. They are not eligible for Medicare.

And these same groups at the same time must deal with the loss of their life insurance.

I recently hosted a field hearing in my district the Lehigh Valley supported by the Congressional Steel Caucus to help focus congressional attention on the problem of retiree benefits in bankruptcy. At this hearing my colleagues and I learned that we must be more protective of retirees benefits.

That is why today I rise in support of Mr. RODINO's substitute legislaton, H.R. 2969. This bill, if passed will establish greater protection in bankruptcy for retirees, preventing an employer form unilaterally terminaitng their benefits. Similar legislation has been passed in the Senate and is being supported by the administration.

Mr. FEIGHAN. Mr. Speaker, I would like to voice my strong support for H.R. 2969, the Retiree Benefits Protection Act of 1987. Under current law, retirees of bankrupt corporations often find their legitimate expectations of long-term health and life insurance coverage shattered—by the very company for whom they worked all their lives. Those who build a company deserve better. They have earned the right to be treated fairly and compassionately. I commend Chairman RODINO for his vigorous support of this important legislation, which would clarify the Bankruptcy Code to end the current unfairness.

However, there is one aspect about which I am concerned as it relates to pending bankruptcies—the treatment of bankruptcies like the LTV case where the health insurance was provided in a noninsured form which is administered by third parties. Most employers provide health care coverage to their employee work force as part of the overall employee compensation package. Many employers also promise to continue such benefits when an employee retires. In both cases, the employer is contractually obligated to provide the benefits.

Employers typically satisfy this contractual obligation to employees and retirees in two fundamentally different forms—insured or noninsured. Typically, an employer will retain the services of a third party administrator, for example, Blue Cross and Blue Shield in the LTV case, to administer a noninsured plan. In a noninsured plan administered by a third party, at any given point in time, claims are flowing among the retirees, the health care provider, the third-party administrator, and the employer; that is, the "claims pipeline". In the case of Blue Cross, it will typically credit the hospitals that have provided service and then present a bill for payment to the employer involved. As a consequence, at the time of a bankruptcy, certain amounts will be in the claims pipeline. Some will be owed by the employer to the Blue Cross system. In other cases, the claim will have not yet reached the third-party administrator. In the event that the employer does not satisfy its obligations to reimburse the third-party administrator, the third-party administrator, which has a obligation to its various subscribers and other Blue Cross plans, may be forced to reverse credits which were given to health care providers on the condition that the employer satisfy this obligation.

The current legislation is somewhat ambiguous as to whether or not claims which have been paid by third-party administrators would be reimbursed under the legislation. I would hope that the conference process would clarify this to avoid any potential situation whereby these claims might be reversed, thus imposing a burden on the retirees we are trying to protect.

Mr. Speaker, I believe that with minor modifications this legislation will go a long way toward helping retirees enforce their rights. I urge my colleagues to support it.

Mr. BROWN of California. Mr. Chairman, I rise in support of the Retirement Benefits Bankruptcy Protection Act, H.R. 2969. Congressman PETER RODINO, the chairman of the Monopolies and Commercial Law Subcommittee of the Judiciary Committee, is to be commended for his diligent efforts in bringing to the floor a bill that is nearly identical to the Senate-passed S. 548. I am pleased that he understands that getting a compromise measure through the House and Senate is more important than risking passing no measure at all.

Simply put, H.R. 2969 will ensure that retirees and employees get fair consideration as preferred creditors during bankruptcy deliberations. Also, companies filing for bankruptcy will no longer be able to unilaterally cancel health and life insurance benefits of employees and retirees. As many of my constituents in the 36th District of California are all too well aware, the sudden cancellation of benefits can be traumatic. Earlier this year, the Fontana-based Kaiser Steel Corp. canceled the health and life insurance policies of more than 5,500 employees and retirees. Shortly after this action, the company filed for bankruptcy. Subsequently, Kaiser Steel retirees have waged a 10-month battle to restore at least some of those benefits. To date, they have not been successful.

The provisions of H.R. 2969 give retirees added clout in their negotiating position. When it was originally drafted, however, H.R. 2969 did not cover pending bankruptcy cases, which excluded Kaiser Steel. Fortunately, the current version does contain a "grandfather" clause. Some opponents of this "grandfather" clause had argued that the bill should not be complicated by including existing cases, and that current law already provides adequate protection to retirees. Specifically, current cases pending in bankruptcy court are covered under a section of last year's continuing resolution [CR]. Under the CR provision, companies must continue to pay health and life insurance benefits during bankruptcy court deliberations. This strict language is not working in real life. If the retirees were to demand that the courts order payment of benefits, the action would drive the asset-drained Kaiser Steel Corp. into chapter 7 bankruptcy. Once in chapter 7, retirees would have no hope of receiving benefits.

The bill contains provisions to extend permanently the CR language with modifications. A clause was added that states that corporations in pending cases have to pay benefits unless both sides agree to modification, or the courts will determine a modification that will meet certain specific standards. The bill now allows the court to tailor its relief to the facts of each case. H.R. 2969, as currently amended, represents a compromise which, while making it extremely difficult for a company to discontinue retiree benefits, allows the bankruptcy court to determine how those benefits should be paid during pending chapter 11 proceedings, and protects the retirees by giving them priority over the other creditors in the event that their benefits are not paid. Clearly, the added flexibility will give retirees greatly enhanced negotiating leverage.

I am also pleased that, as in the Senate bill, H.R. 2969 elevates unpaid post-petition retiree benefits to the status of administrative claims, where the company has not obtained a court order allowing such a modification. This gives retiree creditors substantial leverage in a reorganization, and forces the company to negotiate and adopt an acceptable interim solution, so that the retirees are not left totally without coverage, as in the case of Kaiser Steel.

Another critical aspect of this legislation will provide for a separate classification for retirees in the plan's confirmation process. It is inappropriate to group retirees with general unsecured creditors. Retirees are not at all situated the same as general unsecured creditors, and the resulting dilution of both groups is unfair in terms of voting. Placing the retirees in a separate class recognizes that retirees should not be treated as general unsecured business creditors of a chapter 11 debtor.

Mr. Chairman, Kaiser Steel retirees have waited many long months for this legislation. I encourage speedy conference committee action. Kaiser retirees, as well as all retirees in America, deserve equal consideration as creditors during bankruptcy proceedings. In addition, a company must not be allowed to unilaterally cancel health and life benefits. I am anxious for the enactment of this bill, and for the relief it will offer many of my constituents as well as the constituents of my colleagues.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RODINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from New Jersey [Mr. RODINO] that the House suspend the rules and pass the bill, H.R. 2969, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FOREIGN OWNERSHIP OF UNITED STATES BANKS LIMITATION ACT

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2578) to amend the Federal Deposit Insurance Act and other laws to prohibit the establishment or acquisition of depository institutions by certain foreign nationals and the issuance of Federal deposit insurance to depository institutions controlled by such foreign nationals, and for other purposes.

The Clerk read as follows:

H.R. 2578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Ownership of United States Banks Limitation Act".

SEC. 2. COMMUNIST OWNERSHIP OF UNITED STATES BANKS PROHIBITED.

(a) CHANGE IN BANK CONTROL ACT AMENDMENTS.—

(1) BANKING AGENCY DISAPPROVAL REQUIRED.—Subsection (j) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended by adding after paragraph (16) the following new paragraph:

"(17) DISAPPROVAL OF PROPOSED ACQUISITION BY CERTAIN FOREIGN NATIONALS.—The appropriate Federal banking agency shall disapprove any proposed acquisition if the agency has reason to believe that the proposed acquisition would result in ownership or control of an insured bank by—

"(A) any country which appears on the list of controlled countries established by the President under section 5(b)(1) of the Export Administration Act of 1979;

"(B) any national, agency, or instrumentality of any country referred to in subparagraph (A); or

"(C) any other person whom the appropriate Federal banking agency has reason to believe is acting for or on behalf of any country, national, agency, or instrumentality referred to in subparagraph (A) or (B).".

(2) NATIONALITY OF PROPOSED ACQUIRER REQUIRED IN NOTICE TO AGENCY.—Subparagraph (A) of section 7(j)(6) of such Act (12 U.S.C. 1817(j)(6)(A)) is amended by inserting "nationality," after "personal history,".

(3) CRIMINAL PENALTY FOR WILLFUL VIOLATION OF CHANGE IN BANK CONTROL ACT.—Paragraph (15) of section 7(j) of such Act (12 U.S.C. 1817(j)(15)) is amended—

(A) by striking out "(15) Any" and inserting in lieu thereof "(15)(A) Any"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) CRIMINAL PENALTY FOR WILLFUL FAILURE TO PROVIDE NATIONALITY OF ACQUIRER.—Any person who willfully violates the requirement in paragraph (6)(A) to provide information on the nationality of each person by or on whose behalf an acquisition is to be made, or any regulation prescribed by or order issued by the appropriate Federal banking agency with respect to such requirement, shall upon conviction be fined not more than $100,000, imprisoned for not more than 10 years, or both.".

(4) INCREASE IN PERIOD FOR DISAPPROVAL OF NOTICE OF PROPOSED ACQUISITION.—Subsection (j) of section 7 of such Act (12 U.S.C. 1817(j)) is amended by adding after para-

graph (17) (as added by paragraph (1)) the following new paragraph:

"(18) Extension of Time for Disapproval.—Notwithstanding any provision of paragraph (1), if the appropriate Federal banking agency has reason to believe that any proposed acquisition may result in ownership or control of an insured bank by any country, national, agency, instrumentality, or other person referred to any subparagraph of paragraph (17), the 60-day period referred to in paragraph (1) for issuing a notice of disapproval by such agency may be extended by the agency for an additional period not to exceed 90 days.".

(b) Mergers and Consolidations Resulting in Control of Insured Bank by Certain Foreign Nationals Prohibited.—Subsection (c) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end thereof the following new paragraph:

"(13) Disapproval of Proposed Transactions Resulting in Control of Insured Bank by Certain Foreign Nationals.—The responsible agency may not approve any proposed transaction for which its approval is required under paragraph (1) or (2) if the responsible agency has reason to believe that the resulting bank would be owned or controlled by any country, national, agency, instrumentality, or other person referred to any subparagraph of section 7(j)(17).".

(c) Acquisitions by Bank Holding Companies Resulting in Control of Bank by Certain Foreign Nationals Prohibited.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following new subsection:

"(f) Disapproval of Proposed Transactions Resulting in Control of Bank by Certain Foreign Nationals.—

"(1) In general.—The Board may not approve any acquisition, merger, or consolidation under this section which the Board has reason to believe would result in the ownership or control of a bank by—

"(A) any country which appears on the list of controlled countries established by the President under section 5(b) of the Export Administration Act of 1979;

"(B) any national, agency, or instrumentality of any country referred to in subparagraph (A); or

"(C) any other person who the Board has reason to believe is acting for or on behalf of any country, national, agency, or instrumentality referred to in subparagraph (A) or (B).

"(2) Extension of time for disapproval.—Notwithstanding any provision of subsection (b), if the Board has reason to believe that any proposed acquisition may result in ownership or control of an insured bank by any country, national, agency, instrumentality, or other person referred to any subparagraph of paragraph (1), the 91-day period referred to in subsection (b) for issuing a notice of disapproval by the Board may be extended by the Board for an additional period not to exceed 90 days.".

(d) National Banking Certificate May Not Be Issued in Case of Bank Controlled by Certain Foreign Nationals.—

(1) Establishment of national banking association.—Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following new subsection:

"(c) National Banking Association Owned or Controlled by Certain Foreign Nationals.—The Comptroller of the Currency may not issue a certificate of authority to commence the business of banking to any national banking association which the Comptroller has reason to believe is owned or controlled by—

"(1) any country which appears on the list of controlled countries established by the President under section 5(b) of the Export Administration Act of 1979;

"(2) any national, agency, or instrumentality of any country referred to in paragraph (1); or

"(3) any other person whom the Comptroller has reason to believe is acting for or on behalf of any country, national, agency, or instrumentality referred to in paragraph (1) or (2).".

(2) Conversion of state bank to national bank.—Section 5154 of the Revised Statutes (12 U.S.C. 35) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency may not approve the conversion of any bank which the Comptroller has reason to believe is owned or controlled by any country, national, agency, instrumentality, or other person referred to any paragraph of section 5169(c) of the Revised Statutes.".

(e) Disapproval of Application to Become Member Bank by State Bank Controlled by Certain Foreign Nationals.—The first paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end thereof the following new sentence: "No application under this paragraph by a bank which the Board of Governors has reason to believe is owned or controlled by any country, national, agency, instrumentality, or other person referred to any subparagraph of section 3(f)(1) of the Bank Holding Company Act of 1956 may be approved by the Board of Governors of the Federal Reserve System.".

(f) Disapproval of Application to Become Insured Bank by State or Foreign Bank Controlled by Certain Foreign Nationals.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended by adding at the end thereof the following new subsection:

"(d) Disapproval of Application by Bank Controlled by Certain Foreign Nationals.—No application for insurance by any bank may be approved by the Board of Directors under this section if such bank is owned or controlled by—

"(1) any country which appears on the list of controlled countries established by the President under section 5(b) of the Export Administration Act of 1979;

"(2) any national, agency, or instrumentality of any country referred to in paragraph (1); or

"(3) any other person whom the Board of Directors has reason to believe is acting for or on behalf of any country, national, agency, or instrumentality referred to in paragraph (1) or (2).".

(g) Information on Nationality Required in Certain Reports of Condition.—The appropriate Federal banking agency (as such term is defined in section 3(q) of the Federal Deposit Insurance Act) shall require each insured bank (as such term is defined for purposes of subsection (j) of such Act) to include in the first report of condition filed by such bank after the date of the enactment of this Act the nationality of any person who controls such bank (as such terms are defined in section 7(j)(8) of such Act).

(h) Effective Date.—The amendments made by this section shall apply to—

(1) any application or notice filed with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, as the case may be, on or after the date of the enactment of this Act;

(2) any application or notice filed before such date with respect to which no final action by the appropriate agency has been taken by such date; and

(3) any other transaction which is not completed before such date.

SEC. 3. COMMUNIST OWNERSHIP OF OTHER UNITED STATES DEPOSITORY INSTITUTIONS PROHIBITED.

(a) Change in Savings and Loan Control Act Amendments.—

(1) FSLIC disapproval required.—Subsection (q) of section 407 of the National Housing Act (12 U.S.C. 1730(q)) is amended by adding after paragraph (17) the following new paragraph:

"(18) Disapproval of Proposed Acquisition by Certain Foreign Nationals.—The Corporation shall disapprove any proposed acquisition if the Corporation has reason to believe that the proposed acquisition would result in ownership or control of an insured institution by—

"(A) any country which appears on the list of controlled countries established by the President under section 5(b) of the Export Administration Act of 1979;

"(B) any national, agency, or instrumentality of any country referred to in subparagraph (A); or

"(C) any other person whom the appropriate Federal banking agency has reason to believe is acting for or on behalf of any country, national, agency, or instrumentality referred to in subparagraph (A) or (B).".

(2) Nationality of proposed acquirer required in notice to agency.—Subparagraph (A) of section 407(q)(6) of such Act (12 U.S.C. 1730(q)(6)(A)) is amended by inserting "nationality," after "personal history,".

(3) Criminal penalty for willful violation of change in bank control act.—Paragraph (16) of section 407(q) of such Act (12 U.S.C. 1730(q)(16)) is amended—

(A) by striking out "(16) Any" and inserting in lieu thereof "(16)(A) Any"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) Criminal Penalty for Willful Failure to Provide Nationality of Acquirer.—Any person who willfully violates the requirement in paragraph (6)(A) to provide information on the nationality of each person by or on whose behalf an acquisition is to be made, or any regulation prescribed by or order issued by the Corporation with respect to such requirement, shall upon conviction be fined not more than $100,000, imprisoned for not more than 10 years, or both.".

(4) Increase in period for disapproval of notice of proposed acquisition.—Subsection (q) of section 407 of such Act (12 U.S.C. 1730(q)) is amended by adding after paragraph (18) (as added by paragraph (1)) the following new paragraph:

"(19) Extension of Time for Disapproval.—Notwithstanding any provision of paragraph (1), if the Corporation has reason to believe that any proposed acquisition may result in ownership or control of an insured institution by any country, national, agency, instrumentality, or other person referred to any subparagraph of paragraph (18), the 60-day period referred to in paragraph (1) for issuing a notice of disapproval by the Corporation may be extended by the Corporation for an additional period not to exceed 90 days.".

(b) Acquisitions by Savings and Loan Holding Companies Resulting in Control of Thrift Institutions by Certain Foreign Nationals Prohibited.—Paragraph (3) of section 408(e) of the National Housing Act (1730a(e)(3)) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(C) result in the ownership or control of any savings and loan holding company, insured institution, or uninsured institution by any country, national, agency, instrumentality, or other person referred to in any subparagraph of section 407(q)(18).";

(2) by striking out "or" at the end of subparagraph (A); and

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or".

(c) Prohibition on Organization of Federal Savings and Loan Associations, Etc., by Certain Foreign Nationals.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(s) Prohibition on Organization of Federal Savings and Loan Associations, Etc., by Certain Foreign Nationals.—

"(1) Charters for new organizations.—No charter may be granted under this section by the Board if the grant of such charter would result in the control of an institution by a prohibited foreign national.

"(2) Conversions of existing institution.—No conversion of—

"(A) any association which is a member of a Federal Home Loan Bank;

"(B) any Federal savings and loan association;

"(C) any Federal savings bank; or

"(D) any State-chartered savings bank described in subsection (o)(1),

into any other form of organization described in paragraph (1) or (2) of subsection (i) may be made under this section if, after such conversion, such institution would be controlled by a prohibited foreign national.

"(3) Prohibited foreign national defined.—For purposes of this subsection, the term 'prohibited foreign national' means—

"(A) any country which appears on the list of controlled countries established by the President under section 5(b) of the Export Administration Act of 1979;

"(B) any national, agency, or instrumentality of any country referred to in subparagraph (A); or

"(C) any other person whom the Board has reason to believe is acting for or on behalf of any country, national, agency, or instrumentality referred to in subparagraph (A) or (B).".

(d) Mergers and Consolidations Resulting in Control of Savings Bank by Certain Foreign Nationals Prohibited.—Paragraph (2) of section 5(o) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o)(2)) is amended by adding at the end thereof the following new subparagraph:

"(I) The Corporation may not approve any proposed transaction for which its approval is required under subparagraph (D) if the Corporation has reason to believe that the resulting bank, association, or institution would be owned or controlled by a prohibited foreign national (as defined in subsection (s)(3)).".

(e) Institutions Controlled by Certain Foreign Nationals May Not Become Members of Home Loan Banks.—Section 4 of the Federal Home Loan Bank Act (12 U.S.C. 1424) is amended by adding at the end thereof the following new subsection:

"(e) Prohibition on Membership by Institutions Controlled by Certain Foreign Nationals.—

"(1) In general.—Notwithstanding any other provision of this section, no institution described in subsection (a) may become a member of, or a nonmember borrower of, a Federal Home Loan Bank if such institution is controlled by a prohibited foreign national.

"(2) Prohibited foreign national defined.—For purposes of paragraph (1), the term 'prohibited foreign national' has the meaning given to such term by section 5(s)(3) of the Home Owners' Loan Act of 1933.".

(f) Information on Nationality Required in Certain Reports of Condition.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall require each institution which is required to file reports of conditions with such Board or Corporation, as the case may be, to include in the first report of condition filed by such institution after the date of the enactment of this Act the nationality of any person who controls such institution.

(g) Effective Date.—The amendments made by this section shall apply to—

(1) any application or notice filed with the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, as the case may be, on or after the date of the enactment of this Act;

(2) any application or notice filed before such date with respect to which no final action by such Board or Corporation has been taken by such date; and

(3) any other transaction which is not completed before such date.

The SPEAKER pro tempore. Pursuant to the rule a second is not required on this motion.

The gentleman from New York [Mr. Schumer] will be recognized for 20 minutes and the gentleman from Ohio [Mr. Wylie] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2578 is a bill whose time has come. As our financial markets become increasingly "internationalized," it is essential that we take steps to bring the banking industry up to date with the competitive and sensitive environment in which it must operate.

This legislation addresses one small—but highly significant—issue in the operation of our banks. It's aim is simple: To protect the interests of consumers investors, and the industry itself by insuring that hostile foreign interests cannot acquire or control a banking institution surreptitiously.

The need for this legislation has been dramatically and alarmingly illustrated by events of recent years. Several years ago, U.S. intelligence agents disclosed an attempt by the Soviet Union in the 1970's to acquire three banks in California's Silicon Valley through the Singapore branch of a Soviet bank. Fortunately, the Soviet effort was not successful.

Yet, had it succeeded, this acquisition would have given the Soviet Union access to critical information about American firms and about our banking system. Amazingly, there is not now any regulation which would allow Federal officials from stopping or even knowing about such a situation. Indeed, we presently have no means to determine whether another, undetected, Soviet acquisition of a United States' bank was successful.

Our banking system is the nerve center of our economy. Banks have unparalleled information about clients in high technology, defense, and other key industries. In the indispensible relationship financial institutions have with individual businesses, vital and sensitive information is necessarily entrusted to bank officials.

It is not difficult to imagine how a hostile nation could take advantage of this information to influence key business decisions, attempt to bribe key officials, obtain important information about government contracts, manipulate the operation of our complex financial network or easily obtain a vast array of other information which could ultimately result in serious damage to our national interest. Examples of this type of information could include:

Detailed descriptions of new products or production techniques for which a company is seeking financial backing

The structure and operation of a company, with detailed information about who controls specific departments

Sensitive government contract information, especially with businesses who contract with the Defense Department for some of our country's most strategic defense needs

Access to information about a myriad of technological innovations which have been instituted in all sectors of the U.S. banking system within the past decade

We must establish roadblocks to keep this information out of the hands of hostile nations.

H.R. 2578 will prevent hostile foreign interests from gaining control of American banks by amending the banking laws to require Federal regulators to disapprove any proposed transactions which an agency has reason to believe will result in ownership or control of a bank by an individual or agency on the export administration's list of controlled countries.

In particular, this bill amends the laws governing change in control, creation of new banks, bank mergers, conversion from State to national charter, and conversion to Federal insurance. In each of these areas, the appropriate Federal authority must disapprove any deal which would result in hostile ownership or control of a national bank or savings and loan.

Specifically, H.R. 2578 would provide the following protections:

This bill would require those who wish to acquire or charter a bank or savings & loan to disclose the nationality of all persons or agencies who will have direct or indirect control in the bank;

It provides for criminal penalties of 10 years' imprisonment or a $100,000 fine for failure to accurately report the nationality of bank owners;

It would require Federal regulators to disapprove of any proposed bank or thrift acquisition if the agency has reason to believe it would result in ownership or control by an individual or agent from a nation with whom trade is restricted. The President would have the authority to exempt any country from this restriction.

The bill would specifically prohibit acquisition or ownership of a bank by anyone from any of the nations designated by section 5(b)1 of the Export Administration Act. These currently include: Czecholovakia, North Korea, Estonia, East Germany, Hungary, Latvia, Lithuania, Mongolia, Albania, Bulgaria, Poland, Cuba, Yugoslavia, Romania, Vietnam, and the U.S.S.R.

Mr. Speaker, this legislation is urgently needed to keep pace with the globalization and increasingly competitive financial industry. Since I introduced this legislation in the 100th Congress, a majority of my colleagues on the Banking Committee on both sides of the aisle have joined me as cosponsors of H.R. 2578. I urge all my colleagues to support its passage today.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 2578, of which I am an original cosponsor.

Mr. Speaker, when the gentleman from New York [Mr. SCHUMER] mentioned this bill to me I knew immediately that it was a bandwagon that I wanted to get on. I commend the gentleman from New York for his leadership in making it possible for us to express ourselves on this very important issue.

This measure, the Foreign Ownership of United States Banks Limitations Act amends the Federal Deposit Insurance Act and related laws to prohibit control of U.S. banks by control countries as defined in the Export Administrative Act.

Simply put, any country, any national of any country or any other person for that matter who wishes to acquire or charter a bank or savings and loan would be required to disclose the nationality of all persons or agencies who will have direct or indirect control of the institution.

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Congressman SCHUMER has mentioned this, but I think it deserves repeating: United States Federal banking regulators will be prohibited from approving any proposed bank or thrift acquisition if such acquisition would result in ownership or control by an individual or agent from a nation with whom trade is restricted. The President would have authority to grant exemptions as has been mentioned from this restriction under the Export Administration Act provisions. Currently trade is restricted with approximately 10 countries, including among others, the Soviet Union, Vietnam and East Germany.

Mr. Speaker, this legislation is long overdue. Our Nation's financial institutions are operating in a global economy. Control of the domestic bank or savings and loan could give, for example, Soviet agents access to critical and confidential financial data about key United States firms that are customers of the institution. This is a worry we as Americans should not have. This bill, Mr. Speaker, should receive our unanimous approval.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield 2 minutes to my colleague, a sponsor of this legislation, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of this measure, H.R. 2578.

The gentleman from New York [Mr. SCHUMER] has done a good service in bringing this measure to the House floor and I commend him for it and also his staff.

The fact is, Mr. Speaker, that those nations that have very severe restrictions on their economy, such as the nations in this act that are prohibited from Federal ownership of banks, those controlled nations, are seeking really to have this both ways. In other words, they would like to restrict and control their economies and, on the other hand, benefit from the free trade and free enterprise environment that occurs within our Nation.

The fact of the matter is that if we are to move in this particular direction, we should hardly do it on an ad hoc basis. In other words, it should be a conscious, a positive decision.

Banks, savings and loans that are given franchises in this Nation that are given the various insurance and other privileges and responsibilities in terms of helping conduct our free enterprise economy, are very important links in that particular economy, so important that, as I said, on an ad hoc basis we should not invite and should prevent control of nations such as in the Soviet Union and other nations to have access to those controlled and access to those particular tools.

So I hope as we move forward that we keep an open mind with regard to this issue but I think it is a prudent move at this point, before a full policy is clarified with regard to this, to simply prohibit it, so that it should not happen, as I say, on a regulatory basis.

This legislation will do precisely that. It will prevent that from occurring on an ad hoc basis. I think for that reason it represents a good policy, until there is a conscious decision with regard to our economy and the participation of these controlled nations.

Mr. Speaker, I yield back the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is one of those bills which is so obviously meritorious that it should receive the unanimous approval of the House.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to thank my good friend and colleague from Ohio, the ranking minority member of the Committee on Banking, Finance and Urban Affairs who always presides over his side with such intelligence, grace and respect, for his support. I thank my colleague from Minnesota [Mr. VENTO] for his words.

Mr. PARRIS. Mr. Speaker, I want to take this opportunity to thank the gentleman from New York [Mr. SCHUMER] for his persistence in making sure that this legislation reached the floor of the House.

This bill is particularly important because it would for the first time provide our Federal banking regulators with the power to prevent ownership of banks by Communist countries or agents of these countries.

This legislation was prompted by disclosure that the Soviet Union has some time ago attempted to acquire three banks in the Silicon Valley through a Singapore branch of a Soviet bank. Had they been successful, the Soviet Union could have gained access to some of our Nation's most sensitive technology. I think it is imperative that the Federal Government have the power to stop such transactions.

We all know that the Soviet Union will stop at nothing to gain access to United States secrets. Whether it be through the front door of our U.S. embassy in Moscow, or by buying an interest in a U.S. financial institution, we must always be on our guard, and we must leave no loopholes open if we are to prevent the outflow of important American technology to Eastern-bloc nations.

Let me add, that this legislation would in no way restrict foreign investment in the United States by the majority of countries. This would simply add a disclosure requirement—the nationality of anyone acquiring or chartering a bank. It would also require disclosure of the nationality of anyone presently owning directly or indirectly a bank in the United States. This bill would simply give the Federal Government the power, if needed, to prevent control of a financial institution by a country with whom we already restrict trade.

This legislation has broad, bipartisan support from members of the Banking Committee. I would urge all of my colleagues to support this legislation, and again I want to thank Mr. SCHUMER and Mr. WYLIE for their diligence in bringing this to the floor for consideration today.

Mr. ST GERMAIN. Mr. Speaker, I rise in strong support of H.R. 2578, the Foreign Ownership of U.S. Banks Limitation Act. I wish to commend the gentleman from New York [Mr. SCHUMER], and our ranking minority member, the gentleman from Ohio [Mr. WYLIE] for their diligent efforts in this matter.

Mr. Speaker, we have known for some time, at least since the mid-1970's, that the Soviet Union has attempted to acquire control of United States banks. Control of such banks would give Soviet agents access to critical and confidential financial and other data of United States high-technology firms.

H.R. 2578 would amend the Change in Bank Control Act and other related banking statutes to require those who wish to acquire or charter a bank or savings and loan to disclose the nationality of those who would have direct or indirect control of the bank. It would require Federal regulators to disapprove of any proposed bank or thrift acquisition if the agency has reason to believe it would result in ownership or control by an individual or agents from a country with whom trade is now restricted. The President, however, would have authority to grant exemptions from this restriction.

The bill also provides for criminal penalties for up to 10 years' imprisonment or $100,000 fine for failure to report the nationality of bank owners.

It should be noted that in 1978 the Banking Committee reported and ultimately corrected to a great degree one of the most glaring gaps in the regulatory structure, which was the lack of control over transfers of ownership of banks and S&L's between individuals or groups of individuals.

The Change in Bank Control Act and the Change in Savings and Loan Control Act reported out of the Banking Committee and passed as titles VI and VII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 authorized banking agencies to disapprove changes of control of financial institutions within their jurisdictions. Its purpose was to prevent dishonest persons, especially those with a prior history of insider abuse or those with a criminal background, from gaining control of such institutions.

More recently, the Change in Bank Control Act was amended by the Banking Committee and became law with passage of the Omnibus Drug bill, the Anti-Drug Abuse Act of 1986. The Banking Committee, as well as the House Committee on Government Operations, found that vigorous enforcement of the 1978 act by the regulators was lacking. Last year, our concern was directed not only at those instances where incompetency may affect the safety and soundness of an institution, but we were deeply troubled by the possibility that organized crime and drug traffickers may acquire a financial institution and use it for unlimited money laundering operations.

In response to our findings that indeed the regulators had not effectively enforced the 1978 act, the committee gave the regulators another opportunity and granted to them extensive additional powers, in an effort to keep the mobsters and other criminal elements in our society from taking over financial institutions.

H.R. 2578 is a bill which is timely and responsive to the concerns of our Nation. However, unless the regulators vigorously enforce the provisions of this bill, as well as the provisions of last year's omnibus drug bill, the abuses to the banking industry and the takeovers by undesirables will continue.

As this committee stated in its report on the Comprehensive Money Laundering Prevention Act, the committee is determined to see that the regulators enforce the provisions of the Change in Bank Control Act and other related statutes.

Mr. Speaker, as I have stated in the past on the floor of this House, the committee will shortly undertake a comprehensive review of a number of outstanding issues. Among them is the acquisition and merger of financial institutions in this country, including those acquired by foreign interests, as part of the Committee's extensive overview of the U.S. banking system. In that regard, H.R. 2578 is a meaningful contribution to this overall effort.

Mr. SCHUMER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 2578.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2578, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PLASTIC POLLUTION RESEARCH AND CONTROL ACT OF 1987

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 940), to provide for the regulation of the disposal of plastic materials and other garbage at sea; to provide for negotiation, regulation, and research regarding fishing with plastic driftnets; and for other purposes, as amended.

The Clerk read as follows:

H.R. 940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plastic Pollution Research and Control Act of 1987".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to implement Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; and

(2) to identify and reduce the effects of plastic pollution on the marine environment.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this Act shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) EXCEPTIONS.—Sections 3, 108(2), 108(3), 110, 201, 203, 204, 205, and 206 of this Act shall be effective on the date of the enactment of this Act.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to prescribe regulations pursuant to this Act shall be effective on the date of enactment of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed pursuant to this Act shall not be effective before the effective date of the provision of this Act under which the regulation is prescribed.

TITLE I—AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS

SEC. 101. DEFINITIONS.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "SEC. 2."

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;".

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "Annexes I" and inserting ", II, and V thereto, including any modifications or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage'" after "discharge".

(5) The following is added at the end of section 2:

(b) For purposes of this Act, as used in Annex V to the Convention, the term 'sea' includes the navigable waters of the United States.".

SEC. 102. APPLICATION OF ACT.

(a) IN GENERAL.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States.".

(b) Exclusions.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraphs (B) and (C), the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) Regulations.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under section 3(a), to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.".

SEC. 103. POLLUTION RECEPTION FACILITIES.

(a) Determination of Adequacy of Facilities.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the first sentence of subsection (a)(1) (as redesignated) by inserting "for mixtures containing oil or noxious liquid substances" after "reception facilities"; and;

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall prescribe regulations respecting the adequacy of reception facilities for garbage at ports and terminals which specify the ports and terminals which are required to provide the reception facilities. Persons in charge of a port or terminal shall provide reception facilities, or ensure that the facilities are available, for receiving garbage in accordance with those regulations.".

(b) Consideration of Number and Types of Ships.—Section 6(b) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting ", and in prescribing regulations under subsection (a) of this section," after "reception facilities"; and

(2) by inserting ", or, as appropriate, ships," after "seagoing ships".

(c) Certificate Issuance.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annexes I and II to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of the Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) Entry Denial.—Section 6(e) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(1)" after "(e)";

(4) in paragraph (1)(A) (as redesignated), striking "the MARPOL Protocol" and inserting "Annexes I and II to the Convention"; and

(5) adding at the end the following:

"(2) The Secretary may deny entry to a ship to a port or terminal required by regulations issued under this section to provide reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

SEC. 104. VIOLATIONS.

(a) Ship Inspections.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) striking "(2)" immediately after "(c)";

(4) in paragraph (2) (as redesignated), inserting "or otherwise within the navigable waters of the United States" after "jurisdiction of the United States";

(5) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the" and inserting "The"; and

(6) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

(b) Ship Inspections Other Than at Port or Terminal.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of the requirements of Annex V to the Convention.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which MARPOL Protocol applies to verify whether the ship had discharged a harmful substance or disposed of garbage in violation of that Protocol.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this Act.".

SEC. 105. REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY

Section 9(f) of the Act to Prevent Pollution from Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 106. PROPOSED AMENDMENTS TO PROTOCOL.

Section 10 of the Act to Prevent Pollution from Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annexes I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

SEC. 107. LEGAL ACTIONS.

Section 11 of the Act to Prevent Pollution from Ships is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following:

(c) Any person suffering damage or loss from an action of the Secretary taken pursuant to section 8(d) of this Act which is alleged to have been unlawful or to have exceeded that which is reasonably required in the light of available information, may bring an action under this section to recover compensation for that damage or loss.".

SEC. 108. REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following;

"(2) The Secretary of the department in which the Coast Guard is operating shall—

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

"(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

"(C) within 2 years after the effective date of this paragraph, report to the Congress—

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B), regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 109. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following: "Sec. 17. Any action taken under this Act shall be taken in accordance with international law.".

SEC. 110. CIVIL PENALTY UNDER REFUSE ACT.

Section 16 of the Act of March 3, 1899 (33 U.S.C. 411) is amended—

(1) by inserting "(a)" after "Sec. 16."; and

(2) by adding at the end the following:

"(b)(1) A person who, after notice and an opportunity for a hearing, is found to have violated section 13 shall be liable to the United States for a civil penalty of not to exceed $25,000 for each violation.

"(2) Each day of a continuing violation of section 13 shall constitute a separate violation.

"(3) The amount of a penalty under this subsection—

"(A) except as provided in paragraph (4) shall be assessed by written notice; and

"(B) shall be determined by taking into account—

"(i) the nature, circumstances, extent, and gravity of the prohibited acts committed; and

"(ii) with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters as justice may require.

"(4) The amount of a penalty under this subsection may only exceed $25,000 if such penalty is assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(5) A penalty under this subsection which is subject to assessment or which has been assessed may be compromised, modified, or remitted, with or without conditions.

"(6) If a person fails to pay an assessment of a penalty under this subsection after it has become final, the matter may be referred to the Attorney General for collection in any appropriate district court of the United States.".

TITLE II—STUDIES AND REPORT

SEC. 201. COMPLIANCE WITH ANNEX V, GENERALLY.

Within 2 years after the effective date of this Act, and biennially thereafter for a period of 10 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter in this title "Annex V") in the United States waters.

SEC. 202. COMPLIANCE BY FEDERAL AGENCIES.

(a) REPORT ON EXTENT OF COMPLIANCE.—Within 1 year after the effective date of this Act, and each year thereafter until the ships are brought into compliance with the refuse disposal requirements of Annex V which apply to commercial vessels, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1) of the Act to Prevent Pollution from Ships shall report to the Congress on the extent to which their ships are in compliance with the requirements referred to in that section.

(b) REPORT ON INABILITY TO COMPLY.—Within 3 years after the effective date of this Act, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(2)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), Congress shall modify the applicability of Annex V to the Convention to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate.

SEC. 203. LAND-BASED SOURCES OF PLASTIC MATERIALS.

Not later than September 30, 1988, the Administrator of the Environmental Protection Agency shall submit to the Congress a report on land-based sources of plastic materials in the marine environment. The report shall include—

(1) description of the types and classes of plastic materials in the marine environment which are from land-based sources, including medical wastes;

(2) description of specific statutory and regulatory authority available to the Administrator, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine environment from those sources;

(3) analysis of whether the production or sale of particular types or classes of nondegradable plastic materials should be prohibited, taxed, or regulated in any other manner; and

(4) recommendation of legislation which is necessary to prohibit, tax, or regulate land-based sources of plastic materials that enter the marine environment.

SEC. 204. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall include—

(1) identification and quantification of the harmful effects of plastic materials on the marine environment;

(2) assessment of the specific effects of plastic materials on living marine resources in the marine environment;

(3) identification of the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analysis, carried out in consultation with the Director of the National Bureau of Standards, of plastic materials which are claimed to be capable of reduction to environmentally benign subunits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolsis); and

(5) recommendation of legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 205. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

Not later than April 1, 1988, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall commence a program, to be conducted for a period of at least 3 years, to educate the public (including recreational boaters, fishermen, representatives of the plastic industry, representatives of the beverage industry, representatives of the glass industry, representatives of the paper industry, representatives of the metals industry, and consumer interest groups) regarding the harmfulness of plastic materials (regardless of source) in the marine environment. The program may include workshops, public service announcements, symposia, and any other means to educate the public regarding the harmfulness of plastics in the marine environment and the need to further reduce sources of plastics entering the marine environment.

SEC. 206. NEW YORK BIGHT PLASTIC STUDY.

The Administrator of the Environmental Protection Agency shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the date of the enactment of this Act with recommendations for the elimination of the threats posed by such plastic debris.

TITLE III—SEA GRANT COLLEGE PROGRAM ACT REAUTHORIZATION

SEC. 301. SHORT TITLE.

This title may be cited as "The Marine Science, Technology and Policy Development Act of 1987".

SEC. 302. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided in this title, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Seal Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 303. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated by subparagraph (A)) the following new paragraphs:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources, growing coastal area populations, and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely.".

(2) Subsection (b) is amended by striking out "ocean and coastal resources" and all that follows thereafter and inserting "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and

training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems.".

SEC. 304. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking out paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'directors of sea grant colleges' means the persons designated by their universities or institutions to direct sea grant colleges, programs, or regional consortia.";

(3) by striking out paragraphs (6) and (7) and inserting the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the Great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' includes—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of that living resources, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following new paragraph:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) CONFORMING AMENDMENT RELATING TO GREAT LAKES RESOURCES.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking out "ocean and coastal resources" each place it appears and inserting "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3(1)(A) of this Act).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204.

(E) Paragraphs (2)(A) and (3)(A) and (B) of section 207(a).

(F) Paragraph (1) of section 209(c).

(G) Section 210.

(2) Paragraph (5) of section 204(c) is amended by striking out "ocean and coastal resource" and inserting "ocean, coastal, and Great Lakes resources".

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking out "Administrator" each place it appears and inserting "Under Secretary".

SEC. 305. CONTRACTS AND GRANTS.

Section 205 (33 U.S.C. 1124) is amended at the end of subsection (d)(1), by adding the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize Federal prior approval requirements.".

SEC. 306. SEA GRANT STRATEGIC RESEARCH PROGRAM

Section 206 (33 U.S.C. 1125) is amended to read as follows:

STRATEGIC MARINE RESEARCH PROGRAM.

"(6) The Under Secretary may make grants or enter into contracts to carry out the strategic research program provided for under this subsection. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) Within 1 year after the effective date of the Marine Science, Technology, and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with ocean, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research.

"(c) In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies, sea grant directors, other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia, non-governmental marine scientists, and other interested parties, both public and private. At the time of publication, the Under Secretary shall submit the plan to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the same day. The Under Secretary may not make a grant or enter into a contract under this section for priority area research under the plan before the 45th day after the date of receipt of the plan by the Committees.

"(d) In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) those critical resource and environmental areas that, because of—

"(A) their national, international or global scope, fundamental nature, or long-range aspects,

"(B) the scale of the needed research effort, or

"(C) the need for the broadest possible university involvement,

are precluded from adequate funding under other sections of this Act; and

"(2) those areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made or contracts entered into, under this section.

"(f) Within 1 year after the effective date of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe under section 553 of title 5, United States Code, rules and regulations necessary to carry out section 206(a) of the National Sea Grant College Program Act (33 U.S.C. 1125), after giving notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, nongovernmental marine scientists, sea grant directors, other representatives of sea grant colleges, programs, and regional consortia, and other interested parties, both public and private.".

SEC. 307. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) IN GENERAL.—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) DEAN JOHN A. KNAUSS MARINE POLICY FELLOWSHIP—

"(1) The Under Secretary may award marine policy fellowships to support the placement of qualified individuals in positions with the executive and legislative branches of the United States Government. No fellowship may be awarded under this paragraph for a period exceeding 1 year.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual at the graduate level of education in fields related to ocean, coastal and Great Lakes resources.

"(c) POSTDOCTORAL FELLOWSHIPS.—

"(1) The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(A) shall be for 2 years;

"(B) may be renewed once for not more than 2 years;

"(C) shall be awarded on a nationally competitive basis;

"(D) may be used at any institution of postsecondary education involved in the national sea grant college program;

"(E) shall be for up to 100 percent of the total cost of the fellowship;

"(F) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206(a); and

"(G) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.".

SEC. 308. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking out the matter preceding paragraph (1) and inserting "The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1). (2) Subsection (c) is amended—

(A) by striking out the second sentence of paragraph (1) and inserting the following: "The Director and a director of a sea grant program shall serve as nonvoting members of the panel. The directors of sea grant programs shall elect a representative to serve on the panel.";

(B) by striking "five" in paragraph (1) and inserting "8";

(C) by adding at the end of paragraph (2) the following: "At least once a year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

(D) by striking out "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting "office.".

SEC. 309. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) The Under Secretary may provide annual grants to enable eligible institutions to assist the institutions to achieve the following objectives.

"(1) To improve and support curriculum offerings in marine affairs and resource management at the graduate level and to develop related educational materials.

"(2) To support graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) To increase multidisciplinary research in marine resources management.

"(b) For purposes of this section, the term 'eligible institution' means any sea grant college, sea grant regional consortium or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) No grant in excess of $400,000 may be made to an eligible institution under this section for any year.

"(e) Each institution receiving a grant under this subsection shall inform the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the results of the activities and measures to which the institution applied the grant.".

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out the provisions of this Act, an amount:

"(1) for fiscal year 1988, not to exceed $44,000,000, including an amount not to exceed $500,000 for section 206.

"(2) for fiscal year 1989, not to exceed $58,000,000, including an amount not to exceed $5,000,000 for section 206.

"(3) for fiscal year 1990, not to exceed $64,000,000, including an amount not to exceed $10,000,000 for section 206.

"(b) Sums appropriated pursuant to this section shall remain available until expended.

"(c) The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by the person during the first year for which it was authorized to be obligated or during the next fiscal year shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.".

SEC. 311. SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"(a) The Under Secretary may enter into contracts and make grants under this section to—

"(1) enhance cooperative international research and educational activities on important ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other federal civilian agency international initiatives where research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources are fundamentally related to the purpose of those initiatives; or

"(6) enhance regional collaboration with respect to marine scientific research between foreign nations and the United States including such activities as those which improve our understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in regions such as, but not limited to—

"(i) the Caribbean and Latin American region; and

"(ii) the Pacific Island region.

"(b) Any sea grant college, sea grant program, and sea grant regional consortium and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State) may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of this Act and to any other requirements that the Under Secretary considers necessary and appropriate.".

SEC. 312. EFFECTIVE DATE.

This title takes effect October 1, 1987.

SEC. 313. GREAT LAKES MAPPING.

(a)(1) SHORT TITLE.—This section may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

(2) DEFINITIONS.—

In this section:

(A) "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(B) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and the Saint Lawrence River to the Canadian border), to the extent that those lakes are subject to the jurisdiction of the United States Government.

(b) PREPARATION OF SHORELINE MAPS.—

(1) Notwithstanding another law, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes. These maps shall include—

(A) bathymetry of the nearshore area;

(B) topography of the adjacent shoreline;

(C) the geological conditions of the shore and nearshore area; and

(D) information on the recent geological past.

(2) These maps shall be of appropriate scale and detail and take into account the greater information needs in areas subject to a high risk of erosion or flooding.

(3) To the maximum extent practicable, the maps prepared under authority of subsection (b)(1) of this section shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

(4) The maps prepared under subsection (b)(1) of this section shall contain appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes.

(5) In preparing the maps referred to in subsection (b)(1) of this section, the Director shall consult with, and take into consideration the informational needs of—

(A) the United States Army Corps of Engineers;

(B) the Federal Emergency Management Agency;

(C) other appropriate United States Government agencies;

(D) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(E) appropriate local government units; and

(F) the general public.

(6) The Director shall make available the maps referred to under subsection (b)(1) of this section to—

(A) the United States Government;

(B) State governments;

(C) local governments; and

(D) the general public.

(7) The costs of reproducing and distributing the maps prepared under subsection (b)(1) of this section may be recovered under section 9701 of title 31, United States Code, or another law.

(c) SHORELINE MAPPING PLAN.—

(1) Within three months of the date of enactment of this section, the Director, in consultation with the Director of the United States Geological Survey, shall prepare a mapping plan for the United States portion of the Great Lakes shoreline.

(2) This plan shall include—

(A) a work proposal and a division of responsibilities between the United States Coast and Geodetic Surveys and the United States Geological Survey;

(B) a time schedule for completion of the maps required under subsection (b)(1) of this section;

(C) recommended funding levels for completing the maps required under subsection (b)(1) of this section; and

(D) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of flooding or erosion.

(3) Copies of this plan shall be submitted on completion to the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) AUTHORIZATION FOR CONTRACTS.—Subject to appropriations, the Director may enter into contracts or agreements with other United States Government agencies, State governments, local government units, or private entities, under a reimbursable or cost-sharing basis, as appropriate, to the extent permitted by law, to carry out the responsibilities under this section.

(e) AUTHORIZATION FOR APPROPRIATIONS.—

(1) Not more than $100,000 for fiscal year 1988 is authorized to be appropriated to prepare the mapping plan described in subsection (c) of this section.

(2) Any amounts appropriated to carry out this section shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 940, the Plastic Pollution Research and Control Act. I anticipate that this legislation may be the most effective proposal that has or will come before this Congress to rid our oceans and beaches of trash, and I urge its prompt passage.

This legislation responds effectively to a marine pollution problem that is centuries in the making, for it seeks to end the timeless—and mindless—maritime tradition of dumping everything over the side. What may have once been a benign practice is now a deadly one as more ships dump more trash and as the quantities of plastic trash—both lethal and indestructable—continue to rise. More than 100 million pounds of plastic trash goes over the side each year. Tossing shipboard-generated garbage overboard is standard operating procedure on commercial, recreational, and military ships. As long as the ships are at least 3 miles from shore, this practice is perfectly legal.

In the marine environment, plastic trash is ubiquitous, it is ugly and it is deadly. It is the mortal enemy of seabirds, marine mammals, and fish; and the economic and esthetic foe of those interested in, or dependent upon, a clean and attractive coast. The problem is global in scope; the responsibility must be shared by every segment of the maritime community; and the time for a strong national response has come.

This legislation proposes to enact into law what should be common sense. Title I would bar vessels—all vessels—from dumping their plastic trash anywhere within 200 miles of our coastlines—trash which otherwise would end up on someone's beach or shoreline. For the garbage most likely to decompose or sink, it would permit disposal up to 12 miles of shorelines. The substitute would also prohibit U.S. vessels from throwing plastic garbage overboard wherever they are operating, and would require them to respect the same restrictions on other types of garbage while off other coasts. Title II requires the National Oceanic and Atmospheric Administration to continue its efforts to identify the lethal effects of plastics on the marine environment, and requires EPA to identify land-based sources of plastic pollution and other trash and report on methods to reduce those sources.

Events of this summer demonstrate that people want their shorelines clean. From Cape Cod to San Antonio to the beaches of the Oregon coast, people are cleaning up the debris that should never have been in the oceans in the first place, incredulous that such wholesale, routine dumping at sea is accepted by their government. It should not be.

The importance of this legislation reaches far beyond U.S. waters. It will implement an international agreement that seeks to regulate the disposal of garbage from ships—referred to as annex V to the International Convention for the Prevention of Pollution from Ships, or MARPOL. The enactment of this bill and the ratification of annex V by the United States will cause that agreement to enter into force globally, thereby achieving an important mark in our efforts internationally. I understand that annex V has been reported favorably from the Senate Foreign Relations Committee, and I am hopeful that our action today may lead to quick Senate action and final passage before the end of this session.

In speaking on behalf of this proposal, I must acknowledge and thank those who have contributed their efforts and support to it. The Texas Land Commissioner—Hon. Garry Mauro—has devoted an extraordinary effort to swift passage of this legislation and to rapid action by the Senate on annex V itself. The bill would not be here before us today were it not for his vigorous and impressive efforts, and for them I wish to extend my thanks.

Similarly, the Texas delegation, and in particular Congressmen PICKLE and DE LA GARZA, have worked tirelessly on this bill, and to them as well I owe my thanks. To Congressman JIM HOWARD, whose active cooperation strengthening the bill and enabled us to bring it to the floor today, my thanks as well. Finally, the cooperation of my colleagues on the Merchant Marine Committee was essential in shepherding the bill through the committee process. I thank them for it.

Mr. Speaker, this is a simple proposal. It reflects good sense, as few do, and it deserves support. The shipping industry supports it, environmentalists support it, the fishing industry supports it, and the administration supports it. Eighty-two of our colleagues have cosponsored it.

The amendment in the nature of a substitute which I bring before the House today is identical to the bill as reported by the Merchant Marine and Fisheries Committee with two exceptions. The first modifies the amendment to the penalty provisions of the Refuse Act that was reported by the committee to incorporate certain procedural requirements for penalties over $25,000. The change was requested by the Public Works Committee and is, I believe, noncontroversial. The second change adds a new title III to the bill which contains the text of H.R. 3017, a bill to reauthorize and amend the National Sea Grant College Program. H.R. 3017 was passed by the House on September 29 by a vote of 323 to 79. Similar legislation has also been endorsed overwhelmingly by the Senate. To ensure its quick and favorable consideration, the text of H.R. 3017 has been included here as a third title.

In closing, Mr. Speaker, I believe that H.R. 940, as amended, represented a constructive, common sense approach to a major environmental, esthetic and economic problem. I believe that it deserves our full support, and I urge its prompt passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Massachusetts [Mr. STUDDS] for his thorough and eloquent explanation of what this bill does and to say to him, in particular, how much I appreciate personally the fine cooperation that he has given the minority in terms of our input throughout the committee process.

Mr. Speaker, as I mentioned there is very little I can add to the explanation that Mr. STUDDS just gave. The bill prohibits the disposal of plastics from vessels anywhere in the ocean which is so important to our marine mammal and fish environment and to the seashores as well, it prohibits the disposal of dunnage or packing material from ships and also has strict regulations on how solid waste may be disposed of at sea.

There are two provisions that I thought were very interesting and important to the coastal areas. Those were Mr. LOWRY's proposal and Mr. HUGHES' proposal to conduct various studies of land-based sources of plastics as well as an educational program which is intended to enlighten all of us on the seriousness of this program.

But I might say, Mr. Speaker, that in light of the National Coastal Day which was observed just 2 days ago, I know that along with many of my colleagues around the country, there were various types of programs that were intended to make note of National Coastal Days, and in keeping our oceans clean.

Having taken part in one of those myself, I think I am one, along with other Members of the House and other members of the public at large, who recognize the seriousness of the situation which has evolved relative to a clean ocean or perhaps, better put, at least in some parts of the country, a not-so-clean ocean, at least at certain times.

This bill is a very important part, only a part of a national strategy which I see emerging. Just last week we passed a law to reauthorize and expand the Sea Grant College Program, a program that is so important in helping us to understand the marine environment and how to deal with it.

Just last week we passed the National Ocean Policies Commission Act to establish a new body with a specific charge to set a national agenda for the correct use and wise use of our oceans.

Today I am sure that we are going to pass this bill. It has been ironed out and worked out. It is in good shape for passage and I think enjoys a great deal of support.

But again what we have done so far, what we have done this year in amending the ocean dumping act and the two bills that I just mentioned, and today's vote, are all very important. We have to continue to develop a national policy that has to do with what is so important to our marine environment. I know that my good friend from New Jersey, Mr. HOWARD, has been very active both here and at home in promoting the cause as espoused in this bill and I commend him for his efforts.

Mr. Speaker, I hope today will see a unanimous vote on this bill, because it sends a message, it sends a message to all of those who perhaps do not understand the importance of marine environment or perhaps to those who choose to ignore the importance of a clean marine environment.

So I ask all of the Members on this side of the aisle, in fact both sides of the aisle, to give this bill their unanimous support.

I am happy to support the action we are taking here today with H.R. 940. This bill, as it was unanimously approved by the Merchant Marine and Fisheries Committee, is very similar to the administration's proposed legislation for the implementation of annex V, which was recently introduced as H.R. 3261. This legislation addresses an issue that is critical not only to the United States, but one that affects practically every nation on this globe. It certainly impacts every one of our coastal States directly, as well as our fisheries, and even our national economy when enormous sums are devoted to cleaning up our beaches. This does not even include the loss, both aesthetically and commercially, of wildlife caused by ingestion of or entrapment in plastic debris.

Specifically, this legislation will also extend inland the reach of the act to the internal waters of the United States. This means the Great Lakes and all of our other navigable waters will also be protected under the coverage of annex V from additional plastic pollution. This should signal to the rest of the world our commitment to the prevention of further pollution of this precious and limited resource.

Of particular importance to me is the inclusion of a requirement to strengthen the EPA and NOAA study provisions including investigating the effects of medical wastes found washing up on our shores. Also, a public education program on the effects of plastic pollution is required. I want to thank Mr. LOWRY and Mr. HUGHES for joining me in an effort to include these items in the committee reported bill. As my colleagues know, we in New Jersey have experienced tremendous amounts of trash washed up on the beaches. This bill will attack this problem head on.

In addition, this bill carries a committee amendment reauthorizing the National Sea Grant College Program for 3 years. The Sea Grant Program is a unique partnership between government, business and 300 universities which has developed many marine-related products benefiting all of the United States. The program funds research, graduate fellowships, and congressional or executive branch internships with the goal of encouraging the wise use of our ocean and coastal resources.

We must all be conscious of the impact of our actions on the world around us and implementation of annex V to the International Convention for the Prevention of Pollution From Ships will provide a decisive step toward preserving our global environment. I urge all of the Members of this House to vote in favor of H.R. 940 and to encourage our colleagues in the Senate to move quickly on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I wish to congratulate the Committee on Merchant Marine and Fisheries, especially the gentleman from North Carolina, the chairman, and the gentleman from Massachusetts, the subcommittee chairman, for developing this important bill so quickly.

The increasing amounts of plastic in the oceans, whether from recreational or commercial boats, the military, fishing operations, or even having been washed into the sea from inland, pose a growing threat to our environment that has reached the crisis stage.

There is simply too much plastic in the ocean and it's time to do something about it. If we don't take action, we will be asking future generations to live with this problem for the next 450 years. We should address the issue now and take the steps that are necessary to keep it from worsening.

It is because of the growing nature of this problem that the Committee on Public Works and Transportation agreed to seek a sequential referral for only 2 days on this bill. We would have normally sought a longer referral but we believe that it was more important to expedite the process of moving the bill to the floor.

I know that we are not alone with this problem but the situation has grown especially acute in the New York Bight, the corner of the ocean bordering the beaches of the New Jersey shore. Our beaches and the offshore waters become strewn with garbage, whether from recreational boaters or commercial boaters, the garbage disposal operations of New York City, or from passing ocean liners, tankers, and military ships.

There were well-publicized beach closings this past summer, many of them in my district. We were faced with massive slicks of garbage which had somehow found its way into the ocean, a subject that is currently being examined by a Federal grand jury. The seriousness of that problem cannot be overestimated but the presence of large amounts of plastics made the situation even worse. Those plastics that were not degradable would last in the ocean for 450 years.

The crisis of the garbage slicks also masked the continuing and real problem with the more routine disposal of plastics in the ocean is not just the once- or twice-a-summer massive garbage slick that we must address. There is also the regular, daily disposal of plastics, some in small amounts that, on a cumulative basis, poses even more of a threat to the marine environment.

That is why I drafted section 206 of the bill, the New York Bight plastics study. I want to thank my colleagues from New Jersey, BILL HUGHES and JIM SAXTON, members of the Merchant Marine and Fisheries Committee, for their assistance on this section.

The New York Bight is a special problem because of the density of the population in the States bordering on the ocean. There is a crisis in waste disposal in the area and the ocean is part of that crisis. The ocean has always been viewed as a solution for waste disposal when no land-based sites are available but that can no longer be the case. It is time to clean up the oceans—not pollute them further.

Section 206 would require the Environmental Protection Agency to study plastic pollution in the New York Bight and report back to Congress within 6 months with a plan to eliminate the problem. The study should concentrate on the effect of plastic pollution on the beaches, recreational areas and fishing areas of the region as well as the entire environment.

Let's face it. We had a miserable summer at the New Jersey shore this past summer because of the garbage floating offshore and washing up on our beaches. In the last 2 or 3 years, we have made tremendous strides in reducing the bacteria and other contaminants in the water from sewage and sludge. I believe we were turning the corner in our battle for clean water at the New Jersey shore. But the constant presence of garbage in the water demonstrates that action is needed and it is needed quickly. We have set the timetable to require EPA to report back before next summer. We don't want to have another summer like the past summer.

The long-range solution, however, must be accomplished through education and a change in our habits. A world population of 5 billion using plastics that last for 450 years cannot continue to live as the throw-away society. We must begin to use prudence in the products that we use and in our disposal methods. Twenty years ago, hospitals used and reused syringes until they were no longer usable. Now, they use plastic syringes and dispose of them after one time. If one-time use and disposal is going to be the norm, we must make the changes necessary to ensure proper disposal.

We are familiar with the plastic yokes used for beverage six-packs but it is appalling to think about how many of those are manufactured each day. Fortunately, 11 States already outlaw the sale of yokes that are nondegradable.

Degradable products are the way to go for the future—whether is is biodegradable, photodegradable, or chemodegradable. There is no justifiable reason why our environment should be threatened by nondegradable products that survive for 450 years when a product that possesses all the same attributes of convenience but lasts for only 6 months can be substituted.

I hope this legislation will become the first step in a coordinated Federal effort aimed at turning our society toward the use of degradable products. EPA will be required to report to Congress by September 30, 1988, on land-based sources of plastics, steps being taken to reduce plastics in the marine environment, and recommendations on prohibiting, taxing, or regulating nondegradable plastics.

The Department of Commerce will also be required to report to Congress on materials that can be degraded under normal environmental forces and recommendations on prohibitions, taxes, or regulations. The Department of Commerce and EPA will also be required to initiate a 3-year public education program beginning April 1, 1988, on the harmfulness of plastics in the marine environment.

These are important first steps in the battle to eliminate plastic pollution before it enters the environment. It is better to reduce that pollution than to have it survive in the ocean for 450 years. I hope we can take even stronger action in the near future on this serious and growing problem.

□ 1530

Mr. SAXTON. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Speaker, the gentleman from New Jersey appeared before our subcommittee in the hearings on this bill and indicated to us not only his concern but his family's concern and his constituents' concern about the condition of the coastal area in our State of New Jersey. I thought about one of the interesting things that has come to our attention, and I would like to ask this question on the floor today:

There are many uses of plastics today, and we have an explosion in the plastics industry. We know that these plastics are nice to have around because they are so handy. But are there not some substitutes that can be used for plastics without going back to the paper-bag days?

Mr. HOWARD. Mr. Speaker, there certainly are, and I believe this should be our next step. as I said, some of these plastics take hundreds of years before they are degradable at all, but there are, for instance, plastic garbage bags, not our name brands that we see, but adequate garbage bags that are degraded in 6 months. I believe that once we get a little more scientific evidence on this, then, as we have had with bottle bills for environmental reasons, we could have plastics that are serviceable.

As the gentleman indicated, people like to use plastics, but they also should be degradable. I believe that will be the next major step, and I thank the gentleman for bringing that matter up.

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 940, The Plastic Pollution Research and Control Act of 1987.

This bill originated in the Committee on Merchant Marine and Fisheries which reported out the bill last Thursday. The measure was sequentially referred to the Committee on Public Works and Transportation for a period not to exceed October 10, which was last Saturday. Although we have not conducted any hearings on the bill, we do not seek to delay early action on the measure.

Mr. Speaker, I would like to commend the leadership of the Committee on Merchant Marine and Fisheries for their attention to this issue. The gentleman from North Carolina [Mr. JONES] and the gentleman from Michigan [Mr. DAVIS], who are the chairman and ranking Republican member of the full committee, deserve much of the credit for bringing this bill to the full House. Also the chairman and ranking Republican member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] have worked diligently to assure quick action on this bill. I also thank the gentleman from New Jersey [Mr. SAXTON.] Finally, I want to commend the chairman of our Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD], for his great interest and support for this measure.

If enacted, H.R. 940 would implement annex V of the international convention for the prevention of pollution from ships [MARPOL], prohibiting disposal of plastics and other garbage from vessels of U.S. registry or vessels of foreign registry within 200 miles of the U.S. coastline. The bill prohibits the discharge of plastics from all publicly owned vessels but allows a period of 5 years to comply with the provisions of annex V. The bill, however, exempts Navy and Coast Guard vessels from the provisions of the bill and annex V during time of war or a declared national emergency. In addition, the bill would establish stringent new enforcement mechanisms which could be exercised by the Federal Government against those discharging garbage or other refuse into the navigable waters of the United States.

This last aspect of the bill, the new enforcement authority contained in section 110, has been of particular interest to the Committee on Public Works and Transportation. As originally reported out by the Committee on Merchant Marine and Fisheries, section 110 would have established a new administrative civil penalty for violations of section 13 of the 1899 River and Harbor Act.

Section 13, or the Refuse Act as it is commonly called, is under the exclusive jurisdiction of the Committee on Public Works and Transportation. It prohibits the discharge of refuse from any vessel or from the shore into the navigable waters. It also prohibits the deposit of refuse or other material upon the bank of a navigable water where such material could be washed into a water body as a result of tides, storms, or floods. For many years, section 13 served as the Federal Government's principal weapon against water pollution. However, in 1972 the Congress enacted the Federal Water Pollution Control Act, or the Clean Water Act as it is often called, which established a new regulatory mechanism dealing with the discharge of pollutants into U.S. waters.

Because section 13 has been largely superseded by the provisions of the Federal Water Pollution Control Act, including the enforcement mechanisms contained in section 309 of that act, there was some concern, particularly on our side of the aisle, about including a new administrative civil penalty for violations of section 13. We have discussed this issue with the Committee on Merchant Marine and Fisheries in order to better understand their intent with respect to section 110 of the bill. They have indicated that this provision is intended in large part to address those situations were plastics are discharged from the shore in a way that makes enforcement under the Federal water pollution control act difficult. This would include situations where refuse is deposited on the banks of a waterway and eventually washed away. Because I can envision situations where such activities could pose significant pollution problems yet be difficult to prosecute under the Clean Water Act, we did not wish to delete the provisions of section 110. However, because of concern about the overlap between section 110 and the enforcement mechanisms of the Clean Water Act, our committee did seek a further clarification of this provision.

What we have agreed to is an amendment which provides that whenever a penalty of over $25,000 is sought, the Federal Government must comply with the provisions of section 554 of the Administrative Procedures Act. Basically, this assures that the same procedural safeguards required for class II administrative civil penalties as specified under section 309(g)(2)(B) of the Clean Water Act would be applied whenever a penalty of over $25,000 would be imposed under the Refuse Act.

Mr. Speaker, I would like to emphasize that the new administrative civil penalty authority contained in this bill would not be available whenever the discharge involved is pursuant to a permit issued under the Federal Water Pollution Control Act, even where the discharge violates the specific requirements of such a permit. This is consistent with the language and intent of section 402(a)(4) and (5) of the Clean Water Act pursuant to which the permit program of the Refuse Act was superseded by the Clean Water Act.

Finally, I would like to express some lingering concern about another aspect of the bill. Section 101 includes language which defines the term "sea" as including the navigable waters of the United States for purposes of the act to prevent pollution from ships (33 U.S.C. 1901). I believe this provision deserves careful consideration. It is not clear exactly what the ramifications are of extending the scope of that act to inland waters. Also, it is unclear exactly how the provisions of the pollution from ships act will interact with the provisions of the Clean Water Act. This is a vital interest and concern to our Committee on Public Works and Transportation. Therefore, we will continue to carefully monitor this provision in the future.

Mr. Speaker, as you can see, I have a number of reservations about aspects of this bill. However, I believe it takes a positive step toward addressing the problem of plastics pollution and I, therefore, support its passage.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, all across this Nation we have a patchwork of State and local statutes and ordinances which prohibit every kind of garbage disposal from casual littering to toxic waste removal. This applies to the land and inland waterways of the United States.

So may I ask the record to reflect my full support for the bill H.R. 940 which was introduced by our colleague Representative GERRY STUDDS? This bill extends to the high seas some of the traditional protections we have afforded the land.

Along with many other Members of Congress, I am a cosponsor of this legislation and view our Nation's maritime resources with great seriousness.

The bill we consider today will make provisions for our country's implementation of annex V to MARPOL—the international agreement governing certain disposal practices at sea.

My interest centers on our Gulf of Mexico and the need to ensure its health and the cleanliness of Texas beaches. H.R. 940 makes a big dent in the problem of garbage dumping at sea and puts us on the road to even further improvements. I would like to express our appreciation to Hon. Gary Mauro, commissioner of the General Land Office of Texas for his interest and assistance in this endeavor.

Let us approve this bill overwhelmingly and sound our commitment to protecting our maritime resources for future generations.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this past Saturday morning I joined over 700 of my fellow Delawareans on the beautiful beaches of our State. It was a lovely Indian summer day. Yet nobody brought their suntan lotion, nobody brought their beach blankets or their towels. We were there for quite a different purpose.

We were there literally to catch the drift and bag it. We were doing in Delaware what people are doing on the coast and the beaches of the Carolinas, Florida, Texas, New Jersey, and Maine, and the beaches of the west coast as well. We were cleaning them up.

There were a few surprises in what we found as we collected the refuse along our own beaches. For the most part, though, we came up with the kind of things one would expect to find as we went up and down the beaches of our State. We found an assortment of bottles and cans, we found pieces of styrofoam cups, and plenty of cigarette butts. Mostly, however, we found plastics and other floatables. We found plastic eating utensils, we found plastic bags, we found plastic containers, and we found plastic six-pack yokes. We found plastic everything, or so it seemed.

Now, I realize that some of the items we found on our beaches, just like the items other Americans will find during their beach cleanups this year, were left there by people who came to enjoy our beaches this summer, the people who did bring their suntan lotion and their towels and their blankets. But I know that a great deal of what we found last Saturday, and a great deal of what others will find on their beaches this fall, are items that were simply tossed overboard from ships in the Atlantic Ocean or the Pacific Ocean or the Gulf of Mexico.

Twenty years ago, I was a Navy midshipman. I spent several of my summers aboard naval vessels in the Atlantic and the Pacific Oceans. I remember clearly how we used to take our trash each day to the fantail of our ship and simply toss it overboard. At the time, I liked to think that trash would just sink to the bottom and never be a problem to anyone or to anyone concerned with our environment. Perhaps most of it did sink, and perhaps most of it never posed a problem to any of us or our environment.

Today much of the refuse that is dumped by naval vessels and much of the refuse that is dumped by merchant ships or by fishing vessels is plastic. It floats, and we are going to see it again. We saw it again last Satuday, and we will see it again next Saturday and in the Saturdays ahead on the beaches of our Nation. As our volunteers found out last Saturday, much of this stuff floats. It does not degrade; it is with us for a long, long time.

The time has come, though, to put a stop to this particular form of pollution to our oceans and our beaches. If we can do that, we will take a big step forward.

The legislation before us today is not a panacea. It is not going to end the need for beach cleanups in my State or in your State either. I do think, however, the adoption of this bill will eventually reduce the number of deaths to sea turtles off our shores, sea turtles which have swallowed or ingested plastic bags when they thought they were eating a jellyfish.

The adoption of this legislation will stop the strangulation of birds on my beaches and on your beaches, birds that have been strangled by plastic six-pack yokes from soft drink or other cans.

This legislation will mean that our Nation's troubled coastal waters and our troubled beaches will begin to regain a bit of their luster and a bit of their beauty which, unfortunately, has been lost in recent years.

Mr. Speaker, I want to commend the chairman of this subcommittee, the gentleman from Massachusetts [Mr. Studds], I commend the gentleman from New Jersey [Mr. Saxton] and all Members on both sides of the aisle on the Committee on Merchant Marine and Fisheries who have supported this bill. I think we are taking a good step forward in bringing the House a fine piece of legislation.

The Navy, which celebrates its birthday today, has said it can live with this bill, and the Reagan administration, with whom we do not always agree, has said that it is actually in support of this bill.

Mr. Speaker, this legislation deserves the support of all of us.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Weldon].

Mr. WELDON. Mr. Speaker, I rise today in strong support of H.R. 940, the Plastic Pollution Research and Control Act. Anyone who visited the New Jersey or Delaware shores this summer may have encountered dying dolphins, floating syringes, and plastic strewn upon the beach. Many of my constituents who normally spend August at the beach returned early because they simply did not want to see the coast in such a filthy condition.

Plastic pollution not only hurts the tourist industry, but it ruins the marine environment. Experts estimate that up to 100,000 marine mammals and 1 million sea birds die each year from plastic. Birds become entangled in six-pack rings, and sea turtles and other mammals become entrapped in plastic fishing nets. Many types of marine animals swallow plastic bags and particles and eventually die of ulcerations or blocked digestive tracts.

I supported H.R. 940 in the Merchant Marine Committee because it is a step in the right direction. The bill would prohibit the dumping of plastic anywhere in the ocean by those countries which sign the International Convention for the Prevention of Pollution from ships, commonly referred to as MARPOL. Ships would have to take a greater responsibility for monitoring their garbage, and the Secretary of Transportation would have to ensure that adequate receptacles for plastic are available in all American ports.

One potential problem with the bill is that it does not guarantee that the Coast Guard will have adequate resources for enforcement. If we expect to eliminate the plastic threat, the Coast Guard must have the manpower on board its ships and the administrators to properly implement the law. Congress may have to return to this issue next year, so that the Coast Guard can go about its job.

Mr. Speaker, I commend the members of the Merchant Marine Committee who took an active role in writing this legislation. They exercised the necessary foresight to resolve the problem and educate the public. Without the bipartisan leadership of Bob Davis, Jim Saxton, Gerry Studds, and Frank Hughes, we could not have H.R. 940 before us today. I urge my colleagues to support the legislation, so we can get on with the task of cleaning up our marine environment.

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 940, the Plastic Pollution Research and Control Act, which I have cosponsored. This bill implements annex V to the international convention for the prevention of pollution from ships [MARPOL], prohibiting the disposal of plastic garbage by U.S.-flag vessels into all ocean waters within 200 miles of a U.S. coast and furthermore, requires compliance by all public vessels within 5 years. The bill also authorizes the Sea Grant College Program with expanded funding for a 3-year period (fiscal years 1988-90).

It has been estimated that approximately 45,000 tons of plastic trash are discarded into the ocean each year. This garbage is lightweight and takes an extremely long time to decompose, making it extremely hazardous to marine mammals and seabirds, who either consume the plastic or are ensnared by it. The garbage also poses a hazard to the fishing industry in that plastic fishing nets are often discarded, entrapping fish that cannot be freed.

I am particularly sensitive to this issue as my district, and for that matter my home, borders the Pacific Ocean where much of this plastic garbage is dumped. I urge my colleagues to support this measure.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Nowak].

Mr. NOWAK. Mr. Speaker, I rise in support of this bill, and I congratulate the Members who have worked so hard to bring it to the floor.

Mr. Speaker, I rise in support of the bill.

The purpose of this bill is to implement annex V to the international convention for the prevention of pollution from ships. Annex V contains provisions prohibiting the disposal of various types of garbage from ships. It prohibits the disposal into the sea of all plastics including synthetic ropes, synthetic fishing nets and plastic garbage bags.

Enormous quantities of plastic are dumped into the marine environment. Plastic materials have a very harmful effect on ocean wildlife. Lost or discarded plastic fishing nets, six pack yokes, synthetic ropes and cargo bands can snare marine mammals, and wind around the necks of birds and mammals causing drowning, suffocation and starvation. It is estimated that as many as 50,000 northern fur seals, 5,000 porpoises and hundreds of thousands of seabirds are killed each year as a result of being caught in discarded fishing nets. The provisions of this legislation will provide necessary enforcement mechanisms to address this most serious problem.

This bill was referred sequentially to our Committee on Public Works and Transportation because it extends annex V to the navigable waters of the United States, and the pollution of navigable water is within our committee's jurisdiction.

At our request, the Merchant Marine Committee has made a minor change which will make the Administrative Procedure Act applicable to administrative penalties under the Refuse Act which are greater than $25,000. This will make the refuse act penalty provision consistent with requirements in the Federal Water Pollution Control Act relating to penalties for the discharge of pollutants.

Mr. Speaker, I urge enactment of this bill.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no further requests for time on this side, but in closing the debate, let me just observe that as is so often the case, this bill reflects the unique nature of the Committee on Merchant Marine and Fisheries in that we from time to time, more frequently than one might suspect, are seized with issues of significance and of genuine international and national importance but which we manage to address without partisan bickering and ill will.

In this case once again I think we bring to the House a bill which, while I trust it will be supported unanimously because of its importance, I in fact will request a recorded vote. I would like to send this bill to the Senate with an indication of the breadth of its backing in the House. It is an instance again where a great deal of work was put in by members, including the gentleman from New Jersey [Mr. Saxton], members on both sides of the aisle on this committee, to work on something which the public insists be addressed and which ought to be addressed, and by which, with the passage of this bill, I trust unanimously by this House, we will have taken the first step in addressing. It is a major bill. It is perhaps one of the major instances of marine pollution on which we can act with some real meaning in this Congress.

Mr. Speaker, I urge the adoption of the bill by the House.

Mr. FIELDS. Mr. Speaker, I rise today to express my strong and enthusiastic support for H.R. 940, the Plastic Pollution Research and Control Act of 1987.

As someone who proudly represents a coastal district, I have become increasingly concerned about the adverse effects that garbage, particularly plastic trash, is having on our wildlife and marine environment.

While the disposal of garbage at sea has been a normal operating procedure for most commercial and military vessels, we must end this dangerous practice. It has been estimated that plastic wastes alone kill 1 million seabirds and 100,000 marine mammals each year. In addition, this garbage fouls our beaches. And because many of these items are nonbiodegradable, it poses a deadly threat to many of our endangered species including the Kemp's Ridley sea turtle.

In my own State of Texas, an estimated 75 to 90 percent of all trash on our beaches comes from offshore sources. And, because of ocean currents, most garbage deposited in the Gulf of Mexico eventually winds up on a Texas beach.

Mr. Speaker, we are talking about a huge amount of trash. On any given day, tons of plastic wrappers, beer cans, soft drink bottles, and drums can be found along the 388 miles of Texas shoreline. In fact, Mr. Bill Lukens, superintendent of the Padre Island National Seashore, has called his 67-mile stretch of beach one of the district parks in the Nation.

Since tourism is Texas' second largest industry, we must do everything we can to keep our State's beaches the cleanest in the Nation. If we fail, then a large portion of the $13 billion which tourists spent in Texas last year could be lost. But Texas is not alone. Virtually every coastal State is confronted with the same problem which we face—that of unwanted tons of trash which wash up on our shores.

Mr. Speaker, H.R. 940, which was reported unanimously from the House Merchant Marine and Fisheries Committee, is a vital weapon in our battle to stop the growing problem of plastic pollution along our Nation's coastline.

Once enacted, this bill will ban the disposal into the sea of all plastics; establish restrictions on the dumping of garbage, other than plastic items, at sea; and require the Secretary of Transportation to develop a plan to ensure that adequate facilities exist at U.S. ports for the disposal of garbage produced by ships and their crews.

In addition, the bill contains a provision which requires U.S. public vessels, with two exceptions, to comply with this legislation within 5 years. These are: First, in times of war or other national emergency when vessels need only comply as best they can; and, second, if any Federal agency, specifically the Department of the Navy, feels it will be unable to comply within 5 years, then they may request a delay in implementation.

As someone who is deeply involved in the Texas homeporting issue, I believe 5 years is a sufficient amount of time for the Navy to develop an alternative garbage disposal system.

In fact, I was pleased to join with my Texas colleagues in writing to Secretary James Webb urging him to "do as much as possible to eliminate the discharge of garbage from naval ships at sea".

Mr. Speaker, H.R. 940 will also serve as the domestic implementing legislation for the international agreement known as regulations for the Prevention of Pollution by Garbage From Ships, which is contained in annex V to the International Convention for the Prevention of Pollution From Ships [MARPOL].

This international convention, which currently is pending in the U.S. Senate, prohibits the disposal of all plastics, restricts the discharge of other floating garbage within 25 miles of the nearest coastline, and it designated certain "special areas" where no garbage may be discharged at all. These special areas currently include the Black Sea, the Mediterranean Sea, the Persian Gulf, and the Baltic Sea.

It is my hope that the Senate soon will act favorably on annex V which currently has been ratified by 28 nations representing some 48 percent of the world's shipping tonnage. By approving annex V, the United States would push that ratification figure beyond the 50 percent requirement thus causing the Convention to become effective.

Finally, Mr. Speaker, I would like to acknowledge and compliment the thousands of Texans who have made the Texas "Adopt a Beach Program" such as huge success. In fact, just a few weeks ago, 1,700 Texans participated in the second annual cleanup. As a result of their hard work, 217 tons of garbage were removed from our beaches. It is this type of volunteer effort which has made our State and country so great.

Mr. Speaker, H.R. 940 represents our best hope for eliminating or sharply reducing the problem of garbage along our coastlines. I urge my colleagues to strongly support the passage of this important bill.

I also ask you to join with me in urging the Senate to not only approve this bill but also annex V to the International Convention for the Prevention of Pollution From Ships.

Mr. DWYER of New Jersey. I rise in strong support of H.R. 940, the Plastic Pollution Research and Control Act, as amended by committee. This bill implements annex V of the International Convention for the Prevention of Pollution From Ships [MARPOL]. This treaty bans the dumping of plastic material anywhere in the ocean and establishes various restrictions on the disposal of other waste. H.R. 940 also extends this prohibition to inland waterways.

H.R. 940, as amended, provides a penalty of $25,000 per violation for any person who dumps plastic materials generated aboard ship into the ocean or inland waterways. In particular, I am especially pleased to see provisions in the bill to improve the existing Refuse Act by establishing civil penalties up to $25,000 for violations. The Refuse Act prohibits the disposal of refuse into the navigable waters of the United States from a ship or from shore. In addition, I would like to thank the committee for including language in the bill to require the Environmental Protection Agency to prepare a study on land based sources of pollution.

In my district, barges owned by the city of New York constantly pollute the Sewaren section of Woodbridge Township. The problem stems from the Fresh Kills landfill on Staten Island which receives 65 percent of New York City's daily trash. Solid waste is loaded onto the barges at various New York City—land-based—marine transfer facilities and is transported to the Fresh Kills landfill via the Arthur Kill, a narrow body of water between Staten Island and New Jersey. The municipal waste is then offloaded by crane and taken to the landfill. During this operation waste materials enter the waters of the Arthur Kill, then float with the tides, and wash ashore on the beaches in the Sewaren section of Woodbridge Township in my congressional district.

Among the refuse which fouls Woodbridge waters and beaches are foodstuffs, disposable containers of almost every type and description, plastic bags filled with household garbage, milk containers, spray cans, and a variety of medical wastes from several New York City health facilities. This medical debris includes hypodermic needles, empty intravenous bags and bottles, and containers holding fecal samples. The medical waste creates an additional hazard and threatens the spread of disease.

In 1979, the city of Woodbridge filed suit against New York City, in the U.S. District Court of New Jersey, in an attempt to force the city to address the problem of refuse and hospital wastes washing up on Woodbridge beaches. As Woodbridge's suit against New York has progressed, the court has issued a number of orders designed to stem the flow of refuse from the Fresh Kills landfill into New Jersey. The city of New York has consistently been derelict in satisfying its obligations and has now requested the court to lift its orders claming it has eliminated the problem. Meanwhile, the Fresh Kill's pollution has continued and reached crisis proportions for Woodbridge.

This bill is an important step not only in addressing a problem that has plagued the coast of New Jersey, but other coastal areas nationwide. It is essential that we increase efforts to reduce waste disposal in estuaries and coastal waters and I commend the Merchant Marine and Fisheries Committee for bringing this bill to the floor so quickly. I urge my colleagues to support this long overdue legislation.

Mr. BRENNAN. I rise in support of H.R. 940, the Plastic Pollution Research and Control Act.

It is estimated that over 1 million pounds of plastic garbage are dumped into the sea each year. This garbage creates an environmental nightmare—spoiling our coastlines and killing millions of birds and marine mammals.

Plastic pollution does not degrade. We can throw it overboard, but it will eventually, inevitably, come back to us. The only solution to the problem is to stop dumping plastic garbage overboard—A solution recognized and supported by the signatories to annex V of the International Convention for the Prevention of

Pollution From Ships, otherwise known as MARPOL.

Annex V would prohibit the disposal of plastic garbage anywhere in the ocean and would prohibit the dumping of all other types of garbage within 12 miles of land. This agreement requires ratification by nations representing a total of 50 percent of the world's shipping tonnage—28 nations have already signed annex V, including the United Kingdom, France, Germany, and Japan.

The current signatories represent 46 percent of the world's shipping tonnage. This means that the addition of the United States would assure the implementation of annex V. It is my hope that the United States will become a signatory to this agreement.

H.R. 940 represents the domestic legislation needed to implement the provisions of annex V.

It prohibits the disposal of plastic garbage by U.S.-flag vessels in all ocean waters, and by foreign vessels within 200 miles of U.S. coasts. Like annex V, disposal of other garbage is prohibited within 12 miles of U.S. coasts. The Federal Government is required to ensure that adequate disposal facilities are available at U.S. ports.

It should be noted that all publicly owned vessels, including U.S. Navy, Coast Guard and Government-owned research vessels, are exempted to the extent necessary to carry out their operations for a period of 5 years.

I feel that H.R. 940 represents a responsible approach to this serious problem. I supported it as a member of the Merchant Marine and Fisheries Committee, and I intend to support it here on the floor. I would like to urge my colleagues to support it, as well.

Mr. JONES of North Carolina. Mr. Speaker, I support H.R. 940, a bill to implement annex V to the International Convention for the Prevention of Pollution from Ships. The Committee on Merchant Marine and Fisheries has considered this legislation during 2 days of intensive hearings conducted by the Subcommittee on Fisheries, Wildlife Conservation, and the Environment. We are convinced that important national values will be served by this bill.

The plague of plastic debris and other trash afflicts all our coasts. Think back a few weeks to the headlines about beach closures in New Jersey. Our Oceanography Subcommittee hearing in Ocean City, NJ, attracted hundreds of distressed citizens. Last fall, in Corpus Christi, our Oversight and Investigations Subcommittee learned how the currents in the Gulf of Mexico deposit untold amounts of ugly trash on the beaches of Texas.

No coastal area is spared. North Carolina rightly claims that its outer banks and other beaches are among the cleanest in the United States. Even here, however, during its first organized beach sweep on September 19, over 1,000 volunteers picked up nearly 10 tons of garbage. The discarded items included medical supplies, vials containing blood, oil containers from aircraft carriers, and other debris.

Today we can do something about this problem. H.R. 940 is a significant contribution to reducing the plastic garbage and other debris which fouls our coasts after being discarded by ships.

The bill provides the domestic legislation to implement annex V to the International Convention for the Prevention of Pollution from Ships, known as MARPOL. Annex V provides international regulations prohibiting the disposal of plastic garbage from ships anywhere at sea and establishes the distance from shore where the disposal of other types of garbage, such as glass, paper, and organic waste, is banned.

H.R. 940 enjoys bipartisan support in Congress. The administration backs it. Several of our colleagues have worked hard for the bill; I particularly congratulate Mr. STUDDS, the chairman of the subcommittee and the sponsor of the bill, for his vigorous and effective efforts.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 940 as reported by the Committee on Merchant Marine and Fisheries and urge its adoption.

H.R. 940 will implement annex V of the International Convention for the Prevention of Pollution From Ships. By joining this Convention, the United States will continue its role in ensuring the health of our oceans and the marine resources therein. H.R. 940 was reported unanimously by our committee and deserves the support of all Members of this body.

I do wish to point out one significant change between the bill as reported and the bill that was originally introduced. H.R. 940 originally contained language dealing with the issue of high seas driftnet fishing. This language was dropped during subcommittee markup. While I believe that the Congress needs to act quickly on the driftnet issue, I have been assured by the chairman of the subcommittee, Mr. STUDDS, that we will take up driftnet legislation before the end of this first session of the 100th Congress. To date, the U.S. Government has been unsuccessful in concluding any sort of agreement with foreign nations using driftnets on the high seas and legislation is necessary to curb this threat to our living marine resources.

Again, Mr. Speaker, I believe this is an important bill and one that deserves the full support of the House, and I urge its adoption.

Mr. DAVIS of Michigan. Mr. Speaker, today we consider H.R. 940, the Plastic Pollution Research and Control Act. The bill provides domestic legislation to implement annex V to the International Convention for the Prevention of Pollution from Ships called "MARPOL 73/78." A major purpose of the bill is to prohibit the disposal of plastic garbage into the sea. I introduced the administration's plastic pollution bill, H.R. 3261, which has the same objective as H.R. 940, but amends existing law rather than enact a freestanding provision. I am pleased to say that the committee ordered H.R. 940 reported with an amendment in the nature of a substitute that was largely based on the administration's proposal in H.R. 3261. I endorse this approach and urge my colleagues to support the bill.

Further, it is appropriate that we also consider a provision to reauthorize the National Sea Grant College Program. By approving this amended bill we commend the contributions that the National Sea Grant College Program has made to our country by increasing our understanding of ocean, coastal, and Great Lakes resources, educating promising young scientists in marine sciences and policy, and aiding in the development of important economic contributions.

While a nationally important program, Sea Grant has made a special contribution to my region of the country, the Great Lakes states. During the Merchant Marine and Fisheries Committee's deliberations on this bill, we heard that the National Sea Grant College Program provides the only coordinated research effort in the Great Lakes. In addition, Sea Grant has been instrumental in helping Great Lakes residents deal with high water levels by conducting erosion and flooding research, educating homeowners on floodproofing techniques, and warning of the dangers of locating too close to shore. This provision builds on Sea Grant's efforts by recognizing the important role that the Great lakes play in Sea Grant operations.

The bill also authorizes the preparation of a shoreline mapping plan to update the current out-of-date coastal maps for the U.S. portion of the Great Lakes shoreline. The maps, which I hope will result from this plan, will update coastal maps which no longer accurately reflect the configuration or our shores; in fact, some of these maps were prepared over 50 years ago! Incidentally, through contract authority, Sea Grant institutions will play an important role in assisting with geologcal surveys, data collection and analysis, and field support.

Appropriations of $100,000 are authorized for fiscal year 1988 for the preparation of this mapping plan. This plan will designate priority mapping areas, delineate responsibilities between the Departments of Commerce and Interior, and set out a budget. The maps prepared under this plan are intended to serve a variety of informational functions. It is estimated that they could save the United States $4.3 million each year by avoiding duplicative maps. Moreover, these maps will help prevent costly future damage along the Great Lakes shoreline by improving planning capabilities for both communities and individuals and by providing accurate shoreline data for erosion and flood protection projects. Thus costly onsite after-the-fact modifications will be avoided.

I hope that my colleagues will support this bill, which was the product of careful deliberations among many of us on the Merchant Marine and Fisheries Committee.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 940, the Plastic Pollution Research and Control Act. This legislation represents a major step forward for our country in coming to grips with the growing plastic pollution problem we have created in our oceans. I congratulate my colleague, chairman STUDDS and the leadership of the Committee on Merchant Marine and Fisheries on this initiative.

We are polluting our waters with all kinds of wastes, particularly plastic waste, and from a variety of sources. Plastic garbage is being dumped overboard by ships, fishing nets are left to ghost fish, sewage outlets are releasing plastic tampon applicators and condoms, and beach goers are leaving their plastic cups, sandwich bags, and other trash along the shore.

The Navy alone, estimates that it generates 3 pounds of plastic waste per person on their vessels per day. Some 5 tons of plastic waste dumpted daily by the Navy symbolizes what a throw-away society we have become. Unfortunately, what we are throwing away is trash that persists in our waters and is becoming a major source of death for marine mammals who become entangled in six-pack rings and ingest plastic bags and other debris.

Clearly, this problem is global in scope. H.R. 940 recognizes this by providing for the implementation of annex V of the International Convention for the Prevention of Pollution from Ships. To date, 28 nations representing approximately 48 percent of the world's shipping tonnage have ratified. The speedy enactment of this legislation would bring the total shipping tonnage to over 50 percent and allow for the treaty to come into effect internationally.

At the local level, H.R. 940 will require the EPA to conduct a comprehensive study that will identify the various types of plastic materials entering the ocean from land-based sources and recommend ways to reduce the production, sale and disposal of such plastics. The report will focus particularly on hospital waste, such as that which washed up along the New Jersey shore this past summer.

In addition, the bill includes an amendment I offered with Congressmen HOWARD and SAXTON in committee to require a New York bight plastics study. This study will specifically address the plastic debris problem that has plagued New Jersey beaches, coastal waters, marine life and the environment. You may recall a recent incident when a slick of plastic trash 2 miles long and 50 miles wide concentrated in a tide right off the shore of my home town of Ocean City, NJ. Just this past summer, the Department of Environmental Protection had to close parts of New Jersey's beaches 14 times due to large amounts of plastic floatables, raw sewage, medical waste, wood, and other garbage degrading the water quality and making it hazardous and unsightly to swim in the ocean.

We must stop this damage to our environment. If we want to swim, fish, and otherwise enjoy the unique characteristics of the ocean in the years ahead, then we can not continue this out of sight out of mind mentality that has turned our oceans into the repository of last resort for our plastic and other refuse.

This legislation points us in the direction that we need to go in protecting our ocean and in managing our waste. Moreover, with its passage the Coast Guard, EPA, and NOAA will be able to develop new, rational techniques for managing one of our more serious and troublesome pollutants—plastic waste.

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 940, the Plastic Pollution Research and Control Act.

I, and many other members of States bordering the Gulf of Mexico, feel this legislation is vital to the preservation of the gulf. The Gulf of Mexico has experienced serious problems due to the dumping of garbage from shipping vessels. The problem is so severe that volunteers in Texas have collected over 350 tons of garbage from Texas beaches since March. This is not garbage left on the beach by bathers, it is garbage dumped from ships.

H.R. 940 regulates the disposal of plastics and other garbage at sea. These regulations will be put into action under the annex regulations of the International Convention for the Prevention of Pollution from Ships, more commonly known as the MARPOL Treaty.

Originally, H.R. 940 exempted the U.S. Navy from compliance with this international treaty due to special needs the Navy will have with various classes of ships such as submarines. The Merchant Marine Subcommittee on Fisheries and Wildlife Conservation and the Environment realized the importance of including the Navy under this Treaty and passed a substitute bill which allows the Navy five years for compliance and the opportunity to report to Congress if they cannot adapt within this time period. I agree with the subcommittee's decision to include the Navy in this legislation as it would be unfair to require commercial ships to comply with annex V while the Navy is free to dump garbage into the sea.

At first, the Navy was opposed to being included in this bill; however, the Navy has now agreed that 5 years is a reasonable time period for their compliance.

I ask my colleagues to consider the seriousness of this type of ocean pollution and vote in favor of this much needed legislation.

Mr. Speaker, the Texas State Land Commissioner, has led a major effort to call our attention to this needed reform for our beaches. His leadership should be noted and applauded.

Miss SCHNEIDER. Mr. Speaker, I rise today in support of H.R. 940, the Plastic Pollution Research and Control Act. Plastics were created to outlast, outperform, and outlive natural products, and this endurability has now created a disposal problem of mammoth proportions. The negative impact on our marine resources by plastic debris is a concern, not only for our Nation, but also to the entire globe. Plastics debris can be sent along our coastal shores and on remote, unhabitated island in distant oceans.

The time has come to put a stop to the dumping of plastic debris in the marine environment. It has been estimated that close to 100 million pounds of plastic garbage are deliberately dumped into the oceans each year from merchant ships, fishing vessels, sewage dumping and outfalls, and other sources. In addition to this excessive quantity of garbage, discarded plastic packing material and lost fishing gear also poses a dangerous threat. Plastics in the ocean may be as great a source of mortality among marine animals as oilspills, heavy metals, or other toxic materials. Besides the threat to our marine resources, plastic debris is an unsightly distraction to once beautiful coastal shorelines and waterways. One only has to walk along one of our beaches to realize the amount of plastic such as beverage connectors and containers, styrofoam, and bags which are being carelessly discarded.

As my fellow Members of Congress are aware, the dilemma of plastic pollution is generating considerable national attention. It is being examined in the news media, and is causing concern across the country. I am encouraged by this rising national awareness of plastics pollution as citizens are signaling that it is time to rectify this new environmental challenge before it worsens. Communities and environmental groups have become active in plastics cleanup and the education of the public to the dangers to the marine environment that is posed by plastic debris. States are now joining the fight: my own State of Rhode Island is 1 of 11 States to prohibit the sale of nondegradable six-pack holders as well as instituting a new statewide garbage recycling program.

The time has come for the Federal Government to recognize and address this problem. The Plastic Pollution Research and Control Act is an important means by which the United States can reduce our disposal of plastics into the oceans. This legislation, with some exceptions, would ban the disposal into the sea of all plastics, would create more vigorous restrictions on the disposal of other garbage at sea, and mandate the proper shoreside garbage reception capabilities of U.S. ports. In essence, H.R. 940 is the domestic implementing legislation for annex V of MARPOL—the International Convention for the Prevention of Pollution from Ships. The United States needs to join the many other concerned nations in this international effort to alleviate plastic pollution. This bill also addresses land based sources of plastic debris in the marine environment by calling for an Environmental Protection Agency report on the extent of these sources, as well as steps being taken to eliminate them. I urge all of my colleagues to support this important legislation. Plastics pollution is an environmental challenge which can be overcome by a joint effort of citizens, industry, and the Federal Government. Federal action, in conjunction with a strong campaign for public awareness and industry cooperation, can tackle this problem—with all of us being the winners.

Mr. PURSELL. Mr. Speaker, I commend the Merchant Marine and Fisheries Committee for attaching the sea grant provisions of H.R. 3017—National Sea Grant College Program Act to H.R. 940—Plastic Pollution Research and Control Act to expedite its passage in the Senate.

As cosponsor of H.R. 3017, I feel that this program fills a very unique place in American marine science and among university science activities generally. The sea grant programs have developed a responsive network of institutions and scientists. This network is a productive, innovative, and efficient enterprise which has provided many benefits to the Nation.

I would like to call attention to the Michigan Sea Grant which is part of the national network of sea grant programs offering marine-related research, education, and advisory services. Sea grant programs help us learn about and wisely use the oceans and Great Lakes. In Michigan, sea grant is a cooperative program of the University of Michigan and Michigan State University.

Sea grant scientists at Michigan universities study the lakes and shorelands, and the economic, sociological, and legal aspects of Great Lakes issues. The researchers' findings are conveyed to the public through advisory programs, education, and communications.

The Great Lakes touch all people in the Great Lakes region, shaping its commerce, culture, and climate. They provide a transportation route, draw millions of tourists, provide drinking water, support sport and commercial fisheries, and moderate the climate.

The knowledge we need to solve the complex problems connected with our multiple uses of the Great Lakes is not always available. Michigan Sea Grant seeks to discover more about the Great Lakes and their uses, and to relay this information to those who can utilize it.

Mr. Speaker, I think it is important to keep the Great Lakes great.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 940, the Plastics Pollution Research and Control Act of 1987. It is high time that the full House act on this urgently needed legislation, and I commend the Members of the Merchant Marine and Fisheries Committee for their hard work in crafting this legislation and reporting it to the floor for our prompt action.

It was only 2 weeks ago that the House passed H.R. 1171, to establish the National Oceans Policy Commission. I am pleased that we are again passing legislation designed to protect our oceans from environmental damage. The problem of plastics pollution in our oceans is widespread. Recent estimates have placed the amount of plastics dumped in our marine environment at up to 150,000 tons per year. Plastics pollution has a devastating effect on not only marine wildlife but also our Nation's beaches, which too often experience damage and erosion due to plastics which have been dumped in the waters off our coasts. Clearly, this irreversible degradation of the environment should not and will not be tolerated.

This summer, in my home State of New Jersey, our coast became the victim of marine pollution resulting from the act of ocean dumping. The month of August saw New Jersey's beaches covered with medical waste, sludge, and plastics pollution. The danger of ocean dumping is only finally coming to the forefront of public debate. The danger is evident not only in the destruction of vital marine resources but also in the loss of millions of dollars for New Jersey's important tourism industry. Action has already been taken on the local, State, and Federal level to curb this activity. H.R. 940 goes one important step further in protecting our Nation's marine life and coastal businesses from the environmental hazards of plastics dumping.

Specifically, the bill prohibits U.S. flag vessels from dumping plastics in all ocean waters and prohibits foreign flag vessels from dumping plastic garbage within 2,000 miles of the U.S. coasts. The bill also prohibits the dumping of plastics in U.S. inland waters, and civil penalties will be assessed against violators. The legislation also requires Navy vessels to comply with these prohibitions within 5 years. The bill implements annex V of the International Convention for the Prevention of Polution from Ships [MARPOL]. Annex V of MARPOL prohibits the disposal of plastic garbage anywhere in the oceans. Annex V is pending before the Senate for ratification.

The bill also requires a number of important studies. H.R. 940 requires the Environmental Protection Agency [EPA] to report to Congress on land-based sources of plastics pollution, with particular focus on hospital wastes. It also would require EPA to study the plastics debris problem in the New York Bight, an area of the Atlantic Ocean off of New York City and the northern New Jersey coast. It also requires that the National Oceanic and Atmospheric Administration [NOAA] study the effects of plastics pollution on marine environment.

Clearly, this legislation addresses the problem of plastics pollution head-on. The legislation will go a long way toward protecting our natural resources from the environmental problems of plastics dumping at sea. Therefore, I urge my colleagues to strongly support H.R. 940. I also advise my colleagues in the other body to take quick action on this critical issue. Passage of this legislation is necessary to prevent the further abuse of our Nation's vital marine resources.

□ 1545

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 940, as amended.

The question was taken.

Mr. STUDDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DESIGNATING A SEGMENT OF KINGS RIVER, CALIFORNIA, AS A WILD AND SCENIC RIVER

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 799) to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

SENATE AMENDMENTS

Page 2, lines 22 and 23, strike out "to carry out the purposes of this paragraph."." and insert", but not to exceed $250,000, to the Secretary of Agriculture for development and land acquisition.".".

Page 3, line 13, strike out all after "by" down to and including "accordingly" in line 17 and insert "the Secretary of Agriculture (hereinafter in this Act referred to as "the Secretary") through the Sierra National Forest".

Page 7, line 7, strike out "1986" and insert "1968".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I rise in strong support of the amended version of H.R. 799 before us today, to designate a segment of the Kings River in California as a wild and scenic river.

Members may recall that the House unanimously passed this measure on April 21 of this year. Although the bill was originally controversial since it would have precluded construction of the proposed Rodgers Crossing Dam on the lower stretch of the river, the bill's sponsor, Mr. LEHMAN, and the Member in whose district the river lies, Mr. PASHAYAN, were able to reach a compromise on this difficult issue. Under the agreement, the lower 11 miles of the river would be included in a 48,000-acre special management area allowing it wild and scenic protection from any type of water projects. The additional 81 miles of the Kings River would be designated as a component of the wild and scenic rivers system. I would again like to commend Mr. LEHAMN and Mr. PASHAYAN for their efforts to achieve a resolution of the water conflict which will protect the magnificant resources of the Kings River.

During Senate consideration of H.R. 799, two primary amendments were adopted. One establishes an appropriations authorization ceiling of $250,000 for development and land acquisition. The other amendment removes the boundary adjustment between the Sierra and Sequoia National Forests for management of the special management area. However, the bill still requires administration of this area through the Sierra National Forest.

Mr. Speaker, these are certainly fair and reasonable changes to the bill. Therefore, I urge my colleagues to concur in the Senate amendments and send H.R. 799 to the White House to ensure timely protection of the beautiful Kings River.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Speaker, I want to thank the gentleman for his cooperation. There are some minor amendments made in the other body.

Mr. Speaker, H.R. 799, to protect the outstanding resources of the Kings River Canyon in California was passed by the House on April 21, 1987. The Senate subsequently passed the bill on October 1, 1987 with three minor amendments.

Mr. Speaker, the gentleman from California, [RICK LEHMAN,] my good friend and colleague, introduced a similar bill in the 99th Congress and again in this Congress on January 28, 1987. The bill was controversial, but because of RICK LEHMAN's talent as a legislator and because of a willingness to negotiate on the part of our colleague CHIP PASHAYAN, the seemingly significant conflicts were reduced or eliminated and an acceptable compromise was achieved.

The work of these two outstanding Members of the House was carefully reviewed by our colleagues in the other body and with the three minor amendments I mentioned the Senate passed H.R. 799 under unanimous consent.

There is one notation that I wish to make for the Record regarding harvest of salvageable timber with the Deer Creek Burn in the special management area. If the Secretary of Agriculture should determine that a salvage harvest in this area is appropriate, he should not allow such timber harvest except by low-impact logging methods. Additional road construction within the special management area for any such timber harvest would not be within the intent of this act.

Mr. Speaker, I find the Senate amendments reasonable, and urge the passage of the amended bill, H.R. 799.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LEHMAN of California. Mr. Speaker, reserving the right to object, and I shall not object, I wanted to get a moment of time on the floor to express my appreciation, and the appreciation of all of the Members in California who fought so hard to protect this precious resource, the Kings River, for future generations.

I want to thank the gentleman from Minnesota [Mr. Vento], and the gentleman's staff, the gentleman from Arizona [Mr. Udall], the gentleman from California [Mr. Lagomarsino], the gentleman from California [Mr. Pashayan], and the 138 Members of this House who coauthored this protection legislation for the Kings River.

None of the protections placed in the bill on the House side were removed in the other body.

We have given wild and scenic river status to 81 miles, and the Kings Canyon, the deepest canyon in the United States, and granted unique special management protection to 48,000 acres prohibiting any dam on Federal land within that area, and that would in essence grant Federal protection to all 93 miles of the Kings River and create only the third special management area in a national forest in this country.

It is a landmark piece of legislation for California, and those of the Members who fought so hard to save the Kings River are very proud at this moment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 799, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

DESIGNATING A SEGMENT OF MERCED RIVER, CALIFORNIA, AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 317) to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) as amended, is further amended by inserting the following new paragraph:

"(□) Merced, California.—The main river from its sources (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyell Fork) on the south side of Mount Lyell in Yosemite National Park to Lake McClure, consisting of approximately seventy-nine miles, and the South Fork of the River from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately forty-three miles, both as generally depicted on the map entitled 'Merced River Wild and Scenic Rivers—Proposed' and dated June, 1987, to be administered by the Secretary of Agriculture and the Secretary of the Interior. Commencing after September 30, 1987, there are authorized to be appropriated $235,000 to implement the provisions of this subsection.".

House amendment to Senate amendment:

Strike all after the enacting clause and substitute:

SECTION 1. DESIGNATION OF MERCED RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"(□) Merced, California.—The main stem from its sources (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyell Fork) on the south side of Mount Lyell in Yosemite National Park to a point 300 feet upstream of the confluence with Bear Creek, consisting of approximately 71 miles, and the South Fork of the River from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately 43 miles, both as generally depicted on the map entitled 'Merced River Wild and Scenic Rivers—Proposed', dated June, 1987, to be administered by the Secretary of Agriculture and the Secretary of the Interior. With respect to the portions of the river designated by this paragraph which are within the boundaries of Yosemite National Park, and the El Portal Administrative Unit, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph, except that no more than $235,000 may be appropriated to the Secretary of Agriculture for the acquisition of lands and interests in lands.".

SEC 2. STUDY.

(a) Study.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof—

"(96) Merced, California.—The segment from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level).".

(b) Renumbering.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by redesignating the paragraphs relating to the Klickitat and White Salmon as paragraphs (94) and (95) respectively.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, will the gentleman explain his request?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the amendment to H.R. 317 would designate the main stem of the Merced River from its source to a point just upstream from the mouth of the Bear Creek and the South Fork of the Merced River from its source to the junction with the main stem, as components of the National Wild and Scenic Rivers System. The segment from Bear Creek to the maximum flood control pool of Lake McClure would be studied as a possible addition to the National Wild and Scenic Rivers System.

H.R. 317 was passed by the House on March 31, 1987, and was subsequently amended by the other body and passed on July 8, 1987. Since that time, negotiations have been underway to resolve the differences in the bill.

Mr. Speaker, the gentleman from California [Mr. COELHO], our friend and colleague who introduced this bill, has worked very hard over the last few months to overcome the problems with the conflicting versions of this bill and has achieved that result with an admirable compromise. I would like to commend the gentleman and his able staff person, Don Hellman, for their fine work in achieving protection for this great river.

I understand that we have complete agreement from all parties on the language of the substitute amendment and urge passage of the bill.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I thank the gentleman for yielding to me.

First, I would like to thank the gentleman from California [Mr. LAGOMARSINO], the ranking minority member, for the gentleman's help and cooperation on this bill, and also thank the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee, for his help and cooperation, and the gentleman's staff member, Dale Crane, for their extensive involvement and assistance in helping us get through this conflict with the other body.

Mr. Speaker, I am pleased to offer my support for the compromise bill we are considering today. I believe this legislation will achieve our goal of preserving a large portion of the Merced River, while also giving some time to the residents of Mariposa County to determine how they might meet their future water needs.

H.R. 317 will place the entire South Fork and the Merced River within the Wild and Scenic Rivers System. We will also give the same designation to the main stem from its sources in Yosemite National Park to 300 feet above the confluence of Bear Creek and the Merced River.

As part of this compromise, the main stem from approximately the town of Briceburg to the point of maximum flood control storage at Lake McClure will be made a study river. The study designation will allow us to get a formal recommendation from the Interior Department on whether or not this section of the Merced should be preserved. The study period will also provide some time for the Mariposa County Board of Supervisors to complete their review of the lower river to determine if it might be used to provide future water resources to the residents of the county.

I want to take notice of a couple of matters for the record. I am aware that there are existing developments along the Merced, including the Merced River High Sierra campgrounds. I want to reiterate that the wild and scenic designation will in no way interfere with the operation of these campgrounds.

Additionally, the Merced Irrigation District was concerned about placing the last half mile of the Merced before the 867 elevation point within the study designation. MID contends that this half mile of river is within its project boundary for the New Exchequer Dam.

Since we are only studying the lower river, I believe it is appropriate to preserve as much as the river during the study period so we can explore all possible options for the future of the lower river.

However, I want to make it clear that by placing the lower river within the study category, we have not made any determination one way or the other on the validity of the concerns expressed by MID nor on how the last half mile of the river should be handled in the future.

I appreciate the support I have received from the chairman of the subcommittee, Mr. VENTO, on this legislation. I also wish to thank Dale Crane for the assistance he provided in getting this compromise together.

I am pleased that we have reached this agreement on preserving the Merced for our children and granchildren. I ask my colleagues to support the bill before us today.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in strong support of the compromise version of H.R. 317 before us today to designate a segment of the Merced River in California as a component of the Wild and Scenic Rivers System.

As Members may recall, the House originally passed H.R. 317 by a unanimous vote on March 31 of this year. The bill as passed by the House would have designated as wild and scenic 74 miles of the main stem and 43 miles of the south fork of the Merced River. An additional 8 miles of the main stem would not have been designated as wild and scenic, but would have been protected by a 5-year moratorium on water projects pending further study.

The Senate recently passed an amended version of H.R. 317 which includes several technical and conforming amendments, as well as as designation of the entire 79 miles of the main stem of the Merced as wild and scenic.

The version of H.R. 317 we are considering today is a compromise worked out between the sponsor of the bill in the House, Representative COELHO, and sponsors of the Senate bill, S. 275, Senators WILSON and CRANSTON. It would designate 71 miles of the main stem and 43 miles of the south fork of the Merced as wild and scenic. The lower 8-mile segment of the main stem would be studied for possible inclusion as a component of the Wild and Scenic Rivers System in the future. Under the Wild and Scenic Rivers Act, study rivers are protected during the study and for a 3-year period following completion of the study.

Mr. Speaker, I believe this is a fair and reasonable compromise on this issue. It provides for designation of those segments of the Merced River which clearly meet the qualifications for wild and scenic while protecting an additional 8-mile segment of the main stem until a wild and scenic study for this portion can be conducted. Should the study determine that this segment is also qualified for wild and scenic designation, it is my hope that Congress will provide such a designation in the future. Therefore, I urge all of my colleagues to approve the compromise embodied in H.R. 317 before us today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 317, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT CONSENT ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 281 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3025) to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 281 is the rule providing for consideration of H.R. 3025, to grant the consent of Congress to the Appalachian States Low-Level Radioactive Waste Compact. It is an open rule, providing 1 hour of general debate. Thirty minutes of debate are to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Interior and Insular Affairs, and 30 minutes are to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Energy and Commerce. The rule provides for one motion to recommit.

H.R. 3025, the bill for which the Rules Committee has recommended this rule, grants congressional consent to the low-level radioactive waste compact, which has already been ratified by the states involved in this regional agreement: Delaware, Maryland, Pennsylvania, and West Virginia. Congress' consent is needed for this pact because it might otherwise violate the commerce clause of the U.S. Constitution by restricting interstate commerce. The bill provides that, should the members of the Appalachian compact not comply with the provisions of the Low-Level Radioactive Waste Policy Act, congressional ratification of the pact would be null and void.

Mr. Speaker, House Resolution 281 is a simple, straightforward open rule, which divides debate time equally between the two committees with jurisdiction over H.R. 3025. I urge its adoption so that the House can proceed to consideration of H.R. 3025.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 281 is rule providing for the consideration of H.R. 3025, Appalachian States Low-Level Radioactive Waste Compact.

As the gentleman from California [Mr. BEILENSON] has so ably explained, this is a competely open rule. Under the rule, debate time of 1 hour is allocated between the Energy and Commerce and the Interior and Insular Affairs Committees. The bill shall be considered for amendments under the 5-minute rule. And the rule allows for one motion to recommit.

Mr. Speaker, the Low-Level Radioactive Waste Policy Act which passed during the 96th Congress, allows States to form regional waste-disposal compacts to fulfill its mandates.

H.R. 3025 grants consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact, which includes Delaware, Maryland, Pennsylvania, and West Virginia.

Upon obtaining congressional consent to the compact, these four States will be able to dispose their low-level waste within the compact's border and to prohibit States outside of the Appalachian compact from disposing of waste inside the region.

Congressional consent is contingent on the same conditions applicable to other low-level radioactive waste compacts, and Congress reserves the right to modify these compact conditions but not until 10 years after enactment.

Mr. Speaker, the States involved want Congress to ratify this compact, and I urge adoption of this rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 281 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3025.

□ 1559

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3025) to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Arizona [Mr. UDALL] will be recognized for 15 minutes, the gentleman from New Mexico [Mr. LUJAN] will be recognized for 15 minutes, the gentleman from Indiana [Mr. SHARP] will be recognized for 15 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

□ 1600

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3025, the Appalachian States Low-Level Radioactive Waste Compact Consent Act. This act gives Congress' consent to a compact formed by Pennsylvania, Delaware, Maryland, and West Virginia to manage, on a regional basis, low-level waste generated by those four States.

Low-level radioactive wastes, as opposed to spent nuclear reactor fuel or high-level defense wastes, have relatively little radioactivity which decays quickly and does not present the same disposal problems as spent reactor fuel and defense wastes. Low-level wastes are generated by hospitals, universities, various industrial operations, and nuclear powerplants and consist of medical wastes, protective clothing, contaminated rags, and the like.

Under the Low-Level Radioactive Waste Policy Act Congress passed 7 years ago, the States were encouraged to combine in regional compacts to manage the low-level radioactive wastes generated within their borders. Two years ago, Congress gave its consent to seven of these regional compacts. A few others, including the Appalachian compact, were not ready at that time. The four member States that comprise the Appalachian compact have now ratified the compact and our colleague, Mr. CARPER, has introduced H.R. 3025 to give congressional consent to it. Under the interstate commerce clause of the Constitution, Congress' consent is necessary to fully implement the terms of the compact.

The bulk of this bill, section 5, consists of the text of the compact itself, as written, negotiated, and ratified by the States themselves. The remainder of the bill simply states that Congress finds the compact to be in furtherance of the Federal Low-Level Radioactive Waste Policy Act, conditions the Congress' consent on the compact's compliance with that act, and assures the States the Congress won't withdraw its consent for at least 10 years. These are the same terms and conditions contained in the seven other compact consent laws passed 2 years ago.

Mr. Chairman, this is an important bill. Together the four States that make up the Appalachian compact generated about 12 percent of all the low-level radioactive waste produced in this country. Enactment of this bill will enable these four States to get on with implementing their compact. And we will be taking another major step toward completing the regional compact system Congress envisioned when we passed the Low-Level Radioactive Waste Policy Act 7 years ago. I urge that the House pass this bill.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of H.R. 3025, the proposed Appalachian States Low-Level Radioactive Waste Compact. This legislation is being considered, today, in accordance with the Low-Level Radioactive Waste Policy Act which requires Congress to ratify each compact entered into between various States.

To date, Congress has approved 7 compacts encompassing 35 States. As far as I have been able to determine, the Appalachian compact has been drafted in accordance with the requirements provided in the Waste Policy Act. The States of Delaware, Maryland, Pennsylvania, and West Virginia have agreed in this compact to act in accordance with the rules for operation of the national compact system.

I urge my fellow members to adopt H.R. 3025.

Mr. UDALL. Mr. Chairman, I yield 6 minutes to the author of the bill, H.R. 3025, the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, there are many challenges facing our country today. Not the least of them is finding safe, low-risk means to dispose of, or destroy, the toxic wastes we create, in our homes, our businesses and in certain Government agencies.

Among the types of waste that we create and must dispose of are radioactive wastes. There are, as you know, two broad categories of radioactive wastes: low-level and high-level.

Prior to the time my parents were married in 1942, Americans spent little time figuring out how we were going to dispose of radioactive wastes. By the time my father and millions of other servicemen and women returned home in 1945 after World War II, that situation was beginning to change. America was becoming a producer of significant quantities of radioactive waste.

The bill before us today focuses on low-level radioactive wastes and the challenge of safely disposing of them. As you know, Mr. Chairman, the outline of a national strategy is in place. I want to take a few minutes to sketch it for you, and review how this legislation is still needed to complete the circle.

Currently, all of our low-level wastes are shipped to low-level radioactive waste facilities the States of Washington, South Carolina and Nevada.

Low-level radioactive wastes include such items as rags, papers, protective clothing, filters, gloves, and other materials involved in the production or use of such diverse items as smoke alarms, emergency exit signs and medical equipment, as well as items associated with nuclear reactor operation. These wastes are disposed of in shallow trenches. Low-level wastes are neither as concentrated nor as toxic as the fission products in spent nuclear fuel, nor as long-lasting as the plutonium and other elements produced in nuclear reactors; they do remain dangerous for decades and centuries, and during that time must be isolated. Until 1970, most of the low-level waste from the nuclear weapons program was dumped in the ocean.

During the 1970's, the good people of Hanford, WA, as well as the residents of South Carolina and Nevada, grew tired of always being on the receiving end of the wastes generated in the other 47 States. They complained long enough and loud enough that Congress finally reacted to their outcry. The result was the Low-Level Radioactive Waste Policy Act of 1980 which declared the following:

Each State is responsible for disposing of the low-level radioactive waste generated within its borders;

Low-level radioactive waste can be most safely and efficiently managed on a regional basis, and authorizes States to enter into compacts to establish regional facilities;

Congress must approve a compact before it can go into effect.

To address concerns by States that they needed more time to license and build waste facilities and therefore needed continued access to existing disposal sites, Congress passed the Low-Level Radioactive Waste Policy Amendments Act of 1986. That measure established deadlines and penalties to encourage States to get their act together.

Beginning in 1986-87, penalties are assessed on out-of-region waste. Those penalties now stand at $10 per cubic foot and will rise to $40 by 1990. If a disposal site is not established by 1995, the States would be required to take title to waste generated within their borders.

The States of Pennsylvania, West Virginia, Maryland, and Delaware entered into the Appalachian States Low-Level Radioactive Waste Compact in 1986 and 1987 pursuant to the provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1986. Before the compact can take effect and our States can address the serious problem of low-level radioactive waste, however, congressional consent is required. This bill provides for that consent.

The compact, which was approved by the legislatures and Governors of each of the four States, would be administered by the Appalachian States Low-Level Radioactive Waste Commission. The Commission will be composed of two members from each of the compact States, two additional members from the host State, and one member from each host community.

Under the compact, the commission is charged with the primary responsibility for low-level radioactive waste policy in the compact States including: First, establishing regulations to reduce low-level waste generation; second, guaranteeing that waste which is generated will be properly packaged and disposed of; third, disseminating to the party States information concerning low-level waste management and disposal needs; and fourth, maintaining records of waste disposition in the compact States.

Pennsylvania, by agreeing to be the initial host State, will have the sole authority to choose the location of a low-level radioactive waste site within its borders. This engineered facility will be placed on a site that meets stringent geological, social, environmental and technical standards and its operations will be intensely monitored.

The compact does not govern the disposition of high-level radioactive waste. The Federal Government maintains authority over high-level waste, and currently disposes of such waste at facilities in Barnwell, SC and Hanford, WA.

It is essential that we act now to gain congressional consent for this compact. Congress has set deadlines for States to develop regional sites for low-level waste disposal. Failure to comply with these requirements by the end of this year will result in increased penalties for radioactive waste generators in our States. If we fail to act responsibly—and soon—jobs in hospitals, manufacturing and other industries that generate this waste could be jeopardized.

If we are to avoid this fate, congressional ratification of the compact is imperative.

In conclusion, I want to urge my colleagues to suport H.R. 3025. I also want to thank Chairman UDALL and his Interior Committee, as well as subcommittee Chairman PHIL SHARP and the Energy and Commerce Committees, and their respective staffs, for the expedited consideration of this bill.

Mr. MOORHEAD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this interstate compact before us for approval represents an important step toward implementation of safe and effective disposal of low-level radioactive waste. In 1980 and again in 1985 Congress passed legislation designed to develop an equitable solution to the problem of disposal of low-level radioactive waste. Congress declared that it was the responsibility of each State to provide for disposal of low-level waste generated within its borders and that disposal of such waste can be most effectively managed on a regional basis. Milestones were prescribed to assure that adequate progress would be made toward building disposal facilities. The formation of interstate compacts to develop these facilities was encouraged by providing that congressionally approved compacts may restrict use of a regional facility to waste generated within the compact region.

Congress has already approved 7 compacts covering 35 States. Four States—Pennsylvania, Maryland, Delaware, and West Virginia—have ratified this Appalachian compact. It contains all the necessary elements required of previously approved compacts. H.R. 3025 provides that our consent is conditioned on continued compliance by the compact members with all of the requirements of the low-level waste policy act.

I urge my colleagues to approve this interstate agreement. Our consent to this compact will encourage the continued progress of its member states as well as others toward cooperative management of disposal of low-level radioactive waste.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, today we debate the passage of a bill which would allow the States of Pennsylvania, West Virginia, Delaware, and Maryland to enter into an agreement on disposing of their low-level radioactive waste. Our approval of this compact, which has been approved by each of the States involved, is necessary for these States to comply with the Low-Level Radioactive Waste Policy Act, passed by this body in 1979.

The Appalachian Low-Level Radioactive Waste Compact will allow the States of Pennsylvania, West Virginia, Maryland and Delaware to establish and operate a facility to dispose of low-level radioactive waste and establishes a 16 member, State-run and appointed commission to oversee the activities of the compact. Pennsylvania, the participant with the largest generation of this low-level waste, has consented to host the first waste disposal site and the Pennsylvania General Assembly has already begun the process of selecting a disposal site by accepting a draft of legislation from Gov. Robert Casey setting out a selection process.

I rise in support of this compact and in support of passage of H.R. 3025 by the House.

Mr. LUJAN. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate having expired, pursuant to the rule, each section of the bill is considered as having been read for amendment under the 5-minute rule.

The Clerk will designate section 1.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The text of H.R. 3025 is as follows:

H.R. 3025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Appalachian States Low-Level Radioactive Waste Compact Consent Act".

SEC. 2. CONGRESSIONAL FINDING.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

The consent of the Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act,

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, and

(3) is granted only for so long as the Appalachian States Low-Level Radioactive Waste Commission, advisory committees, and regional boards established in the compact comply with all the provisions of such Act.

SEC. 4. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided for in such compact.

SEC. 5. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(A)(2)), the consent of Congress is given to the States of Pennsylvania, West Virginia, and any eligible States as defined in Article 5(A) of the Appalachian States Low-Level Radioactive Waste Compact to enter into such compact. Such compact is substantially as follows:

"APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT

"Preamble

"Whereas, The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. §§ 2021b–2021d) has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste;

"Whereas, Under section 4(a)(1)(A) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. § 2021d(a)(1)(A)), each state is responsible for providing for the capacity for disposal of low-level radioactive waste generated within its borders;

"Whereas, To promote the health, safety and welfare of residents within, the Commonwealth of Pennsylvania and other eligible states as defined in Article 5(A) of this compact shall enter into a compact for the regional management and disposal of low-level radioactive waste.

"Now, therefore, the Commonwealth of Pennsylvania and the state of West Virginia and other eligible states hereby agree to enter into the Appalachian States Low-Level Radioactive Waste Compact.

"Article I

"Definitions

"As used in this compact, unless the context clearly indicates otherwise:

"(a) 'Broker' means any intermediate person who handles, treats, processes, stores, packages, ships or otherwise has responsibility for or possesses low-level waste obtained from a generator.

"(b) 'Carrier' means a person who transports low-level waste to a regional facility.

"(c) 'Commission' means the Appalachian States Low-Level Radioactive Waste Commission.

"(d) 'Disposal' means the isolation of low-level waste from the biosphere.

"(e) 'Facility' means any real or personal property within the region, and improvements thereof or thereon, and any and all plant structures, machinery and equipment acquired, constructed, operated or maintained for the management or disposal of low-level waste.

"(f) 'Generate' means to produce low-level waste requiring disposal.

"(g) 'Generator' means a person whose activity results in the production of low-level waste requiring disposal.

"(h) 'Hazardous life' means the time required for radioactive materials to decay to safe levels, as defined by the time period for the concentration of radioactive materials within a given container or package to decay to maximum permissible concentrations as defined by Federal law or by standards to be set by a host state, whichever is more restrictive.

"(i) 'Host state' means Pennsylvania or other party state so designated by the Commission in accordance with Article 3 of this compact.

"(j) 'Institutional control period' means the time of the continued observation, monitoring and care of the regional facility following transfer of control from the operator to the custodial agency.

"(k) 'Low-level waste' means radioactive waste that:

"(1) is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 as amended; and

"(2) is classified by the Federal Government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the Federal Government, as defined in Public Law 96-573, or Federal research and development activities.

"(l) 'Management' means the reduction, collection, consolidation, storage, packaging or treatment of low-level waste.

"(m) 'Operator' means a person who operates a regional facility.

"(n) 'Party state' means any state that has become a party in accordance with Article 5 of this compact.

"(o) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

"(p) 'Region' means the combined geographical area within the boundaries of the party states.

"(q) 'Regional facility' means a facility within any party state which has been approved by the Commission for the disposal of low-level waste.

"(r) 'Shallow land burial' means the disposal of low-level radioactive waste directly in subsurface trenches without additional confinement in engineered structures or by proper packaging in containers as determined by the law of the host state.

"(s) 'Transuranic waste' means low-level waste containing radionuclides with an atomic number greater than 92 which are excluded from shallow-land burial by the Federal Government.

"(A) Creation and Organization.

"(1) Creation—There is hereby created the Appalachian States Low-Level Radioactive Waste Commission. The Commission is hereby created as a body corporate and politic, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties, but separate and distinct from the respective signatory party states. The Commission shall have central offices located in Pennsylvania.

"(2) Commission Membership—The Commission shall consist of two voting members from each party state to be appointed according to the laws of each party state and two additional voting members from each host state to be appointed according to the laws of each host state. Upon selection of the site of the regional facility, an additional voting member shall be appointed to the Commission who shall be a resident of the county or municipality where the facility is to be located. The appointing authority of each party state shall notify the Commission in writing of the identities of the members and of any alternates. An alternate may vote and act in the member's absence. No member shall have a financial interest in any industry which generates low-level radioactive waste, any low-level radioactive waste regional facility or any related industry for the duration of the member's term. No more than one-half the members and alternates from any party state shall have been employed by or be employed by a low-level waste generator or related industry upon appointment to or during their tenure of office; provided, that no member shall have been employed by or be employed by a regional facility operator. No member or alternate from any party state shall accept employment from any regional facility operator or brokers for at least three years after leaving office.

"(3) Compensation—Members of the Commission and alternates shall serve without compensation from the Commission but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

"(4) Voting Power—Each Commission member is entitled to one vote. Unless otherwise provided in this compact, affirmative votes by a majority of a host state's members are necessary for the Commission to take any action related to the regional facility and the disposal and management of low-level waste within that host state.

"(5) Organization and Procedure—

"(a) The Commission shall provide for its own organization and procedures and shall adopt by-laws not inconsistent with this compact and any rules and regulations necessary to implement this compact. It shall meet at least once a year in the county selected to host a regional facility and shall elect a chairman and vice chairman from among its members. In the absence of the chairman, the vice chairman shall serve.

"(b) All meetings of the Commission shall be open to the public with at least 14 days' advance notice, except that the chairman may convene an emergency meeting with less advance notice. Each municipality and county selected to host a regional facility shall be specifically notified in advance of all Commission meetings. All meetings of the Commission shall be conducted in a manner that substantially conforms to the Administrative Procedure Act (5 U.S.C. Ch. 5, Subch. II, and Ch. 7). The Commission may, by a two-thirds vote, including approval of a majority of each host state's Commission members, hold an Executive Session closed to the public for the purpose of: considering or discussing legally privileged or proprietary information; to consider dismissal, disciplining of or hearing complaints or charges brought against an employee or other public agent unless such person requests such public hearing; or to consult with its attorney regarding information or strategy in connection with specific litigation. The reason for the Executive Session must be announced at least 14 days prior to the Executive Session, except that the chairman may convene an emergency meeting with less advance notice, in which case the reason for the Executive Session must be announced at the open meeting immediately subsequent to the Executive Session. All action taken in violation of this open meeting provision shall be null and void.

"(c) Detailed written minutes shall be kept of all meetings of the Commission. All decisions, files, records and data of the Commission, except for information privileged against introduction in judicial proceedings, personnel records and minutes of a properly convened Executive Session, shall be open to public inspection subject to a procedure that substantially conforms to the Freedom of Information Act (Public Law 89-554, 5 U.S.C. § 552) and applicable Pennsylvania law and may be copied upon request and payment of fees which shall be no higher than necessary to recover copying costs.

"(d) The Commission shall select an appropriate staff, including an Executive Director, to carry out the duties and functions assigned by the Commission. Notwithstanding any other provision of law, the Commission may hire and/or retain its own legal counsel.

"(e) Any person aggrieved by a final decision of the Commission which adversely affects the legal rights, duties or privileges of such person may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decisions.

"(f) Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken in their official capacity.

"(B) Powers and Duties.

"The Commission:

"(a) Shall conduct research and establish regulations to promote a reasonable reduction of volume and curie content of low-level wastes generated in the region. The regulations shall be reviewed and, if necessary, revised by the Commission at least annually.

"(b) Shall ensure, to the extent authorized by Federal law, that low-level wastes are safely disposed of within the region except that the Commission shall have no power or authority to license, regulate or otherwise develop a regional facility, such powers and authority being reserved for the host state(s) as permitted under the law.

"(c) Shall designate as "host states" any party state which generates 25 percent or more of Pennsylvania's volume or total curie content of low-level waste generated based on a comparison of averages over three successive years, as determined by the Commission. This determination shall be based on volume or total curie content, whichever is greater.

"(d) Shall ensure, to the extent authorized by Federal law, that low-level waste packages brought into the regional facility for disposal conform to applicable state and Federal regulations. Low-level waste brokers or generators who violate these regulations will be subject to a fine or other penalty imposed by the Commission, including restricted access to a regional facility. The Commission may impose such fines and/or penalties in addition to any other penalty levied by the party states pursuant to Article 4(D).

"(e) Shall establish such advisory committees as it deems necessary for the purpose of advising the Commission on matters pertaining to the management and disposal of low-level waste.

"(f) May contract to accomplish its duties and effectuate its powers subject to projected available resources. No contract made by the Commission shall bind a party state.

"(g) Shall prepare contingency plans for management and disposal of low-level waste in the event any regional facility should be closed or otherwise unavailable.

"(h) Shall examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge and may make recommendations to the host state(s) which shall review the recommendations in accordance with its (their) own sovereign laws.

"(i) Shall have the power to sue and be sued subject to Article 2(A)(5)(e) and may seek to intervene in any administrative or judicial proceeding.

"(j) Shall assemble and make available, to the party states and to the public, information concerning low-level waste management and disposal needs, technologies, and problems.

"(k) Shall keep current and annual inventories of all generators by name and quantity of low-level waste generated within the region, based upon information provided by the party states. Inventory information shall include both volume in cubic feet and total curie content of the low-level waste and all available information on chemical composition and toxicity of such wastes.

"(l) Shall keep an inventory of all regional facilities and specialized facilities, including, but not necessarily restricted to, information on their size, capacity and location, as well as specific wastes capable of being managed, and the projected useful life of each regional facility.

"(m) Shall make and publish an annual report to the governors of the signatory party states and to the public detailing its programs, operations and finances, including copies of the annual budget and the independent audit required by this compact.

"(n) Notwithstanding any other provision of this compact to the contrary, may, with the unanimous approval of the Commission members of the host state(s), enter into temporary agreements with non-party states or other regional boards for the emergency disposal of low-level waste at the regional facility, if so authorized by law(s) of the host state(s), or other disposal facilities located in states that are not parties to this agreement.

"(o) Shall promulgate regulations, pursuant to host state law, to specifically govern and define exactly what would constitute an emergency situation and exactly what restrictions and limitations would be placed on temporary agreements.

"(p) Shall not accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source, except from any Federal agency and from party states which are certified as being legal and proper under the laws of the donating party state.

"(C) Budget and Operation.

"(1) Fiscal Year—The Commission shall establish a fiscal year which conforms to the fiscal year of the Commonwealth of Pennsylvania.

"(2) Current Expense Budget—Upon legislative enactment of this compact by two party states and each year until the regional facility becomes available, the Commission shall adopt a current expense budget for its fiscal year. The budget shall include the Commission's estimated expenses for administration. Such expenses shall be allocated to the party states according to the following formula:

"Each designated initial host state will be allocated costs equal to twice the costs of the other party states, but such costs will not exceed $200,000.

"Each remaining party state will be allocated a cost of one half the cost of the initial host state, but such costs will not exceed $100,000.

"The party states will include the amounts allocated above in their respective budgets, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the Commission in quarterly installments during the fiscal year.

"(3) Annual Budget Request—For continued funding of its activities, the Commission shall submit an annual budget request to each party state for funding, based upon the percentage of the region's waste generated in each state in the region, as reported in the latest available annual inventory required under Article 2(B)(k). The percentage of waste shall be based on volume of waste or total curie content as determined by the Commission.

"(4) Annual Report to Include Budget—The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

"(5) Annual Independent Audit—

"(a) As soon as practicable after the closing of the fiscal year, an audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Commission, who have no personal direct or indirect interest in the financial affairs of the Commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the Commission shall direct. Copies of the report shall be distributed to each Commission member and shall be made available for public distribution.

"(b) Each signatory party, by its duly authorized officers, shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the Commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the Commission and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

"Article 3

"Rights, Responsibilities and Obligations of Party States

"(A) Regional Facilities.

"There shall be regional facilities sufficient to dispose of the low-level waste generated within the region. Each regional facility shall be capable of disposing of such low-level waste but in the form(s) required by regulations or license conditions. Specialized facilities for particular types of low-level waste management, reduction or treatment may not be developed in any party state unless they are in accordance with the laws and regulations of such state and applicable Federal laws and regulations.

"(B) Equal Access to Regional Facilities.

"Each party state shall have equal access as other party states to regional facilities located within the region and accepting low-level waste, provided, however, that the host state may close the regional facility located within its borders when necessary for public health and safety. However, a host state shall send notification to the Commission in writing within three (3) days of its action and shall, within thirty (30) working days, provide in writing the reasons for the closing.

"(C) Initial Host State.

"Pennsylvania and party states which generated 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the three years 1982 through 1984, are designated as "initial host states" and are required to develop and host low-level waste sites as regional facilities. The percentage of waste from each state shall be determined by cubic foot volume or total curie content, whichever is greater.

"(D) Exemption From Being Initial Host State.

"Party states which generate less than 25 percent of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the years 1982 through 1984, shall be exempt from initial host state responsibilities. These states shall continue to be exempt as long as they generate less than 25 percent threshold over successive 3-year periods. Once a state generates an average of 25 percent or more of the volume or curies generated by Pennsylvania over a successive 3-year period, it shall be designated as a "host state" for a 30-year period by the Commission and shall immediately initiate development of a regional facility to be operational within five years. Such host state shall be prepared to accept at its regional facility low-level waste at least equal to that generated in the state. With Commission approval, any party state may volunteer to host a regional facility. The percentage of waste from each state shall be determined by either a cubic foot volume or total curie content, whichever is greater.

"(E) Useful Life of Regional Facilities.

"Pennsylvania and other host states are obligated to develop regional facilities for the duration of this compact. All regional facilities shall be designed for at least a 30-year useful life. At the end of the facility's life, normal closure and maintenance procedures shall be initiated in accordance with the applicable requirements of the host state and the Federal Government. Each host state's obligation for operating regional facilities shall remain as long as the state continues to produce over a 3-year period 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania.

"(F) Duties of Host State.

"Each host state shall:

"(a) Cause a regional facility to be sited and developed on a timely basis.

"(b) Ensure by law, consistent with applicable state and Federal law, the protection and preservation of public health, safety and environmental quality in the siting, design, development, licensure or other regulation, operation, closure, decommissioning, long-term care and the institutional control period of the regional facility within the state. To the extent authorized by Federal law, a host state may adopt more stringent laws, rules or regulations than required by Federal law.

"(c) Ensure and maintain a manifest system which documents all waste-related activities of generators, brokers, carriers and related activities of generators, brokers, carriers and operators, and establish the chain of custody of waste from its initial generation to the end of its hazardous life. Copies of all such manifests shall be submitted to the Commission on a timely basis.

"(d) Ensure that charges for disposal of low-level waste at the regional facility are sufficient to fully fund the safe disposal and perpetual care of the regional facility and that charges are assessed without discrimination as to the party state of origin.

"(e) Submit an annual report to the Commission on the status of the regional facility which contains projections of the anticipated future capacity.

"(f) Notify the Commission immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the Commission.

"(g) Require that the institutional control period of any disposal facility be at least as long as the hazardous life, as defined in Article 1(h), of the radioactive materials that are disposed at that facility.

"(h) Prohibit the use of any shallow land burial, as defined in Article 1(r), and develop alternative means for treatment, storage and disposal of low-level waste.

"(i) Establish by law, to the extent not prohibited by Federal law, requirements for financial responsibility, including, but not limited to:

"(1) Requirements for the purchase and maintenance of adequate insurance by generators, brokers, carriers and operators of the regional facility;

"(2) Requirements for the establishment of a long-term care fund to be funded by a fee placed on generators to pay for preventative or corrective measures of low-level waste to the regional facility; and

"(3) Any further financial responsibility requirements that shall be submitted by generators, brokers, carriers and operators as deemed necessary by the host state.

"(G) Duties of Party State.

"Each party state:

"(a) Shall appropriate its portion of the Commission's initial and annual budgets as set out in Article 2(C) (2) and (3).

"(b) To the extent authorized by Federal law, shall develop and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to volume reduction, packaging and transportation requirements and regulations as well as any other requirements specified by the regional facility. Such procedures shall include, but are not limited to:

"(i) Periodic inspections of packaging and shipping practices;

"(ii) Periodic inspections of low-level waste containers while in custody of carriers; and

"(iii) Appropriate enforcement actions with respect to violations.

"(c) To the extent authorized by Federal law, shall, after receiving notification from a host state or other person that a person in a party state has violated volume reduction, packaging, shipping or transportation requirements or regulations, take appropriate action to ensure that violations do not recur. Appropriate action shall include, but is not limited to, the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected. Appropriate action may also include suspension of the violator's use of the regional facility. Should such suspension be imposed, the suspension shall remain in effect until such time as the violator has, to the satisfaction of the party state imposing such suspension, complied with the appropriate requirements or regulations upon which the suspension was based and has taken appropriate action to ensure that such violation or violations do not recur.

"(d) Shall maintain a registry of all generators and quantities generated within the state.

"(H) Liability.

"In the event of liability arising from the operation of any regional facility and during and after closure of that facility, each party state shall share in that liability in an amount equal to that state's share of the region's low-level waste disposed of at the facility. If such liability arises from negligence, malfeasance or neglect on the part of a host state or any party state, then any other host or party state(s) may make any claim allowable under law for that negligence, malfeasance or neglect. If such liability arises from a particular waste shipment or shipments to, or quantity of waste or condition at, the regional facility, then any host or party state may make any claim allowable under law for such liability. The percentage of waste shall be based on volume of waste or total curie content.

"(I) Failure of Party State to Fulfill Obligations.

"A party state which fails to fulfill its obligations, including timely funding of the Commission, may have its privileges under the Compact suspended or its membership in the Compact revoked by the Commission and be subject to any other legal and equitable remedies available to the party states.

"Article 4

"Prohibited Acts and Penalties

"(A) Prohibition.

"It shall be unlawful for any person to dispose of low-level waste within the region except at a regional facility unless authorized by the Commission.

"(B) Waste Disposed of Within Region.

"After establishment of the regional facility(s), it shall be unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Commission and by law of the host state in which said disposal takes place. For the purposes of this compact, waste generated within the region excludes radioactive material shipped from outside the party states to a waste management facility within the region. In determining whether to grant such authorization, the factors to be considered by the Commission shall include, but not be limited to, the following:

"(a) The impact on the health, safety and environmental quality of the citizens of the party states;

"(b) The impact of importing waste on the available capacity and projected life of the regional facility;

"(c) The availability of a regional facility appropriate for the safe disposal of the type of low-level waste involved.

"(C) Waste Generated Within Region.

"Any and all low-level waste generated within the region shall be disposed of at a regional facility, except for specific cases agreed upon by the Commission, with the affirmative votes by a majority of the Commission members of the host state(s) affected by the decision.

"(D) Liability.

"Generators, brokers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto. The party states shall impose a fine for any violation in an amount equal to the present and future costs associated with correcting any harm caused by the violation and shall assess punitive fines or penalties if it is deemed necessary. In addition, the host state shall bar any person who violates host state or Federal regulations from using the regional facility until that person demonstrates to the satisfaction of the host state the ability and willingness to comply with the law.

"(E) Conflict of Interest.

"(1) Prohibitions—

"No commissioner, officer or employee shall:

"(a) Be financially interested, either directly or indirectly, in a contract, sale, purchase, lease or transfer of real or personal property to which the Commission is a party.

"(b) Solicit or accept money or any other thing of value in addition to the expenses paid to him by the Commission for services performed within the scope of his official duties.

"(c) Offer money or anything of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Commission.

"(2) Forfeiture of Office or Employment—

"Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

"(3) Agreement Void—

"Any contract or agreement knowingly made in contravention of this section is void.

"(4) Criminal and Civil Sanctions—

"Officers and employees of the Commission shall be subject, in addition to the provisions of this section, to such criminal and civil sanctions for misconduct in office as may be imposed by Federal law and the law of the signatory state in which such misconduct occurs.

"Article 5

"Eligibility, Entry Into Effect, Congressional Consent, Withdrawal

"(A) Eligibility.

"Only the States of Pennsylvania, West Virginia, Delaware and Maryland are eligible to become parties to this compact.

"(B) Entry into Effect.

"An eligible state may become a party state by legislative enactment of this compact or by executive order of the governor adopting this compact; provided, however, a state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless the legislature shall have enacted this compact before such adjournment.

"(C) Congressional Consent.

"This compact shall take effect when it has been enacted by the legislatures of Pennsylvania and one or more eligible states. However, Article 4(B) and (C) shall not take effect until Congress has consented to this compact. Every fifth year after such consent has been given, Congress may withdraw consent.

"(D) Withdrawal.

"A party state may withdraw from the compact by repealing the enactment of this compact, but no such withdrawal shall become effective until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal.

"Article 6

"Construction and Severability

"(A) Construction.

"The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not unnecessarily be infringed.

"(B) Severability.

"If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.".

The CHAIRMAN. Are there any amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Gray of Illinois] having assumed the chair, Mr. Beilenson, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3025) to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact, pursuant to House Resolution 281, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3025, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PLASTIC POLLUTION RESEARCH AND CONTROL ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 940, as amended.

☐ 1615

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. Studds] that the House suspend the rules and pass the bill, H.R. 940, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 14, not voting 33, as follows:

[Roll No. 352]

YEAS—386

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger

Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Coyne
Craig
Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—14

Brown (CO)
Burton
Cheney
Crane
Dannemeyer
DeLay
Edwards (OK)
Hunter
Inhofe
McCandless
Nielson
Smith, Denny (OR)
Solomon
Stump

NOT VOTING—33

Alexander
Biaggi
Bonior
Buechner
Collins
Courter
Donnelly
Early
Espy
Feighan
Gallo
Gephardt
Gordon
Hubbard
Hughes
Jenkins
Kemp
Livingston
Moody
Morrison (CT)
Murphy
Packard
Pepper
Petri
Roemer
Roukema
Scheuer
St Germain
Stenholm
Tauzin
Thomas (CA)
Towns
Wise

□ 1630

Mr. NIELSON of Utah changed his vote from "yea" to "nay."

Mr. ANTHONY and Mr. GARCIA changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes.

A motion to reconsider was laid on the table.

DOMINICK V. DANIELS POSTAL FACILITY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill [H.R. 2985] to designate the facility of the U.S. Postal Service located at 850 Newark Turnpike in Kearny, NJ, as the "Dominick V. Daniels Postal Facility," and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but simply would like to inform the body that the minority has no objection to the legislation now being considered.

Further reserving the right to object, Mr. Speaker, I would like to yield to the gentleman from New Jersey [Mr. GUARINI] who is the chief sponsor of H.R. 2985, to designate the facility of the U.S. Postal Service located at 850 Newark Turnpike in Kearny, NJ, as the "Dominick V. Daniels Postal Facility".

Mr. GUARINI. I thank my distinguished colleague, the gentlewoman from Maryland.

Mr. Speaker, as the sponsor of H.R. 2985, I rise to urge support for this bill to designate the North Jersey Postal Facility the Dominick V. Daniels Postal Facility in honor of our former colleague who served for 9 terms as the representative of the 14th district of New Jersey which I now represent. He was a very devoted and effective member of the House Education and Labor, and Post Office and Civil Service Committees from 1958 until his retirement in 1976. I feel this is a most fitting memorial to him.

Dominick Daniels was born in Jersey City, NJ. He was the son of an Italian immigrant. He graduated from Fordham University, and worked his way through Rutgers University Law School. He became a member of the New Jersey and Hudson County bar associations at age 21.

In 1952, he was appointed magistrate of the Jersey City Municipal Court and was named presiding magistrate in 1957. Dominick Daniels also served as vice chairman of the Jersey City Civil Rights Commission from 1952 to 1955.

In the House, Dominick Daniels was instrumental in guiding legislation which made many improvements in the operation of the postal service and many advancements for postal workers. He was a leader in the creation of the New Jersey Mail Facility which we are today renaming in his honor. This facility now employs over 4,000 workers in my district.

Dominick Daniels was known as the champion of health and safety in the workplace. He took the lead in efforts to provide compensation of injured workers and Federal job-safety rules where states failed to enforce any. His efforts led to a compromise that established the principle of Federal supervision over occupational health and safety in industries around the country. He was particularly instrumental in the passage of key labor legislation, including the Comprehensive Employment and Training Act [CETA], and the Occupational Safety and Health Act [OSHA].

Dominick Daniels was also outspoken in prodding the Kennedy administration to see that schools and colleges strictly complied with the 1954 Supreme Court decision against racial segregation. He wrote a bill that in 1962 closed a loophole through which land-grant colleges could escape such compliance.

Dominick Daniels was an advocate of pride in workmanship and often preached his ethic of hard work to school children in the Hudson County area. He told a group of students at Public School No. 6, "It is easy to criticize, but hard work is necessary to improve things. Our forefathers did not retreat from the challenge of work. America is a great country today and wll continue to be if we don't forget the principles laid down by its founders." Congressman Daniels left a legacy to the community leaders of Hudson County reminding them of the need of "service above self".

I urge my colleagues to join me in support of H.R. 2985 to pay tribute to a worthy man who has earned our accolades for a job well done.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2985

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, is hereby designated as the "Dominick V. Daniels Postal Facility". Any reference to such facility in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Dominick V. Daniels Postal Facility".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HONORING FIREFIGHTERS FOR THEIR EFFORTS AND SACRIFICES DURING THE SUMMER FIRE SEASON OF 1987

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the resolution (H. Res. 284) honoring the firefighters of the United States for their efforts and sacrifices during the summer fire season of 1987, and ask for its immediate consideration.

The clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object but would like the body to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I would like to yield to the gentleman from California [Mr. LEHMAN] who is the chief sponsor of House Resolution 284 honoring the firefighters of the United States for their efforts and sacrifices during the summer fire season of 1987.

□ 1645

Mr. LEHMAN of California. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to extend my sincere thanks to Congressman DYMALLY and the leadership for bringing this resolution to the floor in an expeditious manner. Their assistance, along with the support of the Census and Population Subcommittee staff is greatly appreciated.

In addition, I would like to thank the 57 Members from California, Oregon, Washington, and Idaho who joined me as original cosponsors of this bipartisan resolution which honors the many firefighters from throughout the Nation who battled the recent fires in the West.

Since August, forest fires have raged throughout the West, burning hundreds of thousands of acres. The loss to timber, structures, grazing lands, and recreation is in the millions of dollars and is still escalating.

Without the courageous efforts of firefighters from throughout the Nation, the losses to life and property would have been far more devastating. A total of 25,000 firefighters worked around the clock at the peak of the disaster and represent the largest deployment of firefighting forces in the history of the United States.

In the effort to battle the blazes, 11 of our Nation's firefighters were killed. It is appropriate, now that the fires have been brought under control and the losses are being assessed, that we pay honor and tribute to all of the firefighters from 42 States who contributed to the firefighting effort. In particular, we must recognize the greatest loss of all—those 11 men who sacrificed their own lives to protect the lives of others. We express our sincere condolences to the families and loved ones who are now suffering the loss of those who died.

I am pleased to have introduced this commemorative resolution which serves as a fitting memorial and a heartfelt thank you to those brave men and women who fought to battle this devastating natural disaster.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I wish to compliment the gentleman from California [Mr. DYMALLY] for introducing this important resolution, and I now yield to another gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I would like to join my 58 colleagues from both sides of the aisle today in honoring those firefighters who lost their lives while battling the disastrous fires which consumed so much of the Western United States during the dry summer months of 1987.

In my home State of California, these blazes burned more than 600,000 acres of land including approximately 40 homes and far beyond $200 million worth of timber, recreational facilities, trails, and grazing lands. Much of the Nation's most scenic forest lands were devastated. Thus, it is certainly appropriate for Congress to recognize and commend the valor and bravery exhibited by the 21,000-plus dedicated individuals whose tireless efforts saved untold lives and property and forest lands.

I would like to convey my personal condolences to the families and friends of William Berg, Dennis Lee Cullins, David Ross Erikson, Donald H. Gormley, Steve Patrick Harrell, Michael Hishier, Donn Johnson, Sir Isaac Lindsay, Jr., Freddie Pahnema, Charles William Peterson, and Bruce Franklin Vissier who gave their lives in this extraordinary undertaking. The courage of these individuals—in my mind and the minds of my constituents—will not be forgotten.

In closing, Mr. Speaker, I would like to acknowledge the coordinated efforts of the Multiple Agency Command comprised of U.S. Forest Service, Bureau of Land Management, National Park Service, Gov. George Deukmejian, California Department of Forestry, California Conservation Corps, National Guard, United States Army, California Highway Patrol as well as inmates from the California Youth Authority and Department of Corrections and other State and local agencies for their organized and diligent work in suppressing this historic national calamity.

Again, I thank the many Members who led and/or joined in this very fitting congressional tribute to those who lost their lives fighting the fires of 1987.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I now yield to the distinguished gentleman from California [Mr. BOSCO].

Mr. BOSCO. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, even while we speak here in Washington, some of these very fires we are talking about are still raging in California and Oregon, and it is very appropriate at this time, before those fires die out completely, that we pay tribute to the many brave people who fought these fires and to the nine who lost their lives.

Anyone who is familiar with forest fires knows that these trees and brush literally burst into flame, and this terrible inferno cannot be faced by anyone without an imminent fear of death. For this reason, we know that these people are true heroes. The entire Congress pays tribute to them.

We cannot lift the burden of grief from their families and loved ones, but we can assure them that we will not forget their valiant efforts on our behalf.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from California [Mr. Herger].

Mr. HERGER. Mr. Speaker, I rise today in support of the resolution, and to pay tribute to those 11 brave men who gave their lives fighting fire in the Pacific Northwest. I want to commend the chairman of the committee the gentleman from Calfornia Mr. Dymally, the ranking member, the gentlewoman from Maryland Mrs. Morella and the gentleman from California, Mr. Shumway, for bringing this matter before the House today.

Since August, 21,000 firefighters have battled runaway blazes which have destroyed some 60,000-plus acres within my own northern California district and have claimed millions of dollars of losses in timber, grazing lands, and recreational areas. Without the valor of these men, countless millions of more acres would have been lost, in this, one of the fiercest, deadliest forest fires in this Nation's history.

Two of the heroes we remember today, David Ross Erickson of Etna and Michael Hishier of Lakeport, were constituents of mine from California's Second Congressional District. My condolences and prayers go to their families, as well as to the loved ones of all 11 firefighters who struggled so valiantly to save our national forests from this calamity.

Mr. Speaker, I again offer my condolences to the families of these 11 heroes, and thank them for their efforts to defend our forests, our homes, and our livelihoods.

This resolution is but a small tribute to their sacrifice, and I urge its immediate adoption.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the resolution offered by my colleagues from California. This measure commends the many local, State, and Federal agencies that were involved in battling the recent forest fires in the West and expresses the condolences of the Congress and the Nation to the firefighters who died protecting lives and property.

As my colleagues will recall, in August and September violent lightning storms started hundreds of fires in California, Idaho, Oregon, and Washington. At one time, more than 1,900 fires were burning simultaneously. In California, strong winds and dry conditions fueled huge infernos that burned tens of thousands of acres each day. So far, over 700,000 acres have been blackened in mountainous areas of north and central California.

A few of those fires are still burning. I understand 1,500 firefighters in Mr. Bosco's district are engaged in holding back a blaze that burned 700 acres yesterday.

In California, as well as other States, a number of different groups joined forces to fight fires on literally hundreds of fronts. From the volunteers in counties and towns to the professionals at the State and Federal levels, each agency worked in cooperation with another to quell fires that burned hot and fast irrespective of jurisdictions and property lines. At the height of the crisis, National Guard and active military personnel were brought in to back up the shovel-wielding firefighters on the handlines.

Tragically, 11 firefighters lost their lives. As a nation, we owe these brave individuals every honor, and their families every condolence, we accord anyone who sacrifices their own life in defense of the lives of others.

I would be lax in my role as a member of the Appropriations Committee if I did not take some time to mention the cost these fires will incur for Federal taxpayers. Preliminary figures from the National Forest Service and the Department of Interior estimate the cost in emergency firefighting, emergency rehabilitation and long-term rehabilitation at over $300 million. This will require our consideration in the near-term, perhaps in the continuing resolution, and in a supplemental appropriations bill next year.

At the same time, we have to consider whether we are being penny wise and pound foolish in our forest protection policy. Over the past several years federal funding for fire control has been steadily proposed for reductions by the administration to a point where it is now less than it was in 1981. The cost of this year's fires to taxpayers, rural communities, the timber industry, the wilderness resource and consumers far exceeds the amount we spend in protecting our forests. In the future I hope the President will support a more prudent forest protection policy.

Again, I strongly support the resolution and applaud my friends, Mr. Lehman and Mr. Shumway, for introducing it.

Mr. WELDON. Mr. Speaker, I rise today in full support of House Resolution 284, legislation honoring those brave firefighters across America who have just completed a season of devastating conflagrations. It is fitting that we pass this resolution at the conclusion of National Fire Prevention Week.

As someone who has spent a lifetime in the fire services, I fully appreciate the outstanding effort put forth by our paid and volunteer firefighters across America.

This past Sunday I had the honor of delivering the keynote address at the Annual Fallen Firefighters Memorial Service held at the National Fallen Firefighters Academy in Emmitsburg, MD. In my speech I paid tribute to the 113 firefighters who lost their lives in the course of duty during 1986. I also mentioned that we must use this opportunity to recommit ourselves to better protect firefighters from the hazards of their duty.

With this in mind, I ask my colleagues to join with me in not only recognizing the services performed by firefighters across America but to also work to support legislation that will aid and assist them as well as the families of those men and women who are injured or killed in the line of duty.

Mr. DeFAZIO. Mr. Speaker, I am honored to join my colleagues from the Northwest and from California in paying tribute to the thousands of men and women from around the Nation who gave their assistance in fighting the massive fires that have swept across the western United States this year.

Let there be no doubt that the courage of those who fought the fires, and particularly the courage of those who died, will be remembered by the Congress and by the people of the Northwest. Without the efforts of these dedicated people, the damage to our region's wildlife, watersheds and economy would have been far more extensive.

For this reason, it is fitting that the Congress recognize those who fought the fires by passing a resolution in their honor.

It also is fitting that the resolution pays special tribute to the families and friends of nine firefighters who gave their lives combating the flames or in accidents related to the fires.

The savage wild fires blackened more than 1 million acres of the western United States. They destroyed millions of dollars worth of timber, grazing land, homes and recreation areas. In Oregon alone, more than 100,000 acres were charred. The largest of the State's 2,500 fires, located in the southwestern part of the State, is still burning out of control.

The fires were so large, that the National Guard had to provide 1,054 troops to assist the Forest Service, the Bureau of Land Management and the local and State firefighters. These men and women were in addition to the 650 members of the U.S. Army who were deployed to combat the blazes. In all, 8,992 firefighters worked to control fires in Oregon alone. Nearly 1,000 are still on duty.

I have toured the areas damaged by the fires, and I've seen what these courageous people faced. The firefighters deserve thanks from the entire region. Those who are still fighting the fires deserve special thanks.

And to the families and friends of those who gave their lives, let me say for all the people of my district, that our condolences go out to you.

The sheer scope of the western blazes generated the largest deployment of firefighters in the history of the United States.

Mr. Speaker, for these reasons, I believe that the resolution in honor of the firefighters deserves the support of every Member of Congress and of the people of the United States.

Mrs. MORELLA. Mr. Speaker, I am sure that we all join in tribute to these heroes.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 284

Whereas fires raged throughout the Western United States during the summer fire season of 1987;

Whereas more than 1,000,000 acres of land were burned during the season;

Whereas millions of dollars worth of timber, grazing land, recreational facilities, and structures were destroyed by the fires;

Whereas 25,000 firefighters came from throughout the United States to work 24-hour shifts in dangerous conditions to combat the fires;

Whereas William Berg of Arlington, Washington, Dennis Lee Cullins of Eureka, California, David Ross Erickson of Etna, California, Donald H. Gormley of Eureka, California, Steve Patrick Harrell of Graybull, Wyoming, Michael Hishier of Lakeport, California, Donn Johnson, of Carlotta, California, Sir Isaac Lindsay, Jr., of Rialto, California, Freddie Pahnema of the Fort Hall Indian Reservation, Idaho, Charles William Peterson of Sheridan, Wyoming, and Bruce Franklin Vissier of Mountain Center, California, gave their lives in this extraordinary effort;

Whereas the Forest Service, the Bureau of Land Management, the National Park Service, and the Department of the Army provided personnel and support;

Whereas many State forestry departments and many local fire departments provided personnel and support;

Whereas the deployment of the firefighting forces in the summer of 1987 was the largest in the history of the United States;

Whereas forest protection programs facilitated the deployment of the firefighting forces; and

Whereas the Congress has provided funding for the Forest Service to ensure the effective management and coordination of firefighting agencies at Federal, State, and local levels: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the firefighters of the United States for their efforts and sacrifices during the summer fire season of 1987;

(2) commends the valor of the firefighters who gave their lives;

(3) conveys condolences to the families and loved ones of the firefighters who gave their lives; and

(4) expresses the gratitude of the people of the United States to all of the firefighters who fought to protect lives and land in the Western United States.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2985 and House Resolution 284, the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PRESIDENT GEMAYEL OF LEBANON CALLS FOR FULL WITHDRAWAL OF ISRAELI FORCES FROM LEBANON

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RAHALL. Mr. Speaker, recently, His Excellency, Amine Gemayel, President of Lebanon, appeared before the General Assembly of the United Nations in New York. President Gemayel delivered an impassioned plea for peace in the Middle East; not only in Lebanon but throughout the entire region. President Gemayel eloquently observed that peace is not possible in one part of the region while war is being waged in another. He called for the convening of an international conference, a conference which I wholeheartedly endorse and support, to address the entire Middle East question, and the fate of the displaced Palestinians, in particular. President Gemayel also reiterated his call for the "full withdrawal of Israeli forces from Lebanon" and their replacement by UNIFIL forces under the auspices of the United Nations. I support the withdrawal of all foreign forces from Lebanon.

I had the opportunity to meet with my dear friend, President Gemayel, in New York City and would like for all of my colleagues, indeed all of the American public, to read this eloquent call for help for Lebanon. You, Mr. Speaker, have been very gracious with your time and your concern for Lebanon by meeting with the American Task Force on Lebanon. I know that all of us here in this institution share a desire for peace in the Middle East. I would like to share with you one key player's idea on how to achieve it.

SPEECH DELIVERED BY H.E. SHEIKH AMINE GEMAYEL, PRESIDENT OF THE REPUBLIC OF LEBANON, AT THE UNITED NATIONS GENERAL ASSEMBLY, SEPTEMBER 24, 1987

I would like first to thank all the speakers who have, from this podium, expressed their concern and commitment to Lebanon. I hope that this heightened attention on the part of our friends in the world community will be a harbinger for a new resolve to reverse the course of war and destruction in our land.

Mr. President, allow me to congratulate you on your election as President of the forty second session of the general assembly. Your election is a recognition by the world community of your personal qualities and of the role your country plays in world affairs.

I wish you success in your new responsibilities.

I also take this opportunity to thank your predecessor for the leadership role he has played in the past year and for the achievements of the general assembly under his presidency.

The Lebanese delegation has studied with great interest the comprehensive annual report submitted by Secretary General Perez De Cuellar.

The Secretary General's analysis of the state of the world, and particularly the Middle East, deserves the recognition of all who are concerned with the fate of peace. I wish also to express special thanks to the Secretary General and his able assistants for their continued efforts to implement the security council resolutions on Lebanon. UNIFIL's performance and the commitment of the contributing countries are of the utmost importance for peace in Lebanon and for international security in the whole Middle East.

Mr. President, this is my third appearance before the general assembly. Five years ago, a month after my election as President of Lebanon, I came, with "a message of confidence."

I was hoping that my country would be allowed to engage in what I then described as a "bold enterprise of peace and reconstruction."

After so many years of war, I then felt I could tell the general assembly, in the name of all Lebanese, united as we were in a "sharpened national consensus," of our determination to end the bloodshed, destruction, and despair that wracked our country.

Today, I stand here to admit, with candor and sorrow, that our dedication to the cause of peace was, alas, frustrated by superior forces.

The Lebanese authorities were overpowered by an ugly war which caused more innocent victims among the civilian population than in the ranks of fighters.

For centuries past Lebanon had been the example of peaceful coexistence between religions, races, and cultures which formed a pluralistic, yet harmonious, society devoted to the ideas of liberty and peace.

Caught in the cycle of violence that engulfs the Middle East, we ask ourselves today whether those who set out to destroy Lebanon did not, ultimately, intend to destroy the Lebanese experiment and its achievements in the fields of human and political understanding.

Lebanon was made to appear doomed, to remain a breeding ground for war, anarchy and terror.

In a country that itself had become a hostage, citizens of friendly nations were deprived of their liberty and sometimes of their lives. These innocent individuals were used as pawns in a diplomacy of terror, their lives traded cynically as punishment or reward.

Our suffering was made worse by the assassination of Prime Minister Rashid Karame, a great statesman and a man of peace. He was brutally murdered in a diabolic plot which is reminiscent of the assassination of my predecessor and brother, President Bashir Gemayel.

Adding to our woes, the resilience of the civilian population is now impaired by an economic crisis which is destroying the very fabric of our society.

For the first time, Lebanon is haunted by the spectre of famine.

Mr. President, I remain determined, as I was five years ago, to pursue Lebanon's struggle for peace, and the preservation of territorial integrity, national sovereignty, unity and independence.

These are days for realism, Mr. President. In this spirit, I say that what is at stake is not only Lebanon's very existence as a State, but also the ability of the United Nations to prevent the disintegration of a member State. The history of this organization's founding is well known. It was established precisely to prevent the destruction of members of the world community. It was founded explicitly because, in the aftermath of World War II, all of us recognized that peace and security are indivisible. It is of this indivisibility of peace that I wish to speak to you today.

Mr. President, allow me to be more specific.

It is no secret that a number of Middle East wars are waged both in Lebanon and across its borders, through an intricate game of surrogates and proxies.

These wars have caused invasions, physical destruction and the dismemberment of Lebanon.

Year after year, the world community has heard us maintain that peace in Lebanon should not, and cannot wait for settlement of every other conflict in the Middle East.

Today it is imperative to go further by saying that peace in the Middle East can only begin with peace in Lebanon. Unless we restore law and order in Lebanon, there cannot, and will not be peace anywhere in the region.

We are fully aware of what is at stake in the Middle East, from the Mediterranean to the gulf.

We know of the many courageous efforts to initiate peace processes. We are also aware of the numerous resolutions taken by this assembly, year after year.

We have subscribed to all in the interest of peace, justice, and international security.

But we firmly believe that the United Nations must approach the Middle East conflicts as a whole—not just one particular aspect of the Middle East question, but all of them together.

Peace in the Middle East, Mr. President, is indivisible.

Peace cannot survive in one place, while a war is underway in another. Nor can we allow ourselves the illusion that containing conflicts on the borders of nations is synonymous with resolving them. Lebanon, again, is the typical and most tragic illustration of what I mean. Truce agreements and bilateral peace accords with Israel cannot solve the Palestinian problem, as long as the fate of the Palestinians living in Lebanon has not been equitably determined. Similarly, Iran's war in Lebanon must be addressed and immediately resolved in order to attain peace in the gulf.

At this point, I would like to reiterate my support for an international conference to solve the Middle East question. The agenda of the conference, as well as its structure, should be treated as a matter of extreme urgency. Lebanon insists on being a full partner at the conference, because Lebanon has major problems to discuss in defense of its interests. For much as we trust the international community, and particularly the security council, we face very high stakes. We fear that regional considerations, from which we have suffered so much over the years, might lead us to pay, for others, the price of peace. For too long, we have been paying the price of wars not of our making.

Lebanon, Mr. President, is neither negotiable nor dispensable.

Pending the convening of this conference, Lebanon finds itself compelled to resort, once again, to the security council. Our goal is to seek implementation of the many resolutions voted since 1978.

We are referring in particular to Resolutions 425 and 426 of June 1978. Those resolutions mandated the creation of Unifil with the objectives of confirming the withdrawal of Israel and establishing an area of peace and security in South Lebanon. Furthermore, Resolution 426 calls for the reinstatement of the 1949 general armistice agreement. There should no longer be any pretext for its implementation since the Cairo agreement with the PLO has now been officially abrogated. Thus, there is no longer any ground to oppose the U.N.'s overseeing of security arrangements on the Lebanese-Israeli frontier.

Such arrangements, entrusted to a reinforced Unifil, are undoubtedly a credible guarantee of the needed stability.

As this assembly knows, Unifil's mandate has been redefined, in Resolutions 498 and 501.

A timeable of Israeli withdrawals and a joint program of activities between Unifil and the Lebanese Government was called for in Resolution 488 in order to promote the "restoration of its effective authority up to the internationally recognized boundaries."

Other resolutions must be referred to, particularly Resolution 436 of October 1978 which called upon "all those involved in hostilities in Lebanon to put an end to acts of violence and observe scrupulously an immediate and effective cease-fire and cessation of hostilities so that internal peace and national reconciliation could be restored based on the preservation of Lebanese unity, territorial integrity, independence and national sovereignty."

Finally, Resolutions 508 and 509 of June 1982 as well as Resolution 520 demanded "the strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the unique and exclusive authority of the Lebanese Government, exercised through the Lebanese army in the whole of Lebanon."

In due course, the security council might have to meet and devise the necessary ways and means to implement the relevant resolutions. The objective must be to ensure the full withdrawal of Israeli forces from Lebanon, and enable the Lebanese army and the internal security forces to operate exclusively throughout Lebanon, with the assistance of Unifil, in accordance with its terms of reference.

Mr. President, the failure to implement U.N. resolutions has prompted the Lebanese to resist, with force, continued occupation. The general assembly has itself recognized this right.

Yet, we have not and shall not despair of securing withdrawals by appealing to international legitimacy.

The thirteen years of war that we have survived have demonstrated, beyond question, that there is no substitute for, or alternative to, the role of legitimate and accepted institutions. Hence our determination to support our appeal to international legitimacy with a consolidated internal consensus on constitutional legitimacy.

Indeed, all past attempts to by-pass the legitimate forces and seek internal and external security arrangements with illegal militias ended in tragic failures. External powers have come up against the same realities in Lebanon. Their attempt to deal with forces outside the recognized legal institutions of the State have not only resulted in similar failures but compounded their problem.

The agony of State power, of sovereignty unable to exercise full authority, is coming to an end.

People are increasingly disenchanted with the divisive sectarian forces which have brought Lebanon to the threshold of partition or annexation. A credible central Government, even if challenged by various partitionists and their foreign inspirers, remains the only rallying point for the vast majority of Lebanese, whatever their religious community.

Mr. President, in this, my last year in office, I am determined to bring to its conclusion a constitutional reform which should reunite the Lebanese and enable us all to save our country, secure our independence, and exercise our national sovereignty.

Mr. President, I am calling on the international community, and particularly on the great powers, to help Lebanon disentangle itself from violent interplay amongst the combatants. In so doing we would take the essential step, in conjunction with the international conference, toward Middle East peace. My appeal to the international community is as much in the interest of regional peace as it is in the interest of Lebanon.

If my call is not heeded, let me tell you, Mr. President, where Lebanon is heading. It is on its way toward an economic disaster, the first phase of which we are already experiencing. The next phase is likely to be a violent upheaval that will transform not only our Liberal economic system, but also the democratic political system on which it is based. When this happens, many of the solutions that now seem appropriate will become obsolete. Extremism, of all sorts, will grow in this fertile ground of despair, and the spirit of moderation will be extinguished.

The demands for sectarian partition, which now exist as contingent facts in time of war, will increase, creating havoc in the existing state system of the Middle East.

Anarchy, unchecked by the hope of order and stability, will encourage terrorism and lead to more kidnapping, more hostage-taking, more alienation from rational policies, and a wider chasm between the Middle East and the rest of the world.

I have not undertaken this exposition merely to define the problem. I am here today to identify a course of action which we must undertake together. I am not making our crisis international for it is already international. I am trying to define the problem, to contain it, and to bring it to an end.

This course of action begins with a program of organic and structural reforms which will be initiated through the constitutional process. Thus we would be responding to the ever-growing conviction, that no solution to our crisis can or should be sought outside the constitutional process of a democratic system.

A reformed constitution must enable the various Lebanese communities to fulfill an effective and extensive partnership in government.

Executive power, exercised through the council of ministers, must be genuinely representative of the aspirations of each and all. The changes and needs of the Lebanese society, as it has evolved, must be accommodated in a manner that will shield us against external exploitation in our domestic affairs.

Through rigorous redefinition of powers and powersharing, any possibilities of hegemony by any group over the others should be eliminated.

Although the war was not started by the demand for reforms, I am convinced it will not end without them. A new government, entrusted with this mission, shall be formed. This government will have to disarm the militias and direct strengthened and restructured armed forces to extend legal authority over the land.

It is Lebanon's historic mission, and a geopolitical imperative, that the dialogue between Islam and Christianity should be restored and intensified in our land and amongst our people. For in Lebanon, and Lebanon alone, does this dialogue assume its existential dimension, a conviviality that will serve the cause of international understanding.

Islam is today at an important crossroads. Islam should not be viewed exclusively in terms of so-called Islamic fundamentalism, expressing itself in violence. There is a rebirth of Islam which cannot be understood from the outside, abstractly.

It can neither be approached with fear nor with flattery, but through full partnership in life, culture and government. Lebanon's destiny is to meet this challenge. Our survival, as well as world peace will depend on the success of the response.

Our principal partner in this approach should be Syria, with whom relations have often been strained since our emergence as independent states.

But there is no reason for these problems between our two countries to continue. Our relations should be normalized. Lebanon is an independent and sovereign country, part of the Arab world, and Syria is our closest neighbor in the Arab community. Consequently, relations between Lebanon and Syria should not only be normal, They should be distinctive and characterized by friendship and cooperation as benefits neighbors elsewhere.

It is in the best interests of both Lebanon and Syria to restore this positive relationship as soon as possible.

The principles for an agreement between Lebanon and Syria have been set. Within the parameters of its sovereignty and independence, Lebanon is ready to go a long way to establish the closest relations with Syria. In saying this, I have the deepest interests of both Lebanon and Syria in mind.

Syria's military presence in Lebanon since 1976 has extended to over sixty percent of our territory.

This has given Syria an overwhelming influence in Lebanon, which has not served the better interests of either country. Through its policy of alliances with Lebanese parties and personalities, Syria has generated friendships, but also enmities.

Although regionally and internationally, Syria is perceived as a vital actor in Lebanese affairs, it has been established that there cannot be a Syrian solution to the Lebanese question. But I hasten to add, that there is no solution to the Lebanese question without Syria.

Specific covenants and treaties govern inter-Arab relations. Lebanon and Syria must see to it that they be respected to the letter, particularly in matters of mutual security and strategic interests.

The withdrawal of the Syrian army from Lebanon should and will happen in the context of those covenants.

New relationships will be developed with the Palestinian Liberation Organization. A new Lebanon cannot afford to repeat the mistakes of old.

Lebanon will not tolerate on its territory an armed group of any kind. Only the legitimate organs of the State, or organized forces operating in Lebanon at the request of the Lebanese Government, will be permitted to carry arms. Lebanon is prepared to grant the PLO a presence on its soil for the peaceful promotion of the cause of the Palestinian people to which Lebanon is committed. In the context of the Arab League, Lebanon will coordinate policies relating to the rights of the Palestinian people. Such policies, however, should not violate law and order in our country, nor lead to Palestinian implantation in Lebanon. Vigorous work, requiring close coordination, will have to be undertaken, both to repair the damage done to Lebanese-Palestinian relations and to build new and enduring ties.

Finally, the unlearned lessons of the Palestinians must not be repeated by others. Iran must be militarily disentangled from Lebanon.

Iran's image in the region and in the world has not been enhanced as a result of its policies in Lebanon, or by the acts of violence undertaken by its follows in my country. In fact, Iran's actions and continued rejection of Resolution 425 and other security council resolutions will further endanger the Lebanese in the South.

All Iranians who are in Lebanon, by virtue of Iran's self-bestowed military-ideological commitment, and without permission of the Lebanese Government, should leave as soon as possible. Yet, Iran has important religious, cultural, and commerical links with Lebanon. These links can be encouraged and strengthened by agreements between the two countries, in accordance with the established norms of cooperation amongst independent and peaceful States.

Mr. President, if I have digressed into what appears to be strictly internal affairs, it is because, as I stated earlier, peace in Lebanon can only be attained by an encounter between the national and the international.

The Lebanese were not free to choose between war and peace. If international peace and security is to be protected against the consequences of continued chaos, violence, and terror in Lebanon, the world community must secure for the Lebanese the freedom to choose.

I would also like to repeat my firm conviction that peace in the Middle East is indivisible, and that peace in Lebanon must be the beginning, and not the end.

To those who envision, be they friend or foe, that the withering away of Lebanon is a solution to their problems, let me say this:

The disappearance, or dismemberment of Lebanon will create more problems, more tragedies, and greater violence.

In years past, my country was proud to be a haven for peace, a link between cultures. Now, it has become a haven for terror; a link between wars.

But it remains my country. And no sacrifice is too great in its defense.

ACID RAIN NEEDS ACTION NOW

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. SLAUGHTER of New York. Mr. Speaker, a young constituent recently wrote me that he had attended Boy Scout camp in New York's Adirondack Mountains. He reported on the acid rain damage he had seen there: "The trees are dying and the lakes have no more fish in them." He went on to ask me, "Is anything being done about this problem in this country besides talking and writing?"

Unfortunately the recently released report of the National Acid Precipitation Assessment Program [NAPAP] appears to be another attempt to continue "talking and writing" and to postpone action. The report which was due 2 years ago conveniently ignores scientific studies and adopts unrealisticly optimistic assumptions to justify continued inaction.

I include for the RECORD a perceptive editorial from the Rochester Democrat and Chronicle entitled " 'Voodoo science' is acid rain's friend." I concur with its conclusion that the NAPAP study is just "one more waffling report * * * one more excuse for doing nothing about acid rain."

My constituents know from personal observation that acid rain is taking a terrible toll on New York State's environment. We cannot accept the inconclusive conclusions of the NAPAP report. Now is the time to start fighting this "dripping destruction."

Mr. Speaker, I submit a copy of the editorial from the Rochester Democrat and Chronicle:

[From the Democrat and Chronicle,
Rochester, NY, Sept. 25, 1987]

"VOODOO SCIENCE" IS ACID RAIN'S FRIEND

Acid rain studies from the Reagan administration fall like a Chinese water torture: Our drip at a time they try to dilute efforts to fight this very real threat to the environment.

The latest study, issued last week by the administration's National Acid Precipitation Assessment Program, concludes that acid rain poses no immediate danger to lakes and forests.

That's like saying to Congress: Put legislation for fighting acid rain on the back burner for yet another year, things aren't that bad. The administration and its Environmental Protection Agency have been using those same kinds of smoke and mirrors with Congress since 1980.

"Voodoo Science," is how Canada's environment minister, Tom McMillan, describes the report. "It's intended to prove that the situation is not as bad as it is said to be and therefore there is no need to act with urgency."

He's right. In Canada, where the effects of acid rain from midwestern U.S. smokestacks are devastating, real efforts are being made to stop the pollution.

But the Canadians and states such as New York with its acid rain-threatened Adirondacks can do little without massive help from the federal government.

That means it's up to Congress and the president. Until last year, Congress dragged its feet with the approval of the administration. Some progress was made when a bipartisan bill came out of the House Energy Subcommittee on Health and the Environment.

That bill never made it to the floor of the House, but its backers and environmentalists were optimistic about legislation this year that focuses on pollution from large power plants, a major source of sulfur dioxide pollution.

But with slick timing, the administration has dropped one more waffling report from the clouds, giving Congress one more excuse for doing nothing about acid rain.

It's time for Congress to stand up and see these sorry delaying tactics for what they are: As deep a threat to the environment as the acid rain that they allow to go on dripping destruction across the nation.

ROCHESTER NY, *September 17, 1987.*

Congresswoman LOUISE SLAUGHTER,
Longworth Building,
Washington, DC.

DEAR CONGRESSWOMAN LOUISE SLAUGHTER: I have read and heard a great deal about the effects of acid rain. Recently on public broadcasting a program described the extreme loss of forests in Scandinavia and Germany due to it. I have also been camping at a Boy Scout camp in the Adirondacks and have seen the beginning of the effects of acid rain there. The trees are dying and the lakes have no more fish in them. My science teacher told me that the source of the problem is the burning of high sulphur content fuels and discharging the smoke which is high in sulphur dioxide into the atmosphere. This combined with the rain forms a sulphuric acid rain that falls on the Northeastern United States and Canada. This all comes from the Ohio valley area. So by not cleaning this up we are doing damage to the environment in both the United States and Canada. The damage done here is not as bad as in Europe and Scandanavia yet, but allowed to continue, it will be, or worse. Our good neighboring Canadians do not deserve this, and neither do we.

Is anything being done about this problem in this country besides talking and writing about this problem? Is there a way known to reduce this source of polution? Is it too expensive to use, if it is known? I wonder why more isn't being done to solve this serious problem before irreversible damage is done as has happened in other countries. Is the Government and its various agencies making or aiding industry in cleaning up this problem by controlling emissions? Why does it seem to be taking so long to take some positive action before it is too late. Maybe the issue is being dealt with and just hasn't been in the news, so I haven't been able to read or hear about it.

I know how busy you are, but could you let me know where the country stands on this issue and problem, what is being done, and how we can all take a part in the solution?

Sincerely,

ERIK NILSEN.

ICTA PRESIDENT SHOULD LISTEN TO HIS MEMBERS CONCERNING GOLD BULLION COINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, recently the Industry Council for Tangible Assets [ICTA] has been attacking my conclusions that the U.S. mint's establishment of a cartel to distribute the American Eagle gold bullion coins is both illegal and harmful to the program. The ICTA president, Howard Segermark, believes that the mint and the members of the cartel are doing a great job in getting the coins to the public. Perhaps Mr. Segermark should talk to Bruce Kaplan, the immediate past chairman of ICTA. Last year, Mr. Kaplan's firm, A-Mark Precious Metals, sued the mint over the distribution network, while Mr. Kaplan was chairman of ICTA. The suit was over the very distribution system that the ICTA president now praises so lavishly, the only difference being that A-Mark is now a member of the cartel as a result of the suit.

It's instructive to examine what A-Mark told the U.S. District Court for the District of Columbia regarding the mint's distribution system. In its court filings A-Mark calls the distribution plan: a "plain violation of the [American Gold Bullion Coin] Act", an "unlawful distribution scheme," an "unlawful and ultra vires marketing and pricing scheme," a denial of "equal protection of the laws, in violation of the fifth amendment of the U.S. Constitution," "arbitrary, capricious and an abuse of discretion not in accordance with law and excess of the defendant's authority under the act" and "contrary to the express requirement in the act."

ICTA's president disputes my description of the primary marketers as a cartel. Yet his past chairman's firm denounced the marketers to the court as "an exclusive cartel of wealthy distributors."

The revisionist history by ICTA presents the distribution system as benefiting consumers and other dealers. That is not how A-Mark viewed it while not a distributor. It told the court that it would suffer "great economic detriment, irreparable injury and damage to its business, including the loss of customers, sales, market share, goodwill, prestige, and reputation."

Does the distribution plan assure that the coins are available to the public at the lowest possible price, as Mr. Segermark implies? Hardly. The founder of A-Mark, in a sworn affidavit stated that the "mint's plan forces A-Mark to purchase the coins at prices dictated by the select group of authorized distributors and to then cut its margin in order to remain competitive with them." The distributors were not reluctant to benefit from their privileged position. In a second affidavit the founder pointed out that A-Mark was offered gold coins "at an exorbitant premium over the distributor's cost."

The harm caused by the distribution system was not only financial. A-Mark's founder cited the "irreparable damage through the loss of goodwill" that A-Mark would suffer by its exclusion from purchasing from the mint. He pointed out that the firm would "lose customers and sales during" the initial peak sales period. He pointed out that new customers would go to the authorized distributors at the outset of the program and be lost to his firm.

How prudent is the distribution system? According to A-Mark, the "distributors have been chosen pursuant to arbitrary and unconstitutional criteria". Is the mint distribution system necessary for a successful bullion program, as ICTA claims? Not so, according to A-Mark, describing the marketing plan to the court as having "no rational relationship to any legitimate purpose under the act."

What was A-Mark's views about the supposed "fierce competition" that ICTA President Segermark claims exists under the distribution scheme? The ICTA chairman's firm attacked the distribution scheme for creating "unduly restricted competition" in violation of the Competition in Contracting Act.

Then Mr. Segermark claims that nobody expected the high initial demand for the coins. On October 18, 1986, 2 days before the gold coins went on sale, the founder of A-Mark, in a sworn affidavit, told the district court:

> The period immediately following the first offering of the American Eagle coins will provide a unique opportunity to the gold coin distributors. Historically, [other gold coins] *experiencd very high sales in the weeks following introduction of those coins.* A-Mark will lose customers and sales during *this peak period.* (Emphasis added.]

Perhaps Mr. Segermark needs to consult with his membership about the demand for new issues of gold coins.

In case anyone is wondering why A-Mark is not disputing the descriptions of the gold bullion coin program by the president of ICTA, the answer is simple. The mint settled the A-Mark lawsuit by making the firm an authorized distributor. Instead of still criticizing the cartel, A-Mark is now a member of the cartel. Mr. Segermark can sing safely the praises of the distribution system, without running the risk of offending one of the ICTA's most prominent members, and without being in conflict with the position of his past chairman's firm.

A-Mark's put its candid evaluation of the distribution system in the public record when it challenged the system. ICTA's President can try to ignore that devastating record, but he can never erase it. His past chairman's firm's actions in fighting the unlawful distribution system, speak louder and more eloquently than his own empty words.

IN HONOR OF DR. MARVIN EPSTEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, this Thursday the Walnut Creek, CA, Muir Society appreciation dinner will honor one of the finest physicians in northern California, Dr. Marvin A. Epstein.

It is most fitting that this first annual appreciation be held for Dr. Epstein, since he is one of the original, small group of doctors who helped found the John Muir Hospital in 1965. This hospital is now a leader in the community and is considered one of the best hospitals in California. Dr. Epstein was on the hospital's first board of directors and was elected by his fellow physicians to serve as chief of staff in 1966.

Dr. Epstein is a leader in the treatment of heart diseases. He has been awarded silver and bronze medallions from the Heart Association in recognition of his services and was a leader in organizing the cardiac care unit at John Muir Hospital, where he served as its director for some 18 years.

For nearly 40 years, Dr. Epstein has been serving the people of northern California. After completing undergraduate work at Harvard and his medical degree from the University of Rochester School of Medicine and Dentistry in 1948, he moved to California and became chief resident in medicine at Oakland's Kaiser Foundation Hospital.

His work for the community has included leadership in helping to found and operate the

John Muir Foundation. His research projects have resulted in some 20 publications.

As all of the above so clearly indicates, he is a very special doctor and a very special community leader.

I join the community and all his many, many friends in congratulating him on this latest honor.

PERSONAL EXPLANATION OF VOTES MISSED DUE TO OFFICIAL BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. McHUGH] is recognized for 5 minutes.

Mr. McHUGH. Mr. Speaker, during the week of September 28 I was an official representative of the United States at the Second Strasbourg Conference on Parliamentary Democracy in Strasbourg, France. Because of the official business of the Conference, I missed rollcall votes on legislative matters. Therefore, I would like to indicate how I would have voted if I had been present.

Rollcall 334, "yea."
Rollcall 335, "yea."
Rollcall 336, "yea."
Rollcall 337, "yea."
Rollcall 338, "nay."
Rollcall 339, "yea."
Rollcall 340, "yea."
Rollcall 342, "nay."
Rollcall 343, "yea."
Rollcall 344, "nay."
Rollcall 345, "yea."

UPGRADING THE VA TO CABINET LEVEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, today I have joined the distinguished chairman of the Government Operations Committee, Mr. BROOKS, and the committee's ranking minority member, Mr. HORTON, in introducing legislation that would upgrade the Veterans' Administration to Cabinet-level status.

Many bills have been introduced over the years to make the Federal Government's largest independent agency a Cabinet department, and veterans throughout the country are encouraged that during the 100th Congress their long-time goal may finally be realized. This legislation is long overdue, Mr. Speaker, and I am pleased that the leadership of our two committees are in agreement that the legislation should be passed by the Congress and signed by the President.

It should be emphasized that this bill will not expand the size of the Federal Government nor is there any significant cost associated with its enactment. There will be a cost associated with purchasing another chair for the Cabinet room, but that's all.

Through the leadership of the distinguished ranking minority member of the Committee on Veterans' Affairs, Mr. SOLOMON, and the work of the veterans organizations, 239 Members have cosponsored a similar bill (H.R. 1707) introduced by Mr. SOLOMON, which has overwhelming bipartisan support. The Honorable STROM THURMOND has introduced an identical bill in the Senate and his measure also enjoys strong support from both sides of the aisle.

I commend the very able chairman of the Government Operations Committee, Mr. BROOKS, and the distinguished gentlemen from New York, Mr. SOLOMON and Mr. HORTON, for their support of legislation that, if enacted, will make the VA a Cabinet-level department, and I pledge to all of them my full support in getting a bill to the floor as soon as possible. Veterans organizations look forward to hearings on the bill and have already expressed their strong support for the legislation.

There follows a copy of the letter Mr. SOLOMON and I sent to the distinguished chairman and ranking minority member of the Government Operations Committee in support of this legislation:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, September 21, 1987.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, Washington, DC.

DEAR MR. CHAIRMAN: A government agency with a potential constituency of almost one-third of the Nation's population, an annual budget nearing $28 billion, the largest health care delivery system in the free world, one of the largest life insurance programs in the world, and an employee total second only to the Department of Defense, deserves to have direct access to the White House and to be represented in the White House Cabinet room. For these reasons and more, 228 of our colleagues are endorsing H.R. 1707, which could upgrade the Veterans' Administration to a Cabinet-level department.

We respectfully request a hearing on H.R. 1707. We would be pleased to appear before your committee and discuss why we believe this matter is of such great importance. We are enclosing for your consideration facts about the Veterans' Administration and its mission fully confident that there is more than ample justification for this long-overdue action.

The Congress has previously gone on record in support of this issue. Title V of Public Law 98-160 expresses the sense of the Congress that "the Administrator of Veterans' Affairs should be designated by the President as a member of and a full participant in all activities of, the Cabinet and as the President's principal adviser on all matters relating to veterans and their dependents."

Granting Cabinet status to the Veterans' Administration cannot be interpreted legitimately as government expansion or big spending; the Congressional Budget Office has stated that there are insignificant costs involved in upgrading the VA to a department. We are simply talking about giving veterans greater access to the White House and to the policy-making process that affects them and their families.

Mr. Chairman, you are probably well aware that, under the current process, VA input or influence into the oft-times dictatorial decisions of the Office of Mangement and Budget is either limited or disregarded entirely. Since, within the executive branch, it is the VA and its employees that know best the resources needed to serve veterans and know best how to administer those resources, shouldn't the agency be a major contributor to the decisons that will affect those resources? Shouldn't the agency be allowed to participate in the discussions that shape its future? Isn't it time the veterans of this nation had access to their government at its highest levels, access commensurate with the immeasurable contributions and sacrifices they have made to establish and safeguard that government?

The VA mission involves a broad cross section of Americans, greatly affects the American economy, and represents a wide variety of domestic programs. Considering the size of the agency, its constituency, and its responsibilities . . . considering the significance of its objectives and accomplishments . . . considering its long history of invaluable service to the Nation . . . we believe this change is warranted.

We know of no individual in the Congress who has been more supportive of veterans, and we know you will consider seriously our request.

Sincerely,

G.V. (SONNY) MONTGOMERY,
Chairman.
GERALD B.H. SOLOMON,
Ranking Minority Member.

THE VETERANS' ADMINISTRATION

The Veterans' Administration was established July 21, 1930, to bring together under a single agency responsibility for providing federal benefits to veterans and their dependents. In parallel with the vast increase in the number of veterans over the last 57 years, the VA's size and responsibilities have grown dramatically. It is now the Federal government's largest independent agency.

The present veteran population of 27.6 million is almost six times the 4.7 million veterans living in America in the VA's founding year. Altogether, 79.3 million persons—veterans, dependents and survivors of deceased veterans—are potentially eligible for VA benefits and services. This is almost one-third of the nation's population.

As of June 30, 1987, there were 253,715 employees on the VA rolls in a pay status. Among all departments and agencies of the federal government, only the Department of Defense has a larger work force. One out of every 10 employees of the federal government's full-time permanent work force is employed by the VA.

Statistics on FY '86 actual spending indicate that the VA has the fifth largest budget among Federal departments and agencies. VA expenditures were more than the Departments of Energy, Interior, Justice, State and Commerce combined.

Fiscal year 1986 Actual

[In thousands of dollars]

Defense:	
Military	$265,636,414
Civil	20,253,706
Total	285,890,120
Health and Human Services (except Social Security)	143,252,902
Agriculture (includes Commodity Credit Corp.)	58,679,386
Transportation	27,377,718
Veterans' Administration	26,535,710
Labor	24,141,174
Education	17,673,154
Housing and Urban Development	14,139,010
Treasury	203,242,777
Minus interest on the public debt	190,166,367
Total	13,076,410

Energy	11,026,443
Interior	4,788,943
Justice	3,767,990
State	2,864,893
Commerce	2,083,410

Through September 30, 1986, the VA and its predecessor agencies have spent $486 billion for benefits and services to veterans, their dependents and survivors. The fiscal 1988 VA budget is $27.9 billion (BA).

Some 58.7 percent of VA outlays go for direct benefits such as compensation, pension and education checks; 36.2 percent of the budget is for hospital and medical care; 2.3 percent for hospital, national cemetery and other construction programs, and 2.8 percent for general operating expenses.

Today, the VA is providing the most comprehensive and diverse benefits program in its history to veterans and dependents.

Compensation and pension

There are nearly three million veterans receiving disability compensation or pension payments from the VA. Just over one million widows and other survivors of veterans are being paid survivor compensation or death pension benefits.

VA disability and death compensation and pension expenditures run about $14 billion annually, an amount greater than the budget of six of the 13 cabinet-level departments.

Education and training

From 1944, when the first GI Bill became law, to December 1986, a total of 18.3 million beneficiaries have received GI Bill education and training. This includes 7.8 million World War II veterans, 2.4 million Korean Conflict veterans, and 8.1 million Post-Korean and Vietnam-era veterans and active duty service personnel.

Some 8.4 million veterans have attended college under the GI Bill and 9.9 million have received technical, farm and other training.

Proportionally, Vietnam-era veterans have been the greatest participants in GI Bill training. About 66 percent of those eligible have taken training, compared with 50.5 percent for World War II veterans and 43.4 percent for Korean veterans.

The VA has also assisted in the education of nearly 500,000 sons, daughters, widows or wives of veterans whose deaths or permanent and total disabilities were service-connected.

As an investment, this expenditure has been profitable to the federal budget and the Nation. Additional income taxes from veterans, whose lifetime earnings were increased as a result of GI Bill training, amount to several times more than the initial investment in education.

We now have a permanent peacetime GI Bill—developed as a readjustment tool for veterans and as a recruitment and retention incentive for the Armed Forces. Since it was implemented on July 1, 1985, approximately 60,000 Guard and Reserve personnel have attended school under the program and 348,000 active duty personnel have enrolled. The Armed Forces have been able to counter the rapidly declining pool of eligible recruits. Potential recruits, who otherwise might not have been able to afford it, now have an excellent opportunity to further their education. Colleges are benefitting from higher enrollments of disciplined, goal-oriented individuals. And America is getting a better-educated society.

Medical care

Perhaps the most visible of all VA benefits and services is the VA's hospital and medical care program.

From 54 hospitals in 1930, the VA hospital system has grown to include 172 medical centers, 229 outpatient clinics, 117 nursing home care units, 16 domiciliaries, and 189 Vet Centers. It is the Nation's—in fact, the free world's—largest medical care system.

There is at least one VA medical center in each of the 48 contiguous states, Puerto Rico and the District of Columbia. With 78,000 beds, the medical centers annually treat 1.3 million patients. The VA's outpatient clinics register more than 20 million visits a year. The VA's nursing homes and domiciliaries care for 37,000 veterans a year.

VA medical centers provide a wide range of professional services, including nursing, pharmacy, psychology, rehabilitative medicine and social work.

In 1986, the medical care system employed over 7,000 full-time physicians, 5,000 part-time physicians, 10,000 residents, some 35,500 registered nurses, approximately 10,900 practical nurses, some 16,800 nursing assistants and about 130,000 other dedicated health-care specialists and personnel who staff VA medical facilities nationwide.

The VA is currently affiliated "in partnership" with 102 medical schools and 59 dental schools nationwide. One-half of all physicians in practice in the United States today have received some portion of their training in VA health facilities. More than 100,000 students in all disciplines received clinical training in VA facilities during 1986.

Since 1979, the VA has operated a nationwide system of Vet Centers which provide readjustment counseling services to Vietnam-era veterans. There are 189 of these "storefront" centers around the country. More than 500,000 veterans and family members have received counseling for a variety of problems—including employment, marital, and post-traumatic stress disorder.

Medical research

While providing high quality health care to the Nation's veterans, the VA also conducts an array of research activities concentrating on some of the most difficult research challenges facing medical science today. From its beginning 41 years ago, the research effort in the VA has evolved into an internationally recognized major contributor to medical science and to the advancement of practice in all areas of medicine.

VA research helped to conquer tuberculosis; to develop the heart pacemaker; to perfect kidney transplants; to develop the concept of the CT scanner; and to develop the laser cane for the blind. The VA is recognized as a world leader in the research and development of prosthetic devices. Recent VA innovations include a robotic arm, omnidirectional wheelchairs and aids for diminished vision.

VA researchers are exploring ways to improve the treatment of the spinal-cord injured, including spinal cord rejuvenation, and are development new, improved artificial limbs for amputees. VA psychiatrists and psychologists are continuing to develop techniques in the treatment of schizophrenia, alcoholism, and the long-term psychological effects of war.

The VA is a world leader in exploring care for the aged and is deeply involved in research pertaining to Alzheimer's disease.

AIDS is caused by a virus—HIV—that is transmitted by sexual contact or through contaminated blood or blood products. Researchers at VA medical centers are actively investigating the mechanisms by which HIV infection causes the complex medical conditions of immune dysfunction, dementia and rare cancers. By understanding the disease process, new therapies can be developed that will stop the progression of this viral disease and perhaps prove useful in other viral infections as well.

Two VA scientists have received Nobel prizes for their research efforts. One, Dr. Andrew Schally of New Orleans, has developed a revolutionary treatment for prostate and breast cancer and expects to begin testing the treatment in VA hospitals within a year.

Home loan assistance

The VA's 43-year-old loan guaranty program has benefited some 12.4 million veterans and their dependents. From 1944, when this program was established as part of the original GI Bill, through September 1986, VA home loan guarantees have totaled $263 billion. In addition, the VA has made 333,000 direct loans valued at $3.4 billion. In Fiscal Year 1986, the VA guaranteed 307,747 loans valued at almost $22 billion.

Insurance

The VA operates one of the largest life insurance programs in the world. In 1986, the VA administered and supervised approximately $200 billion in life insurance policies for 7.2 million veterans and military personnel. The 1987 GI life insurance dividend is expected to return a record $934 million to policyholders—$30 million more than the previous year.

National cemeteries

Since 1973, when the VA took over the National Cemetery System, eight new national cemeteries have been established and two more have been approved for Florida and northern California.

Today, the National Cemetery System is composed of 111 operating cemeteries in 38 states and Puerto Rico. Of these, 66 are open to new interments. Total acreage in the system has increased from 4,000 acres to the present 9,900 acres. Interments are expected to increase from 52,220 in FY 1986 to 81,000 in the year 2000.

The VA also provides nearly 250,000 headstones or markers each year to mark the graves of veterans buried in private and national cemeteries.

THE INDIAN MUSEUM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, today I am introducing legislation which would establish, within the Smithsonian Institution, the American Indian-Alaska Native Museum. Presently, there exists no national museum devoted exclusively to the history and culture of our country's indigenous people. I feel that this is a sad reflection on our country's efforts to stand tall in the preservation of our history, archeology, and ethnology. This is especially important because the American Indian and Alaska Native have a unique place in this country's history. Additionally, the American Indian and Alaska Native have much to contribute to the arts from their rich heritage, both past and present. I would also concur with my colleague in the Senate, Mr. INOUYE, who stated, in his remarks on introducing the

Senate version of this bill, that this part of our history has many sad and tragic chapters.

The primary purpose of this bill would be to create a single, national museum for the preservation of the history and art of the North American Indian and Alaska Native by combining all of its existing collection of Indian/Alaska Native art objects and artifacts. It would also authorize the acquisition of the collection of the Museum of the American Indian Heye Foundation of New York City for addition to the Smithsonian's collection for exhibition and preservation.

The present Smithsonian exhibition of American Indian/Alaska Native artifacts is displayed in its Museum of Natural History. The Smithsonian collection also includes numerous items, many of which are not available for public viewing due to the limited space within the Museum of Natural History. Additionally, for those scholars and researchers who would seek to study the Smithsonian's collection, there exists limited room for reviewing and documenting their observations. This legislation to create a separate Indian museum would also authorize the Smithsonian, in addition to providing an appropriate setting for its valuable collection, to provide adequate space and resources to permit interested Indians and other individuals the opportunity to study and research these immensely important, historical artifacts in a more suitable site and manner.

This bill would allow this Congress the opportunity to rectify a serious omission in our country's efforts to promote and achieve a better understanding among all people of the history, culture, and rights of American Indian people. Since these events and issues are an integral part of our country's growth, this museum would be a valuable resource in educating any interested citizen in this aspect of the U.S. past and present.

Too often, in my efforts to resolve or assist in Indian-related matters, I have seen the misunderstanding among the general public and public officials on the roots and rights of American Indians. This museum would help correct the misinformation or misunderstandings which exist in this country.

A third goal of this legislation would be to authorize the establishment of a memorial to Indian people, both past and present. This memorial would also serve as the final resting place for the remains of those Indian people which the Smithsonian holds and which cannot be identified for return to their tribe or origin. These are, by and large, the remains of Indians which were collected at the War Department's request in the 19th century and were subsequently transferred to the Smithsonian for preservation.

A final matter which I believe merits some clarification is the intent of this legislation to authorize the acquisition of a private collection of Indian artifacts known as the Indian Museum of the Heye Foundation. This collection is presently located in New York City and has been the focus of much discussion by both the public officials representing New York City and board of trustees to the Heye Foundation. It has not been my intention to summarily mandate the acquisition of a private collection, no matter how valuable and extensive. I am aware, though, that the board of trustees has voted to support the transfer of this collection to the Smithsonian Institution.

However, I recognize that there are many constraints and questions which yet need to be resolved before any final determination can be made on what would be in the best interest of all the affected parties and the public. I would reiterate that, in light of the present conditions under which this impressive collection is displayed and warehoused, this bill should be perceived as a means of providing an adequate setting and appropriate means of maintaining this collection for the benefit of all people. The city of New York and her people, in the meantime, should be assured that I do intend to explore every avenue possible which would permit this private collection to be, in part, retained within their city limits.

This legislation is only a beginning. More important, we are taking the first step in the creation of a long-overdue public institution to preserve, for the enlightenment of the people of this country, a very special and vital part of our country's history and future.

UPGRADING THE VA TO CABINET LEVEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Brooks] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, Congressmen Sonny Montgomery, Gerald Solomon, Frank Horton, and I are today introducing legislation to elevate the Veterans' Administration from an agency to a Cabinet-level department of the Federal Government. As chairman and ranking minority members of the House Committee on Veterans' Affairs and Committee on Government Operations, we have long been concerned about the attention that is given to the needs of America's veterans at the Federal level.

The Veterans' Administration has the major responsibility for fulfilling this country's obligations to our veterans. By giving the Veterans' Administration Cabinet-level status, making the head of that Agency a member of the Cabinet, the needs of our veterans will be given greater attention than they now receive. This change has been encouraged by veterans' organizations across the country and over half the Members of this body have already expressed support for it.

The Veterans' Administration is the second largest Agency in the Federal Government in terms of staff. It's budget is larger than the budgets of over half of the existing departments.

Our bill would maintain the current internal structure of the Veterans' Administration, but by requiring the principal officers to be appointed by the President and confirmed by the Senate, it improves the accountability of these officers to the Congress.

The Legislation and National Security Subcommittee of the Committee on Government Operations will hold a hearing on the bill at 10 a.m., Tuesday, October 27, 1987, in room 2154 of the Rayburn House Office Building.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. Derrick] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, on behalf of Chairman William H. Gray III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act as amended, I am submitting for printing in the Congressional Record the official letter to the Speaker advising him of the updated current level of spending, credit, and revenues for fiscal year 1988. This is the first report for fiscal year 1988 and includes the full year estimated cost of the continuing resolution, Public Law 100-120, the Medicare freeze contained in the Balanced Budget and Emergency Deficit Control Reaffirmation Act, Public Law 100-119, and the interim extension of certain veterans housing programs, S. 1691.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current-level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1988—House Concurrent Resolution 93—adopted on June 24, 1987.

Current-level reports provide information that is necessary for enforcing section 311 of the Budget Act. Subsection 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set in the budget resolution.

Subsection 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985—House Concurrent Resolution 280, 98th Congress. The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985—Public Law 99-177, Gramm-Rudman-Hollings. This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1988, the 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 93 were printed in House Report 100-201, July 1, 1987. Pursuant to sections 5(a) and 5(b) of the fiscal year 1988 budget resolution, the appropriate aggregate levels of budget authority and outlays and the 302(a) allocation to the Committee on Appropriations do not include amounts held in reserve for future allocation. Subsections 5(a) and 5(b) of the resolution provide that such amounts would be added to the aggregates, and the allocation to the Appropriations Committee would be increased, if the reconciliation conditions specified in section 5(c) are fulfilled.

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 93, on June 24, 1987. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution that alters the assumptions about legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees that are unable to complete work on legislation within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f) of the Budget Act prohibits the consideration of a measure providing new budget authority, entitlement authority, or credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, entitlement, and credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 status report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the appropriations subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 13, 1987.

Hon. JAMES C. WRIGHT, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under H. Con. Res. 93, the Concurrent Resolution on the Budget for Fiscal Year 1988.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Enforcement against possible breaches of the spending ceilings under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to Section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of Section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on H. Con. Res. 93 were printed in H. Rept. 100-201 (July 1, 1987).

This report does not reflect the REA prepayment (P.L. 100-71, Supplemental Appropriations Bill for fiscal year 1987) because the Secretary of Treasury has announced that the statute, as enacted, does not require him to accept prepayments because of the adverse consequences to the Federal Financing Bank.

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the most recently agreed to budget resolution.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1988 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 93

REFLECTING COMPLETED ACTION AS OF OCT. 9, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,146,000	1,034,700	932,800
Current level	1,136,886	1,039,630	910,111
Amount under ceilings	9,114		
Amount over ceilings		4,930	
Amount under floor			22,689
Amount over floor			

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $9,114 million in budget authority for fiscal year 1988, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 93 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 93 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 93.

Fiscal year 1988 budget authority: Comparison of current level and budget resolution allocation by committee pursuant to sec. 302

[In millions of dollars]	*Current level budget authority*
House authorizing committee:	
Agriculture	+1,330
Armed Services	
Banking, Finance, and Urban Affairs	+200
District of Columbia	
Education and Labor	
Energy and Commerce	+590
Foreign Affairs	
Government Operations	
House Administration	
Interior and Insular Affairs	+30
Judiciary	
Merchant Marine and Fisheries	+94
Post Office and Civil Service	
Public Works and Transportation	−1,720
Science and Technology	
Small Business	
Veterans' Affairs	+727
Ways and Means	+533

NOTE.—Committees are over (+) or under (−) their 302(a) allocation.

FISCAL YEAR 1988 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION: COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

House appropriations subcommittee subdivisions	Curren level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	−771	−57	
Defense	+4,924		
District of Columbia	−2		
Energy and Water	−1,232		
Foreign Operations	−314	−468	−50
HUD/Independent Agencies	−449	−22	
Interior	−582		
Labor, HHS, Education	−3,871	−40	
Legislative Branch	−68		
Military Construction	−266		
Rural Development and Agriculture	−3,121	−40	−502
Transportation	−554	−24	
Treasury, Postal Service	−886		
Contingencies/Unassigned	−1,619	−64	−72
Total	−9,041	−714	−624

Note.—Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1988 ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SEC. 302

[In millions of dollars]

Committee	Allocation	Enacted
Agriculture	−1,200	
Armed Services	+1,682	
Education and Labor	+5	
Energy and Commerce	+550	+3
Post Office and Civil Service	+1,459	+3
Veterans' Affairs	+367	
Ways and Means	−1,389	+3

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 13, 1987.
Hon. William H. Gray III,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

Dear Mr. Chairman: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1988 budget (H. Con. Res. 93). This report for fiscal year 1988 is tabulated as of close of business October 9, 1987. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget Resolution H. Con. Res. 93	Current level +/− resolution
Budget authority	1,136,886	1,146,000	−9,114
Outlays	1,039,630	1,034,700	4,930
Revenues	910,111	932,800	−22,689
Direct loan obligations	34,003	34,600	−597
Guaranteed loan commitments	156,171	156,700	−529

This is my first report for fiscal year 1988 and includes the Continuing Resolution, P.L. 100-120, the Medicare provisions of the Balanced Budget and Emergency Deficit Control Reaffirmation Act, P.L. 100-119, and the Interim Extension of certain veterans housing programs, S. 1691.

With best wishes,

Sincerely,

Edward M. Gramlich,
Acting Director.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 1ST SESSION: HOUSE SUPPORTING DETAIL, FISCAL YEAR 1988, AS OF CLOSE OF BUSINESS OCT. 9, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			909,754
Permanent appropriations and trust funds	764,971	666,852	
Other appropriations		205,550	
Offsetting receipts	−169,458	−169,458	
Total enacted in previous sessions	595,513	702,944	909,754
II. Enacted this session:			
Water Quality Act of 1987 (P.L. 100–4)	−2	−2	
Emergency supplemental for the homeless (P.L. 100–6)		−7	
Ginnie Mae fees limitation (P.L. 100–14)		52	
Surface Transportation and Relocation Act (P.L. 100–17)	10,969		364
Federal Employees Retirement System technical corrections (P.L. 100–20)	10	10	
Farm Disaster Assistance Act (P.L. 100–45)	−30	−30	
Supplemental appropriations, 1987 (P.L. 100–71)	68	915	
Small Business Administration program and authorization amendments (P.L. 100–72	−41	−41	
Competitive Equality Banking Act of 1987 (P.L. 100–86)		−650	−7
Credit certain air traffic controller service for retirement benefits (P.L. 100–92)		3	
Medicare and Medicaid Patient and Program Protection Act (P.L. 100–93)		3	
Balanced Budget and Emergency Deficit Control Reaffirmation Act (P.L. 100–119)		−160	
Total enacted this session	10,974	93	357
III. Continuing resolution authority:			
Continuing resolution, FY 1988 (P.L. 100–120)	560,544	366,808	
Offsetting receipts	−30,823	30,823	
Total continuing resolution authority	529,721	335,985	
IV. Conference agreements ratified by both Houses: Interim extension of certain veterans housing programs (S. 1691)	677	608	
V. Entitlement authority and other mandatory items requiring further appropriation action			
Total current level as of Oct. 9, 1987	1,136,886	1,039,630	910,111
1988 budget resolution H. Con. Res. 93	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution		4,930	
Under budget resolution	9,114		22,689

Notes.—Numbers may not add due to rounding. The continuing resolution, FY 1988 (P.L. 100–120) includes full funding levels for entitlement.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Combest) to revise and extend their remarks and include extraneous material:)

Mr. Lewis of California, for 60 minutes, on October 14.

Mr. Hansen, for 5 minutes, on October 21.

Mr. Hansen, for 5 minutes, on October 28.

Mr. Lungren, for 60 minutes, on October 14.

Mr. Burton of Indiana, for 60 minutes, today.

(The following Members (at the request of Mr. Harris) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. McHugh, for 5 minutes, today.

Mr. Montgomery, for 5 minutes, today.

Mr. Owens of Utah, for 5 minutes, today.

Mr. Udall, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Derrick, for 5 minutes, today.

Mr. Smith of Iowa, for 60 minutes, on October 28.

Mr. Flake, for 5 minutes, on October 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Combest) and to include extraneous matter:)

Mr. Lewis of California.

Mr. Fields in two instances.

Mr. Ritter.

Mr. Moorhead.

Mr. Young of Florida.

Mr. Gekas.

Mr. Henry.

Mr. Horton.

(The following Members (at the request of Mr. Harris) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Rodino.

Mr. Crockett.

Mr. Ray.

Mr. Traficant.

Mr. Murtha.

Mr. Stark in two instances.

Mrs. Boggs.

Mr. Roe in three instances.

Mr. Garcia.

Mr. Hughes.

Mr. Levin of Michigan in two instances.

Mr. Wolpe.

Mr. Markey.

Mrs. Byron.

Mr. Kanjorski in two instances.

Ms. Slaughter of New York.

Mr. Slattery in three instances.

Mr. Tallon.

Mr. KLECZKA.
Mr. ROYBAL.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327); to the Committee on Interior and Insular Affairs.

S. 1750. An act to amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal employee, and to provide for the payment of certain travel and transportation expenses of civil service career appointees; to the Committee on Government Operations.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1567. An act to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in the U.S. Claims Court docket numbered 53-811, and for other purposes;

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes; and

H.J. Res. 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1574. An act to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account," and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p.m.) the House adjourned until tomorrow, Wednesday, October 14, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2209. A letter from the Director, Office of Management and Budget, transmitting notification to exempt the military personnel accounts from sequestration, pursuant to 2 U.S.C. 902(a)(2)(B)(iii); to the Committee on Appropriations.

2210. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a listing of contract award dates for the period November 1, 1987 to December 31, 1987, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

2211. A letter from the Director, Contracts Policy Division, Department of the Navy, transmitting notification of the determination and findings to restrict competition to joint venture companies of the United States and the Republic of the Philippines for the construction of 300 family housing units, Clark AB, Philippines, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on Armed Services.

2212. A letter from the Deputy Assistant Secretary of the Air Force, transmitting notification to convert to contract performance the grounds maintenance function at Carswell Air Force Base, TX, as the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Armed Services.

2213. A letter from the General Counsel, Department of Energy, transmitting notification of a meeting related to the International Energy Program to be held October 7, 1987, in Paris, France; to the Committee on Energy and Commerce.

2214. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting a report on amounts obligated and expended in Nicaragua for the period January 1 to June 30, 1987, pursuant to Public Law 97-113, section 724(e) (95 Stat. 1553); to the Committee on Foreign Affairs.

2215. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of proposed issuance of export license and manufacturing agreement of defense articles or defense services sold commercially under a contract to the Government of Korea (Transmittal No. MC-34-87), pursuant to 22 U.S.C. 2776(c) and 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2216. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement for the production of significant military equipment in a country not a member of the North Atlantic Treaty Organization (Transmittal No. MC-37-87), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2217. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement for the production, assembly and servicing of model 500 MD helicopters in the Republic of Korea (Transmittal No. MC-35-87), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2218. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement for the production of significant military equipment in a country not a member of the North Atlantic Treaty Organization (Transmittal No. MC-38-87), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2219. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2220. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2221. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2222. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2223. A letter from the Acting Archivist of the United States, National Archives, transmitting a draft of proposed legislation to amend chapter 25 of title 44, United States Code, to clarify the National Historical Publications and Records Commission programs and for other purposes; to the Committee on Government Operations.

2224. A letter from the Administrator, Veterans Administration, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2225. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2226. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2227. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2228. A letter from the Secretary of the Interior, transmitting the seventh annual report on oil and gas leasing, exploration and development activities on Federal lands in Alaska, other than on the North Slope or the National Petroleum Reserve, pursuant to Public Law 96-487, section 1008(b)(4); to the Committee on Interior and Insular Affairs.

2229. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's views on the difference between its cost estimates and those of the Congressional Budget Office in complying with H.R. 2851; enclosing a letter from the Department of Agriculture setting forth its views and estimates of costs; to the Committee on Interior and Insular Affairs.

2230. A letter from the National Treasurer, American Gold Star Mothers, Inc., transmitting the annual audit report, pursuant to 36 U.S.C. 1101(63), 1103; to the Committee on the Judiciary.

2231. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs); transmitting a draft of proposed legislation to amend the Military Personnel and Civilian Employees' Claim Act to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim under the act; to the Committee on the Judiciary.

2232. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize the Secretary of Transportation to transfer operating responsibility, property, and assets of the Transportation Systems Center to non-Federal Control; to the Committee on Public Works and Transportation;

2233. A letter from the Secretary of Transportation, transmitting the Urban Mass Transportation Administration quarterly report for the second quarter of fiscal year 1987, pursuant to 49 U.S.C. app. 1603(h)(1); to the Committee on Public Works and Transportation.

2234. A letter from the Chairman, National Science Board, transmitting a report on the explanation and justification of action with regard to science activities taken during proceeding 2 years, pursuant to 42 U.S.C. 1864(e); to the Committee on Science, Space and Technology.

2235. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting the Department's report on procurement from small and other business firms for October 1986 through July 1987, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

2236. A letter from the Director, Office of Management and Budget, transmitting a determination that additional amounts are necessary to maintain the authorized level of operation of RFE/RL, Inc., because of adverse fluctuations in foreign currency exchange rates, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Appropriations and Foreign Affairs.

2237. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize occupancy of substandard family housing units by members of the Coast Guard on the same basis as members of the other Armed Forces; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

2238. A letter from the Acting Secretary of Commerce, transmitting the monthly reports on imports during February and March 1987 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the committees on Foreign Affairs and Ways and Means.

2239. A letter from the Acting Secretary of Commerce, transmitting the monthly report on imports during April 1987 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

2240. A letter from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting the twenty-eighth report on the status of the Alaska Natural Gas Transportation System, pursuant to 15 U.S.C. 719e(a)(5)(E); jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. de la GARZA: Committee on Agriculture. H.R. 2878. A bill to designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas; with an amendment (Rept. 100-367, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2878. A bill to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas; with an amendment (Rept. 100-367, Pt 2. Referred to the Committee of the Whole House on the State of the Union.

Mr. LaFALCE: Committee on Small Business. Report of the Small Business Committee on allocation of budget totals to subcommittees for fiscal year 1988 (Rept. 100-368). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2090. A bill to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes; with an amendment (Rept. 100-369, Pt. 1. Ordered to be printed.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X: The Committee on Public Works and Transportation discharged from further consideration of H.R. 940. H.R. 940 referred to the Committee to the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLIPPO (for himself, Mr. Tallon, Mr. Schulze, Mr. Jenkins, Mr. Archer, Mr. Ford of Tennessee, Mr. Duncan, Mr. Anthony, Mr. Thomas of California, Mr. Bilirakis, Mr. Bevill, Mr. Denny Smith, Mr. Hefner, Mr. Bryant, Mr. Chandler, Mr. Montgomery, Mr. Clinger, Mr. Harris, Mr. Roemer, Mr. Buechner, Mr. Stallings, Mr. Spence, Mr. Jones of North Carolina, Mr. Rhodes, Miss Schneider, Mr. Johnson of South Dakota, Mr. Torres, Mr. Swift, Mr. Wortley, Mr. Petri, Mr. Henry, Mr. Davis of Illinois, Mr. Boehlert, Mr. Crockett, Mr. Craig, Mr. Sundquist, Mr. Lagomarsino, Mr. Shaw, Mr. Schuette, Mr. Gordon, Mr. Armey, Mr. Frost, Mr. Crane, Mr. McCurdy, Mr. Campbell, Mr. Moorhead, Mr. Lent, Mr. DeLay, and Mr. Kildee):

H.R. 3470. A bill to promote and protect taxpayer rights, and for other purposes; to the Committee on Ways and Means.

By Mr. BROOKS (for himself, Mr. Horton, Mr. Montgomery, and Mr. Solomon):

H.R. 3471. A bill to establish the Veterans' Administration as an executive department; to the Committee on Government Operations.

By MR. DICKS:

H.R. 3472. A bill to provide for limitations on testing of Trident II (D-5) ballistic missiles; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. FOGLIETTA (for himself and Mrs. Collins):

H.R. 3473. A bill to direct the Secretary of Transportation to establish an emergency grant program for reclaiming abandoned automobiles and to conduct a study for the purpose of developing a permanent program for reclaiming abandoned automobiles; to the Committee on Public Works and Transportation.

By Mr. FUSTER:

H.R. 3474. A bill to apply the reclamation laws to Puerto Rico; to the Committee on Interior and Insular Affairs.

By Mr. INHOFE:

H.R. 3475. A bill to suspend until January 1, 1991, the duty on acetophenone; to the Committee on Ways and Means.

By Mr. LEVINE of California:

H.R. 3476. A bill to restrict transfers of Stinger missiles to foreign military or paramilitary forces; to the Committee on Foreign Affairs.

By Mr. ROBERTS:

H.R. 3477. A bill to provide for the orderly implementation of Environmental Protection Agency pesticide regulations issued to comply with the Endangered Species Act of 1973; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. SAXTON (for himself, Mr. Hughes, and Mr. Howard):

H.R. 3478. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 and the Federal Water Pollution Control Act of 1977 to ban the dumping of medical waste in ocean and navigable waters and to amend the Solid Waste Disposal Act to authorize the Environmental Protection Agency to regulate medical waste to protect public health and the environment; jointly, to the Committees on Merchant Marine and Fisheries, Energy and Commerce, and Public Works and Transportation.

By Mr. UDALL (for himself and Mr. Rahall):

H.R. 3479. A bill to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mr. Young of Alaska, Mr. Gejdenson, Mr. Campbell, Mr. Rhodes, and Mr. Johnson of South Dakota):

H.R. 3480. A bill to authorize the establishment of the National Museum of the American Indian, within the Smithsonian Institution, and to establish a Memorial to the American Indian, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, House Administration, and Public Works and Transportation.

By Mr. WATKINS:

H.R. 3481. A bill to provide that the Department of Agriculture shall be known as the Department of Agriculture and Rural Development, to transfer the administration of certain conservation programs from the Farmers Home Administration to the Soil Conservation Service, to establish the Rural Development Administration within the Department of Agriculture and Rural Development, to transfer the administration of certain rural housing programs from the Farmers Home Administration to the Rural Development Administration, to provide that the Farmers Home Administration shall be known as the Farm Administration, and for other purposes; jointly, to the Committees on Agriculture and Banking, Finance and Urban Affairs.

By Mr. WISE:

H.R. 3482. A bill to provide financial assistance for a program of comprehensive child development centers, and for other purposes; to the Committee on Education and Labor.

By Mr. HOWARD (for himself and Mr. Lehman of Florida):

H.J. Res. 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. DYMALLY (for himself, Mr. Atkins, Mr. Solarz, Mr. Leach of Iowa, and Mr. Lagomarsino):

H. Con. Res. 196. Concurrent resolution expressing the support of the Congress for the implementation of the July 29, 1987, accord with respect to Sri Lanka as the best hope for peace; to the Committee on Foreign Affairs.

By Mr. LEVINE of California:

H. Con. Res. 197. Concurrent resolution to express the sense of the Congress with respect to United States policy toward Panama; jointly, to the Committees on Foreign Affairs and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

230. By the SPEAKER: Memorial of the Legislature of the State of California, relative to contracts with Toshiba Corp. of Japan and Kongsberg Vaapenfabrikk; to the Committee on Foreign Affairs.

231. Also, memorial of the Legislature of the State of California, relative to Indian health care services; to the Committee on Interior and Insular Affairs.

232. Also, memorial of the Senate of the Palau National Congress Republic of Palau, relative to approving the Compact of Free Association; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII, private bills and resolutions were introduced and severally referred as follows:

PRIVATE RESOLUTIONS

Mr. DYSON introduced a concurrent resolution (H. Con. Res. 198) congratulating Charles "Buddy" Rogers for his outstanding entertainment achievements and philanthropic endeavors; which was referred to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mrs. Collins, Mr. Blaz, Mr. Gray of Illinois, Mr. Hawkins, Mr. Lipinski, Mr. Lancaster, Mr. de Lugo, and Mr. Matsui.

H.R. 570: Mr. Espy and Mr. Gallegly.

H.R. 778: Mr. Stark.

H.R. 779: Mr. Evans.

H.R. 792: Mr. Schaefer.

H.R. 898: Mr. Conyers.

H.R. 1000: Mr. Glickman.

H.R. 1332: Mr. Coble.

H.R. 1337: Mr. Coble.

H.R. 1536: Mr. Hochbrueckner.

H.R. 1606: Mr. Mack.

H.R. 1632: Mr. Levine of California and Mr. Kennedy.

H.R. 1839: Mr. Fuster, Mr. Smith of Florida, Mr. Bevill, Mr. Hochbrueckner, Ms. Oakar, Mr. Mrazek, Mr. Bilirakis, Mr. Conyers, Mr. DeFazio, Mr. Eckart, Mr. Buechner, Mrs. Bentley, and Mr. de Lugo.

H.R. 2017: Mr. Ridge.

H.R. 2045: Mr. Roemer, Mr. Tauzin, and Mr. Sabo.

H.R. 2248: Mr. Kasich, Mr. Molinari, Mr. Campbell, and Mr. Dyson.

H.R. 2270: Mr. Traxler.

H.R. 2692: Mr. McEwen, Mr. Studds, Mr. Ridge, Mr. Coyne, Mr. McDade, and Mr. Gingrich.

H.R. 2793: Mr. Coble.

H.R. 2833: Mr. Frank.

H.R. 2985: Mr. Martinez.

H.R. 3010: Mr. Kostmayer, Mr. Buechner, Ms. Oakar, Mr. Lehman of Florida, Mr. Sabo, Mr. LaFalce, and Mr. Carper.

H.R. 3024: Mr. Barnard.

H.R. 3074: Mr. Pursell.

H.R. 3118: Mr. Bennett.

H.R. 3224: Mr. Lott, Mr. Montgomery, Mr. Packard, and Mr. Buechner.

H.R. 3250: Mr. Jacobs, Mr. Dreier of California, Mr. Chappell, and Mr. Wyden.

H.R. 3312: Mr. Stump.

H.R. 3317: Mr. Dymally, Mr. Rangel, Mr. Lewis of Georgia, Mr. Rahall, and Mr. Sikorski.

H.R. 3348: Mr. Flake, Mr. Oberstar, Mr. Gray of Illinois, and Mr. Dwyer of New Jersey.

H.R. 3375: Mr. Chandler and Mr. Brown of Colorado.

H.R. 3400: Mr. Daub, Mr. McEwen, Mr. Ridge, Mr. McMillen of Maryland, Mr. Lewis of Georgia, Mr. Jeffords, Mr. AuCoin, Mr. Cardin, Mr. Dyson, Mr. McDade, Mr. Fauntroy, Mr. Stokes, Mr. Cooper, Mr. Kanjorski, Mr. Ford of Tennessee, Mr. Rahall, Mr. Price of Illinois, Mr. Gephardt, Mr. Boland, Mr. Flake, Mr. Gordon, Mr. Saxton, Mr. Florio, Mr. Bates, Mr. Conte, Mr. Moakley, Mr. Fascell, Mr. Conyers, Mr. Clinger, Mr. Bruce, Mr. Richardson, Mr. Campbell, Mr. Staggers, Mr. Rinaldo, Mr. Price of North Carolina, Mr. Crockett, Mr. Rodino, Mr. Davis of Michigan, Mr. Durbin, and Mr. Nowak.

H.J. Res. 112: Mr. Berman and Mr. Gilman.

H.J. Res. 287: Mr. Manton, Mr. Borski, and Mr. Bosco.

H.J. Res. 318: Mr. Tauke, Mrs. Lloyd, Mr. Stratton, Mr. Montgomery, Mr. MacKay, Mr. Tauzin, Ms. Oakar, Mr. Bustamante, Mr. Traxler, Mr. Dowdy of Mississippi, Mr. Rose, Mr. Dymally, Mrs. Patterson, Mr. Akaka, Mr. Dixon, Mr. Gordon, Mr. Ridge, Mr. Ballenger, Mr. Conyers, Mr. Clay, Mr. Tallon, Mr. Kostmayer, Mr. Weiss, Ms. Slaughter of New York, Mr. Hertel, Mr. Chapman, Mr. Wise, Mr. Panetta, Mr. Gonzalez, Mr. Lantos, Mr. Spence, Mr. Campbell, Mr. Dingell, Mr. Lehman of California, Mr. Studds, Mr. Weldon, and Mr. Rangel.

H.J. Res. 328: Ms. Oakar, and Mr. Stratton.

H.J. Res. 359: Mr. Gordon, Mr. Gonzalez, and Mr. Dymally.

H. Con. Res. 169: Mr. Wolf, Mr. Wortley, Mr. Swindall, Mr. Levine of California, Mr. Green, Mr. Lipinski, Mr. Smith of Florida, Mr. Gilman, Mr. Porter, Mr. de Lugo, Mr. Fawell, Mr. Burton of Indiana, Mr. Herger, Mr. Inhofe, and Mr. Kildee.

H. Con. Res. 178: Mr. Kildee, Mr. Fawell, Mr. Horton, Mr. Walgren, Mr. Feighan, Mr. Dorgan of North Dakota, Mr. Dwyer of New Jersey, Mrs. Meyers of Kansas, Mr. Lagomarsino, and Mr. Kolbe.

H. Con. Res. 188: Mr. Gray of Illinois, Mr. Scheuer, Mr. Howard, Mr. Horton, Mr. Chappell, Mr. Daub, Mr. Lagomarsino, and Mr. Akaka.

H. Con. Res. 193: Mr. Hefley, Mr. Buechner, Mr. Hiler, Mrs. Johnson of Connecticut, Mr. Martin of New York, Mr. Edwards of Oklahoma, Mrs. Martin of Illinois, Mr. Herger, Mr. Blaz, Mr. Rhodes, Mr. Swindall, Mr. McEwen, Mr. Gilman, Mr. Slaughter of Virginia, Mr. Lagomarsino, Mr. McCloskey, Mr. Stratton, Mr. Schuette, and Mr. McGrath.

H. Res. 210: Mr. Gallegly and Mr. Bryant.

H. Res. 284: Mr. Gallegly.

PETITIONS, ETC.

Under clause 1 of rule XXII,

83. The SPEAKER presented a petition of the Board of Supervisors, Grey Cloud Island Township, Minnesota, relative to their opposition to H.R. 2530; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 162,

Amendments in the nature of a substitute.

By Mr. JEFFORDS:

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Disease Prevention Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) potentially harmful substances and physical agents are in wide industrial and commercial use in the United States;

(2) workers may suffer disability or death or both from occupational diseases caused by hazardous occupational exposures;

(3) protecting occupational safety and health facilitates interstate commerce and promotes the general welfare;

(4) early notification of exposure to harmful substances and physical agents often permits medical intervention in the biological process of disease to either prevent or, by early detection, successfully treat some disease conditions;

(5) workers should be informed of exposure to an occupational hazard and the risks of contracting an occupational disease from such exposure;

(6) there is a need for increased research to identify the causes of occupational diseases; and

(7) prevention and early detection of occupational disease may reduce the costs of medical treatment and care in the United States.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The terms "Secretary", "employer", and "employee" have the meanings given by section 3 of OSHA.

(2) the term "current employee" means an employee who is presently employed by an employer and who is employed in a workplace where such employee may be exposed

to a hazard under normal operation conditions or foreseeable emergencies.

(3) the term "former employee" means an individual who was an employee of an employer, but who is not presently an employee of that employer, and who was employed in a workplace where such employee may have been exposed to a hazard under normal operation conditions or foreseeable emergencies.

(4) The term "OSHA" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

TITLE I—HAZARD COMMUNICATION STANDARD AMENDMENT

SEC. 101. HAZARD COMMUNICATION STANDARD.

(a) Required Standard.—Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 6(b) of OSHA, extend the coverage of and expand the rights of employees under the hazard communication standard contained in section 1910.1200 of title 29 of the Code of Federal Regulations so that such standard—

(1) requires that employers notify their current employees (by public posting or otherwise as prescribed by the Secretary pursuant to section 8(c)(1) of OSHA) of those employees' rights—

(A) to have access to their medical records, and

(B) to obtain copies of material safety data sheets and the list of hazards required to be retained under the standard,

from their current and former employers; and

(2) requires that employers make available to former employees, upon request, the list of hazards required to be retained since the establishment of the hazard communication standard concerning any hazards that were present in the employees' work place during their employment.

(b) Additional Considerations in Amending Standard.—In the rulemaking proceedings conducted for the purpose of promulgating the amendment required by subsection (a) of this section, the Secretary shall consider evidence that such standard should also be amended to—

(1) require that such material safety data sheets—

(A) subject to subsection (f), contain recommendations, if any, for appropriate medical monitoring, based on sources or criteria identified by the Secretary in the standard issued under this section;

(B) include summaries written in simple, nontechnical language; and

(2) require that—

(A) employers provide training to current employees concerning such hazards;

(B) such training be of sufficient duration, both initially and in annual refresher courses, to inform employees of—

(i) the nature of the hazards present in the workplace and the methods by which employees can obtain further information concerning such hazards;

(ii) the measures required to avoid, prevent, or restrict harmful exposure; and

(iii) the measures required to reduce the harmful effects of exposure, including appropriate medical monitoring; and

(C) such training of employees emphasize the chronic and acute health effects associated with such hazards in a manner which promotes early detection and treatment.

(c) Enforcement of Section 8(c)(3) of OSHA.—Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 6(b) of OSHA, prescribe the methods and procedures to be followed by employers in complying with the last sentence of section 8(c)(3) of OSHA.

(d) Other Standards.—Not later than six months after promulgation of the standard required in subsection (a), each Federal agency with responsibility for establishing health and safety standards for workers not covered under OSHA shall, pursuant to that agency's statutory authority, promulgate a standard which is consistent with the standard required in subsection (a).

(e) Cooperative Agreements.—The Secretary may enter into cooperative agreements with other Federal agencies for the purpose of implementing and enforcing the standard amended in accordance with subsection (a).

(f) Medical Monitoring Recommendations.—If the Secretary determines, pursuant to subsection (b), to require the inclusion of medical monitoring recommendations in material safety data sheets, such recommendations shall be added to material safety data sheets at the time such sheets are updated for the inclusion of other information, but not later than 5 years after the date the Secretary makes such determination.

SEC. 102. PUBLIC SERVICE ANNOUNCEMENT BY THE SECRETARY.

The Secretary shall prepare, and distribute for publication or broadcasting, public service announcements informing current and former employees—

(1) of their rights to information, and current employees of their rights to training, pursuant to—

(A) the standards prescribed by the Secretary under section 101 of this title; and

(B) the access to employee exposure and medical records standard contained in section 1910.20 of title 29, Code of Federal Regulations;

(2) that material safety data sheets for hazardous chemicals (as defined under the hazard communication standard) are available upon request through the national and regional offices of the Occupational Safety and Health Administration; and

(3) of the addresses and telephone numbers of such national and regional offices.

SEC. 103. OFFICE OF HAZARDS COMMUNICATION.

(a) Establishment of Office.—There shall be within the Occupational Safety and Health Administration an Office of Hazards Communication. The Office shall be headed by a Director. The Secretary shall delegate to the Office responsibilities for the implementation of the standard amended by the Secretary in accordance with section 101 of this title.

(b) Additional Functions.—In addition to performing such implementation responsibilities as the Secretary may delegate pursuant to subsection (a), the Office shall—

(1) annually review a substantial proportion of the material safety data sheets, and report to the Secretary those data sheets that fail to meet basic, performance-oriented criteria;

(2) provide technical assistance to inspectors and other enforcement personnel of the Department with respect to such standard;

(3) provide such personnel with listings of those chemicals that the Occupational Safety and Health Administration considers to be recognized hazards;

(4) provide up-to-date information with respect to chemicals on the basis of information contained in material safety data sheets;

(5) review available literature and research in order to alert the Secretary to emerging problems in hazard exposure; and

(6) assist in providing information to employers and the public with respect to occupational hazards.

(c) Personnel.—The Secretary shall provide to the Office such personnel and administrative assistance as it may require. The employees of the Office shall include at least one qualified toxicologist.

SEC. 104. PERMISSIBLE EXPOSURE LIMITS.

(a) Updating Z-Tables.—Within one year after the date of enactment of this Act, the Secretary shall, pursuant to section 6(b) of OSHA, promulgate such revisions to the standard contained in section 1910.1000 of title 29 of the Code of Federal Regulations as may be appropriate taking into account additional information and data available since the original promulgation of such standard.

(b) Periodic Updates Authorized.—The Secretary shall develop means to assure that the permissible exposure limits promulgated pursuant to subsection (a) of this section are updated as necessary.

SEC. 105. ENFORCEMENT AUTHORITY.

(a) In General.—Except as provided in subsection (b), the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of the OSHA. Except as provided in subsection (b), such standard shall be administered and enforced under OSHA in the same manner as a standard prescribed pursuant to section 6 of OSHA.

(b) Penalties.—A violation of such hazard communication standard shall, for purposes of section 17 of OSHA, be treated as a violation of a standard prescribed pursuant to section 6 of OSHA, except that—

(1) the failure of an employer to comply with a requirement of such hazard communication standard—

(A) to make a hazard determination,

(B) to have a written hazard communication program,

(C) properly to label or use other warnings,

(D) to record on a material safety data sheet the information required with respect to any chemical, or

(E) to establish and conduct an employee training and information program,

shall be treated as a serious violation under section 17(k) of OSHA; and

(2) any employer who willfully violates such standard, if there is substantial probability that death or serious physical harm could result, shall, upon conviction, be punished by a fine of not more than $25,000, except that if the conviction is for a violation committed after a first conviction under this paragraph, the employer shall be punished by a fine of not more than $50,000.

SEC. 106. EFFECT ON OTHER LAWS.

Information provided to an employee under the standard amended pursuant to section 101(a) shall not commence the tolling of any statute of limitations with respect to any legal claim, except as may be specifically provided by State law.

SEC. 107. GAO EVALUATION.

(a) Evaluation of Effectiveness.—The Comptroller General shall conduct an evaluation of the effectiveness of the standard prescribed pursuant to this title. Such evaluation shall include an analysis of—

(1) the proportion of all employees who received effective notice of occupational health hazards by each of the methods re-

quired by such standard, and the proportion who do not receive effective notice;

(2) the extent to which the notice received by employees under such standard has prompted such employees—

(A) to exercise greater caution in the handling of hazards in the workplace;

(B) to seek effective medical monitoring or treatment, where appropriate; or

(C) to engage in litigation or otherwise to prosecute claims for injuries; and

(3) alternatives to or changes in such standard that will more effectively or efficiently deliver such notices and prompt employees to respond appropriately.

(b) REPORT.—The Comptroller General shall submit a report to the Congress on the results of the evaluation conducted under subsection (a). The report shall be submitted not later than 30 months after the date of enactment of this Act. The report shall include such recommendations as the Comptroller General considers appropriate for legislative or administrative changes.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1988 and such sums as necessary for each succeeding fiscal year.

TITLE II—INTERIM NIOSH NOTIFICATION PROGRAM

SEC. 201. PURPOSE.

It is the purpose of this title to establish an interim program to provide notice to workers who participate in certain studies conducted by the National Institute of Occupational Safety and Health until the establishment of a more general notification program pursuant to the recommendations of the Risk Notification Study Commission pursuant to title III of this Act.

SEC. 202. ESTABLISHMENT OF PROGRAM.

(a) GENERAL REQUIREMENTS.—The National Institute of Occupational Safety and Health shall establish and implement an individual worker notification program for workers at high risk of disease due to occupational exposures who were or are involved in any retrospective cohort mortality study conducted by the Institute before or after the date of enactment of this Act. Such program shall be conducted in accordance with the guidelines for notification of individual workers as proposed by the subcommittee on individual worker notification of the Institute's board of scientific counselors on February 15, 1986.

(b) PROGRAM DEADLINES.—The program established by the Institute under subsection (a) shall provide—

(1) for workers who were involved in studies completed before the date of enactment of this Act, for notification within 18 months after such date of enactment; and

(2) for other workers, for notification as soon as is practicable consistent with the guidelines described in subsection (a).

(c) COOPERATION WITH PRIVATE EMPLOYERS AND STATE AND LOCAL GOVERNMENTS.—(1) In carrying out the notification responsibilities under this section, the Institute shall cooperate with private employers and State and local governments and, upon request, may certify a private employer or a State or local government to transmit notification under this section, in accordance with regulations issued by the Secretary.

(2) No private employer or State or local government certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

SEC. 203. NOTIFICATION TO INCLUDE RECOMMENDATIONS FOR MEDICAL MONITORING.

Any notice given by the Institute pursuant to section 201 of this title shall include appropriate recommendations for medical monitoring.

SEC. 204. TELEPHONE INFORMATION.

The Institute shall establish toll-free telephone information for the employees notified under this title and for their personal physicians for the purpose of providing additional medical, health, and scientific information concerning the nature of the risk and its associated disease.

SEC. 205. DISSEMINATION OF INFORMATION.

The Institute shall prepare and distribute other medical and health promotion materials and information on any risk subject to notification under this title and its associated disease as the Institute deems appropriate.

SEC. 206. CONFIDENTIALITY.

Any records of the identity, diagnosis, prognosis, or treatment of an individual employee, or information that would lead to the identification of any such employee, which are maintained in connection with the performance of any function authorized by this title or which are obtained by any other person shall be confidential and, notwithstanding any other provision of law permitting disclosure, may be disclosed only—

(1) to the current or former employer of the notified individual;

(2) if necessary to perform any function authorized by this title; or

(3) with the written consent of such individual employee.

SEC. 207. EFFECT ON OTHER LAWS.

(a) USE OF NOTICES AS EVIDENCE PROHIBITED.—The following may not be introduced in connection with any claim for compensation, loss, or damage brought under State or Federal law:

(1) evidence that an employee or employee population is or is not about to receive (or has or has not received) notification under this title; and

(2) evidence that medical monitoring is or is not to be initiated (or has or has not been initiated) under this title.

(b) USE OF OTHER EVIDENCE.—With respect to any claim for compensation, loss, or damage under State or federal law, nothing in this Act shall preclude the admission into evidence of—

(1) any medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards; or

(2) any data related to exposure to occupational health hazards for individual employees.

(c) EFFECT ON STATUTES OF LIMITATIONS.—Notification pursuant to this Act shall not be relevant in determining whether such claim is timely under any applicable statute of limitations.

(d) LIMITATION ON NONCOMPENSATORY DAMAGES.—No person may bring—

(1) any claim based on emotional harm, fear of disease, stress, or other nonphysical injury, or

(2) any claim for punitive or other noncompensatory damages,

based on any report, finding, notice, medical evaluation, monitoring decision, or any other act or omission required by this Act. This prohibition applies whether the party bringing the claim has been directly subject to the report, finding, notice, evaluation, decision, act, or omission or is a party learning about such report, finding, notice, evaluation, decision, act, or omission that affected another person.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000 for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year.

TITLE III—RISK NOTIFICATION STUDY COMMISSION

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Risk Notification Study Commission (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) conduct a comprehensive study of the effectiveness of the notification program of the Institute under title II of this Act in preventing diseases arising wholly or partially out of exposures to occupational health hazards;

(2) analyze the extent to which risk notification duplicates other activities authorized under existing Federal law; and

(3) assess the feasibility of federally-provided individual notifications to employees and former employees determined to be in a population at risk, including examination of alternatives to individual notifications.

(b) REQUIREMENTS FOR STUDY.—In conducting the study as provided for in subsection (a) of this section, the Commission shall consider—

(1) the direct and indirect costs that may be associated with a risk notification program;

(2) the direct and indirect savings that may be associated with such a program, including savings in Medicaid, Medicare, social security disability, federally-supported workman's compensation, and other health and welfare programs;

(3) the adequacy of medical monitoring, treatment, and surveillance for employees exposed to occupational health hazards;

(4) the effectiveness of medical monitoring or beneficial health counseling, or both, as part of a risk notification program;

(5) the scientific adequacy of established epidemiological, clinical, and toxicological studies in being able to define and identify worker populations at risk of contracting occupational diseases;

(6) the extent to which nonoccupational factors such as smoking and diet may contribute to diseases associated with occupational health hazards;

(7) the health consequences of notifying or failing to notify a population at risk;

(8) the impact of such a program on the availability of insurance to small employers;

(9) the impact of such a program on the State-administered workers' compensation system; and

(10) the impact of such a program on liability litigation, including estimates of increased costs, if any, which may be associated with risk notification.

(c) REPORTS.—Within two years after the date on which the Commission first meets, the Commission shall submit a report to the Congress, including legislative recommendations that the Commission considers necessary and appropriate.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of 15 members appointed by the President, not later than 60 days after the date of the enactment of this Act, from a list (or lists) of nominees provided by the National Academy of Sciences. Such lists shall include individuals from State workers' compensation boards, representatives of insurance carriers, business, labor, occupational physicians, epidemiologists, toxicologists, industrial hygienists, occupational biostatisticians, and representatives of the general public. The Secretary, the Secretary of Health and Human Services and the Attorney General shall be ex officio members of the Risk Notification Study Commission.

(b) Vacancies.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) Chairperson and Vice Chairperson.—The Commission shall elect a chairperson and a vice chairperson from among its members.

(d) Quorum.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) Pay.—Members of the Commission shall serve without compensation.

(b) Travel Expenses.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) Meetings.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chairperson or a majority of the members.

(b) Hearings and Sessions.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) Access to Information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) Director.—The Commission may appoint an executive director from the personnel of any Federal agency to assist the Commission in carrying out its duties.

(e) Use of Services and Facilities.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) Personnel From Other Agencies.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $1,000,000. Amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 307. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its final report to the Congress.

SEC. 308. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

Amend the title so as to read: "A bill to require the Secretary of Labor to amend the hazard communication standard prescribed under the Occupational Safety and Health Act of 1970 to provide more effective notice to employees of workplace hazards, to establish an interim risk notification program, and for other purposes.".

By Mr. GAYDOS:

—Page 7, beginning on line 20 strike out paragraph (8) through line 23 and insert in lieu thereof the following:

(8) The term "hazard communication standard" means the standard contained in sections 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 of title 29 of the Code of Federal Regulations as in effect on October 1, 1987.

—Page 12, after line 21, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) If the Board, after considering the factors described in paragraph (3), identifies a long-latency disease among persons exposed to substances, agents, or processes, the Board may, in designating a population at risk that should be notified under paragraph (1)(B), limit such notification to persons whose exposure occurred within a time period that corresponds to, but encompasses, the period of latency of such disease.

—Page 16, after line 7, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(c) Exemption.—(1) Within 30 days after the Board issues a final determination that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, an employer who employs or has employed employees within that population may apply to the Institute to have those employees exempted from the notification because they are not at risk of disease based on significant mitigating factors.

"(2) If the Institute concludes that any such application raises an issue of material fact which is subject to reasonable dispute, it shall publish a notice so stating in the Federal Register within 30 days after receiving the employer's detailed application and shall schedule a hearing on the disputed issues. All applications for exemption with respect to any one population at risk shall be consolidated into a single hearing and such hearing shall be concluded within 60 days following publication of such notice in the Federal Register.

"(3) While an application for exemption is pending before the Institute, the Secretary shall not proceed with the notification requirements of the Board's determination with respect to the affected employees of the employer or employers seeking such exemption.

"(4) Within 30 days after the conclusion of the hearing, or, where no hearing was conducted, within 30 days of the receipt of the application, the Institute shall grant an exemption from notification to any employer who has demonstrated by a preponderance of the evidence that his employees should not be included within the population at risk of disease and shall deny such exemption to all other employers. In determining whether an exemption shall be granted, the Institute shall take into account such mitigating factors as work practices, health and safety programs, engineering controls, or other factors that are fundamentally different from those used by the Board that substantially eliminate the risk of developing the occupational disease under examination.

"(5) No employer who has not applied for an exemption may benefit from a decision favorable to any other employer.

"(6) Determinations of the Institute pursuant to this subsection shall not be subject to judicial review.

Page 10, line 9, strike out "5(g)" and insert "5(h)".

Page 17, line 9, strike out "subsection (d)" and insert "subsection (e)".

Page 19, line 13, strike out "subsection (g)" and insert "subsection (h)".

Page 34, line 5, strike out "5(h)" and insert "5(i)".

—Page 19, line 23, insert "State or local" before "government".

Page 20, beginning on line 18, strike out all of paragraph (3) through line 6 on page 21, and insert the following:

"(3) The determinations of the Board shall be subject to review in accordance with section 706 of title 5, United States Code.

—Page 28, line 14, before "Upon" insert "(1)".

Page 28, line 20, strike out "(1)" and insert "(A)".

Page 28, line 24, strike out "(2)" and insert "(B)".

Page 29, after line 3 insert the following:

"(2) An employer shall not be required to duplicate any medical monitoring already required under a permanent health standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 665(b)(5)), or under section 101(d) of the Federal Mine Safety Act of 1969 (30 U.S.C. 811(d)).

—Page 29, line 18, strike out "should be removed" and insert: "who is a member of a population at risk shows evidence of the development of the diseases described in the notification, or other objective symptoms or conditions increasing the likelihood of the manifestation of such disease, that employee should have the option of being transferred".

Page 29, line 19, strike out "job, and if" and all that follows through "determination" on line 20 and insert the following: "job. If within 10 working days after the employee has exercised such transfer option and transmitted to the employer that determination,".

Page 29, line 22, strike out "thereof," and insert "of the employee's transfer determination,".

Page 30, line 6, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 10, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 24, after the period insert the following: "The availability of such a job shall depend on the employee's skills, qualifications, and aptitudes, and the job's requirements.".

—Page 32, after line 2, insert the following new paragraph:

(5) No action may be brought for any claim based on a good faith determination made by a physician under this subsection.

EXTENSIONS OF REMARKS

CONSTITUTION DAY TOASTS

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mrs. BOGGS. Mr. Speaker, last month I had the great pleasure to celebrate Constitution Day, September 17, 1987, the 200th anniversary of the signing of the Constitution, in Philadelphia, in a manner our forebears of 1788 would have recognized.

Following a day of festivities much like those celebrating the Constitution's ratification in 1788, I attended a dinner hosted by the Philadelphia bicentennial group, "We the People 200." At dinner, we raised 13 traditional toasts to the Nation, culminating with a toast: "To Peace and Free Governments to all the Nations in the World. God Bless and Keep These United States!"

Mr. Speaker, I would like to share the 13 patriotic toasts with my colleagues in hopes that this grand American tradition will be preserved and will bind generations of Americans together each time we gather to celebrate our Nation's milestones.

[From the official program of the Constitution Day Gala Dinner, Philadelphia Hall, Philadelphia, PA, September 17, 1987]

TOASTING THE CONSTITUTION

May the Citizens of the United States ever have reason to commemorate the 17th of September, 1787!

Hold your glass up high tonight, and join in an American political tradition that dates back to the earliest days of our country. On this historic day marking the signing of the Constitution in Philadelphia two hundred years ago, let us once again offer thirteen toasts to the republic of the United States of America.

This tradition sprang up during the very first celebrations of the Fourth of July, as the citizens of the new nation began to create a host of "strictly American" rituals. But the suspense and urgency of the hard-fought ratification lent new meaning to the custom and to the symbolism of numbers.

The number thirteen was special—the symbol of unanimity. During the Revolution and under the Articles of Confederation, the importance of unified action had been driven home. While it was legally possible for nine states to ratify the new charter, the goal of the ratification campaign was never less than thirteen. Only with unity would finally come the peace, prosperity and strength for which the citizens of the new nation had longed since the revolution.

As each state accepted the Constitution in 1787 and 1788, rejoicing broke out. The great event was greeted with banquets and balls, with bonfires, fireworks and cannon salutes, and with great citizen "Federal processions" like the one recreated in Philadelphia today. Many of these celebrations were repeated, with added enthusiasm, on the Fourth of July in 1788.

But whatever else was done to celebrate on these occasions, citizens in almost every community gathered in taverns or banquets to hoist a glass in thirteen toasts to the "Grand Federal Edifice" and its new "Roof," the Constitution. Each gathering added its own tributes and political allusions but all saluted the creators of the new government—the people of the United States, General Washington and the members of the federal convention, the heroes of the revolution and the allies of the new nation. The toasts that will be given this evening are drawn in large measure from those given in American towns and villages in 1788.

The very special tradition of toasting the nation has been maintained at all the major anniversaries of the U.S. Constitution, just as it is sure to remain a special part of ceremonies in the next century of the American republic.

THE 13 TOASTS

By Chief Justice Warren E. Burger, Chairman, Commission on the Bicentennial of the United States Constitution:

"Ladies and Gentlemen, I give you the People of the United States and the Constitution which they have Preserved for 200 years. As they said at one of the original celebrations, "May the Year, Month and Day in which It was Formed be Ever Held in Grateful Remembrance by Every True American." And may we in turn pass on this precious heritage of Freedom to the many generations of Americans to come. To the People!" (Source: NY Impartial Gazette, July 5, 1788.)

By The Honorable Robert P. Casey, Governor, Commonwealth of Pennsylvania:

"To George Washington and James Madison, and to All the Framers and Ratifiers of the Constitution. May our leaders be guided by their genius, informed by their wisdom, and inspired by their virtue! We honor them best by striving to improve the system, expand the rights and protect the guarantees they established two centuries ago. To the Framers!"

By His Excellency Count Wilhelm Wachtmeister, Ambassador of Sweden and Dean of the Diplomatic Corps:

"To the Friends of the United States and the Constitutions of Free Nations Everywhere." May each of us learn from the others the lessons of Liberty and Justice, while deepening our appreciation of the differences that grow out of each Nation's unique historical and cultural experience. To Friendship!"

By the Honorable Edwin Meese III, Attorney General of the United States:

"To the Armed Forces of the United States and the Memory of our Heroes—those men and women who took an oath to defend the Constitution and gave their lives to preserve it. We remember them and their families today with the highest honor and respect a grateful and humble nation can extend. To Our Heroes!"

By the Honorable Lindy (Mrs. Hale) Boggs, U.S. House of Representatives:

"Tonight we honor not just the Original 13 States for their historic leadership but also the 37 States from Vermont to Hawaii that later entered the Union under the same Constitution. We honor especially the 50 State Constitutions under which we live.

"There are two traditional toasts to the states. First, "May the Interest of the United States Always be Deemed the Interest of Each State."

"And above all, "May the Union of the States be Perpetual!"" (Source: *Trenton Mercury*, New Jersey, Dec. 20, Jensen, III, p. 189.)

By the Honorable Lindy (Mrs. Hale) Boggs, U.S. House of Representatives:

"James Madison and Thomas Jefferson both believed that "the Diffusion of Knowledge is the Only Guardian of True Liberty." I would like to offer a Toast then not just to Learning and Education, but to the many thousands of Americans who have marked this anniversary by bringing a fuller appreciation of the Constitution to our communities. May their efforts, and ours, continue long after this Historic Day. To the Bicentennial!"

By the Honorable Michael N. Castle, Governor of Delaware:

"Ladies and Gentlemen, to the People of the Territories of the United States, and to all those Americans who, since the Constitution's adoption, have won its full protections. They have helped us recognize that we strengthen our Democracy by extending its Rights to all the People."

By the Honorable W. Wilson Goode, Mayor of Philadelphia:

"Philadelphia is honored to host the Nation's Commemoration of Constitution Day. To the Great City of Philadelphia, where Independence was Proclaimed, Democracy Established and the Future of a Nation Secured!"

By the Honorable LeRoy S. Zimmerman, Attorney General, Commonwealth of Pennsylvania:

"To the Rule of Law and the Cause of Liberty Throughout the World. May the Protections of the Law, Wisely Interpreted and Honestly Administered, remain the Sturdy Guardian of our Happiness and Well-Being. To The Law!"

By Mr. William A. Schreyer, Chairman and Chief Executive Officer, Merrill Lynch and Co., Inc. (Host):

"To the American Spirit of Enterprise . . . Two hundred years ago one patriot making this Toast put it this way "To Agriculture, Manufacturing, and Commerce. May they, in all their branches, Flourish Unrestricted Under the Protections of the United States Constitution." Flourish they have, and to that I add, may they continue to flourish for the next 200 years . . . and may we always remember to guard the Rights on which our enduring Prosperity depends." (Source: NY Impartial Gazette, July 5, 1788.)

By Mr. Maurice Richard Hennessy, Director, Hennessy Company:

"Les Etats Unis ont offert au Monde beaucoup plus qu'une Vision Politique. Bien que pays jeune, Il a Fusionne avec dynamisme les traditions et les Cultures de toutes les Nations. Il les a rendus au monde sous des formes inedites, enrichies d'idees nouvelles

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

et d'Horizons elargis. Aussi, buvons a la sante des Arts et de La Culture ainsi qu'a l'esprit de Liberte d'Expression qui unit tous les Artistes du Monde."

"America has given the World much more than a political vision. Though a young country, it has drawn together into a rich, dynamic fusion the cultural traditions of all Nations. It has given these back to the World with new forms, new insights, new horizons. So let us drink Tonight to the Arts and Culture, and to the Spirit of Free Expression which unites all Artists around the World!"

By Mr. Willard Rouse, Chairman, We The People 200:

"As Abigail Adams once wrote to her husband John, and I quote, let us remember the Ladies! Their Wisdom and Dignity, their Labor and Strength have been essential to our Nation's success from its earliest days. May the Constitution's third century bring American Women their own golden age of accomplishment, equality and fulfillment. To the Women of America!"

By Miss Diane Sawyer, Mistress of Ceremonies, and all guests:

"'To Peace and Free Governments to All the Nations in the World."

"God Bless and Keep These United States of America!"

CONGRESSIONAL SALUTE TO HON. MICHAEL V. MAROTTI, FORMER MAYOR OF BELLEVILLE, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. ROE. Mr. Speaker, all too often the contributions of those who have taken an active part in the welfare of our local cities and towns go unnoticed, even though those contributions have made their particular locality a better place to live. I rise today to salute just such a person, one who has given of himself to his community in his work as a policeman, a township commissioner and mayor.

I speak of Michael V. Marotti, the former mayor of Belleville, a portion of which, I am proud to say, lies in my Eighth Congressional District of New Jersey. During his 34 years in active service to Belleville, Michael V. Marotti has served in many capacities and made numerous contributions to his community. For all he has done, Mr. Marotti will be honored this Friday, October 16, with a testimonial dinner at the Fiesta in Lyndhurst, NJ. Most certainly, he is highly deserving of the honor that has been accorded him.

Mr. Speaker, Michael V. Marotti is a lifelong resident of Belleville and was educated in the Belleville school system. He helped defend his country during World War II, serving in the U.S. Air Force from 1942 until 1946, attaining the rank of sergeant.

Mayor Marotti, who attended Rutgers University and the New Jersey State Police School, began his long service to the township of Belleville when he joined in the municipality's police department in 1953, becoming a detective in the juvenile bureau. In this capacity, he began a long period of helping the youth of Belleville, befriending many of the township's young people who today remember him with affection and admiration. His outstanding work was cited on several occasions by the people of Belleville, who honored him with a number of Distinguished Citizens' awards in recognition of his continued efforts on behalf of our young people.

Michael V. Marotti was also instrumental in the building of the Belleville Little League field on Montgomery Place and he is still affiliated with the Belleville Little League. Professionally, he served as president of PBA Local No. 28 for 12 years and also served as president of the Essex County PBA for 1 year.

His sights turned toward the Township Commission in 1971, when he was elected to a 4-year term as a Belleville township commissioner. He was reelected in 1975 and became Belleville's mayor, a post he held for 12 years. Among the honors he has received for his service to his community are Kiwanian of the Year in 1974 and UNICO's Man of the Year in 1975. Mike Marotti is the proud father of four children, Ceil, Rosemarie, Rocco, and Michelle, and four grandchildren, Billy, Michael, Thomas, and Joseph.

Mr. Speaker, it is with great pride that I join the many family and friends who will honor Michael V. Marotti this Friday night to salute him for his long and unselfish service to his community. He has not only helped make Belleville a better place to live, but both the State of New Jersey and our Nation a better place to live, as well.

"MAZEL TOV" TO CLERGY OF CONGREGATION BETH SHALOM

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to pay tribute to the clergy of Congregation Beth Shalom who are this year observing 34 years of combined service to their congregation and our community. Congregation Beth Shalom is an active participant in the vibrant, ethnically diverse community of Oak Park, MI.

Rabbi David Nelson has been the spiritual leader of Congregation Beth Shalom since 1972. In that time he has enthusiastically involved himself in many issues of spiritual, communal, and temporal concern. He has been a leader in fostering Christian-Jewish goodwill in the Metropolitan Detroit area, having served as the presiding officer of the Detroit Roundtable of the National Conference of Christians and Jews. I can tell you from personal experience—working frequently with the rabbi—that he is also one of the strongest voices in the community on behalf of Soviet Jewry, and we owe him our gratitude for those efforts.

Cantor Samuel Greenbaum, teacher and soloist, and director of Beth Shalom's youth activities, has been a leading light in the education of the congregation's young people. He also teaches adult education classes and is a popular speaker and performer for Jewish groups in the metropolitan area.

Ritual Director Samuel Semp has enriched the spiritual life of the congregation by coordinating the ritual and synagogue services that so many of us take for granted. His devoted service has added extra meaning to the special life cycle events as they are observed by the congregants.

Congregation Beth Shalom and our community in general are indeed fortunate to have the leadership of these three outstanding individuals. We are all greatly enriched by their guidance. I offer them a hearty "yasher koach" and "mazel tov" for their combined years of service and accomplishment, with many more years to come."

LETTER FROM CONSTITUENT HELPS EXPLAIN WHY HEALTH COSTS ARE SO HIGH

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. STARK. Mr. Speaker, we have all been appalled by the large, 37-percent increase in Medicare's part B physician service premium scheduled for this coming January.

These increases in health costs are particularly disturbing when Canada manages to provide quality service to all its people at about 30-percent less than our cost of providing health care to only five-sixths of our population.

Two months ago, I received a letter from one of my constituents from Oakland, CA, who described his experience in trying to get cataract surgery in northern California, versus the cost in Mexico City. It is an interesting letter and raises lots of questions about the costs of our health-care system.

I congratulate my constituent in seeing through the campaign of the eye surgeons in asking their patients to bombard Congress with postcards against any cuts in Medicare reimbursement for cataract surgery. His letter is a very effective answer.

By the way, the cost of a cataract operation in Canada is about the same as the price my constituents reports is the going rate in Mexico City.

Portions of his letter follow:

Prior to going south, I had an eye examination in San Leanaro for cataracts which I paid for myself. The examination total cost was $245, $75 for the regular, and $170 for what is called an ultrasome scan, and was set up for surgery 3 days later.

You won't remember, but I am still not the regular run of the mill 78-year-old senile citizen. I asked for and had a hell of a time getting the cost of this surgery. Total cost—$5,500 for each eye. I had even more difficutly finding out who got what, but did, Doctor—20 minutes—$2,400. Hospital 3½ hrs outpatient—$2,300. Incidentally God knows what—$800. I cancelled the surgery.

This came as a great shock to both the surgeon and the hospital who both called me many times to assure me that it wouldn't cost me one cent.

Although I know damn little about Medicare having never had any dealings with any type of insurance benefits, it was my understanding that Medicare paid only 80 percent of allowed medical expenses after the first $15 which should leave me with $1,100 plus $75 to pay. I have since checked with four surgeons in the bay area and they all assure me that my arithmetic is wrong. Medicare pays it all!

From all sides I got advise on the importance of my eyes in comparison to $5,500 which I didn't have to pay. With this kind of mentality I can begin to see some of the problems in our country. Then off to Mexico and Nicaragua.

In Mexico City I contacted eight cataract surgeons and visited six hospitals. The average cost (total) for implant eye surgery was $380. The surgeon got $75 to $80. The hospital got from $27 to $62. Examinations and follow ups $40 to $60. The big cost was a lense, $200, incidentally manufactured only in the United States.

I asked the surgeons how the poor could afford a $200 implant. The answer: the poor as well as the low middle class die blind. In a country where 20 percent of any number comes out zero, and surgery on terminal cancer patients is being performed daily, surgery in the $2,000 to $50,000 bracket, $5,500 is negligible, but compared to $380 a few miles south, it is ridiculous, particularly when $5,500 is for free and $380 is insurmountable.

What brought on this letter was a letter I received today from my eye doctor in San Leandro asking me to send both you and Henry Waxman a petition to not cut eye surgery benefits by 13 percent. This is my answer.

A TRIBUTE TO MR. HARRY M. TONKIN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure and some sadness that I rise today to pay tribute to a most distinguished member of the Sacramento community, Mr. Harry M. Tonkin, upon his induction into the Greater Sacramento Business Hall of Fame on October 3, 1987.

Unfortunately for the city of Sacramento, Mr. Tonkin passed away this year leaving many in the community saddened and heavy hearted. Mr. Tonkin had been a strong community leader, one who inspired loyalty and hard work. He was the past president and co-owner of the local 7-Up Bottling Co. from 1962 to 1976. Mr. Tonkin had also been the past director of the local United Way and the Sacramento Society of the Blind. Mr. Tonkin was also heavily involved with the local Goodwill Industries serving as their past president. Furthermore, Mr. Tonkin was director of the Sacramento Chamber of Commerce and the Jesuit and Christian Brothers High Schools. In 1979, Mr. Tonkin was responsible for raising over $1 million to help build the Albert Einstein Residence Center for Senior Citizens. For several years, Mr. Tonkin was one of the State's top sellers of Israel bonds. Not surprisingly, in recognition for all that he had done and meant to the Sacramento community, he was selected by the chamber of commerce as the Sacramentan of the Year.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to pay tribute to this man who has given so much to our community. We have suffered a great loss in his death, but I know that I speak for the entire community when I say that his spirit and dedication will continue on in our city. My condolences to his family and my most sincere thanks for all that Mr. Tonkin accomplished and signified for our community.

CONSUMER PRODUCT SAFETY COMMISSION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to enter for the record an interesting article by Jeanne Saddler of the Wall Street Journal. This article focuses on the Consumer Product Safety Commission and is worthy of the attention of my colleagues.

CONSUMER SAFETY AGENCY'S ROLE IS QUESTIONED AMID CHARGES OVER ITS CHAIRMAN'S LEADERSHIP

(By Jeanne Saddler)

In the late 1970s, the Consumer Product Safety Commission was vilified by businesses and conservatives as an overzealous regulator.

Times have changed. The commission hasn't issued a product-safety regulation since 1984. Instead, says David Pittle, a former commission member and now technical director for Consumer Union, it spends years considering safety suggestions that industry offers. "The commission doesn't defer to voluntary standards," Mr. Pittle says. "It grovels."

Now the three-member commission is torn by internal battles that are undercutting the agency's activities. Some members of Congress—as well as the two Republican commissioners, Anne Graham and Carol Dawson—complain that Chairman Terence Scanlon, a Democrat appointed by President Reagan, is creating an atmosphere of paranoia and pettiness. Chairman Scanlon says such allegations simply aren't true.

The infighting is delaying one of the agency's few major actions: litigation against all-terrain vehicles, three-wheeled and four-wheeled motorized bikes that have a record of overturning and causing deaths and injuries. Outside critics say the agency also has been slow to act on hazards involving such products as baby pacifiers, swimming-pool covers and disposable cigarette lighters.

POSSIBLE LEGISLATION

Congress appears ready to step in. Democratic Rep. James Florio of New Jersey, chairman of the House Energy and Commerce Committee's consumer-protection panel, plans to announce today a bill to limit the power of the agency's chairman. The bill also is expected to require quicker decisions about whether to take regulatory actions in general, and may even order regulation of ATVs. A similar bill is being drafted in the Senate.

"It seems that the agency is in kind of a downward spiral," says Barbara Hackman Franklin, one of the original commission members, a Republican appointed by President Nixon in 1973.

"Some businesses think that's wonderful, but that's not in anybody's interest," says Miss Franklin, now a product-safety consultant and a member of the faculty at the University of Pennsylvania's Wharton School. She argues that businesses are more careful when the agency is vigilant, and that industries should fear that an era of over-regulation will follow such a dormant period.

Commissioners Graham and Dawson, both Reagan appointees, say they are conservatives who believe in a voluntary approach to enforcement, when possible. On this they have the same general philosophy as Chairman Scanlon. But they complain that infighting involving the chairman is hampering the agency's work. "I literally have people calling me at home saying they're afraid to be seen talking to me or Commissioner Dawson in the halls," Commissioner Graham says.

Chairman Scanlon says the criticisms are unfounded and his relationship with the other two commissioners is good. "I'm the chairman, and I make the management decisions," says Mr. Scanlon. But he adds that whenever Commissioner Graham disagrees with him she calls the media.

Many disputes center on staff transfers, including some bearing on the case against all-terrain vehicles. The commission says such vehicles are responsible for about 20 deaths and 7,000 injuries a month, and are particularly hazardous to children. The agency, after being criticized for moving too slowly, began working on legal action to require manufacturers to provide warning labels, training on how to handle the vehicles and refunds to customers who bought them for children. The makers claim the vehicles are safe when driven properly.

In June, Chairman Scanlon removed the two lead attorneys who were preparing the agency's case, replacing them with four other lawyers who critics say weren't as familiar with the matter. Although the agency has asked the Justice Department to help prepare a court case against ATV makers, critics say removal of the two attorneys has slowed any action. Chairman Scanlon says he actually appointed more experienced lawyers to the case.

Late last month, Mr. Scanlon also transferred David Schmeltzer, who had led the agency's compliance division for 11 years, to a special-project assignment, saying he wanted to solve unspecified management problems. Mr. Schmeltzer is regarded within the agency as a leading advocate of tougher regulation.

In a memo to the chairman, Commissioner Graham called Mr. Schmeltzer's transfer "another attempt to censor the free flow of information and intimidate the staff." Commissioner Dawson, in a separate memo, wrote simply, "You've got to be kidding." By law the chairman can make most staff changes unilaterally, but the other two commissioners have sought the right to be consulted about them. Mr. Scanlon says he consulted the other commissioners before making the decisions, and he suggested in a memo that perhaps they didn't want to admit that management problems exist.

Mr. Schmeltzer's removal prompted Rep. Florio to draw up his legislation. In a recent letter to Mr. Scanlon, Reps. Florio and Dennis Eckart, an Ohio Democrat, said the chairman's personnel moves had diminished the agency's effectiveness. Later, they said he should consider resigning. Differences among the commissioners on how to implement policy "have been converted into bureaucratic warfare," Rep. Florio says.

Members of the Senate Commerce Committee also have questioned Mr. Scanlon's staff decisions and leadership of the agency. The chairman says the lawmakers' criticisms stem from philosophical differences.

California Rep. William Dannemeyer, the ranking Republican on the consumer protection panel, defends Chairman Scanlon and says some people at the agency who want more regulation "are going around stirring things up."

To a large extent, the agency's lower profile is the result of congressional action earlier in the decade, when the Democrats didn't control both houses and the Reagan administration was at its zenith. In 1981, Congress revised the Consumer Product Safety Act to require the agency to get industry to develop reasonable safeguards voluntarily, when possible. Lawmakers also have cut the agency's budget drastically and have withheld funds for two of the five commission members the agency should have by law.

The Reagan administration, which in 1981 proposed closing the agency, now wants to transfer it to the Department of Health and Human Services under one administrator.

TOOTHLESS THREAT?

Consumers Union, which publishes Consumer Reports magazine, and other consumer groups say the commission now focuses so much on voluntary safety standards that there is no realistic threat that it will adopt mandatory rules if businesses can't agree on their own guidelines.

A group representing ATV makers has worked on a set of standards since 1985, but still hasn't developed one that the commission considers effective. The Consumer Federation of America complains that even though an agency staff analysis concluded last year that voluntary industry standards for disposable cigarette lighters don't address the product's dangers for children under five years old, the commission decided to study the problem instead of considering a regulation.

Even those who prefer a less activist agency worry about the fallout from the internal problems. "Part of my living comes from protecting people" in industry from the commission, says one lawyer, who asked not to be identified. "But I'd rather have a strong and mighty adversary that knows what a good case is instead of one that stumbles around in the dark and hits anything that's warm."

THE FUTURE IS CALLING

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. SLATTERY. Mr. Speaker, the United States is on the verge of an exciting revolution in the provision of information services. Recent hearings by the Energy and Commerce Subcommittee on Telecommunications and Finance demonstrated the potential offered by the French computerized telephone network, Minitel, which is providing a wide variety of information services to the people of that country.

Mr. Speaker, the time has come for all Americans to enjoy the benefits that the Information Age has brought to France. As a representative of a district with a substantial rural population, I am particularly cognizant of the benefits that an ubiquitous information service network would offer to rural Americans. Allowing the regional Bell Operating Cos. to provide information services directly, rather than merely permitting them to build the necessary electronic infrastructures, as Judge Harold Greene recently ordered, would make it possible for both rural and urban Americans to receive a competitively priced, easily accessible array of information service options.

The October 10, 1987, issue of National Journal includes an excellent overview of the current status of telecommunications information services issues. I hope all Members of this body will review it with interest.

[From the National Journal, Oct. 10, 1987]

THE FUTURE IS CALLING

(By Margaret E. Kriz)

A revolutionary telephone system is taking the nation by storm. It offers free, easy-to-use computer terminals that allow citizens to bring movies to their television sets, order merchandise from home shopping services and plug into visual data banks on the latest health developments, stock-market news and local school and government events.

Most Americans have never heard of this new communications network. That's because the nation that offers it is France, where public response has been overwhelmingly favorable. In 1986, the French used 30 million hours of service, and private service vendors earned gross revenues of $137 million, three times the amount billed in 1985.

The new computerized telephone network, known as Minitel, has transformed the French telephone system from a national joke to an internationally recognized pacesetter. It has also raised the eyebrows of U.S. specialists who fear that by comparison, this nation is losing its competitive edge in telecommunications, a realm in which Americans pioneered and traditionally set the world standard.

France's government-sponsored method of connecting available technology with a mass market is not likely to be duplicated here. In France, the government gave residents free computer terminals—2.7 million had been installed by June—and stopped providing telephone directories to force people to use the new phone system's electronic directory.

"We realize that nobody really needs videotex," said Georges Nahon, managing director of Intelmatique, the French agency for international marketing of videotex products. "Starting with this in mind, we had to create a market."

On the other side of the Atlantic, the U.S. telephone industry is still sorting itself out from the 1984 divestiture of American Telephone & Telegraph Co. (AT&T). The breakup of the AT&T monopoly resulted in seven regional Bell telephone companies that provide local telephone service, with the scaled-down parent firm left with the long-distance market as well as other telecommunications activities.

The terms of the divestiture were adjusted slightly in September by Judge Harold H. Greene of the U.S. District Court for the District of Columbia, who has been presiding over the AT&T breakup. He reaffirmed his belief that the regional Bells have monopoly control over their local telephone networks and denied them access to the long-distance and equipment-manufacturing markets.

But Greene, bowing to concerns that the American public was being deprived of the fruits of the information revolution, permitted the regional firms to build the electronic infrastructures, called gateways, that carry information services to the public. He stopped short of allowing them to offer such services directly.

By opening the door partway for regional companies to play a role in providing such services, Greene was seeking to replicate the benefits of the cheap and easy Minitel system—benefits that the Bells have argued they alone could immediately bring this country. Greene took them up on that assertion by telling them, in effect, to build the highway but not the cars.

"What he did was try to take up the challenge that the Bell companies presented to him and turn it around on them," said Gene Kimmelman, legislative director for the Consumer Federation of America. "Now, if this industry doesn't grow, it will mean one of two things—either there's really not sufficient demand for these things anyway, or it will show that the Bells are continuing to make it difficult for people to really access their systems."

SERVICE GATEWAYS

No firm now offers a U.S. gateway, a system that allows easy access to a range of information of printed material to more exotic telephone answering services, home security systems and home energy monitoring. A handful of vendors provide a vast array of specialized data retrieval and bulletin board services to computer-savvy customers, who use local telephone lines to hook their computers to a vendor's equipment.

The nation's three major information services companies have a growing subscriber base, but their combined membership of 700,000 members is quite small when measured against the 26 million personal computers in the United States. "It's not a mass-market medium by any estimation," admitted David Kishler, supervisor of corporate communications for Compuserve Inc. of Columbus, Ohio, the country's largest and oldest videotex company.

Past efforts to interest the public in fancy computerized telephone services have not been encouraging. In the early 1980s, two major U.S. newspaper publishers, Knight-Ridder Inc. and Times Mirror Co., test-marketed videotex services regionally, but each failed to attract enough residential customers to support its costs and lost millions of dollars trying. The lack of public enthusiasm was blamed on the continued high cost of telecommunications technology and the complexity of the computer systems. "We've pushed computers so much, saying they're easy to use, when the truth is, right now they're not," said Marion Rudin Frank a Philadelphia clinical psychologist who has worked with corporations to ease employees' computer anxiety.

But videotex industry officials predict that before long, information services will be as important as the telephone itself. "We're dealing with a fundamental change in the way people carry on their lives," said Robert L. Smith Jr., executive director of the Videotex Industry Association. "That clearly does not happen overnight."

The Bells promise that they can upgrade their local lines and use their own network computers to offer more economical and innovative services. But they criticized Greene's recent decision, saying that it did not give them a free hand to achieve the necessary economies of scale. The decision "places the benefits of modern telecommunications services just beyond the reach of most telephone customers," said Arthur C. Latno Jr., executive vice president of Pacific Telesis Group, which covers California and Nevada.

The Consumer Federation's Kimmelman dismissed concerns that the Bells need more incentive to build a new information services infrastructure, as delineated by Greene. "The phone companies have been rushing to upgrade their networks even before they were allowed in any of these fields," he said. "Why would they stop now?"

Smith of the videotex association said that the regional Bells represent "the one chance to make this a mass-Market medium. If this is stopped, you're going to see interest dry up for a long time to come."

TEST MARKETING

In early 1986, Pacific Telesis (PacTel) invited a group of consumer activists to advise it on public needs for a broad-based information services program. The consumer committee consisted primarily of computer neophytes—only two had ever used the technology—but after an 18-month trial of many potential services in their homes, the panel enthusiastically endorsed the technology.

"One of the more avid users of nearly every service was a Gray Panther," said Barbara O'Connor, professor of communications at California State University (Sacramento), who headed the panel. "Her local library had been depleted because of Proposition 13, and a lot of research materials had been unavailable to her."

The panel was getting a sneak preview of "Project Victoria," PacTel's proposed system for delivering a variety of information services to residential telephone users. The company has completed its internal technology tests, but a large-scale market study scheduled for this fall has been postponed indefinitely because of disagreements with the Federal Communications Commission (FCC) over how it should be regulated.

O'Connor said that in addition to having the citizens group try the services, PacTel asked the members to assess whether some products should be considered "lifeline" services that are essential to the public. She said that the group was highly impressed with some systems designed to help the handicapped or to provide services to low-income people, and may recommend that the services be available at reduced or no cost.

Changing the way the public looks at information services is an essential part of a campaign to improve their marketability. Because they are mostly associated with computers and business applications, information services suffer from an image problem similar to their parent technology, the telephone. Patented in 1876, the telephone was at first regarded as a foolish, unwanted interruption. But by the turn of the century, the black box was accepted into one million homes and businesses, and during the next seven years, the phone caught on and distribution tripled.

In an attempt to put a public-service luster on the information services phenomenon, Southwestern Bell Telecom, the regional telephone company for the southwestern states, is promoting a new voice-activated telephone to help blind and handicapped residents place emergency calls quickly. Such new technologies promote information services as important community tools instead of playthings for the wealthy.

The West Coast Bell is not alone in testing the information services market. In August, Bell Canada Enterprises Inc. announced plans to offer the U.S. business market a package of information services; American Information Technologies Inc, the Midwest regional Bell, is a potential partner in that venture. Sears, Roebuck & Co. and International Business Machines Corp. also have jointly invested $250 million in a new "interactive personal service" of videotex products called Prodigy, which is still under development.

PacTel has been willing to invest in Project Victoria for the past several years under the strict controls of the original divestiture agreement, but Ronald F. Stowe, vice president of the company's Washington operations, said it is assessing the experiment's future in light of Greene's recent order. He said that company officials fear their attempts to offer Project Victoria on a widespread basis may be restricted by the continued prohibitions on manufacturing telecommunications equipment and by the hazy controls on information services.

Not oblivious to the ambiguities of his order, Greene asked the Bells to describe what they would need to develop such systems.

New technologies such as Project Victoria may be essential to carry the United States into a new telecommunications age because of the antiquated wiring that runs from each customer's home to the phone company's local telephone switch.

That connection, called the local loop, is the weakest link in the telephone company's chain that transmits digital and voice communications. While adequate for voice communications, the local loop often trips up when asked to send high-speed digital data, causing transmission delays and errors.

The PacTel experiment is one of a number of new-generation technologies that were under development by the Bell firms even before Greene permitted them to provide gateway services. By splitting an ordinary telephone line into two voice and five data lines, the technology would allow a family to have two different telephone numbers, use a computer-based information service, monitor its energy use and hook into three other telecommunications services at the same time. With the technology now in use, a single telephone call ties up a telephone line for any other use.

Project Victoria would be the first large-scale attempt to package and sell the spectrum of information services to U.S. residential users since Times Mirror and Knight-Ridder abandoned their separate experiments in 1986. Those trials, begun in the early 1980s, each drew fewer than 3,000 subscribers before they were dropped.

The publishing companies' experiments failed because "compared to the alternatives available to them, consumers were not willing to pay the costs associated with using the systems," explained W. Wayne Talarzyk, a marketing professor at Ohio State University, and Robert E. Widing II, assistant marketing professor at Southwest Missouri State University, in a recent report.

"We were too early," said Frank N. Hawkins, vice president for Knight-Ridder. "There was just no market there." He said the company chose to "bail out and bide our time."

From the French perspective, the U.S. experiments placed too much emphasis on developing technically sophisticated, computer-oriented graphics and not enough on creating a market, according to Nahon of Intelmatique. The computer chosen for the French public was "low-tech and high profits." he said, with simple white-on-black writing directed by a keyboard resembling a push-button telephone. Unlike Compuserve and other U.S. information services systems, Minitel required no computer knowledge.

The U.S. companies also tried to make money by selling advertising that would run on the computer networks. When no market developed for the services, the advertising dried up. By comparison, the French system created public interest in services and is making money from the high usage generated by information services companies competing for users.

U.S. firms may not be willing to give away terminals, but they could lease them at a minimal cost, Nahon said. "If the Bell operating companies cannot generate enough profits out of the role of the gateway, and perhaps rent low-cost terminals, it's going to take five years" for information services to be used on a widespread basis, he added.

OPEN NETWORKS

The federal regulatory structure has been evolving along with information services technology. Knight-Ridder jumped into the videotex market in South Florida in 1983, just as AT&T was about to be split into pieces, throwing the industry's future into confusion.

Throughout the divestiture fight, the FCC has contended that it could effectively regulate the newly formed telephone system without Greene, although the FCC adjusted its rules after the divestitures agreement by requiring the regional Bells to form structurally separate subsidiaries when entering businesses unrelated to telecommunications.

In June 1986, the commission decided that the telephone industry had progressed into a new competitive atmosphere that warranted changing the way the Bell firms were regulated. In a policy statement more in keeping with the Reagan Administration's open-market philosophy, the FCC recommended that the regional telephone companies be allowed to compete in the information services market, to provide their customers with both services and access to services, without having to create separate subsidiaries. In return, the Bells would be required to grant all potential rivals equal access to their pipelines to the consumer—a concept regulators dubbed "open-network architecture"—and would have to follow certain cost-accounting rules.

The bigger surprise came when the Justice Department, long critical of the commission's ability to oversee the telephone industry, endorsed the open-network architecture concept in subsequent filings with Judge Greene.

"We were looking for the minimal set of regulations that protects consumers and the competitive process itself, the ability of new competitors to come into the market to make use of facilities, some of which remained under franchise monopoly," said Gerald W. Brock, chief of the FCC's Common Carrier Bureau.

On paper, open-network architecture presented a simple concept: that all information services companies could have equal access to the consumer. But in practice, the regulatory theory has run into some problems. First, it is difficult to explain. Neither the Bells nor their potential competitors were initially sure how the telephone system might be changed for their mutual benefit, according to Charles L. Jackson, president of Shooshan & Jackson, a Washington telecommunications consulting firm.

In July hearings before the House Engergy and Commerce Subcommittee on Telecommunications and Finance, Jackson said the situation was best explained by a customer who was interviewed for a Bel Atlantic study. This user described the telephone network as "a given, like the laws of physics. It's an interesting idea to think how it might be changed to allow us or our customers to provide better service, but it's not something I have ever thought much about."

The second problem is that the Bells are having a hard time executing the open-network concept, according to the regional firms. "What we're asked to do is look at the network and come up with a proposal on what we think the building blocks and access points ought to be, and why those demonstrate that there is no discrimination and what the pricing should be," Stowe of PacTel said. "Well, we're finding it a lot harder to do than we thought. The network was not built brick-by-brick. There were groups of features put in . . . , and we're finding that to take one of the components out of that group may be more expensive than to buy all those features together."

The FCC set a deadline of next Feb. 1 for local telephone companies to complete their plans for implementing the open-network system.

The third problem facing the new FCC policy is underlying skepticism about the commission's ability to control the mammoth telephone companies through the complicated regulatory process. "I don't believe the commission can regulate open-network architecture," said Mark Cooper, energy director for the Consumer Federation of America. His concern was shared by Greene, who in his September decision criticized the proposed regulations as "entirely inadequate."

The judge's decision to limit the Bells' entrance into the information services industry cast a shadow on the FCC's open-network-architecture policy, which assumed that the regional firms would be equal players in the market, according to Stephen Goodman, deputy chief of the FCC's industry analysis division. "There is some concern that the telephone companies would be less enthusiastic about doing a lot of the modification required in open-network architecture when they will not be able to enjoy the benefits of it," he observed. Others disagree, noting that even with Greene's changes, the FCC's open-network framework "fits in quite well with the judge's notion that the Bells should provide an infrastructure that is user-friendly and maximizes the services of the vendors," according to the Consumer Federation's Kimmelman.

But a number of industry observers said that the Bells may be more inclined to invest money in unregulated ventures—Greene allowed them to enter nontelecommunications businesses without his approval—than to pour funds into regulated information services, which have an uncertain future.

As the technological possibilities grow, Greene's continued strict oversight of the telecommunications industry is becoming more obsolete, Brock said. "From our point of view, the technology is now moving beyond the regulation as it existed a few years ago. My vision of the industry several years down the road is a much more flexibly regulated industry, making less distinction between the regulated and nonregulated sector," he said.

Before that occurs, the industry and its regulators must answer some sticky questions about state versus federal regulatory jurisdiction over the new services. Engineers must agree on technological standards to ensure that all national and international information services providers speak the same language, much as computers that work together do.

First and foremost, however, they must answer Greene's continued demand that the telephone system be regulated like a monopoly, which may mean slowing the information services revolution for the present. Greene, gatekeeper to the telecommunications industry's future, has established that at least until his next triennial review, the Bells will be limited in their business dabbling. In maintaining that grip, "he's not only become a regulatory agency, but he's the main policy maker," said Smith of the videotex trade group. "He's one of the more powerful men in this country."

WHO NEEDS IT?

The technology is nearly available to deliver a playground of space-age services that go beyond video access to newspapers or picture telephones. Some foresee a day when time-pressed consumers may be able to "visit" Tahiti by going to the local telepresence agent, where they will be fitted with a suit of sensors connected to a robot in the South Seas. The consumer could then enjoy touching the sand and feeling the breeze in Tahiti.

"Can these things be done? Probably, eventually," C.E. Yates, AT&T vice president for planning, told an International Communications Association conference earlier this year. But, he added, "the right question is, Do people want these technological capabilities?"

Yates said that the telecommunications industry has tried to predict the public's whims before, only to be proven wrong. "We were anticipating that customers would be enthusiastic about seeing each other when they talk on the phone. The vision of a picturephone in every home hasn't come to pass," he said. "We all have some hard-won experience in offering or using technological capabilities in ways that people don't really want or need at prices necessary to make money."

Although still elusive to residential telephone customers, some futuristic services are already available to businesses. For example, Northern Telecom Inc., a Canadian telecommunications manufacturer, recently unveiled new technological products that allow customers to identify a caller's telephone number before picking up the receiver and automatically accept or decline incoming calls.

For the average consumer, however, the mass marketing of high-tech services has been hindered by the continued high cost and complexity of the technology. Today's information services are useful only to those who have computers and special equipment that allow their terminals to "talk" with an information services provider. "A reasonably well-equipped computer is still going to cost $1,000 or more," said the FCC's Brock. "So [information services] tend to be limited to higher-income hobbyists and professionals. . . . If you go another order of magnitude and bring that down, which is perfectly feasible, then it's at $100, and you have a far more mass market."

In the past 20 years of computer-technology advances, "the costs of electronics have fallen by a factor of 100 to 1,000," telecommunications consultant Jackson said. "We can confidently expect that the costs of electronics will continue to fall," he added, making the technology more accessible to more people.

The fact that the U.S. information services industry is a computer-based also scares off widespread interest. The videotex market rode the coattails of personal computer development in the United States and still maintains a subscriber base of professional males in their mid-30s, said Compuserve's Kishler. "But we're seeing more and more usage by other members of the family," he added.

The regional Bell companies, with networks that wire the country, argue that they can capitalize on their available systems and public recognition to deliver a reasonably priced product that the residential consumer will want. "Unless the Bell companies offer it, it's just not going to get out there with any reasonable speed," said Bill McCloskey, manager of media relations for Bell South Corp.

The FCC's Brock observed that industry has "only reached the beginning of the real mass marketing of the information services. It is a true growth industry. Right now, there's not a tremendous demand for this kind of service. But one can certainly imagine that it could become a routine service that everybody used. That's why people want to be positioned for it."

With the Bells' support, the American public will see a "myriad of information services, assuming the consumer wants those services," according to former FCC chairman Mark S. Fowler. "That really is the more interesting question: How many services will people really want in their everyday lives? Will they want this fabled, long-heralded market basket of 100 different services? I doubt it."

Some believe that the telecommunications regulatory battles are being fought for the next generation of telephone users. "You see how much more comfortable kids are with computers," PacTel's Stowe said. "I vow that I must take the time to get on top of this technology, and I will at some point. My father never will. But anybody who's younger, it's just going to be an intuitive thing."

ANTHONY PISCOTTY NAMED "MAN OF THE YEAR"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Anthony Piscotty of Nanticoke, PA, who is being honored this week by the General Pulaski Day Committee of Wyoming Valley as "Man of the Year." Every year the General Pulaski Day Committee selects an individual who best represents the spirit of community dedication shown by Gen. Casmir Pulaski, the American Revolutionary war hero from Poland.

Tony Piscotty has earned the honor of "Man of the Year" through many years of energetic leadership in a wide variety of civic organizations. He has served as president of the Nanticokes chapter of the American Red Cross, president and treasurer of the Wyoming and Lower Valley League, director of the Nanticoke Cultural and Historical Committee, campaign chairman of the Wyoming Valley United Way, vice president of the Chamber of Commerce, chairman of fundraising projects at the Stanislaus Orphanage, and has served as a member of the Kiwanis, the St. Stanislaus Church and numerous sports groups. I have touched on only a few of the organizations which have benefitted from his leadership.

I have known Tony for more than 40 years through his work with various charitable organizations, as well as his political activity. I have come to look to him for leadership in Nanticoke and have respected his devotion to our community.

It is a pleasure to join with my friends and neighbors in the General Pulaski Day Committee in honoring Mr. Anthony Piscotty for his energetic service to the Wyoming Valley. Mr. Speaker, the spirit of voluntarism lives on in northeastern Pennsylvania, and I am proud to share with my colleagues in the House of Representatives the fine example of Anthony Piscotty.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. FIELDS. Mr. Speaker, the time is ripe for the United States to focus on the rights of Soviet Jews. With the recent completion of meetings between Secretary of State George Schultz and Soviet Foreign Minister Eduard Shevardnadze and with future United States-Soviet talks expected, we must continue to emphasize to the Soviet leadership that human rights must be on the agenda for successful negotiations. It is in this context that I bring your attention to the plight of Abram Kagan, a Soviet refusenik who has been denied permission to emigrate from the Soviet Union.

Abram is an internationally known statistician who has received several invitations to scientific meetings outside the U.S.S.R., but he has never been able to attend these seminars or to emigrate to Israel, although he and his family have been in refusal for more than 10 years. He has consistently been denied permission to emigrate because of secrecy, despite the fact that his employers at the Steklov Institute of Mathematics have led him to believe that there was no reason for him to be denied permission to emigrate. In actuality, Abram never had any contact with state secrets, having worked only as a theoretical mathematician whose papers have all appeared in the open scientific press. Just recently, the Soviet authorities granted permission to emigrate to everyone in his family, with the exception of Abram. To separate this loving father from his wife and two children is the ultimate cruelty of the Soviet Government.

Sometimes the story of a single person or family can tell more about a system of government than all the statistics in the world. Abram Kagan is only one of thousands of people who have been victims of anti-Semitism in the Soviet Union. To put the extent of Soviet repression into context, one estimate found as many as 400,000 Jews in the Soviet Union who have indicated a desire to emigrate.

Until the end of June 1987 it seemed to be better for Soviet Jewry than the recent past. However, it should be noted that while Jewish emigration increased significantly in the first 6 months of 1987, the following situation remained: If Jewish emigration this year would continue at the current rate, the year's total would reach only 7,000—less than one-seventh of the peak year of 1979 when 51,320 Jews arrived in Vienna. Almost all of those granted permission are drawn from a list of 11,000 documented refuseniks, with little evident breakthrough concerning the thousands of others who are known to seek to emigrate. Very few applicants are being approved, or even processed, and virtually no one who lacks first degree relatives abroad, whether parents or siblings, can get new applications accepted. Moreover, many of those who seek an exit visa lose their jobs and their children may be harassed in schools or expelled from college. For those who dare to protest the outcome may even be worse. Roald Zelichonok of Leningrad, who wrote appeals to the West for help, was sentenced to 3 years of forced labor.

General Secretary Mikhail Gorbachev has been seeking to project an image of openness and flexibility on human rights issues. He has taken some dramatic steps to demonstrate that the Soviet regime's policies on these matters are changing. He has released several prominent refuseniks. This is welcome news. Yet, for most Soviet citizens, there has been no general improvement in Soviet human rights practices under Gorbachev.

During his recent visit to West Berlin, President Reagan challenged the Soviets by calling for the dismantling of the Berlin wall. In anticipation of another meeting between President Reagan and General Secretary Gorbachev, we must implore the Soviet Union to dismantle another wall, a wall which surrounds the Soviet Union by denying Soviet Jews a chance for freedom.

Mr. Speaker, it is our duty as freedom-loving people to throw the public spotlight of international concern on Soviet human rights performance. The dissemination of information about the realities of the plight of Soviet Jews remains a moral obligation of the United States. I embrace this endeavor wholeheartedly and urge my colleagues to continue the bipartisan support on behalf of Soviet Jews. We must send out a message of hope to all oppressed people of the world, a message that cannot be ignored by Moscow. For the thousands of Soviet refuseniks, we remain their only hope.

A CONGRESSIONAL SALUTE TO THE SAN PEDRO BOYS CLUB

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. ANDERSON. Mr. Speaker, it is my honor to rise today to pay tribute to the San Pedro Boys Club in San Pedro, CA. The Boys Club is celebrating its 50th anniversary.

The San Pedro Boys Club was founded as a nonprofit community organization in 1937 under the auspices of the San Pedro Civitan Club in a small sheet metal building in San Pedro. The club was an immediate success as enrollment climbed to 400 boys within the first 4 months. However, with such a large enrollment, a new site was needed to accommodate more members.

In 1939, the Boys Club moved its operation to a shop building vacated by the San Pedro High School. In 1940 the Boys Club expanded to occupy the gymnasium of the former San Pedro High School, once used by the National Guard.

In 1941 the board of education placed the entire school site on the market, thus threatening the Boys Club with the loss of their facility. However, two civic minded citizens, Gilbert Van Camp and B.B. Lippman, jointly aquired the site and gave the boys free use of the property with an option to buy the buildings at the original purchase price of $25,000. Two years later the Boys Club was again faced with a tense situation as the two benefactors asked to be relieved of their investment.

This time the Shipyard Workers Union Local No. 9 came to the rescue as they bought the site at the original asking price and gave the Boys Club free use. During the next few years the value of the property soared, which enabled the Boys Club to sell half of their site, and exercise their option to retain the back half of their property.

In 1947 Nick Trani became executive director of the San Pedro Boys Club and remained the executive director for 31 years. A whirlwind fundraising campaign began in 1963 that would be directed at building a new modern Boys Club as the old site was now decrepit and warranted demolition. The new site was to accommodate 2,000 boys and $350,000 was raised toward an estimated $400,000 new facility. The deficiency was covered by a loan from Bank of America, and was paid off 4 years after completion of the new building in 1965.

The Boys Club became, and still is, completely debt free. Its estimated site value today is nearly $3 million. In 1983 a surplus portion of the Boys Club property was leased long term to Safeway Stores for its new facility. This income provides 20 percent of the annual cost of caring for 2,000 members. The remaining cost is borne by the United Way and contributions from generous citizens of San Pedro.

Mr. Speaker, as you can see, the San Pedro Boys Club is a thriving organization and will continue to succeed, due to dedicated citizens in the San Pedro area. My wife, Lee, joins me in congratulating the San Pedro Boys Club on its 50th anniversary. We wish the San Pedro Boys Club much success in the years ahead.

CASE VAN DER EYK, SR., RECEIVES DAIRYMAN OF THE YEAR AWARD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to have this opportunity to recognize and congratulate Mr. Case Van Der Eyk. On October 8 of this year, he received the Dairyman of the Year Award.

Case Van Der Eyk, Sr., was born in Holland and emigrated to the United States in 1947. After living in Artesia for 4 years, he started his own dairy business in Torrance in 1951. He has lived in the Chino Valley for 25 years, and for 36 years has dedicated himself to the dairy business.

This commitment to dairy farming has brought great results. The Van Der Eyk dairy currently milks 1,600 cows daily and has a total of 5,000 cows on the property, including replacement heifers and dry cows. Mr. Van Der Eyk's career also includes his contributions to the dairy industry in ways that are far removed from the cows he owns. He has served as chairman of the board of the State Dairy Association, first vice chairman of the board of the Milk Producers Council and vice chairman of the Dairymen's Labor Committee. Mr. Van Der Eyk has also been involved in the California Beef Council, California Dairy Princess Committee, and the Milk Advisory Board. He was appointed to serve as a member of the board of both the California Livestock I.D. and the California animal health organizations.

While clearly he has devoted himself to promoting the dairy industry, Mr. Van Der Eyk has managed to find the time to serve his community. He was vice chairman of the Inland Home for the Aged and a member of the board of the Church on the Hill. Family life has also been a priority. Nelly and he have been married 44 years, and are the proud parents of 4 children and 13 grandchildren. The tradition of dairy farming continues in the Van Der Eyk family; three of his children are now involved in the dairy industry.

When asked what advice he would give to a young person wishing to go into the dairy industry, he said, "Dairying is not a get-rich-quick proposition. It requires a lifetime commitment!" It is clearly evident that Mr. Van Der Eyk practices what he preaches. Mr. Speaker, I ask that you join me in saluting Mr. Case Van Der Eyk. He serves as an outstanding example to us all as a man who has dedicated himself to his business—not only for profit—but for growth and improvement in the entire industry. He is a most deserving recipient of the Dairyman of the Year Award, and it gives me great pride to congratulate him upon his achievements and to wish him continued success.

THE 75TH ANNIVERSARY OF SS. PETER AND PAUL CHURCH IN ALLENTOWN, PA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. RITTER. Mr. Speaker, congratulations are in order to mark the celebration of the diamond jubilee of SS. Peter and Paul Church in Allentown, PA, on November 8, 1987. This is the 75th anniversary of the Catholic Church built by the Polish people who settled in Pennsylvania and the Lehigh Valley from the beginning of the 20th century.

The Polish immigrants who came to live in Allentown and Bethlehem worked hard in the coal mines and steel mills of these cities. Their great desire and need was to build a beautiful church in which they could worship freely according to the Constitution which we celebrate during this year.

Fourteen priests and pastors, born in Poland and in our own country, toiled from the early 1900's in brick and mortar as well as in the tender and compassionate care of human beings, to establish, beautify, and hallow a place to practice true religion.

The year 1912 saw the resolution passed for the establishment of a new parish and building of a new church. Seventy-five years have now passed while SS. Peter and Paul has grown, welcomed its people and nourished their life for their good and the good of our entire Lehigh Valley community.

As their U.S. Representative, I proudly and gratefully acknowledge the diamond jubilee of SS. Peter and Paul, Allentown, PA.

RAILROAD ACCOUNTING PRINCIPLES BOARD ISSUES FINAL REPORT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. FLORIO. Mr. Speaker, the Railroad Accounting Principles Board recently issued its final report. The Board was originally authorized in the Staggers Rail Act of 1980 and was directed to establish "principles governing the determination of economically accurate railroad cost." The Board was chaired by the Comptroller General and included six other members—a representative of a large shipper, a representative of a small shipper, a representative of the railroad industry, an economist, an accountant, and a representative from the staff of the Interstate Commerce Commission [ICC].

Among the key recommendations of the Board:

REVENUE ADEQUACY

In determining whether a railroad is revenue adequate, the ICC should consider railroad-related activities of all railroad-related affiliates.

In addition, according to the Board, the ICC's current approach of using the current market cost of debt—instead of the embedded or historical debt cost that a railroad actually pays—in determining the overall cost of capital is appropriate. The ICC compares a railroad's return on investment to the current cost of capital to determine revenue adequacy. If the railroad's return on investment is less than the cost of capital, it is not revenue adequate.

The Board also determined that in calculating a railroad's return on investment, deferred taxes should be subtracted from the investment base.

MINIMUM RATES

In determining whether rates are below a minimum reasonable level; that is, predatory, the relevant costs are those which are avoidable if the traffic involved does not move.

INFLATION INDEX (RAILROAD COST ADJUSTMENT FACTOR)

The ICC should include a productivity adjustment in its inflation index. It does not currently do so, and this has been one of the concerns of shippers. The ICC has had a long running proceeding to consider this, and the Board recommended the ICC implement such an adjustment within 18 months.

UNIFORM RAILCOSTING SYSTEM (URCS)

This is a railroad costing model that the ICC has proposed to replace the long used "Rail Form A." Shippers have expressed concern about certain aspects of URCS. The Board indicated that URCS is a positive step, but its implementation should be delayed for up to 18 months until certain technical issues are studied.

ICC REPORTING AND CONGRESSIONAL REVIEW

The Board recommended that the ICC report to Congress on its implementation of the principles in 2 years, and annually thereafter, and that Congress monitor the implementation of the principles.

I believe the Board has performed its functions well and in accordance with its legislative mandate. I commend the Members and staff of the Board for their fine work and urge the ICC to quickly implement the principles.

TRIBUTE TO THE BELLEVILLE REFORMED CHURCH ON ITS 290TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. ROE. Mr. Speaker, 1987 is the 200th anniversary of our Constitution, the very cornerstone of the world's oldest democracy, but this year also marks the anniversary of an institution which stretches back beyond our present Government to the very root and heart of our country and its people. Established in 1687, the Belleville Reformed Church is celebrating 290 years of service to its community. It is the same sort of faith and perseverance which has sustained this church that has been the very foundation upon which the United States has grown and prospered.

I would like to share with my colleagues here today a brief history of this steadfast organization from their anniversary booklet.

HISTORY OF THE BELLEVILLE REFORMED CHURCH

History is a recording of events of the past. Our records are fairly complete and since we must be brief, we will confine ourselves to the known records. Legend, though fascinating, in truth cannot be included.

The exact date of the origin of our Church is not known but the known facts indicate that it was established in the year 1697. In the beginning, services were held by Reverend G. Berthoff in conjunction with the Church at Acquackanok. Old records tell us that the original Church building was replaced by a new one in 1725, under the direction of a committee composed of Garrit Weurterse, Frans Van Dyke, Gideon Van Winkle and Johannes Koning.

Among the by-laws of the Church, passed at that time, was one that seats were to be provided for all within the township of Newark, who contributed toward the Church and who helped with the salary of the pastor. Aarent Schuyler, who was apparently one of the more influential founders of the original Church, was to retain his pew in the southwest corner of the new edifice, the same as he had in the old Church.

The ground for this new house of God, located near where the present Church stands, was conveyed by a deed by Francis Spear and his wife, Catryna. The new building was a square stone structure with a belfry constructed upon the center of the roof. The sexton, in ringing the bell, stood in the center aisle. The belfry was later removed and replaced by a stone tower erected in the north end of the Church.

The Rev. Henricus Coens was installed as pastor in 1726. He also served Acquackanonk and other Reformed Churches in the northern part of the State. It was during his pastorate that the "Schuyler Trust" was established and to this day, the Church continues to benefit from the proceeds of this and other bequests. In appreciation, the consistory gave to the Schuylers the right to call upon any minister of the faith when a replacement was required. The first pastor called under this agreement was the Rev. Gerardus Haughhoort from the Church at Freehold. He was installed in 1735. The next fifteen years were years of considerable spiritual development and growth for the Church and town. Rev. Haughhoort served until his death in 1776 and he was buried under the Church. During the Revolutionary period and until 1784 there was no regular pastor, services being conducted by the Voorleser or Clerk of the Church.

In 1784, Rev. Henricus Schoomaker, pastor of the Acquackanonk Church entered in a agreement to supply part of the time. On June 5, 1790 the Church became incorporated as "The Reformed Dutch Church of Second River." Rev. Peter Stryker was installed as pastor in October 1794. He was the first pastor to conduct services in other than the Dutch tongue although he continued to preach monthly in the mother tongue. He also founded the Church of Stone House Plains (Brookdale) in 1801, from the members of the western section of our congregation.

In 1804, a violent tornado rendered the Church unfit for services and a new edifice was erected and dedicated in 1807. During the period of construction we were permitted to hold services in the Episcopal Church. This demonstration of the ability to work together in a common cause and in unity with other faiths was again demonstrated when in 1835, the use of our Church was permitted during the building of a new Episcopal Church. The same spirit of friendly cooperation was again evident in 1846 during the rehabilitation of the Methodist Church whose congregation were accorded the use of our building.

The congregation continued to grow and in the years 1852 there was a need to expand the present building. Because the Church provided Belleville with interdenominational education for its children, in a building located directly in back of the church, the town had to provide public education. Therefore, Belleville purchased and built the first public school on Academy Street. The old Church school was demolished and its brownstone incorporated in our present Church building, which was erected and dedicated in the year 1853 during the pastorate of Rev. Isaac S. Demund. The building committee for the present Church consisted of Messrs. John Van Rensselsaer, John H. Joralemon, Nicholas N. Joralemon, John C. Lloyd, James Brown, Sebastian Duncan and Dr. Samuel L. Ward. Rev. Demund was in turn followed by Rev. Thomas Dewitt Talmadge, who had started his illustrious career here, to be followed by a quarter of a century of service at the Brooklyn Tabernacle and then in Washington, D.C.

In 1882, some 35 Chinese families became members of our Church. They were employed in a laundry across the river. Their children attended our Sunday School.

Our present Chapel, now known as Fellowship Hall, was built and dedicated in 1895, while Rev. Andrew Hageman was pastor. The dedication service was one of the most impressive events ever witnessed at the Church and included the presentation of the memorial windows.

In 1915 under the leadership of Rev. J. Garland Hammer, a fund was raised sufficient to obtain matching funds from the Carnegie Foundation. The new 8 rank pipe organ was installed in the front of the Church instead of the balcony where the old pump organ had been. This organ is still used for each Church service.

The Old Church, with its congregations including many prominent citizens of the Town suffered from river pollution, causing many of our constituents to move elsewhere and the building to deteriorate until 1926. By 1927, the pollution had been reduced to a minimum and under the leadership of the Rev. John A. Struyk a program of rehabilitation was begun. During this time a new manse was purchased and still used today.

In 1947 we celebrated our 250th Anniversary with a week long celebration. Many members dressed in old Dutch costumes and a pageant was held telling the History of our Church. After 29 years of service as pastor, Rev. Struyk retired.

In 1972 we celebrated 275 years with a float in the town parade built by many dedicated members, and several programs during the month of October.

In spite of world chaos: World War II, Korea, Viet Nam, Middle East unrest etc: Our Church, with the guidance of our many pastors, has remained in active support of our members and community.

Our building looks about the same as it did 40 years ago, except, of course, in the front where we face Route 21 instead of the river. Much has been done to the Church to make it more pleasant to the congregation and community. Some of the changes have included: two paved parking lots, spears removed from the steeple, Carillon was added for all to hear, in 1927 a plaque with the Revolutionary Soldiers names on it placed by the Daughters of the American Revolution, in 1972 a plaque stating the organization of the congregation in 1697 was placed on the front of the building, and in 1981 a sign stating we are a National Historic Site was placed in front of the building.

Our organizations, each in their own way, provide both fellowship and ministry. The Ladies Aid established in 1898, the Womens Guild organized in 1960, the Bible Study, The Sunday School, The Choir, and the Youth Group. Some of our mission work includes: visits to the Reformed Church Home, Geriatrics Center, Twin Wells Indian School, Town-wide Food Pantry, and Vacation Bible School just to mention a few.

As we celebrate our 290th year, we look forward to the future with God's help and guidance. We also look to future generation of the Church to continue to grow "inward to ourselves, outward toward others, and upward to God."

So may the Good Lord Bless and Keep you under the protection of His Everlasting Arms.

In closing this brief account of the history of the Belleville Reformed Church, we pay tribute to the revered family names of Spear, Schuyler, Joralemon, Vreeland, King, Rutgers, Van Cortland, Lloyds, Stephens and many others whose loyalty and faithfulness have enabled the Old Church to reach its 290th Anniversary.

That it may continue its service, let us all rededicate ourselves to the faith so that our names may also be inscribed among those immortals.

Mr. Speaker, certainly it is institutions such as this which have lent America the strength and stability which have carried it through its troubled times. In closing, I would like to share with you a dedication from that same anniversary booklet. I believe the words apply not only to the parishioners of the Belleville Reformed Church but to all those citizens who have over the years given of themselves to their communities.

To the loving memory of those who prayed, attended faithfully, contributed time, talents and money so that this church has been able to have its doors open for 290 years. Memories of them are among our most valued possessions. God Bless Them.

Mr. Speaker, may God bless the Belleville Reformed Church and may He bless us all.

CHILDREN ARE THE REAL VICTIMS OF SOVIET INVASION OF AFGHANISTAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. LEVIN of Michigan. Mr. Speaker, in the 8 years since the Soviet Union invaded Afghanistan, perhaps as many as one-half of Afghanistan's 16 million citizens have either fled the country, or have been forcibly displaced or killed. But this only begins to tell the story of the heroic struggle of the Afghan people.

Of the 3 million Afghan refugees, approximately half are children. That means any Afghan under the age of 18 has spent virtually half his or her life or more as a child of war.

Who among us can truly understand the physical and psychological pain suffered by these children? As the Kabul government manipulates the politics of a Soviet pullout, an entire generation of Afghan children grows into adulthood having never shared the tranquility of village life once experienced by their parents and grandparents.

One psychiatrist treating Afghan children described how each day brings him new cases of children who can't sleep, children who can't talk, children who can't look up from the floor. He compares their behavioral reaction to war to that of autistic children, and predicts with great pessimism that they will grow up with injured personalities.

The Soviets have shortened their proposed timetable for removal of Soviet troops to 18 months, but they remain opposed to the concurrent termination of the Soviet puppet government in Afghanistan. If the Soviets will not concede the Afghans the right to choose their own government, a military pullout alone means little.

As the population of refugee children and their families continues to increase the social and economic pressures on Pakistan and other countries giving sanctuary, the United States must step up its efforts to seek a speedy, peaceful, and good-faith withdrawal of the Soviet presence and allow for the return of refugees so that they may try to piece together their personal lives and their country.

If Soviet General Secretary Gorbachev's policy of glasnost, or openness is to have meaning it must include a pullout from Afghanistan.

CONGRATULATIONS TO ESP!

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. STARK. Mr. Speaker, this year the Emergency Shelter Program in Hayward, CA, is celebrating 15 years of providing support and shelter for women and children. Through these years, many people have been helped through a difficult period in their lives, enabling them to hope for and to create a better life.

Today, I commend and congratulate the founders of the shelter, who recognized the need to furnish shelter for homeless persons and victims of domestic violence. Also to be applauded are the countless number of people who believed in this program and worked tirelessly to continue and to expand it.

The growth of the Emergency Shelter Program [ESP] testifies to the vision of the original organizers but, also, to the incredible increase in the demand for housing for homeless people. ESP has gone from a safe haven for 8 women and their minor children to one accommodating 40 women and their young children.

By July 1972, a board of directors was formed and obtained nonprofit incorporation status from the State of California, making it the first State incorporated shelter program in the United States.

At that time, the program provided 7 days of shelter and meals to women and children in a CALTRANS house on Second Street in Hayward. The paid staff, a housemother and an assistant, were helped by student volunteers from the local colleges, Frequently, the board of directors rolled up their sleeves to help when paid staff was unavailable.

Today ESP is the largest shelter program in southern Alameda County. The program's setting includes two licensed child care centers, a well organized administrative office, and services which offer the following: on-site counseling for the women and children; tutoring for the children and parenting education for the mothers; job counseling; housing search assistance; over the phone shelter and crisis intervention 24 hours a day; and community support groups. Of the people served, 35 percent are victims of domestic violence and 65 percent are children.

The advocates of ESP have been and continue to be legion. Many of these staunch supporters contribute money monthly to the general operation of the programs. A list of donated items includes food, laundry supplies, toys, chairs, almost everything that is needed to feed and clothe people and to equip a home.

The Emergency Shelter Program is a tribute to the community of Hayward and is proof that many people working together can change dreams into reality.

A TRIBUTE TO MEMBERS OF FOSTER GRAND PARENT AND SENIOR COMPANION PROGRAM

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the members of the Sacramento Foster Grandparent and Senior Companion Program. These elder volunteers have provided the Sacramento community with invaluable assistance and inspiration in their work with the disabled and needy children and adults of our city.

Since 1974, Foster Grandparents and children with special needs have formed a winning combination in the Sacramento community. These tireless volunteers attend to the physical, mental, and emotional needs of disadvantaged children and youth. Foster Grandparents also work in schools for mentally retarded, disturbed, and learning disabled children; in hospitals and residential treatment centers; and they provide juvenile offenders and child abuse victims with the care and respect they so desperately need. Foster Grandparents prove to be key members of the child-care teams for the institutions which they serve, providing children with the special attention a busy staff cannot always give.

Under the Senior Companion Program, volunteers provide services to adults with special needs under Federal, State, and local grant awards. Through their unflagging efforts, these Senior volunteers assist the disabled in health care centers and aid them in achieving their highest level of functioning in our community. The understanding and support Senior Companions offer these disabled citizens instills in them a greater sense of trust, confidence, and a positive attitude necessary for the transition to independent living. Furthermore, Senior Companions serve over 220 home-bound citizens in private residences. By providing this assistance, Senior Companions enable the homebound elderly to remain in their own homes and avoid premature or inappropriate institutionalization.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to pay tribute to the members of this fine and caring organization. The Sacramento Foster Grandparent and Senior Companion Program's dedication to the Sacramento community is most admirable indeed, and I want to take this time to offer my warmest wishes to this outstanding group of people and wish them the very best of luck in all their future endeavors.

DENNIS CHAVEZ DAY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. RICHARDSON. Mr. Speaker, I recently introduced a joint resolution in honor of Senator Dennis Chavez of New Mexico. This resolution would designate April 8, 1988, as "Senator Dennis Chavez Day", also the 100th anniversary of Senator Chavez' birth. I would like to take this opportunity to enter for the record an article by Jay Miller of New Mexico. I believe this article captures the remarkable spirit of Senator Chavez.

INSIDE THE CAPITOL

SANTA FE.—Did you ever wonder who decides what picture will go on commemorative postage stamps?

The answer is—a committee. That makes sense considering that there appears to be no rhyme or reason to the choice of subject matter. The hard thing to believe is the amount of time put into the task and how far in advance the decisions are made.

Some time ago, Gloria Chavez Tristani and Ymelda Chavez Dixon began an effort to promote the issuance of a postage stamp in honor of their father, former U.S. Senator Dennis Chavez. They wanted the stamp to be issued next spring during the centennial celebration of the Senator's birth on April 8, 1888.

The sisters have now learned that all stamps were decided upon for 1988 and 1989 before they ever got started. The current plan is to get approval for a stamp to be issued at a later date but with an announcement being made next April.

Since the stamp can't be issued on the Senator's 100th birthday, his daughters are suggesting that a very appropriate year for issuance, because of Chavez' Hispanic heritage, would be 1992 to coincide with the 500th anniversary of the discovery of America.

What a great idea! I can think of no one better than New Mexico's Sen. Chavez to be the first Hispanic so honored by our country.

Chavez was a man of many firsts. He was the first Hispanic and the first native New Mexican elected to the U.S. Senate. He is the first and only New Mexican to have a statue in the U.S. Capitol Building. For more than 30 years he was the highest ranked Hispanic in the Federal Government. He served New Mexico as a U.S. Senator longer than anyone else ever has.

Since his death in 1962, many people have used many words to describe the Senator. My word is courage.

Born in a home with a dirt floor and too poor to ever go to high school, Chavez worked until he was able to obtain admittance to the prestigious Georgetown Law School at the age of 30.

At the time of his death he was chairman of the Senate Public Works Committee which made the decisions on Federal aid for dams, highways and Federal buildings. Of even more importance to New Mexico was his chairmanship of the Defense Appropriations Subcommittee, which handled 60 percent of the Federal budget. New Mexico's many defense installations were due in no small part to the influence of Chavez.

Besides his 31 years in our Nation's Capital, Chavez spent 7 years in the New Mexico Legislature. The accomplishment in which he took the greatest pride during those years was his introduction of the first bill to provide free textbooks to the school children of New Mexico.

In my mind, Chavez's greatest first, one which required unbelievable courage, is not an accomplishment a person often hears about when the conversation turns to the Senator.

It was 1950 and the height of the McCarthyism era. Demagogues with no regard for truth or constitutional principals were indulging in widespread character assassination. It was a time of hysteria, when nothing but political jeopardy could attend those who aligned themselves against these forces. Few were the voices crying out against this vicious trend.

On May 12, 1950 one such voice did speak out. Dennis Chavez rose on the Senate floor and said, "I should like to be remembered as the man who raised a voice—and I devoutly hope not a voice in the wilderness—at a time in the history of this body when we seem bent upon placing limitations on the freedom of the individual."

Chavez proceeded to denounce McCarthy's favorite witness, Louis Budenz, for his "dubious testimony" and to chastise him for doing so under the "shield and cloak" of the Catholic Church.

Many of Chavez's colleagues felt this was the beginning of the end of McCarthyism. Because of the Senator's leadership, others dared speak out. As one of those Senate collegaues characterized it, "Senator Chavez's contribution to restoring the American heritage that day can never be measured."

1990 CENSUS

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. SLATTERY. Mr. Speaker, I share the concern that Representative DYMALLY and other Members of Congress expressed to the House today concerning the Office of Management and Budget's recent decision to modify the 1990 Census dress rehearsal questionnaire.

OMB has decided to eliminate three of the four energy questions from the sample census form for this exercise, and has proposed shifting 7 of 10 housing questions from the ubiquitous form to the sample form.

Mr. Speaker, during the public comment period on the OMB's proposals in this area, I received correspondence on this issue from the director of reference of the Kansas State Library. I commend Mr. Galbraith's comments to my colleagues.

KANSAS STATE LIBRARY,
Topeka, KS, August 21, 1987.

Hon. JIM SLATTERY,
1431 Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE SLATTERY: I am writing to share my concern about recent action on the part of OMB concerning the 1990 Census.

The Census Bureau, per the Paperwork Reduction Act, recently submitted documentation regarding their plans for the 1990 Census Dress Rehearsal. OMB has challenged some of the items on the proposed questionnaire. Removal of those items will have serious consequences for the patrons of the Kansas State Library and for planners, researchers, and census users across the country.

I encourage you to look into this matter.

I am enclosing a prepared statement by a representative of the American Library Association.

Sincerely,

MARC GALBRAITH,
Director of Reference.

Enclosure.

STATEMENT OF RACHEL SENNER VANWINGEN, AMERICAN LIBRARY ASSOCIATION

My name is Rachel Senner VanWingen. I am the Government Documents Librarian at Georgetown University. As a federal depository library, we are open to the public and serve, in addition to our own academic community, the wider community or researchers, consultants, entrepreneurs, lawyers, business people, health care workers, and other citizens.

It is a privilege today to testify on behalf of the American Library Association, a nonprofit, educational organization of nearly 44,000 librarians, trustees and other friends of libraries dedicated to the improvement of library and information services for the entire population. I have been a member of the Government Documents Round Table since 1972, and currently I chair its Statistical Measurement Committee. I have also served since 1984 as a member of the National Data Collection and Use Committee of the Library Administration and Management Association, a division of ALA.

Simply stated, our position is in support of the Dress Rehearsal Questionnaire for the 1990 Census as proposed by the Bureau of the Census and in opposition to the deletion, or even the relegation to the long form, of any questions at this late date.

The decennial census is a planned undertaking. As far as the library community is concerned, the planning for the 1990 Census was thorough, professional and fair. The Bureau held public hearings on subject content and products. Input from librarians and library users was solicited, and Census staff members appeared at ALA conferences to keep us apprised of the planning stages.

The result of this consultation and information gathering, modified by the professional expertise of the demographers and statisticians at the Census Bureau, is the Dress Rehearsal Questionnaire. This represents the best judgment of the Bureau to fulfill their mandate.

The proper target for concerns about the census has always been the Census Bureau. The Office of Management and Budget has never solicited library input on the content of the census, nor has the library community addressed their concerns on it to OMB. Yet OMB has put itself in the position of overriding the consultative process and professional expertise of the Census Bureau by denying them permission to produce the Dress Rehearsal Questionnaire as proposed.

In the three days I have had to prepare my testimony, many colleagues have spoke to me citing examples of census use in their libraries. As a representative of libraries and their users, I would like to offer these examples as evidence of the immeasurable value that we place on decennial data.

The Government Documents Room of Georgetown University last year received 22,234 inquiries and circulated 30,532 documents. Although our statistics do not reflect specific use, our experience shows that the second highest category of use, after congressional publications, is the census. To demonstrate the range of census questions we handle, this week alone we assisted:

A faculty member in the area of immigration policy, working on a grant, who needed household income by race for detailed geographic level—data only available from the decennial census.

A business wanting to market their product in the metropolitan areas with the largest populations in certain specific professions. They were willing to settle for 1980 data because they valued the level of detail provided by the Census more than the currency of the data.

Other uses that immediately come to mind in our university setting are by the top administrators for planning using all manner of census statistics, by an economics professor using travel time to work data, and by a business student using disability data. As a matter of fact, the economics professor complained that the 1980 Census eliminated the distance-to-work question, thereby making it very difficult to use the sophisticated economic models he needs in his analyses. Every year the Senior nursing students at Georgetown must complete a community assessment project which involves analyzing detailed housing and social and economic characteristics not available elsewhere.

In addition, our census data is used by a health policy unit, by outside lawyers, consultants, and by entrepreneurs and small businesses whose success the United States government has traditionally encouraged, realizing that healthy, small businesses are an asset to our economy.

The head of the Government Publications Department at the University of Kentucky, offered examples of uses from her region of the specific questions targeted by OMB for elimination or downgrading:

The fertility question is used by local school districts, utilities, retail businesses, and by road maintenance and garbage collection planners.

Automobile ownership is used by retail stores and by transportation departments in planning both road maintenance and bus routes.

The number of rooms and appliances is used by retail businesses, utilities, and local builders.

Residence of five years ago and travel to work are questions used by local planners of all kinds of services, retail businesses, economic development agencies, and road maintenance administrators.

The Indiana State Data Center, in addition to answering numerous queries from the business community, provides census assistance to government agencies at all levels. These agencies use especially housing and labor-force data. Another category of user is the community group requiring census data in order to write applications for grants. In 1986 this State Data Center, whose business is exclusively census data, received 4,791 inquiries.

The important points I want to make with these examples are:

The level of geographic detail as well as the subject content in the decennial census is unique—not available elsewhere. That is why new publications continue to appear citing 1980 census data—because that is all that is available.

The evidence very clearly demonstrates that census data is used for important public purposes.

The decennial census is unique in several other aspects: it is the only device that allows analysis of information about the population in the context of characteristics on the quality of life as measured by detailed income and housing statistics. For some data, the census questions represent a significant time series which should not arbitrarily be destroyed. Removing questions from the short form to the long form would destroy their comparability with past censuses and would introduce loss of reliability at the smaller geographic levels.

Census data is important not just to library users but to the society at large who may never have looked at its numbers or even know what it represents. We are all affected by the decisions that our governments at the local, state, and national level make based on census data. Quality of data is essential and content of data collection becomes critical.

Some of the issues on which data will not be collected in 1990, of OMB gets its way are: residential water sources; energy sources; automobile ownership; property values; mobility; fertility; employment and unemployment; and commuting.

Researchers come to the library to find data necessary for their investigations. When they discover the data does not exist, they find they must change their projects to suit the data that does exist. Analysts need data to evaluate the programs of the '80s. The concept of accountability in government must include the ability to look back and evaluate the change. Without the collection of detailed data comparable to previous censuses that assessment cannot take place. OMB's arbitrary decision to curtail the 1990 census questionnaire could affect the shape of research and policy analysis for the next 15 years or until we have collected and have the results of the census of the year 2000.

Wise policy decisions are difficult to make in the face of uncertainty. They are impossible to make in the dark. There is no reason to be in the dark. The Bureau of the Census exits with a mandate to collect statistics in the national interest. The mechanism is in place whereby the Dress Rehearsal Questionnaire is tested, followed by the full scale decennial census of 1990. Public policy questions which need solutions exist now and more will emerge as we approach the 21st century. This is our last chance to collect the data upon which those decisions will be based.

The American Library Association considers the work of the Census Bureau to be so critical to society as a whole that ALA Council, its governing body, passed a resolution supporting the issuance of a commemorative postage stamp in 1990 to honor the bicentennial of the United States Census. A copy of the resolution is attached to my testimony, and we request that it be made part of the record.

Thank you for this opportunity to present the views of the American Library Association.

JUDGE CAPPELLINI HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a fine judge in northeastern Pennsylvania and a personal friend, the Honorable Gifford S. Cappellini, who is being honored by the Sons of Italy at their annual Columbus Day banquet.

A native son of the Wyoming Valley, PA, Gifford S. Cappellini attended Meyers High School and the Bucknell University Junior College—now Wilkes College—before graduating from Bucknell University and Cornell Law School. He served as sergeant in the Judge Advocate department in the U.S. Army. A trial attorney for more than 30 years, Judge Cappellini has been a member of a wide variety of legal organizations, including the Luzerne County Bar Association, Pennsylvania Bar Association, and Pennsylvania Trial Lawyers' Association. He has also taught at Wilkes College and Pennsylvania State University Extension School.

Gifford Cappellini's service to his community is well-known throughout the Wyoming Valley. He has served as president of the alumni association of Wilkes College, past president and chairman of UNICO, and board member for the Luzerne County Association of Retarded Citizens. Many other organizations too numerous to mention have benefited from his service.

In Gifford Cappellini the citizens of Luzerne County have been fortunate to find an honest man who embodies the true elements necessary for a good and fair judge. In the nearly 40 years that I have known him, I have always found Gifford to be devoted to his family, his community, and the law and to have a tremendous capacity for loyalty and friendship. He has earned the respect of his peers and has uncommonly met the standards which brings a lawyer from the ranks to become a judge.

Mr. Speaker, it is an honor for me to take this opportunity to draw the attention of my colleagues in the House of Representatives to this excellent judge and personal friend, Gifford Cappellini. I am pleased to join with the Sons of Italy in honoring this fine man.

PFC. CHARLES A. TAMEZ

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. FIELDS. Mr. Speaker, I would like to take a moment to recognize the outstanding achievements of a young man attending college in my congressional district: Pfc. Charles A. Tamez. Private Tamez, with his parents Charlie and Dalia, live in nearby Pasadena, TX.

Private Tamez, who is just 20 years old, joined the Army in November of 1986. He attended boot camp at Fort Knox, KY, and received advanced training at Fort Jackson, SC. He will be a member of the Army Reserve for 6 years—and his country is fortunate to have a man of his skill and dedication in its service.

Private Tamez was awarded the Department of the Army's "General Creighton W. Abrams Award," the highest honor that can be bestowed upon completion of initial entry training. The award is presented to the individual who distinguishes himself, through his performance, as the most motivated, dedicated and loyal soldier.

More recently, Private Tamez was awarded the Army Achievement Medal for exceptionally meritorious achievement this summer while he served as an administrative specialist with the 4151st U.S. Army Reserve Forces School during annual training. In the recommendation, it was observed that Private Tamez's "duty was characterized by dependability, initiative, persistence and diligence and set the standards for others. His military bearing and overall performance was of the highest standard and consistent with that normally expected of soldiers many years his senior. His conscientious duty performance and professionalism reflect great credit upon himself, his unit and the United States Army Reserve."

Now a student at San Jacinto College-North Campus, Private Tamez soon will transfer to the University of Houston in pursuit of his law degree. The intelligence and hard work which has characterized his other endeavors makes me confident that he will succeed there.

Mr. Speaker, I know that you join me in commending Private Tamez for his service to his country, in congratulating him on the recognition his superior performance has earned him, and in wishing him the very best for the future.

DR. J. WHITCOMB BROUGHER, JR. AND FIRST BAPTIST CHURCH OF GLENDALE CELEBRATE 60 YEARS TOGETHER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MOORHEAD. Mr. Speaker, I rise today to honor a pastor and his people. The pastor is Dr. J. Whitcomb Brougher, Jr. The people are the members of the First Baptist Church of Glendale, CA. For 60 years, they have been an effective and enduring team. For 6 decades, their union has grown and prospered. For any relationship to last 60 years, it may be one based on love, mutual respect, and mutual benefit. Certainly this union meets that test.

Dr. Brougher and his congregation are a tradition in Glendale. They represent a positive and powerful element in that community and in the State. What they are and what they represent is one of the principal reasons why America became a great people and Nation.

And what they are and what they will remain in the future is one of the fundamental reasons why we will remain a great Nation.

Mr. Speaker, Rev. Brougher became the pastor of the First Baptist Church in 1927 after his graduation from the University of Redlands and the Newton Theological Institution in Newton Center, MA. He received his D.D. degree from the University of Redlands.

He is well known throughout the Pacific Coast. It is estimated that he has given a speech a day for 60 years. That represents nearly 22,000 speeches, enough to inspire any politician, or for that matter, any man of the cloth.

For example, Dr. Brougher is the chaplain of the Los Angeles Breakfast Club and, as such, each Wednesday morning he is a part of its weekly program. He is the chaplain of the Propeller Club and participates in each of its monthly meetings. Dr. Brougher is a member of the Glendale Kiwanis Club and has a remarkable 50 years of perfect attendance.

He has been a repeated convention speaker for Rotary and Lions. He has conducted preaching missions for 12 consecutive years at many of the Air Force bases on the west coast. During 1 week, he spoke 47 times at Fairchild AFB in Washington.

Dr. Brougher has served as Grand Chaplin of the Grand Lodge of Masons of the State of California. He has been the Grand Chaplain of the Grand Council of Cryptic Masons of California for the past 53 years. He is chaplain of the Al Malaikah Shrine Temple and writes a monthly column in the "Al Malaikahan."

The First Baptist Church of Glendale was founded in 1904. The main sanctuary, which was constructed in 1926, has endured three major earthquakes and has been designated a historical landmark.

Mr. Speaker, it gives me great pleasure to pay tribute to Dr. James Whitcomb Brougher and the First Baptist Church of Glendale and to recognize before my colleagues in the U.S. House of Representatives their October 16 celebration of this very special 60-year union.

THE 100TH ANNIVERSARY OF CALVARY BAPTIST CHURCH

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. RODINO. Mr. Speaker, on October 17, 1987, Calvary Baptist Church in East Orange, NJ, will celebrate its centennial.

Throughout the year, the Calvary Baptist Anniversary Committee, under the able leadership of cochairs Samuel Greene and Minnie L. Johnson, has organized many events to celebrate this important milestone. The festivities will culminate in a special banquet this coming Saturday. I want to extend my warmest congratulations and best wishes to Rev. Keith S. Cook and the entire congregation of Calvary Baptist Church on this momentous occasion.

The distinguished and positive contributions of Calvary Baptist Church over the past 100 years have enriched the community and earned the gratitude of all the citizens of East Orange.

Since the establishment of Calvary Baptist in 1887, the church has been a beacon of hope and comfort in East Orange. With concern for others and a commitment to serving new fields of ministry, Calvary Baptist continues to build on this historic foundation as it begins its second century of service.

Mr. Speaker, I would like to include in my remarks a history of Calvary Baptist Church prepared by the anniversary committee:

CALVARY BAPTIST CHURCH OF EAST ORANGE IS 100 YEARS OLD

The congregation of Calvary Baptist Church, located at 66 So. Grove Street in East Orange, will end a year of planned activities celebrating its 100th year as an established institution within the community on October 17, 1987. According to the official papers filed with the office of the Essex County clerk, the church was established in 1887.

In 1887, a small group of members attending the Second Baptist Church, Orange, N.J. desired to create a new church. Several meetings at the home of Mrs. Mary E. Richards, South Street, Orange and Mr. Harry Lefewich, 5 Washington Street, Orange resulted in a committee to secure a pastor for the newly formed congregation of 15 people. With the help of Mrs. Richards, the committee consisting of Deacons Henry Goode, Harry Leftwich, William A. Jackson and Bro. Creasy obtained the services of Rev. John H. Travis, Pastor of the Shiloh Baptist Church in New York City. Upon his acceptance, on October 1, 1887, the congregation officially identified themselves as the "Calvary Baptist Church".

Up until this time, the congregation had been holding services in the basement of the Calvary Methodist Church located on No. Clinton Street, East Orange. After officially assuming his charge, in February 1888, Rev. Travis moved to secure a site for a church building. By 1889, the sum of $500.00 was sufficient to purchase a lot on Thompson Street which would now be located on the Garden State Parkway between 'Old Main Street' and the Lackawanna Railroad. A small frame structure, on stilts, was built with a large coal stove to heat the Baptismal and had a seating capacity for seventy (70) people.

Because of an increase in membership over the next several years, a new building was needed. Through the private efforts of Miss Betty A. Franklin, who mortgaged her home, the congregation purchased the First Baptist Church building at 50 Maple Avenue for $6,000 from Mr. George Hatt. When the full payment was made in June, 1905, the membership installed fine wood pews, a pipe organ, oil burning lamps and a small kitchen in the basement. This church has affectionately become known as "Calvary # 1".

During the administration of Rev. Travis, Mrs. Rosa Clark organized the Missionary Society, twelve Deacons were ordained, efficient record keeping procedures were instituted, structural improvements were made on the church building, and all debts were cleared. This church building can still be seen occupying the top of the knoll at the intersection of North Maple and Main Streets. The congregation held such high regard for Rev. Travis that it voted to send him to the World Baptist Alliance in London, England. This resulted in a further development of his pastoral vision and spiritual leadership. While recovering from successful surgery, Rev. Travis passed suddenly on March 1, 1914. Calvary designated the first Sunday in March as "Travis Memorial Sunday" in memory of its first pastor.

On November 30, 1914, Rev. E.A.P. Cheeks of Columbia, South Carolina accepted the call to Calvary. His spiritual leadership and financial abilities led to many improvements; the pews were refinished, electric lights replaced the old gas lights, a new heating plant was installed, new kitchen equipment was obtained, a new corner stone was laid, stained glass windows were purchased (some are preserved in the present church lobby) and a new pipe organ was installed. On October 27, 1924, Rev. Cheeks terminated his service to accept another charge. Rev. Cheek not only improved Calvary physically, but gave invaluable inspiration to the young and old through his scholarly ministry.

On February 20, 1925, Rev. Clarence M. Long of Bank Street Church, Norfolk, Virginia accepted the call to Calvary. Rev. Long led Calvary through the important work of finding able leaders, creating ten fund-raising groups and instituted financial programs to soften the ill winds of the Great Depression. It was during this period that all the choirs were fully vested in new robes at a cost of $3,500 paid in full. The programs of Rev. Long were further enhanced by the church sending him to the Baptist World Alliance in Europe. His extended trip to visit Germany, the Holy Lands, Egypt and Arabia benefited Calvary tremendously. Under his leadership, the membership increased and Calvary set a precedent in religious education by creating the first Vacation Bible School in Essex County. The Church celebrated its Fiftieth Anniversary for one week beginning on Sunday, May 16, 1937. This was a great tribute to his pastorship which closed in 1938 when he accepted a charge in St. Louis, Missouri.

Rev. Albert J. Tibbs, of The Friendship Baptist Church, Bayonne, New Jersey began his ministry at Calvary on October 21, 1939. He immediately proposed larger quarters for the growing membership left by Rev. Long. On April 10, 1940, Calvary purchased a three-quarter acre site for $7,000. The construction of a building at this site, known as 228 Main Street, was interrupted when Rev. Tibbs was inducted into the Army to serve as a Chaplain for two years. Although Rev. Tibbs returned to pastor for another eight years, the church voted to terminate his services on January 18, 1950, because of circumstances surrounding the unfinished church building.

By this time, Rev. William R. Bailey, a member of Calvary since childhood, returned to the Church after serving as an Associate Minister for the St. Marks Social Center in Boston, Massachusetts. At this low ebb in the history of the Church, the congregation extended a call to Rev. Bailey in November, 1950. Rev. Bailey moved to lift the spirits of the demoralized Church, reorganize its administration and complete the construction of the building. In spite of hardships and the fluctuations in funds, local brick masons and construction workers, neighboring churches, city officials, and the general public assisted the congregation in its efforts to complete the new church building. Rev. Bailey's leadership was so inspiring that the membership doubled from three hundred to six hundred as the Church was nearing completion in December, 1956. On Easter Sunday, 1957, the membership moved into the completed Church, which had become known as 'Calvary # 2'.

In spite of the strain of completing the new edifice, the first twelve years of Rev. Bailey's administration (1950-1962) resulted in the creation of a number of programs and activities: the Board of Christian Education, the Baptist Young People's Fellowship, the Sunbeam Choir for children under ten, Boy Scout Troop #8, the purchase of a NAACP Life Membership, affiliation with the New Jersey State Baptist Convention, the adoption of a new Church constitution, new carpeting, the Benevolent Fund, and even more that could be mentioned. However, the congregation would have another major obstacle to overcome.

In late 1961, the Main Street site became involved in the New Jersey Highway expansion program whereby a major highway would bisect East Orange (I-280) and threatened the location of Calvary. The future was uncertain. In 1969, after years of negotiations with the Garden State Parkway Commission and the Housing Authority, a financial settlement was made and the congregation was able to purchase more than an acre of land for a new building site.

Rev. Bailey proceeded to lead Calvary in building a modern edifice at 66 South Grove Street in East Orange. The original organ, pews, kitchen cabinets, and some stained glass windows were salvaged from the demolition of 'Calvary # 2'. Under the leadership of Rev. Bailey, the work of the officers and the dedication of loyal members, Calvary built two Churches within fifteen years. The ten year $100,000 mortgage on 'Calvary # 3' was retired two years ahead of schedule in 1979.

During the unsettling years of the Seventies, Rev. Bailey maintained and expanded the level of Church operations. However, it was clear that a major era in the life of Calvary was soon to change. The feisty Rev. Bailey was beginning to show the strains of thirty-two years of service to Calvary and the entire city of East Orange. In 1982, after a year of rapidly declining health, the membership accepted the suggestion of Rev. Bailey to secure Rev. Keith S. Cook, Associate Minister of Bethany Baptist Church, Newark, to perform pastoral duties in his stead. Rev. Bailey passed on October 11, 1983. A spectacular era in the history of the Church had come to an end.

Rev. Cook, accepted the call to Calvary in July, 1983. It was time for Calvary to make the transition into its second century of service to God and man. The membership accepted Rev. Cook's Five Year Plan which identified the major spiritual, mission, programming and administrative goals necessary for such a transition. Modifications in the order of worship, Bible Study and membership classes were implemented. The Ministry of Music was increased to a staff of three, two new Deacons and a Trustee were added to the official Boards. The Board of Christian Education was augmented by a Family Task Force and a Theatre Ensemble. Pew cushions were purchased, a new roof was paid off and a state-of-the-art air condition system was installed. New fields of mission are being identified as Calvary strives to build on a historic foundation. We have come this far by faith!

OMB'S DECISION ON CENSUS QUESTIONNAIRE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. GARCIA. Mr. Speaker, I support Chairman DYMALLY's concerns regarding OMB's decision on the census questions. I am particularly concerned about OMB's decision to shift the majority of the housing questions from the 100-percent census questionnaire form, which is to reach all of the American households, to the sample form, which is to reach only 20 percent of the households. This ruling will be detrimental to the formation of sound housing policy.

We have had on ongoing battle with the administration regarding the level of housing need in our country. Now the administration is proposing to do away with the manner of collecting the most accurate and detailed information available to us which can clearly reflect the level of housing need in our country.

OMB's decision will counteract two major bills this body worked so hard to pass this year; the Homeless Relief Act and the housing bill. We need housing data to make sure that existing programs are sufficient to meet the housing demand, and to make sure new programs are properly targeted to address the housing needs in the United States.

I am particularly disturbed by OMB's decision because the housing needs in urban areas like New York City are at a critical level and are growing worse. More and more families are becoming homeless.

We expressed our strong commitment to alleviating this tragedy by passing the two bills I've mentioned. We cannot allow such commitment to fall by the wayside by allowing OMB to take away our ability to collect this critical information.

TRIBUTE TO PHILIP T. POPE RETIRING FOUNDER OF POPE CHEMICAL COMPANY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. ROE. Mr. Speaker, it is with great pride that I rise today in tribute to a man in my Eighth Congressional District of New Jersey who, during his long career, has excelled in such diverse roles as inventor, technologist, innovator, and entrepreneur; a man who, for more than three decades has been a major force in the printing ink industry in not only New Jersey, but in the Nation and the world, as well.

I speak of Philip T. Pope, president and founder of the Pope Chemical Co., which began its existence in Paterson, NJ, and now is headquartered in Tokyo, Japan, with an American division in Clifton, NJ, in the heart of my district.

Mr. Speaker, after more than 30 years of leaving an indelible mark in the printing ink field, Philip T. Pope is retiring. This Friday, October 16, Mr. Pope will be honored for his numerous remarkable achievements at the first annual dinner dance of the Paterson Education Foundation, which will present Mr. Pope with its Partnership For Excellence in Education Award. I cannot think of anyone more deserving of this prestigious honor.

It would take many volumes to enumerate Philip T. Pope's many contributions to both his industry and community. As a means of providing my colleagues with just a glimpse of this remarkable person, I would like to quote from the biography of Mr. Pope:

Exceptional achievement and a long standing commitment to enhancing printing ink technology characterize Philip T. Pope's lifelong career in the printing ink and ink raw materials industries. Phil Pope has the rare combination of exceptional technical skill, excellent management ability and the willingness to share both for the best interest of the printing ink industry.

Following his tour of duty with the U.S. Marines, Phil graduated Phi Beta Kappa from Princeton University with a degree in chemistry.

Upon graduation Phil joined Pope & Gray, the highly regarded printing ink firm founded by his stepfather. He worked in both technical and management positions and subsequently became president. After leaving Pope & Gray, he served for a time as president of Consolidated Printing Ink. Then, in 1964, he founded the Pope Chemical Corporation, which has become a major supplier of pigments, dispersions and vehicles to the printing ink industry.

Even as his career developed from that of an emerging technologist to the president of two firms and founder of a third, his support and participation in printing ink technical affairs never flagged. In 1953 he was elected president of the New York Printing Ink Production Club and throughout the 1950s he was an active participant in the National Printing Ink Research Institute. In 1960-1963 he was a member of the NPIRI Research Committee and in 1971 he was accepted as one of the eight charter Research Associate members of NPIRI. During those days, it was the Research Committee which served as the Institute's guiding body and Phil was among those leaders who contributed so much thought and effort to the Institute's development.

It was also during those early days that Phil Pope puts his firm's name on the "printing ink map" for all time. When he engineered and developed the Pope & Gray Litho Break Tester, he created a new technological tool which is used industry-wide, not just in this country but throughout the world. In a field where great technological skill is common, Phil has proven that the creative technologist still stands out from the crowd.

Long active in NAPIM, Phil has been a member of the Training and Education Committee since 1976 and has also served on NAPIM's Conference Committee, Raw Materials Committee and Offset Committee. He has been a lecturer and laboratory instructor at each NPIRI Summer Course in Printing Ink Technology since 1974. He played a key role in organizing NPIRI's first Advanced Summer Course successfully established at Lehigh several years ago. Because of his record of service in NAPIM technical affairs, it is not surprising that in 1982 Phil was the first technical associate member to be elected to the NAPIM Board. In 1976 the New York Printing Ink Production Club which he had served as president 23 years earlier gave recognition to his industry contributions with its highly prestigious Master Ink Technologists Award. The following year, NAPIM recognized Phil as a Printing Ink Pioneer.

Inventor, technologist and successful entrepreneur, Philip T. Pope has served his industry with distinction for 35 years. His selfless contributions to the benefit of all ink makers are an inspiration to all.

Mr. Speaker, Philip T. Pope and his bride of 39 years, the former Charlotte Thrall, have a beautiful family of five grown children and three grandchildren with one more on the way. Along with his many other activities, Mr. Pope serves as chairman of the private industry council of Passaic County and director of the Dry Color Manufacturers' Association, and he is a past vestryman and finance chairman of St. Elizabeth's Church of Ridgewood, NJ.

Mr. Speaker, I invite both you and our colleagues to join me in expressing our most sincere best wishes to him and his family on his retirement, and to express our gratitude for his many worldwide achievements and contributions to the printing ink industry. He has been an invaluable asset not only to his State and Nation, but to the world as well, and I am certain that, through his great work, he will serve as a lasting inspiration to all of us.

A TRIBUTE TO MR. ROY BROPHY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to offer my congratulations to a distinguished member of the Sacramento community, Mr. Roy Brophy, upon his induction into the Greater Sacramento Business Hall of Fame on October 13, 1987.

Mr. Brophy's career is a long and distinguished one. Upon graduating from San Jose University in 1946 with a degree in journalism, Mr. Brophy went on to postgraduate study at the University of California's Hastings School of Law. Before this, Mr. Brophy served his country by enlisting in the U.S. Navy, working as an intelligence officer throughout the war years. In 1952, Mr. Brophy found his true calling when he began his career as one of Sacramento's most successful real estate developers. He has served the Sacramento area as a past president of the Sacramento Land Developers, as president of the Sacramento Home Builders Association, and among other honors too numerous to mention, Mr. Brophy also served as a vice president of the Sacramento Metropolitan Chamber of Commerce.

Since the beginning of his career, Mr. Brophy has been a tireless advocate of bettering the educational systems of Sacramento and the entire State of California. From 1972 to 1980, Mr. Brophy was on the board of trustees for the California State University System and also served as a member of the California Postsecondary Education Commission. Mr. Brophy continued his work in Washington, DC, serving as a trustee for the Fund For Improvement Postsecondary Education, Office of the Secretary of Education from 1980 to 1984. For his unflagging devotion to education, Mr. Brophy has received honors from many institutes of higher learning. He has received the President's Distinguished Award from Sacramento State University and was honored as one of San Jose State University's 10 most distinguished graduates.

Mr. Speaker, it is not possible to adequately thank Mr. Brophy for all that he had done for the Sacramento community and for the State of California. I know that I speak for all the people of Sacramento when I offer my sincere thanks for a job well done, and my best wishes for his continued success.

BOSTON MAYOR RAY FLYNN ON THE HOUSING CRISIS AND HOMELESSNESS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MARKEY. Mr. Speaker, this month's issue of State Legislatures magazine included a nationally significant article authored by Boston Mayor Ray Flynn, chairman of the U.S. Conference of Mayors Task Force on Hunger and Homelessness. Mayor Flynn has written a comprehensive essay which describes the plight of our homeless population and points out the multiple causes of, and federal remedies for, this pervasive problem.

Today's homeless, Mr. Speaker, are generally drawn from the most vulnerable among us. They are no longer just the stereotypical hoboes of American folklore. They are families unable to locate affordable housing. They are runaway children. They are the mentally ill men and women released from the institutions where they were abused into the streets where they have been left neglected to freeze and die on sidewalk grates. In short, they are the men, women, and children to whose care civilized societies have traditionally recognized a moral obligation, but on whom modern American society is turning its back.

In the article that follows, Mayor Flynn offers those of us responsible for federal policymaking a challenge to recommit our Nation to that moral obligation through a restoration of the housing, health care, and social service programs which are the only solution to the homelessness crisis. I commend Mayor Flyinn's words to the attention of all of my colleagues in the expectation that greater awareness will return the United States of America to those policies which most clearly distinguish us as a people of compassion.

THE HOUSING CRISIS AND HOMELESSNESS

(By Raymond L. Flynn)

During the past few years, America has experienced a rising tide of homelessness, understandable, perhaps, during periods of economic distress such as the Great Depression, but not during a period of economic recovery and at a time of national prosperity.

It is difficult to obtain precise, reliable figures for the total number of homeless persons in the United States. Nationwide estimates range from 250,000 to 3 million. What is clear is that the numbers are growing. For example, a 1985 survey by the U.S. Conference of Mayors Task Force on Hunger and Homelessness found that demand for emergency shelter in cities rose by an average of 25 percent in one year. A follow-up survey of homelessness among families, released in May 1987, found that the number of families seeking emergency shelter had increased by 31 percent in two years.

Local studies indicate that today's homeless are a diverse group of men, women and children. Some live alone. A growing number live as members of families. Some are mentally ill, or alcoholics. Most are not. As a group, today's homeless population is younger than the "skid row" homeless group of the past that was dominated by men in their 50s and 60s. Some homeless persons are mobile, reminiscent of the so-called "hobo" population. Most, however, are not; if they move, it is because they have been displaced.

The growing epidemic of homelessness in the United States is the result of three basic causes, each linked to a failure of federal government policy.

Federal cutbacks have cut huge holes in the so-called "safety-net." Job training programs have been slashed from $11.5 billion in FY 1981 to $2.4 billion in FY 1986. Further, last year the percentage of unemployed persons receiving unemployment insurance benefits hit a record low; it is now only about half what it was in 1980, when the unemployment rate was about the same level as today.

Since 1981, the federal government has all but dismantled the nation's housing programs. The number of new federally-assisted units has plummeted from above 200,000 to about 25,000. HUD's housing programs have been severely cut, from over $33 billion to under $8 billion—a 75 percent cut.

Federal cutbacks and tax policy changes make it increasingly difficult to expand the supply of affordable housing. In addition, a substantial portion of the two million units of federally-subsidized, privately-owned apartments constructed in the 1960s and 1970s is at risk as a result of expiring subsidies. In many cities, market forces are pushing up rents, eliminating the stock of low-rent houses, and converting apartments to expensive condominiums.

In addition, a substantial segment of America's homeless comprises mentally ill persons. They are victims of the policy of "deinstitutionalization," begun in the 1960s, which emptied our nation's mental hospitals without providing adequate resources for community-based facilities. Nationwide, the number of persons institutionalized in mental hospitals declined from 505,000 in 1963 to 138,000 in 1980. The nation's homeless shelters are often filled with mentally ill persons. Many shelters have become, de facto, America's new mental institutions. Instead, what is needed is adequate funding to support community-based facilities—housing as well as social services—for the mentally ill.

During the 1980s, as the homeless population increased, state and local governments—working with non-profit groups, social service agencies, churches and foundations—developed many innovative housing initiatives including programs to serve the homeless.

Both Boston and Massachusetts have been leaders in providing funding for permanent and emergency housing. The number of emergency shelter beds in Boston increased from 972 in 1983 to over 2,000 in 1987. The increase was accomplished through the disposition of city-owned property to non-profit shelters, the expansion of the city's own shelter (from 100 to 450 beds) and the city's financial assistance to shelters.

Boston is also one of 118 cities to create a Health Care for the Homeless program, catalyzed by a grant from the Robert Wood Johnson Foundation. Teams of doctors, nurses and social workers provide services to persons in shelters across the city.

This partnership between state government, local government and non-profit, community-based organizations has helped to meet the housing, health care and social services needs of the homeless. But the truth is that local governments and volunteer non-profit groups simply lack the resources to meet this growing need.

If the record number of people on America's streets had been driven there by a natural catastrophe, many states would be declared disaster areas. But even though homelessness is a national problem, the Reagan administration has given only lip service to the issue. What is needed is a renewed federal commitment to affordable housing, as well as specific policies to assist the homeless.

There are some indications that Congress is up to the challenge. New legislation will provide communities with $400 million to provide housing, health care, mental health and other programs. Congress has also passed a $17 billion housing bill which provides funding for a range of housing programs.

The percentage of public and subsidized housing in the U.S. is smaller than that in any other major industrialized nation. The ultimate goal is not to provide emergency shelter for homeless people, but to eliminate the problem of homelessness altogether by providing decent, affordable, permanent housing for all Americans.

LEGISLATION TO LIMIT TRIDENT II TESTS

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. DICKS. Mr. Speaker, recent reports indicate that the Department of Defense plans to conduct tests of the Trident II (D-5) missile with 12 simulated warheads. This action is planned despite misgivings voiced by the State Department, the Arms Control and Disarmament Agency and the Joint Chiefs of Staff.

There is no compelling military justification for testing the Trident II with 12 simulated warheads at this time. There is however, a very real danger that this action would undercut opportunities for progress in Geneva to secure 50 percent reductions in strategic nuclear warheads deployed by both superpowers.

The simple fact of the matter is that any such agreement will have to include agreed procedures for counting warheads deployed on systems. In past negotiations, this issue was resolved by an agreement to count each system as having the maximum number of warheads which had been flight tested on each system. The common sense basis for this agreement was that neither nation could have confidence in the ability of a system to accommodate large numbers of warheads without flight testing. That has been the basis of every United States and Soviet strategic program for decades.

If we go forward with testing of Trident II with 12 warheads we would be faced with one of two options. First we could agree to count each such missile as having 12 warheads, instead of the eight that have currently been tested, even though there is no plan for such a deployment. Under a 50 percent reduction situation this would result in a dangerously low number of Trident submarines that could be retained in the force. It could for instance, reduce the number of Tridents under a restructured force by two more than would otherwise be the case.

The second option would be that we would have to insist on new methods for counting warheads. Since we could no longer rely on testing limitations, we would have to develop complex and difficult instrusive on site verification measures. Even so we could never be sure that missiles were not modified to accommodate higher numbers warheads that had already been tested. Such a situation would inevitably complicate and slow negotiations on START and quite possibly make agreement impossible.

I hope this is not the objective of the Defense Department leadership on this issue. But whether it is intended or not the real world impact is the same. For these reasons today I have introduced legislation to prohibit the testing of Trident II missiles with more than 10 warheads. At a minimum this could provide the Congress an opportunity to review the implications of such a move before it is too late. And it could very well be critical to maintaining the historic opportunity before us for deep reductions in strategic forces.

A TRIBUTE TO MR. ROGER J. BACCIGALUPPI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to offer my congratulations to a distinguished member of the Sacramento community. Mr. Roger J. Baccigaluppi, upon his induction into the Greater Sacramento Business Hall of Fame on October 13, 1987.

Mr. Baccigaluppi's career has been an extremely notable one. Upon his graduation from the University of California, Berkeley, in 1956, Mr. Baccigaluppi went on to earn his master's degree from the Columbia University Graduate School of Business in 1957. After receiving his degrees, Mr. Baccigaluppi joined the Almond Growers Exchange in 1961. Mr. Baccigaluppi served in various capacities for the company and was elected president in 1975.

Mr. Baccigaluppi is recognized among his peers as a leader in world trade and has also fulfilled a vital role in the increased consumption of almonds worldwide. He is a member of the Citizen's Advisory Committee on Light Rail Funding; a member of the University of California, Davis, Board of Visitors; a member of the Los Rios Community College Foundation; chairman of the Friends of the California State RR Museum; and is a member of the Sacramento Host Committee, as well as a number of other civic business and political committees. Recently, Mr. Baccigaluppi was honored by the Sacramento Metropolitan Chamber of Commerce as Agribusiness Person of the Year in 1987.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to congratulate Mr. Baccigaluppi for a job extremely well done. Mr. Baccigaluppi's dedication to his community is most admirable indeed, and I want to take this time to offer my warmest wishes to this outstanding individual and wish him the very best of luck in all his future endeavors.

THE OUTPOURING OF SUPPORT TO ASSIST PINELLAS COUNTY'S BLIND AND VISUALLY IMPAIRED CHILDREN

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. YOUNG of Florida. Mr. Speaker, recently I had the special privilege of participating in dedication ceremonies for the Pinellas Center for the Visually Impaired's Rehabilitation House for Its KIDS Program.

This was an especially moving program for me not only because it recognized the outstanding work of the center in providing an opportunity for blind and visually impaired children to learn and develop, but also because of the outpouring of support from the community that made this project possible. The rehabilitation house was completed with donations of material, paint, carpeting, curtains, and furniture by a number of civic-minded groups and individuals. They include the St. Petersburg Northgate Lions Club, the St. Petersburg Northgate Lioness Club, the Seabees Battalion # 14—Naval Reserve Center, Amazing Carpet, Porter Paints of St. Petersburg, the St. Petersburg Breakfast Lions Club, Caryl Gaines, and Robert and Sarah Snider.

These types of volunteer efforts make Pinellas County such a special place to live. And it makes me proud to be able to share these stories with my colleagues with the hope that other communities throughout our Nation will be inspired to take on these types of projects to help our neighbors with special needs.

The Pinellas Center for the Visually Impaired organized the KIDS Program to provide blind and visually impaired children with the keys to independence and developmental skills. The rehabilitation house will provide a home base for this program, which will be undertaken in three phases with the goal of providing assistance and services to all blind and visually impaired children and their parents in Pinellas County.

The first phase of the program, which is now in operation, provides parents of blind preschoolers from birth to 5 years of age with resources and training to help their children develop as normally as possible. The center will provide peer-support systems so that parents can share their experiences and concerns with each other.

The second phase of the program, scheduled to begin this winter, will provide direct services to these children. Among the services provided at the new home will be physical therapy and the evaluation of vision response. Rehabilitation teachers will begin providing vision stimulation, coordination exercises for normal muscle development, early training in basic living skills, and protective techniques. Officials at the center tell me this type of training can prevent many of the problems and mannerisms normally associated with congenitally blind persons.

The third and final phase of the KIDS Program will provide training for grade school and high school age children so that they can provide on their own for their daily needs, learn mobility skills, and adapt to their fellow classmates.

The Pinellas Center for the Visually Impaired is a private, nonprofit, direct service agency that provides educational, rehabilitation, recreational, and counseling services to severely visually impaired residents of Pinellas County. Dr. Robert W. Nelms, the center's executive director, oversees its annual operating budget, in excess of $500,000, which is funded from contributions by organizations and individuals throughout the community. Dr. Nelms is an inspiring individual who lost his sight at the age of 24 due to diabetes. Through long hours of hard work and rehabilitation he is now a role model for the visually impaired and leads the center's efforts to help them learn to live with their disability.

Mr. Speaker, in closing, I again want to commend the center and all the community members who have made the rehabilitation house for the KIDS project possible. I'm proud that through their efforts, the children of Pinellas County with visual impairments will be given the support and opportunity to lead normal lives and one day, like Dr. Nelms, become leaders of our community, our State, and our Nation.

STATEMENT OF HON. FRANK HORTON

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. HORTON. Mr. Speaker, I am very pleased to be joining my colleagues, JACK BROOKS, SONNY MONTGOMERY, and JERRY SOLOMON, today in introducing legislation to establish the Veterans' Administration as an executive department.

Our Nation's 28 million veterans and their dependents and survivors constitute one-third of the U.S. population. With a budget in excess of $27 billion, the Veterans' Administration administers the largest health care system in the free world and provides benefits and services for nearly 80 million eligible Americans. The Veterans' Administration is larger than the Departments of Commerce, Education, Energy, HUD, Interior, Justice, Labor, State, and Transportation, and ranks second only to the Department of Defense in number of personnel.

Mr. Speaker, it is only appropriate that we fully recognize the valiant and courageous efforts our veterans have made, and continue to make, to our Nation and its security. Veterans deserve a cohesive structure, of the highest level, to ensure the most efficient and effective operation of their critically important programs. This bill gives the VA that needed stature. A Cabinet-level Veterans' Affairs Department is in the best interest of veterans and of all Americans. It says that we care.

Mr. Speaker, I care and that is why I join Chairman BROOKS, Veterans' Affairs Chairman MONTGOMERY, and the ranking minority member of the Veterans' Affairs Committee Mr. SOLOMON, in introducing this bill. Further, I applaud the efforts of all of those who have been involved in building support for this legislation, most notably, JERRY SOLOMON, and I look forward to its enactment on an expedited schedule.

HONORING OUR FALLEN FIREFIGHTERS

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mrs. BYRON. Mr. Speaker, I am submitting to the CONGRESSIONAL RECORD a letter which I sent to the Director of the Federal Emergency Management Agency to be read at the Sixth Annual National Fallen Firefighters Memorial Service held on October 11, 1987, at the National Fire Academy in Emmitsburg, MD.

Each year, the service honors those firefighters who sacrificed their lives for the safety of others. I commend the bravery of these men and women and extend my sympathy to their families and communities. They will be deeply missed.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 11, 1987.

Hon. JULIUS W. BECTON, Jr.,
Director, Federal Emergency Management Agency, Washington, DC.

DEAR GENERAL BECTON: I am sorry that I cannot be with all of you today to recognize and honor the bravery of our nation's fallen firefighters.

I am saddened to know that of the men and women we honor today, we include Mr. Merle Baker, a volunteer fireman from the community of Smithsburg, Maryland. As a representative of dozens of rural communities, many times I have heard the sounding of a fire alarm and witnessed a virtual transformation of a town. Men and women rush from their homes and jobs to join in a struggle to save the lives and property of others. With each call, those firefighters, like Mr. Baker, do not focus on their personal safety, or turn away from the danger of the situation, but instead, willingly commit themselves to the safety of others.

Though the National Fallen Firefighters Memorial cannot describe the heroic actions which claimed the lives of hundreds of firefighters, it will serve as a constant reminder to those visiting the National Fire Academy of the courage of those firefighters and the important need to preserve the integrity of the fire programs. Their actions will never be forgotten.

Again, I would like to express my deepest sympathy to those who have lost a loved one. May we continue to have a fire community which so freely gives of itself.

Sincerely,

BEVERLY B. BYRON,
Member of Congress.

UNITED STATES SENATOR ARTHUR VANDENBERG—STATESMAN AND GREAT AMERICAN

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. HENRY. Mr. Speaker, as the State of Michigan celebrates its sesquicentennial anniversary, it is important that we not forget the contribution given by the late U.S. Senator Arthur Vandenberg to both our State and Nation. On November 14, 1987, a State registered marker in honor of the late Senator Vandenberg, a Grand Rapids native, will be placed at the corner of Lyon and Monroe Streets in downtown Grand Rapids. This special ceremony is but one of many commemorating the State of Michigan's 150th birthday, and the many contributions Michigan has made to the health and vitality of the Union.

Born in 1884, Senator Vandenberg began his newspaper career as a cub reporter at age 16 with the Grand Rapids Herald and eventually went on to become its editor and publisher, and then owner. Through his thunderous editorials, Arther Vandenberg became a public opinion molder leading to his eventual appointment in 1928 to the U.S. Senate after the Democratic incumbent Senator died shortly before the election. Already the Republican candidate for the seat when the appointment came, Senator Vandenberg went on to serve as a Member in the U.S. Senate until his death in April 1951.

A writer, poet, and author before serving in the Senate, Arthur Vandenberg also helped write speeches for such political notables as Warren Harding. A student of the Constitution and great admirer of Alexander Hamilton, he wrote three books detailing the life, ideas, and philosophies of Hamilton, applying the latter to the politcal conditions of the day. One of Vandenberg's lesser known talents was that as a writer of lyrics to a number of popular songs.

Once in the Senate, Arthur Vandenberg was not content to follow the unspoken rule that new Senators shall be silent. He barged into every debate, and staged a one-man battle for enactment of long overdue reapportionment laws. While his constituents in Michigan overwhelming elected him to serve another term, his aggressiveness enraged the older Senators and created the first of a number of mixed impressions which were to plague him in later years. An isolationist in pre-Pearl Harbor years, a dramatic switch in his own attitude enabled Senator Vandenberg to become one of the most influential figures in the development of U.S. foreign policy after World War II.

He became a champion of internationalism and was the obvious choice of President Roosevelt to serve as a U.S. delegate at the San Francisco conference in April 1945, where the United Nations Charter was drawn up. Thereafter, the Senator became a delegate to the first two sessions of the United Nations and became the foreign adviser to the then Secretary of State, James Byrnes, as well as to several succeeding Secretaries of State.

In this way, and largely due to Senator Vandenberg's own efforts as chairman of the Senate Foreign Relations Committee, a bipartisan foreign policy took shape. With the White House under Democratic control, the Senator insisted that the Republican leadership be kept informed of foreign policy development and that the Republican viewpoint be considered.

It was this bipartisan cooperation that resulted in passage of the Marshall Plan, a firm stance on dealing with the U.S.S.R., ratification of the North Atlantic Pact, Inter-American Treaty, and other significant foreign policy measures. It was during this period, 1946 to 1948, that the Senator reached his greatest eminence and influence.

One of the most remarkable legislative engineers to ever serve in the Senate, Senator Vandenberg was a skilled negotiator. He did his homework and mastered his subject so entirely that he was able to give detailed answers to almost any questions raised on the Senate floor. An idealist, he was also a realist who knew when to make concessions in order to win support for his cause.

Although he traveled throughout the world a great deal in his role as an adviser, Foreign Affairs Committee chairman, and chief Republican spokesman for foreign affairs, Senator Vandenberg remained close to his Michigan constituents. His husky 6-foot frame was a welcome sight in the District. It is said the Senator had a favorite barber in Grand Rapids and regularly made trips home to get his hair cut. His constituents became aware of the haircutting schedule and began to gather at the barber shop each time the Senator came to town. Thus, the barber shop became a regular meeting place for those who wanted to visit with the Senator.

Although stripped of his chairmanship of the Foreign Relations Committee when the Democrats took control of the Senate in 1948, Senator Vandenberg continued to be one of the most influential and hardest working Senators until his final illness prevented him from taking an active role in the Senate.

Mr. Speaker, it has been more than 35 years since this great American and statesman, Arthur Vandenberg, served in the U.S. Senate. His contributions to world peace through the nonpartisan approach to our foreign policy gave our Government the stability and certainty it needed during those turbulent times. And history has proven the Senator right. We, as a nation, cannot afford to be isolationists. The stakes are much too high, and as Senator Vandenberg himself stated, the modern world is one world and no nation can safely exist merely by following its own course. This is the legacy Arthur Vandenberg left, Mr. Speaker and colleagues, and those of us serving in the 100th Congress can ill afford not to heed his words.

A TRIBUTE TO MR. JOHN DIEPENBROCK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished member of the Sacramento community, Mr. John Diepenbrock, upon his induction into the Greater Sacramento Business Hall of Fame on October 13, 1987.

Mr. Diepenbrock's career has been a distinguished one. Upon his graduation from the University of Santa Clara, where he was Magna cum laude, Mr. Diepenbrock went on to receive his law degree from the University of California, Boalt Hall. Before he began his studies, Mr. Diepenbrock enlisted in the U.S. Army Military Police serving his country in both the Philippines and Japan. Mr. Diepenbrock embarked upon his law career in 1953, acting as a professor of law at McGeorge College for Business Associations. During his 30 years of practice, Mr. Diepenbrock has been the recipient of many honors in the field of law. He is a member of the Sacramento, CA, and American Bar Associations. He has been a fellow at the American College for Trial Lawyers and a member of the American Judicature Society. He was also a past chairman for the State bar committee on rules of court procedure.

Not surprisingly, Mr. Diepenbrock has not limited his community involvement to the legal field. Since 1986, Mr. Diepenbrock has worked for the Catholic Healthcare West as its director and also been the director of the California Chamber of Commerce since 1977. He has also been a member of the Citizens Committee to Investigate Police Practices and has served as the Mercy Foundation's director and president.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to congratulate Mr. Diepenbrock for a job very well done. His dedication to the Sacramento community is most honorable indeed, and I want to take this time to offer my warmest wishes to this outstanding individual and wish him the very best of luck in all his future endeavors.

NATIONAL FIRE PREVENTION WEEK AND RECOGNITION OF FALLEN FIREFIGHTER MEMORIALS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Ms. OAKAR. Mr. Speaker, last week, during "National Fire Prevention Week", the Subcommittee on Libraries and Memorials, which I chair, considered and reported to the Committee on House Administration, two resolutions recognizing firefighting memorials.

House Joint Resolution 328, introduced by Congresswoman BEVERLY BYRON (D-MD), recognizes the National Fallen Firefighter Memorial to career and volunteer firefighters in Emmitsburg, MD. House Concurrent Resolution 87, introduced by Congressman JOEL HEFLEY (R-CO), recognizes the International Association of Fire Fighters' Fallen Fire Fighters Memorial in Colorado Springs, CO.

It is fitting that the subcommittee considered these bills during the week that was designated by Presidential proclamation as "National Fire Prevention Week." What better way to get people to focus on fire prevention than to establish memorials honoring those who have given their lives so valiantly. In 1986 alone, 114 American firefighters died in the line of duty. The heroism of these men and women should not go unnoticed.

Fire safety is incredibly important today. In the past year, fire has caused the deaths of almost 6,000 Americans and injured some 300,000 more. Over $9.5 billion in property losses are also the direct result of fire damages. It is our duty as national representatives to send a message to the American people extolling the heroism of firefighters and the importance of fire safety prevention in our homes and businesses.

I support the IAFF Local No. 5 in Colorado Springs, CO, for their efforts in bringing to fruition their memorial and the valuable concept behind its establishment. This memorial is not just to the memory of those we've lost, but an ongoing commitment of the sponsors to provide support and recognition to the surviving families of these firefighters.

I also support the Emmitsburg, MD, memorial and note that since its establishment in 1981, thousands of families have visited to pay their respect to volunteer and career firefighters who have died in the line of duty. An integral part of the Emmitsburg memorial is the annual service held to recognize those firefighters killed in the last year. During the ceremony this year, a total of 114 firefighters, 7 of which are from my home State of Ohio, will be remembered and recognized for their service. I would like to list those individuals from Ohio: Mr. Alfred Dingle, Madison Fire District, Mr. James N. Eddy, Berkeley-Richfield Township Fire Department; Mr. Arthur J. Girty, Mount Healthy Fire Department; Mr. William Bryan Gray, Sr., Fairfield Township Fire Division; Mr. Edgar J. Schneider, Evendale Fire Department; Mr. Ray E. Scott, Liberty Township Volunteer Fire Department; and Mr. Harold Wayne Seek, Liberty Township Volunteer Fire Department.

I would like to ask my colleagues to support both firefighter memorial resolutions when they are considered on the floor of the House. In addition, I might add that we should all take the time to salute not only those fallen firefighters, but those current and future firefighters who carry on the noble tradition of unselfish service to their communities.

DECREASE IN ANEMIA AMONG CHILDREN IN WIC

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. KOLBE. Mr. Speaker, the Journal of the American Medical Association recently released the results of a study conducted by the national Centers for Disease Control. The results are encouraging in that they show a significant decrease in the overall rate in anemia among children enrolled in the Special Supplemental Food Program for Women, Infants and Children [WIC].

This study of 499,759 children enrolled in the WIC program in 6 States found the rate of anemia had declined from 7.8 percent in 1975 to 2.9 percent in 1985. Anemia is an insufficient supply of the red blood cells that carry oxygen to the tissues. While anemia is not a serious health risk in itself, the accompanying loss of iron can cause serious behavioral and nervous system growth deficiencies in children.

The foodstuffs that WIC provides to pregnant and nursing mothers and infants help combat basic illnesses and nutritional deficiencies. Iron-fortified baby formula, cereals and vitamin C-enriched juices all help boost iron absorption for the 2.8 million participants nationwide.

While all this is good news, we must continue our efforts in nutrition assistance for children. The WIC program has been one of the most demonstratively cost-effective Federal programs to date. A recent Harvard study concluded that, in the long-run, the WIC progam saves three times as much money as invested. This is precisely the type of program that deserves congressional support.

THE OFFICE OF MANAGEMENT AND BUDGET'S INTERFERENCE WITH PLANNING FOR THE 1990 DECENNIAL CENSUS BY THE U.S. BUREAU OF THE CENSUS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. ROYBAL. Mr. Speaker, I address the House today to express my deepest concern regarding the interference of the Office of Management and Budget [OMB] in the planning and design of the 1990 decennial census by the U.S. Bureau of the Census.

As chairman of the Select Committee on Aging as well as the Appropriations Subcommittee with jurisdiction over the OMB, I am appalled by the manner in which the Census Bureau has been compelled to delete questions from both its short and long forms for the 1990 census dress rehearsal to be conducted next year. My objections to this unwarranted intrusion are both legal and procedural, and I have concluded that the substantive quality of the information to be gathered from the 1990 census will be irreparably damaged unless Congress acts.

SUMMARY OF EVENTS

Using the Paperwork Reduction Act as a pretense, and with no advance warning, the OMB called into question the justification for approximately 30 questions contained in the questionnaires for the 1990 census dress rehearsal as well as the number of households which would receive the more detailed census long form. The dress rehearsal, to be conducted next year, is a trial run of the forms and procedures to be used for the 1990 census itself. Thus changes made for the dress rehearsal are almost certainly applicable to the 1990 census too.

Despite the protests of Members of Congress and hundreds of State and local planners, OMB has enforced the deletion of several housing and energy-related questions from the 1990 census and substantially reduced the sample size of the long form. Although these changes were nominally negotiated staff to staff between the OMB and the Census Bureau—an OMB witness testified before a Senate Committee that no formal proposals were ever made—it is clear that the Census Bureau had little or no leverage to resist the suggestions of the executive branch office with control over its purse strings.

LEGAL AND PROCEDURAL OBJECTIONS

It is by no means clear that the OMB possesses the legal authority to implement these changes, particularly with respect to housing questions. The OMB's power under the Paperwork Reduction Act is limited by three exceptions, including 44 U.S.C. 3504(a), which prohibits the OMB from exercising its authority if a collection of information is specifically required by statute. A review of the legislative history of the Housing Act of 1949 and subsequent enactments provides a strong argument that a complete census of housing is precisely the type of express statutory direction intended to supersede the OMB's authority.

The extreme importance of such data, and the technical and scientific preparation entailed in the design of the census, argue persuasively against any changes in the contents of census forms except after careful deliberation. In this instance, the directives from the OMB came far too late in the planning process—following years of preparation and congressional hearings—to be given the adequate deliberation due such drastic changes. Reductions in the number of questions contained in the census questionnaire should only be developed by persons with appropriate expertise and take place as part of the comprehensive and scientific review process undertaken by the Census Bureau as it plans and pretests its census forms.

THE EFFECT ON AGE-RELATED STATISTICS

The reduction in the survey sample size for the census long form will severely undermine the collection of data with respect to the social and economic characteristics of various subpopulations, including the elderly in general and racially or ethnically minority elderly in particular. At a time when a Federal interagency forum has been convened to better coordinate the beleaguered resources of diverse agencies gathering or using data about older Americans, it is ironic but not surprising that the OMB would seek to undermine the foundation of detailed census data which is literally utilized by planners at every level of government.

The planned reduction in the number of households that will receive the census long form will limit the geographic detail which can be developed from tabulations of census data on income, living arrangements and other social characteristics. Because urban areas will bear the brunt of these reductions, it is also certain that an already serious problem concerning the undercounting of racial and ethnic minority persons will be exacerbated by the loss of additional statistical detail.

THE DETRIMENTAL IMPACT ON HOUSING AND PUBLIC ASSISTANCE POLICY

The OMB's proposed changes to the 1990 Census have severe implications for the effective planning of local housing policies. Seven of ten housing questions would be shifted from the short to the long form, which three of the four energy questions would be eliminated entirely. I am particularly concerned about how these proposed changes will affect the collection of data concerning certain vulnerable subgroups of older Americans. By eliminating the question on utility costs as OMB has proposed, it will no longer be possible for Federal, State and local officials to calculate the fair market rents [FMR's] for any given area. This calculation is essential for determining local housing costs so that housing assistance can be accurately targeted to the poorest and most needy of our population.

Other changes in data collection, such as the reduction in sampling rates for urban area census tracts will severely hamper the effective delivery of public assistance to the poor. Historically, many of these urban areas are among the highest in the country in terms of nonresponse rates to the decennial census. Cutting back on sample sizes in areas with low response rates will likely only compound the problem.

In short, all of these significant cuts in the 1990 Census are proposed at a time when public resources are extremely limited. If we are to cost-effectively target services to those who are most in need of assistance, we must have reliable local data concerning their location, characteristics and needs. OMB's proposed changes would remove critical housing data and other information which is used extensively for planning purposes at the State and local level and is unavailable from any other source.

CONCLUSION

I am acutely aware of the need to reduce the length and complexity of Federal forms, and the response burden placed on public recipients of census questionnaires. The data to be gathered by the 1990 decennial census will provide vital information, however, for Federal, State, and local governments. The deletion of questions from the census, coupled with a reduced sample size for the census long form, eliminates data and cross-tabulations of characteristics not provided by alternative surveys. This not only reduces paperwork, but substantially affects public policymaking and efficient program administration. In particular, housing policy at all levels of government will be severely limited.

I urge my colleagues to join such respected organizations as the AFL-CIO, the American

Planning Association, the Council of State Housing Agencies, the Housing Assistance Council, the Mortgage Bankers Association, the National Association of Housing and Redevelopment Officials, the National Association of Home Builders, the National Association of Realtors, the National Council of Savings Institutions, the National League of Cities and the Urban Institute in opposing this loss of critical census data.

UKRAINIAN PRISONERS OF CONSCIENCE

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Ms. SLAUGHTER of New York. Mr. Speaker, today I ask my colleagues to join me in sending a strong message to the Soviet Union for the release of Ukrainian political prisoners of conscience. Statistics to date continue to show only a few Ukrainians are being released from Soviet camps and even fewer are allowed to emigrate, despite Gorbachev's new policy of glasnost.

This weekend, I had the honor to meet with Danylo Shumuk, who after more than 40 years of imprisonment and exile, was allowed to emigrate from the Soviet Union this past May. Mr. Shumuk was adopted by Amnesty International as the longest prisoner of conscience on record and attributes his release to the years of pressure by Amnesty International, human rights activists and world opinion.

I learned about his courageous efforts to maintain his identity as a Ukrainian and his struggle for freedom and human dignity without compromise. Mr. Shumuk's crime of anti-Soviet agitation and propaganda was writing his memoirs about the human rights violations, the Ukrainian Famine and other Soviet atrocities against the Ukrainian people. He could have "won" his freedom from Soviet camps many years ago if he would promise to stop his writings. Not only would he not make any such promises, he renounced his Soviet citizenship and never admitted guilt for any wrongdoing. Even while confined in a labor camp, he became a member of the Helsinki Monitoring Group in order to continue his advocacy for human rights.

At age 73, Danylo Shumuk, with enviable strength and conviction, is touring the United States to make the plight of the Ukrainians known to the free world and fight for individual and national dignity. Mr. Shumuk's philosophy of "if a man has nothing to die for he has no reason to live" is what I believe has kept him alive and given him the strength to endure years of physical and mental abuse. He was willing to die for freedom and he would never give up. He carries with him a small, stained glass candle surrounded by barbed wire, the Amnesty International symbol as a reminder of the freedom we must all strive for. Mr. Shumuk will be in Washington on October 22, and I encourage all of my colleagues to meet with him and learn about the experiences of this inspirational man.

I would also like to welcome Yosyp Terelia, who like Shumuk, spent almost half of his life in Soviet prisons, camps and psychiatric institutions for anti-Soviet agitation and propaganda. Mr. Terelia was allowed to emigrate from the Soviet Union last month and is only the ninth Ukrainian political prisoner released by the Soviets since 1976.

Mr. Terelia's crime was his refusal to reject his faith and his work to restore the Ukrainian Catholic Church, which was liquidated by the Soviet Union in 1946. In 1988, Ukrainians will be celebrating the millennium of Christianity. It is only fitting that Ukrainians be allowed to reestablish their churches and once again be given an opportunity to openly profess their faith without fear of reprisal. Mr. Terelia will continue his quest for religious freedom in the Soviet Union while residing in Canada.

There are many more brave Ukrainians like Shumuk and Terelia, who continue to suffer under the most inhumane conditions because they will not denounce their beliefs. It is estimated that there are over 550 Ukrainian political prisoners currently incarcerated in the Soviet Union and hundreds more whose whereabouts are unknown. Kuchino special-regimen camp 36-1—Perm Camp 36-1, one of the harshest camps, has 21 political prisoners: 10 Ukrainians, 2 Armenians, 1 Latvian, 2 Estonians, 3 Russians, 2 Lithuanians, and 1 from the Republic of Bashkir.

We have a moral obligation to offer support to people who are struggling for religious and political freedom. In particular, those political prisoners in Perm Camp 36-1, whose lives may end there without our intervention. Their names are as follows:

Vasyl Mazurak, Ukrainian; Lev Lukyanenko, Ukrainian; Ivan Kandyba, Ukrainian; Vitaliy Kalynychenko, Ukrainian; Mykola Horbal, Ukrainian; Vasyl Ovsíyenko, Ukrainian; Hryhoriy Prykhodko, Ukrainian; Petro Ruban,[1] Ukrainian; Semen Skalych, Ukrainian; Ivan Sokulsky, Ukrainian; Nizametdin Akhmetov, Republic of Bashkir; Azat Levikovich Arshakyan, Armenian; Gunnars Astra, Latvian; Leonid Borodin, Russian; Balys Gajauskas, Lithuanian; Valdimir Gershuni, Russian; Ashot Navasardayn, Armenian; Mart Niklus, Estonian; Vyacheslav Ostroglyad, Russian; Viktoras Petkus, Lithuanian; and Enn Tarto, Estonian.

On the 70th anniversary of the October Revolution, and as proof of the new Soviet policy of glasnost, we request Mr. Gorbachev to declare a general, unconditional amnesty for all political prisoners in the Soviet Union and the restoration of religious freedom.

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[1] Mr. Ruban is an artist and is incarcerated for sculpturing a replica of the Statue of Liberty in celebration of the Bicentennial of the United States Constitution. He had planned to present the sculpture as a gift to our country.

A TRIBUTE TO FRANK SAI FAT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished member of the Sacramento community, Mr. Frank Sai Fat, upon his induction into the Greater Sacramento Business Hall of Fame on October 13, 1987.

Mr. Fat first came to our great country in 1919, succeeded in landing a job which paid him $3 a day, and has since, by the sheer force of his exuberant personality, become recognized as one of Sacramento's finest and most successful entrepreneurs. Mr. Fat is a true representation of the American Dream. Starting with little, he has ended with so much. Yet, most certainly stemming from his humble beginnings, Mr. Fat has remained one of Sacramento's greatest benefactors. One need only walk into one of Mr. Fat's restaurants, witness first hand the fine hospitality, the gracious hosts, to realize the importance he places on his guest's wishes and needs. Mr. Fat is also a prominent member of the Chinese community in Sacramento, where he has lent his considerable influence to represent their interests in the political sphere.

Mr. Speaker, on behalf of the people of Sacramento, I want to congratulate Mr. Fat for a job very well done. Mr. Fat's dedication to Sacramento is admirable indeed, and I want to take this time to offer my warmest wishes to this outstanding individual and wish him the very best of luck in all his future undertakings.

PARENTING PALS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. DURBIN. Mr. Speaker, I would like to take this opportunity to share some news about a program which operates in my district, addressing the sigificant concerns of teenage mothers. The name of the program is, aptly, Parenting Pals, and it is designed to give the youngest of our citizens, newborn babies, a healthy start in life, while providing moral support and educational counseling for their teenage mothers.

Parenting Pals is a function of the Adams County Co-operative Extension Service, in conjunction with the University of Illinois College of Agriculture. Eighteen weeks in a row, four times a year, teenage first-time mothers meet for one and a half hours with their babies and are taught parenting skills, nutritional information, and child development. They are provided a positive, learning atmosphere where they are encouraged to finish their education and prepare for a vocation.

I was fortunate enough to attend a graduation for the 25th class, where 12 mothers and their babies, in tiny white-tasseled caps, received a diploma.

In a world where young girls can often choose not to carry a baby to full term, and then, if they do, often find the experience of an infant overwhelming, Parenting Pals is a welcome harbor.

The babies are the greatest beneficiaries. The developmental delay often associated with babies of teenage mothers is virtually eliminated. Mothers are taught what to expect from healthy infants, what stages of development are appropriate, how to stimulate their babies, evoking appropriate responses, and how to play with them.

These youngesters receive a development boost from infancy that often spells the difference between success and failure in school and in life.

Further, an expected result of the classes has proven that almost 20 percent fewer of mothers in the class were receiving public aid after one year. The savings to the taxpayer, from the Parenting Pals Program in Quincy, on a yearly basis, is calculated at $128,736.00.

As for the young mothers, the increase in their self esteem and the awareness of their ability to take control of their own lives, is of inestimable value. Self-reliance and maturity, learned under the living tutilage of the staff and volunteers of the Adams County Parenting Pals program is proof that Americans care very much for the next generation, and the next one after that.

I applaud the Parenting Pals Program and most of all, the young mothers who demonstrated by their actions much courage and love for their babies.

THE DEATH OF ALFRED MOSSMAN LANDON

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. CONTE. Mr. Speaker, I rise today with a heavy heart to commemorate the death of one of this country's most respected political figures. Alf Landon was a man of unsurpassed political wisdom, a sharp businessman, a caring family man, and most of all, Mr. Speaker, a man who earnestly pursued the well-being of those he represented.

When Alf Landon first ran for Governor of the State of Kansas in 1931, he toured the State in oilfield work clothes not to ask for votes from Kansans but to ask about their concerns and problems. Mr. Landon was a humanitarian who earnestly cared about the people he represented—and this was no secret to the voters of Kansas. In the face of Democratic dominance of the American political scene, Alf Landon was the Nation's only Republican gubernatorial candidate elected in 1934.

Mr. Speaker, I can certainly sympathize with his standing within the Republican Party. Dubbed "The Republicans' 'Affable Old Radical' " in a 1967 Saturday Evening Post article, Mr. Landon was often in conflict with the party he so dearly loved. In fact, during his 1936 Presidential campaign, his support of certain social and economic reform measures included in the New Deal cost him the votes of many Republicans who considered the New Deal policies horrendous. Yet his belief in pragmatic politics continued to make him a key consultant for Republicans right up to the time of his death.

In 1937 Alf Landon retired from electoral politics and built himself a grand home in Topeka, KS. He assured inquirers that he would not reenter politics saying, "Nobody with any ambition to run for political office ought to build themselves a home like this." Yet Alf Landon's impact on American politics has not diminished in the 50 years that have passed since the construction of his house.

In fact, Mr. Speaker, Alf Landon will be with us in spirit as long as a democratic form of government leads this Nation.

Alf Landon's death is a tragic loss, Mr. Speaker. Yet the country he loved and worked for will never forget him.

OMNIBUS TAXPAYERS' BILL OF RIGHTS ACT

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. FLIPPO. Mr. Speaker, today the gentleman from South Carolina [Mr. TALLON] and I are introducing the Omnibus Taxpayers' Bill of Rights Act. This bill is designed to protect the rights of all taxpayers, improve the administration of the Federal tax laws, and restore the American taxpayers' faith in the voluntary tax collection system.

Joining us today in introducing this landmark measure are several of my colleagues who sit with me on the Committee on Ways and Means including: Mr. SCHULZE, Mr. JENKINS, Mr. ANTHONY, Mr. FORD, Mr. DUNCAN, Mr. ARCHER, Mr. CRANE, Mr. THOMAS of California, and Mr. CHANDLER.

The bill we are introducing today is similar but not identical to the legislation introduced by the gentleman from South Carolina [Mr. TALLON], H.R. 1313, last February. The bill we are submitting today is a revised and improved version of that bill. The new and improved Omnibus Taxpayers' Bill of Rights provides additional safeguards for the taxpayers that were not in the bill introduced earlier this year and makes technical corrections brought to our attention by tax experts from around the country.

Mr. Speaker, there is one word that describes the Omnibus Taxpayers' Bill of Rights Act. That word is accountability. The bill clearly sets out the rights of the American taxpayer to fair and equitable treatment under the tax laws of our country. It establishes clear and unambiguous standards for the IRS to follow in administering the tax laws and in dealing with individual taxpayers.

The American taxpayers must be protected from abusive, arbitrary, and capricious enforcement of the tax laws. The Omnibus Taxpayers' Bill of Rights would provide this protection. The IRS would be held accountable for their action.

The enactment of this measure would help restore the American taxpayers' faith and support for the voluntary tax collection system. It would help restore confidence among the public that the tax laws will be administered fairly and applied equally to every American.

Mr. Speaker, I urge my colleagues to support the Omnibus Taxpayers' Bill of Rights Act.

A brief outline of the bill follows:

OMNIBUS TAXPAYERS' BILL OF RIGHTS ACT

TAXPAYER SERVICES AND INFORMATION

1. Assistant Commissioner of Taxpayer Services: The revised bill will establish an Assistant Commissioner for Taxpayer Services with jurisdiction over telephone, walk-in and educational services and drafting of forms.

2. Deficiency Notice Information: The bill would require the Service to disclose in all notices sent to taxpayers the basis of the claimed tax deficiency or assessed tax and to break the claimed amount into tax, interest and penalties.

3. Brief Statement of Rights and Obligations: The bill would require the Treasury to prepare a statement explaining the taxpayer's and the IRS's rights and obligations during an audit, and describing the procedures for appeal, filing complaints, and pursuing refund claims. A draft statement must be provided for review by the Congressional tax writing committees at least 90 days before it is distributed to the public.

OVERSIGHT OF THE INTERNAL REVENUE SERVICE

1. Statutory Inspector General: The bill would create a statutory Office of Inspector General in the Treasury Department. The Inspector General would possess internal audit authority, with specified restraints, over the Treasury Department and the Service.

2. Annual Report on the State of Taxpayer Services: It would require that the new Assistant Commissioner and the Chief Taxpayer Ombudsman to present an annual report on the state of taxpayer services.

TAXPAYER INTERVIEWS

1. Scheduling Interviews: Under the bill, employees of the Service must schedule any interview at a reasonable time and place convenient to both the Service and the taxpayer.

2. Explanation of Interview Procedures: The bill would require the Service prior to any interview to explain the audit process to the taxpayer and his rights under such process. If the taxpayer indicates in any manner and at any time during the interview that he wishes to consult with an attorney, certified public accountant, etc., the interview must be discontinued.

3. Representatives Holding a Power of Attorney: The bill provides that any person who under regulations is eligible to practice, has a right of limited practice, or has a right of special appearance before the Service and who has a written power of attorney may be authorized to represent the taxpayer in any interview with the Service.

INTERNAL REVENUE SERVICE ADMINISTRATIVE PRACTICES

1. Basis for Evaluation of Service Employees: The bill states that records of tax enforcement results shall not be used to evaluate enforcement officers, appeals officers and reviewers, or impose or suggest production quotas or goals. District Directors shall certify in a letter to the Commissioner each month that statistics are not used in such a manner.

2. Prohibition Against Non-Tax Investigations: Service employees would be subject to a $10,000 fine or imprisonment of not more than 5 years for knowingly authorizing or conducting an investigation or surveillance over any taxpayer which is not relevant to the determination or collection of such taxpayer's tax liability. Suits would be initiated by the Justice Department.

3. Advice of the Internal Revenue Service: The bill will empower the Secretary to abate any penalty or interest attributable to erroneous written advice furnished by the Service, in response to a specific request of the taxpayer unless the deficiency resulted from a failure by the taxpayer to provide adequate or accurate information.

4. Taxpayer Assistance Orders: Under the bill, the Office of the Ombudsman would

have authority to issue "taxpayer assistance orders." Such an order would be issued for the relief of taxpayers who face unusual, unnecessary, or irreparable loss due to the administration of the tax laws or some violation thereof.

INSTALLMENT PAYMENT OF TAX LIABILITY

1. Installment Agreements: The bill would empower the Service to enter into installment agreements and would make such agreements binding on the Service. If the Service wishes to unilaterally cancel the agreement due to changed circumstances of the taxpayer, they must give notice and hold an administrative hearing. The taxpayer must keep current on the agreement payments and other tax obligations or the Service will be able to terminate the agreement without notice and a hearing.

LEVY AND DISTRAINT

1. Waiting Period: The bill would increase the waiting period for levies on property from 10 days after notice to 30 days after notice.

2. Disclosure of Levy Procedures: It would require the disclosure of levy procedures, administrative appeals process, and alternatives available to the taxpayer.

3. Effect of Levy: A levy on salary, wages, or property rights would terminate if the liability is satisfied, if the Service and the taxpayer enter into an agreement for the payment of such liability, or if the liability is unenforceable due to the financial condition of the taxpayer.

4. Summons: The bill would preclude the Service from levying on any day on which a taxpayer responds to a summons issued by the Service.

5. Exempt Property: The bill would exempt property of a trade or business to the extent of $10,000, but only if the trade or business is not a corporation. It would increase the amount of salary or wages exempt from levy from $75 per week to $150 per week plus $50 per week for each dependent.

6. Levies on Certain Property: The bill would preclude levies on certain property (principal residence, vehicle used as transportation to and from work, and tangible personal property used in a trade or business) unless approved by a district director or unless collection of tax is in jeopardy.

7. Garnishment of Bank Accounts: It would require that banks hold accounts garnisheed by the Service for 21 days to allow taxpayers the opportunity to recover their money in a timely fashion if the garnishments are incorrect. The bank could return the money to the taxpayer any time before the end of the 21 days upon notice of release from the Service.

8. Uneconomical Levies: Under the bill, the Service would be prohibited from levying on any property if the expenses incurred with respect to the levy would exceed the fair market value of such property or the liability for which the levy was made.

9. Review of Jeopardy Levies: The bill would expand the section of the Code providing for administrative and judicial review of jeopardy assessments to include jeopardy levies.

10. Administrative Appeal of Liens: The bill would establish an administrative appeals process for disputed liens.

11. Damages for Failure to Remove Lien: The Service will pay actual damages or $100 a day for every day it fails to release a lien after the 30 day waiting period elapses.

APPLICATION OF THE REGULATORY FLEXIBILITY ACT

1. Regulatory Flexibillity Act: The bill would require the Secretary to certify that a published regulation is the only alternative that meets the mandate of the statute in order to avoid a Regulatory Flexibility Act analysis.

PROFESSIONAL FEES AND COSTS

1. Burden of Proof: The bill would shift the burden to the Service to prove that their claim was substantially justified in order to prevent a taxpayer from recovering professional fees and costs.

2. Administrative Recovery of Fees and Costs: The taxpayer would be able to recover all fees incurred after the receipt of the 30 day preliminary notice, and the Service would be empowered to settle all fees and costs, subject to appeal to the Tax Court.

DAMAGE FOR INTERNAL REVENUE SERVICE WRONGFUL ACTIONS

1. Actual Damages: The bill would allow taxpayers to recover compensatory damages from the Service for careless, reckless, or intentional disregard of statutes, regulations, or rules. In order to recover, taxpayers must not have been contributory negligent. Damages suits would be subject to frivolous claims penalties.

TAX COURT JURISDICTION

1. Premature Assessments: The bill would expand the powers of the Tax Court to stop premature assessments after taxpayers file a timely petition before the Tax Court.

2. Tax Court Review of Jeopardy Assessments and Sale of Assets: The bill would give the Tax Court the authority to review post-petition jeopardy assessments and jeopardy assessment sale of assets.

3. Interest Determinations and Refund Over-Payments: It would provide the Tax Court with the jurisdiction over interest determinations and with the power to order refund over-payments.

4. Refund Jurisdiction: The bill would add to taxpayers' remedies the right to file suit for refund in the Tax Court, without restricting his ability to file in the District court or Claims Court.

PENALTIES

1. Explanation of Penalties: The bill would require the Service to support and explain all additions to tax and assessable penalties.

2. GAO Investigation and Report: The bill would ask the GAO to analyze present practices of the Service in implementing penalties and provide Congress with a report.

RECOGNIZING DR. PAUL A. CHEW

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. MURTHA. Mr. Speaker, I am very pleased to note that Saturday, October 17, has been designated as "Dr. Paul A. Chew Day" in Greensburg.

Dr. Chew has served for 30 years as director of the Westmoreland Museum of Art. Dr. Chew noted recently that when he started the museum lacked even one painting or book for the library. But in his 30 years of service, he has built the museum into a first-rate collection.

America is strong because of its communities, and its communities are strong because of the selfless, dedicated efforts of individuals like Dr. Chew. He has dedicated three decades of his life to the museum, and his reward is the knowledge of the thousands of people in the area who have benefitted from the collection and had their life enriched by the museum.

I often remark that the history of our great nation is written less by the names in the headlines than by the individuals who each day make America what it is and enrich our lives. The career of Dr. Chew is a prime example of that American spirit that has bettered the community and thousands of individual lives.

It is my pleasure to join in honoring him on a much deserved "Dr. Paul A. Chew Day" in Greensburg.

A TRIBUTE TO ST. LUKE'S CHURCH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to St. Luke's Church, a very special parish in my 17th Congressional District. This beautiful parish and its wonderful Members will be celebrating their 25th anniversary on October 18, 1987. It is with great pride and deep humility that I take a few moments to inform my fellow Members of the U.S. House of Representatives about the history of this holy Roman Catholic mission.

When Youngstown, OH, was thriving and its population was booming back in the glorious days of John F. Kennedy's Presidency, then-bishop the Most Reverend Emmet M. Walsh was greatly distressed over how to meet the religious needs of the expanding southern portion of Mahoning County. He decided to create a new parish from the memberships of four existing parishes. The result was the creation of St. Luke's Church on September 14, 1962.

Rev. Edward Dierker became the first pastor of St. Luke's, and led the parish through its dynamic early years. He worked exhaustively to ensure the rapid building of St. Luke's School and to establish countless church activities for his parishioners. Unfortunately, unexpected expenses put St. Luke's into enormous debt, which led newly appointed Pastor Rev. John Ashton to establish an austerity program in 1972. But the resiliency and sacrifice of the parishioners and the inspiring leadership of both Reverend Ashton and his successor Rev. Ronald Klinger brought about the eventual elimination of the debt. I must also note that St. Luke's Summer Festival is one of the most eagerly anticipated events on the July social calendar in Youngstown, and that this festival is one which I look forward to attending every year.

Reverend Klinger and the members of St. Luke's now face a new challenge—the establishment of a permanent church building to worship God. But I am certain that the devoted religious fervor of its parishioners will lead to the building of one of the most beautiful and awe-inspiring church buildings in Ohio. It is my most heartful desire that this occur, and that St. Luke's second 25 years be as productive and successful as its first 25. Thus, it is with thanks and special pleasure that I join with the residents of the 17th Congressional District in honoring St. Luke's Church on its 25th anniversary.

HAITI HUMAN RIGHTS GROUPS PROTEST U.S. MILITARY AID

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. CROCKETT. Mr. Speaker, the administration has recently certified that the human rights situation in Haiti has improved enough to warrant the release of additional military assistance to the Haitian Government. The facts, however, indicate otherwise. According to the American Watch Committee, this summer alone the Haitian Army is allegedly responsible for over 50 killings, and as the following letter to Secretary of State George Schultz shows, the administration's certification is, at best, riddled with distortions and confusing claims.

As chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, which has jurisdiction over this region, I would like to share with my colleagues the views expressed by the eight principal human rights organizations in Haiti. Their statement is a sobering assessment of the Haitian military's current impact on that island nation, one which no Member should be without in assessing the significance and consequences of the administration's certification.

PORT-AU-PRINCE,
September 10, 1987.

Hon. GEORGE SHULTZ,
Secretary of State, Department of State, Washington, DC.

MR. SECRETARY: Following our cablegram of September 2, 1987, we, the undersigned, write to strongly protest the very regrettable decision of the Department of State to both certify improvement in the human rights situation in Haiti and to request that the United States Congress provide increased military aid to the Haitian Army. This decision cannot help but have very serious consequences for the future of democracy in our country and for the future of relations between Haiti and the United States.

We represent all the principal human rights organizations, working actively in Haiti since 1978 and particularly since February 7, 1986. We are responsible for numerous reports and public forums regarding human rights in Haiti aimed at promoting respect for these fundamental rights.

We are deeply shocked by the blatant factual distortions contained in this certification. We are also deeply concerned because of the negative image these distortions give to the Haitian people of the real sentiments of the American people towards Haiti and we profoundly regret the message communicated to the Haitian military junta that it has carte blanche to continue violating human rights and terrorizing us all as long as it adopts edicts which feign formal respect for these norms.

According to the conditions attached to U.S. military aid to Haiti the Haitian government must, among other things (1) insure that the Armed Forces are not implicated in human rights violations; (2) conduct public investigations on past and recent human rights abuses committed by the Armed Forces and (3) insure respect for the freedom of the press and expression, and the rights of trade unions to freely organize.

The certification announces that the "Government of Haiti and its armed forces have attempted to develop methods of dealing with unrest that do not compromise its human rights commitment. Mr. Secretary, please be specific about which methods you are referring to and what kind of support they provide for what human right policy. We have attached for your information a copy of our letter to the Haitian Armed Forces dated August 26 which has remained ananswered to this day. The truth is that the CNG has done everything in its power to block the democratic process by trying to dismantle the Provisional Electoral Council (C.E.P.) and by banning the Independent Union of Haitian Workers (C.A.T.H.). If it had not been for immediate and massive public protests and the protests of the human rights organizations that we represent, the CNG would have succeeded. The Haitian Army and the National Government Council (CNG) which it controls have repeatedly sent their troops storming out of their barracks against peaceful demonstrations, killing more than 50 and wounding more than 185, during the months of June and July.

The State Department emphasizes in its report that the number of those killed and wounded is due to the actions of undisciplined soldiers. It is extremely unlikely that the troops from Fort Dimanche, the Port-au-Prince Police, the Casernes Dessalines, as well as those from Gonaives, the Grande Anse or Cap-Haitien have ever acted without instructions from their commanders. In any case, it is certain that they have always benefitted from the unconditional approval of their officers. If this was not the case, how would it be possible to explain the Interior Ministry's communique certifying as "normal" the savage reaction of the troops of Fort Dimanche against peaceful demonstrators on April 26, 1986? How does one explain that to this day, soldiers who have attacked and mistreated children between the ages of 9 months to 12 years, innocent citizens, peaceful demonstrators, and representatives of the Haitian and foreign press during the events of last June, July and August, have not been disciplined in any way although they have been clearly identified?

Many Haitian citizens have given their lives so that the Provisional Electoral Council can fulfill its constitutionally-mandated role. However, the CNG continues to try to block the electoral process by terrorizing the population, and by facilitating attacks against well-known representatives of Church and democratic constituencies by gangs of former tontons macoutes who have either been integrated into the Haitian Armed Forces or who have acted in direct contact with them. These bands count among their infamous deeds the attack against four catholic priests, the Reverends Adrien, Smarth, Vincent and Aristide, and the murder of the presidential candidate Louis Eugene Athis.

The CNG should have conducted investigations of the various violations in which troops have been implicated and should have brought those responsible before the Courts as required by law. To this day, nothing of any substance has been done to accomplish this goal. Instead, far from encouraging the Army to restrain its members during peaceful demonstrations, the U.S. military aid already received has served rather to reinforce the tendency of the CNG to violate the rights of the citizenry. By ignoring indisputable facts, and by giving credence to the repeated promises of the CNG to "be willing to prosecute military personnel as well as civilians whenever they have found that laws have been violated", the State Department quite naively plays right in the hands of the Haitian Army. It is then much easier for the Army to classify as irresponsible agitators anyone who opposes its arbitrary policies.

As representatives of the undersigned human rights organizations, we urge you to suspend U.S. military aid to Haiti. The Haitian people do not need more efficient forces of repression and coercion, rather our country needs a security force dedicated to respecting and to insuring respect for the Constitutional order, and protecting the lives of the average citizens, public peace, and a security force capable of allowing the organization of fair and democratic elections.

The United States' support for democracy in Haiti should more appropriately take place through a public denunciation of the arbitrary methods used against the population by the military-controlled CNG. Any additional U.S. military aid to the CNG in these circumstances can only be considered an insult to democracy and an act of agression against the Haitian people.

Sincerely,

Gerard Gourgue, Ligue Haitienne des Droits Humains (Haitian League for Human Rights); Jean-Jacques Honorat, Centre Haitien pour la Defense des Libertes Publiques (Haitian Center for the Defense of Public Liberties); Jean-Claude Bajeux, Centre Oecumenique des Droits de l'Homme (Ecumenical Center for Human Rights); Lafontant Joseph, Centre pour la Promotion des Droits Humains (Center for the Promotion of Human Rights); Marcel Duguerre, Reseau National des Droits Humains (National Human Rights Network); Raymonde Joseph, Comite Feminin Contre la Torture (Women's Committee Against Torture); Raynan Pierre, Ligue pour la Defense des Droits de l'Enfance (League for the Defense of Children's Rights); Michel Soukar, Institut Mobile pour l'Education Democratique (Institute for Democratic Education).

IN HONOR OF POLICE CHIEF BERNARD DENNARD

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. RAY. Mr. Speaker, I rise today to honor Police Chief Bernard E. Dennard, Sr., of Perry, GA, who is retiring October 16th after over 34 years of service in law enforcement.

Chief Dennard started his career in law enforcement in 1950 when he returned from World War II to join the city of Vienna, GA, police department—the hometown of the late Senator Walter F. George.

In 1953, he joined the Perry, GA, police force. At the time Perry had only three officers serving a population of 3,500.

Two days after Officer Dennard was employed a tornado struck the neighboring city of Warner Robins doing considerable damage to property and life. His level headed approach and involvement in this crisis was a great help as Perry tried to cope with its sister city's tragedy. During my tenure as mayor of Perry, GA, during the 1960's, it was my pleasure on behalf of the city council to promote Officer Dennard to Chief of Police, which was well deserved.

Chief Dennard has earned the respect and affection from all the citizens of Perry. In my opinion Chief Dennard is the type of patriot who would lock-up his best friend or relative if they were out of line, and still could retain their friendship after their release. He has always said that he thought of himself as more of a public relations person than a policeman.

Bernard Dennard is a family man with three sons and two step-sons. He has 12 grandchildren between the ages of 2 and 15. He loves nothing better than to spend time with his grandchildren teaching them his special techniques of birdhunting and developing the close relationship that many families do not have.

In this technological era, much attention is given to the new state-of-the-art methods and equipment used by many police departments. However, in the final analysis it is the hard work, discipline, and expertise of individuals like Chief Dennard who have never forgotten that it still is old fashion police work that keeps our communities safe. Law enforcement is our first line of defense and frankly does not receive the recognition and credit it deserves.

The men and women who choose to serve our country by protecting our peace here at home are a special breed. They work long hours under often inadequate conditions; they face constant danger and receive few rewards and little compensation for their great service which is the first line of defense in protecting America.

Bernard is one of the best of this special breed. I join his many friends and the citizens he has served thanking him for a job well done.

REVISED VERSION OF TAXPAYERS' BILL OF RIGHTS INTRODUCED

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. TALLON. Mr. Speaker, I am proud to be an original cosponsor of the revised version of the Taxpayers' Bill of Rights. I started working on this legislation over 1 year ago with my colleague Congressman HARRY REID of Nevada, now a Member of the U.S. Senate. In February of this year, I reintroduced the bill and as of Friday, we had 169 cosponsors.

After hours of testimony and letters detailing IRS horror stories, we have come up with a revised and improved version of the bill which is being introduced today. I am confident that we have a stronger and better Taxpayers' Bill of Rights.

Mr. Speaker, I would like to urge my colleagues to join me in supporting this legislation which would guarantee hardworking, law abiding citizens certain protections from the Internal Revenue Service.

The new bill retains, with some modifications, the 17 sections that were in the original legislation. Those provisions, among other things, would prohibit the service from basing promotions or pay raises of revenue agents on the basis of the number of levies and seizures they make; require the service to inform taxpayers of their rights in all proceedings; allow taxpayers to have an attorney or accountant present at, and make recordings of all proceedings; and establish an independent inspector general's office to act as a watchdog over the IRS.

The original bill called for a blanket shifting of burden of proof from the taxpayer to the IRS in all proceedings. The new bill would achieve the same end result through a different approach—by applying the standards of care currently required of taxpayers in the Tax Code and IRS regulations to the service and its agents.

If an IRS claim against a taxpayer proves to be unreasonable, the taxpayer will be able to recover his costs for defending himself. Additionally, in cases where the IRS acts in careless, reckless or intentional disregard of statutes and regulations, taxpayers will be able to recover actual damages from the IRS.

The response to the Taxpayers' Bill of Rights introduced in February was extremely favorable. I do not know a Member of Congress who has not heard similar stories from constituents of close and crushing encounters with the IRS.

American taxpayers don't quarrel with their obligation to pay taxes, they just want to be treated fairly and decently by agents of our Government.

President John Kennedy once said, "No responsibility of government is more fundamental than the responsibility of maintaining the highest standars of ethical behavior by those who conduct the public business." It is time for the IRS to own up to this responsibility.

Mr. Speaker, I hope we can work together to restore public confidence in the system of collecting taxes and enact the Taxpayers' Bill of Rights.

RECORD NUMBER OF BANK FAILURES

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 13, 1987

Mr. KLECZKA. Mr. Speaker, as of Friday, October 2, 142 banks insured by the Federal Deposit Insurance Corporation had failed in 1987.

That is more than have failed in any single year since the Great Depression. By year's end, the annual number of failed banks is expected to be about 200.

While the FDIC, with more than $18 billion in funds, is in better fiscal shape than the FSLIC, the steadily rising number of bank failures is cause for concern.

Of equal importance to those concerned about the stability of the Federal Deposit Insurance System is a related increase in the number of banks on the FDIC problem institution list. In 1980, FDIC had 217 institutions on its problem list. By 1985, that number rose to 1,140. The list now numbers approximately 1,600 institutions.

As Congress considers legislative changes to restructure the banking system, we would do well to base our decisions, in part, on the impact a change in the law might have on our three Federal deposit insurance funds. This may mean a restructuring not only of the banking system, but of the Deposit Insurance System as well.

At this point, I would like to include in the RECORD a list of banks which failed in 1987 which appeared recently in the American Banker.

FDIC-INSURED BANKS THAT FAILED OR WERE RESCUED IN 1987

1. Bowie National Bank. Bowie, Tex. Closed Jan. 8. Deposits of $12.6 million assumed by Bowie State Bank, a newly chartered subsidiary of Montague Baneshares Inc., Weatherford, Tex.

2. The Security National Bank & Trust Co. of Norman, Norman, Okla., closed Jan. 8. Deposits of $174.4 million assumed by a newly chartered bank of the same name, owned in equal parts by First Commercial Corp., Little Rock, Ark., and Northwest Arkansas Baneshares Inc., Bentonville, Ark.

3. American National Bank of Grand Junction, Grand Junction, Colo., closed Jan. 8. All but $2,000 of the total of $7.1 million in deposits were within the federal deposit insurance limit. Insured deposits transferred to Intrawest Bank of Grand Junction.

4. State Bank of Cuba, Cuba, Ill., close Jan. 9. Deposits of $17.6 million assumed by National Bank fo Canton, Canton, Ill.

5. Latimer Bank and Trust, Latimer, Iowa, close Jan. 15. Deposits of $21.9 million assumed by the First National Bank of Clarion, Clarion, Iowa.

6. The First National Bank of Rush Springs, Rush Springs, Okla., closed Jan. 15. Deposits of $12.5 million assumed by First National Bank of Maysville, Maysville, Okla.

7. First Charter Bank, Denver, closed Jan. 15. Deposits of $9 million assumed by Century Bank and Trust, Denver.

8. The First National Bank of Skiatook, Skiatook, Okla., closed Jan. 15. Deposits of $13.8 million assumed by American Exchange Bank, Collinsville, Okla.

9. National Bank of Frederick, Frederick, Okla., closed Jan. 22. Insured deposits transferred to First National Bank and Trust Company, Frederick. All But $260,000 out of total deposits of $23.3 million were within the federal insurance limit.

10. The First National Bank of Marlborough, Marlborough, Mass., closed Jan. 23. Insured deposits transferred to Worcester County Institution of Savings, Worcester, Mass. About $1.5 million out of total deposits of $17.2 million were within the federal insurance limit.

11. First Sierra Bank, Bishop, Calif., closed Jan. 23. Insured deposits transferred

to Security Pacific National Bank, Los Angeles. All but $673,000 out of total deposits of $23 million were within the federal insurance limit.

12. The Farmers National Bank of Remington, Remington, Ind., closed Jan. 29. Deposits of $33.6 million assumed by Lafayette National Bank, Lafayette, Ind.

13. First State Bank of Pattonsburg, Pattonsburg, Mo., closed Jan. 29. Deposit payoff. Deposits totaled $5.5 million, all within the federal insurance limit.

14. Peoples Bank and Trust Co., Holdenville, Okla., closed Jan. 29. Deposits of $19.3 million assumed by The Bank, McAlester, Okla.

15. The La Pryor State Bank, La Pryor, Tex., closed Jan. 29. Deposits of $5 million assumed by Zavala County Bank, Crystal City, Tex.

16. Montgomery County Bank NA, in the Woodlands Tex., closed Jan. 29. Deposits of $44.3 million assumed by Texas Commerce Bank NA, Houston.

17. Bear Creek National Bank, Bear Creek, Tex., closed Jan. 29. Deposits of $25.6 million assumed by Jersey Village Bank, Houston.

18. Boulevard State Bank, Wichita, Kan., closed Feb. 5. Deposits of $84.9 million assumed by Union Boulevard National Bank, Wichita, a newely chartered subsidiary of Union Banchshares Inc., Wichita.

19. State Bank of Allison, Allison, Iowa, closed Feb. 5. Deposits of $16.7 million assumed by Lincoln Savings Bank, Reinbeck, Iowa.

20. Sunbelt National Bank, Dallas, closed Feb. 5. Deposit payoff. All but $32,000 of total deposits of $11.1 million were within the federal insurance limit.

21. Market National Bank, Denver, closed Feb. 5. Insured deposits transferred to Women's Bank NA, Denver. All but $110,000 of total deposits of $8.9 million were within the federal insurance limit.

22. Community Bank, Seiling, Okla. closed Feb. 11. Deposits of $5.4 million assumed by First National Bank of Seiling.

23. Federated National Bank, Live Oak, Tex., closed Feb. 11. Deposit payoff. All but $127,000 of total deposits of $11.4 million were within the federal insurance limit.

24. Security National Bank, Midland, Tex., closed Feb. 12. Deposit payoff. All but $41,000 of total deposits of $7.7 million were within the federal insurance limit.

25. First City Bank of Atoka, Atoka, Okla., closed Feb. 13. Deposits of $12.4 million assumed by the Atoka State Bank, Atoka.

26. First State Bank of King City, Missousi, King City, Mo. closed Feb. 13. Deposits of $13.8 million assumed by Citizens Bank and Trust Co., Chillicothe, Mo.

27. The Country Bank Manatee County, Palmetto. Fla., closed Feb. 13. Deposits of $163.2 million assumed by NCNB National Bank of Florida, Tampa.

28. First State Bank of Atmore, Atmore, Ala., closed Feb. 19. Deposits of $11.4 million assumed by First National Bank of Atmore.

29. Hub City Bank and Trust Co., Lafayette, La., closed Feb. 20. Deposits of $37.5 million assumed by the Hibernia National Bank, New Orleans.

30. The First National Bank of Weslaco, Weslaco, Tex., closed Feb., 20. Deposit payoff. All but about $366.000 of total deposits of $69.2 million were within the federal insurance limit.

31. First National Bank of Crosby, Crosby, Tex., closed Feb., 26, Deposits of $8.2 million assumed by a newly chartered national bank subsidiary of Central Bancshares of the South Inc., Birmingham, Ala. The new institution retained the name of the failed bank.

32. Farmers State Bank, Hart, Tex., closed Feb. 26. Deposits of $9 million assumed by Hale Country State Bank, Plainview, Tex.

33. The Lewiston Bank, Lewistown, Ill., closed Feb. 27. Deposits of $1.4 million assumed by the National Bank of Canton, Canton, Ill.

34. The Frist State Bank, Rockford, Iowa, closed March 4. Deposits of $14.6 million assumed by First Security Bank and Trust Co., Charles City, Iowa.

35. Liberty Bank, Houston, closed March 5, Deposits of $50.5 million assumed by Central Bank of Houston.

36. Sealy National Bank, Sealy Tex., closed March 5. Deposits of $7.8 million assumed by Austin County, State Bank, Bellville Tex.

37. First National Bank in West Concord, West Concord, Minn., closed March 5. Insured deposits of $8.8 million transferred to Farmers State Bank, West Concord.

38. First National Bank of Sapulpa, Sapulpa, Okla, closed March 5. Deposits of $7.5 million assumed by American National Bank and Trust Co., Sapulpa.

39. Western Bank, El Paso, closed March 12. Deposits of $39 million assumed by MBank El Pasco NA, El Paso.

40. Plaza National Bank, Del Rio, Tex., closed March 12. Deposit payoff. All but about $38,000 of the total of $30.4 million were within the insurance limit.

41. Expressway Bank, Oklahoma City, closed March 12. Deposits of $17.6 million assumed by First Interstate Bank of Oklahoma NA. Oklahoma City.

42. The First National Bank of Olney, Olney, Tex., closed March 12. Deposits of $13.4 millions assumed by First National Bank of Olney, a newly chartered subsidiary of Olney Bancshares Inc.

43. Beaver Creek State Bank. Beaver Creek. Minn., closed March 13. Deposits of $7.3 million transferred to Citizens State Bank of Silver Lake, Silver Lake, Minn.

44. United Oklahoma Bank. Oklahoma City, closed March 17. Deposits of $94.1 million assumed by United Bank of Oklahoma, a newly chartered subsidiary of United Bankshares Inc. Oklahoma City.

45. Red River National Bank in Clarksville. Clarksville, Tex., closed March 19. Deposits of $22.5 million assumed by State Bank of KeKalb, DeKalb, Tex.

46. Sweeney Bank, Sweeney, Tex., closed March 19. Deposits of $17.6 million assumed by the First State Bank of Louise, Louise, Tex.

47. Clarks Fork National Bank, Fromberg, Mont., closed March 19. Deposits of $7.8 million assumed by Yellowstone Bank, Laurel, Mont.

48. Morocco State Bank, Morocco, Ind., closed March 20. Deposits of $14.1 million assumed by DeMotte State Bank, DeMotte, Ind.

49. The Madill Bank and Trust Co., Madill, Okla., closed March 20. Deposits of $36.8 million assumed by First American National Bank, Tishomingo, Okla.

50. New City Bank, Orange, Calif., closed March 27. Deposits of $20.3 million assumed by Colonial Bank NA, a newly chartered national bank.

51. The First State Bank of Billings, Billings, Okla, closed March 26. Deposits of $9.4 million assumed by First National Bank and Trust Co., Perry, Oklahoma.

52. Tallulah State Bank & Trust Co., Tallulah, La., closed March 27. Deposits of $30.2 million assumed by Bank of St. Joseph, St. Joseph, La.

53. The First National Bank of Herington, Herington, Kan., closed April 2. Deposits of $19.9 million assumed by the Bank of Herington, Herington.

54. The Southwestern Bank NA, Houston, closed April 9. Deposits of $14.3 million assumed by Omnibanc North Belt NA, Houston.

55. First National Bank of Braman, Braman, Okla, closed April 9. Deposits of $11.9 million assumed by Community Bank, Shidler, Okla.

56. Commonwealth Bank, Glendale, Colo., closed April 9. Deposits of $5.9 million assumed by Prudential Bank, Denver.

57. Deer Lodge Bank and Trust Co., Deer Lodge, Mont., closed April 9. Deposits of $13.6 million assumed by Peoples Bank of Deer Lodge NA, Deer Lodge.

58. The Citizens State Bank, Brownstown, Ind., closed April 10. Insured deposits transferred to Monroe County Bank, Bloomington, Ind. All but $560,000 of total deposits of $28.1 million were within the federal insurance limit.

59. Bank of Iron County, Parowan, Utah, closed April 10. Deposits of $19.9 million assumed by Dixie State Bank, St. George, Utah.

60. First Bank of Saginaw, Saginaw, Tex., closed April 16. Deposits of $30 million assumed by Southwest Bank of Fort Worth.

61. First State Bank of Forest City, Forest City, Mo., closed April 16. Deposit payoff. Deposits totaled $6.6 million, all within the federal insurance limit.

62. First Commercial Bank of Texas NA, Houston, closed April 16. Deposits of $4.7 million assumed by Omnibanc North Belt NA, Houston.

63. Bank of North Mississippi, Oakland, Miss., closed April 22. Deposits of $13.7 million assumed by Bank of Mississippi, Tupelo, Miss.

64. The Peoples Bank, Collinsville, Ala., closed April 22. Deposits of $12 million assumed by Bank of Geraldine, Geraldine, Ala.

65. North Central National Bank, Austin, Tex., closed April 23. Deposits of $22.2 million assumed by Greater Texas Bank North, Austin, Tex.

66. Osceola State Bank & Trust Co., Osceola, Iowa, closed April 23. Deposits of $8.4 million assumed by American State Bank, Osceola, a newly chartered subsidiary of Osceola Bancorp., Osceola, Iowa.

67. Heritage Bank & Trust, Salt Lake City, closed April 29. Deposits transferred to First Interstate Bank of Utah, Salt Lake City.

68. UnitedBank-Houston, Houston, closed April 30. Assets of $217.9 million. Deposits of $161.1 million in 13,400 accounts assumed by American Bank, Houston. Deposits also included about $3.1 million in 470 accounts that exceeded the federal insurance limit. The failed bank's five offices did not reopen. Customers can obtain funds at American Bank's office in Houston.

69. Peoples State Bank, Turkey, Tex., closed April 30. Assets of $6.0 million. Deposits of $5.9 million in 1,150 accounts assumed by Memphis State Bank, Memphis, Tex. Failed bank's one branch reopened May 1 as a branch of Memphis.

70. American Bank of Commerce, Denver, closed May 6. Assets of $25.3 million. Deposits of $22.2 million assumed by the Professional Bank of Colorado, Englewood, Colo.

71. North American National Bank, Littleton, Colo., closed May 7. Deposits of $8.9

million . One office closed, assets of $10.3 million transferred to FirstBank of Colorado, NA, Littleton, Colo.

72. First State Bank of Sisseton, Sisseton, S.D., closed May 7. Assets of $21.2 million. Deposits of $19.7 million. Two branches reopened as branches of Farmers & Merchants Bank and Trust Co., Aberdeen, S.D.

73. Moreauville State Bank, Moreauville, La., closed May 8. Assets of $16.8 million. Deposits of $16.9 million. Two branches reopened as branches of Mansura State Bank, Mansura, La.

74. Farmers State Bank, Maddock, N.D., closed May 8. Assets of $11.8 million. Deposits totaled $11.6 million. Two branches reopened as branches of the Ramsey National Bank and Trust Co. of Devils Lake, Devils Lake, N.D.

75. Marlin National Bank, Marlin, Tex., closed May 14. Assets of $44.3 million. Deposits of $42.5 million assumed by Bank of Longview NA, Longview, Tex. One branch reopened next day as a branch of Bank of Longview.

76. Todd County State Bank, Long Prairie, Minn., closed May 14. Assets of $14.3 million. Deposits of $14.1 million in 4,600 accounts assumed by First National Bank of Long Prairie. Of two branches, one shut down. The other reopened May 15 as a branch of First National.

77. United Bank, Libby, Mont., closed May 14. Assets of $15.8 million. Deposits of $14.5 million in 4,900 accounts assumed by First National Bank in Libby, Libby. United's one office reopened May 15 as a branch of First National.

78. First National Bank of Elbow Lake, Elbow Lake, Minn., closed May 14. Assets of $17.5 million. Deposits of $16.2 million in 2,750 deposit accounts assumed by First National Bank of Fergus Falls, Minn. Elbow Lake's one office reopened May 15 as a branch of Fergus Falls.

79. Bank of Oak Grove, Oak Grove, La., closed May 21. Assets of $23.3 million Deposits of $22.9 million in 4,800 deposit accounts assumed by West Carroll National Bank of Oak Grove. Failed bank's two offices reopened May 22 as branches of West Carroll.

80. Lake Austin National Bank, Austin, Tex., closed May 21. Assets of $42.5 million. Deposits of $37 million in 4,300 deposit accounts assumed by Greater Texas Bank Southwest NA, Austin. Failed bank's one branch reopened May 22 as a branch of Greater Texas.

81. Texas Investment Bank NA, Houston, closed May 21. Assets of $15.1 million, including about $54,000 in 17 accounts that exceeded FDIC insurance limit. Deposits of $13.4 million. Failed bank's one office will not reopen. This is an insured deposit transfer. Texas Investment customers will have access to their funds at River Oaks Bank, Houston, on May 22.

82. Texas National Bank-Westheimer, Houston, closed May 28. Assets of $27.5 million, deposits of $26.7 million in 1,200 accounts including $327,000 in 32 accounts that exceeded FDIC insurance limits. Failed bank's one office will not reopen. this is an insured deposit transfer to Texas Capital Bank-Westwood NA, Houston.

83. First National Bank of Wilmont, Wilmont, Minn., closed May 29. An insured transfer of $10 million of First National's $11.6 million of deposits was made to Farmers State Bank of Mountain Lake, Mountain Lake, Minn. First National reopened as a branch of Farmers State June 1.

84. United Bank of Texas, Austin, Tex., closed June 4. Insured deposits were transferred to MBank Austin NA, Austin. All but $1.7 million of the total deposits of $163.1 million were within the federal insurance limit.

85. The First State Bank, Frisco, Tex., closed June 4. Insured deposits of $39.3 million assumed by Promenade National Bank, Richardson, Tex.

86. The Benton State Bank, Benton, Kan., closed June 11. Transfer of $8.4 million in assets to First National Bank & Trust Co., El Dorado, Kan.

87. First State Bank, Milford, Tex., closed June 11. Assets of $6.4 million assumed by Ellis County State Bank, Milford. Ellis County is a newly chartered bank.

88. Northwest Commercial Bank NA, Houston, closed June 11. Jersey Village Bank, also of Houston, acquired $12.1 million in assets.

89. Hamilton County State Bank, Lockland, Ohio, closed June 12. The Provident Bank, Cincinnati, assumed $7.3 million of the failed bank's $8.7 million assets.

90. Whittier Thrift and Loan, Whittier, Calif., an industrial bank closed June 12. Assets of $14.8 million were transferred to Liberty Thrift and Loan, Orange, Calif.

91. Eighty Niner Bank of Coyle, Coyle, Okla., closed June 25. Deposits of $5.4 million were assumed by the Oklahoma State Bank of Mulhall.

92. South Denver National Bank, Glendale, Colo., closed June 25. Deposits of $47.7 million assumed by First National Bank of Southeast Denver, Denver.

93. Liberty Bank & Trust Co., Greenwood, La., closed June 26. Deposits of $11.5 million assumed by Peoples State Bank, Many, La.

94. Lanesboro State Bank, Lanesboro, Minn., Closed June 6. Deposits of $10.7 million assumed by the Goodhue County National Bank, Red Wing, Minn.

95. First Midwest Bank, Maryville, Mo., closed June 18. Deposits of $25.1 million assumed by the newly chartered First Bank of Maryville, a subsidiary of Citizens Bancshares Co., Cillicothe, Mo.

96. Pelican State Bank, Mansfield, La., closed June 24. Deposits of $6.8 million assumed by Peoples State Bank, Many, La.

97. Bank of Brazoria, Brazoria, Tex., closed July 2. Deposits of $24.2 million assumed by Moulton State Bank, Moulton, Tex.

98. Citizens Bank, Bryan, Tex., closed July 2. Deposits of $36.3 million assumed by United-Bank-College Station, College Station, Tex.

99. Red Oak State Bank, Red Oak, Tex., closed July 9. Deposits of $37.7 million assumed by ROSB Bancorp Inc., Red Oak.

100. First Continental Bank of Rockrimmon N.A. Colorado Springs, Colo, closed July 9. Deposits of $5.7 million assumed by Valley Bank, Security, Colo.

101. Farmers & Merchants Bank, Eufaula, Okla., closed July 23. Deposits of $13.8 million assumed by Citizens National Bank & Trust of Muskogee, Muskogee, Okla.

102. Bank of Los Gatos, N.A., Los Gatos, Calif., closed July 23. Deposits of $11.3 million assumed by Bank of the West, San Francisco.

103. Bank of Granite, Granite, Okla., closed July 30. Deposits of $12.7 million transferred to Farmers and Merchants bank, Maysville, Okla.

104. Farmers State Bank, Kanawha, Ia., closed July 30. Deposits of $14.3 million assumed by The First National Bank of Clarion, Clarion, Ia.

105. First National Bank of Yukon, Yukon, Okla., closed July 30. Deposits of $38.5 million transferred to Bank of Oklahoma, Tulsa, Okla.

106. Empire National Bank, Los Angeles, Calif., closed July 30. Deposits of $7.6 million paid off by FDIC.

107. The Security State Bank, Davenport, Okla., closed Aug. 6. Deposits of $8.6 million assumed by First State Bank, Harrah, Okla.

108. Security State Bank, Roosevelt, Okla., closed Aug. 6. Deposits of $16.1 million assumed by First National Bank in Altus, Altus, Okla.

109. Bayshore Bank of Florida, Miami, closed Aug. 7. Deposits of $34.4 million transferred to Eagle National Bank of Miami.

110. First National Bank of Luther, Luther, Okla., closed Aug. 13. Deposits of $17.6 million assumed by First Wagoner Bank and Trust Co., Wagoner, Okla.

111. First State Bank, Blanchard, Okla., closed Aug. 13. Deposits of $21.48 million transferred to First State Bank, Hinton, Okla.

112. First National Bank of Navasota, Navasota, Texas, closed Aug. 13. Deposits of $28.2 million assumed by First Bank, Navasota.

113. McNulty Banking Co., St. Petersburg, Fla., closed Aug. 14. Deposits of $49.9 million assumed by Barnett Bank of Pinellas County, St. Petersburg.

114. The First State Bank, Willow, Okla., closed Aug. 20. Insured deposits of $5.498 million transferred to The Guarantee State Bank, Mangum, Okla.

115. American Exchange Bank and Trust Co., Norman, Okla., closed Aug. 20. Deposits of $94.8 million assumed by the Bank of Oklahoma, Tulsa.

116. American National Bank of Evanston, Evanston, Wyo., closed Aug. 20. Insured deposits of $8.2 million transferred to Pioneer Bank of Evanston.

117. People's State Bank of Mazeppa, Mazeppa, Minn., closed Aug. 21. Insured deposits of $15.3 million transferred to First State Bank of Redwing, Redwing, Minn.

118. Bank of North America, Houston, closed Aug. 27. Insured deposits of $29.5 million transferred to Texas Commerce Bank, N.A., Houston.

119. Citizens Bank of Glendale, Denver, closed Aug. 27. Deposits of $3.1 million assumned by Prudential Bank, Denver.

120. Rocky Mountain State Bank, Salt Lake City, closed Aug. 28. Deposits of $16.3 million assumed by Citibank (Utah), Salt Lake City.

121. First National Bank of Hammon, Hammon, Okla., closed Sept. 3. Insured deposits of $5.5 million transferred to American National Bank Elk City, Okla.

122. First National Bank of Tipton. Tipton, Okla., closed Sept. 3. Insured deposits of $7.1 million transferred to First National Bank in Altus, Altus, Okla.

123. La Marque Bank, La Marque, Texas, closed Sept. 10. Deposits of $6.1 million assumed by The First Bank of La Marque, La Marque, Texas.

124. Waxahachie Bank and Truck Co., Waxahachie, Texas, closed Sept. 10. Deposits of $62.3 million assumed by Merchants State Bank, Dallas.

125. Central National Bank of New York, New York, N.Y., closed Sept. Insured deposits of no more than $170 million were paid off by the Federal Deposit Insurance Corp.

126. First State Bank of Rollingstone, Rollingstone, Minn., closed Sept. 11. Deposits of $13.7 million assumed by Eastwood Bank St. Charles, St. Charles, Minn.

127. The Talmage State Bank., Talmage, Kan., closed Sept. 17. Deposits of $6.7 million assumed by The Abilene First National Bank, Abilene, Kan.

128. Breaux Bridge Bank and Trust, Breaux Bridge, La., closed Sept. 17. Deposits of $28.9 million assumed by MidSouth National Bank, Lafayette, La.

129. Steeplechase National Bank, Houston, closed Sept. 17. Deposits of $9.9 million assumed by Cypress National Bank, also in Houston.

130. Mustang National Bank, Mustang, Okla., closed Sept. 17. Deposits of $10.8 million assumed by the First National Bank of Moore, Moore, Okla.

131. Stockmen's Bank and Trust Co., Gillette, Wyo., closed Sept. 18. Insured deposits of $96.4 million transferred to First Interstate Bank of Gillette.

132. Mayfield State Bank, Mayfield, Kan., closed Sept. 24, Deposits of $20.3 million assumed by the First National Bank of Harper, Harper, Kan.

133. Murdock State Bank, Murdock, Kan., closed Sept 24. Deposits of $22.1 million assumed by Farmers State Bank of Norwich, Norwich.

134. The Citizens Bank, Drumright, Okla., closed Sept. 24. Deposits of $30.6 million assumed by the American National Bank of Bristow, Bristow, Okla.

135. Commonwealth Bank, Torrence, Calif., closed Sept 25. Deposits of $78 million assumed by Capital Bank of California, Los Angeles.

136. Valley State Bank, Los Angeles, closed Sept. 28. Deposits of $76.5 million assumed by Capital Bank of California, Los Angeles.

137. Security State Bank, Oxford, Neb., closed Oct. 1. Deposits of $11 million assumed by Union Bank and Trust Co., Lincoln, Neb.

138. Clay County State Bank, Dilworth, Minn., closed Oct. 1. Deposits of $10.2 million assumed by Northwestern State Bank, Ulen Minn.

139. Western Bank-Westheimer, Houston, closed Oct. 1. Insured deposits of $224 million transferred to Charter National Bank-Houston.

140. Western Bank-North Wilcrest, Houston, closed Oct. 1. Deposits of $43.8 million assumed by Texas Commerce Bank, Houston.

141. Western Bank-Westwood, Houston, closed Oct. 1. Deposits of $44.8 million assumed by Texas Commerce Bank, Houston.

142. State Bank of Greenwald, Greenwald, Minn., closed Oct. 2. Insured deposits of $18.4 million transferred to Rural Bank of Greenwald.

These banks, which have not failed, did require financial assistance from the FDIC in order to stay open.

1. American National Bank, Durant, Okla. The FDIC granted financial assistance Feb. 25 to prevent a failure of the $9.1 million-deposit bank. As a result of the transaction, American National Bank merged with First National Bank of Johnston County, Tishomingo, Okla. The combined bank was named First American Bank, Tishomingo, with the Durant office operated as a branch.

2. Central Bank and Trust Co., Glenmora, La. The FDIC granted financial assistance Feb. 26 to prevent failure of the $28 million-deposit bank. The assistance facilitated the merger of Central Bank and Trust with People's Bank and Trust Co., Natchitoches, La.

3. Syracuse Savings Bank, Syracuse. The FDIC granted financial assistance May 13 to prevent a failure of the $1.1 billion-deposit bank. The assistance facilitated the merger of Syracuse Savings with Norstar Bancorp, Albany, N.Y.

4. Security Bank of Rich Hill, Rich Hill, Mo., received $225,000 in open-bank assistance from the FDIC on June 5. The FDIC also bought $542,000 of Security Bank's assets. The failed bank has $12.9 million in assets. Deposits total $12.7 million.

5. BancTexas Group Inc.'s 11 subsidiary banks received $150 million in FDIC assistance July 17.

6. Valley Bank of Belgrade, Belgrade, Mont., received FDIC assistance of $3 million July 31. Valley Bank was then acquired by Montain Bank Systems Inc., Whitefish, Mont., which contributed $1 million toward Valley Bank's recapitalization.

SENATE—*Wednesday, October 14, 1987*

(*Legislative day of Tuesday, October 13, 1987*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*Yea, though I walk through the valley of the shadow of death, I will fear no evil; for Thou art with me * * *. Surely goodness and mercy shall follow me all the days of my life, and I will dwell in the house of the Lord forever.*—Psalm 23:4-6.

Precious in the sight of the Lord is the death of His saints.—Psalm 116:15.

"God of all comfort," we pray for Senator KASSEBAUM, her mother, and the family in the loss of her father. May Thy presence and Thy peace fill their hearts with comfort and consolation. We thank Thee for a great American who reached the century mark, having served his country well, for his rich and productive later years, and for the memory and inspiration his life brings to all who knew him. In this large Senate family, Gracious Father, there are others of whom we are unaware who are hurting, because of loss or illness of a loved one, sickness or accident, financial difficulty, loneliness, job uncertainty, and other innumerable reasons. May each experience Your gentle, tender care in the hour of need. We pray in the name of Him whose agenda was love for all who are needy. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 14, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized not to exceed 7½ minutes.

THE BORK NOMINATION

Mr. BYRD. Mr. President, I see the distinguished Republican leader on the floor. I wish to address a question to him.

Is it possible, now that the Bork nomination is on the Executive Calendar, that the two leaders might join in waiving the 2-day rule? I am willing to do so and eager to do so.

I would like to see this Senate get started on the Bork nomination today—today is Wednesday—and vote on the nomination as soon as possible, hopefully today.

Would the distinguished Republican leader indicate whether or not he is willing to join with me in waiving the 2-day rule.

Mr. DOLE. Mr. President, let me indicate to the majority leader that we, as I indicated yesterday afternoon, had a meeting last night. I thank the majority leader for permitting us to do that.

As I understand the rule, the leaders could waive it, but I think right now I am not in position to do that because I have almost unanimous indication from the membership that they prefer I not do it.

But let me also suggest that I think there is a willingness on both sides, and I took the liberty of calling Judge Bork myself last night. It seems to me that no one has any quarrel with what the majority leader said. He deserves a vote. I do not suggest he should dictate to the Senate when that vote should come.

But as I understand it, there are a number of people preparing information that should be used, high-level information, not a personal assault on anybody in the Senate, and that information is not yet available, and so he was hoping that the vote would come next week.

I regret that I am not in a position now to waive the 2-day rule.

I will be glad to check with the majority leader later this morning. We are going to have another meeting.

But if we took it up and we waived the 2-day rule, it might just prolong the debate. We might not save the time.

I know the schedule before us, and I know we do have a number of items cleared on this side, but at this point I cannot join the majority leader in waiving the 2-day rule.

Mr. BYRD. Mr. President, I regret that the distinguished Republican leader is not ready to join with me in waiving this rule. I realize that for him to give consent to proceed to the nomination would require consent from other Members on his side of the aisle but he does not need the consent of other Members on his side of the aisle to waive this rule to join with the majority leader.

I am nonplused. Judge Bork wants a vote on his nomination. We Democrats are ready to vote on the nomination. And as the Republican leader has said, there should not be any hint that Judge Bork is attempting to dictate when this nomination will be voted on.

I think Judge Bork might keep in mind that a motion to table this nomination once it is up could be made and that would stop all debate. I do not want that to happen. I want a vote up or down on the Bork nomination.

What is it the Republicans want? Do they want an issue? Or do they want a judgeship?

The longer we delay taking this Bork nomination up, the longer we are going to see delayed the filling of that vacancy on the Supreme Court. That does not help the Senate, that does not help the Court, that does not help the country.

What is it the Republicans want? If they want a vote on the Bork nomination, they can get it. Or do they want to string it out and promote divisiveness, contention, and dissension, which could spill over into the next nomination? And that is what we all ought to want to avoid.

The sooner we get on with the Bork nomination and vote on it, the better. The die is cast on that nomination, and there is no point in dragging it out.

I hope that we could get this nomination up today and I will be back urging the Republican leader to help me to waive this 2-day rule. We have much work to do here.

Can we get an agreement to vote on the Byrd-Warner amendment to the Weicker-Hatfield war powers legislation?

Mr. DOLE. If the majority leader will yield, I did not explore that. I could if the majority leader desires that.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I would just say, if the majority leader will yield further, I do not want to argue with the majority leader, but I find it a little, I guess, unique that, after waiting 72 days to start the hearings on this nomination, having 12 days of hearings, and the report having been filed only last night, suddenly there is this great generosity on the other side that we should have an immediate vote on Judge Bork.

If we were delaying other Senate business, then I think I would be in agreement with the majority leader, but I think, as he knows, and we need to continue to cooperate, we have two or three appropriations bills cleared for action, and I will check on the Byrd-Warner amendment to the War Powers Resolution. And I will again check later in the day to see if we could waive the rule.

But the point I would make to the majority leader, if we did waive the rule today, did agree to take up the Bork nomination today or early tomorrow morning, I would assume there could be several days of debate unless a motion to table was made or unless cloture was invoked. And what I was attempting to do was get some precise time we could have a vote so that the leaders would know what else we could do in the interim.

So I do not want the majority leader to infer that we are trying to frustrate your efforts, because we would like to depart here on November 21. We would like to see another nomination sent up, if that should become necessary, and have that confirmed by that date if possible.

Mr. BYRD. Mr. President, the November 21 date becomes more and more unclear with the passage of every day and with delay on acting on the Bork nomination. I would suggest that Senators be very careful not to stake too much on the November 21 target date. I would like to reach that date, but the Judiciary Committee needs time to prepare for a new nominee, and the administration needs to get a nomination up to the Senate. We need to get by the Bork nomination first.

Now, I am going to be back again and again today asking that we waive this 2-day rule, because nothing could be gained by stretching out this debate. There is only harm that could be done to the next nominee.

Now, what is it the administration wants? Do they want an issue? Do they want a political issue? Do they want to chew on the old bones and drag out the old ashes? Or do they want to get on with resolving a matter that is waiting and crying out to be resolved; namely, the filling of the vacancy on the Supreme Court?

Mr. EVANS. Will the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. EVANS. Might I say to the majority leader that I am not speaking on behalf of anyone except this Senator in saying that I have been, frankly, dismayed—and I have not even indicated yet my vote on the Bork nomination—but I have been dismayed in the way we have carried out the process. This has little to do with Judge Bork himself, but merely the fact that virtually all Members of the Senate have declared their intentions, most prior to the hearing, many shortly after the hearings, but long before they would have had an opportunity to have the transcripts in hand and an opportunity to read those transcripts.

I have read all 730 pages from beginning to end of the testimony and the questions asked in the Judiciary Committee of Judge Bork. Frankly, Mr. Leader, I would like to read the committee report.

I guess, ultimately, it seems to me, if we are ever going to regain the essence of what this Senate is all about, it ought to be that through a thoughtful process we listen at hearings, read the testimony, read the report of the committee so that we have their wisdom, and then debate on the Senate floor before making final decisions. Now I know that that has not happened in this case. And it is too bad that it has not, because it would be uplifting to the Senate if we would all go through that process on every important issue in front of us; to carefully read, to listen, to take part when we are members of a committee, to have the benefit of the report of a committee when an important issue comes in front of us, to have open and free debate as I thought I understood debate before I ever came to this Senate. And it is too seldom that we ever engage in honest debate here.

I would have hoped that this nomination and another nomination, if it comes forward, and another nomination after that for whatever position exists if they are controversial, if they deserve debate, then they also deserve the thoughtfulness of all Members.

Therefore, I would ask the majority leader, at least for this one Senator, not speaking for the minority leader, not speaking for the Republican Party, not speaking for anybody other than myself, that there be sufficient time in order to read reports, to thoughtfully try to make a decision on an important nomination which will, if adopted or turned down, have an effect on this Nation and its future long after most of us are gone from this Senate. I think a few days to accomplish that would certainly not harm the Senate.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I think there is plenty on the Bork record. His record is prolific with writings and lectures and statements. There have been exhaustive hearings. What would be uplifting, I think, would be for the Senate to get on with a new nominee who can be confirmed.

Now, I will be glad to keep this Senate open all night for Senators who wish to debate. They want to debate the process, and in doing so, they want to string out the process.

So let it be known and let it be heard by all. The Senators who want to debate this nomination can start today and we can go all night if they want to debate, and the television cameras will be on. But I should think that if they prefer to have a nominee confirmed rather than an issue to drag out into the election, they would stop beating a dead horse and get on with the nomination.

So they will have plenty of time to debate. There is no restriction on the Senate's being open or closed here. If Senators want to stay around and debate, I will be here and we will keep the Senate open as long as they want to debate—into the night. Let us have debate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time for the majority leader has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator from Wisconsin may have 5 minutes which I had promised to yield to him from my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. Mr. President, the majority leader has been more than generous with this Senator—time and time again he has given me his time—and he is generous once again this morning.

A SUCCESSFUL SDI WOULD BRING A MORE DANGEROUS WORLD

Mr. PROXMIRE. Mr. President, what is the principle argument against the strategic defense initiative? Is it the cost? No. The cost is appalling. It would be $1 trillion. But it would be $1 trillion spent over a number of years. The estimated time for building and deploying SDI fully is about 25 years. The most authoritative, independent study of SDI cost has estimated that in the most demanding 10 years the cost would be less than $50 billion per year. We could raise that $50 billion annually with an 11-percent increase in the personal income tax. That's a painful bite to be sure. But if Americans accepted the notion that the 11-percent income tax hike could protect our country against a Soviet nuclear attack, they would accept it. This Senator is convinced that there is no way SDI could work. I am certain that far less expensive counter measures would enable the U.S.S.R. to defeat SDI. Obviously the advocates of SDI disagree. They may be right. I may be wrong. Let's assume I am wrong. Assume SDI will work. If so, should we build it? My answer is: "No!" Even if we are positive that SDI would foil any Soviet attack on our country we should not build SDI.

Here's why: For the past 40 years we have kept the superpower peace. We have not suffered the nuclear war so many thoughtful people were flatly predicting 25 and 30 years ago. Europe has now enjoyed its longest period of peace in centuries. Why? Because it is obvious that a nuclear war would utterly destroy civilization. Both sides would lose, and utterly lose. There would be no victor only the vanquished, the destroyed, the ruined, the dead. Both sides know that. This is precisely what deterrence means. We have for nearly two generations attained the goals of the dreams of idealists and the great religious leaders for thousands of years. But let us never forget that this era of peace that may extend for hundreds of years to come has not been the result of love on Earth. Kindness and compassion has not taken the place of hatred and fear. Indeed, we have peace exactly because we fear nuclear destruction. In Churchill's words, "Safety is the twin child of terror." So what does a successful SDI do? It destroys the terror. It destroys the credibility of the Soviet's deterrent. From our standpoint it makes the world once again safe for war. With successful SDI, we will have no reason to fear that our cities will be destroyed. We will be confident that SDI makes them safe.

Now what do we do with that safety and that power? Certainly the Soviet Union or perhaps China or some other country more advanced technologically will develop their own SDI within a few years. In this interdependent world of instant worldwide communications and widespread scientific knowledge, this is certain. Will this mean that with several countries equipped with SDI technology the world will be safe? Will we have replaced deterrence based on Churchill's terror with ballistic missile defenses as the twin child of safety? No way. The nature of the most advanced and promising SDI defense makes a multiplicity of SDI defenses far more likely to initiate nuclear war. The most advanced SDI weapons are the particle beams and lasers. Here we have weapons that could potentially strike with unimaginable power and literally with the speed of light. What does that mean? That means they would cover 186,000 miles in a single second. Sure these SDI components are designed for defense. But obviously they would have devastating offensive applications. Would countries with this dazzling new military power refrain from using it? Imagine our world 40 or 50 years from now when several nations have the power to zap any object they want to zap anywhere in the world in one-twentieth of a second. And by zap I mean hit the object with such immense destructive power and with such precision that it could literally make the enemy object disappear from the face of the Earth. Such a development is years away. But this is where the SDI technology leads.

Somehow we must understand that our salvation does not lie in weapons defensive or offensive. Our salvation lies in arms control. Our salvation lies in an arms control program that builds on the grim fact of the present deadlocked nuclear deterrence—the clear consciousness on both sides that a nuclear war today can leave no winners only losers. Our mission should be to preserve this standoff that has kept the peace for 40 years.

To advance SDI is to embrace the terribly dangerous illusion that the superpowers can continue to develop more and more powerful, swifter and more destructive defensive weapons that will only be used defensively. We can't. Those weapons can and will have powerful offensive application. We have barely started to build the beginning of an arms control apparatus. Let's continue it. Let us keep the promise of the 1963 limited nuclear testing treaty and pledge both sides to refrain comprehensively from nuclear weapons tests. Let us use arms control to strive to apply that same restraint to the development of newer and more devastating nuclear weapons such as lasers and particle beams of infinite power. Let us never forget that arms control and cooperation, not an onrushing military technology is the way to survival.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Republican leader is to be recognized for not to exceed 7½ minutes.

Mr. DOLE. Mr. President, I reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, the Senator reserves his time.

Mr. BYRD. Has the time of the Republican leader been reserved?

The ACTING PRESIDENT pro tempore. The Senator is correct.

QUORUM CALL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 30]

Bingaman
Breaux
Byrd
Dole
Durenberger
Evans
Fowler
Hatfield
Melcher
Proxmire
Pryor
Rockefeller
Roth
Rudman
Shelby

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays on the motion.

The ACTING PRESIDENT pro tempore. Is there is sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to instruct the Sergeant at Arms to request the presence of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Nebraska [Mr. KARNES], the Senator from Idaho [Mr. MCCLURE], the Senator from South Carolina [Mr. THURMOND], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 34, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—55

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Hatfield
Heflin
Hollings
Humphrey
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Matsunaga
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Stafford
Stennis
Stevens
Wirth

NAYS—34

Bond
Boschwitz
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley

Hatch
Hecht
Heinz
Helms
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Quayle
Simpson
Specter
Symms
Trible
Wallop
Weicker
Wilson

NOT VOTING—11

Biden
Gore
Harkin
Karnes
Kassebaum
Levin
McClure
Metzenbaum
Simon
Thurmond
Warner

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. A quorum is present.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Weicker Amendment No. 953, to restore funding for the low-income energy assistance program.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I am pleased to present before the Senate today the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation bill for fiscal year 1988. This bill, which provides $128.2 billion in total budget authority for fiscal year 1988, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is evidence of the hard work and excellent leadership of subcommittee Chairman CHILES and the ranking minority member, Senator WEICKER. I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. J. Mike Hall, Mr. Jim Sourwine, Miss Mary Malaspina, Mr. Peter Rogoff, Miss Susan Quantius, Mrs. Nancy C. Anderson, Mrs. Annette P. Feathers, Miss Maureen Byrnes, Mrs. Ricki Poster Sheehan, Mr. Craig A. Higgins, and Mrs. Debbie Rieman.

Mr. President, I want the record to show what a tremendous job and amount of work has been done here by the staff of this subcommittee and the two ranking members, the Senator from Florida and the Senator from Connecticut. It is an amazing amount of work. I know because I am on this committee myself, and a member of this subcommittee. But I know the volume of work day and night, over and over many times, that they have been through on these tremendous matters. They did the work with the help of others and that has brought this bill into being. I commend them and thank them warmly as a fellow member of the committee.

I now wish to briefly highlight a few important items regarding this bill.

Mr. President, this bill is highly important from many angles and carries what was one time thought to be a large sum of money. But we do have now a figure that is below the 302(b) allocation for budget authority and outlays. As I have previously indicated, this is essential for all appropriation bills which are to be taken up for consideration on the Senate floor.

Second, the committee's recommended $128.2 billion in budget authority is below the President's request and is only slightly above the House-passed level of $125.6 billion.

Finally, I would ask my colleagues to resist any further amendments adding additional funds which would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. This would cause the reversal of the work that has been done here in the second go-around all the way through.

Let me also mention that the Senate rules do not permit legislative amendments on appropriation bills.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

So, again, I thank and commend these two Senators in particular. They have had valuable help from other Members, too. I commend them and I am glad to recommend that the body of the Senate support this bill in its entirety.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, we would urge all Senators who have amendments to the Labor-HHS appropriations bill to be prepared to come to the floor and call them up. Otherwise, we might move to go to third reading. That would be a debatable motion. But nevertheless it is a motion. It can be voted on.

I believe Mr. CRANSTON has an amendment. The two managers are here. We are ready to go.

Mr. CHILES. Mr. President, yesterday we laid down the Labor-HHS appropriations bill, and we adopted the committee amendments.

Senator WEICKER proposed an amendment on low-income energy, and requested its consideration be delayed.

Mr. President, I ask unanimous consent to lay aside the Weicker amendment.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing none it is so ordered.

Mr. CHILES. Mr. President, the bill is now open for amendment.

AMENDMENT NO. 955

(Purpose: To prohibit the use of funds by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 until final judgments have been rendered in certain court cases and appeals thereto completed)

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. CRANTSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself and Mr. WILSON, proposes an amendment numbered 955.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)

(b) The prohibition established in subsection (a) shall apply until—

(1) the Court of Appeal for the Third Appellate District of California has rendered a final judgment in each of the cases—

(A) *Ixta et al. v. Renaldi* (Case No. 3 Civil C 002805); and

(B) *California State Employees Association, Local 1000 Service Employees International Union, AFL-CIO, a California Corporation, on behalf of its affected members v. Deukmejian et al.* (Case No. 3 Civil C 002664); and

(2) all direct appeals by the parties in each of the cases have been completed.

Mr. CRANSTON. Mr. President, the amendment I am proposing would prohibit the Department of Labor from assuming exclusive Federal jurisdiction over the California Occupational Safety and Health Administration Program or from withdrawing approval of the Cal-OSHA plan. It would maintain the status quo by preventing the Department from taking such irrevocable actions until pending court cases in the California State Court of Appeal are resolved regarding the legality of the Governor's action withdrawing the State plan.

Mr. President, California has the most comprehensive Occupational Health and Safety Program in the country. It exceeds all other State programs and is far more extensive than the Federal OSHA Program. Unfortunately, the Governor of California does not share the commitment of the majority of Californians, including much of the business community, to maintaining this vitally important program.

Early this year, by letter dated February 6, 1987, Governor Deukmejian informed Labor Secretary Brock that California was withdrawing its approved State OSHA plan. Since that time there has been and continues to be substantial dispute regarding the validity of the Governor's action both in the California State Legislature and the courts.

The California Legislature has repeatedly and overwhelmingly disapproved the Governor's action, although it was unable to override his veto of funding for the Cal-OSHA Program. On September 11, however, the legislature passed Assembly Joint Resolution 56—by a unanimous vote in the Senate and by a nearly 2-to-1 margin in the assembly—urging that Secretary Brock continue to refuse to accept the Governor's letter withdrawing the California plan from coverage under the Federal Occupational Safety and Health Act of 1970. In addition, the entire congressional California delegation wrote Secretary Brock on September 18 also requesting the Department not to take any irrevocable actions with regard to the Cal-OSHA Program.

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. CRANSTON. Mr. President, there are two critical cases pending in the Court of Appeal for the Third Appellate District of California that challenge the authority of the Governor, in the absence of an express legislative authorization, to abolish the Cal-OSHA Program. The court has scheduled an expedited hearing on October 19, and any permanent action taken by the Department prior to court action following that hearing would have the effect of preventing the State court from making a decisive ruling in the cases.

For a while, the Department of Labor had remained neutral on this issue. On July 1, it assumed responsibility for concurrent enforcement of Federal standards in private sector workplaces. By not accepting the Governor's letter, the Department was giving the various legislative and judicial actions time to reach some resolution. I fully support that position and believe that it was and continues to be the prudent and proper course to take. It should not be discarded at this critical juncture.

Unfortunately, the Department has abruptly reconsidered its position of neutrality. On September 30, the Secretary indicated that he now intended to accept Governor Deukmejian's letter of intent to withdraw California's plan. If the State OSHA plan were withdrawn, the State court cases could be invalidated. Thus, on September 30, a temporary restraining order [TRO] was obtained in Federal court to prevent the Department from assuming exclusive jurisdiction at this point. The hearing on a preliminary injunction—which would continue the temporary bar—is scheduled for October 19.

My amendment would ensure that the two cases to be heard on October 19 will be able to be decided in the event that the request for a permanent injunction fails.

The Federal OSHA Program has maintained concurrent jurisdiction for 3½ months. There is no pressing need that I am aware of which warrants changing that situation, given that the future of the Cal-OSHA Program is at stake.

California has always been a leader in protecting the health and safety of its workers. The State should have every opportunity to continue that program.

Mr. President, I urge all of my colleagues to support this amendment.

I understand that this is acceptable to both sides.

EXHIBIT NO. 1

CONGRESS OF THE UNITED STATES,
Washington, DC, September 18, 1987.

Hon. WILLIAM E. BROCK,
Secretary of Labor,
Washington, DC.

DEAR BILL: We are writing to urge that no irrevocable action be undertaken with regard to the California Occupational Safety and Health Administration program (Cal-OSHA) until California's Court of Appeals for the Third District has had an opportunity to rule on two pending cases in which the Governor's attempt to withdraw the state's approved OSHA plan is being contested. Those cases are scheduled to be heard on October 19, and decisions may come by the end of November.

As you know, by letter dated February 6, 1987, Governor Deukmejian informed your Department that California was withdrawing its approved OSHA plan. Since that time there has been and continues to be substantial dispute regarding the validity of the Governor's action both in the California State Legislature and the courts.

We very much appreciate the fact that the Department of Labor has remained neutral thus far and has not taken any actions that would permanently affect the future of the Cal-OSHA program. Instead, it has assumed responsibility for concurrent enforcement of federal OSHA standards in private sector workplaces.

However, we understand that, because of budgetary considerations and concerns about providing stability in the Department of Labor's OSHA presence in California, you are considering accepting Governor Deukmejian's letter of intent to withdraw. We agree that it is not desirable or practical for the detail of federal OSHA personnel to California on an interim basis to continue indefinitely. However, the appellate court has scheduled an expedited hearing on October 19 in Sacramento of two pending cases and any permanent action taken by the Department prior to that date would have the effect of preventing the State court from making a decisive ruling in the cases.

These cases are not appeals of lower court decisions. Rather, they involve an exercise of original jurisdiction by the Court of Appeals, which, we are advised by counsel, takes a case on this basis only when there is a strong showing by the petitioner and the subject matter is of great importance. The pending cases involve the issues of whether Cal-OSHA may be abolished even though the laws mandating the activities of Cal-OSHA have been neither amended nor repealed and no executive reorganization plan to abolish the state agency has been submitted to the legislature and whether the Governor has the authority to earmark a funding reduction for one particular program.

We would also note that, even though the state legislature was unable to override Governor Deukmejian's veto of the funding for Cal-OSHA, it continues to oppose the unilateral dismantling of the agency. Most recently, on September 11, the legislature passed Assembly Joint Resolution 56—with overwhelming and bipartisan support (by votes of 38 to 0 in the Senate and 47 to 25 in the Assembly)—urging that you continue to refuse to accept the Governor's letter withdrawing the California plan from the Federal Occupational Safety and Health Act of 1970. The resolution further requests that a formal hearing be granted to contest the withdrawal should the Department decide to take action to implement the Governor's request. (A copy of the resolution is enclosed.)

Thus, in view of the upcoming court hearing date, we strongly urge that you continue the Department's position of neutrality by maintaining concurrent jurisdiction over the OSHA Program unless and until it becomes clear that all reasonable efforts to resolve these important issues have been exhausted.

If, however, the Department decides it must take action to implement the permanent federal takeover of the California OSHA Program, we would strongly urge that you favorably respond to Assembly Joint Resolution 56 and grant public hearings on the withdrawal of the California plan.

California has always been a leader in protecting the health and safety of its workers and has the most comprehensive state occupational program. We would greatly appreciate your assistance in ensuring that the state has every opportunity to continue that program and that no irrevocable actions are taken until we know the outcome of the cases before the Court of Appeals.

Thank you for your attention to this most important matter for California's workers. Because of the time sensitivity of this issue, we would appreciate a response at your earliest convenience.

With warm regards,

Cordially,

Alan Cranston, Robert Matsui, Pete Stark, Augustus F. Hawkins, Ronald Dellums, Don Edwards, Esteban

Torres, Barbara Boxer, Edward R. Roybal, George Miller, Norman Y. Mineta, Richard Lehman, Nancy Pelosi, Doug Bosco, Henry A. Waxman, George E. Brown, Jr., Anthony C. Beilenson, Tony Coelho, Howard L. Berman, Mel Levine, Glenn M. Anderson, Vic Fazio, Tom Lantos, Matthew G. Martinez, Mervyn M. Dymally, Julian Dixon, Jim Bates, Leon E. Panetta.

ASSEMBLY JOINT RESOLUTION No. 56

Whereas, Section 4 of Article XIV of the California Constitution vests the Legislature with plenary power, unlimited by any provision of the Constitution, to create and enforce a complete system of workers' compensation by appropriate legislation, including full provision for securing safety in places of employment; and

Whereas, The federal Occupational Safety and Health Act of 1970 provided for federal jurisdiction over occupational safety and health issues covered by federal standards; and

Whereas, The federal Occupational Safety and Health Act of 1970 encourages states to assume responsibility for the development and enforcement of occupational safety and health standards on issues covered by federal standards by providing up to 50 percent funding of approved state plans; and

Whereas, The Legislature exercised its plenary authority by enacting Chapter 993 of the Statutes of 1973 (CAL-OSHA), for the express purpose of allowing California to assume responsibility for the development and enactment of occupational safety and health standards under an approved state plan; and

Whereas, The Governor, by letter dated February 6, 1987, purported to advise federal Secretary of Labor William Brock of California's withdrawal of its approved occupational safety and health plan, and the termination of the grant awarded to California, both effective June 30, 1987; and

Whereas, The Governor neither sought nor received the concurrence of the Legislature necessary for a decision to be made by California to withdraw its state occupational safety and health plan; and

Whereas, The federal Department of Labor refused to accept the Governor's purported voluntary withdrawal of the California State Plan because the effect and finality of the Governor's action were under dispute in both the Legislature and the courts, and instead assumed responsibility for concurrent enforcement of federal occupational safety and health standards in private sector workplaces pending resolution of the administrative, legislative, and judicial issues within California; and

Whereas, The 1987-88 fiscal year budget provides sufficient funds for the Department of Industrial Relations to carry out its responsibilities under the law, including the enforcement of occupational safety and health standards in private sector workplaces; and

Whereas, The Governor has refused to carry out the statutory mandates to enforce occupational safety and health standards in private sector workplaces commencing July 1, 1987; and

Whereas, The legality of the Governor's refusal to enforce state occupational safety and health law in the private sector is the subject of litigation: Now, therefor, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature, acting for the State of California, memorializes the Secretary of Labor to continue to refuse to accept the Governor's contention that he may voluntarily withdraw the California State plan, and not to initiate federal proceedings to withdraw the California state plan; and be it further

Resolved, That should the Secretary of Labor initiate proceedings to withdraw the California state plan, the Legislature hereby requests formal hearing to contest the withdrawal of the California plan; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health for the United States Department of Labor, to each Senator and Representative from California in the Congress of the United States, and to the Governor of California.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. CHILES. Mr. President, we have reviewed the amendment and it is acceptable on our side.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from California [Mr. CRANSTON].

The amendment (No. 955) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I thank the Senator from Florida, and the Senator from Connecticut.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

Mr. WARNER. Mr. President, will the distinguished Senator forbear for just a minute?

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Virginia is recognized.

SENATOR WARNER'S PRESENCE IN THE SENATE AT 8:30 A.M.

Mr. WARNER. Mr. President, if I might state for the purposes of the RECORD, this Senator was here at 8:30 this morning for a meeting of a committee of the Senate Armed Services Committee. I did miss the last vote, and I do not question the timing of it. But I wish to indicate my presence here in this body as of 8:30 this morning.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, we are calling Senators who are known to have amendments, urging them to get to the floor. This bill can pass the Senate this morning, if Senators who have amendments will call them up. If we do not have much success in getting Senators to come to the floor, I will move to go to third reading, and I will ask for the yeas and nays on that motion when the time comes.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

AMENDMENT NO. 956

(Purpose: To prohibit the use of any funds provided under this Act to the Centers for Disease Control from being used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities or the intravenous use of illegal drugs)

Mr. HELMS. Mr. President, the amendment I will be calling up shortly will offer some assurance that the hard-earned tax dollars of the American people are not to be used to perpetuate the AIDS problem. Specifically, my amendment states that any funds authorized under this act shall not be used to promote, condone, or encourage sexual activity outside a sexually monogamous marriage, including homosexual activity, or the intravenous use of illegal drugs.

Mr. President, this Senator was naive enough at one time to believe that AIDS education meant simply telling people about the deadly AIDS virus. How wrong I was!

About 2 months ago, I received a copy of some AIDS comic books that are being distributed by the Gay Men's Health Crisis, Inc., of New York City, an organization which has received $674,679 in Federal dollars for so-called AIDS education and information. These comic books told the story, in graphic detail, of the sexual encounter of two homosexual men.

The comic books do not encourage and change any of the perverted sexual behavior. In fact, the comic book promotes sodomy and the homosexual lifestyle as an acceptable alternative in American society.

Mr. President, I dissent, and that is why I am here today. These comic books, widely distributed, were defended by Mr. Frank Lilly, former vice president and a founding member of the Gay Men's Health Crisis, who currently serves on the President's AIDS Commission. Mr. Lilly proclaimed that the comic books are a valid method of educating homosexuals. I do not agree. I think that anybody who would take a look at this material would agree with me. I am restraining myself in describing it. I believe that if the American people saw these books, they would be on the verge of revolt.

I obtained one copy of this book and I had photostats made for about 15 or 20 Senators. I sent each of the Senators a copy—if you will forgive the expression—in a brown envelope marked "Personal and Confidential, for Senator's Eyes Only." Without exception, the Senators were revolted, and they suggested to me that President Reagan ought to know what is being done under the pretense of AIDS education.

So, about 10 days ago, I went down to the White House and I visited with the President.

I said, "Mr. President, I don't want to ruin your day, but I feel obliged to hand you this and let you look at what is being distributed under the pretense of AIDS educational material. Furthermore, Mr. President, this group that produced this book and which is circulating it has received over $600,000 in Federal funds from your administration."

The President opened the book, looked at a couple of pages, closed it up, and shook his head, and hit his desk with his fist.

Obviously, I cannot describe the book in any detail; but for any Senator who is seriously interested in finding out whether I am exaggerating, I will make a copy available to him or her.

What happened when the so-called Gay Men's Health Crisis learned that I was on to their little gambit? "Oh," they said, "Federal dollars are not being used to produce this material."

I said, "Fine. Then, how are the Federal dollars being used?"

Let me tell you, Mr. President, how the Federal dollars are being used.

In 1986—on May 1, 1986, to be precise—the Gay Men's Health Crisis received the first part of the 2-year $674,679 grant to which I alluded earlier. The grant proposal upon which the grant was made laid out in great detail how the money would be spent. Let me read the grantees' statement of the problem:

> As gay men have reaffirmed their gay identity through sexual expression, recommendations to change sexual behavior may be seen as oppressive. For many, safe sex has been equated with boring, unsatisfying sex. Meaningful alternatives are often not realized. These perceived barriers must be considered and alternatives to high-risk practices promoted in the implementation of AIDS risk-reduction education.

Mr. President, this Senator is not a goody-goody two-shoes. I have lived a long time. I have seen a lot of things. I served 4 years in the Navy. I have been around the track. But every Christian, religious, moral ethic within me cries out to do something. It is embarrassing to stand on the Senate floor and talk about the details of this travesty.

And the subject matter is so obscene, so revolting, that I am embarrassed to try to discuss it in sufficient detail for Senators to understand that we have a problem here. I am going to try to do that. Senators will forgive me if I hesitate when I quote from the material.

In session 2 of this project of the so-called Gay Men's Health Crisis, the crowd that got $674,000 from the American taxpayers, session 2 of this crowd's project is entitled "Gay Identity Roles and Sexuality."

One of the session's objectives was to generate gay consciousness and a positive sense of gay pride among participants.

Under the section entitled "Content," the session states that it was intended to dispel certain myths regarding male and female sexuality and gender roles including "(a) heterosexuality is superior to homosexuality."

That is what tax dollars are being spent for and no wonder the President of the United States hit his desk and I hit this podium with the same feeling of revulsion and disgust.

The grant proposal states that the conductor of this session should supervise activities to dispel these supposed "myths", including "exercises designed to overcome male gender role prescriptions." The grant proposal further suggests: "Construction of masculine and feminine gender sculptures—in which—participants take their turns arranging their partner in a pose so that their posture represents a sex-stereotyped posture" with an example: "Strike a pose of a gay man standing at a street corner."

Oh, what a great expenditure of the taxpayers' money.

In session 3 of this great educational effort by the Gay Men's Health Crisis, which received $674,000 taxpayers' money, entitled "Social Skills Development," "activities" included "asking someone for his phone number, meeting someone new at a bar and letting him know you are interested in having sex, and negotiating a contract for safe sex, discussing your sexual limits."

Homework for this session included, if you can believe it, Mr. President, writing a personal sexual advertisement for the publication the New York Native, a homosexual magazine.

Oh, boy. No wonder we have such a stupendous Federal debt. If we are one-tenth as insane in the expenditure of other Federal funds as we are in this: No wonder.

Then, Mr. President, we get to session 5 and session 6 of this great educational effort by the Gay Men's Health Crisis. This is entitled "Guidelines for Healthy Sex." The overall goal, as stated, was "to provide participants with a sexual enrichment program to promote healthy sexual fantasies, emotional responses and behaviors." The behavioral objectives of these two sessions included the ability to "list satisfying, erotic alternatives to high-risk sexual practices; identify erogenous areas of the body,"—and here is where I get embarrassed—"other than the genitals, that produce an erotic response."

Oh, boy.

"Activities" in these sessions included a "discussion of participants' myths and fantasies." One of their self-described myths is it is just as good to be a homosexual as it is to be a heterosexual.

There is no mention of any moral code but the activities in these sessions included, as I was saying, a "discussion of participants' myths and fantasies about safe sex, in dyads, nongenital body massages directed toward the giving and receiving of pleasure, use of safe sex photos as a sexual enrichment tool."

Good Lord, Mr. President, I may throw up.

Now, this crowd said they do not use Federal funds for this or that, but $239,962 of the American taxpayer's money went to fund this program that I have just described.

But that was not enough for them. Oh, no.

The folks at the Centers for Disease Control turned around the following year and gave them $434,717 to do more of the same thing.

Oh, boy, sophomore year, the second-year project.

It included a "Dating and Intimacy Workshop" entitled, "Getting to Know Another Man." This was for participants who found it difficult to meet, open up to and form relationships, homosexual relationships, "where they would feel comfortable practicing safe sex."

I will not consume the Senate's time reading the details of this revolting project. But, Mr. President, you know those little bags they have on airlines when it gets bumpy. If I were to read the sickening details to you, Mr. President, you would need one.

I cannot believe the majority of the American people want this sort of thing, this expenditure of their money. Certainly, I do not.

At this point I cannot speak for any Senator except myself, and my proposal to put an end to this may be roundly defeated on this floor. But I can look in the mirror tomorrow morning and say "By George, you tried."

Some Senators may believe sincerely that the AIDS epidemic has reached such grave proportions that we must disseminate whatever material anybody wants to produce regardless of the content.

I come from a generation where I still flinch when I hear the word "condom" on television, but that is an accepted thing now. But I tell you this, Mr. President, we can talk about condoms and clean needles until we are blue in the face, but until we are ready and willing to discourage and do our dead level best to eliminate the types of activities which have caused the spread of the AIDS epidemic, I do not believe we are ever going to solve it.

Many of the experts, self-proclaimed, tell us that the source of the AIDS epidemic is the AIDS virus. That is like saying that the source of a fire set by an arsonist was the match that the arsonist used, rather than the arsonist who struck the match and set the fire.

Chuck Colson recently wrote something that I agree with. He said: "In all the recent attention focused on AIDS, one important fact seems to have been shoved into the closet." And that important fact to which Chuck Colson referred is the fact that "homosexual intercourse has been and remains the principal vehicle for the spread of the disease."

Now we had all this mob here over the weekend which itself was a disheartening spectacle. But I did not hear a single one of them deny what Chuck Colson said. They do not want us to think about it. They do not want society to think about it. They want to obscure the issue. But the fact is still there.

Monsignor Eugene Clark recently repeated the same message that Chuck Colson offered. Monsignor Clark wrote:

> In fact, the virus-turned-plague has only one source—sodomy. Heterosexuals are infected only from homosexuals, or from heterosexuals infected by bisexuals.

That is what Monsignor Eugene Clark said.

Now, I do not know whether Senators want to face up to the question of whether they agree to that or do not. It is easy to say, "Well, I will worry about that tomorrow." We cannot worry about it tomorrow. We have got to establish some priorities. Yes, I am old-fashioned enough to say moral priorities. We have got to call a spade a spade and a perverted human being a perverted human being, not in anger, but in realism.

Think about it, Mr. President, Monsignor Clark was right. Every AIDS case can be traced back to a homosexual act. A hemophiliac who contracts AIDS from a blood bank has gotten it from a homosexual with AIDS who contributed blood or a heterosexual infected by an infected bisexual. For the prostitute, she got it from an infected man who had had sexual relations with a bisexual or a homosexual. For the drug addict, somewhere along the line the needle has been used by a homosexual or a bisexual man or a heterosexual woman infectd by a bisexual or homosexual. Heterosexuals are infected only from bisexuals or other heterosexuals who have had sexual relations with bisexuals.

So it seems quite elementary that until we make up our minds to start insisting on distributing educational materials which emphasize abstinence outside of a sexually monogamous marriage—including abstinence from homosexual activity and abstinence from intravenous use of illegal drugs—and discourage the types of behavior which brought on the AIDS epidemic in the first place, we will simply be adding fuel to a raging fire which is killing a lot of people. And, as with so many other things, Mr. President, this will take courage. It will force this country to slam the door on the wayward, warped sexual revolution which has ravaged this Nation for the past quarter of a century.

Yes, it will require us to make a moral judgment. I think it is about time we started making some moral judgments and stop playing around with all those esoteric things and saying, "Yes, but." I believe, Mr. President, it is time to draw the line. A lot of lives are at stake, perhaps into the millions when you get beyond the turn of the century.

All right, now, Mr. President, I have an amendment at the desk and I ask that it be stated.

I understand there is an amendment pending; is that right, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I ask unanimous consent that the pending amendment be laid aside temporarily while this amendment is considered.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Very well.

Mr. President, I hope the RECORD will show that the majority leader and others were exhorting Senators to come to the floor and offer amendments. I have done so and I am willing to have this amendment considered whenever it is in order to do so.

Now, I think the custom has been to lay aside pending amendments so that other amendments could be considered. But that is up to the managers of the bill and I will not challenge their right to object.

Mr. WEICKER. Mr. President, I have no objection if the distinguished Senator from North Carolina wants to go ahead and make the unanimous-consent request to set-aside the low-income energy assistance amendment in order that he might go ahead and submit his amendment.

The PRESIDING OFFICER. Does the Senator from North Carolina make that request?

Mr. HELMS. I am sorry, I did not hear.

The PRESIDING OFFICER. The Senator from Connecticut said that he had no objection if the Senator would move to set-aside the pending amendment.

Mr. HELMS. If I would move, rather than ask unanimous consent?

The PRESIDING OFFICER. It takes unanimous consent.

Mr. HELMS. I see. Well, I just propound my unanimous-consent request again.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from North Carolina's amendment is at the desk. The clerk will report.

Mr. HELMS. I will ask the clerk to read it all, so he might as well get prepared.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 956.
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> At the appropriate place, add the following new section:
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> SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.
>
> (b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—
>
> (1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and
>
> (2) abstinence from the use of illegal intravenous drugs.
>
> (c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.
>
> (d) The illegal drugs referred to in subsection (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).
>
> (e) If the Secretary of Health and Human services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—
>
> (1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I yield the floor.

Mr. CHILES. I wonder if the Senator would yield for a question.

Mr. HELMS. I will be glad to. Yes, sir.

Mr. CHILES. I think the Senator from North Carolina will understand what we are hoping the information that will be sent out from the Centers for Disease Control will do. We hope it will help to stop the spread of AIDS. That is what we are all about and that is what we are all concerned about.

I think that we recognize that right now the greatest risk of the spread into the heterosexual population is coming from the intravenous use of the needles—intravenous drugs used through a nonsterile needle.

Mr. HELMS. It depends on how far you go back, Senator.

Mr. CHILES. I am not talking about where it starts. I am talking about today. That is what I hear from the experts and I tried to listen to them, trying to determine the money that we are putting into this bill. I think we have listened across the spectrum to the doctors and scientists and people and they say that that greatest risk, in many instances, is a drug user. Let us say it is a male and he uses an infected needle. Perhaps in his normal relations with his wife he infects his wife; or in other relations.

Then a female partner is infected and then the disease begins to spread into the heterosexual population. That seems to be the way that it is spreading and the greatest risk.

We have more—well, not more—we have a third of the children infected with AIDS in my State. If there is ever the innocent of the innocent it is these children that are infected.

Mr. HELMS. Excuse me, what did you say?

Mr. CHILES. One-third of the children infected in the country, I think, or the third highest State, happens to be my State.

In many instances, what they have told me in a hearing that I held was until the child was diagnosed the mother did not know she was a carrier. In many instances she was a carrier but had not come down with the symptoms. The first time they knew was from the illness of the child.

In other cases, the mother and the child have been infected and the mother has abandoned the child in many instances. She has the disease herself. She is fighting it. She is trying to deal with it.

Obviously, this is something that when I think about these children, and the plight of them, it makes me feel very terrible about how they are infected.

In this bill we are trying to provide some money into research into AIDS of children, trying to see if it is something like an RH negative/positive thing, if there is a way of inoculating during the pregnancy—not inoculating, trying to keep this blood from passing back and forth during the pregnancy.

But again, as far as a threat to general society, it seems that this is one of the greatest threats.

One thing about an addict, that is a person who is not in control, basically, because they are addicted on drugs. I guess a lot of these would be heroin addicts. We all know that they are not rational people. They are not people that you can just go say: "Hey, quit using the drug. This could hurt your health."

One, they are addicted and, two, we are not just worried about them, we are worried about what stems from that.

A group of doctors said that we ought to start giving methadone out because that would be better. They could take it by mouth and not take it by needles.

Boy, I had a hard time with that, to tell you the truth; that, in effect, the Government is going to kind of buy methadone to put that out.

The other thing, of course, is to try to find a way to tell these people do not use a dirty needle.

I do not think we are trying to condone the use of a needle, you know; or that you ought to take heroin or anything else. But I think we are trying to protect that mother and/or that innocent baby; and our general population. Because this is the way it spreads. Evidently it spreads sort of this way. It could have spread another way. But it can get into prostitutes this way. But I think what I find is a lot of people are saying: Let us stop this thing from spreading. Let us not get it where it can get into anywhere that I am concerned. Of course, through that heterosexual thing, that is really one of the dangers.

So what I wanted to ask is the language here that talks about promote, encourage—I do not have any problem with that. Nothing the CDC is doing should be promoting and condoning—but I am worried about how they might read that or how that might be read as far as being able to put out information: Do not use a dirty needle. Because I think we decided that that is something, trying to get that word out there is something that we definitely need to do.

I just ask the Senator.

Mr. HELMS. Let me first state the Senator has not said anything with which I disagree. I have the same sensibilities about the children, at least as much: the innocent, and so forth. But in no way should this amendment inhibit any sensible person, administrator, in deciding how to get out true and legitimate educational material.

I had the clerk read the entire amendment because I anticipated a question of this sort. I know the Senator is perfectly sincere. But it simply says no funds, et cetera, shall be used to provide AIDS educational information or prevention materials—and activities that promote, encourage, or condone sexual activity outside of a sexually monogamous marriage, including homosexual sexual activity.

If the Senator will put in a quorum call, I will be glad to show him the material to which I was alluding. Any administrator who says: Oh, mercy, this will inhibit me in trying to decide what kind of information we are going to distribute at the cost of the taxpayers, I would say: Bye-bye Birdie. We do not need you. If you have got no more sense than that, get rid of him and get somebody who does.

As for the use of illegal intravenous drugs, the Senator is exactly right. But you do not need the kind of sessions to which I referred, or the kind of literature, which puts a nice little feeling that, well, use of drugs is really all right, let us just use clean needles. You know?

I think this is a moral question, and I will be accused of trying to impose my morality on somebody else. If someone wants to say that, that's fine. I would just hope that others might come to have the same feeling. But in no way, and I will not be much longer in answering the question, should this or will this amendment inhibit anybody in terms of preparing and scripting the kind of educational material that the distinguished Senator from Florida, and I have known him a long time, would be pleased to see.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, first, I would like to pose a question to my good friend from North Carolina. That is, the comic book he refers to that was published by the Gay Men's Health Crisis, was it funded with Federal funds?

Mr. HELMS. I said it was not, and then I went into what Federal dollars are used for. It was an example of the attitude of this organization, I said.

Mr. WEICKER. In response to the distinguished Senator from North Carolina concerning the attitude of this organization, I have seen examples of attitude as it relates to "straight sex," and it is material that none of us would want to see or have our children see. Yet, what we do not do is associate that with something else or some other individual or some other effort. I know exactly the material that the Senator from North Carolina is referring to. I have seen it. I think it is demeaning in every way, as I think that some materials that are out there on the newsstands are demeaning in every way.

But what I do not do is to establish an association of guilt here in order to demean an entire class of persons. Indeed, in this particular instance, a nation very much at risk.

Let me present a few remarks, if I might, on what confronts us here.

I know of no one who is standing up here and advocating any particular course of personal activity, and I suppose that it would be very easy to get drawn off into an argument as to what is appropriate and what is not appropriate sexual activity.

Neither I nor the Nation has the time to do that. We are confronted with an epidemic, the likes of which this world has never seen, and we do not have time to get into philosophical, academic, or moralistic debates. We better do exactly what we have been told to do by those of science and medicine, which is, No. 1, put our money into research and, No. 2, put our money into education.

This is what we have done traditionally. Whatever the ailment or the hurt was, we did not ask how you got it. If you hurt, if you are down, if you are sick, this Nation traditionally has gone to your side without asking any questions.

If we are going to get into the business of moral judgments, then maybe we should ask why we spend money on research insofar as it would help those who have cirrhosis of the liver, which comes from drinking.

Or what about the billions of dollars which have been spent on other sexually transmitted diseases—gonorrhea, syphilis. I can go down a whole list, of Federal health research activities, costing in the billions of dollars. When did we ask any one or when did we try to pass moral judgment on those who acquired one of these particular diseases?

Maybe we should ask the question of those who smoke, why should we put our money into cancer research.

I am not equipped to pass moral judgments on my neighbors. I go by a very simple criterion: If somebody is ill, then they deserve the help of their Government. Period, over and out.

I am not here trying to protect a particular segment of our population. That is not the issue before this body. The issue before the body is how do we protect the United States of America and, indeed, the world. That is the issue. Either you do it or you do not. Certainly, one of the great high-risk populations is the homosexual population.

There is no point in driving them underground again. There is no point in ignoring what goes on within that community because ultimately it affects all of us.

It is not easy to stand up in the face of language such as this and oppose it, but I do.

Let me go to the language of the amendment itself in order to dramatize what is at issue. First of all, is there anybody who believes the Centers for Disease Control, one of the great medical bodies in the world, that has saved countless lives both within our Nation and throughout the world—is advocating homosexual practices or intravenous drug use? Forget the homosexual practices. What this amendment says is:

> Notwithstanding the matter under the heading "Centers for Disease Control", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.

Well, forgetting the homosexual aspect of it, does anybody believe, in other words, that the Centers for Disease Control are out there advocating the use of intravenous drugs?

It is demeaning to a great body, a great institution, one that this Nation should take enormous pride in, the Centers for Disease Control. They are not out there to advocate any particular form of sexual behavior or advocate intravenous drug use.

What they are there to do is to be part of a team to get on top of this epidemic and to rid our Nation and the world of it.

This education process has been monkeyed around with long enough by this administration. This subcommittee over 6 months ago allocated $20 million requested by the Centers for Disease Control for an educational mailer to be mailed to every household in the United States. They wanted the money reprogrammed. We did not do that. We gave them $20 million to send an AIDS mailer to every household in the United States. That is yet to be done. It is yet to be done not because of anybody in the Centers for Disease Control, or not anybody in Secretary Bowen's office, but because the philosophers in the White House decided they did not want a mailer to go to every household in the United States. So the education effort is set back.

Do not worry about them advocating any sort of activities as listed in this amendment. We cannot even get the most basic education out.

Yes, I want my children to know exactly what causes AIDS. We will all be sorry later on, if we do not tell them now and they contract the virus because they will die. So every single fact should be out there on the table now, and education, indeed, is the most effective weapon we have against the spread of this virus.

We do not yet have the chemotherapy. We do not yet have the vaccine. These are years off. All we have at hand is education. We know a great deal about the virus. We know about how it is transmitted. And every piece of information within the purview of the Centers for Disease Control, the National Institutes of Health or any other medical body ought to be made available to the American people.

Nobody is asking for any moral judgment. The fact is the homosexual population is a high-risk population both as to itself and as to others, and they had best educate their own population, and indeed, they have because the incidence of AIDS among the homosexual population is going down while the incidence of AIDS within the intravenous drug users is going up. The main problem, as alluded to by the Senator from Florida, is the intravenous drug user at this stage of the game, not the homosexual.

I have stated time and time again on the floor the importance of our responsibility in this matter. I wish I could say that leadership emanated from the executive branch of Government. It has not. Indeed, I am free to say on the floor of this body that the specific recommendations and advice of those of scientific and medical background within the administration has been overruled time and time and time again. Whether that advice has emanated from the Secretary of Health and Human Services, whether from the CDC, whether from the NIH, whether from the Surgeon General, the best medical-scientific advice is not being followed by the executive branch. But Congress to its credit, this body to its credit has in effect assumed the mantle of leadership in the fight against AIDS.

That is terribly important, No. 1, in terms of eradicating the disease, but it is also important that the people of this Nation understand there is a leadership that leads us toward our best ideals, toward our best instincts, and that we not wallow in fear and that we do not moralize, we do not point our finger at our neighbor when he or she is hurting. That is the leadership that has come off this floor. Long before AZT was declared effective we voted the funds to get it out there, to prolong life among those who were afflicted with AIDS. Long before there was any request for adequate funding for research into AIDS, this body for 3 years straight has doubled the appropriation for AIDS research.

It is this body in its budget that is now on the floor that has given meaning to preventive education by providing adequate funding for education of all our people, particularly our children, on the matter of AIDS. The leadership has come from the Congress during a time when the amounts requested and the direction given by the executive branch has not been there. Indeed, the latest problem is the two men of medicine, Dr. Mayberry, of the Mayo Clinic, and Dr. Myers, the Public Health Service Director of Indiana, that were heading the AIDS Commission, resigned at their inability to have science overcome philosophy within the Commission.

I know the temptation of an amendment such as this. The temptation is for us to go ahead and duck. We do not want to be accused of supporting materials that are referred to in this comic book, even though they were not paid for with Federal funds, as testified to by the Senator from North Carolina. To lay that at the doorstep of the CDC is like me laying every one of the pornographic magazines out there on some other agency's doorstep.

The comic book has nothing to do with the issue at hand. Nobody is defending that material and yet that can be the implication when a year from now people see a dry voting record with nothing associated with it: "Aw, you were for going ahead and using Federal funds to advocate intravenous drug use and homosexual activity."

The reason I am standing here is because I do not want this Nation to take its eye off the ball so far as what needs to be done. That is a very simple, direct course of action: education and research.

What kind of a nation have we become where neighbors burn down somebody's home because the family has three hemophiliac children with AIDS? What kind of a nation is it that does that? And this has happened in several other places in the Nation. Fortunately, the good citizens of the State of Florida and the city of Sarasota have shown what this Nation is all about in welcoming those kids with open arms and taking care of them. We have had similar problems in the State of Connecticut. But what have we become? What have we become as a nation where even our children hurt and instead of doing anything about that hurt we try to hurt them more?

I do not understand that, and I am not going to be part of a national leadership that understands that. I am certainly not going to compound the fear by passage of these types of amendments. Americans can be proud of the Center for Disease Control and we can be proud of ourselves as long as we go ahead and direct our money, our resources, our energies, and our thought process toward ridding ourselves of AIDS in the only ways it can be done. Any sort of an education process that excludes a part of the population, in particular a high-risk population, is not the educational effort that the crisis deserves. Any educational effort that does not reach every individual at home and tells all, is not the type of response the crisis deserves.

Again, I repeat, for the problems that have been caused in this Nation by particular types of activity, whether it is drug use or homosexual activity, never before have we rationed our commitment to the cure based on a particular set of values or a particular lecture in morals. I heard the term "God's punishment." I do not know about "God's punishment," but I know what the American response ought to be to a disease. Doctors will tell you this is by far and away the most complex organism that has ever confronted medical science. It is without question the most deadly. And the statistics continue to climb. Those statistics, I might add, are clearly departing from the homosexual and going into the intravenous drug user area.

Those statistics now are encompassing the heterosexual. Hopefully for the hemophiliac, those statistics are going down as we perfect ways to make sure our blood supply is safe.

I oppose the amendment. I am perfectly satisfied to sit down, and work with the chairman of the committee and the Senator from North Carolina on finding alternative language that is acceptable to all Members.

But I want the record to show, because my colleagues are going to be put to a vote on this matter, if nothing changes, that those who vote against this amendment are not deficient morally. Indeed, the greater morality on this occasion is love of one's neighbor. To vote against this amendment is to vote against fear, to vote against this amendment is to vote against words, and for the deeds of education and research in which we have our only hope.

We have seen, over the past several years, the fear on the faces of those dying from AIDS. We have seen it in our children, and that probably is the most heartrending.

I have seen it personally with a good friend, Congressman Stewart McKinney, who died of AIDS a short while back. I have seen it in the faces of those that I broke bread with just a few nights ago in this city. Yes, I have seen it in the face of those who are dying and perhaps in their petitioning to their Government. Although they may do so in ways that many of us might deem objectionable, they have the right to petition their Government just like anybody else. Reflecting on the forces of death among old, young, and those that were the genius of this Nation, I just do not understand how we can respond but in a way that at least gives hope to the future. That is what I look upon as my job on the floor of the U.S. Senate. I do not have the answers to what anybody did wrong. But I know that I can have a part of the answer to the hope that something is going to be done right.

This amendment is not hope. It is trash.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from North Carolina.

Mr. HELMS. Mr. President, I listened with interest to my colleague from Connecticut [Mr. WEICKER]. My only problem as I listened to him I wondered whose amendment he was debating. He certainly was not debating the one pending. My amendment is written I think with very clear English language. It certainly is with no lack of sympathy for the people, particularly the children and hemophiliacs, who are afflicted as a result of the AIDS virus that I propose my amendment. So frankly, I do not know what the Senator is talking about. He has his sympathies. So do I. But I am simply saying that let us get the information out about intravenous drug use. But let us get the right information out.

I recall some weeks ago on this floor I was excoriated to a certain extent because I suggested it was time to begin broad testing for AIDS. I still believe that.

The Senator mentioned for example—I believe it was the Senator from Florida in this instance—the case of a wife who was infected unknowingly by her husband. If I ever heard an argument for AIDS testing, that example is it.

But the point is, Mr. President, that this Senator sees no way that the situation is going to be improved as long as groups which advocate homosexuality, which as Chuck Colson and the various others have pointed out, is the original source of the AIDS virus, and in every known case insofar as the information available to me. Unless we come to grips with that, we can talk about how sympathetic we are, how compassionate we are, and how much we want to solve the problem. But we are running down a blind alley.

For example, a study in northeastern Ohio, which I have in my file, involved 303 homosexual men, and it stated:

> We have concluded that educational efforts on safe sex education in our areas have resulted in clinically meaningful behavior modification in only a small segment of the socially and sexually active homosexual community.

The study found that only 28 percent practiced totally safe sex—whatever that is—among homosexuals. Seventy-one percent persisted in some activities that have been clearly described as unsafe.

Then there was a study made in Pittsburgh about the use of condoms by 503 homosexual and bisexual men, showing that knowledge of safe sex did not stop the practice of risky behavior and what the report called underutilization. The report further said it is probably not related to a lack of knowledge. The researchers, in any case, concluded that knowledge of this business of safe sex—whatever that is—did not prevent most men who practiced the most abhorrent kind of sex from engaging in unprotected sex.

With regard to nonsexual transmission—and I am addressing the point the distinguished Senator from Florida raised—intravenous drug use—I confess that I believe it is absolutely important and absolutely essential to set a strong public policy that discourages rather than just merely recognizes, let alone encourages, illegal drug use. There is no difference of opinion between this Senator and Senator CHILES on that point.

He said we need to get out information about the perils of using so-called dirty needles. He is exactly right. But more importantly, we need to get out information to encourage illegal drug users to get out of the business of using any needles at all. That is where we are lacking.

Mr. President, some Senators want to compromise with a moral stand because it is so often said that we talk too much about morality. I say to the Senator we can never talk too much about morality. We are not going to solve this problem or a lot of others in this country unless we get that through our heads.

The pending amendment, Mr. President, I repeat for emphasis, does not propose to prohibit and does not propose to limit the ability of the Centers for Disease Control to publish materials or contract for research or otherwise involve itself in the scientific research necessary to confront the AIDS epidemic head-on. If I make no other point, I hope I can make that one about this amendment.

What the amendment does is to propose that we ensure that any money spent for such purposes is not spent in such a way that even comes close to condoning or encouraging or promoting intravenous drug use or sexual activity outside of a sexually monogamous marriage including homosexual activities. That is what the amendment requires. That is all the amendment requires. It does not prohibit legitimate scientific AIDS research by the Centers for Disease Control.

Similarly, Mr. President, the pending amendment does not—I repeat for the purpose of emphasis, does not—prohibit its research from ultimately benefiting homosexuals and intravenous drug users who are the victims of AIDS. Such a suggestion is absurd. What the amendment provides is that no money provided under this act may be used to condone, encourage, or promote the activities which have caused and are perpetuating the spread of the AIDS virus. We either face up to that point or we do not.

As for the comic book, sure, that organization that received nearly $700,000 of the taxpayers' money proclaims that it did not use Federal dollars for the production of comic books.

That is sort of like the Baptist church to which I belong: Some of the most lengthy deacons' meetings I have ever attended were on matters involving the expenditure of funds proposed for the church. You would have one crowd that wanted to buy a new chandelier; another crowd did not even know what a chandelier was. Finally, the resolution was made that no money from a member of the church would be used for the chandelier without his consent. So they juggled the funds. And who knew which dollar went for what purpose? That is the way this crowd operates, this crowd created by the President's appointees to his AIDS Commission, the crowd that got $674,000. It is a shell game.

I remind Senators that earlier I stated in detail how Federal dollars have been used by the gay men's health crisis, an enormous amount of Federal funds.

So Senators can vote up or down or vote to table my amendment or whatever, but I do not retreat from my belief that we ought to take a stand on the fundamental questions and stop this business of saying, "Oh, I'm more sympathetic to people with AIDS than he is. He wants to stop scientific research." I do not. "He wants to stop helping people, infants or otherwise, who have the AIDS virus." I do not.

I want that perfectly clear. I just want the American taxpayers' dollars to be spent in what I believe to be the appropriate way and a moral way, and I do not apologize for that, if that is the accusation against me.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. HELMS. I am glad to yield.

Mr. WEICKER. As I read the amendment, it says that notwithstanding the matter under the heading "Centers for Disease Control," none of the funds made available under this act to the Centers for Disease Control should be used to provide AIDS education, information, or prevention materials or activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage. Under the Senator's interpretation, would that prohibit any advice suggesting the use of condoms?

Mr. HELMS. I say to the Senator that I feel that the education ought to stop before that point. It is useless, as I have just stated about every study I know about—even if the center wants to do it and even if the center succeeds, the study shows promoting condom use does not work.

Mr. WEICKER. In other words, it could be interpreted, under the amendment, and were the amendment to become law, that the use of condoms could not be advised in any Federal publication.

Mr. HELMS. If it condones or promotes or encourages—and the words after that "if" are very important.

I cannot stand here and put my imprimatur on any kind of information, nor can the Senator from Connecticut. I am just saying that when we get to the point that we are keeping in business, with Federal tax dollars, organizations that put out the kind of garbage to which I alluded earlier this morning, then we are not on the right track.

Mr. WEICKER. I am going to try, in my remarks, to go to each category. We are talking about sexual activity outside a sexually monogamous marriage. We are talking about extramarital sex or premarital sex, however you want to put it.

Under the Senator's amendment I gather any Federal publication could not suggest the use of condoms; otherwise, it clearly could be interpreted as condoning that type of sex.

Mr. HELMS. I have to give the same answer I gave. The amendment is very clear. I hope it is clear in its language. I will have the clerk read it again if the Senator would like. He has it before him.

Mr. WEICKER. So that we can establish the floor debate, which is the legislative history on this, in other words, is the Senator's answer yes, that it would be perfectly appropriate to include condoms as one aspect of the educational process?

Mr. HELMS. The Senator has to tell me in what context he is talking about.

Mr. WEICKER. In the context of extramarital or premarital sex or whatever as if being an assist in the prevention of any sexually transmitted disease?

Mr. HELMS. Is the Senator really talking about homosexuals?

Mr. WEICKER. No. I am going to get to that in a minute. I am talking about the Senator's amendment, "sexual activities outside of sexual monogamous marriage." I guess we are talking about a very sensitive and I might add at-risk population in the main being our young people. In other words, it would be improper were this amendment to pass to in any way suggest the use of condoms. Let us all assume we are going to advise abstinence. Let us all assume we are going to advise no sex before marriage. Let us make those assumptions.

But let us also make the other assumption, that the majority of sexually active young people in this country are not going to heed our advice.

Mr. HELMS. I do not believe that. I think more of our young people than that. Those are attacks on the majority of our young people.

Mr. WEICKER. Let me say to the Senator the statistics the Senator likes to cite. In fact there is a large at-risk population and it is engaging in premarital sex, extramarital sex. I do not care however the Senator wants to go ahead and put it. This is not the homosexual population.

Does the Senator deem it proper as a matter of Federal advice to have as a part of that advice the use of condoms to prevent sexually transmitted diseases?

Mr. HELMS. As I said earlier and I have to repeat again, you have to start earlier than that in terms of the kind of education that is going to do any good at all. I have already quoted the findings of the studies. Even if I would say, "Yes, go right ahead, just dump it all out, talk about condoms," so forth and so on, it still is not doing any good because the people who are spreading this disease do not pay any attention to it anyhow.

Mr. President, on another point, I think we need to do some AIDS testing on a broad level and unless and until we get around to that and stop talking about all of this business of civil rights, and so forth, we will not stop the spread of AIDS. We used to quarantine for typhoid fever and scarlet fever, and it did not ruin the civil liberties of anybody to do that.

The Senator himself has said that this is the worst plague threatening this country in the history of the world. I think he is right about it.

So what are we going to do about it? We cannot pussyfoot around the issue. We are either going to do something effective and practicable or not.

And I say that you cannot do it unless you start from a strong moral base, and condemn me for that if you want to, but that is the way I feel about it.

Mr. WEICKER. If the Senator will yield, I have a book here that has been put out by the U.S. Department of Education under the auspices of the man who agrees more with the Senator from North Carolina than he does the Senator from Connecticut, and the statistics here, I think, are rather interesting, and this is Secretary Bennett's book.

Statistics show that sexual activity increases dramatically during the teenage years. By age 15, 16 percent of boys and 5 percent of girls in the United States have had heterosexual intercourse at least once. By age 17 these rates almost triple for boys and increase five times for girls. By age 19 three-quarters of all boys and almost two-thirds of all girls have been sexually active. The incidence among teenagers of homosexual activity, the most common mode of transmission of the virus, is not known.

Research also shows that most teenagers are not using condoms that provide some, but by no means complete, protection from the AIDS virus.

In a 1986 survey of 1,000 teenagers, 53 percent of sexually active teenage boys did not use condoms.

Increased sexual activity among teenagers contributed greatly to the high rates of contracting such sexually transmitted diseases such as gonorrhea and syphilis. Indeed they have a graph in here that shows the percentage of boys and girls 19 years of age who had heterosexual intercourse. The graph shows that for boys, it goes from around 15 percent at age 15 to 80 percent at age 19 and for girls from around 5 percent at age 15 to about 65 percent at age 19.

I would suggest you have a large probelm here insofar as the heterosexual young community is concerned.

Mr. HELMS. I agree we have a problem.

Mr. WEICKER. When we start talking using words that can have very broad interpretation such as condone, promote, I can see exactly what is going to happen. You are going to be limiting the dissemination of knowledge, just as indeed with the other population referred to in the Senator's amendment, the intravenous drug users. Clearly under the amendment, methadone treatment or alternate treatments of drugs could not be suggested in any educational program by the CDC.

So what I have tried now to focus on are two other populations, populations other than the homosexual population. And obviously this is going to be a lesson in morals to the drug user and to the youngster. And it seems to me that what I want to do is to make sure that this individual does not get AIDS or does not get gonorrhea or does not get syphilis, and I cannot do that if you are tying my hands behind me insofar as what can be disseminated. I would suggest to you if you have any confidence at all, maybe you can say I do not want LOWELL WEICKER going ahead and writing the educational pamphlet, or I do not want LAWTON CHILES, or you to pick anybody you want, but the Centers for Disease Control and the National Institutes of Health are the medical experts in this Nation, along with the Surgeon General. It is the Surgeon General, who I might add to my good friend from North Carolina, was an eminent conservative, and a man who gets out there and tells it as it is from a scientific point of view and all of a sudden he gets in disrepute. I am just trying to say to the Senator on the matter of knowledge, that knowledge, has to be transmitted.

Again, I might be able to work around this with the Senator from North Carolina were it not for the fact that if the knowledge is not transmitted these people are going to be dead, dead. Tell them everything and you better tell it now and hopefully if you do tell them, if you do tell them everything, the very matter which the Senator from North Carolina raises, that is, for example, one's behavior, will be corrected by the consequences that ensue. Rather than any moralistic lecture, I think a scientific one is in order.

So I just point out the two aspects of this would clearly, clearly restrict the Centers for Disease Control in addressing the problem as among the heterosexual population, especially the young population. The Centers for Disease Control would be limited from addressing the drug population. Insofar as the homosexual population is concerned, I addressed my comments to that, but nobody is advocating a particular course of behavior.

But what you cannot deny is that among the homosexual population this is an enormously high-risk group and what you do not want to do is to in any way deny them the information which prevents the spread of the disease within their community.

So it is a matter of knowledge now and what that knowledge is to consist of, and that really is the essence of the debate here.

I do not know what promotes the hesitancy or the nervousness on the part of the Senator from North Carolina as to what the Centers for Disease Control will do but clearly it is important that we reach all these communities and reach them in the fastest possible time with the most accurate information.

I might add, in terms of information, probably there is no better educated community than the homosexual community. At this juncture, I worry somewhat less about that community, which has a network of information that probably will assist in halting the disease, as I do these other populations, our young people, and the drug users. And, yes, I do fear that anything short of total information means unnecessary lives lost.

Mr. CHILES. Mr. President, we are talking about new information and we are talking about information that is going to be disseminated by the Centers for Disease Control. So we are talking about information that is going to come out of the medical expertise of this country.

And it is the same area of information or the same Centers that helped us when we had Asian flu. We did not know what in the world it was or where it came from. The same thing with Legionnaires' disease. A lot of things that have sprung up.

They help us with other diseases. They tell us about the vaccinations and inoculations that are necessary for our children. They tell us basically how much we should be spending. And, over a number of years, it has not been enough and we did not do enough in there.

But basically what we are talking about in the Centers for Disease Control are people that are medically oriented. They are not the keepers or the guardians of the morals of this country. They are dealing with it from an aspect of how do you prevent the spread of disease, plague, pestilence, any kind of epidemic in the country. And we call on them immediately when there is any kind of problem. Information is sent to them in this regard.

So now we are talking about getting out information. And, of course, we want that to be done for the best way to stop and prevent the spread of AIDS. That is what we are about. I think that is what the Senator from North Carolina is about. I know that is what the Senator from Florida is about.

Again, as the Senator from North Carolina is saying, I do not want that information, even though it is preventing the spread of disease, to have something more than that and to be promoting, to be accentuating a lifestyle or an activity which we do not agree with. And it should not be used in that way. That does not trouble the Senator from Florida. I do not think the Centers for Disease Control should be involved in that. That is not their role at all.

And I want to go back and say, because the Senator from Connecticut talked about the $20 million that we put in on the supplemental, that the Senator from Florida was the one that came up with that. It was a request from the Centers for Disease Control. They said, these same centers we are talking about, "We need to put out a pamphlet into the hands of every home in this country. Every family should receive one clearly setting forth how AIDS is spread and what you can do to prevent it."

Now, Mr. President, based on that, there again they were the group that was supposed to help us in this country. We spend a lot of money putting experts there. The Congress felt, "All right. We should do that."

We put that money into the supplemental under the Senator from Florida's suggestion. And what happened to that money? It was not spent that way. It was not spent that way. The request filtered down and, somehow, I do not know who made the decision that it should not be done, but at that time it was considered, "Well, maybe this is going to upset somebody if we send it to the homes, you know, how AIDS is spread." I do not know the reason for it, exactly.

But instead of that, a PR firm was hired and a pamphlet was designed. I think they printed 5 million pamphlets and they are going to put some of those pamphlets in drugstores and they are going to leave them around the drugstores and a few other places and you are going to be able to write for and send for one of those pamphlets if you want.

Now, I do not happen to think that that is right. I think, again, we have something that is a plague like this and we see how many lives can be lost. But not only how many lives can be lost, but also how many dollars it is going to cost this country. You know we really ought to think about that because it is one thing to say, "Well, the only people that are getting AIDS are people that should change their lifestyle. So it is their problem."

It is our problem when you look at the cost. My gosh, the cost on that now and what those costs escalate to be are astronomical. And that is moneys that we ought to be spending for education, that we ought to be spending to promote our trade activities, for research and development, for defense, and for everything else that this country needs to do. We should not be letting that money get away from us in that way. But it looks like that is in the cards unless we can do something to prevent the spread.

Now, we have not been very successful yet in targeting or getting information to intravenous drug users. Somehow they do not seem to get the message. We do not see much change in their activity. And I guess you have got to realize, when you really put your mind to it and think about it, these are not rational thinkers. They are not going to the drugstores and getting the pamphlet. They are not sitting down and discussing in a nice way what they should be doing. I guess they are people that, by the very virtue of the fact they are an addict, they are not in their right mind or they would not be addicted to heroin. They would not be involved in it to start with.

But, at the same time, when we recognize that this is the group that, in turn, is infecting wives and/or girlfriends, which are infecting children which is causing this to spread into the heterosexual population—that is a word we like to use all the time. I like to talk about heterosexuals. That is getting into my neighborhood. That is getting into where it can be involved with people that I know and love and care about, and that is where it is getting to children. And again, as I say, these children, when you think about a child as an AIDS victim, there is just no reason in the world that that should happen. And so we have to try to do what we can to prevent it.

I think we want to be careful. I know I do. I do not want to restrict something that is going to prevent somebody in the Centers for Disease Control who is saying:

> Wait a moment. I am going to lose all of my funds or I am going to lose my job or something else if I put out information that says you ought to use a clean needle or if I put out information just saying: "here is the way you catch AIDS. If you are involved in these activities, if you get involved in them, then you could be in danger yourself and endanger others.

I just do not think we want to do that. So I think that is why we are seeking a way here to say, "Yes, the center should not be promoting, should not be sending things out that do promote. They should not be doing that." Absolutely not.

But, on the other hand, what are they? They are a body of medical information and, at the same time, we do not want to restrict them from using their medical expertise to tell people: "This is what you have got to worry about and this is how you catch it. And this is how you cannot catch it. This is how you can prevent it."

And much as I wish we could write down no one will use drugs, period; and no one will use drugs that are used by a needle, we just know that is going on. And now, as a side effect from that, if they are using that dirty needle, we know that that is the way that they are spreading this to the heterosexual population, to the population of males and females where it can mix and where it can spread. And that appears to be the danger that you could really realize an epidemic in this country.

I guess you can say as long as this disease is confined among homosexuals, no real danger. It is bad, but they should realize this.

But now, when we are dealing with the other side of this coin, where children can catch it, where we know that the cases can multiply. The Senator from Connecticut has read these facts. Again, you have to look at them, in the face of the extramarital sex. They are out there. We know they are occurring.

Again, we are not talking about promoting them in any way. But should not those people be warned? Should not the drug users be warned? We have in this bill to require every home to be sent this information. What we tried to tell them to do last time, as I say, we are spelling out that they have to do it now. All of these things I think are very necessary if we are going to get this out.

So, I would hope that we would be able to put something together that——

Mr. WEICKER. Would the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. WEICKER. I would hope that we would have the opportunity to sit down and discuss this matter before any votes take place because I think there might be some meeting ground.

But again I am quoting from the latest publication of the U.S. Department of Education and the graph that they have on page 8. Their source is the Centers for Disease Control:

"Sexually-transmitted disease cases reported 1985. Distribution of persons with syphilis or gonorrhea, by age.

"Syphilis or gonorrhea, 25 percent, 10 to 19 years of age; 37 percent, 20 to 24 years of age; and 38 percent, 25 years of age and older."

Does anybody not believe that with statistics such as this on syphilis and gonorrhea that it is only a matter of time before this population is going to be confronting AIDS?

That is why the word has got to get out and it has got to get out completely. What is at issue in the amendment, and I want to bring this to the attention of my colleagues—but please understand there are three parts to this amendment. Only one part deals with homosexuals, another deals with drug users and the other deals with the heterosexual population.

You are denying, by virtue of this amendment, full knowledge to both of those populations.

Unfortunately, as has been alluded to by the Senator from Florida, there are certain matters that are more overwhelming than speeches by Senators on this floor, one of them being sexual drives.

Regardless of what any Senator says to this population, it is there. I suggest we address knowledge to that drive in order that it be channeled in the right direction. Not to keep it in ignorance. That will only compound the disease.

Again, what I have to repeat in the course of this debate is that one mistake and you are dead. We do not have a lot of time. Indeed, we are already wasting time. Right this minute that education should be going out to all corners of the United States and we are not doing it.

The time has come to go ahead and make sure that we save the lives that we can save through education. And, yes, drug users have to know that until you do get cured, et cetera: there are alternatives. Whether it is methadone, or clean needles, they must be told. Because the problem with that drug user is, that he is not going to only take himself down but he is going to take his neighbors down.

The problem with this amendment is it could be interpreted that if I suggest methadone or clean needles, I am encouraging drug use. I am not. I am trying to get him off his habit and I am trying to save his neighbors.

Or if I suggest a condom to a young person, under this amendment, I am, therefore, advocating premarital, extramarital sex. I am not. I am trying to save that youngster from contracting a sexual disease and probably AIDS—and taking his young classmates down with him. That is the issue.

I know most people, and I, as you know, have a great faith in what science can do. But for the time being, science does not have the answer. We are working toward it.

The only answer is education and if you are going to censor that education you have no solution.

I urge, my colleagues that are not on the floor, but are listening, to understand what is here. This is a very emotional amendment. But understand you will deny that education to the highest-risk population, the homosexual community, but you will also deny it to the other high-risk population, drug users, our Nation's children.

I cannot put it any better. Yelling louder, as I am now, will not make the point any better than, I hope, the logic that I put before the body. This is not advocating extramarital sex or homosexuality or drug use. It is telling the public exactly, No. 1, how one gets this disease and, if for some reason you cannot be overwhelmed by the speeches of the Senator from North Carolina, that there are other ways.

My friend from North Carolina is a very eloquent individual. Certainly, I will yield the floor now, but might I suggest that we do have a quorum call in order that we might sit down and try to discuss language here, potential language changes because I can assure my colleagues that this amendment is of enormous importance to the bill.

I might add, we are on an appropriations bill. There is much else involved here, just as the distinguished Senator from Florida said. We have science, health, education; we have a great variety of subjects that are all folded into this bill that require our action and I do not want to delay any further than we have to.

We are all going to know what we vote on before we vote on it. If I came marching up to this table and saw a little one-paragraph description of what this is all about, I would say, oh, my gosh, I do not want to touch this thing with a 10-foot pole. Well, we had better touch it and touch it fast. Because if we do not, people are going to die.

I would hope that we could go into a call for a quorum at this juncture and sit down with the Senator from North Carolina; and then have an opportunity to stop and discuss this.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I think it is important that, as the Senator said, that we know what we are voting on. As I listened to the description of this amendment I said, my mercy, somebody must have come in on top of me with a second-degree amendment. Because what my amendment says is nothing like what the Senator from Connecticut has said. I say that with all due respect.

The legislative history, I hope, has been made in that regard.

I want to do something unusual. I want to ask unanimous consent, Mr. President, that the clerk be asked to read the entire amendment, slowly, into the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will read the amendment.

The legislative clerk read as follows:

At the appropriate place, add the following new section:

SEC.   . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage—

Mr. HELMS. Mr. President, if I may interrupt the distinguished clerk. Here is where we get into the meat, and it denies everything that was said against this amendment.

Now, if the clerk will pick up at that point?

The legislative clerk read further as follows:

that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

Mr. HELMS. I am going to ask the clerk read no further, because he has covered the meat of it with what he has read.

The PRESIDING OFFICER. Is there objection to dispensing with further reading of the entire amendment? If there is no objection, it is so ordered.

AMENDMENT NO. 957 TO AMENDMENT NO. 956

Mr. HELMS. Mr. President, just to assure my good faith to my friend from Florida, even though I do not agree with him that this amendment in any way purports, or, in fact, does inhibit education about the perils of drug use, I am going to send an amendment in the second-degree to the desk and I am going to strike everything about illegal drugs.

Mr. President, I ask that the amendment be stated. Again, I apologize to the clerk, but I ask him to read the amendment.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk read as follows:

At the appropriate place in the pending amendment, the Senator from North Carolina proposes amendment numbered 957 to amendment numbered 956.

At the appropriate place in the pending amendment, add the following:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from homosexual sexual activities.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with since it corresponds to the text in the underlying amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the pending amendment, add the following:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from homosexual sexual activities.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

Mr. WEICKER. Madam President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Ms. MIKULSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. CHILES. Madam President, I ask unanimous consent that the pending Helms amendment and the perfecting or substitute amendment thereto be temporarily set aside.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. CHILES. Madam President, at this time we had already temporarily set aside the Weicker amendment. So the bill is open for further amendment.

I see the Senator from Montana is on the floor.

The **PRESIDING OFFICER.** If the Senator will suspend, the Weicker amendment must be set aside.

Mr. CHILES. I ask unanimous consent that the Weicker amendment be temporarily set aside.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. MELCHER addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Montana is recognized.

AMENDMENT NO. 958

(Purpose: To require a study to determine the number of older workers who are reentering the workforce, and for other purposes)

Mr. MELCHER. Madam President, I have an amendment, I send it to the desk, and I ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 958.

Mr. MELCHER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 18, between lines 2 and 3, insert the following:

SEC. 106. The Secretary of Labor shall conduct a thorough study of older workers who have previously retired from or were pressured to leave a job and are reentering the workforce. The Secretary of Labor shall prepare and submit a report on the study required by this section to the Congress not later than 1 year after the date of enactment of this Act. The report required by this subsection shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

Mr. MELCHER. Madam President, today I am offering an amendment to the Labor, HHS, Education appropriations bill which will require that the Department of Labor conduct a study on older Americans who are attempting to reenter the work force.

During the past decade, there has been a rising trend toward early retirement from the work force. Many critics of early retirement maintain that a large number of employees who leave the work force, either through voluntary or forced retirement, find themselves ill-prepared for its financial consequences. They also contend that because of this, many older workers who have previously left the work force are trying to find new jobs. While this may or may not be true, we do not presently have information adequate to tell us what the facts really are.

To better understand whether or not people are being encouraged to retire too early, we need to understand whether retirees are, in fact, returning to the job market. If they are returning, why are they doing so? Did they originally leave the work force because they were forced to retire or did they do so voluntarily? How does this vary in urban and rural areas? If retirees are attempting to return to work, are their job skills marketable in the present-day work force?

The issue of older women entering the job market is also extremely important. Many women in their 40's and 50's who have never held a job are now attempting to enter the work force. On top of this, many women who left the work force to raise a family are also looking for jobs. Where and at what salaries are these women being hired? Do they have the job skills employers are seeking? These are just some of the questions which must be answered if we are to address the needs of employers and older employees.

In the years to come, the aging of the American work force will make us increasingly dependent on the talents of older workers. To effectively utilize the skills of these workers, we will have to better appreciate their abilities and needs, as well as whatever obstacles to employment they may be experiencing. We must also gain a better understanding for how the work experience of older workers meets the demands of their potential employers.

Aging advocacy organizations have been extremely concerned about these important issues. This study is strongly advocated both by the National Council of Senior Citizens and the National Council on the Aging, which has a 35-year history of involvement in this area, is a strong advocate of this study. The Older Women's League has also expressed its support. These groups understand the value of such a study in enhancing our understanding of the dynamics of the work force as they effect older Americans. Only then will we possess the information necessary to develop informed older worker policies. I urge you join in supporting this important amendment and work with me to better meet our country's changing labor needs.

Madam President, I ask unanimous consent to have printed in the Record a list of questions for the Department of Labor study of older workers reentering the work force.

There being no objection, the material was ordered to be printed in the Record, as follows:

Recommended Questions for Department of Labor Study of Older Workers Reentering the Workforce

For the purposes of this study, the term "Older Worker" means an individual who has attained at least 40 years of age. Questions which the Labor Department should strongly consider using in this study include the following:

The number of workers who have previously retired or been pressured to leave a job are reentering the workforce, together with their reasons for desiring to reenter the workforce.

The reasons for such older workers retiring or being pressured to leave their previous job.

The period of time an average sample of such older workers were not in the workforce after retirement prior to reentering the workforce.

The period of time that an average sample of such older workers desiring to reenter the workforce took before finding a new job.

The number of such older workers who attempt to reenter the workforce but who cannot.

A description of the occupations which older workers who are attempting to reenter the workforce were engaged in prior to retiring or being pressured to leave the workforce.

The salary levels and benefit levels such older workers receive upon reentering the workforce, as compared with the salary and benefit levels they had received prior to leaving the workforce.

A description of the kinds of employers who hire such older workers.

The numbers of older workers who are being hired for part-time new jobs, full-time jobs, job sharing arrangements, and flextime arrangements.

The educational and training level acquired by such older workers prior to their retirement and its effect upon their ability to reenter the workforce.

The number of such older workers who are women either entering the workforce for the first time or reentering after having left the workforce to raise a family, along with the amount of previous work experience and training they have had.

Mr. MELCHER. Madam President, this amendment directs the Department of Labor to conduct a study on older Americans who are attempting to reenter the work force.

This study will increase our understanding of the financial and social circumstances of those who take early retirement without adequate preparation as well as women in their forties and fifties who are attempting to enter the work force for the first time. Such a study is necessary as a first step toward formulating sensible older worker policies. And I hope the amendment can be accepted.

Mr. CHILES. Madam President, this amendment has been cleared on both sides. So I think I would support the acceptance of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Montana? If not, the question is on the amendment of the Senator from Montana [Mr. Melcher].

The amendment (No. 958) was agreed to.

Mr. MELCHER. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. I ask unanimous consent that the pending Weicker amendment and the Helms amendment, amendment thereto, be temporarily set-aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 959

(Purpose: To appropriate $1,000,000 for the State long-term care ombudsman homecare demonstration projects)

Mr. MELCHER. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. Melcher] proposes an amendment numbered 959.

Mr. MELCHER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, between lines 9 and 10, insert the following:

STATE LONG-TERM CARE OMBUDSMAN HOMECARE DEMONSTRATION PROJECTS

For carrying out State long term care ombudsman homecare demonstration projects conducted under grants made by the Secretary of Health and Human Services, $1,000,000.

On page 6, line 25, strike out "$81,192,000" and insert in lieu thereof "$80,192,000", and strike out "$13,600,000" and insert in lieu thereof "$12,600,000".

Mr. MELCHER. Madam President, this amendment deals with the omnibudsman home care administration project. This amendment provides for the Secretary of Health and Human Services to carry out demonstration projects to test and evaluate the feasibility of expanding the activities of the omnibudsman program funded under the Older Americans Act to the home care services. Home care services includes those provided under the OAA, Medicare, Medicaid, and title XX of the social services block grant programs.

Madam President, the Senate Special Committee on Aging held two hearings this year on the issues of quality and access as they pertain to in-home services for older persons. The committee found that assurance of quality is virtually nonexistent under the various Government programs that provide for in-home services. Not only is there a lack of national standards for home care, there is no one to monitor what is going on within the homes of the recipients of in-home care. Those who receive in-home services are often too frail to advocate on their own behalf.

In 1978, the State long-term care ombudsman programs were incorporated into the Older Americans Act. The 1978 amendments required the designation of a person within the State unit on aging to operate the Ombudsman Program and requires the program to conduct the following activities: investigate and resolve complaints relating to the health, safety, welfare, and rights of institutionalized persons; monitor Federal, State and local laws, regulations, and policies with respect to long-term care facilities; provide information to public agencies regarding problems of older persons in long-term care facilities; and establish procedures for access to facilities' and patients' records, including protection of the confidentiality of such records.

While the jurisdiction of the ombudsman programs extend only to institutional facilities, for example nursing homes and board and care homes, it would be a logical extension of the program to have the ombudsman also investigate complaints regarding in-home care. With the Older Americans Act reauthorization this year, the ombudsman program will be strengthened considerably but not expanded into new areas.

It is important that before there is any broadening of the authority of the ombudsman programs into other arenas however, that we first know whether this is feasible, and if so, how it can be done in the most cost effective way.

I am offering this amendment to provide for not less than three demonstration projects over a 2-year period, with unexpended moneys carried forward to the following year. The projects will represent a variety of geographical populations—rural, semirural, and urban. The purpose of this amendment is to provide the funding for the Secretary of the Department of Health and Human Services to demonstrate and evaluate the feasibility of the State long-term care ombudsman programs to administer ombudsman activities in homecare and coordinate such homecare ombudsman activities with the other activities of the office.

I would like to see the Secretary submit to Congress, upon the completion of these demonstration projects, a report describing the results of such projects and the advisability and costs of expanding the office to serve homecare recipients.

For the purposes of these demonstration projects, I do not mean only the in-home services provided under the Older Americans Act but the following:

First. Home health services as defined in section 1861(m) of the Social Security Act;

Second. Homemaker, personal care, chore, companion, or household maintenance services or any other service designated by the Secretary if—such service is provided to an older individual in his or her home, and payment for such service is provided in whole or in part under Medicare and Medicaid Programs, the Social Services Block Grant Program, and the Older Americans Act of 1965.

This amendment is supported by the National Association of State Long-Term Care Ombudsman Programs which represents all of the 52 ombudsman programs in the country.

If Congress is to assure quality care in home care services, there must be the components of accountability and advocacy. To achieve the goal of quality assurance, we need to first develop model home care advocacy systems. I hope that my colleagues will join me in support of this amendment.

I hope the amendment can be accepted.

Mr. CHILES. Madam President, this amendment has been cleared, and I think we can accept it.

I note for the record that there is an offset in this amendment. That is the basis on which we accept it. It is offset.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 959) was agreed to.

Mr. MELCHER. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Madam President, I ask unanimous consent that we temporarily set aside the Weicker amendment and the Helms amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 960

(Purpose: To appropriate $5,000,000 for part D of title III of the Older Americans Act of 1965, relating to in-home services for frail older individuals)

Mr. MELCHER. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] for himself and Mr. MATSUNAGA proposes an amendment numbered 960.

Mr. MELCHER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 9, strike out "$2,565,785,000" and insert in lieu thereof "$2,570,785,000".

On page 7, line 20, strike out "$216,952,000" and insert in lieu thereof "$214,052,000".

On page 7, line 21, strike out "$8,000,000" and insert in lieu thereof "$5,100,000".

Mr. MELCHER. Madam President, this amendment would provide start-up funding of $5 million for a very badly needed program being newly authorized under the Older Americans Act. There is an offset, so my amendment is budget neutral.

This program would provide non-medical in-home services for the frail elderly, including victims of Alzheimer's disease and other neurological and organic brain disorders, and their families. These services are intended as a preventive measure to enable functionally impaired elderly to remain in their own homes instead of being institutionalized.

The Labor, HHS, and Education appropriations bill passed by the House of Representatives deferred funding for this and other programs that had not yet been authorized into law. However, the accompanying report specifically cited this program as one for which allocated funding was needed once the authorization was enacted. The conference report for the 1987 amendments to the Older Americans Act is expected to be acted upon next week.

Twenty-five million dollars is being authorized in a new section of the Older Americans Act as these services are becoming so badly needed by our fast-growing older population. Although some in-home services are now available under the Older Americans Act, a separate section and authorization has become necessary to focus on more detailed guidelines and the additional funding needed for in-home services. The States would be required to develop eligibility criteria for this assistance which would take into account economic need, age and noneconomic factors contributing to the individual's condition and need for services.

These services would be available to chronically impaired elderly who need help with daily activities but don't have the acute health care needs to qualify for Medicare or are not poor enough to qualify for Medicaid. Services would include assistance with such things as bathing, dressing, eating, shopping, cooking, cleaning or telephone reassurance and chore maintenance. Respite care for families is also allowed, including adult day care.

This amendment has strong support from many organizations involved with senior citizens including the National Council on the Aging, Villers Advocacy Associates, National Association of Area Agencies on Aging, National Council of Senior Citizens, Older Women's League, Grey Panthers and the National Association of State Units on Aging.

With almost 5 million elderly in the United States being functionally limited in their ability to perform daily activities and with the increasing growth of the frail elderly population, we cannot ignore the need to begin providing more in-home services as soon as possible. We will also be helping our older Americans to maintain their independence and dignity in their own homes as long as possible. I urge support of this amendment.

Mr. CHILES. Madam President, the amendment is a worthy cause, and there is an offset in this amendment. On that basis, both sides have cleared this amendment, and it can be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 960) was agreed to.

Mr. MELCHER. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 961

Mr. BENTSEN. Madam President, I ask unanimous consent that we temporarily lay aside the Helms amendment and the Weicker amendment, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 961.

Mr. BENTSEN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, at the end of line 25, add the following:

Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,301,930 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education program: *Provided*, That the reappropriated funds shall be available until September 30, 1988.

Mr. BENTSEN. Madam President, this amendment will restore vitally needed education funds to Texas school districts faced with the responsibility of educating large numbers of immigrant children due to Federal immigration policies. Due to a series of administrative mistakes and miscommunications, 29 local educational agencies in Texas are in danger of receiving no funding at all for fiscal year 1988 under the Emergency Immigrant Education Program. As a result of those administrative mistakes and miscommunications, the number of eligible students in Texas was underreported by 18,599, and the Texas school districts stand to lose approximately $1.3 million.

Mr. President, this is clearly a tragic turn of events. These Texas school districts are precisely the types of districts that Congress sought to assist when it created the Emergency Immigrant Education Program. For example, the Brownsville Independent School District is located right across the border from Mexico, has a large number of immigrant students and, given the difficult economic situation in that area, is in particularly dire need of these funds.

Since learning of this administrative situation and the impact it would have on crucial education services in Brownsville and elsewhere in Texas, I have worked with my colleagues here in Congress together with officials at the Department of Education to find a way to continue funding this important program in these needy districts.

I am pleased to report that a painless way to accomplish that objective has been unearthed. The Department of Education has informed me that funds previously earmarked for training and technical assistance under the bilingual education program are available for transfer to the Emergency Immigrant Education Program, and obligation to the Texas districts. We are not talking about a situation where we are taking money out of one program to fund another, we are talking about a reappropriation of previously unused bilingual education funds. And we are providing valuable funding to educational programs of critical importance, and to districts that clearly belong to the group of intended beneficiaries of the statute of creating the program.

Madam President, I want to thank Senator Chiles, and his staff for all of their assistance in this matter. I appreciate their help in correcting this unfortunate situation. In addition, I want to acknowledge the assistance that I have received from two of my distinguished colleagues in the Texas delegation, Speaker Wright and Representative Ortiz. Their help has also been important.

I understand that this amendment has been cleared for acceptance on both sides, and I urge its speedy adoption.

Mr. CHILES. Madam President, I am certainly aware from my own experience in Florida how important the Immigrant Education Program has been in helping States like mine and that of the Senator from Texas in meeting the cost of educating our immigrant youngsters, those who are here not because of policies of State but because of policies or the absence of policies on the part of the United States.

I think he has found a painless way that will not affect any other State.

I am pleased to support the acceptance of his amendment and this has also been cleared by my distinguished minority manager.

The PRESIDING OFFICER. Is there any further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 961) was agreed to.

Mr. CHILES. Madam President, I ask unanimous consent that the Weicker amendment pending to the Helms amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

AMENDMENT NO. 962

(Purpose: To provide additional funds which are offset and a special rule with respect to the funds for the High School Equivalency Program)

Mr. STAFFORD. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. Stafford] proposes an amendment numbered 962.

Mr. STAFFORD. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, line 14, strike out "$4,478,000,000" and insert in lieu thereof "$4,477,000,000".

On page 48, line 21, strike out "$285,000,000" and insert in lieu thereof "$284,000,000".

On page 49, line 4, strike out "$8,000,000" and insert in lieu thereof "$9,000,000".

On page 49, line 8, after the colon insert the following: "*Provided further*, That $1,000,000 of the amount made available for the High School Equivalency program shall be awarded to the three highest ranking unfunded project applicants for grants made pursuant to the fiscal year 1987 appropriation:".

Mr. STAFFORD. Madam President, this is an amendment to the pending bill. I ask for your consideration of a technical amendment to H.R. 3058, the Labor, Health, Human Services, Education and related agencies appropriations bill. This amendment would simply transfer $50,000 in outlays from one migrant education program to another. This amendment would also transfer $1,000,000 in budget authority. The High School Equivalency Program, authorized under title IV of the Higher Education Act, makes grants available to community agencies to help migrant students return to school and receive graduation equivalency diplomas.

In last years Higher Education Act reauthorization bill, the HEP Program was amended to require a 3-year grant award cycle. Therefore, in fiscal year 1987 the Department of Education completed a new competition for continuing awards for the HEP Program. This change from a 1-year to a 3-year competition has caused some confusion in the program. My amendment would direct the Secretary to use a total of $1,000,000, to make grant awards to the three highest ranking unfunded project applicants for grants made pursuant to the fiscal year 1987 appropriation.

I greatly appreciate the work of the staffs of Senator Chiles and Senator Weicker, who are the managers of the bill, in helping me resolve this important issue.

Madam President, I believe that this amendment has been cleared on both sides of the aisle. I move its acceptance.

Mr. CHILES. Madam President, the Stafford amendment would add $1 million to the Higher Education Program for migrant students. These funds will allow the Department of Education to fund three additional projects in 1988.

In 1987, the Department of Education held a new competition for this program but funded five fewer projects than were funded previously. This amendment will aid us in getting back to where we were last year. I am pleased to say that we now have one of these programs at the University of South Florida in Tampa. These programs do an exceptional job at recruiting potential dropouts out of the migrant community and setting them on a course toward academic accomplishment.

It is my understanding that the funds for this amendment will come from the funds set aside for coordination activities under the Compensatory Education Program for Migrant Students and that the Migrant Student Record Transfer System [MSRTS] will still receive an increase above the 1987 level. We have provided a $20 million increase for this program, a larger increase than the House, so I am comfortable making this transfer of funds. It is also my understanding that this transfer will be added to the $300,000 increase we have provided to enhance recruitment activities at the 18 HEP projects that have already been awarded grants and, thus, will not affect the increase these projects will receive. Since this amendment is outlay neutral, I am pleased to accept it.

Mr. WEICKER. Madam President, I commend the distinguished Senator from Vermont for his amendment and support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 962) was agreed to.

Mr. STAFFORD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. I yield the floor and I thank the managers of the bill for their cooperation.

The PRESIDING OFFICER. The question now occurs on the Helms amendment in the second degree.

Mr. WEICKER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business? I refer to which amendment.

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from North Carolina in the second degree.

Mr. HELMS. I thank the Chair.

I will ask the Chair if it is not the case that I have an underlying amendment with the yeas and nays ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And a second-degree amendment on which the yeas and nays have not been ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that the yeas and nays on the underlying amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, I withdraw the underlying amendment, which takes with it the second-degree amendment.

The PRESIDING OFFICER. The amendment is withdrawn and the second-degree amendment is withdrawn.

AMENDMENT NO. 963

(Purpose: To prohibit the use of any funds provided under this Act to the Centers for Disease Control from being used to provide AIDS education, information, or prevention materials and activities that promote or, encourage homosexual sexual activities)

Mr. HELMS. Mr. President, I send an amendment to the desk. I ask unanimous consent to lay aside the pending business.

The PRESIDING OFFICER. The Senator asks that the Weicker amendment be temporarily set aside so that he can offer his amendment. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 963.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Sec. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual sexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

Mr. HELMS. Mr. President, I have been conferring with the distinguished Senator from Florida [Mr. CHILES] and the distinguished Senator from Connecticut [Mr. WEICKER] and I believe that I have made some alterations which are reasonably satisfactory to them and reasonably satisfactory to me. In any case, all three of us have been trying to accommodate each other in accordance with our respective views on the matter.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, this week in the Washington Post an article appeared relative to comments made by the Surgeon General of the United States, Dr. C. Everett Koop.

Let me take this opportunity to read them because they relate directly to the debate that exists on the floor at the present moment. The headline of the article is:

KOOP ASKS DOCTORS TO BACK CONDOM USE—FORTHRIGHTNESS ABOUT AIDS ADVOCATED

(By Michael Specter)

Surgeon General C. Everett Koop, in his most explicit public comments on the prevention of AIDS, has asked the nation's physicians to recommend condom use for all sexually active patients unless they are certain their sex partners are free of the infection.

"My moral and religious background has made it difficult for me, as it may be for you, to discuss sexual issues in public," Dr. Koop wrote in an editorial to be published in this week's Journal of the American Medical Association.

He added, however, that unusual frankness is necessary because the "alternative is almost-certain death."

Koop has been the Reagan administration's most vocal and persistent advocate of condom use to prevent transmission of AIDS. In his editorial he writes, as he has in the past, that condoms are not 100 percent effective, but "if correctly used they can dramatically reduce one's risk of exposure."

For the first time, he advises physicians to recommend that condom use be supplemented with a lubricating cream that contains at least 65 milligrams of nonoxynol 9, a spermicide that also destroys the virus. He also urges that doctors teach proper condom use, and, saying that it is "simply too dangerous," Koop suggests that all individuals refrain from practicing anal sex.

"The editorial is a very courageous, forthright attempt to keep the country's doctors up to date on the transmission of a deadly disease," said Cecil H. Fox, an AIDS researcher at the National Institutes of Health. "It's not the type of thing he feels comfortable doing. But he knows there is such an enormous danger that he has no choice."

Koop urged doctors to speak openly with their sexually active patients no matter what their age.

"Some of you find it unpleasant to recommend condoms to young people," he wrote. "So do I. Acquired immunodeficiency syndrome is an unpleasant disease and recommending condoms to those who need protection is preferable to treating AIDS."

Koop wrote that doctors should tell patients that if they have doubts about their sexual partner, they should require the use of a condom. Patients should have doubts about anyone who has had sex with any other partners, he said.

Koop has been strongly attacked by conservatives both within and outside the Reagan administration for his public support of wide use of condoms to prevent AIDS transmission. Critics argue that abstinence is the only sure way of preventing the disease and that condoms can have a high failure rate.

Koop, who has frequently opposed widespread mandatory testing for AIDS infection, instructed physicians to encourage blood tests for anyone whose sexual history makes them concerned that they may have AIDS.

He also wrote that "patients should be informed that physicians are required to keep results in confidence, sharing the information only with professionals who need to know. The physicians should discuss the advisability of notifying a spouse or other sexual contacts."

Koop also urged physicians to remind any woman who tests positive for antibodies to the AIDS virus, HIV, that AIDS may be passed to any child she conceives.

Koop included in his editorial the suggestion that doctors warn their patients to beware of people who belong to organizations that offer "sexual safety because they issue a health card." Such cards are always out of date and such people usually have a reason for being tested, he said.

As of last week, the Federal Centers for Disease Control had received reports of 41,770 cases of AIDS in the United States. The Public Health Service estimates that at least 1.5 million other people have been infected with the HIV virus but have shown no symptoms of the disease.

That is the article in its entirety. I just want to repeat that section which says, "He added, however, that unusual frankness is necessary because the 'alternative is almost certain death.'" That is what is at issue out here. That is what is at issue—whether or not the knowledge that we transmit is complete, No. 1, and, No. 2, that we are transmitting it to everyone in this Nation and certainly to those populations that are the highest at risk. And the high-risk populations of this Nation are our children, as illustrated by the statistics that I have already cited concerning sexual activity, intravenous drug use, and homosexual activity.

I think that I have as much knowledge as any other Senator as to where we stand scientifically at the present time on AIDS in this Nation. Whether you are talking to private pharmaceutical companies or the National Institutes of Health or the Centers for Disease Control, the fact is that we are years away from effective treatment, either through chemotherapy or through a vaccine. The only tool we have at hand that is effective is education. What we are being asked to approve on the Senate floor is censorship of knowledge. In this particular instance that censorship will result in x number of persons dying. I cannot give you a figure, but I know that if this legislation passes, you will have a chilling effect on an already chilled CDC when it comes to the dissemination of knowledge. I have to repeat what I said before. By virtue of a request of CDC to the distinguished chairman, Senator CHILES of Florida, and myself as ranking member, we gave $20 million to the CDC for a mailer to go into every American home.

That was at their request. To date, that mailer has not gone to every American home. I might add, to give you a comparison of how two nations have reacted in terms of education, this Nation has by far the most diagnosed cases of AIDS. Yet on education we lag far behind nations with a fraction of our victims. Great Britain for example, a nation of 55 million and one with just 750 cases has seen to it that every British household gets the message, "Don't die of ignorance." And the British brochure is just one facet of a $30 million advertising campaign for every household, and they only have 750 AIDS cases. Here, as I have indicated to you, we have 41,770 with a guesstimate that we have 1.35 million infected, and we are going to sit here and try to tailor the education of America to the individual moral beliefs of a handful of Senators.

It has nothing to do with being a Republican, Democrat, liberal, or conservative. It has a great deal to do with who should lead this particular fight. As I said the other day, I would not ask a doctor to direct the war in the Persian Gulf, and I do not want philosophers directing the war on AIDS. There should be full and total knowledge. Let me make it clear, for me to stand here on the floor and argue as I have that this is as repugnant to me as it is to anybody else, but we have an obligation and a responsibility.

When I walk off this job, I am not going to have haunting me for the rest of my life that I did not use the power when I had it to do the best I could in the sense of informing the American public of the gravity of this crisis, and what needs to be done. Because once you have it, you are dead. Right now that is the state of the art in the United States of America. If you get AIDS, you are dead. Hopefully within a year or two science will be able to refute that statement. But right now the only effective measure I have at hand, and the only effective measure that America has at hand is education. That should be uninhibited and it should be complete. It should reach out to all.

Nobody is advocating lifestyles that include intravenous drug use, homosexuality, or promiscuity in any way. Nobody is advocating that. But I cannot sit here and help pass laws that could be interpreted by their broad language as to restricting the nature of the information that the American public should be receiving.

I am prepared to go ahead and yield the floor. But I would remind my colleagues of Dr. Koop's statement, and again I repeat this is a man who I think is considered professionally at the head of the line, who was appointed into the official position—I am not, he was—of being the guardian of America's health. Coincidentally, he is a Reagan appointee and coincidentally he is a rather conservative gentlemen. But he, to the same extent as all of us, has the lives of America in his hands.

I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The business before the Senate is the Senator's amendment.

Mr. HELMS. I cannot hear the Chair, I am sorry.

The PRESIDING OFFICER. The business before the Senate is the Senator's amendment No. 963.

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 964

(Purpose: To prohibit the use of any funds provided under this Act to the Centers for Disease Control for AIDS educational, informational, or preventative materials or activities for school aged children or young adults from being used to promote sexual activity or the use of illegal intravenous drugs)

Mr. HELMS. Mr. President, I send a second-degree amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER.** The clerk will report.

The bill read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 964 to amendment No. 963.

At the end of the pending amendment, add the following:

SEC. . (a) None of the funds made available under this Act to the Centers for Disease Control for AIDS educational, informational, or preventional materials and activities for school aged children and young adults shall be used to provide educational, informational, or preventative materials or activities that encourage, or promote—

(1) sexual activities outside of a sexually monogamous marriage; or

(2) the use of illegal intravenous drugs.

(b) All AIDS educational, informational, and preventative materials and activities for school aged children and young adults shall emphasize—

(1) abstinence from sexual activity outside of a monogamous marriage; and

(2) abstinence from the use of illegal intravenous drugs.

(c) The sexual activity referred to in subsections (a) and (b) includes any sexual activity as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

Mr. HELMS. Mr. President, I had hoped that we could get to a vote on the underlying amendment but now I understand that an effort was under way—I will use the past tense—to prevent consideration of that amendment by the offering by a Senator of a second-degree amendment which would, in effect, prevent a vote on my amendment. So that is the reason I have offered the second-degree amendment, to assure that my underlying amendment will not be short-circuited.

I will be candid. It was not Senator WEICKER who was contemplating that. But I had unquestioned information that this move was afoot by another Senator, and I simply could not risk his being successful.

I am determined to have a vote on my amendment as modified. It may not satisfy the Senator from Connecticut completely. For my part, I was reluctant to strike the word "condone," but I was willing to do that in order to move the process along.

But, in any case, Mr. President, the purpose of this second-degree amendment is to assure that the American taxpayers' dollars are used for education and information for school-aged children and young adults, the kind of education which will discourage rather than encourage the types of behavior which are perpetuating the AIDS problem in this country.

Specifically, the pending amendment in the second degree prohibits the use of taxpayers' money for education or informational materials for school-aged children or young adults which encourages or promotes sexual activities outside of a sexually monogamous marriage; or two, which condones the use of illegal intravenous drugs.

Furthermore, the amendment requires that all these materials emphasize, beyond any question, the importance of abstinence from these activities.

Mr. President, I am sure I do not have to remind Senators that the AIDS epidemic is one of the most serious problems facing this Nation. It threatens not only the health of our citizens, but the financial security of the country.

I often have remarked on this floor that by 1991, more people are projected to be suffering from AIDS at that time, or will have died from AIDS, than the total number of Americans who died in the Korean and Vietnam Wars combined. An estimate has been made that the cost to this country will reach $65 billion a year by 1991.

Mr. President, I yield the floor.

The **PRESIDING OFFICER** (Mr. ADAMS). The Senator from Connecticut.

Mr. WEICKER. I would like to say, before my distinguished friend from North Carolina departs the floor that I, among others, have been waiting in the Cloakroom. I was asked to wait while the distinguished Senator had another important meeting.

Now I come to the floor and learn of the substitution of another amendment which was not discussed. I really would like to get brought up to speed. The Senator is well within his rights to do what he did. On the other hand, I was not on the floor when he asked to dispense with the quorum call and, as he knows, we usually try as best we can—we do not always succeed—to iron out differences, which I thought is what we were in the process of doing. I am a little taken aback by a procedural event which is also substantive in nature.

Mr. HELMS. Will the Senator yield? I think I can explain this.

Mr. WEICKER. Yes, indeed.

Mr. HELMS. I inquired about your whereabouts. I did not know you were in the Cloakroom. I was told you had gone to get some lunch, then I was advised that another Senator, not on this side of the aisle, was preparing a second-degree amendment to render nugatory what then would be my underlying amendment. I was not about to let that happen, so I called up my own second-degree amendment.

I did not ask for the yeas and nays on my second-degree amendment because I recognized that the Senator from Florida and the Senator from Connecticut have been acting in good faith. I can and will withdraw that, but I must ask that there be an up and down vote on what is now my underlying amendment.

I am perfectly willing to go to a vote now. I will withdraw my second-degree amendment. I did not attempt to circumvent the Senator. I was merely protecting my rights on this floor.

Mr. WEICKER. Well, in response, Mr. President, first of all let me say that both the Senator from Florida and the Senator from Connecticut, considering we were in a negotiating mode——

Mr. HELMS. Still are.

Mr. WEICKER [continuing]. Would not have permitted the Senator from North Carolina to be—would not permit an amendment, in other words, to have taken away the rights of the distinguished Senator from North Carolina. We would not have allowed that to happen.

Clearly we understood what we were doing and should there have been some other Senator that desired to try and accomplish that he would have faced not only the opposition of the Senator from North Carolina, but also the opposition of the Senators from Florida and Connecticut.

Mr. HELMS. But we are still in good shape. If we can reach an accommodation and get to a vote, I will be glad to withdraw the second-degree amendment.

Mr. WEICKER. I would suggest we go back to where we were. We were waiting to go ahead and put the final touches on what I thought was the compromise. If we cannot, that is fair enough; then we should go ahead.

Mr. HELMS. I will ask unanimous consent, first, Mr. President, that I be allowed—well, I can withdraw the amendment without asking unanimous consent. I do not need a unanimous consent on that. But I ask unanimous consent that no amendment to the underlying amendment be in order.

Mr. WEICKER. I would only have to object because the distinguished chairman is not on the floor, but I do not think the Senator from North Carolina has any problem whatsoever.

Mr. HELMS. Oh, yes, there is.

Mr. WEICKER. Well, as I understand it——

Mr. HELMS. Not with the Senator from Connecticut.

Mr. WEICKER. Let me make a parliamentary inquiry. As I understand it, the original amendment of the Senator from North Carolina was so modified that, in effect, it was the second-degree amendment? Am I correct? The modification that was sent, the original modification—not the latest, but the original modification by the Senator from North Carolina to his amendment—in effect, would have been a second-degree amendment? Am I correct in that?

The PRESIDING OFFICER. I will state in reply to the parliamentary inquiry that the original amendment was not modified. There was an amendment proposed which was an amendment in the second degree to the original amendment.

Now the Senator had requested the yeas and nays on the original amendment and not on the second. We are talking about the first set of amendments that came, not the present situation.

Mr. WEICKER. That is correct.

The PRESIDING OFFICER. So the Chair will state to the Senator from Connecticut that that was an amendment; not a modification to the original amendment as proposed.

Mr. WEICKER. So the original amendment had been amended in the second degree.

The PRESIDING OFFICER. An amendment was pending. It had not been adopted. An amendment was pending.

Mr. WEICKER. I understand. An amendment was pending.

Am I correct, as I made inquiry of the Parliamentarian earlier, that that amendment was withdrawn? Is that correct?

The PRESIDING OFFICER. The underlying first-degree amendment was withdrawn, taking with it the second-degree amendment. So both amendments were withdrawn.

The Senator from North Carolina then sent up another amendment. That amendment is pending now and the Senator had asked for the yeas and nays on that.

The Senator then offered a second-degree amendment. The yeas and nays have not been offered on that.

Mr. HELMS. The Chair has stated the legislative situation precisely, and I thank the Chair.

The PRESIDING OFFICER. So there is pending at the present time an amendment in the first degree and in the second degree by the Senator from North Carolina.

Mr. WEICKER. I would suggest, then, to my distinguished colleague from North Carolina, that I put in for a quorum call right now and that we discuss the matter. Both of his amendments are still there. He is protected.

Before we take any further action, either by way of yeas and nays or by way of modification or whatever, I suggest that we put in a call for a quorum to discuss this.

Mr. HELMS. Very well.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I ask unanimous consent that I be permitted to proceed as though in morning business for the purpose of introducing a bill, making a brief statement.

(The remarks of Mr. DIXON relating to the introduction of legislation are printed in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, in discussion with the distinguished managers of the bill, in negotiating some of the language of the amendment, I find that one word has been made irrelevant, and I ask unanimous consent—even though I have the yeas and nays on the amendment—that on line 14, page 2, the "(a) and" be deleted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, I do not want to prolong this further. All of us have been ready to vote for some time. Let me just summarize for Senators or staff who may be listening. We have been involved in discussion concerning the amendment I proposed on the topic of limiting advocacy of certain behaviors in the course of funding with Federal dollars AIDS education, information, and prevention programs.

The managers of the bill preferred to delete the reference to the concept of condoning the behavior. I said promote, encourage, or condone. So rather reluctantly—or extremely reluctantly, to be honest about it—I decided to strike the word "condone." And I deleted it from the amendment now pending or the underlying amendment.

The managers also sought to narrow the focus of this Senator's amendment to deal exclusively with homosexual relations rather than with premarital and extramarital sexual relations and intravenous drug use and so forth. Perhaps there is a better approach, one that we can deal with at a subsequent time.

Mr. President, let me be clear. I am trying to make some legislative history with respect to the intent of this Senator. The amendment before the Senate—that is to say, the underlying amendment—is very simple and, I think, straightforward. It prohibits the use of Federal tax dollars to fund activities which promote or encourage homosexual sexual activities. It also specifies that educational materials should emphasize abstinence outside of a sexually monogamous marriage and abstinence from intravenous use of illegal drugs. Surely, Mr. President, the Senate will not hesitate to support this overwhelmingly.

Earlier, Mr. President, on this floor, I read from grant presentation documents prepared by the Gay Men's Health Crisis of New York City. That is a corporation. It is unmistakably clear that those activities are being federally funded and are promoting and encouraging homosexuality. Today at lunch with a group of Senators who had inquired about it, I provided specific documentation. They were aghast, and properly so. Therefore, Mr. President, it should be clear that in adopting this amendment, if in fact it is adopted, this Senate is prohibiting further funding for programs such as those sponsored, operated by the Gay Men's Health Crisis Corp. that promote or encourage homosexual sexual relations.

Mr. President, with the assurance that there will be no second-degree amendments offered in place of my second-degree amendment, I withdraw the second-degree amendment which does not have the yeas and nays ordered.

The PRESIDING OFFICER. The Senator has a right to withdraw that amendment.

Mr. HELMS. The first-degree amendment does have the yeas and nays?

The PRESIDING OFFICER. That is correct. The second-degree amendment the Senator has the right to withdraw. The Chair understands the Senator has withdrawn that. The first-degree amendment, the yeas and nays have been ordered on that. That is the pending business now.

Mr. HELMS. The Chair is exactly right. I thank the Chair very much.

Mr. CHILES. Mr. President, we have been on the floor discussing this for a lot of time this morning. I believe the amendment so modified and changed complies with what the Senator from North Carolina wants to do. Certainly, I think no one in the Senate is wanting to promote or encourage activities whether it be the use of drugs, intravenous needles, homosexual activity, any of those things to promote and encourage. I think the concern is that we do not allow the Senate to cease control in putting out information to help us stop the spread of AIDS. And we need to be able to put out that kind of medical and scientific and other information that is necessary. I think it is allowed to do so. So I will support the amendment.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, this morning when the distinguished Senator from North Carolina submitted his amendment, that amendment read as follows:

> Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside of sexually monogamous marriage (including abstinence from homosexual activities) . . . or the use of illegal intravenous drugs.
>
> Education, information, and prevention activities and materials paid for with funds appropriated under this act shall emphasize abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and abstinence from the use of illegal intravenous drugs.

And it went on from there.

What has occurred during the course of discussions with the distinguished Senator from North Carolina is basically the intravenous drug user has been eliminated from the language of the amendment that prohibits such activity, as is the reference to the heterosexual community which prohibits certain activities. Those have been taken out of the amendment along with the word "condone."

So we now have before us the language that in effect says "None of the funds made available under this act", et cetera, "Shall be used to provide educational, informational, or preventative materials or activities that encourage, or promote" directly or indirectly homosexual sexual activities.

It certainly, as I said before, is not the object of the Centers for Disease Control to go ahead and encourage any particular lifestyle. It is their job to aid in fighting this disease with all the education that we have available to us, and getting that education to all of our citizens.

Even though this compromise has been fashioned, I still think that its implications are such that it would be very difficult for this Senator to vote for it. It implies that the Centers for Disease Control are doing somewhat less than their job, and believe me, they are one of the few institutions in this country that are doing their job, and doing it well.

I understand there are going to be further AIDS amendments, and we will address those as they come up. But I suppose what it all amounts to on the bottom line is that the fight against AIDS should be waged in terms of micromanagement by the Centers for Disease Control and the National Institutes of Health and the doctor, physicians, and nurses around this Nation, and not by politicians.

Again, I have to point out that this is the first time, to my memory anyway, that we have heaped a moral judgment on a certain part of our population. For those who are all sitting there and saying, "I don't like homosexuality," just remember this: If you drink, we might just heap our moral judgment on you someday. If you engage in a little straight sex that results in the expenditure of Federal funds, for example, and creates syphilis and gonorrhea, we might heap our moral judgment on you someday. If you smoke and get cancer of the lung, we may heap our moral judgment on you someday. Once you start this game, there is no end to it.

I know my limitations on the floor of the U.S. Senate. I know some may believe that LOWELL WEICKER feels he has no limitations at all, but I understand my limitations on the floor of the U.S. Senate. I have done the best I can with what is an unsatisfactory situation, no matter how you frame it. And I agree to the compromise or I do not agree to it, but I realize these things have to be done. But I am not going to set the precedent of who is and who is not going to get my help. I have to live with myself, and all I can say as I go through my career here is that I am sure I will make a lot of mistakes, but I will never make the mistake of turning my back on anyone who is sick.

So let us get to a vote on this matter. I have tried to explain why I will vote "no" if it is up or down and "yes" if it is to table.

Mr. LEVIN. Mr. President, I am voting for this amendment because I do not believe that it is appropriate for the Federal Government to provide funds to encourage or promote sexual activity outside of a monogamous marriage, whether it be the homosexual activity to which this amendment is directed or whether it be heterosexual activity.

Mr. KENNEDY. Mr. President, although on balance I support this amendment in its modified and watered down version, I wish to express my concern regarding some of its ambiguous provisions and their potential interpretation. Exercises such as the one in which the Senate is currently involved will do nothing to decrease the spread of the AIDS epidemic. Though I will vote for this amendment as it has been negotiated by the floor managers of the bill, there is no question in my mind that the current language of this amendment will not make a constructive contribution to the battle against AIDS.

Hundreds of years of legislation against homosexuality have not stopped it, and the Senate cannot stop it with this vote. This amendment may be widely seen in some quarters as a plebiscite by the Senate on homosexuality, but it is nothing of the kind. It is an irrelevant gesture with regard to the war on AIDS. A distorted focus on one piece of educational material which was not even funded by Federal appropriations has left this amendment devoid of real substance.

But this foolish exercise should not be interpreted as placing the Senate on record as urging that the Federal Government or any of its agencies should pretend that homosexuality does not exist. Nor does it place the Senate on record as urging that AIDS educational materials condemn homosexuality. Our leading public health officials as well as our leading mental health experts have instructed us clearly and powerfully on this subject. Condemning people with AIDS will only drive the AIDS epidemic underground. It will do nothing to stop the spread of this deadly disease.

This amendment does not state that education materials deigned to prevent AIDS cannot recognize that homosexuality exists. It also does not state that negative value judgments about homosexuality should be included in AIDS educational materials. It means only what it says in simple language, that education activities should not promote homosexuality. Though the amendment as originally drafted was a damaging statement that might have eroded the best efforts of organizations around the country which are working hard and well to stop the spread of AIDS, the current version is toothless and it can in good conscience be supported by the Senate. It may not do any good, but it will not do any harm.

In adopting this amendment, the Senate will be making clear that CDC funds must be used specifically for AIDS education and prevention. It is not the role of the CDC to advocate or discourage lifestyles, but to stop the spread of disease. It is also true however, that in passing this amendment the Senate does not intend to deny funds to the organizations best able to meet that challenge. For example, organizations which state that unprotected sex between men can kill you are not advocating high risk behavior, but are discouraging such activity.

This amendment also requires that educational materials supported by the Federal Government should emphasize abstinence from sex outside of marriage and abstinence from the use of illegal intravenous drugs. These are two sound approaches to stopping the spread of AIDS, but if that is all we do, we will lose the war on AIDS. Everyone in the Senate knows full well that these steps will never be the answer for everyone in our country. It would be silly and ineffective if the education materials that were supported with Federal funds were to offer only these two statement and stop there.

Public health experts and scientists, including the Surgeon General, leaders of the National Institutes of Health, and leading physicians have spoken clearly about how Americans can avoid transmitting or becoming infected with the AIDS virus. The Federal Government must continue to offer the entire message. Those who will not follow these precepts must know how to prevent or reduce their risk, of acquiring AIDS. The complete message must be offered in many different ways to many different groups in many different versions. If we fail in this task, the result may be catastrophe.

Senator HELMS' simplistic approach offered in this amendment is inadequate to fight a disease which is already advancing rapidly through the population. The war on AIDS is not the time for a debate about homosexuality. The virus is spreading, we need genuine leadership to end the epidemic. Comprehensive AIDS legislation with broad bipartisan support has already been reported by the Senate Labor Committee and is overdue for Senate action. Instead of these piecemeal and irrational exercises, let us move on the real debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—2

Moynihan
Weicker

NOT VOTING—4

D'Amato
Gore
Kassebaum
Simon

So the amendment (No. 963) as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, I will not delay the distinguished majority whip long. I wonder if I might have the attention of the Republican leader.

Mr. STENNIS. Mr. President, may we have quiet?

The PRESIDING OFFICER. The Senate is not in order. The majority leader is recognized, as soon as the Chair obtains order.

The Senate will be in order. The Sergeant at Arms will maintain order in the galleries.

The majority leader.

Mr. BYRD. Mr. President, while the Republican leader is on the floor, I would like to—if we can have order in the Senate.

The PRESIDING OFFICER (Mr. FOWLER). The Senate will be in order. The Senate will be in order. All staff take their seats, Please give your attention to the majority leader.

The majority leader is recognized.

THE BORK NOMINATION

Mr. BYRD. Mr. President, the distinguished minority leader and I had a discussion this morning with reference to the Bork nomination. The Bork nomination is on the calendar today, and if we cannot get unanimous consent to call up the nomination—and there is no objection on this side—the two leaders can join together to waive the 2-day rule. If that 2-day rule is not waived, I cannot move to take up the nomination without unanimous consent or without the waiver of it until the expiration of the 2 days.

The 2 days begin running when the printed report is available to Senators. That printed report, I am told, will not be available until tomorrow around noon. This means that the 48 hours would not begin running until that time, and would not expire until about the same time on Saturday.

Mr. President, the two leaders can waive that rule and the Senate can go on the Bork nomination today upon the disposition of this bill or, as a matter of fact, right now, or tomorrow.

Now, the President said he wanted to see a vote this week. I understood the distinguished Republican leader to say something of the same order.

I inquire again, as I told the Republican leader I would inquire today repeatedly, if he is ready to join with me in waiving the 2-day rule so that the Senate can begin debate on the Bork nomination. The longer we wait in disposing of this nomination—and Mr. Bork is entitled to a vote—the longer we will be in filling the Court vacancy.

Mr. President, I inquire of the distinguished Republican leader if he is ready to join with me in waiving the 2-day rule.

Mr. DOLE. Mr. President, if the majority leader will yield and permit me to make a brief statement.

Mr. BYRD. Yes.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Let me say in the first instance, as the majority leader correctly stated, the report will not even be available until tomorrow noon. We could waive that 2-day requirement.

I discussed the matter, I must say, last night with about 25 or 30 of my Republican colleagues. I will say again for the record, when I asked the question, not a single Republican indicated that as the leader they wanted me to agree to that. They felt that way, not because they wanted to be petty or partisan, but because many believed that they had some responsibility, even though most people have announced their position on the Bork nomination, to put together some arguments and to take a look at the record.

Today we have had three or four members of the Judiciary Committee meeting almost all day long trying to construct an appropriate, proper argument to make on the Senate floor—an argument that would not delay the Senate, not frustrate the wishes of the majority in this instance, or the majority leader.

I have just visited with the distinguished Republican whip, Senator SIMPSON of Wyoming. I think they made a lot of progress today. But I am not in a position to join the distinguished majority leader.

Judge Bork said he was under no illusions about changing the vote. But neither should he be shortchanged on the Senate floor as far as appropriate debate. The majority leader himself has indicated that he certainly deserves a vote. And I think by inference, indicated that he deserves to have his nomination discussed in a rational way, in a careful way. And we want to do that.

But I would restate, as I stated this morning, all of a sudden those in the majority want to rush to judgment. Judgment has already been made in this case. But the person on whom the judgment was made had to wait 72 days for the hearings to start. We had 12 days of hearings and 120 witnesses.

It seems to this Senator that, notwithstanding what the President may have said in response to a question and notwithstanding what the Republican leader may have said in response to a question, we are certainly willing to have the majority leader bring the nomination to a vote and to help dispose of it.

But I just cannot agree to waive that 2-day rule. I wonder if we might—myself, the majority leader, the Democratic and Republican whips—have a private meeting at the call of the majority leader.

Mr. BYRD. I wonder if we might agree to come in Saturday and have a day of debate? If this is what we want?

Mr. DOLE. Or Monday. Start on Monday.

Mr. BYRD. Both? How about Saturday and Monday? Let us have debate if what is wanted here, is debate. It seems to me that the longer we delay action on this nomination, the longer we delay filling the Supreme Court vacancy.

That does not do the Court any good, it does not do the country any good, it does not do the Senate any good.

The Republican leader, I say this with all respect, I know has his difficulties in a situation like this. I also feel he may have some problems at the White House to contend with.

As I asked this morning, if the White House wants an issue and our Republican friends want an issue, then they can have an issue by dragging this out and beating a dead horse. I think the conclusion is foregone and the longer we drag this out, the more difficult it is going to make it for the Senate to begin its work on the subsequent nominee and complete action on that nomination.

So, what is it that the Republicans want? Do they want an issue or do they want a judgeship?

We can come in Monday. I would suggest that all of our friends take home the report. It will be available tomorrow, hopefully afternoon. Take it home over the weekend. Read it. It is 480 pages, I am told. And let us come in Monday and begin to debate this nomination.

Or, if the Republican leader feels that he cannot waive the 2-day rule, could we, in return, have a debate on Saturday, have a debate on Monday and vote no later than 6 o'clock p.m. on Tuesday? That will be 3 full days of debork—of debate—(laughter in galleries)—and we can vote on Tuesday.

Saturday, Monday, Tuesday: 3 days of debate. Vote at 6 o'clock p.m. on Tuesday.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I think we may be nearing some agreement. I am not certain about Saturday, but I might even be willing to lay it down as the pending business Friday, come in on Monday. Then I do not know about a time agreement to vote. I might even get help on this from the distinguished minority whip. He has been putting together a program so we will know precisely how much time we are going to use. This is not going to be an effort to filibuster. We do not want to just have a turkey shoot in here, where everybody jumps up.

We are trying to construct the debate—make our case.

As far as I know, there will not be any issue. The issue is going to be whether he was fairly heard and whether the confirmation process is still as it should be.

I do not believe the White House or the Republicans are looking for an issue. I think many of us feel that Judge Bork is highly qualified; that he has impeccable credentials; that had his nomination been up here 2 years ago, it would have sailed through just as he did for the circuit judgeship without dissent in the Senate. Nobody even raised his voice when he was nominated for the circuit court. We would like to make that record. I assume some on the other side will disagree, but we hope it is going to be a lofty, high-level discussion and not an effort for us to go after Democrats and Democrats to go after Republicans.

I think, if I misstated that, then the minority whip, Senator SIMPSON, if the majority leader would yield to him——

Mr. SIMPSON. Mr. President, may I ask the majority leader whether he will let me be as candid and brief as I can?

Mr. BYRD. Yes.

Mr. SIMPSON. We are really working here to assure that we do not have a fillibuster. There is no need for that.

It is a painful experience. It is painful for Judge Bork. It is painful for Mary Ellen Bork. It is painful for his three children. Painful for the President. It is painful for all of us on both sides.

There is no attempt to stretch anything out or do anything that would lead to a "stretching out". I have been meeting with a group of people who are not on the Judiciary Committee who want to speak. They are here in this Chamber. There are people on both sides of the aisle. Not a great number, but, you know, we have talked about politics and politics and politics. Surely there has been a good deal of that. But right now there is no attempt to do something at the call of the White House or to bow to the will of the White House or to make political capital.

We often speak for everybody else in this Chamber. Let me just speak for AL SIMPSON. All I am doing in this case is done solely at my own stirring. I am not being commanded by anyone, instructed by anyone. I am doing it because I would not want to be a person 65 years old, or 56 years old, who had a remarkable record in my profession and with people that know me and suddenly appear to be some kind of a person I am not, some caricature of myself.

That is the only issue. In the debate are going to be the presentations of Senator DANFORTH, who was his student at Yale; there are going to be discussions of the points that came out, which are the flash points of the issue: sterilization, poll tax, Watergate, antiwomen, antiblack. Those are the things that have commanded the national debate and we are not going to go for hours. We are not going to go for days. But we are ready to lay it down, I think Friday night as the minority leader says, lay it down, come in Monday. I will have people here Monday to do the work. I do not know if that accommodates the chairman of the Judiciary Committee. If he has problems with that, we can have people that will just debate that one side.

Others can come in Tuesday to do the other side; work with any kind of accommodation and work toward a vote next week. That would be our whole hope.

That is the extent of what I am doing. I am not in it for anything else. I remember what the President said and the issue is no one believes in the independence of the legislative and the executive more than the majority leader. Let us have our independence and have it done. I can assure you that we want to give the other 86 who did not participate in the Judiciary Committee activities the opportunity to discuss this and that is what I want to share with the majority leader.

There is no other sinister motive, no desire to be obstructive. But there is a great desire to reconstruct the person of Bob Bork so the people 30 years from now will see that he is not quite as what was portrayed in what was, I think, a fair hearing but there was not enough time for either side.

It is the full Senate that is to do the advice and consent and that is what we should be doing.

Mr. BYRD. Mr. President, let me ask the Republican leaders: Do they intend to let the Senate get to a vote on this Bork nomination before the middle of next week?

Mr. DOLE. If I could respond to the majority leader I would say that the answer is almost an unequivocal yes. The vote would not be at the end of the week from my standpoint. I hope much earlier than that, and I would be willing to try to get an agreement. I have been resisted by some on this side, but I just had a conversation with two of my colleagues who think we ought to get an agreement to vote on a certain time on Wednesday.

I will be happy to try to do that.

I do not disagree with the majority leader when he says we overdo a lot of things around this place, and we do have a lot of work to do.

My response would be, yes we will try for an agreement. I will have to discuss it with the distinguished Senator from Wyoming, who has sort of taken a leadership role on this. Maybe I can do that privately and after the next vote maybe we can nail that down.

Mr. BYRD. Mr. President, let me just say this. The distinguished Republican whip has said that he is acting in response to his own stirring. Mr. President, this is the President's nomination. It is not mine. This is the administration's nomination. The administration has an opportunity to fill this seat, the vacancy, on the Supreme Court. Who is here trying to fight to help get this seat filled? The majority leader of the U.S. Senate, who belongs to the opposite party. The administration ought to be trying to get that seat filled. We can give Mr. Bork a vote. I hope we will have an up or down vote on Mr. Bork.

But remember this, it could be a tabling motion, which would stop the debate. I do not want to resort to that. I hope I will not have to.

But here I am trying to fight to get this administration to get a nomination up here, get the way cleared, get all the brush and the briars out of the way so the administration can send another nomination up here and get it acted upon before we go out for sine die adjournment.

Who is opposed to this? Mr. President, this does not make sense. Everybody knows what is going to happen on this nomination of Mr. Bork. I think everybody should be apprehensive concerning the kind of debate, the invective, and the contumelious charges that will be made, with a bitterness that can spill over into the next nomination.

I have not asked one Senator how he is going to vote in all of this time. I have not asked one Senator to vote against the Bork nomination. I have not once asked anybody, "What is your vote count?"

I have tried to stay above that as majority leader in this instance. That is no criticism of those who might have done otherwise.

But nobody can charge this Senator with being unfair. Nobody can charge this Senator with trying to stack the deck against Mr. Bork.

I just want to get on with what is my responsibility. That is my stirring, and I want to get on with what I see is the responsibility of this Senate.

It seems to me that if this administration wants something other than an issue, if it really wants to get a judgeship confirmed, then it ought to cut out the temper tantrums and let the dead past bury its dead. Let us have a vote here. There is time to get another nomination to the Senate and to get it confirmed. But each day we dillydally and delay is 1 day later if not more before the Senate can get to another nomination.

We will soon be down to Thanksgiving, and Senators will want to go home for Thanksgiving. Then we get into December and everybody will want to go home for Christmas. Then we have New Year's.

The time is now. I am telling you, time, precious time, is being wasted.

I want the country to know that this Democratic leader wants to get on with the Senate's work. I have not treated anybody unfairly. I have not been charged with treating anybody unfairly. But it seems to me we ought to cut through all this mist and fog and get on with the vote on this nomination. Give this man his vote and give the President a vote this week. He asked for a vote this week. There are very few people around here who are going to take a 400-page report home and really read it, few people. We all know that.

I will say to the distinguished Republican leader I intend to ask unanimous consent—not right now, but before the day is over and again tomorrow if I cannot get it today—that the Senate proceed to the consideration of this nomination by Friday and that we vote, in any event, by 6 o'clock p.m. on Tuesday next. We can come in Saturday and we can stay in as late as Senators want. We can come in Monday and we can stay in as late as Senators want. We can debate this. But we have other work to do and we have a Supreme Court vacancy to fill.

This delay, I can see very clearly, is not working to the good of anyone. It is not going to be helpful to Judge Bork or to his wife and family. It is not going to be helpful to the President of the United States or to the Court, or to the Senate, or to the country.

Mr. President, I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. I thank the majority leader.

I appreciate what he has been saying in attempting to move the Bork nomination to a vote. I do not want to address myself to that issue. What concerns me as a member of the Judiciary Committee is what happens next. I am concerned that when the next nominee is sent up, suddenly the drumbeats will roll and the bugles will blare and the editorials will be written and the Judiciary Committee will be called upon to move with dispatch and without delay to the confirmation of the second nominee. I think that is an unfair burden to place upon the Judiciary Committee. If we adjourn within 30 days, which is the approximate time we are supposed to adjourn, if we should vote on it next Wednesday, then it is conceivable that we would not be able to get to the confirmation of the next nominee.

Nobody is attempting to do that, but if that is the reality of the situation, that we cannot conduct our hearing, we cannot do the necessary investigation, we cannot do that which we are obligated to do as Members of this body and we are crowded to move more rapidly than makes good sense, then it is we who will carry the burden of blame.

I think the fact that the majority leader is attempting to facilitate and move this matter forward, indicating that as of the first of the week he was ready to schedule the Bork nomination for debate, indicates the fact that there is no desire to come to the situation where we might be adjourning without being able to fulfill the vacancy on the Supreme Court.

That is a possibility. The longer we delay I think the more it makes that possibility into a reality.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. I yield to the distinguished Republican leader.

Mr. DOLE. I do not disagree with anything anybody has said, I guess. I am not certain. But I do believe that we are not delaying here. I read the Sunday Boston Globe, where it said that "On July 8, KENNEDY met with BIDEN and Senators HOWARD METZENBAUM and ALAN CRANSTON to work on strategy. The first point was to gain time to organize against the nomination. So a decision was reached that there be no hearings until after the August recess.

To me, that was a strategy to delay. There was a meeting. I do not know whether all these people attended but that is what is in the paper. That may not be accurate.

There is not any strategy here to delay. We are talking about debate, if it starts on Monday and ends sometime Wednesday, we are talking about 2½ days to debate this nomination. We are talking about 2½ days to discuss a nominee who waited 72 days—72 days—for a hearing in the Senate Judiciary Committee; 2½ days versus 72 days is quite a difference. I would hope we could just agree on that. I am willing to try to reach a time certain. I think some of my colleagues, though they do not want to carry it on, are fearful they might get down to 6 o'clock Tuesday or whatever and somebody might not have spoken.

But I am willing to try to work out a time agreement with the distinguished majority leader. We do not want to delay. But at the same time, we want to make certain that the nomination has been discussed in a way that we think it should be discussed. I am not singling anybody out on either side. Maybe this nominee is not entitled to that. I think he is. I discussed this with the distinguished Senator from South Carolina, the ranking member on the Judiciary Committee, who is willing to cooperate and I think has expressed some willingness to try to work out a time certain.

So I would just say to the majority leader, knowing the frustrations of leadership, that I think maybe after the next vote, the two of us could perhaps announce some agreement.

Mr. BYRD. Mr. President, I hope we can. I hope it can be by 6 o'clock p.m. Tuesday or no later, no later, may I say to the distinguished Republican leader, than noon, say, on Wednesday.

Mr. BIDEN. Will the Senator yield?

Mr. BYRD. Yes, I yield to the distinguished chairman of the Judiciary Committee.

Mr. BIDEN. Mr. President, I had not intended to speak to the Boston newspaper that was just spoken to. Let the record show that the first person to whom I spoke about a date for scheduling these hearings was none of my Democratic colleagues but the leading Republican, a member of the leadership of the Republican side, the first person with whom I spoke about when to schedule the hearings. Let the record also show that no one seriously entertained the notion of starting the hearings prior to the recess.

Let also the record show the Senator from Delaware was prepared to start the hearings during the recess. And let the record further show that the only debate was whether they should start September 14, 15, or 17, not whether they should start prior to that.

Now, one other point I would like to make. No matter what happens in the outcome of this nomination—obviously, if Judge Bork were to by some change of events be confirmed by the Senate, then the point is moot. But if Judge Bork is not confirmed, as I think most anticipate on both sides of the aisle, then the Senate Judiciary Committee is going to have to start to hold hearings again. Let us leave aside Judge Bork. As to the previous two nominees under Republican leadership, the Republican-controlled Senate, Republican-controlled Judiciary Committee, and the Republican-controlled White House, it took the better part of a month before the hearings were able to begin. There is a simple reason for that. The reason is the FBI clearance, the ABA clearance. I do not know how people compute around here, but we are talking about a highly improbable situation, if you are going to be thorough, without any delay, just using as an example, the previous two Republican nominees under a Republican-controlled Senate, of having the hearings underway and/or concluded prior to Thanksgiving.

Now, maybe we are going to be in here until Christmas. I do not know. I am prepared to come in and hold these hearings whenever they are ready to go, based on the White House and the clearances and our own investigation to prepare for the nomination. But I do not want anybody operating under any illusions—and I would yield at some point, though I do not have the floor, to the ranking member, Senator THURMOND—that from the day the nomination is sent up, whomever it would be, to the time we can complete the hearings will be less than several weeks. It would be unprecedented in recent time.

I do not know how that gets done. Now, obviously, if they send a Senator THURMOND, the whole matter will only take a couple days. If they send us some people in here, we could maybe waive the hearing. But we are likely to be sent someone we do not know a great deal about. I should not say likely. That is possible.

So the idea that we are going to be able at the conclusion of these hearings, assuming the President gives us a name the moment after the vote count is made, to get underway, follow through with and complete the hearings, and vote on the Senate floor prior to the target date for adjournment——

Mr. BYRD. Mr. President, may we have order in the Senate and have someone stand at the door and keep the door closed.

Mr. BIDEN. I assume they are clapping for me. I do not know why for sure. But at any rate, the chairman of the committee has no intention of delaying this. Obviously, we cannot control if our Republican colleagues do not want to vote. I thought it was interesting that the Republican whip, a man for whom I have great affection and complete faith in and take him at his word absolutely, said that "We"—I assume he meant the Republican leadership—"are trying to stop a filibuster." What a bizarre notion, filibustering a Republican nominee sent up by a Republican President to fill a vacancy on the Court when that nominee already has 54 people voting against him. Is the idea to wait? Are they so certain that GEORGE BUSH or BOB DOLE is going to be President they would like to filibuster and have DOLE or BUSH choose the nominee instead of Reagan? I do not quite understand this—to stop a filibuster? This is bizarre. When this all started everybody, my colleagues, left and right, Republican and Democrat, and the press, asked me, "Will you participate in a filibuster?" This was back in July. I said, "No, I will not participate. I do not want to filibuster." Everyone assumed that we Democrats would be talking about a filibuster. And here we have the Republican leadership having to try to stop a filibuster. I assume everyone knows he is not talking about any Democrat talking about filibustering.

I hope the Republican leadership is successful in stopping a Republican filibuster. I hope we can get on with this because, as the distinguished ranking member of the committee and former chairman of the committee, who is on the floor, can tell you, it is virtually impossible to gear up the committee, do the proper investigation, hold proper hearings, write a report, and report back to the Senate as a whole in a matter of a couple weeks. I do not know how that gets done. I have never seen it done in recent times.

So I share the majority leader's frustration. And I understand and share and sympathize with the frustration of the minority whip. But I would hope we could start Saturday, start tomorrow but agree that the vote would take place on Tuesday and give everybody time to make the case, put it in the RECORD.

I thank the leader for yielding.

Mr. SIMPSON. Mr. President, will the majority leader yield?

Mr. BYRD. Yes, I will be glad to yield to the distinguished Senator. While I am yielding, I hope that Senators who have their amendments to the Labor-HHS appropriations bill will come to the floor. Both managers have indicated a willingness to stay until we finish this bill today. So I hope Senators will be ready. I yield to the distinguished Senator.

Mr. SIMPSON. Mr. President, I thank the majority leader. Just quickly, here is where we are. We have a report that will not come out until tomorrow and we are unable to waive the time. So we are ready to go to work Monday. None of us are ready to go to work Saturday. I think there are some very artful Members who would try to say if there was no quorum present we could not do work Saturday. All of us, I think, are ready for the Friday and Monday activity. So that would be difficult. But the point is we are ready to go Monday and will have people here. So I think that shows our good faith.

I respectfully say to the majority leader that I would object to a time certain to vote at 6 o'clock Tuesday or 6 o'clock Wednesday. I say to the majority leader that there was not a single person involved in these discussions who wanted to go beyond this next week. Nobody wants to go past next week. But I cannot in any good conscience say Tuesday or Wednesday.

But my hunch is that after they express themselves for a couple of hours, and there are several who want to, who feel it is very important to state their case about Judge Bork, then we would be ready to go and very likely get a time certain for Thursday or Friday without question.

The only reason we want to extend that is that those who are opposed to Judge Bork might want to speak, and might want to not yield. That happens. We both know that in our work in the leadership. Those who support the Bork nomination just want to get the full story told. If there were an agreement to vote by a time certain, that might not be the case.

So that is what we are doing. I shall never ever use in an inartful way the word "filibuster" again like that because it really would not be too dazzling to do that kind of filibuster—although it has some charm. The minority and the majority whip talked. I said "What if we were just to filibuster and say 'We are going to filibuster until you accept Judge Bork?'" That would be a bizarre kind of a filibuster. I would not want to be involved in that. But I would not ever use that term. It is a good lesson. But we are not here to delay. I can promise you that. You will see that unfold.

I guess the proof of the pudding will be in the eating, and that is what we have to present. We have some very serious people who want to talk not because of the White House and not because of what may or may not happen, but because of a man's reputation in the United States of America that can be looked at 30 years from now, and be perceived as a rather reasonable human being and not some bizarre extremist.

Mr. BYRD addressed the Chair.

Mr. THURMOND. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. President, I yield to the distinguished Senator. Yes.

Mr. THURMOND. Mr. President, I felt I ought to make a statement in view of what the able chairman of the committee said. I stated after the hearings that the chairman, Senator BIDEN, has conducted the hearings in a very fair and reasonable manner. I will repeat that now. However, I did write him and urge we start the hearings sooner. I am sure he will agree to that.

Mr. BIDEN. That is correct.

Mr. THURMOND. I thought we should have held them in August so we could have gotten through so this man could have been on the Supreme Court, whoever it is going to be for the October session. So I wanted the record to be corrected in that respect.

It is my opinion, and some of my Members on this side are not in accord with it, there are some who do not want any agreement at all to limit the time. But I feel it would certainly suit me if the majority leader sees fit to limit this time, and I would suggest, and I told him this, that if we could set a time by next Wednesday night, vote by Wednesday night, I think that might be a reasonable time to vote.

Mr. BYRD addressed the Chair.

Mr. BIDEN. Will the majority leader yield 30 seconds?

Mr. BYRD. I thank the distinguished Senator. I yield for 30 seconds. I do want to get on with this bill.

Mr. BIDEN. I want to say with regard to the comment that the minority leader had indicated about delaying the hearings that the minority leader was one of the people who introduced Judge Bork. I would like to read from the RECORD the words of Senator DOLE.

> Now it has been some time since this nomination was made. I would say at the outset some of us were critical of that. But I would guess in retrospect it may have been taken that much time with the August recess to prepare for these hearings. Let's face it. There is a tremendous interest across the country. Wherever you go—and some of us go a lot of places—this is generally question number one or two at any town meeting in America. So the American people are tuned in. The American people are ready for a fair and impartial and tough hearing.
>
> Again, the only point I am making is no one seriously though we could start before sometime in August. And the ranking member indicated August. But he was one of the lone voices wanting to start in August. I just want the RECORD to show that.

Mr. BYRD addressed the Chair.

Mr. THURMOND. I just want to make it plain that I felt the hearings should start sooner, and the chairman of the committee and I have had good relations as we do now, but he did not see fit to start sooner. And then I told him to set it as soon as he could in September. I preferred to start the 8th of September. He said the 15th. We cooperated with him.

I feel this matter can be handled. It should be handled. There should be no undue delay. I think we ought to go ahead and get it settled. I told the majority leader it was my opinion that we could vote by next Wednesday night.

Mr. BYRD. Mr. President, I hope the distinguished Senator from South Carolina's views will prevail on the other side of the aisle. The distinguished Republican whip has spoken in terms of Thursday or Friday of next week.

Mr. President, if this was January of 1987, it might be all right to talk in those terms. But after next week, if we were to take this Bork nomnination through Thursday and Friday of next week, I cannot for the life of me understand what is to be served by that kind of delay.

The only thing I keep getting out of this as to why we have to spend another 4 or 5 days before we vote on this nomination is for some reason or other, it gets back to Judge Bork and his sensitivities. We have got to do this for his sake, we are told.

I do not know why Judge Bork would want to be put on the rack here with a debate that is strung out. It seems to me that we ought to all send our expressions of goodwill to Judge Bork and get on with filling the Supreme Court vacancy. There are those who keep talking about the need for a long debate because of some arcane esoteric reason that I have been unable to understand thus far except it all gets back to Judge Bork. Everybody admits that Judge Bork's nomination is going down the drain. It is going down, d-o-w-n. Newton's political law of gravity is going to pull that nomination down. It is already on the ground. It is just waiting for the scoreboard.

Why we want to run the Senate through 3, 4, or 5 days for Judge Bork's sake—is Judge Bork more important than the people of this country? Is Judge Bork more important than filling the vacancy on the Supreme Court? It seems to me that we have our values standing on their head.

It is a rather strange phenomenon, I would say, to find the majority leader standing up here urging that we get on with filling this vacancy with another nomination that will be sent up from the White House by a Republican President who loses no opportunity to excoriate the Congress every opportunity he gets. He wants confrontation all the time.

I am saying let us not have confrontation. Let us vote on the Bork nomination, vote on it up or down, and open the way for another nominee to have his qualifications considered by the committee.

The more time we waste—that is what we are doing if we string this out—the less fair it is going to be to the next nominee because his time is being crowded more and more. And the adjournment target date was November 21 that the distinguished Speaker and I, Senator DOLE, and others, had talked about. If we are going to take all of next week on the Bork nomination, that leaves only 4 weeks.

So for those who really want to see this vacancy filled this year, it seems to me it is counterproductive, and it just does not make sense to drag this matter out day after day after day. Mr. President, I hope that we can agree at the very least to vote on this nomination no later than 12 o'clock noon on Wednesday.

I am happy to leave it at that for the moment. I hope we will get back on the Labor-HHS appropriation bill. The two managers are ready to take up amendments.

Mr. President, I yield the floor.

ASSASSINATION OF HAITIAN PRESIDENTIAL CANDIDATE YVES VOLEL

Mr. KENNEDY. Mr. President, yesterday morning, a brutal assassination occurred in Haiti of one of that country's presidential candidates, Yves Volel. Over the last months, riots, murders, thefts and violence have become almost commonplace in Haiti. One presidential candidate, Louis Eugene Athis, has been stoned and hacked to death. Gangs of thugs have been terrorizing poor neighborhoods, rounding up and beating scores of innocent civilians and shooting at random into homes. Former Tontons Macoutes and government security personnel have been involved directly in many of these incidents.

The Haitian Interim Government has continued to deny any involvement in these campaigns of terror. When indisputable evidence has surfaced linking its security forces to these atrocities, it has attributed the acts to rogue elements of its security forces. But yesterday's incident shows beyond a doubt the direct involvement of the Haitian security forces in the brutal assassination of one of the opposition's presidential candidates.

I urge my colleagues to open this morning's Washington Post to page A24. On that page is a large picture of Yves Volel speaking peacefully into a microphone moments before he was murdered. He is standing just yards in front of the police department headquarters of Port au Prince—the department's sign is clearly visible in the photograph.

According to eyewitnesses—which included many journalists—Mr. Volel had gone to the police department to protest allegations of torture and detention without trial of a human rights activist, Jean Raymond Louis. He ended his statement saying, "I have the Constitution in my left hand and my robe as a lawyer in my right hand. I am going to go inside and defend this man's constitutional rights." Just as he finished speaking, a group of plainclothes security personnel came out of the police headquarters and started to beat Volel. As he lay on the ground, one of the men pulled out a gun and shot him twice in the back of the head.

The chief of the Haitian police said in a statement shortly after the murder that Mr. Volel had tried to free a prisoner by force and had died in an exchange of gunfire. But the facts and eyewitness accounts are quite different—Yves Volel was murdered by Haitian security forces right in front of the police headquarters.

Since the flight of the Duvalier regime last year, the people of Haiti have been struggling to establish a just and free democracy in their land. Last March, the people approved overwhelmingly a new constitution. They have placed high hopes on the presidential elections scheduled for November 29. But no democratic elections can occur under the current reign of terror, intimidation and blatant rejection of the rule of law.

Last week, I began circulating with Senator GRAHAM of Florida and Congressman FAUNTROY a letter to the head of the interim Government of Haiti, General Henri Namphy. That letter protests the deterioration in the human rights situation in Haiti and reminds General Namphy of the provision in U.S. law which ties continued assistance to progress in respect for human rights. Under the law, we must cut off aid unless the government has made a substantial effort in preventing the involvement of the Haitian armed forces in human rights abuses, ensuring that freedom of speech and assembly are respected, conducting investigations of killings of unarmed civilians and in educating the Haitian armed forces to respect human, civil, and political rights. The Haitian Government flunks each of these tests of democracy.

Let me invite my colleagues to join me in writing to General Namphy. I intend to send the letter this afternoon. The United States must not repeat the mistake it made during the Duvalier era and look the other way on human rights abuses. We will not continue support to a government that violates the rule of law and the human and civil rights of its people.

Under the current chaos, no free and fair elections are possible in Haiti. Unless the Government of Haiti can guarantee the safety, security, and freedom to campaign of its presidential candidates, the elections will be a farce. So long as the murderers of Yves Volel are at large, if his assassins are not brought to swift and certain justice, there is no rule of law in Haiti.

The people of Haiti have suffered too long from the Duvalier excesses and repressions. We must not permit the corrupt crony system left over from that regime to snatch democracy from the Haitian people. The interim Government of Haiti bears a solemn responsibility to ensure the peaceful, just, free and fair transition to a democratic form of government. It has failed miserably in that task to date. Unless it takes dramatic steps to reverse this rapid deterioration into anarchy, it risks losing U.S. economic, military, and political support—as well as the country's chance to join the democratic nations of the world.

I ask unanimous consent that two articles from this morning's papers and an account from the National Coalition for Haitian Refugees relating the details of this murder may be printed in the RECORD, as well as the text of our letter to General Namphy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 14, 1987]

HAITIAN CANDIDATE KILLED AT POLICE POST—PLAINCLOTHESMEN SHOT PRESIDENTIAL CONTENDER, WITNESSES DECLARE

PORT-AU-PRINCE, Haiti.—Police shot and killed presidential candidate Yves Volel today as he delivered a speech in front of police headquarters to demand the release of a prisoner, witnesses said.

Plainclothesmen beat and shot several times at Volel, who was struck once in the head and died instantly, Radio Metropole reported. A reporter for TeleHaiti corroborated the account.

Police cleared the area of bystanders and reporters and photographers' cameras were confiscated. The body was taken to the State University Hospital morgue.

In a communique from police headquarters, police did not address allegations that they killed Volel. They said he had been armed and that they were looking for "his accomplices."

Businesses in the area near the National Palace shut and barred their doors in apparent anticipation of further violence.

Volel, an attorney, was a minor candidate for president but a persistent critic of the governing junta of Lt. Gen. Henri Namphy. Volel's center-left Christian Democratic Rally, formed last year, is an off-shoot of the larger Christian Democrat Party of Sylvio Claude.

Volel invited reporters to accompany him to the police station, where he demanded the release of Jean Raymond Louis, who allegedly has been held without trial for the past month.

"They arrested Louis without a warrant for political reasons," Volel told Radio Metropole in an interview broadcast yesterday. "The constitution forbids that and says everybody has a right to a lawyer, so I will go at 10 a.m. [Tuesday] to offer him my services."

Volel supported the antigovernment strikes and demonstrations of June and July that shut down Haiti's major cities. He carried a Colt .45-caliber revolver. In July, Volel said he was attacked by armed men who sprayed his jeep with machine-gun fire. He claimed he returned fire.

Volel is the second presidential candidate to be killed this year. Louis Eugene Athis was hacked to death in August on the steps of a church by peasants who accused him of being a communist.

Volel, 54, was one of about 30 candidates who have registered to run for president in the national elections set for Nov. 29.

[From the New York Times, Oct. 14, 1987]

HAITIAN CANDIDATE KILLED BY GUNMEN

POLICEMEN ARE SUSPECTED—VICTIM AN EX-NEW YORKER

(By Joseph B. Treaster)

MIAMI.—A Haitian presidential candidate was shot to death this morning in front of the police headquarters in Port-au-Prince as he delivered a speech demanding the release of a prisoner, witnesses and diplomats said.

Witnesses said the candidate, Yves Volel, an outspoken 53-year-old lawyer who had taught mathematics at the Dalton School in Manhattan during more than 15 years in exile, was rushed by several men believed to be plainclothes policemen. They said he was killed with a single shot to the head.

Mr. Volel, one of 30 candidates who have announced intentions to compete in elections on Nov. 29, was the second political leader to be killed in the last three months. In August, Eugene Athis, the leader of a moderate party, was hacked to death by peasants as he tried to address a rally in a church courtyard in a village south of Port-au-Prince, the capital, and his body was burned.

GOVERNMENT IS CRITICIZED

Mr. Volel was not considered a frontrunner, and Mr. Athis was not a candidate, but their deaths reflected the anarchic climate in Haiti, and raised grave questions about the possibility that free elections can be held.

There was nothing to implicate senior Government officials in the deaths, but the Government is being criticized by many Haitians for failing to maintain security in the country.

René Belance, a spokesman for the civilian electoral council, said the council was preparing a statement. But he said: "I cannot imagine that in a civilized country this kind of thing can happen. It means we are still in a crisis. I don't know how we are going to make it."

Since the fall of the dictatorship of Jean-Claude Duvalier, life in Haiti has been a series of crises. During the summer, the army-dominated provisional Government headed by Lieut. Gen. Henri Namphy briefly seized control of the electoral process from the civilian council. Even after General Namphy's government reversed itself, street demonstrations continued, and before the end of the summer soldiers had killed more than 35 civilian protesters, many of them at point-blank range.

Mr. Volel had gone to the police headquarters which is across the street from the Presidential Palace, with a group of reporters, several Haitian news executives said. Some photographers and a television crew from Télé Haiti, an independent local station, filmed the shooting, the executives said, but their cameras and film were confiscated.

Walter Bussenius, general manager of Télé Haiti, said his crew members said they were assaulted by plainclothesmen and that Mr. Volel was shot as he was coming to the end of a statement about constitutional rights.

He said Mr. Volel told the journalists: "I have the Constitution in my left hand and my robe as a lawyer in my right hand. I am going to go inside and defend this man's constitutional rights."

Then, Mr. Bussenius said, "He turned around and was shot. That was it. The cameras were yanked."

Stores and offices in the area pulled down their shuttters, apparently in anticipation of further violence, but by late afternoon none was reported.

The chief of police, Grégoire Figaro, said in a statement a few hours later that Mr. Volel tried to forcibly free a prisoner and died in an exchange of gunfire. He said there had been a dispute that lasted 10 minutes. The police chief did not indicate who fired the fatal shot.

The police chief said Mr. Volel arrived at the police headquarters accompanied by armed men, but made no mention of the journalists.

The statement said Mr. Volel had been armed with a Colt .45 pistol and gave a serial number of a weapon. Mr. Bussenius said his staff members told him Mr. Volel was not armed.

Mr. Volel, a tall, husky man with a quick temper, was a former Haitian Army officer and graduate of the Haitian military academy. He competed for Haiti in the early 1960's in international marksmanship competitions.

During the summer, Mr. Volel told reporters that a carload of men pulled alongside his car on a street in the capital and sprayed machine-gun fire at him. He said he returned the fire with his .45 and said he thought he had hit one of his assailants. At one news conference, Mr. Volel carried his .45 tucked in his waistband.

A TEACHER AND ORGANIZER

For more than 15 years, while he wrote newspaper articles and organized meetings of political refugees from Haiti, Mr. Volel taught mathematics at the Dalton School, on the Upper East Side of Manhatten.

Former colleagues and students at the school said yesterday that he had frequently spoken about the role he hoped to play when he returned home.

A former student of Mr. Volel's, Peggy Edersheim, who graduated in 1982, said that she had spoken with Mr. Volel by telephone in March and that he had sounded "incensed" by the Government's lack of progress in improving conditions in the impoverished country.

When the Duvalier family's 28-year grip on the nation was severed early last year, Mr. Volel arranged a leave of absence and went back to Haiti.

NATIONAL COALITION
FOR HAITIAN REFUGEES,
New York, NY, October 13, 1987.

Hon. GEORGE SHULTZ,
Secretary of State,
Department of State,
Washington, DC.

DEAR MR. SECRETARY: The United States must take immediate action to disassociate itself from the Haitian military junta because of the rapid deterioration in the human rights situation in Haiti, and in particular because of the rising tide of killings by the Army and by paramilitary death squads.

Just this morning another presidential candidate was murdered in cold blood in front of the Port-au-Prince police headquarters in open view of a group of radio and print journalists. Mr. Yves Volel, a lawyer and the candidate of the Coalition of Christian Democrats (RDC) was shot in the head by someone known to be a detective for the Criminal Investigations Bureau of the Port-au-Prince Police Department, after he was brutally beaten by a group of detectives who attacked him as he attempted to enter the police headquarters to investigate the circumstances of a prisoner who had reportedly been badly beaten in detention at the Casernes.

This political assassination by the Haitian security forces comes on the heels of a patently illegal detention and unconstitutional forcible exiling to Canada on October 10, 1987 of Mr. Daniel Narcisse, a well-respected sociologist and economist. Both incidents can only be understood as attempts to silence government opponents and to terrorize further the Haitian population just weeks before Haiti's local elections on November 15 and national elections on November 29, 1987.

Since late June, the Haitian Army has shot and killed at least 53 persons in the capital alone and has seriously wounded scores of others in the Port-au-Prince area in attacks on journalists, peaceful demonstrators, and in raids in poor neighborhoods. It is impossible to calculate the number of those killed in Haiti's rural areas where 80 percent of the population resides, but the toll is very high. Army terror has been complemented by resurgent violence from paramilitary death squads.

The United States has repeatedly emphasized how important it believes these elections are both for Haiti and the future of relations between our countries. By not also publicly insisting that the CNG respect human rights during this pre-electoral period, the United States has undermined the very electoral process it values so highly. Is it really possible to talk about free and open elections if people are being shot in the streets, if presidential candidates are openly murdered by police, if investigations of recent security force abuses are systematically refused, if major trade unions are banned in violation of the Constitution, and if the independence of the civilian Electoral Commission is repeatedly threatened?

The assassination of Presidential candidate Volel is an example of the willingness of the Haitian security forces to go to any length to silence perceived opponents and to achieve their goal of terrorizing the population, by demonstrating that everybody is in danger of being killed for any reason or no reason at all. Journalists from Télé Haiti report that just as Volel reached the Criminal Investigations Bureau, detectives armed with revolvers came out and started to beat him. Finally one officer simply executed him with two shots to the head. The reporters from Télé Haiti were also beaten, their equipment damaged and their film of the incident confiscated. Volel's body remained on the ground for approximately 45 minutes where it was viewed and the details of this story are confirmed by human rights organizations affiliated with the National Coalition for Haitian Refugees.

The forcible exiling of Professor Daniel Narcisse is not only a direct violation of the new Haitian Constitution (Article 41), but it harks back to the days of the Duvalier dynasty when perceived opponents were regularly thrown out of Haiti without charge or trial, convicted in absentia, and their property was seized by the Duvalier family. The United States should join with Canada and denounce this practice and inform the officers ruling Haiti that we will no longer tolerate such disregard for international law.

The legal status of Mr. Narcisse is well known to the NCHR and Americas Watch. Until the new Constitution was published in late March 1987, it was possible for a Haitian national like Mr. Narcisse to possess dual nationality. Mr. Narcisse had been forced to flee to the Brazilian Embassy in June 1967 under death threats from the Duvalier secret police and was given safe conduct out of Haiti in January 1968. He was later tried in absentia, sentenced to death, and all his belongings were seized by the Duvalier government.

The Constitution of March 1987 does not allow dual nationality but addresses itself to the situation of exiles like Mr. Narcisse in Article 286, specifying that any Haitian who received foreign nationality in the 29 years before February 7, 1986 may recover Haitian nationality by a simple declaration made to the Minister of Justice within two years of the date of the publication of the Constitution.

The National Coalition for Haitian Refugees possesses copies of letters from Mr. Narcisse that confirm that he fulfilled all the requirements to the best of his abilities. Mr. Narcisse wrote on April 17, 1986 to Justice Minister Francois Latortue requesting restoration of his Haitian citizenship. This letter was officially received by the Ministry of Justice on April 25, 1986. A shorter version of this letter was delivered to all members of the military-dominated CNG. Following the promulgation of more specific requirements to reclaim Haitian nationality, Mr. Narcisse renewed his request before Justice Minister Francois St. Fleur on May 11, 1987 in a letter received by the Minister's office on May 13, 1987. In this letter Mr. Narcisse renounced his Canadian nationality and renewed his request for the restoration of his Haitian nationality and all the rights and obligations flowing therefrom.

United States economic assistance to Haiti is conditioned on a determination by the President that the Government of Haiti is improving its human rights record and is establishing a framework for free and open elections leading to a democratically-elected civilian government, including freedom for political parties, associations, labor unions, and the press. U.S. military aid to Haiti is tied to a Presidential certification that the Government of Haiti is making substantial efforts to prevent the involvement of the Haitian Armed Forces in human rights abuses and corruption, and is ensuring that freedom of speech and assembly are respected. The evidence is clear: the interim government is in gross violation of each of these provisions.

Mr. Secretary, responsible Church, legal and human rights organizations in Haiti are increasingly bitter about the seeming willingness of the United States to do along with the brutality of the Haitian military. Our government is widely vilified as the only real support for these officers because we have refrained from publicly criticizing these violations; and because we have certified human rights improvement by the Haitian military and forwarded increasing military aid to the officers doing the killings.

The United States must break with this military violence, and announce our opposition to these killings, and an end of all military aid to the Haitian security forces. Our military trainers should be withdrawn immediately. We should also suspend all economic aid until after the November elections both to indicate our opposition to these violations of human rights and the undermining of the very electoral process we champion. In the current atmosphere of violence and intimidation little of our aid is reaching the Haitian people.

As important as the diplomatic message that the United States delivers to Haiti's military junta is the public message that we deliver to the Haitian people. The United States should reassure Haitians publicly of our commitment to democracy and to human rights and make known that we condemn and will no longer tolerate killings by the Haitian security forces.

Please let us know of your specific plans to respond to these developments in Haiti.

Michael S. Hooper, Esq., Executive-Director, National Coalition for Haitian Refugees; Aryeh Neier, Vice-Chairman, Americas Watch.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 14, 1987.

General HENRI NAMPHY,
President, National Governing Council, Port-au-Prince, Haiti.

DEAR GENERAL NAMPHY: We are writing to express our deep concern over the alarming deterioration in the human rights situation in Haiti over recent months and to urge you to take strong and swift measures to end the violence. The current crisis threatens not only peace and stability in Haiti but also the transition to a free and just democracy.

Such a transition to democracy in the post-Duvalier era requires a protection of the people's basic human and civil rights, including freedom of assembly and association, of the press, of labor unions and of speech. While the elections scheduled for November 29 are critical to the establishment of democracy, unless they occur in the context of these basic freedoms, the elections will not be considered legitimate by the people of Haiti—or of the United States.

We are gravely alarmed by the assassination yesterday of presidential candidate Yves Volel—directly in front of police headquarters, reportedly by members of the Haitian security forces. We urge you to conduct an immediate and full investigation to bring the murderers to justice as soon as possible.

This murder appears to be part of a pattern of incidents threatening the civil and political rights of the Haitian people. In particular, we are alarmed at the direct involvement of the Haitian security forces in a series of attacks on unarmed civilians and in raids on poor neighborhoods which have resulted in scores of deaths and injuries and untold damage to property. Foreign and domestic journalists have been attacked, as have been priests and community leaders working to implement democracy in your country.

We are also concerned about the interference of the Haitian government in the critical work of the Provisional Electoral Council and its failure to demonstrate any meaningful commitment to investigate human rights abuses.

The current situation threatens the implementation of the constitution and the establishment of democracy in Haiti—as well as the continuation of U.S. aid to Haiti. Current United States law conditions military assistance on substantial efforts by the Haitian government in preventing the involvement of the Haitian armed forces in human rights abuses, ensuring that freedom of speech and assembly are respected, conducting investigations of killings of unarmed civilians and in educating the Haitian armed forces to respect human, civil and political rights.

Over the recent months, the Haitian Government has failed to meet each of these tests of progress toward democracy. The United States Congress will not continue to support a government that shows a flagrant disregard for the rule of law.

In February 1986, you committed yourself to a government based on "absolute respect for human rights, press freedoms, its existence of free trade unions and the functioning of structural political parties". We urge you to fulfill that pledge in order to ensure a truly just and democratic government is elected on November 29th.

The PRESIDING OFFICER. The Senator from Florida, Mr. GRAHAM.

Mr. GRAHAM. Thank you, Mr. President.

I would like to ask unanimous consent that the remarks that I am going to be making follow those of the Senator from Massachusetts so as not to disrupt the debate on the appropriations bill.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. GRAHAM. I yield.

Mr. BYRD. Mr. President, would the Senator indicate how long he will be speaking? I hope we can get some other Senators who have amendments to the pending bill on the floor to call up those amendments. The managers are here. We would like to finish the bill today.

Would the Senator indicate the time?

Mr. GRAHAM. Three minutes.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to join in the remarks that have previously been made by the senior Senator from Massachusetts.

On July 30, the Senate unanimously approved a resolution calling on Haiti's ruling National Governing Council to conduct an open and free election as required under that country's new constitution.

Under the protection of that constitution, candidates rightly expect to be able to assemble and express themselves freely as they campaign for office.

We now have witnessed the sad occurrence of the second Presidential candidate to die in election-related violence in the last 100 days.

The death of Yves Volel raises very serious concerns about the interim government's commitment to establishing a framework for a free and open election.

The government has thus far failed to investigate either of these tragedies.

If there is to be any hope of a free and valid election, that policy and many others adopted by the government must change.

We can only hope that this tragic incident of Mr. Volel's death will spark those changes.

Mr. President, I have joined with Senator KENNEDY and Congressman WALTER FAUNTROY in expressing deep concern over the alarming deterioration in human rights in Haiti over recent months.

As Senator KENNEDY indicates, we have sent a letter which underscores that current United States law conditions military assistance on substantial efforts by the Haitian Government to prevent involvement of security forces in human rights abuses.

Another condition is that those abuses be investigated. We intend to see that those conditions are complied with.

Mr. President, across the Caribbean basin there is a light of democracy. Countries which have suffered under decades of oppression are now entering into a new era of freedom, but democracy and the respect of human rights is not earned easily and will not be maintained without struggle.

The darkness which threatens to engulf Haiti underscores yet again that the protection of basic human rights must be a responsibility we all share.

Mr. President, the people of Haiti have made clear their support for democracy. They continue to risk their lives for democracy.

The National Governing Council must not stand in the way of the realization of that promise. These people who already have suffered too much for too long.

Thank you, Mr. President.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION, FISCAL YEAR 1988

The Senate continued with the consideration of H.R. 3058.

Mr. CRANSTON. Mr. President, is the bill open to amendment?

The PRESIDING OFFICER. The Chair informs the Senator from California that the Weicker amendment is pending to the bill.

Mr. CRANSTON. I ask unanimous consent that it be set aside temporarily so that I may submit an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 965

(Purpose: To require the National Institutes of Health to take all possible steps to expedite clinical trials of drugs to treat AIDS and to ensure that a maximum number of individuals are able to enroll in clinical trials)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. WILSON, proposes an amendment numbered 965:

At the appropriate place in the bill insert: "*Provided*, That, in administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable"

EXPEDITING CLINICAL TRIALS OF AIDS TREATMENTS

Mr. CRANSTON. Mr. President, the amendment I am proposing would require the National Institutes of Health [NIH] to expedite getting drugs for AIDS into clinical trials and to enroll as many individuals with AIDS and AIDS-related complex [ARC] in those trials as is scientifically feasible.

Mr. President, like many of my colleagues here, last week I met with many of my constituents who traveled across the country to Washington for the march for gay and lesbian rights last Sunday. Tens of thousands of the participants had AIDS or ARC. Their presence demonstrated dramatically the dire emergency that the AIDS epidemic presents.

One message that was repeatedly expressed during my meetings was the belief—and the fear—that drugs to treat AIDS are not being developed or made available through clinical trials as rapidly as possible. I heard frustration and desperation. Yet, I also heard hope. People with AIDS and ARC want to participate in clinical trials—for themselves and for the sake of gaining information that may help find new treatments for others with AIDS or ARC.

Mr. President, in response to those concerns, the State of California recently enacted legislation appropriating $500,000 to implement a preexisting law authorizing the State government to approve certain experimental drug testing and new drugs. Only drugs manufactured in California could be authorized by the State for clinical trials, which would also be conducted entirely in California.

The California program is not intended to substitute for or to circumvent the FDA approval process. Rather, it is designed to spur development and trials of promising drugs. In order to help minimize or prevent duplication of effort, I contacted the FDA Commissioner, Dr. Frank Young, to urge that the FDA cooperate as much as possible with drug applicants who submit protocols under the California law.

I ask unanimous consent that a copy of my letter to Commissioner Young be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the scientists of our country have made great progress in deciphering the cause of this disease and how it destroys the body's immune system. And, I know that much effort is now being directed toward developing more and better drugs and to testing those drugs through the AIDS treatment and evaluation units. Nearly 2,000 patients are enrolled in 1 of 27 protocols at 19 units across the country. But with tens of thousands of people suffering from this horrible disease, that is not nearly enough.

My amendment would simply require the NIH to make those efforts a top priority—to help ensure that as many people with AIDS and ARC can participate in clinical trials as is scientifically feasible, and that such trials proceed as expeditiously as possible.

I urge all my colleagues to support this amendment.

EXHIBIT 1

U.S. SENATE,
Washington, DC, October 9, 1987.

Dr. FRANK E. YOUNG,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR FRANK, I am writing regarding the newly-established program in California for the development and testing of drugs to treat AIDS. As you may know, on September 28 Governor Deukmejian signed Assembly Bill 1952, which appropriated $500,000 to implement a pre-existing law authorizing the State Government to approve certain experimental drug testing and new drugs. Only drugs manufactured in California could be authorized by the state for clinical trials, which would also be conducted entirely in California.

The proponents of the California program strongly support conducting carefully controlled clinical trials of AIDS drugs. In fact, the appropriations legislation specifically stresses that, as much as possible, the protocols for investigation new drugs should be similar to those approved by the FDA, so that the data obtained in those studies could also be submitted to the FDA for approval.

In addition, the law states that the provisions authorizing state approval of drugs should, to the maximum extent possible, supplement federal procedures to facilitate the development and testing of AIDS-related drugs and "be utilized, to the extent feasible, in cooperation with the FDA".

Thus, the California program is not intended to substitute for or to circumvent the FDA approval process. Rather, activation of the program grew out of a deep concern and frustration that too few drugs were being made available in clinicial trials for AIDS patients, that clinical trials involved too few persons, and that the testing programs took to long to establish.

In order to prevent or minimize duplication of effort, I believe that I would be extremely beneficial for the FDA to cooperate as much as possible with drug applicants who submit protocols under the California law. Thus, I urge that you give your full cooperation in ensuring that the protocols and clinical trials developed under the California program receive expedited attention and accelerated review at the FDA. Your doing so would make a substantial contribution to the overall success of efforts to develop new experimental AIDS drugs and would greatly facilitate such drugs being made available to additional persons with AIDS outside as well as inside California.

I would greatly appreciate your personal assistance on this matter of great importance to the people of California and, I believe, the entire country.

I look foward to hearing from you at your earliest convenience.

With warm regards,

Cordially

ALAN CRANSTON.

I understand that the amendment is acceptable on both sides of the aisle.

Mr. CHILES. Mr. President, we have looked at the amendment. I think it is something that NIH is working on right now and trying to seek all these treatments. I see nothing out of order with the amendment, and I think it is one that we can take.

Mr. WEICKER. Mr. President, I commend the distinguished Senator from California for his amendment.

There are two things I should like to emphasize, and I think it is important at the time we discuss the matter of AIDS.

No. 1 is adequate research funding. Let me assure the distinguished Senator from California and all others on the floor that the Senate can take great pride and he can take great pride for his leadership. We have consistently given all the funds necessary to the scientists to do the job, in the hope that one of these days we might find that particular medical miracle that will prolong life and, hopefully, eventually the vaccine itself.

Point No. 2 is the matter that the NIH is going slow. This is more or less addressed in the distinguished Senator's amendment, and I am for it, and I think he is to be commended for bringing it to this body.

I assure him that the people at NIH and FDA are doing everything possible in terms of vaccine and chemotherapy. Anything that shows the slightest promise is being evaluated. Those who suffer, those who are dying at this time should know that the resources of this Nation are marshaled in the fight, and the expertise of the Nation, as it emanates from FDA and NIH, it is doing everything humanly possible to bring us to the day when we eliminate this scourge.

Mr. CRANSTON. I thank the Senator from Connecticut for those remarks and for his understanding of this issue. I also thank the Senator from Florida for his support of this amendment.

I urge both Senators to use their positions and their weight to see that NIH does proceed as rapidly as scientifically feasible and practical to test whatever drugs might help to deal with this terrible plague.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 965) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I know of no further amendments on this side of the aisle, and I believe that the managers are soon going to be ready to go to third reading.

If any Senator has an amendment he should be letting the managers know now because we are not going to dilly dally or tarry around going to third reading. Senators have had plenty of opportunities. They have been asked to come to the floor and the managers are here waiting for their amendments.

I yield the floor.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Connecticut.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

AMENDMENT NO. 953

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the Weicker amendment.

Mr. WEICKER. Mr. President, to refresh the memory of my colleagues, my amendment deals with the Low-Income Home Energy Assistance Program, a program meant to alleviate the suffering visited upon the poor of this Nation through financial assistance either for their heating bills, if it is heating that is required, or for their cooling bill, when cooling is required.

Now, what brings us to this debate is very simply we have a $600 million reduction that has been imposed on this program. This brings us to a funding level of $1.2 billion as compared to last year's level of $1.8 billion.

The reason I speak for an increase, or rather a restoration of last year's level for the Low-Income Home Energy Assistance Program is because the price of oil has turned around and is going up.

If you stay at last year's level, you are guaranteed of serving fewer people. If you compare the increase in the price of oil and the reduction imposed by the U.S. Senate you can be assured there is going to be much suffering throughout the northern tier of States when winter hits.

The gas price's rose 36 percent in 1986 and yet we are dealing here with a 32-percent reduction in the dollars appropriated to this program.

It is true, last year we nibbled away at this program, but we did so at a time of declining oil prices. That is no longer the case. Instead, the issue before us is whether we are going to have any energy assistance program at all, given the levels being proposed within this particular appropriations bill.

The prediction, I might add, from the Department of Energy is that energy prices will rise an additional 4 to 5 percent in 1987. So, probably by the time 1987 is through, home energy costs may be 40 percent ahead of where we were 2 years ago.

Now, there are a lot of things that make sense in our budget-cutting exercise around here, but there are a few items known as the necessities of life which I would suggest should be available to all Americans. We should not differentiate on the basis of income as to who stays warm this winter.

We have done very well in all sorts of food assistance programs. This achievement stands to the credit of this body and the Nation. However, even today, there is more malnutrition than one would want in this Nation. But, you know, if you are in a position where you are freezing to death, it does not make much difference as to what your sustenance is. The two go hand in hand. Obviously, other items are also involved: the care of the sick, the feeding of those that suffer from malnutrition, shelter for the homeless, and heat for those that live in subzero temperatures.

Now, what brings us to this point? I am not here to go ahead and lay at the doorstep of the Senator from Florida that he wanted to go ahead and chop $600 million off of the Low-Income Energy Assistance Program. That is not what he wanted to do.

The fact is, in determining our priorities, the entire Senate, or at least a majority of it, decided that this is of a considerable lower priority than many other programs.

Here we are with a defense budget of $300 billion and we cannot afford $1.8 billion to assure the people of this Nation that they can get through the next winter. Or, in the case of the summertime, for those that are afflicted with severe heat, they can get through this summer.

Now, what is wrong with this place in determining its priorities? This is not a welfare program. If this money is not available, these people are going to freeze. They are going to get sick and, yes, some are going to die. Is that really what we are seeking here in terms of this allocation situation? In other words, is this really, where our priority should be?

I know the difficult road I have to travel. I was on the floor with an amendment the other day where I tried to go ahead and get the Defense Department to pay their share of the tab when it came to research on illness. I tried to transfer $200 million from their research budget to the National Institutes of Health so that they would pay their tab to keep our men and women in the armed services healthy.

I got 34 votes.

Here we are today. We have a large population out there that, without this program, is going to be in tough shape. I am told the odds are against getting a budget waiver. However, I am not going to take this floor and say that the money ought to come from some other program within this bill.

Now, there may be those that have a temptation to say, "Well, let's just take a little 1-percent cut across the board." We are already underfunded in our science program. We already are underfunded in our education programs. We already are underfunded in our programs for the retarded and the disabled. We already are underfunded in our health programs. So to anybody that says, "Just an across-the-board cut to pay for this," it will not work. And even there, it will not raise the necessary funds required to restore us to last year's level. I know what is going to happen if I try to take it out of somebody else's budget.

So I postponed the decision on this provision both through the subcommittee and the full committee to let the U.S. Senate decide whether this is a priority. The only way to handle it is to get a budget waiver, not to take it out of somebody else's program. Let us waive the budget. Let us restore the $600 million.

I cannot compromise. I cannot tell you I will take $100 million or $200 million. I am not out here to look good. I am out here to get the money that is necessary. Last year's level was $1.8 billion. If anybody can assure me that oil prices have declined in the past year, then maybe we still can do it for $1.8 billion, or less. But I have already recited the statistics that we are 36 percent ahead in gasoline prices. So you know it is going to impact heating fuel. And the fact is that the level of $1.8 billion is inadequate, never mind the reduction to $1.2 billion.

So I am asking for the money to restore us just to level funding in the Low-income Energy Assistance Program. It is either right or it is wrong. The program is either right or wrong. If it is right, it needs $600 million. The only way that is going to happen is by a budget waiver.

I am sorry that oil prices have gone up. We enjoyed the advantage last year of preparing our appropriations over the declining prices. Now we have got to face up to the changed circumstance. That is what brings us to the floor. Had oil prices continued to decline, there would be no necessity to be on the floor. But they have not; they have gone up. That is what brings this amendment about and that is why I offer an amendment to restore the $600 million. I cannot find an offset.

Congress, in its wisdom, has decided to cut discretionary spending for health, for education, and for science, et cetera. You have cut it way past where it should be. There is nowhere left to cut.

I am not going to throw a bone out there and have all the most disadvantaged elements of our society stage a spectacle fight for the amusement of some of my colleagues and the American people. I am not willing to cut any aspect of education. I have received notification that certain groups now want this money, but they want it as an offset against some other group. I will not be party to that.

The disabled and disadvantaged and retarded are going to receive what they are getting in this appropriation bill, not one penny less. And, indeed, at this level of funding they are getting too little in this very affluent society of ours.

No; those that suffer from cancer and from heart disease and from diabetes and from neurological disorders, those that are mentally ill, mentally retarded, are not going to get one penny less. They already are underfunded. They are not going to be a source of funds for those that are poor and cannot afford to heat their homes.

No; the young people of this Nation that are given opportunity through education are not going to get one penny less, in order to finance low-income energy assistance. We are not going to set the weakest elements of society, one against the other, to divide up the scraps that have been left them by the demands of all other aspects of the budget.

On June 30, 1987, 37 Senators wrote to the chairman of the Labor-HHS Committee requesting that low-income energy assistance be funded at $2.1 billion for fiscal year 1988. These include Senators MOYNIHAN, HEINZ, KENNEDY, BRADLEY, ADAMS, KASTEN, SIMON, SARBANES, LEVIN, PELL, MITCHELL, LAUTENBERG, STAFFORD, DODD, DIXON, BUMPERS, RIEGLE, KERRY, DURENBERGER, GLENN, MIKULSKI, DASCHLE, PRYOR, ROCKEFELLER, DANFORTH, WIRTH, BAUCUS, LEAHY, METZENBAUM, CHAFEE, CONRAD, D'AMATO, GORE, PRESSLER, FORD, SPECTER, and COHEN. That is a lot of Senators to get behind any piece of legislation on the floor; $2.1 billion they wanted for fiscal year 1988.

Since that time, the Senate Appropriations Committee has marked up a Labor-HHS bill that had a 302(b) allocation that was $300 million less in outlays than was included in the Senate budget resolution for health, human services and education programs. The 302(b) allocation is more than $900 million less in outlays than the House Health-Human Services Subcommittee had available when considering their bill for fiscal year 1988. It was impossible under these limitations to fund the Low-Income Energy Assistance Program even at the 1987 level without robbing other vital health, human service and education programs. Surely it is a situation just like this that the Budget Act envisioned when a provision for a budget waiver was included.

For those, I might add in the course of the debate, that say: Well, we can stay at 1.2 and the House is going to be at 1.8, and, therefore, we can come up to the House level in conference—you are not going to be able to avoid this budget waiver vote. You can do it now or you can do it later, but the basic decisions will come to this floor as to whether or not the budget should be waived for this particular sum of money.

I would suggest instead of sitting there wishing and hoping something is going to happen without our involvement, we understand the realities of parliamentary procedure. Either we show our interest or believe me the figure is come down.

I also have heard the argument made that, in the House figure of $1.8 billion they figure through the various funding mechanisms that all that is needed is $1.6 billion.

To my colleagues, we avoided the decisionmaking process in the Appropriation Committee. I was part of that in the subcommittee because I did not have the votes. In the full Appropriations Committee, I again did not take action because I did not have the votes. But now it is in everybody's lap.

I would hope that this body would rise, and say: this is important. This is important. Yes, there is such a thing as winter in the United States and, yes, there is such a thing as poor people in the United States. Yes, oil prices have risen. Yes, if we do not appropriate the same level as last year both illness and death will visit upon those who do not have the means to keep themselves warm.

I mean it is bad enough to walk through Washington, DC, and see human beings lying on grates. I find that an appalling sight in this most affluent of nations and in a very affluent community; affluent in the sense that the purse of the Federal Government is right here.

All that is bad enough. If we could see into every home in America, those of us that are comfortable—my gosh, if you even turn the thermostat down as far as 68, 66 degrees, everybody is sitting there complaining as to how they are freezing. Well, you know what freezing is like? I certainly do not know what it is like in Connecticut compared, let us say, to my friends in Minnesota.

No; there is a real problem here and the mechanism is in place to address it and the time has come to address it and vote on it.

Mr. President, I ask unanimous consent that Senator PELL, LEAHY, and STAFFORD be included as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Why have we forced ourselves into a position of having to consider cutting funds for the sick, to pay for the poor? Why have we forced ourselves into a position of cutting those programs that provide us with the greatest yield on savings just to meet an outlay target? What happened to considering the merits of the programs and the human needs associated with all the programs included in this bill? What programs would those Senators who sent us the low-income energy assistance requests have us cut to pay for the Low-Income Energy Assistance Program? The National Institutes of Health? There is a small increase in this program above 1987, but not enough of an increase to even pay for the same number of research grants as in 1987.

Do you want to know how bad the problem is? Let me give you two institutes that most people do not talk about: The Institute on Aging and the Child Care Institute.

Everybody goes around saying: I am for the elderly. I am for the elderly. Protect our senior citizens.

We know that the over-85 population is going to double by the year 2000 and the over 65 by the year 2010, and what have we done about it? Nothing. About two or three medical schools in the United States of America have courses in geriatric training for young physicians. That is out of 142. So you are not going to have the personnel.

We have a small amount in this budget to encourage geriatric training for physicians, so we will have an adequate corps of men and women to help this ever-increasingly graying Nation. But the budget for the Institute of the Aging is only a miniscule amount considering the problems ahead.

I know what is going to happen. In the year 2000 when we are confronted with the various ailments and problems of growing old, we will scramble. Oh, there will not be enough money out here then. We will shovel it out by the bucketload.

There are certain things you just cannot catch up on by shoveling the money out. One of them is science and research. That has to be consistent over a long period of time.

What are you going to do? Take some more money out of, the Institute for the Aging, for instance? Take the money out of the Institute for the Aging, but always vote for Social Security and you are all right.

I think it is great to get a Social Security check, but if there is no quality of life, either in terms of your health or in terms of being warm in the wintertime, I suggest to you that the Social Security check is really not affording the level of life that any of us can be proud of in this Nation.

How about the Institute for Children and Child Care?

Child care, child development; that is another institute in the National Institutes of Health. This is a great Nation. You always say, you know, we are supposed to live for our children. What are you going to do, take the money out of the Child Care Institute to pay for low-income energy assistance? Is that what you want?

I have not even gotten into the big killers: heart disease, cancer, the cripplers such as arthritis, diabetes. Never mind all the various afflictions that are the day-to-day job of the National Institutes of Health, some big, some small. Such as for kids with the skin peeling off their faces, epidermolysis bullosa. There are only a few hundred of them in the United States but the work goes on at the National Institutes of Health. Are you going to go ahead and cut that research to fund this program?

Or brittle bone disease? These are only a few hundred out there, but the one institution that cares is the National Institutes of Health.

How about all of you that gave through the muscular dystrophy campaigns and telethons, cystic fibrosis campaigns and telethons?

That is a great volunteer effort, but, believe me, the principal effort is at the National Institutes of Health.

So, all of these budgets, as I said before, are below 1987. Are we going to cut them a little bit more?

Community health centers are frozen at the same level they have been frozen at for years. Maternal and child health services received the first increase in funding it has received in years.

Do you realize how bad our statistics are on infant mortality in this Nation? I might add, two of the five highest cities in the most affluent of cities, Hartford and New Haven, are among the highest in infant mortality. Why? Because of the cutbacks that have occurred. The first time a doctor sees a baby is when that woman is wheeled into the hospital in labor.

For those of us who are not touched in the human sense, let me point this out to you: Just compare the cost of a low birthweight baby to that of a healthy baby. It is not a question that there is not a price to be paid. There is an enormous price to be paid, and I suggest we start paying some of these prices up front to avoid the resultant costs that come later down the line. Never mind the tragedy of this enormously high infant mortality rate among this most affluent, civilized of Nations.

Special education programs are funded below their authorized levels and well below the Federal contribution Congress committed in Public Law 94-142, the landmark legislation that guaranteed a free and appropriate education to all handicapped children.

Do you know what Congress promised when we passed that law? It promised that we, the Federal Government, would take care of 40 percent of the cost. That is what we told all the States who have to do the educating. Forty percent. Do you know what our present level is? It is 8 percent. That law has been on the books now for 11 years and we are at about 7 or 8 percent of the cost. We said it was going to be 40 percent. What do you suggest we do? Take some money from there, a little 1 percent cut and go 1 percent further down?

How about vocational and rehabilitation programs for the disabled?

I could go on and on as to what it is that we have done or have not done relative to these elements of our society, but then I hear the suggestion, "let us have low-income energy assistance and let us go right across the board, let us peel off 1 or 2 percent, whatever is required," instead of saying that the poor of the Nation are as important as all the rest of the people that I have been talking about.

We have gotten a lot of communication over the years as to what it is the Federal Government should or should not do, and there are a lot of people who have done so well by themselves they forget to look behind. I suggest to you that it is good Government that anticipates rather than reacts to crises, especially since we are here with a great bunch of fiscal managers. How in Heaven's name can they be satisfied when they know as a matter of common sense and reading the paper every day as to what is happening in energy prices, with the budgetary exercise that puts this program, insofar as the paperwork is concerned, in a position where it cannot work. It cannot work!

I suppose the other point is, "Do not worry, Senator, we will do this on a supplemental, a little emergency funding. Let us use what we have and then cover it with the supplemental."

That is not good enough, either, in light of what confronts us both as to the people who need the energy assistance and in terms of the oil crisis.

Our job is to be out front of the issue.

I have tried to describe up front how I plan to come at it. The amendment calls for the same funding as last year, and then obviously I have to ask for a budget waiver on which we will have the yeas and nays. That is a pretty difficult task. I need 60 votes. I do not need 51, I need 60 votes for that budget waiver. But, look, this is not anything to filbuster about. This is something for us to stand up and get counted on in terms of what our national priorities are. I am proud to raise it. I do not have anything up my sleeve.

I know some of the people who are on the same side as I am fighting for, who say, "Senator, you better not go out there, you will get beaten."

I do not know whether I will get beaten or not. Maybe some of the words I have spoken might stir up enough votes to get this through. But I know that all of us who sponsor this amendment know that we are right. I do not have any more maneuvers or tricks up my sleeve. This is it. This is it. This is the point of no return when the entire U.S. Senate gets counted, and if it does not get counted or it goes down in defeat obviously the whole program is in jeopardy.

I am not arguing, as I said before, just for the people of the State of Connecticut, but rather for the States who will be affected.

I want to say one more word. People will say, "Let us use the Exon money from the lawsuit." Those in Connecticut have used their money for low-income energy assistance. We are one of the highest in the Nation using that money not for anything else but low-income energy assistance. But it is not enough to go ahead and do the job for the entire Nation. Therefore, I offer this amendment in the style in which it is presented.

I hope none of my colleagues will press me to the point of having to be for this program but at the expense of the young, of the elderly, the sick, whoever. Let us do it up or down and I will take my chances on the budget waiver. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise today to speak in strong support of the Weicker amendment to restore to this bill $585 million for the Low Income Home Energy Assistance Program (LIHEAP). The Appropriations Committee has recommended cutting this amount from the program's fiscal year 1987 funding level. The Weicker amendment would maintain funding that is level with the 1987 appropriation, and with the 1988 House allowance, and would defeat the proposed 32 percent cut.

Before we vote on this amendment, I ask my colleagues to consider several facts about the program and its recipients. Slashing this program today would imperil the social safety net of the truly needy just as cold weather is setting in throughout the northern tier of the country. It is not a move we should consider lightly.

LIHEAP is a needs-based program which assists low-income households in paying for part—by no means all their heating or cooling bills. Nationally, the average income of households which receive LIHEAP assistance is a mere $6,184. The average LIHEAP annual payment covers only about 20 percent of a household's heating and cooling costs.

As you might conclude from such a low average income figure, many LIHEAP recipients—over 30 percent of the 1987 total—are the elderly poor. The remainder of grant recipients include the chronically ill and handicapped; households existing solely on State welfare benefits which do not cover their cost of living; and increasingly, the working poor who take home minimum wages.

Nationally, the average LIHEAP grant per household in 1987 was only $208. For low income households that pay a disproportionate percentage of their total budgets on utility bills—about 15 percent compared to the national average of 4 percent—slashing already inadequate assistance for utility expenses would be a serious economic blow.

If this cut is adopted, it will result in one of the largest percentage reductions for any program serving the poor since 1982. This 32 percent cut, combined with last year's cut, would add up to a total reduction in LIHEAP since 1986 of 43 percent. In human terms, this is a drastic step that we cannot afford to take.

Let me put this proposed reduction of 32 percent in the context of my home State of Vermont, where frequent sub-zero winter weather is the norm. The 1987 appropriation of $10.8 million would shrink to $7.3 million in 1988. This would mean that either approximately 5,760 households would lose their fuel assistance, or that the number of recipient households would remain at 18,000—and each would see a $193 cut in its fuel purchase benefits.

This is an unacceptable situation in a State where a high percentage of the population is elderly; where a very high percentage of the housing was built before 1940; and where home heating fuel costs are higher than the national average and rising.

The Appropriations Committee report would have us accept this cut on the basis that large amounts of oil overcharge funds are available to States to replace the lost LIHEAP money. Let me correct some misconceptions in that respect:

First. Some unspent oil overcharge money will be available to States in 1988, but not enough to cover this cut. The LIHEAP program typically starts operating October 1 and spends out its funds in 6 months. It is already mid-October. Most oil overcharge funds now available to States for 1988 will come too late for many States to meet their own constitutional requirements for fiscal year 1988 appropriations.

Second. Many Governors have taken care of low income households with large short-term increases in State weatherization programs funded with oil overcharge money. This is an appropriate use of overcharge funds—unlike LIHEAP, an income support program which requires consistent annual funding to operate effectively.

Third. In funding programs other than LIHEAP with oil overcharge funds, States are in many cases responding to the legitimate claims of many sectors of their constituencies—as required by the Department of Energy, which is looking for "balance" in State spending plans.

Fourth. Governors won't necessarily be forced to act if this cut is upheld here in the Senate. Last year, 24 States did not replace the cut in LIHEAP at all. Only six contributed substantial funds to the program.

Clearly, the majority of States can't or won't, fully replace the 32-percent LIHEAP cut we are considering here today. Today, I appeal to all of you—including the 36 Senators who joined me in a June 30, 1987, letter to Subcommittee Chairman CHILES in support of level funding for LIHEAP—to consider the human consequences of not supporting the Weicker amendment. I once again urge your support of this amendment—truly needy people should not be forced to pay for the inaction of the Congress, and the States.

Mr. President, I commend the distinguished Senator from Connecticut for his statement. I am one who has looked for budget savings to offset spending increases for vital programs on many appropriations bills, both in the committee and on the floor. But on this amendment, there is not any. I think we have to face up to that. The Senator from Connecticut says he may be beaten on this matter. I will probably stand with him and be beaten with him if that is the case, because I intend to vote with him on this. I hope we will win. Maybe we will and maybe we will not. But I will, with pride, stand beside him on it.

You know, Mr. President, none of us in this Chamber are ever going to be in a situation where we have to worry about whether we can heat our homes or cool our homes, for that matter. We will not have to worry about whether our children or members of our family will ever be cold, will ever have to worry about whether they are going to make it through a cold winter's night. A lot of other Americans are in the same position we are in. They do not have to worry about it. But there are millions who do.

In my own State of Vermont, there are thousands of Vermonters who really do have to worry about this.

We are talking about a grant of fuel assistance that averages only $208 per recipient.

Let me tell you what this means. Two weeks ago, when I was at my home in Vermont, we had a foot of snow. We had a very cold night afterward.

Last weekend, we varied from roughly the temperature of today—say 60 degrees—to a day when we had several more inches of snow. And that is early October. We have had the heat on in our house in September for comfort, but we had it on this month because we would have frozen to death if we had not. Next month heat will be a sure thing.

I recall one week last winter when the temperature never got above 35 all week. Mr. President, that is 35 below zero, not 35 above. This is in one of the continental 48 States.

Unfortunately, what compounds the problems is that of the people energy assistance is most aimed for—the elderly, the disabled—a disproportionate percentage of those people live in homes that are poorly insulated, poorly equipped to face this kind of weather. What we are trying to do through LIHEAP is not only improve the places where they live, but give the kind of energy assistance—the fuel—they need to keep warm in winter.

We are trying to find ways to insulate and to heat. The low income energy assistance programs has been extremely successful. I have gone around my own State and I have seen the work that has been done. I have seen in a number of areas where they have worked on these places, made homes secure from the cold. As a result of these efforts to insulate the homes of low income Vermonters the cost of the program have actually gone down because we have to pay less for heat.

But again these low-income households, unlike average households that spend about 4 percent of their disposable income on utility bills, while the average American family spends around 15 percent. And, we are talking about slashing it even more. In fact, if this cut is adopted, it will result in one of the largest percentage reductions for any program serving the poor since 1982. In fact, if you take this 32-percent trimming and add in last year's, that is a cut of about 43 percent.

Those are numbers, and we can bandy about the numbers, but, Mr. President, I am just wondering how many of us would be willing on one of those 30 below zero nights to go into these homes and say, "Well, we only cut your heat by 16 or 18 or 40 percent," especially in light of some of the cost overruns in programs that can afford high paid lobbyists, "But kept the cuts small enough so you won't freeze immediately. You can hold in there for an extra 2 or 3 hours."

I do not mean to be melodramatic, Mr. President, but as more and more among the disabled, the elderly, the poor, in our country get into the winter months, they are faced with a choice to heat or to eat. Now we are even removing that choice. The Senator from Connecticut is right.

I do not share any illusions that somehow we can come on the floor, appeal to the conscience of everybody and say let us go forward with this money, and suddenly come up with the 60 Senators necessary to cast the votes. I would hope that might happen. I would hope that we would realize in these times we still have a moral duty. But I would hope also that Senators understand what is happening here and understand this is not just numbers, that there are human consequences.

Mr. President, as I said, the Senator from Connecticut may not win on this, but I am proud to stand with him on it. He has done the right thing. He has shown a sense of responsibility to people who we can read about, who we may well know but whose difficulties we will never experience. And because we will never experience them, I hope that we do not prevent us from acting out of a sense of moral responsibility in this case.

I know how difficult it is for anybody on the Appropriations Committee—and maybe I am fortunate after a decade on that committee not to be a chairman of any subcommittee so I do not have to put these budgets together—to try to juggle the budgets with all the different demands that are forthcoming. The distinguished chairman of the subcommittee does a superb job with an enormous amount of heart and caring. I commend him for that.

In fact, it is a lot easier for me as one Senator to stand here and urge this amendment than if I had his responsibility as chairman. But I do feel so strongly about this, and because I know how much it involves the people of my own State and the people of my whole region as well as other parts of the Nation, I felt constrained on this issue to strongly support the Senator from Connecticut.

I yield the floor.

Mr. METZENBAUM. Mr. President, I too am very concerned about the proposed cut in LIHEAP funding for fiscal year 1988.

This important program helps millions of low-income families across the Nation to pay their utility bills.

With winter fast approaching, I believe that it would show a total lack of compassion for Congress to further cut the Low-Income Energy Assistance Program.

If we accept these cuts, we are turning our backs on this Nation's historical commitment to helping the poor and elderly afford a decent standard of living. That should certainly include heat for their homes.

Mr. President, funds for this program have steadily decreased, while inflation has driven home heating costs sky high.

Over the last 5 years, LIHEAP appropriations have decreased by 2 percent, while heating and cooling costs have risen by about 25 percent.

We face some tough choices in these times of budgetary restraint. But it makes no economic sense to cut this important program by one-third of last year's level.

Reduced heating assistance would most certainly lead to greater health care costs for the poor and elderly, and send more people out of their homes and into homeless shelters.

We pay the costs for these services.

With homelessness already on the rise in this country, we cannot afford this cut.

With increasing numbers of children and elderly living in poverty, we cannot afford this cut.

The LIHEAP program has been very successful in Ohio. But this proposed cut would reduce Ohio's allocation by almost $30 million from last year's level. This is unacceptable.

I urge my colleagues to support this amendment.

Mr. RIEGLE. Mr. President, I rise today in support of the Low Income Home Energy Assistance Program [LIHEAP].

The amendment I am supporting today would raise the Senate appropriation to that of the House level—$1.823. This amount is vital for the survival of the 6.8 million American households which depend on LIHEAP. Even at this level, LIHEAP funds reach only 34 percent of federally eligible households.

This program is critically important to all low-income Americans. In 1986, 287,000 Michigan households received this energy assistance. The Senate Committee on Appropriations has reduced the level of funding for LIHEAP to $1.237 billion, lower than the fiscal year 1980 level of $1.6 billion. This cut would mean the loss of this assistance for more than 100,000 Michigan households. The State of Michigan would lose a total of $32.2 million in LIHEAP funding for fiscal year 1988.

While funding for LIHEAP has decreased in recent years, energy costs have increased by at least 20 percent and are expected to rise another 5 percent for 1988.

This program provides meaningful assistance for many low-income Americans. As energy prices increase, the need for full LIHEAP appropriations becomes more important to these households, 39 percent of which include an elderly person. We have a responsibility to maintain this vital support.

Mr. KENNEDY. Mr. President, if we allow the current Senate appropriations numbers for the Low Income Home Energy Assistance Program to be enacted into law we will be condemning millions of Americans to having to choose between heat and food. Seven million households—about 21 million people—in this country receive home energy assistance. This assistance often means that a family can afford to both feed their children and heat their homes. Without this assistance they will have to make some impossible choices. Can we really ask our constituents to make this kind of choice?

If States choose to reduce participation in response to these cuts, then 2.3 million households will go without assistance. What is more likely, however, is that average household benefits will decrease by 32 percent. In my own State, this decrease in funding currently suggested in the Senate Appropriations bill will mean that almost 150,000 households will be colder and perhaps hungrier this winter.

These benefit decreases will have tragic effects. Most LIHEAP recipients currently spend 16 percent of their annual income on energy—the average citizen pays 4 percent. If these cuts are enacted then LIHEAP households will be forced to spend 21.5 percent of their income on energy. This amount would leave precious little for health care, clothing, food and shelter. It is not inconceivable that some households will become homeless when faced with this type of benefit cut.

I also want to ask the Senate to join me in a bipartisan effort to pay tribute to a great woman, Sister Pat Kelley, a sister in the Order of Sisters of the Incarnate Word. Sister Pat has provided friendship to the lonely, shelter to the homeless, and nourishment to the hungry. She worked tirelessly to help all those who could not help themselves and provided care to those who had none. On Sunday, September 27, Sister Pat was murdered in St. Louis, MO.

Sister Pat spent the last 6 months of her life working to insure that the Low Income Home Energy Assistance Program would receive full funding this year. She understood the desperate need for this program and the disastrous effects that any cut in funding could have on people in poverty. As a memorial to this inspirational woman, I ask my colleagues to vote yes on the Weicker amendment to restore the LIHEAP Program to its current services level of $1.8 billion. I can think of no better tribute to her determination, no better monument to her life.

Mr. D'AMATO. Mr. President, I rise today in support of the amendment by Senator WEICKER to restore funding for the Low Income Home Energy Assistance Program [LIHEAP]. The fiscal year 1988 Labor-HHS appropriations bill cuts funding for this program by 30 percent—from $1.822 billion in fiscal year 1987 to $1.237 billion for fiscal year 1988.

This program assists 6.8 million households, and, according to a study prepared for the National Association for State Community Services Programs, 39 percent of these households contain an elderly person, 14 percent contain a handicapped person, and LIHEAP households had an average income of $7,373 in 1984—$847 below the official poverty line.

In New York, LIHEAP provides benefits to approximately 1 million households each winter, averaging $243 per household. The reduction in the funding for this program which the bill currently proposes would have a devastating impact on these households.

The proposed 30 percent cut would mean a $73 million loss to New York. And since these dollars are directly provided to low-income households so that they can pay their fuel bills during the heating season, they would feel an immediate and direct impact.

If we cut this program, it means one of two things. Either we reduce the number of households served or we reduce the size of the benefits. In New York State, the practical result would be either a 30 percent across-the-board cut in benefits or the elimination of benefits to about 107,000 households, many of whom contain elderly recipients.

Mr. President, with energy prices on the rise, we simply cannot subject our Nation's poor, elderly, and handicapped to this type of cut. LIHEAP households already spend 14-15 percent of their incomes on energy costs, nearly four times the national average. We cannot stand here today and make an already difficult situation worse. I urge my colleagues to support Senator WEICKER's amendment.

Mr. MELCHER. Mr. President, I rise in support of the amendment offered by the Senator from Connecticut to restore funding for the Low-Income Home Energy Assistance Program.

As chairman of the Senate Special Committee on Aging, I am particularly concerned about the effect of this $585 million cut on the 2.7 million elderly households which depend on this assistance for help in paying their heating and cooling bills. If we don't restore this funding, it would result in a 43-percent reduction since 1986. This means that either households will lose an average of over $90, which is almost half of the average annual assistance they get now, or millions of households will be totally without help for their energy expenses.

Low-income elderly in Northern States are particularly susceptible to suffer from hypothermia because their homes are less likely to be insulated and weatherized. And in Southern States, elderly poor are less apt to have air-conditioning which increases their chances of having heat stroke. As 38 percent of all households that receive energy assistance contain an elderly member, the results could be devastating.

If my fellow Members are sincerely concerned about the plight of the needy elderly in their States, I urge their full support for restoration of these cuts.

Mr. President, I ask to be inserted in the RECORD the text of a letter which I sent to other members of the Aging Committee and a letter, signed by 12 members of the Senate Special Committee on Aging, which was sent to Senator STENNIS, Appropriations Committee chairman, and Senator HATFIELD, ranking minority member of the Appropriations Committee with copies to all other members of the Senate Appropriations Committee.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, October 13, 1987.

As a fellow member of the Senate Special Committee on Aging, I am writing to urge your full support for efforts to restore almost $600 million for the Low Income Home Energy Assistance Program (LIHEAP) in the Labor, Health and Human Service, and Education Appropriations bill.

Thirty-eight percent of the households now receiving energy assistance involve one or more elderly in that household. We must protect the low income elderly of northern climates so they can have adequate heat in the cold of winter and in southern climates, relief from summer heat. Older Americans are particularly vulnerable to hpyothermia in cold climates and heat stroke in warm climates and both could increase significantly if energy assistance were not available.

In hearings before our Committee this year, we have heard from low income senior citizens who do not have the money to pay for the medications they need so badly. They and millions of others are struggling to pay for their other health care needs as well as food and housing. To cut back energy assistance to the nearly 2.7 million elderly households who depend on it for help in paying heating and cooling bills would be a severe blow.

Even at the current 1987 level, LIHEAP is inadequate. Only 30 percent of persons eligible for the program actually receive benefits. These households are truly "low income" with an average income of $6,134 in 1985 and, even with energy assistance, they have to spend almost 15 percent of their merger income on energy costs.

We must maintain our commitment to our nation's elderly. Again, I urge your full and active support for restoration of these severe cuts to the LIHEAP program so badly needed by low-income senior citizens.

Best regards,
Sincerely,

JOHN MELCHER,
Chairman.

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, September 22, 1987.
Hon. JOHN C. STENNIS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR JOHN: As the Appropriations Committee meets to decide fiscal year 1988 spending levels for the Departments of Labor, Health and Human Services and Education, we want to express our concern that programs for the elderly be funded to maintain at least current service levels.

We are also particularly concerned about the Low Income Home Energy Assistance Program (LIHEAP) and urge restoration of subcommittee cuts to the full funding level of $2.132 billion. Elderly persons live in 38 percent of the households which receive energy assistance and they would be severely impacted by any funding reductions. The elderly in northern climates must have adequate heat in the cold of winter and in southern climates, relief from summer heat. Heat stroke and hypothermia can be a serious threat to our vulnerable elderly population.

Many members of low income elderly households are now finding it impossible to meet the basic needs of existence—food, housing and health care. To slash the already inadequate assistance they may get for their utility expenses would be a severe blow.

Funding for LIHEAP has decreased in recent years with the fiscal year 1987 appropriation of $1.823 billion being 2 percent lower than the 1981 appropriation, yet the same heating and cooling costs for this period have increased by at least 20 percent and another 5 percent escalation is predicted for 1988. Furthermore, only about 29 percent of eligible households actually receive any assistance which averages only $213 for an entire year. Surveys indicate that amount covers about 25 percent of a low-income household's total energy costs. These households then still have to spend almost 15 percent of their meager income to pay heating and cooling bills.

Congress must maintain its commitment to the LIHEAP program which is so critically needed by our nation's low income elderly. We urge appropriation of the full amount authorized, $2.132 billion.

Best regards,
Sincerely,
John Melcher, chairman; John Heinz, ranking member; John Glenn; David Pryor; Bill Bradley; Quentin Burdick; William Cohen; Larry Pressler; John Chafee; Dave Durenberger; John Breaux; and Richard Shelby.

Mr. HEINZ. Mr. President, the Low Income Home Energy Assistance Program [LIHEAP] is critically important to some 6.5 million poor households across the country. And yet we are in the difficult position of having to vote for a budget waiver to prevent program funds from being cut by $585 million, or nearly 33 percent.

This dilemma arises for several reasons. First, the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies [Labor/HHS] received a 302(b) allocation of $930 million less in budget outlays than its House counterpart. So, although, the Senate budget resolution assumes current services for LIHEAP—$1.823 billion—and the House appropriated that amount, the Senate Labor/HHS Appropriations Subcommittee was forced to consider deep spending cuts in all of the discretionary programs under its jurisdiction. LIHEAP, because of its high "spend-out" rate—91 percent—was targeted and hit.

Certainly, the 302(b) problem is partly responsible for our dilemma. But I would suggest our dilemma points to a larger, far more serious matter. The hard truth is that we in Congress are deluding ourselves if we think we can meet Gramm-Rudman targets—much less balance the budget—with further reductions in discretionary nondefense spending. As Peter G. Peterson points out in an important article entitled "The Morning After," published in the current issue of the Atlantic Monthly, we could eliminate all discretionary nondefense spending and still run a sizable budget deficit. Over the past few years, we have cut discretionary nondefense spending to 4.09 percent of GNP—its lowest level since 1961.

And so we have a Hobson's choice: we can vote for a budget waiver and be labeled "fiscally irresponsible" by our opponents. Or we can vote for the largest single reduction made in any low-income program in the last 6 fiscal years. A vote not to waive the Budget Act is a vote to cut LIHEAP not to the bone, but through the bone. Make no mistake: it's a vote to eviscerate the program; to turn off the lights, heat, and—I make this point to my Southern colleagues—air-conditioners of millions of poor households.

Diane DeVaul of the Northeast-Midwest Institute has authored a report entitled "Narrowing the Gap: The Energy Needs of the Poor and Federal Funding." She points out that in 1984, the last year for which exact figures are available, a gap of $3.6 billion existed between the energy costs of LIHEAP-eligible households and the amount actually made available. Estimates based on the U.S. Department of Health and Human Services data for fiscal year 1986 indicate that LIHEAP funds covered just 9.4 percent of the energy costs—for lights, hot water, cooking, and the like—of federally eligible poor households. LIHEAP defrayed under 20 percent of their basic heating and cooling costs.

Allow me to point out that LIHEAP is not some big, out-of-control Federal program. In 1985, Congress appropriated $2.1 billion for LIHEAP. In fiscal year 1986, the appropriation was reduced to $2.009 billion as a result of the 4.3 percent across-the-board cut mandated under Gramm-Rudman. Last year, Congress further reduced funding for the program, to $1.823 billion—an amount some $25 million less than the fiscal year 1981 appropriation. Addressing last year's funding reduction, House and Senate conferees to the Labor/HHS bill make clear that:

> . . . the amount agreed to for LIHEAP should not be construed as a decline either in support for the program or in the need for such assistance. Rather, it is reflective of the unusual circumstances which exist this year: lower energy prices in general and the availability of substantial oil overcharge funds to the states. (House Report 99-960, page 20)

Conditions of lower energy prices and the widespread availability of oil overcharge funds no longer prevail. Most of the oil overcharge funds were allocated to the States last year; additional allocations are likely to be inconsequential and spread over several years—I might add that a Federal court ruled that such funds were to be used to supplement, not supplant, energy assistance programs; the funds were not targeted specifically to the poor. More importantly, residential energy prices are on the rebound, with the cost of fuel oil, natural gas, and electricity all expected to increase this year and next.

Mr. President, a June 1986 study prepared for the National Association for State Community Services Program (NASCP study) demonstrated the persistent needs of LIHEAP recipients:

LIHEAP households had an average income of $7,373 in 1984—$847 below the official poverty line for a family of three.

LIHEAP provides modest but meaningful assistance to 6.8 million households, 39 percent of which contain an elderly person.

Fourteen percent of LIHEAP households contain a handicapped person.

LIHEAP households spend 14 to 15 percent of their income on energy costs—and some 40 percent of these costs are for basic heating and cooling—nearly four times the national average. In 1984, these costs totaled $942; the average LIHEAP benefit was $213.

LIHEAP funds reach only 34 percent of all federally eligible households.

Information I obtained today from the U.S. Department of Health and Human Services indicates that 52 percent of all LIHEAP-eligible families contain children under the age of 18.

So, Mr. President, as I mentioned earlier, we face a Hobson's choice. I urge my colleagues to support this amendment which maintains funding for this critically important program.

Mr. PELL. Mr. President, I am very pleased to join with my distinguished colleague, the senior Senator from Connecticut [Mr. WEICKER] in this bipartisan effort to restore funding for the Low Income Home Energy Assistance Program [LIHEAP] to the fiscal year 1987 funding level.

As presently reported to the Senate, appropriations in H.R. 3058, for low-income energy assistance total $1.237

billion—almost $585 million below LIHEAP allocations in fiscal year 1987 of $1.822 billion. Should this level of LIHEAP funding remain in the Senate bill, it is estimated by the Northeast-Midwest Institute that more than 2 million low-income and elderly households across the Nation could lose energy assistance during the critical winter heating season.

Specifically, in my State of Rhode Island, such draconian cuts in energy assistance programs would result in a loss of more than $4 million in funding this winter season with almost 9,200 households losing heating assistance at a most critical time.

Mr. President, I fully understand the difficulties faced by my distinguished colleagues on the Senate Subcommittee on Labor, Health and Human Services, Education and Related Agencies as they struggle to meet their funding targets for the fiscal year 1988 budget. I also recognize their deep commitment over the years in funding the critical energy needs of the elderly and low-income families through the Low Income Home Energy Assistance Program.

I am, however, deeply troubled by the deep cuts recommended in H.R. 3058 for fiscal year 1988. I also do not believe it fair to assume, as the administration has done in the past, that a major portion of oil overcharge funds will be channeled entirely to the Low Income Home Energy Assistance Program. These funds awarded to States from legal challenges, are based upon oil overcharges for statewide consumption of various fuels, not merely the overcharging of fuel oil to certain customers.

Mr. President, I am very keenly aware of the difficult choices faced by the members of the Senate Appropriations Committee. There are indeed many more promising and important programs than there are Federal dollars to fund them. The funding for the LIHEAP Program in fiscal year 1988, however is inadequate and a reversal of our commitment to provide for the basic human needs of our elderly and low-income families across the country. I strongly urge the Senate to support the effort by my distinguished colleague, Senator WEICKER to restore adequate funding for the LIHEAP program to meet the urgent needs of many families this winter.

Mr. STAFFORD. Mr. President, the Low Income Home Energy Assistance Program [LIHEAP] served 7 million households in fiscal year 1986 with an average benefit of $208, down $15 from fiscal year 1985. This means about 40 percent of the 17.6 million households eligible under the State-established standards received benefits equivalent to 23 percent of their residential energy expenditures.

Despite rumors to the contrary, most households have not benefited from the drop in world oil prices. While the 16 percent of low-income households using heating oil did get some small price break—albeit many months after the refineries and terminals benefited—the other 84 percent have not experienced any price drop. Indeed, indications are that electricity prices will continue to increase and that gas prices, once expected by DOE to stay level, may now rise higher than administration predictions as price controlled "old gas" disappears.

The poor continue to spend about 14 percent of their incomes on residential energy—more than twice as much as the average American household and a far higher proportion than they did 10 years ago. In fact, census figures recently distributed by the National Association for State Community Services Programs show that the average three-person LIHEAP household, after paying for food, housing, and energy, has $355 left per year for all other expenditures.

The LIHEAP Program represents a partial response to the very serious problem energy continues to pose for the poor.

The birth of energy assistance funding over a decade ago, was a direct result of Congress' view that it is intolerable if any American should face illness or death by virtue of hyperthermia or hypothermia. I would hope that my colleagues would continue this program at the adequate level of Senator WEICKER's amendment.

Mr. COHEN. Mr. President, I am very disturbed by the action of the Senate Appropriations Committee to cut the Low-Income Energy Assistance Program by 30 percent. I support Senator WEICKER's amendment to restore funding for this crucial program and I urge my colleagues to join our efforts to maintain the energy assistance which keeps many elderly and disadvantaged families with heat and electricity during our coldest and hottest months.

The funding reduction included in the Labor-HHS bill will have a devastating effect in Maine, where 30,000 households currently depend on the LIHEAP Program for help. Maine will lose $8 million from current levels, which will force the State to cut 19,000 households from the assistance rolls or reduce assistance to all 30,000. In Maine, the State will choose the latter rather than turn elderly citizens out into the snowy cold, but it means that, rather than receiving a payment of $400 for the winter, the poor and elderly will only get $150.

That amount will scarcely help out for 1 month's energy payments, let alone an entire winter. In Maine, our winter has already begun—we had temperatures in the teens over this past weekend—and it lasts until April in some years. What will $150 mean over a 7-month period?

In 1980, LIHEAP payments covered 40 percent of a household's energy payments. The fiscal year 1987 level of LIHEAP funding contributed to only 20 percent of energy costs. The Appropriations Committee action will reduce that amount to a pitiful 11 percent.

The committee states that its bill attempts to address some of the problems of the elderly—anxiety, illnesses, and financial hardship. The LIHEAP Program serves 6.8 million households, of which 40 percent include at least one elderly individual. In this context, I do not see how a 30-percent cut in the energy assistance payments helps address the problems of the elderly.

I believe the committee's action is a serious mistake that we should strive to correct, and I urge my fellow Senators to consider the seriousness of this funding reduction and join the effort to restore funding to the program.

Mr. LEVIN. Mr. President, I will vote to waive the Budget Act so that we can consider the Weicker amendment, which would provide funding at last year's level for low-income energy assistance. Adequate funding for this program is essential if we are to prevent the quality of life of low-income individuals from deteriorating. This amendment is important for low-income individuals nationwide, but it is particularly important for the low-income individuals in States like Michigan.

I recognize the need to reduce the budget deficit. It is a threat to our long-term economic health. I also recognize that the Weicker amendment would put this appropriation bill over budget, which is why we are considering a motion to waive the Budget Act. However, waiving the Budget Act on this particular amendment does not necessarily require an increase in the overall deficit. There are other appropriations bills to consider and there is still a revenue-raising measure to consider. When considering these measures we can adopt offsets for the additional funding which the Weicker amendment calls for and still stay within the overall budget ceiling.

Mr. BINGAMAN. Mr. President, I rise today in support of the amendment by my distinguished colleague from New Hampshire, Senator RUDMAN to restore funding to fiscal year 1987 for the Low-Income Home Energy Assistance Program [LIHEAP]. This program has helped provide vital heating and cooling assistance to nearly 7 million households in the United States. Elderly persons live in 38 percent of the households which receive energy assistance and they would be severely affected by any funding reductions. Many members of low-income elderly households are now finding it impossible to meet the basic needs of existence—food, housing, and health care. Further cuts would only worsen their situation.

Funding for LIHEAP has decreased since 1981, yet heating and cooling costs for this same period have increased by at least 20 percent and another 5 percent escalation is predicted for 1988.

The impact of the proposed cuts will be felt in my home State of New Mexico. The State stands to lose over $3 million in funding which will mean that approximately 16,000 households will lose heating assistance.

Already, only 29 percent of the eligible population is able to receive LIHEAP assistance, estimated to cover almost 25 percent of the total household energy costs. Energy costs are a very real problem for our poor who still spend over 15 percent of their annual income on fuel bills. Until 1987, LIHEAP paid just under 25 percent of these costs. Each 10 percent cut in program benefits costs each participant household an extra 0.5 percent of total household income.

I urge my colleagues to restore funding to this important program. We must not turn our backs on the poor and elderly of this country who deserve our support.

Mr. SARBANES. Mr. President, I am pleased to support the amendment offered by the Senator from Connecticut [Mr. WEICKER] to restore funds to the Low-Income Home Energy Assistance Program [LIHEAP]. The $585 million provided by this amendment will allow this program to continue at last year's level of $1.822 billion.

Congress authorized the Low-Income Home Energy Assistance Program at a time of unprecedented energy costs in order to help low-income individuals maintain an adequate level of heat in their homes to ensure their health and safety. In my view the times have not changed to warrant a reduction in this assistance. If this winter is as cold as last, there will be just as many households depending on assistance from LIHEAP to pay home energy costs during the coldest months of winter. In addition, after paying these expenses, the households depending on LIHEAP will have fewer dollars left to pay remaining expenses. Last year alone, in my own State of Maryland, 93,887 households received assistance with heating bills from the Low-Income Home Energy Assistance Program.

A recent Washington Post article discusses the extent to which the households in the Washington Metropolitan area who depend on this program will be effected by the proposed funding reduction. According to the article, official estimates show that the number of households receiving a one-time energy assistance payment could be reduced by 29,000 in Maryland, 13,000 in the District, and 37,000 in Virginia if funding for this program is decreased. In light of these estimates I find it quite disturbing that the Low-Income Energy Assistance Program may suffer such severe reductions.

All Americans are adversely affected by the higher costs of heating oil, but I am quite concerned that the impact is felt greatest by lower income citizens and elderly persons living on fixed inomes. If we don't continue to maintain adequate funding for this program, Mr. President, I am afraid that many households which rely on the LIHEAP Program may not be able to meet their energy expenses and consequently will go without heat. This program is effective and over the years has helped many families in need with energy bills. Senator WEICKER's amendment will provide adequate funding for the Low-Income Home Energy Assistance Program and I urge the Senate to approve it.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I thank the Chair. I will be brief.

I am going to vote against the proposal offered by the Senator from Connecticut. It will be the first time since I have been in the Senate that I will have voted against any amount of funding for low-income energy assistance. As a matter of fact, coincidentally, the Senator from Vermont, the Senator from Connecticut, and the Senator from New Hampshire on a number of occasions have in fact worked together to protect this and other programs. But we are now at a very interesting juncture. This debate shows in clear relief how we arrived to face this discussion about budget deficits.

I cannot disagree with anything—and I watched the remarks in my office—the Senator from Connecticut or the Senator from Vermont said concerning the need for funding. But the fact is that what we are talking about—let us put this in language the American people can understand—is a budget waiver for about $585 million. Let me put it differently. We are, if this becomes law, issuing an instruction to the Secretary of the Treasury to borrow another $585 million. Maybe he should. And that is what this body will decide. Maybe 60 people feel this is so critical that as matter of fact we ought to borrow that money. But the way we got to $2 trillion plus in debt is just exactly this way. I have done some of it myself. We are all guilty of it. We have essentially voted for needs of the country because it is easy to vote for needs. It is not so easy to vote for the revenue to pay for those needs. This could not happen in my State. I doubt it could happen in the State of Connecticut or probably in the State in which the Presiding Officer was once the Governor not so long ago. In those States you have to raise the necessary revenue because there cannot be an imbalance in your budget. If you want to spend it, you have to raise it. But we have found the magic of all politics here in the Congress. We spend it and nobody pays for it except, of course, this year we will spend almost $150 billion for interest, the third largest item in the Federal budget, and most economists say if we continue to spend this way, we are eventually going to destroy this economy.

Nobody has fought harder for low-income energy assistance than this Senator, and it pains me to vote against this budget waiver. I guarantee a lot of people in my State are going to be very unhappy with this vote, but I am going to have to tell them that when it comes to raising spending without raising the revenue for it, I will not vote for it anymore. Whether it be for low-income energy assistance or defense or whatever, I am finished voting for items if we are not going to pay for them. It is that simple. I made that decision back in 1985.

Now, I may offer my own amendment, depending on how this one is disposed of. If this one passes, that is the end of it. But for Members who are watching, let me make a couple of observations.

I am going to offer an amendment to cut discretionary programs in the Labor-HHS appropriations across the board by 1.94 percent in order to raise another $400 million as opposed to the nearly $600 million that the Senator from Connecticut has proposed. But let me point out that after that cut takes place, if my amendment were successful, it is not all that bad.

For instance, AIDS funding would be increased from $478 million to $928 million, after the cut I propose. That would be a 94-percent increase. Probably not enough; it is a terrible problem as was discussed this morning, but it is still a pretty good increase compared to a 32-percent cut for low income energy assistance.

NIH funding—and I am a strong supporter of NIH—would be up $553 million, after my 1.9 percent across-the-board cut.

Total funding for the Department of Education would be increased $1.38 billion, a 7-percent increase; chapter I education would still receive an 11-percent increase. What I am saying is that the across-the-board cut that I would propose would still leave increases in place for many programs. I guess that is a long way of saying that I am not completely happy with the way that the subcommittee finally allocated the money that was given to it. But we voted on it. And the subcommittee chairman had the votes. That is what this place is all about. And here we are.

I will make an observation. I am sure that I will get the ire of several Senators by saying it, but when we were granted additional allocations by the Budget Committee, I think my figure is correct, about $500 million, it was directed to HUD to allow for a space station and we still cut low-income assistance by the amount we did. It occurred to me that we care more about exploring space than freezing senior citizens. That is what priorities are reflected in our appropriations bills.

So I am going to vote against the waiver, I am going to say to the Senator from Connecticut that I do it with some reluctance and sadness. The fact of the matter is I am not going to vote for anything that mandates the Secretary of the Treasury to go out in the financial markets and borrow another $600 million or in some other program $200 million. That is precisely, Mr. President, where we are. It is time to pay as you go even if it means voting against low-income energy assistance by a Senator from New Hampshire.

I thank the Chair.

Mr. CHILES. Mr. President, I will try to be brief. We have been on this amendment 50 minutes now. I think we have had a long discussion. This amendment will add $585 million in spending authority and $532 million in outlays to our bill. That puts our bill substantially over our budget allocation and makes it subject to a point of order. As the Senator from Connecticut has well pointed out throughout the committee process, we have attempted to meet the many priorities that have been expressed to us. I believe basically we have done that. I wish we could have done more on the Energy Assistance Program. This is the one program, however, that I believe has an option that the other programs do not have.

Since 1988 the States have received $3.3 billion from oil overcharge settlements. That is money that can be used for low-income home energy assistance. It has been argued that the States have already spent that overcharge money. Yet as of August 28 States have submitted plans covering only $681 million. It appears that $1.4 billion is still unspent of the 1986 Exxon settlement alone, and a total of more than $2 billion is unspent overall. The administration estimates that the States will receive more than $1 billion in additional oil overcharge funds by 1988. Mr. President, that is $1 billion more that will be coming to the States. Even though the funds from these settlements were not intended to replace Federal appropriations, severe fiscal restraints make it reasonable to expect States to temporarily help share the cost of low-income home energy assistance programs.

This program was started in the late seventies at $200 million as an emergency response to the skyrocketing energy price shocks. It was not originally intended to be a permanent program. The basic welfare assistance grants include resources to compensate for home energy costs. Each year the States themselves divert more than $100 million from the low-income home energy appropriations for other purposes such as health block grants, and while this is allowed by law, it does indicate that the States view other needs in many instances as a higher priority than low-income energy assistance. All States do not do that. The Senator from Connecticut pointed out that his State is using all the funds available for home energy assistance. But this does not happen in many other States.

If this amendment is adopted, then the Senator from New Hampshire said he is going to offer an amendment. I will have to look at his. But I knew I was going to be forced as chairman of the subcommittee to require an across the board 2.8 percent cut to provide this kind of money because at least the Senate should have an opportunity to vote to keep this bill within its allocation. I have to see they have an opportunity just as the Senator from Connecticut has to see that they have an opportunity to vote on the budget waiver. I am going to try to do my job as the subcommittee chairman to see that we stay within our allocation. I fought along with the Senator from Connecticut in the Appropriations Committee for a higher allocation for our subcommittee. Originally under one plan we were going to be cut $1.5 billion in outlays. We had a series of about 14 votes. Finally, we ended up where we were cut $300 million in outlays. That is money that of course we had to look at and determine where it would come from.

But that is part of the problem that we have when we are not willing to pay for the money that we are borrowing. We have to try to find places that we can squeeze. We have to hold these bills down. Certainly, as chairman of the Budget Committee, I am not going to have my subcommittee bill waive the Budget Act and go out of here over my allocation if I can do anything about it.

So I will just put the Senate on notice. We will have an amendment if the waiver goes through. We will have an amendment to cut across the board and maybe that is the way it should be done. We had to try to prioritize. That is what we tried to do. I tried to look at the fact that there was some of this oil overcharge money out there for other things. And an across-the-board cut I hate to do. It will essentially reverse and undo many of the program enhancements that we have so far accomplished. It will not permit us to fully fund the authorized level of important programs that I care about and the Senate cares about like maternal child health, immunization programs, developmental disabilities, Head Start, drug-free schools, and community and migrant health centers. Those were all that we tried to fully fund or fund up to the authorized level.

(Mr. DASCHLE assumed the chair.)

It is going to result in a cut in biomedical research. It is going to eliminate some project grants. I do not like to see that happen. Everybody hates to see that happen. The budget resolution called for an increase in the Department of Education. That was something for which we had even some amendment on the floor. We met that mark. But if we have this 2.8 percent cut, it is going to eliminate close to one-third of that increase.

About $125 million will be cut from chapter I educational services for disadvantaged youth. That is going to eliminate 165,000 low-income students from the program. I guess the point I am trying to make to the Senate is there is no free way of doing this. That is the dilemma that brought us here to this amendment. We had to face in the committee how we were going to provide funds that many, many Members want and the Senator from Florida would like to see for the home energy program because it also covers some benefits for heat. If we think cold is bad, and it is terrible, we have more people in this country dying from the heat than we had from cold. We had those terrible things happen in my State too.

I guess what it boils down to is the need to get our fiscal house in order. Then we can sort of set priorities. Right now we are staving off the fire sale all the time because we know we keep borrowing this money. We keep adding to the debt. That adds to the interest rate. Who gets hurt by the interest rates that are high? Those are the same people we are talking about trying to help with this program. They are the ones who have the tough time trying to pay those bills.

It makes me realize more that those things that we require as being absolutely necessary we ought to require we fund and we pay for, and that we do not just keep borrowing money for it. But that is the place we find ourselves. The bill provides about level funding for impact aid. That 2.8 percent cut is going to impose some real cuts in impact aid, especially to those districts that have seen their payments decline in recent years.

Well, where do we come down on balance? It was our view that the needs of the low-income home energy assistance program could be met by the States that have this $3 billion in oil overcharge funds. We feel that the Governors of our States and the elected officials of our States should be applying those funds to the needs of low-income energy assistance.

I do not want to offer the 2.8 percent across-the-board cut to the bill, but I really have no alternative but to do that if the Weicker amendment is agreed to.

Then, maybe the Senate will not vote for that. If the Senate decides, in its wisdom, not to, then we will do as the Senator from New Hampshire said—the Secretary of the Treasury will borrow that much additional money, and we will crank up the deficit that much more. But the Senate will have to make those decisions: first, on the waiver, and then on an amendment as to whether to cut across the board.

Maybe we have set the priorities wrong, I say to the Senator from New Hampshire. We do not have the wisdom of Solomon in that. We were put in that position, how we were going to divide the baby, so to speak, and we set it one way.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. CHILES. I yield.

Mr. WEICKER. Would not the Senator agree that I have the unusual burden on me of getting 60 votes, not a simple majority? Again, the Budget Act contemplates that I should have that burden. If I meet that burden, why would this entail an offset? That is not in the cards, unless the Senator wants it in the cards.

Mr. CHILES. If the Senator gets 60 votes, he needs only 51 votes to defeat the Senator from Florida if he makes his across-the-board cuts.

The Senator feels duty bound—and I appreciate his feeling—that this is an amendment that has to be offered and voted on, and the Senate has to face up to it. I hope he will appreciate that the Senator from Florida also feels duty-bound to have the amendment out of the subcommittee, which he chairs, comply with its 302 feature. That, again, is part of this Budget Act.

I cannot think of anything that would be more hypocritical to do than if I come here and preach budget to everyone and allow the budget to be waived in my committee without attempting to do something about it.

The Senate will make that decision. I know how I will vote, but I do not know how any other Senator will vote. There might be a 60 vote on the waiver, and that is their view, and they do not care about anything else.

Mr. President, I raise the 302(f) point of order against the Weicker amendment.

Mr. WEICKER. Mr. President, I move to waive section 302(f) of the Budget Act, pursuant to section 904 of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there debate on the motion? If not, the question is on agreeing to the motion to waive. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. SIMPSON. I further announce that the Senator from Kansas [Mrs. KASSEBAUM], is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—47

Adams
Biden
Bradley
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
D'Amato
Dodd
Durenberger
Fowler
Glenn
Grassley
Harkin
Hatch
Hatfield
Heinz
Inouye
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Pressler
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Specter
Stafford
Stevens
Weicker
Wilson

NAYS—50

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Chiles
Cochran
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Garn
Graham
Gramm
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Kasten
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Proxmire
Pryor
Quayle
Reid
Rudman
Shelby
Simpson
Stennis
Symms
Thurmond
Trible
Wallop
Warner
Wirth

NOT VOTING—3

Gore
Kassebaum
Simon

So the motion to waive section 302(f) of the Budget Act was not agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The amendment would cause the subcommittee to exceed its allocation under section 302(b) of the Budget Act. It violates section 302(f) of the act. The point of order is justified and the amendment fails.

Mr. WEICKER. Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, both managers have indicated their willingness and their desire to press on. I would suggest that Senators count on the efforts to complete this bill today. If Senators have amendments, it is best they call them up.

Mr. PRYOR. Mr. President, does the majority leader have the floor?

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to request that the managers at this time, if possible, maybe give us an idea of how many amendments, with the idea that if we cannot finish this bill tonight maybe we could lay down amendments and stack some votes tomorrow.

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order. Senators will cease audible conversation.

Mr. BYRD. Mr. President, I hope that Senators will not proceed on the theory that we cannot finish this bill tonight. I see no reason at this point why we cannot finish it and I hope we will. Will the distinguished Senator yield to me?

The PRESIDING OFFICER. Will the majority leader suspend for just a moment? The Senate is not in order. The majority leader deserves to be heard. Senators will cease audible conversation.

The majority leader.

Mr. BYRD. Will the Senator yield?

Mr. PRYOR. I would be glad to yield.

Mr. BYRD. Mr. President, would Senators on both sides indicate by a show of hands if they have amendments to this bill?

Senator EVANS has one. Senator RUDMAN has one. Senator WILSON has one. Senator HUMPHREY, I believe, has one.

It is my understanding that the managers know about these amendments. Could they indicate whether or not it is going to take long on these amendments?

Mr. CHILES. I do not know of any of them that are going to take very long, the ones we know about.

Mr. BYRD. Am I correct that the distinguished Senator from New Hampshire's amendment is relative to across-the-board cuts?

Mr. RUDMAN. If the majority leader will yield.

Mr. BYRD. The Senator from Arkansas has the floor.

Mr. RUDMAN. Will the Senator from Arkansas yield?

Mr. PRYOR. I am glad to yield.

Mr. RUDMAN. I have an amendment which I would like to offer which essentially accomplishes what the Senator from Connecticut wanted to accomplish but does it by an across-the-board cut; that is, by 1.94 percent, and restores part of the energy assistance money. I thought we could debate that very briefly, I would hope. That is the way the Budget Act is written. That is an offset. Either vote it up or down. It should not take long to talk about it, unless somebody should have a problem with that and want to talk about it at great length.

Mr. EVANS. Will the Senator from Arkansas yield?

Mr. PRYOR. I am glad to yield.

Mr. EVANS. I have an amendment which has been cleared on both sides. It will not require a vote. It will take a very brief time. I am ready to go at any point to get it done.

Mr. WEICKER. Would the distinguished Senator from Arkansas yield?

Mr. PRYOR. I will be glad to yield.

Mr. WEICKER. I would have to respond to my distinguished colleague from New Hampshire that if his amendment is in the nature of raiding the various unfortunate people in this land in order to get money for low-income energy assistance, that was not the proposal of the Senator from Connecticut. So I want to disassociate myself, in the first instance, from that comment.

I would suspect that will take a little bit of debate, so when everybody understands that when we vote across-the-board cuts such as have been proposed of 2 percent, that this requires some explaining before the vote came to pass.

So, in no way is it a matter of just a few minutes. Obviously, every Senator wants to know what happens in terms of education, science, health, the retarded, the disabled, et cetera, as a result of that kind of an amendment.

I am getting tired also, I might add, of hearing of efforts targeting the AIDS money in the bill. I know it is a large amount of money. There is a 94 percent increase for AIDS.

I did not invent this deal. The figures in the bill are far below that suggested by the National Academy of Science and the National Institute of Medicine. If we have gotten to the point where we are going ahead, as I said, I am tired of talking about the subject. I am tired of those who have amendments as to moralizing on it. I am tired of Senators saying go ahead and take the money out of AIDS, they have some money—I am sorry about that. But the emergency was placed upon us and that is exactly why Gramm-Rudman-Hollings, whatever you want to call it, is ridiculous legislation. It does not take into account the fact that the world changes around us. The world changes drastically——

Mr. RUDMAN. Will the Senator yield?

Mr. WEICKER. No, I will not. I will yield to my good friend in a minute. But all of a sudden we are confronted with emergencies and what are we supposed to do about it? Say we are operating under Gramm-Rudman-Hollings versions 1, 2, 3, 4, or whatever version have you?

You know as well as I do where the money is but most of the cosponsors of your legislation are not willing to do it. Raise taxes? Yes, I think we ought to raise taxes.

I could not even get an additional $10 million for AIDS. I won by two votes in the committee the necessary money for the research facilities at NIH on AIDS. That was $20 million.

Does anybody want to go ahead and raise taxes? I will vote to go ahead and raise taxes to supply both low-income energy assistance and whatever is required for research? Are we going to get it from the Defense Department, $200 million to be devoted strictly to military personnel and their health care? I tried to do that on the floor of the Senate. We could not even get an affirmative vote on that.

Now we found a new pot. Those that have no voice in the politics of this country.

Indeed, not only do those that suffer from AIDS have no voice in the political sense, they are not going to have a voice, period, in a matter of months for most of them that are suffering from the disease. So there is a good pot to go to.

But what about the future? I happen to be a great friend, personal and political, of the distinguished Senator from New Hampshire and if he had not raised it, the Senator from Florida intimated he was going to go ahead and raise it. You go ahead and raise it, gentlemen, and I am going to tell you we are going to have a grand time on this floor and we are going to go line by line by line on this budget that is totally skewed because of no revenues and because of excessive defense spending. When it comes to the pittance that is left for the unfortunate of this Nation, that is not going to take a few minutes.

Why do we not just give up on the whole business of AIDS? You are right, there is $1 billion there in terms of education and in terms of research.

Well, I know only one way to fight it and that is the way that is best described in this budget. If that is where everybody wants to take the money from, fine. This is a free body. I am not going to filibuster. You all stand up there and make known your priorities.

But is seems to me that this particular appropriations bill can be the Senate's finest hour. We spend 95 percent of our time arguing about Graham-Rudman-Hollings, about the Budget Act, and about the defense budget. And that is about 95 percent of our time.

I am sorry about that. We have been on the floor for a matter of a few hours on education; on science; on health; on the disabled; on the retarded. And they are crowding us.

These people are crowding us. They are the ones that have created the deficits.

You know as well as I do they have not created the deficits. You created the deficit because somehow or other defense spending is not spending, and nobody has the guts to go ahead and vote the taxes. Defense spending is what has put us in this hole. The lack of courage; to go live up to a campaign slogan: I will never raise taxes; I will never raise taxes; I will never raise taxes: I will never raise taxes. Even though we have an AIDS epidemic on our hands. Come on.

But let us just do a 2-percent cut. Let us nick. Let us nick the rest of these people. I just would suggest to you my only problem is not the fact that every one of us does not have a right to go ahead and propose our amendments, but to indicate this will only take a few minutes. Knowing the way this body thinks, that is the way they would like to have it, but there is nobody going to go sneaking off in the night on this. They are going to know exactly what happens.

Mr. RUDMAN. Will the Senator yield the floor for 1 minute? I have not even offered the amendment yet and I notice the response I got. I am almost afraid to offer the amendment out of concern for the health and tranquility of my good friend from Connecticut.

Mr. PRYOR. If I might suggest we might put the Senator from Connecticut down as undecided.

Mr. RUDMAN. But I just want to say to my friend from Connecticut, I think one of the most absurd things facing this Nation is that the third largest item in this year's budget, greater than for AIDS, education, health, for everything, is interest: $150 billion. And we are talking about doing something else here today to cause the Secretary of the Treasury to go out and borrow more money and we will pay more interest.

I want to simply say I hesitate offering this amendment. But the fact is I want to say to my friend from Connecticut, and I would like to pose a question with the forebearance and indulgence of my friend from Arkansas which might save us some time.

Putting AIDS aside, am I not correct that some of the major programs within this bill, like NIH and education, are getting fairly substantial increases? Is that not correct?

Mr. WEICKER. That is not correct.

Mr. RUDMAN. That is not correct?

Mr. WEICKER. That is not correct.

Mr. RUDMAN. Let me just ask a specific question. Am I incorrect that NIH under this bill increases over last year by $685 million? That is the number I got from the subcommittee.

Mr. WEICKER. The answer to the distinguished Senator from New Hampshire is that under the current Senate proposal, fewer grants will be funded. Fewer grants will be funded for research in cancer, diabetes, heart disease, neurological disorders, et cetera; child health, arthritis, aging—than Congress has funded in 1987. The world is not standing still, Senator. Inflation is there.

Mr. RUDMAN. In other words, a half-billion dollar increase is insignificant? A half billion? That would run the State of New Hampshire's budget for 3 years. We are talking about an additional half-billion dollars. That is not a cut where I come from.

Mr. WEICKER. Senator, there is only one part of this budget that gets a real growth, increase, and you know what that is. It is defense. It gets the raise and I am telling you that you have got fewer grants, you have fewer grants just as—I ask for the regular order.

The PRESIDING OFFICER. The Senator from Arkansas retains the floor.

Mr. RUDMAN. If the Senator would yield for 1 minute? I want to ask the Senator for 1 minute.

Mr. PRYOR. I will yield for one moment.

Mr. RUDMAN. I ask the Senator a simple question. It was my intention to offer this amendment. But it is also my intention to try to preserve the quality of life and sanity of this Chamber of which there has been little lately.

Is the Senator from Connecticut advising me if this amendment is offered we will be on it for a matter of hours?

Mr. WEICKER. No, the Senator is not advising you that at all. The Senator from New Hampshire is the one who said it would take a few minutes. It is a rather meaty subject to take just a few minutes, does the Senator agree?

Mr. RUDMAN. I reserve my rights. Whether I offer the amendment or not remains to be seen.

Mr. GRAMM. Would the distinguished Senator from Arkansas yield very briefly?

Mr. PRYOR. I yield 2 minutes to the Senator from Texas.

Mr. GRAMM. First of all, I thank the distinguished Senator for yielding. Lest anybody be confused, let me set the facts straight. In this appropriation bill, total budget resources for Labor-HHS are up by 8.2 percent. The projected defense budget resources for this year are down 0.7 percent.

So, to say that we are increasing defense spending and we are cutting Labor-HHS simply is not factual.

Second, it seems to me that the distinguished Senator is very willing to spend money and increase the deficit, but when the distinguished Senator from New Hampshire attempts to offset the increase and take the money from somewhere else, it is somehow an outrage. The distinguished Senator from Connecticut says, "You want to take the money from the poor, unfortunate people of this country."

Where do you think we are taking the money from for every program we spend money on? From the people who do the work, who pull the wagon, who pay the taxes, who do not have 200,000 people demonstrating out in front of the Supreme Court because they are back home working to pay for these programs.

If you want something, you should be willing to pay for it. That is what the distinguished Senator is talking about.

Quite frankly, I am for his amendment. It seems to me his position is legitimate.

But to say we will just waive the Budget Act, forget about the deficit and the future of the economy is simply not an acceptable position. It was rejected by this body and I supported that rejection.

Mr. WEICKER. If I may make one 30-second response?

Mr. PRYOR. I yield 30 seconds.

Mr. WEICKER. Here are the magic figures being discussed, lumping the discretionary and mandatory together. What the Senator from New Hampshire is after is the discretionary. The answer is no, there has not been an 8 or 9 percent increase in the discretionary. Let us understand where the figures are and not just float out a figure of 8 or 9 percent increase. There is a small increase, not even equal to that of inflation, insofar as the total Labor-HHS discretionary budget is concerned. And, Senator, there are two parts of the budget.

Mr. PRYOR. Mr. President, I am about to yield the floor. I almost feel like I owe an apology to my colleagues. I merely asked a few moments ago to get an idea of what amendments may be offered so we may get an idea of when we might get out of here tonight. I think now I know less than I did when I asked the question 30 minutes ago. But I have enjoyed the exercise. I yield the foor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 966

(Purpose: To provide that $500,000 appropriated for the income contingent loan demonstration program of the Department of Education be available for the National Academy of Sciences study pursuant to section 1341 of the Higher Education Amendment of 1986)

Mr. EVANS. Mr. President, in an effort to take one small step for mankind, and I wish to note that Neil Armstrong is the person who stated that, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. EVANS) proposes an amendment numbered 966.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, line 25, strike out, "5,837,598,000" and insert in lieu thereof, "5,837,098,000".

On page 61, between lines 18 and 19, insert the following:

"For carrying out section 1341 of the Higher Education Amendments of 1986, relating to a National Academy of Sciences study on the use of volunteers in the classroom, $500,000 shall remain available until expended.".

Mr. EVANS. This amendment, I believe, has been cleared on both sides. Last year during the consideration of the Higher Education Amendments of 1986, the Senate approved my amendment calling for a comprehensive study of volunteers in our Nation's primary and secondary classrooms. It was approved in the conference report and signed by the President in October. It requires the Department of Education to make the study. They have so far refused to fund and do so.

This amendment does not take any money except that it sets aside $500,000 for this study from the amount appropriated for the income contingent direct loan demonstration program within the student financial assistance account.

Mr. President, this is a last resort effort. We have tried everything with the Department of Education. We have had no success. I urge adoption of this amendment.

Mr. CHILES. Mr. President, this amendment will shift $500,000 from the funds provided for the income contingent loan program to fund the study of volunteers in the classroom which was authorized in last year's higher education amendments. I know the Senator from Washington worked hard to have this study authorized and has now crafted the amendment to offset its costs. I am happy to support it and I understand Senator WEICKER also has no objection to it. I urge adoption of the amendment.

Mr. WEICKER. I support the amendment of the Senator from Washington.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 966) was agreed to.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 967

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. Humphrey) proposed an amendment numbered 967.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new section in the appropriate place:

"SEC. .

"The Secretary of Health and Human Services shall:

"(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy; and

"(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy."

Mr. HUMPHREY. Mr. President, I will say first that the amendment has been accepted by the floor managers.

The amendment does two things: it requires the Secretary of HHS to write a report to Congress within 90 days of the close of fiscal year 1988 reporting on violations of the Department's travel policy that occurred during the same fiscal year. This is a one-time, 1-year requirement.

The second provision requires that personnel found by the report to be in violation of the Department's travel policy shall reimburse the Department for funds spent in violation of the policy.

Mr. President, over the years, the Department of HHS has compiled probably the worst record of abuse of its travel policy of any department in the Government, at least to the extent that this Senator is aware.

Just last April, a nominee for Assistant Secretary for Human Development Services was found to have taken an unusual number of trips which happened to coincide with the time and place of her son's college football games. Thorough investigation by the inspector general's office made at the request of this Senator determined that the nominee's staff had solicited these trips so as to coincide with the games of her son's college. Indeed, the inspector general found that on five of these trips no Government business whatever was conducted.

As a result of this report of the inspector general, the nomination was withdrawn, but get this: the Secretary then named the person to Special Assistant to the Secretary, a position that did not require confirmation.

What a very poor example the Secretary set in failing to properly hold accountable this person who cheated the taxpayers in violation of the Department's travel policies.

This is not the first instance that has made a splash in the news. In 1985, the Deputy Assistant Secretary for Population Affairs was investigated for taking at least 14 trips in violation of travel policy, interestingly one trip to see her son who is a star lineman for a professional football team play in a game. She resigned following these disclosures.

The former Department of Health and Human Services' Civil Rights Director resigned her post last March after inquiries into a number of suspect activities on her part, including 126 trips to 38 cities and 9 foreign countries at a cost of $87,000. The FBI was asked in August of this year to investigate such travel after a GAO investigation found suspicious travel voucher claims.

The same person was subsequently named Special Assistant to the Secretary.

It seems down at HHS if you flagrantly violate the Department travel policy, setting horrendous examples for your staff, and it comes to the attention of the public, you get appointed Special Assistant to the Secretary which insulates you from any accountability. I think that is a situation that needs to be corrected, Mr. President.

Mr. President, that is the point of this amendment. I have discussed it with the floor managers and I hope they are prepared to accept it.

The PRESIDING OFFICER. Is there further debate?

Mr. CHILES. Mr. President, we have looked at this amendment and it seems to be a reasonable approach. It does require that people in violation shall reimburse the department for the funds. It does give them a period of time in which to do that.

I would suggest it be accepted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 967) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 968

(Purpose: To provide funds for demonstration grants for health care services in the home for those individuals who are suffering from a catastrophic illness)

Mr. WEICKER. Mr. President, I send an amendment to the desk on behalf of Senator Hatch and Senator Bradley.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Connecticut (Mr. WEICKER), for Mr. HATCH, for himself, and Mr. BRADLEY, proposes an amendment numbered 968.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, insert between lines 5 and 6 the following:

"For carrying out subpart 2 of part A of title XIX of the Public Health Service Act as contained in the Senate Amendment to H.R. 1451, $5,000,000 is to be available June 1, 1988.".

On page 80, line 3, strike out "22,600,000" and insert in lieu thereof "$23,600,000".

Mr. WEICKER. As I understand it, this is an amendment that has been cleared by the distinguished chairman of the committee. It provided $5 million in new appropriations for demonstration grants for the provision of health care services in the home. Funds will be available after June 1, 1988, because of a delay in promulgating regulations in grant announcements. The authorization for this provision was approved by the Senate as an amendment to H.R. 1471 as currently pending in conference. It requires a reduction in outlays of $1 million for the Department of Health and Human Services, Department of Education, and Department of Labor travel budgets.

Mr. HATCH. Mr. President, I rise today to offer an amendment with Senator BRADLEY to provide $5 million for efforts to expand health care services in the home. This money shall be available for a program we in the Senate approved on August 6. This is a new subpart 2 of part A of title XIX of the Public Health Services Act.

I thank my colleagues who have supported this effort in the past, in particular Mr. INOUYE, Mr. BRADLEY, and Mr. GARN. Getting this money for Health Care Services in the home, with a priority for our Nation's senior citizens, will enable us to protect our ill. It will continue the efforts of this honorable body to realize the vision of revitalized medical care for our Nation's citizens who want health care services in the home.

Many of you are well aware of my strong beliefs on this issue. And I believe with our actions, we can achieve many common goals. As one syndicated columnist recently penned concerning the mix between Government and medicine, "The problem is not whether health care costs appear on the Government or private side of the national ledger. The problem is how to get ourselves the best care at the least cost." Today we will get the best of both—good care at affordable prices by affirming our support of expanded availability of health care services in the home through this funding.

While we are currently in conference on the specifics of the authorizing legislation, I cannot describe precisely how the program will operate. But we in the Senate approved authorization to use these funds for State grants to provide health care services to people with catastrophic or chronic illness who can be cared for in their own homes. A maximum of $2,500 can be spent on each person. The money would be used to demonstrate which effective care can be provided. And I am more than ever committed to see this program become a reality.

The offsets I have identified in this amendment would require a reduction in travel expenses by $1 million from the Department of Health and Human Services, the Department of Education, and the Department of Labor.

In conclusion, I urge my colleagues to support this amendment and if adopted fight for it in conference. It provides a glimmer of hope for thousands who should not suffer alone.

Mr. WEICKER. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Connecticut.

The amendment (No. 968) was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 969

(Purpose: To require a report on the status of certain mine safety and health regulations relating to self-contained self-rescue devices)

Mr. WEICKER. Mr. President, I propose an amendment on behalf of Senator HATCH and Senator KENNEDY. I send it to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Connecticut, (Mr. WEICKER) for Mr. HATCH, for himself, Mr. KENNEDY, and Mr. METZENBAUM, proposes an amendment numbered 969.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 17, before the period, insert a colon and the following: *"Provided further,* That the Secretary of Labor shall submit to Congress not later than February 29, 1988, a report on the status of, and the timetable for, issuance of final regulations concerning self-contained self-rescue devices; safety standards for underground coal mine ventilation; safety standards for roof control; standards for diesel-powered equipment in underground coal mines; and safety standards for electricity, explosives and blasting in underground mines."

Mr. WEICKER. Mr. President, this requires the Secretary of Labor to issue a report by February 29, 1988, on the status of several Mine Safety and Health Administration regulatory proposals. The amendment allows Congress to stay directly involved in the oversight of the Mine Safety and Health Administration.

Mr. HATCH. Mr. President, the amendment I am offering will help the Committee on Labor and Human Resources accomplish one of its most important goals for this session—preserving the safety and health of the American miner.

Beginning last year, when I was chairman of the committee, and continuing this year under the leadership of the Senator from Massachusetts, Mr. KENNEDY, the committee has held a series of oversight hearings on the Mine Safety and Health Administration [MSHA], in general, and the Wilberg mine disaster, in particular. The hearings revealed an alarming number of problems with the agency and raised serious questions about its policies and management.

One of the key areas of concern was MSHA's repeated failure to act on a variety of proposed regulations, including those involving hands-on training with self-contained self-rescue devices, roof control standards, ventilation standards, and the use of diesel equipment underground. As I understand, work is also underway on standards concerning electricity, explosives, and blasting in underground coal mines.

While the Department is working on each of these proposals, the process is by no means complete. We cannot afford to let this process slow down. Put more directly, we cannot afford to let MSHA revert to its past practices.

The purpose of the amendment is to require the Department of Labor to report to Congress by February 29, 1988, on the status of these regulatory proposals. This report will provide us with sufficient time next year to judge how the Department is doing and to decide whether further congressional action is necessary.

I believe this amendment is particularly important given the recent departure of Allan McMillan as the acting head of MSHA and the expected resignation of Secretary Brock. The amendment will help to make sure that action on these regulatory issues is not overlooked or forgotten amidst the confusion that always surrounds a change in command.

I hope my colleagues will join me in supporting this amendment.

Mr. KENNEDY. Mr. President, I commend the Senator from Utah for this amendment.

I chaired oversight hearings of the Mine Safety and Health Administration in March of this year which demonstrated that there were serious problems at the agency.

One of the most glaring problems was the fact that safety regulations which had been proposed by the agency's best experts were being rewritten to conform with the recommendations of the coal industry. As such, they afforded far less protection to miners.

The standards that were being watered down included those dealing with roof control, ventilation, electrical, and explosives and blasting.

This was a violation of the Mine Safety and Health Act which forbids any reduction in health and safety standards. And in instance after instance, lives were being lost because regulations were not tough enough.

A few weeks later, Senator HATCH chaired a hearing on the Wilberg mine disaster which demonstrated that the tragic loss of life in Wilberg might have been prevented if certain safety regulations had been more specific.

As a result of these hearings, acting Assistant Secretary Alan McMillan took action to remedy the situation and so I understand that things are moving along in a proper direction. But I think this amendment will help make sure that the safety regulations continue in that direction. This was the intent of Congress. And Senator HATCH and I intend to follow this issue closely so that America's coal miners get the protections they deserve.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 969) was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 970

(Purpose: To increase the amount appropriated for low income home energy assistance and provide offsetting funds)

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I send an amendment to the desk on behalf of myself and Mr. KASTEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for himself and Mr. KASTEN, proposes an amendment numbered 970:

On page 36, line 26, strike out "$1,237,000,000" and insert in lieu thereof "$1,669,386,000. Notwithstanding any other provision of this Act, the amount made available by this Act to carry out each discretionary program funded under this Act shall be reduced by 1.94 percent.".

Mr. RUDMAN. Mr. President, I have decided to offer the amendment because I am convinced that the allocations within the committee, although done in good faith and good conscience, are just not fair for a number of reasons. It is not fair because a sector of our population, particularly the elderly poor, who depend on low-income energy assistance, have had their program cut enormously while other programs have been increased.

I do not intend to talk for a long time, but for all of those Senators within this Chamber and those who are watching or listening in their offices, or their staffs, I want to give a few statistics which, it seems to me, ought to some extent to allay their fear that this amendment is going to do great damage to programs like education and health and others. So with the indulgence of the Senate, I will spend just a few moments going through a few significant programs where they are now and where they will be at the conclusion of this amendment if it is acted upon favorably by this body.

Let me start with the National Institutes of Health. Their budget will have an increase of $553 million over fiscal year 1987, which will be a 9-percent increase, assuming that this amendment were passed. AIDS funding is being increased enormously, for good reason. It will still have an increase of $450 million if this amendment were adopted. Maternal and child health, a very important program, after this adjustment will still receive a 10-percent increase. The CDC program would receive a 26-percent increase after this amendment was adopted. The Head Start Program would receive a 9-percent increase after this amendment was adopted. The Department of Education would have an increase of $1.38 billion over the fiscal year 1987 budget, a 7-percent increase. Chapter I would be up 11 percent, handicapped education up $188 million over fiscal year 1987. Impact aid would be slightly down. Science and math would be up by 84 percent, and vocational education would be up by 6 percent.

Now, I think I can anticipate what my friend from Connecticut is going to say. He is probably going to tell us that all of these increases are necessary, that they are vital, and that the health and education of many Americans is a very high priority. I agree with him. The problem we have is that we have within this subcommittee just so much money to spend. I find it patently unfair that we have had a reduction in this account of hundreds of millions of dollars and yet we have been able to increase other programs by substantial amounts.

Now, I come from a State where low-income energy assistance is vital, a State in which many of the people who qualify are people whose only source of income is Social Security. And when fuel oils costs are at their present levels and temperatures are in the low single digits or below zero in many cases, those people have great difficulty keeping their homes warm. A phrase that is used in New Hampshire is that those people have to make a choice some months between heating and eating, spending their money on fuel oil or on food.

Now, I am going to stipulate that we probably ought to be spending more money on health, on education, on AIDS research, et cetera than we are now. I will stipulate to that. I will support that if the revenue is available, or other cuts are made. But we come to this floor with an appropriation bill that in its final form singles out this vital low-income program to bear the brunt of our efforts at fiscal restraint. For the life of me I do not understand how we can justify the kind of increases we have in some areas and say it is all right to reduce substantially the money that we have for low-income energy assistance.

Under this Budget Act, we have two choices: We can have a budget waiver, and thus not have offsets; or we can have an offset. The Senator from Connecticut offered a waiver. It failed. I am offering an offset in a slightly lesser amount.

Let me conclude by simply saying this: It is pretty difficult to explain to elderly Americans that we are increasing accounts in the area of health research, and yet we are asking someone to live in cold temperatures, particularly people in their seventies and eighties.

One final note: I hope nobody tries to make the argument here that because of oil overcharge court settlement that money is not needed for the low-income energy assistance fund. The facts are the States have discretion as to how to spend that money, and in many States that money is being spent on weatherization and other programs, but not in this particular account.

I do not have much else to say. It is a fairly simple choice. What this bill is all about is making choices. I say to my friend from Connecticut that I have supported while he was chairman of the subcommittee and as ranking member most of his initiatives, but I am convinced that the allocations that were made this year have been unfair to the elderly poor who depend on this program to stay warm. It is that simple.

I hope my colleagues will look at these numbers, and note that with a 1.94 percent across-the-board cut, there is still ample funding to carry out most of the things that are to be carried out; not all, but most. And the elderly will have a better break at keeping warm during the coming winter.

I yield the floor.

Mr. MITCHELL. Mr. President, I rise to support the amendment of the distinguished Senator of New Hampshire, Senator RUDMAN.

His amendment would add back $400 million in funding for the Low-Income Home Energy Assistance Program [LIHEAP] and pay for that by imposing an across-the-board reduction of 1.94 percent in the discretionary spending programs included in this legislation.

When the House approved H.R. 3058, it included $1.825 billion for LIHEAP in fiscal year 1988. The Senate Appropriations Committee approved a funding level of $1.237 billion for LIHEAP, a 32 percent reduction in the program. I think it would be irresponsible for the Senate to allow LIHEAP to suffer the reduction called for in H.R. 3058.

The Human Services Reauthorization Act of 1986 authorized gradually increasing spending for LIHEAP and authorizes $2.132 billion for fiscal year 1988. The fiscal year 1988 budget resolution, House Concurrent Resolution 93, approved by this Senate assumes level funding for LIHEAP in the coming year, $1.8 billion.

LIHEAP provides States, the District of Columbia, territories, and Indian tribes with block grants of Federal funds, allocated by formulas based largely on home energy expenditures by low-income households. The block grant funds are used to provide low-income households with financial assistance for home heating and cooling costs, energy-related crisis intervention aid and low-cost weatherization.

LIHEAP is administered in Maine by the division of community service and plays a vital role in helping more than 60,000 low income, elderly, and handicapped households meet their energy needs. These needs are often significant because Maine's harsh climate requires home heating expenditures from mid-October to mid-May.

In fiscal year 1987, Maine received approximately $24.7 million in LIHEAP funding. As a result of the reduction called for H.R. 3058, the State stands to lose approximately $8 million in this fiscal year. That leaves the division of community services with two unacceptable alternatives.

Either one-third of the homes which presently received LIHEAP benefits would be denied them. Or, the average heating season benefit would be reduced.

My staff spoke on the phone this afternoon with the director of the division of community services who said Maine has chosen the second option. As a result, unless the Senate accepts the Weicker amendment, the benefit in Maine will be reduced from $315 this winter to $228. That doesn't help a great deal in Maine, where a heating bill in a rough winter could reach $1,200.

Earlier this afternoon, I voted with a number of other Senators in support of a motion to waive the Budget Act in support of an amendment to add back sufficient funding for LIHEAP to be maintained at its present level. Unfortunately, that motion failed to secure the necessary votes.

That is clearly the more attractive alternative for those of us who recognize the merits of the programs funded under this Appropriations Act.

Nationally and certainly in my State of Maine, the need to increase LIHEAP funding within H.R. 3058 is clear. It's my hope that the Senate will respond to that need and approve this amendment.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, my remarks will be very brief. I am going to move to table the amendment of the Senator from New Hampshire. I compliment him for making his point the right way; he voted against and spoke against the motion to waive the Budget Act. And then because of his strong feeling for these low-income energy assistance programs, he moved to cut other programs.

The Senator from Florida is reluctant to move to table. I do not have to repeat all my reasons why we tried to set the priorities in the feeling that there were revenues out there from other sources. It is very hard to set the priorities. But the only other thing I will say is that the House does have funds for this program. We will go to conference with the House. The House also, because they do not use budget outlays, has considerably more money in a lot of programs in budget authority than we have. So there will be a spirited conference, I am sure, that we will have with the House.

Mr. WEICKER. If I may have 1 minute, it will be 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I will have no part in setting the poor and sick and the uneducated and the homeless and the elderly and the young at each other's throat in the arena. That is exactly what this amendment does. I oppose it.

Mr. CHILES. Mr. President, I move to table the amendment.

Mr. WEICKER. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Florida, Mr. Chiles, to lay on the table the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. Lugar] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. Kassebaum] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—68

Adams
Armstrong
Baucus
Bentsen
Biden
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McConnell
Metzenbaum
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Shelby
Stafford
Stennis
Trible
Warner
Weicker
Wilson
Wirth

NAYS—28

Bingaman
Bond
Boschwitz
Conrad
Danforth
Dixon
Gramm
Hecht
Heinz
Helms
Humphrey
Karnes
Kasten
McCain
McClure
Melcher
Mitchell
Proxmire
Quayle
Roth
Rudman
Sasser
Simpson
Specter
Stevens
Symms
Thurmond
Wallop

NOT VOTING—4

Gore
Kassebaum
Lugar
Simon

So the motion to table was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 971 AND 972

(Purpose: To specify the use of $20,000,000 for facilities for AIDS research)

Mr. HARKIN. Mr. President, I send to the desk two technical amendments to be considered en bloc and ask for their immediate consideration.

The PRESIDING OFFICER. Is there objection to the en bloc consideration of the amendments? If not the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. Hawkin] for Mr. Chiles proposes amendments numbered 971 and 972.

Mr. HARKIN. Mr. President, I ask unanimous consent the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Amendment No. 971

On page 48, after line 7, add a new section as follows:

"Sec. . Section 465(b) of 42 USC 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine." "

Amendment No. 972

On page 27, line 19, after "$50,000,000,", insert the following: "of which $20,000,000 is provided for activities related to AIDS research to provide for the repair, renovation, modernization, and expansion of existing laboratory facilities; and to acquire by lease or otherwise laboratory and/or office space,".

Mr. HARKIN. Mr. President, the first amendment provides language necessary for the NIH building and facilities funds to be spent as intended.

The second amendment conforms the bill to language recommended by the committee to disseminate NIH medical information to American health professions.

Mr. President, these amendments have been cleared with both sides of the aisle, and I ask for their immediate adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments of the Senator from Iowa.

The amendments (No. 971 and 972) were agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not have an amendment, and I will not take very long.

I do not know if we are getting close to completion of the bill. I do not see the managers here.

Mr. President, I just wanted to make two points before we finally adopt this bill.

I was hoping on one of the points that my good friend, Senator WEICKER, would be on the floor just for a verification. I have looked up the numbers. I heard him say, and I am sure that in the heat of the debate about this bill, some statements were made about defense, and how fast defense spending is growing, being the cause of the deficit. Maybe the distinguished Senator was misinformed or perhaps I am misinformed, but I would like to correct the RECORD.

I have gone out and researched the numbers, and I will not speak from memory so I can state in the RECORD correctly what has happened to defense budget authority over the last 3 years. We constantly tell the American people that defense spending is growing in some astronomical way, and it is the cause of all the deficits, and it is going to break the bank.

I very much would like to give you the exact numbers on defense budget authority or program authority, the same thing we are talking about here, and then I will compare it with budget authority in the bill before us.

So let me give you the numbers. It is almost hard for me to say this, because I am not used to such a small increase in anything.

Mr. STENNIS. May we have order. This is an important bill. What the Senator says is worth hearing many times over. May we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

Staff and Senators take their conversations to the Cloakroom.

Mr. DOMENICI. I thank the distinguished chairman of the Appropriations Committee for his comments regarding order.

But as I was saying, Mr. President, I even have trouble saying this because around here, we are not used to talking about increases that are so small. But the budget authority for the Defense Department of the United States in the fiscal years, 1985, 1986, and 1987, which has just finished, have grown by the astronomical sum of $200 million. Now in percentages, as I indicated, we do not even talk about that. It is .0007. I have been told, forgetting my math, that is expressed as seven ten-thousandths of 1 percent. That is the programmatic increase in defense spending over fiscal years 1985, 1986, and 1987.

Now, I am not here to say that the discretionary part of Labor-Health and Human Services has grown by some incredible amount, either, because it has not. If my numbers are correct, it has grown by $2.8 billion over those 3 years, for a total increase of 8 percent. Now, that may not even be enough. I am not here arguing that point. It may be too much growth for some.

But I do not think we ought to leave the impression that we have dramatically inceased defense over the last 3 years, and because of that we are cutting something else. The truth of the matter is that it is .0007 percent over 3 years. That is the total increase in budget authority for defense. For the bill before us, it is $2.8 billion, or 8 percent. And I think that is correct. I think it is technically in all ways correct, and it is comparing apples with apples, or budget authority with budget authority, which eventually costs money and eventually spends out.

Having said that, I just want to remind the Senate that even though we are going to pass this Labor-Health and Human Services bill here today and technically in all respects—and I am not arguing with my friend who chairs the subcommittee and who chairs the Budget Committee—it is within budget.

The problem is that it is within the budget that we passed here several months ago. When you take that budget and distribute it, you give each subcommittee what it should get for its bill, and it is probably technically within it. Although I would remind Senators that although it is within its 302(b) budget allocation, we have about $100 million in outlays that were taken out of a reserve fund that was for welfare reform. And, obviously, I am not going to argue that issue here.

But what I am suggesting is that even another $110 million, that is the number, over what we planned to spend in that budget of several months ago is being spent here now because we have used some of the reserve fund that was to be spent if we acted on welfare reform. The distinguished chairman of the subcommittee has prevailed with the idea that there is some welfare reform in process someplace and so we can spend from the reserve.

Now, why do I make the point? I only make the point because, Mr. President and fellow Senators, we have been talking about reducing the deficit by $23 billion in order to comply with the Gramm-Rudman-Hollings fix of this year.

If my arithmetic and calculations are right, if we pass all the appropriations bills that we contemplate and if none of them exceed their limits, we will have saved toward that $23 billion that we have got to find only $300 million. And I am leery of that figure, but let us use it. If we pass them all, we talk about a tight budget, but let me repeat, we will have saved maybe $300 million. So I guess if my arithmetic is right, we have $300 million down and we have $22.7 billion to go.

I am just asking: Where do we get the $22.7 billion? And I do not know. I assume there are some who think we are going to get it by saving 6 or 7, some might even say $8 billion, in defense. Well, for those who know defense—and there are some that might be listening—that is expecting to use the $289 billion low-tier level. That will save you $6 billion. I do not think there is anybody who thinks you are going to get by with that. I do not think you can produce an authorization bill that will live with it. The one we passed here was $303 billion, not $289 billion. So where do we get the $22.7 billion in deficit reduction?

I am hearing that a tax is being developed, working its way through the committees. I am not passing judgment on its propiety, on the ingredients in it; or whether have they done judicious things. I am just suggesting that I do not believe anyone is going to vote for a tax bill unless you provide the full $23 billion reduction in the deficit someplace. If anyone thinks you are going to send through both Houses a tax bill increasing taxes $12 billion and you are going to have defense assume the $289 billion low-tier level to save $6 billion of it, that still will not get you the $23 billion in deficit reduction.

But I submit that those who are putting a tax package together ought to seriously consider whether it even makes sense; whether 30 Senators, much less 51, would vote for something like that. I do not believe they will; whether the President would sign it, I do not think there is a chance.

So I guess I am asking two questions. Since we do not have a budget—and anybody who thinks we have a budget is just mistaken. I mean, we have some kind of a budget out there, but we have a Gramm-Rudman-Hollings mandate that supersedes it, and has very little to do with the budget that we passed. There is no budget that is operative. That is point No. 1.

Point No. 2: Where is the $23 billion in savings or reductions in the deficit? I am not here to suggest that I have an answer myself. I am not suggesting that I should be part of putting such a package together. But it does seem to me that we ought to know that, as we pass these appropriation bills, none are astronomically out of line. They all meet that budget of several months ago. But, all together, if you pass them all, they may save $300 million toward that $23 billion.

So I do not know where we go next. And in the euphoria of saying these all fit the budget—and they do, other than the question about the reserve fund, which is a serious one, and I am not going to make the point here; they do—but they do not get us anywhere in terms of the $23 billion that we have to find to reduce the deficit.

Mr. President, the Labor-HHS appropriation bill is the largest appropriations bill we have considered so far this year.

Total budget authority for this bill is $115.4 billion, and outlays are nearly $93.8 billion. It is an important bill, and technically it is within its budget allocation.

But, I must remind my fellow Senators that it is within a revised allocation, revised by the fact that the committee released $300 million in budget authority and over $100 million in outlays from a welfare reserve fund, in order to stay within budget.

Now I do not deny the fact that the bill is technically within the assumptions of the budget resolution adopted last summer, and that no budget point of order exists, but I do want to suggest that the budget resolution really has become meaningless.

What is important is how does this bill or any other spending bill that comes before us over the next month impact on the required $23 billion deficit reduction mandate of Gramm-Rudman-Hollings II.

By my best estimates this bill is nearly $1 billion in budget authority over the baseline on which the $23 billion sequester estimate will be made.

But I am not picking on this bill, quite to the contrary, I generally support the needed funding in this bill. What I am concerned about is where this, and all the other spending bills yet to come, fit within the overall $23 billion package that we need to develop if we are to avoid the across-the-board cuts that will surely happen if we do not have a plan.

If we were to enact all the nondefense appropriation bills as reported from the committee, or as based on their budget resolution allocation, or as have previously passed this Senate, I am here to tell my fellow Senators we will have enacted the grand sum of $300 million in deficit reduction out of the needed $23 billion.

I am afraid if we continue down this route we will have a sequester and that mindless formula will do the cutting for us. Let me tell you, the nondefense appropriation bills will be cut about $17.9 billion in budget authority and nearly $9 billion in outlays if we let that process go into effect.

We need a plan to avoid that from happening, we need a plan to find $23 billion in deficit reduction and we need to do that soon.

Where is the $23 billion?

Mr. GRAMM. Mr. President, I will be brief, because I know Members are ready to vote.

Earlier this afternoon, we had a discussion about these budget numbers. During that discussion, I said that it was strange to hear people talking about explosions in defense spending and how tightfisted we were with Labor-HHS appropriations when the reality was that the defense budget authority is down by 0.7 percent this year from last year and the Labor-HHS appropriation before us was up 8.2 percent compared to the budget resources last year.

A question was raised as to whether that was discretionary spending. So I went back and looked at the numbers and, sure enough, I had included loan obligations in the 8.2 percent and I want to correct the number. The number is actually 9.6 percent that discretionary budget authority is up according to the Office of Management and Budget figures; the office that will determine whether we have a sequester or not.

Also, in trying to be fair, I called up the Congressional Budget Office. By their figures, budget authority in the bill before us compared to last year's level, including the supplemental, is up by about 7 percent.

So, I do not want to start a long speech about the $23 billion we have to save or else we are going to have an automatic across-the-board cut. I just want to make the point that, depending on whose scoring you are using, we are getting ready to vote on final passage on a bill that raises spending authority between 7 and 9½ percent.

If we really want to avoid an automatic across-the-board cut, I would submit that we ought not to be raising spending in this one bill by over 7 percent.

I hope some of my colleagues will join me in voting no, as an indication that we really believe that at least some of the $23 billion ought to come from controlling nondefense discretionary spending.

At the low tier, we are going to save $6 billion in defense. If we applied the same rate of growth to the nondefense discretionary parts of the budget that we are applying to defense, we would save another $5 billion and that would give us $11 billion of savings.

It seems to me not cruel and inhumane punishment, or unreasonable, that we ought to apply the same standards to the discretionary part of the nondefense budget that we apply to the defense budget. In fact, I would hope that the President would veto any appropriations bill that increases the discretionary part of the nondefense budget by a greater rate of growth that Congress increases the defense budget. I think that kind of parity is what we must have if we are going to avoid the $23 billion sequester order, and I yield the floor.

WASHINGTON STATE'S FAMILY INDEPENDENCE PLAN

Mr. ADAMS. Mr. President, I rise to discuss with the distinguished manager of the bill an issue of great importance to my State. Washington State has developed an innovative new welfare plan, the Family Independence Program [FIP], designed to help welfare recipients escape the trap of dependency. This program provides a multiservice assistance package, including job placement and training, child care, and guaranteed child care and Medicaid for a year after permanent placement. It is budget neutral, and passed the Washington Legislature overwhelmingly.

Washington State needs congressional authority to use the funds it receives for AFDC, Food Stamps, and Medicaid to conduct this program. Every effort has been made to find appropriate substantive legislative vehicles for this legislation. Waivers have been included in various House bills, and the AFDC waiver is in Senator MOYNIHAN's welfare reform bill. The Congressional Budget Office has concluded that these waivers are budget neutral. Inclusion of these waivers has received overwhelming bipartisan support.

Unfortunately, time is of the essence. Under the terms of the law authorizing FIP that passed the State legislature, the Governor must submit the Federal waivers to the legislature by February 7, 1987. This means that the necessary Federal legislation must be passed as soon as possible.

I have previously discussed with the distinguished manager of the bill the possibility of attaching the AFDC and Medicaid waivers to some type of appropriations vehicle. At this time we are still working with the Finance Committee to find an appropriate vehicle, and so we do not plan to offer any amendment to the Labor-HHS appropriations bill at this time.

I am, therefore, bringing this matter to the distinguished manager's attention at this time merely to again alert him to my concerns, and to let him know that I may be seeking his assistance later in attaching this waiver legislation to the continuing resolution should that be necessary.

Mr. CHILES. I thank the distinguished Senator for bringing this matter to my attention. We have discussed this previously, and I appreciate his need to find a timely legislative vehicle for these important waivers. I appreciate the Senator's efforts to find appropriate substantive vehicles for these waivers, and I understand that time may run out on these efforts. If that should be the case I understand the Senator may seek to attach these waivers to the continuing resolution. In that case, pending approval from the relevant authorizing committees, I assure the Senator that I will do all I can to satisfy the Senator's concerns.

Mr. ADAMS. I thank the distinguished manager for any assistance he can provide.

Mr. HEFLIN. At this point, I would like to inquire of the Senator from Florida about the action of the committee regarding full funding for cancer center core grants in the cancer centers program at the National Cancer Institute.

Is it my understanding that full funding for the cancer center core grants is included in this bill?

Mr. CHILES. The Senator is correct. Allow me to indicate to you why we decided to take this action. The rather severe difficulties facing cancer centers across the country were brought to my attention when I chaired the hearings of the subcommittee. The data submitted by the witnesses, especially those from the Association of American Cancer Institutes, which represented the cancer centers of the country, indicated that figure of $118 million would be required for the cancer center core grants to be funded at the peer reviewed level, and to provide for the potential of new cancer centers coming on line—the National Cancer Institute has already received excellent applications from proposed new cancer centers for funding. I would like to make the point strongly here that this indication of interest on the part of the committee that the cancer centers be funded at the full peer reviewed level does not in any way impact on the peer review process itself.

In summary, then, given all this evidence, and given the actions of the committee over the last 3 years, I thought that it was prudent to indicate in the bill report itself the figure of $118 million as having been included in the NCI budget for this year.

I was very pleased to learn several weeks ago of the Senator's interest in this matter, and was delighted to learn that he fully supported the decisions that we made at the subcommittee and the full committee levels. When we deliberate on a matter such as this, given current budget restrictions, it is always a pleasure to find that our decisions have been supported by such a distinguished Senator with such deep interest in cancer research.

Mr. HEFLIN. I have heard from Dr. Albert F. LoBuglio, director of the Comprehensive Cancer Center, University of Alabama at Birmingham about this problem. That cancer center has done extraordinary work for the people of Alabama. For example: The cancer center at UAB has developed some of the most sophisticated resources for basic science and clinical care in the Southeast, and is now a regional, national and international resource for patient care and research. A number of remarkable cancer research advances have taken place at UAB. Its scientists were the first to identify the human natural killer cell, thought to play a key role in the body's destruction of cancer cells. They were also the first to discover that about one-fifth of children with leukemia have a disease or primitive antibody forming cells, which require more aggressive treatment to cure that patient.

At this point, I would like to insert my letter of inquiry to the National Cancer Institute requesting information about how much would be required to fund the cancer center core grants at full peer reviewed levels, and also to insert the response I received from the Director of the National Cancer Institute, indicating that the level of $118 million would be required. It is my understanding that this is an official letter, cleared through the appropriate agency review at the National Institutes of Health.

I thank the Senator from Florida for his excellent leadership on this matter.

The letter follows:

NATIONAL INSTITUTES OF HEALTH,
NATIONAL CANCER INSTITUTE,
Bethesda, MD, July 29, 1987.

Hon. HOWELL HEFLIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HEFLIN: Thank you for your recent letter expressing interest in the National Cancer Institute (NCI), particularly the Institute's Cancer Centers Program. The centers are an integral part of the total NCI program, which I would like to describe in some detail before answering your specific questions.

As you are aware, the NCI has set as a goal for the year 2000 a 50 percent reduction in the cancer mortality rate. Three specific areas must be addressed directly to meet this objective:

Cancer prevention through smoking prevention and cessation and dietary modification;

Early cancer detection through effective screening programs; and

Widespread application of the latest cancer treatment regimens.

Successful attainment of these three objectives is dependent upon a network of cancer control resources as mandated by the National Cancer Act of 1971—resources that I am pleased to say are in place. Cancer centers are a critical component of this network, together with other programs such as the Clinical Cooperative Groups and their outreach programs and the Community Clinical Oncology Program. Linking these resources to community practice is the Physician Data Query (PDQ) system, a user-friendly, computerized database that provides information on the latest cancer treatment and protocol studies to physicians and health professionals. Finally, the impact of this resource network on the nation is measured through our Surveillance, Epidemiology, and End Results (SEER) program, which tracks cancer incidence, survival, and mortality in the U.S. population. This NCI network provides the balance between basic cancer research and the clinical application of research findings. Support for the Cancer Centers Program is an important ingredient in maintaining such a balance.

The specific information you requested concerning funding for the cancer centers is as follows:

The FY 1988 President's Budget reflects a budget consistent with FY 1987 levels, with the exception of increases for AIDS research and Federal personnel adjustments, as well as the elimination of the Institute's construction funds;

The President's Budget for FY 1988 for centers is $93.2 million. The NCI anticipates being able to support competing renewal centers at approximately 60 percent of the estimated peer-reviewed approved level as well as funding the non-competing continuation center grants in a manner consistent with their FY 1987 awards. Although the mix of cancer centers changes as a result of peer review, the number of current centers will not increase under the President's request;

To fund the existing competing renewal centers at the peer-reviewed approved level would require an additional $11.6 million; $8.6 million would restore ongoing cancer center awards that previously have been reduced; and $5.0 million is the projected requirement to support five new competing centers. These components total $25.2 million over the President's request for $93.2 million, for a total of $118.4 million.

I appreciate your support of the Cancer Centers Program. Please let me know if I can provide additional information.

Sincerely,

VINCENT T. DEVITA, JR., M.D.,
Director, National Cancer Institute.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC, July 14, 1987.

VINCENT DEVITA, M.D.,
Director,
National Cancer Institute,
Bethesda, MD.

DEAR DR. DEVITA: As you know, I have been deeply concerned about the low level of funding for cancer centers for the past several years.

In the Senate Appropriations Bill report for the last several years, the Appropriations Committee has called for full funding at peer reviewed approved levels for all cancer centers, including new grant applications and renewal grant applications.

The Appropriations Committee this year heard from the Association of American Cancer Institutes (please find Dr. Potter's testimony attached) which testimony was supported by witnesses representing the American Society of Clinical Oncology and the National Coalition for Cancer Research which indicated their very grave concern about the small levels of increases given for cancer center funding over the past five years.

I intend to attempt to increase appropriations levels for cancer centers, but in order to do so in an appropriate fashion I will need the following information from you:

How much additional funding in Fiscal Year 1988 would be required in the cancer centers funding line to obtain full funding at peer reviewed levels for both new and renewal grants?

I need this information not only in numerical form but additionally would appreciate any explanatory material you could provide as to the serious nature of the underfunding in recent years, and any particular points that you would like to make about the funding that would be required. I would like as much information as possible so that my actions will be totally in accord with the appropriate operation of the cancer centers program at the NCI—in my desire to increase funding and provide the appropriate base for this activity, I do not intend in any way to disrupt any aspect of this program at the Institute.

I would appreciate your answer to this question just as rapidly as possible because it is likely that very soon the Appropriations Committee will be acting on this bill.

Thank you for your attention to this matter.

Sincerely,

HOWELL HEFLIN.

Mr. CRANSTON. Mr. President, I had intended to propose an amendment with my distinguished colleague from California [Mr. WILSON] that would have earmarked $12 million out of the total account for the Health Resources and Services Administration for the renovation or construction of a regional demonstration nursing home for AIDS patients in the geographic area with the highest per capita ratio of persons with AIDS.

Mr. President, I applaud the chairman [Mr. CHILES] and ranking minority member [Mr. WEICKER] of the Labor-HHS Subcommittee for their superb efforts on AIDS in this appropriations bill. Nearly $950 million has been included for various education, research, health services, and other public health activities concerning AIDS. This is nearly double the amount appropriated in fiscal year 1987. The Appropriations Committee has once again demonstrated its commitment to providing the necessary resources to combat this horrible epidemic.

H.R. 3058 includes $1.64 billion for the Health Resources and Services Administration. Of that amount, $4 million is earmarked for renovation or construction of nonacute care intermediate and long-term facilities for AIDS patients. The committee report specifies that this funding is for a limited number of renovation and construction grants for outpatient AIDS clinics under the authority of section 1610(b) of the Public Health Service Act. I would note that the House included $10 million for that purpose.

In a similar way, our amendment would have been directed at helping to provide nursing home care to AIDS patients as an alternative to hospitalization. The amendment would have earmarked $12 million for the purpose of renovating a long-term care facility for AIDS care.

Mr. President, during debate on the Department of Defense authorization bill, S. 1174, my colleague from California [Mr. WILSON] and I proposed an amendment to transfer the former public health hospital located in the Presidio of San Francisco from the Department of the Army to the county of San Francisco for use as a regional AIDS facility. It passed the Senate overwhelmingly by a vote of 75 to 23.

This facility, as many of my colleagues know, would provide needed subacute or nursing home care to people with AIDS or severe ARC that is virtually unavailable anywhere in the San Francisco Bay area. Our amendment would have been designed to help finance some of the renovation and startup costs of the facility once the transfer is effected.

Mr. President during debate of the amendment to the DOD bill, I described at length the need for skilled nursing care for people with AIDS and, in particular, the need for that type of care in San Francisco. Those remarks begin on page S 12981 of the CONGRESSIONAL RECORD for September 29.

To summarize, nursing home or subacute care is one of the major gaps in the continuum care for people with AIDS. People without access to such care either stay in the hospital when they do not need it, receive inadequate care at home, or, most tragically, are forced onto the street.

Even in San Francisco, which has developed one of the best models to care for AIDS patients, nursing home care is still lacking. The facility at the Presidio is well-suited for providing subacute care and could serve as a regional training and care center for people with AIDS throughout northern California. Unfortunately, San Francisco, which has spent a tremendous amount of resources to care for AIDS patients, cannot afford the expenses associated with renovating and converting the facility into a nursing home.

I had previously contacted the chairman and ranking minority member to urge that they include funding for this project. I ask unanimous consent that a copy of my September 10 letter be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the Senate spoke overwhelmingly in support of this subacute-care facility for AIDS. In order to make that facility a reality, funding is needed to help renovate the hospital. Our amendment would have helped to ensure that nursing home care would be available to people with AIDS and severe ARC in San Francisco and throughout the region.

Thus, I would like to clarify with the distinguished chairman whether it is his understanding that the report language is not intended to exclude consideration of facilities other than outpatient facilities and that the San Francisco facility would be a good candidate for a renovation grant under section 1610(b).

Mr. CHILES. Yes, I would like to assure the Senator from California that the hospital he described is the type of facility this funding is designed for.

Mr. CRANSTON. I thank the distinguished Senator from Florida and urge him to concur with the House in appropriating $10 million for renovating facilities for AIDS treatment.

Mr. CHILES. I appreciate the Senator's concern and assure him that I will do my best to work toward that goal.

(EXHIBIT 1)

U.S. SENATE,
Washington, DC, September 10, 1987.

Hon. LAWTON CHILES, *Chairman,*
Hon. LOWELL WEICKER,
Ranking Minority Member, Subcommittee on Labor, HHS, Education, and Related Agencies, Washington, DC.

DEAR LAWTON AND LOWELL: I am writing regarding your subcommittee's consideration of urgent funding needs for AIDS research, education, and other public health activities during your upcoming markup of the FY 1988 Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. Your subcommittee has consistently been strongly supportive of providing all necessary resources to combat AIDS, and I would urge that you continue that outstanding record of concern and action regarding AIDS.

As you know, the House-passed bill includes $945 million for AIDS activities, not including FDA funding for AIDS activities. This figure is consistent with the amount included in the FY 1988 budget resolution and represents, I believe, the minimum level needed in fiscal year 1988. There are numerous bills pending, including S. 1220, the proposed "AIDS Research and Information Act of 1987" and S. 1575, the proposed "AIDS Federal Policy Act of 1987", which would in total authorize FY 1988 appropriations of nearly $1 billion for AIDS education, prevention, counseling, and testing efforts. Funding for research efforts would bring that total to close to $1.5 billion.

Since these bills will not likely be enacted until after the start of fiscal year 1988, the full appropriation will not be necessary. Nevertheless, I believe that it is critical to provide sufficient flexibility in this year's appropriation in order to enable these efforts to be undertaken as expeditiously as possible.

Thus, I urge you to include at least $1.1 billion for AIDS programs in FY 1988.

There are two specific AIDS issues on which I would greatly appreciate your assistance—both relating to the development of nursing home and other subacute care programs for persons with AIDS or AIDS-related complex (ARC).

As you know, the availability of appropriate care and treatment for people with AIDS or ARC varies widely across the country. With very few exceptions, care and treatment programs for AIDS and ARC are at best a patchwork of hospital, home, and community-based services. At worst, they are nonexistent. In most places, they are simply inadequate.

Much effort is being directed toward developing home care for people with AIDS. It is often more appropriate and compassionate for the individual and far less expensive than hospitalization. However, a pressing need also exists for the development of nursing-home-care models. Home and community-based care cannot always provide the needed level of attention or medical services that is sometimes required by people with AIDS or severe ARC who do not need hospitalization, but for whom family and community support services are not enough.

Many individuals with AIDS and ARC, particularly those who suffer from neurological complications resulting from infection with the HIV, need 24-hour-a-day surveillance that cannot be provided in a noninstitutional setting. Other individuals may not need the high level of care found in a hospital, but may need more sophisticated medical care than can be provided for at home.

Patients with those needs typically are referred to nursing homes. Unfortunately, there is a paucity of skilled nursing or subacute care available throughout the country for individuals with AIDS. Although a very small number of nursing homes have agreed to take AIDS patients, most refuse to do so. This gap in the continuum of care for AIDS patients means that more patients stay in hospitals when they do not need to or that they simply do not receive needed medical and social services.

Even in San Francisco, which has served as a model for providing a coordinated network of community medical and social services to people with AIDS, very little nursing home-care is available.

Dr. David Werdegar, Director of Public Health in San Francisco, estimates that at least 7.5 percent of AIDS patients need skilled nursing care at any one time. This means that by the end of this year 258 people with AIDS or severe ARC in San Francisco alone will be in need of skilled nursing care. That number will surpass 500 in 1991. And that estimate does not take into account the impact of AZT or other very costly drugs that may be developed to prolong the life of AIDS patients.

Currently, patients who require skilled nursing care in San Francisco are placed in a variety of settings, most of which are inappropriate. For instance, many patients continue to receive care in acute-care settings, because they need a certain amount of medical assistance that cannot be provided for in the community. San Francisco estimates that approximately 12 to 13 percent of the AIDS/ARC patients at San Francisco General at any one time are in that situation.

Many more AIDS and ARC patients are discharged from hospitals to their homes, even though neurological complications resulting from the HIV infection or drug addiction make adequate care at home or in a community residential setting difficult or impossible. Most tragic and disturbing are the cases of those who are discharged with no home to go to and who, with their tragic vulnerability to life-threatening diseases, are then forced into homelessness.

The City of San Francisco is trying to address this problem. Efforts are underway to convert to a skilled nursing facility the former Public Health Service hospital located at the Presidio that is currently being used by the Army as a language school. This hospital, with a capacity for 350 beds, would be well suited for use as a regional skilled nursing and training facility. I am pursuing this issue with Sam Nunn, Chairman of the Armed Services Committee, to bring about a transfer to the City of San Francisco and am hopeful that we can resolve that issue soon.

The facility is generally in good condition because the Army has kept it ready for health-care use in the event of an emergency. However, some renovations are needed to transform it into a subacute-care facility for people with AIDS.

The City of San Francisco estimates that approximately $15 million would be needed for repairs, conversion, and start-up costs. I've attached a breakdown of those costs provided to me by Dr. Werdegar.

The Secretary of Health and Human Services is authorized under section 1610(b)(1)(B) of the Public Health Service Act (42 U.S.C. 300r(b)(1)(B)) to "make grants to public and nonprofit private entities for projects for the conversion of existing facilities into . . . facilities for long-term care" to provide services for medically underserved populations. Clearly, the proposed grant to the City of San Francisco would meet these criteria. Such a grant may be used to cover up to 80 percent of the cost of the project.

I'm sure you are aware that San Francisco has the highest number of AIDS and ARC patients per capita of any U.S. city. It has responded compassionately and effectively to the epidemic through the development of an extensive network of home and community-based care as well as by providing first-rate hospital care. Consequently, people with AIDS and ARC migrate to San Francisco from throughout the country.

San Francisco has borne more than its share of the burden. The City has allocated $18 million in its 1987-88 budget for AIDS—5 percent of the City's entire health fund. It has spent more than $50 million on AIDS since 1982—more than any other municipality—and cannot afford the costs of renovating the old PHS hospital. Since this facility would serve as a regional resource, I believe that the federal government should assist the City in making the necessary renovations.

Thus, I urge you to include $12 million for this purpose in your subcommittee's FY 1988 appropriations recommendations.

Also, with further regard to the growing unmet need for subacute care for AIDS and ARC patients in this country, I would urge you to include additional funding for the conduct of demonstration projects to provide subacute care for persons with AIDS or ARC.

When S. 1220, the Proposed "AIDS Research and Information Act of 1987" is considered by the full Senate, I intend to offer an amendment, which I submitted on August 7 as Amendment No. 672, to establish a 4-year (FYs 1988 through 1991) program of these demonstration nursing homes for people with AIDS or ARC. This program would test the concept of making this type of care available in order to allow more patients to leave the hospital and still receive adequate care. It would also provide for assessing the costs of subacute care for persons with AIDS or ARC and the availability and adequacy of nursing home care rates and other sources of income to cover the costs of providing nursing home care to persons with AIDS, who often have very serious complications.

These facilities would also serve as a training ground for nurses, mental health counselors, physicians, and other health-care professionals and paraprofessionals who provide care to people with AIDS. Finally, the amendment would provide for evaluating whether it is more appropriate to establish specialized AIDS centers or units or to provide AIDS patients with care in general community nursing homes.

As I noted earlier, at present, few nursing homes will admit AIDS patients. In many cases, nursing home staffs are not appropriately trained to care for people with AIDS. Other nursing homes refuse AIDS patients because the level of reimbursement under Medicaid is too low. Sadly, it appears that still other nursing homes are denying admittance to AIDS patients out of fear—fear of contagion and fear that their other patients would leave.

At the same time that we try to overcome these barriers, nursing facilities established under my amendment would help provide needed training to health-care workers, research on the long-term aspects of AIDS, and, most importantly, needed and appropriate services to people with AIDS.

Under the proposed amendment, the FY 1988 appropriation of $10 million—for which I urge your support—would be authorized for the establishment and conduct of three demonstration projects. These projects would involve hundreds of AIDS patients and health-care workers. I've enclosed for your information a copy of the amendment and my August 7 statement on it. I have discussed the amendment with the floor managers of S. 1220, Ted Kennedy and Orrin Hatch, and believe they are supportive of it.

Lawton and Lowell, I know that you will respond this year, as you have responded every year, in support of providing the necessary resources to combat AIDS. As we provide funding for research and prevention efforts, we must also begin to find ways to ensure that all AIDS and ARC patients have access to appropriate and humane health care. Increasing the availability and adequacy of subacute care would be a major step in that direction.

Thank you for your consideration of this request. I look forward to hearing from you on this issue at your earliest convenience.

With warm regards,

Cordially,

ALAN CRANSTON.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania and I would like to engage the distinguished chairman of the subcommittee in a colloquy regarding State employment service operations.

The House has passed a $755.2 million appropriation for State employment service operations. This is the same amount that was provided in fiscal year 1987. I would add that we were required to provide supplemental appropriations for this past fiscal year when it became clear that local unemployment insurance offices were going to close, and experienced employees lost, without further support. The Senate bill, however, provides a $55.2 million reduction from last year's level, raising the likelihood, once again, of employment service office closings and a loss of over 225 jobs in New York State.

A consensus is emerging in Congress that education and training are essential in moving the unemployed from dependence to independence. That move will be extremely difficult to make if programs cannot be properly administered. I urge the Senator from Florida to accept the House numbers for employment service operations in committee.

Mr. HEINZ. The Senator from New York is entirely correct. Last year we faced a backlog in the Targeted Jobs Tax Credit Program of over 1 million cases. Although the bill before us provides funds to administer those cases, the cut in funding for the coming fiscal year means that the personnel who actually handle those cases will be bumped out of their jobs by more senior personnel as employees are laid off.

Second, my State of Pennsylvania has recently conducted a series of hearings on employment service operations. Short staffing and low funding of local job service offices has caused tremendous backlogs in TAA, UI, and VJTA requests. Often cases which are incorrectly decided must be appealed at tremendous cost both to the applicant and to the Government. We can prevent this trend from continuing if we provide the House-approved levels of funding for the employment service.

Mr. CHILES. Mr. President, I thank my colleagues for bringing their concerns forward. I certainly value effective administration of employment service programs, and would like to assist my friends in conference. I know the Senators appreciate the outlay ceilings under which this appropriation must operate.

Mr. MOYNIHAN. Mr. President, the Senator from Florida deserves recognition for the work he has done on behalf of employment programs, and I appreciate his assistance with this matter.

Mr. HEINZ. I am very grateful for Senator CHILES' consideration of our concerns, and we look forward to working with him on this issue as the bill goes to conference.

FACILITY FOR AIDS RESEARCH IN SAN ANTONIO

Mr. BENTSEN. As my colleague from Florida knows, the pending legislation includes $10 million for the establishment of five multidisciplinary AIDS research centers. I would like to bring to the attention of the Senate, the unique AIDS research capabilities in place in San Antonio, TX. I know that my colleague from Florida is painfully aware of the tremendous physical, emotional, and societal costs that AIDS has brought to the Nation. Texas has not, by any means been spared. As a matter of fact, the Committee on Appropriations recognized Texas as one of the five States with the highest proportion of AIDS cases. Simultaneously, San Antonio has a comprehensive multidisciplinary research capability to combat and potentially conquer this dreadful disease.

Mr. CHILES. Would my able colleague from Texas tell the Senate more about the San Antonio research capabilities.

Mr. BENTSEN. San Antonio has been actively involved in AIDS research for some time. In particular, we have active efforts in the following areas already in progress.

First, accelerated basic AIDS research with emphasis on understanding the immunobiology and pathophysiology of the HIV virus and developing effective cures and a successful vaccine;

Second, an extensive clinical research program to enhance the development of simple tests, advanced treatment protocols and the evaluation of antiviral and other HIV related infections and malignancies;

Third, one of the largest colonies of nonhuman primates for testing, developing and certifying potential AIDS treatments and vaccines;

Fourth, tracking the progression of the disease from discovery through post-morbidity via our access to a large Air Force-wide AIDS referral, evaluation, and treatment program conducted at the Wilford Hall Medical Center; and

Fifth, an education and prevention program oriented toward a high-risk, low-prevalence minority group.

In a number of these areas our research has already been recognized by institutions across the United States and we are working on collaborative efforts with them, including Harvard University. Pulling together these separate, though complimentary, efforts in an AIDS research center would speed the progress toward development of treatments, cures and vaccines and clearly demonstrate our leadership in the "war against AIDS."

Given the unique capabilities and resources in San Antonio, I would urge the committee to support funding of a multidisciplinary AIDS research center in that city. I believe it would greatly further this worthwhile program.

Mr. CHILES. I agree with my colleague from Texas that such research should be welcomed and supported by the National Institutes of Health. The importance of AIDS research cannot be stressed enough, and this research group seems particularly qualified to do extensive work, especially with Hispanic education and primate models. I support their efforts and urge favorable consideration and funding of the San Antonio program.

ADEQUATE FUNDING FOR LATCHKEY CHILDREN

Mr. RIEGLE. Mr. President, I had intended to offer an amendment today which would have added $2.5 million to the Dependent Care Grant Program. This would have brought the level of funding for the program in fiscal year 1988 to $10 million, the same funding which has been approved by the House Representatives.

This program, which was adopted by Congress in 1984, has proven an effective means of meeting the crying need for dependent care in this country. Two kinds of services have been improved by the program. Funds have been made available for before and after school child care programs for so-called latchkey children; and funds have been made available for dependent care resource and referral programs.

This program is only a small step toward resolving an enormous unmet need: It has been estimated that as many as 8 million children are left alone each day before and after school. Many are faced with considerable physical danger and emotional distress.

Although the program is currently authorized at $20 million per year, Congress has never appropriated more than $5 million. The Senate Appropriations Subcommittee on Labor, Health and Human Services has moved in the right direction by recommending $7.5 million for the program in fiscal year 1988, and I commend the able chairman for his leadership. I would like to encourage him, however, to agree to match the House's appropriation of $10 million in fiscal year 1988 for this worthwhile program.

Mr. CHILES. I would like to thank the Senator from Michigan for his comments. He has been a leader in promoting adequate child and dependent care in the Senate, and I appreciate his efforts on behalf of the Dependent Care Grant Program. I share the Senator from Michigan's view that this program has effectively provided needed services and I support the program. The Appropriations Committee has responded to his concerns by recommending $2.5 million in increased funding for the program in fiscal year 1988. I am aware we have a difference with the House. Since the Senator is willing not to offer his amendment at this time, I can give my assurances that I will work with the House conferees to achieve a level of spending for this program that will respond to the Senator's concerns.

Mr. RIEGLE. I appreciate the concern of the distinguished chairman of the Subcommittee on Labor, Health and Human Services. His willingness to work toward helping this small but important program demonstrates his continuing commitment to providing care for this Nation's children, elderly and disabled.

Mr. METZENBAUM. Senator CHILES, I note that the committee has reported out an appropriation of $300 million for title III of the Job Training Partnership Act. The displacement of workers by imports, technology change, and other economic developments threatens the livelihood of millions of Americans. I believe that the growing number of dislocated workers in this country—over 11 million in this decade—is a national crisis. There is agreement between Congress and the Reagan administration that we must do more—much more—to assist dislocated workers in finding jobs in today's changing economy. We cannot hope to remain competitive with Japan or other industrialized countries if these dedicated and experienced workers are allowed to drift away from the forefront of the American economy.

In the Senate version of the trade bill, we authorized $980 million to provide readjustment assistance and retraining for dislocated workers. The House of Representatives has authorized the same amount, and this also is the exact amount sought by the Reagan administration in its bill. In short, there is widespread agreement that this substantial investment—over four times the amount appropriated under title III for fiscal year 1987—is essential for the future of our work force and our economy.

I understand the committee's conclusion that a more modest increase in appropriated funds may be adequate to handle the startup costs associated with this greatly expanded program. But I want to be sure that a lesser initial appropriation carries no implication of settling for less than the full amount authorized once the program has started up. In particular, I want to be sure that we can expect the full amount of $980 million will be recommended by the committee in the second year of funding. Is that the understanding of the Senator from Florida?

Mr. CHILES. I thank the Senator from Ohio, and I appreciate his leadership with regard to the dislocated worker issue. I strongly support this expanded Federal effort, and I will do all that I can to insure that it is fully funded in the future.

Mr. METZENBAUM. I thank the Senator from Florida. With that understanding, I am prepared to support the current appropriated amount.

FUNDING FOR RESEARCH ON ALZHEIMER'S DISEASE

Mr. GRASSLEY. Mr. President, I would like Senator CHILES to know that I appreciate the strong support for research on Alzheimer's disease shown in the committee bill. I would also like to take a moment to clarify the intentions of the committee about Alzheimer's disease activities authorized last year by Public Law 99-660.

The bill includes $2.3 million for funding for two more National Institute on Aging centers for research on Alzheimer's disease, and to bring the funding of the existing NIA centers to the originally envisioned funding level for each of $1 million. These centers are doing a magnificent job, and hold out the promise of an eventual breakthrough on Alzheimer's disease.

Mr. CHILES. Support for research on Alzheimer's disease has been one of my highest priorities and the committee has tried, within the constraints created by limited resources, to keep our research effort on Alzheimer's disease moving forward. I have very high regard for the work being done by the National Institute on Aging's centers on Alzheimer's disease and we have tried to provide those centers with the resources they need to sustain the excellent progress they are making.

Mr. GRASSLEY. I notice also that the committee has included funding for some of the activities on Alzheimer's disease authorized by Public Law 99-660, which was signed into law late last year, and that the committee has included instructions to the relevant agencies with respect to provisions of Public Law 99-660 in those cases where funds were not provided. I have a special interest in those provisions because they were primarily the work of Senator METZENBAUM and myself in the Senate and Representative SNOWE in the House of Representatives.

The provisions of Public Law 99-660 for which funds have been provided include: $5 million for NIA for grants to senior scientists who have already made outstanding contributions to the understanding of Alzheimer's disease, and $2 million for the National Institute of Mental Health for service delivery research on Alzheimer's disease.

The committee report notes also that the "steps have been taken to establish an Alzheimer's disease education center (in NIA) in accordance with the omnibus health bill (Public Law 99-660)" and that "the committee expects other activities as authorized by Public Law 99-660 to be initiated within available funds."

Do these "other activities" include the clearinghouse function authorized by sections 951 and 952 in the law, for which $300,000 was authorized?

Mr. CHILES. Yes, they do.

Mr. GRASSLEY. Do they include the advisory committee on Alzheimer's disease, composed of outstanding individuals from the private sector, for which $100,000 was authorized?

Mr. CHILES. Yes, they do?

Mr. GRASSLEY. Thank you very much for that clarification. I know that the families of all those suffering from Alzheimer's disease appreciate the high priority you have placed on making progress against this disease.

ACTION AGENCY SUPPORT BUDGET

Mr. GRASSLEY. Mr. President, I would like to bring to the attention of the distinguished chairman of the Subcommittee on Labor-HHS-Education and Related Agencies a problem in the agency support budget for ACTION.

According to the agency, the Senate mark for agency support will only support a level of 430 employees, yet it currently has on board 461 employees. The current staffing level is 50 positions fewer than the agency's authorized level. Under the Senate mark, the agency will be forced to conduct a reduction-in-force of 31 additional positions. The RIF level would be 81 positions below the authorized level; and 31 positions below the level the agency needs to perform its functions.

The House mark for agency support is $1 million higher than the Senate which would eliminate the projected $1 million deficit and the need for a reduction-in-force. The agency could maintain a work force of 450 to 460 and any necessary reduction could be achieved through attrition.

ACTION's programs over recent years have been increased by 27 percent and this year's bill increases programs by another $19 million. I am concerned that ACTION will be unable to manage its ever-increasing program budget if they are faced with a RIF of 31 additional positions and the inability to fill critical vacancies.

I would like to ask the distinguished chair of the Subcommittee if this serious personnel management problem can be resolved in conference with the House?

Mr. CHILES. I thank the Senator from Iowa for bringing the issue to the attention of the Senate.

The bill provides the amount requested by the ACTION agency for its regular program support budget. This amount is the authorized ceiling for the agency. ACTION will also receive an additional $187,000 for salaries and expenses to support its drug abuse programs.

The ACTION Director recently negotiated a new staffing plan for the agency at the amount we have provided. This plan will not require a reduction-in-force. In fact, the plan identifies a total of 22 vacancies in the State and regional offices and we have instructed the Director to fill those vacancies as her highest priority.

The Director has written to the ACTION staff and said that this new plan "is being accomplished with minimal disruption to our personnel; not one employee is being separated or furloughed from the agency."

The budget materials submitted by ACTION to the Appropriations Committee show that the agency can fund a total of 450 employees in 1988 under the amount provided. The first time that the committee learned in writing that the Director felt that a reduction-in-force would be necessary was in a memo distributed by agency staff to committee members that did not bear the agency letterhead and suggested that we take funds away from companionship services for the homebound elderly to fund the Agency support budget at a level in excess of the authorized ceiling and in excess of the President's request. I have since met with the Director and she has made her concerns known to me. Based on all these materials, it is not clear to me that a reduction-in-force will be necessary. But, I can assure my friend from Iowa that I will continue to look into this matter and give every consideration to the House position on this conference item.

Mr. GRASSLEY. I thank the Chairman for his attention to this issue and would urge him to accept the House position for ACTION's agency support budget. I would point out that ACTION is one of the few agencies with offices in every State. The current ACTION Director has a long-range goal of achieving a better ratio between headquarters and field personnel levels. However, if a RIF of 31 positions becomes necessary, any State could be at risk of losing badly needed staff in its ACTION State Office.

Mr. MELCHER. Mr. President, today I intended to offer an amendment to the Labor, Health and Human Services, and Education appropriations bill, H.R. 3058, to provide that Medicare beneficiaries have a right to part B Medicare administrative law judge [ALJ] hearings to the same extent as Social Security beneficiaries have.

Social Security regulations provide for an in person hearing before an ALJ with reasonable accessibility for the beneficiary throughout the United States and its territories. As a general rule, these hearings are held within 75 miles of the beneficiary's place of residence. If the hearing is at a greater distance, the Social Security Administration is to provide travel reimbursement.

Given the recent Health Care Financing Administration [HCFA] proposal to establish a separate administrative law judge corps within HCFA and to have "telephone" rather than "face-to-face" ALJ hearings, I thought it would be in the best interest of Medicare beneficiaries to have their appeal rights preserved at least to the same extent as Social Security beneficiaries. Supplemental Security Income [SSI] beneficiaries already have the same hearing rights as Social Security beneficiaries. Although HCFA has recently retreated somewhat from its proposal and currently states that the telephone hearings will be "optional and voluntary" it is not clear what is meant by "voluntary."

Congress should let HCFA know that Medicare beneficiaries must be able to exercise their due process rights before an administrative law judge.

My amendment had the support of the following organizations within the leadership council of aging organizations, Jack Ossofsky, Chairperson:

American Association of Homes for the Aging.
American Association of Retired Persons.
AFL-CIO Department of Occupational Safety, Health and Social Security.
AFSCME Retiree Program.
American Society on Aging.
Gray Panthers.
National Association of Retired Federal Employees.
National Caucus and Center on Black Aged, Inc.
National Council of Senior Citizens.
National Council on the Aging, Inc.
National Senior Citizens Law Center.
Older Women's League.
United Auto Workers/Retired Members Department.
Villers Advocacy Associates.

However, I value the judgment of my distinguished colleague from Texas who has expressed to me his desire to have the Finance Committee give this situation further consideration. Thus, I am going to withhold offering my amendment with the understanding that the Committee on Finance will act on this matter as soon as possible.

Mr. SASSER. Mr. President, I wish to commend my distinguished colleague, Senator MELCHER, for his remarks on the Medicare appeals process. It has been my intention to cosponsor Senator MELCHER's proposed amendment on this subject.

It is my intention to make a more detailed statement on this floor regarding the changes to the Medicare appeals process being considered by the Health Care Finance Administration, or HCFA. At this time, let me just express my concern that HCFA's proposal seems to run contrary to statutory amendments Congress adopted only last year to expand, not to constrict, the appeal rights now enjoyed by our Nation's elderly.

Under a provision in the Medicare law which cross-references the Social Security statute and regulations, those persons appealing denial of benefits under Medicare part A have been accorded a full, in-person hearing before Social Security administrative law judges. In last year's budget reconciliation act, we in the Congress declared that Medicare Part B. appeals over $500 should henceforth receive the same hearing procedure as part A claims. In doing so we also amended the part of the statute providing insurance carrier hearings for Part B claims, to state that in the future it would apply only to claims under $500.

HCFA's proposals for a separate Medicare ALJ Corps, which would hear a majority of appeals over the telephone, would in my judgment defeat Congress' purpose. I submit that we meant not only to keep the present, face-to-face hearing process but to extend it to part B claims over the $500 amount. I am also concerned by HCFA's interpretation that the statute still allows them to require carrier hearings in such part B cases. I think last year's amendment made it rather explicit that such was not the case.

We need to adopt legislation clarifying the intent of Congress with regard to the Medicare appeals process, and the language Senator MELCHER had planned to introduce would take us in that direction. However, I too appreciate the feeling of our distinguished colleague Senator BENTSEN that the Finance Committee, which oversaw the amendments in last year's reconciliation bill, is the proper body to take a closer look at the situation. I look forward to cooperating with committee members to ensure that the agency in question is under no misunderstanding as to the proper application of the statute.

Mr. BENTSEN. I am happy that the distinguished Senators from Montana and Tennessee have brought this matter to the attention of the entire Senate.

I, also, am very concerned that the Medicare beneficiaries in this country not be denied the opportunity to have a face-to-face hearing before an administrative law judge on appeal in those cases where a hearing is provided by law and I thank the Senators from Montana and Tennessee for making us aware of the problems beneficiaries may be experiencing under Medicare part B.

However, I believe it is appropriate that the Senate Finance Committee take a closer look at this matter and in order to ensure that there will not be any misunderstanding whatsoever with congressional intent, we may decide to make some additional appropriate changes in the law.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I know of no further amendments, and therefore we are ready to go to the third reading.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I know there are a lot of people who want to go home. There are not too many here right now. I am wondering if we could vitiate the yeas and nays and have a voice vote?

Mr. WEICKER. The senior Senator from Mississippi just asked for the yeas and nays.

Mr. HARKIN. I asked unanimous consent to vitiate the yeas and nays for a voice vote.

The PRESIDING OFFICER. Is there unanimous consent?

Mr. WEICKER. No.

The PRESIDING OFFICER. Objection is heard.

The yeas and nays have been ordered. Is there further debate?

The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], and the Senator from Illinois [Mr. Simon], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. Bond], and the Senator from New Hampshire [Mr. Rudman], are necessarily absent.

I further announce that the Senator from Kansas [Mrs. Kassebaum], is absent due to a death in the family.

The PRESIDING OFFICER. (Mr. Sanford). Are there any other Senators desiring to vote?

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—81

Adams
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—15

Armstrong
Baucus
Conrad
Garn
Gramm
Grassley
Helms
Humphrey
Kasten
McCain
Nickles
Proxmire
Roth
Symms
Wallop

NOT VOTING—4

Bond
Gore
Kassebaum
Simon

So the bill (H.R. 3058), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I move that the Senate insist on its amendments to the bill, H.R. 3058 and request a conference with the House, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer [Mr. Sanford] appointed Mr. Chiles, Mr. Byrd, Mr. Proxmire, Mr. Hollings, Mr. Burdick, Mr. Inouye, Mr. Harkin, Mr. Bumpers, Mr. Stennis, Mr. Weicker, Mr. Hatfield, Mr. Stevens, Mr. Rudman, Mr. Specter, Mr. McClure, and Mr. Domenici conferees on the part of the Senate.

SENATOR RUDMAN'S VOTE ON THE LABOR-HHS APPROPRIATION BILL

Mr. DOLE. Mr. President, I meant to indicate when the vote was announced on the Labor-HHS appropriations bill, that the distinguished Senator from New Hampshire is not recorded. I think he was in the well. My understanding is that he believes he voted. He reported to his office that he voted aye. But I was unable to locate the Senator from New Hampshire.

I thank the majority leader for holding the vote for 15 minutes. We tried his home, and we tried his office. If in fact he did vote aye, I assume he can take that up with the majority leader tomorrow. But the Record indicates he did not vote. He is not recorded.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the majority leader.

Mr. BYRD. I thank the distinguished Senator from South Carolina, Mr. Hollings.

RESOLUTION CONGRATULATING COSTA RICAN PRESIDENT OSCAR ARIAS SANCHEZ ON BEING AWARDED THE 1987 NOBEL PEACE PRIZE

Mr. BYRD. Mr. President, I believe it is agreeable with Mr. Dole—he is here—to have a vote on the concurrent resolution congratulating the Costa Rican President Oscar Arias on being awarded the 1987 Nobel Peace Prize at 9:15 tomorrow morning.

If there is no objection, I ask unanimous consent that the concurrent resolution which I submit on behalf of myself, and a number of other Senators, be placed on the calendar; that tomorrow morning at 5 minutes after 9, the Senate proceed to the consideration of the concurrent resolution; and that the vote occur at 9:15 with time in between to be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

ORDER FOR YEAS AND NAYS

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the adoption of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the concurrent resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, the vote will occur tomorrow morning at 9:15 a.m. That will be a 30-minute rollcall vote.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

THE STATE-JUSTICE-COMMERCE APPROPRIATIONS BILL

Mr. HOLLINGS. Mr. President, I will limit my remarks because the hour is late. Both of the leaders are about to adjourn. But my request of the majority and minority leaders is to see if they can contact the White House and see whether or not we are engaged in an exercise in futility. I say that in all seriousness.

Right to the point: we in the Senate have been very conscientiously marking up the various appropriations bills, voting them out of committee, and passing on them on the floor.

The Senator from Texas is working very diligently; he and Senator Packwood and Senator Dole on reconciliation in the Finance Committee.

But what I feel is that the President himself, is looking forward to a sequester. While we conscientiously perform our job, he feels he is going to perform his job conscientiously by taking the sequester route.

If that is the case, we are all wasting our time trying to think up the revenues, the taxes, to try to conform to the budget resolution and the reconciliation bill and pass all the appropriations bills.

The President will veto the reconciliation bill on account of taxes. He says "over his dead body." With no revenues, you will have the sequester of 8.5 percent on the domestic programs, the sequester of 8.5 percent on defense. Military personnel will be protected. And about February or March we will get a supplemental request that the Persian Gulf navy is running out of gas or out of fuel and ammunition. And the President will say we need money for maintenance. Then as a Congress we will be confronted with just cutting the maintenance and operation or going through closures of various bases and we will vote all the money that was cut by the sequester and the President will have his defense, have his domestic cuts, and have no taxes.

This Senator does not mind foursquare coming out for the revenues to pay the bills. I think we should have full-court press on for a coast-to-coast system of daycare centers to give every kid a head start, and a raise in teachers' pay to give our children a professional classroom teacher for a quality finish.

I believe we ought to be financing research. I believe we ought to be doing something in the inner cities. And I believe we ought to take care of this deficit, to take care of the debt, and to get down the interest costs. To do that, we need revenues.

I testified earlier this year for a value-added tax, exempting food, health care, and housing, and even then drawing in some $82 billion. That does not frighten me, because it is needed. It would be set up in a trust fund to eliminate the debt.

However, I am back to my main point with the majority leader and the minority leader: If we are not going to have any revenues—and I understand that the President does not even favor the $6 billion he recommended in the January budget—then we ought to accept that fact and stop this self flagellation and adjourn sine die on November 1.

Who is silly enough to put their names on all these taxes, to try and act responsibly, if the President is determined to take the sequester route?

I think the majority leader and the minority leader ought to contact the White House and find out what the score is, because there is no use playing games around here, if that is what the President feels ought to be done.

I do not think there is any rhyme or reason, because no one with vision has been able to persuade the President to sit down in a sort of summit meeting of give and take, of compromise.

I thought I was going to get the good government award when he signed Gramm-Rudman-Hollings, but he gave me the boot in the you know where. So I am not going to attend any more signings like that.

Mr. President, there is no question in my mind, the President is absolutely determined to take the sequester route.

I hope the leadership will contact the White House and ask if that is their intent, so we will be informed.

Mr. BYRD. Mr. President, the Senator raises a pertinent question. I would like to have the answer, too.

In the final analysis, I think we should stick to what we think is our responsibility and let the President, if he wants to go the irresponsible route, answer to that.

I thank the distinguished Senator from South Carolina.

Mr. HOLLINGS. The leader and the President clearly disagree on what is responsible.

President Reagan came to Washington to close down this Government. I happen to believe in government. I believe in these services and I believe in paying for these services.

So when you talk of responsible and irresponsible, he thinks he is being very, very responsible and finally winning some tremendous cuts in domestic programs. He knows he will have us over a barrel next spring on defense because when he comes back and asks for the fuel for the flying hours and streaming hours and operations and maintenance and lists a bunch of contracts that will have to either be canceled and money wasted, or the money appropriated and the job completed, you know and I know what the Congress is going to do.

So it is not just a question of responsible and irresponsible. It is a question of where we are headed. Does the President want a sequester? If so, I think we ought to be informed now.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I say I will do my best to find out. But I would not want to bet the ranch on it that I will find out, his ranch or our ranch. But in any event, I will make an inquiry if we can get anybody in the White House to give us any guidance on it. I assume the President will say it is up to Congress, and he will give a choice. They go the sequester route or find it somewhere else. If I have to guess, I would assume that might be the White House's position.

I will make the inquiry.

Mr. HOLLINGS. He said it is either the sequester route or some other route. You know, as a member of the Finance Committee, that the other route is revenues, and the President said he does not even approve the $6 billion he recommended in January in his budget. So that leaves only one route—sequester.

If that is the case, I think we ought to know it.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my wonderful colleague from South Carolina, and I want to compliment him for zeroing in on a problem that I think has faced us for some time. No one could articulate it better than my friend from South Carolina.

As philosophical friends I think in basic structures of Government, and members of the Budget Committee, which my friend from South Carolina headed at one juncture, we have stood shoulder to shoulder for responsibility in Government and to bring the necessary pressures to do something about the tremendous deficit, to do something about the skyrocketing national debt, in a responsible manner.

I happen to believe in those good proposals on which we marched together in the Budget Committee and on the floor of the U.S. Senate a few years ago when the deficit was only $70 billion, and now it is more than double that, during that time when the national debt was under $1 trillion and now, as we all know, we are up to $2.8 and before President Reagan leaves office you can bet your bottom dollar it is going to be over $3 trillion. That is quite a record of fiscal responsibility.

But I might be able to help the Senator from South Carolina on the question that he posed to the majority leader and the minority leader, and I thought it was an excellent one.

The frustration that the Senator from South Carolina feels, Mr. President, is not going to go away. I think that the majority leader knows that. I think that the minority leader knows that. And it is time the country knew it.

We are facing the greatest series of confrontations that anyone living today has ever seen between the executive and the legislative branch during the last year and a month or two of the Reagan administration.

How do I know that? Mr. President, I wish to help my friend from South Carolina, and I think that he and others understand the situation very well, but it has not been laid out. I know that because a few months ago I was invited to the White House for a gathering of all of us who voted to sustain the President's veto of the clean water bill. Everyone remember that? The clean water bill was approved in the area of $18 billion. The President vetoed it and suggested $12 billion.

I thought with the budget deficit that we faced the President was right and we could get by with $12 billion and come up with more money later, but as it turned out, Mr. President, strictly by accident and not design, the Senator from Nebraska was the only Democrat in either the House of Representatives or the U.S. Senate that so voted, and therefore I was invited to the White House with a small group of others, all Republicans, who voted as did the Senator from Nebraska. At that White House meeting, I heard talks and comments directed to the President of the United States along these lines:

> Mr. President, they are out to get you. That was the only reason that they overrode your veto of the clean water bill.

I do not believe that. I happen to believe that it was one of those situations when my colleagues, Democrats and Republicans alike—and that clean water bill was not all written by Democrats. It was written by an overwhelming number of Republicans and Democrats in the House of Representatives and Democrats and Republicans in this body. And that is the way it should be. We are not always going to agree. I suspect, although I do not know, that my friend from South Carolina may have voted to override that veto.

But at that meeting at the White House it was very clear to me that President Reagan was getting the suggestions—it was not suggestions, it was outright statements:

> They are out to get you, Mr. President. What we must do is to have you veto everything that comes over from the Congress of the United States. You just veto everything, and we'll show 'em, we'll show 'em who is responsible for this terrible debt.

The assumption was, of course, Mr. President, if the President took a confrontational attitude, as he has on the Bork nomination, as he has on the attempts to rescue Gramm-Rudman-Hollings—and the evidence of lack of sincerity on the part of the President of the United States was just demonstrated by the remarks of one of the authors of that bill that I do not support, for good reasons in my view, and indicates the fact that he is not sincere.

I also happened to notice that there was a picture on the front page of a local daily the day after you were down there. I saw the President there smiling, as usual, and I saw my friend from South Carolina and I saw other friends of mine who were coauthors of that famous piece of legislation, or infamous, depending upon your point of view. And I saw the chairman of the Budget Committee, the Senator from Florida, was not there.

But I did notice that the ranking member of the Budget Committee was there in the picture of the signing ceremony. And I thought that was strange, because it was the ranking member of the Budget Committee, the distinguished Senator from New Mexico, who led the fight on the floor against the Gramm-Rudman fix, which had attached to it, as the Senator knows, the $2.8 trillion debt ceiling.

So I just want to be helpful to my friend from South Carolina and hope that the majority leader and the minority leader will check with the White Hosue. I think the obvious answer is that the President of the United States is now on a course to do exactly what the Senator from South Carolina fears. I also suggest to all others that this is not the last direct confrontation that we will have with the President. I think that the political strategy is very clear. I believe that it will show from the history between now and the leaving of office of President Reagan that we are going to see the greatest series of confrontations in the Nation's history, at a time when the Nation is in dire straits and we should be working together on a nonpartisan basis, not Democrats and Republicans and not so much concerned about the congressional and Presidential elections of next year, but what we are going to do as a previously elected President and Members of the Senate and Members of the House of Representatives to attack the problems, rather than to make political hay, which I can assure my friend from South Carolina I am convinced is the strategy at the White House.

There is something more important than even the other problems that we face. The last 2 days, those of us on the Armed Services Committee have been preparing for a tremendously difficult conference with the House of Representatives on the defense authorization bill that was just passed. You have no idea, Mr. President, of the difficult situations that we face. These are basically the figures. $302 billion authorized by the United States Senate; $289 billion, for 1 year, for the defense authorization, $289 billion, by the House of Representatives.

If we go to the sequester that I believe the President of the United States is going to force us to, it is $280 billion.

In addition to that, the White House is going to take the option, as I understand it, of exempting any cuts in the uniformed personnel. When we do that, as the Senator from South Carolina knows so very well, we really raise havoc with the other side of the budget, the outlays.

All I can say is that with all of what is going on here, with the concern that I have, Mr. President, that if the sequester takes place we will see a reduction of $1.3 billion in the Government's subsidy program at a time when many of the farmers of this country are in dire straits.

You know, strangely enough, there were those who said in the other body that when Gramm-Rudman-Hollings was passed it would never have any adverse effect on agriculture.

Mr. President, I simply say that if the majority leader and the minority leader are successful in bringing politics down and statemanship up in the White House of the United States, it will be a good day for America.

Mr. President, I yield the floor.

YOU MUST BE A STEADY ALLY

Mr. THURMOND. Mr. President, as a longtime member and strong supporter of the American Legion, I enjoy reading the American Legion magazine, the official publication of this fine organization.

I recently came across an interview the magazine conducted with the Washington representative of the Nicaraguan resistance, Ernesto Palazio. As a strong supporter of the efforts of the freedom fighters to establish democracy in Nicaragua, I commend this interview to the attention of my colleagues.

Mr. Palazio, an attorney who cofounded the Nicaraguan democratic movement in 1978, speaks of the vital security interests of the United States in Central America. He provides keen insight on Marxist-Leninist expansion in that region and on how the Sandinista government, through Soviet backing, seeks to destabilize and overturn other governments in that region. If we are to stop the further expansion of Soviet influence in this Hemisphere, we should carefully consider the points he has raised.

I ask unanimous consent that certain excerpts from the interview with Mr. Palazio appear in the CONGRESSIONAL RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE INTERVIEW WITH MR. PALAZIO

Q. Containment is often mentioned as a means of checking Marxist-Leninist expansion throughout Central America and this hemisphere. Do you agree?

A. Marxist-Leninist governments breed a militarized society. They must expand in order to survive and that's why containment is not effective in halting communist expansion.

Q. You said that if Americans were to see how steadfast the Soviets are as allies of the Sandinistas, then Americans might be persuaded to support the cause of the Democratic Resistance Forces. What did you mean by this?

A. What I meant was simple—nobody wants to join a loser. Everyone wants to join someone who has a chance of winning. Every day, Nicaraguans see tangible evidence of how the Soviets support the Sandinistas. They see the Soviet system being put into place—ration cards, abolition of a free press, state control, etc., and Soviet tanks and helicopters to keep that system in place against the will of the Nicaraguan people, and the constant stream of solidarity missions back and forth between Managua and Moscow. They see the Soviet-bloc countries giving thousands of scholarships to Nicaraguan children. They see attacks upon their churches that grow more frequent each year. They see a totalitarian system being established, which has no comparison with anything they have experienced before. When they see these and other things, they realize that the resistance will not be able to win by itself and they know that outside support is needed. But they ask themselves why they should die without hope, as so many did in the Hungarian Revolution in 1956, when no one came to their aid. I believe that what has been happening during the past seven years in Nicaragua—American support is there, then it isn't and then it's halfway—is the worst thing a superpower can do for itself, its allies and its enemies. The Nicaraguan people don't see the Americans supporting the resistance as solidly as they see the Soviets supporting the Sandinistas.

Q. Suppose the Contra movement, for whatever reason, fails. What happens then?

A. Marxist-Leninist power will have been consolidated in Nicaragua, and our defeat will send signals to the rest of Latin America that any leftist group can seize power there and get away with it. If our efforts fail, it may also show the world that the Soviets are better allies than Americans, or certainly more steadfast. The loss of American prestige would be tremendous—another Bay of Pigs only on a larger scale. I think the Sandinistas would feel extremely secure in increasing their efforts to export communist revolution. They always have said their aims is to establish 100 Vietnams. In their view, the best way to preserve the Nicaraguan revolution is to take the war outside Nicaragua. That's what has happened with the insurgency in El Salvador (FMLN). If Nicaraguan freedom fighters do not prevail, the United States will have suffered a serious ideological and strategic setback because it will show that it cannot defeat communism in its own back yard, it will lay bare the Pacific region and west coast of America to Soviet intelligence flights such as those being conducted by Cuba on the east coast, and it will allow Nicaragua to service Soviet aims in the area.

Q. Will the crisis in Central America result in the commitment of U.S. troops?

A. The Nicaraguan people are willing to fight for their own country, to liberate their country, to establish democracy. We are willing to fight—to shed our own blood—we ask only that you give us the tools to win our common victory. I believe that if U.S. aid is cut off to the resistance, American troops will come a step closer to being deployed.

INF ARTICLE BY SENATOR PETE WILSON

Mr. WALLOP. Mr. President, I commend to my colleagues an excellent, balanced column by the Senator from California, Mr. Wilson, on the question of arms control and the impending new INF treaty. Mr. Wilson's thoughtful consideration of this topic should be read by all Senators since we likely will be faced with providing, or denying, our advice and consent to a United States-Soviet INF agreement in the near future.

Mr. President, the Senator from California establishes four points that this Senate would do well to remember in its deliberation on any new arms agreement. The fulfillment of these four points are an absolute minimum test for any new arms agreement.

Point No. 1 is: "Any new agreement should include specific enforcement provisions and safeguards against cheating." This sounds obvious, but it is a sad fact that no such provisions have ever been made part of strategic arms agreements.

Point No. 2 is: "Any new agreement should be verifiable by means that do not require us to suffer Soviet violations in silence." In the past, Mr. President, we have had too often to avoid protesting Soviet violations because of the fear that sensitive intelligence assets and methods might be compromised. Make no mistake about it, we pay a price when we do this. United States credibility in the eyes of our principal adversary is diminished every time we ignore Soviet violations.

Point No. 3 is: "Any agreement should itself be precise, clear and unambiguous." Mr. President, the ABM Treaty was lauded as a document of precision by the Nixon administration. It is so ambiguous and so full of loopholes that it only binds those who wish to be bound by it. The Carter administration proudly considered the SALT II Treaty as the most precise arms control agreement ever drafted. Yet when Senator Henry Jackson's Armed Services Committee got through with it, they found so many loopholes and ambiguities that it could not muster one vote in favor of the agreement. The Senate cannot let another ambiguous treaty pass through the advice and consent process. The Senator from California is right: "Ambiguities are no accidents." They are put there by the Soviets intentionally to disguise disagreement on sometimes fundamental issues.

Point No. 4 is: "Any new agreement should bring benefit that does not depend on any contingency other than performance of its own terms." Mr. President, every new arms control agreement that has been criticized for its fundamental flaws has been defended by the argument that the treaty is part of a process that will lead to better and better agreements.

There is no logic in the proposition that good agreements will follow from bad ones. Indeed, the logic is the other way. Every time the United States accepts a bad arms agreement it is indicating its willingness to the Soviet Union to continue détente at any strategic or political cost. In this Senator's judgment, Mr. President, a policy based on this logic is nothing less than appeasement.

I ask unanimous consent that the article from the Los Angeles Times by the Senator from California be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Sept. 25, 1987]

INF: Ignoring History, or Making It?

(By Pete Wilson)

BEFORE ARMS RATIFICATION, SENATE NEEDS ASSURANCES

It now seems likely that the United States and the Soviet Union will sign the first arms agreement in more than nine years.

If the Senate ratifies this proposed treaty on intermediate-range nuclear forces, it will be the first signed and *ratified* arms-control agreement between the superpowers in more than 15 years.

Before they complete an agreement, U.S. negotiators should assure themselves—and the Senate—that they have not made the terrible error of ignoring history. In the case of agreements regarding nuclear weapons, we can ill afford to repeat the mistakes of the past.

If the negotiation and ratification of the proposed INF agreement (or any future arms-control proposals) are to succeed where past agreements have failed, those who negotiate for the United States, and those of us who must ratify, should be guided by fundamental principles.

Any new agreement should include specific enforcement provisions and safeguards against cheating.

History proves that declarations of intent are inadequate enforcement mechanisms. Although President Jimmy Carter warned the Soviets that their violation of SALT II by encryption of telemetry would cause the United States to withdraw from the accord altogether, the Soviets proceeded undeterred.

To be credible and effective in discouraging violations, a treaty must contain clear penalties for cheating.

Enforcement provisions must be included explicitly in the text of a treaty, placed there either by negotiation or by unilateral reservations attached to the instrument of ratification by the Senate. It is essential that the Soviets clearly understand the penalty that they will pay for violation before the agreement is ratified, rather than after it has been violated.

We must also be prepared to take whatever unilateral steps are required to defend against threats posed by violations. For example, tactical or strategic ballistic missile defenses like those included in the Strategic Defense Initiative should be deployed as a safeguard against cheating on this INF or some future strategic ballistic missile accord.

Any new agreement should be verifiable by means that do not require us to suffer Soviet violations in silence.

The Soviet Union is so vast a land mass that it is difficult, if not impossible, to achieve perfection in verification. Still, with a well-designed verification scheme that includes satellite monitoring and on-site inspection, we can narrow the uncertainty to tolerable levels.

What we should not do is make deals that are dependent on verification through means so sensitive that we dare not go public with the information for fear of compromising an intelligence capability.

Thus we should obtain the maximum degree of verification possible using nonclassified means. We can then hold the Soviets accountable to impose whatever sanctions are appropriate to the violation, up to and including a U.S. withdrawal from the treaty and the initiation or resumption of activity banned by the treaty. We must resolve to do so, or the United States ought not to enter into agreements.

Any agreement should itself be precise, clear and unambiguous.

An agreement that is ambiguous on its face is a disaster waiting to happen, a virtual invitation to exploitation and cheating by the Soviets.

In 1972 the Senate was given assurances by the Nixon Administration that the vague and ambiguous SALT I treaty's language on "heavy ICBMs" would prohibit a significant increase in the size of the Soviet SS-11 intercontinental ballistic missile. Later the Soviets upgraded the SS-11, transforming it into the much larger SS-17 and SS-19, claiming that they were not "heavy" ICBMs. The United States sheepishly acquiesced to the very difficult Soviet interpretation, conceding that the treaty itself was vague on what precisely was meant by "heavy."

It should be obvious by now that ambiguities in language are not accidents. Where the Soviets insist on vagueness in drafting, it is to disguise the fact that a disagreement clearly exists in substance.

Any new agreement should bring benefit that does not depend on any contingency other than performance of its own terms.

The Senate should not settle for an arms agreement whose primary justification is that it will lead to a "good agreement." Henceforth, every arms agreement should

> stand on its own feet and offer significant benefit or value without reference to, or dependence on, some future performance or event.
>
> The embarrassing fact is that Gerard C. Smith, the chief negotiator for the anti-ballistic-missile treaty, cautioned the American public in 1972 that limitations on anti-ballistic-missile defenses would be in the national interest only if reductions in offensive forces were achieved within five years. Fifteen years later we are still waiting for offensive reductions, and Ambassador Smith is now desperately and unconvincingly trying to rationalize why strategic defenses of America remain inconsistent with our national interests.

BICENTENNIAL MINUTE

OCTOBER 14, 1906: "PEOPLE'S LOBBY"

Mr. DOLE. Mr. President, 81 years ago today, on October 14, 1906, there was talk of creating a "People's Lobby" in Congress. In the wake of the muck-raking magazines' attacks on "the Treason of the Senate," prominent reformers called for the establishment of such a citizens' lobby, to scrutinize legislation, detect any "snakes," and warn the public about them.

Charles Thompson, a New York Times Washington correspondent, responded that in fact a "People's Lobby" already existed. It consisted of 150 trained professional observers, who were "weighing, doubting, scrutinizing, /and/ suspecting" congressional behavior every day. He was referring to the Senate and House press galleries.

According to Thompson, "not a week goes by that some bill is not killed or some departmental error corrected by the People's Lobby." He cited the example of the Hepburn railroad rate bill, which had recently been enacted after a long and bitter congressional debate.

> At every step of the way every proposition that was offered was scrutinized and its character shown up. Every attempt to hamstring the bill met instant and wide publicity. * * * When the bill came over from the House it was to be an easy matter to emasculate it and turn it back to the President in a harmless condition. That no such effort succeeded is due to the People's Lobby. So closely did it watch the game that day after day Senators, red with indignation, were obliged to rise in their places and hurl back some new charge that had appeared in the morning's paper. The People's Lobby was unmoved by such spectacular denial; it went right on with its work.

Eighty-one years later, it is good to report that the "People's Lobby" is still on the job, keeping a watchful eye on the Senate's proceedings.

THE SPECTER OF SEQUESTER: II

Mr. CHILES. Mr. President, the date for the initial Presidential sequester order is just 6 days away.

The whole idea behind sequester was to force Congress and the President to work together and find a responsible way to reduce the Federal deficit. Sequester was intended to be the price we would have to pay for failure.

But now, Mr. President, something else seems to be at work behind the scenes. Some top people in the administration now appear to view sequester as a drastic way to achieve their own version of success—an opportunity to make across-the-board cuts in a number of key programs.

Under those circumstances, some people seem willing to treat sequester like a big firecracker. All you have to do is toss it in the street, put your hands over your ears, and wait for it to go off.

But let us see what happens when that firecracker lands on Main Street, rural America.

To begin with, a sequester would mean cuts of $754 million in Commodity Credit Corporation payments in 1988, and another cut of $637 million in 1989.

Wheat and feed grain programs will take a real beating under a Presidential sequester. The cuts will total nearly $1 billion out of the total $23 billion sequester amount. Feed grain programs would be cut $750 million. Wheat would take a cut of $235 million. Soybeans, rice, cotton, and dairy programs would all be cut in amounts ranging from $25 to $75 million.

If sequester takes place, agricultural credit insurance programs will be reduced between $135 and $160 million for direct loans, and more than $220 million for guaranteed loans.

As for quality control of foodstuffs, the Food Safety and Inspection Service will be reduced by up to $33 million. It would mean 30- to 60-day furloughs for all agency personnel, and could result in some plant shutdowns since an inspector is required to be present during most plant operations.

The Animal, Plant and Health Inspection Service would lose 500 employees when their funding is cut by nearly $30 million.

And a sequester would hit key programs serving rural areas. The Rural Electrification Administration guarantee program for both electricity and telephones would be cut $80 million. Rural housing programs which were cut by one-third 2 years, would be cut by another $160 million. That leaves a much smaller pool of funds to help building single and multifamily housing in rural areas.

Mr. President, everybody knows things have been tough—even tragic—for agriculture the last few years. A lot of hard-working people have invested huge amounts of time trying to work out thoughtful options for farm programs. Reconciliation would surely mean cuts in agriculture programs, but at least we would be making choices rather than excuses.

Yet, accepting a Presidential sequester would be like walking away from those same problems. In fact, it would tend to aggravate those problems.

All of us want to reduce costs. We all want to save money in agriculture programs. But springing the trap door isn't the way.

With American farmers losing ground in foreign markets, and with rural communities losing people to depressed economies, it seems to me we can do better than just let the door slam.

Sequester just is not a reasonable option in the deficit-reduction fight. Nobody ever said it was. In fact, we said from the very beginning that sequester was so bad it would force Congress and the President to work in harness.

The way I read things right now, some people are wiling to slip the traces. As bad as a Presidential sequester would be, some people would prefer it rather than go on record and make hard choices.

How would we explain that, Mr. President. Do we just go home after the $23 billion ax has fallen and say, "I don't know. It just happened"?

The fact is, if we cannot get together on this, it really will "just happen." It was designed to "just happen." But another part of the design called for cooperation between the White House and the Congress so we would make things happen.

No question, there will have to be some cuts. But we still have the power to decide where, and by how much. To reach the $23 billion deficit-reduction level, there will likely have to be some new revenues. But we still have the time to decide where and by how much.

That is really the key issue here. We still have the time and we still have the power to survey the direction of this country and decide where, how soon, and how well.

Presidential sequester surrenders that power. With all the opportunities we have, this is no time to talk about surrender. It is time to get together.

So, once again, I invite the administration to join us to find the responsible way to get the work done.

Mr. President, I ask unanimous consent that a factsheet explaining in more detail the impact of sequester on agriculture and rural programs be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET: EFFECTS OF A SEQUESTER ON RURAL PROGRAMS

> A sequester would result in reductions of $754 million in 1988 and $637 million in 1989 in *Commodity Credit Corporation* programs. Cuts would be made in 1988 crop payments. The Secretary of Agriculture is constrained by law to allocate the reductions evenly across commodities.

During the previous sequester, the Secretary simply reduced all cash disbursements by the sequester percentage. Payment in Kind Certificates and the Conservation Reserve were not affected. However, it is not clear how the upcoming sequester will be implemented and it appears that OMB will have a larger role in making implementation decisions.

Wheat and feed grain programs will likely bear the brunt of the reductions (contributing nearly $1 billion to the $23 billion sequester) since outlays from these commodity programs comprise over 70 percent of the sequestrable base. See Attachment A for a breakout of the target reductions by commodity.

Maximum corn deficiency payments for corn could be reduced by 10 cents per bushel; wheat deficiency payments would suffer a 17 cent cut. Soybean loan rates may be reduced by nearly 40 cents per bushel.

Agricultural Credit Insurance programs will suffer a $135 to $160 million reduction in direct loan levels and a $250 to $221 million reduction in guaranteed loan levels. These reductions will result in roughly 1,850 fewer direct farm operating loans and 2,500 fewer guaranteed operating loans.

The *Agricultural Extension Service* would be reduced by nearly $30 million. These cuts could lead to the elimination of 800 Federal positions and the closure of a number of county offices.

The *Food Safety and Inspection Service* will be reduced by $33 million. Since 87 percent of the Service's budget is comprised of personnel costs the sequester could result in 30-60 day furloughs of all agency personnel. This in turn, may result in some plant shutdowns since the law requires that an inspector be present during most plant operations.

The *Rural Electrification Administration* guarantee program (electric and telephone) will be reduced by $80 million under a sequester. The direct loan program would suffer a $75 million reduction.

The sequester could lead to a reduction of $28 million and 500 employees from the *Animal Plant and Health Inspection Service.* Most of these reductions would occur in the Agricultural Quarantine Inspection (port of entry) program. Reductions will also occur in cooperative agreements with states.

Rural housing programs, which were reduced by at least a third two years ago, would be reduced by over $160 million from current appropriations, leaving less than $1.8 billion available for loans for new construction. If a continuing resolution were enacted at current rates, the reduction would be $180 million, leaving a program level of $1.853 billion. This program is critical to ensuring an adequate supply of both single and multifamily housing in rural areas, where existing housing stocks are often inadequate. A sequester under either scenario would result in a loss of over 2,000 new units.

Rural development loan programs, which provide resources necessary for development of water and sewer facilities, would be reduced by $46 million from current appropriations, while a continuing resolution at current rates would cut $48 million from the program. In both cases, the program level for RDIF programs would be $493 million.

Regional development programs—the Economic Development Administration and the Appalachian Commission—would be reduced by $16 million and $9 million, respectively. EDA would have a program level of approximately $174 million, while ARC would be funded at a level around $100 million. These programs provide an important source of capital for job creation in economically depressed, rural areas.

Note: Where two reduction levels are provided—the first number refers to reductions which would occur under current Senate appropriated levels and the second number refers to reductions which would result from cuts to an inflated 1987 enacted baseline. If only one number is provided it means that the two methodologies for calculating the reduction yielded similar results and the reduction shown reflects cuts from an inflated 1987 enacted baseline.

Potential impact of sequester by commodity

Feed grains—$750,000,000
Wheat—$235,000,000
Rice—$65,000,000
Cotton—$35,000,000
Soybeans—$25,000,000
Dairy—$75,000,000

NOTE.—Numbers are rounded.

THE ALABAMA SHAKESPEARE FESTIVAL

Mr. HEFLIN. Mr. President, 15 years ago the Alabama Shakespeare Festival [ASF] was only a dream in director Martin Platt's life. Today he has transformed this dream, with remarkable zeal, into one of the largest region theaters in the United States. He has seen his theater undergo expansion which is heralded as the largest of its kind in all of America. He has watched his theater become the people's theater as Alabamians have taken ASF into their hearts. The Alabama Shakespeare Festival has created an air of energy and intellectual stimulation that pervades my State. It is responsible for an education in the arts for young and old alike. All who are in any way connected with the festival are to be congratulated for their tremendous success, and commended for their efforts.

In 1972 the ASF was founded in Anniston, AL. Its small company of 15 began their productions in an unairconditioned high school auditorium. The budget was small as were the audiences—but the festival continued. Each season was more successful than the last as the citizens of Alabama demonstrated their love of Shakespeare. Slowly, news of Alabama's festival began to spread throughout the Southeast and favorable articles began to appear in out-of-State newspapers. Theater fans from all over the South began to attend the festival's performances. National coverage followed as major newspapers such as the New York Times and the Washington Post ran articles on the productions. The response to the success of the theater was phenomenal and the audiences rapidly grew.

Thus, in order to accommodate this growing audience, the festival moved to Montgomery in the fall of 1985. The festival played to over a quarter of a million people in its premiere season in Montgomery, beginning on Friday, December 13, 1985. This marks a rise in annual attendance of 650 percent. These people, from Alabama and other States and countries, were all coming to Montgomery to enjoy Shakespeare at its finest. By attracting these people as well as performances and concerts of regional and national recognition, the ASF has become a major industry for the State of Alabama. In fact the economic impact of the ASF has been projected as $11.2 million in direct and $90 million in indirect impact.

The Carolyn Blount Theater, which now houses the Alabama Shakespeare Festival, is set on a 200-acre English style park. These grounds will soon house the Montgomery Museum of Fine Arts and an exact replica of Shakespeare's birthplace. Outdoor jugglers, bands, and mimes, often use the gardens as a stage for their performances. The theater itself houses two stages, rehearsals halls, administrative offices, costume and property shops, a snack bar and gift shop. The two stages differ in ways which allow for the production of a wide variety of works. The festival stage, which seats 750, allows the audience to be seated on three sides of the stage. Since no seat is more than 60 feet from the stage, action can truly happen right before the audience. The octagon stage, which seats 225, allows a variety of work due to its ability to accommodate the thrust stage, proscenium arch, or theater-in-the round productions. Both theaters are fully equipped for the hearing impaired and fully accessible to handicapped persons.

The $21.5 million so generously given by Mr. and Mrs. Winton M. Blount provided the complex with its "brick and mortar" money for the construction of the complex but many grants were still needed. As the theater was able to expand, the cost of the new productions expanded as well. The actual cost of running the theater became the issue. In a combined effort of several, there was an outpouring of support that has been a model for the rest of the Nation. It seemed everyone realized the importance of keeping this theater alive and prosperous. The National Endowment for the Humanities and the National Endowment for the Arts were a part of the nationwide support. The National Endowment for the Humanities was a major contributor to the special educational project "Shakespeare: Theater in the Mind." This was done by the grant of $75,000 to the theater. Jim Volz, the managing director and chief executive officer of ASF described the NEH as being very cooperative with the program. National Endowment for the Arts has also contributed to ASF with a grant of about $7,000. With this support as well as the support of hundreds of businesses and cooperations, individuals, State, and city organizations, the actual running of the theater was made possible. Due to this funding several new programs were now possible and Director Martin Platt could expand the theater in several areas.

One of the new programs provided by the funding is Schoolfest. This involves the busing of more than 36,000 high school students to morning matinees at the new theater. ASF sends Alabama public schools study materials concerning the ASF's current season to help the teachers prepare their students for the productions they will be seeing at the theater. The theater has also used the funding to increase the professionalism of their performances. Now larger productions can be afforded as well as better actors, designers, and directors. In the words of Director Martin Platt,

> We are all a bit more sophisticated now, a bit more discerning, and as we have grown with the festival, we have demanded more and more from the productions. As we expand our season and repertoire, we challenge our audience to join us in exploring the drama of many periods.

Platt has developed a diverse and exciting program to suit every taste. The Carolyn Blout Theater houses not only topnotch drama, but many musical concerts as well. Everything from the Preservation Hall Jazz Band to the Alabama Symphony Orchestra can be heard at the theater. The dramas also provide a range that would appeal to almost every taste. Some of the past productions of this anniversary season have been "The Taming of the Shrew," "Zelda," "Othello," and "The Tempest." There are even lectures featuring nationally known directors and outstanding scholars, to help enhance the audience's enjoyment and understanding of the theater.

This theater, with all its hope and promise for the future, has had a colorful past that has left its mark on Alabama art. It has brought distinction to Alabama. Truly a huge venture for Martin Platt—that dream so long ago. A dream luckily others were willing to share and support. For this dream has definitely benefited Alabama and her people greatly. I would like to thank the national support this venture received, for without the support of the NEH and NEA the theater would be a shell with no funds to actually run the productions. This support has helped the theater expand from a 12-week operation into a year-round production, from a high school auditorium into a $21.5 million complex—one of the finest Shakespeare theaters in the world. I ask only that the funding continue as it may provide for the furthering of other great dreams as that of Martin Platt's and the people of Alabama.

ALF LANDON—FATHER AND SUPPORTER OF SENATOR NANCY KASSEBAUM

Ms. MIKULSKI. Mr. President, this is one Democrat who would like to rise and express her condolences to Senator NANCY LANDON KASSEBAUM on the passing of her father, Mr. Alf Landon, a well-known figure in Republican circles.

I am sorry I could not have a chance to meet Mr. Landon because, from all that I have heard, he was a man of uncommon civility and uncommon sense; someone who, whether we are Republicans or Democrats, we are proud to say that we call him a fellow American.

I particularly wanted to express my condolences to Senator NANCY KASSEBAUM because we share something, both, in common: the fact that our dads helped us become what we are.

At this time of sadness in the Landon family I would like to just make a few comments and observations about the fact that Mr. Landon said that perhaps one of the happiest and proudest days of his life was when Senator NANCY LANDON KASSEBAUM took her oath of office.

My dad felt the same way. He was too ill to come. I am sorry, really, that both of those men, Mr. Mikulski and Mr. Landon, never had a chance to meet each other because one would have thought: What would those two guys have ever had in common? One was a Democrat; one was a Republican. One was a Governor; one was a grocer. One was a Presidential candidate and one was a quiet community leader; perhaps the only office he ever ran for was in the Knights of Columbus.

But they shared something else in common and that is that they both believed in their daughters. Studies will show that for those daughters who have achieved positions of high achievement, it came because we not only had the support of our mothers, but we had the support of our dads.

Much has been said about the father-son relationship, an important relationship. Very little has been said about the father-daughter relationship. For those of us who often share positions where we are either the first or, in some instances the only, we know that we have the strength to pursue those objectives because of the dads we had.

So that in paying this salute to Mr. Alf Landon I would like to pay a salute to those dads of daughters who believe in us, who saw us through pigtails and proms, who were with us to provide for our education and stood by us during those tough elections. For those dads out there everywhere who pay the bills, take out the insurance and say: "Don't worry, kiddo, you can do it," I would like to pay my respects and express my gratitude.

SYMPATHY TO THE REED FAMILY

Mr. DOLE. Mr. President, I would like to extend my sincerest sympathy to the family of Abby Saffold, the secretary for the majority, on the loss of her father, Dr. Robert B. Reed.

Dr. Reed was formerly a professor at Harvard University's School of Public Health.

As all of us on the Republican side know, Abby works tirelessly on behalf of the majority leader. But she is also extraordinarily considerate of Members on the Republican side of the aisle. And we truly appreciate her commitment to the Senate.

To Abby, her mother and brother, I offer my prayers and condolences.

AUGUST TRADE FIGURES

Mr. BYRD. Mr. President, this morning, the Commerce Department released the latest news from the trade front—yet, another deficit. While the deficit is not quite as large as last month's record, the August deficit, $15.7 billion, is still the third largest on record. When it comes to trade deficits, America remains in a class by itself.

What troubles me most about the deficit, Mr. President, is that exports slipped lower by almost $1 billion. Exports must grow and grow rapidly if the United States is to move back toward a trade balance and to stop the still rising mountain of external debt.

It is increasingly apparent that this will not be a good trade year. Over the first 8 months of 1987, we are already more than $5 billion dollars ahead of last year's record breaking pace.

Mr. President, at the start of this year, the Democrats laid out an economic program that was designed to lay the basis for reversing the trade deficit as part of a strategy for long term economic growth. We have sent to conference a thousand page trade and competitiveness bill that will open markets for U.S. exports, strengthen the international trading system, improve long run competitiveness through investments in people and new ideas and provide training for thousands of Americans thrown out of work by a rapidly changing economy. Where the U.S. budget deficit was part of the problem, we put in place a deficit reduction process and started to make hard choices.

Yet, year by year, trade deficit by trade deficit, the administration seems more interested in rhetoric than reality. As the United States plunged from the world's largest creditor to the world's largest debtor, there has been no sense of administration concern, no sense of urgency.

Mr. President, the country faces a challenge unlike any other we have every dealt with. We have not been hit with the shock of a surprise bombing raid or stunned by a Soviet success in space. Instead, we face the threat of diminished opportunity, gradually declining living standards, a downsized American dream, and a reduced role in world affairs. That is not the America I grew up with. It is not the America I want to pass on to my grandchildren.

America's ability to compete in global markets is central to our economic future. And our economic future will help determine our ability to meet our promises at home and provide leadership abroad.

The Senate and the House are busy working out their differences, making two competitiveness bills better. What we need, Mr. President, is an administration actively working to put our future back on track.

TRIBUTE TO CLARE BOOTHE LUCE

Mr. THURMOND. Mr. President, on Friday, October 9, 1987, Clare Boothe Luce, a powerful, intelligent, and accomplished woman in American history, died at the age of 84. Ambassador Luce was one of the most respected and admired women of the 20th century, and she was also a very dear friend.

Ambassador Luce possessed a unique combination of brilliance and drive which enabled her to succeed in positions that, during her early years in public service, were traditionally occupied by men. She served as Ambassador to Italy under President Eisenhower and as a two term Congresswoman from Connecticut. Her actions paved the way for many of the advances women have achieved in the public as well as the private sector.

Clare Boothe Luce was as charming as she was unpredictable. She was an individual in every sense of the word, one who defined her goals and applied undaunted determination to achieve them. She lived life to its fullest, achieving recognition in a variety of fields. From her early position as a young "Vanity Fair" editor to her recent position as a Reagan appointee to the Foreign Intelligence Advisory Board and consultant to the National Security Council, Ambassador Luce worked hard, served well, and earned the abiding respect of those who knew her.

It is a source of pride for many South Carolinians that Mr. and Mrs. Henry Luce donated a beautiful estate in South Carolina to be used as a monastery. The town surrounding this area has become known as Moncks Corner. We are very grateful for her philanthropy.

She will be remembered as much for who she was as for what she accomplished. We are saddened by her death, and Nancy and I join with my colleagues in extending deepest sympathy to her family.

Mr. President, I was pleased to have the opportunity today to attend a memorial service for Ambassador Luce at the church of Saint Stephen Martyr. It was a fitting tribute to a remarkable woman. I ask unanimous consent that the text of the program from that service be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TO THE GLORY OF GOD LET'S CELEBRATE THE LIFE OF CLARE BOOTHE LUCE—AUG. 10, 1903—OCT. 9, 1987—NEW YORK CITY, WASHINGTON, DC.

THE CHURCH OF SAINT STEPHEN MARTYR

Memorial Mass for Ambassador Clare Boothe Luce—October 14, 1987

Celebrants

Rev. Frank J. Bober, Presider.
Rev. Thomas J. Sheehan, Concelebrant.

Readers

Lila F.L. Luce, Old Testament Reading.
Clare Middleton Luce, New Testament Reading.
Eulogizers: Henry Luce III, William F. Buckley, Jr.
Eucharistic ministers: Sr. Roberta Hennings, OSF, Eric Olson.
Acolyte: Peter Holden.
Organist: Lynn Monkres.
Cantor: Claire Rieffel.
Special remarks: Most Rev. Edward J. Herrmann.

OPENING HYMN
"Amazing Grace"
GREETING AND OPENING PRAYER
OLD TESTAMENT READING
RESPONSORIAL
NEW TESTAMENT READING
GOSPEL
HOMILY
PRAYERS OF THE FAITHFUL
PREPARATION OF THE GIFTS
"Love Divine, All Loves Excelling"
EUCHARISTIC PRAYER
OUR FATHER
SIGN OF PEACE
COMMUNION
"Adagio for Strings"—Samuel Barber
EULOGIES
CLOSING PRAYER
BLESSING
CLOSING HYMN
"For All the Saints"

The family of Clare Boothe Luce wish to express their deepest gratitude to all who have come to celebrate the life of Clare Boothe Luce in this Memorial Service, especially our most honored and distinguished guests and friends. May God bless and keep each and everyone of you in His loving care!

MESSAGES FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 799) to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2985. An act to designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility"; and

H.R. 3030. An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

At 3:52 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 317) to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2472. An act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration; and

H.R. 2878. An act to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2878. An act to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2985. An act to designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility"; to the Committee on Governmental Affairs.

H.R. 3030. An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2472. An act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration;

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1993. A communication from the President of the United States, transmitting, for the information of the Senate, a report on an incident occurring in the Persian Gulf on October 8, 1987 involving United States forces; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

David M. Walker, of Virginia, to be an Assistant Secretary of Labor.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 100-3. Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78) (Exec. Rept. No. 100-8).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON:

S. 1786. A bill to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. Kerry, Mr. Simon, Mr. Wirth, Mr. Heinz, Mr. Specter, and Mr. Pressler):

S. 1787. A bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. QUAYLE:

S.J. Res. 202. A joint resolution to commemorate the 50th Anniversary of the National Apprenticeship Act; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. Pell, Mr. Dodd, Mr. Sarbanes, Mr. Kennedy, Mr. Kerry, Mr. Harkin, Mr. Bingaman, Mr. Sanford, Mr. Sasser, Mr. Adams, Mr. Hatfield, Mr. Durenberger, and Mr. Wirth):

S. Con. Res. 83. A concurrent resolution to congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize; placed on the Calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON:

S. 1786. A bill to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States; referred to the Committee on Rules and Administration.

REGIONAL PRESIDENTIAL PRIMARIES ACT

Mr. DIXON. Mr. President, in 1975, the distinguished Senator from Minnesota, Walter Mondale, said:

> The way in which we select Presidential candidates is indisputably one of the most important processes in our entire political system, but it is also, unfortunately, one of the most irrational. It has evolved over nearly 200 years without design, structure, or purpose into a complex maze of State laws, party regulations, and unwritten traditions. No other major nation choose its leaders in such a chaotic manner and the question is whether or not we should do so.

What Fritz said in 1975 is even more appropriate today! Our country's Presidential primary system is seriously flawed. It fails to emphasize the selection of truly national candidates. The process badly needs to be reformed.

One of the greatest drawbacks of the system is the inordinate amount of influence granted to the States holding the earliest primaries. Due to the recognized importance of doing well in Iowa and New Hampshire, the candidates concentrate their early campaigning almost exclusively in these States.

Consequently, only the citizens of Iowa and New Hampshire have the complete and early attention of the candidates. After a long and arduous campaign season, these voters, with the help of heavy media coverage, effectively determine who will be the frontrunners for the nomination.

Mr. President, I have the utmost respect and admiration for the people of the great States of Iowa and New Hampshire, but, I do not believe that this country is well served by this flawed nominating process. The field of candidates is narrowed before the majority of Americans get a chance to take a good look at them.

Unfortunately, because of an impending change in our process, the influence of Iowa and New Hampshire is going to increase. This change comes in the guise of reform. A reform called super Tuesday.

Super Tuesday is the product of an attempt by Southern Democrats to have their voice better heard in the "front-loading" process. These Democrats have long felt that the current primary system produces candidates unrepresentative of their concerns and special needs. In response to this problem, the Democratic Leadership Conference conceived the idea of super Tuesday.

Super Tuesday was orignially intended to be a Southern regional primary. Southern leaders felt that by consolidating their primaries, they could substantially influence the nominating process.

Initially, they appeared to be successful. Next year, every Southern State except South Carolina—14 States in all—will hold their primary or caucus on Tuesday, March 8.

However, the popularity of this idea spilled over their boundaries. Six other States have decided to hold their primaries and caucuses on March 8. The States involved—Massachusetts, Rhode Island, Nevada, Idaho, Washington, and Hawaii—are not normally considered to share the concerns of the South. Their presence greatly dilutes the intended effect of a Southern primary.

The combined results of these 20 States will dwarf the remaining primaries. Roughly one-third of the delegates to each of the parties respective conventions will now be decided on March 8, 1988. Super Tuesday, in effect, has become a quasi-national primary.

This quasi-national primary further erodes our already decaying electoral process. Its schedule, in relation to the Iowa and New Hampshire primaries, exacerbates the front loading of the current system. The resulting chain of events may effectively decide the campaign by March 8.

The Iowa caucuses take place on February 8—New Hampshire votes the next week on February 16—and then 2 weeks later—after the South Dakota, Maine, Vermont, South Carolina, and Wyoming primaries—20 States hold their primaries on super Tuesday.

Consequently, the winners of Iowa and New Hampshire will still be basking in the media spotlight when the citizens of the 20 super Tuesday States cast their primary ballots. The results will most likely be influenced by the great amount of attention focused on the "winners." Over 40 percent of the delegates could end up being chosen largely because of the preferences of two States. Iowa's and New Hampshire's results thereby gain more, rather than less, importance.

Voters will no longer benefit from being able to see how the candidate's campaign emerges over the course of an entire primary season. The initial impression made during the beginning of the primary season will become the basis by which the voters will make their judgment. The one-two punch of the New Hampshire-Iowa primaries and super Tuesday will deal a serious blow to the country's ability to choose a truly national candidate.

In spite of the problems with super Tuesday, I believe that regional primaries are a good idea. However, a regional primary standing by itself ineffective. It must be incorporated into an entire system of regional primaries.

In 1975, Fritz Mondale not only pointed out the failings of our Presidential system but also proposed a solution to it. He came up with a different system based on the concept of regional primaries.

I have made some changes to Fritz's proposal to bring it up to date but the bill remains very similar to his original idea.

It is based on a concept of dividing up the country into six regional primaries of approximately equal electoral sizes. States are then placed into the primaries on the basis of their particular geographical and cultural situation.

Each year, the Federal Elections Commission would decide by lot the actual order of the regional primaries. The first primary would be held on the last Tuesday in March and the remaining primaries would take place on alternate Tuesdays until the second Tuesday in June.

In addition, crossover voting would be forbidden. Voter's could only vote to choose the candidate of their registered party. Delegates would have to indicate what Presidential candidate they support unless they decide to run as "uncommitted." Both of these measures would ensure that the voters of each respective party choose who the delegates are, and ultimately who the party's nominee will be.

No one region would be able to gain the status and influence currently held by Iowa and New Hampshire because the order of the primaries would be constantly changing. Instead, every region would eventually enjoy the attention focused on the first primaries. Candidates and political strategists alike would be forced to become more familiar with every part of the country.

The qualities of the potential nominees would be revealed during the course of the six primaries. Voters would be able to discover how a candidate's message would wear when tested in the different regions of the country. The initial media image would be more thoroughly probed.

Mr. President, our Presidential primary system is in great disrepair. It grants far too much importance to the results of the earliest primaries. This "front loading" drowns out the voice of the rest of the country. Unfortunately, the development of super Tuesday assures that this inequitable feature of the current system will get worse.

A regional primary system will greatly improve our nominating process. It will not grant an inordinate amount of influence to a small group of States. It will test a candidate's ability to effectively appeal to all parts of the country. In short, it will provide the reform our Presidential primary system needs by producing seasoned and truly national candidates.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regional Presidential Primaries Act of 1987".

Sec. 2. The Congress finds that—

(1) the numerous elections held by States for the expression of a preference for the nomination of individuals for election to the office of the President of the United States are conducted without any semblance of order;

(2) the conventions held by national political parties for the purpose of nominating candidates for election to the offices of the President and the Vice President are vital to the process of selecting such candidates for national office; and

(3) in order to preserve the effectiveness of the Presidential election process and to provide for the public welfare of the Nation, the Congress must regulate certain parts of the process for selecting candidates to the office of the President.

Sec. 3. (a) No State shall conduct a Presidential primary except in accordance with the provisions of this Act.

(b)(1) Six regional Presidential primaries shall be held during each Presidential election year. The first regional primary shall be held on the last Tuesday in March of such year, and the remaining five regional primaries shall be held on the second and fourth Tuesdays in April and May, and on the second Tuesday in June, respectively.

(2) On the last Tuesday in October in each year immediately preceding a Presidential election year, the Commission shall determine, by lot, the date on which each regional Presidential primary is to be held. A State may not hold a Presidential primary on a date other than the date assigned by the Commission to the region in which such State is located.

(c) A State which conducts a Presidential primary shall conduct that primary in accordance with laws of the State with the following exceptions:

(1)(A) Each voter shall be eligible to vote only for a candidate for nomination by the party of that voter's registered affiliation, or if a State provides for registration as an independent, a voter registered as an independent may vote only for one candidate for nomination by a party with which such voter is not affiliated.

(B) If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures prescribed by the Attorney General in consultation with the Federal Elections Commission.

(2) Each ballot in an election for the selection of delegates to a national nominating convention of a national political party shall indicate the candidate of such party, if any, for whom each individual seeking the position of delegate is committed to vote at such convention. If an individual seeking the position of delegate is not committed to vote for any candidate, the ballot shall indicate that such individual is uncommitted.

(d) Whenever the Attorney General has reason to believe that a State is holding a Presidential primary in violation of the provisions of this section, he may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

Sec. 4. In order to be eligible to receive any payments under section 9037 of the Internal Revenue Code of 1986, a candidate of a political party in a Presidential primary shall, in writing—

(1) agree to have his name entered on the ballot of at least one State primary in each of the six regions established by this Act; and

(2) notify the Commission, not later than the last Presidential primary filing date within a particular region, which primary he intends to enter within that region.

Sec. 5. For the purposes of this Act, the term—

(1) "candidate" means an individual who seeks nomination for election to be President of the United States;

(2) "Commission" means the Federal Election Commission;

(3) "Presidential primary" means an election for the expression of a preference for the nomination of individuals for election to the office of President of the United States or for the selection of delegates to a national nominating convention of a political party;

(4) "region" means any of the following six regions:

(A) Northeastern region comprises Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

(B) Mideastern region comprises Delaware, the District of Columbia, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, and West Virginia.

(C) Southern region comprises Alabama, Florida, Georgia, the Commonwealth of Puerto Rico, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and the Virgin Islands.

(D) Midwestern region comprises Iowa, Illinois, Michigan, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin.

(E) Western Plains region comprises Arizona, Arkansas, Colorado, Kansas, Louisiana, Nebraska, New Mexico, Oklahoma, and Texas.

(F) Far Western region comprises Alaska, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(5) "State" means each of the fifty States of the United States, the District of Columbia, the Territories of the Canal Zone, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

Sec. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DASCHLE (for himself, Mr. Kerry, Mr. Simon, Mr. Wirth, Mr. Heinz, Mr. Specter, and Mr. Pressler):

S. 1787. A bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service in

Vietnam during the Vietnam era; to the Committee on Veterans' Affairs.

VETERANS' AGENT ORANGE DISABILITIES ACT

Mr. DASCHLE. Mr. President, today I am introducing, on behalf of Senators KERRY, SIMON, WIRTH, HEINZ, SPECTER and myself, the Veterans' Agent Orange Disabilities Act of 1987, legislation to compensate veterans suffering from a variety of diseases resulting from exposure to dioxin and other toxic herbicides.

The Veterans' Agent Orange Disabilities Act of 1987 sets out congressional findings that there is sufficient scientific evidence to warrant a presumption of service connection for, first, non-Hodgkin's lymphoma and lung cancer, and, second, disabilities associated with immuno-suppressive effects of exposure to dioxin and other toxic herbicides.

The bill also amends title 38 U.S.C. to establish a presumption of service connection for veterans who served in Vietnam, were exposed to dioxin or other toxic herbicides, and are suffering from the following conditions:

First, non-Hodgkin's lymphoma;

Second, lung cancer manifested within 25 years of the veteran's last day in Vietnam, and

Third, disabilities that are reasonably associated with suppression of the immune system as a result of exposure to dioxin or other toxic herbicides.

The bill adopts the Veterans Administration's definition of exposure to Agent Orange for compensation purposes. The bill acknowledges the VA's regulations that find it reasonable to presume that "any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin or other toxic herbicides during such service," and applies that same standard to compensation language.

In order to determine disabilities reasonably associated with suppression of the immune system as a result of exposure to dixoin or other toxic herbicides, the bill authorizes the National Academy of Sciences (or other appropriate nonprofit private scientific organization if the National Academy of Sciences declines to participate) to establish a committee to survey existing and ongoing scientific data.

Within a year, the Academy would submit a report listing the disabilities associated with immuno-suppression resulting from exposure to dioxin or other toxic herbicides. The Administrator of the VA would then be required to add those disabilities to the list of compensable disabilities, since their service connection would already be presumed. The Academy and the VA would make annual adjustments to the list as more scientific data becomes available.

Finally, the VA would be asked to gather and analyze, on a continuing basis, all clinical data from the health records of veterans examined or treated for disabilities related to dioxin or other toxic herbicides since the enactment of Public Law 97-72, which mandated treatment for agent orange-related health effects. The VA would submit a report on the disabilities treated and the incidence of such disabilities to the House and Senate Veterans' Affairs Committees within 1 year and would make subsequent semiannual reports.

Mr. President, there will be those both within and outside this body who will object to this legislation. They will say that there is not enough scientific "proof" that agent orange causes specific health effects among Vietnam veterans. They will say that we need more studies before we can compensate veterans. They will say that veterans should "wait patiently."

Mr. President, veterans have waited patiently, and they have waited long enough. They and their children are suffering from negative health effects they believe to be caused by exposure to agent orange. Numerous studies of humans and laboratory animals suggest a link between agent orange and many of these negative health effects. Veterans have naturally turned to their Government—the same Government that called upon them to serve in Vietnam—for answers and for help. Our collective response has been painfully slow and inadequate.

Why? What are we waiting for? Some say we must wait for "absolute proof." Scientists and logicians will tell you, however, that we will never have absolute proof of a casual relationship between disease and exposure to agent orange—just as we will never have absolute proof that smoking causes lung cancer. But that does not mean that we cannot come to reasonable conclusions that allow us to make decisions regarding health and environmental policy and compensation.

We already have strong evidence linking agent orange to certain diseases, such as non-Hodgkin's lymphoma and lung cancer. The recently released VA Mortality Study found Marine ground troops who served in Vietnam had a 110-percent higher death rate from non-Hodgkins lymphomas and a 58-percent higher death rate from lung cancer than their counterparts who did not serve in Vietnam. Other studies have shown a high correlation between exposure to dioxin and other toxic herbicides and immune system dysfunction, which could potentially lead to any number of negative health effects.

We do not know everything there is to know about dioxin, but we certainly know enough to be concerned. We know enough to enable us to offer veterans and their families better health counseling. We know enough to help physicians look for early warning signs of health problems. We know enough to intensify our public health and environmental monitoring efforts. And, I firmly believe we know enough to justify compensation for veterans exposed to agent orange.

We compensate veterans who lost limbs, for it is fairly simple to determine that their injuries were service connected. In the case of exposure to toxic herbicides, as with exposure to the brutal conditions suffered by prisoners of war, service connection is not as readily apparent. We must rely on partial evidence and, finally, on our judgment and our compassion.

The real issue comes down to whether or not we are willing, in a situation where we may never have the complete answer, to give veterans the benefits of the doubt. Do we feel a stronger allegiance to perfect scientific knowledge, which will never be attained, or to the men and women who served this country? We will continue to wait for "clearer" evidence, even though it will come too late for most, if not all, veterans?

We have appropriately found current evidence sufficient to justify compensation for former prisoners of war for their health problems. It is time for us to give veterans exposed to agent orange that same benefit of the doubt.

Mr. President, I look forward to working with my colleagues to finally address the agent orange issue. Thank you.

Mr. KERRY. Mr. President, I am delighted to join with TOM DASCHLE and LANE EVANS in introducing the "Veterans Agent Orange Disabilities Act of 1987," which will begin the process of compensation for the victims of agent orange. This is a major step forward, toward putting an end to the debate and the divisions over agent orange, and completing the homecoming process for Vietnam veterans. As a Vietnam veteran myself, and as Vice-Chair of the Vietnam-era Veterans in Congress, I am pleased to be an original sponsor of this bill.

This legislation is not the total answer to the question of compensation for the victims of agent orange. But it is a large step. It will provide a presumption service-connection for lung cancers and non-Hodgkins lymphoma, and diseases associated with suppression of the human immune system, for Vietnam veterans who may have been exposed to agent orange. It will call upon the Veterans' Administration to report and analyze data and records compiled on veterans who have reported exposure to agent orange. And it will call for annual reports updating our knowledge on agent orange studies.

I know that studies are still going on on this subject. For this reason, I earlier this year introduced legislation to call upon the National Academy of Sciences to produce a comprehensive report to the Congress within 1 year, covering all of the scientific studies and all of the evidence on agent orange. That effort is important, and it should go forward, because Vietnam veterans deserve answers.

But to make Vietnam veterans wait any longer for compensation is simply not fair to them or their families. It has now been 25 years since the first spraying of agent orange in Vietnam in 1962. Many veterans and their families are already suffering from cancers and other diseases caused by agent orange. We cannot ask them to wait any longer.

The Air Force has recently released some preliminary results from its Ranch Hand study, which are inconclusive. I must say that I have significant questions about the methodology used in the Ranch Hand study, and the reliability of these results. But the full Ranch Hand study will not be complete until the year 2002. Should we ask Vietnam veterans to wait until that study is complete, until the 21st century, before we are willing to give them the benefit of the doubt? I believe that is too much to ask.

There are already very significant results which clearly show a linkage between agent orange and several diseases. The recent VA study, which surveyed 50,000 veterans, showed that Marines who served as ground troops in Vietnam have levels of lung cancer 58 percent higher than normal, and levels of non-Hodgkins lymphoma 110 percent higher than normal. The validity of this study has been confirmed by scientists at the Boston University School of Public Health.

This is the clearest indication yet of a linkage between agent orange and significant health problems. Other strong evidence has come from studies in Massachusetts, in Kansas, in New Jersey, and many other States.

I am proud to say that the State of Massachusetts has been a leader in both the medical research on agent orange, and the organization of veterans with problems which could be related to their agent orange exposure in Vietnam. The Commonwealth's Agent Orange Program has conducted research and come up with some very important findings, some of the most important in all of the research on agent orange.

In January 1985, the Massachusetts Agent Orange Program published a report, "Mortality Among Vietnam Veterans in Massachusetts, 1972–1983". The report found that deaths due to stroke and connective tissue cancer were significantly elevated among Vietnam veterans compared to both non-Vietnam veterans and non-veteran males. The increase in connective or soft-tissue cancer was the most alarming, because this extremely rare disease is closely linked to dioxin exposure in scientific literature.

And in June 1986, the Massachusetts Agent Orange Commission released the results of a survey it conducted among Vietnam veterans in the State who believed they had been exposed to agent orange and to the highly toxic element of dioxin. These veterans reported very high incidences of birth defects, nervous disorders, and other ailments. Other States, including New Jersey, Wisconsin, Iowa, Texas, and New York, have also done surveys or studies on agent orange. And the results are similar.

I know that the CDC has recently announced that it will not be going forward with a major agent orange study, after 8 years and $63 million spent. This is disappointing for all of us. But it is all the more reason why the time has come to act.

There will always be questions about agent orange. There will always be doubters and skeptics. But, for the sake of those who have given so much already, for the veterans and their families who are suffering now, we cannot wait any longer.

The great Irish poet, William Butler Yeats, wrote: "Too long a sacrifice can make a stone of the heart." Many Vietnam veterans know the truth of those words all too well. They know the bitterness which comes of feeling that one's sacrifices have not been recognized or rewarded. All of us know that there was a reason for that feeling of bitterness. But we also know that during the past 5 years, since the establishment of the Vietnam Veterans Memorial in Washington, and other milestones for Vietnam veterans, that the healing process has brought many of us home again.

But there are some for whom a feeling of bitterness remains. There are those for whom the sacrifices continue, and are not yet recognized or rewarded. They are the victims of agent orange.

Elmo Zumwalt III, the son of Admiral Elmo Zumwalt, has written and spoken eloquently about the subject of agent orange. Let me quote briefly from his words, expressed in the book which he wrote about agent orange, entitled "My Father, My Son".

Elmo Zumwalt, who served as I did as a swift-boat officer in Vietnam, wrote:

> I had seen Agent Orange defoliation nearly everywhere I had patrolled, but from the air the extent of it was dramatic—trees were stripped of leaves, thick jungle growth was reduced to twigs, the ground was barren of grass. In the 11 months I was in Vietnam, I had often washed in the waters into which Agent Orange had drained, and had eaten local produce which I suspect had been doused with the chemical. I remember developing a skin rash while in the Sea Float area. I have since learned that one of the effects of Agent Orange exposure is a skin rash. But at the time, I was thankful for the defoliation. It meant the enemy could not attack Sea Float without great cost to itself.

And these are the words of Elmo Zumwalt today, knowing that he is the victim of Hodgkin's disease, a severe form of cancer, and that his son Russell is the victim of a learning disability, both probably caused by agent orange. He writes:

> I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that Agent Orange is the cause of all the medical problems—nervous disorders, cancer and skin problems—reported by Vietnam veterans, or of their children's serious birth defects. But I am convinced that it is.

I agree with Elmo Zumwalt. I am not here to criticize the use of agent orange in Vietnam, or to second-guess that decision. But I am here to suggest that the time has come to bring to a close the debate over agent orange, and to begin to provide compensation to the victims of agent orange. This Nation needs to take that further step in the healing process, in the process of closing the lingering wounds from the Vietnam war. And the Congress needs to be a part of that process.

The VA regulations on agent orange continue to be totally inadequate to the needs of veterans. The VA regulations recognize only chloracne, a severe form of acne, as being related to agent orange exposure. They continue to deny the existence of all other diseases, including soft-tissue cancers, as being related to agent orange. They continue to state the totally unreasonable requirement that the disease must have occurred within 1 year of service in Vietnam, in contradiction of all the facts which show that such diseases may not show up for 15 years, or 20 years, or longer.

The result of those VA regulations is that not one Vietnam veteran has received compensation for diseases which were caused by agent orange. Not one. That is no longer acceptable in 1987.

How many more body counts do we have to conduct before we decide that enough people have died, and we are now ready to say that agent orange was the cause?

How do we tell a mother who may be carrying a child with birth defects due to agent orange that we need to conduct still more studies, and wait still more years before we draw any conclusions?

How do we tell a father who may be dying of cancer due to agent orange that we as a society are not yet ready to make a decision?

How much longer are we going to make them wait? How much longer are we going to wait? And when are we going to say "Enough. These people have suffered enough".

I say that the time is now.

Let us as a society make a decision that the time is now to heal the final wounds of Vietnam, to recognize the final sacrifices, and to make the final amends. And let us begin that process by finally, belatedly recognizing the horrors that we have visited upon ourselves and our children through agent orange.

I hope that the time has come when we can bind the center together, heal the wounds, and leave the scars and the pain of Vietnam behind us. Recognizing the pain and the wounds of agent orange, and resolving those lingering divisions between us, is an important part of that process. Together, let us complete the healing process, and put the war behind us.

By Mr. QUAYLE:

S.J. Res. 202. Joint resolution to commemorate the 50th anniversary of the National Apprenticeship Act; referred to the Committee on the Judiciary.

50TH ANNIVERSARY OF THE NATIONAL APPRENTICESHIP ACT

Mr. QUAYLE. Mr. President, today I am introducing a resolution to commemorate the 50th anniversary of the National Apprenticeship Act. The National Apprenticeship Act has made major contributions to the welfare of American workers since its enactment in 1937. An estimated 3.5 million apprentices have received training in highly skilled trades and occupations over the past 50 years. Many of these individuals have gone on to positions of leadership in their industry. Today there are almost 290,000 apprentices in some 44,000 registered programs.

The apprenticeship concept embodies many of the elements that make for successful training:

It is voluntary system, supported and administered locally by industry and labor;

It can be tailored to the unique needs of each particular occupation or firm; and

It provides workers with widely recognized credentials.

These elements will be particularly valuable in meeting the skill requirements of the labor force in the next decade. There will be a growing need for post-education training supplied by firms to keep abreast of rapidly changing technology. At the same time, much of the job growth will take place in small firms which lack the capacity for extensive training systems. Apprenticeship, with its emphasis on one-to-one training and adaptability, is well suited to these requirements.

As impressive as the accomplishments of apprenticeship have been, the full potential of the concept has yet to be realized. Apprenticeship in this country has been limited to a relatively small number of traditional occupations. In Europe, by contrast, apprenticeship is widely used across a broad range of subprofessional occupations and by most business industrial sectors. A level of apprenticeship equivalent to that of Germany, for example, would mean 7 million apprentices in the United States.

Accelerating technological change and the demands of competitivenss for a flexible work force suggest that a revitalized and modernized apprenticeship system will be even more essential in the 21st century. Such a system could provide a vehicle for industry-based upgrading and renewal of worker skills.

It is appropriate to recognize the achievements of the National Apprenticeship Act, while we are looking for creative ways to employ the concept and structure of the apprenticeship system to meet the demands of our work force in the year 2000.

I urge my colleagues to support this resolution observing the 50th anniversary of the anactment of the National Apprenticeship Act.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. CRANSTON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 9, a bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 332

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 332, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 1118

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1118, a bill to help prevent rape and other sexual violence by prohibiting dial-a-porn operations.

S. 1391

At the request of Mr. EXON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1391, a bill to amend the Surface Transportation Assistance Act of 1982.

S. 1489

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1519

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sports and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 1774

At the request of Mr. PRYOR, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1781

At the request of Mr. CHAFEE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1781, a bill to amend the Internal Revenue Code of 1986 to permit donors of debt of developing nations to charitable organizations to obtain a charitable deduction equal to their basis in the debt.

SENATE JOINT RESOLUTION 97

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 97, a joint resolution to designate the week beginning November 22, 1987, as "National Adoption Week".

SENATE JOINT RESOLUTION 98

At the request of Mr. HATCH, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Carolina [Mr. THURMOND], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. STEVENS], the Senator from Illinois [Mr. SIMON], and the

Senator from Washington [Mr. Adams] were added as cosponsors of Senate Joint Resoluton 98, a joint resolution to designate the week of November 29, 1987, through December 5, 1987, as "National Home Health Care Week".

SENATE JOINT RESOLUTION 144

At the request of Mr. Wirth, the names of the Senator from Kansas [Mr. Dole], the Senator from Nevada [Mr. Hecht], the Senator from Pennsylvania [Mr. Heinz], the Senator from Washington [Mr. Adams], the Senator from Florida [Mr. Chiles], the Senator from South Carolina [Mr. Hollings], the Senator from Indiana [Mr. Lugar], the Senator from Massachusetts [Mr. Kennedy], the Senator from Vermont [Mr. Leahy], the Senator from North Carolina [Mr. Sanford], the Senator from Tennessee [Mr. Sasser], the Senator from Alabama [Mr. Shelby], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of Senate Joint Resolution 144, a joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week".

SENATE JOINT RESOLUTION 196

At the request of Mr. Packwood, the names of the Senator from Rhode Island [Mr. Chafee], the Senator from Michigan [Mr. Riegle], the Senator from North Dakota [Mr. Conrad], the Senator from Illinois [Mr. Dixon], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Joint Resolution 196, a joint resolution to designate February 4, 1988, as "National Women in Sports Day."

SENATE JOINT RESOLUTION 201

At the request of Mr. Garn, the names of the Senator from Illinois [Mr. Dixon], the Senator from Louisiana [Mr. Breaux], and the Senator from Alaska [Mr. Stevens] were added as cosponsors of Senate Joint Resolution 201, a joint resolution to designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle *Challenger.*

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. Cranston, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. Stevens, The name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. Sanford, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

AMENDMENT NO. 953

At the request of Mr. Weicker, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of Amendment No. 953 proposed to H.R. 3058, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

SENATE CONCURRENT RESOLUTION 83—SUBMISSION OF A CONCURRENT RESOLUTION TO CONGRATULATE COSTA RICAN PRESIDENT OSCAR ARIAS SANCHEZ

Mr. BYRD (for himself, Mr. Pell, Mr. Dodd, Mr. Sarbanes, Mr. Kennedy, Mr. Kerry, Mr. Harkin, Mr. Bingaman, Mr. Sanford, Mr. Sasser, Mr. Adams, Mr. Hatfield, Mr. Durenberger, and Mr. Wirth) submitted the following concurrent resolution, which was ordered placed on the calendar.

S. Con. Res. 83

To congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize.

Whereas the President of Costa Rica, Oscar Arias Sanchez has been awarded the 1987 Nobel Peace Prize in recognition of "his outstanding contribution to the possible return of stability and peace to a region long torn by civil war."

Whereas President Arias has called for "a commitment to the struggle for peace and putting an end to war and ensure that dialogue prevails over violence and reason for rancor";

Whereas President Oscar Arias Sanchez has stated that in an "atmosphere of democracy and freedom, we can return to the path of development that will enable a lasting peace" and has asked for the people of the United States with the people of Costa Rica to bring to bear the power of the principles and democratic values that they share to end the conflict in Central America;

Whereas on March 12, 1987 the United States Senate voted 97 to 1 "supporting the initiative of the Central American heads of state . . . in formulating a regional proposal by President Arias to end the armed conflict in Central America;

Whereas through the leadership of President Arias the Presidents of El Salvador, Guatemala, Honduras and Nicaragua met August 6-7 in Guatemala City and signed an agreement based on the Arias plan, setting forth a framework aimed at the establishment of a lasting peace in Central America;

Whereas the United States Senate endorses the goals of peace, democratization and development in Central America; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States of America—

(1) Congratulates President Oscar Arias Sanchez as the recipient of the 1987 Nobel Peace Prize and commends the Norwegian Nobel Committee on this outstanding choice;

(2) Recognizes the signing of the August 7 Guatemala peace accord is an historic achievement and important opportunity for the Presidents of Central America to work together to restore peace and stability to their region;

(3) Urges the parties to the peace accord to implement all of its provisions in good faith; and

(4) pledges its firm support and full cooperation with respect to such good faith implementation of the August 7, 1987, Central America peace agreement.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

CRANSTON (AND WILSON) AMENDMENT NO. 955

Mr. CRANSTON (for himself and Mr. Wilson) proposed an amendment to the bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes; as follows:

At the appropriate place, insert the following new section:

Sec. . (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until—

(1) the Court of Appeal for the Third Appellate District of California has rendered a final judgment in each of the cases—

(A) *Ixta et al. v. Renaldi* (Case No. 3 Civil C 002805); and

(B) *California State Employees Association, Local 1000 Service Employees International Union, AFL-CIO, a California Corporation, on behalf of its affected members v. Deukmejian et al.* (Case No. 3 Civil C 002664); and

(2) all direct appeals by the parties in each of the cases have been completed.

HELMS AMENDMENT NO. 956

Mr. HELMS proposed an amendment to the bill H.R. 3058, supra; as follows:

At the appropriate place, add the following new section:

Sec. . (a) Notwithstanding the matter under the heading "CENTERS FOR DIS-

EASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone sexual activity outside a sexually monogamous marriage (including homosexual sexual activities) or the use of illegal intravenous drugs.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

HELMS AMENDMENT NO. 957

Mr. HELMS proposed an amendment to the Helms amendment No. 956 to the bill (H.R. 3058), supra; as follows:

At the appropriate place in the pending amendment, add the following:

SEC. ——. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote, encourage, or condone homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from homosexual sexual activities.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

MELCHER AMENDMENTS NOS. 958 AND 959

Mr. MELCHER proposed two amendments to the bill (H.R. 3058), supra; as follows:

AMENDMENT NO. 958

On page 18, between lines 2 and 3, insert the following:

SEC. 106. The Secretary of Labor shall conduct a thorough study of older workers who have previously retired from or were pressured to leave a job and are reentering the workforce. The Secretary of Labor shall prepare and submit a report on the study required by this section to the Congress not later than 1 year after the date of enactment of this Act. The report required by this subsection shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

AMENDMENT NO. 959

On page 39, between lines 9 and 10, insert the following:

STATE LONG-TERM CARE OMBUDSMAN HOMECARE DEMONSTRATION PROJECTS

For carrying out State long term care ombudsman homecare demonstration projects conducted under grants made by the Secretary of Health and Human Services, $1,000,000.

On page 6, line 25, strike out "$81,192,000" and insert in lieu thereof "$80,192,000", and strike out "$13,600,000" and insert in lieu thereof "$12,600,000".

MELCHER (AND MATSUNAGA) AMENDMENT NO. 960

Mr. MELCHER (for himself and Mr. MATSUNAGA) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 39, line 9, strike out "$2,565,785,000" and insert in lieu thereof "$2,570,785,000".

On page 7, line 20, strike out "$216,952,000" and insert in lieu thereof "$214,052,000".

On page 7, line 21, strike out "$8,000,000" and insert in lieu thereof "$5,100,000".

BENTSEN AMENDMENT NO. 961

Mr. BENTSEN proposed an amendment to the bill (H.R. 3058), supra; as follows:

On page 56, at the end of line 25, add the following: Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,301,930 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education program: Provided, That the reappropriated funds shall be available until September 30, 1988.

STAFFORD AMENDMENT NO. 962

Mr. STAFFORD proposed an amendment to the bill (H.R. 3058), supra; as follows:

On page 48, line 14, strike out "$4,478,000,000" and insert in lieu thereof "$4,477,000,000".

On page 48, line 21, strike out "$285,000,000" and insert in lieu thereof "$284,000,000".

On page 49, line 4, strike out "$8,000,000" and insert in lieu thereof "$9,000,000".

On page 49, line 8, after the colon insert the following: *"Provided further,* That $1,000,000 of the amount made available for the High School Equivalency program shall be awarded to the three highest ranking unfunded project applications for grants made pursuant to the fiscal year 1987 appropriation:".

HELMS AMENDMENT NO. 963

Mr. HELMS proposed an amendment, which was subsequently modified, to the bill H.R. 3058, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities.

(b) Education information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsection (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

HELMS AMENDMENT NO. 964

Mr. HELMS proposed an amendment to amendment No. 963 proposed by him, and subsequently modified, to the bill (H.R. 3058), supra; as follows:

At the end of the pending amendment, add the following:

SEC. . (a) None of the funds made available under this Act to the Centers for Disease Control for AIDS educational, informational, or preventional materials and activities for school aged children and young adults shall be used to provide educational, informational, or preventative materials or activities that encourage, or promote—

(1) sexual activities outside of a sexually monogamous marriage; or

(2) the use of illegal intravenous drugs.

(b) All AIDS educational, informational, and preventative materials and activities for school aged children and young adults shall emphasize-

(1) absinence from sexual activity outside of a monogamous marriage; and

(2) abstinence from the use of illegal intravenous drugs.

(c) The sexual activity referred to in subsections (a) and (b) includes any sexual activity as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

CRANSTON (AND WILSON) AMENDMENT NO. 965

Mr. CRANSTON (for himself and Mr. WILSON) proposed an amendment to the bill (H.R. 3058), supra; as follows:

At the appropriate place in the bill insert ": *Provided*, That, in administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable".

EVANS AMENDMENT NO. 966

Mr. EVANS proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 59, line 25, strike out, "5,837,598,000" and insert in lieu thereof, "5,837,098,000".

On page 61, between lines 18 and 19, insert the following:

"For carrying out section 1341 of the Higher Education Amendments of 1986, relating to a National Academy of Sciences study on the use of volunteers in the classroom, $500,000 shall remain available until expended.".

HUMPHREY AMENDMENT NO. 967

Mr. HUMPHREY proposed an amendment to the bill H.R. 3058, supra; as follows:

Insert the following new section in the appropriate place:

SEC. . The Secretary of Health and Human Services shall:

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy; and

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

HATCH (AND BRADLEY) AMENDMENT NO. 968

Mr. WEICKER (for Mr. HATCH, for himself and Mr. BRADLEY) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 21, insert between lines 5 and 6 the following:

"For carrying out subpart 2 of part A of title XIX of the Public Health Service Act as contained in the Senate Amendment to H.R. 1451, $5,000,000 is to be available June 1, 1988.".

On page 80, line 3, strike out "22,600,000 and insert in lieu thereof "$23,600,000.

HATCH (AND OTHERS) AMENDMENT NO. 969

Mr. WEICKER (for Mr. HATCH, for himself Mr. KENNEDY, and Mr. METZENBAUM) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 15, line 17, before the period, insert a colon and the following: "*Provided further*, That the Secretary of Labor shall submit to Congress not later than February 29, 1988, a report on the status of, and the timeable for, issuance of final regulations concerning self-contained self-rescue devices; safety standards for underground coal mine ventilation; safety standards for roof control; standards for diesel-powered equipment in underground coal mines; and safety standards for electricity, explosives and blasting in underground mines".

RUDMAN (AND KASTEN) AMENDMENT NO. 970

Mr. RUDMAN (for himself and Mr. KASTEN) proposed an amendment to the bill H.R. 3058, supra; as follows:

On page 36, line 26, strike out "$1,237,00,000" and insert in lieu thereof "$1,669,386,000. Notwithstanding any other provision of this Act, the amount made available by this Act to carry out each discretionary program funded under this Act shall be reduced by 1.94 percent.".

CHILES AMENDMENTS NOS. 971 AND 972

Mr. HARKIN (for Mr. CHILES) proposed an amendment to the bill H.R. 3058, supra; as follows:

AMENDMENT No. 971

On page 48, after line 7, add a new section as follows:

"SEC. . Section 465(b) of 42 USC 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine." "

AMENDMENT No. 972

On page 27, line 19, after "$50,000,000,", insert the following: "of which $20,000,000 is provided for activities related to AIDS research to provide for the repair, renovation, modernization, and expansion of existing laboratory facilities; and to acquire by lease or otherwise laboratory and/or office space,".

EXTENSION OF CERTAIN PROTECTIONS UNDER THE BANKRUPTCY CODE

METZENBAUM AMENDMENT NO. 973

Mr. BYRD (for Mr. METZENBAUM) proposed an amendment to the bill (S. 1783) to extend certain protections under title 11 of the United States Code, the Bankruptcy Code; as follows:

Strike out "December 31, 1987" and insert in lieu thereof "November 15, 1987".

FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION

BREAUX AMENDMENT NO. 974

Mr. BYRD (for Mr. BREAUX) proposed an amendment to the bill (H.R. 2893) to reauthorize the Fishermen's Protective Act; as follows:

At the end of this bill, add the following:

SEC. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calendar years after the date of enactment." and inserting in lieu thereof the following: "on October 22, 1989.".

STEVENS AMENDMENT NO. 975

Mr. BYRD (on behalf of Mr. DOLE for Mr. STEVENS for himself, Mr. EVANS, Mr. MURKOWSKI, Mr. BREAUX, and Mr. ADAMS) proposed an amendment to the bill (H.R. 2893), supra; as follows:

At the end of the bill, add the following:

SEC. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, October 14, 1987, beginning at 11 a.m., in Senate Russell 485, on S. 1645, amendments to the Indian Education Act;

and a hearing on Thursday, October 15, 1987, beginning at 9 a.m., in Senate Russell 485, on S. 721, the Indian Finance Development Corporation Act.

Those wishing additional information should contact the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Madam President, I ask unanimous consent that the Select Committee on Indian Affairs be permitted to meet beginning at 1 o'clock this afternoon to consider a markup. I have discussed this matter with Senator HELMS, and he has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 14, 1987, to hold a hearing on welfare reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, October 14, to hold hearings on the proposed legislation relating to Presidential transition.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, October 14, 1987, to conduct oversight hearings on the implications of new technology for banking regulation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, October 14, 1987, to receive continuation testimony on Arctic National Wildlife Refuge legislation, S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, October 14, 1987 at 2 p.m. to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, October 14, 1987, at 10 a.m. to conduct an executive session (S. 373).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, October 14, 1987, at 9:30 a.m. to consider pending legislation: First, S. 1030—Michigan Wilderness; second, reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PROPOSED USAIR-PIEDMONT MERGER

● Mr. DECONCINI. Mr. President, Alfred E. Kahn, the former Chairman of the Civil Aeronautics Board and one of the principal architects of airline deregulation, testified before the Antitrust, Monopolies and Business Rights Subcommittee in late March, and expressed his concern about several airline merger decisions of the Transportation Department over the past 2 years. I was impressed with his testimony and his interest in the future direction of the airline industry in light of this wave of mergers. Last Friday night, Professor Kahn, who is now the Robert Julius Thorne professor of Political Economy at Cornell University, provided the following commentary with respect to the proposed USAir-Piedmont merger on the PBS Nightly Business Report, giving particular emphasis to the effect of the merger on competition at slot-constrained airports such as LaGuardia's Airport in New York:

> I've several times criticized the Department of Transportation for its failure to disapprove a single airline merger, even though in three cases the Justice Department recommended it do so. I am delighted to report now that a D.O.T. Judge, Ronnie Yoder, has just written a powerful decision recommending the disapproval of the proposed merger of USAir and Piedmont.
>
> I have a personal interest in this one. My home town is served by only those two carriers. The same is true when, as often happens, I drive to Syracuse to take a flight to LaGuardia.
>
> I was invited to prepare testimony in opposition to the merger, and finally decided that it would be a waste of time in view of the Department's track record and the fact that Justice decided not to oppose this one. I am ashamed of myself now for not having persevered.
>
> One problem that gave me pause was that on several routes like Syracuse-New York City, there's an active competitor—Continental—flying out of Newark airport. I knew in my bones that for many fliers, Newark is a poor substitute for LaGuardia, but lacking the resources to prove that these are separate markets, I thought my bones wouldn't be sufficient evidence.
>
> As Judge Yoder points out, however, even if a lot of passengers would willingly shift from LaGuardia to Newark if the fares got too high, the sophisticated fare differentiations that the airlines have developed would still enable a combined USAir-Piedmont to exploit business travelers, most of whom prefer LaGuardia even if there's a big price difference, while using restictive discount fares to hold onto the price-conscious travelers who would be more likely to shift.
>
> A second problem was my feeling that the only way to convince D.O.T. that they had made a mistake in the past would be studies of what has happened to fares and service into and out of the hubs like Minneapolis, Detroit, St. Louis, that have become so highly concentrated because of previous mergers. To my astonishment, the people at Antitrust told me that they had not done any studies of that experience—so Justice could say with a straight face that it had no evidence on the basis of which to oppose this one.
>
> Fortunately, other witnesses convinced the Judge on this point. So, three cheers for them and for Judge Yoder. Now, let's wait and see what the Department of Transportation does.
>
> I'm Alfred Kahn.●

PRETORIA

● Mr. WEICKER. Mr. President, I ask that an editorial by Randall Robinson, the executive director of Transafrica, that appeared in the October 5, 1987, edition of the New York Times be printed in the RECORD.

The text follows:

TURN UP HEAT ON PRETORIA

(By Randall Robinson)

WASHINGTON.—President Reagan's report to Congress on what progress South Africa is making toward ending apartheid could consist of one word: none.

After one year of United States sanctions, Pretoria has demonstrated no willingness to dismantle apartheid. The state of emergency remains in force. State terrorism has not abated. The ruling white minority of 4.5 million has yet to seriously contemplate giving the vote to the black majority of 27 million. With Nelson Mandela and most black leaders locked away, President P. W. Botha plans no negotiations that might allow a democratic outcome.

Mr. Reagan says the sanctions—enacted in the Comprehensive Anti-Apartheid Act of 1986, over his veto—have not achieved their intended results. No one who supported them thought they would show measurable results by today.

If Pretoria is to yield, tough multinational sanctions are required.

There are three reasons why the Reagan sanctions have not worked: The Administration, always opposing punitive sanctions against South Africa, eviscerated the law by seriously diluting some measures and ignoring others. To begin with, the sanctions were never strong enough. A year is far too short a time to evaluate the impact of sanctions.

Historically, economic sanctions have the greatest impact when applied multinationally, with the strongest possible bite. With some understanding of this, Congress, in the act, said the President or Secretary of State "should convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions . . . to bring about the complete dismantling of apartheid."

Congress, believing Western cooperation would maximize the impact of economic sanctions, allowed the Administration 180 days to convene a conference of our allies. The Administration took no action.

Last Feb. 10, a special advisory committee set up by the Secretary of State George P. Shultz reported that "the urgency of the situation demands" that a "multilateral program of sanctions should be put in place unless the South African Government releases all political prisoners, unbans the African National Congress and other political parties and terminates the State of emergency." Ten days later, in the United Nations Security Council, Washington and London vetoed a resolution calling for international adoption of American sanctions.

The law's bilateral provisions have also been diluted. Congress intended to bar importation of all South African uranium; the Administration opened a loophole to permit most of the uranium trade to continue. Congress intended to ban the import of iron, steel and iron ore; the Administration exempted certain alloys, significantly reducing the impact of these sanctions.

The Botha Government will seriously consider negotiations with South Africa's black leaders only if it finds itself tightly wedged between high-pressure and complex internal and external forces. Internal pressures have been building since 1984, but external pressure, largely diplomatic and economic, has lagged behind.

Vigorously enforced, American sanctions would stop only about 25 percent of what America buys from South Africa. When our sanctions are combined with those of the European Community and Japan, only 9 percent of South Africa's exports are affected. To salvage any chance for democracy, the world must quickly move toward global economic sanctions.

Pretoria will respect nothing less; overwhelmingly, black South Africans want nothing more. Washington must lead: We should ban all trade and investment, ending first the indefensible supply of vital products that American oil companies provide to the military and police.

In May 1968, the Security Council imposed comprehensive economic sanctions against Rhodesia. Prime Minister Ian Smith survived war at home and world pressure for 11 years before giving away to negotiations. Against the toughest sanctions, Pretoria could possibly hold on as long. America and the world simply must find the grit to take the only workable course, and steadfastly hold on.●

AN OPEN CONVENTION FOR THE DEMOCRATS

● Mr. MOYNIHAN. Mr. President, every so often one of our more experienced public servants speaks out and reminds us from whence we came. Such is the case with Stewart Udall.

Mr. Udall, a former congressman and Secretary of the Interior under two Presidents, writes in yesterday's Washington Post about the merits of an open Presidential convention. It is a thoughtful piece. Mr. Udall correctly points out that an open convention can provide precisely what the present primary system does not—the ability to pick the strongest ticket to represent a party. Those attending a national convention represent every faction of their party, with most of these people committed primarily to one cause; electing a President.

Commenting on the 1920 Presidential convention, Harry Daugherty, campaign manager for Warren G. Harding, predicted that the convention would be decided by a group of men who "will sit down about two o'clock in the morning around a table in a smoke-filled room." As students of history will tell you, Warren Harding won on the 10th ballot and went on to the Presidency. The convention was decided by ballots, not in the proverbial smoke-filled room. A 1988 open convention would be likely to produce a similar result.

It is also important to note, as Mr. Udall does, that an "old-fashioned, open-convention does not, ipso facto, rule out the possibility that a candidate who does not do well in next spring's primaries might win the nomination." Rather, it will help ensure that a party will be able to unite behind a single, strong duo before the American people.

The article follows:

An Open Convention for the Democrats—It May be Just the Tonic They Need

(By Stewart L. Udall)

A large roster of hard-to-distinguish candidates—and the splintering that seems certain to characterize the South's Super Tuesday primary next March—will propel the Democratic Party into an open convention in Atlanta next July.

Having observed the gyrations of the nominating process for 40 years (with roles ranging from that of a precinct committeeman in Tucson in 1948 to the campaign manager of a candidate for president who slogged through most of the 1976 primaries), I am convinced that such a development would be a boon for my party. It would refurbish the process that produced Franklin D. Roosevelt, Harry Truman, Adlai Stevenson and John F. Kennedy by empowering the leaders of the party (including, of course, all of the candidates who have garnered delegates in the caucuses and primaries) to use their collective wisdom and pick a winning ticket just before the big race begins next year.

A convention in which the outcome is not preordained is long overdue. In addition to an overemphasis on primaries, which often activate only a small fraction of the eligible electorate, one of the mistakes made by those who reformed the old system in the 1970's involved new rules that limited the influence of elected officials. Yet any astute member of Congress or governor or mayor has a finger on the local political pulse and has a network of supporters who can sometimes tip the scales in a close presidential contest in a particular state.

I witnessed the impact of the drastic reforms the Democrats adopted before their 1972 convention when I went with Sen. George McGovern to the governors' convention in Houston just after he had defeated Hubert Humphrey in the winner-take-all California primary. These rules (crafted in part by McGovern himself) had largely dealt the governors out of the nominating process. As a consequence, they were bristling with hostility toward the South Dakota senator, and their attitudes in June told me that, barring an electoral miracle, McGovern would lose overwhelmingly in November.

One of the curious things about the myth of the smoke-filed room—the myth that it is somehow unrepresentative and undemocratic—is that the history of the past half century does not support the thesis that the old system was manipulated by self-seeking power brokers. The Democratic conventions in 1952, 1956 and 1960 (and the remarkably open Republican conventions that nominated Wendell Willkie in 1940 and Dwight Eisenhower in 1952) are cases in point.

Several prominent senators, the elder statesman Averell Harriman and Vice President Alben Barkley sought the Democratic nomination in 1952. However, once the Republicans had nominated Gen. Eisenhower, Speaker Sam Rayburn and many other party leaders were convinced that the Democrats would lose the White House unless they nominated their best-qualified candidate.

Before the convention a consensus emerged among these leaders that the governor of Illinois, Adlai Stevenson, had exceptional talents for leadership and should be nominated. But the little-known Stevenson did not want the nomination, and the 1952 gathering in Chicago began as an exciting, wide-open convention. Because of unrelenting pressure from Rayburn and other party wise men, Gov. Stevenson finally agreed to run. Stevenson was an eloquent spokesman, and although he lost the 1952 election he ran such a strong race that the "power brokers" of his party readily renominated him four years later.

Kennedy's nomination in 1960 pivoted around a different scenario, but his political exercise also refutes the idea that an open convention is bad for a party and for the country. JFK prevailed in a few primaries to demonstrate that his Catholicism was not an insurmountable handicap. But he won the big prize through a strategy that operated on two levels: he persuaded a half dozen big-state governors to support him, and he put together an enthusiastic grassroots organization that lined up delegates in most of the nonprimary states. The final votes Kennedy needed to win on the first ballot were nailed down only a few hours before the 1960 convention began.

My hope for a return to rational, commonsense politics is not a pipe dream. A recent reform has already ensured that the Democrats' 1988 convention will be different: a rule change automatically awards delegate seats to 40 U.S. senators and 210 members of the House of Representatives. These new minibrokers could serve as a balance wheel if there were an open convention. They know the strengths and weaknesses of all of the potential nominees, and their professionalism will rule out decisions influenced by images and image makers.

And let me end with a final caveat for the supporters of the candidates already in the field—and for those governors and senators in the wings nursing a dose of Adlai Stevenson's reluctance. An old-fashioned, open convention does not, ipso facto, rule out the possibility that a candidate who does well in next spring's primaries might win the nomination. Nor does it necessarily imply that a noncandidate will be drafted by the convention.

The spontaneity of an open convention—and the opportunity it offers to pick the strongest ticket just before the race begins—could be just the tonic the Democratic Party needs to win in 1988.●

OLYMPIC COMMEMORATIVE COIN ACT

● Mr. D'AMATO. Mr. President, I am pleased that H.R. 2741, the Olympic Commemorative Coin Act, passed yesterday in the Senate by unanimous consent. H.R. 2741, introduced by my distinguished friend from Illinois, Congressman FRANK ANNUNZIO, passed in the other body in August. I am proud to have introduced the Senate companion bill S. 1587. This bill authorizes the minting of commemorative coins to support the training of American athletes participating in the 1988 winter and summer Olympic games.

Across America, thousands of our finest athletes are in training today for the 1988 U.S. Olympic teams. Many of them are making great personal sacrifices in the sole hope of representing the land they love at the highest level of international competition. Thousands of hours of lonely practice must be put into the goal of standing on the victory platform while the American flag is raised and our national anthem is played.

The costs of participating in the Olympic games are rapidly escalating, but this bill can help our athletes to attain their dreams. H.R. 2741 will authorize 1 million gold and 10 million silver coins to be sold directly to the public, and will help raise millions of badly needed dollars. A surcharge attached to the coins will go directly to the U.S. Olympic Committee to support local athletic programs and erect facilities for athletic training.

On the behalf of America's amateur athletes, I thank my colleagues for supporting this legislation.●

PROTECTING OUR GROUND WATER

● Mr. BURDICK. Over the past 15 years, the Federal Government has made a major contribution to protecting the quality of our environment. We have enacted landmark legislation including the Clean Water Act, the Clean Air Act, and the Superfund statute.

This legislation has been remarkably effective in correcting some of the most serious and obvious pollution problems in this country. I am proud to say that the Senate Environment and Public Works Committee, which I now chair, played a major role in putting into writing these laws and making amendments as necessary.

I am concerned, however, that we have neglected a vital element of our natural environment—our ground water resources. Ground water is so widely used and so essential to life that we sometimes take it for granted. It is time to recognize and respond to the problems of ground water contamination.

Ground water is a resource of tremendous value and importance. Half of our population and almost everyone living in rural areas rely on ground water for drinking water.

In my home State of North Dakota, over half of the population relies on ground water for domestic supply. It is the only source of water for thousands of farm families and their livestock.

Almost every town in North Dakota depends solely on ground water as a source of supply. Increasingly, ground water is being used to irrigate crops and grassland during low rainfall periods.

This crucial resource is threatened with contamination on a wide scale. Recent surveys by the Environmental Protection Agency and other organizations have identified ground water contamination problems all across the United States.

A study by the Office of Technology Assessment found that ground water contamination has occurred in every State and is being detected with increasing frequency. It concluded that the potential effects of contamination are significant and warrant national attention.

A report by the Academy of Natural Sciences cites a wide range of ground water contamination sources including hazardous waste disposal sites, solid waste landfills, leaking underground storage tanks, and application of pesticides and fertilizers. Contaminants from these sources are known to cause adverse health and environmental effects and to impose large costs in treatment and remediation.

The EPA acknowledges that sufficient information is available to raise concerns that a widespread problem may exist.

We must not ignore these warnings. Ground water is of vital importance and we have a duty to act before the problem becomes unmanageable.

I am pleased to report that we have already made some progress toward developing legislation to protect ground water. Earlier this year, I introduced S. 1105, legislation to expand and strengthen research of ground water and ground water pollution problems.

Research on ground water is now underway at several Federal agencies. The current research program is inadequate in several respects, however. We need to know more about the locations and amounts of ground water, the health effects of ground water contaminants, the causes and extent of contamination, and the most efficient methods of preventing and controlling contamination.

My legislation is intended to expand the national ground water research program and to clarify and coordinate the efforts of the Federal agencies involved in this work.

The Environment and Public Works Committee will also consider legislation addressing specific sources of ground water contamination. I recently joined with Senator LEAHY, the chairman of the Senate Agriculture Committee, in introducing a bill to reduce the levels of agricultural nitrogen in ground water. The legislation asks our agricultural producers, fertilizer manufacturers, scientists, and others to work together to develop methods of reducing the levels of agricultural nitrogen in surface water and ground water.

The bill establishes an Agricultural Nitrogen Best Management Practices Task Force. The task force will research the use of agricultural nitrogen in crop production and develop educational and training materials for farmers.

The task force would include representatives from a wide variety of Federal agencies. Because we must rely on our farmers to implement best management practices for applying agricultural nitrogen, the bill includes a farmer-representative on the task force.

Pesticides are also a source of ground water pollution. Several of my colleagues on the Environment Committee have introduced bills addressing the problem of pesticide contamination of ground water. I expect that we will be working closely with members of the Agriculture Commmittee on this issue in the coming months.

Another major source of ground water contamination are solid waste landfills located in virtually every community across the country. This year, the Environment Committee will begin consideration of amendments to the Solid Waste Disposal Act. As part of this effort, we will review the entire issue of municipal solid waste disposal. This includes waste recycling and environmentally safe incineration.

These initiatives are designed to improve ground water research, to protect ground water from high nitrogen levels and pesticide contamination, and to prevent ground water contamination from landfills. But these individual efforts are not a sufficient response to the ground water pollution problem. We need legislation providing a comprehensive framework for protecting ground water. I hope that my committee can introduce comprehensive ground water protection legislation sometime early next year.

Such comprehensive legislation must meet several objectives. It must set clear goals for protecting this resource. It must build on existing ground water programs. It must balance Federal and State responsibilities. And, it must be adequately funded.

We face a long road in developing the specific ground water bills already introduced and in drafting more comprehensive ground water protection legislation. But I am optimistic that we can put together a winning combination for ground water protection.●

TAX PENALTY ON CAPITAL GAINS

● **Mr. BOSCHWITZ.** Mr. President, I rise to speak on the issue of capital gains, specifically the negative side effect of the Tax Reform Act of 1986 on capital gains. Although I strongly endorse the Tax Reform Act of 1986 because it is a landmark attempt to introduce equity into the tax system, I continue to believe that the very large increase that bill imposed on capital gains is not in the best interest of the country.

As my colleagues recall, a primary goal of tax reform was to provide uniform tax treatment of alternative investment options. The objective was to let the market, not tax considerations, influence investment decisions. Regrettably, the goal of tax equity has not been fully achieved. The tax penalty on investments that return capital gains discourages such investments. This reflects the fact that capital gains are both voluntary and risk oriented. When rates are relatively high, there is a tendency to hold assets or not to invest. When rates are lowered, assets turn over more quickly and are put to more productive and risk oriented uses that generate additional tax revenues.

Mr. President, I ask to have a report prepared by the American Counsel for Capital Formation entitled "The Tax Penalty and Capital Gains," authored by J. Gregory Ballentine, inserted in the RECORD following my statement. As set forth by Mr. Ballentine, the effect of the Tax Reform Act of 1986 has been to increase substantially the tax rate on capital gains.

The tax consequences indentified by Mr. Ballentine result from: First, removal of the partial exemptions for capital gains; second, continued limits on the deductibility of capital losses; and third, elimination of income averaging.

In addition to documenting the tax penalty on capital gains under the Tax Reform Act of 1986, Mr. Ballentine highlights one of the more pernicious consequences of the act. According to Mr. Ballentine, capital gains for middle income taxpayers tend to be bunched into a single year, often the result of the sale of a small business that the taxpayer built over a lifetime. This forces taxpayers into a higher tax bracket. Prior to 1986, this form of bracket creep was offset by the capital gains exemption and income averaging. Furthermore, these capital gains most often reflect the accumulation of profits over many years and those profits were already taxed once.

My proposal to reinstate a reduced capital gains tax rate, S. 444, relies on a two-tiered approach. It utilizes 1 and 3 year holding periods with a 40 and 60 percent tax exclusion, respectively. My approach may not be the only way to attack the problem. We must, however, address the negative consequences of our failure to provide a stimulus for voluntary decisions triggering capital gains. It is important for my colleagues to understand this issue and it is with that goal in mind that I appear before you today.

The report follows:

THE TAX PENALTY ON CAPITAL GAINS

(By J. Gregory Ballentine[1])

INTRODUCTION

Much was said in the debate on the Tax Reform Act of 1986 about "leveling the playing field," "tax equity," and the "efficiency gains" of a low rate broad-based income tax system for economic growth. That was, to large extent, the rationale for the capital gains provisions of the 1986 act, which provided for the taxation of capital gains as ordinary income. In "The Tax Penalty on Capital Gains," a just completed study by Dr. J. Gregory Ballentine, the author challenges the economic case for the taxation of capital gains as ordinary income. To further a constructive debate on the economic impact of tax policy, the ACCF Center for Policy Research is pleased to summarize below the findings of the study.

THE FULL TAXATION OF CAPITAL GAINS: A FAILURE OF TAX REFORM

By its own standards of success, the 1986 tax reform effort clearly failed with regard to the taxation of capital gains. Perhaps the most compelling goal of tax reform was to provide uniform tax treatment of alternative investments. This was the goal behind the call for a "level playing field," to let the market, and not tax considerations, determine investment decisions. In fact, tax reform has tilted the playing field against many investments that return capital gains. Further, the tax penalty on most realized capital gains will cause tax considerations to become a major factor in many investment decisions.

In this report, the capital gains tax changes in the 1986 Tax Reform Act (TRA) are evaluated with respect to the standards generally endorsed by the proponents of the act. Those standards essentially call for a passive tax system that treats all investments uniformly, rather than a tax system that actively encourages investment in order to spur economic growth. A reduced tax rate on capital gains provides an important incentive for long-term, innovative investments that are central to economic growth. While the proponents of the 1986 act rejected the need for investment incentives, an overall evaluation of the tax treatment of capital gains should recognize the beneficial effect on investment incentives of a capital gains exemption.

The tax treatment of capital gains under TRA fails against even the limited criteria of a passive tax system that stresses neutrality. Instead, the Tax Reform Act of 1986:

Imposes an implicit surtax of up to 29 percent (compared to the tax rate on ordinary income) on capital gains assets held for an average period;

Levies a surtax of up to 50 percent on high risk capital assets held for an average period;

Raises the cost of capital for a capital asset by 12 percent compared to that for an investment yielding current income.

The surtax on capital gains is described here as "implicit" because effective tax rates on capital gains, far in excess of those on ordinary income, are not specifically mandated by TRA. Instead, the implicit surtax on investments that yield capital gains results from three factors: (1) the removal of any exemption or rate differential for capital gains; (2) the continued limitation on the deductibility of capital losses; and (3) the elimination of income averaging.

Such implicit tax penalties clearly violate the neutrality criteria of the Tax Reform Act. Certainly, had they been considered as explicit tax surcharges, this failure would have been obvious. If current law is evaluated relative to an activist tax system intended to encourage investment and growth, the over taxation of capital gains fails even more clearly.

Improved tax equity was another central goal of tax reform. During the debate over reform, there was a broad consensus that different families with similar incomes should not be taxed differently because one family took advantage of tax preferences (e.g., so-called "shelters") while another did not. Reform was supposed to result in greater tax equity by insuring that taxpayers with identical incomes are taxed similarly.

The over taxation of capital gains, and the fact that capital gains tend to bunch income in a single year, lead, however, to large differences in the tax treatment of similar middle income taxpayers who earn capital gains will be forced into higher tax brackets in the year they realize gains. This will cause them to pay much higher taxes than similar taxpayers who invest in ordinary income producing assets (e.g., in bank C.D.s).

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[1] Dr. J. Gregory Ballentine, a member of the Board of Directors of the American Council for Capital Formation Center for Policy Research, is a principal and the national director of tax analysis of the accounting firm of Peat, Marwick, Main & Co. This report is one of a series of papers on capital formation issues published by the ACCF Center for Policy Research to further public debate on economic policy. For additional copies of the special report or for copies of the complete study, contact the ACCF Center for Policy Research, 1850 K Street, NW, Suite 400, Washington, D.C. 20006, (202) 293-5811.

THE SURTAX ON CAPITAL GAINS INVESTMENT

The Tax Reform Act of 1986 fails to recognize that capital gains investments are inherently high risk and that realized capital gains include purely inflationary gains that are not income. For example, a taxpayer in the 28 percent tax marginal bracket pays a 29 percent higher tax on a capital asset held for 5 years than one which earns ordinary income and is taxed currently.

The combined effect of taxing inflationary gains and limiting the deductibility of capital losses leads to a severe over taxation of many investments that will earn capital gains. Thus, a taxpayer in the 28 percent bracket who realizes a gain on a high risk capital asset faces a surtax of 50 percent on an asset held five years. Larger surtaxes on high risk capital assets result from the fact that, while a capital gain is subject to full taxation, but losses are allowed only limited deductibility.

THE TAX PENALTY ON CAPITAL GAINS AND THE COST OF CAPITAL

Certain investments, by their very nature, will generate capital gains. This may be because of the kinds of assets purchased or the planned financial structure of the investment. An example of the latter case is the investment in a start-up company with the intent to sell all or a portion of the company in later years. By imposing a tax penalty on such investments, the TRA effectively raises the cost of capital for these investments. For example, if inflation is 4 percent, a capital asset held for five years (the average holding period) must earn a real pretax rate of return of 7.76 percent in order to earn a real after tax rate of return of 5 percent. In contrast, the real pretax rate of return (or cost of capital) required on an investment yielding a 5 percent real return and currently taxed on its real income is only 6.94 percent. Thus, the cost of capital for an asset yielding capital gains is 12 percent higher than that of an investment yielding current income (7.76 percent is 12 percent larger than 6.94 percent). In a similar vein, the cost of capital for a high risk capital asset held 5 years may be as much as 24 percent higher than that for an investment whose yield is taxed as ordinary income.

THE SPECIAL TAX PENALTY ON MIDDLE INCOME INVESTORS

In addition to the general tax penalty on capital gains caused by the TRA, many middle income investors will face an extra penalty. This arises because realized capital gains income tends to be bunched in a single year, forcing taxpayers into a higher tax bracket. Before the 1986 act, this tendency of capital gains to force middle income taxpayers into a higher bracket was mitigated by the capital gains exemption and by income averaging.

The Tax Reform Act eliminated these protections. A middle income taxpayer who realizes capital gains in a given year and, as a result, is forced into the 28 percent or 33 percent tax bracket may easily find that their tax rate on capital gains is double their tax rate on ordinary income. For example, a taxpayer who is moved into the 28 percent bracket from the 15 percent bracket due to the realization of a capital gain faces a surtax of 89 percent on an asset held for 5 years. This kind of arbitrary tax penalty on middle income investors is inconsistent with the equity goals of tax reform. As with the non-uniformity of the general tax penalty on capital gains, this penalty represents a clear failure of tax reform.

CONCLUSION

While it is difficult to estimate the overall effect of the capital gains surtax on productivity and economic growth, it is clear that tax equity and tax uniformity make a valuable contribution to economic welfare. However, the Tax Reform Act of 1986 fell well short of achieving these goals. Indeed, the current tax penalties on various capital gains investments and capital gains investors represent a clear failure of tax reform. Those penalties will harm the economy by worsening tax equity and tax uniformity.●

PHASE 1 OF STAR WARS WILL WASTE BILLIONS

● Mr. **KERRY**. Mr. President, the SDI Program has turned a significant corner. Last month, Secretary of Defense Weinberger decided that six technologies in SDI were ready to move from a research into a testing stage, termed "validation and demonstration," looking toward the deployment of a two-tier nationwide ballistic defense, termed phase 1 by the Star Wars office. Phase 1 would by design only be intended to stop less than 20 percent of Soviet strategic missiles. As a result, it cannot protect our population should any nuclear war take place, but is merely part of a general strategy of deterring nuclear war. Still, even with this limited goal, the forward movement of phase 1 potentially represents the most fundamental shift in national defense strategy since the Soviet Union first developed nuclear weapons.

There are many questions about phase 1 which must be answered before we hurtle toward deployment of such systems, including such fundamentals as whether partial defenses against nuclear missiles could increase the risk that a nuclear war might take place. But without reaching such fundamental issues, we should be cautioned by what some of the Nation's physicists are telling us about the limits of some of the technologies being developed for the Star Wars Program for phase 1.

To be specific, we are being told unequivocally by physicists from Harvard and Princeton that space based interceptors, such as are at the heart of phase 1 development, cannot be cost effective.

In a paper recently completed by David Spergel of Princeton's Institute for Advanced Study and George Field, of Harvard's Department of Astronomy, the authors conclude that the United States will have to spend at least $3 for space based interceptors for every $1 the Soviet Union spends on new missiles. Moreover, the authors have concluded that it would cost the United States $8 to $70 to counter every $1 the Soviet Union spends on fast-burn ICBM's, and that space based interceptors would be useless against Soviet missiles with burn times of less than 60 seconds.

As the authors note, this system would therefore fail to meet the criteria, first enunciated by Ambassador Paul Nitze, that phase 1 of SDI be cost-effective—as well as survival—before it could be deployed.

These scientists noted that even these unfavorable results were reached through making assumptions that were favorable to the defense—based on assumptions that space-based interceptors would be 90-percent effective in killing their assigned targets, and assuming that the Soviets adopted no countermeasures that would allow its missiles to evade the space-based interceptors. For example, the model ignored the possibility that the Soviets could locate all of their missiles at one site, increasing the absentee ratio of space-based interceptors by a factor of 3, trebling the cost of the defensive system by trebling the number of space-based platforms required.

Nevertheless, the scientists concluded that the boost-phase defense advocated for phase 1 would not be cost effective against SS-24's or SS-25's, and would be even less cost effective against fast-burn boosters and totally ineffective against boosters with burn times of less than 65 seconds.

As the scientists concluded, deployment of space-based interceptors such as contemplated by phase 1, "could result in an arms race that is economically unfavorable to the United States."

I ask that the text of the article by David Spergel of the School of Natural Science, Institute for Advanced Study, Princeton, and George B. Field, of the Department of Astronomy, Harvard University, be printed in full in the RECORD.

The material follows:

Are Space Based Interceptors Cost Effective?

(David N. Spergel and George B. Field)

ABSTRACT

Space-based interceptors (SBIs) advocated by the Marshall Institute as weapons forming the first tier of a ballsitic missile defense system are not cost effective against Soviet deployment of either their new missiles (SS-24 and SS-25) or fast-burn missiles. The U.S. will have to spend at least $3 for SBIs for every $1 the Soviet Union spends on new SS-25s. It will cost the U.S. at least $8-$70 to counter every $1 the U.S.S.R. spends on fast-burn ICBMs. SBIs are completely useless against ICBMs with burn times less than 60 seconds.

There has been growing discussion of the early deployment of SDI ("Star Wars") weapons based on current technologies. A recent report by the Marshall Institute (1) discusses the near-term deployment of a three-layered system. The first layer attacks the ICBMs in their boost phase with space based kinetic kill vehicles (SBKKVs or more simply space based interceptors [SBIs]). The SBIs would be deployed on satellites in a 7-year program beginning in 1994. The second (ERIS) layer consists of ground-based kinetic energy weapons that attack warheads at the end of midcourse. The terminal defense uses HEDI missiles to intercept incoming warheads during reentry(1).

One of the many questions that must be answered positively before deploying any system is: Will it be cost effective? Can the Soviets build new missiles that will overwhelm the defensive system at a lower cost than the U.S. can upgrade its system to meet the new Soviet threat? The President's Strategic Defense Initiative(2) released by President Reagan on 28 December 1984, states "the defensive system must be able to maintain its effectivness against the offense at less cost than it would take to develop offensive countermeasures and proliferate the ballistic missiles necessary to overcome it" (2). Ambassador Paul Nitze has emphasized cost-effectiveness as a necessary condition for SDI deployment(3).

This paper considers the cost of countering the Soviet Deployment of additional missiles, such as the new SS-24's and SS-25's (whose boosters burn for about 3 minutes) as well as "fast-burn" missiles with burn times as short as 1 minute. As SBIs are effective against missiles only during boost phase, deployment of missiles with shorter burn times requires the defense to orbit more SBIs. Although the Marshall Institute recognized that shorter burn-time missiles pose a threat to their proposed defensive system(1), this paper shows that they severely underestimated the number of SBIs required to counter the threat.

Blechman and Utgoff (4) assert that the Soviets will disperse their ICBMs on mobile launchers to assure survivability. They go on to assume that the launchers will be dispersed over a large fraction of the Soviet land mass. Since under this assumption, a satellite carrying SBIs is within range of a Soviet booster during a large fraction of its orbit, relatively few SBIs are needed to counter each new Soviet ICBM in their calculation.

We find that such wide dispersal is not required to assure survivability. If the Soviets deploy their mobile launchers at a density of 1 ICBM per 400 square kilometers, then 10 warheads fired at each launcher would destroy at most 50 percent of the force (5). The U.S.S.R. could deploy 1,000 ICBM's in an area of 400,000 km^2 (less than 2 percent of the area of the Soviet Union) and be certain that a significant fraction of its ICBM force could survive a U.S. first strike.

The Soviet Union will likely deploy its new missiles at a small number of sites, as it does do now: Soviet Military Power (6) lists 3 sites for the new SS-25 missiles, 4 sites for the SS-19's and 6 sites for the SS-18's. We will assume that additional SS-24's, SS-25's, and fast-burn missiles will be deployed and dispersed over fields of radius 200 km at 5 different sites to minimize the effectiveness of a SBI boost-phase defense, while allowing the Soviets to attack a range of U.S. targets. In the computer simulations described in Appendix I, we find that it is advantageous to the Soviets to locate some of these sites as far north as possible. The Murmansk region at 69° N would be a plausible new site. We shall assume that the Soviets deploy their missiles at bases at latitudes 50°N, 55°N, 60°N, 65°N, and 70°N. The calculation is insensitive to the longitude of the bases. As discussed above, 300 ICBM's could be deployed at any of the five sites with little risk to survivability: a U.S. strike with 10 warheads attacking each mobile ICBM launcher would expose the average launcher to an overpressure of only 10 p.s.i., since there would be 400 km^2 available to each launcher. Alternatively, the Soviets could defend hardened silos with ABM's.

In 1980 the Soviet Union deployed 250 new ICBMs (7). For the purposes of illustration, we assume that the Soviets will respond to the build-up of U.S. missile defenses by deploying new ICBM's in the 1990's at comparable rates, and calculate the number of new SBIs needed to counter the 250 new missiles deployed each year.

Several possible Soviet missiles should be considered. In the near term, the Soviets are likely to continue to deploy SS-24 and SS-25 missiles whose burn times are comparable to those of the MX missile (3 minutes) rather than older, slower (5 minute) SS-18 missile (7). As the Marshall Institute has noted, the Soviets could well develop and deploy fast-burn boosters with even shorter burn times: 120, 90 or even 60 second burn times (1). The Soviet "Gazelle" anti-ballistic missile demonstrates the feasibility of this technology (8). Studies by both Martin Marietta (9) and Lockheed (10) suggest that fast-burn rockets can be built whose boost-phase ends at 80-km altitude with little cost in payload size or missile accuracy. Such low-altitude fast-burn rockets would evade all of the SBIs (8,11).

The Marshall Institute (1) posits SBIs that accelerate at 20g, achieving a terminal velocity of 6 km/s in 30 s. They assume that these vehicles could achieve a kill probability of 90 percent (1). As advocated by the Marshall Institute, we assumed decentralized battle management. Because of random assignment of targets by such a battle management system, achieving the 76 percent effectiveness envisioned by the Marshall Institute will require a minimum of 1.6 SBI's within range of each missile (see Appendix II).

Appendix I describes how we found the optimal configuration for deploying the SBI's. Under the assumption that first generation SBI's would be unable to track and destroy the post-boost vehicles, which emit no booster flame, we computed the absentee ratio for boost times ranging from 60 to 300 seconds. Table I lists these absentee ratios. We also tabulate the minimum number of SBIs needed to counter the 250 new missiles deployed at the 5 bases each year. The Marshall Institute estimated that the cost of an SBI, including the cost of launch, its share of the cost of its space platform, and 10 years of operations and maintenance, is $6 million (1). Using this estimate, we computed the annual U.S. expenditure needed to counter the 250 missiles. The penultimate paragraph explains why the figures listed in the last column of Table I are conservative cost estimates.

Estimates for Soviet missile costs vary. If the price tag of an SS-25 is comparable to that of a mass-produced MX missile [$50 million including operations and maintenance(11)], then 250 new SS-25's will cost the Soviet Union $12.5 billion. Table I indicates that the U.S. must spend $42 billion to counter the new threat, resulting a cost exchange ratio of 3:1 in favor of the Soviet Union. If the Soviets move to fast-burn missiles, the cost exchange ratio becomes even more advantageous for the offense. Estimates for the cost of a fast-burn missile (including launcher) vary from $10 million (12) up to $90 million (1), so that the Soviets could add 250 new missiles to their missile force each year for $2.5-$22.5 billion. If the Soviets deployed missiles with 90 second burn time, the U.S. would have to spend $180 billion annually for the SBIs required to counter this new force, resulting in a cost exchange ratio of 8:1 to 70:1 in favor of the Soviet Union. Soviet missiles with 60 second burn time would be invulnerable to attack (8).

In making these cost estimates, we made several assumptions that were favorable to the defense. We accepted the Marshall Institute estimate that SBI's would be 90 percent effective in killing their assigned targets. If a more realistic estimate of 50 percent effectiveness is adopted, then the number of SBIs needed to counter the Soviet threat would increase by 80 percent. We ignored the possibility of counter-measures that would enable the booster to evade many of the SBIs. If the Soviets located all of their missiles at one site, the absentee ratio would increase by a factor of 3, trebling the cost of the defensive system. We assumed that the interceptors would be fired immediately after the launch of the missile. Any delay due to clouds or system start-up time would increase the absentee ratio and therefore raise the system cost. On the other hand, if sufficiently sensitive sensors could be developed that enable SBIs to attack post-boost vehicles, then the absentee ratio would decrease and this would lower system cost. We assumed that the SBI system could defend itself against attack and and ignored the start-up costs associated with the system. We also ignored the cost of improving the other layers to handle to additional threat posed by the new warheads that leak through the boost phase layer.

We conclude that the boost-phase defense advocated by the Marshall Institute would not be cost effective against SS-24's or SS-25's. It would be even less cost effective against fast-burn boosters and totally ineffective against boosters with burn times less than 65 seconds. Its deployment could result in an arms race that is economically unfavorable to the U.S. Simple geometrical constraints pose a serious problem for any boost phase defense composed of SBI's. Two recent studies (8,13) agree with the conclusion of this paper that the absentee ratio for SBIs attacking missiles with short boost times is very large. Furthermore, matching Soviet deployment of SS-24s, SS-25s, and fast-burn boosters will be very costly.

ACKNOWLEDGEMENTS

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TABLE I.—MINIMUM COST OF COUNTERING SOVIET BUILDUP

[Dollars in billions]

Soviet missile (burn time)	Absentee ratio	Number of SBI's needed to counter 250 missiles	Cost of new SBI's
60s	(1)	(1)	(1)
90s	76	30,000	$180
120s	38	15,000	90
150s	24	9.600	58
180s	18	7,100	42
300s	5	2,100	13

[1] SBI's unable to attack missiles during boost phase.

INFORMED CONSENT: PENNSYLVANIA

● **Mr. HUMPHREY.** Mr. President, in this so-called information age in which we live, it is indeed shocking to realize that many women are being denied proper information when it comes to abortion. Hundreds of letters sent to my office clearly show that abortions are being performed every day in every State with the patient uninformed about the risks, effects, and alternatives. These letters also show that many women have suffered from this lack of information—encountering common and devastating side effects from their abortions without a word of advance warning. This should not be allowed to continue, and indeed would be a major scandal if it were permitted in any other serious medical operation.

I urge my colleagues to take action to rectify this injustice by supporting my informed consent legislation, S. 272 and S. 273. The bills would simply require medical personnel to provide proper information to patients considering abortion before consent is acquired. Although the effects of abortion would still remain, at least women could make their decision based on the facts.

To conclude, I present two letters from women in the Commonwealth of Pennsylvania in support of informed consent. I ask that they be entered into the RECORD.

The letters follow:

PENNSYLVANIA,
March 31, 1987.

DEAR SENATOR HUMPHREY: I became pregnant, out of wedlock in 1977, ten years ago. When I expressed my reluctance in carrying the pregnancy, my family physician told me the local hospital could perform the abortion. He made it sound as simple as having a cavity filled. "Just like getting your period," he said. I believed him. After all, he was a physician. But I declined and decided instead to go to a city clinic where my family and myself could be protected from local tongues.

A friend made the arrangements for me in a Philadelphia women's health clinic. At the clinic, we were examined and then a group of about ten of us went into a room for "counselling." We were asked how we felt about what we were doing and showed some models of our anatomy. Then we were told about the "procedure." Not once did the word baby come up. I truly did not know, at that time, that the "mass of tissue" they spoke of had a beating heart and tiny hands and feet.

We were then ushered into rooms where we put on gowns and were given Valium 5mg to calm our nerves. It was dehumanizing. The procedure itself was horrifying. I was wide awake and the pain was excruciating. Then I was in a big room full of reclining type chairs to recover. I was shaking, had violent cramps and knew, at that instance, that I was deceived. They took something away from me. Something I could never get back. There was no way my "counselling" prepared me for this.

I was given a prescription for tylenol with codeine and sent on my way. I went home an empty person. I began to live a very self-destructive life style. I drank excessively. I over dosed on a prescription drug and alcohol. I hated myself, and I hated those people who deceived me and made it all look so easy and uncomplicated.

I did go on, a few years later, to forgive myself and straighten out my life. I married and now have three beautiful children. But nobody can take the place of the child I gave up. It's been ten years and I still continue to mourn. Many nights I cry myself to sleep. It's only in the last two years I can even talk about this.

Women should know all the facts. If they did, they might not make the same mistake I did ten long years ago.

Sincerely,

A CONCERNED MOTHER.

PENNSYLVANIA,
February 5, 1987.

DEAR HONORABLE GORDON J. HUMPHREY: God has been very merciful to me in giving me three children. My husband and I weren't married when I found myself pregnant. In order to not bring shame on our families, my fiance told me I *had* to have an abortion. I felt like a lamb being led to the slaughter. I put up such a fuss at the clinic. They told me it wasn't murder and was for the best. My child would have been ten years old this month. I have been in torment, pain and tears for the greatest sin of my life! Abortion is not an easy way out. It is the worst of all possible alternatives. I would give anything in this life to have walked out of that clinic with my baby.

If I could save just one precious soul and save a mother from the guilt and pain I must live with for the rest of my life, this letter, which is difficult for me to write, will be worth it.

"Before I formed you in the womb, I knew you. Before you were born I dedicated you." Jeremiah 1:5. A child is a soul at the moment of conception and don't let anyone tell you different. A child is God's gift to us and we should never destroy that gift.

Sincerely,

SHEILA RENE.●

IN HONOR OF HENRY FORD II

● Mr. DODD. Mr. President, today I rise in honor of Henry Ford II, a great American who passed away on October 2, 1987. I would first, however, like to express my sympathy to his daughter, Charlotte, who has been a good friend of mine for a number of years.

Perhaps as much as any citizen has in the 20th century, Henry Ford II personified the spirit and strength of America. While numerous facets of his business career fascinate me, I consider the beginning to be especially remarkable. Henry Ford II grew up with all the luxury money could buy and he knew that luxury would always be there. Comfort, however, could not dull the keen spirit that was inside this man. He joined the brave and patriotic of his generation and signed up with a Navy training school near Chicago, eager to join the U.S. Mediterranean fleet and accept the challenge posed by World War II.

The death of his father ended his fledgling career in the service and brought him home to Detroit. Concurrently, the once mighty Ford Motor Co. was struggling. A group of men were in the process of seizing control of the faltering family business. With the presidency of the company about to fall in the hands of a member of that group, Ford family members threatened to sell their shares.

In response to the family's complaints, Henry Ford I appointed his grandson, Henry Ford II, president of the Ford Motor Co. At only 28 years of age, the challenge of saving, reviving and, ultimately, returning to glory what had been one of America's most illustrious businesses stood imposingly before him.

Young Henry Ford II assumed the presidency and immediately displayed his unique strengths. First, he ended the speculation of an inner threat by firing the leader of the group. Second, he looked to the future and prepared to move the company forward.

At this time, Ford was losing about $9 million a month. Mr. Ford knew that heroic efforts were needed and he knew how to be the hero. He understood the importance of leadership, professionalism and ingenuity. Thus he brought in the whiz kids, a group that ran the U.S. Air Force during the war. Included in this set was Arjay Miller, Charles B. Thornton, and Robert McNamara. Mr. Ford also lured Ernest Breech from General Motors, which had been doing quite well during the Ford Co.'s decline. Like a skilled doctor, Mr. Ford was able to precisely diagnose the illness and prescribe the cure. The Ford Motor Co. soon became robust and dynamic again.

While his business success is legendary, I equally admire him for another tremendous accomplishment. During the late 1960's, race riots flared in urban areas throughout the United States. Detroit was particularly hard hit. In the midst of confusion and dissension, Henry Ford II emerged and became a leader on the question of race in America, calling for a new deal for blacks.

With few supporters, Mr. Ford forced the creation of the National Alliance of Businessmen, an organization devoted to solving the many problems caused by our Nation's most unfortunate history of slavery and segregation. With a determined sweep of his powerful hand, Mr. Ford changed the Ford Co. hiring, promotion, and dealer-selection practices that had excluded and stifled blacks.

When Henry Ford II demonstrated his patriotism, it was genuine. He loved America and what America stands for. I honor Henry Ford II today not for what he was, but for what he did and how he did it. One of our country's greatest strengths is that it engenders men and women who love life for its challenges, not only its rewards. Henry Ford II was one such person.●

ROBERT O'CONNOR—AN EXAMPLE OF LEADERSHIP

● Mr. SYMMS. Mr. President, in a recent issue of the Idaho Statesman, one of my State's most prominent leaders was featured in the "Newsmaker Forum." He is Robert O'Connor, currently the chairman and president of the Idaho Power Co., a major utility in the State.

I would like to recognize Mr. O'Connor for his example of service and leadership in Idaho for more than three decades. His is one of those bootstrap success stories that represent the American way.

Mr. O'Connor earned his degree in electrical engineering from the University of Idaho and began his career with General Electric in the early fifties. Within a few years he joined Idaho Power, and with rare tenacity and a love for hard work, he learned the business of providing people with electricity. In the process, he has become one of Idaho's greatest community leaders.

It's pretty obvious how he approaches life. No one gets to be chairman and president of a major utility without exceptional talent and a commitment to excellence.

The Statesman article gives a sample of Mr. O'Connor's leadership personality. I ask that a copy of it be included in the RECORD following my remarks, and I recommend its reading to my colleagues.

The article follows:

ROBERT O'CONNOR

Robert O'Connor is chairman and president of Idaho Power Co., the Boise-based electrical utility that serves much of the state. In this summer's Statesman Power in Idaho survey, O'Connor was ranked as the 13th most influential person in the state and the sixth most influential in commerce.

Among highlights of the interivew:

O'Connor expressed doubts that Western Power Inc., a group that includes multimillionaire industrialist J.R. Samplot, could achieve its plan of generating and selling hydro-generated electricity in the Southwest. He said legislation was planned for the next legislative session to regulate such ventures.

He said Idaho Power would have to ask the Public Utilities Commission for a rate increase if the company's appeal of an earlier PUC ruling is denied.

He said Idaho Power is "the pretty girl on the block" for a takeover, but that company policies and state regulation would prevent that from happening.

STATESMAN. What do you think about Western Power Inc.'s proposal to sell electricity and ship it to the Southwest over a transmission line?

O'CONNOR. I think it's very ambitious proposal. And there are many voices in the state becoming concerned about it, such as it would utilize our natural resources for export and would not be saved for our own customers here or the people who live here. So we are concerned about it.

Idaho Power is really powerless to do anything either way relative to Western Power. The governing entities that would do anything about it are (the Federal Energy Regulatory Commission), because they have to issue the license for such a thing. A need has to be shown to FERC, and (Western) would have to meet certain criteria, all of which are not state-controlled.

(Or) if the elected politicians chose to rise up against such an effort, those are the only ways in which anything could be done to encourage or discourage Western Power.

STATESMAN. Do you think Western Power's plan is feasible?

O'CONNOR. On the surface—and I don't know their plan—it looks like an extremely difficult economic thing to pull off. Because what has happened in the last two years is there have come on line in the desert Southwest 10,000 megawatts of new power. To put that in perspective, Idaho Power's capability is 2,800.

What this means then is that those tremendous costs are sitting there, they're fixed. Now you've either got to run the plant or just pay the fixed cost. . . . You might as well run it, sell it (the power) for whatever you can get for it.

Which translated means the price for power to be paid in the California market—which is where the markets are . . . the Californians then have the option of driving very hard bargains. Fixed power rates are being signed up for about 2.6 cents.

Now you can't build a power plant today . . . with the costs coming out at that price. It's going to come out anywhere from close to 6 cents to 10 cents.

How can you build on the North Fork of the Payette, Western Power or Idaho Power or anybody, pay the shipping costs, if there were transmission capacity and there is none available . . . how can you build for 6 cents and sell it on the California market for 2½? That's why it seems like a tough economic problem to me. Maybe Western Power has something that I don't know about.

STATESMAN. What might that be?

O'CONNOR. A miracle. I don't know what it could be.

STATESMAN. Would Idaho Power be interested in contracting with Western Power for transmission capability should they ever get a transmission system going?

O'CONNOR. We would look at any proposal. The problem is we don't have access to those markets ourselves. Only through the spot purchases as can be done through Bonneville Power Administration on the Pacific intertie.

We can't sign a firm contract. There are California cities that would sign with us today if we had a firm transmission access. . . .

BPA is trying to write a new intertie access policy. Only two companies have access to that intertie: those who bought into it in 1962, which is Portland General Electric and Pacific Power and Light. And they're not a bit interested in Idaho Power getting access to the intertie, because we're tough competition.

We want access, and we're not saying the government should build it and give it to us. We'll put up our money and we'll build and be a participant.

STATESMAN. Are you likely to get access?

O'CONNOR. That is where the real battle lies. And I can't answer you. The question will be decided in Congress.

STATESMAN. Idaho Power this year reported its lowest second-quarter earnings since 1980. If the company doesn't get rate relief from the state Supreme Court on this recent decision of the Public Utilities Commission, will the company come back and ask for another rate increase? (The company asked for $66 million in additional rates, but was awarded just $2.9 million.)

O'CONNOR. If that happens we wouldn't have much choice other than to do that. We hope that the Supreme Court will find that our petition to them includes reasonable requests for rate relief that the commission did not give.

And the most glaring example is off-system sales. In the rate case (the PUC) said, "OK, you will earn as a standard $68 million worth of off-system sales." We earned that one year, in 1984, highest water flows in recorded history. Highest off-system price for that power in history.

We're going to earn about $14 (million) to $20 million this year in off-system sales. And they said you'll earn $68 million and your rates are going to be based on that. And we don't believe that that's really very rational. And that's one of the points of contention that we have before the Supreme Court.

STATESMAN. What size increase would you ask for if you're not given relief in the Supreme Court?

O'CONNOR. I can't answer that because the way we ask for increases (is) we take the money we spent since the last rate increase. We haven't had any meaningful rate relief since 1982. This is 1987.

We're not going to get any rate relief for six years, even if the Supreme Court acts favorably. Because the Supreme Court won't set rates, they'll simply remand it back to the Commission.

STATESMAN. The complexion of the PUC is changing. (Two new commissioners, Joe Miller and Ralph Nelson took office on the three-member panel this year.) Does it look like the commission will be more favorable to Idaho Power?

O'CONNOR. Yes. We are very pleased with the business background of the two new commissioners. These are guys who had to go out and make their own living, one in a law firm, one in an accounting office. They bring a fresh, new look to the commission deliberation.

I think that you will see responsible orders out of the commission as a result of their new thinking being put into the equation.

That's not to imply that Perry Swisher is something that wasn't good.

STATESMAN. What is your evaluation of Perry Swisher? (Swisher is a longtime member of the panel who often has voted against Idaho Power.)

O'CONNOR. I think Perry is very well-intentioned as to what he's trying to accomplish. Perry has a lot of experience. He's seen and heard a lot relative to the national scene of regulation.

He can be a good influence on the commission and the new commissioners by way of his experience and background. So what we think is that with the help of these two new commissioners, Perry's decisions will be those that will be responsible as well.

STATESMAN. I'd like to ask you to look into a crystal ball. We're in a period of power surplus right now—hopefully we won't be as Idaho grows. How do you see the demand for power, and what would you see for rates doing for Idaho ratepayers?

O'CONNOR. We see the demand for power increasing at about 1.5 percent per year for the next 10 years.

We hope through things like The Idaho Co. (an economic development company spearheaded by O'Connor that would provide "gap" financing to growing companies) that that will be increased and that we will see more jobs created and electricity consumed.

But the demand should be a steady rate of growth. We certainly don't expect anything like the '70s when we were growing from 5 to 8 percent per year.

As far as rates are concerned, once this present rate case is settled, the one that we have petitioned at the Supreme Court, we see rate stabilizaiton for a lot of years, because we're not building any new generation. It's all built, it's all paid for. We have an excess capacity of something over 200 megawatts.

STATESMAN. Six or seven years ago there was a lot of conservation talk, conservation programs. Idaho Power, of course, was wrapping water heaters, giving out 10-year, no-cost loans. Has that taken a back burner because the oil prices have dropped?

O'CONNOR. As a matter of fact, we are in a hearing before the PUC to determine whether or not those conservation practices are valid today. They were valid then under those circumstances.

Today's circumstances are quite different. It is our opinion that it costs too much. We think that we can demonstrate that the cost associated with that conservation to implement those programs is more than the cost to use our excess (power).

That is not to say that Idaho Power's position is abandon conservation, because we're not. Why spend money on it? We want to encourage people to insulate their houses well, use double windows and storm doors. It's a better thing for everybody.

STATESMAN. Given that situation, is it appropriate for the company to go out and encourage electrical use?

O'CONNOR. We certainly believe it is.

We reinstituted for the first time in eight to 10 years the loadbuilding program starting this spring . . . principally heat pumps. We're promoting water heating through the easy-pay plan.

STATESMAN. Some financial analysts think Idaho Power is a prime candidate for a takeover. What's the company doing to prevent something like that?

O'CONNOR. The reason we're listed as a prime candidate is because Idaho Power is such a different power company. Two-thirds hydro. . . . I would point out to you we're the only non-union company west of the Mississippi. That means one guy can hammer a nail and saw a board and drive a truck in the same day. We don't need three crafts to do that, and that saves money.

I would point out to you that we reduced our forces down to bare bones through early retirement programs. I would point out to you that we've got a quality of employees second to none. . . . We've got outstanding employees who do their job well, not afraid of hard work.

So what we are is we're the lowest-cost producer of any private power company of the United States. Period. Now, that makes you very attractive; you're the pretty girl on the block towards the investor or the takeover artist.

Idaho Power put in what we call shark repellents. . . . You have to have two-thirds majority of the board to vote for a takeover. You have to have a vote of the common stockholders for the sale. We have a staggered board . . . so that a raider can't go in and buy enough controlling interest to put in his directors all at once and then pull the other directors out and run the company.

We also have, in Idaho, it takes the permission of the (Public Utilities) Commission for such a sale.

So I can't imagine that the Idaho commission would give up its hydro base to somebody to sell off to people in California who could use that low-cost energy.

So while we are the prettiest girl on the block, they can't get to us reasonably.

STATESMAN. If Idaho Power can't do much about Western Power and other outfits, what do you think the state should do to regulate these kind of folks?

O'CONNOR. That's going to be done in January. There's a lot of voices including Jim Jones who are planning on proposing legislation to regulate. Maybe the state can't regulate the licenses given by FERC, but they can regulate the transmission line out of there.

Then there's the water permit from the state Department of Water Resources, that has to be given. So we've got the state Department of Water Resources and we've got the state PUC and we've got the state Legislature and, of course, the governor.

O'CONNOR FACTS

Birth: Aug. 23, 1927, Uniontown, Wash.

Family: Wife, Jean; children, John, 31, Mary Sue, 34.

Professional background: General Electric Co. 1951-52; joined Idaho Power Co. as salesman, 1952; held various positions, including assistant to president, 1965-67; manager of western division, Payette, 1967-69; general marketing manager, 1969-70; vice president and assistant to president, 1970-72; vice president of administration, 1972-74; senior vice president of administration, 1974-76; board of directors, 1974-present; executive vice president and chief operations officer, 1980-81; president and chief operations officer, 1981-85; president and chief executive officer, 1985-present; chairman and chief executive officer, July 1986.

Education: Degree in electrical engineering from the University of Idaho. Professional Engineering License 1958.

Outside Interests: Golfing, hunting, fishing and spending time at cabin in Garden Valley.

Idaho Power facts:

Employees: 1,525; Customers: 275,000; Service area: Southern Idaho, eastern Oregon and northern Nevada.●

MISS MICHIGAN, OUR NEW MISS AMERICA

● Mr. LEVIN. Mr. President, this fall has been a mixed bag for loyal daughters and sons of Michigan. We were honored that His Holiness Pope John Paul II visited Michigan during his recent pilgrimage to the United States. We rejoiced at the Tigers amazing win of the American League East division this year and at the drubbing our boys gave the Blue Jays from across the border. But we're feeling the pain of the Tigers subsequent loss to the Minnesota Twins.

A recent triumph that continues to help ease the sting of that loss was the selection of Miss Michigan—Kaye Lani Rae Rafko—as the new Miss America. Kaye Lani Rae Rafko is a Miss America for our time. She is not only beautiful and talented. Ms. Rafko is a nurse with a special interest in working with the terminally ill. She has said that her goal is to manage a hospice for cancer sufferers.

I am proud that a young woman with that kind of dedication to easing the pain of others has been chosen as Miss America. I'm even prouder—although I'm certainly not surprised—that she comes from Michigan. Kaye Lani Rae says that as Miss America her job "is to be a role model for the young women of America." It is already clear that she will perform that job with distinction. I am happy to salute and to congratulate our own Miss America, Kaye Lani Rae Rafko.●

THE VFW HONORS DEAN PHILLIPS

● Mr. WIRTH. Mr. President, 2 years ago, a friend of mine—a highly decorated Vietnam war veteran—died. I am now proud to inform the Senate that the new Bear Valley Post No. 5061 of the Veterans of Foreign Wars in Denver, CO, has been named in memory of my friend, Capt. Dean K. Phillips.

Dean Phillips was an Army veteran who received 14 combat decorations—including two Silver Stars, two Bronze Stars, and the Purple Heart—for service in the Vietnam war.

After completing law school at the University of Denver, Dean went on to serve in the Veterans' Administration Central Office in Washington, DC. In 1979, he became the Special Assistant to VA Administrator Max Cleland and continued that role under Administrator Robert Nimmo.

Dean had a phenomenal record of achievement in securing legislation beneficial to veterans and their families. In Colorado, Dean worked to establish the Vietnam Era Veterans Tuition Waiver Act, the State Veterans Nursing Home at Florence, the Colorado Veterans Employment Rights Act, and the Paraplegic and Blind Veterans Tax Credit Act.

At the time of his death in 1985—at the age of 42—Dean was judge advocate for the Military Order of the Purple Heart.

Five days before his death, although weakened by chemotherapy and numerous operations to combat the ravages of cancer, Captain Phillips traveled to Fort Meade to turn over his command of a Special Forces Unit.

It is appropriate, Mr. President, that the courage, service, and honor exhibited by Capt. Dean K. Phillips have been forever memorialized. I am proud to have worked with Dean, and proud to rise today to recognize this fitting tribute to his memory at VFW Post No. 5061.●

RESTRICTION ON OSHA ACTIVITIES IN CALIFORNIA

● Mr. HATCH. Mr. President, late this afternoon, I received a letter from Secretary Brock concerning the Senate's decision restricting the activities of the Occupational Safety and Health Administration in California. I believe Secretary Brock has several important concerns which should be brought to the attention of our colleagues. I ask that the letter be inserted into the RECORD.

The letter follows:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, October 14, 1987.
Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR ORRIN: I am deeply concerned about the impact of the rider recently adopted by the Senate for attachment to the FY 1988 appropriations bill for the Department of Labor and feel compelled to inform you of the consequences of the appropriations rider on worker protection in California and in the rest of the country.

The adopted rider prohibits the Occupational Safety and Health Administration (OSHA) from taking any action that would withdraw approval of the non-functioning California Safety and Health plan at the same time that it effectively prevents OSHA from establishing a permanent presence in California to provide Federal protection over workplace safety and health. With the decision by California not to provide protection for workers in the private sector, Californians will remain unprotected at their workplaces unless Federal OSHA steps in and enforces Federal safety and health laws. Since July 1, 1987, OSHA has provided that protection on an interim basis by temporarily shifting staff to California from other parts of the country. This has been accomplished at great cost and at the great expense of worker protection elsewhere in the nation.

The Department is committed to providing effective worker protection in California. When the California legislature failed to reinstitute that state's occupational safety and health plan, OSHA began to implement permanent plans for addressing workplace protection in California. To the extent that a sufficient permanent Federal staff is not available in California, OSHA must supplement that staff with compliance officers from other parts of the country. OSHA has already encountered a significant rate of refusal from candidates for Federal compliance officer positions due, in part, to the uncertainty of the status of the California program. The proposed rider serves to complicate this situation and to further undermine OSHA's recruiting efforts.

The continuation of temporary assignments of existing OSHA staff to California is an extremely expensive proposition in terms of the daily cost of maintaining the staff as well as the temporary leasing of space and equipment. More importantly, such assignments are accomplished at the detriment of workers in other states. The drain on personnel from the offices providing employees for assignment to California has led to a significant decline in OSHA's enforcement capabilities nationwide.

The lack of a permanent Federal staff and organization in California has equally unsettling effects in California. We have already observed confusion and uncertainty among California employers and employees as to whom they should turn to for guidance and assistance in maintaining a safe and healthy work environment. The continuance of the state plan, though it is non-operational, has resulted in administrative confusion on such matters as differences in Federal and state standards, variances, and permits. These problems will undoubtedly continue if OSHA is unable to establish a permanent Federal presence in California.

We will continue to do the best job possible in providing effective worker protection in this country. Nevertheless, it is important that you and your colleagues realize the negative impact that this appropriations rider will have on meeting that objective.

Very truly yours,
WILLIAM E. BROCK.●

QUINCY VIETNAM VETERANS MEMORIAL

● Mr. KERRY. Mr. President, on Friday, October 16, a memorial will be dedicated to honor the men and women of Quincy, MA, who died while serving their country in the Vietnam war. This is an appropriate and fitting tribute to the Vietnam veterans of Quincy, and to all Vietnam veterans and their families.

The memorial in Quincy will be the first privately funded Vietnam memorial in the United States. The memorial was made possible by the generosity of three brothers from Quincy—Peter, William, and Thomas O'Connell, himself a Vietnam veteran—and their company, O'Connell Management Company, Inc., of North Quincy. They are to be commended for their initiative in making this memorial possible.

Forty-six men from Quincy served in Vietnam and sacrificed there. They were some of America's best and bravest fighting men, and we are proud of them. One veteran from Quincy, Charles L. Bifolchi, is still listed as missing in action. Their names will be incorporated into the design of the four-sided memorial at Marina Bay in Quincy which will honor them. The memorial will consist of an 85-foot brick and granite tower with a gold leaf cupola and a working clock. It will be located on the waterfront at Marina Bay, with a skyline backdrop. There will also be a side incorporating the history of Marina Bay, and a side which will contain an appropriate quotation reflecting the memorial's intent.

This memorial tower will reflect Quincy's pride in its past and the brave men and women of Quincy who served their country in Vietnam, as well as its hope for a future of peace. The memorial will be dedicated on Friday, October 16, 1987. Families of South Shore Vietnam veterans, various branches of the military, and local dignitaries will participate in a solemn tribute to those who lost their lives in the Vietnam war.

As a Vietnam veteran, I feel strongly that this Nation cannot and must not forget the sacrifices of all Vietnam veterans, and especially those who made the ultimate sacrifice for their country. The Vietnam Veterans Memorial in Quincy will honor their memory, and the clock tower which chimes hourly will be a living testimonial to their heroism in combat.●

MOVE FORWARD ON ANNEX V RATIFICATION

● Mr. LAUTENBERG. Mr. President, today the Foreign Relations Committee has reported out annex V for ratification by the full Senate. I applaud this action, and particularly wish to commend Senator PELL, the distinguished Chairman of the Foreign Relations Committee for his prompt action on this measure.

Earlier this year, I was joined by 10 of my colleagues from the Environment and Public Works Committee in writing to the Foreign Relations Committee, urging quick approval of the international agreement. The committee responded with a hearing in July. I testified at that hearing, stressing the need to get annex V before the Senate for ratification.

Now the Senate has the opportunity to act. I urge quick ratification of this measure, which will be an important step forward in protecting this Nation's coastal economies and communities from the ravages of pollution.

This annex to the International Convention for the Prevention of Pollution from Ships, can help respond to a significant threat to our coastal environments and economies. That threat is plastic pollution.

Annex V would prohibit dumping plastics into the oceans throughout the world. And it would regulate disposal of other forms of garbage.

It is imperative that the Senate ratify annex V. To take effect, countries comprising half of the world's gross shipping tonnage, must ratify the agreement. Currently we're at about 48 percent.

Many other countries have ratified, including England, Sweden, Italy, Japan, Egypt, West and East Germany.

Recently the Soviet Union ratified. They have about 6 percent of the world shipping tonnage. The United States has about 5 percent.

This means our ratification would put the annex over the top. This is long overdue. After all, the annex was negotiated back in 1973.

Unfortunately, this important annex was not transmitted to the Senate for ratification until this year.

The Senate should not approach the measure with the same delay as has the executive branch.

The problem of plastic pollution and garbage dumped at sea threatens our coastal environments and economies.

Mr. President, the Environment and Public Works Subcommittee on Environmental Protection has held three hearings on the plastics problem. In

July I chaired such a hearing in Asbury Park, NJ.

Our hearings provide a clear case for ratification of annex V and tough domestic legislation to back it up.

We heard from environmentalists, fishermen's representatives, local, State, and Federal officials, and representatives from New Jersey's own tourism and business community.

The very characteristic of plastics that makes them valuable, their durability, makes them a serious problem for our marine life, waterways, and coastal areas.

My State has been plastic pollution first hand. Beach closings were frequent this past summer. Miles of our coast were scarred with tampon applicators, condoms, and other floatables.

The evidence continues to grow about marine animals entangled in plastic debris and marine animals that have swallowed and choked on plastic junk.

Birds, and even the great whales have become victims of plastics carelessly discarded into the ocean.

In the Northern Pacific Ocean as many as 250,000 birds and at least 30,000 northern fur seals reportedly die each year from plastic entanglement.

My State knows what this kind of pollution means to the economy and the environment. Our tourism industry depends on clean beaches. About $7 billion a year flows into New Jersey from coastal tourism activities.

Plastic pollution is a problem for tourism. For swimmers and recreational boaters. For our fisherman. And for our marine and wildlife which choke or strangle on plastics.

We need to stop the flow of pollution from passenger and commercial ships at sea.

According to the Center for Environmental Education, the world's merchant shipping fleet junks 450,000 plastic containers every day.

Merchant ships dump into the oceans more than 12.4 billion pounds of cargo wastes annually, including plastic sheeting and strapping bands.

Recreational and sport fishing vehicles junk more than 100,000 pounds of plastic bottles, bags, and other garbage into U.S. coastal waters each year.

What laws do we have to respond? The answer is today we have none. The Refuse Act of 1899, the Clean Water Act, and the Ocean Dumping Act aren't enforced or designed to tackle the problem here at home or internationally.

What we need is annex V and strong domestic legislation to put it into effect. Annex V would help stop plastic disposal from ships. And it would regulate garbage disposal.

It provides the foundation for stopping plastic pollution in U.S. waters and international waters as well.

The annex has to be implemented in ratifying countries through domestic legislation. And appropriate domestic laws would allow enforcement even against countries that have not ratified.

I introduced legislation of this nature eariler this year. The goal is to put annex V in place, with a structure to make it work effectively.

My bill, the Plastic Pollution Control Act of 1987, would do this.

It would establish stiff criminal and civil penalties for unlawful disposal. It would allow citizens and local officials to sue to enforce the new law.

We'd also have EPA study ways to eliminate plastic pollution. Can we use alternative products? Would labeling help? How about degradable plastics?

The bill mandates a comprehensive public awareness program about plastic pollution.

And the legislation would apply not only to ships but to other sources. It would include a prohibition of plastic disposal in land areas, where such refuse could be washed or blown into the water. This responds to the fact that land sources, such as the Fresh Kills landfill in Staten Island, NY, are part of the problem too.

The Environment Committee is now considering my legislation and related measures sponsored by Senator CHAFEE.

I have also urged President Reagan to push forward in the battle against ocean pollution. I told the President of the importance of getting tough plastics and ocean pollution laws in place and strengthening the enforcement of our current pollution laws.

Mr. President, the plastics problem is a serious one. It demands a comprehensive response. Congress must act to protect our coastal environments and economies from this threat.

Ratification of annex V is a vital first step. The Senate must act quickly on this measure.●

TERRY PORTER

● Mr. SYMMS. Mr. President, when I first sought public office in 1972, our neophyte campaign team would sit around the kitchen table and brainstorm ideas about how to get our message across to the public. We sure thought we came up with some pretty good ideas. However, we were not blessed with vast media experience.

Terry Porter joined the cause. And Terry provided us with the expertise that was greatly needed for a new venture. He is a talented and creative photographer and fiercely independent businessman committed to the principles of a free market.

Terry Porter skillfully crafted our ideas and themes into attention getting commercials which are still talked about today.

It was a shock to learn of Terry's accident in 1986 and to know how severe his injuries were. Many were concerned over the negative prognosis for full recovery. But anyone who knows Terry Porter is really not surprised that his steady and strong determination has brought about a miracle recovery.

This month's Boise YMCA newsletter has a revealing article about Terry's remarkable recovery and personal courage which I want to share with my colleagues. I ask that this article appear in the RECORD.

The article follows:

NEVER GIVE UP!

Terry Porter played men's noon basketball 5 days a week at the YMCA from January 1970 to January 1986. In fact, Terry was known as 'Mr. Basketball' at the Y until January 2, 1986. While out tubing with his family, Terry's neck was broken. In a split second Terry went from athlete to quadriplegic. He lay in the snow wondering how he would care for his family.

Terry was in critical condition for days, and remained in the intensive care unit for six weeks. Every couple of hours nurses would roll Terry from his stomach to his back, then back again a few hours later. He began therapy as soon as he was able. It began with such tasks as trying to close his fingers around a spoon. He later practiced trying to maneuver the spoon to his mouth.

On his first visit home from the hospital, an embolism moved to Terry's lung. His wife performed CPR, bringing him back from a state of clinical death. This happened twice on his road to recovery.

Terry kept working on his rehabilitation. When he was first tested, he had one pound of grip strength with his right hand and six pounds with his left. Small movements required tremendous physical effort. Terry continued to work hard in therapy at the Elks Rehabilitation Hospital. After two months he was able to dial a telephone with the help of a device to push the buttons. Eventually he could kneel and hold his head up.

Less than two years later, Terry's progress has been amazing. He works out in the Nautilus Center at the Y three time a week and continues therapy with the Elks two days each week. Terry jumps rope, going as high as 89 consecutive jumps. He can do anything but run. His handgrip strength is up to 130 pounds. He has even shot baskets in the gym.

Terry has returned to his job full-time. Thanks to Larry Chase and some other friends at KIVI who helped keep his business running while Terry was in the hospital, Terry did not lose a single customer. His therapists say his is one of the most remarkable cases they have ever seen.

Terry credits his athletic background and his desire to improve as a large part of his recovery. His experience has changed his way of thinking. "There are two things which are important in any person's life: your health, and your family and friends," says Terry. "My priorities and values have changed. I don't take things for granted anymore. I count my blessings every day."

Terry advises us not to take dangerous risks. He also says to never give up!●

JOHN FAULKNER—MAINTAINING A LEGACY IN IDAHO AGRICULTURE

● Mr. SYMMS. Mr. President, the sheep industry is an integral part of Idaho's agricultural economy, and it has suffered in recent years.

But while the recession of the early eighties squeezed many in Idaho out of the industry, one of our most well-known sheep ranchers, John Faulkner, hung on.

Mr. Faulkner is part of a legacy in Idaho. His family has been raising sheep in southern Idaho for more than 40 years. John is a former president of the Idaho Wool Growers' Association and currently chairs the Public Lands Committee of the National Wool Growers Association. He knows not only the business of raising sheep, but he understands what it means to earn one's living from natural resources.

He is evidence that sheep ranching is not nearing extinction, as some have said. The industry contributes $120 million to our State's economy annually.

John was featured recently in the Idaho Statesman. The article gives an account of the people who keep the industry alive and also contains a flavor for the lifestyle.

I ask that it be inserted in the RECORD and I encourage all of my colleagues to read it.

The article follows:

AUTUMN FOLLOWS SHEEP

(By David Proctor)

SMILEY CREEK.—There are two sure signs that fall has arrived in the Stanley Basin: Leaves are turning, and John Faulkner is moving his sheep out of the mountains.

As the sun touches the top of the Sawtooths, Faulkner, members of his family, his herders and their dogs are hard at work.

The herders and dogs move the sheep from their holding pen and funnel them single file into a narrow, creaking wooden chute. The sheep baah; the herders whistle and shout and wave their arms to keep them in line.

Faulkner stands in the middle of the chute, swinging an old gate back and forth across it. The lambs are allowed to continue through the chute; the breeding ewes are screened out into a pen behind him.

A few feet down the chute, the lambs are screened again by his brother, Fred Faulkner, who operates a similar gate to pull out feeders—the lambs that need more weight.

The fat lambs—420 of them at 125 pounds each—continue down the chute and up the metal ramp into the triple-decker semitruck that will take them to market in California.

Not every sheep is pleased with its assigned role. Workers run along the chute to untangle the confused animals and keep them headed in the right direction.

The temperature hasn't hit 40 degrees, but some of the herders and chasers are shedding layers of work clothes. Sweat stains creep down their chests and sides.

Within two hours 2,200 head of sheep are sorted, and 420 lambs are in the truck, on their daylong cross-country trip.

The sun finally hits the valley floor. It's time for breakfast.

The residents of the tiny mountain community south of Stanley have set their seasonal clocks by Faulkner for 40 years, first with his father, Ralph, 79, and now with John, 55.

Ralph's father, G.W. Faulkner, grew up on a dairy in Boise, then moved to Fairfield in 1914. When the Fairfield bank failed, Ralph moved to Hagerman and Gooding, where he began to raise sheep in the 1940s.

While Fred oversees the other Faulkner farming ventures, in the past 30 years John has become almost synonymous with sheep in Idaho. He is past president of the Idaho Wool Growers Association, currently is chairman of the National Wool Growers' Public Lands Committee and has an honorary doctorate in range management from the University of Idaho.

His sheep operation of 12,500 head remains one of the largest in the state.

Despite a deep depression that nearly sank the industry in the early 1980s, John Faulkner loves what he does. "It's a great business," he said. "Sheep grow from renewable resources: grass and mother's milk."

For this shipment, the herders brought the band from its summer mountain pastures to the Faulkner pens on Forest Service land three miles west of the Smiley Creek store on Idaho 75. They were met by the two Faulkner families and by some friends who drove up from Gooding to help.

It is the beginning and end of the sheep year. The marketable lambs have been separated from the small lambs and breeding stock. One buck now will be mixed with every 60 ewes until Oct. 15, and the reproductive cycle will begin again.

The summer marketing season accounts for about 85 percent of Faulkner's sheep income. The rest derives from the sale of wool.

In mid-October, the Smiley Creek band will be added to a band from Baker Creek and driven south on their 300 mile annual grazing circle that takes them from the mountains to Gooding and back.

They will walk through Ketchum and Hailey. Then they will head west to the Faulkner corrals in Kelly Gulch, where they will be sheared at the end of October. Others will be "sheared where we catch them," he said.

The sheep then will graze south toward Gooding. Depending on the severity of the winter, Faulkner will truck at least 4,000 head that will produce the best meat lambs to Arizona for winter pasture. An additional 5,000 will lamb in Gooding.

Depending on weather, the Idaho sheep will move to Bliss, then to Gooding in January, where they can be fed with hay.

The ewes will lamb in the spring, and the animals will head north again.

The sheep economy also works in a cycle, usually of eight to 10 years. Lately, it has been on its way up.

"Between 1981 and 1984, it crashed; it was a disaster," said Stan Boyd, executive director of the Idaho Wool Growers Association. "It got as low as 38 cents (liveweight) a pound. Families with two or three generations in the business sold out."

Les Sliman gave up in 1983. The Gooding sheepman is a member of the Southern Idaho Livestock Hall of Fame and had been in the business for 50 years. After he lost $200,000 in five years, he decided that managing a 700-head dairy-cow replacement operation was safer.

State Sen. John Peavy, D-Carey, also is a third generation sheepman. In 1983, he told *The New York Times*, "I'm afraid that sheep ranching is an industry already headed for extinction."

He sold off nearly half his 5,600 ewes, but during the past two years has built back up to 4,300.

Faulkner and Peavy survived with diversified operations. Both raise cattle, and the Faulkners also farm.

The 1980s crash was propelled by the natural supply-and-demand cycle of the market and by cheap imports from New Zealand and Australia, Boyd said.

There are no import quotas on imported lamb, though there is a bill before Congress to impose them.

The predator problem is not cyclical. Faulkner estimates he lost $40,000 worth of livestock in the past three months. In 1986, predator loss in Idaho totaled more than 23,000 head, worth $1.76 million.

Coyotes cause most of the damage, he said, followed by bears and cougars. About 30,000 coyotes are killed in Idaho a year, he said, but the problem persists.

The sheep market began to turn around in 1985, "a break-even year, with prices in the 60 cents range," Boyd said. In 1986, prices hit 70 cents a pound and this year topped out at 80 cents, but sales average about 76 cents.

The turn-around, Boyd said, has occurred because:

Lamb is a lean meat and has gained popularity with health-conscious consumers.

Use in restaurants is up 11 percent.

Wool clothing is more fashionable, and demand is up.

The depressed hay and grain markets make feed cheap.

SHEAR TRIVIA ABOUT SHEEP

The sheep industry goes a long, long way ba-a-a-ck:

Sheep were domesticated in western Asia about 10,000 B.C., and there is evidence of domesticated sheep in prehistoric Europe.

During the Middle Ages, England and Spain were at the head of the flock. Sheep came to the New World via South America in the 16th and 17th century.

They came to western Idaho from California via Oregon and to eastern Idaho from Colorado and Wyoming about the time of the Civil War. By 1867, the breeding sheep population in Idaho hit 14,000; by 1890, it jumped to 614,000. Sheep numbers peaked in 1918 at 2.65 million, nearly six times the human population.

Nationally, the sheep population peaked at 56.7 million head in 1942. In 1985 it hit 9.9 million.

Four breeds were developed in Idaho. The U.S. Sheep Experimental Station at Dubois created the Columbia in 1917, the Targhee in the 1930s and the Polypay in 1969. The Laidlaw family developed the Panama breed in the 1950s at their ranch in Muldoon Canyon near Carey.

The Taylor Grazing Act, passed by Congress in 1934, divided the federal range among the segments of the livestock industry to correct over-grazing problems. Sheep numbers began to drop.

After World War II, the use of synthetics and a shortage of sheepherders also contributed to declining numbers. The numbers of Basque sheepherders were reduced by better economic conditions in Spain and tighter U.S. immigration laws.

Lamb consumption also dropped from 5 pounds per person in 1963 to less than 2 pounds in 1983, though it has increased slightly since then. In comparison, Americans each eat an average of 63 pounds of beef annually.

In 1961, there were 1 million head of breeding stock in Idaho and 670,000 people. Human numbers finally exceeded sheep numbers in the 1970 census with 687,000 sheep and 700,000 people.

In 1980, there were 456,000 sheep and 713,000 people. In 1987, there are 299,000 head of breeding stock and about 1 million people.

In 1931, it was estimated the sheep industry produced an annual wool and lamb income of $30 million—enough money to spread a double line of dollar bills across the widest part of the state and still have some left over. It was the third largest industry in the state.

In 1987, the income estimate is again $30 million, though the modern dollars will not stretch as far. The industry's total impact on the state—for trucking, feed, wages and so on—is $120 million.

CENTRAL AMERICAN POLL

● Mr. **BOSCHWITZ.** Mr. President, earlier this year, USIA contracted with the Gallup polling organization's affiliate in Costa Rica to conduct a public opinion survey in Costa Rica, Honduras, El Salvador, and Guatemala. The results of the poll indicate how the Central American people themselves feel about the Contras, the Sandinistas, and about U.S. policy in the region.

The results were, I believe, surprising to some. Strong majorities of those polled in each of the countries held intensely negative sentiments toward the Sandinistas and positive attitudes toward the Contras. Following the poll, I wrote an article on its results, which I will ask be put into the RECORD. I was asked about the poll's methodology, so I have obtained a copy of its procedures, as well as complete breakdown of the entire poll, which I shall also submit for the RECORD.

Mr. President, because Central Americans are now engaged in a regional peace process, I believe this poll is as timely now as it was when it was first released. I commend it to my colleagues' attention.

I ask that these materials be printed in the RECORD.

The materials follow:

POLL SHOWS WHAT NICARAGUA'S NEIGHBORS THINK

(By Senator Rudy Boschwitz)

Normally it's your neighbors who know you best.

So I was particularly interested in a poll taken by the Gallup Organization's international group of Nicaragua's neighbors—Costa Rica, Honduras, El Salvador and Guatemala. It was recently entered into the Congressional Record by Sen. Bob Dole and is enormously revealing.

The first question was: "How justly does the Government of Nicaragua treat the people—very justly, somewhat justly, with little justice or not justly at all." This is how people living in neighboring countries answered:

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very justly	3	6	.4	5
Somewhat justly	5	13	15	19
Justly	8	19	19	24
With little justice	29	31	39	40
No justice at all	56	40	23	27
Total, unjustly	85	71	62	67
No opinion, no answer	7	10	19	9

Now that's a somewhat different result than many would have expected from listening and reading the news. Consider question number 2: "Would you say the (Sandinista) Government of Nicaragua represents the majority of the people or that it represents a minority." The answer will blow your socks off.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Represents majority	11	14	18	27
Represents minority	79	75	64	64
No opinion, don't know	10	11	18	9

It's interesting to note that Costa Rica and Honduras border Nicaragua. El Salvador doesn't, nor does Guatemala, which is the farthest away from Nicaragua of the four.

The pattern is clear throughout the poll: The closest neighbors of Nicaragua like it the least!

Here's the third question: "Which side of the conflict do you think the majority of the people of Nicaragua support— . . . the Sandinistas . . . or the Contras . . ."

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Majority supports:				
Sandinistas	12	14	20	23
Contras	72	75	46	60
No opinion	16	11	43	17

When asked if a country were to attack their countries which one would it be, the vast majority of those answering say Nicaragua, with Cuba in second place and the Soviet Union in third. The United States was not shown as even being mentioned!

Except when people were asked: "Which country, if any, would come to our aid immediately if we were attacked?" Over 80 percent answered: the U.S.

Then the question was asked: "In your opinion can the U.S. be relied upon to help us defend our country in case of future military attack." Note the answer.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Yes	91	88	84	88
No	4	5	7	8
Don't know	5	7	9	4

These people have more confidence in us than we do in ourselves!

Who treats civilians better in the war zones? The Contras or the Sandinistas?

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sandinistas	6	6	10	18
Contras	72	74	45	60
Don't know	22	20	44	22

Do you approve or disapprove of American military aid to the Contras?

	Costa Rica	Honduras	El Salvador	Guatemala
Approve	70	81	69	68
Disapprove	21	9	23	28
Don't know	9	10	8	4

After stating that it was their opinion that Cuba, the Soviet Union and Libya gave military aid to the Sandinistas, the people of the region were asked if they approved of such aid to the Sandinistas.

	Costa Rica	Honduras	El Salvador	Guatemala
Approve	9	12	10	14
Disapprove	68	65	77	63
Don't know	23	23	13	23

In short in Central America the overwhelming majority of people approve of us, do not feel threatened by the United States, approve of our aid to the Contras, and fear the Sandinistas and oppose aid from the outside to them.

In the last five years all the countries of South America, except Chile and Paraguay, have remained or become democracies. During the same period in Central America all but Nicaragua and Panama have turned to democracy, where only Costa Rica had democratic institutions before.

Among the countries that have adopted democracy during the last five years are Brazil, Argentina, Peru, Uruguay, Bolivia, Ecuador (actually in 1979), Honduras, Guatemala, El Salvador and Belize. Many never had democratic institutions before. This is both remarkable and unprecedented. Yet, amazingly, critics maintain our policy has failed or there is no policy at all.

Think of the further progress the region could make if we belived in ourselves as much as they believe in us.

METHODOLOGY FOR 1987 SURVEY ON CENTRAL AMERICA

CONTRACTOR

USIA contracted with Consultoria Interdisciplinaria en Desarrollo S.A. (CID—the Gallup affiliate in Costa Rica) to conduct the survey in January 1987.

SAMPLE SIZE

Personal interviews were conducted with persons 18 years of age and over with samples of the following size:

Costa Rica	1,212
Honduras	1,291
El Salvador	1,303
Guatemala	1,277

Interviewers in all cases were nationals of the country in which they worked.

Margin of error on samples of the size is approximately +/− 3 percent, i.e., in 19 cases out of 20 the results of similar surveys will differ by no more than three percentage points in either direction from results of the survey reported herein.

SAMPLING PROCEDURES

In each country at least 120 sampling points (locales at which interviewing would be conducted) were chosen by random area sampling procedures, generally using maps of the populated areas. Where maps were not available, a system was used to divide the area into quadrants, measuring the dimensions of the quadrants, and drawing sampling locales within these using random procedures.

Quotas were set to define the total sample, controlling for age and sex of respondent. At each sampling locale the contractor selected homes systematically from a random starting point. Selection of first persons to be interviewed was based upon random selection within households (person with next birthday) but as interviewing progressed at a given sampling point respondents were chosen to complete the predesignated quota.

No more than one person was interviewed in any single household.

In Guatemala, the departments of Peten, Alto Verapaz and Bajo Verapaz were excluded from sampling because of remoteness, problems with guerrillas and low population density. In the highlands, where persons who spoke only an Indian dialect could not be interviewed, substitution was permitted. In El Salvador, interviewing was conducted throughout the country.

Comparisons of demographic characteristics of the samples with those of the populations at large reveal acceptable correspondence in terms of age, sex, and educational levels. (Census data for Guatemala in particular were out-dated and difficult to estimate.) Because of the large proportions of the populations of countries other than Costa Rica who live in rural areas, the contractor oversampled urban areas somewhat in order to provide a more adequate base for comparative analysis. Consistently, more of the population in rural areas replied "don't know" than in the cities, but the direction of the findings are similar. Calculating the results giving appropriate (less) weight to urban respondents and more weight to rural respondents does not change significantly the national results reported by the contractor.

SUPERVISION AND VALIDATION

Teams traveling in rural areas were accompanied by supervisors who oversaw the work on the spot by checking with a selection of respondents to make sure interviewing had been conducted correctly. Independent validation was conducted in urban areas by re-interviews within 48 hours, using a brief form of the questionnaire with subsequent comparisons of responses on the second round with answers given the first round.

CENTRAL AMERICANS CONDEMN SANDINISTAS, WELCOME U.S. SUPPORT

INTRODUCTION

These are results of a USIA-sponsored survey conducted in January 1987 in Costa Rica, Honduras, El Salvador and Guatemala. Personal interviews were conducted in each country with national samples of approximately 1200 adults by Consultoria Interdisciplinaria en Desarrollo, S.A., the Costa Rican affiliate of Gallup International.

This report describes the concerns of the people in Central America about the challenges they face, describes their intensely negative perceptions of Nicaragua and Cuba, reveals their relatively favorable view of the opposition forces in Nicaragua (the Contras), and indicates the depth of their reliance for protection upon the U.S. Public opinion polls reveal that the viewpoints of people in the region peripheral to Nicaragua are much more supportive of U.S. policy toward Central America than is true in other areas of the world.[1]

I. The International Setting: Regional Concern Focuses On Nicaragua

A major finding of the current research is the consistently critical tone of public opinion in regard to Nicaragua:

THE SANDINISTA GOVERNMENT IS VIEWED NEGATIVELY

Strong majorities say the Sandinista government treats the Nicaraguan people unjustly, and represents only a minority of the population. In fact, most think a majority of Nicaraguans favor the Contras in the current internal conflict (Tables 1, 2, 3).

A third think the Sandinistas have become less democratic in the last year, and just a handful say more democratic. In the same view, well under a third say the Sandinista government is responsive to the majority of the Nicaraguan people (Tables 4, 5). Seven in ten detect little or no freedom of speech in Nicaragua. As for Sandinista efforts to protect human rights, some six in ten (eight in ten in Costa Rica) see little or no effort by the Sandinista government along these lines (Tables 6, 7).

Asked directly, at least three-quarters in all four countries express an unfavorable opinion of the Sandinista government, a particularly intense feeling in Costa Rica (Table 8).

The Nicaraguan government is perceived to be lined closely to the Soviet bloc. Large majorities (in Guatemala about half) name Cuba and the Soviet Union as principal suppliers of weapons to the Sandinistas. Some two-thirds disapprove and less than 15 percent approve of such aid (Tables 9, 10). At least seven persons in every ten describe Nicaragua as an instrument of Cuba and the Soviet Union, and few see it as independent. In turn, over seven in ten view Cuba as an instrument of the USSR, and eight in ten as a threat to the region (Tables 11, 12, 13).

Fear is a factor in the negative perceptions of Nicaragua: half in Honduras see a Nicaraguan attack as likely in the next few years, and in Costa Rica this view is held by about four in ten (Tables 14, 15). But in all four countries over seven in ten expect the U.S. to defend their countries should there ever be an attack (Tables 16, 17).

SUBVERSION: THE SILENT INVASION

Seven in ten Costa Ricans and Hondurans believe Nicaragua is trying to weaken the government of their country. In El Salvador as well, almost two-thirds name Nicaragua, and close to half (45%) cite Cuba. Guatemalans are less concerned about Nicaraguan subversion, although four in ten think that country is trying to weaken their government; a quarter mention Cuba and one in seven the Soviet Union (Table 18). In all four countries three-fourths say the Soviet Union actively foments armed conflicts in Central America (Table 19). By contrast, the United States is recognized by large majorities in all four countries as trying to help stabilize their governments (Table 20).

Support for guerrilla forces in El Salvador is attributed by eight in ten Salvadorans to Nicaragua and by six in ten to Cuba. Guatemalans name the same two countries as sources of support for insurgent forces in Guatemala, although frequency of mention of any external support is less. The lack of guerrilla activity in Costa Rica and Honduras is reflected in the large proportion which did not answer the question (Table 21).

MOST CENTRAL AMERICANS SUPPORT AID TO CONTRAS

Large majorities assert it will be better for Nicaragua if the Contra forces win their conflict with the Sandinistas, and better for their own countries as well (Tables 22, 23). And over two-thirds in all four countries not only know of it but approve U.S. aid to the Contras, both military and non-military (Tables 24, 25, 26).

Over 60 percent in Honduras, Costa Rica and El Salvador favor aid to the Contras by other Central American countries. In Guatemala half say yes, a third no (Table 27).

Two reasons chosen with relatively high frequency in all countries to explain U.S. support for the Contras are U.S. desire to avoid establishment of a communist government in Central America, and to stop the Soviet Union and Cuba from expanding their influence. In Costa Rica the third motivation most often attributed to the U.S. for aiding the Contras was to establish a democratic government in Nicaragua. This reason also ranks third in Honduras, tied with the opinion that the U.S. is protecting its commercial interests. Protection of U.S. commercial interests was also widely mentioned in El Salvador and Guatemala, on a par with impeding the growth of Soviet/Cuban influence. It is noteworthy that the two motivations least often attributed to the U.S. were establishing U.S. military bases in the region, and a desire to put friends of the U.S. in power (Table 28).

Contra forces have a largely positive image in the region. Preponderant opinion is that the Contras treat war zone populations better than the Sandinistas (Table 29). If the Contra forces win the war, most publics believe the Contra leadership will hold free elections and establish a democracy. This view is expressed by majorities ranging from half (54%) in El Salvador to seven in ten (69%) in Honduras (Table 30).

Although pluralities in three countries think that the Sandinista forces are winning the war (in Honduras a plurality says the Contras are winning), nevertheless about half in Costa Rica, Honduras and Guatemala think the Contra forces will win in the long run. In El Salvador a quarter of the population agrees, a fifth thinks the Sandinistas will prevail, but half express no opinion (Tables 31, 32).

MOST CENTRAL AMERICANS OPPOSE THE GUERRILLA INSURGENCY IN EL SALVADOR

From six to eight in every ten think it will be better for El Salvador if the government forces win over the leftist revolutionary forces (Table 33).

Cuba and Nicaragua are most often named as suppliers of military aid to the leftist revolutionary forces in El Salvador, with the U.S.S.R. in third place. When asked what they think about Cuban military aid to the insurgents, the publics in all four countries disapprove overwhelmingly (Tables 34, 35). On the other hand, U.S. military aid to the government forces in El Salvador meets with approval by majorities in every country, ranging from 56 percent in Costa Rica to 81 percent in Honduras. In El Salvador itself, three-quarters approve, 22 percent do not (Table 36).

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[1] A number of these findings were initially reported in USIA Research Memorandum M-3/5/87, "Central Americans Fear Sandinistas as Soviet/Cuban Instrument, Support U.S. Military Aid to Contras." The 1987 results are generally in line with findings revealed in 1986, 1985, and 1983, the year the first of this series of surveys in Central America was conducted.

In countries other than El Salvador, pluralities feel that there would be no fighting there were it not for support of the insurgents by Cuba and Nicaragua. In El Salvador itself there is a different opinion. Although a third say the conflict would stop without that external support, more (45%) believe it would continue (Table 37).

ON BALANCE, THE CONTADORA PROCESS IS VIEWED FAVORABLY

There is guarded optimism that the Contadora process will succeed in bringing peace within the next two years. The proportion holding this view ranges from half the public in Costa Rica to three-fourths in Honduras (Table 38).

OPINION OF THE U.S. IS VERY HIGHLY FAVORABLE

The publics in these four countries almost unanimously hold favorable opinions of the United States, and about half are very favorable, placing the U.S. ahead of any other country asked about. Not surprisingly, in light of the other findings in this survey, the opinions that Central Americans express of the USSR, Cuba and Nicaragua are almost diametrically opposite (Tables 39, 40).

The U.S. is also widely considered by Central American publics to treat their countries fairly and with respect—more so in Costa Rica, but by at least seven in ten persons in the other three countries as well (Tables 41, 42).

As to benefits from the bilateral relationship with the U.S., at least six persons in ten in Costa Rica, Honduras and El Salvador think their country benefits from the relationship at least as much as the United States. In Guatemala, just under half think so (Table 43).

In Honduras, 85 percent of the public approve the presence of U.S. troops there for maneuvers. Eight in ten believe that the maneuvers help to deter a Nicaraguan invasion of Honduras, although six in ten also say they could lead to conflict with Nicaragua. They are widely seen as good training for Honduran forces, and as symbolizing a U.S. commitment to Honduran national security, but also as linking Honduras too closely with the U.S. (Tables 44, 45).

II. The Local Setting: Perceptions Of The Economic Situation Vary From Mixed To Disastrous

Except in Costa Rica, at least eight in ten say things in general are going badly in their respective countries, and that their economic situation in particular is in bad shape (Tables 46, 47).

The economic future looks particularly bleak to Salvadorans, a majority of whom think things are going to get worse. Only ten percent are somewhat optimistic. Guatemalans tend to be more pessimistic (41%) then optimistic (27%). In Honduras and Costa Rica, opinion is more evenly divided (Table 48).

Unemployment is the problem cited most often in Honduras (65%) and Guatemala (51%). In El Salvador, unemployment (53%) is mentioned about as often as inflation (57%). Hondurans are also concerned about a possible Nicaraguan invasion, ranking this problem second. Costa Rican concerns differ—illicit narcotics traffic is the one problem selected most often as important (36%), followed by mention of housing shortages, unemployment, and inflation. Each is cited by about a quarter of the population. Corruption is also of concern to one person in four (Table 49).

COMMITMENT TO DEMOCRACY VARIES

The publics overwhelmingly support democracy as the most beneficial system of government for Central Americans, but there are noteworthy differences in degree of commitment. In Costa Rica, 83 percent express strong agreement that democracy is the most beneficial form of government, and in Honduras two-thirds agree strongly. But in El Salvador only about half feel that strongly about democracy, and in Guatemala only about a quarter (Table 50). Only in Costa Rica do political figures have a net positive prestige score (Table 51).

The role of the U.S. in helping to strengthen democratic government in each country is recognized in quite different degrees. The U.S. is named (unaided) as helping to make their country a democracy by six in ten Hondurans, five in ten Salvadorans, four in ten Guatemalans, and three in ten Costa Ricans. In Costa Rica, democracy was described spontaneously by about one in ten as "a national tradition," and half named no country as having helped in its establishment (Table 52).

APPENDIX

CONTENTS: TABLES REFERRED TO IN TEXT; QUESTIONNAIRE; METHODOLOGICAL NOTE

FIGURES FOR JANUARY 1987 SURVEY OF PUBLIC OPINION IN CENTRAL AMERICA

	Costa Rica	Honduras	El Salvador	Guatemala
Sample sizes	11,212	1,291	1,303	....

Table 1—"Would you say the government of Nicaragua represents the majority of the people, or that it represents a minority?

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Represents majority	11	14	18	27
Represents minority	79	75	64	64
No opinion, don't know	10	11	18	9
Total (Question 18)	100	100	100	100

Table 2—"How does the government of Nicaragua treat the people—very justly, somewhat justly, with little justice, or not justly at all?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very justly	3	6	4	5
Somewhat justly	5	13	15	19
Subtotal, justly	6	19	19	24
With little justice	29	31	39	40
No justice at all	56	40	23	27
Subtotal, unjustly	85	71	62	67
No opinion, no answer	7	10	19	9
Total (Question 23)	100	100	100	100

Table 3—"Which side in the conflict do you think the majority of the people of Nicaragua support—does the majority favor the Sandinista government forces, or favor the Contra opposition forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Majority supports:				
Sandinista forces	12	14	20	23
Contra forces	72	75	46	60
No opinion	16	11	34	17
Total (Question 30)	100	100	100	100

Table 4—"In the last year, do you think the government of Nicaragua has become more democratic, less democratic, or has not changed very much, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
More democratic	4	6	6	6
About the same	48	40	44	48
Less democratic	41	42	33	33
Has not heard/no opinion	7	12	17	13
Total (Question 19)	100	100	100	100

Table 5—"How responsive to the majority of the Nicaraguan people is the present Sandinista government—very responsive, somewhat responsive, not very responsive, not responsive at all, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very responsive	2	2	3	4
Somewhat responsive	10	17	19	25
Subtotal, responsive	12	19	22	29
Little responsive	30	33	40	41
Not responsive at all	49	36	22	24
Subtotal, not responsive	79	69	62	65
No opinion	9	12	16	6
Total (Question 20)	100	100	100	100

Table 6—"How free do you think the people in Nicaragua are to say openly what they think about their government and its policies—would you say they can speak very freely, somewhat freely, not very freely, or

cannot speak freely at all, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very freely	1	2	2	3
Somewhat freely	4	7	14	17
Subtotal, freely	5	9	16	20
Little freedom	19	21	36	34
Can not speak freely	71	60	37	40
Subtotal, not freely	90	81	73	74
No opinion	5	10	11	6
Total	100	100	100	100
(Question 21)				

Table 7—"How much effort is the government of Nicaragua making to protect the human rights of the people—a great deal of effort to protect human rights, some effort, not very much effort, or no effort at all, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Great effort for human rights	3	6	4	7
Some effort	6	21	21	28
Subtotal, effort	9	27	25	35
Little effort	28	25	34	36
No effort to protect human rights	55	37	22	21
Subtotal, lack of effort	83	62	56	57
No opinion	8	11	10	8
Total	100	100	100	100
(Question 22)				

Table 8—"Now some questions about Nicaragua. What is your opinion of the Sandinista government in Nicaragua—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable, or haven't you heard enough about the government in Nicaragua to have an opinion?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very favorable	2	1	1	1
Somewhat favorable	2	7	7	7
Subtotal, favorable	4	8	8	8
Somewhat unfavorable	21	46	47	50
Very unfavorable	69	36	27	28
Subtotal, unfavorable	90	82	74	7
No opinion	6	10	8	4
Total	100	100	100	100
(Question 16)				

Table 9—"Which foreign countries, if any, provide military aid to the Sandinista government forces in Nicaragua? Any other? Accept up to three."

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Cuba	66	75	87	56
U.S.S.R.	66	64	78	49
Libya	4	6	12	2
Others	12	12	26	21
Don't know	23	19	8	21
(Question 37)				

Note.—Figures will add to more than 100% due to multiple answers.

Table 10—"What is your opinion about provision of military aid by [None of country] to the Sandinista government in Nicaragua—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve strongly	6	8	4	5
Approve somewhat	3	4	6	9
Subtotal, approval	9	12	10	14
Disapprove somewhat	9	13	23	26
Disapprove strongly	59	52	54	37
Subtotal, disapprove	68	65	77	63
No opinion	23	23	13	23
Total	100	100	100	100
(Question 38)				

Table 11—"Some people say that Nicaragua acts as an instrument of Cuba and of the Soviet Union in Central America and the Caribbean. Others say Nicaraguan policies and actions are independent of Cuba and the Soviet Union. Which view is closer to your own?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua is an instrument	83	88	76	78
Nicaragua is independent	8	5	10	16
Don't Know/No answer	9	7	14	6
Total	100	100	100	100
(Question 39)				

Table 12—"And now, about Cuba. Do you think Cuba represents a positive influence or a threat, in Central America?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Influence for good	3	2	3	6
A threat	88	91	82	87
No opinion	9	7	15	7
Total	100	100	100	100
(Question 46)				

Table 13—"Some people say that Cuba is acting as a tool for the Soviet Union in Central America and the Caribbean. Others say Cuban policies and actions are independent of the Soviet Union. Which view is closer to your own?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Cuba is a tool	77	83	73	73
Cuba is independent	18	7	10	18
No opinion	10	10	17	9
Total	100	100	100	100
(Question 47)				

Table 14—"Now a question about the future. Some people say that our country will probably be attacked militarily by another country in the next two or three years. Other people say that while this is possible, it is not likely [probable]. What do you think—would you say that an attack on our country in the next two or three years is very likely, fairly likely, not very likely, or not at all likely?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very likely	9	19	6	3
Fairly likely	29	33	15	17
Subtotal, likely	38	52	21	20
Not very (little) likely	31	30	43	32
Not at all likely	30	16	33	42
Subtotal, unlikely	61	46	76	74
No opinion, don't know	1	2	3	6
Total	100	100	100	100
(Question 6)				

Table 15—If answered very or fairly likely in preceding question, ask: "Which country is the one that would attack?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua	38	50	17	12
Cuba	3	3	9	5
Soviet Union	1	1	1	4
All others	2	7	2	5
No opinion	3	2	2	....
Not asked	62	48	79	80
(Question 7)				

Note.—Totals exceed 100% due to multiple answers.

Table 16—"[Ask all] Which country, if any, would come to our aid immediately, if we were attacked?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
United States	86	88	80	70
Panama	22	(1)	2	1
Venezuela	15	(1)	5	(1)
Others (including other Central America countries)	9	10	35	39
No answer, don't know	8	9	12	8
(Question 8)				

[1] Signifies less than 0.5%.

Note.—Figures may add to more than 100% due to multiple responses.

Table 17—"[Ask all] In your opinion, can the U.S. be relied upon to help us defend our country in case of future military attack?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Yes	91	88	83	88
No	4	5	7	8
No opinion	5	7	10	4
Total	100	100	100	100
(Question 55)				

Table 18—"Which country, if any, is trying to weaken our government?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua	73	72	64	39
Cuba	8	10	45	23
U.S.S.R	6	3	11	14
United States	2	1	1	3
El Salvador		4		3
Others	3	2	3	7
No other country	3	1	1	2
No opinion, don't know	19	22	23	29
(Question 9)				

Note.—Answers will add to more than 100% due to multiple responses.

Table 19—"Some people say that the Soviet Union has little to do with the armed conflicts in Central America. Others say that the Soviet Union actively foments armed conflicts in Central America. What do you think: U.S.S.R. definitely foments conflict, probably foments conflict, probably does not foment conflict or definitely does not foment conflict?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Definitely foments conflicts	54	61	47	44
Probably foments	25	17	26	31
Subtotal, foments conflict	79	78	73	75
Probably does not	4	5	8	10
Definitely does not	6	5	2	3
Subtotal, does not foment	10	10	10	13
Don't know	11	12	17	12
Total	100	100	100	100
(Question 49)				

Table 20—"Which country, if any, is trying to keep our government stable?" "Any other?"

[In percent]

	Costa Rica,	Honduras	El Salvador	Guatemala
U.S.	74	78	86	64
Venezuela	4	1	9	2
Panama	4	1	1	1
Mexico		1	3	4
Other Central America countries	1	7	5	10
Democratic countries	2	(1)	(1)	3
European countries		1	7	11
Others	4	1	4	8
No country	4	2	1	1
No opinion, don't know	19	15	10	14
(Question 10)				

[1] Signifies less than 0.51.

Table 21—"Which country, if any, provides support for guerrilla or insurgent forces here in our country?" "Any other?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Nicaragua	16	37	80	39
Cuba	11	20	62	36
U.S.S.R.	6	6	12	13
Libya	(1)	(1)	1	(1)
Other communist countries	(1)	(1)	(1)	1
Others	16	7	1	6
No country	6	2	(1)	1
No opinion, don't know	57	46	8	30
(Question 11)				

[1] Signifies less than 0.5%.

Note.—Figures will add to more than 100% due to multiple mentions.

Table 22—"Will it be better for Nicaragua if the Sandinista government forces win the war, or if the Contra opposition forces win?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Better for Nicaragua:				
If Sandinistas win	6	6	15	17
If Contras win	76	79	62	70
No opinion	18	15	23	13
Total	100	100	100	100
(Question 28)				

Table 23—"Will it be better for our own country if the Sandinista government forces win, or if the Contra opposition forces win?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Better for own country:				
If Sandinistas win	5	5	10	14
If Contras win	76	77	70	70
No opinion	19	18	20	16
Total	100	100	100	100
(Question 29)				

Table 24—"Which country or countries can you name that have sent arms or money to the Contra opposition forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
United States	72	80	86	71
Honduras	3	2	5	5
Panama	3	[1]	1	1
Venezuela	2	[1]	1	[1]
Israel	4	2	6	6
Costa Rica	—	2	3	2
Others	7	9	8	19
Don't know	26	17	11	16
(Question 27)				

[1] Signified less than 0.5%.

Note.—Figures will add to more than 100% due to multiple mentions.

Table 25—"As you may know, the U.S. is giving military aid to the opposition forces known as Contras. What is your opinion about this?

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve Strongly	40	37	35	24
Approve somewhat	30	44	34	44
Subtotal, approval	70	81	69	68
Disapprove somewhat	10	5	11	18
Disapprove strongly	11	4	12	10
Subtotal, disapprove	21	9	23	28
No opinion	9	10	8	4
Total	100	100	100	100
(Question 33)				

Table 26—"The U.S. is also giving non-military aid to the Contra opposition forces. What is your opinion about this—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve strongly	51	40	39	32
Approve somewhat	26	42	37	42
Subtotal, approval	77	82	76	74
Disapprove somewhat	7	6	9	14
Disapprove strongly	7	3	8	7
Subtotal, disapprove	14	9	17	21
No opinion	9	9	7	5
Total	100	100	100	100
(Question 34)				

Table 27—"Do you agree or disagree that other governments in Central America should give aid to the Contra forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Agree	61	74	63	54
Disagree	29	17	27	38
No opinion	10	9	10	8
Total	100	100	100	100
(Question 35)				

Table 28—"Here is a list of reasons some people give to explain why the U.S. is giving aid to the Contra opposition forces in Nicaragua. Please tell me which one of these reasons best explains why you think the U.S. is giving aid to the Contra opposition forces." "And which other reason?"

[In percent]

	Cost Rica	Honduras	El Salvador	Guatemala
To protect the commercial interests of the U.S.	19	29	35	35
To prevent establishment of a communist govt in Central America	54	54	52	47
To put friends of the U.S. in power	5	11	10	14
To help the economic development of the country	20	21	15	25
To establish a democratic govt. for the sake of the people	39	29	25	24
To establish U.S. military bases in the region	8	7	13	18

[In percent]

	Cost Rica	Honduras	El Salvador	Guatemala
To stop the Soviet Union and Cuba from expanding their influence	41	34	36	34
No opinion, don't know	5	8	6	1
(Question 36)				

Note.—Figures will add to more than 100% due to multiple response.

Table 29—"There are people living in the areas of Nicaragua where there is armed conflict between the Sandinista government forces and the Contra opposition forces. Which of these two forces generally treats the people with more consideration?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sandinista govt. forces	6	6	10	18
Contra forces	72	74	46	60
No opinion	22	20	44	22
Total	100	100	100	100
(Question 31)				

Table 30—"Some people say that if the Contra opposition forces win the conflict in Nicaragua, their leaders will have free elections and restore democracy. Other people say that the leaders of the Contras will seize power for themselves, and not establish democracy. Which of these views is closer to your own, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Contras will restore democracy	64	69	54	59
Contras will not	15	6	16	23
Have not heard/no opinion	21	25	30	18
Total	100	100	100	100
(Question 21)				

Table 31—"Who do you think is winning the war in Nicaragua—the Sandinista government forces or the Contra opposition forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sandinistas	37	28	33	40
The contras	27	35	18	31
No opinion	36	37	59	29
Total	100	100	100	100
(Question 25)				

Table 32—"Who do you think will eventually win the war in Nicaragua—the Sandinista government forces or the Contra opposition forces?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sandinistas	20	15	22	21
The contras	48	51	26	54
No opinion	32	34	52	25
Total	100	100	100	100
(Question 26)				

Table 33—"Will it be better for El Salvador if the government forces win the war, or if the leftist revolutionary forces win?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Better for El Salvador:				
If government forces win	62	79	71	76
If revolutionary forces win	6	4	4	10
No opinion	32	17	25	14
Total	100	100	100	100
(Question 41)				

Table 34—"As best you know, which foreign countries are giving military aid to the leftist revolutionary forces in El Salvador, or haven't you heard enough to say?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Cuba	38	48	80	45
Nicaragua	15	40	85	41
U.S.S.R.	22	24	41	24
Libya	1	2	1	1
Other Communist countries	1	1	2	2
Other	3	2	4	6
Don't know	58	37	6	30
Total	138	154	219	149
(Question 42)				

Note.—Totals exceed 100 percent due to multiple answers.

Table 35—"As you may know, Cuba provides military aid to the leftist revolutionary forces in El Salvador. What is your opinion about the shipment of arms from Cuba to the leftist revolutionary forces—do you approve strongly, approved somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Approve strongly	3	5	3	5
Approve somewhat	2	6	5	10
Subtotal, approve	5	11	8	15
Disapprove somewhat	12	18	19	35
Disapprove strongly	64	58	67	44
Subtotal, disapprove	76	76	86	79
No opinion	19	13	6	6
Total	100	100	100	100
(Question 43)				

Table 36—"As you may know, the U.S. is giving military aid to the government forces in El Salvador. What is your opinion about United States military aid to the government forces in El Salvador—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly approve	34	37	45	26
Somewhat approve	22	44	30	44
Subtotal, approve	56	81	75	70
Somewaht disapprove	10	5	13	17
Strongly disapprove	15	4	9	8
Subtotal, disapprove	25	9	22	25
No opinion	19	10	3	5
Totals	100	100	100	100
(Question 45)				

Table 37—"Some people say there would be no war in El Salvador if Cuba and Nicaragua were not supporting the leftist revolutionary forces. Others say there would be a war even if Cuba and Nicaragua were not involved. Which of these views is closer to your own?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
No war with Cuba and Nicaragua	42	50	32	54
There would be a war even if Cuba and Nicaragua not involved	36	23	45	32
No opinion	22	27	23	14
Total	100	100	100	100
(Question 48)				

Table 38.—"As you may know, the countries in the Contadora group—Mexico, Venezuela, Colombia and Panama—are trying through negotiations to bring peace to Central America. From what you have heard, how likely is it that they will succeed in bringing peace within the next two years—is it very likely, fairly likely, not very likely, or not at all likely?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very likely	9	19	12	13
Somewhat likely	42	57	42	47
Subtotal, likely	51	76	54	60
Little likely	28	9	25	23
Not at all likely	15	4	11	11
Subtotal, unfair	43	13	36	34
No opinion	6	11	10	6
Total	100	100	100	100
(Question 56)				

Tables 39/40—"All countries have their good aspects and possibly others which are not so good. Taking into consideration all aspects, what general opinion do you have of (name of country)—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable?" (Qs. 14/15)

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Opinion of Spain:				
Very favorable	22	17	17	15
Somewhat favorable	65	58	64	63
Subtotal, favorable	87	75	81	78
Somewhat unfavorable	3	10	5	8
Very unfavorable	1	2	(1)	2
Subtotal, unfavorable	4	12	5	10
No opinion	9	13	14	12
Total	100	100	100	100
Opinion of United States:				
Very favorable	52	57	45	57
Somewhat favorable	43	36	41	34
Subtotal, favorable	95	93	89	91
Somewhat unfavorable	2	2	7	5
Very unfavorable	(1)	(1)	1	2
Subtotal, unfavorable	2	2	8	7
No opinion	3	5	3	2
Total	100	100	100	100
Opinion of Japan:				
Very favorable	31	22	25	26
Somewhat favorable	50	49	50	39
Subtotal, favorable	81	71	75	65
Somewhat unfavorable	3	14	5	11
Very unfavorable	2	3	1	6
Subtotal, unfavorable	5	17	6	17
No opinion	14	12	19	18
Total	100	100	100	100
Opinion of Mexico:				
Very favorable	14	11	12	15
Somewhat favorable	61	57	48	56
Subtotal, favorable	75	68	60	71
Somewhat unfavorable	14	15	21	15
Very unfavorable	5	4	5	6
Subtotal, unfavorable	19	19	26	21
No opinion	6	13	14	8
Total	100	100	100	100
Opinion of U.S.S.R.:				
Very favorable	3	1	4	8
Somewhat favorable	16	5	11	15
Subtotal, favorable	19	6	15	23
Somewhat unfavorable	25	27	27	25
Very unfavorable	46	58	42	35
Subtotal, unfavorable	71	85	69	60
No opinion	9	9	16	17
Total	99	100	100	100
Opinion of Cuba:				
Very favorable	2	1	3	6
Somewhat favorable	7	2	8	8
Subtotal, favorable	9	3	11	14
Somewhat unfavorable	18	28	27	26
Very unfavorable	68	62	54	45
Subtotal, unfavorable	86	90	81	71
No opinion	5	7	8	15
Total	100	100	100	100
Opinion of Nicaragua:				
Very favorable	2	1	3	2
Somewhat favorable	4	3	9	5
Subtotal, favorable	6	4	12	7
Somewhat unfavorable	16	36	37	30
Very unfavorable	75	55	45	56
Subtotal, unfavorable	91	91	82	86
No opinion	3	5	6	7
Total	100	100	100	100
Opinion of Costa Rica:				
Very favorable	N.A.	32	27	31
Somewhat favorable	N.A.	57	54	48
Subtotal, favorable	N.A.	89	81	79
Somewhat unfavorable	N.A.	4	6	9
Very unfavorable	N.A.	1	1	3
Subtotal, unfavorable	N.A.	5	7	12
No opinion	N.A.	6	12	9
Total	N.A.	100	100	100
Opinion of Panama:				
Very favorable	25	27	20	31
Somewhat favorable	65	58	57	45
Subtotal, favorable	90	85	77	76
Somewhat unfavorable	4	5	6	7
Very unfavorable	1	(1)	1	2
Subtotal, unfavorable	5	5	7	9
No opinion	5	10	16	15
Total	100	100	100	100
Opinion of Honduras:				
Very favorable	9	N.A.	15	20
Somewhat favorable	60	N.A.	59	48
Subtotal, favorable	69	N.A.	74	68
Somewhat unfavorable	19	N.A.	17	21
Very unfavorable	2	N.A.	1	3
Subtotal, unfavorable	21	N.A.	18	24
No opinion	10	N.A.	8	8
Total	100	N.A.	100	100
Opinion of El Salvador:				
Very favorable	6	10	N.A.	4
Somewhat favorable	42	44	N.A.	12
Subtotal, favorable	48	54	N.A.	16
Somewhat unfavorable	37	32	N.A.	55
Very unfavorable	8	8	N.A.	24
Subtotal, unfavorable	45	40	N.A.	79
No opinion	7	6	N.A.	5
Total	100	100	N.A.	100
Opinion of Guatemala:				
Very favorable	10	13	17	N.A.
Somewhat favorable	62	60	61	N.A.
Subtotal, favorable	72	73	78	N.A.
Somewhat unfavorable	15	17	12	N.A.
Very unfavorable	4	2	1	N.A.
Subtotal, unfavorable	19	19	13	N.A.
No opinion	9	8	9	N.A.
Total	100	100	100	N.A.

[1] Signifies less than 0.5%.

N.A. = Not asked.

Table 41—"And now a question about our country and the U.S. In most matters that concern our country and the U.S., would you say U.S. treatment of our country generally has been very fair, somewhat fair, not very fair, or not at all fair?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very fair	27	23	25	16
Somewhat fair	59	61	50	53
Subtotal, fair	86	84	75	69
Somewhat unfair	8	11	17	25
Very unfair	2	2	2	3
Subtotal, unfair	10	13	19	28
No opinion	4	3	6	3
Total	100	100	100	100
(Question 50)				

Table 42—"In most matters that concern our country and the U.S., would you say the U.S. treats our country with much respect, some respect, some disrespect, or much disrespect?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Much respect	40	26	27	16
Some respect	51	55	50	54
Subtotal, respect	91	81	77	70
Some disrespect	6	14	17	23
Much disrespect	3	4	6	7
Subtotal, disrespect	9	18	23	30
No opinion	(1)	1		
Total	100	100	100	100
(Question 51)				

[1] Signifies less than 0.5%.

Table 43—"Thinking of the relationships between our country and the U.S., which country benefits the most—does the U.S. benefit the most, does (survey country) benefit most, or are the relationships more or less equally beneficial?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
United States benefits most	26	37	33	51
Equally beneficial	51	45	43	36
Survey country benefits most	19	13	20	10
No opinion	4	5	4	3
Total	100	100	100	100
(Question 52)				

Table 44—"[Ask in Honduras only] As you may know, Honduras and the U.S. have conducted various joint military maneuvers here in Honduras. What is your opinion of the presence of "militares norteamericans" in Honduras—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly approve		40		
Somewhat approve		45		
Subtotal, approve		85		

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Somewhat disapprove		7		
Strongly disapprove		4		
Subtotal, disapprove		11		
No opinion		4		
Total		100		
(Question 53)				

ASK IN HONDURAS ONLY

Table 45—Here is a list of things some people have said about these joint military maneuvers. For each of these statements, please tell me whether you agree strongly, agree somewhat, disagree somewhat or disagree strongly?"

THE MANEUVERS LINK HONDURAS TOO CLOSELY WITH THE UNITED STATES

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		37		
Somewhat agree		42		
Subtotal, agree		79		
Somewhat disagree		12		
Strongly disagree		1		
Subtotal, disagree		13		
No opinion		8		
Total		100		

THE MANEUVERS ARE DANGEROUS, COULD LEAD TO CONFLICT WITH NICARAGUA

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		24		
Somewhat agree		35		
Subtotal, agree		59		
Somewhat disagree		28		
Strongly disagree		7		
Subtotal, disagree		35		
No opinion		6		
Total		100		

THE MANEUVERS ARE GOOD TRAINING FOR HONDURAN FORCES

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		60		
Somewhat agree		27		
Subtotal, agree		87		
Somewhat disagree		6		
Strongly disagree		1		
Subtotal, disagree		7		
No opinion		5		
Total		100		

THE MANEUVERS ARE A SIGN OF U.S. COMMITMENT TO OUR NATIONAL SECURITY

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		33		
Somewhat agree		40		
Subtotal, agree		73		
Somewhat disagree		13		
Strongly disagree		6		
Subtotal, disagree		19		
No opinion		8		
Totals		100		

THE MANEUVERS ARE A WAY TO DETER ATTACK ON US FROM NICARAGUA.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Strongly agree		54		
Somewhat agree		25		
Subtotal, agree		79		
Somewhat disagree		9		
Strongly disagree		6		
Subtotal, disagree		15		
No opinion		6		
Totals		100		

(Question 54)

Table 46—"In general, how would you say things are going in our country—are they going well or are they going badly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Well	47	19	3	13
Badly	53	81	97	87
Totals	100	100	100	100
(Question 2)				

Table 47—"How would you describe the economic situation of our country—very good, fairly good, fairly bad, or very bad?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Very good	1	1		1
Fairly good	42	20	3	13
Subtotal, good	43	21	3	14
Fairly bad	47	61	54	64
Very bad	10	18	43	22
Subtotal, bad	57	79	97	86
Totals	100	100	100	100
(Question 4)				

Table 48—"In the next two years, do you think economic conditions are going to get much better, get somewhat better, stay about the same, get somewhat worse, or get much worse?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Will improve much	3	4	1	2
Will improve some	31	24	9	25
Subtotals, improve	34	28	10	27
Will stay the same	23	34	21	28
Will get somewhat worse	30	15	26	26
Will get much worse	10	11	33	15
Subtotals, worse	40	26	59	41
No opinion	3	12	10	4
Totals	100	100	100	100
(Question 5)				

Table 49—"Here is a list of problems that some people say our country is facing today. Please read over this list and then tell me: which problem is the most important? And second in importance?" Rotate order of problems on list.

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Illicit traffic in narcotics	36	11	4	11
Unemployment	26	65	53	51
Inflation/the high cost of living	25	22	57	44
Corruption	25	20	25	21
Foreign debt	16	6	7	17
Political stability within our country	8	9	23	17
Not enough good housing	29	16	17	22
The threat from other countries	15	32	7	8
Refugees from other countries	17	15	3	6
None of these	3	2	3	
No opinion, don't know		1		
(Question 3)				

Note.—Totals add to more than 100 percent due to multiple response.

Table 50—"What is your opinion of this statement: 'The people of Central America are best off when they live in a democracy'—do you agree strongly, agree somewhat, disagree somewhat, or disagree strongly?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Agree strongly	83	66	47	27
Agree somewhat	10	24	31	47
Subtotal, agree	93	90	78	74
Disagree somewhat	2	3	8	18
Disagree strongly	1	2	4	5
Subtotal, disagree	3	5	12	23
No opinion	4	5	10	3
Totals	100	100	100	100
(Question 12)				

Table 52—"What country, if any, has helped to make (survey country) a democracy?"

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
U.S.	32	61	51	42
Costa Rica		8	4	7
Venezuela	2	1	14	4
Panama	3	1	1	2
A national tradition	11	1		1
Europe		1	6	12

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Others	4	4	10	15
None	11	2	9	1
No opinion, don't know	43	28	30	31

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
(Question 13)				

Note.—Figures will add to more than 100 percent due to multiple mentions.

Table 51—"This card lists different groups or institutions in our country. Would you please read over the list, and then tell me which two contribute most to the well-being of our country?" "Now please look at the list again. Which two groups contribute least to the well-being of our country?"

[In percent]

	Costa Rica (1212)			Honduras (1291)			El Salvador (1303)			Guatemala (1277)		
	Contribute most	Least	Net score	Most	Least	Net score	Most	Least	Net score	Contribute most	Least	Net score
Private enterprise leaders	36	15	+21	45	18	+27	56	6	+50	33	24	+9
Peasant organizations	33	6	+27	22	9	+13	28	8	+20	23	10	+13
The clergy	27	7	+20	13	7	+6	20	12	+8	13	9	+4
Political figures	23	19	+4	10	37	−27	15	39	−24	9	30	−21
Journalists	16	8	+8	17	10	+7	8	11	−3	16	13	+3
University students	15	6	+9	11	7	+4	6	14	−8	22	9	+13
University professors	13	7	+6	22	6	+16	7	7	0	22	5	+17
Labor union leaders	12	26	−14	19	14	+5	6	28	−22	23	10	+13
Labor union members	12	12	0	13	11	+2	9	15	−6	22	10	+12
Military leaders	4	44	−40	9	26	−17	24	27	−3	7	38	−31
Large landholders	3	42	−39	4	40	−36	11	19	−8	5	37	−32
No answer	3	3		6	7		4	6		1	2	
(Question 11)												

DEMOGRAPHIC CHARACTERISTICS

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Sex of Respondent:				
Male	51	49	50	50
Female	49	51	50	50
Total	100	100	100	100
Age:				
18–24 yrs.	27	28	28	28
25–29	16	14	14	16
30–34	12	12	12	12
35–39	10	10	11	10
40–49	14	14	16	15
50–59	9	11	9	10
60 and over	12	11	10	9
Total	100	100	100	100
Objective measure of economic level—No. of light bulbs in dwelling:				
1–6 bulbs	42	70	55	64
7–9	29	15	27	20
10–12	15	4	9	9
13–15	6	1	4	4
16–18	3	1	1	1
19–24	2	1	1	1
25 and over	2	1	1	1
No answer	1	7	2	1
Total	100	100	100	100
Interviewer rating—relative socio-economic class:				
Class A/B	11	5	2	2
C	62	42	55	38
D/E	27	53	43	60
Total	100	100	100	100
Educational level:				
None	3	7	5	4
Primary, incomplete	14	24	19	16
Completed primary school	23	17	14	18
Some secondary	21	22	21	24
Completed secondary	19	20	25	27
Some university	14	7	14	9
Completed university	6	3	2	2
Total	100	100	100	100
Occupation:				
Student	11	14	16	14
Housewife	31	29	22	24
Sales, clerical, commerce	9	10	14	15
Specialized worker	9	12	12	10
Professionals, managers	9	11	9	12
Agricultural worker	6	5	2	7
Non-farm worker	5	8	6	3

DEMOGRAPHIC CHARACTERISTICS—Continued

[In percent]

	Costa Rica	Honduras	El Salvador	Guatemala
Government worker	5	4	9	6
Other category	7	1	3	4
Unemployed	4	5	5	3
Retired	4	1	2	2
Total	100	100	100	100

QUESTIONNAIRE USED IN CENTRAL AMERICAN PUBLIC OPINION SURVEY—JANUARY 1987

Introduction: Good morning/afternoon/evening. My name is —— (show identification) and I work for the CID research company, which specializes in studies of public opinion and marketing. We are interviewing adults in Central America about some matters of international interest. Would you be willing to give me some 25 minutes of your time to talk about these matters? Thank you.

1. Filter question: Are you a citizen 18 years of age or over? IF YES: What is your age? If no, discontinue.

2. In general, how would you say things are going in our country—are they going well or are they going badly?

3. Here is a list of problems that some people say our country is facing today. Please read over this list and then tell me which problem is the most important? And second in importance? Rotate order of problems on list.

Illicit traffic in narcotics;
Unemployment;
Inflation/the high cost of living;
Corruption;
Foreign debt;
Political instability within the country;
Not enough good housing;
The threat from other countries;
Refugees from other countries.

4. How would you describe the economic situation of our country—very good, fairly good, fairly bad, or very bad?

5. In the next two years, do you think economic conditions are going to get much better, get somewhat better, stay about the same, get somewhat worse, or get much worse?

6. Now a question about the future. Some people say that our country will probably be attacked militarily by another country in the next two or three years. Other people say that while this is possible, it is not likely. What do you think—would you say that an attack on our country in the next two or three years is very likely, fairly likely, not very likely, or not at all likely?

7. If answered very or fairly likely in preceding question, ask: Which country is the one that would attack? Any other?

8. Ask all: Which country, if any, would come to our aid immediately, if we were attacked? Any other?

9. Which country, if any, is trying to weaken our government? Any other?

10. Which country, if any, is trying to keep our government stable?

11. Which country, if any, provides support for guerrilla or insurgent forces here in our country? Any other?

12. What is your opinion of this statement: "The people of Central America are best off when they live in a democracy." Do you agree strongly, agree somewhat, disagree somewhat, or disagree strongly?

13. Which country, if any, has helped to make (survey country) a democracy?

14. All countries have their good aspects and possibly others not so good. Taking into consideration all aspects, what general opinion do you have of (name of country)—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable? Ask about each of the following, but not the country in which survey being conducted:

Panama, Honduras, Costa Rica, El Salvador, Guatemala, Nicaragua, Cuba, Mexico.

15. Now I would like to ask your opinion about some countries not in Latin America. The Soviet Union, Spain, The United States, Japan.

16. Now some questions about Nicaragua. What is your opinion of the Sandinista gov-

ernment in Nicaragua—very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable, or haven't you heard enough about the government in Nicaragua to have an opinion?

17. Show list of four names. Which of these men is the current President of Nicaragua? Alfonso Robelo, Arturo Cruz, Daniel Ortega, Ernesto Cardenal.

18. Would you say the government of Nicaragua represents the majority of the people, or that it represents a minority?

19. In the last year, do you think the government of Nicaragua has become more democratic, less democratic, or has not changed very much, or haven't you heard enough to say?

20. How responsive to the majority of the Nicaraguan people is the present Sandinista government—very responsive, somewhat responsive, not very responsive, not responsive at all, or haven't you heard enough to say?

21. How free do you think the people in Nicaragua are to say openly what they think about their government and its policies—would you say they can speak very freely, somewhat freely, not very freely, or cannot speak freely at all, or don't you know enough about it to say?

22. How much effort is the government of Nicaragua making to protect the human rights of the people—a great deal of effort, some effort, little effort, or no effort at all—or don't you know?

23. How does the government of Nicaragua treat the people—very justly, somewhat justly, with little justice, or not justly at all—or don't you know?

24. How much have you heard about the armed conflict in Nicaragua between the forces of the Sandinista government and the forces of the opposition, known as "Contras"—a great deal, a fair amount, little or nothing at all?

25. Who do you think is winning the war in Nicaragua—the Sandinista government forces or the Contra opposition forces?

26. Who do you think will eventually win the war in Nicaragua—the Sandinista government forces of the Contra opposition forces?

27. Which country or countries can you name that have sent arms or money to the Contra opposition forces?

28. Will it be better for Nicaragua if the Sandinista government forces win the war, or if the Contra opposition forces win?

29. Will it be better for our own country if the Sandinista government forces win, or if the Contra opposition forces win?

30. Which side in the conflict do you think the majority of the people of Nicaragua support—does the majority favor the Sandinista government forces, or favor the Contra opposition forces?

31. There are people living in the areas of Nicaragua where there is armed conflict between the Sandinista government forces and the Contra opposition forces. Which of these two forces generally treats the people with more consideration?

32. Some people say that if the Contra opposition forces win the conflict in Nicaragua, their leaders will have free elections and restore democracy. Other people say that the leaders of the Contras will seize power for themselves, and not establish democracy. Which of these views is closer to your own, or haven't you heard enough to say?

33. As you may know, the U.S. is giving military aid to the opposition forces known as Contras. What is your opinion about this—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

34. The U.S. is also giving non-military aid to the Contra opposition forces. What is your opinion about this—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

35. Do you agree or disagree that other governments in Central America should give aid to the Contra forces?

36. Here is a list of reasons some people give to explain why the U.S. is giving aid to be Contra opposition forces in Nicaragua. Please tell me which one of these reasons best explains why you think the U.S. is giving aid to the Contra opposition forces. And which other reason?

To protect the commercial interests of the U.S.

To prevent establishment of a communist government in Central America.

To put friends of the U.S. in power.

To help the economic development of the country.

To establish a democratic government for the sake of the people.

To establish U.S. military bases in the region.

To stop the Soviet Union and Cuba from expanding their influence.

37. Which foreign countries, if any, provide military aid to the Sandinista government forces in Nicaragua? Any other?

38. What is your opinion about provision of military aid by (name of first country mentioned) to the Sandinista government in Nicaragua—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

39. Some people say that Nicaragua acts as an instrument of Cuba and of the Soviet Union in Central America and the Caribbean. Others say Nicaraguan policies and actions are independent of Cuba and the Soviet Union. Which view is closer to your own?

40. Now I would like to ask you a few questions about El Salvador. How much have you heard about the conflict in El Salvador between the government forces and the leftist revolutionary forces—a great deal, a fair amount, little, or nothing at all?

41. Will it be better for El Salvador if the government forces win the war, or if the leftist revolutionary forces win?

42. As best you know, which foreign countries are giving military aid to the leftist revolutionary forces in El Salvador, or haven't you heard enough to say? Any other?

43. As you may know, Cuba provides military aid to the leftist revolutionary forces in El Salvador. What is your opinion about the shipment of arms from Cuba to the leftist revolutionary forces—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

44. Which foreign countries are giving military aid to the government forces in El Salvador, or haven't you heard enough to say?

45. As you may know, the U.S. is giving military aid to the government forces in El Salvador. What is your opinion about United States military aid to the government forces in El Salvador—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

46. And now, about Cuba. Do you think Cuba represents a positive influence or a threat, in Central America?

47. Some people say that Cuba is acting as a tool of the Soviet Union in Central America and the Caribbean. Others say Cuba policies and actions are independent of the Soviet Union. Which view is closer to your own?

48. Some people say there would be no war in El Salvador if Cuba and Nicaragua were not supporting the leftist revolutionary forces. Others say there would be a war even if Cuba and Nicaragua were not involved. Which of these views is closer to your own?

49. Some people say that the Soviet Union has little to do with the armed conflicts in Central America. Others say that the Soviet Union actively foments armed conflicts in Central America. What do you think—USSR definitely foments conflict, probably does not conflict or definitely does not foment conflict?

50. And now a question about our country and the U.S. In most matters that concern our country and the U.S., would you say U.S. treatment of our country generally has been very fair, somewhat fair, not very fair, or not at all fair?

51. In most matters that concern our country and the U.S., would you say the U.S. treats our country with much respect, some respect, some disrespect, or much disrespect?

52. Thinking of the relationships between our country and the U.S., which country benefits the most—does the U.S. benefit the most, does (survey country) benefit most, or are the relationships more or less equally beneficial?

53. Ask in Honduras only: As you may know, Honduras and the U.S. have conducted various joint military maneuvers here in Honduras. What is your opinion of the presence of U.S. soldiers ("militaries norteamericanos") in Honduras—do you approve strongly, approve somewhat, disapprove somewhat, or disapprove strongly?

54. Ask in Honduras only: Here is a list of things some people have said about these joint military maneuvers. For each of these statements, please tell me whether you agree strongly, agree somewhat, disagree somewhat or disagree strongly?

The maneuvers link Honduras very closely/too closely with the U.S. (Note: the Spanish word used in this question was "demasiado", which has two meanings: (1) very, very closely, and (2) too closely.)

The maneuvers are dangerous, could lead to conflict with Nicaragua.

The maneuvers are good training for Honduran forces.

The maneuvers are a sign of U.S. commitment to our national security.

The maneuvers are a way to deter attack on us from Nicaragua.

55. Ask all: In your opinion, can the U.S. be relied upon to help us defend our country in case of future military attack?

56. As you may know, the countries in the Contadora group—Mexico, Venezuela, Colombia and Panama—are trying through negotiations to bring peace to Central America. From what you have heard, how likely is it that they will succeed in bringing peace within the next two years— is it very likely, fairly likely, not very likely, or not at all likely?

57. Show card. This card lists different groups or institutions in our country. Would you please read over the list, and then tell me which two contribute most to the well-being of our country?

Now please look at the list again. Which two groups contribute least to the well-being of our country?

List: Business leaders; Labor leaders; Union members; Journalists; University professors; University students; Political leaders; Church leaders; Large landowners; Peasant organizations; Military leaders.

58. When you get together with your friends, relatives, or fellow workers, how often would you say you discuss political matters—frequently, occasionally, or never?

59. When you yourself hold a strong opinion, do you ever find yourself persuading your friends, relatives or fellow workers to share your views, or not? Yes, often; Yes, from time to time; Rarely; No.

60/61. With respect to politics in general today, do you tend to sympathize more with any one political party than you do with the others? IF YES: With which political party? IF NO: Are the positions on public issues taken by any political party fairly close to your own views? IF YES: Which party?

62/63. Now, about yourself. Of what religion are you?

64. And how often do you go to religious services?

65. And how many years of formal education have you completed?

66. Have you studied outside the country? IF YES: In which country?

67. What is your present occupation?

68/69. Show card. This figure represents political orientation. The left side corresponds to a political ideology of the left. The right side corresponds to a political ideology of the right. The points in between represent positions between the two. Where would you place yourself on this figure? For those who place themselves at mid-point: We ask those who place themselves in the center whether they lean towards right center or left center?

Demographic Characteristics:

Sex—Interviewer rating of socio-economic class—objective index of economic level—type of dwelling—geographic area—country.●

ORDERS FOR THURSDAY

ARIAS RESOLUTION

Mr. BYRD. Mr. President, I ask unanimous consent that no amendments be in order to the Arias resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 8:45 a.m. in the morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the two orders of the two leaders, the two orders be reduced to not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Then, Mr. President, I ask unanimous consent that there be morning business until the hour of 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARIAS RESOLUTION

Mr. BYRD. Mr. President, I ask unanimous consent that there be 20 minutes for debate on the Arias resolution with 10 minutes of that to be under the control of Mr. DODD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask that the remaining 10 minutes be under the control of the distinguished Republican leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTE AT 9:20 TOMORROW MORNING

Mr. BYRD. That will cause the vote to begin then, Mr. President, at around 9:20 a.m.

I ask unanimous consent that the vote occur on the Arias resolution at 9:20 a.m.; that that be a 30-minute rollcall vote; that the call for the regular order occur at the expiration of the 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO QUORUM CALL PRIOR TO ARIAS VOTE

Mr. BYRD. I ask that no quorum call be in order prior to that vote, the vote on the Arias resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow no motions or resolutions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR CALL WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXEMPTION OF CERTAIN BANKRUPTCY CODE PROTECTIONS

Mr. BYRD. Mr. President, the distinguished Republican leader has authorized me to proceed with the consideration of Calendar Order No. 375, S. 1783, and so I make this request, stating that it has the approval of the Republican leader, Mr. DOLE.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1783) to extend certain protections under title II of the United States Code, the Bankruptcy Code.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 973

(Purpose: To change the date of extension)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. METZENBAUM and ask it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. METZENBAUM, proposes an amendment numbered 973.

The amendment is as follows:

Strike out "December 31, 1987" and insert in lieu thereof "November 15, 1987".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 973) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 608(a) of Public Law 99-591 (100 Stat. 3341-74), section 2(a) of Public Law 99-656 (100 Stat. 3668), Public Law 100-41, and Public Law 100-99 are each amended by striking out "September 15, 1987" or "October 15, 1987", as the case may be, and inserting in lieu thereof "November 15, 1987".

SEC. 2. The amendments made by the first section shall be effective as of October 15, 1987.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAUTHORIZATION OF FISHERMEN'S PROTECTIVE ACT

Mr. BYRD. Mr. President, the distinguished Republican leader has given his approval to my request that the Senate proceed to the consideration of Calendar Order No. 356. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 356, with the approval of the distinguished Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2893) to reauthorize the Fishermen's Protective Act.

AMENDMENT NO. 974

(Purpose: To extend existing authority to set aside certain surplus vessels for use in providing humanitarian services)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BREAUX, proposes an amendment numbered 974.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of this bill, add the following:

Sec. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calendar years after the date of enactment." and inserting in lieu thereof the following: "on October 22, 1989.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 974) was agreed to.

AMENDMENT NO. 975

(Purpose: To extend for 1 month the restrictions under Public Law 100-111)

Mr. BYRD. Mr. President, on behalf of Mr. Dole, I send to the desk an amendment on behalf of Mr. Stevens.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], on behalf of Mr. Dole, for Mr. Stevens, for himself, Mr. Evans, Mr. Murkowski, Mr. Breaux, and Mr. Adams, proposes an amendment numbered 975.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

Sec. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

Mr. STEVENS. Mr. President, today I wish to propose an amendment to the authorization currently on the calendar extending the Fishermen's Protective Act for 1 year.

The amendment is intended to extend the interim moratorium on the documentation of foreign-built fish processing vessels established by Public Law 100-111 which expires on October 15 of this year. This interim legislation will extend the current moratorium until November 15, 1987.

Since enactment of the interim moratorium both the House and the Senate have been working diligently to complete an acceptable text of a bill which will deal effectively with this very complicated issue. Unless this moratorium is extended, foreign companies may again seek to take advantage of a loophole in current law allowing them to claim access to U.S. fisheries resources, thereby frustrating the policies of the Magnuson Fisheries Conservation and Management Act [MFCMA].

The Senate Commerce Committee and the House Merchant Marine and Fisheries Committee are in the process of developing legislation to correct the loophole in the documentation laws. During the course of this work another loophole in current law has been found which further complicates an already complex issue. Currently, U.S.-built vessels of any structural configuration can be almost entirely rebuilt in a foreign shipyard while still retaining the domestic preference under the MFCMA. I want to put foreign and domestic companies on notice that Congress is currently addressing this conversion issue. It is becoming apparent that some companies are "racing" to purchase vessels in anticipation of an eventual ban on foreign conversions. Until the Congress has resolved this issue, those companies are doing so at their peril.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 975) was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2893), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 1526

Mr. BYRD. Mr. President, I ask unanimous consent that there be a star print of S. 1526, the correct text of which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I remind all Senators that there will be a rollcall vote tomorrow morning beginning at 9:20 a.m. That will be a 30-minute rollcall vote. There will be no quorum prior to the vote. The automatic call for the regular order will occur at the expiration of the 30 minutes. Senators are reminded to be here on time so they not miss the rollcall vote. Further rollcall votes will occur during the day tomorrow.

Mr. President, there are several good prospects for actions on tomorrow. I state these as not being all inclusive but certainly as possibilities. I emphasize that the list does not exhaust the number of items that are possibilities: the war powers amendment, catastrophic illness, which is the unfinished business, and there are several appropriations bills waiting in the wings: the transportation appropriation bill, the HUD appropriation bill, State-Justice-Commerce appropriation bill, and the energy-water appropriation bill.

I emphasize that this is not an all-inclusive list. There may be other measures called up on tomorrow. We have plenty of work to do.

ADJOURNMENT UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 8:45 a.m. tomorrow.

The motion was agreed to, and at 7:45 p.m. the Senate adjourned until tomorrow, Thursday, October 15, 1987, at 8:45 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 14, 1987*

The House met at 10 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

As we reflect, O God, on the demands of the day and try to relate the goals of justice and the needs of our Nation, we pray that You would give every person a sense of purpose for the tasks of life. With all the clamor for attention in busy lives, may there be moments of serenity and calm, of reflection and prayer, so that we may see more clearly to do the things that make for peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

IN SUPPORT OF THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, today the House will consider H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

I strongly support this legislation.

Workers have a right to know if they have been exposed to dangerous materials in the workplace. Early medical attention is a most important factor in preventing or mitigating occupational disease.

For example: The 5-year survival rate for bladder cancer is 87 percent when detected in the early stages. When the cancer is more advanced, the survival rate drops to 38 percent. According to OSHA, roofers, chemical workers, and construction workers may be at risk for this type of cancer.

When colon cancer is detected and treated early, the 5-year survival rate is 86 percent, compared to only 39 percent after the cancer has spread. Men and women who manufacture carpeting, blankets, and draperies may be at risk.

Farmers, sailors, and arc welders may be at risk of skin cancer as a result of their exposure to ultraviolet rays. Early detection is very important here—the 5-year survival rate for localized skin cancers is about 90 percent. Once they have spread, this drops to 46 percent.

Even lung cancer can be fought more effectively if detected early. While the survival rate is not quite as impressive as the others—33 percent if detected early, 13 percent if the cancer has spread—this is an important difference to those afflicted with this terrible form of cancer.

Many agents have been implicated in causing lung cancer, including asbestos, soots, tars, and plastics. A wide variety of workers may be at risk, from shipyard workers to jewelry makers.

Occupational disease costs business billions in disability payments every year. But it costs American workers something much more precious. Their health.

H.R. 162 will give us the tools to locate and treat at-risk workers before it's too late.

I urge my colleagues to support this legislation.

THE CONSIDERATION OF POLITICAL PHILOSOPHIES OF SUPREME COURT NOMINEES

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, in 1980, when Mr. Reagan ran for President, he pledged as part of his platform that he would try to put people on the Supreme Court with conservative political philosophies. Yesterday he berated the U.S. Senate for considering political philosophy when participating in the appointment of Justices to the Supreme Court.

I will be happy at this time to yield to any Member of the House who can show me any place in the Constitution where it says in the case of the joint responsibility of the President and the Senate to decide on Supreme Court members, the President shall do it on a political basis and the Senate shall not.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from California. And let me say, I want a specific citation.

Mr. DANNEMEYER. Mr. Speaker, the citation I will give to my colleague is the election of November 1984.

Mr. JACOBS. Mr. Speaker, the gentleman is confused. I said, the Constitution of the United States——

Mr. DANNEMEYER. That was when the people of America made the decision on the philosophy of the person who gets to assign a nominee of the Supreme Court.

Mr. JACOBS. Mr. Speaker, the gentleman is confused. Let me repeat.

I will yield to any Member of the House who will show me the provision in the Constitution that says that in the joint responsibility for putting people on the U.S. Supreme Court the President shall be political, and the Members of the Senate shall not. Will the gentleman tell me, or will anybody else tell me?

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman from Indiana [Mr. JACOBS] has expired.

ATM CRIME—A GROWING PROBLEM

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, for more than a year, I have been pushing for a law to help combat a growing crime problem at our Nation's 68,000 automated teller machines. New evidence just released by the Bank Administration Institute suggests the need for this legislation is greater than ever.

The BAI study, which included a survey of the largest 380 ATM operators in America, revealed some alarming trends. For example, their survey found that the majority of violent ATM-related crimes occurred at sites with no security cameras—58 percent—and at sites with no controlled access—84 percent. Further, the BAI study concluded that a mere 2 percent of ATM's have customer-activated emergency alarms, and only 27 percent have implemented customer security education programs.

Mr. Speaker, the nearly 60 million Americans who use ATM's deserve an improved measure of security. That is why my bill, H.R. 785, would establish security standards for ATM's, and recommends that security cameras, controlled access features, emergency alarms and customer education programs be considered in the development of those standards.

But, that's not all. My bill would also require the FBI to keep national data on this new crime problem, and it would provide enhanced Federal penalties for ATM fraud, which robs our banks of some $100 million annually.

Mr. Speaker, by 1990, ATM business in this country is expected to double.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

We must do all we can to ensure that this rise in ATM business is not accompanied by a comparable rise in ATM crime. The passage of my bill, the Automated Teller Machine Crime Prevention Act, is the first responsible step.

WHO DECIDES THE POLITICAL PHILOSOPHY OF A SUPREME COURT NOMINEE?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, my colleague, the gentleman from Indiana [Mr. JACOBS] raised a question earlier about the ability of the President or the U.S. Senate to decide the political philosophy of a nominee to the U.S. Supreme Court. Historically, this issue has been resolved in favor of the President of the United States being the individual vested with the responsibility and privilege of deciding the philosophy of the nominee.

What we Americans witnessed in the recent debacle in the consideration by the U.S. Senate of the effort of President Reagan to place Justice Bork on the U.S. Supreme Court was a complete distortion of how the U.S. Senate has been involved in the issue of confirmation. Historically the issue has been this by the Senate: Is the gentleman or the lady competent? Do they have a judicial temperament? And are they a person of integrity? The issue is not their philosophy. But the U.S. Senate under the Democratic administration has now changed the whole basis for consideration of nominees to the U.S. Supreme Court and has said the President does not get to decide the philosophy of the nominee, that the U.S. Senate is going to decide the philosophy of the nominee.

I commend Justice Bork for the great courage he has demonstrated at a personal loss, to stand there in the face of this onslaught and the diatribe he has suffered as a result of this distortion of the function of the U.S. Senate.

Mr. Speaker, let those Members of the U.S. Senate now put their votes where their mouths have been. The distortion campaign is over. Let those Senators now defend themselves to the States from which they come.

TIME TO INVOKE THE WAR POWERS ACT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Iran attacked Baghdad a second time yesterday. On the first attack last week, the news reports were very simple, and I quote: they just said, "many dead." Yesterday's attack reported 72 dead and 216 injured. These include school kids, elementary school kids.

Iraq has now said they will attack Tehran. In Iran they continue to shout, "Yankee, go home."

While all this is going on, the President just continues to roll the dice in what may be the most expensive and dangerous crap shoot in American history.

It is time to invoke the War Powers Act. The scenario in the gulf is getting uglier by the minute. This President is sitting somewhere up in an ivory tower in the Oval Office while the greatest import possibility might be our own troops in body bags.

We have escalated this crisis in the gulf. He has now said we will not support any other troops but those 11 Kuwaiti tankers. He is not talking like Clint Eastwood now. He knows it is getting dangerous.

Mr. Speaker, let us invoke the War Powers Act and bring some sanity to this very dangerous scenario in the gulf.

THE BOMB

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, on Times Square in New York City, New Year's Eve is traditionally observed by watching a descending red apple mark the countdown to midnight. Here in the Congress we mark the fiscal New Year by bracing ourselves for the impact of a descending red-ink "BOMB." That stands for bloated omnibus money bill, sometimes mistakenly referred to as a continuing appropriations resolution or CR. But this is not a short-term, stopgap CR; it's full year, fully funded, and fully packed.

Mr. Speaker, if our viewing audience missed our fiscal New Year's celebration on October 1, it's for good reason: We have, in effect, delayed the fiscal year until mid-November with a 40-day CR, delayed reconciliation, and delayed sequestration, if necessary. Put another way, we put a time-delay fuse on the "BOMB." Are we using these intervening days to finish work on regular appropriations and send them to the President? No, we're still piddling along, waiting for this whole mess to blow up in our faces. Let's defuse the "BOMB" now and restore legislative and fiscal sanity to this House.

PRESIDENT ARIAS CONGRATULATED ON NOBEL PEACE PRIZE

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, like most of my colleagues, I was delighted to learn yesterday that President Oscar Arias Sanchez had been awarded the Nobel Peace Prize. President Arias, the Nobel Committee decided, has "made an outstanding contribution to the possible return of stability and peace to a region long torn by strife and civil war." The peace plan, the Nobel Committee found, "lays solid foundations for the further development of democracy and for open cooperation between peoples and states."

Everybody, it seems, except perhaps President Reagan, wants this peace offensive to succeed. With the blessing and stimulus of this, the world's most prestigious prize for peacemaking, the momentum builds in Congress to reject additional military aid to Nicaragua's Contras and to end America's misbegotten Nicaraguan adventure. Special appreciation should go to Speaker WRIGHT for his courage in stepping forward at a critical time and for his strong leadership in preventing the administration from scuttling the peace process.

The road to peace in Central America does not stop with the presentation of the Nobel Peace Prize and no one knows this better than President Arias. The peace process is in a critical stage as the various nations work toward complying with the preliminary peace accord. The United States must avoid the appearance that we are sitting and waiting, with guns in hand, for the November 7 date to arrive without all peace provisions readied. As President Arias has stated, "nobody is going to scare me with the calendar."

If, by November 7, there has been genuine progress, and there has been remarkable movement already, then Congress must keep the peace process moving, not allow it to be derailed by the Reagan-Contra Express. The difficult question here is: Why isn't the Reagan administration a facilitator toward peace, instead of a barrier?

RESOLUTION DISAPPROVING THE D.C. EARLY RELEASE ACT

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, after completion of the 1-minute remarks this morning, I will move to consider House Joint Resolution 341, a resolution disapproving the D.C. Early Release Act. Prior to full consideration of this matter, however, we must approve a privileged motion to discharge the resolution from committee, perhaps following a motion to table, which may be offered.

So there won't be any misunderstanding, a vote for the motion to table or against the motion to discharge is a vote to approve a law that allows child molesters, armed robbers, drug dealers, and other inmates who assault our citizens to be released from jail well before they have served their time:

Eighty percent of those released have been convicted of such violent crimes as armed robbery, assault, assault with intent to kill, and other similar offenses.

A vote for a motion to table is a vote for revolving-door justice and is a vote to violate the public trust—clearly, it is a vote to compromise the safety of the millions of residents of and visitors to our Nation's Capital.

We cannot hide behind the Home Rule Act on this critical issue. We have a constitutional obligation to exercise legislative authority over the District of Columbia. We must remember that the principal reason Home Rule passed in the first place is because of the assurances of its proponents that the legislative oversight responsibilities of the Congress would be fully preserved.

If we fail to disapprove of D.C. Act 7-56, we are going on record in support of this violence against law abiding citizens. We will all have to answer for that next year at the polls.

I urge my colleagues to support law and order. Vote no on the motion to table and yes on the motion to discharge.

□ 1015

TENTH ANNIVERSARY OF MOBILE MEAL SERVICE OF SPARTANBURG COUNTY

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, this week marks a milestone for a very special group of Spartanburg County, SC, residents and professionals. Before October 3, 1977, shut-ins in Spartanburg County had no place to turn for a hot meal or a few moments of companionship.

However, on October 3, 1977, the situation changed for the better. With a lot of inspiration and hard work, a group of 15 volunteers began providing hot, nutritious meals to 25 homebound area residents.

Ten years have passed since Mobile Meal Service fed those people that first meal. The nonprofit volunteer organization, which receives no Government funds, now serves meals to 925 people each day, providing not only a hot, nutritious meal, but also badly needed contact with other people. Volunteers provide all its financing.

The motto of Mobile Meal Service of Spartanburg County is "Love in Action." What an appropriate motto for a group of private citizens and businesses that pulled together to help the mentally or physically impaired.

So today, Mr. Speaker, I salute the 10th anniversary of Mobile Meals of Spartanburg County. Their exemplary work provides a model of commitment to the community that we could all benefit from following.

PRESIDENT OSCAR ARIAS RECEIVES 1987 NOBEL PEACE PRIZE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, yesterday was an eventful day. President Oscar Arias of Costa Rica was named the recipient of the 1987 Nobel Peace Prize. This recognition of President Arias' pivotal role in the pursuit of peace in Central America reflects international support for his endeavors and contributes to the peace plan's chances for success.

While the world community was lauding President Arias' activities, the Secretary of State presented the administration's case for more Contra aid to the House Foreign Affairs Committee. Secretary Shultz declared the administration's support for the Guatamala peace plan. Then he stated that the administration would request $270 million for the Contras before Thanksgiving. How does one support peace and request funds for insurgents at the same time?

Mr. Speaker, the administration's rhetoric may have softened slightly over the past several weeks, but there is no doubt that the substance is the same. The President is determined to pursue his ill-fated and ill-conceived policy of aiding the Contras. His determination to pursue a military solution is one of the greatest threats to the peace process. It is time for the President and his administration to join the global community to wholeheartedly, without reservation, endorse, embrace, and encourage peace in Central America.

DISAPPROVING ACTION OF DISTRICT OF COLUMBIA COUNCIL IN APPROVING "PRISON OVERCROWDING EMERGENCY POWERS ACT OF 1987"

Mr. PARRIS. Mr. Speaker, pursuant to section 604(e) of Public Law 93-198, as amended by Public Law 98-473, I move to discharge the Committee on the District of Columbia from the further consideration of the joint resolution (H.J. Res. 341) disapproving the action of the District of Columbia Council in approving the Prison Overcrowding Emergency Powers Act of 1987, District of Columbia Act 7-56.

The SPEAKER. The Chair will inquire, is the gentleman from Virginia in favor of the joint resolution?

Mr. PARRIS. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. PARRIS moves that pursuant to section 604(e) of Public Law 93-198, as amended by Public Law 98-473, the Committee on the District of Columbia be discharged from the further consideration of the joint resolution (H.J. Res. 341) disapproving the action of the District of Columbia council in approving the Prison Overcrowding Emergency Powers Act of 1987, District of Columbia Act 7-56.

The SPEAKER. Pursuant to section 604(e) of Public Law 93-198, as amended by Public Law 98-473, the gentleman from Virginia [Mr. PARRIS] will be recognized for 30 minutes and the gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes in opposition.

Is the gentleman from California [Mr. DELLUMS] opposed to the motion to discharge?

Mr. DELLUMS. I am, Mr. Speaker.

The SPEAKER. The gentleman from California qualifies and will be recognized for 30 minutes in opposition to the motion.

The Chair recognizes the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Let me indicate initially in my remarks and just take a moment to make certain that all of the Members understand that this action this morning is not intended to be adverse to the gentleman from California [Mr. DELLUMS], the chairman of the Committee on the District of Columbia.

It is not intended as criticism of any kind of the committee or of any member thereof, or of the chairman specifically or the chairman's leadership.

This gentleman from California and I have a good relationship. The gentleman is scrupulously fair. Although we do not always agree on the political implications of various measures, I have a high and profound regard for the gentleman's abilities and for the gentleman as an individual.

We are faced, however, with the fact that the discharge of the committee in this case is simply required by the parliamentary situation.

We have no alternative but to take the position that we have, if we are going to address this problem.

The question can and should be asked obviously, why should we address this problem. The simple answer is, because it is consistent with our responsibilities as the chief legislative body in this, the Nation's Capital, the center of the free world.

Let me read to you a portion of article I, section 8, clause 17 of the U.S. Constitution.

It says:

> To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States * * *.

That is the original U.S. Constitution language.

Mr. Speaker, let me read to you current law, which is section 601 of the Home Rule Act adopted in 1973, and that act which applies to this Congress and gives this Congress its mandate to act in this regard and in other similar circumstances. It reads as follows:

> Notwithstanding any other provision of this Act, the Congress of the United States reserves the right at any time to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law enforced in the District prior to or after enactment of this Act, and any act passed by the Council.

That is an extremely broad grant of authority or continuation of authority to the Congress of the United States under the Home Rule Act.

The Members will hear a great deal of rhetoric, Mr. Speaker, this morning in debate on this matter about infringing on the prerogatives of the local government.

Let me review for the Members very quickly the criteria that are attempted to be promulgated by the committee as to when the Congress of the United States should exercise its constitutional responsibility for review.

First they would suggest that did the Council exceed the powers delegated to it under the Home Rule Act. We have just heard the language of the Home Rule Act, and it is extremely broad.

The second criterion is, is it a violation of the U.S. Constitution. I respectfully submit, Mr. Speaker, that we do not have to grossly violate the U.S. Constitution in order to mandate the congressional responsibility for oversight.

No. 3, the criterion would be, in the opinion of some, does the act impose upon or obstruct a Federal interest.

If we apply those criteria strictly, Mr. Speaker, it is tantamount to total abdication of the congressional responsibility for oversight, in any event.

If in fact you have to ask yourself, does the Home Rule Act permit actions that threaten the Federal presence in this Nation's Capital, do we, or must we put the Federal employees in jeopardy? Does the Home Rule Act permit violation of exiting criminal codes? I think not.

This action is not an infringement on home rule.

Mr. Speaker, if I might just quote from several distinguished current colleagues of ours in the debate on the Home Rule Act in the Congressional Record at page 30532 on September 19, 1973.

Brock Adams, then a Member of this body from Washington and now a U.S. Senator from Washington, who will presumably, if this measure passes, have an opportunity to address it in the other body, Mr. Adams said this:

> I might add, Mr. Speaker, that throughout considerations of this legislation—

And we are addressing now the adoption of the original Home Rule Act—

> members of the committee foresaw a strong, vigilant, and ongoing role for the Congress. Under any form of self-government, the Congress still retains—and must retain—its constitutional obligation to exercise exclusive legislative authority over the District of Columbia. Whether that requirement takes the form of oversight, investigation negative veto of certain local actions or positive legislation to carry out its wishes, the Congress must act, where necessary, to protect the role of the Federal Government and to maintain the District of Columbia as the Capital for all American citizens.

He goes on to say:

> Mr. Speaker, at this time, I would like to summarize briefly the protections of the Federal interest which the committee so carefully designed in H.R. 9682, the committee bill:
>
> Reserves the rights of Congress to legislate for the District at any time and on any subject * * *

On the next page of the Congressional Record, then Congressman Brock Adams says again:

> Mr. Speaker, the issue of the protection of the Federal interest was carefully considered throughout all stages of subcommittee and committee deliberations; the protections which H.R. 9682 affords are an intimate and integral feature of the committee's product and of its recommendation to the House that "the bill do pass."

Chairman Diggs, a distinguished Member of the Congress from Detroit, chairman of the Committee on District of Columbia at that time, says as follows on page 42036 of the Congressional Record, December 17, 1973:

> * * * on congressional veto, the Senate was very strong on that and as a matter of fact I think I learned for the first time the real reason the Senate has been able to pass home rule in the past so expeditiously is because it was just felt in the other body that as long as there is a veto apparatus, as long as there is a congressional process to correct what they might consider to be a misaction on the part of a local legislative body, then they were inclined to be generous about it. So the veto was retained in the bill despite some misgivings about it from the self-determination purists among us in this body and beyond.

On page 42039 of the Congressional Record of December 17, 1973, the gentleman from Kentucky [Mr. Natcher], senior Member revered by all the Members, and still a Member of this body, says that—

> I further stated that Congress must retain full residual and ultimate legislative jurisdiction over the District in conformity with the constitutional mandate.

He goes on to say that we must review the actions of the District of Columbia Council.

Finally, Mr. Natcher's words are as follows on the same day:

> Our Nation's Capital is the most beautiful city in the world and this year some 20,000,000 visitors will come to visit with us. Certainly, every effort should be made to see that these people have an opportunity to visit the many different buildings and monuments without fear of being robbed or molested.

□ 1030

Now, Mr. Speaker, that brings me to the point of all this, and that is that this matter is one of public safety. I took a random sample of 112 of the nearly 900 criminals that have been released under this temporary legislation and we reviewed their criminal records. Eighty percent were classified as dangerous criminals. These include those persons convicted of assault, assault with intent to kill, felony weapons convictions, robbery, armed robbery, sexual offenses, and the like. Thirty-two percent were serving mandatory minimum sentences which were illegally reduced. Fourteen percent of those released under this program were rearrested within 30 days. Ninety-two percent of those persons released had in excess of two prior felony convictions.

The average number of prior convictions of the persons released was 6 and some had as many as 15 prior convictions, and they were released.

Sixty percent of all the inmates in this penal system test positive for drugs, while they are in the penitentiary.

In the first quarter of this year, in just 3 months, 1,126 inmates have been released through various release programs and of that number, 866 have been rearrested for the commission of 1,992 crimes, including murder, assault, drug peddling, weapons violations, and a series and host of other criminal and serious offenses.

It must be remembered, Mr. Speaker, that the act itself is faulty. It is not just a matter of implementation.

One of my greatest objections to this situation is that early release is not in this town an incremental portion of an overall plan. You will hear the argument made that there is a similar program in 17 other States, but I submit to you that they are not comparable. Time does not permit me now to go into them, other Members will, but they are not comparable programs.

This is in other States not the only remedy that exists for prison reduction of population. They utilize prison construction, they change the probation, they have rehabilitation, they have penal reforms. All we do in this town is let out convicted felons. It is not a component of management of the penal system.

The profile of the average prisoner in this city is not comparable to other States. Because of the prison situation in the District of Columbia, only career criminals are incarcerated. First-time offenders are not put in jail, not second-time offenders, not third, only the career criminals go to jail in this town.

Mr. Speaker, I urge Members, my colleagues, to vote for the motion to discharge so that we can debate this matter fully on its merits. Let us have a full review of all the facts. Let me urge my colleagues to discharge our congressional responsibility under the Constitution and under the current law of the Home Rule Act and to address this problem which is a matter of serious public safety.

Let me inquire, Mr. Speaker, would the gentleman from California like to proceed or would the gentleman like me to proceed with other Members on our side?

Mr. DELLUMS. Mr. Speaker, the gentleman from California would like to proceed at this time.

Mr. PARRIS. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. GONZALEZ). The gentleman from California [Mr. DELLUMS] is recognized for 30 minutes.

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first set the parameters of this debate. The distinguished gentleman from Virginia [Mr. PARRIS] has offered a privileged motion to discharge the Committee on the District of Columbia from further consideration of this bill. That calls for 1 hour of debate. If the House proceeds to acquiesce in the gentleman's request, the House would then consider for up to 10 hours the substantive resolution of disapproval offered by the distinguished gentleman.

I would like to now focus on what we are concerned with at this moment, and that is the gentleman's motion to discharge the Committee on the District of Columbia.

Mr. Speaker, I am compelled—and I repeat for the purpose of emphasis—compelled to challenge the privileged motion of the gentleman from Virginia to discharge the Committee from further consideration of House Joint Resolution 341. This resolution seeks to disapprove the District of Columbia Act 7-56, a bill which the local city council passed as a remedy to a deteriorating prison overcrowding problem in the District of Columbia.

Before going any further, Mr. Speaker, let me, as my distinguished colleague from Virginia, quote from the purpose of the Home Rule Act, which provides the right for the local residents of the District of Columbia through their duly elected body to engage in the legislative process. The statement of purpose of the Home Rule Act states in part, and I quote:

> That we grant to the inhabitants of the District of Columbia powers of local government to modernize, reorganize, and otherwise improve the governmental structure of the District of Columbia and to the greatest extent possible consistent with the constitutional mandate relieve Congress of the burden of legislating upon essentially local District matters.

Mr. Speaker, the Members of the U.S. House of Representatives were elected to engage in the business of the Federal function, not to be a super City Council for the residents of the District of Columbia in this great democracy. The law that we are concerned with at this point, if indeed the gentleman's motion is to prevail, is a law that would authorize the Mayor of the District of Columbia in a declared state of emergency to release certain of its least dangerous offenders within 90 days of their minimum or maximum sentence.

Our committee, the Committee on the District of Columbia, by a vote of 8 to 0 rejected House Joint Resolution 341.

Before addressing this issue, Mr. Speaker, I want to focus the attention of my colleagues on the history of the privileged motion to discharge this or any other committee from consideration of a resolution. We must be reminded, Mr. Speaker, that this extraordinary procedural mechanism, that is, a privileged motion, is not intended merely to allow a Member to override a committee action. Rather, it is intended to be used particularly when a committee or its chairperson acts in an arbitrary, capricious, or dilatory manner.

Let me expand for you, Mr. Speaker, and to my distinguished colleague, the ranking minority member, the gentleman from Virginia [Mr. PARRIS]. The gentleman from Virginia has asserted in offering this privileged motion, he is in no way challenging the credibility or integrity of the Chair. As a matter of fact, the gentleman stated that this was intended as no criticism of the Chair or the committee. He was very laudatory a few minutes ago about the fairness and the integrity of the gentleman from California and the members of the District of Columbia Committee. That is an important assertion by the gentleman from Virginia, important for this reason. I believe, Mr. Speaker, and I would argue that the framers of the Home Rule Act did not intend that a privileged motion to discharge a committee of its responsibility would simply be a procedural matter that would allow a substantive issue to come before the body. To discharge a committee of its responsibility is a grave and significant act on the part of this House. We operate within the framework of a committee structure. We live or die on the basis of the principles of democracy. The majority rules, free and open and honest debate on any matter, and whenever a committee is discharged of its responsibilities when that chairperson is not in agreement with a motion to discharge, it is a grave act. You can look back at the history of the last 10 years. The only time a committee was discharged of its responsibility on a petition that requires 218 Members to sign to discharge a committee was on a busing issue, a highly controversial matter, and it was believed that the committee did not act in a timely fashion to bring this matter to the floor of Congress.

The only time a privileged motion was agreed to on this floor, interestingly enough, was a matter dealing with the District of Columbia government, where my colleagues had the power to override a contest between an elephant and a flea.

Whenever we have such awesome power, whenever you feel such incredible strength, you must use that strength with integrity, with humanity, and with a sense of fairness.

Mr. Speaker, the gentleman from Virginia, and no other Member of this body, could dare challenge the integrity and the fairness of this gentleman from California in conducting the business of the District of Columbia Committee. This gentleman has leaned over backwards to preserve the credibility and the integrity of the District of Columbia. We have held open hearings on all matters. We have never held a secret meeting, Mr. Speaker. We have never attempted to engage in dilatory tactics, Mr. Speaker. We have never failed to include the minority members and their staffs in any consideration.

I have served in the House of Representatives for almost 17 years. Most of that time the ranking minority member was the distinguished gentleman from Connecticut, who is now deceased, who served with me magnificently, Mr. Speaker, always in a bipartisan fashion, always in the spirit of cooperation, always in the spirit of openness, fairness, and with the highest degree of integrity.

So what we are confronted with here is a desire on the part of my distinguished colleague to discharge this committee of its responsibility. This is no procedural motion. This is no frivolous act. "Well, let's just do this and get on with the business."

This challenges this gentleman's credibility, and I fight over that. That challenges this gentleman's ability to handle this committee and the fairness of this committee.

We in unison on this side of the aisle challenge that assertion and I challenge any Member on the other side of the aisle to suggest that in any way we have ever operated without openness and fairness and democratic principles and the highest degree of integrity as we move forward in the legislative process. So this privileged motion is not procedural. This is a substantive matter and any time the House of Representatives is engaged in the business of considering whether or not it should discharge a committee of its responsibility you should look gravely and seriously at that matter.

This gentleman would consider it an affront, Mr. Speaker, to discharge this committee when we have acted openly and in fairness.

I can assure you, Mr. Speaker, and all the Members of this body, that this committee has acted in a manner consistent with its rules and the utmost fairness on both sides of the aisle.

My distinguished ranking minority member, the gentleman from Virginia [Mr. PARRIS] and the minority members of the committee by this discharge motion, I would submit, seek to circumvent and trivialize longstanding processes for member communication and open debate. Such subterfuge is void of fair play and should not be validated by this distinguished and august body.

Let me now go to the procedural development of House Joint Resolution 341. On July 14, the District of Columbia City Council passed D.C. Act 7-56, the Prison Overcrowding Emergency Powers Act, and on July 21 the Mayor transmitted it to the Speaker of the House of Representatives. On July 22, the gentleman from Virginia [Mr. PARRIS] introduced the resolution that we have alluded to.

Pursuant to applicable law, Mr. Speaker, any D.C. act relating to title 24 of the D.C. Code has a 60-day legislative review or layover in the Congress before it becomes law. During this time any Representative may introduce a resolution of disapproval of that act, which is referred to the Committee on the District of Columbia. Should that resolution be reported to the floor, Members either approve or reject it by a majority vote. Both Houses must approve and the President must sign the resolution in order to veto the local legislation.

☐ 1045

The 60-day legislative review period, Mr. Speaker, I would remind my colleagues, expires on November 13 of this year. In the Committee on the District of Columbia my practice is to ensure full, fair, and timely debate and expeditious consideration of disapproval resolutions. Hence, Mr. Speaker, immediately after the August recess the Subcommittee on Judiciary and Education, chaired by the distinguished gentleman from California [Mr. DYMALLY], on September 10 held a hearing on House Joint Resolution 341. Witnesses testified both in favor and in opposition to the resolution and both the majority and the minority participated in the hearing. There were honest questions and arguments on both sides of this particular issue, I would assert.

Subcommittee markup was scheduled for October 7, full committee markup October 8. Timely notices were forwarded to all Members.

After subcommittee markup a quorum was not present and thus it was indeed rescheduled. Again no quorum was present.

I would for a moment digress from my prepared remarks, Mr. Speaker, and state that on October 7, this gentleman in comity with my distinguished colleague from Virginia [Mr. PARRIS] called the gentleman on the phone in his office and stated to him that there had been no quorum present at the earlier meeting, and that I understood from the gentleman from California [Mr. DYMALLY] that it was rescheduled for that afternoon in order to accommodate the minority and particularly the distinguished gentleman from Virginia [Mr. PARRIS] and he said he appreciated the efforts of my colleague but unfortunately he was not a member of that particular subcommittee, and while they attempted to elicit his participation, he was not an official member.

Yet on October 8, in a full committee meeting, I produced a memorandum dated May 16 of this year, an official memorandum, stating the membership of all subcommittees. An interesting point, Mr. Speaker, on the subcommittee of jurisdiction, the distinguished gentleman from Virginia [Mr. PARRIS] was indeed listed as a member of that subcommittee. The chief staff person for the minority stated in open session, and I asked the young gentleman, "Is this an official memorandum laying out the membership of the committee?"

The young man stated for the record, "Yes, sir, that is the official communication."

The gentleman from Virginia [Mr. PARRIS] may have not recalled that he was a member of the subcommittee but the only official communication that we had was that indeed the gentleman was a member of that subcommittee.

Pursuant to applicable laws, the gentleman from California [Mr. DYMALLY] the subcommittee chairman, and I, agreed that since we could not resolve this matter at the subcommittee level that we would move it up to the full committee level and hold a hearing on October 8 for the purposes of marking up the bill as had been scheduled in a timely fashion.

Again, Mr. Speaker, and with some degree of pain and chagrin, I would point out that no minority member was present.

I might add parenthetically that in the 17 years that this gentleman has served as a member of the Committee on the District of Columbia, and I know that I am almost 52 and as you move forward your memory starts to fade somewhat, but I cannot recall, Mr. Speaker, a time when all of the minority members did not come to the committee.

I have always known with assurance and a sense of guarantee that the gentleman from Connecticut, Mr. McKinney, would always be present whether we agreed or disagreed. We would fight our battles openly and we would fight them in the spirit of fairness and profound respect.

As noted above, Mr. Speaker, the committee by a vote of 8 to 0 rejected the disapproval resolution.

The gentleman from Virginia [Mr. PARRIS] in his opening remarks, stated by quoting from the history of the Home Rule Act, stated that the Congress of the United States with respect to the District of Columbia can legislate any time on any subject.

I choose to challenge that assertion. That is not the legislative history this gentleman recalls, because if the Congress of the United States, this august and magnificent body, can legislate on the District of Columbia at any time and on any subject, why did we have the Home Rule Act? Was that some frivolous action we engaged in or was it a substantive serious effort to embrace the principle that several hundred thousand human beings, Americans who happen to reside in the District of Columbia, shall have the right to fully participate in the body politic and engage in electing people who can serve them at the local level.

So we believe that the Home Rule Act was serious. Therefore, we felt that we must circumscribe efforts to disapprove the action of the District of Columbia, and whether you agree or disagree, Mr. Speaker, we came up with three criteria that has allowed us to move through this incredible morass of resolution of disapproval with some degree of intellectual honesty and a commitment to the principles of democracy.

We came up with three criteria. First, did the city council exceed its legislative authority? In this situation clearly the District of Columbia did not exceed its legislative authority.

Second, is the city council's action, was that action constitutional? Mr. Speaker, we could have a room full of attorneys with one group arguing for, and one group arguing against constitutionality. I am not a lawyer. We have to deal with these matters on the basis of a reasonable person's conclusion with respect to whether a matter is constitutional. We live in a world of judgments.

We came to the judgment that in this instance this was not an unconstitutional act.

We then come to the third criteria, Mr. Speaker. Did the council's act violate the Federal interest?

I took notes during the remarks of the gentleman from Virginia [Mr. PARRIS] during his opening statement. He said that this is a matter of public safety.

Therefore, it fits the third criteria that we have established with respect to the review of this disapproval resolution. I would assert here aggressively, Mr. Speaker, that the gentleman from Virginia [Mr. PARRIS] in asserting that public safety is part of the Federal interest is endeavoring to expand the scope of the Federal Government to include police power.

I would remind the gentleman from Virginia [Mr. PARRIS] and this body, Mr. Speaker, that the Federal Government does not have police power, and thank goodness. Thank goodness we do not live in a land where we have a Federal police force.

The police function is a State and local function. The Federal Bureau of Investigation is not the Federal bureau of police. It is the Federal Bureau of Investigation. The police function is not a Federal function.

Mr. Speaker, I submit the gentleman from Virginia [Mr. PARRIS] is seeking to expand the notion of what is indeed the Federal interest with enormous implications, to this humble gentleman who is not even an attorney.

We believe that the Federal interest does not exist, that there is no Federal interest with respect to this particular item.

With respect to the issue of the Overcrowding Emergency Act, let me just make a few quick comments.

The District of Columbia Act 7-56 was passed in response to a major prison overcrowding dilemma largely because, not unlike numerous States, the District of Columbia is between a legal rock and a hard place. Between 1979 and 1986 the District of Columbia's total prison population increased by 100 percent, or 650 people annually. During the first 7 months of this year its prison population increased at a rate of 198 inmates per month. This increase is largely attributed to increased drug related offenses, and 85 percent of the D.C. criminal offenses fall under this category.

In response, since 1979 the District has expanded the department of correction's total capacity by 2,600 beds, a 100-percent increase. But that has not been enough.

The District of Columbia recently decided to construct a new 700-person prison with a special drug treatment component in the District of Columbia.

Mr. Speaker, this is an interesting point. The Senate, the other body, delayed construction pending its review of alternative sites—don't put it in my area.

Given these variables, while the District must arrest and house inmates on the front end, enforcing law and order, it is handicapped as to how it can continue on the back end to house these inmates within judicially imposed population limits.

How can that be done? The solution is merely to do what 16 other States have already done in a declared state of emergency, allow certain offenders to be released early.

The District of Columbia's increasing prison population pattern is consistent with the national trend. If the gentleman from Virginia [Mr. PARRIS] were here to raise the national issue, including this for the State of Virginia, then I would understand that, and I would join the gentleman. This is a major crisis in America. As of June this year there are 522,860 people in State prisons and 44,200 in Federal prisons. Few States are operating undercapacity, Mr. Speaker. Not unlike the District, most States are pursuing alternatives to incarceration. D.C. Act 7-56 is one partial alternative.

In 1980 not one State had an Emergency Powers Act. By 1935 at least 17 States had enacted such legislation as a necessary means for coping with the devastating crisis of prison overcrowding and public safety, Arizona, Arkansas, Connecticut, Florida, Georgia, Idaho, Iowa, Michigan, Montana, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and the State of Washington.

Indeed, Mr. Speaker, the problem is one of great complexity and there are no simple and easy solutions, and this effort to discharge the committee and engage in a disapproval resolution does not even speak to the issue at all. In fact, not unlike the District of Columbia, most States are experiencing prison overcrowding problems and are under court order, including the great State and Commonwealth of Virginia. This includes Alabama, Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, and the list goes on and on. Courts have found State prison systems to be overcrowded. Hence, the situation in the District appears at first glance to be similar.

However, I say to my colleagues, it is not. It is much worse, and I would add, it is even less manageable.

In addition to court ordered caps on inmate numbers at its major correctional facilities, the U.S. attorney's office, which prosecutes major cases in the District of Columbia, and determines where D.C. inmates shall be confined. The Senate has limited further expansion at Lorton, the facility in the area of the gentleman from Virginia [Mr. PARRIS], a facility that is at critical mass and something has to happen to diffuse this situation before an explosion occurs, not only in Virginia, not only in the District of Columbia, but throughout this entire United States. The Federal Bureau of Prisons itself is overcrowded and will no longer relieve overcrowding by housing of D.C. inmates in Federal prisons.

As a result, the District of Columbia's management of their facilities is influenced by numerous external factors over which the D.C. government has no control. I remind my colleagues that there are no quick fixes here, not for the District of Columbia, nor any of the States with prison overcrowding.

Mr. Speaker, let me close by saying that at the appropriate point, because I chose not to challenge the gentleman's right to debate this matter because I am always interested in open and honest debate, but if I cannot win my fight in the debate then I lose my fight in the open. But at the appropriate time, at the end of this debate, this gentleman will offer a motion to table. I will offer a motion to table and ask all of my colleagues on both sides of the aisle with any sense of fairness, any sense of respect for efforts on the part of Members of this body to operate within the rules and within the framework of honesty and integrity, to vote down this privileged motion. Do not let history record that here was one of a few times when a committee that was not in agreement with a motion to discharge suddenly found itself being discharged of its responsibility when the record is replete with its efforts to accomplish that given task.

With that statement, and my compelling desire on the part of this body to acquiesce in assisting us in a motion to table at the appropriate point, I reserve the balance of my time.

□ 1100

The SPEAKER pro tempore (Mr. GONZALEZ). The Chair will inquire, does the gentleman from Virginia [Mr. PARRIS] wish to be recognized on his remaining 18 minutes?

Mr. PARRIS. Mr. Speaker, I do. I yield myself such time as I may consume.

Mr. Speaker, let me just respond to the gentleman from California [Mr. DELLUMS] by saying that the motion to discharge is simply required by the parliamentary constraints under which we find ourselves. I would say to the gentleman that I agree with him, this legislative body operates on the principle of majority rule in a fair and open way, and that is the purpose of this resolution, to permit the majority of this House to act on the matter, not just the 15 members of the Committee on the District of Columbia.

Mr. Speaker, I yield 7 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I rise in strong support of the motion to discharge the Committee on the District of Columbia from further consideration of House Joint Resolution 341—a resolution to disapprove D.C. Act 7-56, the Prison Overcrowding Emergency Powers Act of 1987, which grants the Mayor of the District the authority to grant early release to inmates in the D.C. corrections system in order to alleviate overcrowding.

What we are dealing with today is not—I repeat—not a question of Home Rule; it is a question of public safety. We will hear assertions that what the gentleman from Virginia [Mr. PARRIS] is trying to do is an infringement on the Home Rule charter. That simply is not the case. I have been, and will continue to be, a strong supporter of Home Rule. More importantly, however, I am a strong supporter of the Constitution of the United States which in article I, section 8 confers on the Congress exclusive legislative jurisdiction over the Capital District. That authority and responsibility was recognized and reaffirmed in the Home Rule Act itself. To quote section 601 of the Home Rule Act:

> Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council.

Clearly, this Congress retains the authority and the responsibility to review any and all acts of the District Council.

Do we have a responsibility to act? Yes, we do. D.C. Act 7-56 represents a threat to the health and safety of the residents of Washington and neighboring communities as well as to the citizens who work in or visit the Washington area. Members of the District Committee were assured by D.C. Administrator Thomas Downs and members of the council that the act did not represent a threat to public safety. We were told by D.C. Administrator Thomas Downs—and I quote: "We are not going to release any dangerous criminals * * *." That simply has not been the case to date. Under the temporary emergency legislation, nearly 900 criminals were released from the D.C. prison system.

Our colleague from Virginia, Mr. PARRIS, took a random sample of over 100 of the 900 inmates released and produced some startling results. Using the D.C. Code definition of what constitutes a dangerous criminal, 80 percent were classified as dangerous criminals. Mr. Speaker, that includes those convicted of assault, assault with intent to kill, felony weapons convictions, robbery, armed robbery, sexual offenses, and the like: fourteen percent were rearrested within 1 month; 92 percent of those released had in excess of two prior convictions, the average number was 6 and some had as many as 15 priors. I'd like to take a couple of brief moments to describe the history of some of the "minor offenders" released to date.

Let's take Arthur Jefferson. Mr. Jefferson was serving time on a weapons possession charge when he was released on July 20. Mr. Jefferson's prior convictions included assault with intent to kill, aggravated assault, escape, and felony bail violation. Mr. Jefferson was rearrested at noon the same day he was released on felony charges.

How about this one? William C. Hancock, Jr., was released on July 24. He was serving time for sale of cocaine. On August 23, Mr. Hancock was rearrested on charges of cocaine distribution. His priors included two felony drug sales, assault on a police officer, assault, and contempt.

Then there is Anthony Green. He was released on August 15 while serving time for PCP distribution. Ten days later, rearrested on two counts of felony drug distribution. He also had a felony drug sale prior.

And then there is William Rorie. Convicted of carnal knowledge with a child. He was released on August 21. Mr. Rorie attempted to rape an 11-year-old step-granddaughter. He was indicted on indecent acts on a minor charge which incidentally is a 10-year felony. After the case was papered down to carnal knowledge, all but 10 days of Mr. Rorie's 1-year sentence was suspended.

Contrary to assertions that only minor nonviolent offenders are being released, the majority of those released are in fact precisely the type individuals who should be kept behind bars. This release program represents a serious threat to public safety and it is our responsibility as Members of Congress to exercise our constitutional authority over the District.

Mr. Speaker, the answer to prison overcrowding is not to put criminals back on the street where they threaten the lives and properties of this area's law-abiding citizens. Criminals belong behind bars not on the streets. A vote against this resolution is not a vote for Home Rule, it is a vote to put drug dealers, rapists, and armed robbers back on the streets. I urge my colleagues to support the motion to discharge, to support the motion to proceed, and to vote yes on passage of House Joint Resolution 341.

Mr. FRENZEL. Mr. Speaker, I usually vote against House attempts to curb Home Rule decisions of the District of Columbia government. My inclination is to do so again today, even though the District seems to be testing the Congress with increasingly imprudent and dangerous policies.

The District government's last insult to the people of the District was the weird law which has made it very difficult and very expensive to buy insurance in the District of Columbia. Today's issue poses a clearer, and more urgent, danger.

Today we are to discuss and debate the D.C. government's policy of releasing dangerous criminals long before their prison sentences have been completed. This even more weird policy threatens the law-abiding citizens of neighboring jurisdictions as well as those of the District of Columbia. The question deserves debate, and I shall, therefore, vote against the motion to table the Parris resolution.

Finally, it ought to be said that the unending parade of silly policies adopted by the D.C. government is the very best way I know to kill Home Rule. Personally, I am weary of voting to sustain the Home Rule principle when the District's government adopts policies which inflict harm on other citizens as well as its own.

Mr. PARRIS. Mr. Speaker, I yield 5½ minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, let me first join my colleague, the gentleman from Virginia, in expressing my appreciation for the gentleman from California. I enjoy working with him on the District Committee. I do not question, I have not questioned, and I will not ever question the gentleman's fairness in the treatment of the minority on that committee or in his concern for the movement of the business of the committee. It happens to be a matter of course that this resolution (H.J. Res. 341) is important to us, and I am sure that the gentleman respects that as I do him.

I always find it difficult to follow the gentleman in debate because of his eloquent remarks, but I will attempt to plod through this to my best ability.

Mr. Speaker, what I want to do is to try to put this in as concise language as I possibly can relative to my concerns about this matter. As has been indicated, some are concerned about the potential of House Joint Resolution 341 being a violation of the Home Rule Act. In order to save the time of the House and of those Members on the floor, I will not again read the Home Rule Act as it sets forth language regarding the actions of Congress toward the District of Columbia. The gentleman from Virginia [Mr. BLILEY] eloquently did that earlier. But in fact the Home Rule Act states that there is nothing the Congress, in its oversight role, cannot do at any time prior to or after the District of Columbia passes legislation.

There are a large number of instances in which the District of Columbia Code has been violated in its application under D.C. Act 7-56. The D.C. Code clearly states the definition of a violent criminal. Yet, the District of Columbia, in its application of the

Emergency Powers Act, has repeatedly ignored this definition.

In the subcommittee hearing on this bill, Thomas Downs the city administrator, said this:

> We have not released any
>
> We have not released any inmates who were convicted of homicide, rape, assault with a dangerous weapon or other serious violent crimes * * *.

This is absolutely incorrect. Dozens of violent criminals have been released onto the city streets by the Emergency Powers Act.

In fact, in a "Dear Colleague" on October 13 from Mr. DYMALLY, Mr. DELLUMS, and Mr. FAUNTROY, the ending sentence said this:

> We would add, the local government has given serious scrutiny to the administration of this law and has insured its proper implementation in the future.

Yet, there is no indication that the city has given serious scrutiny to the administration of this law or done anything, whatsoever, to ensure its proper implementation.

D.C. Act 7-56 section 3, paragraph (f) states the following:

> The Mayor shall not reduce the sentence of any prisoner who is * * * (1) serving a sentence of life imprisonment; * * * (2) serving a sentence for committing a violent felony; or (3) serving a mandatory minimum sentence * * *.

A violent felony, by the definition of the D.C. Code, section 22-3201(f), is murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with the intent to commit any offense punishable by imprisonment in the penitentiary.

The fact is, given that background, Mr. Speaker, that violent criminals and criminals serving mandatory minimum sentences have been released under the Emergency Powers Act. As was indicated earlier by the gentleman from Virginia [Mr. PARRIS] in his study of 112 of 900 criminals released, 80 percent of those released were classified as dangerous criminals, 32 percent were serving mandatory minimum sentences which were illegally reduced, 14 percent of those released under the program were rearrested within a month, and 92 percent of those released had at least two prior convictions. They averaged six prior convictions.

Here are some of the specific cases. These are cases which were not mentioned by Mr. BLILEY and I will not mention names. I have them for the gentlemen of the majority if they would be interested.

According to his records, this gentleman was released August 17 of this year. He was arrested previously for robbery, assault, twice for larceny, and four times for burglary.

This gentleman was released July 20 and was rearrested the same day. His priors are: Assault with intent to kill, two; aggravated assault, three; felony weapons, three; escape and a felony bail bond violation.

This gentleman was released August 21. Priors: Armed robbery two instances, assault on a police officer, simple assault, felony weapons, felony drug distribution, and breaking and entering in two instances.

This gentleman was released August 17 and rearrested August 20. He had priors of armed robbery, three; drug sales, two; and two instances of contempt.

This individual was released July 11, and he had priors of felony drug sales in four instances, misdemeanor drugs, two; robbery, two; simple assault in two instances, assault with intent to rape, an assault on a police officer in three instances.

This gentleman was released August 14 and rearrested the same day on a felony charge. He had priors of weapons violations, felony threat, drug possession in two instances, forgery, and shoplifting in seven instances.

These men were in prison for committing a violent crime or were serving a mandatory minimum sentence and they should not have been eligible for release under D.C. Act 7-56. But they were, and continued releases of violent criminals puts the safety of all who live and work in the DC area in jeopardy.

Mr. Speaker, my time has expired. Let me just quickly sum up by saying that, yes, there have been actions taken in other States on early release. In Texas, we have had an early release system since 1983. However, the situation in Texas is far different than that in the District. In Texas, we are working on passing bonding authority for $275 million for new prisons. We have just completed 11 new prisons, 10 minimum security, and 1 maximum security, and we have plans for additional prisons in the works.

There are alternate solutions to the problem of prison overcrowding besides just releasing prisoners early.

Mr. Speaker, I would urge strongly a "no" vote on the motion to table.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I rise in opposition to the motion to discharge.

Mr. Speaker, I think there are three major issues before this body. The first is the procedural integrity of the Committee on the District of Columbia in its consideration of House Joint Resolution 341. As chairman of the Subcommittee on Judiciary and Education, it is this gentleman's opinion that the committee and Chairman DELLUM'S record of ensuring full and fair debate and expeditious consideration of all disapproval resolutions is exemplary. Few committee chairmen actually go the extra mile to protect the rights of both the majority and the minority—even when there are fundamental differences on the substance. I commend the chairman accordingly.

Further, I agree wholeheartedly with the chairman as to the reasons why the privileged motion was instituted. This motion was designed to protect the Congress from arbitrary, capricious, and dilatory decisions of committee and subcommittee chairmen. Hence, if we discharged the Committee on the District of Columbia, for performing its functions consistent with its rules and longstanding policies of full and open debate, I ask what message do we send to its chairman and the members of the committee.

Moreover, I believe we set a very dangerous precedent here and respective and prospective committee chairmen should so note.

The second point is that the gentleman from Virginia's approach does not solve or alleviate the underlying issue of prison overcrowding in the District of Columbia.

The gentleman from California described in very clear terms the dilemma which the District of Columbia is experiencing. It is a real and a very troubling dilemma—and one common to each Member's home State. Moreover, we cannot wish it away, nor can we ignore court mandated population caps—at the risk of possible prison riots and unrest. Given this, it seems that D.C. Act 7-56 is consistent with the gentleman from Virginia's interest in having a much safer and less volatile corrections facility at Lorton—since it is in his district. Nevertheless, his proposal, House Joint Resolution 341 fails to address in any way the District's overcrowding problem.

Finally, Mr. Speaker, I think we should underscore the interest of this Congress in passing the Home Rule Act and giving the District authority to govern itself. I refer my colleagues attention to the remarks of President Nixon on December 24, 1973, when he signed the bill into law. He stated:

> One of the major goals of this administration is to place responsibility for local functions under local control and to provide local governments with the authority and resources to serve their committee effectively. The measure I sign today represents a significant step in achieving this goal in the city of Washington. It will give the people of the District of Columbia the right to elect their own city officials and to govern themselves in local affairs. As the Nation approaches the 200th anniversary of its founding, it is particularly appropriate to assure those persons who live in our Capital city rights and privileges which have long been enjoyed by most of their countrymen.

President Nixon's statements reflect the intent of the authors of the Home Rule Act in giving District of Columbia citizens equal self-government rights. Mr. Speaker, these rights are not to be taken lightly, and should not be trampled upon like the driven snow. District of Columbia Act 7-56, similar to laws in 16 States, is a reasonable action on the District's part to alleviate its prison overcrowding problem and should be treated accordingly.

Thus, I urge Members to support Chairman DELLUM'S motion to table and urge my colleagues to do the same.

PARLIAMENTARY INQUIRY

Mr. DELLUMS. Mr. Speaker, may I inquire of the distinguished gentleman from Virginia as to how many speakers he has remaining? I do so simply to state that we have approximately 4 minutes remaining, and it would be my intent to yield that time to the gentleman from the District of Columbia [Mr. Fauntroy] to close debate on this side of the aisle.

Mr. PARRIS. Mr. Speaker, I would state for the benefit of the gentleman from California [Mr. Dellums] that we have one additional speaker, and it is my understanding—and I would appreciate it if the Chair would correct me if I am in error—that as the author or sponsor of this resolution I would have the opportunity under the rules to close the debate.

The SPEAKER pro tempore. The gentleman is correct. As the proponent of the resolution, offering the motion to discharge, he is entitled to close the debate.

Mr. PARRIS. Mr. Speaker, I thank the Chair, and I would respond to the gentleman by saying that we have just one additional speaker.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman, and with that in mind I yield the balance of my time to the distinguished gentleman from the District of Columbia [Mr. Fauntroy] to close debate.

The SPEAKER pro tempore. The gentleman from the District of Columbia [Mr. Fauntroy] is recognized for 4 minutes.

□ 1115

Mr. FAUNTROY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the motion to discharge. Mr. Speaker, the residents of the District of Columbia whom I represent without a vote on this floor are the toughest citizens on crime to be found in any State of this Union. Take a look at our record over the last 7 years of our limited home rule government, a record that clearly establishes us as the most public safety conscious citizens in our country. We're tough on crime.

During the past 5 years, our adult felony convictions have increased by 136 percent.

During past 7 years the number of inmates in our total correctional population has increased by more than 100 percent.

During the first 7 months of this year, the District's prison population increased at a rate of about 200 per month.

And, Mr. Speaker, ours is not a revolving-door situation either. When persons are arrested, tried, convicted, and jailed in our state—I mean the District of Columbia—they are now jailed for a longer period of time. The average minimum sentence for a felony offense has increased by more than a year since 1981, and the average stay in a District correctional facility has increased by about 6 months over that same period of time. The citizens of our Nation's Capital are tough on crime.

We are more vigorous when it comes to incarcerating wrongdoers than any State in the Union. For every 100,000 residents of the District there are 1,600 inmates, which is over seven times the national incarceration rate which is 216 per 100,000 residents. No State in the United States puts criminal defendants in jail at a higher rate than Washington, DC. Indeed, in the world community, only the Soviet Union and South Africa have higher incarceration rates. We in the state of Columbia are tough on crime.

But, Mr. Speaker, our resolve to provide for the public safety of our citizens has created for us a problem. It is a problem not unlike that experienced by States throughout this Union. Our prison system is overcrowded.

The resolution of disapproval which Mr. Parris would have you vote today would be the fourth wall of a box that would prevent us from ever solving the problem that our commitment to public safety has created for us.

The first wall has been erected by the courts. In five separate court orders or consent decrees, the courts have said "no more" to the prison population at:

The D.C. Jail (1,684 limit),

The maximum security facility at Lorton (536 maximum),

The central facility at Lorton (1,166 limit),

Youth Center No. 1 (406 limit), and

Occoquan 1,2, an (1,281 limit).

Again, this is not unique to the District of Columbia; 45 of the 50 States, Puerto Rico, and the Virgin Islands are under some form of court order or are parties in pending litigation involving prison overcrowding, Virginia among them.

With that wall erected, we pressed on to explore another option: the use of Federal prisons to relieve our overcrowding. Here again, we ran into a stone wall. A Federal judge on July 30 of this year ordered the Federal Bureau of Prisons to help ease the crisis in the District by taking more District prisoners. Five days later, that order was stayed by a three-judge appeals panel. It's understandable. The Federal Bureau of Prisons has reached its limit in housing District of Columbia inmates, with 2,300 currently housed in the Federal system. It is a system that is 56 percent overcrowded itself today and is expected to be 82 percent to 139 percent overcrowded by 1992. Thus, the Federal prison doors are effectively closed to the District as an option to relieve our overcrowding.

Undaunted, we've pressed on for yet another option. In this decade alone we've added 2,200 new beds to our prison system and were prepared to do more. But then the Senate steps in with a barrier to building more space. The fiscal year 1987 D.C. appropriation bill contained a prohibition on expansion of our facilities at Lorton, and the fiscal year 1988 bill calls for a delay in construction of a new 700-bed facility we intended to build on the grounds of D.C. General Hospital. It should also be noted that the severity of the District's overcrowding problem is such that even if the new prison opened today, it would do little to overcome the problem.

So now with three options closed to us, we decided there is one more option we can pursue. It is the one which 17 of the 45 States facing court orders and litigation have pursued: a carefully crafted early release program. And the minute that the public officials of who their positions by the consent of the governed passed enabling legislation, what happens? Stan Parris proposes to the House of Representatives that we box them in; that we erect a barrier that in effect gives the District no way out, no way to solve the problem. For if we follow the line of reasoning suggested by Mr. Parris' motion, we will join the Senate in intervening and interfering with the District's overcrowding situation in a way that erects yet another insurmountable wall. And when that wall is linked with the other three restraints, it becomes impossible for the District to manage its prison population. We would exascerbate the problem, and compounding a problem is no solution.

That, I would suggest, is an intolerable and unacceptable position to urge upon this House. We should seek to be a part of the solution, rather than a part of the problem. Mr. Parris' motion should be defeated. Mr. Speaker, I appeal to you: Don't box us in; reject this foolishness today and then next month vote again not to be a part of the problem with Parris but a part of the solution with Statehood for the citizens of the toughest crime-fighting community in the country, the District of Columbia.

The SPEAKER pro tempore (Mr. Gonzalez). The time of the gentleman from the District of Columbia has expired.

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent for 3 additional minutes.

The SPEAKER pro tempore. Under the precedent, the Chair will entertain requests for additional time, if the time is equally divided between both sides.

PARLIAMENTARY INQUIRY

Mr. PARRIS. Mr. Chairman, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PARRIS. Mr. Speaker, I wonder if I could inquire, under the original resolution of this matter on the motion to discharge, there was an hour debate authorized, equally divided between the majority and the minority, 30 minutes apiece.

The majority has now used its 30 minutes. The minority has one additional speaker and we have 4½ minutes remaining.

My inquiry, Mr. Speaker, is simply this: Under the rules that apply to privileged resolution in this body, should the gentleman's motion to table not prevail, we would be authorized 10 hours of additional debate on this matter?

The **SPEAKER** pro tempore. The gentleman is correct.

Mr. PARRIS. What my question then is very simply this, Mr. Speaker:

If we are going to proceed with additional debate by unanimous-consent requests, that is one thing; but if we are going to then have a motion to table which perhaps may prevail, we are constrained from additional debate, because that is undebatable.

My question, Mr. Speaker, is simply this, and I would address my question to the gentleman form California [Mr. DELLUMS], knowing of the gentleman's dedication and sincere passion for unlimited debate in these matters, and I wonder if we agreed to the motion for unanimous-consent requests for additional debate on this matter, if the gentleman would consider not proceeding with his motion to table?

Mr. DELLUMS. Mr. Speaker, I appreciate the gentleman's respect for my desire for debate; but I am not so desirous of debate that I want to go into 10 hours.

I feel very strongly about the privileged motion, and I would say in response to the gentleman from Virginia, while I understand the desire on the part of the gentleman from the District of Columbia to proceed for 3 additional minutes, as far as I am concerned, let us end this debate on the procedural matter. If the gentleman prevails, then we would go into 10 hours of debate.

Mr. PARRIS. Do I take that as an objection to the unanimous-consent request?

Mr. DELLUMS. Mr. Speaker, I am not objecting. If the gentleman wants to go 3 minutes here and 3 minutes there, I certainly would not object.

I do not want to go into 10 hours of debate. That is why I was so impassioned in the time that I took earlier.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

Mr. PARRIS. Mr. Speaker, I reserve the right to object.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I thank the gentleman for yielding to me.

Does the gentleman wish to deny the gentleman from the District of Columbia, who represents more constituents than any single Member in this House, and who rarely comes to this well to speak on behalf of his constituents, does the gentleman wish to deny me 2 minutes?

Mr. PARRIS. Mr. Speaker, reserving the right to object, that is not my purpose, I would say to the gentleman from the District of Columbia.

The majority had 30 minutes of debate time. The minority had 30 minutes of debate time.

The time of the majority has been utilized largely by the majority's determination.

My point is, if we are to face—and we operate under the rules in this House—a motion to table, then we must conclude our business within the time authorized, and all of the Members operate under the same rules, both sides.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding to me.

I hate to see us deteriorate to this level of triviality.

The gentleman from California tried to make the best argument that the gentleman could make, because I feel strongly that the motion is an affront. Perhaps it is overzealous.

I would like to have very much given the distinguished gentleman from the District of Columbia some adequate time. The gentleman is impaired. The gentleman cannot even vote for the residents.

I would ask, on the basis of comity established between the gentleman from Virginia and myself, if we are talking about 3 additional minutes, let the gentleman from the District of Columbia take 3 additional minutes, and let the gentleman from Virginia have 3 additional minutes and proceed on this matter.

I do not think we ought to quibble over 3 minutes. I think that it puts the Members in a position here where it does not seem to matter, 3 additional minutes, one way or the other. This gentleman does not care, except to the extent that I understand the plight of the gentleman from the District of Columbia, and I apologize in my desire to make the best case that I could.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, there is not a Member on this floor who feels more passionately about this subject than does the gentleman from Virginia.

I am the sponsor of the resolution, the author of it; and I am here fighting for it, and I am fighting under the rules the way we are supposed to.

Having said that, in the interests of comity and in the spirit of compromise and cooperation, I will not object to the gentleman's request for 3 additional minutes, but I would tend to object to any additional requests subject to that.

Mr. DELLUMS. Mr. Speaker, I can assure the gentleman that there will be no additional time.

Mr. PARRIS. With the understanding that we have an equivalent number of minutes as well, and reserving the balance of the time for our portion of debate.

The **SPEAKER** pro tempore. The request of the gentleman from the District of Columbia is acceptable on the basis that the 3 minutes will be yielded to the gentleman from the District of Columbia, provided the gentleman from Virginia is also accorded an additional 3 minutes?

Mr. PARRIS. Mr. Speaker, I withdraw my reservation of objection; and that is my understanding.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

The gentleman from the District of Columbia is recognized for 3 additional minutes.

Mr. FAUNTROY. Mr. Speaker, I made the point that the passage of this resolution would put us in a box that would make it impossible for us to resolve this problem.

In the first instance, the courts have limited the number of people we can put in our prisons. That is a barrier.

Second, the Federal Bureau of Prisons has said that there is no more space that they can make available.

Third, the other body has said, you shall not build any more at Lorton, and now a delay on building facilities, and we are prepared to build.

This resolution would close the box and say to us quite frankly, in addition to those three barriers, you shall not have an early release program.

I appeal to the Members of this House, do not box us in and allow us not to have some way of solving this problem.

We are either part of the problem or part of the solution.

The gentleman from Virginia [Mr. PARRIS] would have us to be a part of the problem. The court orders no ability to go to the Federal prisons, no ability to build new facilities, and now no ability to have an early release program, and that is simply not right.

I urge the Members to reject this kind of solution. Do not be a part of the problem with the gentleman from Virginia [Mr. PARRIS]. Be a part of the solution by allowing us to work this out as a government that sits with the consent of Congress, just as I stand here as the only Member in this House who stands with the consent of the governed on this question.

Please reject the resolution of the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. President, I yield 4 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. President, I thank the gentleman for yielding me this time.

As is often the case for the Members here in Congress, our decision in this instance requires the Members to balance the concerns of one group of citizens against another.

While I realize the situation at Lorton is serious and must be addressed, I believe that it is not our job to always represent the government of the District of Columbia, nor the criminals at Lorton.

Indeed we must look to the rights of the citizens of the District of Columbia. When we talk about early release of prisoners as an acceptable risk, let us remember who suffers the consequence of that risk.

It is the citizens of the District of Columbia.

We were assured at hearings that the criminals serving sentences for committing serious violent crimes would not be released. We were assured that only the least dangerous criminals would be released early. We were assured that drug dealers would not be back out on the streets before their sentences ended; and therefore, we need not worry about the young, the poor, the victims.

After looking at the records of some of the criminals who have been released early under this District's program, I am not reassured at all.

Let us not gloss over the seriousness of what is happening by pretending that the D.C. government through its early release program is merely putting a cute bunch of Oliver Twist Artful Dodgers back on the street. That is not the truth.

The District is returning to the streets violent criminals who have a long history of prior convictions and the potential to endanger the public.

Although I am from Illinois, part of the week I live in the District of Columbia. My daughters have been in the District of Columbia; but unlike many single mothers in the District of Columbia, I have some advantages. I have money which allows me to have a security system.

I have power which makes very sure that I can enjoy the highest level of public safety, but what do I tell the mother raising her young son about criminals such as this: A man convicted of two counts of burglary with a record of robbery, child molestation, burglary, released without even a minimum sentence?

Do I tell her that is perfectly OK, that we have to protect the Government and the criminals?

□ 1130

What about the 13-year-old girl trying to grow up in the project? What do you think she will think about the man released for drug sale felonies and rape? Do I tell her that it is perfectly OK and that we have to protect the government of the District of Columbia and the criminals at Lorton?

This is a simple matter. It is our job to protect the helpless. It is our job to protect the lawful. It is our job to protect the citizens trying to earn an honest living, trying to raise their children, trying to have a safe future. This is the bill.

If you vote to table, you are voting for the rights of the criminals to superseded the rights of the person trying to live a decent life in the District of Columbia, which is a majority of the population. You are telling the young single mother that she does not count. You are telling the young child that he cannot be safe. You are telling the young girl she may not walk upstairs at night. You are protecting the criminal.

Mr. DELLUMS. Mr. Speaker, I yield myself the final minute.

Mr. Speaker, with respect to prior offenses, people serve their time. Sentences are completed. Release is inevitable, anyway. The average release date is 19 days earlier than they would have been released in the first place, and with or without the act inmates are indeed released.

Now, let me go to the statement that the gentlewoman from Illinois made, and with all due respect, Mr. Speaker, I resent the hyperbole. If we are talking about the rights of the citizens of the District of Columbia, then they have a right when they believe that the local representatives at the city level are not acting in their best interest, they can go to court. They can recall those persons. They can impeach those persons.

Let us not sit as a colony on top of the residents of the District of Columbia. Let us not engage in paternalistic, patronizing rhetoric, with respect to the residents of the District of Columbia. They are full citizens, as any other citizens in any of the 50 States in the United States. If the local government is not acting in their interests, then they can get rid of them as they can get rid of us.

Mr. PARRIS. Mr. Speaker, I yield myself the remaining time.

Let me just say to my friend, the gentleman from California, the problem here in part is that this release program is not subject to judicial review. It is not under the jurisdiction of the parole board. It is not supervised by anybody except the administrative determination of the Mayor that they just ought to put these people out on the street. That is the problem with it.

My friend from the District of Columbia says they are committed to public safety. Let me give a brief summary of the overcrowding management program for the District of Columbia.

First is the Early Release Program.

Second, the parole misdemeanors before their early release dates.

Third, they put community placement of parole violators—that means put them out in the community for 15 days, rather than send them back to jail.

Community service for current weekend prisoners rather than go to jail; good times credit act. On top of early release, you can get more time for good time.

The Job Training for Convicts Program. There are five early release programs and one job training program. That is the sum total of penal management in the District of Columbia. That is part of our problem.

Mr. DELLUMS. Mr. Speaker, would the distinguished gentleman yield to me for one question?

Mr. PARRIS. I am sorry, Mr. Speaker, I think we have been more than generous with our time.

At the beginning of this program, the statement was made by appropriate D.C. officials, and the act provides, that only nonviolent criminals would be released. Now correction officials say that what they really meant was only the least violent inmates in the prison population would be released. Well, I do not think that is good enough, Mr. Speaker. I think what this Congress must do is address the issue of whether or not this city has had crime and criminal activity and penal management as a high enough priority consistent with our constitutional obligations and the express provisions of the Home Rule Act. That is the issue before my colleagues this morning.

The question of whether or not we should in fact enforce public safety in this city, this magnificent city, which we all cherish as the Nation's Capital, that is the issue. It is not just a question of the prerogatives of the City Council in the District of Columbia. This is a much bigger issue than that.

I would submit, Mr. Speaker, that this is a critical issue for this Nation's Capital. I would hope that my colleagues would vote no on the motion to table; subsequent to that, vote aye on the motion to discharge. We will then go forward on a motion to proceed and have adequate opportunity to debate this matter, look at its merits, to hear everybody's opinion about it and to have the full membership of this House undertake to exercise its responsibility under the Constitution of the United States, a profound and awesome responsibility for all of us.

With that, Mr. Speaker, I yield back the balance of my time.

MOTION TO TABLE OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DELLUMS moves to lay on the table the motion to discharge.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DELLUMS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 200, not voting 23, as follows:

[Roll No. 353]

YEAS—210

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Chapman
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Howard
Hoyer
Hutto
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—200

Annunzio
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boucher
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Carr
Chandler
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Goodling
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
McCandless
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moorhead
Morrison (WA)
Murphy
Myers
Neal
Nelson
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Russo
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—23

Biaggi
Courter
Davis (MI)
Donnelly
Duncan
Foley
Frost
Gephardt
Hughes
Kasich
Kemp
LaFalce
Leland
Livingston
McCollum
McHugh
Pepper
Porter
Roemer
Scheuer
St Germain
Tauzin
Wilson

□ 1145

Messrs. CLINGER, STENHOLM, VOLKMER, and ENGLISH changed their votes from "yeas" to "nay."

Messrs. BILBRAY, WILLIAMS, DARDEN, NICHOLS, GRANT, TORRICELLI, KLECZKA, CHAPMAN, DINGELL, FLIPPO, BEVILL, and HUTTO changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GONZALEZ). Without objection, a motion to reconsider is laid on the table.

There was no objection.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, I believed I was voting on the motion to discharge and voted "no." I learned subsequently that it was a motion to table the motion to discharge the committee and I would have voted "yes" had I understood that.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of the clerks, announced that the Senate has passed with an amendment in which the concurrence of the House in requested, a bill of the House of the following title:

H.R. 2741. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic games.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2782) "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities;

and research and program management; and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 328. An act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

□ 1200

HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 280 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 280

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one and one-half hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore (Mr. GONZALEZ). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 is a simple open rule providing for the consideration of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. The rule provides 1½ hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

During the consideration of the bill for amendment, the rule provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Education and Labor and now printed in the bill, as an original bill for the purpose of amendment under the 5-minute rule. The rule further provides that each section of the committee substitute shall be considered as read.

The rule also provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. Finally, Mr. Speaker, the rule provides that the previous question shall be considered as ordered on the bill and amendments thereto without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, the committee substitute for H.R. 162 establishes a system within the Department of Health and Human Services for the identification of American workers who are at increased or high risk of contracting occupational diseases and for the notification of any identified at risk worker populations. The bill also establishes a means by which those notified workers can be tested, evaluated and medically monitored. The Subcommittee on Health and Safety has worked diligently to craft a bill which has the support of a broad range of groups in business, health care, and labor. However, Mr. Speaker, while there is broad support for the bill as reported, the rule reported by the Committee on Rules will permit the consideration of any germane amendment or substitute to the bill in order that all sides may be heard when this legislation is considered under the 5-minute rule.

As such, Mr. Speaker, I urge my colleagues to support the rule so that the House may consider all sides of this very important issue.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 is an open rule providing for the consideration of H.R. 162, High Risk Occupational Disease Notification Prevention Act.

After 1½ hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the 5-minute rule with the committee amendment in the nature of a substitute made in order as an original bill for the purpose of amendment. Finally, the rule provides for one motion to recommit with or without instructions.

This bill requires the Federal Government to identify and notify workers who are exposed or have been exposed to hazardous substances on the job, and to monitor and counsel them appropriately.

Mr. Speaker, once the notified worker enters the program, the cost will be borne by the current employer, if any part of the exposure cited in the notification occurred while the employee was working for that same employer. Otherwise, the employer would be required to provide the monitoring but could pass those costs on to the employees.

It further prohibits discrimination against notified employees and sets forth procedures for job transfer, prohibiting benefit and wage reduction for up to 12 months if no other position is available.

I stated earlier that this is a simple open rule, and the members of the Rules Committee need to be congratulated for that. But it is a bad bill.

Now I must say, that this concept is well-intentioned, Mr. Speaker, and this issue is very important. But it is a complex piece of legislation. Considering the immense impact that this bill will have on some of the businesses, the consumers, the employers and employees in this country, shouldn't we explore the effect of this legislation more judiciously?

While the concept may be well intentioned, I think we really need a more judicial approach to the whole problem and that is why I do want to commend to my colleagues, during the discussion on the rule, the Jeffords-Henry substitute. I think it is a much better approach to this risk notification. Outstanding work has been done by the gentleman from Vermont and the gentleman from Michigan in developing the substitute. There will be an early vote during the process of amending this bill on the Jeffords-Henry substitute. I urge my colleagues to support it.

Mr. Speaker, we all strongly feel that workers should be assured of a safe and healthful workplace and believe that goals should be set to insure this protection. So no one disputes that the need to provide care for American workers is a fundamental concern. But no one has shown that this problem is not already being adequately addressed by the Occupational Safety and Health Administration.

Perhaps the most effective way to approach this problem is through congressional reenforcement of existing notification programs—not through some flawed methodology that creates a whole new agency and costs millions of dollars and opens up a floodgate of unwarranted lawsuits. So, I ask, is enactment of this legislation necessary?

Mr. Speaker, this bill is too costly and unnecessary. The administration strongly opposes this bill, and many Members on both sides of the aisle are opposed to this highly controversial bill.

However, since this is an open rule, which would allow consideration of the Jeffords-Henry substitute, I will not urge that it be defeated.

Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS] for his comments on the rule.

Mr. JEFFORDS. Mr. Speaker, I want to take just a few minutes. First I want to thank the Rules Committee for giving us this open rule. For if there is any bill that we have had in recent time which really should have an open rule, it is this one. This is a serious matter. It is an important piece of legislation.

On the other hand, there is a serious division of opinion as to just how to handle the serious problems which this bill deals with.

The bill that is before you, and the substitute, both try to take a different approach in order to take into consideration our concerns for former workers and present workers.

Let me just run very briefly through the basic differences.

First of all, as to prevention, to help those workers that are still employed, the bill before you does little or nothing. The substitute, on the other hand, takes the position that the most important thing we can do now is to make sure those systems which we have to protect our workers are improved, and thus give to the present workers the best chance of preventing any occupational disease.

A series of actions is required by the substitute. It expands coverage to more workers, it improves training, medical monitoring information to employees, and it establishes an Office of Hazardous Communications.

With respect to prior workers, the approach taken by the substitute is much different. Using our experience under a NIOSH project, which resulted in some $375 million in law suits for a small number of employees, if we generalize the results it results in possibly billions and trillions of dollars of law suits. H.R. 162 uses that approach. It creates a whole new bureaucracy, a whole new set of problems which will take years in order to be enacted.

On the other hand, the substitute tries to utilize a program, a reasonable one, which would help notify workers without creating all the problems H.R. 162 does. It will bring notice to workers sooner, will help them seek relief from the problems they may have from occupational disease on a much greater and faster schedule.

So I urge you to take a very careful look at the substitute.

□ 1215

Mr. Speaker, we have spent many hours and many days trying to work out a compromise which will best protect the workers of this country.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise, naturally, in support of the rule, but I would just like to make mention of the fact that we are one of the very few industrialized countries that does not even give the courtesy of a plant closing notice to workers in our communities. Everybody knows that my district lost 55,000 jobs since 1977, and the very first plant closing in September 1977 was heard about on the radio and television and read about in the newspapers.

But the further tragedy is that in addition to the fact that our workers do not even get the courtesy of a notice of the loss of their jobs and the moving of their company, many times they are not even given the disclosure facts of the tremendous disease and health risks they face in their places of employment. I think that is a sin. It is a tragedy, and this legislation that has been brought forward by the gentleman from Pennsylvania [Mr. GAYDOS] is long overdue.

I want to commend the gentleman from Pennsylvania [Mr. GAYDOS] for a piece of legislation that will help the American worker and the American workplace. I think very few people are as aware as he is of the problem, having come from a steel district and having seen the demise or our industrial sector.

This bill does several things. In addition to identifying workers who are at high risk, we also must notify them of that risk to prevent any possible disease. It places this responsibility in the hands of a risk assessment board, and it charges the Secretary of Health and Human Services with the responsibility of notifying those workers.

This bill has some teeth in it, and it is needed. Let us face it, when a company or an industry in our area has a problem, we are the first ones they call when they want help, but when they decide to leave or when their industry is causing a health risk to their workers, we never hear from them.

So, Mr. Speaker, I think it is time that we right a wrong, and that we pass a piece of legislation that is needed in this country. I ask the Members to vote for the rule and then vote for the bill.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. HENRY], but I would like to say before I yield to him that he really has done outstanding work on this legislation. I consider the gentleman from Michigan to be one of the most informed Members on this subject. He has been very instrumental in developing our substitute, and I think that is the proper answer on how to proceed on this risk notification issue. So I am happy to yield the time to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, let me say to my colleagues that it is somewhat of an amazement to all of us that such a small bill of 37 pages could contain so much controversy. The controversy begins, quite frankly, with the short title of the bill where it says: "This act may be cited as the 'High Risk Occupational Disease Notification and Prevention Act of 1987'." And it never goes on to define the issue of high risk and never distinguishes, quite frankly, the difference between high risk and risk.

Risk is a function of all our lives. Risk is involved in everything we do in our lives, as when we fly to Washington and return to our districts. No matter where we work, we are exposed to risk. The problem before us is not the issue as to whether or not we ought to seek to make our lives and, more particularly, our occupational environments more risk free. The problem is, quite frankly, how we best do so and how in fact most cost efficiently and most immediately we can protect workers in the workplace.

Thus the first issue before us, quite frankly, is a scientific question and a medical question as to which is the best approach to the problem: a retrospective, remedial attempt to identify risk to which workers were formerly exposed or, on the other hand, to immediately broaden and strengthen the activities of the Federal Goverment in protecting our work force from unwarranted risk in the first place.

The distinction, Mr. Speaker, is as simple as this: It is as if in our local high school, college, or university football teams we should allow the players to engage in a game without wearing helmets and then subsequently follow up with head x rays after every game to see as to whether or not the risk to which they have been exposed has in fact created any cranial injury, as opposed, in the case of prospective prevention and worker notification under the OSHA standard, requiring the use of appropriate safety standards and preventing and minimizing risk in the first place. In terms of the number of workers, this approach can assist. It is overwhelmingly superior to the committee bill. In terms of the cost effectiveness, it is overwhelmingly superior to the committee bill, both medically and scientifically.

Furthermore, this approach absolves us of many of the liability problems which the committee bill establishes for us. We should point out, Mr. Speaker, that in the 1984-85 year alone, product liability and tort liability costs have increased by some 72 percent. This country faces a crisis in product liability, tort liability, and subrogated liabilty claims which simply cries out for relief.

Rather than relieving the problem, Mr. Speaker, the bill as reported by the committee exacerbates the problem. We have documented this extensively. We have pointed out that the insurance industry has overwhelmingly warned of the catastrophic liability consequences of this bill. The liability extends not only to private industry but to governmental sectors. That is why the Department of Justice has addressed us.

The Members will be told that in fact one of the larger underwriters of liability exposure, the firm of Crum & Forster has in fact endorsed the committee bill. The fact of the matter is that associations representing between 80 to 85 percent of the product liability and tort liability underwriting market have spoken out in opposition to the bill and warned against the consequences of its passage. Mr. Victor Schwartz, coauthor of the Nation's leading and most authoritative textbook on torts and tort liabilities, has warned this Congress against the dangers of this bill if it is not substantially amended to remedy its liability issues and problems.

Mr. Speaker, Members cannot go home and lay claim to supporting liability reform if they vote for the bill as reported out of the committee. I want to repeat that, Mr. Speaker. No one can dare go home to their districts and express concern for this bill if they have not addressed the liability issues at hand.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GONZALEZ). Pursuant to House Resolution 280 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 162.

□ 1225

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Pennsylvania [Mr. GAYDOS] will be recognized for 45 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 45 mintues.

The Chair recognizes the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when we created OSHA some 17 years ago, we believed that we would substantially reduce the numbers of deaths and injuries arising from occupational accidents and diseases.

Unfortunately, it hasn't worked that way. Each year, 100,000 American workers die from occupationally related diseases. Another 400,000 become disabled.

PURPOSE OF BILL

In the 99th Congress, the Subcommittee on Health and Safety conducted six hearings on the High Risk Occupational Disease Notification and Prevention Act. An additional five hearings were held in this Congress. During these hearings, the Subcommittee made every effort to afford all interested parties an opportunity to testify and make their views known.

The result of these extensive deliberations in H.R. 162, the bill before us today, which addresses this problem in three distinct ways:

First, it identifies populations of workers who are at a high risk of contracting an occupational disease;

Second, it personally notifies these workers that they are at an increased risk of developing a work-related disease;

Third, it establishes a system of medical monitoring, counseling, and surveillance for workers who have been notified that they have been exposed to excessive levels of hazardous substances.

RISK ASSESSMENT BOARD

H.R. 162 establishes a Risk Assessment Board in the National Institute of Occupational Safety and Health in the Department of Health and Human Services. The Risk Assessment Board will be chaired by the Director of NIOSH and be composed of nine medical and scientific professionals in the field of occupational health.

Sepcifically, there will be two occupational physicians, two epidemiologists, an occupational health nurse, a biostatistician, a toxicologist, and an industrial hygienist. All would be selected from nominees submitted by the National Academy of Science.

The subcommittee went to great lengths to make absolutely certain that the Risk Assessment Board would be purely scientific and totally free of any political considerations.

ASSIGNMENT OF RESPONSIBILITY TO NIOSH

There is a clear rationale for assigning NIOSH the responsbility of administering the provisions of this act. NIOSH was created with passage of the Occupational Safety and Health Act of 1970 and placed under the jurisdiction of the Secretary of Health, Education, and Welfare, now known as the Department of Health and Human Services. It was given responsibility for developing criteria documents for the promulgation of OSHA standards. The medical and scientific expertise is already there.

It has already conducted or cooperated in three major notification programs. In Augusta, GA, 850 workers were notified of their risk of bladder cancer. In Port Allegheny, PA, another 850 workers were notified of their risk of lung cancer from exposure to asbestos. And, lastely, 12,000 current and former members of the Pattern Markers League of North America, who worked in the auto and farm equipment manufacturing industries, were part of a notification program in 27 States and three Canadian provinces.

Historically, then, NIOSH has been the leading health agency in occupational diseases. It is, therefore, the only logical place to vest the responsibility for carrying out the provisions of this act.

MEDICAL CENTERS

In order to establish a national network for the dissemination of the latest medical information and latest scientific methodology, the bill initially establishes 10 health centers, and requires additional centers to be added within 5 years until each of the States has at least 1 center. A toll-free number will be provided to facilitate communications.

These centers will also serve as research and training facilities to be selected from existing sites. NIOSH has 14 education resource centers and at least 5 would qualify. The National Institute for Environmental Health Science has 15 centers, and again, at least 5 would qualify. The National Cancer Institute has 20 comprehensive centers in operations, and most of them could be certified.

Other sites could be selected from numerous well-established and highly regarded medical schools and university schools of public health.

COST EFFECTIVENESS

H.R. 162 is a very cost effective measure. It authorizes $25 million a year for 5 years for its operation, which is less than the most recent version of the substitute that will be offered.

But the real cost savings will come from the reduction in occupational disability claims for Social Security, SSI, Medicare, and Medicaid. A 1984 study by the Department of Labor put the cost of occupational disease at $5.4 billion.

That is just the cost to the Federal Government. The cost to private business is also substantial, ranging between $1.7 and $4.3 billion a year in medical costs for affected workers, insurance costs, and costs of replacing and training new workers.

It has been suggested that this bill, when enacted, will increase the number of compensation and liability claims. The subcommittee expended considerable time and effort to ensure that the bill would be liability neutral. It specifically prohibits either the use of the notice itself or the process used by the Risk Assessment Board as a basis for a claim or as evidence in a court of law.

A recent GAO study states:

> The bill does not change existing laws that permit workers to sue for damages or file claims for compensation. Even if the bill is not enacted, an increase in lawsuits and claims might occur because workers are generally becoming more aware of their rights to compensation for health problems caused by workplace exposures to hazardous substances.

The October issue of the American Bar Association Journal draws the same conclusion as the GAO report—that is, claims for occupational disease will occur whether H.R. 162 is enacted into law or not.

SUPPORT FOR THE BILL

During the consideration of the bill, amendments by the various businesses, trade associations, health organizations, and labor representatives were proposed, many of which were incorporated into the bill before us today.

As a result, H.R. 162 is supported by a broad-based coalition of business, health organizations, labor, and environmental groups. The coalition includes, the American Cancer Society, the American Lung Association, the American Medical Association, the American Association of Occupational Health Nurses, and many other health organizations.

The business community and trade associations who support the bill include the Chemical Manufacturers Association, the National Paint and Coatings Association, the American Electronics Association, and several individual companies, including IBM, Occidental Petroleum, General Electric, Ciba-Geigy, Eastman Kodak, Rohm and Haas, and Union Carbide. The AFL-CIO and its various affiliates strongly support the bill.

Environmental groups who support the bill include Public Citizen, the Sierra Club, and the Audubon Society, among others.

CONCLUSION

To recapitulate:

One hundred thousand American workers die, and 400,000 workers contract debilitating disease in the workplace each year, and the problem is not being effectively addressed.

Each year, the cost to the Federal Government in disability payments amounts to $5.4 billion.

The cost to private business in insurance, medical, and training costs ranges between $1.7 and $4.3 billion annually.

H.R. 162, the High Risk Notification and Prevention Act of 1987 will take a giant step toward solving this serious national occupational health problem. It will:

Establish a Risk Assessment Board in the National Institute of Occupational Safety and Health, which will identify, notify, and monitor those workers who are determined to be at high risk of developing an occupational disease.

Set up a series of national health centers for the purpose of training, research, and dissemination of the most up-to-date information concerning occupational diseases.

The bill specifically prohibits notification as a basis for any claim or to be used as evidence in any court of law. In effect, it is tort neutral.

H.R. 162 does not supplant any existing Federal program such as OSHA, but rather augments and complements such OSHA efforts as the recently adopted hazard communications standard.

Mr. Chairman, we have the technical, medical, and scientific skill to identify those workers who are truly at high risk of disease. We have the know-how for notifying those workers of their risks. We have the medical and scientific understanding to monitor workers.

Now all we need is the commitment to do something about it. H.R. 162 represents a means to bring all the pieces together. It provides a cost-effective program that, in the long run, can prevent the debilitating occupational diseases that cause the 100,000 deaths and 400,000 disabilities each year.

☐ 1230

In closing, I want to say this. Yes, we can talk about figures; they are cold.

I think all of the Members in good conscience, and we have talked about 100,000 individuals that are going to die every year, and we are talking about their families and their loved ones and their sons and daughters, and those educations that are going to be interrupted, all those things all in one, that is what we are talking about.

If you are not part of this statistic, you will not be so sensitive to it; but we say this Congress and this Government of ours owe to these 100,000 death cases and the 400,000 disabilities, the crippled and the wheelchair cases, we owe to them under existing technology to take a new look at what we are doing, to add and supplement OSHA.

We are not asking to discard OSHA. Back in 1970 I was very intimately involved, as was the gentleman from California [Mr. HAWKINS], and many of the Members on the Committee on Education and Labor, and we feel this is a weakness in the bill, and we have to do it.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GAYDOS] has consumed 14 minutes.

The Chair recognizes the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the subcommittee, has eloquently explained to the Members why we are here today; and that is, to do something about the problems of occupational disease.

Our differences are not as to whether we should do something but rather on how we do it. We have a long list of supporters for our amendment. The gentleman from Pennsylvania has a list who became supporters of the bill before our amendment was available.

We believe that our substitute that we will provide later on is a much superior way to approach the problems which have been delineated.

Think there is universal agreement on the goals of both our proposal and H.R. 162. First, we all want to prevent harmful occupational exposures for all current and future workers. And second, where we have information that could help former workers we want to provide it to them.

The Henry-Jeffords substitute not only fulfills these goals, but does so in a manner that is more effective than H.R. 162. H.R. 162 does not do a single thing to reduce or prevent occupational exposure. The substitute does. H.R. 162 will probably not result in a single notice in 2 years' time. The substitute will produce about 100,000 notices to a carefully selected group of workers. As early as only a few months, and in a way to reduce chances of unproductive litigation—counter productive injury to small business and workers.

During this period of general debate I will explain why I believe H.R. 162 falls short of these goals, and once the substitute is offered I will go into more detail on why I think the substitute does a better job to protect workers—past, present, and future.

We operate within limits. There is a lot we do not know about cancer and other diseases. The best estimate is that about 5 percent of all cancers are occupationally related, with the remainder resulting from lifestyle or environmental factors. More specifically, our understanding of occupational health is limited, as is our ability to diagnose and treat diseases. Federal resources are obviously tight. And with our ongoing efforts to make this Nation more competitive, there must be limits on what additional burdens we ask business to bear.

I do not hesitate to demand that business comply with a workable and rational occupational safety and health policy. But it will not benefit workers a bit if private and public resources are spent in a nonproductive fashion.

This would be the case if H.R. 162 were enacted. Contrary to the claims of its sponsors, this legislation will not do much to prevent disease. That's the problem with after-the-fact risk notification. The mechanism set up under the bill would issue a notification after an exposure has occurred, not before.

If an employee acts responsibly and gets medical monitoring, and if he follows his doctor's advice by quitting smoking and changing his diet, then in some instances the risk is lessened. But do we need this bill to tell us that?

In my opinion, we should focus our limited resources on prevention rather than risk notification.

Under the bill before the House, there is no question that there will be substantial overnotification. This in itself might not be so bad. But think for a moment. You are sitting at home reading through your mail and get an official-looking letter from the Federal Government. It tells you that your employer exposed you to something that may give you cancer. To be effective, to get you to see a doctor, that notice has to scare you. And if it scares you enough to go see a doctor, it may very well scare you enough to see a lawyer.

In fact, our only experience with this sort of Federal risk notification program tells us just that. One out of every five workers who was notified turned around and sued the employer. Of some 800 workers notified, roughly $335 million in claims were filed. Some were settled, some were dismissed, and every one of them cost money. The litigation continues today, some 7 years later, as the insurance companies argue over who should foot the bill. If you generalize this experience to the total population to be notified by H.R. 162—you would get—not millions, not billions, but trillions of dollars in law suits.

Let me repeat, the Augusta pilot project was the only project the Federal Government has ever conducted.

It was a disaster yet H.R. 162 uses it as its model. There have indeed been two other projects, among asbestos workers in Port Allegheny, PA, and patternmakers in the auto industry. These two private programs were jointly operated by labor, management, and other community groups. While their positive medical impact is unknown, their liability consequences have been less severe. This is partly due to the fact that the patternmakers program has to date failed to uncover any increased risk of cancer. In fact, right now it looks like a lifestyle factor—diet—may be the culprit.

But despite the fact that the non-Federal approach seems to have had a smaller impact in terms of liability, it is the Federal model that H.R. 162 has chosen to follow. The substitute does not do that.

The claim that this bill is tort-neutral or litigation-neutral is pure hogwash. It will generate lawsuits, and if the Augusta pilot is any guide, the vast majority of them will be unfounded. Even if all of them are unfounded, the transaction costs can be substantial. For a small- or medium-sized company which is not insured against the types of claims that will be generated by this bill, those costs could be insurmountable.

If you don't believe me, just open up the bill to page 34. There the bill tries to lessen the liability impact by essentially preempting what is admissible evidence under State workers' compensation or tort law. The bill also says that the bill should not begin the tolling of any statutes of limitation. And I understand Mr. GAYDOS will offer an amendment to shield doctors, but nobody else, from liability under the bill.

When it comes to liability, this bill, like one of its more glamorous proponents, is more than a little bit pregnant.

Even if a company escapes the liability consequences of the bill, other provisions will come into play. First, the employer must provide medical monitoring. In the case of the Augusta pilot project, this has amounted to some $5,000 per employee. Second, if the employee's doctor decides that the employee should be transferred, then the employer must transfer the employee to another job at the same pay and benefits, or if he can't—must pay for a year.

Imagine that you are a doctor and a worker has come to you with a piece of paper from the Federal Government saying he is at risk of disease. Chances are you are not a specialist in this area. What do you do? If you leave him in the job you run the risk of being hit with a malpractice suit. Moreover, a job with little or no exposure to a chemical will clearly be safer than one involving some exposure. To reduce the risk to your patient, you would always tend to transfer him.

But how many employers are going to able to find a job that involves little or no exposure? Well, the bill takes care of that. If no such job exists, the employer must provide the employer with a year's paid leave. And, although it's not clear, the employer may be obligated to reinstate the employee at the end of that period. What happens to the replacement employee at that point is also unclear, since a transfer cannot result in bumping anybody out of a job.

At this point I want to step back from the individual provisions of the legislation and take a look at the larger picture. I believe that this legislation is flawed. We may hear talk of all the compromises that have been made and will be made. But to give you an idea what these compromises are like, the National Federation of Independent Businesses opposes the small business exemption that may be offered to the medical removal provisions.

This bill will be vetoed if it ever reaches the President's desk. I think it was during subcommittee consideration that the Secretaries of Labor, HHS, and Justice wrote to tell us that this bill will be vetoed if it is sent to the President. They are now joined by Commerce, Agriculture, the Council on Economic Advisors, and the Small Business Administration.

It may give some of my colleagues comfort that this legislation will not become law. But if we do adopt this legislation, none of us should take comfort in thinking that we have done one darn thing for the safety and health of workers.

I'm glad to say there is a positive alternative that has a very real chance of becomng law. Congressman HENRY and I will offer a substitute which both focuses on prevention and establishes an interim risk notification pilot project. I think it does more for workers than H.R. 162. The business community can live with it and the administration says it will sign it.

So if you really want to do something for workers, I urge you to support the Henry-Jeffords substitute and oppose H.R. 162.

□ 1245

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the Jeffords-Henry substitute.

Mr. Chairman, I thank my colleagues for giving me the opportunity to offer my observations on H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. As a member of the House Judiciary Committee and as an attorney, I feel I can offer helpful insights about the liability implications of H.R. 162 on our system of justice.

Today's debate focuses on whether H.R. 162 will exacerbate the tort litigation explosion in America. I say it doubtedly will. Unfortunately, in the real world of tort and worker compensation systems, H.R. 162 would, as distinguished legal expert Victor Schwartz put it, "create new and unprecedented factual circumstances that will provide grounds for thousands of unfounded claims."

H.R. 162 requires that the government identify and notify current and former workers if they are determined by the Risk Assessment Board to be in a population at risk of disease. Significantly, these risk determinations would be based on extrapolations of a study of a group of workers at risk of disease. This means workers receiving notification may be those who were not studied, including those who worked in a workplace environment many years ago. With these extrapolations presenting reliability problems, many workers will be falsely identified as at risk of developing cancer or some other disease. Is there any doubt that such notification would be emotionally traumatic? If you were a worker receiving notification under H.R. 162, would you just sit by and pray that you would not be struck by the disease? Or would you be angry or distressed?

I think most workers would be angry and file claims. Aggressive plaintiffs' lawyers could obtain names and addresses of those notified. In our society, where we sue first and ask questions later, notification to unstudied workers is simply an invitation to sue.

The accuracy of this observation ought to be intuitive. But it is also based on real world experience. The minority views of the committee report mention the example of a Government notification study in Augusta, GA. About 800 employees of the Augusta Chemical Co. were notified by a NIOSH notification study started in 1979 that they may have been exposed to betanapthylamine [BNA] and were at an elevated risk of bladder cancer. Although 13 employees actually had bladder cancer, 171 filed lawsuits. This notification resulted in $335 million in lawsuits. Settlements for various amounts totaled about $500,000 which was not covered by insurance. Associated legal fees totaled about $1,000,000.

This example illustrates the enormity of the liability ramifications of H.R. 162. Small businesses in America would be devastated. With the threat of a litigation flood, small businesses would be bankrupt because of a lack of insurance for these claims or lack of certainty as to when or how these claims would be covered.

There are other problems with H.R. 162 beyond liability implications. But it seems this notification procedure strikes at the core of our system of justice and our economy. It flies in the face of our attempts to grapple with the litigation exploration.

Fortunately, there is a commonsense alternative—the Jeffords-Henry substitute. This is a balanced and responsible approach requiring notification of workers for which NIOSH already has risk information. Moreover, a commission would be established to monitor and report on the value and impact of this notification within 2 years. This reflects the reality of reliability and litigation problems.

Let us not plunge into a system that assures that innocent businesses, falsely identified workers, and our system of justice will suffer. Support the Jeffords-Henry substitute.

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, workers have a fundamental right to be informed of their exposures to hazardous substances and the possibility of related illnesses. There is a moral obligation on the society which has benefited from the labors of workers to provide them with opportunities for and access to therapeutic assistance. H.R. 162 would fulfill these responsibilities.

The program established under H.R. 162 will correct a serious deficiency in our Nation's public health system—the lack of a clinical program for the prevention or reduction, and eventual elimination of occupational diseases. Despite the widespread knowledge of workplace hazards, and the increased publicity surrounding particular hazards in certain industries, many workers who have left jobs in those particular environments are unaware that they are at increased risk of disease. Furthermore, Federal efforts to inform workers currently exposed to hazardous substances are extremely limited in scope and content, and fail to provide the necessary counseling and followup assistance. H.R. 162 is intended to correct these omissions.

We are not breaking new ground here. The knowledge and technology exits to enable us to prevent occupational diseases, or at least to detect the onset and arrest the progress of those diseases. H.R. 162 will put that intelligence and those techniques to work in a comprehensive manner.

The program established by the bill will notify thousands of workers of their increased risk to occupational diseases; provide the individuals with access to trained counselors and health professionals in designated clinical facilities equipped to handle occupational illnesses; and provide opportunities for the personal physicians of those individuals to acquire greater proficiency in the detection and treatment of occupational diseases so as to better serve their patients.

This legislation will achieve these crucial public health objectives in a cost-effective fashion. For the modest sum of $25 million a year, we will begin to curb and eradicate occupational illnesses which cost the Federal Government several billion dollars annually in outlays for Social Security disability benefits and Medicare/Medicaid costs.

H.R. 162 is necessary because currently there is no Federal program that would achieve the objectives of this legislation. Neither OSHA, NIOSH, EPA, nor any other Federal program is required to or has undertaken to identify worker populations at increased risk of disease, to notify those workers, and to offer the extensive assistance which will help them to avoid severe disabilities and premature death.

The legislation is feasible because the concept has been tested successfully in pilot projects. The proposal is fiscally sound. It can be carried out with a minimal expenditure of Federal dollars, and eventually will help to offset the billions of Federal moneys being spent to support and treat workers disabled from work-related diseases.

I want to express my deep appreciation for the manner in which the gentleman from Pennsylvania [Mr. GAYDOS] has handled this measure. In both the 99th and 100th Congresses, the gentleman held extensive hearings, listening to testimony from many people with varying views for and against the bill. After the hearings and through subcommittee and full committee mark ups, the gentleman maintained an open mind, consulted frequently with interested parties, and made significant changes in the bill to accommodate concerns. As a result, the committee bill has picked up considerably more support from the business and scientific communities. Despite these achievements Mr. GAYDOS has continued working to accommodate other concerns, and he will offer amendments today which reflect his success at consensus building. I congratulate the gentleman from Pennsylvania for an outstanding job in forging a coalition of support for this essential worker protection legislation.

I must say a few words about the substitute that will be offered by my good friend from Vermont, Mr. JEFFORDS, the ranking Republican on the Committee on Education and Labor. I have the highest regard for the gentleman, and I know that his motives are sincere. However, his substitute is just not the answer to the needs of workers who have been, and are being exposed to hazardous substances in their workplaces. I regret that I must oppose the gentleman's proposal, but it is obvious that the substitute will not offer the kinds of special advice, counsel, and preventive measures that are embodied in the committee bill, H.R. 162.

Workers deserve to know about their increased risk of occupational disease. They deserve to be given an opportunity to obtain professional assistance which, in many cases, will help them to avoid severe disabilities and premature death. I urge my colleagues to give workers that chance by adopting H.R. 162.

Mr. JEFFORDS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let me highlight what I believe are the five key issues in this debate.

1. RISK NOTIFICATION VERSUS HAZARD COMMUNICATION

Since the debate on this bill began many months ago, we have focused over and over on the difference between risk notification, which is called for in H.R. 162, and hazard communication, on which the Jeffords-Henry substitute bill is based.

Risk notification is a retroactive attempt to identify and locate employees who may have been placed at risk in their work environment. Hazard communication is a proactive effort to prevent exposures from occurring in the first place through labelling of containers, training of employees on working with chemicals, and so forth.

Hazard communication is primary prevention. Risk notification is, at best, secondary prevention and by definition less effective at preventing disease. And when combined with overnotification, as in H.R. 162, the problems brought on may well exceed any benefits to worker health.

H.R. 162 does nothing to improve hazard communication, or to reduce workers' exposure to hazardous substances in the workplace. It simply establishes a new program to review past risks of exposure of some 20-30 million workers, regardless of whether those workers have actually suffered harmful health effects. The Jeffords-Henry substitute codifies recent expansions of the workforce covered under hazard communication standards, places additional focus on that program within the Department of Labor, and updates the hazards against which the workforce is protected. It also establishes a program of risk notification by NIOSH, which involves workers and former workers who have actually been studied by the Government. It thus avoids the "overnotification" inherent in H.R. 162, which would extrapolate the results of studies of one population of workers to others who have not been studied.

2. COSTS

Both H.R. 162 and the Jeffords-Henry substitute involve some increase in costs to the Federal Government and to the private sector. The question is cost effectiveness.

Supporters of H.R. 162 have spent a good deal of effort in trying to show that their bill would not be overly expensive for business. Their projections are based on:

First, 100,000-300,000 individuals receiving notification annually; and

Second, most of those notified not seeking medical attention, or no longer working for the employer where the possible exposure took place.

Let me simply point out that nothing in the bill limits the new Risk Assessment Board to this number of notifications. If these numbers were accurate, however, it would take from 50-150 years for the Board to notify just those workers HHS has estimated are likely prospects for initial notification. If we're interested in doing something for workers now, then a strong hazard communication program makes far more sense.

Recognizing that the Board is not likely to limit its notifications to a few per year, others have tried to calculate the cost to the private sector:

The GAO says costs are incalculable due to unknowns. The machine tool industry has presented the only econometric model of H.R. 162, and projects minimum increases of wholesale product costs of 2½ to 8 percent on its entire product line.

The American Iron and Steel Institute estimates costs for that industry alone "at a minimum," of $1.5 billion. The Augusta Chemical Co. of Augusta, GA—the only instance in which a risk notification program has experimentally been implemented by the U.S. Government—estimates its cumulative costs have been $5,000 per employee notified.

3. LIABILITY

H.R. 162 provides that workers potentially exposed to a "risk" be notified of that fact. The problem, however, is that the fact of notification, as opposed to the question of whether or not the employee has suffered actual injury, will generate workers' compensation and tort suits.

Sponsors of H.R. 162 claim the bill is "liability neutral" because the fact of notification cannot be entered in a court of law. But evidence surrounding the notification, and probably the notification itself, can be! Further, the Government lists as to who has been notified can be easily obtained—hence "class action" suits can be expected to rise rapidly. Finally, in many states, the "stress doctrine" makes compensable the stress which notification may cause, whether or not the individual suffers any harmful health effects from job exposure.

4. PREEMPTION

Some have misleadingly argued that the Jeffords-Henry substitute would preempt State and local hazard communication and right to know laws that meet and exceed Federal standards. That is not the case. The substitute is absolutely silent on the issue of preemption. State worker right to know laws in "State plan" States would continue to be enforced by the States, unless it is determined by OSHA that they are not as effective in protecting worker health and safety as is the Federal standard.

The question of whether State laws in other States are preempted by a Federal right to know law is one that has been in the courts for some time. The current court rulings indicated that, to the extent the Federal Government regulates the Federal law preempts, but if States regulate in areas not under an OSHA program, those laws are not preempted. In any event our substitute bill does nothing to change the status quo in terms of preemption. It does however increase protections under the Federal OSHA standard.

5. PREVALENCE OF OCCUPATIONAL DISEASE

Supporters of H.R. 162 have used various figures on the extent of occupational disease—the most commonly cited are 100,000 deaths and 350,000 victims. They have also suggested that H.R. 162 would prevent those deaths and injuries.

While none of us would minimize the importance of addressing any occupationally related death or injury my colleagues should know that the figures being cited as to the prevalence of occupational disease come from studies which have been thoroughly discredited.

More importantly, the suggestion that this bill will save those lives is simply misleading. Unfortunately, many of the diseases related to occupational exposures are simply not detected by simple monitoring, or treatable if they are detected. And as I mentioned, it would take years, if the supporters are right about the size of the program, to even notify a small portion of those who potentially may have been exposed. Again if we want to spend our money in the most effective way, preventing exposure from taking place is the way to do that, and that is what the Jeffords-Henry bill would do.

Mr. JEFFORDS. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I would like to thank the gentleman for yielding time to me to discuss this issue. Many of us, over the past few weeks and months have been attempting to educate the Members of this body on the dangers of H.R. 162 and the merits of the Henry-Jeffords substitute. I would like to expound two of these points at this time.

While there are many problems with H.R. 162, my main concern is the anticompetitive impact this bill would have on small businesses. As a small businessman, I understand how vital the small business community is to the strength and economic well-being of this Nation. Last year, small businesses provided a livelihood for over half our population and jobs for 45 percent of our Nation's total nonfarm workforce. Simply put, this meant jobs for 45 million Americans. Put another way, jobs provided by small business were 10 times greater than all the jobs in the Federal Government and 3 times greater than the total number of jobs of the Fortune 500. Last year, small businesses also produced 39 percent of our gross national product. This translated to $1,400 billion

Small business is vital to the wellbeing of our national economy. I think few Members of this body understand how vital. Certainly the authors of H.R. 162 do not. Let me describe one provision of the bill.

H.R. 162 contains an employee transfer provision. In my own company, Plastic Packaging, Inc., which converts and prints polyethylene bags for various products, I employ around 200 people. Thirty of these employees are pressmen and they are crucial to my business. In addition to fringe benefits which add about 40 percent to my payroll costs, these 30 employees are my most highly paid employees, making $10 per hour.

Under H.R. 162, let's say that five of the pressmen are notified that they may be "at risk" in contracting a disease from exposure to a chemical during previous employment. If it is determined by a physician that each of these five pressmen should not continue in their current job at my plant, for any reason, I would be required, by this provision, to transfer the five pressmen to other jobs at current salary and with no loss of benefits. Now, if I had no other positions to which a transfer could be made, I would be required to keep them on the payroll for 1 year with all job rights guaranteed.

What is the cost of this to my business? I would be required to pay each of the pressmen their salary of $20,800 per year, plus benefits, totalling $145,000. In short, the costs to my business under this provision and in just one instance would be almost $150,000. This may be "peanuts" in Washington, but not to a small manufacturer. And, remember, these five pressmen were not even exposed in my plant.

Recalling the importance of the small business sector of the economy, do we really want to saddle them with this kind of cost increase? Most small businesses operate on a small profit margin, and in many cases, this additional cost would be the death knell. These mandated pay and benefit requirements are unprecedented in Federal law and would be followed by an unprecedented number of small business failures.

But, the adverse impact of H.R. 162 on small businesses does not stop there. In addition to the employee transfer provision which is simply a federally mandated benefit, H.R. 162 mandates another benefit by requiring employers to make available medical monitoring to employees who are included within a population at risk.

When the Risk Assessment Board determines that an exposure to a substance mandates a notification, employers would be required to provide medical monitoring at no cost to current employees. This monitoring would be required whether or not the employer provides for health insurance. The administrative burden on particularly small businesses to comply with this requirement would be horrendous. Small businesses are already overburdened with the likes of COBRA. And like COBRA, small businesses would be subject to stiff penalties and fines for failure to comply.

Simply put, the well-being of many small businesses—the sector of the economy which creates jobs—would be at risk. This body talks a lot about competitiveness, and it spends a lot of money studying it, and debating it. Let's stop paying lip service to small businesses and do something to help them survive. Cast a vote for small business, vote "no" on H.R. 162.

Instead, support the Henry-Jeffords substitute. This is a substantive proposal which will protect workers and prevent disease in the workplace without bankrupting businesses and throwing people out of work. This substitute goes directly to the problem by requiring preventive measures designed to eliminate hazards which may contribute to the disease. It also:

Requires OSHA to create an Office of Hazard Communications.

Requires OSHA to update the permissible exposure limits for more than 400 hazardous substances within 1 year after enactment.

Requires employers to notify any employee who is being exposed to a hazardous substance in excess of existing OSHA exposure limits.

Requires employers to inform former employees of a listing of hazards present in the workplace while they worked there.

Requires the Secretary of Labor to consider expanding the OSHA hazcom standard to include medical monitoring information and expanded hazard training.

We are all working toward the same goals—the prevention of disease and protection of the American worker. The Henry-Jeffords substitute accomplishes these goals in a practical, straightforward manner. It builds on existing programs and does not so burden small business as to put their economic health at risk. I strongly urge my colleagues to vote for the Henry-Jeffords substitute and against H.R. 162.

□ 1300

Mr. GAYDOS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. Biaggi].

Mr. BIAGGI. Mr. Chairman, I rise as a cosponsor and strong supporter of H.R. 162. This is a carefully crafted and very responsible piece of legislation aimed at reducing the occurrence and severity of workplace-related health problems.

Every year, some 100,000 workers die and 340,000 more are disabled as a result of exposure to hazardous substances in the workplace. Business lose as much as $4.3 billion a year due to occupational disease, and American taxpayers are left with an annual medical bill of $5.4 billion resulting from occupational disease.

This legislation establishes an effective program of research, notification, counseling, and health monitoring aimed at addressing this very serious problem. I want to commend my good friend and distinguished chairman of the Health and Safety Subcommittee, Mr. Gaydos, for his leadership on this issue, and I urge my colleagues to join me in supporting this important measure. Our American work force needs and deserves that support.

Mr. Chairman, at this time, I would like to engage the gentleman from Pennsylvania, [Mr. Gaydos] in a colloquy.

Mr. Chairman, I would like to take this opportunity to discuss with you the sections of the bill [4(b)(2)(A) and 5(f)(1)] which deal with Health and Human Services Department access to employees work histories.

Mr. GAYDOS. If the gentleman will yield, I would be glad to discuss those sections with the gentleman from New York.

Mr. BIAGGI. In those sections, HHS is given access to the names, addresses, and work histories of Federal, State and local employees subject to notification. The term "work histories" is defined in the report as referring to a record of where a person is working or has worked, and for how long; the kinds of work done and for how long; and exposure records, if any, and medical records for that person. As we know, this bill is meant to protect employees for their activities for the past 30 years. In some instances, the work histories may no longer exist or be incomplete. Is it the chairman's understanding that so long as the employer makes all available records accessible to HHS that the employer has complied with the provisions of the act.

Mr. GAYDOS. I concur with the understanding of the gentleman from New York. We cannot require employers to produce records that they do not have. This does not, of course, mean that we in any way condone withholding of any such records that do exist.

Mr. BIAGGI. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Armey].

Mr. ARMEY. Mr. Chairman, I rise in strong opposition to H.R. 162 as currently written and to urge all my colleagues to support the Jeffords-Henry substitute.

No one denies that hazards in the workplace are a legitimate concern, but the present version of this bill—involving as it does the creation of a new Federal bureaucracy and a limitless potential for frivolous litigation—is the wrong way to deal with the problem. A better course is to expand the existing worker protection structure, as my good friends and colleagues propose to do in their substitute.

For this Congress to even consider passing H.R. 162 as currently written is a self-contradiction. In hundreds of newsletters, town meetings, floor speeches, and constituent correspondence, all of us have declared our determination to close the Nation's trade deficit and enhance the ability of American firms to compete in world markets.

Toward that end, we have gone so far as to pass the protectionist omnibus trade bill; we have passed special trade barriers for the benefit of the textile industry; we have sought to reduce the Federal deficit which contributes mightily to our trade problem. If there is one clear policy theme running through the major legislation of the 100th Congress, it is that our trade gap must be narrowed.

Yet here we are considering a bill which will impose harsh costs on our manufacturing industry, the very sector of the economy hardest hit by foreign competition.

There is no way that we can go before our constituents and seriously pretend to be dealing with the trade deficit while we consider a bill that will make it worse.

H.R. 162, of course, is only one of a series of labor bills that will have that effect. The dual shop bill that we passed in June, mandated parental leave, Davis-Bacon expansion, plant closing restrictions, the minimum wage hike—all of these, taken together, make a mockery of our efforts to improve American competitiveness. Rhetoric about reducing the trade deficit aside, if we pass these bills, the lasting mark of the 100th Congress will be to increase the burden on American industry, widen the deficit, and spawn a real deindustrialization of America. And, believe me, that will not go unnoticed by our constituents next fall.

How does this bill, as now written, hinder our competitiveness?

Groups supporting it argue that it costs practically nothing. The only new appropriation they're asking for is a mere $25 million—an insignificant sum by Federal standards although I have no doubt that it will balloon well beyond that.

But they are refusing to consider the costs that this legislation will impose on the private sector—not just the Fortune 500, but rural manufacturers, machine tool operations—virtually any company, large or small, that is engaged in manufacturing.

These businesses will all be vulnerable to the explosion of meritless liability suits that H.R. 162 will create. The simple fact is that by notifying workers that they may have been exposed to hazards from which they may suffer consequences will lead to a torrent of mostly groundless lawsuits. If a worker with a lung ailment is told that he may have been exposed to a respiratory hazard, he can sue—even if his ailment was really caused by his two-pack-a-day 30-year cigarette habit. Even if a worker is perfectly healthy but has been told by the Government that he might have been exposed to a hazard he can still sue—on the alleged grounds that he is now suffering from a fear that he might get sick.

It's worth noting that the AFL-CIO has already set up the "occupational health legal rights foundation." I have no doubt that it will be busy. In a 1979 NIOSH pilot risk notification study involving 850 individuals, $335 million in lawsuits were generated. That is just a hint of what will happen if we pass this bill.

We all know what tort liability and product liability is doing to our economy; we've been considering bills to reform our liability laws and restrain the lawyers for years. What sense, then, does it make to pass a bill that is going to multiply the problem many times over? American businessmen cannot be expected to compete with Japanese engineers when they are buried under paper generated by American lawyers.

And there are other costs. We have econometric models that show that the job transfer and job guarantee provisions, along with other mandated benefit costs, will add 4 to 8 percent to the wholesale price of the products of small- and medium-sized manufacturers. That's 4-to-8 percent new overhead on top of the litigation costs. Wait till they hear that in Tokyo.

What all this means is that H.R. 162 will, in effect, impose an enormous tax on the very businesses that are struggling hardest with foreign competition. Pass this bill and we'll be kicking them when they're down.

That is what H.R. 162 will do in its present form. Now compare that to the Jeffords-Henry substitute.

The Jeffords-Henry substitute aims not solely at risk notification, but at hazard prevention. It doesn't simply tell workers decades after the fact that they have been exposed to a hazard, it seeks to protect workers from hazard exposure in the first place. In doing so, it doesn't create an expensive new Federal bureaucracy, it instead fills in the gaps in current laws and regulations. None of H.R. 162's potential for a litigation explosion are present in the Jeffords-Henry substitute, and it will not impose crippling costs on the private sector.

H.R. 162 is an assault on American competitiveness. It will benefit no one but our legions of lawyers. I strongly urge my colleagues to reject it by voting "yes" on the Henry-Jeffords substitute legislation.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. H.R. 162 is fundamentally flawed and does not address the issue at hand. H.R. 162 would establish a process that fails to accomplish the primary legislative objectives of preventing occupational disease and increasing occupational safety. Proponents of this legislation would have you believe that H.R. 162 would prevent occupational disease, reduce occupational health risks, and inform and counsel workers on work-related health hazards.

But what would happen is this: H.R. 162 would create a new autonomous Federal agency within HHS. This new agency, the so-called Risk Assessment Board, would spend its days gathering available study data. The Board would carefully pour over available information on the health risks associated with certain substances found in workplaces. When the Board has determined that occupational hazards are associated with a particular substance that possibly caused health problems in the study group, the notification process begins.

Thousands of workers in various locations would receive a Government notification that says, "You might have been exposed to a hazardous substance while on the job that might cause you to contract one or more of the following diseases some day." If I were given that kind of information, I am not sure who I would call the—the doctor, lawyer, or employer.

Clearly, the best way to reduce and prevent occupational disease is to reduce workplace health hazards and educate workers on how to work around hazardous substances. Workers cannot protect themselves from unnecessary exposure to hazardous substances with a piece of paper that explains to them that it may be too late. The risk notification program in H.R. 162 puts the horse before the cart—information to report possible exposure rather than information to prevent exposure—a convoluted way of addressing the issue.

Proponents of H.R. 162 have chosen to ignore the fact that there are Federal agencies already responsible for ensuring the occupational health and safety of the work force. While NIOSH currently conducts onsight studies and evaluations of occupational health hazards, H.R. 162 would require that the Board review existing data to determine workplace health risks. The determinations made by NIOSH more effectively respond to specific work-related health risks. The Risk Assessment Board would make more general and broad assessments of potential health risks. This board could wrongly trigger massive notification to thousands of workers who are not actually at risk.

Workers already have the right to know that there are health hazards in their workplace. Current Federal law ensures a workers right-to-know through the hazard communication standard. The hazard communication standard currently requires that employers notify workers of an identified health hazard. The notification must inform workers of preventive measures that they can take to avoid exposure to hazardous substances. This standard applies to almost all employers.

The best way to reduce occupational disease is to inform and train workers on work-related health risks. H.R. 162 would establish an ineffective notification and counseling process that would not address the critical issues—prevention and training. H.R. 162 is no improvement over the present Federal mechanisms that address occupational health problems. H.R. 162 should be rejected by the House and I strongly urge my colleagues to consider how flawed this legislation is. Vote "no" on H.R. 162.

Mr. GAYDOS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 162. Despite its small price tag—$25 million—this is one of the most important pieces of health legislation the 100th Congress will consider. H.R. 162 has the potential to prevent thousands of deaths from occupational disease easy year and tens of thousands of disabling illnesses. It could eventually save the Federal Government and its taxpayers, employers, and employees billions of dollars in health care costs each year.

Let me explain in simple terms what H.R. 162 will do:

First, it establishes a nine-member Board of Risk Assessment composed of top scientists, physicians, and biostatisticians nominated by the nonpartisan National Academy of Science.

Second, the Board is directed to review all available medical and scientific data to identify and designate populations at high risk of contracting occupational diseases. The Board will give priority to employee populations whose members are most likely to benefit from medical monitoring or health counseling.

Third, the Board will then notify each individual in the at-risk population of the nature of the exposure, the disease associated with it, the most appropriate medical monitoring and the name and address of the nearest health center designated under the act.

Fourth, once notified, an employee may pay for medical monitoring or—if the current employer exposed the employee to the hazard—the employer will pay for it. The purpose of the medical monitoring is to detect diseases early in their development, when changes in health habits can be effective in preventing the disease's progress or when medical techniques such as chemotherapy and surgery may be most effective.

Mr. Chairman, I include the following chart, which lists a number of occupational diseases which respond to the medical interventions listed beside them, be included in the RECORD. The chart was prepared by Dr. Philip J. Landrigan, the director of the Division of Environmental and Occupational Medicine at the Mount Sinai Medical Center.

Condition and Form of Treatment

Lead Poisoning.	Chelation therapy and removal from exposure.
Mercury Poisoning.	Chelation therapy and removal from exposure.
Silicosis.	Reduction in exposure, smoking cessation, supportive pulmonary therapy.
Asbestosis.	Reduction in exposure, smoking cessation, supportive pulmonary therapy.
Coalworkers' Pneumoconiosis.	Reduction in exposure, smoking cessation, supportive pulmonary therapy.
Cancer of the Bladder.	Colonoscopy and early surgery.
Cancer of the Colon.	Cystoscopy and early surgery.
Cancer of the Nasal Sinuses.	Early surgery and radiotherapy.
Peripheral Neurologic Disease.	Cessation of exposure and physiotheraphy.
Anthrax.	Rapid antibiotic therapy.
Tuberculosis.	Antibiotic therapy.
Skin Cancer.	Early surgery.
Pesticide Poisoning.	Removal from exposure and specific antidotes, such as PAM.

This is the key to H.R. 162. As Dr. Landrigan testified before the Senate Labor Subcommittee, "Medical intervention subsequent to exposure is effective for the treatment or alleviation of symptoms of many, although not all, occupational diseases. Further, it is almost axiomatic that such intervention is more effective if undertaken early, rather than late." In English everyone can understand, that means that the sooner people find out that they've been exposed to dangerous levels of toxic chemicals, radiation, viruses, or other hazards, the sooner they get to a doctor for testing and treatment, the more lives we'll save. The American Cancer Society estimates that 165,000 Americans will die this year just because of late detection of disease. H.R. 162 will reduce that number in future years.

In keeping with OSHA's current cotton dust and lead standards, the bill provides a procedure for the medical removal of a notified worker from a position in which that worker is exposed. The worker must be transferred to other duties without loss of earnings, seniority, or other benefits.

Fifth, finally, H.R. 162 establishes a series of health centers to train and assist physicians engaged in monitoring and treating notified employees. Ten centers will be designated within 6 months; another 40 must be designated within 5 years. The health centers and other institutions will be given grants to develop improved means of identifying at-risk populations and of monitoring and treating occupational diseases. Of the $25 million authorized for each fiscal year, at least $4 million is reserved for this grant program.

Officials of the National Institute for Occupational Safety and Health testified that H.R. 162 is "medically sound and scientifically workable." I urge its adoption.

THE LIABILITY ISSUE

The argument against H.R. 162 that most troubles Members of Congress is the speculation that risk notification will lead to an enormous increase in workers's compensation claims and tort litigation. While the law will undoubtedly lead some people, for example, to link their cancer with their workplace who otherwise would not have made the connection, actual experience shows that risk notification rarely leads to litigation.

Celanese Corp., which has had a notification program and medical monitoring program for 10 years, testified that they have not had an increase in legal claims against the company.

The Post Allegheny, PA, asbestos exposure program notified 854 workers that they were at high risk of lung cancer. Seventy percent of them are still being monitored, yet no claims have been filed against the company that exposed them since the project began.

The largest notification project to date is the Pattern Makers project, which notified 12,000 workers at 700 different workplaces in 27 States and 3 Canadian Provinces that they were at high risk of colon rectal cancer. Despite 219 suspected cases and 12 confirmed cases of colon or rectal cancer, few, if any, claims have been filed.

The one project that did engender litigation was the Augusta, GA, NIOSH pilot program. Two-hundred and forty-nine workers were notified that they were at high risk of bladder cancer, which is fatal without early medical intervention. Fifteen workers had confirmed cases of bladder cancer, and another 22 showed signs of the disease. Claims totaling $335 million were filed against the company by the workers and their families.

But the company's actual liability was a tiny fraction of the total claimed. The company settled 120 of the 171 cases out of court for a total of $500,000. Every other case was dismissed by the Georgia Supreme Court.

Why was this firm sued, when the 700-plus companies in the other notification projects were not sued? Perhaps it was because the chemical at issue in that plant had been known to be a carcinogen since the 1930's, a chemical banned in Great Britain and Switzerland since the 1950's. Perhaps it was because every other American company had discontinued production and use of that known carcinogen, but the

Augusta plant continued to expose its workers to it.

In any event, the company's total liability—$500,000—was not extreme. This one case cannot discredit the concept and successes of risk notification, especially since H.R. 162 contains explicit safeguards against litigation and especially against spurious litigation based not on real injury but only on stress or anxiety produced by the fact of notification.

Section 8(b) of the bill states unequivocally that notification, inclusion in an at-risk population, and monitoring "may not serve as a legal basis for or be introduced as evidence in connection with any claim for compensation, loss, or damage brought under State or Federal law."

As the House report states on page 15, this means that "claims seeking compensation for stress, fear of disease, or emotional harm would be barred."

A claim for an actual injury or disability such as death from cancer or disability asbestosis would not be barred, but no one believes real injuries should be uncompensated.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, today we are considering legislation that while well-meaning—takes us the wrong direction in providing protection to America's workers.

Based on underlying assumption that early detection will lead to prevention H.R. 162 is championed by supporters as an initiative that would prevent occupational disease through the notification and medical monitoring of workers at increased risk due to former exposure to hazards in the workplace.

However, in reality, this legislation would not result in increased worker protection and prevention as much as it would misdirect limited Government and private resources away from substantive preventive efforts.

What would H.R. 162 actually do—and what are the concerns associated with it?

First, it would set up an expensive, duplicative, new layer of bureaucracy within the Federal Government with overwhelming task of identifying and notifying all workers, past and present, determined to be at risk. A nearly impossible task in and of itself, not even taking into account the scientific difficulties of determining who should be included in the "at risk population."

Second, it requires the costly establishment of 50 new occupational health centers within the next 5 years, just to meet the requirements under this act.

Third, it requires that all employers, even those who have never been remotely associated with occupational health hazards, to provide medical monitoring for those employees determined to be "at risk"—even in cases where employees were exposed in previous jobs.

Further, under the bill's "job removal" protections, if an "at risk" employee's physician determines he or she should be transferred to a less hazardous job, the employer must provide such transfer and, if no such job exists, pay and benefits would have to be provided for at least 1 full year.

Again, these requirements are imposed upon employers even if the exposure did not occur under their employment.

This presents a major concern, particularly for small businesses, who will be especially hard-hit by the costs of medical surveillance and medical removal.

And for agricultural businesses, particularly given the high rate of turnover among agricultural employees.

In fact, as I understand it, half of the farmers in the United States are employers who would be affected by the requirements of this legislation.

And finally, and possibly of most concern to me and many of my colleagues, the bill as written, even with its changes to make it supposedly "tort neutral"—would result in an explosion of liability suits and exposing employers to skyrocketing liability insurance rates if even available.

There is legislation however, that would avoid all of these substantial concerns and strengthen existing worker hazard protections.

The Henry-Jeffords substitute which we will consider today builds on the existing OSHA standard:

First, it strengthens OSHA standards requiring employers to provide employees with expanded hazard training and medical monitoring information;

Second, it requires employers to provide former employees a listing of hazards present in workplace when they worked there and it requires they notify any employee who is currently being exposed to hazardous substances;

Third, it requires notification of present and former workers who have participated in NIOSH workplace mortality studies; and

Fourth, it creates a risk notification study commission to conduct a comprehensive study and make recommendations on mandatory risk notification within 2 years.

Besides being a much more well-reasoned approach to occupational disease prevention. The substitute's approach provides direct preventive measures rather than relying on health screening in the hope that a disease can be identified and cured after the fact.

Because of the high potential costs to both the Federal Government and the private sector—compared to the extreme uncertainty over its effectiveness in combating occupation disease—I must at this time oppose H.R. 162.

Employers have no more important responsibility to their workers than that of providing a safe working environment and I don't argue with the concept that workers should be notified, where possible, of past and present hazard exposure. However, we must find a way to do so more effectively and efficiently than the way provided for under H.R. 162—and the substitute provides us with that avenue at this time.

Mr. GAYDOS. Mr. Chairman, I yield 5½ minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman I rise in support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. I am pleased to be a cosponsor of this legislation, and I want to take this time to thank Chairman JOE GAYDOS for hearing my concerns with H.R. 162 and for incorporating many of those concerns in the legislation before us here today.

I want to limit my comments today to the notification process created in H.R. 162 because it has been the subject of a great deal of debate and misunderstanding.

I believe it is important to have a mechanism to identify and notify those workers who are truly at high risk of occupational disease and let me add that Chairman GAYDOS has done an outstanding job of formulating a balanced approach to insure that. The bill we have before us today is far different from the one that was introduced earlier this year. Chairman GAYDOS and his staff have worked with representatives of both the business community and organized labor to insure that the bill is scientifically defensible, workable, and fair—an approach I proposed last year.

The Risk Assessment Board created in this legislation will have a difficult task to perform. It must balance the basic mandate of this act—that of early notification of workers who face possible occupational disease because of exposures at work—with the conservative nature of epidemiology—the science upon which the determination to notify a group of workers is to be made. Failure to balance these factors will produce undesirable results. If the board demands incontrovertible proof of cause and effect on a 1-to-1 basis, workers will not be adequately forewarned of the risk of disease they face. On the other hand, if the Board does not require a rigorous scientific review of the evidence presented to it to insure adherence to established scientific principles, notifications may be sent out that are not justified.

Epidemiology is the statistical science that attempts to associate a reported health effect with a cause. The detective work that goes into such efforts is quite complicated and can sometimes produce results which do not bear out under further scrutiny. The classic example is the work performed in London in the 1830's to track down the cause of the cholera epidemic. Early scientific work pointed out that people who lived at higher altitudes in London were less likely to get cholera and the scientific principle put forward that bad air quality at lower altitudes in the city led to increased cholera. Further work revealed, however, that the real culprit was water from the Thames, which was carrying the disease through the low-lying areas of London.

There are many modern equivalents of this example. Agent orange provides another example of the limits of epidemiology. Veterans have long suspected a link between various health effects, including cancer, and exposure to the defoliant agent orange during service in Vietnam. Science has been unable to confirm that linkage, however. Most recently, the Office of Technology Assessment concluded that such a linkage can probably never be shown since exposure information is insufficient. There is not enough data from Vietnam to estimate the levels of exposure to agent orange nor are biological tests run on veterans today likely to indicate the degree of past exposure because of the length of time that has elapsed.

Exposure to the chemical toleune was intitially implicated in cases of cancer arising from workplace exposure. Upon further investigation, however, it became clear that the toleune itself was not responsible, but certain grades of toleune that were contaminated by benzene.

I am raising these points not to protest this legislation, but to emphasize the complicated nature of the issue before us. There are no easy answers or triggers for action in this area. I believe the legislation as currently drafted recognizes the complications in requiring the Board to undertake a thorough scientific review and to require evidence of exposure to the agents at levels of concern before making a determination that a notice should be sent. Carried out properly, the bill will help save lives, but will do it in a way that is based in science, not politics.

Mr. Chairman, we can take no action here today—or we can err on the side of action and insure that workers will be notified of risks in their workplace. This legislation, because it is soundly designed, will insure that only those at risk will be notified, but that all those at risk will receive that notification.

I join with many here today to congratulate Chairman GAYDOS for his good work and to urge passage of this important legislation.

Mr. Chairman, what is the basis for the finding of the Risk Board that a group of employees is a "population at risk?" Is a finding of statistical significance in an epidemiological study sufficient to trigger a finding by the Board?

Mr. GAYDOS. If the gentleman will yield, the answer is no. Statistical significance by itself is not sufficient. The Board must closely review the scientific evidence presented to it in light of established scientific principles. These have been enumerated in section 4(b)(3) and include consistency of association, specificity of association, strength of association, dose-response relationships, biological plausibility, and temporal relationships. In addition, the Board must consider the health consequences of notifying or failing to notify. In short, the Board must look at the totality of the scientific evidence, evaluate its validity, and determine its relevance to specific groups of employees.

The science of epidemiology is yet young. Although basic principles of epidemiology have been established, many complications can arise in practice. Sometimes the required principles are not rigorously followed, raising doubts about the validity of the results. Sometimes application of those principles to the real world—to specific groups of people and circumstances—raises more questions than it answers. For example, rare events can occasionally occur in clusters merely by chance, not attributable to any cause. In a recent article on video display terminals, for instance, K.R. Foster reports on clusters of birth defects occurring in children of mothers exposed to video display terminals. Some of the clusters were statistically significant, but could not be associated with exposure to VDT's. Foster concludes, that "an epidemiologist would consider the reported clusters to be provocative, but inadequate to demonstrate any connection between reproductive problems and VDT's."

Mr. PENNY. In the absence of other information, would you anticipate that this is sufficient evidence for the Board to make a "population at risk" finding?

Mr. GAYDOS. No. Clearly the function of the Board is to make findings only after a full scientific review establishes that there is a connection between an exposure and a health outcome based on established scientific principles. It is a waste of resources and presents needless anxiety to notify those employees who are not truly at risk.

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Mr. PENNY. I thank the gentleman for adding this information to the RECORD.

Mr. GAYDOS. Mr. Chairman, may I inquire of the Chair how much time I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GAYDOS] has 17½ minutes remaining and the gentleman from Vermont [Mr. JEFFORDS] has 25 minutes remaining.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the High Risk Disease Notification and Prevention Act of 1987 (H.R. 162) and in support of the Jeffords-Henry substitute. This poorly crafted legislation is opposed by the Reagan administration, the National Association of Manufacturers, the National Federation of Independent Business, the U.S. Chamber of Commerce and 310 other industry associations and companies.

Mr. Chairman, I am opposed to the requirement in H.R. 162 that the Federal Government undertake notification of workers, for a number of reasons including the scientific difficulties of projecting risks to nonstudied workers, the practical difficulties of identifying and locating nonstudied workers and the likelihood of false notification. I am also concerned about the high potential cost of H.R. 162 as compared to the extreme uncertainty over its effectiveness in preventing occupational disease. In addition to the increased cost or nonavailability of liability insurance, small business will be especially hit hard by the cost of medical surveillance and medical removal.

In addition, this legislation would result in substantial tort litigation and Federal liability and would impose enormous costs on employers, consumers, workers, and the Federal Government. In one pilot project where the Federal Government notified some 800 workers of a nearly bankrupt company, some $335 million in claims were filed. While most of the claims were settled or dismissed, the transaction costs were substantial and continue today in the court some 8 years later.

Mr. Chairman, the administration is already carrying out several administrative and regulatory efforts which will not only provide information to workers and prevent occupational disease but would also avoid many of the legal and practical difficulties of H.R. 162. For example, the administration has recently expanded OSHA's hazard communication standard to all private sector employees. This standard will be effective in preventing occupational disease rather than simply detecting it.

Mr. Chairman, there is a better alternative to reducing occupational health risks—the Jeffords-Henry substitute. This proposal emphasizes prevention of disease, builds on existing Federal programs, and would avoid many of the litigation and liability implications, as well as the practical difficulties of the broad risk notification approach envisioned by H.R. 162. The administration, NFIB, and many industry groups strongly support the approach taken in the Jeffords-Henry substitute.

I encourage my colleagues to oppose H.R. 162 and support the Jeffords-Henry substitute.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I rise in favor of risk notification but in opposition to H.R. 162 and in full support of the Henry-Jeffords substitute.

I would like to pick up on where our colleague, the gentleman from North Carolina [Mr. BALLENGER] left off regarding small business and its effects under this legislation.

Mr. Chairman, small business, including the family farm, can ill afford enactment of H.R. 162, the so-called Worker Risk and Disease Notification Act. This all-encompassing legislation will duplicate current programs, worsen the liability insurance crisis, and increase the cost of health care for employers and employees all across the Nation.

If we enact H.R. 162, this body will be inviting an explosion of litigation and skyrocketing business costs. More litigation will mean fewer jobs, lower income, and decreased competitiveness.

H.R. 162 endangers the types of small businesses that thrive in the rural environment such as the local newspaper printer, the grain elevator, the local garment factory with its fabric dies, or the small factory that uses chemicals in quality furniture production. These are the types of businesses that comprise the economic base of rural America. They employ a limited number of people, often fewer than a dozen. They do not have the flexibility to transfer employees to risk-free jobs and due to the nature of their business, all of their employees could fall into the high risk category.

It is estimated that 97 percent of all employers are small businesses and employ 50 percent of the total work force. Also, two-thirds of all businesses fail within 3 to 5 years of startup. Since H.R. 162 can reach back 30 years or longer for notification, what is the probability of: First, tracking the employers and employees of firms that have been out of business for decades; and second, a farm employer maintaining accurate employment records on transient seasonal workers? Valuable resources will be used in a counterproductive manner by attempting to locate individuals who may never show any symptoms of exposure to a hazardous material. These valuable resources should be channeled toward preventing workplace-induced disease.

If we really want to improve the work environment, we need to concentrate on methods of prevention. We need to educate both employers and employees about the dangers of direct exposure to hazardous materials. We need to devise better methods of working with hazardous materials that will reduce risk. Through proper education, improved working conditions can be obtained at costs below those we can achieve through postexposure notification.

The Henry-Jeffords substitute offers a realistic alternative to H.R. 162 by building on current OSHA standards. Rather than closing the barn door after the cows get out this substitute wisely emphasises prevention—not notification after the fact. Employees deserve protection from hazardous substances and this substitute offers the necessary means.

Mr. Chairman, I urge my colleagues to support the substitute.

Mr. GAYDOS. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. For too long the dangers of occupational disease have been ignored. We shouldn't wait any longer to assist workers who have been exposed to hazards in the workplace.

Understandably, employers are wondering how this legislation will affect them. Well, many members of the business community such as the American Electronics Association, the Chemical Manufacturers Association, and such leading corporations as IBM and General Electric support the bill. They have realized that the charges that H.R. 162 will cripple business operations are exaggerated.

Some claim that this legislation will substantially increase businesses' liability for occupational disease. Is this true? No. The General Accounting Office, the investigating arm of Congress, reports that neither higher litigation costs nor increased business liability will result from this legislation. And does this legislation require companies to pay for the costs of monitoring former employees? No.

And what effect would this legislation have on businesses' operating costs? Businesses themselves already lose an estimated $1.7 billion to $4.3 billion due to the costs of medical treatment and wage losses resulting from occupational disease. So the annual cost of between $3 and $38 million in medical monitoring is minuscule by comparison.

The cost of H.R. 162 to the Federal Government will also be modest. Occupational disease already costs the taxpayer an estimated $5.4 billion in Social Security disability, Medicare, and Medicaid payments. But notifying each employee costs just $33, and the overall cost of the legislation is just $25 million.

If this legislation produces a mere 1-percent decline in the rate of occupational disease, H.R. 162 will more than pay for itself. It is an excellent investment in both human and financial terms.

Mr. Chairman, workers are not responsible for falling victim to occupational disease. So they should not have to bear all of the responsibility for its treatment. Support H.R. 162. American workers deserve no less.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occapational Disease Notification and Prevention Act as reported by committee to the floor and in support of the Henry-Jeffords substitute.

As we are all well aware, H.R. 162 would establish a program to identify hundreds of thousands of American workers who are at risk of developing a disease because of their on-the-job exposure to toxic chemicals and other hazards. This bill attempts to protect workers through a systematic process of identification, notification, medical testing, evaluation, monitoring, and enforcement. Mr. Chairman, this bill should be defeated because, without question, it is costly, redundant, and unnecessary.

I am concerned about the impact this bill would have on the struggling farm economy. Half of the farmers in the United States are employers who would be affected by this legislation. In addition, most agriculture employment takes place on family farms that employ fewer than 10 workers and most of them are seasonal. Since agriculture workers are a highly mobile force with an enormous turnover from year to year, medical monitoring would place a heavy burden on such employers.

In addition, the bill calls for a worker to be permanently or temporarily transferred to another job, without loss of earnings, seniority, or benefits, if the worker is exposed to hazardous substances and is determined by a physician, subject to a second opinion, to be the proper course of action. This would be close to impossible in the farming business.

The Occupational Safety and Health Administration [OSHA already has broad authority to regulate in the field of occupational safety and health. OSHA recently extended the Hazard communication standard to the nonmanufacturing industry. This will require that agricultural workers be informed of any potential danger of a hazardous substance dealt with on the job.

Also, the Environmental Protection Agency [EPA], which has statutory responsibility to regulate the use of pesticides, is well along in the process of expanding the scope of its existing farmworker protection regulation, and the new rules should be adequate to prevent and monitor health problems that may arise among farm workers.

In addition to duplicating and recordkeeping requirements on businesses and will create a costly and unnecessary new Government bureaucracy. It would also expose businesses to some very expensive, unwarranted litigation. In my home State of Nebraska, 78 percent of the businesses employ fewer than nine people; 89 percent have less than 19 employees. Obviously, such a new regulation would place a heavy burden on these employers as well.

The future is looking better for agriculture and for small businesses, where 70 to 80 percent of all new jobs are being created. All it will take to crush that optimism and put the economy on a downhill slide is for Congress to enact this ill-conceived piece of legislation.

I am committed to the goal of protecting American workers from risks of disease and injury on the job. However, I am also committed to protecting the advances the American economy has made in the last few years in our increasingly international economy. This bill does very little for workers' health and the cost—particularly to small businesses—will be staggering. For these reasons, I urge my colleagues to vote no on H.R. 162!

If my colleagues feel more action is necessary in the notification and prevention area, then the Henry-Jeffords substitute will be more effective in reaching the worker and preventing occupational diseases than H.R. 162. The substitute does not create another bureaucracy; provides for study to determine what effects notification will have on liability, and focuses on the work place rather than the courts as the appropriate forum for preventing occupational diseases. Vote "yes" on the substitute.

Mr. JEFFORDS. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, the High Risk Occupational Disease Notification and Prevention Act, H.R. 162, may be well intentioned, but it is the wrong solution to a serious problem. It assigns the principal responsibility for employee health to the Federal Government rather than to employers and employees. It creates a new, costly, and duplicative bureaucracy in the Department of Health and Human Services, while failing to recognize and build upon the very real advances made with respect to occupational disease hazards under the auspices of the existing Occupational Safety and Health Administration [OSHA]. Finally, and what prompts my decision to actively participate in this debate, H.R. 162 is far from being "liability neutral" or "tort neutral" as its proponents claim. It is my concern that this bill will generate tort actions and that it is this concern that I wish to share with my colleagues.

Admittedly, the bill does not create a new Federal cause of action for occupational health hazards. But, H.R. 162 establishes a procedural framework that will, unquestionably, generate litigation and will greatly simplify the burden of proof for plaintiffs in such cases. The very existence of the notification system—the fact of a letter from an agency of the Federal Government advising a recipient that he/she "may have" been exposed to a disease-causing substance in the workplace— will inevitably lead to a flood of new workers' compensation claims and liability lawsuits.

The notification itself is triggered in the bill by a board finding that a substance "may be" associated with a "risk." This is too loose a standard resulting in notice to too large a group of people. The vast majority of the workers to be notified will never contract or suffer from the disease identified in the notice.

While the bill provides that plaintiffs' attorneys cannot use the notification itself as evidence in their lawsuits, the notification process will produce the basic elements for such claims. First, the notification essentially states the potential cause of action by listing the diseases associated with the potential exposure. The distribution of the notice identifies the affected class of plaintiffs and most important the text of the notice sets forth the scientific studies which are the basis of the notification. Mr. Chairman, these background studies are identified in the notice and will be fully admissable in court under the language of H.R. 162.

What will this mean? A number of States now allow persons to bring claims for damages for fear of future injury even though there is no showing that the person has any symptoms or manifestations of such illness. Since this act would prompt studies of potential health risks, and generate notices to employees that they are at risk of getting an illness, it is creating new potential claims. Tort suits and workers' compensation claims will occur based upon the emotional distress theory—the fear that he or she might have the illness or disease in question. The worry, the stress, the fear that one may become seriously ill in the future—brought on by the notice of a potential workplace risk—becomes the legal "cause of action." The fear of the risk, rather than the health reality, becomes the basis of the lawsuit.

Another line of cases will certainly develop based upon the assertions that the employer supposedly knew about the potential hazard or risk in the workplace before the Federal Government issued the notification. Traditional workmen's compensation rules make the employer immune from tort lawsuits by its employees, in exchange for the employer accepting no-fault liability for workers' compensation claims. This tradeoff reflects the purposes of workers' compensation system—financial security for the worker and the prompt settlement of those claims in a nonjudicial setting.

However, in recent years, this so-called "immunity shield" in workers' compensation law has been circumvented in a number of States. Employee suits have been permitted in a number of States—even when the plaintiff has been successful in a worker's compensation claim—where it is alleged that the employer failed to disclose important health information to his employees. These cases create an exception to the immunity shield, where it is asserted that the employer committed an "intentional tort." That is, the employer "knew with substantial certainty" that a particular health-threatening situation existed and failed to inform the workers. See, for example, *Jones* v. *VIP Development Co.,* 472 N.E.2d 1046 (1984). In short, employees can sue employers in tort getting around worker's compensation.

Under H.R. 162, plaintiffs' attorneys will always be in the position to assert, whether or not it was true, that the employer knew about the potential risk prior to the notification. The lawsuit can be filed leading to settlements and costs pass through.

I also have serious concerns about section 5(h) of the bill which purports to protect the United States and Federal employees from liability. The language of section 5(h)(1) states that officers and employees of the United States can be sued "for any act or omission that is a knowing and willful violation of a provision of this act" to the extent such suits are otherwise possible under Federal law. What this language means is that the Federal employees who were administering this new law may end up being sued in their individual capacity for discretionary decisions relating to the new risk notification system. These suits will be predicated on the "constitutional tort" theory first recognized in the Supreme Court's decision in *Bivens* v. *Six Unknown Agents of the Federal Bureau of Narcotics,* 403 U.S. 388 (1971). Thus, Federal employees are financially threatened in a personal sense and the U.S. taxpayer will pick up the "tab" for the cost of their defense, and perhaps some of the ultimate damages.

Another equally troublesome provision is section 4(d)(4) which allows mandamus actions by "any aggrieved person" against the Secretary of Health and Human Services whenever an agency rulemaking concerning the notification of a potential "population at risk" is not completed within 160 days. This is an abrupt and arbitrary departure from the Federal Administrative Procedure Act, 5 U.S.C. 553, 556-7. It will interfere with the agency's deliberative process and could force premature decisions before all the relevant scientific facts are evaluated.

Section 5(i) authorizes direct appeals to the federal circuit courts by "any person" who claims to be "adversely affected or aggrieved" by a decision of the Risk Assessment Board to not issue a notice with respect to a particular class of employees. Surely, every decision not to inform a particular class will result in litigation.

All of these examples mean litigation or the threat of litigation against both private-sector employees as well as against the Federal Government, its officers and employees. It is indeed unfortunate, in my view, that the Judiciary Committee did not exercise its jurisdictional rights in connection with H.R. 162 and seek sequential referral. The bill's provisions impact on our committee's jurisdiction in a number of fundamental and important ways:

First, the Federal courts and the impact on Federal court caseloads.

Second, product liability and liability issues generally.

Third, claims against the United States, including the liability of federal employees; and

Fourth, the administrative procedures employed in the bill—which depart from the requirements of the Federal Administrative Procedure Act.

It is hoped that the Members of this House fully recognize that H.R. 162 is not "tort neutral" in any realistic sense. It is legislation that portends a serious, new source of liability lawsuits—to place further stress on an already overwhelmed civil justice system. The right vote for this House is for the Jeffords-Henry substitute, which contains none of the serious defects in the committee bill. I strongly urge my colleagues to vote "aye" on the Jeffords-Henry substitute.

□ 1330

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. Collins].

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 162. This measure is a significant legislative proposal which will establish a needed system for identifying workers who have a high risk of exposure to serious occupational diseases, and which provides such workers with notice of this exposure and counseling services. H.R. 162 rests on a scientifically sound basis, and its sole intent is to prevent occupational diseases. At the same time, it protects employers from new regulatory requirements and additional liability exposure.

Contrary to the arguments raised by opponents, this bill is not a substitute for existing procedures, but, rather, a supplement to them. It encourages workers to seek early medical assistance where there is significant evidence that they have been exposed to toxic substances.

Under the OSHA hazard communication standard, workers are notified of hazardous materials in their place of employment. Thus, injurious exposure to toxic emissions is controlled through regulatory and/or voluntary intervention to eliminate any risk of endangerment.

H.R. 162, however, goes beyond this approach by providing workers with individual notification of exposure to hazardous materials. To reiterate this enables them to receive early medical treatment for past exposure to these materials so any further progress of a disease can be arrested.

Clearly, this H.R. 162 is a logical extension of the OSHA standard.

It is inconceivable that workers should be denied their rights to know about their work environment or receive compensation, especially if this knowledge might result in remedial medical intervention that could avert or control an occupationsl disease.

I urge my colleagues to support H.R. 162, and vote against any amendments that may weaken its provisions.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. Ritter].

Mr. RITTER. Mr. Chairman, my good friend and colleague in the Pennsylvania delegation, the gentleman from Pennsylvania [Mr. Gaydos], has worked long and hard on this bill, and I regret that I must take the floor to oppose my good friend and this bill, but I do so because this legislation is not necessary.

The legislation is not necessary because we are already faced with an extraordinary amount of legislation, rules, and regulations in the area of workplace safety and, yes, in the area of hazardous workplace safety, and, yes, even in the area of hazard communication. We have a program. OSHA has a program for hazard communication and that program is ambitious. In addition to hazard communication programs that exist, we have a vast new array of legislation and regulation just coming on line. I am talking about right-to-know legislation that is 75 pages thick as addenda to the Superfund law.

States, including my own State of Pennsylvania, have significant right-to-know legislation. Then there is the expanding use of the materials safety data sheets [MSDS]. Collective bargaining arrangements also address these issues. We already have an overload of rules, regulations, and legislation in this very area. This bill is not necessary.

We all talk about trying to bring back America's manufacturers, but I must point out that all manufacturing companies are to some extent chemical companies; and there is only so much chemophobia that America's manufacturing firms can submit to without going overseas. Overseas companies, foreign or American will not bear the costs and liability of H.R. 162. When the Augusta Chemical Company was notified by NIOSH that it had to notify, under very rigorous procedures—not at all the procedures of H.R. 162—when they had to notify past workers, there were already new owners of this manufacturing facility. They notified the past workers, and they got 335 million dollars' worth of lawsuits—171 suits were filed—even though the numbers of the bladder cancers were on the order of 10 and 15.

Mr. Chairman, if we are interested in competitiveness, if we do not want to further export our manufacturers, we will vote to defeat H.R. 162.

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Chairman, I want to commend the chairman of this subcommittee, Mr. Gaydos. In the last several Congresses we have all come a long way in terms of right-to-know policy or risk notification to workers.

Most of us have been in different roles than our present capacities as Members of Congress. One role I had was as a blue collar worker. I look to my family, my brothers and sisters, my father, and what is important in my district for constituents. All of them happen to work in different environments where they are exposed and have been exposed to some serious health hazards and problems. I look at my cousin who is a victim of asbestosis. He was a pipe coverer. I look at this phenomenon and what has happened with him and others that have been exposed to workplace hazards.

The fact is that since my service in Congress, we have as a legislative body done too little to address this concern. Actions in the past decade have been in reality more like sliding backward than moving forward. Oh, we read reports with statistics from OSHA that indicate that there are fewer accidents, but when you have fewer inspections, you find improvement. That is improvement on paper; it is not improvement in reality. This type of analysis is a cruel hoax and an outrage to the workers who are injured or ill from the lack of adequate enforcement of the basic OSHA laws, rules, and regulations.

We have a responsibility to the workers across this country to try to let them know about the hazards in the workplace. Simply put, that is what this legislation does. Some point to the present administration's OSHA notification program. Why do we even have such an OSHA program today? It is because this administration's administrators were dragged into court and forced to come up with a program. I think putting some meat now on the weak frame of bones, in an attempt to provide some underpinning to a good worker notification is certainly what this 100th Congress should be doing, in essence, to place this program on a track where it is going to function effectively and to do the job that is necessary, and needed and has been sorely lacking. When workers go into the workplace, they should certainly have some basic rights; they have a right to know, of the hazards and risks and that they will receive reasonable notification training for these types of concerns.

If any national administration has demonstrated the necessity of being pushed and prodded and is in need of legislative direction, it is this Reagan administration, the way it has conducted the OSHA program and its reluctance to deal with some of the very issues that affect my brother and sisters, my father, my family, and the people I represent in St. Paul, and in Minnesota, need this legislation and our vote to provide a fair share in the workplace regarding health hazards.

Therefore, Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987.

H.R. 162 creates a nonpartisan Risk Assessment Board charged with identifying classes of workers who are at risk from occupational disease based on valid clinical studies. Additionally, this measure establishes 10 health centers to provide counseling and care for workers at risk from occupational disease. Finally, H.R. 162 provides for improved training and education for workers who routinely work with hazardous substances on the job.

I have had a longstanding interest in the issue of workers' health and safety. In the 97th Congress and again in the 98th Congress, I introduced legislation to strengthen the OSHA hazard communication standard. This legislation attracted the support of over 50 Members of the House and was also subject of hearings held by the gentleman from Pennsylvania and the sponsor of this measure, Mr. GAYDOS, the chairman of the Education and Labor Subcommittee on Health and Safety. After a long and hard battle and after a favorable court ruling from the U.S. Circuit Court of Appeals, we were able to move OSHA to slightly expand the scope of its hazard communication standard. But more must be done to safeguard the health and safety of this Nation's workers.

The toll to our workers' health and to our economy from occupational disease is staggering. Over 400,000 workers become disabled annually and 100,000 workers die each year from occupational diseases. The human cost for these workers and their families is terribly high. But the cost to our Nation's economy in terms of lost productivity and higher health care costs and insurance premiums is also high.

There are over 55,000 chemicals commonly used in U.S. industries, with another 1,000 new chemicals being introduced into the workplace every year. Only a fraction of these chemicals are regulated by Federal or State standards. A recent report by the congressional Office of Technology Assessment found that more than 80 percent of new chemicals submitted for registration with the Environmental Protection Agency [EPA] lacked information about their potential for causing cancer, birth defects, or genetic mutations. The many unknowns associated with these various chemical compounds and other hazardous substances place our Nation's workers at risk.

Many of the opponents of H.R. 162 have suggested that this measure really isn't necessary. But the facts in America's workplaces say otherwise.

In August 1979, a 24-year-old civil engineer in Canton, OH, was offered 8 hours' work. The job was to pump oil and rainwater out of a shack that had been damaged in a storm. When the young man finished the job, he was soaked through his clothes to his skin. Only then did he learn that the oil was contaminated with PCB's [polychlorinated biphenyls]; one of the most carcinogenic substances known.

In November 1983, a worker at a General Dynamics plant in Michigan died from exposure to toxic vapors. This incident occurred after several other workers at the plant had passed out from similar exposure and after the workers' union filed a complaint with OSHA which was essentially ignored.

Even OSHA has been forced to acknowledge the magnitude of the risk facing Americans on the job. OSHA has estimated that exposure to asbestos of 1 million brake repair workers and 4 million construction workers results in 20 million people at risk from exposure to asbestos. That's 1 out of every 12 Americans. This risk comes because these workers brought asbestos home on their clothing and personal effects.

It is not surprising that the Reagan administration and the Labor Department are opposed to this legislation. In 1984, the administration proposed weakening existing exposure standards for lead and cotton dust, and failed to even set standards for exposure to asbestos and ethylene dibromide [EDB]. Indeed, whenever the question has been whether or not to provide more protection for workers and more information about hazardous substances in the workplace so that workers could protect themselves from adverse risks, the administration has come down on the side of restricting access to the information.

Clearly, the threats facing America's workers are very real. I urge my colleagues to join me in supporting H.R. 162.

Mr. JEFFORDS. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in opposition to H.R. 162 as reported by the Committee on Education and Labor.

I certainly agree with the principle that employees should have access to meaningful information concerning health hazards in their workplace. Workers should be informed as to any potential adverse health effect that a workplace exposure may involve. These goals are already largely being met with respect to the manufacturing sector through a regulation known as the "Hazard Communications Standard" (29 C.F.R. 1910.1200, et seq.), which the Occupational Safety and Health Administration [OSHA] promulgated on May 25, 1986. Further, it is my understanding that OSHA will implement an even more encompassing standard in the very near future. That regulation will cover all remaining employers; that is, those beyond the manufacturing sector already covered, subject to the OSHA statute.

Allow me to summarize the reasons for my opposition to H.R. 162.

First, this legislation will create an unnecessary, overlapping, and costly bureaucracy in the Department of Health and Human Services, to be known as the Risk Assessment Board. This new bureaucracy will have jurisdiction over, and responsibility with respect to, matters that already are largely within the jurisdiction of the Occupational Safety and Health Administration.

Second, the bill will impose notification requirements that are far too broad. Notices will be sent by the new Risk Assessment Board in thousands, and perhaps millions, of instances where there is only a speculative possibility of any real health problem for the persons who will receive the notice. Under the bill's language, the ostensible scientific evidence that will justify and prompt these notices need only show that there "may be" a relationship between a substance the worker was exposed to and a particular disease. Yet, the employees or former employees who receive these notices will rightfully be alarmed, and will perceive them as meaning a genuine possibility of a personal health problem. In my view, occupational disease notices should not be sent in instances where the scientific evidence does not conclusively demonstrate a substantial likelihood or probability of illness on the part of the employee contacted.

Third, the language of H.R. 162 purports to preclude the use of the Board's health risk findings or the fact of notification as evidence in a workmen's compensation claim case or in a lawsuit against an employer. The fact is the language in section 8(b) of this bill contains numerous loopholes that will enable plaintiffs to proceed with such claims and suits following receipt of the notification. Plaintiffs' lawyers will be free to cite the background studies which prompted the Board's decision to issue a notice as well as being free to obtain direct medical testimony which will result from the medical monitoring requirements of the bill.

Finally, this measure will worsen the liability crisis by artificially inflating workmen's compensation, health insurance, and legal costs for employers. Small companies, in particular, will be very hard hit by these new and onerous Federal requirements. Virtually every employer in the country is covered by the committee bill, no matter how few employees a company may have. In my view, this legislation will create an atmosphere, and provide the tools for, a virtual litigation nightmare.

Mr. Chairman, it is my hope that this House will look carefully at the Henry-Jeffords substitute and recognize that it is a far more preferable way of dealing with this problem. The focus of the Henry-Jeffords substitute is disease prevention. It does not create new legal causes of action nor does it encourage litigation. It has a prospective focus so that employees will be educated and trained about possible health hazards, while employers will be encouraged to identify and eliminate those hazards. The Henry-Jeffords substitute builds upon existing law and regulations, rather than ignoring them. I strongly urge the Members of the House to adopt the Henry-Jeffords substitute when it is considered under the 5-minute rule.

□ 1345

Mr. GAYDOS. Mr. Chairman, I yield 4½ minutes to the gentleman from Pennsylvania [Mr. MURPHY], a member of the committee.

Mr. MURPHY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of H.R. 162 as reported by the Committee on Education and Labor. As a member of the Subcommittee on Health and Safety for the past 10 years, I have become increasingly aware of the need for early notification of increased disease risk because of occupational exposures to toxic substances. This legislation is the product of intensive review and hearings during the past 4 years. The gentleman from Pennsylvania [Mr. GAYDOS], the subcommittee chairman, is to be commended for his hard work, diligence, and commitment to this legislation.

This bill establishes a mechanism for notifying workers who have an increased risk of contracting occupational diseases. The creation of a Risk Assessment Board ensures the use of scientific principles in determining which workplace exposures to substances produce an increased risk of disease. Only through early notification can individuals begin effective medical monitoring and evaluation, which may save lives as well as health costs. In fact, the first priority of the Board is to designate those employee populations most likely to benefit from health counseling or monitoring.

This legislation is not a Pandora's box designed to create mass hysteria among workers or an avalanche of lawsuits. The function of the Risk Assessment Board is to assess the medical literature from which it issues proposed determinations for notification. The notice is subject to public comment and hearing. The Board's order is then subject to judicial review. This is a narrowly and carefully defined process designed to reach those workers most in need of medical monitoring and evaluation.

Furthermore, H.R. 162 addresses the critical need of increased occupational disease research. The best way to reduce disease is through prevention. By building upon existing medical resources throughout the Nation and establishing grants for further research, this legislation promotes awareness of occupational disease in the medical community.

Finally, this bill has gained the support from many quarters. Associations of the paint, chemical, electronics industries support the measure as well as labor, public health, and medical groups. This legislation encourages the early detection of occupational diseases at a low cost which will in turn generate health care savings and ultimately save lives.

I urge my colleagues to support H.R. 162 as reported by the Education and Labor Committee.

Mr. CHAIRMAN. Would the gentleman from Pennsylvania [Mr. GAYDOS], the sponsor and manager of the bill, respond to a few questions?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, yes, to a member of the subcommittee.

Mr. MURPHY. How does the bill affect the issue of liability for employers or manufacturers after notification to workers has occurred?

Mr. GAYDOS. I refer the gentleman to section 8(b) of the bill. That section states that the bill is neutral regarding liability issues either in tort or workers' compensation. That is, no action taken under this bill may serve as a basis for any legal or administrative claim. The intent of this legislation is to serve as a public health measure. Let me emphasize that this bill is not a means to expand employers' liability or create new legal rights.

Mr. MURPHY. How does the bill guarantee such a result?

Mr. GAYDOS. Section 8(b) specifically bars from evidence findings of the Risk Assessment Board, evidence that a worker is or is not to receive notification, and evidence that medical monitoring or evaluation is or is not to be initiated.

Mr. MURPHY. I thank my colleague for his response. I would also like to note that the General Accounting Office in May 1987 found that this bill does not change existing laws, which allow workers to sue for damages and file for compensation claims. Examples like the 50,000 asbestos disease claims now in the courts will occur regardless of this legislation. Perhaps this legislation can help reduce or prevent future mass tort actions. This bill is not an expansion of employer or manufacturer liability. Nor is it a back door to tort reform. What this legislation does is create the opportunity where early notification of increased disease risk can prevent costly future litigation. The gentleman is to be commended on this legislation and I urge passage of the bill as reported by the Education and Labor Committee.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

All too often, this Congress takes a good idea and runs the wrong way with it. The high risk notification bill is another example of Congress allowing a good idea to turn sour.

There is a laudable motive to notifying persons that they may have been exposed to occupational health hazards. To require, however, that hundreds of thousands of individuals be tracked down and personally notified that they are included within a class of persons who may be at risk of serious disease is a dangerous practice and places unmeasurable costs on Government and business. GAO has stated that the cost of giving such specific notices to large numbers of people are "incalculable." By setting up a new "mini-Medicare" system to medically monitor "at risk" persons once they have been notified, guarantees further incalculable and unnecessary costs on both the Government and employers.

H.R. 162 unnecessarily gives incentives to an explosion of tort and/or workman's compensation liabilities against employers, not to mention the potential of unparallel increases of employer tort and workman's compensation insurance premiums. Although proponents argue that this legislation is tort neutral, the claim is not true. The form of notification under H.R. 162 will spawn a multitude of tort and/or workman's compensation compensation claims. Using procedures similar to those being proposed under this bill, NIOSH's notification of 800 Augusta Chemical Co. employees who worked at the plant from 1940-72 and were possibly exposed to the chemical BNA resulted in $335 million in law suits against the company.

In addition to the increased tort and/or workman's compensation liability costs, H.R. 162 also saddles employers with additional statutory liability. These are the so-called musical chair costs. That is, the current employer, at the time the employee asks for medical monitoring, when the music stops, regardless of whether the employer is responsible for only small traces of the exposure, is liable for the costs of limitless and unknown medical monitoring of the notified employees.

Passing the cost of medical monitoring, which could conceivably last for years, to the current employer if "any part of such exposure occurred in the course of the employee's employment by that employer"—while ignoring years of such exposure in prior employment, is unfair. Thus, the minimill that recently hired a steelworker previously employed at another steel company for 25 years would shoulder the entire burden of the medical monitoring costs, although most of the exposure occurred at the worksite of his previous employer.

The musical chairs liability for the employer does not, however, end with medical monitoring. Injustice is added to injustice by also requiring the current employer to move an exposed employee to a less hazardous job, while maintaining the individual's salary, seniority, and other employment rights, as though the employee had not been transferred to a less hazardous position, or what would normally be a lower-paying job. If the employer cannot provide a less hazardous position, he is required to pay the employee's salary for an additional year.

All of these statutory liabilities are cast upon the current employer without any proof that he was negligent relative to the occupational health hazard exposure or that the alleged occupational health hazard was the proximate cause for any present or future condition of ill-being of the notified employees. And these statutory liabilities will be costly. National Small Business United provides the following hypothetical, yet very realistic, business situation this legislation imposes on employers:

> Based on Department of Labor average hourly manufacturing wage statistics, the medical removal provision of H.R. 162 would cost employers nearly $19,000 per employee, excluding fringe benefits. Thus, in a firm of 100 employees, if 10 persons were required to be provided with another job or given paid leave, replacing those persons would add nearly $190,000 to the payroll of the employer. Few small business owners could cope with such increased costs with the result that jobs, wages, and fringe benefits of other employees would immediately be at risk.

One can only imagine the cost of the job removal protections as they would affect farmers.

Another question needs to be addressed. If Congress is to single out employment-related health hazards as candidates for this type of legislation, along with guaranteed free medical monitoring and job benefits, what about the millions of other Americans who have been exposed to health hazards outside of the work environment? What about special notification to those who have been exposed to improper use of x-rays, to health hazards associated with air, water, and soil pollution, asbestos exposure in the schools, impure food consumption, et cetera? If our regular tort liability system is not good enough for job-related health hazard exposures, why should it suffer for the rest of the population?

H.R. 162 creates more problems than it solves, takes the most expensive route, and imposes unnecessary costs on government and unfair liabilities on employers, particularly current employers. At the same time, the legislation does not address safety in the workplace—that is, the prevention of hazardous exposures in the first place.

I urge my colleagues to vote against this legislation, which appears on the surface to be commendable but is actually ill-conceived.

Mr. GAYDOS. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I, too, rise in strong support of the High Risk Occupational Disease Notification and Prevention Act, and I do so coming from an area that is directly affected in every possible way by this piece of legislation in Kanawha Valley in West Virginia.

We are proud of our chemical industry and proud of the thousands of people who make their living there, and proud of the efforts that we have made to make sure it is a safe and productive area to work.

I rise in support of this, because I know that this meets another concern. It meets a concern of safety, and a concern that many have as they work with chemicals.

What does this bill do? It creates a nine-member Risk Assessment Board; and that Risk Assessment Board goes and identifies clinical and epidemiological studies for "statistically significant," and I use those words and underline them, "statistically significant" evidence that hazardous substances in workplaces are associated with certain chronic health effects, and having determined that, that they notify those people. Is that too much to ask?

Are we asking people to work in potentially unsafe areas, and saying we are not even warning you that we have detected that there is something that is statistically significant, that you ought to know about; and it only warns them.

This does not add to the litigation of the chemical industry or to the liability of the chemical industry. It specifically excludes increased liability or increased litigation.

Indeed it will probably over the long haul reduce costs and litigation and liability.

The technology is now available to do this kind of monitoring; and I hope, Mr. Chairman, in a civilized society, I hope we are not trying to send a message that a person who may have been exposed to hazardous chemicals, that once again can cause chronic health effects, should not be warned.

Happily, the chemical industry in my area is supporting this bill, and those who work in the industry are supporting this bill; and it is not too much to ask that we support this bill also.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me this time.

Listening to the debate today, one would think that the companies in America were absolutely inclined to put all their employees at risk and place them in dangerous situations.

I am the owner of a small pest control company—a company that puts my employees in hazardous conditions on a daily basis.

My employees hold and handle pesticides every single day at work, and, like any good employer, we protect them. My company doesn't need a Federal mandate. I make sure that through proper education and training, they stay abreast of the possible hazards of working with toxic chemicals. Once a month we go through a training process of how to handle pesticides and how to prevent any potential hazards. My company is small—roughly 16 to 20 employees at any given time—with annual gross sales of about $1 million per year.

What this bill will do is significantly raise my cost of doing business. As a result of this bill my costs will be about $80,000. That's $20,000 more than my profits of last year. Without profits, I either have to close my business or raise my prices to consumers—which means I am less competitive in the market. Because the costs of doing business affects small businesses more than large corporations, this legislation keeps me from growing and competing with the large businesses—which explains why some large corporations are for this bill.

This is a poorly conceived bill which will seriously damage our Nation's competitive posture.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I come from a part of California which has suffered from occupational diseases in the past. I have one of the major naval shipyards in my district and a number of people who have suffered from exposure to asbestos over the last number of years.

I certainly have a concern for those people, and I have a concern that continues for those working in my district in other occupations as well.

Yet, my background before I came to Congress was as a practicing attorney, a trial attorney.

I have seen the tort system, the litigation system in this country at both the Federal and local level.

If I might just say after observing this bill, I cannot think of a bill which would do more for the employment of trial attorneys in America, both for plaintiffs and defendants, than this bill. I know that is not the intention.

I am sure that the gentleman who is the author of this bill thought it was, or that he would make every effort to get rid of it; but nonetheless, I think that is the practical effect.

There is a section 8(B) that he refers to which he believes makes this tort neutral. I just must say that in reviewing it, that is not the case. This is ripe for explosion of litigation in Federal and State courts, and that is not going to help, frankly, our workers one bit.

The standard that is talked about here; that is, that people be notified that they may have been exposed to substances which may cause or be connected with occupational diseases, that is about two or three levels away from something which does definitely cause some problem.

Yet, these people are going to be notified under the aegis of the Federal Government that they have exposure. Couple that with things such as brochures that go out now entitled "Find Out How To Take Your Occupational Disease Claim To Court" and also the way attorneys now advertise on television.

We have seen them standing next to a motorcycle saying, "Just because you have had an accident on a motorcycle doesn't mean that you were at fault." We have all seen those ads.

What I am saying is, it is ripe for litigation explosion to do very little to help the people we want to help, but yet cause a further denial of justice, a further clogging of our courts, and for what? For very little gain for the individuals involved.

H.R. 162 may have good intentions, but the impact from it is going to be very little for those employees, additional stress, lawsuits; and finally there will be extreme dissatisfaction among the public.

One of the things that that is going to entail, in addition to the impact on the employees, is the impact on the companies they work for and a possibility of jobs.

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Little have we remarked that in this last 12 years we have produced a 26-percent increase in jobs in America, while that great competitor everybody likes to talk about, Japan, has only had an increase of 12 percent.

We, if we work very hard at it in this Congress, can make sure that we turn that around and we can follow the European experience and make sure we do not increase jobs. I am sure that is not our intent, but we have to look at legislation. If legislation is drawn in such a way that it complicates problems, it causes more expense, it does not help the employees, but in fact just increases litigation, it does us no good.

Mr. Chairman, I would ask for a "no" vote on H.R. 162.

Mr. GAYDOS. Mr. Chairman I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I strongly support this bill because workers have a right to know if there is anything they can do to prevent premature disability and death that is caused by workplace exposure to hazardous substances.

Many of the critics of this bill say that it will not prevent disease but this is not true. Public health professionals recognize several types of prevention, and education and medical monitoring in cases where there may be increased risk for disease is definitely considered a preventive effort.

Medical monitoring can show that a worker is beginning to have some physical damage long before the actual onset of disease. A prime example would be workers who are at risk for lung disease because of occupational exposure.

For these workers medical monitoring could show decreased pulmonary function before the onset of disease. Preventing further exposure would not only prevent disease but would prevent a future workman's compensation claim, something in which we should be very interested.

We need all types of prevention. Obviously, prevention of the initial exposure is necessary and OSHA if it is doing its job is engaging in primary prevention. But for workers who have already been exposed we need the next level of prevention. H.R. 162 is a first step in that prevention effort and I strongly urge you to support this bill.

Mr. Chairman, I stand here thinking about us as a country, the money we spend on occupational safety. This is a step in the right direction and I think it is terribly important for us to do the right thing today.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise to strongly oppose the passage of H.R. 162, but more to the point and for the point of the vote we will take this afternoon, to urge Members of this House to support actively and to vote for the Jeffords-Henry substitute which will be offered early on. I urge a vote for the Jeffords-Henry substitute. Here are a few facts and points on that.

First of all, the Jeffords-Henry substitute is the vote. It is the only real vote, the vote that will count. If the Jeffords-Henry substitute were to fail, and it seems to me it is very close and well could pass, if it could pass then we could go home. No other amendment would be necessary. If it were to fail, then there would be a whole series of other amendments on other subjects and on other topics, but there is only one way to get at the fundamental problem of this bill and that is with the Jeffords-Henry substitute; so whether it is on final passage or amendments, the only vote that counts is a vote for the Jeffords-Henry substitute.

For all those who have doubts, Mr. Chairman, about H.R. 162, and there are a majority of the Members of Congress who do, for all those who have doubts about this new approach that H.R. 162 is taking in a radical new direction, I would urge them to vote yes on the Jeffords-Henry substitute.

Second, H.R. 162 and the Jeffords-Henry substitute approach the problem with two exactly different and opposite approaches. H.R. 162 uses a statistical approach. It says that if we have a statistical study in which there is a whole population of workers that have a statistically higher incidence of a particular kind of disease, then all of those workers have to be notified that they are somehow at risk of that disease and that notification then goes to everyone, whether or not they are indeed at risk of obtaining that disease.

Now, what that means is that if there is a statistically higher incidence of skin cancer among construction workers, then all construction workers are notified as to that so-called risk. If there is a statistically higher incidence of another kind of disease among farm workers or agricultural workers or office workers, then they are notified also.

Now, the Jeffords-Henry substitute takes a different approach. The Jeffords-Henry substitute would notify individual workers in populations when those workers are in fact at risk of a specific hazard. It would notify them during and before the hazard and notify that worker on how to protect himself or herself from that specific hazard. It codifies and improves upon the current but the new OSHA standards that just began within the last 2 months.

The result of the bill the way it is proposed would be a notification to millions, if not tens of millions over time, of workers who are not at risk of anything, but they are in a population with a statistical incidence, with no corresponding increase in hazard protection.

The result, on the other hand, of the Jeffords-Henry substitute is an increase in hazard protection.

Mr. GAYDOS. Mr. Chairman, I yield myself the remaining time.

Let me very hurriedly make reference to some of the amendments that will be offered or are intended to be offered if an opportunity presents itself.

The bill, H.R. 162, in its present form has been under study by the committee and these amendments at the request and following the usual procedure, we have been very sensitive and responsive to requests and these amendments have already been approved by the committee chairmen and we would join with the requested amendments.

One amendent would be to allow individual companies to apply for an exemption from the high risk notification process.

Another amendment would be to have strengthened requirements for the medical removal provisions of the bill.

Another amendment would provide legal protection against malpractice for doctors who make a good faith determination that a worker should be removed or transferred in his job.

Another amendment which we would submit would be pointed toward duplicating medical monitoring programs that are in existence in other agencies.

Another amendment would be the Risk Assessment Board which would have the ability to limit notification to the period of latency associated with the disease.

There are several technical amendments. We have two amendments that are agreed to and would be sponsored by the gentlewoman from Maryland involving exemptions for small businesses with 15 or fewer full-time employees from the medical removal provisions of the bill, and also an amendment that will be sponsored by the gentleman from North Carolina [Mr. ROSE], where seasonal agricultural workers would be exempt from the medical removal provisions of the bill as long as they have not worked for the same employer continuously for six months.

Now, these amendments will strengthen the bill. We feel they are amendments that the majority would support.

Mr. Chairman, let me say this in closing, if I may. Many statements were made on the floor of the House in what H.R. 162 does or does not do. I heard one of our colleagues over there state that one of his employees got removed from a particular job because he was exposed to some substance or process or chemical or an agent, that he would be losing $40,000 a year, or $20,000 a year.

The bill is very, very specific. If you are exposed or transferred and you do not have a job, your workman's compensation is reduced and deducted from anything that you would be making or not making or changing to another job or being removed from your particular job.

Mr. RODINO. Mr. Chairman, I rise today to lend my full support for H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987 and to urge my colleagues to reject the Jeffords-Henry substitute.

One only has to study the statistics associated with occupational mortality and disease rates to determine the need for this legislation. Every year it is estimated that 11 million American workers come into contact with known or suspected toxins in their place of work. Of that number, it is believed that approximately 100,000 will die and 350,000 will become disabled. According to a Labor Department study, the cost of these fatalities and disabilities to the American taxpayer through Social Security, Medicare, and Medicaid is $5½ billion annually.

However, as is so often the case, statistics only tell a part of the story because there is no way to quantify the real life experience of people. I have received a great deal of material in support and in opposition of H.R. 162. Among the statistics, impact studies, opinions and articles I have come across real-life accounts of people who loved and devoted a lifetime to their work. These accounts included teachers, firefighters, and policemen, to name just a few of the job classifications that were brought to my attention in support of this bill.

What especially impressed me was that these people did not have regrets about their chosen occupation nor did they feel ill-will toward their employers. They were simply saddened that their occupations brought them into contact, unbeknownst to them, with materials that eventually made them very sick and they felt that it was time for there to be a coherent national policy to deal with this problem. I agree and that is why I am a cosponsor of this bill.

I believe that H.R. 162 goes a long way toward realizing this goal. This bill calls for the creation of a Federal Risk Assessment Board which would notify workers of the risk of occupationally related disease and would counsel and inform them of medical surveillance programs specific to their risk category. H.R. 162 also provides for ongoing monitoring of workers whose jobs expose them to hazardous substances. Finally, this legislation provides for a national research and educational effort to learn more about the dangerousness and effects of the innumerable substances with which American workers come into contact.

H.R. 162 is not antibusiness or fiscally irresponsible. One only has to look at the list of the corporations who are on record as in favor of this bill to realize that it is not designed to blame American business for occupational diseases. In fact, H.R. 162 is totally neutral on the issue of liability. Moreover, at a cost of only $25 million per annum, it will more than pay for itself in savings in Medicare, Medicaid, and Social Security payments.

Mr. Chairman, I urge the passage of H.R. 162.

Mr. RAHALL. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, and would like to commend the chairman of the Committee on Education and Labor for bringing this much needed legislation before us today.

While there is much controversy surrounding H.R. 162, in view of the fact that approximately 100,000 workers die and some 340,000 more are disabled each year from occupational diseases caused by exposure to the toxic substances in commercial and industrial use, I believe that we would be derelict in our duty to the working men and women of this country if we did not pass this legislation. This is especially true because effective treatment of diseases resulting from exposure to hazardous materials depends on early detection and treatment and because presently, Federal regulations do not require employers to inform workers of their risk of disease from exposure to specific substances.

H.R. 162 provides for the scientific identification of those workers with a high risk of developing fatal or disabling occupational diseases, the notification of these workers and the subsequent monitoring for such diseases. These procedures will help to ensure the early detection of occupational diseases and, in turn, will permit the most effective medical treatment for those affected. Additionally, they will encourage changes in affected workers' lifestyles that might further reduce the likelihood or severity of disabilities. Provisions of H.R. 162 will also facilitate the establishment of advanced warning systems for workers and will encourage workers to avoid exposure to dangerous levels of hazardous substances.

Many have expressed concerns in regard to the costs of this legislation which authorizes a modest $25 million per year for its program. However, at this point in time, businesses lose between $1.7 billion and $4.3 billion because of occupational disease. The Federal Government now spends approximately $5.4 billion per year for occupational diseases under Social Security Disability Income, Supplemental Security Income, Medicaid and Medicare. If enactment of the bill results in only a small reduction in disease resulting from occupational hazards, the bill will more than pay for itself. In regard to costs that might be incurred by employers, many of the costs required under the bill are already incurred by employers in complying with existing OSHA requirements.

Finally, opponents of H.R. 162 argue that the bill will result in huge litigation costs for employers because of emotional stress liability suits brought as a result of the risk notification program. That is not the case because the bill specifically prohibits the use of determinations or actions under the bill as a basis for compensation, loss or damage claims.

To reiterate, I strongly support enactment of H.R. 162 and urge my colleagues to support this worthwhile and much needed legislation.

Mr. BUNNING. Mr. Chairman, I rise in strong opposition to the risk notification bill, H.R. 162.

The whole thing is ridiculous. The best the proponents can say about this bill is that it won't cost the Federal Government too much. It won't increase lawsuits too much. It won't cost employers too much.

I think the evidence is pretty strong that they are underestimating the costs. But even if they are right about the price tag, even if it will only cost the Federal Government $25 million a year, even if it only results in a small increase in lawsuits and even if it only puts a few small businesses out of business or makes a few large businesses less competitive, that price tag is too high for the simple reason that we don't need it.

This type of after-the-fact concern about workers' health is not an improvement. We should be trying to prevent work related illness not sending the problem to the courts.

We already have the OSHA hazard communication standards. If they need improving, let's improve them. If we need to spend more money to make workplaces safer, let's spend it but we cannot afford to set up another duplicate structure of regulations and redtape.

No, it might not be terribly costly by Government standards. And it might not be terribly big by Government standards. But something doesn't have to be big to be a monstrosity. And that is what this bill is.

I urge my colleagues to vote against it.

Mr. BURTON of Indiana. Mr. Chairman, I am here today to voice my strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987.

I believe that H.R. 162 unnecessarily duplicates presently existing Federal regulations regarding the evaluation of high risks in the workplace and notification of workers. OSHA has an effective hazard regulation standard that requires the notification to employees of hazards in the workplace and requires that workers be trained in handling those hazards.

Furthermore, H.R. 162 would impose enormous costs on employers, consumers, workers, and the Federal Government. The authorization level of $25 million is unrealistically low. Also, if H.R. 162 passes there will be an exponential increase in litigation as a result of widespread notification.

H.R. 162 is anticompetitive, antibusiness and antigrowth legislation. It will hurt America's businesses and farmers, and ultimately, America's workers.

H.R. 162 spells bad news for our Nation's farming community because of the chemicals and substances used in modern farming. The liability claims that would result, the cost of job transfers, the cost of medical monitoring and the impossibility of notifying hundreds of former seasonal workers would force many farmers out of work.

Likewise, H.R. 162 would adversely affect industry productivity and job opportunities, particularly for small businesses. The weight of the incalculable expense of the notification and monitoring requirements of H.R. 162 will drive some businesses to close their doors. The added weight of having to defend against millions and perhaps billions of dollars in lawsuits could close otherwise healthy businesses. Businesses that do survive can be expected to pass these enormous costs to the consumer.

The cost of H.R. 162 is just to much for most of America's small businesses. According to conservative estimates, H.R. 162 would add between a 4.2- to 8.1-increase to a small company's costs. Thus sum is devastating when it is realized that the average profit margin for a small business is between 2 and 3 percent.

I do not believe that H.R. 162 is in America's best interests. Federal efforts in this area would be better spent by improving and strengthening ongoing occupational health activities under existing statutory and regulatory authority rather than creating new governmental authorities.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of the legislation before us which, if enacted, will help protect the health and safety of working men and women. According to Government estimates, each year some 100,000 American workers die, and 400,000 become newly disabled from diseases caused by workplace exposure to toxic substances. Unfortunately, workers exposed to these hazardous substances on the job are seldom advised of the risks they face.

A great deal of this illness and death can be avoided if workers receive critical medical information needed to protect themselves. Since occupational diseases generally have long latency periods, it is often possible to prevent or successfully treat the disease through early medical intervention or counseling on personal health habits. That is why I became a cosponsor of the High Risk Occupational Disease Notification and Prevention Act in the 99th Congress, and why I am once again cosponsoring this proposal designed to save lives and money.

H.R. 162 would establish a scientifically and medically sound basis to promote the early detection and prevention of occupational disease. The bill would establish a Federal Risk Assessment Board to review scientific and medical studies and to identify and notify populations of workers who have at least a 30 percent greater-than-normal chance of incurring disease from employment exposure. In addition, the bill would authorize the cerfification of occupational and environmental health centers, provide for ongoing medical surveillance of high risk workers and improved medical surveillance for employees exposed to occupational hazards. Finally, the bill would establish protections for workers against discrimination on the basis of their identification and notification of occupational disease risk.

This proposal will not only save lives, it will help reduce the staggering costs of occupational illness to our Nation. According to a cost analysis prepared by the National Institute for Occupational Safety and Health, the annual cost to the Federal Government for administering the legislation would be between $19.8 million and $26.4 million, depending on the number of workers who request testing. Currently, occupational disease is estimated to cost the Federal Government $5.4 billion annually. Likewise, the annual cost of occupational disease in medical and wage loss costs to businesses is estimated to range from $1.7 to $4.3 billion. The legislation is expected to lower that cost to between $3 and $38 million in medical monitoring.

H.R. 162 would prevent many deaths and disabilities by changing the use and handling of toxic and hazardous substances. I urge my colleagues to support passage of this vital legislation.

Mr. COMBEST. Mr. Chairman, today the House is considering legislation that would have a profound impact on this country's farms and small businesses. H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, would require all employers to notify past and present employees if they had been exposed to a hazardous substance. While I support some programs to notify workers of hazards in the workplace, this legislation steps beyond the bounds of reason.

Simply put, this legislation would have a devastating effect on the farming community. Agricultural production requires the use of certain chemicals and substances that are potentially harmful to the workers using them. If H.R. 162 becomes law, farmers will have to notify anyone that worked for them who was exposed to these chemicals and provide them with medical monitoring. If a doctor determines that an employee's health could be adversely affected by continuing in their present occupation, the employer would either have to transfer them to another position that has no risk of exposure or provide them with a year's salary.

All farmers will feel the effect of this legislation. Not only would they be responsible for present employees, but they would also be required to notify past employees. How does a farmer notify the large number of seasonal employees that have worked for him over the years? This legislation does not say, but failure to notify them could lead to a heavy fine. Government intervention, the weather, and the agricultural policies of our trading partners have been hard enough on our farmers; let's not add an additional burden in the form of H.R. 162.

Farmers would not suffer alone under this legislation. Small businesses across the country would also feel the bill's impact. Very few small businessmen could afford to pay for the additional medical monitoring and medical transfer provisions included in this bill. This Nation relies on its small businesses for economic growth and high levels of employment. It makes very little sense to increase the burdens on small businesses by passing H.R. 162.

I ask my colleagues to join me in aggressively opposing this legislation. Vote against this bill and vote for this Nation's farmers and small businessmen.

Mr. BROWN of California. Mr. Chairman, I rise today in support of the High Risk Occupational Disease Notification Act (H.R. 162).

If signed into law, the act would authorize a new $25 million program withing the Department of Health and Human Services. The measure would create a Risk Assessment Board that would review scientific studies to determine which jobs expose workers to hazardous substances that might result in such occupational diseases as heart and respiratory illnesses, and lung, prostate, bladder, and brain cancers. Another important feature of the bill is a $2 to $4 million allocation for grants to medical and nursing schools, to encourage the establishment of occupational medicine and health courses.

Each year, 100,000 workers die and as many as 400,000 more are newly disabled as a result of occupational diseases. H.R. 162 provides a low-cost mechanism to identify, notify, and monitor workers whose health is at risk from exposure to hazardous substances in the workplace. The act will save both lives and money and is a carefully negotiated compromise between the bill's sponsor, Representative GAYDOS, and various business, labor, public health, and environmental groups. In fact, at $25 million a year, the cost of the new notification program would be minimal compared to the $3 billion to $5 billion a year that occupational diseases are estimated to cost Social Security, Medicare, and Medicaid. I fail to see how we can deny such important protection to our Nation's workers.

Fairness dictates that our workers should not only be informed by right-to-know laws about the identity of toxic substances to which they are exposed, but should also be informed about their health status. Such information is critical if workers are to be able to seek help for and prevent future harmful exposures.

Opponents of the measure argue that the act would duplicate existing regulatory and corporate procedures, particularly at the Occupational Safety and Health Administration [OSHA]. While OSHA does provide warning labels and notices for hazardous substances in the workplace, and does attempt to improve worker training and knowledge in the handling of hazardous substances, it neither notifies former workers nor includes medical monitoring and personalized risk notifications about specific exposures to those former and current workers.

Because of the controversy this bill has stirred up, with its critics holding OSHA up as a source of adequate worker protection, I feel any discussion must include a look at how OSHA is now doing. It is telling that the new risk assessment board would be located within the National Institute for Occupational Safety and Health [NIOSH]. NIOSH, not OSHA, was picked by Congress because it has a better knowledge base. Dr. Donald Miller, Director of NIOSH, has testified that the new program is "medically sound and scientifically workable." In addition, under its provisions. NIOSH could notify up to 300,000 workers in the first year.

Recently, OSHA has made headlines by slapping large, six-figure fines on corporations such as Chrysler, Ford, and Union Carbide. But most of these high profile fines have not involved unsafe workplace conditions or job safety violations, but poor recordkeeping. Poor paperwork is hardly the stuff that makes the workplace more dangerous for employees. Conversely, the agency's preoccupation with correcting recordkeeping violations will hardly improve the safety of workers.

Recent reports about OSHA have detailed a disturbing—even frightening—lack of management and attention to true health and safety measures. OSHA has never had a strong history of organization. From its establishment in 1970, the agency has been consistently underfunded, understaffed, and confused about its mission. The recent lack of organization and focus on recordkeeping is a direct result of the Reagan administration's efforts to weaken safety enforcement. I think we can congratulate them on a job well done: Over the last 7 years, the administration has succeeded in defanging an already weak watchdog agency, leaving a completely toothless OSHA, adrift and overwhelmed by its task. From his first year in office, President Reagan attacked OSHA for burdening companies with overly technical regulations and slashed the agency's budget. In addition, OSHA rules were modified to exempt many employers from exemptions.

When OSHA was first established, in 1970, Congress declared a series of voluntary industry standards as the law. Many industry associations have since voluntarily updated their standards, but OSHA rules have lagged behind, completing only 18 health and 23 safety standards in its entire history. One study estimates that 1 million workers are exposed to chemicals in amounts that exceed the level now accepted as safe by the industry groups. After 17 years on the job, the agency has yet to figure out how to control a great number of hazardous substances. The same holds for curbing accidents. Other studies show that OSHA never even finds out about many of the accidents that result in death on the job. Employers are required to report such accidents, but, with its small staff and new exemptions, the agency has no mechanism to ensure compliance and rarely holds responsible those companies that fail to comply.

Recent articles in the New York Times and the Washington Post report that when OSHA does decide to act, it does so with "painful" slowness, and does not even keep close track of accidents that kill workers on the job. Simply put, the agency is not functioning. Behind all these claims lie some grim statistics: The number of inspectors is down this year, from 1,328 in 1980 to 1,044. More time is being spent checking records, up 4,619 in 1986 from 0 in 1980. By 1984, after 3 years of what the union's called OSHA's "nice guy" approach to workplace safety, the rate of work-related injuries and illnesses jumped to 8 from 7.6 for every previous worker, the largest 1-year increase in OSHA's history. The numbers have kept increasing, and some experts predict another jump when figures for 1986 are released this fall.

The agency has not only failed to move on enforcement of existing regulations, but has almost completely halted development of new ones. While OSHA remains at a standstill, industry continues to come up with new technologies, procedures, and chemicals. We should be developing new safety standards for these newly emerging workplace hazards. We cannot stand idly by and risk the safety of countless workers in the 5 million workplaces around the country simply because OSHA has succumbed to regulatory gridlock and confusion about its mission. OSHA is incapable of mounting a more than half-hearted approach to monitoring these workplaces.

This statement is not intended as an attack on OSHA. It is intended to demonstrate the tremendous gap created by the agency's impotence and the equally tremendous need for legislation to ensure worker health and safety. The new legislation will not bring us to new, higher levels of safety. Rather, it will help bring us back to where we were before the Reagan administration extracted the few remaining teeth from this important watchdog. How can anyone argue with that? If we vote against this measure, we will send a message to the tens of millions of workers who daily are exposed to toxic and hazardous substances, that we don't care. We do care, and we should do more than talk or leave regulations in the hands of an agency that is unwilling and unable to enforce these regulations.

I urge my colleagues to support H.R. 162.

Mr. KILDEE. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Disease Notification and Prevention Act of 1987. Let me commend Representative GAYDOS for his tireless efforts to improve and win support for this important bill.

H.R. 162 is a compromise piece of worker health legislation whose emphasis is preventative medicine. The measure recognizes the value of detecting and treating diseases before they are advanced, and establishes a program to identify and notify Americans at risk of developing occupational illness because of their exposure to hazardous substances.

H.R. 162 creates a Risk Assessment Board within the Department of Health and Human Services [HSS] to identify specific groups of workers at risk for occupational diseases. Based on this information, the National Institute for Occupational Safety and Health would be charged with notifying workers in the populations identified as at risk. Identified workers would receive information concerning the diseases associated with the toxic substances, and about counseling and medical monitoring programs. H.R. 162 also ensures that a notified worker could be removed from a position involving hazardous substances, after a consultation with the worker's physician and the employer's medical representative. Under the legislation, the worker would be transferred to another position without loss of salary, seniority, or other benefits.

Each year, approximately 100,000 workers die and 340,000 are disabled by their exposure to toxic chemicals and other on-the-job hazards. Unfortunately, we are all to familiar with the crippling experiences of workers exposed to asbestos, vinyl chloride, and coke ovens. According to various estimates, the yearly cost of occupational illness is at least $7 to $10 billion. The Federal Government alone spends $5 billion for disability and health benefits. By contrast, at $25 million annually, H.R. 162 is a cost-effective bill that will save lives and reduce Government expenditures.

H.R. 162 is a medically and fiscally sound bill which begins to repay the debt we owe to American workers killed or maimed by exposure to hazardous substances. A significant health measure, H.R. 162 will prevent disease in some cases, and arrest other illnesses in the beginning stages where treatment is most profitable. Most of all, the measure deals honestly with our American workers by informing them of possible on-the-job hazards and the steps they may take to prevent or handle their consequences.

I urge my colleagues to support this critically important measure.

Mr. MARLENEE. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification Act. The system of broad individual risk notification and monitoring envisioned by this bill is unnecessary, costly to taxpayers, businesses, and farmers, and will result in an explosion of worker anxiety and liability lawsuits. It will be a further blow to American competitiveness both at home and abroad. It poses the greatest dangers to American agriculture.

First, this bill will result in unnecessary duplication. OSHA, MSHA, EPA, and the National Institute for Occupational Safety and Health [NIOSH] currently have an expansive program for regulation, communication, and training in the area of hazardous materials. These programs are already addressing the root of the occupational exposure problem—the training and education of workers before exposures can occur.

Second, this bill virtually guarantees increased litigation and liability at a time when employers and others in this country are already caught in a rising tide of liability. A finding by an official agency of the Federal Government that those who work in a particular occupation are members of a "population at risk" would carry considerable weight in compensation proceedings and third party liability litigation. Workers compensation coverage will inevitably become a part of employer liability under this bill.

We should ask, which work populations will be found at risk under this bill? According to the Department of Agriculture, working in sunlight could be designated a high risk occupation due to the higher incidents of skin cancer associated with working outdoors. Does this House want to subject farmers, construction firms, and other firms to the onerous burden of finding and notifying present and past employees to inform them of their dangerous exposure to the Sun? This is ridiculous.

Mr. Chairman, based on a study by NIOSH it has been estimated that every notified worker in a targeted industry could represent $375,000 in liability exposure.

Third, the higher business operating costs will result in fewer jobs for American workers. It is ironic that the authors of this legislation claim to be protecting workers, when in fact they would take jobs away from American working men and women.

To get a clearer view of how this bill would affect agriculture, lets look at the plight of a small, country grain elevator. Because all aspects of the grain industry are closely regulated by OSHA, EPA, and the FDA, it will be one of the first industries reviewed if H.R. 162 becomes law.

Faced with an exhorbitant liability exposure under this bill, a country elevator operator would have two options. First, the operator could shoulder the potential liability in-house. A typical operation has between 5 and 15 employees on an annual basis, and over 30 years, as the bill calls for, this could total over 100 employees counting seasonal help, a potential $375 million liability.

The second option would be to secure liability insurance. As we all know, insurance is difficult to get and can have a prohibitive cost in areas with great unknown liability. The enactment of this bill will make the situation many times worse, and there can be no doubt that many country grain elevators will be forced out of business. Mr. Chairman, imagine the impact on our rural communities if this bill becomes law.

Grain elevators, ag chemical plants, slaughter plants, farmers and ranchers themselves—all would be affected by H.R. 162. No wonder this bill is opposed by the American Farm Bureau, the National Wheatgrowers, the National Corngrowers, the American Soybean Association, the National Cattlemens Association, the National Pork Producers, the National Council of Agricultural Employers, the United Fresh Fruit & Vegetable Association, and the National Wool Growers. And of course the impact of this bill effects not just agriculture, but all industries in the United States.

Mr. Chairman, I urge my colleagues to reject this dangerous legislation.

Mr. FRENZEL. Mr. Chairman, nearly everyone agrees that prevention of occupational hazards is both a worthy goal and a high priority. I surely do.

American occupational safety laws and regulations are not perfect. They do need regular review and regular overhaul. This House and this Congress has already evidenced its willingness to make needed changes. So has the Reagan administration.

Why then all the controversy over H.R. 162, euphemistically titled the High Risk Occupational Hazard Notification and Prevention Act? The answer is simple. H.R. 162 is all notification and no prevention.

The broad notification provisions would seem to provide an invitation to wholesale litigation by notified employees. The one test of comprehensive notification produced a staggering lawsuit total of $350 million from an 800-employee universe. A comparison of employees suggests that H.R. 162 might evoke $30 billion in lawsuits.

Such lawsuits don't prevent hazards. Mostly they benefit lawyers, and put future job development at risk.

Further, all employees possibly affected must be notified. When an ex-employee has moved several times, that person becomes very expensive, or even impossible to locate and notify. The law doesn't care if it's difficult or costly. It says to keep on looking.

The law also says that big and little businesses must do the same things. Small businesses with as few as 16 employees must perform the same notifications as IBM or AT&T. In the most recent White House Small Business Conference, the prime request was for the Federal Government to stop mandating extra costs for small business persons.

Fortunately, the House does have an alternative. The Henry-Jeffords amendment really deals with prevention. It requires monitoring recommendations, employee training and retraining, notification on a reasonable basis of risk, and penalties.

Proof of its serious intention is the fact that it carries an OSHA authorization of $25 million.

H.R. 162 is an exercise in symbolism, litigation, and extra cost not commensurate with results. The Henry-Jeffords amendment expands protection, does not preempt tougher State standards, and does not create new liability exposures for large and small businesses.

I shall vote against H.R. 162, and in favor of the Henry-Jeffords amendments.

Mr. DOWNEY of New York. Mr. Chairman, I want to express my strong support for H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

Every day, workers across this country are exposed to thousands of toxic substances at their jobs. These dangerous chemicals can lead to fatal or disabling diseases after prolonged exposure. In fact, 100,000 workers die and 240,000 more are disabled every year from exposure to toxic substances at the workplace. Sadly, many of these workers do not know of the risks they face because they are never told.

Employees should know the risks they face at their jobs. It is important for them to know of the illnesses that may result from their occupational exposures. The long periods of many occupational diseases often make prevention of successful treatment possible through early medical intervention.

H.R. 162 would promote the early detection and prevention of occupational diseases by identifying hazardous substances and notifying, monitoring, and counseling workers who have been exposed to them. It makes sound public health policy and that is why I urge my colleagues to support it.

Mr. GALLEGLY. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

I am sure I am not alone in my receipt of numerous letters and telegrams from businesses of all sizes requesting my opposition to this costly and burdensome legislation. By creating a new and unnecessary bureaucracy—a Risk Assessment Board—and mandating new employer funded medical benefits, H.R. 162 is yet another effort by the antibusiness community to stifle American business.

H.R. 162 goes far beyond a simple risk notification bill by requiring employer paid medical monitoring of current employees who receive a risk notification, as well as requiring that an employee be transferred to a less hazardous job or even be guaranteed an income by an employer for up to 1 year if no transfer opportunities exist. Especially for small businesses, which do not have the wide range of opportunities that large corporations have, this cost could be devastating.

I am also concerned about this legislation's inestimable impact on tort liability and workers' compensation costs. No one really knows what this impact will be. However, claims for stress-related injury, already the fastest type of workers' compensation claim, can be expected to increase exponentially once a worker receives notice indicating that he or she is at risk.

The combination of new liability and workers' compensation claims, increased insurance premiums, medical monitoring costs, and mandatory salary and benefits continuance, could cost business billions of dollars. This necessitates my voting against H.R. 162. I believe that these increased costs will undermine businesses' efforts to be competitive and will fail to prevent occupational disease.

The future of our economy lies in a healthy and prosperous business community. Allowing businesses to grow and prosper, unencumbered by excessive regulations, will help to create better jobs and increase competition. H.R. 162 is another in a series of antibusiness/anticompetitive bills which is antithetical to this notion, and I urge my colleagues to join me in opposing this legislation.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. GAYDOS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. JEFFORDS. Reserving the right to object, Mr. Chairman, and I shall object, I just want to explain that I think it would be a much more orderly process if we were to take this section by section.

Therefore, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Risk Occupational Disease Notification and Prevention Act of 1987".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JEFFORDS: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Disease Prevention Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) potentially harmful substances and physical agents are in wide industrial and commercial use in the United States;

(2) workers may suffer disability or death or both from occupational diseases caused by hazardous occupational exposures;

(3) protecting occupational safety and health facilitates interstate commerce and promotes the general welfare;

(4) early notification of exposure to harmful substances and physical agents often permits medical intervention in the biological process of disease to either prevent or, by early detection, successfully treat some disease conditions;

(5) workers should be informed of exposure to an occupational hazard and the risks of contracting an occupational disease from such exposure;

(6) there is a need for increased research to identify the causes of occupational diseases; and

(7) prevention and early detection of occupational disease may reduce the costs of medical treatment and care in the United States.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The terms "Secretary", "employer", and "employee" have the meanings given by section 3 of OSHA.

(2) The term "current employee" means an employee who is presently employed by an employer and who is employed in a workplace where such employee may be exposed to a hazard under normal operation conditions or foreseeable emergencies.

(3) The term "former employee" means an individual who was an employee of an employer, but who is not presently an employee of that employer, and who was employed in a workplace where such employee may have been exposed to a hazard under normal operation conditions or foreseeable emergencies.

(4) The term "OSHA" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(5) The term "hazard communication standard" means the standard contained in sections 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 of title 29 of the Code of Federal Regulations.

TITLE I—HAZARDS COMMUNICATION STANDARD AMENDMENT

SEC. 101. HAZARD COMMUNICATION STANDARD.

(a) REQUIRED STANDARD.—Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 6(b) of OSHA, extend the coverage of and expand the rights of employees under the hazard communication standard so that such standard—

(1) requires that employers notify their current employees (by public posting or otherwise as prescribed by the Secretary pursuant to section 8(c)(1) of OSHA) of those employees' rights—

(A) to have access to their medical records, and

(B) to obtain copies of material safety data sheets and the list of hazards required to be retained under the standard.

from their current and former employers; and

(2) requires that employers make available to former employees, upon request, the list of hazards required to be retained since the establishment of the hazard communication standard concerning any hazards that were present in the employees' workplace during their employment.

(b) ADDITIONAL CONSIDERATIONS IN AMENDING STANDARD.—In the rulemaking proceedings conducted for the purpose of promulgating the amendment required by subsection (a) of this section, the Secretary shall consider evidence that such standard should also be amended to—

(1) require that such material safety data sheets—

(A) subject to subsection (f), contain recommendations, if any, for appropriate medical monitoring, based on sources or criteria identified by the Secretary in the standard issued under this section;

(B) include summaries written in simple, nontechnical language; and

(2) require that—

(A) employers provide training to current employees concerning such hazards;

(B) such training be of sufficient duration, both initially and in annual refresher courses, to inform employees of—

(i) the nature of the hazards present in the workplace and the methods by which employees can obtain further information concerning such hazards;

(ii) the measures required to avoid, prevent, or restrict harmful exposure; and

(iii) the measures required to reduce the harmful effects of exposure, including appropriate medical monitoring; and

(C) such training of employees emphasize the chronic and acute health effects associated with such hazards in a manner which promotes early detection and treatment.

(c) ENFORCEMENT OF SECTION 8(c)(3) OF OSHA.—Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 6(b) of OSHA, prescribe the methods and procedures to be followed by employers in complying with the last sentence of section 8(c)(3) of OSHA.

(d) OTHER STANDARDS.—Not later than six months after promulgation of the standard required in subsection (a), each Federal agency with responsibility for establishing health and safety standards for workers not covered under OSHA shall, pursuant to that agency's statutory authority, promulgate a standard which is consistent with the standard required in subsection (a).

(e) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with other Federal agencies for the purpose of implementing and enforcing the standard amended in accordance with subsection (a).

(f) MEDICAL MONITORING RECOMMENDATIONS.—If the Secretary determines, pursuant to subsection (b), to require the inclusion of medical monitoring recommendations in material safety data sheets, such recommendations shall be added to material safety data sheets at the time such sheets are updated for the inclusion of other information, but not later than 5 years after the date the Secretary makes such determination.

SEC. 102. PUBLIC SERVICE ANNOUNCEMENT BY THE SECRETARY.

The Secretary shall prepare, and distribute for publication or broadcasting, public service announcements informing current and former employees—

(1) of their rights to information, and current employees of their rights to training, pursuant to—

(A) the standards prescribed by the Secretary under section 101 of this title; and

(B) the access to employee exposure and medical records standard contained in section 1910.20 of title 29, Code of Federal Regulations;

(2) that material safety data sheets for hazardous chemicals (as defined under the hazard communication standard) are available upon request through the national and regional offices of the Occupational Safety and Health Administration; and

(3) of the addresses and telephone numbers of such national and regional offices.

SEC. 103. OFFICE OF HAZARDS COMMUNICATION.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Occupational Safety and Health Administration an Office of Hazards Communication. The Office shall be headed by a Director. The Secretary shall delegate to the Office responsibilities for the implementation of the standard amended by the

Secretary in accordance with section 101 of this title.

(b) Additional Functions.—In addition to performing such implementation responsibilities as the Secretary may delegate pursuant to subsection (a), the Office shall—

(1) annually review a substantial proportion of the material safety data sheets, and report to the Secretary those data sheets that fail to meet basic, performance-oriented criteria;

(2) provide technical assistance to inspectors and other enforcement personnel of the Department with respect to such standard;

(3) provide such personnel with listings of those chemicals that the Occupational Safety and Health Administration considers to be recognized hazards;

(4) provide up-to-date information with respect to chemicals on the basis of information contained in material safety data sheets;

(5) review available literature and research in order to alert the Secretary to emerging problems in hazard exposure; and

(6) assist in providing information to employers and the public with respect to occupational hazards.

(c) Personnel.—The Secretary shall provide to the Office such personnel and administrative assistance as it may require. The employees of the Office shall include at least one qualified toxicologist.

SEC. 104. PERMISSIBLE EXPOSURE LIMITS.

(a) Updating Z-Tables.—Within one year after the date of enactment of this Act, the Secretary shall, pursuant to section 6(b) of OSHA, promulgate such revisions to the standard contained in section 1910.1000 of title 29 of the Code of Federal Regulations as may be appropriate taking into account additional information and data available since the orignal promulgation of such standard.

(b) Periodic Updates Authorized.—The Secretary shall develop means to assure that the permissible exposure limits promulgated pursuant to subsection (a) of this section are updated as necessary.

SEC. 105. ENFORCEMENT AUTHORITY.

(a) In General.—Except as provided in subsection (b), the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of the OSHA. Except as provided in subsection (b), such standard shall be administered and enforced under OSHA in the same manner as a standard prescribed pursuant to section 6 of OSHA.

(b) Penalties.—A violation of such hazard communication standard shall, for purposes of section 17 of OSHA, be treated as a violation of a standard prescribed pursuant to section 6 of OSHA, except that—

(1) the failure of an employer to comply with a requirement of such hazard communication standard—

(A) to make a hazard determination,

(B) to have a written hazard communication program,

(C) properly to label or use other warnings,

(D) to record on a material safety data sheet the information required with respect to any chemical, or

(E) to establish and conduct an employee training and information program,

shall be treated as a serious violation under section 17(k) of OSHA; and

(2) any employer who willfully violates such standard, if there is substantial probability that death or serious physical harm could result, shall, upon conviction, be punished by a fine of not more than $25,000, except that if the conviction is for a violation committed after a first conviction under this paragraph, the employer shall be punished by a fine of not more than $50,000.

SEC. 106. EFFECT ON OTHER LAWS.

Information provided to an employee under the standard amended pursuant to section 101(a) shall not commence the tolling of any statute of limitations with respect to any legal claim, except as may be specifically provided by State law.

SEC. 107. GAO EVALUATION.

(a) Evaluation of Effectiveness.—The Comptroller General shall conduct an evaluation of the effectiveness of the standard prescribed pursuant to this title. Such evaluation shall include an analysis of—

(1) the proportion of all employees who received effective notice of occupational health hazards by each of the methods required by such standard, and the proportion who do not receive effective notice;

(2) the extent to which the notice received by employees under such standard has prompted such employees—

(A) to exercise greater caution in the handling of hazards in the workplace;

(B) to seek effective medical monitoring or treatment, where appropriate; or

(C) to engage in litigation or otherwise to prosecute claims for injuries; and

(3) alternatives to or changes in such standard that will more effectively or efficiently deliver such notices and prompt employees to respond appropriately.

(b) Report.—The Comptroller General shall submit a report to the Congress on the results of the evaluation conducted under subsection (a). The report shall be submitted not later than 30 months after the date of enactment of this Act. The report shall include such recommendations as the Comptroller General considers appropriate for legislative or administrative changes.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1988 and such sums as necessary for each succeeding fiscal year.

TITLE II—INTERIM NIOSH NOTIFICATION PROGRAM

SEC. 201. PURPOSE.

It is the purpose of this title to establish an interim program to provide notice to workers who participate in certain studies conducted by the National Institute of Occupational Safety and Health until the establishment of a more general notification program pursuant to the recommendations of the Risk Notification Study Commission pursuant to title III of this Act.

SEC. 202. ESTABLISHMENT OF PROGRAM.

(a) General Requirements.—The National Institute of Occupational Safety and Health shall establish and implement an individual worker notification program for workers at high risk of disease due to occupational exposures who were or are involved in any retrospective cohort mortality study conducted by the Institute before or after the date of enactment of this Act. Such program shall be conducted in accordance with the guidelines for notification of individual workers as proposed by the subcommittee on individual worker notification of the Institute's board of scientific counselors on February 15, 1986.

(b) Program Deadlines.—The program established by the Institute under subsection (a) shall provide—

(1) for workers who were involved in studies completed before the date of enactment of this Act, for notification within 18 months after such date of enactment; and

(2) for other workers, for notification as soon as is practicable consistent with the guidelines described in subsection (a).

(c) Cooperation With Private Employers and State and Local Governments.—(1) In carrying out the notification responsibilities under this section, the Institute shall cooperate with private employers and State and local governments and, upon request, may certify a private employer or a State or local government to transmit notification under this section, in accordance with regulations issued by the Secretary.

(2) No private employer or State or local government certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

SEC. 203. NOTIFICATION TO INCLUDE RECOMMENDATIONS FOR MEDICAL MONITORING.

Any notice given by the Institute pursuant to section 201 of this title shall include appropriate recommendations for medical monitoring.

SEC. 204. TELEPHONE INFORMATION.

The Institute shall establish toll-free telephone information for the employees notified under this title and for their personal physicians for the purpose of providing additional medical, health, and scientific information concerning the nature of the risk and its associated disease.

SEC. 205. DISSEMINATION OF INFORMATION.

The Institute shall prepare and distribute other medical and health promotion materials and information on any risk subject to notification under this title and its associated disease as the Institute deems appropriate.

SEC. 206. CONFIDENTIALITY.

Any records of the identify, diagnosis, prognosis, or treatment of an individual employee, or information that would lead to the identification of any such employee, which are maintained in connection with the performance of any function authorized by this title or which are obtained by any other person shall be confidential and, notwithstanding any other provision of law permitting disclosure, may be disclosed only—

(1) to the current or former employer of the notified individual;

(2) if necessary to perform any function authorized by this title; or

(3) with the written consent of such individual employee.

SEC. 207. EFFECT ON OTHER LAWS.

(a) Use of Notices as Evidence Prohibited.—The following may not be introduced in connection with any claim for compensation, loss, or damage brought under State or Federal law:

(1) evidence that an employee or employee population is or is not about to receive (or has or has not received) notification under this title; and

(2) evidence that medical monitoring is or is not to be initiated (or has or has not been initiated) under this title.

(b) Use of Other Evidence.—With respect to any claim for compensation, loss, or damage under State or Federal law, nothing in this Act shall preclude the admission into evidence of—

(1) any medical and other scientific studies and reports concerning the incidence of

disease associated with exposure to occupational health hazards; or

(2) any data related to exposure to occupational health hazards for individual employees.

(c) EFFECT ON STATUTES OF LIMITATIONS.—Notification pursuant to this Act shall not be relevant in determining whether such claim is timely under any applicable statute of limitations.

(d) LIMITATION ON NONCOMPENSATORY DAMAGES.—No person may bring—

(1) any claim based on emotional harm, fear of disease, stress, or other nonphysical injury, or

(2) any claim for punitive or other noncompensatory damages, based on any report, finding, notice, medical evaluation, monitoring decision, or any other act or omission required by this Act. This prohibition applies whether the party bringing the claim has been directly subject to the report, finding, notice, evaluation, decision, act, or omission or is a party learning about such report, finding, notice, evaluation, decision, act, or omission that affected another person.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000 for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year.

TITLE III—RISK NOTIFICATION STUDY COMMISSION

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Risk Notification Study Commission (hereinafter in this title referred to as the "Commission").

SEC. 302. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) conduct a comprehensive study of the effectiveness of the notification program of the Institute under title II of this Act in preventing diseases arising wholly or partially out of exposures to occupational health hazards;

(2) analyze the extent to which risk notification duplicates other activities authorized under existing Federal law; and

(3) assess the feasibility of federally-provided individual notifications to employees and former employees determined to be in a population risk, including examination of alternatives to individual notifications.

(b) REQUIREMENTS FOR STUDY.—In conducting the study as provided for in subsection (a) of this section, the Commission shall consider—

(1) the direct and indirect costs that may be associated with a risk notification program;

(2) the direct and indirect savings that may be associated with such a program, including savings in Medicaid, Medicare, social security disability, federally-supported workman's compensation, and other health and welfare programs;

(3) the adequacy of medical monitoring, treatment, and surveillance for employees exposed to occupational health hazards;

(4) the effectiveness of medical monitoring or beneficial health counseling, or both, as part of a risk notification program;

(5) the scientific adequacy of established epidemiological, clinical, and toxicological studies in being able to define and identify worker populations at risk of contracting occupational disease;

(6) the extent to which nonoccupational factors such as smoking and diet may contribute to diseases associated with occupational health hazards;

(7) the health consequences of notifying or failing to notify a population at risk;

(8) the impact of such a program on the availability of insurance to small employers;

(9) the impact of such a program on the State-administered workers' compensation system; and

(10) the impact of such a program on liability litigation, including estimates of increased costs, if any, which may be associated with risk notification.

(c) REPORTS.—Within two years after the date on which the Commission first meets, the Commission shall submit a report to the Congress, including legislative recommendations that the Commission considers necessary and appropriate.

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of 15 members appointed by the President, not later than 60 days after the date of the enactment of this Act, from a list (or lists) of nominees provided by the National Academy of Sciences. Such lists shall include individuals from State workers' compensation boards, representatives of insurance carriers, business, labor, occupational physicians, epidemiologists, toxicologists, industrial hygienists, occupational biostatisticians, and representatives of the general public. The Secretary, the Secretary of Health and Human Services and the Attorney General shall be ex officio members of the Risk Notification Study Commission.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) DIRECTOR.—The Commission may appoint an executive director from the personnel of any federal agency to assist the Commission in carrying out its duties.

(e) USE OF SERVICES AND FACILITIES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $1,000,000. Amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 307. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its final report to the Congress.

SEC. 308. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

POINT OF ORDER

Mr. GAYDOS. Mr. Chairman, I make a point of order against the amendment in the nature of a substitute.

The CHAIRMAN. The gentleman will state his point of order.

Mr. GAYDOS. Mr. Chairman, the gentleman's substitute amendment is not germane to the committee amendment in the nature of a substitute, as amended, now being considered in the Committee of the Whole since the substitute amendment attempts to amend existing statutory law, specifically section 17 of the Occupational Safety and Health Act of 1970. The committee amendment merely cites this act for other purposes and changing the act's provisions is neither the subject matter nor fundamental purpose of the committee amendment. Additionally, the committee amendment makes no reference whatsoever to section 17 of this statute.

Specifically, the "penalties" provisions of the proposed substitute amendment clearly amend section 17 of the Occupational Safety and Health Act in two ways:

First, section 17 of the act establishes the criteria to govern the determination of a serious violation of OSHA standards. The gentleman's amendment creates five new circumstances, any of which would constitute, under section 17(k) of the act, a serious violation of the hazard communication standard, which is deemed to be a standard prescribed pursuant to section 6 of the statute. Thus, section 17 is amended through the enactment of a special set of criteria applicable solely for the determination as to whether one specific standard has been seriously violated. The language of this provision of the amendment in specifying the criteria and explicitly stating that such failure of the employer "shall be treated as a serious violation under section 17(k) of OSHA" all clearly evidences a fundamental purpose to amend section 17 of the existing statute.

Second, the gentleman's amendment creates new penalties for "any employer who willfully violates such standard, if there is substantial probability that death or serious physical harm could result." Thus, the gentleman is amending section 17 of the act by establishing special penalties for the violation of one particular standard. These new penalties would supersede the current penalties for willful violation in section 17.

This substitute amendment can be characterized as an amendment "changing existing law" to a committee amendment in the nature of a substitute that "merely cites that law." The committee amendment does not in any way amend the Occupational Safety and Health Act of 1970. It does not in any way alter the rights, duties, and responsibilities prescribed under this statute. Rather, the committee amendment simply cites or references this statute in a few instances in order to accomplish other purposes.

A review of germaneness precedents indicates that "to a bill making a minor revision in one part of an existing law to accomplish a particular purpose, an amendment proposing changes elsewhere in that law that are not within the terms of the bill is not germane."

The citation for that is "Procedure in the U.S. House of Representatives: A Summary of the Modern Precedents and Practices of the House," chapter 28, section 32.1 (117 Cong. Rec. 12318, 92d Cong., 1st sess.). Furthermore, it has, also, been ruled that "an amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related."

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"Procedure in the U.S. House of Representatives: A Summary of the Modern Precedents and Practices of the House", chapter 28, section 32.11 (118 Cong. Rec. 9188, 9190, 92 Cong. 2nd sess.). Based on these rulings, a substitute amendment that amends a specific section of a current statute in two instances should not be ruled as germane to a committee amendment in the nature of a substitute that cites but does not amend any sections of that statute where the fundamental purposes of the committee amendment and the substitute amendment are not related.

A textual analysis reveals that the substitute amendment is not consistent with the subject matter and fundamental purpose of the committee amendment in the nature of a substitute. In fact, it is inconsistent with one of the basic purposes of the committee amendment, as explicitly stated in the committee amendment, which is to establish a Federal program of risk notification to be administered by a Federal agency other than OSHA, specifically, the Department of Health and Human Services. The committee amendment is structured in such a manner as not in any way to affect OSHA's duties and responsibilities, whether it be its standard-setting, enforcement or other powers. Thus, the committee amendment seeks to accomplish as one of its four basic purposes, a specific Federal program for risk notification in another Federal department without in any way changing the basic statutory scheme, duties and responsibilities of OSHA. On the other hand, the fundamental purpose of the gentleman's substitute is to attempt a refinement or perfection of the statutorily prescribed duties and responsibilities of OSHA and in so doing, it attempts to accomplish this purpose by amending existing law.

Therefore, Mr. Chairman, I request that the Chair sustain my point of order that the amendment violates House rule 16, clause 7 as being nongermane.

The CHAIRMAN. Does the gentleman from Vermont [Mr. JEFFORDS] wish to be heard on the point of order?

Mr. JEFFORDS. Yes, I do, Mr. Chairman.

First of all, I think it is important to point out that in no way do we attempt to modify OSHA in our bill. We refer to it, we make provisions which are consistent therewith, but we do not amend OSHA.

There are of course several tests of germaneness. The substitute fits each of them.

The purpose of H.R. 162 is to notify workers of risk and try to prevent occupational disease. Our purpose is exactly the same.

The class affected in H.R. 162 is all workers, current and former.

If the objection is to the tort provisions of our amendment, let me point out that we are simply building on three evidentiary exclusions that are already contained in H.R. 162.

We simply add a fourth exclusion. For instance, I want to point out that there are evidentiary matters in here and relative to tort liability in this bill.

Mr. Chairman, there are three separate evidentiary exclusions in H.R. 162, thus preempting State rules of evidence for State workers, compensation or tort law. The bill also says that the information and knowledge resulting from the bill will not trigger any statute of limitation against stepping over State law.

Third, Mr. GAYDOS will offer an amendment to shield doctors, and no one else, from liability. This is the most blatant example of how "un-neutral" this bill really is.

Finally, individual notices, most of which will go to people who will never develop disease, will without any question generate countless suits. We believe there is no question on the liability aspects.

I would also point out, just reading our statutory language with respect to the matters referred to on page 9 of our statute, it says, "In general.—except as provided in subsection (b), the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of OSHA."

It just uses OSHA as a base for assisting in putting forth the propositions which we have in the bill.

It is our position that we do not in any way violate the rules of the House and that the substitute is in order.

The CHAIRMAN. Is there another Member who wishes to be heard on the point of order?

Mr. BARTLETT. Yes, Mr. Chairman.

Mr. Chairman, I seek to rise to the point or order and rise to the point that the point of order is not in order and would cite several instances on that.

First of all, I did attend along with a number of other Members at the Rules Committee.

The substitute being offered today is in no way a new substitute. It was widely discussed at the Rules Committee and the Rules Committee indeed offered what they believed was an open rule with waivers from all sides.

No waivers are required and so no waivers were requested or were offered but that was clearly the intent of the framers of the legislation and of the House.

Now today we are liable to have later on a whole series of amendments offered interestingly enough by the bill's sponsor and by others that many of which were offered or attempted to be offered at committee. Here we are coming to the floor of the House today and waiting to rewrite the whole bill. So there is some confusion.

Mr. Chairman, 14 amendments similar to some of which may be offered later on today were offered in committee.

Mr. Chairman, as regards the specific point of order, OSHA is specifically mentioned in H.R. 162 in a variety of places by reference. It is cited on page 31, page 13, page 11, among other places. On page 11 it reads, "Any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977"; on page 13, OSHA is again cited on line 8 of the bill, and that is: "* * * a permanent standard promulgated under section 6(b)(5) of the Occupational Health and Safety Act of 1970"; on page 31 it is also cited as are other civil penalties that are cited.

The fact is that H.R. 162 is a bill that is broad in its scope. It does in fact affect OSHA and the Department of Labor and the Department of HHS and other departments. The substitute is equally in order as the original bill.

One other point; that is, I bring to the Chair's attention page 9 of the substitute which as I understand the gentleman's point of order was specifically in question and this is what causes me to conclude that the substitute is clearly in order.

On page 9, what the substitute does is it cites by reference, again as the gentleman had said that it did not, it cites by reference in paragraph (a), "the hazard communication standard amended by the Secretary in accordance with section 101 of this title shall be treated as a standard prescribed by the Secretary pursuant to section 6 of OSHA."

That is very similar to what the bill does in other sections.

The other cite that the gentleman made was the promulgation of penalties in paragraph (b). Yes, the substitute does offer penalties but those penalties are not out of order. They are consistent with the main bill because the penalties that are offered are not amending the main OSHA Act. They are new penalties that would be offered only for violation of this specific bill.

The only new penalties that are offered are penalties that are for violation of this specific bill or specific substitute that is being offered.

So the substitute of the gentleman from Vermont [Mr. Jeffords] is equally in order as the original bill because the penalties that are being offered are in fact penalties that only affect the terms of this bill and not other violations or other penalties that are elsewhere in the OSHA Act.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. Gaydos] wish to be heard further on the point of order?

Mr. GAYDOS. Mr. Chairman, I have no further comment.

The CHAIRMAN (Mr. Torres). The Chair then is prepared to rule on this point of order.

The gentleman from Pennsylvania makes a point or order that the amendment in the nature of a substitute offered by the gentleman from Vermont [Mr. Jeffords] is not germane to H.R. 162 as reported. In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill (Deschler's Procedure, chapter 28, section 6.1). Both the bill and the amendment seek to establish a system for identifying and notifying workers who are at risk of contracting occupational disease. The bill puts the burden of notifying those workers at risk on the Secretary of Health and Human Services, as well as on employers of those at risk, with penalties for failure to comply being those established under existing law and regulations, as well as new injunctive relief contained in the bill. The amendment also provides for penalties for failure to comply with the new expanded Hazard Communication Standard. As cited by the gentleman from Texas [Mr. Bartlett] both those penalties are the same as those existing under existing law, albeit redefined with respect to what constitutes a "serious violation" under section 17 of OSHA. As cited in the ruling of December 15, 1937, on page 537 of the House Rules and Manual, to a bill to achieve a certain purpose of conferring discretionary authority to set fair labor standards upon an independent agency, an amendment in the nature of a substitute to attain that purpose by a more inflexible method (prescribing fair labor standards) was held germane.

The Chair believes this line of precedent is more persuasive than those cited by the gentleman from Pennsylvania because in those cases the underlying bill had a very narrow purpose. Here, however, the underlying bill acknowledges the inadequacy of the existing law and administration sought to be augmented by the amendment, and puts in place a comprehensive new approach to the question of worker safety. In the opinion of the Chair, the amendment references those standards and sanctions in a manner not unlike H.R. 162. The Chair overrules the point of order and finds the amendment is germane.

The gentleman from Vermont [Mr. Jeffords] is recognized for 5 minutes.

Mr. JEFFORDS. Mr. Chairman, let me begin by commending Paul Henry for the excellent work he has done on this substitute. It is a solid alternative. More importantly, I think it is a much better alternative.

I want to explain to my colleagues why I am convinced our proposal will actually do more to protect workers health.

The first and most important reason is that the substitute focuses on prevention. H.R. 162 does virtually nothing to reduce occupational exposure to hazardous chemicals. Its approach is to tell you after exposure has occurred that you are at risk.

By contrast, the substitute requires that exposure levels be reduced for roughly 400 different chemicals. These are the chemicals now contained in the so-called Z-Tables. What are the Z-Tables? They are the list of the permissible exposure levels for some 400 chemicals which were set in 1970 and have not been changed since. We require that they be updated within a year in line with the current standards of the American Council of Governmental Industrial Hygienists.

At the same time, our proposal would build upon the current hazard communication standard by requiring the Secretary to look at additions to the standard such as tougher training requirements, better medical information, and summaries that can be read by the average working man or woman.

Our proposal would expand the hazard communication to workers who now are not covered, such as those in mining or transportation. Here we are talking about hundreds of thousands if not millions of workers. It would also stiffen the penalties for noncompliance with the standard.

To prevent occupational disease you simply have to reduce exposure. Hazard communication, which our proposal builds on, educates workers on the hazards in their workplace and trains them in how to avoid those hazards. The hazard communication standard itself is probably the most significant event in occupational safety and health since the passage of OSHA in 1970. It affects almost every employer, employee and consumer. Its startup cost is over a billion dollars and its annual cost will be several hundred million dollars.

That's a synopsis of what has been done and what we would do in the area of prevention under the substitute. But despite all that has been done in the area of hazard communication, and despite the additions our proposal would make in filling in remaining gaps, I think there is merit to notifying workers of their risk of occupational disease.

At the same time, I think we need to take a measured approach. I do not feel that we should plunge into full-scale, nationwide risk notification after a much more modest Federal pilot project was such a disaster.

If they were generalized, if we were to take experience there and take into consideration the 20 million or so notices that would be sent out we would have litigation that would be unbelievable. Not millions, not billions, but trillions of dollars of litigation if you took a look at what happened in that one case.

The Henry-Jeffords substitute contains an ambitious risk notification project which will probably notify more workers over the course of the 2 years than H.R. 162, but in a much more logical, orderly, fashion.

Why? Because the substitute proposal does not attempt to reinvent the wheel. The National Institute for Occupational Safety and Health, or

NIOSH, has already conducted close to 90 studies of individuals at risk of disease due to occupational exposure and has the names of some 250,000 people who were participants in those studies. Not all of these people could benefit from medical intervention. We estimate that under our proposal NIOSH would notify about 100,000 of the 250,000 people. The first notices would begin to go out almost immediately.

The benefit of this type of notification is that it could be done quickly and notice would go only to people we know something about. Our proposal would avoid the dangers of over-notification that are inherent in H.R. 162, as the notification would be far more precise.

At the same time, our proposal would establish a commission to study the impact of risk notification, both the positive and the negative. We could learn what, if any, medical benefits result from risk notification. We could also learn if the litigation that resulted from the Augusta pilot project was an exception or if it is the norm.

Sometimes pilot projects and commissions are established to duck problems. That is not the case here. The commission must report back within 2 years. By the end of that 2 years our proposal would result in far more notifications than H.R. 162. While we anticipate about 100,000 people will be notified within those 2 years under our proposal, I will be very surprised if H.R. 162 would result in a single notification during that period.

Why? Because we set up a new buracracy, new studies etc., let's assume H.R. 162 became law today. It would probably take the National Academy of Sciences at least a month to draw up a list of names, 4 months for the names to be cleared by the White House, and another month to pull staff together. OK, 6 months gone.

They work at breakneck pace and decide within a month's time that they want to issue a notification on a particular chemical. Under the bill, the first step is to publish notice in the Federal Register and allow a 60-day comment period. Following the comment period a hearing must be held within 30 days. A final decision is expected within 60 days. One year gone.

Let's assume that no one at any point will go to court to enjoin the Board. Given the fact that the affected industries will feel they have a gun pointed at them, this is not a very solid assumption. And the tortuous progress of the OSHA's health standards to date bears this out. But predicting the length of such litigation is difficult, so let's leave it aside.

How long will it take for NIOSH to pull together the list of the population at risk? According to NIOSH, 18 months. Under the scenario above, which does not even account for legal challenges to the Board's action, the first notice would not even go out for 2½ years.

I say all of this not to quarrel with the procedural requirements of the bill, but to make the point that the substitute will do more to notify high risk workers than H.R. 162 in the next 2 years. At the end of that 2 years we will have lost little. But we will have gained a great deal of knowledge on the benefits and problems of risk notification.

If our fears are unfounded, if Augusta was an aberration and risk notification results in medical improvements, little or no litigation problems, then I will support expansion along the lines of H.R. 162. But if we are right, then we would be well-advised to take our approach to notifying workers who are at risk of disease.

Just as importantly, in H.R. 162 we are talking about nothing more than a theoretical approach. It will be vetoed. Our substitute has the support of the administration. Unlike H.R. 162, it holds the very real potential to do something to improve the occupational health of our Nation's workers.

So don't cast an empty vote for H.R. 162. Cast a real vote for occupational health by supporting the Henry-Jeffords substitute.

□ 1430

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I know that the gentleman from Vermont does not want to leave this record in the state that it has reached now. First, the gentleman from Michigan used these numbers and told only part of the story, and I am afraid that the gentleman from Vermont has done it on two occasions. There has been much reference here to the Augusta pilot project which is becoming as real big red herring in this debate. That project did engender litigation. NIOSH conducted the program in Augusta. Eight hundred forty-nine workers were notified that they were at high risk of bladder cancer which is fatal without early intervention. Fifteen workers had confirmed cases of bladder cancer and another 22 showed signs of the disease.

Claims totaling $335 million were filed against the company by the workers and their families. Now the $335 million figure is a scare figure that we have heard over and over here again.

But the story goes on, as the popular commentator on the radio says, "Now we will tell you the rest of the story."

The rest of the story is what the company's actual liability out of this turned out to be. The company settled 120 of the 171 cases out of court for a total expenditure of $500,000.

Some $335 million in suits were filed by ambitious young lawyers. The company settled the whole schmeer for $500,000. Every other case other than those settled out of court was dismissed by the Georgia Supreme Court.

So the total payout for 22 cases of bladder cancer symptoms and 15 confirmed cases of bladder cancer, almost invariably fatal, was $500,000.

Now that has to be noted to put in proper context what we are talking about. We are not measuring these 37 lives against $335 million. We are measuring these 37 lives against $500,000, and 37 lives out of 849 people. God knows how many of the rest of the 849 people, without early medical detection and intervention, would have joined the other 15 in confirmed cases of bladder cancer.

Now if we are going to put on the scales of reason here the cost of litigation, against the benefit in saving people from death and permanent disability, let us put the real cost, not the imaginary cost that comes from the imagination of young lawyers when they file suit.

There is no limit to what you can claim when you file a suit. The real measure of damages is the amount for which you settle that suit or the amount that the court awards in a suit.

What we are talking about, for all of this cancer and all of the cancers that may have been detected early enough to prevent death is $500,000. Spread over 849 people I think that it does not take an awful lot of computation to determine that if we saved just a dozen or if we saved half a dozen people from becoming permanently disabled, with claims against the Social Security System as a result of disability or death, the taxpayers and other contributors to the Social Security trust fund have been paid back many, many times.

So contrary to the way it has been characterized, the NIOSH Pilot Program shows that this notification works. It shows that it has an economic payoff that is well worth the effort.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I think it is important to discuss the rest of the rest of the story for a minute. I think it is also important to point out what the legal fees were both in litigation with respect to the $335 million in claims and the litigation which is still going on, whether or not the insurance companies cover. These are all very real problems which still exist.

Mr. FORD of Michigan. Does the gentleman have any numbers on the legal fees?

Mr. JEFFORDS. Yes.

The total for the attorneys was $1 million paid out in attorneys' fees on both sides with respect to half a million dollars in settlement.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. FORD of Michigan. Mr. Chairman, the gentleman is an outstanding member of the bar, and I practiced a few years. Would the gentleman not say that it is a little bit irrational and unreasonable to be citing a case in which the attorneys' fees were 200 percent of the total recovery to all of the cases involved?

Mr. JEFFORDS. It embarrasses me, I would say that, Mr. Chairman, and I do not expect to get any accolades.

Mr. FORD of Michigan. I appreciate that and I, like the gentleman, share embarrassment for whoever in the Georgia bar is responsible for charging $1 million in attorneys' fees to dispose of the $500,000 package of matters. But that is not the issue before us.

Do not blame the workers or NIOSH for the overzealousness, if not greed of the Georgia lawyers.

Mr. JEFFORDS. If the gentleman will yield briefly again, we have no claim with the fact that notice of some sort is important to make sure that medical treatment is received as necessary. We are disturbed about the methodology of doing it. I would also point out that that company went bankrupt. In addition to that aspect, the insurance company—the claims against the insurance companies are still pending. So we have the ramifications which occur to a small business when this kind of notice which occurred in the Augusta case comes about. That is the point we were trying to make, not that it is not important to get notifications out. That is why we try to take what we believe is the more responsible approach.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has again expired.

Mr. FORD of Michigan. I would like to go to another dimension of the rest of the rest of the rest of the story. It is interesting to note that while this firm, the bankrupt firm, the ultimately bankrupt firm that the gentleman referred to, was sued, 700 other companies were involved in notification projects. None of them were sued. What was the distinct difference? The chemical at issue in the plant that we have been talking about here has been a known carcinogen since way back in the 1930's. It is a chemical banned in Great Britain and Switzerland since the 1950's. Perhaps it was because every other American company had discontinued the use of that product as a known carcinogen, but the Augusta plant continued to expose its workers to it, that made the difference in it, out of all of the 700 companies, being the one successfully sued.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I would be happy to yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I point out that under that particular study, that particular notice was only to one company, that was Augusta. There have been other pilot projects and studies done but the one which involved the litigation was to my knowledge only the Augusta situation.

Mr. FORD of Michigan. The gentleman will acknowledge there have been 700 such company notifications and only one company was sued.

Mr. JEFFORDS. Only one was notified in the manner to which we are referring. There have been other projects such as the asbestos workers and this is the only one where that method of risk notice was used which is the model that H.R. 162 utilizes, that is notice by the Federal Government.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment.

I am flattered that the administration and my colleagues have modeled their substitute amendment after my bill, but, unfortunately their version falls far short of both the intention and design of my high-risk bill, and it confirms that OSHA isn't doing its job.

First, their substitute would give OHSA $20 million to set up an Office of Hazard Communication within OSHA. This office would make sure manufacturers are being honest when they prepare material safety data sheets [MSDS's] explaining the hazards of the substances they produce. The office would also update the maximum worker exposure levels for 400 hazardous substances, which have not been updated since the early 1970's.

OSHA doesn't need the Henry-Jeffords substitute to check the accuracy of the MSDS's and update worker exposure limits, OSHA could do both of those things tomorrow, OSHA doesn't need a congressional mandate and $20 million to do these jobs, what it needs is a stronger commitment to worker health and safety.

Second, the substitute requires the National Institute for Occupational Safety and Health [NIOSH] to set up an interim notification program to notify 100,000 workers who were part of NIOSH mortality studies on occupational hazards. Unfortunately, another 150,000 whose names are known won't be notified. The substitute provides NIOSH with $5 million to do this even though NIOSH has requested funds every year for the past 3 years and has been turned down each time.

Again, I'm flattered that the substitute's notification is so similar to H.R. 162's notification program, but their version again leaves out some very important features.

The substitute's doesn't establish a risk assessment board of medical and scientific professionals to identify populations at risk. And, unlike H.R. 162, the substitute doesn't require medical monitoring of notified workers. Its supporters claim that a limited, interim notification program is sufficient because they believe that notification has not been proven effective.

On the contrary, NIOSH has already conducted three successful pilot notification programs which have successfully notified thousands of workers of their risks of developing specific occupational diseases.

In addition, a large number of private employers have instituted and maintained extensive in-house notification and medical monitoring programs; again proving that notification has already proven to be successful.

The third major problem with the substitute is that it doesn't include funding for regional health centers to provide professional advice and information to physicians and health workers involved with the notification program. So, under the substitute, there would be few training and information resources available to the doctors who will be working with notified workers.

A final and severe shortcoming of the substitute is that it creates a politically appointed risk notification study commission which would again delay for another 2 years the implementation of a comprehensive notification program such as proposed in H.R. 162.

As I've already said, there have been three Government-operated notification programs and a large number of individual company programs that have been and are successful.

All we're talking about here is delay, waiting for a political group to decide whether or not to take action while another 100,000 workers die and an additional 400,000 become disabled.

Finally, the substitute proposes spending $26 million to do jobs that OSHA could and should be doing. It proposes to study and test the notification process, even though it's been proven successful and cost-effective. And, it deletes features of H.R. 162 which are necessary to ensure success of the notification program, as I already mentioned.

H.R. 162 is significantly different from the substitute. It scientifically identifies and notifies workers of their risks of developing occupational disease; it provides for medical monitoring; and it offers information and training to occupational health professionals.

Yes, Mr. Chairman, imitation is the sincerest form of flattery, but an imitation is not enough to protect the health of the 400,000 workers who continue to be disabled each year and the 100,000 workers who die each year from exposures to hazardous occupational substances.

I urge all of my colleagues to oppose the imitation and support the original, H.R. 162—the best bill to protect the lives and health of American workers.

☐ 1445

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has expired.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague, the gentleman from Pennsylvania.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I do think the Members who are watching this, of course, want to see us agree on the facts, and I would be happy to submit documentation to the gentleman. In fact, the record should show that the Port Allegany risk notification project and the GM modelmakers and patternmakers medical screening process were both operated by the employer in combination with the union and were not Government notifications. The gentleman's point is that there may be some similarities, but there was not Government notice. It was an employer notice.

Mr. GAYDOS. Mr. Chairman, if I may point this out to my colleague, under the bill that same arrangement can be made. Under our bill, H.R. 162 as offered, the employer, if he so desires, can do the notifying. So if that bothers the gentleman, I guess they could do it that way.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, the bill actually says that the Government would do the notification, but if the Secretary approves on a case-by-case basis, then the employer could, but it would take a special circumstance. Under general circumstances it would be a Government notice.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has again expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Mr. Chairman, let me respond to my colleague and let me be very specific. Under the bill as written and before this body, an employer under any circumstances can opt to notify. That can be done under any other circumstances. All he has to do is tell NIOSH to follow his plan with NIOSH as he intends to notify.

There are certain ground rules laid out in the bill. For instance, we say that there cannot be any inflammatory statements made and it must be done in a proper manner, that they must do such and such, and if complies, he can notify. He can notify his employees, and when he does, that is his business, and if he wants to make sure that he is putting his best foot forward, he can do that, and if he is cooperating with them, then I have no problem with that. But the fact remains that on every notification every employer can do that and the Government would not make any notification. That is a possibility.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, that is correct as long as the Secretary agrees with it and does that on a case-by-case basis, but also only as long as the employer sends out the exact same notice that the Government would have sent out.

Mr. Chairman, I thank the gentleman for yielding.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to H.R. 162 and in support of the Henry-Jeffords substitute, in part because of the severe and adverse impact this bill will have on agriculture and in whole because of its effect on small business in general. When we think of occupational disease that is related by hazardous substances and processes, most of us see images of factories and mines, most of them in other Members' districts, and imagine that H.R. 162 will be limited in reach and beneficial in effect. No images could be more incorrect.

We have spent a good deal of time in this Congress, in the Agriculture Committee and here on the floor, debating ways to salvage the farm economy. But despite our best efforts on other fronts, H.R. 162 would be devastating to agriculture.

The enormous productivity of American farmers has come from a high degree of chemical and technical sophistication. The industry must rely on a variety of chemicals and other agents and processes that, if used improperly, could pose significant health hazards to the hundreds of thousands of farm workers who may encounter them.

American agriculture as we know it simply couldn't exist in the absence of most of these substances and processes. In most cases, protective regulations already exist and, as in most industries, workers simply need to be trained how to work safely.

For example, the EPA already regulates the use of defoliants, fertilizers, pesticides, insecticides, and fumigants under FIFRA. Besides duplicating the regulation of such chemicals, H.R. 162 would apply to any agent generated by or integral to the work process, as well as the work process itself. Grain dust in an elevator, cotton dust in a gin, and the repetitive motions in a slaughterhouse or processing plant all would be subject to H.R. 162.

Mr. RITTER. Mr. Chairman, will the gentleman yield for just one moment on that point?

Mr. STENHOLM. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, is the gentleman aware that the exposure to sunlight by farm workers in an outdoor environment puts them at greater risk to skin cancer; and that is probably on a statistically valid basis; and that it is quite possible that we will be forced to notify past workers who worked out in sunny fields and who may have a higher incidence of skin cancer?

Mr. STENHOLM. Mr. Chairman, the gentleman anticipates what I was about to say.

In fact, sunlight, being a physical agent integral to the workplace, and having been linked in medical studies to skin cancer, would be by the bill's own terms a hazard triggering notification, medical monitoring and counseling, and demands for transfer.

Now, I would be the first to admit that this borders on the ridiculous, and I do not pretend to say that the chairman of the subcommittee intends for this to be. My only point here is in pointing out that under the terms of the bill it is not litigation-neutral, and it is language like this that permits this kind of definition that causes me to be here and oppose so strongly H.R. 162 and support the Henry-Jeffords substitute.

But, under H.R. 162, where would farmers transfer the workers whose doctors want them removed from exposure to sunlight? Or from the possible exposure to the other possibly hazardous substances and agents in the farm workplace?

And let's remember, no matter how safe the workplace is today—whether farm or factory, ranch or retailer—H.R. 162 notification would reach back as far as 40 years, in the case of some employees. The resulting crush of medical expenses and litigation costs will be devastating, and not just for American agriculture.

This is a small business issue and one that we so often overlook on this floor when we begin to talk about the very real problems others have talked about.

Mr. Chairman, it has been suggested that agriculture be exempted from part or all of H.R. 162. Such a proposal would be flawed for at least two reasons.

First, if we admit that H.R. 162 would be onerous or unfair to agriculture, then how can we claim it is not onerous and unfair to a vast array of other industries?

Second, no matter how explicitly any one industry is exempt from any of the provisions of H.R. 162, creative plaintiffs' lawyers will be able to generalize from Government findings in other industries as they file suit after suit against employers in the supposedly exempt industry. They will cite the Risk Assessment Board's determinations dealing with construction workers exposed to sunlight or exterminators exposed to pesticides.

The example I cite of how H.R. 162 would be disastrous for agriculture is really just one more example of how this bill takes an overboard approach that doesn't take into account the practices of whole industries or individual employers.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

Mr. STENHOLM. Mr. Chairman, my appeal to all of my colleagues is to apply a commonsense approach. Quite frankly, there are some problems that I have with the Henry-Jeffords approach, but at least it attempts to take that which we already have on the books, with the very real and acknowledged need by this Member of additional safeguards for those employees in agriculture and elsewhere, to take those additional needs and attempt to work with them in a commonsense approach. But for heaven's sake, let us not take another shotgun approach. That would be devastating to agriculture and, more importantly, to small business in general.

□ 1500

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take the opportunity to, first of all, express some appreciation to the gentleman from Pennsylvania [Mr. GAYDOS], my distinguished colleague with whom I have worked on this measure for some months.

The gentleman has been eminently fair. We have some very substantive and real disagreements.

I want to thank the gentleman for the courtesies the gentleman has extended as we reach this point in our debate, but I guess almost ironically, I almost want to thank the gentleman for raising the point of order, and objecting to the consideration of the amendment in the nature of a substitute for the simple reason that it eloquently established the fact that the substitute has as the same fundamental purpose the protection of the worker in the occupational environment, that indeed the propositions addressed in the substitute are fundamentally similar, in that indeed no objection was raised for the fact that we do indeed establish new penalties on behalf of those who would violate higher new additional standards on behalf of the safety of the American worker.

In other words, quite frankly the nature of the objection which was not sustained by the Chair has very clearly established for all of the Members the fact that the substitute is indeed meritorious and well-intended in terms of being in keeping with the intent of the committee bill.

The issue before the Members once again is not whether, or even can we do something more to protect our workers in the workforce, but rather how best to secure this.

The gentleman from Pennsylvania made some rather disparaging comments that our substitute bill; for example, takes some pride, or we take some pride as sponsors of this measure that we immediately would update within 1 year promulgated new standards on the so-called Z tables.

Those standards pertaining to the most hazardous exposures that workers have in the workplace——

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding.

They have not been revised since 1970. They are so old that hair is growing on them.

Mr. HENRY. The gentleman is leading to my point.

The fact of the matter is, we found out that the litigative and posting process relative to this, it is taking on average something like 7 years per standard to update them.

What this bill does by legislative reference is, it mandates the updating by statute of 400 of these critical materials within a year.

It would do in 1 year what the present pace of OSHA updating would take, if I multiply 7 times 400, it would take us several thousand years into the future, so I hope the gentleman would understand that in fact this is a rather remarkable move in terms of our substitute immediately doing more for scores of millions of workers in the workplace than the gentleman's bill even contemplates in terms of the preventive hazard communication.

In fact, the gentleman's bill has no expanded hazard communication. The gentleman raises the question as to why we estimate some hundred thousand risk notifications in that risk notification portion of our proposal.

The reason for that is drawn from extrapolated, quite frankly, statistical inferences that out of 250 or so thousand workers, under these 600 or 700 NIOSH studies in which we know there were targeted populations who in fact were exposed to risk, and on whose part there is some reason to believe that some kind of risk communication program would be potentially helpful to them is the concern that roughly based on exptrapolation from past experiences, including the gentleman's pattern makers case, including our Augusta chemical case, including the experience with the Port Allegany risk notification done in conjunction with the labor unions and management, we are estimating about 10,000 of that 250,000 can indeed be reached.

We certainly do not preclude going after each and every one of those people whom we have reason to believe, under every available Government study, have been exposed to those kinds of hazards.

I also want to in a friendly way once again object to the rubber numbers that the gentleman is using relative to the health figures. The concept that 100,000 are dying.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HENRY. On several different occasions I have tried to point out that yes indeed, that estimate was made in one Government report.

It is also an estimate that the same agencies which have issued the report have subsequently repudiated it.

The National Cancer Institute repudiates those numbers. The Office of Technology Assessment repudiates those numbers.

I have here a very recent editorial from a science magazine, the American Association for the Advancement of Science, which approaches this whole issue very differently; and I will get to that later, time willing, pointing out quite frankly yes, there is an extreme in the medical community which would argue those figures.

It is clearly not the majority opinion in the scientific community.

That would suggest the figures, the gentleman's figures suggest that 38 percent of all cancers are occupationally induced and related, whereas the mainline of the scientific opinion is anywhere in the range from 5 to 15 percent. That would be the accepted standard.

That does not mean that we do not do everything we can in the workplace to address those 5 or 15 percent, but we should point out that these figures have been consistently repeated over and over again, but they are inaccurate.

We have had the same problem relative to the liability question, and that is a fundamental question. When we deal; for example, with the GAO report on this bill, and I quote from the report, and here is the problem.

"The potential number of personal injury and product liability lawsuits that might be filed against the Government and employers and the impact of a significant increase of such lawsuits on the tort system, the workers' compensation system, and businesses as a result of the legislation has not been fully assessed."

Indeed, it has not. That is why we have tried to establish a substitute that works with the system which we know, and in which we understand we are not creating undue risk.

I note the testimony of the Association of American Insurers, the American insurance association representing 80 to 85 percent of all the liability underwriting in the United States.

They say relative to the bill, first we believe there will be intense pressure on the workers' compensation system to presume the work-relatedness of each particular individual's illness for which a general notification has been issued.

Indeed that is exactly what has happened in the case of the patternmakers, or in the case of the Augusta Chemical.

The costs on liabilities have in many respects exceeded, in fact, the costs of medical monitoring, and any real loss to the workers.

Second, counting from the testimony of insurers, we are concerned that the actual notices will not be kept out of workers' compensation or civil proceedings, and indeed they are not under the committee's bill.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I would be pleased to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding to me.

I do want to make sure that the gentleman gets on record that earlier during the debate of the Augusta Chemical notification, and that is the only notification that has been a Government notification, although there have been in the whole country two other employer-based notifications, we seem to have lost track of the significance of that.

The significance of that was in the notification of 800-some-odd workers and ex-workers, there were 7 that already contracted, as I recall, cancer of the bladder, and 7 more that were screened and identified for it.

Of those 14 actual medical diagnoses, though, there is no dispute that there were 170 cases or lawsuits filed, and 120 claims actually paid, so the company actually paid out in this limited circumstance, actually paid out 120 claims against only 14 medically diagnosed cases of that particular occupational disease.

Mr. HENRY. The gentleman is correct, and that is also again one of the failings of the committee bill.

The committee bill precludes considerations of such things as behaviors and lifestyles. We found in the case of the GM patternmakers, in that instance the final disposition of that cooperative effort between Government, management, and the union was final conclusion that in fact the diseases being experienced on that line were not in fact occupationally related but behaviorally related.

Mr. BARTLETT. Mr. Chairman, if the gentleman will continue to yield, in addition, as I understand the committee bill which the gentleman has an excellent substitute for, in the committee bill, even though the actual notice cannot be used in a court of law, all the facts behind that notice and the fact of the notice not only can be used but it is likely it would be used.

Mr. HENRY. The gentleman is correct, and that is the problem. That is why the business and insurance, and even the legal community, warn us about the fact that the liability costs potentially overwhelm all the other aspects and costs of this legislation.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. HENRY. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to get back to the Augusta Chemical situation. That notification situation was based on a very rigorous set of guidelines; it had guidelines such as the duration and the level of exposures.

There was an accepted screening process for evaluating the effect of the exposure once you knew that there was such an exposure; also there was a surgical technique available to reverse the impact of harmful exposure.

Just think about this. All the Risk Assessment Board needs is a report saying that there is a statistically valid difference between the background level of people who are going to get cancer of a certain type and those who have been exposed to a certain type of chemical for notification to proceed.

It does not say anything about a screening method available, or the possibility of medical procedure to intercept the disease.

If one compares H.R. 162 with a situation which was very definite using all of the criteria mentioned above, it still resulted in 171 lawsuits out of 849 cases—20 percent. Say we hold to the 20 percent, and if there are millions notified, the 20 percent means hundreds of thousands of lawsuits. This country is presently bending beneath the weight of litigation.

We do not need a major new potential for litigation.

Mrs. BYRON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute.

First of all, let me say if the Jeffords substitute goes down in defeat, I want to go on record that I plan to offer an amendment that I have that would exempt small businesses of up to 15 employees from the medical removal provision of H.R. 162, if the company has made a good-faith effort to prevent occupational exposure.

The bill as it stands would now require employer payment of up to 12 months' pay and benefits to employees who must be removed from a job when the transfer cannot be arranged, regardless of the number of jobs that an employer is able to provide.

When a business has fewer than 15 employees, the possibility of an employee's transfer is significantly limited. How can it be expected that a business with so few employees should be able to create an extra space to accommodate an employee's transfer?

Fifteen is the number that has been used in the past as a cutoff for small businesses. I do not think in this day and age a 15-employee business is a small business. I think more in the realistic area is 50, but 15 is the number that has been used; and I have been advised that it has been used already in existing OSHA regulations, in civil rights legislation.

There never can be a magical number of what a small business can be to be protected. I feel that 15 is a number which the majority can live with.

I feel that businesses should, under all possible circumstances, afford proper notification and medical removal opportunities to qualifying employees. I do not feel, however, that this should take place when the business is so small in size as to render the transfer of an employee to another position, comparable in pay and benefits, an impossibility.

Should an employer transfer an employee in order to met his or her health needs? Yes, of course. In the case of an employer with so few employees, such a transfer would threaten the operation of the business, as it would for a company of 15 and fewer employees, then I feel that an exemption is in order.

Somebody asked me what the committee feels on this, and it is my understanding that they feel this is a friendly amendment.

☐ 1515

I want to go on record stating that if the Jeffords substitute goes down, that amendment will be offered by this Member.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mrs. BYRON. I am glad to yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I appreciate the gentlewoman yielding. We have discussed this, as well as other aspects of this proposal.

Let me simply say that it is somewhat ironic that for an amendment which is meant to come to the aid of the small business community, basically those whom it is designed to help have not been particularly supportive of it. I mean, I have received no communications from NFIB or the Small Business Alliance or from the Farm Bureau that this resolves their problem.

Let me say why, and I say this respectfully. The amendment suggests and talks about, for example, some kind of threshold where you would protect the interests of a small employer so long as the employer was making a good-faith effort to remove the hazard.

Well, obviously, in the case of agriculture, you cannot remove the Sun, if the Sun is the hazard.

On the other hand, you can protect against exposures, and that in part is what the problem is here.

So I would simply put up that there are some problems here that have not been resolved. I thin that is why the gentlewoman's amendment has not really at least received institutional support from the various communities it seeks to serve.

Mrs. BYRON. Well, Mr. Chairman, let me say that I think business should be responsible for meeting the health needs of their employees through proper notification and medical removal procedures. I do not feel that it is an overthreat to productivity and competitiveness of other small businesses. I do not think that it is feasible to expect a business of 15 or fewer to be able to transfer those employees, and yet I do feel strongly that a business does have a requirement to meet the needs of their employees.

Mr. RITTER. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentlewoman for yielding.

I want to express my appreciation to the gentlewoman for her at least trying to do something about the rather damaging impact of this bill on small business. The gentlewoman has said that 15 employees is a very small number. Most small businesses may be under 15, but a vast number of the most energetic, growth-oriented businesses in America today are these smaller and medium-sized businesses. They are the new kind of manufacturing firms that have lately grown up in America. The smaller, more flexible manufacturing businesses, are businesses of 15 to 200 or more. But these businesses will bear the full brunt of H.R. 162. For them there is no exemption.

Dr. David Birch from MIT has talked about this sector and the promise they hold.

I have a question. I have to wonder whether or not businesses might purposely seek to limit themselves. Let us say a business has got 10, 12, or 14 people and it is growing. It is going to be a big business someday.

The CHAIRMAN. The time of the gentlewoman from Maryland has again expired.

Mr. RITTER. Mr. Chairman, will the gentlewoman yield further?

Mrs. BYRON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Is it not possible, may I ask the gentlewoman, that small businesses would seek to limit their employees to 15 people in order to avoid the potential burden of H.R. 162?

Mrs. BYRON. I doubt that very seriously.

Mr. RITTER. Excuse me?

Mrs. BYRON. I doubt that very seriously.

Mr. RITTER. In other words, if a manufacturer wants to employ two more people, and go from 15 to 17 people, he'd have to figure the marginal cost that conformance with H.R. 162 would add to the balance sheet and what perhaps those two individuals themselves would add in terms of additional profit—then he'd have to subtract the gain from the loss. Perhaps it wouldn't be worth while to add new employees.

But I thank the gentlewoman for yielding.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for yielding. I respect the gentlewoman a great deal. She has shown a great deal of leadership on these and other issues, but it does seem to me that the gentlewoman will be offering an amendment which will help this body to understand what is wrong with the bill, because the gentlewoman does not, and indeed her amendment cannot exempt small businesses.

The CHAIRMAN. The time of the gentlewoman from Maryland has again expired.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield further?

Mrs. BYRON. I yield to the gentlewoman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for yielding, because this is an important point.

The gentlewoman's amendmemt, as I understand it, and I want her to correct me if I am wrong, because it is not up yet, would offer an exemption only from the section of the bill that gives a 12-month severance pay to a company with 15 employees or fewer.

Mrs. BYRON. The medical removal provision.

Mr. BARTLETT. So the gentlewoman's amendment only exempts that company from the medical removal provision. I thank the gentlewoman.

The Machine Tool and Machining Association has estimated a number of other costs that are in this bill that indeed are far more significant to even that one, even though that one is a very significant cost, and I applaud the gentlewoman for going in that direction.

I just want to be certain that the gentlewoman's amendment does not and could not exempt that small business from notification if the business is in a whole population that is found to be statistically at risk. Does the gentlewoman's amendment do that?

Mrs. BYRON. That is the medical removal procedure.

Mr. BARTLETT. Mr. Chairman, if the gentlewoman will yield further, does the gentlewoman's amendment provide an exemption from the cost of medical monitoring, testing and screening? Incidentally, the cost of notice by the Machinists Association is estimated to be $117. The cost of testing is estimated to be between $50 and $500 per employee. Are those testing and medical monitoring costs exempted?

They are not exempted either, are they? In other words, the company would still have to provide medical monitoring and testing for each and every employee?

Mrs. BYRON. Yes.

Mr. BARTLETT. That is under the gentlewoman's amendment?

Mrs. BYRON. Yes.

Mr. BARTLETT. There is more. This association has estimated a cost of about $20 each, they would have an estimated cost of transportation and food and lodging. Those costs would still be borne by the employer, as I understand it.

Mrs. BYRON. Yes.

Mr. BARTLETT. This association also estimates a cost of $133 per employee for the cost of idle equipment as the employees go off to be tested.

Keep in mind, as the gentlewoman answers that, that these are not employees who have a disease. These are not employees who are even indicated by a scientific or medical study to have a disease. They are simply in a population where they have statistically higher incidence.

Is that cost of idle equipment also exempted?

Mrs. BYRON. I believe that is correct?

Mr. BARTLETT. It is not exempted then?

Mrs. BYRON. No.

Mr. BARTLETT. Also is the employer in any way exempted from an increase in liability——

Mrs. BYRON. Mr. Chairman, the gentleman has in front of him a sheet of numbers. I am not sure where the gentleman got the numbers. I have not looked at those numbers. It is very difficult for me to say something is correct or incorrect, not having the numbers the gentleman is dealing with.

It is my understanding, talking with the staff, that the gentleman's numbers are incorrect.

Mr. GAYDOS. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the distinguished gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, let me get something straight in the record here. This business of asking this type of question is so fundamentally unfair. We talk about medical monitoring. We talk about examinations. This is what H.R. 162 provides for.

No. 1, if an employer is found to have on his premises a dangerous substance or a procedure, then he is subject to being notified and if he is notified, his only obligation under the bill if the employee after he gets notified wishes to have a medical examination, the only obligation the employer has is to provide that examination.

Now, the gentleman is talking about here we are going to do this and that, $30 here and loss expenses there.

The fact remains that the gentleman does not mention that under the bill the possibility, for instance, of bladder cancer, that the cost is $6 for a urinalysis and it is done every 3 years; so in that specific instance the employer pays $6 in a 3-year period.

Now, all this hogwash about here they are going to be doing this and then pick out the most assinine, or rather the highest expense as far as the medical costs are concerned, and try to attribute it to this, is foolish.

The CHAIRMAN. The time of the gentlewoman from Maryland has again expired.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. Mr. Chairman, obviously the gentleman has a list he is reading from cost by cost per se. My intent of the amendment, as the gentleman well knows, was to exempt a small business that has 15 employees or less from the medical removal provision, because it is a situation where it would be very difficult for those small businesses to operate in those capabilities.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. BYRON. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I will not read down the list, although I will be happy to make a copy available.

Mrs. BYRON. I would like to have a copy of the list.

Mr. BARTLETT. I think the important thing is to understand that the bill itself cannot be amended in a way that would do more than what the gentlewoman proposes, which is to exempt only from that medical removal.

Mrs. BYRON. That is right.

Mr. BARTLETT. I think the gentleman from Pennsylvania overstated what the board does a bit.

The bill would still mandate that the Risk Assesement Board identify and review and notify whole groups of populations, not reviewing specific companies, that is what the Jeffords-Henry bill would do.

The bill before us, and I will just quote from page 9:

> Functions. The Board shall review pertinent medical and other scientific studies and reports—

Not company specifics, for the whole population at risk, or going on:

> Identify and designate from this review those populations at risk of disease.

So the amendment of the gentlewoman cannot exempt a small employer from being a part of that population from notice and from liability and from other things, but only from that one removal provision.

Mrs. BYRON. Medical removal, as the gentleman well knows is a procedure by which an employer moves a worker notified of the risk of a disease from a position in which he is exposed to a hazardous substance, and that would take place after consultation between the worker's physician and the employer's medical representative. The worker would then be permitted a temporary transfer to another job without loss of benefits or decrease in salary.

As I said before, there are those companies which are small businesses with 15 or less employees that do not have the flexiblity to move those people laterally within their organization. That is why I proposed to remove them from this section of the bill.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield one more time, and I will be brief.

Mrs. BYRON. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I do thank the gentlewoman for bringing this up in debate because it does demonstrate all of the other things in the bill that cannot be exempted, which are the most onerous parts of the bill. I think the gentlewoman goes in the right direction to exempt that one provision, but the rest of the onerous burden of the bill that is utimately borne by the employers themselves cannot be exempted and the gentlewoman does not propose to exempt those other burdens and could not if she wanted to.

I thank the gentlewoman for the time.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute and in favor of the legislation.

I think it is fairly clear to all who are objective that American workers unfortunately are routinely exposed to highly toxic substances and chemicals in the workplace. I think it goes almost beyond good faith debate to try to trivialize the issue by making reference to the sun being the equivalent of methylisocyanate or something else that you will find in the workplace. That ranks right up there with those who have said that there is not need for pollution control because trees are the ultimate polluters.

I think it is fairly clear that we have a serious problem. It is appalling that we have waited too long to address it and this bill, quite candidly, is just a preliminary effort to try to deal with the key fact of notification. It does not even deal with removing the problem. It deals with mere notification, identification and notification; the rational expectation being that someone will be able to detect the problems earlier and then take remedial action to try to deal with the problem before there is a need for even greater expenditure from wherever they come to deal with health problems.

In a sense, this bill represents a natural extension of the Community Right to Know Act that was overwhelmingly approved in a bipartisan way last year by this Congress and signed into law by the President. The Right to Know Act provided essential comparable information to our communities living next door, as they might, to manufacturing and other industrial operations about the routine exposure that those communities may have to chemicals coming from those facilities that may cause short-term or long-term injuries.

In a sense what we are doing is extending that same fundamental right to the workers who work within the facilities that we have already granted to citizens who live around those facilities.

I want to emphasize and perhaps focus in on an aspect of this that is being allegedly addressed by the substitute that is being offered, the so-called liability crisis. The suggestion has been made that this bill will lead to enormous litigation costs. That is clearly not the case.

Our committee, the committee that I chair, the Subcommittee on Commerce, Consumer Protection, and Competitiveness, has been holding a series of hearings on the whole question of the need for the scope of Federal product liability reform and the issue of toxic exposure has played a critical role in our deliberations.

As I read this bill, H.R. 162, this will neither add or substract from the rights of workers who wish to seek damages in the State court systems for occupational diseases.

By contrast, the substitute will substantially, radically and dramatically change and curtail the rights of workers to seek relief from injuries that are currently being provided. Now, it is those rights that are currently provided in the State courts. This will effectively preempt the State rules of evidence that exist. We will be having the workman's compensation system changes. The State tort laws will be changed and we will have the somewhat perverse result being that workers who are notified who have substantially differing sets of rights in the State tort law system than workers who are not notified.

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I think that dual track system will be particularly strange. Likewise, we will have a system where workers who are notified as contrasted with workers who are not notified as contrasted with someone out on a road who is exposed to the same chemcial as a result of the truck accident, we will have three different sets of rights under State tort laws. For those here who are interested in State's rights, for those few States that I know already have changed their States tort laws, we are going to be undoing all that is going on at the State level as a result of this effective Federal preemption.

In a sense that is what some would want to do. I give no bad faith motives to anyone but some who might be supportive of this type of substitute are effectively trying to bootstrap intrusive Federal reforms of State tort law on to people of this country without any type of deliberation, without any type of understanding as to the ramifications of that very dramatic change in the laws of this Nation here at the 11th hour under an amendment that sounds somewhat innocuous, but in fact will provide for radical changes in the laws of our 50 States without the appropriate deliberations that I think these changes are certainly due.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from California.

Mr. BERMAN. On this point, and particularly that part of the statute that is referred to as limitation on noncompensatory damages, the discussion on the substitute about the liability explosion that could result from this kind of bill, in reality when you parse through all of that the gentleman has I think very accurately and incisively pointed out that his bill creates no new theories, no new causes of action for compensation for industrial or occupational diseases, no evidentiary standards or presumptions.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. FLORIO] has expired.

Mr. BERMAN. If the gentleman will continue to yield, but what the statute does is to say that if the California Legislature wants to provide a punitive penalty on top of its worker compensation laws for the employer who egregiously and seriously and willfully decides to expose his employees to poisonous substances with the resulting and significant and consequential injury to those employees, the legislature after their debate and their decision that this is a sensible thing to do because it might deter other employers in the future from egregiously exposing their employees willfully and consciously to that kind of injury, they cannot do it because it preempts punitive damages for anybody in this group that would get this kind of notification.

Furthermore, if they decide that either standing alone stress, or emotional injury, as a result of some occupational condition or as a result of a physiological injury that comes from an occupational injury or disease, and they also are within this high risk group that has been notified, the State legislature cannot decide to provide compensation to them.

Whatever happened to the argument that we see so much on that side of the aisle about the State legislatures being the laboratories for progress and innovation and decision and all of a sudden the Federal Government comes in and wipes out causes of action, theories of recovery, matters that State legislatures decided after debate and vote and all of that and decide it should be the law for workers in their States?

I think the gentleman from New Jersey [Mr. FLORIO] makes very good points.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. Mr. Chairman, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Let us get back to the legislation we are involved with instead of all this speculation that is going on.

First of all, mention is made of evidentiary changes as far as evidence and all that. The bill, H.R. 162, has almost the same restrictions on utilization of that language except in a couple of matters that this substitute does. I just point out on page 34, subsection (b), it lists them right there. So we are doing nothing in that regard to any great extent over and above what the bill does. It says it tries to make sure that these notices in some way are restricted.

Mr. FLORIO. Mr. Chairman, reclaiming my time, I would ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. FLORIO] has again expired.

Mr. FLORIO. I would ask the gentleman if he has any doubts that if the statute were passed, it would reduce the rights of the affected employees to equal access to the court system that they currently have now?

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I say to the gentleman, not equal access to the court system, but it would reduce the limit of liability of the small businesses that may get sued. There is a big distinction in that respect. We will not do away with compensation for actual injury or harm, bodily harm and that sort of thing.

Mr. FLORIO. Mr. Chairman, reclaiming my time, I thank the gentleman for his observations, but it is fairly clear that it is being stated that there is not any doubt that the Jeffords amendment, if it were to pass, would substantially reduce the rights that employees currently have under the existing law in the different States. Likewise, it will set up a dual track of remedy options to workers and we will have, ironically enough, transactional costs that we are all concerned about that are going to be far in excess of what the existing system of law is in the States because we are going to have workers in categories, workers that are notified and have certain rights, and workers not notified who do not have rights.

So at a time when all of us are very sensitive in the argument for competitiveness, of reducing transactional costs out of our tort law systems, here we have in this sort of semisurreptitious way an effort being made to change the State laws in ways that are going to not only diminish the rights of employees currently but, over and above that, we are going to tack on added costs to the court system to try to divine what these new rights are, how the court system is going to attempt to deal with those new rights. Over and above that, this is not the way to deal with this radical change in the State tort law at the 11th hour without a whole lot of notice being given when there are other committees that are looking very deeply into any types of changes which should be made in this area.

I have to say that the bill is a good bill. There may be some argument at some point after real committee deliberations on changing the product liability laws, the tort laws, but this is not the way to deal with it.

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Michigan is recognized for 5 minutes.

There was no objection.

Mr. HENRY. Mr. Chairman, I do want to respond to the previous speaker because quite frankly he addresses some of the more contentious and also fundamentally important issues of the choice before us.

The speaker previously stated in essence what our bill does, but not so much in the area of worker protection, but then points out that, year, the bill as reported by committee establishes this new comprehensive program of risk notification. Then he went on to say, and I quote, "It is too bad it does not do more. It does not deal with removing the problem itself."

That is the whole point of the substitute. The substitute does. The substitute does seek to remove the problem itself by preventing the kinds of exposures that yield to occupational illness and injury in the first place. It is preventive.

At the same time the substitute also by incorporation references in all of that universe of 250,000 workers and some 700 NIOSH studies where at this point in time we have reason to believe there are workers who formerly did have exposures that ought to be triggered into some kind of risk notification.

So, yes, we do risk notification but on a much more guarded approach to see what we can learn from it because of some of our concerns on the liability issue but we do solve the fundamental problem that the gentleman himself addressed. We do indeed deal with removing the problem by protecting against the exposure in the first place. We do that much more substantively. We do it dramatically and I point out the committee's bill does not do that at all.

Second, the gentleman raises the issue of preemption of State and local authority in the area of hazard communication and right to know.

I would ask the gentleman, and I ask him in good faith because I am sure he makes the statement in good faith because the statement has been made so often, where in the substitute is that? I would like to know where in the substitute we do that?

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. HENRY. I yield to the gentleman from California on that point.

Mr. BERMAN. At the bottom of page 15, limitation on noncompensatory damages, line 20.

Mr. HENRY. No, I will come to that point next.

Mr. BERMAN. If the gentleman will continue to yield, this is a preemption section. This says no person may bring any claim under State laws and without regard to what the State laws may provide, actions for punitive damages, for emotional harm, fear of diseases, stress, or other nonphysical injury connected with or separate from a physiological illness or injury.

Mr. HENRY. Mr. Chairman, reclaiming my time, I would be very glad to come back to that issue. I want to establish the issue that we do not prempt in any way a State and local right to know or hazard communication statute.

What I believe both of my colleagues may be concerned about is do we remove rights in law, rights of recovery for damage, for injury, for workers' compensation?

The answer to that is no.

What we do is, granting that the bill and that a process of expanded risk notification in which our bill steps as well as the committee's bill, although in a different manner, and our bill has expanded hazard communication, what we do is block off new entries based on the notification itself as being a basis for a stress claim. But we in no way diminish any existing right under law for any demonstrated injury under existing worker's compensation.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, that was a nice effort, but the fact of the matter is it is fairly clear, and the gentleman from California [Mr. BERMAN] just read off the specific rights that are preempted to go to court to recover under existing laws in the different States, whether it be punitive damages or the other points that he made.

So there is no question but the absence of your substitute in law provides certain opportunities in the States for employees to recover. The passage of your substitute will preclude that.

I do not know how one can varnish it up, and one can say anything but the workers will be less well off in terms of their opportunity to recover for damages in the courts if this substitute passes.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, this is from H.R. 162, not from our substitute. It is from H.R. 162. On page 34, line 8, "In connection with any claim for compensation, loss, or damage brought under State or Federal law, the following may not serve as a legal basis for or be introduced as evidence in connection with such claim: (A) a finding or determination of the board, * * *", and then down to (B) "evidence that an employee or employee population is or is not about to receive notification under this Act; and (C) evidence that medical monitoring or evaluation is or is not to be initiated under this Act."

Certainly if my colleagues want to talk about State law it is evident that it is the same.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. JEFFORDS. If the gentleman will continue to yield, we admit we do try, and with respect to stress claims, those claims which result from people that have no problem with respect to exposure, but because they have received a notice may become anxious and that is one of the greatest areas of abuse by the use of the legal process, and that is by coming into court and making those claims. Those are the ones that end up getting settled, and that is what costs the greatest amounts of money. That is the reason we spent $2 million for lawyers' fees in the Augusta case and $500 million for compensatory claims. That is the kind of thing that we want to prevent. We do not apologize for putting a limitation on that or on punitive damages. We are doing nothing with respect to the other kinds of damages that the bill itself does not attempt to do. We are not attempting to abrogate State laws in that regard.

If they have actual damage under workman's comp, or actual damage under tort law, they have their rights and they are protected.

With respect to stress claims and with respect to punitive damages we do our best to try and prevent that kind of litigation from decimating small business and from making the lawyers wealthy and the rest of the workers poor.

Mr. HENRY. Mr. Chairman, first of all, for purposes of our subsequent discussion I want to reiterate that there is no preemption in terms of State and local hazard communication or right to know. We are silent on that. We do not touch the law.

What we do is expand what is required in hazard communication and initiate carefully established risk notification.

The gentleman's concern apparently rests on this stress issue which we do indeed attempt to block off, but what we attempt to block off is only stress based on the fact of notice, not stress based on the fact of disease.

Remember that this is a very very serious problem in workers' compensation. Mr. Chairman, 27 States now allow for compensation based on stress, 15 precent of all workers' compensation claims paid out in the last couple of years in the 27 States that allow this have been based on stress related claims.

□ 1545

Now should the employer be responsible for workers compensation based on stress that the communication that "you were at risk" does when you are going to be in instances, possibly, very possibly communicating with hundreds of thousands of workers for every worker who in fact has a real disease and a physiological basis for a claim. There is the issue.

Mr. BERMAN. Mr. Chairman, will the gentleman yield for a clarification?

Mr. HENRY. I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I appreciate what the gentleman is saying. That is a very different provision than the one that has been referred to.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. BERMAN. Mr. Chairman, will the gentleman continue to yield?

Mr. HENRY. I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding further.

Mr. Chairman, the position the gentleman articulates that all he is seeking to do is not allow it to be a cause of action in a State court for distress that one gets from the notification that he was working in a place where he had a high risk of suffering from an occupational disease is a very different provision than the one that is written in here. I would suggest that somewhere in the drafting of this there was the intent, it is very clear, to wipe out the ability of individuals who learned about occupational diseases because of the notice to bring claims for emotional injury, for stress and if the employer—and in some States you have laws which say where—an employer willfully, intentionally, consciously, egregiously subjects his employees to hazardous situations, he is subject to punitive damages, you wiped that out as well. If that is not what is intended, that is very nice to know except a very clear and unambiguous reading of the language is to the contrary.

Then the gentleman is also saying—I would like to add just this one last thing and then I will sit down—what that does I think gets to the heart of what the liability concern is by the opponents of the bill and supporters of the amendment. You and the proponents of the substitute are nervous about people who do not now know that their disease, their malady, their perhaps life-threatening concern is occupationally related, will get notice of this and will seek the remedies that the law already gives them. I understand that concern. But surely in the balance of what we are trying to obtain with workers compensation laws and OSHA requirements, we want people who suffer these injuries to get the compensation, the health care, the replacement for wage loss that they are now suffering.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. JEFFORDS and by unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. JEFFORDS. I just want to say that we apparently are doing nothing that the committee itself did not intend to do with respect to stress claims. Let me read to you from the committee report on page 15, the bottom of the fourth paragraph: "Thus, for example, claims seeking compensation for stress, fear of disease, or emotional harm arising from the notification process would be barred."

That is the committee report on the bill.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I would be pleased to yield to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. I thank the gentleman for yielding.

Attempting to mesh stress claims and the rest of the bill is just not a legitimate approach because I will put you to the language on page 15, line 23. It says, "Any claim," "No person may bring any claim for punitive and other noncompensatory damages." It is the section above that that deals with emotional harm and stress claims. So we are not just knocking out the ability to deal with punitive damages on stress claims; any claim would be knocked out.

Mr. JEFFORDS. Well, turn the page.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has again expired.

By unanimous consent Mr. HENRY was allowed to proceed for 2 additional minutes.)

Mr. FLORIO. Mr. Chairman, will the gentleman continue to yield?

Mr. HENRY. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

This is something that I just read as I was sitting here.

I turned the page, "This prohibition against any punitive damages applies whether the party bringing the claim has been directly subject to the report, finding, notice, evaluation, decision, act or omission." In a sense, what we are saying is that even if you are not informed pursuant to the bill you are wiped out from your ability to bring a claim under the State law that exists right now. That is something that is indefensible. I gave you more credit, I gave the proponents of the amendment more credit than was due when I said before they were giving more rights to those who were informed than those who were not informed. I apologize to the House. You were giving no rights to anybody. You were knocking out the rights to bring punitive damage claims for anyone whether they were informed about the situation or even if they are not informed, they are precluded.

Mr. JEFFORDS. It does not say that and the gentleman knows it does not say that. It says, "Based upon the material in the report supplied," which is in the report supplied, if they have other medical evidence that they have that can demonstrate that they are entitled to a claim, they are entitled to a claim.

Mr. FLORIO. May I ask the gentleman where it says that.

Mr. JEFFORDS. But you cannot use the notice procedure to do that for you. You cannot just let the Federal Government do your work for you as a lawyer. It means that if there is evidence there, if there is a damage and you can show it from the records of the business that there was an exposure, you have a case. But you cannot go and use the notice or the basis of the claims—rather the studies that were done to demonstrate that notice ought to be given as part of your case. But if you can show exposure, if you can show the chemical was there, if you can show that you were in the business and if you can show you have a disease related to it you are open to any kind of claim you want to make under existing law. And that is not barred, and it is incorrect to say that it is.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Henry-Jeffords amendment.

Mr. Chairman, it is a given fact that employees exposed to known hazardous substances in the workplace should be so notified, and that all precautions should be taken to reduce any such hazard. In fact, this is so taken for granted that the Occupational Safety and Health Administration already has a program to notify individuals of hazards.

I happen to represent some of America's finest farmers. Farmers who have suffered greatly, but are now beginning to see an end to the tough times that have hit U.S. agriculture. However, unless the Congress wants to send many of our farmers back to the days of deep recession we should vote down H.R. 162.

Virtually every sector of agriculture would be affected by this bill. Just about every chemical now regulated by FIFRA could trigger notification, as could the dust produced in cotton, grain, forestry, and other operations. The repetitive motion in a poultry processing plant or a slaughterhouse could give rise to notification, as could just about any kind of field work. And there is no limit to how far back the Government could look. Notices could even go out on substances or processes that are no longer in use.

Employers must bear the cost of medical monitoring if they are responsible for any fraction of the exposure giving rise to the notice. And the employee's doctor, subject to a second opinion, can require that the employee be transferred to another job. If no such job is available, the employer must provide a year's paid leave to the employee.

The liability expenses could be tremendous. In the one pilot project where the Federal Government notified some 800 workers of a nearly bankrupt company, some $335 million in claims were filed. While most of the claims were settled or dismissed, the transaction costs were substantial and continue today as the issue of insurance coverage is still in the courts some eight years later.

Mr. Chairman, everyone agrees that the rights of employees should be protected. But, clearly, Congress should not be in the business of creating a duplicative and costly Federal program that would harm U.S. agriculture and other small business. The High Risk Occupational Disease Notification and Prevention Act should be defeated.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding and I rise in support of the amendment and in opposition to H.R. 162.

Mr. Chairman, I support the amendment because it strengthens the notification and training requirements in current law and therefore better protects current employees. It also begins the very important business of retrospective notification of people who have in the workplace been exposed to hazardous substances. But there are two things this bill does that have not been sufficiently discussed in my estimation and cause me great concern.

First of all, the bill provides new benefits to workers who are neither sick nor injured. It provides better benefits to people who have been merely exposed than to workers who have been demonstrably injured or sick or laid off. Of course a physician must recommend that an employee's job be changed. But under today's circumstances I ask you what physician in his right mind who has a person come to him and say, "I have received this notice, I am exposed, I am working, don't you think I ought to change my job so I am no longer exposed?"

What physician under today's circumstances would recommend, possibly, anything other than that job be changed?

If that employer cannot change that person's job and pay him the same amount and provide him the same benefits, then that employer must provide him 1 year's salary and benefits. Now nowhere in current law for unemployed people, for disabled people do we carte blanche provide a year's salary and benefits. And this is for someone who has merely been exposed without any evidence of damage through that exposure to their health.

This remarkable benefit that creates such a disparity now in our law in terms of access for injured parties disturbs me greatly and is an indication, I believe, that this issue is not thoroughly thought out and not one we should be acting on today.

It is one of the reasons I support the substitute.

But the second concern that I have is equally important. I have fought on this floor many, many times for buy American protections, for trade law reform, for all kinds of things that I think are essential to preserving basic manufacturing in America and to help basic manufacturing in America become competitive or retain, where it has some competitiveness, those advantages.

This bill will levy a very heavy penalty on all the manufacturers in America because who is going to be notified under this bill? Where are the list of employees that will receive notification of risk from the Federal Government? They do not exist. They are not anywhere. The Government does not have them and the private sector does not have them.

Who has the very best lists of former employees? This bill requires notification of employees who have been exposed to a certain kind of substance. There are no lists of employees who have been exposed to a certain kind of substance. We do not have lists of past employees of the businesses in America anywhere in our Federal Government. We certainly cannot differentiate on those lists between those people who worked in the front office and those people who worked on the floor, those people who worked in one of the manufacturing facilities of a major manufacturer versus those people who worked in another facility where they did not use the material that is now a source of concern to us.

So in fact there are no lists through which people can be notified of exposure.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

Mrs. JOHNSON of Connecticut. Will the gentleman yield further?

Mr. ARMEY. I yield to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding further.

Now if we use existing list capability in our society, without question we will be notifying the former employees of the most heavily—we will be notifying the employees of those companies that have had retirement benefits for the longest period of time. Those are primarily the unionized manufacturers of the Northeast. Consequently this bill will impose a burden on the unionized manufacturers of the Northeast and Midwest that is considerably heavier than any burden that might be imposed on manufacturers in the rest of the Nation, much bigger than any burden that might be imposed on any small manufacturers who had no retirement plans and therefore have no records of past employees and it will impose absolutely zero burden on Toyota's new car manufacturing plant or FHE's bearing plant or any of the foreign manufacturers who have built plants in America to compete with America's essential industrial industry manufacturers in America.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, the gentlewoman makes a very important point. Foreign manufacturers, not just new ones here in the U.S. but foreign manufacturers abroad are going to reap great competitive advantage from this effort. The gentlewoman talked about America's basic industries, industries with lots of retirees. We are talking about the U.S. steel industry. The U.S. steel industry, the American Iron and Steel Institute has put out its overview of this bill and what it could mean and they say point blank it is a catastrophe. They talk about a cost of $1.5 billion to somehow meet the requirements of this bill because of all those retirees out there, because every major manufacturer in this country is a chemical industry.

Mr. ARMEY. Mr. Chairman, if I could reclaim my time.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 5 additional minutes.)

Mr. ARMEY. Mr. Chairman, this has been a good debate and I did want to make my points. You know, as a member of the Committee on Education and Labor, we have seen a great many pieces of legislation coming before us this year. I count eight bills in all that have been before the committee that are endorsed by organized labor, indeed pushed by organized labor and almost without exception for each of these eight pieces of legislation what we find is something that was running contradictory to two of the major concerns of the American business community as it affects that community's ability to provide jobs for the American working men and women. And those two concerns are, first, litigation; this Nation is falling under a storm of legal papers. We are proving that American business cannot compete with Japanese engineers when they are drowning in a sea of legal papers provided by American lawyers.

□ 1600

And this bill here intends again to create that sea all over again, a whole new realm of litigation, and we are talking here about a pound of cure applied against an ounce of need.

Yes, we know there is a need, and we do not want to deny that this is a serious concern. But this bill does not respond to the needs of the working men and women of America to be safe from occupational hazard. It responds to the needs of the lawyers of America to live comfortably off the backs of the working men and women.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I would like to state that I support what the gentleman is saying. I want to make clear that the American Iron and Steel Institute in its report, summing up some $1.5 billion in costs from this bill, states that the liability exposure, which is uncertain and unknown, is not part of the $1.5 billion. They are talking about $47 million annually for complete medical examinations in connection with monitoring, $358 million for the costs associated with removal from one position to another for alleged medical reasons, and attendant wage rate retention, and $1.7 billion as a conservative estimate of the potential for workers' compensation and tort exposure for claims and unknown costs for the legal defense of the massive numbers of worker's compensation and tort claims.

I do not have to tell my colleagues that the American steel industry is hanging on by its fingernails, and that anything like this could shock it into oblivion.

Mr. ARMEY. Mr. Chairman, may I reclaim my time?

Mr. RITTER. I happen to represent Bethlehem, PA, and I do not want to see the loss of the U.S. steel industry.

Mr. ARMEY. Mr. Chairman, if I may reclaim my time, let me say that I thank the gentleman for his remarks, because that is my second point. We are trying to be competitive in a world economy, and this bill is going to destroy jobs and, in particular, manufacturing jobs, and it will do so, as the gentleman mentioned earlier, by adding a margin of costs that shuts down firms. These are the facts of the matter.

The gentleman from Michigan [Mr. HENRY] and the gentleman from Vermont [Mr. JEFFORDS] have studied this issue in great detail. They are accurate in their presentation of the case. They have presented an alternative to H.R. 162 that we should support. In a responsible way, we can provide an ounce of prevention for those occupational diseases and hazards that people may encounter rather than to beat American business down, beat down the employment level for American men and women, take away jobs, and destroy them with this excessive bill, which is a pound of cure for the ills of the AFL-CIO and its failing membership and the American legal profession in its greedy attempt to drum up business for itself.

We have seen this already today. We have examined it. Here I have a brochure put out by the Occupational and Health Legal Rights Foundation of the AFL-CIO. In anticipation of this law, they sent out a brochure, and that says, "Find out how to take your occupational disease claim to court." They are already standing in line.

We had a tragic accident not too long ago at Dallas-Fort Worth International Airport in which many lives were lost. The most tragic thing, in my estimation, was the pathetic example of greed that I saw when each and every hotel in the area was filled within hours with lawyers. We had the example of a priest in Detroit. This was a person who dressed himself up as a priest in Detroit and who masqueraded in Detroit to identify the families of victims for lawyers.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has again expired.

(On request of Mr. RITTER, and by unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. RITTER], and I will yield to him in a moment.

Mr. Chairman, let me say to the Members, if they believe in protecting the working men and women of America from occupational disease and hazard, if they want to find a way to remove the hazard before the fact, then they should vote for the Jeffords-Henry substitute. If they believe in burying America's competitive ability deeper under a sea of legal paper for the benefit of the unions and lawyers and in disregard of the rights of the men and women of America to keep, hold, and have jobs, then they should vote for H.R. 162. The choice is very clear.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am happy to yield first to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Henry amendment and in opposition to the bill.

Mr. Chairman, I rise today in support of the Armey substitute and opposition to H.R. 162, the High Risk Occupational Disease Notification Act of 1987 and particularly to the liability nighmare it would create

At a time when Congress should be trying to stop the liability explosion, it instead considers legislation that, if passed, would fan the flames.

Proponents of this bill claim it is liability neutral and point to the provision that makes Cabinet Secretaries, department officers and employees of the Federal Government immune from any action seeking monetary awards arising out of an act or omission in performance of their duties that is in violation of this bill. What they fail to point out is that the Federal official can be held liable if it is determined that the act or omission was a "knowing and willful" violation of the act.

Mr. Chairman, this "knowing and willful" standard is a prescription for disaster in a system where lawsuits are routinely brought against individuals for the most tenuous connection to the actual incident of wrongdoing. The window of opportunity this qualified immunity creates would surely be abused and exploited, forcing Federal officials to waste valuable time and taxpayer money defending themselves in a court of law while real hazardous notification goes undone.

The larger liability problem lies in the thousands of needless lawsuits that will be brought as a result of notification by the Government that a worker is at risk of disease. Proponents of this bill argue that pilot notification projects have not resulted in huge awards and most cases were later dismissed. What they do not consider is the cost incurred by small businessmen defending themselves against suits and the strain these suits have on an already overburdened court system.

Mr. Chairman, the bill presented today is duplicitous in that notification standards already exist and are enforced. It is court-prohibitive and anticompetitive, and it would needlessly alarm thousands of workers who are not at risk. But perhaps of even greater importance is the adverse impact this legislation would have on the liability explosion that is burdening our society so heavily, from businesses and professions, to local governments and volunteers.

Mr. ARMEY. I am happy now to yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I would just for a moment take issue. I do not think this bill is here for the benefit of people who work in labor unions. I frankly think that people who work in labor unions are going to be hurt when their employers at the margin have to put the kind of funds and investments into litigation and legal fees that will be necessary in handling this new liability explosion. That is where union members are going to be hurt.

Mr. ARMEY. Mr. Chairman, the gentleman is absolutely right. Union members, nonunion members, youngsters trying to get into the world of work, people who work with their hands for a living in manufacturing, all the American people who desperately need their jobs and cherish their jobs will be hurt. Union bosses will benefit. That is a substantial difference.

Mr. Chairman, I say to this body that if the leaders of American unions will not represent their workers and insist on pushing this kind of legislation which will steal away their jobs, then we have a responsibility to represent the working men and women of America by voting for the Jeffords substitute.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Jeffords amendment and in support of H.R. 162.

Mr. Chairman, I would just like to respond to several issues that were mentioned. Frankly, the moment of truth is here. If we vote for the Jeffords amendment, in my judgment we would gut the bill. We are really at a point where we are talking about the productivity and the morale and, most importantly, the safety of the American workplace, and we are talking about the majority of Americans of working age in this country who ought to be concerned about the risks involved in their working environment.

Mr. Chairman, I heard one of my distinguished colleagues, one who is a good friend of mine, indicate that it is almost impossible to do studies, and so on. Well, the National Cancer Institute in 1979 or 1980 was so concerned about the environment of the American worker that they did a study, and they were allowed to conduct the study by using the Social Security numbers of American workers. They did the study and the polling through the distribution of Social Security numbers and checks from our own administration. They did a study, which is a simple thing to do, asking individual workers in this country whether or not they ever worked in an environment where asbestos was being either produced or used, and indeed they found out through the study, through the fact that many people responded to this study, that they were affected. Many lives were saved by this study.

Frankly, this is really what the bill before us is all about. I think it is high time that workers became aware of the inherent risks of their employment. For years American workers in industries, especially heavy industries, have been repeatedly exposed to processes and substances which caused terminal illnesses.

If you are from the Midwest of this wonderful, great country of ours, you must know that the Great Lakes region has the highest cancer rate in this country. Why is that? One reason why, I am positive, is that workers were exposed to hazardous conditions in the workplace and they were not corrected. The workers were not even warned about it. All we have to do is take a look at the deaths and sicknesses suffered by asbestos workers, among others. Substantial evidence has shown that many companies unfortunately were aware of the dangers associated with exposure to asbestos but failed to inform the workers of their risk. Certainly they could have provided safeguards.

So the issue is not, as my friend, the gentleman from Texas, said, between having jobs and not having jobs. The issue is that we want to keep the jobs for Americans, but we love the American worker and we believe that the American worker cannot work in an environment that prohibits their productivity, that prohibits their morale because the environment they know is not safe.

So this bill is a reasonable compromise to say that what we ought to be doing is to take a look at the potential risk and simply notify the workers that this environment may affect their health, and hopefully the companies, in good faith, as they have done in the past, would correct the environment, and then not only would the morale and productivity of the American worker be improved but the economy of this country would be improved.

So it is really important, despite the fact that I have the greatest respect for my friend, the gentleman from Vermont [Mr. JEFFORDS], and I think it is critical to the passage of this bill that we vote against this amendment. It comes up right up front, and we are called to the task of saying that we want to defend the rights of American workers and we care about their health. That is the issue. Cancer is a hazardous problem that affects so many people, and we know that we can now cure cancer and arrest cancer if we know about it when it is in its infant stages. So why not tell people? That is what we are saying. It is a simple, reasonable approach.

So, Mr. Chairman, I want to compliment the subcommittee chairman and the members of the committee who had the courage to speak out and support this bill. I honestly think that the wrong approach is to water down the bill and really make it thoroughly meaningless. So I hope we will vote against the Jeffords amendment.

Mr. JEFFORDS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair will inquire, the gentleman has already spoken, has he not?

Mr. JEFFORDS. Mr. Chairman, I spoke when I introduced the amendment. I believe I have a right to strike the last word to close debate.

The CHAIRMAN. Without objection, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 5 minutes.

There was no objection.

Mr. JEFFORDS. Mr. Chairman, we have had a long and hard debate here. I think it is now time to look back and try to talk about the basics here on each side and see what we are trying to accomplish.

There is no dispute that we ought to notify former workers. The question is how. There is no dispute that we ought to try and provide some sort of medical help. The question is how.

There is some dispute as to whether or not more ought to be done at this particular time in the prevention role. We believe that the substitute, which does a great deal to try to expand the protection of existing workers and prevent the kind of problems which we have been talking about today, is much superior in that regard.

We do a number of things in our amendment which help the present workers. We expand the coverage under OSHA to take in other areas, to include thousands, if not millions, of workers in the transportation and the mining industries. We also upgrade the Z tables, that is, those tables which were established some time ago which have not been upgraded, a list of those hazardous chemicals about which we are concerned here today. We give the Secretary authority to do that. There are only 400 on that list today, and there could be thousands on there after that is done. We employ training to ensure that the workers in the plant and the employers know how to deal with the problems of occupational diseases and their causes. The Secretary is required to recommend monitoring when it is essential, depending on the type of exposure. We create the Office of Hazard Communications in order to deal with a serious problem and ensure that we provide maximum protection to our workers, present and future.

□ 1615

We do a great deal. H.R. 162, all it does is by threat of litigation ask the employer to be so scared that he might do something.

We require him to do it under the regulatory process. We also are concerned about the prior workers, and our proposal has significant advantages over notification. That is the important thing to me.

There has been a lot of talk about things which are really irrelevant to the key issues. We say that rather than use the model which was a disaster, the Augusta experience, and model the whole Federal program, and that program cannot go into effect for 2½ years, why not take that group of workers, we already know who they are, some hundred thousand, that we know the kind of exposure they have had, we know that they are being subjected to possible disease, notify them and do it in a way that will be responsible with the employers concerned and with the workers.

Help them find out whether or not they do have a problem. We would have those notices out in a matter of months. We have to wait 2½ years under this other bill before the first notice goes out with all of the new bureaucracies created and the unnecessary steps which have to be gone through, in view of the NIOSH studies which have already been done.

This substitute has the tremendous support of the administration. Why not vote for something that is reasonable and will get enacted into law and not something that will be vetoed?

We believe that the substitute does all of the things that H.R. 162 is expected to do, except create the tremendous litigation problems which we are sure that H.R. 162 will do following the model that was used in Augusta, GA.

I want to close by letting the gentleman from Michigan [Mr. HENRY], who was such a substantial help in modeling this substitute which does a creditable job to all of the Members in this body in knowing how the process ought to work, speak.

All of the witnesses that testified against H.R. 162 that have spoken that way would support our substitute.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I express my appreciation to the genteman from Vermont, and also my appreciation to the gentleman from Pennsylvania [Mr. GAYDOS], the distinguished ranking member on the subcommittee whom I have gotten to know and appreciate during our debate, and in working on this issue.

In closing, some very critical issues very quickly, our bill indeed addresses the very problem which the gentleman from New Jersey [Mr. Florio] raised in terms of addressing the problem which ultimately creates the demand for risk notification.

Our expansion of the hazard communications standard would incorporate and protect roughly 13 million additional workers above and beyond those presently under the OSHA statute.

No. 2, we not only broaden the population which is put under the protections of the OSHA standard, but we significantly increase the degree of protection that broadened that universe by updating the Z Tables for over 400 substances.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 1 additional minute.)

Mr. HENRY. Mr. Chairman, will the gentleman yield further?

Mr. JEFFORDS. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding.

In the eyes of the Government, it costs less. In the eyes of the business community, it costs less.

Our substitute does not threaten American competitiveness or open up needless liability exposures; and it also establishes a principle of immediate implementation of a focused risk notification system that will reach more workers more quickly than the committee bill.

I ask the Members to vote for the substitute.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 162, and in opposition to the Jeffords-Henry substitute.

Mr. Chairman, disease and disability caused by substances found in the industrial and commercial workplace result in some 100,000 deaths and disable up to 400,000 workers every year in the workplaces of this country. Each year, according to U.S. Labor Department estimates, these deaths and disabilities cost American taxpayers $5.4 billion in Social Security disability, Medicaid, and Medicare payments. Similarly high costs are incurred by American businesses: up to $4.3 billion annually.

H.R. 162 will help hundreds of thousands of people unknowingly at high risk of cancer, lung disease, brain and nerve disorders, and other diseases seek medical help, change their health habits, avoid exposure to workplace hazards, and in many cases, prevent the progression of diseases that might otherwise disable or kill them. It is designed to save some of those lives and lower social costs; it will effectively pay for itself. I believe the measure deserves the overwhelming support of this body.

As a young person growing up on Minnesota's Mesabi iron ore mining range, I learned firsthand the importance of health and safety protections for miners. Workers in my father's generation were not informed, either by their employer or by the Federal Government, of the health risks to which they were exposed each day as they went to work either in the underground mines, or in the open pits, usually for their entire working lives. Today, we will vote on a measure that will provide the workers of our generation an effective notification system. The time is long overdue to assure, in law, the availability of such information to American working men and women—I urge my colleagues to support the bill and to oppose the various weakening amendments, especially the pending Republican substitute.

H.R. 162 will establish a Risk Assessment Board to identify workers at high risk of developing occupationally related diseases. The nine-member Board will be chaired by the Director of the National Institute for Occupational Safety and Health, a division of NIH, and will consist of governmental and private representatives: occupational health physicians, toxicologists, epidemiologists, biostatisticians, and industrial hygienists.

The members of the Board will indentify workers at risk, based on statistically significant evidence from clinical, epidemiologic, or toxicologic studies indicating the extent of the increased risk, the health consequences of notifying or failing to notify a population at risk, and the extent to which that risk has been reduced as a result of the enactment of occupational health standards. After those workers have been identified, NIOSH will notify them of their increased risk of developing an occupationally related disease. The notice will also encourage them to enter a medical monitoring program which would permit detection of developing diseases at their earliest stages, when the cost of treatment is lowest and the chances for success are high.

Over the past several months, some business groups have made astronomical claims about the cost of this new medical monitoring program. I believe the $25 million budget provided for the monitoring programs in this legislation is both carefully thought out and conservative. It provides sufficient resources to begin this program which NIOSH officials have estimated could notify over 300,000 workers per year of potential workplace health hazards and provide guidance on how to address those hazards. It is a medically sound and scientifically workable compromise proposal which balances the concerns of the manufacturing and chemical industries while working to preserve the safety and health of American workers. The health and disability costs avoided as a result of notification and preventive action could add up to many times more than the small amount we would be investing in the program.

A recent General Accounting Office study on the bill found no basis for concluding that it would, as some of the our colleagues who oppose the bill have claimed, impose new liability burdens on business beyond those already existing under current law. The bill is absolutely neutral on the question of liability. Its sole intent is to serve as a preventive public health measure, not as a means of expanding employer liabilities.

In addition to the dozens of endorsements by public interest groups, labor and health organizations, H.R. 162 is also supported by large and significant sectors of the business community, including such giants as IBM, Eastman Kodak, the Chemical Manufacturers Association, the National Paints and Coatings Association, Ciba-Geigy, Occidental Petroleum, and many other major oil, chemical and manufacturing industry leaders. It is a durable and effective compromise, and I urge my colleagues to join me in voting "aye."

Mr. DREIER of California. Mr. Chairman, I rise today in opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, and in support of the Jeffords-Henry substitute. I share my colleagues support for enhancing the health and safety of American workers by alerting them to the potentially harmful effects of workplace exposures to hazardous substances. I believe that the Jeffords-Henry substitute addresses this objective far more efficiently and with fewer costs to employers, employees, and the Federal Government.

The Jeffords-Henry substitute addresses safety in the workplace by preventing exposure to hazardous substances. This is accomplished by strengthening the existing Federal hazard communication standard. Administered by OSHA, this standard requires that employers train their employees in the safe handling of hazardous chemicals; label containers holding hazardous materials; and that the manufacturer create a material safety data sheet for all hazardous substances. The substitute requires that current efforts to expand the hazard communication standard to nonmanufacturing sectors be accomplished within 1 year; this will allow OSHA to reach tens of millions of workers, far more than could be reached by an individual notification program. However, unlike H.R. 162, the Jeffords-Henry substitute will not impose costly and onerous burdens on small businesses.

As a member of the House Small Business Committee, I recently participated in a hearing on the potential for risk notification legislation to generate substantial litigation by stimulating liability claims against employers. While proponents of H.R. 162 argue that the bill is liability neutral, the evidence disputes this claim. H.R. 162 could potentially open a Pandora's box of personal injury and product liability suits against employers, manufacturers and distributors of the products to which workers may have been exposed. As we all know from numerous conversations with small business constituents, the current liability insurance crisis threatens the existence of many small firms. What would happen to many marginal firms if the situation worsened?

While many of these claims against employers eventually might be denied, this fact does not mitigate the costs of these claims on employers and the civil justice system. It is generally accepted that H.R. 162 would place a disproportionate financial burden on small firms; businesses which are the leaders in job-creation in America today. How many new jobs would be created, or existing jobs retained, if small firms are forced to focus their attention on costly lawsuits?

Since many questions remain over the likely negative effects of H.R. 162 on businesses—especially small businesses—consumers, employees, and the Federal Government, I believe the responsible approach to insuring safety in the workplace is contained in the Jeffords-Henry substitute.

Mr. DAUB. Mr. Chairman, High Risk Occupational Disease Notification Act, H.R. 162, will harm small business and farmers. Congress should not pass this shortsighted legislation.

Businesses, large and small, and farmers cannot afford the onerous burdens that this legislation will mandate. Medical monitoring and evaluation and medical removal protection would force employers to either reduce wages or layoff employees in order to stay alive in a competitive environment. The end result would be business failure, farm foreclosure, and market unrest.

Because of increased litigation, court cases would steal valuable time from hardworking businesspeople and farmers and their insurance costs would skyrocket.

H.R. 162 duplicates efforts already undertaken by the Occupational Safety and Health Act and further complicates the field of bureaucracy the farmers and businessperson must already plough.

Although I am oppossed to the High Risk Occupational Disease Notification Act, I am concerned about a safe and health workplace. Therefore, I support the Jeffords-Henry alternative to H.R. 162.

The Jeffords-Henry alternative is preventative in nature, will not increase employer liability, provides a mechanism to effectively notify only high risk employees, and strengthens existing programs without adding another layer to the Federal bureaucracy.

Unlike the Occupational Disease Notification Act, the Jeffords-Henry alternative is farsighted and will improve the health and safety of the American workforce without jeapordizing the existence of small business and the farmer.

Mr. HEFLEY. Mr. Chairman, I rise today in opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, and in support of the Jeffords-Henry substitute.

While H.R. 162 may sound appealing on the surface to many people, the overall repercussions will be devastating to every segment of the business community. Not only will it create a new and unnecessary bureaucracy, but it will drive up insurance costs and open the door for billions of dollars in liability suits.

The existing Occupational Safety and Health Administration's [OSHA] Hazard Communication Standard [HAZCOM] already provides a mechanism for employers to notify employees of hazards in the workplace, and requires that workers be trained in handling those hazards. If Congress is concerned with OSHA's performance, then the emphasis should be placed on updating and improving OSHA's safety standards and enforcement actions.

The costs to business employers for health insurance are likely to increase significantly because the bill mandates that certain types of coverage, screening, and treatment be provided by an employer-sponsored health plan. In addition, the legislation goes far beyond being a simple notification bill by requiring, if necessary, that an employee be transferred to a less hazardous job or even be guaranteed an income by the employer for up to 1 year if no transfer opportunities exist. For small businesses, which do not have the range of opportunities that large corporations have, this will be a most burdensome cost.

Passage of this bill would result in more litigation being filed under existing tort causes of action because employees' awareness of potential litigation to receive compensation for a preceived injury will be increased. We do know that claims for stress-related injury, already the fastest growing type of workers compensation claim, will likely increase dramatically after individuals receive a notice from the Government indicating they are at risk. As a matter of fact, from 1978 to 1981 NIOSH conducted a pilot study on 800 employees who were notified that their risk of bladder cancer may have been increased due to possible on-the-job exposure to a specific chemical. After notification, over $335 million in lawsuits were filed against the already bankrupt company, most of them by individuals that showed no symptoms of the disease.

I believe that H.R. 162, if passed, would create a new and costly Federal bureaucracy, be most burdensome and crippling to small businesses, and drastically increase litigation. Unfortunately, it will not protect workers from occupational disease, but only notify them after the exposure.

On the other hand, the Jeffords-Henry substitute is far superior to H.R. 162 because it is based on "hazard prevention" rather than "risk notification." For this reason, the Jeffords-Henry substitute will reduce harmful exposures which will prevent occupational diseases.

Therefore, I urge my colleagues to vote with me in support of the Jeffords-Henry substitute. And if this measure fails, I urge my colleagues to oppose H.R. 162.

Mr. BROWN of California. Mr. Chairman, I would like to make some observations about the amendments we are considering which would make certain exceptions to the coverage of this bill for agricultural producers. I have heard a number of arguments in recent days as to why the program envisioned in H.R. 162 would be inappropriate to agricultural production operations and to the migrant and seasonal class of farmworkers. To some extent, I agree with these agruments, having been motivated myself to cosponsor this bill with the more traditional industrial and service worker's health in mind.

But after struggling with ways to improve the programs at the Environmental Protection Agency [EPA] designed to protect farm workers from pesticide exposure, I must express some dissatisfaction with these amendments to exclude farm workers. EPA has had a farmworker protection program in place for some time and has made decisions on the use of a number of pesticides based upon risk to farm workers. However, I consider EPA's program to be inadequate to the task of determining the broad health and safety effects upon agricultural workers. It is this broad focus which H.R. 162 attempts to put in place for all workers.

To EPA's credit, they are starting a number of epidemiological studies on farm workers and this broadly focused information may be available to us in coming years. They are also in the process of developing updated worker protection regulations on their own, the result of negotiations with a number of affected parties. It is my hope that we can add to this effort with a legislative mandate to be included in amendments to the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA], the authorizing statute for the pesticide regulatory program at EPA. It is through this pesticide-specific program at EPA, conducted in coordination with appropriate worker protection programs at the Occupational Safety and Health Administration [OSHA], that we can more appropriately provide tailored protection to agricultural workers.

But I will not wait long for this overdue effort. It is no secret that OSHA has been less than effective in recent years and in one instance has impeded the protection of workers from pesticides. And EPA is just now getting into the picture in a comprehensive fashion.

While I understand and agree with the concerns of agricultural producers who object to inclusion of their operations under H.R. 162, the time has come for some increased activity to assess and deal with health and safety problems which may be caused by acricultural chemicals. Some of the groups who Members have heard from in recent days are the same groups who participated in the negotiations process at EPA which will result in the regulations expected soon. Many of these groups also participated in the negotiations on the FIFRA amendments in the bill pending before the committee, H.R. 2463. I hope that these efforts succeed, and I pledge to make every effort to assure that success. If they do not succeed we will all be in a jam.

I will close by issuing a warning that the epidemiological work being done by EPA and the National Cancer Institute will undoubtedly show some negative effects upon our farm production from farm chemicals. This is due to the fact that we have not engaged in a comprehensive study of this population before. If we do not have an effective program in place before this data is compiled, we will be forced to put one in place that, in all likelihood, will impose an even greater burden upon the farm sector than any of the proposals before us today.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Vermont [Mr. JEFFORDS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. JEFFORDS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 234, not voting 8, as follows:

[Roll No. 354]

AYES—191

Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daub
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Neal
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pickle
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—234

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Bentley
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Hughes
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
McCloskey
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Stump
Swift
Synar
Tallon
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—8

Biaggi
Gephardt
Kemp
Livingston
Pepper
Roemer
Scheuer
Tauzin

□ 1630

The Clerk announced the following pairs:

On this vote:

Mr. Kemp for, with Mr. Gephardt against.

Mr. Roemer for, with Mr. Pepper against.

Messrs. GOODLING, NICHOLS, and JENKINS changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate section 2.

Mr. GAYDOS. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. JEFFORDS. Reserving the right to object, Mr. Chairman, as I understand it, this is an open rule. I believe that it is the wish of both sides that Members ought to have an opportunity to offer amendments and have those amendments debated and that there will not be any real attempt to cut off debate. Is that understanding correct?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, I have no intention to cut any debate off at this time.

Mr. JEFFORDS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) potentially hazardous substances, agents, and processes are in wide industrial and commercial use in the United States;

(2) during the past two decades, considerable scientific progress has been made in—

(A) the identification of hazardous substances, agents, and processes;

(B) the identification of medical problems associated with exposure to such substances, agents, and processes; and

(C) the diagnosis and treatment of diseases related to such exposure.

(3) Progress also has been made in controlling the exposure of individuals to such substances, agents, and processes;

(4) despite the progress described in paragraphs (2) and (3), there are significant gaps in efforts to promote the health and safety of individuals exposed to such substances, agents, and processes;

(5) a significant number of workers suffer disability or death or both from occupational diseases caused by hazardous occupational exposures;

(6) diseases caused by exposures to occupational health hazards constitute a substantial burden on interstate commerce and have an adverse effect on the public welfare;

(7) workers have a basic and fundamental right to know they have been and are being exposed to an occupational health hazard and are at risk of contracting an occupational disease;

(8) there is a period of time between exposure and the onset of disease when it often is possible to intervene medically in the biological process of disease either to prevent or, by early detection, successfully treat many disease conditions;

(9) social and family services that reinforce health promoting behavior can reduce the risk of contracting an occupational disease;

(10) identifiable occupational populations are at risk of developing diseases because of exposure to occupational health hazards;

(11) by means of established epidemiological, clinical, and toxicological studies, it is possible to define and identify very specific worker populations at risk of contracting occupational diseases;

(12) there is no established national program for identifying, notifying, counseling, and medically monitoring worker populations at risk of occupational disease;

(13) there is a lack of adequately trained health and human service professionals, as well as appropriately staffed and equipped health facilities to recognize and diagnose occupational diseases;

(14) there is a need for increased research to identify and monitor worker populations at risk of occupational disease; and

(15) through prevention and early detection of occupational disease the staggering costs of medical treatment and care in the United States can be substantially reduced.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a Federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of exposure to an occupational health hazard, and to counsel them appropriately;

(2) to authorize and direct the certification of health facilities which have a primary purpose of educating, training, and advising physicians and health and social service professionals in local communities throughout the United States to recognize, diagnose, and treat occupational disease;

(3) to expand Federal research efforts to improve means of identifying and monitoring worker populations at risk of occupational disease; and

(4) to establish a set of protections prohibiting discrimination against employees on the basis of identification and notification of occupational disease risk.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) The term "employee" means—

(A) any individual currently employed by an employer, or

(B) any individual formerly employed by an employer as to whom any Federal agency maintains records pertaining to work history or the employer maintains personnel records, medical records, or exposure records.

(2) The term "employer" means any person engaged in commerce or in an industry or business affecting commerce, or any agency of Federal, State, or local government.

(3) The term "Secretary" means Secretary of Health and Human Services.

(4) The term "Institute" means the National Institute for Occupational Safety and Health.

(5) The term "Board" means the Risk Assessment Board established by section 4 of this Act.

(6) The term "occupational health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process and found in the workplace, or an industrial or commercial process found in the workplace, for which there is statistically significant evidence, based on clinical or epidemiologic study conducted in accordance with established scientific principles, that chronic health effects have occurred in employees exposed to such agents and processes. Such term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes, or mucous membranes.

(7) The term "population at risk" means a class or category of employees—

(A) exposed to an occupational health hazard under working conditions (such as concentrations of exposure, or durations of exposure, or both) comparable to the clinical or epidemiologic data referred to in paragraph (6); and

(B) identified and designated as a population at risk of disease by the Board pursuant to section 4(b).

(8) The term "hazard communication standard" means the standard contained in section 1910.1200 of title 29 of the Code of Federal Regulations as in effect on January 1, 1987.

(9) The term "medical monitoring" means periodic examinations or laboratory tests to diagnose or aid in the diagnosis of a disease that has been the subject of a notification, or the appropriate type of health counseling, or both, as determined by the Board for the disease associated with the risk.

(10) The term "ethical manner" means conduct that recognizes the confidentiality of information evolving from the patient-physician relationship.

SEC. 4. RISK ASSESSMENT BOARD.

(a) ESTABLISHMENT.—(1) There is hereby established within the Department of Health and Human Services the Risk Assessment Board. The Board shall consist of 9 members, which shall include the Director of the Institute (who shall serve as chairman) and 8 members appointed by the Secretary from a list of nominees provided by the National Academy of Sciences that includes at least 3 nominees for each category of individuals required by paragraph (2). In making the appointments under this paragraph, the Secretary may request additional lists of nominees.

(2) Of the 8 members appointed by the Secretary—

(A) 4 shall be Government employees, including a board certified occupational physician, and epidemiologist, a toxicologist, and an occupational biostatistician; and

(B) 4 shall be individuals who are not Government employees, including a board certified occupational physician, an epidemiologist, an occupational health nurse, and an industrial hygienist.

(3) The members of the Board appointed by the Secretary shall be appointed for terms of 5 years except that—

(A) of members first appointed, one of the members appointed under paragraph (2)(A) and one of the members appointed under paragraph (2)(B) shall be appointed, as designated at the time of their appointment, for each of the following terms: 2 years, 3 years, 4 years, and 5 years;

(B) in the event a vacancy on the Board occurs prior to the expiration of a term, the Secretary shall ask the National Academy of Sciences to provide a list of nominees from which the Secretary shall appoint a member for the remainder of that term; and

(C) upon the expiration of their terms, members may be reappointed if their names shall appear on the lists provided by the National Academy of Sciences.

(4) The Institute shall provide full-time staff necessary to carry out the functions of the Board.

(b) FUNCTIONS.—(1) The Board shall—

(A) review pertinent medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards;

(B) identify and designate from this review, and from field assessments where appropriate, those populations at risk of disease associated with exposure to occupational health hazards that should be notified pursuant to this Act, including the size, nature, and composition of the population to be notified;

(C) develop an appropriate form and method of notification that will be used by the Secretary, or agents of the Secretary described under section 5(g), to notify the designated populations at risk; and

(D) determine the appropriate type, if any, of medical monitoring, or beneficial health counseling, or both, for the disease associated with the risk which shall be described in the notice pursuant to section 5(c).

(2) In carrying out its responsibilities under this section, the Board shall, subject to the requirements of section 552a of title 5, United States Code, and other applicable provisions of Federal law, have access to information and data contained in the records of—

(A) any Federal agency, or State or political subdivision of a State, solely for the purpose of obtaining names, addresses, and work histories of employees subject to notification under this section;

(B) any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 or regulations promulgated pursuant thereto; and

(C) any employer insofar as such information is maintained by such employer under a State or Federal law concerning occupational safety and health matters.

(3) In identifying the populations at risk of disease, the Board shall consider the following factors based upon the best available scientific evidence:

(A) the extent of clinical and epidemiologic evidence that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency

diseases among employees exposed to such substances, agents, or processes in specific working conditions (such as concentrations of exposure, or durations or exposure, or both);

(B) the extent of supporting evidence from clinical, epidemiologic, or toxicologic studies that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among persons exposed to such substances, agents, or processes;

(C) the employees involved in particular industrial classifications and job categories who are or have been exposed to such substances, agents, or processes under working conditions (such as concentrations of exposure, or durations or exposure, or both) that may be a causal factor in the etiology of the illnesses or diseases;

(D) the extent of the increased risk of illness or disease created by the occupational health hazard alone or in combination with other factors, including (but not limited to) smoking and diet;

(E) other medical, health, and epidemiological factors, including consistency of association, specificity of association, strength of association, dose-response relationships, biological plausibility, temporal relationships, statistical significance, and the health consequence of notifying or failing to notify a population at risk; and

(F) the extent to which risk has been reduced as a result of the promulgation of an applicable occupational substance-specific health standard.

(4) In carrying out activities under this section, the Board is authorized to engage the services of experts in occupational health hazards and diseases related to those occupational health hazards.

(c) Priorities.—In designating populations at risk of disease for notification, the Board shall undertake, as its first priority, to designate employee populations exposed to occupational health hazards whose members are most likely to benefit from medical monitoring, or health counseling, or both. In making this designation, the Board shall consider exposures for which there exists a permanent standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 665(b)(5)), the extent of medical monitoring and surveillance already available to employee populations covered by the permanent standards, and the need to notify former employees as well as current employees.

(d) Procedures.—(1) For each population designated for notification, the Board shall issue a notice of proposed findings and recommendations.

(2) The notice shall—

(A) be published in the Federal Register;

(B) set forth which classes or categories of employees are being considered for inclusion in a population at risk and the reasons for such inclusion;

(C) provide for the public to submit written views on the proposed findings and recommendations within 60 days of the notice; and

(D) provide for a hearing within 30 days after the conclusion of such 60-day period, at which the public may express views on the Board's proposed findings and recommendations.

(3) After its deliberations and the taking of public views, the Board shall issue its final findings and determinations within 60 days following the hearing. If the Board determines that a class or category of employees is a population at risk, based on the record developed pursuant to paragraph (2) of this subsection, the Board shall, within 10 days of making such a finding and determination, transmit that finding and determination to the Secretary. Such finding and determination shall require that the individuals within such a population at risk be notified under section 5 of this Act.

(4) Any aggrieved person may bring a civil action for mandamus in the appropriate United States district court if the final agency action is not completed within 160 days.

SEC. 5. EMPLOYEE NOTIFICATION AND COUNSELING.

(a) Actions by the Secretary.—Upon presentation of final findings and determinations by the Board that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, the Secretary shall adopt those findings and determinations, without further notice and without public comment, unless the Secretary concludes that—

(1) procedural requirements set forth in section 4(d) are not met, or

(2) to do so will endanger the health and safety of a class or category of employees.

(b) Notification of Population at Risk.—(1) Upon adopting the findings and determinations of the Board that a given class or category of employee is a population at risk of disease, the Secretary shall make every reasonable effort to notify each individual within such population, and their respective employers, of that risk. The Secretary, through the Institute, shall be responsible for conducting the necessary notification, except as provided in subsection (g).

(2) In addition, the Secretary may make simultaneous use of public service announcements and other means of notification appropriate to reach the population at risk.

(3) In the case of employees for whom any exposure to the occupational health hazard occurred in the course of current employment, notification shall be transmitted by the Secretary to individual employees and to employers and be posted prominently by the employer in places at the worksite that are easily accessible to and frequented by the employees in the population at risk.

(4) The Secretary shall establish procedures for notifying persons who have been subjects of epidemiological studies demonstrating findings of increased risk of occupational disease conducted by an agency within the Department of Health and Human Services and shall require such notification procedures be included in all future epidemiological studies by such agency.

(c) Contents of Notification.—(1) The notification under subsection (b) shall include—

(A) an identification of the occupational health hazard, including the name, composition, and properties of known chemical agents;

(B) the disease or diseases associated with exposure to the occupational health hazard, and the fact that such association pertains to classes or categories of employees;

(C) any known latency periods from time of exposure to time of clinical manifestation of the disease;

(D) counseling appropriate to the nature of the risk including, but not limited to—

(i) the advisability of initiating a personal medical monitoring program;

(ii) the most appropriate type of medical monitoring or beneficial health counseling for the disease associated with the risk;

(iii) the name and address of the nearest health center certified under this Act;

(iv) the protections for notified employees, as established under section 7 of this Act;

(v) employer responsibilities with respect to medical monitoring for notified employees, as established under section 7 of this Act; and

(vi) the telephone number of the hot line established under subsection (d) of this section.

(2) If the notification transmitted under subsection (b) concerns an occupational health hazard for which the hazard communication standard requires the preparation and use of any material safety data sheet, such notification shall include the material safety data sheet or a concise summary of the information contained in such data sheet, or both. Such summary shall be written in a manner so as to be easily understood by the average employee.

(d) Telephone Information.—The Institute shall establish a telephone "hot line" for the employees notified under this section and for their personal physicians for the purpose of providing additional medical, health, scientific information concerning the nature of the risk and its associated disease.

(e) Dissemination of Information.—The Institute shall prepare and distribute other medical and health promotion materials and information on any risk subject to notification under this section and its associated disease as the Institute deems appropriate.

(f) Access to Information.—In carrying out the notification responsibilities under this section, the Secretary shall, subject to the requirements of section 552a of title 5, United States Code, and other applicable provisions of Federal law, have access to information and data contained in the records of—

(1) any Federal agency, or State or political subdivision of a State, solely for the purpose of obtaining names, addresses, and work histories of employees subject to notification under this section;

(2) any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 or regulations promulgated pursuant thereto; and

(3) any employer insofar as such information is maintained by such employer under a State or Federal law concerning occupational safety and health matters.

(g) Cooperation With Private Employers and State and Local Governments.—(1) In carrying out the notification responsibilities under this section, the Secretary shall cooperate with private employers and State and local governments and, upon request, may certify a private employer or a State or local government to transmit notification under this section, pursuant to subsection (c) of this section and in accordance with regulations issued by the Secretary.

(2) No private employer or State or local government certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

(h) Liability.—The United States or any agency or employee thereof, including any employer or government acting pursuant to subsection (g) of this section, shall not be subjected to suit or judicial or nonjudicial proceedings of any kind that seek monetary damages with respect to or arising out of any act or omission pursuant to this Act. This subsection shall not apply to—

(1) an employee of the United States for any act or omission that is a knowing and

willful violation of a provision of this Act to the extent that Federal law otherwise authorizes suit against that individual for monetary damages; and

(2) an employer or government acting pursuant to subsection (g) of this section for any act or omission that is a knowing or reckless violation of a provision of this Act.

(i) JUDICIAL REVIEW.—(1) Any person adversely affected or aggrieved by a determination by the Board under this Act that a given class or category of employees is or is not a population at risk of disease to be notified under the Act is entitled to judicial review of that determination in the appropriate United States Court of Appeals upon a petition filed in such court by such person. Any petition filed pursuant to this section shall be filed within 30 days after the adoption of such determination by the Secretary.

(2) A copy of any petition filed under paragraph (1) shall be promptly transmitted to the Secretary by the clerk of the court. The Secretary shall file in the court, as provided in section 2112 of title 28, United States Code, the record of the proceedings of the Board on which the determination is based.

(3) The court shall set aside the determination of the Board under subsection (a) of this section if the determination is found to be—

(A) arbitrary, capricious, or an abuse of discretion;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitation;

(D) without observance of procedure required by law; or

(E) unsupported by substantial evidence on the record.

(4) The commencement of proceedings under this subsection shall not operate as a stay of the action of the Secretary to notify employees unless the court specifically orders a stay based upon a determination by the court that the complaining party is highly likely to succeed on the merits.

SEC. 6. HEALTH CENTERS; RESEARCH, TRAINING, AND EDUCATION.

(a) HEALTH CENTERS.—

(1) ESTABLISHMENT OF CENTERS.—(A) Within 90 days after the effective date of this Act, the Secretary shall establish and certify 10 health centers. The Secretary, in selecting the 10 health centers, shall choose from among the education resource centers of the Institute and similar facilities of the National Institute for Environmental Health Sciences, the National Cancer Institute, and other private and governmental organizations that apply for such designation by the Secretary. The Secretary shall consider regional distribution in selecting the 10 health centers. At a later date, but not more than 5 years after the effective date of this Act, the Secretary shall establish and certify additional health centers from among the health care facilities described in this paragraph so as to obtain no less than one center per State throughout the United States.

(B) Such centers and personnel assigned to them shall be selected on the basis of—

(i) their demonstrated ability and experience in the recognition, diagnosis, and treatment of occupationally related diseases in an ethical manner, and

(ii) their capability to offer training and assistance to physicians and health and social service professionals engaged in the management of populations and individuals at risk of occupational disease, and to fulfill other functions assigned to them under this section.

(C) Such centers shall be certified under criteria developed by the Secretary.

(2) FUNCTIONS OF CENTERS.—The centers shall—

(A) provide education, training, and technical assistance to personal physicians and health and social service professionals who serve employees notified under section 5 of this Act; and

(B) be capable, in the event that adequate facilities are not otherwise reasonably available, of providing diagnosis, medical monitoring and family services, and treatment for employees notified under section 5 of this Act.

(3) COST OF TRAINING AND EQUIPMENT.—The Secretary shall, from funds appropriated under this Act, reimburse the health centers certified under this section for the cost of developing a training program and procuring specialized equipment required under the certification criteria developed pursuant to paragraph (1) of this subsection.

(b) IMPROVED METHODS OF MONITORING AND IDENTIFICATION.—The Secretary shall, from amounts available under section 10(b) of this Act, make grants to certified health centers, schools of public health and other institutions, and organizations that meet criteria established by the Secretary to conduct research, training, and education aimed at improving the means of assisting employees exposed to occupational health hazards and the means of identifying worker populations exposed to such hazards. Such research, training, and education shall include (but not be limited to) the following areas:

(1) studying the etiology and development of occupationally related diseases and the disabilities resulting from such diseases;

(2) developing means of medical monitoring of employees exposed to occupational health hazards;

(3) examining the types of medical treatment of workers exposed to occupational health hazards and means of medical intervention to prevent the deterioration of the health and functional capabilities of employees disabled by occupational disease;

(4) studying and developing medical treatment and allied social services for employees exposed to occupational health hazards;

(5) developing education programs designed to train physicians, health, and social services professionals to assist employees and their families in undertaking measures which ameliorate the effects of those diseases; and

(6) sponsoring epidemiological, clinical, and laboratory research to identify and define additional employee populations at risk of disease from exposure to an occupational health hazard.

(c) EDUCATION.—

(1) GRANTS TO INSTITUTIONS WITH EXISTING PROGRAMS.—(A) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which occupational medicine or occupational health programs exist on the date of enactment of this section to assist such programs in meeting the costs of providing projects—

(i) to provide continuing education for faculty in departments of internal medicine and family medicine or in schools of nursing in order to enable such faculty to provide instruction in the diagnosis and treatment of occupational diseases;

(ii) to develop, publish, and disseminate curricula and training materials concerning occupational medicine or health for use in undergraduate medical or nursing training; or

(iii) to establish, for residents in graduate medical education programs in internal medicine, family medicine, and other specialties with a primary care focus, or in graduate nursing programs in schools of nursing, training programs in occupational medicine or health consisting of clinical training, for periods of between 1 and 4 months, in settings such as medical facilities, union offices, and industrial worksites.

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to applicants which demonstrate—

(i) the ability to recruit a significant number of participants to participate in the project to be carried out under the grant or contract (in the case of a project described in subparagraph (A) (i) or (iii) of this paragraph); and

(ii) expertise and experience in the provision of continuing education in occupational medicine or health (in the case of a project described in subparagraph (A)(i)) or the provision of residency training in occupational medicine or health (in the case of a project described in subparagraph (A)(iii)).

(2) GRANTS TO SUPPORT NEW PROGRAMS.—(A) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which, on the date of enactment of this section, there do not exist training programs in occupational medicine or health. The purpose of grants and contracts under this paragraph is to provide support for projects to provide training in occupational medicine or health for faculty who are certified in internal medicine or family medicine by the appropriate national medical specialty board or faculty who have similar qualifications in professional nursing.

(B) Each project for which a grant or contract is made under this paragraph shall—

(i) be based in a graduate medical education program in internal medicine or family medicine or in graduate programs in a school of nursing;

(ii) have an arrangement with an accredited training program in occupational medicine or health for the provision of training in occupational medicine or health to the faculty selected by the recipient of the grant or contract under this subsection; and

(iii) have a plan for the use of the faculty receiving training with a grant or contract under this section to provide education and training in occupational medicine or health to other individuals.

(3) MINIMUM NUMBER OF GRANTS.—The Secretary shall, during the period October 1, 1987, through September 30, 1990, make grants and contracts to not less than 10 schools of medicine or schools of nursing under paragraphs (1) and (2) of this subsection.

(4) SOURCES OF FUNDS.—Unexpended amounts described in section 10(a) of this Act shall be available to carry out this subsection.

(5) DEFINITIONS.—For the purpose of this subsection—

(A) the term "graduate medical education program" has the same meaning as in section 788(e)(4)(A) of the Public Health Service Act; and

(B) the term "school of nursing" has the same meaning as in section 853(2) of such Act.

SEC. 7. EMPLOYEE MEDICAL MONITORING, DISCRIMINATION, AND CONFIDENTIALITY.

(a) EMPLOYEE MEDICAL MONITORING.—Upon the request of any employee notified under

section 5(b) of this Act, the testing, evaluation, and medical monitoring recommended by the Board with respect to the occupational health hazard shall be provided or made available by the current employer—

(1) at no additional cost to the employee (above any existing employee health care contribution) if any part of such exposure occurred in the course of the employee's employment by that employer; or

(2) at a charge to the employee not exceeding the additional cost to the employer (above any existing employer health care contribution), or at no charge, if no part of such exposure occurred in the course of the employee's employment by that employer.

(b) Discrimination Prohibited.—No employer or other person shall discharge or in any manner discriminate against any employee or any applicant for employment on the basis that the employee or applicant is or has been a member of a population that has been determined by the Board to be at risk of disease. This subsection shall not prohibit an employer from refusing to employ an applicant who is or has been a member of a population at risk with respect to an occupational health hazard in a position requiring exposure to the same occupational health hazard.

(c) Benefit Reduction Prohibited.—

(1) If, based on a determination by the Board under this Act, an initial medical determination is made by the employee's physician that an employee should be removed to a less hazardous or nonexposed job, and if within 10 working days of the employer's receipt of this initial determination the employer's medical representative has not requested independent reconsideration thereof, the employee shall be removed to a less hazardous or nonexposed job and shall maintain the earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job.

(2) If the employer's medical representative requests independent reconsideration of the initial determination, the employee's medical representative shall, within 14 working days of the initial determination, submit the matter to another mutually acceptable, qualified independent physician for a final medical determination. Such final determination shall be made within 21 working days of the initial determination, unless a longer period is agreed to by the parties. If the two medical representatives have been unable to agree upon the third physician, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make the final medical determination within such 21-working-day period (or within such longer period as is agreed to by the parties). The employer shall bear all costs related to the procedure required by this paragraph.

(3) The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. Where such a job is not available, medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical monitoring for the occupational health effects in question, based on the procedure required by this subsection. The employer's obligation to provide medical removal protection benefits shall be reduced to the extent that the employee receives workman's compensation, disability compensation, or other compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal.

(4) Provisions for medical removal protection under this subsection shall not apply if—

(A) a medical removal protection procedure already exists under a standard promulgated under the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 for the occupational health hazard for which the employee has been or is being notified; or

(B) in providing such alternative job assignment, the employer is required to violate the terms of any applicable collective bargaining agreement, or is required to displace, lay off, or terminate any other employee.

(d) Confidentiality.—Any records of the identity, diagnosis, prognosis, or treatment of an individual employee which are maintained in connection with the performance of any function authorized by this Act shall be confidential and may be disclosed only—

(1) if necessary to perform any function authorized by this Act, including the performance of medical monitoring; or

(2) with the written consent of such individual employee or the employee's personally designated representative.

(e) Review of Complaints.—(1) Any employee who is aggrieved by a violation of this section, may, within 6 months after such violation occurs, apply to the Secretary of Labor for a review of such alleged violation. Upon receipt of such application, the Secretary of Labor shall cause an investigation to be made as he deems appropriate. If upon such investigation the Secretary of Labor determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court. In any such action, the United States district courts shall have jurisdiction for cause shown to restrain violations of this section and to order all appropriate relief under this section.

(2) Within 90 days of the receipt of the application filed under this subsection, the Secretary of Labor shall notify the complainant of his determination under paragraph (1) of this subsection. If the Secretary of Labor finds that there was no such violation, he shall issue an order denying the application.

(f) Reinstatement and Other Relief.—Any employee who is discriminated against in violation of this section shall be restored to his or her employment and shall be compensated for—

(1) any lost wages (including fringe benefits and seniority);

(2) costs associated with medical monitoring that are incurred while the violation continues; and

(3) costs associated with bringing the allegation of violation.

(g) Civil Penalties.—Any person or institution that violates this section shall be liable for a civil penalty of not less than $1,000 or more than $10,000 for each violation as may be determined by the Secretary of Labor.

SEC. 8. ENFORCEMENT AUTHORITY.

(a) Injunctive Relief.—Whenever the Secretary determines that any person or institution has engaged, is engaged, or is about to engage in an act or practice constituting a violation of this Act or any rule or regulation promulgated under this Act, the Secretary may bring an action in the proper United States district court to enjoin such acts or practices, and upon a proper showing an injunction or permanent or temporary restraining order shall be granted without bond. The provisions of section 5(h) shall not limit the authority of the Secretary under this subsection.

(b) Effect on Other Laws and Prohibition on the Use of Board Determinations.—(1) In connection with any claim for compensation, loss, or damage brought under State or Federal law, the following may not serve as a legal basis for or be introduced as evidence in connection with such claim:

(A) a finding or determination of the Board, or an action by the Secretary based on such finding or determination, that an employee is or is not a member of, or that an employee population is or is not, a population at risk of disease as determined under this Act;

(B) evidence that an employee or employee population is or is not about to receive (or has or has not received) notification under this Act; and

(C) evidence that medical monitoring or evaluation is or is not to be initiated (or has or has not been initiated) under this Act.

(2) With respect to any claim for compensation, loss, or damage under State or Federal law, nothing in this Act shall preclude the admission into evidence of—

(A) the results of any medical monitoring or evaluation;

(B) any medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards; or

(C) any data related to exposure to occupational health hazards for individual employees.

(3) Notification pursuant to this Act shall not be relevant in determining whether such a claim is timely under any applicable statute of limitations.

SEC. 9. REPORTS TO CONGRESS.

(a) Hazard Communication Standard Report.—The Secretary of Labor shall report to the Congress annually, not later than January 15 of each year, regarding implementation and enforcement of the hazard communication standard. The report shall include detailed information on—

(1) monitoring and enforcement of noncompliance, significant areas of noncompliance, penalties assessed, and steps taken to correct noncompliance;

(2) evaluation of the effectiveness of the standard, the material safety data sheets, and training and education programs for employees; and

(3) efforts to assist employers in complying with the standard.

(b) Occupational Disease Notification Report.—The Secretary shall report to the Congress annually, not later than January 15 of each year, regarding the implementation and enforcement of notification under this Act. The report shall include detailed information on—

(1) numbers, types, and results of notifications carried out pursuant to this Act; and

(2) research efforts carried out pursuant to this Act.

SEC. 10. AUTHORIZATIONS.

(a) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out the provisions of this Act.

(b) Of the total amount appropriated under subsection (a) for each fiscal year, at

least $4,000,000 shall be available to carry out activities under section 6(b) of this Act.

SEC. 11. EFFECTIVE DATE.

Except as may be otherwise provided therein, the provisions of this Act shall become effective January 1, 1988, or 6 months after the date of enactment of this Act, whichever occurs first, except that—

(1) the Board shall be appointed within 60 days after the date of enactment of this Act; and

(2) the Secretary shall issue regulations necessary to administer this Act within 120 days after the date of enactment of this Act.

The CHAIRMAN. For what purpose does the gentleman from California rise?

Mr. DANNEMEYER. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. GAYDOS] have an amendment?

AMENDMENT OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer an amendment.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his point of inquiry.

Mr. DANNEMEYER. When the Chairman recognized this gentleman from California, I indicated that I had an amendment at the desk. I was recognized and I think I am entitled to proceed. Is that not right?

The CHAIRMAN. The gentleman was asked for what purpose did he rise, and the gentleman indicated that he had an amendment. The Chair did not recognize the gentleman because the manager of the bill was standing at the same time seeking recognition.

Mr. DANNEMEYER. Then will the Chair put me on the top of the list?

The CHAIRMAN. The gentleman from California will be advised that the Chair will recognize the gentleman if no committee member seeks to be recognized.

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The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 16, after line 7, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(c) EXEMPTION.—(1) Within 30 days after the Board issues a final determination that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, an employer who employes or has employed employees within that population may apply to the Institute to have those employees exempted from the notification because they are not at risk of disease based on significant mitigating factors.

"(2) If the Institute concludes that any such application raises an issue of material fact which is subject to reasonable dispute, it shall publish a notice so stating in the Federal Register within 30 days after receiving the employer's detailed application and shall schedule a hearing on the disputed issues. All applications for exemption with respect to any one population at risk shall be consolidated into a single hearing and such hearing shall be concluded within 60 days following publication of such notice in the Federal Register.

"(3) While an application for exemption is pending before the Institute, the Secretary shall not proceed with the notification requirements of the Board's determination with respect to the affected employees of the employer or employers seeking such exemption.

"(4) Within 30 days after the conclusion of the hearing, or, where no hearing was conducted, within 30 days of the receipt of the application, the Institute shall grant an exemption from notification to any employer who has demonstrated by a preponderance of the evidence that his employees should not be included within the population at risk of disease and shall deny such exemption to all other employers. In determining whether an exemption shall be granted, the Institute shall take into account such mitigating factors as work practices, health and safety programs, engineering controls, or other factors that are fundamentally different from those used by the Board that substantially eliminate the risk of developing the occupational disease under examination.

"(5) No employer who has not applied for an exemption may benefit from a decision favorable to any other employer.

"(6) Determinations of the Institute pursuant to this subsection shall not be subject to judicial review.

Page 10, line 9, strike out "5(g)" and insert "5(h)".

Page 17, line 9, strike out "subsection (d)" and insert "subsection (e)".

Page 19, line 13, strike out "subsection (g)" and insert "subsection (h)".

Page 34, line 5, strike out "5(h)" and insert "5(i)".

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, the amendment I am speaking of would allow individual companies to apply for an exemption from the high risk notification process. That subject has received an awful lot of debate here up until now and we thought that it would be a proper amendment as far as those individual companies in good faith who have been running a good operation, sincerely so, that they be allowed to apply for an exemption wherever any employee of that company is found by the Risk Assessment Board to be one of a person in a worker population about to suffer from the exposure to hazardous substances. If the Risk Assessment Board has determined that a certain class of workers are at a high risk of developing an occupational disease, and they make that determination, but the employer can prove under the terms of this amendment that his workers are not at risk then that employer can apply for an exemption from the notification process. These applications for exemption will be heard and decided upon by the National Institute for Occupational Safety and Health. We call it NIOSH.

This amendment has been asked for by many companies that feel that it should be their right under these circumstances.

Mr. Chairman, this is a very reasonable amendment under the circumstances which allows exemptions for these businesses which I have hurriedly referred to and usually you will find that they have exceptionally good health and safety programs in place already.

This amendment also can be construed and interpreted as a reward for those businesses that have made a commitment to health and safety by reducing exposures to toxic and hazardous substances in the workplace which in turn will reduce occupational disease generally. I think this is a sensible amendment. It will improve the bill. I urge all my colleagues to support this amendment.

Mr. JEFFORDS. Mr. Chairman, I regretfully must rise in opposition to the amendment.

The amendment strikes me as an unworkable one but maybe I can ask the author of the amendment a couple of questions.

First of all, it is my understanding that the amendment allows an employer to petition the Institute for an exemption from the notification based upon significant mitigating factors within 30 days before issuance of a final determination. Is that correct? Is that what the amendment attempts to do?

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Yes, that is correct.

Mr. JEFFORDS. Procedurally, I am not sure how his would work since the Board does not issue the final determination. The Secretary issues the final determination.

I do not quite understand where that 30 days fits in or how it would affect this or why my colleague would attempt to do that at that point.

Mr. GAYDOS. Mr. Chairman, the 30-day notice after the Board issues a final determination would not be difficult to comply with, if that is what the gentleman is asking.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, the problem for my colleague from Pennsylvania [Mr. GAYDOS] is that there are a number of technical problems that arise. The Secretary makes the final determination but when the Secretary makes the final determination and promulgation, as it were, there is no waiting period. There is no opportunity of appeal. There is no posting. What I suggest is that the gentleman may want to, if you really want to debate the amendment on its merits, withdraw it and reintroduce it with some technical corrections because the Secretary makes the final determination but without an opportunity for review and appeal. On the other hand, the gentleman could put this down with the Risk Notification Board of the Institute to achieve your purpose.

I am simply saying that the amendment is technically flawed in a rather fundamental way.

Mr. GAYDOS. The Secretary would have some discretion. He could wait 30 days it he wishes. There is nothing that says he cannot or must not.

Mr. HENRY. My understanding, if the gentleman will continue to yield, is that we establish a 160-day toll period, and if that is done you would have to put in another 30 days on the toll period and allow it explicitly for that purpose and somehow establish some basis for the Secretary to post. Frankly, if that is what my colleague is trying to do, I do not think I personally would object. However, I think my colleague would have to withdraw the amendment, redraw the amendment to do what the gentleman is seeking to do.

Mr. GAYDOS. What is the specific objection of the gentleman?

Mr. HENRY. We have two different agencies, the Board and that Institute making final determinations and the Secretary making final determinations. They have 30 days after the conclusion of the hearing in which to ask for this variance, and the variance procedure makes eminent sense. I do not think I have any problem with that, but the final determination is not made at that level. It is made by the Secretary.

Mr. GAYDOS. My understanding of the bill is that the Secretary does not make the final determination, he merely adopts it. Therefore, I do not understand the gentleman's problem.

Mr. JEFFORDS. Mr. Chairman, reclaiming my time, we do not understand where this all fits in. At some point the Secretary makes a final determination after he has reviewed the procedural aspects to see whether or not they have followed the procedure.

Are those waivers obtained before or after the Secretary makes that final determination that the procedures have been followed?

Mr. GAYDOS. If the gentleman will yield further, on page 14 of the bill, and I am quoting from section 5 sub (a), "Upon presentation of final findings and determinations by the Board that a given class or category of employee is a population at risk of disease to be notified pursuant to this act, the Secretary shall adopt those findings and determinations, without further notice and without public comment, * * * " et cetera.

Mr. JEFFORDS. That is the way we understand it. I just do not understand how the amendment works. I think it is confusing, but that is all I have to say.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendmemt offered by Mr. GAYDOS: Page 29, line 18, strike out "should be removed" and insert: "who is a member of a population at risk shows evidence of the development of the diseases described in the notification, or other objective symptoms or conditions increasing the likelihood of the manifestation of such disease, that employee shall have the option of being transferred".

Page 29, line 19, strike out "job, and if" and all that follows through "determination" on line 20 and insert the following: "job. If within 10 working days after the employee has exercised such transfer option and transmitted to the employer that determination,".

Page 29, line 22, strike out "thereof," and insert "of the employee's transfer determination,".

Page 30, line 6, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 10, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 24, after the period insert the following: "The availability of such a job shall depend on the employee's skills, qualifications, and aptitudes, and the job's requirements.".

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, this amendment requires that in order for workers to be eligible to be removed from their jobs for medical reasons, the workers must show that they have symptoms associated with a disease which they are at high risk of developing. It is reasonable that there should be a medical or scientific basis for an employee to request a transfer to another job which is what medical removal is all about basically.

This amendment helps protect businesses from unwarranted claims for medical removal and I urge all my colleagues to support it.

I want to emphasize at this point that as far as this amendment is concerned, Mr. Chairman, that presently it is determined after a medical examination that an employee should be moved from his place of employment then a certain procedure is triggered within the legislation. A doctor makes a recommendation, the employer has a doctor that examines the employee, both of them if they cannot agree upon a solution have an opportunity to call in a third medical doctor and the third medical doctor is called in at their agreement. They will be the arbitrator, so to speak.

Even that determination can be appealed under the wording of the present act. We feel that since under certain circumstances transfer is a rather sensitive item that we put in these particular safeguards and that brought up the reason for the present amendment. This present amendment takes it just a little further and it says that under these circumstances it is just not when a worker requests that he wants to be moved, there has to be under this amendment along with what I explained what the bill presently calls for, and this amendment makes it even more difficult and more significant by saying that there must be some symptoms associated with the request involving the disease so that there would be an authenticity there instead of just somebody indiscriminately asking to be transferred from one job to another.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, once again I have no problem with what the gentleman's amendment is attempting to do, but if I may inquire, in the fourth line of your amendment, notification or other objective symptoms or conditions increasing the likelihood, I wonder if you would accept as a friendly amendment changing "or" to "and", or else eliminating the "or" phrase. The reason is that what the gentleman is attempting to do is to limit some of the exposure to employers in the program where there is development of the disease as described. This is done through some objective criteria but with the phrase that follows, that actually undermines the first phrase, "or other objective symptoms or conditions." The very fact of exposure, of course, is a condition.

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, am I reading the gentleman correctly, he wants to change the notification, the "or" to "and other"?

□ 1700

Mr. HENRY. Yes.

The second "or," or other objective symptoms.

Mr. GAYDOS. Which one does the gentleman want, the first or the second or both?

Mr. HENRY. The second one, between symptoms and conditions. So that we link symptoms with conditions.

Mr. GAYDOS. Again, would the gentleman spread on the record which one he wants.

Mr. HENRY. The second so that it would read, "notification, or other objective symptoms and conditions."

Mr. GAYDOS. Symptoms and conditions?

We have no objection to the request.

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. GAYDOS: Page 29, line 18, strike out "should be removed" and insert: "who is a member of a population at risk shows evidence of the development of the diseases described in the notification, or other objective symptoms and conditions increasing the liklihood of the manifestation of such disease, that employee shall have the option of being transferred".

Page 29, line 19, strike out "job, and if" and all that follows through "determination" on line 20 and insert the following: "job. If within 10 working days after the employee has exercised such transfer option and transmitted to the employer that determination,".

Page 29, line 22, strike out "thereof," and insert "of the employee's transfer determination,".

Page 30, line 6, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 10, strike out "of the initial determination," and insert "of the transmittal of the transfer determination,".

Page 30, line 24, after the period insert the following: "The availability of such a job shall depend on the employee's skills, qualifications, and aptitudes, and the job's requirements.".

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 32, after line 2, insert the following new paragraph:

(5) No action may be brought for any claim based on a good faith determination made by a physician under this subsection.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, basically the amendment is framed to protect the doctors involved with deciding—which I just mentioned in the other amendment—deciding whether a worker should be moved from one work site to another. This amendment would protect that doctor involved in making the decision as to which workers should be removed from their jobs for medical reasons.

The amendment would provide legal protection against malpractice for doctors who make a good-faith determination that a worker should be removed from his job because of his exposure to workplace hazards.

I believe this amendment would allow doctors to make decisions generally based on their medical knowledge rather than a fear of malpractice. I feel that this is a very proper amendment under very trying circumstances, as indicated by the occurrence in Florida where no doctor wants to take care of no patient because of being afraid of being sued.

I feel under our bill where you have the employers' doctor and the employees' doctor calling a third physician in and they all agree that the individual should not be moved, then I think that should stand and they should not be subjected to any kind of suit whether it is frivolous or authentic. It is merely a protective device and I will strongly urge support of the amendment.

AMENDMENT OFFERED BY MR. HENRY TO THE AMENDMENT OFFERED BY MR. GAYDOS

Mr. HENRY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HENRY to the amendment offered by Mr. GAYDOS: In the matter proposed to be inserted by the amendment of the gentleman from Pennsylvania, insert ", employee representative, or employer" after "physician".

Mr. HENRY. Mr. Chairman, I commend my colleague from Pennsylvania who is trying to deal with some of the problems which are in fact unattended in the area of tort liability. His amendment would hold harmless from any tort liability any physician who does or does not recommend medical transfer under H.R. 162. My amendment would add to that and include in this hold-harmless procedure, employers and employee representatives. I do not believe we should make a special exemption for physicians which would effectively allow them to act recklessly or in willful disregard for workers' safety without offering some liability protections for employers or employee representatives. For example, Mr. Chairman, there have been several court cases brought by widows against their spouses' union when the union had negotiated certain safety and health provisions. This is an area ripe for litigation. I believe if we are going to allow the doctors this degree of liability protection which I think is appropriate, I think we should to the same degree, no more, no less, do the same for employers and employee representatives.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I will be pleased to yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding.

I want to support the amendment of the gentleman. I think what we are pointing out here is we have some great difficulties with this bill. Certainly the amendment by the gentleman from Pennsylvania indicates the liability we are creating here in a tort liability-free bill. But I think if we are going to try to get a situation where people will do things without anything in mind than the workers' good health and ability to be able to receive the proper kind of treatment, et cetera, we should also exempt employers and employees.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I would be pleased to yield to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. I thank the gentleman for yielding.

Mr. Chairman, I would be in direct opposition to the amendment. I feel that it goes too far. By inserting after "physician" the words "employee representative, or employer" the whole basis of the amendment is to zero in on doctors, medical malpractice suits. We are not talking about—you are including in there an employer. Now an employer then would be under the language as now written, no action may be brought for any claim based on a good-faith determination by an employer. Well, an employer has nothing to do with a medical physician making a medical determination.

Mr. HENRY. Reclaiming my time and I would be glad to yield back to the gentleman, it seems to me what we are really saying if I am following this you are saying we have a liability problem you cannot extricate yourself from other than by blocking off the physicians. I guess the physicians would be concerned that they are kind of damned if they do and damned if they do not on the referral process. If they overrefer they are going to get sued and if they underrefer they are going to get sued so just do not let them get sued.

It seems to me you have the same kind of problem in the process between employer and employee and likewise, as our communication from the Justice Department indicates in terms of the whole Federal Government, because the Federal Government under your bill now assumes primary responsibility for worker safety and health rather than the employer. So if we are going to put this liability block in for one special interest then it seems to me we ought to do no less in terms of protecting the interest of those parties that are ultimately going to pay the bill for the liability one way or the other. After all, it is not going to be the physician who is going to pay the liability without your amendment, it is going to be the employer or individual for whom the physician is the agent. So if it is meant to block off the cost, I am trying to protect the agent, no matter which side the agent is on, the employer's side or the employee's side.

So my intent here is to do no more than your amendment, otherwise quite frankly I would have to object to the amendment.

Mr. GAYDOS. I would like to respond to my colleague that we are talking about the medical profession, you are talking about medical malpractice. We should not and I cannot allow the expansion of this suggested amendment to take care of that pressing problem and then allow it to be expanded to give immunity to an action by an employer or an employee representative. There is a big distinction as to what we are trying to do. We are asking hopefully this amendment, if adopted, would guarantee that a physician would give an unbiased opinion and conclusion and recommendation based upon scientific evidence. So I do not know how you can cloud the issue and include or attempt to include an employer or his rights or an employee's representatives and his rights. I would have no objection to amending the amendment if my colleague would show me the rationale why this could properly be expanded. We are talking about one thing and he is talking about another thing.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HENRY. I guess then what is good for the goose is good for the gander. My question is why should one special category of the professionals involved in this procedure be exempted from tort liability on either side of the issue? Remember now this is not talking about employee protection or employer. That is neutral on yours. But you are providing a special liability block-off for the medical profession but not for the scientist doing the health studies for the firm, nor the scientific determinations that the union employees' council may be making in its advocacy of its efforts and determinations as to whether or not to secure these notices from the Department of Health and Human Services for potential referral for class action suits or whatever may follow. So I simply ask the gentleman why do you make one exception, maintain it is valid and then maintain it is invalid for everyone else.

Mr. GAYDOS. If I may respond to my colleague, in other sections of the bill we talk about an employer, when he assumes unto himself the duty or privilege under the bill to make a notification, where the Risk Assessment Board would not be doing the notifying, and we protect him in that particular section from claims that he failed to notify somebody that he could not find or the address was unavailable.

So in that section we are providing a protection for him. But here you are trying to bring in under this section—we are talking about malpractice, period, and you are trying to bring in an overall cloak of immunity and protection for an employer or an employee representative which has nothing to do with whether this employee is transferred from one job to another. I just do not understand the rationale.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Henry amendment to the amendment.

Mr. Chairman, I am a little bit confused about just who is liable and who is not on these matters. If the chairman would respond to me, I note that on the Risk Assessment Board certainly we have a physician and I would guess this particular provision would exempt him from liability. I believe there is a provision to exempt Federal employees. But I believe there is no provision to exempt from liability the other civilians or non-Federal employees that are on the Board. Is that correct?

Mr. GAYDOS. This is only a blanket protection for physicians. The reason why we put it in was because of numerous malpractice suits. We did not want to get entangled in a situation where we read every day about physicians refusing to make a decision, refusing to take a patient because they decide one way or the other. All this does is say that if a physician makes a determination that he is immune from any kind of a malpractice suit. That is all this says. I think it is a reasonable amendment because we want that physician to make a determination based upon his medical knowledge. I do not care if it goes for the employee or against the employee, I do not care, just so it is done under these conditions. Supposedly the physician making that decision is going to be able to do that with this protection. Otherwise, we are going to have problems with it, as I see it.

Mr. JEFFORDS. I can understand the desire to protect the doctors, but I do not understand the difference between that and the union official who has responsibilities given to him to notify workers under some agreement made and he fails to do so. Why should that union official be kept liable for exercising his duties when the doctor is allowed to get off free?

Mr. GAYDOS. I will be very blunt to my friend, I will respond: I do not care if it is a union official, I do not care if it is an employer, they are not members of the medical profession. If we want to give them some kind of protection, it has to be in another section, someplace else, not in this section. You are talking about a medical decision. If they make a medical decision they would be included. But they are not making any. Now if the gentleman has an amendment where you want to give some other protection in other places in this bill I would have no hesitation in adopting it if it fits in right.

Mr. HENRY. The point is that everyone involved in this process is making a medical decision, not just the physician.

Mr. GAYDOS. Who?

Mr. HENRY. It could very well be from the employer's point of view or the employee's point of view in terms of the union because of the union's advocacy in a situation, where you are dealing with a Ph.D. epidemiologist who never took a course in med school but they would be the people making the decisions in terms of whether or not, for example, an employer is going to appeal a decision, under the process we just adopted, or whether or not the union official is going to make the determination that in fact a full attempt will be made to contact, notify, refer, pursue or whatever the case may be. We are simply asking for consistency.

Mr. JEFFORDS. I would like to agree with the gentleman from Michigan here. We are setting up an elaborate bureaucratic process here for notification.

We start out with a risk notification board which is not protected from liability.

□ 1715

I can conceive that if they fail to make a determination of the study or make a wrong one, they are going to be open to liability or suit. You are going to require certain people down the line to make notifications, and you are going to require certain people to make determinations on lengths of exposure and to make determinations with employers as to when a person was employed there. All these things could lead to suits based upon their failure to carry out their mandates, and I think we are opening up people under H.R. 162 to liability for failure to do things required by H.R. 162. I see no reason why we would select the physicians out and say, "We will protect you, but we won't protect anybody else for failure in good faith to perform even their own duties."

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I would point out that on the nine-member Risk Assessment Board itself we have four nongoverning members of the Board who could very well be professional Ph.D. epidemiologists but not M.D.'s. In fact, that would probably be likely in many cases, knowing the kind of testimony that we were getting. They would not be protected. So we are protecting the doctor but not the epidemiologist who makes the same decisions. It just does not make sense.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me say this. I do not know how clearly I can express it. I want to reiterate what I said before. I would have no reservation to including others in this so-called protective cloak. I would have no reservation if you could show where they were part and parcel of the medical decision. As the bill reads, the only individual is the physician of the employee, whoever he chooses, or the physician of the employer, the doctor or company doctor, and a third member of the medical profession that these two choose to be the arbitrator if they cannot make a decision.

Now, with that outline, with those three medical individuals, we had thought it was proper to give them some cloak of immunity or protection from malpractice. Nobody else, including epidemiologists, in the bill is a part of the medical profession. A toxicologist is not. So we are not including them in this.

I cannot understand the rationale behind my colleague's objection. I strongly suggest to my colleague that he should support the amendment because it does take care of a possible troublesome problem we may have as far as physicians refusing to make a decision as to whether an employee should or should not be removed because he would be afraid he would be sued or if he did not make a decision, he would be sued if he did not make it.

Mr. HENRY. Mr. Chairman, if the gentleman will yield, would that not also apply to the epidemiologist refusing to make a decision on exactly the same basis? That is the question I am raising.

Mr. GAYDOS. Mr. Chairman, I would also point out to my colleague—and I know he would be sensitive in this area—that if we do not correct this situation with this amendment, we are going to find an awful lot of situations where it is going to be detrimental to the employer because a physician is not going to want to make his decision against the employee and he may have all the medical basis to justify making his decision against the employee, and yet he will not do anything because he is afraid he would be sued. So in order to have equity well balanced on both sides, on behalf of the employee when justified and on behalf of the employer when he is right, I would say that this is a good measure of protection.

Mr. HENRY. Mr. Chairman, if the gentleman will yield, that is, or course, exactly the point that we have been making all along, that there are these massive liability exposures built into the bill, so in sense the gentleman is making our case for us. What the gentleman has tried to do is block off a very, very minor part of it.

Why could we not do this? If the gentleman does not like my amendment, why would he not accept an alternative amendment which would cover anyone involved in making a health decision in keeping with the act? It seems to me it is pretty obvious that we are catering, quite frankly, to what somebody would call a special interest group. It is legitimate, but I wonder why what is good for one group is not good for another when the issue stretches across the board on this proposal.

Mr. Chairman, that is my objection.

Mr. GAYDOS. Mr. Chairman, let me say this to my colleague, and I mean this sincerely: The gentleman is very amiable and very persuasive, but I have to stand my ground because in this particular case I have to say that for a physician it is a medial problem and nothing else. I can say this: At least the gentleman admits it is a move in the right direction, so let us take the amendment and at least cure this possibility and maybe, with the gentleman's persuasiveness, when we have other amendments, he might win his point. But this amendment here should not be cluttered up.

Mr. HENRY. Mr. Chairman, I will not prolong this discussion. If the gentleman will yield further, I would simply say that the gentleman's amendment is good and mine is better. That is why I offered the amendment to the amendment.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Michigan [Mr. HENRY].

Mr. Chairman, I will not take all of my allotted time, but I would like to commend the gentleman from Michigan for his amendment which substantially improved the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The difficulty that is in this bill is this: I think the Members need to use this amendment as a part of the instructive process, and the reason that the gentleman from Pennsylvania is offering his amendment is that with what is in the bill presently, it is said that there should be a medical removal, than an employer should be required to offer an alternative job for 12 months if the personal physician of that employee certifies that.

The difficulty, whether you take the physician off the hook as far as liability is concerned, the difficulty still remains with that basic provision, the medical removal position. So as long as you have the medical removal provision, I think it does help it somewhat to eliminate the liability from the physician, but the physician can still unilaterally virtually require the employee be given a different job or be given severance pay of 12 months just upon his say-so alone.

I think it is an improvement further to take the Henry amendment to the amendment, and I would hope the gentleman from Pennsylvania [Mr. GAYDOS] would accept that amendment that says an employer or an employee's representative also shall not be liable if he makes a decision that is within his discretion as contained in this bill, and there is some discretion in this bill for that, that he shall not be liable for a suit by the employee.

The gentleman from Michigan is trying in some way to take a bill that is going to lead to an enormous explosion of litigation and have it lead to what is still an enormous explosion of litigation but just simply less of it.

So, Mr. Chairman, I urge an "aye" vote for the amendment offered by the gentleman from Michigan [Mr. HENRY].

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a little confused here. Can some Member tell me how many days of hearings the committee held on this bill? How many days of hearings did the chairman hold on this bill?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, back in the last Congress we had 6 days of full hearings, and in this Congress, the 100th Congress, we had 5 hearings.

Mr. WALKER. So we have had about 11 days of hearings?

Mr. GAYDOS. Mr. Chairman, the gentleman asked me a question, and I wish he would let me respond further to it.

Mr. WALKER. I am glad to yield further to the gentleman.

Mr. GAYDOS. In all those hearings, if I may say so, we had more witnesses against the bill than for the bill. I just want the gentleman to know that. We had more against the bill than for the bill, and I did that for the primary reason of trying to hear all sides. So that is how it turned out.

Mr. WALKER. Mr. Chairman, I thank the gentleman, and I really congratulate him for that. To digress for just a minute, I understand we are going to have a hearing in the Judiciary Committee tomorrow on the balanced budget amendment where only one side is going to be called. They are only going to call in the opponents to listen to that.

So the gentleman is to be congratulated. I wish the same kind of fairness were shown by the chairman of the Judiciary Committee.

Mr. GAYDOS. Mr. Chairman, I say to the gentleman from Pennsylvania that I did the same thing. I postponed the markup on this bill, believe me, and we had a special minority hearing for the Chamber of Commerce representing all of small business. That took that whole day on that hearing. I did not mind it. I thought it was proper to do it, and I make the point since the gentleman raised the question.

Mr. WALKER. Good. Let me say to the gentleman that we need that kind of fairness, and I think it is absolutely ludicrous that tomorrow we are going to have a hearing where only one side can testify. When proponents of the balanced budget amendment were called up, they were told, "Oh, no, this hearing isn't for you." That is rather ridiculous. But I digress.

The reason I asked the question is to ask this: How long did the gentleman spend marking this bill up, several hours or a couple of days?

Mr. GAYDOS. For marking the bill?

Mr. WALKER. Yes.

Mr. GAYDOS. We had a markup in the subcommittee, which is the usual procedure, as the gentleman well knows. I think we had a lively debate, and I believe the amendments offered in the subcommittee markup found their way to the floor today and will be offered. Then we went to the full committee. I would say we spent a good 2 hours on it.

I do not exaggerate one way or the other, but I thought we gave a fair play to all those who wanted to be heard in the full committee. I think there were amendments offered there, and then we had it reported out by voice vote. It was not a recorded vote. It was a voice vote because we were running very close to the 12 o'clock time when we were going to start here on the floor of the House.

Mr. WALKER. Mr. Chairman, I thank the gentleman. I know that my colleague, the gentleman from Pennsylvania, was trying to be very fair on this.

What troubles me, and the reason I stand up here now, is because I get the impression that after 11 days of hearings and after a couple of hours of markup the committee is out here on the floor rewriting the bill on the floor. The only amendments we have had thus far have come from the committee. If in fact the gentleman is correct in saying that we have an amendment before us now that addresses what I think he called a troublesome problem, I ask, why was that problem not found in the 11 days of hearings so it could be included in the original bill? Why are we out on the floor now having the committee rewrite the bill? There are some other Members around here from other committees that are naturally going to have some other amendments because they were not a part of that markup. It strikes me as just passing strange that the committee is out here rewriting this very, very important bill.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. Of course, I yield to my colleague, the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, let me emphasize the fact that these amendments are by their very nature minuscule, believe me, as far as this bill is concerned.

This particular item here involving malpractice by physicians came about because of the Florida notoriety, the situation down there where physicians were walking off, and an individual came to our office and said, "Look, I think it would be a very good amendment if we had this inserted," I only have six amendments here.

Mr. WALKER. But after 11 days of hearings, should you not have found that before?

Mr. GAYDOS. Nobody ever raised the subject, and we had all kinds of experts in.

Mr. WALKER. Mr. Chairman, let me just make this point: we are entering into an area here that is going to cost employers of our country literally billions of dollars, and we are out here on the floor rewriting a bill and we do not know exactly and will not know exactly what the implications of it are.

This Congress has a peculiar kind of tunnel vision when it comes to these kinds of issues, because on one hand I am about to go into a trade conference where we are concerned about the fact that this country is coming apart at the seams because of unfair foreign competition, and now we are coming to the floor with this kind of bill that is going to impose massive costs on employers, absolutely massive costs on the employers of our country, and we somehow see that as a different issue from the other issue over here where we cannot find enough products to trade in the world.

This is absolute lunacy. We cannot go on like this. We cannot have a Congress that jumps to the tune of every special interest that comes down the pike. That is what we are doing here.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. Walker] has expired.

Mr. WALKER. Mr. Chairman, the special interests snap, and what do we do? We jump. We are out here jumping today, and we are jumping in ways that I think cause real problems when the committee itself does not have its act together enough to even know what it is that they are bringing to the floor and then comes out here and begins the process of rewriting the bill on the House floor.

Let me say that if there was ever a reason to vote against this bill, it is being given to us right now. Nobody knows what is in it, nobody knows that should be in it, and yet we are going to impose billions of dollars of costs upon employers across this country over a period of some years, billions of dollars that they cannot afford if we are going to be competitive in the world economy.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I appreciate the gentleman's yielding.

First, I want to assure all those Members who are sharing in our debate that the summary of the subcommittee chairman, the gentleman from Pennsylvania [Mr. Gaydos], in terms of the procedures is accurate. In fact, we were given a full opportunity to offer amendments in committee. We did so en bloc to expedite matters of time, and that was agreed to on both sides in exchange for the subcommittee's cooperation for full, unimpeded debate on the floor. Obviously they have been very generous in that regard.

But the gentleman made exactly the critical point when the gentleman from Pennsylvania [Mr. Gaydos] in this instance talked about the fact that we heard of the problems the doctors in Florida are having about liability, so we put in the amendment to solve the doctor's problem. My concern is this: What about the employers' problem?

I have factories closing in my district. I lost the very largest industrial salt company in the free world which closed down in my district just in this last year for these kinds of problems. We take care of the doctors, but we do not take care of the guy hiring the workers and hiring the doctor.

The problem with the amendment as it is drawn, I say to the subcommittee chairman—and I say this with great respect—is this: What happens if an employer hires a physician and the physician screws up royally? The physician is protected under his amendment, but the employer of that physician can be sued as the principal.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. Walker] has again expired.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, the only comment I would like to make is this: If my colleague has lost so many individuals as employers, he has not done it as a result of this bill, I can guarantee that, because this is in the making.

□ 1730

We would hope it would do just the opposite. I wanted the gentleman to understand that.

I feel very sincerely about that aspect of the gentleman's stated opposition to this bill.

I can answer the gentleman in this manner. I would be very susceptible, if the gentleman makes a request, to withdraw this amendment at this time, and we may bring it up for consideration a little later, because if the gentleman thinks the gentleman has made such a salient point, I will withdraw the amendment at this time.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I thank the gentleman from yielding.

The gentleman from Pennsylvania will withdraw the gentleman's amendment if I withdraw my amendment to the amendment?

Mr. GAYDOS. Yes, and the gentleman can bring it up later by unanimous consent.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania [Mr. GAYDOS] and the gentleman from Michigan [Mr. HENRY] to withdraw their amendments?

There was no objection.

Mr. WALKER. Mr. Chairman, in conclusion, I am glad we got that settled. That is nice that we have gotten one amendment off the floor.

It still leaves the Members with the larger question of just exactly what it is we are doing here, and it seems to me that what we are doing is imposing costs on employers that they cannot afford at a time when a world economy demands that we understand how it is that people get jobs.

We are going to force people out of work with this kind of big labor-oriented legislation.

I would suggest that it is time to rethink where we are going.

If this Congress plunges us into recession the way we are capable of doing with these lunatic bills, I think we will have a horrible price to pay across the entire country.

AMENDMENT OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 28, line 14, before "Upon" insert "(1)".

Page 28, line 20, strike out "(1)" and insert "(A)".

Page 28, line 24, strike out "(2)" and insert "(B)".

Page 29, after line 3 insert the following:

"(2) An employer shall not be required to duplicate any medical monitoring already required under a permanent health standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 665(b)(5)), or under section 101(d) of the Federal Mine Safety Act of 1969 (30 U.S.C. 811(d)).

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, the amendment is based on the knowledge that some employers already monitor their employees for medical symptoms of specific hazardous material, substances, processes, and that is a fact.

If the Risk Assessment Board under the terms of the existing bill as offered, if the Risk Assessment Board contacts an employer and tells him that he must monitor his employees for a substance which he is already testing those employees for, then the high-risk program will not require him to test his employees twice.

The language is very, very simple.

It says this, "An employer shall not be required to duplicate any medical monitoring already required under a permanent health standard promulgated under section 6(b)(5) * * *."

Let me again make an attempt to explain and elucidate what we mean by monitoring. Monitoring can consist of from a liver scan which it may, if taken yearly, or every 2 years, the cost might be $250 for the employee.

It can be as cheap as $6 for a urinary test which would be given every 3 years in cases involving cancer of the bladder, things of that nature.

An x ray which is called monitoring may cost $35 for the year.

I think there are some misconceptions floating around that when we say monitoring, it is some very decided medical procedure that is almost confiscatory. It is not that great.

Science as such has progressed to the point, with the medical profession, where they now can almost pinpoint how much examination a person should have. In fact, medical science is limited today to the number of x rays a person can have.

They feel they are overexposed. All the testimony we had by the experts indicated to the committee that these costs are not prohibitive, and that is what we deduced from the testimony.

They were not prohibitive, so in this area we still did not want to duplicate it, say, under OSHA, another standard, a specific material standard such as arsenic, and that they were monitoring on a yearly basis an employee there, and it should not be under this bill a requirement to again put into play a monitoring requirement and again have that person monitored, because one examination is as good as another.

That is the basis of the amendment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding.

I have a few questions on this amendment. Would the medical monitoring which is conducted under OSHA be considered as in compliance with H.R. 162?

Remember, we have got penalties in here for failure to conduct the monitoring under H.R. 162. I do not think the gentleman's amendment specifies that.

Mr. GAYDOS. My response is that if there is an existing standard that is requiring monitoring under this amendment, no further monitoring would be required.

Mr. JEFFORDS. Then it would be in compliance with H.R. 162?

Mr. GAYDOS. Yes.

Mr. JEFFORDS. Suppose the monitoring was perhaps for different, or for the same substance but a different disease. Would it still be in compliance, or what would be the situation then?

Mr. GAYDOS. The assumption would have to be that if an employer were notified that a certain disease is at his workplace, and that disease was not the sum and substance of the monitoring under another standard for another disease, of course, one would not affect the other; and you would be monitored for that particular disease for which a notification preceded it.

There is a possibility, very remote, that a person might be working with two or three hazardous materials, one of which is under OSHA standards which is being monitored, and another one would be under this bill here where it would be suggested he get medical treatment and could be monitored every 2 or 3 years on another item.

Mr. JEFFORDS. In other words, if the monitoring is for different situations, different disease or whatever, then they would continue with both monitoring, or they would modify the monitoring, or what would happen?

Mr. GAYDOS. No, each medical examination pertains to the specific disease involved.

If under a standard the individual employee is being monitored for, say, arsenic exposure, that stands; but under this notice, if the notice pertains to another disease, BBN or some other type of disease, the monitoring, if required, would be in another category from another disease, and separate and apart monitoring.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 12, after line 21, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) If the Board, after considering the factors described in paragraph (3), identifies a long-latency disease among persons exposed to substances, agents, or processes, the Board may, in designating a population at risk that should be notified under paragraph (1)(B), limit such notification to persons whose exposure occurred within a time period that corresponds to, but encompasses, the period of latency of such disease.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, one of the concerns many of the Members had while we considered this bill, and that which has been expressed by many witnesses about the bill, is how far back we go in notifying a worker who has been exposed to a certain hazardous susbstance, or procedure.

This amendment addresses that specific issue in this manner. Under the terms of this amendment, the Risk Assessment Board would have the ability to limit the notification to the period of latency associated with the disease.

Thus, for example, if a class of workers was identified at risk of bladder disorder because of exposure to a chemical dye, take that example, and the latency period for that exposure of that dye was, say, 10 years, the notification would be limited to that 10-year period.

The structure of this amendment is such that the Risk Assessment Board using its own medical and scientific knowledge, as well as the knowledge of experts that the Board is permitted under the bill to bring into the process, I think it is an important amendment.

I think it is an amendment that should be adopted without too much debate or concern.

Mr. JEFFORDS. Mr. Chairman, I reluctantly rise in opposition to the amendment.

I do so not that it may not be well-intentioned, but I have some great difficulty in trying to really understand the implications of the amendment.

As I understand this amendment to attempt to limit retroactivity of notification to former workers based on latency periods of disease, I believe that is correct, and my understanding of disease latency periods is that the latency time is directly related to the date of the last known exposure, that H.R. 162 requires notification based on extrapolation to workers who have not been studied.

How then will the Board notify the Secretary who then has to notify NIOSH that certain persons should not be notified?

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding.

I cannot speak for the Risk Assessment Board. They are the experts.

We set out the parameters. I do not know as of this time just exactly how the latency period relates, and whether a 3-month period is very, very crucial or not.

As I understand the gentleman's inquiry, the gentleman makes note of the fact that there is a latency period that may begin to run at various times. That would have to be a determination by the medical experts that are on the Board.

I do not know if it would be the toxicologist or the epidemiologist, or even a member of the medical profession, a certified member of the medical board.

A lot of those things have to be done by the experts, and that is one of the reasons why the Risk Assessment Board was made up of such a political scientific outstanding individuals to be recommended by the National Academy of Sciences.

We tried to do it that way.

Mr. JEFFORDS. The Board has no individual information. The Secretary has no individual notification.

Any individual exposure information available, H.R. 162 does not require that exposure information. It would be NIOSH, not the Board, that would have access to this information.

I have a difficult time understanding how the amendment would work.

Mr. GAYDOS. Mr. Chairman, if the gentleman would continue yielding, if there is no information, the only conclusion even those experts must draw under the circumstances is that there is no time limit, and whoever they can notify, fine, and that is who will be notified.

We tried to put this in as a limiting feature, meaning that if the experts have good, solid information that this is the latency period, why not have a cutoff period.

Why not put a blanket protection over going back too far as some of the people have criticized?

Some individuals said that we have gone back too far. We feel this is a way out.

If the scientists make the conclusion that this latency period is definitely discernible, they will set in motion their notice in such a way, they only go back 5, 6 years, depending on what they scientifically deduce as a matter of fact.

It would be conjecture on my part to say they do one thing or another thing. I am not a scientist.

Mr. JEFFORDS. I would just point out that it raises one of the big problems with the bill which it does not solve; and that is, one could go back infinitely with respect to liability and notice requirements, and I do not think that this provision, as well-intentioned as it may be, is going to solve that problem at all.

Mr. GAYDOS. It may or may not. I was trying to explain to the gentleman the purpose of the amendment.

Whether it accomplishes it or not, every Member has to make that decision in their own good conscience after applying the amendment.

I submit this is a move in the right direction and gives some latitude to the expert board that we have, and it would be on the affirmative rather than the negative side.

Mr. JEFFORDS. I understand, and I appreciate the gentleman raising a substantial problem with the bill; but I cannot agree that it will do anything significant to alleviate that problem.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I direct my question both to the gentleman from Vermont and the gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the subcommittee and the sponsor of the amendment.

As the Board considers this latency period under the gentleman's amendment, would the Board be permitted to consider those other factors that also contribute to the latency period? For example, if a group of workers are found to be statistically at a higher risk of certain types of cancers that are affected with even higher risk because of a high red-meat content in the diet, for example, that red-meat content in the diet would also affect latency periods?

□ 1745

Does the gentleman's amendment intend to allow the Risk Assessment Board to place the other factors outside the work place into their judgment of the latency?

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield, we have specific language in the bill that addresses that very problem. In there it says that the Risk Assessment Board should consider that factor. They should consider all extenuating circumstances and all factors directly or indirectly.

The gentleman will find the provision that will cover that; for instance, like smoking. It is the same type of a problem, like red meat. The Risk Assessment Board is directed to take that into consideration.

Now, to the degree that they do it is debatable. I do not know. I am not going to be on the Board. We hope that the scientists on there will make that determination based upon the specific language in the bill. They are going to have these parameters which are going to have to be a guideline to them.

If I may point out, in the bill on page 12, section D, line 8:

> (D) the extent of the increased risk of illness or disease created by the occupational health hazard alone or in combination with other factors, including (but not limited to) smoking and diet;

I say that "diet" would take care of the red meat.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, the gentleman is correct that the bill says that, but I do not know how the Risk Assessment Board could actually put it into effect, because as I understand, the Risk Assessment Board is still required under this bill, on page 10, to indentify and designate from this review those populations at risk, and in identifying those populations, they consider the factors.

Is it the gentleman's contention that the Risk Assessment Board would not have to notify workers that diet or some other factors would increase their exposure?

Mr. GAYDOS. No, the diet and that problem is all part and parcel wrapped up in the determination made by the Board. Those elements and factors would appear in that determination. They have to take that into consideration. How they do it, we understand from NIOSH, they can do it and they have done it; so how they do it mechanically would be up to them as far as their professional abilities and their know-how allows them to do it; but the wording is clear in the statute. The wording is very clear.

Mr. BARTLETT. Well, Mr. Chairman, if the gentleman will yield further, I will just read the wording into the RECORD and then the Members can judge for themselves. It says beginning on line 8 on page 12, and this is one of the factors that the Board shall consider in identifying the population at risk, but I want to remind the gentleman that they still have to identify the whole population at risk:

> (D) the extent of the increased risk of illness or disease created by the occupational health hazard alone or in combination with other factors, including (but not limited to) smoking and diet;

It is either/or. The Board is not required to consider the combination of other factors. As I read that, if the Board then can consider the factors or just simply the extent of increased risk of illness in any occupation.

Mr. GAYDOS. Well, if I may, if my colleague will yield further, I just have to conclude that maybe in some circumstances the medical people involved or the scientists probably could not do it. That is why we have the "or" in there, because in some conditions they would not be able to do it because of the inability of the scientific approach to the problem in order to do it.

I think one item in here that the gentleman is not referring to is, following on "including but not limited to smoking and diet." They can include it, but they do not say you are limited to it.

Mr. BARTLETT. Well, Mr. Chairman, if the gentleman will yield further quickly, this paragraph could be written precisely if that was the sponsor's intent. It could say that the Board shall consider the other factors in determining the population at risk and eliminate or reduce the populations at risk if their risk is primarily or largely the result of other factors, but it does not say that. It says it gives the Board some discretion, I suppose in this, but not very much, but it does say "or in combination with other factors."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

> Amendments offered by Mr. GAYDOS:
>
> Page 19, line 23, insert "State or local" before "government".
>
> Page 20, beginning on line 18, strike out all of paragraph (3) through line 6 on page 21, and insert the following:
>
> "(3) The determinations of the Board shall be subject to review in accordance with section 706 of title 5, United States Code.
>
> Page 7, beginning on line 20 strike out paragraph (8) through line 23 and insert in lieu thereof the following:
>
> (8) The term "hazard communication standard" means the standard contained in sections 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 of title 29 of the Code of Federal Regulations as in effect on October 1, 1987.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, these amendments take into consideration certain technical corrections. The amendments change the definition of OSHA's hazard communication standard to conform with OSHA's recent expansion of that standard.

The amendments also change some of the procedures of the Risk Assessment Board in H.R. 162 so that it conforms to the administrative review procedures of the Administrative Procedures Act as such.

Now, the first change is necessary in light of changes in the OSHA hazard communication standard, which we all know, and second will put the bill more in line with the current Federal laws, and we are talking about the administrative review.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. Yes, I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, we have no objection to the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendments were agreed to.

Mr. GAYDOS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, had come to no resolution thereon.

MINTING OF COMMEMORATIVE COINS IN SUPPORT OF 1988 OLYMPIC GAMES

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2741) to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

> Senate amendment: Page 4, line 18, strike out "December 31, 1988" and insert "June 30, 1989".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BARTLETT. Reserving the right to object, Mr. Speaker, I do not intend to object if this has been cleared by the minority, but our leadership on this desk does not have a clearance or a waiver.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. This has been cleared with the minority on our committee.

Mr. BARTLETT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

PEACE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the administration has repeatedly supported peace negotiations, and has been rebuffed by the Communist Sandinistas each time. U.S. policy still stresses a negotiated peace settlement. However, we insist that democracy, not communism, prevail in Nicaragua.

In 1979, the United States provided $118 million in economic assistance to the Sandinistas who promised major reforms. Instead the Sandinistas took the United States economic aid, went to the Cubans and the Soviets for arms and military advisers, and then replaced the repression of Somoza with a much worse Soviet-style totalitarian repression.

The fact that the Communist Sandinistas broke their treaty to the OAS should not surprise anyone. British Prime Minister Neville Chamberlain's sellout of Czechoslovakia in 1938 to achieve "peace in our time" has become the classic lesson in the folly of trusting dictators who have both proclaimed and demonstrated their willingness to use the big lie to achieve their goals.

□ 1800

Chamberlain has gone down in history as a fool for trusting Hitler, but what is generally forgotten is the fact that he had a lot of company. His deal with Hitler was widely hailed by the press and politicians as a great achievement. It didn't take long for Hitler to expose their gullibility.

The 49-year-old lesson of Munich seems to have been forgotten. The North Koreans have consistently and massively violated the 1953 Korean armistice. Henry Kissinger received the Nobel Peace Prize in 1973 for a treaty with the Communists that led to the invasion of South Vietnam, to the genocide in Cambodia, and to the thousands of Vietnamese at the bottom of the South China Sea. The Kennedy-Khrushchev agreement was supposed to have prevented Cuba from exporting its revolution. Cuba now has its troops not only in Nicaragua, but over 40,000 in Angola and thousands of others all over Africa.

The current Arias proposal was predicated on the assumption that the Communists who rule Nicaragua can be trusted to live up to promises similar to those they made to the Organization of American States [OAS] before they took power in 1979, promises they broke once they were firmly in control.

President Arias has proposed a peace plan that is not at all realistic with his previous statements.

I would like to use a couple of quotes of President Arias. On February 1, 1987, he said:

> If Nicaragua halves its numbers of tanks, aircraft, armored helicopters, and so forth, it would simply mean that if they were to invade us it would take them 15 minutes longer to do so. What worries us is Nicaragua's failure to move towards a pluralist form of democracy, as they promised in 1979 and as they promised in the Contadora document.

He also said on May 29, 1986:

> There can be no peace, even if the Nicaraguans throw all their artillery and their helicopter gunships into Lake Managua, if there is no democratic opening in Nicaragua. The Nicaraguan people, both inside and outside, will keep fighting for freedom, and Honduras and Costa Rica will keep suffering the effects of the struggle."

The Arias plan comes at a time when the Nicaraguans fighting for freedom have been making their greatest progress.

The Nicaraguan Defense Minister, Gen. Humberto Ortega, at an officer promotion and awards ceremony on July 15, 1987 said:

> We have a real, living, dynamic and present danger that daily threatens our existence, not only as a revolution but also as an independent nation . . . for the rest of the year we must fortify with greater eagerness, greater capability and disposal of the revolutionary state.

The current treaty allows for the Communists to take a breather, to regroup, and to unpack the new Soviet weapons that are flowing into Nicaraguan ports.

Are we again going to fall into the Communist trap?

Are we again going to allow a people to be forced into lifelong Communist tyranny?

Now is the time for the United States to stand up and support the people who are fighting for freedom in Nicaragua. Because if we don't, and United States troops are forced to remove the Soviet beachhead in our hemisphere, the blood of our troops will be on the hands of those who again make the mistake of trusting the Communists to live up to their promises. Winston Churchill once said:

> When they asked me what I would call WW II, I said "the unnecessary war" * * * If the allies had the sense of responsibility found in most ordinary households, the war could have been averted. It is my purpose, as one who lived and acted in those days, to show how easily the tragedy of the Second World War could have been prevented; how the malice of the wicked was reinforced by the weakness of the virtuous.

Mr. Speaker, how many times do we have to relive the painful lessons of the past?

Mr. Speaker, Lord Chamberlain would probably have won the Nobel Peace Prize in 1938 for his now infamous agreement with Adolf Hitler in Munich.

Now Oscar Arias has received the Nobel Peace Prize for coming up with a peace plan that gives the Communist Sandinista government breathing room. It is no doubt well intentioned but so was Lord Chamberlain.

The only thing Communists understand is strength, just as Hitler and the Fascists only understood strength.

The cry of peace in our time preceded World War II. The cry today of peace in Central America, while allowing the Soviet Union to establish a beachhead in Nicaragua that is threatening all of the Central American democracies and our security as well, could precede a major war here.

We all want peace but not at the expense of a future war or more Soviet style Communist dictatorships in our hemisphere.

NATIONAL BLACK AMERICAN INVENTORS DAY

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from New York [Mr. FLAKE] is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, I am pleased for this opportunity to address the House today to introduce a joint resolution designating March 27, 1988, as "National Black American Inventors Day." Black Americans are credited with thousands of inventions which range from items of household conveniences to items of vital importance to business and industry. Black Americans, accustomed to hardship, continuously created new and more efficient ways of working, thus inventing hundreds of labor saving devices, revolutionizing industry and improving not only their lives but the lives of all Americans and other people throughout the world.

Some inventions by black Americans are well known while research has uncovered many others for which black people have never been given proper credit. Prior to the Civil War, black Americans were not permitted to obtain patents, the result being that many thousands were claimed by slave masters. During the 1800's many of the black inventors listed in the U.S. Patent Office were identified only by their first initial and last name. This practice was used to conceal the identities of black inventors because they were often forced to give up their discoveries once their race became known. Recognition of the invention was denied if the inventor was known to be black.

As early as 1753, Benjamin Banneker built the first wooden clock ever made in America. Benjamin Banneker, born November 9, 1731, near Baltimore, MD, was a self taught mathematician, astronomer, author of almanacs, surveyor, humanitarian and inventor. A traveling salesman showed him a pocket watch, something he had never seen before. Banneker was so fascinated with the watch that he took it home and spent days taking it apart and putting it back together again. In 1753, using the watch as a model, Banneker produced the first wooden clock every built in the United States. It was made entirely of wood, each gear carved by hand. His clock kept perfect time, striking every hour, for more than 40 years.

The first black inventor to be listed in the official Patent Office records was Henry Blair. Blair invented a corn planter which placed plants in checkrow fashion with rows at right angles to each other. Prior to Blair's corn planter, crude planting devices which dated back to about 2000 B.C. were used. In 1836, Blair invented a similar cotton planter.

Lewis H. Latimer was a pioneer in the development of the electric light bulb. Latimer was born in 1848, the son of a former slave. He was a member of the Edison Pioneers, a group of distinguished scientists and inventors who worked with Thomas Edison. Because he was a highly skilled draftsman, Latimer was asked to draw the plans for Alexander Graham Bell's telephone patent. In 1881, Latimer invented the incandescent electric light bulb with a carbon filament. In 1882, he received a patent for what was probably his most important invention, an improved process for manufacturing carbon filaments used in light bulbs. He assigned these and other patents over to the U.S. Electric Lighting Co. In 1884 while working for the Edison Co., Latimer supervised the installation of Edison's Electric Light Systems in New York, Philadelphia, Canada, and London. Lewis Latimer contributed significantly to America's industrial revolution.

In 1892, G.T. Sampson invented a clothes dryer in which a heating device operated by a motor extracted moisture from clothing. Prior to this invention, most clothing was dried on a clothes line. Sampson's dryer was the forerunner of modern-day electric and gas clothes dryers.

Granville T. Woods was a prolific and brilliant inventor of devices which produced broader and more efficient application of electricity. The father of the braking and electrical systems used on railroads, Woods also developed the steam boiler furnace and radiator. Woods revolutionized the transportation industry in 1892 with the invention of the third rail now used in modern subway systems. It permitted steam powered railroads to be converted to electrical power. Prior to that time Woods had patented a system of laying tracks underground, invented to relieve the overcrowding of surface railway traffic. In 1887, Woods produced one of his most important inventions, the synchronous multiplex railway telegraph. This device significantly reduced train accidents by allowing railroads to send coded signals forewarning operators of obstacles in front of or behind them.

Before Elijah McCoy invented the lubricator cup in 1870, all motorized machinery had to be periodically brought to a complete stop so that it could be lubricated by hand. McCoy's invention reduced time and labor costs significantly and increased business profits substantially by making lubrication automatic. Subsequently everyone who owned a self-lubricating machine boasted of its having the "Real McCoy," a popular expression still used today to signify genuine quality.

Therefore it is fitting that the birthday of this man who so modernized the industrial world should be designated "National Black American Inventors Day," in recognition of the contributions of these gifted men and women.

Those whose accomplishments I have outlined are only a few of the thousands of black American inventors who added to the convenience, luxury and quality of American life through their ingenuity. Our lives and history would not have been the same without the traffic light, egg beater, spring gun, fountain pen, butter churn, ironing board, clothes dryer, golf tee, steam gauge, lawn sprinkler, pencil sharpener, lawn mower, hand stamp, elevator, casket lowering device, street sweeper and gas mask, each of which made life a little easier and each of which was invented by a black man or woman. I invite you to join me in recognizing these great Americans by supporting National Black American Inventor's Day.

Mr. Speaker, I include for the RECORD a copy of the joint resolution designating National Black American Inventors' Day.

H.J. RES. —

Joint resolution designating March 27, 1988, as "National Black American Inventors Day"

Whereas inventions by black Americans range from items of household convenience to items of vital importance to business and industry;

Whereas these inventions include the third rail system used in subways (1892), the radiator and steam furnace (1884), the traffic light (1923), the shoe lasting machine (1883), the gas mask (1914), the electric light bulb with a carbon filament (1881), the first practical refrigeration system for longhaul trucks (1839), the sychronous multiplex railway telegraph (1887), the lunar surface ultraviolet camera/spectograph (1972), and the first working clock made in America (1753);

Whereas these inventions also include laborsaving devices such as the corn planter (1834), the cotton planter (1836), the hand corn shelling device (1884), the lawn mower (1899), the automatic lubricator for heavy machinery and trains (1872), and the railroad car coupler (1897);

Whereas many of these inventions revolutionized their respective industries;

Whereas, prior to the Civil War, many black Americans did not receive credit for their inventions because slaves could not receive patents and because masters often claimed credit for the inventions of their slaves;

Whereas the number of inventions that are indeed credited to black Americans is in the thousands;

Whereas the contributions of black American inventors have not received the national attention that they deserve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 27, 1988, is designated as "National Black American Inventors Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

DAVIS-BACON ACT

The SPEAKER pro tempore. (Mr. CARPER). Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, with the onset of the 30 degree weather, I am reminded that the cold and flu season will soon be upon us. Even though a cure has not been discovered for the common cold, we are continually bombarded with advertisements promising relief. Because we have no other recourse, we generally will run to the corner drugstore and buy an assortment of over-the-counter drugs to get some relief from our aches and pains. Collectively, we have probably taken millions of aspirin, swallowed pounds of throat lozenges, and drunk gallons of cough syrup.

I would venture to say that most of us do not have a difficult time following the directive on a bottle of aspirin or cough syrup that tells us when to discontinue its use—an indicator that it is no longer effective or needed.

In this body, we are having a difficult time discontinuing the use of the Davis-Bacon Act, even after 50 years. Instead of saying enough is enough, we have increased the dosage. Today, we still subscribe to the same law that finds its origins during the great depression.

In 1931, a low point in an already depressed economy, workers were willing to travel anywhere for practically any wage. Because of sinking wage rates, the Federal Government wanted to establish a floor and protect local companies from traveling contractors who would undercut contracts with lower wages than those in the area. As a result, Davis-Bacon legislation was passed, specifying wage rates for Federal construction contracts over $2,000. Today, our economic climate is different—much different, but Davis-Bacon has grown to apply not only to Federal construction projects, but to all projects receiving Federal funds or loan guarantees. Is the need for such wage protection still central to the survival of Federal construction workers?

Besides the rebound of the economy, there have been a number of developments since 1931 that eliminate such a need. A Federal minimum wage was established with the passage of the Fair Labor Standards Act. In addition, strong labor unions are now a strong protector of wage rates. Historically the construction industry has been more unionized than other American industry and its wage rates are also among the highest in the Nation. The preeminent role that organized labor plays in guaranteeing a wage floor also continues to be an influence in getting special treatment in today's economy.

By keeping wages artificially high, competition is discouraged. It is this protection that impedes the competition that is so often lauded on this floor. It is the competitive nature of our economy that has contributed to its growth. Why don't we apply the idea of producing the best product at the lowest possible price in the area of Federal construction projects? We generally expect businesses to seek the lowest possible costs when producing a good or service, hoping the wise choice of resources will result in the lowest price for the consumer. However, this reasoning seems to change when the Federal Government is the consumer.

I find a similar pattern when I want to go out to dinner with my three sons who are presently struggling with the financial reality of being in college. If I ask them where they would like to eat, being students, they inevitably respond, "Who's paying?" If I pay, they seem to think we should go to the most expensive place in town. If they are paying, they are willing to go to a place that is substantially less expensive or they may even offer to make sandwiches at home. I would like to remind this body when the Government is paying, we, along with 500,000 other people from home, are footing the bill.

The Defense Department is repeatedly criticized by the liberal media for squandering funds in its contracting practices. Where is the criticism of the practices encouraged by Davis-Bacon? The Congressional Budget Office estimates that Davis-Bacon legislation adds approximately $1 billion (billion—not million) to total Federal construction costs. As a consumer and a taxpayer, it seems to me that in a time where it is absolutely vital to our Nation to exercise fiscal restraint, such a considerable savings to the Federal Government should be pursued. I personally think this extra expense created by Davis-Bacon is one expense that we can do without.

As Representatives, we must be sensitive to today's problems—here and now. The economic realities that we face today demand that we have the insight to eliminate unnecessary legislation and implement relevant solutions to today's problems. It is time to reexamine provisions prescribed under the Davis-Bacon Act passed during our country's most severe depression.

The ills Davis-Bacon tried to remedy are no longer with us. The extended applications of Davis-Bacon is now creating serious side-effects. Protectionist legislation, like Davis-Bacon, has become addicting to organized labor and it is also poisonous to a competitive and growing economy. Mr. Chairman, it is time to discontinue its use.

□ 1815

LOW INTEREST ISSUERS MAKE HEALTHY PROFITS

The SPEAKER pro tempore (Mr. CARPER). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it was with great interest that I recently reviewed a report on low interest rate credit card profitability. Michelle Meier of the Consumers Union supplied the report written by Stan West and Harry Snyder. It is an accurate and up-to-date compilation of information, both anecdotal and statistical, challenging the claim of big money-center banks that they do not charge excessive credit card interest rates. I hope that you and my colleagues share my interest in this information.

Credit card companies and the majority of card-issuing banks are adamant in disavowing that credit card interest rates are exorbitantly high. While allowing that they are profit motivated, they would like us to believe that they charge fairly and, far from abusing the consumer, they are providing an important service at a reasonable cost. I weep at the depth of their humanity. These plaintive affirmations ring somewhat disingenuous when the facts are exposed.

I am the last to deny the need of the banking community to make profits. Let them make big, enormous, record-breaking profits. But not unfair and duplicitously earned profits at the expense of the American people. We would certainly condemn the pagan ritual of human sacrifice but blithely ignore the pain inflicted as we allow credit card issuers to sacrifice the American consumer on the alter of avarice.

Profits made through sound investment, careful business practices, and innovation are the basis for progress in our proudly capitalistic society. While many large money-center banks cry out at what they call the unnecessary intrusion of Government into their businesses, I say that legislative action is our only recourse. It is not intrusive but protective; it is not motivated by the want to exercise unwarranted control but the need to defend an unsuspecting and guileless American consumer.

Over 75 million of us, 64 percent of all American families, possess a credit card. We average eight credit cards each, three of which are bank cards. We presently owe $80–$100 billion on those cards and will pay over $15 billion in interest charges this year. This interest, in addition to other fees and charges, contributed to over $5 billion in pretax profits last year, up from over $3.6 billion in 1985. This has become the single most profitable segment of the banking industry; the industry earns, on the average, 10 percent of its profits on 3 percent of its assets. Many large banks, BankOne of Chicago and Citibank for example, earn 25 percent to 30 percent of their profits from their credit card businesses. I shudder to think of how many high-risk loans are made to third world countries and in otherwise prohibitively high-risk areas of our own Nation, knowing that any losses incurred will be offset by the profits earned from bilking the American consumer with exorbitantly high credit card interest rates. I believe that the American public is starting to understand this.

Every recent poll has shown that the American public is fed up with the excessive rates they are charged. Yet, they feel helpless to resist. An NBC News poll asked, "Do you think Congress should pass legislation limiting the amount of interest credit card companies can charge, even if it means that it would be much harder for people like you to get credit?" The overwhelming majority—74 percent—responded yes. I consider that an emphatic mandate for this Congress to take action. What the American consumer realizes is that he and she are being taken. Taken by the largest players in the credit card market.

One of the reasons credit card interest rates remain so high is the dominance of the largest players. Of the almost 5,000 card issuers, the top 10 control 34 percent of the market. In what other industry would this kind of dominance be acceptable? Think about it—10 out of 5,000. Outrageous! Additionally, though certainly not surprisingly, the interest rate charged by these issuers is almost 1 point higher than the already excessive national average: over 19 percent.

It is important to remember that the smaller card issuers that are offering lower rates, and are frequently cited by the industry as examples of a prevailing competitiveness that does not rarely exist, do not benefit from the economies of scale that the larger issuers enjoy. Also, increased automation and a broader customer base further diminsh costs for the big guys. Yet, these financial bullies continue to ambush an unsuspecting consumer.

When credit card interest rates climbed to above 18 percent and additional fees and charges were introduced in 1981, card issuers pleaded increased cost of funds as their defense. By 1985 reduced interest rates neutralized that argument, so increased costs due to counterfeiting and fraud became the expedient excuse for maintaining high fees.

VISA is refunding $5 million to its members from its counterfeit insurance fund as a result of a dramatic decline in counterfeiting. Mastercard has eliminated its counterfeit assessment fee. I might also mention that overall fraud rates have declined as a result of tough legislative action originating in the Subcommittee on Consumer Affairs.

The latest argument is that credit card programs are expensive to administer. Yet, this doesn't explain why card issuers continue to eagerly acquire existing credit card portfolios. Charity toward the seller?

When American Express unveiled its 13.5 percent annual percentage rate OPTIMA card in March, Charles Russell, president of VISA, sent a mailgram to all VISA issuing banks recommending that the bankers "call Mr. Robinson (of American Express) and voice your displeasure over his decision to enter one of your most profitable lines of service." Mr. Russell's source of concern was the OPTIMA's "credit card service will have a far greater effect in the long run upon your bank's profits than will the much publicized Discover card." What Mr. Russell did not need to point out is that the Discover card carries a 19.8-percent interest rate versus OPTIMA's far more threatening 13.5-percent rate.

In 1986 American Express had a net profit of $1.1 billion, demonstrating an admirable profit making ability. I feel safe in concluding that American Express sees its 13.5 percent OPTIMA card as a profitmaking product. Low interest rate profitability is being demonstrated by banks in such States as Arkansas, Connecticut, and Massachusetts. These card issuers confirm my belief that a credit care interest rate cap will reduce rates, protect the consumer, and still allow care issuers to make a healthy profit.

The only reasons for these usurious and unnecessarily high interest rates are credit card issuer's greed and blatantly arrogant disregard for the American consumer. In the text that follows I will share with my colleagues the proof for this belief. Messrs. Snyder and West say:

John Corrado, the assistant vice president in charge of the credit card program at Peoples Bank in Bridgeport, Connecticut, said his bank is making a profit. Peoples offers credit at 11.5 percent. According to Corrado, Peoples was the first Connecticut bank to make such a "bold move."

"Before we lowered our credit card interest rate in June from 15.9 to 11.5, the other banks used to be our friends. Now they won't even speak to us since we started this major credit card war in Connecticut," Corrado said, boasting of the flood of 9,000 new applications in the first seven weeks of the year. Corrado credited the profitability of the credit card program to excellent management. "The key to our success has been our excellent management staff which helps us keep the costs down on our credit card program. It was the confidence in our management staff that prompted us, along with consumer interest, to make this bold move that gained us a market share. We studied the pros and cons of the move for a long time before we did it."

In June 1986, the State of Connecticut lowered its credit card usury ceiling from 18 percent to 15 percent. Instead of complaining, these Connecticut banks started a rate war. The result was that thousands of Connecticut residents switched to these banks, throwing away their 20 percent New York cards. At least one of these Connecticut banks is winning customers in New Jersey now with mail solicitations featuring lower rates. According to a prepared statement issued by the Consumers League of New Jersey, "The moral is that low-rate banks profit by beating high-rate banks. And Jersey banks will lose customers if they don't start competing with lower prices."

Some New Jersey bankers agree. Vincent Nardo, the vice president and manager in charge of the credit card program at First National Bank of Toms River, said his bank has been "very successful" making a four to five percent profit at 14.5 percent. "I think all the other New Jersey banks should be able to make a profit by lowering their credit card interest rates provided they run a tight, clean operation with few losses," Nardo said.

He said his bank's secret to success has been keeping their loan losses at one half of one percent. "Most banks experience a four to five percent loan-loss ratio. But by using good lending practices, we've been able to keep our loan losses at .5 percent." Nardo adds that competition as well as consumer pressure to fight higher rates or switch to low-cost banks has affected most New Jersey financial institutions.

Meanwhile, Bill O'Connell, the controller at Bank of New England Old Colony in Providence, Rhode Island, said his bank is also doing "quite well" on volume. "We get calls from as far away as Europe requesting corporate cards for executives," O'Connell said. Since last July, his bank has been at 12 percent for credit card holders. Despite the seemingly low rate he reports his bank is making a profit.

It appears clear that some banks and other financial institutions are able to profit with lower rates. Tighter management and better credit practices become essential as rates are lowered. But, the present situation in California appears to have consumers paying the highest credit card rates in the country and subsidizing poor bank practices.

According to a management discussion from Bank of America, the net income of BankAmerica Payment Services was $192 million in 1985, compared with $54 million in 1984 and $119 million in 1983. "The improved results in 1985 reflect a widening of the net interest margin on credit card business as increased non-interest revenue," the Bank of America industry report said.

A multi-million dollar class action lawsuit alleges that the bank card interest rates were "fixed" at an "unconscionable" level by the three largest California banks. Appel, a specialist in anti-trust cases, is pursuing the suit against Bank of America, Wells Fargo Bank and First Interstate because of what he claims is evidence that these banks worked together to fix prices in order to maintain high profits. "Price-fixings are naked violations of the state's anti-trust laws," Appel said.

Bank of America officials refused to comment to us on profits.

Philip Corwin, a legislative counsel with the American Banker Association in Washington, D.C., said, "There was no incentive for banks to compete when consumers were using more credits cards and more buying goods and services with these cards. When the consumers movement brought it to the attention of bankers that pricing was important, we began reassessing our situation."

"There is room for banks to lower their interest rates in order to compete. But we have to remember, price is not of great importance to all cardholders," said Corwin. However, an informal survey of at least 15 banks across the country revealed many cardholders care more about price than perks. And on the topic of profitability, none of the financial institutions polled said they were losing money as some of the larger banks would suggest.

Though the margain of profit varied from one financial institution to another, most reported or projected a profit.

"If we were not making a profit, we wouldn't be in this business," said Tom Paxton, vice president in charge of the credit card program at Simmons First National Bank in Pine Bluff, Arkansas. His bank's credit card interest rate is 10.5 percent. "Our application rate for credit cards is way up. We get 10,000 requests a month, approving about half of them."

The Associated Press ran a story in February with an Arkansas dateline quoting the president of Simmons saying that he thinks volume is the key to his bank's success, and that he was delighted to have significantly increased the bank's credit card portfolio size.

"Though it's too soon to tell just how profitable our credit card program is, the response from consumers so far has been overwhelming," said Carol Nicholas, the assistant vice president of the Bank of the Hills in Austin, Texas. Her bank charges 12.9 percent.

She said: "All the other banks are ripping people off. That's one reason why we lowered our rate in November. And we've received 12,000 applications and approved 8,000. We don't have any annual fee. We've been getting some complaints from people because we don't give someone a $5,000 line of credit just because they might have credit at another financial institution. We have to be conservative with who we issue cards to. Our caution will surely spell out P-R-O-F-I-T in the long run."

Steve Goodman, formerly the managing editor of a monthly newsletter of bank, legislative, consumer and media activity, reported that it is usually profitable for banks to lower their credit card interest rates if they are increasing their volume, gaining a market share while at the same time minimizing their loses due to fraudulent cardholders. "A well-managed bank operation can make lots of money at a lower rate," Goodman said.

Finance charges are not the only source of income for credit card programs. Wells Fargo's credit card fees increased 37 percent over 1984, primarily due to increase in the number of cardholder accounts in 1985 and late 1984, according to Wells Fargo industry reports. Wells Fargo also reported that the increase in domestic fees and commissions in 1985 was primarily due to higher domestic loan syndication fees, letter of credit fees and credit card merchant fees: "The largest component of domestic fees and commissions was credit card merchant fees, which were $19.2 million and $15 million in 1985 and 1984, respectively."

Another factor that contributes to profitability of low-cost banks is their high volume of cardholders, which keeps administrative costs per transaction relatively low. A primary factor in keeping the administrative costs down, is a growing conservatism among the nation's low-cost banks to limit their losses by becoming more selective about who they give cards to, according to an informal survey of several banks.

On the question of profitability of low-cost banks, San Franscisco-based attorney Lawrence Appel explained: "There's a wealth of evidence that suggests that financial institutions charging less than 18 percent make a considerable profit. Credit unions, for example, don't charge more than 12 percent. They wouldn't be doing this if it meant shooting themselves in the head. Banks, credit unions and savings & loans outside of California have been charging lower interest for years and not taking a bath in red ink. Documents filed in the Federal Reserve Bank in Washington and San Francisco prove this also."

Despite evidence that profits would be made due to increased volume and good management, the large banks still refuse to lower rates.

According to the New York Times, (August 9, 1986), "Industry sources note that banks make more than 5 cents on every dollar lent through credit card operations, compared with one cent on other types of loans." The article went on to say that big banks resist cutting their rates because credit cards are "highly profitable," and analysts noted that any significant reduction could sharply cut into earnings. Mark Alpert of Bear, Stearns et al. said Citibank, for instance, generates about 20 percent to 25 percent of its earnings from credit card operations, and the New York Times reported BankOne of Columbus, Ohio, about 30 percent.

At the subcommittee markup on March 18, the subcommittee adopted my proposal capping credit card interest rates at 8 percentage points above the yield on 1-year Treasury securities in the constant maturities series. The rate would be adjusted quarterly based on the rate in the second month of the preceding quarter. If my legislation were in effect today, the ceiling would be around 15 percent. When H.R. 515 reaches the floor I will offer my interest rate cap amendment on behalf of the American consumer.

I chose Treasury securities because those rates are truly a free market rate, not one administered by banks themselves, such as the prime rate, or an instrument of monetary policy such as the Federal Reserve discount rate. I chose 1-year yields in an attempt to match the duration of credit card receivables. A quarterly index ensures that the rate would change frequently enough to be responsive to market conditions, but not so frequently as to require frequent monitoring. The Second month of the preceding quarter allows for sufficient lead time to prepare for a new rate. And I chose 8 percentage points to provide ample opportunity to cover costs and make a profit as well. The interest rate it would allow would be well above the level of many presently profitable banks. Anyone unable to make a profit by borrowing money at 6 percent and lending it at 15 percent should consider another line of work.

VLADIMIR AND MARIA SLEPAK GRANTED THE RIGHT TO EMIGRATE FROM THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COUGHLIN] is recognized for 5 minutes.

Mr. COUGHLIN. Mr. Speaker, the Soviet Union today announced it is granting to Vladimir and Maria Slepak the right to emigrate from the Soviet Union. I want to congratulate the Soviet Union for that decision. Maria and Vladimir Slepak first applied to emigrate from the Soviet Union 17 years ago, and in 1977 their sons were allowed to emigrate from the Soviet Union to Israel. One of their sons now lives and studies medicine in my area of Philadelphia.

In 1978, Maria and Vladimir Slepak hung outside of their window a banner asking the Soviet Union to allow them to leave to join their son in Israel. For that their home was raided, the doors were broken down, they were removed forcibly, they were sent to prison. Vladimir Slepak was exiled to Siberia to a place where, as he said to me, Genghis Khan was born. He wife, Maria, joined him there for long years of privation.

Yet they came back with their heads held high and became leaders of the refusenik movement in Moscow. I have met with Vladimir Slepak and Maria Slepak back in 1985 when I first traveled to Moscow and again this past April in Moscow. I was worried because the Slepaks were one of a group of people that the Soviet Union said they would never release because they were the leaders of the refusenik community in Moscow. So it is tremendously heartwarming to hear the news that Vladimir Slepak will again be able to see his children whom he has not seen for 10 long years and to see his grandchildren whom he has never seen. This very courageous and articulate man with a very courageous and not-well wife has continued to lead the refuseniks in the Soviet Union, continued to provide them with support, continued to provide them with belief in their faith, belief in freedom, belief in their future.

The fact that this wonderful man and his wife will be allowed to emigrate to Israel is one that I believe is very important and in which I take very, very deep personal belief and satisfaction.

Now this does not mean that the problem of refuseniks in the Soviet Union is solved, it does not mean the Soviet Union has suddenly reformed. Much remains to be done, much remains to be done for the many thousands of Jewish refuseniks, of Christians, of others who want to leave the Soviet Union, who want to become a part of the world and who believe in freedom and exercise of religion.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I would like to commend my colleague in the well for his dogged pursuit of the liberation of Vladimir Slepak. I know that the gentleman from Philadelphia has been actively engaged in this effort for years and I know personally about this effort when we traveled to Moscow in October 1985, 2 weeks before the 1985 summit. And I know how much time and effort he has spent with the Slepak family in Moscow and the kind of effort that he has made once he came back to publicize their plight.

I am familiar with the very excellent video tape that I had the good fortune to witness and how that video tape was used. That video tape incidentally the gentleman from Pennsylvania [Mr. COUGHLIN] had made. That video tape was used on behalf of the effort, the nationwide effort to free Vladimir Slepak.

I can imagine that it must be a very good feeling for the gentleman tonight to know that that effort has borne fruit and I commend the gentleman.

Mr. COUGHLIN. I thank my colleague. Just let me say that I know over the years of his efforts on behalf of all of those who are persecuted in the Soviet Union, I know that they have been manifold because he indeed lived in the Soviet Union, indeed speaks fluent Russian and indeed knows the plight of people of various persuasions in the Soviet Union and their difficulties.

I know that when I was last in the Soviet Union in April, as we were leaving I said to General Secretary Gorbachev that if he would let Vladimir and Maria take our seats, my wife, Susan, and I would give our seats up so they could come back here.

The gentleman from Pennsylvania has done the same kind of thing in a very courageous and heroic effort to help people in the Soviet Union who desperately need our help in times of persecution.

THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, on October 7, 1987, Ambassador Patricia M. Byrne, Alternate United States Representative to the 42d Session of the United Nations General Assembly, made a very important statement in the U.N. Third Committee on "The Elimination of all Forms of Racial Discrimination." In that speech, Ambassador Byrne set forth United States policy toward the elimination of South Africa's apartheid system. I believe that the speech was a significant step in the right direction. It was, perhaps, the strongest, the most forthright statement of opposition to apartheid that the Reagan administration has made to date. I would, therefore, like to share it with my colleagues and ask that it be included in today's CONGRESSIONAL RECORD.

I must, however, raise two caveats. First, Ambassador Byrne states that "We have, nevertheless, opposed mandatory punitive economic sanctions against South Africa * * *." Instead of "We," I would argue that the Ambassador should have said "the Reagan administration." Certainly, the Congress—and I believe the majority of the American people—are not opposed to sanctions against the apartheid regime.

Second, Ambassador Byrne notes that "the United States will enforce—last year's congressional mandated—sanctions to the letter." I must question the extent to which that assurance is likely to be fulfilled, particularly with respect to the international arena. The Comprehensive Anti-Apartheid Act of 1986 provides that—

> The President or, at his direction, the Secretary of State would convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions against South Africa to bring about the complete dismantling of apartheid [Sec. 401 (b)(1)].

This provision of the law has simply been ignored: There has been no such international conference. Moreover, the act expresses the—

> sense of the Congress that the President should instruct [our U.N. representative] to propose that the United Nations Security Council . . . impose [anti-apartheid sanctions] against South Africa of the same type as are imposed by this Act [Sec. 401(e)].

Here, if the administration has not violated the letter of the law, it has surely not adhered to the spirit of the law. Indeed, on February 20, 1987, the United States vetoed a U.N. Security Council sanctions resolution modeled after the provisions of our own act.

In its report to the Congress on the effectiveness of the Anti-Apartheid Act, the Reagan administration predictably argued that sanctions had not worked. I would point out—as have others—that had the administration faithfully implemented the international provisions of the act, economic sanctions would have been profoundly more effective.

STATEMENT BY AMBASSADOR PATRICIA M. BYRNE

Mr. Chairman, my delegation wishes to address the agenda item entitled Elimination of All Forms of Racial Discrimination.

The United Nations Charter makes clear that human rights and fundamental freedoms must be protected for all without distinction as to race, sex, language, or religion. The Universal Declaration upholds the same principle.

The United States is a multiracial nation built by people of every country, race, and religion in the world. The principal reason tens of millions of persons have come to this country is the old one of the search for freedom: political, religious, and economic freedom. We pride ourselves on having built a country based on an ideal: that a person not be judged by his religion, politics, ethnic origin, or race; that everyone has rights which must be protected so that he can participate in the nation's social economic, and political life.

Living up to this ideal is not easy; on many occasions we have failed to do so. Unlike some political systems, we do not claim perfection; we hide nothing; we admit our failings. You can hear and see us debating solutions to our problems in our publications, television programs, election campaigns, and legislatures. One problem with which we have grappled has been that of racism. We have made great progress. Our struggle against racial intolerance has been characterized by some of the worst and some of the most inspiring chapters in our history. That struggle is not over; it is one which will be won.

Our history, our ideals, the nature of our people leave us no option but to oppose ideologies and systems based upon the rule of a self-appointed elite claiming a "revealed truth" justifying oppression. Those factors drive our opposition to Soviet Communism as much as they drive our opposition to the racist apartheid system that rules the people of South Africa.

Mr. Chairman, in case anyone should doubt it, let me state that the United States firmly believes that apartheid cannot be justified. Apartheid must end. The international community has the responsibility to work for the elimination of apartheid. All ideas, attitudes, and economic and political systems that condone slavery, segregation, discrimination, or any other form of subjugation of the individual denigrate victim and perpetrator. Apartheid denigrates all the people of southern Africa.

As we have stated on previous occasions, our opposition to that inhumane system which has brought so much death and misery pushes us to seek ways to dismantle apartheid without increasing the suffering of the people of southern Africa. We must consider carefully the consequences of our actions lest they increase the suffering of the people in whose behalf we act. Calls for violence will bring violence. They serve only to undermine the determined struggle by the majority in South Africa—who, let us not forget, ever more skillfully use their economic clout in the cause of a better life.

As you know, Mr. Chairman, the United States has long had a variety of sanctions against South Africa—our arms embargo pre-dates that of the UN by several years. We have, nevertheless, opposed mandatory punitive economic sanctions against South Africa as counterproductive and as hurting precisely those persons less able to resist them. The Congress of the United States, however, passed legislation last year imposing some of the toughest sanctions in the world, including those of the Front Line States. We are a nation of laws, Mr. Chairman, and consequently, the United States will enforce those sanctions to the letter. We will fight any effort to violate or otherwise circumvent those sanctions.

Despite a hardening of South African attitudes since our imposition of sanctions last year, the United States will not disengage from efforts to promote peaceful change in South Africa. The realities there are grim: increased repression, censorship, violence, and fear. But there are also elements of hope: the Natal Indaba, the ANC-Afrikaner talks in Dakar, growing black economic organizational strength, and the conciliatory influence of religious leaders.

Our policies seek to build on those elements of hope. We aim to provide assistance to the victims of apartheid and to prepare them for increased economic and political responsibilities in the future. Our assistance has focused on increasing educational opportunities for the black majority, training in leadership skills, and strengthening community organizations, labor unions, legal resource centers, and black-owned enterprises. These efforts will continue. We support practical steps to bring a peaceful end to apartheid. Among those are the release of all political prisoners, including Nelson Mandela, and the end to bans on political parties.

Mr. Chairman, on September 29, Secretary of State Shultz spoke before the Business Council on International Understanding and discussed our hope for South Africa's future. We would like to see in South Africa:

A new constitutional order establishing equal political, economic, and social rights for all South Africans without regard to race, language, national origin, or religion;

A democratic electoral system with multiparty participation and universal franchise for all adult South Africans;

Effective constitutional guarantees of basic human rights for all South Africans as provided for in the Universal Declaration of Human Rights and the canons of democracies everywhere;

The rule of law, safeguarded by an independent judiciary with the power to enforce the rights to be guaranteed by the constitution to all South Africans;

A constitutional allocation of powers between the national government and its constituent regional and local jurisdictions in keeping with South Africa's traditions; and

An economic system that guarantees economic freedom for every South African; allocates government social and economic services fairly; and enables all South Africans to realize the fruits of their labor, acquire and own property, and attain a decent standard of living for themselves and their families.

To quote Secretary Shultz further: "These are ideas that we believe would help South Africans chart their own path to a democratic and prosperous future. We Americans do not claim a monopoly on democratic concepts for another country, but we have every reason to make clear our hopes and visions. I challenge South Africans to rise to the test of building a future which takes these ideas into account."

Mr. Chairman, before concluding these remarks I want to mention another important factor that Secretary Shultz discussed: the powerful force of religion in South Africa. He noted that South Africans are a devoutly religious people. Churches, some of them integrated, represent "institutional channels for dialogue and reconciliation across racial barriers." The Dutch Reformed Church, the largest Afrikaner Church, claimed, until last year, that apartheid was not only allowed but actually required by the teachings of the Bible. Last year, after months of internal debate, the Church announced that its previous teachings were wrong: Apartheid is not justified by the Bible and is not in accordance with Christian principles. Secretary Shultz said: "This simple but powerful truth hit like a thunderbolt among Afrikaners. Suddenly the spurious moral basis for apartheid had been stripped away, revealing if for the unjust and unsanctified system that it is."

In conclusion, we think that the only effective manner to fight apartheid in South Africa is through peaceful change. Violence brings only suffering, and, Mr. Chairman, violence will mean only defeat for the democratic foes of apartheid; it will leave only a devastated landscape and economy incapa-

ble of giving life to the dreams so many of us have for South Africa. My country stands ready to assist, as it has done for 200 years, all those who seek to promote democracy and justice.

PARLIAMENTARY INQUIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, I take this time to propound primarily a parliamentary inquiry.

Mr. Speaker, is it within the rules of the House for committees to hold hearings where only one side of an issue is presented?

The SPEAKER pro tempore (Mr. CARPER). Under rule 11, the minority party within a committee is entitled to have 1 day's worth of witnesses, although apparently there is no rule relating to witnesses on different sides of the issue.

Mr. WALKER. So, if I understand the Chair, if a hearing is held where the minority has had no input into the witnesses, under the rules of the House that committee chairman would have to grant the minority at least 1 day of hearings for the purpose of hearing witnesses from the minority side.

The SPEAKER pro tempore. The Chair's understanding of the rules is the minority party would be entitled to 1 day's worth of witnesses.

Mr. WALKER. What the Chair is telling me is that the minority party then could get opposition witnesses but there is nothing within the rules that absolutely requires that anybody be heard on a different viewpoint before the committee, is that correct?

The SPEAKER pro tempore. The rules do not speak to that specifically.

Mr. WALKER. A further parliamentary inquiry, is it within the standard practices of the House to have committee hearings where only one side of an issue is heard?

The SPEAKER pro tempore. The Chair cannot comment on the types of witnesses that are called by a committee.

Mr. WALKER. I thank the Chair. I raise the issue only because we seem to have a situation arising in one of the committees of the House; namely, the Judiciary Committee where they are about to hold a hearing tomorrow where evidently the only people who have been invited are people opposed to the balanced budget amendment of the Constitution.

Now it seems to me that tells us a great deal about the Democratic leadership of this House. The Democratic chairman of the Judiciary Committee has made a conscious determination that we are going to hold a hearing where only the opponents of the balanced budget amendment of the Constitution are going to be heard and we do not know at the present time of any provision having been made to hear the views of the proponents of that amendment at any particular time. In fact, some of those who have called the committee staff and talked to them about that hearing tomorrow have been told that this hearing is for opponents only, that they would not be welcome to participate. It seems to me that if it is not outside the rules of the House to do that, it is certainly outside the standard practices of the House. Normally, what we do in this body is allow all sides of questions to be heard at least in the committee process. It is very difficult to do out here on the House floor sometimes to get all sides heard under the restrictive rules we sometimes operate under, but generally the committees at least allow full debate.

It appears as though we are going to have at least one hearing tomorrow on the balanced budget amendment to the Constitution, one of the most important issues this country wants addressed, that will not include all sides of the issues, where the judgment will be made that only those people who are opposed to the amendment are going to be heard in the House of Representatives in the committee of jurisdiction over that particular amendment.

That is wrong and it is high time that we have people on this floor, hopefully both in the majority and in the minority parties, speak up to this blatant attempt to shut down free discussion of issues in the House of Representatives. We have seen this pattern develop over and over again. We are seeing it with restrictive rules, we are seeing it with the kinds of bills that are often brought out here that do not allow full debate. It seems to me it is high time now when we are starting to shut down the witnesses that are granted before committees that we speak up and say that that has gone much too far.

So, I would hope that this is an aberration. I hope that the chairman of the Judiciary Committee will reconsider and that we will be allowed a full discussion of the balanced budget amendment, one of the more important causes that the American people wish to address.

I would be very glad to yield to the gentleman from Maryland.

Mr. HOYER. I very much appreciate the gentleman from Pennsylvania yielding. I got over here a little late.

The gentleman speaks of issues on which there is genuine disagreement. I appreciate his view on that.

I come to first of all, say to my colleague from Pennsylvania, your colleague from Pennsylvania, Mr. COUGHLIN, that his efforts in my opinion, in no small part, are responsible for bringing the message to the Soviet Union on an issue on which there is no disagreement in this House and that is that the Helsinki final act guarantees and other guarantees that give people the very basic human right of having the ability to decide where in this world they want to live, with whom they want to live and when they want to be either in their own country or in some other country, should be observed.

In the particular case, the very poignant case of Vladimir Slepak, the gentleman from Pennsylvania [Mr. COUGHLIN] has been particularly interested, committed and faithful and I want to congratulate him for his efforts and, of course, all of us join in giving to Vladimir Slepak our very best wishes and hopefully we will be able to give to him a cordial welcome when and if he has the opportunity of visiting the United States.

I want to thank my colleague from Pennsylvania for yielding.

Mr. WALKER. I thank the gentleman. I, too, know of my colleague from Pennsylvania's work, having been with him in the Soviet Union in October 1985 when we too met with this family. It is indeed good news that they are going to be permitted to emigrate from the Soviet Union.

I yield to the gentleman from Delaware who has now assumed his position on the floor rather than at the chair.

Mr. CARPER. We are not playing musical chairs, although it looks that way.

Let me just say as one of the four principal coauthors of the balanced budget amendment that the gentleman from Pennsylvania has referenced, I am aware of the hearing scheduled for tomorrow being devoted to the four witnesses in opposition.

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My understanding is that we will also be permitted another day of hearings for those proponents, including myself, and presumably the gentleman from Pennsylvania and others will have an opportunity to have their voices heard.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that information.

Do we have any idea when those hearings are going to be held? The word we got when we asked that question was that it could be 3 or 4 months from now when that additional day of hearings comes about. Does the gentleman have any information as to when those hearings are going to be held? I ask that because it certainly appears as though these hearings are going to be held as a way of trying to stop people from signing on to the discharge petition which is at the desk where we are trying to force action on the floor by the end of the session. We are a little bit concerned about that.

Would the gentleman have any information along those lines?

Mr. CARPER. Mr. Speaker, I do not know what point in time the gentleman from New Jersey [Mr. RODINO] has in mind. I would certainly encourage him to hold those hearings within the month.

Mr. WALKER. Mr. Speaker, I thank the gentleman. I appreciate that because we are certainly concerned about what we are hearing coming out of the committee at the present time.

Mr. Speaker, I yield back the balance of my time.

A NEW REIGN OF TERROR IN HAITI

The SPEAKER pro tempore (Mr. CARPER). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, a new reign of terror has begun in Haiti. The last reign of terror began when the people of Haiti came out and voted 90 percent in favor of a new constitution. That new constitution provided for a series of deadlines to launch an electoral process which would conclude on November 29 with the election of a new president for the Republic of Haiti.

The people in charge at that time, the transitional government head, General Namphy, and his cohorts decided they would take over the election process. They panicked. They never thought the people would approve the constitution, so they decided to take it over, and as a result there were demonstrations throughout Haiti and a number of people lost their lives.

That reign of terror finally ended, partially through the pressure of the U.S. Government to force the Namphy transitional government of Haiti to give up its desire to take over the electoral process. They yielded to the election commission, the electoral process went forward, and the killing stopped for a while. During that period, however, there was one candidate for president who was killed. He was hacked to death in broad daylight by a group of men who walked away and have never been caught.

Yesterday the latest reign of terror was initiated with the killing of another candidate for president. This candidate was shot and killed on Tuesday in front of the police station in Port-au-Prince. He had come to the police station, had called a press conference, and in a speech was demanding the release of another candidate who had been put in jail by the police. While he was speaking and while reporters were gathered around him, plainclothes police came out of the station. They approached him, they beat him, and they shot him. The name of that candidate is Yves Volel. He was killed in front of the police station in Haiti. There were reporters and television cameramen there, and they filmed the entire incident. The police confiscated the cameras and drove the reporters away afterward. The police have now made the statement that he was killed because he had come to the police station with a band of armed men. Everybody knows that he had no armed men with him.

Yves Volel was a citizen of New York. He had lived for a long time in New York City. It is important to take a moment and look at the background of Yves Volel, because one problem we seem to have in America is that there is no empathy with the struggle in Haiti. Haiti in only 90 miles from the shores of the United States, and yet we do not seem to be concerned at all with their struggle for freedom. We do not seem to be concerned about the fact that the people of Haiti are overwhelmingly in favor of democracy. They have come out and voted for a constitution. They are ready to go forward and rebuild their nation along democratic lines. They want these elections to go through, they want to complete the cycle, and they want to have a president by November 29. But a small band of armed, uniformed thugs, military terrorists, is determined that the process will not go forward.

While this happens, we in the United States sit and watch and do nothing. The Organization of American States sits and watches and does nothing. The United Nations does nothing. But Yves Volel was a human being, a magnificent leader, and he deserved to live. He deserved to participate in the process as a candidate, and now he is gone. He lived for a long time in New York City during exile from Haiti. He has a wife and family right now in Queens, NY, living in the district represented by my colleague, Congressman FLOYD FLAKE. Mr. Volel once attended the military academy with General Namphy who heads the government in Haiti now. He had a reputation generally in this country as a good, decent man who was a civil libertarian.

He was committed to democratic government, and he was willing to fight for what he believed in, but the police say he was an armed bandit and came to the station seeking to cause trouble. In Haiti the comment is that this is a pack of lies.

They are turning the whole world upside down. One of the key drafters of the constitution of Haiti has said that this slaying of Yves Volel was part of a plan to create an insecurity that would make the holding of fair elections in November difficult.

Today it is Volel, tomorrow it will be someone else. I have always contended that the process in Haiti should be assisted by outside forces, not military forces, but peaceful forces. We should make it clear to Haiti that we are watching. We should have groups monitoring the situation. We should have the participation of the Organization of American States. We should finance, if necessary, a team of people who would stay there permanently to monitor the elections until November 29.

Mr. Speaker, the majority of the democratic people of Haiti have spoken. They want a democratic society. They have a constitution, and they should be protected. They should be protected from the uniformed, armed military bandits who are determined to have it their way.

A SALUTE TO MR. PHIL CHELNICK—OHIO SENIOR CITIZEN HALL OF FAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, on October 29, 1987, the Ohio Department of Aging will hold its 11th annual Ohio Senior Citizens Hall of Fame induction ceremony. This year nine individuals will be honored for their vital role in the community. I am pleased to report that Mr. Phil Chelnick, a resident of my congressional district, is among those being honored.

A longtime community activist, I can think of no one more deserving of this special honor. Mr. Chelnick founded the Social Action Committee of the Jewish Community Center Senior Adult Department and has served as its chairman for 14 years. The committee was established to create a vehicle for adult advocacy and involvement in issues of concern. The Social Action Committee has worked in areas such as housing for the elderly and against cuts in Social Security and Medicare. Mr. Chelnick has also served as chairman of the center's house council. However, his interests have not been limited to the problems of the elderly. He has also worked against budget cuts for the needy, and in support of a nuclear freeze.

Mr. Chelnick is the recipient of numerous awards and citations for his efforts, including the Jewish Community Center's Leonard Kronenberg Award for Outstanding Service and the Senior Adult Leadership and Community Service Award of the JCC. He was named as one of six outstanding seniors in Ohio in 1973 and has served as a delegate to the White House Conference on Aging.

In 1986, Mr. Chelnick served as my Congressional Senior Citizen Intern on Capitol Hill. Brimming with enthusiasm and vitality, he did an excellent job of representing the concerns of seniors in the 21st Congressional District and throughout the Nation.

Mr. Speaker, I am pleased that the Ohio Department of Aging will be recognizing these special individuals for their tireless efforts and significant contributions to our community. It is an honor to salute my friend, Phil Chelnick, on this occasion.

CUBAN FOREIGN POLICY—THE FOUNTAINHEAD OF INSURGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LUNGREN] is recognized for 60 minutes.

Mr. RITTER. Mr. Speaker, will the gentleman from California yield briefly?

Mr. LUNGREN. Certainly, I am happy to yield briefly.

AWARDING OF NOBEL PRIZE FOR PHYSICS

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today there was a significant announcement of the awarding of the Nobel Prize for Physics to Dr. J. Georg Bednorz and Dr. K. Alex Mueller, who received the Nobel Prize for Physics for their discoveries in the field of superconductivity.

We can be very proud of them, although this was a German and a Swiss national. They were working quietly for the IBM Co. in a Zurich research laboratory.

I think this points up the internationalization of science and how international cooperation is so beneficial. I think it also points up great challenges for us as a nation, and I am hoping that with the achievement of the winning of the Nobel Prize in Physics for superconductivity by these researchers, our Government, our industry, and our people will pay attention to this potentially explosive field and seek to do what is right and put forth the appropriate resources so we can have an American effort that will lead the world.

The possibilities of losing out in this spectacular competition are there, and we should try to minimize the problems and we should try to be as competitive as possible with our Japanese and European counterparts.

Mr. Speaker, I will close by saying that it is a geat race. It is like the Olympics. We are very much a part of it, and to the victors will go many spoils.

Mr. LUNGREN. I thank the gentleman from Pennsylvania [Mr. RITTER] for his comments.

Mr. Speaker, in August, a new wave of optimism splashed across the nations of Central America. President Arias of Costa Rica negotiated a peace plan with four other Central American governments. Admirers of the accord proclaimed a new era of tranquility and independence in Central America. Unfortunately, a close examination of the Caribbean basin's strategic realities reveals little basis for such hopes.

To put it bluntly, Mr. Speaker, the nature and implementation of Cuban foreign policy has thrust that radical dictatorship into the stature of a superpower. The essential role which the destruction of the Latin American status quo plays in Cuban policy means that every pro-Western country in the Western Hemisphere must worry about Fidel Castro. And the extraordinary boldness of Cuban support for insurgencies means that many of these democracies must regard Castro as a threat to their survival. In short, the present character of Cuban foreign policy has become incompatible with stability in the Americas.

Prior to the success of his insurrection against the Battista regime, Fidel Castro composed an ominous message to his confidante, Celia Sanchez:

> I swore to myself that the Americans were going to pay dearly for what they were doing. When this war is over, a much wider and bigger war will begin for me: the war I'm going to launch against them.

FORMULATING CUBAN FOREIGN POLICY

In 1986, a violent crusade against imperialism remains as central to the objectives of the Cuban Government as it did to the world view of Fidel Castro in 1958. Raymond Duncan, a political science professor at the State University of New York at Brockport, has observed that the essence of Cuban foreign policy arises from the interplay between nationalism, domestic Communist ideology, and Castro's Leninism. Writing in "Historical Antecedents of Cuban Foreign Policy," an essay contained in the sixth edition of the authoritative "Cuban Communism," Duncan argues that government ideology underpins the Havana regime. Castro's vision of a society in "total revolution" theoretically unites the people with their leaders. Revolutionary ideology, Duncan says, "helped to build a Cuban national conscience after 1959, serving as a basic communication system through which to mobilize Cubans for new national commitments. Fidel Castro, Ernesto Che Guevara, and other members of the revolutionary elite have linked the themes of anti-imperialism, class struggle, socialist unity and economic determinism to the creation of a 'new man' possessed of the technical and cultural skills required to forge a new Cuba." This ongoing construction of a completely new society legitimizes the leadership's decisions, and it gives Cubans a justification for hope when those decisions prove unwise. The sustenance of a living ideology has thus become imperative for Havana policymakers.

Foreign policy obligations stem from this requirement. As a Leninist, Castro believes that international relations rest on a dialectical fault in which socialism and international capitalism struggle implacably against one another. Professor Duncan notes:

> According to the script, the Western enemies, led by the United States, will seek to maximize power at all costs.

The forces of "imperialism" will never acquiesce in the creation of a "new man," Cuban or otherwise, because such an acceptance would jeopardize the capitalist status quo. It would also interrupt the dialectical cycle of which Leninist historiography consists. The maintenance of ideology for purposes of internal mobilization embroils Cuba in an unceasing conflict with America and her friends in the Western Hemisphere.

Havana, it should be added, expects nations friendly to Cuba to share this perspective. Juan Valdes Paz, a senior Cuban intelligence official, universalized the dialectic of revolution in a 1985 essay for Contemporary Marxism. In "Cuba and the Crisis in Central America," Paz even identifies neutrality in Central America with opposition to the West. Paz states that:

> Nonalignment is a historical result of the Central American peoples' struggles for full national independence and of their opposition to the global and regional strategic interests of imperialism, principally U.S. imperialism.

The Cuban Government cannot accept democracy in its sphere of influence because its leaders hold, as a matter of dogma, that democracy will never tolerate the Havana regime.

Castro began the implementation of his international objectives even before he came to power. According to Luis Aguilar, a professor of history at Georgetown University, Castro enlisted with the radical Caribbean Legion in its scheme to remove the Dominican dictator Trujillo from power. In addition, Castro may have participated in political riots in Bogota in 1948.

Castro's insurgent proclivities continued after his victory in 1959. Professor Aguilar notes:

> Once in power, and even before his Marxist proclamation, he sent expeditions to Panama and the Dominican Republic. By 1961, he was bitterly denouncing his former protector, Venezuelan president Romulo Betancourt and all Latin American oligarchies.

On January 31, 1962, the Organization of American States ejected Cuba for its sponsorship of guerrillas in Venezuela.

In response, Castro announced the Second Declaration of Havana. He asked Latin Americans to "follow Cuba's example" and initiate guerrilla warfare. Writing in the second 1987 issue of Terrorism: An International Journal, R.A. Hudson of the Library of Congress observes that Castro went much farther than mere declarations. Hudson states:

> To provide support mechanisms, Castro and Guevara formed three Liberation Committees—organized regional for the Caribbean, Central America, and South America—that became known as the Liberation Directorate. The committees were designed to plan guerrilla and other subversive acts and to provide logistical arrangements for sending agents to the different regions.

Hudson adds:

> Evidence emerged that American Department chief Manuel Pineiro was directing guerrilla groups in the early 1960s when the

> Colombian Army found a letter written by him to a group of Colombian rebels, whom he told to carry out Cuban instructions exactly as instructed or their monthly payment would be reduced.

Castro, it seems, had begun a covert war against Latin America.

Mr. Speaker, it seems crucial in the light of these historical events that the congressional leadership carefully scrutinize potential agents of change in Central America and evaluate which mechanisms will prove most resonant in a cabinet of committed Leninists. Some on Capitol Hill have argued that it is no longer necessary for the Nicaraguan democratic resistance to apply military pressure on the Sandinistas. They contend that diplomatic exertion alone will bring at least elements of democracy to Nicaragua. Yet, when confronted with severe diplomatic condemnations from the OAS 25 years ago, Castro, the patron of the Sandinistas, actually escalated his involvement with terrorism and insurgency. If Messrs. Castro and Ortega routinely trample over the preferences and opinions of their own citizenry, why should international opprobrium disturb them?

RELIANCE ON THE GUERRILLA VANGUARD

In the mid-1960's, Che Guevara and the French Marxist philosopher Regis Debray articulated a strategy of revolution in which political and military upheaval would engulf the Western Hemisphere. Unlike their Soviet allies, the Cubans rejected objective, deterministic patterns of historical development. To the initial chagrin of Moscow, they declared that they would not wait for the unfolding of socioeconomic crises to permit Marxist political parties to lead the proletariat to victory. In Guevara's subjective theory, the vanguard of the people would not merely lead the revolution, but initiate it. Trained and guided by Cubans, guerrilla vanguards—as opposed to the veteran political activists regarded by Castro as moribund—would transport the peasantry of the Western Hemisphere into a revolutionary society. Without even the economic prerequisites for class war or the existence of an urban proletariat, Havana would seek to explode the capitalist status quo immediately.

Castro endorsed the Guevarist path through words and deeds. In a 1967 speech, he stated:

> Whoever denies that it is precisely the road to revolution which leads the people toward Marxism is not a Marxist though he may call himself a Communist.

To transform the heretical strategy into action, Castro hosted and manipulated a Soviet-sponsored conference of Third World Marxists in 1966. As R.A. Hudson of the Library of Congress has pointed out, Castro changed the so-called Tricontinental Conference into a Cuban vehicle for the guerrilla vanguard. Hudson reports:

> Castro promised the delegates, that "any revolutionary movement anywhere in the world can count on Cuba's unconditional support." Cuban support was no longer entirely unconditional, however * * * it was now contingent on recognition of: (1) Cuba's present and future military role in Latin American guerilla operations, and (2) undisputed Cuban political leadership and direction of Latin American revolutionary movements.

Mr. Hudson continues:

> Castro clearly upstaged the Soviets at the Tricontinental Conference, but he partly appeased them by using the occasion to break with China and denounce and exclude the Trotskyites. He also ensured that the series of "armed struggle" resolutions adopted by the conference targeted mainly Colombia, Peru, and Venezuela—countries without major diplomatic or trade importance for the Soviets . . . By the end of 1966, Cuba had opened more than a dozen international guerrilla camps under the supervision of Soviet Committee of State Security [KGB] Colonels Vadim Kochergin and Viktor Simonov.

Through the Tricontinental Conference, Castro engineered a watershed in the political development of Latin America. Marxists throughout the region bypassed the patient, old Communist parties and pressed for the turmoil they believed would bring the peasants to power. Significantly, delegates to a 1967 conference of the Latin American Solidarity Organization resolved that "the guerrilla is the nucleus of the liberation armies, and guerrilla warfare constitutes the most effective method of initiating and developing the revolutionary struggle in most of our countries." Perhaps more importantly, Castro succeeded in integrating Moscow—and thus the entirety of the Soviet bloc—into the geopolitics of the Western Hemisphere.

THE SOVIETS MOVE IN

By the 1970's, the Soviets had become enthusiastic about prospects for political gains in Latin America. Boris Ponomarev, a theoretician and member of the Soviet Central Committee, expressed this optimism in a 1971 article for the periodical Kommunist. He wrote:

> Seemingly quite reliable rear lines of American imperialism, are becoming a tremendous hotbed of antiimperialist revolution. A tremendous revolutionary movement is developing by the side of main citadel of imperialism, the United States. These changes are having and, unquestionably, will continue to have a strong impact on further changes in the correlation of world forces in favor of the international working class and socialism.

By 1975, the Soviets had achieved trade relations with some 20 countries in the region and had entered into commercial accords with multilateral organizations like the Latin American Economic System.

In "Central America and the Caribbean: the Larger Scenario," an article for the summer 1983 issue of Strategic Review, Freedom House scholar Bruce McColm discusses the Soviet intervention in Latin America. He writes:

> By the mid-1970s, the Soviets had large diplomatic, economic, cultural and scientific missions throughout the Caribbean and Central America such as in Costa Rica, Venezuela, Trinidad and Tobago, Guatemala, Nicaragua and Jamaica. These missions, besides cultivating indigenous cadres through an extensive KGB infrastructure, sought on a more practical level to encourage the governments in the area to play a more active role in the politics of the Third World at large, with particular attention to coordinating commodity export prices, policies toward multinational corporations and Third World debt, and advocating "anti-imperialist" and "anti-colonial" positions in various international organizations.

Mr. Speaker, the success of President Arias in Guatemala City 2 months ago has led many in the congressional leadership to believe that the Soviets will soon willingly depart from Central America. Premature reports of Soviet unwillingness to supply oil to Nicaragua have encouraged such optimism. Unfortunately, these hopes do not conform to either present or historical reality. In the fall 1987 edition of Foreign Affairs, Susan Kaufman Purcell, the director of the Latin American Program at the Council on Foreign Relations, dismisses the oil shortage myth in an important footnote. She writes:

> Despite reports of a declining Soviet oil supply the Soviets delivered 2.1 million barrels in 1986 and have promised to deliver the same amount in 1987, according to Henry Ruiz, the Nicaraguan cabinet minister who coordinates foreign aid. Moscow has, however, refused to provide additional oil to the Sandinistas to make up for a decrease in shipments from Eastern Europe. Western diplomats say Moscow is trying to force the Sandinistas to get oil from places like Venezuela and Mexico, but will ultimately supply more oil if the effort fails.

As Mr. McColm of Freedom House has pointed out, the Soviets have in fact a longstanding commitment to the influencing and destabilization of Latin America. Moscow has established extensive diplomatic and intelligence networks in Central America and South America. Given this fact and the opportunities presented by Sandinista air bases for the surveillance of the west coast of the United States, it seems highly unlikely that the Soviets will happily disembark from Nicaraguan shores.

DIVERSIFICATION OF CUBAN FOREIGN POLICY

As a result of the 1967 slaying of Che Guevara in Bolivia and Cuba's increasing dependence on the Soviet Union, some scholars have come to believe that the Guevarist "foco" theory no longer has any bearing on Castro's policies of revolution. One must grant that in the past 20 years, Castro has significantly diversified his foreign operations. During the 1970's, he attempted to assume a leadership role in the Third World, and did in fact serve as president of the Nonaligned Movement. Cuba's rigid adherence to the Soviet line in the wake of the Afghanistan invasion ended Castro's broad Third World aspirations.

According to Tad Szulc, a veteran New York Times correspondent and a biographer of Castro, the dictator has recently exploited tensions in United States-South American relations and thereby scored diplomatic breakthroughs. Castro has declared that the debt crisis must be resolved through government-to-government political talks. Through this statement and through his call for a debt cartel, he has tried to assume the mantle of a fraternal leader of beleaguered debtor countries. He has already identified himself as a Latin nationalist by siding with Argentina in the Falklands conflict. The payoff from these efforts appears to be substantial. In 1985, Cuba received a $300 million loan from Argentina. Last year, Brazil renewed diplomatic ties with Cuba and indicated that improved economic relations may follow. Mr. Szulc surmised the diplomatic horizon correctly when he stated in a May 1985 New York Times essay that Cuba had ended its location in Latin America.

Dependent on its sugar crop and addicted to Soviet subsidies, the Cuban economy clearly cannot serve as the foundation for further enhancement of Havana's international authority. To achieve the latter goal, Castro has greatly expanded his nation's military power. In the Strategic Review article I cited earlier, Bruce McColm estimates that the Cubans have about 120,000 men in their standing armed forces. He says that about 60,000 men serve in the ready reserves, about 175,000 in the second line reserves, and about 100,000 in the Army of the Working Youth. Back in 1981, the Havana regime created the Territorial Militia for the defense of the island against invasion. Approximately 500,000 soldiers serve in this new unit. The Washington Times reported in November of last year that in Cuba there are 25.3 active duty troops for every thousand citizens. In the United States, there are 9.5 such troops for every thousand Americans.

Unfortunately, one cannot explain this astonishing militarization of Cuban society on the grounds that Havana fears an attack from democratic forces. On the contrary, a closer look at the character of Cuban armed forces uncovers their offensive orientation. The Soviets have in recent years provided Cuba with 15 to 20 of the sophisticated Mig-23 attack fighters, bringing the total Cuban Mig force to at least 225 planes. Mr. McColm of Freedom House has reported that:

> Cuba now possesses the capacity to transport medium to heavy weaponry off the island and can rapidly deploy some 5,000 special forces within 24 hours anywhere in the Caribbean Basin.

McColm adds that in the spring of 1983:

> Cuba began practicing amphibious assaults around Mariel, deploying a contingent of 400 marines, four light tanks and eight armored personnel carriers. Using Soviet-made Polnocny-class ships capable of carrying six tanks, the Cuban demonstrated a capability of projecting force, particularly against vulnerable eastern Caribbean states.

The deployment of over 50,000 Cuban soldiers worldwide—including 35,000 to prop up the Marxist regime in Angola—indicates that Havana's military imperils Latin America as a whole.

INSURGENCY REMAINS PARAMOUNT

Notwithstanding the importance Castro attaches to active diplomacy and strong conventional forces, insurgency remains the cornerstone of his efforts to maintain the momentum of the 1959 revolution. According to R.A. Hudson of the Library of Congress, the General Department of Foreign Relations and the America Department, both divisions of the Cuban Communist Party's Central Committee, exert supreme influence over the conduct of foreign policy. The General Department is the counterpart of the International Department of the Soviet Communist Party, currently headed by Ambassador Anatoly Dobrynin. Mr. Hudson reports the chief of the General Department, Jesus Montane Opresa, "easily outranks" the foreign minister of Cuba. Montane meets with extremist groups like the Popular Front for the Liberation of Palestine and attends major guerilla and Communist conferences.

Manuel Pineiro Losada, the head of the America Department, also outranks the foreign minister. According to Mr. Hudson, Pineiro serves as Castro's primary counselor on policy toward the United States and Latin American revolutionary matters. Obviously, Pineiro also supervises the activities of the America Department, which include the planning of Cuban covert operations throughout Latin America. The America Department also manages guerrilla/terrorist centers in Cuba, coordinates the movements of men and armaments between Cuba and Latin America, and publishes propaganda.

The availability of other agencies as manpower resources for the America Department futher underscores its importance. The department employs elite special troops from the Interior Ministry and agents from the General Directorate of Intelligence. Based on State Department reports, Mr. Hudson reports that America Department personnel routinely serve in Cuban embassies. Sometimes Havana sends an official from the America Department to head an embassy—a strong signal that Cuba has targeted the host country for subversive action.

Mr. Hudson concludes in his article for the journal Terrorism:

> In effect the [General Directorate] and [the America Department] run Cuba's real foreign policy—the one that seeks to unify, coordinate, and support so-called anti-imperialist and anti-Zionist "national liberation movements" worldwide.

Castro has further demonstrated his attachment to this particular foreign policy by establishing a virtually omnipresent threat of subversion in Latin America. Beginning in the early 1970's, a 1981 State Department white paper reveals, Cuba provided urban terrorist units from South America with military training and instruction in intelligence methods. In 1974, Havana organized four of these groups—the Bolivian ELN, the Chilean MIR, the Uruguayan MLN and the Argentine ERP—into a coordinating committee.

In the wake of the Sandinista revolution, Cuban intelligence operatives dramatically expanded their activities in Central America. The America Department, the 1981 State Department report showed, established training camps and arms supply systems in Costa Rica for the Salvadoran rebels. Defectors from Nicaragua and the Salvadoran guerrilla forces have stated that Cuba provided the training, arms and munitions for several key rebel operations in El Salvador. As reported in the August 23, 1985, edition of the Washington Times, these actions included the bombing of the Golden Bridge in October 1981 and the extensive sabotage conducted at the Ilopango Air Base in January 1982. A former captain with the Salvadoran guerrillas has testified that Cuba prepared rebel forces for the December 1983 attack on the headquarters of the 4th Brigade—an attack in which 100 Salvadoran army troops lost their lives. The defector recalled:

> Besides the training they gave us all the material to use. The explosives, machine guns, and ammunition were totally sent from Cuba.

Cubans have provided similar services elsewhere in Central America. R.A. Hudson of the Library of Congress writes in his monograph on Cuban insurgency that in 1980, agents of the America Department successfully encouraged the four Guatemalan guerrilla units to join together and thereby obtain additional Cuban assistance. A 1985 State Department background paper disclosed that documents captured in a safehouse for the Honduran Front for Popular Liberation refer to training the extremists received in Nicaragua and Cuba. Mr. Hudson adds:

> According to the Costa Rican Ministry of Public Security by July 1985 at least 700 Costa Rican leftists had received military training in Cuba over the previous four

> years, and most had already returned to their country through Nicaragua.

Obviously, President Arias of Costa Rica has good reason to feel nervous about the status quo in Central America.

The liberation of Grenada in 1983 and the election of Edward Seaga to the premiership in Jamaica dealt severe setbacks to the effectiveness and prestige of Cuban guerrilla activities in the Caribbean. Nevertheless, the America Department has urged that extremists in the Dominican Republic unite and has provided a number of activists with guerrilla training, according to Mr. Hudson.

In the case of Puerto Rico, Fidel Castro and the America Department have gone to great lengths to inject a climate of fear into the commonwealth. In interviews for the January 13, 1987 edition of the Washington Times, U.S. law enforcement and intelligence officials explained that Cuba has provided extensive assistance to the Macheteros, the primary Puerto Rican terrorist group, Members of the unit have reportedly visited special camps in Cuba and Nicaragua where they learn about weapons, explosives, psychological warfare, and infiltration techniques. The Macheteros have put this training to effective use in the past 8 years. Armed with U.S. M-16's and Soviet-made AK-47's, they attacked a U.S. Navy bus in San Juan in December 1979, killing two sailors. Three years later, the Macheteros struck again, ambushing four American sailors in San Juan and murdering one of them.

In September 1983, members of the Macheteros robbed a Wells Fargo armored truck in Hartford, CT, and absconded with $7.2 million. Federal officials cited in the Washington Times say that $4 million from that theft was sent to Cuba. Even worse, a report in the May 9, 1986, edition of the Wall Street Journal indicates that the America Department may have guided the planning of the robbery. The Western Hemisphere has become a dangerous place indeed when Cuban intelligence can organize major crimes in the continental United States.

As R.A. Hudson has illustrated in his monograph, Cuban intervention in Colombia shows that Castro readily affiliates himself with criminal enterprises. In 1980, Hudson notes, America Department agents staged a joint meeting between the various terrorist and guerrilla factions active in Colombia. The Cubans also trained members of the M-19 unit—one of the most savage terrorist groups in the world—in rural guerrilla combat. In early 1981, the Cubans helped the M-19 recruits reinfiltrate into Colombia from their training camps in Cuba.

On November 6, 1985, the M-19 raided and captured the Palace of Justice in Bogota. Mr. Hudson of the Library of Congress believes the group sought to affirm their vanguard status among Colombian radicals. Ominously, Mr. Hudson writes, M-19 also wished to destroy the extradition records of narcotics traffickers and to terrorize the judiciary. They may have succeeded in that objective. In the wake of the deaths of 50 hostages at the Palace of Justice, including several members of the Colombia Supreme Court, the Colombian judiciary has pronounced extradition accords with the United States unconstitutional. Both the M-19 and Fidel Castro must have obtained satisfaction from that development, for the leader of the raid, Andres Almarales, obtained military training in Cuba.

Mr. Speaker, I've discussed Cuban support for terror and guerrilla warfare not only to shed light on the geopolitical implications of such activities, but because the prevalence of Marxist-sponsored insurgency has profound meaning for the ongoing peace negotiations in Central America. I do not quarrel with the emphasis that Members of Congress and the Reagan administration have placed on Nicaragua's increasing strength in the area of conventional military force. The Sandinista armed forces have grown to include 75,000 men and have now become larger than the combined armies of the states adjoining Nicaragua. According to State Department data supplied to my office, the Sandinistas have received $600 million in Cuban and Soviet bloc military assistance over the past 8 years. Some 77,600 tons of equipment were delivered from the Soviet bloc over the past 6 years. Deliveries in 1986 alone totaled 23,000 tons.

The State Department has calculated that there are 2,500 to 3,000 Cuban military advisers in Nicaragua. Since 1980, Cuban construction crews have helped Nicaragua build some 40 new military bases at a value estimated at more than $300 million.

All of these statistics should frighten anyone worried about the prospects for peace and liberty in Central America. But Sandinista conventional capabilities do not constitute the essence of the strategic dilemma in Central America. Due to apprehensions about U.S. intervention, the Sandinistas seem unlikely to exploit their advantages in conventional military capabilities. Nicaraguan dictator Daniel Ortega will not send his tanks into San Salvador or San Jose because he fears that such an aggression would bring American tanks into the streets of Managua. Insurgency, on the other hand, remains a basic and powerful weapon of the Havana/Managua axis. The success that these regimes have experienced in keeping their role in such operations secret for years at a time means that a peace accord may probably prove ineffective in stopping guerrilla activities. Only a full democratization of Nicaragua will halt covert support for terror because only a full democratization will eliminate or at least restrain the sponsors of such support. And full democratization means the free and fair elections President Reagan called for last week.

THE SANDINISTAS AS ROBOTS

The Cubans provide us with other reasons for caution about the Arias initiative. Over a 40-year career in revolutionary politics, Fidel Castro has demonstrated his affinity to insurrection against so-called imperialists throughout Latin America. And solid evidence exists to show that, ultimately, Castro calls the shots in Managua. In 1984, Antonio Farach, formerly Minister Counselor at the Nicaraguan embassies in Venezuela and Honduras, testified before the Senate Subcommittee on Drug Abuse. When asked by Senator Paula Hawkins if Raul Castro had suggested that the Sandinistas become involved with narcotics trafficking, Mr. Farach replied:

> The precise terms used by Mr. Castro in his conversations with Mr. Ortega, I cannot say, but I can affirm that never in my experiences with Cuban officials during 4 years of service in the government, the relationship was never one of respect between Cubans and Nicaraguans. The Cubans always spoke as if they were the bosses. They were always very arrogant and demanding. They do not suggest in Nicaragua. They order in Nicaragua.

In testimony for the oral history project at the Fletcher School of Diplomacy, Miguel Bolanos Hunter, formerly a senior counterintelligence officer in Nicaragua, corroborated Farach's account. Bolanos revealed that a Cuban, Rehan Montero, operates Nicaraguan intelligence. Bolanos explained:

> He was the link between the [Sandinistas] and Cuba for many years. Now he is the intelligence link for Nicaragua from Fidel. That is why Fidel has him there. He is one of the main instruments for Cuban control of events in Nicaragua.

In his essay on Cuban insurgency, R.A. Hudson of the Library of Congress referred to Nicaragua as a "satrapy" of Cuba. Former Cuban Air Force General Rafael del Pino Diaz may have summarized the situation more accurately when he stated during a Radio Marti broadcast this July that Cuba seeks to create a Nicaraguan robot. General del Pino, who addressed the House Republican conference this morning, maintains that Cuba wishes to employ Nicaragua as a staging ground for covert operations. The August 1, 1987, edition of the Washington Times quoted the general as saying that this scenario will permit Cuba to direct "internationalist missions" while denying direct Cuban participation in them. Nicaraguan officials who refuse to accept Cuban manipulation of their country must leave the Government.

The Sandinistas have already mimicked the Cubans in significant matters of foreign policy. Bruce McColm has pointed out that camps for the training of Latin American and European terrorist groups, such as the Basque ETA, have been established in several Nicaraguan towns and on an island in Lake Nicaragua. In addition, Nicaraguan Government officials have intervened repeatedly in the civil war in El Salvador. One senior defector from the Salvadoran rebels, Napoleon Romero, stated in an April 1985 interview that Nicaragua had become the "directional center" of the Salvadoran guerrillas. And documents captured from the insurgents in 1985 show a flow of armaments to them from Nicaragua and Soviet bloc countries.

Like Cuba, Nicaragua has located targets for subversion in the United States. The Sandinistas have followed the Cubans into drug trafficking operations designed to disrupt American society. By way of background, I should refer to an article which appeared in the Journal of Defense and Diplomacy earlier this year entitled "International Narcotics Trafficking: the Soviet Connection." The article was written by Joseph Douglass and General Jan Sejna, formerly chief of cabinet at the Czech Ministry of Defense.

The authors reveal that in the early 1960's, the Soviet Union directed Cuban intelligence officials to infiltrate Latin American drug production and distribution networks and facilitate the movement of narcotics into the United States. General Sejna recalls that at a meeting of senior Warsaw Pact officials in the fall of 1962:

> [Soviet Premier] Khruschev carefully explained how the [narcotics] business would cripple the democratic societies while simultaneously generating much-needed foreign exchange for intelligence operations . . . Further, it would cripple the educational system. U.S. schools were high-priority targets because this is where the future leaders of the bourgeois were to be found.

General Sejna clearly remembers Khruschev's shocking conclusion:

> When we discuss this strategy, there were some who were concerned that this operation might be immoral. But we must state categorically that anything that speeds the destruction of capitalism is moral.

Khruschev's plan paid rich dividends. By 1967, the chief of Czech military intelligence could estimate that narcotics trafficking facilitated 20 to 25 percent of the technology thefts from the West to the Warsaw Pact. And in 1966, Soviet military intelligence calculated that Soviet and Cuban sponsorship of drug commerce would pay for all of that organization's foreign expenses.

Today, Cuba continues its involvement with this grisly business. According to the May 4, 1987, issue of U.S. News and World Report, Drug Enforcement Administration sources report over 50 recorded cases of Cuban participation in drug trafficking activities during the past 5 years. U.S. News also reports that the Cubans manage their own laboratory for the refining of cocaine outside Havana. They also provide fuel and protection for boats which transport narcotics to the United States.

The U.S. News article continues:

> Pressed for hard currency and eager for a share of profits from the dope trade, the Sandinistas—at Raul Castro's specific direction—eagerly established their own transshipment routes for Colombian cocaine.

In 1984, a U.S. Government informant photographed the arrival of a C-123 aircraft loaded with 1,500 kilos of cocaine at Los Brasiles airport north of Managua. The Sandinistas have reportedly set up their own cocaine refineries as well.

As we contemplate these events and the hundreds of drug overdoses that take place every year in America, I hope we can grasp that Castro and his Sandinista stooges have launched a very sinister and yet very personal war against our schools, our homes and our families. It is a threat from the East bloc which we cannot afford to underestimate. I was pleased when investigators for the Iran-Contra congressional committees announced in August that they could not substantiate charges that the so-called Contras had engaged in drug commerce. But congressional panels owe the American people a serious, detailed examination of Soviet, Cuban and Sandinista distribution of the substances that are poisoning our society.

The seeming conquest of Nicaragua by Fidel Castro bodes ill for Central America. Even if Daniel Ortega sincerely desired an end to the warfare which presently debilitates the region, his wishes might become moot when confronted with the revolutionary zeal and savagery of his masters in Havana. Would Castro readily relinquish a Leninist triumph that General del Pino says he had worked decades to achieve? Even worse, the Cuban role in Nicaragua, together with Cuba's international terror networks and its massive armed forces, demonstrate convincingly that Cuba has long ceased to be first among equals in Latin America. Only a regional superpower can deploy thousands of troops across the globe and manipulate criminal activity and political events thousands of miles away from its capital. Only a regional superpower can, as U.N. Ambassador Vernon Walters has reported, so intimidate other countries with threats of violence that they will refuse to merely condemn that state for the most grotesque human rights abuses.

In this context, it seems that Cuba could freely manipulate the destinies of the nations of Central America if the United States failed to oppose Havana's initiatives. Incredibly, some proponents of the Arias accord on Capitol Hill have all but ignored the Cuban factor in their longing for a treaty that will alleviate the United States of its responsibilities. They have also ignored two major aspects of the current turmoil in Central America that have a critical bearing on policy decisions.

First, they have ignored strong evidence that the people of Central America support Reagan Administration policies in the region. A January survey by the Costa Rican affiliate of Gallup International asked respondents in Costa Rica, Honduras, El Salvador, and Guatemala what sort of opinion they had about Nicaragua. Over 75 percent of the respondents indicated unfavorable opinions about Nicaragua. Over 70 percent labeled Nicaragua an instrument of Cuba and the Soviet Union. Majorities in all four countries maintain that Nicaragua and their own countries will be better off if the Nicaraguan democratic resistance, known as the Contras, win.

Second, some in the House and Senate continue to claim that the Contras are ineffective fighters. As Susan Kaufman Purcell, director of the Latin American Program at the Council of Foreign Relations, has stated in the fall issue of Foreign Affairs, the evidence does not support this conclusion.

She writes:

> Recent trends must be of some concern to the Sandinistas. Rebel forces are not only in Nicaragua; they are in most of the country. Sandinista efforts to disrupt their resupply network have provided ineffective; 98 percent of the resupply flights have reportedly reached their targets.

Ms. Purcell continues:

> The rebels have also begun to put the Sandinistas on the defensive by launching hundreds of attacks each month. In June 1987 alone, the Nicaraguan government admitted to approximately 372 rebel attacks and engagements. In the past few months, rebel activities have been reported in more than two-thirds of Nicaraguan territory • • •

These misconceptions must be corrected. The U.S. Government will never devise effective policies in Central America if such policies are based on flawed assessments of our strengths and weaknesses. We can be sure that Fidel Castro insists on accurate information before he makes his decisions.

The congressional leadership should recognize that America must become as resolute in the advancement of democracy as Castro has long been in the advocacy of Leninist tyranny. The leaders of the House and Senate should not settle for a half loaf of freedom in Nicaragua, but instead, should insist on free elections, as President Reagan has done. The ballot box is not only Nicaragua's best hope for real democracy, but its only pathway to self-determination. Members of the House majority will recall that it was President Woodrow Wilson who first championed that cause.

□ 1915

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bartlett) to revise and extend their remarks and include extraneous material:)

Mr. Ballenger, for 60 minutes, October 15 and 19.

Mr. Burton of Indiana, for 60 minutes, October 15.

Mr. Burton of Indiana, for 5 minutes, today.

Mr. Coughlin, for 5 minutes, today.

Mr. Walker, for 5 minutes, today.

(The following Members (at the request of Mr. Donnelly) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Crockett, for 5 minutes, today.

Mr. Owens of New York, for 5 minutes, on October 14, 15, and 16.

Mr. Gonzalez, for 60 minutes, on October 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Daub, following the Jeffords amendment in the nature of a substitute to H.R. 162 in the Committee of the Whole, today.

Mr. Burton of Indiana, following the Jeffords amendment in the nature of a substitute to H.R. 162 in the Committee of the Whole, today.

Mr. Bunning, following the Jeffords amendment in the nature of a substitute to H.R. 162 in the Committee of the Whole, today.

(The following Members (at the request of Mr. Bartlett) and to include extraneous matter:)

Mr. Pursell.
Mr. Bereuter.
Mr. Hefley.
Mrs. Roukema.
Mr. Gallo in two instances.
Mr. Shumway.
Mr. Dornan of California in three instances.
Mr. Bunning in two instances.
Mr. Fields in two instances.
Ms. Snowe.
Mr. Vander Jagt.
Mr. Conte.
Mr. Combest.
Mr. Mack.
Mr. Horton.
Mr. Gekas in two instances.
Mr. Houghton.

(The following Members (at the request of Mr. Donnelly) and to include extraneous matter:)

Mr. Kildee in two instances.
Mr. Downey of New York.
Mr. Yatron.
Mr. Lipinski.
Mr. Atkins in two instances.
Mr. Coleman of Texas.
Mr. Fazio.
Mr. Sawyer.
Mrs. Boxer.
Mr. Hamilton in two instances.
Mr. Richardson.
Mr. Levin of Michigan.
Mr. Mavroules.
Mr. Solarz.
Mr. Mfume.
Mr. Borski.
Mr. Tallon.
Mr. Lantos.
Mr. Miller of California.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 328. An act to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes; to the Committee on Government Operations.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNIZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 1567. An act to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in U.S. Claims Court docket numbered 53-81L, and for other purposes;

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes; and

H.J. Res 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

ADJOURNMENT

Mr. LUNGREN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, October 15, 1987, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2241. A communication from the President of the United States, transmitting an amendment to the request for appropriations for fiscal year 1988 for the Department of the Treasury, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-115); to the Committee on Appropriations and ordered to be printed.

2242. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of October 1, 1979, pursuant to 2 U.S.C. 685(e) (H. Doc. N0. 100-114); to the Committee on Appropriations and ordered to be printed.

2243. A letter from the Secretary of Education, transmitting a copy of final regulations—Drug Abuse Education and Prevention Audiovisual Materials Program, pursuant to 29 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2244. A letter from the Secretary of Education, transmitting a copy of final regulations for the Pell Grant Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2245. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more to the Government of Singapore (Transmittal No. MC-41-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2246. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting copies of the report of political contributions by John R. Davis, Jr., of California, Ambassador Extraordinary and Plenipotentiary-designate to Poland, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2247. A communication from the President of the United States, transmitting a report on the September 21, 1987 engagement of U.S. Armed Forces and Iranian minelaying landing craft in the Persian Gulf (H. Doc. No. 100-112); to the Committee on Foreign Affairs and ordered to be printed.

2248. A communication from the President of the United States, transmitting a report on the October 8, 1987 engagement between U.S. Armed Forces and Iranian naval vessels in the Persian Gulf (H. Doc. No. 100-113); to the Committee on Foreign Affairs and ordered to be printed.

2249. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide general arrest authority for officers of the Immigration and Naturalization Service; to the Committee on the Judiciary.

2250. A letter from the Secretary of Health and Human Services, transmitting a report entitled, "Developing a Prospective Payment System for Excluded Hospitals", a review of research studies for each hospital class—children's, psychiatric, rehabilitation, and long-term, pursuant to Public Law 98-21, section 603(a)(2)(c)(ii); to the Committee on Ways and Means.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. Report on allocation of budget authority and outlays by program (Rept. 100-370). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 3483. A bill to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes; to the Committee on the Judiciary.

By Mr. BROOKS (for himself (by request), Mrs. Collins, Mr. Horton, and Mr. Nielson of Utah):

H.R. 3484. A bill to amend the Federal Property and Administrative Services Act of 1949 and section 3726 of title 31, United States Code, to improve and extend the operations of the General Supply Fund, and for other purposes; to the Committee on Government Operations.

By Mr. DORNAN of California (for himself, Mr. Hunter, Ms. Kaptur, Mr. Murtha, Mr. Bunning, Mr. Burton of Indiana, Mr. Sweeney, Mr. Smith of New Jersey, and Mr. Solomon):

H.R. 3485. A bill to amend title 38, United States Code, to treat individuals who had commenced the third academic year as a cadet or midshipman at one of the service academies before January 1, 1977, as veterans of the Vietnam era for purposes of eligibility for educational assistance under chapter 34 of such title; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. Bryant, Mr. Jeffords, Mr. Florio, Mr. Lancaster, Mr. Bonior of Michigan, Mr. Panetta, Mr. Staggers, Mr. Johnson of South Dakota, Mr. Jontz, Mr. LaFalce, Mr. Lipinski, Mr. DeFazio, and Mr. Coleman of Texas):

H.R. 3486. A bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service in Vietnam during the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. HUCKABY (for himself, Mr. Schumer, Mr. Panetta, Mr. Glickman, Mr. Stenholm, Mr. Tallon, Mr. Staggers, Mr. Penny, Mr. Olin, Mr. Thomas of Georgia, Mr. Emerson, Mr. Stallings, and Mr. Jones of Tennessee):

H.R. 3487. A bill to revise the limitations on farm program benefits so as to prevent excessive payments and to ensure the fair and equitable distribution of such benefits, and for other purposes; to the Committee on Agriculture.

By Mr. MONTGOMERY (for himself and Mr. Solomon):

H.R. 3488. A bill to prohibit for 12 months the closure or relocation of any Veterans' Administration readjustment counseling center or any other change in the mission or organization of Veterans' Administration medical facilities; to the Committee on Veterans' Affairs.

By Mr. ROBERTS (for himself, Mr. Madigan, Mr. Marlenee, Mr. Craig, Mrs. Smith of Nebraska, Mr. Emerson, Mr. Shumway and Mr. Schuette):

H.R. 3489. A bill to provide for the orderly implementation of Environmental Protection Agency programs established to comply with the Endangered Species Act of 1973; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. SLAUGHTER of Virginia (for himself and Mr. Lungren):

H.R. 3490. A bill to amend title XVIII of the Social Security Act to revise the standards applying to medigap insurance policies in order to provide protection against the costs of catastrophic illness; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SUNDQUIST:

H.R. 3491. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

By Mr. FOLEY:

H.J. Res. 374. Joint resolution to designate April 1988 as "National Prevent-A-Litter Month"; to the Committee on Post Office and Civil Service.

By Mr. HORTON (for himself, Mr. Anderson, Mrs. Bentley, Mr. Bevill, Mr. Biaggi, Mrs. Boxer, Mr. Buechner, Mr. Cardin, Mr. Chapman, Mr. Clay, Mrs. Collins, Mr. Conte, Mr. Conyers, Mr. Crockett, Mr. Daub, Mr. DeFazio, Mr. de la Garza, Mr. Dixon, Mr. Dornan of California, Mr. Dymally, Mr. Dyson, Mr. Espy, Mr. Evans, Mr. Fauntroy, Mr. Fazio, Mr. Foglietta, Mr. Frost, Mr. Fuster, Mr. Goodling, Mr. Hughes, Ms. Kaptur, Mr. Kasich, Mr. Lagomarsino, Mr. Levin of Michigan, Mr. Lungren, Mrs. Martin of Illinois, Mr. Martinez, Mr. Matsui, Mr. McDade, Mrs. Meyers of Kansas, Mr. Mrazek, Mr. Nielson of Utah, Mr. Owens of New York, Mr. Owens of Utah, Mrs. Patterson, Mr. Ravenel, Mr. Roe, Mr. Feighan, Mr. Shumway, Ms. Slaughter of New York, Mr. Smith of Florida, Mr. Towns, Mr. Weiss, Mr. Weldon, Mr. Wolf, Mr. Wortley, and Mr. Wylie):

H.J. Res. 375. Joint resolution designating November 1, 1987, as "National Volunteer Appreciation Day"; to the Committee on Post Office and Civil Service.

By Mr. MACK (for himself, Mr. Fascell, Mr. Yatron, Mr. Solomon, Mr. Porter, Mr. Lantos, Mr. Hoyer, Mrs. Boxer, Mr. Lipinski, Mr. AuCoin, Mr. Green, Mr. McGrath, Mr. Skaggs, Mr. Owens of New York, Mr. Horton, Mr. Moorhead, Mr. Frost, Mr. Wortley, Mr. Mavroules, Ms. Slaughter of New York, Mr. Erdreich, Mr. Lagomarsino, Mr. Smith of New Jersey, Mr. Frank, Mr. McCurdy, Mr. de Lugo, Mr. Weber, Miss Schneider, Mr. Swindall, Mr. Schumer, Mr. Boland, Mr. Bateman, Mr. Inhofe, Mr. Coughlin, Mr. Hunter, Mr. Manton, Mr. Annunzio, Mr. Wolf, Mr. Ackerman, Mr. Shumway, Mr. Weldon, Mr. Torricelli, Mr. Moody, Mr. Cardin, Mr. Fauntroy, Mr. DioGuardi, Mr. Bilbray, Mr. Roe, and Mr. Edwards of California):

H.J. Res. 376. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. Broomfield, Mrs. Saiki, and Mr. Akaka):

H. Con. Res. 199. Concurrent resolution with regard to Soviet missile firings near Hawaii, to the Committee on Foreign Affairs.

By Mr. LEVINE of California (for himself, Mr. Fascell, Mr. Yatron, Mr. Solarz, Mr. Studds, Mr. Wolpe, Mr. Crockett, Mr. Dymally, Mr. Berman, Mr. Weiss, Mr. Bilbray, Mr. Owens of Utah, Mr. Broomfield, Mr. Gilman, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Smith of New Jersey, Mrs. Meyers of Kansas, and Mr. Miller of California):

H. Con. Res. 200. Concurrent resolution to congratulate and commend President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize; to the Committee on Foreign Affairs.

By Mr. McEWEN:

H. Con. Res. 201. Concurrent resolution to require periodic reports on the aggregate cost incurred by the Congress as a result of the investigation being conducted by the House Select Committee to Investigate Covert Arms Transactions with Iran and the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition; to the Committee on House Administration.

By Mr. RAHALL (for himself, Mr. Mollohan, Mr. Staggers, and Mr. Wise):

H. Con. Res. 202. Concurrent resolution honoring the distinguished service of the pioneers of supersonic aerial flight, as exemplified by Air Force Brig. Gen. Charles E. "Chuck" Yeager's many years of distinguished U.S. service, on the 40th anniversary of his becoming the first man to fly an airplane faster than the speed of sound; to the Committee on Post Office and Civil Service.

By Mr. SUNDQUIST:

H. Con. Res. 203. Concurrent resolution expressing the sense of Congress with respect to fishing licenses for senior citizens; to the Committee on Merchant Marine and Fisheries.

By Mr. MOAKLEY:

H. Res. 285. Resolution expressing the sense of the House of Representatives that the United States should encourage and support the Republic of Ireland in its development of an international world trade and financial center in Dublin, Ireland; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 341: Mr. Bennett, Mr. Gingrich, Mr. Marlenee, Mr. Stump, Mr. Weldon, Mr. Wolf, and Mr. Wortley.

H.R. 541: Mr. Feighan.

H.R. 639: Mr. Fuster, Mr. Gunderson, Mr. Miller of California, Mr. Mrazek, Mr. Mica, Mr. Fauntroy, and Mr. Chapman.

H.R. 655: Mrs. Saiki and Mr. Bates.

H.R. 1016: Mr. Bryant.

H.R. 1145: Mr. Leath of Texas.

H.R. 1213: Mr. Spratt.

H.R. 1235: Mr. Barnard, Mr. Dornan of California, and Mr. Ford of Tennessee.

H.R. 1259: Mr. Robinson and Mr. Young of Alaska.

H.R. 1430: Mr. Dornan of California.

H.R. 1481: Mr. Mrazek, Mr. Weldon, and Mr. Regula.

H.R. 1546: Mr. Dymally and Mr. Brown of California.

H.R. 1717: Mr. McEwen.

H.R. 1794: Mr. Carper and Mr. Dymally.

H.R. 1885: Mr. Dickinson, Mr. Darden, Mr. English, Mrs. Lloyd, and Mr. Sundquist.

H.R. 2091: Mr. Hansen.

H.R. 2116: Mr. Archer, Mr. Hansen, Mr. Herger, Mrs. Martin of Illinois, and Mr. Montgomery.

H.R. 2125: Mr. Coughlin.

H.R. 2248: Mr. Gray of Pennsylvania, Mr. Schuette, and Mr. Pickett.

H.R. 2272: Mr. Schulze.

H.R. 2273: Mr. Schulze.

H.R. 2312: Mr. Schuette.

H.R. 2611: Mr. Torricelli, Mr. Ford of Michigan, Mr. Bereuter, Mr. Smith of Florida, Mr. Foglietta, Mr. Shaw, Mr. Cardin, and Mr. Alexander.

H.R. 2670: Mr. Fish, Mr. Rinaldo, and Mr. Espy.

H.R. 2673: Mr. Fish, Mr. Bilirakis, and Mrs. Morella.

H.R. 2688: Mr. Ford of Tennessee and Mrs. Lloyd.

H.R. 2692: Mr. Badham, Mr. Horton, Mr. Bunning, and Mr. Bilirakis.

H.R. 2724: Mr. Atkins.

H.R. 2785: Mr. Johnson of South Dakota.

H.R. 2856: Mr. Manton.

H.R. 2870: Mr. Kolter, Mrs. Collins, and Mr. Kildee.

H.R. 2952: Ms. Slaughter of New York.

H.R. 2963: Mr. Wyden and Mr. DeFazio.

H.R. 3003: Mr. Hochbrueckner.

H.R. 3004: Mr. Hochbrueckner.

H.R. 3049: Mr. Hochbrueckner.

H.R. 3064: Mr. Kolbe and Mr. Edwards of Oklahoma.

H.R. 3070: Mr. Smith of Florida, Mr. McCloskey, Mr. Conyers, Ms. Pelosi, and Mr. Dwyer of New Jersey.

H.R. 3071: Mr. Shays, Mr. Dellums, and Mr. Mrazek.

H.R. 3205: Mr. Shumway, Mr. Pursell, Mr. Gallegly, Mrs. Johnson of Connecticut, Mr. Lightfoot, and Mr. Young of Alaska.

H.R. 3214: Mrs. Meyers of Kansas, Mr. McEwen, and Mrs. Morella.

H.R. 3225: Mr. Espy, Mr. Borski, Mr. Kildee, and Mr. Schuette.

H.R. 3228: Mr. Bonior of Michigan, Mr. Aspin, Mr. AuCoin, Mr. Latta, Mr. Flippo, Mr. Hayes of Louisiana, and Mr. Daub.

H.R. 3250: Mr. Shaw and Mr. Hamilton.

H.R. 3265: Mr. Torres, Mr. LaFalce, Mr. de Lugo, Mr. Frank, Mr. Pepper, and Mr. Martinez.

H.R. 3290: Mr. Pepper.

H.R. 3304: Mr. Eckart, Mr. Feighan, Mrs. Bentley, Mr. Foglietta, and Mr. Myers of Indiana.

H.R. 3344: Mr. Jontz.

H.R. 3345: Mr. Horton, Mr. Weiss, and Mr. Bustamante.

H.R. 3346: Mr. Pease.

H.R. 3400: Mr. Roybal, Mr. Obey, Mr. Hughes, Mr. Eckart, Mr. Thomas A. Luken, Mr. Darden, Mr. Harris, Mr. Annunzio, Mr. Miller of California, Mr. Anthony, Mr. Shays, Mr. Boehlert, Mr. Quillen, Mrs. Bentley, Mr. Russo, Mr. Vander Jagt, Mr. Weiss, Mrs. Kennelly, Mr. Foley, Mr. Mineta, Mr. Brooks, Mr. Sundquist, Mr. Atkins, Mr. Visclosky, Mr. Donnelly, Mr. Andrews, Mr. Bosco, Mr. Inhofe, Mr. Tallon, Mr. Lehman of Florida, Mr. Guarini, Mr. Gray of Illinois, Mr. Lantos, Mr. Goodling, Mr. Stallings, Mr. Emerson, Mr. Hertel, Mr. Jones of Tennessee, Mr. Hubbard, Mr. LaFalce, Mrs. Boggs, Mr. Levin of Michigan, Mr. Feighan, Mrs. Lloyd, Mr. Wise, Mr. Coelho, Mr. St Germain, Mr. Mollohan, Mr. Mica, Mr. Madigan, Mr. DioGuardi, Mr. Lent, Mr. Gekas, Mr. Hammerschmidt, Mr. Hayes of Louisiana, Mr. Sharp, Mr. Scheuer, Mrs. Roukema, Mr. Kolbe, Mr. Schumer, Mr. Skelton, Mr. Huckaby, Mr. Dowdy of Mississippi, Mr. Traficant, Mr. Ortiz, Mr. Thomas of Georgia, Mr. Levine of California, Mr. Sunia, Mr. Anderson, Mr. Rowland of Georgia, Mr. Waxman, Mr. Grandy, Mr. Chapman, Mr. Blaz, Mr. de la Garza, Mr. Hall of Ohio, Mr. Tauke, Mr. Upton, Mr. Gibbons, Mr. Glickman, and Mrs. Saiki.

H.J. Res. 112: Mr. Atkins.

H.J. Res. 169: Mrs. Bentley, Mr. Wyden, Mr. Hatcher, Mr. Gonzalez, Mr. Annunzio, Mr. Coughlin, Mr. Gray of Pennsylvania, Mr. Gordon, Mr. Wolf, Mr. Ridge, Mr. Weiss, Mr. Quillen, Mr. Gekas, Mr. Fauntroy, Mr. Sunia, Mr. Fazio, Mr. Conyers, and Mr. Bevill.

H.J. Res. 250: Mr. Rinaldo, Mr. Pepper, Mr. Regula, Mr. Waxman, Mr. Madigan, Mr. Bevill, Mr. Biaggi, Mrs. Boxer, Mr. Brennan, Mr. Brown of California, Mr. Coble, Mr. Cardin, Mr. Coelho, Mrs. Collins, Mr. Crockett, Mr. Daub, Mr. de la Garza, Mr. Dellums, Mr. Dixon, Mr. Dornan of California, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Dyson, Mr. Evans, Mr. Fauntroy, Mr. Fazio, Mr. Feighan, Mr. Fields, Mr. Fish, Mr. Florio, Mr. Foglietta, Mr. Frenzel, Mr. Frost, Mr. Green, Mr. Hall of Texas, Mr. Hefner, Mr. Horton, Mr. Howard, Mr. Hughes, Mr. Kasich, Mr. Kolter, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lantos, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Leland, Mr. Levin of Michigan, Mr. Lewis of California, Mr. Mack, Mr. Martinez, Mr. Matsui, Mr. Moakley, Mr. Nielson of Utah, Ms. Oakar, Mr. Owens of New York, Mr. Panetta, Mr. Pashayan, Mr. Rahall, Mr. Rodino, Mr. Roe, Mr. Roemer, Mr. Sabo, Mr. Schuette, Mr. Shumway, Mr. Skelton, Mr. Smith of Florida, Mr. Sunia, Mr. Tallon, Mr. Tauke, Mr. Towns, Mr. Traxler, Mr. Valentine, Mr. Volkmer, Mr. Weiss, Mr. Whitten, Mr. Wolf, and Mr. Wortley.

H.J. Res. 292: Mr. Atkins, Mr. Bevill, Mr. Biaggi, Mr. Bliley, Mr. Bosco, Mr. Brennan, Mr. Bruce, Mr. Clay, Mr. Crockett, Mr. Derrick, Mr. Dorgan of North Dakota, Mr. Dymally, Mr. Fauntroy, Mr. Fish, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Holloway, Mr. Hughes, Mr. Hyde, Mr. Kildee, Mr. Kolter, Mr. Leach of Iowa, Mr. Lehman of California, Mr. Leland, Mr. Levine of California, Mr. Lewis of Georgia, Mr. Lungren, Mr. McMillen of Maryland, Mr. Matsui, Mr. Mfume, Mrs. Morella, Mr. Mrazek, Ms. Oakar, Ms. Pelosi, Mr. Savage, Mr. Stark, Mrs. Vucanovich, Mr. Wolpe, and Mr. Yatron.

H.J. Res. 308: Mr. Lagomarsino, Mr. Whittaker, Mr. Dellums, Mr. Moorhead, Ms. Kaptur, Mr. Smith of Florida, Mr. Bevill, Mr. Schuette, Mr. Hayes of Louisiana, Mr. McCloskey, Mr. Stokes, Mr. Levin of Michigan, Mr. Ravenel, Mr. Coelho, Mr. Vento, Mr. Scheuer, Mr. Bilirakis, Mr. Yatron, Mr. Tauzin, Mr. Nelson of Florida, Mr. Wolpe, Mr. Bliley, Mr. Carper, Mrs. Morella, Mr. Robinson, Mrs. Patterson, and Mr. de Lugo.

H.J. Res. 349: Mr. Owens of Utah, Mr. Lewis of Georgia, Mr. Clarke, Mr. Hamilton, Mr. Sunia, Mr. Scheuer, Mrs. Morella, Mr. Hayes of Illinois, Mr. Mavroules, and Mr. Sikorski.

H.J. Res. 360: Mr. Sunia, Mr. Fazio, Mr. Fascell, Mr. Howard, Mr. Hiler, Mr. Blaz, Mr. Crane, Mr. Hansen, Mr. Barton of Texas, Mr. Smith of New Jersey, Mr. Daub, and Mr. Schuette.

H.J. Res. 365: Mr. Campbell, Mr. Daub, Mr. Garcia, Mr. Harris, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Howard, Mr. Hyde, Mr. Kasich, Mr. McDade, Mr. Miller of Ohio, Mr. Moody, Mr. Nichols, Mr. Smith of Florida, Mr. Stratton, and Mr. Young of Florida.

H. Con. Res. 68: Mr. Houghton.

H. Con. Res. 83: Mr. Leach of Iowa, Mrs. Collins, Mr. Burton of Indiana, Mr. Madigan, and Mr. Harris.

H. Con. Res. 133: Mr. Bustamante, Mr. Towns, Mr. Rahall, and Mrs. Smith of Nebraska.

H. Con. Res. 153: Mr. Sweeney, Mr. Holloway, and Mr. Campbell.

H. Con. Res. 168: Mr. Weiss, Mr. Espy, Mrs. Collins, Ms. Pelosi, Mr. Penny, Mr. Vento, Mr. Conyers, and Mr. Sikorski.

H. Con. Res. 193: Mr. Conyers, Mr. Horton, Mr. Miller of Ohio, and Mr. Shumway.

H. Con. Res. 194: Mr. Russo.

H. Con. Res. 196: Mr. Levine of California.

H. Res. 114: Mr. Smith of New Hampshire.

H. Res. 229: Mr. Nielson of Utah.

H. Res. 269: Mr. Conyers, Mr. Wolf, Mr. Herger, Mr. DeWine, Mr. Crane, and Mr. Bilirakis.

PETITIONS, ETC.

Under clause 1 of rule XXII:

84. The SPEAKER presented a petition of Reinhard Kamke Hannover, Federal Republic of Germany, relative to his application for immigration; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

UNITED STATES-JAPAN RELATIONS FROM THE VIEWPOINT OF JAPANESE MULTINATIONAL CORPORATIONS DOING BUSINESS IN THE UNITED STATES

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. SHUMWAY. Mr. Speaker, I recently had the opportunity to participate in a seminar sponsored by Johns Hopkins University on the issue of United States-Japan relations. The keynote speaker was Kazuo Inamori, chairman of the now-international Kyocera Corp. His statement on the relations between our two nations from the viewpoint of Japanese multinational corporations doing business in the United States is both refreshing and challenging. I believe that Mr. Inamori's remarks are worthy of careful review by my colleagues, and thus I am sharing them with the House membership herein:

UNITED STATES-JAPAN RELATIONS FROM THE VIEWPOINT OF JAPANESE MULTINATIONAL CORPORATIONS DOING BUSINESS IN THE UNITED STATES

(By Kazuo Inamori)

It is a great honor and pleasure to be invited to address your monthly forum of the School for Advanced International Studies of the Johns Hopkins University, the oldest research university in the United States.

The topic I have been asked to address concerns U.S.-Japan relations from the viewpoint of Japanese multinational corporations operating in the United States. I would like to start with a general overview of U.S.-Japan relations.

THE AMERICAN CHALLENGES

In order to improve the trade relationships between the United States and Japan, the United States has been urging Japan to formulate and execute a new economic policy as quickly as possible.

Twice in our history, Japan had to carry out changes in our major policy with respect to foreign affairs.

The first of these was 120 (one hundred and twenty) years ago at the time of our Meiji Reformation. The second was at the conclusion of the World War Two. Both occasions called for drastic changes in our government policy. If Japan is to carry out a major policy change now, it will be the third such historical event.

THE MYTH OF JAPAN, INC.

There are various reasons why Japan is, at this time, reluctant to adopt a completely open economic policy. In my opinion, the major problem lies in the administrative structure of the Japanese government.

In trying to formulate a policy to ease the trade friction between the United States and Japan, the situation often arises that, despite consensus on a national level, each ministry gives priority to its own interest and may refuse to grant approval.

This happens, because each ministry is closely tied to its own industrial sector. In addition, every ministry has Diet members who, visibly or invisibly, wield great power. These are called "Zokugiin" or Diet Interest Group. They are vocal in their own special area, and their interest intertwines with that of the ministry.

Since each ministry is independent, its primary concern is to protect its own vested rights and interests. This also means that private corporations and Diet Interest Groups have much control over the ministries.

This explains why an agreement at the national level may still face much opposition at the ministry level. There, the discussions tend to degenerate to arguing over the interests of the ministry, its group of industries, and of the Diet Interest Groups that control it. This also explains why our open economic policy lacks in consistency and why its progress is so sluggish.

OVERHAULING JAPAN, INC.

The historical roots of this administrative structure date back to the Meiji Reformation when Japan's present government structure was formed. Its long history makes it difficult to changing it overnight. Nonetheless, I firmly believe that there is a definite need for a radical, fundamental reform of this administrative structure.

Another consideration is that Japan has no policy-making organization that cuts across all ministries to set general and strategic policies. Rather, policies devised by individual ministries become Japan's national policies. How can we possibly have a uniform consistent economic policy when each ministry decides its own policy and acts accordingly!

What Japan needs is an exclusive controlling body to deal with all ministries on a horizontal level, and one whose policies and interests are adhered to by all ministries. I think that an administrative reform to create such a structure is necessary.

It is certainly debatable whether this kind of reform is indeed possible in Japan or not. I am of the opinion that this is a problem that has to be solved.

SING A SONG OF FREE TRADE

At the same time, the traditional management thinking in industry must be changed. Traditionally, the majority of Japanese corporate managers have been firmly convinced that the best course of action is to manufacture quality products at low cost and export them. They, therefore, deeply believe that "free trade" must be advocated.

However, just ten years ago, Japanese government was still laying down various regulations restricting the activities of foreign corporations within Japan. These restrictions on "free trade" helped the growth of domestic industries. Japanese industries grew very strong thanks to these protective regulations.

Now that Japanese industries have grown to be globally competitive, we are removing our protective regulations, and demanding that other countries do the same. Isn't it strange how we have suddenly become an avid advocate of "free trade"—with no regards for the situation of our trading partners?

LIVE AND LET LIVE

In fact, once, it might have been a good thing to make quality goods inexpensively and sell them overseas. But "no man is an island." The human race is such that we do not live freely by ourselves, but only through our mutual relationship with others. We must be more aware of the fact that we live by virtue of being "let live."

Consequently, we should not do anything that would jeopardize others. This new concept that the world must join hands to help each other and coexist, is, in fact, an age-old philosophy. It's time for our corporate managers to wake up to this philosophy and start changing their ideas.

THE UGLY JAPANESE

The present problem of trade imbalance should be viewed in the same light. This situation is becoming even more severe because of the vicious fight for market share among Japanese corporations. Enlightened business leaders must surely see that this is causing problems in our host countries. Shouldn't we then adopt a more orderly, disciplined, and better-managed way to trade? "Free Trade" should not imply a "Free for all." Behaving in a self-willed, self-profiting manner has nothing to do with the real meaning of freedom.

UNITED STATES-JAPAN TRADE ISSUES

Concerning Japanese exports to the United States, America tells Japan that its non-tariff barriers, complex distribution system and bizarre trading customs prevent American imports from increasing in Japan.

Japan, on the other hand, tells the United States that their import duties are lower than any other country, that non-tariff barriers do not exist, and that the reason why America's imports into Japan fail to increase is because America does not try hard enough. Japan also stresses that American studies in the Japanese language and in Japan's trading customs have not been sufficient.

It is clear that the two countries are following two completely different tracks.

LEARNING CURVE THEORY

I am inclined to think, however, that this problem has arisen due to differences in experience and in the duration of effort spent by the two countries.

The U.S. market opened up after the war and has remained open for 40 years. Japanese companies have been able to study ways to enter the market and accumulate know-how through this experience.

But Japan's market did not open until about 10 years ago. The U.S. simply has not had enough time to study the Japanese language and Japanese trade customs, or to research our complicated distribution system.

As we can see from this history, American companies are handicapped by their limited period of preparation. In order to redress the trade imbalance, Japan must do more than simply open its markets. There will be no equity reached on this score soon unless Japan takes measures to provide American companies with access to Japanese markets

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

by reaching out and literally handing the market over to them.

FREE TRADE THEORY

Of course, there is nothing unfair about letting America's exports to Japan increase by relying on the mechanism of free trade alone. However, my thought is that, in the light of past difficulties and the overall emergency of the situation, Japan should do more to resolve the problem.

From this point of view, I cannot yet say that the mentality of Japanese managers has really changed. But there are signs that this will change in the future. A while ago, a report issued by an advisory body to the Ministry of International Trade and Industry expressed much of the same idea. Furthermore, two or three members of the Japanese Committee for Economic Development have begun to profess a similar opinion. This is indicative of a gradual change that is starting to take place among Japanese managers.

COURTING JAPANESE INDUSTRIES

Thus, it is unlikely that the trade imbalance can be solved easily. Then, meanwhile, it seems that the Japanese industries will have to continue shifting their production base to our trade partners' home turf.

These days, every state in the United States, with its Governor at the head, seems to be engaged in a zealous movement to attract new industries. Every year, we see many states send out a large number of delegations to Japan, to entice Japanese companies to set up their production facilities in their states.

I think that Japan should seriously consider such offers and encourage as many industries to locate in the United States as possible.

HOLLOWING OF U.S. INDUSTRIES

Paralleling this, another phenomenon has been taking place in the United States during the past 20 to 30 years. A large number of American industries has been moving their domestic production bases offshore. In other words, products that used to be manufactured domestically are now being produced in countries whose people work hard for low wages. These products are then re-imported back into the United States or to other international markets. Since this seems to make economic sense and is management-wise expedient, more and more American industries are crossing the border and moving their production base overseas.

WON'T YOU COME HOME, BILL BAILEY?

This exodus of manufacturing is another factor contributing to the worsening of the U.S. trade balance. It also makes state governments even more eager to invite the Japanese industries to fill the void. I wonder if it is not better sometimes for the state governments to shift their emphasis and try to entice some of these expatriate manufacturing plants to return home?

JAPANESE MULTINATIONALS

This brings us back to the subject of our talk. Our title, "The U.S.-Japan relations from the viewpoint of Japanese multinational companies operating in the U.S.," typifies the situation resulting from the increasing number of Japanese companies operating in the United States.

KYOCERA INTERNATIONAL, INC.

Our company, Kyocera, began its first manufacturing activities in the U.S. over 16 years ago. We were a pioneer among Japanese companies. Today, we have four plants, and over 2,000 American employees. I would now like to share our experience and address a couple of problems that may arise again as many other Japanese corporations enter America.

As many of you know, we have come to the United States to engage in the production of ceramic packages for semiconductor ICs. Additionally, we manufacture ceramic multilayer chip capacitors, components vital to electronics. We also have a plant that manufactures ceramic parts for industrial machines.

Generally speaking, our products are small in size, furnished in large quantities, and the unit price is not at all high. But, our products, such as ceramic IC packages, are vital to the U.S. industries. For instance, our ceramic IC packages are important components of U.S. semiconductors, and the majority of them are supplied by us.

DANGER OF PREJUDICE

Because of this, we have sometimes been criticized. To quote an argument, we were told the following:

"The U.S. Semiconductor industry is at a great risk by relying upon Kyocera for their IC packages, since Kyocera is Japanese. We should at once have the U.S. Government and business cooperate and build our own ceramic package industry. Otherwise, we'll be in a terrible dilemma with regard to national security if Kyocera decides to stop supplying us with the packages."

It is true that Kyocera International, Inc., Kyocera America, Inc. as well as other Kyocera subsidiaries, are 100% owned by Kyocera Corporation, headquartered in Japan.

However, the structure of each operation was thoughtfully established in order to foster self-reliance and autonomy within each U.S. subsidiary. And Kyocera was one of the first Japanese companies to have its stocks listed in New York Stock Exchange.

Our U.S. operations were established under the respective State and Federal Laws of the United States. A large number of Americans are involved in top management and more than 95% of our employees are Americans. It goes without saying that these companies pledge allegiance to the United States and refrain from actions that are against the interests of the U.S. government.

It is indeed regrettable, if some people should fear that because their capital is mostly Japanese, these companies under orders from their parent company in Japan, would undertake an action that would damage the American semiconductor industry.

LAND OF THE FREE

This made me think back to how Japanese Americans were interned shortly after the beginning of the Second World War. True, their blood and their appearance might have been entirely Japanese, but they were also full-fledged American citizens.

Historically, America has absorbed many, many immigrants and operated a truly multi-racial society. I believe that the United States is the only country that really possess the know-how to successfully operate such a society. Yet, this same country took American citizens of Japanese ancestry and placed them in internment camps as though they were the enemy.

At the very same time, their sons, young second-and-third-generation Japanese Americans were shedding their blood, rising and giving their lives in the front lines of Europe, proving their loyalty to their country, America.

Because of these dedicated efforts, the social status of Japanese Americans improved after the war. But, it was not until very recently—40 years after the war ended—that the problem surfaced and the American Government officially apologized to the Japanese Americans of that time.

LET US NOT REPEAT THE SAME MISTAKE

Japanese multinational companies entering the U.S. may be operating on Japanese capital, their life-blood and ancestry may be Japanese, so to speak, but they are also bona-fide American companies that operate according to American laws.

They are American companies and America's inheritance. Though such a thing should not happen, there seems to be a trend of thought that says "if American interests should turn and its fortune decline, such corporations would without fail do something to harm the country.

I believe, nothing could be further from truth. These companies are set up in the United States and their plants are built in America to support the country and bring it economic prosperity. These corporations, acting in the same way as the many immigrants who came to this country and naturalized, create a new vitality in the country. As such they should be dealt with in the same way as American people are dealt with. It is a huge mistake to treat them with overt or covert discrimination.

Rather, overseas companies that come to the United States to set up production bases because of the trade imbalance, should be welcomed with open arms. The American economy is in a period of reform and these companies should be thought of as the heralds of a long-term economic revitalization. I am afraid that to hinder this progress will not only make a solution to the trade imbalance difficult, it will also increase antagonism between governments.

RESPONSIBILITIES OF FOREIGN MULTINATIONAL COMPANIES

We as a company that has entered the United States, are well aware of the responsibility we bear in supplying vital components to the American semiconductor industry and will continue to wholeheartedly cooperate and work hard for that industry. A corporation built in America does not work for Japan. It is an American company, by virtue of its contribution to American profits. And operating under these convictions, it cannot be but indignant at inconsiderate remarks.

We are at a stage when more and more foreign companies will be making inroads into the United States. We sincerely hope that the people at the head of the American government should give these problems serious considerations.

Since they were established in the United States, our companies have the intention of contributing to the American industrial world and the state.

AMERICA'S FLEXIBLE SOCIAL SYSTEM

The reason why I have raised this topic today is because I think that unlike Japan, which is hindered by the rigidity of structure, America has a more flexible way of thinking and is a government that is capable of righting wrongs.

UNITARY TAX

The ease with which American society learns to correct its own mistakes is quite a contrast to the rigidity of Japan's national structure.

A case in point is the all too familiar example of the unitary tax method once used by California and a number of other states. As a foreign-based multinational company, we were in the most unfortunate position of having to suffer this double taxation.

To be more specific, when we first started production in the United States, some 16 years ago, we had to really struggle. Eventually, we were able to post a profit. We used one half of our profit to pay Federal and state taxes, and the other half was retained for reinvestment or for employee welfare.

Then, eight years ago, the unitary tax was put in effect retroactively and we found ourselves paying close to 100% of our profits in taxes. This stiff taxation meant that no matter how hard we worked, we would never be able to use any of our profits for the company's internal reserves.

The amount of money we have had to pay or accrue amounts to more than thirty and some million dollars from California's unitary tax alone. What should have been used for revitalization and capital investment had to go to pay the double taxation. For many years we have been appealing to the state and Federal governments to have the application of this unfair tax concept to foreign operations repealed.

AMERICAN CONSCIENCE

But our effort was worthwhile. Recently, California and several other states have begun to realize the discrepancies and unfairness of the worldwide unitary tax concept and they have started to repeal it. This was a trying time for me, but through this effort, I came to appreciate the soundness of traditional American social conscience and admire its ability to correct its mistakes and correct its direction.

JAPANESE CONSCIENCE

By contrast to the U.S., Japan is embarrassingly powerless in carrying out changes that make common sense. Old customs and archaic rules prevail, and the system cannot adapt readily to a society that is in the process of changing. Japan is at once blessed and cursed by its long history and tradition. Inasmuch as I am aware of the difficulty to change the Japanese way, I am impressed by the flexibility that is a part of the American society.

This ability to redress mistakes as soon as the society becomes aware of them, is felt in our industrial activities in the United States. We are enjoying the freedom and ease of doing business in the United States. . . far more so than in Japan.

JAPANESE CHILDREN IN THE U.S.

In the United States, where we have manufacturing plants, we do have a certain number of Japanese employees who bring their families to live in this country. Their children typically don't speak English. Yet, regardless of the states, be it California, Washington, or North Carolina, we found that the local public schools welcomed our children with open arms.

It is not easy teaching a class of students when there is one who does not understand or speak the language. Yet, what we found was dedicated teachers taking extra time and care to teach our Japanese children, in the hope that they would soon assimilate into the American society, and quickly became functional with regard to their classmates and culture.

AMERICAN GENEROSITY

Watching this, I started to wonder whether Japanese public school teachers would be as tolerant and loving toward American or other foreign students. Wouldn't they throw their hands up saying that this is an impossible task to assimilate them into the homogeneous society that Japan is?

As I was listening to the happy voices of our employees' children, I became grateful that we have had the opportunity to have our subsidiaries in this country and be a part of your wonderful nation, and that I should thank the United States, the respective State Governments, and the American people for having created such a wonderful, truly open and "free" country.

It is my hope and my prayer that this country will regain its vitality to grow strong and healthy, and will continue to prosper as the global leader and champion of our free world.

Thank you for your attention.

TWENTY YEARS OF SERVICE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LIPINSKI. Mr. Speaker, in a time when the job market is always changing, it is rare to come across a company honoring it's employees for 20 years of dedicated service. That is the reason I wish to honor and call to the attention of my colleagues, four gentlemen who have completed 20 years of service with the United Parcel Service in Illinois.

Hugo Plienius, a trailer mechanic working out of the UPS center located at 6700 West 73d Street, Bedford Park, begain his career 20 years ago as an apprentice mechanic at the company's Jefferson Street facility. Plienius' record is marked with excellent attendance, and good quality as well as quantity work.

Henry Palasek, a housekeeping department porter also working out of the 73d Street facility, began his UPS career in the company's Bridgeview center where he performed a variety of duties. In 1976 he accepted his present position, where he is described as dependable and well liked by his fellow employees.

Joseph Garcia, a package sorter working out of the UPS facility located at 1400 South Jefferson Street, started his UPS career as a trailer unloader in 1967. In 1970 he was promoted to package sorter, and in 1981 to his present position as a small package sorter. It is noted he has a very positive attitude, and does all the jobs in his area well.

Domingo Cisneros, a journeyman mechanic in the Jefferson Street UPS facility also, began his UPS career at the Jefferson Street automotive shop, and has continued to work there throughout his career. Cisneros became interested in mechanics 43 years ago. After serving in the Marine Corps he went back to school to further his studies in this area. His record also shows excellent attendance and quality work.

I am sure, Mr. Speaker, that my colleagues join me and the city of Chicago in congratulating these men on reaching this milestone in their careers. We thank them for their dedicated service, and wish them continued success in the future.

KILDEE HONORS SPRINGVIEW ELEMENTARY SCHOOL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. KILDEE. Mr. Speaker, I am deeply honored and privileged to have the opportunity to inform my colleagues of a joyous occasion taking place on Sunday, October 18. On that date, the Springview Elementary School will celebrate its 20th anniversary. At a time when Springview's first students are arranging their respective adult careers, it is interesting to note that this year's kindergarten class will graduate in the year 2000.

As a result of severe overcrowding which reduced class time in three Flushing area schools to half day schedules, community leaders in 1967 broke ground for the Springview Elementary School. Today, the Springview Elementary School stands as a key facility serving not only the needs of Flushing's children but the entire community as well. Springview is particularly dear to me because along with serving the traditional needs of its student body, it also provides for the important needs of physically and mentally handicapped children. The building is also utilized by area Cub and Boy Scouts, various basketball teams, exercise clubs, and for community education.

Mr. Speaker, thousands of children, and thus the Flushing community, have been enriched through their association with this fine institution. I ask that you and all my colleagues in the Congress reflect this Sunday upon Springview's happy day and the small slice of American heritage that this occasion represents.

LETTER FROM EMBASSY OF CHILE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. FIELDS. Mr. Speaker, it is my pleasure to place in the RECORD a letter recently received in my office from Mr. Errazuriz, the Ambassador from Chile. I encourage my colleagues to carefully consider Mr. Errazuriz' comments and observations regarding House Joint Resolution 349. For the reasons outlined in this letter, I urge my colleagues to refrain from associating themselves with the resolution.

Knowing Mr. Errazuriz personally, he is a gentleman who represents well the domocratice aspirations of his government and people. I encourage my colleagues to call upon the Ambassador with any questions they may have regarding this ill-conceived resolution or the domocratice reforms being instituted by the Government of Chile.

Embassy of Chile,
Office of the Ambassador,
Washington, DC, September 22, 1987.

Hon. Jack Fields,
House of Representatives,
Washington, DC.

Dear Congressman Fields: About three weeks ago, Congressman Doug Bereuter from Nebraska introduced House Joint Resolution 349 "In Support of a Transition to Democracy in Chile." This resolution, I am certain, was conceived as a signal of support for the process of transition to democracy in Chile.

Unfortunately, this proposal, instead of becoming a moderate bipartisan approach to that end has developed into a long negative resolution filled with critical statements which avoids even a single sentence of recognition of Chile's undeniable political, economic and social progress.

Of 32 preambular paragraphs in the resolution only seven contain no distortion of fact and the operative part contains either impositions unacceptable to a sovereign country or measures already provided for in the transition formula under way. Many preambular paragraphs actually restate the position of those who in the past failed in their attempts to impose sanctions on Chile. Not surprisingly, some of them have joined this resolution as co-sponsors.

Thus, the great majority of the members of the House of Representatives who have an interest in Chile and who sincerely wish to encourage transition to democracy are confronted with a proposal which, because of its notoriously negative character, would have a counterproductive effect in Chile.

Mr. Congressman, in the last twelve months Chile has legalized political parties, allowed 90% of the exiles to return, initiated electoral registration, and curtailed the powers of security services. Also, a strong opposition media has developed and circulates freely.

Chilean workers, under present labor legislation, enjoy an unprecedented freedom to organize and to manage their own affairs, and for the first time ever their rights are guaranteed by the Constitution.

Not a word about these facts is mentioned in the Resolution.

Chile also has the most open economy in Latin America, enjoys the best indicators of economic performance in the region and has an excellent record of debt repayment. In addition it has been highly praised by the World Bank as having one of the two most successful social policies in the region.

Again, nothing about this is mentioned in the Resolution.

If a Resolution of this kind is going to have a positive effect, it has to be balanced, fair and accurate. Obviously H.J. Res. 349 does not meet any of these standards.

The people and the Government of Chile welcome respectful and friendly exchanges of ideas with members of the United States Congress, as was recently the case when a Congressional delegation visited Chile last month. That visit provided a good opportunity for U.S. Congressmen to express to the Government and to political forces in Chile the opinion in the U.S. Congress concerning the process of transition to democracy in Chile.

The people of Chile will not receive such a negative resolution with the same positive attitude. H.J. Res. 349, in its present form, can have no positive response in Chile, cannot advance United States diplomacy in Chile. Neither will it contribute to the task of rebuilding our democratic system, a priority for all Chileans. Instead, it is bound to create strong Anti-American feelings in a people which, throughout its history, has given ample proof of self-respect and independence.

I trust that you will not support such an erroneous approach.

Best regards.

Sincerely yours,

Hernán Felipe Errázuriz,
Ambassador of Chile.

MEDICAL SUPPLIES TO NICARAGUA

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BUNNING. Mr. Speaker, earlier this spring I visited Nicaragua on a fact finding tour of Central America. We visited and talked with many people in that country, including those in support of the Government and those opposed.

Perhaps the most interesting person that I talked with while there was the priest of the largest church in Nicaragua. Our discussion with him was very frank and open.

At the end of the discussion I asked him a question. "If there was one thing that I could do for you and the people of your church, what would that be?" The answer surprised me, because it had nothing to do with the very volatile political issues facing Nicaragua.

The priest told me that his parish was in desperate need of basic medical supplies. He said that the economy of Nicaragua was so slow that even if his parishioners had the money to buy aspirin, and even if they wanted to stand in line for an hour to get into a drug store, no aspirin could probably be found. He said that even a small amount of basic over-the-counter medical supplies could drastically improve the lives of the people in his church.

Needless to say I was deeply moved by the plea of the priest. When I returned to America I could not get the request of the priest out of my mind. Shortly thereafter, with the help and support of many good Christian people of the Fourth District of Kentucky, we began a drive to collect basic medical supplies for the churches in Nicaragua.

On September 13, 1987, on behalf of the people of the Fourth District, I delivered to the church over $5,500 in medical supplies. The supplies varied from aspirin and vitamins to toothbrushes and toothpaste.

I wish to take this opportunity to thank the following who made this endeavor possible.

When this project presented itself, the first people that I contacted were the Jaycees. This was not an easy project to run and I needed their leadership to help plan, coordinate, and execute.

The Jaycee creed is the foundation upon which the Jaycees are founded. It states every Jaycees faith in God, brotherhood of man, economic justice, government of laws, human personality, and service to humanity.

All of these beliefs were realized when the Jaycees helped in this program.

I would like to especially thank Ruth Eger, president of the Covington-Kenton County Jaycees; Don Mattingly, community development vice president, Melanie Bingham, director in charge, and Kateri Thompson, program manager and all of the members of the Covington-Kenton County Chapter.

Next we looked to the leaders in Kentucky's pharmaceutical community for help in formulating a list of needed supplies and help in collecting those items.

Robert Begley of Begley Co. in Lexington and Geof Scanlon of Scanlon Drugs in Covington helped put together a list of supplies that we would need.

Next Geof and Bill Farrell of Farrell's Pharmacy in Ludlow cosigned a letter with me to all of the pharmacies in the Fourth Congressional District of Kentucky asking them to contribute supplies from the list.

Geof Scanlon operates Scanlon Drugs in northern Kentucky. Next year Scanlon Drugs will be celebrating their 40th year of service to the community. Geof is a decorated veteran of the Vietnam war, being awarded both the Bronze and Silver Stars.

Bill Farrell is the third generation of druggists to serve the small community of Ludlow, KY. Farrell's boasts an over 80 year tradition of service.

The letter which we sent out received a tremendous response. Numerous drug stores responded donating over $5,500 in much needed medical supplies. I would like to publicly thank those drug stores and druggists who responded.

Save Discount Drugs in Covington, Crestville Drugs in Crescent Springs, Medical Village Pharmacy in Edgewood, Boeckley Drugs in Covington, Farrell Pharmacy in Ludlow, Kroger Pharmacy in Bellevue, Burlington Pharmacy in Burlington, Your Pharmacy in Hebron, Scanlon Drugs in Covington, Martin's Pharmacy in Cold Spring, Newport Drug Center in Newport, Paul's Pharmacy in Covington, and Morgan and Thomas Drug Store in Owenton.

To all of you who were involved in this project I want to thank you from the bottom of my heart. Your compassion and charity have made life just a little bit easier for the impoverished people of a foreign land. Thank you.

A TRIBUTE TO CHRIS JARVI

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DORNAN of California. Mr. Speaker, Chris Jarvi, director of parks, recreation, and community services for the city of Anaheim, CA, in my 38th District has found an excellent way to maintain city parks while teaching elementary schoolchildren about nature and the environment. As the following article from Western City magazine describes, the "Kids for Parks" program has instilled civic pride in more than 600 students who have worked to maintain the quality of their community—the home of Disneyland and Anaheim Stadium.

Mr. Speaker, I urge my colleagues to share the article "Kids Adopt Anaheim Parks" with community leaders in their districts. I think they will discover, like Anaheim, that kids can make a difference.

The article follows:

KIDS ADOPT ANAHEIM PARKS

(By Sheri Erlewine)

Since 1981, students from Anaheim's elementary schools have volunteered over 1,600 hours beautifying city parks. The "Kids for Parks" is an innovative educational program developed by Anaheim Parks, Recreation and Community Services Director Chris Jarvi as a response to vandalism in parks located near area elementary schools. It is projected that third graders will volunteer thousands of hours in 1987 painting, planting trees and picking up litter.

What is "Kids for Parks"? Each school adopts a nearby park where students work with maintenance staff to improve park surroundings. The children are taught the proper way to paint, dig, rake, edge and hoe.

"Our maintenance staff was surprised with the efficiency and neatness of the children," Jarvi says. "They looked forward to the visits by the young volunteers. Both the students and the staff make new and lasting friendships each school year." In addition, third grade subjects such as reading, writing and mathematics are integrated into such projects as poems about the environment, sketches of past community leaders and an introduction to metric measurement of park facilities.

Starting with 260 students from one school, the program has since grown to more than 600 students from eight schools, with 15 additional schools soon to be added. Students are given a "hands-on" opportunity to improve and maintain the appearance of their neighborhood parks. They become familiar with the park staff, and, because the parks are close to home, they can keep an eye on "their" parks.

"Not only does this program increase opportunities for students to receive an environmental education," Jarvi says, "but it is limitless, because the children gain a lifelong appreciation for nature and an understanding of the values of parks in their future."

Although the importance of being a volunteer is taught, special recognition is given in the form of badges worn by the children during the park projects. They also receive a certificate of appreciation and a special picnic at the school's "adopted" park.

"Kids for Parks" has generated the participation of local parents and financial assistance from businesses and community organizations. The program was a recipient of a $2,000 Disneyland Community Services Award in 1984 which was used to develop filmstrips, provide environmental learning materials for classrooms and purchase trees and plants for the parks.

"We are extremely proud of this program, and we have the entire community to thank for its success," says Jarvi. "More than 30 cities and agencies throughout the United States and Canada have requested information on "Kids for Parks'."

This innovative program has given Anaheim a new way to promote healthy community relations while maintaining city parks and educating children. A multi-media slide show and video presentation, have been developed for service clubs, student assemblies, and other organizations.

CENSUS BUREAU REPORT ON CHILD SUPPORT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MILLER of California. Mr. Speaker, I would like to draw Congress' attention to the shocking findings of a recent Census Bureau report on child support. In 1985, only 1 out of 4 children received full child support payments from their absent fathers. And, since 1983, the average amount of support has actually declined in real terms, from $2,530 in 1983 to $2,230 in 1985.

Nonsupport is a significant contributor to poverty. In hearings held before the Select Committee on Children, Youth, and Families, we learned that divorce is the crisis that pushes too many female-headed families into poverty. Recognizing this, both houses have included tough child support enforcement measures in current welfare reform proposals.

Beefing up child support collections will help to cut the U.S. welfare bill. But, what troubles me, Mr. Speaker, are the millions of women and children cut off from the child support system altogether. The Census Bureau report tells us that the lower your paycheck, and the darker your skin, the less likely your family will ever be awarded—let alone receive—child support payments.

According to the Census Bureau, only 40.4 percent of poor mothers were awarded child support in 1985 compared to 61.3 percent of nonpoor mothers. Two-thirds of women and children living in poverty actually received child support payments compared to three-quarters of nonpoor female-headed families. Additionally, 7 out of 10 white mothers were awarded support in 1985, but only one-third of black mothers and two-fifths of Hispanic mothers obtained child support awards.

Why are poor women and children often beyond the reach of child support? Sometimes, absent fathers are impossible to locate, or paternity is difficult to establish. But what it most often boils down to is money. The Census Bureau reports that men's real earnings have risen just as mean annual payments for child support have dropped. Yet, for young, disadvantaged men, real earnings have actually dropped nearly 30 percent between 1973 and 1984, from $11,572 to $8,072 in 1984 dollars. And the real decline in the earnings of black men is closer to 50 percent. An economic future without opportunity provides little hope that such fathers will be able to support their children.

It is the responsibility of Congress to ensure that all children receive the support to which they are entitled. Strong child support enforcement is one strategy. But for the millions of poor and minority children left out of the system altogether, we have a special duty to their parents to improve education, training, and employment so that they might provide for their children.

TRIBUTE TO HELEN SWOPE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. GEKAS. Mr. Speaker, on Saturday, October 17, 1987, I will have the pleasure of paying tribute to a person who has devoted her entire life to the enrichment of her community. When one mentions the Heart Association, the Foreign Service of the United States of America, the Harrisburg Civic Club, the Mental Health Association, the Dauphin County Bar Association, Sertoma Club, WITF-TV, and Harrisburg Community College to name just a few, the name Helen Swope immediately comes to mind. These are the organizations that have honored her at one time or another because she gave of herself to them.

Helen Swope will be honored once again on October 17 by the board of trustees and president of Harrisburg Area Community College when they dedicate the Helen Y. Swope Carillon-clock tower. The college will also establish a fund of $35,000 as a tribute to Mrs. Swope's career in public service and her commitment to higher education. The fund will be called the Guy J. and Helen Y. Swope International Education Endowment Fund.

Mrs. Swope has led a very distinguished career. She was elected as a charter member of the board of trustees of the Harrisburg Area Community College in 1964, and was a founder of the community college concept. She was the first woman, and the first person of Oriental heritage to be elected as a community college trustee in the Commonwealth of Pennsylvania.

Mr. Speaker, Helen Swope has given so much to her community. I would like to extend my personal congratulations to her for many jobs well done.

A CONGRESSIONAL SALUTE TO BROTHER PATRICK SOPHER, C.S.C.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a truly outstanding man who has devoted his life to the ministry of God, Brother Patrick Sopher. Brother Patrick will be honored at the Hyatt Regency Hotel in Long Beach by the Saint Anthony High School Foundation.

Brother Patrick Sopher was born April 20, 1943, to William M. and Bonnie K. Mcbride Sopher in Spokane, Washington. Brother Patrick and his family moved to Long Beach, CA when he was just a young child. He attended Alice M. Birney Elementary School, St. Catherine's Military School in Anaheim, and Washington Junior High School. Brother Patrick graduated from St. Anthony High School in Austin, TX, and received his bachelor of arts degree at the University of Notre Dame cum laude in 1968.

Even before his graduation from college, Brother Patrick taught English, speech, and religious education at Notre Dame High School. For 10 years he served as a teacher of history, civics, religion, and speech at St. Francis High School, Mountain View; while acting also as dean of men, dean of students, and eventually assistant principal. Following his tenure at St. Francis, Brother Patrick was asked to join the provincial administration at St. Edward's University where he served as assistant provincial and the first province planner from 1976 to 1979. In 1979 he became the provincial superior of the Brothers of Holy Cross, South-West Province, a position he maintains today.

Brother Patrick has always been a very active leader. His accomplishments range from work on many school yearbooks, organizing speech teams, acting as class moderator, serving on the Chess Club, to working as an assistant superior, the director of candidates to the Brothers of Holy Cross, and finally a 3 year dedication as director of provincial residence for his local community of brothers. His many affiliations include serving as chairman for the WCAL Dean's Association, WASC School Visitation Committee, Southern Association Accreditation Visitation Committee, Region 4, Conference of Major Superiors of Men, and his current role as national board member for the Conference of Major Superiors of Men.

Mr. Speaker, Brother Patrick Sopher is hailed as a strong, spiritual, and compassionate leader. Because of his superior intelligence and ability to understand the hardships of his fellow man, Brother Patrick Sopher has been called a sensational man of superior genius. The intellect, insight, and ability he has shown over the years has helped so many in his community. His life and work are eloquent testimony to that belief. My wife, Lee, joins me in congratulating Brother Patrick on his many great accomplishments. We wish him happiness and all the best in the years ahead.

A TRIBUTE TO THE AKRON ART MUSEUM, THE AKRON SYMPHONY ORCHESTRA, AND OHIO BALLET

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. SAWYER. Mr. Speaker, I rise today to recognize three outstanding cultural organizations located in my congressional district: the Akron Art Museum, the Akron Symphony Orchestra, and Ohio Ballet.

Yesterday, the National Endowment for the Arts held a press conference in Akron, OH, to announce the fiscal years 1987–88 Challenge Grant awards. The NEA selected Akron for its Challenge Grant announcement because, of the 87 awards totaling $27.5 million, 7 went to organizations in Ohio with 3 of the 7 made to the institutions named above.

The Akron-Summit County community has long recognized the invaluable cultural contribution made by the Akron Symphony Orchestra, Ohio Ballet, and the Akron Art Museum. However, the National Endowment for the Arts' recognition underscores the high quality of artistic achievement these organizations have attained. It is a tribute that is truly deserved.

I herewith submit my remarks delivered at the National Endowment for the Arts press conference:

Today is an enormously special occasion for Akron. In recognition of the outstanding cultural institutions in Akron, the National Endowment for the Arts has selected our city as the location for its announcement of the 87 Challenge Grant awards totaling $27.5. While this, in itself, is an honor for Akron, the true tribute here is that, in the State of Ohio, seven Challenge Grant awards are being made with three of the seven located in our city, alone.

The significant cultural contribution made by the three Akron Challenge Grant recipients, Ohio Ballet, the Akron Art Museum, and the Akron Symphony Orchestra, is well understood and appreciated by those of us who have had the good fortune of living in our community. But today, it is truly a time to celebrate. The support from the National Endowment for the Arts and the national recognition these awards, totaling $600,000, to bring to three of Akron's cultural institutions is a tribute that has been earned by the organizations through a continuing strong effort to promote the arts and by the community that provides the year in, year out support that makes it all possible. We should be proud.

The competition for funding under the Challenge Grant Program is fierce; yet the Akron Art Museum, the Akron Symphony Orchestra, and Ohio Ballet prevailed through all levels of review and, in doing so, demonstrated that the organizations can compete and prevail in nationwide competition. In the field of the arts, these institutions are clearly among the finest of their kind in the Nation.

The Challenge Grant Program is an invaluable resource for institutional development in the field of the arts—particularly for the expansion and development of smaller artistically established institutions. As a program requiring participants to match Federal awards on a three to one ratio, the 1987 awards totaling $27.5 million will generate more than $200 million in new non-Federal funding over the next 3 years. Challenge Grants, however, can only be the catalyst. It is the private donations and gifts that are the life blood of these organizations. The National Endowment for the Arts and Congress understand the obstacles artistically accomplished institutions face in the pursuit of contributions from private sources—so on the theory that money begets money—the Challenge Grant Program was conceived.

This year is the 10th anniversary of the program and evidence of its success is demonstrated in the $1.4 billion that has been generated from private sources since 1977. This is a program that I fully support and, as a member of the Committee on Education and Labor which has jurisdiction over the National Endowment for the Arts authorization, I am proud to be able to take part in this announcement today in this very special way.

I want to thank the National Endowment for recognizing the cultural and artistic contribution that the Akron Art Museum, Ohio Ballet, and the Akron Symphony Orchestra have made—for giving its support through the Challenge Grant Program, enabling each organization to pursue further institutional development and artistic initiatives that will enhance and expand the cultural contribution these institutions can make to the arts community and the quality of our lives.

To Ohio Ballet, to the Akron Symphony Orchestra, and to the Akron Art Museum, I extend heartfelt thanks. I know the enormous contribution you have made to our community and the contribution our community has made to each of you. I also know that the recognition and funding support you and the Akron area are receiving today is well deserved. Congratulations.

SUPPORT FOR A GERMAN HEAD OF NATO

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BEREUTER. Mr. Speaker, as we consider an impending treaty to remove INF missiles from Europe, one discovers that the Atlantic alliance's remaining nuclear deterrence designed to offset Warsaw Pact conventional superiority is less credible than ever. The escalatory link, in a "flexible response" strategy, between our short range dual-capable systems and the strategic forces of the United States and even those of Great Britain and France has never been very robust. One consequence of removing the intermediate range weapons is to ensure that if war comes, it may be possible to limit nuclear exchanges to the immediate tactical arena, or Germany.

This Member anticipates that any growing neutralism in Germany would weaken the Alliance and further the process of "decoupling" of the European and North American partners of the NATO alliance. The United States must reassure our European partners that we are fully responsive to their concerns and supportive of their efforts for a greater European role in its defense. In particular, it is appropriate that Germany be given greater recognition for the vital role it plays in preserving the common Western defense.

This Member welcomes the possible appointment of Manfred Woerner, the German defense minister, to replace the retiring Lord Carrington as NATO's Secretary General. On October 6, 1987, the Lincoln Journal published a thoughtful editorial on this subject that I commend to the attention of my colleagues. The editorial follows:

RECOGNITION FOR WEST GERMANY

Not since the North Atlantic Treaty Organization was formed after World War II has a West German held the key structural position seemingly reserved for Europeans. But that situation is about to change.

Manfred Woerner now seems something of a favorite to succeed Britain's Lord Carrington next June as NATO's secretary-general, the organization's highest civilian post. Woerner is West Germany's defense minister. Traditionally, NATO's supreme military chief has been the American who also commands all U.S. national forces assigned to Europe.

When repeated efforts to convince Carrington to change his mind about stepping down failed, Norway, in early August, proposed its former prime minister, Kaare Willoch, as secretary-general. That was followed by Bonn's competitive declaration of support for Woerner.

Now the diplomatic network reports that Belgium, France and the United States discreetly have lined up in favor of the West German. The forecast is that Oslo will, in coming weeks, quietly fold its bid for Willoch in the interests of harmony.

West Germany is the economic powerhouse of Free Europe. Its geographic position is on the front line of the perpetually feared Soviet-inspired invasion route. More than any other Allied nation, West Germany would be the scene of tactical nuclear strikes should a dreaded East-West war ever occur.

Which boils down to saying West Germany has a paramount interest in maintaining NATO's strength and credibility.

That West Germany should be granted a leadership post in NATO commensurate with its station in the Atlantic Alliance is only fair and just.

NATIONAL VOLUNTEER APPRECIATION DAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. HORTON. Mr. Speaker, who among us has not benefited from help from a volunteer? All across the country, millions of people give their valuable time to help others. It is time to honor these special people—America's volunteers. Today I am introducing a resolution designating November 1, 1987, as National Volunteer Appreciation Day. I urge my colleagues to join me in this effort.

Every American has been helped in some way by volunteers. They play a central role in every community. Volunteers perform vital, often unheralded tasks. They drive vans for the elderly. They help the sick in hospitals and provide food and clothing for the poor. Volunteers in schools teach our children to read and to learn. Volunteers help combat adult illiteracy, and they assist the handicapped and the disabled with shopping, errands, and tax forms.

National Volunteer Appreciation Day will pay tribute to these special people. The resolution will increase public awareness of the work performed by volunteers. The text of the resolution follows:

H.J. RES. 375

Whereas approximately 84 million people in the United States 13 years of age or older volunteer each year to assist nonprofit organizations, neighborhood groups, and individuals;

Whereas volunteers support and participate in numerous activities, including health, educational, religious recreational, political, social welfare, community action, artistic and cultural activities;

Whereas volunteers provide services that often would be otherwise unavailable or too expensive;

Whereas volunteers do not seek compensation for their services or act out of legal obligation, and volunteer service illustrates the optimism, compassion, and freedom that typifies the people of the United States;

Whereas virtually all of the people of the United States are helped in some way by volunteers;

Whereas many nonprofit organizations that rely on volunteers have too few volunteers to meet the increased need for assistance caused by adverse economic conditions and changing demographic trends;

Whereas more people should volunteer to assist nonprofit organizations, neighborhood groups, and individuals; and

Whereas there is a need for greater public awareness of, and support for, the work performed by volunteers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1, 1987, is designated as "National Volunteer Appreciation Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Finally, I would like to enter in the RECORD a letter I received from a constituent of mine, former Auburn, NY, city councilman, Francis J. Mastropietro. He writes strongly in support of a national day of appreciation for America's volunteers.

The letter follows:

My definition of a volunteer is a person who gives of himself to help his or her fellow man, merely out of the goodness of his or her heart. These unsung heroes come in all sizes, shapes, religions, and races. They are always ready, willing, and able to give of themselves to help another human being or a worthy cause. We see them daily: always seen, but rarely recognized.

One of the ten commandments tells us to "love thy neighbor." Who has any greater love for his neighbor than a dedicated volunteer? Always serving, never asking anything in return. The people they help are probably the only ones who really appreciate them. The rest of us often take them for granted.

I wish to make the following request to Congress. I respectfully ask that a special day be designated in recognition of volunteers all across the United States. Let us do it now, and give these volunteers their due. Enact a National Volunteer Appreciation Day.

THE SOCIAL SECURITY SURPLUSES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, October 14, 1987, into the CONGRESSIONAL RECORD:

THE SOCIAL SECURITY SURPLUSES

In the next few years, social security will be facing a new kind of problem—the problem of how to handle large surplus funds. After years of battling just to keep the program solvent, significant changes were made in social security financing in 1983 to build up large surpluses to be drawn down when the baby boomers retire in the early part of the 21st century. Yet there is uneasiness about how to handle the expected social security surpluses. Concern is growing that the past practice of investing any surplus funds in federal government securities may no longer be the safest and wisest course.

The large surpluses will result from the changes made in the 1983 social security rescue package. The baby boomers, those born between 1946 and 1964, were becoming skeptical that their social security benefits would be there when they retired. They were paying much heavier taxes than their parents' generation (for example, maximum annual social security taxes of $1700 in 1983, compared to $54 per year thirty years earlier); moreover, they faced the prospect of too few workers to support their large numbers when they retired. The solution devised in the 1983 package was to have the baby boomers pay for a large part of their own future social security benefits. Unlike earlier workers, whose social security taxes basically went out immediately as benefits for those then retired, baby boomers would pay both the benefits of current retirees as well as much of their own future retirement. They would contribute to the build-up of huge surplus trust funds, which would then be tapped during their retirement.

Barring major, unexpected economic or demographic changes, the surpluses building up will be enormous. The current social security surplus is $65 billion, enough to pay benefits for only a few months; by the year 2030, the surplus should approach $13 trillion, enough to cover payments for several years. Expressed in 1987 non-inflated dollars, the surplus would reach $2.5 trillion, almost equal to the present value of all the stocks on the New York Stock Exchange. Once these surpluses are built up, they will be rapidly drawn down for the baby boomers' retirement benefits, and exhausted entirely by the year 2051.

The problem is that the past way of handling social security surpluses may not work for such enormous funds. In the past, any surplus funds have been invested in special government securities—in effect, loaned to the federal government for other purposes. Such loans have always been repaid by the federal government, with interest. Yet this may no longer be the safest use of the surplus social security funds. Social security may be getting IOUs from the government for the loans, but a question emerges about what assets will back these IOUs. The loaned funds are basically used to cover federal deficit spending and to service the national debt; they are not just piling up somewhere. The question is whether the trillions of dollars of IOUs social security will be getting from the federal government will be worth much when the funds are needed for the baby boomers' retirement years. When the surpluses are used to pay for the federal deficit, the net effect is to save nothing. That means that the government IOUs to social security may eventually have to be repaid by raising new taxes, and the problem of a future crunch again appears.

Some persons suggest changing the trust fund investment policy to allow investment not only in federal securities but also in private stocks and bonds. The idea is to make the surpluses more secure, while also dramatically increasing the capital available for long-term investment in the nation's economy. Social security, which is sometimes criticized for draining capital away from productive investment, would become a major source of funds for investment in companies and technologies that could restore America's competitiveness. At the same time, such investment might produce significantly higher yields for the trust funds than the current investment policies. Proponents argue that even if the surplus funds achieve below average returns, the returns still could be enough to allow the elimination of the social security payroll tax entirely by the year 2020. A beneficial side effect would be that if the surplus social security funds are no longer an easy source of funds for financing the federal deficit, continuing the current practice of deficit spending would be tougher.

Critics argue that this new investment policy will not increase net funds available for private investment, since any social security funds not available to finance the federal deficit would have to be offset by borrowing more private funds. Moreover, the new policy would embroil the federal government in endless controversy over the purchase and sale of private securities, and would introduce major uncertainties into social security planning. They also argue that the size of the government investment in Wall Street could overwhelm the market, and could result in federal ownership of a large chunk of private industry.

Others criticize the policy of allowing such large surpluses to develop in the first place, preferring to let social security tax rates rise or fall according to projected benefit payment levels. Still others feel that once any surpluses start to accumulate, Congress will bow to the inevitable political pressures to increase benefits to current retirees. The biggest check on major tampering with the current benefit or tax structure is that the baby boomers will soon become the largest voting bloc. The 1983 reforms provided them with hopes that social security will be there when they retire. They will not take lightly to proposals that could again put their benefits into doubt.

The disposition of the projected surplus funds is an issue that will be before the Congress for years to come. Overall, my sense is that alternative investment policies for the social security surpluses are worth exploring. We must be careful not to endanger the funds with risky or speculative investment practices. Yet the potential benefits of making the surpluses more secure than loans to finance the federal deficit, providing a better return, while at the same time increasing America's competitiveness, suggest to me that this is an idea that deserves serious consideration.

THREE WITNESSES

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LIPINSKI. Mr. Speaker, I rise today to inform my colleagues of three witnesses who gave enlightening testimony recently in front of the Commission on Security and Cooperation in Europe [CSCE]. The three—Tiit Madisson, Rolands Silaraups, and Vytautas Skuodis—provided an authentic and tragic glimpse into what actually occurred when the Soviets occupied the Baltic countries and what it now means to live in the Soviet-dominated nations of Estonia, Latvia, and Lithuania.

Tiit Madisson, a native Estonian, told of how he helped organize the first grudgingly allowed demonstrations in the capital city of Talinn. On August 15, 1987, Madisson formed the "Estonian Group for Publication of the Molotov-Ribbentrop Pact" in order to expose the ugly truth about the Soviet-Nazi division of Eastern Europe and subsequent invasion and conquest of the sovereign Baltic nations. The demonstration occurred on August 23, 1987, 48 years after the signing of the infamous pact.

Although Madisson was not allowed to demonstrate in front of the city hall, he and several thousand Estonians and other Baltic peoples were able to take part in a nearby park. Madisson stated that when he informed the crowd about the accurate number of people arrested and put to death during the initial years of Soviet power, the truth "stunned" the listeners. A demand to have Soviet as well as Nazi criminals brought to justice was received by the listeners with a "strong round of applause," as was mention of the constitutional right to self-determination and secession.

Even though the authorities went out of their way to disrupt and belittle the meeting—by changing the location of the demonstration at the last moment and paying certain persons to carry posters criticizing the demonstrators as fascist agents—it was a great success and a testimony to the spirit of undying liberty and freedom on the part of those who participated.

A Latvian, Rolands Silaraups, who helped organize a demonstration in Riga on June 14, 1987, in remembrance of the first Stalinist deportations also testified. Again, the local authorities in conjunction with the KGB attempted to disrupt the gathering by openly threatening participating members and scheduling a "sports festival" on the day of the demonstration. A videotape shown at the hearing showed many demonstrators placing flowers at the Freedom Monument—a memorial to those the many were arrested, deported, and killed by the Soviet invasion. Silaraups informed the committee and those present that the many flowers laid at the monument were all soon taken away after the demonstration by the authorities, only to be replaced the next day by fresh ones. August 23, 1987, demonstrations in Riga were met with force by representatives of the government, who broke into an apartment where organizers had gathered with total impunity and disregard for the law. Upon hearing their actions were unconstitutional, they "laughingly" answered that this was of no concern to them.

Vytautas Skuodis, a Lithuanian who was born in my hometown of Chicago, related the terrible situation of the Roman Catholic Church in Lithuania. A lecturer in geology at the University of Vilnius and member of the Lithuanian Helsinki Monitoring Group, Skuodis told of an insightful study he had done on the amount of religious printed matter versus atheistic literature in order to prove how futile an exercise atheism was for the Soviets in Lithuania. 1,700 tons of atheistic versus 9 tons of religious material. And in the former, Skuodis found not one writer who was even so much as mentioned in a scholarly bibliography of Lithuanian historians. Most of atheistic literature was used as slanderous attacks against priests and the Vatican and in no way presented any sort of scholarly argument or desire on the part of the populace for atheism. Skuodis stated that KGB infiltration of the Lithuanian Church was at an "all-time" high and believers find it difficult to practice their faith without fear. Although glasnost has enabled some discussion of sensitive issues, language and culture still suffer under the intrusive Russification tactics of the Soviets, and no one, save emigre circles abroad, is allowed to speak of national rights without risk of labor camp internment.

Mr. Speaker, these three witnesses represent just how alive the aspirations and hopes for freedom are in the Baltic countries. Indeed, two of the three are under the age of 40 and thus were born after the Soviet invasion, with all its lies and propaganda, indicating the desire for sovereignty is certainly not confined to those who remembered what it actually meant in practice. They represent how far the policy of glasnost needs to go before it achieves anything approaching freedom of speech. Although demonstrations were allowed to be held condemning the evil Molotov-Ribbentrop Pact, two of the organizers, Rolands Silaraups and Tiit Madisson, agreed to leave their respective countries. In reality they were forced to leave: Silaraups left when it became apparent that he would be harassed for his activities, Madisson was told to go West or suffer the same fate as Mart Niklus, an Estonian prisoner of conscience now serving a 10-year sentence in the notorious Perm Camp No. 36.

I commend Congressman HOYER and Senator DECONCINI, respective Chairman and Co-Chairman of the Commission on Security and Cooperation in Europe, for holding the hearings, providing an opportunity for these witnesses to give their testimony, and reaffirming the resolve of the United States never to recognize the incorporation of these nations into the Soviet Union.

TRIBUTE TO SHIRLEY GOUGH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to pay tribute to Mrs. Shirley Gough of Grand Blanc, MI, for her 31 years of faithful service at the Michigan Employment Security Commission [MESC]. Mrs. Gough started with the MESC in 1954 as a switchboard operator. After taking 2 years off to raise her daughter, Tannith Lynn, Mrs. Gough ably filled several positions within the MESC, including Step Program coordinator, Job Corps opportunities specialist, and CETA Program supervisor. She is now retiring from the commission as the assistant manager of the MESC office in Flint, MI.

Mr. Speaker, the Seventh Congressional District of Michigan, which I have the honor to represent in Congress, has been particularly hard hit in recent years by levels of unemployment far above the national average. We all know the terrible human toll the loss of employment can inflict on working people. Their lives and livelihoods are threatened, the security and well-being of their families are placed in jeopardy, and their peace of mind shattered by this traumatic experience.

For 31 years Shirley Gough has sought to alleviate the suffering of unemployed people in the Genesee County area. In that time, she has touched the lives of thousand of people who have come to the MESC seeking help in putting their lives back together after having lost their jobs.

Shirley Gough will also be sorely missed by her coworkers in the Flint MESC office. Her dedication, her professionalism, and her enthusiasm for her work has been an inspiration to those who worked with her. Her long experience in all aspects of the MESC's operations made her a unique source of information for new employees. People who worked with her know that she was never too busy to listen to the problems of employees and clients, she was always willing to follow through to see projects to their completion and, perhaps most importantly, she made both clients and coworkers feel that she really cared about them.

Mr. Speaker, the departure of Mrs. Shirley Gough from the Michigan Employment Security Commission office in Flint, MI, will leave a gap that will be very difficult to fill. I sincerely thank her for her 31 years of dedicated public service in behalf of the thousands of unemployed people whom she has assisted.

A TRIBUTE TO DEPUTY ROY MAYS AND SAFETY BELT USE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. PURSELL. Mr. Speaker, "safety belts save lives," may be a common, frequently used expression by law enforcement agencies. But it has a vivid, literal meaning to Deputy Roy Mays of the Washtenaw County, MI, Sheriff's Department.

On December 26, 1986, while enroute to back up another unit, Deputy Mays was involved in a potentially tragic accident. His vehicle was traveling 45 miles per hour when a vehicle traveling the opposite direction made an abrupt left turn, failing to yield right of way. The accident that resulted totaled the patrol car, but Deputy Mays and his partner sustained only minor cuts from flying glass because they were secured by their safety belts.

The driver of the other vehicle was not wearing his safety belt and was seriously injured.

As a result, Deputy Mays is now a frequent, outspoken supporter of the importance of safety belt use. Because of the excellent work of law enforcers like Deputy Mays in Washtensaw County, the county has the highest safety belt use—62.4 percent—in Michigan according to the University of Michigan Transportation Research Institute.

Deputy Mays is being honored today, with officers from the other 49 States and Washington, DC, by the American Coalition for Traffic Safety. Each officer has a similar story about avoiding serious injury, even death, because of a simple safety belt.

There is little doubt safety belts, and child safety seats, have proven to be effective in reducing highway fatalities and injuries. Thousands of lives and millions of dollars in medical and insurance expenses have been saved by the few seconds it takes to buckle up.

I ask my colleagues in the House of Representatives to join me in honoring Deputy Roy Mays, and the 49 officers like him, for their continuous efforts to promote the use of safety belts. If we all followed their example, there is no telling how many citizens, friends, and relatives, may be saved by the belt.

WHY SANCTIONS ARE A FAILURE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. FIELDS. Mr. Speaker, the recent U.S. News & World Report carried the following article discussing and reporting the failure of sanctions upon South Africa. When this body debated this very issue, a majority of the Members refused to listen to those, including elected leaders among the black community in South Africa, who predicted these very results. In the face of this utter failure, we hear talk of imposing additional sanctions. It's time to return to a more constructive policy of working with an important and strategic American ally, and turn away from a policy born of blind hatred, and sympathy for ANC terrorists. To really help the black people of South Africa, we should begin listening to those black leaders who really speak for their peoples. Their message is that sanctions and disinvestment only hurt and hinder black progress.

WHY SANCTIONS ARE A FAILURE

(By Simon Jenkins)

As soon as America's General Motors Corporation bowed to sanctions pressure and pulled out of South Africa, its local management moved fast. Renamed Dalta Motors, the auto company removed 500 workers, dropped off the "Sullivan list" of firms enforcing integrationist work practices and reversed the policy of not selling to the apartheid regime. GM thus joined some 80 American firms that have left South Africa in the past 18 months. As Congress begins a review of sanctions legislation, the results are hardly contributing to the antiapartheid cause.

South Africa, in fact, is changing from being a classic case for economic sanctions to a classic case against them. As a tool of foreign policy, sanctions always have been easier to advocate than to impose, let alone succeed.

Succinctly put, sanctions are one of the most ineffective forms of aggression, vulnerable on at least four fronts:

The free-trade market has ways of finding new sources of supply or new conduits for old ones. Someone, somewhere, will always strike a bargain, undermining the embargo.

Sanctions are notoriously ineffective in securing real political change. The few successes almost always involve actual or implied military intervention. When such a threat is implausible, sanctions may do no more than entrench the targeted regime.

Sanctions, where implemented, tend to hurt the wrong people. Such bans are the ultimate form of economic warfare and to work fast require a total siege. Yet that action is indiscriminate and tends to harm those least able to guard against it—the poor.

Finally, sanctions develop a political life of their own, raising unrealistc expectations of success. When the embargoes fail, the result is disillusionment and bitterness.

THE IMPACT ON SOUTH AFRICA

A year after South Africa's state of emergency triggered a series of American, European Community and Commonwealth embargoes against that country, every one of the weaknesses of the strategy has been encountered. The economy, rather than suffering, is hesitantly improving. The internal anarchy of 1985-86 has died down. President P. W. Botha has survived a general election that marked a shift to the right. The government has shown its ability to continue to control dissent, if not suppress it. In short, another South African trauma seems to have passed.

Firms fleeing the moral complexities of South Africa include most of the giants of American world trade: General Motors, Ford, IBM, Exxon, Eastman Kodak, Honeywell, General Electric, Coca-Cola and, most recently, Citicorp. Most have defied U.S. lobbyists and avoided a scorched-earth policy. Instead, they have sold to other multinationals or, more often, to local management. Factories have continued to benefit from franchises, licenses and component supplies. But the new bosses, many from the rising Afrikaner bourgeoisie, have been freed from conscientious American monitoring and have rationalized and sold where the market is best.

The Johannesburg stock market has boomed as fleeing firms have sold off at bargain prices. As Tony Bloom of the Premier Group notes: "South African companies have been able to acquire technology, management skills, brand names and market share that would have taken years to build."

Trade sanctions have had scarcely greater impact than disinvestment. Restrictions on overseas purchases of coal and steel and certain metals could threaten the jobs of up to 40,000 Transvaal miners. A boycott of sugar and fruit industries, which employ up to 150,000 people, in theory also could cause immense hardship. Neither threat has yet materialized.

South Africa's economy certainly suffers from problems familiar in Africa—inflation, shortage of foreign credit, an excessive public sector. Unlike most African countries, however, it runs a big current-account surplus, manages its economy reasonably well and has renegotiated a phased repayment of its foreign debt. Both the gold price and the terms of trade have moved in its favor. And last year's collapse of the rand more than wiped out any effect sanctions may have had.

Inside South Africa, enthusiasm for economic sanctions is waning. Black leaders were only won over to the policy in a belief that it was the "final push" to topple apartheid. This toppling refuses to happen. Now, many nonwhite leaders are conceding that the prosanctions stance has done little except harm their own people. Even the Rev. Allan Boesak, the outspoken Colored (mixed race) leader, noting deepening misery in the depressed industrial areas of the Cape, is one of those now questioning sanctions.

Ford is a case in point. With an excellent record in South Africa but under "investor responsibility" pressure at home, that corporation was holding back on selling its 42 percent holding in Samcor for fear of the potential hardship on Mamelodi township near Pretoria, where many of its workers live. The pressure, however, proved too much and Ford is departing.

One South African diplomat has reflected: "American liberals came to South Africa determined to refight the American Civil War. They fought well, but now they seem afraid they might lose and only want to scramble back home." To others, the saddest feature of the Americans' pullout is that the hesitant progress South African blacks are making arises from precisely the union and community institutions promoted by American companies. Ironically, South Africa has recently become one of capitalism's more credible shows. Now, that show is closing down.

(Simon Jenkins, a leading British commentator, visits South Africa often and has written widely on the impact of economic sanctions.)

CONGRATULATIONS TO ERLANGER, KY

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BUNNING. Mr. Speaker, every year the Government Finance Officers Association of the United States and Canada awards the Certificate of Achievement for Excellence in financial reporting.

This year that certificate has been awarded to a city in my congressional district—the city of Erlanger, KY.

This award represents the highest form of recognition in the area of governmental accounting and financial reporting and its attainment represents a significant accomplishment.

When a certificate is awarded to a government, an award of financial reporting achievement is also given to the individuals who are primarily responsible for earning the certificate. The award of financial reporting achievement has been awarded to: Fred H. Thomas, mayor of the city of Erlanger; Mary Golatzki, city finance director; Terry Sapp, city administrator and Fred Beck a CPA with Rankin, Rankin & Co. in Erlanger.

I want to take this opportunity to publicly congratulate these people and the city of Erlanger, KY. Perhaps some of the people in this Chamber could take a lesson from you in financial responsibility.

A VETERAN'S LAMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DORNAN of California. Mr. Speaker, as a veteran and a member of the Veterans Affairs Committee I have always supported keeping faith with our vets. We must never cut the benefits promised these men and women who have honorably served their country. I appreciate the great sacrifices veterans have made for our country and will continue to fight for fair benefits and programs. We simply should not balance the budget on the backs of our veterans or at the cost of our national security. However, there is a great deal of apprehension among the veterans that Congress is "chipping away" at the hard-earned benefits of the military retiree and veterans in general.

Mr. Speaker, I recently received a poem written by W. Happy Blake, USN, retired, which poignantly relates the very real concerns of many veterans. I encourage my colleagues to reflect upon the sincere expression of sentiment embodied in the verses.

DECEIVED BY OUR OWN

In the Military we served, for a very long time
As Protectors, of the great land;
Benefits promised us, by our Government
At the time, seems mighty grand.

We served our years, for a pension,
Through the grime and terror of Wars,
Some of us, who were lucky came home,
Leaving others on far distant shores.

We asked that our Government now keep their word,
To give that, which we have earned,
Respect and treatment and medical care
BUT—their "backs" to us, they've turned.

They cut our C.O.L.A. and benefits,
With excuses you won't believe,
The promises they made, and would give to us,
Were "lies", so we've been deceived.

They still keep cutting us, at every chance,
And when we ask they "why",
They send us a letter in "double talk",
And lie—and lie—and lie.

They have lied to we "retirees",
Who have served our country well,
Paying us back, by raising their own pay,
Telling retirees—to-go-to-hell.

They tell us this and tell us that,
To confuse the issues well,
When we interpet their letter right,
It simply means "go to hell".

Big Business and Unions donate "cash",
This puts them first in line,
Constituents writing to give them their views,
Is just a waste of time.

They're just for themselves, and what they can get,
Especially their pensions and pay,
They vote by "party" and what "donors want",
And "not"—their constituents way.

Elections we know, will soon be here,
They'll be asking for support, you'll note,
So we millions of "vets" will go to the polls,
But—they damn sure should not get our vote!

WAGE GAP SHIFTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MILLER of California. Mr. Speaker, a recent report issued by the U.S. Bureau of the Census tells us that the wage gap between men and women is finally beginning to shrink. What the report doesn't mention, however, is that the wage gap is narrowing at the same time that real wages and living standards are on a downward curve. What looks like good news for women workers is partly the result of bad economic news for men.

Between 1979 and 1986, the average earnings for full-time women workers, as a percentage of men's wages, increased from 62 percent to 69 percent. The Census Bureau attributes this change to the growth of women in traditionally male occupations such as law, medicine, and the computer sciences.

However, during this same period, largely as a result of deindustrialization, men's real earnings have decreased by 2 percent, while the earnings of women, adjusted for inflation, have increased by nearly 4 percent. According to a briefing issued this week by the National Committee on Pay Equity and the Institute for Women's Policy Research, over 25 percent of the improvement in women's earnings is due to the fall in men's real wages.

While the report credits the growth of women in nontraditional occupations as largely responsible for reducing wage disparities between men and women, it should not be overlooked that women continue to be occupationally segregated, and that in some cases, this segregation has increased. For example, women now make up 82 percent of all elementary school teachers compared to 61 percent in 1979; 82.4 percent of miscellaneous clerical occupations versus 62.9 percent in 1979; and 93 percent of bookkeepers compared to a 1979 level of 88.1 percent.

According to the Census Bureau, 35 to 40 percent of the wage gap cannot be explained by educational differences or number of years in the labor market. Sex discrimination, usually in the form of occupational segregation, continues to drag women's wages down. The economic story hasn't changed: Women working in men's jobs earn more, while men working in women's jobs earn less.

We have reason to rejoice at the overall improvement of women's economic status. But we cannot overlook the fact that this progress is clouded by declining living standards and continued occupational segregation.

TRIBUTE TO REV. DR. FRANKLIN L. HENLEY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. GEKAS. Mr. Speaker, a giant of the intercommunity of the city of Harrisburg, PA, the Reverend Doctor Franklin L. Henley passed away last week. The time I spent with him to preserve the Opportunities Industrialization Center in our community was but a comparative split second of the total human effort that he expended on the greater Harrisburg citizenry, but it did give me a personal dimension of his eagerness to serve.

Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD an editorial which appeared today in the Harrisburg Patriot about the life of Rev. Dr. Franklin L. Henley.

[From the Harrisburg Patriot, Oct. 14, 1987]

A GIANT PASSES: REVEREND HENLEY A PIONEER FOR RACIAL JUSTICE

Harrisburg and Central Pennsylvania have lost one of their noblest spirts. The Rev. Dr. Franklin L. Henley, pastor of the city's St. Paul's Baptist Church, died last Friday at 78.

Rev. Henley's contribution to this community is incalculable. His efforts and influence touched and improved the lives of thousands of people—most without them being aware of it—and his impact will continue long after his death.

His parish, in truth, was the entire city and Rev. Henley's day-to-day involvement in its life was extraordinary for its breadth, compassion and sense of justice.

But what stood him apart from other illustrious citizens of Harrisburg was that he was the first in its history to make the city look at itself in a mirror. He was the first to make the city see the ugliness of its treatment of blacks and the unofficial but very effective segregation and racial discrimination that was palpably evident even into the 1960s.

It took remarkable courage to confront the white power structure. It took an even greater sense of the justice and nobility of his cause to weather the bigotry and racial hatred triggered by Rev. Henley's insistence that this city do what was right and fulfill the promises of equality for all people on which this nation was founded and fought a bloody civil war to uphold.

Though Harrisburg still has work to do to achieve equality and harmony between the races, Rev. Henley's brave leadership largely triumphed in tearing down racial barriers and discrimination that had stood for generations. In doing so, he not only helped to bring many blacks into the mainstream of Harrisburg life, he freed the city from its small-mindedness and racial insensitivity.

State Revenue Secretary Barton Fields, friend, neighbor and admirer of Rev. Henley said it best, saying "he was a person who built bridges between the haves and the have-nots, the black and the white, the young and the old. He tried to be a healer.

No community ever has enough healers. It certainly cannot replace Rev. Henley, who did so much to close the wounds of racial injustice in Harrisburg and to foster a community in which everyone is included and no one is left out. He left us a legacy of justice, compassion, courage and understanding that we honor as we try to emulate and build up its promise of a better life for all.

A CONGRESSIONAL SALUTE TO ROBERT WAESTMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a man considered to be one of the leading attorneys in the city of Long Beach, CA, Robert Waestman. Robert will be honored Wednesday, October 21, 1987, at the Hyatt Regency Hotel, Long Beach, CA, by the Saint Anthony High School Foundation.

Robert Waestman is a native of Long Beach. While at Saint Anthony High School, Robert first expressed a desire to become a lawyer. With the educational background afforded him by his parents, Robert became determined to pursue his dream and prepare himself for his career. Robert also credits the Brothers of the Holy Cross, the Immaculate Heart Sisters, and the instructors at Saint Anthony for a solid background geared to future success. He graduated top in his class in high school and carried those honors with him during his studies at Stanford University, Loyola University School of Law, and the University of Southern California Graduate School of Business. Upon graduation, Robert was sworn in to serve the legal profession in the areas of estate planning, probate, and business law.

His success is founded on his insightful ability to satisfy the needs of those who ask for his counseling and assistance. Over the years, his brilliant mind has brought him increased fame, as he is very visible in public life. Robert's name has long been associated with worthy community projects. In 1973 he became one of the founders of the Saint Anthony's High School Foundation, serving since that time as president of the board of directors. In 1982, he was sworn in as president of the Stanford Club in Long Beach, eventually adding to his affiliations his role as president of the Long Beach Bar Association and president of the Virginia Country Club. He is also dedicated to his community and to the quality of education. His outstanding work as president of the Saint Anthony's High School Foundation includes the development of annual giving projects which create funds for capital improvements at Saint Anthony; the establishment of an alumni newsletter with circulation of 6,000 graduates; the organization of the development department on the school's campus, and the initiation of the annual "Hall of Fame" celebration.

Robert is also an exceptional family man, who has been married to his wife, Lorraine for 20 years. His religious convictions and exemplary lifestyle serve as a role model for his two children, Rey and Renae, and for the current students who depend on his dedication in assisting them in their education.

Mr. Speaker, as you can see, Robert Waestman is an outstanding individual who exemplifies all that many in our society strive to be. His dedication to his wife and children, and to his community has helped make his community a beautiful place in which to live and work. My wife, Lee, joins me in congratulating Robert on all his acheivements. We wish him, and his wife Lorraine, and their two children, Rey and Renae, happiness and all the best in the years ahead.

THREE GOOD REASONS TO OPPOSE UNWISE MAIL ORDER TAX BILL

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Ms. SNOWE. Mr. Speaker, the October 6, 1987, Wall Street Journal contained an editorial opposing H.R. 1242, the Interstate Sales Tax Collection Act of 1987. The provisions of this legislation would require mail order companies to collect State sales and use taxes on all of their transactions.

The editorial opposes this bill for several reasons. First, with 45 State sales taxes and more than 7,000 municipal taxes currently on the books, requiring mail order firms to properly administer and collect all of these taxes places an unreasonable burden on these companies, and could cause them significant economic damage.

Second, this legislation seeks to directly overturn a 1967 Supreme Court decision that ruled it was unconstitutional for States to levy State sales taxes on out-of-State firms, if the retailer's only presence in the State was advertising through the U.S. Postal Service.

Third, by requiring that Internal Revenue Service to share State sales tax data with State tax administrators, the fundamental confidentiality of Federal tax returns would be jeopardized.

I have included the editorial in the RECORD for the review of my colleagues in the House. For my part, I am opposed to the Interstate Sales Tax Collection Act of 1987, and hope that after reading the editorial and examining H.R. 1242 my fellow Members will join me in opposition to this legislation.

[From the Wall Street Journal, Oct. 6, 1987]

MAIL-ORDER GRINCH

With fewer than 70 shopping days till Christmas, millions of Americans are avoiding long lines, bad weather and crowded parking lots by doing some or all of their Christmas shopping by mail. Many people find mail order more convenient and sometimes cheaper, since state sales taxes aren't charged if the recipient is out-of-state. But if Rep. Byron Drogan (D., N.D.) has his way, mail-order firms will have to collect sales taxes on all their transactions. The House Ways and Means Committee will vote on his bill next month. If it passes it will be just in time to give consumers an unwelcome holiday present.

Mail-order and direct-marketing sales are booming. Interstate sales top $100 billion a year and represent as much as 14% of all retail business.

Rep. Dorgan's bill would cost mail-order consumers up to $1.5 billion. Several business groups support the measure; they argue that the companies that send tax-free merchandise through the mails are unfair competition for local retailers. Mail-order firms respond that the Dorgan bill would impose enormous compliance costs.

L.L. Bean, a catalog store in Freeport, Maine, claims that just printing the different tax rates and exemptions in its catalog would cost $10 million a year. Studies indicate it costs direct marketers three to 10 times as much money to collect sales taxes as it does for retail companies. The 45 states and 7,000 localities with sales taxes have never agreed on a coordinated plan of collection, so the only way to enforce payment of mail-order taxes is to allow dozens of different auditors to inspect catalog companies' books.

In 1967, the Supreme Court ruled that states would violate the Constitution's commerce clause if they levied a sales tax on out-of-state retailers that had no presence in the state beyond advertising. Since the Constitution gives Congress the power to regulate interstate commerce, Rep. Dorgan wants Congress to define what a minimum business presence in a state is in a way that allows out-of-state sellers to be taxed.

But even if that argument is upheld by the Supreme Court, taxing mail-order firms may also violate the due-process clause of the 14th Amendment because the firms being taxed won't benefit from state government activities. The Treasury Department is concerned about the bill because it would require the Internal Revenue Service to share sales-tax data filed by merchants with state tax collectors, thus inviting public suspicion about the confidentiality of federal tax returns.

Retail merchants that back the Dorgan bill, such as J.C. Penney, are correct in saying that mail-order companies are at a competitive advantage in not having to charge sales taxes, which can range as high as 9%. But that isn't an argument for creating an enforcement nightmare that could drive some mail-order merchants out of business. It is an argument for states to consider reducing any sales taxes that are so high that they induce people to shop out-of-state for goods.

In Dr. Seuss's tale, "How the Grinch Stole Christmas," a dour figure swept down on Whoville and made off with all of the Christmas presents in the town. But, in the true spirit of the season, the inhabitants celebrated anyway. Christmas would also still be the same if Rep. Dorgan's bill passes, but that is no reason to make consumer goods more expensive for people by chasing their dollars across state lines and slapping a constitutionally dubious tax on them.

THE HIGH PRICE OF DEFENSE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. FEIGHAN. Mr. Speaker, on July 29 and August 2–5, a series of articles by John S. Long appeared in the Cleveland Plain Dealer entitled, "The High Price of Defense." Mr. Long's excellent investigative reporting provided an eye-opening account of the misuse of taxpayers' money and points to the need for long overdue reform.

As reported in the Plain Dealer:

LEGAL FEES

Defense contractors accused of criminal fraud but not convicted have been permitted to bill the Federal Government for millions of dollars in legal fees and have also been allowed to add an additional fee for corporate profits; these fees are charged as indirect costs in the companies' overhead accounts and amount to tens of millions of dollars.

COST OF DOING BUSINESS

Defense contractors' prices are raised to unrealistic levels, and are included as the "costs of doing business." The Government pays for all the costs the company incurs selling the weapons, the company's research and development and manufacturing, and then guarantees the company a profit. Even when companies use Government buildings, funds, and equipment, the design plans become property of the defense contractor.

CONTRACTOR-PENTAGON COLLUSION

Vague cost estimates and collusion between the Pentagon and defense contractors could make it very difficult to crack down on alleged abuses.

Because some Pentagon officials feel that defense projects and new technology are so important to national security they are willing to overlook or ignore infractions.

Many of the weapons systems produced don't work, yet they are rarely canceled; payment for these systems is made 2 days to 1 week after the bill is submitted, even though the government's prompt payment act requires the United States to pay bills as close as possible to 30 days after the billing. Early payment means loss of interest payments that could have been accrued on that money.

CORPORATE WELFARE

From one-half to nearly all of the salaries of the defense contractors' top executives—$500,000 to $1,000,000 annual income—is paid by the taxpayer. In addition, special savings accounts and generous pension programs are paid for by the Government. Bonuses to top executives are included in the cost of programs and help to drive up the costs of future defense projects. Benefits plus extras are paid on the basis of percentage of business done with the Government.

Some corporations have come to rely solely on the Government as a customer, and although the Government has helped some companies financially, difficult times could be ahead due to the flattening out of defense spending.

Defense contractors are allowed to charge the Federal Government the cost of State and local taxes, then deduct the amount, paid by the Federal Government, on their Federal income tax statements. This allows the corporation to operate in a tax free environment.

PROBLEMS IN ENFORCEMENT

The Defense Contract Audit Agency [DCAA] can only point out improper charges, not stop them. They are often refused access to company documents, and even when they do find questionable charges, military watchdogs are left to challenge them, something they rarely do.

While the Pentagon provides contractors with unlimited funds, the Justice Department conducts "scant" investigations due to limited funds (Gramm-Rudman). A Justice Department source criticized Congress for not providing his Department with enough resources to adequately handle major cases against the defense corporations.

I have submitted the first article of the series and I commend it to your attention:

[From the Cleveland Plain Dealer, July 29, 1987]

DEFENSE CONTRACTORS BILL U.S. FOR LEGAL FEES

(By John S. Long)

Defense contractors who are accused of criminal fraud but not convicted have been permitted to bill the federal government for millions of dollars in legal fees and have also been allowed to add an additional fee for corporate profit, The Plain Dealer has learned.

The reimbursements of defense contractor legal fees in criminal cases have been going on for years because of a federal acquisition regulation that has been a secret to most people outside of the defense industry.

Because of the large number of defense fraud cases in recent years, millions of dollars have been paid for legal defense of contractors, while the Justice Department itself has conducted bare-bones investigations into contractor fraud because of limited funds.

While the government's investigators are strapped for funds, the Pentagon is providing contractors with unlimited funds for their defense, as long as the contractor avoids a guilty verdict.

"They've cut back so much on us, we're practically counting paper clips" said one Justice Department official disgusted with the practice of subsidizing the defense contractors' legal defense funds. "A year ago during Gramm-Rudman everything was frozen. We had no money for travel, no money to conduct certain litigation, we even ran out of money for supplies. Things are now getting a little better," he added.

In one instance General Dynamics Corp. billed the government $21 million, plus an additional amount for corporate jury investigation in New Haven, Conn.

The legal fees were charged to the government as indirect costs in the companies' overhead accounts. Like other overhead account items permitted under the government contract regulations, a percentage is added to the fees for corporate profit.

The investigation concerned allegations of defrauding the government on a contract for the Triden submarine, according to sources on the congressional subcommittee on oversight and investigations headed by Rep. John Dingell, D-Mich.

The government recently dropped two additional criminal fraud cases against General Dynamics and congressional sources said that as a result taxpayers will be paying tens of millions of dollars in legal fees for the nation's top defense contractor.

In one investigation that lasted three years and was dropped by the Justice Department last month, General Dynamics and several company officials were indicted for defrauding the government of $3 million on a contract for a prototype of the Sergeant York air defense weapon.

If congressional estimates are accurate on the amount the defense contractor could bill the government for its legal fees, the profit General Dynamics would make on such a billing would nearly exceed the alleged $3 million in overcharges that prompted the criminal investigation.

The congressional sources have said General Dynamics would be refunded their legal defense costs, plus a profit, through contracts the company's Pomona division has with the Navy. Why the funds are being reimbursed through a Navy contract, when the investigation centered on an Army program could not be explained.

A General Dynamics spokesman told The Plain Dealer earlier this month that the company had not determined the amount of its legal fees.

In another case, the Justice Department last year decided not to indict Pratt & Whitney Group for allegedly overcharging the government by $22 million on contracts at its West Palm Beach government products division. Congressional sources estimate the government could end up paying millions of dollars in Pratt & Whitney legal fees in that case.

"We won't get into the nitty-gritty of the fees, but it is nowhere near millions of dollars," said Bob Carroll, a Pratt & Whitney spokesman. "As of this time the government has not paid for any legal expenses associated with the grand jury investigation. If, at a later date, these expenses are deemed appropriate we will file for reimbursement in accordance with government regulations."

TRW Inc., the Lyndhurst-based defense contractor, is under criminal investigation in four states * * *. TRW has a defense fund set up for these cases and that if the company does not plead or is not found guilty in any of them it will pass to the taxpayers its legal fees and a sizable profit for the company.

TRW spokesman Robert Lundy said yesterday the company had no comment on the government reimbursing defense contractors for legal fees in criminal cases.

"We don't discuss provisions of that sort whether we might or might not have them," said Lundy of a special account set aside for legal fees related to criminal investigations of the company.

When contacted during the last two weeks by The Plain Dealer, numerous congressional watchdogs on defense spending said they were shocked to learn these companies could bill the government for legal fees in criminal cases, and they were amazed that the companies could tack on a corporate profit margin to the fees.

Rep. Patricia Schroeder, D-Colo. and Sen. David Pryor, D-Ark., likened the practice to corporate welfare.

"What?" said Dingell when told of the practice in an interview last week.

The reimbursements issue will also be on the agenda for a hearing scheduled for tomorrow on why the Justice Department dropped its criminal cases against General Dynamics and Pratt & Whitney, his staff said.

"Something is very wrong with this system," said Dingell subcommittee staff member Peter Stockton.

Senate Judiciary Committee staff member Sam Gerdano said, "Reimbursement for legal fees in criminal cases is completely unprecedented.

"This thing is open-ended; it also allows them (General Dynamics) to enjoy a profit above and beyond the legal fees. There is no precedent for this. John DeLorean and Ray Donovan (former Reagan administration Secretary of Labor) racked up hefty legal fees, but none of these people are eligible to have the government pay them and they were acquitted."

"It looks like the inmates have taken over the asylum," added Gerdano.

Another Justice Department source said that while he disagreed with the policy of reimbursing defense contractors, he also criticized Congress for not providing his department with enough resources to adequately handle major cases against the defense giants.

"DEMOCRATS' TAX DILEMMA"

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DUNCAN. Mr. Speaker, I thought the attached editorial, which appeared in the October 12 Knoxville News-Sentinel, would be of interest to my colleagues in the House:

DEMOCRATS' TAX DILEMMA

Just as the Democratic Party is becoming more successful than ever at thwarting President Reagan's policies—as in the struggle over the Supreme Court—thoughtful Democrats are growing more nervous about their chances of recapturing the White House. Their party's dilemma: All too often its congressional leaders are pursuing policies that its presidential candidates would rather not talk about, such as tax hikes.

The Democratic members of the chief tax-writing committee in the House of Representatives recently agreed to $6.3 billion in higher taxes for 1988. Their package includes an extension of the 3 percent tax on telephone service, which was originally passed as a "temporary" measure. Like almost any other sales tax, this one hits low-income and middle-income citizens harder: The richer you are, the lower your telephone bill is in proportion to your total income.

The tax also raises the operating costs of any business that uses telephones—stimulating higher prices for a broad range of goods and services. With many consumers seeing their phone bills soaring thanks to the break-up of Ma Bell's benevolent monopoly, this is hardly the time for a permanent federal surcharge.

But the telephone tax is only the beginning. The Democrats on the House Ways and Means Committee want another $6 billion in tax hikes beyond the specific onces they have already accepted. Understandably, they are finding it difficult to agree on just which taxes to increase.

Ironically, not one penny in higher taxes is needed to trim the federal deficit. Thanks to income-tax reform and economic growth, federal revenues are now rising faster than expenses. The deficit is already shrinking, and it will keep doing so if Congress can simply refrain from piling on new spending commitments.

Unfortunately, the special interests that Congress usually obeys are determined to prevent that. If the Democrats want to prove that they have learned from the painful lessons of 1980 and 1984, this time they will resist.

HONORING THE PLEDGE TO THE ACADEMY CLASSES OF 1977 AND 1978

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DORNAN of California. Mr. Speaker, this afternoon I introduced legislation that would revise section 1652 of title 38 to restore eligibility for chapter 34 education benefits to all service academy graduates who had contracted with the armed services when the old GI bill was still in effect. The classes of 1977 and 1978 were inadvertently excluded from eligibility even though they had committed to 7 years of active duty prior to the December 31, 1976, deadline.

As a result of an oversight, the 1976 legislation that repealed the old GI bill created an inequity by failing to specifically address the issue of academy members who had already obligated themselves to active duty upon graduation. Academy cadets and midshipmen incur this obligation when they start their third academic year. Academy graduates have always been considered as eligible for these benefits. It is not the time served at the academies that qualified the graduates for the GI bill, but rather the active duty performed following graduation. Given the obligation incurred by enrolling in their third academic year, these cadets and midshipmen should have been included in the "grandfather clause" of the 1976 legislation. The clear intent of the 94th Congress was that all those who signed contracts prior to December 31, 1976, with the expectation of the GI bill were to be covered by those benefits.

Mr. Speaker, since the intent of Congress was clearly to protect the existing benefits of those presently in, or committed to the armed services, the academy classes of 1977 and 1978 should clearly be included and I ask all our colleagues to help rectify this inequity and cosponsor this necessary and long overdue legislation.

TRAGEDY RESULTS WHEN CHILDREN LEFT AT HOME ALONE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MILLER of California. Mr. Speaker, on Monday, October 12, two 6-year-old children, Jermaine James and Amanda Croson, left in the care of an 8-year-old babysitter, died in an apartment fire in Reston, VA—another tragic result of insufficient child care options for families.

Today, the tragedy intensified when the Washington Post learned that these children had been left at home alone because of condominium rules that prohibited family day care businesses from operating on the premises. Mrs. James, the mother of the two children who died, had closed her day care business only weeks before because of a fear of eviction. As a result, she found work outside the home and left her children inadequately supervised.

As the Post reported, these deaths are tragic evidence of a growing problem of children being left at home alone because their parents could not find or afford child care in their communities. In the past year alone, Fairfax County Department of Social Services had 217 substantiated cases of children who had been left at home unattended.

The situation will only worsen as the number of working families continue to overwhelm an already overburdened child care system, even in wealthy Fairfax County, where great strides have been made in expanding school age child care programs in 64 schools. Still, more than 800 children are on the waiting list for those programs. The two elementary schools attended by Jermaine and Amanda had no afterschool programs at all. In Reston alone, it has been estimated that there are still 5,000 children in need of child care who are competing for 453 available slots.

I urge my colleagues to read the Washington Post articles that describe yet another tragic consequence of our neglect of families' unrelenting need for child care assistance. Families should not have to choose between their children's safety and the economic security of their families. Yet more and more families will be forced to make this choice unless both the public and private sectors collaborate in making child care a priority.

[From the Washington Post, Oct. 13, 1987]

TWO 6-YEAR-OLDS, TRAPPED IN VA. APARTMENT FIRE, DIE—8-YEAR-OLD RESTON BABY SITTER ESCAPES

(By Patricia Davis)

Two 6-year-old children died yesterday after they were found, one atop the other, by the front door of a locked and burning apartment in Reston, Fairfax County fire officials said.

Jermaine James, who lived in the apartment, and Amanda L. Croson, a friend from the neighborhood, were pronounced dead at Reston Hospital Center of injuries received in the 10:30 a.m. fire, officials said.

Investigators were still trying late yesterday to determine the cause of the fire, which gutted the third-floor condominium apartment at 11633 Stoneview Sq. in the Shadowood subdivision, causing an estimated $150,000 in damages. Criminal charges were possible, according to sources.

The sources said that Jermaine's 8-year-old sister, Tina, was babysitting with him yesterday morning and that Amanda had stopped by to play. After the fire began, Tina ran from the apartment and the door locked behind her, they said.

"She was yelling and crying," said Melanie Beale, 16, a neighbor who said she saw Tina running outside. "She said her brother was in the house."

A maintenance worker with a pass key unsuccessfully tried to open the front door of the apartment, and two other workers made rescue attempts from the other side of the building, but the fire was already roaring, according to officials with the Shadowood Condominium Association.

"It was totally engulfed in flames," said Sharon Balz, 46, another neighbor. "There were flames shooting out of the windows."

Firefighters arrived within minutes after receiving the 10:31 a.m. call and broke down the apartment's front door, county Fire and Rescue Department spokeswoman Pam Weiger said. "Right inside, on top of one another, were the two kids," she said. Firefighters administered cardiopulmonary resuscitation.

Officials at the condominium association office said that the James family has been renting the unit since December.

Sandra James, the mother of Tina and Jermaine, was working at a local motel when the fire occurred, one source said. Neighbors said the father, Larry James, is employed as a painter.

Larry James went to the charred apartment yesterday afternoon and bolted up the stairs. Minutes later, crumpled over, he was escorted away by another man in painter's overalls.

Condominium officials said that Amanda Croson lived with her mother, also named Amanda, at 11621 Stoneview Sq., and that Croson has owned the unit since 1979.

Arrangements were being made yesterday for a counselor to help the maintenance workers and another employee distraught over the children's deaths, said Lou Goddard, an official on the condominium's board of directors. A fire official said a psychologist will be available to help the firefighters deal with the deaths, the fourth and fifth fire fatalities in the county this year.

Yesterday's blaze was not the first major fire on Stoneview Square. In February 1986, firefighters rescued four screaming children who had been left unattended in an apartment that caught fire at 11655 Stoneview Sq. All four children survived.

Outside the apartment where Jermaine James had lived, Maggie Thompson, 6, was coping yesterday with the loss of Amanda Croson, her best friend. "Well, you see, we always used to play together. When we played, we had more fun. The funnest was when we played with Play-Doh," said Maggie, her mother at her side. "But now that this happened . . . , I don't think I have any best friend."

[From the Washington Post, Oct. 14, 1987]

RESTON CONDO DAY CARE BAN CITED IN 2 CHILDREN'S FIRE DEATHS

(By Patricia Davis and Sandra Evans)

Sandra James, whose 6 year-old son and a friend died in a fire at her Reston apartment Monday while she was at work, had only recently taken the part-time job after she learned that the child care she had provided in her home was prohibited under condominium rules, neighbors said yesterday.

"I feel so guilty I could die," Jerris Davis, one of the neighbors, said yesterday. "I [had] said: 'Sandra, I don't want to say anything that will make you upset, but if they see you baby-sitting they're going to make you move.'"

Fire officials said yesterday that the fire that killed Jermaine James and Amanda L. Croson, both age 6, was accidental. Investigators were still sifting through the rubble at the 11633 Stoneview Sq. apartment at Shadowood Condominiums in the effort to determine the cause. No charges have been filed.

Jermaine's 8-year-old sister Tina had been left to supervise him and escaped the fire unharmed, sources said.

The Croson family could not be reached yesterday for comment. According to friends, Larry Barber, a painter, was the father of Sandra James' two children, and he could not be reached yesterday.

James, 25, who returned to her gutted third-floor apartment briefly yesterday, declined to discuss the events preceding the fire, and it was not known what efforts she may have made to find someone to care for her son and daughter while she was at work.

However, local officials and child care advocates said yesterday that the deaths are tragic evidence of a growing problem of children being left alone to care for themselves, often because their working parents cannot afford child care.

Davis and Shannon Hancock, who live in the apartment below James, said yesterday that they noticed recently that Sandra James was taking care of Jermaine and Tina as well as several other children. Worried that she would get evicted, they said, they told her about the condomimium's prohibition.

"When I told Sandra this, she looked really stricken. She said, "I didn't, know there was a problem,'" said Davis.

Davis and Hancock said the issue came to a head during a bitter condominimum association meeting in February, during which another resident was ordered to stop providing home day care services. Neighbors said they believed that James has stopped providing child care in her home.

The issue has been the subject of litigation in Fairfax and Montgomery countries. In both cases, day care providers lost their attempts to get a judge to overrule condominium bylaws against their operations. The Fairfax case is under appeal.

On Sept. 26, James took the part-time housekeeping job at the Comfort Inn in Herndon, said general manager Diane Edwards. During her short time on the job, Edwards said, James has been an "excellent" worker who often talked about her two children.

"I think it's terrible," Hancock said of the condominium's rule prohibiting day care. "I feel that if she had been up there baby-sitting . . . those kids would be alive."

While condominium officials sympathized yesterday, they said they have to protect the rights of residents in the other 449 units.

Day care services "impact on the common elements," said Carol Bauer, assistant community manager.

"We don't allow businesses in here," said Lou Goddard, vice president of the condominium association. ". . . We're not singling out day care, we're singling out businesses. Period."

Goddard was busy yesterday setting up funds for the families of the victims.

I don't like having a bunch of kids living next door to me, but they've got to be somewhere," said Mike Herr, who lives next door to the James apartment and manages the Kinney shoe store in Herndon. "Obviously, if someone would have been home watching those kids, two wouldn't be dead and the place wouldn't be burned down."

Although Herr purchased his condominium only two months ago, he said he had noticed 8-year-old Tina James letting herself and her brother in after school with a key.

"A lot of our time is spent on this type of problem," said Tom Hamblen, a supervisor for child protective services in Fairfax County's Department of Social Services. The county had 217 substantiated cases of children who did not have what was considered proper supervision in the past fiscal year, and there are probably many instances that go unreported, Hamblen said.

The agency has established unofficial guidelines that children age 6 and younger should not be left alone, children 7 to 9 should not be alone for extended periods, and baby sitters should be at least 12 to care for children 4 or older.

A recent study found that of 7,200 Reston children between 5 and 14, about 5,000 need child care, but there were only 453 slots available at private day care centers and at school-based programs. It was unknown how many care for themselves.

Nationally, a Census Bureau survey conducted in 1984 and 1985 found that 488,000 children aged 5 to 14, or about 2.7 percent of that age group, cared for themselves when their parents worked.

The county and the state have programs to subsidize child care for low-income families, but these have long waiting lists. Fairfax County spends about $2 million a year on about 900 full-time day care slots at 20 facilities.

Also, the county runs before- and after-school programs for kindergarten to sixth grade. With 2,200 slots at 64 elementary schools in the county, more than 800 children are on the waiting list, according to the Fairfax Office for Children. While full fees for both before- and after-school care reach $173 a month, at the lowest income level the fee is as low as $3.50 a month.

The schools that Jermaine James and Amanda Croson attended, Terraset and Navy Elementary, respectively, are not among those that have the school-based program, officials said. Even where the program exists, it does not operate on some school holidays, such as Monday's Columbus Day break.

Two years ago the state legislature started a $1.5 million program for subsidizing home day care services for some low-income families; the money was gone quickly.

James A. Payne, chairman of the State Board of Social Services, wrote to local social service agencies in September, asking them to push for more funding and saying that day care services otherwise would have to end for some of Virginia's neediest families.

"Many families affected will have to resort to total welfare dependency . . . or face the choice of leaving their young children unsupervised or in substandard care," he said.

A CONGRESSIONAL SALUTE TO MIA WELLS BEGLINGER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a woman who has reached a position of city-wide acclaim, Mia Wells Beglinger. Mrs. Beglinger will be honored Wednesday, October 21, 1987, at the Hyatt Regency Hotel in Long Beach, by the St. Anthony High School Foundation.

Mia Wells Beglinger is renowned as one of the greatest civic workers in Long Beach, CA. Her contributions can be seen in her 17-year dedication as the alumni director of St. Anthony High School. She has been the prime mover in maintaining the alumni data of over 10,000 graduates and in assisting them with reunions. Her enthusiasm for a cause or a need has spurred many to cooperate in civic activities. Mia's untiring drive for supporting community projects has ranked her among the most celebrated volunteers in the city.

Mia Wells was born in Los Angeles, CA, where she was brought up in a strong patriotic environment, dedicated to the American way of life. Mia's father was a military man and was transferred to many bases throughout the United States. As a result, Mia attended 14 elementary schools, and while her family lived in Long Beach, CA, she attended and graduated from St. Anthony High School in 1940. Upon graduation, Mia attended Long Beach City College, UCLA, and the Otis Art Institute in LA where she excelled in fashion design, art, and public relations.

During high school and college, Mia became a professional high-fashion model and worked for Blue Book Modeling Agency and for Adrian, an academy award winner. After a much publicized courtship, Mia married Robert F. Beglinger, a young Air Force cadet. Mia and Robert spent many years at a succession of Air Force bases, but returned to Long Beach for the birth of their daughter Melissa. Eventually Mia and Robert were permanently transferred to Long Beach allowing Melissa an opportunity to attend and graduate from her mother's alma mater.

Mia Wells Beglinger is affliated with the St. Anthony's High School Foundation Board of Trustees, Friends of Cedar House, the Jonathan Jaques Children's Cancer Center, Las Damas de la Plaza of Long Beach Community Hospital, the Long Beach Historical Society, the Willmore City Heritage and Historical Society, the Fine Arts Affiliates for C.S.U.L.B., the Dramatic Allied Arts Guild, the LBCLO Diamond Terrace, the Long Beach Youth Home Boosters, the Los Angeles Museum of Contemporary Art, the Long Beach Chamber of Commerce, the Immaculate Heart of Mary, Board, the Archdiocesan Council of Catholic Women, the Carmelite Auxiliary, and many other religious and art-related organizations.

Mr. Speaker, Mia Wells Beglinger is considered a driving force and a powerful lady in her community. Her family has given endless years to the civic and religious activities sponsored by Long Beach. As you can see, Mia has done much to help make her community a beautiful place in which to live and work. My wife, Lee, joins me in congratulating Mia on all her accomplishments. We wish her, and her husband, Robert, and their daughter, Melissa, happiness and all the best in the years ahead.

FULL SUPPORT FOR H.R. 940

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. GALLO. Mr. Speaker, as a cosponsor of H.R. 940, the Plastic Pollution Research and Control Act, which passed the House overwhelmingly yesterday, 386 to 14, I am very pleased to learn that Members of this body from all parts of the country share my commitment to the protection of our shoreline and the preservation of the world's greatest natural resource—our oceans.

Ironically, I was in the air over our east coast at the time of the vote yesterday, returning from a Presidential trip to my district in New Jersey. From the air, it is easy to see how massive the task of tracking ocean-going vessels is. This realization makes our efforts to outlaw all forms of garbage dumping, as contained in H.R. 940, all the more critical. If we eliminate the exceptions to the rule, we can make enforcement easier.

Yesterday's vote also confirms my belief that all Americans care a great deal about the protection of our shorelines, regardless of whether they live in shore-front communities or thousands of miles inland.

My constituents in Essex, Morris, Sussex, and Warren Counties have been telling me in no uncertain terms that they want the Federal Government to do everything possible to protect our shoreline from further contamination.

I have heard from constitutents at town meetings, in letters and through personal visits to my Washington office.

As I travel around my district, this is still one of the major topics being discussed. People want action, not talk.

I have heard from constituents who say their vacations were ruined this year. They feel they are playing Russian roulette with their vacations at the New Jersey shore because of these incidents. The best assurance we can provide to vacationers is to make all dumping illegal. Without enactment of H.R. 940, we face an enforcement nightmare.

Our shoreline is too important to all of us to allow this to continue.

As a member of the Public Works and Transportation Committee, which has been conducting its own investigation of this summer's pollution, I am confident that we can turn this situation around by next summer with legislation such as H.R. 940 and with a determined effort by all Americans who value their shoreline not to allow ourselves to get dumped on again.

TRIBUTE TO FOREST HAYS, JR.

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. DARDEN. Mr. Speaker, the people who live in the extreme northwest corner of Georgia have lost an able and dedicated State legislator with the recent death of Representative Forest Hays, Jr. At the same time, the handicapped people of our State and Nation have lost one of the most eloquent champions of their rights. Many others of us have lost a beloved personal friend.

I first became acquainted with Forest Hays when we served together in the Georgia House of Representatives during the early 1980's. He had been a member of that body since 1970, representing the people of the Chattanooga Valley in Walker and Dade Counties. Those constituents rewarded him for his dedication and hard work by returning him to the General Assembly for nine terms. He served on the Committees on Defense and Veterans' Affairs, State Institutions and Property, and Game, Fish and Recreation.

For the past 4 years, I had been Forest Hays' Congressman. He always was ready and eager to help me gauge the needs of northwest Georgia and its people, so that I could represent those people here in Washington.

He was 59 when he died, and although had been confined to a wheelchair for most of his life as the result of injuries suffered in World War II, Forest Hays was a man of great spirit and vigor. His physical condition made him especially interested in the issue of rights for the handicapped; he campaigned long and hard to assure handicapped Georgians of ready access to all kinds of public facilities, as well as to the education and jobs necessary to maintain an active role in society. He was a charter member of the National Wheelchair Bowling Association and had coached the Chattanooga Big Wheels wheelchair basketball team.

He visited me here in Washington on several occasions. I remember that he was particularly impressed, when visiting the floor of this Chamber, by the facilities here which allow handicapped Americans access to the seat of their Government.

Mr. Speaker, I ask my colleagues to join me in extending our sympathies to Forest Hays' wife, Mimi, as well as to his daughter Susan, his son Terry and other members of the family.

DON GRIFFIN—80 YEARS YOUNG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LANTOS. Mr. Speaker, Sir Richard Steele, the 18th century English gentleman, noted that "Age in a virtuous person * * * carries an authority which makes it preferable to all the pleasure of youth." With the passage of each year, I have increasingly come to welcome such reassuring observations.

Today, however, I would like to pay tribute to an individual who certainly confirms that the authority and wisdom which comes with age can indeed be a pleasure. Mr. Speaker, I wish to pay tribute to my distinguished friend Don Griffin who will celebrate his 80th birthday this Saturday on October 17.

Few individuals have led such colorful and varied lives as has Don Griffin. He was born in the Excelsior District of San Francisco in 1907, learned both Italian and English in the first grade, and said "Bon Giorno" before he said anything else. Don was one of the first students of St. Paul's Parochial School, where his classmates included Bishop Donahue and former Congressman Jack Shelley.

Always industrious, he worked as a newspaper boy and as a delivery boy for the local fishmonger and vegetable salesman. He left school to become an apprentice in a blacksmith shop, and later he became a sheet metal mechanic. That love of sheet metal work has endured for over 60 years. In 1960, he founded his own business, Griffin Metals Products.

Don completed his college education, and went on to become a teacher and curriculum coordinator in the San Francisco and Berkeley school systems. During World War II, he ran the Merchant Seaman's Training School in San Francisco. He wrote the San Francisco Municipal Railway training manuals in the 1940's, and was responsible for the physical arrangements for the United Nations founding conference in San Francisco's War Memorial Opera House in 1945.

Don's community service has been extensive—a leader in Boy Scouting for 30 years, an active member of the Millbrae Lions Club, president of the Millbrae Historical Society, and a member of the board of the San Mateo County Historical Society.

He has also been a committed father of 5, grandfather of 6, and husband. As a "political" husband, he has been most supportive of his wife Mary, a past member of the Millbrae City council, past Mayor of Millbrae, and currently a San Mateo County Supervisor.

Mr. Speaker, I ask my colleagues to join me in wishing Don Griffin a most happy 80th birthday.

CALL FOR REUNIFICATION OF MICHELSON'S AND OTHER DIVIDED SPOUSES

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MACK. Mr. Speaker, today I am introducing legislation calling attention to a serious Soviet human rights issue that remains largely unsolved—the problem of divided spouses.

Many of my colleagues in the House of Representatives are familiar with a unique and very special American living in southwest Florida named Anatoly Michelson. Anatoly is a 69-year-old former Soviet citizen who has been separated from his wife and daughter for over 30 years. Since arriving in the United States, Anatoly has made repeated attempts to secure the release of his family from the Soviet Union, including a grandson he has never seen.

Unfortunately, Anatoly is just one of a number of United States citizens whose spouses remain in the Soviet Union, having been repeatedly refused exit visas to emigrate. As a signatory to the Helsinki accords, the Soviet Union has agreed to provisions in the act which states that "The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old."

There has been progress in the resolution of divided spouse cases are relations between the United States and the Soviet Union have improved and American diplomats have given a higher priority to addressing these cases. However, I am disturbed that the Soviet leadership has taken action on relatively recent cases while ignoring or repeatedly refusing to resolve long-standing cases.

This resolution calls upon the Soviet Union to grant exit visas for all those who wish to join spouses in the United States. Furthermore, it requests that the Soviets give special attention to quickly resolving the long-standing cases, such as the Michelson separation.

This fall, President Reagan is preparing for a summit to successfully conclude an arms reduction agreement with the Soviets. The approaching summit provides Congress an auspicious opportunity to further underscore its commitment to human and family rights. I urge my colleagues in the House to give their enthusiastic support to this important resolution.

A CONGRESSIONAL SALUTE TO WILLIAM MAIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a strong parental leader and great family man, William Mais. Mr. Mais will be honored Wednesday, October 21, 1987, at the Hyatt Regency Hotel by the Saint Anthony High School Foundation.

William Mais was born February 9, 1931, in San Pedro, CA. He grew up in San Pedro and spent his entire educational career at Saint Anthony. William enrolled in first grade in Saint Anthony in 1937, and graduated 12 years later in 1949, making him a member of the Twelve Year Club. During this time at Saint Anthony, William earned varsity letters in football, basketball, and baseball. Before he finished his athletic career at Saint Anthony, William was made first string All-CIF and All-City in football. His excellence in football earned him a football and scholastic scholarship to the University of California, Berkeley. William was one of seven athletes to be offered a scholarship to Berkeley, and in 1951 the Berkeley football team participated in the Rose Bowl. On December 29, 1951, William married Jane Kier, his Saint Anthony High School sweetheart.

William answered the call of his country as he joined the U.S. Army where he served as lieutenant in the Anti-Aircraft Command with assignments in El Paso, TX, and Limestone, ME. Upon returning to civilian life, William used his extensive business administration background to obtain a position with IBM Corp.

William started with IBM in Long Beach in 1956 where he created a job for himself in the computer marketing department. In 31 years with IBM, he held numerous marketing management positions within the company, including a rise from the business of marketing computers to having a significant hand in the marketing of two of IMB's most important software products; IMS, a data base product, and the "PROFS" system. He has also received IBM's highest marketing award, the Award of Excellence.

William Mais is also an outstanding family man, dedicated to the traditions of family ties. William and his wife, Jane, have raised seven children and have been blessed with nine grandchildren. Most of his children are also Saint Anthony graduates. He has also been recognized over the years for his active participation on the Saints Booster Club and the Parents Association. This year he was asked to join the Saint Anthony's High School Foundation Board of Directors, a step up from his position as a Member of the Board of Trustees.

Mr. Speaker, William Mais is not only an outstanding citizen in his community, he is also a model for those who wish to succeed in society. Through his commitments to his community, and his family, William is a living tribute to the power of dedication. My wife, Lee, joins me in congratulating William on his many great accomplishments. We wish him and his wife, Jane, and his children and grandchildren, happiness and all the best in the years ahead.

A SALUTE TO MRS. EDWARDINA RIGGANS SENIOR CITIZEN HALL OF FAME INDUCTEE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. STOKES. Mr. Speaker, the Ohio Senior Citizens Hall of Fame was established to fulfill a twofold purpose: to emphasize the vital role played by men and women 60 years of age or older in their communities, State and Nation and to promote the productivity and enjoyment that should be a part of every person's retirement years.

This year nine individuals join the distinguished ranks of the Senior Citizens Hall of Fame. The induction ceremony will take place on October 29, 1987, in Columbus, OH. I am pleased to report that Mrs. Edwardina Riggans who resides in my congressional district will be inducted into the Hall of Fame. On behalf of the residents of the 21st Congressional District of Ohio, I salute Mrs. Riggans on this auspicious occasion.

Mr. Speaker, Mrs. Riggans plays a vital role in the Cleveland community. In 1934, Mrs. Riggans began her long and active participation in community-based groups when she joined the Wellman Club. This group, largely through Mrs. Riggans' dedication, has taken the lead in increasing the political awareness of our citizens and voter participation.

In the early 1960's, Mrs. Riggans joined the Karamu Golden Agers group. Over the years, Karamu has provided needed social, cultural, and educational programs for our community's seniors. In 1969, Mrs. Riggans utilized her strength and influence amongst senior citizens in the city of Cleveland to help deliver the votes of the elderly to my brother, Carl Stokes, on his successful bid for mayor of the city of Cleveland.

She is also reponsible for the formation of seniors of Ohio. The coalition was formed to boost senior citizen participation in Government affairs and to provide a mechanism by which the concerns of our Nation's elderly could be expressed to Government officials. Under her leadership, this organization grew to, at one time, a membership of over 3,000.

In 1984, Mrs. Riggans represented the 21st Congressional District as my senior citizen intern. She did an excellent job of representing the concerns of seniors throughout the Nation.

Mr. Speaker, it is an honor to salute Mrs. Riggans on this occasion. She is a remarkable individual and an inspiration to us all.

TRIBUTE TO MRS. MARIE KAPTEIN

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to Mrs. Marie Kaptein, a resident of northeast Philadelphia and the Outstanding Handicapped Federal Employee of the Year for 1987.

Marie has been blind since age 10, when she was struck by an automobile. She is an employee of the Naval Publications and Forms Center, where she has logged 14 years of meritorious service.

Marie proves that she does not consider herself handicapped by consistently out-producing her coworkers. Before winning this year, she was nominated for Outstanding Handicapped Federal Employee in 1977 and 1983.

In 1977, she became the first woman ever awarded the prestigious Meritorious Civilian Service Award. Marie has received Outstanding Service Awards from 1982 through 1986, and in February of this year was selected as the Inventory Control Department's Employee of the Quarter.

Marie has been married to her husband, Henry, for 30 years and is a lifelong resident of Philadelphia. She attended St. Boniface Parochial School and Hallahan High School for Girls instead of the school for the blind. She is active in the Catholic Guide for the Blind, the Third Order of St. Dominic and St. Williams Roman Catholic Church. Marie's advocacy of leader dogs for the blind is evident in her devotion to her constant companion and seeing-eye dog, Sandy.

I join the Naval Publications Center, the U.S. Government, and all Federal employees in paying tribute to this courageous woman.

TRIBUTE TO RAY J. MADDEN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1987

Mr. RODINO. Mr. Speaker, I want to thank the gentleman from Indiana for organizing this special order in tribute to our late friend and former colleague Ray Madden.

Ray's recent death, at the age of 95, ended a lifetime of devotion to public service on all levels of government. Beginning his career as a municipal judge, Ray went on to serve as comptroller of the city of Gary and then spent 4 years as treasurer of Lake County in Indiana.

In 1943, Ray first entered the House of Representatives. For the next 34 years, he ably represented Indiana's First District which is located in the northeast corner of the State. Ray's commitment to his constituents and service to the people of Indiana was an inspiration to us all.

Ray also served his country with great honor and distinction. Throughout his long career in the House, Ray earned the respect and admiration of his colleagues. He was a man of unyielding integrity and generous with both his time and expertise.

Ray exhibited his tireless energy and dedication as the chairman of the Democratic Steering Committee and as a member of the Naval Affairs and Education and Labor Committees. In 1973, Ray became chairman of the Rules Committee where he served effectively and provided leadership based on experience and fairness.

It was a great personal privilege to call Ray Madden my friend. For those of us who worked with him and for the Nation he served so well, we have lost both a friend and a dedicated public servant.

BAYPATH'S 10TH ANNIVERSARY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ATKINS. Mr. Speaker, I would like to call to my colleagues' attention a very special anniversary which is being celebrated in my district.

Baypath Senior Citizen Services is celebrating the 10th anniversary of its founding. Baypath was incorporated in 1977 to serve the needs of elderly residents in the 14-town South Middlesex area of Massachusetts. Over the past decade Baypath has been a pioneer in promoting the health, well-being, and dignity of older individuals by broadening their living alternatives through a continuum of community services.

In every one of those 10 years, Baypath responded to the increased needs of an elderly population which was steadily growing, both in size and in age. Baypath now serves 6,750 clients and provides a wide range of services including case management, homemaker and chore services, transportation, home delivered meals, companionship services, respite care, and nursing services. From a staff of 18, Baypath has expanded so that today it has a staff of 95, including volunteers. This year Baypath's budget is almost $2.4 million, with funding coming from Federal, State, and local sources.

Baypath's anniversary has a special meaning for me. I remember chairing the first meeting held in Marlboro to focus on the needs of the senior citizens in the area. That meeting, held in 1976 when I represented the district in the State senate, was sponsored by the Marlboro Senior Citizen Center who had rented a room in the Sons of Italy Hall. We were not prepared for the large crowd that attended and had to move across the street to the Episcopal Church. That outpouring of people showed us that there were tremendous hidden problems and neglected needs facing the elderly, and their families, in our community. Baypath was created the following year in response and recognition of those needs. Today, Baypath's challenges are more difficult than at any time in the past 10 years, but, I am confident that this extraordinary organization is capable of surpassing the accomplishments of the prior decade.

A CONGRESSIONAL SALUTE TO EVELYN DUPONT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. ANDERSON. Mr. Speaker, it is indeed my honor to rise today to pay tribute to Evelyn duPont, the founder of California Pools for the Handicapped (CPH). Evelyn's great accomplishment will be recognized at a dinner in her honor October 22, 1987.

Evelyn duPont is a living example of courage to those whose handicap she understands very well. Evelyn was once an international swimming star, however, her promising career was stiffled when she was struck down with polio. After a long bout with the crippling disease, and after a vigorous physical therapy program, she was able to walk again. Evelyn vowed to seek a way to help others like herself and to always enjoy her first love, swimming.

Rarely does an individual commit themself to a cause with the determination that Evelyn duPont did. She is an inspiration to all humanity, to those who have ever had reason to wonder if they could achieve something despite physical impairment. Evelyn had a dream. A dream that would accommodate handicapped children, adults and senior citizens with a pool facility. This goal started in her own home, as she used her own pool as a recreational center for handicapped children.

Soon the dream grew, and soon her own pool became inadequate as more and more children participated in the program. At this time, Evelyn initiated California Pools for the Handicapped, an organization dedicated to handicapped persons by using a time-proven method of physical therapy with swimming. In April 1963 her dream became reality as the CPH was incorporated under California State law. The site was selected, the terms for purchase formalized and in May 1968, the pool opened its doors to a very deserving group of individuals.

Mr. Speaker, as you can see, Evelyn duPont's personal commitment will stand in homage to her integrity and the determination she displayed in achieving her goal. The time and energy she spent in the pursuit of her dream will serve as a tribute to all humanity. Evelyn duPont has done so much for the handicapped, and through her work and completion of the California Pools for the Handicapped, Evelyn has helped make her community a beautiful place to live and work. My wife, Lee, joins me in congratulating Evelyn on her great accomplishment. We wish her and her children and grandchildren, happiness and all the best in the years ahead.

U.S. HUMAN RIGHTS POLICY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. RICHARDSON. Mr. Speaker, since the days when I served in the State Department I have been convinced that it is in the United States self-interest to accord a high priority to human rights in the daily conduct of our foreign policy. With that in mind I have been delighted to read the text of a speech delivered in Spanish in Mexico City on May 26 by George Lister, Senior Policy Adviser in the Department's Bureau of Human Rights and Humanitarian Affairs. The speech describes the origins of our current human rights policy some 10 or 12 years ago and reviews the record of achievement since that time. I find the speech accurate, informative and refreshingly candid, and I believe it provides eloquent testimony on the wisdom of having a separate Bureau for Human Rights in the Department.

I commend the English text of Mr. Lister's speech to my colleagues' attention:

U.S. HUMAN RIGHTS POLICY: ORIGINS AND IMPLEMENTATION

(Address by George Lister)

I welcome the opportunity to talk with you today, not for just the usual polite reasons of responding to an invitation but mainly because I feel the subject of our meeting, U.S. human rights policy, is very important. And certainly it is one which is close to my heart. The subject is also highly controversial and does not lend itself to easy generalizations, and since I am going to speak for only about 30 minutes, I suggest you consider these opening remarks as merely an introduction to our discussion. I anticipate that following my presentation, you will ask many questions, and I hope we can have a candid, vigorous exchange of views, which I am prepared to continue for as long as you wish.

ORIGINS OF CURRENT POLICY

First, how and when did our human rights policy begin? At the outset I should emphasize that my government does not perceive itself as the original defender of human rights. There were articulate supporters of human rights long before Columbus came to this hemisphere. And, of course, there have been many important human rights issues throughout history, e.g., slavery was a major cause of our Civil War over a century ago. So nothing that I am going to say here should be construed as implying that we have a monopoly in the defense of human rights. We do not.

However, there did come a time when human rights advocates both inside and outside our government decided that human rights should be accorded a higher priority in the conduct of our foreign policy. This movement began to take shape some years prior to the Carter Administration. A leading role in this campaign was played by several Members of Congress from both major parties, Republicans and Democrats, and particularly by Congressman Don Fraser of Minnesota, who was Chairman of the Subcommittee on International Organizations and Movements. In the latter half of 1973, and in early 1974, Fraser's subcommittee held a series of public hearings on U.S. foreign policy and human rights, with witnesses including U.S. Government officials, jurists, scholars, representatives of nongovernmental organizations, etc. These hearings were followed by a subcommittee report on the subject in March 1974, including 29 specific recommendations. The first recommendation stated that: "The Department of State should treat human rights factors as a regular part of U.S. foreign policy decision-making." The report itself began with the following sentence: "The human rights factor is not accorded the high priority it deserves in our country's foreign policy."

The Fraser subcommittee report achieved considerable impact in our government, and some of the 29 recommendations were implemented fairly soon. One of these called for the appointment of a human rights officer in each of the State Department's five geographic bureaus: for Europe, Latin America, Africa, the Near East, and East Asia. I was serving in our Latin American bureau at the time and became the first human rights officer for that area.

So the human rights cause was gaining impetus before Jimmy Carter won the 1976 elections. But, of course, soon after President Carter assumed office, human rights did begin to receive considerably more attention in the daily implementation of our foreign policy. A separate Bureau of Human Rights and Humanitarian Affairs was created with a new Assistant Secretary. I will discuss how that policy was implemented, and with what results, in a few minutes, but first let me say a few words about what happened when the Reagan Administration replaced the Carter Administration, in early 1981.

At that time I recall there were some, in and out of government, who assumed that our human rights policy was finished. This assumption prevailed both among strong advocates of human rights and those who felt human rights considerations should have no place in our foreign policy. Some even expected the human rights bureau to be abolished. But fortunately, it soon became apparent that our human rights policy had been institutionalized, that it had strong bipartisan support in Congress, that human rights legislation passed in previous years was still in force, that our annual human rights reports to Congress were still required by law, etc. In short, our human rights policy continued. Today our human rights bureau is alive and well, with an able and committed Assistant Secretary, Richard Schifter, who has dedicated his work in the Department to the memory of his parents, who perished in the Holocaust.

MISCONCEPTIONS

So much for the origins of our current human rights policy. Now I will discuss briefly a few of the misconceptions which have arisen regarding that policy.

First, we are not seeking to impose our moral standards on other countries. The rights we are discussing here are recognized, at least with lip service, throughout the world. Indeed, they are included in the Universal Declaration of Human Rights, which was adopted by the General Assembly of the United Nations on December 10, 1948. I am sure many of you are familiar with the declaration, but I have copies here in case you would like to take them. So, to repeat, our human rights policy is based on internationally accepted norms.

Second, our human rights policy does not—repeat, not—reflect any assumptions of U.S. moral superiority. Those of you who have been to my country know very well that we have many human rights problems at home, including, for example, race discrimination, sex discrimination, violations of minimum wage laws, etc. We have achieved much progress with some of these problems in recent years, but they still persist and are a frequent subject of criticism in our free press. So the United States is no exception. We all have human rights problems.

Third, we are also aware that many other nations are less fortunate than the United States. Due to accidents of history, geography, climate, etc., there are countries with appalling problems of extreme poverty, illiteracy, overpopulation, terrorism, etc., which we have been favored enough by fate to escape. As a result, other peoples sometimes see us as insanely lucky. For example, having served in Poland, I know that many people there consider the United States to be uniquely fortunate. They see themselves as situated between Germany and Russia, while we are sheltered by two oceans. There is a Polish saying that "God protects little babies, drunkards, and the United States of America."

Fourth, contrary to what some people assume, we do not intend our human rights policy to be intervention. We would like to be on friendly terms with all governments, and, everything else being equal, we prefer to avoid political confrontations, strained relations, dramatic headlines reporting diplomatic crises, etc. On the other hand, of course, we do have a right to decide to which countries we will give our economic and military assistance. And when another government pursues a policy of murder and torture of its citizens, we have a right to disassociate ourselves publicly from that policy and to withhold our aid.

RESULTS

Now what have been some of the results of our human rights policy over the past 10 years or so? Here I will attempt a very rough and incomplete balance sheet. On the minus side there have been strains in our relations with some governments which otherwise would have been friendly allies but which resented our criticism of their widespread human rights violations. And sometimes that resentment has been shared by important areas of public opinion in those countries. For example, I recall accompanying the then-Assistant Secretary for Inter-American Affairs, Terry Todman, on a visit to Argentina in 1977. In Buenos Aires one evening, we were invited to supper by a group of local Argentine businessmen, some of whom were extremely critical of our human rights policy as they understood it. They deeply resented the State Department's criticism of human rights violations in Argentina, and they accused us of naively underestimating the danger of a communist takeover. I felt their resentment was entirely understandable, although I did not agree with it. And that bad feeling certainly imposed a strain on our relations with Argentina. I will discuss some other costs to the United States later if you wish, but because of the shortness of time, I will pass on now to the plus side of this human rights balance sheet.

What have been some of the achievements of our human rights policy? Here I would say that, both as direct and indirect results of our efforts, there has been less torture in some countries, there have been fewer political murders, fewer "disappeareds," more names published of political prisoners being held, more prisoners actually released, states of siege lifted, censorship relaxed, more elections and more honest elections, and in Latin America the Inter-American Human Rights Commission has been invited to more countries, etc. I feel this is an impressive record and far outweighs the minus side of the balance sheet.

I hasten to add that I am not suggesting these advances in human rights are exclusively the result of our human rights policy. The main credit for this progress belongs to the citizens of those countries in which it took place. But I do maintain that the United States has made a major contribution to the progress, and I feel we should take quiet satisfaction in our record.

From the viewpoint of U.S. foreign policy, there is another very important benefit to be included on the plus side of the balance sheet. That is that our human rights policy has been welcomed by many key sectors of foreign public opinion which, in the past, have often been hostile to U.S. policies, at least as they understood them. Such groups include, for example, some democratic political parties, some labor unions, various religious organizations, many student bodies, many intellectual circles, etc. Our human rights policy has helped greatly in improving our relations with the democratic left, including Marxists who reject Leninism.

It is noteworthy that a number of other governments have now appointed officials to monitor human rights problems. The French Government is one of these. In Moscow an "Administration of Humanitarian and Cultural Affairs" has been created in the Ministry of Foreign Affairs. However, thus far it appears the main purpose of this new office is to counter foreign criticism of Soviet human rights abuses.

To sum up, I am convinced that our human rights policy over the past 10 years has not only helped the human rights cause in many areas of the world but has also been very much in the self-interest of the United States.

DIFFICULT QUESTIONS

Having said that, I emphasize immediately that I am not suggesting for a moment that, because we accord a high priority to human rights, our entire foreign policy automatically works well. Obviously not; our human rights policy provides no easy solutions to the complex and urgent problems which confront us daily and is in no way a guarantee against mistakes in judgment, faulty implementation, misinformation, etc. Moreover, many problems and questions arise in just trying to carry out our human rights policy. I will mention only a couple of these very briefly.

First of all, just how high a priority should human rights enjoy in our foreign policy? I think it is clear that, in the final analysis, our highest priority must go to the survival of the United Sates as a free and independent nation in a world which is often extremely dangerous. The application of these two priorities, survival and human rights, frequently involves difficult and complicated decisions.

Another difficult question concerns economic assistance. Should the United States cancel economic aid to a country with a poor human rights record if our calculations indicate that those who will suffer most from that decision will be the poorest sectors of that society? In such instances we can sometimes receive useful insights and advice from local religious representatives and those in a country who are in close touch with the needs of the local community.

CRITICISMS

Now what about some of the many criticisms of our human rights policy? One which I recall as fairly frequent during the early days, a dozen or so years ago, was that human rights advocates are "emotional" and that emotion has no place in serious foreign affairs. Well, I would say that emotion is fairly normal to the human race, and just about all of us become emotional for one reason or another—some of us about the stock market's Dow Jones average, for example, and others possibly about human rights. Obviously, emotion does not necessarily preclude common sense and good judgment. In any event, now that the novelty of our human rights policy has worn off, this is a criticism which is seldom heard these days.

Another criticism is that the application of our human rights policy is "inconsistent," that we do not respond consistently to human rights violations in one country and another. There might be more validity to that criticism if the protection of human rights were our only objective. But, as I mentioned earlier, human rights is only one very important consideration in our foreign policy. However, even if this were not so, even if human rights were the *only* consideration, experience indicates it would be unreasonable to expect complete consistency in the day-to-day conduct of our foreign affairs. There are over 160 countries in the world today. Our human rights policy cannot operate with computers. It is simply unrealistic to expect a large government bureaucracy to perform perfectly. Even championship football teams never play an absolutely perfect game. I would say, rather, that consistency is a goal for which we aim, and when some inconsistencies inevitably do occur, they do not invalidate the basic policy. In brief, I maintain that, while our human rights policy is far from perfect, it is both genuine and effective.

Still another criticism we hear is that we apply our human rights policy only to left-wing governments; never to right-wing dictatorships. This is a favorite theme of broadcasts from the Soviet Union and Cuba, which I read every day, and I find it highly significant that both Moscow and Havana devote much time and effort trying to prove that our human rights policy is simply capitalist propaganda, with a double standard. Obviously, the Leninists feel very threatened by our human rights efforts.

The truth is, of course, that we criticize human rights violations by both the right and the left. If you have any doubts on that score I invite you to read the latest issue of our annual human rights reports to Congress for the year 1986. I would be interested to know whether you can find any pattern of ideological discrimination in the reports on 167 countries we prepared last year.

On the same theme it is relevant to mention that we now commemorate Human Rights Day, December 10, with a ceremony in the White House, during which the President signs the Human Rights Day proclamation. Last year both President Reagan and Assistant Secretary Richard Schifter briefly reviewed the state of human rights worldwide, and their comments referred to repression not only in the Soviet Union, Cuba, Nicaragua, and Poland but also in South Africa, Chile, Paraguay, and Iran [see Special Report No. 164—"Reviewing the U.S. Commitment to Human Rights"]. I repeat, we criticize human rights violations by both the left and the right.

There is another important criticism from the political left, and not just the Leninists, which argues that one cannot really combat human injustice without replacing capitalism with socialism, that to work against torture, political murders, etc., is all very well, but basic human rights cannot be ensured without the establishment of socialism. I disagree, and I often recall another saying I learned in Poland many years ago. It goes like this: "What is the difference between capitalism and socialism? Capitalism is the exploitation of man by man, and socialism is vice versa." There is much truth in that bitter joke, and I think it is quite obvious by now that there can be ruthless oppression and exploitation with both economic systems. Neither capitalism nor socialism, in themselves, are a guarantee of human liberty. I personally feel that if there is one human right which is a key to all the others, it would be free speech. Free speech is more revoluntionary than Marxism-Leninism.

ROLE PLAYED BY NONGOVERNMENTAL ORGANIZATIONS

Now before concluding, a few words on the very important role played by nongovernmental organizations involved with human rights work. Many of them perform valuable services in monitoring human rights issues, protecting human rights victims, helping refugees, etc. These are badly needed activities and represent a major contribution to the human rights cause. A good number of these groups are also occasional or frequent critics of the State Department's performance, and there is certainly nothing wrong with that when the criticism is reasonably accurate.

But having acknowledged the positive role they play, and having heard and read much of their comment, I also wish to voice one measured criticism of some of these groups. A good many organizations, such as Amnesty International, are quite willing to protest human rights violations across the political spectrum, from right to left. But it is discouraging to note how many other self-described human rights activists are motivated mainly by ideological prejudice. For example, it is remarkable that some of these people accuse the State Department of favoring rightwing dictatorships over communist regimes when they themselves do precisely the opposite. It is difficult to understand, for instance, how an organization allegedly covering human rights in Latin America can be highly vocal on problems in Chile and Paraguay but steadfastly refuse to say one word on violations in Cuba and will then accuse the State Department of applying a double standard.

In this connection I will conclude by recalling a vivid personal experience several years ago in one of our embassies in a foreign capital. I was talking with a woman whose husband had "disappeared," as they say, and she herself had good reason to fear for her own safety. She was discussing her plight with me while accompanied by her son of around 10 years of age. Toward the end of our meeting, she felt she had summoned up enough courage to venture outside once again, and she stood up to say goodbye. But then panic returned, and she decided to stay for just one more cigarette. When she tried to light up, her hands were trembling so much that I finally did it for her. And her small son's eyes never left me as he desperately tried to read in my face the chances for their survival. I think the question of whether that mother and son were in danger from a rightwing or leftwing regime is totally irrelevant.

A DISTINGUISHED SERVICE AWARD FOR A DISTINGUISHED CITIZEN, JERRALD H. REDEKER

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. VANDER JAGT. Mr. Speaker, it is with particular pride and privilege to bring to the attention of the Members of this great body the recent accomplishments of Jerrald Redeker, of Holland, MI. I say with "particular pride and privilege" because I count "Jerry" Redeker as a great friend and booster for a good number of years.

Jerrald Redeker has just received one of the most outstanding awards one can receive as he was presented with the 1987 Distinguished Service Award from the Holland Area Chamber of Commerce. I am very proud and happy for Jerry. But, to paraphrase that now famous television line "he achieved success the old fashion way, he earned it." And, as the Holland Sentinel newspaper editorial said, "When it comes to community service, Jerrald H. Redeker is at the top." The editorial concluded, "Redeker is deserving of the chamber's top award."

In extending my personal congratulations to an outstanding citizen, great community leader and wonderful friend, permit me to bring to my colleagues attention the following special editorial from the Holland Sentinel and a fine news article, both of October 7:

JERRALD REDEKER, DISTINGUISHED COMMUNITY SERVICE

When it comes to community service, Jerrald H. Redeker is at the top.

His selection as recipient of the 1987 Holland Area Chamber of Commerce Distinguished Service Award publicly recognizes the volunteer work he has done to benefit the Holland area.

Since arriving in Holland in 1974 to become president and later chairman of the board of Old Kent Bank, Redeker has been involved in countless civic, educational and church activities. Because of his leadership abilities, he has not only served on numerous committees but also has been asked to chair a project.

His latest endeavor, Window on the Waterfront, is a prime example. Redeker was determined the park would become reality.

Last March he challenged the community at Holland Area Chamber of Commerce Early Bird breakfast to raise $500,000 in eight weeks to beautify the waterfront behind Riverview Park. As chairman of Holland's Michigan Sesquicentennial committee, Redeker saw the project as a lasting memento to the state's 150th birthday. Dedication of the site is slated next month.

A Waupun, Wis., native, born Oct. 5, 1934, and a 1956 Hope College graduate, Redeker is another Holland resident always willing to contribute to his adopted community.

Redeker is deserving of the chamber's top award.

CHAMBER HONORS REDEKER WITH DISTINGUISHED SERVICE AWARD

(By Michael Lozon)

Lauded for his many years of service to the Holland community, Jerrald Redeker was presented with the 1987 Distinguished Service Award Tuesday night from the Holland Area Chamber of Commerce.

The award was presented for the fifth year during the chamber's annual banquet at the Holiday Inn in Holland. Redeker is chairman of the board and president of Old Kent Bank of Holland.

Presenting the award was William Sikkel, chairman of the award seclection committee and senior vice president of Haworth Inc.

"The 1987 recipient meets the criterial for the award and more. He is a man of high ideal who has served in many areas and in many ways," said Sikkel. "The community has grown under his leadership."

Sikkel noted Redeker's service to the community in a long list of affiliations. They include: the Holland Community Foundation, Holland Economic Development Corp., Holland Community Hospital board, Holland Rotary Club, Holland Area Junior Achievement, Holland, Area Youth for Christ, Board of Theological Education for the Reformed Church in America, Christ Memorial Church of Holland, and the chamber.

Redeker currently serves on the board of directors for the Pine Rest Foundation and the Lakeshore Health Maintenance Organization. In addition, he was awarded the distinguished alumni award from Hope College, and is listed in the Who's Who in Midwest directory for 1985, 1986 and 1987.

Redeker's most recent accomplishment, said Sikkel, was as chairman of the chamber's Holland Sesquicentennial Task Force, which raised funds for the Window on the Waterfront park.

The project budget was $480,000, but donations from the community ended up topping the $500,000 mark. The park—slated for dedication Nov. 7—is being constructed along a half-mile strip on the Macatawa River, from River Avenue to Columbia Avenue.

"It has really been an honor and a privilege to serve each of you in this capacity," said Redeker in accepting the award.

Besides the award, Redeker was treated to a surprise visit from his mother, Laura, who traveled from his hometown of Waupun, Wis., to attend the banquet.

He graduated from Hope College in 1956 with a bachelor's degree in business administration. He worked for Michigan Bell Telephone Co. and Old Kent Bank and Trust Co. before accepting a position as vice president of Metropolitan National Bank of Farmington in 1965.

In 1967, Redeker joined First State Bank of Charlevoix as vice president and later became its president and chief executive officer. He resigned that position in 1973 to become an agent for Farm Bureau Insurance Co. of Michigan.

Redeker joined Peoples Bank of Holland (now Old Kent Bank of Holland) as president and chief executive officer in 1974, and took on the additional responsibility as chairman of the board in 1979.

In addition to the DSA presentation, plaques were presented to retiring directors of the chamber board to recognize their years of service. They are: Andy Van Slot (1979-87), James Stonick (1983-87), Lyle Bezile (1984-87), Gail Hering (1984-87), Larry Van Dyke (1984-87) and Dave Swart (1984-87).

Remarks were also made by incoming board chairman David Lake, and outgoing chairman Joyce Korman, who was presented a plaque to recognize her service during 1986-87.

"I consider it a blessing to live and work in Holland, a privilege to be part of the Holland Area Chamber of Commerce, and an honor to have been chairperson for the past year," said Kortman.

The banquet socially marks the start of the chamber's new fiscal year.

BRIAN WILLSON

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mrs. BOXER. Mr. Speaker, I would like to call to the attention of my colleagues, the following articles which appeared in the September 2 and 3, 1987, editions of the San Francisco Examiner. These articles were written in response to the tragic accident in which Brian Willson, Vietnam veteran and activist for peace in Central America, lost his legs. In submitting these articles, I would like to point out that we are still awaiting a report from the Navy on this matter:

CONCORD

(By Rob Morse)

What was he doing on the tracks? That is the question you are likely to ask after seeing the photographs of Vietnam veteran Brian Willson lying grievously injured on the railroad tracks at the Concord Naval Weapons Station. He knelt down between the rails Tuesday morning and was run over by a train. You may say it quizzically, or maybe cynically, as if he ought to have known better: What was he doing on the tracks?

Willson was there to begin his second fast for peace in two years. The first one ended last September after 47 days on the U.S. Capitol steps. The fast that began Tuesday ended with a paramedic's IV on the tracks in Concord, after Willson was hit by a munitions train.

He was planning on going to jail and then going on a water diet for 40 days, "a substantial period of time for reflection," as he had put it earlier. He had not planned on being dismembered by a train. We have an even more substantial period for reflection.

Willson's friend and fellow Vietnam veteran John Skerce took some of the horrific photographs you see in this newspaper. He was there to deliver some film from an earlier trip to Nicaragua, during which he and Willson helped rebuild a village destroyed by the contras. Skerce, a freelancer with experience in Central America and Northern Ireland, shot 2½ rolls at Concord.

"They knew the risks involved," says Skerce of Willson and his two comrades who stood beside him as he knelt on the tracks. "They just had no expectation that they would be removed by a train. They expected that either the Marines or the CHP, with some degree of malevolence, mas o menos, would remove them. He expected to be arrested."

The art of nonviolent protest, as practiced by Willson and his fellow Veterans for Peace, is advanced. Their protests take place with dignity and thought, as Willson and Medal of Honor winner Charles Liteky demonstrated during last year's fast. Furthermore, they always tell the authorities what they plan to do. Last year they gave up everything but water to protest U.S. shipments of arms to the contras. They quit fasting when we took notice. They would have fasted as long as necessary.

On Tuesday, the protesters stood next to a banner with a quote from the Nuremberg Accords, which the U.S. signed at the end of the war with Nazi Germany: "Complicity in the commission of a crime against peace, a war crime or a crime against humanity is a crime under international law." Willson and company believe it. These are serious men who have seen combat and need see no more. On Tuesday they were met by lesser thinkers at the Concord weapons station.

According to photographer John Skerce, a Navy veteran of small boats in Vietnam, there were two men on the front of the train as it accelerated toward Willson, and they were yelling, "Whoo-oo, we're goin' through."

Afterward, a Navy spokesman said the train was going through at 5 mph, and described the two men on the front of the train as "observers." He also said the protesters might have jumped in front of the train at the last minute. Skerce's photographs show the veterans set up on the tracks long enough for speeches and the spelling of the word "Peace" in pebbles between the tracks, while Marines and the Highway Patrol stood by.

A video taken by one of the protesters, and aired on KRON-TV, showed a train accelerating toward Willson. Holly Rauen, Willson's wife, could be glimpsed running alongside, yelling for it to stop, but she fell behind as the train hit what appears to be about 20 mph. The train was coming around a bend, and John Skerce said it was hard to tell if it was accelerating or decelerating. Someone yelled "Jesus Christ!" A second or two later, the sound track of the video records a thump, screams, and the cry from Willson's 14-year-old son Gabriel Ortega, "You killed my father!"

As of this writing, nine hours after he was hit, Willson is still alive. His legs have been amputated, and he is in surgery with serious head injuries. His son Gabriel is traumatized.

What was he doing on the tracks? This is what Brian Willson wrote at the end of a piece in the Santa Cruz Sun last Thursday:

"For those participating in the Nuremberg Actions on the tracks at Concord, Calif., one truth seems clear: Once the train carrying the munitions moves past our human blockade, if it does, other human beings in other parts of the world will be killed and maimed. We are not worth more. They are not worth less. Let us commit to ourselves and the world that we will claim our dignity, self-respect and honor by resisting with our lives and dollars, no matter what it takes, any further policies designed to kill others in our name. This fast, this period of cleansing and deep discernment, will assist us in preparing for this journey of liberation."

Whatever you think of his cause or his methods, you have to admit that Brian Willson was on the tracks because he was serious. You know why he was there, and so did the authorities long before. The question really is: Why did someone aim and launch a loaded train at him?

MORE

(By Rob Morse)

A guy called up Wednesday to criticize my column. I had written about Brian Willson, the protester who was run over by a train at the Concord Naval Weapons Center. The guy said he had learned that you never sit in front of moving trains, as if that was some kind of great insight everyone had missed. I told him that the train wasn't moving. It had sat still for about 15 minutes and then started toward Willson, according to numerous eyewitnesses. The guy on the phone called me a pinko.

That's right. I'm a pinko because I believe our Navy, the folks who were brought to us by John Paul Jones, and now tool around with nuclear-tipped missiles, shouldn't drive trains at a fellow clearly marked with a banner sitting on the railroad tracks. I know normal red-blooded Americans make a point of aiming their cars at people they see sitting in the road. After all, those people should know better than sitting in the road. See where that gets you in court.

What I was really saying in Wednesday's column, in case anyone missed the point, was that what happened out at Concord Tuesday looked an awful lot like attempted murder. God willing, Willson will live. Representatives of the Navy say it was a tragic accident and no one was ordered to run Willson over. Of course not. Someone was probably ordered (or decided on his own) to scare Willson off the tracks, to play chicken with him, but he didn't move fast enough. That's the way it looked Tuesday.

Someone in authority at Concord will pay for this. I'm a Navy kid, and I know if the Navy hates one thing worse than losing a ship, it's a public relations disaster. Willson's group had been out at the weapons station every day, 12 hours a day, since June 12 in a spiritual vigil. We in the press didn't take notice until a two-car train with two government observers on the front took a run at Brian Willson and left him in several pieces. At a press conference after the accident Tuesday, the commander of the weapons station, Capt. Lonnie Cagle, looked sick, the way the man who skippered the ill-fated U.S.S. Stark in the Persian Gulf probably looked when he realized how badly things had gone down on his watch.

Worse yet. There is some question that the Navy may not have been forthcoming with medical aid after Willson was run over. According to several of the protesters, a Navy ambulance arrived within five or 10 minutes after Willson was hit, but the attendants only took his pulse and offered no other help. Maybe that's what lawyers would advise nowadays, I don't know. They refused to take him to the base medical clinic a half-mile away, according to these witnesses. Instead Willson had to wait about 40 minutes (by several estimates) for the county ambulance to arrive and take him to John Muir Hospital 10 miles away.

Photos of the scene show several Marines standing with arms folded while Willson's wife tries to staunch the flow of her husband's blood. She made a tourniquet for his severed leg from part of her dress and held it there until the county ambulance arrived while our military men watched and listened to her pleas.

You don't have to be a pinko to think something went very wrong out ther at Concord. That wasn't my Marine Corps of my Navy.

Brian Willson needs Type O-negative blood. If that is your blood type, contact the nearest Irwin Memorial Blood Bank and mention Willson's name. . . . Willson, who was a full-time peace activist, carried no health insurance. He will need financial help at some point, but his family is not sure how much as yet. More later on this. He is at John Muir Hospital in Walnut Creek.

TRIBUTE TO THE REVEREND DOCTOR WILLIAM P. DIGGS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. TALLON. Mr. Speaker, I rise today to pay tribute to a dynamic leader from my district, a gifted orator, and a compassionate clergyman, the Reverend Doctor William P. Diggs. I am very proud and grateful to count him among my close and trusted friends. This month, Dr. Diggs celebrates his 25th anniversary as pastor of the Trinity Baptist Church in my district in Florence.

Since coming to Florence 25 years ago, Dr. Diggs has made many significant contributions, not only to Trinity, but to the entire Pee Dee community as well, He has worked tirelessly to make life better for all of our citizens.

Dr. Diggs is a native South Carolinian. He is a graduate of Morehouse College. He holds a master of arts in sociology from Atlanta University, a master of divinity from Colgate-Rochester Divinity School and a doctor of ministry degree from McCormick Theological Seminary.

In addition to his earned degrees, Dr. Diggs is the recipient of several honorary degrees from institutions of higher learning across our State. He served as assistant professor of sociology and religion at Friendship, Benedict, and Morris Colleges for nearly 25 years. He is a member of the board of trustees of Friendship College, Morris College and a member of the board of directors of the Morehouse School of Religion.

As you have no doubt discerned, Dr. William P. Diggs is no ordinary citizen. He is well known and highly regarded by theologians, educators, and leaders all across the country. He is an outstanding educator and he has earned the respect and admiration of his fellow clergymen. Dr. Diggs is vice president at-large of the Congress of Christian Education for the Progressive National Baptist Convention and dean of the southern region. He is immediate past moderator of the Pee Dee Baptist Association.

Dr. Diggs has received countless awards and honors for meritorius service. He has shared his insightful wisdom, he has loaned his calm and reasoned voice to settle many a conflict and perhaps most importantly he has kept the faith. We have all benefited from his presence in our community. He has touched the lives of thousands through his religious and civic ministry.

As an elected official, I have often sought Dr. Diggs' guidance. He has been both a spiritual and political adviser. I am grateful for his abiding friendship and wise counsel.

We are indeed fortunate and blessed to have Dr. Diggs in our community. I am reminded of a verse by Josiah Holland which reads—

God give us men!
A time like this demands
Strong minds, great hearts, true faith, and ready hands;
Men whom the lust of office does not kill;
Whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie.

Mr. Speaker, Dr. Diggs embodies all of these characteristics. I rise today to thank him for his 25 years of dedicated and unselfish service to Trinity Baptist Church, the State of South Carolina and indeed the entire Nation.

TRIBUTE TO THE PEOPLE OF TAIWAN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. YATRON. Mr. Speaker, I rise to pay tribute to the people of Taiwan on the occasion of the National Day of the Republic of China. October 10, 1987, marks their 76th National Day.

The story of Taiwan is indeed an incredible one. Over the last several decades Taiwan's free-market economy has been one of the fastest growing in the world. Its estimated per capita GNP of over $3,600 is the fourth highest in East Asia. The people of Taiwan have also established very high standards of health, education, and nutrition.

Clearly, the human progress on Taiwan has been termendous and is a testimony to a hard-working population who have overcome many hardships, imposing obstacles, and, of course, constant security threats, from the Communist Government in Beijing.

In the political realm it is most encouraging that Taiwanese authorities have lifted martial law, although some other important democratic reforms are still pending.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have visited the Republic of China and can attest first hand to the miracle that has occurred. The people of Taiwan should be proud of their outstanding achievements. They can serve as an inspiration to us and to the rest of the world.

Let us use this occasion to recognize their accomplishments and to wish them the very best.

JACK E. SCHULTZ RETIRES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. McEWEN. Mr. Speaker, distinguished colleagues, allow me to take this opportunity to share with you an important date—November 1, 1987—which marks the retirement of Mr. Jack E. Schultz from Fairfax Opportunities Unlimited, Inc. [FOU]. Mr. Schultz, a native of Clermont County, OH, will be returning to his home State after 15 years of dedicated service in the northern Virginia area.

Since 1981 Jack has been an employee at the Environmental Protection Agency's mail services and has also served FOU at the Pentagon Officers Club and their sheltered workshop, "The Op Shop." Mr. Speaker as you may be aware, the northern Virginia based FOU serves the emotionally, mentally, and physically disabled throughout this area employing over 450 people with 215 employees working for various agencies of the Federal Government.

Jack Schultz has proven himself to be a very dedicated, hardworking, and dependable employee. In addition to his fine works for Fairfax Opportunities Unlimited, Jack has been an outstanding member of his community who will be sorely missed.

I wish to use this opportunity to thank Mr. Schultz for his years of service for the Federal Government and to wish him the best of luck in a well-deserved retirement. Ohio—and the Cincinnati Reds—welcome Jack back where he will join his sister, Mrs. Patti N. Schuk, of Batavia.

Good luck, Jack. Best wishes. And many thanks.

THE 225TH ANNIVERSARY OF THE TOWN OF TEMPLETON, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. CONTE. Mr. Speaker, on Saturday of next week the town of Templeton, MA, will celebrate its 225th anniversary. I rise today not only to commemorate this historic occasion, but to share with my colleagues the rich and varied history created by the past and present population of Templeton. The history of Templeton weaves together an ambitious imagination with a respect for tradition. And, I know that many of you will recognize these elements as the heart and soul of the American town.

There are two stories that I would like to share with my colleagues. The first story is about a Templeton man of letters who drafted the first strategy for the use of land grants to endow State universities. Jonathan Baldwin Turner pursued his ideas and produced an American institution, the State university. I also want to share with my colleagues the story of the efforts expended by the people of Templeton to preserve their history and to designate Templeton Common and Baldwinville Village as historic districts.

In May 1850 Mr. Turner unveiled "A Plan for a State University for the Industrial Classes" that called for the endowment of a State university in Illinois from the receipt of public land sales. Working with the State Legislature in Illinois, where he had moved from Templeton to teach at Illinois College, Mr. Turner led the petition drive to the U.S. Congress calling for legislation that would enact his land grant proposal. In 1857 Congressman Justin Morrill of Vermont introduced such a bill, which was signed into law the following year and is not known as the Morrill Act.

I am in debt to Mr. Turner for his initiative and I continue to carry the flag that he stitched. The seeds sown by this Templeton native have blossomed in another town in my congressional district, Amherst, MA. Throughout 29 years in Congress, I have sought every opportunity to help the University of Massachusetts.

Furthermore, Mr. Speaker, the bond between Templeton and the university did not end with the ambitions of Mr. Turner. The first recipient of a Ph.D. from the University of Massachusetts was Templeton native Warren Elmer Hinds. And, as recently as 1962 the university joined Templeton in celebrating the town's 200th anniversary.

Mr. Speaker, it is a tribute to the town of Templeton to have sent forth such a distinguished son. Yet equally impressive to me is the respect and admiration held by the current residents of Templeton for the accomplishments and activities of former residents. In fact, this quality is what makes the 225th aniversary of Templeton so meaningful for both the residents and all those associated with Templeton.

This brings me to my second story, Mr. Speaker. In 1983 Templeton Common was placed on the National Register of Historic Places and in 1986 Baldwinville Village was added to the list. This distinction is the result of effort from the citizens of each of Templeton's four precincts—Baldwinville, Otter River, East Templeton, and Templeton Village. And I can't emphasize enough how important a concerted effort is to the building of a community.

Among many other memorials, monuments have been erected to the Templeton veterans of all four wars fought by American soldiers on foreign soil during this century. Templeton residents have always been appreciative of the experiences of veterans.

But perhaps the most remarkable tribute to the history of Templeton is the preservation of many of the homes and churches in the area. Five of Templeton's eight churches were built in the 19th century and today remain in fine condition. Also impressive is the preservation of the Gilbert House, the Millstone Farm, and the Parsonage of the First Church, to name a few of the more than 25 homes that surround the Common in Templeton. Each of these structures have been preserved because of the tireless commitment to history felt by the people of Templeton. And it is this commitment that earned the distinction from the National Registry of Historic Places.

Mr. Speaker, so often Americans are viewed as people driven by ideas for the future. Because of our Nation's rapid growth through numerous developmental stages, it is often thought that Americans forget about those who have fought the wars and built the homes before them. This is simply not true for the people of Templeton.

I want to take this opportunity to extend my congratulations to the people of Templeton. The occasion of the town's 225th anniversary is a time not only to commemorate the humble and magnanimous achievements of generations past, but to celebrate the wealth of potential and initiative that continues to drive the town. And believe me, Mr. Speaker, there is much to celebrate. Happy birthday, Templeton.

IN HONOR OF THE WOMEN'S DAY COMMITTEE OF ST. GREGORY THE GREAT CHURCH

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MFUME. Mr. Speaker, the Women's Day Committee of St. Gregory the Great Church is celebrating is 15th anniversary this year. This committee is dedicated to serving the Church of St. Gregory the Great, its members, neighbors, and the community and I feel that 15 years of such service is truly an honorable accomplishment.

Each year, the Women's Day Committee has a special women's day celebration to give thanks. This year, there will be a special mass at 11:30 a.m. on Sunday, October 18 1987, and the theme this year is: "Fifteen Years—Working Together for the Glory of God."

The Women's Day Committee is also to be commended for their annual awarding of a scholarship to a high school student of the church who will be entering college.

Baltimore has benefited from the work of this committee and communities across the United States are blessed with organizations that resemble the Women's Day Committee of St. Gregory the Great Church. We should all take a moment to think of the great contribution organizations as such make toward the betterment of mankind.

COMMEMORATING DR. KENNY GUINN AS DISTINGUISHED MAN OF THE YEAR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to a preeminent civic and community leader of southern Nevada, Dr. Kenny Guinn. On Sunday, November 15, the Nate Mack Las Vegas Lodge of B'nai B'rith will honor this exceptional Las Vegan as "Distinguished Man of the Year." He is truly deserving of this recognition.

Kenny Guinn has made extensive contributions to the community of southern Nevada. He has given tirelessly of his time and energy to promote the successful growth of Clark County and its citizens. I consider his friendship and long-time acquaintance a great honor.

During his tenure as superintendent of schools for the Clark County School District, Kenny led the county through a dynamic period of school growth with deftness, superior managerial skills and his characteristic sense of professionalism. As the result of his work, southern Nevadans point with pride to our outstanding school system.

In his current capacity as president of both Nevada Savings and Southwest Gas Corp., Kenny continues his commitment to providing for the finest in the quality of life in Clark County and in all of Nevada. The success of these institutions is evidence not only to the vitality of our community but to the exceptional abilities Kenny Guinn brings with his contributions.

Mr. Speaker, by any standard—be it community service, civic leadership, or professional contributions—Dr. Kenny Guinn represents the finest in southern Nevada's commitment to our greatest of many resources: the men, women and children of our State. I ask my colleagues to join me today in commending Dr. Kenny Guinn for his well-deserved recognition as "Distinguished Man of the Year."

NEW CONTRA AID REQUEST AT ODDS WITH NOBEL PEACE PRIZE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. COLEMAN of Texas. Mr. Speaker, it is ironic that Secretary of State George Shultz should make a renewed request for military aid to the Contras on the same day that Costa Rican President Oscar Arias won the Nobel Peace Prize for his Central American peace plan signed in August.

Building on the breakthrough achieved by the previous plan achieved by President Reagan and Speaker of the House JIM WRIGHT, the Arias peace plan provides a workable framework for peace in Central America. Already we have seen a cease-fire between the Nicaraguan Government forces and the reopening of La Prensa and the Catholic radio station in Managua. This plan represents the beginning of the comprehensive regional solution to the crisis in Central America that we in the Congress and the administration have agreed is vital for a lasting, secure peace.

Will the administration give it the chance it deserves? Good-faith efforts are being made as we speak by the Government of Guatemala and the Guatemalan rebels; between El Salvadoran President Duarte and the El Salvadoran insurgents; and by other important first steps around the region.

The only lack of good faith, unfortunately, is coming from the administration. President Reagan has apparently endorsed the Arias plan, but we need consistency from the White House. Their policy seems more dependent on palace politics than on the needs of this Nation and the region itself.

Mr. Speaker, my colleagues and I support the promise of the Arias peace plan. It is time for the administration to support it, too, and to keep from waffling in response to each new attack on the peace process from the right wing inside and outside the administration.

LET US KEEP THE 1990 CENSUS ACCURATE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. LEVIN of Michigan. Mr. Speaker, as 1990 approaches, we look forward to yet another 200th celebration, the bicentennial of our census. However, if the Office of Management and Budget has its way and eliminates more than two dozen vitally important census questions relating to housing, energy and other essential programs, 1990 will not be a time to salute our progress. We will instead find ourselves lamenting a missed opportunity.

OMB says, "the 1990 census must meet a high standard for both quality and utility." I heartily agree, but how is this to be achieved if OMB backs away from several census areas which require accurate information? By eliminating these questions which provide crucial information for federally aided programs, OMB is being penny wise and pound foolish. It is difficult for Congress and local government to make delicately balanced decisions concerning spending priorities if we are forced to use data which are decades old, or nonexistent.

It seems as though OMB is again caught up in games of reducing costs, while ignoring the entire issue of cost-effectiveness. Accurate information is something on which we cannot compromise.

IRAN: CONTAINING THE ZEALOTS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1987

Mr. MAVROULES. Mr. Speaker, LES ASPIN gave a very important speech on the Persian Gulf yesterday to the National Women's Democratic Club. I would like to submit the entire text of the speech for the benefit of my colleagues who have a keen interest in this issue.

The speech follows:

IRAN: CONTAINING THE ZEALOTS

(By Les Aspin)

This is a town with a propensity for football metaphors. But sometimes we need to think chess. That's true when it comes to the Persian Gulf, for example. I'm afraid our Persian Gulf policy is suffering because of that propensity to think in football terms: pick a play; try it; see how far you get; then decide what you'll do on the next down. In chess, on the other hand, you need to think several moves ahead at a time. We aren't doing that.

My criticism is aimed at both the Congress and the executive branch.

Let's look first at Congress. Most of the talk there centers on invoking the War Powers Resolution. That is important—and harmful.

It's important because Congress has a role to play in formulating foreign policy. The Constitution says the Congress has the power to declare war. But what we have seen develop, especially since World War II, is a presidential policy of committing troops to combat under the commander-in-chief clause. It is important that we resolve this constitutional dispute.

The War Powers Resolution, enacted over President Nixon's veto in 1973, was an effort to do so. The War Powers Resolution tells the President to report to Congress within 48 hours after American forces are "introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." Congress then has 60 days in which to approve the use of those forces. If Congress does nothing, the President must terminate the action. Presidents have noticed that only a presidential report starts the 60-day clock ticking. So, Presidents have thwarted the War Powers Resolution by simply failing to send War Powers reports to Congress.

Congress periodically debates what to do about this. The Senate has been debating War Powers and the Persian Gulf for about three weeks now. Regrettably, these Persian Gulf debates pose a danger for our own interests. There are three problems with what the Senate is doing.

First, the War Powers debate undermines our foreign policy interests in the Persian Gulf and endangers American lives by signaling to Iran that we are a nation divided. We in Congress all know that if a vote were held today, neither the Senate nor the House would pull our forces out of the Gulf. But Iran appears not to understand that. Iran believes—and its officials have publicly stated—that we are a divided and fragmented society. Iranian officials think they can force us out of the Gulf. Their view of history holds that they drove us out of Lebanon by killing 241 Marines. The various proposals that we see in the Senate for invoking War Powers all drag out the process before there is any vote on substance. The Senate is now debating whether to vote to set up a vote on the Persian Gulf 90 days from now—which will take us into next year. During that time, Iran will be doing its level best to influence the policy vote by terrorist acts. The entire process encourages what we are seeking to discourage.

The second problem is that resolutions such as the Senate has been working on are hard to word. If you write in restrictions on the use of troops, you are giving the Iranians a road map to maneuver around our forces. If you impose no restrictions at all, then you offer up a form of Gulf of Tonkin resolution. Such open-ended resolutions are like giving the White House a license to do whatever it chooses. It is this inherent contradiction that makes it so difficult to pass any resolution. Right now, I do not believe there are enough votes in the House to pass any of these resolutions.

This is a real quagmire. The Congress obviously should not ignore a major issue even though the image of fractiousness hurts our interests. Yet, the Congress can't put together a majority for any legislation it drafts. There is a way out of this morass, however. The President ought to be less concerned with turf and more concerned with policy. The President ought to comply with the War Powers Resolution by sending the requisite message to Congress that mandates a vote. Let me explain how this changes the legislative lay of the land.

Faced with a menu of potential alternatives to the status quo, as we are now, Congress will reject them all. But under the War Powers Resolution, Congress cannot fall silent and accept the status quo. Under War Powers, if Congress doesn't *endorse* the deployment of forces, those forces must be withdrawn. Faced with the requirement for choice, Congress will vote overwhelmingly to keep U.S. forces in the Gulf. And because such a vote is ordered by another piece of legislation, namely the War Powers Resolution, there would be no implication that Congress was volunteering an open-ended license for the Administration to do as it chooses.

Such a vote would strengthen the President's hand immensely. Allies who doubt he has political support would be comforted. Adversaries who think he is out on a limb would be disabused. And we would get that issue behind us. If the President does not comply with War Powers, we should look to the court case that the Democratic Study Group had initiated. I hope the House will not try to emulate the Senate by writing legislation.

The third problem with the current Senate tack is that the various proposals—and what policy debates there are—focus on the reflagging and escorting policy in the Persian Gulf. The debate doesn't really get Congress into the larger question of U.S. policy in the region. And that, of course, is the real problem. We have no policy in the Gulf.

Look at how we got into escorting. We didn't sit down, inventory our goals and capabilities, and then devise a policy. We simply reacted to the priorities of others. The Kuwaitis asked us to reflag. The Administration did not act for more than two months. Then the Russians announced they would send escorted tankers to Kuwait. Within days we decided reflagging was essential. But the Soviets were not the Administration's only concern. The Administration was also concerned about its credibility—justifiably so—in the wake of the Iran-Contra scandal. It wanted to show the Arabs we weren't siding with Iran; escorting reflagged Kuwaiti tankers was one way to do that. So we got ourselves a Persian Gulf policy because of the Russians and Ollie North. Throughout, our policy was reactive; we were responding to events and the actions of others.

So, we are in the Persian Gulf. But our purpose for being there is not well articulated. Is it to protect the free flow of oil? Then why are we only escorting 11 tankers when hundreds ply the waters of the Gulf. Are we there to protect freedom of navigation? How are we doing that when more ships have been hit by the two belligerents in the last two months than in any similar period in the war. The public comprehends that the Persian Gulf, unlike Lebanon, is important to American interests because of the oil volume there. But the public also perceives that there is a disconnect between American interests and current policy.

What we face now is a dangerously unstable political situation. The Iranian attacks have so far cost no American lives. They have instead justified retaliatory attacks that have been efficiently handled by the Navy, and that have a feel-good impact home. We can only hope the Navy will continue to handle these attacks as well as it has to date. But what happens when and if these attacks begin costing American lives—just a few at a time perhaps, but repeatedly. If Iran starts hitting Americans with regularity, the American public, out of frustration, will likely react in one of two ways: as after Pearl Harbor; or as after Tet. The temptation will be to escalate, or pull out. One hopes neither happens, but the possibility makes the situation politically unstable.

So, what should we do?

First, we should lower our profile and hunker down for an extended stay. The heavy American presence in the region causes as many problems as it solves. It waves a red flag in front of the Iranian radicals. It makes the issue into an Iran-versus-America confrontation when in fact Iran is challenging most of the world, not just us. When there is a lull, we should reduce our presence. And we should let Iran know that's what we'll do. That gives Iran a motivation for turning down the violence. Most immediately, we should avoid adding to our profile. The battleship Missouri is in the Indian Ocean and there are thoughts of moving it dramatically into the Persian Gulf. Its presence would be dramatic—but also inflammatory. We should keep the Missouri out of the Gulf. Fortunately, five of our allies have joined us in the Gulf. The more visible their activities compared to ours, the better it would be.

Second, and more importantly, we need to work toward a plan to end the escorting and reflagging on our timetable and on our terms. Right now, according to the State Department, we are there for the duration of the Iran-Iraq war. That's a pretty imprecise calendar. The public needs a clearer idea about the time and the terms under which our escort service will end. Without that, it will be very hard to sustain public support if the going gets tough.

So, how do we bring the reflagging and escorting to a conclusion?

One way, as the State Department has noted, is to end the Iran-Iraq war. That is what's behind the ongoing efforts in the UN and the assorted resolutions there. Those efforts are important, but we cannot count on their success. Hatreds run deep in the Middle East, and the Iran-Iraq War could make the Hundred Years War look like a skirmish.

Two other policies come to mind—a short-term one we cannot control; and a long-term one that is beyond Iran's ability to effect.

The first is a policy of announcing an end to the reflagging and escorting once a ceasefire—formal or informal—takes hold. There is talk in the United Nations of accepting an Iranian proposal to go to an informal, unannounced, but nonetheless real ceasefire for a period of time. There will be a temptation for this Administration to keep up the escort service because of doubts the informal ceasefire will hold. Instead, we should end the escort service as soon as the ceasefire takes hold.

The ceasefire might collapse, however. We should go back in—but we should reenter the Gulf the way we should have entered it in the first place last spring—as part of a multinational operation. We should begin now talking with the Europeans and others about forming such a force to protect nonbelligerent shipping—not just 11 tankers—in the event the ceasefire fails.

Of course, there may never be a ceasefire. We need a policy for ending the reflagging and escorting even if the war continues. One answer is pipelines. If pipelines are carrying the oil to points outside the Persian Gulf, there will be no need to escort tankers. Iraq has already eliminated its dependence on tankers by building a series of pipelines. Other pipelines already can take about one-third of the oil produced in the Gulf by non-bellingerents. Another three pipelines could carry out almost all the rest. It would take money and time. But it can be done. And we should have been moving in this direction long ago.

These are only three suggestions. Others can no doubt come up with more. The point is that we need a policy that guides us visibly toward the end of the Persian Gulf escort service if the public is to be expected to continue supporting the effort—especially if we are going to see Iranian attacks that take American lives, a development we must plan for even while praying against.

There is yet another issue to ponder. Once the escorting ends, American interest in the Persian Gulf is likely to fade. We would return to that era when stories about the region were used as filler in the newspapers. That's just what the Gulf Arabs fear—that we will go away, leaving them with few defenses and a vicious snake rattling around in their backyard. Iran will not go away, and the Persian Gulf is too important for us to ignore.

We need to step back from the narrow issue of reflagging and escorting. We need to ask ourselves a very basic and fundamental question—*the* basic and fundamental question. Just what is the core problem in the Persian Gulf region?

The problem is not the 11 tankers the administration got hung on this spring—certainly not when there are hundreds of tankers plying the Gulf and Iran busies itself shooting at the many that aren't escorted rather than the few that are.

The problem is not simply endangered oil supplies—although we obviously have a major national interest in seeing that oil supplies are not interrupted.

The problem isn't even the ongoing Iran-Iraq war. The war isn't our problem. It is the result of our problem.

The problem is: Iran and its revolutionary messianism.

Iran wishes to give the entire world the benefits of its revolution—even if the rest of the world isn't interested in receiving those benefits. This is neither novel nor surprising. Revolutions tend to be messianic. Revolutionaries tend to think they have the true word. That was true after the French revolution, the Russian revolution, the Egyptian revolution, the Cuban revolution. European writers of 200 years ago said it was the problem with the American revolutionaries. Fortunately, we did not try to impose our revolution on Europe by force and subversion, only by way of example. But most revolutionaries start out using force and subversion to proselytize others.

The danger of the Iranian revolution is its focus on destabilizing the Islamic world in general and the neighboring Arab states in particular. In Bahrain, a majority is Shiite, as in Iran. In Kuwait, Iraq and Lebanon, there are large Shiite minorities. But those aren't the only areas of concern. Throughout the Islamic world, there are disaffected minorities looking for a cause and a charismatic leader that they have lacked since the passing of Nasser and Nasserism. Tehran is nursing these people with a philosophy that says America is the source of all that ails them and an Islamic revolution is the scourge that will cure them.

The world now faces three alternatives with regard to Iran's revolutionary messianism:

We can ignore it—but that is really no choice since Iran forces itself upon us.

We can suppress it—but that's a gross overreaction that would require an invasion and risk a major bloodletting.

We can contain it. And that is the strategy we should follow for dealing with the Islamic Republic of Iran. Containment can't work for centuries, but it can work for years. And that is what we need. It is in the nature of revolutions that they mellow with time. Iran's revolution may prove to be the exception, but I doubt it. Eventually, revolutionary fervor wears thin. Iran's economy is in a shambles. But the revolution's supporters are still riding an emotional wave. In time, they will come down off that emotional high and start expressing narrower interests—jobs, health care, housing. The Iranian revolution will likely follow the path of other revolutions and focus inward. We need a strategy to carry us from the era of messianism to the era of mellowness—hopefully a strategy that will help speed that process.

Our strategy, therefore, should be containment. The challenge is two-fold: to mobilize the world behind such a strategy; and to convince Iran that the world is not about to allow the Iranians to export their revolution by force or subversion.

This must be a world effort, not merely an American effort. Right now Iran thinks that we are the only serious power impeding its progress. We must disabuse Iran of that. Any number of medium sized countries could quietly tell Iran in diplomatic approaches that they are unhappy with Iranian policies and would feel pushed toward joining an oil embargo against Iran if its policies did not change. If all Iran sees as its enemy is the United States, a major but very distant power, it will feel—as it feels today—that it can simply outwait us because we lack the interest and patience to see it through.

Now this means we face a difficult decision—because a true worldwide effort by definition includes the Soviet Union. This is not going to be easy to accept. Afterall, it was to counter the Soviets that we started reflagging in the first place. But the Administration policy of shunning the Soviets simply encourages them to play the spoiler role and make life tougher for us. And it gives Tehran the opportunity to play one superpower off against the other. If we are going to contain Iran, we have to do it with the Soviets—they are simply too important, too large, and too close to Iran to exclude.

The most common argument against our joining with the Russians is that they will thereby gain influence and permanent bases in the region. But the Gulf Arab countries, which only recently achieved independence, are unlikely to be interested in compromising their independence for Moscow's benefit. It is ironic to pick up a newspaper and see one article that complains the Arabs are so sensitive about their sovereignty that they won't give enough help to our Navy's efforts on their behalf, and then see another article that suggests that if we allow the Soviet Navy in the Gulf, those same capitalist, conservative, and religious Arabs would gladly hand the Russians bases.

While it is essential to include the Soviets to make containment work, they are not a special player in the Gulf. I fear some analysts too readily credit Moscow with a uniquely strong position. It is now conventional wisdom that we occupy a powerful position in the Arab-Israeli dispute because only we—of the two superpowers—can talk to both sides, and that Moscow occupies a powerful position in the Iran-Iraq dispute because only Moscow can talk to both sides. This is a mis-reading. We enjoy a unique position in the Arab-Israeli conflict because the Arabs know that only Washington can pressure Israel to make concessions. They know Israel is dependent on us for arms, money and sustenance. Moscow has no such leverage. In the Iran-Iraq dispute, Moscow can talk to both sides, but it can't threaten to cut Iran off from major arms supplies or foreign aid. In fact, Moscow wants more from Iran than vice versa. Moscow wants cheap natural gas from Iran, and it wants Iran to promise not to proselytize among Soviet Moslems. We have no leverage over Iran. But neither does Moscow.

So, for long-range policy objectives in the Gulf, we need to face up to the necessity of bringing the Soviets in—not as a special player, but as one in a group of players. At some point we need to test Gorbachev's willingness to be a contributor rather than a spoiler in this world. Why not try it with Iranian policy? We gain if he does contribute. And if he fails to produce on his promises, we also gain by virtue of demonstrating that.

World unity is essential to containing Iran. Keeping unity will be difficult and frustrating. We lose something by coordinating with other countries—not just the

Soviets, but the Chinese and the French and Germans, et cetera. We lose simplicity and flexibility. When a policy is made by an alliance, you can't shift tactics rapidly. You have to water down positions to keep the most reticent members on board. You have to invest a lot of time in diplomatic contacts. It's not easy. It can be frustrating. But in the end, the whole is greater than the sum of the parts. Unity has a value in and of itself because it multiplies our ability to influence events.

Ironically, with considerable help from Iran, we are actually beginning to move down this track. Last spring when we sought to convince two or three countries to join us in the Gulf, we got a frigid response. Then the Iranians began attacks on ships from those countries. Now five countries have joined us in the Gulf, far more than we even sought in the first place. We need to build on this to frame a group effort at containing Iran, not just the Persian Gulf aspects of Iran's foreign policies.

Mobilizing world opinion is just the first principle of containment. Convincing Iran that the world will not tolerate the violent export of its revolution comes next. That will require a carrot and stick approach.

The stick includes—but is not limited to—the threat of the use of force.

For Americans, the use of force is always politically difficult. But force serves a role in international relations, and a little force used early can often obviate the need for a lot of force later on. The trick is to apply the appropriate amount of force at the appropriate time. The tactic of imposing force at the point of the crime—as with the minelaying ships and last week's speedboat attacks—is a rational use of force. Bombing cities is a bad idea. Bombing will make the radical enthusiasts—the zealots—even more zealous. Feeding their zealotry is playing to the most radical faction within the Iranian regime, which is hardly in our interest. A discriminating use of force is an important part of a containment strategy. Indiscriminate use of force just creates more martyrs for their cause.

But force is not the only stick we have available. An arms embargo is another stick. The world, however, must clearly understand that we must be prepared not only to vote for an embargo in the UN but to enforce one as well. We need to raise the pressure on Iran's ability to import arms progressively. We started unilaterally with Operation Staunch, the effort to reduce the flow of arms to Iran. Now we are looking at a UN-imposed embargo. But the embargo will leak, perhaps seriously. So, next, under that embargo, could come ship inspections to block arms from reaching Iran's ports. Iran will still be able to make some arms—perhaps enough to keep the war going. So, in the end, the world might need to blockade Iran's oil export terminals, shutting off 95 percent of her export earnings.

This means we should be looking at two kinds of sticks. One strikes at those military capabilities that are used against us. The other threatens Iran's economic jugular. Iran knows its vulnerabilities. It knows that it exports 100 percent of its oil from only two terminals. If those two terminals are blockaded or mined, she will not be able to pay for imports of food, medicine and consumer goods, not to mention armaments. We should not resort to such brutalizing pressure now. But Iran must know that its provocations, if continued indefinitely, are driving the world in that direction.

But a stick is not enough. If all you do is proffer the stick, but give the Iranians no honorable way out, then you will find that you have to use a very big stick indeed. There must be a carrot as well. The Iranians need to be able to show something positive.

Not every country has its navy in the Persian Gulf. Germany doesn't, for example, and its foreign minister, Hans-Dietrich Genscher, appears to be trusted in Tehran. A primary goal of the diplomats like Germany's foreign minister and the UN secretary general—people who can and do talk with Iran—ought to be a hunt for ideas, policies, and fig leaves that would make it easier for Iran to alter its policies and save face.

The fig leaf that the world is concentrating on today is a tribunal that would ascertain who is responsible for starting the Iran-Iraq war. That has been an Iranian demand for years. However, it is unlikely such a tribunal will bring the result Iran wants. Any international tribunal is bound to split blame, finding that Iraq crossed the border first—but only after months of Iranian provocations, including subversion and border shelling.

Where does this lead us? Iran faces two choices. It can export its revolution by force and subversion, thereby confronting the world. Or it can export its revolution by way of example. With the set of principles I have outlined, we have the opportunity to induce Iran to shift from force to example.

The alternatives are clear.

We can withdraw—demoralizing the Gulf Arabs and signaling Iran that she is free to export her revolution without our interference.

We can pursue the present policy—one that deals only with a single aspect of the problem, one that mobilizes a limited part of the world's resources, and one that therefore encourages Iran to cause us yet more grief.

Or we can address the full problem—mobilize the efforts of other countries and confront Iran solidly so she will see she cannot profit by force and subversion.

The whole world will be the better for it.

EXAMPLES OF IRANIAN PERCEPTIONS OF THE UNITED STATES

Ali Akbar Hashemi Rafsanjani, speaker of the Iranian parliament: The Russians have a centralized policy and can make decisions they consider advisable. However, this is not true in the United States. The American leadership is antithetical and fragmented. The conflicts and differences in America—such conflicts exist in other countries as well, such as France—prevent them from making decisions they deem advisable. Rivalries create difficulties. This is what is happening in America.

Ali Khamenehi, president of the Islamic Republic, speaking at a news conference in New York last month: Any incident that might resemble another Vietnam will be considered by public opinion in the United States as a very hard, bitter and unacceptable development. Today it is us who receive the dead bodies of our sons. But if, God forbid, the day comes when your government is receiving the dead bodies of American people and delivering them to the people of the United States, the people will say to your government, "It was you who initiated this. Why did you start it?"

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 15, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 16

9:30 a.m.

Armed Services

Business meeting, to hear and consider the nomination of Stephen M. Duncan, of Colorado, to be Assistant Secretary of Defense for Reserve Affairs.

SR-222

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on product substitution by Department of Defense contractors.

SD-342

10:00 a.m.

Energy and Natural Resources

Minerals Resources Development and Production Subcommittee

To hold oversight hearings to review the processing of oil shale mining claims and patents by the Department of the Interior under the Mining Law of 1892.

SD-366

2:30 p.m.

Appropriations

Business meeting, to mark up H.R. 2906, appropriating funds for fiscal year 1988 for military construction programs of the Department of Defense, and proposed legislation appropriating funds for fiscal year 1988 for the Department of Agriculture, rural development, and certain related agencies.

SD-192

OCTOBER 19

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To resume hearings on the effect of current tax laws on American competitiveness.

SD-215

OCTOBER 20

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad line sales.
SR-253

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on the Nuclear Regulatory Commission's regulatory interface with the industry.
SD-406

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
Technology and the Law Subcommittee
To hold joint hearings on S. 438, to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property.
SD-226

2:00 p.m.

Armed Services
Conventional Forces and Alliance Defense Subcommittee
To resume hearings on the military balance in Europe.
SR-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 2629, to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska, S. 1335, to establish the City of Rocks National Reserve in Idaho, S. 1675, to provide for the establishment of the Hagerman Fossil Beds National Monument in Idaho, and H.R. 2566, to extend the term of the Delta Region Preservation Commission.
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

3:00 p.m.

Conferees
On S. 825, authorizing funds for fiscal years 1988 and 1989 for housing and community development programs.
2128 Rayburn Building

OCTOBER 21

9:00 a.m.

Rules and Administration
To hold hearings on the feasibility of providing captioning for the hearing impaired of television broadcasts from the Senate Chamber; and to hold a business meeting, to consider pending administrative business.
SR-301

Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), and S. 795, San Luis Rey Indian Water Rights Settlement Act.
SR-485

9:30 a.m.

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on government handling of Soviet and communist bloc defectors.
SD-342

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on competition in the pharmaceutical drug industry.
SD-226

10:00 a.m.

Environment and Public Works
Water Resources, Transportation and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

Foreign Relations
To hold hearings on the nominations of William C. Harrop, of New Jersey, to be Ambassador to the Republic of Zaire, James B. Moran, of Virginia, to be Ambassador to the Republic of Seychelles, Robert M. Pringle, of Virginia, to be Ambassador to the Republic of Mali, and David H. Shinn, of Washington, to be Ambassador to Burkina Faso.
SD-419

OCTOBER 22

9:30 a.m.

Energy and Natural Resources
To resume hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

Foreign Relations
African Affairs Subcommittee
To hold hearings to review U.S. policy toward South Africa.
SD-419

10:00 a.m.

Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
To hold joint hearings with the House Committee on Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition to review the quality control and fiscal sanctions system in the food stamp program.
1300 Longworth Building

Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 675, authorizing funds for fiscal years 1988 through 1992 for programs of the Endangered Species Act, and other pending subcommittee calendar business.
SD-406

Judiciary
To hold hearings to review new Federal sentencing guidelines and proposals to delay implementing the guidelines.
SD-226

OCTOBER 23

10:00 a.m.

Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings on S. 1426, to provide tax incentives to small businesses who want to establish pension plans.
SD-215

Judiciary
Immigration and Refugee Affairs Subcommittee
To hold hearings on S. 1611, to effect changes in the numerical limitation and preference system for the admission of immigrants.
SD-226

OCTOBER 27

9:00 a.m.

Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.

Joint Economic
Education and Health Subcommittee
To resume hearings on the competitiveness and quality of the American work force.
2359 Rayburn Building

10:00 a.m.

Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

2:00 p.m.

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.
SD-406

OCTOBER 28

9:00 a.m.

Select on Indian Affairs
To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.
SD-562

2:00 p.m.

Commerce, Science, and Transportation
To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.
SR-253

OCTOBER 29

9:30 a.m.

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on S. 14, S. 100, S. 1769, and S. 1770, bills to reorganize the functions of the Nuclear Regulatory Commission and to establish an office of Inspector General in the NRC.
SD-406

NOVEMBER 3

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest, Alaska.
SD-366

NOVEMBER 4

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the implementation of the Kamehameha School/Bishop Estate Kamehameha Elementary Education Program at Rough Rock, Arizona.
SR-485

10:00 a.m.
*Commerce, Science, and Transportation
To resume hearings on safety and re-regulation of the airline industry.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

NOVEMBER 5

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.
SR-253

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To resume hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation of the Tongass National Forest, Alaska.
SD-366

*Select on Indian Affairs
To hold oversight hearings on the implementation of Title IV, Part C of the Omnibus Drug Act (P.L. 99-570).
SR-485

NOVEMBER 10

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 12

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

2:00 p.m.
*Select on Indian Affairs
To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.
SR-485

NOVEMBER 16

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.
SR-301

NOVEMBER 18

10:00 a.m.
*Commerce, Science, and Transportation
To resume hearings on safety and re-regulation of the airline industry.
SR-253

NOVEMBER 19

2:00 p.m.
*Select on Indian Affairs
To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations, and on proposed legislation to implement the report recommendations.
SR-485

NOVEMBER 24

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.
SR-485

DECEMBER 2

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. Con. Res. 76, to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.
SR-485

DECEMBER 3

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1321, to declare that the United States holds certain lands in trust for the Camp Verde Yavapai-Apache Indian Community.
SR-485

HOUSE OF REPRESENTATIVES—*Thursday, October 15, 1987*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, may we lift our eyes from all the distractions that are about us to see the common heritage that makes us one people. As You have given each of us our lives, may we sense the unity that You have already given, and so may we live our lives in the confidence of Your daily blessings. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. KYL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. KYL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 110, answered "present" 2, not voting 29, as follows:

[Roll No. 355]

YEAS—292

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Atkins
AuCoin
Baker
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lungren
MacKay
Madigan
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Patterson
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Saxton
Schneider
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—110

Armey
Badham
Ballenger
Barnard
Barton
Bentley
Bilirakis
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clay
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DioGuardi
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hansen
Hastert
Henry
Herger
Hiler
Holloway
Hopkins
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lukens, Donald
Mack
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Morella
Nielson
Parris
Pashayan
Penny
Pursell
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Schaefer
Schroeder
Schuette
Sensenbrenner
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stump
Sundquist
Swindall
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—2

Applegate
McGrath

NOT VOTING—29

Aspin
Biaggi
Bliley
Dellums
Dickinson
Downey
Edwards (OK)
Frank
Gephardt
Gray (IL)
Gray (PA)
Green
Hunter
Kemp
Kolter
Leland
Livingston
Mavroules
Neal
Nichols
Oakar
Pepper
Porter
Roemer
Sawyer
Scheuer
Tauzin
Walgren
Williams

☐ 1115

Mr. BOEHLERT changed his vote from "yea" to "nay."

Mr. CLARKE changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill and concurrent resolution of the following title, in which the concurrence of the House is requested:

S. 1783. An act to extend certain protections under title 11 of the United States Code, the Bankruptcy Code;

S. Con. Res. 83. Concurrent resolution to congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for the balance of today and next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL], the distinguished Republican leader, for yielding.

We are returning to the consideration today of the risk notification bill, but it is the intention of the bill manager to move to rise at 3 p.m. this afternoon, and there will be no rollcall votes after that.

I have to say, Mr. Speaker, that we are, in attempting to accommodate the Members on no Friday sessions, running into an increasing problem with early private adjournments on Thursday.

If I may repeat that, we are attempting to accommodate the Members by not scheduling Friday sessions; but a problem that is arising is that more and more Members are seeking early departure on Thursdays.

I should serve notice that one of the ways to accommodate this problem is to begin to schedule Friday sessions. That will then allow the Members to work at least 3 days a week on floor issues, and in a very serious vein, because it is necessary for us to maintain progress in committees and on conferences, the departure of Members on Thursdays is becoming a problem.

I will say in advance that we do not intend to schedule a Friday session next week; but after that, I think Members may be unwise to assume that there will be further absence of scheduling on Friday, unless we can accommodate a full schedule on Thursday.

With that in mind, Mr. Speaker, we will meet at noon on Monday, and we will be considering suspensions on Monday.

They are House Concurrent Resolution 199 regarding the Soviet missile firings over Hawaii;

H.R. 3428, to authorize the release of the U.S. Information Agency film "America the Way I See It" in the United States.

Members will recall that the law requires that USIA films only be shown in the United States with the consent and statutory authority.

House Resolution 141, calling for the immediate release of all children detained under state of emergency regulations in South Africa;

House Concurrent Resolution 200, to congratulate and commend President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize;

H.R. 3283, to allow the transfer of the submarine U.S.S. *Turbot* to Dade County, FL;

H.R. 3140, to require standards for inventory accounting systems used by DOD contractors; and

H.R. 2873, to prohibit DOD from entering into overseas contracts that allow payment of severance pay greater than the typical rate for severance pay in the United States.

On Tuesday, October 20, the House will meet at noon and consider first, and let me repeat that. Members may wish to give their attention to this. On Tuesday, the 20th of October, we will begin immediately, immediately with any votes ordered on suspensions voted on Tuesday.

Members should assume on Tuesday next week there will be immediate voting after the House convenes at noon. There is no grace period of time on Tuesday for votes.

Following that, we will have a motion to go to conference on the Department of Defense authorization bill which, as Members will recall, requires a vote to close that conference, and a rollcall vote.

□ 1130

Following that, we will resume consideration of the risk notification bill, and again I invite the Members to pay attention to this announcement.

We will expect to go Tuesday past 10 p.m. if necessary to complete the bill. We will complete the bill on Tuesday if it requires a midnight session, so there will be a completion of this bill on Tuesday.

Members should assume, because it is clear we are not going to finish the bill today, that there will be a late session on Tuesday night. We will be in Tuesday night next with votes, and that will be on the television.

Wednesday and the balance of the week: On Wednesday, H.R. 2939, the Independent Counsel Amendments Act of 1987, with an open rule and 1 hour of debate; and S. 640, the Water and Power Authorization Act of 1987 with an open rule, 1 hour of debate.

I repeat again, we do not expect a session on Friday next, but if the problem of Thursday persists, we may have to revise that general pattern of no votes on Friday.

Mr. MICHEL. Mr. Speaker, might I also make the observation to the gentleman from Washington [Mr. FOLEY] that aside from the mandatory vote to close the conference, we will probably have a motion to instruct on the DOD authorization bill, too. The gentleman made reference to the fact that we would have immediate rollcalls on the suspensions carried over, so there will probably be several other votes then, too, obviously, on that date.

Might I inquire, I see the distinguished chairman of the Appropriations Committee on the floor, I do not see reconciliation scheduled. I am not complaining about that. My view has been all along that we ought to be finalizing more appropriation bills to give us a better handle on the expenditure side before we move to reconciliation.

We have the defense foreign aid and agriculture bills that have not passed this House, but will we go to conference on those? I understand the other body has moved on this.

Mr. FOLEY. It is the intention of the gentleman I think today to move to go to conference on several appropriation bills, four to be precise.

Mr. MICHEL. Are those requests coming now, is that what follows on here?

Mr. FOLEY. That is correct, immediately following.

Mr. MICHEL. Might I inquire of the distinguished chairman if he expects to see some finalized action on conference reports on appropriation bills?

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, on the four bills that have passed both Houses, we expect to appoint conferees today.

May I say, otherwise, the House bills have been ready for many weeks. We are waiting on the Senate to act and as fast as we can, we are appointing conferees to go to conference.

I do not see how we can vote on each individual bill as long as we have to keep all the bills within the limits of the Budget Act, so we have some problems, but we are proceeding up to the point where we can see where we are compared to the committee and subcommittee allocations. The delay has not been occasioned by our side.

Mr. MICHEL. Might I inquire of the distinguished chairman, notwithstanding the lean schedule that we have for all the Members, will the members of the gentleman's committee and conferees be in town long enough to really get some serious work done on conference reports?

Mr. WHITTEN. May I say, if the other body goes home, there is not much we can do here, but we will be available anytime to work.

Mr. MICHEL. Well, I appreciate that. It is my understanding that we are far ahead of the other body, and if they are going home when they have so much more work stacked up, it would seem to me that we ought to begin coming to grips with finalizing individual appropriation bills. That makes reconciliation, in my judgment, much easier for eventual resolution and I would think that is what we are aiming for, hopefully.

Mr. FOLEY. At the present time, Mr. Speaker, if the gentleman will yield further, we are anticipating that the reconciliation bill will be on the floor on October 27.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York. I know the gentleman had a measure on suspension earlier.

Mr. SOLOMON. Mr. Speaker, I thank the minority leader, and if I could just pose a question to the majority leader. On the schedule of the gentleman from California [Mr. Coelho] is a resolution which I introduced, which passed the Foreign Affairs Committee unanimously yesterday. It is an extremely timely resolution in lieu of what the Soviet panel said last night on Capitol to Capitol, when posed the question that there are no human rights abuses in the Soviet Union or in Afghanistan or in any of their client states. We know what is happening with booby trapped toys being dropped by Soviet airplanes maybe in killing women and children. I would like to see this resolution on the calendar. It is important. Some of these other things are totally innocuous. Could the majority leader tell us why it was pulled?

Mr. FOLEY. Mr. Speaker, I will tell the gentleman the reason they are not on the calendar is because it is difficult for the bill manager to be present on Monday and we are putting them off 1 week. It has nothing to do with the substance of the matter at all.

Mr. SOLOMON. Mr. Speaker, that is a good explanation. I accept it, and I thank the minority leader.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY, OCTOBER 19, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2712, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1988

Mr. YATES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2712) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Yates, Murtha, Dicks, Boland, AuCoin, Bevill, Whitten, Regula, McDade, Lowery of California, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 2907, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1988

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2907) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. Roybal, Akaka, Hoyer, Coleman of Texas, Boland, Yates, Whitten, Skeen, Lowery of California, Wolf, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 2713, DISTRICT OF COLUMBIA APPROPRIATION, 1988

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2713) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none and appoints the following conferees: Messrs. Dixon, Natcher, Stokes, Sabo, AuCoin, Hoyer, Whitten, Coughlin, Green, Regula, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 2714, LEGISLATIVE BRANCH APPROPRIATIONS, 1988

Mr. FAZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2714) making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. Fazio, Obey, Alexander, Murtha, Traxler, Mrs. Boggs, Messrs. Whitten, Lewis of California, Conte, Myers of Indiana, and Porter.

APPOINTMENT OF CONFEREES ON S. 677, FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1987

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 677) to amend the Federal Trade Commission Act to provide authorization of appropriations and for other purposes, with a House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees:

From the Committee on Energy and Commerce, for consideration of the Senate bill and House amendments, and modifications committed to conference: Messrs. Dingell, Thomas A. Luken, Florio, Lent, and Whittaker.

From the Committee on Rules, for consideration of section 13 of the Senate bill and modifications committed to conference: Messrs. Pepper, Moakley, Derrick, Beilenson, Frost, Quillen, and Taylor.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO MEET TODAY DURING THE 5-MINUTE RULE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be allowed to meet for the balance of today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Reserving the right to object, Mr. Speaker, I do this for the purpose of inquiring under the reservation when the gentleman from Texas intends to meet. It is now 11:45. I wondered if the gentleman was intending to meet immediately or to meet this afternoon?

Mr. de la GARZA. Mr. Speaker, if the gentleman will yield, it had been our intention to meet this morning, but the distinguished guest that we had made us change our schedule. I doubt that we would meet at this point, so probably it would be better to reschedule it for 1:30 this afternoon.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that pursuant to an agreement earlier entered into, it is the purpose of the Chair to recognize 5 Members on each side, a total of 10 Members, for 1-minute speeches at this time. Any additional 1-minute speeches or requests to address the House will await the completion of the business of the day.

TO GOVERN IS TO CHOOSE

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, supporters of the Persian Gulf reflagging operation oppose invoking the War Powers Act, saying it would "undermine" our soldiers in the gulf. Ironically, many of these critics risk doing real damage to our Nation's defenses by refusing to accept reality on revenues.

Because of Democratic leadership in the Congress, there is now a 6-year plan for eliminating the deficit. But as John F. Kennedy said, "to govern is to choose," and now Congress must make a choice.

The Congress can pass legislation which modestly raises revenues and selectively cuts spending, as recommended by the Committee on Ways and Means. Or, we can let the computer at OMB cut the budget for us. But look at the impact such computer-driven cuts would have on national security.

Without the Ways and Means package, defense research and development and procurement will be cut 10 percent. And according to CBO, we could lose $8 billion in operations and maintenance—accounts which provide the steaming and flying time critical to our Persian Gulf operations.

So, the message is clear. If you want to preserve congressional defense priorities and provide balanced deficit reduction, support the Ways and Means package. If you want to protect the role of Congress in foreign policy and defense—as I do—invoke War Powers. But don't undermine our soldiers abroad with mindless fiscal policies at home.

□ 1145

INSULT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN of California. Mr. Speaker, a shocking thing happened last night on American and Soviet television. I implore you to give me a Coelho-extended minute this morning because I come to the well with a heavy heart. I speak as a former U.S. postal employee. During five Christmases in my youth, I slaved during the busiest time of year in the post office. I spent 3 years down at the terminal annex in Los Angeles and worked two Christmases in the Beverly Hills Post Office. It was hard work and I was proud of that service.

Last night on worldwide television with 140 million Russians listening, a Member of the U.S. Congress, as we always say "from the other body," was doing an otherwise excellent job on Nightline's "Capitol to Capitol" program. But this unnamed colleague said the following in response to one of those Soviet so-called congressmen that meet only 4 days a year.

The Soviet, Georgi Zhukov, says, and I delete the Senator's name, "Did you get my letter, the letter I sent you 10 days ago?"

This unnamed Senator said, "Mr. Zhukov, the United States mails are not up to the standards of the Soviet Union, that I grant you."

Then there is much laughter at the expense of the U.S. Federal workers.

Finally he says, "No, I haven't gotten it. I look forward to it."

Now, Mr. Speaker, you know the criticism our great Vice President suffered when he made an offhand flippant remark about adding some Soviet workers to the ranks of our excellent Detroit autoworkers. Some people in the press sent ballistic with that, "I got you, I got you, I got you," stuff.

What I want to know is if the press is going to talk to this senior Senator about ripping up our postal employees and making the suggestion that the Soviet mails are equivalent to our own. We both know, Mr. Speaker, that the Soviet mail delivers none of our letters to dissidents there.

Mr. Speaker, I authored an amendment which was passed unanimously by Foreign Affairs, which I have just heard was not included in the Senate version of the bill, that says the Soviet Union systematically interferes with the mail.

I appreciate this Coelho minute, Mr. Speaker. But, Mr. Speaker, I want an apology from that Senator, and I know the distinguished gentleman from Maryland [Mr. HOYER] will back me up on that.

At this point I include my amendment:

AMENDMENT TO THE STATE DEPARTMENT AUTHORIZATION OFFERED BY MR. DORNAN OF CALIFORNIA

Page 37, after line 13, add the following new section:

SEC. . CONCERNING THE SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The integrity of the mail service between the United States and the Soviet Union is being called into question by mailers in the United States who assert that postal items are systematically not being delivered to selected addresses in the Soviet Union.

(2) The explanations required under international law and given by the Soviet postal administration in regard to the nondelivery of mail to certain addresses have been inaccurate, insufficient, or untimely.

(3) The mail which is not being delivered typically is between family members or persons sharing a religious, ethnic, or professional bond and typically consists of personal correspondence of gifts of articles for personal or professional use.

(4) The nondelivery of mail which is deliverable as addressed and which does not contain prohibited articles is an interference by the Soviet Union with internationally recognized human rights guaranteed to all persons by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe.

(5) Such nondelivery violated the Acts of the Universal Postal Union.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the President through the Department of State, should express to the Government of the Soviet Union the disapproval of the American people—

(A) concerning those postal items which are in the United States and are deliverable in the Soviet Union as addressed but which are systematically not delivered by the Soviet Union to the person to whom they are addressed; and

(B) concerning violations by the Soviet Union of the Acts of the Universal Postal Union and violations of the Final Act of the Conference on Security and Cooperation in Europe;

(2) that the Department of State should bring to the attention of the member countries of the Universal Postal Union patterns of nondelivery of international mail by the Soviet Union contrary to the Acts of the Universal Postal Union and to the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(3) that at the Congress of the Universal Postal Union in Washington, District of Columbia, in 1989, the delegation of the United States should ask other member countries to support the adoption of technical amendments to the Universal Postal Convention and to take such other measures as they consider appropriate that would encourage improved postal performance by the Soviet Union.

NATIONAL RESURGENCE OF ALCOHOL FUELS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I will address the House on a matter unrelated to the delivery of the Soviet mail.

Mr. Speaker, today the Secretary of Energy reported from Cairo by way of NBC "Today Show" that the United States must keep the sea lanes through the Persian Gulf open so that foreign oil can flow freely to the United States and to our allies.

As an alternative to the dependence on foreign oil, Mr. Speaker, I urge the Secretary to observe the recent actions in Congress by the House Committee on Agriculture and by the Subcommittee on Energy and Power, both of which recently approved the use of alcohol fuels in America's motor fuel supply.

Mr. Secretary, rather than relying on the current course of drift that risks the loss of American life and treasure in the Persian Gulf, I call upon the administration to recognize a national alcohol fuels policy that would create a new market for farmers, diminish air pollution, reduce dependence on foreign oil, and take a step by this Nation toward a declaration of energy independence.

Mr. Speaker, our Nation has both the resources and the technology to be energy independent. We lack only the policy.

SHOOTING OURSELVES IN THE HEAD

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, 200 years ago George Washington warned us to "avoid foreign entanglements" during his Farewell Address. Today we seem determined to carry his advice to ludicrous extremes. By grossly underfunding the ability of the Department of State to conduct the foreign policy of this country, we are not just avoiding foreign entanglements, we are making it almost impossible for us to even talk to foreigners on any kind of a sustained basis.

Now comes word that, because of drastic cuts in appropriations, about 1,200 State Department personnel will be let go or phased out. My colleagues, this is not just shooting ourselves in the foot, it's shooting ourselves in the head. At the same time we are preparing to further reduce our presence abroad by closing consulates and drastically cutting personnel at key Embassies, the Soviet Union is increasing its diplomatic presence almost everywhere we are retreating.

Mr. Speaker, these cuts seriously impair our ability to compete with the Soviets in the world of ideas. We must recognize that the foreign policy of this country cannot be conducted on the cheap. Nor can we withdraw from the world. As Shakespeare said, "The world is too much with us." If we want the world to look on us as a great power, we better act like one. Emasculating our Foreign Service is not the act of a great power.

THANK GOODNESS IT'S OVER

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are seeing Nobel Prizes being handed out this week, but I think there should be another prize and that is the prize for grace under pressure and it should go to Geraldine Ferraro and her husband John Zaccaro. It is now almost 3 years since the 1984 election and their family has been through an incredible amount. We have seen all sorts of politics being played under the guise of justice. Thank goodness it is now finally over for them, and the patience it must have taken was unbelievable.

I, as an attorney, was utterly appalled when I saw the cross-examination of the prosecution's main witness. If that is all they had and if that is what they were using to make them spend so much of their resources to defend against that, that is shameful.

Everywhere else we say you are innocent until proven guilty. So often in politics you are guilty until proven innocent.

I salute both of them and I really think it is incredible that we allowed this to go on so long.

DISCHARGE PETITION FOR HOUSE JOINT RESOLUTION 321

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, an overwhelming majority of Americans want Congress to do something it's not accustomed to doing. Americans want us to be responsible with their money.

A New York Times poll reported last May that 85 percent of Americans favor adding an amendment to the Constitution that requires us to be responsible. Americans know that a balanced budget amendment is the only way to keep Congress from spending money it doesn't have. And that Times poll, by the way, shows support for the amendment is bipartisan. Eighty-four percent of Democrats want the amendment. Eighty-nine percent of Republicans want the amendment.

On the surface, Congress mirrors the wishes of the folks back home. A majority of the Members of this Chamber have gone on record in favor of House Joint Resolution 321, the balanced budget amendment. Two hundred and thirty-six of us gladly added our names as cosponsors of the amendment. But that was easy. We knew it would play well back in the district.

It would appear to be a simple maneuver. After all, 236 Members cosponsored the balanced budget amendment and only 218 names are needed to force a vote on the resolution.

Now comes the time to fish or cut bait. This is the litmus test. If we really meant what we implied when we cosponsored House Joint Resolution 321 then we need now to sign a discharge petition to force the resolution out of committee and onto the floor for an honest vote. I believe those 85 percent of Americans must be heard.

I urge all Members who cosponsored the balanced budget amendment to quickly add their names to the discharge petition. If a Congressman cosponsored the bill but won't support a discharge petition he has either quit believing in the need for a balanced budget amendment or he is deceiving his constituents.

I really believe it's up to the constituents now.

THE GIANTS TALK WHILE THE CARDINALS PLAY CHAMPIONSHIP BASEBALL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, well, well, well.

They said they were going to stomp the breath out of the Cardinals. They said the Cardinals were from a cow town. They said they were on a mission. They said they would win in less than seven games. They said, they said, they said. But, while the San Francisco Giants were talking, the St. Louis Cardinals were playing championship baseball.

So much for Jeffrey Leonard, for Chili Davis, for Mike Krukow, so much for Bob Brenly. They're history. Their season is over. San Francisco Giants, I'd like for you to meet the St. Louis Cardinals, your national league champions.

My congratulations to Whitey Herzog and the entire Cardinal organization. You have brought pride to yourselves, to St. Louis, to Missouri, to the National League. We salute you.

As the Giants scurry back to San Francisco to lick the wounds, our high-flying Cardinals are on the way to Minneapolis. Just a word of warning to the Twins, don't think the World Series can be won with a battle of words. The soft-spoken Cardinals are ready to play ball. Just as the Giants.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I would like to associate myself with the profound and eloquent remarks of the gentleman from Missouri [Mr. VOLKMER] and to extend on behalf of all of southeast Missouri to the Cardinals our very best wishes for the games that lie ahead in the World Series.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman from the San Francisco area.

Mrs. BOXER. Mr. Speaker, I want to congratulate the gentleman. The Cardinals are a great team. I just want to add one note, wait until next year.

RADIO CATOLICA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, during the past weekend my wife Donna and I took part in a 4-day mission to Nicaragua. Our purpose was to help Radio Catolica resume operation as an independent voice in Central America.

I am pleased to report that, after the replacement of parts and general repairs, Radio Catolica in now operating at 7 kilowatts and has an audience that reaches into neighboring Costa Rica.

Our trip was not made on behalf of the U.S. Government. Instead, it was a private mission undertaken at the request of Miguel Cardinal Abando y Bravo and was made possible by the generous assistance of Jefferson Pilot Broadcasting.

I cannot overemphasize the important role that Radio Catolica can play in ensuring that the peace process goes forward in Central America. I hope, too, that when the history of this era is recorded, special mention will be made of a few people who have given generously of themselves to assist in this effort.

Those people would include John Buffaloe of San Diego, an engineer with Jefferson Pilot; Luis Endara of Miami, a consulting engineer for Radio Catolica; and my wife Donna.

Our friends in Nicaragua need our help, Mr. Speaker, and they need to know that the people of the United States support them during this crucial time. Radio Catolica can help deliver that vital message.

THE NATION'S SCHOOLTEACHER

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mrs. BYRON. Mr. Speaker, I rise today to salute what I think is our national schoolteacher. Last Monday on a cold windy hill in Frederick County on a glorious sunny day we laid to rest at the age of 94, Eleanor M. Johnson. The name Eleanor M. Johnson probably does not mean much to many of those people that are sitting here listening today, but I think when I tell you what Eleanor Johnson did it will give a fond, warm memory because in August 1928, almost 60 years ago, Eleanor Johnson founded the Weekly Reader. I remember the Weekly Reader. My children have read the Weekly Reader. Now I have two grandchildren that are reading the Weekly Reader.

She brought the world into the classroom. The Weekly Reader was an instant success. Today it has a circulation of over 9 million of which over 40 percent of our schoolchildren weekly understand what is going on in this Nation. She also wrote over 50 books on reading, arithmetic, and geography. Although she never married, never had the pleasure of having her own children, I think she felt the Nation's schoolchildren were hers.

I know the relationship that my children and grandchildren have will be far richer because of her life.

In Miss Johnson's honor Field Publications has established two $2,500 scholarships to Connecticut and Ohio college students wishing to pursue degrees in the field of education. I think it is only right that this Nation takes time to recognize the long-term effort we have seen of our national schoolteacher Miss Eleanor Johnson.

Mr. DURBIN. Mr. Speaker, will the gentlewoman yield?

Mrs. BYRON. Mr. Speaker, I yield to the gentleman from Illinois.

NATIONAL ETHANOL POLICY LEGISLATION

Mr. DURBIN. Mr. Speaker, as the days go by on Capitol Hill toward the end of the year we are debating, of course, how to resolve our budget deficit. One of the serious concerns is how to bring down Federal spending this year and to avoid as much as possible any increase in revenues.

We now have before us for our consideration a national ethanol policy bill which I think can help very much in that regard.

□ 1200

The Congressional Research Service last week analyzed this bill and suggested that if we in Congress would adopt a national ethanol policy, we could reduce our Federal budget deficit by $7 billion per year by the year 1992, increase farm income, reduce our dependence on foreign oil, and clean up our air pollution problems in America. I think this is a giant step forward. I commend it to my colleagues, and I hope we will include it as part of our reconciliation package.

JUDICIARY COMMITTEE SETS LIMITS ON TESTIMONY IN BALANCED BUDGET AMENDMENT HEARINGS

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, late yesterday afternoon, supporters of the balanced budget amendment learned that the Judiciary Committee will today hold hearings on this most important legislation. Not only did we get less than 24 hours notice of these hearings, but we also learned that only opponents of the balanced budget amendment had been scheduled to testify. Today, apparently, the chief sponsor of the amendment has been told he could testify at the very end of the hearings.

Mr. Speaker, this episode reflects very poorly on the committee leadership. It is quite unfair that the leadership would so cavalierly disregard the most basic tenet of our democracy—the right for all sides, all opinions, equally to be heard.

Any number of Members of Congress could speak before this body today on the merits of the balanced budget amendment. It has 237 cosponsors. The overriding reason, of course, is that our budget process, as it is now run, is broken. It is not working. The balanced budget amendment will ensure that we do not continue on this course to spend America into economic destruction.

Unfortunately, the issue now appears to be not whether the amendment will work, but whether Congress will ever have a fair opportunity to consider it. In the long run, I don't think this kind of action will make the balanced budget amendment disappear; for one reason—the President wants it, a great number of Members of Congress want it, and, most importantly, the American people want it.

COMMUNICATION FROM THE SERGEANT AT ARMS OF THE HOUSE

The SPEAKER laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1987.

Hon. JIM WRIGHT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

Sincerely,

JACK RUSS,
Sergeant at Arms.

HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

The SPEAKER. Pursuant to House Resolution 280 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 162.

☐ 1203

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 162) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 14, 1987, the bill was open to amendment at any point.

The Chair recognizes the gentleman from Pennsylvania [Mr. GAYDOS].

AMENDMENT OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GAYDOS: Page 32, after line 2, insert the following new paragraph:

(5) No action may be brought for any claims based on a good-faith determination made by a physician under this subsection.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Chairman, I had submitted this amendment yesterday, and after discussion with my good friend and colleague on the minority, we had talked about the amendment. We discussed it in toto, and I withdrew it temporarily until we had a chance again to reconsider the suggested amendment to the amendment, and I have, pursuant to that understanding, now introduced the amendment in its original form.

Let me say this about the amendment. The bill as written creates a very important Risk Assessment Board, and that Risk Assessment Board makes certain decisions. Following the procedure of the Board, we get down to the medical removal provisions in the bill as written. The medical removal provisions follow the provisions that are in many of the OSHA standards. It is not uncommon to have medical removal provisions, and our legislation follows that practice.

The medical removal provision is very simplistic in concept but very important as to the results that it effects. In this case we do provide by the amendment that no action shall be brought for any claims based on a good-faith determination by a physician under this section. We did this because we thought that the physician representing the employee in a case or question of medical removal from one job to another and the physician under the terms of the bill that will be agreed upon and appointed by the employer should be addressed, and those two physicians in turn under the terms of the bill would then have a right or a duty or an opportunity, depending on what they do and how we interpret it, to appoint a third one if they cannot agree as to what their disposition of the immediate case is.

Now, under those conditions, analyzing how it affects the bill and taking into consideration the very nature of the provision, meaning that we are dealing with professionals, with physicians, and in the light of so many malpractice suits throughout the country, we felt it was proper in this section under these conditions to insert therein this protective device and to protect and insulate those physicians who are called upon to make that determination under this bill as written. Now, I believe it is medically sound, and it is based upon the consensus of the medical profession. I think it is a reasonable request. I think anything else, other than what we have provided in this amendment, would be considered surplus and would lead to a defeat of the amendment and the acceptance of the amendment.

So, Mr. Chairman, I ask my colleagues to accept the amendment as presented.

AMENDMENT OFFERED BY MR. HENRY TO THE AMENDMENT OFFERED BY MR. GAYDOS

Mr. HENRY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HENRY to the amendment offered by Mr. GAYDOS: In the matter proposed to be inserted by the amendment of the gentleman from Pennsylvania, insert ", employee representative, or employer" after "physician".

Mr. HENRY. Mr. Chairman, referring to the difficulty we presented to the body in yesterday's discussion, let me just review where we left that discussion. We were very close in fact to having reached agreement on this until about an hour and a half ago.

The question really is: Why should a physician receive treatment which is different than any other agent or individual rendering medical decisionmaking and being involved in medical procedures under the act?

Now, there certainly is no question in my mind that there is a serious problem of professional malpractice and professional liability. We all know the impact that this is having on the medical community. The gentleman from Pennsylvania is aware of that. That is why he is offering the amendment. I certainly do not question that.

The problem is, however, the way in which one category of workers, as it were, is singled out in this bill under this amendment for privileged treatment when in fact we have the problems of the bill which the amendment indirectly acknowledged by virtue of its introduction and the liability explosion extends across the whole panorama of this bill in terms of all those involved in these decisionmaking processes.

The Members will recall that we pointed out that it seems somewhat awkward, for example, to exempt an M.D. physician from any liability either for overreferring or underreferring a contested issue relative to the medical disposition of a claim under the act and at the same time not at least offer the same kind of protection to an epidemiologist who has an equal professional role. In fact, I think a good argument can be made that the bill itself is pointing out that most of our physicians are not well trained in epidemiology. Another section of the bill establishes a national program that tries to deal with and develop and stimulate epidemiological research and teaching in our medical institutions because of this very fact.

In fact, the testimony we heard on the bill in committee, both testimony for the bill and testimony opposed to the bill, did not come primarily from M.D. physicians but from Ph.D. epidemiologists, because they are the ones who in fact are most trained and most conversant with the issues of occupational health. It is the Ph.D. epidemiologist who counsels industry; it is the Ph.D. epidemiologist who works with the labor movement; it is the Ph.D. epidemiologist who tends to be active in the environmental community; it is the Ph.D. epidemiologists who are hired in the Department of Labor when we talk about updating the Z tables or OSHA regulations; it is the Ph.D. epidemiologist who is involved in HHS issues.

First of all, there is an arbitrary line between M.D.'s and epidemiologists which indicates the arbitrariness. I see the gentleman is rising, and I suspect he is going to say, "Well, then, I will add the epidemiologist." The point is that if we add the epidemiologist, why then do we not also extend this to anyone who is involved in the medical referral process, because all parties are involved?

Let me point out that this does not solve the problem of professional malpractice or tort responsibility. It simply shifts liability to a different place in the liability claim. We can give immunity to the medical physician acting as agent of the employer or to the medical physician acting as agent of the employee in this preferential way, but all we do is shift responsibility to the person for whom that individual is an agent.

If in fact it is discovered that a physician is overreferring out of fear of the consequences of underreferring, which indeed is one of the problems of contemporary medicine, what we call defensive medicine, the agent for whom that physician works is still susceptible to suit and tort responsibility and subrogated liabilities under this provision. Likewise, if the physician should underrefer—and in this case the suspicion would be that maybe it was an in-house physician who gets paid very handsomely to the extent that he refuses to err in judgment on the side of the employee and tends to err in judgment on the side of the employer—he in turn may be absolved from responsibility under the gentleman's amendment, but the person who employs that physician is not.

Mr. GAYDOS. Mr. Chairman, will my colleague yield?

Mr. HENRY. I am pleased to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I do not question the sincerity of my colleague's observations, but I would like to point out that in the bill in numerous places we have granted like immunity, for instance, to the employer. Should he opt under the terms of the bill to notify and take on the obligation of notification, he is immune from prosecution if an individual does not receive notification or if he does receive it. So we are trying to be fair in the bill.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield further, we go a little further and we come to the Risk Assessment Board. We tell the Board by the language in our bill, we say this to the Risk Assessment Board: "You are going to be removed from any liability in making your medical decisions, who to notify, whether it is sufficient."

So what we did in this particular section, again responding to the sensitivity of an awful lot of publicity and an awful lot of questions raised about malpractice, as I mentioned yesterday, we thought it only right in this section to also give that immunity to the physician in making a determination as to the removal, not in treatment, if he makes a mistake in the type of treatment he is giving. That would be part of it, but in fact let me emphasize this. His decision is only one of removing an individual if he is exposed under certain conditions. His treatment is not part of this bill. His treatment as a physician, his ability to dispense medicine is not a part of this bill. The only thing that is part of this bill is his decision to make a removal from one job to another.

I think we have been fair in the bill. I would like to accommodate my friend. He knows well that I have accommodated him before. But this just does not fit in this particular section. If the gentleman could come up with a place in the bill to fit this in, I would be more than happy to support the gentleman in his position.

□ 1215

Mr. HENRY. Mr. Chairman, if I may reclaim my time, this is exactly the problem. The problem is why is the gentleman segmenting out a certain class of individuals when in fact the gentleman is not resolving the problem; the gentleman is shifting the problem.

If I am the factory manager, the factory owner, if it is a small- or medium-sized business, or if I am corporate management, why should I be forced to take up the liability of a professional with whom I have contracted?

What I am trying to get the gentleman to understand is, the gentleman has not resolved the problem of that malpractice liability one iota. The gentleman has simply shifted it, and in fact the gentleman is compounding the liability exposure even further of the employer or the union agent, as the case may be.

As we pointed out in yesterday's debate, in many cases the union agents are in this regard.

I simply would also say that the gentleman is mistaken when the gentleman talks about having sufficiently blocked out these kinds of liabilities in other instances. I do not see that. For example, the gentleman does give liability protection to the members of that Risk Assessment Board who are Government agents, but the gentleman does not give it to the professionals on that Board who are not agents, so in fact those professional medical judgments rendered by those who are making those judgments at the most profound fundamental point of determination as to whether or not risk exists or not on which this notification is triggered do not enjoy the same benefit protection.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HENRY. We do not in fact even treat all people equally there, nor do we in fact give exception to the Government agents as broadly as the gentleman suggests; and in fact, as the gentleman knows, one of the gentleman's own colleagues from Pennsylvania is busy drafting another amendment, I am told, which tries to give some kind of immunities to other areas of government.

That is why the Department of Justice is so concerned about this bill because of the tremendous liability exposures which are opened up to the Federal Government in this, because now under this committee bill, H.R. 162, what we have done is actually transferred the primary responsibility for occupational health away from the employer quite frankly to the Federal Government, and the liabilities of that transfer will also follow to the Federal Government.

We are going to have a tremendous problem here of not only increases in private immunity which the gentleman with good intentions is trying to narrow, but in fact is only shifting, we will also see an explosion of liability suits against Government.

We all know what that is doing in our own districts where county supervisors, road supervisors are being sued, et cetera.

If the gentleman cannot withdraw the amendment enabling me to withdraw my amendment, I am going to be forced to request a record rollcall vote on this amendment, as the gentleman knows.

Mr. GAYDOS. Mr. Chairman, if the gentleman will continue to yield, let me conclude by saying this.

The only reason why this amendment is suggested, believe me, is hopefully to provide for a medical decision on removal that it be unfettered, unbiased, and one that a physician would make whether it is in favor of the employer or in favor of the employee, because we know that things occur on both sides of the fence.

Sometimes employees do not deserve maybe the decision made, and sometimes the employer does not, so that is the only reason why I have it in there.

Mr. HENRY. One Member has rather caustically said of the committee bill, somewhat jokingly but with some degree of truth, this bill is really a full-employment act for attorneys and for physicians; and what the gentleman really has done is gotten now a full-employment act for attorneys and physicians, and the gentleman has also protected physicians from their liability exposures under the bill by simply transferring an increasing liability cost to elsewhere in the process of litigation, the trail of litigation that the bill sponsors.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY] to the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HENRY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 356]

ANSWERED "PRESENT"—405

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1230

The CHAIRMAN. Four hundred five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan [Mr. HENRY] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 197, not voting 20, as follows:

[Roll No. 357]

AYES—216

Andrews
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
DeLay
Derrick
DeWine
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Eckart
Emerson
English
Erdreich
Feighan
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Glickman
Goodling
Gradison
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Neal
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Petri
Pickett
Porter
Price (NC)
Ravenel
Ray
Regula
Rhodes
Ritter
Roberts
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Synar
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—197

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Clay
Coelho
Coleman (TX)
Conte
Conyers
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Edwards (CA)
Espy
Evans
Fascell
Fawell
Fazio
Flake
Florio
Foglietta
Foley
Ford (MI)

Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gonzalez
Gordon
Gray (IL)
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pelosi
Penny
Perkins
Pickle
Price (IL)
Rahall
Rangel
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
St Germain
Staggers
Stokes
Studds
Swift
Tallon
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—20

Badham
Biaggi
Bliley
Collins
Dymally
Edwards (OK)
Gephardt
Gray (PA)
Ireland
Kemp
Livingston
Nichols
Pease
Pepper
Pursell
Quillen
Roemer
Scheuer
Stark
Tauzin

☐ 1245

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Scheuer against.

Messrs. LELAND, HAMILTON, and GUARINI changed their votes from "aye" to "no."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GAYDOS], as amended.

The amendment, as amended, was rejected.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 14, after line 18, insert the following new subsection:

(e) DESIGNATION OF HEALTH AND EMERGENCY CARE WORKERS REQUIRED.—Notwithstanding any other provision of this section, the Board shall designate as a population at risk those health care workers and emergency care workers who are at risk of occupational exposure to the disease known as acquired immune deficiency syndrome or the virus known as HTLV-III or LAV virus. The Board shall develop the form and method of notification and determine the appropriate type of medical monitoring or health counseling with respect to such population in accordance with subparagraphs (C) and (D) of subsection (b)(1). The designation of such population at risk shall be subject to notice, comment, and review in accordance with subsection (d).

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, the amendment that this Member from California is offering to H.R. 162 will provide some guidance to the health care workers of America, who number some 3 to 4 million, in what protection they should be taking when caring for those patients with AIDS in the public health care system today. It provides that health and emergency care workers be designated a population at risk. This designation would require the Labor Board created in H.R. 162 to notify these workers and their employees about the risk of treating AIDS patients and how to protect themselves from infection.

The amendment enjoys bipartisan support. The amendment is supported by the International Fire Chiefs Association. The amendment covers all health care workers including physicians, nurses, dentists, dental hygienists, firefighters, emergency care workers, and any person giving health care to an HIV positive person.

I would like to be able to say to my colleagues that the Department of Labor, OSHA, would do this of their own accord because they have that responsibility under the existing law now, but I am offering this amendment in the direct reform that is mandating that the Department of Labor do this work because, candidly, OSHA has tragically faulted in their responsibility in this regard. Earlier this year the American Federation of State, County and Municipal Employees petitioned OSHA to take the action that I am talking about, and OSHA has done nothing. That is why from a policy standpoint it is imperative that in this bill designating hazardous occupations that we give some indication to the health care workers of how to protect themselves.

This amendment will ensure that health and emergency care workers and employers are educated about how to protect themselves from infection with the AIDS virus and other opportunistic diseases associated with AIDS. We should understand that health care workers are the first line of defense in caring for AIDS carriers. Yet health care workers in many employment settings are being forced to continue to care for AIDS carriers without being permitted to take actions to protect themselves against infection with this fatal virus.

I would like to give my colleagues a few instances of why it is necessary that we adopt this amendment.

The Virginia funeral directors want the general assembly to approve legislation that would require hospitals to tag the bodies of AIDS victims. Officials at Sentara Norfolk General Hospital, and Chesapeake General Hospital said confidentiality laws limit the information they can disclose on a tag that would alert funeral directors to the fact that a deceased died from AIDS.

According to CDC three female hospital workers became infected with the HIV virus after the blood of AIDS patients was splashed on them. All three health care workers experienced only one exposure to AIDS infected blood. Two of the three workers were not wearing protective garments because they did not know that the patients were infected.

The Washington Post reported that a CDC official expressed concern that many health care workers have been exposed to the AIDS virus without knowing it.

On April 11, the CDC recommended that dental, surgical, and obstetric health care workers use extraordinary care to avoid becoming infected with the AIDS virus. Gloves, masks, and gowns were among the suggested precautions.

I would like to pause for a moment here to talk about the distinction between guidelines and notification. A guideline comes out from CDC to a hospital and it is posted on the wall. Sometimes those are seen and sometimes those are not seen.

The notification that we are talking about in this bill would go from the agency, the Department of Labor, and it would be mailed to the employees so the employee would have the advantage of getting the advice themselves. I believe that is a big improvement over the idea of just sponsoring or issuing some guidelines.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 3 additional minutes.)

Mr. DANNEMEYER. Chuck Fallis, a CDC spokesman, admits that nurses who care for AIDS patients on a long-term basis are at risk of contracting the disease. A prominent Milwaukee heart surgeon refused to operate on patients infected with the AIDS virus and says he finds it disturbing that all hospitals do not insist on virus tests before surgery.

Dr. Dudley Johnson, who is considered a pioneer in the techniques of multiple heart bypass, said medical personnel deserve to know if a person in the operating room is infected with the AIDS virus.

A New York dentist was infected with the AIDS virus through exposure to a patient's infected blood or saliva, reported in the Washington Times, June 5, 1987.

Health care workers have been penalized for trying to protect their own lives. A nurse at Johns Hopkins Hospital in Baltimore was suspended for 3 days after she refused to take part in an operation involving a heart patient infected with the AIDS virus.

Norma Watson, a nurse at San Francisco General Hospital, has filed suit against the hospital and officials of the California Health Department for defects to her newborn son believed to have been caused by Miss Watson's exposure to AIDS patients during her pregnancy. Miss Watson was required to treat infected patients without the benefit of protective garments even though it was known that many of these patients were infected with cytomegalovirus, a virus known to cause birth defects.

Miss Watson is on record as requesting that she be permitted to wear protective garments in dealing with AIDS patients.

Two studies of the incidence of infected patients admitted to emergency rooms indicate that such persons have an unusually high rate of infection. A Johns Hopkins study published in the Journal of the American Medical Association of May 1987, reports that 3 percent of 203 patients admitted to the emergency room were not suspected of being infected but who were found to test positive for antibodies to the HLV virus.

Dr. James Baker, head investigator in the Johns Hopkins study, performed a second study of 2,303 emergency room admitees and found the prevalance of HLV infection to be twice as high.

□ 1300

Baker cautioned emergency room workers and other employees who frequently come into contact with bleeding persons, such as police officers and paramedics, to wear gloves and other protective gear.

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. I thank the gentleman for yielding.

Mr. Chairman, I would like to commend the gentleman for his very serious and very important amendment. I think there is probably no part of our society as a matter of fact more at risk now of the threat of death than our people who are now on the front lines in the health care area. My own wife is a dental hygienist.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

(On request of Mr. LOTT and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 1 additional minute.)

Mr. LOTT. Mr. Chairman, will the gentleman continue to yield?

Mr. DANNEMEYER. I yield to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. I have learned that people in the health care area are very much at risk in their dealing with and treating those infected with AIDS. If they do not take proper precautions, including gloves, masks, gowns, their very lives are at stake.

If you are going to have legislation like this, risk notification, I think at a very minimum we should have risk notification for the health care workers, firefighters, people who are working with and dealing with AIDs patients.

So I commend the gentleman for his amendment and would urge its adoption.

Mr. DANNEMEYER. I thank my colleague for those comments.

I have some additional comments here to observe: 12 nurses working in the Carlisle Clinic in Urbana, IL, tested positive for tuberculosis after treating a patient who suffered from that disease.

What these cases illustrate is the common theme: there is evolving in this country in the health care industry a little smattering of knowledge as to what precautions health care workers should use in caring for AIDs patients. They do not want to get this fatal disease.

This amendment will cause the Department of Labor to collate available information.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has again expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 1 additional minute.)

Mr. DANNEMEYER. Mr. Chairman, this amendment will cause the Department of Labor to collate the available information in terms of what protections health care workers have found it appropriate to develop on a case by case basis around this country and set it in the form of a national policy to all health care workers across this land.

Considering that we have between 1 and 4 million people that are infected with the virus, nobody knows how many, and we have not yet adopted a national testing program to determine the extent of the virus in our society, if we do not want to have the phenomenon develop in America where the health care workers are voting with their feet by going off the jobs rather than exposing themselves to unnecessary risks, this is the kind of amendment we should be adopting so that our public health officials and the Department of Labor are giving notification to our health care workers as to as how they can protect themselves from getting this virus.

I ask your "aye" vote.

Mr. GAYDOS. Mr. Chairman, I move to strike the last word and I rise in opposition, reluctantly, to the amendment.

The amendment is well meant and, given the situation that exists throughout the Nation today, I think justifiable in some regards, probably in most regards. However, we are talking about this legislation in the form it is in and other activities, which is now the obligation of other agencies and governmental compartments of various areas throughout the Government structure. For instance, both OSHA and Centers for Disease Control have already published guidelines for health care workers who are dealing with AIDS patients. You can go on and on and we do have some speakers here who have this particular subject matter in their particular jurisdiction and who I am sure are going to enlarge upon it. But let me say this on the subject matter as far as our bill is concerned: We went to great lengths in our bill to make sure that the Risk Assessment Board was made up of strictly, exclusively, unquestionably scientific people. When we talk about scientific people or purposes we are talking about occupational health physicians, toxicologists, epidemiologists, we are talking about industrial hygienists, they are all on the board. They are recommended by the National Academy of Sciences which is a nongovernmental agency created by Congress way back in Lincoln's time.

So we took this extra precaution and we have this board constructed in such a way that we feel confident under the circumstances that they are going to give priority themselves, as a board, to what the gentleman raises in his amendment and where he places it in our legislation as it is written.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. Yes, I yield to my friend from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, I appreciate that point but could the gentleman explain to me why OSHA has failed to respond to a request from the American Federation of State, County and Municipal Employees that was filed with that agency the early part of this year to do exactly what my amendment is talking about doing? Why has not OSHA done that?

Mr. GAYDOS. I think the record will speak for itself. They have adopted tentative guidelines. I am sure that the gentleman is aware of them.

As to the expediency of the operation of OSHA, their administrative procedures, I cannot answer that at this point on the floor. But the gentleman is now talking about attaching to this bill H.R. 162, a change which the bill is not constructed to accept at this time.

If we accept this change, this specific identification, it is going to set up a series of requests, possibly of other items that might be just as important as this request. It seems that we feel that we have enough inherent, inbred protection in the bill as written to take care of the gentleman's concern.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman continue to yield?

Mr. GAYDOS. I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman again for yielding.

Perhaps it has not been brought out, but OSHA does not have jurisdiction over State and local employees. The guidelines that the gentleman is talking about may be applicable to Federal employees but they are not applicable for State and local employees.

And there is a difference between guidelines which are just posted on a wall where employees may look at them, and notification to specific employees. My amendment would direct, as is the subject content of the bill that the gentleman is sponsoring, that employees are the ones that are going to get notification. I do not know who could object to notifying health care workers personally whether county, State, Federal, or whatever, about what precautions they should be taking to protect their own health in dealing with these tragic AIDS victims.

Mr. GAYDOS. Let me respond on my time and say that we have carefully constructed within this legislation a certain procedure to follow by the Risk Assessment Board. That procedure is laid out very clearly in the terms of the act. Following that procedure, I am sure that I am not misreading or misconstruing the bill when I conclude that the gentleman's concerns will be addressed in that bill. He is not giving due consideration to the purpose of our bill, the way it is constructed and the restraints—and we have good restraints within the bill—in setting out these procedures to try to keep this Board professional. We cannot deviate, we do not want to see and I am sure my colleague does not want to see or be part of some type of an emergency action that is going to be detrimental to the overall situation here.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has again expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. GAYDOS. I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding further.

I do not want to overdramatize this issue, but this Nation is going to lose more men to this disease—deaths from this tragic disease in the next 4 years—than we lost in all of World War II to the category of "killed in action."

We are looking at health care costs in the tens of billions of dollars per year and I would suggest that we have, if there ever was a description of a health emergency in America, we are in the midst of it and we had better recognize it. And if OSHA does not understand the necessity of issuing these guidelines. I think it is appropriate for we in Congress to nudge them.

Mr. GAYDOS. Let me reclaim my time and respond to my good friend: We are not talking about OSHA when we are talking about this bill. This bill is different from OSHA. I want the gentleman and I hope the gentleman understands that in this bill we have a specific procedure for what we call the nonpolitical highly skilled scientific and medical Risk Assessment Board to identify a population at risk and I have no question or no fear at this time that the Board will not do that immediately upon its establishment. That identification procedure is generic in nature so that the Board can be in a position to make its decisions outside of the pressure of political influence or some unreasonable activity. I do not want to see that Board stampeded or directed to do something. That Board is going to take care of the gentleman's concern I am sure.

I think the gentleman is so right in what he is doing, but this is the wrong bill and the wrong place to do it.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has again expired.

(On request of Mr. FORD of Michigan and by unanimous consent, Mr. GAYDOS was allowed to proceed for 5 additional minutes.)

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield further?

Mr. GAYDOS. I will yield briefly to the gentleman from California [Mr. DANNEMEYER] and then yield to my friend from Michigan.

Mr. DANNEMEYER. I thank the gentleman for yielding.

I appreciate the time.

I can say, to all the reasons that the gentleman has said, that this needs to be done and the gentleman is right. The gentleman is with me all the way, apparently, up to the vote. I would suggest the logical thing for the gentleman to do is to support the amendment, because it will then establish as a matter of policy, at least in the House of Representatives, that we are telling those people working in the Department of Labor, given the national emergency nature of this epidemic, to get on with this first.

Mr. GAYDOS. I am sure my good friend understands the obligations we have to take care of; under the terms of this bill the primary purpose and point of the bill is to take care of a lot of items along these lines that have already been identified by OSHA, including AIDS and we are doing it in a methodical and scientific manner. I am sure my friend understands this.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the chairman of the committee, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding.

Now while frequently I disagree with the gentleman from California, I would like to have his attention, the gentleman from California [Mr. DANNEMEYER] on this occasion to say that I do not rise to disagree with him but to take the risk that I might be able to mediate a solution to the problem.

What the gentleman wants to do in terms of making a priority of this problem does not cause the objection over here. It is the fact that the way his amendment is worded it bypasses the professional determinations made by the scientists and health care professionals on the board that is appointed under this act.

Now we anticipate there will be at least one other amendment with a specific target population in mind which probably is going to be accepted because that amendment, while designating a target population, merely says that the board shall consider designating that population so that it gets it on the agenda from the "Get-Go" because there are so many other people who want their particular problems to be first.

I would simply like to suggest to the gentleman that he get unanimous consent to amend line 3 of his amendment to read after the word "shall", "consider for" and change the word "designate" to "designation", that he would be in tune with the other amendment we would expect and I would then ask for the chairman to accept that kind of an amendment.

Mr. DANNEMEYER. Mr. Chairman, would the gentleman yield?

Mr. GAYDOS. I yield to my friend from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, I thank the chairman of the committee, Mr. FORD, for that kind suggestion but considering the emergency nature of the need, this Member is not inclined to accept that amendment because I can also respond that on page 13, subparagraph (c), the bill itself sets up priorities.

And if I may add an additional factor about this whole disease: Let us face it, this is the first time in the history of this country that we are dealing with a politically protected disease. Public health officials in this government are treating it as a civil rights issue, not a public health issue. That is one of the reasons why we in Congress should recognize that and say to them, "In setting priorities, this is the first one you are going to handle" because as I said earlier in my comments, it is a serious problem. We have got health care workers around this country who are, out of a desire to protect their own lives, walking away from their health care responsibilities.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield further to me?

Mr. GAYDOS. I yield to the chairman.

Mr. FORD of Michigan. I thank the gentleman.

The problem we have is not with anything the gentleman is saying. The problem we have is he takes it out of the hands of the professionals and he makes a political judgment here that of all these health problems that they should review as professionals in the field of public health, they should put aside scientific considerations of which target populations you are identifying here and just say, willy nilly, that everybody who has anything to do with health care or emergency services, whether they are at risk or not is a target population, thereby imposing an obligation on all of their employers and imposing an obligation on the Federal Government to start notifying a whole lot of people that the professionals may come to determine are not really in the target that they want to hit. The Risk Assessment Board can zero in on the target that the gentleman wants to reach much better than we can, we politicians can on the floor. I am just asking if you would not consider leaving it to the doctors.

□ 1315

I would like to add this: If you do not wish to equate your sense of priority for this illness with others, what the acceptance of your amendment does is invite everybody who has a particular illness affecting somebody they care about that they would like to prioritize, to come to the Congress and then you would take everything away from the Board and legislate all the things they want designated as target populations.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. We would have to oppose the gentleman's amendment if he persists.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has expired.

(On request of Mr. DANNEMEYER, and by unanimous consent, Mr. GAYDOS was allowed to proceed for 3 additional minutes.)

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will yield, I want my comments to be directed to the gentleman from Michigan [Mr. FORD] because I think he should hear this.

I have had brought to my attention a case situation that developed in San Francisco's General Hospital that related to and involved Mrs. Watkins, whom I talked about earlier. This nurse was told in her nursing duties that in caring for AIDS patients she could not wear gowns, masks, and gloves because it offended the sensitivity of these AIDS patients to their psychological disestablishment. I find that frankly to be wrong public health policy.

The public health care workers of America should be able to take all the precautions they think are appropriate, and that is one of the reasons for this amendment. We need to stop treating this illness, this epidemic in America, as a civil rights issue and begin to treat it as a public health issue, and when our public health physicians are not discharging their responsibility, then the politicians have to get into the job and begin to give them a little nudge as to what direction they should be pursuing.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman very much for yielding to me.

I do not think there is a dispute that health care workers ought to be informed of the fact that they may be at risk if someone has AIDS that they are caring for. In fact, in legislation that is coming out of our subcommittee which would deal with the questions of testing and the confidentiality of the test information, we would specifically exempt from the confidentiality protections that information to health care workers. It is reasonable to let people know when they are at risk of getting any kind of illness or facing any safety hazard.

I do not fully understand the legislation that has come out of the gentleman's committee, but what I do understand is that you are setting priorities and using a limited number of dollars to try to inform those health care workers and monitor those health care workers who have been exposed to asbestos and other toxic pollutants.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GAYDOS] has again expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. GAYDOS was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further to me?

Mr. GAYDOS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I will say to the gentleman, if you are trying to target workers who are at risk for exposure to toxic substances or other kinds of dangers in the workplace, I do not know how informing health care workers would fit into the scheme of things. There should be no dispute about informing health care workers. The question with the Dannemeyer amendment would be this, as I read it: The gentleman seems to be bypassing everything else and making this information available to health care workers, whether they are seeing a patient with AIDS or not, just informing all health care workers that if they did have some contact with a person with AIDS, they would be at risk. And I might point out, according to the Centers for Disease Control and the National Institutes of Health, it is a very low risk at that, but nevertheless a real risk of fatal disease, and they should know about it. They should know in terms of a specific case, and they should know about it generally so they can avoid acting in ways that will allow that risk to be even greater than otherwise would be the case.

The Centers for Disease Control urges that health care workers take precautions with all their patients, because it is often hard to know, particularly in an emergency situation, whether a patient may have the virus or not. So they urge that all health care workers wear gloves if they are dealing with blood or any bodily fluids.

So my question to the gentleman as chairman of the subcommittee and as author of this legislation is this: As I understand it, the gentleman is not disagreeing with the proposal that health care workers know about the danger of AIDS and the possible exposure to a patient with AIDS; the gentleman's disagreement is over the scheme of this bill and how this would divert attention from those other areas, is that correct?

Mr. GAYDOS. Mr. Chairman, if I may respond to the gentleman, yes, that is basically correct. If I could reduce it down to a very simple observation, it would be this: Everybody knows that AIDS is a very important concern to this country and is very dangerous.

What I am opposed to, under the amendment as written, is taking the term or the designation, "AIDS," when our bill is a generic one, giving to a scientific board the responsibility to not only consider AIDS but consider all hazardous substances, materials, and processes in the workplace. That is what bothers me. I am not against the designation of AIDS, but under these circumstances I have to be against this amendment.

Mr. WAXMAN. Mr. Chairman, it seems to me that this amendment ought to be refashioned in some way because the point of the amendment is to make sure that health care workers understand they may be exposed to some danger under some circumstances, that there is a risk, a low one, but nevertheless a real one, and they should be informed of it and it is something that could fit within the priorities of the bill. I would propose that the committee look at changes in the Dannemeyer amendment and make appropriate changes so that those of us who would support the proposition that health care workers should be informed could support the amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania. [Mr. GAYDOS] has again expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Mr. Chairman, I just want to make the observation at this time that even under the terms of the amendment there is repetition and redundancy in there, because it refers to what is already in the bill to follow this procedure. So basically, stripped down to its very essentials, what the amendment calls for is to set AIDs in as an item designated and inserted in the bill when we are talking about everything in the bill being generic and giving that responsibility of picking one or the other or both to a scientific board, called a risk assessment board, which has many safeguarding guidelines.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further?

Mr. GAYDOS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, what the gentleman is saying is that he is not disputing that health care workers should know of their risk, but he is questioning whether we should bypass all the other risks which many workers may not know of and deem this to be the worst problem, and thus all the millions of health care workers, most of whom are at low risk of HIV, will be notified before any workers are notified of a high risk such as asbestos where they are in fact at real risk, is that correct?

Mr. GAYDOS. Basically, in essence, that is exactly what I am trying to say, and I congratulate the gentleman for stating it so eloquently for me.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to commend the gentleman from California [Mr. DANNEMEYER] for having the foresight to bring forth this amendment to the bill. The gentleman from California [Mr. DANNEMEYER] and I have talked about this before, and I think he is absolutely right.

I would like to reflect back for a moment to the debate of yesterday. Yesterday, as we debated between the Jeffords-Henry substitute and the bill, H.R. 162, we saw clearly that the difference between the substitute and the bill brought forth was whether or not we would focus on prevention now and in the future, reduction of hazard now and in the future, or whether or not we would focus on notification of possible past exposures to hazards that would be retroactive to as much as 40 years.

Now, that is a fundamental question. Is this legislation designed for notification of possible exposure to hazard in the past, and, therefore, setting the premise for lawsuits, or are we and should we not in fact be concerned with prevention, removal, and reduction of hazards today and in the future? And then, in addition to that, the amendment offered by the gentleman from California [Mr. DANNEMEYER] brings into focus the question of priorities. Certainly we cannot understand, except to define and anticipate and identify, every possible hazard, and, therefore, we must set priorities, although I must say that this bill has certainly been written generically enough or comprehensively enough to leave very little opportunity for us to miss the identification of a hazard that could result in a lawsuit, and to be of that much significance so that the persons notified might feel themselves so much at risk, so anguished by the notification itself that they may need to bring the lawsuit.

Now, what the gentleman from California [Mr. DANNEMEYER] says in his amendment is, let us establish a priority. And it is already established for us. It is absolutely clearly understood that the No. 1 health problem facing America today is the threat of AIDS. We are already in fear of risk comprehensively to the point where parents rightly have a concern about youngsters going to school after having been subjected to the virus, and these are terribly anguishing problems affecting families, workers, and matters of conscience for people in the health care industry who are sworn to provide health care service to needy patients. In regard to their own health and that of their families, they are going through the anguish of conscience, deciding, "Should I or should I not?" and then in deference to their own health and that of their families, when they try to protect themselves, they lose their jobs or are otherwise reprimanded or punished.

So the gentleman from California [Mr. DANNEMEYER] has correctly focused on the issue here. Why is it on this bill? Because this bill has afforded us an opportunity in this Congress to make a determination. Will the Congress of the United States of America recognize AIDS as a risk for the Nation, that is, a high priority risk that should be recognized and identified as a matter of public health, not a matter of civil rights? That is the essential question that is posed to us in this amendment.

I must say to the gentleman from California [Mr. DANNEMEYER] that I was distressed that after the gentleman from Michigan [Mr. FORD] asked for and got his attention while he made his point in rebuttal to the gentleman's comments, when he in turn asked for the gentleman's attention in making that essential point that he made, he was so busy in conversation with his back turned to the gentleman that he could not give the gentleman his attention.

So for that reason I would like to ask for the attention of the gentleman from Michigan [Mr. FORD] so that he could understand the point the gentleman made, the point that needs to be made.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 1 additional minute.)

Mr. ARMEY. Mr. Chairman, I say to the gentleman from California [Mr. DANNEMEYER] and the gentleman from Michigan [Mr. FORD] that the point the gentleman was making, the point that was at contention and the point this body must address on this amendment, is this essential point: Will this Congress understand that AIDS is the essential health problem facing this Nation, address that problem as a problem concerning the Nation's health, or will we continue to divert and allow others to default on their responsibility to control this epidemic by treating it as if it were what it is not, a civil rights issue?

Mr. Chairman, I applaud the gentleman for bringing this amendment to the floor. I applaud him for focusing the debate on this issue. I applaud the gentleman for giving this legislation that is proposed at this point some possibility of doing something that is necessary and beneficial for the American people, and I want to encourage my colleagues to vote yes on the Dannemeyer amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I attempted to effect a change in the language proposed by the gentleman so that it would not do violence to the purpose of this legislation. He chooses to ignore that and say, "All or nothing."

The proposition we have before us in its present form is that we forget every other kind of threat to health, put them all on the shelf, and the very first thing we do is notify the millions of people who are in the health providers' profession that they may be at risk. They might be in a clinic at the foot of a ski slope that specializes in broken ankles and broken knees, but their employers are going to have to notify them, too, because the definition he has for these people is so broad.

Now, we have $25 million authorized in this bill, which means that we will get appropriated something less than that. And that means that there will not be one penny left to deal with any of the cancer-causing problems that are out there, the problems with asbestos and other things that we know are costing us thousands of lives a year.

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People dying with AIDS are a terrible tragedy, but they are not the only health tragedy in this country. What the amendment does by sucking up in advance of any determination by the professionals all of the resources for one problem that the gentleman is overwhelmingly concerned about is to turn your back in terms of assets and resources to do anything about all of the others.

I have never considered myself to be particularly threatened individually, so I have some difficulty understanding the intensity of some with regard to this matter when things like cancer do kill a lot of my friends, and things I see in my industrial area that are killing and crippling people; and I cannot look them in the eye and say that AIDS victims have any more right to our attention.

We have already appropriated hundreds of millions of dollars addressed to this particular disease. I have supported that, and I do not object to it; but we do not have to have AIDS superimpose itself on every attempt to protect public health in this country, and that is what this amendment does.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

This debate has left me a bit perplexed, because it seems to me there is a legitimate issue here of informing health care workers about an exposure to a risk. This legislation is about people in high-risk professions.

As the gentleman from Michigan [Mr. Ford] pointed out, the gentleman was fearful that this particular amendment, which would accomplish informing people in the health care field that they may be at risk, would siphon the resources from other needed areas in this bill.

I would hope the committee could work out some compromise on this. I think the Dannemeyer amendment has merit to it insofar as it lets health care workers know they may be exposed to a risk, but it should not be viewed as placing AIDS as a higher risk than any other risk.

That is just not the case, not the reality. AIDS is a serious national problem, and I resent the point that it is treated as a civil rights question. It is a health question.

We ought to try to contain this disease, since we do not have a cure or a vaccine to stop its spread. We have to contain it, and there is a slight risk for health care workers.

The real transmission is going to be through sexual contact. That is where we need to educate the public. Insofar as there is a risk to health care workers, they should be informed; and I would hope that the committee would find it in their scheme of things to have that done.

I do not think it has to be done, however, to siphon all the money away from people who need to be monitored continuously for asbestos and other hazardous exposure.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman from California makes a sensible and salient point.

I would ask the gentleman, through his agents and employees, if it had changed the word from "designate" to "consider," it would have given the emphasis?

Everybody knows about AIDS in this country. I asked for that distinction. It was not done, and the observations that the gentleman makes are so much on point.

We cannot destroy the purpose of this bill of identifying and notifying, just because we have one very, very important concern in this country. I am not about to dispute that.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding.

On the very point that the chairman has mentioned about changing "direct" to "consider" and the reason that this Member is unwilling to accept that suggestion is very simple.

OSHA has not responded to the request of the American Federation of State, County and Municipal Employees to do just that.

They have had the request there since the first of the year, and OSHA has not done it.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, OSHA is meeting this very day to consider how exactly to spell out the guidelines that are going to be necessary.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding to me again.

That is the reason why we have this legislation, because OSHA is not doing its job in certain areas.

If I may again emphasize to the gentleman from California, this is not OSHA. This is an adjunct to OSHA. It is a supplement to it, so if the gentleman has any problems with OSHA, I suggest the gentleman direct his criticisms to OSHA directly.

Mr. WAXMAN. If I might reclaim my time and speak to the gentleman from Pennsylvania [Mr. GAYDOS], the manager of this bill, if this amendment passed, the gentleman would want to straighten out those issues so it works, so it fits into the whole scheme of things; but as I understand what the gentleman is saying, the gentleman does not object to health care workers being notified that they may be at risk of AIDS exposure?

Mr. GAYDOS. Absolutely not.

Mr. WAXMAN. Why would the gentleman not take this amendment that is being represented to the Members as accomplishing informing health care workers of that fact, and figure out some other way to make it all fit together?

Mr. GAYDOS. That may be done in conference when we hammer out this bill in the final form.

That is a possibility, but now it would actually destroy the format of the bill and the way it is aligned at this time.

It would be very devastating to the bill per se.

Every Member recognizes, and the argument was made very effectively by the gentleman from Michigan, this $25 million, a limiting authorization for 5 years, $25 million, the whole bill will be destroyed.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, is the gentleman saying the gentleman does not wish to offer an amendment to this amendment?

Mr. GAYDOS. That is correct; no, I do not.

Mr. WAXMAN. The gentleman wants the Members to vote against the amendment?

Mr. GAYDOS. The committee would request and appreciate that type of support, and vote "no" against the amendment.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California. This is not the place to attach an amendment such as this one.

We all know that certain workers may be more susceptible to exposure to the AIDS virus than the general population. There are, however, other vehicles which would be more appropriate for the discussion of such an amendment. One such bill is H.R. 3071, the voluntary AIDS testing and counseling bill introduced by Mr. WAXMAN and cosponsored by myself and many other Members of this body.

The bill before us includes a specific procedure for the assessment of risks to employees. The Assessment Review Board is charged with identifying these risks. I think we should allow them the opportunity to make such determinations. The legislation before us does not mention any specific diseases. I think it would be a mistake to include a specific disease. This bill attempts to do in a haphazard approach what H.R. 3071 does in a much more rational and thoughtful approach. I, therefore, urge my colleagues to vote against this amendment.

Mr. ECKART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is significant to note that meaningful legislative initiatives in pursuit of notification of emergency health care workers are moving through this House.

In fact, the gentleman from California has joined me and the gentleman from Maryland in introducing legislation which would provide for an important notification, education and, where necessary, inoculation program for emergency medical personnel.

One of the significant deficiencies in this amendment which I have discussed with the major police organizations is that if a police officer was the first person to arrive at the scene at which a victim was later discovered to have AIDS, that police officer would not be able to receive the notification.

Second point. Legislation that I have introduced, H.R. 3418, provides $27 million a year to implement an AIDS and contagious disease notification program, whereas this entire bill appropriates $25 million to cover dozens of diseases.

This single amendment has the effect of wiping out everything else that this initiative proposes.

Another thing that this amendment conveniently leaves out that my AIDS notification bill covers is, not a single dime goes to local government, whereas my bill provides for $10 million to help develop regimens, so that local safety personnel do not contract the diseases to begin with.

Of even more fundamental concern is that H.R. 3418 provides for an education program to teach health care workers how not to get in the circumstances to contract the disease to begin with.

The amendment being offered by the gentleman from California sounds extremely attractive, but I can assure the Members that the Members will find police organizations adamantly opposed to it. Second, it would defund the entire bill, so it is a sneaky way to gut the whole program before the House. And third, of greater significance, it does not set up a mechanism whereby those individuals who transported or treated a victim who was later found to have AIDS or hepatitis are so informed.

The single largest growing disease in the United States is not AIDS. There are more cases of hepatitis or pulmonary tuberculosis. It is hepatitis which is killing our emergency medical personnel. Yet this amendment does not have a thing to do with it.

We addressed this in the Eckart-Waxman-Hoyer legislation and authorized $27 million a year. That bill is scheduled for a markup in the Committee on Energy and Commerce very soon. But to put in a backdoor amendment that offers the illusion of protection for health care workers when it strips from them the basic right to find out what is on the record; which does not give local government dollars to develop the programs; which creates no program of education and curriculum development to prevent the health care workers from getting into circumstances in which they will contract the disease, is absolutely fatally flawed.

This amendment is not the program that is endorsed by the national police, fire, and emergency health care people.

Their support is targeted on H.R. 3418. This amendment is an attempt, I think, to frighten the Congress. This is an attempt to hold out illusory hope to health care workers; but more fundamentally, it is a political attempt to strip and ruin the piece of legislation before the Members.

Let us not fail to remember that the key to prevention of contracting AIDS or hepatitis is not to be exposed to the disease to begin with, and that is why an education regimen is so important, and that is why money given to local emergency medical personnel directly to purchase one-way masks, for gowns and gloves and other protocols is the answer to protecting them.

We have to help those who help protect us. By developing a program of inoculation, my bill will provide grants to States to get firefighters, paramedics, and police officers inoculated to prevent them from contracting hepatitis, not after the fact.

Let us understand what this amendment is about. If the Members want to protect health care workers, the real answer is to vote "no" on the amendment and to support H.R. 3418.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 198, not voting 16, as follows:

[Roll No. 358]

AYES—219

Andrews
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Boehlert
Boucher
Boulter
Broomfield
Brown (CO)
Bryant
Buechner
Bunning
Burton
Callahan
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Collins
Combest
Conte
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Duncan
Durbin
Dyson
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Kaptur
Kasich
Kastenmeier
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Myers
Nelson
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Russo
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sisisky
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber

Weldon
Whittaker
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—198

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
Barnard
Bates
Beilenson
Berman
Bilbray
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Conyers
Cooper
Coyne
Crockett
Darden
Davis (IL)
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Schroeder
Schumer
Shays
Sikorski
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—16

Badham
Bevill
Biaggi
Bliley
Boggs
Edwards (OK)
Gephardt
Kemp
Livingston
Nichols
Pepper
Quillen
Roemer
Scheuer
Tauzin
Traxler

☐ 1400

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Scheuer against.

Messrs. GRANT, GORDON, RAHALL, and MFUME, changed their votes from "aye" to "no."

Mr. DONALD E. LUKENS, Mr. GIBBONS, Mrs. ROUKEMA, and Messrs. DOWDY of Mississippi, CHAPMAN, and FLIPPO changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. COLLINS. Mr. Chairman, on rollcall vote No. 358, I, by mistake voted "aye." I intended to vote "no."

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 13, line 1, insert "(1)" after "(c) PRIORITIES.—" and after line 13, insert the following new paragraph:

(2) For purposes of paragraph (1), the Board shall consider individuals who have been exposed to dioxin as members of employee populations most likely to benefit from medical monitoring, or health counseling, or both.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, I will be brief because I believe this amendment will be accepted. I have listened to the admonishment of the chairman and certainly agree with him that we should be careful about mandating anything in this bill. Thus, I have reduced my original amendment, which deals with the problems of notification with respect to the use of dioxin, to read that the Board should give priority to considering notification of individuals who have been exposed or may be exposed to dioxin.

I would not have brought this up except that there have been concerns as to whether the Federal Government is doing all that can be done to find the answers to the problems arising from exposure to dioxin. I also point out that here we are involved to a large extent with Federal employees—specifically with Vietnam veterans.

My amendment requires the Risk Assessment Board to give priority consideration to dioxin, a known cancer-causing chemical. Thousands of American soldiers are believed to have been exposed to dioxin-based agent orange while serving in Vietnam. Under the provisions of this bill, if those exposed to dioxin are indeed determined to be at risk, they would not only be notified of that risk but provided medical monitoring and counseling.

In 1979, Congress required the Veterans' Administration to conduct in-depth studies to determine whether servicemen and women have been placed at risk because of exposure to agent orange while serving in Vietnam. Last month, Centers for Disease Control [CDC], which was conducting the study for the VA, announced that it could not continue the probe because not enough soldiers exposed to agent orange could be located.

At the same time, however, a separate Veterans' Administration study indicated that Vietnam veterans have a significantly higher risk of contracting certain types of cancers—cancers that have been associated with dioxin exposure.

My amendment will ensure that the Risk Assessment Board gives priority consideration to the one group of Americans who we know have had on-the-job exposure to hazardous substances. Under the medical monitoring provisions of the bill, the Federal Government will be required to provide medical monitoring for veterans exposed to agent orange if the Risk Assessment Board determines that exposure to dioxin constitutes such a risk. Medical monitoring will provide researchers with additional information necessary to assess the damage done by agent orange exposure.

I have joined with several colleagues in introducing legislation that will ensure that veterans exposed to agent orange will get proper medical treatment from the VA for illnesses due to the exposure. Pending House consideration of our bill, I am hopeful that my amendment will bring us one step closer to the day when this country recognizes its obligations to veterans exposed to agent orange.

I urge Members to support this amendment to give priority consideration to notification of exposure to dioxin under the provisions of this bill.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I appreciate the gentleman's discussion on this amendment. We did go into detail with it and I am sure that the very able gentleman from Vermont [Mr. JEFFORDS] joins me when I say that this bill places a definite responsibility for identifying hazardous substances or processes on the scientific expertise of a Risk Assessment Board which is in the bill. The Board must make its determination based on the very strict scientific criteria contained in the bill.

I had at one time serious reservations about this group as a whole intruding upon our scientific expertise and objectivity which we have built into the Board. I really sincerely believe that the Board should decide these matters from that approach, but I believe that the gentleman's amendment is most meritorious and I do urge support with the express understanding that dioxin is to be considered by the Board based on the same accepted scientific principles as the other substances provided for in the bill.

Mr. JEFFORDS. That is correct, only that they ought to give priority to putting it somewhere up toward the top of the list of things that they will consider.

Mr. GAYDOS. Mr. Chairman, I want to commend my friend, if he will continue to yield, who has served on the committee, and I mean this very sincerely, I appreciate his intense interest in this aspect of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. JEFFORDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROSE

Mr. ROSE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSE: On page 32, after line 2, insert the following new paragraph:

(5) Provisions for medical removal protection under this subsection shall not apply to any seasonal agricultural worker employed by an employer for less than 6 months of continuous employment.

Mr. ROSE. Mr. Chairman, today, I am offering an amendment to the medical removal provision of H.R. 162, in order to exempt seasonal agricultural workers who have been employed less than 6 months.

The medical removal provision currently provides that a notified worker can be medically removed from a position where the worker is exposed to substances which may be hazardous after consultation between the employer's doctor and the employee's doctor. This provision provides further that the worker would be temporarily or permanently transferred to another job, without loss of earnings, seniority, or other benefits. If another suitable employment position is not available the employer must continue salary and benefits for 12 months, as reduced by whatever compensation is received from other sources, such as unemployment compensation, disability benefits, and workers compensation.

The reasons for exempting seasonal agricultural workers from this provision are fairly obvious. All seasonal agricultural workers are hired for a specific purpose and period of time, and my amendment recognizes that fact. If the worker has only been hired to help with the harvest, there must not be other employment opportunities available. Further, if the worker is hired for less than a 6-month period to help with the harvest, the job is by its nature temporary, and the other compensation provisions of this legislation would require a farmer to compensate someone for a longer period of time than he or she was actually hired.

Finally, the Environmental Protection Agency is already monitoring the risks to agricultural employees and has the ability to take whatever action is necessary to remove workers from hazardous areas, as well as make sure that hazardous chemicals are not utilized in the first place.

Without my amendment, this legislation would require farmers to create jobs with money they don't have in order to meet the dictates of this provision. In addition, farmers are already subject to a great number of uncertainties associated with the production of their crops. Further uncertainty with respect to harvesting crops can only lead to unwarranted disruption in the sale and marketing of foodstuffs.

I urge you to support my amendment to address concerns that we in the agricultural community have with respect to the medical removal provisions of this bill. Our desire is not to weaken these provisions, but rather to be cognizant of the special circumstances in the area of agricultural employment.

Mr. HENRY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we have agreed to accept this amendment. We do so in trying to reach comity and continue to move forward on this bill. At the same time I want to make very clear that our acceptance of the amendment is because it certainly does not create any problems. We are on this side not at all convinced that it resolves all the problems. For that purpose I wanted to read a little colloquy, or make a few points for the purposes of the record.

This amendment does, indeed, ease the burden on H.R. 162 in one area, and that is the medical removal provisions of the bill. It does nothing more.

We simply want that to be made clear.

Agricultural employees, no matter how long ago their exposure occurred, and no matter whether they are seasonal or full time, will still be notified by the Federal Government on an individual basis. Employers are still responsible for the cost of medical monitoring under this amendment even if the employee has only worked for them for a short time. Employers are still going to be the target of countless new claims, the vast majority of which will be unfounded, from workers' compensation or tort claims aspects. This amendment does not enjoy the support of the American Farm Bureau, nor that of the National Council of Agricultural Employees.

The amendment does nothing to make the bill workable.

We do want to indicate that we are supporting the amendment because we think it does make a modest improvement but I do want to point out and I read from a communication from the American Farm Bureau Federation in regard to this amendment:

> We also understand an amendment may be offered to exempt seasonal workers from the medical transfer requirement of the bill. Such an amendment would further reduce the number of agricultural employers who would be obligated to make the job transfers but would still leave agricultural employers with the threat of greatly increased liability, increased recordkeeping, and the other objectionable features of the bill.
>
> We would urge every friend of farmers in the House to vote against H.R. 162.

So as I have stated, Mr. Chairman, our side has no difficulty or objection to the amendment. Indeed, we will support the amendment, but we do want to make perfectly clear for the record that the amendment in and of itself does not satisfy the stipulated concerns of both the National Council on Agricultural Employers or the American Farm Bureau.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. ROSE].

The amendment was agreed to.

□ 1415

AMENDMENT OFFERED BY MRS. BYRON

Mrs. BYRON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BYRON: Page 29, strike out line 4 and insert the following (and indent lines 5 through 13 accordingly):

(b) DISCRIMINATION PROHIBITED.—

(1) No employer or

Page 29, after line 13, insert the following:

(2) An employer with 15 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority, and other employment rights and benefits as comparable as practicable to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

Page 32, after line 2, insert the following:

(5) An employer is not required to provide medical removal protection for employees if the employer—

(A) has 15 or fewer full-time employees at the time medical removal protection is requested, and

(B) has made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

Mrs. BYRON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. BYRON. Mr. Chairman, I would like to offer an amendment to H.R. 162 which would exempt businesses with 15 and fewer employees from the medical removal provision of the bill, if the company has made a good faith effort to prevent occupational exposure.

As you know, as it now stands, the bill would require employers to give up to 12 months pay and benefits to employees who must be removed from a job when a transfer cannot be arranged, regardless of the number of jobs that an employer is able to provide.

My amendment is supported by Mr. GAYDOS and the Education and Labor Subcommittee on Health and Safety. It has also received support from members of the Small Business Committee.

While I feel that businesses should be responsible for meeting the health needs of their employees through proper notification and medical removal procedures, I do not feel that this should serve to overly threaten the productivity and competitiveness of small businesses.

I do not think that it is feasible to expect a business of 15 and fewer employees to be able to transfer an employee to another position comparable in pay and benefits.

Medical removal is the procedure by which an employer moves a worker notified of risk of disease from a position in which he is exposed to hazardous substances. This would take place after consultation between the worker's physician and the employer's medical representative. A worker would then be permanently or temporarily transferred to another job, without loss of benefits or decrease in salary.

If an alternate position is not available, the employer must still continue salary and benefits for 12 months—less any other sources of income received by the employee such as worker's compensation or disability benefits.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentlewoman for yielding.

Mr. Chairman, I plan to support her amendment and believe that it in no way diminishes either my opposition or the opposition of most who would oppose the bill, but the gentlewoman has demonstrated extraordinary leadership on those issues as well as on small business issues and she has correctly identified the one single area of small business that could be exempted. As we discussed yesterday, there are a number of other areas but this is one that is an improvement in the bill and I commend the gentlewoman for her leadership on this issue.

Mrs. BYRON. I thank the gentleman.

Let me talk a little bit about the medical removal procedure which is an issue whereby an employee moves a worker's notification of risk of disease from a position in which he is exposed to a hazardous substance, this would take place after consultation between the worker's physician and a medical representative of the employer. A worker would then be permanently or temporarily transferred to another job without loss of benefit or decrease in salary. If an alternate position is not available, the employer must still continue salary and benefits for a 12-month period less any other source of income received by the employee such as workers' compensation or disability benefits.

I think one of the things that we are very concerned about in this day and age is our small business, which is really the backbone of our country. When we talk about the small businessman who is forced by law to comply with many of the Federal regulations, very often we are putting them in a tenuous position because of the cost of enforcing these laws.

Therefore, I urge support of my amendment.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. DE LAY TO THE AMENDMENT OFFERED BY MRS. BYRON

Mr. DELAY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. DELAY to the amendment offered by Mrs. BYRON: In the matter proposed to be inserted by the gentlewoman from Maryland, strike out "15 or fewer" each place it appears and insert "50 or fewer".

Mr. DELAY. Mr. Chairman and my colleagues, I think the work done by the gentlewoman from Maryland is exemplary in pointing out the problems that small business would have with the medical removal portion of this bill. I tried and only got a minute yesterday to point out how this could affect the small business that does not have an extra position to provide someone at equal pay and equal seniority. It also does not have the wherewithal to provide a full 12 months of pay to accommodate this particular employee.

Now what we have is the situation, my colleagues, that says, in the gentlewoman's amendment, the gentlewoman from Maryland, where she wants to exempt only the medical removal portion of this bill. Nowhere else would the bill be exempted for those companies that have 15 employees or fewer but only the medical removal portion of the bill.

The gentlewoman proposes 15. Well, I can understand her point, but I also understand that for instance in my own situation I have a company of 16 employees. Does that mean that since I do not have another position at equal pay or seniority or I do not have the wherewithal to provide a full 12 months' pay, then I have to comply with the medical removal portion of this bill? I think in my amendment I put 50 or fewer as an exemption threshold because I feel those companies that have 50 employees are more likely to have the extra position or the wherewithal to come up with 12 months' full pay.

So what I am offering here today, and I am told is acceptable by the gentlewoman from Maryland, is to propose an exemption of 50 or fewer to just the medical removal portion of the bill.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. I thank the gentleman for yielding.

Let me say that I feel the amendment offered by the gentleman is constructive and it further addresses the concern of small business and the gentleman's proposal is an interesting one.

Let me talk about why I chose the number 15 as a number, because it is a number that has been used in previous small business exemptions, such as article 7 of the Civil Rights Act of 1964 and some existing OSHA regulations. A similar provision is in the counterpart legislation being considered in the other body where they cut off the number at 10. I think 15 in my estimation was a comfortable compromise but at the same time I would like to say that I came up with 15 as a number for those specific reasons.

I would like to clarify, however, that the threshold for the exemption of the medical removal provision in the bill is the only area that will be affected by the gentleman's amendment to my amendment or his substitute to my amendment. Is that correct?

Mr. DELAY. The gentlewoman from Maryland is absolutely correct, it only affects the medical removal portion of the bill. She most rightly picked 15 but I am saying in the practical business world a company of 15 or fewer employees is usually a company that does not bring in more than $1 to $2 million in gross sales. You are talking about just one of these employees receiving, if it is a million, in my case, for instance, and we are running at about 6 percent profit, that 6 percent profit is $60,000 and one employee can cut half of that profit by me having to pay that employee 12 months' pay. Most of my employees, I think the lowest paid of my employees is about $30,000 a year.

So if I had to pay that employee $30,000, that would cut my profit in half. I do not have another position that I could give them other than to sit behind the desk all day long. I might as well get rid of them and pay the 12 months' full pay. I do not have another position of seniority. But a company that has 50 or more, I think is a company that is running a payroll of more than $1 million a year and that company certainly is not going to suffer as much as a small mom and pop operation like a dry cleaners or some little small company. They can probably afford this particular medical removal program.

Mrs. BYRON. If the gentleman will continue to yield, I think one of the most difficult things that we have on this floor is to make a cutoff number, 15, 25, 50.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. I yield further to the gentlewoman from Maryland.

Mrs. BYRON. I thank the gentleman.

Mr. Chairman, it is my feeling that 50 in this day and age is not an unreasonable number. I started out with 15 because there was precedent for it. It is up to the chairman, but I have no objection from my position as to the 50.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. I thank my friend for yielding.

Mr. Chairman, at the beginning I was unequivocally opposed to increasing it over 15. We thought that 15, although it was an arbitrary figure, we thought it was fair under all the circumstances that employers having employees up to 15 could absorb, we thought, any kind of a change. But we have analyzed it since then and we have again broadened our scope of inquiry. We have been informed that there are some situations where the 15 mark would be fundamentally inequitable, that we should go to 20. Then we came to a second compromise, not 100, not 75, but we thought 50, after analyzing all the facets, all the different places of employment, the possibilities where it could exist, we thought 50 would be eminently fair.

So at this point I very reluctantly would have the committee accept and I accept on behalf of the committee an amendment to the amendment stating the number 50 employees instead of 15.

Mr. DELAY. This gentleman is very proud of the chairman and his compromising attitude. He is being more than fair. I appreciate his attitude and the ability to work with us.

Mrs. BYRON. I thank the chairman for his graciousness.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words and I rise in very strong opposition to the amendment.

If this is accepted it will certainly be something that will mandate my opposition and a vote of "no" to the bill itself. I think that in our part of the country that we are talking about it is exempting over 65 percent of the small businesses who in this case would be exempted from any kind of liability for their responsibility and care for their workers who work loyally and faithfully for them. And in our part of the country, that kind of business in the main would have the submarginally employed, usually minority members.

What this means is that we are sanctifying in the name of small business a practice that callously disregards a responsibility that each, if it were a one or two employee business, ought to be there from a moral standpoint. I think it is absurd for us to say that we are attempting to debate the successful consideration of a measure that will, at long last, recognize the degree of responsibility for the health and well-being of those American workers who by the very nature of their exposure to the work they are employed in endangers their very life.

How can we place this kind of an exemption in any kind of meaningful legislation that gives rise for the consideration of it in this House of Representatives? I vigorously oppose the amendment to the amendment.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Is the gentleman aware this is only the medical removal portion? It does not exempt anybody from anything, any other provision in the bill? Only the medical removal portion that says that if an employee requests a transfer you have to give them a like job at like pay and seniority or give them 12 months' full pay and terminate their employment.

□ 1430

The rest of the bill stays intact.

Mr. GONZALEZ. Well, I believe the essential detriment to the thrust of this legislation is there even with this partial or fragmentary exemption. So I maintain my solid opposition.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman.

Mr. Chairman, maybe we ought to find out from our other colleague, the gentleman from Texas [Mr. DELAY], whether or not, if this amendment is adopted, he is going to support the legislation.

Mr. GONZALEZ. Mr. Chairman, I yield back the balance of my time.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment as submitted.

Mr. Chairman, I am very pleased that both the majority and the minority on the full committee are recognizing the special needs of the small business community and providing for an exemption of small business. One can always argue whether that small business exemption should be 10, 15, 50, or 100. Reasonable people can differ, but what is important is that we do understand the special needs they have.

Mr. Chairman, I ask that the Members support the amendment.

Mr. Chairman, I rise in support of the amendments to exempt small businesses from the medical removal requirements in the bill. The amendments would exempt these small firms from the requirement that employers continue salary and benefit payments for 12 months for workers who must be removed from a job to protect their health if they cannot be transferred to another position. The exemption would apply only if the company has made a good faith effort to prevent occupational exposure.

These amendments would exclude over three-quarters of the businesses in this country from the medical removal requirement, while covering over 80 percent of the work force. The amendments, and the amendments adopted in committee, make constructive improvements in the bill that accommodate the concerns raised by the small business community.

It should also be emphasized that the majority of the Nation's small businesses will not be affected by this bill at all. First, businesses are only affected by this legislation if their workers have been exposed to toxic substances in the workplace. Within that group of businesses, only a portion of those will have workers who have been exposed to toxic substances in sufficient concentrations to trigger the notification requirements. Businesses will not be affected unless there is scientific evidence that exposure to toxic substances has caused a statistically significant increase in the incidence of disease in exposed worker populations.

With the adoption of these amendments to alleviate the particular problems that have been raised by small businesses, I can now more readily support this legislation. I urge my colleagues to do the same.

Mr. KOLTER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KOLTER asked and was given permission to revise and extend his remarks.)

Mr. KOLTER. Mr. Chairman, over 100,000 people have died this year in the United States from occupational disease. How I cast my vote this afternoon is very important because we can cure occupational disease if we support H.R. 162. I rise in support of H.R. 162.

Mr. Chairman, I rise today in good spirits and in great health. Others are not as fortunate. Over 100,000 people died in the United States, this year alone, of a terrible disease. Another 340,000 were disabled. This disease strikes without warning, leaving many of our citizens unprepared, financially and emotionally. The truly sad thing about this disease is that it is preventable, and in most cases, nothing is done to prevent its spreading. I am referring to occupational disease.

Simply put, everyday working people are being killed trying to make a living. They are dying because current Federal regulations do not require employers to inform employees of their risk of disease from hazardous substances that they are exposed to at their workplace. This is an outrage.

I strongly urge my colleagues to support H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. This bill establishes an effective system to identify groups of workers who are at risk of illness as a direct result of exposure to hazardous substances in the workplace.

Working people are dying. We've got to put a stop to it. It is time to tell our workers what they are working with and protect them against occupational disease. Any cost associated with passing H.R. 162 is minor, when compared to the cost of human life and inaction.

I am a family man. I surely won't die from casting a vote. But thousands of lives depend on how I cast that vote. Let's cure occupational disease. Support H.R. 162.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY] to the amendment offered by the gentlewoman from Maryland [Mrs. BYRON].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland [Mrs. BYRON], as amended.

The amendment, as amended, was agreed to.

Mr. BONIOR of Michigan. Mr. Chairman, I rise today in support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. The bill we consider today is perhaps the most important bill that we can consider for the rights of American workers this year. H.R. 162 would provide essential governmental protection to ensure the right of American workers to good health.

By providing notification and counseling to workers at a high risk of occupation disease, H.R. 162 would protect the lives and health of American workers who are exposed to the thousands of toxic substances in commercial and industrial workplaces.

At this time, few workers are notified of the potential for developing an illness related to their job. As a result, the diseases go undetected until they have passed the stage where treatment could help. American men and women deserve the chance to protect themselves against illness. They deserve knowledge that will enable them to seek help in the early stages of an illness when there is greater possibility for a cure.

The figures are staggering. More than 100,000 workers die each year from job-related illnesses that could have been prevented or cured. That's at least 1 million unnecessary deaths every decade. More than 240,000 people end up blind, in wheelchairs or bedridden each year for the same reasons, and their illnesses, too, could have been prevented.

The United States possesses great medical and scientific capabilities which can prevent disease and early death. The medical and scientific communities have learned to identify the sources of illnesses and, therefore, to prevent diseases in high risk cases. For many people, there is no need to die, no need to suffer long illnesses or debilitating diseases.

H.R. 162 sets up a notification process that will enable workers to seek this protection from occupational cancer or other illnesses. By giving American workers the chance to protect themselves from job-related diseases, fewer workers will have to die early, ending their life ill and infirm.

To facilitate the early detection and prevention of occupational diseases, a new office in the Health and Human Service Department would have the responsibility of identifying the populations at risk of occupationally induced diseases. More importantly, this Risk Assessment Board would have the responsibility of notifying and counseling workers in the high risk population.

The bill also seeks to meet the growing need for medical facilities that can help individuals with work-related diseases. H.R. 162 authorizes the certification of occupational and environmental health centers, among existing health-care facilities. The bill authorizes an increase in Federal efforts aimed at identifying and defining worker populations at risk of job-related disease. Other provisions of the bill provide for the ongoing medical surveillance of high risk workers and research into improving the methods of this surveillance.

H.R. 162 would not require the expenditure of large sums of Federal funds. The bill authorizes only $5 million a year for 5 years. A small price to pay for the health of millions of workers. In fact, H.R. 162 must have been based on the old adage: an ounce of protection is worth a pound of cure. Consider the $5 million a year pricetag compared with the $3.5 billion pricetag on the Social Security system's payments for treatment of occupational cancer and other diseases. There is no comparison. And, how much more could H.R. 162 save Medicare, Medicaid and workman's compensation programs if job-related disease among America's workers is prevented?

We have great medical and scientific capabilities in this country and H.R. 162 will put those capabilities to greater use in the area where they could do great good. Using modern-day medicine and science, workers don't have to die young; they don't have to suffer long terrible illnesses and they don't have to spend the end of shortened lives in bed or in a wheelchair.

Mr. Chairman, H.R. 162 will create a national program that will protect many lives from disease and early death. I am proud to say I support H.R. 162, and I urge my colleagues to join me in voting for its passage.

Mr. OWENS of New York. Mr. Chairman, I rise in strong support for H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, and against the amendments which will be offered today to gut this crucial legislation.

Originally, I thought this bill was just about saving lives and preventing disease, but after listening to the arguments of the opponents of H.R. 162, I guess I was wrong. It's really about money. One hundred thousand Americans die every year of occupational illness and what we are hearing from the other side today is that we cannot do a thing about it because it might cost a corporation somwhere a few bucks.

That is an embarrassment. Not just because the dollar figures being thrown around by the bill's opponents are not real and may as well have been plucked from thin air, but, most importantly, because there is something inevitably indecent about trying to measure the value of human life and well-being in dollars and cents.

Have we learned nothing from the tragic lessons of the past?

Few Americans today do not know that exposure to asbestos can cripple and kill you, but for many years it was kept a deadly secret. The companies that made and used asbestos knew; their in-house physicians knew; their insurance underwriters knew; even some Government officials knew. The only people who did not know and were never told that asbestos can kill you were the men and women who had to work with that poison every day.

As far back as 1948, doctors at the Johns-Manville Corp., knew that asbestos was making their workers sick and had identified a number of workers who had already developed asbestosis. But they did nothing and refused to even tell workers that they were sick, explaining in a corporate memo that "as long as the man is not disabled it is felt that he should not be told of his condition so that he can live and work in peace and the company can benefit by his many years of experience."

And so the conspiracy of silence went on and on, for decades. Thousands upon thousands of American workers lost their lives and today continue to become ill and die because of simple, sickening greed. Because a collection of corporate aristocrats decided that preventing their deaths might inconvenience the company and cut into profits.

Everyone today agrees that what happened at Johns-Manville was wrong, horribly wrong, but apparently we have not learned very much from the experience. Thousands of our constituents are dying from occupational diseases that could have been prevented or effectively treated if they had only been told in time what was happening to their bodies. With H.R. 162, we have the ability to turn that around, to ensure that workers are well-informed about the health risks of their jobs before it is too late for that information to do them any good. But the opponents of H.R. 162 insist that we should not seize this life-saving opportunity, that workers do not have a right to know, and the arguments they use are precisely the same feeble ones that sent so many asbestos workers needlessly to their deaths. Because it would be inconvenient. Because it might cost money.

These objections are not just unconvincing, but profane. I do not pretend to be able to calculate the precise dollar value of the health and lives of the men and women I represent in Brooklyn, and I frankly marvel at those in this body who are able to make that calculation. But I do know that whatever dollar figure you finally come up with must certainly far exceed the minimal cost of implementing the notification and disease prevention program in H.R. 162. If you disagree and intend to vote against this bill or to destroy it with killer amendments, I urge you to carefully check your calculations again. It simply cannot be that this wealthy nation of ours cannot afford this vital, life-saving legislation.

Mr. GILMAN. Mr. Chairman, I rise today in support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. I would like to commend the gentleman from Pennsylvania [Mr. GAYDOS] for his determination in bringing this important measure before us today and for his dedication in helping our growing work force.

Mr. Chairman, many view H.R. 162 as a one-sided bill meant to increase Government control over labor-management relations. What is wrong with a bill designed to identify, notify, and counsel workers who have a high risk of occupational cancer and other diseases. It is morally wrong if the Government does not want to warn our workers of such hazards. I have heard from many groups which strongly endorse this measure, including many businesses from my congressional district. These include: Ciba-Geigy, American Cyanamid, Union Carbide, and IBM. The public health and environmental groups have also expressed their support of H.R. 162, and who can fault those who this bill will benefit the most for voicing their concerns, the workers.

I have spoken with a number of concerned individuals who believe that H.R. 162 will create a needless multimillion-dollar new Federal bureaucracy. I contend that not only is H.R. 162 scientifically, medically, and legally sound, but that it also is fiscally responsible and cost-effective for both the Federal Government and employers. Many of us are aware of the startling statistic that as many as 100,000 workers die each year from occupationally related diseases and as many as 390,000 are newly disabled from exposure to toxic substances in the workplace. This results in a staggering $3.5 billion currently being expended by the Social Security disability, Medicaid, and Medicare programs for occupational diseases. By contrast, according to a cost analysis prepared by NIOSH, the total Federal costs of administering H.R. 162, including notification of workers at risk plus funding for 10 occupational health centers, would be between $20 and $25 million annually.

Others are also worried by the potential cost to the employers and the possibility of increased liability claims. These also seem unwarranted. While this legislation requires employers to incur the cost of medical monitoring for their current employees who are at risk of a particular occupational disease and received some part of their exposure in the course of their current employment, employers are not responsible for medical monitoring costs with respect to their former employees. Many employers subject to this bill are already paying for medical monitoring under the 24 OSHA health standards currently in effect. Logic tells us that it is less costly to detect and prevent an occupational disease than to treat it once it has had time to spread.

A concern has been expressed that once employees are informed that they are at risk of cancer or other serious diseases, anxious workers and their families will generate a tidal wave of compensation claims. H.R. 162 provides that any action taken pursuant to the act may not serve as the basis for any claim for compensation and that evidence of any action taken pursuant to the act may not be admissible in any compensation proceeding. One can look toward the business community to be reassured. As I stated before, this legislation has received impressive support from many companies and associations, including the American Electronics Association and the Chemical Manufacturers Association, whose members produce 90 percent of the chemicals in the United States. It would be reasonable to assume that these companies have had extensive experience with the potential liability consequences of hazardous workplace exposure, but feel confident that H.R. 162 will not lead to additional liability exposure for employers and their insurance carriers.

Mr. Chairman, I do not believe that the Jeffords-Henry substitute is without merit. The objective of my colleagues to remove the hazards from the workplace, thereby reducing the risk, is honorable. I would have hoped that Members from both sides of the aisle could have combined the best of both bills so that we could have a true bipartisan compromise. We all agree that the workers' right to know of hazards in the workplace is primary to protecting health, preventing illness, and ensuring public safety. This is one of the most important issues that will be considered by the 100th Congress and deserves the support of a true majority.

Mr. Chairman, this legislation provides an important tool in preventing and controlling occupational related diseases and improving the health of this Nation's workers. Accordingly, I ask my colleagues to join in support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act.

Mr. DENNY SMITH. Mr. Chairman, I rise in strong opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. This legislation is the perfect example of a good idea that makes for bad law.

Nobody disagrees with the idea behind this bill. As a businessman myself, I understand the need for protecting my employees from undue health hazards. Health care costs are an important consideration for anyone attempting to start or maintain a business. But H.R. 162 goes far beyond this. It would open a Pandora's box and subject businesses of all sizes with increased Federal intervention, increased costs, increased liability, and increased litigation. H.R. 162 would do more to hurt our ability to compete on world markets than if we simply walked out of this chamber and shut down the businesses ourselves.

The creation of a Risk Assessment Board to determine the exact nature of the risk to employees will raise more questions than it will answer. Once again we are faced with the concept that not only does the Government know what's really in everyone's best interests, but that this same Government is capable of acting upon these findings in a fair and reasonable manner. Based on past experience, I find this philosophy hard to believe. We must reject the notion that bureaucrats on the Potomac have all the answers.

What constitutes a hazard, and what is the proper remedy? According to H.R. 162, workers would have to be notified and transferred to a different position within the company, at full pay and benefits. If another suitable position can not be found for these employees, then the employer must pay 1 year's salary and benefits to the affected employees. The Sun constitutes a major health hazard. Are we to tell the numerous farm workers, cab drivers, landscape architects, construction workers, and lifeguards in this country to find other professions? Professional football is a violent sport with many injuries. Would we be required to find other jobs for these men?

The costs of this legislation to business will be astronomical. The General Accounting Office cannot even begin to compute these costs. Large corporations may be able to absorb such costs. Unfortunately, the vast majority of smaller businesses will be hurt. One of the most affected would be beauticians, who deal with a surprising number of chemicals that would fall under this bill. The vast majority of these operations are small, with high employee turnover.

The sponsors of this legislation tell us not to worry, because H.R. 162 would not increase the costs of liability coverage and would not increase the amount of litigation in this country. The one test case that we have, a company located in Georgia, proved that this simply was not so. Even though the Augusta Chemical Co. was supposed to be free of this burden, $335 million worth of lawsuits were filed against the company by employees and former employees. Although the majority of these claims were not allowed to go to court, the company lost millions of dollars in defense of the suits and through settlements to these workers. Regardless of what this legislation says, and regardless of the best intentions of the sponsors and supporters, H.R. 162 is not litigation-proof and never will be. Somewhere in this country, a union or an individual worker will file a suit, and a judge will rule the provisions that prevent suits to be invalid. Once this happens, all bets will be off. This bill may as well be called the Lawyers Relief Act of 1987.

H.R. 162 is one of the many bills being forced upon us by the labor unions of this country. Regardless of whether the issue is increased minimum wages, or mandated levels of health benefits, or plant closure notification, this Congress is becoming increasingly antibusiness. While many members of this body are decrying our trade deficit and our lack of competitiveness in the world today, these same individuals are foisting millions of dollars of operating costs and thousands of pages of regulations, forms and lawsuits on the employers of today. The employers are supposed to take a risk, start a business, create the jobs and then keep their mouths shut. Our country can not afford this type of attitude from Congress.

No one in this body disagrees with the goal of making America's workplaces safe. But H.R. 162 is not the answer to the problem. It is a whole new problem unto itself.

Mr. HOUGHTON. Mr. Chairman, there are two considerations in the approach to assessing risk—first and foremost is the person, or the human being. The second is the business itself, in other words, the structure which provides the job to begin with.

Of the two bills before us today, in my mind one is reasonable if not perfect; the other would be dangerous. Let me explain briefly what I mean. H.R. 162 on the surface appears socially responsible and not laden with costs. But in looking closer at the open endedness of the commitment it would be virtually impossible to plan for one's very existence. I will not produce a litany of the key features which comprise the bill. Suffice it to say that we are legislators. We do not have to meet a payroll, plan for taxes, costs, customer complaints, bumps in the economy. That is for others. But the others are people with courage and guts and a willingness to take a chance. They comprise small business. They help pay our salaries. Small business, and its employees are the backbone of this country. There is no way that I nor you nor any other legislator, having changed jobs with the whisk of a magic wand, could find a way to operate with H.R. 162 facing us in the out years.

The Henry-Jeffords amendment, while far from perfect, puts the human being up front as a human being. It provides training in the use of hazardous materials. It also assures both workers and retirees of notification if they are really at risk. At the same time, it hears the cries of the organization, which employs those people, to help keep that business open. Without it nothing works.

It is for this reason, Mr. Chairman, that I support the Henry-Jeffords amendment and plan to vote against a potential calamity for the small businessman embodied in H.R. 162.

Mr. SHUMWAY. Mr. Chairman, I rise in opposition to H.R. 162, the High Risk Disease Notification and Prevention Act of 1987. If enacted, this measure would have a devastating effect on small business.

H.R. 162 would increase liability exposure and litigation, increase health insurance costs and raise the cost of labor for small firms. Specifically, it would encourage litigation between employees and employers, which would in turn increase the costs of liability insurance and workers' compensation. The bill would force small businesses to provide testing, evaluation and medical monitoring regardless of the employer's liability for the potential illness. Further, the benefit reduction protection provision would increase costs to businesses unable to provide alternate positions for their workers. As a result, those businesses would be forced to provide severance pay for a full year.

Conservative estimates show that implemention of H.R. 162 would add between 4 and 8 percent to a small company's operating costs. Considering that the average profit margin for a small company is estimated at only 2 to 3 percent, it is obvious that the bill will have a very negative impact on those companies.

According to the latest report on the state of small business, there are over 15 million small businesses in the country. Over the past 6 years more than 90 percent of the new jobs created have been in companies with fewer than 20 employees. The enactment of H.R. 162 would undoubtedly end that positive trend.

Strengthening ongoing occupational disease prevention programs under existing laws, rather than creating new Federal programs seems to me a more reasonable solution. The existing Hazard Communication Standard establishes a comprehensive program of notification and training of workers by their employers concerning chemical hazards in the workplace. The regulation provides hazard information on 575,000 substances to 32 million workers. A separate regulation requires employers to maintain records of exposure and medical surveillance and provide this information to their employees. I believe that strengthening these existing programs and other Occupational Safety and Health Administration standards provide the protection necessary for workers, and constitute a more appropriate, cost effective remedy.

There seems little point in resolving the hazard problem by eradicating the jobs. Unfortunately, in the case of small businesses, that is exactly what H.R. 162 would do. I urge my colleagues to vote against this inappropriate measure.

Mr. FOGLIETTA. Mr. Chairman, I rise in strong support of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. This bill establishes a much needed program to inform workers aware of the health risks which may result from certain occupations and will provide these workers with assistance in preventing these diseases from developing.

H.R. 162 is one of the most important pieces of legislation that we examine this term. This bill will establish a Risk Assessment Board, which will identify groups of workers who are at high risk of disease because of previous occupational exposure. The study will isolate those groups where the incidence of disease is 30 percent greater than the general work force. The program will then notify those workers in these occupations. It will provide these workers with information on the types of disease for which they are at risk, and the necessary actions which must be taken. The Risk Assessment Board will also provide this information to the family physician of the worker.

The opponents of this bill argue that it will set up another bureaucracy which will further strain our resources. This could not be farther from the truth. The fact is that this bill will save money. The annual cost of occupational disease to the Federal Government from its disability and health benefit programs is $5.4 billion. The annual cost to administer this program is $25 million. The annual cost of occupational disease to business is estimated at between $2 and $4 billion. The cost to business to administer this program is estimated at between $3 and $38 million. If this program allows us to prevent even 1 percent of occupational diseases, it will more than pay for itself.

H.R. 162 expressly prohibits the use of determinations by the Risk Assessment Board as a basis for, or evidence in, compensation, loss, or damage claims, so the argument that this bill will cause a flood of new litigation by workers who have been informed that they are at risk is false. The General Accounting Office reviewed this bill and found no basis to conclude that it would contribute to increased liability or litigation.

In my opinion this is a hypocritical argument anyway because if increased litigation is needed to force managers to act responsibly in protecting the health and safety of their employees, and to prevent plant operators from knowingly exposing their workers to hazardous substances, then so be it.

This legislation is long overdue. It ensures that our Nation's workers no longer will be kept in the dark but will receive the information they need to make knowledgeable decisions about the hazards they face in the workplace every day. It is a very important piece of legislation, and I commend Chairman GAYDOS and his committee on their work.

Mr. BONKER. Mr. Chairman, as an original cosponsor of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, I rise in strong support of the bill. I am pleased by the work that the Education and Labor Committee has done in bringing this bill to the floor.

I am aware of the considerable objections that many businesses have to this legislation and their concerns that this bill will cause an epidemic of lawsuits. Certainly, it is not the intention of Congress to cripple businesses that involve the use of hazardous materials in their manufacturing processes and I believe that the bill has included safeguards to prevent that from happening.

The most important issue, however, is the long-term health of workers engaged in jobs that put their health at risk. Approximately 100,000 workers die and 340,000 more are disabled each year by health problems attributable to exposure to hazardous substances at the workplace. The subsequent costs to business and the Federal Government to treat and care for these exposed workers is enormous. I believe that the legislation drafted by the committee—and not the substitute amendment—takes significant steps toward reducing the risks and limiting the problems associated with exposure to toxic chemicals.

The bill takes aggressive steps to identify, monitor, and treat the health effects associated with occupational exposure to hazardous materials. Health hazards would be identified by a newly created Risk Assessment Board which will review clinical and epidemiological studies for significant evidence of health risks.

Notification would be given to worker groups by the National Institute for Occupational Safety and Health [NIOSH]. Through NIOSH, high-risk workers would be given information about the nature of the risk, what diseases are associated with exposure, and be given advice for how their health should be monitored for early detection of any illness.

At the present time, current workers benefit from information about toxic materials supplied under the Occupational Safety and Health Administration's [OSHA] recently implemented Hazard Communication [HazCom] Standard. HazCom requires employers to train workers in safe handling of hazardous materials, label hazardous materials as such, and provide so-called material safety data sheets outlining permissible exposure levels and health effects.

This is an important but incomplete step. Unlike H.R. 162, it makes no contribution to ensuring the long-term health of the employee. If we are sincere in our efforts to protect workers from chronic health problems which are thought to result from toxic substance exposure, then an aggressive response is needed. Workers need to know the risks and be monitored to determine whether their health is being harmed. Furthermore, former workers, who may still be in the latency period of debilitating disease, deserve to know as soon as possible so that medical steps can be taken to reduce the impact. This is the fair and decent approach to an insidious problem.

Many of the provisions of H.R. 162 are based on existing policies of OSHA or modeled after well-designed programs in existing companies that routinely handle toxic substances. The requirements are not unreasonable, particularly considering the importance of the long-term health of workers.

I have been contacted by a number of firms who are concerned about an explosion in litigation and soaring costs for businesses and the Federal Government. Their concerns have been reflected in this legislation. The bill disallows using actions under the bill as a basis for any legal claims. As stated in the committee report, "The intent of these provisions is to leave tort liability and litigation and workers' compensation proceedings precisely where they would have been without enactment of the legislation." Workers already can file suit for job related health problems and most businesses are already prepared to respond to these claims. Certainly if a worker has been injured or becomes ill as a result of work related toxic substance exposure, companies should bear the responsibility of compensation.

Mr. Chairman, whenever we consider legislation involving worker rights, the debate is passionate and emotional. Fortunately, during the process, compromises are made, legislation is improved, and workable solutions are reached. In the case of H.R. 162, we are dealing with one of the fundamental problems in any workplace, the safety of the worker. Modern medicine and sophisticated research have made possible protections that were not possible several years back. There is no reason to accept preventable jobs related disease and disability. That is why I am supporting H.R. 162. I hope my colleagues and opponents of the legislation recognize that this should be the paramount concern, and that we can join together to promote safer working conditions by approving this bill today.

Mr. GALLO. Mr. Chairman, the importance of worker notification is widely recognized in Government and in the private sector. H.R. 162, which seeks to address this concern with a national policy, is the only measure before us on this subject and I am voting in favor of this bill to keep the process moving toward an eventual solution to this critical problem.

Yesterday, I supported the Jeffords-Henry substitute to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, because I believe that the Jeffords proposal contained many workable provisions. However, the Jeffords-Henry amendment was defeated and we must now keep moving forward in our efforts to create a workable Federal notification policy.

We are faced with what I consider to be an important challenge. There is no question that we must provide additional safeguards in the workplace for employees. The question, rather, is how are we going to bring about this protection.

It is imperative that we establish a system to ensure that hazardous materials in the workplace are handled in a safe manner that will reduce the risk of occupational disease.

The primary focus of our efforts to protect the health and safety of workers must be to get the right information to the right people at the right time in a form that brings enlightenment, not panic.

I favored the Jeffords-Henry proposal because it would have permitted us to enhance and expand a newly established and workable system that is already in place. I am referring to the Occupational Safety and Health Administration [OSHA] hazard communication standard that has recently been expanded to apply to all private sector employers.

The expanded OSHA standard, if allowed to work, could significantly reduce the incidence of occupational diseases by ensuring that millions more workers understand the potential danger of substances in the workplace, and that workers are trained in the protective measures necessary to safely handle those materials.

Based on my experience in the area of community right-to-know, I am concerned that certain provisions of H.R. 162 are more complex than they need to be to get the job done effectively.

As the House sponsor of the community right-to-know provisions in the Superfund law, I spent many hours during the 99th Congress in consultation with environmental and business groups in an effort to design a community right-to-know law that provides the right information to the right people at the right time, without creating a paper blizzard that would bury local emergency response teams in times of emergency.

My efforts had the support of those groups within the emergency response community who were on the front line of this issue. Local police and fire teams were very concerned that Congress would pass a law that would give them a great deal of information in a form that would be totally unusable.

With community right-to-know, I believe we accomplished our goal and created a good law based on a good idea.

While H.R. 162, seeks to provide facts so that intelligent people are able to make intelligent choices about the protection of their personal health, there are too many questions left unanswered in this bill.

Are substances used in different concentrations and for different purposes to be treated in the same way or based on their specific use? Can workers depend on this system to give them information that is useful or information that raises the level of uncertainty?

We must avoid the temptation to overlegislate and provide workers with shades of gray and conjecture that will frustrate efforts to know the truth and create a situtation where claim and counterclaim will replace facts.

Even though I raise these objections to H.R. 162, expanded worker notification is too important to millions of our Nation's workers to delay further action. It is imperative that we continue to work together to pass legislation that will best serve the interest of the safety and health of all workers. A critical part of that process must be to design a program that works.

For these reasons, I am voting for this bill today, but I think the process of refinement must continue, if we are serious about a workable notification policy.

Miss SCHNEIDER. Mr. Chairman, the past few weeks have seen a flood of information and arguments concerning the bill before us today, H.R. 162, the Worker Notification Act. Having gone on record in support of this bill, I want to take this opportunity to respond to those who argue against this important legislation. There are those who argue that we should refrain from supporting this bill because we cannot know its consequences. True enough, we in the Congress do not have a crystal ball. We cannot now know how many or which substances the Risk Assessment Board will determine sufficiently hazardous to invoke the notification procedures. We cannot know how many potential victims of disease might be spared if given information that allowed them to seek early medical attention. We cannot know how future court cases might be decided. We cannot predict the impact of this legislation on any aspect of commerce. I question, however, how this uncertainty is different from the hundreds of other bills that reach the House floor each year. Why in this instance, should our inability to tell the future preclude us from acting on a vital issue, particularly an issue of critical importance to American workers?

Some have termed this legislation as "anti-competitive." They argue that since our overseas competitors do not operate under similar provisions regarding notification of exposure to hazardous materials, we are putting ourselves at a disadvantage. This is a myopic view of competitiveness. It confuses trade deficits and surpluses with standard of living. We are not competing in a world economy simply to make the statistics come out in our favor. We are competing in a world economy in an attempt to provide a better standard of living for the American people. To do so means that we must ensure that future generations have the education, skills, and technical capability to continue improving their standard of living. If we ignore the health and well-being of the American worker in some quixotic quest to be more competitive, we have missed the point completely.

Throughout the course of the debate on worker notification, not one person has suggested that it was wrong to notify individuals that they had been exposed to a potentially dangerous condition at work. A strong case was made for the substitute provision that emphasizes concurrent and future efforts at informing workers of their exposure to hazardous materials. This is a position that I advocate completely and a position that I supported with my vote. The Worker Notification Act, however, also addresses the needs of those people who have a history of working with hazardous substances and who have had no basis for knowing the potential danger. Even though we recognize those risks, should we say to these people, "Tough luck. We don't want to tell you because we don't know what you might do?" I think that this is an unreasonable position.

Another point which has been discussed at length is increasing liability. This is a legitimate concern and I appreciate the fact that trivial suits may be filed under this program. The General Accounting Office has reported that this bill would not increase liability suits. I supported amendments that would make this bill less burdensome to businesses and further reduce the likelihood of suits resulting from any notification activity. The issue of tort reform is, however, a separate, broader matter that should be addressed on its own merits.

Mr. Chairman, I recognize that this is not likely to be the last time that the House will be called upon to debate the complex issue of health in the workplace. I support H.R. 162 not because I see it as a perfect bill, but because I feel that the American worker has a right to know if their health has been put in jeopardy by exposure to hazardous substances.

Mr. OXLEY. Mr. Chairman, many of my colleagues who advocate passage of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, also claim to support efforts aimed at improving the competitive ability of U.S. industries.

After looking closely at H.R. 162, I am having a difficult time trying to understand those who support U.S. competitiveness and this legislation because, like protectionist trade measures, it does absolutely nothing to advance the goal of improving or increasing the competitiveness of U.S. industry.

The omnibus trade bill, presently pending in a House-Senate conference committee, is far from perfect in my view, but it does contain some important provisions which should help to improve our position in world trade. Enactment of H.R. 162 or similar legislation would undermine Government and private sector efforts aimed at making the United States more competitive in international markets.

It is not possible for a member to advocate competitiveness and the objectives of H.R. 162, Mr. Chairman. This is like training the U.S. Olympic swim team for international competition and then sending them into the water with weights around their necks.

H.R. 162 will increase costs and burdens imposed on U.S. industry. The health of American workers should be protected, but in a reasonable manner. A shotgun blast attempt at notification, as is proposed in H.R. 162, is not a reasonable nor responsible way in which to address worker health and safety concerns.

H.R. 162 unnecessarily duplicates the Occupational Safety and Health Administration's [OSHA] extensive efforts now underway to deal with worker exposure and health hazards, resulting in additional costs for the Federal Government and U.S. taxpayers.

In fact, OSHA's hazard communication standard has been expanded to cover millions of workers and, like the Henry-Jeffords substitute, it focuses on prevention in addition to detection of exposure.

Notification provided in accordance with H.R. 162 will result only in fear, hysteria, and liability suits. Given that we in the United States are already facing a serious liability crisis, enactment of H.R. 162 would be disastrous for an overtaxed legal system and for the competitive position of our industry.

If this legislation becomes law, employers and manufacturers will undoubtedly face a tidal wave of suits and claims, many of which may have no scientific basis at all. In addition to court costs, increased insurance premiums and attorney's fees, many out of court settlements will likely result regardless of the merit of a particular suit or claim.

Mr. Chairman, enacting legislation that will result in nothing less than a liability explosion is not the way to enhance our competitive ability in my book.

For these reasons and others, I remain opposed to H.R. 162 in its present form, and I urge my colleagues in this body to support the Henry-Jeffords substitute amendment. Without this amendment, H.R. 162 should be rejected.

Mr. HENRY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think that Members should know that at this point it appears as though we may be wrapping up this business. We have an agreement which will expedite the completion of the business before us this afternoon.

I had some 15 amendments at the desk, and I have been given the opportunity, before we proceed to what I think is a final vote on this issue, to address some of the unresolved scientific and liability public health issues involved in the legislation.

We have had a good deal of debate, some vigorous debate, and we have had some amendments voted on on the liability issue. We have had amendments voted on as to what is or what is not a high risk. Indeed high risk is never defined in the bill.

I had printed a number of amendments, trying to highlight some of the unresolved liability problems. I would like to point out what these amendments sought to address so Members can still have some understanding of some of the unresolved issues in this debate as we approach the final question before us.

We should point out that the high risk bill is based in some respects on very bad science because of the way in which it is written. It prohibits the use of environmental standards in terms of environmental factors of the workplace which are not integral to the work process itself. That is to say railroad-yard workers are not protected against PCB's which may be in the railroad yard so long as the PCB's were not part of the work process, integral to the rail yard. Asbestos in school rooms as an environmental threat is not covered. Indeed the synergistic interactions of behavioral uses of tobacco, for example, and knowing that the use of tobacco for behavioral life styles has a profound effect on susceptibility to the kinds of occupational diseases we are talking about are blocked off from the bill. One of my amendments would have broadened the bill to allow for these behavioral and environmental factors.

We should point out that the bill has no casual connections demanded in the determination of risk. Risk is determined in this bill on the basis of association of exposure to a health effect. There is not even a necessity of probable cause in terms of establishing relational effect.

Third, Mr. Chairman, this is what I view as a very fundamental scientific flaw in the bill. The Risk Board, when reviewing exposure, is not required to consider the concentration and duration of an exposure before declaring a population at risk. Under the bill as it is before us in its final passage, the Risk Board may look at concentrations or it may look at durations, but the bill does not conform with elemental science which would suggest that we ought to look at both concentration and exposure.

Mr. Chairman, I had four amendments pertaining to liability blockoffs, matters which we tried to deal with in our substitute in the previous session.

Mr. Chairman, we have all heard the expression of Thomas Wolfe in his famous novel, "You Can't Go Home Again." Mr. Chairman, the fact of the matter is that you cannot vote for this bill and go home again and say that you support liability reform, because without these liability issues being resolved we find ourselves in a situation when liability problems in our industries and our Nation are exacerbated.

This bill is dangerous in terms of liability exposure. It is built on poor science. It has terrible cost and competitive implications for American industry, and in terms of protecting worker health, it is inferior to the substitute which was defeated in the previous day's action.

Mr. Chairman, for those reasons I once again reiterate my opposition to this bill, and I state that I will not offer my amendments.

Mr. GAYDOS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand it, our agreement was that I would be the last speaker; is that not correct?

Mr. HENRY. Mr. Chairman, if the gentleman will yield, my understanding was that I would be allowed to speak and withdraw my amendments, and that there would be 5 minutes of closing debate on each side.

Mr. GAYDOS. Mr. Chairman, may I ask this: I see that the gentleman from Pennsylvania [Mr. WALKER] is seeking recognition.

Mr. WALKER. Mr. Chairman, if the gentleman will yield, I wanted to enter into a colloquy.

Mr. GAYDOS. Either we have an agreement or we do not have an agreement. I do not follow that.

Mr. WALKER. Mr. Chairman, if the gentleman will yield just briefly, I just wanted to clarify one thing.

Mr. GAYDOS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I just want to clarify this with the gentleman. In the informal discussion we had, in the bill where the term, "agency," is used, it speaks of any Federal, State, or local government, and I understood that in fact that covers the legislative branch of Government and also covers the military; is that correct?

Mr. GAYDOS. I would say by inference that the military would be included by the specific language we have referring to the Federal, State, or local government.

Mr. WALKER. And it also includes the legislative branch?

Mr. GAYDOS. I would not say it includes that or that we could interpret it that way. It includes the military. The gentleman can put his own interpretation on it.

Mr. WALKER. No. This gentleman understood the gentleman to say this earlier, and that is what I am trying to establish, whether we are covering ourselves in the same way we are covering private enterprise under this bill. Is the gentleman saying that is not the case?

Mr. GAYDOS. I cannot say that is not the case, because the proper application and interpretation may well include this body.

Mr. WALKER. Well, I would hope that it would.

Mr. GAYDOS. I wish I could be more specific, but that matter will be taken up, I am sure.

Mr. WALKER. It says, "any agency of the Federal Government." The legislative branch is an agency of the Federal Government; is that not correct?

Mr. GAYDOS. It could be interpreted in that way. The gentleman will make his own interpretation.

Mr. Chairman, we have come to the point where we are going to have a final vote on this bill. I want to say this: That there is a need for this bill. This is an outgrowth of OSHA. The genesis of the bill goes 2 years back, and actually before that. There was always concern since OSHA was passed 17 years ago as to why 100,000 individual employees every year die and 400,000 are injured.

We were not doing too much about it. So this bill is not in place of OSHA; this bill is a supplement or an outgrowth of OSHA. It is a very difficult bill to understand under the circumstances. In talking to my colleagues, I know that a lot of them were confused about the bill, but the bill basically is very simple in its approach. The bill does this: the bill says that here is a situation that must be addressed. These 100,000 deaths and 400,000 individuals that are thrust upon the public payroll every year are costing the Federal Government $5.4 billion, and then there is the additional cost to business, too.

This is not an antibusiness bill. How could this bill be antibusiness when we have business support, meaningful business support, from the Chemical Manufacturers Association, the National Paint and Coating Association, and all the way down to Ciba-Geigy, Merck and Co., Crum & Forster Insurance Co., Atlantic-Richfield Co., Occidental Petroleum, and Union Carbide. This looks almost like a business bill.

We think the bill is so properly crafted that we took care of the business interests along with the interests of the working people. And we are also looking after the interests of the environmental supporters of the bill.

Look at the people who have taken their time and used their resources to make sure that our colleagues were properly informed. The American Medical Association, the American Cancer Society, the American Lung Association, the Association of Schools and Public Health, universities, health science centers, the Thoracic Association, all those societies dealing with health problems feel that this bill is a proper bill.

This bill calls for $25 billion, and we do have budget constraints. This is a $25 billion authorization, and we put a limit on it of 5 years. That is 5 years.

Now, what we want to do with this bill is to start and put into motion in this country a national occupational health policy. How we have done it with this bill is very simple. No. 1, we have put together the most highest trained technical and scientific body, one that would be nonpolitical, and we call it the Risk Assessment Board. We give some parameters in the bill to that Risk Assessment Board, and we say to that board: "Here is what we want you to do. You are the best qualified in the country, and you can make these determinations. Look at what is going on, please, and then make a determination as to which risks there are, where, and under what circumstances, and then turn it over to NIOSH and notify them."

Mr. Chairman, that in a nutshell is what we are trying to do in this bill, and I ask all my colleagues to support this bill. It is very important.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. COELHO], having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 162) to establish a system for indentifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, pursuant to House Resolution 280, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HENRY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 186, not voting 22, as follows:

[Roll No. 359]

YEAS—225

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Bennett
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Byron
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gonzalez
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce

Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Pashayan
Pease
Pelosi
Penny
Perkins
Petri
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Torres
Torricelli
Towns
Traficant
Udall
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—186

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilirakis
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
DeLay
Derrick
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kasich
Kolbe
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morella
Morrison (WA)
Myers
Neal
Nelson
Nielson
Ortiz
Oxley
Packard
Panetta
Parris
Patterson
Pickett
Pickle
Porter
Pursell
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Rose
Roth
Rowland (CT)
Rowland (GA)
Saiki
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—22

Badham
Biaggi
Bliley
Bustamante
Conte
Florio
Gephardt
Hatcher
Kemp
Leath (TX)
Lent
Livingston
Martin (NY)
Nichols
Pepper
Quillen
Roemer
Scheuer
Tauzin
Traxler
Vento
Watkins

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Gephardt for, with Mr. Kemp against.
Mr. Pepper for, with Mr. Nichols against.
Mr. Scheuer for, with Mr. Bliley against.
Mr. Florio for, with Mr. Quillen against.

Mr. PANETTA changed his vote from "yea" to "nay."

Mr. AKAKA changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 162, HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, the Clerk be authorized to make corrections in section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 162, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 2167, RAILROAD UNEMPLOYMENT INSURANCE AND RETIREMENT IMPROVEMENT ACT OF 1987

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight, Thursday, October 15, 1987, to file its report to accompany the bill, H.R. 2167, the Railroad Unemployment Insurance Act of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

FURTHER LEGISLATIVE SCHEDULE

Mr. FOLEY. Mr. Speaker, in view of the early conclusion of this legislation, I would like to announce to the House that the Tuesday schedule obviously will not be expected to go late on Tuesday. It was earlier estimated we would have a late session because of the possible continuation of the legislation just concluded, but we will on Tuesday have the call of the Private Calendar and we will also add three suspensions to the list already announced:

H.R. 85, to eliminate security assistance and arms export preferences for New Zealand.

House Concurrent Resolution 158, concerning the establishment of a South Pacific nuclear free zone.

House Resolution 277, expressing the sense of the House with respect to human rights abuses in Afghanistan.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, on rollcall No. 353 yesterday, I was unavoidably absent. Had I been present, I would have voted "aye."

WAR RISK INSURANCE PROGRAM EXTENSION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 1628) to extend the Aviation Insurance Program for 5 years, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey [Mr. HOWARD] to explain his request.

Mr. HOWARD. Mr. Speaker, I thank my distinguished colleague, the gentleman from Arkansas, for yielding.

Mr. Speaker, the bill now before us would extend the so-called War Risk Insurance Program for 5 years. This program has been in effect since 1951. Under the program the Government provides insurance to airlines providing service between the United States and a foreign country when there are security problems and commercial insurance is unavailable. Before insurance is issued the Secretary of Transportation must determine that insurance cannot be obtained on reasonable terms and conditions from U.S. insurance companies and the President must determine that continuation of the air service operations to be insured is necessary to carry out the foreign policy of the United States. The program is supported by a revolving fund which includes premiums paid for coverage and any funds appropriated by the Congress. The revolving fund currently has a balance of $38 million. The administration supports the 5-year renewal of this program. I urge my colleagues to join me in supporting this legislation.

Mr. MINETA. Mr. Speaker, I rise in support of this legislation to reauthorize, through fiscal year 1992, the Aviation Insurance Program, commonly referred to as the War Risk Insurance Program.

Although this program is not well known, it is one that is very important to the implementation of our Nation's foreign policy.

Under this program, the Federal Aviation Administration provides insurance to U.S. airlines for air service to foreign countries when commercial insurance cannot be obtained on reasonable terms and conditions, and when the President determines that the continuation of air service is necessary to carry out the foreign policy of the United States.

Although it has not been necessary to make extensive use of the program since it was last authorized 5 years ago, it does not take one long to conceive of instances in the world today where a Government insurance program for service to high risk areas might be necessary.

Mr. Speaker, I urge the House to pass this bill. Our Nation's foreign policy interests will be well served by it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I concur in the gentleman's statement and withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1312 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1542) is amended by striking "1987" and inserting in lieu thereof "1992".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1628, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 3479, ADJUSTMENTS OF ROYALTY PAYMENTS UNDER CERTAIN FEDERAL ONSHORE AND INDIAN OIL AND GAS LEASES

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until 5 p.m. today to file a report on the bill (H.R. 3479) to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

TIME FOR ADMINISTRATION TO JOIN CONGRESS AND THE AMERICAN PEOPLE TO TURN NATION'S TRADE DEFICIT AROUND

(Ms. KAPTUR asked and was asked permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. KAPTUR. Mr. Speaker, yesterday the stock market dropped a record 95 points because of a trade deficit that this Nation has which is out of control.

Today's headlines tell the whole drastic story. In the Washington Post: "Trade Gap Batters Markets."

In the Wall Street Journal: "Trade-Gap News Sends Stock Market Reeling Into a Record Tailspin."

It is now clear that the 1987 trade deficit will set a new record for the fifth year in a row for this country, somewhere in the neighborhood of $170 billion.

Is it not obvious by now that we cannot rely on drops in the value of the dollar and other nations to turn our Nation's trade deficit around.

Is it not obvious that restoring a positive balance of trade is essential to jobs in this country and to a healthy manufacturing and agricultural sector?

It is time for a new administration in Washington, joined by the Congress and the American people, it is time to stand up for American jobs and businesses. It is time for a major change in this country.

Mr. Speaker, I include the articles referred to above, as follows:

[From the Wall Street Journal, Oct. 15, 1987]

TRADE-GAP NEWS SENDS STOCK MARKET REELING INTO A RECORD TAILSPIN

Washington and Wall Street are out of step-again. And this time it's on trade.

Financial markets took a dive yesterday, panicked by the latest trade-deficit figures. Washington officials took the latest report more calmly.

The turmoil was set off by the Commerce Department's report of a $15.68 billion deficit in U.S. merchandise trade in August. Although the deficit was narrower than the $16.47 billion gap in July, it exceeded the forecasts of many in the financial markets.

The financial markets' reaction: The dollar slipped in foreign-exchange dealings, short-term interest rates soared, bond price plunged, and the Dow Jones Industrial Average plummeted in its second record one-day decline in eight days. The markets clearly fear that the Federal Reserve Board is preparing to increase its discount rate—the rate that it charges on loans to member banks.

But in recent days, Federal Reserve officials have gone out of their way to suggest that such fears are misplaced. Both Chairman Alan Greenspan and Governor Robert Heller have said they see no sighs of resurgent inflation. Yesterday Fed officials gave fresh indications that a discount rate increase isn't imminent.

And despite the strong market reaction yesterday, Fed policy makers insisted that the trade figures weren't a surprise. Excluding oil, imports were down substantially from the previous month, they note. And although the export dip in August was a disappointment, "the general export trend is clearly up," one official said.

The investor panic triggered by the trade figures is ironic for another reason, government officials and private economists say. They consider the monthly merchandise figures, which aren't adjusted for inflation or seasonal variations, to be one of the least reliable indicators. "It would be a serious mistake to believe these monthly numbers give a good view of the underlying trade picture," said Jerry Jasinowski, chief economist at the National Association of Manufacturers. He and many economists in and out of government contend that rising export volumes are brightening the trade picture and buoying the economy.

Fed chairman Greenspan said in a speech Tuesday that "an extraordinary shift currently under way" in the nation's trade balance is helping revive the nation's industrial sector. He conceded that the improvement isn't showing up in the monthly figures because higher import prices that have resulted from the dollar's decline continue to push up the nation's import bill.

However true that may be, the financial markets now react instantly to the monthly trade figures—the same way they used to react to the money-supply figures, and, in an earlier era, to the consumer price index and the unemployment rate. Yesterday the markets took one look at the trade figures, and the rout was on.

The Dow Jones average plunged 95.46 points in heavy trading to close at 2412.70. The drop, which worked out to 3.8%, eclipsed the prior record point decline of 91.55 points, or 3.47%, set Oct. 6. However, neither drop ranks among the 100 largest one-day percentage declines in the average.

Yesterday's sharp rise in short-term interest rates, which included a hefty quarter-point on the usually stable prices of three-month Treasury bills, prompted Allen Sinai, the chief economist at Shearson Lehman Brothers Inc., to predict that the Fed may well raise the discount rate as early as tomorrow. The Fed last raised the discount rate just before Labor Day, by half a percentage point to 6%.

In the bond market, prices of several widely traded Treasury issues plunged more than two points, or $20 per $1,000 of face amount. As a result, the yield of the latest 30-year Treasury, a bond-market bellwether, soared above 10%.

And in foreign-exchange trading, the dollar immediately slipped more than a pfennig against the West German mark on the trade announcement and more than a yen against the Japanese currency. The dollar ended at its lowest levels against both currencies since early in September.

To understand yesterday's savage market reaction, the trade news must be viewed against the backdrop of other Wall Street worries, market observers say. The slide of more than 300 points in the Dow industrial average since its Aug. 25 record of 2722.42 has both resulted from and combined with fears of a new interest-rate spiral. Sharply higher interest rates could derail the economic boom and spark a recession as early as the second half of next year.

Mitchell J. Held, a money and credit analyst at Smith Barney, Harris Upham & Co., said late last week that his reading of recent moves by the West German central bank and Fed Chairman Greenspan suggests that "a coordinated, or semicoordinated, tightening of monetary polices [among the world's major trading partners] could take place within the next few weeks."

Moreover, some in the markets believe that America's U.S. trading partners/creditors at last month's meetings in Washington—particularly Japan and Germany—quietly put their foot down and wrung major, long-term commitments from the American government to defend the dollar through higher interest rates, even if it forces a recession here.

But Fed policy makers paint a quite different picture. They say the discount-rate increase in September was largely a response to the bond market's fears of inflation. A key indicator of those inflation fears, these officials argue, is the steepness of the "yield curve"—the degree to which long-term bond rates exceed short-term rates. Yesterday, however, short-term rates rose faster than long-term rates, and the yield curve flattened. So, the officials say, they see no need to tighten credit further.

INACTION THIS MONTH

And, in fact, there are indications that the Fed hasn't tightened credit further this month. Looking back at September, some market analysts recently detected signs of a tighter policy in the Fed's open-market operations and in the rise of the Fed funds rate, which is the rate banks charge on loans to one another. Technical factors—including the surge of Treasury receipts at the end of the federal fiscal year Sept. 30—probably masked the full extent of the Fed's tightening last month.

An administration official said investors might take the view that the trade numbers presage higher interest rates, but he said, "That view is unjustified."

The administration's top trade official, Trade Representative Clayton Yeutter, conceded that "so far, the key trading countries have not yet made sufficient progress in correcting the imbalances" that underlie the trade problem, "and the market perceives this." But he added that if trade volume figures continue to improve, "it'll be simply a matter of time before the nominal [actual dollar] figures turn around." He said the next set of volume figures to be watched closely will be those due out next week as part of the report on third-quarter gross national product.

Mr. Yeutter discouraged speculation that the dollar must go lower to right the trade balance. "Exchange rates can only do so much," he declared. Our problem today is not one of price competitiveness. Adjusting exchange rates has no effect on trade flows where the determining factors are quality, service and other things besides price. That is our challenge today."

But if the trade deficit remains stubbornly high, something will have to give: Either the dollar will have to fall further to make U.S. products more competitive in world markets or interest rates will have to rise to attract foreign capital. The administration saw yesterday's market reaction as largely tied to interest-rate fears rather than expectations of a lower dollar.

Treasury Secretary James Baker and other administration economic officials are bound to be questioned on all these topics this afternoon at a previously scheduled economic policy press briefing, following a meeting with President Reagan. Officials said the press session was scheduled at White House request several days ago to highlight trends in the economy, and wasn't a reaction to yesterday's market plunge.

Democrats used the report to blast the Reagan administration's trade policy. Democratic presidential hopeful Rep. Richard Gephardt of Missouri, campaigning in Iowa, released a statement saying, "Until we have an administration that fights for open markets overseas, American exports of manufactured goods and farm products will continue to fall, and the heartland of this country will continue to be left behind."

Senate Majority Leader Robert Byrd said he is troubled by the export drop. "As the U.S. plunged from the world's largest creditor to the world's largest debtor, there has been no sense of administration concern, no sense of urgency," the West Virginia Democrat complained.

In inflation-adjusted terms, the trade deficit in goods and services narrowed in the 1986 fourth quarter and the 1987 first half. The Commerce Department's initial estimate of third-quarter growth, due next Friday, is expected to show a narrowing for that quarter, too.

SEASONAL FACTOR

In addition, economists contend that the trade balance typically deteriorates in July and August; so, the figures might look much better after seasonal adjustment. "This isn't a good number," said Donald Straszheim, president of Merrill Lynch Economics Inc. in New York. But he added, "We remain confident that for the forseeable future our export volumes will continue to grow at a fairly healthy pace."

Last month, according to the Commerce Department's August figures, the trade deficit shrank against each of the countries with which the U.S. ran the largest deficits last year—Japan, Germany, Taiwan, Korea and Hong Kong. The deficit with Japan—$4.88 billion, down from $5.07 billion in July—was the lowest in the past six months.

Also, the overall deficit in manufactured goods narrowed to $13.28 billion from $14.47 billion in July. That improvement was entirely due to lower imports; manufactured exports fell for the third consecutive month.

The report showed that the dollar value of exports fell 3.7%, while the value of imports dropped 4.2%. The drop in exports followed a 0.6% decline in July. In addition to the seasonal factors, Mr. Jasinowski said the decline included a big drop in aircrafts and parts, a category that varies widely from month to month. Moreover, he and other analysts cited recent gains in industrial employment and production as indications that U.S. companies are increasing shipments overseas.

The import decline, which followed a 1.8% rise in July, might have been even sharper if oil imports had been at more normal levels, analysts said. July and August oil imports reflected temporary inventory building in anticipation of price increases and supply disruptions in the Persian Gulf.

At the same time, the import total probably was reduced by the unrest in South Korea. The trade deficit with Korea narrowed to $902.5 million from $1.14 billion in July.

Mr. Jasinowski said that notwithstanding the unusual factors, the August decline suggests that "U.S. consumers are beginning to substitute domestic for foreign products."

Still, economists in and out of government had expected the dollar's decline to have brought the merchandise deficit to much less than $15.68 billion by now, and the August report was widely viewed as a negative indicator. Robert Dederick, chief economist at Northern Trust Co. in Chicago, said the figures suggest that "the improvement in the trade balance that was occurring even in nominal terms seems to have stalled. That is an unsatisfactory situation."

Mr. Straszheim cited U.S. deficits with Taiwan and Korea, which he said have been deteriorating this year despite improvement in August. "We're making progress against the Japanese but losing ground against Taiwan and Korea," he said.

Exports in August fell to $20.22 billion from $21.01 billion in July. Manufactured exports fell to $13.67 billion from $13.87 billion.

Overall, imports dropped to $35.91 billion from $37.48 billion, with manufactured imports falling to $26.95 billion from $28.34 billion. The value of imports of petroleum and related products rose 1.1% to $4.7 billion after increasing 15.7% to $4.65 billion in July.

[From the Washington Post, Oct. 15, 1987]

TRADE GAP BATTERS MARKETS

(By Stuart Auerbach)

The Dow Jones industrial average plunged 95 points and a key interest rate surged past 10 percent yesterday after the government issued a disappointing report on the nation's trade performance in August.

The financial markets were sent reeling by a Commerce Department announcement that the August trade deficit narrowed by only $800 million, to $15.7 billion, from

July's record of $16.5 billion. Many economists had expected a greater decline, to between $14 billion and $15.5 billion.

Stock and bond prices and the dollar all fell sharply as the markets interpreted the report as meaning that the dollar would have to decline further to bring the trade deficit down.

As the dollar moves lower, interest rates must rise to continue to attract foreign investment. Higher interest rates in turn raise fears of rapid inflation and drive investors out of the stock market.

The Dow Jones industrial average, the most widely watched stock market barometer, dropped a record 95.46 points to close at 2412.70. The Dow, which fell 91.55 points on Oct. 6, is now about 310 points, or 11 percent, below the peak of 2722.42 set in late August, and some Wall Street analysts said that the five-year-old bull market is over.

In the bond market, where falling prices cause yields to rise, the Treasury's 30-year bellwether issue fell $2\frac{7}{32}$ points, raising the yield to purchasers to 10.14 percent—the first time it has exceed 10 percent since November 1985.

Further discouraging economists and the financial markets was the fact that the August trade deficit, though smaller than July's, was still the third highest on record, and came with an $800 million decline in exports.

Moreover, the trade figures for the first eight months of the year indicate that the 1987 deficit will be even higher than last year's $156.1 billion level instead of receding, as Reagan administration officials had predicted.

Last spring Treasury Secretary James A. Baker III forecast a $15 billion to $20 billion improvement in the trade deficit this year, but after two months of decline the deficit began climbing again in May.

Administration officials were more cautious yesterday, but put the best face on the matter by citing improvements in "the real trade balance," an increase in the volume of exports as measured by dollars adjusted to reflect a constant value and seasonal changes.

But congressional democrats, pressing for presidential approval of tough trade legislation, attacked Reagan administration trade policies. "In a year when the trade deficit is supposed to be declining, it is $1.7 billion higher than the deficit of August a year ago," said Senate Finance Committee Chairman Lloyd Bentsen (D-Tex.).

"When it comes to trade deficits, America is in a class by itself," added Senate Majority Leader Robert C. Byrd (D-W.Va.).

"The trade figures are still bloody bad," said Stephen Dakin, foreign exchange trading manager in New York for Union Bank of Switzerland. "Where does it all stop? They [administration officials] keep saying they are going to get better, but they haven't yet."

David D. Hale, first vice president and chief economist for Kemper Financial Services in Chicago, added, "Wall Street is beginning to face the fact that the American trade deficit may not come down without a recession."

He suggested a further fall, in the value of the dollar to about 130 Japanese yen over the next 12 to 18 months. "They [currency traders] recognize it has to go lower," Hale said.

"For the bond and stock market, you have a day of disaster," said Allen Sinai, chief economist for Shearson Lehman Bros. Inc., who had predicted a trade deficit of $15.5 billion, close to the actual figure.

Sinai said the markets fell because of "not irrational fears" that the continued high trade and budget deficits present "a downside risk for the dollar" that could lead to higher interest rates and greater inflation.

"No matter how you cut it," Sinai said, "there is still not a clearly definable trend of improvement in merchandise trade. The big-picture view is we still have this trade deficit. There is not a significant trend toward improvement yet."

But Jerry Jasinowski, chief economist of the National Association of Manufacturers, said the trade figures "are a bit better than the market is showing," reflecting "the way financial markets and the industrial economy have become decoupled and are moving on somewhat different paths."

Both Jasinowski and Sinai agreed that there are positive elements in the August trade figures that were ignored by the financial markets.

Jasinowski, for instance, pointed to reports from NAM members showing that the manufacturing sector of the economy is rebounding from a deep slump, and noted that improvements in exports are spurring a modest firming of growth. He said there has been a $30 billion improvement over the past nine months in real net exports, which has improved the nations economic growth.

He added, though, that U.S. manufacturers "are just going to have to be more aggressive" in international markets if they want to win sales.

Without a $600 million decline in overseas sales by U.S. aircraft makers, he said there would have been a $400 million improvement in manufacturing exports in August.

Sinai also pointed to "encouraging aspects" in the August numbers, including a $1.4 billion drop in imports of manufactured products and a lessening of the deficit with all but three major trading partners—Canada, from $645 million in July to $939 million in August; Brazil, from $87 million to $526 million, and Venezuela, from $207 million to $272 million.

The $4.9 billion deficit with Japan, down from $5.1 billion in July, remained the United States' largest.

MAJOR FRAUD ACT OF 1987

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, today, I am introducing the Major Fraud Act of 1987. The problem that this bill deals with is usually characterized as white collar crime. Unfortunately, this area of criminal activity is often neglected both at the Federal and State levels. I believe that this neglect is a great mistake. Prosecution of white collar crime is not only demanded in the interest of justice, but it can often result in substantial cost savings to the public in the form of reduced losses to fraud in Government contracting.

A striking example of this phenomenon occurred in the late seventies and early eighties when the Department of Justice participated in wide-ranging prosecutions of bid rigging by highway contractors throughout the United States. As a result of this concentrated effort there were prosecutions in over 15 States which produced indictments of over 180 companies and 200 executives. Numerous jail sentences and fines totaling $41 million resulted from this effort with a conviction rate of over 90 percent. In early 1983 the Wall Street Journal, in a followup story, reported that the cost of constructing highways in the Nation had fallen significantly, in some cases by as much as 25 to 30 percent below the engineering estimates, and this was attributed, in part, to this massive law enforcement effort which had disrupted an illegal way of life in the highway construction business. Highways, as everyone knows, are paid for by the taxpayers, and it was satisfying to see that these extremely important projects become less expensive. This process added credence to the theory that the deterrent power of the law when enforced can be very strong, especially in the area of white collar crime.

I believe the Major Fraud Act of 1987 can assist in an even more important area, Government procurement, and specifically our increasing expenditures in the national defense area.

As a consistent advocate for a strong defense it is particularly aggravating to me to read about the inefficiency and waste in our present system. I need not reiterate here the litany of successive scandals in spare parts, overhead overcharges, malfunctioning equipment, and so forth, that have been exposed in testimony before Congress and in the media in the last few years. Congress has made progress in this area by providing the Government with some new tools such as the False Claims Amendment Act of 1986, the Program Fraud Civil Remedies Act, and the Anti-Kickbacks Enforcement Act.

What we need now, however is a new emphasis on the criminal law side of the ledger in the hope that we can replicate the earlier successes in the highway area. The Major Fraud Act of 1987, I suggest, will go a long way toward accomplishing this. The bill creates a new procurement fraud offense. In situations involving $1 million or more, the time-tested language in the Mail Fraud Act would be applied, with a new enhanced penalty of up to 7 years imprisonment upon conviction. The bill also would provide an extension of the statute of limitations in which prosecutions could be initiated to 7 years, rather than the normal 5 years, to accomodate the extensive investigation often required in this type of fraud. Increased fines based upon double the object of the fraud—for example, a $20 million fine in the case of a $10 million contract—are permitted rather than existing criminal law which is couched in terms of pecuniary gain to the defendant or loss to the Government. Finally, the bill establishes a reward system under which up to $250,000 can be paid from the criminal fine to individuals who provide information leading to convictions under this act. This will add incentives to individuals, particularly employees of Government contractors, who are privy to illegal activities to volunteer information to Government authorities. To date, such persons have had little to look forward to for their own good citizenship efforts other than recriminations by their employers, which frequently could include the loss of their jobs.

Criminal law enforcement is not simply a matter of punishing wrongdoers. It helps society clarify the standards of conduct that we expect to be upheld by businessmen, employees, Government workers and everyone else. We must remember that the crime problem and the need for law enforcement is not just a matter of violent street crime or drug trafficking. The prosecution of white collar crime, which silently robs millions of dollars from all of us, must remain a high priority for Federal law enforcement. I believe the Major Fraud Act of 1987 will assist and encourage appropriate law enforcement in the Nation's procurement business.

□ 1515

THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. MCMILLAN] is recognized for 5 minutes.

Mr. MCMILLAN of North Carolina. Mr. Speaker, I am outraged. Holding a majority in the Congress is one thing, but the Democrat leadership has just displayed the most arrogant abuse of power.

I'm referring to the treatment of a critical issue by the Judiciary Committee of the House. The balanced budget amendment to the Constitution has 237 cosponsors, 19 more than needed to pass the House. The American people, by an overwhelming majority, favor a mandatory balanced budget to solve the problem of overspending by the Congress. In my own district, 85 percent of the constituents favor the amendment.

Late last night, the Democrats of the Judiciary Committee announced their decision to hold hearings on the balanced budget amendment this morning at 9:30 a.m. They would hear the opinions of four individuals who oppose the amendment and from no one who supports it. Only at the last minute did the committee allow one person to speak in favor.

The action by the House Democrat leadership on this critical issue is a direct slap in the face to the 237 cosponsors of the bill, a slap in the face of the American people, and a slap in the face of the democratic principles we profess to abide by in this House.

Mr. Speaker, I demand, and I hope 236 other Members demand, that you allow the balanced budget amendment to the Constitution to come to the floor immediately for a full and fair debate. The American people deserve this much from the ruling Democrats.

AMERICANS CONTRIBUTE TO THE STATUE OF LIBERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, Americans are among the most generous people in the world. Since donation boxes were first set up on June 20, visitors to the Statue of Liberty have voluntarily contributed more than $120,000. This outpouring of support shows how wrong the Department of the Interior had been to charge admission fees to Lady Liberty.

In February of this year, the Department of the Interior began to charge an admission fee to visitors at the Statue of Liberty. This fee was imposed even though millions of dollars had been contributed by the American public in the previous year to help restore the Statue of Liberty and Ellis Island. The sale of commemorative coins by the U.S. Mint last year, under legislation which I sponsored, raised $83 million to help restore and maintain the Statue and Ellis Island.

Outraged over the Interior Department's actions, Congress moved quickly to prohibit the imposition of the admission charge. Legislation prohibiting the fee was passed on June 19.

The following day, the Interior Department began to collect donations at the Statue of Liberty. To date, visitors to the Statue of Liberty have voluntarily contributed over $120,000 as they visited the statue. This free giving is a sign of the love of the American people for Lady Liberty. It shows that Americans will give freely and generously in the cause of this symbol of America.

Rather than forcing Americans to pay to visit this most important of American symbols, the Interior Department has learned that Americans are more than willing to pitch in for the 100-year-old statue.

The Statue of Liberty is one of the best recognized symbols of American freedom. The attempt by the Interior Department to extract an admission fee from those who visited her was extraordinarily misguided. Had Interior Department officials visited the statue they would have been able to read that Emma Lazarus' poem says "give me your * * * poor," not "give me a buck."

The sad thing about the Interior Department's attempt to charge admission was that it showed little understanding or regard for American's tradition of generosity. In the year before the fee was charged, Americans willingly sent tens of millions of dollars to help restore the statue. They responded out of heartfelt concern. The generosity of visitors to the statue after the abolition of the admission fees shows that Americans continue their love affair with Lady Liberty. I hope that Interior Department officials have learned to have more trust in the American people.

THE 100TH ANNIVERSARY OF FOUNDING OF METLAKATLA COMMUNITY IN ALASKA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska [Mr. YOUNG] is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, today begins the commemoration of the 100th anniversary of the founding of the Metlakatla community in Alaska.

I regret that congressional duties here preclude my being with them today, but I do want to say a few words in heartfelt commemoration of this great accomplishment.

Just as the Pilgrims who landed on Plymouth Rock in 1620 would not suffer the indignities heaped upon them by religious despots, so would not their illustrious forebearers. Though they had through their industry and intelligence built a prosperous and self supporting community, the Metlakatlans would not foresake their religious convictions. They determined to seek a new home rather than submit to religious dogmatism! Accordingly, the community moved from British Columbia to Annette Island in Alaska. The elders appointed, Father William Duncan, an Anglian missionary, to plead their case for religious freedom before President Grover Cleveland.

The President in his wisdom welcomed the new Pilgrims to Alaska. Under the protection of the United States, a new settlement known as New Metlakatla was founded on Annette Island. These hardy pioneers quickly fashioned new homes from the forests and fished the fertile waters around the island. These 19th century Pilgrims proved themselves to be a valuable addition to Alaska and to the United States.

Then, a ruling of the Attorney General held

> That the President of the United States lacked authority to establish a reservation for these Indians in the public domain without congressional sanction because they were aliens born outside of the boundaries of the United States people.

Thank God there was no Attorney General on Plymouth Rock, or at Jamestown, or New Amsterdam. Some things never change.

Congress moved into the breach and by an act of March 3, 1891 created a reservation for "these new Americans and such other Alaskan natives as might join them." In 1934, Congress granted collective naturalization.

In the past 100 years since the founding of the community in Alaska, the Metlakatlans have distinguished their community in many ways. Back in the 1920's, the abundant hydroelectric potential was harnessed to provide power for industry, warmth for homes, and illumination for the schools. Following in the footsteps of these pioneers are our engineers of today who have recently installed and dedicated a generator which is state of the art and which promises sufficient clean, dependable power to encourage the development of the islands other resources.

Certainly, this community can be proud of its economic accomplishments. In conjunction with the development of hydropower have been the establishment of a fish hatchery, cannery, and wood processing plants.

Early on the early settlers recognized the richness of the abundant resources of the sea and harvested them. They also had the foresight to realize that these blessings were exhaustible and could not be continuously exploited. Therefore with admirable foresight, blueprints for a hatchery were carefully drawn and a plan for implementatin agreed upon by the community. I am very proud to have been able to provide assistance in Congress to the community as it procured funds to turn these blueprints into reality. Today the hatchery ensures that future Metlakatlans will be able to continue to harvest the product of our waters; furthermore it makes a valuable contribution to the fisheries of all Alaska and to those of the entire Pacific coast.

Vision was not limited to the bounties of the seas. It was realized that people needed employment after the seasonal run of salmon. Early on the forests on the Annette Islands provided employment; but supplies of timber were exhaustible and replenishment is a slow lengthy process. Thus with wisdom, partial payment for sales of timber was taken in the form of a wood processing plant. The forests of the Tongass are an almost unlimited source of raw materials and the plant provides continuous employment for many of people.

Community members are indeed fortunate to have selected admirable leaders in the past. Leaders who possessed the wisdom and vision to harness the bountiful blessings which God has bestowed upon this fertile land. May this generation and those of the future continue to guard jealously this precious heritage and provide for its renewal through hatcheries, reforestation, and prudent harvesting practices.

Through hard work, intelligent management, and vision the Metlakatlans have prospered during this first 100 years. This generation is the beneficiary of policies adopted by the wise men of old. Let us remember them and in their dedication to ensure that their heritage—freedom of religion, democracy, economic viability, and the pursuit of happiness—be passed on to our children and grandchildren.

Mr. Speaker, we owe congratulations to the community on its magnificient achievements! Its accomplishments are appreciated in Alaska and throughout the United States. I am proud to be counted as one of the community and I pledge my continued support as your representative in Washington.

THE SMOKING AND HEALTH ADVERTISING ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WEISS] is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, I am today introducing legislation which would add to the vigor of the campaign to educate the public about the hazardous effects of cigarette smoking. The Smoking and Health Advertising Act of 1987 would require tobacco companies to spend an amount equal to or greater than 5 percent of their advertising and promotional budget on public health messages detailing the hazardous effects of smoking.

Specifically, this bill amends the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to the sales of tobacco products unless the taxpayer—the tobacco companies—pays for the specified amount of advertising on the health effects of smoking. All advertisements would be prepared by, or approved by the Secretary of Health and Human Services [HHS] so as to assure their quality.

I strongly believe that this legislation is a fair way to ensure that critical funding is provided for public health advertising without increasing our huge Federal deficit. To those of my colleagues who may question this approach, let me remind you that requiring the tobacco industry to sponsor health messages is not a new concept. Since 1965, Congress has enacted legislation requiring the tobacco industry to print health warnings on cigarette packs and advertisements. In fact, in 1984, Congress enacted the Comprehensive Smoking Act, which requires cigarette companies to print detailed descriptions—on cigarette packs and advertisements—of the hazardous effects of smoking.

Let me take a moment to explain why it is critical that we take these measures to strengthen the public health campaign on smoking.

Each year approximately 350,000 people die of smoking related diseases. The tragedy is these premature deaths could be prevented. Despite overwhelming evidence that cigarette smoking is a grave health hazard, people continue to smoke and young children continue to initiate the deadly habit.

Encouraging new smokers, especially children, women, and minorities, has become increasingly important for the tobacco industry as more and more smokers either quit, or die of smoking related causes. Roughly 2.5 million Americans must start smoking each year to maintain the size of the smoking population.

Unfortunately, the decision to smoke is usually made at an age when peer pressure eclipses rational, educated decision making. Studies show that 60 percent of all smokers start smoking before they are 14 years old and 90 percent begin to smoke before the age of 21. Though a variety of psychological and sociological factors may influence an individual's decision to smoke, there can be no doubt that the highly visible advertising and promotional campaigns launched by the tobacco industry influence prospective smokers.

Cigarettes are one of the Nation's most heavily advertised consumer products. In addition to purchasing ads in magazines, newspapers, and on billboards, cigarette companies vie for the public's attention by sponsoring entertainment, cultural, and sporting events.

While the public is bombarded with this prosmoking campaign, antismoking and public health messages are virtually invisible. Numerous studies have indicated that counteradvertising is a highly effective way to discourage smoking; however, the resources to produce, distribute, and most importantly, purchase magazine space or television time are woefully inadequate. The approximately $5 million spent each year on counteradvertising stands in stark contrast to the roughly $2.5 billion spent annually by the tobacco industry on advertising and promotion.

The counteradvertising movement has not always been as weak and poorly financed as it now is. In 1967, the Federal Communications Commission [FCC] ruled that the fairness doctrine—which at the time was enforced and required that broadcasters afford a reasonable opportunity for the presentation of contrasting viewpoints on controversial issues of public importance—be applied to cigarette advertising on television and radio. If no other private or public source was available to finance the broadcast of opposing views the broadcaster was obliged to air those views free of charge.

A highly visible antismoking campaign was launched as a result of the FCC ruling. At its peak, the fairness doctrine antismoking messages received 1 minute of airtime for every 3 minutes of smoking advertising. Roughly $200 million—in 1970 dollars—in commercial air time was donated to the antismoking campaign.

It is estimated that during the 4 years that the fairness doctrine antismoking ads were aired per capita cigarette consumption decline by 10 percent. I believe that this statistic is convincing testimony to the fact that counteradvertising is effective.

Ironically, Congress may have done more harm than good for the antismoking movement when it passed the Public Health Cigarette Smoking Act of 1970, which banned cigarette advertisements from television and radio. When cigarette ads were removed from the broadcast media in 1971, the fairness doctrine messages disappeared with them. Shortly thereafter, per capita cigarette consumption rose for the first time in 4 years.

I strongly believe that educating America's young people about the harmful effects of cigarette smoking must be one of our top priorities. Our failure to reach American youth is evidenced by the fact that, according to studies, approximately 40 percent of high school seniors do not believe that there is a great health risk in smoking. It is clear that we must do more to convince young people that smoking can kill them.

The first step we can take is to revitalize the counteradvertising movement. The legislation I have today introduced will do that.

In addition to the Smoking and Health Advertising Act, I am also today introducing a resolution, expressing the sense of the House of Representatives that the Federal Government should encourage both electronic and print media to air or print more antismoking advertisements as a public service.

Each year over $22 billion is spent on health care for smoking related disease, including $4.2 billion through Medicare and Medicaid. Though these costs are staggering, they pale in comparison to the emotional price paid by those dying from smoking related disease and their families and loved ones.

It is clear that the time has come for a renewed Federal commitment to eliminating smoking in the United States. I believe the bills I have introduced will go a long way toward this goal by providing a two-tiered approach to bringing information about the hazards of smoking to the American people. We can save money, but more important—we can save lives.

I urge my colleagues to support these two pieces of legislation:

H.R. 3503

A bill to amend the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to sales of tobacco products unless the taxpayer pays for a certain amount of advertising on the health effects of smoking

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assmbled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smoking and Health Advertising Act of 1987".

SEC. 2. DISALLOW OF DEDUCTION FOR ADVERTISING OR OTHER PROMOTION EXPENSES WITH RESPECT TO SALES OF TOBACCO PRODUCTS UNLESS TAXPAYER PAYS FOR A CERTAIN AMOUNT OF ADVERTISING ON THE HEALTH EFFECTS OF SMOKING.

(a) In General.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280H. TOBACCO AND TOBACCO PRODUCT SALES PROMOTION EXPENSES.

"(a) General Rule.—Except as provided in subsection (b), no deduction shall be allowed under this chapter for any tobacco and tobacco product sale promotion expense.

"(b) Exception Where Taxpayer Pays for Certain Advertising.—

"(1) In general.—Subsection (a) shall not apply to any taxpayer for any taxable year if—

"(A) the amount paid or incurred by the taxpayer during the taxable year with respect to qualified health-awareness advertising, exceeds

"(B) 5 percent of the tobacco and tobacco product sale promotion expenses of the taxpayer for the taxable year.

"(2) Qualified health-awareness advertising.—For purposes of paragraph (1), the term 'qualified health-awareness advertising' means any advertisement which—

"(A) is for purposes of informing the public on the health effects of smoking or using smokeless tobacco products, and

"(B) is prepared by, or approved by, the Secretary of Health and Human Services, in consultation with nationally recognized cancer, heart, and lung associations.

"(c) Tobacco and Tobacco Product Sale Promotion Expense.—For purposes of this section—

"(1) In general—The term 'tobacco and tobacco product sale promotion expense' means any amount otherwise allowable as a deduction under this chapter with respect to—

"(A) any advertisement primarily for purposes of—

"(i) promoting the sale of tobacco and tobacco products, or

"(ii) informing or influencing the general public (or any segment thereof) with respect to tobacco and tobacco products, or

"(B) any of the following incurred or provided primarily for purposes described in subparagraph (A)—

"(i) travel expenses (including meals and lodging),

"(ii) any amount attributable to goods or services of a type generally considered to constitute entertainment, amusement, or recreation or to the use of a facility in connection with the providing of such goods or services,

"(iii) gifts, or

"(iv) other promotion expenses.

Such term shall not include any amount paid or incurred with respect to any qualified health-awareness advertising (as defined in subsection (b)(2)).

"(2) Tobacco and tobacco products.—The term 'tobacco and tobacco products' means any small cigarette, large cigarette, cigar, pipe tobacco, tobacco which may be rolled into a cigarette, or smokeless tobacco product, including snuff and chewing tobacco.

"(d) Regulations.—Within 90 days after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this section."

(b) Clerical Amendment.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280H. Tobacco and tobacco product sales promotion expenses."

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

H. Res. 286

Resolution Expressing the sense of the House of Represenatives that the Federal Government should encourage both electronic and print media to air or print more antismoking ads as a public service.

Whereas over 350,000 premature deaths each year are caused by tobacco-related illness;

Whereas 180,000 or more deaths in the United States each year are due to lung cancer which is far more than the number of deaths caused by AIDs or any other disease;

Whereas nonsmokers are at risk as well as smokers as shown in a report by the Surgeon General that an estimated 2,400 lung cancer deaths annually can be attributed to passive smoking;

Whereas smoking related diseases cost the United States health care system an estimated $22,000,000,000 yearly and the Federal Government pays approximately $4,200,000,000 yearly for smoking-related health care;

Whereas a smoke-free society would improve the health and environment of all Americans;

Whereas massive and readily accessible education as to the deadly effects of cigarette smoking may discourage young adults from beginning to smoke and may encourage smokers to stop; and

Whereas television, radio, and magazines are the major forms of communication nationwide: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Federal Government should strongly encourage both print and electronic media to voluntarily print or air public service messages describing the deadly effects of cigarette smoking and that such an action would be a critical step in protecting the health of all American citizens.

ASSISTING CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. Ballenger] is recognized for 60 minutes.

Mr. BALLENGER. Mr. Speaker, my wife and I just got back from a trip to Nicaragua over this past weekend and we were involved in helping La Prensa and also Radio Catolica to get reorganized.

I would like if I may to tell the people here the reason that we have been involved in the last 15 to 20 years in helping the people of Central America. My father-in-law in the early 1970's retired from his business and joined the International Executive Service Corp. His first assignment was in San Salvador, El Salvador, and he was requested by a businessman there to come down and help out in the reorganization of his business. The gentleman has a very profitable business but he was scared of competition from the Japanese.

He went down and after he had been there several weeks he called me up on the telephone.

For those who do not know, I am a businessman and a manufacturer. But he called me on the telephone and asked me to come to San Salvador and assist this gentleman in the organization of his business.

My wife and I went down there. We did the reorganization of his business, inventory controls, cost accounting systems, all these various and sundry things that are necessary, and we became very good friends with this young man in San Salvador. He came to visit us back in the United States in North Carolina where I live. Then we were invited back to Central America for the marriage of his son in which we became witnesses. He is a Catholic from that country. While we were there just to show his hospitality and teach us more about Central America, he rented a van and at that time there were no guns being fired, it was peaceful there, but we drove all over San

Salvador, all over Guatemala meeting his friends. He had many family all over both countries.

That was the end of our sojourn down there at that time until in 1977 there was a major earthquake in Guatemala City. My wife heard about this, she heard a church group was going back to Central America to build a hospital in Sensuntepeque in the mountains of Guatemala. She joined the crowd and went down there and worked for one summer with a group of Charlotte, NC, people. She worked for approximately 6 weeks and then came back. The group from Charlotte decided they would no longer go back, so my wife organized a group from Hickory, NC, and she went back and for 5 years she went down and made arrangements for whatever was necessary and they actually built a hospital from the ground up in that particular area.

I am a very good, as we call it, scrounger, and I got the necessary medical equipment to completely furnish that hospital.

We found another hospital in downtown Guatemala City which is for poor people, for poor Indians, and we did the same thing again. We got the necessary equipment to help build and equip that hospital.

Meanwhile it turned out that one of the Arab friends of my previous friend in San Salvador was head of the volunteer fire department in Guatemala City and he said that since we were doing such a good job on medical supplies could we help with a fire truck?

We got him a fire truck. At one time Guatemala City, a city of 1½ million, had 12 fire engines. There were six that were destroyed in the earthquake, so it was very important that we get this fire truck, and we got it.

We shipped the fire truck down to him and then he said that since the water lines were destroyed at that time could we get him a water tanker or water tankers to haul water to the fire, and also to haul drinking water to the poor Indians.

We did this and while I was involved in this, a gentleman from Rowan County in North Carolina called up and asked would I like a hospital.

It turns out that it was one of the many hospitals fixed up by John F. Kennedy after the Korean War when we thought the Russians were going to be bombing us, and they are called package disaster hospitals, and they were put together and located all over the United States. At one time there were 35 of those in North Carolina.

I got this one and we gave it to the people of Guatemala. The volunteer fire department, the bomparo, shall we call them, and they took it and broke it up into five different clinics. Those clinics now are in Guatemala City. If you happen to go there you will see a sign over the door that says, "The Donna Ballenger Clinic." They named them after my wife.

Meanwhile I was involved in politics, as you might gather, and I helped the Reagan campaign in North Carolina and was invited to the White House to attend a briefing on the various problems they are having getting supplies to Central America in general and specifically to San Salvador.

So I spoke to the Secretary of State about would he like to have one of these hospitals, and he did not believe me that it was possible to do this, but he was interested enough that he allowed my wife to go to San Salvador, speak to the Ambassador there, and we got a military adviser who came back and examined the hospital and they found it very valuable. They insured it for $1 million. We persuaded the Southern Railroad to give us a trailer. We then had a patriotic truck driver truck it to Ashboro in North Carolina where we got volunteers to load it up. We loaded the truck, put it on the train, it was sent to New Orleans where it was then sent to San Salvador where it was the beginning of a new hospital in San Miguel down near the Nicaraguan border, and it is being used at the present time.

This was all done basically by my wife and myself. We had no assistance from the Federal Government except for delivery of the hospital from New Orleans to San Salvador.

This gives to some extent the basic that we were involved in helping in the area of Central America and this is over a period of 10 to 12 years and this is the reason that I have interest as far as Contra aid, and whatever is going on in Nicaragua.

I had never been to Nicaragua before but I had been many times to San Salvador, Guatemala, and Honduras.

About 2 weeks ago there was a group of us freshmen Congressmen that were invited to go on a Codel trip to Nicaragua and I happily accepted. We went down and visited Costa Rica, Salvador, Honduras, and we also visited Nicaragua. While we were there we were fortunate enough to meet with Cardinal Obando y Bravo, who in my considered opinion and probably the considered opinion of most people that know, is probably the most respected gentleman in Central America. He is the head of the Catholic Church in Nicaragua.

We sat down and talked with him and strangely enough that very day the Sandinistas decided to open La Prensa, or allow La Prensa to be opened. As we were talking to the cardinal he said he thought seriously that Radio Catolica would probably be allowed to open, and he was quite sure that since it had not been used in a year and a half that the tubes would not work. The Sandinistas had not even allowed him to turn on the power to find out if the tubes would work.

So what we did is, at his request, we came back to the United States and actually called a friend of mine, who happened to be president of Jefferson Standard Broadcasting in Charlotte, NC, and said if the cardinal gets permission to open the radio station and requests the aid, would they allow us or assist us with engineering to help us out down there.

I know absolutely nothing about radio stations, but luckily for me Mr. Wally Jorgenson, president of that organization, was kind enough to say, "yes, he would." Probably 2 days later we received word that the cardinal's station had been allowed to open and that he needed help.

I was lucky enough to be allowed by Mr. Jorgenson to take with me his engineer, a fellow named John Buffalo, from San Diego, CA, and also an engineer consultant from Miami, Luis Endara. Before we left we knew there had to be spare parts and Endara was the one in charge of getting these parts in Miami. Luckily for me he had a fund raising drive amongst the Nicaraguan community in Miami.

They had raised a certain amount of money and I guaranteed the rest of the costs of the parts for that radio station.

We left here last Friday and flew to Miami where we met the two engineers and Mr. Luis Endara brought to us eight large cartons of parts for this radio station.

We were worried about whether the Sandinistas would allow us to bring the radio parts into the country so we used my stencil, because I was traveling under a diplomatic passport at my own expense but under a diplomatic passport. We used that for what is called protection that we have through our Government. We stenciled my congressional name all over the boxes and flew down to Nicaragua.

We surprisingly had no difficulty going through Customs and we took those eight cartons of parts and loaded them up and took them to the radio station. That was on Friday night.

On Saturday morning the engineers got together and I helped a little bit and I am not of much use as far as radio stations are concerned, but we got together and they completely rebuilt the broadcasting unit in downtown Managua. That took all morning.

In the afternoon we drove about 15 or 20 kilometers out into the boondocks and started to work on the transmitter.

□ 1530

It turns out that the transmitter was the major problem that we had; with all the parts we had it took them maybe 5 or 6 hours to put the parts in and then we were ready to go. By the way, the radio station, when it was allowed to reopen, originally had been designed as a 10-kilowatt station, but it was only operated as a 1-kilowatt that kicked out every 10 or 15 minutes because of the electricity and the problems they had there. When we got through with the parts that we thought were ready to go, we threw the switch and it kicked out immediately. We went over the whole thing again, set it up and threw the switch and it kicked out again. Friday night—Saturday night about 11 o'clock we give up and went back into town. But the engineer, John Buffalo, got on the telephone and called another engineering friend of his in San Diego, CA, and they brainstormed for about an hour as to what they could possibly do. Luckily for us we went back the next day; with what they had decided in 20 minutes they did the repair work that was considered important, we threw the switch and Radio Catolica went on the air Sunday morning and was continuously on the air all day. With some tuning up we got the radio station working. It is up to 7 kilowatts now.

My friend from Miami brought one of these telephone jacks and plugged it into the station there so that he could receive phone calls coming in requesting music and the like. He received phone calls from the Costa Rican border, saying it was coming in loud and clear, clearer than it ever had before, he received phone calls from the Honduran border where they said it was coming in clearer than ever before.

So I think we did a very constructive job. We still have possibly 8 to 10 more tubes that we have to get for them and send down to them. This whole cost of repair is going to be I think between $35,000 and $45,000. But like I say, the Nicaraguans are working to raise money in Miami, the Nicaraguans here in Washington, the community is working to raise money. I have gotten the National Association of Broadcasters to continue to guarantee some assistance. I have the North Carolina Association of Broadcasters to help out and with any kind of luck we will be able to pay this off in a couple of months.

To my way of thinking I felt like I was probably doing one of the most constructive things I ever did. Some people here may know I have been a pro-Contra supporter, a strong supporter of democracy in Nicaragua and I think it is the duty of those of us who have the capabilities or the ability or the connections to be able to assist in any way, shape or form the Nicaraguan people to receive democracy. I think Radio Catolica and the cardinal are two of the things that are most important as far as being able to carry this out.

At the same time, we visited, in the same CODEL, we visited Mrs. Chamorro at La Prensa and Mrs. Chamorro was explaining to us the various and sundry difficulties. Even though her paper had been allowed to begin operation, it had not been in operation for 1½ years and she was not sure as to what her needs would be. She said she would put together a list.

So when we went back this past weekend, we went to Mrs. Chamorro and she took us through her printing plant. I am in the printing business myself and I know what a really good operation looks like.

Mr. Speaker, their equipment is in need of assistance. They have probably 20-year-old composition equipment. There are six of these little CRT's on which you type and feed the story into the thing, she had six, there are two left. There is one that is being cannibalized and the other three are gone. She has a very difficult time turning out her newspaper. I do not know what we can do about that. I have called on my friends at Knight-Ridder, also the Washington Post and the New York Times to see if it is possible that they might have equipment. This is old equipment, Mr. Speaker, and I do not think there is any need to give the very new equipment that is available at a very high expense in this country, because her employees would have to be completely retrained to do this. So at the present time we are trying to get exactly the same equipment that she has been using for the last 10 years and take that back down to Nicaragua, because even though we have got the cardinal's radio station on the air and we will be able to deliver sermons, he has been told and it has been his policy in the past that there will be no political broadcasts on his radio station. Mrs. Chamorro is a different thing. Mrs. Chamorro is not only a lovely lady, but a very tough lady. The fact is when Ortega came to offer her freedom of the press he said, "We will give you the right to operate your newspaper, but with limited censorship." Mrs. Chamorro said, "No way, I will not accept it." Later he came back and he said, "Well, Mrs. Chamorro, we will offer you the opportunity to operate your radio station on the basis of self-censorhip." Mrs. Chamorro, again being the lady that she is, said, "I am sorry, we refuse to accept this." So finally Mr. Ortega came back a third time and said, "We will give you complete freedom of the press, you can have complete freedom of the press at the present time." That is what Mrs. Chamorro is doing her best to do now.

When I was down this past weekend not only was her composition room in dire straits but I have a couple of copies of her newspaper here, La Presnsa, printed this week, this past week. One of the great difficulties that you have in Nicaragua is that their money is not worth anything. If you were to send the money, suppose you sent them $100, it has to go through the national banks and at their exchange rate, the Government exchange rate of 7,500 of these cordobas to each dollar, that is what they would give you, 7,500 cordobas for each dollar. But the actual black market rate is 15,000 cordobas to the dollar. So every dollar that is to go through their Government banks, you lose half of the money that you have invested.

So it has been our suggestion and also Mrs. Chamorro's that we try to provide everything we can in kind. But some things she has to have in dollars. The newsprint that she has, she is being rationed newsprint from the Government. It is Russian newsprint and she has enough to last one more month.

What we are trying to do if at all possible is find supplies in this country that will allow newsprint to be shipped into Mrs. Chamorro at La Prensa. One time in the past the Swedes gave her newsprint. I do not think the numbers are exactly right, but the description will fit. She was given say 30,000 pounds of newsprint. It was shipped in. The Government seized it and said "this is not fair, this is not the free enterprise way, your paper will have an advantage," over the two Communist papers here. "So what we are going to do is we are going to take your newsprint and divide it up three ways." They gave one-third to one of the Communist newspapers, another third to the other Communist newspaper and the third third which should have been hers disappeared. So Mrs. Chamorro is operating in a very difficult situation. But we have to somehow get her, at least in my considered opinion, and I am going to make the effort to my friends in the news media to get her newspaper, get her ink, get her equipment to operate all these various and sundry things that are necessary. I do not think that people in this country can recognize the economic disaster that is truly operating in Nicaragua at the present time. Not only is their money not worth anything, but the value, having no value means they can buy almost nothing in the outside world to be shipped in.

One of the strange stories that was told to me by Mrs. Chamorro's son-in-law was the fact that previous to their taking over the Government, the Sandinistas were a bunch of college kids out robbing banks in the revolution and they had not even finished their college careers and all of a sudden they end up running the Government. They have absolutely no background in economics. They were having all kinds of strange ideas as to how to operate a Marxist-Leninist government, with controls and so forth.

What they did, they destroyed the economy. So being not too brilliant young men, they asked for economic assistance or aid from an economist somewhere else in the world. Of all the strangest things in the world they received an economist from Bulgaria. Now for those of us who do not know what it is like in Bulgaria, that place is an economic disaster too. So here you take an economist who has already ruined the economy of the Government of Bulgaria and send him to Nicaragua to help them out with their economy and it really is an absolutely disaster.

Let me again back up and say that first of all I forgot to mention that Monsignor Carbollo, who is the cardinal's right hand man, and who was chased out of Nicaragua when they closed Radio Catolica down, decided to go back when they decided to open it. He obviously is there trying to run this place but he is probably in some physical danger. Now this Luis Endora, who was one of the engineers, had been broadcasting against the Sandinistas out of Miami for approximately 2 years. I asked him was he not afraid to go back to Nicaragua? And he said, "Well, if Monsignor Carbollo is willing to go back, if he has the guts to go back, then I will do the same thing."

Monsignor Carbollo and also the cardinal told me they had a printing operation, a little printing operation to be able to send letters to their parishioners, print church programs, all of which were seized by the Sandinistas. So there is absolutely no printing available to the church in Nicaragua.

Well, I have also signed up with the North Carolina Association of Printers called the NCA Printing Industries of Carolina to provide to him the printing presses that are necessary and whatever other equipment may be desirous on his part to be able to print the necessary things for his church.

I would say that this work is not going to be the end, above all ends, for peace in Nicaragua. But I think the fact that they have allowed both Radio Catolica, in its weakened state to come on the air and we were able to bring it up to the normal standard, and they allowed La Prensa in its weakened state to come in, maybe we can assist in that particular area to produce a radio station and a newspaper that would be maybe better than the ones they have operating there.

Mr. Speaker, I have enjoyed being able to present to you the story of what we have done and what we plan to do in Nicaragua. I have a list, a long list of parts and various sundry things needed down there still and possibly we will make arrangements through the National Association of Broadcasters to be able to let this be known nationwide so that we can get further assistance.

I thank the Speaker and yield back the balance of my time.

NATIONAL SAFETY BELT USE DAY

The **SPEAKER** pro tempore (Mr. Gray of Illinois). Under a previous order of the House, the gentleman from Michigan [Mr. Dingell] is recognized for 60 minutes.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, today, October 15, 1987, has been designated by the President as National Safety Belt Use Day. It is a very special day for thousands of individuals whose lives have been saved, or who have avoided substantial injuries, through the prudent use of safety belts. It also is a very special day for the many law enforcement, safety, automotive, education, insurance and public interest organizations who have supported numerous efforts to promote safety belt use and to increase the public's awareness of the advantages of "buckling up."

I wish to thank Congressman Dymally, Congressman Ford, and the House leadership for helping to expedite the passage on September 15 of House Joint Resolution 338, the resolution my good friend and colleague, Congressman Bud Shuster and I introduced requesting the President to designate October 15 as "National Safety Belt Use Day." I also want to thank all of my friends and colleagues—some 254 Members—who cosponsored and supported House Joint Resolution 338, which was a significant factor in enabling the President to sign this important resolution.

Mr. Speaker, many of my colleagues, including myself, have been involved in automobile accidents were safety belts have proven the difference between life and death. According to the National Highway Traffic Safety Administration, the probability of being involved in a motor vehicle injury accident during a 75-year lifetime is better than 86 percent. NHTSA also has provided some startling facts about automobile related fatalities and injuries:

Approximately 3,528,000 people were injured in traffic injuries in 1985;

There were 23,192 passenger car fatalities and 5,763 light truck fatalities in 1985;

On average one life is lost every 12 minutes in traffic accidents;

In 1985, 91 percent of the occupants killed in auto accidents were not wearing their safety belts;

Unrestrained automobile occupants were 40 percent more likely to be injured in an auto accident and twice as likely to require hospitalization as restrained occupants;

Mr. Speaker, the facts on the record demonstrate that safety belts save lives and prevent injuries. In the past few years more than half our Nation's State legislatures have made substantial progress in enacting mandatory seatbelt use laws. Since 1984, 29 States and the District of Columbia have enacted mandatory safety belt use laws.

Each of these laws has the objective of reducing deaths and injuries in motor vehicle crashes. The fact is that virtually every study produced on the effects of increased belt use indicates that lap and shoulder safety belts can reduce the risk of fatal or serious injury by between 45 and 55 percent.

These laws work. Safety belt use has dramatically increased. Currently, safety belt use in States that have enacted belt use laws averages about 45 percent, ranging from 78 percent in North Carolina to 23 percent in Kansas.

The U.S. Department of Transportation's Center for Statistics and Analysis has documented the success of increased safety belt use in terms of lives saved and injuries prevented:

Among front seat passenger vehicle occupants, safety belts saved about 2,200 lives in 1986—1,750 in States with belt use laws;

Among front seat passenger vehicle occupants, safety belts prevented about 25,000 moderate to critical injuries in 1986, 20,000 in States with belt use laws;

At the current use level in belt law States—45 percent—belts would have saved 3,100 lives if all States had belt laws in 1986;

At the high use levels achieved in some other countries—85 percent—belts could have saved 10,000 lives if all States had belt laws in 1986.

The National Highway Traffic Safety Administration also indicates that safety belt use has dramatically increased since 1982. NHTSA's yearly national safety belt use survey of 19 cities has documented a safety belt use rate increase from 11 percent in 1982 to 42 percent in the first half of 1987.

An interesting fact in this survey was that among the seven cities without belt laws, belt use was only 27 percent. Among the 12 cities with belt laws in effect, belt use was 51 percent.

An important aspect of safety belt use that cannot be overlooked is child safety seats in passenger vehicles. These statistics are worth looking at. The National Center for Statistics and Analysis reports that:

Among children under 4, child seats saved about 200 lives in 1986;

With 100 percent correct use, child seats could save about 500 lives per year.

Child seat use among children 4 and under in the 19 cities surveyed was 72 percent in 1986.

Mr. Speaker, it goes without saying that one of the most important aspects of educating the public about the advantages of increased safety belt and child restraint use is the active involvement of the many law enforcement, educational, industrial, State, medical, consumer, insurance and safety organizations in promoting this sound policy objective.

All too often, the efforts of these organizations and individuals go unnoticed. Their wide range of support for "National Safety Belt Use Day" and other activities associated with vehicle safety programs is testimony to the national recognition of the critical importance of safety belt use.

The good work of these organizations are a genuine part of the success we celebrate today. For that reason, these organizations should be commended for recognizing the importance of buckling up. Their tireless work exemplifies the need to pursue this cause with enthusiasm and vigor so that thousands of needless deaths may be prevented.

For the record, I wish to thank all of the organizations who publicly support "National Safety Belt Use Day," and helped make this day possible. I therefore submit for the RECORD a list of the organizations who supported our efforts:

PUBLIC ORGANIZATIONS SUPPORTING H.J. RES. 338

Aetna Life Insurance Company.

Alliance of American Insurers.

Allstate.

American Academy of Orthopaedic Surgeons.

American Association for Automotive Medicine.

American Association of Critical-Care Nurses.

American Association of Motor Vehicle Administrators.

American Automobile Association.

American Coalition for Traffic Safety.

American College of Emergency Physicians.

American College of Surgeons.

American Insurance Association.

American Medical Association.

American Mutual Fire Insurance Company.

American Red Cross.

American Society of Abdominal Surgeons.

Automobile Importers of America, Inc.

The Central Insurance Companies.

Colorado Seat Belt Network.

Commonwealth of Virginia, Department of State Police.

Emergency Nurses Association.

Florissant, Missouri City Council.

Greene County Area Council of PTA.

Highway Users Federation for Safety and Mobility.

Illinois State Police.

International Association of Chiefs of Police.

Kemper Group.

Los Angeles Police Department.

Michigan Head Injury Alliance.

Mississippi Department of Public Safety.

Missouri Rehabilitation Center.

Motor Vehicle Manufacturers Association.

National Association of Governors' Highway Safety Representatives.

National Association of Independent Insurers.

National Commission Against Drunk Driving.

National Passenger Safety Association.

National Safety Council.

National Transportation Safety Board.

New York City Department of Transportation.

Pennsylvania National Insurance Companies.

Preferred Mutual Insurance Company.

Society of Critical Care Medicine.

State Farm Mutual Automobile Insurance Company.

Students Against Drunk Driving.

Texas Department of Public Safety.

University Association for Emergency Medicine.

On a special note, I would like to recognize the participation of 51 law enforcement officers—one from every State and the District of Columbia—who are in Washington, DC, today taking part in special ceremonies—because each and every one of them were saved by the belt while in the line of duty. I believe these men and women deserve special recognition for coming forward and telling their stories on how seatbelts saved their lives.

I believe that as part of this special order some of my colleagues will specifically highlight the circumstances of how their constituents were saved.

To make each of their stories known to our Nation, I will insert for the RECORD a list of their names and a short description of how seatbelts made them survivors rather than death statistics.

LAW ENFORCEMENT SURVIVORS

ALABAMA

Who: Deputy Sergeant Philip Walker of the Shelby County Sheriff's Department.

Story: Walker swerved off a rural highway to avoid some horse that had wandered onto the road. The Shelby County officer lost control of his patrol car and flipped it over on its side. Walker walked away from the accident without injury.

ALASKA

Who: Captain Glen Godfrey of the Alaska State Police Department.

Story: A car went through a stop sign, hitting Godfrey's patrol vehicle. Both cars were demolished. Godfrey suffered a concussion as a result of the crash, but he believes he would have gone through the windshield had he not been wearing his safety belt.

ARIZONA

Who: Lieutenant James Semenza of the Phoenix Police Department.

Story: With his emergency lights flashing, Semenza was racing to a shooting call when a drunk driver pulled out in front of his car unexpectedly. Semenza's vehicle was traveling approximately 60 miles per hour when the cars collided. His car was totaled. The Phoenix police officer was wearing his safety belt and only suffered whiplash and a cut on the head.

ARKANSAS

Who: Corporal Paul Halley of the Arkansas State Police Department.

Story: During routine patrol Halley's police vehicle was rammed by another vehicle, pushing the police cruiser into a bridge abutment. Halley's safety belt kept him in place and his injuries were limited to a banged up elbow and a bootful of shattered glass from the windshield.

CALIFORNIA

Who: Officer Barbara Ann Crumley of the Woodland Police Department.

Story: Crumley was on her way to the Police Shooting Range when she was struck from behind by a car traveling 50 mph. The force of the impact broke her seat, but Crumley's safety belt kept her from going through the windshield. She unbuckled her safety belt and walked away from the wreck.

COLORADO

Who: Agent John Ricker of the Aurora Police Department.

Story: Ricker was chasing a vehicle that refused to stop for a traffic violation traveling at speeds over 100 miles per hour. Ricker was forced to use his vehicle as a barrier to slow down the violator's car. Ricker's vehicle was rammed twice by the other car. Because he was wearing his safety belt, Ricker maintained control of his vehicle and avoided serious injury.

CONNECTICUT

Who: Trooper Kathleen Ackerman of the Connecticut State Police Department.

Story: Ackerman was driving on Route 89 in Ashford when she was broadsided by a car coming through the intersection. Ackerman's car was pushed into the median by the other car. Thousands of dollars worth of damage was done to the police vehicle, but Ackerman was wearing her safety belt and was uninjured.

DELAWARE

Who: Trooper Robert Schleifer of the Delaware State Police Department.

Story: Schleifer was responding to an emergency call with his vehicle's emergency lights flashing when a drunk driver crashed into him on U.S. 13, totalling his car. His injuries included bruised ribs, a sore right leg and a welt from the safety belt that held him in place during the crash. The unbelted driver of the other car broke his neck.

FLORIDA

Who: Trooper Robert Brown, Jr. of the Florida Highway Patrol.

Story: Brown's vehicle could not avoid a car that pulled out in front of him in Hialeah Gardens. The two cars collided. Because all Florida Highway Patrol officers wear their safety belts as an example for other drivers, Brown was protected.

GEORGIA

Who: Assistant Chief Chuck Kelley of the Stone Mountain Park Police Department.

Story: A car went through a stop sign and slammed Kelley's police vehicle. The Stone Mountain Park policeman was OK, but the unbuckled driver of the other vehicle suffered head injuries. Kelly is the chairman of the Park Safety Committee and has started a campaign to get all park employees to wear their safety belts.

HAWAII

Who: Lieutenant David Marciel of the Maui Police Department.

Story: Marciel's car was hit head-on by a vehicle which swerved into his path while avoiding a closed road. Both cars were extensively damaged. Marciel, who was wearing a safety belt, suffered bruised shins from hitting the dashboard. The other driver was not buckled up and ended up under the steering wheel with cuts and bruises. Marciel was named 1987 Officer of the Year by the Hawaii State Law Enforcement Officers Association in August.

IDAHO

Who: Deputy Patrick Scott of the Latah County Sheriff's Department.

Story: Scott's police vehicle was hit head on by a car that swerved to miss another car waiting to make a left-hand turn. Deputy Scott was buckled up and suffered a minor injury.

ILLINOIS

Who: Patrol Officer Marilyn McGrath of the Lombard Police Department.

Story: McGrath's vehicle was struck head-on by a hit-and-run driver. Her car flipped over four times before landing 30 feet off the road. The vehicle was destroyed. McGrath was wearing her safety belt and survived.

INDIANA

Who: Sheriff Gene Hardman of the Parke County Sheriff's Department.

Story: Hardman was on his way to an accident when another car collided with his on a gravel road. Both were travelling approximately 55 mph. The other driver, who was not wearing his safety belt, was transported by helicopter to an Indianapolis hospital and listed in serious condition with multiple injuries.

IOWA

Who: Officer Timothy Reynolds of the Cedar Rapids Police Department.

Story: Reynolds swerved out of the way of a car that suddenly cut in front of his vehicle on southbound I-380. The Cedar Rapids police officer ran off the road and his vehicle flipped over in the median. The car continued to roll, landing right side up on the side of the road. Reynolds unbuckled his safety belt, which had kept him safely in place, and he climbed out of the wreck with minor cuts from shattered windshield fragments.

KANSAS

Who: Deputy Sheriff Rusty Berry of the Shawnee County Sheriff's Department.

Story: Berry's vehicle was rear-ended when he changed lanes in front of another law enforcement vehicle. Berry was cruising at 40 mph, while the other car was traveling approximately 115 mph. The other police vehicle hit Berry's car, leaving the license plate number imprinted in the speeding car's hood. Berry remained conscious, unbuckled his safety belt, kicked his door open and got out of the car before it was engulfed in flames.

KENTUCKY

Who: Patrolman Robert Goldey of the Lexington-Fayette Police Department.

Story: Goldey was at an intersection when an oncoming car's brakes failed. The driver of the runaway car tried to turn out of the way but lost control of the vehicle and slammed into Goldey's car. Goldey was wearing his safety belt and was not seriously injured.

LOUISIANA

Who: Trooper First Class Tony Rafaleowski of the Louisiana State Police Department.

Story: Rafaleowski was involved in a high-speed chase when he lost control of his patrol car. His vehicle slid off the road and flipped over three times before it landed upside down on the median. Everything that was not secured was thrown out of the car, including the radio microphone. He remained in the car because he had his seat belt buckled.

MAINE

Who: Police Chief David Kurz of the Gorham Police Department.

Story: Kurz's police vehicle ran off the road and hit a tree. He was wearing his seat belt and survived the crash.

MARYLAND

Who: Sergeant Peter Brelia of the Greensboro Police Department.

Story: Brelia was trying to avoid a car which had pulled out in front of his vehicle when his vehicle ran off the road. Brelia hit a utility pole and rolled over several times. He was wearing his safety belt and remained conscious and able to get out of the car before it was engulfed by flames.

MASSACHUSETTS

Who: Trooper Harvey D. "Danny" Bigelow, Jr. of the Massachusetts State Police.

Story: Bigelow was enroute to the scene of an accident when another driver ran a red light and slammed into his patrol car. He careened across the center line and struck two other vehicles heading in the opposite direction. His safety belt kept him safely in place and he suffered only minor injuries.

MICHIGAN

Who: Deputy Sheriff Roy Mays of the Washtenaw County Sheriff's Department.

Story: Mays' vehicle was totaled when a pick-up truck made a left-hand turn in front of the deputy's police vehicle on Michigan Avenue in Ypsilanti. Mays and his partner were buckled up and were unharmed. The other driver was not wearing his safety belt and was injured.

MINNESOTA

Who: Corporal Brad Ferris of the Minnesota State Patrol.

Story: Ferris used his vehicle to stop a car stolen by two juveniles. His car was going about 45 mph when it was struck from behind by the other vehicle that was traveling about 75 mph. Ferris was buckled up and suffered shoulder and arm injuries.

MISSISSIPPI

Who: Detective Robert Andrews of the Jackson Police Department.

Story: Andrews' vehicle was hit by a truck at 55 mph. His car was cut in half, but he survived because he was held in place by his safety-belt.

MISSOURI

Who: Trooper Royal Messick of the Missouri State Police Department.

Story: Messick's vehicle was hit head on by a car operated by a driver who was on the wrong side of M-291. Messick's car was totaled. He was buckled up and suffered minor cuts in his mouth and chipped his teeth. The other driver was not wearing his safety belt and suffered more serious injuries.

MONTANA

Who: Patrolman James Thompson of the Montana Highway Patrol.

Story: Thompson's vehicle was struck head-on by a car that had skidded out of control on a snow-covered highway. Both vehicles ended up off the road on opposite sides. Thompson was wearing his safety belt and suffered minor cuts and bruises on his chin. The other driver was not wearing his safety belt and suffered more serious head injuries.

NEBRASKA

Who: Trooper Keith Rodaway of the Nebraska State Police Department.

Story: While on patrol, Rodaway was involved in a chase that reached speeds of 100 mph. Rodaway was rammed by the fleeing car as he tried to pass it. The driver lost control of the car and slid in front of Rodaway's vehicle. Rodaway swerved into a ditch to avoid another collision and his vehicle became airborne and landed 74 feet away. The impact was so great that Rodaway tore the steering wheel off the dashboard. He unbuckled his safety belt and walked away from the accident.

NEVADA

Who: Deputy Sheriff Doug Brady of the Washoe County Sheriff's Office.

Story: Brady tried to avoid hitting a truck with his vehicle and swerved off I-80. He hit the dirt shoulder and rolled over. Brady was buckled up and survived the accident.

NEW HAMPSHIRE

Who: Captain Ernest Loomis of the New Hampshire State Police Department.

Story: While patroling remote, unoccupied cottages on Rose Mountain, then-Trooper Ernest Loomis' cruiser slid off the icy road and into a gulley. He was successful at getting the vehicle out of the gulley, but then slid down the backside of the mountain's dirt road and collided with a salt-truck. Loomis' car was totalled but he was wearing his safety-belt and only suffered a bruised knee.

NEW JERSEY

Who: Patrolman William Masterson of the Roselle Park Police Department.

Story: Masterson was on his way to a medical emergency call at the Oak Ridge Golf Course when his vehicle was struck by a tractor trailer at an intersection. He was buckled up and suffered minor back injuries. His car was totaled.

NEW MEXICO

Who: Private First Class Roger Sequeira of the Bernalillo County Sheriff's Department.

Story: Sequeira had just turned on his car's emergency lights and pulled behind a stalled car on I-25 during rush hour in Albuquerque when another car rammed into his. The impact pushed Sequeira's vehicle 23 feet forward, ripping his seat off the moorings. He suffered slight injury to his back when he was forced into the steering wheel.

NEW YORK

Who: Officer Robin Kane of the Suffolk County Highway Patrol.

Story: While on the lookout for speeders on the Long Island Expressway, Kane's patrol vehicle was hit from behind by another vehicle operated by a drunken driver. The other car smashed into Kane at 60 miles an hour, pushing the patrol car's trunk into the back of the front seat. Kane remained in her seat during the collision because of her safety belt. She unbuckled herself and was pulled out of the wreck by emergency personnel.

NORTH CAROLINA

Who: Officer Lee Bostic of the High Point Police Department.

Story: Bostic was buckled up when another car made a left-hand turn in front of him. His patrol car suffered $4,000 in damage and Bostic suffered a light bruise.

NORTH DAKOTA

Who: Patrolman Merle Haisley of the North Dakota Highway Patrol.

Story: Haisley swerved to avoid the car which had cut in front of him. Haisley's car slid on the ice into an oncoming car. Extensive damage was done to both vehicles. Haisley was wearing his belt and escaped major injury.

OHIO

Who: Patrolman Thomas Conklin of the Englewood Police Department.

Story: Conklin was responding to a call when he lost control of his vehicle in Englewood. He rammed into another vehicle and survived because he was buckled up.

OKLAHOMA

Who: Second Lieutenant Jim Roper of the Oklahoma Highway Patrol.

Story: Roper was travelling approximately 75 mph when his vehicle was struck by a stolen car going 100 mph. Roper lost control of the car, hit a bridge abutment and landed upside down in a dry creekbed. He unbuckled his safety belt and escaped before his car caught on fire.

OREGON

Who: Officer Mark Miranda of the Keizer Police Department.

Story: While on his way to an emergency call, Miranda's car hydroplaned on a wet road and slid off a cliff. Miranda's vehicle hit a rock in the river below and totaled his car. Unbuckling his safety belt, Miranda walked away from his car with a cut above his eye.

PENNSYLVANIA

Who: Patrolman William Kellington of the Crafton Borough Police Department.

Story: Kellington's vehicle skidded down a steep hillside. Because he was buckled up, Kellington was able to maintain control of the car and suffered no injuries.

RHODE ISLAND

Who: Sergeant Richard Schmitter of the Coventry Police Department.

Story: While chasing a traffic violator, Schmitter's vehicle failed to make a curve and skidded on the wet pavement. The car slammed into the end post of a guardrail, smashed the front end, and spun around. Schmitter, who was wearing his seat belt, walked away with bruised knees.

SOUTH CAROLINA

Who: Deputy Jeffrey Granner of the Greenville County Sheriff's Office.

Story: Granner's patrol vehicle was on Highway 29 when a car crossed over the median, hit Granner's vehicle head-on, and crashed into another car. Granner's car was demolished. He believes his safety belt saved his life.

SOUTH DAKOTA

Who: Deputy Sheriff Brad Bortnem of the Davison County Sheriff's Department.

Story: Bortnem and his wife were on their way to the sheriff's house on Christmas Eve when a car ran a stop sign, broadsided their car and pushed the Bortnem's car into another vehicle. All three cars were wrecked. Bortnem was wearing his seat belt and was not seriously injured.

TENNESSEE

Who: Patrolman Joel Bach of the Berry Hill Police Department.

Story: Bach's patrol car was hit by a car that had run a red light. Bach was not injured in the crash, but his car was severely damaged. Without his safety belt, Bach believes he would have gone through the windshield.

TEXAS

Who: Sergeant Richard Hawthorne, Jr. of the Mexia Police Department.

Story: While on patrol, Hawthorne's vehicle was rammed by a pick-up truck which had run a red light. The impact pushed the truck into a light pole, smashing a sign in front of a Mexia business. Both drivers were wearing their seat belts and walked away from the accident.

UTAH

Who: Superintendent Dennis Nordfelt of the Utah Highway Patrol.

Story: Nordfelt inadvertently ran a stop sign and hit another car in the intersection. He was wearing his safety belt when the accident occurred and avoided serious injury.

VERMONT

Who: Sergeant Terrance Martin of the Vermont State Police Department.

Story: Martin lost control of his vehicle while on a low shoulder and was hit by another car. Martin's car was totaled while the other car was extensively damaged. He was wearing his safety belt and suffered a minor head laceration and a pinched nerve in his neck.

VIRGINIA

Who: Trooper William "Steve" Bryant of the Virginia State Police Department.

Story: Bryant was on patrol when the car in front of him was sideswiped by an oncoming car. That car hit Bryant's vehicle head-on, crushing both vehicles' front ends. Bryant unbuckled his safety belt, got out of the car and helped set up traffic control and assist the injured.

WASHINGTON

Who: Sergeant Carlos Gonzales of the Yakima County Sheriff's Department.

Story: Gonzales' vehicle was struck by a car operated by a drunk driver, pushing Gonzales' vehicle into a light pole. He was wearing his seat belt and survived the accident.

WEST VIRGINIA

Who: Sergeant Charles Martin of the West Virginia State Police.

Story: Martin lost control of his vehicle, ran off the road and crashed into a oncoming car while pursuing a stolen car driven by a murder suspect. The back seat on the driver's side was pushed in on Martin's car while the other car's front end was demolished. Martin was buckled up and survived the crash.

WISCONSIN

Who: Sheriff Donald Taylor of the Burnett County Sheriff's Department.

Story: Taylor was eastbound on B-B Road when the safety chains of the trailer attached to a westbound car snapped, causing the trailer to run into Taylor's vehicle head on. Taylor was wearing his safety belt and survived the crash.

WYOMING

Who: Patrolman Duane Verley of the Wyoming Highway Patrol.

Story: Verley's vehicle slid sideways off the road, hit a stationary mailbox and flipped over on its top, nearly shearing it off. Verley was hanging upside down by his safety belt when he unbuckled himself and climbed out of the car.

DISTRICT OF COLUMBIA

Who: Captain Michael Pickett of the Metro Police Department.

Story: Pickett was struck by a drunk driver travelling 40 miles per hour. His minor injuries would have been much worse had he not been buckled up.

I yield to my dear friend from Michigan, Mr. WOLPE.

Mr. WOLPE. I thank the chairman for yielding. I also thank the gentleman for taking this special order and I want to express my personal appreciation for his very long-term leadership on this issue.

I am happy to add my voice to those who are speaking today on behalf of seatbelts. In fact, I am not just happy, I am delighted, because I am a firm believer in seatbelts. I know from personal experience how useful they are. One of them probably saved my life.

The Third District of Michigan which I represent extends over several counties. The winter before last I was driving on an interstate highway to Kalamazoo where I was scheduled to appear at a press conference. My car is a good solid machine made in Michigan, I would recommend it highly to anyone. I like to think that I am a pretty good driver, but this was the kind of a winter day that would challenge a Sherman Tank. Unfortunately, I hit an ice patch by the side of the road, went into a skid and slid off the road and overturned in the ditch. Was I scared? You bet I was. Only one thing saved me, my seatbelt. If I had not been buckled up I would have ended up in worse shape than the trade deficit. But because I had it on, the only thing that was wounded was my pride. I climbed out of my car without a scratch and hitchhiked into Kalamazoo the rest of the way. I even made it to the press conference on time. I got out of the car in one piece.

☐ 1545

I thank my lucky stars that I got out of that car in one piece; but I do not just thank my lucky stars. I thank that seatbelt.

Before this experience, my attitude toward seatbelts was probably like that of most people. In the abstract, I thought favorably of the little gadgets, and I buckled up most of the time. But believe me, this experience made a true believer out of me.

I am all for whatever it takes to encourage people to use seatbelts. There are fan clubs for Madonna, for Bon Jovi, for Bruce Springsteen. But the day they start a fan club for the unassuming seatbelt, let me know. I am going to send in my dues to become a charter member.

Mr. Speaker, I thank the gentleman so much for advancing this resolution and for really focusing national attention on this issue.

Mr. DINGELL. Mr. Speaker, I thank my dear friend, the gentleman from Michigan [Mr. WOLPE] for his contribution. His contribution to the discussion is a valuable one, and certainly his experience is an important one in terms of addressing a major problem of hazard to all Americans.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to my friend, the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, I thank my friend, the gentleman from Michigan, for yielding.

I just want to pay special tribute to the gentleman from Michigan for bringing this matter to our attention and taking the time to get this special order, because certainly no one around here has done more to enhance auto safety than the gentleman has, and I for one deeply appreciate that.

Mr. Speaker, law enforcement officials whose lives have been saved because they were wearing seatbelts during an accident are in Washington to commemorate "National Safety Belt Use Day."

Topeka Deputy Sheriff Russell Berry, a member of this special group being honored today, is a living testament to the importance of seatbelt safety. Because he was wearing a safety belt, Deputy Sheriff Berry was able to remain conscious and escape his patrol car after it had been rear-ended by a vehicle traveling approximately 115 miles per hour.

I am pleased and proud that my State of Kansas is one of 29 States that has passed a safety belt law. Statistics underscore the necessity for this type of life-saving legislation.

According to the National Highway Traffic Safety Administration, safety belt use laws saved 1,450 lives through 1986. In addition, passengers who do not wear safety belts are 40 percent more likely to be injured in an accident and twice as likely to be hospitalized as passengers who do wear safety belts.

I applaud Deputy Sheriff Berry and the American Coalition for Traffic Safety for their tireless efforts to raise the public's awareness of the life-saving importance of safety belt use.

Mr. Speaker, again I commend the chairman of the Committee on Energy and Commerce for his leadership in this matter, and I also appreciate the gentleman's taking time today to get this special order.

Mr. DINGELL. Mr. Speaker, I thank my dear friend, the gentleman from Kansas [Mr. SLATTERY). He is one of the most valuable Members not only of our committee but of this body. I appreciate his contribution and his comments, and I thank him for his courtesy to me.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from West Virginia, who is a very valuable Member of this body.

Mr. WISE. Mr. Speaker, I thank the chairman of the committee, and I thank him for taking the time to take this special order out.

We are very pleased in West Virginia because we have one of the recipients of the award given today on National Safety Belt Use Day, Sgt. Charles R. Martin of our West Virginia State Police.

Sergeant Martin was driving while on duty, lost control of his vehicle, ran off the road and crashed into an oncoming car while pursuing a stolen car driven by a murder suspect. The back seat on the driver's side was pushed in on Sergeant Martin's car while the other car's front end was demolished.

The sergeant was buckled up and survived the crash. Had he not been buckled up, we think the events—and he said the same thing—would have been more deadly.

I have a personal incident to relate. When seatbelts actually first began to be installed back in the 1960's, my parents, while driving along an interstate highway, were hit broadside by an automobile. By chance they had buckled up these new-found objects, these things called seatbelts. They were somewhat of an inconvenience, some people said, but mom and dad still put them on, and as a result their lives were saved even though their car was totally demolished. So seatbelts do make a difference.

I am proud, Mr. Speaker, that West Virginia was one of the first States to adopt a child restraint law, and we found that despite all the arguments that people made, it did work and it did save lives. Indeed the State legislature went back and made the law even tougher and added some additional years that would cover it.

We still in West Virginia, though, need to adopt a seatbelt law.

So I join the gentleman today in honoring those recipients of this award, including Sgt. Charles Martin of the West Virginia State Police, but most importantly in appealing to people to buckle up, both legislatively and also personally.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. DINGELL. Mr. Speaker, I thank my dear friend, the gentleman from West Virginia [Mr. WISE], for his very valuable contribution.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas, a member of our committee.

Mr. BARTON of Texas. Mr. Speaker, I want to commend the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of our committee, for his support of House Joint Resolution 338, the "National Safety Belt Use Day," and I thank him for the personal interest he has taken in this legislation.

I was privileged today to attend the ceremony in which there was one police officer from each of the 50 States. The officer from Texas is from my congressional district, Sgt. Richard Hawthorne, Jr., from Mexia. He was in his patrol car on March 22 last year at 1 a.m., and he was running through a green light. A pickup truck ran through the light and hit him broadside. The driver of the other vehicle was intoxicated. Sergeant Hawthorne had his safety belt on, and because of that his life was saved.

I think this resolution of support will give the public an awareness of how important it is to use safety belts. I will not stand here and say that I have been the most determined in my use of safety belts, but I have a 12-year-old daughter and a 5-year-old daughter who are holy terrors about getting me to buckle up. So I am now buckling up, and hopefully I will never have to test the safety belts with my family or myself in a vehicle mishap, but if that day occurs, I will remember that the reason I am using the safety belt is that people like the gentleman from Michigan have made it a national issue. I commend the gentleman from Michigan on his work and hope that the American people and our colleagues will also begin to use safety belts.

Mr. Speaker, under leave to include extraneous matter, I submit an article concerning Police Officer Hawthorne, as follows:

"BUCKLED UP" MEXIA PD OFFICER TO TELL HIS STORY IN WASHINGTON

(By Dan Eakin)

Sgt. Richard Hawthorne Jr. is one of those nice-guy policemen on the night shift at the Mexia Police Department.

He likes to kid people a lot, and a lot of people like to kid him.

A couple of months ago, he was snoozing away one morning after having been on the night shift the night before when the telephone rang.

A female caller told him that because he had been saved by a seat belt during an accident last year that he was to come to Washington, D.C. in October to receive special recognition.

Hawthorne asked the caller what kind of fool did she take him for. He advised her that he was too smart to fall for a ridiculous prank like that. Then he slammed down the receiver, rolled over and went back to sleep.

About two days later, fellow employees finally convinced him the caller was for real. He called Diane Frye of the Texas Coalition for Safety Belts in Austin and apologized for not believing her earlier.

Next Wednesday, Richard and his wife Kathy will depart for Washington, D.C. where he will be one of 51 law enforcement survivors via safety belts who will be honored and who will share their stories at ceremonies set for 9:30 a.m. Thursday.

A law enforcement officer from every state and the District of Columbia will be there for the festivities at Georgetown Waterfront Park in Washington, D.C. Hawthorne, a lifelong resident of Mexia, will represent Texas.

The 51 law officers will pose for a group poster promoting safety belt use. The poster, to be sponsored by the American Coalition for Traffic Safety (ACTS), will be distributed nationwide.

After the poster photo session, the officers will go to Capitol Hill for a luncheon with their senators and representatives.

It was the night of March 22, 1986.

Sgt. Hawthorne had been jumping in and out of the police car checking to see if doors were locked. Admittedly, he had not bothered to fasten his safety belt throughout much of the evening because he was in and out of the patrol car so much.

Then, for some reason, he felt the urge to buckle up. He was casually driving on Ross Avenue toward Milam. It was about 1 a.m. Seeing the light was green, he went through the intersection.

Then BAM! What luck! He had been struck! By a pickup truck! But he was buckled up!

He said later the only pain he felt was when the strap of the seat belt pressed his police badge into the upper left part of his chest.

The driver of the pickup truck was charged with driving while intoxicated, speeding and running a red light.

Hawthorne said, "My first reaction was to want to jump out of the car and beat the guy up for demolishing my beautiful police car."

But now his attitude toward the man may be a little different.

After all, he and his wife got a trip to Washington, D.C. out of it.

To illustrate how safety belts save lives of law enforcement officers in every state, the American Coalition for Traffic Safety (ACTS) is bringing a law officer from each state in the union and the District of Columbia to Washington, D.C. this coming Thursday who has been saved by the use of a seat belt. They will pose for poster to be used nationwide, urging the public to use seat belts. Sgt. Richard Hawthorne Jr., above, whose seat belt likely saved his life in an accident in his police car on March 22, 1986, was chosen to represent Texas. Picture-taking and festivities are set for 9:30 a.m. Thursday at Georgetown Waterfront Park in Washington, D.C.

Mr. DYSON. Mr. Speaker, the United States could prevent 10,000 to 20,000 accidental deaths a year. How could we do this? The Department of Transportation's National Highway Traffic Safety Administration estimates that this many lives could be saved each year if the Nation had a 100-percent rate of seat belt usage. In 1986 alone, 2,200 lives were saved by seat belts. This is why I have cosponsored House Joint Resolution 338, designating today as National Safety Belt Use Day, and I urge your support for this resolution. If the citizens of our Nation could be made more aware of these figures, perhaps many of these accidental traffic deaths could be avoided.

House Joint Resolution 338 requests the President to urge the people of the United States to wear safety belts, to buckle up their children, and to encourage greater use of these safety devices. It is our responsibility as legislators to encourage any action that will protect the lives of our citizens. This joint action by the President and the Congress will show the American people that both the executive and the legislative branches of Government support saving lives through seat belt use.

For the benefit of my colleagues, I would like to present some statistics that I have. In 1985, there were 23,192 passenger-car fatalities and 5,763 light-truck fatalities. Of the occupants killed in auto accidents in 1985, 91 percent were not wearing their safety belts. Unrestrained occupants were 40 percent more likely to be injured in an accident and twice as likely to require hospitalization as restrained occupants.

As NHTSA figures show, the probability of being involved in a motor-vehicle injury accident during a 75-year lifetime is better than 86 percent. It behooves us to educate our children to the dangers of riding in an automobile without buckling their seat belt. A life is a precious thing, too precious to wantonly throw away by failing to take the time to buckle up. I have heard all the excuses—a seat belt is too uncomfortable, it is too restrictive. However, among young adults, aged 12 to 34, traffic accidents rank as the No. 1 killer. I ask you, Mr. Speaker, aren't the lives of our young too important to throw away?

Let me offer the experience of a member of a police department in my district. Sergeant Peter Brelia of the Greensboro Police Department was trying to avoid a car which had pulled out in front of his vehicle. As a result of this, Sergeant Brelia ran off the road, hit a telephone pole, and rolled over several times. He was wearing his safety belt and remained conscious and able to get out of the car before it was engulfed by flames. Without a safety belt, it is unlikely that Sergeant Brelia would be so lucky.

Mr. Speaker, in the first 6 months of 1987, safety belt use in the United States had reached a new high. We must work for the day when there will be 100 percent safety use, when those 10,000 to 20,000 citizens can be productive members of society, and not just statistics for Congressmen to read. Thus, I urge my colleagues to join me in support of House Joint Resolution 338, and designate today as National Safety Belt Use Day.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to add my voice with those of my distinguished colleagues to call attention to "National Safety Belt Use Day."

Motor vehicle accidents have been a major cause of death and injury in the United States for many years. Each week, approximately 850 people are killed in traffic accidents across the Nation and an additional 30,000 are injured.

The most serious injuries that occur to passengers are those caused by the secondary collision. When a moving vehicle is abruptly stopped the change in momentum causes the passengers to be thrown against the interior of the automobile. Injuries caused by these collisions could be significantly reduced if passengers wore their safety belts.

In addition to the human suffering involved, the monetary expense incurred by these accidents is staggering. The National Safety Council has estimated that traffic accidents cost $42 billion per year in medical expenses, lost wages, insurance administration costs, and property damage. The $42 billion does not include the costs of agencies such as police and fire departments, courts, indirect costs to employers for off-the-job accidents of employees, shipment losses in commercial vehicle accidents, and court-awarded damages.

Since 1968, safety belts have been required on all automobiles manufactured in this country. Unfortunately only 10 to 14 percent of all passenger use their safety belts. The Highway Users Federation estimates that 12,000 lives a year could be saved if people simply buckled up. Mr. Speaker, it is my hope that through our action here today we will encourage people across the Nation to use their safety belts and buckle up.

Mr. FAZIO. Mr. Speaker, I rise today in support of National Safety Belt Use Day and to recognize Officer Barbara Ann Crumley from the Woodland California Police Department for calling attention to benefits of safety belt use. Officer Crumley walked away from what could have been a fatal accident because she was wearing her safety belt.

On average, one life is lost every 12 minutes to traffic accidents. For persons between the ages of 1 and 34, traffic accidents are the No. 1 killer in the United States. Recent figures show 91 percent of occupants killed in auto accidents were not wearing their safety belts.

In 1985 alone, there were 39,000 accidents resulting in nearly 44,000 fatalities and over 3.5 million people injured in traffic accidents. Unrestrained occupants were 40 percent more likely to be injured in an accident and twice as likely to require hospitalization as restrained occupants.

Thousands of lives could be saved if more Americans simply buckle up. Many more statistics could be cited, but Officer Barbara Ann Crumley from my congressional district is living proof.

Last August, Officer Crumley was on her way to the Police Shooting Range when her vehicle was hit by a car traveling over 50 miles per hour. The force of the impact broke her seat, but Officer Crumley's safety belt kept her from going through the windshield. She unbuckled her safety belt and walked away from the total wreck.

I honor Officer Crumley today for the example she sets for all of us as well as the Woodland community. I join the Woodland community in expressing our gratitude to Officer Crumley and her colleagues for their dedicated service and for caring enough to educate others about the life saving benefits of safety belt and child safety seat use.

Mrs. PATTERSON. Mr. Speaker, last year 1,059 South Carolinians died in traffic accidents, many of them needlessly. And 34,389 South Carolinians were injured in auto accidents. Why? Because they didn't take the 10 seconds necessary to buckle their safety belts.

You see, my State of South Carolina has the unenviable distinction of having one of the Nation's highest highway death rates, and instead of going down, that death rate is increasing annually.

For that reason, last year I was a cosponsor of a mandatory safety belt use law and a mandatory child restraint law. We now have a child restraint law, but the safety belt law was defeated. My belief in the importance of buckling up, however, has never wavered.

Take a look at the statistics. They'll make a believer out of you, too.

Safety belt use laws have saved 1,300 lives since the first belt use law went into effect in 1985.

Ninety-one percent of the victims of fatal automobile accidents were not wearing safety belts.

Unrestrained occupants are 40 percent more likely to be hurt in an auto accident and twice as likely to need hospitalization as occupants who took the time to buckle up.

The excuses for not buckling up are famous. "They're uncomfortable." "I'm only going two blocks." "I don't want to wrinkle my outfit." "I was running late and didn't have time." "I forgot." But the reasons for buckling up are so much more important. Safety belts can save your life.

There's a young man from my district who is in Washington commemorating National Safety Belt Use Day. Jeff Granner, a deputy with the Greenville County South Carolina sheriff's department was recently in his patrol car. His safety belt was buckled only because the department required it. After his patrol car was involved in a head-on collision, the doctors told Jeff that it was his safety belt that saved his life.

I urge everyone to take those 10 extra seconds to buckle up. Your chances of arriving home alive will increase.

Thank you.

Mr. OWEN of Utah. Mr. Speaker, I am proud today to take part in the activities of "National Seat Belt Use Day." The average American faces an 86 percent chance of being involved in an automobile accident in his or her lifetime, and many of these accidents will result in injury and death. The fact of the matter, however, is that by not wearing a seat belt, that same average American is 40 percent more likely to be injured in an accident, and twice as likely to require hospitalization from such an injury.

The State of Utah, whose residents I represent, passed a child restraint law in 1984 and a seat belt law in 1986. Since that time the use of child restraints has doubled, and seat belt use has increased. During the same period, traffic fatalities have decreased nearly 15 percent. I am convinced that the increased use of seat belts and child restraints has contributed to greater highway safety in my State.

I am happy to see this recognition of the importance of seat belt use. I commend Chairman JOHN DINGELL and Congressman SHUSTER for their leadership in organizing this important day's observation.

Mrs. VUCANOVICH. Mr. Speaker, it gives me great pleasure to recognize the participation of Deputy Sheriff Doug Brady of the Washoe County, NV, sheriff's office in the events held on Capitol Hill today to commemorate National Safety Belt Use Day.

Sheriff Brady became a safety belt survivor when he tried to avoid hitting a truck with his vehicle and swerved off Interstate 80 in Nevada. He then hit the dirt shoulder and rolled over. Because Sheriff Brady was buckled up, he survived the accident. Thank God Sheriff Brady had the common sense to use his safety belt, which ultimately saved his life.

I would also like to call further attention to the life-saving benefits of safety belt and child safety seat use. According to the National Highway Traffic Safety Administration, safety belt use laws saved 1,450 lives through the end of 1986. There were some 39,168 fatal accidents resulting in 43,795 fatalities in 1985 and 91 percent of the occupants killed in these auto accidents were not wearing their safety belts. Of those killed in motor-vehicle accidents, 58 percent are drivers, 24 percent are passengers, and 18 percent are nonoccupants. In addition, unrestrained occupants were 40 percent more likely to be injured in an accident and twice as likely to require hospitalization as restrained occupants. People who are thrown from their vehicles are 25 times more likely to be killed than if they stayed in their vehicle. More than three out of four people who were thrown from their vehicles in 1984 were killed.

Safety-belt-use legislation has been passed in 29 States and the District of Columbia including my home State of Nevada. It is estimated that if 70 percent of Americans regularly wore their safety belts in 1983, 9,140 lives would have been saved and 327,000 injuries would have been avoided.

The safest way to travel by car is to use a safety belt for each passenger. Statistics show that most accidents occur within 25 miles of home, and that the greatest number of serious injuries and deaths occur at speeds of less than 40 mph. Studies have proven that safety belts with shoulder harnesses are more than 50 percent effective in preventing injuries in this type of collision.

Children need to be protected because their chances for being thrown from a vehicle or for serious and fatal injuries is as great as an adult's. Babies being held in their mothers' arms are at great risk of being crushed or thrown from a vehicle, even in collisions at very low speeds.

Safety belts are for everyone, so let's follow the example set by Sheriff Brady and buckle up for safety.

Mr. BEREUTER. Mr. Speaker, most of us have heard of someone who walked away from an automobile accident in which the vehicle was totalled. Chances are, that lucky individual was wearing his or her safety belt. A simple act, taking only seconds, has saved countless lives. The National Highway Traffic Safety Administration estimates that safety belts saved 1,450 lives in 1986.

Trooper Keith Rodaway of the Nebraska State Police owes his life to his seat belt. While on patrol in Nebraska, Trooper Rodaway was involved in a high speed chase where speeds reached 100 miles per hour. As the trooper tried to pass the fleeing car, its driver rammed his cruiser. That driver then lost control of his car, sliding in front of Trooper Rodaway's car. In an effort to avoid a second collision, Rodaway swerved toward a ditch. His vehicle became airborne and landed 74 feet away. The impact upon landing was so great that Rodaway tore the steering wheel from the dashboard. Believe it or not, my constituent unbuckled his seat belt and walked away.

A simple act, taking only seconds, saved Keith Rodaway's life. This Member salutes his courage as a law enforcement officer, and gives thanks, along with Nebraskans, that our State has such brave and selfless public servants. This Member also salutes Trooper Rodaway for his diligence in his seat belt use. His experience should be proof to all Americans that seat belts do indeed save lives.

Mr. BONIOR of Michigan. Mr. Speaker, today, as we observe National Safety-Belt-Use Day, it might be well to reflect for a moment on the human results of automobile collisions.

Automobile crashes, for example, produce more paraplegics and quadriplegics than all others causes combined.

The leading cause of noncosmetic plastic surgery is major damage to the face from auto crashes.

Motor vehicle accidents are a major cause of epilepsy.

Traumatic brain injury is a little known epidemic that affects 500,000 people nationally. Sixty percent of those injuries are the result of car crashes.

Traffic accidents are the No. 1 killer of young men and women up to the age of 24.

The irony of it is that a remedy for all of these problems is readily available. We have it within our power to reduce these afflictions with the wave of a hand if, at one end of the wave, the hand grabs the safety-belt buckle and, at the other end, snaps it into place.

Now if every single driver buckled up, there would still be deaths on the highways. Some crashes are too severe to be survived with any kind of restraint system. However, research has shown that if 70 percent of drivers buckled up, the fatality rate begins a steep decline.

As you can see, the safety-belt movement needs every bit of push that we can give it. So I am happy to add my voice to the many that are urging motorists to wave their hand—and grab that buckle.

Mr. DAVIS of Michigan. Mr. Speaker, a recent study by the National Highway Traffic Safety Administration concluded that—in one year alone—the cost of medical care for unbuckled, highway-accident victims was $42 million.

That represents a lot of money, but—more important—it represents a lot of pain and a lot of misery.

We sometimes tend to forget that traffic crashes rank as the number one killer of Americans aged 6 to 33. Possibly because highway accidents are such a common phenomenon in American society, the numbers have lost their dramatic impact.

On the average, one life is lost every 12 minutes in highway crashes.

Let's imagine for a moment that Americans, most of them young, were being killed at the same rate by some virus striking at random in every State, every community.

It is not hard to envision what we would be hearing each day on the evening news and reading in the morning paper.

But let's go a step further. Let's say that the epidemic of deaths and crippling injury could easily be brought under control if Americans spent a few seconds each day applying some prophylactic, some readily available shield that would improve their chances of avoiding pain and discomfort by at least 50 percent.

Would they use it? Of course they would because even someone personally prepared to ignore the risks would be under intense pressure from relatives, friends and every organization dedicated to the public welfare.

Today is National Safety Belt Use Day by congressional resolution, we are attempting to draw greater attention to the risks of highway travel and to the simplest way that just about every American can reduce that risk by merely reaching over the shoulder and clicking a safety belt into place.

This effort is not likely to find its way onto the national evening news. But that does not change the responsibility of Congress, as an organization assigned to protect the public well-being, from joining our voice to a growing chorus exhorting motorists to take the one step most likely to assure them of a safe journey.

We can curb the epidemic of highway deaths and injuries. All we have to do is buckle up.

Mr. TRAXLER. Mr. Speaker, I was pleased to vote in favor of the resolution declaring this as National Safety Belt Use Day because it gives us an opportunity to deliver some fascinating news to Americans who are eager to improve their condition in life.

It appears they may have a shortcut available to them, although it is not yet totally clear as to how much time they may actually be able to save.

Safety belt usage, it is clear, is on the upsurge in the Nation and since Americans have a natural tendency to study the living daylights out of anything that appears to be a trend, we are learning a great deal about those citizens who use safety belts consistently.

And the results are going to offer additional motivation to those motorists who aren't sufficiently intimidated by emergency rooms to snap a belt in place. Because now we find that safety belt use can offer more rewards than just safety.

First of all, our Department of Transportation, which takes a keen interest in these matters, tells us that consistent safety belt users tend to have higher incomes and more expensive cars than most people.

And if that isn't enough, we learn from pollster Lou Harris that those with a good record for using belts are more educated.

Now the survey takers don't tell us how long you must be a consistent belt user to become endowed with wealth and wisdom but, if these surveys can be believed, it is clearly only a matter of time.

But there is more.

We already knew that safety-belt users, after a crash, get charged much less by hospitals than nonusers, probably one reason they wind up with more money.

But now a study sponsored by Control Data Corp. proves that belt users have much better health habits than nonusers and are generally in better shape. That's enough to give any sickly driver new hope.

Moreover, Lou Harris tells us that a lot of belt users tend to be between 30 and 39, not a bad age, while persons who don't use belts tend to be somewhat older than that, or at least look like it.

If you seldom wear a belt you will most probably find yourself living in a rural area. So if you are tired of the farm, remember that consistent belt users very often have homes in the suburbs.

On the other hand, if a career change is on your mind, you will be fascinated to learn that a growing body of safety belt users are actors who appear on television regularly. That news was gleaned from a publication issued by Traffic Safety Now, an organization devoted to increasing safety belt use.

At any rate, this is all news that should encourage belt use, which up to now has been seen largely as a method of sulture abatement rather than as the road to social improvement.

But even if you see the safety belt only as a device to prevent physical harm, putting it on is well worth the several seconds that it takes.

I ask that two articles from which I draw my data, one from Automotie News and the other from TSN Update, be printed at this point in my remarks.

SAFETY-BELT USERS FOUND HEALTHIER THAN OTHERS

Persons who wear safety belts generally take better care of themselves than those who don't, according to a study by Control Data Corporation and Milliman & Robertson, Inc.

The group that wears safety belts has better health habits and pays less for medical treatment than the group that does not wear safety belts, the study said.

The report divides people who wear safety belts into three categories: low-risk, those who wear safety belts 75 percent of the time or more; moderate-risk, those who wear safety belts between 25 and 74 percent of the time; and high-risk, those who wear safety belts less than 25 percent of the time.

A direct relationship appears to exist between safety-belt use and the amount of money paid in medical claims, the report concluded. Persons in the low-risk category have lower medical claims and spend fewer days in the hospital than those in the moderate- or high-risk categories.

"This report proves people that wear their belts are much healthier than those who fail to do so," said Charles L. Spilman, president of Traffic Safety Now, Inc. "Safety-belt use has to be encouraged because of the benefits it provides society."

According to the analysis, which was based on billed medical charges, persons in the high-risk category have 36 percent more claims in excess of $5,000 than those in the low-risk category. Overall, those who wear safety belts on a less frequent basis have claim costs that are approximately 113 percent higher than those who wear their safety belts frequently.

"Generally, high-risk persons utilize more medical care than other persons and generate high claims," the report stated. "(We) have identified several major characteristics as having a significant effect on medical costs: exercise weight, smoking, hypertension, alcohol use cholestrol level and seat-belt use."

Control Data Corporation created the data base from employee information for 1981 through 1984. Milliman & Robertson, Inc., a nationwide actuarial consulting firm, designed and interpreted the results of the study.

STUDY CHARTS USAGE OF SEAT BELTS

A study on seat-belt use and the impact of mandatory seat-belt laws has been released by Lou Harris & Associates for Prevention magazine. The fourth annual survey, conducted in November 1986, surveyed 1,250 American adults.

Highlights include:

Seat-belt use is considerably higher in the western United States than in any other area of the country. Drivers and passengers in the East are more likely to wear seat belts all the time than people in the South and Midwest.

People living in suburban areas are most likely to use seat belts; those living in rural areas are least likely to use them.

The more education people have, the better record they have for using seat belts.

The connection between age and seat-belt use is not clear. People aged 30 to 39 years and people aged 65 years and older have the best seat-belt use records; people aged 40 to 49 years have the worst seat-belt-use record.

Women are slightly more likely to always use seat belts than men are.

Since 1983, the percentage of American adults who say they always use seat belts has nearly tripled, from 19 percent to 55 percent.

The impact of the seat-belt laws was reflected in a comparison of surveys done in November of 1984, 1985 and 1986. The study said that the first year a state has a mandatory law in effect, seat-belt use typically increases by 25 to 35 percentage points.

The November 1984 survey, of a like number of American adults, showed that 27 percent used seat belts "all the time" when they were in the front seat of a car. In November 1985, that number had risen to 41 percent. And by November 1986, 55 percent of adults said they always buckled up.

But a look at states with and without seat-belt laws showed startling differences, including:

In 1985, when the first eight states enacted seat-belt laws, belt usage increased from 25 to 58 percent. In 1986, the rate rose to 65 percent.

In 1986, when seat-belt laws became effective in another 15 states and the District of Columbia, belt usage in those states climbed from 35 to 60 percent.

During 1985 and 1986, seat-belt use in the 25 states without laws was up just 13 points, from 25 to 38 percent.

Mr. KILDEE. Mr. Speaker, I rise in strong support for House Joint Resolution 338 to designate October 15, 1987, as "National Safety Belt Use Day." I am a cosponsor of this resolution which was introduced by Representatives JOHN DINGELL and BUD SHUSTER. I commend Chairman DINGELL for requesting this time to allow Members of the House to express their support for the use of seatbelts.

It is a pleasure to speak before this body in support of a resolution that represents Congress' commitment to save lives. Seatbelts are directly responsible for saving 2,200 lives in 1986 and preventing approximately 20,000 injuries. Currently there are 29 States and the District of Columbia which have mandatory seatbelt use laws. I feel that the other States should adopt similar laws that protect us all.

My wife and I and our three teenage children all use seatbelts every time we ride in automobiles. The life of one of my children was probably saved as a result of this prudent practice.

The higher speed limits on most of our expressways increases the likelihood of injury in the event of an accident, making the use of seatbelts even more important. I also would like to point out that of all the things a person can do to protect his or her self, wearing a seatbelt is indeed the simplest.

Although great progress has been made to make the public more aware of the advantages of increased seatbelt and child seat use, the designation of October 15, 1987, as National Safety Belt Use Day will serve to focus the Nation's attention on the importance of buckling up. Mr. Speaker, House Joint Resolution 388 reaffirms our Nation's commitment to the universal use of seatbelts and child safety seats, which greatly reduces the risk of death and injury on our highways and byways.

Mr. MARKEY. Mr. Speaker, as a cosponsor of House Joint Resolution 338 I rise in recognition of National Safety Belt Use Day. Passage of this exemplary educational commemorative legislation was the result of the efforts exerted by my colleague on the Energy and Commerce Committee, Representative DINGELL, Representative SHUSTER, and many others who are committed to increasing auto safety throughout the country.

In recent years many States have enacted mandatory seatbelt use laws. While the individual States must continue to determine the standards appropriate to local conditions, there is an indispensible Federal role to be played in the education of the American citizenry on this issue. A vigorous national education campaign spearheaded by House Joint Resolution 338 will increase awareness of the potentially life-saving value of safety belt and child safety seat use. Through the work of those responsible for this legislation, and the many citizens dedicated to public education in this field, many Americans will come to realize that by driving without a safety belt they are engaging themselves in an often fatal game of Russian roulette which is potentially devastating for them and their loved ones.

Finally, Mr. Speaker, I call on the President of the United States to actively join the drive to raise public awareness on this life and death issue. Active executive support of these efforts will lend invaluable weight to the national educational campaign which we commemorate today. A united Federal voice will ensure the success of the outstanding work carried forth by auto safety advocates, and create an environment where the needless and painful highway carnage which has been tolerated for far too long will be significantly reduced.

Mr. CARR. Mr. Speaker, 27 States, including my own, are now enforcing safety-belt laws. Another two States, Montana and Virginia, have enacted statutes that will soon be in effect.

Not surprisingly, the construction of those laws vary greatly from State to State. Enforcement levels are equally divergent. So are penalties with fines ranging from $50 per violation in New York to zero in Minnesota, where it is against the law to drive unbelted, but you don't get fined if you're caught.

All the State laws, to one degree or another, reflect a struggle between two opposing philosophies. On one side, you have the people who are concerned about safety and who know that laws make more people buckle up. They also work off of the simple truth that death and injuries are in inverse proportion to the percentage of belt usage.

On the other hand, there is a group of people who are convinced that a government that seeks to compel motorists to buckle up is guilty of "nannyism" and has no business inconveniencing people who are willing to take some personal risk.

It is easy, at least initially, to find some sympathy for this view. After all, we do have a tradition in this country of allowing individuals wide latitude of action as long as no one else is getting hurt.

And I think that if the Nation's experience showed that the risk of driving unbuckled was restricted to the motorist making the decision, enthusiasm for belt laws would begin to fade and all belt laws would be repealed or go unenforced.

But that hasn't been our experience. Our experience is showing that when one motorist goes unbuckled, a lot of people are at risk, some of whom know the motorist and a lot who don't.

Every highway death or serious injury produces a tragic impact that starts at the scene of the crash, but certainly doesn't end there. It ripples through the families of the victims, through the organizations that employ them and out into the society at large in the form of higher taxes and insurance rates.

Anyone who thinks "well, let the dummies kill themselves, it doesn't affect me" might do well to look at a recent study by the Pennsylvania State Insurance Department. That study shows that 85 percent of the persons receiving benefits from the State's Catastrophic Loss Fund between October 1984, and December 1986, were persons who were not wearing safety belts when injured in traffic accidents.

It's not unusual, after all, for an extensive recuperation from a serious accident to cost $400,000 or more.

Meanwhile, the National Highway Traffic Safety Administration tells us that traffic accidents cost society—that is, taxpayers, insurance ratepayers and employers—$69.2 billion each year in property damage, medical and insurance costs, lost productivity and so on.

In 1 year alone, Social Security survivor benefits to the relatives of people killed in accidents totaled more than $643 million. And Social Security is an area where we'd all like to see some savings.

Another factor that seems to be having an eroding effect on the "government intrusion" argument against safety belt laws is the growing number of healthy people in the Nation who count themselves as safety belt survivors and are happy to tell their story to anyone who will listen. And when they do it, they are often surrounded by relatives who are overjoyed that the story ends the way it does. The survivor is never the sole beneficiary of his or her decision to put the belt on.

The weight of evidence in favor of safety belt laws continues to grow and, as the American public absorbs it, I think we will see safety belt laws getting stronger rather than weaker, more popular rather than less and certainly more widespread.

Today, on National Safety Belt Use Day there is a growing body of Americans who have reason to be grateful for safety belts and we all have a duty to keep enlarging the number. We can do that by speaking two simple words whenever we find ourselves in a car with others: "Buckle up".

Mr. LEHMAN of Florida. Mr. Speaker, first of all, I want to commend our colleagues JOHN DINGELL and BUD SHUSTER for taking this time today, on National Safety Belt Use Day, to discuss a critical highway safety issue, the use of safety belts and child safety seats. I was pleased to cosponsor House Joint Resolution 338 and I am pleased to add my voice today to the effort to increase usage of belts and child seats.

I cannot think of another instance where major gains in safety can be achieved simply by increasing the use of a device that is nearly universally available, but this is the case with safety belts. The real task here is to get people to use their belts, whether through State safety belt use laws, educational programs, insurance rates, or other means.

Last month, the Department of Transportation reported the results of observations in 19 U.S. cities from January through June of this year. DOT found that driver belt use had reached a record 42 percent, up from 39 percent last year. If this doesn't seem very high to you, remember that in 1982, before States began passing mandatory safety belt use laws, the rate was about 11 percent.

I would like to mention that my own home area of Miami, where there is a mandatory use law, was the champion of these 19 cities, with a whopping 71 percent of drivers buckling up.

In announcing the belt use rates, then-DOT Secretary Elizabeth Hanford Dole said, "Among front seat passenger vehicle occupants, safety belts saved about 2,200 lives in 1986. We estimate that 1,450 of those lives were saved and 20,000 injuries were prevented as a direct result of State safety belt use laws * * *. If the Nation achieved 100 percent belt usage, a total of 10,000 to 12,000 lives could be saved each year."

Numbers like that ought to make a few more people reach for a safety belt the next time they get in a car.

But efforts to improve vehicle safety do not end with safety belt use by drivers and front seat passengers. Over a year ago, the National Transportation Safety Board [NTSB] issued a report recommending that the National Highway Traffic Safety Administration [NHTSA] require the installation of three-point, or lap/shoulder, belts as standard equipment in the rear seat outer positions of newly manufactured passenger vehicles.

While NHTSA Administrator Diane Steed testified before the Transportation Appropriations Subcommittee, which I chair, that NHTSA would commence a rulemaking on this recommendation, she indicated that the agency would issue an advance notice of proposed rulemaking instead of proceeding directly to a notice of proposed rulemaking. This means the most cumbersome and time-consuming process would be used in addressing a critical safety issue.

I wrote to then-Secretary Dole in May, and, with my friend JOHN DINGELL, again in June, to urge the Department to skip the first phase and expedite the rulemaking process. The Department's responses have not been satisfactory and, in fact, the stretching out of this rulemaking may actually discourage automobile manufacturers from installing three-point belts, as some had planned to do, if they cannot be sure that belts they install will meet some future Federal standard.

Another area that needs prompt attention is the extension of occupant restraint requirements to light trucks and vans, as well as the development of additional safety standards for this class of vehicles. A fuller discussion of light truck and van safety can be found on pages 86-89 of House Report 100-202, which accompanies the Transportation and Related Agencies appropriation bill, 1988, but I would just observe here that these vehicles are more and more being used to carry passengers, and often children, in families, car pools, scout troops, and the like. This fact alone argues strongly for speedy action.

Mr. Speaker, much remains to be done in improving highway safety, but convincing people to buckle up and to be sure their children are correctly held in correctly used child safety seats is a major component of any successful program. The attention to safety belt use that a national day provides should help in highlighting how easily each person who travels by car can improve his or her own safety on the road.

Mr. TAUKE. Mr. Speaker, I am pleased to participate in the special order today which was arranged by the distinguished chairman of the House Energy and Commerce Committee, Mr. DINGELL, in order to commemorate National Safety Belt Use Day. I commend him for his work in promoting the life-saving benefits of safety belt and child safety seat use.

Earlier today I attended a luncheon sponsored by the American Coalition for Traffic Safety to honor law enforcement officers from around our Nation whose lives were saved by safety belts. I am pleased to report that one of those honored today was Officer Timothy Reynolds of the Cedar Rapids Police Department, in Cedar Rapids, IA.

Officer Reynolds was driving in the southbound lanes of Interstate 380 on February 7, 1987, in his patrol car when another vehicle suddenly cut in front of his car. Officer Reynolds swerved to avoid a collision, but unfortunately lost control of his car. Officer Reynolds' vehicle ran off the road and flipped over in the median. The car continued to roll and ended up back on the side of the highway where it landed right side up. Officer Reynolds unbuckled his safety belt, which had kept him safely in place, and climbed out of his wrecked vehicle. His only injuries were some minor cuts caused by fragments from the shattered windshield. Officer Reynolds lived to tell of the value of wearing a safety belt, and his story demonstrates how suddenly an accident can occur when driving or riding in a motor vehicle.

Officer Reynolds' story is just one about how the use of safety belts in motor vehicles save lives. National statistics conclusively demonstrate that thousands of Americans would be alive today if they had only taken a moment to fasten their safety belts.

I travel about 25,000 miles a year by car as I tour my northeast Iowa congressional district. Fortunately, I have not had a brush with disaster such as that experienced by Officer Timothy Reynolds. However, I know I feel more secure after I've clicked my safety belt.

I hope that other Americans will join me in this simple, life-saving procedure.

Mr. SMITH of Florida. Mr. Speaker, I am pleased to rise as a cosponsor in support of House Joint Resolution 338, designating today as "National Safety Belt Use Day."

Statistics prove that seatbelts save lives and minimize injuries. It is encouraging to see that mandatory seatbelt laws for passenger autos have been passed or are now under consideration in every State legislature.

Safety must not stop with the passenger autos alone. I have introduced a bill which would protect our children as they travel to and from school. My bill, H.R. 1815 the National Schoolbus Safety Act, would require all new schoolbuses to be equipped with safety belts and all schoolbuses to be annually inspected by the appropriate State or local agency.

Child restraint laws are in effect in all 50 States. Airbags are under experimentation by auto manufacturers. My bill will protect children against one of the leading causes of death and injury in the United States—traffic accidents. I encourage my colleagues to join me in cosponsoring this legislation.

We have set aside today to acknowledge that traffic safety is a national issue. We must work together to promote the use of safety belts in all motor vehicles as together we strive to reduce traffic fatalities and save lives.

Mr. SKELTON. Mr. Speaker, I rise today to commemorate National Safety Belt Use Day. According to the National Highway Traffic Safety Administration, unrestrained occupants were 40 percent more likely to be injured in an accident and twice as likely to require hospitalization as restrained occupants. People who were thrown from their vehicles are 25 times more likely to be killed than if they stayed in their vehicle. More than three out of four people who were thrown from their vehicles in 1984 were killed. These numbers speak for the importance of safety belt use.

I am also speaking today in honor of a resident of my home district in Missouri, Trooper Royal Messick, of Blue Springs, is a member of the Missouri State Highway Patrol. Trooper Messick's vehicle was hit head on by a car operated by a driver who was on the wrong side of Highway 291. He was buckled up and suffered minor cuts in his mouth and chipped his teeth, his car was totaled. The other driver was not wearing his safety belt and suffered more serious injuries. Trooper Messick is living proof that safety belts work.

The use of safety belts not only saves lives and prevents serious injuries, it also keeps medical expenses and the cost of insurance down. The Federal Government, along with State and local governments, incurre costs through tax losses, money paid to accident victims and their families through tax losses, money paid to accident victims and their families through public assistance programs, and the costs incured when Government workers are in accidents. Safety belt use impacts economics, but more importantly it impacts lives.

Mr. STUMP. Mr. Speaker, I rise to join the distinguished chairman of the House Committee on Energy and Commerce, the Hon. JOHN D. DINGELL, and our many colleagues, in supporting National Safety Belt Use Day, and honoring the participation of law enforcement officers from across the country.

Seatbelts have saved thousands of lives and prevented untold serious injuries, but many drivers and passengers persist in their apathy toward or outright distain of seatbelts. Myths about seatbelts continue to persuade many to refrain from using them.

The accident which Lt. James A. Semenza, of Glendale, AZ, was involved in highlights the importance of wearing safety belts. With his emergency lights flashing, Lieutenant Semenza was racing to a shooting call when a drunk driver pulled out in front of his car unexpectedly. Semenza's vehicle was traveling approximately 60 miles per hour when the cars collided. His car was totaled. The Phoenix police officer was wearing his safety belt and only suffered whiplash and a cut on the head.

While Officer Semenza obviously did not desire to become a statistic in this manner, he is one of thousands of drivers saved from death or disability by seatbelts every year.

Those who would discount the relevance of his experience to their own driving, by rationalizing that Officer Semenza was merely lucky, should reexamine their thought process. Luck usually occurs when opportunity and preparation meet at the same point in time. Lieutenant Semenza had the opportunity to become a different statistic, one more traffic fatality caused by a drunk driver. Preparing himself for such a possibility, by using his seatbelt, placed his name in a much preferable statistical category.

Hopefully Officer Semenza's example, and commemorating National Safety Belt Use Day will convince more people to get lucky by using seatbelts all the time.

Mr. DINGELL. Mr. Speaker, I wish to thank the House for allowing me to conduct this special order and appreciate those of my colleagues who have taken the time to participate in this very special day.

□ 1600

CONFRONTING THE AIDS EPIDEMIC

The SPEAKER pro tempore. (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, it is really tough on a politician or a statesman when he cannot be heard, when the microphones shut off.

First I would like to start off by saying that I was happy today when H.R. 162 was being debated, that we were able to get an amendment added to that bill, thanks to the gentleman from California [Mr. DANNEMEYER], which provides that all health care workers in this country would be notified of a person who has AIDS if they were going to be treating them.

This is extremely important to health care workers who do in basic procedures deal with people and their bodily fluids on a regular basis.

This probably should be expanded to include other people such as teachers who are going to be coming in contact with students who might get sick, who have the AIDS virus; and they are going to have to be made aware of the problem to deal with it, so they do not become exposed to the disease.

We took a step in the right direction, and I want to congratulate the House for having the foresight to vote for the Dannemeyer amendment to H.R. 162 which allows health care workers to be informed about who might be coming under their care that has the AIDS virus.

Here on my left are some charts, and these charts were developed by a Dr. Salzberg, Dr. Allan Salzberg, chief of the medical service for the Veterans' Administration in Miles City, MT.

This study ought to be looked at by every single Congressman and Senator and every person in America, because it projects to the year 2007 the number of people who are going to get the AIDS virus, how many people will die from the AIDS virus, the economic impact on our health care system, and the economic impact on our entire country if this AIDS epidemic is not handled properly.

I would like to read a couple of pages out of his analysis of this epidemic and his computer models, so that the people will know what we are talking about.

I will then get into the graphs, because these charts say more about it.

"AIDS is a unique threat. First it is a retrovirus which is incorporated into the genetic material of the cell." That means once you get the AIDS virus, it becomes a part of your cell structure, and each time a cell duplicates itself, each time you get a new cell, there is a new AIDS virus in that cell.

It becomes part of your makeup, so killing that AIDS virus would require that you kill the cell; and that is why finding a vaccine is so very difficult.

Second, it attacks the immune system; and third, it is deceptive in that, although it is not thought to be transmitted by casual contact, and we do not know that for sure, and has a very low infectivity per unit time, it has an average asymptomatic period of infectivity which is about 12 years which means the average person with the AIDS virus will carry the virus in their body for 12 years without anybody knowing they have it, unless they are tested, unless they have a test showing they have the AIDS virus.

The average person who has the AIDS virus will carry it for 12 years and not know they have it. During that 12-year period, they can communicate this disease to anybody they come in contact with sexually, and the average person who has this virus is communicating it to one person every 1½ years, so in a 12-year period, the average person with the AIDS virus will infect eight other human beings, so that in a 12-year period, if you just had one person, it would multiply by eight; but those eight people are having contact with other people as well, so it has a tremendous mushrooming impact.

Furthermore, once infected, the victim carries the virus for life, and infected mothers have a 50-percent probability of transmitting it to their babies.

Once symptoms appear, once a person gets the symptoms of full-blown AIDS, the mortality rate is 100 percent. You die. Consequently, this disease is out of the ken of our experience, and accurate estimates of its true lethality are dependent on mathematical analysis. Estimates limited to 1991, as bad as they are must markedly underestimate the deadliness of this disease.

The Centers for Disease Control in Atlanta, GA, has projected the AIDS virus out through the year 1991, and they project that we are going to have about 290,000 people dead or dying by that year; but they do not go beyond the year 1991.

What Dr. Salzberg has done with his compatriots is use the computer models that have been used thus far projecting it through 1991; and using the studies of cohorts and others involving the homosexual community, hemophiliacs who have gotten the virus through blood transfusions, and other groups, he has projected it out through the year 2007, 20 years from now.

The interesting thing about his study is that it parallels the CDC study almost to a "T" through the year 1991, so his studies dovetail almost exactly what CDC has come up with, and that is the main information-gathering body here in the United States dealing with this disease.

He says that we have developed a mathematical model of this disease using a heterogeneous population consisting of high- and low-risk groups, gay males and IV drug users primarily. The computer results which will appear later have been duplicated by other investigators independently, including a group at Los Alamos.

Given 1.2 million carriers, 1.2 million people infected with the virus, 40,000 cases of which 2,000 are in the low-risk heterosexual population, 24,000 deaths and a date of entry in the United States of 1976, we derived the following:

Here is where I will start talking about this study, because he used a low figure of 1.2 million people estimated to be infected with the virus.

The CDC said 18 months ago, we have 1½ million people infected, and yet this doctor started his study at 1.2 million infections today.

The disease, the epidemic has been spreading at a rate of doubling every 10 to 12 months, so if CDC said we had 1½ million people infected 18 months ago, it is logical to assume we have at least 3 to 4 million people infected today; but Dr. Salzberg, to be conservative with his study, started with the figure of 1.2 million infections, so he started very low in my opinion.

Look at his study. The first chart here shows the number of people that, or shows the probability of getting the AIDS virus if you are infected with it going through 20 years.

Notice the green figures here, through 1991, and the blue figures which Dr. Salzberg came up with are almost identical; but it goes on out for 20 years and through 10 years. That is as far as the CDC went. Fifty percent of the people who get the AIDS virus will get full-blown AIDS and die.

If you go out 20 years, you will see that 80 percent of the people with the AIDS virus will get full-blown AIDS and die, so the mean period of carrying the disease in your system is 12 years before getting full-blown AIDS; but as you go into the out years, the percentage of people infected that will get full-blown AIDS that are infected with it will get higher and higher.

Some scientists believe beyond the 20-year figure, 100 percent of the people with the AIDS virus will ultimately die. For 20 years 80 percent of those who have the virus will get AIDS and die.

The next chart shows the number of people infected with the AIDS virus. We have four figures here. The low figure, the low line there shows what will happen if we start testing, testing everybody in 1980 in our society to really get a handle on it.

He shows what happens if you start testing in 1988. If you start testing in 1988, we are going to have approximately 1 to 2 million people infected with the AIDS virus. It is not going to get much worse.

Basing this on his figure of 1.2 million, based upon those figures, you can see from the chart that the increase in the epidemic is controlled.

If you wait until 1990, the second line from the bottom, you can see that it goes up to about 3 million people who have the actual virus.

We start testing in 1990. We have between 3 and 4 million infected according to his figures by 2007. If you go up to 1994 to start the testing program, it goes up dramatically; and you are looking at over 10 million, and if you do not do any testing, conduct ourselves in the same manner we have been conducting business as we have in the past, you are looking at an unbelievable figure by the year 2007.

I have these figures down here on my chart. I will read this off this chart rather than alluding to the graph that we have here.

The chart follows:

TABLE I.—EFFECTS OF STRATEGIES TO COUNTER THE AIDS PANDEMIC—(ASSUMES TESTING BEGINS 1990)

Strategy and year	Dead plus sick [1]	Carriers [1]	Dir. [2]	Tot. [3]	Saved [4]
Laissez faire, 1995	4.9	14.0	$380	$1,300	
Education,[5] 1995	3.7	11.0	290	800	$90–$500
Testing,[6] 1995	2.2	3.3	220	740	160–560
Testing,[7] 1995	1.8	2.4	183	593	197–700
Learning,[8] 1995	5.0	13.0	400	1,400	0–0
Learning plus test,[9] 1995	2.5	3.6	250	830	130–560
Laissez faire, 2005	25.0	43.0	2,300	8,200	
Education,[5] 2005	17.0	21.0	1,600	5,700	700–2,500
Testing,[6] 2005	4.4	1.8	520	1,700	1,780–6,500
Testing,[7] 2005	3.4	1.4	410	1,300	1,890–6,900
Learning,[8] 2005	16.0	14.0	1,700	6,000	600–2,200
Learning plus test,[9] 2005	4.8	1.9	570	1,900	1,730–6,300

[1] In millions.

[2] Direct cost in billions.

[3] Total cost in billions (includes lost productivity).

[4] First number direct savings, second number total savings (in billions). Cumulative to year.

[5] Education only cost $500,000,000 per year with 30 percent average reduction in infection rates.

[6] Testing plus education constant infection rates ($3,000,000,000 per year).

[7] Testing plus 30 percent average reduction in infection rates.

[8] Initial infectivity high risk group 20 percent higher. 5 percent per annum decrease in infectivity.

[9] Plus testing program beginning 1990.

TABLE II.—COMPARISON WITH CDC AIDS EXTRAPOLATIONS TO 1991

Source	Deaths	Clinical (AIDS)	Carriers (millions)	Cost (billions)
CDC [1]	200,000	270,000	4–5	$60
Model [2]	310,000	340,000	4–5	38

[1] Assumes 50 to 60 percent carriers develop AIDS.

[2] Assumes all carriers develop AIDS—12 yr mean incubation.

Note.—Costs depend on assumptions. If indirect costs due to premature death are included, the model's cost can rise to $110,000,000,000. 1 yr later predicted direct costs go from $38,000,000,000 to $65,000,000,000.

According to Dr. Salzberg and his compatriots, if we start testing in 1990, if we start testing by 1990, we will have about 2.2 million Americans dead or dying from the AIDS virus. We will have about 3.3 million carriers. If we continue on the path we are on, and we do not do any testing by 1995, 7 years from now, we will have 4.9 million people in this country dead or dying and 14 million carriers, approximately 80 percent of whom will get full-blown AIDS in 12 years and die, so you can see that the number of people that are going to have full-blown AIDS by 1995 if we continue on the same path will be unbelievable.

It will be almost 5 million people dead or dying.

If we have almost 5 million people by 1995, and with fewer beds in hospitals, the health care industry is going to be inundated with patients.

I do not know how we will deal with the health care problem. The direct cost to our Nation will be $380 billion if we used this worst-case scenario per year, and the long-term cost will be $1.3 trillion.

The national debt is a little over $2 trillion right now, and the long-term costs from the AIDS epidemic alone of $1.3 trillion.

If we start testing in 1990, and I think that is a reasonable time to project this out, because the Members right now are not of a mind to start a testing program, and it will take a little while to get up for it; but if we start by 1990, we can contain the epidemic, so we only have 2 million people dead or dying, and 2.4 to 3.3 million people who will be carriers, so there is a dramatic change based on whether we test or do not test.

You can see from this chart that if we do not test, when you get to the year 2005, we are going to have as many as 25 million people dead or dying. That is only 17 years from now, barring the United States of America or any other country in the world coming out with a vaccine or some kind of a cure which is not likely, because of the way the AIDS virus works.

If we continue on the path we are on with no testing, some kind of an educational program, we will have 25 million people dead or dying, and 43 million carriers, 80 percent of whom will get full-blown AIDS in 12 years and die, and that involves severe economic problems.

It will cost this country, if that happens by the year 2005, $2.3 trillion a year with long-term costs of $8.2 trillion.

If we do start a testing program by 1990, by the year 2005, 17 years from now, we are going to have only 3.4 to 4.4 million people dead or dying.

That is a lot of people, but it is a heck of a lot better than 25 million dead or dying; and we will see a decrease in the number of carriers because of education, a change in sexual attitudes, and the testing program.

We will see a downward trend in the number of people who are becoming infected. That will be between 1.4 and 1.8 million people based upon his projections.

This chart shows vividly what happens if we test and what happens if we do not test. I just covered these figures, and I hope you will look at that because the graph shows if we have a massive testing program, and how else are you going to find out who has the AIDS virus?

They talk about a voluntary testing program, but say one-fourth of the U.S. population came in voluntarily to be tested. That is 60 million people. Nobody believes that many are going to come in and say that we have 4 million who are infected today, and I think that is a relatively accurate figure.

If the 60 million who come in uncover 2 million of those infected, that leaves 2 million unreported of the other 180 million not tested; and if they continue to spread the epidemic as in the past, they will infect 1 person every 18 months on an average, and that means another 8 people between the time they get the virus and the time they get full-blown AIDS.

□ 1615

So the epidemic will not be contained. It will spread completely out of control just as if we did no testing. Voluntary testing simply will not work. The only way to get a handle on this is to find out where it is spreading, how it is spreading, who is spreading it, and what course of action we should take to deal with it is through a massive testing program.

I have been beating on this and beating on this and some of my colleagues are starting to listen now, and I am very happy about that. We now have I think about six or eight sponsors or cosponsors of the testing bill. We started out with one and now we have about eight and I am hopeful that we will be able between now and 1988 or 1989 get a majority in this House so that we can get on with a testing program.

The testing program is going to cost $1.5 to $3 billion a year. I believe it will cost about $1.5 billion if we do it on a massive scale.

A lot of people say, "Hey, my gosh, where are you going to come up with $1.5 billion?"

The fact of the matter is we do not have it. We are already in a deficit position, but I do not know what else we are going to do. We are going to have to test and the $1.5 billion a year is a drop in the bucket when you compare it to the projection by the year 2005 of $2.3 trillion in annual costs. I mean, who can imagine that figure? Our national debt over the history of this country, the history of this Republic, is less than that $2.3 trillion figure, and yet that is the annual cost for health care and loss to the economy by the year 2005 if we do not have a massive testing program. If you go to 1995, we are looking at $380 billion a year or $1.3 trillion long term.

So I do not know that we have any choice.

We also do not know all the ways that the AIDS epidemic is being spread. You know, the Center for Tropical Diseases in Miami, Dr. Whiteside and Dr. McCloud are absolutely certain that it is being spread in Belle Glade, FL, and Little Havana through mosquitoes. Now, many of my colleagues and friends do not believe that and many of the people at the Center for Disease Control in Atlanta and the HHS, the Health and Human Services Department, do not believe it is communicated that way. It may very well not be communicated that way, but when you do find out that mosquitoes are transmitting the disease, we need to know about it, particularly in the tropical areas of this country where the mosquitoes are so prevalent, and if it is being spread that way from a person who has the AIDS virus to somebody else through mosquitoes, then we have got to go in with an eradication program to do away with those mosquitoes, just like when we started fighting yellow fever during the years when they were building the Panama Canal.

We do not have the luxury of time. We have to get on with it and every day that we wait, an estimated 5,000 to 10,000 new people are infected with the AIDS virus in this country.

Now, many people tell me that young people, people in their sexually active years, are changing their attitudes in the heterosexual community about sex. Well, in the homosexual community, the veneral diseases, gonorrhea and syphilis, have dropped like they are going off the table top.

Most people believe that the reason for that change is because they are so concerned about the AIDS virus that dramatic changes are taking place in their sexual attitudes and sexual behavior. Some are becoming monogamous. Anyhow, there is a dramatic decrease in syphilis and gonorrhea in the homosexual community in this country, but in the heterosexual community the men and women of this country, the heterosexual community in this country, syphilis and gonorrhea rates have not changed one bit. We have been advertising on television about safe sex. We have been talking about changing our attitudes. We have been talking about abstension so that people will not communicate the AIDS virus. It has fallen on deaf ears because people really do not believe we have a problem yet.

The thing that is so horrible about the AIDS virus is that you do not know you have it, if you have it, until you get the full blown AIDS, unless you are tested for it. Everybody you come in contact with is at risk because they do not know you have it. You do not know you have it, and as a result, if there is sexual contact, they very well might contract the disease and they have a carrying time of 12 years and everyone they come in contact with can get the disease as well.

So since we are not changing our sexual attitudes in this country, there is no manifestation of a change, then this timebomb is ticking and more and more people are contracting the disease and spreading it.

We do not have the luxury of time. We have to get on with a testing program. I am hopeful that soon my colleagues will realize the gravity of the situation and get on with the testing bill.

Now, the direct costs, I have talked about those, for those who are in their offices who are watching this, you can see that if we do not do any testing the cost goes through the roof. We are up into the trillions of dollars. If we start testing, the costs are still going to be high, but they are going to be something that we can probably deal with.

The problem is, how long do we wait? The more days we wait, the more months we wait, the more years we wait before we start a testing program, the more people are infected, the more people are going to die and the more it is going to cost us.

This country, in my view, will not be able to sustain the kind of costs that are going to be incurred through the AIDS virus and keep this economy in the situation and in that state that it is in right now. It is going to have devastating impacts on our economy, and on our health care system, as well as the loss of life.

So I think everybody in this country ought to pay attention to what is going on with the AIDS virus and try to become as educated as possible, and those who feel very strongly about it, as I do, should be contacting their friends, their neighbors, their elected representatives, and telling them that we have to get on with the testing program, because there is no other way.

If a person has the AIDS virus and they do not know they have it, why would they change their ways? They are going to continue on their merry way doing what got them the AIDS virus in the first place. The problem is, they do not look any different. It could be a football player, a cheerleader, an insurance man, a politician, it could be anybody and they do not have any manifestation of the disease. There is no way to tell.

I talked to a dental hygienist who was cleaning my teeth a couple weeks ago. I asked her how she felt about the virus. She was wearing a mask, goggles, an apron, gloves, everything. She told me that they received a circular from the Dental Hygienists Association for the United States and she gave me a copy of it. It said very clearly that you must take complete precautions any time you clean anybody's teeth because it is an invasive procedure. You are dealing with saliva and blood and if you had just a little nick on your hand, or maybe not even a nick on your hand, you are likely to be exposed to the AIDS virus.

We know that three health care workers got the AIDS virus just by having blood splashed on their hands and their faces. They did not even have cuts. Well, some said they had some acne on their skin and the AIDS virus might have gotten through the open lesions that way; but there were two of them who had no breaks in the skin, and yet they got the AIDS virus by having blood splashed on them, so you can imagine a doctor, a surgeon, who is working on a person's heart or liver or spleen or leg, he is going to have to be very, very careful, and they have the right to know if the person they are dealing with has the AIDS virus.

Right now dental hygienists do not know and there is no way for them to know. She was telling me that they are all very concerned because occasionally they prick themselves with those sharp instruments when they are cleaning somebody's teeth. So they feel very strongly that testing, at least this one dental hygienist, felt very strongly that testing would give them a handle on the epidemic and give them a handle on protecting themselves, because if they know that somebody was coming in to have their teeth cleaned had the AIDS virus, they could do a number of things. They could double-glove, triple-glove, make sure they were not going to be touched by any of the bodily fluids so they would not get the AIDS virus, or they could, of course, elect not to treat them at all.

My concern about health care workers is this, and my concern about people who deal with other human beings in a very close relationship is this, that if we do not have testing and if they do not know with whom they are dealing regarding the AIDS virus, then those people are likely, the best qualified doctors, nurses, dentists, and so forth, are going to get out of the profession.

You know, dentists and doctors are some of the highest paid people in this country. If they make a lot of money and they have a lot of it invested properly, they may very well feel that it is not in their best interest to be at risk by dealing with these people on a day-to-day basis. That being the case, if they do not know whether or not the person they are working on has the AIDS virus, they very well might elect not to be a doctor or a dentist any longer or a dental hygienist.

I think that is a very real possibility as the epidemic spreads and grows, so I think it is extremely important that we think of all the factors and all the things that could happen if we continue to let the epidemic grow unabated.

I think I would just conclude by saying this is just the first step in dealing with the AIDS pandemic. We are going to have to do other things. Congressman DANNEMEYER and I are sponsoring legislation that would provide for contact tracing. If we have annual testing and we find out who has the AIDS virus, they have to be informed that they can no longer have contact with people outside the AIDS community and these people's names are going to have to be kept very secret, of course, in computers so that only those who have to know will know who they are, health care workers, and so forth; but nevertheless, next year when we test again and have our annual tests if we find out that somebody new has developed the AIDS virus, we will want to find out where they got it and how they got it and if they got it from somebody who already has the AIDS virus and has been advised that they had the AIDS virus and yet they continue to infect other human beings, those people are going to have to be dealt with. We are going to have to do something to make people responsible, because if you give somebody the AIDS virus knowingly, you might just as well have shot them with a 38-caliber revolver in the head. The only difference is you are committing them to a 12- or 14- or 16-year period where they are going to have to suffer a great deal; so a person who knowingly communicates the AIDS virus is just as guilty of murder as a person who does that with a gun, so we are going to have to deal with the situation of contact tracing and what to do when we find people who can continually communicate this virus.

Now, you might say that that is unthinkable that somebody would communicate the AIDS virus knowingly. I want to read to you an article that was in the Boston Globe recently.

Incidentally, before I read the article, I want to tell you something. Howard University did a study here in Washington, DC. They had not completed their study, but up to the time that this was reported to the press, in the Washington Post, 50 percent of the prostitutes that they had tested in Washington, DC, had the AIDS virus, and yet those prostitutes, to my knowledge, did not change their mode of operation. They are still down on 14th Street and around Washington, DC, plying their trade and there is no law that says they cannot do that. I mean, there are laws against it, but there is no criminal penalty to keep them from going out there and infecting other human beings, even though so far we know that 50 percent of the prostitutes in this town have the AIDS virus.

This is a story about a prostitute in Boston, MA, and was written by columnist Mike Barnicle. It was February 18 of this year, 1987. It is headed "Disorderly, and Worse."

DISORDERLY, AND WORSE

(By Mike Barnicle)

Toward 4 o'clock Sunday morning detectives Vinnie Logan and Jack Crowley arrested a woman at the corner of Washington and Stuart streets. The temperature was near zero and the wind made both cops feel as if they were standing in downtown Vladivostok as soon as they got out of their car.

The woman, 29, wore a long black coat and blue jeans and had spent the early morning hours patrolling the edge of the Combat Zone for the people desperate enough to pay for sex. As Crowley and Logan pulled up, she stepped from the sidewalk into a Mercedes driven by a man from Weymouth.

They asked her to get out of the car and into the cruiser. Then, they drove to the Area A police station, walked her inside, took the elevator to the second floor, sat her down in a chair in Room 213 and proceeded to book her for a violation of Chapter 272:53: Soliciting and disorderly conduct.

"What's that on your wrist?" Vinnie Logan asked the woman.

"This," she said, acknowledging a plastic band, "is a hospital tag."

"What hospital?"

"Mass. General."

"What were you in for?" Logan wanted to know.

"AIDS," she answered.

"What's the matter with you?" Jack Crowley said. "Are you crazy? Don't you know how easy you can pass that on?"

"I don't care," she told him.

"You don't care?" the detective asked.

"No, I don't care.

As Crowley proceeded with the paperwork, the woman lifted her pants legs and rolled two pair of socks down to her angles. Blood and pus oozed from dark layers of several open sores that covered her shins.

"Oh, my God," Jack Crowley said.

Paying no attention to the detectives, she began to unwrap bandages from both legs. The bandages were black with dried blood and dead skin, and as she stripped them off, a smell of decaying flesh filled the small office.

Crowley became ill from the stench. Logan, stunned at the extent of the disease and the appearance of the woman, wondered why she did not remain in the hospital.

"But she's a junkie," Vinnie Logan was saying later. "She'd do anything to feed her habit. She was going to charge the guy in the Mercedes $30, but if the guy only had two bucks on him, she would've taken that."

"She's 29," Jack Crowley said. "And she looked 60."

"I said, 'Why didn't you stay in the hospital?' " said Vinnie Logan. "She said, 'Because I don't care.' "

By 5 a.m., Logan and Crowley had finished the paperwork on the arrest. They called a wagon to transport her to detention in the Suffolk County court house and notified the guards that a prisoner with AIDS was on the way up.

Arriving at the lockup, she was placed in a cell, alone. "She sat in the cell picking lice from open sores," a guard said. Around 11 o'clock Sunday morning, she was released after a bondsman posted $120 bail to gain her freedom.

This morning, she is scheduled to appear in the second session at Boston Municipal Court. There, she will answer to the charge of being a disorderly person.

Obviously, there is more.

She is dying and because her condition is terminal and highly infectious, she is a walking public health threat. Due to her occupation—prostitute—she is also more dangerous than a loaded gun out on the street.

Yet there is no set of written guidelines for police to follow her. If the woman had been involved in a car accident, had been shot or stabbed, she would have been taken to a hospital for treatment; EMTs would have responded; nurses and doctors would have acted to combat injury and stem bleeding.

But early last Sunday morning, there was none of this. Instead, she is a strolling time bomb, too ill to think clearly, too junked-up to care about or to dwell on the fact that any sexual encounter she engages in offers the strong possibility of a death sentence for a customer.

"What do you do?" asked Jack Crowley. "Can we restrain her? Can we hold her in a hospital against her will? Something's got to be done."

"She's the second prostitute with AIDS we've picked up in a week," Vinnie Logan said. "I don't even want to guess how many other girls working the Zone have it. But this one Sunday, I've never seen a worse case. She's like the walking dead and unless something's done, she's going to be back on the street passing it on to others. Hey, she already made bail so she's probably out there right now."

□ 1630

This is the problem we face, I say to my colleagues. There are no laws, no criminal penalties to deal with this problem, to deal with this woman or other prostitutes who are spreading the disease. There are no laws in many States to deal with a person who knowingly gives blood to a blood bank when they have the AIDS virus or know they have been exposed to the AIDS virus. They say, well, we have these tests that will show whether the person has AIDS when they give blood.

That is true, but I say our blood supply is probably 95 or 96 percent safe, because the fact of the matter is that there are about 4 percent of the people that are not being picked up by this test when they give blood and the reason is because the test we have so far does not show a person has the AIDS virus in many cases for the first 4 to 6 weeks. If a person has the AIDS virus and just contracted it within the last month or so there is a possibility, a good possibility, that they can give blood and not know they have it and it will not show up on the test. So the blood goes into the blood supply and there is a risk for all of us who may be involved in an accident and need that particular blood type to save our lives.

There is a lot of difficulty with the AIDS virus. It is a pandemic. It is just not an epidemic. I used the analogy of the bubonic plague which wiped out half of Europe during the 14th and 15th centuries. That disease was spread by a rat flea biting a human being and that disease became so bad that they would nail windows on houses shut and burn people alive the minute somebody said "plague."

We do not want that kind of thing to happen in the United States. We want to have an orderly way to deal with this epidemic but if it gets out of control, because we have not done the proper things today, then we are going to have a real problem on our hands, not only economically but as far as dealing with it as a civilization.

I think it is important that we get down to the hard decisions today because we know the epidemic is there. We know it is coming. We know that 290,000 to 300,000 people are going to be dead or dying by 1991 because they already have the disease. We know there are probably another 1½ to 4 million people out there with the disease who are going to get full blown AIDS in the next 12 years, and die from it. So we better get on with testing so we know who has it, how it is spreading, where it is spreading and how to deal with it.

If we do not, we may be facing a problem that humankind has never seen in the history of this Earth. This is just not political rhetoric, this is fact. The bubonic plague wiped out half of Europe. That disease mutated. It mutated in the carrier to where it became an aerosol spread disease through coughing and spitting and it became known as the pneumonic plague, not just bubonic plague.

That is why it was so deadly. The AIDS virus mutates within each individual carrier. If a person gets the AIDS virus it will change its characteristics from cell to cell.

The gentleman from California [Mr. Dannemeyer] told me that he has talked to a scientist in New Mexico who said that there are a thousand variations of the AIDS virus now. We are going to have trouble dealing with just that facet of it through testing and coming up with a vaccine, if that is at all possible to do. But the fact of the matter is it is mutating inside carriers right now. We need to get on with it because it very well might mutate into the kind of situation that the bubonic plague did where it is communicated through coughing. Then we would have a terrible problem.

In Africa today, the World Health Organization says this disease will be totally out of control. Nobody knows how many millions of people are going to die. In Africa they do not have the luxury of good health care or an educational system to deal with it or resources to deal with it either. But we do here.

The only thing we do not have right now is the will to do what is necessary. Nobody likes to violate a person's civil rights. I have been an advocate of civil rights and supporting people's civil rights since the day I entered public life in 1966, but this is a national health emergency and national health emergencies transcend everything because the health of the Nation is at stake.

When we had the tuberculosis epidemic we came up with sanitariums. We mandated that every child in school have a patch test. I remember taking one and I believe my colleagues do as well.

We had mandatory tests for syphilis and other venereal diseases in the past. This is no different.

The only difference is do we have the will to deal with it now or are we going to wait another 5 or 10 years until we are going to have tens of millions of people at risk of dying?

I hope just one or two of my colleagues heard this message tonight, and I hope just a few of them will think about looking hard at this study.

This study has been sent to every one of my colleagues' offices, every Congressman and Senator has one on their desk or on the desk of one of their employees. This computer model from Dr. Allen Salzberg is one that I urge my colleagues to look at, to study, and if you come to the conclusions that I have, please help me by cosponsoring the legislation that will mandate testing starting by no later than 1990 so we can get a handle on this terrible epidemic before it jeopardizes every human life in this country.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of Alaska) to revise and extend their remarks and include extraneous material:)

Mr. McMillan of North Carolina, for 5 minutes, today.

Mr. Young of Alaska, for 5 minutes, today.

Mrs. Bentley, for 60 minutes, on October 20 and 21.

Mrs. Bentley, for 60 minutes, on October 27.

(The following Members (at the request of Mr. Gonzalez to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Weiss, for 5 minutes, today.

Mr. Wyden, for 15 minutes, today.

Mr. Gonzalez, for 60 minutes, on October 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Young of Alaska) and to include extraneous matter:)

Mr. Buechner.

Mr. Fawell.

Mr. Miller of Ohio in three instances.

Mr. Broomfield in two instances.

Mr. Oxley.

Mr. Emerson.

Mr. Hastert.

Mr. Schuette.

Mr. Solomon.

Mr. Shumway.

Mr. Duncan.

Mr. Lent.

Mr. Houghton.

Mr. Fields.

Mrs. Bentley.

Mr. Henry.

Mr. Fish.

Mr. Hefley.

Mr. Gallo.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Downey of New York.

Mr. Wolpe in two instances.

Mr. Smith of Florida in two instances.

Mr. Udall.

Mr. Rodino.

Mr. Garcia.

Mrs. Collins.

Mr. Levine of California.

Mr. Sawyer.

Mr. Mrazek.

Mr. Coleman of Texas.

Mr. Torres.

Mr. Bonior of Michigan.

Mr. Owens of New York.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1783. An act to extend certain protections under title 11 of the United States Code, the Bankruptcy Code; to the Committee on the Judiciary.

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1666. An act to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 83. Concurrent resolution to congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. SKAGGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until Monday, October 19, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

2251. Under clause 2 of rule XXIV, a letter from the Administrator, General Services Administration, transmitting a copy of a proposed lease prospectuses, pursuant to 40 U.S.C. 606(a), was taken from the Speaker's table and referred to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BENNETT: Committee on Armed Services. H.R. 3283. A bill to allow the obsolete submarine U.S.S. *Turbot* to be transferred to Dade County, FL, before the expiration of the otherwise applicable 60-day congressional review period (Rept. 100-371). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRANK: Committee on the Judiciary. H.R. 1631. A bill to accept the findings and implement the recommendations of the Commission on Wartime and Internment of Civilians with respect to the Aleut people; with amendments (Rept. 100-372). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3449. A bill to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration; with amendments (Rept. 100-373). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 3395. A bill making technical corrections relating to the Federal Employees' Retirement System, and for other purposes; with an amendment (Rept. 100-374). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 3396. A bill to provide for the rehiring of certain former air traffic controllers (Rept. 100-375). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 3400. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitation, and for other purposes (Rept. 100-376). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. de la GARZA (for himself, Mr. Jones of Tennessee, Mr. Coleman of Missouri, Mr. Glickman, Mr. Volkmer, Mrt. Jontz, Mr. Emerson, Mr. Stenholm, Mr. Morrison of Washington, Mr. Gunderson, Mr. Madigan, Mr. Robert F. Smith, Mr. Jeffords, Mr. Marlenee, Mr. Schuette, Mr. Grandy, Mr. Thomas of Georgia, Mr. Tallon, Mr. Stangeland, Mr. Staggers, and Mr. Espy):

H.R. 3492. A bill entitled "The Rural Crisis Recovery Program of 1987"; to the Committee on Agriculture.

By Mr. SWIFT:

H.R. 3493. A bill to amend the Communications Act of 1934 to ensure compliance with the public interest standard of that act in the issuance, renewal, and transfer of broadcasting licenses, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GLICKMAN (for himself, Mr. Madigan, Mr. Stenholm, Mr. Marlenee, Mr. Huckaby, Mr. Jeffords, Mr. English, Mr. Roberts, Mr. Stangeland, Mr. Jontz, Mr. Harris, and Mr. Schuette):

H.R. 3494. A bill to amend the Food Security Act of 1985 and for other purposes; to the Committee on Agriculture.

By Mr. ANDREWS:

H.R. 3495. A bill to amend the Railroad Retirement Act of 1974 to eliminate the requirement that divorced wives' husbands must retire before divorced wives are eligible for an annuity under the act; to the Committee on Energy aand Commerce.

By Mr. BOSCO:

H.R. 3496. A bill relating to the administration of the act providing for the restoration of the Klamath River basin fishery resources; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. HALL of Texas (for himself and Mr. Scheuer):

H.R. 3497. A bill to require the President to take appropriate actions domestically and internationally to establish a Global Change Research Program aimed at understanding the cumulative impacts of man on his environment; jointly, to the Committees on Science, Space, and Technology and Foreign Affairs.

By Mr. HOWARD (by request):

H.R. 3498. A bill to amend title 23, United States Code, to provide for the construction of new toll highways and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of North Carolina (for himself and Mr. Morrison of Washington):

H.R. 3499. A bill to amend the Nuclear Waste Policy Act of 1982 to encourage the continuation of research on the subseabed disposal of nuclear waste by establishing an Office of Alternative Disposal Methods, and for other purposes; jointly, to the Committees on Interior and Insular Affairs; Energy and Commerce; Science, Space, and Technology; and Merchant Marine and Fisheries.

By Mr. HUGHES (for himself, Mr. McCollum, Mr. Hertel, Mr. Mazzoli, Mr. Feighan, Mr. Smith of Florida, Mr. Staggers, Mr. Shaw, Mr. Crockett, and Mr. Smith of Texas):

H.R. 3500. A bill to amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States; to the Committee on the Judiciary.

By Mr. RINALDO (for himself, Mr. Michel, Mr. Madigan, Mr. Roybal, Mr. Daub, Mr. Regula, Mr. Hughes, Mr. Slaughter of Virginia, Ms. Snowe, Mr. Gunderson, Mr. Hammerschmidt, and Mr. Saxton):

H.R. 3501. A bill to amend the Internal Revenue Code of 1986 to encourage the coverage of older Americans by private long-term care insurance; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. STENHOLM (for himself, Mr. Jeffords, Mr. Jontz, and Mr. Gunderson):

H.R. 3502. A bill to amend the Federal Meat Inspection Act to require meat food products containing imitation or alternate cheese to be labeled to reflect the fact that imitation or alternate cheese is contained therein; to the Committee on Agriculture.

By Mr. WEISS:

H.R. 3503. A bill to amend the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to sales of tobacco products unless the taxpayer pays for a certain amount of advertising on the health effects of smoking; to the Committee on Ways and Means.

By Mr. FLAKE:

H.J. Res. 377. Joint resolution designating March 27, 1988, as "National Black American Inventors Day"; to the Committee on Post Office and Civil Service.

By Mr. KASICH:

H.J. Res. 378. Joint resolution to designate August 1-8, 1988, as "National Harness Horse Week'; to the Committee on Post Office and Civil Service.

By Mr. SHUMAY:

H.J. Res. 379. Joint resolution designating the week of November 8—November 14, 1987 as "National Community Care Week"; to the Committee on Post Office and Civil Service.

By Mr. TAUZIN:

H.J. Res. 380. Joint resolution designating March 18, 1988, as "National Energy Education Day"; to the Committee on Post Office and Civil Service.

By Mr. WEISS:

H. Res. 286. Resolution expressing the sense of the House of Representatives that the Federal Government should encourage both electronic and print media to air or print more antismoking ads as a public service; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 135: Mr. Ackerman, Mr. Anderson, Mr. Badham, Mrs. Bentley, Mr. Biaggi, Mr. Beilenson, Mr. Bilbray, Mr. Buechner, Mr. Bustamante, Mr. Espy, Mr. Lungren, Mr. DioGuardi, Mr. DeWine, Mr. Erdreich, Mr. Fish, Mr. Frost, Mr. Stokes, Mr. Cardin, Mr. Green, Mr. Fazio, Mr. Harris, Mr. Hunter, Mr. Lagomarsino, Mr. Levin of Michigan, Mr. Matsui, Mr. Martinez, Mr. McGrath, Mr. Garcia, Mr. Olin, Mr. Owens of New York, Mr. Schumer, Mr. Sikorski, Mr. Sisisky, Mr. Skelton, Mr. Smith of Florida, Mr. Solarz, Mr. Scheuer, Mr. Mack, Mr. Weber, Mrs. Morella, Mr. Lent, Mr. Wyden, Mr. Horton, Mr. Aspin, Mr. Weldon, and Mr. Conyers.

H.R. 303: Mr. Kildee, Mr. Perkins, Mr. Tallon, Mr. Sawyer, Mr. Bates, Mr. Bruce, Mr. Burton of Indiana, and Mr. Torricelli.

H.R. 458: Mr. Hiler.

H.R. 612: Mr. Hall of Ohio and Mr. Aspin.

H.R. 709: Mr. Panetta.

H.R. 817: Mr. Ridge.

H.R. 911: Mr. Murtha, Mr. Williams, Mr. Conte, Mr. Lehman of California, Mr. Durbin, Mr. Morrison of Washington, Mr. Walker, Mr. Lent, Mr. Dornan of California, Mr. Scheuer, Mr. Leach of Iowa, Mr. Kanjorski, Mr. Rhodes, Mr. Oxley, Mr.

VANDER JAGT, Mr. CARR, Mr. NIELSON of Utah, and Mr. RITTER.

H.R. 993: Mr. MANTON.

H.R. 1005: Mr. CLAY, Mr. DE LUGO, Mr. OWENS of New York, Mrs. COLLINS, Mr. MILLER of California, Mr. SAVAGE, Mr. DIXON, Mr. WISE, Mr. LELAND, and Mr. FORD of Tennessee.

H.R. 1115: Mr. HOUGHTON, Ms. OAKAR, Mr. SAXTON, and Mrs. ROUKEMA.

H.R. 1259: Mr. HOWARD, Mr. ANTHONY, and Mr. CALLAHAN.

H.R. 1352: Mr. ST GERMAIN, Mr. SIKORSKI, and Mr. EVANS.

H.R. 1356: Mr. STAGGERS.

H.R. 1428: Mr. DONALD E. LUKENS and Mr. PACKARD.

H.R. 1600: Mr. MICHEL, Mr. ANNUNZIO, Mr. SPENCE, Mr. COATS, Mr. WALKER, Mr. COLEMAN of Missouri, Mr. WEBER, Mr. COBLE, Mr. MILLER of Ohio, Mr. DAVIS of Michigan, Mr. SLAUGHTER of Virginia, Mr. BILIRAKIS, Mr. LIGHTFOOT, Mr. COUGHLIN, Mr. ROTH, Mr. HYDE, Mr. BOEHLERT, Mrs. SMITH of Nebraska, Mr. COMBEST, Mrs. MEYERS of Kansas, Mr. HORTON, Mr. MOLINARI, Mr. QUILLEN, Mr. SOLOMON, Mr. NIELSON of Utah, Mr. PORTER, Mrs. BENTLEY, Mr. WOLF, Mr. HOPKINS, Mr. SMITH of New Hampshire, Mr. HUNTER, Mr. WELDON, Mr. DAVIS of Illinois, Mr. DENNY SMITH, Mr. HUGHES, Mr. FLIPPO, Mr. MCMILLAN of North Carolina, Mr. INHOFE, Mr. RHODES, Mr. BLILEY, Mr. LIVINGSTON, Mr. CRANE, Mr. DAUB, Mr. DANIEL, Mr. SMITH of Florida, Mr. STUMP, Mr. REGULA, Mr. SCHAEFER, Mr. HEFLEY, Mr. ROWLAND of Connecticut, Mr. STOKES, Mr. LUNGREN, Mr. LAGOMARSINO, Mr. BOULTER, Ms. KAPTUR, Mr. BEVILL, Mr. DONALD E. LUKENS, Mr. DANNEMEYER, Mr. RIDGE, Mr. BIAGGI, Mr. HOLLOWAY, Mr. DIOGUARDI, Mr. ROE, Mr. LAFALCE, Mr. YOUNG of Florida, Mr. MCEWEN, Mr. SHUMWAY, Mr. HUTTO, Mr. BATEMAN, Mr. BROWN of Colorado, Mr. MONTGOMERY, Mr. SMITH of New Jersey, Mr. WORTLEY, Mr. WILSON, Mr. OXLEY, Mr. YOUNG of Alaska, Mr. UPTON, Mr. BUECHNER, Mr. BURTON of Indiana, Mr. DEWINE, and Mr. SAXTON.

H.R. 1631: Mr. MINETA.

H.R. 1721: Mr. DAVIS of Illinois.

H.R. 1808: Mr. CARPER and Mr. EVANS.

H.R. 1810: Mr. FLORIO and Mr. DE LUGO.

H.R. 1920: Mr. KILDEE.

H.R. 1933: Mrs. JOHNSON of Connecticut, Mr. WYDEN, and Mr. DAVIS of Illinois.

H.R. 1966: Mr. SIKORSKI and Mr. EVANS.

H.R. 2212: Mr. RICHARDSON, Mr. DELLUMS, Mr. WOLPE, Mr. FEIGHAN, Mr. BUSTAMANTE, Miss SCHNEIDER, Mr. GILMAN, Mr. ATKINS, Mr. MARTINEZ, Mr. MORRISON of Connecticut, Mr. CLAY, Mr. BATES, Mrs. JOHNSON of Connecticut, Mr. DEFAZIO, and Mr. CLARKE.

H.R. 2248: Mr. IRELAND, Mr. WELDON, and Mr. ROBINSON.

H.R. 2348: Mr. SCHUETTE.

H.R. 2400: Mr. SMITH of Florida.

H.R. 2456: Mr. LANTOS and Mr. FISH.

H.R. 2532: Mr. BRYANT, Mr. DAVIS of Michigan, Mr. BORSKI, Mr. ROE, and Mr. BATES.

H.R. 2537: Mr. MANTON.

H.R. 2666: Mr. NOWAK, Mr. OWENS of New York, Mr. HORTON, and Mr. MATSUI.

H.R. 2690: Mr. BORSKI and Mr. BRYANT.

H.R. 2717: Mr. SOLARZ, Mr. WOLPE, Mr. AKAKA, Mr. ROE, Mr. ST GERMAIN, Mr. DELLUMS, and Mr. JACOBS.

H.R. 2727: Mr. CONYERS and Mrs. CROCKETT.

H.R. 2833: Mr. MRAZEK.

H.R. 2846: Mr. OWENS of New York and Mr. RINALDO.

H.R. 2873: Mr. MCEWEN, Mr. COURTER, Mr. MILLER of California, Mr. EMERSON, Mr. SMITH of Florida, Mr. STALLINGS, Mr. IRELAND, Mr. ECKART, Mrs. BENTLEY, Mr. KANJORSKI, Mr. HENRY, Mrs. MARTIN of Illinois, Mr. BATEMAN, Mr. NEAL, Mr. DYSON, Mrs. SCHROEDER, Mr. DANNEMEYER, Mr. TOWNS, Mr. DARDEN, Mr. MRAZEK, Mr. OXLEY, Mr. WORTLEY, Mr. BRYANT, Mr. STAGGERS, Mr. SCHAEFER, Mr. GILMAN, Mr. DIOGUARDI, Mr. JOHNSON of South Dakota, Mr. LANCASTER, Mr. WOLPE, Mr. HUGHES, Mr. DEWINE, Mr. FAZIO, Ms. KAPTUR, Mr. BROWN of Colorado, Mr. BUSTAMANTE, Mr. BAKER, Mr. LAGOMARSINO, Mr. FISH, and Mr. RAY.

H.R. 2879: Mr. HOWARD.

H.R. 2928: Mr. MCMILLEN of Maryland and Mr. BRYANT.

H.R. 2953: Mr. BOEHLERT, Mr. CLINGER, Mr. DAUB, Mr. GREEN, Mr. HYDE, Mr. LAFALCE, Mr. LIPINSKI, Mr. PETRI, Mr. RINALDO, Mr. SHARP, Mr. SMITH of Texas, and Mr. STAGGERS.

H.R. 3011: Mr. ROEMER, Mr. OWENS of Utah, Mr. WISE, Mr. BRENNAN, Mrs. BENTLEY, Mr. HUBBARD, and Mr. MRAZEK.

H.R. 3071: Mr. YATES and Mr. MOODY.

H.R. 3114: Mr. SCHUETTE.

H.R. 3132: Mr. MORRISON of Connecticut, Mr. DE LUGO, and Mr. DWYER of New Jersey.

H.R. 3204: Mr. DURBIN and Mr. ALEXANDER.

H.R. 3314: Mr. BENNETT, Mr. RODINO, Mr. OBEY, Mrs. KENNELLY, Mr. FISH, Mr. ROE, Mr. SMITH of Florida, Mr. MARTINEZ, Mr. WILSON, Mr. SPRATT, Mr. DYSON, Mr. BATES, Mr. HAYES of Louisiana, Mr. HUGHES, Mr. FAUNTROY, Mr. NEAL, Mr. FROST, Mr. DE LUGO, Mr. DORNAN of California, and Mr. BATEMAN.

H.R. 3336: Mr. UPTON, Mr. JOHNSON of South Dakota, Mr. DAVIS of Michigan, Mr. AKAKA, Mr. GOODLING, and Mr. DAVIS of Illinois.

H.R. 3348: Mrs. VUCANOVICH.

H.R. 3400: Mr. ASPIN, Mr. MACKAY, Mr. PANETTA, Mr. JONES of North Carolina, Mrs. PATTERSON, Mr. MURTHA, Mr. DERRICK, Mr. BEVILL, Mr. ENGLISH, Mr. BARNARD, Mr. WATKINS, Mr. HUTTO, Mr. PICKLE, Mr. STRATTON, Mr. SOLOMON, Mr. LIPINSKI, Mr. JENKINS, Mr. MOLINARI, Mr. PEPPER, Mr. SCHAEFER, Mr. PEASE, Mr. COUGHLIN, Mr. BUECHNER, Mr. DANIEL, Mr. PURSELL, Mr. SMITH of New Jersey, Mr. MILLER of Washington, Mr. MAZZOLI, Mr. SPRATT, Mrs. JOHNSON of Connecticut, Mr. WELDON, and Mr. SYNAR.

H.R. 3423: Mr. AUCOIN, Mr. WYDEN, and Mr. DEFAZIO.

H.R. 3449: Mr. EDWARDS of California, Mr. BURTON of Indiana, Mr. APPLEGATE, Mr. DORNAN of California, Mr. DOWDY of Mississippi, Mr. SMITH of New Hampshire, Mr. EVANS, Mr. DAVIS of Illinois, Ms. KAPTUR, Mr. FLORIO, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, and Mr. RICHARDSON.

H.R. 3454: Mr. AKAKA, Mr. BARTLETT, Mr. BOULTER, Mr. CONYERS, Mr. DEFAZIO, Mr. EDWARDS of California, Mr. FAZIO, Mr. HAYES of Illinois, Mr. HENRY, Mr. JEFFORDS, Mr. MARTINEZ, Mr. NIELSON of Utah, Mr. PENNY, and Mr. STAGGERS.

H.R. 3472: Mr. ASPIN, Mr. AUCOIN, Mr. BROWN of California, Mr. DEFAZIO, Mr. DORGAN of North Dakota, Mr. DOWNEY of New York, Mr. FAZIO, Mr. GREEN, Mr. MARKEY, Mr. MAVROULES, Mr. MCCLOSKEY, Mr. OWENS of Utah, Mr. STARK, Mr. WEISS, and Mr. HOYER.

H.J. Res. 1: Mr. CHANDLER, Mr. DERRICK, Mr. DICKS, Mr. FAWELL, Mr. FLAKE, Mr. FOLEY, Mr. KENNEDY, Mr. LEWIS of Georgia, Mr. MILLER of Washington, Ms. PELOSI, Mr. ST GERMAIN, Mr. SYNAR, Mr. TORRICELLI, and Mr. WAXMAN.

H.J. Res. 43: Mr. APPLEGATE, Mr. DEFAZIO, Mr. RICHARDSON, Mr. QUILLEN, Mr. HERTEL, Mr. HAMMERSCHMIDT, Mr. RIDGE, Mr. RAHALL, Mr. SABO, Mr. ACKERMAN, Mr. BATES, Mr. BRUCE, Mr. WHITTAKER, Mr. HUNTER, Mr. IRELAND, Mr. BROWN of Colorado, and Mr. PANETTA.

H.J. Res. 112: Mr. DYMALLY.

H.J. Res. 227: Mr. QUILLEN, Mr. SMITH of New Jersey, Mr. OXLEY, Mr. SOLOMON, Mrs. MEYERS of Kansas, Mr. DARDEN, Mr. VALENTINE, Mr. BAKER, Mr. MCCURDY, Mr. SKELTON, Mr. WHEAT, Mrs. PATTERSON, Ms. SLAUGHTER of New York, Mr. BATES, Mr. EARLY, Mr. DE LA GARZA, Mr. FOLEY, Mr. RAHALL, and Mr. ANNUNZIO.

H.J. Res. 272: Mr. GUARINI and Mr. CLAY.

H.J. Res. 304: Mr. BRENNAN, Mr. ROE, Mr. KILDEE, Mr. MCCOLLUM, Mr. WALGREN, Ms. SNOWE, Mr. ROBINSON, Mr. TALLON, Mr. TORRICELLI, Mr. FLORIO, Mr. HARRIS, Mr. COELHO, Mr. HOYER, Mr. FRENZEL, Mr. PACKARD, Mr. TRAXLER, Mr. KANJORSKI, Mr. BROOMFIELD, Mr. KASICH, Mrs. BENTLEY, Mr. BOUCHER, Mrs. MARTIN of Illinois, Mr. DERRICK, Mr. BOSCO, Mr. OWENS of New York, Mr. FIELDS, Mrs. BOGGS, Mr. BEVILL, Mrs. COLLINS, Mr. PANETTA, Mr. JONES of North Carolina, Mr. FRANK, Mr. LIVINGSTON, Mr. SCHUETTE, Mr. RICHARDSON, Mr. BLAZ, Mr. MCEWEN, Mrs. BYRON, Mr. FAZIO, Mr. SOLARZ, Mr. STALLINGS, Mr. AKAKA, Mr. KOSTMAYER, Mr. STUDDS, Mr. FAUNTROY, Mr. RINALDO, Mr. FOGLIETTA, Mr. FASCELL, Mr. YOUNG of Alaska, Mr. FORD of Michigan, Mr. LEHMAN of Florida, Mr. BARTLETT, Mr. SPRATT, Mr. CROCKETT, Mr. BADHAM, Mr. TAUZIN, Mr. RAVENEL, Mr. GREGG, Mr. LOWRY of Washington, Mrs. BOXER, Mr. CARDIN, Mr. ARCHER, Mr. STAGGERS, Mr. RAHALL, Mr. HANSEN, Mr. DENNY SMITH, Mr. ANDREWS, Mr. GRAY of Illinois, Mr. DAVIS of Michigan, Mr. HOWARD, Mr. GARCIA, and Mr. MOAKLEY.

H.J. Res. 315: Mr. WOLF.

H.J. Res. 328: Mr. CONYERS.

H.J. Res. 329: Mr. OWENS of New York, Mr. GINGRICH, Mr. QUILLEN, Mr. WYDEN, Mr. BRENNAN, Mr. MILLER of California, Mr. GRAY of Pennsylvania, Mr. DORNAN of California, Mr. SCHEUER, Mrs. COLLINS, Mr. CONYERS, Mr. VALENTINE, and Mr. LAGOMARSINO.

H.J. Res. 337: Mr. STANGELAND, Mr. HEFNER, Mr. WILSON, Mrs. BYRON, Mr. KANJORSKI, Mr. LENT, Mr. QUILLEN, Mr. BONIOR of Michigan, Mr. LEWIS of Georgia, Mr. MRAZEK, Mr. DOWNEY of New York, and Mr. ROYBAL.

H.J. Res. 359: Mr. ROE, Ms. SLAUGHTER of New York, and Mr. SMITH of Florida.

H.J. Res. 365: Mr. BILIRAKIS, Mr. BURTON of Indiana, Mr. COOPER, Mr. CRAIG, Mr. FORD of Tennessee, Mr. GOODLING, Mr. HAYES of Illinois, Mr. JEFFORDS, Mr. LEWIS of California, Mr. LOWERY of California, Mr. LUJAN, Mr. LUNGREN, Mr. MCGRATH, Mr. MFUME, Mr. MURPHY, Ms. OAKAR, Mr. PARRIS, Mr. REGULA, Mr. ROWLAND of Connecticut, Mrs. SAIKI, Mr. SCHULZE, and Mr. VANDER JAGT.

H.J. Res. 376: Mr. GALLO, Mr. WEISS, Mrs. PATTERSON, Mr. RINALDO, Mrs. COLLINS, Mr. ATKINS, and Mr. YATES.

H. Con. Res. 120: Mr. CLINGER.

H. Res. 212: Mr. FRANK, Mr. WOLF, Mr. MARTINEZ, Mr. SAVAGE, Mr. LANTOS, Mr. SMITH of Florida, Mr. ACKERMAN, Mr. DENNY SMITH, Mr. FRENZEL, Mr. WELDON, Mr. ESPY, Mr. MONTGOMERY, Mr. FISH, Mr. SMITH of New Jersey, Mr. FAWELL, Mr. INHOFE, Mr. LIGHTFOOT, Mr. ROBINSON, Mr. VOLKMER, Mrs. BENTLEY, Mr. LIPINSKI, Mr. WILSON, Mr. ECKART, Mr. DEWINE, Mr. CLARKE, Mr.

Tallon, Mr. Valentine, Mr. Bateman, Mrs. Collins, Mrs. Schroeder, Mr. Porter, Mr. McCloskey, Mr. Hunter, Mr. Dyson, Mr. Bereuter, Mr. Wortley, Mr. Boulter, Mr. Lowry of Washington, Mr. Badham, Mr. Richardson, Mr. Buechner, Mr. Levine of California, Mr. Burton of Indiana, Mr. Hughes, Mr. Smith of New Hampshire, Mrs. Patterson, Mr. Bustamante, Mr. DeLay, Mr. Ravenel, Mr. Owens of New York, Mr. Sikorski, Mr. Bilirakis, Mr. Nielson of Utah, Mr. Miller of Washington, Mr. McEwen, and Mr. Conyers.

SENATE—*Thursday, October 15, 1987*

The Senate met at 8:45 a.m., and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Every kingdom divided against itself is brought to desolation; and every city or house divided against itself shall not stand. * * *—(Matthew 12:25.)

"Divide and conquer!" Eternal God Whose love heals alienation and inspires reconciliation and unity with diversity, be present in power and in grace in this Chamber. We know, Father, that to divide and conquer is Satanic strategy which immobilizes and destroys. As the Senate struggles for righteous decisions, save it from emotions and rhetoric that are divisive. Infuse the hearts of the Senators with love for God and each other. Strengthen them in their convictions—deepen their respect for those who disagree. Lead them in the path of peace and righteousness in His name Who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., Oct. 15, 1987

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that my time may be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Republican leader is recognized for not to exceed 5 minutes.

(The remarks of Mr. TRIBLE relating to the introduction of legislation are printed later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. TRIBLE. Mr. President, I reserve with unanimous consent the balance of the leader's time.

The ACTING PRESIDENT pro tempore. Without objection, the balance of the time is reserved.

Mr. BYRD. Mr. President, I yield 5 minutes of my time to Mr. PROXMIRE.

RECOGNITION OF MR. PROXMIRE

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader, for his generosity.

NO ONE KNOWS WHEN THE CRASH WILL COME

Mr. PROXMIRE. Mr. President, what will be the future of this perplexing, puzzling, unpredictable, gigantic, and marvelous economy of ours? Recently a best seller book carried the title: "The Great Crash of 1990." That's one view. On the other hand a new team of "conservative" economists and politicians contends that all the old rules of economic recession and recovery are wrong. All we have to do is keep cutting taxes, proceed with SDI and other big money Federal extravaganzas, give the economy its head and the recovery will never stop. With each passing month these optimists seem to gather more credibility. After all we are now on the verge of the longest peacetime economic recovery in more than a half century. In spite of our big bad Federal deficit and our skyrocketing national debt, inflation is down. So are interest rates. So is unemployment. Productivity continues to grow. The stock market is riding along near its all-time peak. So the keep-following-our-present-policies crowd ask, "what's the problem?"

Still others point to the huge all-time record Federal debt, now nearing $2½ trillion. They tell us the household debt is even higher and growing at a runaway clip. And business debt is highest of all. Every form of this debt is higher in relation to income than it has ever been in our peacetime history. Meanwhile, and here's the most dangerous development, savings, both business and household, have plunged in an unprecedented free fall. These critics claim the American economy is on one all-out, go-for-broke, credit card binge. A collapse, say these critics, may not come in 1990. It may come earlier or later. But come it will.

So who is right? Put this Senator in the "come-it-will" camp. If this Senator has learned one thing about our economy it is that no one can predict how long a recovery or a recession will last or how severe a shift from recovery to recession and vice versa will be. Of course, with all the prognosticators predicting every possible time for an economic turn, someone, somewhere, sometime will claim that his prediction has been vindicated. It will happen the same way that someone, somewhere, sometime wins a million dollars with a single $1 lottery ticket.

So how about it? How do we know the joy boys—the keep-cutting-taxes-and-we'll-stay-on-top-of-the world conservatives aren't right? Does not every happy month with its great news about lower unemployment, lower inflation, low interest rates and those beautiful stock prices tell us something? Why cannot this great party go on forever? The answer is the size and growing burden of our debt in relation to the steady depletion of our savings.

In and especially after World War II, this Nation enjoyed the classic economic benefits of a wartime economy and its delightful aftermath. Our National Government ran up a huge debt to fight World War II with vast Federal Government deficits. Unemployment diminished from 17 percent in the closing years of the 1930's to less than 2 percent in 1944. Personal income went right through the roof. Many gloom-and-doom seers predicted

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

that after the war the economy would go into another 1930's style nosedive. It did not. For two happy economic decades the American economy rocketed along and carried the economy of the free world right along with it. How come? Why did not our country have to pay the price of that mammoth World War II debt? Answer: The World War II national debt was accompanied by a parallel huge increase in household and business savings. Wartime restrictions on home building and on auto building sharply diminished personal debt and pushed the huge increase in personal income into savings. Result: After World War II the huge pent-up demand for housing and autos accompanied by a massive buildup of personal savings gave this country a private postwar boom that carried on and on. Savings did it. But where are savings today? They have shrunken dramatically—shrunken so that millions of American households and businesses are more vulnerable than they have ever been. There is no pent-up demand for housing, autos, and other goods. There is no saving to make that pent-up demand effective.

So consider this scenario. Come the next recession many American householders with diminished savings will be unable to meet their mortgage payments or their other debt. Result: Frequent foreclosures. Hundreds of thousands of American businesses will find their huge debt too tough to handle and with savings gone will suffer bankruptcy. The business failures will throw more out of work. This in turn will cut business sales, wipe out profits, and push more firms to the wall. As in every past recession, Americans and their Representatives here in the Congress will call for the Federal Government to ride to the rescue. To considerable extent the ride will be automatic. Without any congressional action taxes will diminish. Federal Government income will fall. After all, the unemployed taxpayer and business firms losing money pay no Federal income taxes. But Federal Government spending will rise, unemployment compensation payments will climb. So will welfare payments. Congress will push hard for job programs. Federal bailouts of farms, big financial institutions, and large U.S.-owned international conglomerates will have to follow. And then what happens to the Federal deficit and the Federal debt? Three hundred and four hundred billion deficits, we're on our way. Three and a half or four trillion dollars national debt here we come. And in a hurry.

When will this disaster happen? No one, including the author of the "Great Crash of 1990," knows. But happen it will. And what can we do about it? That is the subject of another speech that will come later.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin yields the floor.

The acting Republican leader has 1 minute and 49 seconds left.

Mr. TRIBLE. Mr. President, I ask unanimous consent that time be reserved for the leader's use.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 9 a.m.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The hour of 9 o'clock having arrived, morning business is now concluded.

CONGRATULATING COSTA RICAN PRESIDENT OSCAR ARIAS SANCHEZ ON BEING AWARDED THE 1987 NOBEL PEACE PRIZE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Concurrent Resolution 83, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 83) to congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize.

Mr. BYRD. Mr. President, I ask that the clerk read the entire resolution.

The PRESIDING OFFICER (Mr. Shelby). The clerk will read the resolution.

The legislative clerk read as follows:

S. Con. Res. 83

Whereas the President of Costa Rica, Oscar Arias Sanchez has been awarded the 1987 Nobel Peace Prize in recognition of "his outstanding contribution to the possible return of stability and peace to a region long torn by civil war."

Whereas President Arias has called for "a commitment to the struggle for peace and putting an end to war and ensure that dialogue prevails over violence and reason over rancor";

Whereas President Oscar Arias Sanchez has stated that in an "atmosphere of democracy and freedom, we can return to the path of development that will enable a lasting peace" and has asked for the people of the United States with the people of Costa Rica to bring to bear the power of the principles and democratic values that they share to end the conflict in Central America;

Whereas on March 12, 1987 the United States Senate voted 97 to 1 "supporting the initiative of the Central American heads of state . . . in formulating a regional proposal by President Arias to end the armed conflict in Central America;

Whereas through the leadership of President Arias the Presidents of El Salvador, Guatemala, Honduras and Nicaragua met August 6-7 in Guatemala City and signed an agreement based on the Arias plan, setting forth a framework aimed at the establishment of a lasting peace in Central America;

Whereas the United States Senate endorses the goals of peace, democratization and development in Central America; Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States of America—

(1) Congratulates President Oscar Arias Sanchez as the recipient of the 1987 Nobel Peace Prize and commends the Norwegian Nobel Committee on this outstanding choice;

(2) Recognizes the signing of the August 7 Guatemala peace accord is an historic achievement and important opportunity for the Presidents of Central America to work together to restore peace and stability to their region;

(3) Urges the parties to the peace accord to implement all of its provisions in good faith; and

(4) pledges its firm support and full cooperation with respect to such good faith implementation of the August 7, 1987, Central America peace agreement.

The PRESIDING OFFICER. Time for debate on this resolution is limited to the time intervening between now and 9:20 a.m., which will be equally divided between the Senator from Connecticut [Mr. Dodd] and the Senator from Kansas [Mr. Dole] or his designee.

Mr. DODD. Mr. President, first, I thank the majority leader for the timely fashion in which he has made it possible for this resolution to be brought before the Senate.

My firm hope is that this resolution will enjoy the unanimous support of our colleagues on both sides of the aisle. It is something which all of us, regardless of our specific or individual opinions about particulars of this peace plan, can support. I think all of us take great pride in the fact that a leading Democrat, one of the leading Democrats, one of the leading advocates of democracy in the Americas, has been awarded the most prestigious of prizes given by the Nobel Committee. Of course, I speak of our friend, our ally in this hemisphere, Oscar Arias Sanchez.

So, Mr. President, this morning I rise to express my expression of support and congratulations for this decision and to urge the adoption of this resolution offered by the majority leader, recognizing the contributions that President Arias has made already to peace in the Central American region.

The awarding of the prize to President Arias is as timely as it is well deserved. Oscar Arias is, without question, a man of peace, a man of principle, a man who is as determined as he is dedicated to the cause of democracy and to the betterment of mankind.

This is a great moment, not only for him and his family, but also for the people of Costa Rica, the people of Central America, and for those in this country who have given their support and encouragement to not only President Arias but also to President Duarte, President Cerezo, and President Azcona—the Presidents of El Salvador, Guatemala, and Honduras, respectively—and even to the people of Nicaragua, who are also a participant in the Central American peace effort.

Oscar Arias is a Costa Rican, and he eats, sleeps, and breathes democracy, and he does it without reservation or qualification.

"I know no safe depository of the ultimate powers of the society but the people themselves." Thomas Jefferson penned those words in September 1820. Oscar Arias could have written them yesterday.

President Arias is a true representative of the democratic spirit. He is a true representative of his people, and he is a political beacon for the Central American region.

He has worked endlessly and tirelessly to help bring the blessings of liberty and democracy to his neighbors in that troubled area of the world, and thay have listened. They have listened carefully—President Duarte in El Salvador, who is visiting this country as we speak this morning and momentarily will address a joint meeting of the House and Senate; President Cerezo in Guatemala, President Azcona in Honduras, President Ortega in Nicaragua.

On August 7, President Arias brought them together—these four other Presidents—at the National Palace in Guatemala City, where the Central American peace accord was signed on that afternoon.

It was an historic moment for all of us, Mr. President, but especially for the 25 million people who call Central America their home.

In recognition of that event and the political significance that it carries, President Arias has been awarded the prestigious Nobel Peace Prize. It is only right and proper that he should be so honored. In a very real sense, however, the prize is a tribute to all five Central American Presidents, as President Arias himself has said. Of this I am absolutely sure, Oscar Arias, of course, would be the first to recognize that.

Mr. President, these next few weeks will be extremely important. We have all heard the good news, of course, of the Nobel Peace Prize, but I can say with all certainty to my colleagues here this morning that peace in Central America is far more important to Oscar Arias than the Nobel Peace Prize.

So my hope would be that the governments, particularly of Nicaragua and El Salvador, would not take for granted that President Arias or others will automatically declare that peace has been achieved without the clear indication that the provisions of the Guatemala II accord have been met.

If they assume that President Arias is going to call anything they do a commitment, a fulfillment of those agreements without actually fulfilling them, then they truly misunderstand this man. They underestimate his determination to see true and actual peace, not only in Nicaragua and El Salvador but throughout the region.

So in these next few weeks as an observer group, of which I have been honored to chair along with my colleague from Arizona, we will be watching carefully and we will report to our colleagues as to whether or not in fact Nicaragua, El Salvador, Guatemala, and Honduras, particularly, but also Costa Rica, have had not only the letter but the spirit of Guatemala II fulfilled.

So today we honor not only the man and the prize, but those who are working so desperately and so hard to bring about, once and for all, we would hope, a lasting and permanant peace in Central America.

Mr. President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Republican leader has 7½ minutes and the Senator from Connecticut has 1 minute.

Mr. BYRD. Mr. President, I understand that the Republican leadership would need 5 minutes.

I wonder if there would be an objection to yielding the remaining 2 minutes of Mr. DOLE's time and 1 minute out of Mr. DODD's time to Mr. KERRY?

Mr. DODD. I am glad to yield my time to my colleague.

Mr. BYRD. Mr. President, I have been authorized to ask that the 2 minutes of the Republican leader's time and Mr. DODD's remaining time go to Mr. KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President.

PRESIDENT OSCAR ARIAS SANCHEZ AND THE NOBEL PEACE PRIZE

Mr. KERRY. I wish to rise, Mr. President, to join the majority leader and my colleague, the distinguished Senator from Connecticut, who is also the chairman of the Subcommittee on Western Hemisphere Affairs, to extend the congratulations of the Senate and the warm good feelings of the people of our country to President Oscar Arias on the occasion of his winning the Nobel Peace Prize.

Mr. President, this is a proud moment for all who share a deep commitment to democracy, to democratic ideals, and a belief in democratic solutions to problems. Costa Rican President, Oscar Arias Sanchez, has been named as this year's recipient of the Nobel Peace Prize.

There really is not a more deserving recipient of this award than President Arias. No other individual has demonstrated such an admirable and relentless pursuit of a peaceful resolution to the crisis and agony of Central America than has President Arias.

It is a privilege for me to join with the distinguished majority leader in offering this resolution which extends our appreciation and congratulations to President Arias for his remarkable accomplishments. I commend the majority leader for this initiative.

President Arias received the news of his award with characteristic modesty. He reminded us that this award is as much a tribute to his country and to the four other Presidents of Central American nations who have joined him in the quest for peace as it is to him. For the people of Costa Rica, this is a particularly appropriate honor. As the New York Times noted yesterday in an editorial:

> The prize goes to the elected leader of an exemplary democracy whose citizens decided four decades ago to abolish their armed forces. Costa Ricans as a people have long since earned this prize. . . .

All Americans, be they North, Central, or South, should feel a sense of pride in the fact that a leader from our hemisphere has been so honored. It is all the more noteworthy that this award should be accorded the leader of a country with one of the longest traditions of democracy in our hemisphere.

There is a tremendous and well-deserved pride among Costa Ricans over the role their President has played in bringing together the leaders of the countries in the region in the pursuit of peace. To understand the basis for this pride, one has to understand the foundation upon which Costa Rican democracy has been built. There are few countries in the world where the practice of politicial pluralism, of social justice, and of finding solutions to internal conflicts through dialog and negotiations are such constant elements of national life as in Costa Rica.

What Costa Rica practices and preaches at home, it practices and preaches abroad as well. As Beth Hawkins, writing in the August 14 edition of the Tico Times, pointed out:

> The stubborn Tico tradition of doing what the rest of the world believes is impossible appears to be alive and well—and has been

> handed down to the next generation for safekeeping.

Far from abandoning democratic values in the conduct of his nation's foreign policy, President Arias has proudly and resolutely pursued these values in the search for peace in Central America. The framework of the Arias plan, adopted in Esquipulas, Guatemala, on August 7, is built upon political, economic, and social pluralism for the five countries of the region.

Tremendous obstacles faced President Arias when he assumed this task. Significant obstacles remain. As an editiorial appearing in the same edition of the Tico Times noted, the wounds President Arias is seeking to heal—

> . . . are old and deep and still fiercely painful; the mentality of violence and vengeance, brutality and barbarism, continues to bubble beneath the surface. Like all peacemakers, Arias knows how delicately and precariously balanced the structure of trust is, constructed as it is from such breakable and perishable materials as egos, ambitions, timing and goodwill.

The Guatemala agreement, signed by the five Central American Presidents, is a most remarkable achievement. It is remarkable in that the leaders of Central America rejected outside control over their own affairs. Weary of war, the enormous suffering of their people, and the prospects for endless violence, these five Presidents took it upon themselves to direct the destinies of their own people.

The Guatemala agreement represents the accountability of five Presidents to their own people. As President Arias has repeatedly emphasized, 25 million people deserve peace; 25 million people deserve and end to war and deprivation; 25 million people deserve a better life.

Whatever shortcomings there might be in the Guatemala agreement, our Government does not have any right to interfere in, or impose conditions upon, the process which these five Presidents have undertaken. We do not have any right to ask Central Americans to continue killing Central Americans in order to satisfy what this administration perceives to be in our national interests. Five Presidents, four of whom represent democratic governments, determined it was in their national interests to pursue the Arias framework for peace in Central America. We should respect and honor that decision. We should trust the judgment of the democracies in the region as to whether or not the obligations contained in the Guatemala agreement are being carried out in an honorable and meaningful fashion. That is the democratic way to deal with one's allies.

There have been some who have criticized the awarding of the Nobel Peace Prize to President Arias. This criticism demonstrates a disrespect for a democratic people, and for a close ally which more than any other nation in the region shares our democratic traditions and values. It demonstrates an abandonment of our own democratic beliefs.

President Arias and his colleagues in the region have demonstrated they are not to be deterred in exhausting every conceivable avenue for a peaceful resolution of the Central American crisis. They owe it to their people to risk pursuing peace. We owe it to ourselves and our democratic traditions to be supportive and encouraging of this process.

This should be a time for celebration, not sour grapes. We should take pride in the recognition accorded a small, democratic Central American nation of 2.5 million people. President Arias deserves our respect as a democratic leader. The people of Costa Rica deserve our administration as democratic equals who have the courage to pursue these ideals at home and abroad.

In commenting on the Guatemala agreement, the Tico Times editorial writer observed:

> It could all fall apart tomorrow. But it could just as easily have fallen apart yesterday, or last week. Though its mere existence is no guarantee of its survivial, the signed peace pact is certainly proof that odds can be overcome, doomsayers can be wrong, and dreams—even "impossible" ones—can come true. When you consider how much had to be overcome just to get this far, what lies ahead doesn't seem nearly so daunting.

Mr. President, I ask unanimous consent that the articles to which I referred in my remarks be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE IMPOSSIBLE DREAM

With all the double-dealing that has unfortunately come to characterize "diplomacy" in Central America, it's hardly surprising that even apparently gracious and gentlemanly gestures tend to be viewed with cynicism and suspicion—especially if they originate in Managua or Washington.

When the U.S. came huffing into the Central American summit meeting last week with a hastily-devised peace plan of its own, not even the most devout Gringophile hereabouts believed it was anything but another anti-Sandinista trick of some sort, and a pathetically transparent one, at that. Uncle Sam has so squandered his stock of credibility in this part of the world that even the True Believers now have trouble believing him.

And when a communications gaffe made it appear that the Sandinistas had reneged on their promise to drop their World Court lawsuit against Costa Rica, the Ticos were prepared to believe the worst—that their trust had been betrayed yet again by their forked-tongued commie neighbors.

As it turned out, Nicaragua did, in fact, withdraw its suit. And although the verdict is not yet in on the precise motives behind the U.S. peace plan, there's good chance that at least a few of them were, if not altruistic, at least pragmatic—reflecting a long-overdue realization by some of the more alert and award members of the U.S. government that if peace really is on the verge of breaking out in Central America, the U.S. had better hurry up and secure a spot on the bandwagon.

That such misunderstanding and mistrust should flare up again, just as the five Central American countries were coming closer than ever to agreeing on not only peace but democracy, shows just how fragile the accord signed last week really is—and what a triumph its signing represents for its parent and prime promoter, President Oscar Arias.

The wounds he is seeking to heal are old and deep and still fiercely painful; the mentality of violence and vengeance, brutality and barbarism, continues to bubble beneath the surface. Like all peacemakers, Arias knows how delicately and precariously balanced the structure of trust is, constructed as it is from such breakable and perishable materials as egos, ambitions, timing and goodwill.

It could all fall apart tomorrow. But it could just as easily have fallen apart yesterday, or last week. Though its mere existence is no guarantee of its survival, the signed peace pact is certainly proof that odds can be overcome, doomsayers can be wrong, and dreams—even "impossible" ones—can come true. When you consider how much had to be overcome just to get this far, what lies ahead doesn't seem nearly so daunting.

"It didn't hurt anything to dream," a radiant Arias said after the signing.

It never does.

COSTA RICA PULLS IT OFF—AGAIN

(By Beth Hawkins)

Mexicana Airlines flight 111 last Saturday filled up quickly. Dozens of Costa Rican and foreign journalists, officials and anti-Sandinista leaders filtered into the airplane and crammed their tote bags into overhead bins. It was just like any other commercial flight from Guatemala to San Jose.

But as the final boarding call went out, Costa Rican President Oscar Arias stepped on board, accompanied by a retinue of a dozen advisers, ministers, and support staff, and was greeted by a round of applause—which even the bewildered tourists eventually joined in.

Costa Rican Ambassador to Washington Guido Fernandez, Presidential press secretary Lidiette Brenes, Arias friend and adviser John Biehl, Presidency Minister Rodrigo Arias, Foreign Minister Rodrigo Madrigal, Foreign Ministry Chief of Staff Guillermo Solis, and Chief of Protocol Ana Ross were flushed with the barely day-old success of Arias' regional peace initiative—signed by Central America's five presidents in Guatemala City last Friday after months of work.

"Look at the group around Arias," one veteran correspondent remarked as the band of triumphant Ticos took their seats. "So different from the people in the (previous Luis Alberto) Monge Administration. They're so bright."

Arias and his surprisingly young and boisterous crew spent the rest of the flight smiling at the tourists with Kodak Instamatic cameras who had figured out who the VIP's were, sipping complimentary wine, and chatting with friends and reporters, as the plane sped them home to San Jose and a joyous welcome.

Nicaraguan contra leader Alfonso Robelo, by contrast, sat toward the rear of the airplane (which bore, fittingly, the name *La*

Paz), flashing his ever-present smile, but entertaining few questions from journalists.

"Lidiette Brenes, you have a call on line three," one of the practical jokers in a back row hollered, laughing along with the crowd after Brenes stood up and looked around.

It was easy to see how the members of the Arias inner circle had pushed the area peace plan—albeit slowly—so success with their breezy, folksy style. The giggling upper echelon of Costa Rica's current administration didn't look anything like diplomats and politicians seeking to calm the upheavals in a troubled part of the world. Instead, the atmosphere was suggestive of a small-town basketball team returning victorious from a state championship.

After months of being called "naive" by international and domestic critics, Oscar Arias' fresh ensemble had pulled it off, and Costa Rica's neutral armor was beginning to shine again. After eight months of covering their bold diplomatic offensive, I wouldn't have missed the chance to fly back with the delegation and enjoy the airport welcome, replete with flowers and balloons and neat lines of schoolchildren. And through it all, there was this nagging itch at the back of my throat.

"I wonder if it will really work, or if the whole peace process will just break down again," cynical foreign journalists buckling up for the landing said over and over again.

"Peace might break out in Central America," they cackled.

The longer the speculation went on, the more I felt my idealism jabbed at by the big, tough, press corps that chose to remain aloof from the pageantry and symbolism of last week's summit meeting.

As the plane touched down and taxied toward the gate, I realized I was not particularly concerned about the durability of the Arias plan, nor was I alertly seeking the first signs that someone might be trying to subvert the commitments made by the five presidents in Guatemala City. Instead, I was simply enjoying a moment of deep pride in the funny little backwater country I had adopted somewhere along the line—or which had adopted me, without my ever making a conscious decision about it.

If the presidents worked long into the night to hammer out a plan all would promise to uphold, they will sit down together again, if and when the progress toward peace in Central America is stymied by rogue elements. The important thing, I believe, is to recognize the precedent set—and to have faith that the Ticos and their neighbors will continue to smile and nod politely at foreign opinion and policymakers . . . while tenaciously maintaining that peace *is* possible.

After the delegation descended from the plane and Arias began answering questions in the airport's desperately-overcrowded VIP lounge, three-time President Jose (Pepe) Figures—the man who abolished Costa Rica's army 39 years ago—wended his way to the front of the room, leaning precariously on two aides, as officials and reporters alike broke into cheers.

The stubborn Tico tradition of doing what the rest of the world believes is impossible appears to be alive and well—and has been handed down to the next generation for safekeeping.

[From the New York Times, Oct. 14, 1987]

PRIZING PEACE, AND PROMOTING IT

Bernard Shaw once lamented that Nobel Prizes were like life preservers thrown long after the recipients had escaped drowning. That reproach surely does not apply to this year's Peace Prize. The award honors, and furthers, the cause of peace in Central America.

It's perfectly true, as nettled American conservatives complain, that Oslo is a long way from Central America. Doubtless the Nobel Committee of the Norwegian Parliament knew it was taking a chance in bestowing the prize on President Oscar Arias of Costa Rica. After all, the regional peace plan he put forward doesn't even go into effect until Nov. 7. Still, the committee's timing makes this award especially important.

The prize goes to the elected leader of an exemplary democracy whose citizens decided four decades ago to abolish their armed forces. Costa Ricans as a people have long since earned this prize. How much better if President Reagan had said as much, instead of his grudging three words for Mr. Arias, "I congratulate him."

As those cold words suggest, the new pact needs all the outside help it can muster. It calls for cease-fires, an end to all foreign support for insurgent forces, restoration of freedoms and democratic elections in five republics. But in Nicaragua, democrats charge that the Sandinistas are already evading promises to restore full civil rights. And in Washington, Mr. Reagan vows to press for continued aid to the contra rebels, which would give the Sandinistas a pretext for dishonoring, if that is their aim, promises to democratize their Government.

Still, neither Managua nor the White House can ignore the plan's popularity in a region that so yearns for an end to civil wars and an economic rebirth. Acclaim for the plan, now enhanced by the Nobel Prize, exerts pressure on Nicaragua and blunts the campaign for renewed American funding to the contras. Now Mr. Arias will have that splendid pulpit in Oslo to make his case—especially to European democracies, whose weight increasingly counts in Central America.

There remains the objection that the prize is premature or constitutes meddling by the Norwegian Parliament. In 1973, the Vietnam War bled on despite the Nobel awards to Henry Kissinger and Le Duc Tho. In 1971, there were cries of foul in West Germany when Oslo bestowed its laurels on Chancellor Willy Brandt as his Government was heading into election.

Does this year's award fall into the same category? The reproach might have weight if the Norwegian Parliament had tilted consistently eastward or leftward. That's not the case. Nobody in Washington carried on about timing or meddling when the prize went, over Soviet protests, to Andrei Sakharov in 1975, or to Lech Walesa of Poland, the leader of Solidarity, in 1983.

In those instances, too, the prize committee stuck its neck out, and in both cases advanced the cause of peace and freedom. Mr. Arias, his country and his peace plan deserve this prize.

Mr. KERRY. I thank the leader and the distinguished chairman for the time.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the word "democracy" be inserted in the fourth line of the paragraph numbered 2 on page 2 right after the word "peace,"—"peace, democracy, and stability to their region."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This word was inadvertently omitted in the typing of the concurrent resolution.

Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes and thirty seconds remain to the Republican leader.

Mr. BYRD. Mr. President, the President of Costa Rica, Oscar Arias Sanchez has been awarded the 1987 Nobel Peace Prize in recognition of "his outstanding contribution to the possible return of stability and peace to a region long torn by civil war." The Nobel Committee stated that the peace plan proposed by President Arias and signed by the Presidents of the five Central American countries in Guatemala on August 7, "laid solid foundations for the further development of democracy and for open cooperation between peoples and states."

As my colleagues are all very much aware, it was the personal initiative of President Arias, in bringing all five Central American countries together in Guatemala City in early August, which changed the current political landscape of that region. His vision of a framework for peace, including the need for all five countries to make political commitments and take political risks for peace was embodied in the agreement signed in that city on August 7. None can say it will work, or it will not work, or how it will finally be realized. But without political will and good faith efforts to make his plan work, there will be little progress and there is little prospect that the pattern of suspicion and bloodshed in the region will be broken. Mr. President, this concurrent resolution commends President Arias and the initiative taken by him and his fellow Central American Presidents, and encourages the good faith implementation of the plan which was decided upon. It is my hope that the full force of United States influence and diplomatic efforts will be used to help realize the plan in its entirety, and that the democratization process will not only be revitalized in Nicaragua, but deepened in Nicaragua's neighbors as well. El Salvador and Honduras and Guatemala are now democracies, but they have not always been so, and they are fragile democracies indeed. So President Arias' plan is a plan for the region as a whole, even though our particular focus is on the pattern of events as they unfold in Nicaragua. Mr. President, the remarks by President Arias in the Chamber of the House on September 22 struck a vigorous positive theme. It was a good theme, in the American tradition. He said:

As we stand at the crossroads of peace and development or war and poverty, we must not make the wrong choice. For neither you nor we can undertake this struggle separately. The struggle for peace in Central America is the historic struggle of democracies. Now as never before, a time has come in history for the people of the United States and of Costa Rica to bring to bear the full power of the principles and values they share.

I commend the President of Costa Rica on his vision and his courage, on his eloquence in behalf of peace—he is the able and proud leader of a sister democracy. I commend him on his award of the 1987 Nobel Peace Prize.

Mr. HELMS. Mr. President, the concurrent resolution under consideration is a harmless one. It is also, in the modest judgment of the Senator from North Carolina, a useless one. Of course, the aspirations of President Arias are aspirations which we all share; but the implementation of those aspirations, as put forth in the Guatemala peace plan, fall far short of reasonable and practical expectations.

It certainly is premature to imagine that the Airas plan will bring peace. But is it possible that some of my colleagues wish that those fighting for freedom would just lay down their arms and accept the Marxist-Sandinista rule? Are they hoping that the Communists will change their spots, at least long enough so that there is a "decent interval" before any cosmetic changes in Nicaragua are thrown off and total Communist domination is reimposed?

Mr. President, I hope that is not the case. But we should not delude ourselves that a peace plan can bring peace when it does not contain either the elements of balance or of hope for freedom. Of course, the record of Nobel Peace Prize winners does not inspire confidence either. If you go over the list of Nobel Peace Prizes awarded since 1901, you find, by and large, a group of losers. The Eli Wiesels and the Mother Theresas on the list are few and far between. By and large the names represent the aspirations of the international left; and by and large they represent an historical list of failed hopes for peace.

The Nobel Peace Prize Committee of the Norwegian Parliament, down through the ages, apparently has been composed of visionaries whose vision has been unimpaired by reality or by hopes for freedom. The addition of President Arias' name to the Nobel Peace Prize list should give pause to all those who desire real peace.

Mr. President, I ask unanimous consent that the list of Nobel Peace Prize winners be printed in the RECORD at the conclusion of my remarks.

Mr. President, articles in the Washington Times yesterday morning and one in the Washington Post this morning further put into perspective the failure of past peace efforts awarded the Nobel Peace Prize, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AWARDS—NOBEL, PULITZER PRIZES

PEACE

1986, Elie Wiesel, U.S.

1985, Intl. Physicians for the Prevention of Nuclear War, U.S.

1984, Bishop Desmond Tutu, So. African.

1983, Lech Walesa, Polish.

1982, Alva Myrdal, Swedish; Alfonso Garcia Robles, Mexican.

1981, Office of U.N. High Commissioner for Refugees.

1980, Adolfo Perez Esquivel, Argentine.

1979, Mother Teresa of Calcutta, Albanian-Indian.

1978, Anwar Sadat, Egyptian; Menachem Begin, Israeli.

1977, Amnesty International.

1976, Mairead Corrigan, Betty Williams, N. Irish.

1975, Andrei Sakharov, USSR.

1974, Eisaku Sato, Japanese; Sean MacBride, Irish.

1973, Henry Kissinger, U.S.; Le Duc Tho, N. Vietnamese (Tho declined).

1971, Willy Brandt, W. German.

1970, Norman E. Borlaug, U.S.

1969, Intl. Labor Organization.

1968, Rene Cassin, French.

1965, U.N. Children's Fund (UNICEF).

1964, Martin Luther King, Jr., U.S.

1963, International Red Cross, League of Red Cross Societies.

1962, Linus C. Pauling, U.S.

1961, Dag Hammarskjold, Swedish.

1960, Albert J. Luthuli, South African.

1959, Philip J. Noel-Baker, British.

1958, Georges Pire, Belgian.

1957, Lester B. Pearson, Canadian.

1954, Office of the U.N. High Commissioner for Refugees.

1953, George C. Marshall, U.S.

1952, Albert Schweitzer, French.

1951, Leon Jouhaux, French.

1950, Ralph J. Bunche, U.S.

1949, Lord John Boyd Orr of Brechin Meams, British.

1947, Friends Service Council, Brit. Amer. Friends Service Com.

1946, Emily G. Balch, John R. Mott, both U.S.

1945, Cordell Hull, U.S.

1944, International Red Cross.

1938, Nansen International Office for Refugees.

1937, Viscount Cecil of Chetwood, Brit.

1936, Carlos de Saavedra Lamas, Arg.

1935, Carl von Ossietzky, German.

1934, Arthur Henderson, British.

1933, Sir Norman Angell, British.

1931, Jane Addams, U.S.; Nicholas Murray Butler, U.S.

1930, Nathan Soderblom, Swedish.

1929, Frank B. Kellogg, U.S.

1927, Ferdinand E. Buisson, French; Ludwig Quidde, German.

1926, Aristide Briand, French; Gustav Stresemann, German.

1925, Sir J. Austen Chamberlain, Brit.; Charles G. Dawes, U.S.

1922, Fridtjof Nansen, Norwegian.

1921, Karl H. Branting, Swedish; Christian L. Lange, Norwegian.

1920, Leon V.A. Bourgeois, French.

1919, Woodrow Wilson, U.S.

1917, International Red Cross.

1913, Henri La Fontaine, Belgian.

1912, Elihu Root, U.S.

1911, Tobias M.C. Asser, Dutch; Alfred H. Fried, Austrian.

1910, Permanent Intl. Peace Bureau.

1909, Auguste M.F. Beemaert, Belg.; Paul H.B.B. d'Estoumelies de Constant, French.

1908, Klas P. Arnoldson, Swedish; Fredrik Bajer, Danish.

1907, Emesto T. Moneta, Italian; Louis Renault, French.

1906, Theodore Roosevelt, U.S.

1905, Baroness Bertha von Suttner, Austrian.

1904, Institute of International Law.

1903, Sir William R. Cremer, British.

1902, Elie Ducommun, Charles A. Gobat, both Swiss.

1901, Jean H. Dunant, Swiss; Frederic Passy, French.

[From the Washington Times, Oct. 14, 1987]

NOT YET, SAY SOME OBSERVERS, ABOUT PEACE PRIZE FOR ARIAS

(By Claude R. Marx)

If history is a guide, giving the Nobel Peace Prize to Oscar Arias Sanchez may be another example of declaring victory over war prematurely.

"The prize is strikingly premature," said Joshua Muravchik, a Latin American specialist at the American Enterprise Institute." One would think the Nobel Committee would be more inclined to take the long view, having once given its prize to Le Duc Tho."

In 1973, the Nobel Peace Prize was awarded jointly to Secretary of State Henry Kissinger and North Vietnamese Foreign Minister Le Duc Tho for the Paris treaty that was supposed to end the Vietnam War. But South Vietnam was swallowed by the North Vietnamese communists two years later.

Ironically, Le Duc Tho refused to accept the prize because he said peace had not really been established in Vietnam.

Other foreign policy analysts and two prominent House Republicans shared Mr. Muravchik's assessment.

"The Arias award is premature, and I hope this does not result in the same outcome there as the Kissinger-Le Duc Tho award did in Indochina," said L. Francis Bouchey, president of the Council for Interamerican Affairs. "The implementation of the plan will depend on [Nicaraguan President] Daniel Ortega more than anyone else."

The award to Arias "reminds me terribly of 'Nam when Kissinger was given the prize, but Saigon fell shortly thereafter," said Lewis Tambs, U.S. ambassador to Costa Rica from 1985 to January 1987. "The plan gives the Marxists-Leninists time to consolidate."

House Minority Leader Robert Michel also characterized the award as "premature" and noted, "There is a very important distinction that has to be made between a peace treaty and a peace which preserves the freedom and democracy of the people affected."

New York Rep. Jack Kemp, a GOP presidential aspirant, said the Nobel committee had made a "mistake . . . to bestow judgment on this plan before the world sees its results."

But the 1973 award wasn't the only overenthusiastic action of the Nobel committee.

The Royal Swedish Academy of Sciences, which awards the Nobel Prize, gave the award to Secretary of State Frank B. Kellogg in 1928. Mr. Kellogg won it for negotiating the Kellogg-Briand treaty which outlawed war.

"Of course Kellogg hoped for world peace, but he was a fool," said Ernest W. Lefever, president of the Ethics and Public Policy Center. "The Nobel committee would be better served to award a real life achiever. The modest word to describe the Arias and Kellogg awards is premature. . . .

"You don't give people awards for aspirations but accomplishments," he said. "The [Arias] plan itself is seriously flawed because it required more of the United States and Soviet Union and Cuba. I don't think it will work. I don't think a Marxist-Leninist leopard changes its spots."

The Central American peace plan, whose principal architect was Mr. Arias, was signed by the leaders of the five Central American nations in Guatemala City on Aug. 7. The peace accord calls for, among other things, a cease-fire and moves toward democratization in Nicaragua by Nov. 7.

Mr. Muravchick said the major problem with the Arias plan, like the Kissinger-Le Duc Tho agreement before it, is the assumption that the communists will act in good faith.

"What the plan calls on the Sandinistas to do is essentially what they committed to do before they took power, allow a democratic process and system to unfold there," he said.

"Instead, they went about setting up the machinery of a communist dictatorship. The only way to force them is to give the Contras what they need."

A congressional staff member involved in Central American policy since 1981 who requested anonymity said the Arias plan does not go far enough to effectively guarantee regional security.

"If Latin Americans work harder for the Nobel Peace Prize than for regional security, then someone else has to watch out for the security of the region," the staff member said.

But House Speaker Jim Wright praised Mr. Arias as "a man of vision."

"The world has awarded its highest prize to President Arias," Mr. Wright said. "He has earned the congratulations of the American people and the gratitude of the entire hemisphere."

[From the Washington Post, Oct. 15. 1987]

THE PEACE PLAN IS HEADED TOWARD SANDINISTA VICTORY—GIVE THE RESISTANCE NONLETHAL AID

(By Alfredo Cesar)

In August the four democratic presidents of Central America and dictator Daniel Ortega of Nicaragua signed a peace plan. Its objective is to move the struggle for democracy from the battlefield to the political arena, and in the process achieve peace—peace as a result of democratization and not merely as a result of ending war.

This is how Central Americans understand the plan, and why the Nicaraguan resistance accepted it. But now the United States is moving to stop aid to the resistance, without conditioning that action on Sandinista compliance with the accord. Such a policy will result in military victory for the Soviet-backed Sandinista army and have inescapable consequences for Central America and the United States.

When I left Nicaragua in May 1982, La Prensa was publishing, Archbishop Obando y Bravo was speaking over Radio Catolica, opposition parties were functioning and some 3,000 political prisoners were held in jail. Two months before that, the state of emergency had been reimposed on the country. As Ortega explained to a restricted Cabinet meeting: "The worst mistake the Sandinista Directorate has made since July 1979 was the lifting of the state of emergency after Somoza's downfall; we now have an excuse to reinstate it and the military means to enforce it."

Within 60 days the restricted liberties that existed before March 1982 were all but officially scrapped. I made the decision to leave the revolution, convinced that totalitarian rule and Soviet-bloc ties were deeply rooted in the Sandinista group that had betrayed the democratic revolution for which I had struggled six years and endured jail, torture and exile.

I left my country with two haunting memories. One was of military maneuver I witnessed, involving T-55 Soviet tanks, Soviet helicopters and Soviet heavy artillery, all directed by a Cuban general. The other was of the secret party-to-party agreement between the Communist Party of the Soviet Union and the Sandinista National Liberation Front, first signed in 1980 and renewed year after year. But left with faith in the hemispheric democracies, which had been instrumental in bringing down the Somoza regime.

Now I see that to comply with the peace plan, the Sandinistas reopen La Prensa, let Cardinal Obando speak over Radio Catolica, talk to opposition political parties and talk of freeing a few of the by now 8,000 political prisoners and maybe even of lifting the state of emergency. And I cannot help remembering what I lived through back in 1982. The party-to-party agreement has been renewed for the seventh consecutive year, and there has been a breathtaking increase in the Sandinista Soviet-supplied arsenal. Unless Ortega thinks he lacks the military means to enforce it, he will find another excuse to reinstate the state of emergency for a third time.

This peace plan provides for ending war by two stages: first, an effective cease-fire, simultaneous with democratization measures and the halting of military aid to insurgent forces on Nov. 7; second, the laying down of arms by the resistance, once security agreements have been reached by the five governments, according to Point 7 of the peace plan. This implies maintenance of the resistance as a viable military force until the second stage is under way.

It is time to stop the partisan debate and support the peace plan with bipartisan actions before it is too late. The United States should provide the resistance with nonlethal aid for the next 18 months to prevent the Sandinistas from dragging their feet in the security negotiations of the second stage. Lethal aid should be provided if the Sandinistas do not comply with the accord by Nov. 7—including a cease-fire negotiated between them and the resistance, as defined by the president of Costa Rica.

I believe this is a real chance for peace with democracy. The Nicaraguan resistance had made its contribution by forcing the Sandinistas to sign the Central American peace plan. Now it is up to the United States to prevent another betrayal of the Nicaraguan people's aspirations. History will judge who gave peace a real chance.

Mr. DURENBERGER. Mr. President, I rise today as an original sponsor of Senate Concurrent Resolution 83. It is with great pleasure that I extend my congratulations to President Oscar Arias Sanchez of Costa Rica for receipt of the Nobel Peace Prize. I am disappointed, however, that we find 20 minutes of debate adequate to commemorate an event that means so much. It seems incongruous to me that we spend hours of time and millions of dollars—and others give much more—to deal with the problems of war in Central America yet we spend less than a half hour discussing the awarding of a Nobel Peace Prize.

In the last 5 years, we have witnessed a number of peace plans for Central America—from Manzanillo to Contadora. But the plan outlined by President Arias in February is the first regional effort to resolve regional conflicts.

It is very important for this body to understand what the decision of the Nobel Prize Committee signifies: It is far more than a tribute to President Arias for his tireless efforts in the pursuit of peace. This Nobel Prize honors a deserving and brave Costa Rican but it also honors all those who helped to lay the foundation that President Arias has so deftly built upon this year.

Arias' predecessor, Luis Monge, deserves recognition for his contributions. While many were reluctant to see what Sandinista Nicaragua was becoming, Monge was not afraid to speak out. It would have been easier for him to make his accommodation with the power on his border but he did not.

And President Cerezo deserves a share of credit as well. In Guatemala, a National Reconciliation Commission has been established and it has begun the difficult task of resolving the decades-old civil war that has cost his deeply polarized nation so much. Cerezo has survived multiple attempts on his life but he does not shirk from the challenge of building democracy.

In El Salvador, President Duarte has seized the initiative offered by the peace agreement. Few men have risked more and suffered more in an effort to make a positive contribution to a nation's future. Duarte has been arrested, beaten, threatened, and exiled for the transgression of moderation. His daughter was kidnaped in an act of particular cruelty by the left and he is under almost constant attack from the right. And yet Jose Duarte continues to work for a better future for El Salvador.

As he has done before, Duarte has offered to begin talks with the FMLN insurgents. War weariness, domestic conditions, and international pressure have led to a change on the part of Duarte's opponents of the left. Ruben Zamora, a leader of the guerrilla's political arm, has chosen to return to El Salvador to fight for his ideas through debate and politics rather than armed struggle. Last week, the Government and the guerrillas reached agreement on a cease-fire commission. There is a long way to go but, for the first time, there is room for hope that the FMLN will lay down their arms and rejoin the political process. And it is President Duarte who deserves the credit for the tremendous progress in El Salvador. Duarte is a true hemisphere hero and I believe that his dedication and courage made this year's Nobel Prize an award for him as well.

In Honduras, President Jose Azcona is also struggling to strengthen democracy in Central America's poorest nation. His election in 1985 was the first transfer of power between democratically elected Presidents in Honduran history. And the problems he faces are, in large part, problems stemming from the fact that Honduras is used as a staging area for our Contra policy. President Azcona recognizes the problems his nation will face if there is not a resolution of the Nicaraguan civil war. That is why he is among the ranks of the supporters of the Guatemala peace accord.

Lest we forget, there is tiny Belize—a nation of 160,000. Independent since 1981, Manuel Esquival won election as prime minister in 1984. Though not a signatory to the peace agreement, Esquival recognizes the need for peace. His country has over 10,000 refugees from regional conflicts—a tremendous number for any nation. He knows that his plans for economic growth and diversification cannot be realized without a settlement of the wars in neighboring states.

Unlike previous awards, the 1987 Nobel Peace Prize was awarded on the promise of future achievements. While recognizing the work of Oscar Arias over the past year, it is an honor that recognizes potential rather than actual achievements. A few small, but very firm, steps have been taken to get the regional peace process moving. But far more must be done if lasting stability, peace, and democracy are to prevail in Central America.

I strongly supported President Arias at the time his plan was announced. I argued that the only way the problems of peace in Central America would be addressed is through the cooperation of the five countries in the area. Central America is at a historic crossroad: The world is watching to see if genuine peace can be realized. Genuine peace is far more than the absence of war; it is the establishment of lasting democratic institutions that are the best guarantee of long-term stability and justice. It is in the evolving process that carries the name of President Arias that we find the best hope of enduring democratization in Central America.

Since the five heads of States signed the Arias peace agreement last August, however, this body has heard much about the flaws of the plan. The North American critics continue to point out weaknesses rather than strengths, problems rather than prospects, and fears rather than hope. But the Central Americans continue to work for a better future, a future where they can address their economic and social problems without the specter of war.

Not without risk. The award of the Nobel Prize carries enormous responsibilities for President Arias—more than his colleagues. The peace plan which bears his name is also his to enforce. November 7 will be a bigger day in his life than his trip up to Stockholm. For on that day he must decide are parties conforming with the plan and determine its future—the world now follows his judgment and his lead.

Instead of emphasizing flaws and potential pitfalls, we should support the efforts of our neighbors to the south as they struggle to make the promise of the 1987 Nobel Peace Prize a reality. Today we will express our congratulations to President Arias but I hope we will recognize that he is only one man who owes much to others, and that his contribution to peace is so far unfinished.

In 1983 the Nobel Peace Prize was awarded to Lech Walesa, the Pole who fought for democratic reforms in his land. He was not allowed to accept the prize himself but he sent his wife. She accepted the award on behalf of not only her husband but of the entire Polish people. She pointed out that Lech Walesa was only a symbol for the hopes and aspirations of millions. Likewise, this year's prize represents the desires, dreams, and goals of millions. I urge my colleagues to reflect on this as we continue to monitor events in Central America.

VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that the vote begin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the concurrent resolution. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Kansas [Mrs. KASSEBAUM] would vote "yea."

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—3

Helms
Humphrey
Symms

NOT VOTING—5

Boren
Hatch
Kassebaum
Simon
Stennis

So the concurrent resolution (S. Con. Res. 83), as modified was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 83

Whereas the President of Costa Rica, Oscar Arias Sanchez has been awarded the 1987 Nobel Peace Prize in recognition of "his outstanding contribution to the possible return of stability and peace to a region long torn by civil war";

Whereas President Arias has called for "a commitment to the struggle for peace and putting an end to war and ensure that dialogue prevails over violence and reason over rancor";

Whereas President Oscar Arias Sanchez has stated that in an "atmosphere of democracy and freedom, we can return to the path of development that will enable a lasting peace" and has asked for the people of the United States with the people of Costa Rica to bring to bear the power of the principles and democratic values that they share to end the conflict in Central America;

Whereas on March 12, 1987 the United States Senate voted 97 to 1 "supporting the initiative of the Central American heads of state . . . in formulating a regional proposal by President Arias to end the armed conflict in Central America";

Whereas through the leadership of President Arias the Presidents of El Salvador, Guatemala, Honduras and Nicaragua met August 6-7 in Guatemala City and signed an agreement based on the Arias plan, setting forth a framework aimed at the establishment of a lasting peace in Central America;

Whereas the United States Senate endorses the goals of peace, democratization and development in Central America: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States of America—

(1) Congratulates President Oscar Arias Sanchez as the recipient of the 1987 Nobel Peace Prize and commends the Norwegian Nobel Committee on this outstanding choice;

(2) Recognizes the signing of the August 7 Guatemala peace accord is a historic achievement and important opportunity for the Presidents of Central America to work together to restore peace, democracy, and stability to their region;

(3) Urges the parties to the peace accord to implement all of its provisions in good faith; and

(4) Pledges its firm support and full cooperation with respect to such good faith implementation of the August 7, 1987, Central America peace agreement.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader at any time after consultation with the minority leader may proceed to the consideration of the HUD appropriation bill. This has the approval of the Republican leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

Mr. BYRD. Mr. President, I have consulted with the distinguished Republican leader as to the HUD appropriation bill. I have consulted with the ranking member and the chairman. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the HUD appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

[For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), not otherwise provided for, $7,924,100,000, to remain available until expended: *Provided,* That of the budget authority provided herein, $130,200,000 shall remain available until expended for assistance in financing the development or acquisition cost of public housing for Indian families; $1,585,732,500 shall be available as an appropriation of funds, to remain available until expended, for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l); $1,506,500,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $848,850,000 shall be for the section 8 existing housing program (42 U.S.C. 1437f); $595,170,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); $928,559,500 shall be available for the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for use, notwithstanding the limitations in section 8(o)(1) of such Act that the Secretary conduct a demonstration, and in section 8(o)(4) of such Act that the Secretary use substantially all authority in connection with certain programs, in connection with the rental rehabilitation program under section 17 of such Act and for any other purposes as determined by the Secretary; $200,000,000 shall be available until September 30, 1990, only for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o); and $99,550,000 shall be available until September 30, 1990, only for development grants pursuant to section 17(a)(1)(B) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o): *Provided further,* That with respect to grants as authorized by section 17(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437o) which are made using funds made available under this paragraph, notwithstanding the rental housing vacancy rate criteria of the third and sixth sentences of section 17(d)(2) of such Act, no unit of general local government shall be eligible for such a grant unless the percentage of rental dwelling units within its jurisdiction which are vacant is less than the national percentage of rental dwelling units that are vacant and a percentage of rental dwelling units within its jurisdiction which are vacant for more than two months is less than the national percentage of dwelling units that are vacant for more than two months, except that the housing vacancy criteria specified in this paragraph shall not apply to grants authorized by the seventh sentence of such section 17(d)(2): *Provided further,* That of the $7,800,000,000 of budget authority provided herein, $210,923,000 shall be available only for assistance in financing the development or acquisition cost of public housing (other than for Indian families) and for major reconstruction of obsolete public housing projects (other than for Indian families), and an amount equal to the amounts of budget authority which have been reserved or obligated for such purpose in a prior year and which are recaptured during fiscal year 1988 (not including such amounts as may be recaptured from amounts heretofore obligated for such assistance for Indian families, and amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b)) shall also be made available until expended as an appropriation of funds for such purpose: *Provided further,* That any part of the $210,923,000 and the recaptured amount referred to in the immediately foregoing proviso may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects (other than for Indian families): *Provided further,* That an amount equal to the amounts of budget authority which have been reserved or obligated for assistance in financing the development or acquisition cost of public housing for Indian families and which have been recaptured (not including amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b)), in addition to other amounts specified for such purpose under this Act, shall be made available until expended as an appropriation of funds for grants for such development or acquisition cost of public housing for Indian families: *Provided further,* That an amount equal to the amounts of budget authority which have been reserved or obligated for assistance for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l) and which are recaptured (not including amounts that become available for rescission pursuant to section 4(c)(3) of the Act (42 U.S.C. 1437b)) or which are carried over from a prior year or are otherwise available for obligation, shall be made available as an appropriation of funds, to remain available until expended, for grants for modernization of existing public housing projects: *Provided further,* That all amounts of budget authority (and contract authority) equal to the amounts of budget authority (and contract authority) reserved or obligated for programs under section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), which are recaptured during fiscal year 1988 shall be rescinded.**]**

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), not otherwise provided for, $7,523,250,000, to remain available until expended: Provided, That of the new budget authority provided herein, $130,200,000 shall be for the development or acquisition of housing for Indian families; $2,221,080,500 shall be for modernization of existing public housing projects pursuant to section 14 (42 U.S.C. 1437l); $1,630,600,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $200,000,000 shall be for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C.

1437o); $594,195,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); and $1,118,075,250 shall be available for the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1737f(o)), and shall be used without regard for the limitations in section 8(o)(1) that the Secretary conduct a voucher demonstration, and in section 8(o)(4) that the Secretary use substantially all voucher authority in connection with certain programs: Provided further, That of the amounts of budget authority that have been provided under this head in prior appropriation Acts, reserved or obligated in compliance with an earmark under such Acts, and recaptured during fiscal year 1988 (not including amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937), an amount equal to such recaptured amount shall be made available for the purpose for which such recaptured amount was reserved or obligated, except that with respect to recaptured amounts which were reserved or obligated for assistance in financing the development or acquisition cost of public housing other than for Indian families, an amount equal to such recaptured amount shall be made available for assistance under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l); and amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for programs under section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), which are recaptured during fiscal year 1988 shall be rescinded: Provided further, That new budget authority, amounts which are available for obligation as of October 1, 1987, and amounts made available under the immediately preceding proviso, shall be available until expended, except that for rental rehabilitation grants under section 17(a)(1)(A), new budget authority shall be available until September 30, 1990, and amounts equal to recaptured amounts, and amounts which are available for obligation as of October 1, 1987, shall be available for the respective time periods specified under the source year appropriation Act: Provided further, That amounts of funds for rental development grants as authorized by section 17(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437o) that were appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1985 (Public Law 98-371, 98 Stat. 1213, 1215, amending Public Law 98-45, 97 Stat. 219, 220) to become available in part during fiscal year 1984, and in part on October 1, 1984, shall remain available for obligation until September 30, 1988: Provided further, That any amounts of new budget authority provided herein that are used for the section 8(b)(1) existing housing program (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that exceeds five years, except that such amounts that are used for property disposition may be obligated for contract terms of up to 15 years: Provided further, That 20 percent of the amounts of new budget authority and recaptured amounts that are earmarked specifically for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l), shall be used under such section 14 for major reconstruction of obsolete public housing projects: Provided further, That any amounts of new budget authority provided under this head in prior appropriation Acts that are recaptured or carried over from one fiscal year to another which are available for use in fiscal year 1988 and thereafter shall be available as an appropriation of funds without regard to whether such budget authority has heretofore been available as an appropriation of funds: Provided further, That any amount of contract authority provided prior to fiscal year 1976 for any purpose authorized by the United States Housing Act of 1937, as in effect prior to the effective date for amendments to such 1937 Act prescribed under section 201(b) of the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633, 653) and as in effect thereafter, that is not reserved or obligated on October 1, 1987, or that is recaptured during fiscal year 1988 or thereafter, is rescinded as of October 1, 1987, or upon recapture, as the case may be: Provided further, That none of the amounts under this head that are available for obligation in 1988 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439).

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1988 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1988, [$559,900,000] *$602,800,000* of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further, That 25 percent of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped: Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1988 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, [$4,400,000] *$7,000,000*, to remain available until September 30, 1989.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), [$1,465,000,000] *$1,515,000,000.*

[PUBLIC HOUSING DEVELOPMENT GRANT

[Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the Bay City Housing Commission in the State of Michigan to pay any amount relating to ineligible costs incurred with respect to the public housing development grant numbered Michigan 24-7, awarded in 1974, under the United States Housing Act of 1937.]

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $3,500,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all uncommitted balances of excess rental charges and any collections after September 30, 1987, to remain available until September 30, 1989: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $169,652,000, to remain available until expended.

During fiscal year 1988, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1988, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1988, gross obligations for direct loans of not to exceed $82,575,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1988, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,000,000.

Government National Mortgage Association

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1988, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $150,000,000,000 of loan principal.

Solar Energy and Energy Conservation Bank

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

[For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), $3,000,000, to remain available until September 30, 1989: *Provided,* That all funds recaptured from prior year appropriations under this heading shall be reallocated to eligible financial institutions.]

All funds previously appropriated under this head that are recaptured or that otherwise are or become available for obligation, in fiscal year 1988 or thereafter, including all such amounts affected by an order of the United States District Court, Southern District of New York, in Lorraine Dabney, et al., v. Ronald Reagan, et al., 82 Civ. 2231-CSH, dated March 20, 1985, shall be withdrawn, pursuant to 31 U.S.C. 1551 et seq.

Community Planning and Development

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000 to remain available until September 30, 1990: *Provided,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the next following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development[: *Provided further,* That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181)]*: Provided further, That $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).*

During fiscal year 1988, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $150,000,000 of contingent liability for loan principal.

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $225,000,000, to remain available until September 30, 1991*: Provided, That title 42, United States Code, section 5318(n)(2), is amended as follows: After the word "reservation" add the words "or on former Indian reservation lands in Oklahoma".*

REHABILITATION LOAN FUND

During fiscal year 1988, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1987, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, [$15,000,000] *$12,000,000,* to remain available until expended.

Policy Development and Research

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $17,000,000, to remain available until September 30, 1989.

Fair Housing and Equal Opportunity

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $5,000,000, to remain available until September 30, 1989.

Management and Administration

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, [$698,921,000] *$689,039,000,* of which $358,132,000 shall be provided from the various funds of the Federal Housing Administration[: *Provided,* That during fiscal year 1988, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least (1) 6,502 for Housing Programs, (2) 1,370 for Public and Indian Housing Programs, and (3) 1,163 for Community Planning and Development Programs].

TITLE II

INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $12,925,000: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading*: Provided further, That travel of the Korean War Veterans Memorial Advisory Board authorized by the Commission may be defrayed from private contributions to the Korean War Memorial Fund, with allowances conforming to those provided by Federal travel regulations.*

Consumer Product Safety Commission

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, [$34,400,000] *$34,178,000*: *Provided,* That no more than $286,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053: *Provided further,* That none of these funds shall be available for conducting or reviewing cost/benefit analyses on enforcement actions of the Consumer Product Safety Commission.

Department of Defense—Civil

Cemeterial Expenses, Army

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed $1,000 for official reception and representation expenses;

$8,504,000, to remain available until expended.

Environmental Protection Agency

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; [$803,630,000] *$796,870,000*: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, [$199,100,000] *$193,600,000*, to remain available until September 30, 1989: *Provided*, That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, [$672,085,000] *$672,470,000, of which $10,000,000 shall be through the grants program established under section 28 of the Toxic Substances Control Act to assist States, local governments, and local emergency planning committees in carrying out subtitles A, B, and C of the Emergency Planning and Community Right to Know Act of 1986 and* of which $50,000,000 shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984, as amended, including not more than $15,000,000 to defray the costs of school asbestos reinspections and management plans required by section 2 of the Asbestos Hazard Emergency Response Act of 1986 and not more than $2,500,000 for administrative expenses, with all of such funds to remain available until September 30, 1989: *Provided*, That school asbestos abatement loan and grant awards shall be made no later than March 1, 1988: *Provided further, That all grants monies herein provided for section 28 of the Toxic Substances Control Act must be awarded in a manner that assures that States make 75 per centum of all such grant receipts available to local governments or local emergency planning committees for carrying out subtitles A, B, and C of the Emergency Planning and Community Right to Know Act: Provided further, That sums previously appropriated by States for fiscal year 1988 or to be appropriated by States for State activities or to finance activities of local governments or local emergency planning committees in carrying out the Emergency Planning and Community Right to Know Act shall be applied to the State share required under section 28 of the Toxic Substances Control Act: Provided further, That the Environmental Protection Agency shall accept applications no later than two months following enactment of this Act, and shall make a determination whether to award a grant no later than forty-five days after receipt of an application: Provided further, That this appropriation shall not preempt the ability of State, local governments, local emergency planning committees, or other governmental units to fund their title III activities by other and additional means:* [*Provided further*, That none of the funds appropriated under this heading shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended:] *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): *Provided further, That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment.*

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, [$7,500,000] *$18,200,000*, to remain available until expended, *of which $2,000,000 made available in fiscal year 1987 may remain available for a grant to the University of Nevada, Las Vegas for the construction of a laboratory addition to be owned by the University of Nevada, Las Vegas.*

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), [$1,181,000,000] *$1,179,422,000, of which $5,600,000 may be used in conjunction with funds hitherto and henceforth to be appropriated for design and construction of a facility at Edison, New Jersey, for hazardous waste and other research applicable to hazardous substance technology, to remain available until expended*, to be derived from the Hazardous Substance Superfund, consisting of [$931,000,000] *$929,422,000* as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: [*Provided further*, That none of the funds appropriated under this heading shall be available for sections 111(b), (c)(1), or (c)(2) of CERCLA, as amended:] *Provided further*, That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed [$43,000,000] *$50,000,000* of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), 111(c)(14), and 118(f) of SARA: *Provided further*, That no more than $190,000,000 of these funds shall be available for administrative expenses.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, [$10,000,000] *$15,000,000*, to remain available until expended: *Provided*, That no more than $5,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209, $2,400,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

Executive Office of the President

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, [$862,000] *$860,000.*

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (43 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, [$1,998,000] *$1,967,000*: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

Federal Emergency Management Agency

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $125,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, [$131,544,000] *$126,544,000.*

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, [$291,850,000] *$276,850,000.*

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,892,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $45,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1989. In fiscal year 1988, no funds in excess of (1) $38,000,000 for operating expenses, (2) $137,765,000 for agents' commissions and taxes, and (3) $2,537,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated [$150,000,000] *$125,000,000* to the Federal Emergency Management Agency to carry out an emergency food and shelter program *pursuant to title III of Public Law 100-77: Provided, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.* [Notwithstanding any other provision of this or any other Act, such amount shall be made available under the terms and conditions of the following paragraphs:

[The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., and the American Red Cross shall each nominate a representative to sit on the national board, and the Director of the Federal Emergency Management Agency shall designate a representative from each of these organizations to sit on the national board. The Federal Emergency Management Agency shall also designate a representative to sit on the national board, and the representative of the Federal Emergency Management Agency shall chair the national board.

[Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

[The Director of the Federal Emergency Management Agency shall award a grant for $150,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations and through units of local government.

[Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

[Participation in the program should be based upon a private voluntary organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

[Total administrative costs shall not exceed three and one-half per centum of the total appropriation.

[As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.]

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, [$1,339,000] *$1,332,000,* to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of [$5,200,000] *$5,193,000.* Administrative expenses of the Consumer Information Center in fiscal year 1988 shall not exceed $1,721,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1988 in excess of [$5,200,000] *$5,193,000* shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, [$1,750,000] *$1,740,000.*

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; [$3,661,200,000] *$3,478,063,000,* to remain available until September 30, 1989, *of which $100,000,000 shall be derived by transfer from funds appropriated in section 101(g) of Public Law 99-591 for orbiter production.*

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; [$4,000,300,000] *$3,978,300,000,* to remain available until September 30, 1989, including not to exceed [$30,000,000] *$28,000,000* for expendable launch vehicles which shall be available only for the purchase of two Delta II vehicles for the launch of the Roentgen satellite (ROSAT) and the Extreme Ultraviolet Explorer (EUVE).

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, [$169,700,000] *$185,700,000,* to remain available until September 30, 1990: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,558,000,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

National Credit Union Administration

CENTRAL LIQUIDITY FACILITY

During fiscal year 1988, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1988 shall not exceed $847,000.

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; [$1,505,000,000] *$1,634,487,000,* to remain available until September 30, 1989: *Provided,* [That of the funds appropriated in this Act, $1,500,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose:] *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $88,000,000 shall be available for program development and management in fiscal year 1988: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1988 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; [$143,000,000] *$117,000,000,* to remain available until expended: *Provided,* That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, [$145,000,000] *$115,000,000,* to remain available until September 30, 1989: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

Neighborhood Reinvestment Corporation

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $19,500,000.

Selective Service System

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,520,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

Veterans Administration

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,334,287,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $625,700,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $14,290,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); [$10,320,808,000] *$10,080,000,000,* plus reimbursements: *Provided,* That of the sum appropriated, [$6,650,000,000] *$6,475,500,000* is available only for expenses in the personnel compensation and benefits object classifications[: *Provided further,* That, during fiscal year 1988, jurisdictional average employment shall not exceed (1) 37,700 for administrative support and (2) 26,500 for engineering support]*: Provided further, That the amount transferred to the Veterans Administration medical care account by Public Law 100-6 shall remain available during the fiscal year ending September 30, 1988.*

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1989, [$208,766,000] *$200,936,000,* plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, [$49,848,000] *$49,613,000,* plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; [$811,100,000] *$804,829,000*[, including $549,545,000 for the Department of Veterans Benefits, $49,746,000 for the Department of Memorial Affairs and $211,809,000 for general administration: *Provided*, That, during fiscal year 1988, jurisdictional average employment shall not be less than (1) 12,915 for the Department of Veterans Benefits and (2) 1,219 for the Department of Memorial Affairs; *Provided further*,]*:* *Provided*, That none of the funds appropriated by this or any other Act shall be obligated to effect the closing of the St. Paul Insurance Center during the period beginning on the date of the enactment into law of this Act and ending on September 30, 1988: *Provided further*, That $26,700,000 of the sum appropriated is for contracts in amounts not less than $1,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Department of Veterans Benefits and shall remain available until September 30, 1989.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, [$406,921,000] *$413,951,000*, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in the appropriation "Construction, major projects" for fiscal year 1988, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1988, and (2) by the awarding of a construction contract by September 30, 1989: *Provided further*, That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint*: Provided further, That $2,500,000 of the unobligated balances under this heading shall be available for the settlement of a contractor's claim arising from the construction of a Replacement Hospital and Research Building at the Veterans Administration Medical Center, Bronx, New York.*

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, [$121,038,000] *$120,773,000*, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided*, That not more than [$42,738,000] *$42,473,000* shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $4,100,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 *except operations and maintenance costs which will be funded from "Medical care."*

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $42,000,000, to remain available until September 30, 1990.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1989.

DIRECT LOAN REVOLVING FUND

During 1988, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $389,800,000, to remain available until expended.

During 1988, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1988, for transfer to the loan guaranty fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1988, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1988 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1988 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Appropriations available to the Veterans Administration for fiscal year 1988 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1987.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1988 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of [$30,486,000] *$30,313,000* shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed [$1,619,000] *$1,610,000* shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

TITLE IV

GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

[SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.]

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, contracts, or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee), or of the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for GS-18, or ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

Sec. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

Sec. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

[Sec. 415. None of the funds appropriated by this Act or any other Act for any fiscal year shall be used for demolishing George Loving Place, at 3320 Rupert Street, Edgar Ward Place, at 3901 Holystone, Elmer Scott Place, at 2600 Morris, in Dallas, Texas, or Allen Parkway Village, 1600 Allen Parkway, in Houston, Texas.]

Mr. PROXMIRE. Mr. President, the bill before us today provides approximately $57.1 billion in budget authority for programs administered by the Department of Housing and Urban Development, the National Aeronautics and Space Administration, the Veterans Administration, the Environmental Protection Agency, the National Science Foundation, and a host of smaller agencies. We have managed to cut about $828 million in budget authority from the bill as passed by the House of Representatives, a reduction that we made in order to accommodate a much tougher outlay allocation than the House had to work with under the Budget Act. The bill as reported is compatible with our section 302(b) budget allocation. In fact, the bill you have before you falls below that allocation by $515.9 million in budget authority and $36.2 million in outlays. I know there will be a rush to spend those uncommitted outlays, but I would warn my colleagues that we may need these funds to accommodate the type of unanticipated requirements that are traditionally addressed in supplemental appropriations bills.

Let me briefly describe the major changes the committee has proposed in the House-passed bill.

First, we have made a reduction of $400,850,000 in assisted housing appropriations, providing a total of $7.3 billion. Although we are well below the House-approved total, the amount the committee is recommending exceeds the President's budget request by $3.7 billion. The recommendation places a particular emphasis on public housing modernization, providing $424,425,000 more for this program than the House has recommended. In order to fund this increase the committee has recommended the deletion of Housing Development Action Grant and moderate rehabilitation funds. The basic rationale behind the committee's decision was that an emphasis should be placed on keeping public housing units from closing down because of decay and neglect. These units are a vital component of our efforts to house poor families.

Second, the committee recommended $240,808,000 less for veterans medical care programs than the House provided. This cut was an essential part of our effort to meet the restrictive outlay ceiling imposed on the subcommittee under the budget allocation process. Frankly, I would have preferred to take the reduction in the space station program, which I will discuss later, but the committee did not support this approach. I would prefer to have more money in the Veterans' Administration and less in the space station.

Third, the committee also proposed a reduction of $208,337,000 in funding for the space station, providing a total of $558,663,000 for space station costs, including a transfer of $100 million from funds previously appropriated for the production of the fourth shuttle orbiter. I think this was a mistake. In my estimation we simply will not have room in the Federal budget to spend $25 billion to $30 billion on a space station over the next 10 years, especially when there are cheaper alternatives. The latest study by a very competent group that was recommended by the administration and by NASA itself has estimated that the cost of the space station will be about $30 billion. For example, a great deal has been made on the fact that the Russians now have a space station orbiting the Earth every few hours, but very few Americans realize we could duplicate this facility with one shuttle flight, not the 16 flights proposed for the bloated space station the administration is proposing. I say we should start now to build incrementally toward a permanently manned station rather than putting all our chips on an elaborate facility that will not be in place for 8 to 10 years and starving the rest of NASA's programs in the process. The station's supporters should know that next year we will be presented with a budget request of $1.85 billion for the station—more than three times the appropriation before us today; in other words, an increase of 300 percent in 1 year—and this increase of $1.2 billion will have to be taken from other programs given the Budget Act strictures we will face. One of the reasons we have this big increase is we are making a commitment this year to a manned space station that will have this enormous cost.

Third, the committee recommended an increase of $129,487,000 for research funded through the National Science Foundation.

They are at the cutting edge of the technology to make this country competitive. This increase in the total approved by the House would make $1,634,487,000 available for research and related activities in fiscal year 1988, an increase of roughly 16 percent in the current NSF budget.

So we have an increase of 16 percent—which is a very big increase in a year of economy, a year of trying to vote everything we possibly can down—in the National Science Foundation budget.

Finally, we are recommending an increase of $50 million in the House appropriation of $1,465,000,000 for the public housing operating subsidy program. These funds should allow the Department of Housing and Urban Development to pay a substantial portion of a settlement recently reached with over 1,000 local housing authorities regarding the so-called recapture of operating subsidy funds.

The bill as reported from committee also includes a number of other changes in the bill as passed by the House. For example, we have added $42.9 million to the section 202 housing for the elderly and handicapped program to allow an additional 894 units to be built, providing for a total of 11,788 units with 25 percent of the total to be devoted to the handicapped, particularly the deinstitutionalized mentally ill.

As we all know, there has been a great deal of concern about the homeless and a recognition that many of those homeless are deinstitutionalized mentally ill people. On the other hand, we have reduced funding for the NSF's education programs by $16 million below the House and also reduced support for the Antarctic program by $26 million below the House.

Both of these cuts, I greatly regret, are cuts that we just had no alternative but to make. We have cut funding for the programs of the Federal Emergency Management Agency by $45 million with the bulk of the cut—$25 million—being achieved by maintaining the emergency food and shelter program at current levels.

I would be glad to discuss the details of the bill with my colleagues and address any items of particular interest to them.

Before we get on that bill, I would like to make sure that my distinguished colleague, the former chairman of the committee, a man who is as expert in this field as anybody who has ever served in the Senate, Senator Jake Garn, has an opportunity to speak. As the ranking member of the HUD-Independent Agencies Subcommittee, he has made a great contribution to the bill we have before us today, particularly with regard to the

NASA programs. It is most unusual to have an astronaut actually in the Senate. To have an astronaut who is in the Senate, who is a leader, and who is the leader on the minority side on the space programs is a great advantage for the Senate, and in having the most effective program.

I want to thank Senator GARN and the subcommittee's able minority staff, and staffer Stephen Kohashi, for their vital work on the bill.

Mr. President, I yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I certainly thank the chairman of the subcommittee for his kind remarks. The bill as reported by the committee provides new budget authority of $57,109,970,000 for the Department of Housing and Urban Development; the Veterans' Administration; National Aeronautics and Space Administration; the Environmental Protection Agency; the National Science Foundation; and 13 other agencies, commissions, boards, corporations, institutes, and offices. This amount is $5,513,604,687 above the budget request, but $828,286,000 below the House allowance, and $472,018,300 more than the appropriations for fiscal year 1987. This is an increase of less than 1 percent.

I would like to take a moment to describe the very difficult and painful process the subcommittee endured to bring this bill before the Senate. In terms of discretionary budget authority, spending under the direct jurisdiction of the committee, this bill is the largest nondefense appropriations measure. The largest civilian employer in the Federal Government, the Veterans' Administration, with more than 20 percent of the total is funded in the bill.

Mr. President, the bill before the Senate is a very large funding measure funding programs which address a very diverse array of needs. Unfortunately, the subcommittee received an extremely constrained budget allocation unfairly and unrealistically constrained at least in this Senator's view. Although we were able to obtain some relief in subsequent reallocation, this measure is still very tight.

I must compliment the very able chairman of the subcommittee, Senator PROXMIRE, and his very capable staff for their extraordinary efforts to craft a bill under these difficult, almost impossible circumstances. However, this measure could not have been reported by the committee, at least not one that I could support nor one that could come close to responsibly addressing the critical program priorities under our jurisdiction but for the help and assistance of Senator CHILES in his capacity as chairman of the Budget Committee, and Senator STENNIS, chairman of our Appropriations Committee.

Finally, I must express my respect and admiration for Senator JOHNSTON, who joined with me in seeking restoration of the funding for the space station basic research and other critical programs to secure a better future for the Nation.

I would like to comment briefly about the difficulties of this subcommittee. Most people do not understand the difference between discretionary and nondiscretionary funding. That is why it was difficult for the chairman to come up with a bill, because almost two-thirds of this entire budget under this subcommittee's jurisdiction is nondiscretionary.

In other words, we as appropriators have no control over it whatsoever. When we are talking about cuts, staying within our 302(b) allocation, we are talking about doing it all out of one-third of the overall budget. That precipitated in the initial subcommittee meetings, in order to meet the 302(b) allocation, a total elimination of the funding for the space station. Obviously, I felt that was not the proper way to go. With Senator JOHNSTON's help, we were able to restore part of it, but I suggest only part of it. The request was over $700 million, and we are more than $208 million short in that account. We had to do it in some ways even to get at that point, ways that were not really acceptable to me, such as removing $100 million from the replacement orbiter for *Challenger*. The space station does not make a great deal of sense unless you have the means to travel to it. So we are robbing Peter to pay Paul.

Yet on the floor today, we will have attempts to remove from the space station account for other areas, particularly for veterans. I do not happen to be against veterans. I am a card-carrying member of the VFW and the American Legion and a 24-year service veteran of the military, both active duty and Reserve. But the veterans account is over the request, and the space station is $200 million under.

The proportions are rather interesting as well. We are taking more than $200 million out of a $700 million budget as the bill is presented to this floor. Yet we are going to be asked to take more of that to add to a $10.2 or $10.3 billion veterans health care. I will have to oppose that amendment when it comes up.

This body is normally very good at voting for things that help us in the short run, and not very good at looking to the future. When we cut basic science, whether it is in the National Science Foundation, whether it is in NASA, we do not really find out about it. It does not harm us over the next year or two. We do not really find out about it. Where we pay for it is 10 to 15 years down the road. We are paying today for shortsightedness of Congress years ago.

I was embarrassed, as a matter of fact, when Halley's Comet was going by that only goes by once every 75 years, and we did not fund a U.S. probe. The Soviet Union did. Other countries did, but we could not afford to send up a rocket to do scientific research on an event that occurs only every 75 years. Total NASA budget for space flight is less than 0.7 of 1 percent of the entire national budget. It is less than half of what we spend on food stamps.

Yet, we have had more than 12,000 medical devices or procedures that have come directly or indirectly from space flight. People are alive because of a pacemaker. I do not know how many people in this country have implanted pacemakers or insulin pumps—all sorts of other devices that save human life.

Yet, this whole effort is less than seven-tenths of 1 percent of the budget, and we are shortchanging it. We are delaying, and we are going to talk about taking more out of it today.

So I put my colleagues on notice that this bill will not pass if that is taken. That amendment must be defeated, or this bill will not be passed. The future is too important to shortchange it for the past or the present.

I think a $208 million cut out of $700 million is more than sufficient, is more than NASA doing their share, and the National Science Foundation should have more money as well.

Under the circumstances, this is a good bill, and I appreciate working with the distinguished chairman, the Senator from Wisconsin, and his hard work on this bill.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of this order.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I did not want to pass up a chance to highly commend the Senator who has done a massive amount of work in putting this bill together. It is far reaching and forward reaching, and staff work was excellent.

Mr. President, I am pleased to help present to the Senate today the Department of Housing and Urban Development-Independent Agencies appropriation bill for fiscal year 1988. This bill, which provides $57.1 billion in total budget authority for fiscal year 1988, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is evidence of the hard work and excellent leadership of subcommittee Chairman Proxmire and the ranking minority member, Senator Garn. I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. Tom van der Voort, Miss Marion Mayer, Miss Carolyn E. Simmons, Mr. Stephen Kohashi and Mrs. Penny German.

I now wish to briefly highlight a few important items regarding this bill.

First and foremost, I am pleased to report that this bill is below the 302(b) allocation for budget authority and outlays. As I have previously indicated, this is essential for all appropriation bills which are to be taken up for consideration on the Senate floor.

Second, the committee's recommended $57.1 billion in budget authority is above the President's request of $51.6 billion and below the House-passed level of $57.9 billion.

Finally, I would ask my colleagues to resist any further amendments adding additional funds which would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. Let me also mention that the Senate rules do not permit legislative amendments on appropriation bills.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

Mr. President, I know that this represents a great deal of money. Over several years, I have been concerned, along with many others, about the expenditure of these large sums. It becomes old, but it is something we just cannot afford to ignore. It is a need that must be met one way or another.

I commend those who did the real floor work year in and year out with regard to this matter, adjusting for the amounts, considering what was available and what was actually needed. They have done high-class, effective work and achieved excellent results. I commend them highly.

AMENDMENT NO. 950

(Purpose: To increase by $45.2 million the funding in the Veterans' Administration medical care account for AIDS treatment ($20 million), health-care personnel recruitment and retention bonuses and tuition assistance ($21.2 million), and start-up costs for six satellite out-patient clinics ($4 million) by increasing the appropriation by $43 million and earmarking an additional $2.2 million for personnel costs)

Mr. CRANSTON. Mr. President, I call up amendment No. 950.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. Cranston], for himself, Mr. Murkowski, Mr. Matsunaga, Mr. DeConcini, Mr. Graham, Mr. Bingaman, Mr. Danforth, Mr. Simpson, and Mr. Domenici proposes an amendment numbered 950.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 22, strike out "$10,080,000,000" and insert in lieu thereof "$10,123,000,0000".

On page 41, line 24, strike out "$6,475,500,000" and insert in lieu thereof "$6,506,400,0000".

Mr. CRANSTON. Mr. President, I offer this amendment as chairman of the Veterans' Affairs Committee, and I am proposing it on behalf of myself and the distinguished ranking minority member of the committee, Mr. Murkowski: committee members Matsunaga, DeConcini, Graham, and Simpson; Bingaman, Danforth, and Domenici.

This amendment, No. 950, to H.R. 2783, as reported by the Appropriations Committee for fiscal year 1988 HUD-Independent Agencies appropriation bill, would provide an additional $43 million in funding of the three vitally important areas in the Veterans' Administration medical care account.

First, our amendment would add $20 million to help in meeting the additional costs which the VA is experience in furnishing care to veterans with AIDS.

The Appropriations Committee noted in its report accompanying H.R. 2783 (S. Rept. No. 100-192, page 90) its concern "over reports that VA medical centers treating AIDS patients are being furnished inadequate resources." Thus, the committee noted:

> While the Agency's resource allocation methodology [RAM] presently provides funding of approximately $8,000 per AIDS patient, it cost VA facilities an estaimated $24,000 per year to treat such a patient. This amount does not include the cost—approximately $9,000 per patient per year of Azidothymidine [AZT], the only drug presently approved for AIDS, which is being used to treat approximately 500 VA AIDS patients. The committee understands that the Agency has treated more than 2,000 persons with AIDS since 1981 and expects to treat an estimated . . . 1,900 in fiscal year 1988.

Our amendment will help to address these pressing needs that the committee believed it was unable to meet within the constraints of its budget allocation for this bill.

Second, our amendment provides $21.2 million in additional funding for bonus pay and tuition assistance necessary to recruit and retain high-quality health-care personnel. This would make a partial restoration of the total of $45 million in add-ons that the House-passed bill provided for special pay rates and tuition assistance payments for nurses and others in hard-to-recruit medical specialties. Due to increasing competitiveness among hospitals and other health-care facilities, the VA is experiencing very serious difficulties in recruiting and retaining the health professionals it needs in order to furnish quality services to our Nation's veterans. I am hopeful that, in the final version of H.R. 2783, Congress will be able to provide the agency with additional necessary funding to maintain a highly qualified cadre of health-care professionals.

Third, our amendment would restore the $4 million that the House of Representatives provided for startup costs for six VA outpatient clinics—in Albuquerque, NM; Austin, TX; Fort Worth, TX; Lawton, OK; Mount Vernon, MO; and San Jose, CA.

Mr. President, our amendment would provide for these funds through an additional approrpriation of $43 million to the medical care account and the earmarking of $2.2 million provided in that account in the committee-reported measure but not designated for any specific use.

I want to emphasize one point about this additional appropriation.

I am advised by the Budget Committee that this increase is within the Appropriations Committee's budget allocation to the HUD-Independent Agencies Subcommittee under section 302(b) of the Budget Act. This translates to $43 million in budget authority given the outlay rate—84.59 percent—in the VA medical care amendment. It has recently come to light that that subcommittee has available to it $36.2 million more in outlays under that allocation than had been believed it had. In my view, there is no higher priority than veterans' health-care needs for the use of the additional funds.

I emphasize that this fits within the Appropriations Committee's budget allocation to the HUD-Independent Agencies Subcommittee.

For these reasons, I urge all of my colleagues to support this amendment.

Mr. MURKOWSKI. Mr. President, I rise, along with my friend from California, the distinguished chairman of the Committee on Veterans' Affairs, in support of the amendment to H.R. 2783 to increase fiscal year 1988 funding for the Veterans' Administration's [VA] medical account by $43 million.

Mr. President, I commend Senator Cranston for his efforts to find additional funds for the VA's medical care account. In light of the budget deficit and the need to do more with less, that is indeed quite an accomplishment.

Let me be clear, this amendment does not transfer or move money from other very important programs. Rather, we were fortunate that there was a cushion of some $36 million within the HUD and independent agencies allocation. This provided us with the unique opportunity to increase the VA's appropriation while not reducing funding in other functions.

This amendment proposes to target funding for extremely important VA health-care initiatives—ones that my colleagues and I have discussed on many occasions throughout this year.

Twenty million would be allocated for the treatment of veteran persons with AIDS. My colleagues are acutely aware of the serious and deadly nature of this disease and we must now take steps to ensure that veterans with AIDS receive quality health care services.

About $21 million would be provided to improve the VA's ability to recruit and retain certain health care personnel. It is becoming increasingly difficult for the VA to attract and retain certain allied health care professionals—especially registered nurses, occupational therapists, and pharmacists. This additional money would allow the VA to fund additional and innovative mechanisms to correct this situation.

Finally, $4 million would be provided to fund startup costs for the establishment of six satellite outpatient clinics in specified areas. Certain geographic regions are in need of space and resources to treat, on an outpatient basis, its veteran patients. The House-passed bill also provided funding for these clinics and I believe it is appropriate that the Senate do so as well.

Mr. President, I commend my friend from Missouri, Senator DANFORTH, for his outstanding work on this amendment. His dedicated efforts brought the need for funding for the six outpatient clinics to my attention.

Mr. CHILES. Mr. President, as the Senate is well aware, each appropriations bill is subject to a spending limit known as a 302(b) allocation. As chairman of the Senate Committee on the Budget, I am pleased to report that the Housing and Urban Development, and related agencies appropriations bill for fiscal year 1988, H.R. 2783, is under its 302(b) budget authority ceiling by $516 million and under its 302(b) outlay ceiling by $36 million. I commend the distinguished chairman of the subcommittee, Senator PROXMIRE and the ranking minority member, Senator GARN for their success in crafting this measure. The amendment offered by Senator CRANSTON will use up the remaining outlays under the 302(b) allocation.

This subcommittee had to produce a bill under extremely rigorous funding constraints. I want to thank Senators GARN, JOHNSTON, and the chairman of the committee, Senator STENNIS, for their help in finding the funds necessary to maintain this Nation's space program. While my State of Florida has a particular interest in space—and we are proud to be the Nation's launching pad into space—the whole Nation benefits from these programs.

If we shortchange our science programs, we shortchange our future.

I have a table from the Budget Committee showing the official scoring of this bill before amendment and ask that it be inserted in the RECORD.

The table follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2783—HUD, INDEPENDENT AGENCIES—SPENDING TOTALS

[Senate-reported bill; in billions of dollars]

	Fiscal year 1988	
	Budget authority	Outlays
BILL SCORING		
H.R. 2783, Senate-reported (new budget authority and outlays)	57.1	33.2
Outlays from prior-year budget authority and permanent appropriations		26.3
Bills enacted this session:		
Homeless Supplemental (P.L. 100–6)		−([1])
1987 Supplemental (P.L. 100–71)	+.1	+.1
Adjustment for mandatory programs	+.2	−.1
Bill total	57.4	59.5
Subcommittee 302(b) allocation	57.9	59.6
Difference	−.5	−([1])
COMPARISONS		
Bill total above (+) or below (−):		
President's request	+5.4	+.1
House-passed bill	−.8	−.4

[1] Less than $50,000,000.

Note.—Details may not add to totals due to rounding. Prepared by Senate Budget Committee.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. REID). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I have great admiration and respect for my good friend from California. He is an expert in this area. He is chairman of the Veterans Committee, as we all know, and does an outstanding job in that connection.

All of us favor more funds for the veterans.

I am going to vote "no" on this measure because I just think we are spending too much money. As I pointed out in my opening statement, we need the relatively very, very small amount provided here for supplemental appropriations as the year goes on. And although we are providing a modest increase for veterans and although the particular expenditures involved here will serve a very compassionate purpose, I think we should do everything we possibly can to hold down spending, and I am just going to vote against any increase whatsoever in spending on this bill.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will vote for the amendment. I would explain to the Senate why we are below the outlay allocation in the 302(b). In the committee there was an amendment by Senator DOMENICI of New Mexico that removed additional money from the space station and put it in the National Science Foundation account, and that would appear to have been a straight switch, but it was not because the spendout rate of outlays is slower in the National Science Foundation.

Therefore, when that amendment was approved it left us $36 million of outlays. I frankly would prefer that that had been left in the space station. It was not by committee action.

It seems to me that this is a good place for it to be utilized in veterans health care.

I can somewhat agree with the chairman in not wanting to spend more money, but I will guarantee you that us giving it up in our allocation would not save the money. If it would and it would be applied to reduce the deficit, fine, but I guarantee you somebody else would gobble it up for some other purpose at some point along the line, and I suspect the chairman is going to say that is impossible, but I have been around here for 13 years and I have seen smoke and mirrors used to divert funds with programs that I could not believe would be accomplished under the Budget Act.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. PROXMIRE. Mr. President, I think the Senator from Utah is, as usual, practical and realistic. The fact is if you want to hold down spending, you hold down spending by voting "no" on an increase. I do not know what is the alternative. The attitude of some is if this does not work, some other amendment will come along and take the money.

I say we should vote no, no, no, on every proposal to increase spending here.

As pointed out, we have a very modest limited amount to meet supplemental emergencies, and I think we need that.

I have great respect and admiration for my good friend, the ranking member, and he is also very interested in economy. He has demonstrated that repeatedly over the years. But Mr. President, we have to get serious about this. We have to support, it seems to me, the Appropriations Committee. When that great committee that also has a big heart and is compassionate and not adverse to spending money comes out with a recommendation, I think we ought to do our best to hold them down and not increase them.

Mr. GARN. Mr. President, I appreciate the very passionate speech on behalf of no expansion in the budget from my distinguished colleague from Wisconsin.

I would suggest that people could look at my voting record over the last

13 years and no one would dare call me a big spender on the basis of looking at that actual voting record.

But in this instance we disagree honestly, and I do support the amendment of the Senator from California to increase the veterans account, but once again I will not support an additional increase that is going to be submitted by the Senator from Arizona.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from California.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—2

Proxmire
Rudman

NOT VOTING—5

Gore
Graham
Hatch
Kassebaum
Simon

So the amendment (No. 950) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 976

(Purpose: To Direct That Payments by the Federal Government To State Revolving Loans Funds Under the Clean Water Act be made in Cash as Specified Under section 601(b) of the Clean Water Act)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself, Mr. BURDICK, Mr. BREAUX, Ms. MIKULSKI, Mr. GRAHAM, Mr. LAUTENBERG, Mr. STAFFORD, Mr. CHAFEE, and Mr. DURENBERGER, proposes an amendment numbered 976.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 12 following "expended" insert the following: ": *Provided*, That funds allotted to States under section 601(a) of the Federal Water Pollution Control Act, as amended, shall be provided to States in accord with the provisions of section 601(b) of that Act, which subsection provides that the Administrator and a State negotiate a schedule of payments to the State: *Provided further*, That in no case shall any funds allotted to States under section 601(a) of the Federal Water Pollution Control Act, as amended, be provided to States in any form other than cash after September 30, 1988"

Mr. MOYNIHAN. Mr. President, this is a straightforward matter of considerable importance to State governments. At stake is $2 billion over the next 7 years and greater sums in the future. This amendment does not, however, affect the immediate fiscal year ahead for which we are scoring under the budget rules.

Mr. President, the first bill which passed this 100th Congress was the override of the President's veto of the Clean Water Act. That bill originated in our Committee on Environment and Public Works. While much attention was paid to the fact that the clean water program was continued, perhaps too little was paid to the fact that our bill ends the construction grants program.

The grant program continues for 4 years and it is followed by the establishment of revolving funds into which the Federal Government will deposit 80 percent of the moneys and the States will match that with 20 percent. States will make loans from the revolving fund to localities to build and improve sewage treatment plants. The loans will be repaid, and in that manner the program will go forward although the grant program has ended.

Our distinguished chairman, the Senator from North Dakota, reached that agreement in order to see that this important activity would go on in the States. His associate, our chairman emeritus, as we say, the Senator from Vermont, agreed with this approach as did, indeed, the rest of the Senate.

Since then, Mr. President, the Office of Management and Budget has resisted this effort, which is no more than an effort by State and municipal governments to comply with Federal law. The Office of Management and Budget has announced that it will not have the Treasury actually deposit money into the revolving fund as we anticipated. (If Mr. BURDICK were here on the floor, he would speak to that and no one would ever question his word in such matters.) Instead the Office of Management and Budget ignoring the intent of Congress indicated that the Federal Government would give letters of credit to the States.

Over the next 7 years, this would cost a minimum of $2 billion in lost earnings to the States. In the longer term this policy will cost the States even more money—hundreds of millions—in real purchasing power for building sewage treatment plants—over the next 10 to 20 years as the States attempt to convert from a grant program to State revolving funds that are self-sustaining.

The intent of Congress is reiterated in this amendment—that the Federal share of the revolving fund be paid in cash. Section 601(b) of the Clean Water Act establishes State revolving loan funds into which are deposited payments from the Administrator of EPA, along with a 20-percent match by the States. This was the plan for the last phase of the $18 billion construction grants program.

Moreover, this announced OMB policy if carried out would encourage a proliferation of short term tax exempt paper in the marketplace, increasing issuance and accounting costs for State and local governments, and would jeopardize bond ratings.

Because most States will leverage their funds over time, the amount of lost earnings will be multipled by a factor of 5 or 6 over, for example, the next 20 years. By illustration, L.F. Rothschild, which acts as bond counsel to the State of New York for the Clean Water Program, has estimated that over the next 20 years, New York State would lose $1.3 billion in money to build and upgrade sewage treatment plants.

Mr. President, I ask unanimous consent that a chart showing how much each State would lose initially in interest, be printed in the RECORD at the end of my statement.

Mr. President, Congress has already taken major steps to reduce this program's impact on the deficit. In 1981, Congress reduced funding for the program from $5 billion a year to $2.4 billion a year. In fiscal 1985 Congress reduced the Federal share from 75 to 55 percent. Eligibility restrictions were tightened. Auditing procedures were strengthened.

Finally, with the Water Quality Act of 1987, a plan was initiated to phase out the Federal Construction Grants Program by 1994. After that the State funds were to be in place on a self-sustaining basis.

Mr. President, it is irresponsible for Congress to turn this program over to the States without providing for an orderly transition and adequate capital. Our cities, towns and villages are already struggling to meet the July 1, 1988 water quality deadlines. I'm sure that Members have heard from many of their constituents that EPA is moving ahead with fines and consent decrees.

We need to provide States with the start they need to achieve this compliance and to sustain these programs over the long term.

The amendment that I offer today on behalf of myself, Chairman BURDICK, and Senators BREAUX, MIKULSKI, GRAHAM, LAUTENBERG, STAFFORD, CHAFEE, and DURENBERGER of the Environment and Public Works Committee will only correct this problem beginning in fiscal year 1989. Because of improper scoring of this bill, we could not offer amendment to cover fiscal year 1988, although we hope that the conference Committee on Appropriations may remedy all or part of the shortfall for 1988. Since the amounts lost by the States increase dramatically in the outyears, as more and more States convert to the revolving fund, these are the most critical years to address.

In summary our amendment merely restates the original intent of the Clean Water Statute.

It is no more than that, Mr. President.

I believe the merits are such that the distinguished managers are prepared to accept the amendment.

REVOLVING LOAN FUNDS

Mr. BURDICK. Mr. President, I rise in strong support of this amendment, to set the records straight on an aspect of the clean water bill passed earlier this year. There seems to be some confusion in the administration regarding the State Revolving Fund Program. This program provides States with funds to assist communities in construction of sewage treatment works. The program was enacted as part of the Clean Water Act amendments with overwhelming support from Congress and over the objections of the President.

The Administrator announced last month that, in lieu of cash payments for State capitalization grants, letters of credit will be issued to States. This is a clear misinterpretation of the statute. The effect of this policy is to withhold funds from the States that otherwise would be building interest and adding strength to their programs. I remind my colleagues of the importance of the State Revolving Fund Program. With enactment of the Water Quality Act amendments, Congress began the process of turning total responsibility for the sewage treatment program over to the States. By 1995, States will have to rely on their own funding mechanisms to pay for sewage treatment rather than continued grants from the Federal Government. The Revolving Loan Fund Program was set up to give States the resource they need to carry out that responsibility.

The administration's policy seriously undermines the intent and letter of the law. By one estimate the letter of credit policy could cost lost earnings equal to 20 percent of each State's Federal capitalization. I attempted to redress this problem in report language I offered to the bill during committee consideration. This amendment goes one step further in making it absolutely clear that any payments made after September 30, 1988, shall be in cash. I understand that the manager of the bill is aware of the problem and willing to accept the amendment.

Mr. PROXMIRE. Mr. President, although I do not intend to ask the Senate for a rollcall vote on the amendment, the Senate should know that over the next 10 years this will cost the Federal Government an extra $3 billion. It is nothing this year, but over the next 10 years, $3 billion. This is because a quarterly cash payment schedule would require the Federal Government to disburse the funds much earlier than they would under the Federal credit arrangement presently being followed.

There is an enormous amount of money involved here and the interest lost to the Federal Government under our best calculations would be $3 billion. Nevertheless, I know there is a great sentiment for it.

We just had an amendment which I opposed which went to a rollcall vote. There were exactly two votes against it. I am willing to accept the amendment, Mr. President.

Mr. SASSER. Mr. President, I am pleased to support the amendment offered by my good friend from New York. Like him, I am concerned about the method of payments to State revolving fund programs for pollution control construction grants. While report language in this bill calls for these payments to be made in cash, efforts are being made to change these payments to letters of credit.

My colleagues will recall that the Water Quality Act of 1987 created the State water pollution control revolving funds. These funds are designed to provide grants for the construction of municipal wastewater treatment facilities and water quality management programs. These grants help to eliminate the discharge of untreated or inadequately treated waste into our waterways. I believe all my colleagues will agree that this program addresses a pressing need.

Mr. President, these grants are made at the State level with funds provided to the State from the Environmental Protection Agency. Payments to the States were intended to be made in cash, allowing States to accrue interest on their revolving funds. This interest could be used to provide additional support for construction grants. However, the Office of Management and Budget has recommended that the EPA provide letters of credit in lieu of cash payments. Mr. President, I adamantly oppose this policy.

The Water Quality Act of 1987 did not intend for the EPA to extend credit to the States for construction grants. I sight section 601(b) of the act which establishes:

> The Administrator of the EPA and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State.

I do not believe, and again I think my colleagues will agree, that this language intends for letters of credit as a payment method. To my home State of Tennessee, this schedule of payments means cash payments.

Tennessee has been one of the first States to apply for these revolving funds. I understand that Connecticut, Texas, and Virginia have also made initial applications for these funds. It seems to me that these States, by being ahead of the curve on implementation of the new guidelines, are being unfairly penalized. They have recognized their pollution sources and have found a means of addressing them. However, they are now being told they may only receive letters of credit. Mr. President, this is not the direction in which we should be moving to address our water quality problems.

In Tennessee, these problems have become increasingly worse over the past several years. Water pollution is affecting the fishing industry, recreation on our lakes and streams, and most importantly our drinking water supplies. The revolving fund makes it possible for Tennessee, as well as all other States, to immediately address these water problems through municipal grants for pollution control.

Mr. President, for the country to adequately address the water quality problems which we face, it is imperative that payments to these revolving funds be made in cash. This is the current recommendation in the bill language, and I feel that we must show our dedication to improved water quality by maintaining this commitment.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. Mr. President, may I thank the distinguished chairman for his patience with us. We have projected that in the next 10 years New York would lose $1.3 billion in money to build and upgrade treatment plants under this provision. The result will be fewer sewage treatment plants built. The Clean Water Act wants us to clean up our water. This, as you might say, cleans up the act. I am sorry about that pun sir.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INFORMATION SUPPLIED BY L.F. ROTHSCHILD, NEW YORK, ON IMPACT OF LETTERS OF CREDIT POLICY

METHODOLOGY FOR CALCULATING LOC COST

The total Federal appropriation is reduced by 5 percent for administration and set-asides, them multiplied by the state percentage and start year (all 1988 set-aside requests are assumed to be 1988 start years, even if not approved until 1989 or 1990).

The LOC is assumed to pay out according to the following percentages by obligation:

Year:	
1	1
2	18
3	36
4	20
5	12
6	8
7	5

And obligations are assumed to be 64 percent/36 percent over two years for each authorization. This pattern is consistent with the history of outlays in the Grants Program, and these assumptions (except for Y5, 6, 7 spendout) came from a CBO analyst who covers this program. CBO got these numbers from EPA. Years 5–7 were assumed by L.F. Rothschild to complete project spending over a 7 year period.

The lost earnings are calculated at a 7.5 percent annual rate times the cumulative delay in receipts. In general, the LOC creates lost earnings equal to 20 percent of each state's federal capitalization. This is not a loss of total federal capital, but a loss in the value of that capital.

The analysis was set up to calculate lost earnings on the total federal capitalization. We recognize that the federal capitalization will arrive at a different rate than displayed. However, this would also be true for the LOC receipts as well, so the net will not change.

IMPACT OF EPA/OMB DECISION ON LOC

State	Start year	National (percent)	Expect Federal	Lost earnings
Alabama[2]	1989	.011309	$90,246	$17,192
Alaska [2]	1989	.006053	48,303	9,202
American Samoa [2]	1989	.000908	7,246	1,380
Arizona [2]	1989	.006831	54,511	10,384
Arkansas	1988	.006616	79,194	15,086
California	1988	.072333	865,826	164,940
Colorado	1988	.008090	96,837	184,448
Connecticut	1987	.012390	151,839	28,925
Delaware	1988	.004965	59,431	11,322
District of Columbia [2]	1989	.004965	39,621	7,548
Florida	1989	.034139	330,807	63,019
Georgia	1988	.017100	204,687	38,993
Guam [2]	1989	.000657	5,243	999
Hawaii	1988	.007833	93,761	17,861
Idaho [2]	1989	.004965	39,621	7,548
Illinois [2]	1989	.045741	365,013	69,535
Indiana	1988	.024374	291,757	55,580
Iowa [2]	1989	.013688	109,230	20,808
Kansas [2]	1989	.009129	72,849	13,878
Kentucky	1988	.012872	154,078	29,352
Louisiana	1988	.011118	133,082	25,352
Maine	1989	.007829	75,863	14,452
Maryland	1988	.024461	292,798	55,778
Massachusetts [2]	1989	.034338	274,017	52,200
Michigan [2]	1989	.043487	347,026	66,109
Minnesota	1989	.018589	180,127	34,314
Mississippi [2]	1989	.009112	72,714	13,852
Missouri [2]	1989	.028037	223,735	42,622
Montana	1989	.004965	48,111	9,165
Nebraska [2]	1989	.005173	41,281	7,864
New Hampshire [2]	1989	.010107	80,654	15,365
New Jersey	1988	.041329	494,708	94,242
New Mexico	1988	.004965	59,431	11,322
New York	1988	.111632	1,336,235	254,553
Nevada	1989	.004965	48,111	9,165
North Carolina	1988	.018253	218,488	41,622
North Dakota	1989	.004965	48,111	9,165
Northern Marianas [2]	1989	.000422	3,368	642
Ohio [2]	1989	.056936	454,349	86,554
Oklahoma	1988	.008171	97,807	18,632
Oregon	1990	.011425	110,708	21,090
Pennsylvania	1988	.040062	479,542	91,353
Rhode Island	1989	.006791	56,805	12,536
South Carolina [2]	1989	.010361	82,681	15,751
South Dakota	1989	.004965	48,111	9,165
Tennessee	1988	.014692	175,863	33,502
Texas [1]	1988	.046226	553,325	105,408
Utah	1988	.005329	63,788	12,152
Vermont	1988	.004965	59,431	11,322
Virginia [1]	1988	.020698	247,755	47,197
Washington [2]	1989	.017588	140,352	26,737
West Virginia	1989	.015766	152,773	29,103
Wisconsin [2]	1989	.027342	218,189	41,565
Wyoming [2]	1989	.004965	39,621	7,548
Total			10,128,060	2,095,399

[1] VA and Texas announced intention to use SFY 1987 funds to capitalize their SRF. This would increase the lost earnings.

[2] Because we do not know the intentions of these States regarding the conversion to a loan program, we assumed maximum grants and conversion to a loan program in 1989.

[3] Because most States plan to leverage their revolving funds, over a 20 year period, one would multiply the lost earnings by a factor of 5 or 6 to obtain the true loss in money available for construction.

Mr. GARN. Mr. President, we are willing to accept this amendment on a voice vote.

The PRESIDING OFFICER. Is there further discussion?

Mr. MITCHELL. Mr. President, I rise in support of this important amendment concerning the State revolving loan funds established under the Clean Water Act amendments enacted by Congress earlier this year.

As many of my colleagues remember, we debated at length a wide range of issues addressed by the Clean Water Act amendments. One of the most controversial of these issues concerned the level of funding for the municipal sewage treatment plant construction grant program and new State revolving loan funds.

The administration proposed sharply reducing the level of funding for the grant program. And, the administration wanted to cut back funding for the new State revolving loan funds established by the amendments.

These State loan funds, which are to be capitalized by Federal grants, will be a long-term financial resource for States to use in assisting municipalities in financing of sewage treatment and other needed water quality projects. States will draw on these funds to make low-interest loans to communities, thereby sharply reducing project costs.

In addition, these loan funds will allow States to take over the job of assisting in the construction of treatment works and will allow the Federal Government to gradually phase out the current grant program.

The administration attacked the funding for the State loan funds during the debate on the clean water bill last year and we rejected their arguments overwhelmingly. We even overrode the President's veto.

Now the administration is trying to cut back the program through a reinterpretation of the statute. In effect, they are still doing everything they can to reduce funding for municipal sewage treatment projects.

The administration recently announced a policy which states that grants from the Federal Government to State loan funds will be in the form of a letter of credit, rather than in cash. The administration expects that this will stretch out the time the Federal Government can hold the funds.

As a member of the conference committee on the Clean Water Act, and as floor manager of the bill, I want to say that the administration interpretation of the statute is wrong.

The conferees considered the issue of the rate of payment of funds to the State accounts. In an effort to reach accommodation with the administration, we rejected the proposal that all of an annual grant to a State should be paid to a State in the year funds are appropriated. Instead, we provided for the EPA and the State to negotiate a payment schedule over a 3-year period.

All of these discussions were based on the assumption that a payment to a State, under the agreed upon schedule, would be in the form of cash. We even provided in the statute that any interest earned by funds in the loan fund would be added to the balance of the fund. This policy reflects the general concern that States have an incentive to manage the funds effectively over the long term.

In addition, we provided that States make contributions to the new loan funds. We required that States provide a 20-percent match of Federal funds at the time the Federal payment was received. Some States had asked about "in-kind" or "soft" match other than cash. Because we expected the Federal contribution to be in cash, we specifically required the State match to be in cash. The proposed administration policy would put States in the position of providing cash, while the Federal Government provides only the "soft" letter of credit.

Finally, I want to remind my colleagues that this administration proposal is not an insignificant adjustment to the loan fund program. The firm of L.F. Rothschild analyzed the impact of the proposal and has estimated that the letter of credit concept will reduce the value of funds as much as 20 percent and may cause greater losses in States which plan to leverage funds.

The amendment before us today would require that payments to State loan funds must be in cash, as intended in the legislation we enacted earlier this year.

Unfortunately, due to an error in the scoring of the bill, we are not able to correct this situation for the 1988 fiscal year. The amendment, however, specifically prohibits any form of payment other than cash after September 30, 1988.

In conclusion, I hope my colleagues will support this amendment for several reasons.

The amendment will reject an administration proposal which would reduce the value of State loan funds and would directly reduce our ability to improve water quality.

The amendment will reject an administration proposal which would undermine the policy that States are to assume full responsibility for sewage treatment as the Federal Government phases out of the program.

And, the amendment will reject an administration proposal which would rewrite a statute in an effort to establish a policy which was considered and rejected by the Congress.

Mr. President, I believe the case for the amendment is overwhelming and I urge my colleagues to give it their full support.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 976) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may I express the thanks of future generations for the Senator from Wisconsin and his efforts and achievements.

AMENDMENT NO. 977

(Purpose: To reduce the appropriation for NASA administrative costs by $1,000)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 977.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 21, strike out "$1,558,000,000" and insert in lieu thereof "$1,557,999,000".

Mr. GARN. Mr. President, this is a technical amendment that reduces the appropriations for the NASA administrative cost by $1,000. I realize we have a very difficult time in dealing with those sorts of numbers on this floor. We are used to talking about billions or hundreds of millions. This amendment would strike out $1,558,000,000 and insert in lieu thereof $1,557,999,000.

Mr. PROXMIRE. Mr. President, as I understand it, this is an actual reduction of $1,000.

Mr. GARN. It is $1,000.

Mr. PROXMIRE. Mr. President, this is the kind of reduction I can understand. I am happy to support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 977) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 978

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 978.

On page 20, line 19, strike "$286,000" and insert "$303,000"

Mr. PROXMIRE. Mr. President, the purpose of my amendment is very simple. It would allow the three Commissioners of the Consumer Product Safety Commission to continue to receive the benefits of the pay raise that all Federal employees were given at the beginning of calendar year 1987. The amendment is necessary because the bill as passed by the House limits the Commissioners' pay and benefits to $286,000 which is less than they are entitled to receive and less than they were receiving on the last day of fiscal year 1987. The amendment would increase the limitation to $303,000.

This amendment is basically technical in nature and I urge that it be accepted.

Mr. GARN. Mr. President, I have no objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 978) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 979

(Purpose: Continue current law by reinstating EPA's authority to collect up to $5 million per year in fees for quality assurance services and materials)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 979.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 13: change the word "provision" to "provisions" and insert the following paragraph:

Not to exceed $5,000,000 of the funds collected by the Environmental Protection Agency pursuant to 31 U.S.C. 9701 for quality assurance mandatory services and for quality assurance materials shall hereafter be credited to the appropriation which incurred the costs therefor and shall be available for the purposes of that appropriation.

Mr. PROXMIRE. Mr. President, my amendment simply continues current law by reinstating the Environmental Protection Agency's administrative provision carried in the 1987 HUD-Independent Agencies Appropriations Act. This provision permits the Agency to collect up to $5 million per year in fees for quality assurance services and materials. This will have no effect on budget authority or outlays and I recommend its acceptance.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 979) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

AMENDMENT NO. 980

Mr. SARBANES. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 980:

On page 17, line 24 delete "$17,000,000" and insert in lieu thereof $17,200,000".

On page 18, line 14, delete "$689,039,000" and insert in lieu thereof "$688,839,000"

Mr. SARBANES. Madam President, I will be very brief about this amendment, which increases the amount of money in the policy development and research account by $200,000 and reduces the amount of money in the S&E account by $200,000 in order to offset it. This bill, H.R. 2783, appropriates $689,390,000 for the S&E account. The effect of the pending amendment will therefore be to reduce an account of nearly $689.5 million by $200,000. The purpose of the amendment is to assure funding for two important statistical surveys in connection with the 1990 decennial census, the survey of residential finance and the components of inventory change in housing [CHICH].

The two surveys merit brief description. The first of the two, the survey of residential finance, has been an integral part of the decennial census activities since 1950. It is the only source of information that ties the source of mortgage money for both owner and renter properties to the characteristics of the properties and the occupants, obtaining data from both the resident and the mortgage holder; and since it is conducted as part of the decennial census, response rate among banks and other lenders as well as among residents are very high. The survey regularly provides information about the changing terms of mortgages—for example, the relative importance of fixed and adjustable rates, the existence of second and junior mortgages and of prepayment penalties. In 1990, it would provide, for the first time, comprehensive information about the trends over the last decade in adjustable rate and balloon mortgages and home equity loans, their impact on borrowers and their broader implications for the economy.

The second of the two surveys, components of inventory change in housing, provides the most comprehensive information available on the flows into and out of the housing stock and serves as a unified source of information about new construction, demolition and conversion of housing. It thereby provides the statistical basis necessary to assess the adequacy of housing for low- and moderate-income families, and to begin to address the problem of homelessness. In 1990, it will provide the basis of assessing the impact of the 1986 tax revision legislation which significantly altered the incentive for renovation of existing structures.

Both surveys provide a data base which is important not only to the public sector but, perhaps more significantly, to the private sector. The survey of residential finance provides the rental equivalence and interest payment data used by the Bureau of Economic Analysis in developing the national income and product accounts; and the CINCH survey provides the yardstick by which communities can measure housing needs. In the private sector these surveys are considered vitally important by groups which approach housing questions from very different perspectives, from mortgage bankers to homebuilders to labor unions to research and community housing organizations.

Madam President, these surveys also illustrate a broader point with respect to Federal statistical programs that cannot be exaggerated. The fundamental importance of the statistical infrastructure is often overlooked. Access to accurate, comprehensive, and timely data is indispensable to sound decisionmaking. Full and reliable statistical information does not, in itself, constitute sound decisions; nor unfortunately does it inevitably lead to sound decisions. Yet good statistics are part of the framework of decisionmaking in both the private and public sectors that makes sound decisions, and sound policies, more likely.

There has been widespread and growing concern in recent years over the quality of Federal statistics programs, a concern reflected in earlier hearings in the Joint Economic Committee on the statistical infrastructure and, this August, on the unexpected and widely criticized proposal of the Office of Management and Budget to make sweeping reductions in the 1990 Decennial Census. It should be kept in mind that notwithstanding their importance, spending on all U.S. statistics programs amounts to less than two-tenths of 1 percent of the Federal budget. What constitutes very minor savings, in budget terms, can have a crippling effect on existing statistical programs and preclude development of the new programs necessary to keep pace with our rapidly changing economy. In the case of the survey of residential finance and the components of inventory change in housing, the expenditure required is $200,000. The value of the information produced by these surveys far outweighs the very modest cost of funding them.

The $200,000 is hereby provided for the planning and testing of these surveys, which are to be conducted as part of the 1990 Census of Population and Housing. Initially included in the Census Bureau's plan for the 1990 census, they were ordered deleted by the Office of Management and Budget; accordingly, they are being made available in the policy development and research account of the HUD appropriation. Preparation of the two surveys will require close cooperation between the Department of Housing and Urban Development and the Bureau of the Census. The Department of Housing and Urban Development is expected to transfer these funds to the Census Bureau, to assure that the requisite preparatory work for the surveys will begin in 1988. The actual work is to be undertaken by the Census Bureau.

Madam President, these surveys are worth the money involved. Under my amendment their funding will be offset by a $200,000 shift that will have little effect on the $689,390 million S&E account, and I hope the amendment will be accepted.

Mr. PROXMIRE. Madam President, this is an excellent amendment. I congratulate the chairman of the Joint Economic Committee in proposing the amendment. It will have no effect on the budget. It will provide very urgently needed data and understanding of the adjustable rate mortgage situation, which has been a dramatic change in recent years. To the best of my knowledge, we have not had this kind of a thorough study of it. Also, of course, the inventory changes in housing as a result of tax reform, as we all know, are quite profound. So again, I congratulate my good friend. The cost of this is very modest, and it also represents no increase whatsoever in overall spending.

Mr. GARN. Madam President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 980) was agreed to.

Mr. SARBANES. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 981

(Purpose: To provide funding for HUD transitional housing for the homeless for FY 1988)

Mr. DOMENICI. Madam President, I send an amendment to the desk, on behalf of myself and Senator D'AMATO, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senate from New Mexico [Mr. DOMENICI], for himself and Mr. D'AMATO, proposes an amendment numbered 981.

Mr. DOMENICI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. . TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.—For an additional amount for the transitional and supportive housing demonstration program carried out by the Department of Housing and Urban Development pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591 and other applicable authority, $65,000,000 to remain available until expended, *Provided:* That amounts otherwise made available for necessary administrative expenses of the Department of Housing and Urban Development are hereby reduced by $1,510,000 for the fiscal year ending September 30, 1988.

Mr. DOMENICI. Madam President, the bill before us does a rather good job with reference to housing in our country. I will cite a few examples.

It would add about 78,000 units to HUD's inventory of assisted housing. It would maintain community development block grants at the fiscal year 1987 level of $3 billion. It would increase funding to modernize public housing by about 65 percent over this year's level, and provide about three times more than the amount of assistance available in fiscal year 1986.

However, one thing is missing, and it kind of stands out, in my opinion, like a sore thumb. I think it was 6 months ago—surely not more than 6 months ago—winter was winding down, the spectacle of homelessness in America was being seen in the homes of average Americans, who were very worried about the situation. As complex as it is, it certainly seems to this Senator that an awful lot of Americans, regardless of their political beliefs—liberals or conservatives—looked out there and said that homelessness is something we do not think America ought to let go, either unnoticed or unattended.

I, for one, do not have a total answer to homelessness, to those people we have seen on the streets of America during the last couple of years with increasing frequency. What we did, with a great deal of fanfare, in a supplemental appropriation bill, was to tell the American people that we were going to do something about it. Nobody had any illusions. Homelessness is a complex and difficult problem. But we began to focus on it.

We talked about the fact that maybe 35 percent, maybe 40 percent, and in some cities over 50 percent, of those we were viewing daily—because of the coverage by the American media and because some of us went out in our own cities and looked—are seriously mentally ill Americans who truly need some kind of comprehensive assistance. We noted that some States had come up with some exciting pilot programs.

We were very clear: We said that we need to do something in the area of housing assistance on a transitional basis that would go along with the kind of professional help particularly for the seriously mentally ill, where we would also provide medical assistance and more permanent housing.

If you look through the litany of things we are going to do in the area of housing in this bill, I started my remarks—and I assure the managers and all Senators that I will be brief—with the comment that we were moving ahead in some areas but that something was missing. What is missing is that there is no new appropriation for transitional housing assistance for the homeless.

I assume that one of the justifications for having no new funding in this bill is that we passed the supplemental with a given amount in it to get things started; and if you ask the Department of Housing and Urban Development of the United States right now, they will tell you that they have not obligated all the money. But I can tell you that to date, the applications for transitional housing under the homeless bill are getting funded very rapidly—and I use "very rapidly" in a guarded manner. For the HUD transitional housing program, perhaps only 11 projects totaling $5 million have already been selected, but at least 90 applications are pending. I think we are going to run out of money before the year ends.

I do not think we should let the one piece of legislation before the U.S. Senate that reaffirms our commitment in this area get by without our providing for that end-of-the-year certainty—that HUD will run out of money, and that we will have made a very temporal commitment to the very difficult problem of homelessness.

Frankly, I think HUD could use a little more money than I am suggesting in my amendment, but all I am doing is adding $65 million to the Department of Housing and Urban Development to take care of the transitional housing needs as prescribed by the appropriate authorizing laws of this country.

If we do not get the funding obligated by the end of the year, obviously it will not be spent, but I would rather provide a few million dollars in outlays—and that is all it is, because it takes a very long time to spend out—and be on the safe side of things as far as this program is concerned. I do not want to go through this bill and prioritize this $65 million in budget authority for homeless transitional living versus a lot of other housing programs. It only cost about $1.3 million in outlays to fund my amendment.

So what I have done is amend the bill so that we are taking $1.5 million in budget authority from the HUD management and administration appropriation to pay for my amendment.

Their account for expenses for ordinary operations will be reduced by the amount necessary to offset the outlays, so that I have a neutral amendment with reference to the budget. We still have to go to conference. I prefer to go to conference with some transitional housing funding in this bill rather than none.

I prefer to go there with $65 million added to the amount that is being spent for transitional housing for the homeless as a result of the supplemental appropriation bill, and that is basically what my amendment does.

I understand that my good friend, the subcommittee chairman, is concerned about outyear expenditures. I understand that the $65 million in budget authority that I am proposing results in only a little bit of outlays this year, but that it will eventually spend out.

But, Madam President and Members of the Senate, if we approached every portion of every bill and refused to pass appropriations because they had an outyear effect that was larger than the outlay effect in the year in question, we certainly would be taking many, many programs out of these appropriations bills. So I understand that, and I am willing to have anybody who likes to say that in future years, I am going to make it more difficult to balance the budget or more difficult to meet the budget targets. I will say that to some minior, minor extent, the Senator from New Mexico is guilty of that, and that for this program it happens to be all right with me. As I move through the year, I am certain that I will find places where I would save money that others would not, and I just leave this one up to the Senate. Do they want to take a chance that we are going to run out of transitional housing money for the homeless right when they need it the most this winter and just look back and say, well, we did that last year, we got it started? Do we want to hide for the last few months of the year, and not have money available to continue the program at some reasonable level?

I think not. I think the Senate ought to adopt this amendment and take it to conference with the House. We will have to ultimately rearrange some of these programs to comply with either Gramm-Rudman-Hollings, or a sequester, or some approach taken as a result of negotiations with the President of the United States.

But I very much think that we ought to recommit ourselves to the program we supported so openly and so publicly and with such tremendous public support for the homeless. It is pretty obvious that without some kind of transitional housing the program for the homeless does not make too much sense. You have to have it in there, and mine is a very small add-on for the year. I hope the Senate will adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Madam President, we all understand and we empathize with the needs of the homeless and the amendment to add $65 million for the Transitional Housing Demonstration Program does have a great deal of appeal.

On the other hand, it will increase spending over the long run by $63 million. Furthermore, we appropriated $80 million for the Transitional Housing Demonstration Program 3 short months ago.

Let me read from the report on this. The conference report accompanying the act specifically earmarked of the $80 million that we provided, $15 million of the total for handicapped housing, $20 million for transitional housing for families, and $30 million for transitional housing for deinstitutionalized individuals.

In view of the fact—I am still reading from the report—that the act was not signed into law until July 11, 1987, the funds in question will not be made available until the early part of fiscal 1988.

Now, Madam President, I think it would make sense to wait until we see the funds are spent before we appropriate still more.

As I say, this is a hard program to resist. Who wants to vote against the homeless? And we should be concerned about the homeless, but again, as a prudent matter, in view of the fact they have not started spending the money they have, and they have more than the amount that the distinguished Senator from New Mexico would appropriate, it seems to me we should go easy on this.

Madam President, I think I understand the sentiment of the Senate, so I will not ask for a rollcall. Though I personally will vote against the amendment, I am sure the amendment will pass. I am willing to let it go on a voice vote, as far as I am concerned.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. GARN. Madam President, I would simply say that I support the amendment of the Senator from New Mexico and see no reason for further debate. I think we can go to the voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 981) was agreed to.

Mr. PROXMIRE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Madam President, I thank the managers of the bill for accepting the amendment.

I think the distinguished manager is right. The Senate would have adopted this if we would have had a rollcall vote.

I just want to conclude by saying that if we do not need the money, it will not be spent; but if we need it, it sure would be a shame if we did not have it there, and I thank the Senate for adopting the amendment.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 982

(Purpose: To increase the amount available for the payment of field staff employees of the Department of Medicine and Surgery of the Veterans' Administration at increased rates of pay by reducing the amount available to the National Aeronautics and Space Administration for the manned space station research and development program)

Mr. DECONCINI. Madam President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 982.

Mr. DECONCINI. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 22, after the semicolon, strike through the word "classifications" on line 26, and insert in lieu thereof the following "$10,193,000,000, plus reimbursements: *Provided,* That of the sum appropriated, $6,574,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That of this amount, $75,000,000 shall be available for pay increases for medical care field personnel: *Provided further,* That, notwithstanding any other provision of this Act, the budget authority provided for National Aeronautics and Space Administration, Research and Development shall be $3,359,700,000."

Mr. DECONCINI. Madam President, before I commence on explaining the amendment, I want to point out the first figure on the amendment the third line is $10.193 billion, and it goes on and adds some other funds. This figure includes now the amount of money which we just voted on here which the Senator from California, Senator CRANSTON, added into the appropriation. So we are back on track here with that amendment reincorporated herein.

Madam President, in principle, I am not the person who takes great pleasure in reducing expenditures for research and development. I understand the deep commitment of the distinguished Senator from Utah to the space station and nobody has stood on this floor and fought for exploration and research as valiantly and successfully as the Senator from Utah.

So I want to start off this is not an attempt to bash or hurt in any way the space station or the valiant effort of my friend from Utah.

In principle I am opposed to an inadequate expenditure for medical care of our 27.7 million veterans. However, I have come to a moment as we all have to in this body to where these two principles must be weighed against each other. Are we going to move ahead in the research and development of outer space at the rate that that bill calls for at the sacrifice of the American veteran? The effect of such a conflict is the need to compromise in order to fulfill the budget responsibilities that each of us have here and collectively we will eventually pass this bill, I am confident.

Madam President, this is not an easy task for me to come here today. As I indicated, I have the greatest respect for my friend from Utah. His hard work over the years and his personal experience and involvement is one that leaves me, quite frankly, in great admiration of the Senator from Utah, Senator GARN.

I have heard from space industries in my home State, who are not going to be pleased with this amendment, because it does cause the reduction. I realize there are questions of concern about: "Well, are you really helping your State?" Well, of course, we have to appreciate those concerns and we do not ignore them.

I will point out in a few minutes how I have appreciated that by reducing the amount of this amendment.

Nevertheless, after careful consideration and deliberation, I am compelled to stand before you and offer the amendment to shift funding from the NASA space station in order to meet the immediate needs of over 3 million veterans who receive medical care from the Veterans' Administration medical care system each year.

Madam President, the amendment I am now proposing is much less than the amendment I had originally planned. I first intended to shift nearly two times as much as the $118 million incorporated in this amendment to provide the VA with the $75 million necessary to protect the personnel levels this Senate had authorized some time ago. The intent of this amendment is simply and solely to provide sufficent funding to the VA to cover for the 3-percent pay raise from January 1, 1988, to May 31, 1988. My original proposal would have funded a much needed recruitment and retention program for registered nurses and other critical medical care personnel and covered the pay raise for the entire fiscal year.

Realizing the problems and the need to move ahead on the space station, it seems to me we could find some accommodation here. We know there will be a supplemental bill offered and we can take care of some of these needs as the time goes by next year. But, to start off the year without any opportunity to see these medical people covered seems to me to be a travesty.

My intent here is to protect the authorized medical care FTEE level of 194,140 that I and others members of the Senate Veterans' Affairs Committee have struggled to maintain over the last two Congresses. Without this additional money, medical care staffing levels would have to be reduced substantially in order to absorb the January pay raise.

And we are talking about several thousand, at least a minimum of 3,000, reduction in this force of medical care people for our veterans; maybe even more than that.

Members of the House of Representatives have also fought just as hard as some of us to maintain current staffing levels in order to protect the quality of care for immediate needs of those disabled in war service, and the reasonable needs of those who served honorably when called to do so by their country. The House version of this bill, which is $181 million above the Senate bill, fully funds the recruitment and retention program and the pay raise for the entire year. I commend the Members of the House of Representatives that fought hard to maintain this effort and to keep it intact.

Madam President, it is now time for the Senate to answer really what I think is a basic, fundamental, and relatively easy, when you get down to it, question: What is the message that we want to send to those who answered and those who continue to answer the call of their Nation? Madam President, I do not think that we want to tell these brave men and women who served and continue to serve that the promise of quality medical care for them will not be fulfilled. This Senate has not done that in the past and I truly hope that we will not do it today.

In the interests of national defense, I believe we must send them the clear message that we have not forgotten their efforts to secure the liberty we now enjoy each day of our lives. I submit that the quality of medical care we provide to our veterans is as important to our Nation's defense as any Department of Defense appropriation. The issue is one of today's human needs, and not whether to pursue the promise of future benefits of space exploration and utilization.

I stress in the most emphatic terms that it is crucial to our long-term national defense needs that we continue to commit funds to the space science research and development. So we are not eliminating that program at all, however, I do not believe that this present amendment handicaps our ability to achieve that goal.

Madam President, the NASA space station current price tag has been estimated at somewhere in the neighborhood of $16 to $32 billion, and may cost as much as $60 billion. Congress, to date, has appropriated nearly $800 million for the space station program. So we have not been miserly. We have not turned our backs on this program. Last year the space station received a 100-plus percent increase over the previous year's funding level. That is how generous Congress was, and this Senate participated of course. My amendment would not only maintain the fiscal year 1987 level, but still provides approximately $20 million more than the last year's level. This amendment does not seek to bash or destroy or handicap NASA for its prior problems with the space shuttle or skylab programs. In light of the current criticisms of the space station design and ambiguity in its mission, this amendment's intent is to proceed to increase funding slowly to assure efficient and effective development. It is also the intent of this legislation that other NASA research and development programs are not raided to replace the offset taken from the space station program to fund the veterans health care system.

Madam President, the Veterans' Administration budget has fallen from 5.1 percent of the Federal budget in outlays in 1975 to an estimated 2.6 percent in 1986. At the same time, the medical care needs of the aging veteran population are increasing the workload upon the already short-staffed medical care system. Further, this system is also burdened by the increasing costs of caring for veterans with AIDS and other tragic diseases. It is estimated that in fiscal year 1988 alone that these costs will jump from $49 million to $72 million to care for veterans with AIDS. I caution all of my colleagues on the irreparable damage that further staff reductions would have upon the Department of Medicine and Surgery's ability to provide quality medical care. Past reductions and increased medical care demands of the older veteran, coupled with the probable staff reductions in order to fund the pay raise, will continue to erode the ability of the VA to provide quality medical care services.

Madam President, I do not think I need to belabor this point any further. I want only the answer to that most basic question: Will we, as a result of today's actions, be able to keep faith with the veterans and current members of our Armed Forces, from Valley Forge to Vietnam, from Pearl Harbor to the Persian Gulf?

That is a question each of us will have to face when we decide to vote up or down on this amendment. And I hope the distinguished Senator from Utah would permit that. But, if not, we should vote a motion to table if that occurs. I hope that we will keep that moral obligation and commitment, that obligation to the American people to allocate funds within the constraints of our present budget restrictions.

I strongly urge the distinguished Members of this body, who have stood here time and time again in favor of making our commitments and keeping our commitments to the American veterans, to join me in accomplishing passing this amendment.

I urge my colleagues to protect that trust placed by the Congress in behalf of the American veterans and I urge my colleagues to let us keep the faith.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Madam President, I support the DeConcini amendment. I do for quite different reasons than the Senator from Arizona so eloquently stated.

I voted against the Cranston amendment, although I did it with a heavy heart. I did it because I did not think we should spend more money. I just thought that we should not increase the deficit, even by the very modest amount that that represented.

I favor this amendment, frankly, Madam President, because it permits a more cautious, prudent, careful approach to the space station, and I think that kind of approach is very much in order. It would provide a modest, very modest increase in the space station amount, but it would cut $118 million out of space station and give us, I think, a little more time—$118 million more time to consider whether or not we should go ahead with this.

When this bill was initially considered in subcommittee we had to make some very tough choices because of a lean allocation under the Budget Act. I welcomed that discipline because I think it is essential if we are going to make significant reductions in our shocking Federal budget deficit.

However, in the full Appropriations Committee the chairman of the Senate Budget Committee informed us that an additional $500 million in outlays was being made available to the Appropriations Committee and the decision was made to allocate these funds to the HUD-Independent Agencies Subcommittee.

I think this was a step backward. It took us off the hook and allowed us to avoid the tough choices we faced under the leaner allocation. More specifically, it allowed us to add funds to the subcommittee bill for a very expensive space station—a project that will cost at least $25 billion—some say $30 billion—over the next 10 years.

That is why on page 60 of the report you have before you this morning you will find language providing NASA with $1 million to work with the private sector to develop a man-tended facility for microgravity research. This facility is being developed by the commercial sector at their expense as we speak and space has been reserved on a shuttle flight for the launch of the facility in the early nineties. It could be launched on a single shuttle flight and would allow us to gain valuable experience in using the microgravity environment. The Government would buy space on the facility and make that space available to the Nation's most capable researchers through program solicitations from our great research agencies—NSF, NASA, DARPA, DOE, NIH, and the like. It would cost about $200 million a year to buy this space but it would be a great deal cheaper than building a $30 billion station and it would create a user base that would be involved in making further plans for a permanently manned station.

You hear many arguments in support of the administration's station proposal that use words like "logical next step," "keep up with the Russians," "national pride" and the like. But the fact is that we appear to be making a $30 billion commitment to a space station without having any very good idea of how it will be used to compete with a Soviet facility that is so small that it could be put into space on one shuttle flight.

By doing so we may end up bankrupting the rest of NASA's programs as the station soaks up more and more of our limited shuttle flights and a greater and greater share of NASA's total resources.

I would like to conclude by reading from a letter written by the ranking Republican on the HUD Committee in the House that deals with the space appropriation, William Green.

I had always assumed that Mr. Green was a space station advocate, but this letter raises, I think, some very intelligent qualifications on his support. It is a letter to Dr. Fletcher, the Administrator of NASA. Congressman Green writes as follows:

> Two recent reports on our space program, when read together, raise serious questions about the directions the space program generally and the space station specifically are taking. I refer to the National Research Council report on the space station and the Ride report on future directions for the space program.
>
> The National Research Council report generally approves of the design of the space station and generally supports NASA's cost estimates. However, its report states that the orbit planned for the station will be of little use for looking down to do earth science and is poorly suited for most unmanned solar system exploration missions. I was also struck by the fact that your response to this report contained no mention of this allegation.
>
> The Ride report lists earth science—"Mission to Planet Earth"—and unmanned solar system exploration as two of the four possible major missions for NASA in the years ahead (the other two being to put a colony on the moon and a manned flight to and from Mars). Her report confirms that the space station can play only a limited role in the Mission to Planet Earth and unmanned solar system exploration programs. Since the space station is planned to use the bulk of the resources available to NASA for the indefinite future, I find it extremely troublesome that the space station is so lacking as to two of the major four programs identified in the Ride report.
>
> I have been concerned from the day that the Administration first promoted the space station that it had been proposed and designed without much regard to what purposes it would ultimately serve. This is, as you know, a view shared by other Members of both bodies. I have, to this point acquiesed to these requests, recognizing the importance of this program to your agency. However, these reports serve to reinforce my belief that we ought first to decide as to what we wish to accomplish, and then we ought to design and build the space vehicles we need to accomplish them.
>
> I particularly raise the issue because the Mission to Planet Earth program appears to me to have special immediacy. Dr. Ride indicated in discussions with staff that she considered it to be of the highest priority as well. As you know, our HUD and Independent Agencies Appropriations Subcommittee originates the appropriations for the Environmental Protection Agency, the Council on Environmental Quality and the National Science Foundation. I also serve as House Chair of the Environmental and Energy Study Conference.
>
> As a result, I am painfully aware of the many environmental events that can have the most serious consequences for the quality of life on this planet or even our survival—ozone depletion, global warming, the destruction of the rain forests, the damage to the oceans. These events cause me to believe that Mission to Planet Earth should have the highest priority so that we can develop essential data as to precisely what is happening to our environment. To develop the space station in a way that means that NASA will be able to do little to effect Mission to Planet Earth (as well as an unmanned solar system exploration program) seems to me very wrong.
>
> Finally, given the nation's current financial limitations, rather than repeating the mistake of the Shuttle and placing all of NASA's eggs in one basket, it would make sense to start with a scaled-down station, such as under the Max Faget proposal which would give us some interim microgravity capacity, and free other NASA funds for Mission to Planet Earth.

Madam President, I ask unanimous consent that the letter be printed in full in the Record. I yield the floor.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Congress of the United States,
House of Representatives,
Washington, DC, October 2, 1987.

Dr. James C. Fletcher,
Administrator, NASA, 600 Independence Avenue, SW., Washington, DC.

Dear Dr. Fletcher: Two recent reports on our space program, when read together, raise serious questions about the directions the space program generally and the space station specifically are taking. I refer to the National Research Council report on the space station and the Ride report on future directions for the space program.

The National Research Council report generally approves of the design of the space station and generally supports NASA's cost estimates. However, its report states that the orbit planned for the station will be of little use for looking down to do earth science and is poorly suited for most unmanned solar system exploration missions. I was also struck by the fact that your response to this report contained no mention of this allegation.

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Finally, given the nation's current financial limitations, rather than repeating the mistake of the Shuttle and placing all of NASA's eggs in one basket, it would make sense to start with a scaled-down station, such as under the Max Faget proposal which would give us some interim microgravity capacity, and free other NASA funds for Mission to Planet Earth. I will require responses to these issues by the time we go to conference with the Senate on our bill and so I look forward to hearing from you.

Sincerely,

BILL GREEN,
Member of Congress.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Madam President, I do rise in opposition to this amendment. First, let me just point out a few statistics and a few facts. The first one that I would point out is that already, today on this bill, we have increased the veterans' medical care account by $43 million. But, most of my colleagues may not be aware that that account, before we increased it by $43 million, was $10.08 billion; over $10 billion for VA medical care.

My good friend from Arizona states some facts but I believe they are misleading about the reduction in veterans' budget from over 5 percent to about 2.6 percent. That is not an indication that the veterans' accounts have been reduced. They have not. The veterans' health care account has gone up substantially. Overall, the VA budget has been reduced as a percentage of the total budget, primarily because the rest of the budget has increased so dramatically. Their share of the total budget is less, but that is not fair to have anybody think it is because VA medical care has been cut.

Even within the percentage of this budget, of the total VA budget, we had a situation where, in 1975, we had over 2 million veterans enrolled in school, taking advantage of the GI bill. In 1987 there are less than 450,000.

So, again, we have had a dramatic reduction in the cost of that program because so many fewer veterans are in school from the Vietnam era.

So let us look at the relationship of these statistics and not just the raw statistics which may lead any veteran in this country into thinking they are being shortchanged when $28 billion per year is being spent on veterans. Again, I say that I am a veteran. I spent 24 years in the millitary service. But I get a little bit tired when we constantly have to come to this floor and add and add and add and it becomes a very sacred cow.

I do not think most of the veterans of this country would agree with this amendment today. Their leadership, the heads of the veterans' organizations, like most of the trade associations in this city, have to justify their existence and their salaries. Whether it is the American Bankers Association, the VFW, or whatever the group is, they have to justify their existence. I have talked to veterans at home about this amendment and when they find out where it is going to be taken from, from the space station, and from basic research and development, they are not in favor of it.

I am going to do more of that. I am going to do more of talking to individual veterans to see if they want to question their leadership because I do not think most of the veterans of this country do. They do not want to shortchange the future for their children and grandchildren by misleading statistics.

Where are we talking about taking this $118 million from? Stop and think about it. I want you to remember. We are talking about putting it into an over $10 billion budget and we are taking it from a $559 million budget for the space station.

The space station request was for $767 million. Because of the low allocation, Senator JOHNSTON and I, and others, struggled to get it to $559 million, a reduction of $208 million.

At this point, I want to read in its entirety the letter from James Fletcher, the Administrator of NASA.

The FY 1988 budget request for Space Station is $767 million. This is the minimum funding for FY 1988 consistent with proceeding on a development schedule consistent with the initial launch in early 1994 with the permanent human presence in space by early 1996. This is the baseline plan approved by the President, supported by the Authorization bill recently passed by the Congress, and by the Appropriation action of the House of Representatives.

The bill recommended by the Senate Appropriations Committee would reduce the availability of the Space Station program by $208 million. This reduction will result in a program delay of several months. The specific impact depends on many factors, but a preliminary analysis indicated a four to six month delay in the development and launch schedule. More important, the reduction of this magnitude severely impacts the momentum and confidence in the program. Contractor teams have defined the major work packages and are ready to proceed with development. Negotiations with our international partners have progressed to the point of nearly complete agreements. To put these actions on hold now can only hurt the entire Space Station program. The reduction in the bill recommended by the Appropriations Committee already reduced the Space Station funding to an extent that will make it difficult for NASA to keep an effective program going.

I might add parenthetically, the committee has already reduced by 27 percent, more than a one-fourth reduction in the Space Station Program.

To get back to the letter.

To take any further reduction would compound the problem and send exactly the wrong message to NASA, the contractors, the Nation and our international partners. Chopping the front end of the development activity threatens the planning and system analysis activities, the careful engineering and testing that are critical to getting started on the right track. We have had unfortunate experience with this kind of thing before—we cannot afford to do it again. In light of that, although we have not checked with the White House, a further reduction of $118 million would lead me to recommend termination of the present competition for the four major work packages.

That concludes the letter from Administrator Fletcher.

Let me add the seriousness of this amendment. We cannot pass it off literally as only a minor delay. The space station will not be manned until 1994, if we keep it on schedule. The major reason the space station is going to cost as much as it is, is because we have delayed it. We should have had the space station flying by 1990 at the latest.

I have been here 13 years. That is long enough to totally recognize the old game of let us delay expenditures from this year to a future year. Even on this bill today, we have heard the distinguished chairman complain about the Domenici amendment because it shifts expenditures from now until the future.

Well, if the DeConcini amendment succeeds, this is exactly what we will do. We will guarantee that the space station will cost billions of dollars more.

Frankly, I get a little bit weary of hearing of the criticism, the charges, about NASA and cost overruns, and the choices that they made and the cliches about putting all of our eggs in one basket.

Well, yes, NASA put all their eggs in one basket with the shuttle and did not have enough expendable launch vehicles. Why? I will tell you why. I sat on the Space Committee in 1975 and heard then Administrator Fletcher be promised by Senator Frank Moss, a former distinguished Senator from Utah and chairman of that committee, that NASA would be held at least whole for inflation. He could not promise any increases because the budgets were tight in 1975. NASA has not even come close to being held whole for inflation.

And, as a result, they had to make a choice. They wanted a more balanced mix between expendable launch vehicles and the shuttle, and they had to make a choice. It would not have made any difference which choice they had made. If they chose the expendable launch vehicles you would have a bunch of critics asking, Why are we not doing more manned flights?

It is a no-win situation. Now we hear the same stories if we go ahead with the space stations, that it robs other programs. It certainly does because NASA is underfunded. The total NASA budget is less than just the veterans health care budget alone. It is only about one-third of the total veterans' budget.

I do not want to take a long time. It is easy for me to do it because I think I am the only one on the floor, I think I am safe to say, who has been in space, who has looked back at this planet Earth. I think I have maybe a better understanding of what goes on up there and the benefits that can be achieved for every man, woman, and child on the face of this Earth.

If we really want to get into a debate, and this amendment is not tabled, you will have the opportunity to hear all of that. I love to talk about space. I will talk for days.

I might even talk long enough so that we do not get to Bork until January or February. That is of little consequence to me. But I would live to talk about the beauties of space, how magnificent the Earth is, how we are space station Earth.

I can take a long time to talk about 12,000 medical devices or procedures, how many lives have been saved, as a result of space research and development. I can talk about the value Christa McAuliffe would have been to this Nation if she had had the opportunity to orbit the Earth and come back, and the impact she could have had on the educational system of this country to encourage young people to take math, science, engineering, biology, zoology, and increase our activities in those areas.

I can talk about how some of our grandchildren can live on Mars and the benefits from that.

I can talk about microgravity. I know how it feels. Nobody else does until we get JOHN GLENN over here on the floor. Maybe both JOHN and I will get together and talk a good deal about microgravity, not from an academic standpoint. We have felt it. My only disappointment at zero gravity was that I had hoped in the absence of gravity the hair might just spring out on my head. Unfortunately, it did not, so there is no necessity for bald men particularly to go into space.

I want to put the Senate on notice how important the space station is for the future of this country, and that we had better table this amendment or you will have to listen to some glorious speeches about space endlessly.

I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I would say to the Senator he did not stay in space long enough. With the space station there will be time enough for that hair to grow.

Mr. GARN. I would like the opportunity to try that experiment. It would be well worth the time spent, even if the hair follicles did not spring.

At this point, Mr. President, I will yield to the Senator from Michigan.

Mr. RIEGLE. Let me just say to the Senator from Utah, before he moves to table, I rise in support of a number of the comments he has made with respect to the importance of the space station. I am serving in this Congress as the chairman of the Space Subcommittee of the Commerce Committee. Having had the chance to have our subcommittee and full committee review the space program in the aftermath of the *Challenger* accident particularly, it is clear to our subcommittee and it is clear to this Senator that the space station is really the centerpiece of our further exploration of space and the development of its potential in terms of our daily lives.

The Soviets, of course, have a space station that is orbiting above our heads today; cosmonauts are in that space station doing a number of experiments that are valuable in terms of the advancement of science, medicine technology, and other areas. This is the seventh Soviet space station.

We are now talking about moving along in an orderly fashion to have a U.S. space station in the mid-1990's. We are talking about that kind of lead time, assuming that we stay on the present track.

Now, as to the amendment that has been offered just with respect to the cut in the NASA spending, if we step back now from our efforts to move ahead in an orderly fashion on the space station I think we make a real mistake. I think we hurt the country in terms of the orderly approach NASA feels it properly should take in terms of further exploration of the universe.

I think the space station has suffered from a lack of specific definition both in the public mind as well as perhaps even in the stated purpose by NASA. But in fact it is our first platform by which we leave this planet on a permanent basis so that we have the ability to adapt people to a space environment.

The space station, when it is developed, will give us the chance to develop that capacity, in addition to the other things we will learn.

It is obvious to anyone who looks at it over the long stretch of time that man is not going to be found just on this planet, that we will increasingly in the decades ahead explore the universe. The space station, which is this first step off our planet, is vital to that long-term journey as we seek to expand our knowledge and to learn something more about this world and universe of which we are a part.

NASA has been battered enough by other events. The accident certainly was such a circumstance. This is a modest program. The money that is now in the budget has been shaved down to an absolute minimum to keep NASA functioning in an appropriate way. This is not the time and this is certainly not the way to sidetrack the space station program—with an amendment on the floor where we are actually stealing money from one activity to finance another.

Now, I am all for putting money into veterans' health activities, and my record is clear on that. But we cannot sabotage other important national endeavors to pay for something that we may want to see in some other area. And so I say as strongly as I can, I hope the amendment will be tabled without any prejudice whatsoever to possible funding increases for veterans' health. But this is not the time to send the space station down a side street. We cannot afford to have that happen and it is very important that it not happen.

Mr. BENTSEN addressed the Chair.

Mr. GARN. I believe I still have the floor and I will be happy to yield the floor in just a moment.

I thank the distinguished Senator from Michigan. I have had the opportunity to work with him on the Banking Committee for many, many years. Since he assumed the chairmanship of the authorizing subcommittee, he has become a real student of space. He has spent a great deal of time outside of the hearings talking to people with NASA, educating himself so that he could fulfill that responsibility. He has really worked at it. I appreciate that very much and appreciate his support of the tabling motion today.

The Senator mentioned the Russians, and that is a part of it that does disturb me because the one big advantage we have always had over the Soviet Union has been in quality. It has never been in quantity. It has been in our research and development and our technology. And if any of my colleagues would read the recent Time-Newsweek articles about the Soviet space program, they would find that we are dropping behind in technology, an area where we have always been premier. We cannot afford to do that either for civilian or military purposes.

But one story on the lighter side. After my flight I had the opportunity to go to a large medical symposium to discuss the medical experiments that I did in space, and I was sitting at a table with two or three cosmonauts and a couple of Russian space medicine doctors. I had been discussing very openly the space motion sickness problems I had experienced and experimented with. I said to one of the Russian doctors, "Doctor, tell me something about the experience of the Russian cosmonauts and their sickness in space."

He looked at me with an absolutely straight face and said, "Senator, you do not understand. Because of the superiority of the Communist system, our cosmonauts do not get ill." And I laughed, but I could not deter him from that view.

I do not want to stand here and dole out time, so I will yield the floor at this point.

Mr. MATSUNAGA. Will the Senator yield?

Mr. GARN. I will be happy to yield the floor and then Senators can seek recognition.

The PRESIDING OFFICER (Mr. FOWLER). The Chair must remind the Senator from Utah that under the rules, it is only appropriate to yield for questions.

Mr. GARN. That is why I am yielding the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as a member of the Commerce Committee and the subcommittee of which my distinguished friend, Senator RIEGLE, is chairman, I just recently held some hearings at the Johnson Space Center in Houston, TX, about the commercialization of space. Time and time again I heard testimony as to how the French and others are beginning to move ahead of us, and particularly the Russians, who willing to take payloads from the United States. I think that really is the ultimate putdown—that we might have to put our commercial payloads on some of their rockets.

But the space station would embody such sophistication of our technology that we really ought to be able to catch up with and pass the Russians. I think back to when Sputnik was first launched. I think every one of us can remember where we were and how the world was electrified and absolutely amazed by what the Russians were accomplishing. They stole a great march on us.

Now, our space station has been slowed down. We have not been able to get the necessary funds, and as a result we are going to be more than 10 years behind the Soviet Union in putting our space station into orbit. I think that is indefensible. I certainly sympathize with veterans' health care and I supported Senator CRANSTON's amendment. I have a hunch, so far as the pay problems are concerned, that we will have a supplemental appropriation bill along here later where we will be able to address that issue.

But this is a situation where we are foregoing a leading role just as we see the Soviets move ahead of us. Right now, every 90 minutes, we are seeing one of their stations passing over us. We just must try to turn that situation around. It will require a sustained effort on our part and not this stop and go philosophy that we have seen happening.

I strongly urge that we table the amendment and move on with our space programs and try to regain that kind of lead which I think is so terribly important to our country.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California, Mr. CRANSTON.

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, it is very difficult for me to oppose this particular amendment. I think all Senators know of my commitment to funding that will meet our veterans' health care needs.

Indeed, the Senate just adopted 93 to 2 my amendment to add $43 million to the VA's medical care account. I am also very reluctant to oppose this undertaking by my good friend from Arizona, DENNIS DECONCINI, a Senator whom I greatly admire. However, I feel I must oppose the pending amendment because it poses a serious threat to the vital effort to get the United States back on track in space. This amendment proposes to add funding for veterans' health care—specifically for the anticipated 3 percent civilian pay raise for the over 220,000 employees of the VA's Department of Medicine and Surgery—at the expense of our national security interests.

We have fallen far, far behind the Soviet Union in the peaceful research and exploration of space. The space station project—from which the pending amendment would take funds—is our best opportunity to make progress in space.

The upcoming fiscal year 1988 is critical for the space station. It is essential that Congress demonstrate support for this project, as development actually begins on it. This support is critical to our Nation's effort to go forward with our commitment to space exploration and to regain U.S. leadership in space exploration and technology. We must also be aware of the possibility that the cuts this amendment would make in space station funding, would be interpreted negatively by our international partners in the space station program.

Last year, Congress gave the go ahead for space station development, providing $150 million for initial development. Fiscal year 1988 will be the space station program's first big year. NASA will be awarding contracts for four segments of work for the actual development of the station in November. These contracts will represent an expenditure of $8 billion over the next 7 years. Consistent funding will be the key to continued progress on these contracts.

In fiscal year 1988, the administration requested $767 million for the space station. Because of budget constraints, the Appropriations Committee decided to cut the administration's request to $558 million. According to unofficial U.S. Government estimates, that $209 million reduction could mean a 6- to 8-month delay in the first launch of components for the space station. Originally, the first launch was scheduled to take place no later than March 1994. The Appropriations Committee's proposed reduction will also mean an added cost of $400 or $500 million later on in the project. The $118 million further reduction proposed by this amendment would result in higher costs and probably increase the delay by up to 1 year or more.

Further cuts would also suggest that congressional support for the space station is lukewarm. This would have a particularly unfortunate impact on international partners, who are anxiously watching to determine U.S. commitment to the program. At present, a series of important multilateral negotiations are taking place with European nations, Canada, and Japan. I understand we are on the verge of coming to agreements with each of these partners. A very slow start in U.S. funding could cause the program to slide further.

The space station will offer scientists a multiplicity of opportunities for research and exploration. For example, with the space station, our scientists will be able to make important contributions in microgravity science, including research in biotechnology, metals and alloys, combustion science, glass and ceramics, and electronics materials. They will be able to do significant work in the life and earth sciences. In addition, NASA is studying the possibility of using the space station as a departure point for interplanetary exploration; the space station could become our bridge to Mars.

The Soviets have a successful, relatively inexpensive space program. They have been sending mission after mission, manned and unmanned, into space. In 1986 alone, they launched 91 of the 109 worldwide missions from all countries that reached Earth orbit. They have orbited seven space stations of increasing sophistication; the United States has launched just one—Skylab—which became inoperative in 1979.

We need to move ahead with the civilian space program if we are to regain our leadership in space. And the space station is one of the key elements of that program. I therefore urge my colleagues to reject the pending amendment—or any other which proposes to cripple our vital space station efforts.

The ends do not justify the means. This amendment proposes robbing Peter to pay Paul. We need to support both.

It is ironic that the space cuts being proposed would significantly reduce employment by major space contractors, such as Rockwell, McDonnell-Douglas, Lockheed, Hughes Aircraft, Teledyne, TRW, General Dynamics, Sunstrand, Garrett Fluid Systems, and Martin-Marietta in my State and many contractors in other States which employ large numbers of veterans.

I believe it is very important to provide full funding—$134.5 million—for the January 1 pay raise for U.S. medical workers. The House bill does that, and I know that the chairman and ranking minority member of the Appropriations Subcommittee, Senator PROXMIRE and Senator GARN, who have been very fair to veterans in this bill, will be fair in conference. They know the importance of the pay-raise funds to maintain the 194,140 staff years which the House, as well as the Appropriations Committee, has provided for in this bill. I am confident that they will find a way to fund the pay raise now or in the future and ensure the maintenance of the VA's medical care staffing level throughout the fiscal year. Indeed, the Chief Medical Director of the VA has told me that he intends to do all that is possible to keep the 194,140 staffing level.

So, I cannot support the DeConcini amendment, given the serious adverse effect it would have on the space station and our entire effort in space.

In my view, it does not reflect an appropriate balance of our Nation's vital interests. The basic thrust of this amendment with respect to VA funding is to ensure that VA health-care staffing is maintained at the congressionally intended level—194,140 F.T.E.E. —after the January 1988 Federal civilian pay raise takes effect. That is a worthwhile objective and I fully support it. But, the normal process for paying for those costs is through the supplemental appropriations process. That's the process that is used for each and every other Federal department and agency employee paid from appropriated funds. It is also the process that has been followed for these health-care employees every year until now. Indeed, it is the procedure that will be followed this year with respect to other VA employees, including VA employees paid out of the VA medical research account and those employed at the VA's 58 regional offices across the Nation.

Mr. President, I will do everything possible consistent with the national interest to ensure that the goal of this amendment is achieved. And I will work side-by-side with my friend from Arizona and the distinguished ranking minority member of the Veterans' Affairs Committee [Mr. MURKOWSKI]—and other members of the Veterans' Affairs and Appropriations Committees who share our deep concerns in this regard—to make certain that the intended VA health care facility staffing levels are maintained.

As the Senator is aware, legislation I authored in 1979 which is codified in section 5010(a)(4) of title 38, United States Code, requires the OMB Director to allocate to the VA the personnel ceilings for which Congress appropriates funds for each of VA's three health-care accounts—medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses. In this regard, I would note that the Appropriations Committees have been completely cooperative in specifying in the joint explanatory statements accompanying each regular appropriations bill enacted since 1979 with funding for VA health care employees the numbers of F.T.E.E. intended to be supported in the fiscal year in question for each of those three accounts. In fact, each committee has already stated clearly in its report on this bill (H. Rept. 100-189, page 50, and S. Rept. 100-192, page 89) that the intended employment level for fiscal year 1988 in the medical care account is the same as the fiscal year 1987 appropriated level—194,140.

Therefore, Mr. President, I feel confident that we will ultimately succeed again, in the current fiscal year, in our ongoing effort to protect the VA medical system from administration efforts to cut it back—just as we did earlier this year when the 1987 pay raise for VA medical workers was fully funded for fiscal year 1987. That, reduced to its essentials, is the purpose of the pending amendment—and I am convinced that we do not need to cut a project so vitally important to our Nation as the space station in order to achieve it.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I, too, reluctantly rise in opposition to the DeConcini amendment. I think we have fallen back in our space program to the extent that this reduction in the appropriation for NASA would be disastrous. As one of those who introduced the program, along with the Senator from Utah, which established the program for the international space year [ISY], 1992, I wish to report to the Senate that in August of this year a tremendous planning conference on the ISY was held in Kona, HI. The conference was attended by 150 scientists from all nations of the Pacific region, including the Soviet Union, China, Australia, Indonesia, Canada, the United States, Japan, as well as by observers from the European Space Agency, which represents the 12 space powers of Western Europe.

It was unanimously agreed by all in attendance that this was a great beginning for international cooperation in space which would lead to world peace. And this is the greatest essence of the space program.

I have always maintained that whenever nations work together they will not be fighting each other. And the one program in which the challenge is so great to mankind, in which all mankind, and all nations, need to work together is the exploration of space. I think, listening to the Senator from Utah, and I subscribe fully to what he has said, and to what the Senator from California has said, we cannot afford now to deter the effort toward world peace that is going on. Because a common language is the strongest single bond of unity, scientists must lead the way toward unifying this planet where we all live as one in mankind. And scientists with the space program, I have learned in my long association with them, speak a common language.

Some Senators may think, "Oh, heavens, Sparky is just a dreamer." But when I invited cosmonauts and the astronauts here for lunch once for a reunion, on the 10th anniversary of their joint space mission, in the Senate restaurant, and they first saw each other, they ran into each other's arms, and hugged each other. I thought to myself, if we could just expand this sort of feeling that the cosmonauts and the astronauts felt for each other—these were the astronauts and the cosmonauts who were in the Apollo-Soyuz linkup—if we could spread those feelings of love, affection, admiration, and respect to the rest of the United States and the U.S.S.R., we would not need to be building up our defense weapons. We would be at peace.

This, I think, would be a small investment in peace among the superpowers as well as peace among all nations. I think this is the overriding consequence that we should be concerned about in voting against the DeConcini amendment.

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Committee as Veterans' Affairs, I join my colleague, the distinguished chairman of the committee, in opposing, not without some regret, the amendment proposed by the Senator from Arizona.

Mr. President, I oppose the amendment not because of where the money is going but, really, because of where it is coming from.

I think it is appropriate to point out that as we look to the needs of our veterans with the recognition that we perhaps can never appropriately respond to the sacrifices they have made on behalf of all Americans, that reality dictates that there are times—and this is one of them—when we have to look at just what we are doing with regard to our veterans. We must look to those areas where we can do more and find the funds to do them.

However, by going into the space station program, I think we are in direct conflict, if you will, with the priorities associated with the attitude of our veterans as they look at the importance of our space station program. We have heard the Senator from Utah make a very eloquent and appealing argument for the continuation of the space station program. My friend from Hawaii has outlined, I think, a very appropriate and visionary goal we can all share. But the reality of the chairman and the ranking member is that we have to find funds from some appropriate place, and the question is, where? Let us look for just a moment at the facts.

If we look at a percentage of the whole of the HUD and independent agencies appropriations—which includes the space program, the VA, and so forth—there has been a substantial increase in the VA budget from 1980 through 1987. In fiscal year 1980, the VA budget was 28 percent of the total HUD-independent agencies budget. Today, that is 46 percent of the HUD-independent agencies budget. If we look in dollars, it is even more significant.

We have seen the veterans' budget increase over the same period of time from $20.5 billion to $26 billion. Mr. President, in comparison to the HUD-Independent Agencies budget, which in 1980 was $73 billion and today is $56 billion, I think we have an adequate comparison of just where the trends have been. The trends have been cut in the other area and increased, as they appropriately should be, in the VA.

Further, I think this body has been responsive to the health care needs of veterans. The amendment proposed by the chairman and myself to add $43 million to the VA medical care budget has today been adopted by this body. The medical needs of veterans in this country are not forgotten, and they are not going to be shortchanged. But I note, further, that the medical care account is going to be the subject of House and Senate conferees.

There is a substantial difference between the House and Senate appropriations for medical care. I urge the conferees to move to a higher level, more closely aligned with that provided by the House bill. Taking into account my belief that the Senate conferees will indeed provide for the needed increases of the medical care account, I will support a tabling motion.

For these reasons, Mr. President, I urge my colleagues to vote for what I understand will be a tabling motion. I think the veterans of our country would agree that we cannot afford to gut our space program. We must continue to meet our obligations to the veterans of this country, and I think we will continue to meet that charge.

I yield the floor.

Mr. HEFLIN. Mr. President, I rise in strong opposition to this amendment, which would take money from the space station and put it into the veterans' medical care. I think it would be a mistake, and it would have a serious detrimental impact on the future of our Nation, our space station, our space program, and medical research.

Before I go further, let me say that I have been a strong and outspoken supporter of our Nation's veterans, particularly in seeing that they are provided adequate medical care at veterans facilities. I realize that this is a very serious problem with the veterans, and it will be an increasing problem.

The average age of the World War II veteran is now in the late sixties. It will increase. As the average age of war veterans goes up, there is no question that it is going to be a great need for more and more adequate medical facilities and medical care to provide for our veterans. We owe them this contract.

I have been a 100-percent supporter of veterans on every issue that has come up thus far, and I will continue to support the veterans. I am a very strong believer in our veterans' organizations and what they are trying to do, but I feel that this is not the battleground.

I think the battleground is in conference; and I pledge to the veterans and to the veterans' organizations that I will do everything I can to see that this amount of money is included in the final appropriations that will go to the veterans' facilities.

Now, Mr. President, I mentioned in the beginning that it would be detrimental to medical research, and I am going to speak a little bit about this. I do not believe anybody else has touched upon this aspect of the space program. This comes under what is known as material processing and microgravity research in space.

You have heard people mention microgravity. First, it was called zerogravity. However, there is a small amount of gravity that exists in space and there are a great many things that can be done in microgravity that cannot be done on Earth where gravity exists.

Material processing is one of the great things that will occur as a result of this space station. We have had great experiments that have been conducted on the shuttle that have been there for a limited period of time. Already they were able to separate the beta cell. The beta cell is the cell in the pancreas that controls the flow of insulin into the body.

McDonnell Douglas and Johnson & Johnson puts hundreds of millions of dollars in experiments dealing with pharmaceuticals, dealing with the effort to try to find a cure for diabetes and some other illnesses. They believe in it. They are willing to put their money in it.

Now, another thing that I want to mention which is important is cancer research. In microgravity, on a space station, there are basically three things that can occur, that can help in regard to improving mankind, improving medicine and a wide variety of other aspects of our every day lives. One is crystal growth. Now in microgravity you can grow crystals to a much larger size. In my State, at the University of Alabama in Birmingham in its medical school, in connection with the space program on material processing have been able to grow protein crystals at a size much larger than you could grow on Earth. In space a perfect crystal can be grown. This is not possible in a gravity environment.

Their goal is to take a cancer cell and grow it into a much larger cell, and grow it in a manner where you could be able to look at the integral part of that cancer cell. This cannot occur without the long duration in space provided by a space station.

Now, another program under material processing that can help medical research is known as electrophoresis. Electrophoresis at microgravity is a process by which you separate the various molecules that exist in a cell. That is the procedure that was used in separating the beta cell which deals with diabetes and deals with the pancreas and with insulin.

Now, the goal is that you take these two aspects, crystal growth, by growing a cancer cell, growing it to a large cell, much larger, 10 to 20 times what we are able to do on Earth, and then take the electrophoresis process to separate them.

If you are able to separate the integral parts of a cancer cell, then you are going to be able to find out what causes cancer to grow. When you find out the internal operations of a cancer cell, you can then be able to develop a cure for cancer.

Now, Mr. President, what has this to do with this particular amendment? In my judgment, while the delay in the space station means a delay in many experiments and research that we want to conduct throughout the universe, it also has the effect of delaying our eventual finding of a cure for cancer. And this to me is as important to veterans as any one thing. If we can find a cure for cancer, then I think that we will go a long way toward solving veterans' medical problems, and the medical problems of all human beings.

I mentioned a third thing. It is largely the benefit that microgravity in the procedure of the blending of metals together. This is not exactly related to anything dealing with medical research but it has a great many potentials in a vast array of other areas.

So, in my judgment, we are at a situation where we may be very shortsighted by delaying development of the space station. Also, in my judgment, while I am not a scientist, as I understand the theory that I have been taught and have studied, to me it is a benefit that cannot be realized on Earth but can only be realized through the use of a permanently manned space station which provides a long period of time in space. First through crystal growth and, second, under the electrophoresis. To me I think that this is very important. If we delay the space station, we are delaying all types of medical research.

While I am not a scientist, as I said, the theory behind this, in my judgment, is very sound and there are a lot of scientists who believe in it.

So I say that we should do nothing to delay the space station. By delaying the space station we delay many, many things, and we are also in effect delaying the eventual cure for many veterans who will be suffering cancer.

Many talk about agent orange. There are many who believe that agent orange has caused many, many veterans' problems. Agent orange is going to be a major problem in the future, particularly in regards to veterans as they grow older.

So I think that it is very important that we do nothing to delay the space station, that we move forward in it. It has great potential. It has great potential for benefiting mankind in all aspects of our lives.

While I am a great believer in veterans and want to support them 100 percent, this is not the battleground. This is not the way to attack this problem.

Let us handle it in conference. Let us become more aware of the need of veterans' health needs and health care facilities and let us fulfill our contract to veterans by providing it. But at the same time, let us not cut off our nose to spite our face. In my judgment, that is what we will be doing here with this amendment.

So I urge my colleagues to follow the lead of Senator GARN and Senator JOHNSTON and the members of the leadership of the Veterans' Affairs Committee and let us move forward with the veterans' care and the space station. They are interested in this. The Veterans' Affairs Committee is dedicated toward helping veterans and let us not now be detoured from a program that has many benefits for mankind, including medical research.

I feel we ought to table this. I am prepared, on the other hand, if I have to, to use some rather lengthy remarks that I have at hand on medical research and the space station in general. However, I feel it is very important that this amendment be tabled, that we do not permanently table it, that we take care of it. We should take care of the veterans, give them everything that this amendment would provide, however, let us do it on a different battlefield and in a different forum. I think the forum and the battlefield for that is conference. If not, let us do it through a supplemental appropriation or let us do it through some other method rather than to take it from the space station which, in my judgment, has great benefits for mankind including the benefits of medical research.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio, Mr. GLENN.

Mr. GLENN. Mr. President, I certainly associate myself with the remarks of the distinguished Senator from Alabama and other remarks made on the floor with regard to the attempt to take money away from the space station to provide money for veterans medical care.

I oppose it not because I am against the veterans. I am a veteran myself, as many Members of this body are. I think I have an absolute, impeccable, first-rate, record regarding support for veteran rights activities and support for veterans hospitals. We have several major installations in my State that do an amazingly good job even when faced with a lack of funding in taking care of those who have borne the burden of war and to whom we owe a debt of gratitude.

We try to carry that out through the money we have in Veterans' Affairs and I have supported that absolutely and unequivocally through my years in the Senate, not because I think it is something that is nice to have in the budget for political reasons, but because I absolutely and unequivocally believe in it with all my heart.

I know what some of our veterans have sacrificed and accomplished. The least we can do is take care of their problems when they reach a time when they too need help.

But to see the space station as the only source of funding for increased funding for veteran's medical care is just flat wrong.

This country became what it is for a couple of very good reasons. One, we decided to educate our people more than any other nation in history. And we said that education in this country was not to be just for the kids from the castle. It was not to be just for the rich kids. It was not to be just for the politically well-educated. Education was to be for everyone. And I think even to this day we have an education system that gives a better education than any nation in this world.

And second, what has helped this Nation to develop better than any nation in the history of this world has been our willingness to put more of our gross national product back into basic, fundamental, breakthrough research to conquer the unknown, to push back those frontiers, and to exercise the curiosity that came out of our educated citizenry.

Now, our support for this research expresses itself in many ways. Some of our companies put money into—and bless them for doing it—the basic, long-term research. Not only the basic, but the long term, the 5-, 8-, 15-year projects that Bell Labs, Monsanto, 3M, AT&T, Du Pont, and some other companies undertake.

But basic research in this country has not come from just the private sector, which the President would have us believe. He has said in the past that if research is worth doing, private research will do it. Unfortunately, that has not been the historical pattern that built this Nation of ours into what we are today.

Most of the basic, fundamental research in our country has come from Government-sponsored research. There are a dozen or so major national labs that are the envy of the rest of the free world. And the basic research we have supported as a Federal Government, representing all of our States together, and at the various colleges and universities around our country, that combination of education and basic research has been what has led us to be the No. 1 nation in this world.

And what does being No. 1 do for us? It does not mean we wave our finger in the air and say: "We're No. 1. We're No. 1," like we do after a football game. We are proud of being No. 1 because it gives us the option of controlling our own future.

We are the ones that create new jobs and business and industry. We are the ones that have different areas of research come together in a coherent pattern.

Now, we are talking today about the space station. Will we support it or not?

Research done in space is in the forefront of technological innovation. There are those who rise in this Chamber on occasion—too often, by my way of thinking—and decry anything that has to do with research. They ridicule it. They lambaste it. They try to cut its funding. And yet it is the fountain from which has come much of what this country is all about today.

Now, I would agree that every research dollar that has been spent has not been spent perfectly. But that is understandable, because in research you do not know for sure what you are out to do. You are trying to push back the frontiers of the unknown. You are trying to say that there are new things to be learned, and that we have not learned it all. There may be advantages to knowing new things, like new sources of energy or new ways of producing antibiotics.

We can learn this lesson, many times over, from history. There is a story told of Disraeli and it has been told quite often. Possibly most people here have heard it. Disraeli was going through a laboratory and Faraday was there. Disraeli saw sparks were jumping from bottle to bottle, and he is supposed to have said: "But what good is it?" And Faraday said: "What good is a baby?" That was his reply: "What good is a baby?" Well, we cannot know that at birth.

But out of that interest in electricity, which started even before the day of Disraeli and Faraday with Franklin, came our whole modern-day society, just because someone was curious about the unknown and was willing to put some money into looking into the unknown, into science and into research even when they did not know for sure what was going to come of it.

And this pattern of education and research in this country has been the engine that has driven this country's progress. And yet some people say, "Well, we had great resources in this country." But many places in this world have resources, and many of them did, and they did not develop the way we did.

So I would submit that those two things I have described briefly here, education and research, were so important that they were the engines that really drove us into leadership in this world. I would also submit that they are even more important today.

Why is this so? We are finding ourselves outcompeted by other nations in the world. The United States of America is being outcompeted in science and research by some other nations in this world.

We are in a conference with the House right now on international trade and how we are going to be competitive. What I want to emphasize is that we have been competitive in the past because we knew the new things first, because we formed new businesses and jobs and industries and employment first, and we found that other nations followed in our wake because we were the Nation that was curious about learning new ideas first. We were at the forefront of new ideas and technologies and we were the ones that used them first. And it has been because we did that kind of research.

Now, it is even more important today than it has been in the past because we are beginning to be outcompeted. Other nations have recovered from the devastation of World War II and put their economies back together, with our help. We helped them recover and we did such a good job some of them are beginning to outcompete us and they now have more disposable national income to put into research.

I have here an International Herald Tribune article. I read it coming back from the arms control observer group that I was on in Geneva. It is out of Monday's International Herald Tribune. The title of this article on page 4 is: "GM and GE Seek Right To Launch Satellites From Soviet Rockets."

If that does not give us pause, I do not know what will. General Motors and General Electric, two of our greatest and finest companies and corporations, which have led the way in science and research are going to the Soviets, and are asking the United States Government's permission to have the Soviets put up satellites for them. That shows the state we are in.

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, we see the Soviet Union moving into this field of space research and utilization. They are the ones up there now learning the new things first. Right now there are two Soviet space stations going around, one of them occupied 24 hours a day.

I do not think the Soviets are ahead of us in technology and science. I do not believe that. But I believe if we surrender the leadership we have that we will indeed see the Soviet Union outdistance us.

What does this mean for the space station? If we are to lay down our leadership and say to the rest of the world that we do not care any more, that all we are interested in is having the spectaculars, the firsts of space, and we say we are not willing to stay in there and do the long-term research that has proven so beneficial to us in the past, not just in space but basic research in general, then we lay down a lot more than just the ability to create jobs, because what we lay down is the scientific leadership that has led to the political leadership of the United States. And if we find ourselves outdistanced in areas that are so highly visible around the world, that get so much attention from the world's press, if we find ourselves for very long outside of the ability to conduct research in space, I can tell you where the admiration is going to go. I can tell you where Third World nations are going to look for scientific leadership, and it will not be the United States of America.

(Mr. DASCHLE assumed the chair.)

Mr. GLENN. It will be to the U.S.S.R., the Soviet Union. We will find more and more Third World countries looking to the Soviet Union for leadership because they see in them the scientific leadership of the future, a position that has been held preeminently by the United States, and without question, through the years.

Where does that leave us today? As far as I am concerned, it leaves us with a very basic decision. We get ourselves so bound up here in our own rules and regulations, reconciliation and budgeting, and we give ourselves some choices that get to be ridiculous. To me, a vote like this, where we are voting to take a huge amount out of the space program which has been floundering and needs help and, in effect, take money out of it at a very critical time, when so much of the planning is already underway, and say we are, in effect, going to gut the U.S. effort makes no sense whatsoever.

I do not want to see the Soviets acknowledged as the scientific leader on this Earth we lie on, and receive the plaudits, the accolades, and the attention that comes from new discoveries in space research. I do not want to see that happen. I do not think many Members of this body want to see that happen. That is why I oppose this amendment vigorously.

If we were to cut back the space station now and say well, we are going to extend this project for an unlimited time here; well, I just think we need to reexamine this process if that is what we are all about.

We are dealing with much bigger stakes than just a budget and a matter of $100 million or so. What we are dealing with is whether this country has the will to do basic research and to stay up in space and be competitive. The Soviets have two spacecraft up there with people in them going around right now on a permanent basis. Do most Americans know that?

The Soviet craft are small. They do not have the same capability of doing research as our bigger space station will, but our big space station, even if it stays on schedule—which it certainly will not if we pass reductions like this—our space station is not due up there until the mid-1990's. It will be very capable when it gets up and we will be proud to have our scientists on it.

It is important that it does get up, and that the rest of the world continues to look to the United States for scientific leadership. I do not want to see that change.

Because scientific leadership also means political leadership: Do I want to encourage the Soviet's way of doing things? Do I want to give them leadership in this most preeminent and most visible area of science in the world? No, I do not.

That is why I rise to oppose this most vigorously. I do not want to see us denigrate research in this Chamber. But, do we know what the actual benefits will be? Can I say we will get back $2 for every $1 we spend? No, I cannot. But I know that so far in the manned program, through a separate study, NASA states that we have gotten back in benefit to our economy, in different manufacturing techniques like in subminiaturization, we have gotten back $7 for every dollar we have spent. Let us say NASA is overexuberant in their study, which is a private study, as I said. Let us say the study was off by 50 percent. That would still give us a 3½ to 1 advantage for every dollar spent. To me, that is very good.

The problem with research is that it is not predictable, like buying trucks. If you have $20,000 in trucks, you have a benefit. You get a certain benefit from each load in that truck, and you can put the whole thing into a cost/benefit ratio. Research is not amenable to the normal rigors of cost accounting.

But if there is one thing we have learned from our history, it is that money spent on basic fundamental breakthrough research has a way of benefiting us in the future far beyond anything we can see at the outset. We can go back and see a hundred examples of this through our history. We have an opportunity to explore and do research in the newest and most advanced area of research, and we are about to cut it back before we even get started and say: "Soviet Union, go ahead. Yes, fine, you guys, go ahead. Go up there. We want the cosmonauts to go up there and be the leaders in scientific research." Do you want other countries around the world to be the leaders in new research? Just go to Moscow.

I just do not buy the argument that we will take second place in this area. No one in this Chamber, no one in this country, is more concerned about veterans issues, and in seeing that the people who have borne the brunt of battle truly do get a fair shake from us when they need a hand.

But I am also concerned that this Nation of ours remains a world leader into the future; and that we be the Nation which leads in the scientific realm. If other nations look to us in that area as the world's leader, they are much more likely to follow us in political leadership. That is what the space station is all about. It is the most fundamental of basic research. It opens up whole new areas to us, whole new areas of what we can do in the weightlessness of space, as the distinguished Senator from Alabama mentioned just a few moments ago. And that is only the beginning. Those are just things we foresee now. Who knows what we will be capable of in the future?

How did Sir Alexander Fleming, who discovered penicillin know? He was a curious man. Do you know what he was curious about? He looked at some garbage and saw some plain old green mold. He saw several areas around the mold that did not act like other areas.

He was, as I said, a curious man, and he wondered why. Human curiosity, then, went to work and he wondered why and he ran some experiments on the mold, and do you know what came out of that curiosity? Who could have predicted that out of that curiosity came the discovery of penicillin; of penicillin and the beginning of our antibiotic industry.

We keep some of our veterans alive now a longer time because Sir Alexander Fleming was curious. This is just one example of what happens when people are curious and go out and do experiments and try to do research. They push back the frontiers of the unknown and out of that comes a whole new advance of some kind. That is what this vote is all about.

I hope that we will defeat this amendment. I do not know whether someone is going to move to table at the appropriate time. I trust they will. If not, I will. I understand it is already going to be done.

I hope we will not let the veterans down.

I am all for doing whatever we have to do to take care of our obligations. But do not do it by stripping the capability of the United States of America to support a space station.

I think that is the underlying issue of this vote. I yield the floor.

EXHIBIT 1

GM AND GE SEEK RIGHT TO LAUNCH SATELLITES FROM SOVIET ROCKETS

(By William J. Broad)

NEW YORK.—Two major U.S. companies are battling the government for the right to launch communications satellites on Soviet rockets.

The companies, General Motors and General Electric, have formally asked the government to drop its ban on the launching of U.S.-made satellites by Soviet rockets. Both concerns have subsidiaries that make and market space satellites.

In response to the companies' increasingly vigorous compaigns, involving both public and private lobbying, the Reagan administration has stiffened its opposition to the private hiring of Soviet space services.

The clash comes at a time when the U.S. space program is without rockets to send commercial satellites into space and the Soviet Union has stepped up efforts to make commercial use of their own space program, which until recently was shrouded in secrecy.

U.S. companies say they are seeking the lowest prices and best services and are worried that foreign rivals may take advantage of the Soviet offers.

"We could be at a grave disadvantage," said John E. Koehler, president of Hughes Communications, a GM subsidiary that markets communications satellites.

James M. Beggs, former administrator of the National Aeronautics and Space Administration, said government policy should be reversed.

"Satellite producers, if they are comfortable with the risk of doing business with the Russians, should be allowed to get launchers wherever they want," he said. "The Soviets are offering a service that other people already offer. There's lots of international competition."

Government officials insist, however, that commercial factors should take a back seat to issues of foreign policy and national security.

"It's not in the U.S. national interest to issue export licenses for satellites," said Robert B. Mantel, an official in the State Department's bureau of political-military affairs, who argued that Western technological secrets might fall into Soviet hands.

Representative Bill Nelson, Democrat of Florida, who heads the House Space Science and Applications Subcommittee, and whose district includes the Kennedy Space Center, said the deeper issue was whether freedom to use Russian rockets would doom the fledgling commercial rocket industry in the United States.

"I'm astounded that people think of Russian rockets as an alternative" he said. "That would blast any chance of a commercial launch industry succeeding here. The solution is to get American vehicles to be competitive in price, if necessary with subsidies from the American government."

Mr. Nelson's subcommittee recently held hearings on the health of the rocket and satellite industries.

The dispute is fueled by the continuing repercussions of last year's space disasters. After the space shuttle Challenger exploded, President Ronald Reagan ordered an end to the launching of commercial satellites by the shuttles. Two other types of U.S. rockets also exploded upon takeoff last year, grounding another part of the rocket fleet used to send satellites aloft.

Experts say it could be several years before the United States forms a private rocket industry that can catch up with the demand for commercial launchings. While a few U.S. companies are developing private launching services, and some, including Martin Marietta and McDonnell Douglas, are even signing up customers, none has built any rockets. It will be 1989 at the earliest before they can begin to fulfill the contracts, experts said.

General Electric, whose Americom division sells communications satellites, recently told Mr. Nelson's subcommittee that the government ban should be reconsidered because access to Soviet rockets would help the industry survive the problems of U.S. rocketry and lower costs.

"The U.S. should seriously investigate whether commercial satellite operators should be allowed to use the services of the Proton," Eugene F. Murphy, GE's senior vice president for communications and services, told the subcommittee. He dismissed fears that high technology would fall into Soviet hands, saying. "We believe these concerns can be overcome and that U.S. satellites can be satisfactorily fitted and launched without giving away hard-won technological knowhow."

The world's largest maker of communications satellites, Hughes Aircraft Co., which is owned by GM, the world's largest corporation, echoed those sentiments.

The **PRESIDING OFFICER**. The Senator from Mississippi.

Mr. **STENNIS**. Mr. President, I will take but very little time. This is a highly important matter. It has been one of the best days of debate, real debate, that we have had here in a long while.

I want to underscore everything the Senator from Ohio said about the importance of research.

I have been on the Appropriations Committee, our Appropriations Committee, since the mid-1950's, and I can say without hesitation that that has been the subject matter: research of many different kinds. It has been sponsored by that group, passing in importance anything else I have seen there. The payoff is just beginning to come, with reference to a great deal of it. We are on the right side here in this research in space. I have not had any doubt whatsoever from the minute that our calamitous accident occurred. There was no choice left. We had to proceed. We had to start over. We had to get on the right track. We had to do the things we had not thrown away at times but let slip away.

I am proud of the fact that we have done what we have in connection with veterans. Everybody knows that they are not going to be neglected.

I am very much encouraged by the splendid presentations which have been made on this subject, the know-how, the recognition of the problem. I think it is perhaps the most important thing that we have today in our entire budget arrangement.

Ordinarily I vote with Mr. DECONCINI, one of our very best Members. But on this money management and just what these particular dollars are going to be spent for, I will have to leave him at this time. I hope we will continue in this area in every way we possibly can.

The **PRESIDING OFFICER**. The Senator from Arizona.

Mr. **DECONCINI**. Mr. President, I want to capsulize what we have heard. We have heard a lot of positive things about the space station and research, everything from penicillin to advanced medical technology that will come.

Nobody denies that. Nobody here supports this amendment as against a space station. We will end up with $20 million more for the space station if this amendment I have at the desk now is adopted.

We are talking about reducing the $118 million so you can have, actually $74 million in outlays for the veterans.

What are we going to do? We are going to be able to maintain the staff levels. We are going to be able to keep from laying off at least 3,000 medical people for our veterans.

The Senator from Utah said if it does not go his way, he is going to talk about space. I will not leave that threat. I can talk about the veterans, those who offered their lives for this country. I can tell those stories about Normandy and the sacrifices that were being made.

That does not serve us well. I hope if this amendment prevails, the Senator will not speak on and on because there is more to it.

It is important also that we note that the veterans' associations in this country do support this amendment. I contend that they do represent the vast majority of American veterans.

Mr. President, I ask unanimous consent that letters from the National Commander of the Veterans of Foreign Wars of the United States, the Vietnam Veterans of America, the Jewish War Veterans of the United States of America, the Disabled American Veterans, the American Legion, and the Association of American Medical Colleges, all in support of this amendment, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS OF THE UNITED STATES, THE COMMANDER-IN-CHIEF,
Washington, DC, October 9, 1987.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the more than 2.2 million men and women of the Veterans of Foreign Wars, I wish to take this opportunity to strongly commend your efforts to restore much needed funding to the medical care account of the Veterans Administration FY '88 appropriation. As it now stands, the Senate Appropriations Committee has reported to the full Senate a funding level which would severely curtail the VA's ability to properly provide for our veterans health-care needs. Your amendment would prevent the undermining of the VA health-care system.

Please be assured, the entire membership of the Veterans of Foreign Wars stands ready to assist you in fighting for an adequate budget for the VA's Department of Medicine and Surgery.

Sincerely,

EARL L. STOCK, Jr.,
National Commander-in-Chief.

Washington, DC, October 6, 1987.

Hon. DENNIS DECONCINI,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: I am extremely pleased that you have decided to offer an amendment to H.R. 2783—The HUD and Independent Agencies Appropriations Bill for FY 1988—to restore $210 million in needed funding for the Veterans Administration health care system.

As you know, the funding level recommended by the Senate Appropriations Committee for VA medical care in FY 1988 is approximately $240 million below the level passed by the House of Representatives. In our view, this recommended level of funding for medical care is simply inadequate for the Veterans Administration health care system to maintain health care personnel staffing at the 194,140 level established by Congress.

While your amendment does not seek to fully restore the VA medical care appropriation to the level adopted by the House, it does, in our view, propose a reasonable and responsible alternative to meet our nation's veterans' health care needs.

Senator DeConcini, the Disabled American Veterans strongly supports your amendment to increase the VA medical care appropriation by $210 million and we encourage your colleagues in the Senate to also strongly support your efforts.

On behalf of the more than 1.1 million members of the Disabled American Veterans and our Ladies' Auxiliary, I want to thank you for your efforts to maintain a reasonable level of funding for the VA health care system.

Sincerely,

GENE A. MURPHY,
National Commander.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, October 9, 1987.

Hon. DENNIS DECONCINI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: The Vietnam Veterans of America take this opportunity to applaud and fully support your intention to offer an amendment to the fiscal year 1988 HUD—Independent Agencies Appropriations bill, H.R. 2783 to add $75 million to the health care account of the Veterans Administration. Without the added funding we fear the loss of as many as 4,000 employees.

Our fear, in this regard, is predicated upon a belief that available VA funding currently contemplated in the appropriations for VA will be deficient when federal pay raises take effect at the end of this year. In the past when VA has been forced to absorb the added costs of uncontrolable circumstances such as pay raises, the agency has targeted the most vulnerable of its discretionary spending accounts for losses. Typically this has meant reducing personnel levels.

In our view it is just as ironic as it is unwise to reduce health care personnel at a time when demand on VA's health care system is dramatically increasing. Moreover, it is high time the Congress expressed itself on the question of whether sick and disabled veterans are deserving of more than substandard care. A vote for your amendment is one way in which Congress can begin to express itself on this important issue.

Sincerely,

PAUL S. EGAN,
Legislative Director.

JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA,
Washington, DC, October 6, 1987.

DEAR SENATOR, I am writing to you today on a matter of great urgency. On October 1, the Senate Appropriations Committee reported out a budget for the VA, for FY 88, which reflected $280 million less than was reported out by the House Appropriations Committee. We are distressed by the real implications of that reduction. Those denied monies will translate into a reduction of personnel at our already understaffed VA Medical facilities.

It is our responsibility, as American citizens, to ensure the highest quality of care for Americans who have put their lives on the line in defense of this country. We need to restore $174.5 million, at the very least, which will allow us to hold the status quo in medical care for our nation's veterans. We need the money so that VA Medical centers can recruit and retain nurses—medical personnel whose service are vital for proper patient care.

We urge you to vote YES on the DeConcini Amendment which guarantees that current manpower levels are supported.

Sincerely,

JACK LITZ,
National Commander.

THE AMERICAN LEGION
Washington, DC, October 6, 1987.

DEAR SENATOR: The Senate Appropriations Committee has approved a version of H.R. 2783, the FY 1988 HUD/Independent Agencies appropriatons bill, which contains a shortfall in the VA medical care account. In our opinion, the Committee's recommendation of $10.08 billion for medical care is more than $200 million below the amount necessary to maintain the current level of services in VA's health care system.

When H.R. 2783 is considered by the full Senate, The American Legion urges you to support a restoration of VA medical care funds sufficient to essentially maintain a current level of services. It is our understanding that Senator DeConcini is prepared to offer a floor amendment which would add back most of the money necessary to meet this goal.

Failure to add this money will inevitably lead to VA hospital personnel reductions in FY 1988, with several thousand such people expected to be removed from the medical system. In view of these considerations, we urge you to vote for Senator DeConcini's amendment during floor action on H.R. 2783.

Your attention to our position on this issue is deeply appreciated.

Sincerely,

E. PHILIP RIGGIN,
Director,
National Legislative Commission.

ASSOCIATION OF AMERICAN
MEDICAL COLLEGES,
Washington, DC, October 13, 1987.

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I am writing as President of the Association of American Medical Colleges (AAMC) with regard to legislation that will soon be before you. In the near future, the full Senate will be considering legislation (H.R. 2783) making appropriations for the Department of Housing and Urban Development and Independent Agencies (HUD-Independent Agencies) for FY 1988. Included in this bill will be funding for the Veterans Administration (VA).

The AAMC has a strong community of interest in funding levels for the VA, as there are affiliation agreements between 101 AAMC member medical schools and 133 VA medical centers. The affiliated medical school has responsibility for conducting the residency training programs for VA physicians. In addition, many medical students rotate through VA hospitals during the clinical phase of their education. Thus, the VA medical school partnership promotes both a broader educational experience for students and emphasis on the unique medical needs of the veterans population—resulting in higher quality health care for VA patients.

During floor consideration of the HUD-Independent Agencies appropriation, Senator Dennis DeConcini will offer an amendment to increase funding for VA medical care by $75 million in the coming fiscal year. The addition of these funds to the VA medical care account is critical as they will allow the VA maintain its current medical care staff of 194, 140 full-time employee equivalents (FTEE). Absence of these funds from H.R. 2783 would lead to cuts in VA medical care personnel. The AAMC urges you to support the DeConcini amendment to the HUD-Independent Agencies appropriations bill.

Thank you for your consideration in this matter. Please call on us when we may be of assistance.

Very sincerely yours,

Robert G. Petersdorf, M.D.

Mr. DECONCINI. One such letter states:

"Please be assured the entire membership of the Veterans of Foreign Wars stand by to assist you in fighting for an adequate budget." They support the DeConcini amendment.

These organizations understand the importance of the space station. They understand what we are talking about and what we are doing here. We are not gutting the space station. We are not talking a backstep. We have already spent $800 million on the space station and this Senator supported it, and we will continue to spend $800 million. As a matter of fact, this program will cost at least $16 billion and maybe $30 billion, maybe even more. We will end up, if this amendment passes, with $440 new million in the space program. That is $20 million more than what it was last year.

Is that a defeat for research? I submit it is not. I hope my colleagues will join me and not let the veterans down for the space station. This is a compromise that takes into consideration both very important areas.

Mr. SHELBY. Mr. President, I feel constrained to rise before this body to express my opposition to the amendment offered by the Senator from Arizona that would transfer $118 million from the space station program to Veterans' Administration medical care field personnel. I have risen before this body many times to express my support of and interest in the space station program. As a former member of the House Veterans' Affairs Committee, I am certainly aware of the need to adequately fund veterans' programs. However, taking money from the space station program is not the answer.

The idea of a space station is certainly not new. Through the surrealistic eye of Hollywood the public has for several years been exposed to the idea of human beings living and working together in space. In fact, 25 years ago NASA's Langley Research Center opened the first space station office. Our scientists and astronauts confirm that America is at the point where a manned space station is the logical successor to the Mercury and Gemini Programs, the Moon landing and the shuttle.

But rather than being an idea borne out of a Hollywood movie set, space station represents the culmination of a quarter century's work and the integral element in mankind's exploration of the universe.

Picture a new era of innovation and discovery fueled by a laboratory orbiting 250 nautical miles above the planet. What can we look forward to? Life saving medicines, super computers, stronger metals, and crystals, among many new advances planned for the station. Structurally we envision platforms to launch voyages to distant planets, to service satellites, assemble spacecraft, and to observe the Earth and the universe. We talk of private industry and government, the academics and the astronauts, the scientists and the students from Western Europe, Japan, Canada, and the United States linked together by a common dream: a space station.

I can remember when President John F. Kennedy challenged our country in 1961 to put a man on the Moon by the end of that decade. Many believed that it could not be done. The technological barriers were too great. Well, we all know what happened. The great minds at NASA got together and achieved the impossible. And along with a man on the Moon came major technological breakthroughs in computers and electronics that have changed our lives. The space station will once again foster this basic fundamental breakthrough research.

For me, this program is much more than a scientific push into space—it represents the revitalization of our American spirit. I believe the space station will be the catalyst that will help regenerate pride and competitiveness in our country—much needed qualities especially in light of the imposing Soviet presence in space. We must fight to maintain our momentum in a program that I believe is and should be a national priority.

Mr. President, we are talking about a program that if it remains on schedule will become a reality in the 1990's. We need to maintain a continuum of committment and support to insure that this program, which has been on the drawing boards for over 25 years now, is allowed to come to fruition.

I feel confident that the space station will be an academic, commercial, scientific, and security success, but more importantly it will be a success for our country, a landmark accomplishment that every citizen can take pride in.

Mr. President, I urge my colleagues to oppose this unnecessary cut in space station funding.

Mr. ADAMS. Mr. President, I rise today in opposition to the amendment offered by my colleague, Senator DECONCINI, to transfer money from NASA's Space Station Program in order to increase the Veterans' Administrations medical care account.

I recognize the need to increase funding for the VA; but I have serious reservations about an approach to budget making which pits one deserving group against another. Veterans need more money; so does the space station. We aren't going to get anywhere in this country if we start playing one group with legitimate needs off against another group with legitimate needs. There are better ways to address these very real needs and earlier today the Senate took action which I believe was more appropriate.

Senator CRANSTON's amendment to increase VA appropriations, which was adopted with my support earlier today, gave us an opportunity to support the VA without punishing the Space Program.

Senator CRANSTON's amendment increases the amount of funding available for the treatment of AIDS patients at VA hospitals. Like most providers of medical care across the country, the VA has been hard hit with the cost of caring for and treating AIDS patients. The VA estimates that it costs approximately $24,000 to treat each individual afflicted with AIDS. The cost of treating these individuals is staggering, especially when one considers that the VA runs the largest public health program in the country, with 172 hospitals and 229 outpatients clinics nationwide, treating well over 1 million veterans each year.

In addition, the amendment provides much needed funding for the recruitment and retention of qualified personnel and for tuition assistance. The VA must be able to compete with other health care providers to attract and maintain qualified medical personnel, if they are to provide quality health care to our Nation's veterans. The additional funds which this amendment provides will aid the VA in achieving this goal.

I find that to be a better approach than trading the Space Program for the Veterans Program. Senator DECONCINI's amendment would have reduced the funding level for the Space Station Program by $75 million. The space station is a crucial program which will allow the United States to once again gain a competitive foothold in space with a permanent manned presence and begin to benefit from the scientific research which can only be conducted in such an environment. It will also enable us to better understand our life sciences and develop means to combat diseases which afflict our population today. Besides the possible medical breakthroughs which such a facility will enable us to make, there are other sciences which will also benefit from the space station. We will begin to witness new developments in the area of materials research and earth sciences as well as astrophysics and solar research. The prospects of moving forward in all these areas are cause for a tremendous amount of excitement within the science communities.

Mr. President, both our veterans and our Space Program want—and deserve—increased funding. But the reality of our deficit and the constraints of the budget process make that impossible. Given the fiscal reality we face, I believe that the increase provided in the Cranston amendment is a reasonable response to the needs of our veterans. I do not believe that the shift suggested by Senator DECONCINI is the way we ought to go in the weeks and months ahead.

Mr. GORE. Mr. President, I urge my colleagues to reject the DeConcini amendment.

As a Vietnam veteran, I fully appreciate the need to improve veterans' programs and benefits. Our Government must not take lightly its obligation to our former servicemen and women. No single group is more deserving of our recognition and our support. Over the years, I have given my strong support at every opportunity for full funding, increased pensions, better compensation, and cost of living adjustments to offset inflation.

But, Mr. President, the proposal to fund veteran's programs by taking funds away from the space station is a bad idea.

We have delayed long enough in our support for the space station. If we keep postponing this program, we are going to wake up one day and discover that the Soviet Union has an operating space station and that the United States—which now has the chance to go ahead with international cooperation as never before—will have lost a golden opportunity.

Mr. President, we are very close to playing a losing game in space. Between the shuttle setback, various policy mistakes and our one-sided commitment to a manned shuttle program, we have fallen behind. If we pass this amendment, the United States will fall further behind.

If we expect to have a vigorous American presence in space, it is time to back up our interest and commitment to a vigorous space program.

Mr. President, I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will make four very brief points before I move to table.

First, Mr. President, the veterans are well taken care of under this budget, $367 million more than last year, $172 million more than the budget request, and to that we added another $39 million in the Cranston amendment this morning. The veterans if not richly taken care of are better taken care of than almost any other function in the budget that I can think of.

Second, Mr. President, this is a killer amendment to the space station. Make no mistake about it. Who says so? James C. Fletcher, Administrator of NASA. To use his language, he said: "A further reduction of $118 million."

The DeConcini amendment "would lead me to recommend termination of the present competition for the four major work packages."

It is a killer amendment, so says James C. Fletcher.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SPACE STATION

The FY 1988 budget request for Space Station is $767 million. This is the minimum funding for FY 1988 consistent with proceeding on a development schedule consistent with the initial launch in early 1994 with the permanent human presence in space by early 1996. This is the baseline plan approved by the President, supported by the Authorization bill recently passed by the Congress, and by the Appropriation action of the House of Representatives.

The bill recommended by the Senate Appropriations Committee would reduce the availability of the Space Station program by $208 million. This reduction will result in a program delay of several months. The specific impact depends on many factors, but a preliminary analysis indicated a four to six month delay in the development and launch schedule. More important, the reduction of this magnitude severely impacts the momentum and confidence in the program. Contractor teams have defined the major work packages and are ready to proceed with development. Negotiations with our international partners have progressed to the point of nearly complete agreements. To put these actions on hold now can only hurt the entire Space Station program. The reduction in the bill recommended by the Appropriations Committee already reduced the Space Station funding to an extent that will make it difficult for NASA to keep an effective program going.

To take any further reduction would compound the problem and send exactly the wrong message to NASA, the contractors, the Nation and our international partners. (Chopping the front end of the development activity threatens the planning and system analysis activities, the careful engineering and testing that are critical to getting started on the right track. We have had unfortunate experience with this kind of thing before—we cannot afford to do it again. In light of that, although we have not checked with the White House, a further reduction of $118 million would lead me to recommend termination of the present competition for the four major work packages.)

JAMES C. FLETCHER,
Administrator.

Mr. JOHNSTON. Third, Mr. President, the space program of the United States is already far behind the Soviet Union. If you have not seen the October 5 issues of Time, the front page cover story is "Moscow Takes the Lead."

I ask you all to look at it. I well remember Sputnik in 1957. I happened to have been a young lieutenant in Germany at the time and took a trip to East Germany and saw the model at that time while it was still circling the Earth. Mr. President, I hope we do not get into that same situation again.

The final point, Mr. President: The DeConcini amendment, which kills the space station, does so by increasing veterans by one-half of 1 percent. Is that not an incredible irony, that to increase the veterans one-half of 1 percent in their budget we would kill the space station? I think no one wants to do that. I do not believe so. I do not believe the American Legion and the Veterans of Foreign Wars or any veterans that I know of want to kill the space station for a piddling one-half of 1 percent in the veterans' budget.

So, Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Ohio may ask one question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. On the comment by the Senator from Arizona concerning all veterans' organizations supporting this, is there a single one of those letters which believes that the money should be taken from the space station for this? Of course they support the space station. Is there a single letter that specifies they believe it should come out of the space station?

Mr. DeCONCINI. Mr. President, I ask unanimous consent for time to answer the question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Seeing as how the motion to table has been made already. To answer the question of the Senator from Ohio, every one of the organizations got the Dear Colleague letter Senators receive from this Senator explaining where the money was coming from. In here they say they support it. To begin with they supported the $174 million, which is what my original amendment was going to be. I cut it back to $74 million. So the answer is that specifically they do not say that but each and every one of those organizations knows that this money is coming out of a very large amount of money for the space station and they are committed to the space station. Here we have an opportunity to restore the health losses of 3,000 employees at least and maintain the space station at the same time. This is no more a killer amendment than the Cranston amendment adding $40 million was going to double the veterans' medical care treatment. The Senator from Louisiana knows that.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been requested and ordered.

Mr. SYMMS. Regular order.

The PRESIDING OFFICER. Regular order. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from Idaho [Mr. McCLURE] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 12, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—84

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boschwitz
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—12

Boren
Bradley
Burdick
Conrad
Daschle
DeConcini
Dixon
Leahy
Mitchell
Pell
Pressler
Proxmire

NOT VOTING—4

Armstrong
Kassebaum
McClure
Simon

So, the motion to lay on the table amendment No. 982 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I understand that we might be able to get a 20-minute time limitation on an amendment by Mr. HUMPHREY. He is agreeable to it.

I ask unanimous consent that there be a 20-minute time limitation on the amendment by Mr. HUMPHREY, to be equally divided in accordance with the usual form, and that no amendment to the amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 983

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 983.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 11 insert the following immediately before the period:

": *Provided further*, That $1,000,000 of these funds shall be set aside to conduct a feasibility study and preliminary design of a wastewater treatment demonstration project that, through the use of innovative and alternative technology, could transport leachate from a sanitary landfill and wastewater from a new waste-to-energy solid waste management facility to an existing, state-of-the-art wastewater treatment facility that has unused reserve treatment capacity in Cranston, Rhode Island".

Mr. CHAFEE. Mr. President, this amendment has been reviewed by both sides, and it is my understanding that it is acceptable.

It provides a million dollars of existing EPA funds to do a feasibility study in preliminary design of an innovative sewer demonstration project. This amendment does not add funds and does not change the outlays in the bill. It has been reviewed by the managers, and I believe it is acceptable.

Mr. PROXMIRE. Mr. President, this amendment has no budgetary impact. It would provide for a very useful study, and I am happy to support the amendment.

Mr. GARN. Mr. President, the amendment is acceptable to this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 983) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 984

Mr. D'AMATO. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 984.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike on page 44, line 4 $413,951,000 and insert in lieu thereof $414,201,000.

Strike on page 20, line 18 $34,178,000 and insert in lieu thereof $33,928,000.

Mr. D'AMATO. Mr. President, this amendment provides a slight increase in the VA major construction account for placing a national cemetery in the Albany capital district of New York. Because of the modest nature of this increase and the worthiness of this project, I am pleased to support a cemetery benefiting the veterans of New York State.

Public Law 99-576 requires the Administrator of Veterans' Affairs to list in a report to the Congress those areas in the United States which have the greatest need for additional veterans' burial space. This list is to be comprised based upon a demographic analysis.

The Veterans Administration's report of June 1987, on the National Cemetery System placed Albany, NY, as 1 of the 10 regions of the country most in need of a national cemetery. This past week, the VA made a firm commitment to commence activity on the Albany cemetery project.

In order to provide a cemetery for the area, an environmental impact statement is necessary. Advance planning for an environmental statement will cost $250,000.

The Albany area desperately needs this cemetery. A recently completed Veterans' Administration study of the need for burial plots throughout the United States indicates that Albany is one of the top 10 areas of greatest need. This study is based on aging demographics for veterans throughout the United States up to the year 2000.

Currently, there is only one cemetery in the Albany area. This cemetery serves veterans in an area covering several hundred miles. The need today is great. The need 5 to 10 years down the road will be even greater.

The proposed cemetery will be adjacent to the Saratoga Battlefield. This is a location which supplies plenty of land for the project. The Veterans' Administration supports the designation of this area as a cemetery because the VA has recognized the urgent need within the Albany area.

In order to provide offsets for this cemetery, I am reducing specific funding from the Consumer Product Safety Commission. Specifically, the reduction will effect salaries for some special or other professional staff assistant positions from the Office of the Chairman as well as all special or other professional staff assistant positions in the Offices of the General Counsel and of the Executive Director. This reduction will affect up to five positions to achieve these savings. In addition, if more savings are needed, I am deleting travel funds, other than for local travel, for the Chairman and the two Commissioners.

This cemetery project in Albany is supported by the Veterans' Administration. I thank the Administration for its support, and I am pleased to assist those individuals who have fought for freedom and justice around the world.

Mr. President, this amendment would make available to the VA construction account an outlay increase of some $3,000 and a budget authority increase of $250,000. The Albany area, which is certified as one of the 10 most impacted as it relates to the needs of veterans, would be able to undertake the needed advance planning and environmental impact statement necessary for a national cemetery project.

We offset these moneys, the $3,000 in outlays and the $250,000 in budget authority, with reduction related to the U.S. Consumer Product Safety Commission funds for the salaries of special or other professional staff assistants in the office of the Chairman as well as in the offices of the General Counsel and the Executive Director. If additional cuts are needed to achieve the savings required by this amendment, they should be derived from travel expense funds.

I believe that this surgically targetted funding cut at the CPSC will actually enhance its important mission to protect the consumer. As I indicated at the full Appropriation Committee markup of this bill, under its current Chairman, the CPSC has not been fulfilling its duty to safeguard the public against unreasonable risks associated with consumer products. Instead, the agency has been torn apart by petty infighting.

Unsafe consumer products cause over 30,000 deaths each year. Each month there are 20 deaths and 7,000 injuries associated with all-terrain vehicles. Last December, the Commission voted, over the Chairman's dissent, to take its most significant enforcement case regarding ATV's—10 months later a complaint still has not been filed. CPSC should spend its time and money on problems like these—not on interoffice politics.

Recent articles in the Wall Street Journal, the Legal Times, the Washington Post, the Philadelphia Enquirer, et cetera, have highlighted the mess at CPSC, especially the wasteful transfer of dedicated, career civil servants such as David Schmeltzer, the Associate Executive Director for Compliance and Administrative Litigation. Mr. Schmeltzer, a well-respected 11 year employee, was transferred by the Chairman, over the objections of the other Commissioners, to ill-defined hastily concocted duties. He was replaced by a nonlawyer in the CPSC's most important enforcement position. I, and many others concerned with consumer product safety, find this to be an outrageous state of affairs.

This amendment is crafted to cut out the salaries of up to five special or other professional staff assistants. These positions are eliminated and then functions will not be carried over in any new or redesignated positions. The salaries that are being cut apply only to special or other professional staff assistants in the offices described earlier. It does not apply to the salaries of clerical help for any CPSC office or to the salaries of special or other professional staff assistants in the offices of the other two Commissioners of the CPSC.

I know that we will put the funds saved by my amendment to a much better use. I also hope that the Senates action today sends a clear message to the CPSC's leadership to cut out the monkey business and get on with the job of protecting the consumer.

I hope this amendment will receive the kind of support that our veterans are entitled to get.

The PRESIDING OFFICER. Is there further debate?

Mr. PROXMIRE. Mr. President, I have the same kind of critical feeling about the Consumer Product Safety Commission that the distinguished Senator from New York has expressed so eloquently in the past.

This is a modest amendment, only $250,000 out of a $35 million budget, and it is in a good cause, so I will be happy to support the amendment.

Mr. GARN. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that suggestion momentarily?

Mr. METZENBAUM. Certainly, I will do that.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment offered by the Senator from New York?

If not, the question is on agreeing to the amendment of the Senator from New York.

The amendment (No. 984) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANCHORAGE VETERANS' ADMINISTRATION OUTPATIENT CLINIC

Mr. MURKOWSKI. Mr. President, I rise to bring to the attention of my colleagues an issue of importance to not only Alaska's veterans, but to the Veterans' Administration as well.

Mr. President, last year the VA's inspector general released a report on the effectiveness of furnishing care to Alaska's veterans on a fee-basis system, that is, care provided by private doctors at VA expense. There are no VA hospitals in Alaska.

This report concluded that healthcare costs in Alaska had increased from $17.2 million in fiscal year 1982 to $45.9 million in fiscal year 1985. That is an increase, Mr. President, of 167 percent.

The inspector general recommended the establishment of a VA outpatient clinic in Anchorage as a mechanism to reduce the cost of care. The VA's Department of Medicine and Surgery concurs that this is an appropriate action.

It is estimated that $1 million will be needed to lease adequate space for the clinic. Currently, there is an excess of suitable office space in Alaska which may be leased at reasonable rates. That may not be the case in a year or two from now. Then, the VA's only option may be to build a facility in Anchorage. That, Mr. President, would be extremely costly. Thus, coupled with the fact that the inspector general recommended the establishment of an outpatient clinic as a method to reduce the cost of care in Alaska, I believe this body should support this important initiative.

Instead of offering an amendment to earmark funds for the lease—as I know the Appropriations Committee generally opposes that approach—I would ask that in conference with the House, some accommodation be made to provide for this lease. According to the VA inspector general and the Department of Medicine and Surgery, savings will occur and quality services will be provided to veterans through the Anchorage clinic.

I appreciate the support of the Appropriations Committee in ensuring that limited VA resources will be spent in an effective manner.

In closing, Mr. President, I wish to emphasize that I do not support the establishment of a VA hospital in Alaska and intend to closely monitor the operation of the outpatient clinic to ensure that it is a cost-effective alternative and that veterans receive timely and quality care. Alaska's veterans will continue to receive inpatient care through private hospitals at VA expense. Due to our unique geographic and demographic situation, this is an outstanding arrangement which serves the veteran, the VA, and the private sector very well. In addition, I am opposed to any expansion of the Elmendorf Air Force hospital at VA expense as a means of providing inpatient care to veterans in Anchorage.

Mr. GARN. Mr. President, I would say that the Senator makes some very good points. We are unable to do anything in the bill. I appreciate his making these comments in the RECORD. We will see what we can do to help that situation in Alaska in the future.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise to indicate my very strong concern and there are many Members of this Senate who have strong feelings about and strong concerns about the UDAG Program, that suddenly we are confronted with the fact that we are bound by a 20-minute time limit with respect to an amendment to strike about 50 percent of the UDAG funds from this bill.

I have a lot of respect for my friend and colleague, the Senator from Wisconsin, and my friend and colleague, the Senator from Utah, but the fact is they both support the amendment, as I understand it.

It seems to me a most unusual procedure for a matter as controversial as this and as far reaching as this to be brought up on the floor with a 20-minute time limit, not hot line of it, nobody knows about it, and suddenly we come out here and see there is a proposal to eliminate 50 percent of the UDAG funds from this legislation, practically tantamount to killing the bill.

I do not understand that. The UDAG Program has worked well in this country, and it has served many people.

For us to be talking about destroying it at this particular moment without the entire body knowing what is going on, sure having a right to vote on it, that is not the right to debate it and talk about the substance of this legislative proposal.

I am absolutely amazed that we are bound by a 20-minute time limit.

Mr. President, it seems to me that the limitation on time that was agreed to unanimously, when none of us who are particularly concerned about the program was on the floor, should be vacated in order that this matter may be debated at length.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I must say I think the Senator is making an important point.

The bill as reported by the committee contains the UDAG Program. As I understand it now, and it is now after the fact, the Senator from New Hampshire intends to offer an amendment to strike the program, either all of it or half of it.

Now, apparently the two managers both agree with that amendment. Although they brought the bill from the committee and were managing it on the floor, they agree with that amendment. It seems to me that given the amendment is obviously controversial, it is an amendment that has been debated before in which there are strong views here, for the managers to go ahead and enter into an agreement with this time limit does not really serve the purposes of appropriate consideration of this amendment in the Senate.

I think the Senator from Ohio is making a very important point.

One can say, "Well, you should have been here." What it means is you are going to have to be here questioning every amendment or put in an objection to any time request whatever.

It seems to me what should have happened on this is that, before any time agreement was entered into, those who were opposed to the amendment should have been consulted about what constituted a proper time agreement, if there was to be one at all, rather than have an offer of an amendment to strike an important program that was in the bill, in the bill, as reported by the committee and then have the two managers, who I now understand are going to support the amendment; in other words, to take out of the bill a program which they brought from the committee in the bill, agree to this 20-minute time limit.

Mr. METZENBAUM. I would like to point out to my colleague from Maryland, I did say that both of the managers supported the amendment. I have been advised by the manager on the Republican side that he does not support the amendment.

Mr. SARBANES. I appreciate that correction.

Mr. PROXMIRE. That is the fault of the Senator from Wisconsin, because I was the one who informed the Senator from Maryland. I thought Senator GARN was in support of the amendment. I find he is not. I misinformed my colleague and I apologize for that.

Mr. METZENBAUM. No problem.

Mr. PROXMIRE. The fact is he is opposed to this, so at least we have a division among the managers.

(Mr. WIRTH assumed the Chair.)

Mr. METZENBAUM. I wonder if the Senator from Wisconsin and the Senator from Utah would not provide that the leader could withdraw the unanimous consent agreement.

Mr. PROXMIRE. No, no way. I will tell you why. This has been up before the Senate again and again and again, and we have debated it over and over and over. It is now after 2 o'clock. It seems to me that we have every indication that this amendment is going to be defeated. So, no, I would object to vacating the time agreement. It was not asked for by the managers. It was asked for by the majority leader.

Mr. METZENBAUM. I understand that, but that does not make it any better.

I want to say that if this amendment is adopted, there is no time limit with respect to the bill and I would expect to discuss UDAG for a considerable time thereafter.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to also add my voice to those of the Senator from Maryland and the Senator from Ohio on this proposed UDAG cut of roughly 50 percent, as I understand it.

The fact that we are apparently locked into a 20-minute time limit agreement I think is a serious mistake, because this is a key issue. I want to indicate, if I may, with respect to what the Senator from Ohio said, that should this amendment not be tabled, should it not be tabled, I will be prepared to speak at some length on the UDAG issue, as well, because we are not going to have this program torn apart by an amendment that is offered on the floor without any significant amount of debate. We have worked too hard on this for too long. We have changed the formula on a national basis so that all communities across the country have a chance to participate in an equitable way in this program. If we are going to have efforts made in an effort like this to, in a sense, demolish the program for all practical purposes, we are not going to do it with a 20-minute time limit. So if this is not tabled, we can just plan to spend a long time debating this issue.

Mr. SASSER. Mr. President, I would like to associate myself with the remarks that have been made here by my distinguished colleagues on the Senate Banking Committee. We have worked long and hard over a period now of 2 years to revise the whole UDAG formula in such a way that it works fairly for all of the States and the various communities.

We thought, when this emerged from the Banking Committee, that it was more or less a settled proposition. Now if all of our work over a period of 2 years is going to be torn asunder in a matter of just a few moments here on the floor with not adequate time to discuss it prior to the taking up the amendment and voting on it, then I think it is incumbent upon those of us who feel strongly about this matter, who worked on it so long, to try to persuade our colleagues over a period of whatever time is necessary as to the worthiness of the new UDAG formula and new UDAG program.

Mr. BYRD. Mr. President, I wonder if we might resolve this by vitiating the 20 minutes and get a longer time period on the amendment, or by providing that a motion to table, if it fails, then there is either no time limit on the amendment or there is a longer time limit.

Mr. METZENBAUM. There would be no objection to that.

Mr. PROXMIRE. I think the latter proposal makes sense. I think there is every reason to expect, although I support the amendment, that the amendment will not pass. In that event, I think the Senate will be well served by staying with a short time limit and then, if the tabling motion does fail, we could open it up and you could have debate.

Mr. METZENBAUM. That is agreeable.

Mr. PROXMIRE. That is fine. Would that be agreeable?

Mr. BYRD. That is fine with me; either way. I am ready to table the amendment right now.

You know, I try my best to advance legislation on this floor and keep it moving. If I did not, I do not know who would. I hope that if anybody has any criticism of me they will stand up now and state it.

Mr. METZENBAUM. Mr. President, I am not standing here and criticizing my leader. I get along fine with the leader. The leader protects my position and has consistently over a period of many years. So it is not a personal criticism of him.

It is just a major concern about the UDAG Program when I suddenly learned it would be wiped out.

I think the proposed resolution of it is a fair one. I hope that, if you offer that, no one would object to it.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the time limitation on the amendment be modified to provide that, in the event a tabling motion fails, there will be no time limit on the amendment, or that any time limit on the amendment be limited to, say, 2 hours, to be equally divided. That should be enough.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I hope the Senator one day wants a little additional time. I will try to help him with it.

Mr. HUMPHREY. Mr. President, the Senator from New Hampshire was perfectly willing to enter into a time agreement to expedite the business of the Senate. He did so and wishes only that that time agreement be upheld.

AMENDMENT NO. 985

(Purpose: To transfer $125 million from Urban Development Action Grants to Veterans' Administration Medical Care)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

I say to my colleagues that I am offering this before additional copies are ready. They will be here in just a few minutes, but I wanted to save the Senate's time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 985.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. What is the unanimous-consent request?

The PRESIDING OFFICER. The Senator from New Hampshire asked unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 7, strike the word "gallon", and insert "gallon."

Notwithstanding any other provision of this act:

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $125,000,000 to remain available until September 30, 1991: *Provided,* That title 42, United States Code, section 5318(n)(2), is amended as follows: After the word "reservation" add the words "or on former Indian reservation lands in Oklahoma".

Further notwithstanding any other provision of this act.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,223,000 plus reimbursements: *Provided,* That of the sum appropriated, $6,475,500,000 is available only for expenses in the personnel compensation and benefits object classification.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum and request that it not be charged against my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SARBANES. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from New Hampshire.

Mr. SARBANES. Well, the Senator from New Hampshire objected to vitiating the previous unanimous-consent request on the assertion that we could proceed with the amendment and then he threw in a quorum call that is preventing us from proceeding with the amendment.

The PRESIDING OFFICER. The Chair would note that at 1:40 there was a unanimous-consent request that the amendment offered by the Senator from New Hampshire be limited to 20 minutes and that unanimous-consent request was agreed to.

Later the majority leader had asked, too, by unanimous consent, in fact to change the earlier unanimous-consent agreement and that was objected to. The Senator from New Hampshire then offered his amendment, and he then asked that there be a quorum call and that that quorum call not come out of the time on either side. That unanimous consent was also agreed to.

Who yields time?

Mr. HUMPHREY. Mr. President, whose time is this being charged to?

The PRESIDING OFFICER. I charged the time to the manager of the bill who had 9 minutes and 14 seconds. And the Senator from New Hampshire has 9 minutes and 50 seconds.

Mr. HUMPHREY. In other words, the time is coming out of the manager of the majority side?

The PRESIDING OFFICER. That time was charged to the majority side. And the Senator from New Hampshire is currently being recognized and now has 9 minutes and 30 seconds.

Mr. HUMPHREY. Parliamentary inquiries count against my time? I suggest the absence of a quorum.

Mr. PROXMIRE. The request for the quorum call, does this not have to come out of the Senator's time, the unanimous-consent agreement?

The PRESIDING OFFICER. Unless the consent is granted it would come out of the Senator's time.

Mr. PROXMIRE. I believe we have to move ahead with the bill. I support the Senator from New Hampshire on the amendment, but we have to move ahead.

Mr. HUMPHREY. Mr. President, I will proceed to offer my thoughts on the amendment and I will have an amendment to the amendment shortly.

Mr. President, the amendment pending proposes to transfer funds from the UDAG Program to the Veterans' Administration medical care account. I would take a moment to put the UDAG Program in perspective.

Every time the Department of Housing and Urban Development announces a UDAG grant, the press releases state that the Urban Development ACTION Grant Program is designed to spur private development that would not have occurred without the HUD economic development assistance.

An examination, Mr. President, of the program, the UDAG Program, suggests otherwise. This year HUD provided $5.5 million to finance part of an 800-room flagship Hilton Hotel in Minneapolis.

Hilton, I need not remind my colleagues, is one of the largest companies in the hotel business. The average taxpayer is supposed to believe that Hilton would not have built this hotel but for Federal assistance.

Not to be outdone, however, Sheraton, Ramada, and Holiday Inn, three other major players in the hotel business, have received assistance through the UDAG Program as well.

In fact, over the past 3 fiscal years 10 to 15 percent of UDAG grants have been awarded to hotel-related projects.

Other profitable Fortune 500 companies have benefited likewise from UDAG grants. Taxpayers, unwillingly to be sure, have provided $15 million to the city of Detroit so that that city can provide a prepared site to accommodate a new assembly and paint facility for Chrysler Corp.

Chrysler has already been bailed out once. Must we do it again? We already have.

Like the hotel industry, Chrysler's competitors are not standing by idly. A UDAG grant of $897,000 was provided to help renovate a building so it could be leased to General Motors. In addition, UDAG's have been provided to establish automobile dealerships for Chevrolet and Volvo.

Mr. President, how do Senators like corporate welfare? Apparently they like it very well because all you have to do is say the word UDAG and a few of them, particularly partisan for corporate welfare, come charging in, pulling out their hair, using all sorts of parliamentary maneuvers to save this corporate cow with which they secure favor in their communities.

I think we have had enough of this. This Senator certainly has. It is not just hotels and automobile manufacturers who are the recipients, the happy recipients, contented cows, if you will, of the UDAG Program. Another 10 to 15 percent of UDAG's over the past few years have gone to renovate shopping centers and malls.

When we look at the list of companies that have benefited from this silly program, this socialized corporate welfare, the list includes such companies as Sony—it is not just American companies; foreign as well—obviously with American branches. Sony, with income of $892.3 million over the last 3 years for which data is available, Corning Glass Works, $404.7 million, Burroughs Corp., $690 million, Chrysler, nearly $5.5 billion, General Motors, nearly $11.5 billion, Westinghouse, $1.8 billion, Rubbermaid Commercial Products, Inc., $174 million, Data General, $110 million, Sherwin-Williams, $235 million, Hilton, $312 million, Sheraton, a subsidiary of ITT Corp., $1.4 billion, and Norstar Bancorp, $2.6 billion in gross income. This list reads like a who's who of major American corporations.

Well, enough is enough, Mr. President. I frankly would like to see this program terminated but I know how to count votes like anyone else. But if we are bound and determined to spend this much money, let us spend it on some recipients who are really deserving of this largesse. Let us spend it instead, not for corporate welfare but for veterans' health. The purpose of this amendment is to transfer the funds from this corporate welfare program, UDAG, to the veterans' health fund.

Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Chair would remind the Senator from New Hampshire that under Senate precedent, when a unanimous-consent request is reached limiting time, no modification of amendments is in order, except by unanimous-consent request.

Mr. HUMPHREY. Well, that is interesting.

Mr. President, I hope that Senators will permit me to modify the amendment.

Mr. SARBANES. Mr. President, I object.

Mr. President, I raise a point of order against the amendment as violating section 302 of the Budget Act.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. HUMPHREY. I thank the Chair.

Mr. President, I suggest the absence of a quorum and ask that the time not be charged.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. On whose time?

The PRESIDING OFFICER. The Senator from New Hampshire has 1 minute 45 seconds remaining. The clerk will call the roll.

The clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

Did you just want to call off the quorum?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, a point of order has been lodged.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired. There are 8 minutes 45 seconds remaining on behalf of the managers of the bill. Who yields time?

Mr. SARBANES addressed the Chair.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, maybe we can bring this around full circle. Objection to the unanimous-consent request of the Senator from New Hampshire to modify his amendment would not be made so that he can modify his amendment so that it would be in order.

But as part of that package, the majority leader's previous request that if the amendment is not tabled there will then be no time limit on debate on the amendment would also be included. That would enable the Senator to correct his amendment, present it to the body, have it considered on a motion to table, but, of course, if the motion to table does not carry, we will then revert to the amendment with unlimited debate.

It seems to me that accommodates everyone's interest. I would hope it would be perceived as extending comity among Members.

Mr. HUMPHREY. Mr. President, I would prefer to let the Chair rule on a point of order. I will offer the amendment when the current UC time expires.

Mr. SARBANES. It should occur to the Senator when he does that, that there is no time agreement as regards a time limitation.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, we have had a very limited debate. Under the circumstances, it seems to me in view of the hour, and in view of the fact that we have been on this bill as long as we have, that the interests of this Senate would be served by having a tabling motion and voting on the tabling motion. Then if the tabling motion fails we can have the debate.

Mr. SARBANES. I think we need to yield time, make the point of order, if the Senator is unwilling to accept the proposition, but at the same time lifting the limitation on the amendment as far as discussion is concerned.

Mr. METZENBAUM. Does the manager of the bill indicate that a motion to table is being contemplated by the managers at this point?

Mr. PROXMIRE. The motion to table can be made, of course, by any Senator. This Senator favors the amendment so he would prefer that another Senator make a motion to table. It does not matter who does it. The comanager of the bill, the Senator from Utah, may make the motion, and if he does not wish to, the Senator from Maryland can make the motion.

Mr. METZENBAUM. A parliamentary inquiry.

Mr. PROXMIRE. I yield for that purpose.

Mr. METZENBAUM. Is this Senator's understanding correct that if a motion to table fails there will still be time left within which to raise the point of order that the amendment is in violation of the rules?

The PRESIDING OFFICER. The motion can be made if the motion to table fails. It could be made.

Mr. SARBANES. Mr. President, do I understand that a point of order under the Budget Act is in order if a motion to table does not carry?

The PRESIDING OFFICER. The point of order could be raised.

Mr. SARBANES. Under the time limitations that are in existence?

The PRESIDING OFFICER. Under the unanimous-consent request, we were going to have a vote on the amendment offered by the Senator from New Hampshire. That will occur in 3 minutes.

Mr. PROXMIRE. Mr. President, this Senator is prepared to yield back his time. I understand the distinguished comanager of the bill will move to table.

Mr. President, I yield back my time.

Mr. SARBANES addressed the Chair.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. Time is yielded back.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. I oppose the amendment. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. MCCLURE] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 5, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman

Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—5

Hecht
Helms
Humphrey
Proxmire
Roth

NOT VOTING—3

Kassebaum
McClure
Simon

So the motion to lay on the table the amendment (No. 985) was agreed to.0

The PRESIDING OFFICER. Before proceeding, the Senate will please be in order.

Mr. PROXMIRE. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Senators wishing to converse will please retire to the Cloakroom. The Senate will please be in order.

Who seeks recognition?

Mr. HUMPHREY. Mr. President, what is pending?

The PRESIDING OFFICER. The bill is pending.

AMENDMENT NO. 986

(Purpose: To transfer $100 million from urban development action grants to Veterans' Administration Medical Care)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] for himself and Mr. HECHT proposes an amendment numbered 986.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 7, strike the word "gallon" and insert "gallon, notwithstanding any other provision of this Act."

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $125,000,000, further notwithstanding any other provision of this Act.

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as refered to in 38 U.S.C. 5010(a)(5); $10,128,900,000, plus reimbursements:

Mr. GARN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The point of the Senator from Utah is well taken. Senators wishing to converse will please retire to the cloakroom.

Mr. HUMPHREY. Mr. President, at least on this, I encouraged Senators to vote to table, so as to dispose of the amendment, which admittedly contained an inadvertent serious technical error.

I have now submitted the same amendment with that error eliminated. The effect of the pending amendment is to reduce the Urban Development Action Grants Program by $100 million and to transfer that to the account of veterans' health care.

The rationale is that, at least from this Senator's viewpoint, the UDAG Program is nothing more or less than corporate welfare. It is a program which really ought to be substantially reduced, if not eliminated. The President has tried time and time again to do just that. Congress, however, refuses so far to do it.

The PRESIDING OFFICER. If the Senator will suspend, the Senate will please be in order.

Mr. HUMPRHEY. Mr. President, I hope that we will have a new departure here today. I hope that all the talk about fiscal responsibility would translate into action.

To be sure, this would not reduce the deficit, inasmuch as it is a transfer and not a strike, but at least the funds would be put to much better use. They would, instead, be used for the salutary purpose of augmenting our veterans' Health Care Program, as opposed to lining the coffers of some of the Fortune 500 companies which in the past have benefited from this slush fund.

I urge the adoption of the amendment.

Mr. SPECTER. Mr. President, the Urban Development Action Grant Program has withstood every effort to eliminate it because it is a good and vital program. This program has widespread support from both Republicans and Democrats because it is a program which has worked. There has been ample evidence presented on the floor today and in the past when this matter has been debated about the leveraging effect, about the tremendous value that comes back to the Federal Government for each dollar invested in action grants.

Because of the development of the formula in existence, this brings to the private sector a decisive leveraging factor in the range of some 6 to 1. So for every Federal dollar put up, there are six private dollars which are put up.

Without this Federal assistance, so many of these projects could not be accomplished. At a time when economic recovery has varied differently depending on the section of the Nation, urban development action grants are especially important. A brief reference to my own State of Pennsylvania illustrates this point. Pennsylvania has been ravaged by tremendous problems in the steel industry and the coal industry, where jobs have been lost, and various sections of our State have been ravaged by foreign imports. During debate on the trade bill there was extensive discussion of that subject.

In Pittsburgh and Erie, decimation of the steel industry has caused widespread unemployment. Targeted assistance in the form of urban development action grants has caused developers to go into Erie, for example, on the bay front development and provide assistance to that city which is so in need of it, not because of any fault of its own but because of the problems in the steel industry. Similarly in Pittsburgh, an urban development action grant for the hotel and convention center provided tremendous stimulus at a time of great need.

In Scranton, where the economy was under great pressure because of the problems in the coal industry—here again, like steel, coal is imported into the United States, subsidized by foreign governments to the detriment of tens of thousands of U.S. employees, American workers. On the Montage project in the Scranton area, an urban development action grant came into play to pick up the pieces.

With revenue sharing eliminated, Mr. President, this is an especially bad year for States like Pennsylvania, illustratively like Pennsylvania, where there is a need to have this kind of infusion and this kind of support. The facts are eloquent that urban development action grants have been a good investment for the American taxpayers, a good investment for Uncle Sam. For every dollar which has been invested by the Federal Government, there has been a multifold yield in tax revenues, economic development, and stimulation.

For these reasons, I urge my colleagues to defeat the pending amendment.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. NICKLES. I compliment my friend and distinguished colleague for his amendment, and I ask if he would allow me to be a cosponsor of his amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the name of the Senator from Oklahoma be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. Is the Humphrey amendment in compliance with the Budget Act? As I understand it, we had some trouble with that before, because the outlay figures are so different between the Veterans' Administration on the one hand and UDAG on the other.

The PRESIDING OFFICER. Will the Senator withhold for a moment? We are examining the amendment.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, while the Parliamentarian is checking the figures to ensure that they are consistent with the Budget Act, I thought I would put the time to good use and cite for Senators who may not have heard earlier some of the examples of flagrant corporate welfare which the UDAG Program funds.

May I say on the point of compliance with the Budget Act that we checked the figures in the amendment with the staff on this side of the Budget Committee, and on their word we have it that no point of order would be in order on that score.

In any event, while we are awaiting the Chair's examination of that point, let me cite some of these abuses.

In fiscal year 1987, the UDAG Program provided $5.5 million to finance part of an 800-room flagship Hilton Hotel in Minneapolis. We are asked to believe that, somehow, Hilton Hotel would not otherwise have entered into a business proposition. That is a pretty absurd contention. The Hilton Hotel, I guess is one of the largest hotel chains in the country. It is not a charitable firm. It does things that are in the interests of the stockholders of that firm, as you would expect it to do. If Hilton decided that a hotel would be profitable over many years in Minneapolis, you can be sure that they would build one, without the taxpayers being asked to sweeten the pot to the tune of $5.5 million under this UDAG project. That is the way they work.

Not to be outdone, other major hotel chains have benefited by the same kind of subsidy—Sheraton, Ramada, Holiday Inn, for example. Indeed, over the past 3 fiscal years, 10 to 15 percent of UDAG grants have been awarded to hotel-related projects.

Mr. ARMSTRONG. Mr. President, will the Senator yield for a moment?

Mr. HUMPHREY. I am happy to yield to the Senator from Colorado.

Before I do, Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I would like to take just a moment to discuss with him three matters.

First of all, if I understand this amendment, it reduces substantially the funding for UDAG.

Mr. HUMPHREY. That is correct.

Mr. ARMSTRONG. And the point he is making, I think, is one which should be seriously and earnestly considered by every Senator, that some of the largest corporations, some of the most affluent corporations in the Nation, in effect have become recipients of corporate welfare. This is an outrage. My outrage, however, is not directed toward these corporations, and I judge the Senator's concern is not, either.

All of these companies and others are obligated to comply with all sorts of laws that are to their disadvantage, and I personally have no objection to a company taking advantage of a law which happens to be to their advantage.

The blame is not with the companies involved, but with the Congress for permitting such an unwise expenditure of public funds.

So I just want to congratulate him for drawing this to the attention of the Senate.

Second, I would like to point out that the Senate on one recent occasion very nearly voted to abolish the UDAG Program altogether, which from my viewpoint would be the preferred solution, which brings me to the third matter I wanted to raise which is, Would the Senator consent that I be added as a cosponsor of the amendment?

Mr. HUMPHREY. Gladly. Of course.

Mr. President, I ask unanimous consent that the Senator from Colorado be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I thank him for his valuable addition to the debate.

He put his finger on the essence of it. This question of corporate welfare. I find it obnoxious, frankly, as now who is a staunch defender of a free enterprise system, whenever there is any element, much less an outrageous element of corporate welfare. I am a staunch defender of the free enterprise system, a staunch defender of profits fairly and lawfully won, and likewise a staunch defender of the concept that unwise business firms, unwise business decisions must accept their lumps when it comes to the bottom line, including losses.

Subsidies are pernicious. They distort the economy. At any given time, there is a measurable pool of capital, constantly fluid, of course, and it is impossible to measure in any given moment, but in the abstract at any given moment, there is a quantity of capital available for financing the most worthy projects, and when politicians keep their fingers out of it generally the most worthy and the most sensible projects draw that captial, and that is good because the most worthy and the most sensible are usually the most efficient, and efficiency has the benefit of raising the standard of living in this country because when assets are put to the best possible use, productivity is increased and all Americans share to one degree or another in that increased productivity.

Increased productivity means a higher standard of living. That is how the system works when politicians will keep their fingers off it.

But when instead they cannot resist the temptation of channeling capital to this enterprise and that enterprise, they have the effect of distorting the marketplace and as a consequence of that politician-induced distortion, capital flows to those projects that are less than efficient and make a smaller contribution to increasing American productivity and a smaller contribution to raising the standard of living for each American citizen.

That is what is wrong with subsidies. That is what is wrong with politicians allocating capital.

This UDAG Program is nothing more or less than political allocation of scarce resources. And what is political allocation?

While I am warm into the subject and we have some time to kill, what is political allocation of scarce resources, Mr. President? Socialism. That is what it is.

You look at countries with a socialist government. Politicians decide where scarce capital goes, not the marketplace.

America is the bastion of free enterprise and may it always be so; not a perfect system but the best.

Whenever we introduce these elements of subsidy, these programs that distort the marketplace in favor of politically favored projects versus those that would otherwise get the capital by virtue of their efficiencies, we really do damage to our system and to our economy and the standard of living of each of our citizens.

That is what is wrong with this. It is wrong from start to finish. It should never have been enacted. It should have been eliminated long ago or substantially reduced. It is a slush fund and that is why politicians like it. They love slush funds. Why? Because slush funds can be used to pay off politically favored groups. That is why.

Mr. MURKOWSKI. Mr. President, I wonder if my colleague will yield for a question?

Mr. HUMPHREY. I am happy to yield to the Senator from Alaska.

Mr. MURKOWSKI. As one who is very concerned and is ranking on the Veterans Committee, of course, I am very interested in any additional benefits.

I wonder if my friend from New Hampshire was aware of just what the outlay would be to the VA medical as a consequence of the transfer of 120 in budget outlays.

Mr. HUMPHREY. Yes. The outlays in fiscal year 1988 would be in the order of $6 million.

Mr. MURKOWSKI. So the VA medical then would receive about $6 million from the action contemplated by the Senator from New Hampshire.

Mr. HUMPHREY. That is correct.

Mr. MURKOWSKI. And his major concern I gather is what this type of UDAG is used for in this country.

Mr. HUMPHREY. The Senator is correct.

Mr. MURKOWSKI. I want to make sure the record reflects we are not talking about the veterans getting $100 million or $120 million in medical assistance, but more like $6 million.

Mr. HUMPHREY. Yes, there would be the budget limits which it enforces.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. HUMPHREY. I am happy to yield.

Mr. PROXMIRE. I congratulate the Senator and support the amendment once again.

I was not able to follow the colloquy completely. As I understand it, what this would do would be to cut $100 million roughly in this in future spending for UDAG and would add $5.9 this year for the Veterans' Administration.

Mr. HUMPHREY. That is correct.

Mr. PROXMIRE. And over the longrun, this would save a great deal of money. Overall, it would save $94 million, but that $94 million would not go to the Veterans' Administration; is that correct?

Mr. HUMPHREY. That is correct.

Mr. PROXMIRE. OK.

Mr. MURKOWSKI. Would my friend from New Hampshire add me as a cosponsor?

Mr. PROXMIRE. If the Senator would yield for the purpose to renew a parliamentary inquiry, I understand now the Humphrey amendment is in compliance with the Budget Act?

The PRESIDING OFFICER (Mr. DIXON). The Senator from Wisconsin is correct. The Budget Committee advises that the amendment of the Senator from New Hampshire meets the Budget Act requirements.

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the distinguished ranking member of the Veterans Committee, the Senator from Alaska, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, very shortly I will move to table this amendment.

The Senator from New Hampshire makes a very good case. I have heard it for years, and it is very nice to talk about corporate welfare, and I would be the first to admit that some of the UDAG funds have been misused. There are some projects that have not been meritorious and some companies that have benefited from them that could have done it on their own. I do not think there is any doubt about that.

But I used to be a mayor of a city before I came to the Senate, and I know a lot of other mayors around the country who had similar experience to what I had.

There was one particular UDAG project in Utah, call it corporate welfare if you want. We had a 10-acre block, an entire squire block in Salt Lake City that was very dilapidated. It had a bunch of old one or two-story hotels, a lot of winos sitting on the sidewalk. People were afraid to walk in that particular area. There used to be an old mansion in the middle of that block. There was an old mansion that deteriorated badly that was on the National Historic Society register and could not be torn down as a result of that. Two or three Presidents of the United States in the 1800's had stayed there, and all of that sort of thing.

One million dollars from UDAG to renovate that old house spawned $180 million of private development funds and now the local property taxes paid to the city and county are many, many times over that $1 million.

Maybe we could argue that local government should reimburse the Federal Government. If they find you are now making money out of that $1 million, pay us back the $1 million. I would not object to that repayment. It spawns local tax revenues.

But the UDAG project in my city has spawned far, far more local taxes paid by these corporations, those who built the big buildings and hotels in a very dilapidated area where it is now one of the most beautiful areas of the city, where people are safe to walk, with an ice skating rink for the winter and entertainment, theaters and all sorts of things. This produces far more revenue than it loses.

So I think we should not paint one side of UDAG. I admit my bias as a former mayor, but it has traditionally helped my city and a lot of other cities.

Maybe that is what we should do. I see my friend from Maryland getting up. Maybe, rather than fighting this annual battle to eliminate UDAG, maybe we should consider an amendment to require payment from the local communities of the amount of the grant and it would benefit them and it would eliminate the cost of UDAG. But, at this point, it is not possible to do that sort of thing on the floor.

I do not want to cut anybody off.

Mr. SARBANES. Will the Senator yield briefly?

Mr. GARN. I yield the floor.

Mr. SARBANES. Mr. President, I will be very brief because I know the managers of the bill want to move along.

First of all, I would simply observe that earlier I propounded the proposition that the previous amendment be altered and that then there be no limitation on discussion. And, of course, that is exactly where we are now. We could have saved, I think, a great deal of time had we proceeded that way.

On the substance of this amendment, I think the point made by the very able Senator from Utah is right on point. These UDAG moneys have been successful in community after community in leveraging a very large amount of private investment in addressing renewal of areas that would probably otherwise have simply been allowed to collapse.

Those are areas that cannot be abandoned. They are often found either in the heart of the city or at the center of the community. You cannot simply come along and say, "Well, let the market make a decision." If the market makes a decision that all the investment will go into the outlying areas, the central area will simply decay. It does not work, because you cannot allow the central areas simply to collapse.

The program is very effective for a small investment of public funds leveraging large amounts of private investment that have led to the renewal and the regeneration of countless communities across the country.

Therefore, I support the program and oppose the amendment.

Mr. LAUTENBERG. Mr. President, just very briefly, I want to support the comments of my colleague from Maryland and also to note that the Senator from Utah recounted that in his role as a mayor there was a significant value to UDAG funding.

In my State, we have seen UDAG put to very good use in communities that could not attract private capital at all.

It is true, as the Senator from New Hampshire said, that is some cases it just is not a profitable deal until you get things going. Very often, these are cornerstone projects that enable a community to invite other private investors to come in once they see the beginning of are vitalization program.

I remind the Senator from New Hampshire that, since its inception, UDAG programs nationwide offered more than $4.2 billion to about 1,100 eligible communities. In fiscal year 1986 alone, 280 UDAG projects, involving $437 million leveraged out to almost $4 billion.

Mr. President, nobody here has an exclusive claim to the definition of what constitutes private investment. I certainly would put my credentials as someone who knows something about the private sector on the line with anyone else. I would have to tell you that I have seen many investments that were made simply because there was the inducement by the UDAG Program to get the private corporate community to go along and start programs that resulted in jobs, resulted in opportunities, and included in their employment rolls many veterans. People who were looking for an opportunity, who were isolated and deprived in depressed cities and could not find work, suddenly found there were new opportunities created. It is true in city after city in industralized New Jersey.

I hope, Mr. President, that we will go ahead, as I understand there is going to be a motion to table this amendment, and put this aside once and for all and get on with the remainder of the bill under consideration.

Mr. PROXMIRE. Mr. President, let me just say a word in support of the bill and against the tabling motion, which is going to follow.

I would agree wholeheartedly with my friends from New Jersey, Maryland, and Utah that there has been some very, very significant improvements in our cities as a result of UDAG. There is no question about that. They have been leveraged with relatively small amounts of Federal money and they have rebuilt the downtowns. That has happened in my State in city after city, small cities as well as big cities.

But, Mr. President, I was the author of this bill 10 years ago. I think it has done a good job. But now the time has come when we cannot afford it. We cannot afford it. There are a lot of good programs that we would like to continue, but cannot afford.

We have to recognize that the problem facing this Congress and facing this country is a colossal deficit. The only way we can cut that deficit is to cut spending; we have to increase taxes, too, but cut spending and cut it wherever we can.

The Senator from New Hampshire has made an excellent case that, under present circumstances, this is money going to people who can afford to do the job themselves if they want to do it. We cannot afford it, Mr. President.

For that reason, I am going to vote against tabling.

Mr. HUMPHREY. Mr. President, I assure the managers I shall not be long. I thank the Senator from Wisconsin. I think it is especially incredible that the father of the UDAG Program supports the amendment. The very author of the bill which created the UDAG Program 10 years ago just spoke and said that we cannot afford the program.

Now, as to the contention that without UDAG cities are completely without any means to spark the revitalization of their downtown centers, that is nonsense. There is nothing that precludes them from putting up their own money for this leverage, so-called. If they believe that the introduction of public money will leverage the revitalization of their downtown centers, then let them put up local money. Why must the people of Minneapolis say, "Washington, give us a few million dollars?"

Why must the people of St. Louis—I do not know if St. Louis has gotten UDAG grants, I do not know if they have or not, but why should the people of St. Louis benefit at the expense of the people of Concord, NH? If the people of St. Louis, or any city, want to revitalize downtown or do anything under the Sun, let them do it with their own money. If they believe in the leveraging of public funds, let them put up their own public funds. We cannot afford to play Santa Claus to every city and town in this country that proposes to revitalize or redo or re-anything.

The time has come when we have to draw the line. And we are here drawing it for whatever it is worth, and we shall see in a moment.

The amendment would reduce this UDAG Program by $100 million and would plus up the Veterans' Health Care Program, which is at least a worthy cause, by $6 million in fiscal year 1988. I hope the Senate will reject the tabling motion.

Mr. GRAMM. Will the Senator yield?

Mr. HUMPHREY. Yes; of course.

Mr. GRAMM. I would just like to say I suspect the distinguished Senator's idea makes entirely too much sense to be given serious consideration. But, since he has drawn this line, I would like to be sure I am recorded as being on the right side of it. Therefore, Mr. President, I ask that I be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I would only add one concluding thought before I move to table. That is, simply, once again, the Senator from Wisconsin has made an eloquent plea for reducing the budget. Whatever we say about this amendment, it does not reduce the budget. It transfers money from one account to another. The amendment may have more appeal if it were simply a reduction in funds.

Mr. PROXMIRE. Would my good friend from Utah yield on that point?

Mr. GARN. I would be happy to yield.

Mr. PROXMIRE. It is my understanding, I have discussed this at some length with staff people who have looked into it, it does reduce the budget. It reduces it by about $94 million. Because what happened under these circumstances is that the outlay—in order to equalize the outlay, you have to cut the budget authority which goes over a longer period of time, much more deeply for UDAG. So that over a period of time there would be a saving as I understand it of $94 million. I may be incorrect on that.

Mr. GARN. There would be a saving in this budget year but over the years that budget authority that was changed would be spread out.

Mr. PROXMIRE. May I say it is just the opposite. There would be no saving in this budget year but as the years go on there would be a savings.

Mr. GARN. Well, we have a difference of opinion there.

Mr. President, we have a difference of opinion there.

Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion of the Senator from Utah. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSE-

BAUM] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—67

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Garn
Glenn
Gore
Graham
Harkin
Hatch
Hatfield
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Moynihan
Nunn
Packwood
Pell
Pryor
Quayle
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Wallop
Wirth

NAYS—31

Armstrong
Boschwitz
Bumpers
Cohen
DeConcini
Fowler
Gramm
Grassley
Hecht
Heflin
Helms
Humphrey
McCain
McClure
McConnell
Mitchell
Murkowski
Nickles
Pressler
Proxmire
Reid
Roth
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson

NOT VOTING—2

Kassebaum
Simon

So, the motion to lay on the table amendment No. 986 was agreed to.

Mr. GARN. I move to reconsider the vote by which the motion was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' NATIONAL CEMETERY IN SEATTLE/TACOMA AREA

Mr. EVANS. I wish to speak to an issue which would establish a specific earmark of $200,000 out of the major construction projects fund for an environmental impact statement for a proposed national veterans' cemetery in the Seattle/Tacoma area. The need for a national cemetery in the Northwest region has intensified since the existing cemetery in Willamette, OR, will reach its capacity by the year 2000 at the latest. Fortunately, the Veterans' Administration was offered, at no cost to the Federal Government, an excellent track of land. These 200 acres will be donated to serve as a national cemetery for Alaska, Oregon, Idaho, and Washington veterans.

The Veterans' Administration [VA] and the Washington State congressional delegation recognize that this site is the best possible location for such a cemetery. The Seattle area is the home for the largest veteran population in region X. Out of 1,106,000 veterans, 515,000 veterans are within 100 miles of the proposed cemetery. That is over 45 percent of region X's veterans and 89 percent of veterans who reside in Washington State.

This matter merits consideration because two requests by the VA for the EIS funding were rejected by the Office of Management and Budget [OMB]. OMB asserts that since it takes approximately 8 years to complete an EIS and the necessary construction for a cemetery, they will not consider this proposal until fiscal year 1992. Ironically, the land will not be available in 1992. The Port of Seattle is unable to protect it from competing interests who already are exploring the possibility of developing on that track of land. Without the EIS, a clear signal of commitment by the Federal Government, they will be forced to consider alternative land-use proposals and this unique opportunity will be lost.

The House Subcommittee on HUD-Independent Agencies has recognized the merits of this request and recently appropriated $200,000 for fiscal year 1988. This is an important issue for Northwest veterans. It enjoys strong support on the State and local level, it's cost efficient, and utilizes the necessary foresight to provide a resting place for an aging veteran population. It would be unwise to forfeit this ideal site for a national cemetery. I ask for favorable consideration of this earmark as the conference committee considers major construction projects.

Mr. ADAMS. I would like to express my regret that this bill does not contain the necessary $200,000 in funding for an environmental impact statement [EIS] for the proposed construction of a veterans' cemetery in Washington State.

A unique opportunity has occurred in my State to satisfy an inevitable need of our citizens at little Federal cost. In the next 10 years there will be an undeniable need for a veteran's cemetery in the Northwest. The only cemetery in the area, located in Willamette, OR, will be full by the 1990's.

To meet this need, land has been donated for the construction of a veteran's cemetery in the Seattle-Tacoma area which would serve veterans from the States of Washington, Oregon, and Idaho. The Puget Sound region, with its numerous military installations, has a significant veteran's population and would be an excellent choice as a site for the Northwest's next veteran's cemetery.

The Veterans' Administration has twice requested funding for the EIS and has been rejected by OMB each time. OMB maintains that since it takes approximately 8 years to complete the EIS and the construction of the cemetery, they will not consider funding for this project until 1992. Unfortunately, the Port of Seattle is unable to guarantee that they can protect this land for that length of time. Mr. President, I find OMB's actions on this matter to be shortsighted. An ideal and cost-effective situation has presented itself and I believe that responsible action calls for us to take advantage of this opportunity.

We are only requesting an additional $200,000. This is a small amount of money to enable those who have served in our country's Armed Forces the opportunity to be buried in a veteran's cemetery.

I say to the chairman, my colleague, Senator EVANS, and I would like to call attention to an issue of importance to Washington State. Given budgetary constraints and the necessity of moving this bill, we will not offer an amendment to the abatement, control, and compliance appropriations for the Environmental Protection Agency; however, it is critical that the issue be addressed at some point.

The Safe Drinking Water Act Amendments of 1986—Public Law 99-339—established a 5-year demonstration program for the protection of sole source aquifers. To carry out the program, the legislation authorized $10 million for fiscal year 1987, $15 million for fiscal year 1988, and $17.5 million for each of the fiscal years 1989 through 1991. Despite this authorization, the Environmental Protection Agency failed to request an appropriation to carry out the sole-source aquifer demonstration project.

The amendments to the Safe Drinking Water Act in the 99th Congress recognized the great importance of the need to protect the sole-source aquifer supply of many communities across the country. The Spokane community, in eastern Washington, is one of the largest communities in our State dependent on a sole-source aquifer. Completion of this study is critical to developing a program of adequate protection. Certainly it is more economical to safeguard this resource than to clean it up once it has been polluted.

The House of Representatives recommended an appropriation of $1 million from Environmental Protection Agency abatement, control, and compliance provisions to fund studies and grants to identify and control sources of contamination of the Spokane aquifer. The entire Washington delegation, particularly Congressman FOLEY in whose district the Spokane aquifer is located, support our request that this recommendation be included within the final HUD-Independent Agencies appropriation bill.

Mr. EVANS. The inclusion of these funds in the final bill is imperative to protect Spokane's sole-source aquifer. I cannot stress enough how serious this issue is to the people of Spokane, who receive their drinking water from this aquifer. The demonstration project is the most cost-effective method of safeguarding this sole-source aquifer and the only way to forestall the massive expenditures attendant to aquifer restoration efforts. I join with my colleague is strongly urging that this matter be reviewed in conference and that the conferees include the House of Representatives' language in the final bill.

Mr. PROXMIRE. I recognize the concerns of my colleagues from Washington, and I appreciate that you are not trying to hold up this bill any further by offering an amendment. I appreciate the need for a demonstration project in Spokane, but am constrained by budgetary limitations. If I could, I would like to pursue a question. Would it be acceptable to the Senators from Washington if we review this matter in conference to see if there is some way to reach an accord with the House?

Mr. ADAMS. As usual, the Senator from Wisconsin has been very understanding with this issue. I do believe that it will be helpful if the matter could be reviewed in conference. I will be happy to provide any information that may be necessary and to talk with the Washington delegation in the House of Representatives to ensure that they are aware of this issue.

Mr. EVANS. The Senator from Wisconsin has suggested a very helpful approach to assist us in resolving this concern. I do believe there should be a way to resolve this issue and I appreciate that we will have the opportunity to take care of this problem.

Mr. GARN. Mr. President, the Senators make very good points. We could not do it in this bill, but we will attempt to evaluate their problem in the future.

Mr. MATSUNAGA. Mr. President, the cause of peace among nations is one which has received widespread attention over the course of American history. Great leaders have long voiced the popular sentiment that America take the lead in promoting peace and insuring freedom and justice. That it has done year after year, from the days of the American Revolution to our present era. This is a legacy in which all Americans can take pride.

Efforts to advance the cause of peace are more critical today than ever before. With the establishment by Congress of the United States Institute of Peace in 1984 and the launching of the Institute by its Board of Directors in 1986, the Nation has institutionalized for peace a special legacy of the genius of America: applying our resources to develop and expand the base of knowledge and skill necessary to address the major problems of our time, including armed conflict and the erosion of freedom and justice. We can take justifiable pride in the fact that ours is the only major industrialized nation on Earth to establish such a rational agency.

The United States Institute of Peace is a national nonprofit independent corporation with three principal functions: to encourage and support research and study in the field of peace resolution of international conflict; to conduct educational programs on peace among the nations and peoples of the world; and to provide information nationally and internationally, on questions of peace.

The Institute has now completed its formative administrative chores and has several programs well underway. Of course, this work cannot move to this new stage without proper funding. For fiscal year 1988, Congress authorized funding of $10,000,000 for the Institute. Earlier this month, however, the Appropriations Committee recommended a funding level of only $5,000,000.

This amount—half of what we had earlier authorized—is barely adequate for the proper functioning of the Institute, and I ask my distinguished colleagues on the Appropriations Committee to provide me with a firm commitment that, in conference, the Senate will hold to the $5 million figure. Very worthy programs, such as the Jennings Randolph Program for International Peace which supports the work of scholars and leaders in peace on fundamental issues of international conflict management, will be sacrificed unless we uphold this promise. In fact, the first group of eight Distinguished Fellows for this program have been selected and are actively at work. They include former ambassadors and foreign ministers; professors of international law, theology, and political science; a former Under Secretary General of the United Nations; and a former Member of Congress.

A significant program of grants has begun and already $1.5 million has been awarded. Even with judicious care, grants average only $27,000, a good sum for certain kinds of research but perhaps inadequate for institutional development, an area the Board has told us it wants to move into.

The Institute also has a number of educational projects underway. Among them are a survey of the scope of international peacemaking theory—the "intellectual map project"—and a high school-level peace essay contest. There are a number of additional exciting projects, too, and without our steady financial support, this important work will be jeopardized.

It is fitting and proper that the U.S. Government support the U.S. Institute of Peace. Huge amounts of American resources are expended every year to study and prepare for the conduct of war. Only through the Institute of Peace are public funds provided to study the promotion and use of peaceful means to settle international differences. To study war as our sole means of conflict resolution is to create a self-fulfilling prophesy. Without alternative means of addressing hostile encounters, war becomes inevitable. Therefore, I urge that the important program which Congress legislated in 1984 be continued. This program developed to its envisioned potential will restore this great nation to its leadership position in mankind's quest for lasting world peace.

Mr. CHILES. Mr. President, I would like to assure my distinguished colleague from Hawaii that I am firmly committed to holding the Senate figure of $5 million in conference and will urge my colleagues to do so. The Institute was created by Congress, and we must assure that it is adequately funded.

Senator MATSUNAGA is also correct when he says that the cause of peace has always been close to the American heart. However, despite all good intentions, this Nation has from time to time been subjected to the evils of international war. Isolationist attempts to shield ourselves from war have failed, and after each conflict America's role in global affairs has increased. Nothing is more important than the search for ways to avoid future wars. The U.S. Institute of Peace springs from this ongoing American quest for peaceful solutions to international conflict.

The last World War thrust the United States into the role of a global superpower. Since 1945, America has enjoyed the privileges and responsibilities of being the leader of the free world. This leadership has been anchored by an economically and militarily strong America. But something besides wealth and might is also required of those who would lead. Leaders must offer an ideal. They must offer a vision of how the world should be, and a sense of the direction in which all nations should proceed. The most noble goal toward which America can lead the world—and in the final analysis, the most crucial—is peace. In this era of nuclear weapons, our ultimate goal must be peace.

For this reason, I strongly support the U.S. Institute of Peace. The Senator from Hawaii [Mr. MATSUNAGA], who is the father of the Peace Institute, can rest assured that I am committed to holding firmly in conference to the $5 million approved by the Senate.

Mr. HATFIELD. Mr. President, I would like to read a short excerpt from the U.S. Institute of Peace Act—section 1702(a)(1)—the legislation which created the Institute of Peace.

> The Congress finds and declares that a living institution embodying the heritage,

> ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict.

A truer statement has never been issued by the U.S. Congress than this, and it is as true today as it was in 1984. It is certainly in the national interest, as well as in the broader global interest, to devote time and resources toward finding peaceful solutions to the world's conflagrations. My distinguished colleague from Hawaii can rest assured that my full energies will be put toward securing a funding level of $5 million for the U.S. Institute of Peace.

Each year America spends huge sums of money to study and prepare for war. Since 1945, acts of combat have alone consumed more than $550 billion. This translates into an annual average cost of $50 for every U.S. citizen—and that does not include the costs associated with peace time defense. Surely the cause of peace is worth the fraction of this amount that the U.S. Institute of Peace requires: at $5 million for fiscal year 1988, less than 2 cents per citizen.

As Senator MATSUNAGA has related, the Institute pursues its important work on three broad fronts: research and study, education and training, and information services. The Jennings Randolph Program for International Peace deserves reiterated praise. This program assists the work of scholars and leaders in peace from both the United States and abroad. It provides support for scholarship and other forms of communication on issues of international peace and conflict resolution.

To further the systematic and scholarly analysis of questions of peace among nations, the Institute awards grants. Topics covered are diverse, current, and relevant to all persons interested in expanding their knowledge of the theory and strategies of international conflict resolution.

To that end, the U.S. Institute of Peace requires only a fraction of the more than $300 billion consumed by our defense budget each year. The opportunity awaits—the chance to advance the vision of a world free from armed conflict is before us. It would be shameful indeed if America were not at the forefront, leading the global community of nations toward a more peaceful existence. Therefore, let me assure the Senator from Hawaii [Mr. MATSUNAGA] of my strong and unwavering support of the U.S. Institute of Peace, and the $5 million agreed upon by the Senate Appropriations Committee in conference. As a Senate member of the conference committee on the Labor-HHS-Education appropriations bill, I will hold firm to that figure in conference with the House.

Mr. SASSER. Mr. President, I rise in opposition to the amendment of the Senator from New Hampshire and in support of the motion to table.

This is not the time to reduce funding for UDAG. It is the only remaining form of Federal assistance that is designed to strengthen the private-public partnership and aid our Nation's most distressed communities.

Moreover, the Banking Committee has completed a long and well thought out revision of the system of project selection. The new selection criteria will ensure that only the most economically distressed cities will receive UDAG's.

UDAG is indeed an innovative and well-conceived program. It uses the smallest amount of Federal money that is needed to trigger a much larger private investment. Since 1978 every dollar spent by the UDAG Program has been matched by $6 from the private sector.

In addition, Mr. President, UDAG is a job producer. It has created 550,000 new jobs since 1978 and nearly half of these jobs have gone to low- and moderate-income people.

Frankly, Mr. President, UDAG has been cut enough. Since 1980 the program has been cut by $450 million or 66 percent. Further cuts would have an extremely detrimental impact on local economic development.

The UDAG Program represents less than three one-hundredths of 1 percent of the Federal budget. It is hardly a budget buster. In fact, given its proven track record in producing jobs, relieving distress and attracting private capital, it is probably one of the most effective and efficient Federal programs.

Mr. President, I yield the floor.

EPA ABATEMENT, CONTROL, AND COMPLIANCE PROVISIONS IN THE SENATE APPROPRIATIONS REPORT

Mr. BAUCUS. I appreciate that the members of the Senate Appropriations Committee have worked long and hard to develop a responsible bill under the HUD Subcommittee. Determining where cuts should be made to reduce the deficit is not easy, and I commend the members for their efforts. However, I recognize a difference between the language included in the House and Senate reports which I trust can be resolved in conference.

I am referring specifically to a directive in the House report that a total of $4.5 million be allocated to conduct various studies and activities authorized by the clean water amendments.

The Senate report recommends no funds for these new activities. Of particular importance to Montana and Idaho is section 525 of the Clean Water Act. This section was specifically referenced in the clean water amendments provision in the House report. Section 525 authorizes the EPA Administrator to conduct a comprehensive study of the Lake Pend Oreille, ID, and the Clark Fork River, MT, and its tributaries in Montana, Idaho, and Washington. Although periferal studies of this water system began earlier this year, and EPA promised to begin a diagnostic comprehensive study this summer, the agency has just recently come up with some grant money to begin the project.

As this project is important to Montana, Idaho, and Washington, Senators MCCLURE, ADAMS, and EVANS and myself urge that the conferees accept the House position.

Mr. President, it would be my understanding that if the House position prevails in conference then sufficient funds would be provided for EPA to implement section 525 of the Clean Water Act, as referenced in the House report.

I yield to ask the distinguished subcommittee chairman, Mr. PROXMIRE whether he would share this understanding.

Mr. PROXMIRE. I thank the Senator from Montana for his kind remarks and for his continuing work with the subcommittee on this issue. I recognize the problem he has had in getting EPA to move on this issue in Montana. I know the Senator has been working hard to obtain funding for section 525 as he is the original sponsor of this amendment to the Clean Water Act.

My understanding is that $315,000 is necessary to fund the study authorized under section 525 of the Clean Water Act. Is this correct?

Mr. BAUCUS. Yes, that is correct according to the estimates that I have received from EPA. The estimated breakdown for this project in fiscal year 1988 is $185,000 for Idaho, and $130,000 for Montana.

Mr. PROXMIRE. I thank the gentleman from Montana. I understand the importance of this project to both Montana and Idaho. If the House position prevails in conference then there will be sufficient funds to implement section 525, consistent with the language in the House report.

Mr. BAUCUS. On behalf of the State of Montana, I thank the honorable chairman from Wisconsin. I recognize that two of my colleagues, the distinguished Senators from Idaho and Washington are also very concerned about this matter. I yield to your fellow appropriations member, the gentleman from Idaho.

Mr. MCCLURE. I would like to thank the chairman, Senator BAUCUS, and all the Senators who have worked on this issue. The problem we are addressing today is one of great importance to me and to people of Idaho, Montana and Washington. It is one which I have been working on for several years.

The Clark Fork River in Montana drains into Lake Pend Oreille, ID. Both the river and the lake are suffering from phosphorous pollution and algae problems. Once a lake begins going through the stages of eutrophication, it is very hard to reverse. Maintaining high quality of the water in Lake Pend Oreille is important to both the people and the tourist industry in Idaho.

In the fiscal year 1987 appropriations bill for HUD and related agencies, I requested EPA to begin a study of the quality of water in Lake Pend Oreille. As was stated, only recently was this funding provided and the project begun. All the Senators from Idaho, Montana and Washington State are concerned about the problem in the river and lake system and expressed their desire to provide adequate funding in the fiscal year 1988 appropriations bill to enable the Environmental Protection Agency to continue this study. Because of budgetary problems within the subcommittee this request was not granted.

I understand the pressures under which the chairman labored and want to express my appreciation for the consideration both he and his staff gave to our request. I am encouraged that the House has included funding for this project. I understand that they did not have the allocation problems experienced in the Senate. I agree with my distinguished colleague from Montana that it is important to find funding for this project and hope that the chairman will remember our request when the conference committee meets on this bill. Again I thank the chairman for his patience and understanding on this matter.

Mr. PROXMIRE. I thank the Senator from Idaho and recognize the gravity of his concerns. Did the Senator from Washington also wish to speak?

Mr. ADAMS. Yes. I thank the chairman and Senator Baucus for their thoughtful recognition.

On behalf of myself and my colleague, Senator Evans, I would like to call the distinguished chairman's attention to an issue of importance to our State.

The Pend Oreille River drains Lake Pend Oreille, ID and flows through northeastern Washington State. It is plagued by Eurasian Milfoil, a nonnative weed which is rapidly taking over the river and threatening to invade Lake Pend Oreille as well. The milfoil has destroyed 80 percent of the river's sport fishery habitat, and now threatens to disrupt power generation. Because the weed camouflages logs and pilings under its surface, drownings and boating accidents are also serious problems. Further, it is destroying water quality, and affecting the public utility districts and numerous private customers who use the river as their water source.

As Senator Baucus pointed out, the House report recommended $4.5 million for studies, demonstrations, and other activities authorized by certain sections of the Clean Water Act amendments (Public Law 100-4), including section 525. While the Pend Oreille River is not mentioned specifically in section 525, we believe that this study, which would develop a nutrient and hydrologic budget for the river, is of the type envisioned by the Clean Water Act amendments.

We considered offering an amendment to the HUD-independent agencies appropriations bill, but recognize the difficulties and financial constraints under which the committee had to operate. Instead, we would very much like to see the House report adopted by the conferees, and request that $100,000 of these funds be allocated to the Pend Oreille nutrient study. We ask the distinguished chairman to be sensitive to our concerns when this issue comes up in conference.

Mr. EVANS. Mr. Chairman, I fully support my colleague's efforts to include this appropriation in the final bill. In this effort, we have the full support of Congressman Foley, in whose district the Pend Oreille River flows. Milfoil is destroying the Pend Oreille River and further destruction is inevitable unless its progress is checked. This project is of extreme importance to our State, and we request that the distinguished chairman review the issue in conference.

Mr. PROXMIRE. I thank my colleagues, Senators Adams and Evans, for setting forth this argument regarding the need for funding for the Pend Oreille River nutrient study. They have made a good case for their request and I intend to give their concerns my thoughtful consideration when the issue comes up in conference.

STATE AIR GRANT

Mr. MITCHELL. Most of the country's major urban areas will miss deadlines for attainment of air quality standards for carbon monoxide, ozone, and particulate matter. The Environment and Public Works Committee is completing its action on Clean Air Act amendments. Regardless of the outcome of pending Clean Air Act legislation, States in which these nonattainment areas are located will have to revise and resubmit State implementation plans to the Environmental Protection Agency.

States have limited funding under the current program and need additional funds if they are to properly revise and implement their SIP's. Each State needs also to adopt regulations, monitor emissions, develop and refine their emissions inventories, enhance enforcement, replace or increase the number of air quality monitors. It is likely that for ozone alone these revisions will cost over $10 million.

The House has included a supplement of $10 million for State air grants to revise their SIP's for nonattainment areas. I hope the subcommittee chairman will consider the great need of these States and will accept this increase in conference.

Mr. PROXMIRE. I agree with the Senator from Maine that there is a pressing need for these States to receive additional funding for SIP revisions and I will give it my serious attention in conference.

Mr. MITCHELL. I thank the distinguished Senator. I am confident that this action will be a substantial contribution to the success of our clean air programs.

Mr. CHAFEE. On behalf of myself and my distinguished colleague from Rhode Island, Senator Pell, I would like to engage the distinguished floor managers of the Department of Housing and Urban Development-independent agencies appropriations bill in a short colloquy. As my distinguished colleagues may recall, the Water Quality Act of 1987 contains a section, section 315(b), authorizing the Administrator of the Environmental Protection Agency [EPA] to establish and conduct, at various locations throughout the Nation, a Clean Lakes Demonstration Program. Two of the projects authorized by this subsection are Gorton's Pond and Lake Washington in Rhode Island.

Mr. PROXMIRE. I thank my distinguished colleague and friend from Rhode Island for bringing this to my attention. Although the Clean Lakes Demonstration Program was authorized by the Water Quality Act of 1987, as you have correctly stated, no funds have been provided for this new demonstration program. However, $15 million has been included for the existing Clean Lakes Program.

Mr. CHAFEE. This brings me to the point of my colloquy. The report for the HUD-independent agencies in the House of Representatives, states that the House committee has been assured that many of the lake demonstration projects identified in the clean water amendments, are of such a high priority as to be assured of funding under the existing Clean Lakes Program. I seek to gain assurances from the distinguished managers of the Senate bill that when this topic is considered in conference, every consideration will be given to including in the final report a recommendation to the Administrator of EPA to consider the lake demonstration projects, including Gorton's Pond and Lake Washington, as part of the Bowdish Reservoir complex, such a high priority as to be assured funding under the existing Clean Lakes Program.

Mr. PROXMIRE. I thank the Senator from Rhode Island, and can assure him that when this topic is considered in conference, I will strongly consider including language in the final report which encourages the Administrator of EPA to give high priority to funding the lake demonstration projects identified in the clean water amendments.

Mr. GARN. I concur with the Senator from Wisconsin.

Mr. CHAFEE. I thank the managers of the bill for their assurances. I would also like to note that after discussions with the New England regional office of the EPA, I am assured that Gorton's Pond, which serves as a recreational outlet for thousands of Rhode Islanders, will qualify for Federal funding if the State identifies it as a high priority project. Similarly, Lake Washington, as part of the Bowdish Reservoir complex that includes Lake Washington, will rate high on a list of Rhode Island lakes for restoration efforts. Again, I thank the managers of the bill for their attention to this matter.

Mr. RIEGLE. Mr. President, I would like to engage in a brief colloquy with the distinguished subcommittee chairman about two items in this legislation. The House bill included $1 million for completing preliminary plans for the clinical/outpatient renovation project at the Ann Arbor VA Medical Center and $200,000 for preliminary planning of a 120-bed nursing home care unit at the Saginaw VA Medical Center. These are two important projects for veterans in the State of Michigan. No funding was included in the Senate bill for either of these projects.

The Ann Arbor facility was built in 1952 and is the oldest in the VA system never to have been renovated. This medical center provides services to a population of over 400,000 veterans and is actively involved in clinical and health services research.

To begin the planning process to build a 120-bed nursing home care unit at the Saginaw facility, $200,000 is needed. This facility is needed to meet the demand for VA nursing home care for service veterans. It is projected that almost 100,000 veterans in this service area will be over 55 years of age in 1990, and without this project, there will not be sufficient beds to accomodate our aging veteran population.

Mr. President, I would like to point out that the Veterans' Administration has included both of these projects in its 5-year medical facility development plan for renovation and improvement, and has included them on the list for planning during this fiscal year. I understand that the committee is concerned about more projects than it can fund. However, both projects have been delayed in the past, and the action intended by the Veterans' Administration is badly needed. Providing funding will merely ensure that these activities proceed on the priority schedule established by the Veterans' Administration. I would strongly urge the distinguished chairman to agree to the House funding levels for both of these projects when the conference on this legislation convenes.

Mr. PROXMIRE. I thank the Senator from Michigan for his comments and appreciate his concerns. As he is aware, the Appropriations Committee faces a difficult task in trying to respond to serious needs with limited funding. However, the Senator's point about the importance of these projects is well taken and I can assure him that I will work with the House conferees to achieve a level of spending that will respond to the Senator's concerns.

Mr. RIEGLE. I appreciate the interest of the distinguished chairman of the Subcommittee on HUD and Independent Agencies and thank him for his consideration.

Mr. ROTH. I would like to pose a question relating to the Department of Housing and Urban Development's final guidelines for the transitional housing demonstration program which were published in the Federal Register on June 9. My concern relates to the issue of public housing authorities being able to enter into lease arrangements with other sponsors in connection with the program. The guidelines appear to prohibit such arrangements. Such a rule would seem to preclude what I think could be a model project under the transitional housing demonstration program which is being developed in Wilmington. This project which would be undertaken by the YWCA in Wilmington involves the Wilmington Housing Authority, the Delaware Housing Trust Fund, the city of Wilmington, and private foundation support. I would point out that the YWCA is an experienced social service provider and that the Wilmington Housing Authority received an award from HUD last year. It seems to me that one of the goals we are striving for in meeting housing needs is just the type of partnership envisioned in this project. A lease arrangement is involved and all parties agree that this project would help fill a housing need in the city. I question whether a project with such merit should be disqualified under the program because of the HUD guideline. I would also say that my understanding is that this may not be a unique situation to my State. In investigating this issue similar problems were brought to my attention involving New York and Pennsylvania and I am sure other areas could be affected.

Mr. GARN. I would hope that the Department would not consider not funding applicants simply because of arrangements with local public housing agencies. Local public housing agencies are in a position to guage the housing needs in their areas. At a time when we wish to confer more discretion to PHA's this guideline would appear inconsistent.

Mr. PROXMIRE. I concur with the remarks of the Senator from Utah.

Mr. ROTH. I thank the Senators for their input on this matter and hope that the Department will consider funding projects which include arrangements with public housing agencies.

LOCAL COORDINATION BETWEEN FEMA AND COMMUNITY ACTION AGENCIES

Mr. GRASSLEY. Mr. President, there is one issue of great concern to me regarding management operations of Federal Emergency Management Agency programs for the homeless and for the provision of emergency food supplies. As you know, at the local level Community Action Agencies have long been providing a wide array of shelter, medical, social, and related services to the homeless. In fact, we have recently provided substantial direct funding to these efforts through the homeless bill. Further, CAA's provide extensive emergency food and meal programs.

Unfortunately, FEMA-funded programs are not always seeking to coordinate with these community-based programs and there have been several instances of services being duplicated while other needs went unmet.

I would like to request the committee to require FEMA to establish procedures under which its grantees will coordinate with Community Action Agencies when undertaking local program activities. I think it would be a good idea to ask the agency for a report on its coordination and management initiatives at the end of the next fiscal year.

Mr. PROXMIRE. I certainly see no objection. On the contrary, it is obviously a good thing to have some sort of planning and/or clearinghouse before Federal funds flow into local communities. FEMA should establish a guideline to its grantees in a manner which provides clear direction and requires some simple reporting back to the agency. I think we should try to avoid establishment of any regulations on the subject until we see whether the fiscal year 1988 effort succeeds without them. We will be happy to work with FEMA toward this implementation of a coordinated approach in this area.

Mr. GRASSLEY. I thank the chairman. This kind of effort can only strengthen and improve delivery of service to the neediest in our society.

Mr. DOMENICI. Mr. President, I support the HUD-independent agencies appropriation bill as reported by the committee.

The bill provides $57.1 billion in budget authority and $33.2 billion in outlays for the Department of Housing and Urban Development and for independent agencies such as NASA, EPA, the VA, and the National Science Foundation.

Mr. President, I am particularly pleased that the bill includes $1.9 billion for the National Science Foundation, a 15-percent incease over the current year level. In the fight to restore American competitiveness, we can invest no more wisely than in the programs of NSF.

The HUD Subcommittee received an allocation under section 302(b) of the Budget Act that many believe was too low. It received $2.1 billion more in outlays than the fiscal year 1987 level, but $0.7 billion less than its House counterpart and the budget resolution assumptions.

Mr. President, I want to commend the chairman of the HUD Subcommittee for producing a bill for markup within that tight allocation. It required some tough choices, but the Senator from Wisconsin did not resort to phony savings or gimmicks. I salute him for that.

Unfortunately, the lower spending levels required by the allocation would have been difficult to swallow. The Senator from Louisiana, in describing an amendment to be offered in committee by himself and the Senator from Utah, suggested that we could solve the problem with creative accounting.

Mr. President, that is exactly what happened. On October 1, the Senate Budget Committee informed the Appropriations Committee of "a revision in scorekeeping * * * in connection with the effects on fiscal year 1988 of H.R. 1827," the fiscal year 1987 supplemental.

The effect of this scorekeeping decision was to increase outlays available to the HUD Subcommittee by $0.5 billion. This allowed increases in spending for NASA, NSF, UDAG, housing for the elderly, and other programs, which in turn allowed the bill to be reported.

With that and other routine scorekeeping adjustments, the HUD Subcommittee is below its section 302(b) allocation by $0.5 billion in budget authority and $36 million in outlays.

The Senator from New Mexico does not question the authority of the chairman of the Budget Committee to make scorekeeping decisions. And holding a subcommittee harmless for the effects of a spring supplemental is in no way unprecedented.

But I would also point out that outlays from the spring supplemental under the jurisdiction of the HUD Subcommittee total only about $130 million. In other words, the subcommittee received a windfall of about $375 million.

More importantly, Mr. President, this decision makes the job of avoiding a sequester under the Balanced Budget and Emergency Deficit Reduction Reaffirmation Act all the more difficult.

To avoid a sequester, we must achieve $23 billion in deficit reduction. That is $23 billion since January. We have already been charged with the outlays from the fiscal year 1987 supplemental.

We can hold the committee harmless for outlays when measuring against the budget resolution. But we cannot hold them harmless for purposes of Gramm-Rudman. Increasing outlays in this bill by $0.5 billion only makes avoiding a sequester $0.5 billion more difficult.

Still, on balance, this Senator finds the reported bill to be acceptable. I am concerned about the process which brought it into compliance with the budget, yet I feel strongly about the prerogative of the Budget Committee to make such adjustments.

The committee has exercised restraint. New discretionary budget authority in this bill exceeds the fiscal year 1987 level by less than $50 million and is $1.6 billion lower than the CBO August baseline. It is $0.8 billion lower than the House bill.

The bill provides $5.4 billion more in budget authority than requested by the President. But $5.2 billion of that represents cuts proposed for the Department of Housing and Urban Development. These proposals would have cut housing and community development programs well below current levels.

At the same time, Mr. President, the bill is only $0.1 billion higher in outlays than the President's request. That is because the cuts he proposed for HUD generally would not have affected outlays in fiscal year 1988.

MAINTAINING AMERICA'S SCIENCE LEAD

Mr. LAUTENBERG. Mr. President, I rise to support the fiscal year 1988 HUD-independent agencies appropriations bill.

I want to address some of the critical space and science programs that are provided for in this bill. They are important for America's technological leadership. They are also important to my State, where so much work goes on in space science and science research.

The bill continues the critical Advanced Communications Technology Satellite Program [ACTS]. NASA contends that the ACTS Program requires $84 million in fiscal year 1988 in order to guarantee launch readiness by 1990. But the House version of the HUD-independent agencies appropriations bill only includes $70 million for the program.

As a member of the HUD-Independent Agencies Subcommittee, I worked hard to ensure that we provided $84 million for the program in fiscal year 1988. I was pleased that we were able to accommodate that amount.

Development of ACTS is critical to maintain America's leadership in communications satellite technology. It is no secret that the Europeans and Japanese are investing substantial public funds in research in this area. Both groups plan to launch their experimental satellites between 1990 and 1992. Appropriating $84 million in fiscal year 1988 will keep the program on track and keep the United States in the race for leadership of the global satellite communications industry.

Another important program funded in the NASA portion of the bill is the Rotary Engine Program.

America's position in general aviation has been eroding for several years. Development of a more fuel-efficient, versatile powerplant such as the stratified charge rotary engine is necessary to enable the American general aviation industry to regain its competitive position. The Japanese and Soviet Union have been seeking to improve their rotary engine. Failure to adequately fund this program would certainly cede the market to the Japanese and Soviets.

Unfortunately, in its fiscal year 1988 budget submission to the Congress, the administration requested $750,000 for this project, and the House included that level in its version of the bill. At that funding level, I was concerned that development of the project would be stretched out until the end of the century, and availability of highly advanced rotary engine technology would be delayed.

To help our general aviation industry achieve the higher levels of fuel efficiency and multifuel capabilities that the industry needs and that promise to restore America's competitive edge in general aviation, I sought an additional $2 million for the program be included in this bill for fiscal year 1988. I am pleased to say that that amount is included in the bill.

NASA and its main contractor, Deere & Co., have made excellent progress on the rotary engine with the money the program has received since 1985. Appropriating this additional $2 million in fiscal year 1988 will go a long way in ensuring that the program will be completed before foreign technology catches up and further undermines the general aviation industry.

America's space station is another extremely important program funded in this bill.

In September, the House approved $767 million in funding for the space station in fiscal year 1988 in its version of the HUD-independent agencies appropriations bill. But when the Senate HUD-Independent Agencies Subcommittee reviewed this program, there was an effort to eliminate funding for the space station. I supported Senators JOHNSTON and GARN when they offered an amendment to restore funding for the space station in the full Senate Appropriations Committee. The Senate Appropriations Committee version of the bill now includes $558,663,000 for the space station.

Mr. President, I appreciate the need to provide for our Nation's veterans. I worked hard to increase the veterans' funding at full committee, and I supported an amendment to add additional funds on the floor earlier. That is why it was difficult for me to support tabling the amendment to transfer funds from the space station to the veterans' programs. However, we should not be forced to sacrifice our technological leadership in order to repay our veterans for their sacrifices. I know that our veterans, as much as any group of Americans, do not want to see America fall behind the Soviet Union and other nations in the race for space leadership.

Some of America's most important technologies have emerged from our exploration in space. The space station holds the promise of providing valuable information that would help ensure that America advances technologically and remains competitive. It would also create thousands of jobs for individuals in New Jersey and throughout the Nation. If America is going to maintain its role as a world leader in space, moving forward with the space station is an important step for our Nation to take.

Developing a permanent presence in space is a high national priority. The Soviet Union has made great strides with its Space Station Program. We can afford to do no less with our own program.

Mr. President, the National Science Foundation section of this bill also contains extremely important provisions for the Nation and my State.

A campaign is underway in the House of Representatives to earmark funds for phase I transitional computer centers. The House Appropriations Committee earmarked $3.5 million for these centers in its report on the 1988 HUD-independent agencies appropriations bill.

I was concerned that earmarking funds for phase I centers would reduce the funds needed by the five national phase II supercomputer centers, such as the JVNC center at Princeton. At my request, language accompanies the Senate version of the appropriations bill which explicitly states the committee's objection to the House's effort to earmark funds for phase I centers.

Princeton's supercomputer center and the other four national centers are extremely important projects supported by the NSF. We should ensure that they receive adequate funding.

I am also pleased that this bill would provide $1.866 billion for the NSF in fiscal year 1988. This is an increase in funding over the level approved last year.

Mr. President, the bill before us make a substantial investment in America's leadership in science and space. I urge my colleagues to support the bill.

ENVIRONMENTAL SECTIONS

Mr. President, I express my support for the Environmental Protection Agency provisions in H.R. 2783. I would like to commend our distinguished subcommittee chairman, Senator PROXMIRE, and ranking minority member, Senator GARN, for their fine work in preparing the environmental sections of this bill.

Senator PROXMIRE and Senator GARN were particularly helpful in assisting me in pursuing a variety of initiatives beneficial both to New Jersey and the Nation.

I am pleased that this measure contains a provision I authored to assist our States and localities in meeting their obligations under title III of the Emergency Planning and Community Right to Know Act of 1986. This new law, which I sponsored in last year's Superfund amendments, can do much to protect our citizens from chemical accidents and to provide information on the chemical risks in our communities.

It is essential that we fund these new mandates on the Federal, State, and local level. The Senate bill does this. And it funnels $10 million specifically to assist States and localities in carrying out title III. Seventy-five percent of these funds must be passed through to the local level. This should be a shot in the arm for States, State emergency response commissions, local governments, and local emergency planning committees seeking to comply with the new law. Planning committees, municipalities, and counties in New Jersey and across the country can use these funds to move the program forward.

Another important provision that I authored in this bill provides $700,000 for a restoration plan of the New York Bight/Hudson-Raritan Estuary area. The measure sets forth specific guidelines and deadlines for EPA in pursuing this program. One of those guidelines is consultation with and participation of the public, which I believe is essential in developing a good plan. EPA must vigorously pursue this initiative, and should expect continued oversight by Congress to assure compliance with this provision.

The measure also continues funding for a project I have supported in Edison, NJ. In the 1987 appropriations bill, the Congress showed its support for hazardous waste research and development by providing funding for such an effort planned in Edison, NJ. The appropriation designated $500,000 to renovate buildings adjacent to EPA facilities in Edison, NJ, for hazardous waste research. This research is to be conducted jointly by EPA and the consortium of universities that currently operate the National Science Foundation Industry/University Cooperative Center for Research in Hazardous and Toxic Substance.

The President's budget request responded to congressional support for this effort with an assumption of $5.6 million from the Superfund account, specifically the Superfund Innovative Technology Evaluation [SITE] Program, for the renovation and design activities. It is important to note that work done for EPA to prepare the program of requirements for an architectural and engineering study for the renovation indicated that the cost for renovating both buildings in question was about $14 million.

This program of requirements is consistent with the intent of Congress expressed last year. Both the Senate report (S. Rept. 99-487) and conference report (H. Rept. 99-977) to H.R. 5313 clearly stated that the appropriation was for renovation of "facilities" or "buildings." The current Senate report (S. Rept. 100-192) accompanying this measure is consistent with prior legislative history and the program of requirements mentioned above. The report language on page 47 specifically uses the plural "buildings" in describing what the additional appropriation is intended for.

Accordingly, this bill's appropriation does not alter the original intent, and the $5.6 million appropriation should not be viewed as precluding renovation and construction of the two buildings in question.

The Environmental Protection Agency should therefore use all appropriated sums, including the original $500,000 for architectural and engineering studies, in a manner that is consistent with and will accommodate the $14 million design and renovation of both buildings (building 245 and building 246). While the architectural and engineering studies and design should be based on the $14 million plan, as is indicated by the bill language making the $5.6 million appropriation, this does not preclude use of available funds for phased construction and modifications of the designated buildings.

Use of the Superfund account does not limit the research to be carried out in the facility to Superfund applications. Obviously SITE related research can have broad applications. In fact, just as the program was initially funded from the building and facilities account, additional future appropriations might again look to that account. But I would also note the intent of the Senate measure that any modifications to the structure necessary to carry out a specific research, development, or evaluation goal may be paid for from research project funds without requiring specific building and facility appropriations.

Another measure which I sponsored in this bill strikes language originated in the House that attempts to supersede the natural resource damage provisions under Superfund. I do not believe it is appropriate to amend the Superfund law through the appropriations process.

I also sponsor language in the committee report to get the Superfund Technical Assistance Grants Program up and running. The Agency must promulgate the interim final rule to implement section 117(e) and to make these grants available to citizens affected by Superfund sites. The Agency should heed the committee's directive, not only in promulgating this regulation but in expediting the program in the ways laid out in the report.

Generally, I believe the bill makes important strides. Certainly, had more funds been available, I would have preferred to see some higher funding for existing and new programs. Overall the bill contains some important provisions for New Jersey and the Nation, including: over $1.1 billion for Superfund, $2.4 billion for construction grants, $50 million for asbestos in schools, and $12 million for radon research and cleanup.

I look forward to working with Senator PROXMIRE and Senator GARN as we pursue this effort in conference, and again I commend them both for their leadership.

HOUSING AND COMMUNITY DEVELOPMENT

Mr. President, I express my support for several provisions in the bill concerning housing and community development programs. As a member of the Appropriations Subcommittee on HUD and Independent Agencies, I have worked hard to ensure that we provide adequate funding for these programs.

I am pleased to note that this bill provides for full funding for the Urban Development Action Grant [UDAG] and Community Development Block Grant [CDGB] programs at fiscal year 1987 levels—$225 million and $3 billion respectively. I have long been a strong supporter of these programs and worked hard on their behalf during the committee's consideration of the bill. They have proven to be important, effective tools for revitalizing communities and expanding economic opportunities, particularly for those in most need.

I am also gratified to note that the bill provides for increases over the House levels for public housing operating subsidies and modernization, which I also supported during the committee's consideration of the bill. Public housing authorities are facing enormous pressures, as facilities deteriorate, insurance and utility costs escalate, and waiting lists in many areas of the country run into the thousands. It thus is vitally important that Congress provide adequate funding to operate and maintain our existing stock of public housing.

I also am very pleased that the bill maintains funding under the Section 202 Program, which provides much-needed housing for the elderly and handicapped, at the same level as fiscal year 1987, and increases funding for the Congregate Housing Services Program [CSHP] to $7 million. As a strong supporter of senior housing, and the CSHP in particular, I am especially gratified that the CSHP appropriation was increased substantially from the $3.4 million fiscal year 1987 level, as I had requested.

I also want to note the inclusion in the committee's report of language directing the Department to allocate a minimum of $400,000 in technical assistance funds to the district heating and cooling initiative. This program helps cities conserve scarce fuels and use energy more efficiently. The funds will be used for assistance grants to cities for feasibility assessments and predevelopment activities.

While I am gratified that the committee was able to fund the programs I've discussed, I am also disappointed that budget constraints limited our ability to maintain funding for the Moderate Rehabilitation Program and the Housing Development Action Grant [HoDAG] Program.

The Moderate Rehabilitation Program has successfully rehabilitated housing for low-income renters—those with incomes less than 50 percent of the area median income. Since 1978 the program has created 74,000 units of housing for low-income American families. It is these families who are least able to compete for housing within their ability to pay on the private market. The rehabilitated housing assisted with section 8 assistance makes it possible for these families to afford decent, affordable housing. The Section 8 Moderate Rehabilitation Program has been particularly effective in creating three- and four-bedroom low income units which are in scarce supply.

The HoDAG Program builds housing for both moderate- and low-income families, creating economically mixed projects with low turnover rates. This contributes to both project and neighborhood stability. Since the inception of this program in 1984, 24,152 units of housing have been committed, of which 6,917 are low income. This comes at a time when private market rental units have been dwindling due to demolitions, conversions, and rent increases.

As a member of the conference committee, I will do what I can to see if we can find the funds to support these two important programs.

HOMELESS AMENDMENT

Mr. D'AMATO. Mr. President, I rise today in support of my colleague from New Mexico, Senator DOMENICI, to provide continued funding for the many homeless families and individuals around the Nation. I commend the Senator from New Mexico and am pleased to join this effort.

The homeless are in urgent need of housing—a need the Senate fully acknowledged in April of this year with the passage of H.R. 558, the housing provisions of the Urgent Relief for the Homeless Act of 1987. As ranking member of the Housing Subcommittee, I was pleased to sponsor such worthy legislation.

Earlier this year, I assisted in providing $190 million for housing for the homeless—$80 million of this total was designated for transitional housing for the homeless. Because of the high demand for these funds, as well as the broad nature of the homeless problem, funds for transitional housing will be depleted by December of this year. The HUD-independent agencies appropriations bill does not provide any funding for transitional housing for the homeless.

Senator DOMENICI's amendment provides $65 million in budget authority and $1.3 million in outlays for transitional housing for the homeless. Offsets for this funding come from HUD management and expenses. The reduction is only a slight portion of the total outlays for this account. This funding is vital to provide continued funding for the homeless, especially as we are moving into a long, cold winter. Without action now, it is unlikely that we will be able to tap additional funding for the homeless until next spring.

Transitional housing provides homeless people with interim housing and support services to facilitate their transition to independent living over periods ranging from several weeks to about 18 months. This type of housing is of particular benefit to families with children and to the mentally ill. Given the large number of homeless families, as well as the large number of mentally ill individuals who are homeless, I am pleased to provide these individuals with some security and assistance—vital components to living and functioning independently.

While emergency shelters can offer a place to stay for a few days or weeks, transitional housing is intended to provide a longer period of relative stability during which a homeless person can be helped to seek employment and permanent housing, secure benefits, and receive needed health care and counseling.

In this time of major budgetary constraints, we must not lose sight of those individuals and families who literally have no roof over their heads. I commend Senator DOMENICI for his commitment to this cause, and I ask for the support of my colleagues to provide continued assistance to this worthy group of Americans.

SUPERCOMPUTER APPROPRIATIONS

Mr. HEINZ. Mr. President, I am delighted that the Appropriations Committee has expressed strong support for the National Science Foundation's national supercomputing centers. I would like to thank the distinguished chairman, Senator Proxmire, and my friend the ranking member, Senator Garn, for their concern for and interest in this program.

The committee report recognizes the impressive scientific and educational results of the supercomputing centers. The centers certainly are, as the report notes, on the cutting edge of technology development. Improved development of the supercomputing centers is essential to our competitive position in the world.

I join with the managers of the bill in expressing strong support for the work of these centers. The efforts of the National Science Foundation deserve much recognition. I hope that the Senate's position will prevail in conference, and I want Senator Proxmire, Senator Garn, and the other members of the committee to know that they will have my strong support.

THE VA'S HOSPITAL COMPUTER PROGRAM

Mr. MURKOWSKI. Mr. President, I rise to urge my colleagues on the Senate Appropriations Committee to address, during the conference on H.R. 2783, the issue of the development and implementation of a hospital information system for the VA's medical care system.

As ranking minority member of the Committee on Veterans' Affairs, I am extremely interested in the VA's modernization effort and support efforts in this regard. The question is: How will this goal be accomplished? Much controversy surrounds this issue. I find this most unfortunate.

I support the Appropriations Committee's efforts to provide funding for the VA to fully implement a hospital information system that will meet the VA's future needs. I strongly support language in the Appropriations Committee report on this measure (S. Rept. 100-192) which directs the VA to delay obligation of fiscal year 1988 funds for its Decentralized Hospital Computer Program until the Office of Technology Assessment completes its evaluation of this program.

Mr. President, this month the OTA evaluation was completed. I am still in the process of reviewing that evaluation. Thus, I urge my colleagues to carefully examine the contents and recommendation contained in the OTA report and to take that information into consideration during the conference process.

I thank my colleagues—Senators Proxmire and Garn—and look forward to working with them on this important issue.

I thank the Chair.

Mr. PROXMIRE. I know of no further amendments to be offered.

I ask for third reading. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PROXMIRE. Mr. President, although I am chairman of the subcommittee and manager of the bill, I am going to vote against this bill. I do so although I recognize there are many good things in the bill. But there is so much budget authority that is mandated, as the distinguished Senator from Utah indicated. There is no discretion on the spending. We have to do it. It is going to make it very, very hard in the future for us to hold down the budget deficit and pass bills of this kind. So with great reluctance I am going to vote against the bill.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise today to support the 1988 HUD-Independent Agencies appropriations bill. While this legislation does not include all of the items I think should be funded, it does address several important areas of interest to my constituents in New Mexico.

VETERANS

The bill appropriates funds for improving health care for veterans in New Mexico, especially those from rural areas who have had increasing difficulty obtaining quality health care. An amendment which I cosponsored with Senator Cranston, chairman of the Veterans' Committee, includes $4 million for startup costs for six Veterans' Administration satellite outpatient clinics. One of those clinics is a mobile clinic associated with the VA Medical Center in Albuquerque, NM. This innovative approach to delivering medical care to New Mexico's widely dispersed veterans community is much needed.

In New Mexico, veterans often travel over 200 miles to the nearest veterans' health facility. I have been concerned that the costs these veterans must pay and the distances they must travel create undue hardship for many rural veterans and discourage some from seeking needed care. The termination of beneficiary payments for travel to and from veterans' hospitals compounds an already difficult situation for rural veterans.

I am optimistic that a mobile clinic in New Mexico will greatly benefit veterans. This project may very well become a model for other regions with large rural veterans' populations. The establishment of a mobile clinic is an excellent example of how innovative ideas can lead to more efficient allocation of limited funding without sacrificing the interests of the veterans who have made such great contributions to our Nation.

SOLAR OBSERVATORY

This bill also contains $5 million for the High Resolution Solar Observatory project at Sunspot, NM. I am pleased that the committee recognized that the recently proposed termination of HRSO would leave NASA without a program for the study of the Sun from space and waste substantial sums already expended. Although this action falls short of the full level requested I am optimistic that the funding approved will give this important research program a new lease on life.

NATIONAL SCIENCE FOUNDATION FUNDING

Mr. President, I am pleased to see that the HUD-independent agencies appropriations bill also contains the funding level for the National Science Foundation needed to develop the technology crucial to our continuing ability to compete economically in the world.

America faces a large problem in trying to regain its competitive standing in the world economy, as yesterday's trade figures show. One of the keys to solving this problem is harnessing our superiority in science and technology. America's future economic development must be based on its educational system and the equality of the science that system has produced.

Last year, the Democratic Policy Committee's Working Group on Economic Competitiveness, which I chaired, proposed a multipronged program to attack our competitiveness problems. Three of these proposals directly affect the National Science Foundation: additional NSF graduate fellowships, a facilities fund, and additional Engineering Research Centers. The funding level contained in this bill will allow these important programs to go forward.

Maintaining a first rate scientific system is crucial to our economic future. We cannot maintain a world class scientific system without adequate levels of funding and without first-rate scientists and first-rate university facilities. The more we let our best young minds drift away from science and engineering, the closer we steer toward second rate scientific status, and falling further behind competitively, This bill will help reverse that trend.

ENVIRONMENTAL PROTECTION

The President's proposed budget did not include any funding for the Rural Water Training and Technical Assistance Program. The program has proved very successful in New Mexico since 1977 in delivering effective water management assistance in rural areas. I am pleased that funding for this important program has been restored in this bill. There are over 624 rural water systems in New Mexico and over 50 percent of them have been assisted by this program in the past.

The Safe Drinking Water Act has traditionally required that New Mexico Water supplies be routinely monitored for 23 biologic and chemical contaminants. The amended act of 1986 increased this number to approximately 85 contaminants over the next 3 years. This will require more laboratory monitoring and regulating support than is currently available to State and local governments. The bill includes additional funds for public water system State grants to deal with the additional contaminants being regulated. This is especially important to areas such as Albuquerque, where ground water contamination in the South Valley are in increasing threat to the health and safety of its residents.

Radon protection is also an issue I have supported strongly in the past. Preliminary studies have shown that New Mexico has homes that exceed the EPA recommended levels for radon exposure. It is important that a continued assessment of radon contamination be implemented in order to assess the real public health danger. This legislation would appropriate an additional $4.5 million nationwide for radon assessment, including funds for the assessing of indoor radon levels in residences, schools and workplaces. New Mexico will benefit from the technical assistance provided by EPA under this important program.

Mr. GARN. Mr. President, I simply announce my support for the bill by saying that this subcommittee has absorbed more cuts since 1980 than any other subcommittee in the Congress. We are actually dealing with less dollars in 1987 than 1980 dollars, and this is $700 million below our budget allocation. So it is a good bill and I hope my colleagues will support it.

Mr. PROXMIRE. Mr. President, let me just make one more statement in connection with the bill.

The bill is over the appropriations of last year by $472 million. It is over the estimates by $5.5 billion, $5.5 billion over the estimates, and for that reason I think the bill is excessively costly, although the Senator from Utah is right; we can make some claims that it is more modest than it might be otherwise. But it is too much when we have an enormous deficit, so I am going to vote no.

Mr. SARBANES. Mr. President, I commend the subcommittee for bringing a very responsible bill before the Senate. Hardly anything was added on the floor of the Senate. It seems to me the judgment of the subcommittee and committee which thought this bill deserved the support of the Members ought to obtain concurrence of the Senate. I support the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The Clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. Simon] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. Kassebaum] is absent due to a death in the family.

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. Sanford). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—86

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Warner
Weicker
Wilson
Wirth

NAYS—12

Armstrong
Conrad
Gramm
Hecht
Helms
Humphrey
Nickles
Proxmire
Roth
Symms
Trible
Wallop

NOT VOTING—2

Kassebaum
Simon

So the bill (H.R. 2783), as amended, was passed.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. Proxmire, Stennis, Leahy, Johnston, Lautenberg, Mikulski, Inouye, Garn, D'Amato, Domenici, Grassley, Nickles and Hatfield, conferees on the part of the Senate.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished Republican leader is not on the floor at the moment, but he has authorized me to go to the State-Justice-Commerce appropriation bill.

I ask unanimous consent that it be in order at any time for the majority leader, on consultation with the Republican leader, to proceed to the consideration of the State-Justice-Commerce appropriation bill, H.R. 2763.

The PRESIDING OFFICER (Mr. Sanford). Is there objection? The Chairs hears none, and it is so ordered.

COMMERCE, STATE, JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1988

Mr. BYRD. Mr. President, I have consulted with the Republican leader, and he has approved our going to that bill.

I ask that the Chair lay before the Senate that appropriation bill, H.R. 2763.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2763) making appropriations for the Departments of Commerce, Justice, and State, Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, [$40,500,000] *$41,265,000.*

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, [$100,000,000] *$99,270,000.*

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, [$360,000,000] *$361,255,000.*

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, [$33,400,000] *$33,700,000.*

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

[(INCLUDING TRANSFER OF FUNDS)]

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, [$180,400,000 and in addition $261,000 to be derived by transfer from "Financial and Technical Assistance"] *$190,000,000*: *Provided*, That during fiscal year 1988 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

FINANCIAL AND TECHNICAL ASSISTANCE

(RESCISSION)

Of available funds under this head, $1,541,067 are rescinded.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,800,000: *Provided*, That [the full time permanent positions for the Economic Development Administration shall not be fewer than 375 and that] the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1988, *and such positions shall be maintained in the various States within the approved organizational structure in place on September 1, 1987, and when possible, with those employees who filled those positions on that date.*

International Trade Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; [$216,500,000] *$161,952,000,* to remain available until expended, *of which $7,081,000 is for the Office of Textiles and Apparels, including $3,500,000 for a grant to the Tailored Clothing Technology Corporation*: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.

Export Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement: payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $41,448,000, to remain available until expended.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, [$43,400,000, of which $28,548,000] *$41,390,000, of which $26,538,000* shall remain available until expended: *Provided*, That not to exceed $14,852,000 shall be available for program management for fiscal year 1988: *Provided further*, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

United States Travel and Tourism Administration

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $12,975,000.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; [$1,152,520,000] *$1,169,070,000,* to remain available until expended; and in addition, [$29,000,000] *$30,000,000* shall be derived from the Airport and Airways Trust Fund; and in addition, [$51,800,000] *$46,300,000* shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $15,900,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided*, That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000[: *Provided further*, That $400,000 of the funds made available under this paragraph shall be used for a semi-tropical research facility located at Key Largo, Florida]*: Provided further, That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to* *other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.*

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $3,000,000 shall be made available as authorized by said Act, to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed [$2,500,000] *$2,000,000,* to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, [$130,700,000] *$129,500,000* and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, [$139,500,000] *$160,900,000,* to remain available until expended, *of which $2,000,000 is available for construction of research facilities, and* of which not to exceed [$3,420,000] *$6,420,000* may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, [$14,500,000] *$14,400,000,* of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, [$20,500,000] *$22,200,000,* to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 106. Notwithstanding any other provision of law, principal and interest repayments from loans made under the authority of the Trade Act of 1974, as amended, title II, chapters 2, 3, and 4, and proceeds from the sale of loan assets or collateral, shall be deposited in the "Economic development revolving fund" beginning October 1, 1987: Provided, That repurchases of loans guaranteed under the authority of the Trade Act of 1974, as amended, and any related expenses, shall be made from funds available in the "Economic development revolving fund".

SEC. 107. Notwithstanding any other provision of law, the Secretary of Commerce is authorized to negotiate and conclude an agreement to exchange properties with the necessary private and public parties for the purpose of expanding the National Oceanic and Atmospheric Administration marine facility at Pascagoula, Mississippi.

SEC. 108. In order to maintain overseas program activity for the Department of Commerce provided for each fiscal year at the appropriated program levels, the Secretary may establish Buying Power Maintenance accounts for the International Trade Administration, the Export Administration, and the United States Travel and Tourism Administration. There are authorized to be appropriated for such accounts such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. To eliminate substantial gains to the approved levels of overseas operations, the Secretary shall transfer to a Buying Power Maintenance account such amounts determined to be excessive to the needs of the approved level of overseas operations because of fluctuations in foreign currency exchange rates or changes in unbudgeted overseas wages and prices, including unobligated balances associated with the overseas program. To offset adverse fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes, the Secretary may transfer from a Buying Power Maintenance account such amounts determined to be necessary to maintain the approved level of overseas operations under an appropriation account. Funds transferred by the Secretary to or from a Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in the account into which transferred. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of Commerce that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes in order to maintain approved levels.

This title may be cited as the "Department of Commerce Appropriation Act, 1988".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, [$90,400,000] *$93,580,000.*

WORKING CAPITAL FUND

For additional capital, not to exceed $4,000,000, to remain available until expended, to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, [$12,250,000] *$12,164,000.*

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; [$284,400,000] *$254,650,000,* of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1989: [*Provided,* That of the funds available in this appropriation, $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in this Act, not to exceed $1,000,000, may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds: *Provided further,* That amounts obligated under the heading, Salaries and expenses, Antitrust Division, shall be merged under this appropriation:] *Provided* [further], That the Chief, U.S. National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $48,260,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, [$391,700,000] *$397,895,000.*

UNITED STATES TRUSTEES SYSTEM FUND

For the necessary expenses of the United States Trustees Program, [$50,600,000] *$39,985,000,* for activities authorized by Sec. 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further, That the Attorney General may credit to this appropriation not more than $10,600,000 of fees available pursuant to 28 U.S.C. 589(a).*

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $500,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; [$182,800,000] *$192,720,000: Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, [$74,800,000] *$76,900,000,* which shall remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; [$56,000,000] *$54,977,000,* to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, [$29,100,000] *$29,050,000,* of which [$21,740,000] *$21,667,000* shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, such sums as may be necessary to be derived from the Department of Justice Assets Forfeiture Fund[: *Provided,* That payments made to reimburse State or local agencies pursuant to section 524(c)(1)(A) of title 28, United States Code may not be made prior to October 1, 1988].

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed [1,697] *2,000* passenger motor vehicles of which 1,650 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; [$1,403,100,000] *$1,440,420,000,* of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1989; of which $3,000,000 for research related to investigative activities shall remain available until expended; *of which $13,000,000 for the construction of the Engineering Research Facility shall remain available until expended*; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit [not more than $17,500,000 of] such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That $8,000,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 525 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; [$521,400,000] *$517,800,000,* of which not to exceed $1,200,000 for research shall remain available until expended; not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical equipment shall remain available until September 30, 1989.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 1,670, of which 490 shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; [$769,300,000] *$815,300,000,* of which not to exceed $400,000 for research *and $35,000,000 for construction* shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year*: Provided further, That none of the funds available to the Immigration and Naturalization Service shall be available to administer or implement a nationwide employer telephone verification system unless the Commissioner of Immigration and Naturalization procures such system through sealed bid or competitive proposal procedures, except that this proviso shall not affect the pilot project directed in section 101(d)(4) of the Immigration Reform and Control Act of 1986, Public Law 99-603.*

[In addition, $46,000,000 shall be available for expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration.]

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 142 of which 106 are for replacement only) and hire of law enforcement and passenger motor vehicles; [$745,700,000] *$750,670,000*: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $10,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $210,300,000 to remain available until expended, *of which $1,025,000 shall be granted to the Town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia: Provided,* That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,347,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,571,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, [$129,708,000] *$88,080,000,* and for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $75,000,000 to remain available until expended, and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,692,000 to remain available until expended[, of which not less than $50,000,000 shall be allotted under Subpart I of Part B of the Act]. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1987 through September 30, 1988, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1988, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1988, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1988—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1988, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

[SEC. 206. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.]

SEC. 206. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year.

This title may be cited as the "Department of Justice Appropriation Act, 1988".

TITLE III—DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; [$1,688,600,000: *Provided*, That none of these funds shall be available for the Office of Public Diplomacy for Latin America and the Caribbean] *$1,632,840,000.*

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, [$4,000,000] *$4,500,000.*

Protection of Foreign Missions and Officials

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,000,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), [$313,100,000] *$288,100,000,* to remain available until expended: *Provided*, That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 100: *Provided further*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), [$4,000,000] *$4,500,000,* to remain available until expended.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $9,379,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $86,000,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, [$382,000,000] *$416,700,000,* to remain available until expended, of which [$142,000,000] *$62,838,000* shall become available for expenditure on October 1, 1988: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, [$29,400,000] *$10,659,000.*

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $4,600,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operation and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,700,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further,* That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further,* That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended, $3,300,000: *Provided,* That activities for the New River project may be financed from these funds or from carryover balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, [$3,700,000] *$4,700,000;* for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, [$10,800,000] *$11,148,000: Provided,* That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,700,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,800,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapters 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month beginning November 1, 1987.

SEC. 303. Notwithstanding any other provision of law, no funds appropriated to the Department of State in this or any other Act may be obligated for the new office building in Moscow, except as necessary to demolish the building: Provided, That subsection (d) of section 154 of Public Law 99-93 is repealed and subsection (a) of such section is amended in the first sentence, to read as follows: "The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington, D.C., or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow and until the Soviet Union provides prompt and full reimbursement to the United States for damages incurred as a result of the construction of the new United States embassy in Moscow.": Provided further, That the Secretary of State is directed to develop and submit to the Speaker of the House of Representatives and the Appropriations and Foreign Relations Committees of the Senate by March 31, 1988, a plan to establish essential parity in the numbers, types, and quality of buildings held by the United States in Moscow and the Soviet Union in Washington, D.C.: Provided further, That it is the sense of Congress that no additional funds should be appropriated for new embassy construction, except for the completion of projects, other than Moscow, where construction is now underway until such time as the management of overseas embassy construction is organized under an Under Secretary who shall also have responsibility for the Office of Foreign Missions and the Bureau of Diplomatic Security: Provided further, That the Secretary of State and Director of Central Intelligence shall *within thirty days after enactment of this Act convene a panel of outside experts to review and analyze the plans, contracts, and protocols of any construction projects of the Office of Foreign Buildings.*

This title may be cited as the "Department of State Appropriation Act, 1988".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,900,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,200,000, of which $75,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, **[**$7,500,000**]** *$8,000,000.*

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $8,100,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, **[**$1,105,260,000**]** *$1,143,583,000: Provided,* That, of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties*: Provided further, That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation.*

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; **[**$90,400,000**]** *$88,740,000* to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; **[**$50,400,000**]** *$46,135,000,* to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $42,600,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, **[**$32,500,000**]** *$33,000,000,* of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, **[**$11,000,000**]** *$11,500,000.*

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,350,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1988.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1988, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. Section 1344(b)(1) of title 31, United States Code, is amended by inserting—

"(2) The Chief Justice and Associate Justices of the Supreme Court;" and redesignating subsections (2) and (3) as subsections (3) and (4), respectively.

This title may be cited as "The Judiciary Appropriation Act, 1988".

SEC. 408. (a) Section 153(a) of title 28, United States Code, is amended to read as follows:

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.".

(b) Section 634(a) of title 28, United States Code, is amended by amending the first sentence to read as follows:

"(a) Officers appointed under this chapter shall receive, as full compensation for their services, salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrates up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrates of not less than an annual salary of $100, nor more than one-half the maximum salary payable to a full-time magistrate.".

(c) Section 225(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates and" and inserting in lieu thereof "except bankruptcy judges, but including".

(d) This section shall become effective January 1, 1988, or upon the date of enactment, whichever is later, and any salary affected by the provisions of this section shall be adjusted at the beginning of the first applicable pay period commencing on or after such date of enactment.

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $250,300,000, to remain available until expended.

OCEAN FREIGHT DIFFERENTIAL

Such sums as may be necessary for fiscal year 1988 and thereafter are hereby appropriated to liquidate debt and pay interest due to the Secretary of the Treasury, as required by section 901d, Merchant Marine Act, 1936.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, [$69,000,000] *$79,250,000*, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program: *Provided further, That in addition to any amount heretofore appropriated, $10,000,000 of the funds appropriated in this paragraph shall be available for the activation and conversion costs of a training vessel for the State University of New York Maritime College: Provided further, That the second sentence of the paragraph under this heading in chapter II of title I of the Act of August 22, 1984 (98 Stat. 1372), is amended by deleting "preconversion" and inserting in lieu thereof "activation and conversion", by inserting a period after the word "expended", and by deleting the remainder of the sentence.*

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), [$27,500,000] *$29,950,000*.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., [$165,000,000] *$200,000,000, of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988*, and of which not to exceed $52,000 may be made available for official reception and representation expenses.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $14,750,000 to remain available until expended, of which $5,000,000 is for carrying out the provisions of Public Law 99-194, including $2,850,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $2,150,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $5,950,000, of which $2,200,000 is for regional offices and State Advisory Committees and $800,000 is for monitoring civil rights enforcement activities of Federal departments and agencies: Provided, That none of the funds made available for regional offices, State Advisory Committees, and monitoring civil rights enforcement activities of Federal departments and agencies may be used to provide benefit for former personnel: Provided further, That not to exceed $20,000 may be used to employ consultants: Provided further, That not to exceed $185,000 may be used to employ temporary or special needs appointees: Provided further, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service: Provided further, That each commissioner may employ one special assistant whose compensation shall not exceed 150 billable days at the daily rate of a level 11 salary under the General Schedule without regard to the foregoing limitation on the employment of temporary or Schedule C employees: Provided further, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: Provided further, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: Provided further, That the General Accounting Office shall audit the Commission quarterly to determine compliance with this section and shall report its findings to the Appropriations Committees of the Senate and House of Representatives.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For the necessary expenses of the Commission for the Preservation of America's Heritage Abroad established pursuant to section 1303 of Public Law 99-83, $200,000.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $731,000, to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, [$870,000] *$750,000*, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $22,100,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; [$187,200,000] *$188,900,000*.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses: purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; [$105,600,000] *$104,915,000*, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1989, for research and policy studies: *Provided, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-*

Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations).

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; [$14,250,000] *$14,165,000*: *Provided*, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of [$69,000,000] *$69,075,000*: *Provided*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, [$35,400,000] *$34,400,000.*

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,200,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $3,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, [$305,500,000] *$310,000,000*[: *Provided*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

[(1) Public Law 99-500 and Public Law 99-591 unless paragraph (2) or (3) applies;

[(2) authorizing legislation for fiscal year 1988 for the Legal Services Corporation as passed by the House of Representatives unless paragraph (3) applies; or

[(3) authorizing legislation for fiscal year 1988 for the Legal Services Corporation as enacted into law] *of which $264,591,000 is for basic field programs, $7,022,000 is for Native American programs, $9,700,000 is for migrant programs, $1,339,000 is for program development and law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $376,000 is for training development and technical assistance, $7,529,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $511,000 is for computer assisted legal research regional centers, and $8,600,000 is for Corporation management and administration: Provided, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: Provided further, That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:*

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.60 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $15 per poor person within its geographical area under the 1980 census:

Provided further, That if a Presidential order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1988, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential order: Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 607 of this Act: Provided further, That the Corporation shall utilize the same formula for distribution of fiscal year 1988 migrant funds as was used in fiscal year 1987: Provided further, That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007(a)(5), (b)(6), (b)(7), and 1010(c) of the LSC Act.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, [$900,000] *$995,000.*

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, [$16,590,000] *$15,072,000*, of which $1,000,000 shall remain available until expended: *Provided*, That not to exceed $69,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed [$3,000] *$9,000* for official reception and representation expenses, [$145,000,000] *$142,045,000*, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, [$183,800,000] *$184,660,000*; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, [$42,000,000] *$35,000,000*: *Provided*, That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act. In addition, $92,000,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $139,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund",

[$97,000,000] *$85,000,000*, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $14,240,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, [$12,900,000] *$10,000,000*, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000[; $620,700,000] *$617,906,000*, none of which shall be restricted from use for the purposes appropriated herein: *Provided*, That not to exceed [$1,000,000] *$1,070,000* may be used for representation abroad: *Provided further*, That not to exceed $14,557,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended[: *Provided further*, That receipts not to exceed $1,150,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended]*: Provided further, That not to exceed $500,000 shall remain available until expended, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as the Director determines may be performed advantageously and more economically as central services: Provided further, That not to exceed $3,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: Provided further, That not less than $100,000 of the moneys appropriated pursuant to this paragraph shall be used by the Advisory Board on Radio Broadcasting to Cuba for a feasibility study on television broadcasting to Cuba.*

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), [$139,770,000] *$144,310,000: Provided, That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: Provided further, That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon.* For the Private Sector Exchange Programs, $7,230,000, *of which not to exceed $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program.*

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, [$12,652,000] *$12,759,000*, to remain available until expended.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, [$16,000,000] *$17,500,000.*

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

The United States Information Agency and the Voice of America shall pursue all relevant information relating to the availability of transmitters and antennas, spare parts, and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances. The agency and the Voice of America shall purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided*, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.)

[SEC. 608. None of the funds appropriated or made available by this or any other Act or otherwise appropriated or made available to the Secretary of Transportation or the Maritime Administrator for purposes of administering the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.) shall be used by the United States Department of Transportation or the United States Maritime Administration to propose, promulgate, or implement any rule or regulation, or, with regard to vessels which repaid subsidy pursuant to the rule promulgated by the Secretary May 3, 1985, and vacated by order of the United States Court of Appeals for the D.C. Circuit January 16, 1987, conduct any adjudicatory or other regulatory proceeding, execute or perform any contract, or participate in any judicial action, with respect to the repayment of construction differential subsidy for the permanent release of vessels from the restrictions in section 506 of the Merchant Marine Act, 1936, as amended: *Provided*, That such funds may be used to the extent such expenditure relates to a rule which conforms to statutory standards hereafter enacted by Congress.

[SEC. 609. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act which is not required to be appropriated or otherwise made available by law shall be reduced by 2.4 percent; except that this section shall not apply to amounts appropriated or otherwise made available for the Drug Enforcement Administration, the Federal Bureau of Investigation, and the Immigration and Naturalization Service.]

SEC. 608. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 609. No funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Company Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SEC. 610. (a) None of the funds appropriated or made available by this Act to the Small Business Administration may be used—

(1) to impose a user fee in connection with a Small Business Administration program or service for which no user fee was in effect on September 1, 1987, or

(2) to increase a user fee which was in effect in connection with such a program or service on such date.

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SECTION 701. (a) On and after the date of enactment of this Act, consular officers of the Department of State employed in the United States interest section in Havana, Cuba, and appropriate officers of the Immigration and Nationalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to insure the orderly process of available applicants.

(b) For purposes of this section—

(1) the term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications; and

(2) the term "refugee" has the same meaning as is given to such term by section 101(a)(42) of the Immigration and Nationality Act.

SEC. 702. On and after the date of enactment of this Act, consular officers of the Department of State, wherever situated, shall issue immigrant visas under section 203(a) or 202(e) of the Immigration and Nationality Act to Cuban nationals—

(1) without regard to section 212(f) or 243(g) of the Immigration and Nationality Act (relating to the refusal to accept the return of nationals);

(2) whether within or outside Cuba; in such cities as immigration visas may be issued to Cuban nationals; and

(3) without regard for the date of departure from Cuba of such applicants in the case of applications for such visas outside Cuba.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SECTION 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

CONGRESSIONAL FINDINGS

SEC. 802. The Congress finds that—

(1) because of our past military and political involvement in the region, the United States has a continued, special responsibility to the persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(2) in view of this special responsibility, the United States has placed special priority on the resettlement and protection needs of the Indochinese refugees;

(3) the continued occupation of Cambodia by Vietnam and the instability of the governments of Vietnam, Cambodia, and Laos have led to a steady flight of refugees from those countries;

(4) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, have been the front line countries bearing tremendous burdens caused by the flight of these refugees, distinguishing themselves as the leaders of an unprecedented humanitarian response to the plight of Indochinese refugees;

(5) largely in response to a lessened commitment among resettlement countries to the refugees of the region, these countries of first asylum have recently taken steps to close refugee camps. Such camp closings would seriously undermine the continuation of a humane refugee policy and are inimical to the resolution of refugee problems in the region;

(6) the United States bears a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of unnecessarily slow and complex resettlement procedures; prolonged and often questionable adjudications in humanitarian parole, immigration and refugee cases; failure to implement effective policies for the region's "long-stayer" populations; failure to adequately monitor refugee protection and screening systems along the Thai-Cambodian and Thai-Laotian borders; a policy of allocating admissions numbers to "carryover" refugees approved in previous years rather than qualified new cases; and the virtual collapse of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure for refugees from that country, including Amerasians and long-held "re-education camp" prisoners;

(7) The United Nations High Commissioner for Refugees (UNHCR) shares responsibility for the hardening of attitudes in first asylum countries. The UNHCR should be pressed to upgrade its staff presence and level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region; and

(8) the United States must renew its commitment to an ongoing, generous refugee resettlement and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved.

PERIOD FOR CONSULTATION WITH THE CONGRESS ON REFUGEE ADMISSIONS

SEC. 803. Section 207 of the Immigration and Nationality Act is amended—

(1) by adding at the end of subsection (a), the following new paragraph:

"(4) For purposes of this subsection, appropriate consultation shall be held not later than May 1 preceding the start of the fiscal year for which the President is making a determination under this subsection.";

(2) by redesignating clauses (1), (2), and (3) of subsection (b) as clauses (A), (B), and (C), respectively, of such subsection;

(3) by redesignating subsection (b) as subsection (b)(1);

(4) by adding at the end of subsection (b)(1), as redesignated by paragraph (3) of this section, the following new paragraph:

"(2) For purposes of this subsection, appropriate consultation shall be held not later than thirty days after an unforeseen emergency refugee situation exists."; and

(5) in subsection (d)(1), by inserting "but not later than May 1," after "start of each fiscal year".

AUTHORITY OF THE SECRETARY OF STATE

SEC. 804. Section 207 of the Immigration and Nationality Act, as amended by section 803, is further amended—

(1) by redesignating subsection (c)(1) as subsection (c)(1)(A);

(2) in subsection (c)(1)(A), as designated, by inserting "and except as provided in subparagraph (B)" after "subsection (a) and (b)";

(3) by adding at the end of subsection (c)(1)(A), as redesignated, the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), subject to the numerical limitations established pursuant to subsections (a) and (b), the Secretary of State, in his discretion and pursuant to such regulations as he may prescribe, may authorize admission under this section of any refugee from Southeast Asia who is not firmly resettled in a foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.

"(ii) To the extent not inconsistent with a specific provision of this Act, an authorization of admission of a refugee by the Secretary of State under this subparagraph shall be conclusive with respect to any determination by the Attorney General or any officer or employee of the Department of Justice under this Act.".

ELIGIBILITY FOR REFUGEE STATUS

SEC. 805. Section 207(c)(1) of the Immigration and Nationality Act, as amended by section 804, is further amended by adding at the end thereof the following:

"(C) Notwithstanding any other provision of this Act, or any regulation issued thereunder, any refugee who—

"(i) is eligible for classification under any of paragraphs (1) through (7) of section 203(a), and

"(ii) for whom a visa number is available or is likely to become available within 12 months,

may not be denied refugee status by virtue of that eligibility.".

ALLOCATIONS OF REFUGEE ADMISSIONS

SEC. 806. (a) Notwithstanding section 207 of the Immigration and Nationality Act—

(1) within the worldwide refugee admissions ceiling determined by the President, the President shall allocate—

(A) at least 28,000 admissions from East Asia, and

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), a number of admissions allocated in a fiscal year under priorities II and III of the Program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, shall be at least 1,500.

LONG-STAYER RESETTLEMENT

(b)(1) It is the sense of the Congress that under the leadership of the United States renewed international efforts should be made to resettle Indochinese refugees who have lived in camps for three years or longer, as proposed in the Report of the Secretary of State's Indochinese Refugee Panel in April 1986.

(2) Of the refugee admissions allocated under subsection (a)(1)(A), for each of the fiscal years 1988, 1989, and 1990, at least 9,000 shall be admissions of persons who have lived in refugee camps for at least three years.

HUMANITARIAN PAROLE AUTHORITY FOR EAST ASIANS

SEC. 807. Notwithstanding subparagraph (B) of section 212(d)(5) of the Immigration and Nationality Act, the Attorney General shall in accordance with section 212(d)(5)(A) of such Act, parole into the United States, for humanitarian reasons and without regard to family reunification considerations, not less than 150 persons who have lived in refugee camps from East Asia for each of the fiscal years 1988, 1989, and 1990.

ALLOCATION OF EDUCATIONAL ASSISTANCE FOR THAILAND

SEC. 808. Section 105 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1988 and 1989 may be available for educational programs, projects, or activities along the Thai-Laotian border and the Thai-Cambodian border which are carried out by Thai non-governmental organizations in conjunction with relief organizations and civilian camp leadership.".

ALLOCATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR THAILAND

SEC. 809. Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is amended by adding at the end thereof the following new section:

"SEC. 536. ALLOCATION FOR THAILAND.—(a) The Congress finds that many Thai residents of villages located close to the border with Laos and Cambodia have been adversely affected by civil strife and refugee migrations.

"(b) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $5,000,000 for each such fiscal year may be available to provide financial assistance for Thai villages within close proximity to Indochinese refugee camps.".

ALLOCATION OF INTERNATIONAL MILITARY EDUCATION AND TRAINING ASSISTANCE FOR THAILAND

SEC. 810. Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) is amended by adding at the end thereof the following new section:

"SEC. 546. ALLOCATION FOR THAILAND.—Of the amounts authorized to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $1,000,000 for each of such fiscal years may be available to train the armed forces of Thailand to provide protection to Indochinese refugee camps within Thailand against attacks originating across the border with Laos or Cambodia.".

POLICY TOWARD PROTECTION OF REFUGEE CAMPS

SEC. 811. It is the sense of the Congress that the international community should increase its efforts to assure that Indochinese refugee camps within Thailand are protected against attacks and that international observers and relief personnel should be present on a twenty-four hours a day basis at camp "Site 2" in Thailand.

TITLE IX—POLISH PERMANENT RESIDENT ADJUSTMENT ACT OF 1987

SECTION 901. SHORT TITLE.

This Title may be cited as the "Polish Permanent Resident Adjustment Act of 1987".

SEC. 902. ADJUSTMENT TO PERMANENT RESIDENCE OF CERTAIN NATIONALS OF POLAND.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (20), (21), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since July 21, 1984.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien only if—

(1) the alien is a national of Poland;

(2) the alien arrived in the United States before July 21, 1984;

(3) the Immigration and Naturalization Service established a record of entry or other record with respect to the alien before July 21, 1984; and

(4) in the case of an alien who was admitted to the United States as a nonimmigrant, the alien's period of authorized stay as such a nonimmigrant expired not later than 6 months after July 21, 1984, through the passage of time or the alien applied for asylum under section 207 before July 21, 1984.

(c) RECORD OF PERMANENT RESIDENCE AS OF JULY 21, 1984.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of July 21, 1984.

(d) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988".

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I indicated to the distinguished Republican leader during the last rollcall that I wanted to have a discussion with respect to the schedule for a vote on the Bork nomination, and he indicated that he had people waiting in the office, but he asked that he be sent for when I was ready. So I am ready.

Mr. President, I hope the distinguished Republican leader will come to the floor at this time.

COMMITTEE MEETINGS

Mr. BYRD. Mr. President, if I might momentarily be indulged while I am waiting on the Republican leader, I ask unanimous consent that two committee requests that bear the initials of the Republican leader be considered en bloc, approved en bloc, and spread severally on the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The requests are printed later in the RECORD under Authority for Committees to Meet.)

COMMERCE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION, 1988

The Senate continued with the consideration of H.R. 2763.

Mr. HUMPHREY. Mr. President——

Mr. BYRD. Mr. President——

The PRESIDING OFFICER. The majority leader has the floor.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

Mr. BYRD. Mr. President, I yield for a parliamentary inquiry, with the understanding that I keep my right to the floor.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, the Senator rose to speak about the unanimous request pending.

The PRESIDING OFFICER. The request was agreed to.

Mr. HUMPHREY. The Senator rose to object, and the Chair disregarded the Senator standing.

Mr. BYRD. Mr. President, the Senator is too late. He slept on his rights. He has been a little hard to get along with today.

The PRESIDING OFFICER. The majority leader is correct.

The majority leader.

Mr. BYRD. Mr. President, I hope that the Senate can complete action on the State, Justice, Commerce appropriation bill today.

The two managers have indicated their willingness and their desire, as a matter of fact, to finish this bill today and to stay into the evening, if necessary.

The Senate has completed action now on six appropriations bills, and there remain on the calendar, I believe, two other appropriations bills, the transportation appropriation bill and the energy-water appropriation bill.

I am told that the Appropriations Committee will report out the military construction bill early next week.

So that will make a total of 10 appropriations bills that the House will have sent over. The Senate has acted on six. The Appropriations Committee has acted on eight. It seems to me that hopefully we could complete action on these other appropriations bills and send them to conference within the next few days.

I hope that the House will appoint conferees on these appropriations bills, the four in conference, and I am made to understand that the House has not yet appointed conferees on these four that the Senate has passed.

Mr. President, I am advised that the House today did appoint conferees on the four appropriations bills.

THE BORK NOMINATION

Mr. BYRD. Mr. President, I do not want to delay the Senate, but I think we should try to reach some understanding as to when the Senate is going to vote on the Bork nomination if we could do that.

I am planning on coming in on Monday to give the Senate an opportunity to debate the nomination. The report is on the desks of Senators.

I cannot under the rules take that report up without unanimous consent or the waiver of the 2-day rule of the two leaders until the expiration of the 2 days or 48 hours. This would mean that it would be Saturday at around noon before I could move to take up the nomination.

I can move to take up the nomination on Monday if I cannot get the consent today or the distinguished Republican leader cannot join with me in waiving the 2-day rule.

Mr. President, I am advised that the Republican leader is having a press conference. It will be 15 minutes before he can reach the floor.

I ask unanimous consent that I may yield the floor and be recognized again at the hour of 4:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mr. EVANS. I thank the President.

Mr. President, perhaps I will help in my own small way at least to indicate to my colleagues what the final outcome, if there is ever any outcome, of the Bork nomination might be.

I have taken the privilege, which I suspect has not been shared by a good many of my colleagues, at least to read all 730 pages of the testimony of Judge Bork's hearing before the Judiciary Committee. It was an interesting exercise. I must say that without identifying any of my colleagues there were times during that exercise when my eyes got heavy; there were other times during the exercise when my bile raised a little, but I was always brought back to a sense of proportion by running across the comments of the distinguished Senator from Wyoming. Senator SIMPSON, who always in his own way successfully and in language that only a Wyomingite can use, brought us back to that reality.

During the course of the last few months we have had a virtual feeding frenzy of press demanding to know where each Senator stood, that starting virtually with the day the nomination was submitted.

I have had in my office over 15,000 letters which probably, if you measure them by for and against, give me little solace for they are split almost precisely evenly.

What was more distinguished about those letters were that most, an extraordinary high percentage argued either for or against Judge Bork from either distorted or misunderstood concepts.

I had an opportunity just a day or two ago to go back and read a little history, the history of the golden days of the Senate, which the majority leader I am sure has researched well. Three out of the five Members of the Senate who are honored in our reception room all served together during that period of time, Senators Clay, Calhoun, and Webster.

I wonder, Mr. President, whether there was ever a time in the early 1800's when the 1850 version of Sam Donaldson in his stentorian tones would shout at the Members asking where they stood on the Missouri Compromise, long before any speech was given on the floor, long before any debate was entered into, and I can see the news report on television, if it existed then, saying the latest report is that the Senate is divided; there are three who have not yet made up their minds, as if there was something evil about that, and that the bill is dead.

Mr. President, that might very well have been an accurate report if they had known prior to the debate on the Senate floor the persuasions of each Member of the Senate prior to that time, but I suspect they did not.

I suspect that on that occasion and on other occasions in this Senate some minds have been changed, but it is extraordinarily hard, Mr. President, to change a mind once it has been made up whether on accurate and total or inaccurate and incomplete information and the decision has been announced.

Mr. President, the power of the Senate to advise the President about judicial nominations and either consent to or reject them, as many Senators have noted in recent days, is a profound responsibility. By vesting such power in the Senate and, of course, the nominating power in the President, the framers intended that on this one occasion the executive and legislative branches would join together in a limited partnership to appoint members to the third and independent branch of Government.

The President, as we all know, and a majority of Members of the Senate, must all agree before a judicial nomination can be complete. This check by elected representatives is essential if an equilibrium among branches of the Federal Government is to be maintained.

It is, therefore, incumbent, as we all know, on every Senator to evaluate each nominee with care and to seek out such advice and counsel which is necessary to reach a sound principle decision.

Soon, I hope—and I know the majority leader devoutly wishes that—we will vote on the Bork nomination. I assume, Mr. President, at this time that all Senators who have stated publicly their position on this nomination will vote as they have said they will vote, regardless of any debate which exists between now and the moment of that vote. If so, Robert Bork will not become an Associate Justice of the Supreme Court.

From the very beginning, Mr. President, I was inclined to oppose the

Bork nomination. Although I had little personal knowledge of the record of the nominee and had never met him, I had extraordinarily close ties, and have had throughout my public life, to many of the groups who opposed him from the first moment.

As Governor, I have been extraordinarily proud of the work we were able to accomplish on behalf of the expansion of civil rights, the opportunities for minorities in our State to make additional progress. We engaged in one of the very first education for all bills in this entire Nation providing extra resources for the developmentally disabled. We expanded opportunities and began to reach a partnership with tribal members of our Indian nations. We made substantial movement forward in the complete civil rights for women. And I believe took one of the earliest steps as a State to move strongly in the environmental field.

Well, Mr. President, virtually all of the organized groups representing those people have opposed from the beginning Judge Bork's nomination.

But, if I can digress for a moment, Mr. President, I also had the opportunity as Governor to appoint judges. During the 12 years I was Governor, we instituted a new court of appeals and I had the opportunity to appoint 102 judges. I felt very strongly that that was a unique opportunity. Many of those 102 judges are still sitting in the State of Washington. Not one Governor I served with in 1976 is still governing his or her State.

I turned to the Bar Association on many instances to ask their opinions. I remember vividly one particular opportunity where I was recommending a circuit court judge to the Federal district court in Seattle. The Bar Association came back and said that he was unqualified, and in doing so they kept him from advancing to that position. They said he was unqualified because he had not been directly practicing law for the previous 10 years. And that is correct. He had not been. He had been my chief of staff in the Governor's office for the previous 10 years and had spent more time in the real life problems of people than almost any attorney practicing in that area.

I might say that when I had the next opportunity, I appointed him to the supreme court of the State of Washington, where I did not have to listen to the Bar Association. And he, by everyone's determination, has turned out to be absolutely the best justice sitting on the supreme court and one of the finest we have ever had, having just finished his term as chief justice.

So the analysts are not always right. And you cannot always pay attention to even a group as distinguished as the American Bar Association.

And if not, who should we pay attention to? Well, I think it is important for us to pay primary attention to the person who is before us.

The easy course, then, early on, would be to not listen. I do not serve on the Judiciary Committee, so I could have spent time not reading 730 pages—just declare early, add my voice to the chorus which began to call for the rejection of Judge Bork, even before the ink on the nomination papers had dried. But I could not do that.

Mr. President, Edmund Burke said that a "representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion." Of course this does not mean that we are to ignore the views of those we represent. But it does mean that we should not be here if all we expect to do is act as a megaphone for the majority of the moment.

To fulfill what I felt were my obligations, I chose not to amplify the voices of those opposing the nomination but to undertake a study of the nominee. Because I was unable to sit and watch all of the hearings, I had to wait until I could obtain a copy of the hearing record—made available early last week.

It is dog-eared now, but it is still the 730-page document; and, in addition, the recently made available report of the Judiciary Committee.

Mr. President, I know that at times we tend to make comments which are not always accurately reported in the press. And I would say, seeing that the senior Senator from California is in the Chamber, that I was rather downcast in at least reading of his statement regarding those who had not yet made up their minds or who had not yet announced their opinions, when the Senator said "They don't want to walk the plank. They have not been counted publicly. They have not alienated anyone on one side or the other and they would like to keep it that way."

Perhaps, but not this Senator. I have never backed away from a decision. I have never backed away from a tough fight.

And I am amazed, frankly, that we have been driven to this point, that once again we will enter into a debate in this Senate—maybe even a real one this time. And it would be a joy for this Senator to see a real debate instead of a series of speeches to a half-empty Chamber. But what good is a real debate now with almost all Senators already declared?

From the day the Bork nomination was announced, the least responsible opponents have sought to portray him as a neanderthal; someone so hostile to civil liberties that no civilized society could survive the venom of his judicial pen. If the record supported that contention in any way, I would do everything in my power as a U.S. Senator to make certain that he was not confirmed.

It is certainly the case that Judge Bork has been a prolific writer. Therefore, his record is long. But Judge Bork stands mute as Quasimodo when compared with the most tendentious and outspoken advocates and opponents of his nomination. They have churned out a veritable blizzard of analyses—many of them distorted, too few of them of much use.

This is not to deny that there was thoughtful analysis and assessment completed by many on both sides of this issue. In my own State, the organized opposition took pains to advocate their position in an objective way. They went so far as to ask that the inflammatory advertising which has run in many parts of the country not run in the State of Washington.

Mr. President, I saw on a number of occasions the television ads run by the People for the American Way. And while I admire much of what they attempt to do, those television ads were demeaning and misleading, not up to the kind of quality you would expect from the people running that organization.

Unfortunately, the efforts of responsible critics and responsible proponents alike have in many respects gone unrecognized because of the obnoxious few who have sought to turn the nominating process into a pitched and partisan political circus.

For me, the most enlightening information was that presented by Judge Bork himself, in his testimony and writings. Without doubt, the record supports the conclusion that Robert Bork is a profoundly conservative man. It also supports the conclusion that he is a highly intelligent man with superior legal skills. But it does not support the conclusion that he would use those skills to incorporate an unprincipled, results-oriented legal philosophy into the decisions of the Supreme Court.

Judge Bork has criticized several watershed Supreme Court decisions. Most of them were decided by one vote and most dealt with issues which have been exceedingly painful for our society. But my review has turned up no instance in which he criticized the result achieved by the Court in any of those cases. Rather, he found fault with the reasoning used to support the decision. That is a significant distinction.

Mr. President, at this point, let me turn to a mailing I just received. It is the last in a long list of some of the misleading things which have been utilized in this campaign. I was astonished to find that the covering letter was signed by some rather distinguished attorneys in our State; some retired judges in our State. But what was attached to it was a flyer saying:

"Ten Reasons to Block Bork from the United States Supreme Court."

The PRESIDING OFFICER. If the Senator will suspend, under the previous order, the hour of 4:30 having arrived, the majority leader is recognized.

Mr. BYRD. Mr. President, how much time does the Senator——

Mr. EVANS. Five to seven minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that in view of the fact that the distinguished Republican leader is tied up for the moment, the Senator proceed for an additional 5 minutes and then I be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Washington.

Mr. EVANS. They should have been ashamed of themselves for adding to the letter the flyer which claims that Judge Bork would let States ban birth control, he would let them ban all abortions, he would support tax dollars to be used to help religious schools, and on and on and on; none of them accurate or complete in telling why of any of those determinations.

Any of us subjected to such a drumbeat of political negative advertising would suffer personally and, I might add, in popularity.

Edna St. Vincent Millay wrote:

> Safe upon the solid rock, the ugly houses stand; come and see my shining palace built upon the sand.

Certainly Judge Bork advocates that we build our framework of constitutional law on the bedrock of the Constitution itself. That, to me, is a virtue. Liberals and conservatives alike should be uneasy with decisions which can be grounded only partially on our constitutional foundation. While it may well be the case that insistence on sound reasoning in constitutional cases will not allow us to move toward some goals as quickly as some people might advocate, it is also the case that decisions hewn of constitutional timber will long survive the eroding forces of shifting political winds.

Judge Bork probably has a somewhat narrower view of the Constitution than I do. He has—and will continue—to reach decisions I disagree with. But only if I were the nominee could I ensure that every decision would be made my way.

How Judge Bork has ruled in various cases is instructive. It gives us a sense of how he approaches the decisionmaking process and enlightens our understanding of his judicial philosophy. But, specific rulings in themselves are not determinative unless they show a pattern of decisionmaking wholly at odds with the Constitution or with precedent. The record of this nominee does not show that he is hostile either to the Constitution or to precedent. He is hostile, however, to the concept of a runaway judiciary.

And on this point, Judge Bork and I agree. Nothing will so quickly undermine the public trust in our independent judiciary than judges who seek to impose their own vision of social justice. Imperial Presidents can be voted out after 4 years, imperial Senators after 6, but an imperial judge reigns for life.

Let me refer at this point to a recent order handed down by a U.S. district court judge in Kansas City. It is exemplary of the dangers of a judiciary which exceeds its authority to apply the law to specific facts in a given case by creating new laws of its own choosing. In that order, the judge mandated an increase in property taxes and a surcharge in State income taxes for those living and working within the geographical boundaries of a school district after voters in the school district repeatedly failed to pass a special levy to provide more school funding.

That, it seems to me, Mr. President, is what some in this Chamber would advocate: A judge who expanded liberties for all; who would do good things. Certainly this judge purported to do that. All for the constitutional rights of children; all for good purposes.

How many here in this Chamber are willing to support the action he took to correct that unconstitutional element? Judges should not seek to stand in the shoes of either political executives or legislators. To perform their function properly, judges may require that unconstitutional actions stop or that those who have been harmed by unconstitutional actions be compensated. But only rarely should they substitute their judgment for the judgment of elected officials when fashioning specific remedies.

I reject out of hand the concern expressed by some that Judge Bork's America is a world of poll taxes and segregated inns and that Judge Bork's Constitution has no room for women. I also reject out of hand that Judge Bork "believes the Government has the right to regulate the family life and sex life of every American" or that "the Government can make it a crime for married adults to use birth control." These assertions have absolutely no basis in fact.

Facts are actually something which have become somewhat difficult to discern through the steamy mist generated by the overheated rhetoric of the confirmation campaign. People on both sides have stepped beyond the appropriate limits of debate on a judicial nominee. But I decry particularly those opponents who hypocritically cloak themselves in the mantle of tolerance while at the same time mounting a vicious campaign of intolerance and demagoguery.

Those in this Senate who proclaim Judge Bork to be a radical now bear the burden of explaining why this body voted unanimously to name him to the Federal bench just 5 years ago. They bear the burden of naming for the American people which four other sitting justices would have joined with Judge Bork in promoting a radical agenda on the Court. Would the group include Justice Scalia, who was confirmed unanimously? Would it include Justice O'Connor, who, likewise, was confirmed unanimously? Who else?

Who else on the Court would join in making a majority to create a radical agenda for the United States?

Mr. President, I suggest the answer is there are not any. There is no radical agenda which in this country could be or would be instituted by the Supreme Court of this Nation.

Mr. President, at least in this Senator's view, Mr. Bork is not a radical. He is not an extremist. He is not a coldly rational, intellectual automaton who has no empathy for others.

He is a man who has a more conservative, more restrictive view of the world than I do. He would not have been my nominee for the Court. Yet, the evidence simply does not support the claim that he has views so extreme that he should be disqualified from service on the Court. For these reasons, I will vote to support the Bork nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. SASSER). The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the two managers may begin their statements and I ask to be recognized within 10 minutes. Hopefully the Republican leader and I can have an exchange with reference to the Bork nomination and other matters in the schedule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

COMMERCE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION, 1988

The Senate continued with the consideration of H.R. 2763.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, on behalf of the distinguished ranking minority member, the junior Senator from New Hampshire, Senator RUDMAN and myself, I am pleased to present the recommendations of the Committee on Appropriations with respect to the Departments of Commerce, Justice, and State, the Judiciary and 22 related agencies for fiscal 1988. The subcomittee reported the bill on September 25. This has truly been a bipartisan effort as we have worked closely together to develop a balanced bill that is responsive to the requirements of the Departments and agencies and within our allocations.

In summary, we recommend appropriations amounting to $14,275,122,933. This is some $165,000,000 under the subcommittee's 302(b) allocation, because we ran up against our outlay ceiling of $14,760,000,000. When we reported the bill we were $2,000,000 under our outlay ceiling, but due to the scorekeeping changes in the Gramm-Rudman-Hollings amendments, I will offer a modification to conform the bill.

The amounts recommended reflect longstanding congressional priorities to retain EDA; trade adjustment assistance; tourism; Sea Grant; Coastal Zone Management and other NOAA marine research programs; public TV grants; juvenile justice and delinquency prevention; and legal services. We also provide for mandatory increases such as preparing for the 1990 census; the upcoming Uruguay round of GATT negotiations; the expansion of the United States trustee program and the Immigration Service in response to the legislation enacted last year; and construction funds for two additional prisons, as well as funds to plan two more as we now have 44,000 Federal prisoners, or 55 percent more than the rated capacity.

In Justice, I might note, the House deferred the payments to the States for their share of the Assets Forfeiture Fund until October 1, 1988. We think this is the most vital tool in the war on drug traffickers and have restored the $30,000,000 necessary to maintain the effective Federal partnership with the State and local law enforcement agencies.

Our recommendation for State will cause no joy and, incidentally, caused the chairman no joy either because we are into ideological warfare and they really need an increase in their appropriations.

We have provided none of the program increases requested and just one new building, the replacement of our earthquake-devastated Embassy in El Salvador. We have provided for approximately 73 percent of the amount assessed the United States for contributions to international organizations, and have reduced the House outlay deferral from $142,000,000 to $62,838,000. No funds are provided for UNIFIL.

Perhaps the most controversial recommendation is that the remaining funds for the new Embassy complex in Moscow only to be used to demolish the building. The language recommended is the same that the Senate enacted in the supplemental appropriations bill, and unanimously approved by both the Appropriations Committee and Intelligence Committee.

For the Judiciary, we are $145,400,000 over last year and $55,570,000 under the requests. The Judiciary does not make their workload and they would have liked a little more, but we went as far as we could go. We have also provided for a salary increase for the bankruptcy judges and magistrates as recommended by the Judicial Conference and increased the FBI work force by some 127 agents.

We provided increases for legal services, the Trade Representative and SEC of the related agencies. We have $6.5 million more for Fulbrights and the exchanges, but overall we cut the requests for USIA by $122,152,000, largely by deferring $90,000,000 for radio construction, eliminating all the increases for salaries and expenses, and reducing the television program, including "Worldnet" by $2,600,000 below the current level.

We have just worked out an arrangement with the director of USIA to start work under the appropriated amounts within this bill for the Israeli broadcast programs.

Mr. President, when we get into the bill I intend to offer an amendment to implement the agreement recently reached with the Government of Israel to establish a shortwave transmitter site in the Arava region of eastern Israel, south of the Dead Sea. This transmitter will be used jointly by the Voice of America and Radio Free Europe and Radio Liberty to enhance their broadcast signals to Eastern Europe, the European Soviet Union, the Central Asian Soviet Union, South Asia, and East Africa.

Finally, we have made some selected program increases.

For example, in the enactment of the trade bill we have authorized $50 million but we have only been able to include some $20 million for competitiveness in accordance with that trade bill for three regional research centers for the commercialization of our manufacturing technology.

We have $1,700,000 to have a peacesat satellite to establish a communications system for the Pacific Basin. Additional funds are also recommended to help the Asia Foundation assist the new nations in the Pacific area. We are also getting the Commission on the Preservation of America's Heritage Abroad underway.

I do thank and emphasize my gratitude to the distinguished Senator from New Hampshire for his leadership as well as constant cooperation. I yield to the Senator from New Hampshire.

The **PRESIDING OFFICER.** The Senator from New Hampshire.

Mr. **RUDMAN.** Mr. President, the Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies faced a very difficult job in fashioning a bill that meets important national priorities, including law enforcement; ocean, coastal, and fishery programs; foreign policy and public diplomacy; and legal services for the poor. That we have been able to do so is a tribute to the skill and intelligence of subcommittee chairman, Senator HOLLINGS, and the majority clerk, Warren Kane.

The development of this bill was a bipartisan effort, and I can offer my full support to the bill that emerged from the Appropriations Committee. While I may have misgivings about certain provisions or funding levels, I am satisfied the bill represents a balanced attempt to meet the needs of the agencies under the jurisdiction of the subcommittee.

I am particularly pleased the committee was able to take positive actions in a number of areas, including:

Restoring the U.S. Travel and Tourism Administration at a level of nearly $13 million, after the agency was eliminated in the House bill.

Creating a new appropriations account for Export Administration in the Department of Commerce.

Protecting ocean, coastal, and fishery programs important to the Nation and New England, including the Sea Grant Program.

Providing approximately $100 million above the House-passed level for the law enforcement programs of the Department of Justice, including an additional $37.3 million for the FBI and the removal of the House imposed cap on the assets forfeiture fund which prohibited the sharing of seized assets with State and local law enforcement agencies.

Mr. President, once again, I congratulate the chairman of the subcommittee on a fine bill and urge its adoption.

Mr. President, I would say that the distinguished Senator from South Carolina and I have played a game of musical chairs with the chairmanship and ranking member of this subcommittee for the last 4 years. It has always worked out well because the Senator from South Carolina is a pleasure to work with.

Mr. President, this is a bipartisan piece of legislation and I think it is what the Senate ought to do on this kind of legislation. We are within our allocation from the Budget Committee and have met our targets.

There are some things in this bill that some people might disagree with. I disagree with some myself. Nevertheless, it represents a consensus of the members of the Appropriations Committee. I dare say, Mr. President, we ought to be able to finish this bill in very short order, particularly since it is my understanding, I will advise the chairman, that we now do not have to our knowledge any contested amendments that would require a rollcall vote.

If that is so, I would urge any of our colleagues who are observing the proceedings in their offices to come to the floor if they have statements to make or language they wish to insert into the bill. It will be our hope to comport with the request of the majority leader and the Republican leader and get through this business forthwith. There is much to be done between now and adjournment time.

Again, let me thank my friend from South Carolina for his genuine spirit of cooperation as we worked through this bill again for the sixth year.

Mr. CHILES. Mr. President, each appropriations bill is subject to a spending limit known as a 302(b) allocation. While the authors of the Commerce-Justice-State appropriations bill worked very hard to stay within those limits, a problem has arisen with regard to scoring. I understand the authors will offer an amendment which will keep the bill within its allocation, but let me explain the nature of the problem so as to clear up any confusion.

As reported from the Appropriations Committee, the bill was under its 302(b) budget authority ceiling by $158 million and under its outlay ceiling by less than $50 million. Since the bill was reported, however, the new Gramm-Rudman-Hollings law was enacted.

Section 202 of that law prohibits "counting as savings the transfer of Government actions from one year to another." Three exceptions are provided: The law making the transfer must stipulate that the transfer: first, is a necessary—but secondary—result of a significant policy change; second, provides for contingencies; or third, achieves savings made possible by changes in program requirements or by greater efficiency of operations. The Commerce-Justice-State bill contains a provision which defers obligation of $50 million in "contributions to international organizations." That deferral is subject to section 202, since the purpose of the deferral is to reduce 1988 outlays. Consequently, the deferral, some $59 million, will be scored as having an outlay impact in fiscal year 1988.

I commend the distinguished chairman of the subcommittee, Senator Hollings and the ranking minority member, Senator Rudman for their efforts in crafting this bill.

However, in order to bring the bill within its allocation, budget authority sufficient to reduce outlays by $58 million must be removed from the bill. I understand that such an amendment will be offered.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Commerce-Justice-State appropriations bill and I ask unanimous consent that it be inserted in the Record at the appropriate point.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2763

COMMERCE-JUSTICE-STATE SPENDING TOTALS

[Senate-reported; in billions of dollars]

	Fiscal year 1988	
	Budget authority	Outlays
Bill scoring		
H.R. 2763, Senate-reported (new budget authority and outlays)	14.3	11.0
Outlays from prior-year budget authority and permanent appropriations		3.5
Bills enacted this session: 1987 supplemental (Public Law 100–71)	+(*)	.2
Adjustment to conform mandatory programs to resolution assumptions	+(*)	+(*)
Adjustment for contributions to international organizations [1]		+.1
Bill total	14.3	14.8
Subcommittee 302(b) allocation	14.4	14.8
Difference	−.2	+.1
Comparisons		
Bill total above (+) or below (−):		
President's request	−.3	−.2
House-passed bill	+.4	+.4

[1] The bill defers a portion of the contribution to the international organizations account from fiscal year 1988 to fiscal year 1989. Section 202 of the Balanced Budget and Emergency Deficit Control Act, as amended, prohibits counting the transfer of Government actions from one year to another as budgetary savings.

Note.—Details may not add to totals due to rounding. (*) = less than $50 million.

Prepared by the Senate Budget Committee.

Mr. HOLLINGS. Mr. President, on behalf of the Committee on Appropriations, I submit a modification to the committee amendment with regard to Contributions to International Organizations.

The amendments to Gramm-Rudman-Hollings that were signed into law by the President on September 30, now prohibit the outlay deferral of $62,838,000 that we included in this account from counting as savings against our outlay allocation. Accordingly, it is necessary to modify the amount recommended to be appropriated to conform to the new scorekeeping rules. This modification really has no programmatic effect as the international organizations will receive the same amount of cash, one way or the other, in 1988, but they have lost the leg up they had for 1989.

The PRESIDING OFFICER (Mr. Harkin). This is a modification of a committee amendment?

Mr. HOLLINGS. That is correct.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

Modify the Committee amendment under Contributions to International Organizations on page 40 as follows: on line 10 strike all the House language beginning with "$382,000,000" through "1988" on line 13, and insert in lieu thereof the following:

"$355,300,000, to remain available until expended".

Mr. RUDMAN. Mr. President, the modification as offered by the chairman is acceptable to this side.

Mr. HOLLINGS. Mr. President, I send another modification to the desk.

Mr. RUDMAN. Mr. President, this modification is also acceptable to this side.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 78 line 1 strike "Company".

Mr. HOLLINGS. Mr. President, on behalf of the committee, I submit revisions to the committee amendments adding titles VII, VIII, and IX to the bill. These modifications conform these titles to the action taken by the Senate with respect to these matters during consideration of S. 1394, the foreign relations authorization bill.

Mr. RUDMAN. Mr. President, those modifications have, in fact, been cleared on this side.

The PRESIDING OFFICER. The committee amendment is so modified.

The modification is as follows:

On page 78 after line 13 strike all that follows through line 5 of page 91 and insert in lieu thereof the following:

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

This title may be cited as "Cuban Political Prisoners and Immigrants".

That (a) on and after the date of enactment of this Act, consular officers of the Department of State employed in the United States interest section in Havana, Cuba, and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to insure the orderly process of available applicants.

(b) For purposes of this section—

(1) the term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications; and

(2) the term "refugee" has the same meaning as is given to such term by section 101(a)(42) of the Immigration and Nationality Act.

Sec. 2. On and after the date of enactment of this Act, consular officers of the Department of State, wherever situated, shall issue immigrant visas under section 203(a) or 202(e) of the Immigration and Nationality Act to Cuban nationals—

(1) without regard to section 212(f) or 243(g) of the Immigration and Nationality Act (relating to the refusal to accept the return of nationals);

(2) whether within or outside Cuba; in such cities as immigration visas may be issued to Cuban nationals; and

(3) without regard for the date of departure from Cuba of such applicants in the case of applications for such visas outside Cuba.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SHORT TITLE

SEC. 801. This Title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

CONGRESSIONAL FINDINGS

SEC. 802. The Congress finds that—

(1) the continued occupation of Cambodia by Vietnam and the instability of the governments of Vietnam, Cambodia, and Laos have led to a steady flight of refugees from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) because of our past military and political involvement in the region, the United States has a continued, special responsibility to the persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) in view of this special responsibility, the United States has placed a special priority on the resettlement and protection needs of the Indochinese refugees;

(4) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, have been the front line countries bearing tremendous burdens caused by the flight of these refugees, distinguishing themselves as the leaders of an unprecedented humanitarian response to the plight of Indochinese refugees;

(5) largely in response to a lessened commitment among resettlement countries to the refugees of the region, these countries of first asylum have recently taken steps to close refugee camps. Such camp closings would seriously undermine the continuation of a humane refugee policy and are inimical to the resolution of refugee problems in the region;

(6) the United States bears a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of unnecessarily slow and complex resettlement procedures; prolonged and often questionable adjudications in humanitarian parole, immigration and refugee cases; failure to implement effective policies for the region's "long-stayer" populations; failure to adequately monitor refugee protection and screening systems along the Thai-Cambodian and Thai-Laotian borders; a policy of allocating admissions numbers to "carryover" refugees approved in previous years rather than qualified new cases; and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure for refugees from that country, including Amerasians and long-held "re-education camp" prisoners;

(7) the United Nations High commissioner for Refugees (UNHCR) shares responsibility for the hardening of attitudes in first asylum countries. The UNHCR should be pressed to upgrade its staff presence and level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region; to pursue voluntary repatriation possibilities, but only in cases where monitoring is available and the safety of the refugees assured; and

(8) given the serious protection problems in Southeast Asian first asylum countries, and the need to preserve first asylum in the region, the United States must renew its commitment to an ongoing, generous refugee resettlement and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved.

CONGRESSIONAL FINDINGS ON INDOCHINESE REFUGEE PROCESSING

SEC. 803. The Congress finds that—

(1) there have been numerous diplomatic problems arising form inconsistent refugee processing by the Immigration and Naturalization Service, most recently with respect to processing of Cambodian refugees at Khao I Dang, and also to the processing of Lowland Lao;

(2) there have been questionable documentation requirements of Indochinese refugees by the INS, leading to unjust adjudications to the detriment of deserving refugee cases;

(3) there have been historic problems with INS staffing commitments in the region, frequently precipitating delays and necessitating the assignment of temporary duty officers who lack expertise in Indochinese refugee processing;

(4) while the overall approval rates of Indochinese refugees has been acceptable, it has been achieved at the expense of multitudes of rejected cases which are contributing to a growing "long stayer" population in the region;

(5) the INS is an immigration service and is not well-suited to the sensitive area of refugee processing, particularly as it involves the fulfillment of commitments made by the Secretary of State in the conduct of United States foreign policy; and

(6) given the longstanding problems associated with INS processing, dating back to the disturbing INS performance in 1982-83 which led to the issuance of National Security Decision Directive Number 93 and to new INS processing guidelines, the United States must consider the possibility of denying the INS any further role in the processing of refugees.

REPORTING REQUIREMENT

SEC. 804. The President shall submit a report within 120 days of enactment of this Act assessing the merit of transferring the authority to admit all refugees under the Immigration and Nationality Act from the Attorney General to the Secretary of State.

ALLOCATIONS OF REFUGEE ADMISSIONS

SEC. 805 (a) Given the existing connection between ongoing resettlement and the preservation of first asylum, and to provide a stable and secure environment for refugees while dialogue is pursued on other long-range solutions, including voluntary repatriation and local settlement, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps, and

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), a number of admissions allocated in a fiscal year under priorities II and III of the Program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be at least 1,500.

LONG-STAYER RESETTLEMENT

(b)(1) It is the sense of the Congress that Indochinese refugees who have lived in camps for three years or longer are of special humanitarian concern to the United States and should be considered as eligible for refugee processing. Under the leadership of the United States, renewed international efforts should be made to resettle these long-stayers, as proposed in the Report of the Secretary of State's Indochinese Refugee Panel in April 1986.

ALLOCATION OF EDUCATIONAL ASSISTANCE FOR THAILAND

SEC. 806. Section 105 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) Of the amounts authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1988 and 1989 may be available for educational programs, projects, or activities along the Thai-Laotian border and the Thai-Cambodian border which are carried out by Thai or other non-governmental organizations in conjunction with relief organizations and civilian camp leadership."

ALLOCATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR THAILAND

SEC. 807. Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is amended by adding at the end thereof the following new section:

"SEC. 536. ALLOCATION FOR THAILAND.—(a) The Congress finds that many Thai residents of villages located near the border with Laos and Cambodia have been adversely affected by artillery shelling and refugee migrations.

"(b) Of the amounts authorized to be appropriated to carry out this chapter for the fiscal years 1988 and 1989, $5,000,000 for each such fiscal year may be available to provide financial assistance for Thai villages affected by Indochinese refugee camps."

ALLOCATION OF INTERNATIONAL MILITARY EDUCATION AND TRAINING ASSISTANCE FOR THAILAND

SEC. 808. Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) is amended by adding at the end thereof the following new section:

"SEC. 546. ALLOCATION FOR THAILAND.—Of the amounts to be appropriated to carry out this chapter for the fiscal year 1988 and 1989, $2,000,000 for each of such fiscal years may be available to train and deploy the Royal Thai Army to protect Indochinese refugees and those in refugee-like situations in Thailand.".

POLICY TOWARD PROTECTION OF REFUGEE CAMPS

SEC. 809. It is the sense of the Congress that the international community should increase its efforts to assure that Indochinese refugee camps are protected and that international observers and relief personnel should be present on a twenty-four hours a day basis at camp "Site 2" and any other camp where it is deemed necessary.

TITLE IX.—POLISH PERMANENT RESIDENT ADJUSTMENT ACT OF 1987

SEC. 901. This Title may be cited as the "Polish Permanent Resident Adjustment Act of 1987".

SEC. 902. ADJUSTMENT TO PERMANENT RESIDENCE OF CERTAIN NATIONALS OF POLAND.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility on the grounds for exclusion specified in paragraphs (14), (20), (21), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since July 21, 1984.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien only if—

(1) The alien is a national of Poland;

(2) the alien arrived in the United States before July 21, 1984;

(3) the Immigration and Naturalization Service established a record of entry or other record with respect to the alien before July 21, 1984; and

(4) in the case of an alien who was admitted to the United States as a nonimmigrant, the alien's period of authorized stay as such a nonimmigrant expired not later than 6 months after July 21, 1984, through the passage of time or the alien applied for asylum under section 207 before July 21, 1984.

(c) RECORD OF PERMANENT RESIDENCE AS OF JULY 21, 1984.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of July 21, 1984.

(d) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the committee amendments, as modified, be considered and agreed to en bloc and the bill, as amended, be considered as original text for the purpose of further amendment, with the understanding that no points of order shall be waived by reason thereof.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I would like to address the provisions in the bill making appropriations for the Small Business Administration.

Mr. President, the Small Business Administration has suffered through a rather tumultuous existence over the last 3 years as the White House attempted in several ways to dismantle the agency. In both his fiscal year 1986 and fiscal year 1987 budgets, President Reagan proposed to abolish most of SBA's programs and transfer the rest to the Commerce Department. Fortunately, those efforts have been resoundingly unsuccessful. SBA is currently operating under a 3-year authorization which Senator WEICKER and I coauthored in 1985, to conclude at the end of 1988, which reduced and restructured a number of SBA lending programs and produced $2.5 billion in outlay reductions over 3 years.

Despite our past successful efforts to produce budget savings, the Reagan administration, in its fiscal year 1988 budget proposal for SBA, sought an additional reduction in SBA's budget authority of 28 percent over the 1987 estimated levels. Although the Appropriations Committee has agreed to reductions in some SBA program levels, we have attempted to retain essential funding to support vital SBA programs. This bill provides for a total of $467,397,000 in new budget authority for the SBA. That amount is approximately $14 million less than the 1987 enacted level and $18 million less than the House level, but over $88 million more than the President's 1988 budget estimate.

Under the salaries and expense account, the committee provides for a total of $219,660,000 in new budget authority and for $92 million by transfer from the disaster loan fund for disaster loan-making activities and portfolio management. That amount is $6,140,000 less than the House allowance. Senator WEICKER and I, as chairman and ranking member of the authorizing committee, recommended several changes in the House levels, including those for the Small Business Development Centers, procurement assistance, and international trade programs, and for the Offices of Finance and Investment and Inspector General.

We recommended $35 million for the SBDC Program, the 1987 funding level, as opposed to the $42 million which was proposed by the House without any showing that the program was suffering under the previous funding level. We also recommended that the funding for the Office of Finance and Investment be slightly reduced so that the Procurement Assistance Program and the Inspector General's Office could receive additional funding. Those offices have an increased workload as a result of the Wedtech scandal and 8(a) program reform. Finally, we recommended that the Office of International Trade receive an additional $500,000 over the House level as part of effort to improve the SBA's ability to offer assistance to its small business clients in the area of international trade.

The bill also provides for funding totaling $224 million for the business loan and investment fund. Under that fund, the committee recommends a level of $450 million for the Development Company Loan Program, or $77 million more than the House bill. That increase is warranted by the full utilization of the Section 503/504 Development Company Program in the past year, for which the authorizing committee provided additional funding authority in Public Law 100-72. The two remaining funds in the bill, the disaster loan and pollution control funds, are funded at the House levels of $9,497,000 and $14,240,000, respectively.

An important amendment has been added to this bill which prohibits the sale of certain SBA loan assets. The SBA proposes to sell $2.3 billion worth of SBA loan assets at the projected return of less than 36 percent of face value. In many cases, the proposed sale could bring as low as 15 cents on the dollar, according to projections in the President's budget. Selling these loans at such fire-sale prices is irresponsible and unnecessary.

Although such loan asset sales are recommended by the Reagan administration as quick deficit reducers, the long-term results are negative. If the SBA retains these loans, the yield on repayments is expected to be as high as 93 percent on disaster loans and 80 percent on SBA-originated direct loans. Therefore, if the SBA foregoes the benefit of these future loan repayments to its programs, it will require Congress to recapitalize these revolving funds through appropriations within 2 years. Mr. President, selling the assets of these revolving funds in order to make the deficit appear smaller is like a dairy farmer selling his milk cows in order to pay his mortgage.

Provisions included in the bill at my request prohibit the sale of direct loans made by the Small Business Administration under the authority of the Small Business Act and the sale of loan guarantees made by the SBA under the authority of the Small Business Investment Act. The restriction is intended to apply only to sales to third parties of general business loans, disaster assistance direct loans, and debentures issued by the Certified Development Companies and Small Business Investment Companies which were guaranteed by SBA and held by the

Federal Financing Bank on September 30, 1987. The restriction has no application to any plan concerning prepayment of loans by borrowers, nor does it affect sales of section 7(a) loan guarantees in the secondary market or sales of new debenture guarantees which were not held by the Federal Financing Bank on September 30, 1987.

I would like to mention another important amendment to the bill which prohibits the SBA from imposing any new or increased user fees, guaranty fees or examination fees in connection with an SBA program or service in excess if that in effect on September 1, 1987. The administration has proposed to implement substantial user fees for certain SBA counseling and training programs, for which no fees have been imposed in the past, at the risk of seriously curtailing program participation. Although user fees might be appropriate for certain programs, because the SBA's proposal includes a mix of everything from very objectionable increased loan guarantee fees to inconsequential publication fees, and because the agency plans to introduce some of these fees under current administrative authority without seeking the comments of affected small businesses, the authorizing committee recommended a prohibition on all new user fees. The authorizing committee will explore the user fee issue thoroughly next year in hearings during the reauthorization process.

Finally, the report accompanying this bill directs the SBA to expedite its study of the Section 7(a) Loan Guaranty Program to evaluate the impact of the program on tax revenues and job creation, which was mandated in Senate Report 99-425 accompanying the fiscal year 1987 Commerce, Justice, State appropriations bill. The Agency is working with the Internal Revenue Service to produce the data needed to make the study. The report is long overdue, and the SBA has asked the committee for an extension of its original June 1, 1987, reporting date to allow the IRS sufficient time to compile the loan information. We strongly encourage the SBA to have an interim report to the authorizing committee by April 1, 1988, to facilitate the committee's consideration of reauthorization legislation for the SBA and for use during the fiscal year 1988 appropriations cycle. We direct the IRS to report its findings to SBA no later than August 1, 1988, and we urge the SBA to issue its report to this committee as soon thereafter as possible, but no later than September 1, 1988. Any further delay will severely hamper both the authorizing committee and the Appropriations Committee in their attempt to obtain full and accurate information for use in crucial policy decisions affecting Federal spending.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

Mr. BYRD. Mr. President, as a courtesy to the Republican leader, I ask unanimous consent that that order be extended for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI addressed the Chair.

Mr. RUDMAN. Mr. President, could I just have one moment, please?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I advise my senior colleague from New Hampshire that the amendments were just considered en bloc and accepted en bloc. That, of course, does not preclude him from offering his amendment or the amendment of the Senator from North Carolina. There had been a previous understanding that they would not be so accepted, but they were. But we have an agreement on those amendments, and I just want to make that clear to my two colleagues.

Mr. HOLLINGS. The agreement and understanding is correct.

AMENDMENT NO. 987

Mr. DeCONCINI. Mr. President, I send an amendment to the desk on behalf of myself and my colleague, Senator McCain, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini) for himself and Mr. McCain, proposes an amendment numbered 987.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, after line 13, insert the following new paragraph:

"Of the amount appropriated for section 1309 of the Drug Law Enforcement Grant Program, an amount not to exceed $500,000 is to be allocated to drug law enforcement programs in any state where the legislature has appropriated funds on or prior to August 18, 1987, in anticipation of an appropriation equivalent to the authorization level."

Mr. DeCONCINI. Mr. President, the State of Arizona has adopted maybe the toughest, most comprehensive, antidrug abuse program in the United States. Under the Arizona plan, the State legislature appropriated $7.5 million dollars for the drug strategy plan. The State funds only become available if the Federal Government provides $5 million in matching funds over a 2-year period. Today I offer an amendment that would allow my State and other States to be eligible for Federal funds under section 1309 of the Drug Law Enforcement Grant Program if they meet the criteria spelled out in the amendment. This amendment was made possible by the combined efforts of my distinguished colleagues Senators Hollings and Rudman and their staff members Warren Kane, John Shank, and Santel Manos. Senators Hollings and Rudman carry a reputation in this body of being tough on crime and tough on drug abuse. In crafting this amendment, these two Senators had the foresight to recognize that to be successful in combating the drug abuse epidemic in this country, individual State's must be encouraged to develop tough, innovative antidrug abuse programs.

As chairman of the Senate Appropriations Subcommittee on the Treasury, Postal Service, and General Government, I understand how tight money is for fiscal year 1988 programs. But I believe States which have made the effort to get tough on drugs and are willing to spend a great deal of the their own taxpayer dollars, must be given Federal cooperative support in these efforts.

On May 15, 1987, the State of Arizona adopted what I believe is the toughest, most comprehensive antidrug abuse bill in the country. The legislation is a unique plan that calls for joint cooperation between the Federal Government and the State of Arizona. Under the Arizona plan, the State legislature appropriated $7 million for the drug strategy program. The State funds only become available if the Federal Government provides $5 million in matching funds over a 2-year period.

At a narcotics control hearing I chaired in Phoenix in August, Arizona Attorney General Bob Corbin emphasized that Arizona's new drug bill could self-destruct if Federal dollars don't come through.

Presently, the Arizona Criminal Justice Commission has collected approximately $3.5 million in Federal antidrug abuse grants. With the funding Arizona will receive from the Federal Government this year, the State will still fall $500,000 short of the $5 million in matching funds needed to trigger the $7.5 million in State funds.

I am forced to propose this amendment today because President Reagan abandoned his commitment to State and local law enforcement when he introduced his fiscal year 1988 budget. Instead of earmarking $230 million for grants for State and local drug enforcement efforts as was authorized in the Anti-Drug Abuse Act of 1986, the President slashed all funding for this program in fiscal year 1988. The House and the Senate Appropriations Committees recently added $75 million back into the Anti-Drug Abuse Grant program.

I think you will agree, Arizona is a unique situation. Because of the 360-mile border it shares with Mexico, the State has become one of the major corridors for drugs coming into the United States. In fact, Mexico is the number one source of marijuana and heroin coming into the United States. Arizona has become the largest single port-of-entry for South American cocaine trafficking, transshipped through Mexico.

During a recent visit to Phoenix, Attorney General Edwin Meese noted that Arizona is experiencing the same problems Florida faced a few years ago before agents cracked down on the drug trade. The Attorney General said, "Arizona is a State that concerns us very much. When we ruin one route for drug dealers, as we did in Florida, they'll try a new way all the time. That's why we're now targeting the Mexican border."

We in Arizona are ready to meet the challenge. The State's antidrug program provides tougher criminal penalties, new courts, additional law enforcement personnel, and a statewide education program.

The challenge will not be an easy one. Arizona has the second highest crime rate in the Nation, exceeded only by Florida. The total number of murders associated with drug use in the city of Phoenix rose from 7 in 1985 to 24 in 1986—an increase of 243 percent.

The Arizona Anti-Drug Program can be looked at as a model for the entire Nation. The cooperative efforts of the Federal Government and the State of Arizona will provide a program for the entire Nation to learn from.

We cannot afford to let Arizona's Anti-Drug Abuse Program go unfunded. This country is losing the war on the drugs. We continue to talk tough, but we fail to back our rhetoric with action. The State of Arizona is ready to demonstrate what getting tough is all about. I ask my colleagues to give Arizona the chance by supporting this amendment.

Mr. McCAIN. Mr. President, I rise in strong support of the amendment offered by my distinguished colleague, Senator DeConcini, and to which I am a cosponsor. Several years ago our Nation made a commitment to address the problems created by illegal narcotics. Drug abuse and its virulent offspring—violent crime, corruption, and the loss of human life—have threatened to unravel our social fabric. We have known for many years the death and destruction brought about by this plague, and Congress responded to this menace by enacting the Omnibus Drug Bill of 1986. This much-needed legislation provided the Federal resources to support efforts on all facets of the drug abuse problem, including drug law enforcement.

As you know, based on last year's funding level, the fiscal year 1988 appropriation for the Drug Law Enforcement Grant Program is significantly lower than what we anticipated. This has caused a regrettable problem which threatens to undermine certain vital law enforcement activities, particularly drug interdiction efforts. My State of Arizona, for example, committed itself to a vigorous and tenacious campaign against drugs. The Arizona State Legislature knew that if substantive strides were to be made on the war against drugs, it had to be undertaken in cooperation with Federal and local authorities. Therefore, the State legislature appropriated several million dollars for drug interdiction activities. This additional $500,000 Federal appropriation will enhance Arizona's antidrug campaign.

Mr. President, enactment of the DeConcini-McCain amendment will ensure that those State legislatures who have appropriated funds based upon certain levels of Federal assistance will not be undermined. It is vitally important we continue to provide State and local authorities with the resources that are needed to stem the flow of illegal narcotics into our country. Arizona seeks to create a model for the rest of the Nation in drug law enforcement. Our success in our drug interdiction effort will determine to what extent drug supplies will reach other areas of our Nation. For the sake of our children, let us hope our efforts will be successful.

Mr. DECONCINI. Mr. President, I commend Senator McCain for his strong support of this amendment and other items that relate to the drug program in Arizona in combination with the Federal Government. I thank my distinguished colleagues.

Mr. HOLLINGS. Mr. President, the amendment of the distinguished Senator from Arizona is merely an allocation under the drug enforcement program. The distinguished Senator as a member of the Judiciary Committee and also of our subcommittee has been a leader in this particular regard. We have checked it with the other side and I move adoption of the amendment.

The PRESIDING OFFICER (Mr. Exon). Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 987) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, may I ask the managers of the bill if they did accept the Senate amendment on page 36 beginning at line 21 running through line 14 on page 37?

Mr. HOLLINGS. In response to the question of the distinguished Senator from North Carolina, we are prepared to accept his amendment.

Mr. HELMS. I guess I ought to ask this as a parliamentary inquiry. Then it would be in order for me to table the Senate amendment on page 36, beginning at line 21, running through line 14 of page 37?

Mr. HOLLINGS. Right. I believe that is appropriate. The House language is what we enacted before. We have checked that with the Bureau of Prisons, and I think the distinguished Senator from North Carolina and the Senator from New Hampshire, Mr. Humphrey, are both correct in this particular regard, and I join in the motion that our committee amendment be tabled.

The PRESIDING OFFICER. In answer to the question raised by the Senator from North Carolina, the Chair would advise that the amendment that he has reference to was approved en bloc and therefore cannot be tabled. The Chair would further advise that, of course, the Senator from North Carolina could exercise an option by a motion to strike.

Mr. HELMS. Mr. President, let me do it another way. Let me ask unanimous consent that the Senate provision, section 206, as previously stated, be excepted out.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The excepted section follows:

SEC. 206. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year.

Mr. HELMS. Mr. President, the problem of abortions in prisons was first brought to my attention when I received a letter a few years ago from a constitutent complaining about the abortion practices in the Bureau of Prisons, under the jurisdiction of the Attorney General and the Justice Department.

Last year, for the first time, Congress approved a State, Justice, Commerce bill containing language restricting abortions in Federal prisons. It was a step in the right direction, Mr. President, and that language was included in the bill passed by the House again this year.

The Senate committee, however, as it always does, removed all the restrictions on abortions in Federal prisons. If the committee prevails, Mr. President, taxpayers once again, will be required to furnish the money to fund abortions on demand in Federal prisons.

Mr. President, this Senate must place restrictions on the tax funding of abortions, as this Congress has in other Federal programs. In the Medicaid Program, in health insurance for Federal employees, and in other areas, Congress has firmly established the principle that U.S. taxpayers are not going to be forced to pay for the deliberate termination of innocent human life with their tax dollars.

I ask Senators, why should we not apply this same principle in prisons that we apply elsewhere? In each and every case, what is at stake is the same: an innocent unborn child with a God-given right to live. We must not allow the use of taxpayer dollars to take that right away in prisons or anywhere else.

Now I move to table the Senate amendment earlier received.

The PRESIDING OFFICER. The question then is on agreeing to the motion to table.

The motion was agreed to.

Mr. HELMS. I thank the Chair.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the distinguished managers of the bill.

AMENDMENT NO. 988

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire [Mr. Humphrey] for himself, Mr. Danforth, Mr. Durenberger, Mr. Hecht, Mr. Karnes, Mr. McConnell, Mr. Nickles, and Mr. Pressler, proposes an amendment numbered 988.

Mr. HUMPHREY. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Insert the following new section in the appropriate place:
>
> "Sec. . None of the funds appropriated under this Act shall be used to require any person to perform, or facilitate in any way the performance of, any abortion."

Mr. HUMPHREY. Mr. President, this amendment would provide conscience clause protection for employees of the Bureau of Prisons who refuse to assist in the provision of abortions.

Conscience clause protection for many individuals and entities who refuse to engage in abortion-related activity is standard in most States. Currently, 44 States protect doctors or organizations who refuse to participate in abortion procedures.

There are also Federal precedents for abortion conscience clause protection. The most extensive Federal statutory protection can be found under the Public Health Service Act. The Church Amendment passed in 1973, protects personnel and organizations which directly receive funds under the Public Health Service Act—including Hill-Burton funds—under the community mental health centers, and under the Developmental Disabilities Services and Facilities Constructions Act.

Specifically, the Church amendment prohibits officials from compelling PHS recipients to perform abortions or sterilization procedures if doing so would be contrary to the recipient's religious beliefs or moral convictions. The Church amendment also prohibits discrimination againt personnel for participation or lack of participation in abortion. Finally, the Public Health Service Act Amendments of 1979 bar recipients of Federal funds from denying admission or otherwise discriminating against any applicant for training or study because of the applicant's unwillingness to participate in performing abortions because of the applicant's religious beliefs or moral convictions.

However, Federal employees and military personnel have no statutory abortion conscience clause protection. In particular, the Federal Bureau of Prisons now requires its personnel to process inmates for abortions. Bureau employees may also be called on to escort an inmate to an abortion clinic for an abortion, or they may be asked to counsel and make a referral for the abortion.

Conscience clauses have generally been upheld by the courts as legitimate protections of individuals. The Supreme Court, in its 1973 decision in Doe versus Bolton, the companion case to Roe versus Wade, recognized the right of individuals and of private hospitals to refuse to perform abortions. The Court noted:

> Under section 26-1202(e) the hospital is free not to admit a patient for an abortion. It is even free not to have an abortion committee. Further, a physician or any other employee has the right to refrain, for moral or religious reasons, from participating in the abortion procedure. These provisions obviously are in the statute in order to afford appropriate protection to the individual and to denominational hospitals.

In Poelker versus Doe, The U.S. Supreme Court held that the city of St. Louis' policy of refusing to allow the performance of non-therapeutic abortions in its public hospitals, and of staffing those hospitals with personnel opposed to the performance of abortions, did not violate the equal protection clause of the Constitution.

In Greco versus Orange Memorial Hospital Corp., a 1975 Fifth Circuit Court of Appeals Texas decision held that a hospital's policy prohibiting performance of elective abortions did not amount to State action, even though the hospital received Government funding—including Hill-Burton funds—and was a nonprofit, tax-exempt charitable organization. The district court rules that without State action it lacked jurisdiction under the Civil Rights Act of 1871.

In Jones versus Eastern Maine Medical Center, a U.S. district court in Maine upheld such a conscience clause on similar grounds.

It is time that Federal employees have similar protection—particularly Bureau of Prisons employees who have been documented to be compelled to engage in abortion related activities against their will.

There is ample precedent in prison practice for this respect for the religious and moral tradition of employees and inmates. Employees are authorized to abstain from work for certain periods of time in order to comply with personal religious beliefs, or engage in religious activities.

Regarding inmates, section 548.10(a) of prison regulations states that, within certain constraints:

> The Bureau of Prisons provides inmates of all religious faiths with reasonable and equitable opportunities to pursue individual religious beliefs and practices.

This includes general freedom to participate in religious activities, including diet, services, ceremonies, and meetings. It also includes the freedom to wear or use personal religous items, and freedom from certain work assignments.

But most striking and relevant are prison regulations found in section 548.14, titled "Institution Work Assignment," which state:

> Except where necessary for maintaining security, safety, and good order in the institution, an inmate may not be given a work assignment which violates the specific requirements of that inmate's religious belief.

And yet, the Bureau of Prisons provides no protection to employees who refuse to participate in abortions procured by inmates. This policy came to light with the punitive reassignment of Mr. Richard Phillips from his assistant warden position at a Lexington, KY women's prison. The former warden had reached an agreement with Phillips that Phillips would not be required to process abortion papers for inmates, and that the other assistant warden would do so. The subsequent warden at Lexington refused to abide by this agreement, and compelled Phillips to process the papers. When Phillips refused on religious grounds, the warden transferred Phillips to a dead-end desk job in Washington. Phillips has noted that other prison employees were put in similarly compromising situations by authorities.

My amendment protecting these employees is modeled after the Church amendment described above. The amendment provides protection in three categories:

First, the Bureau may not discriminate in the employment, promotion, or termination of any person, because the person refused to facilitate an abortion;

Second, the Bureau may not discriminate in the extension of staff or other privileges to any person, because such person refused to facilitate the performance of an abortion; and

Third, the Bureau may not require any person to perform, or facilitate the performance of, any abortion.

The term "facilitate the performance of an abortion" is intended to be construed broadly so as to include any activity related to the abortion, including processing abortion papers, counseling or referral, or escorting inmates to abortion clinics.

Mr. President, this amendment has been accepted and agreed to by both sides. It is a conscience clause amendment to the HUD bill that will provide needed protection to employees of the Bureau of Prisons who for reasons of conscience refuse to assist in providing abortions to inmates.

I want to point out that this is not simply an abstract concern which we seek to address. Indeed, there has already been one case where an assistant warden in the prison at Lexington, KY, was reassigned and sent into a dead-end job because he refused to participate in arrangements which were to provide an abortion for an inmate. There is ample precedent for the amendment which I assume is why it was so readily accepted. There are many State laws, indeed Federal regulations, that apply to private organizations receiving Federal funds that provide for a conscience exception, conscience protection of personnel of those organizations. What we seek to do here is simply extend the logic and fairness and justice of those provisions to a class of employees who have demonstrated a need for it.

I thank the floor managers for accepting the amendment.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. RUDMAN. Mr. President, we want to say that the committee is certainly in favor of accepting this. The Senator from New Hampshire, my senior colleague, makes the point that regardless of the issue of abortion no one working for the Federal Prison System ought to be forced to participate in the procurement of abortion. The managers agree with that. I believe Senator HOLLINGS agrees with that.

We are going to accept this portion of this amendment.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire [Mr. HUMPHREY].

The amendment (No. 988) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I yield to our distinguished committee chairman, the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I thank the Senator.

Mr. President, I am very happy that we are here today to present before the Senate the Commerce, Justice, State, Judiciary and related agencies appropriation bill for fiscal year 1988. This bill, which provides a total of approximately $14.2 billion in new budget authority for fiscal year 1988, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is evidence of the hard work and excellent leadership of Subcommittee Chairman HOLLINGS and the ranking minority member, Senator RUDMAN. I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. Warren Kane, Mr. John Shank, Miss Terry Olson, and Mrs. Judee Klepec.

I now wish to briefly highlight a few important items regarding this bill.

First and foremost, I am pleased to report that this bill is below the 302(b) allocation for budget authority and, after a correcting amendment to be offered today, will also be below the 302(b) allocation for outlays. As I have previously indicated, this is essential for all appropriation bills which are to be taken up for consideration on the Senate floor.

Second, the committee's recommended $14.2 billion in budget authority is $600 million below the President's request and is only slightly above the House-passed level of $13.9 billion.

Finally, I would ask my colleagues to resist any further amendments adding additional funds which would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. Let me also mention that the Senate Rules do not permit legislative amendments on appropriation bills.

Mr. President, splendid work has been done during this session this year on this bill. The contents of it were drawn by our chairman, the Senator from South Carolina and by Senator RUDMAN, each of whom have great capacity for fine work. I am very proud of the quality of their work and their hard work, and of the approval it has had by those who have examined it. That applies also to the work done by their staff members who carried this load.

It is a credit to the Senate. It is a credit to the administration, and to those who contributed directly to it.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

Mr. President, I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished majority leader, Mr. BYRD, is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE BORK NOMINATION

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been for the last day or so discussing the Bork nomination, and when the vote might be scheduled thereon.

I noted an AP wire earlier today, and I will read therefrom. It has reference to a response by our distinguished junior Senator from North Carolina, Mr. SANFORD, to the President's remarks of yesterday on CNN regarding the Bork nomination.

> On Wednesday, Sen. Terry Sanford, D-N.C., said, "We are tired of having our integrity impugned. We are tired of having our sincerity questioned. We are tired of having our intelligence insulted. It is time for that corrosive dialogue to stop."
>
> Reagan, asked by a reporter about Sanford's comments as he met with Republican senators today, said, "Well, there is some debate about what constitutes intelligence."

Mr. President, I suppose that one should not be surprised at that kind of comment coming from a President of the United States who grossly underestimated the intelligence of the American people in the arms-for-hostage deal. I regret it when statements like that are made. I do not think they are helpful. I do not think they are productive. I think they are only counterproductive.

I would hope that the President, in the interest of getting on with filling the vacancy on the Supreme Court, would try to restrain himself from such wisecracks. They do not add anything of value to the debate.

Mr. President, we Democrats want to vote on this nomination. We want to vote on Tuesday, as I indicated on yesterday. The committee report is on the desk of all Senators. I cannot move to take up that nomination—without getting unanimous consent otherwise, or a waiver of the 2-day rule—until approximately noon on Saturday, if the Senate were to be in session on Saturday.

Mr. President, I do not propose to bring the Senate in on Saturday. I could do so. But I hope we can vote on this nomination of Tuesday next. I could ask the Senate to come in on Monday and we could debate as late into the evening as Senators wish to debate. I would not want to bring the Senate in before 12 o'clock noon or 12:30 on Monday so as to give Senators time to return from far away places, and they could be back in time for a good afternoon discussion. We could go that evening as late as Senators wish, 10 o'clock, 11 o'clock, whatever, come in on Tuesday, and begin early and vote by 6 o'clock. That was my original proposal. I do not see any reason why that would not be a reasonable approach, and under the circumstances, not only logical, but also one that recommends itself. The outcome on this Bork nomination is foreordained. I think that is pretty obvious. Maybe we could get on then with other matters and be ready for the subsequent nomination that will be coming up from the White House, and not string out a debate, which in the final analysis is not going to change anything.

So I ask the distinguished Republican leader if we might agree to vote at no later than 6 p.m. on Tuesday next on the nomination of Mr. Bork.

Mr. DOLE. If the majority leader will yield——

Mr. BYRD. Yes.

Mr. DOLE. As the majority leader knows, we have been making inquiries on this side. I am not in the position to say we could vote by 6 o'clock on Tuesday. I can indicate that, with perhaps one or two exceptions, there is a strong inclination that we could vote perhaps by mid-afternoon on Wednesday. But I am not in a position to get a unanimous consent agreement. I think there are still one or two Members on this side who are not certain that a vote on Tuesday would be enough time.

Some have indicated they believe there should be debate. But those who support the Bork nomination should not be required to stay up until 10, 11, or 12 o'clock at night to make their points. It ought to be done during the regular course of business—say 8 to 8 which is 12 hours. We will get 6 or 7 hours in on Monday, 12 hours on Tuesday, and another 7 hours on Wednesday.

It seems to me that we would cover a lot of ground in that time. I cannot yet tell the majority leader, but I do know that Members are prepared to be here on Monday. The distinguished ranking member of the committee, Senator Thurmond, has indicated he will be here. I have been notified by the Senator from Wyoming, Senator Simpson, that there will be people here prepared to talk. So there is not going to be any delay once it starts. That would be Monday and Tuesday, and it would be my hope that sometime mid-afternoon on Wednesday there could be a vote.

Mr. BYRD. Mr. President, as I indicated yesterday, I stand in a rather phenomenal position. I suppose I am entitled to as much credit as anybody in helping the administration pull the nomination of Melissa Wells out of the fire. I certainly did my share in getting the Verity nomination up and getting that acted on. I do not know whether I am entitled to any medals from this administration or not. They were, after all, the administration's nominations, but I feel a responsibility, as the majority leader, to try to move them along.

I thank the distinguished Republican leader for his help. It was not his fault that the Verity nomination was held up so long. In that instance, another Senator presented himself to demonstrate that there was real flesh and blood behind the distinguished Republican leader's objection, of which I did not need living evidence. I knew the Republican leader was being forthright in saying that someone else on that side was objecting.

However, Mr. President, I do not understand the delay on the Bork nomination. Yesterday, it was Thursday or Friday. Perhaps we are making some progress. But I cannot understand the need for delay over until Wednesday.

I noted today in the Washington Times an ad that uses the Bork nomination to raise money. Here it is.

Here is the exciting, little lower right-hand corner. That little box reads as follows: "Congressional Majority Committee, Ralph J. Galliano, Chairman, Washington, D.C."

In a little box in which the reader can check his mark, it says: "I've mailed the coupons"—there are coupons in the ad—"or called my Senators and told them to vote for Judge Bork's confirmation."

Then there is another little box, and it reads as follows:

> I'm enclosing my contribution to help CMC support Robert Bork and President Reagan's goals of a healthy, strong, safe, and secure America.

Then there are four little boxes—one in which the contributor can check $15, another in which he can check $25, another in which he can check $50, and another in which he can check $100.

Then he adds his name and his address, city, State, and zip.

Mr. President, I am rather mystified by this ad. In the first place, I think it is misleading because it attempts to mislead the readers and contributors into thinking that the Bork nomination is something that is going to be turned around if they will just contribute.

Mr. President, I hope the American people will not be fooled by this advertisement and will not contribute their hard-earned moneys to this false effort that is going to fail.

A good many Senators here have indicated how they are going to vote. They have indicated their position on the basis of their study of the nominee's record and on the basis of their constituents' concerns, and I do not envision a turning around on this nomination, no matter how much money is contributed to this Congressional Majority Committee.

I understand, also, that NCPAC has been making some fundraising calls around the country today, using the Bork nomination as a gimmick in several States. I would just say that, having had some experience with that outfit in my own State of West Virginia 5 years ago, people ought not waste their money on that gimmick.

I wonder if the delay has anything to do with this fundraising effort. How much money do the NCPAC want? At what point do we get a Tuesday vote? How much money do they have to raise to get a Tuesday vote? How much money do they have to raise to get a Wednesday vote? We have not been assured yet that we will have a Wednesday vote. How much money do they have to raise to get a Thursday vote?

Mr. President, I am not implying anything——

[Laughter.]

Mr. BYRD. Wait until I finish my sentence.

I am not implying anything with reference to the Republican leader. He does not have anything to do with this ad.

I am wondering how the two might tie together. Does this fundraising effort have something to do with the delay?

I wonder, also, if, in the opinion of some, fundraising is more important than getting on with the business of selecting a judge to fill the vacancy on the Supreme Court.

Mr. President, I hope we can vote on Tuesday. I think that we mislead the American people if any of us hold out expectations to the contrary—it has been stated on both sides of the aisle, Republicans and Democrats—everybody agrees to the fact that Judge Bork is going down. He is entitled to a vote. But there is nothing to be gained by stretching out that vote.

So I want to ask the distinguished Republican leader if he will give us a vote on Tuesday, at 6 o'clock. Let us defeat this fundraising effort, this fundraising gimmick.

I know that he does not approve of this kind of approach. Why do we cloud the Bork nomination with a fundraising gimmick? That should turn the stomachs of all those who have been wanting to wait until Wednesday, Thursday, or Friday for a vote. Let us defeat the motives of those who would mislead the American people into making contributions which are not going to change anything.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I do not disagree with the majority leader. I think that is the problem with this whole nomination. It has been treated as a political campaign. There have been fundraising solicitations. I must say there are far more anti-Bork solicitations.

I noted today in the Wall Street Journal, "Bogeyman Fund-Raising." Maybe the one the majority leader referred to would fit in that category.

It reads:

> "Dear Friend," said Joanne Woodward's mass mailing on behalf of the National Abortion Rights Action League, "$500,000 is needed immediately. . . ." Norman Lear's people People for the American Way mailed out 3.8 million anti-Bork solicitations; its Arthur Kropp boasts, "We wanted to raise $1 million but now it looks like closer to $2 million."

I think that may be in response to these mailings.

I can only say that this whole thing has gotten out of hand.

Mr. BYRD. May I say to the distinguished Republican leader that that money was not being used to delay a vote. This money is being used to delay a vote and to mislead the American people into thinking that this vote can be turned around somehow if they will only contribute $15, $25, $50, or $100.

Mr. DOLE. I think you can make the same argument. This would make certain there would never be a vote.

[Disturbance in the galleries.]

Mr. BYRD. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will instruct the gallery to refrain from any statements.

Mr. BYRD. Mr. President, who is holding up the vote now? Not this Senator.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I think we are going to have a good debate on this nomination. And I would say millions of dollars have been spent in an effort to defeat Judge Bork. This is unprecedented, I do not quarrel with the majority leader. Certainly as the majority leader indicated I am not saying when we ought to vote.

But I have to believe that millions of dollars were raised to make certain we would never get a favorable vote if we got a vote at all on Judge Bork.

Now there might be some counterreaction. It comes too late. They are not going to change any votes. The majority leader is right. Unfortunately, the Bork nomination is probably not going to succeed. But whether it is 6 o'clock on Thursday or 3 o'clock Wednesday in my view is not really the issue.

The issue is fairness. We may not be for Judge Bork but most Americans believe in fairness.

All I am going by is the number of my colleagues who are well respected and who have leveled with me from the start. They do not want to filibuster. They do not want to frustrate the majority leader or the majority. They know they are in the minority when it comes to this vote. But, they do want to lay out a program that addresses some of the distortions and questions and/or solicitations, the antisolicitations, about his civil liberties record, the right to privacy, and it is going to take some time.

Maybe we could get consent we would vote no later than a certain time, and I would be happy to discuss that with the majority leader. Maybe it would come on Tuesday, maybe it would come early Wednesday morning.

But I can assure the majority leader of two things. I do not know anything about the ad the majority leader referred to.

Second, it is not going to succeed if somebody out there is saying "Well, if we send enough money we can postpone the vote."

We do not want to postpone the vote for any other purpose than to lay out the Bork record and to make certain the American people will have the facts. It is not going to change any votes that I know of. I wish it would, but I do not believe there will be any changes in votes.

I will continue to work with the majority leader to see if we can set a fixed time. But I think in fairness to those who support Judge Bork, we are going to come to this floor on Monday, prepared to speak, no long gaps, no long quorum calls, no delays, one speaker after another, and that may end well before Wednesday.

Mr. BYRD. Mr. President, in the effort to spare the American people from being bilked of their hard-earned moneys by making these contributions, why not shut off the debate Tuesday, so that they will not continue to have such gimmicks as these on Wednesday and Thursday.

I ask unanimous consent that the Senate vote on—which precludes a tabling motion—on the Bork nomination at no later than 6 o'clock p.m. next Tuesday.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DECONCINI. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DECONCINI. Mr. President, listening to the debate here or the discussion between the minority and majority leaders, of course, I regret that anybody would give money for or against Bork. I made up my mind, and I am sorry that the People for the American Way or NCPAC or anybody will get any money for this because this is not a profit situation and a business.

This is indeed a decision that has to be made under the Constitution by this body.

What disturbs me today is the NCPAC organization with the introduction of a Member of this Senate is raising money in Arizona to attempt to coordinate an effort to influence Senator DECONCINI to turn his vote around.

This Senator's vote is not going to turn around. I sat through 12 days of hearings. I listened to Judge Bork, and I made a decision. Some may not agree with it, and I respect them. But I would hope that NCPAC and Members of this body who feel differently about the position that I take would not go and make calls in my State trying to raise money to try to influence Senator DECONCINI. I am not for sale and they are going to waste their money, and I hope the good people in Arizona who may disagree with me do not go write checks to the National Conservative Committee, known as NCPAC, because it is a waste of time and quite frankly it is an insult.

I do not do that to other Members, Members who have decided to support Judge Bork. I respect that judgment. You do not see me calling or writing into their State saying, "Gee, why don't you give some money to this organization to try to turn their vote around?"

To me, it is an insult, and I do not know about other Members of the Senate, but I resent it.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. BIDEN. Mr. President, will the Senator yield a moment?

Mr. BYRD. Yes, I yield.

Mr. BIDEN. Mr. President, it is obvious, at least at this moment, that we are not going to get an agreement as to precisely when to vote.

Just having spoken to a Member from the other side, a comment was made that the thing that is disturbing some people is that people from the outside, outside this Chamber, have politicized this debate and have engaged in the use of advertising.

As has been mentioned here, and the minority leader acknowledges, that maybe this recent fundraising effort is a response to what was done before.

It is beginning to come clear to this Senator that thus far at least, no one in the Senate has suggested that anyone else in the Senate has misrepresented, intentionally misstated, or unfairly maligned the judge. No one in the committee, Democrat or Republican, in the 12 days, in the 120 witnesses, suggested, to the best of my knowledge, at any time that anything was untoward, unfavorable, not done fairly.

And, folks, I say to my colleagues, it seems what is developing here is we may get ourselves in a fight on this floor about what people beyond any of our control have done outside this Chamber and do it in such a way that scars are left for a while around this body.

We are all grown adults. We are all used to the rough and tumble of politics. We all understand that we are all at risk all the time in this body. But in the past, in the 15 years that I have been here with rare exception have there ever been personal attacks by one Senator upon another. It has happened, but rarely has that occurred.

In the past, we have found that when those rare occurrences come about, they do not fade quickly from the memory of Members. If I can make a homely analogy, it is a little bit like when you get in a fight in the family and you say something in anger that later you wish you had not said but it takes a long time for the family member to forget the hurt that was inflicted.

I say this with all the sincerity in my being. I am truly worried that if we let this go on and we do not hold ourselves in check, some things will be said in this body that no one really means to say in the first instance, or if they mean it they will regret it after having said it and we will find ourselves making it more difficult to do the Nation's business than not when everyone thus far has acknowledged that the thing that makes them the angriest for or against Bork is what someone outside this Chamber has said, what someone who is not a Member of this Chamber has said, what someone who none of us can control.

The Senators on this side of the aisle can no more control the interest groups that are interested in this than the Senators on that side of the aisle can control NCPAC. We all understand that.

There was one Member of this body who walked out on the steps of the U.S. Senate and personally attacked in the most scurrilous way two Members of this body. I could not believe when I heard it. I do not believe he meant it. I believe he was angry and he said it, but I must tell you that two Members of this side are not likely to forget it as much as they want to be good, decent people. These things leave scars.

We have always worked around here on a handshake, we have always worked here in accepting one another's word, and I would hope that unless there is in fact a feeling on the part of those who are supporting Judge Bork that this Senator, the chairman of the Judiciary Committee, or any other Senator, did not give Judge Bork a fair shot when he was before the committee, or that Judge Bork was somehow not given the opportunities to which he was entitled, unless they believe that, and they may, and if they do then fine, then we should debate that. But for Lord's sake let us not get ourselves in the position here where each of us are debating in this body what people outside this body who did not run for office and are not elected to this body have said about a nominee or about any Member of this Chamber.

As one of the former majority leaders used to say, "I hain't got no dog in this fight." It seems to me we are fighting over something that none of us can control. We can control our own votes. We do control our own integrity. We do control what we say on this floor.

And whether it takes a day, or 2 days, or there are some who support Judge Bork want to make it 10 days, it is difficult to control that, but I just make a plea, please let us try to control our tongues as this debate which is rapidly, rapidly devolving into an exchange like none I have seen in a long time around here.

Let us deal with what each of us have said about Judge Bork for and against him, not with what other people have said. And if the purpose of this delay—or let me not be pejorative—if the purpose of this debate that is going to be forthcoming is to debate whether or not Judge Bork was rightly or wrongly treated outside this Chamber, I respectfully suggest there is a lot of time to do that. You can do that every single morning in morning business for the next month, for the next year, and in no way will it impact upon whether or not we are going to be able to begin to fill the vacancy.

I apologize for rising. I had no intention of doing it. But I have been here long enough to know and, to use the vernacular, to smell what direction this is moving in. I do not think anyone really intends it to move in this direction. And, before it gets out of control, please let us all think about it. Debate one another on the merits of Judge Bork being on the Court or not being on the Court, but let us not each hold one another responsible for what people outside this Chamber say unless there is some evidence that we have directed them to say that, in which case then it can be a debatable issue.

I thank the majority leader for allowing me a moment on the floor.

Mr. BYRD. I thank the distinguished Senator.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield to the distinguished Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the majority leader for yielding.

I had not expected to say more about the nomination or the process at this time, but I am attracted to do so by the statement of the chairman of the Judiciary Committee. I think there is much in what he has said that we ought to seriously consider.

And if it is his representation that the groups which have spoken in such strident terms in the newspaper and on television are not coordinated with the activities and statements and thoughts and plans and strategies of Senators, then I think that is something which I would like to consider and would like to hear from him on further at the right time. Because, indeed, as a person who is not a member of the Judiciary Committee, who has been going about my business as a member of other committees here and has not watched the hearings on television but has only read about it in the press, that is exactly my impression. And I will at some time bring to the floor, and be glad to go over with the Senator, the news accounts on which I have reached this conclusion.

In fact, it is my recollection that responsible publications indicate that, in fact, Senators and outside persons met together to discuss polling data which formed the basis on which issues were raised in the committee. Now, I do not suggest that that is improper. But, if I understand the Senator's point, he is suggesting that it would thereby be improper for Senators to respond to that. And I think it is of whole cloth, let me say to the Senator, and that is a fact question.

If the Senator is telling us that the news reports, the published accounts of this, are inaccurate, then that is an issue which we will want to explore. And since I was not a party to any of it, I am just basing it on what the published accounts are.

Let me make this second point, however. If the Senator's point is that the outcome of this vote on confirmation of Judge Bork hinges primarily on what has been said and will be said in this Chamber and in committee, then I would submit that the Senator is mistaken. I respectfully disagree with that. We do not know for sure what the outcome is going to be.

But there is a strong belief in many quarters that many, many votes, perhaps most of the votes, of Senators who have thus far declared against Judge Bork have been influenced not by what was said in committee, not by what has been said on the floor, not by the exchanges privately among Senators in the cloakrooms or the hallways or in offices, but, indeed, by newspaper ads and television commercials and demonstrations and extraordinarily florid rhetoric by outside groups, by what someone has called the fear merchants and by what one writer in the Washington Post termed the sort of "twaddle"—an interesting word, is it not—"the sort of twaddle which Adlai Stevenson used to call McCarthyism." Not my words, not my observations, but that of Edwin Yoder, writing for the Washington Post. And the kind of proceeding the Wall Street Journal headlined as the Frankensteining of Judge Bork and the Colorado Daily Sentinel called the lynching of Judge Bork and the Chicago Tribune called a national disgrace.

Now, I am 1 of the 86 Senators who is not a member of the Judiciary Committee and was not in on all of that. So, for us, the real debate is just beginning now or will begin as soon as the committee report is available and we are ready to sink into it.

Most of us, many of us, at least, have withheld our comments and our discussion until we had a chance to do so in the forum which we think is appropriate, which is this Chamber. But if it is the Senator's representation and point that the outside activities were unrelated or uncoordinated or have had no effect on what is going to happen in this Chamber, then I would just respectfully submit that the Senator is in error.

I would like, before I yield the floor, to make this final point.

Mr. BYRD. Mr. President, I have the floor and I yield to the distinguished Senator further.

Mr. ARMSTRONG. Mr. President, the majority leader is, of course, correct.

On one other matter, I do agree. It would be a great pity if, out of zeal or emotion or anger or pique or for any reason, if Senators let their own emotions get away with them. This is a matter about which feelings run very strong, particularly among those who feel Judge Bork has been done a great injustice and who feel, in addition, that something precious has been compromised in the uncharacteristically rough handling of Judge Bork.

It would be easy on our side to take so much offense that we would lose sight of the traditions of which the Senator has spoken. And I think all of us would be well advised to remember what he has said about that. I wish it had been observed at all times prior to today. But, if that is not the case, and I believe it has not always been the case, it nonetheless is the correct rule, the right tradition, and I think all of us would do well to heed his words in that respect.

I thank the majority leader.

Mr. BIDEN. Will the Senator yield. I will use 2 minutes and I promise I will not take longer.

Mr. BYRD. I yield to the Senator.

Mr. BIDEN. The point I would make is not whether or not anyone spoke with any outside interest or outside group. In every single piece of legislation on every single matter that comes before us, we speak to people who have been lobbying and have an interest.

The point I was making is that none of us control the words that any outside group uses. None of us control what they say. And what seems to be at issue here is what was said by various groups, whether it is the advertisement referred to here today or the advertisement that was referred to earlier prior to the Bork hearing starting.

The second point I was making is that it seems to me that we are really indicting ourselves as a body if, in fact, we conclude that Senators who have spoken at length for and against in detail on the record have done so as a consequence of advertisements that they have read in the newspaper and/or as a consequence of television ads that they have seen. Those are the only two points I make.

Mr. BYRD. Mr. President, I do not want to hold the floor longer. Our two managers are here and ready to proceed.

I think all of this that we hear today simply goes to prove my point that this debate promises to be divisive. It is not going to be helpful. I will be pleasantly surprised if it turns out otherwise. But it seems to me that we ought to start the process of healing instead of the process of etching the wounds deeper.

I told the White House what they could expect if this particular nominee came up here. I said that I might vote for him. I might vote against him. In my opinion, at that time, he would probably be confirmed, but there would be a big fight and I did not think that could be avoided. But the White House did not listen.

There is nobody here to whom I take a back seat in wanting to see a conservative Court. I think a court should be conservative. The legislative branch is the liberal branch.

But be that as it may, we need to get on with the process of voting on the nomination and heeding our responsibilities to consider the qualifications of the subsequent nominee whose name will be sent to the Senate by the White House. We ought to avoid all the divisiveness and charges of McCarthyism and lynching. I want to know what Senators participated in a lynch-mob. That is the charge. I would like to know who those Senators are who participated in the lynching.

I have not asked a single Senator: "How are you going to vote?" I have not asked any Senator to vote against Mr. Bork. I have not asked any Senator about nose counts.

That is the responsibility of our respective whips, not mine. I have not asked for a count and nobody has volunteered to show me one.

I have said in my caucus, however, at least twice, beginning when this nomination was first sent to the Senate, that we should avoid making this vote a test of party loyalty; avoid making this the litmus test of party loyalty. "Let us not politicize this nomination," I said. We are not electing a Republican Court. We are not electing a Democratic Court. We are filling a vacancy on the Supreme Court of the United States.

That has been my position.

I think of the Scriptures which say:

> No man, having put his hand to the plough, and looking back, is fit for the kingdom of God.

It is about time we put our hands to the plow and looked ahead and quit looking backward, give Mr. Bork his vote, and get on, before the wounds become deeper, with the next nomination.

After all, I am going to be importuned, beseeched, adjured, and urged to get the next nomination to the floor, get it voted on, and I am going to be urged to support it. Those who advise delay today will then want to rush the next nomination through.

I hope we will look ahead to the time when we will be asked to give our attention to another nominee. Let us act in the interests of the Court and the interests of the country.

Mr. President, I apologize to the two managers. They were making good headway on their bill and I hope that they will be able to continue.

I thank the distinguished Republican leader and I thank all Senators.

COMMERCE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1988

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, Senator KENNEDY has an amendment that we are prepared to accept. It involves a matter of education under the Immigration and Naturalization Act whereby private organizations and local entities will also be included in the advertising relative to the legalization program and those granted amnesty.

AMENDMENT NO. 989

(Purpose: To require the use by the Immigration and Naturalization Service of public education funds in order to promote the role of qualified designated entities in the legalization program)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] for Mr. KENNEDY, proposes an amendment numbered 989.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 6, insert before the period at the end thereof the following: "*Provided further*, That the amounts appropriated or otherwise made available to the Immigration and Naturalization Service which are allocated for public education activities in connection with the legalization program shall be used in a manner which significantly promotes the role of qualified designated entities (as designated under section 245A(c)(2) of the Immigration and Nationality Act), and such public education programs shall be developed in consultation with such entities, both national and local, and with other appropriate community-based organizations".

Mr. KENNEDY. Mr. President, we are now almost half way through the Legalization Program—the so-called immigration amnesty—mandated under last year's landmark new immigration law. I think we all acknowledge that without the tireless leadership of Senator SIMPSON, the Senate sponsor, as well as Chairman RODINO, Congressman MAZZOLI, and others in the House, we would never have arrived at this point.

The Immigration and Naturalization Service informs me that they anticipate at the halfway mark of the 1-year legalization effort—which we will reach on November 6—over 1 million legalization applications will have been received. This is a milestone which we should all pause and celebrate and for which the Immigration Service is to be commended for the public education effort which it has conducted thus far.

But we are only half way there, and there is much work yet to be done. Common sense suggests that those with simple, straightforward applications would come forward first. The Immigration and Naturalization Service now is going to be faced increasingly with the more complex or difficult cases which will take considerable time and counseling.

My amendment anticipates this inevitable transition in the complexity of the legalization program. As mandated in last year's immigration bill, applicants—particularly those with time-consuming cases—should be aware of the availability of legalization assistance for voluntary agencies and other church and community groups.

There are many within the Immigration Service who agree that these community groups should be mentioned in the ongoing public education campaign for the Legalization Program. I think it's important that the Immigration Service receive instruction from the Congress on this matter in order to erase any doubt that this is the direction in which we should proceed. It would be my intent that not only should the community groups be mentioned in the public education materials, but that these groups—both nationally and locally—be consulted regarding their content.

After all, these voluntary agencies already have an official relationship with the Immigration and Naturalization Service. They have been reviewed by the Immigration Service and designated by the Attorney General, under a procedure required in the new immigration law, as qualified to assist persons in completing their legalization applications.

My amendment would require no additional funding. It simply provides needed instruction to the Immigration Service that, consistent with the provisions of last year's new law, the role of voluntary agencies should be highlighted at this critical time. And I urge my colleagues to support it.

Mr. RUDMAN. Mr. President, this amendment is accepted on this side.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 989) was agreed to.

Mr. HOLLING. Mr. President, the distinguished Senator from New Hampshire, on behalf of Mrs. KASSEBAUM, has an amendment relative to a study with respect to assessed contributions to international organizations. I yield to the distinguished Senator.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

AMENDMENT NO. 990

(Purpose: To provide for the coordinate policy on assessed contributions to international organizations)

Mr. RUDMAN. Mr. President, on behalf of the Senator from Kansas, Mrs. KASSEBAUM, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for Mrs. KASSEBAUM, proposes an amendment numbered 990.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 78, between lines 13 and 14, insert the following new section:

SEC. 611. (a) It is the sense of the Congress that—

(1) at least six Members of the Congress, designated as provided for in subsection (b), should meet on an ad-hoc basis for the purpose of developing a coordinated congressional policy toward assessed contributions to international organizations; and

(2) the Secretary of State should provide such cooperation as may be required by such Members.

(b) The Members described in subsection (a)(1) should be designated as follows:

(1) The Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the House as follows:

(A) one Member of the Committee on Foreign Affairs;

(B) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(C) one Member of the Committee on the Budget.

(2) The President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the Senate as follows:

(A) one Member of the Committee on Foreign Relations;

(B) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(C) one Member of the Committee on the Budget.

(c) Not later than March 1, 1988, the Members of Congress designated under this section shall prepare and transmit to the committees of Congress referred to in subsection (b) a report on the findings and conclusions of the Members made pursuant to this section, together with any recommendations for appropriate action by such committees.

Mr. RUDMAN. Mr. President, I ask unanimous consent that a statement by Mrs. KASSEBAUM be placed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Mrs. KASSEBAUM. Mr. Chairman, there is a lot of confusion and disarray with respect to payment of the U.S. assessed contribution to international organizations. In recent years, the large shortfalls in funding for this account have caused arrearages to accumulate. This, in turn, has created a general climate of uncertainty which has greatly hampered the morale and operations of the various organizations funded under the International Organizations account.

The International Organizations account covers the U.S. contribution to 46 agencies—not only the United Nations and its affiliated, specialized agencies, but also Inter-American organizations such as the Organization of American States and the Pan American Health Organization, regional organizations such as the North American

Treaty Organization, and 23 other small, but nevertheless important, organizations such as the General Agreement on Tariffs and Trade. The U.S. contribution to these organizations is important, if not critical, to their survival.

Yet, funding for the 10 account continues to fall short of the amount required to fulfill our assessed obligations, and, as long as our deficit problems continue, our arrearages are likely to increase steadily. The situation is already serious. The most recent figures available, which were compiled six months ago, showed an estimated $350 million in arrearages for this account. For the United Nations system alone, comprising the UN in New York and 11 affiliated agencies, we were approximately $319 million in arrears as of six months ago.

Our practice of deferring or withholding funds in this particular account until the next fiscal year has added to the confusion. The House Foreign Affairs Committee has requested a Government Accounting Office study of the impact of such deferrals of payments on selected organizations, including the United Nations. This could provide helpful information and guidelines. But I believe a broader effort is needed.

Mr. President, a congressional review of the 10 account is needed in order to clear up the confusion about our assessed contributions and to come up with options for the future, in view of the probable continued shortfall in funds. For that purpose, I am proposing the formation of an ad-hoc panel of concerned members of the committees that have jurisdiction over U.S. assessed contributions to international organizations. This panel would be asked to study U.S. obligations to fund international organizations, including our treaty obligations, and present options for improving the present situation.

The members of the panel would provide appropriate staff for this work, and the Department of State would be asked to supply such documents and information as may be needed for the panel to complete its review. The panel's report should be completed by March 1, 1988, so that it can be addressed in hearings during the upcoming legislative process.

Mr. RUDMAN. This amendment, which is acceptable to both sides, deals with establishing a commission to determine the proper U.S. contribution to international agencies. It is acceptable to both sides.

The ACTING PRESIDENT pro tempore. Is there any further debate on this amendment?

Mr. HOLLINGS. I move the adoption of the amendment.

Mr. COCHRAN. Would the Senator yield for a question? I have no objection, I am sure, to the amendment. But I recall in the full Committee on Appropriations, we had discussions about the allocation of funds to international organizations. One that was specifically mentioned by this Senator in the meeting was the International Atomic Energy Agency and I think the distinguished Senator from Maryland [Ms. MIKULSKI] mentioned her interest in the World Health Organization. Those have been specifically mentioned in the report as being agencies that should be given priority by the Department of State in the allocation of whatever funds are appropriated.

My question is, simply, Does this amendment in any way modify or affect the language that is included in the report about priority being given to certain selective organizations?

Mr. HOLLINGS. No, Senator, the answer is "No." This deals mainly with the arrearages. We are in arrears with the majority of these organizations and the distinguished Senator from Kansas is asking for a study and report back by March of next year so we can find out exactly where we are. It does not affect the preference established for those organizations.

Mr. RUDMAN. I will say to my friend from Mississippi, it is precisely the kind of discussions we have had in the Appropriations Committee on these organizations that has brought the Senator from Kansas to the point that she believes there ought to be some rational way of establishing what the contribution ought to be. This would establish that kind of group to make that assessment.

Mr. COCHRAN. I am really happy to see some kind of attention being paid to this area of concern because, as an example, this International Atomic Energy Agency almost came to a halt this month because it was running out of money. This is an agency that is providing very important work in the international community in the Nuclear Nonproliferation Treaty enforcement, monitoring whether or not member states are complying with safeguards that are disigned to keep the spread of nuclear weapons under control so that that would not be possible.

In the area of international safety of nuclear power generation plants, the Agency is playing a very important role.

So I hope that we will take a very careful look at the effect that our contributions to some of these agencies will be having in the future on helping to protect U.S. interests.

I have some other comments about this particular problem and they are contained in a colloquy which I think the managers will be prepared to put into the RECORD; a colloquy that includes a discussion of these contributions by the Senator from Idaho, Senator MCCLURE, as well as the managers of the bill.

I trust that will be placed in the RECORD at the appropriate time.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. COCHRAN. I thank the distinguished manager for yielding on that point.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? The Senator from Minnesota.

Mr. BOSCHWITZ. I understand that this is an amendment that the managers are trying to bring to a conclusion but yet, the amendment bears on the amendment that I was asked to offer and only asked to offer a couple of hours ago in the middle of this afternoon by the State Department in regard to UNIFIL.

I understand in order to offer such an amendment I would have to find an offset and I believe that this bill will move along fairly quickly, from all I gather. Am I correct? I would ask the manager of the bill.

Mr. HOLLINGS. That is correct.

Mr. RUDMAN. Can we ask the Senator to yield the floor for a question? What is the nature of the amendment?

Mr. BOSCHWITZ. The nature of the amendment, I would say to my friend from New Hampshire, is to restore the moneys for UNIFIL and to include the language in this appropriation that is found in the House bill; House appropriations bill.

I know that the Senator from New Hampshire and I have discussed UNIFIL at other times.

I only say to the manager and my friend from New Hampshire, how long before you would expect to finish this appropriations bill?

Mr. RUDMAN. Before we respond to that, I would rather ask a question. Could the Senator advise the managers of the bill where the offset comes from?

Mr. BOSCHWITZ. No, I cannot. As I said, I was only asked a couple of hours ago to offer this amendment. I was at a markup on the Farm Credit System. I have not been able to focus on it at all.

This appropriations bill came up rather suddenly. The result is I am not prepared to offer the amendment. One of the things that makes it difficult for me to prepare is that I do not have the offset. However, I would say to my friend from New Hampshire, inasmuch as this amendment concerns the Kassebaum amendment and concerns an international organization, and UNIFIL certainly is that, I would say to my friend, are we going to conclude this bill within the next hour?

Mr. RUDMAN. I believe the Senator from Minnesota hopefully is correct.

Mr. BOSCHWITZ. It is not clear to me that I will be able to prepare the amendment, have the offset, and have the language, all prepared by that time, or even find the offset because I know the bill is already quite constrained with respect to the appropriations to the State Department.

Mr. RUDMAN. If the Senator will yield further, I might suggest to my friend that, of course, the money that the Senator addresses is in the House legislation. Therefore, it will be a conference item irrespective of whether the Senator considers it or not.

The second point I would make is that there are a number of amendments that were not specifically ready for this legislation. There are a number of reasons we want to move this legislation. Several Members have informed us that amendments of a general nature, not of a specific nature but generally related to this bill will be offered on the continuing resolution which, of course, is another option if the Senator is not ready.

Mr. BOSCHWITZ. Indeed, I may use that vehicle for this amendment.

I would say to my friend from New Hampshire and also the distinguished manager of the bill that we will talk to both of them about UNIFIL prior to their going to conference. We may draft a letter and submit it with respect to UNIFIL. I believe it serves a useful purpose. We are making some progress in that part of the world. Not only is it an important symbol of our commitment to work for a return to peace and tranquility and secure supporters, but also UNIFIL performs very useful purposes with respect to controlling the traffic of terrorism between north and south Lebanon. While we understand we have previously discussed it, it is not perfect but its absence would be quite a signal.

So I will be talking, I say, to my friend from South Carolina and my friend from New Hampshire in an effort to try to get this restored so that the Senators may be able to recede from the House position. While we will not offer an amendment, because I do not believe we will be able to put it together before this bill is passed, we do have other opportunities, as has been pointed out. Nevertheless, we will be able to make an effort to get you to recede to the House on this matter.

Mr. RUDMAN. Our problem is that we are at our 302(b) allocation at this point. That is the problem the chairman and I have. We would like to work with anyone if they can tell us where we can find the funds which we do not have at this time.

Mr. HOLLINGS. Mr. President, I move adoption of the Kassebaum amendment.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 990) was agreed to.

AMENDMENT NO. 991

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. DOLE, Mr. KENNEDY, Mr. HATCH, Mr. CRANSTON, Mr. GRAHAM, Mr. KERRY, Mr. MCCAIN, Mr. MCCONNELL, and Mr. DURENBERGER, proposes an amendment numbered 991.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is ordered.

The amendment is as follows:

On page 73, line 20, strike "$17,500,000" and insert "$17,750,000, of which not less than $250,000 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic civic opposition inside Nicaragua" and on page 70, line 25 strike "$617,906,000" and insert "$617,747,000".

Mr. BENTSEN. Mr. President. Recently, by voice vote and without opposition, the Senate adopted an amendment to the State Department authorization bill I offered on behalf of myself and nine cosponsors. This amendment increased the amount of funding authorized for the National Endowment for Democracy by $250,000, the increase to be used specifically to support the free press, free radio, and peaceful civic opposition in Nicaragua for the next few months.

I am today offering that same amendment, with the same cosponsors—Senators DOLE, KENNEDY, HATCH, CRANSTON, GRAHAM, KERRY, MCCAIN, MCCONNELL, and DURENBERGER—to increase the amount appropriated for the National Endowment. The amount of increase in the appropriation is the same as was approved by the Senate for the authorization—$250,000. This raises the amount appropriated for the Endowment to $17,775,000.

The Budget Act requires an offset for this additional appropriation, though in this instance it is not one for one. This amendment therefore includes a reduction of $159,000, which is what the Congressional Budget Office says is necessary, in the $618 million salaries and expenses appropriation for the U.S. Information Agency. That seems to me to be the logical place to obtain the needed funds, for in an appropriation of $619 million, a $159,000 reduction will hardly show up at all.

If we are to provide specific financial support for democracy and democratic institutions in Nicaragua, and if our recent action is not to be merely words, then this additional appropriation is necessary.

This issue was discussed at length at the time of the authorization, so I will not repeat the points that I made at that time. I would like to emphasize just a couple of very important considerations: these funds will be available only to members of the peaceful civic opposition in Nicaragua and to the free news media, including press, radio, and television. No one will be compelled to take these funds from the Endowment or from the National Democratic or Republican Institutes. Any of these groups that feels uncomfortable accepting funding that has been voted by the U.S. Congress does not have to apply for it.

I urge the adoption of this amendment.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 991) was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments?

AMENDMENT NO. 992

(Purpose: To allow the Assets Forfeiture Fund deposits to be used for Federal prison construction)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ADAMS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] for himself, Mr. BIDEN, Mr. THURMOND, and Mr. GRAHAM proposes an amendment numbered 992.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

( ) Section 524(c)(1) of title 28 of the U.S. Code is amended by deleting "and" at the end of subparagraph (F), by striking out the period at the end of (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions. The Attorney General shall report to the appropriate committees of the Congress any amount proposed to be transferred under this subparagraph.

Mr. CHILES. Mr. President, today I am offering an amendment with Senators BIDEN, THURMOND, and GRAHAM to the State, Justice, Commerce appropriations bill which addresses a crisis in the United States.

The Federal prison system is 56 percent over capacity; 58 of the 59 Federal prisons are overcrowded—seriously overcrowded. The one exception is the maximum security facility at Marion, IL, which was last rated at 12 percent undercapacity. Marion houses the most violent of inmates.

The Federal system is bursting at the seams and cannot be supported by our State and local correctional facilities. At least 34 States, including my State of Florida, are under court order to address overcrowding in their correctional facilities. Such systems cannot help with the Federal crisis and similarly, the Federal prison system has no spare rooms to let.

Yes, there is a prison crisis in this country. And, it is soon to get worse—much worse.

Recently, I chaired hearings on prison population projections before a Governmental Affairs Subcommittee. The U.S. Sentencing Commission and the General Accounting Office agreed on estimates for the future prison population. These estimates are based on mandatory sentences and uniform sentences contained in the Comprehensive Crime Control Act of 1984, the Sentencing Guidelines, and the Anti-Drug Abuse Act of 1986. The American people have let us know that they want stiffer penalties for drug dealers. We have complied with penalties but not with prison space. The Commission and GAO testified that the current U.S. prison population of 43,000 could increase as high as 118,000 by 1997 and 156,000 by 2002. In simple math, we are facing three to four times the number of prisoners within the next 15 years.

Where will the United States house them? This country is going to have to face the costs associated with new prison construction which are estimated as high as $6 billion. In addition, an overall policy including alternatives to institutionalization must be developed. But this will take time, time we do not have.

Therefore, I offer an amendment that will provide for a supplemental source of prison funds. The amendment I offer today would allow surplus in the assets forfeiture fund to be used for construction of Federal prisons. I say "surplus" because my amendment protects the other authorized purposes for forfeiture funds by emphasizing that the Attorney General can only transfer funds from the forfeiture fund to the building and facilities account of the Federal prison system after all reimbursements and program-related expenses have been met in the forfeiture program.

This means that at the end of the fiscal year, after all local and State law enforcement agencies have been reimbursed for assistance they have provided in forfeiture cases, and after all expenses associated with seizing, maintaining, and processing of seized cash and properties are met, only then can any surplus in the fund be used by the Attorney General for supplementing the prison construction account.

At the end of fiscal year 1987, there was an $88 million balance in the fund after all expenses and reimbursements were made. According to the GAO, there are also millions of additional dollars to be transferred to the fund upon completion of forfeiture proceedings on properties. In addition, the GAO estimates approximately $122.6 million in seized cash soon to be released to the forfeiture fund.

Under the Anti-Drug Abuse Act of 1986, the Congress eliminated the requirement for the Justice Department to transfer surplus funds at the end of the fiscal year to the Treasury general fund. This is the reason for the $88 million reserve which is likely to increase over the years. My amendment would simply allow the Attorney General to use such reserve funds at the end of the fiscal year to supplement the Federal prison account.

Mr. President, I have been concerned about the management and processing of both the cash and property assets under the forfeiture program. The Subcommittee on Federal Spending, Budget and Accounting, which I chair, has held a series of hearings on the programs and worked with the GAO to point out the deficiencies. I am happy to report that both the U.S. Customs Service and the Justice Department have taken steps to correct these deficiencies.

Both Customs and Justice have taken steps to improve their seized cash management. Customs has established a seized cash inventory and is now using an interest bearing account for the cash awaiting forfeiture.

The Justice Department has implemented a new policy requiring seized cash to be delivered to U.S. Marshals Service within 60 days of seizure, or 10 days after indictment, whichever occurs first. In addition, the Department has taken steps to reduce the backlog of forfeiture cases.

Mr. President, I believe forfeiture funds are a logical and lucrative source for essential prison construction. The Anti-Drug Abuse Act's mandatory sentences could eventually result in half of the U.S. prison population being drug offenders. Since much of the forfeited cash and property comes from drug traffickers, we will be using their own dollars to help pay for their incarceration. I think my amendment presents us with an irresistible situation—let the druggers pay for their jails. I believe the American people will think such a policy makes good sense. I hope my colleagues agree.

Mr. HOLLINGS. On this side, Mr. President, we are prepared to accept the amendment.

I yield to the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I join the chairman. This is a very good idea. This is a problem. This amendment addresses it. We are delighted to accept it.

Mr. CHILES. Mr. President, I ask unanimous consent Senator DOLE be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question occurs upon the amendment of the Senator from Florida.

The amendment (No. 992) was agreed to.

Mr. CHILES. I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 993

Mr. CHILES. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Florida [Mr. CHILES] proposes an amendment numbered 993.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

The Secretary of State is directed to develop and submit to the Speaker of the House of Representatives and the Appropriations and Foreign Relations committees of the Senate by February 15, 1988, a plan to complete a new office building in Moscow ready for occupancy by December 31, 1990: *Provided,* That the plan shall provide for all work on the project to be performed by appropriately-cleared U.S. citizens: *Provided further,* That if on December 31, 1990 a new office building in Moscow is not ready for occupancy, due in whole or in part to the failure by the Soviet Union to provide prompt and full support to the Department of State to carry out the provisions under this Act, the Secretary of State is directed to use the authorities contained in the Office of Foreign Missions Act to evict the Soviet Union from its current chancery in Washington, D.C., and relocate the Soviet embassy in Washington, D.C. to a facility with physical standards essentially equivalent to the present chancery occupied by the United States embassy in Moscow and to make the unoccupied Soviet chancery building on Mount Alto available to the United States Government for its use.

Mr. CHILES. Mr. President, 2 years ago, Senator LEAHY, Senator JOHNSTON, and I sponsored legislation requiring the Soviet Union to reimburse the United States for all damages and costs incurred due to Soviet-caused delays in the construction. Our legislation prohibited the Soviets from occupying any new facilities in Washington, DC, until the United States has received compensation for these damages. This legislation was signed into law in 1985.

Last year, Senators LEAHY, JOHNSTON, and I again passed legislation requiring the National Bureau of Standards to independently evaluate the construction project in Moscow. It also required the Secretary of State to report every 6 months on Soviet behavior toward American diplomats in the Soviet Union and what the State Department has done to redress any damages.

Well Mr. President, the National Bureau of Standards confirmed that significant safety problems exist in our new Embassy office building. And, as we all know, Secretary Shultz, himself, has concluded is "honeycombed with bugs."

I am personally convinced that the new office building in Moscow must be torn down for security and safety reasons.

Senator HOLLINGS' bill makes it clear that we cannot accept the existing structure in Moscow. The new chancery building, which has been under construction since 1979, must go.

But, this process has already gone on too long. What this amendment does is to create the necessary conditions to make sure that this problem—which has already gone on for 20 years—is solved. it even gives a date by which it must be solved—December 31, 1990.

My amendment will put an end to the annual ritual of bashing the State Department on the Moscow Embassy question. It requires the State Department to come forward with a plan which will complete a new office building in Moscow within 3 years. This plan must provide for all work to be completed by appropriately cleared U.S. citizens.

To ensure that the Soviets help in this process, my amendment provides a little incentive. If for any reason the Soviets delay this effort and a building is not ready for our occupancy by the last day of December 1990, than the Secretary of State is directed to use the authorities contained in the Foreign Missions Act to remove the Soviets from their present Embassy in Washington to a building with the same physical standards as the dilapidated structure we currently use in Moscow.

Furthermore, if the Soviets do not comply, my amendment would turn the new Soviet office building on Mount Alto over to the United States Government for its use until the situation is resolved.

Mr. BIDEN. Mr. President, I am pleased to cosponsor this amendment offered by the Senator from Florida, Senator CHILES. Senator CHILES and I have been working for sometime on using the seized assets of criminals to finance drug enforcement and abuse initiatives. In fact, a similar provision is included in the National Narcotics Leadership Act of 1987, which I introduced along with Senator CHILES. The amendment offered by Senator CHILES today is entirely consistent with our past efforts.

Simply put, this amendment provides that the Attorney General may transfer any moneys remaining in the Justice Department's asset forfeiture fund at the end of the year—after the payment of all reimbursements and expenses—into the building and facilities account of the Federal prison system.

I was an original sponsor of the legislation that created the asset forfeiture fund in the Comprehensive Crime Control Act of 1984. The primary purpose of the fund was to reimburse the Justice Department and State and local law enforcement agencies for expenses related to forfeiture operations. In this way, law enforcement agencies would have a direct incentive to strike at the financial underpinnings of organized crime.

This amendment, would not—in any way—undermine the operation of this fund. This amendment would not:

First, effect whether State and local law enforcement agencies receive their fair share of the proceeds of joint Federal/State forfeiture operations; or

Second, limit the amount of money available to the Justice Department for reimbursement of forfeiture-related expenses.

This amendment would not take effect until after all forfeiture-related expenses have been made at the end of each fiscal year. Rather, after all expenses have been paid, any remaining funds would be made available to the Attorney General for prison construction.

This amendment is especially important in light of the new U.S. sentencing guidelines. For the last 3 years, the Sentencing Commission has developed a set of comprehensive guidelines to ensure that Federal criminal sentences are fair and consistent.

One of the concerns about the guidelines is that they may increase the prison overcrowding problem. Last year, we also increased penalties for virtually all drug-related crimes in the Anti-Drug Abuse Act of 1986, and this too will increase the burden on the already strained prison system.

This amendment would directly address the prison overcrowding problem. By using moneys from the forfeiture fund, we would be using the assets of organized criminals and drug traffickers to build the prisons where they will eventually be housed. I can't think of a better way of financing prison construction.

In the past several years, Congress has literally rewritten the Federal organized crime and drug trafficking laws. One result of the success of these efforts has been an increase in the number of criminals going to jail. But these successes also entail burdens, namely building the prisons to put these criminals behind bars. In the near future, we must develop new ways to deal with the increase in the number of criminals going to jail. One way is to use Federal surplus military property to house low-security prisoners. Senator CHILES has been working on this issue for several years now, and recently the Defense Department issued a report detailing which facilities could be turned over to the Justice Department for prison facilities. This is one way to deal with the problem. Another is to pass this amendment, which would use the assets seized from criminals to pay for prison construction.

I commend the Senator from Florida, Senator CHILES, for offering this amendment, and I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, this matter, as the distinguished Senator from Florida has pointed out, has been under discussion and consideration since 1979. It is well in order that we try to prevent this dillying around and being misled again. This is a good follow-on to the language already in the bill. I have just confirmed that with the chairman of the Senate Intelligence Committee. We would be glad to accept the amendment.

Mr. RUDMAN. Mr. President, the Senator from Florida and the distinguished chairman, Senator HOLLINGS from South Carolina, have taken a leadership role in this matter for the last several years. This is a very good amendment. It follows on the committee amendment which was introduced earlier and I support it.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question occurs upon the amendment by the Senator from Florida.

The amendment (No. 993) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 994

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mr. WILSON], for himself, Mr. CRANSTON, and Mr. GRAHAM, proposes an amendment numbered 994.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No monies appropriated by this Act shall be used by the Department of Commerce prior to February 1, 1988, to initiate proceedings under section 312 (d) and (e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) against the State of California's Coastal Management Program. Further, the Secretary of Commerce is directed to release to the California Coastal Commission the Fiscal Year 1987 administrative grant for operations and equipment authorized under Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

Mr. WILSON. Mr. President, I am joined by my distinguished colleague from California in offering this amendment which is intended to give the State of California and the Commerce Department a little breathing room in resolving what has become a complicated matter relating to the California Coastal Management Program authorized by the Coastal Zone Management Act of 1972.

Last August 19, the Commerce Department's Office of Ocean and Coastal Resource Management released their draft evaluation of the California Coastal Management Program pursuant to section 312 of CZMA. This draft report was highly critical of the California Coastal Commission and concluded that they were "deviating" in the implementation of their own federally approved Coastal Management Program.

If this conclusion remains in the final evaluation report when it is released sometime in the next few weeks, the Commerce Department will have to begin decertification of the California Coastal Program. First, all CZMA grant awards to California will be cut off. These grant awards finance approximately 25 percent of the annual budget for the California Coastal Commission.

Second, and even more important, the California Coastal Commission will be stripped of its authority under CZMA to exercise its "consistency review" powers. This means that California will no longer be able to participate with Federal agencies in permitting Federal activities that directly affect its coastal zone area.

Since release of the draft evaluation report, the Coastal Commission and the Commerce Department have been meeting and exchanging correspondence to try to resolve the issues raised in the draft report. I am hopeful that these communications will prove to be successful in this regard.

However, if no agreement is reached, the Commerce Department may find themselves in a position where they will have to begin decertification proceedings on the California program.

My concern, and the reason for this amendment, is that a decision to initiate decertification proceedings could be made within a matter of weeks before our new Secretary of Commerce, Mr. Williams Verity, and a new Administrator of NOAA—a position which is currently vacant—have had an opportunity to familiarize themselves with this vitally important matter.

This amendment simply puts on hold until February 1 of next year any decisions by Commerce as to whether decertification proceedings should be initiated. By early next year, we will hopefully have confirmed a new Administrator of NOAA. It should be this individual working with the new Secretary of Commerce—not those who are acting in their capacity in the interim—who should be making the crucial decisions on the future of the California Coastal Management Program.

The second part of this amendment directs the Commerce Department to release fiscal year 1987 CZMA grant moneys to the California Coastal Commission that are used to finance day-to-day operations. Most of these moneys—and those funds that will finance significant improvements—are currently being withheld by Commerce as a means of encouraging the Commission to make concessions in their ongoing negotiations regarding issues raised in the draft evaluation report.

Instead of withholding these operational funds, it makes better sense to simply withhold those funds that one earmarked for significant improvements. Withholding operational funds leaves the Coastal Commission without the ability to contract for the most basic support level services it needs to operate.

Mr. President, this amendment is not intended to provide some reasonable parameters within which disagreements over the implementation of the California Coastal Program can be resolved. I hope that I can count on my colleagues' support.

Mr. CRANSTON. Mr. President, I rise in support of this amendment dealing with the State of California's Coastal Zone Management Program.

At the present time, the Office of Ocean and Coastal Resource Management, Department of Commerce, is reviewing California's performance in implementing its federally approved coastal zone management plan.

This amendment prohibits the Department of Commerce from spending fiscal year 1988 moneys prior to February 1, 1988, to initiate proceedings to decertify California's Coastal Program in the event the final evaluation findings of the Office of Ocean and Coastal Resource Management support such action. The purpose of the amendment is to provide sufficient time for the new Secretary of Commerce to review the issues that could lead to decertification and be directly involved in any decision.

Additionally, this amendment directs the Department of Commerce to release fiscal year 1987 operating funds which have been awarded to the California Coastal Commission under the Coastal Zone Management Act. This is to ensure the California Coastal Commission has the funds it needs to continue its core program while the OCRM continues its evaluation of California's performance. It is not intended that the release of these funds would affect the outcome of the evaluation. Under the amendment, Commerce could continue to withhold that portion of the fiscal year 1987 grant identified for significant improvements that would be necessary to implement any recommendations resulting from the final program evaluation.

I urge my colleagues to support the amendment.

Mr. HOLLINGS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. WILSON].

The amendment (No. 994) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 995

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 995.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, after line 21, insert the following: ": *Provided,* That within 60 days after the date of enactment, the Attorney General shall submit to the Senate and the House of Representatives a report on the status of all pending requests under the Equitable Sharing Program and on the implementation of administrative changes provided for in the "Anti-Drug Abuse Act of 1986" (P.L. 99-570), and provided further that such report shall also include recommendations on any action necessary to eliminate any backlog in the Equitable Sharing Program and the timetable for implementing the recommendations."

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

Mr. President, first of all, I should, and I do congratulate and thank the distinguished managers of the legislation that is before us, the chairman and the ranking member of the Subcommittee on Appropriations for the Departments of Commerce, State, and Justice because through their active cooperation, they have removed a spectacularly ill-advised provision that was inserted by the House that would have undone a great deal of good work done by the Senate last year when we removed several of the kinks in the pipeline through which flow funds from the asset forfeiture fund to local law enforcement officials.

As many of my colleagues know, there is a certain poetic justice in operation here because the funds that are deposited into the asset forfeiture fund under the Equitable Sharing Program are those that have been received by the action of law enforcement, either through confiscation of the illgotten gain of those involved in drug trafficking, other illegalities, or through forfeitures. And it has brought literally millions of dollars in needed supplementary funds to local law enforcement. It has proved singularly useful and I think most of us have received letters of thanks, letters expressing the very great value which local law enforcement officials attach to receipt of these funds from the asset forfeiture fund through the Equitable Sharing Program.

I thank Senators HOLLINGS and RUDMAN for their very good work in seeing to it that an amendment that would have prevented the further operation of that very valuable program was deleted.

Mr. President, last year at the time that we did remove those kinks from the pipeline, we were requested by the Department of Justice to make some of the funding available for administrative purposes so that additional personnel could be hired to assist in processing the claims received from local government officials, and from local law enforcement officials seeking to participate in the Equitable Sharing Program.

I regret that notwithstanding our action to accommodate that request there has been for reasons that I do not understand undue delay, the people requested have not been hired, and there has been a backup of the kind that I do not think is really tolerable.

Therefore, the amendment would provide very simply that within 60 days after the date of enactment, the Attorney General shall submit to the Senate and to the House a report on the status of all pending requests under the Equitable Sharing Program, and with respect to implementation of administrative changes provided for in last year's Anti-Drug Abuse Act, Public Law 99-570; and it further provides that that report shall include recommendations for any action necessary to assure once and for all that we eliminate any backlog in the Equitable Sharing Program so that the timetable for implementing the recommendations can in fact be observed.

This money is important. It is important to the safety of our communities. There is no reasonable excuse in my judgment for holding it up. If we do not have enough people to process the claims, then for heaven's sake, let us get them and let us get this money moving into the hands of local law enforcement where it can do some good.

Mr. President, as far as I know, there is no objection on either side.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from California?

Mr. HOLLINGS. We move its adoption, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from California?

The question is on agreeing to the amendment of the Senator from California [Mr. WILSON].

The amendment (No. 995) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 996

(Purpose: To suspend during fiscal year 1988 a rule issued by the Equal Employment Opportunity Commission relating to age discrimination)

Mr. MELCHER. Mr. President, as chairman of the Special Committee on Aging, I recently held a hearing regarding the effectiveness of the Equal Employment Opportunity Commission [EEOC] in enforcing and administering the Age Discrimination in Employment Act [ADEA]. During the hearing, I was disturbed to hear testimony regarding the widespread failure by the EEOC to administer the ADEA effectively. The committee heard evidence that the EEOC has not been living up to its responsibilities in several areas, including complaint processing, litigation, and rulemaking.

One of the Commission's most shocking failures involved a new rule which took effect on September 28 of this year. The new regulation reverses longstanding policy by allowing workers to "voluntarily and knowingly" waive their rights under the Age Discrimination in Employment Act without supervision by the EEOC.

This new rule is contrary to the intent of Congress. To correct that I, along with the distinguished chairman of the Subcommittee on Labor, Senator METZENBAUM, am offering an amendment to this appropriation bill which will prevent the Commission from using this mistaken regulation.

Mr. President, I ask for the amendment to be considered immediately. I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself and Mr. METZENBAUM, proposes an amendment numbered 996.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 22, after "$188,900,000" insert the following: ": *Provided*, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16 (c) (1)-(3)), shall not have effect during Fiscal Year 1988; *Provided further*, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act.

Mr. MELCHER. Mr. President, this new rule will make it easier for an employer to extract waivers of rights from employees. This could result in employees losing benefits they are legally entitled to receive.

The Commission's decision is not only irresponsible, but contrary to the spirit of the Age Discrimination in Employment Act. When the ADEA was passed in 1967, Congress expressly incorporated certain enforcement procedures contained in the Fair Labor Standards Act, including a requirement that a valid waiver by an employee of his or her rights must be supervised. By issuing the new rule, EEOC has chosen to ignore this congressional mandate. That mandate is to protect employees against age discrimination.

The new rule creates an additional hurdle for those who may have been forced to sign a waiver. Not only must employees attempt to prove their age discrimination claims, but they will now have the added burden of proving that they did not voluntarily or knowingly sign away their rights.

This is important because of the inherently different bargaining power of employers and employees. There will always be employees who feel that if they do not sign a waiver they will not only be out of a job, but also will forfeit any present or future benefits to which they may otherwise be entitled. On top of this, surveys have shown that most older workers don't know their rights under the ADEA. Nobody can knowingly waive his or her rights if he or she is unaware of what they involve.

Mr. President, this amendment will prevent the Equal Employment Opportunity Commission from enforcing this regulation for the coming fiscal year. It is absolutely essential. We do this because otherwise, employees can be badgered into doing something which is not to their best benefit.

The regulation adopted by the Commission goes contrary to that, so the amendment is necessary. It is strongly advocated by such organizations as the American Association of Retired Persons, the National Council of Senior Citizens, the National Council on Aging and the National Senior Citizens Law Center, as well as Older Women's League.

Mr. President, during the year that this cannot be enforced, Congress will have a chance to study whatever advantages the Commission was seeking by adopting the regulation. I think they are completely off base. I think this is a completely, totally bad regulation.

This will also give us a chance to inform the Commission about how bad we think it is, and for the Senate Special Committee on Aging to issue a specific report on this matter to provide factual information for all Senators, and for all older Americans.

Mr. METZENBAUM. Mr. President, I am pleased to offer this amendment with the distinguished Senator from Montana. As chairman of the Labor Subcommittee responsible for EEOC authorizations, I am very troubled by the EEOC's issuance of a rule permitting employees to waive their rights under the Age Discrimination in Employment Act in the absence of agency supervison. This rule is both bad law and bad policy in that it runs directly counter to the statutory scheme adopted by Congress.

The EEOC applied the waiver provisions of title VII, which prohibits race, sex, and national origin discrimination by employers, to the ADEA. But Congress expressly rejected the enforcement procedures used in title VII when it enacted the ADEA in 1967. Instead, Congress specifically incorporated enforcement procedures from the Fair Labor Standards Act into the ADEA, including section 16(C) which requires Federal supervision of the waiver of any rights.

As a policy matter, the EEOC's waiver rule jeopardizes a worker's ability to understand what rights he or she is waiving. Thousands of older workers may well waive rights to pensions and other benefits because of inadequate supervision. Under the EEOC's rule, older workers would have the almost impossible task of proving that a waiver was not knowing and voluntary.

The Commissioners of the EEOC have overstepped and abused their authority by adopting this waiver rule. They have flouted the will of Congress by ignoring the terms of the statute. They have no authority to substitute their own judgment for the judgment of Congress. I believe Congress should inform the Commissioners of the EEOC, in no uncertain terms, that the new waiver rule should be suspended immediately. That is exactly what this amendment does.

Congress cannot stand by while the rights of older workers are jettisoned by their supposed guardian. I thank the chairman for agreeing to accept this amendment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The Senator from Montana is on target. This should be put over, the regulation, until the end of this fiscal year until next September. We move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Montana [Mr. MELCHER].

The amendment (No. 996) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressd the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have an amendment which I will shortly send to the desk and ask it be stated. But I want to say to the managers of the bill that if there are other amendments which they wish to clear I will defer because perhaps this will require a rollcall vote. They probably will want to have two rollcall votes in a row.

AMENDMENT NO. 997

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HELMS. I yield the floor.

Mr. WARNER. Mr. President, I have an amendment which will take but a few moments.

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 997.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 7 after "Act" insert:

Provided, That under the authority of the Bicentennial Commission on the Constitution a grant to the National Trust for Historic Preservation for the purpose of making urgently needed repairs necessary to preserve James Madison's Montpelier from the threat of destruction by fire, structural and security flaws and provide for necessary public health and safety, $1,665,000, from available funds, to remain available until expended.

Mr. WARNER. Mr. President, the National Trust for Historic Preservation is now the current owner of a historic home named "Montpelier." It is the home of James Madison, the father of our Constitution and our Nation's fourth President.

I have had the privilege, together with many others in this Chamber, to visit on a number of occasions. Most recently, I was there for the purpose of certain dedication, not more than several months ago, and the directors of the National Trust took me through and showed me the state of disrepair. It is very serious.

The purpose of this amendment is to appropriate funds to the National Trust for Historic Preservation out of the account now earmarked for the Bicentennial Commission, in the hope that the estate may be restored to a condition of such safety that it can continue to receive yearly a number of tourists from all over the world and other visitors and those involved in historic restoration.

I have discussed this with the managers, and they understand that, as yet, the Bicentennial Commission and indeed the distinguished former Chief Justice of the United States have not made a decision of this. But I feel that if the amendment is accepted at this time, the conferees can receive such communications from the Chief Justice and other members of the Bicentennial Commission as may be appropriate guidance for the conferees as they address this amendment in conference.

Mr. HOLLINGS. Mr. President, we would certainly like to oblige the distinguished Senator from Virginia. We are all interested in Montpelier. It was because of budgetary restrictions that we did not accept this in the subcommittee or in the full committee.

In discussion with the Chief Justice, the only allocation he requested was $2.5 million from the Commission's unobligated balances, $2.5 million of it to be allocated for education. I doubt seriously if he can, on top of that, allocate another $1.6 million from his budget for construction and repair of James Madison home.

With the understanding that the distinguished Senator from Virginia outlines, I think we at least are willing to take it to conference and in the meantime check with the Chief Justice.

Mr. RUDMAN. Mr. President, I say to the Senator from Virginia that I agree with the statement of Senator HOLLINGS. We have tried to do the best we can. It is a place of great historic interest; and if it can be done and the Commission agrees, that is one thing. If not, then the Senator from Virginia understands what our position will have to be.

Mr. WARNER. That is eminently fair, and I thank the managers. I know they will take an interest in this, because they frequently quote the writings of James Madison in the Senate.

Mr. HOLLINGS. Particularly with regard to our running out of control here; that is right.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 997) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 998

Mr. HOLLINGS. Mr. President, on behalf of the distinguished chairman of our Appropriations Committee, Senator STENNIS; the ranking minority member, Senator RUDMAN; and myself, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. STENNIS, for himself, Mr. RUDMAN, and Mr. HOLLINGS proposes an amendment numbered 998:

On page 58, line 7, after "Act" insert the following: ": *Provided,* That not to exceed a total of $2,500,000 from appropriations provided to the Commission on the Bicentennial of the United States Constitution for fiscal years 1985 through 1988 is available for educational programs about the Constitution and the Bill of Rights below the University level".

Mr. HOLLINGS. Mr. President, as I indicated in the discussion of the Montpelier amendment, this amendment is offered at the request of the former Chief Justice, who chairs the Commission. The Commission has $2.5 million available from previous appropriations for this allocation, and this amendment allocates it for educational programs.

To me, this is a real accomplishment of the Bicentennial Commission, that we have not only brought about an awareness but also an ongoing educational program, and we favor the amendment strongly.

Mr. RUDMAN. Mr. President, it is an excellent amendment, and I am glad to cosponsor it with the chairman.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 998) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we have about six more amendments. They will cause some discussion. We have about 10 colloquies to be entered into the RECORD. I know that the distinguished majority leader has an amendment, which we are prepared to accept.

Does the Senator from North Carolina want to be recognized now? I am not in a position to accept the amendment.

Mr. HELMS. I understand. Whatever the managers wish. I will wait, or I will go ahead now.

Mr. HOLLINGS. Go right ahead.

Mr. BYRD. Mr. President, will the Senator yield so that I may offer an amendment?

Mr. HELMS. I do not have the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 999

(Purpose: To retain staffing levels at the Charleston, West Virginia, District Office of the Small Business Administration)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 999.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, at the end of line 19, insert the following: *"Provided further,* That the staffing levels at the Small Business Administration District Office, Charleston, West Virginia, shall be maintained at the same levels that were in place as of August 30, 1987."

Mr. BYRD. Mr. President, the purpose of this amendment is to restore staffing levels at the Small Business Administration district office in Charleston, WV.

The Small Business Administration [SBA] has played a vital role in helping West Virginia small business procurement efforts. Small business is the backbone of our economy, and in a State like West Virginia, that has suffered severe economic hardship, the presence of the technical assistance offered by the SBA is crucial if these small businesses are to remain viable.

Because of that vital role, I am very concerned that there have been staffing reductions in the West Virginia SBA district office. These reductions in staff mean that the role that the SBA district office has been playing in working with West Virginia businesses and with Federal agencies who are actively seeking firms with which to do business, are being reduced. It also means that the district office will have to reduce efforts to expand the minority small business portfolio. Any reduction in those efforts will only add to the economic problems in West Virginia.

The amendment I offer addresses this problem by providing that office with 33 full-time equivalents, the same level of staffing that was in place as of August 30, 1987. No additional moneys are required, and I urge the adoption of this amendment.

Mr. President, I have discussed this amendment with the two managers.

Mr. HOLLINGS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The Senator from South Carolina has stated his support.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 999) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank both distinguished managers.

AMENDMENT NO. 1000

(Purpose: Restores juvenile justice provision deleted with Helms tabling motion on abortion languages)

Mr. HOLLINGS. Mr. President, I send to the desk an amendment on behalf of myself and Senator RUDMAN relative to the juvenile justice program.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. RUDMAN, proposes an amendment numbered 1000.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37 after line 2 insert:

"SEC. 207. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year."

Mr. HOLLINGS. Mr. President, this protects the allocation of juvenile justice funds. The rewording is necessary as the result of a previous amendment.

Mr. RUDMAN. It is cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 1000) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1001

Mr. HOLLINGS. Mr. President, on behalf of Senator RUDMAN and Senator KASTEN and myself, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. RUDMAN, and Mr. KASTEN, proposes an amendment numbered 1001.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57 line 9 strike "$200,000,000" and insert "$181,000,000"; on page 57 after line 13 insert:

ISRAEL RADIO RELAY STATION

There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987 between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America.

Mr. HOLLINGS. Mr. President, this amendment involves the radio relay station that is worked out with the Radio Free Europe and USIA program with our ally Israel.

As you know we entered into agreement on June 28 of this year. After long discussion—it only came in recently after our subcommittee markup, but it is estimated that the new relay station will cost approximately $300 million to be built over a 5-year period and this amendment allocates the $34 million necessary within that budget to be allocated to beginning this particular program.

ISRAEL RADIO RELAY STATION

Negotiations between the Government of Israel and the Voice of America/Board for International Broadcasting to build a United States Government shortwave radio relay station in Israel began in 1984 and were concluded with the signing of an executive agreement at the White House on June 18, 1987.

This Israel site will enable VOA and BIB [Radio Free Europe/Radio Liberty] to greatly enhance their broadcast signals to Eastern Europe, the European Soviet Union, the Central Asian Soviet Union, South Asia, and East Africa. Because of its central location, this site will be unmatched anywhere else in the current or projected plans of either BIB or VOA to provide access to the largest number of critical audiences in these regions. In addition, completion of this site will provide the United States enhanced ability to penetrate currently jammed environments in Eastern Europe and the Soviet Union.

The station will be located in the Arava region of eastern Israel, south of the Dead Sea and will include 16 500 kilowatt high-powered transmitters and 22 curtain antennas. It will be built by an Israeli contractor, chosen competitively, and using American manufactured electronics equipment. The requirements and standards of the station have been determined jointly by VOA and RFE/RL. The station will be operated by a specially created Israeli Government entity [TOMER].

It is estimated that this new relay station will cost approximately $300 million and will be built over a 5-year period. This amendment adds the $34 million necessary to initiate implementation of this agreement and begin construction so that delays at this time don't result in future cost increases. It is estimated that an additional appropriation of about $250 million will be required to complete the project.

Due to the high priority of beginning implementation of this agreement, we are reducing the amount previously recommended by the committee for transmitter modernization for the Board for International Broadcasting as an offset for this new construction project. In addition, the Voice of America will reprogram funds for other first-year costs of the agreement from its worldwide modernization program.

Mr. RUDMAN. Mr. President, this amendment is, I believe, very important. It probably should have been part of the bill originally. There were some difficulties between the various agencies in working it out. It is a very important project, one in which the Government of Israel agreed to be the host for the project and promised it some time ago. It is about time we got started on this project. It is important for our own activities.

I am delighted that the Board for International Broadcasting and various agencies involved have been able to work it out.

I fully support the amendment and commend the chairman for being able to work it out and bring it to the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. RUDMAN. Mr. President, I ask unanimous consent that the name of the minority leader, Senator DOLE, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment?

Hearing no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 1001) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1002

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. BYRD, proposes an amendment numbered 1002.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 5 after "$190,000,000" insert: "of which $3,000,000 is for a grant to the Institute for Technology Development, Jackson, Mississippi, $2,500,000 is for a grant to the University of Bridgeport, Connecticut to assist in the construction and instrumentation of the Connecticut Technology Institute, $1,000,000 is for a grant to assist in the construction of a consolidated judicial center in Owensboro, Kentucky, and $1,025,000 is for a grant to the Town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia".

Mr. HOLLINGS. Mr. President, this amendment is with respect to allocation of the EDA funds relative to the Institute of Technology in Jackson, MS, $3 million; $2½ million at Bridgeport, CT, to assist in the construction of the Technology Institute there; $1 million for the Judicial Center in Owensboro, KY; and $1,025,000 for the town of Alderson, WV, to assist in the expansion of the water treatment plant due to the expansion of the Federal Correctional Institute there at Alderson, WV.

Mr. RUDMAN. Mr. President, the Senator from South Carolina has aptly described the amendment. It has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate? Hearing no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 1002) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, in view of the action of the Senate on the EDA amendment, I move that the committee amendment on line 15, page 26, through West Virginia on line 19 be tabled. This will clear it up so that it will not be repeated in the bill a second time.

The PRESIDING OFFICER. There is a motion to table by the Senator from South Carolina. There is no debate on the motion to table.

The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

Mr. HOLLINGS. Mr. President, I yield the floor.

LIMNOLOGICAL STUDY

Mr. REID. Mr. President, I would like to discuss a matter of great importance to my State of Nevada, with the distinguished chairman of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies.

This matter refers to a program within the National Oceanic and Atmospheric Administration.

Over the past 2 years NOAA, working with the Environmental Research Center at the University of Nevada, Las Vegas, has undertaken limnological research to improve the fish stocks in Lake Mead.

Specifically, through careful monitoring and scientific studies, it was determined that Lake Mead's declining fish stocks were due to insufficient zooplankton in the lake, which in turn was due to insufficient phosphorus. Research indicated that by adding ammonium polyphosphate to the upper ends of Lake Mead, there would be significant improvements in the fish stocks.

On May 30, 1987, using 300 volunteer boats and 1,500 volunteers, 20,000 gallons of ammonium polyphosphate were placed in 20,000 acres of the lake. Initial indications are promising. But to fully evaluate the experiment, we need to continue monitoring. To stop the funding for this project now would rob us of the chance to see if we can successfully fertilize the lake and restore the recreational fishing industry in Nevada.

In addition, this experiment will have ramifications far beyond Lake Mead. States like Arizona and Utah are vitally interested. Their lakes are suffering, it is believed from the same phenomenon, caused by damming bodies of water which strips the phosphates that produce food for the fish.

Mr. President, we need $400,000 for this project. I have discussed this situation with the distinguished chairman and understand that he will help try to secure this funding when the bill goes to conference with the House.

Is this the distinguished chairman's understanding as well?

Mr. HOLLINGS. Yes, I have discussed this project with the Senator from Nevada, and will try to secure the necessary $400,000 in conference.

Mr. BIDEN. I would like to commend the chairman of the Commerce, Justice, State, the Judiciary Appropriations Subcommittee, Senator HOLLINGS and the ranking minority member, Senator RUDMAN, for their work in crafting a very responsible bill, especially given the extraordinary fiscal constraints under which they operated.

However, I am concerned that the funding for one important program has been eliminated. This program, the State and local law enforcement assistance program, was reorganized in the Comprehensive Crime Control Act of 1984 to establish a streamlined structure to provide limited Federal funds to help State and local agencies develop new and innovative approaches to fight crime. While the amount of money is modest—only $44.4 million in fiscal year 1987—this program has proven to be one of the most cost-effective law enforcement assistance programs administered by the Department of Justice.

I know that the House bill included funding for this program, and I would like to ask the Senator from South Carolina [Mr. HOLLINGS] whether he thinks there is some possibility that this program might receive favorable consideration in the final conference report.

Mr. HOLLINGS. Mr. President, the State and local assistance program was greatly improved by the changes in the Crime Control Act of 1984. Our recommendation not to include funding does not indicate a particular bias against this program, but reflects our priorities in working out a proper balance between Federal law enforcement activities and assistance to State and local law enforcement within our overall bottom line. As Senator Muskie said some years ago, we are not picking between good and bad, but selecting from among the good.

We have provided for the expansion of the U.S. Trustee System and the Immigration and Naturalization Service in response to the legislation that the Committee on the Judiciary drafted last year. These two programs are increasing by $16.2 million and $69.3 million respectively. Overall the Department of Justice is increasing by $354 million over last year's level.

Second, I am sure that the chairman of the Committee on the Judiciary is aware that we have restored a total of nearly $193 million in Justice assistance to State and local programs. This includes the $30 million State share of the assets forfeiture fund which the House voted to put off until next October. My mail suggests that was the highest priority of the State and local law enforcement community. In addition, we are recommending $75 million for the antidrug abuse program, $70,692,000 for juvenile justice and delinquency prevention, $5 million to offset the States' costs to incarcerated Mariel Cubans, and $12 million for regional information sharing systems. These last four items, totaling $162,692,000 were all eliminated in the President's budget.

Finally, with respect to the ultimate outcome of this item, a little history may help. As the distinguished Senator indicated, the State and local assistance program is included in the House bill. Last year the House also included it and our distinguished ranking minority member, when facing a similar dilemma, did not recommend it. As the Senator from Delaware will recall, it was included in the final bill.

We will go to conference in defense of the Senate, but with the full realization that we will have to compromise. This program is clearly a priority item of the other body and you are certainly assured that this program will be fully considered in the conference.

Mr. BIDEN. I thank the Senator, Mr. HOLLINGS. My colleagues and I are aware of your consistent support for law enforcement over the years. I think the bill before us today is testimony of that support, and I appreciate your effort in seeing that the Bureau of Justice Assistance is able to continue its successful efforts to improve the quality and effectiveness of State and local enforcement.

GEORGES BANK FISHERIES RESEARCH

Mr. KERRY. Mr. President, I would like to engage for a moment in a colloquy with my good friends Senators MITCHELL, COHEN, KENNEDY, HOLLINGS, and RUDMAN. We would like to clarify the intent of the Appropriations Committee on a provision in the Commerce-Justice-State appropriations bill regarding $500,000 for Georges Bank fisheries research.

It is our understanding that the funds are to be used for scientific and technical research on transboundary fisheries stocks of the Georges Bank and Gulf of Maine regions.

Mr. MITCHELL. That is my understanding. It is also not intended to create a formal bilateral or unilateral task force. The purpose is for scientific and technical research on such fishery stocks.

Mr. COHEN. That is my understanding as well.

Mr. KENNEDY. That was certainly my understanding. We want to also make sure that both Senator HOLLINGS, the subcommittee chairman, and the ranking minority member, Senator RUDMAN, agree to that interpretation.

Mr. HOLLINGS. I agree with the clarification offered by my friends from Maine and Massachusetts.

Mr. RUDMAN. I agree as well, and expect the National Oceanic and Atmospheric Administration to follow this direction.

Mr. KERRY. I thank the Senators very much for that clarification.

BORDER PATROL TACTICAL UNIT

Mr. McCAIN. Mr. President, I was planning on offering an amendment to the Commerce-Justice-State appropriations bill to address a special need of the Border Patrol Tactical Unit which is known as BORTAC.

I am confident, however, that my request can be met without an amendment, and I would like to thank my good friend, the chairman of the Commerce-Justice-State Subcommittee, for his generosity and cooperation. He and his staff have been tremendously patient and thoughtful in working this request through.

The request, as I have said, has to do with BORTAC, a special unit of the Immigration and Naturalization Service. It is a specially trained and equipped tactical unit that can quickly address unusual situations within the agency by use of special techniques and its unique franchise to handle incidents involving aliens.

BORTAC's agents can be deployed anywhere in the United States within 12 hours and are prepared to handle civil disturbances, protect property, contain hostage situations, perform rescue and recovery operations, counter border violence, and assist and train other agencies in similar problems. This, Mr. President, is a short list of their many important functions.

Given its importance, BORTAC is a little known, but vital group of dedicated individuals who frequently risk their lives to perform their duties.

In spite of the life-threatening situations in which BORTAC agents find themselves, however, they lack one type of equipment upon which their very survival can hinge. That is, a communications system which is highly dependable and can be operated without the use of their hands. Ideally, BORTAC agents, who often need both their hands, should be equipped with voice activated, hands-free radio systems, but they are not. They are only equipped with bulky, hand-held walkie-talkies—and as you can imagine, Mr. President, it is impossible to operate a walkie-talkie and climb or handle a gun at the same time.

Mr. President, my request is simply that we designate a one-time sum no greater than $100,000 for the purchase of voice-activated communications systems for BORTAC. It is a relatively small sum compared to some of the amounts we earmark for other projects and activities, but for these agents it can be a matter of life and death.

It is my understanding—and I would like to verify this with my friend from South Carolina—that the committee will work to earmark these funds for BORTAC's use during the conference on the Commerce-Justice-State appropriations bill.

Mr. HOLLINGS. I understand the concerns of the Senator from Arizona. Clearly, BORTAC agents should be adequately equipped and the sort of communications systems the Senator is advocating is essential to BORTAC's continued efficiency, not to mention to the survival of its agents. I assure him that the committee intends to accommodate his interest in conference.

Mr. McCAIN. I thank the Senator for his efforts and assurances, and greatly appreciate his willingness to take this extremely important provision into account in conference.

IAEA FUNDING

Mr. COCHRAN. Mr. Chairman, I would like to discuss the Department of State appropriation for contributions to international organizations, particularly the U.S.-assessed contribution to the International Atomic Energy Agency [IAEA]. While the Appropriations Committee provided priority for the administration's full IAEA request of $31,443,000, it was unable to restore prior-year withholdings for the United Nations and its specialized agencies amounting to nearly 25 percent of the appropriation. The result is that the committee recommendation provides approximately 75 percent of the request for the United Nations and specialized agencies. Expecting the Department of State to cut appropriations for the various agencies on a selective basis, the committee stated that it "intends that priority be given to the budget estimates of the United Nations, the International Atomic Energy Agency, the International Telecommunications Union, the World Meteorolgical Organization, the Organization of American States, and the Pan American Health Organization."

Mr. Chairman, I am concerned about the interpretation of this language, especially the priority IAEA will be given in this group of international agencies.

Mr. McCLURE. We had a similar situation in 1986, when the Appropriations Committee recognized the need for strong support for the IAEA, and urged the State Department "to use its discretion in the application of the committee's reduction for international organizations to ensure that the work of the IAEA is not adversely affected." Despite this request, the United States has not met its assessed obligations to the Agency.

Mr. COCHRAN. It is ironic that IAEA, praised so highly for its effective response to the Chernobyl disaster, has experienced difficulty in getting its member states to pay their assessed contributions in a timely way. Nations give a number of excuses for this situation, but that does little to help the IAEA in its difficulty. The Agency may be out of cash by October and not be able to meet its payroll in November.

Mr. McCLURE. Unless IAEA has timely, predictable contributions from member states, including the United States, it is doubtful that it can maintain credible performance or continue to be an attractive employer for its highly competent technical and scientific staff, 15 to 20 percent of whom are Americans.

Mr. COCHRAN. Mr. Chairman, do you believe the report language is sufficiently strong to get the State Department's attention and to ensure that the United States meets its obligations to IAEA?

Mr. HOLLINGS. It was the intent of the committee that the language be a strong expression of support for the IAEA.

Mr. RUDMAN. And we will follow closely the actions of the State Department to see that appropriate attention is given to the IAEA's financial situation.

BUREAU OF DIPLOMATIC SECURITY

Mr. BUMPERS. Mr. President, I wanted to inquire with the distinguished chairman of the subcommittee, Mr. HOLLINGS, about report language I submitted which was included in the committee report (Senate Report 100-182) regarding the Bureau of Diplomatic Security. The report language states:

> The Committee believes that a broad, coordinated research program is required to identify and evaluate the appropriate materials, techniques, and methods that can be used to increase the survivability of U.S. facilities abroad. Once such improvements in security structures are identified, the cost of construction is expected to be significantly lower. The Committee, therefore, directs that funds appropriated for counterterrorism research and development may be used to support research at U.S. universities in the United States that presently engage in similar research and have a proven track record of success in this field.

Mr. Chairman, I just wanted to clarify that, according to the above-described language, the Department of State, Bureau of Diplomatic Security, Director of Physical Security Programs, can in fact award research grants to universities such as those described therein.

Mr. HOLLINGS. The Senator is correct, and the report language he referred to above should be so interpreted.

Mr. SARBANES. Mr. President, I would like to enter into a colloquy with the distinguished chairman regarding the language in the bill entitled "Administrative Provision—United States Information Agency."

Accordingly, Mr. President, I wish to clarify language in the bill which refers to the VOA modernization program. On page 74, at line 2, the bill states that "the agency shall purchase American-manufactured equipment and materials to the fullest extent possible." Is it the chairman's understanding that a foreign prime contractor proposing to supply a significant amount of American manufactured equipment and materials will still be able to compete under this language.

Mr. HOLLINGS. That is my understanding.

Mr. SARBANES. I thank the distinguished chairman.

Mr. CRANSTON. Mr. President, I direct a request to the distinguished floor managers of the bill, relating to the relocation of the Tiburon, CA, Laboratory of the National Marine Fisheries Service to the University of California's Bodega Marine Laboratory at Bodega Bay.

Both NMFS and the University of California agree on the wisdom of the move. As the committee knows, the major emphasis of Tiburon Laboratory research is the groundfish resources of the Pacific Ocean. The groundfish resources of the Pacific coast are of major importance to commercial and recreational fisheries in Oregon and Washington. Dockside landing values are worth over $60 million annually. At the consumer level they are worth over $300 million. The Tiburon Laboratory has recently been collaborating extensively with researchers at the Bodega Marine Laboratory, stemming from the fact that both facilities presently conduct research on 30 different species of groundfish and on salmon and steelhead reproduction and migration. Relocation of the Tiburon Laboratory would allow for more efficient information sharing and research collaboration and would also, through cooperative arrangements, prevent duplication of research facilities.

The physical condition of the Tiburon Laboratory is deteriorating. It is also inland, far away from coastal groundfish landings and research areas. Those two factors make it very desirable to move that laboratory's programs to a more effective, suitable oceanside location. A relocation to Bodega Bay would put the laboratory closer to the fishery resource it researches, it would increase collaborative research in areas including groundfish management and the impacts of offshore oil programs on fisheries, and would develop a sound and extensive base for groundfish management. These reasons, among others, are why the move is so strongly supported by the scientific and university communities, and is supported by the National Marine Fisheries Service.

Funding in the amount of $100,000 is needed to develop conceptual designs, site surveys, and preliminary specifications for construction of a laboratory building at the university's Bodega Marine Laboratory site. The University of California is prepared to provide an appropriate ground lease.

I have considered offering an amendment to the pending bill to provide the needed funds. I am persuaded, however, that the distinguished floor managers would look favorably on this issue when the bill reaches conference with the House and do what can be done to provide the needed funds.

I wonder if the Senator from South Carolina would confirm that my understanding is correct.

Mr. HOLLINGS. I understand the Senator from California's concern, and I appreciate his forebearance in withholding his amendment. He has my assurance that the relocation matter will be raised in conference, and we will make every effort to see that the necessary funds are provided.

SALARIES OF UNITED STATES BANKRUPTCY JUDGES AND MAGISTRATES

Mr. COCHRAN. Mr. President, I am pleased that the Appropriations Committee added, as section 408 of this measure, the text of my bill, S. 696, to raise the salaries of bankruptcy judges and magistrates to 92 percent of the salaries received by U.S. district judges.

This language is designed to correct an inequity resulting from the transmittal implementing the Quadrennial Pay Commission's recommendation earlier this year. The increase will be effective January 1, 1988, or the date of enactment, whichever is later.

The estimated cost of the provision is $4,800,000 and will be absorbed within judiciary appropriations.

Historically, the salary levels for bankruptcy judges and magistrates have been scaled at approximately 90 percent of the salary level for U.S. district judges. The Quadrennial Pay Commission in its recommendation to the President proposed a level of pay for bankruptcy judges and magistrates that was in keeping with that scale. In fact, the Commission's proposal would have provided a level of pay that would be 92.3 percent of the rate proposed for U.S. district judges.

However, the recommendations submitted to the Congress by the President provided salary increases in excess of 10 percent for district judges, but provided only a 2.9 percent increase for bankruptcy judges and magistrates. When the President's pay recommendations took effect on February 5, the parity level of approximately 90 percent was reduced to approximately 81 percent.

The current salary level of bankruptcy judges and magistrates is $72,500. The salary levels for U.S. attorneys and U.S. trustees are set by statute or regulation at $77,500. Thus, these Government attorneys can be paid $5,000 more annually than the bankruptcy judges and magistrates before whom they regularly appear.

Chapter 11 filings alone have increased about 550 percent during the period of 1980 through 1986, including a growing number of petitions from giant corporations involving complex financial matters. In the Northern District of Mississippi, bankruptcy case filings in 1986 exceeded the previous year by approximately 40 percent. These numbers may continue to increase.

Bankruptcy courts have become the general business courts of the country. The importance and volume of the cases before them requires that we recruit and retain qualified and experienced men and women for these judgeships.

The effects of inadequate compensation has resulted in 70 percent of the bankruptcy judgeships being vacated over the past 7 years. Those who have filled these vacancies are relatively young and inexperienced. The private sector offers career opportunities far more lucrative.

The U.S. Judicial Conference and the American Bar Association have endorsed this salary adjustment, and I appreciate the support of the managers of the bill in including it in this bill.

Mr. DODD. Mr. President, I hope as these agencies spend this large sum of money, some attention is paid to whether American companies are benefiting, or whether it is going to foreign countries that do not reciprocate with open markets. This was a concern raised by the Foreign Relations Committee when we authorized funds for USIA's Voice of America. I understand that subsequently, USIA has given a lucrative contract to a foreign entity for satellite distribution of USIA's Worldnet programming.

I wonder if USIA used that leverage to get assurances about opening foreign telecommunications markets, or if it looked carefully for U.S. companies that could handle the job.

Mr. HOLLINGS. The Senator's point is well taken. We cannot continue to give away the resource of our market, and get nothing in return. I am sure USIA will make an extra thorough effort to find a qualified American company when this kind of opportunity presents itself again.

EQUAL TREATMENT FOR FAO

Mr. LEAHY. Mr. President, the Appropriations committee report provides an equitable distribution of scarce resources among a range of international organizations. The report states that "priority be given to the budget estimates of the United Nations" and several other of the major international organizations. I would like to propose to the distinguished chairman and the distinguished ranking member of the subcommittee that the Food and Agriculture Organization [FAO] be added to this list of priority organizations.

FAO undertakes a wide range of activities, some of which are of direct benefit to the United States. These include sharing important worldwide agricultural data, and development of food quality standards and other activities in conjunction with programs of the Department of Agriculture. Perhaps more important, the FAO has a direct impact on fighting hunger and in participating in projects which help poor farmers in the developing world feed themselves.

Mr. President, I want to emphasize that I am not seeking special treatment for FAO, only that they get their proportional share of the available resources. I am aware, Mr. President, that there has been some concern expressed in this body about the need for reform in FAO. I am assured that the United States is working with other major donors to implement important budgetary reforms in FAO. To maintain U.S. credibility in these important reform efforts we need to protect the proportionate share of our contribution to FAO, based on the overall figures in the Senate report. The good things that FAO is doing, particularly in Africa where several countries again face the specter or famine, need to be continued.

I would like to commend the committee in recognizing the artificially low fiscal year 1987 base for FAO that was submitted by the State Department. Freezing funding for international organizations at the level of the 1987 continuing resolution, as was done in the other body, would have the unintended effect of reducing the FAO base by approximately $9 million. The fiscal year 1987 figure for FAO was reduced by $9 million as a result of a one-time savings by FAO as a result of an earlier exchange rate appreciation of the dollar. This one-time savings reduced the amount requested for FAO for 1987 and therefore artificially reduced their base. Colloquies in the other body on June 16 and July 1 indicated that the House authorizing subcommittee recognized that they had "overlooked the fact that the unusual savings accomplished by the FAO" actually penalized FAO for its savings.

Mr. President, Secretary Lyng has stressed the administration's strong support for FAO. The senior Senator from Oregon [Mr. HATFIELD] has been a strong supporter of FAO programs for many years and wishes to see equal treatment given to FAO in the appropriation process. The distinguished chairman of the Subcommittee on Agriculture of the Committee on Appropriations, Senator BURDICK, and my distinguished colleagues on the Agriculture Committee, Senators MELCHER and MCCONNELL join me as well. I would ask the distinguished chairman and ranking member of the subcommittee if they would be prepared to accept this colloquy as sufficient to accomplish the goal of including FAO among the priority international organizations listed in the committee report.

Mr. HOLLINGS. I have no objection to adding the FAO to the international organizations due preference.

APPROPRIATIONS FOR THE CUSTOMS COOPERATIONAL COUNCIL

Mr. BENTSEN. Mr. President, the Customs Cooperation Council is an international agency which shares information with regard to the classification and valuation of merchandise for customs purposes.

The United States has made only partial payment of its contribution to the Customs Cooperation Council [CCC] in fiscal years 1986 and 1987. Action taken by the congressional appropriation committees on the fiscal year 1988 budget will cause the arrearage to be increased further. The arrearage threatens U.S. voting rights in the CCC and poses a major embarassment to the United States at a time when it is trying to lead its trading partners in the adoption of a new system of customs classification, the "Harmonized System."

As reported from committee, the Senate appropriations bill of the Department of State (H.R. 2763) reduces the State Department's budget request for "Contributions to International Organizations" by 25 percent overall and defers 13 percent of the appropriated amount to fiscal year 1989. The Senate committee report also requires that priority be given to funding certain specified organizations, not including the CCC. As a result, the cumulative arreage could amount to more than $2 million with respect to the CCC.

Under the bylaws of the CCC, if the United States is in arrears for 2 consecutive years or falls 1 full year behind in its contribution, it will lose its voting rights. This poses a particular problem given the U.S. interest in implementation of the Harmonized System.

Would the chairman of the subcommittee be willing to agree with me that the CCC should be given priority in allocating funds to international organizations in 1988, so that the United States does not lose its voting rights in that agency?

Mr. HOLLINGS. I agree with the Senator from Texas that the CCC should be given preference in funding in 1988. The CCC is currently involved in developing and implementing a system whereby the United States and its major trading partners will adopt a common system for classifying imports and exports. The so-called Harmonized System is strongly supported by U.S. industries, including an industry important in my home State, the textile industry. I agree with the Senator from Texas that losing our voting rights in the CCC at such a crucial time would be a serious problem. I urge the administration to make sure that the United States meets its obligations regarding the CCC.

Mr. HELMS. Mr. President, I thank the distinguished managers of the bill, and I thank the Chair for recognizing me.

AMENDMENT NO. 1003

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1003.

On page 46, between lines 23 and 24, insert the following new section:

SEC. . All appropriations provided under title III shall be reduced by 10 per centum until an authorization for such expenditures has been enacted.

Mr. HELMS. Mr. President, last week this Senate spent the better part of 4 days, when you go back and count the previous Friday, considering S. 1394, which was the State Department authorization bill. The distinguished Senator from Rhode Island, Mr. PELL, and I managed that bill and during those long days and nights, 90 amendments were considered, most of which were adopted in the course of Senate consideration.

The State Department does not like that bill, and I have now discovered based on credible information that the State Department wants to do in this authorization bill. They do not like it, and they want it to be ignored, to just go away.

Now, a conference is supposed to be conducted with the House Foreign Affairs Committee, but there has been no indication as yet about a schedule for such a conference if and when it occurs. Meanwhile, the hanky-panky that is going on, I am credibly advised, is that the State Department is saying to various Members of the Senate and of the House, "We do not need an authorization bill. We will just go with the appropriations bill."

Obviously, the State Department does not like some of the provisions of the Senate's version of the State Department authorization bill. And the State Department heirarchy has said, "Well, the best thing for us to do is just to slip up there and tell them to let the authorization bill die." I do not want that to happen. I think it is bad for the Senate process, I think it is bad for the House process, and that is the purpose of this amendment.

By the way, let me emphasize that this amendment applies only to the State Department appropriations; none other, just the State Department appropriations.

Now, let me tell you why, Mr. President, the State Department would like to see the Senate passed State Department authorization bill go by the boards.

First of all, the Senate wisely adopted an amendment, not in the House bill, with reference to diplomatic immunity. I know the distinguished occupant of the chair recalls the hearing conducted by the Foreign Relations Committee when numbers of people came up and testified about the brutal crimes and rape and murder and mayhem, drug trafficking, drunken driving, hit-and-run driving; you name it, and people with diplomatic immunity in this country, foreigners who have come here, they have done it.

Now the State Department does not like that. We must not do anything to ruffle any feathers, according to the State Department.

But the Senate, in its wisdom, and I think the Senate was very wise in doing so, said, "Whoa, here, these people who are guests in this country must exercise some restraint."

So the provision in the Senate State Department authorization bill provided that these people who claim diplomatic immunity must get it from the Foreign Minister of their country, they either will stand trial like American citizens do when they violate the law or they get their fannies out of this country and they stay out. They will not be admitted again to this country. Now I think that was a wise action by the Senate.

But the State Department said, "Oh, you are going to make somebody mad." Well, good. I was very proud of the Senate when it adopted that one.

Then there was that issue of the State Department reflagging itself and our Soviet friend visiting here not long ago. The State Department learned that some Congressmen, Members of the House of Representatives, intended to go down and let Shevardnadze know that there was great concern in this country about the abuses of human rights in the Soviet Union. So what did the State Department do? They declared the State Department building in Foggy Bottom a foreign mission. That was simply to trigger a D.C. ordinance requiring those Congressmen to stay 500 feet away from the front door of the State Department and thereby spare Mr. Shevardnadze any embarrassment about being in contact with people who understand what freedom is all about.

Then another amendment that the State Department did not like was the amendment cosponsored by the distinguished chairman of the Foreign Relations Committee, Mr. PELL, and me with reference to abuses of human rights by China with respect to Tibet. Now, Chairman PELL and I met with the Dalai Lama and we jointly decided that the Senate ought to speak on this issue. But here again the State Department does not want to ruffle the feathers of China by saying, "Oh, look here, you are violating human rights." Well, actually the physical abuse, the killings, the violence in Tibet, all of these are bound to strike at the conscience of the Senate, and it did and hence the amendment was passed.

Then there was Senator SYMMS' amendment with respect to Mount Alto. It simply said the Soviets will have to get out of Mount Alto until such time as we have suitable facilities in the Soviet Union.

You will remember all the bugging that occurred on the new U.S. Embassy building in Moscow.

There was the Wallop amendment which was made a part of the Senate's State Department authorization bill. Senator WALLOP expressed in his amendment, adopted by the Senate, an indignation that the Soviet Union had used Hawaii for target practice.

Now, there are other amendments in that bill that the State Department does not like. They do not want to ruffle any feathers, particularly Communist feathers, and, therefore, there is a move on to say, "Let's have no authorization bill."

And that is the reason, Mr. President, I think that the Senate as a body, as an institution, ought to have assurance that there is going to be an authorization bill, a conference reporting a conference report and vote on that, and send it to the President. But that is not what the State Department wants.

So I am simply saying that so long as there may be no authorization bill, the State Department appropriation, and only the State Department appropriation, shall be reduced by 10 percent until there is an authorization for such expenditures.

I yield the floor.

Mr. RUDMAN. Mr. President, I have listened with great interest to my friend from North Carolina. Along with the chairman of this committee and everybody else on the floor, we sat here night after night after night voting on a very important piece of legislation. As a matter of fact, I cannot think of any piece of legislation in the last several years which has been more hotly contested than that bill. And I think the rollcall votes and the closeness of those votes indicates that.

Quite frankly, I am a bit outraged, and that is not a strong word, I can think of stronger, but I am a bit outraged to understand—and I know the Senator from North Carolina well enough to know if he did not have evidence of that activity he would not state it—that people representing the State Department are in fact trying to do things to derail the passage of a State Department authorization bill.

As a matter of fact, Mr. President, sitting here on the Appropriations Committee for 7 years, we get criticized quite a bit for legislating on appropriations bills. And we get criticized, sometimes rightly and sometimes wrongly, but in some instances, as I am sure my friend from North Carolina recognizes, we do it because there is no authorization bill and we are forced to do it.

That is not the system of this Senate. That is not the way this place is supposed to operate. We are supposed to have authorization bills and we are supposed to have appropriation bills that reflect those authorization bills, and when that process gets broken down, then the whole process of the Senate gets broken down.

Now, I do understand my friend from North Carolina's concern about that and I will tell him that I am equally concerned. I think, frankly, that there ought to be some effort to get to the Secretary and others to find out if, in fact, this is going on, because I do not think the State Department or any other Department has the right to lobby this Congress to try to frustrate the Senate and the House from doing what the law says we are supposed to do, and that is pass bills. Now, I would like to work on that.

I am a bit concerned about the amendment. You know, it is the kind of thing that normally I might even vote for. The problem I have is if something happens and we do not get an authorization bill through, for whatever reason, the reason the Senator states or some other reason, we could be in a position of having some cuts which, frankly, in some areas I am sure the Senator from North Carolina himself would figure probably would not be such a good idea.

Although in other areas I think that we might agree they might be a good idea. I want to hear what the chairman has to say but I just wonder if there is some way we might avoid voting on this. Certainly I want to give the Senator from North Carolina my assurances that I am going to look into this myself tomorrow. I am going to ask people down there if, in fact, they are up here saying; do not pass an authorization bill; because I think we worked too long and too hard on it. It is in conference with the House. There are some very contentious amendments in that bill but the fact is that we represent the people and those amendments prevailed on this floor.

Whether the State Department likes it or not, the people on this floor do not like the fact that they declared themselves a foreign mission—that is one of the most absurd things I ever heard in my life. As the Senator may recall I had to ask him about it on the floor that night. I think what we have done with diplomatic immunity is wise. I think the expression of outrage against China is wise and whether they like it or not is not terribly important to this Senator, and I know it is not to the Senator from North Carolina. So I would support what you are trying to do. I would just hope that we might not have to vote on this and there might be some way to have the amendment withdrawn, if the Senator might want to consider that. If he does not of course we will obviously have a vote on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I just want to say to my friend from New Hampshire, as we say in the Baptist Church in Raleigh, NC: Amen, Brother! You have stated my case perfectly for me. I will be happy to hear what the distinguished Senator from South Carolina says.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I do not want to mess up what you are doing. Go ahead. I want to see what you are going to do.

I will cooperate with the Senator from New Hampshire and the Senator from North Carolina on the particular problem at hand. But the solution of a 10-percent cut in the Department of State budget is just—would be devastating.

What we did in the allocation crosswalk from the Budget Committee, as a former chairman of the Budget Committee of the other body, the distinguished presiding officer would understand, we got cut at the very end another $50 million.

As a result we really have cut Department of State from its 1987 appropriation, appropriated level of $2.683 billion down to $2.519 billion, which is $165 million less than their budget last year. So they have already been cut substantially from the last year's budget and some $869 million—almost $1 billion—from their requested amount.

If the Senator insists, I would have to make a motion to table.

Mr. RUDMAN. If the Senator would yield just a moment, I am sure you agree with me we both feel we would like to see an authorization bill.

Mr. HOLLINGS. Oh, yes.

Mr. RUDMAN. I am sure the chairman will work with me as he always does to try to see that it is done. I would implore the Senator from North Carolina whether this has to be voted on. I think he has made the point. I tried to help make the point because I agree with him.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Thank you. I thank the Senator from South Carolina.

Let me assure you that nothing speaks so loudly in this town as money. The taxpayers' money.

If this amendment is pressed and passed by the Senate, you better believe they will back off and let the process work as it is supposed to. It would last only so long as they refuse to do that.

But the Senator from New Hampshire has raised a point which, frankly, I hadn't thought about. The authorization bill, conceivably, could be delayed for some other reason.

Let me say this. I think the messsage has been sent, particularly with the splendid comment by my friend from New Hamsphire. I hope that Foggy Bottom will get the word that there will be a lot of Senators upset if this persists.

Now, if you call up and ask them: have you been doing this? They are going to say just like the chicken thief in the chicken yard—"There is nobody here but us chickens." They are going to deny their activities, but I got it straight as an arrow what they are doing: "We do not need an authorization bill."

Mr. President, if this problem does persist, this may be an issue the Senator from North Carolina will revisit on the continuing resolution.

Mr. President, in the light of what the distinguished Senator from New Hampshire said, I think I will withdraw the amendment and I thank the Chair very much.

The PRESIDING OFFICER. Is there objection? The Senator has a right to withdraw the amendment.

The amendment is withdrawn.

The Senator from New Hampshire.

Mr. RUDMAN. I want to thank my friend from North Carolina. I appreciate that. The Senator from North Carolina's batting record is pretty good, and I am delighted not to have to stand in front of that pitch. I assure my friend that I and other members of the committee will look into this because I agree totally that this is a very bad thing that is happening. If the Senator says it is happening, it ought not to; and he can certainly be assured of my support.

Mr. HELMS. I thank the Senator very much.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Before I yield to the distinguished Senator from Colorado, I am advised that we made a mistake a minute ago in tabling the language on line 15 of page 26. What we should have moved is to strike it rather than to table.

So, in order to comply, I will after an amendment to strike the language inserted by the committee beginning with the word "of" on line 15 of page 26, down through West Virginia on line 19.

AMENDMENT NO. 1004

Mr. HOLLINGS. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 1004.

The amendment is as follows:

Beginning with "of" on line 15 of page 26, strike all that follows through "West Virginia" on line 19.

Mr. RUDMAN. Mr. President, the amendment has been cleared on this side and is correct.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 1004) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WIRTH. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. There has been a motion to lay the motion to reconsider on the table. Is there objection? Hearing no objection, it is so ordered.

The Senator from Colorado.

Mr. WIRTH. Mr. President, I, too, want to thank the Senator from North Carolina for withdrawing his amendment. I think such a drastic cut in appropriation for the State Department would be unwarranted and unwise for a variety of reasons which we have talked about.

One in particular, and I was going to offer an amendment on this issue and I am not going to because the State Department pursued this well, and that is the use of commercial launch vehicles owned and controlled by the Soviet Union or China, by large American companies.

Two American companies, GE—RCA—and Hughes, are pushing very hard to get licensed by our Government, the State Department and the Defense Department, to use the Soviet proton launch vehicle for the Chinese Great Wall—or Long March launch vehicle for launching their commercial satellites.

This, it seems to me, is something we do not want to have either our State Department or our Defense Department condone, and I am pleased that the State Department has had the resources to do a very careful analysis of this issue and to resist the pleas of these two large American companies to go abroad, particularly to the Soviet Union and to the Chinese, for this capability.

What we should be doing in this country, Mr. President, is developing our own commercial launch capability, that which is currently being pursued, for example, by companies like Martin Marietta and McDonnell-Douglas.

Mr. President, this is an issue of grave importance to the economic viability of a business essential to America's national security and to the maintenance of our traditional leadership role in the utilization and exploration of space—the commercial launch industry. Despite the initial promise of the development of a private sector launch capacity, this new industry may be threatened by unfair foreign competition—from the non-free-market economies of the Soviet Union and China. And most disturbing, Mr. President, are the persistent efforts on the part of the U.S. manufacturers of communications satellites in trying to gain access to this subsidized launch capacity.

I had considered offering an amendment to prohibit any funds appropriated by this legislation from being used by the Department of State in issuing a license for the export of domestic communications satellites—a requirement for the domestic manufacturers of these devices to use Soviet or Chinese launch capabilities. However, at this time, I do not think this step is necessary, since State and the Department of Defense appear to be determined to prevent the export of this critical technology.

Nevertheless, this is an issue I feel strongly about and felt it needed addressing on the Senate floor.

Following the tragic loss of the *Challenger*, it became clear that our Nation had made serious mistakes in assuming that the space shuttle could accommodate all of our military and civilian needs for access to space and, more destructively, in taking the tremendous risk of sole reliance on that one launch vehicle. As we took the success of the shuttle and our space program for granted, the domestic industrial capability or the development and construction of expendable launch vehicles was allowed to languish and atrophy. With the shuttle's failure and no quick fix in sight, America suddenly found its doors to space closed.

However, with the passage of the Commercial Space Launch Act of 1984, and the administration's unilateral abrogation of all contracts for the shuttle launch of commercial payloads, the market became fertile for the development of an expendable launch vehicle industry. Several American companies have responded admirably to the challenge extended by the Government, including two which have a significant presence in my own State of Colorado—Martin Marietta and McDonnell Douglas. These corporations have made significant investments in the development, construction and marketing of a private sector launch capacity. This domestic fleet of expendable launch vehicles [ELV's] will not only remove significant pressures on NASA to launch, but, by assuring America's access to space, will contribute to our economic and national security.

Unfortunately, a serious threat to the continued welfare of this fledgling industry—and, consequently, our Nation's essential ability to access space—has developed. Recently the Soviet Glavkosmos, which launches the Proton launch vehicles, and the Great Wall Industry of China, which operates the Long March launch vehicle, have begun to offer cut-rate deals to U.S. manufacturers of satellites, the primary purchasers of private expendable launch vehicles. And, incredibly, I understand that both Hughes Space & Communications Group, and General Electric/RCA are considering lobbying heavily to take advantage of one or the other on their offer.

It is my understanding that one of the principal considerations in both GE/RCA's and Hughes' minds is that the Proton and Great Wall launchers are less expensive than the Martin Marietta and McDonnell Douglas vehicles. That should not be surprising, Mr. President. Our domestic manufacturers of expendable launch vehicles cannot successfully compete against the government-subsidized and controlled Chinese and Soviet ELV manufacturers. The substantial government subsidies received by both the Proton and Long March vehicles, reduce the price of placing a satellite in orbit to less than half of that of a comparable American launch. With higher labor costs and the need to recover expenses, and in the absence of government subsidies, domestic ELV companies must be able to operate on a level playing field in order to remain in business.

If this predatory pricing scheme is successful, the demise of our domestic expendable launch vehicle industry is virtually certain. And with its loss, America will also lose its ability to launch both civilian and military payloads. Moreover, launching satellites on Eastern Bloc ELV's will risk delivery of America's far-superior satellite technology to the U.S.S.R. further compromising our national security.

Mr. President, I want to urge both Hughes and General Electric/RCA to resist the allure of quick, short-term profits and behave as responsible corporate citizens—both of these companies owe a large part of their success to government defense-related purchases. The failure of our satellite manufacturers to use the domestic commercial launch capacity may not only deprive our country of the essential ability to access space, but could also deliver critical satellite technology to countries who may be willing to employ it against us—results which could have serious ramifications for the integrity of our national security.

Mr. President, I yield the floor.

Mr. RIEGLE. Mr. President, I rise to support final passage of H.R. 2763, the Commerce, State, Justice appropriations bill, and to call to the attention of my colleagues in the Senate an important cooperative project being reviewed by the Departments of Commerce, Defense, Labor, and Education.

This project, titled the "Center for Advanced Technologies," will demonstrate the training of multiskilled machinists necessary to operate, maintain, and upgrade high technology manufacturing equipment critical to the competitive status of our manufacturing industries. The project is proposed by Focus:HOPE, a private, nonprofit manufacturing training organization located in an area of Detroit characterized by abandoned manufacturing facilities, and a high level of economic distress and unemployment.

Dr. Bruce Merrifield, Assistant Secretary for Productivity, Technology, and Innovation at the Department of Commerce visited the Focus:HOPE site in August, and is convinced of the need for this project.

The bill before us contains an appropriation of $132 million for EDA public works grants. It is my understanding that Focus:Hope will soon submit a $6.6 million proposal to EDA to refurbish the facility for the center. It is important that this program begin immediately, and it is my hope that the Department of Commerce will give it every consideration it needs for early and complete funding approval.

Mr. President, I ask unanimous consent that a more lengthy statement of mine which outlines the need for this project be included in the RECORD as if read. I thank the Chair.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR RIEGLE

CENTER FOR ADVANCED TECHNOLOGIES

Mr. President, there is a serious shortage in the United States of the type of intensive manufacturing training that is necessary to build and maintain technologically advanced equipment and systems. As a result, the nation is now experiencing an acute shortage of skilled craftsmen, in both quantitative and qualitative terms.

The *front page* of the September 14, 1987 Wall Street Journal highlights the problem directly. From it, I quote:

"When Thomas Kelly learned that 97 craftsmen at a nearby plant were being laid off, he figured that his staffing problems had been solved . . . but what began as a routine recruiting call quickly turned, to Mr. Kelly's amazement, into a cutthroat battle against 50 other companies also eager to employ the workers. He had hoped to hire 30 machinists but got only two . . . never before has Mr. Kelly had to scramble to find recruits for Electric Boat, the General Dynamics Corp. unit that builds the Navy's Trident missile submarines." Electric Boat currently has more than 300 unfilled job openings for machinists and skilled craftsmen, and it is "genuinely concerned that the vacancies could limit its ability to meet production schedules".

In the same article, a labor economist at the University of California states: "We're facing a situation where, in 10 years, we won't have anyone who knows how to repair machinery, cut precision metal parts or build an airplane engine from scratch".

Mr. President, I ask unanimous consent that this article, in its entirety, be included in the record at the end of my statement.

Grave consequences of the lack of manufacturing training in the United States are already evident in our *future* workforce;

In six international competitions designed to provide young people, representing 14 nations, with opportunities to gain recognition for excellence in skilled trades, the United States had the lowest average level for performance over the first five competitions and held last place in the precision machining, welding, and construction trades.

The U.S. Congress Office of Technology Assessment points out that: "Greater breadth in skills will be needed for repair and maintenance (of advanced manufacturing equipment), because of the combination of mechanical and electronic features that characterize programmable automation." The OTA questions the capacity in the United States to educate and train such technicians.

A recent comprehensive Harvard Business School study compared flexible manufacturing systems (FMS) in the U.S. and Japan. It called the flexible systems the "battleground for manufacturing supremacy around the globe" and found that the United States was losing the battle "badly". Despite the similarities in the systems and the products they made, the Japanese systems were "remarkably flexible", while those in the U.S. showed an "astonishing lack of flexibility". The average number of parts made by an FMS in the U.S., for example, was 10; in Japan the average was 93—over 9 times greater. The difference in results, according to Harvard's study, was mainly due to the workforce's 'technical illiteracy'.

Harvard found that, in Japan, training to upgrade the skills of the workplace was three times longer than in the United States, and that the improved training resulted in far fewer breakdowns, improvement of systems after they went on line, and better use of the system's capabilities. The Harvard study concludes that learning gives rise to, and sustains, the Japanese competitive advantage. "They lead the way; we linger behind at our own peril."

According to the International Trade Commission: "To rationalize the manufacturing process, increase the quality of weapons, and keep costs down, more defense contractors will move to flexible manufacturing systems. It is in the national interest for defense contractors to rely on U.S. suppliers to build flexible manufacturing systems of superior qualify at competitive prices rather than to rely on foreign suppliers for the means to produce U.S. weapon systems."

But despite recognition of the importance of advanced manufacturing technologies to production, the U.S. is becoming increasingly foreign source-dependent. To respond to this threat, several programs, including the National Center for Manufacturing Sciences (NCMS) and Sematech, have been initiated to accelerate the creation, development and implementation of advanced manufacturing process technologies. But the impact of these major commitments to our manufacturing industries will be lost without a similar commitment to training the skilled technicians needed for its implementation. Adequate training programs for this purpose simply *do not exist*.

The Office of the Secretary of Commerce is now fully aware of this training problem and is involved in steps to help resolve it. An inter-agency task force consisting of representatives from the Department of Defense, Commerce, Labor, and Education is developing a "Memorandum of Understanding" between the agencies to cooperate in the Focus: HOPE Center.

The Center will be a cooperative cost-sharing project between the federal government, state and local governments, private foundations, and private industry. The initial investment by the Commerce Department will be highly leveraged with grants and contracts from the private sector.

The Focus: HOPE Center for Advanced Technologies will take entry level machinists through three achievement stages of increasing skill. At three years, student-workers will perform well above the journeyman machinist level; at four and one-half years, they will have achieved journeyman competence in a second related trade such as toolmaking or electronics; at six years, following extensive cross-training, they will be fully qualified technicians in the operation, maintenance, repair and modification of state-of-the-art flexible manufacturing systems.

The Center will help bring advanced technology from research and development into end-stage production processes, the key to enabling more American companies to fulfill contracts requiring high-technology equipment and application.

Mr. President, technical skills training is vital to the overall strength of the U.S. industrial base. The current shortage of skilled machinists and the lack of technicians trained in advanced manufacturing technologies have constituted a tremendous barrier to the full incorporation of new manufacturing processes, and have become a threat to the productive capacity of our industrial base. This must be corrected.

Mr. WEICKER. Mr. President, I rise in support of H.R. 2763 the fiscal year 1988 Commerce, Justice Appropriations bill, which contains the appropriations for the Small Business Adminstration [SBA]. The bill contains full funding for SBA programs for next year; it provides a total appropriation of $467,397,000 for the agency.

Mr. President, 2 years ago during consideration of the budget resolution the Senate Republican leadership and I reached an agreement with the administration to maintain the SBA as an independent agency through the end of fiscal year 1988. That agreement was codified with the enactment of Public Law 99-272 which authorized the SBA for fiscal years 1985-88. This appropriations bill funds the agency for the third and final year of SBA's current authorization.

More specifically the bill provides $311,660,000—including a transfer of $92 million from the disaster loan fund—for the salaries and expense account for SBA. This recommended funding level will permit the staffing at SBA to continue at its current level. Most of the programs and activities funded out of this account would be kept at their current levels: The minority small business office and section 7(j) Management and Technical Assistance Program, the Small Business Development Center [SBDC] Program, the Procurement Assistance and the Veteran Assistance Offices would all be funded at about their fiscal year 1987 level. A slight increase is provided for the Finance and Investment Office. With this increase for finance and investment, it is my hope that SBA will devote more resources and staff to its loan making and servicing functions. An increase in funding is also provided for the Office of the Inspector General.

Under the business loan and investment fund the bill provides sufficient funding for the agency lending programs to operate at fiscal year 1987 levels; a total of $97 million for direct loans is recommended. This modest amount of direct loan funds are targeted to the handicapped, minorities and veterans. Guarantee loan authority of $3,154 million is provided. This includes a program level for the Small Business Investment Company [SBIC] Program at $233 million; the Certified Development Company section 503/504 loan programs would be increased to $450 million from $373 million; which is consistent with the action taken earlier this year by the authorizing committee under Public Law 100-

72. That law took the Certified Development Company [CDC] Program out of the Federal Financing Bank [FFB] by increasing the authorized level for the 504 program.

The bill also contains funding to pay for losses incurred under the Small Business Surety Bond and Pollution Control Contract Guarantee Programs.

In addition to program funding levels the bill also contains two important limitations on the use of funds which are intended to preclude the administration from taking actions which Senator Bumpers, chairman of the Senate Small Business Committee, and I agree could have a detrimental effect on the agency and its loan programs. Specifically, I am referring to language in the bill which would prohibit the SBA from implementing the sale of loan assets and from imposing new or additional user fees in agency programs.

When the administration first proposed the elimination of the SBA an integral part of their proposal was the sale of SBA loan assets. At that time the committee looked at the projected yields on those proposed sales very closely. Our concern then was that the return to the Government was very low and they are not any better now. In the President's budget the estimated return for some sales was as low as 14 cents on a dollar. SBA's normal collection rate on its business loan portfolio is in the range of 70 to 80 percent. Clearly, to sell at the returns projected by SBA the loan portfolio would represent a loss to the taxpayer. Rather than to simply allow such sales to take place administratively, I believe the loan sales should be carefully reviewed by the Congress and should have specific congressional approval.

Last year the Congress authorized under the 1987 Budget Reconciliation Law the pilot sale of loan assets. Approximately $9.8 billion of loans were authorized to be sold to yield $6.3 in receipts. That was done to reduce the budget deficit. The proposed sale of SBA loans, I might add were not authorized under the 1987 Reconciliation Act.

This year the Senate budget resolution included language that loans not previously authorized by law should not be treated as revenues, receipts, or negative outlays. Indeed, that resolution included language that states, "It is the sense of the Congress that the United States Government should sell assets to non-governmental buyers in the following amount: $0." As it applies to SBA, section 609 of this bill is consistent with the budget resolution, House Concurrent Resolution 93, adopted earlier this year by the Congress, in this statement of policy.

Beside proceeding without specific congressional approval there are other reasons to be concerned about the proposed loan asset sales. The administration has insisted that loans should be sold without recourse to the Federal Government. For SBA borrowers, that would appear to mean a loss of forebearance by the loan purchasers. Private investors who purchased the loans probably would not be willing or able to be as flexible as SBA in their collection practices. For many borrowers, such as economically strapped farmers who have SBA disaster loans, this could be a real hardship.

Another serious programmatic concern with asset sales, is the loss of loan repayments going into a revolving fund. Currently, Congress appropriates to SBA revolving funds to pay losses on defaulted guaranteed loans. By selling loans, the revolving funds would be depleted of income and we would only have to appropriate additional funds in the future to maintain current program levels.

Even though it was not included in reconciliation, during fiscal year 1987 the SBA had a pilot disaster loan sale approximately $40 million of unsecured home loans of $5,000 or less was offered for sale back to the borrowers. The closing date for borrowers to respond to SBA's offer on that sale was September 30, 1987. Final results on that sale are not yet tabulated, but preliminary results indicate that only a few borrowers responded. SBA has indicated informally only 7 percent of borrowers responded to this prepayment offer.

On August 7, 1987, Senator Bumpers and I wrote to SBA Administrator James Abdnor to ascertain his plans for selling loans in fiscal year 1988. His response indicates that the Administration plans to proceed with the sale of loans as set forth in the President's budget although clearance on the schedule had not been approved by OMB. Recently, we received a letter from Administrator Abdnor stating his objections to section 609 of the bill. The letter asserts that asset sales would lead to improved loan management at SBA and reduce demand on SBA staff and resources. It also mentions asset sales could be used to reduce the deficit or fund current activities. Finally, it assures us that the Administration is proceeding cautiously with asset sales to insure the best possible return to the Treasury. It cites other recent asset sales as evidence of the Administration's intent to maximize the best possible return for the taxpayer on assets sold. It also asserts that borrowers rights will be unaffected by sales.

Mr. President, while the letter touches on most of our concerns, it does not explain how these objectives will be achieved. In the August 7 letter, we asked for a copy of the report of the SBA financial adviser. We were told that we would be provided with a copy of that report when it was completed. As far as I know, that report which presumably would advise SBA on packaging loans for sale has not been completed. I agree that we should proceed cautiously with the sale of these loans. It seems until the report is completed and reviewed, we do not know how these objectives will be achieved. The Administration's objection to this provision seems to belie their stated intention to proceed cautiously. Until the committee has had an opportunity to review the financial adviser's report, we believe it would be unwise to permit the proposed sales and thus I urge my colleagues to support the language in the bill to prohibit the sale of loan assets.

It is not our intent to interfere with the sale of SBA loans under the SBIC and section 504 CDC programs. These programs are funded through the sale of SBA-guaranteed debentures to private investors and we want those programs to continue. Nor do we intend to interfere with the operation of the sale of SBA-guaranteed 7(a) "secondary market" program. We do, however, intend to prohibit the sale of SBA loans which would strip the revolving funds of income.

The second limitation in the bill would preclude the SBA from imposing a whole host of new and additional user fees. Among the proposed fee increases that concern include: Increased fees for SBIC guarantees and examination fees; an increase in fees for surety bond guarantees; imposition of fee for Small Business Institute [SBI] counseling and a new $100 fee for section 8(a) applications. Again by primary concern is the impact of these fees on programs. For the past 2 years, the Administration has tried to eliminate the agency and many of its programs. There is a legitimate concern that many of the fees which are being proposed may have the effect of further dampening demand for these programs.

Mr. President, I urge my colleagues to support the adoption of the bill.

A "NO" VOTE ON THE COMMERCE, JUSTICE, STATE APPROPRIATION

Mr. PROXMIRE. Mr. President, I am going to vote against this bill. The Legal Services Corporation alone has increased by $4.5 million from last year. The National Bureau of Standards managed last year with $37 million less than the proposed bill for this year. This bill is close to $1 billion over last year. That is a 5.7-percent increase. It is too much.

Mr. PELL. I want to add my voice to that of Senator Boschwitz in support of the United States contribution to the United Nations' International Forces in Lebanon [UNIFIL].

The peacekeeping function of the United Nations is among the most important roles of the United Nations as an international institution. In the

Sinai, on the Golan Heights, in Cyprus, and in Lebanon these U.N.-sponsored peacekeeping forces have played a useful role in disengaging combatants, or, as in Lebanon, in trying valiantly to stem the flow of weapons and saboteurs across tense borders.

In this connection, UNIFIL performs a valid role in the southern part of Lebanon. Without UNIFIL's 5,600-man contingent Israel's northern border communities would be exposed to even more risk than they presently are.

This year the administration's request for a U.S. contribution was a modest $19.3 million. The House Appropriations Committee has recommended a level of $18.7 million. Unfortunately the Senate subcommittee has recommended that the United States contribute nothing to UNIFIL's operating budget. I believe that is a recommendation that merits reconsideration when the House and Senate conferees meet on this appropriations bill. If the United States withdraws its contribution the international peacekeeping commitment could be seriously undermined.

The funds are modest enough, and the commitment UNIFIL represents serious enough, that this issue ought to be revisited in conference.

PULLING THE PLUG ON THE FCC MINORITY PREFERENCE INQUIRY

Mr. LAUTENBERG. Mr. President, I rise to support the bill and to address a provision I proposed that pulls the plug on an unwarranted inquiry by the Federal Communications Commission into longstanding policies to promote minority and women ownership of broadcasting properties. I want to applaud the chairman of the Subcommittee, Senator Hollings for including this provision in the bill.

The bill bars the Federal Communications Commission from expending funds to repeal, retroactively restrict, or continue a pending reexamination of, longstanding rules to promote the ownership of broadcasting licenses by minority group members and women. The FCC had commenced an inquiry, "In the Matter of Reexamination of the Commission's Comparative Licensing, Distress Sales and Tax Certificate Policies Premised on Racial, Ethnic or General Classifications," MM Docket No. 86-484, which calls into question the advisability and legality of these rules.

I believe the inquiry is unwarranted. Important goals of our communications policy should be the promotion of diverse viewpoints, and service to diverse audiences. To meet these goals, it is important that we promote diversity of ownership of broadcast licenses. The Congress has found that promoting diversity of ownership of broadcast properties satisfied important public policy goals. Diversity of ownership results in diversity of programming and improved service to minority and women audiences. Congress so found, when it included minority preferences in the law authorizing lotteries as a means for distributing low power television licenses.

The courts so found, when they upheld minority preferences. The Court of Appeals said, "Under our decisions, the Commission's authority to adopt minority preferences * * * is clear." *Steele* v. *FCC*, 770 F.2d 1192, 1196 (D.C. Cir. 1985).

The intent of our provision is that the FCC should close down its proceeding. It should reinstate the policies regarding comparative licensing, distress sales and tax certificates that were in effect before the inquiry was commenced. Moreover, the Commission should resolve the status of those licenses that have been held in limbo because of the inquiry.

As recently as 10 years ago, there were fewer than 60 minority-owned broadcast licenses. Now, there are 250. The FCC has not only cast doubt on future progress in this area, it has beclouded the status of current license applicants.

The bill puts an end to the Commission's unwarranted proceeding. I support the provision and the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. For the information of our colleagues, we have just about completed our work. The distinguished Senator from Ohio and perhaps another Senator have amendments and we are trying to work that one out. Pending its being worked out, whether we will have a little debate and one rollcall on it and final passage—maybe two rollcalls, or otherwise—if it can be worked out, and a rollcall on final passage.

For the moment, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR GARN'S FOURTH GRANDCHILD ARRIVES—SPENCER JACOB GARN

Mr. GARN. Mr. President, I would not have interrupted the business of the Senate on the appropriations bill but due to the fact that the distinguished Senator from South Carolina is waiting, I would like to take the floor on a matter of personal privilege and announce the fact that my fourth grandchild was born about 2 hours ago. My children are well balanced off at two boys and two girls. And little Matthew—not Matthew, that is my last son, who happens to be 9.

Spencer Jacob Garn was born about 2 hours ago, in Salt Lake City, weighs 8 pounds 7 ounces, 21½ inches tall, and has a great deal more hair than his grandfather already.

I thank the distinguished chairman of the committee for allowing me to break in, but all of you who are grandfathers know how proud we are and I just felt his birth ought to be noted in the Congressional Record.

The PRESIDING OFFICER. The Presiding Officer proudly says that he joins with the Senator from Utah and wants to say that we all share his joy.

Mr. HOLLINGS. There is no question that most any child born at this particular time would have more hair than the distinguished Senator from Utah. However, there is no one more deserving. We all remember the particular sacrifice our colleague from Utah made with respect to one of his own children. We are extremely proud of this fourth grandchild. I am proud to congratulate a grandfather astronaut. Can you imagine sending grandfathers up in space? It is a remarkable accomplishment. It has never really been noted. The distinguished Senator from Utah deserves congratulations and I heartily join in.

Mr. SYMMS. Mr. President, I would like to say that many, many of the people in my State are in an area of Idaho where all of the television in that particular neighborhood, in Franklin County, comes from Salt Lake City. I had the opportunity last summer to have the distinguished Senator from Utah there campaigning with me and we found out very rapidly that most of them thought that Senator Garn was their Senator and they wanted to get acquainted with Senator Symms because they saw more of him on Salt Lake television than they did me.

I know that speaking to him for my constituents in the State they would wish to join in the congratulations and hope that his grandchildren will do as well as his family. I understand his parents had 52 grandchildren.

Mr. GARN. My grandparents had 52 grandchildren.

Mr. SYMMS. I join in the congratulations of my colleague.

Mr. HELMS. Mr. President, I came in from the cloakroom to congratulate grandpa on his latest accomplishment. I had tried to figure out some way that we could bypass having children and just go into the grandfather business. I just wonder if the Senator from Utah has any pictures of his grandchildren. I wanted to compare notes with him.

Mr. GARN. I thank the Senator. I obviously do not have a picture of the latest one, but I will be happy to show the others.

COMMERCE, STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1988

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, let me state to the Senate that our distinguished colleague from New Hampshire, Senator Rudman, is working out with the interested parties a particular amendment that can be accepted. It should be here momentarily.

Let me ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I hope that passage will occur in the next 10 to 20 minutes, perhaps even quicker. Let us just see how that works out. I know everyone is waiting, trying to find out when the final vote will occur this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Lautenberg). Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, an amendment was accepted by my senior colleague from New Hampshire, Senator Humphrey, on the issue of philosophical problems of employees in the Bureau of Prisons participating in any way in the procuring of an abortion for a female prisoner. Senators Packwood and Metzenbaum then asked for another provision to be added. That section reads:

> Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal prison.

It was Senator Humphrey's concern that it be very clear that the language had no effect in diminishing the effect of his amendment, which was accepted by the committee. We can assure him it has no diminishing effect. To assure that, a section will be added that says:

> *Provided,* that nothing in this section in any way diminishes the effect of section—

Whatever the number will be—

> intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

I just want to make it clear that that is the intention of the managers.

I yield the floor, and my colleague from New Hampshire will probably seek recognition.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I think all Senators know how clever words can be and how even more clever experienced bureaucrats can be in creating loopholes where they think they find the materials to do so. Frankly, I think the amendment now pending is quite unnecessary, but I am willing to accommodate the concerns of my colleagues.

The first part of the amendment states "Nothing in the preceding section" the Humphrey amendment "shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility."

Well, nothing in the preceding section removes or was intended to remove or does indeed remove the obligation of the Director of Prisons to provide escort. Some Senators have expressed concern on that point. I am willing to support this amendment.

But I want to make it perfectly clear—I think it is already perfectly clear in the legislation, but I want to make it even more perfectly clear for the bureaucrats and lawyers in the Bureau of Prisons that nothing in this amendment diminishes in any way the effect of the Humphrey amendment adopted earlier which provides protection to conscientious objectors in the area of abortion services.

I want to be sure that the managers on both sides of the aisle interpret this in the same manner as the Senator from New Hampshire. I know Senator Rudman already so stated. I would be much comforted if the Democratic manager would likewise express his understanding of this amendment.

Mr. HOLLINGS. I definitely agree with the interpretation of the distinguished Senator from New Hampshire.

Mr. HUMPHREY. Fine. So there is now no question, in the legislation before us, no question with respect to the colloquy that we have just had, that any person, any individual who is under the direction of the Director of the Bureau of Prisons may exempt himself or herself from any activity which in any way facilitates the performance of an abortion with respect to a prisoner within the Bureau of Prisons or for that matter an employee of the Bureau of Prisons. There is complete, airtight, leakproof protection for those who have a conscientious or philosophical objection to participating in any activity which in any way, however directly or remotely, facilitates the performance of an abortion.

Is that lawyerly enough?

Mr. RUDMAN. If my colleague will yield, I expect he has been going to night law school.

Mr. HUMPHREY. I thank my colleague for his cooperation.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I am going to send an amendment to the desk in a moment. It will be the last amendment, I believe, before final passage. The way it is worded, I will tell my senior colleague, it will follow directly after amendment No. 988, which is the amendment that was accepted by the committee as offered by my senior colleague, Senator Humphrey.

I send that amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from New Hampshire [Mr. Rudman] proposes an amendment numbered 1005.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Immediately following the section added by amendment 988, add the following new section:
>
> Section . Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the federal facility. : *Provided,* That nothing in this section in any way diminishes the effect of sec.   intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

Mr. RUDMAN. Mr. President, this amendment was precisely described by Senator Humphrey. I concur with his description. It will immediately follow his amendment. It should be understood with absolute clarity that the intention of the Humphrey amendment is reflected in our bill and I believe it is acceptable to Senator Hollings as well.

Mr. HOLLINGS. It is acceptable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1005) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Are the managers of the bill completed with the amendments to be offered?

Mr. HOLLINGS. We think those are the amendments. Momentarily, I am awaiting a colloquy with the Senator from Ohio. We will wait a couple minutes. The Senators may go right ahead.

Mr. GRAHAM. I appreciate, Mr. President, the distinguished managers of the bill giving me the opportunity to make a few comments.

First, I commend the chairman and the ranking member of the subcommittee for the outstanding budget which they have prepared on these important Federal agencies.

I would like to make a brief comment on what I see as a serious crisis of policy decisions for the Federal Government which will have major implications in terms of carrying out one of the basic functions of any government and major implications to State and local government.

That is the question of the Federal penal system. This Congress in recent years has enacted a number of new Federal criminal justice procedures. These included the sentencing guidelines proposal, antidrug abuse legislation of 1986, and the career offender provisions of the Comprehensive Crime Control Act of 1984.

All of those provisions are going to place additional pressure on the Federal criminal justice system and especially on the end of that system which is the Federal Bureau of Prisons. We have seen already a dramatic increase in the number of inmates in the Federal Bureau of Prisons. That number has approximately doubled in just the last 6 years.

The projections are that between now and the end of this century the numbers will increase from approximately 40,000 to a low estimate of 83,000 and high estimate of 165,000 by the beginning of the 21st century.

What are the implications of those projections of Federal populations within our penal system? The implications are that either, one, we reassess what we as a society expect the Federal Government to do in terms of protecting our citizens or, No. 2, we begin to take the necessary steps in order to meet the logical implications of those numbers or, three, we begin to avoid the implications by placing additional responsibility at the State and local level.

That is what has been happening, Mr. President, increasingly and especially in those States that have been impacted by issues of drugs and illegal refugees who then commit felonies. Those are areas which have major Federal- and State-shared responsibilities and which the Federal Government has the opportunity to make it a total State responsibility.

Federal prosecutors, by setting high thresholds of criminal activity in order to prosecute a criminal act such as a drug trafficking offense, which is a felony under both Federal and State law, requiring that those cases be processed through the State system, can and have and will increasingly be placing those responsibilities at the State level.

Felons who are here as aliens, legal or illegal, and who should be the responsibility of the Federal Government, can again be neglected in terms of Federal responsibilities and force the States to accept this responsibility.

Many of our States, including regretfully my own, under various Federal court orders in terms of their prison population in relationship to space, medical facilities, educational facilities, and legal access have had tremendous strains placed on their penal systems.

I suggest, Mr. President, that as a major area of continuing responsibility, monitoring, action, and particularly the will to appropriate the funds necessary to meet these staggering projections of increases in our Federal penal system this Senate needs to gird itself for a very major challenge. We cannot afford to send a message to our society that this Congress is unwilling to accept the consequences of actions which it has taken designed to protect our people against those who would violate the order of our Nation, and that we are not going to see this responsibility continue to be shifted to levels of government, particularly our States, which are already under major financial constraints and which face burgeoning prison populations from the enforcement of their State laws and cannot accept the additional burden of incarcerating inmates who should be Federal charges.

Mr. President, I know this has been an area of personal interest to the chairman of the subcommittee. I ask this continue to be a subject of major attention for his subcommittee and for this Senate.

Mr. President, I ask unanimous consent to submit a statement which was made by Mr. William J. Anderson, Assistant Comptroller General, in which he outlines a study done by the U.S. General Accounting Office as to the guidelines and their potential impact on Federal prison population. And that policy analysis provides an overview of what this Congress is going to be faced with in terms of meeting the population growth within our Federal Bureau of Prisons. I ask unanimous consent to submit that.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENTENCING GUIDELINES: WHAT IS THEIR POTENTIAL IMPACT ON FEDERAL PRISONS?

(Statement of William J. Anderson, Assistant Comptroller General)

Mr. Chairman and Members of the Subcommittee: We are pleased to be here today. As you requested, our testimony will present the results of our review work to date on the United States Sentencing Commission's estimates of the impact of its sentencing guidelines on federal prisons.

BACKGROUND

The Comprehensive Crime Control Act of 1984 (Public Law 98-473) established the United States Sentencing Commission as an independent agency within the judicial branch. The Commission is composed of seven voting and two nonvoting members. Its principal purpose is to establish sentencing policies and practices for the federal criminal justice system, including detailed guidelines prescribing the appropriate form and severity of punishment for offenders convicted of federal crimes. The guidelines are intended to reduce unwarranted sentencing disparities among offenders with similar criminal backgrounds who commit similar crimes. Under the guidelines' system, parole will be abolished and sentenced offenders will serve their entire sentences, less any good time credit—time reductions from their sentences for good behavior.

As required by the law, the Commission submitted its proposed guidelines to Congress on April 13, 1987. The guidelines were approved by six of the commissioners, with one commissioner dissenting. The guidelines will go into effect on November 1, 1987, unless Congress passes a law to delay or stop their implementation. In submitting the guidelines, the Commission unanimously recommended that Congress delay their implementation for 9 months, or until August 1, 1988. The Commission wants this additional time for field testing the guidelines, training court officials, and proposing any necessary amendments to the guidelines before they go into effect.

Section 235 of Public Law 98-473 requires GAO to report to Congress within 150 days after the Commission submits its guidelines (by September 10, 1987) on the potential impact of the sentencing guidelines on the federal criminal justice system. In response to that requirement, we have been monitoring the Commission's activities and reviewing drafts of the guidelines. On July 13, 1987, one of your representatives asked us to be prepared to testify today on the Commission's study of the impact of the guidelines on federal prisons.

To address the prison impact issue, we reviewed (1) the Commission's June 18, 1987, *Supplementary Report on the Initial Sentencing Guidelines and Policy Statements* which contains a summary of the Commission's prison impact study; and (2) a draft of its technical report being prepared to further explain the methodology for its study. We also interviewed Commission officials responsible for preparing the impact study and Federal Prison System (FPS) officials responsible for estimating future federal prison populations and preparing building plans for federal prisons.

The Commission believes that its sentencing guidelines will have a minimal effect on future prison populations. However, the Commission expects there will be significant growth in the federal prison population over the next 10 to 15 years primarily because of the mandatory minimum penalties required by the Anti-Drug Abuse Act of 1986, increases in federal prosecutions and convictions, and increased sentences required by the career offender provisions of the Comprehensive Crime Control Act of 1984. If the Commission's estimates prove to he accurate, it could cost several billion dollars over the next decade to build prisons for the additional inmates. Also, the increased prison population would, by 1997, add as much as $1 billion a year to the cost of inmate custody, care, and rehabilitation programs.

PRISON IMPACT

Between 1970 and 1986, the federal prison population increased signficantly (averaging about 4.3 percent a year), with periods of sharp increases occurring from 1975 to 1978 and 1980 to 1986. From 1978 to 1980, a decrease in prosecutions contributed to a sharp decline in the federal prison population.

In fiscal year 1970 the average daily population was about 21,000.

In 1975 the population was about 23,000 and grew to about 30,000 in 1978, a 30.4 percent increase over 3 years.

The population dropped from 30,000 in 1978 to about 24,000 in 1980, a 20.0 percent drop in 2 years.

The population drew from about 24,000 in 1980 to about 39,000 in 1986, a 62.5 percent increase over 6 years.

FPS estimates that the average daily population for 1987 will be 42,000, a 7.7 percent increase in 1 year.

As of July 2, 1987, FPS reported that 43,507 inmates were in federal prisons. This was 15,581 (about 56 percent) more than the system's rated capacity of 27,926. An additional 5,031 prisoners were housed in contract facilities.

FPS officials said that overcrowding is the principal issue facing federal prisons. Prison overcrowding increases the likelihood of violence and puts the staff in greater danger. It also results in inmates being housed in less than generally acceptable conditions and makes providing efficient and effective operations and programs more difficult. To address the overcrowding problem, FPS plans to build more prisons and expand the capacities of some existing facilities.

Section 994(g) of Public Law 98-473 directs the Sentencing Commission to estimate the impact of its sentencing guidelines on the federal prison population. This section of the law also requires that the Commission make recommendations to Congress concerning any change or expansion in the nature or capacity of federal correctional facilities and services as a result of the guidelines. On June 18, 1987, the Commission provided a supplementary report to Congress that contained a prison impact study estimating dramatic increases in the future federal prison population. However, the Commission has not yet determined the number or types of facilities that would be needed to house the increased prison population it projects, although it plans to do so.

The Commission's study pointed out problems in forecasting prison populations, including the absence of reliable methods for predicting future crime rates and changes in the level of federal prosecutions and enforcement priorities. The study also noted that uncertainties about sentencing under the guidelines made forecasting the effects of the guidelines on prison populations especially difficult. For example, the study pointed out that the proportion of defendants who plead guilty could change under the guidelines. According to the Administrative Office of the United States Courts, during the 12-month period ending June 30, 1986, about 86 percent of the criminal cases were decided through guilty pleas. Similarly, the authority of judges to depart from the guidelines (even though they must provide a written explanation) creates uncertainty about the ultimate impact of the guidelines.

After pointing out the unknowns concerning the guidelines' effect on future prison populations, the study explains how the Commission estimated this impact. Generally, the Commission analyzed sentencing practices for a sample of about 10,500 offenders who were convicted during fiscal year 1985. Then, working with FPS, the Commission developed a computer simulation model to project future prison population on the basis of a variety of factors, including: (1) current practice; (2) anticipated prosecution trends; (3) the Anti-Drug Abuse Act of 1986 (which requires, among other things, mandatory minimum sentences for certain drug offenders); (4) the career offender provisions of the Comprehensive Crime Control Act of 1984 (which require, among other things, substantial prison terms or terms at or near the maximum prescribed by law for certain repeat offenders); and (5) the guidelines.

[Figure 1 and table 1 not reproducible for the RECORD.]

Because future prosecution policy cannot be anticipated, the Commission projected prison impact for 1992, 1997, and 2002 using alternative assumptions concerning prosecution/conviction rates, plea negotiation practices, and the extent that judges would depart from the guidelines' sentences. The Commission's prison population estimates range from 67,000 to 83,000 for 1992, 78,000 to 125,000 for 1997, and 83,000 to 165,000 for 2002.[1] Compared to the 42,000 inmates estimated for 1987, these translate into increases which range from about 60 to 98 percent for 1992, 86 to 198 percent for 1997, and 98 to 293 percent for 2002. Figure 1 illustrates the Commission's estimated prison population growth.

The Commission's estimates indicate that the population of federal prisons will increase dramatically primarily because convictions will increase, sentences that do not include confinement (probationary sentences) will be reduced significantly, and the average time served for drug related, violent, and repeated offenses will increase substantially. According to the Commission's study, the use of straight probation without any confinement will decrease under the guidelines for all nine offense types that they analyzed. In addition, the use of some type of confinement combined with probation will increase under the guidelines for six of the nine offense types analyzed. The Commission also estimates that the average imprisonment time will increase under the guidelines for seven of the nine offense types analyzed.

The Commission believes that the most significant factors contributing to future prison population increases will be growth in the number of prosecutions and the mandatory minimum sentences required by the new anti-drug law. The Commission attributes some of the growth to the longer sentences required under the career offender provision of the Comprehensive Crime Control Act. It attributes a relatively modest amount of the increased prison population to the guidelines themselves. Table 1 shows the extent that the Commission believes each of these factors will contribute to growth in the federal prison system from 1987 to 1997 under two of its scenarios.[2]

We are still in the process of reviewing the Commission's methodology for estimating prison impact. On the basis of our work so far, the Commission's methodology appears reasonable. The Assistant Director for Administration of FPS told us that FPS staff worked closely with the Sentencing Commission in developing the Commission's prison population projection model. While recognizing the inherent difficulties of all prison population projection methodologies, this official said that the Commission's range of estimates and their underlying assumptions are reasonable. He added that it is highly probable that FPS will eventually use the Commission's model, with possible modifications, to estimate future prison populations.

ESTIMATED COST OF INCREASED PRISON SPACE

Before the Commission submitted its proposed guidelines and prison impact estimates to Congress, FPS had planned to add 16 new prisons and expand the capacity of 38 (about 81 percent) of the existing 47 correctional facilities at a cost of about $900 million. FPS estimated that their prison population would be 55,200 by fiscal year 1993, and that they would have an overcrowding rate of about 20 percent (which calculates to a base capacity of 46,000). However, that estimate did not include the additional prison space that will be needed because of the Anti-Drug Abuse Act of 1986, the career offender provisions of the Comprehensive Crime Control Act of 1984, or the sentencing guidelines.

FPS' April 1987 cost estimates for new minimum/medium security correctional facilities indicate an average cost per bed of about $66,000. Applying that cost figure to the difference between the Sentencing Commission's estimated population and the approximate 34,500 bed capacity that has been funded by Congress (current capacity of about 28,000 beds plus about 6,500 beds in process) would provide a rough estimate of the cost to build new facilities for the additional prisoners.

Using the Commission's previously discussed 1997 populations of 92,000 and 118,000, FPS would need space for 57,500 to 83,500 additional prisoners at a cost of about $3.8 to $5.5 billion to totally eliminate overcrowding. To achieve a 20 percent overcrowding rate, which is FPS' goal, FPS would need 42,200 to 63,800 more spaces at a cost of about $2.8 to $4.2 billion.

These estimates do not reflect the higher costs likely because of future inflation. Also, the costs could be higher if FPS has to build proportionately more maximum security facilities. Maximum security facilities are more expensive than medium or minimum security facilities. Similarly, costs would be lower if more minimum security facilities were built. Further, the costs could be reduced to the extent that FPS can avoid constructing new prisons by using lesser cost alternatives, such as (1) expanding the capacity of existing federal prisons; (2) placing more offenders in state and local correctional facilities; (3) making greater use of halfway houses; or (4) acquiring facilities no longer needed for their original purpose. FPS officials believe the first two alternatives will not provide much relief because they are already expanding existing facilities to the maximum extent possible and because state and local facilities are currently overcrowded. Any need not met by these four alternatives would most likely have to be satisfied by new construction.

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[1] The Commission believes its 1992 estimates are the most accurate, its 1997 estimates are somewhat less accurate, and its 2002 estimates are very speculative.

[2] We used these two scenarios because they contain estimates that fall between the Commission's lowest and highest estimates for 1997. Also, these are the two basic scenarios that the Commission discusses extensively in its study.

Besides the money needed to provide additional prison space, a greatly expanded prison population would substantially increase the funds needed by FPS to operate and maintain its prisons and to provide for inmate custody, care, and rehabilitation programs. For fiscal year 1986, FPS' operating costs were about $13,100 per inmate. Using that figure and ignoring any inflation or productivity improvements, FPS could need additional operating funds of as much as $650 million to $1 billion annually to house the 50,000 to 76,000 additional prisoners that the Sentencing Commission estimates for 1997.

This concludes my prepared statement. We hope this information will assist the Subcommittee in its deliberations. We would be pleased to respond to any questions.

Mr. RUDMAN. Mr. President, before we go to final passage, I again want to thank my colleague, the distinguished chairman of the subcommittee, Senator HOLLINGS. I think what has happened here on the floor in about 2½, 3 hours, is that we have had no contentious debate, and we have had no rollcalls until final passage. That says something about the distinguished chairman's leadership on this committee.

I thank him again for his hard work. I thank the staff on both sides for their work on this bill.

Mr. HOLLINGS. Mr. President, let me thank John Shank and Santal Manos of Senator RUDMAN's staff for the usually outstanding job done by our staff; let me thank Warren Kane, and Ms. Dorothy Seder, and more than anyone else, WARREN RUDMAN, who has chaired this and really engineered it. When we had to get something done, he just engineered it in the back room. If there are no further amendments, I move third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mr. EVANS], the Senator from Nebraska [Mr. KARNES], the Senator from Idaho [Mr. MCCLURE], and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM], is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 9, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—82

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—9

Armstrong
Conrad
Garn
Gramm
Helms
Humphrey
Proxmire
Roth
Wallop

NOT VOTING—9

Chafee
Evans
Gore
Karnes
Kassebaum
McClure
Metzenbaum
Simon
Symms

So the bill (H.R. 2763), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move that the Senate insist on its amendment to H.R. 2763, request a conference with the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. LAUTENBERG] appointed Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. CHILES, Mr. LAUTENBERG, Mr. SASSER, Mr. STENNIS, Mr. RUDMAN, Mr. STEVENS, Mr. WEICKER, Mr. HATFIELD, and Mr. KASTEN conferees on the part of the Senate.

Mr. HOLLINGS. I thank the distinguished majority leader. We are through.

Mr. BYRD. Mr. President, today the Senate passed two appropriations bills. The HUD bill H.R. 2783 and the Commerce, State, Justice bill, H.R. 2763. These are the sixth and seventh appropriations bills the Senate has passed this year. The managers of these bills, Senators PROXMIRE and GARN on the HUD bill and Senators HOLLINGS and RUDMAN on the Commerce, State, Justice bill were exemplary in their guiding of these bills to final passage.

The fact that both of these bills were disposed of in 1 day is an indication of the fine work these Senators and their staffs did in preparing these bills for floor consideration. The Commerce, State, Justice bill was completed with only one rollcall vote—and that was on final passage of the bill. I'd say this was the cannonball express today.

I commend Senators PROXMIRE and GARN and Senators HOLLINGS and RUDMAN for a job well done.

Mr. HOLLINGS. I thank the distinguished leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business and Senators may speak therein for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE OF COMMITTEE ON THE JUDICIARY FROM CONSIDERATION OF CERTAIN MEASURES

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee may be discharged from further consideration of the following measures: Senate Joint Resolution 53, Senate Joint Resolution 144, Senate Joint Resolution 168, Senate Joint Resolution 171, and Senate Joint Resolution 198.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the foregoing joint resolutions: Senate Joint Resolution 53, Senate Joint Resolution 144, Senate Joint Resolution 168, Senate Joint Resolution 171, and Senate Joint Resolution 198; that they be considered en bloc, passed en bloc, the preambles agreed to en bloc, the motions to reconsider en bloc be laid on the table, and that these measures be spread severally on the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolutions are as follows:

AMERICAN INDIAN WEEK

The joint resolution (S.J. Res. 53) to designate the period commencing November 22, 1987, and ending November

28, 1987, as "American Indian Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, is as follows:

S.J. RES. 53

Whereas American Indians were the original inhabitants of the lands that now constitute the United States;

Whereas American Indians have made a unique and essential contribution to the United States;

Whereas the people of the United States should be reminded of the assistance American Indians provided to the Founding Fathers of our Nation;

Whereas the people of the United States should consider the present relationship between American Indians and the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 22, 1987, and ending November 28, 1987, is designated as "American Indian Week", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

FINANCIAL INDEPENDENCE WEEK

A joint resolution (S.J. Res. 144) designating the week beginning October 18, 1987, as "Financial Independence Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, is as follows:

S.J. RES. 144

Whereas Americans seek to achieve a comfortable level of financial security to provide ongoing sustenance for themselves and their families; to secure the highest quality of education for their children; and to maintain a standard of living which enables them to enjoy the basic necessities of life;

Whereas financial planning provides a systematic process of sound financial advice and helps all Americans become more educated and sophisticated concerning the alternatives available to them as investors in the American economy; and

Whereas the members of the International Association for Financial Planning (IAFP), and the Institute of Certified Financial Planners (ICFP), along with the College for Financial Planning, a recognized financial planning educational institution, will join together to provide an educational message to all Americans during the celebration of the first Financial Independence Week: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 18, 1987, is designated as "Financial Independence Week" and that all citizens are urged to pursue financial independence through sound planning and management of their individual resources.

NATIONAL ADULT IMMUNIZATION AWARENESS WEEK

A joint resolution (S.J. Res. 168) designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to

The joint resolution, and the preamble, are as follows:

S.J. RES. 168

Whereas the Surgeon General of the Public Health Service launched a decade-long initiative in 1979 to reduce preventable death and disease among adults in the United States;

Whereas reducing the incidence of infectious disease through immunization is an objective of the initiative;

Whereas the Surgeon General established for influenza an immunization goal of 60 percent of the elderly and individuals with chronic illnesses and for pneumococcal pneumonia an immunization goal of 60 percent of individuals over the age of 40 and individuals weakened with underlying medical conditions;

Whereas, by the end of 1985, only 17.6 percent of the elderly and individuals with chronic illnesses were immunized against influenza and 10.3 percent of individuals over the age of 40 and individuals weakened with underlying medical conditions were immunized against pneumococcal pneumonia;

Whereas influenza, pneumonia, and other infectious diseases including measles, rubella, diphtheria, tetanus, and hepatitis B are among the top killers of adults in the United States particularly the elderly, despite readily available vaccines that have proven safe and effective by the Food and Drug Administration and could save the lives of tens of thousands of adults in the United States;

Whereas reducing the incidence of infectious disease through immunization would help decrease the high cost of health care in the United States; and

Whereas efforts to educate adults in the United States about the benefits of immunization generally are vital and will encourage more adults in the United States to be immunized against infectious diseases so that the immunization goals of the Surgeon General are met: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 25, 1987, is designated as "National Adult Immunization Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

A joint resolution (S.J. Res. 171) designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week," was considered, order to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 171

Whereas there are about one million two hundred thousand women veterans in this country, representing 4.2 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas women veterans continue to contribute greatly to our society in civilian life, bringing with them their valuable military service experience and expertise;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have in the past been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans was among the factors that tended to discourage or prevent women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces;

Whereas important steps have been taken to improve the accessibility and quality of health care for women veterans, yet women veterans are still far less likely than male veterans to utilize their Veterans Administration benefits; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 8, 1987, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contribution of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans, and to continue and reinforce important gains made in this regard in the last three years as a result of the designation of the first, second, and third National Women Veterans Recognition Weeks in November of 1984, 1985, and 1986: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 8, 1987, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

NATIONAL TOURETTE SYNDROME AWARENESS WEEK

A joint resolution (S.J. Res. 198) to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 198

Whereas Tourette syndrome is a neurological disorder which occurs in children between the ages of 2 and 16 and lasts for the remainder of the life of each afflicted child;

Whereas Tourette syndrome is characterized by repeated tic movements and involuntary vocalizations which are physically debilitating, socially crippling, and emotionally devastating;

Whereas an estimated 100,000 Americans currently suffer from Tourette syndrome and an additional 3,500,000 Americans suffer from less severe forms of this affliction;

Whereas the lack of knowledge about this disorder on the part of health professionals and the public causes additional hardships for those afflicted with Tourette syndrome;

Whereas greater public understanding of Tourette syndrome will encourage those persons currently diagnosed as suffering from this disorder, and nurture hope for those who are suffering from the disorder but whose afflictions have not been diagnosed or have been diagnosed incorrectly; and

Whereas thousands of caring volunteers and the families of persons afflicted with Tourette syndrome have devoted much time and energy to educate health professionals and the public about this disorder: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 2, 1987, and ending on November 8, 1987, is designated as "National Tourette Syndrome Awareness Week", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups and organizations, and all of the people of the United States to observe such week by engaging in appropriate activities and programs to show their support and concern for those Americans afflicted with Tourette syndrome.

DESIGNATING NOVEMBER 1987 AS NATIONAL HOSPICE MONTH

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.J. Res. 234, designating November 1987 as "National Hospice Month."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.J. Res. 234.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 234) to designate the month of November in 1987 and 1988 as "National Hospice Month."

Mr. BYRD. Mr. President, is there objection to going to that immediately?

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

AMENDMENT NO. 1006

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. Biden and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. BIDEN, proposes an amendment numbered 1006.

Amend line 3 by removing "and 1988".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1006) was agreed to.

The PRESIDING OFFICER. Are there further amendments to the joint resolution? If not, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 234) was passed.

The preamble was agreed to.

The title was amended so as to read:

To designate the month of November in 1987 as "National Hospice Month".

Mr. BYRD. Mr. President, I ask unanimous consent that the foregoing actions en bloc be reconsidered and laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 297—SENATE CENTRAL AMERICAN NEGOTIATIONS OBSERVER GROUP

Mr. BYRD. Mr. President, I send to the desk a resolution on behalf of myself and Mr. DOLE, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 297) amending Senate Resolution 273, (100th Congress), relating to the Senate Central American Negotiations Observer Group.

Without objection, the resolution (S. Res. 297) was considered and agreed to, as follows:

S. RES. 297

Resolved, That Senate Resolution 273 (One hundredth Congress; agreed to August 7, 1987) is amended—

(1) in section 3, by striking out "duty" and inserting in lieu thereof "duties";

(2) in section 4(b)—

(A) by inserting "(1)" immediately after "(b)";

(B) by inserting "and fix the compensation of" after "appoint"; and

(C) at the end thereof by adding the following new paragraph:

"(2) In addition to the staff personnel described in paragraph (1), the Chairman and Co-chairman each are authorized to designate one professional staff member who shall serve all of the members of the Observer Group and shall carry out such other functions as their respective Chairman or Co-chairman may specify. The funds necessary to compensate any such designated staff member who is an employee of a Senator or a Senate Committee may be transferred from the funds made available under section 6(a) of this resolution to the respective Senator's or Senate Committee's account from which such designated staff member is paid (including agency contributions when appropriate)."; and

(3) in section 6, by striking out subsections (a), (b), and (c)(1) and inserting in lieu thereof the following subsections:

"(a) The expenses of the Observer Group shall be paid from the contingent fund of the Senate, out of the account of Miscellaneous Items, upon vouchers approved jointly by the Chairman and Co-chairman (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate). For any fiscal year, not more than $220,000 shall be expended for staff (including consultants) and for expenses (excepting expenses incurred for foreign travel).

"(b) In addition to the amount referred to in section 6(a), for any fiscal year, not more than $80,000 shall be expended from the contingent fund of the Senate, out of the account of Miscellaneous Items, for Leadership staff as designated in section 4(c) for salaries and expenses (excepting expenses incurred for foreign travel).

"(c)(1) Of the amount authorized in section 6(a), an amount not to exceed $27,500 may be spent by the Observer Group, with the prior approval of the Committee on Rules and Administration, to procure the temporary services (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Observer Group.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BICENTENNIAL MINUTE

OCTOBER 15, 1888: SENATE NEARS END OF MARATHON SESSION

Mr. DOLE. Mr. President, on October 15, 1888 the Senate of the 50th Congress struggled to complete its work in the final days of what had then become its longest and perhaps least productive session.

The ingredients for stalemate were present in abundance. The Democratic Party controlled the Presidency and House of Representatives, while Republicans held a slim two-vote majority in the Senate. The major issue facing Congress concerned the management of a $100 million Federal Government surplus. Democrats called for lower tariffs to reduce the surplus, while Republicans were opposed to such a course and sought to spend the excess funds through generous pensions for Civil War veterans.

By mid-October, both parties had nominated their Presidential candidates and the general elections loomed less than 3 weeks ahead. As the Washington Star observed: "The importance of the session can not be judged by what was actually accomplished in the way of legislation. The mere passage, or failure to pass, a new tariff is not of as much consequence. The work of the session was the designation of the policies of the two parties and the clear presentation of each for approval or rejection by the popular voice."

Ninety-nine years ago today, the 30 Senators who remained in town found themselves embroiled in a heated debate over a widow's pension. As a sign of the tensions that had built up during the frustratingly over-long session, one Republican Senator branded Democratic President Grover Cleveland "An infamous libeler" for vetoing the private claim of a woman injured during the Civil War. But the votes—and indeed the Members—were not there to override Cleveland's veto. Five days later, only seven Senators were present when Congress adjourned. Up in the press gallery, correspondents expressed their thanks over the adjournment by singing the doxology's familiar lines: "Praise God from who all blessing flow."

CLASSROOM OVERCROWDING

Mr. CHAFEE. Mr. President, shortly I will be introducing legislation to address a problem which I feel has not received enough attention at the national level: Overcrowding in our Nation's classrooms. The bill I plan to introduce will offer incentive grants to school districts for the purpose of reducing the size of their classes.

Why reduce class size? Because smaller classes mean more attention for each child and a greatly improved atmosphere for both learning and teaching.

Read between the lines of almost any recommendation for school reform and you'll see one theme emerge: Students need more individualized instruction, more attention to the particular needs, and more contact with their teachers. Unfortunately, when one-third of teachers surveyed report having an average class size of more than 25, devoting more time to each student's individual needs quickly becomes a physical impossibility.

One simple example, taken from a just-released report to Gov. Edward Diprete of Rhode Island, will illustrate what I mean. The report, issued by a task force appointed to study school reform measures, pointed out that if a high school teacher teaches 5 classes of 24 students each day, he or she is directly responsible for 120 students. That teacher would need an additional 20 hours per week just to spend 10 minutes extra with each student. Accordingly, the task force recommended that class size be limited to 18, with a total load for teachers not exceeding 80 students; that kindergarten classes be limited to 15 pupils; and that the State offer aid as incentives to reach these goals.

Other States are also moving to fill the breach, and the reports are promising. The extra attention, possible smaller classes, often translates into higher achievement, particularly in the early grades. For example, children participating in a 2-year class-size reduction experiment in Indiana, scored higher on standardized tests and had fewer behavior problems than their counterparts in larger classes. Preliminary results from a class-size reduction project now going on in Tennessee have revealed that smaller classes allowed teachers to spend more time actually teaching: The smaller classes were quieter, with fewer student interruptions, and potential discipline problems were identified and resolved more quickly. This allowed teachers to spend more time with each student, to provide quicker and more thorough feedback, and to reteach concepts as needed. This greater individualization significantly reduced the need for reteaching.

During the school reform movement of the last 2 or 3 years a number of States have taken steps to reduce class sizes—passing laws or resolutions specifying maximum class size and committing additional funding to defray the costs. However, it is not surprising that reducing class size is often last on the list of school reforms: Being labor-intensive, it is a fairly expensive step to take.

This is where I feel the Federal Government can play a significant role by providing seed money for school districts that wish to pursue class-size reduction. Federal funds would work hand in hand with State and local funds being made available for this purpose, supplying the extra amount that is needed to get the project off the ground.

My bill will be designed to spur on the school districts that are already addressing the class-size problem, and encourage other districts to follow suit. Such a program would significantly advance our national interest in quality education for all children—and improving the quality of the education we give our children is our best shot at success in meeting the formidable challenge of the coming decades.

These challenges are rather starkly set out in a recent report from the Department of Labor—a projection of what the workplace of the future will require. The theme that resounds throughout this report—called Workforce 2000—is that our shift to a service economy will demand vastly greater skills from the workforce. Very few new jobs will be created for those who cannot read, cannot follow directions, and cannot use mathematics. And, for the first time in history, the majority of all new jobs will require a postsecondary education—compared with 22 percent today.

The implications could not, in my view, be more clear. An educated work force will be absolutely essential to our future prosperity and well-being as a nation; we simply will not be able to maintain our present standard of living without it. In every respect, then, it behooves us to give our young people the best schooling we possibly can. I believe my proposal will further that purpose, and I hope it will be favorably received in the Senate.

Thank you, Mr. President.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1666. An act to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

The enrolled bill was subsequently signed by the President pro tempore [Mr. STENNIS].

At 3:10 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2741) to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic games.

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 865. An act to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes; and

H.R. 866. An act to authorize certain construction at military installations for fiscal years 1988 and 1989, and for other purposes.

The message further announced that the House has passed the bill (S. 677) to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the

Senate bill and House amendments, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Florio, Mr. Lent, and Mr. Whittaker.

From the Committee on Rules, for consideration of section 13 of the Senate bill, and modifications committed to conference: Mr. Pepper, Mr. Moakley, Mr. Derrick, Mr. Beilenson, Mr. Frost, Mr. Quillen, and Mr. Taylor.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2712) making appropriations for the Department of the Interior, and related agencies for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Yates, Mr. Murtha, Mr. Dicks, Mr. Boland, Mr. AuCoin, Mr. Bevill, Mr. Whitten, Mr. Regula, Mr. McDade, Mr, Lowery of California, and Mr. Conte as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2713) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Dixon, Mr. Natcher, Mr. Stokes, Mr. Sabo, Mr. AuCoin, Mr. Hoyer, Mr. Whitten, Mr. Coughlin, Mr. Green, Mr. Regula, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2714) making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Fazio, Mr. Obey, Mr. Alexander, Mr. Murtha, Mr. Traxler, Mrs. Boggs, Mr. Whitten, Mr. Lewis of California, Mr. Conte, Mr. Myers, and Mr. Porter as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2907) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Roybal, Mr. Akaka, Mr. Hoyer, Mr. Coleman of Texas, Mr. Boland, Mr. Yates, Mr. Skeen, Mr. Lowery of California, Mr. Wolf, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2090. An act to designate certain National Forest System lands in the State of Montana for release to the forest planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 2961. An act to amend the Communications Act of 1934 to reauthorize the Federal Communications Commission, and for other purposes; and

H.R. 3189. An act to amend the Public Health Service Act to revise and extend the program for the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics.

MEASURES REFERRED

The following bills were read the first and second time by unanimous consent, and referred as indicated:

H.R. 2090. An act to designate certain National Forest System lands in the State of Montana for release to the forest planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3189. An act to amend the Public Health Service Act to revise and extend the program for the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second time by unanimous consent, and placed on the calendar:

H.R. 2961. An act to amend the Communications Act of 1934 to reauthorize the Federal Communications Commission, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 15, 1987, he had presented to the President of the United States the following enrolled bill:

S. 1666. An act to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1994. A communication from the Acting Director of the Congressional Budget Office, transmitting, pursuant to law, the Initial Sequestration Report for Fiscal Year 1988; pursuant to the order of January 30, 1975, referred jointly to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Intelligence, the Select Committee on Indian Affairs, and the Special Committee on Aging.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TRIBLE (for himself, Mr. Cohen, Mr. Mitchell, and Mr. Chafee):

S. 1788. A bill to protect the aquatic environment from certain chemicals used in antifoulant paints, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KASTEN:

S. 1789. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on long-term capital gains of individuals from 28 to 15 percent; to the Committee on Finance.

By Mr. GARN (for himself, Mr. Glenn, Mr. Moynihan, Mr. Warner, Mr. Trible, Mr. D'Amato, Mr. Sasser, Mr. Weicker, Mr. Armstrong, Mr. Durenberger, Mr. Quayle, Mr. Hatch, Mr. Johnston, Mr. Rudman, Mr. Boschwitz, Mr. Karnes, Mr. Matsunaga, Mr. Chiles, Mr. Hollings, Mr. Dole, Mr. Hecht, Mr. Specter, Mr. Wallop, Mr. Evans, Mr. Gore, Mr. Stevens, Mr. McClure, Mr. Bond, Mr. Wilson, and Mr. Inouye):

S. 1790. A bill to authorize the expansion of the National Air and Space Museum at Washington Dulles International Airport; to the Committee on Rules and Administration.

By Mr. D'AMATO:

S.J. Res. 203. A joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 297. A resolution amending Senate Resolution 273 (One Hundredth Congress) relating to the Senate Central American Negotiations Observer Group; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TRIBLE (for himself, Mr. Cohen, Mr. Mitchell, and Mr. Chafee):

S. 1788. A bill to protect the aquatic environment from certain chemicals used in antifouling paints, and for other purposes; to the Committee on Environment and Public Works.

ORGANOTIN ANTIFOULING PAINT CONTROL ACT

Mr. TRIBLE. Mr. President, along with Senators Mitchell, Cohen, and Chafee, I am introducing legislation to suspend the use of highly toxic marine paints containing organotin.

Today, over 70 percent of the world's commercial and recreational ships are covered with the antifouling paints known generally as organotin. These paints are also applied to buoys, crab pots, fish nets, and other marine structures.

Organotin paints are extremely effective in eliminating barnacles and other fouling organisms. However, these paints may also have a lethal effect on other marine and fresh water life.

The Environmental Protection Agency [EPA] is in the process of conducting a special review of the organotin tributyltin because the Agency has determined that this highly toxic substance may present "unreasonable risks to nontarget aquatic organisms such as mussels, clams, oysters and fish." EPA suggests that final rules on the use of organotin paints will be issued in July 1988. However, that timetable is not certain and any action by EPA is subject to considerable delay.

I am deeply concerned about the harmful effects organotin paints pose to marine life and public health, and believe that it is important to act now and limit the use of organotin paints until the EPA is able to establish final rules for the safe use of this potentially deadly chemical.

The United States lags far behind other nations in regulating these toxic paints. France, England, and Japan all have limits on the use of organotins. Germany and Switzerland have totally prohibited tributyltin's use in fresh water.

Fortunately, many States have established maximum amounts of organotin which may be released in the water. Those States include Virginia, Maine, Maryland, Alaska, Washington, Michigan, New York, California, North Carolina, New Jersey, and Oregon. As a result, the tremendous flow of the harmful chemical into our Nation's waters has been diminished.

I applaud the responsible actions taken by Virginia, Maine, and the other States. However, the organotin problem demands a uniform national response. That's why Senators Mitchell, Cohen, Chafee, and I are sponsoring this legislation to protect the aquatic environment by reducing immediately the amount of organotin entering the waters of the United States.

Our bill prohibits the use of all organotin paints with a release rate of more than 3 micrograms per square centimeter per day. A release rate measures the amount of organotin that is released from these paints over an extended period of time. The 3 micrograms release rate will remain in effect pending final action by ERA.

Moreover, because recreational vessels account for a large amount of the organotin entering the water from antifouling paints, this bill bans the use of all organotin-based paints for any vessel 25 meters or less. This absolute prohibition does not apply to the aluminum hull or outboard motor or lower drive unit of a vessel that is 25 meters or less. Organotin paints with a release rate of 3 or less are permitted in these circumstances.

Finally, the Administrator of the EPA is required to monitor the concentrations of organotin in the Chesapeake Bay and other estuaries in the United States and assist the States in monitoring waters for the presence of organotins and in the laboratory analysis of samples. The Secretary of the Navy is required to test, not less than annually, the waters of the home ports of Navy ships to determine the level of organotin contamination.

Mr. President, I consider this an emergency situation. Organotin levels found in the Chesapeake Bay last year were alarmingly high. Similar organotin levels have been found in many other areas around the country. We must act now to protect our marine environment.

I ask unanimous consent that the provisions of this measure be printed in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Organotin Antifouling Paint Control Act of 1987".

DEFINITIONS

Sec. 2. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "antifoulant paint" means a coating, paint, or treatment that is applied to or used on a vessel to control fresh water or marine fouling organisms;

(3) "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes estuary-type areas such as the Chesapeake Bay, the Great Lakes, and other bays, shallows, and marshes;

(4) "organotin" means any compound of tin used as a biocide in an antifoulant paint;

(5) "person" means any individual, any partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including military;

(6) "qualified antifoulant paint" means an antifoulant paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(b); or

(B) until such final decision takes effect, is certified by the Administrator under section 5 as having a release rate of not more than 3.0 micrograms per square centimeter per day;

(7) "release rate" means the rate at which organotin is released from an antifoulant paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifoulant paints; or

(B) any similar test method specified by the Administrator;

(8) "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing;

(9) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States; and

(10) "vessel" shall have the same meaning given to such term in section 3 of title 1, United States Code.

FINDINGS AND PURPOSE

Sec. 3. (a) The Congress finds the following:

(1) more than 70 percent of the worldwide commercial shipping fleets and recreational boats are painted with an antifouling paint known generally as organotin;

(2) antifouling paints containing organotin biocides are used to prevent the buildup of barnacles and other encrusting organisms on vessels;

(3) the elimination of fouling growths on vessels is highly beneficial for operating capability and leads to lower operating and maintenance costs and substantial fuel consumption reductions;

(4) laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels;

(5) vessels that are less than 25 meters in length and are coated with organotin antifoulant paint account for a large amount of the organotin released into the aquatic environment; and

(6) the Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other marine life.

(b) The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

PROHIBITION

SEC. 4. (a)(1) Except as provided in paragraph (2), no person in any State may apply to a vessel that is 25 meters or less in length an antifoulant paint containing organotin.

(2) Paragraph (1) shall not prohibit the application of a qualified antifoulant paint on—

(A) the aluminum hull of a vessel that is 25 meters or less in length; or

(B) the outboard motor or lower drive unit of a vessel that is 25 meters or less in length.

(b) No person in any State may apply to a vessel greater than 25 meters in length an antifoulant paint containing organotin other than a qualified antifoulant paint.

(c) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person an antifoulant paint containing organotin, unless the antifoulant paint is a qualified antifoulant paint.

(d) No person in any State may knowingly sell or deliver to, or purchase from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifoulant paint.

CERTIFICATION

SEC. 5. (a) Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifoulant paint containing organotin that the Administrator is able to determine has a release rate of not more than 3.0 micrograms per square centimeter per day.

(b) After the initial period of certification required by subsection (a), the Administrator, not later than 90 days after the receipt of information with regard to an antifoulant paint containing organotin submitted in response to a data call-in or pursuant to any provision of Federal law, shall certify such paint if, on the basis of such information, the Administrator is able to determine that such paint has a release rate of not more than 3.0 micrograms per square centimeter per day.

MONITORING

SEC. 6. (a) The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column sediments, and aquatic organisms of representative estuaries in the United States. This monitoring program shall remain in effect until 7 years after the date of the enactment of this Act. The Administrator shall submit annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report detailing the results of this monitoring program for the preceding year.

(b) the Secretary of the Navy shall provide for periodic testing, not less than annually, of any harbors and related waters serving as the home port for any Navy vessel to determine the level of organotin contamination in such harbor or waters, including testing of aquatic organisms. The Secretary shall provide a report and assessment of this monitoring data to the Administrator and to the Governor of the State in which the home port is located. Such report shall be included in the report to Congress required pursuant to subsection (a).

(c) To the extent practicable, the Administrator shall assist States in monitoring waters for the presence of organotins and in laborabtory analysis of samples.

CIVIL PENALTIES

SEC. 7. (a) Any person who violates any provision of section 4 shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(b) A civil penalty for a violation of any provision of section 4 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this section) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(c) In determining the amount of civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, economic benefit to violator resulting from such violation, any history of prior violations, the degree of culpability, and such other matters as justice may require.

(d) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this section.

(e) Any person who requested in accordance with subsection (b) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(f) If any person fails to pay an assesssment of a civil penalty—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of that order in accordance with subsection (e), or

(2) after a court in an action brought under subsection (e) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

AUTHORITY TO SELL EXISTING STOCKS

SEC. 8. Notwithstanding the prohibitions contained in section 4, the Administrator shall provide a reasonable time, not to exceed 180 days from the date of the enactment of this Act, for the continued sale, delivery, purchase, receipt, application, and use of stocks of organotin antifoulant paint and organotin additives that existed before the date of the enactment of this Act.

DISCLAIMER

SEC. 9. Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifoulant paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifoulant paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

WATER QUALITY CRITERIA DOCUMENT

SEC. 10. The Administrator shall, not later than September 1, 1988, issue a final water quality criteria document, pursuant to section 304(a) of the Federal Water Pollution Control Act, concerning organotin compounds.

RESEARCH

SEC. 11. (a) The Administrator, in cooperation with the Secretary of the Navy, shall conduct research into alternative antifouling chemicals and nonchemical antifouling systems.

(b) The Administrator shall, within 3 years of the date of enactment of this Act, provide a summary assessment of such research in a report to the Speaker of the House of Representatives and the President pro tempore of the Senate.

EFFECTIVE DATES

SEC. 12. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b)(1) Section 4 and section 7 of this Act shall take effect 90 days after the date of the enactment of this Act. Subsections (b) and (c) of section 4 shall remain in effect only until a final decision regarding the release of organotin into the aquatic environment by antifoulant paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(A) is issued by the Administrator; and

(B) takes effect.

(2) For purposes of paragraph (1) of this subsection, a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

Mr. CHAFEE. Mr. President, I join today with Senator Trible in introducing the Organotin Antifouling Paint Control Act of 1987, legislation designed to mitigate the effects of the marine paint additive tributyltin [TBT] on the marine environment.

The bill we are introducing today will prohibit the use of paints containing TBT's on vessels that are 25 meters or less in length, and will limit the release rate of TBT's on larger vessels to 3.0 micrograms per square centimeter per day. I want to emphasize, Mr. President, that this bill will remain in effect only until the Administrator of the Environmental Protection Agency issues a final decision regarding an environmentally safe release rate of this chemical into the marine environment. In the interim, this bill will sharply limit the amount of this toxic chemical effecting aquatic organisms. We cannot afford to wait months, or even years, to find that we have contaminated precious marine resources, especially when those resources can become part of the human food chain.

In discussing TBT, two observations come immediately to mind. On the one hand, it is without a doubt the most effective antifouling compound yet developed, and it cannot be matched for preventing the attachment of barnacles, algae, and other marine organisms that hasten the decay of wood and cause drag on boats. This explains its popularity with the Navy and many recreational boaters.

On the other hand, there is growing evidence that TBT is extremely toxic, and is affecting "nontarget" marine and freshwater organisms rather than just organisms that are trying to grow on boat hulls. Toxic effects occur to some marine organisms at exposures of less than 100 parts per trillion. This is equivalent to 1 drop of water in 100,000 tanker trucks of liquid. And effects on reproduction and development are thought to occur at much lower levels.

Since the known toxic effects are on marine organisms and not humans, you might ask why we should be so concerned about this chemical. The answer is because TBT is already being detected in the human food chain. The National Marine Fisheries Service recently published findings providing evidence of TBT at alarmingly high levels in chinook salmon which had made its way to the marketplace. Common cooking practices do not destroy or remove TBT's from fish.

Aside from the potential effects on human health—and very little is known about what effects TBT will have on humans—there are serious implications for marine habitats from the continued use of TBT. In Great Britain and France, TBT is now regulated, because it has caused serious problems in oyster fisheries. Not only did the oyster culture decline in certain areas with high TBT levels, but scientists also noticed unusual abnormalities in the shell formation of adult oysters. The symptoms these oysters exhibited are associated only with chronic exposure to TBT.

Mr. President, I have a particular interest in this subject. Narragansett Bay in my home State of Rhode Island, is one of the most magnificent bay areas in the country. This precious national resource supports the entire spectrum of marine life. In October 1985, the U.S. Navy tested samples of water taken at the Castle Hill Coast Guard Station, and found TBT levels of 130 parts per trillion, higher than that necessary to cause toxic effects on some marine organisms. Other samples taken by the Navy turned up 36 parts per trillion at a nearby marina, and 9 parts per trillion at a yacht club.

While far from conclusive, this sampling, and other more extensive data on Chesapeake Bay, suggest that it is time to find out conclusively what the long- and short-term effects of using TBT will be on our marine environment. We cannot afford to wait until species of fish began to disappear before we get definitive answers.

As a former Secretary of the Navy, I can fully appreciate the cost and effort required to defoul and paint large vessels. The cost of servicing a large Naval aircraft carrier or a supertanker can easily run into the millions of dollars. The use of TBT instead of the more conventional copper-based paints greatly reduces the frequency of this servicing. Yet, until we understand the environmental consequences of the widespread use of TBT, I cannot approve of its indiscriminate use.

The bill we are introducing today is a reasoned, interim approach that will quickly reduce the amount of TBT in the aquatic environment. I would emphasize that the EPA needs to proceed with all speed to evaluate the long-term effects of this chemical. We must know whether we are poisoning our oceans and lakes, or if indeed a safe level of use for TBT or a reasonable alternative exists.

Mr. MITCHELL. Mr. President, I am pleased to join Senators TRIBLE and COHEN in introduction or the Organotin Antifouling Paint Control Act of 1987.

It has been a pleasure to work with Senators TRIBLE and COHEN in the development of this legislation. They were the first to alert us to the threats to the marine environment posed by organotins in antifouling paints. They have been successful in preventing fleet-wide use of organotin paints by the U.S. Navy until this issue was better understood. And, they have taken the lead in drafting the bill we are introducing today.

Mr. President, the coastal and marine waters of our country are a natural resource of tremendous value. Marine bays and estuaries play an essential part in the ecological system which supports fisheries and wildlife. And, our coastal waters provide recreational opportunities for millions of Americans.

We must be especially alert to the threats to the quality of marine waters and the integrity of the marine and coastal environment. In April of this year, the Subcommittee on Envionmental Protection, which I chair, held a hearing on the effects of organotin compounds on the marine environment.

The purpose of the hearing was to review the large body of scientific evidence indicating that an organotin compound known as "tributyltin", or TBT, may pose a serious threat to marine organisms and the marine environment. The subcommittee also heard testimony on options for restricting TBT use, including regulation by the Environmental Protection Agency and legislative action by the Congress.

One of the most dramatic problems identified at the hearing was the extent of TBT contamination in the Chesapeake Bay. Recent tests by the Environmental Protection Agency indicate that TBT is present in the Bay at levels significantly above the concentration levels identified by the EPA as safe.

We also heard from representatives of States, such as Maryland and Virginia, which have adopted legislation to protect coastal waters from TBT contamination. I am pleased that my home State of Maine has also adopted legislation restricting the use of TBT.

Other witnesses at the hearing provided an overview of the scientific research of TBT and related compounds and described the views of the U.S. Navy and the paint industry.

Based on this hearing, I concluded that we have clear evidence that TBT poses a threat to the marine environment and that an effective and coordinated response must be developed. The legislation we are introducing today is intended to provide the prompt and effective action needed to address the TBT contamination problem.

The legislation has two primary provisions. First, it prohibits the use any paint containing TBT on boats of less than 25 meters in length. An exception to this length limit is made in the case of aluminum boats and outboard motors. Aluminum boats and outboard motors can be painted with paint containing TBT if the paint meets the standard established in the bill or if the paint is certified by the Administrator as acceptable.

The second major provision of the bill establishes a maximum rate of release of TBT from antifouling paint of 3 micrograms per square centimeter per day. This release rate provides for a full measure of protection of the environment without impractical reductions in the effectiveness of antifouling paints. In addition, this release rate is attained by over 20 paints now on the market and assures that consumers will have a range of paints to choose from.

The bill further provides that the release rate requirement will sunset if the Environmental Protection Agency takes final action to establish a release rate under alternate legislative authority. The EPA is considering such action and it is our intention that the release rate determined to be appropriate by the EPA, using the full range of available data, be the effective release rate restriction in the long term. Our legislation, however, will protect the environment until EPA is able to reach a decision and take a final regulatory action and resolve any appeals.

The bill addresses several other aspects of the TBT contamination problem.

Section 4(d) of the bill prohibits purchase of TBT for the purpose of adding it to paint to make an antifouling paint. These so-called free association paints release TBT at very high rates and pose a significant threat to the health of the marine environment.

Section 6 of the bill provides for monitoring of coastal waters to identify TBT contamination. In addition, the Secretary of the Navy is directed to conduct monitoring in harbors serving as home ports and report on any TBT contamination identified.

Section 7 provides for civil penalties for persons violating the provisions of the act.

Section 10 directs the EPA Administrator to publish a water quality criteria document identifying levels or concentrations of TBT in fresh and marine waters which are a threat to the environment.

Section 11 directs the Administrator to conduct a research program, in consultation with the Secretary of the Navy, to identify alternatives to TBT and to identify nonchemical antifouling systems.

This legislation will be an important step forward in our efforts to protect the quality of marine and fresh waters. I plan to do everything I can to move the legislation forward in a timely manner.

The next step in the process will come next week when my Subcommittee on Environmental Protection will mark up the bill. I hope markup by the full Environment and Public Works Committee can occur in the near future.

I urge my colleagues to give this bill their full support as it advances through the legislative process.

Thank you, Mr. President.

By Mr. KASTEN:

S. 1789. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on long-term capital gains of individuals from 28 percent to 15 percent; to the Committee on Finance.

REDUCTION OF LONG-TERM CAPITAL GAINS TAX RATE

Mr. KASTEN. Mr. President, today I am introducing legislation to reduce the maximum long-term capital gains tax rate to 15 percent. A 15-percent capital gains tax rate will have a positive impact on investment and risk taking, entrepreneurship, mobility of capital, and U.S. international competitiveness. I will make the economic case for cutting capital gains later in my statement. The major thrust of my proposal is to provide an economically constructive and responsible option to reduce the Federal budget deficit.

A 15-percent capital gains tax rate would raise substantial tax revenue, particularly from upper-income individuals. This proposal could raise additional revenues of $8 billion in fiscal year 1988, $11 billion in fiscal year 1989 and $12 billion in fiscal year 1990, according to a recent study by Harvard professor Lawrence Lindsey. Moreover, of the total $31 billion in new tax revenue over the 3 years, about 80 percent of the increased revenues would come from upper-income taxpayers with incomes above $100,000. A 15-percent capital gains tax rate would raise $8 billion of the $12.3 billion in new revenue that the tax-writing committees are seeking for fiscal year 1988.

Mr. President, weight of overwhelming academic work as well as the historical experience of the 1978 and 1981 capital gains tax cuts effectively demonstrates the revenue-raising potential of my proposal. Although the maximum capital gains tax rate was slashed from 49 percent in 1978 to 20 percent in 1985, tax revenues were a whopping 184 percent higher in 1985 than in 1978. According to Mark Bloomfield of the American Council for Capital Formation [ACCF], "inflation and economic growth cannot by themselves provide sufficient explanation for this dramatic increase in Federal revenues coinciding with a dramatic decrease in capital gains tax rates." Dr. Paul Craig Roberts points out that "the Dow Jones industrial average and the gross national product rose during this period by only half as much as revenues from capital gains. Obviously, a rise in nominal values is not the explanation for the enormous increase in tax revenues."

Moreover, cutting the top capital gains tax rate increases the proportion of total taxes borne by the wealthy. The evidence from the 1978 capital gains rate reduction proves this point. The 1978 reduction in capital gains from 49 to 28 percent led to a 250-percent increase between 1978 and 1982 in capital gains taxes by those with incomes over $100,000 per year.

Raising the tax on capital gains will, over the long run, reduce Federal revenues. This is because higher capital gains tax rates reduce taxpayers' willingness to realize capital gains and thus, reduce the amount of tax revenue the Federal Government actually receives. Contrary to the revenue estimates of Joint Committee on Taxation, the capital gains provisions of the Tax Reform Act of 1986 which raised the top rate on long-term individual capital gains from 20 to 28 percent—and as high as 33 percent for those in the phase-out bracket—will result in substantial revenue losses in the fiscal year 1988–90 period. An update of a February Treasury Department revenue estimate by ACCF, based on the latest data, suggests revenue losses of as much as −$6 billion over the fiscal year 1988–90 period.

Mr. President, besides pulling in billions of dollars for deficit reduction, a 15-percent capital gains tax rate would bring enormous benefits to the Nation's economy. First, it will increase incentives for individuals to invest in those activities that involve the most risk. Investment in risk capital is an important force in spurring technological innovation and enhancing productivity. Past experience shows the beneficial impact of capital gains tax cuts on risk capital investing. In the early 1970's, the maximum capital gains tax rate was doubled from 25 to 49 percent. This reduced the after-tax return to risk capital investing and caused risk capital to dry up. For example, the amount dedicated to organized venture capital—that is, capital invested in new small companies with growth potential—fell from $171 million in 1969 to a low of $10 million in 1975. After the 1978 tax cuts, there was a veritable explosion in risk capital investment with over $4.5 billion raised through venture capital companies in 1983. Likewise, new capital raised through public stock offering increased to $12 billion in 1983.

Second, lower capital gains tax rates enhance the free flow of investment as investors are encouraged to realize their capital gains. Capital becomes more mobile. As a consequence, investment funds flow to their most efficient use, resulting in the creation of new technologies, new plant and equipment, and new jobs.

Third, reducing the tax rate will reduce the tax bias against savings. Despite some of the positive changes in the Tax Reform Act of 1986, our Tax Code continues to impose multiple layers of taxation on income that is saved and invested. An individual's return from investment in commercial enterprises is taxed once at the corporate level and then again at the individual level resulting in a double tax on investment. The code taxes investment income twice by taxing both the future income stream and the capitalization of the stream—the capital gain. Thus, reducing the capital gains tax rate will reduce the tax bias against investment in the code by increasing the after-tax return to investment relative to consumption.

Finally, a 15-percent capital gains rate will make U.S. tax treatment of investment more competitive vis-a-vis the rest of the world. The previous capital gains differential, and its positive effect on U.S. investment in recent years, has helped the United States keep pace with our competitors—particularly in the high-technology race. However, a new Arthur Anderson study comparing tax rates on portfolio stock investment among 11 major industrialized countries and 6 Pacific basin countries reveals that in 1987, U.S. capital gains taxes are higher than almost all surveyed countries. Some of our major international competitors like Japan, West Germany, Taiwan, Italy, and South Korea, exempt long-term capital gains from taxation.

Mr. President, the 15-percent solution would help Congress pull in $31 billion over 3 years for deficit reduction, without tampering with the 1986 act's tax rates or raising excise taxes—both of which reduce economic activity and are blatantly unfair. In contrast, the 15-percent solution would help cut the deficit, spur capital formation, enhance U.S. international competitiveness, and actually soak the rich by increasing the amount of capital gains taxes paid by the upper-income individuals. Politically, it provides a way for Congress to raise revenue without injuring a particular constituency and inviting a Presidential veto.

What's the roadblock to the 15-percent solution? The major problem is the Joint Committee on Taxation [JCT]. Despite the weight of recent academic work and historical experience, they believe the 15-percent capital gains tax rate would mean a reduction in tax revenues. Apparently, the U.S. Treasury Department now shares the same view.

I have recently introduced a bill, S. 1709, the Tax Policy Information Act of 1987, which would require the JCT to consider behavioral responses to changes in the tax law when conducting revenue estimates. If enacted, S. 1709 will improve the revenue estimating process and result in a more accurate revenue estimate of capital gains.

The other argument against the 15-percent solution is that it will reopen tax reform and could result in undesirable changes in the Tax Code. This is a valid concern. However, it must be weighed against the alternatives: anti-growth tax increases and/or an across-the-board sequester. I don't think the Congress and the President want either. The 15-percent solution provides a deficit reduction option that both Congress and the President can agree upon.

Mr. President, I ask unanimous consent that the text of the bill be placed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN CAPITAL GAINS RATE FROM 28 PERCENT TO 15 PERCENT.

(a) In General.—Subsection (j) of section 1 of the Internal Revenue Code of 1968 (relating to maximum capital gains rate) is amended to read as follows:

"(j) Maximum Capital Gains Rate.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the amount of net capital gain, plus

"(2) a tax of 15 percent of the net capital gain, plus

"(3) the amount of the increase determined under subsection (g)."

(b) Phaseout of 15-Percent Rate and Personal Exemptions Not to Apply to Capital Gains.—Subparagraph (A) of section 1(g)(1) of the 1986 Code (relating to phase-out of 15 percent rate and personal exemptions) is amended by inserting ", reduced by the amount of net capital gain" after "taxable income".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

By Mr. GARN (for himself, Mr. Glenn, Mr. Moynihan, Mr. Warner, Mr. Trible, Mr. D'Amato, Mr. Sasser, Mr. Weicker, Mr. Armstrong, Mr. Durenberger, Mr. Quayle, Mr. Hatch, Mr. Johnston, Mr. Rudman, Mr. Boschwitz, Mr. Karnes, Mr. Matsunaga, Mr. Chiles, Mr. Hollings, Mr. Dole, Mr. Hecht, Mr. Specter, Mr. Wallop, Mr. Evans, Mr. Gore, Mr. Stevens, Mr. McClure, Mr. Bond, Mr. Wilson, and Mr. Inouye):

S. 1790. A bill to authorize the expansion of the National Air and Space Museum at Washington Dulles International Airport; to the Committee on Rules and Administration.

EXPANSION OF NATIONAL AIR AND SPACE MUSEUM AT WASHINGTON DULLES INTERNATIONAL AIRPORT

Mr. GARN. Mr. President, today, on behalf of Senators Glenn, Moynihan, Warner, and others I am introducing legislation authorizing planning for expansion of the National Air and Space Museum at the Dulles International Airport. Similar legislation was passed by the Senate last year.

I have had the honor of serving on the Board of Regents of the Smithsonian Institution for the past 6 years. Throughout that period, there has been a growing concern regarding the lack of capacity at the National Air and Space Museum building on The Mall in downtown Washington, DC, to house very large aircraft and spacecraft that are now, or will be, among the museum's collection. Many of these items cannot practically be disassembled for transportation to the existing museum facility nor could they be properly displayed in the museum, as spacious as it is without disrupting existing exhibits. These include such items as the space shuttle *Enterprise,* already located and soon to be placed in a temporary structure at Dulles Airport, and the famous *Enola Gay,* which is currently being restored and prepared for display.

This expansion adjacent to an active airport is necessary to enable some of the anticipated additions to the collection, such as the *Concorde,* to be flown directly to the museum. For this reason, the regents of the Smithsonian voted in 1983 to seek authorization to begin planning to expand the National Air and Space Museum at the Dulles Airport. The regents reaffirmed their support for beginning to plan for this proposed expansion on September 16, 1985, where the purposes of last year's authorization bill were unanimously endorsed.

The legislation we are introducing today would authorize $1,000,000 in fiscal years 1988 and 1989 for the planning and designing of a facility to provide the *Enterprise* and other air and space treasures a permanent home. The bill specifies that none of these funds can be used for construction purposes. Once the planning authorization has been approved and the plans become finalized, future funds necessary for the expansion will be sought, including a major effort to secure private donations, hopefully sufficient to cover the entire cost of construction.

Mr. President, the National Air and Space Museum is a national treasure. More people visit this museum than any other museum in the United States. At present, the museum is visited by more than 10 million people every year. Unfortunately, the existing Mall facility can only house 25 percent of the museum's total collection, which should give my colleagues an idea of the great number of aviation treasures which remain essentially hidden from the public's view. The Mall facility is simply not large enough to effectively cope with more visitors or more exhibits. Also, an expansion of the museum at the Dulles Airport would give all visitors the unique opportunity to watch craftsmen and artisans restoring historically significant airplanes, a work which is now accomplished at the Paul Garber Facility in Silver Hill, MD. This facility can only accommodate a trickle of visitors.

Mr. President, the planning effort authorized by this legislation for the expansion of the National Air and Space Museum at Dulles Airport is essential to continue the vital role the museum occupies for our country and the world. We need to continue our efforts to stimulate and encourage the growing interest in air and space, as well as disseminating the ever-increasing knowledge and expanding technology in the aerospace field. I encourage my colleagues to give their support to this legislation, and I hope for an early consideration by the full Senate.

By Mr. D'AMATO:

Senate Joint Resolution 203. Joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States; to the Committee on Foreign Relations.

CALLING UPON THE SOVIET UNION TO IMMEDIATELY RESOLVE BILATERAL DIVIDED SPOUSE CASES

Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all Soviet citizens married to U.S. citizens who wish to exercise their right to be reunited with their spouses in the United States. The Soviet Union promised to resolve such cases when it signed the Helsinki accords on August 1, 1975.

Since the Soviet Union joined 34 other nations including the United States and Canada in adhering to the final act of the conference on security and cooperation in Europe, better known as the Helsinki accords, the United States and other Western nations have had continually to press the Soviet Union to keep its commitments. The key to the problem is the fact that the Soviet Union is a totalitarian police state and that it places a top priority on maintaining total control over its citizens.

Only since General Secretary Mikhail Gorbachev announced his new thinking, including aspects which have become known in the West as glasnost, or openness, perestroika, or restructuring and democratizatsiya, or democratization, have the most brutal Soviet practices moderated.

We have celebrated with Natan Sharansky, Yuri Orlov, and other refuseniks and dissidents as those persons who are best known in the West have been released from prison, labor camp, or internal exile, and, in some cases, have been granted permission to emigrate.

We have watched with interest the phenomena of public discussion in official media of topics which were formerly unmentionable; or tolerance of the act of organizing public demonstrations, even though those demonstrations were contained and further activity was officially discouraged; and of tolerance of certain Samizdat publications critical of official policies.

The Western media have given prominent coverage to these events, leading to the impression that the Soviet Union is at least beginning to make its practices conform with its international human rights commitments. The Soviet leadership does deserve full credit for the steps which have been taken in the direction of human rights compliance.

Mr. President, I think it is important to remind my colleagues and the American people that the millennium has not arrived in Soviet human rights practices. The resolution of headline cases is not enough. The announced Soviet review and revision of its criminal code is not enough.

There are still approximately 400 identified political prisoners in Soviet custody. The Gulag Archipelago, the continent-spanning network of prisons and labor camps housing the largest population of slave laborers—more than 4 million, by most accounts—still exists and operates. The infamous special psychiatric hospitals have not been closed. The Soviet Union still maintains its right to deny its people the exercise of their right to leave their country and freely to return, in contravention of its international obligations.

In short, the Soviet Union is still not respecting human rights and fundamental freedoms as it promised to do when it signed the final act. Moreover, there is no indication that the Soviet Government shares the principles of civilized conduct and basic respect for human dignity and the rights of the individual which are the foundation of the final act.

This resolution addresses one specific area covered by the final act, an area which has been marked by particularly egregious conduct on the part of the Soviet Union. The final act states that "The participating states will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old."

The final act further states that "In dealing with requests from couples from different participating states, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a state in which either one is normally a resident, the participating states will also apply the provisions accepted for family reunification."

In fact, the Soviet Union has not been in compliance with those provisions. Over the years, there has been a trickle of resolutions of bilateral divided spouse cases. Until glasnost, those resolutions were the exception to Soviet policy, not the rule.

While there have been recent improvements in Soviet practices, too many husbands and wives remain separated by artifically created Soviet barriers to emigration. The persons named in this resolution should be allowed to emigrate now.

There is no justifiable reason why Galina Goltzman Michelson, Yuri Balovlenkov, Victor Faermark, Yeugeni Grigoishin, Elena Kaplan, Vladislav Kostin, Victor Novikov, Pyatras Pakenas, Sergei Petrov, Leonid Scheiba, and Andrei Zhitkov should be denied the opportunity to live with their spouses in the United States. Yet, in the case of Mrs. Michelson, she has been kept separated from her husband for more than 30 years.

It is very difficult to take seriously representations of a government in any area, when it stoops to employ its power to keep married men and women from living together in the country of their choice. The Soviet Union could significantly improve its international credibility if it acted to resolve these cases.

In connection with the forthcoming meetings between Secretary of State Shultz and Soviet officials to prepare for an anticipated November summit between President Reagan and General Secretary Gorbachev, it would be timely and appropriate for Soviet authorities to grant emigration permission to these people. As a former chairman of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, I would be one of the first to step forward and complement Soviet leadership for taking positive steps to come into compliance with their Helsinki promises.

Mr. President, I look forward to the day when I may join with these Soviet citizens and their American spouses and families in celebrating their arrivals in the United States. Until then, I urge my colleagues to recognize the urgent and compelling nature of these cases and to send a message to Moscow by acting quickly to approve this resolution. The words of glasnost must be accompanied by the actions of true human rights compliance

ADDITIONAL COSPONSORS

S. 1366

At the request of Mr. KENNEDY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1489

At the request of Mr. MOYNIHAN, the names of the Senator from Nevada [Mr. REID] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1554

At the request of Mr. FOWLER, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1554, a bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy conservation, and for other purposes.

S. 1567

At the request of Mr. BUMPERS, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1567, a bill to provide for refunds pursuant to rate decreases under the Federal Power Act.

S. 1600

At the request of Mr. FORD, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1742

At the request of Mr. DOMENICI, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1742, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 1752

At the request of Mr. BAUCUS, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1752, a bill to establish a commission to study the effects of deregulation of the airline industry.

S. 1774

At the request of Mr. PRYOR, the names of the Senator from Washington [Mr. EVANS] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

SENATE JOINT RESOLUTION 125

At the request of Mr. ROTH, the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. THURMOND], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week."

SENATE JOINT RESOLUTION 126

At the request of Mr. PACKWOOD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 172

At the request of Mr. BRADLEY, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], the Senator from Florida [Mr. GRAHAM], the Senator from Indiana [Mr. QUAYLE], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Joint Resolution 172, a joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE JOINT RESOLUTION 196

At the request of Mr. PACKWOOD, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Senate Joint Resolution 196, a joint resolution to designate February 4, 1988, as "National Women in Sports Day."

SENATE CONCURRENT RESOLUTION 83

At the request of Mr. BYRD, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of Senate Concurrent Resolution 83, a concurrent resolution to congratulate Costa Rican President Oscar Arias Sanchez on being awarded the 1987 Nobel Peace Prize.

AMENDMENT NO. 950

At the request of Mr. CRANSTON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Amendment No. 950 proposed to H.R. 2783, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes.

SENATE RESOLUTION 297—TO AMEND THE STANDING RULES OF THE SENATE RELATING TO THE SENATE CENTRAL AMERICAN NEGOTIATIONS OBSERVER GROUP

Mr. BYRD. (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Resolved, That Senate Resolution 273 (One-hundredth Congress; agreed to August 7, 1987) is amended—

(1) in section 3, by striking out "duty" and inserting in lieu thereof "duties";

(2) in section 4(b)—

(A) by inserting "(1)" immediately after "(b)";

(B) by inserting "and fix the compensation of" after "appoint"; and

(C) at the end thereof by adding the following new paragraph:

"(2) In addition to the staff personnel described in paragraph (1), the Chairman and Co-chairman each are authorized to designate one professional staff member who shall serve all of the members of the Observer Group and shall carry out such other functions as their respective Chairman or Co-chairman may specify. The funds necessary to compensate any such designated staff member who is an employee of a Senator or a Senate Committee may be transferred from the funds made available under section 6(a) of this resolution to the respective Senator's or Senate Committee's account from which such designated staff member is paid (including agency contributions when appropriate)."; and

"(3) in section 6, by striking out subsections (a), (b), and (c)(1) and inserting in lieu thereof the following subsections:

"(a) The expenses of the Observer Group shall be paid from the contingent fund of the Senate, out of the account of Miscellaneous Items, upon vouchers approved jointly by the Chairman and Co-chairman (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate). For any fiscal year, not more than $220,000 shall be expended for staff (including consultants) and for expenses (excepting expenses incurred for foreign travel).

"(b) In addition to the amount referred to in section 6(a), for any fiscal year, not more than $80,000 shall be expended from the contingent fund of the Senate, out of the account of Miscellaneous Items, for Leadership staff as designated in section 4(c) for salaries and expenses (excepting expenses incurred for foreign travel).

"(c)(1) Of the amount authorized in section 6(a), an amount not to exceed $27,500 may be spent by the Observer Group, with the prior approval of the Committee on Rules and Administration, to procure the temporary services (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Observer Group.".

AMENDMENTS SUBMITTED

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMITTEES, COMMISSIONS, AND OFFICES APPROPRIATION, FISCAL YEAR 1988

MOYNIHAN (AND OTHERS) AMENDMENT NO. 976

Mr. MOYNIHAN (for himself, Mr. BURDICK, Mr. BREAUX, Ms. MIKULSKI, Mr. GRAHAM, Mr. LAUTENBERG, Mr. STAFFORD, Mr. CHAFEE, and Mr. DURENBERGER) proposed an amendment to the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, committees, and offices for the fiscal year ending September 30, 1988, and for purposes; as follows:

On page 26, line 12 following "expended" insert the following: ": *Provided,* That funds allotted to States under section 601(a) of the Federal Water Pollution Control Act, as amended, shall be provided to States in accord with the provisions of section 601(b) of that Act, which subsection provides that the Administrator and a State negotiate a schedule of payments to the State: *Provided further,* That in no case shall any funds allotted to States under section 601(a) of the Federal Water Pollution Control Act, as amended, be provided to States in any form other than cash after September 30, 1988".

GARN AMENDMENT NO. 977

Mr. GARN proposed an amendment to the bill H.R. 2783, supra; as follows:

On page 35, line 21, strike out "$1,558,000,000" and insert in lieu thereof "$1,557,999,000".

PROXMIRE AMENDMENT NOS. 978 AND 979

Mr. PROXMIRE proposed two amendments to the bill H.R. 2783, supra; as follows:

AMENDMENT No. 978

On page 20, line 19, strike "$286,000" and insert "$303,000".

AMENDMENT No. 979

On page 26, line 13: change the word "provision" to "provisions" and insert the following paragraph:

Not to exceed $5,000,000 of the funds collected by the Environmental Protection Agency pursuant to 31 U.S.C. 9701 for quality assurance mandatory services and for quality assurance materials shall hereafter be credited to the appropriation which incurred the costs therefor and shall be available for the purposes of that appropriation.

SARBANES AMENDMENT NO. 980

Mr. SARBANES proposed an amendment to the bill H.R. 2783, supra; as follows:

On page 17, line 24 delete "17,000,000" and insert in lieu thereof "17,200,000".

On page 18, line 14, delete "$689,039,000" and insert in lieu thereof "688,839,000".

DOMENICI (AND D'AMATO) AMENDMENT NO. 981

Mr. DOMENICI (for himself and Mr. D'AMATO) proposed an amendment to the bill H.R. 2783, supra; as follows:

At the appropriate place in the bill, insert the following new section:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.—For an additional amount for the transitional and supportive housing demonstration program carried out by the Department of Housing and Urban Development pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591 and other applicable authority, $65,000,000 to remain available until expended, *Provided,* That amounts otherwise made available for necessary administrative expenses of the Department of Housing and Urban Development are hereby reduced by $1,510,000 for the fiscal year ending September 30, 1988.

DECONCINI AMENDMENT NO. 982

Mr. DECONCINI proposed an amendment to the bill H.R. 2783, supra; as follows:

On page 41, line 22, after the semi-colon, strike through the word "classifications" on line 26, and insert in lieu thereof the following: "$10,193,000,000, plus reimbursements: *Provided,* That of the sum appropriated, $6,574,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That of this amount, $75,000,000 shall be available for pay increases for medical care field personnel: *Provided further,* That, notwithstanding any other provision of this Act, the budget authority provided for National Aeronautics and Space Administration, Research and Development shall be $3,359,700,000."

CHAFEE AMENDMENT NO. 983

Mr. CHAFEE proposed an amendment to the bill H.R. 2783, supra; as follows:

On page 24, line 11 insert the following immediately before the period: ": *Provided further,* That $1,000,000 of these funds shall be set aside to conduct a feasibility study and preliminary design of a wastewater treatment demonstration project that, through the use of innovative and alternative technology, could transport leachate from a sanitary landfill and wastewater from a new waste-to-energy solid waste management facility to an existing, state-of-the-art wastewater treatment facility that has unused reserve treatment capacity in Cranston, Rhode Island".

D'AMATO AMENDMENT NO. 984

Mr. D'AMATO proposed an amendment to the bill H.R. 2783, supra; as follows:

Strike on page 44, line 4, "$413,951,000" and insert in lieu thereof "$414,201,000".

Strike on page 20, line 18 $34,178,000 and insert in lieu thereof "$33,928,000".

HUMPHREY AMENDMENT NO. 985

Mr. HUMPHREY proposed an amendment to the bill (H.R. 2783), supra; as follows:

On page 58, line 7, strike the word "gallon", and insert "gallon."

Notwithstanding any other provision of this act:

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $125,000,000 to remain available until September 30, 1991: *Provided,* That title 42, United States Code, section 5318(n)(2), is amended as follows: After the word "reservation" add the words "or on former Indian reservation lands in Oklahoma".

Further notwithstanding any other provision of this act.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans' Administration, including care and treatment in facilities not under the jurisdiction of the Veterans' Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans' Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,223,000, plus reimbursements: *Provided,* That of the sum appropriated, $6,475,500,000 is available only for expenses in the personnel compensation and benefits object classifications.

HUMPHREY (AND OTHERS) AMENDMENT NO. 986

Mr. HUMPHREY (for himself, Mr. ARMSTRONG, Mr. MURKOWSKI, Mr. GRAMM, Mr. HECHT, and Mr. NICKLES) proposed an amendment to the bill (H.R. 2783) supra; as follows:

On page 58, line 7, strike the word "gallon" and insert "gallon." Notwithstanding any other provision of this act.

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $125,000,000.

Further notwithstanding any other provision of this act.

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans' Administration, including care and treatment in facilities not under the jurisdiction of the Veterans' Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans' Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans' Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,128,900,000, plus reimbursements:

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION, FISCAL YEAR 1988

DECONCINI (AND McCAIN) AMENDMENT NO. 987

Mr. DECONCINI (for himself and Mr. McCAIN) proposed an amendment to the bill (H.R. 2763) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 29, after line 13, insert the following new paragraph:

"Of the amount appropriated for section 1309 of the Drug Law Enforcement Grant Program, an amount not to exceed $500,000 is to be allocated to drug law enforcement programs in any State where the legislature has appropriated funds on or prior to August 18, 1987, in anticipation of an appropriation equivalent to the authorization level."

HUMPHREY (AND OTHERS) AMENDMENT NO. 988

Mr. HUMPHREY (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. HECHT, Mr. KARNES, Mr. MCCONNELL, Mr. NICKLES, and Mr. PRESSLER) proposed an amendment to the bill H.R. 2763, supra; as follows:

Insert the following new section in the appropriate place:

"SEC. . None of the funds appropriated under this Act shall be used to require any person to perform, or facilitate in any way the performance of, any abortion."

KENNEDY AMENDMENT NO. 989

Mr. HOLLINGS (for Mr. KENNEDY) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 25, line 6, insert before the period at the end thereof the following: "*Provided further*, That the amounts appropriated or otherwise made available to the Immigration and Naturalization Service which are allocated for public education activities in connection with the legalization program shall be used in a manner which significantly promotes the role of qualified designated entities (as designated under section 245A(c)(2) of the Immigration and Nationality Act), and such public education programs shall be developed in consultation with such entities, both national and local, and with other appropriate community-based organizations".

KASSEBAUM AMENDMENT NO. 990

Mr. RUDMAN (for Mrs. KASSEBAUM) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 78, between lines 13 and 14, insert the following new section:

SEC. 611. (a) It is the sense of the Congress that—

(1) at least six Members of the Congress, designated as provided for in subsection (b), should meet on an ad hoc basis for the purpose of developing a coordinated congressional policy toward assessed contributions to international organizations; and

(2) the Secretary of State should provide such cooperation as may be required by such Members.

(b) The Members described in subsection (a)(1) should be designated as follows:

(1) The Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the House as follows:

(A) one Member of the Committee on Foreign Affairs;

(B) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(C) one Member of the Committee on the Budget.

(2) The President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the Senate as follows:

(A) one Member of the Committee on Foreign Relations;

(B) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(C) one Member of the Committee on the Budget.

(c) Not later than March 1, 1988, the Members of Congress designated under this section shall prepare and transmit to the committees of Congress referred to in subsection (b) a report on the findings and conclusions of the Members made pursuant to this section, together with any recommendations for appropriate action by such committees.

BENTSEN (AND OTHERS) AMENDMENT NO. 991

Mr. BENTSEN (for himself, Mr. DOLE, Mr. KENNEDY, Mr. HATCH, Mr. CRANSTON, Mr. GRAHAM, Mr. KERRY, Mr. MCCAIN, Mr. MCCONNELL, and Mr. DURENBERGER) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 73, line 20, strike "$17,500,000" and insert "$17,750,000, or which not less than $250,000 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic civic opposition inside Nicaragua".

And on page 70, line 25, strike "$617,906,000" and insert "$617,747,000".

CHILES (AND OTHERS) AMENDMENT NO. 992

Mr. CHILES (for himself, Mr. BIDEN, Mr. THURMOND, Mr. GRAHAM, and Mr. DOLE) proposed an amendment to the bill H.R. 2763, supra; as follows:

At the appropriate place in the bill, insert the following:

( ) Section 524(c)(1) of title 28 of the U.S. Code is amended by deleting "and" at the end of subparagraph (F), by striking out the period at the end of (G) and inserting in lieu thereof " ; and" and, by inserting the following new subparagraph:

(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions. The Attorney General shall report to the appropriate committees of the Congress any amount proposed to be transferred under this subparagraph.

CHILES AMENDMENT NO. 993

Mr. CHILES proposed an amendment to the bill H.R. 2763, supra; as follows:

At the appropriate place in the bill, add the following:

The Secretary of State is directed to develop and submit to the Speaker of the House of Representatives and the Appropriations and Foreign Relations committees of the Senate by February 15, 1988, a plan to complete a new office building in Moscow ready for occupancy by December 31, 1990: *Provided*, That the plan shall provide for all work on the project to be performed by appropriately cleared U.S. citizens: *Provided further*, That if on December 31, 1990 a new office building in Moscow is not ready for occupancy, due in whole or in part to the failure by the Soviet Union to provide prompt and full support to the Department of State to carry out the provisions under this Act, the Secretary of State is directed to use the authorities contained in the Office of Foreign Missions Act to evict the Soviet Union from its current chancery in Washington, D.C., and relocate the Soviet embassy in Washington, D.C. to a facility with physical standards essentially equivalent to the present chancery occupied by the United States embassy in Moscow and to make the unoccupied Soviet chancery building on Mount Alto available to the United States Government for its use.

WILSON (AND OTHERS) AMENDMENT NO. 994

Mr. WILSON (for himself, Mr. CRANSTON, and Mr. GRAHAM) proposed an amendment to the bill H.R. 2763, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No monies appropriated by this Act shall be used by the Department of Commerce prior to February 1, 1988, to initiate proceedings under Section 312 (d) and (e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) against the State of California's Coastal Management Program. Further, the Secretary of Commerce is directed to release to the California Coastal Commission the Fiscal Year 1987 administrative grant for operations and equipment authorized under Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

WILSON AMENDMENT NO. 995

Mr. WILSON proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 21, after line 21, insert the following: ": *Provided*, That within 60 days after the date of enactment, the Attorney General shall submit to the Senate and the House of Representatives a report on the status of all pending requests under the Equitable Sharing Program and on the implementation of administrative changes provided for in the "Anti-Drug Abuse Act of 1986" (P.L. 99-570), and provided further that such report shall also include recommendations on any action necessary to eliminate any backlog in the Equitable Sharing Program and the timetable for implementing the recommendations.".

MELCHER (AND METZENBAUM) AMENDMENT NO. 996

Mr. MELCHER (for himself and Mr. METZENBAUM) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 60, line 22, after "$188,900,000" insert the following: ": *Provided*, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16 (c) (1)-(3)), shall not have effect during Fiscal Year 1988; *Provided further*, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act.".

WARNER AMENDMENT NO. 997

Mr. WARNER proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 58, line 7, after "Act" insert: "*Provided*, That, under the authority of the Bicentennial Commission on the Constitution a grant to the National Trust for Historic Preservation for the purpose of making urgently needed repairs necessary to preserve James Madison's Montpelier from the threat of destruction by fire, structural and security flaws and provide for necessary public health and safety, $1,665,000, from available funds, to remain available until expended.".

STENNIS (AND HOLLINGS) AMENDMENT NO. 998

Mr. HOLLINGS (for Mr. STENNIS, for himself and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 58, line 7, after "Act" insert the following: ": *Provided*, That not to exceed a total of $2,500,000 from appropriations provided to the Commission on the Bicentennial of the United States Constitution for fiscal years 1985 through 1988 is available for educational programs about the Constitution and the Bill of Rights below the University level".

BYRD AMENDMENT NO. 999

Mr. BYRD proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 68, at the end of line 19, insert the following: "*Provided further*, That the staffing levels at the Small Business Administration District Office, Charleston, West Virginia, shall be maintained at the same levels that were in place as of August 30, 1987.".

HOLLINGS (AND RUDMAN) AMENDMENT NO. 1000

Mr. HOLLINGS (for himself and Mr. RUDMAN) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 37 after line 2 insert:

"SEC. 207. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

"(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

"(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year."

HOLLINGS (AND OTHERS) AMENDMENT NO. 1001

Mr. HOLLINGS (for himself, Mr. RUDMAN, Mr. KASTEN, and Mr. DOLE) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 57 line 9 strike "$200,000,000" and insert "$181,000,000".

On page 57 line 13 insert:

"ISRAEL RADIO RELAY STATION

"There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987 between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America."

HOLLINGS (AND BYRD) AMENDMENT NO. 1002

Mr. HOLLINGS (for himself and Mr. BYRD) proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 3, line 5 after "$190,000,000" insert: "of which $3,000,000 is for a grant to the Institute for Technology Development, Jackson, Mississippi, $2,500,000 is for a grant to the University of Bridgeport, in Bridgeport, Connecticut to assist in the construction and instrumentation of the Connecticut Technology Institute, $1,000,000 is for a grant to assist in the construction of a consolidated judicial center in Owensboro, Kentucky, and $1,025,000 is for a grant to the Town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia".

HELMS AMENDMENT NO. 1003

Mr. HELMS proposed an amendment to the bill H.R. 2763, supra; as follows:

On page 46, between lines 23 and 24, insert the following new section:

SEC. . All appropriations provided under title III shall be reduced by 10 per centum until an authorization for such expenditures has been enacted.

HOLLINGS AMENDMENT NO. 1004

Mr. HOLLINGS proposed an amendment to the bill H.R. 2763, supra; as follows:

Beginning with "of" on line 15 of page 26, strike all that follows through "West Virginia" on line 19.

RUDMAN AMENDMENT NO. 1005

Mr. RUDMAN proposed an amendment to the bill H.R. 2763, supra; as follows:

Immediately following the section added by amendment 988, add the following new section:

SEC. . Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

NATIONAL HOSPICE MONTH

BIDEN AMENDMENT NO. 1006

Mr. BYRD (for Mr. BIDEN) proposed an amendment to the joint resolution (H.J. Res. 234) to designate the month of November in 1987 and 1988 as "National Hospice Month"; as follows:

Amend line 3 by removing "and 1988".

NOTICES OF HEARINGS

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry will hold a joint hearing with the House Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, to receive testimony on the quality control and fiscal sanctions system in the Food Stamp Program. The hearing will be held on October 22, 1987, at 10 a.m. in room 1300 Longworth House Office Building.

For further information please contact Janet Breslin of the committee staff at 224-5207 or Bob Andros of Senator HARKIN's office at 224-3254.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, October 15, 1987, to hold a hearing on S. 721, Indian Finance Development Corporation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, October 15, 1987, to hold hearings on product substitution in Department of Defense contracting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that Small Business Committee be authorized to meet during the session of the Senate on Thursday, October 15, 1987, to hold an oversight hearing on the Small Business Administration's Small Business Development Center Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 15, 1987, to hold a hearing on legislation to impose sanctions against countries supporting international terrorism—S. 1282.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 15, 1987, to hold oversight hearings on airline safety and re-regulation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 15, 1987, at 4 p.m. to hold hearings on the nomination of Dr. Thomas P. Rona, of Virginia, to be Associate Director of the Office of Science and Technology Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, October 15, 1987, to hearing continuation to receive testimony on Arctic National Wildlife Refuge legislation, S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in a expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 15, 1987, at 2 p.m. to hold oversight hearings on the United States-Japan science and technology agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, October 15, 1987, at 2 p.m. to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, October 15, beginning at 1 p.m., to consider reconciliation recommendations; public works facility naming bills; Mississippi River Commission nominations; and mark up clean air legislation, Maine flood study.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Finance Committee may be permitted to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONTRIBUTIONS OF SUPERINTENDENT ISENOGLE

● Mr. JOHNSTON. Mr. President, I rise today to honor James Isenogle, an individual whose outstanding service and dedication to the U.S. Park Service has earned him the Department of the Interior's Distinguished Service Award. I would like to take this opportunity to commend him for his efforts, especially in regard to his distinguished tenure as Administrator of the Jean Lafitte National Historical Park in New Orleans.

Jim Isenogle joined the National Park Service at Philadelphia in 1957, having served with the U.S. Navy as a gunnery officer for the 2 years previous. He subsequently served with the Park Service in numerous capacities nationwide, including assignments at the Canaveral National Seashore, FL, and the Lake Clark, Katmai and Aniakchak areas in Alaska, all of which later became units of the Park Service. He also served with distinction as assistant to the Regional Director for Utah from 1974 to 1979.

Shortly before his arrival in New Orleans in 1979, legislation officially creating the Jean Lafitte National Historical Park and Preserve, which had been in the works for a decade, was passed by the Congress. This legislation provided for a unique concept, one which held great promise for an exciting park based on a new principle. To be a success, it required an individual with a creative foresight and strong ability in management. Jim was possessing of these skills and literally took the ideas on paper, nurtured them and made them a success.

From ground zero, he oversaw the acquisition of over 7,000 acres of the natural Barataria Basin Preserve which now plays host to over half a million visitors a year. A visitor's center has been constructed and there are plans for an environmental education center as well. These accomplishments have come about in no small part due to Jim's excellent skills at gaining community support by forging a variety of cooperative agreements throughout the delta region. These agreements were designed to help meet the mandate in the legislation establishing the park that called for an interpretation of the cultural contributions of the delta region's people and their histories. In the Islenos interpretation of the Portuguese settlements, he has been adept in reaching many other groups through his efforts, including the establishment of three Acadian cultural centers in the last 3 years. Jim's contributions are far too many to list individually. But it is clear that without his skills at leadership and his creativity, the Jean Lafitte National Historical Park would not be, in reality, a park.

I commend him for his many efforts in dealing with very complex and difficult, and in some cases, not so pleasant, problems. Even though Jim is retiring, the ideas and the projects he has put into place will remain the foundation of this park and the base upon which we can continue to build far into the future.

Mr. President, I ask that the attached article from the New Orleans Times-Picayune which thoroughly describes all that Jim has encountered and accomplished in his tenure at Jean Lafitte National Historical Park be printed in the RECORD.

The article follows:

RETIRING JEAN LAFITTE DIRECTOR LEAVING IMPROVED PARK BEHIND

(By Cindy Hebert)

When James Isenogle became superintendent of Jean Lafitte National Historical Park, dumping trash by the truckload was almost a community sport, but he put a stop to that.

He had the staff tack up no dumping signs and issued warnings and citations to violators. It worked, residents told him, because somebody was finally enforcing the dumping laws. But not every project Isenogle has undertaken has been that easy.

Isenogle, 55, will retire Saturday after a 32-year career with the park service. He was tapped for the superintendent's job at Jean Lafitte in 1979 and has spent the past eight years setting up programs and leaving his mark on the park system.

The 7,000-acre wetlands preserve, called the Barataria Unit, is on Louisiana 45 south of Marrero. The park—Louisiana's only national park—includes the Chalmette Battlefield, the French Quarter and the Barataria Unit.

Cleaning up the park was just one problem Isenogle tackled. He helped shape the wetlands into a preserve that attracts both residents and tourists to the marshy land rich in wildlife and greenery.

The park has five walking trails, including a trail for the handicapped, canoe trails and a large visitor's center. Work will begin soon on a youth education center.

Under his guidance, the park has opened cultural centers in Thibodaux and Eunice and a museum of Indian artifacts at the Chitimacha Indian Reservation in Charenton. There is also an Islenos exhibit in St. Bernard Parish.

In 1986, the preserve attracted almost 500,000 visitors, and all the units attracted 838,000 visitors.

"When I came to Barataria Unit, I was startled by the amount of debris and trash," he said. "People would dump refrigerators, car bodies, dead dogs, you name it.

"We still have to patrol, but it's not so troublesome now."

Isenogle, who has a degree in landscape architecture from the University of Illinois, brought his years of design and water management experience to New Orleans. During his career, he has worked at national parks in Florida, Utah and on the East Coast. He also worked in Alaska briefly before being tapped for the New Orleans job.

He came just as the legislation was being written to create the park.

Once a land acquisition program was in place and the park cleaned up, Isenogle turned his attention to making the wetlands preserve an area that would attract people to the marsh. To do so, he used a deft touch and sure hand to stimulate interest and support from the community and politicians while "fulfilling the needs of the bureaucracy." Those years of walking the tightrope have taken a toll and contributed to his decision to retire, he said.

"It's challenging but exhausting," he said.

He is quick to give credit to those who worked hard to create the wetlands system. Sen. J. Bennett Johnston, D-La., and Rep. Lindy Boggs, D-La., pushed the legislation to create the park, he said. Marrero resident Frank Ehret Jr. had the dream and drive to make the park a reality.

Ehret, who is somethimes called the father of the park, said Isenogle will be missed.

"All in all, I think Jim did a fantastic job," Ehret said. "He was a very good diplomat and a man who is good at dealing with individuals and groups as well."

Isenogle never shied away from difficult issues and often butted heads with the likes of the Army Corps of Engineers and the state and federal governments.

In 1985, after state officials allowed a Houston company to ream through a section of the park's Bayou Boeuf with a drilling rig, Isenogle called the state agency responsible for issuing the permit an "ineffectual farce" as a wetlands protector.

"I stand by that today," he said.

Isenogle is now fighting the Corps of Engineers, which wants to use 33 acres of the park to build a hurricane protection levee. Isenogle thinks the corps could build the levee using a lot less land.

Full-time retirement is still not in the cards for Isenogle. He may be rehired as a part-time employee to help out with the riverfront study. It will help him ease into retirement, he said.

Isenogle, who lives in Kenner with his wife, Sandra, said he plans to sail, read, garden and maybe travel. And, he said, he is not sure he wants to spend the rest of his life living below sea level, so a move might be in his future.

Overall, he said he is pleased with the way the Barataria Unit has developed, and he is hard pressed to cite the accomplishment that pleases him the most. There have been a few major problems and "a multitude of little ones that nag me," he said. But he wouldn't change much.

"Oh, yeah, I wouldn't have it any different." he said. "Looking back over my career I can't think of one person I really didn't want to talk to. I'm satisfied."●

ANNIVERSARY AT CONGREGATION BETH SHALOM

● Mr. LEVIN. Mr. President, on October 23, Congregation Beth Shalom in Oak Park, MI, will honor its three spiritual leaders who have been with Beth Shalom for a combined total of 34 years.

Rabbi David Nelson has been a leader in rabbinic, Jewish, interfaith, and civic affairs in the Detroit area since coming to Beth Shalom in 1972. He epitomizes the modern rabbi. He is a spiritual leader, a teacher, a pastor, and a scholar. He is a leader in fostering good Christian-Jewish relations and has served as the presiding officer of the Detroit Roundtable of the National Conference of Christians and Jews. In these past 15 years, he has touched the lives of thousands of people in all walks of life. His warmth and his intellect have combined to help make Beth Shalom the dynamic congregation it is.

Cantor Samuel Greenbaum not only performs his cantorial duties. He also works with the congregation's young people and as an adult education instructor. He brings his love of Jewish music to senior citizens in seniors' center and to nursing homes throughout the metropolitan area. He is a popular speaker, as well as a singer.

Samuel Semp is the congregation's ritual director. He coordinates the observance of religious rites at the synagogue. He also attends to the congregants' personal needs at times of joy and of sorrow. Like the rabbi and the cantor, he is there when he is needed.

I am pleased to salute Congregation Beth Shalom and the Oak Park community on this celebration of the leadership of these fine religious leaders. May they—and Congregation Beth Shalom—go "from strength to strength." Mazal Tov.●

SALUTE TO CENTENNIAL SENIOR HIGH SCHOOL

● Mr. DURENBERGER. Mr. President, next week I will have the honor of participating in ceremonies recognizing the selection of Centennial Senior High School in Circle Pines as one of the select group of schools designated as "National Schools of Excellence" by President Reagan and the U.S. Department of Education.

Across the country, only 271 junior high, middle, and high schools received this coveted national honor. Other schools from Minnesota which were so designated included Oak Grove Junior High School in Bloomington; South View Junior High School in Edina; Valley View Junior High School in Edina; and St. Louis Park High School in St. Louis Park.

Centennial and the other schools nominated by State boards of education were judged by a panel of 71 reviewers—two-thirds of them from outside the field of education.

The schools were judged on a wide range of attributes, from test scores to dropout rates. Attendance rates for both students and faculty were checked. And the schools got extra points for their efforts to deal with drug and alcohol problems.

It was fitting that—in this 200th anniversary of the signing of our Constitution—the schools were also judged on how well they taught citizenship and the U.S. Constitution.

In announcing the selection of Centennial Senior High School, U.S. Secretary of Education William J. Bennett said, "Excellent schools like these renew our faith in American education. They have worked extraordinarily hard and, as a result, they have much to show for it."

Recognition provided schools like Centennial is critical at a time when education needs to be elevated as a national priority.

Just 2 months ago, I had the opportunity to get together with four of the German Franciscan Nuns who were my teachers at the two-room public elementary school I attended more than 40 years ago in rural Stearns County. I was reminded then how much education has been a part of my life, with parents who were both teachers, with growing up in an educational environment around St. John's University, and with four sons who are still at various points in the educational system.

Most of the former elementary school teachers I visited last month are now retired. But one of them is still teaching. And, at age 80, she was named last year as the Outstanding Catholic Educator of the Year, for about a 10 State region of the country. The subject she teaches is computer science.

This former teacher is a living example of the lifelong nature of learning, and how we must be constantly updating and reinforcing our commitment to education.

In fact, the challenges facing education today have never been greater * * * and never has education been more important to a society which must compete in an international marketplace of goods and of ideas.

Outstanding schools like Centennial Senior High School give me great confidence that we will meet that challenge and that education will continue to be the key to the future.●

FREDDIE JOHN FALGOUT: THE LOUISIANIAN WHO WAS FIRST TO FALL

● Mr. JOHNSTON. Mr. President, I rise today in recognition of Freddie John Falgout, an American serviceman who was born and raised in Raceland, LA. In 1937, Mr. Falgout became the first American to die in the conflict that would eventually escalate into World War II.

Douglas Baldwin of Fair Oaks, CA, has written a news article about Freddie John Falgout which was recently published in the Sacramento Union. I believe it tells a moving story, one which should not be forgotten.

Therefore, Mr. President, I ask that the attached article from the Sacramento Union be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the Sacramento (CA) Union, August 23, 1987]

THE FIRST TO FALL—

A U.S. SAILOR DIED 50 YEARS AGO IN OPENING ROUND OF WORLD WAR II

(By Douglas and Jan Baldwin)

The U.S. cruiser Augusta, flagship of America's Asiatic Fleet, moved up China's muddy Whangpoo River. It was "Bloody Saturday," Aug. 14, 1937, and the Augusta was sailing into Japan's war with China. Her destination was Shanghai. She would be met there by the USS Sacramento and other ships sent to protect the many Americans and Europeans living in the vast international settlements at the center of China's financial capital.

The Augusta's 15-knot wake rocked sampans filled with fleeing refugees and churned the bodies of men and horses floating in the debris of war.

In Asia, the battles ushering in World War II, were being fought 50 years ago this month. The army of the Rising Sun would remain in China until the war ended eight years and millions of lives later with Japan's surrender. Although not understood in August, 1937, the long roll call of American dead in history's bloodiest war was also about to start.

At 4:05 p.m., the Augusta tied up opposite the Bund, Shanghai's dockside commercial center. Thirty-five minutes later, Fleet Adm. Harry E. Yarnell ordered his shipboard contingent of U.S. Marines to go ashore.

With them went a landing party of sailors from the Sacramento, a coastal gunboat named for California's captial. Dubbed the "Galloping Ghost of the China Coast," the Sacramento would have a major role in shielding Americans from the war. She would leave China a year later and be sent eventually to a "quiet duty station" in the Pacific. The station was Pearl Harbor and the time was late 1941. The Sacramento would help shoot down two Japanese torpedo planes in the Dec. 7 attack that brought America finally and formally into the Second World War.

The Sacramento's mission on Bloody Saturday, however, was to join the Marines from the Augusta in protecting Shanghai's vital power plant as fighting raged around it.

Among the men of the Augusta who were witnessing their first shooting war was Freddie John Flagout of Raceland, La. This was an exciting time for a young man who would turn 21 on August 21. He had letters to write to his bride-to-be.

Had fate not intervened, he might have described what war was like as his ship and those from Italy, England and France tried to stand between their citizens and 170,000 battling Asians.

The fight for this sixth largest city in the world, with its Chinese communities of four million people surrounding the international settlements, would become the largest land battle since World War I. Four months from now the Japanese would sink the American gunboat Panay. In Asia as in Europe the fragile peace that ended the First World War had come apart.

Shanghai's International settlement was supposedly off limits to the war but in fact the random killings spared no group or city sector. Early in the fighting a Chinese bomb fell by mistake on the Great World Amusement Palace killing 500 Chinese who were seeking diversion even as two square miles of their city went up in flames. During a short-lived lull in the fighting, eager shoppers crowded the exclusive stores along Nanking Road. A huge Japanese naval shell slammed down on the street between Wing On & Company and Sincere Company Ltd. Three hundred civilians died, most of them westerners.

In the first week of battle the Augusta had been relatively secure, despite heavy fighting surrounding her and near misses by shells aimed at the large contingent of Japanese ships anchored in the Whangpoo.

On Aug. 20, her skipper, Capt. Harold V. McKittrick, ordered the routine showing of a motion picture on the well deck. It would be good for morale.

The main level well deck was protected by huge central smoke stacks which vented Augusta's boilers, and by two catapults from which the ship's scout planes were launched. A screen was erected and benches were brought top side from the galley, some by Freddie John Flagout who was taking his turn at mess or kitchen duty. Freddie had brought a book. He sat down to read as the rapidly setting China sun darkened the improvised theater.

But there would be no show that night.

Not far away, a Japanese gun crew fired 36 millimeter "pom-pom" shells at low-flying Chinese planes.

At 6:30 p.m., a pom-pom shell missed its target and arched back to earth with its killing power intact. It landed almost at Freddie's feet. The exploding shell sent hot metal shrapnel ripping through the sailors.

Leaning forward over the teakwood deck, intent on his reading, Freddie's upper body was directly over the blast. A single dime-size fragment tore through his white t-shirt, into his chest and through his heart. He died instantly.

Eighteen other American sailors were wounded. In the confusion and carnage on the well deck, some did not know until later whose blood was on them.

Seaman Second Class C.B. "Red" Strachen carried Freddie a short distance to an aid station. A doctor knew immediately there was no hope. He told Strachen to take off his shirt. Strachen too had been hit. Some of the blood which covered him was his own. Until his death this year, he carried enough shrapnel in his body to trigger airport metal detectors.

Later that evening, Freddie's body was taken by launch through the battle zone of the Whangpoo to the Fourth Marines Regimental Hospital, there to be prepared for the long journey home.

The next day Freddie's father, Harrison, listened in disbelief to a neighbor's account of a radio report of the death in Shanghai. A short while later a telegram brought the dreaded confirmation.

Word spread fast in Louisiana's close knit Acadian community. Five generations of Falgouts had lived there and almost everyone knew the blond haired eldest son who lived with his widowed father in the gray, weathered farmhouse on Highway One.

Six weeks later, Freddie's body arrived in San Francisco and from there was brought home to Raceland. He was buried with full military honors in a massive funeral Oct. 3. Ten thousand mourners from surrounding parishes joined the 600 people who lived in the little town along the Bayou.

At the time Freddie John Falgout fell few Americans understood that a war soon to become much larger was already underway. Historians today realize that the young man from Louisiana was the first American serviceman to fall in the opening of a world war that took the lives of more than 299,600 soldiers, sailors, airmen and Marines.

On the Augusta's well deck where the shell hit Freddie's shipmates placed a small bronze plaque, with a ring surrounding the blast area. Plaque and ring remained with the ship throughout World War II.

Their whereabouts today are unknown because the Augusta, which survived the war, could not survive the peace that followed. She was sold for scrap in 1959.●

SALUTE TO ST. LOUIS PARK HIGH SCHOOL

● Mr. DURENBERGER. Mr. President, next week I will have the honor of participating in ceremonies recognizing the selection of St. Louis Park High School as one of a select group of schools designated as "National Schools of Excellence" by President Reagan and the U.S. Department of Education.

Across the country, only 271 junior high, middle and high schools received this coveted national honor. Other schools from Minnesota which were so-designated included Oak Grove Junior High School in Bloomington; South View Junior High School in Edina; Valley View Junior High School in Edina; and Centennial Senior High School in Circle Pines.

St. Louis Park and the other schools nominated by State boards of education were judged by a panel of 71 reviewers—two-thirds of them from outside the field of education.

The schools were judged on a wide range of attributes, from test scores to dropout rates. Attendance rates for both students and faculty were checked. And the schools got extra points for their efforts to deal with drug and alcohol problems.

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In announcing the selection of St. Louis Park High School, U.S. Secretary of Education William J. Bennett said, "Excellent schools like these renew our faith in American education. They have worked extraordinarily hard and, as a result, they have much to show for it."

Recognition provided schools like St. Louis Park is critical at a time when education needs to be elevated as a national priority.

Just 2 months ago, I had the opportunity to get together with four of the German Franciscan Nuns who were my teachers at the two-room public elementary school I attended more than 40 years ago in rural Stearns County. I was remined then how much education has been a part of my life, with parents who were both teachers, with growing up in an educational environment around St. John's University, and with four sons who are still at various points in the educational system.

Most of the former elementary school teachers I visited last month are now retired. But one of them is still teaching. And, at age 80, she was named last year as the Outstanding Catholic Educator of the Year, for about a 10 State region of the country. The subject she teaches is computer science.

This former teacher is a living example of the lifelong nature of learning, and how we must be constantly updating and reinforcing our commitment to education.

In fact, the challenges facing education today have never been greater * * * and never has education been more important to a society which must compete in an international marketplace of goods and of ideas.

Outstanding schools like St. Louis Park High School give me great confidence that we will meet that challenge and that education will continue to be the key to the future.●

PROFIT POLICY

● Mr. STEVENS. Mr. President, the recent debate in the Senate on the Defense authorization bill pointed out again the severe constraints being imposed on the defense budget by the deficit crisis. We faced this same dilemma in drafting the fiscal year 1987 Defense appropriations bill. The profit policy and tooling provisions enacted last year shifted a reasonable share of the investment costs for defense production from the Government to defense contractors. This policy has been assailed by many in the defense industrial community as threatening our national security production base. I believe recent assessments belie that assertion.

I ask, Mr. President, that the article titled "Defense Industry Slims Down to Survive" from the Wall Street Journal of September 30, 1987, be entered into the Record. This analysis points to the changes made by defense contractors in response to the reforms installed by Congress last year.

The initiative for these reforms was not to impose punitive losses on the defense industry. These reforms provide an incentive for contractors to be more efficient, to invest in their own production capability, and to obtain financing in the commercial sector for facilities.

The incentive for all these actions is higher profits and we benefit from lower costs to the Government. The article I have referenced testifies to the adjustments made by some of the leading defense producers, Martin-Marietta, Boeing, Lockheed, and Rockwell, to name only a few, to excell in this new environment. Our changes have not devastated these organizations. They do have to do business differently.

A second article, published in the October 8, 1987, Wall Street Journal, entitled "Antique Arsenals," addressed the antiquated production facilities existing at many defense contractors. I would also ask to introduce this article into the Record. This piece graphically describes the decrepit conditions and costly waste which fuel the growing prices for many high tech weapons.

While only time will tell, I believe these new rules of engagement serve both the financial interests of the Government, and enhance the competitiveness of the industries to compete in the world market.

These procurement policy reforms have been in place for approximately 1 year. These initiatives are not perfect, and will require adjustments over time. At the request of the Military Logistics Forum, I recently prepared an article discussing my views on the impact of these reforms. I ask unanimous consent that this article be inserted into the Record at this time.

I fervently hope that the Congress will grant these reforms a reasonable period of implementation before making significant changes. The Department of Defense has firmly upheld these initiatives, and the General Accounting Office has been an active participant in the development of these new rules and in monitoring their effect.

All indications are that the financial reforms enacted last year are motivating more competitive behavior. That's a benefit and we ought not tinker with these policies unless the impact appears to be otherwise.

The material follows:

[From the Wall Street Journal, Oct. 8, 1987]

Many Defense Firms Make High-Tech Gear In Low-Tech Factories

(By Cynthia F. Mitchell and Tim Carrington)

Defense contractors are among America's technological leaders. But you would never know it from some of their factories.

Take Grumman Corp., which developed the F-14. Not long ago, the company was embarrassed to find that the machines cranking out the highly complex jet fighter and four other complex sophisticated naval aircraft had an average age of 34 years.

"It shocked us," says Thomas Ivory, a Grumman executive. "We were mostly using equipment provided from the government during World War II." Under pressure from the Navy, Grumman is over-hauling the plant, but it probably won't be fully up-to-date for a couple of years.

When taxpayers learned a few years ago that were being billed for $430 hammers, they were outraged. But a bigger problem—and a bigger payoff if it is fixed—is coming under scrutiny: Weapons often are being manufactured by grossly inefficient production processes that couldn't cut it in the commercial sector.

"It's really horrendous," says John Orphanos, a production and acquisitions deputy with the Air Force Systems Command. "We're probably paying in production costs and poor quality anywhere from three to 10 times as much as we should." Other, larger issues: the weapons' reliability and the country's ability to produce them in quantity for a war effort.

Over the past decade, the defense industry invested in new manufacturing equipment and technologies at only half the rate of the commercial sector, according to a study by a National Academy of Sciences panel. "Our defense plants," says Frank Press, the NAS president, "are filled with out-of-date equipment."

Mr. Orphanos cites a facility making metal parts for military-plane skeletons: First, he says, material is wasted. Instead of forming the pieces out of metal already roughly shaped like the final parts—a common practice—the contractor begins by carving up large, rectangular pieces, producing a mountain of scrap. Then, time can be lost. Obsolete machines spew out so many metal chips that they sometimes force shutdowns. Finally, the cutting tools aren't properly flushed with coolants and lubricants—crucial to most machining processes. So they wear out quickly and produce too many faulty parts.

Mr. Orphanos tells many such horror stories. He describes an aircraft landing-gear factory where the floor is gooey with hydraulic fluid leaking from the huge presses designed to shape metal under pressures of 60,000 to 75,000 pounds per square inch. However, the leaky presses average only 35,000 to 50,000 pounds per square inch and thus produce piles of unacceptable, out-of-tolerance parts. He recalls another plant making submarine parts where the scrappage rate runs 70% to 80% because the outdated machine tools can't hold the prescribed tolerances.

Pentagon officials are reluctant to identify contractors still working in industrial museums. They say they tour plants under unwritten agreements of confidentiality and they don't want to embarrass companies while cajoling them to modernize.

The officials also concede that what mainly is keeping America's defense factories behind the times is a byzantine weapons procurement system. For years, contractors profits were based on their costs: thus, the companies had little incentive to modernize if savings were rewarded with a renegotiated, lower-profit contract. On-again-off again congressional financing for some programs and recent get-tough procurement reforms—such as stinger progress payments and competitive sourcing—also make companies hesitate to invest in costly new machinery for business that they could soon lose.

Nearly all experts say weapons would be produced more cheaply under long-term contracts. But with Congress insisting on hashing over the defense budget year by year, the services, unlike most businesses, often buy a few items at a time. And when budgets are cut, programs are seldom canceled but rather are stretched out—further reducing annual purchases. Thus, contractors, unable to forecast production levels, work inefficiently.

And, in truth, improving a factory just isn't as sexy—or as profitable—as designing a more sophisticated weapon.

The upshot? "The resources flow to the commercial side" rather than the defense side of a company, says Thomas Murrin, the president of Westinghouse Electric Corp.'s advanced technology group.

But the increasingly worried services are laying out money—about $200 million so far—to coax arms makers into using robots and computerized production lines. A grab bag of projects, lumped under Industrial Modernization Incentives Program, puts up Pentagon seed money to analyze a contractor's production methods and plan improvements. The contractor buys any equipment and is guaranteed a "healthy" return on it. The government gets the rest of the savings.

Supporters hope that the programs will save taxpayers billions of dollars and help strengthen the defense industry. So far, the Pentagon claims overall savings of close to $1 billion from the programs. The Air Force, which has taken the lead expects to save $6 billion over the next five years from about $400 million in seed money; contractors would invest $1.2 billion.

For example, modernization projects at General Dynamics Corp.'s F-16 fighter plant have so far saved $261 million as a result of $51 million in government seed money and a $175 million capital investment by the company. Over the next 10 years, those programs and new ones costing the Air Force an additional $50 million and the company an additional $150 million are expected to save $500 million more.

Eventually, the Defense Department predicts another payoff: higher productivity for other defense contractors—which won't necessarily get seed money—and for commercial companies as well. That's because to qualify for seed money, contractors must agree to show what they are doing to any other interested companies, including competitors.

But so far, the programs have had a big impact at only a few dozen manufacturers, and the problem still is far from licked. Just a few months ago, Robert Costello, the Pentagon's head of acquisitions, took some senior officials to a missile plant reputed to be one of the most modern in the industry. They weren't impressed.

They saw a dirty plant, he says. The air wasn't atmospherically controlled. Workers were cleaning the insides of the missiles' warheads with unfiltered air hoses. At the end of the production line, workers were screwing missile parts together by hand, without making exact measurements. "One employee was instructed to 'snug it up.' . . . This was supposedly a precision job," one of the Pentagon officials recalls. The dirt, grease and imprecise connections "absolutely affect reliability," he says.

Grumman found similar problems at its F-14 fighter plant in Bethpage, N.Y. Aided by $9.4 million in Navy funds, it found not only outdated machines but also a lot else crying out for change. Grumman was cutting and drilling some sheet-metal parts in three separate plant locations. And it was working as it had for 30 years—almost entirely by hand. After tracing a part's pattern onto aluminum sheets, workers would guide them through 30-year-old bandsaws, and then any required holes would be drilled manually.

Grumman consolidated that parts operation in one area. "There was no way we could afford to automate in two or three different places," says John Huber, the program's manager. Now, two white-smocked technicians tend two enormous $1.5 million machines that automatically cut, drill and trim aluminum sheets. Computers eliminate waste by nesting 10 parts on a four-foot-square sheet. The parts cost half as much to make as before, Mr. Huber says. Grumman expects its $80 million plant overhaul to save at least $275 million over five naval-aircraft programs through 1996.

"Westinghouse also concedes that its old defense-electronics assembly plant in Baltimore probably wouldn't have survived in the commercial world. Only three electronics boards out of every 10 produced there passed muster. Assembly was all by hand. Scheduling was haphazard.

"We didn't manage the place, we just reacted," says John "Tex" Teixeira, who worked in Baltimore and now runs a new electronics plant for the company.

A typical problem: Incoming component kits were incomplete and often faulty. Instead of testing them electronically at the door. "Westinghouse waited until they were stuffed onto a finished board. Catching and correcting a bad component immediately might have cost $50, but on a finished board it could cost $500. After a board was in a larger system, the cost might hit $1,500.

Aided by Air Force money, Westinghouse has built a $50 million "factory of the future" at College Station, Texas. Now, components are tested before reaching the factory floor and again at subsequent stages. Also, four robots-nicknamed Huey, Dewey, Louie and Screwy—take only eight seconds to place electronic circuits on surface mount boards, compared with 30 to 40 seconds for manual placement and they can work round the clock with little human attention.

So far, the company has slashed expenses by $95.5 million and by 1992, expects to save at least $250 million more. Jobs are completed in just three weeks, instead of 12, and 85 percent of its finished boards, rather than just a third, pass muster.

At Rockwell International Corp.'s Collins division, which is making the receiving stations for a mammoth satellite-navigation system, scheduling used to be done manually, largely on guesswork. Dozens of projects expediters ran around trying to get their jobs "hot-tagged" because no one was quite sure of the hours of work required for incoming jobs or the availiability of machines. Employees might be switched around from one project to another.

"It was chaos," recalls Dave Hanzelka, a Collins manufacturing executive. Moreover, 80 percent of the electonics boards needed reworking. Now, he says, a computer tracks the parts requirements and assembly time for each board and automatically dictates which job should come next.

Lately, Congress seems willing to spend money to save money. The Senate Armed Services Committee approved the $159 million that the services sought for modernization program in fiscal 1988 and added $100 million more. But, some congressional staffers say, support will wane if the programs are perceived as handout to companies that would make the improvements anyway.

Some government money apparently has gone into such projects. "We're getting Air Force funding to go do what we would do anyway," admits James Ellis, Raytheon Co.'s manufacturing program manager. That isn't necessarily bad. Mr. Ellis and Air Force officials contend, because the money speeded up automation of a plant making satellite guidance systems, and Raytheon has to share what it learns with others.

There is also debate how much modernization the programs can achieve. "The Pentagon probably can't do a hell of a lot to influence the reinvestment process except at the margin," concludes Edward M. Kaitz, a consultant who, analyzed incentive programs for the Air Force. Contractors "will modify when it's in their best interest and when they have the cash flow . . .. not so much because of a clause in their contract that promises them a share of the savings." Moreover, not all the automotion efforts have worked.

Meanwhile, defense officials are recognizing the need to contend with the tens of thousands of subcontractors—whose parts account for close to half of most contract expenses—if they expect pervasive improvements in cost and quality.

The Air Force first dug into that tier by setting up an office at General Dynamics F-16 plant that dished out seed money to 36 subcontractors for the jet. Now, it is embarking on a similar project for subcontractors of Grumman's $800 million Joint Stars program, a surveillance and target attack system. And it is sponsoring research projects at tiny subcontractors such as Mayday Manufacturing Co. The Lewisville, Texas, maker of aircraft bearings recently spent $250,000 for an automatic machining cell as part of that program.

"There's a tremendous problem with quality at the supplier level," says an aide to Mr. Costello. "And we haven't come to grips with that yet."

[From The Wall Street Journal, Sept. 30, 1987]

DEFENSE INDUSTRY SLIMS DOWN TO SURVIVE—COMPETITIVENESS BECOMES KEY IN LEAN TIMES

(By Eileen White)

Defense contractors are aggressively trimming their costs and preparing for leaner Pentagon spending ahead. Their belt-tightening moves signal that the companies believe the recent round of procurement reforms may have a more lasting effect than previous efforts and that competitiveness is more crucial than ever.

After seeing its profit margins on airplane engines cut nearly in half by competitive bidding, the Pratt & Whitney unit of United Technologies Corp., for example, is reducing its supervisory staff 10%, shortening delivery time and greatly reducing scrapped parts and waste.

Boeing Co., meanwhile, slashed overhead costs 25%, helping it to win a string of six big contracts recently. Lockheed Corp., facing a slump in aircraft orders, is combining three separate operating subsidiaries into one, and General Dynamics Corp. hopes to chop a whopping 40% off its costs.

SUDDEN CHANGE

The slimming-down has come rather suddenly. Defense contractors—notoriously successful at rebuffing reforms in the past—initially resisted the changes forced on them by Congress and reform-minded military officials. But in the past year, competition, lower contract payments and other changes have squeezed military profits and depressed defense stock prices. With the post-1988 election defense budget projected to remain relatively flat, contractors see no alternative but to adjust.

"We see a different Department of Defense business environment over the next 10 years, and we'd better adapt to it or fade away," says John Brizendine, president of Lockheed's aeronautical systems group and chief architect of the group's cutbacks.

Besides the Pentagon reforms, the defense industry's internal realignment is being nudged along by restructuring and merger-related changes that have affected American business in general. Allied-Signal Inc. and United Technologies, for instance, have reorganized their commercial operations and are trying to apply higher performance standards to their defense-related assets as well.

MARTIN MARIETTA'S EXAMPLE

Martin Marietta Corp., one of the first U.S. companies to be forced into restructuring by a hostile takeover bid, has become a much-envied example of what can be done. Heavy with debt taken on to resist a 1982 Bendix Corp. overture, it realigned its aerospace business by targeting growth areas in the defense field, submitting fiercely competitive bids and tightly controlling costs. Indeed, Martin Marietta recently announced a new wave of cost-cutting that eliminated an entire level of corporate management.

Rockwell International Corp., too, is combining units and eliminating bureaucratic layers. Although difficult, such measures are viewed as necessary to sustain contractors through a period when the "market"—the defense budget—is expected to grow only about 3% a year.

DELAYS ON PROFIT

At the same time, contractors face the difficult adjustment of being weaned from sole-source contracting, a comfortable system that covered nearly all costs and just about guaranteed a specified profit. Now they have to deal with the risky business of competition and fixed-price contracting.

Cost-sharing, or investing up front in research and development with the expectation of winning a production contract, has also hurt bottom lines. For the five contractors participating in the Air Force advanced tactical fighter, or ATF, competition, it will probably take 14 years to get back from the Pentagon the approximately $100 million that each plans to invest, company executives say. The funds will be returned through reimbursement of overhead costs.

Sanford N. McDonnell, chairman and chief executive of McDonnell Douglas Corp. predicts the ATF program will result in a financial loss overall. In 20 years, he says, the team that ultimately wins the ATF contract will make money, but not as much as the losing team will lose.

PAYMENTS FOR PROGRESS

Other changes have added to the industry's burden. The government reduced monthly contract progress payments to 75% of contractors estimated costs from 90%, gave itself 30 days instead of 15 days to make the payments and cut regulated profit on certain contracts by one percentage point.

"Under the old way, you could make a profit four to six years after the (beginning) of a program," says Fred Wood, an executive vice presidnet of General Dynamics. Now, he says, it can take twice that long.

Certain contractors figured out quicker than others how to win under the new rules. When the Air Force in 1984 announced that it was looking for a second supplier for the F-15 and F-16 fighters' engines—which had been made only by Pratt & Whitney—General Electric Corp. snatched away the major share of the business three years in a row and also won overseas orders for 400 engines.

Pratt finally has begun to recover from what the Air Force calls "engine wars," winning 55% of this year's U.S. engine orders. But GE has cut some staff from its engine divisions to remain competitive. "You're looking now at a neck and neck race," a Pratt spokesman says.

Boeing, beaten badly in a few initial rounds of competition, has bounced back. Lockheed, on the other hand, is shrinking. Both companies are trying to change their reputations at the Pentagon as high-cost contractors, but they have different approaches to the future.

For Lockheed, one of the toughest lessons has been learning that it takes lower costs, not just technical superiority, to compete. After losing a battle with McDonnell Douglas to build the C-17 transport, Lockheed will be left with an eight million-square foot plant in Marietta, Ga., that will be nearly empty in a few years. Another massive plant, in Palmdale. Calif., also will be nearly empty unless an updated version of Lockheed's P-3 can win a competition to build Navy reconnaissance planes.

Meanwhile, the Navy says Lockheed's high costs may lead the government to find a second supplier of the Trident II nuclear missile, which accounts for about 12% of Lockheed's annual revenue.

AVOIDING COMPLACENCY

The changes hurt. Lockheed has built nearly every military transport aircraft since the early 1960s. Versions of its P-3 have been in service for 25 years, and fleet ballistic missiles like the Trident have been under contract for 30 years.

"You get to be king in your field, and it's tough to avoid complacency, to keep your competitive edge honed," says Mr. Brizendine.

Lockheed also lost two other competitions this summer and, despite the huge Reagan administration buildup of Navy craft was beaten so badly in shipbuilding competitions that the company will close down its Seattle shipyard.

The recovery strategy for the one-time industry powerhouse is a humbling one. To raise capital Lockheed is planning to shut down certain of its operations at its traditional home base at the Burbank, Calif., airport and to sell off valuable real estate holdings. Lockheed isn't saying how many of the 42,000 jobs in its aircraft group will be eliminated by combining three companies.

Because the market for defense prime contractors is shrinking, Mr. Brizendine says, the company hopes to earn about $1 billion a year from subcontracts and other business. Lockheed recently swallowed its pride and became a subcontractor to McDonnell Douglas, making the wings on the C-17 transport. In competition with Rockwell—another contractor that soon may have a huge, empty plant in Palmdale—Lockheed is also talking to Airbus Industrie about subcontract work for the European commercial jet consortium.

Boeing, too, has been chastened by procurement changes. Once a premier contractor, the company lost prestigious competitions in the past few years, forfeiting the Stealth bomber contract to Northrop and the MX missile and space shuttle external tank to Martin Marietta.

In fact, as the company's motivational film chronicles it, Boeing lost six out of seven large military contracts to Martin Marietta in the past few years. "It's a matter of survival," the narrator says. "We were not competitive."

"MUST WIN" CONTRACTS

Boeing turned from its defeats to an aggressive comeback. Designating certain contracts "must win," it submitted very low bids and initiated its ambitious 25% cost-cutting program. Eyebrows are being raised throughout the industry about the bids, which some have labeled "buying in" or "low-balling." In defense industry jargon, these refer to submitting unreasonably low bids to win a contract, and covering costs through inflated billing later, something Boeing strongly denies.

On two contracts to design launch and control systems for a small intercontinental nuclear missile, Boeing's bid undercut the company's traditional labor-cost formula by 40%. Its $300 million price on a third contract was $200 million less than the next lowest bidder. "It is possible the company may recognize losses on some of its newer programs because of aggressive bidding," says Robert Kugel, an aerospace analyst with Morgan Stanley & Co.

Boeing officials dispute this, saying their six, big new contracts are fixed-price and won't cover overruns. "With a firm, fixed-price contract, buying in is just too dangerous nowadays," says Kenneth Russell, a Boeing executive.

Instead, the contractor has initiated a wholesale reorganization of its aerospace operations, designating small teams of engineers and production managers to work on the new projects and giving them an absolute ceiling on costs.

[From Military Logistics Forum Magazine, July/August 1987]

GH Is Too High?—Defense Industry Has To Do Its Share as Defense Budgets Decline

(By Senator Ted Stevens)

A stark dilemma faced Congress as it tried to reach agreement on 1987 defense spending: It could either reduce funding for critical national security programs or find alternative means to finance the defense budget. A crisis in the public's confidence in the U.S. defense industry also confronted Congress. The well-publicized spare parts scandals contributed more than any other factor to the erosion of public support for defense increases.

Congress, therefore, was grappling with two problems: solving the budgetary crunch and restoring the integrity of defense procurement.

We proposed a two-pronged solution in the Senate's version of the 1987 Defense Appropriations Bill. First, we wanted to address the profit formula for negotiated defense contracts. Second, the proposal was designed to motivate contractors to undertake more investment and capital risk. The fact that changes in these areas needed to be made was reinforced by studies conducted by the Defense Department (DOD) and the General Accounting Office (GAO). But the primary motivating factor for change was the effort to comply with the deficit reduction objectives of the Gramm-Rudman-Hollings bill.

Last year's budget resolution included significant reductions to the President's request. At about $290 billion, it represented a nominal freeze for defense spending.

But the situation could have been much worse. Because of the peculiarities of Gramm-Rudman-Hollings, annual expenditures have taken on much more significance than in the past. Despite our efforts, Congress agreed to a higher level of obligation authority than could be supported by the outlay, or expenditure, targets.

Cutting the request to $290 billion by using conventional methods would not have met the expenditure targets. By our estimates, the resolution was short by about $5 billion for expenditures. In part, the contract financing and profit policy adjustments helped Congress achieve the budget resolution targets, without cutting defense programs even further.

Alternatively, Congress would have had to cut at least $10 billion more in real programs to achieve the $5 billion expenditure savings mismatch. By comparison, the financing initiatives were much more palatable.

These were the motivations to look for financing alternatives in the appropriations process. The task was to find reasonable options that met the budget targets and made business sense. So we started by looking at existing policy.

Historically, cost has been the crucial element in determining profit percentages on defense contracts: the higher the negotiated costs, the higher the profits. But this approach provided little incentive for producers to be more efficient or invest to reduce costs.

Breaking tradition, our goal was to install a new profit incentive for the defense industry. In theory, efforts to bring down costs and invest in capital equipment to improve cost efficiency will result in lower cost to the government. And, theoretically, this would give our government procurement officials a new lever in negotiating contracts. No longer should profit be treated as a constant, binding percentage of production and overhead costs.

We broke a second tradition in the 1987 appropriations act: the cycle of the government funding the total cost of research and development, tooling and production start-up costs for DOD contractors.

The effective level of corporate risk under this policy was zero. The incentive to maximize efficiencies and cost-conscious management is marginal when the government assumes all of these costs. Both DOD and GAO studies confirmed that the return on investment for defense production far exceeded the return from commercial work in the early 1980s. It was evident that a mechanism was needed to require contractors to have a stake in the success and effective financial management of defense programs.

The profit policy changes published on September 18, 1986, have permanently shifted the playing field to share the financial risk between government and industry. They are consistent with the policy advocated in the Senate bill. DOD and, particularly, Deputy Secretary of Defense William H. Taft IV deserve commendation for instituting the new regulations.

Industry and Congress should monitor these new rules closely, and certainly fine tuning of the regulations will continue.

Two basic changes were implemented in Section 9105 in last year's appropriations act. The first establishes a statutory endorsement of the September 18, 1986, Federal Acquisition Regulation changes for profit policy calculations. This regulation, as I have already described, emphasizes investment and capital risk for determining profit margins, rather than a cost-based criterion.

The second change firmly establishes a requirement for cost-sharing arrangements in the procurement of production tooling. This is a direct byproduct of the objective to emphasize investment and capital risk.

The government will continue to compensate contractors for the expenses of the tooling requirement. But that initial investment will require cost-sharing agreements. Contractors will now amortize their tooling costs under that provision, which defers government financing over a longer period. This procedure creates a "means test," which did not exist previously.

Now that contractors must bear a portion of the initial investment for tooling, we expect a more judicious procurement procedure. Since contractors will now have capital risk on the line, there is a higher probability that production tooling will be purchased only when it is needed and only in quantities that are actually required.

Time will tell if this is a useful course of action. In the interm, financial risk will be borne by government and industry.

The alternative is to continue upfront financing by the government for the total cost of production tooling—potentially at the expense of other defense programs. As a practical matter, if financing methods do not change, there will be fewer defense programs, because the budget resolution levels have been insufficient to support all the programs requested.

Some in industry have claimed that the major emphasis on competition in contracting has already strained the profitability of defense work. Certainly, competition has saved the government billions compared with the days of cost-plus, sole-source contracting. But those also were the days when public confidence in defense procurement waned.

However, our review last year indicated that between $55 billion and $80 billion in annual defense spending is handled through negotiated, sole-source contracts. Once competed, most major programs revert to negotiated contracts. Given this reality, there is all the more reason to consider alternative financing methods to share the risk.

The intent of Congress in enacting the profit policy legislation last year was not to declare war on defense contractors. Our national security unquestionably depends on the continued performance and technical excellence that afford a qualitative edge over potential adversaries. If we cannot bring down the cost of military equipment, the only recourse is to buy less or to reduce manpower and readiness. I am unwilling to make that trade.

Dramatic changes in our economy over the past six years, especially the decline inflation and interest rates, have changed the way U.S. industry does business in the commercial sector. It is not unreasonable to expect these changes in the defense industry. The reforms instituted last year by DOD and Congress will give us vital budgetary headroom to maintain our national security.●

TRIBUTE TO CLARE BOOTHE LUCE

● **Mr. D'AMATO.** Mr. President, I rise today to pay tribute to an extraordinary woman, Clare Boothe Luce, who passed away on Friday after a struggle with cancer. Mrs. Luce was 84 years old and lived a remarkable life, full of remarkable things dared and things achieved.

A native New Yorker, Mrs. Luce spent much of her life there as editor of Vanity Fair magazine and the writer of hit Broadway plays, including "The Women," "Kiss the Boys Goodbye," and "Margin for Error." She and Henry R. Luce, publisher of Time and Fortune, met in New York in 1935 and stayed together (not without some adventure) until his death in 1967.

In 1943, Mrs. Luce embarked on a career in politics, running for Congress from Fairfield County, CT. She served as a Republican member until 1946. In 1952, she was appointed Ambassador to Italy by Gen. Dwight D. Eisenhower. The appointment was controversial because of her lack of diplomatic experience and her being a woman; she accepted the challenge with her usual vigor, style, and determination. She was exceptionally popular with the Italians.

The years failed to slow her. She moved to Washington in 1983 from Honolulu, where she had been living since her husband's death. She continued to be influential in politics and served on President Reagan's unpaid Foreign Intelligence Advisory Board.

Mrs. Luce's unique presence and contributions to society—her grace, elan, and sheer power of personality—will be greatly missed and long remembered. We are poorer, and the world a little dimmer, for their absence.●

AUGUST TRADE DATA

● **Mr. BINGAMAN.** Mr. President, yesterday the Department of Commerce released the August balance of trade figures. The good news is that the trade deficit did decline to $15.7 billion after 5 months of increase. The bad news is that the deficit did not decline as much as hoped and because of that disappointment, the stock market dropped over 95 points.

It is ironic, however, that the stock market should now pay so much attention to 1 month's trade figures. In yesterday's New York Times, Louis Uchitelle says what we all believe but are afraid to say, "the Nation's huge trade deficit in merchandise trade is unlikely to shrink much in this decade." I ask that Mr. Uchitelle's article be included in the RECORD.

Earlier this year, the late Secretary of Commerce Malcolm Baldrige came to a similar conclusion when he testified before the Joint Economic Committee that getting the deficit below $100 million is going to be very hard.

As we have seen over the past year, the much-heralded solution to our trade deficit—a devalued dollar—is turning out to be not much of a solution. The task we face, as Mr. Uchitelle points out, is broader than simply "fixing" exchange rates. Our problem has many sources, including our lack of a coherent trade policy in Washington and our remarkable ability to not take the problem seriously despite years of warning signals. Its solution will take a array of actions, both on the demand and the supply sides.

However, simply because the task is difficult does not mean that we should, as some have suggested, sit back, relax and let the "inevitable" decline in America's standard of living balance our trade flows. To simply throw up our hands and wait for this inevitable end strikes me as irresponsible. The task before us is to craft the long range solutions that will restore our economic competitiveness and remedy our trade deficits. As yesterday's trade figures indicated, it will be a long task.

The article follows:

[From the New York Times, Oct. 14, 1987]

GLUM OUTLOOK ON TRADE GAP

(By Louis Uchitelle)

As an indicator of a trend, the August deficit in American trade, to be announced this morning, has little value. The deficit might rise, as it did in June and July, or it might decline—the most likely scenario. But whatever the August inning, the outcome of the game should remain the same: The nation's huge deficit in merchandise trade is not likely to shrink much in this decade.

The problem is that the devaluation of the dollar over the last two years has not been the cure-all that the Reagan Administration and many economists had thought it would be, although there has been some improvement. Instead of continuing to grow by leaps and bounds, the trade deficit has declined slightly since last fall, and that reversal is mostly the fruit of a lower dollar.

Some still put their faith in the lower dollar as solution enough for the trade deficit. But too many other forces are pushing in the opposite direction, nullifying further progress from devaluation and keeping the trade deficit close to last year's level of $175.2 billion in inflation-adjusted dollars. "Basically, you can't cure the trade deficit by devaluation alone—that's absurd," said Sam Nakagama, a Wall Street economist and consultant.

Among these various forces, the one that stands out the most is the reluctance of the nation's trading partners to raise prices for many of their products sold in the United States. The resistance defies traditional economic behavior, which calls for higher prices to maintain profit margins as the dollar falls. A Japanese manufacturer who sold, say, a camera in the United States for $300 in 1985, when the devaluation began, is still selling the camera for that amount, or only a bit more.

The $300 price tag converts today into 40 percent fewer yen, greatly reducing or eliminating profits, but keeping American customers from defecting. "In all the major product categories, foreign competitors are pursuing a strategy of export growth, and the centerpiece of that strategy is a clinging to market share," said Joseph L. Bower, a Harvard Business School professor.

Meanwhile, to rebuild earnings, many Japanese and Western European manufacturers are switching their production facilities as quickly as possible to lower-cost countries, namely those whose currencies are tied to the dollar and therefore not much affected by the devaluation.

These rising centers of foreign manufacturing include Singapore, Korea, Taiwan, Mexico—and the United States itself. The American trade deficit with the three Pacific rim countries, for example, is running at an annual rate of $28.3 billion this year compared with $22.9 billion in 1986. "What we may see is a change in the pattern of merchandise trade, where instead of so much coming from Japan or Europe, more will come from Mexico and Asia," said John Green of the WEFA Group, formerly Wharton Econometrics.

American consumers themselves are helping to maintain the nation's huge trade deficit by persevering in their purchases of imports, even when import prices do rise. Consumer demand simply does not let up, and the big reason in nearly every economist's view, is fiscal stimulus.

That stimulus comes from the budget deficit. The Government, in effect, is spending more than it has, borrowing to funnel into the hands of Americans more funds than the nation can afford. This is done mainly through military purchases, Social Security and other entitlement programs that otherwise would not be as well funded. One result: American consumer demand grows more rapidly than demand in Western Europe and Japan. Goods flow to this country to help meet this demand, rather than from this country abroad.

"Until fiscal stimulus is cut back, devaluing the dollar will not work," said Paul Krugman, an economics professor at M.I.T.

Nevertheless, dollar devaluation has a further role to play. Although the Reagan Administration is trying to keep the current level, Mr. Krugman and many other economists believe that the dollar must drop an additional 15 or 20 percent—to 110 or 120 yen instead of the present 143. That would put the dollar back at its 1980 level, when American exports were considered competitively priced.

And there are other problems. For most of the postwar years, the United States enjoyed a trade surplus, no matter how strong the dollar, because of its technology edge. Now the edge is gone. So is the huge surplus in agricultural exports, and Latin America has been lost as a net purchaser of American goods because of the debt crisis.

In the end, the Japanese and the Europeans, drawn by the low dollar, might significantly reduce the American trade deficit by relocating their factories in this country—making new inroads into domestic sales and also exporting from here. "In 1992, we could see United States exports rising, and General Motors going broke from the competition," Mr. Krugman said.●

PORTABLE PENSIONS

● Mr. BINGAMAN. Mr. President, last Friday the Census Bureau, as part of their Household Economics Studies series, released a report on pensions of U.S. workers. The report was described in the Washington Post of that day, October 9, in a story under the headline "U.S. Finds Pensions Cover Most Workers."

The story and the report go on to say that two-thirds of U.S. workers 25 years old or older work for firms with pension plans. While this is technically correct, it is also misleading. When one looks at the statistics contained in the report, rather than in the press release, a different picture emerges. In truth, less than half of the workers in America are actually protected by a pension plan.

The key phrase in the story is "Work for firms with pension plans." According to the Census Bureau, a worker is covered if he or she works for a company that offers a pension plan to any, I repeat, any worker. This says nothing about whether the worker participates in that pension plan or, more importantly, whether the worker can expect any future benefit from that plan.

I think that the general public's perception of the term covered differs from the Census Bureau's definition. The important statistic is the number of workers eligible to receive a pension benefit, either in payments or as a lump sum. I am disturbed that the Census Bureau has chosen to highlight the more positive but superficial at the expense of describing the underlying facts.

Rather than the rosy conclusion that the press release headline suggests, the statistics in the report reveal a much more disturbing picture. According to the report, 67 percent of the work force 25 years of age and older are covered by a pension plan, that is they work for a company that has a pension plan; however, only 55 percent actually participate in those plans. The number of workers who are eligible to receive pension benefits is even smaller. Only 45 percent of American workers are vested—that is eligible to receive benefits—in a pension plan and only 38 percent are entitled to receive pension payments rather than a lump-sum distribution. Thus, less than half of U.S. workers can currently expect to receive any pension benefits, either as retirement payments or as a lump-sum distribution, and just over one-third can currently expect future pension payments.

Mr. President, I ask to insert in the RECORD, two tables from the Census Bureau report.

Some have argued that the fact that fewer workers are eligible for benefits from a pension plan than participate in that plan is perfectly normal. It takes time to become vested in a pension plan and as workers become older, they gain vested pension rights. The data shows that older workers have a higher percentage of vesting than do younger workers and the percentage increases with the age of the worker.

However, the difference between coverage and vesting among older workers is significant. While 71 percent of workers 50 to 59 years old and 72 percent of workers 40 to 49 years old work for firms with a pension plan, only 58 percent and 54 percent of those workers, respectively, are vested in a plan. Thus, among the age groups with the greatest ability to become vested in a pension plan, more than 40 percent do not have any pension rights.

This difference between so-called coverage and actual eligibility for pension benefits points out the need for changes to our pension system. Studies have shown that American workers over the age of 25 change employers on average every 6 years. Given the fact that Americans change jobs so frequently, it should be no surprise that so few workers are vested in a pension plan.

Our pension system ties benefits to the job rather than to the person. We need to explore pension systems that stay with the worker rather than with the employer. To this end, I offered an amendment to the trade bill, which the Senate accepted, calling for a study by the Secretary of Labor of the feasibility of portable pensions.

Portability is the worker's ability to retain pension rights when changing jobs. At this time it is one of the important barriers to full labor force mobility. Because of the lack of portability, our aging work force avoids job changes to protect pension rights, and employers avoid older, more experienced workers to reduce their pension costs. The lack of pension portability is a major hindrance to our productivity and to individual savings rates.

Mr. President, there are a number of ideas about how to provide portable pensions, and we need to sort out these concepts. I hope, therefore, that the Labor Department's "Workforce 2,000" study will investigate the roadblocks to the portability of pensions and how to overcome them.

The tables follow:

TABLE A. PENSION ELIGIBILITY.—WAGE AND SALARY WORKERS 25 YEARS AND OVER, BY SEX: 1984

[Numbers in thousands]

Eligibility	Both sexes	Male	Female
All wage and salary workers	78,619	43,467	35,152
Covered by a pension plan	52,727	30,351	22,376
Percent of total workers	67.1	69.8	63.7
Participating in a pension plan	43,290	26,496	16,793
Percent of total workers	55.1	61.0	47.8
Vested in a plan	35,479	21,865	13,614
Percent of total workers	45.1	50.3	38.7
Entitled to future benefits	29,764	18,553	11,211
Percent of total workers	37.9	42.7	31.9
Entitled to lump-sum payments	5,715	3,312	2,403
Percent of total workers	7.3	7.6	6.8

TABLE B. AGE.—WAGE AND SALARY WORKERS 25 YEARS AND OVER, BY PENSION STATUS: 1984

[Numbers in thousands]

Age	All workers	Covered by a pension plan		Vested in a pension plan		
					Percent of—	
		Number	Percent	Number	Covered workers	Total workers
Total	78,619	52,727	67.1	35,479	67.3	45.1
25 to 29 years	16,039	9,686	60.4	4,590	47.4	28.6
30 to 39 years	26,350	17,962	68.2	11,527	64.2	43.7
30 to 34 years	14,162	9,338	65.9	5,732	61.4	40.5
35 to 39 years	12,188	8,624	70.8	5,795	67.2	47.5
40 to 49 years	17,190	12,385	72.0	9,295	75.1	54.1
40 to 44 years	9,653	6,959	72.1	5,039	72.4	52.2
45 to 49 years	7,537	5,426	72.0	4,256	78.4	56.5
50 to 59 years	12,846	9,139	71.1	7,474	81.8	58.2
50 to 54 years	6,712	4,707	70.1	3,847	81.7	57.3
55 to 59 years	6,134	4,432	72.3	3,627	81.8	59.1
60 to 64 years	4,054	2,570	63.4	2,043	79.5	50.4
65 years and over	2,141	985	46.0	551	55.9	25.7

U.S. Department of Commerce, Bureau of the Census, "Pensions: Worker Coverage and Retirement Income, 1984," Current Population Reports, Household Economic Studies, series p–70, No. 12.●

INFORMED CONSENT: NEVADA

● Mr. **HUMPHREY.** Mr. President, I again present to this body a letter in favor of my informed consent legislation, S. 272 and S. 273, something I have vowed to do daily until a persistent injustice towards women has ceased.

The injustice I speak of is the lack of information provided to women considering abortion. Time after time, trusting women enter abortion clinics seeking honest counsel, but in many many; cases, they are either misinformed or even misled. Hundreds of letters sent to my office testify to this reality, a reality that has left thousands if not millions of women downcast, depressed or even sterile. Such are indeed the risks of abortion, but of the many women who wrote me about their experience, the vast majority was never warned of such an outcome.

The letters I bring today is from a woman in Nevada who encountered abortion several years ago. She tells of a great lack of information prior to her consent for an abortion, and in its aftermath she engaged in dangerous, self-destructive behavior. The bright side to her story is that she is now involved in helping other women encountering crisis pregnancies similar to her own.

We owe it to her and to all women to bring the informed consent standards for abortion up to those of other medical procedures. My informed consent legislation, S. 272 and S. 273 will do just that in federally funded facilities, and I urge my colleagues to join me in the support of the bills.

I also ask unanimous consent that the letter from Nevada be entered into the RECORD.

The letter follows:

CARSON CITY, NV,
October 5, 1987.

DEAR SENATOR HUMPHREY: I would like to take a few minutes of your time to tell my story. Which unfortunately is not an uncommon story. In the spring of 1978 I found myself pregnant, and I chose to have an abortion. That decision would prove to be the most devastating event in my life. And believe me, I have had my share. I was given no counsel as to the procedure, side effects either physical or emotional. The experience itself was the beginning of a 9 year struggle within myself to deal with the reality. As I lay on the table in the clinic and as the procedure began there was instant pain. (Which I was told there would be none). But the most amazing part was that the instant my baby died inside of me I knew. And that was the part that I was not even remotely prepared for. For eight years I was denied the right to grieve for my baby because society tried to make me believe that what I lost wasn't a baby. I spiralled down further and further. My life became focused on self destructive behaviors ranging from alcohol and drug abuse to eating disorders, anxiety attacks and physical punishment. I had been a runner all through high school and because of my anger at myself I would hit myself in the knees with a hammer or whatever destructive object to deny me the pleasure of running. I realize now that the times the behavior would become most destructive was during the "anniversary" date of the would be birth date of my child.

I think the saddest part of this short story is that when I was 14 I found myself with an unwanted pregnancy and at that time I chose to adopt my daughter out. Even though I was even younger then I chose a better option for my daughter. I can honestly say that as I look back over my adoption versus my adoption experience, the outcome or effects on my life as a person was much more positive and healthy through the adoption and much more destructive through the abortion.

There is much more to tell, but that is the basic in a nutshell. Thank you for your time, and I can say that I am very pleased to have gone through a positive healing and grieving process to where I am now able to use my experiences to help women who find themselves in a crisis situation. I am definitely pro-life and will always be but I have such a burden to help women who have gone through the abortion experience to come through a healing process. I truly believe that the more women we can touch and help then the more of a voice our country will have as to the real dangers of abortion.

Sincerely,

KAREN SCHERUPP.●

TOM GREENLEE OF KBCO

● Mr. **WIRTH.** Mr. President, for the last decade, Boulder and the greater Denver area have been well served by KBCO radio. One of the most creative and progressive stations in the country, KBCO has been a reflection of its very able owners, Diane and Bob Greenlee.

Bob has also been elected and reelected to the Boulder City Council, and his moderate, thoughtful approach has served the city well. He sold KBCO this summer—maybe this will free him and Diane for full time public service.

The Boulder Daily Camera recently ran a profile of Bob Greenlee which I would like to share with my colleagues. I ask that this article be included in the RECORD.

The article follows:

GREENLEE DARED TO BE DIFFERENT—UNIQUE SOUND, STYLE TOOK KBCO FROM OBSCURITY TO TOP

(By Bill Scanlon)

Bob Greenlee says the world is full of "cookie cutters and carbon paper" and radio stations that sound like one another.

Greenlee, a fan of Mozart chamber music, in 12 years parlayed two small Boulder FM and AM stations into KBCO-AM and FM, the Denver area's leading rock 'n' roll station. (KOSI beat KBCO in the latest Denver-metro Arbitron ratings, but it has an easy-listening format.)

Greenlee did it, employees say, by rejecting a menu approach to radio and by letting the creative people be creative.

And in so doing he and his wife, Diane, parlayed a $525,000 investment into two radio stations they sold Tuesday for $27.3 million.

"If Bob doesn't like it, we must be doing something right," is the standing joke of the people who chose the music for KBCO.

Promotions director David Rahn says Greenlee has given them the flexibility to "put a lot of ourselves into the station." That, he says, breeds pride and more interest in "what happens down the road."

Down the road, things shouldn't change much, according to the buyer.

The Greenlees sold their station to the Noble Broadcasting Group in San Diego. President John T. Lynch, whose parents live in Boulder, said he anticipates "no changes whatever" in the operation of the station.

Greenlee, a Boulder city council member, on Wednesday relaxed in the handsome office he'll soon be abandoning at KBCO headquarters, 4801 Riverbend Road, and reflected on the past 12 years.

"People who are fulfilled, who want to contribute, who are expressive and involved (are) the kind of people I like to surround myself with," said Greenlee.

Greenlee was operating a ham radio at 14 in his hometown of Omaha, Neb. He always loved radio but when he found he had "absolutely no math skills," he gave up on the engineering side and went into administration, managing the campus radio station at Iowa State University.

He met his wife, Diane, at the ISU station and she remains an integral part of his work.

They moved to Boulder from Des Moines in 1975 and bought KADE-AM for $250,000.

Two years later, they bought a 250-watt FM station for $275,000 and soon changed its call letters to KBCO. KADE became KBCO-AM in 1985.

"We've tried to be unique, to do something out of the ordinary, but not so disruptive and foreign that you come off as strange," said Greenlee. "We've tried to walk that fine line, offering a bigger menu than the fast-food radio stations."

KBCO's signal barely reached the edges of Boulder in the early days, but now the 100,000 watts easily blanket the Denver metro area.

Still, the KBCO people gear the music to what they think Boulder residents in their 20s and 30s want to hear. KBCO is considered a progressive rock station. The station's format consists primarily of modern and classic album rock songs (not Top-40 singles). The inclusion of jazz fusion, blues, acoustic and new age music in the regular playlist gives KBCO its distinctive sound.

The musical directors "have taught me to stay out of that area," said Greenlee, 46.

But on occasion he will "challenge their own notions about the world, it they begin to inject their own biases, without sensibility to the broad audience. "Here, there is a different lifestyle and mentality that somehow permeates and is reflective of what we do on the air," said Greenlee. "That's why we've consistently resisted suggestions to go to Denver. We wanted the new owners to commit to Boulder. Our roots are here."

KBCO disc jockey Richard Ray says, "Bob and Diane are by far the best people I've every worked for."

In an industry where the average stay at a station is two years, Ray has been at KBCO for 10.

"So often, rock 'n' roll stations are filled with extremely like-minded people. I haven't found that to be the case here and that's one reason why it's been so good. The wildly varying backgrounds of musical tastes gives the potpourri of styles of music on the air."

Ray, Rahn and operations director Dennis Constantine plan to stay and believe almost everyone else will too.

"There's no reason these people would jive me, I consider them friends," said Ray. "They would not have sold it to just anybody. They were sold on this company so I'll certainly give it a try."

Constantine has been with the Greenlees from the beginning.

In 1977, he recalls, there was a hole in the market. "Everything was pretty mainstream. There was a place for us."

Success and growth came steadily. The big jump came in 1985 when KBCO grew to 100,000 watts.

"Everybody loves it here," said Constantine. "Some people refer to it as a family or team. . . . Greenlee is the father image of the station. He's been very supportive of everything we've done.

"We have a lot of freedom. We're one of the very few stations in the country where DJs pick the songs."

"He was excellent to work for," said Rahn. "We'd go to Bob for everything from salary questions to needing a new turntable for the studio. That adds up to a personal family touch. On the other hand, he may have been too close to a lot of that, to the ins and outs. Sometimes you have to take a more detached view, but he was good at that as well."

Greenlee and his wife have no specific plans, although he will stay on a while as a consultant to the new owners and may run for one more term on city council. He has represented the businessman's view on the council for two terms.●

FANNIE MAE HOUSING

● Mr. HEINZ. Mr. President, on September 28, the National Temple Non-Profit Corp. of Philadelphia held a combined ribbon-cutting and ground-breaking ceremony to mark the completion of construction of 20 units of housing for low-income families in north Philadelphia and the beginning of rehabilitation on 12 additional units. This project was financed by Fannie Mae—which invested $570,000 in the housing—and by the Enterprise Social Investment Corp., CIGNA, Mellon Bank (East), the Ford Foundation, the William Penn Foundation, and the National Trust for Historic Preservation, as well as the city of Philadelphia.

This project utilizes provisions of the 1986 Tax Reform Act, and it is precisely the kind of low-income housing initiative the Congress contemplated in enacting these tax provisions.

I wish to commend all of the participants in this most worthy project, and give special acknowledgement to Fannie Mae which chose Pittsburgh for its first low-income tax initiative. In May, Fannie Mae announced its investment in the Wood Street Commons Projects which will provide housing for homeless persons.

At a time when Federal housing funds are particularly limited, and our Nation faces a continuing erosion of its low-income housing stock, it is important for corporations to step up and use those tools Congress has provided.

Mr. President, the Philadelphia Inquirer published an article describing this endeavor. I ask that the article be printed in the RECORD.

The article follows:

FANNIE MAE JOINS HOUSING VENTURE IN NORTH PHILADELPHIA

(By Idris Michael Diaz)

The Federal National Mortgage Association has invested $570,000 in two low-income housing complexes being developed by a North Philadelphia nonprofit corporation.

The investment is part of a drive by the association, known as Fannie Mae, to invest in the development of low-income housing. An official of the agency said yesterday that the investments have become more attractive as a result of tax credits available under the 1986 tax law.

"This does represent a relatively new pattern of business investment" for Fannie Mae, said Larry Dale, senior vice president for multi-family activities for the corporation.

The venture with the National Temple Non-Profit Corp., is Fannie Mae's first equity investment in low-income housing with a non-profit, developer in Pennsylvania. Fannie Mae has made investments with for-profit developers in New York and Pittsburgh, Dale said.

The newly created partnership has enabled National Temple to complete construction of 20 units of low-income housing, which are already occupied, and to begin work on 12 units in a rehabilitated building. The cost of the two projects is about $2.5 million.

The group has scheduled a "gound-breaking" ceremony for the 12-unit Waller House project at 1437 N. 15th St. on Monday. The event will be followed by a ribboncutting ceremony for the 20-unit project at 1418 W. Master St.

The partnership with Fannie Mae is one of the first projects to use tax credits for developers of low-income housing under the tax reform act of 1986, according to Marie Nahikian, director of housing and economic development at National Temple.

Fannie Mae is a federally chartered, investor-owned corporation. It is the nation's largest investor in home mortgages.

In addition to the funding from Fannie Mae, National Temple has received funds from a variety of other sources.

Cigna Corp. is providing a $500,000 low-interest mortgage to the 20-unit project and a $575,000 low-interest mortgage to the Waller House project. Mellon Bank has provided construction and bridge loans to the two projects. The City of Philadelphia, William Penn Foundation, Ford Foundation and National Trust for Historic Preservation also are providing financing for the projects.

"With Fannie Mae investing in North Philadelphia, our hope is that Philadelphia-based corporations will follow," Nahikian said. "It is not necessary to be in the mortgage finance business to invest in low-income housing. Any taxpaying corporation can take advantage of the federal low-income housing tax credits."

Samuel Smith, National Temple's president and founder, said, "Much has been written about the state of north-central Philadelphia. We are tired of being portrayed as the nation's model ghetto and a do-nothing, look-the-other-way neighborhood. National Temple is providing the leadership that will show other corporations how to invest in the people of North Philadelphia."

The rehabilitation of the Waller House, which is designated as a historic landmark, will provide investors with historic as well as low-income housing tax credits. The project is named for the late Rev. Bernard J. Waller, former pastor of National Temple Baptist Church, which sparked the development of the National Temple Non-Profit Corp. in 1968.

National Temple has completed more than $5 million worth of housing in the Philadelphia area in the last six years.●

ADVANCE NOTIFICATION

PROPOSED ARMS SALE

● Mr. PELL. Mr. President, as the result of a 1976 agreement, the executive branch provides Congress with advance notification of proposed arms sales under the Arms Export Control Act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has not less than 20 calendar days for informal review and consultation with the administration on the proposed sale. If the executive branch wishes to proceed with the sales proposal following the informal review period, section 36(b)(1) requires that the executive branch submit a formal notification to Congress of the proposed arms sale. Upon such notification, the Congress has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the Record at this point a notification which has been received. Portions of the notification which are classified have been deleted for publication, but are available to Senators at the Foreign Relations Committee.

The notification follows:

Defense Security Assistance Agency,
Washington, DC, October 14, 1987.

In reply refer to I-15619/87ct.

Mr. Geryld B. Christianson,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

Dear Mr. Christianson: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost $14 million or more.

Sincerely,

Charles W. Brown,
Director.●

THE CHILD CARE CRISIS: ANOTHER TRAGEDY

● Mr. CRANSTON. Mr. President, in June of this year, I called this body's attention to the deaths of two small children, Anthony and Maurice Grant. Anthony, 3, and Maurice, 4, died because they crawled inside a clothes dryer—presumably they thought of it as a safe place to play—and closed the door. The dryer, an older model, automatically turned on when the door was closed, and the children were burned to death.

Linda Grant, the children's mother, had left them home alone because she felt she had no other choice. Wanting her children to grow up knowing self-sufficiency, she worked for a living in a school cafeteria. Although a relative cared for the children, Linda Grant knew such an arrangement couldn't last forever and placed Anthony and Maurice's names on a waiting list for subsidized care. But that list was 6,000 names long and the relative's availability ran out before the children's names came to the top of the list.

Leaving her children home alone was not what Linda Grant wanted to do. But she feared losing her job if she took any more time off. So, she went to work that day. And Anthony and Maurice looked for something to do.

I retell this story not just for the sake of reminding my colleagues of what can happen to children who live in a society that does not recognize and respond to their needs. Although I hope that the story will serve that purpose as well.

I raise this subject anew because such a tragedy has struck again, this time here in the Washington area.

On Monday, two 6-year olds—a boy and a girl—died in a fire in an apartment in Reston, VA. The boy was under the care of his 8-year old sister who was able to escape. The girl, a neighbor, had come by to see if her friends wanted to play. The Washington Post reports that the mother of the brother and sister, Sandra James, who was at work at the time of the fire "had only recently taken the part-time job after she learned that the child care that she had provided in her home was prohibited under condominium rules."

We don't yet know all of the details of this story, but we do know—again as the Post reports:

> A recent study found that of 7,200 Reston children between 5 and 14, about 5,000 need child care, but there were only 453 slots available at private day care centers and at school-based programs. It was unknown how many care for themselves.
>
> The county and the state have programs to subsidize child care for low-income families, but these have long waiting lists. . . . Also, the county runs before- and after-school programs for kindergarten to sixth grade. With 2,200 slots at 64 elementary schools in the county, more than 800 children are on the waiting list, according to the Fairfax Office for Children.
>
> The schools that Jermaine James and Amanda Croson [the children killed in the fire] attended . . . are not among those that have the school-based program, officials said. Even where the program exists, it does not operate on some school holidays, such as Monday's Columbus Day break. . . .
>
> Two years ago the State legislature started a $1.5 million program for subsidizing home day care services for low-income families; the money was gone quickly.
>
> James A. Payne, chairman of the State Board of Social Services, wrote to local social service agencies in September, asking them to push for more funding and saying that day care services otherwise would have to end for some of Virginia's neediest families.
>
> "Many families affected will have to resort to total welfare dependency . . . or face the choice of leaving their young children unsupervised or in substandard care," he said.

The similarities between the two stories are striking: A working mother, small children too young to care for themselves, waiting lists for affordable care, tragedy.

When I first told the story of the Grant children, I ended by saying that "if we fail to address the child care crisis in America then we run the risk of witnessing more tragedies like the one that took the lives of Anthony and Maurice Grant."

I wish I had been wrong.●

CUBAN IMMIGRATION AND CUBAN POLITICAL PRISONERS

● Mr. LAUTENBERG. Mr. President, I rise to draw my colleagues' attention to a provision in the fiscal year 1988 Commerce-Justice-State bill that was approved as an amendment in the Senate Appropriations Committee, and has also been approved as an amendment to the fiscal year 1987 State department authorization bill. The provision was cosponsored by Senators Chiles, Harkin, and Grassley, and aims to ease the entry of Cubans into the United States and to thereby correct an injustice that has been done to victims of Castro's tyranny. It is similar to S. 1075, a bill I introduced earlier this year.

Mr. President, I would like to briefly describe the provision concerning Cuban immigration and political prisoners, and why it is necessary.

The provision will eliminate barriers to Cuban entry into the United States that have arisen as a result of the breakdown of the Mariel migration agreement. It directs the Immigration and Naturalization Service to process current and former Cuban political prisoners as refugees for entry into this country when they serve any amount of time in Castro's jails. Under our current policy, they must serve more than 10 years.

It also directs the Immigration and Naturalization Service to restore normal Cuban immigration from Cuba and third countries to the United States, instead of allowing immigration only under certain narrow circumstances. By normal immigration, we mean our immigration processes as commonly applied around the world. We also intend that under this provision, all Cuban nationals applying for immigration visas outside of Cuba should be considered Cuban nationals for the purpose of immigration quotas.

Mr. President, the need for this bill arises from the breakdown of the Mariel migration agreement, which attempted to resolve immigration problems between the United States and Cuba. In that agreement, Cuba promised to take back 2,746 Cubans who came over from the port of Mariel, Cuba, in 1980 as part of the larger Mariel boatlift, and who were found to be excludable from the United States due to their mental illness or past serious criminal offenses.

For its part, the United States promised to process up to 3,000 former political prisoners and their families in fiscal year 1985, with the presumption that the program would continue at that level. It also promised to allow for the restoration of normal migration from Cuba to the United States for various preference category immigrant visas up to the limit of 20,000 persons from any independent country.

On May 20, 1985, Cuba suspended the Mariel agreement in reaction to our beginning broadcasts over Radio Marti. In response to Castro's action, we instituted a policy of processing only Cuban political prisoners in jail more than 10 years, and we cut off normal Cuban immigration from Cuba and third countries. The provision in the bill would remove the 10-year limit, and would reinstate normal immigration of Cubans from Cuba and third countries.

Mr. President, our policy of processing only those prisoners who have been in jail for more than 10 years makes no sense and ought to be changed. It is unfair and unwarranted to punish Castro's own victims for Castro's behavior toward the United States. It penalizes people who have already suffered at Castro's hands, in his jails, for their opposition to his regime. It should be changed, and the provision in this bill changes it.

The second part of this bill addresses the United States' suspension of normal immigration from Cuba and third countries to the United States as a result of the breakdown of the Mariel agreement.

Cubans who are not former or current political prisoners can come to this country only if they are granted an immigrant visa. Because of the breakdown of the Mariel agreement, however, only two classes of Cubans are now being granted visas: First, immediate relatives of American citizens—defined as spouses, parents, or unmarried minors—from Cuba or third countries, and second, Cubans who left Cuba before August 22, 1986, and who are in one of the "preference" categories for immigration. Cubans in third countries cannot come to the United States if they left Cuba on or after August 22, 1986, and are not immediate relatives of Americans.

The practical effect of this policy is to deny thousands of Cubans living in Cuba the right to be reunited with their families in the United States because of actions by Castro over which they have no control. It means that the over age 21 sons or daughters of American citizens, the spouses or children of legal permanent residents, the married sons or daughters, or the brothers and sisters of United States citizens, if they live in Cuba, cannot come into the United States until Cuba makes good on its promise to take back the Mariels.

My bill would reverse this policy, and reinstitute normal immigration from Cuba and third countries regardless of the disposition of the Mariels now in the United States. For those Cubans now living in Cuba, allowing them to emigrate to the United States is a simple humanitarian gesture mandated by the terrible conditions of Cuba's totalitarian society. That gesture becomes even more compelling when we realize that these people have family in the United States.

Our current policy can only discourage the bravery and strength of will required to withstand the psychological and physical assault in the totalitarian system of Cuba. Long-term interests, including the fostering of democracy, are undermined when the impression is given, however erroneous that the United States is willing to abandon freedom-loving people. This provision ends this inhumane policy of condemning Cubans who seek freedom in the United States to a life under tyranny.

As for those Cubans who have managed to escape to third countries, there are compelling reasons to allow them to immigrate to the United States. First, they have family in the United States, and the family reunification argument is as compelling for Cubans in third countries as it is for Cubans in Cuba.

Second, many of these Cubans who escape to third countries are living in a kind of limbo. Many cannot get a job, and must rely for survival on money from their relatives in the United States.

I have said that our current policy toward Cuban immigrants and political prisoners is unfair. It violates America's proud tradition of providing safe haven for those who are oppressed. But there is an equally compelling argument against it.

It has not worked.

Since its institution for political prisoners in 1985, and for immigrants in 1986, not one Mariel excludable has been sent back to Cuba. The United States and Cuba are not even talking about reinstating the agreement. Meanwhile, Cubans who desperately seek freedom in the United States are denied the right to come here.

The administration's policy on the issue of Cuban immigration and the processing of Cuban political prisoners is a significant departure from the historical generosity of the United States toward those who have suffered for sharing American ideals. It also violates our tradition of encouraging the reunification of families. I believe it should be changed immediately, and the provisions in this bill would do that. I urge the passage of this bill.●

VOLEL ASSASSINATION

● Mr. HARKIN. Mr. President, I read with great alarm yesterday reports of the assassination of Yves Volel, a Haitian Presidential candidate. Mr. Volel was shot in front of the police headquarters in Port-au-Prince as he delivered a speech demanding the release of a prisoner.

Yesterday morning, with the Haitian Constitution in his left hand and his robe as a lawyer in his right, Mr. Volel appeared before police headquarters to appeal for the release of Jean Raymond Louis. Mr. Louis had allegedly been held without trial for the past month.

Police plainclothesmen then beat and shot several times at Volel, who was struck once in the head and died instantly. Eyewitness accounts and television footage disprove official police accounts that Mr. Volel tried to forcibly free the prisoner and died in an exchange of gunfire.

Mr. President, how can something like this happen in a country where, a year and a half ago, after the fall of the dictatorship of Jean-Claude Duvalier, there appeared real hope for bringing democracy to Haiti.

But neither democracy nor stability has returned to that country.

This summer, the army-dominated provisional government headed by Lt. Gen. Henri Namphy briefly seized control of the electoral process from Haiti's civilian council. General Namphy's government restored civilian control, but street demonstrations continued, resulting in the death of more than 35 civilian protestors.

The death of Yves Volel should shock all of us into realizing that Haiti is in crisis. The euphoria all of us felt in February 1986, when Duvalier fell, should not prevent us from accepting the reality of present day Haiti. Haiti, according to a civilian electoral council spokesman, is "still in a crisis."

And Yves' assassination will have a chilling effect on the upcoming Haitian Presidential election.

The United States has a responsibility to wake up to this crisis and reshape our policy accordingly. I recommend that the Congress fully investigate events surrounding the Volel assassination as well as the current political situation in Haiti.

Tragically, democracy does not easily take root in countries like Haiti, where for generations dictators kept a stranglehold on their countries politics and economies. The Haitian people were shocked into that realization yesterday. I hope that we learn that lesson as well.●

VLADIMIR SLEPAK AND IDA NUDEL

● Mr. DODD. Mr. President, it pleases me greatly to learn today that Vladimir Slepak and his wife, Maria, have been granted permission to leave the Soviet Union and move to Israel.

Each announcement of a dissident being allowed to emigrate from the Soviet Union warms my heart and boosts my spirit to battle on in this struggle for freedom. The release of Vladimir and Maria Slepak, however, is rather special for me.

While visiting the Soviet Union over 12 years ago, I met with Vladimir Slepak. From our lengthy conversation, I gained a sense of a Vladimir Slepak's perspective as a Jew in the Soviet Union. While the facts of his story were discouraging, I emerged from our meeting somehow hopeful and more determined. From this man, I learned how the strength of the human spirit can enable an oppressed individual to rise above the conditions laid before him by injustice and misfortune.

I imagine the moment Vladimir Slepak touched the card that says that he and Maria will soon receive exit visas. Seventeen years after first applying for emigration, Vladimir Slepak knows that he and his wife will be able to live in freedom, rejoin their two sons and see for the first time their five grandchildren. No longer will they be subject to persecution, false arrest, condemnation and daily harassment because of their religious beliefs. No longer will they be subject to exile to Siberia, something which Vladimir endured from 1978 to 1982 for hanging a banner from his Moscow apartment declaring his desire to move to Israel. According to the Soviet Government in 1978, that was an act of malicious hooliganism.

Vladimir Slepak is the epitome of a leader, gifted with foresight, confidence, compassion, and courage. As Elie Wiesel wrote,

> He was the first or one of the first to teach Hebrew and Jewish history, the first to organize courses for young Jews in search of their identity and culture, the first whose erudition and determination presented a powerful challenge to Soviet dictatorship and its policy of fear and isolation.

Knowing the kind of man Vladimir is, I have felt privileged to be a cofounder of the foundation that bears his name, an organization dedicated to the cause of Soviet Jewry.

I would also like to take this opportunity to express joy for Ida Nudel who, I understand, is flying from the Soviet Union to Israel today. I recently wrote Secretary of State George Shultz and urged him to bring forth specifically the case of Ida Nudel in his meeting with Soviet Foreign Minister Shevardnadze. It buoyed me to learn of her release shortly after the meeting.

It is appropriate, wonderful and, of course, just that the Slepaks, only hours after learning of their emigration, attended a farewell dinner for Ida Nudel and that these three people, symbols of the great struggle for freedom, could at last celebrate together.

I hope that these releases are an indication that the Soviet Union is finally realizing how important this issue is to the American people and other decent people of this world. However, several refuseniks who have yet to be granted permission to emigrate were also in attendance at Ida Nudel's farewell party and the Soviet Union must know that we will not forget any of them or any of the other victims throughout that land. As Vladimir Slepak said,

> If you turn your eyes from us, even for a moment, we will cease to exist.

We will not turn our eyes even for a moment until everyone is free.●

WARREN, MI, CELEBRATING 30 YEARS AS A CITY

● Mr. LEVIN. Mr. President, this weekend when I travel back to my home State, I shall join the good people in the city of Warren in celebrating that community's 30th anniversary.

Warren is Michigan's third largest city and has about 160,000 residents. It is a city of great ethnic and economic diversity. It is a city which grew faster than any other in America during the 1960's. It is a city with its own symphony orchestra. It is a city where more than 80 percent of the residents own their own homes—the 13th highest ratio in the Nation for cities with a population of more than 50,000.

Organized in 1837 as Hickory Township, it was renamed Aba in 1838 and adopted its present name many years later to honor Joseph Warren, a Revolutionary War hero. The village of Warren was incorporated in 1893 and now, as a city, it commemorates a proud birthday.

Warren is a major automotive manufacturing center as well as a producer of steel, electronic equipment, tools and dies, and plastic moldings. It is home to Eero Saarinen's futuristic General Motors Technical Center, the Detroit Tank Arsenal, a campus of Macomb County Community College, and it can also boast that it has one of the most advanced waste water treatment facilities in the world.

I look forward to joining Mayor Ronald Bonkowski, other city officials, and its proud citizenry on this festive occasion and know the Senate joins me in saluting and congratulating Warren, MI, on its 30th birthday.●

ORDERS FOR FRIDAY

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders, with the approval of the distinguished Republican leader, I can cut mine, be limited to 15 minutes to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to exceed 5 minutes following the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I will suggest, at about the hour of 9:20 tomorrow morning, the absence of a quorum. I will offer a motion to instruct the Sergeant at Arms in the event a quorum is not present. There will be a vote on that motion and that will be a rollcall vote at that time. The yeas and nays have not been ordered but I ask unanimous consent that the call for the regular order occur at the conclusion of 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that no quorum call be in order prior to the quorum call I have discussed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over, under the rule, come over tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR CALL UNDER RULE VIII WAIVED

Mr. BYRD. Mr. President, without objection, I ask unanimous consent that the call of the calendar under rule VIII be waived on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow, I would alert Senators that there are a number of measures which might be called up and these are not all-inclusive, but they would include, possibly, the transportation appropriations bill; possibly the energy and water appropriations bill; possibly S. 1474, on which there is a time agreement appearing on page 2 of the calendar of business.

I should also alert Senators that I may ask to go to S. 1293, a bill to amend the Ethics in Government Act of 1978.

Mr. DOLE. Will the Senator yield?

Mr. BYRD. Yes, I will be happy to yield.

Mr. DOLE. The reference to S. 1474, the veterans bill, I am advised if the majority leader should turn to that, I have alerted Senator MURKOWSKI, who is ready to start as early as 9:30 on that bill on this side, if that would help the majority leader.

Mr. BYRD. Yes, if Mr. MURKOWSKI could be prepared. I would not want to say at the moment we definitely can go to that at the close of the rollcall vote.

It might be that that would be the case. If they could be prepared, it would be helpful.

Mr. DOLE. With reference to the ethics in Government bill, there has been a request on this side that that be referred to the Judiciary Committee, but I will speak to the distinguished Senator from South Carolina, Senator THURMOND, tomorrow, and see if he would agree that this bill could come up.

Mr. BYRD. All right.

Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the motion to instruct the Sergeant at Arms tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I should also mention that there is a possibility the Senate could go to the unfinished business on tomorrow, the catastrophic illness legislation. I should also remind all of us that the war powers legislation is also a very strong possibility. I am hoping that something can be worked out by way of an agreement on that matter, although it does not look possible now.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, does the distinguished Republican leader have any further statement to make or business he would like to transact?

Mr. DOLE. I have no business or statement. I thank the majority leader.

Mr. BYRD. I thank the Republican leader.

Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to, and at 8:04 p.m. the Senate adjourned until tomorrow, Friday, October 16, 1987, at 9 a.m.

EXTENSIONS OF REMARKS

THE 20TH PRESIDENT OF THE UNIVERSITY OF GEORGIA

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. BARNARD. Mr. Speaker, on October 18, Dr. Charles Boynton Knapp will be inaugurated as the 20th president of the University of Georgia. Dr. Knapp is the latest in a long line of distinguished educators to lead America's oldest chartered state university, and his inauguration marks a significant milestone in the history of this esteemed educational institution.

Dr. Knapp combines the energy and enthusiasm of youth with vision and wisdom usually associated with those more advanced in years. At age 41, he is one of the youngest presidents of a major college or university in this Nation. But despite his young age, he has an impressive record as a scholar, teacher, researcher and administrator. And in addition to this wealth of personal experience, Dr. Knapp brings to his new position a familial association with higher education that dates back more than a century.

He is the great great-grandson of Seaman Ashael Knapp, who was the second president of Iowa State University from 1884-1886. Seaman Knapp is also credited with starting the programs that evolved into the agricultural extension service—unquestionably one of the great assets to America's farmers in the 20th century. That contribution is commemorated on the Knapp Memorial Tablet and Arch in Washington, DC. Dr. Knapp's great grandfather, Albert Storms, was also later a president of Iowa State, and his great uncle, Bradford Knapp, served as president of the schools that we now know as Oklahoma State University, Texas Tech University and Auburn University.

Dr. Knapp has spent most of his life in and around educational institutions. He was born and raised in Ames, IA, the home of Iowa State University. He attended Iowa State, as did both his parents and all his grandparents. The family's prominence in the school and community is attested to by Knapp Hall and Storms Hall, two dormitories on the Iowa State campus, and Knapp Street, an Ames thoroughfare.

He received a bachelor's degree with honors in economics from Iowa State in 1968, then earned master's and doctoral degrees in economics from the University of Wisconsin in 1972. Perhaps his academic training was an indicator of the direction of his future career, because Iowa State and the University of Wisconsin are the two land-grant schools that have produced the most presidents of State universities in America in recent years.

Dr. Knapp began his academic career at the University of Texas as an assistant professor of economics and a research associate in the university's Center for the Study of Human Resources. In 1976, he joined the U.S. Department of Labor as a special assistant to Labor Secretary Ray Marshall. In 1979, he became Deputy Assistant Secretary of Labor for Employment and Training. In this position, he managed Federal employment and training programs that provided training, job search assistance, unemployment compensation and other labor market services. As a key official of a program that provided services to more than 30 million American workers at a cost of $27.7 billion, Dr. Knapp proved that he is a skillful administration and effective manager.

From 1981 to 1982, Dr. Knapp was a visiting faculty member at George Washington University. In 1982, he was appointed executive vice president of Tulane University, the position he held until becoming president of the University of Georgia. As Tulane's chief financial, business and operations officer, he again demonstrated his extraordinary organizational and leadership talents. During his tenure, Tulane had operating surpluses of more than $3 million for 5 consecutive years. A $100 million campus development program was started, and the school's endowment rose from $74.6 million to $208.1 million. More than $160 million was raised in a capital campaign.

Dr. Knapp became president of the University of Georgia July 1, 1987. With some 25,000 students, 7,600 faculty and staff members and an annual operating budget of more than $400 million. The University of Georgia is acknowledged to be one of the premier State universities in the South and is moving rapidly into the ranks of America's top public institutions of higher education. Founded in 1785, the University was the first in our great network of public colleges and universities—the heart of America's system of higher education.

The University of Georgia was recently designated by the Carnegie Foundation for the Advancement of Teaching as one of the 70 foremost research universities in the country. More than $107 million was expended for research in fiscal year 1986-87—the first time research expenditures have exceeded $100 million in the university's history. Ambitious research programs in biotechnology, computerization, computational quantum chemistry and plant molecular biology have attracted worldwide attention. The university's Complex Carbohydrate Research Center, the world's first facility for the study of complex biochemical mechanisms that control the growth and development of plants, was recently designated the first Department of Energy center for determining the structure of complex carbohydrates. Dr. Eugene Odum, who founded the University's Institute of Ecology, won the 1987 Crafoord Prize from the Swedish Academy of Sciences, which awards the Nobel Prize. The Crafoord Prize is the Academy's equivalent of the Nobel Prize in fields for which the Nobel is not given.

The University of Georgia has one of the largest and most comprehensive public service programs of any educational institution in the Nation. It is 1 of 21 institutions in the United States designated a sea grant college, and has 1 of the 10 largest honors programs in the country. The university's school of journalism and mass communication administers the prestigious Peabody Awards for excellence in broadcast journalism. Many university departments and programs have been judged among the best in the country, including the university libraries, which are ranked 23d by the Association of Research Libraries; the public administration and reading education programs, both of which placed first in research productivity; the mathematics education program, which has the top-ranked doctoral program; and the school of law, rated 24th in scholarly productivity among the Nation's 174 accredited law schools.

Clearly, the University of Georgia is already an institution of exceptional strength and excellence, and Dr. Knapp will lead it to even greater heights in the coming years. His stated goal is to make the University of Georgia the standard by which all other State universities are judged. He has promised to build on existing strengths, to create new "centers of excellence" and to continue to attract outstanding scholars and researchers. He has pledged that the university will play a "vital role" in Georgia's economic growth by providing the State with accessible technology, a skilled work force, entrepreneurial management and available risk capital.

The citizens of Georgia are exceedingly fortunate to have a man of Dr. Knapp's experience, ability and vision at the helm of their State university. He will pursue vigorously a goal of providing our young people with the finest educational opportunities possible. He will strengthen and enhance a research program that is already widely acclaimed. And he will continue to improve a public service program that daily raises the quality of life for our citizens. Under Dr. Knapp's leadership, the University of Georgia will attain even greater heights of excellence as it takes its place among this Nations' elite group of preeminent institutions of higher education.

Mr. Speaker, on behalf of all my colleagues in the Georgia delegation and the U.S. Congress I express congratulations and best wishes to president Charles Boynton Knapp and the University of Georgia.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A TRIBUTE TO THE MICHIGAN INTERMEDIATE SCHOOL DISTRICTS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to the Michigan intermediate school district [ISD] on the occasion of their 25th anniversary. Established in 1962 to enrich K-12 educational programs through the consolidation of local school districts into larger, more efficient coordinated regions, the Michigan intermediate school districts have made innumerable valuable contributions to the quality of public education in our State.

Due to their unique liaison position between the State board of education and local school districts, the ISD's have been able to serve as effective conduits for the resolution of shared concerns. Their efforts have also made it possible for many local districts to implement numerous programs such as youth employment, student leadership, job placement, special academics, professional development, and vocational training that otherwise would have been financially or logistically out of reach. It is especially important to note that they have worked hard to reach their goal of making educational advances—from the latest technology to library supplies and instructional materials—available to every child in Michigan's public schools.

The Michigan ISD's are particularly known for their special education programs. The excellent staff provide direct classroom services to over 14,000 special education students throughout the State, combining skill, dedication, and loving concern in helping these students reach their fullest potential.

Over the last quarter of a century Michigan intermediate school districts have modified and expanded their innovative programs to provide the very best services to our State's schools. Their commitment to quality and their emphasis on human services have meant a great deal to the entire educational community—students, teachers and parents alike.

Mr. Speaker, I am sure that my colleagues will want to join with me in saluting the Michigan intermediate school districts on their 25th anniversary and in applauding the extraordinary success they have achieved.

THE OCCASION OF THE RETIREMENT OF FRANK WALLICK

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. TORRES. Mr. Speaker, one of America's foremost labor journalists, Frank Wallick, editor of the United Auto Workers Washington Report, is retiring on November 1, 1987, after 28 years with the UAW.

Wallick was born in Des Moines, IA, in 1923 and grew up in Dayton, OH. He attended the University of Chicago and Antioch College. He also did 2 years of famine relief work in China at the end of World War II.

His first job with the UAW was as a publicity intern in 1949, and he was put on the union's publicity staff in 1951, stationed first in Rochester, NY, where he helped organize Rochester products of the General Motors Corp.

He helped to organize the Kohler Co. for the UAW in Sheboygan, WI, and ran the publicity for the union during the first year of the Kohler strike in 1954.

Frank came to Washington with the newly elected Member of Congress from Milwaukee, Henry Reuss, where he and his wife, Ruth, both worked for a year.

He returned to Wisconsin and worked for the Wisconsin CIO News as editor, and stayed in Milwaukee until he came to Washington in 1963.

Mr. Speaker, I first met Frank Wallick when I was assigned to the UAW Washington office as an international representative in the summer of 1964. The UAW Washington Report under his editorship has been a unique publication, covering a broad spectrum of issues ranging from environmental concerns to worldwide problems of working people.

The newsletter has appeared weekly and is sent to UAW leadership, but it is read by many opinion-makers outside the labor movement for its ability to capture the changing moods of Washington, and its special reports on matters not found in the commercial media.

Frank considers his work in covering the civil rights struggles of the 1960's as his most notable achievement, and he was a key person in pushing for the enactment of the Occupational Safety and Health Act. He wrote the first popularized book on worker safety and health, which has recently been reprinted as "Don't Let Your Job Kill You."

He is currently working on a book "Sweden—Where Labor Is Strong" and has conducted many study trips for trade unionists to Sweden and other other Nordic countries to observe the workplace environment in those countries.

He and his wife have lived in Shepherd Park in the District of Columbia and have four children: Susan, Douglas, Dennis, and Kathryn.

Both of his parents were active union members; his father a union printer and mother a union school teacher.

Mr. Speaker, I ask my colleagues in the House of Representatives to extend Frank Wallick congratulations on his retirement.

THE MIRWOOD/PINES BUSINESS AND PROFESSIONAL WOMEN'S ORGANIZATION CELEBRATES NATIONAL BUSINESS WOMEN'S WEEK, OCTOBER 21, 1987

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SMITH of Florida. Mr. Speaker, I am pleased today to acknowledge a group of women in my district who have made leaps and bounds in the business world.

During the week of October 18, 1987 our Nation will celebrate National Business Women's Week. This could not be a more appropriate time for the Mirwood/Pines Business and Professional Women's Organization to congratulate themselves as well as other women in the country for reaching for the stars and succeeding. The third week of October serves as a reminder of the contributions business women have made to our Nation. On a more local note, the October 21, 1987, meeting of the Mirwood/Pines Business and Professional Women's Organization will highlight the benefits and intent of Women's National Business Week.

As a collection of women of all ages and backgrounds, this organization represents the ideals and ultimate goals of National Business Women's Week. There is no question that women have contributed dynamic assets to the business world. Professional, educational, cultural, and social advances of women in the business community have benefited the Nation as a whole. In the past 40 years, the number of working women in America has tripled. As a result, women are involved in every aspect of the working world ranging from the commercial trucking industry to space exploration. No stone has been left unturned.

No matter how hard women strive to reach their ultimate goal, whatever it may be, I feel confident that our Nation's advances and strides in recent history will cushion and support the ambitions of women.

I am proud of the women in my district who are working to achieve their goals. Better yet, I am proud of the opportunity women now have to finally find a home for their talent in the workplace. I urge my colleagues to recognize and support organizations like the Mirwood/Pines Business and Professional Women's Organization in their districts which support and encourage women in business.

IN SUPPORT OF THE SSC

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. FAWELL. Mr. Speaker, today the House Science, Space, and Technology Committee is marking up H.R. 3228, a bill to authorize fiscal year 1988 funds for the Superconducting Super Collider. I firmly believe in the SSC, for it promises to make very positive contributions to: one, scientific research; two, science education; and three, future technologies and international competitiveness.

First of all, the scientific goal of the SSC is to gain a deeper understanding of the structure of matter and its fundamental interactions. As result of investigations with high energy accelerators, scientists have constructed the "standard model" of elementary particles, which seeks to explain all natural phenomena in terms of a few fundamental forces and particles. With the SSC, scientists will be able to complete this model, or will be forced to rewrite it entirely.

Is this kind of research too remote or too esoteric to be of "practical" use? History leads me to believe that this is false. What scientists are attempting to construct can be likened to the construction of the periodic table of the elements in the 1870's. That table, simple yet fundamental, quickly became the basis for all of modern chemistry, from which has flowed a host of new products and processes. In a similar vein, quantum physics and relativity were once considered the most basic of theories. Yet today we are enjoying the fruits of this science. Semiconductors, optics, advanced electronics, and now superconductors are only a few of the technologies that are based on quantum physics, which has also lead to fundamental changes and growth in other sciences as well. It is no exaggeration, then, to believe that completion of the standard model of particle physics will be the new "periodic table" that will lead to new fields of research now undreamed, or could even rewrite science as we now know it.

Second, pushing back the bounds of knowledge will require the finest minds we can train. The SSC, then, will be as much a tool for education as for scientific research. Young men and women will be challenged—and given the means to meet those challenges—to discover, explore, and solve a broad range of scientific and technological puzzles. Particle physics has traditionally been an outstanding training ground not only for Ph.D. scientists, but also for B.S. and M.A. level engineers, computer programmers, and technicians. Even those students who earn their Ph.D.'s in high energy physics often fan out into industry, academia or other sciences, taking their skills and talents with them. Our Nation's ability to attract and train new scientists and engineers and to offer them the ability to solve fundamental problems will be the key to our future scientific and technological leadership. The SSC must be part of that program.

Finally, fundamental research often requires the latest technology, thus advancing it in the process. The high rate of innovation in high energy physics and its demands on a wide range of technologies have resulted in significant technological advances that are now being exploited by our industries. These technologies include computers, electronics, telecommunications, detectors, manufacturing techniques, power generation and distribution, cryogenics, vacuum technology, optics, precision mechanics, steel and welding, advanced materials and materials storage, and superconducting magnet technology. Even accelerators themselves have found such practical applications as ion implantation, industrial radiography, and medical research, diagnostics, and therapy. Synchrotron radiation, made possible by custom-built accelerators, is one of the latest and most exciting new research tools for biology, materials science, electronics, and a host of other fields. History has repeatedly shown that there are practical benefits that accrue from fundamental research.

Mr. Speaker, I commend Science Committee Chairman ROBERT ROE and ranking Republican MANUEL LUJAN for their leadership on this issue. The scientific, educational, and technological benefits of the SSC will help keep America the leader in science and technology, and I wholeheartedly support its construction.

WHILE OTHERS TALK OF PEACE, ORTEGA BLASTS AWAY AT THE UNITED STATES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. BROOMFIELD. Mr. Speaker, the general assembly at the United Nations hosted numerous speakers in recent weeks. Many talked about the promise of peace in Central America. Comandante Ortega of Nicaragua, however, used the opportunity to ridicule and criticize the United States. I commend the U.S. delegation to the General Assembly for walking out on the comandante. No American should sit and be insulted by the head of a Central American police state. This is the time to talk about democracy in Nicaragua, and a dialog between the Sandinistas and the Contras, not more anti-American propaganda.

The possibility of peace in Central America has dominated General Assembly discussions. Many of the speakers have given thoughtful presentations. Some talked about the need for stability, and economic progress. Others talked about the need for dialog and reconciliation. The pros and cons of the various peace plans were debated at length.

Comandante Ortega, however, chose not to take this approach. Peace was clearly not on his mind. He launched a blistering attack against U.S. policies in the region. Ortega resurrected the standard set of Marxist Sandinista criticisms of the U.S. and our friends. Ortega blamed America for past, present, and even future problems in Nicaragua. Ortega skillfully avoided discussing why his government refuses to talk with the Nicaraguan resistance. After hearing a barrage of insults from the comandante, our delegation walked out. Members of the U.S. delegation and the world have heard enough of Daniel Ortega's Marxist-Leninist propaganda.

"ADMINISTRATION OBSTRUCTS AREAS PEACE PROCESS"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. MILLER of California. Mr. Speaker, over and over again, President Arias of Costa Rica has made it clear that additional U.S. assistance to Contra rebels would destroy the peace process now underway in Central America. Just yesterday, President Arias, recipient of the 1987 Nobel Peace Prize, stated:

> I ask that Congress not give new aid to the Contras because that could be used as an excuse not to comply with this accord.

The Reagan administration's insistence on renewed Contra funding—reiterated only a few days ago by Secretary Shultz before the Foreign Affairs Committee—demonstrates that the administration remains irrevocably opposed to the peace process undertaken by our Central American neighbors. President Reagan has pledged to support the Contras "as long as there is breath left in this body." There could be no clearer indication of the administration's intentions to sabotage the peace process.

I believe that the following chronology, assembled from press reports and other official statements, reveals the administration's unwillingness to "give peace a chance," as President Arias has asked.

CHRONOLOGY OF ADMINISTRATION POSITIONS UNDERMINING THE CENTRAL AMERICA PEACE ACCORDS

August 6—Rejecting President Ortega's offer of bilateral talks with the US on the Wright-Reagan plan, Secretary of State Shultz told a press conference: "I think it is critical to establish that there is no way in which the United States would want to sit down with Nicaragua to decide what is right for Central America. That has to be done by all of the Central American countries."

August 11—Secretary of Defense Weinberger, in a press conference stated that he had "some problems" with the Guatemala City agreement, including "the lack of assurance that there will be sufficient support to keep the contra force in being as a military force. . . . There was no timetable for elections. There is no timetable for democratization."

August 15—The President's special representative for Central America, Philip Habib, proposed a diplomatic initiative that would have involved a visit by Mr. Habib to Nicaragua and other Central American nations and would have committed the United States to participation in the peace process. This proposal was rejected by the White House and Mr. Habib resigned. (NYT, WP)

August 19—A senior administration official emphasized that the peace plan could not work unless the US provided long-term support for the contras, perhaps even months after a cease-fire, in order to keep pressure on Nicaragua to carry out the terms of the accord. (NYT)

August 24—In a radio broadcast to Nicaragua over the contras' Radio Liberacion, President Reagan declared: "Until the people of Nicaragua are guaranteed basic liberties, I know you will keep on with the struggle. And the United States will be with you." Referring to the Guatemala City accords, the President said: "The Sandinistas have told us this before and no one believes the Sandinistas anymore. Simultaneously must mean freedom up front or no deal."

August 27—The State Department said: "We are concerned that through careful selection of members of the National Committee on Reconciliation, the Sandinistas have stacked the council in their favor. At the same time, they are trying to maintain the appearance of compliance with the Guatemala accord." (NYT)

September 9—President Reagan insisted that: "We will not accept the mere semblance of democracy. We got to this point through the efforts of over 15,000 freedom fighters in struggling, and some of them dying, for the freedom of their country . . . And if the recent peace agreement does not work, let's resolve that they will be able to count on our continuing assistance until Nicaragua is a genuine democracy." One of the requirements to bring about "genuine democracy," according to Reagan, is "a firm date for free, contested and internationally supervised national elections." (WP)

September 10—Secretary of State Shultz, in testimony before the Senate Foreign Relations Committee, September 10: "Unless the Guatemalan agreement is implemented in a way that secures a negotiated cease-fire, a democratic opening in Nicaragua and accommodation of the basic national security interests affirmed in the Wright-Reagan plan, the United States must continue to furnish support to the freedom fighters.

"It is simply not in our national interest to leave the Sandinista regime unconstrained by credible resistance forces on the basis of a hope or a promise."

September 12—In his weekly radio address, President Reagan stated: "We welcome the Guatemala plan, but it falls short of the safeguards for democracy and our national security contained in the bipartisan plan I worked out with the Congressional leadership." "The secret police, with their neighborhood block committees, must be abolished, and all foreign advisors sent home." That same week Reagan told U.S. News & World Report that the plan was "fatally flawed."

September 12—An article in The Nation, authored by Costa Rican-based journalists Martha Honey and Tony Avirgan, reported that the US has put retaliatory pressures on Costa Rica in the wake of the signing of the Guatemala accord and because of President Arias' refusal to allow contra bases in his country. Citing Costa Rican official sources, the article reports: 1) a cut-off in disbursement of US assistance, which resumed after publication of the article and Costa Rica concessions; 2) restrictions in Costa Rican exports to the US; 3) a first-time refusal by the Administration to intervene on Costa Rica's behalf with US of John Biehl, a top advisor to President Arias who played a key role in formulating the peace plan.

September 13—Assistant Secretary of State Elliot Abrams, stated that "The Soviet-Cuban issue is a direct national security issue for us. It has to be addressed. It isn't an issue we can let ride. It can be settled, but we can't go along with the Guatemala agreement unless it is settled." (LAT) On August 16, Abrams had described the Guatemala plan as "more a preliminary agreement than a final peace treaty."

September 16—House Speaker Jim Wright (D-Tex.), stated that "The truth is that I've had a very difficult time getting any cooperation from the White House or State Department or abating their active opposition to the negotiations in the region." (WP)

September 17—Secretary of Education William Bennett, sent to Nicaragua to give a speech commemorating the bicentennial of the US Constitution, told reporters at that the US will not "abandon the contras." Bennett also accused the Central American presidents of making "errors" in the regional peace plan, because the agreement does not require an end to Soviet aid for Nicaragua. (UPI)

A TRIBUTE TO IDA NUDEL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to Ms. Ida Nudel, a 15-year refusnik who will be allowed to leave the Soviet Union today, following her October 1 notification by Soviet authorities that she would be permitted to emigrate. Ms. Nudel's permission came only 1 day after she had arrived in Moscow from Benderly, to apply for residence in the capital while awaiting permission to emigrate and reunite with her sister Elana Fridman, in Israel.

The National Conference on Soviet Jewry [NCSJ] reported yesterday that in a conversation with their organization shortly after learning that she would be allowed to emigrate, Ms. Nudel enthusiastically exclaimed:

> I will run to see my sister. I haven't seen her in 15 years.

Today is indeed a happy occasion for both Ms. Nudel and her family, and her release stands as a living testimony to what can come about when many groups and individuals pursue a united effort for a just cause. In this respect, I would also like to offer special recognition to the National Conference on Soviet Jewry, whose staff works tirelessly behind the scenes, providing a strong international voice for thousands of Jewish citizens throughout the Soviet Union in their quest for freedom.

Mr. Speaker, the story of Ida Nudel is inspirational, as it involves an individual whose unyielding courage prevented her from yielding to negative pressures during a traumatizing 15-year battle with Soviet authorities to secure her freedom to the west.

On June 1, 1978, following 7 years of harassment and interrogations resulting from her having applied for an emigration visa to Israel, Ms. Nudel defied Soviet authorities in the face of unfair treatment, by placing a banner outside her window which stated, "KGB, give me a visa to Israel." For this display of free expression, she was tried for malicious hooliganism, and sentenced to 4 years in internal exile.

Following her placement into exile in June 1978, Ms. Nudel was sent to a hostel, 4 miles from the city of Krivosheino, where she found herself the only female among 60 male criminals. This severe circumstance forced her to sleep with an ax under her bed to protect herself. Following a worldwide appeal and with the help of friends in Moscow, she was relocated in the summer of 1979 to a 1-room hut in Krivosheino. Under this new arrangement, Ida had no running water, poor access to firewood, and spent many long cold nights in complete isolation.

As her struggle grew into years, Ida Nudel became an international symbol of Soviet oppression, and hundreds of letters and appeals were sent to Soviet officials on her behalf. These gestures were soon followed by demonstrations, marches, and campaigns. In July 1981, the British Parliament presented her in absentia with the "all-parliamentary award for services to Soviet Jewry." A month later, Hadassah awarded Ida its highest honor, the "Henrietta Szold Award."

Mr. Speaker, I proudly add my voice today to the many who have praised the perseverance and fortitude of Ida Nudel. She is living proof that no system of government, no matter how closed or oppressive, can stamp out the will of those who refuse to be denied their fundamental freedoms. We will all benefit from Ms. Nudel's example, and we should all join in the celebration of her release today from the Soviet Union.

IN HONOR OF JONA GOLDRICH

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. LEVINE of California. Mr. Speaker, it is with great pleasure that I pay tribute today to a man who is not only a friend, but an inspiration to people and the community he has served with distinction. His name is Jona Goldrich.

Jona Goldrich will receive the 1987 Distinguished Community Service Award of the Anti-Defamation League Pacific Southwest Region Real Estate, Development and Construction Division. The celebration will be held on October 20, 1987.

Jona Goldrich has an impressive background of philanthropic, civic and professional accomplishments. He is a member of the California Housing Council, the Community Redevelopment Agencies Association, Governmental Affairs Council of the Building Industry Association, Mayor Bradley's Blue Ribbon Committee to expand the Convention Center and a member of the executive committee of the Los Angeles Police Crime Prevention Advisory Council.

In addition, Jona Goldrich was named "Man of the Year" by the National Housing Conference in 1983 on behalf of his efforts to produce more affordable housing in the United States.

Highlighting Jona's vast experience of dedication to the growth of our community and the welfare of its people, he is a founder of the Los Angeles Music Center and the Museum of Contemporary Art. Jona is presently serving as a board member of the Guardians of Jewish Homes of the Aging. His philanthropies include the Israeli educational institutions of Ben Gurion University, and Tel Aviv University, where he established the Goldrich Family Chair in Multinational Banking.

Among many distinguished awards, Jona was a recipient of the National Conference of Christians and Jews Humanitarian Award, the 1983 Society of Fellows Award of the Anti-Defamation League of B'nai B'rith, the President's Club Award of the B'nai B'rith, and the Good Scout Award for the construction industry from the Los Angeles chapter of the Boy Scouts of America.

Throughout his endeavors, Jona has enjoyed the love and support of his family, including his wife Doretta, and their two daughters, Melinda and Andrea.

It is an honor to share Jona Goldrich's accomplishments with my colleagues in the U.S. House of Representatives.

ALAN S. GUBIN, M.D., CIVIC BENEFACTOR AND COMMUNITY LEADER

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. EMERSON. Mr. Speaker, in appreciation of his 30 years of dedicated service to his community, I would like to take this opportunity to recognize and commend the achievements and outstanding contributions of Dr. Alan S. Gubin of Caruthersville, MO.

Dr. Alan S. Gubin was born in New York, NY, on December 24, 1926. His early childhood was spent in Mt. Vernon, NY; and he and his family moved to Durham, NC, when he was 15 years old. He graduated from high school in Durham in 1943 at the age of 16. He attended the University of North Carolina for 1 year following high school, prior to joining the U.S. Navy. He served as a medical corpsman attached to the Marines from 1944 to 1946, with part of this time spent in combat in the South Pacific.

On being discharged from the Navy, he returned to the University of North Carolina and graduated in 1949. He was accepted at the University of Tennessee Medical School at Memphis in 1949 and graduated in 1953. He served an internship at the Medical College of Virginia in Richmond in 1954 and then did a residency in pediatrics at St. Joseph Hospital in Memphis. He completed his pediatrics residency in June 1957 and then moved to Caruthersville in July 1957 to practice with Dr. C.W. McKaskle and Dr. Warren McCoy.

Dr. Gubin was married to Freddie Levy of Memphis, TN, on December 7, 1957. Dr. and Mrs. Gubin have three sons: Dr. Steven S. Gubin of Ann Arbor, MI, who is doing a residency in internal medicine and cardiology; Dr. Barry Gubin of Ann Arbor, MI, who is doing a residency in radiology; and David A. Gubin of Caruthersville who is a senior at the University of North Carolina.

Dr. Alan Gubin is a member of Temple Israel at Blytheville, AR, and has served as a Sunday School teacher at the Temple. In addition to a very busy medical practice specializing in pediatrics, Dr. Gubin has been deeply and unselfishly involved in civic activities in the community. He formerly served as the scoutmaster of a Boy Scout troop, and is a long-time member of the Caruthersville Rotary Club. For several years, he served on the advisory committee for the Office of Family Services. He was a dedicated member of the Caruthersville School Board for about 18 years and is presently serving his second term on the Pemiscot Memorial Hospital Board.

Although no one person knows the full extent of the charity work that he has done and continues to do, we do know that he has conducted well-baby clinics for many years, that he has given the physical exams for the Head Start children for about 20 years, that he has given the physical exams for high school athletes for about 20 years, and that he does a tremendous amount of personal charity work.

The contributions of Dr. Alan S. Gubin to the people of Caruthersville and the surrounding area over the past 30 years as a physician, civic leader, and friend have touched and enriched the lives of all of our people—young and old. Dr. Gubin and his family have endeared themselves to all who know them, and we thank God for Dr. Gubin's compassionate service among us throughout the years.

CENTRAL INTERMEDIATE SCHOOL CELEBRATES 50TH YEAR

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SCHUETTE. Mr. Speaker, I am privileged to have this opportunity to bring to the attention of my colleagues the fact that on Sunday, November 8, 1987, the Central Intermediate School of Midland, MI, will be celebrating 50 years of service to Midland's children.

Central Intermediate was built in 1937 to meet the needs of a greatly increased post-WWI population in Midland as the Dow Chemical Co., began an expansion program. In June 1935, after the usual debates, the school board voted to construct a new high school on the corner of Rodd and Reardon Streets. The site was described by former teachers as a swamp—a place to hunt pheasant, pick blueberries, and listen to the frogs. But, upon completion, the faculty was overjoyed to move into the big "modern" school. It was virtually filled to capacity when it opened, housing 980 students in grades 9–12. The building cost $282,000, put up with bonds drawing a whooping 1 percent interest rate. Nearly half of this sum was repaid before the students entered the building that fall.

Later, the auditorium, gymnasium, shop rooms, and music rooms were added. In 1956, the present Midland High School was completed and Central Intermediate was given its present name and became intermediate-level students only.

During the festivities on Sunday, November 8, there will be music, fun displays, sports memorabilia, and plenty of nostalgia. The formal program will be from 1:30 to 2:30 and will include my comments honoring Central Intermediate on its anniversary celebration. The open-house following will include dance music by the Blast from the Past band and refreshments.

Mr. Speaker, I hope you and our colleagues will join me, and the people and city of Midland, in celebrating the 50th anniversary of Central Intermediate School, whom we thank for those many years of good service to the community.

DEMOCRACY AND THE HATCH ACT—A CONTRADICTION IN TERMS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. LENT. Mr. Speaker, we, in this country like to pride ourselves on our commitment to equality and fairness—it's the "American way." For this reason, I have always found it troubling that for almost 50 years 3 million Federal workers across the country have been denied the basic right of free participation in the political process.

I am referring to the enactment of the Hatch Act in 1939 and the onerous restrictions this law imposes upon the political activities of Federal employees. The Hatch Act—while well-intentioned—is sorely outdated and unnecessary. Enacted during the New Deal to address alleged abuses of the merit system, the act was the product of an overzealous Congress, which in its haste to protect public employees from political coercion, ended up infringing upon their constitutional rights.

I have cosponsored legislation which would allow Federal and postal employees to participate voluntarily, as private citizens, in our electoral system. H.R. 3400 addresses the Hatch Act inequities and enhances the protection of public employees from political influence and coercion. In addition, it recognizes the important role that each and every American plays in the political process regardless of their place of employment.

I urge my colleagues to join me in supporting this effort to reverse the many years of discrimination against public employees. We have the opportunity to give these hardworking, dedicated civil servants a chance to exercise their constitutional rights and to actively voice their opinions on the issues of the day. I ask my colleagues to seize this historic opportunity and to cast a vote in favor of H.R. 3400.

ASSOCIATION OF MICHIGAN BUSINESS OFFICIALS OBSERVE FIFTIETH ANNIVERSARY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to the Association of Michigan School Business Officials [MSBO] on the occasion of its 50th anniversary. The Michigan School Business Officials, an affiliate of the Association of School Business Officials International, is a professional, nonprofit corporation serving the interests of education in the State. Its membership includes school administrators, business managers and supervisors of school business services.

It is for good reason the MSBO is known as the school's voice for better and more effective school business management. It is an informed, hard-working association, including among its many projects the standardization of efficient systems for accounting, purchasing, distribution and management. Its organization's goals include the establishment of the highest standards of ethics in school business practices and the development of the most efficient methods of school administration.

From the founding of the MSBO in 1937, when Fred Frostic, superintendent of schools in Wyandotte; Harley Anderson, secretary and business manager of the Kalamazoo Public Schools; Alfred Lamb, director of finance and maintenance engineer of Hamtramck Public Schools; and Herbert Mitchell, business manager of Dearborn Public Schools, discussed the formation of a State organization patterned after the Association of School Business Officials, to the present day, which sees the now eight-member board of directors led by its second woman and first nondegree president, the history of the MSBO has been distinguished by action and innovation. The first convention of the Michigan School Business Officials was held in 1938 and attended by 160 registered members, 21 out-of-State visitors and numerous commercial exhibitors. Since then there have been many important dates in MSBO's history: 1955, when regional business officials groups were formed to provide valuable services for members schools; 1956, when a study conducted by the MSBO Insurance Committee resulted in a lowering of Michigan school fire insurance rates; 1969, when the MSBO newsletter was established; and 1964, when the membership voted to affiliate with the National School Business Officials and its assembly adopted a resolution to become a nonprofit corporation.

Mr. Speaker, I am certain that my colleagues will want to join with me in congratulating the Michigan School Business Officials for 50 years or exemplary service to schools in Michigan

HONORING THE MEXICAN-AMERICAN ALUMNI ASSOCIATION, LOYOLA MARYMOUNT UNIVERSITY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. TORRES. Mr. Speaker, on Saturday, October 24, 1987, the Loyola Marymount University, Mexican American Alumni Association will sponsor its seventh annual scholarship benefit dinner at the Los Angeles Airport Hilton Hotel.

Mr. Ricardo Montalban will be honored at the dinner for his efforts to improve the image of Hispanics in the entertainment industry. Among his many achievements in film, television, and theater, Ricardo Montalban helped to establish NOSOTROS, an organization dedicated to removing negative stereotypes in film and television and to encourage and develop Hispanic actors and writers.

Mr. Daniel P. Garcia, a Loyola Marymount University alumnus, will also be honored for his contributions to the community and for serving as an outstanding role model for young students in Los Angeles. Mr. Garcia is president of the Los Angeles City Planning Commission and is a partner in the law firm of Munger, Toles & Olson.

The Loyola Marymount University Mexican American Alumni Association [MAAA] was founded in 1981 to serve as a link to the Latino graduates of the university. Fr. Donald P. Merrified, then president of the university, supported and encouraged its founding members. These alumni included Gilbert Castro '55, the association's first president; Armando Duron '76; Maria Salinas Duron '75, MAAA's second president; Robert Andrade '78, currently assistant dean of student development services and director of Chicano student services at LMU; Edward Quijada '69; Victor Chavez '53; and Dennis Branconier, former alumni relations director.

MAAA's third president, Gerald R. Duran '72, took the association to national prominence as honorees Celia Torres, Mayor Henry Cisneros, and Carlos Palomino added their support to MAAA's scholarship fund. To date, more than $50,000 has been raised and awarded to over 150 Latino undergraduates at the Westchester campus of LMU.

The association's current president, Jackie L. Ayala '82, is the youngest member to hold the distinguished office. Serving on the executive board with Ms. Ayala are: Robert Andrade '78, campus relations chairperson; Mario Almanza '80, El Noticiero editor; Gerald R. Duran '72, past president; Monica Castaneda '82, El Noticiero editor; Magda Flores '82, scholarship committee chair; Prof. Fernando Guerra, Chicano studies representative; Raul F. Salinas '82, recruitment chair; Phil Jimenez '87, student representative; and the following ex-officio members: Armando Duron, Maria Salinas Duron, Edward Quijada, and Jack Alexander, vice-president of University Relations.

Mr. Speaker, I ask that my colleagues join me in congratulating Ricardo Montalban and Daniel P. Garcia for their outstanding contributions to the community. I also send best wishes to the founders and officers of the association for continued success in their efforts to provide educational opportunities to Hispanic students at Loyola Marymount University.

IN RECOGNITION OF WORLD FOOD DAY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SMITH of Florida. Mr. Speaker, tomorrow marks an important day as we recognize the hungry and malnourished peoples of our Nation and world.

I am pleased to cosponsor legislation designating October 16, 1987, as World Food Day. As hunger is no longer an issue associated with far-away lands outside of nation's borders, this day provides the impetus to observe the hunger and malnutrition throughout our own Nation. Unfortunately, we have reached the point where it is not a surprise for Americans to see hunger as close as their doorstep.

Other events surround the date of October 16 to emphasize the importance of this issue. The End Hunger Network, a private nonprofit organization governed by a national board, has organized 3 days of events in recognition of World Food Day. The efforts of the network center around educating Americans about pervasive hunger and working to keep the public apprised on international development and worldwide action to end hunger. I am proud to be a member of the End World Hunger Network's congressional committee for World Food Day again this year.

World Food Day is a perfect example of the strides our Nation is making to increase the sensitivity and public awareness of this global menace.

As a cosponsor of numerous pieces of legislation dealing specifically with hunger, this issue is a personal concern to me. For this reason, I am pleased that World Food Day is a nationally recognized and meaningful commemorative. I urge my colleagues to support World Food Day throughout their own districts. No nation, state, city, county, or district is safe from the claws of hunger.

TRADE BILL TAILORED TO SPECIAL INTERESTS WILL HURT ILLINOIS

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. FAWELL. Mr. Speaker, the Wall Street Journal recently noted that the trade bill "looks less like a fair-trade bill than it does an omnibus bonanza for any special interest with a checkbook and a congressional phone list." Hidden in the 1,000 pages of the House and Senate trade measures are provisions which would provide bailouts for sugar refiners, tobacco growers, and lamb growers. And, of course, the bill's biggest special interest provision is the Gephardt trade deficit reduction requirement.

The special interest provisions lurking in the trade bill have not escaped the attention of others. The Peoria Journal Star branded the House and Senate trade bills "junk closets crammed with oddball provisions." The Journal Star rightfully argues that the House and Senate trade bills would harm Illinois' manufacturing industries, particularly Caterpillar, which recorded $2 billion in export sales last year.

Illinois' primary concern is a level of playing field for trade. Unfortunately, the House and Senate trade bills, loaded with special interest protectionism, will disturb the playing field and hurt many Illinois companies and workers dependent on exports for their livelihood.

The text of Journal Star editorial follows:

[From the Peoria (IL) Journal Star, Oct. 8, 1987]

FREE TRADE

The free trade agreement reached the other day by United States and Canadian negotiators provides a saner model for overall trade policy than the zealously protectionist bills Congress is wrestling with.

The broad agreement, which eliminates some tariffs immediately and others over five or 10 years, would establish free trade as the operating principle between the world's two largest trading partners. Its goal is the eventual elimination of trade barriers.

It would be naive to think that such a sweeping agreement could be applied successfully world-wide, and it may even be naive to think that the U.S.-Canada pact will breeze, unchanged, through Congress and Parliament. But the principle involved—the elimination of as many barriers as possible to the exchange of goods and services between nations—is valid on a world wide scale. The United States still has more to gain in the long run by being able to buy and sell on the open market than by erecting self-defeating barriers, prompted by protectionist paranoia.

Central Illinois, with its agricultural and industrial base, has a great deal at stake. At Caterpillar Inc. alone, exports accounted for $2 billion in sales and 14,500 United States jobs last year, the company says. There is no question that if Congress passes a heavily protectionist bill, international retaliation will be swift and the damage to Caterpillar considerable.

But both the House and Senate already have passed separate trade bills which would do just that. Each bill contains more than 1,000 pages—junk closets crammed with oddball provisions stashed there by 535 Congressmen who apparently have decided that it's wise to store up as many favors as possible when an election approaches.

And so we have:

Repeal of the windfall profits tax on domestic oil producers.

$100 million worth of protection for tobacco-growers, in the form of lower excise taxes on exports.

$800 million for domestic sugar refiners, who would be allowed to recover customs duties paid over the last 14 years.

The payment of $500,000 in legal fees to a Washington, D.C. law firm that represented the National Corn Growers Association in a legal battle the group fought with Canadian corn interests.

New tariffs on chocolate candy from Europe, exercise-bicycle odometers, certain types of work gloves and cat litter.

A mandated presidential study of rose imports.

Those are the kinds of provisions you don't hear much about, amidst all the public talk about the Gephardt amendment portion of the bill. The amendment, pushed by Democratic presidential candidate Richard Gephardt, a Missouri representative, would mandate retaliation against countries running large trade surpluses with the United States—including Canada, Japan, West Germany and South Korea—and regardless of whether the countries involved are playing fair.

One analysis of the House bill found that it would require creation of more than 1,000 new federal jobs; mandate 165 new reports and studies; and cost millions of dollars to administer.

It is, of course, the combination of record trade deficits and the loss of jobs in American industries to foreign competition that prompts consideration of such a departure from 40 years worth of trade policy. One hears a great deal of talk about the need to create a "level playing field," which would make it easier for American companies to compete with foreign ones, particularly foreign ones which are subsidized or protected by their own governments.

But a highly protectionist trade bill of the kind Congress is considering stands little chance of making United States industry more competitive and every chance of doing just the opposite. The U.S. Office of Technology Assessment estimates that the United States loses 179,000 jobs for every $10 billion in imports—but gains 193,000 jobs for an identical amount of exports.

Do we really think that the other nations of the world will sit on their hands and do nothing as we slap tariff after tariff onto their chocolates and automobiles and VCRs?

Of course not. They would take a look at what we produce particularly well—like tractors—and start putting up fences against them. Canada and Europe have done precisely that in response to our restrictive acts in recent years, and they'd do it again.

The trade war would begin, and it wouldn't be pleasant for anyone, not for American manufacturers dependent on exports and not for American consumers forced to pay two or three times as much for their Sonys.

And down the road, what do you suppose would happen should the United States return to its position as a net exporter, whether of manufactured goods or services or data? How could we argue against the erection of protectionist barriers to us?

The trade bills are so bad that one is tempted to think that a House-Senate conference committee will come to its senses and end the misery. But an election year approaches, and the fear is that the desire to bring something back to the folks at home worried about job losses and trade balances and special problems will override the greater national interests.

Central Illinoisans can let their representatives know that we want a chance to compete in the world market without the interference of Congress.

LIBYAN CHAIRS COMMITTEE DEALING WITH THE U.N.'S POSITION ON TERRORISM: THE U.N. GETS REAL EXPERTISE IN THE TERRORISM AREA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. BROOMFIELD. Mr. Speaker, a group of Third World countries recently chose Libyan diplomat Rajab Assarouk to chair the U.N.'s Sixth Committee. The Sixth Committee acts as counsel to the General Assembly on international issues. It also gives guidance about the legal aspects of the fight against international terrorism, and the legal position the United Nations should take on those issues.

The U.N.'s choice of a Libyan to chair an important committee dealing with terrorism is a classic example of the fox watching the chicken coop.

Regardless of his qualifications, putting a Libyan in a U.N. position responsible for terrorism issues is risky at best. His appointment is a symbolic disaster.

In recent years, the U.N. gained some credibility with the passage of a number of resolutions concerning terrorism. This decision, however, will again raise questions about the U.N.'s seriousness in dealing with the issues.

Given Qadhafi's brutal treatment of those who disagree with him, I am concerned that Mr. Assarouk will be nothing more than a mouthpiece for the colonel. We all know what Qadhafi thinks about the rule of law.

Was the U.S. mission team in New York asleep at the switch when the camel put his nose in under the tent?

If nothing else, the symbolism of this appointment sends the wrong message. Critics of the U.N. have yet another argument to use against that organization. In this case, their criticism is right on target.

WAGE GAP SHIFTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. MILLER of California. Mr. Speaker, a recent report issued by the U.S. Bureau of the Census tells us that the wage gap between men and women is finally beginning to shrink. What the report doesn't mention, however, is that the wage gap is narrowing at the same time that real wages and living standards are on a downward curve. What looks like good news for women workers is partly the result of bad economic news for men.

Between 1979 and 1986, the average earnings for full-time women workers, as a percentage of men's wages, increased from 62 percent to 69 percent. The Census Bureau attributes this change to the growth of women in traditionally male occupations such as law, medicine, and the computer sciences.

However, during this same period, largely as a result of deindustrialization, men's real earnings have decreased by 2 percent, while the earnings of women, adjusted for inflation, have increased by nearly 4 percent. According to a briefing issued this week by the National Committee on Pay Equity and the Institute for Women's Policy Research, over 25 percent of the improvement in women's earnings is due to the fall in men's real wages.

While the report credits the growth of women in non-traditional occupations as largely responsible for reducing wage disparities between men and women, it should not be overlooked that women continue to be occupationally segregated, and that in some cases, this segregation has increased. For example, women now make up 82 percent of all elementary school teachers compared to 61 percent in 1979; 82.4 percent of miscellaneous clerical occupations versus 62.9 percent in 1979; and 93 percent of bookkeepers compared to a 1979 level of 88.1 percent.

According to the Census Bureau, 25 to 40 percent of the wage gap cannot be explained by educational differences or number of years in the labor market. Sex discrimination, usually in the form of occupational segregation, continues to drag women's wages down. The economic story hasn't changed: women working in men's jobs earn more, while women working in women's jobs earn less.

We have reason to rejoice at the overall improvement of women's economic status. But we cannot overlook the fact that this progress is clouded by declining living standards and continued occupational segregation. For the record, I would like to attach the following comments by the National Committee on Pay Equity and the Institute of Women's Policy Research.

BRIEFING PAPER ON THE WAGE GAP—WOMEN HAVE MADE SLOW STEADY PROGRESS IN THE LABOR MARKET SINCE 1979 BUT THE WAGE GAP HAS NOT SUDDENLY NARROWED SIGNIFICANTLY

News reports following the release of a recent Census Bureau report on women's earnings have been misleading. This briefing paper uses data in that report and other Census Bureau reports to present a more accurate picture of women's progress in the labor markets.

Highlights:

1986 female-male wage ratio for full-time workers: annual wage ratio—64.3 percent and weekly wage ratio—69.2 percent. (For more detail, see table 1.)

Between 1979 and 1986, the annual female-male earnings ratio increased from 59.7 to 64.3 percent.

Three-quarters of the improvement in the female-male earnings ratio represents growth in women's earnings; one-fourth represents a decline in men's earnings, which has occurred largely because of declining employment in high wage industries. (For more detail, see table 2.)

The more women in a job the lower the pay.

17 to 30 percent of the wage gap is due to over-representation of women in certain occupations.

Work interruptions of six months or more have not significantly affected the wage gap even though more women than men have had such interruptions. (For more detail, see table 3.)

Differences in skill and experience between women and men account for less than half the gap—27 percent of gap for non high school graduates; 23 percent of gap for high school graduates; and 47 percent of gap for college graduates.

News reports accompanying the recent release of "Male-Female Differences in Work Experience, Occupations, and Earnings: 1984," a report from the Bureau of the Census, U.S. Department of Commerce (Current Population Reports, Household Economic Studies, Series P-70, No. 10, have popularized a new female/male wage ratio of 70 percent. Compared to the 59 percent commonly used by many in the 1970's, this new ratio suggests that women have suddenly made a great deal of progress in the labor market. But have women made sudden progress? and how much?

SOME OF REDUCTION IN GAP DUE TO FALL IN MEN'S REAL EARNINGS

The wage ratio series presented in Table 1 show an improvement in the relative wages of women to men in recent years. As noted above some of the improvement reflects real progress for women in the labor market. Some of the improvement of women relative to men is, however, due to the decline in men's earnings over this same period. Between 1979 and 1986, men's earnings in constant dollars have decreased, largely because of declining employment in high wage industries. Although men's earnings in 1984 and 1985 show an improvement in real (constant dollar) terms, they have still not reached their 1979 level. Moreover, in late 1986 and 1987, men's earnings resumed their downward drift. While nearly three-fourths of the improvement in the female-male earnings ratio from 1979 to 1986 is due to an improvement in women's real earnings, over one-fourth is due to the fall in men's real wages.

TABLE 2.—ANNUAL EARNINGS OF MEN AND WOMEN IN CURRENT AND CONSTANT DOLLARS FULL-TIME YEAR-ROUND WORKERS

	Current dollars		Ratio	Constant (1986) dollars		
	Women	Men		Women	Men	Ratio
1979	$10,169	$17,045	59.7	$15,361	$25,748	59.7
1984	14,780	23,218	63.7	15,607	24,517	63.7
1985	15,624	24,195	64.6	15,926	24,664	64.6
1986	15,232	25,256	64.3	16,232	25,256	64.3

Source: Same as table 1. Constant 1986 dollars calculated by adjusting current dollars by the CPI.

For women's wages to catch up to men's, their real wages must rise faster than men's, but men's need not fall. Had men's real wages not declined between 1979 and 1986, the female-male ratio would have been 63.0 in 1986. Women would not have made as much progress relative to men as they did. The difference (1.3) between the actual ratio (64.3) and the hypothetical ratio (63.0) is a measure of the amount of the increase in the ratio (4.6) due to the fall in men's real wages, 28.3 percent (1.3/4.6).

JOB SEGREGATION CRITICALLY AFFECTS WAGE GAP

The earnings model presented in the second part of the report, which uses 1984 SIPP data, supports the argument that efforts to combat wage discrimination and job segregation are critically important. Its analysis supports the case for pay equity and affirmative action.

a. The Census Bureau report supports the argument that much of the wage gap can not be explained by differences in the qualifications of men and women workers. It finds, for example that, for non-high school graduates, differences in skill and experience between men and women account for only 27 percent of the wage gap. Among high school graduates the proportion of the gap accounted for is 23 percent. Among college graduates, the proportion of the gap accounted for rises to 47 percent. But even among college graduates, fully one-third of the earnings gap between men and women cannot be accounted for by factors reasonably believed to be associated with productivity differences. Such large unexplained differences suggest that discrimination is still an important factor in the labor market. Improving women's education, training, and experience is important, but wage differences would likely remain unless discrimination is also eliminated.

b. The Census Bureau report adds further evidence to the 1981 National Academy of Sciences report that the female dominance of an occupation affects its pay. Using the percentage of women in an occupation as a measure of "occupational structure", the Bureau found that it accounted for between 17 percent (college graduates) and 30 percent (high school graduates and nongraduates) of the wage gap between men and women. This finding suggests that the pay equity strategy, which seeks to increase wages in female dominated jobs, is a critical strategy for raising women's wages overall and is a more important strategy for raising women's wages among women who are not college graduates than among those who are.

IN SUPPORT OF SOVIET REFUSNIK BENJAMIN CHARNY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. STOKES. Mr. Speaker, I rise today to bring attention to the urgent and critical situation facing Benjamin Charny, a 49-year-old refusnik in the Soviet Union who, in the prime of his life, is battling courageously against cancer, while fighting for his freedom to emigrate from the Soviet Union.

Mr. Speaker, the circumstances of Benjamin Charny's life provide more than enough evidence for any civilized and compassionate nation to justify granting his request to emigrate. He and his wife currently live alone in the Soviet Union. His only daughter and grandchild, as well as his only brother, whom he has not seen in 8 years, all live in the West.

It is a tragedy when a human being is suddenly and helplessly separated from those he loves, having little if any opportunity to remain in touch with them. As if this were not enough, at the young age of 49, Mr. Charny also faces a battle with cancer. Despite the gravity of his health situation, for the past 8 years the Soviet authorities have refused Mr. Charny permission to leave the Soviet Union, coldly ignoring the steadily deteriorating state of his health.

During an operation for cancer, Mr. Charny suffered a severe heart attack. Presently, his heart condition has reached a point where his doctors have determined that they cannot perform the needed surgery to remove his new tumors, for fear that he will not survive surgery. A tumor in his thyroid gland further weakens his ailing heart.

Mr. Charny's cancer and heart disease interact in such a way that any effort to treat one condition aggravates the other. He therefore suffers from frequent bouts of painful heart failure and has very high blood pressure. The very poor condition of his circulatory system has made it difficult for him to walk because of poor circulation to his legs.

The Soviets claim that Benjamin Charny's refusal is for security reasons, citing his work at the Soviet Research Institute of Automation and Instrument-making [IAIM]. However, a close examination of the facts demonstrates that a denial of his emigration for security reasons is wholly unjustified. First of all, Mr. Charny left the research institute more than 16 years ago. The work product of his past research is no longer considered to be secret material, and has been published in unclassified international scientific journals such as "The Journal for Artificial and Applied Space Research." Additionally, Mr. Charny's work at the IAIM consisted of designing spacecraft computer controlled algorithms which were subject to the limited potential of the computer facilities at that time. Therefore, as Mr. Charny pointed out in a letter to the Presidium of the Supreme Soviet in June of this year, computers of all classes are significantly more powerful today, causing the work that he did more than 16 years ago to have no current value. Clearly, the Soviet Government is making Benjamin Charny a scapegoat and a victim of their own paranoia.

What makes these circumstances more suspect, is that Mr. I.A. Goltsin, who worked with Benjamin Charny at the same laboratory and on the same projects, was permitted to emigrate from the Soviet Union in 1981, a year that Mr. Charny was denied an exit visa. Not only were Mr. Charny and Mr. Goltsin treated unequally, but everything related to Mr. Charny's work immediately became nonclassified with Mr. Goltsin's departure to the West.

Therefore, I implore the Soviet Government to release Benjamin Charny, and stop making a mockery of its judicial system by applying different judgments to individuals facing identical circumstances.

Given the very real and very tragic personal struggle Mr. Charny faces, is it asking too much of the Soviet Union to make the most basic of humanitarian gestures, and allow this man a chance to be reunited with his loved ones? I say no. Faced with the day-to-day uncertainty of whether or not he will live to see the end of the week, what threat can he pose to the powerful Soviet leadership? I say none. Living with the reality that he may not live to see his young granddaughter grow into adulthood, is it asking too much of the Soviet Government to permit her grandfather to see her in childhood? I say not.

Mr. Speaker, I call upon the Soviet leadership today to reach past the insensitivity and paranoia of its bureaucracy, and grant a man who is suffering seriously in the final years of his life, a chance to experience the joy of being united with family. Clearly, this is the right course of action to pursue.

A TRIBUTE TO MAURICE PECHMAN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to my friend, Maurice Pechman, who will be the recipient of the Pacific Southwest Region of the Federation of Jewish Men's Clubs' 1987 Red Yarmulka Humanitarian Award. He is being honored for his lifetime of exceptional service to the needy and indigent in his community.

Maurice Pechman is truly a self-made man who has overcome many obstacles in his life. And yet, he has not overlooked the need to help other members of his community. A native of Poland, he escaped from the infamous Birkenau-Auchwitz Concentration Camp four times with the help of the Polish underground. In 1950, he arrived in this country, alone, penniless, and speaking only a little English. Overcoming these difficulties, he worked for a number of firms and gained a solid understanding of all aspects of running a business. Eventually, he went on to start his own successful company, Maurice Ceramics. The firm has grown, and now has a sales volume in the millions. In 1954, he married the former Sofia Rosenblatt. They have been blessed with two children, David and Dianne.

Even with his own success, he never forgot those who were less fortunate than himself. He has been deeply involved in the charitable activities of his Men's Club, his synagogue, Camp Ramah, the Westwood Shrine Club, Gateways Hospital. His devotion to the community, and its youth in particular, has earned him this well deserved recognition.

It is with great pleasure that I congratulate Maurice Pechman on the receipt of this award for his outstanding service.

A TRIBUTE TO WILLIAM "BILL" PFAFF

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SHUMWAY. Mr. Speaker, I request that my colleagues join with me in paying tribute to my friend and constituent, William "Bill" Pfaff, who has just been appointed chairman of the board of the Auburn Journal after 19 years as that newspaper's publisher. Bill also assumes the position of publisher emeritus.

When Bill assumed the position of publisher in 1968, the Journal came out once a week, on Thursdays. With Bill at the helm, the paper grew through a twice-weekly (1972), a thrice-weekly (1976), to five times a week (1979). Finally, a sixth, Sunday edition was added in 1980. The Journal also evolved into a thoroughly modern, computerized publication under Bill's able guidance. Both Bill and the Journal have been recognized with awards and accolades during his tenure as publisher.

Bill Pfaff has always been extremely active in professional journalism organizations, serving as director of the California Newspaper Publishers Association in 1974 and 1975. He is also a member of the California Press Association, and numerous civic and community oriented groups. He has served as director/past president of the Auburn Area Chamber of Commerce, is a director of the Sierra College Foundation, and is very active in both Elks and Kiwanis Clubs.

Bill has made his mark upon the community, and I know that he will continue to do so from his new post. He will be honored for his outstanding service to the newspaper and to the community at a special recognition dinner this Friday. I know that my colleagues will be pleased to join with me in commending Bill Pfaff for his outstanding record, and in expressing appreciation to him for his many contributions.

DEMOCRATS' TAX DILEMMA

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. DUNCAN. Mr. Speaker, I thought the attached editorial, which appeared in all the Scripps Howard newspapers on October 12, would be of interest to my colleagues in the House.

DEMOCRATS' TAX DILEMMA

Just as the Democratic Party is becoming more successful than ever at thwarting President Reagan's policies—as in the struggle over the Supreme Court—thoughtful Democrats are growing more nervous about their chances of recapturing the White House. Their party's dilemma: All too often its congressional leaders are pursuing policies that its presidential candidates would rather not talk about, such as tax hikes.

The Democratic members of the chief tax-writing committee in the House of Representatives recently agreed to $6.3 billion in higher taxes for 1988. Their package includes an extension of the 3 percent tax on telephone service, which was originally passed as a "temporary" measure. Like almost any other sales tax, this one hits low-income and middle-income citizens harder: The richer you are, the lower your telephone bill is in proportion to your total income.

The tax also raises the operating costs of any business that uses telephones—stimulating higher prices for a broad range of goods and services. With many customers seeing their phone bills soaring thanks to the break-up of Ma Bell's benevolent monopoly, that is hardly the time for a permanent federal surcharge.

But the telephone tax is only the beginning. The Democrats on the House Ways and Means Committee want another $6 billion in tax hikes beyond the specific ones they have already accepted. Understandably, they are finding it difficult to agree on just which taxes to increase.

Ironically, not one penny in higher taxes is needed to trim the federal deficit. Thanks to income-tax reform and economic growth, federal revenues are now rising faster than expenses. The deficit is already shrinking, and it will keep doing so if Congress can simply refrain from piling on new spending commitments.

Unfortunately, the special interests that Congress usually obeys are determined to prevent that. If the Democrats want to prove that they have learned from the painful lessons of 1980 and 1984, this time they will resist.

FREEDOM FOR VLADIMIR SLEPAK

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. KOSTMAYER. Mr. Speaker, 17 years ago Vladimir and Masha Slepak first applied for an exit visa to Israel. Yesterday they received one.

It is a bittersweet victory for the Slepak's, their families and family. As early and outspoken proponents of human rights in the Soviet Union, they have been forced to wait while thousands of other Soviet Jews benefited from their leadership and courage. Among those who were allowed to leave were the Slepak's own children, including Alexander Slepak of Andalusia, PA, a constituent of mine.

Today is a day, Mr. Speaker, to honor the Vladimir and Masha Slepak as well as all those who persistently championed their cause.

In Bucks County, PA, there are many individuals who have consistently supported Vladimir and Masha. One of those people is Alexander Slepak. Mr. Slepak, a recent graduate of Temple University's School of Medicine, has taken extraordinary measures to make the world aware of the plight of his parents. He traveled to Iceland to argue for their release during the Reagan-Gorbachev summit. This past March Mr. Slepak staged a 17-day hunger strike on the steps of the U.S. Capitol, 1 day for each year his parents have been denied the right to emigrate. During this strike Slepak had the oppurtunity to meet with Secretary of State Shultz and Speaker of the House WRIGHT prior to their trips to Moscow.

The Slepak's have been supported by the U.S. Committee to Free Vladimir Slepak which is headed by Mr. Norman Leventhal of Warrington, PA. Mr. Leventhal has been tireless in his support of Soviet refuseniks. It is because of people like Mr. Levanthal that the issue of human rights cannot be ignored by officials in the Kremlin.

Mr. Speaker, the release of Soviet refuseniks such as the Slepaks, Ida Nudel, and others is a positive development in the relations between the United States and the Soviet Union which may pave the way to arms control agreements and a general lessening of tension between the superpowers. But we cannot forget that there are literally thousands of Soviet Jews who continue to be denied their emigration visas.

It is a time, Mr. Speaker, to celebrate our successes, to celebrate the freedom of those who have been denied it for so long, but we also need to increase our resolve to fight for those who are still denied their basic human rights.

PRIZING PEACE, AND PROMOTING IT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. GARCIA. Mr. Speaker, I would like to extend my warmest congratulations to President Oscar Arias Sanchez of Costa Rica who was named the recipient of the 1987 Nobel Peace Prize. Mr. Arias said when awakened with the news, "As an individual I have not earned this prize. I believe that the academy intended the prize for Costa Rica, the people of Costa Rica." Indeed, the Norwegian Nobel Committee has chosen well, awarding a democratic people and their visionary leader, in an effort to contribute to the peace process in Central America. President Arias commented at a news conference, "They are giving us this prize so that we will redouble our work for peace. Peace has not yet happened. It is about to happen." Perhaps peace will not only be given a chance but a promotion. Along that same line of thought, I would like to take this opportunity to enter for the RECORD an editorial from the Wednesday, October 14, New York Times discussing the Nobel Peace Prize.

[From the New York Times, Oct. 14, 1987]

PRIZING PEACE, AND PROMOTING IT

Bernard Shaw once lamented that Nobel Prizes were like life preservers thrown long after the recipients had escaped drowning. That reproach surely does not apply to this year's Peace Prize. The award honors and furthers, the cause of peace in Central America.

It's perfectly true, as nettled American conservatives complain, that Oslo is a long way from Central America. Doubtless the Nobel Committee of the Norwegian Parliament knew it was taking a chance in bestowing the prize on President Oscar Arias of Costa Rica. After all, the regional peace plan he put forward doesn't even go into effect until Nov. 7. Still, the committee's timing makes this award especially important.

The prize goes to the elected leader of an exemplary democracy whose citizens decided four decades ago to abolish their armed forces. Costa Ricans as a people have long since earned this prize. How much better if President Reagan had said as much, instead of his grudging three words for Mr. Arias, "I congratulate him."

As those cold words suggest, the new pact needs all the outside help it can muster. It calls for ceasefires, an end to all foreign support for insurgent forces, restoration of freedoms and democratic elections in five republics. But in Nicaragua, democrats charge that the Sandinistas are already evading promises to restore full civil rights. And in Washington, Mr. Reagan vows to promises for continued aid to the contra rebels, which would give the Sandinistas a pretext for dishonoring, if that is their aim, promises to democratize their Government.

Still, neither Managua nor the White House can ignore the plan's popularity in a region that so yearns for an end to civil wars and an economic rebirth. Acclaim for the plan, now enhanced by the Nobel Prize, exerts pressure on Nicaragua and blunts the campaign for renewed American funding to the contras. Now Mr. Arias will have that splended pulpit in Oslo to make his case—especially to European democracies, whose weight increasingly counts in Central America.

There remains the objection that the prize is premature or constitutes meddling by the Norwegian Parliament. In 1973, the Vietnam War bled on despite the Nobel awards to Henry Kissinger and Le Duc Tho. In 1971, there were cries of foul in West Germany when Oslo bestowed its laurels on Chancellor Willy Brandt as his Government was heading into elections.

Does this year's award fall into the same category. The reproach might have weight if the Norwegian Parliament had tilted consistently eastward or leftward. That's not the case. Nobody in Washington carried on about timing or meddling when the prize went, over Soviet protests, to Andrei Sakharov in 1975, or to Lech Walesa of Poland, the leader of Solidarity, in 1983.

In those instances, too, the prize committee stuck its neck out, and in both cases advanced the cause of peace and freedom. Mr. Arias, his country and his peace plan deserve this prize.

THE DENVER DECLARATION FOR WORLDWIDE CONSERVATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. PORTER. Mr. Speaker, in August of this year Mr. BROWN of Colorado introduced a joint resolution, of which I am a cosponsor, that would designate the week of September 11 through September 18, 1987, as "National Week for Worldwide Conservation." During this week the Fourth World Wilderness Congress was held in Colorado; it was the first time this international public forum was held in the United States. Participants from over 62 countries met to explore possible avenues of cooperation on behalf of the global environment.

Mr. Speaker, today I wish to insert into the RECORD "The Denver Declaration for Worldwide Conservation." This document which was created at the Congress lists the recent findings of the World Commission on Environment and Development as well as recommendations providing a strategy for conservation worldwide.

THE DENVER DECLARATION FOR WORLDWIDE CONSERVATION

PREAMBLE

Our earth is unique. All living things depend on its life-supporting, natural processes for survival. Over the millennia, self-regulatory processes inherent in its design have maintained a productive balance of natural resources as well as providing an inspirational foundation for human culture. Today, Earth's destiny is largely in our hands—where once humanity was surrounded by wilderness, now wilderness is surrounded by humanity. Only as we understand, respect and cooperate with the self-regulatory dynamics of Earth, will we and future generations be capable of maintaining and restoring its processes which support all life.

The 4th World Wilderness Congress recognizes, in accord with the recent findings of the World Commission on Environment and Development, that:

There is a direct connection between healthy natural ecological systems and the economic and political stability of all nations;

The productivity of earth's natural resource base is rapidly deteriorating, as evidenced by desertification, deforestation, accumulation of toxic wastes, polluted drinking water and oceans, diminution of wilderness habitat and loss of genetic diversity. It is clear that, under the demands of increasing human population, the overall situation will continue to deteriorate;

While qualitative similarities and differences exist in the environmental problems of the nations of the world, there is an uneven capability among nations to redress this situation;

Financial and development institutions (public and private), non-governmental organizations and all citizens have a significant role to play in defending and restoring the productivity of natural systems and environmental quality, working with governments to provide basic human needs for expanding populations.

A new initiative is needed in worldwide conservation:

1. To halt the destruction of the earth's remaining wildlands and its natural resource base, and to assist ecological processes in being restored to healthy balance;

2. To ensure that development is sustainable by incorporating long-term natural resource concerns into economic development programs of all countries;

3. To promote conservation education activities as well as cooperative exchange of knowledge, technology and financial assistance to meet global conservation challenges.

We therefore recommend that:

1. The natural environment be recognized as a source of knowledge, well-being and inspiration essential to the highest achievements of mankind.

2. Non-governmental organizations and the private sector should join forces with governments in a major effort to stimulate educational, political and technical actions for sustainable development and an enhanced environmental ethic. These coalitions would support mutual actions which respond to the recommendations of the World Commission on Environment and Development, under such established programs as the World Conservation Strategy, the World Charter for Nature and others.

3. To strengthen the efforts of existing international institutions working in those countries whose natural resource base is in the greatest decline, a World Conservation Corps or similar service should be established which would enhance the international sharing of conservation information, technology and experience.

4. Because new sources of funding must be mobilized to augment the expansion of conservation activities, a new International Conservation Banking Program should be created to integrate international aid for environmental management into coherent, common programs for recipient countries based on objective assessments of each country's resources and needs.—Denver, Colorado, USA, September 1987.

BLACK MILITARY OFFICERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention, and the attention of my fellow colleagues, an article that recently appeared in the Wall Street Journal regarding high ranking black military officers. The article discusses the difficulty of black generals and other high ranking officials in obtaining quality jobs after they retire from the armed services.

It is commonplace for white admirals and generals to obtain upper management jobs in the corporate world upon retirement. By contrast, their black counterparts are not able to find such jobs although they have the same experience and abilities. Attention must be given to the role that racism plays in the differential treatment of these national servants.

The pervasiveness of racial discrimination in the obstacles that these officers face is clear. Not only are they underrepresented within the pool of high ranking officers in the armed services, they are also denied access to social and economic networks that could lead to upper management jobs after retirement. Moreover, they are often frustrated by being forced to accept jobs that they are overqualified for. It is a tragedy to allow this type of discrimination to continue against people who have so dutifully served their country. I commend the article to my fellow Members of Congress.

[From The Wall Street Journal, Sept. 28, 1987]

After Retiring From Highest Ranks of Military, Black Officers Find Dearth of Job Opportunities

(By Eduardo Lachica)

Washington—Gen. Roscoe Robinson Jr. commanded the legendary 82nd Airborne Division, headed the U.S. Army forces in Japan and held a key post in the North Atlantic Treaty Organization.

But after a career of success, Gen. Robinson, only the second black ever to attain four-star rank, is frustrated. Since his retirement in 1985, when he was 57 years old, he hasn't been able to find a job that suits his experience and abilities. "I'm tired of sending out resumes because I get them back with a letter saying, thanks but we've hired someone else," he says.

Gen. Robinson wanted to sit on corporate boards or to run a national association. He used the executive search services of Arthur Young & Co. and Russell Reynolds Associates Inc. But nothing panned out. For example, he had hoped to land the executive directorship of the National Association for Parents for Drug Free Youth, but "they gave the job to a white retired admiral who had a similar background," he says. He currently works two days a week as a consultant for Planning Research Corp. in McLean, Va.

Gen. Robinson's experience isn't unique. Many retired black general officers say they face a job market that doesn't appreciate their worth. Charles Moskos, a Northwestern University professor who specializes in military sociology, agrees. "It's a scandal that they aren't better taken care of by corporate America," he says.

The problem was unfortunately highlighted last spring by Al Campanis, who was fired as a Los Angeles Dodgers vice president after he said that blacks lack the "necessities" to hold management jobs in baseball. George Price, a black retired brigadier general, says black officers represent "an untapped pool of management talent that can do well in baseball, business or whatever."

Gen. Robinson says, "If there's one thing I think I can do well, it's motivate people and manage organizations."

A few retired black general have found corporate jobs, but others wonder if they are encountering racial discrimination after conquering it in the service. Gen. Robinson carefully avoids charging racism. "You just have to draw your own conclusions," he says.

Edwin Dorn, a senior analyst at the Joint Center for Political Studies, which researches minority issues, says there isn't any "systematic evidence" of discrimination. "We know that many black officers aren't getting good offers from the corporate sector but we don't know why," he says.

Retired Lt. Gen. Arthur Gregg says one explantion is that blacks aren't part of the social and economic networks that can lead to jobs. "The problem is that our group of former generals and the CEOs of large corporations don't know each other," he says. What's more, "the climate of the 1960s and 1970s that encouraged the employment of blacks is being replaced by a more conservative mood," he says.

AGE FACTOR IS CITED

Executive recruiters deny that retired black general and flag officers are the victims of discrimination. John Franklin Jr., a managing director of Russell Reynolds, says that "age could be a factor" behind employment problems. "Some companies prefer to hire a younger man who'd be more adaptable than a 30-year Army man."

Retired Gen. Edward Meyer, a former Army chief of staff, confirms that white as well as black generals often get the cold-shoulder from industry. "I know of other four-star generals with similar problems," Gen. Meyer says. "Industry isn't going to go out of its way to hire generals. They have this Colonel Blimp stereotype of generals that does a great disservice."

Still, he says the response to Gen. Robinson's job search is "scandalous." Roscoe Robinson, his West Point classmate, "is one individual who excels across the board," Gen. Meyer says.

No matter what the reason, the employment difficulties encountered by many retired black generals tarnish a military success story. Quietly, blacks have risen to positions of command and influence in all services but especially in the Army. In all service branches there are 40 black generals and admirals on active duty—3.5% of the total—and 43 who have retired. "They've all earned their stars through sheer talent and leadership," asserts retired Gen. Russell Dougherty, who once headed the Air Force's Strategic Air Command.

But Mr. Moskos says the U.S. doesn't realize the value of this growing black elite. He says that black commissioned officers—10,000 in the Army alone, or 10% of the officers in that branch—constitute the largest single pool of black managerial talent.

STANDING IN BLACK COMMUNITY

Ironically, black officers don't get much respect in the black community either. In its latest listing of the "100 Most Influential Black Americans," the black magazine Ebony picked all 23 members of the congressional Black Caucus, 11 church ministers, nine mayors, and five black sorority leaders but not a single black officer. "It was just a subjective list," says Ebony's managing editor, Charles Sanders.

Traditional black leaders haven't embraced military retirees, who are "more conservative and less given to rhetorical flamboyance" than civil-rights, religious, political and other black leaders, Mr. Dorn says. Some black leaders are "ambivalent" about black officers because the Pentagon has won spending increases at the expense of social programs, he says.

There aren't any systematic studies of what jobs retirees get. "After officers retire, we no longer keep any records of them," Army spokesman Maj. Bruce Bell says. An informal survey shows that many black generals find it difficult to translate military experience into key corporate positions.

Mr. Moskos knows one retired black brigadier general who was put to work supervising the security of a gambling casino. "It was a sergeant's job," he says. Gen. Price says he passed up a number of unchallenging job offers. "We want to be more than token blacks," he says. He spends most of his time managing his sister, opera singer Leontyne Price. Often, retired blacks who are recruited by large corporations tend to be pigeon-holed in civic relations, personnel, or other racially related functions.

Of course there are successes. "Those who want to work can find work," insists Charles Jiggetts, a retired Air Force brigadier general who now deals with Congress and several federal agencies for General Motors Corp's Electronic Data Systems unit. Gen. Jiggetts was vice commander of the Air Force Communications Command and thus an attractive find for GM's hightechnology subsidiary. He believes that the technical training blacks get in the Air Force gives them an edge over their Army colleagues. "We have highly transferable skills," he says.

WORLD FOOD DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. GILMAN. Mr. Speaker, on March 19, 1987, I introduced House Joint Resolution 194 which would direct the President to declare October 16, 1987, "World Food Day." Since 1981, World Food Day has become an important vehicle in the drive to end hunger and malnutrition in our world.

Through the press and the media we are constantly bombarded with the facts of death—in wrecks, in riots, in robberies, in natural disasters—and while we flinch and grown at the daily spectacle of carnage and suffering, we simply cannot compehend what it means when we are told that this year 15 million children in our world will die of malnutrition and related diseases.

If we were told that someone had invented a nuclear weapon that selectively slaughtered only children under the age of 5, and that one such Hiroshima-size weapon would be detonated somewhere in the world every 3 days, every week, every year, year after year—for that's what would be required to reach that annual death toll of 15 million—the people of our Nation, and every nation on Earth would be aroused enough to demand that something be done to stop that extensive slaughter.

While traditional appeals to alleviate hunger have emphasized the long recognized moral and humanitarian responsibility that our Nation has to the hungry and the impoverished, less attention has been focused on the fact that in an increasingly interdependent world our Nation's security and the security of the international community are linked directly to a resolution of the world hunger problem.

The deprivation experienced by the world's poor and hungry and those among them who can harness the anger and indignation borne of being without the means to purchase or produce enough food, points to an explosive instability which many fear will intensify during the coming decades. Accordingly, we must not continue to be blind to the fact that when more than 42,000 children under the age of 5 die each day from hunger and malnutrition, and in some poorer countries, as many as 40 percent of this same age group die each year from nutrition related causes, it does not happen in a vacuum.

In the United States, in order to help the public's conscience, a National Committee for World Food Day was organized in 1981. It now boasts hundreds of member groups and organizations. Approximately 150 nations observed World Food Day in each of the last 6 years.

Accordingly, I urge my colleagues to get in touch with the World Food Day coordinators in their district and become involved in this vital celebration.

A GOLDEN AGE IN SPACE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. HEFLEY. Mr. Speaker, for nearly a quarter of a century, the U.S. space program enjoyed a golden age. We launched Earth orbiting satellites, visited Venus and Mars by robotic spacecraft and succeeded in the stunning achievement of landing the first and only men on the Moon. The many successes of the space program were exciting and awe inspiring and the United States was clearly and unquestionably the leader in space exploration. With this leadership, the Nation reaped benefits of pride, scientific development and technological progress.

However, in the aftermath of the *Challenger* accident, reviews of the space program made its shortcomings starkly apparent. Our capabilities, direction and the future of the space program have all become questionable, and topics of discussion and debate.

The U.S. civilian space program is now at the crossroads of maintaining a balanced space program within reasonable fiscal limits. The goals of our space program must be chosen to be consistent with national interest and capabilities.

In the light of our space program, we as a nation need to ask ourselves: "Where do we want to be at the turn of the century?" and "What do we have to do to get there?"

Only with a clear strategy in place, and its goals for the future defined and developed, will the country be able to regain leadership in space. From the perspective of history, there can be little doubt that space is the next frontier and we must go there. How fast and how efficiently is largely a question of funding and commitment.

Space station, as envisioned, will provide permanent human presence in space to conduct essential scientific and technical research and support commercial activities and operational tasks in space.

Through material science research activities on the space station, fundamental experiments and knowledge will help industry develop and find cures to disease. Life saving drugs can be made inexpensively. Cures for diabetes, cancer and sickle cell anemia become more likely in space.

I believe that space station is our next step in mankind's evolving process of discovery. The space station will represent an incredible achievement in society's ability to apply a vast amount of institutional and technological resources. From the design and development to integration and operation, the space station will require an unprecedented effort of coordination among the many participating organizations, including government, academia, and business.

As you know Mr. Speaker, the House of Representatives approved a total of $9.5 billion for NASA activities in fiscal year 1988. This included the full requested amount of $4.1 billion for NASA's space flight, control and data communications. Within that figure, the funding for space station, $767 million, saw an increase of approximately $250 million from fiscal year 1987. This funding will help to carry out the third and most important aspect of the space station, the hardware development design.

NASA's research and development phase of the space station has been completed. By using the findings of the preliminary design and definition studies, the baseline configuration was selected and NASA is currently studying the proposals from the many companies that have competed for the design hardware contract. The final selection date is scheduled for November of this year and the company who wins the contract will ultimately be responsible for carrying out and executing the hardware of the space station.

Within the $9.5 billion appropriation for NASA, $1.174 billion will be allocated for the recovery of the Shuttle Program. The intent of this funding is to restore the Shuttle Program to flight status and to eventually commence to full throttle. The most current projected date for a shuttle launch is June 1988; less than a year away.

Prior to the *Challenger* accident, the shuttle was viewed by NASA and the committee as "be all and do all" in space transportation. Clearly this is no longer the case and the space shuttle has become a part of a mixed fleet of launch systems within NASA and the Department of Defense.

In the wake of the *Challenger* accident, NASA has made considerable progress in implementing new or improved procedures to identify and evaluate potential safety problems with critical flight hardware.

It is the evolving sense of Congress that the space shuttle is a critical national resource and should be preserved for manned flight missions and that expendable launch vehicles [ELV's] should be used to carry unmanned spacecraft into orbit.

Established ELV firms have signed contracts to launch seven communications satellites in 1989 through 1990, and have reservations for 15 to 17 more launches. The number of identifiable commercial launch companies has increased to include several new entrepreneurial efforts. In fact, the first suborbital launch of a materials processing mission aboard a U.S. commercial ELV has been proposed, opening up the potential for an entire new line of commercial launch activity.

Communication satellites provide links for global transmission of voice, television, and high-speed data; and revenues exceed $3 billion annually in the United States alone. As we increasingly rely on space satellites for vital public and private functions of communication, land remote sensing, navigation, and weather forecasting, we can also foresee in the near future commercial possibilities for processing materials in space.

The United States has led the way in the robotic exploration of Mars. The last visitor to the planet was the extremely successful

Viking spacecraft that landed on Mars surface in 1976 and transmitted data to Earth until 1982. During the coming decade, we will learn more about Mars, but this may be largely the result of an ambitious Soviet program, not an American program.

We must seize the initiative and declare our intention to continue exploring Mars not only with spacecraft and rovers, but also with humans. This comprehensive plan should begin with the Mars observer mission.

The Mars observer, proposed to be launched in 1992, is a small spacecraft which will perform an important geochemical characterization of Mars while in orbit around the planet.

The Mars observer will be inserted into a near polar Martian orbit in 1993 to carry out chemical, geophysical and climatological mapping of the planet over a period of a full Martian year, which is about 2 Earth years.

I believe that the best and most fruitful path to space includes continued support for our current and future planned space programs. With the inspiration that pushed us 25 years ago to reach and explore the Moon, I believe that we can truly push for more—more manned exploration—more pioneering—and more pushing out into the unknown. America must regain its preeminence in space. We have the know how, the sophisticated equipment, and the reason to push forward. If we have the will, there is no limit to what we can achieve.

INTERNMENT OF JAPANESE-AMERICANS NEEDS REDRESS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to point out an outstanding article which recently appeared in the Catholic Sentinel of Portland, OR. The article, written by Rosalyn Borg, deals with the internment of Japanese-Americans during World War II, as well as the redress legislation, H.R. 442, which the House passed on September 17, and I wanted each of my colleagues to have the opportunity to review this article.

[From The Catholic Sentinel, Aug. 28, 1987]

INTERNMENT OF JAPANESE-AMERICANS NEEDS REDRESS

(By Rosalyn Borg)

Americans take pride in the concept of "fairness" as a basic value. Expressions such as "be fair," "play fair," "second chance," "benefit of the doubt," and "make it right" are part of our daily vocabulary.

Today, as a nation and as Oregonians, we have the opportunity to give ourselves a second chance to be "fair" to those American citizens and permanent alien residents of Japanese ancestry who were forced from their home and held in detention camps during World War II.

In 1942, under Executive Order 9066, 120,000 Japanese-Americans, two-thirds of whom were American citizens, were uprooted from their West Coast homes and sent to prison camps in the belief that they posed a threat to national security. Manzanar, Tule Lake and Heart Mountain were some of the camp locations. These are names that few Americans ever heard or bothered to remember.

The underlying reason for the imprisonment was *racial*: ethnic and economic racism. No fairness was involved. No trial was held. No recourse to the basic protection of the law was allowed. Had the country been concerned with being fair, those Americans of German and Italian ancestry, as well as Japanese-Americans living in Hawaii, also would have been incarcerated.

The victims were not strangers living in Alabama or Illinois or New Hampshire. They were our friends, neighbors, and business associates who suffered severe losses—freedom, dignity, income, careers, mental anguish—some of it lasting a lifetime. No one gave them time to get a "fair price" for their homes or businesses. A few courageous individuals publicly protested this blatant act of discrimination—men like Bishop Gerald Shaughnessy of Seattle and Judge Gus Solomon of Portland. Remarkably, so few others stood with them. Silently America looked the other way; silently the victims suffered.

A national commission established in the 1980s to address the issue found that not a single person of Japanese ancestry, either in Hawaii or on the U.S. mainland, was accused of espionage or sabotage on behalf of Japan. The fact was that several thousand Japanese-Americans volunteered to serve in the U.S. armed forces where their heroism was "outstanding."

The commission report concluded that the "broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership . . . A grave injustice was done . . . without individual review or any probative evidence against them . . ."

Forty-five years have passed, and today we are engaged in the observance of the 200th anniversary of the Constitution of the United States. The Fifth Amendment of that document states that "No person shall . . . be deprived of life, liberty or property without due process of law . . ." The experience of Japanese-Americans during World War II is a harsh reminder of the frailties of our constitutional guarantees. When civil liberties can be taken away from one group, they can be taken from any group.

The American Jewish Committee, America's oldest human relations organization, has called this event in the history of our country a "national disgrace." We, along with other organizations, support the proposed redress legislation as an opportunity to do justice to all those who suffered so much and as the only way to redeem the conscience of America.

The redress legislation which is expected to reach the floor of the House and Senate in mid-September includes recognition of a grave injustice and an apology for that injustice, pardon to those who were convicted of violating the evacuation and curfew laws, financial compensation to the 60,000 survivors, and the establishment of an educational trust fund.

Catholic readers of the Sentinel can show their support and understanding of this moral issue by encouraging the Oregon congressional delegation to lead the nation in the passage of Senate Bill S 1099 and House of Representatives Bill 442. It is the fair way. It is the American way. It is the honorable way.

A TRIBUTE TO ST. VINCENT CHURCH IN AKRON, OH

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SAWYER. Mr. Speaker, St. Vincent de Paul Church in Akron, OH will celebrate its 150th anniversary on Sunday, October 18, 1987. I would like to pay tribute to this church and its parishoners on this very special occasion, and I want to share with my colleagues some of the history of this church which has played such an important role in the history of Akron.

St. Vincent began as a mission of St. Francis Xavier Church in Chippewa, OH. For the more than 20 years before the mission of St. Vincent was established, Catholics from Ireland, Germany, France, and other parts of Europe were without the consolation of priests. Originally, these immigrants had come to this country to work on the Ohio Canal. The church became a community center for immigrants, a school for their children, and helped provide a recorded history of their lives in Akron: the city's first baptism December 11, 1837, first marriage January 11, 1838, and first funeral January 27, 1838, were all recorded by the parish's original pastor, Father Basil A. Shorb.

As the community of Akron grew, so did St. Vincent Church. And by the end of 1847, St. Francis Xavier Church in Chippewa became the mission of St. Vincent. This is quite a testimony to the growth and spiritual strength of the Akron community when one considers that St. Vincent Church was the mission of St. Francis Xavier little more than 10 years before. More important, this course of events shows how people dedicated to their faith can improve their lives, the lives of their children, and the spirit of their community.

Back in 1941, St. Vincent's pastor, Father Conry, helped establish the St. Vincent High School. Since then, the high school has always been coeducational because, in the words of father Conry, "These young people will marry and they will live together and they must know how to get along with each other."

Through the years, St. Vincent Church has been renovated many times. In a very real sense, these renovations have symbolized the church's ever changing parish. As elder parisioners send their children to the church's school, these children return to help the Akron community as teachers, public servants, priests and nuns, social workers, et cetera. By combining church and school, St. Vincent Church has historically committed itself to Akron's youth. It is through its commitment to youth that the church has laid the groundwork for both a stronger Akron and a better future.

St. Vincent Church stands now as both an architectural and spiritual landmark in the history of Akron. Its continued strength, and the constant dedication of its parishioners, are a vital part of the city. Whether attending services, sending their children to school, or cheering at a football game, the faith of the people of St. Vincent Church is the true strength of this great institution. It will ensure that this church endures for many years to come.

So many people have given their faith and support to this church in its first 150 years that I could not name them all. I would like to acknowledge, however, Rev. Thomas H. Corrigan, pastor of St. Vincents, who has worked tirelessly to make this 150th anniversary into a special celebration of his parish's commitment, both to the community and to the faith.

In conclusion, I hope that each of my colleagues will join me in congratulating St. Vincent Church and its parishioners. They have well served the Akron community for 150 years, and they have made our Nation better with their commitment to their faith. We will continue to rely on their efforts in support of our community as we move into the 21st century.

SUBSEABED NUCLEAR WASTE DISPOSAL RESEARCH ACT OF 1987

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. JONES of North Carolina. Mr. Speaker, today I am introducing the Subseabed Nuclear Waste Disposal Research Act of 1987. This bill requires the Department of Energy [DOE] to continue the research program, previously conducted by private universities and laboratories, on the alternative of subseabed disposal of high-level nuclear waste.

This bill is necessary because last year the DOE, solely for budgetary reasons, terminated the U.S. 12-year effort, undertaken in cooperation with 10 other nations and the Commission of European Communities, to explore the option of using the subseabed of the deep ocean for possible disposal of nuclear waste. After the United States, which had initiated the subseabed option, terminated its research program, the other nations followed suit. But, it is not too late too recommence research on subseabed disposal in 1987 and still reach a decision on the feasibility of this alternative by 1995, a site selection year in the current land repository program.

As most Members of Congress and the public know, the DOE's efforts to select and characterize two land-based repositories under the Nuclear Waste Policy Act of 1982 [NWPA] have been a dismal failure, resulting in litigation, delay, and political controversy. Attempts are underway in both Houses of Congress to amend or reform the current site selection process. While I commend and support many of these initiatives, they are not incompatible with the goals and objectives of my bill which requires the Secretary of Energy to continue to examine the subseabed alternative until its feasibility is established or disproved.

It does not take more than common sense to realize that in the area of nuclear waste, as in other complicated technological issues, we should not "put all our eggs into one basket." Unfortunately, this is precisely what DOE has done by focusing on deep geologic disposal to the exclusion of all other alternatives. This is being done despite the mandate of section 222 of the NWPA, which requires the Secretary of Energy to continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste.

Continuing to do research on the subseabed option, at least until 1995, will benefit the nuclear waste industry by keeping all disposal options open. It also will enable the United States to maintain its technological leadership in an important area of scientific research and allow us to continue to cooperate with our allies in solving the nuclear waste issue. Finally, the subseabed alternative may prove to be the safest and least costly option for disposal of high-level nuclear waste.

As chairman of the Merchant Marine and Fisheries Committee, I am committed to protecting the ocean and marine environment, but for the United States not to carry out research on subseabed disposal because it involves using the ocean is shortsighted. If subseabed disposal turns out to be the most environmentally sensitive way of handling nuclear waste, we and other nations should consider its use.

More specifically, my bill establishes an Office of Alternative Disposal Methods within the existing DOE Office of Civilian Radioactive Waste Management. The new Office will be headed by an Associate Director who is a member of the Senior Executive Service. One of the difficulties with the research program in the past has been that it did not receive sufficient attention and support from DOE. Establishing a new Office whose sole function will be the consideration of alternatives to deep geologic disposal, including the subseabed option, should increase DOE's attention to this issue.

My bill also requires the Secretary of Energy to establish a university-based Seabed Consortium, comprised of leading oceanographic institutions and laboratories, whose specific task will be to investigate the technical and institutional feasibility of subseabed disposal of high-level radioactive waste and spent nuclear fuel and to educate the public about such feasibility. By January 1, 1995, the Consortium will have developed and implemented a research plan to complete site characterization of three potential sites for subseabed disposal, develop designs for a subseabed disposal system, identify and assess the potential impacts on human health and the marine environment, and educate the public about subseabed disposal.

The bill also directs the National Oceanic and Atmospheric Administration [NOAA] to assist the Secretary of Energy and the Seabed Consortium in assessing the potential impacts of subseabed disposal on the marine environment, a task which NOAA is uniquely qualified to perform.

Finally, my bill contains an 8-year, $250 million authorization for the implementation of the research program. This is not a new budget authority because the funds are to be appropriated from the nuclear waste fund already established under the NWPA. It is appropriate to derive the funds for this program from the nuclear waste fund because the ratepayers and utility industry will be the primary beneficiaries.

I urge my colleagues to support this bill and restore needed balance to the U.S. Nuclear Waste Disposal Program.

KIRKPATRICK IS CHEERED IN MANAGUA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SOLOMON. Mr. Speaker, we can no longer plead ignorance of the true state of affairs in Nicaragua. The New York Times, never a cheerleader for the Reagan Doctrine, nevertheless tells us that the Reagan Doctrine must be working.

When Jeane J. Kirkpatrick arrived last Sunday in Managua she was treated like a conquering hero by a delirious crowd of Nicaraguans starved for the liberties denied under the Sandinista regime.

The article also reminds us that Mrs. Kirkpatrick is the only living American for whom a Contra fighting unit has been named. There is, indeed, no more eloquent opponent of the Sandinistas than Jeane Kirkpatrick.

It will be my pleasure to enter the entire article for the record, but one passage is worth repeating here: "The adulation that the anti-Sandinista leaders heaped on Dr. Kirkpatrick matched the scorn for the other prominent American who visited Managua this weekend, Senator CHRISTOPHER DODD of Connecticut. Some of the opposition consider excessively tolerant of the Sandinistas."

Mr. Speaker, it is more than obvious that the Nicaraguan people do not share your confidence in the benevolence and promises of the Sandinista Commandantes.

[From the New York Times, Oct. 13, 1987]

KIRKPATRICK IS CHEERED IN MANAGUA

(By Stephen Kinzer)

MANAGUA, NICARAGUA, October 12.—Clouds broke and the sun shone on Jeane J. Kirkpatrick here Sunday as she drove a wildly cheering crowd of Nicaraguans to the brink of delirium.

Cries of "Viva Kirkpatrick!" filled the air when the former chief American delegate to the United Nations stepped from a white Cadillac. As she approached the speaker's podium, the crowd rose and began clapping rhythmically.

No one could recall the last time an American visitor to Nicaragua had received such a fervent reception. It began at Augusto César Sandino Airport on Saturday, where Mrs. Kirkpatrick was greeted by admirers who behaved as if they were welcoming a film idol.

If the visit seemed incongruous to some, it was because Dr. Kirkpatrick advocates the violent overthrow of Nicaragua's Sandinista Government. She had campaigned for continued United States funding for the contras, and contra leaders consider her one of their most valuable allies. She is the only living American to have a rebel military unit named after her.

ULTRA-RIGHTEST POLICY

Photos of her arrival were featured in all three Managua daily newspapers. The pro-

Government paper Nuevo Diario described her as "one of the leading defenders of President Ronald Reagan's ultra-rightist policy toward Nicaragua."

A formal public speech by such a prominent contra supporter was unparalleled in Nicaragua. Other contra supporters, such as Senator Bob Dole, Republican of Kansas, have visited but have not spoken publicly.

The American Embassy distributed invitations to opposition political parties and other anti-Sandinista groups. Virtually every prominent opposition leader was in the crowd, which numbered over 1,000.

"We love Kirkpatrick because she is strongly against the Sandinistas," said José Cruz Garcia, a member of the Conservative Party. "We want what she wants for Nicaragua."

The Government's response to her speech was, predictably, far different. Reuters reported that the Nicaraguan Foreign Minister, the Rev. Miguel d'Escoto Brockmann lashed at Dr. Kirkpatrick today, saying: "She was sent here by the man who invented the war against Nicaragua—Ronald Reagan. She is an envoy of death."

The Government maintains that only a few misguided or resentful Nicaraguans sympathize with the contras, and that all patriots oppose them. Several people who came to see Dr. Kirkpatrick Sunday said after being promised anonymity that they hope for a contra victory.

In Managua, Dr. Kirkpatrick visited editors of the opposition newspaper La Prensa, which reopened two weeks ago after having been shut since June 1986. She also met with leading opposition figures, including Carlos Huembes, president of the principal anti-Sandinista coalition; Lino Hernández, a human rights lawyer, and Mario Rapaccioli, head of a militantly anti-Sandinista faction of the Conservative Party. She did not meet with any Sandinista officials.

The adulation that anti-Sandinista leaders heaped on Dr. Kirkpatrick matched their scorn for the other prominent American who visited Managua this weekend, Senator Christopher Dodd, Democrat of Connecticut. Some in the opposition consider him excessively tolerant of the Sandinistas. There was a wave of boos when Mr. Huembes mentioned the Senator in his opening remarks.

Reading her speech in Spanish, Dr. Kirkpatrick appeared forceful. She was repeatedly interrupted by applause, and excited guests waved small American flags during the speech.

'RIGHT TO LIVE NORMAL LIVES'

She referred to the Government as a dictatorship and said the contras were fighting "for the right to live normal lives free of oppression and reprisals." "Only Nicaraguans are deprived of their freedom, of control over their lives and of their basic rights," she said to rising cheers. "Only Nicaraguans are exposed to arbitrary detention and imprisonment."

Some in the highly partisan audience could barely control their glee. There were shouts of "That's it!" And "Give it to them!"

At one point, a handful of dissident guests raised a protest banner supporting the new Central American peace accord. Jeering began quickly, but Mrs. Kirkpatrick appealed for calm, and the protesters stood quietly holding their banner until she finished.

Mrs. Kirkpatrick said she too supports the peace accord, which would require an end to the contra war and the restoration of full political and press freedom in Nicaragua. But she said that she doubted the Sandinistas would comply.

PERSONAL EXPLANATION

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mrs. COLLINS. Mr. Speaker, although I have requested and received an official leave of absence, had I been present, I would have voted the following on legislation (rollcall votes) considered by the House on October 6 and 7.

October 6: Jones of Tennessee amendment to H.R. 3030, the Agricultural Credit Act (roll No. 346), "Yes."

Final passage of H.R. 3030 (roll No. 347), "Yes."

H.R. 3307, sentencing guidelines implementation delay (roll No. 348), "Yes."

H.R. 3391, Iranian import ban (roll No. 349), "Yes."

October 7: Committee amendment to H.R. 2897, the Federal Trade Commission authorization (roll No. 350), "Yes."

Final passage of H.R. 2897 (roll No. 351), "Yes."

Thank you for your cooperation in this matter.

BROADCAST LICENSING AND OTHER GOOD REFORMS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. SWIFT. Mr. Speaker, some years ago I had an almost weekly correspondence with a constituent with whom I almost never agreed. He was a life-long active Republican and I am, of course, a Democrat. But our correspondence was unfailingly polite and eventually even cordial. So friendly did we become that in a sudden fit of enthusiasm he almost said something he would have regretted. But he pulled himself back from the precipice just in time.

He said:

> In spite of the fact that we are on opposite sides of the fence on most issues, I admire the fact that you are open and consistent in your thoughts and that you are a hard worker. But, he said, catching himself, that won't get you my vote.

Broadcasters have had a legitimate gripe for a long time about the process they must use to get their licenses renewed. Today, I am introducing a bill, H.R. 3493, to reform that process in a way that has long been proposed by broadcasters. But like my old correspondent, that won't get the bill their vote. The broadcasters oppose the bill.

I want to tell you what the bill contains, how it was developed, and why I think this approach is in the best interests of both the public and the broadcasters. And I want to discuss why I think the National Association of Broadcasters' opposition to the bill is a serious mistake.

COMPARATIVE RENEWAL DOESN'T WORK RIGHT

The present relicensing system is called "comparative renewal." An incumbent licensee has no legal priority when the license he has been operating under comes up for renewal. Anyone can file on the frequency and, in theory at least, all applications are compared and the "best" one—read "the one with the most promises"—wins.

In practice, however, the incumbent licensee almost never loses. So what's the problem?

The problem is that over the years a kind of legal extortion has developed. When a station's renewal comes due, one or more "claim jumpers" can appear and also file for the frequency. Broadcasters have found that somewhere along the process, the competitor becomes willing to withdraw his application. But, there always seems to be some engineering fees, some legal fees, other costs and, "Besides," the competitor says, "I should get something for my own time and trouble."

The matters do get settled usually, but at a wholly unnecessary cost and in a manner that rarely serves the public. Comparative renewal serves more to set the stage for a kind of extortion than to improve broadcasting. Therefore reform is appropriate.

My bill gives that reform. It establishes a two-step renewal process. In the first step, the Federal Communications Commission will make a determination as to whether the licensee has served the public interest. If he has, his license is renewed at that point. If not, the second step is invoked and the license will be open to competitive bid, similar to that used in awarding initial licenses. This solution is one the broadcasters have long proposed and, to my way of thinking, it is a good way to handle a vexing problem. Further, I think the public can be well served under this new approach, provided it is done properly.

It is upon those last five words where the broadcasters and I part company. Essentially, the industry just wants two-step renewal—period. They argue that they should not have to pay a penalty or accept any other changes in the law in order to get rid of a policy that leads to abuses. "Just give us the relief we've asked for and leave us alone," they say.

But it is not that simple. If the FCC is going to determine in the first step of the new two-step renewal procedure whether a broadcaster has "served in the public interest, convenience and necessity," we must ask the question "What is the standard by which they will make that judgement."

The industry, not surprisingly, wants that standard to be as vague and ill-defined as possible. I think, on the other hand, that it should be sufficiently specific that the FCC can make a fair judgment and sufficiently general to prevent the FCC from deeply intruding into the programming decisions of station management. That balance can be found and, I believe, it is accomplished in my bill.

The bill establishes the standard as "meritorious."

A station will be judged to have met its public service commitments if the FCC can find that its service has been meritorious. The word is general enough that the FCC need not even approach meddling in station programming to determine if it's been met. But it also is clearly a higher standard than "mediocre" or "minimal" or merely "adequate." Likewise, it is a lesser standard than "maximum," "superior" or "substantial." The latter word was considered long and hard and finally rejected because industry lawyers said it was almost a term of art and constituted a higher standard than "meritorious."

Now, one might ask what's wrong with the higher standards. The answer is simply that I had hoped to draft a bill that would be supported by the industry as well as the public and, simply, a higher standard would lose that support. It has been lost anyway, but I'll discuss that a bit later. So my purpose was to achieve a compromise that would serve the public. It wasn't perfect, but in my judgment it was good and, besides, legislation is a process in which differing points of view need to be accommodated.

REAFFIRMATION OF THE PUBLIC INTEREST STANDARD

But the bill doesn't stop there. If it had, broadcasters might have supported it, although reluctantly.

But the bill also reaffirms the public interest standard which has been the foundation of the 1934 Communications Act but which has been honored in the breech more and more of late. While the FCC claims it supports that standard, its view of it seems more a distortion than an interpretation. Certainly the majority viewpoint of this Commission has little relationship to the traditional concept of public interest.

Further, there are those entering the industry who seem eager to simply deny the validity of the policy altogether. For example Communications Daily reported last November that Ellen Gibbs, president of Communications Resources of New York, announced that:

> A new generation of owner-managers has sprung up—owner-managers that know better than anyone just how to keep operations lean and mean. She predicted that this new type of cost-conscious, aggressive owner will equip TV stations to cope with the rapidly changing TV environment and business conditions. Television stations are no longer unique entities with special public trust responsibilities but rather investment vehicles.

Well, I'm here to tell you that TV stations definitely do have special public trust responsibilities under Federal law. My bill reasserts that so no one can mistake the fact that Congress has not forgotten it nor has it changed the law concerning it.

This provision is the essential balance point if we are to change the licensing procedure at all. It both provides the standard by which the Commission can make its judgment in the first step of renewal and underlines the continuance of the special public service responsibilities that go with use of the publicly-owned spectrum.

PAPER WORK

One objection to this bill is the paper work it would supposedly create.

First of all, you can't run a broadcasting station without paperwork, though to listen to some broadcasters you would think that they would never use a piece of paper if it were not for FCC regulations. Logs are needed for operators to know what they are supposed to do next. Advertisers want verification their spots have run. Accounting. Records.

My bill simply requires that broadcasters maintain records the Commission would require concerning the things they aired to meet the public service responsibilities. In short, it asks them to keep the material they would need to demonstrate they earned license renewal. That seems not only reasonable, but just common sense. Most of the records exist already.

Further, the bill provides a number of protections to the broadcaster. It permits a station to consider the composition of its audience, the number of other radio or TV stations serving the area, and the degree to which the programming material broadcast by other stations has already addressed relevant community issues. In short, there is a lot of flexibility.

Beyond that, the bill says the Commission shall accept the licensee's judgments concerning which community issues to cover and "the nature, duration, frequency and scheduling of responsive programming * * * if the Commission finds that the judgments were reasonable in the circumstances and were made in good faith."

PETITION TO DENY

A little-used provision of FCC regulation called the "Petition to Deny" is strengthened slightly; not as much as I would like. It was, however, the most we could achieve in negotiations with the industry. It is marginally helpful in making it easier for listeners and viewers in the communities served to be able to have some direct input to the FCC about the service they receive from their broadcasters. Stations are reluctant to strengthen this for fear of irresponsible harassment, but that is a risk of democracy, isn't it?

The bill, however, also contains a provision vigorously sought by the broadcasting industry to deal with abuse of the "Petition to Deny" for profit. It simply outlaws any agreement by which a petitioner would withdraw a Petition to Deny in return for a financial settlement. That gives the broadcaster protection against the claim jumper who could turn to the Petition to Deny as a means of forcing a payoff at license renewal time.

EQUAL "EQUAL EMPLOYMENT OPPORTUNITY"

In 1984, the cable television industry agreed to a set of equal employment opportunity standards that improved the opportunities for minorities to find jobs in their industry. Representative Mickey Leland negotiated that agreement with the cable industry. Congressman Leland has sought to get the broadcast industry to accept similar provisions that would essentially provide the same protections in broadcasting that now exist in cable. My bill includes the Leland provisions.

There is also a provision regarding minority and women ownership issues which tracks recent court decisions on the subject.

ONE OTHER THING

I believe we need to add one other thing to this bill, both for reasons of balanced public policy as well as to provide protection against "Christmas treeing."

Such a provision is not included in this bill. However, it could be: First, 3-year rule restoration; second, H.R. 3288, which restores former rules placing some limitation on amount of commercial content in children's programming and thereby eliminating the wall-to-wall commercials they currently are subject to; or third, something else.

Importantly, such an additional feature could be combined with a fix of the "Must Carry" rule which is vital to many TV stations.

This would sweeten the bill for both the broadcaster and the public interest groups. In turn, it would help prevent endless amendments which would doubtlessly kill the legislation.

Without addressing some of the legitimate concerns of the public interest community, no such protection can be developed.

HOW WAS THE BILL DEVELOPED

Years of stalemate on broadcast issues has prevented the industry from achieving its goal of reform of the licensing process while at the same time frustrating public interest groups who have watched the public interest standard erode in a series of FCC decisions. It seemed to me that if we could develop a relatively narrow bill that addressed a limited number of both broadcast industry and public interest group concerns, we might be able to finally get something done that would benefit everyone including the public.

To that end I asked a group of broadcast attorneys to help draft a proposal. Some who participated regularly represent the industry. Some are active in the public interest effort. At least one has been active in both. All of them are extremely knowledgeable about broadcast law and the issues we discussed. The NAB was represented as well.

These people met many times, for hours at a time, over a period of several months. Staff of the subcommittee, representing both majority and minority were invited to attend all meetings and did so. The issues were defined and joined. Everyone participated in good faith. Where seemingly impossible disagreements developed, special effort—including ad hoc subgroup meetings—was made and, finally, a proposal emerged.

This is nobody's favorite bill, but it has advantages. It is a genuine compromise. It has the potential for being a bill that would not get out of hand with add ons. For example, I agreed to stand against loading the bill, if the industry would agree to do the same.

After the negotiations. I sat down and made a few decisions about items on which the negotiators had been close but had not reached a final agreement. With that, we ran the result through the Legislative Counsel's office and produced a bill.

ABOUT "BEST LAID PLANS"

That bill was sent to the National Association of Broadcasters for consideration by their board. As is well known, it was not accepted. At their request I agreed to try to negotiate further.

While I don't agree with him on some things, Representative Tom Tauke is one of the most throughtful, direct, and productive people I have worked with in the Congress. As he had introduced a licensing reform bill that the NAB had supported, I worked with him to try to refine the already negotiated, compromise product. We did find areas of conceptual agreement. However, as anyone who has ever tried to put a subtle and complex thought into stark legislative language knows well, words were harder to come by than the concepts.

At about this time several other events occurred that made it seem highly unlikely that any bill other than one actually authored by the NAB would be acceptable to it. That seemed to end the matter. I made a final check with the NAB and we ageed to break off further talks about the draft.

THE BILL AS A COMPROMISE

THE BILL AS A MILESTONE

The bill I am introducing today is short of what I would consider ideal. I was willing to make significant compromises for several reasons.

First, in the climate created by this FCC I believe the public interest standard as we have always known it is in serious jeopardy of disappearing altogether. This bill clearly reasserts that vital standard and I believe that, alone, is sufficient reason to make significant compromises.

Second, the very nature of the legislative process requires compromise. Ours is a vast Nation with many, many ideas of how things should be. Without compromise, nothing ever gets accomplished.

One broadcaster at a NAB board meeting asked me why they couldn't just have a bill that eliminated comparative renewal, period. Nothing else. I wanted to respond as Louis Armstrong is said to have answered a person who asked him what jazz really was. "If you have to ask," Armstrong said, "you'll never know."

The answer I gave, however, was this: There are many different interests concerned with broadcasting. Each would like to just get their way and not have to deal with the other points of view. But in the legislative process, that's rarely possible and even more rarely is it appropriate.

Third, I love broadcasting. I was a broadcaster. I still think of myself as a broadcaster in real life. Further, I think that over the 50 years since the 1934 act was passed, our unique system of broadcasting has served the industry well—few broadcasters can honestly plead poverty—and has served the public well. Of course, things can always be improved. But, viewed objectively, the system has done a good job, and radical change is not called for, either from the broadcaster's standpoint or from the public's. Adjustments, certainly, careful refinement, naturally. Abrupt and startling change, no.

The industry, however, has been subjected to such radical changes. And, in spite of some terribly unsettling anti-industry decisions by the FCC, broadcasters have, by-and-large, embraced all of this in the name of deregulation.

But the industry is weaker today in relation to competing technologies. Reassertion of the public interest standard would help restore its position. With solid obligation to serve the public, the broadcast industry has the foundation it needs to stand and compete with other technologies. Without that public interest foundation, they are just another way to get signals to people; and must carry rules, extra spectrum for high definition TV and basic defense against the dreaded spectrum fee are lost. It hurts to see an industry put itself in such danger; willingly, eagerly.

I have the feeling that one day, some broadcasters will look back on the Swift bill and think, "That was a pretty good deal after all." When that day comes, I, on the other hand, may look at other important things the bill should have addressed but did not because of the narrow parameters in which we had to negotiate. I may even be a little dismayed by its limitations. Merit, too, is in the eye of the beholder and can change, as well, with the environment in which it's viewed.

But for now, in this climate, this is a good, balanced, compromise bill that could do much for broadcasting and much for the public interest. I intend to pursue it vigorously. I will call for hearings, which this late in the session could not come before next year. But even then, they can serve as a beginning for another effort to preserve a broadcast system that has worked well for over half a century, under which an industry has grown and prospered and the public has generally been well served. It's worth doing.

SUPPORT FOR THE MEDICAID HOME AND COMMUNITY QUALITY SERVICES ACT OF 1987

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. BARTLETT. Mr. Speaker, today, I have added my name to the growing list of cosponsors of H.R. 3454, the Medicaid Home and Community Quality Services Act of 1987, introduced by my distinguished colleague from New Jersey, Mr. FLORIO. This legislation will make a significant contribution toward Congress' goal of assisting persons with disabilities live as independently as possible in community settings. I am convinced that this legislation provides opportunities to those disabled individuals who choose to live in such settings, while respecting the choice of those families who place their disabled family member in large congregate residences.

The current system of Medicaid support for developmentally disabled individuals does not strike a fair and proper balance between small community-based settings and institutional residences. The current system requires that developmentally disabled persons reside in an approved Intermediate Care Facility for the Mentally Retarded [ICF/MR]—or in a State with a time-limited waiver—in order to receive support services that are Medicaid funded. The overwhelming majority of ICF/MR-approved facilities are institutional settings. Many families and persons with disabilities prefer not to reside in such large congregate living arrangements, but prefer instead to live in family-like group homes or at home with their families.

The current system does not provide equivalent Medicaid support for those who choose to live in the community. To my mind this inequity should and can be corrected without threatening the security of those who choose to live in large congregate residences.

H.R. 3454 accomplishes this balance. At the same time, it places a ceiling on the growth rate of the current ICF/MR Program which will help to contain costs. H.R. 3454 places a limit on the amount of Medicaid support that will be provided to institutions. This ceiling for large congregate ICF/MR residences will be set at the amount of support provided to States at the time of enactment. Such a ceiling will not threaten the quality of services that are being provided to persons in institutions because the number of individuals placed in large congregate settings is being gradually reduced by States. The experience of my State of Texas is a good example of the interaction between the ceiling, State policies, and the security and quality of services for individuals who will continue to reside in institutions.

The State of Texas is currently in the middle of what it has called a 6-Year Strategic Plan to reduce the size of its institutional population. Two years ago the State had 10,000 persons with disabilities residing in institutions, last year that population was reduced to 8,200 and the target for the end of this year is 7,200. The State is assisting in the placement of those individuals who are moving out of the institutions and into community settings. Texas has engaged in this process because of the State's belief in the financial and programmatic benefits of community living. While the State recognizes that there are those individuals for whom an institutional setting will be appropriate and preferred, the trend is toward creating increased community-based placements. Because the State is gradually reducing the institutional population, the ceiling in H.R. 3454 will provide for a sufficient cushion of support that will not affect the quality of services for those who remain in institutions. In other words because of the decreasing institutional population, the ceiling will never be reached.

This ceiling also plays a constructive role in maintaining costs. The Congressional Budget Office [CBO] has indicated that in the initial years following enactment the bill will actually save money and in the sixth, seventh, and eighth years the bill's cost will be approximately $300 million per year. The initial savings is attributable to the containment that will be placed on the current program's growth rate. According to CBO the current ICF/MR Program growth rate is approximately 12 to 14 percent per year compared to a 10-percent growth rate for the entire Medicaid Program. While the reasons for this larger growth rate are complex, placing the ceiling on this rate of growth will help to contain costs.

There are data to indicate that the cost of providing services to individuals in the community is more cost-efficient than providing services to individuals in large institutions. My position on cost of H.R. 3454 takes these important studies into account, but I also recognize that there are larger fiscal variables at work in this proposal than the comparisons between institutional and community-based costs. Because I want quality services to be available to those families who choose an institutional setting as well as those who prefer to be community-based, the essential question in the debate over cost is not the issue of comparison. The essential question on the issue cost is the ultimate cost of providing poor quality services to persons with developmental disabilities regardless of the setting.

I am convinced that regardless of the setting, the provision of quality services to persons with developmental disabilities will lead to increased financial and personal independence. H.R. 3454 will make a significant contribution to Congress' goal of assisting persons with disabilities to receive the training and assistance they need to get a job and live independently of Federal financial cash assistance. The Federal Government spends billions of dollars each year toward this goal. Our vocational rehabilitation and special education systems are oriented toward placing persons in the community with the skills they need to function and work independently. H.R. 3454 contributes another piece to this complex puzzle. By allowing greater access of Medicaid funds to support community-based services, we are complementing other congressional efforts aimed at employment and independence. The current system does not provide the kind of community-based services that are needed to maximize our special education and rehabilitation efforts.

This legislation is a revised version of a bill that was originally introduced in the 98th Congress and has gone through a number of revisions since then. I was not a cosponsor of the earlier versions because the bills did not meet my criteria of ensuring the security of those who choose to remain in institutions and my concerns regarding cost. H.R. 3454 meets my concerns and I am pleased to announce my cosponsorship. I look forward to working the bill's authors to refining it and securing its enactment.

HONDA'S CASH GOES A LONG WAY IN THE USA

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. OXLEY. Mr. Speaker, there are a number of us who have been talking for some time about the positive aspects of foreign investment in the United States. In so doing, I have pointed repeatedly to the investment and commitment exhibited by Honda in western Ohio.

In Ohio, Honda's investment has fostered a special Honda-Ohio partnership, which is a great example of the benefits of foreign investment in the United States.

While recent Honda announcements have provided more good news for Ohio, I remain deeply concerned about the foreign investment disclosure provisions in the House version of the omnibus trade bill which is pending right now in conference. If enacted, these provisions would unnecessarily discourage foreign investment in our country, thereby jeopardizing our overall economic position and continued economic growth.

Put simply, Mr. Speaker, these foreign investment provisions do not move us forward, they set us back. In today's international environment, this is something we cannot afford.

With this in mind, I commend to the attention of my colleagues the following article by George Melloan:

[From the Wall Street Journal, Oct. 13, 1987]

HONDA'S CASH GOES A LONG WAY IN THE USA

(By George Melloan)

Tetsuo Chino, president of Honda North America Inc., is reminded each month of his roots when he wings across the Pacific for his regular visits to the home office in Japan. But roots notwithstanding, Honda North America is moving aggressively to make itself a part of the U.S. heartland.

The company last month announced a $561 million expansion of its auto plants at Marysville and Anna, Ohio. By 1991, it expects to have a total investment in Ohio of $1.7 billion. Its cars by then will have a 75% U.S. content, which it claims is about what Detriot's Big Three manage. The Big Three might argue that point, but then all local-content estimates are something of an art form. No one doubts Honda's goal, however.

"What we are trying to establish here in this country is a self-reliant automotive company," says Mr. Chino. "You have the example of Ford Motor in Germany or General Motors in England. That is the example for us.

"We started our production activities here 10 years ago with motorcycles. That decision was made on the basis of a corporate philosophy and not import restraints and exchange rates at all, because in 1976 and 1977 we didn't have those pressures. We produce Honda products where we have a market. This philosophy started 25 years ago when we had a motorcycle assembly plant in Belgium. Since then we have established 50-some plants in 36 countries all over the world.

"We are going to have a complementary system. We will export U.S.-built cars to Japan, Europe and other places and import Japanese cars into this country." Honda NA will start exporting a new Accord sports coupe to Japan next year and by 1991 hopes to be exporting 70,000 cars, including 50,000 to Japan. It will promote the left-hand-drive coupe as an American car to appeal to Japanese tastes for an exotic product. Japanese cars are right-hand-drive, of course.

Mr. Chino's reference to Ford and GM's European operations is well chosen. It may be true that Honda's corporate philosophy guided its decision to invest in the U.S., but the philsophy is soundly based in economics. That is evidenced by the fact that other Japanese auto companies, including the giant Toyota, are following Honda's example. By some estimates, more than two million Japanese nameplate cars will be rolling off assembly lines in the U.S. by 1989. They could account for well over 25% of U.S. output.

Economist John Rutledge of Claremont Economics Institute in California sees a very strong resemblance between the Japan-U.S. relationship today and the U.S.-European relationship just after World War II. In both examples, he says, a country with low capital costs exports capital to an areas where a capital shortage exists.

Europe's capital shortage of the late 1940s and 1950s hardly needs explanation. World War II had devastated its manufacturing base and impoverished its people. But how did America get to be a capital-short area in the 1970s and 1980s?

Well, it did so partly with misguided public policies. Economist Martin Feldstein was among the first to take note of the fact that a combination of restrictive depreciation allowances under U.S. tax laws and a high rate of inflation were effectively decapitalizing the U.S. in the 1970s. Companies were simply unable to set aside enough cash to match inflation's escalation of the costs of capital goods. Plant and equipment weren't being replaced and modernized.

Economist Rutledge comes up with yet another shocking thought, this time about the effects of deflation in the early 1980s. The sudden drop in prices, especially for basic commodities, destroyed the effective use of large blocks of capital because it made a broad variety of plants—copper smelters, for example—unprofitable to operate.

So an excellent case is made that the U.S., on its inflationary roller-coaster ride, paid a larger price than most people imagine. It now is in the process of rebuilding the capital base. The Japanese, for very good reasons of their own, are supplying vital aid.

Japanese firms want to counter the U.S. protectionist threat, of course. But capital investment in the U.S. also is an unprecedented bargain for them. According to National Bureau of Economic Research studies by Albert Ando and Alan Auerbach, the cost of capital in Japan has been lower than in the U.S. for many years, in part because of a higher Japanese savings rate. Add Japan's balance of payments surpluses and cap that with the sudden rise in value of the yen relative to the dollar and you have all the ingredients for very attractive direct investment opportunities for Japanese firms. The situation is not unlike the postwar years when American companies were pouring money into Europe.

Honda, as a pioneer in this field, has allayed one large Japanese fear about American investment. It has demonstrated that it can build products of as high a quality in the U.S. as it builds in Japan. Japanese unfamiliarity with U.S. social and business mores notwithstanding.

"It is not easy to have the components and parts which meet our requirements, our specifications, our quality standards," says Mr. Chino. "But we have reached the point where we can get good quality from our U.S. suppliers, after two years of trial and error. We give some assistance to them and they are enthusiastic to meet our quality.

"We at first had to import steel from Japan because of the standard of U.S. steel mills, but now we buy 100% from U.S. mills." He explains that to achieve light weight—which tranlates directly to high mileage—Honda has traditionally used a thin-guage steel in auto sheet metal. But if a thin steel is to be formed by presses, it must have high tensile strength and malleability. Honda specs also call for good rust resistance and surface quality, both of which hold down paint-finish costs. American steel companies obtained the aid of Japanese steelmakers in learning to meet Honda's needs. Mr. Chino doesn't elaborate on how that was accomplished, but one can imagine that Honda has a great deal of influence with Japanese steel companies.

As to its Ohio employees, "We hired non-experienced workers because we thought that if we hired experienced workers they might have some bad habits. We thought it better to train them fresh. We sent key personnel to Japanese factories to learn how to make cars and how to maintain quality. They came back and trained their colleagues and now I don't see any difference at all in the quality of labor. But in our company we don't use the expression, 'quality of labor.' It's not a matter of quality of labor, it's a matter of quality of management.

"I don't see any difference between American people and Japanese. When we started there was a lot of discussion among customers about which car was which, Japanese or American. But after a few months all this disappeared because they can't tell the difference. The Japanese and U.S.-built Honda Accords are mixed in the market. Dealers sell them from the same showroom floor."

So, in Mr. Chino's view, Japan and the U.S. have a happy marriage in Ohio. It is something Washington might want to keep in mind as it mulls new barriers to trade and commerce.

THE TROUBLED BIRTH OF HAITIAN DEMOCRACY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. DOWNEY of New York. Mr. Speaker, the assassination Tuesday of M. Yves Volel outside police headquarters in Port-Au-Prince is a shocking reminder that the movement toward democracy in Haiti has been both violent and arduous. Yves Volel, the Presidential candidate of the Christian Democratic Rally, is the second presidential candidate to be killed since the junta of Lt. Gen. Henri Namphy announced presidential elections.

We are approximately 6 weeks from the elections and all of us are concerned that the elections be conducted in an atmosphere free of violence and intimidation. In August, the Caribbean Conference of Churches sent a factfinding mission to Haiti to look into the human rights situation. A member of the delegation, Dr. J. Michael Dash, head of the department of French at the University of the West Indies in Kingston, Jamaica, published his analysis of the problems confronting Haiti in Money Index of September 22, 1987.

Dr. Dash points out the great stake the United States has in the outcome of these elections, as well as the disturbing inability of the government to deal with the emergence of broad-based and freewheeling political dissent.

Mr. Speaker, in the weeks ahead we will undoubtedly have to deal with additional requests for assistance from Lieutenant General Namphy so that the elections can proceed. I urge my colleagues to read Dr. Dash's article because of its valuable insight into the situation which in no small way contributed to Yves Volel's death. I ask that the text of the article be printed in the CONGRESSIONAL RECORD.

Thank you.

[From Money Index magazine, Sept. 22, 1987]

THE TROUBLED BIRTH OF HAITIAN DEMOCRACY

(By J. Michael Dash)

The convulsions that caused the expulsion of the regime of Jean Claude Duvalier on February 7, 1986 were perceived as the violent spasms preceding the birth of a democratic Haiti.

The mobilized people of Haiti, roused from the paralysis of twenty nine years of Duvalierism hoped for profound, revolutionary change. However, from the outset the pace and scale of this revolutionary process was interrupted by the intervention of foreign interests.

A democratic Haiti was artificially induced by U.S. initiatives to remove Duvalier and put in place a temporary military junta—the C.N.G. By tampering with the natural course of events and elevating the Haitian army to a political role, the United States with the assistance of France and the Vatican may well have endangered the fledgling democracy that they wished for Haiti.

These self-appointed midwives left intact the social and political structures that threaten at every turn to smother the freedom won by the Haitian people. The transition to civilian rule has been anything but smooth and rapid.

At present a climate of insecurity and mistrust is pervasive and many feel that presidential elections scheduled for November 29 are unlikely.

Much has transpired in the eighteen months since the C.N.G. was appointed to govern Haiti. The momentum of the anti-Duvalierist movement continued in the form of "dechoukaj"—uprooting of Duvalierist elements.

The media, both radio and newspapers burst into strident life after decades of silence imposed by official censorship. The most popular programme on Haitian radio is "Libre Tribune", the Haitian equivalent to the "Public Eye". However, in the face of this eruption of political activity, the C.N.G. has reacted with a dismaying distrust of the Haitian people. Not only has it been slow to remove the more malignant traces of Duvalierism but has demonstrated a sinister clumsiness in dealing with democratic institutions.

The powers of the electoral council were usurped; the powerful union CATH was dissolved and its leaders arrested; the army opened fire on demonstrating Haitians; one presidential candidate Eugene Athis was murdered by unknown assailants; there are daily reports of random killings in the slums of Port-au-Prince. These events have not been investigated by the C.N.G. and no one brought to justice.

DUVALIER

Increasingly, day to day existence has become difficult for most Haitians. Not unlike the aftermath of the War of Independence in 1804, Haitians found that freedom in 1986 had come at a high price. The country with the lowest per-capita income in the Western Hemisphere had inherited an empty treasury after the Duvaliers left. The disturbances that unseated Duvalier and the subsequent organisation of trade unions caused many firms in the labour intensive assembly industry to leave Haiti.

The tourism industry, already battered by the AIDS scare, had also succumbed to the atmosphere of uncertainty. These harsh economic conditions have been further aggravated by the clumsy but well intentioned attempts by the Finance Minister Delatour to dismantle Duvalierist monopolies over the local economy.

To the delight of U.S. officials, the Haitian economy was opened to cheap foreign goods and contra-band articles flooded the market because of local opportunism. Consequently, the Haitian rice and sugar industries as well as the peasant economy have been seriously undermined. The closure of factories has simply swelled the ranks of the unemployed.

In the face of the gradual slowing down of "dechoukaj" the old Duvalierist structure began to show sinister signs of life. Duvalierism in social terms meant the emergence of a black middle class of urban professionals and provincial landowners. They did not all become "ton ton macoutes" but Duvalier could depend on their benign tolerance of the worst excesses of his regime. Duvalierism meant the political coming of age of Haitian "negritude"—the idiology of racial authenticity.

The black middle class flourished in the last two decades as can be seen in the Development of Delmas in the suburbs of Port-au-Prince. It now rivals Petionville, the old seat of the mulatto elite, in size and importance.

This group is theoretically dispossed in the new Haiti. The new constitution specifically bars anyone associated with Duvalierism from holding public office for the next ten years.

However, they have begun to reassert themselves by forming a shortlived political party and more recently a newspaper. Their new self-affirmation has been most vicious in the Haitian countryside.

The recent incident at Jean Rabel in the north of Haiti: indicates the extent to which families that prospered under Duvalier are attempting to suppress the new political organisations of the peasantry. In the desolate region of Jean Rabel, Church groups have been active in promoting self-sufficiency and organising co-operatives among the peasants.

The most important of these groups is "Tet Ansam." However, in recent times this movement has been denounced by the Duvalierist Lucas family as being communist and in July at least 100 peasants associated with this progressive movement were massacred at the instigation of the landowners. It was the foreign press that brought this massacre to international attention. The C.N.G., predictably slow to react, has finally submitted an inconclusive report on the incident, smugly declaring that there was no sign of involvement by "ton ton macoutes."

THE NEW MILITARISM

Those who presided over the birth of democracy in Haiti placed it in the tender care of the Haitian military. The U.S. has always supported the C.N.G. and continues to do so by recently approving 1.7, million in "non-lethal" military aid. They do so in the belief that only the C.N.G. can insure that elections will take place.

This initially seemed a sensible maneuver because General Namphy was a popular leader and the Haitian army was seen as helping in the movement to oust Duvalier. However, giving the army prominence in national life may yet prove to be a mistake. The army once an important political force in Haitian politics was severly restrained under Francois Duvalier. Now a new self-confidence has returned and disruptive potential lurks in those unreformed elements in the army who have much to fear from a civilian administration.

This new militarism is evident in the military's basic distrust of intellectuals and politicians. While paying lip service to democracy the C.N.G. has acquired new powers of search and arrest. It dissolved the union CATH and arrested its leaders. It also attempted to usurp the powers of the provisional Electoral Council and take control of the electoral machinery. Only a severe reprimand from the U.S. and massive demonstrations caused them to restore independence to the Electoral Council and to free the union leaders.

There are many quite credible reports of army involvement in the unchecked corruption that flourished under Jean Claude Duvalier. Certain specifically identified elements in the army are said to be responsible for shooting at demonstrating Haitians and for the arbitrary shootings and disappearances that occur nightly in the slums of the capital.

Many Haitians now speak of "state terrorism" reminiscent of the dark days under Francois Duvalier. A recent example of army complicity in these murderous practises can be seen in the attack on the outspoken Catholic priest Father Aristide. A mob attempted to assassinate him within sight of the military checkpoint of St. Marc. No criticism or disciplinary measures have been forthcoming from the National Palace. In Haiti, the army's involvement in political matters could be living proof of Marx's belief that history repeats itself as tragedy.

THE LIBERATED CHURCH

The events of February 1986 irrevocably changed the image of the church in Haiti. Both Protestant and Catholic Churches played an important role in the process of self-discovery that gave Haitians the courage to speak out against Duvalier. The voodoo religion seems increasingly maginalised and newer fundamentalist sects, especially the Mormons, are deeply distrusted.

In spite of its unified and activist posture at the outset, the Catholic church has become divided between the church hierarchy which attempts to be non-political and elements of the lower clergy who inspired by Liberation Theology, are involved with such grass roots religious organisations as "ti leglise." Catholic activists, led by such charismatic figures as Father Aristide and supported by the bishop of Jeremie Msgr. Willy Romelus, have actively promoted the possibility of a socialist society in Haiti and fiercely criticized the C.N.G.

At a time when Haitians at all levels desperately look for answers, the message of men like Jean Bertrand Aristide is persuasively simple. A calm, ascetic man he preaches a message that is as inflexible as it is idealistic. The new Haiti must provide for all its people. This can only be done outside of the control of the traditional oligarchy and international capitalism. Recent, apparently vatican approved, attempts to remove Father Aristide from his parish in the La Saline slum were met with an occupation of the cathedral in Port-au-Prince and a hunger strike. He was promptly reinstated.

"A unified Catholic Church could make a great difference to the political situation in Haiti. Recent efforts by the Catholic Conference of Bishops to establish a common position and to mediate between the C.N.G. and the people are promising signs. In all this the Utopian but irresistible politics of the grassroots church and men like Aristide helps to orient official church policy. In the void left by Duvalierism, activist elements in the church have been able to have a real impact on Haiti where the professional politicians and ideologues have failed.

POLITICAL FRAGMENTATION

After twenty nine years of political inactivity Haiti now witnesses a frenzied explosion of political parties, human rights organisations and special interest groups. The political parties are led by men who have spent the last twenty or so years in exile. They inevitably suffer from problems of reintegration. However, even those who have been politically active in Haiti during the regime of Jean Claude, sometimes at great personal risk, seem to be marginalised by the rapid and often violent evolution of contemporary Haitian politics.

Traditional politicians in today's Haiti have been pushed to the sidelines just as the Church radicals have occupied the centre stage.

The important presidential candidates who have returned to contest the November elections are Marc Bazin (M.I.D.H.), Leslie Manigat (R.D.N.P.), Louis Dejoie (P.A.I.N.) and Thomas Desulme (P.N.T.). They are all centreright politicians who range from the suave technocrat Bazin to the somewhat lightweight Dejoie. They are all desperately trying to establish a political base in a climate of insecurity and and among people who are justifiably cynical about politicians from Port-au-Prince. Unfortunately their credibility has been weakened because of their reluctance to get involved in recent confrontations between the people and the C.N.G. They now have a reputation for being timid or calculating in their attitude to the army. They all are insistent on having elections even if they are elected on a minority vote.

What is also curious is their preoccupation with becoming President of Haiti when the constitution severely limits the powers of the head of state and gives authority to the elected senators and deputies.

In contrast to the vacillating centre, the left in Haiti retains great credibility because of its activist role in confronting the C.N.G. and its visible links with the grassroots Church. The recently formed "group of 57" unites a broad range of parties and labour organisations. Its spokesmen are the social democrat Serge Gilles as well as the expriest and human rights activist Jean-Claude Bajeux. Wisely, they are not contesting the Presidential elections but concentrating on the true source of power in the provinces and communes.

Their moral authority in the current political crisis is uncontested even if their strategies leave much to be desired. They could have gained much more if they had insisted that local government elections be held instead of demanding that the C.N.G. dissolve itself. The Haitian Communist party, (P.U.C.H.) which is led by the persuasive Rene Theodore has a low profile within the "group of 57". Communist activity is no longer a capital offense in Haiti but Theodore, returning after twenty years in France, is prepared to take a back seat at the present time.

The recent anti-communist campaign waged by the Duvalierist establishment is evidence that the "group of 57" has left its mark on Haitian politics. This group perhaps has the approval of most Haiti. However they are faced with the daunting presence of former Duvalierists, corrupt elements in the army and wealthy landowners in the provinces who are fiercely opposed to their ideological position. The remnants of the old order are reassured that the U.S. and France are not prepared to sink into graceful obsolescence. They feel the Americans will react against the left and will support them at any cost and that France has signalled its approval by refusing to expel the Duvaliers or repatriate their fortune.

POST-PARTUM DEPRESSION

The regrouping of the old Duvalierists, the hostility of some members of the military and the deteriorating economic situation have caused many in Haiti to feel that their fragile democracy will be shortlived. General Namphy inists that presidential elections will be held on November 29 as scheduled. As proof of his good intentions a million dollars have been given to the electoral council to prepare elections. They have three months to do so. There are likely to be elections if only because the U.S. has always insisted that elections should be held. However, elections could very well be quite meaningless if the phenomenon of neo-Duvalierism remains unchecked.

The words of the new Constitution will mean nothing if the army remains unreformed and the wealthy minority in Haiti retains control of the state. Chances are that if the election results are indecisive, elements of the Haitian army will be tempted to seize power from the new President. Even a popular vote will guarantee little as long as the army continues to play an important role and the Duvalierists continue to plot.

If the midwives of Haitian democracy had a genuine interest in their creation they would neutralise those factions that threaten to smother it. In the meantime Haitian Democracy is a foundling forced to survive in conditions that daily threaten its existence.

Those who have shown the most interest in nurturing this democracy are the progressive vanguard of the Church and the coalition of leftist moderates. Both these groups have one thing in common—the support of the youth of Haiti. Sixty percent of Haiti is under 25 years of age. This generation is active in the "ti leglise" and "tet ansam" movements among the poor. They also naturally dominate the national Federation of Haitians Students (F.E.N.E.H.). Embarassed by the Duvalierist past, distrustful of the U.S. and longing for genuine change they present a formidable challenge to the well armed status quo.

If elections are so conducted as to leave them out of account, they are likely to resort to the systematic harassment of an unpopular government which could bring Haiti to the brink of civil strife. Then the Rambo-styled exploits of a Bernard Sansariq, who for the movement provides harmless entertainment for foreign journalists, could well become the model adopted by Haitians who feel they have been once more deprived of the opportunity of creating a just and free society.

NAMIBIA SHOULD NOT BE TARGET OF U.S. ECONOMIC SANCTIONS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. FIELDS. Mr. Speaker, a recent editorial in Barron's entitled "Anti-Apartheid or Pro-Soviet?" carries a subtitle pointing out that the punitive economic sanctions imposed on South Africa, including Namibia, by the 1986 Comprehensive Anti-Apartheid Act (Public Law 99-440) has increased U.S. dependence on Soviet Russia for strategic minerals. The editorial states:

> The statistics are jolting. For instance, U.S. imports of chrome ore from the Soviets surged to a whopping 6,440 gross tons per month on average for the six months ended March 31, compared with a mere 479 gross tons on average during . . . 1981 through 1985. . .
>
> And chrome is only part of the shocking story. Imports of antimony from Russia

have risen to 98 times the total in the base period. . . .

The list goes on—more Soviet ferrosilicon manganese, industrial diamonds, rhodium, platinum and silver bullion, all critical materials. . . . Under the first six months of the law, monthly imports of Soviet ferrosilicon averaged 2,814,527 gross pounds, compared with 692,970 for the 1981-85 average.

One of the most irrational provisions of the 1986 act defines Namibia as a part of South Africa for purposes of the sanctions. Since June 17, 1985, Namibia has had a black majority, nonracial, democratic form of government, the very goals the 1986 act seeks to achieve. Nonetheless, all imports from Namibia are boycotted under the act, costing American workers jobs, American businesses an opportunity to participate in growing two-way trade with Namibia and diverting most of this business to the Soviets. Under the provisions of the 1986 act, it would seem that President Reagan has the authority to exempt Namibia from the punitive sanctions on grounds the black majority government of Namibia has done all it can to comply with the act. Indeed, it would appear that the private sector organizations in Namibia which are not controlled by SWAPO or the ANC should qualify for some of the $400 million of economic and humanitarian aid for victims of apartheid as provided in the 1986 act.

Congress and the President should take action immediately to correct this gross inequity imposed on the people of Namibia, which is so contrary to the U.S. national security interest.

PERSONAL EXPLANATION

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. BUECHNER. Mr. Speaker, I rise today to explain my absence for rollcall No. 352, regarding the Plastic Pollution Research and Control Act (H.R. 940). Due to unavoidable business in my district, I was unable to record my vote on October 13, 1987. Let me assure you that my intended vote was in support of this measure to identify and reduce the effects of plastic pollution on the marine environment. Had I been present I would have voted "aye".

IN MEMORIAM—ROSELYN LINDHEIM

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. DELLUMS. Mr. Speaker, a few days ago, I was privileged to attend a memorial, in Berkeley at the University of California, for a remarkable woman, Roselyn Lindheim, Professor Roselyn Lindheim. I had known Roz Lindheim for some time, known her family, and had had numerous profound discussions with her, but this day was particularly special in that I was able to hear the words of her colleagues in describing the incredible impact her ideas and work had on them, on her students, and on their profession.

The love, affection, respect, and admiration expressed that afternoon was incredible and very, very moving. Her husband, Dick Lindheim, was beautiful in speaking about his wife and in his introductions of the speakers. He also read a message left to him by one of Roz' former students, that bears repeating: "The memory of Roz will always be in us. We will always love her. She is a great shining star; to lead our life as everybody has to, committed, and determined, and very correct."

I was especially taken with Dick's insistence that the afternoon be not only a memorial, but also a celebration of Roz, present and future. It was to draw from the past, but it must also deal with the present and future, so that Roz always would be.

This theme was reinforced by the family in describing their intent to create a fellowship to support students to carry on the tradition of work that Roz Lindheim had so remarkably undertaken: Work that created a bridge between intuition, feelings, people, and academic learning.

In their words, "she stood for fundamentally reexamining the whole nature of what is being designed, and for whom, and for bringing new approaches, conceptual frameworks, and expertise to the design process. She believed that it is principally through creating successful working models of innovative design, that conventional wisdom will be constantly challenged and changed in order to bring about the creation of healthier and more humane environments."

The memorial took place the day after Yom Kippur, the most sacred Jewish holy day. The Chancellor of the University, Mike Heyman, invoked a quotation which I found particularly appropriate.

"There is a time for everything; there is a time for all things under the Sun; a time to be born and a time to die; a time to laugh and a time to cry; a time to dance and a time to mourn; a time to seek and a time to lose; a time to forget and a time to remember.

"This day in sacred convocation we remember those who gave us life; this day we remember those who enriched our life with love and beauty, with kindness and compassion, with thoughtfulness and understanding; this day we renew the bonds that bind us to those who have gone the way of all the Earth.

"We feel bound to Roz; we feel bound to her passion for fairness, to her intensity to aid those in need, to her warmth and her embraciveness, to her tirelessness, to her willingness to challenge tired ideas; and we feel confident in her immortality through her students, her children, her grandchildren, and the institutions that she has built."

The dean of the college, Dick Bender, expressed Roz' commitment to working to build community, and to improve the quality of human life. "She made an enormous contribution to the college, the spirit that makes it special, and to the lives of us who worked and studied with her. She brought her care for people to all she did here. Our faculty, our professions, and our ability to build and maintain healthy environments is richer for her efforts. I miss her as I know all of you do and like you I continue to live and work with her ideas and spirit."

Prof. Dick Peters, past chair of the Department of Architecture, called Professor Lindheim one of the finest teachers he had ever known. He "marvelled at her commitment to teaching, to her responsibility in all levels of university affairs, and to her professional leadership where she brought her expertise into play without sacrificing her profound understanding of people. She enlarged the lives of many of us, as teachers and as students. But more important in many ways was the devotion and love she gave to the poor, the unhealthy and the desperate, by her creative work and by her uncompromising belief, that everyone should have a better place to live and be at peace with the world. She brought this to her teaching in a warm and respectful manner, never overtly imposing her ideas, but always encouraging others to discover their moral and ethical beliefs so necessary in a society where architecture plays such an important role, although often overlooked."

Prof. Clare Cooper Marcus spoke of her constant urging of young architects to question clients' basic assumptions about buildings, for the reason for designing buildings, and for whether buildings are the proper design solution for their needs and requirements. Not only did she get students to probe new ideas, but also posed an intellectual threat to the architectural profession. "Roz had a passion not only for humanizing medical environments but for humanizing the very process of teaching and learning." To Professor Cooper, above all, Roz was an inspiration and a role model for the many young women who have passed through this college, both as students and as faculty. She showed that it was possible to balance profession, family, career, while always being a profoundly warm and caring person.

Prof. Ken Simmons remembered Roz Lindheim's "unrelenting commitment to increasing opportunities for the disadvantaged in our society" and that it was her leadership "that produced a veritable explosion of Black and Hispanic students in the Department of Architecture. She continued unfailingly and with insistence to champion efforts to make our faculty and student body more representative in terms of race and gender. So we add this additional remembrance to our enormous collective memory of our colleague's intelligence, warmth, compassion and sensitivity; qualities she demonstrated unfailingly in her interactions with everyone, but especially with those in our society with least leverage and who are comparatively disadvantaged. When I press myself to remember only one thing about Roz, it is her power, her powerful feeling way of knowing in addition to the intellectual way of knowing; her powerful humane spirit, unflinching, and unrelenting in her dedication to and commitment to social justice, political justice, economic justice, and complementary relations between all people."

A past student, now a successful architect and teacher in England, Alexi Marmot, brought still another perspective. To her, Roz was "such a vibrant, lively woman with intelligence and humor and sparkling eyes, and who was also a full professor at the college, but what I knew, as many others knew, was that women didn't do that sort of thing. Practicing woman architects didn't have role models and didn't expect to find them, but Roz was a successful practitioner, who then turned academic, and she showed me, and many others like me, that new roles were possible.

She was a brilliant teacher, who could raise the right questions, elicit from people things they hardly knew they knew, make students work with other students, and herself learn from each student. I can trace to those classes many of the ideas I am still working on today, both in practice and in teaching, why buildings are the way they are, why do they get to be that way, what messages do they convey, what messages do they leave out, and above all how to make spaces more acceptable, more healthy, and more attractive, comfortable, and beautiful for all users of the environment.

The ideas that Roz conveyed to me, and to many other students will continue as we all try to create better architecture, better environments, to work through a better process in making those decisions. At the same time, we must try to have the same energy, the same zest for life, and vitality, that she brought to the big things, and the small things, the joys of sunny days, of simple pleasures, of family, and the joys of ideas."

Prof. Len Syme, a world reknowned epidemiologist, made probably the most profound statement about Roz Lindheim and for that reason I quote it in its entirety:

> Today we celebrate the memory of one of the truly great people of our generation. The impact of her ideas on my work and thoughts has been profound. Indeed, I can think of few other colleagues or friends who have so significantly influenced my perceptions, values and beliefs.
>
> I know that many others have similarly felt the force of Roz's brilliance, creativity and humanity. All of us have become different, and I think, better because she shared some of herself with us. And all of us, I know, have passed on to dozens and dozens of others Roz's special vision of the world. As these people, in turn, share Roz's ideas with others—and they will—it becomes clear that we today are able to see only one small piece of Roz's true impact on a whole generation.
>
> It is rare that any of us have the special privilege of knowing and working with a person who, in their brief time on this Earth, have had such an enormous influence in helping to make the world a better place. Roz Lindheim clearly is one of those special people. Everything I am and think has been enriched by my knowing her.
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> I first met Roz about 20 years ago because Danny Lindheim thought it would be a good idea. Thank you, Danny. At that time, Danny was a student in one of my classes and he suggested that I might be interested in meeting his mother who, he said, was struggling with some of the same problems as I was. Roz and I met, and talked, and argued, and reasoned. Finally, we decided to offer a joint course called environmental design, stress and health—a course which we continued to offer until this year.
>
> This was a remarkable course. It brought together students from the Department of Architecture and the School of Public Health to discuss in detail the idea that the way we design and build our environment affects health and well-being. A simple idea perhaps, but one that had largely been ignored.
>
> My approach in this course was to thoroughly review with students the accumulated research-evidence on this issue—the only way I knew to tackle problems of this kind. Roz respected this approach too but she knew that it was only one aspect—indeed a rather limited aspect—of what was needed to truly study the relationship between environmental design and health. Over the months and years of our working together, she gently and patiently added to this narrow research approach a humanity, a creativity, a breadth of vision, and a kindness that I had not thought possible. The article we finally wrote together—an article that attempted to bring all of this material together in one place—is one of the papers in my vita about which I now feel the proudest.
>
> The vision that Roz shared with us was not complicated. It began with a respect for all human beings. This is something with which everyone would agree but, for Roz, this principle was not an empty cliche but an important, significant, meaningful and very real part of her personality. A respect for all human beings. One of the consequences of this view was her belief that people need to be empowered to participate in the decisions that affect their lives. That they need to have a choice, and a voice, in the affairs that shape their existence. This means that experts and authorities—who, as part of their mission, decide for others—must be guarded against and watched carefully. It also means that we must be on guard against the pressure of conventional wisdom—those things that "everybody knows" but that in fact often turn out not to be true. It means also that scientists and researchers must be watched carefully because the power of research data can be used unwisely to narrow the options of others. The important issues are the people have a chance to live in dignity as they choose to live.
>
> For me, Roz Lindheim was one of the most profound thinkers of our time. The impact of her work has only begun to be felt and there is no question in my mind that the true dimensions of her contribution will be seen for many decades to come. I feel priviledged to have been touched by her greatness.

Roz Lindheim was a remarkable woman. She will be missed by all those who knew her and loved her, but also by those who never had the opportunity to know her or study with her. I will miss her, her family and friends will miss her. But as was expressed in the very special memorial, she will not only be sorely missed, but more important, she will be wonderfully remembered.

INDISCRIMINATE BUDGET CUTS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. COLEMAN of Texas. Mr. Speaker, if Congress and the President had stuck to the budget blueprint earlier this year that met the original Gramm-Rudman deficit reduction targets, we would not be in this situation of facing automatic, indiscriminate budget cuts, to which no thought is given to the relative importance of the programs being cut.

The blind cuts proposed in today's report by the Congressional Budget Office are a direct result of the so-called new Gramm-Rudman fix passed by Congress and signed into law by the President 2 weeks ago.

I opposed the so-called fix, or Gramm-Rudman II, because it allowed the tough choices to be avoided by relaxing the deficit reduction targets. If the original Gramm-Rudman legislation couldn't stop the President and the Congress from taking the easy way out, there is no reason to believe that Gramm-Rudman II can, either.

We should have been prepared to make the tough choices by weighing the importance of individual programs as we passed the spending bills for the different agencies of the Federal Government, which was the reason for the original Gramm-Rudman bill that has now been abandoned.

We invited the President at the start of this year's budget process to sit down with us and convene a comprehensive, bipartisan budget summit, which he has steadfastly refused to do. The President in particular has completely abdicated his responsibility to solve the deficit problem. If he can sit down and negotiate an arms treaty with our enemies, then he ought to be willing to work with the U.S. Congress to attack a common problem—that of mortgaging our children's future.

Mr. Speaker, if all of the deficit reductions are achieved through spending cuts, the following programs would be affected:

> Military construction: Cut by over 10%;
>
> Bridge and border crossing improvement program: Cut 8.7%;
>
> Education: Over one-quarter of a million students would not receive Pell Grants, the basic unit of student aid for higher education;
>
> Low-Income Housing: Approximately $660 million would be eliminated;
>
> Air Safety: No new air traffic controllers, FAA inspectors, or maintenance personnel could be hired;
>
> Highway Programs: A significant cut of over $1 billion would be imposed on federal highway programs, causing potential delay and disruption to several important projects in El Paso and West Texas;
>
> Medicare: All payments to Medicare providers would be reduced by approximately two percent;
>
> Agriculture: Farm price supports would be cut by nearly $1.4 billion, substantially reducing farm income.

Today's report by the Congressional Budget Office will be followed by a similar report on October 20 by the Office of Management and Budget, which will result in the issuance of a sequestration order by the President. This order sequesters funds from being spent, but does not cancel them. Congress will have between October 20 and November 20 to cut spending and raise revenues in order to make the deficit reductions called for by the Office of Management and Budget. If that does not happen, the President must by law issue an executive order canceling the spending.

This "new" Gramm-Rudman process has a specific timetable under which to operate, and I have included for my colleagues information, that timetable as well as a brief description of the specific mechanics of that process.

Mr. Speaker, because of this new Gramm-Rudman law, the next thing we are going to see around here is a tax bill, and that concerns me a great deal. We have a little over 1 month to come up with a reasonable deficit reduction package to prevent these automatic cuts, and I am disappointed that we may well be put into the position of having to decide between a revenue increase and indiscriminate, across-the-board spending cuts.

SEQUESTRATION TIMETABLE FOR FISCAL YEAR 1988

October 15, 1987—The Congressional Budget Office (CBO) releases its calculations of the cuts required for FY88 under the Gramm-Rudman formulas.

October 20, 1987—The Office of Management and Budget (OMB) issues its own determination of the cuts, based on its review of the CBO report.

The President is required to issue an initial sequestration order implementing the cuts calculated by OMB. Under this order, funds to be sequestered will be withheld from spending, but will not be permanently canceled unless a final order is issued in November.

October 20—November 20, 1987—Congress has one month to achieve the required deficit reductions through alternate means, either through legislation cutting spending and/or increasing revenues.

November 15, 1987—The CBO issues a second report indicating how much deficit reduction has been achieved, and calculating the automatic cuts (if any) still needed to reach the deficit target.

November 20, 1987—OMB issues final determination of automatic cuts for FY88, based on its review of the second CBO report.

The President enacts the cuts immediately with an executive order canceling the spending.

IMPACT OF SEQUESTRATION

DOMESTIC SPENDING

The Gramm-Rudman deficit reduction process requires $23 billion in deficit reduction in Fiscal Year 1988, split evenly between domestic and defense spending. If this full amount is to be achieved through the process known as "sequestration," across-the-board cuts of approximately 8.5% will be needed in all nonexempt domestic programs to reach the $11.5 billion figure (one-half of the full $23 billion).

Because Social Security, veterans benefits, and many other entitlement programs are exempt, the brunt of the impact of sequestration would fall on the same domestic programs that have already been cut 21% since FY 1981.

Programs subject to the full 8.5% reduction includes AIDS research and prevention programs, other biomedical research, law enforcement, air traffic control, education and student financial aid, senior citizen programs, low-income housing, and various agriculture programs.

DEFENSE SPENDING

Defense spending will also be cut by $11.5 billion. Because President Reagan has decided to exempt military personnel from the automatic cuts, the remaining defense programs would have to be cut by approximately 10.4%. Had he not done so, the defense percentage would have been about 6.3%.

Programs subject to the 10.4% reduction include all weapons programs (including the Strategic Defense Initiative), operations and maintenance, training, military construction, and other important areas.

DECIDING WHERE TO CUT FROM

If the sequestration process is triggered, the actual cuts will be made from whatever amounts have been appropriated for FY 88, not from last year's appropriations levels. Presently, a part-year continuing resolution is in effect, providing appropriations through November 10. The initial sequestration order required on October 20 will reduce the funds available under this continuing resolution, with the cuts to be prorated to reflect the portion of the fiscal year covered.

If a final sequestration order is triggered on November 20 (because the required deficit reduction has not been achieved through legislation), the percentage reductions will be applied to whatever appropriations levels are in place at that time. If full-year appropriations are not enacted until after the sequestration order has been issued, Gramm-Rudman requires that any cuts still necessary would be automatically made to the full-year appropriations, once they have been enacted.

CONSTITUTION DAY AT THE COSTLEY SCHOOL

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. RODINO. Mr. Speaker, all this year we have been celebrating the bicentennial of the Constitution. It is only fitting in this 200th year of this government that we think about the meaning of the Constitution.

Our Government is founded upon a covenant of trust between government and the governed. It is a compact with the people that guarantees a nation dedicated to justice and liberty for all Americans. We are a nation of laws in which the rule of law must stand above the actions of any individual.

The Constitution is a precious document that is passed from one generation to another. The celebration of the bicentennial of the Constitution provides a unique opportunity for us all to pledge to preserve for our children the ideals on which our Nation was founded. By protecting all the blessings of liberty, we will reaffirm the compact with the people that was made in Philadelphia 200 years ago.

An outstanding example of the true spirit of the bicentennial celebrations will take place next week at the John L. Costley, Sr., School in East Orange, NJ. On October 22, 1987, the Costley School will sponsor a series of events to honor Constitution Day.

This will be the culmination of a yearlong focus on the Constitution. Under the guidance of social studies teacher Joseph Refinski, students at the Costley School have been studying the Constitutional Convention, the Founding Fathers' appreciation of the importance of compromise, and the concepts of Federalism and checks and balances.

The Costley School's Constitution Day activities will begin with presentations from public officials. Also planned are a reenactment of the signing of the Constitution and the "Bells Across America" and the forming of a giant 200 by the 500 Costley Students.

The Costley School is making a valuable contribution toward ensuring that future generations understand and appreciate that the Constitution is the foundation upon which our Nation was built.

I want to commend the staff and students of the Costley School for planning a meaningful and appropriate celebration of the bicentennial of the Constitution. Their efforts demonstrate that the Constitution remains a living document that serves as both a guide and an enduring inspiration for all Americans.

TRIBUTE TO ELWOOD ALBERT "WOODY" OPSTAD

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. MRAZEK. Mr. Speaker, on December 31, Elwood Albert "Woody" Opstad will retire from more than 34 years of service as the administrator and chief executive officer of Huntington (Long Island) Hospital, NY. I'd like to take a few minutes to reflect on Woody Opstad's career and what it has meant to the quality of health care and the community at large in Huntington, my hometown.

I've had the pleasure to know Woody Opstad for many years. Those of us who have seen his devotion to his community in the form of countless hours of service through various town and church-related activities have been inspired by his endless spirit and energy, and his willingness to take on the challenge that others might shun. His altruistic nature will forever endear him to those whose lives he has touched, and I'm sure that I speak for the entire Huntington community when I thank Woody for his benevolence.

Beyond this, Mr. Speaker, Woody Opstad has presided over a period of unprecedented growth and improvement of health-care services at Huntington High School. In his 34 years at the helm, a time in which Huntington has seen itself triple in population, Woody Opstad has maintained to commitment for his institution to keep pace with a burgeoning area.

A few figures will demonstrate the growth that Woody has ushered in at Huntington Hospital. In 1953, the hospital had 89 beds; now, that number stands at nearly 400. Admissions and the number of operations performed have tripled, the number of employees has increased sevenfold, and the medical staff has increased from 132 to nearly 300 today.

He has also overseen a period of major construction at the hospital. In 1958, the east wing opened, relieving overcrowded conditions and providing modern facilities for the years ahead. In 1961, the south wing opened, allowing increased sophistication of medical care. In 1969 and 1971, both phases of the north wing were completed, providing a new operating suite, psychiatric and extended-care units and a maximum number of beds for the hospital.

Finally, the 1984 completion of the northeast wing provided modern, specialized clinical facilities, including a new emergency department, an obstetrical newborn care unit and a sophisticated coronary care unit. Through Woody Opstad's oversight of these projects, Huntington Hospital has kept pace with the times medically and with the community's growth.

A native of Iowa City, IA, Woody Opstad came to us in Huntington after earning a degree in commerce from the State University of Iowa and a master's degree from Washington University. He served in the U.S. Air Force in World War II.

On August 3, 1953, Woody Opstad landed his current post in Huntington. In strictly human terms, nearly half a million patients have been admitted into care at Huntington Hospital during Woody's tenure, and more than 76,000 babies have been born.

Thanks to his leadership, Huntington Hospital looks to the future, a future highlighted by the prospects of fiber-optic endoscopes, computer assisted CT scanners and treatment by lasers. Just as medical care in general has progressed by tremendous leaps during this time, so has the ability of Huntington Hospital to provide the latest in medical care.

Mr. Speaker, I call the attention of my colleagues today to the stewardship performed by Woody Opstad at Huntington Hospital for the good of his community, as well as his service to the Huntington community itself through his myriad of activities and projects. If, as Thomas Wolfe wrote, a man has a talent "and learns somehow to use the whole of it, he has gloriously succeeded, and won a satisfaction and triumph few men ever know." Woody Opstad must know well that special satisfaction, and deservedly so.

TRIBUTE TO WAYNE STATE UNIVERSITY LAW SCHOOL

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to the 60th anniversary of Wayne State University Law School. On Monday October 19, there will be a celebration for this very special occasion. During the last six decades Wayne State has produced numerous outstanding legal scholars and lawyers. I am especially proud to have graduated from this institution and to have the opportunity today to announce this celebration.

Wayne Law School was founded in 1927 as part of a consortium of colleges in Detroit and was subsequently renamed Wayne State University in 1956 as one of three constitutionally chartered State universities in Michigan.

Since the inception of the university, Wayne State Law School has produced 7,000 graduates of which practice in private law firms, national corporations, public interest firms, government, and the community. The former attorney general of Illinois and a former Federal Trade Commissioner are law school graduates, as well as 125 members of the judiciary including 2 Michigan Supreme Court justices. Many graduates have served in the Michigan Legislature and the U.S. Congress.

Wayne State University Law School is recognized by the American Bar Association, the Association of Law, and a member of the National Honor Society of the Legal Profession.

There are several programs of national acclaim including the moot court and the annual survey of Michigan law in the Wayne Law Review. Wayne State was also one of the founding members of the Institute for Continuing Legal Education which ensures the ongoing education of lawyers in the State of Michigan.

The law school has a diverse student body of which nearly half are female. The students are dedicated to continue the role of leadership in law in the State of Michigan and in the legal profession.

Mr. Speaker, I would like to give special recognition to Wayne State University Law School for their efforts in enhancing the legal mind and for their dedication to community service in the State of Michigan.

WORLD FOOD DAY—HOORAY

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. UPTON. Mr. Speaker, I wish to express my enthusiastic support of House Joint Resolution 194 which designates tomorrow, October 16, 1987, as World Food Day. This special occasion commemorates the establishment of the Food and Agriculture Organization of the United Nations in 1945. This organization is involved in many endeavors to help improve the quality of life for impoverished people. Their accomplishments inspire all of us to join in the fight to eradicate hunger and malnutrition throughout the world.

World Food Day raises the level of consciousness regarding the desperate nature of hunger. Thanks to activities like World Food Day, churches, schools, local governments, and private organizations have stepped up their efforts to combat hunger—both overseas as well as in our own backyard.

We do have the means to help those less fortunate than us—what we often lack, however, is the activating force to do so. World Food Day challenges each and every one of us to do all that is within our power to end the tragic blight of world hunger. This day commends those who are committed to the spirit of volunteerism, and those who sacrifice their time, energy, and money to help alleviate the anguish of their fellow human beings. I encourage all of my constituents and colleagues to take part in this occasion by participating in food drives, working at local food banks, and volunteering at service clubs, churches, and schools.

World Food Day emphasizes that words alone are not enough to end hunger, we need immediate action. There is no better time for us to start than today.

QUESTIONS ON THE INF TREATY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. LIPINSKI. Mr. Speaker, I believe the intermediate-range nuclear forces [INF] agreement represents truly a great milestone in the history of nuclear arms control. For the first time, the world's huge inventory of nuclear weapons will actually be reduced, not just limited—indeed, a whole class of missiles will have been eliminated with the agreement. And in what looks like a great deal for the United States, the Soviet Union will be required to destroy far more weapons than the United States to achieve double-zero in Europe. Everything about the agreement seems to benefit U.S. interests.

Yet, many troublesome questions remain unsolved or even exacerbated by the advent of the treaty. United States Pershing II's and cruise missiles were placed in Europe to demonstrate American resolve to defend the Continent in reaction to Soviet military pressure. No matter what one thinks of the treaty, taking United States weapons from Western Europe does create a psychological nuclear decoupling between the two, especially when one remembers what an arduous task it was to place the weapons there in the first place.

Some scholars have argued, and I believe correctly, that the implications of the treaty strengthen those who advocate a de-nuclearized, neutral Europe, with its own security system. While many believe it is a healthy development for Europe to be focusing more on its own efforts for defense, the United States must remain firmly committed to defending Europe, with nuclear weapons if need be. West Germany, the linchpin in the NATO alliance, can never be the neutral country which antinuclear unilateralists claim is possible. The INF agreement, however, has gone a long way in legitimizing such outrageous beliefs.

With double-zero, the Soviet Union's awesome conventional force advantage will stand out in even starker contrast to that of the NATO alliance. Pershing II's and cruise missiles not only countered Soviet missile placement in Europe, but conventional force levels as well. While there was talk of a provision of INF which would address this imbalance, nothing ever came of it; the force advantage remains untouched. Lately, there has been talk of a 50-percent reduction in strategic nuclear forces between the two superpowers, yet very little talk of attaching a conventional force reduction provision to any such agreement. INF in some ways has institutionalized thinking that nuclear force reduction can be achieved without regard to Soviet conventional weapons advantage. Since most defense analysts believe a limited conventional war is the most likely future conflict between the superpowers, this thinking is dangerous indeed.

I applaud President Reagan in his attempt to achieve mutual reductions, with proper verification, of course, in the intermediate-range nuclear forces of the United States and the Soviet Union. If, in the perception of practice of the treaty, the strong security bonds between the United States and Europe are loosened, the NATO alliance is made weaker and Soviet conventional strength remains unchecked, then the stability of the Continent will suffer.

GO, TWINS!

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. OBERSTAR. Mr. Speaker, for the past 22 years, there has been one goal which has united the people of Minnesota: getting the Twins back into the World Series. Not since the days of Harmon Killebrew, Tony Oliva, and Mudcat Grant have the Twins been part of the October classic. Twice they came close—in 1969 and 1970—and both times they failed to advance beyond the league playoffs.

Now, however, the people of my State are seeing their dream fulfilled. This Saturday, the Twins will take on the National League champions for the honor of being the best in baseball.

For Minnesotans, the Twins of 1987 are a fall tonic, a temporary relief from the economic troubles that have hit our iron range and Farm Belt. The Twins' appeal, in fact, has gone beyond Minnesota, as the team has captured the imagination of all Americans who admire winning against the odds.

To Manager Tom Kelly, Tom Brunansky, Gary Gaetti, Kirby Puckett, Kent Hrbek, Greg Gagne, and the rest of the Twins, I send congratulations. You've proven to the Nation that you are of championship caliber, but we in Minnesota have known it all along.

WORKING WOMEN WAGE WINNING WAR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. FLORIO. Mr. Speaker, during the week of October 18, 1987, the business and professional women of New Jersey and, indeed, all across the Nation will be recognizing for the 60th year National Business Women's Week, a time to reflect on its proud accomplishments in the tradition of the organization and a time to prepare the future agenda of the organization.

During that week, the New Jersey Federation of Business and Professional Women will be observing the 60th anniversary of its advocacy of the concerns and causes of working women in the United States and the 68th anniversary of its founding.

The New Jersey Federation of the BPW holds claim to a particular distinction as one of the first 19 State groups to join the national cause of equality and opportunity for women in the workplace, doing so in 1919.

In the 60 years since its founding, the NJFBPW has persevered on behalf of women, achieving a better voice for women in society. Often, the BPW has called upon the Federal Government to place more women in positions of responsibility, thus gaining for them more equitable representation in Government.

There is a need to focus attention on issues of equality in order to prevent discrimination and to gain increased recognition of the role of women in our society.

And indeed, as the New Jersey Business and Professional Women have demonstrated time and time again, the role of women in the success of our Nation is significant.

If there is any foundation to the statement that there is strength in numbers, then the Federation of Business and Professional Women is proof of that truth.

The hundreds of thousands of women in the group have proven through their commercial and professional contributions that women have not only the desire to be a part of the American dream but also the ability to put their aspirations into practice.

In my home State of New Jersey, the NJFBPW fulfills a vital role in addressing the concerns of women. With the agenda of the organization reading parental leave policies, workplace conditions, pay equity, educational opportunity, and a number of other concerns for women across the Nation, the agenda reflects the concerns of well over half the population of the United States.

The organization has taken the lead in guaranteeing access to opportunities in education, in the economy, and in responsibility at the community and national level for women. They have participated in the community, bringing their professional expertise and caring for causes, including career advice, scholarships, and community involvement.

There is no question as to the commitment of this organization to the improvement of the political, educational, and economic climate for women. They have dedicated most of the 20th century to advocating these concerns.

On the eve of the observance of National Business Women's Week, I congratulate the New Jersey Federation of Business and Professional Women on their achievements of the past 68 years and wish them well in the coming years as they continue seeking better conditions for women across the Nation.

WELCOME TO PRINCESS ANNE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. GORDON. Mr. Speaker, I rise today to ask my colleagues in the House of Representatives to join me in extending the warmest of welcomes to Her Royal Highness, the Princess Anne, the Princess Royal of Great Britain.

The Princess Anne, daughter of Her Majesty, Queen Elizabeth II, will honor my State on October 23 when she travels to Nashville to participate as a rider in the Royal Chase, one of the world's premiere equestrian events.

In addition, the Princess Anne will present the victory trophy to the winner of the Queen Mother Supreme Novice Chase, the featured steeplechase of the meet, which is named in honor of the Princess' grandmother, Her Majesty Queen Elizabeth, the Queen Mother.

Mr. Speaker, it is not only the honor of welcoming such a distinguished visitor that moves me to rise today. Equally important, I want to point out to my colleagues the real reason the Princess is crossing the ocean this month.

Both the Princess Anne and the Queen Mother are two of the world's most dedicated supporters of the international Save the Children Fund, which supports programs of education, health and life support for disadvantaged children of all nations.

The proceeds from this Royal Chase, sponsored by the International Steeplechase Group, will benefit the Save the Children Fund. That is what draws the Princess to our shores.

Once again, Mr. Speaker, citizens of our two great democracies are joining together in a good cause.

I am proud of this long tradition, and especially proud that my State can be part of it.

A TRIBUTE TO THE 969TH

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. HOUGHTON. Mr. Speaker, I rise today to pay tribute to a small, dedicated group of Army reservists. The 969th Maintenance Company is based in Horseheads, NY, on the western edge of New York's Chemung County. For the second consecutive year, the 969th has won the Department of the Army's Maintenance Excellence Award—an honor never before achieved by any Army unit anywhere in the world.

The 969th has been an important part of the Horseheads community for more than 25 years. They have provided hundreds of Chemung County residents with part-time employment and job training over the years, and that training has benefited many reservists in their civilian careers.

Their contribution to the area was even more dramatic in 1972, when floods caused by Hurricane Agnes devastated the southern tier. The 969th immediately came to the assistance of the community, and played an important role in getting the area back on its feet.

The members of this company are more than just soldiers—they are our neighbors, coworkers, and friends. I congratulate the commander of the 969th, Capt. Michael Hughes, and his company on this latest award. And on behalf of all the people they serve, I just want to say thanks.

TRIBUTE TO ANDREW BEAUDOIN

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. KENNEDY. Mr. Speaker, I rise today to pay tribute to one of my constituents, Andrew

Beaudoin. On September 23, 1987, Andrew was recognized as one of five finalists in the National Youth-of-the-Year Program sponsored by the Boys Clubs of America. More than 1.2 million boys and girls are members of the Boys Clubs. To be selected as one of only five finalists is a great honor for Andrew, and I am sure that his family and friends are very proud of him. I certainly am.

Andrew, who is a 17-year-old resident of Arlington, MA, is a real contributor to his community. For 8 years, he has been a door-to-door collector for both the March of Dimes and the American Heart Association. He has also been very involved with the Arlington Youth Hockey League, both as a player and as a volunteer coach and referee. Andrew particularly enjoys the company of older Americans and has given much of his time to working with them. For example, Andrew spent a year as a volunteer at the Park Avenue Nursing Home.

Andrew is a great asset to his high school. In addition to maintaining a B average, he is active in school clubs, sports and music. The Math Team, French Club, Photography Club, Science Club, Student Council, and School Radio Station at Arlington High School all benefit from Andrew's participation. He also plays basketball and runs track. As a music fan, I am particularly impressed by Andrew's accomplishments in that area. Andrew, who plays the trumpet, was chosen as the "best musician" at Ottoson Junior High, and he plays extensively in the high school marching, symphonic and jazz bands. In 1986, Andrew was selected to represent his school for the All-State High School Band. Consistent with his spirit of giving to others, Andrew also tutors others on the trumpet.

I am very proud to bring Andrew Beaudoin's achievements to the attention of my colleagues. Andrew has combined talent, hard work, a commitment to excellence and a commitment to others in order to better himself and his community. He is an example to us all.

BALTIMORE COUNTY POLICE FORCE HONORS COLONEL MESSINA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mrs. BENTLEY. Mr. Speaker, in 1959 a husky young graduate of the Baltimore County Police Academy was issued a badge, a gun, and assigned to the Dundalk Police Station. This station was responsible at the time for patrolling the whole southeastern area of the county, yet it possessed only seven squad cars and one shotgun. These certainly seemed to put things at a disadvantage for those who were sworn to uphold the laws of both a county and a State, yet young Patrolman Frank Messina approached his duties with a degree of vim and vigor which more than made up for the limited resources.

Twenty-eight years later, Col. Frank Messina retired from the Baltimore County Police Force as chief of field operations. That very same station where he started his career now possesses 18 patrol cars, each carrying its own shotgun, and the Baltimore County Police Force has increased from 400 officers to over 1,400 officers supported by nearly 200 civilians. It is also recognized as one of the best police forces in the entire Nation as a result of Colonel Messina's efforts as the No. 2 man in the force.

On October 20 Colonel Messina's comrades, colleagues, and friends will gather to pay due homage to the man who, for over a quarter of a century, contributed so much to the safety and well-being of his community. Mr. Speaker, I also want to recognize on the floor of this great body the accomplishments of this truly special person. His story should serve as an example to all who wish to make a mark in the field of public service, whether it be on the national, State, or local level.

Colonel Messina is the first Italian-American in his force to become a captain and to achieve his present rank. His beginnings were humble, yet he climbed the ladder until he eventually reached the pinnacle of success. These facts, however, do not by themselves tell the full story of Colonel Messina's success. His sense of vision and his willingness to innovate were his tickets to fame. It was his ability to expand the goals of a police force from one which focused on law enforcement into one which strived to serve its community as well which make his so worthy of praise. Colonel Messina made a difference, and that's what is of supreme importance.

His experience in all areas of police work allowed him to develop new ideas, to increase efficiency and provide more benefits to the community. He entered a police force which employed almost no blacks and very few women. It now has 92 black officers as well as over 100 women.

Colonel Messina is indeed a very rare breed of man—a "man of vision." I am proud that my district contains one of the most advanced, sophisticated, and dedicated police forces in the United States—because this man pursued his vision.

Colonel Messina is indeed a doer, and America needs more doers like him. All who salute him on his day of recognition should strive to meet the level of excellence he has established. Colonel Messina has remained until now largely an unsung hero, one whose achievements were of course recognized and appreciated yet never viewed in the total picture.

Today I am proud to have the opportunity to sing his song of praise.

WE NEED A COORDINATED NATIONAL DRUG POLICY

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to call my colleagues' attention to a recent letter to the editor of the New York Times by Dr. Mitchell Rosenthal, director of the Phoenix House, a drug rehabilitation center in New York City. This facility has a national reputation for unparallelled dedication to the problems before our young people with substance abuse. The success the Phoenix House has enjoyed with thousands of our young people struggling with the horror of drug abuse can be directly attributed to the efforts of Dr. Rosenthal.

Through Dr. Rosenthal's unequaled work in the field of drug rehabilitation, he has become a valuable resource for this Congress and this administration to call upon for input in the "war on drugs." Dr. Rosenthal's immediate concern, expressed in his letter to the New York Times editor, is that the supply side of the war on drugs has been overemphasized to the exclusion of our attention to the demand side of this menace. He astutely points out that "attacking the demand side aims at shrinking the drug market, cutting profits and making the risks of the drug trade less affordable." It seems to me Dr. Rosenthal has hit the goals of our war on drugs right on the head.

He closes with the plainly evident assessment of our country's war on drugs "together we can win a war against drugs. Divided, drugs will conquer us."

Mr. Speaker, I ask unanimous consent that the entirety of Dr. Rosenthal's letter to the editor be included in the RECORD immediately following my comments.

[From the New York Times, Sept. 18, 1987]

WE NEED A COORDINATED NATIONAL DRUG POLICY—TOGETHER WE CAN WIN

(By Mitchell S. Rosenthal)

To the Editor: Some very bright people can be awfully dumb when it comes to drugs. Take "Which War on Drugs?" (Aug. 31). You propose solutions to America's drug problems that are shockingly naive and also astonishing in a newspaper that has covered drug abuse so thoughtfully and well.

All the "obvious" solutions, including yours, put responsibility every place else but on the abuser. No solution will work that does not start by demanding that drug users stop using drugs. Then we must impose that demand and deal with the complications that arise from it.

Your notion of dividing the problem drug by drug is even less practical now than in the past. Today, new drugs are constantly being introduced, including "designer drugs," synthetics that mimic the pharmaceutical action of natural drugs or semi-synthetics. Were we ever to succeed in cutting off foreign sources of natural cocaine, domestically produced synthetic cocaine would almost immediately hit the street.

Focusing on *what* drugs were being used and not *why* drugs were used is what many parents did in the late 1960's and early 70's. They figured a little pot was O.K., but didn't know what to do about PCP or "ludes," "uppers," "downers" or hallucinogens. The point is not to worry about how late we can wait to stop youthful drug abuse, but how soon we must move to prevent it.

Your easy answers to heroin, marijuana and cocaine contain disturbing misinformation. Most distressing to me, as the head of a drug-free treatment program that has treated more than 35,000 young drug abusers in New York over the last 20 years, is your assumption that methadone maintenance is the only affordable answer to heroin addiction.

Methadone maintenance programs have restrictions and are required to provide counseling and other services because heroin addicts are highly disordered men and women who need substantially more than methadone to stop abusing drugs, committing crimes, spreading AIDS and otherwise endangering themselves and the rest of society.

Furtherance, a "successful" methadone patient is one who remains in treatment (where many may continue to use drugs), while a "successful" drug-free patient is out of treatment, off welfare, working and free of any criminal involvement. There are, it is true, only 3,000 drug-free treatment slots in New York and 30,000 methadone slots. But methadone patients, if successful, remain in those slots most of their lives, while drug-free patients recover and leave treatment. The city has at least twice as many successful ex-addicts today who are former patients of drug-free programs as it has successful methadone patients.

No, traditional psychotherapy has not been effective in treatment of drug abuse. But the therapy provided by drug-free treatment is different from traditional psychotherapy, and the success rates for drug-free treatment are substantially higher than for methadone maintenance.

Your proposal to further decriminalize marijuana comes when adolescent use has fallen off and teen-agers are overwhelmingly opposed to decriminalization. Your cocaine solution provides no clue to how Latin American countries are to deal with the cocaine trade short of open warfare.

You clearly do not recognize that attacking the "demand side" aims at shrinking the drug market, cutting profits and making the risks of the drug trade less affordable. This means placing demands on drug users—insisting they quit—and Americans have been reluctant to do this.

Without a consensus on drug abuse, however, no real solution is possible. Although drug abuse may have disappeared from the headlines, it has not disappeared from the nation's consciousness, and there is today a growing intolerance for drugs. Together we can win a war against drugs. Divided, drugs will conquer us.

THE BALANCED BUDGET AMENDMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. HASTERT. Mr. Speaker, I just learned yesterday evening that the Judiciary Committee has seen the light, they have finally scheduled a hearing on the balanced budget amendment—for today. But guess what, somebody forgot to notify the supporters of the amendment.

I suppose I shouldn't complain, knowing the sad history of this legislation, and the political treadmill it has been forced to endure, but shouldn't the 237 who are cosponsors that support passage of the balanced budget amendment be represented through testimony? Shouldn't some assurance be given that those who believe so storngly in the need for fiscal control be heard?

I, for one, have grown weary of political gamesmanship and hollow rhetoric on this particular issue. Let's stop the merry-go-round long enough to bring this issue to the House floor. I urge all members concerned about our economic future to sign the discharge petition. The American people want a balanced budget amendment, and our consciences shoud demand it.

WHITE HOUSE BURNED BY THE NETWORKS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. MARKEY. Mr. Speaker, yesterday the wholesale deregulation of the broadcasting industry—championed by the Great Communicator himself—finally caught up with the White House.

Spokesman Marlin Fitzwater expressed the President's dismay that the three broadcast networks had declined to carry the President's televised address on the Bork nomination.

Fitzwater said the networks' response to the White House request for air time was "a sadly inadequate view of their public trust" responsibilities.

But in all honesty, Mr. President, how do you expect the networks to act after you have worked so hard for so long to convince them that broadcasts have no obligation to fulfill any mandate to operate in the public interest?

Is it any wonder that after you vetoed the Fairness Doctrine bill that the networks felt they could act with impunity regarding their public trust responsibilities?

Mr. President, when you treat broadcast licensees like toasters, you get burned.

A TRIBUTE TO GRACIELA "GRACE" GIL OLIVAREZ

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. UDALL. Mr. Speaker, on September 19 a great and good woman lost her fight against cancer. Graciela "Grace" Gil Olivarez served her country and her native Arizona nobly and well.

Grace, owner, president, and general manager of the Albuquerque-based Olivarez Television Inc., was friendly and very knowledgeable. Over the years Grace had been recognized for her leadership and expertise by a variety of appointments to State and national boards and commissions.

Grace was born in the now abandoned town of Sonora. In her early teens she worked to help support her family when her divorced mother moved her brother and three sisters to Phoenix.

She was the first female disc jockey in the State at KIFN, a Spanish-language radio station. While working at the station she was well-known in the Spanish-speaking community and had a strong interest in local issues. Grace gained popularity and prominence and eventually became a national spokeswoman for the antipoverty movement.

A chance meeting with the president of the University of Notre Dame led to Grace's enrollment in law school, from which she graduated at the age of 42. She was the first woman graduate of the Notre Dame Law School.

After law school she returned to serve the State of Arizona and was chosen by former Governor Sam Goddard to join the staff of Arizona's newly created Office of Economic Opportunity. Grace became the only woman to direct that office in Arizona.

In 1972, she joined the University of New Mexico Law School faculty. Her continued desire to serve led her to assume the directorship of the school's institute for social research.

Her long-time dedication to the underprivileged prompted President Carter to appoint her in 1977 to head the Federal Government's antipoverty agency, the Community Services Administration. Her hard work with this agency led her to the status of highest ranking Hispanic in the Carter administration.

When the Community Services Administration was abolished in 1980, Grace joined United Way as a senior consultant. During this time she was working with her television station in Albuquerque and serving as the State planning officer for former New Mexico Governor Jerry Apodaca.

I offer these words with pride in remembrance of Graciela "Grace" Gil Olivarez. She will be missed by those who were fortunate enough to know her.

TRIBUTE TO ANDREW TORREGROSSA, JR., AND DR. MARGARET J. GIANNINI

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. MOLINARI. Mr. Speaker, I rise tonight to pay tribute to two individuals who have made enormous contributions to the effort to improve the quality of life for the handicapped in our country: Mr. Andrew Torregrossa, Jr., and Dr. Margaret J. Giannini. They will be honored on October 23 by the Precious Hearts Association for Exceptional Adults, Inc., an organization that will offer a variety of programs to assist the developmentally disabled of Brooklyn. Andrew Torregrossa and Dr. Giannini exemplify the noble traditions of service and dedication to those less fortunate in our society that make us all proud to be Americans.

Throughout his life, Andrew Torregrossa has made a difference in a variety of areas. Whether we are talking about his work with Catholic Charities for the Diocese of Brooklyn, the American Italian Coalition of Organizations, or the American Cancer Society, Andrew Torregrossa consistently dedicates himself to the service of others. The numerous accolades awarded to him over the years are a recognition of his positive impact in these activities.

Dr. Margaret J. Giannini's list of accomplishments is long and impressive. She currently serves as the director of the Rehabilitation

Research and Development Service with the Veterans' Administration in Washington. A former Director and founder of the Mental Retardation Institute of New York Medical College, Dr. Giannini was the first Director of the Department of Education's National Institute of Handicapped Research. Mr. Speaker, I could go on at length in praise of Dr. Giannini's work on behalf of the handicapped. Suffice it to say, however, that Dr. Giannini has served the handicapped with dedication and distinction.

Mr. Speaker, it has been an honor for me to bring the accomplishments and careers of Andrew Torregrossa, Jr., and Dr. Margaret Giannini to the attention of my colleagues in the House of Representatives. I know that by their work, they will continue to improve the quality of life for our handicapped and other less fortunate individuals in Brooklyn and in the Nation as well.

THE 150TH ANNIVERSARY OF CHRIST EPISCOPAL CHURCH, MARLBORO, NY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. FISH. Mr. Speaker, I rise today in recognition of the 150th anniversary of the Christ Episcopal Church in Marlboro, NY, which will be celebrated on October 25, 1987. Christ Episcopal held its first service in 1837 and has been serving the community ever since.

In 1839, Bishop Benjamin Onderdonk consecrated Christ Episcopal's first building which unfortunately was destroyed by fire in 1857. The church was rebuilt on its present property in 1858 and consecrated by Bishop Horatio Potter. The land on which the church was built was donated by two local area residents, Dennis Doyle and Leonard Carpenter.

Since its very beginning, Christ Episcopal Church has always been involved in many community and charitable events. Under the present direction of Rector Ralph Smith and senior warden Anne Borchert, the congregation involves itself in numerous community works. The ecumenical events the church sponsors for the community include a Thanksgiving Day service, seminars, and educational workshops. The congregation also holds a strawberry festival, hosts a flea market, conducts an arts and crafts show, and supervises nursing home visitations.

In addition to all this, the congregation provides financial aid in the fight to eliminate hunger around the world, and donates to missions both local and national.

It is my honor and pleasure to pay tribute to the Christ Episcopal Church and to help recognize its 150th anniversary.

KENT INTERMEDIATE SCHOOL DISTRICT 25 YEARS OF SERVING THE COMMUNITY

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. HENRY. Mr. Speaker, it is a privilege for me to stand before you today to offer congratulations to the Kent Intermediate School District on the occasion of the district's 25th anniversary.

Established in 1962 and located in Grand Rapids, MI, the school district provides services to 20 local public school districts and to all nonpublic schools within its boundaries, serving directly or indirectly over 374 schools, 6,000 teachers, and 98,000 students.

The Kent Intermediate School District [KISD] serves as a link between the Michigan Department of Education and local school districts. It also furnishes programs and services that single districts find difficult or impossible to provide and collects and checks vast amounts of data required by the State Department of Education, a major function of an intermediate school district.

The KISD has three departments offering a variety of services. The general education department provides educational and administrative services to local school districts. The Close-Up Government Studies Program—in which many of my colleagues have participated—falls under the jurisdiction of this division. The general education department also oversees staff development and coordinates a wide variety of inservice and professional development activities for teachers, administrators, and support staff.

Under the vocational education department, the district operates two skills centers which train over 2,000 students daily and approximately 1,000 adults. The centers offer 1- and 2-year programs in 34 vocational areas, with job placement services offered to graduating students. This section also oversees the federally funded youth employment programs for disadvantaged youth.

The KISD special education department works in cooperation with 4 regional offices and 20 constituent districts providing special education programs and services to over 8,000 handicapped students. This department offers instructional services, support services, direct services in the way of occupational and physical therapy and homebound/hospitalized service.

The next 25 years promised to bring new, innovative programs to the school district. Increased demands for services and expanded programs has resulted in the need for additional space and by the beginning of the 1989 school year, Kent ISD will have a new Educational Service Center.

Mr. Speaker, the Kent Intermediate School District truly serves the community, and students of all ages are offered unlimited opportunities to increase educational and vocational skills. As KISD Superintendent Dr. George Woons states, "Equity and excellence will go hand in hand as we seek a proper balance between academic and life skills."

Please join with me Mr. Speaker and colleagues in extending congratulations to the Ken Intermediate School District for providing 25 years of quality educational services and in expressing best wishes as the district continues to serve the community at large during the coming 25 years.

TRIBUTE TO KIM BAXTER

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 15, 1987

Mr. FLIPPO. Mr. Speaker, I would like to pay tribute to a long-time member of my staff who is leaving Washington to return to her home in Arkansas. Kim Baxter is leaving Capitol Hill after 10 years of outstanding public service, the last 7 years as a legislative assistant serving the interests of the people of the Fifth District of Alabama.

Kim graduated from the University of Arkansas in 1977 and soon after came to Washington to begin her career on Capitol Hill. Before she joined my staff, she worked for Congressman Ronald Sarasin of Connecticut and Congressman NICK RAHALL of West Virginia.

She has brought to her work a high degree of intelligence and competence as well as an outstanding personality that has made her a true joy to work with over the years. She has been an enormous asset to my office and an integral part of the many important goals we have sought to accomplish over the years.

She will long be remembered by the people of the Fifth Congressional District she has served so well. My constituents have for many years relied on Kim for timely information about the legislative activities on Capitol Hill both past and present. Her vibrant personality, patience, and charm have endeared her to everyone she has served and worked with over the past years.

Kim will be sorely missed by all who work with her. But our loss is certainly Arkansas' gain. The invaluable experience she has gained here and her considerable abilities will serve her well in her future endeavors. I want to wish her the very best and I know her future will be an especially bright one.

SENATE—*Friday, October 16, 1987*

The Senate met at 9 a.m., and was called to order by the Honorable Kent Conrad, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

If My people which are called by My name, shall humble themselves and pray, and seek My face, and turn from their wicked ways; then will I hear from Heaven and forgive their sin and will heal their land.—II Chronicles 7:14.

Loving God of inexhaustible grace and mercy, President Franklin Delano Roosevelt expressed a concern which has never been more relevant. He said: "No greater thing could come to our land today than a revival that would sweep through the homes of the Nation and stir the hearts of men and women of all faiths to a reassertion of their belief in God and their dedication to His will for themselves and for their world. I doubt if there is any problem—social, political, or economic—that would not melt away before the fire of such a spiritual awakening."

Gracious God, these critical, dangerous days desperately need such an awakening. The people of God need it. The Nation needs it. Send it, Lord, for Your sake and ours. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, October 16, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Kent Conrad, a Senator from the State of North Dakota, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICARE CATASTROPHIC ILLNESS COVERAGE ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the catastrophic illness legislation be made the pending business rather than the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. Mr. President, I thank my good friend.

Mr. WEICKER. Mr. President, I wonder if the distinguished Senator from Wisconsin will yield for 30 seconds while I ask a question of the distinguished majority leader.

Mr. PROXMIRE. Yes.

Mr. WEICKER. I thank him very much.

WAR POWERS

Mr. WEICKER. Mr. President, this is Friday, and as events would have it, this could well be war powers day again. I was wondering whether or not the majority leader has any intention of allowing that matter to come before the Senate.

Mr. BYRD. Mr. President, I was discussing that with my staff before coming in here, especially in light of most recent events. That is a matter that I can bring back before the Senate at any time under the order previously entered. I have only to consult with the distinguished minority leader in order to do that. I may do that.

Mr. WEICKER. If I might alert for the planning purposes of the distinguished majority leader, I would hope the resolution would be brought back before the body, but if it is not, I should advise the distinguished majority leader that any legislation coming to the floor today will be so amended. So one way or the other, we will be debating war powers today.

Mr. BYRD. I thank the distinguished Senator.

I think we are both on the same track.

SCIENTISTS CALL FOR MEASURED PACE ON SDI

Mr. PROXMIRE. Mr. President, the Union of Concerned Scientists has recently proposed that the Congress fund research on nuclear missile defense at a level of about $5 billion over the next 2 years. This contrasts with an administration request to us in the Congress for funding at more than twice this level. The lower level of funding would continue to give the United States a technological advantage over the U.S.S.R. in missile defense. It would permit a reasoned, objective decision to be made on the practicality of the actual deployment of our SDI defense 10 or 15 years from now, or later, whenever the research had sufficiently matured. By following the scientists' advice, Congress could make a prudent decision based on the best scientific and military judgment.

The scientists have made a very useful suggestion. Here's why: First, it would permit the superpowers to continue the Antiballistic Missile Treaty at least until it became clear whether a defense against a nuclear missile attack were feasible.

Second, it would permit progress toward negotiation of a superpower agreement for the limitation and very possibly the reduction of offensive nuclear missiles. Prompt deployment of SDI would kill that arms control progress.

Third, it would forestall an all-out offensive-defensive superpower nuclear arms race that would almost certainly be the consequence of our repudiation of the ABM Treaty and our deployment of hundreds of kinetic-kill battle stations in space.

Fourth, at a time when massive Federal deficits and an exploding national debt has become a serious threat to our economy and therefore our national defense capability, it would prevent a huge increase in funding for SDI and a king size increase in our deficit and our national debt.

Fifth, the proposal by the scientists would prevent a serious drain of our scientific, engineering, and technical genius from other urgent national needs including other military needs to a premature and almost certainly flawed SDI.

Sixth, the scientists' proposal would mean that if the United States did decide after years of intensive research to proceed to deploy an SDI defense, that defense would be based on

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the kind of assured research progress that would greatly increase the prospect that it would work. Keep in mind that a recent study by a panel of SDI experts headed by a Nobel prize-winning physicist and including experts from the Office of the Strategic Defense Initiative itself carefully examined the status of the "cutting edge" SDI weapons—particle beams and lasers. They found that these critical weapons needed an improvement by a factor of 100 to a factor of 1 million in order to make the SDI mission successful. They also found that some proposed SDI weapons were not based on sound physical principles. Here was a highly authoritative report that clearly called out for time and patience in proceeding with SDI. This is precisely the kind of time and patience for which the Union of Concerned Scientists has called.

None of this is to say that eventually some day, some kind of strategic defense against nuclear missiles will not be possible. Science has accomplished miracles in the past. It certainly will in the future. A defense against nuclear attack may be feasible 15 or 20 or 100 years from now. Or, considering the fact that technology can perform wonders for the offense as well as the defense, perhaps SDI cannot be feasible. So how do we determine the pace at which SDI should proceed? Do we follow the advice of scientific experts to proceed vigorously but carefully? Or do we pour out far more billions of dollars to push a project that the scientists tell us will take more than money? It will take time.

TRIBUTE TO LT. COL. ALONZO HERSFORD CUSHING—WISCONSIN HERO

Mr. PROXMIRE. Mr. President, although Veterans Day is some time away, I would like to take this opportunity to praise and commemorate one of Wisconsin's great veterans.

Alonzo Hersford Cushing was born in 1841 on a homestead near Delafield, WI. After graduating from West Point, he participated in the Battle of Bull Run and worked as a topographer for General Sumner. Because of his gallantry at Fredericksburg and Chancellorsville, he was brevetted captain, and later, major. At Antietam, he personally saved his battery from capture.

However, it was during his last 3 days that Alonzo Cushing won his greatest fame. He fought so well on the first day of the Battle of Gettysburg that he was brevetted lieutenant-colonel on the battlefield. On the second day he also fought bravely, but on the third day, during Pickett's charge, Cushing was truly a hero.

Cushing's battery and the troops nearby were bearing the brunt of the Confederate's bombardment. Even though Cushing was seriously injured, he would not leave the battlefield. He ordered round after round while working the guns himself. As the Confederate troops drew near, he shouted to his men to rush the one remaining cannon to the wall, seeing that hardly a man was left, he shoved it forward himself. It was Cushing who fired the shot which killed General Armistead, moments before he died—a hero's death.

Mr. President, once again, I thank my good friend, the majority leader. And I yield the floor.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that the morning business period begin now.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for not to exceed 5 minutes.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. BYRD. Mr. President, I will suggest the absence of a quorum, and it will become a live quorum, and in this instance it will go until 9:45, as earlier stated in the Record.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 31]

Byrd
Conrad
Dodd
Metzenbaum

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia [Mr. Byrd] to instruct the Sergeant at Arms to request the presence of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Maryland [Ms. Mikulski] and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. DOLE. I announce that the Senator from Washington [Mr. Evans], the Senator from Idaho [Mr. McClure], the Senator from Wyoming [Mr. Simpson], and the Senator from Utah [Mr. Stafford] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. Kassebaum] is absent due to a death in the family.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 29, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—63

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Stennis
Stevens
Thurmond
Warner
Wirth

NAYS—29

Bond
Boschwitz
Chafee
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gramm
Hatch
Hecht
Helms
Karnes
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Quayle
Specter
Symms
Trible
Wallop
Weicker
Wilson

NOT VOTING—8

Evans
Gore
Kassebaum
McClure
Mikulski
Simon
Simpson
Stafford

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. A quorum is present.

The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, for the information of Senators, it would be my plan to go at some point today to the war powers item. I will do that after consultation with the Republican leader.

It will also be my plan to file a cloture motion on the Byrd-Warner amendment. We will come in tomorrow pro forma, and I will be happy to do that myself. That will fulfill the requirement of the cloture rule so that we can have a cloture vote Tuesday morning on the war powers matter.

I would also like today to go to the veterans' bill. We have a veterans' bill we can take up. We have a time limit on it. I would also like to go back to the catastrophic illness legislation at some point during the day.

At the moment, I say that for the information of Senators so they can be aware of the matter that will be coming before the Senate today.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BYRD. Mr. President, after consultation with the Republican leader, the majority leader is authorized to call up S. 1464, the veterans' bill. There is a time agreement on that bill. I feel there will be two rollcall votes on that bill. There is an amendment thereto that will require a rollcall vote.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. The majority leader has consulted with me on that bill. As I indicated last evening, Senator MURKOWSKI, the ranking Republican on that committee, is prepared to manage on this side whenever the majority leader calls it up.

Mr. BYRD. I thank the Republican leader.

Mr. DOLE. If the majority leader will further yield, I think we might be able to accommodate the majority leader on the cloture vote on Tuesday so we will not have to have a pro forma session tomorrow. I will check that.

Mr. BYRD. Very well.

I am going to be in town and I can come in and perform the honors and the duties of the Chair on a pro forma. I will not inconvenience anyone other than the people around here who have to work like I do. It would be a convenience to them if we did not have to come in.

The war powers legislation I can call up after consultation with the Republican leader. We should have that up today.

Also, on catastrophic illness.

Mr. DOLE. As I understand, and I talked to the White House last evening, I believe they have reached an agreement, bipartisan with the administration support. I am not certain of that, but I think that is true. If that were the case, it would seem to me that bill could be disposed of in 1 day. I will talk to Senator HEINZ, the principal player in the compromise, and Senator MITCHELL and others on the committee. I believe they have reached some agreement on prescription drugs, which was the big problem.

Mr. WEICKER. Will the majority leader yield?

Mr. BYRD. Yes, I will be glad to yield.

Mr. WEICKER. It is my understanding after we dispose of the veterans' pension bill, we will then be turning to the war powers resolution, is that correct?

Mr. BYRD. We can do that. We can do it that way. We will be going to war powers at some point during the day.

Mr. WEICKER. I would like to indicate, as I did before, that I would hope we could use Senate Joint Resolution 194 to debate war powers. To alert my colleagues, I expect we will have a vote, even if it means, again, there will be a tabling motion on the amendment of Senator HATFIELD and myself as a second-degree amendment to the Byrd-Warner. So there will be a vote. I would hope we would have a few minutes for discussion.

We have now all learned what reflagging a tanker means. Reflagging a tanker means when a missile hits that tanker it is the same as if a missile were to hit the Capitol. There is no difference.

Once again, it is ironic that every single Friday I have stood on this floor redrafting my amendment with a new incident which clearly calls for the War Powers Act to be invoked. And each Friday, of course, it is not invoked. I want to assure my colleagues that we will once again have the opportunity to vote on that issue today. We are making progress, however.

When Senator HATFIELD first offered the War Powers Act amendment, it was tabled.

The second time, last week, it was not tabled by a vote of 37 to 52. Maybe the Senate will finally get to that point where we are obeying the law. I would hope that would be the case. Certainly, there will be an opportunity today, on the assurance of the majority leader, that the matter will be taken up.

Mr. ADAMS. Will the majority leader yield for a comment on the War Powers Act?

Mr. BYRD. Yes, I yield with the understanding that I do not lose my right to the floor.

Mr. ADAMS. I want to join once again with the Senator from Oregon in saying that this incident again demonstrates a continuing series of incidents. We are appearing, it seems, every Friday, Mr. Majority Leader, on this. I would hope to simply proceed with invoking the law, having it move ahead, so that this would not continue. Then we can go to the real debate on the resolution as to what the policy should be. I am hopeful that will happen today.

I thank the majority leader for bringing this up. I think if we do not do it, we are going to be faced with the fact that this is going to continue during the rest of this year and maybe for a long, long time.

I am hopeful that we can dispose of it, that the Senate will vote to proceed with the War Powers Act, so that we can proceed with the resolution in the Foreign Relations Committee, bring it to the floor and have everyone express their position so we can get a united position for the United States. This is going to happen, it seems, every week. I thank the majority leader for yielding.

Mr. PRESSLER. Will the Senator yield for a question?

Mr. BYRD. I yield.

Mr. PRESSLER. I would make an inquiry of the majority leader. I came prepared on the catastrophic illness bill. I would like to make a 5-minute speech if an opening occurs today.

Mr. BYRD. I do not plan to go to the catastrophic illness immediately. I will ask unanimous consent to go to catastrophic illness at any time after I confer with the Republican leader.

So I make that request, to go to catastrophic illness at any time after consultation with the minority leader.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. KERRY. Will the distinguished leader yield?

Mr. BYRD. Yes, I yield to Mr. Kerry.

Mr. KERRY. What is the agreement on time with respect to the veterans bill?

Mr. BYRD. If the distinguished Senator will look on page 2 of the calendar, it is set forth there: 2 hours on the Murkowski amendment, which will be a substitute; there is an amendment by Mr. DURENBERGER on which there is 30 minutes; an amendment by Mr. CHAFEE on which there is 60 minutes. I suppose there easily could be more than two rollcall votes. And 30 minutes on the bill.

Mr. KERRY. I thank the distinguished leader. Did I hear the leader correctly say that it is now his intention to proceed initially to the veterans bill?

Mr. BYRD. No, I did not say that. It is my intention to go to it today at some point.

Mr. KERRY. Is there still a possibility that that might be the first order of business or is that not even under consideration at this point?

Mr. BYRD. It is possible it might be.

Mr. KERRY. It is a possibility.

Mr. BYRD. Mr. President, the distinguished Republican leader has some time reserved to him. I ask unanimous consent that when the Republican leader has yielded the floor, I might be recognized again so that we can get on with the business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I will yield 3½ minutes of that time to the distinguished Senator from South Dakota, Senator PRESSLER, and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

FINANCING CATASTROPHIC CARE

Mr. PRESSLER. Mr. President, I rise today to discuss a significant piece of legislation which has taken months, and perhaps years, to craft and develop. S. 1127 is an expansion of the Medicare Program to close some of the gaps in current Medicare coverage. This additional coverage would afford the elderly some protection from the financial ravages of a catastrophic illness. This coverage is desperately needed. I feel comfortable in making that statement and assuming that the vast majority of my colleagues share this view. However, the method of providing such insurance is a matter of controversy and debate.

Let me begin by commending the Senate Finance Committee under the able chairmanship of the Senator from Texas, Mr. BENTSEN. I believe they have developed a sound proposal, and have added my name as cosponsor to this bill. The House and Senate catastrophic illness proposals have received a great deal of attention in my State. While I was in South Dakota during the August recess I held my annual senior citizens' seminar. One of the main topics of discussion was catastrophic illness legislation.

Since that time, I have received hundreds of phone calls and letters from senior citizens and other concerned parties who wish to register their opinion on S. 1127 or the House companion bill, H.R. 2470. Quite frankly, I am very surprised at the way the comments have stacked up. The tally shows that for every senior citizen who favors the catastrophic care proposals, another senior citizen opposes it. And the reason has become overwhelmingly clear. They don't feel they can afford it.

As we all know, the House-passed bill and the Senate Finance Committee's proposal are funded through an increase in the Medicare part B premium, and a supplemental user fee. This fee is based upon one's tax liability and collected by the IRS at income tax time. The participants of the program, the elderly, are required to fund this program. Naturally, this system was devised to keep Federal spending under control. But many of the elderly don't think much of this concept, particularly when they don't understand exactly what their premium would be.

Mr. President, I have a few charts here which I would like to share with our colleagues on the total premium the elderly would pay, under the House proposal and under S. 1127. The first chart illustrates the estimated premiums single and married Medicare catastrophic enrollees would pay in the year 1990. There are several columns of numbers here, but the ones that really should be concentrated on are H.R. 1470 total premium and S. 1127 total premium. This is the bottom line, so to speak, on the differences between the two bills.

As one looks at these numbers, the differences in the two bills become all too clear. Starting at the lower end of the income scale, the elderly who really need our help, one can see that the premium levels are quite similar. Single persons whose yearly income is $10,000 or lower would pay $47 for premiums under H.R. 2640, and $61 under S. 1127. Not a significant difference. However, under the House bill, once a participant exceeds the $10,000 limit, his or her premium jumps drastically.

For example, look at the single Medicare enrollee who has a total yearly income of $15,000. That person would be required to pay $517 for a yearly premium under the House provision. This is a $470 jump from a neighbor who earns $10,000 a year and pays just $47. Bear in mind that this is just the premium, and does not include any of the deductibles or copayments. If the Senate catastrophic bill were in place, the same person would pay $108 as total premium. This is a more gradual increase from the $47 premium at the $10,000 income level. A similar situation occurs for married catastrophic coverage participants,

Mr. President, as one compares the two columns I have pointed out, one conclusion becomes crystal clear. The House has placed a disproportionately large burden of the costs of catastrophic illness coverage on one group—the middle class. This Senator does not have a problem with requiring those with more income to pay more for catastrophic insurance. However, there must be an element of fairness here. The middle class is really hurt by the House bill. I believe the Senate offers a preferable alternative regarding the financing of this plan. A plan that does not distinguish between the premium for an individual making $20,000 a year and a person who makes $60,000 a year seems grossly unfair to this Senator.

This shocking difference is even more apparent if one looks at the next two charts. The same statistical information has been put on a line graph to emphasize the outrageous premium jump to be weathered by the middle-income elderly under H.R. 2470. The red line, which identifies the gradual increase in premium, as the participant's income increases, is the S. 1127 plan. Of course, should the Senate adopt an amendment to provide prescription drug coverage, this premium will be increased somewhat.

Mr. President, my purpose here is to demonstrate that the Senate Finance Committee has examined H.R. 2470 very carefully and developed a new and improved version. This weekend when I discuss catastrophic coverage proposals with senior citizens in South Dakota, I intend to show them these same charts and present the same information. I believe many will be supportive of the Senate bill because it obviously treats them more fairly and equitably than the House legislation.

Mr. President, I have touched upon just one part of this comprehensive legislation. However, the financing of this program is the rock and foundation of our catastrophic protection concept. Without an honest, sensible, fair method of assessing the premiums needed to offer expanded Medicare coverage, the proposal is weak and its opportunity for success diminished. While I may not agree with all of the provisions contained in S. 1127, or the decision to omit certain provisions from this bill, it is a strong starting point, worthy of our consideration. I look forward to working with my colleagues on this bill to help our Nation's elderly cope with the heavy economic burden of catastrophic illness.

Mr. President, I ask unanimous consent that a table showing the impact of this legislation on Medicare enrollees be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

IMPACT OF H.R. 2470 AND S. 1127 ON MEDICARE ENROLLEES, 1990

Total income	Adjusted gross income	Income tax 1990	H.R. 2470 supplemental premium	H.R. 2470 total premium	With drug benefit		Without drug benefit	
					S. 1127 supplemental premium	S. 1127 total premium	S. 1127 supplemental premium	S. 1127 total premium
Single enrollees, Sept. 22, 1987:								
$5,000	1,000	0	0	47	0	78	0	61
$10,000	6,000	3	0	47	0	78	0	61
$15,000	10,750	716	470	517	58	136	47	108
$20,000	15,500	1,428	826	873	154	232	126	187
$25,000	20,250	2,141	826	873	250	328	204	265
$30,000	25,000	3,048	826	873	366	444	298	359
$35,000	29,500	4,133	826	873	501	579	408	469
$40,000	34,000	5,218	826	873	636	714	518	579
$50,000	43,000	7,388	826	873	924	1,002	754	815
$60,000	52,000	9,521	826	873	1,187	1,265	900	961
Married enrollees, Sept. 22, 1987:								
$10,000	3,000	0	0	94	0	156	0	122
$20,000	12,000	225	0	94	0	156	0	122
$30,000	21,000	1,575	882	976	173	329	141	263
$40,000	30,000	2,925	1,652	1,746	347	503	283	405
$50,000	39,000	4,289	1,652	1,746	520	676	424	546
$60,000	48,000	6,308	1,652	1,746	790	946	644	766
$70,000	57,000	8,478	1,652	1,746	1,059	1,215	864	986
$80,000	66,000	10,648	1,652	1,746	1,329	1,485	1,084	1,206
$90,000	75,000	12,818	1,652	1,746	1,618	1,774	1,320	1,442
$100,000	84,000	14,988	1,652	1,746	1,887	2,043	1,540	1,662
$110,000	93,000	17,318	1,652	1,746	2,196	2,352	1,791	1,913
$120,000	102,000	19,875	1,652	1,746	2,374	2,530	1,800	1,922

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. GRAHAM). The majority leader.

Mr. DOLE. If the majority leader will yield, I would like to make an inquiry on whether or not if cloture is invoked—first of all, did the majority leader plan to be in session on Monday?

Mr. BYRD. No, I do not.

Mr. DOLE. So if cloture is invoked on war powers, we would stay on war powers?

Mr. BYRD. If cloture is invoked on war powers, we will stay on that. The reason I am not going to be in session on Monday is because I could not get an agreement on when I could get a final vote on the nomination. I am not going to bring the Senate in on Monday and spend that day on the nomination as I do not have an agreement on when we would be voting. Otherwise, we might come in on Monday and still be on Bork for a week or two. So we will have the cloture vote on the Warner-Byrd amendment Tuesday morning. If cloture is invoked, then the minority leader is correct; we will be on the war powers measure to the exclusion of all other business until that business has been disposed of. There will be a total of 30 hours on that measure. If cloture is not invoked, then I will move to go to the Bork nomination because I will be in a position then to so move. I will not need unanimous consent.

Mr. DOLE. You mean unanimous consent to go to the Bork nomination.

Mr. BYRD. I will not need unanimous consent to go to it. I will move.

Mr. DOLE. I do not think there is any problem getting unanimous consent to go to it.

Mr. BYRD. I will not need it. I will move, if need be.

I know the distinguished minority leader has one or two Senators on his side who have not wanted to give consent, so by Tuesday, I will not have to get their consent. I can move to it when I get to that point. We will just go to it.

Mr. DOLE. With reference to the cloture vote, I think we have cleared the requisite Members on this side. We have no problem with getting unanimous consent to do that to save the majority leader some time.

Mr. BYRD. I thank the distinguished Republican leader.

Mr. DOLE. Will that be at 2 o'clock?

Mr. BYRD. No; that would be the first thing Tuesday morning.

Mr. DOLE. OK.

Mr. BYRD. Instead of having the usual early vote on getting the Sergeant at Arms to request the attendance of Senators, we will have the cloture vote on Tuesday morning.

CLOTURE VOTE ON TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the cloture motion which I will file at some point today occur on Tuesday, notwithstanding that, in the meantime, the Senate will not have been in session an interim day.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Reserving the right to object and I certainly will not object, the subject of course would be an amendment by the distinguished majority leader and myself. I am very anxious that some time be given for debate on that, hopefully today, because many Senators have simply not had the opportunity to acquaint themselves with the details of this amendment, and perhaps there are ideas within the Chamber and without that would be contributory. We have made as best an effort as we know how to solve this Gordian knot, yet there are others who have put in a lot of time on it. I am just hopeful that we will have the opportunity of having some debate before that cloture motion arises.

Mr. BYRD. The Senator is correct. And that opportunity will present itself today.

Mr. WARNER. Mr. President, I thank the leadership.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. BYRD. Mr. President, if the distinguished Republican leader would like to have the floor, I yield the floor.

Mr. DOLE. I will reserve the remainder of my time.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have 2 minutes, and I ask that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RANDOLPH AWARDED ANOTHER HONOR

Mr. BYRD. Mr. President, in 1984, our longtime colleague and friend Senator Jennings Randolph for West Virginia, announced his retirement. At that time, I cautioned the Senate not to take Senator Randolph's announcement too literally, adding that my experience of Senator Randolph suggested that he was probably not retiring as much as changing his work address.

Senator Randolph's subsequent career has turned my prescience into fact. At a robust and well-focussed age of 85, Senator Randolph continues to be an active and contributing participant in a number of endeavors. In addition to keeping regular working hours in his own consulting partnership here in Washington, Senator Randolph is the chairman of the Council for the Advancement of Citizenship, a senior adviser to the U.S. Institute of Peace, and a member of the boards of directors of the Benedum Foundation and the Napoleon Hill Foundation. In addition, Senator Randolph's time is well occupied by an ongoing schedule of college and university speaking engagements.

Another of Senator Randolph's uninterrupted efforts has been working to promote cancer research. In recognition of his commitment and sacrifices in that cause, the National Coalition for Cancer Research recently presented Senator Randolph its "Gold Medal Award."

I ask unanimous consent that Senator Jennings Randolph's remarks in reply to that recognition be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Jennings Randolph
50th Anniversary Dinner

Ladies and gentlemen, our late friend, Charles Kettering, said: "My interest is in the future because that is where I plan to spend the rest of my life."

That is why we are here tonight. As we commemorate the past, our interest is in the future—to wage the fight for future generations against the ravages of cancer.

To be honored with this award on the occasion of the 50th anniversary of the National Cancer Institute moves me deeply.

To be placed in the company of the great crusaders, my cherished friends, Mary Lasker, Warren Magnuson, and Claude Pepper—really, ladies and gentlemen, they are giants in the effort to find a cure for cancer—is a sharing about which I would never have dared to dream.

To you, Dr. Ultman and the membership of the National Coalition for Cancer Research, I extend my very, very genuine appreciation.

To you, Dr. Devita and to your dedicated co-workers at the National Cancer Institute, I express congratulations.

The memories of this evening shall remain with me always.

For West Virginians this 50th anniversary has special meaning. In 1927, the late Senator Matthew Neely of West Virginia introduced the first bill providing for the use of federal funds for cancer research. Now in 1987, thanks in major part to the foresight, leadership, and perseverance of Senator Robert C. Byrd, who brought the need for a West Virginia Cancer Center to national attention, we have broken ground for such a facility. But a worthy cause does not always result in money, and Senator Byrd has worked diligently to secure the necessary funding. He, together with other members of Congress and West Virginia University officials, have graciously suggested that the center be named in memory of my late wife, Mary, who struggled long and valiantly against cancer.

The Mary Babb Randolph Cancer Center will enable our state to join in the battle to free our society of this devastating disease. In two short years, the Center will be a reality, extending compassion and hope to our people through research, treatment, and education.

It has been said: "A task without a vision is drudgery. A vision without a task is merely a dream. But a vision and a task combined are the hope of the world."

We have our task and our vision—A cure for cancer. Through the grace of God and the help of a committed citizenry, we shall fulfill that hope.

Thank you.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, if the Republican leader now can come to the floor, I think we can proceed to some business.

Mr. President, I would like to go to Calendar Order No. 256, S. 1293. I understand that we cannot get a time agreement on that.

Mr. DOLE. Mr. President, if the majority leader will yield, I have asked Senator Hatch to come to the floor. He indicated that he wanted to object to taking that up and he would debate a motion to proceed. I said the best thing to do is to come to the Senate floor.

Mr. BYRD. He is on his way?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, there will be some rollcall votes today. The prospect is for several. I would anticipate at least two on the veterans bill, and Mr. Weicker has indicated that he will make a tabling motion on the war powers legislation.

Therefore, Senators are on notice that they should not leave early today, thinking that this is one of those good old Fridays from the days of yore.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 10:32 a.m., recessed until 10:37 a.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Graham].

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for an additional 5 minutes.

There being no objection, the Senate, at 10:38 a.m., recessed until 10:43 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Graham].

INDEPENDENT COUNSEL REAUTHORIZATION

Mr. BYRD. Mr. President, Mr. Hatch is now here. I am sorry for inconveniencing him. I am sure he was busy on other matters.

Mr. President, I would like to go to Calendar Order No. 256, a bill to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes.

Mr. President, I wonder if I might get unanimous consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 256.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object, and I think I will object.

If I could, Mr. Majority Leader, I would like to explain why. This is an important piece of legislation. It is something that may very well have to come to the floor and be resolved at some future date. I think to do it now is premature and I think it would be seriously premature.

First of all, there is a court case waiting to be decided by the Circuit Court of Appeals for the District of Columbia probably within a matter of days, if not weeks. That case is a very important case. We do not know how it is going to come down, but certainly we would like to know what is going to happen in that case so that any legislation that comes out of this body will be constitutionally sound legislation.

I remember a year or so ago with Gramm-Rudman some of us suggesting there were some constitutional infirmities in Gramm-Rudman, although we supported the bill. And, of course, that was the famous Bowsher case. We all found out later that there were constitutional infirmities in Gramm-Rudman, and we would have been well to resolve those infirmities before we went ahead.

In this case, I think it is a simple enough matter that literally if we will await the outcome of the Circuit Court of Appeals for the District of Columbia, it would help us in our deliberations with regard to this bill.

Second, I have no doubt that, regardless of how it turns out before the Circuit Court of Appeals for the District of Columbia, it will be appealed. This particular case regarding the independent counsel will be appealed to the Supreme Court of the United States, I think. But, at least, we should have the benefit of whatever wisdom the circuit court of appeals has and not rush to judgment on this thing, as we did on the Gramm-Rudman matter, and then have to put up with the Supreme Court's decision in the Bowsher case.

One of the big issues here, of course, is whether or not the Executive, which must, of course, prosecute the laws, whether the Executive's power is infringed by the legislative enactment of independent counsel laws. There are those who argue that it is. There are those who argue that it is not. That is one of the precise reasons why the case is in court today.

And we have had other very similar and very important landmark cases like the Buckley versus Valeo case and United States versus Nixon case, landmark cases where Congress has had its hands slapped, at least in Buckley versus Valeo. This bill, in my opinion, has the same flaw as Gramm-Rudman, in at least that respect, with regard to Executive power.

I might also mention that it is pretty well a foregone conclusion that the executive branch of Government has executed the laws. Watergate is a perfect illustration where the executive branch had to cooperate with the special prosecutor. At that particular time, Leon Jaworski was brought in and prosecuted the Watergate matter. We can go back in time to many other illustrations where the executive branch has been fundamentally part of the prosecution of the law, as it should be.

In this particular case, I would have to object to going to this particular bill at this time and hope that we can go to it within the relatively near future, because I would like to resolve it. I will have some amendments at that time, probably based upon whatever happens one way or the other in the Circuit Court of Appeals for the District of Columbia.

It is a matter of waiting a year or two, that might be another consideration. But it is a matter of waiting just a number of days, maybe at the most a week or so.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. Reserving the right to object, Mr. President.

Mr. BYRD. Mr. President, I yield only for a reservation.

The PRESIDING OFFICER. The majority leader yields to the Senator from Michigan.

Mr. LEVIN. Just briefly, Mr. President.

The Senator has pointed out this matter is going to the Supreme Court regardless of how the court of appeals rules. That will take surely beyond January 2, when the current law expires.

There is urgency to renew this law, to improve this law, in a number of regards, which this bill does. Since this matter is going to the Supreme Court, there have been judges that have already ruled one way on this and there may or may not be judges in the court of appeals in the pending case that will rule the other way on this. We do not know that. There is no way of knowing that. But we will not get a definitive decision in the next few weeks.

This matter will be going to the Supreme Court. That is going to take surely a year. The Senate is on record as saying that we want to defend the independent counsel bill. We have authorized and directed our legal counsel to go to court to defend the Independent Counsel Act, which is the only way of assuring the appearance of independence in the investigation of allegations against persons close to the President.

So I will not object. My reservation was for the purpose here of making clear that we cannot get a resolution in the next few weeks. It is going to take at least a year for the Supreme Court to resolve the issue.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Mr. President, has the request been objected to?

The PRESIDING OFFICER. There was an objection to the request for unanimous consent.

Mr. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Utah without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank the distinguished majority leader for his courtesy to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I think there is every reason to wait until the Circuit Court of Appeals for the District of Columbia makes its decision in this case. First of all, I do have amendments to this bill as it is presently constituted but I will have to frame those amendments, it seems to me, based upon whatever the circuit court of appeals does or does not do in this matter.

I agree with Senator LEVIN that whatever it does, this matter will probably in most likelihood be appealed to the Supreme Court of the United States of America. I am not arguing that we delay this until after the Supreme Court of the United States rules on it but I am arguing that since we are so close to the time of a decision of the circuit court of appeals that literally it just mandates wisdom, it seems to me, to wait until we see what they are going to say about it.

Second, we need to wait to see what they are going to say so that we can frame the amendments that we think will consitutionally correct the legislation as it is presently constituted.

So I have no alternative other than to object to bringing this up at this time. I think that there is one other request I would make of my colleague and that is this: Should we have this decision by the circuit court of appeals within, like I say a reasonable period of time here, I think within a matter of weeks, I believe that in the interim period we ought to submit this bill to the Judiciary Committee for its look because I think the Judiciary Committee has a special function and a special capability of looking at this particular matter and I think could add some wisdom and some legal advice and counsel in the overall enactment or reenactment of this bill.

So, I would recommend that my colleague from Michigan consider that because I think he will have an easier time passing the bill by showing that kind of deference to the one committee that really ought to have a lot of say in this matter, and I think he will have a lot of support for the bill, ultimately, if we can correct the unconstitutionality of it—certainly those parts where the constitutionality is called into question.

So I do not think it is a reasonable—I do not believe this is an unreasonable objection or unreasonable request. I think it is an appropriate way of expediting the matter and doing it in a way that will allow for free and open and intelligent debate with appropriate amendments, and I think with an appropriate and effective way of trying to correct constitutional infirmities in the present bill. I thank the majority leader for giving me this time.

Mr. COHEN. Would the majority leader yield me just 2 minutes?

Mr. BYRD. Yes. I yield 2 minutes. I yield to the distinguished Senator 2 minutes without losing my right to the floor for purposes of the statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. I thank the majority leader for yielding.

Mr. President, I was on the House Judiciary Committee back in 1978 when the so-called Special Prosecutor Act, now called the Independent Counsel Act, was in fact debated, deliberated, considered, and passed. We certainly took into account its constitutionality or lack thereof at the time that the bill was enacted into law.

What the Senator from Utah is suggesting is the constitutional deficiencies have to do with control—namely, who is going to appoint and control the conduct of that independent counsel. That is an issue which has been debated since 1978. I do not know that 2 more weeks is going to be critical to its decision, frankly.

We have had the bill on the books almost 10 years now and it seems to me that the Senate Judiciary Committee could have either formally or informally considered the Independent Counsel Act and made its recommendations.

I have no serious objection to the Senator from Utah asking for 2 more weeks until the court perhaps rules. But, frankly, this is an issue which we have passed upon on several occasions before. Senator LEVIN has made and proposed a number of measures to correct whatever deficiencies might exist, any inequities that might exist in the law, and I would point out the inconsistency of the Justice Department attacking this amendment—this bill now.

The fact is that we would not have an Attorney General, the current Attorney General, sitting without the Independent Counsel Act passed by this, the U.S. Congress. It was by virtue of his invocation and asking for the Independent Counsel Act that he is sitting as Attorney General today.

The same might be said of those who are challenging its constitutionality now. They invoked the provisions of the act and they did not like what they saw and then decided to challenge its constitutionality. So I think the Senator from Utah can reasonably request a little more time, but, frankly, I think that time is of the essence, that we pass and reenact this law, and I believe that the bill as has been proposed by the Committee on Governmental Affairs is in fact a substantial improvement and is constitutional.

Mr. BYRD. Mr. President, there will be time to debate this.

Mr. HATCH. Will the Senator yield just a little more time?

The PRESIDING OFFICER. The majority leader?

Mr. HATCH. Five minutes?

Mr. BYRD. Mr. President, I cannot yield for 5 minutes. The matter will be debated. I have yielded to the Senator twice.

Mr. HATCH. Yield to me for 2 minutes.

Mr. BYRD. If I yield to the Senator another time, there will be another Senator that wants to respond.

Mr. President, I move that the Senate proceed to consideration of Calendar Order 256. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to proceed. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I further announce that if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. DOLE. I announce that the Senator from Washington [Mr. EVANS], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 28, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—65

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stennis
Weicker
Wilson
Wirth

NAYS—28

Armstrong
Bond
Chafee
Cochran
Danforth
Domenici
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—7

Evans
Gore
Kassebaum
McClure
Simon
Simpson
Stafford

So the motion to proceed to the consideration of S. 1293 was agreed to.

Mr. THURMOND. Mr. President, I voted against the motion to proceed because there is currently before the Court of Appeals for the D.C. Circuit a case involving, among other issues, the constitutionality of the current law authorizing independent counsels. A decision in that case is expected in the near future.

It certainly makes sense to have that court decision before we consider a reauthorization of the independent counsel law. If there are constitutional infirmities with this law, as some have suggested, it seems wise for this body to have the court of appeals decision about those infirmities before we reauthorize this law.

I agree with both Senator HATCH and Senator COHEN, a coauthor of this bill, that a delay of several weeks is not unreasonable. However, since the Senate is now debating this bill, amendments will certainly be offered, and we must unfortunately debate these issues without the benefit of this critical court decision.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1293) to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1987".

SEC. 2. AMENDMENTS RELATING TO INDEPENDENT COUNSEL.

Part II of title 28, United States Code, is amended by striking out the chapter 39 entitled "INDEPENDENT COUNSEL" and inserting in lieu thereof the following:

"CHAPTER 40—INDEPENDENT COUNSEL

"Sec.

"591. Applicability of provisions of this chapter.

"592. Preliminary investigation and application for an independent counsel.

"593. Duties of the division of the court.

"594. Authority and duties of an independent counsel.

"595. Congressional oversight.

"596. Removal of an independent counsel; termination of office.

"597. Relationship with Department of Justice.

"598. Severability.

"§ 591. Applicability of provisions of this chapter

"(a) WHEN PRELIMINARY INVESTIGATION REQUIRED.—

"(1) RECEIPT OF INFORMATION.—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a petty offense.

"(2) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.—In determining under paragraph (1) if grounds to investigate exist, the Attorney General shall consider only—

"(A) the specificity of the information received, and

"(B) the credibility of the source of the information.

If the Attorney General determines that the information is insufficient to constitute grounds to investigate the matters involved, no court may order the Attorney General to conduct a preliminary investigation of such matters under this chapter.

"(3) WRITTEN REPORT IF NO DETERMINATION WITHIN 30 DAYS.—If the Attorney General fails to decide whether to conduct a preliminary investigation within 30 days after the receipt of information under this chapter and the Attorney General later determines not to conduct a preliminary investigation, the Attorney General shall file a written report

with the division of the court not more than 90 days after the date the information is received, describing the actions taken with respect to the information and explaining the basis for the determination not to conduct a preliminary investigation.

"(b) PERSONS SUBJECT TO THIS CHAPTER.—The persons referred to in subsection (a)(1) are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President who is compensated at a rate of pay specified in or fixed according to level II of the Executive Schedule under section 5313 of title 5, or a comparable or greater rate of pay under other authority;

"(4) the Attorney General, any Assistant Attorney General, and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5316 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who held any office or position described in any of paragraphs (1) through (5) of this subsection, during the period consisting of the incumbency of the President under whom such individual served in the office or position plus 1 year after such incumbency, but in no event longer than 5 years after the individual leaves office;

"(7) any individual who holds an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continues to hold the office or position for not more than 90 days into the term of the next President, during the period such individual serves in the office or position plus 1 year after the individual leaves the office or position;

"(8) any officer of a campaign for the election or re-election of the President, including a campaign by a national political party, if that officer exercises authority at the national level—

"(A) during the period of the campaign; and

"(B) during the incumbency of the President, if the candidate is elected or re-elected President; and

"(9) any other person if the Attorney General determines that investigation or prosecution of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest.

"(c) RECUSAL OF THE ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—If information received under this chapter involves a person described in subsection (b)(4) or a person with whom the Attorney General has a current or recent personal or financial relationship, the Attorney General shall designate the United States Attorney for the District of Columbia to perform the duties assigned under this chapter to the Attorney General with respect to that information. If the United States Attorney for the District of Columbia is disqualified from the matter due to a personal or financial conflict of interest, the Attorney General shall designate another appropriate official of the Department of Justice to perform such duties.

"(2) RECUSAL DETERMINATION MUST BE IN WRITING.—Prior to making other determinations required by this chapter with respect to information received under this chapter, the Attorney General shall determine in accordance with paragraph (1) whether to designate another official to perform the duties assigned by this chapter. This determination shall be in writing, shall identify the facts considered by the Attorney General, and shall explain the reasons for the decision. The Attorney General shall file this determination with any notification or application submitted to the division of the court under section 592 or 594.

"§ 592. Preliminary investigation and application for an independent counsel

"(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

"(1) IN GENERAL.—A preliminary investigation conducted pursuant to a determination made under section 591(a) shall be of such matters as the Attorney General considers appropriate in order to make the determinations specified in subsections (b) and (c) of this section. The preliminary investigation shall be conducted for a period of not more than 90 days after the date the information referred to in section 591(a) is received.

"(2) CONGRESSIONAL REQUEST FOR PRELIMINARY INVESTIGATION OR APPOINTMENT OF AN INDEPENDENT COUNSEL.—A majority of majority party members or a majority of all nonmajority party members of the Committee on the Judiciary of either House of the Congress may request in writing that the Attorney General conduct a preliminary investigation or apply for the appointment of an independent counsel. Not later than 30 days after the receipt of such a request, or not later than 15 days after the completion of a preliminary investigation of the matter with respect to which the request is made, whichever is later, the Attorney General shall provide written notification of any action the Attorney General has taken in response to such request and, if no application has been made to the division of the court, why such application was not made. Such written notification shall be provided to the committee on which the persons making the request serve, and shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, disclose such portion or portions of such notification which will not, in the committee's judgment, prejudice the rights of any individual.

"(3) LIMITED AUTHORITY OF ATTORNEY GENERAL.—(A) In conducting preliminary investigations under this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

"(B) The Attorney General shall not, in whole or in part, base a decision—

"(i) not to conduct a preliminary investigation; or

"(ii) not to apply for the appointment of an independent counsel,

upon a determination that the person who is the subject of the preliminary investigation lacked the state of mind required for the violation of criminal law involved if there is conflicting or inconclusive evidence of the state of mind of such person.

"(4) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension (for a period of not more than 60 days) of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

"(b) FINDING THAT FURTHER INVESTIGATION NOT WARRANTED.—

"(1) NOTIFICATION TO COURT.—If the Attorney General, upon completion of a preliminary investigation under this section, finds that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

"(2) FORM OF NOTIFICATION.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

"(c) FINDING THAT FURTHER INVESTIGATION IS WARRANTED.—

"(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

"(A) the Attorney General, upon completion of a preliminary investigation, finds reasonable grounds to believe that further investigation is warranted, or

"(B) the 90-day period referred to in subsection (a)(1) (and any extension granted under subsection (a)(4)) elapses without a notification under subsection (b) by the Attorney General to the division of the court that there are no reasonable grounds to believe that further investigation is warranted.

In determining whether reasonable grounds exist to warrant further investigation the Attorney General shall comply with the written or other established policies of the Department of Justice which pertain to the conduct of criminal investigations.

"(2) RECEIPT OF ADDITIONAL INFORMATION.—If, after submitting a notification under subsection (b), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, the Attorney General shall—

"(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 90 days after the date such additional information is received; and

"(B) otherwise comply with the provisions of this section and section 594(e).

"(d) CONTENTS OF APPLICATION.—Any application under this chapter shall contain sufficient information to assist the division of the court to select an independent counsel and to define that independent counsel's prosecutorial jurisdiction.

"(e) LIMITATION ON JUDICIAL REVIEW.—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

"§ 593. Duties of the division of the court

"(a) REFERENCE TO DIVISION OF THE COURT.—The division of the court to which this chapter refers is the division established under section 49 of this title.

"(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction. Before determining such jurisdiction, the division of the court may consider comments submitted by interested persons with respect to such jurisdiction. An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (d)) shall not be made public except upon the request of the Attorney General or upon a determination of the division of the court, on its own motion or on the *motion of an interested person, that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned or any criminal information is filed.*

"(c) SCOPE OF JURISDICTION OF INDEPENDENT COUNSEL.—In defining the prosecutorial jurisdiction of an independent counsel appointed under this chapter, the division of the court shall include the authority to investigate and prosecute such Federal crimes, other than petty offenses, as may arise out of the investigation or prosecution itself, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

"(d) EXPANSION OF JURISDICTION.—The division of the court, upon request of the Attorney General, may expand the prosecutorial jurisdiction of an independent counsel and such expansion may be in lieu of the appointment of a new independent counsel.

"(e) REMAND FOR FURTHER EXPLANATION.—Upon receipt of a notification under section 592 or 594 from the Attorney General finding that there are no reasonable grounds to believe that further investigation is warranted of information received under this chapter, the division of the court shall have no authority to overrule this determination but may remand the matter to the Attorney General for further explanation of the reasons for such finding.

"(f) QUALIFICATIONS OF INDEPENDENT COUNSEL.—The division of the court shall appoint as independent counsel, an individual who will conduct the investigation and any prosecution in a prompt, responsible, and cost-effective manner. The division of the court may not appoint as an independent counsel any person who holds any office of profit or trust under the United States.

"(g) VACANCIES.—If a vacancy in office arises by reason of the resignation or death of an independent counsel, the division of the court may appoint an independent counsel to complete the work of the independent counsel whose resignation or death caused the vacancy. If a vacancy in office arises by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed. Upon the completion of such judicial review, the division of the court shall take appropriate action.

"(h) PAYMENT OF ATTORNEY FEES.—

"(1) AWARD OF FEES.—Upon request by the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the reasonable attorney fees incurred by such subject during such investigation if—

"(A) no indictment is brought against such subject; and

"(B) the attorney fees would not have been incurred but for the requirements of this chapter.

"(2) CALCULATING FEES.—In calculating attorney fees under this subsection, the hourly rate awarded to a defense counsel may not exceed the hourly rate received by the independent counsel.

"(3) EVALUATION OF FEES.—The division of the court may direct the Attorney General to file a written evaluation of any request for attorney fees under this subsection, analyzing for each expense—

"(A) the sufficiency of the documentation;

"(B) the need or justification for the underlying item; and

"(C) the reasonableness of the amount of money requested.

"(i) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter, documents or materials supplied to the division of the court under this chapter shall not be revealed to any individual outside the division of the court without leave of the division of the court. Any person may request the court to release any such documents or materials. The division of the court shall give special consideration to requests made by a committee of the Congress exercising a responsibility to oversee the independent counsel process.

"(j) AMICUS CURIAE BRIEFS.—When presented with important legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

"§594. Authority and duties of an independent counsel

"(a) AUTHORITY.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such independent counsel considers necessary;

"(3) appealing any decision of a court in any case or proceeding in which such independent counsel participates in an official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986, and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case in the name of the United States; and

"(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

"(b) COMPENSATION.—An independent counsel appointed under this chapter shall receive compensation at a per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

"(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of the office of independent counsel, an independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5.

"(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.

"(e) OTHER MATTERS WHICH MAY BE REFERRED TO AN INDEPENDENT COUNSEL.—

"(1) TREATMENT OF MATTERS NOT COVERED IN PROSECUTORIAL JURISDICTION.—(A) If the independent counsel discovers or receives information about persons or possible violations of criminal law as provided in section 591, which are not covered by the prosecutorial jurisdiction of the independent counsel, the independent counsel may submit such information to the Attorney General. The Attorney General shall then conduct a preliminary investigation of the information in accordance with the provisions of section 592, except that such preliminary investigation shall not exceed 30 days from the date such information is received. In making the determinations required by section 592, the Attorney General shall give great weight to any recommendations of the independent counsel.

"(B) If the Attorney General finds, after according great weight to the recommendations of the independent counsel, that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court and the division of the court shall have no power to expand the jurisdiction of the independent counsel or to appoint a new independent counsel with respect to the matters involved.

"(C) If—

"(i) the Attorney General finds there are reasonable grounds to believe that further investigation is warranted; or

"(ii) the 30-day period referred to in subparagraph (A) elapses without a notification to the division of the court that no further investigation is warranted,

the division of the court shall expand the jurisdiction of the appropriate independent counsel or appoint a new independent counsel to investigate the matters involved.

"(2) REFERRALS BY THE ATTORNEY GENERAL.—An independent counsel may accept referral of a matter by the Attorney General, if the matter relates to such independent counsel's prosecutorial jurisdiction as estab-

lished by the division of the court. If such referral is accepted, the independent counsel shall notify the division of the court.

"(f) Compliance with Department of Justice Policies.—An independent counsel shall comply with the written or other established policies of theDepartment of Justice respecting enforcement of the criminal laws.

"(g) Dismissal of Matters.—The independent counsel shall have full authority to dismiss matters within such counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

"(h) Treatment of Noncriminal Ethical Violations.—If the criminal investigation conducted by an independent counsel incidentally develops or discovers evidence warranting investigation of whether the subject or subjects of proceedings under this chapter may have violated ethical standards established by Federal law or regulation, but no criminal prosecution is warranted, the independent counsel may report such evidence to the Office of Government Ethics and any other Federal agency or officer having jurisdiction over such noncriminal violations.

"(i) Reports by Independent Counsel.—

"(1) Required reports.—An independent counsel shall—

"(A) within 30 days after appointment file an initial report with the division of the court estimating the length of the investigation, staff needs, and expenses;

"(B) file a status report with the division of the court every 60 days after the initial report, identifying and explaining major unexpected expenses, and estimating the length of the remainder of the investigation, staff needs, and expenses; and

"(C) before the termination of an independent counsel's office under section 596(b), file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel.

"(2) Release of information in report.—The division of the court may release to the Congress or any person such portions of a report made under this subsection as the division considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report under this section available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of the division of the court be included as an appendix to such final report.

"(j) Information Relating to Impeachment.—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(k) Recordkeeping.—

"(1) Independent counsel records.—Upon termination of office, an independent counsel shall transfer to the Archivist of the United States records which have been created or received by the independent counsel office. Prior to this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere prior to the enactment of this section, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of such records.

"(2) Records subject to federal records act.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with the Federal Records Act (chapters 21, 29, and 33 of title 44, United States Code).

"(3) Access to records.—Access to the records transferred to the Archivist under this chapter shall be governed by the Freedom of Information Act (5 U.S.C. 552). Upon written application by the Attorney General, the Archivist shall disclose independent counsel records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding or, in the case of grand jury materials, as permitted by rule 6(e) of the Federal Rules of Criminal Procedure. Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

"(l) Standards of Conduct Applicable to Independent Counsels and Persons Serving in the Office of an Independent Counsel.—

"(1) Independence from Department of Justice.—Each independent counsel, together with the persons appointed by the independent counsel under subsection (c), forms an agency separate from and independent of the Department of Justice for purposes of sections 202 through 209 in title 18.

"(2) Restrictions on employment while serving.—During the term of office of an independent counsel, such independent counsel and the persons appointed by the independent counsel under subsection (c), shall not simultaneously—

"(A) serve as counsel or cocounsel to a person who is subject to any proceedings under this chapter; or

"(B) accept or hold any office or position of trust with the United States.

"(3) Five-year ban on representation of subjects.—Each independent counsel and the persons appointed by the independent counsel under subsection (c) shall not, for 5 years following the termination of that independent counsel's office, represent any person, in any civil or criminal matter, who was a subject of an investigation or prosecution under this chapter if those proceedings were conducted by that independent counsel.

"(4) Effective date of standards of conduct.—Independent counsels and persons appointed by independent counsels under subsection (c), who are serving in such capacities on the date of the enactment of this chapter, shall be exempt from paragraph (2)(B) during their current terms of office but shall comply with all other provisions of this subsection no later than 90 days after the date of enactment of this chapter.

"(m) Expenditures.—Independent counsels shall conduct their investigations and prosecutions with due regard for expense and shall authorize only reasonable expenditures.

"§ 595. Congressional oversight

"(a) Oversight of Conduct of Independent Counsel.—

"(1) Congressional oversight.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and such independent counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"(2) Reports to congress by an independent counsel.—An independent counsel appointed under this chapter shall submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate.

"(b) Oversight of Conduct of Attorney General.—

"(1) Congressional request for information.—Upon receiving an inquiry about a particular case, which has become public, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall promptly respond to the inquiry—

"(A) by indicating at least the following about such case:

"(i) whether proceedings are taking place under this chapter with respect to that case;

"(ii) when the information about the case was received for purposes of calculating the 90-day period under section 592 or 30-day period under section 594;

"(iii) whether a preliminary investigation has been initiated;

"(iv) whether the Attorney General has determined not to initiate a preliminary investigation; and

"(v) whether an initial filing has been made with the division of the court with respect to that case and, if so, the date of that filing; and

"(B) by producing documents from the case if that case has been closed by the Department of Justice and if the documents discuss determinations required by this chapter, other than court filings which the division of the court has not released.

"(2) Disclosure by committee.—A committee which obtains a response or documents from the Attorney General under this subsection may not disclose such response or documents unless the committee determines that disclosure will not, in the judgment of the committee, prejudice the rights of any individual.

"§ 596. Removal of an independent counsel; termination of office

"(a) Removal; Report on Removal.—

"(1) Grounds for removal.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties. For purposes of this paragraph, refusal of an independent counsel to obey an order of the President is not good cause for removal if that order would compromise the independence of proceedings under this chapter or

otherwise violate the purposes of this chapter.

"(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in the same manner as a final report released under section 594(i)(2) and under the same limitations as apply to the release of a final report under that section.

"(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced before the division of the court and, if such removal was based on error of law or fact, may obtain reinstatement or other appropriate relief.

"(b) TERMINATION OF OFFICE.—

"(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

"(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions, and

"(B) the independent counsel files a final report in compliance with section 594(i)(1)(C).

"(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the grounds that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the final report required by section 594(i)(1)(C).

"§ 597. Relationship with Department of Justice

"(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS; RESOLUTION OF DISPUTES.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matters, except to the extent required by section 594(d), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

"(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

"§ 598. Severability

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) TITLE 28, UNITED STATES CODE.—

(1) TABLE OF CONTENTS.—The table of chapters at the beginning of part II of title 28, United States Code, is amended by striking out

"39. Independent Counsel"

and inserting in lieu thereof

"40. Independent Counsel".

(2) REDESIGNATION.—Section 49(f) of title 28, United States Code, is amended—

(A) by striking out "39" each place it appears and inserting in lieu thereof "40"; and

(B) by striking out "a independent" and inserting in lieu thereof "an independent".

(b) COMPREHENSIVE CRIME CONTROL ACT OF 1984.—Section 228(b) of the Comprehensive Crime Control Act of 1984 is amended by inserting "each place it appears" after " 'petty offense' ".

(c) STATUS OF INDEPENDENT COUNSEL AS A SPECIAL GOVERNMENT EMPLOYEE.—

(1) AMENDMENT TO TITLE 18.—The first sentence of section 202(a) of title 18, United States Code, is amended by—

(A) striking out "or" after "United States Commissioner,"; and

(B) striking out the period at the end of the sentence and inserting in lieu thereof the following: ", or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28, together with any persons appointed by that independent counsel under section 594(c) of title 28.".

(2) FINANCIAL DISCLOSURE REQUIREMENTS.—Section 203(b) of the Ethics in Government Act of 1978 is amended by striking out "and the Vice President" and inserting in lieu thereof ", the Vice President, and independent counsels and other persons appointed under chapter 40 of title 28".

(d) CLERK OF THE DIVISION OF THE COURT.—Section 49(a) of title 28, United States Code, is amended by adding at the end thereof the following: "The clerk of the United States Court of Appeals for the District of Columbia shall serve as the clerk of such division of the court and shall provide such services as are needed by such division of the court."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect on the date of the enactment of this Act.

Mr. LEVIN. Mr. President, I wonder if we could have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LEVIN. I thank the Chair.

Mr. President, S. 1293, which is now before us, the Independent Counsel Reauthorization Act of 1987, provides an effective and essential process by which impartial criminal investigations of persons close to the President can be conducted.

Enacted in 1978, in the aftermath of Watergate, this statute has served the country well. In the past decade, it has been responsible for investigations of allegations of wrongdoing by senior officials, the results of which the public has accepted, because of the confidence the public has that these investigations were conducted without appearance of bias or favoritism.

Senator COHEN and I jointly introduced S. 1293. Senator COHEN has long been a champion of the independent counsel process, having served on the House Judiciary Committee during Watergate and during the original passage of the Ethics in Government Act in 1978. By 1982, he was a Member of the Senate and helped lead the successful reauthorization effort in this forum at that time. And he is in the forefront once more as we again take up reauthorization of the law. I commend him for his continued concern and support.

I would also like to thank the members of the Governmental Affairs Committee for their contributions and support of this bill. Our chairman, Senator GLENN, and ranking Republican, Senator ROTH, in particular, have been helpful.

The independent counsel statute will expire in January 1988, unless Congress acts to reauthorize it. Due to the nearing expiration date, last winter, the Oversight Subcommittee in the Governmental Affairs Committee, on which Senator COHEN and I serve as chairman and ranking minority member, undertook a comprehensive review of the statute to see how it was faring and what improvements, if any, were needed. We found that the basic mechanisms of the statute have withstood the test of time and proven themselves to be both soundly conceived and effective.

This past year has seen a lot of activity under the statute. We witnessed the first indictments ever filed by an independent counsel and the first convictions, which were obtained earlier this year through guilty pleas. We also saw extensive legal challenges to the statute, filed by Michael Deaver, Lt. Col. Oliver North, and others.

At the hearings, we received testimony strongly supporting reauthorization. The American Bar Association testified that, after 15 years of researching the issue:

> [T]he ABA is convinced that it is imperative for the administration of justice and the continued public confidence in the fairness of our system of justice that the Congress reauthorize the independent counsel [law].

The ABA also said that the statute meets "the letter and spirit of the Constitution." Of course, we also heard from critics of the law, primarily the Justice Department which expressed "grave doubts" about the law's constitutional status.

Another milestone was reached in July when the U.S. District Court issued an opinion squarely holding the law to be constitutional. In that opinion, Chief Judge Aubrey E. Robinson, Jr., of the U.S. District Court for the District of Columbia wrote:

> The Independent Counsel provisions of the Ethics in Government Act represent Congress's measured response to the recurrent question of how to enforce the laws of the United States when they are violated by high government officials. Congress chose to use its authority, well settled under the Constitution and Supreme Court precedent, to create a mechanism to guarantee the integrity and independence of criminal investigations in matters where the Department of Justice has real or apparent conflicts of interest. By carefully assigning the functions necessary for the accomplishment of its purpose, it has constitutionally addressed an important national need.

Chief Judge Robinson's comments are not the first or the only judicial statements on the issue. In April, a panel of three senior appeals court judges, who are assigned to the special court that appoints independent counsels, declared in a per curiam opinion that—

> The independent counsel provisions are tailor-made to meet all the requirements envisioned by the Constitution.

Even earlier, in March, Judge Thomas Penfield Jackson of the U.S. District Court, denied a preliminary injunction to halt an independent counsel's investigation in the Deaver case, in part because he judged that the law would likely be found constitutional.

Out of the five judges who have considered the issue so far, then, all five have ruled in favor of constitutionality or that it is likely to be found constitutional by the Supreme Court. Chief Judge Robinson's opinion is particularly significant, however, because it is the first to be in a procedural posture which makes it likely to reach the Supreme Court. In fact, that process has already begun.

As has been indicated already this morning, the District Circuit Court of Appeals for the District of Columbia is expected to rule at any time on this matter, and whichever way they rule, whether it is in favor of the constitutionality or against the constitutionality or whether it is a split opinion, this matter is surely going to be going to the Supreme Court.

So we have already had five judges who have looked at it, all of whom have either said it is constitutional or likely to be found constitutional by the Supreme Court. There are three more judges who are in the process of looking at it, and we just do not know how they are going to rule, but however they rule, again we have had judicial precedent in support of its constitutionality.

May I say one other thing on this question of constitutionality in the court case? The Senate of the United States is in this court, and will be in front of the Supreme Court on this issue. We have taken a position on this issue. We have directed our legal counsel to defend this statute, and our legal counsel has filed a brief in defense of the constitutionality of this statute. And that brief has been filed again in the Court of Appeals for the District of Columbia, but the resolution directing our legal counsel to defend the independent counsel statute will carry our legal counsel right through to the Supreme Court.

The Senate has decided to defend this law right through the Supreme Court of the United States. We have done that by resolution directing our legal counsel to file these briefs.

The rulings of Chief Judge Robinson and others show we are on the right track legally and that, contrary to the Department of Justice's misgivings, we believe we have devised a system which meets the requirements of the Constitution.

Congress so spoke when it adopted the law. The Congress has so spoken and the Senate in this case has so spoken when we directed our legal counsel to defend this law in the courts of the United States.

Now is the time for Congress to reaffirm its support of the independent counsel law, not only to let the Supreme Court know where we stand, but also because the independent counsel process fills an essential role in the American criminal justice system and that law needs to be preserved and strengthened.

The independent counsel system was a response to Watergate. Watergate profoundly shook the confidence of the American people in the honesty of their Government. It taught them that their officials are capable of criminal acts and capable of conducting a coverup to hide the misconduct. It taught them that even the President is not above trying to fire a prosecutor who probes too deeply into charges against his associates or himself.

The image that remains so vividly from the past is the "Saturday Night Massacre," where President Nixon ordered special prosecutor Archibald Cox to be fired for trying to obtain tape recordings and other materials in the President's possession. Our Attorney General and Deputy Attorney General resigned rather than carry out that order, but the President prevailed without them and ousted Mr. Cox. The moment of outrage that I and other Americans felt upon learning of this miscarriage of justice remains a powerful incentive to make sure it never happens again.

Watergate taught the public and the Congress that provisions have to be made to guarantee the independence and integrity of criminal investigation directed at the President and persons close to the President. Our prosecutors in the Justice Department face inevitable conflicts of interest or appearances of such conflicts of interest when they are asked to investigate their own bosses or persons close to the President. In those cases, we need a different arrangement. The independent counsel system provides the protections we need—it is our "measured response" to the terrible lessons of Watergate.

The law has been in effect for 9 years now. Since its enactment, the independent counsel system has been put to the test in highly visible and politically sensitive cases. It has so far been able to meet the public's demands for fair and impartial investigations. The findings of independent counsels have enjoyed acceptance in situations where findings by the Department of Justice are likely to have been subjected to skepticism and doubt. The process itself appears to have settled in the American consciousness as the fair and proper way to resolve allegations of criminal misconduct leveled at our top echelon of officials.

One need only contrast Watergate with the Iran/Contra investigation to see the difference the independent counsel law has made. In Watergate, after the firing of Mr. Cox and the appointment of Leon Jaworski to be the new Watergate prosecutor, the public and the Congress raised repeated questions about the independence that Mr. Jaworski would have. We waited with tension and anxiety to see if he, too, would be fired or impeded in his efforts. The Nixon Presidency came to a virtual standstill during the questions and upheaval.

Contrast that situation with the Iran/Contra case. When the Iran/Contra scandal broke, the independent counsel process clicked into action. The procedures were known; the integrity of the process widely accepted. Any paralysis which the Reagan Presidency may have experienced due to this affair arose in connection with the congressional and press inquiries and not in connection with the independent counsel's investigation. Since the conclusion of the congressional hearings, the Reagan Presidency has been able to continue functioning during the ongoing criminal probe, because the public is calmly awaiting the fruits of the independent counsel's labors.

The contrast between the public's consternation over the Watergate investigation and the public's calm acceptance of the Iran/Contra independent counsel's investigation demonstrates that the independent counsel law has helped restore public confidence in the integrity of the American criminal justice system, even when the subjects of investigation are the administration's highest officials. That is an invaluable achievement.

While the Department of Justice claims this country would, in effect, be better off without the statute, let me trace for a moment what the President, Attorney General, and other top officials have said about this law when actually confronted with a politically sensitive case.

In 1984, Edwin Meese faced a variety of allegations of possible criminal misconduct which threatened his confirmation as Attorney General. In a letter to then Attorney General William French Smith, Mr. Meese specifically requested that an independent counsel be appointed because, "there must be a comprehensive inquiry that will examine the facts and make public the truth." President Reagan concurred in this request, promising "full cooperation" with the independent counsel and welcoming "an impartial, prompt and thorough inquiry." After an independent counsel was requested, the press reported Mr. Meese as saying, "I welcome this. * * * I believe that only an investigation like this can determine the facts and the legal issues in a fair and orderly manner." Senate hearings on Mr. Meese's nomination were postponed pending completion of the independent counsel's investigation. When the independent counsel declined criminal prosecution, Mr. Meese won Senate confirmation as Attorney General.

In 1986, Michael Deaver, former chief of staff to President Reagan, was accused of engaging in allegedly improper lobbying. Mr. Deaver stated that, "elementary due process and fairness to me and my family require appointment of an independent counsel. While I'm grateful for the President's continuing support, the climate has become such that this is the only way to resolve the issue fairly." After an independent counsel was requested, Mr. Deaver's spokesperson noted that he had "requested weeks ago that an independent counsel be appointed, believing that such a counsel is the only appropriate way to have the various allegations fully and impartially reviewed."

In 1986, the Iran/Contra scandal broke. When the public appeared to be losing confidence in a Department of Justice investigation into the matter, Attorney General Meese issued a statement on December 2, 1986, announcing his decision to request an independent counsel. He stated that:

> This step is being taken with the full encouragement and support of the President. Seeking an independent counsel in this case is consistent with the President's desire to ensure public confidence that all facts in this case be ascertained and acted upon appropriately.

In short, while the Department of Justice may today try to condemn the independent counsel law as an unwarranted intrusion into its prosecutorial authority, events show that, in the small number of criminal cases involving persons close to the President, many believe an investigation conducted by the President's own appointees and their staff at the Justice Department will no longer lay the matter to rest. The public wants an investigation conducted by a politically independent party. An independent counsel investigation fills that need. The secure place held by such investigations is dramatised by the fact that, in the past few years, the administration and the accused themselves have invoked the independent counsel's name.

After 9 years of operation, the independent counsel law has proven its effectiveness and its importance. It has gained the public's trust. That is why we should renew it promptly.

The bill that Senator COHEN and I have introduced to reauthorize the independent counsel statute seeks not only to preserve the basic mechanisms of the current law, but also to strengthen provisions which have been weakened or confused by certain implementation practices and to resolve certain issues which have arisen in connection with the law's operation. For example, the bill clarifies the standards controlling when a preliminary investigation of alleged wrongdoing must be initiated under the law and when an independent counsel must be requested. It imposes new and better fiscal controls on independent counsels proceedings and clarifies the standards of conduct that apply to independent counsels and their staffs. The bill also clarifies the standard controlling when an Attorney General may remove an independent counsel from office, stating that removal is not justified when an independent counsel refuses orders which would compromise the very independence of those proceedings. In addition, the bill clarifies an issue with possible constitutional implications, permitting an independent counsel to expand an ongoing investigation when the Attorney General approves of such an expansion.

These changes in the current independent counsel law do not alter its core elements, but strengthen and clarify its provisions. They are the product of amendments offered in both the subcommittee and full committee markups. In July, the Governmental Affairs Committee ordered the bill reported to the full Senate by a vote of 13-1, demonstrating its strong bipartisan support.

Since the committee vote, Senator COHEN and I have worked with our colleagues, in particular with Senator RUDMAN, to address certain additional concerns. The committee has authorized us to modify the committee substitute to address those issues, and on behalf of the committee, Mr. President, I modify the committee-reported substitute with language that I send to the desk.

The PRESIDING OFFICER. The Senator has the right to make that modification on behalf of the committee.

The modification will be made.

Will the Senator send the material to the desk?

Mr. LEVIN. I thank the Chair.

The modification is as follows:

On page 33, line 11, after "Severability" insert "and sunset".

On page 36, line 16, before "during" insert "applicable".

On page 36, line 17, before "during" insert "applicable".

On page 37, lines 2 and 3, strike "a person described in subsection (b)(4)" and insert "the Attorney General".

On page 39, line 24, and page 40, lines 1 and 2, strike "involved if there is conflicting or inconclusive evidence of the state of mind of such person" and insert "unless there is clear and convincing evidence that the person lacked such state of mind".

On page 44, line 18, after the period, insert the following: "The division of the court shall select an individual to serve as an independent counsel from those attorneys with appropriate prosecutorial experience. The determination of the division of the court on prosecutorial experience shall not be subject to judicial review.".

On page 49, line 19, after the period, insert the following: "Notwithstanding any other provision of law, the Department of Justice shall pay all costs relating to the establishment and operation of any independent counsel and shall be reimbursed for these expenditures out of the fund established pursuant to section 1304 of title 31, United States Code. The Attorney General shall submit to the Congress on a quarterly basis a report of the reimbursements from the fund. There is authorized to be appropriated such sums as may be necessary to reimburse the fund established by section 1304 of title 31, United States Code, for any withdrawals made pursuant to this subsection.".

On page 55, line 8, before "Access" insert "(A)".

On page 55, line 11, after the period designate the sentence that follows as subparagraph (B) and insert quotation marks before "(B)".

On page 55, line 17, after "Procedure." designate the sentence that follows as subparagraph (C) and insert quotation marks before "(C)".

On page 56, beginning on line 11 with the dash strike all through line 16 and insert the following: "serve as counsel or co-counsel to a person who is the subject of proceedings under this chapter.".

On page 57, lines 5 and 6, strike "shall be exempt from paragraph (2)(B) during their current terms of office but".

On page 57, line 7, strike "all other" and insert "the".

On page 61, lines 1 and 2, strike "the division of the court and, if such removal was based on error of law or fact," and insert "a United States district court and".

On page 62, between lines 6 and 7, insert the following new subsection:

"(c) AUDIT.—Upon termination of the office of an independent counsel, an audit of the expenditures of such office shall be conducted by the General Accounting

Office and a report shall be provided to the appropriate committees in Congress.

On page 62, line 9, strike "; Resolution of Disputes".

On page 63, line 1, after "Severability" insert "and Sunset".

On page 63, line 2, after the quotation marks, insert "(a) SEVERABILITY PROVISION.—".

On page 63, line 6, strike the quotation marks and the second period.

On page 63, between lines 6 and 7, insert the following new subsection:

"(b) SUNSET PROVISION.—This chapter shall cease to have effect 5 years after the date of the enactment of the Independent Counsel Reauthorization Act of 1987, except that this chapter shall continue in effect with respect to the pending matters before an independent counsel that in the judgment of such independent counsel require such continuation until that independent counsel determines such matters have been completed.".

On page 64, line 22, after "Columbia" insert "Circuit".

On page 64, line 25, after the quotation marks insert a period.

On page 64, after line 25, insert the following new subsection:

(e) SAVINGS PROVISION.—Each appointment, agreement, and contract which has been made under chapter 39 of title 28, United States Code, as such title was in effect prior to the date of enactment of this Act, shall, after the date of enactment of this Act, continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law. No criminal investigation or prosecution under chapter 39 of title 28, United States Code, as such title was in effect prior to the date of enactment of this Act, shall abate by reason of the enactment of this Act.

Mr. LEVIN. Perhaps the most important modification is one suggested by my friend from New Hampshire providing a 5-year sunset on the independent counsel law. The law included such a provision when it was first enacted in 1978 and renewed in 1982; this time we originally suggested making it a permanent part of our criminal justice system. Senator RUDMAN pointed out, however, that the reauthorization bill makes several changes in the independent counsel process and that the recent activity under the law promises to provide new and important information about its operation and effectiveness. Because of these developments, Senator RUDMAN felt it would be wise to require the Congress to perform another comprehensive reassessment of the process in 5 years' time. Senator COHEN and I can see the wisdom of his suggestion and support modifying the committee substitute to include this provision.

A second provision that was suggested by Senator RUDMAN requires the special court when appointing independent counsel, to consider a person's appropriate prosecutorial experience. Some past independent counsels who, I believe, have proven themselves very competent, such as Archibald Cox, did not have prior prosecutorial experience, so such experience is not a prequisite to successful performance of the office. However, I can see the Senator's point that appropriate prosecutorial experience may be more likely to ensure success, and the committee is willing to include a provision in the bill requiring the special court to take a candidate's prosecutorial experience into consideration.

The modification also contains several other provisions which perform a variety of functions; each has bipartisan support. A more detailed explanation of these provisions was printed in the CONGRESSIONAL RECORD on October 13.

In conclusion, the Independent Counsel Reauthorization Act combines the wisdom of many participants in reaffirming and improving the independent counsel process, which has shown itself to be an effective and essential part of our criminal justice system. We need the independent counsel process now and in the future, since there will always be allegations of misconduct leveled against top administration officials and, therefore, we will always need a way to clear these officials or to prosecute them in a manner the public will trust.

It is trust in Government which we are debating today. That is the issue. That is what we sought to enhance 10 years ago when we first adopted the independent counsel statute. That statute has worked. It has been refined over time. It is being refined in the bill before us today.

But this approach to investigating allegations of wrongdoing by top administration officials has proven its effectiveness. It would be a tragic mistake, tragic for the health of this democracy of ours, to back away from this independent counsel statute now that we have come down this long road. It is a road which has resulted in the creation, the reestablishment of the people's trust in their Government. We have done it in part because we have said that were there are allegations of misconduct against high administration officials or persons close to the President we will have this independent person appointed so that we do not have again ever in this country a Saturday night massacre which so shook the confidence of people in their Government.

Democratic government deserves this bill. It deserves to have the independent counsel statute reenacted and improved, and I would hope that the Senate would give a resounding vote of reaffirmation to a process which has worked, which has gained such broad public support.

Mr. President, I ask unanimous consent to have printed in the RECORD newspaper editorials from around the country that show the broad support that this bill has and that the independent counsel process has earned.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, June 24, 1987]

INDEPENDENT COUNSELS

A Justice Department official says the independent counsel (special prosecutor) law should be junked because it costs too much. That's like Imelda Marcos complaining about the high cost of shoes. The reason the law is costing so much is that so many Reagan administration officials and ex-officials have provoked investigations. There are six separate independent counsel investigations under way at the present. None of them in our view could be routinely handled by the Justice Department. It's just too hard for someone to investigate one's own allies and associates.

Even if that were not true as a general rule, in the case of Lt. Col. Oliver L. North only a special prosecutor could be counted on to investigate and prosecute. Here is a man the president called a hero for what he is being investigated for. And the Justice Department already stands suspected of botching the first moments of an investigation into this affair. How could the American people have confidence in a probe of the Iran-contra affair directed by Edwin Meese.

Attorney General Meese, himself, is under investigation by independent counsel in connection with charges of illegal lobbying in behalf of Wedtech, a defense contractor. So is former White House aide and longtime Reagan adviser Lyn Nofziger. Certainly an investigation of the Wedtech affair by lawyers working for the attorney general would not be trusted by the general public.

And what about the First Friend, Michael Deaver, who was indicted by an independent counsel's grand jury? Could the Meese Justice Department rise above suspicion in handling that case?

The special prosecutor law expires next January. House and Senate committees are finishing up new versions. President Reagan is being urged to veto this legislation, and he seems inclined to. That would be a big mistake. He would appear to be striking back in anger at a legitimate tool of government because it has injured him.

All the special investigations into Reagan administration officials would very likely continue even if the independent counsel law expires in January. But what about the next president who finds his friends or aides under a cloud? This law is important not only because it provides a way for criminal investigations at this level to proceed without conflict of interest. It is also important because when targets are cleared, the public can have confidence in that result. Certainly the president ought to respect this—since former Labor Secretary Raymond Donovan and Mr. Meese have both been cleared by previous special prosecutors.

Mr. Reagan is said to have questions about the law's constitutionality. So do others. But the way to deal with that is not by presidential veto of the extension, but by going to court, as Colonel North and Mr. Deaver have done, and challenging the existing law.

[From the Philadelphia Inquirer, July 25, 1987]

DEFENDING SPECIAL PROSECUTORS

Well, so much for the Reagan administration's contention that the law creating special prosecutors is unconstitutional. Its argument once sounded plausible. Doubtless it was grounded in conviction. Nevertheless, in the opinion of U.S. District Court Judge Aubrey E. Robinson Jr., the first federal judge to rule squarely on the question, the Constitution expressly allows such laws.

Judge Robinson's logic is hard to fault. In fact, it reads like such sweet reason, one wonders how the Reagan Justice Department mustered the effrontery to carry this challenge into court. (Never lacking for effrontery, it probably will appeal.)

The Justice Department's position is simple. Too simple, as it turned out. It contends that, according to the Constitution, the prosecution of alleged criminals is the function solely of the executive branch of government. Under the 1978 Ethics in Government Act, however, special prosecutors who probe alleged wrongdoing by executive-branch officials are appointed by a special three-judge bench. That, the Justice Department contends, is unconstitutional because it allows the judicial branch to intrude onto turf reserved by the Constitution to the executive branch.

Judge Robinson made a somewhat more detailed study of the Constitution, however. He cited Article II, Section 2 of the Constitution: "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments." A special prosecutor, the judge declares, "is clearly an 'inferior officer'—he is appointed to serve for a temporary, limited period." So the Constitution clearly empowers Congress to delegate the appointment of such prosecutors to "the courts of law."

Judge Robinson did not content himself merely with demolition of the Justice Department's constitutional claim. He also underscored the practical necessity of the 1978 statute. It represents, he wrote, "Congress' measured response to the recurrent question of how to enforce the laws of the United States when they are violated by high government officials. . . . [It is] a landmark effort to instill public confidence in the fair and ethical behavior of government."

Precisely. That's why, rather than letting the law's authority expire at year's end, as the administration advocates, Congress should make the law permanent. Legislation to do that has been moving through both the House and the Senate. Judge Robinson has just given it a most welcome push.

[From the Washington Post, June 18, 1987]

TRUTH IN PROSECUTION

The administration makes a great mistake in opposing extension of the independent counsel system. Yes, the special prosecutors, as they used to be called, are hybrids. Creatures of the judiciary rather than the executive branch, they live along a fault line of the Constitution. But these carefully chosen establishment lawyers are hardly the untethered legal cowboys that the Justice Department portrays, and in any case it is a terrible moment for the administration to invoke the constitutional reservations it has had but swallowed in the past. The president signed a bill refining and extending the system in 1983. Now, with four major investigations of past and present administration officials under way, the Justice Department says with White House approval that it will recommend that the president veto a new bill. At best the administration invites misunderstanding of its motives.

The whole point of the independent counsel system, after all, is to preserve the credibility on which democratic government finally depends. Above a certain level, no administration can credibly investigate itself. You need an insulated third party. That is what Watergate re-taught us; Watergate is why we have this law. Attorney General Meese need only look at the questions being raised about even his temporary charge of the investigation into the Iran-Contra affair to see why an independent counsel is not just reassuring but invaluable. There is no way the Justice Department could plausibly conduct this investigation, now in an independent counsel's hands. So also with the investigation of the Wedtech affair, which also involves the attorney general. Recusancy isn't enough; there is no convincing way to insulate subordinate from boss. The other two announced investigations are of former deputy White House chief of staff Michael Deaver and former assistant attorney general Theodore Olson. Both would be awkward for the department to conduct.

The critics might also recall that this process has been most useful over the years to the accused. Mr. Meese again provides the best example. Confronted at his confirmation hearings with charges that he had profited from office as counselor to the president, he asked that an independent counsel be appointed in his case "because there must be a comprehensive inquiry that will examine the facts and make public the truth." President Reagan endorsed the request, saying "I know that an impartial, prompt and thorough inquiry will demonstrate the high level of integrity and dedication which have marked Ed's long career of public service." When counsel Jacob Stein then cleared him, Mr. Meese was (a) delighted and (b) confirmed. The president also found it useful to be able to call for the appointment of an independent counsel in the Iran-Contra affair, and Mr. Deaver similarly called for one in his case, though on the verge of indictment he too decided that the system was unconstitutional and has asked the courts to strike it down. Now what does the department do—join Mr. Deaver in the effort to quash? The administration is on the wrong side of this issue.

[From the New York Times, June 18, 1987]

DON'T THEY WANT TO BE CLEARED?

What would you want most if you were a government official accused of misconduct? Almost certainly a way to clear your name, honestly and credibly. That's not the attitude of the Reagan Justice Department. Awash in asserted conflicts of interest, the Department still insists on attacking the very mechanism that makes possible credible investigations of high officials.

The independent counsel section of the 1978 Ethics in Government Act provides a court-appointed special prosecutor in situations where no one would expect the executive branch to investigate itself. This Administration has been forced to use this mechanism five times, twice for the Attorney General himself. But the Department argues that the law is unconstitutional and should not be renewed when it expires at year's end.

Why? Because the law supposedly trespasses on a President's executive powers; he does not appoint and cannot easily dismiss an independent counsel. That argument recalls Watergate and Richard Nixon's Saturday night firing of Archibald Cox; it was to prevent such travesties that Congress provided for a truly independent prosecutorial force.

The 1978 law needs strengthening as well as renewal. Versions in Senate and House subcommittees would make the independent counsel system permanent and would block some of the abuses of Attorney General Edwin Meese in his indifferent, at times contemptuous, administration of the act. Now the Administration raises its contempt to a new level. With White House staff support, Assistant Attorney General Bolton threatens a veto if Congress renews special prosecutors. He says the law, besides invading executive authority, costs too much.

Some of that expense comes from the sheer number of Reagan aides whose conduct has triggered special investigations. Congress expected occassional needs, not a crush of inquires of senior officials, including Raymond Donovan, former Secretary of Labor; Michael Deaver and Lyn Nofziger, former close Reagan aides, and twice, Attorney General Meese.

Mr. Meese first asked for an independent counsel when accusations of financial irregularities threatened his confirmation and now again because of questions about his role in the Wedtech military contracting scandal. His role in the Iran-Contra affair has drawn attention from a third special prosecutor.

Most of these officials have been cleared of criminal wrongdoing, and the public outlay of $472,000 in counsel fees for Mr. Meese alone was worth the expense of credibly clearing the Attorney General. How much faith does he think the public would have in exonerations rendered by government investigators, and lawyers who work for him?

The Administration also presses an unworthy constitutional attack against the manner of appointing special prosecutors. Mr. Meese's subordinates have not yet discovered that the Constitution allows Congress to vest the appointing power in the judiciary as well as the President. They argue that executive powers are also invaded if the President cannot dismiss an "independent" counsel for disobeying a Presidential order. Their claim that President Reagan may thus dismiss a prosecutor is ominous.

The White House, recently organized under new management, seems as determined as before to show its contempt for the independent counsel law. A spokesman yesterday took exception only to some "contentious and intemperate" language in the Justice Department's position. It's baffling. One would think that President Reagan, whose high aides are under a counsel's scrutiny in the Iran-Contra affairs, would want nothing more than (a) exoneration, and (b) exoneration the public can believe.

[From the Flint (MI) Journal, June 26, 1987]

RENEW ETHICS LAW FOR SPECIAL PROBES

The Reagan administration recently came up with the startling position that the Ethics in Government Act should not be renewed.

Coming from an administration in which more than 100 officials have been accused of ethical violations or more serious misdeeds, the Justice Department's position appears rather self-serving.

Assistant Attorney General John Bolton launched a slashing attack on the independent-counsel system, denouncing it as unconstitutional, unnecessary and too expensive.

The law came into being during the Watergate investigations. It provides that a special three-judge panel, acting on the request of the attorney general, can appoint special prosecutors and determine their jurisdiction.

It was renewed in 1982 and is to expire in December unless Congress approves legislation to make it permanent. Sen. Carl M. Levin, D-Mich., and Rep. William S. Cohen, R-Maine, have cosponsored a bill to reauthorize the ethics law.

Right now, the law is getting the heaviest workout it has ever had. There are six separate independent counsels investigating Reagan administration activities. Four of the probes are public knowledge, two others remain sealed.

Most prominent is the inquiry into the Iran-Contra affair featuring the sale of arms to Iran, Swiss bank accounts and aid to the Nicaraguan Contras in violation of the will of Congress, as voiced in the Boland Amendment.

Other probes concern the lobbying activity of Michael Deaver, former White House deputy chief of staff, accused of perjury, and the role of Attorney General Edwin Meese in a Wedtech contract probe.

Nothing is perfect, so we suppose the Ethics in Government Act can be improved. Bolton's complaints that the special counsels are overdoing a good thing, investigating trivia and overcharging for it were exaggerations. But they deserve some serious scrutiny before Congress acts to make the special investigative process permanent.

The Levin-Cohen bill addresses some of these issues. In addition to providing continuing authority for the appointment of independent counsel, it would strengthen procedures by setting clearer preliminary deadlines for any investigation.

It also would require the Justice department to report on delays and mandate that the attorney general disqualify himself in cases in which he has had a personal relationship with the person or persons being investigated.

We must not go back to a situation where the attorney general oversees investigations of wrongdoing by an administration in which he serves. Such inquiries must be conducted by persons without a special interest, charged only with seeing that justice is done.

The law has served the nation well and should be reauthorized.

[From the Sentinel, June 26, 1987]

EXTENDING COUNSELS—PRIVATE PROBES ARE NECESSARY

Who are Whitney North Seymour Jr., James C. Mackay and Lawrence E. Walsh?

Not well-known names, but potentially some of the most powerful men in America. They are special prosecutors or independent counsels who are probing into activities involving past and present members of the Reagan administration.

Seymour is examining charges of illegal lobbying by Michael K. Deaver, former White House aide. Mackay is looking into new conflict-of-interest questions about Attorney General Edwin Meese and former White House aide Lyn Nofzinger. Walsh is investigating Lt. Col. Oliver North and others involved in the Iran-Contra affair.

Last week, the Justice Department blasted the independent counsel system as unconstitutional, too costly and subject to abuse. Michigan Sen. Carl Levin, chairman of the Senate Subcommittee on Oversight of Government Management, can't figure out the attack.

Established in 1978 as part of the Ethics in Government Act, the independent counsel is a direct result of Watergate. The law requires court appointment of a special prosecutor to probe allegations of White House wrongdoing when the attorney general determines such an investigation is necessary.

Independent counsel indicates a probe and not a prosecution. Former President Richard Nixon's firings of prosecutors solidified Congress on the need. It just doesn't work when high officials are being investigated by those who are employed by them.

President Reagan extended the bill in 1983. But following the latest allegations which placed a cloud on the administration, he doesn't appear ready to support the measure when it expires this year. Congress should proceed and pass another extension.

The Justice Department is using poor judgment in blasting the system at a time when the Reagan administration's credibility is at its lowest. Although the president criticized the Justice Department for its comments, Levin believes the president would veto an extension bill. That would be a mistake.

Reauthorization is essential and the president should be a strong advocate. Special prosecutors should be permitted to pursue every avenue.

As established attorneys, the counsels owe it to the American people to conduct vigorous investigations. Anything short of that is remiss.

If anything, Congress should strengthen the independent counsel provision. And President Reagan should see the legislation as a way to strengthen his credibility.

[From the Grand Rapids Press, Sept. 3, 1987]

INDEPENDENCE UNDER FIRE

If the U.S. Justice Department has its way, the term "independent prosecutor" will be carved in half. The prosecutor will remain, but the independence will be fed to the shredder.

The Justice Department, without much appreciation of the irony, has filed suit to end the independent prosecutor as established in the 1978 Ethics in Government Law, which provides that the counsel be appointed by a judicial panel. The government is arguing that, under the Constitution, the powers conferred on the prosecutor by the law require that he be attached to the executive branch. Sen. Carl Levin, D-Mich., who has championed the independent prosecutor, has called the government's position "ill-timed, inappropriate and unnecessary."

Mr. Levin is right. In the modern political climate, attaching the prosecutor to the executive would be like bringing the chicken in to guard the foxes. Much of official Washington is under suspicion these days. Besides the Iran-Contra probe, Attorney General Edwin Meese, former White House aides Michael Deaver and Lyn Nofziger face a prosecutor's scrutiny.

No one, even potential targets, should dispute that good government is served by uninhibited investigators, ones not tethered to any arm of government. That interest in purity does raise a logistical question. Prosecutors do not form out of thin air—someone must appoint them. The current law tries to make the link as indirect as possible by having the prosecutors named by a three-member board composed of federal appeals court judges.

There may someday arise a conflict of interest out of that arrangement. But the chances are much smaller than if the prosecutor were a functionary of the Justice Department, as the suit brought last week suggests.

The statute also presents a constitutional problem, since enforcing the laws of the United States is explicitly a duty of the executive branch. But closer to the heart of the Constitution, and the separation of power doctrine, is the belief that one branch of government should not accumulate so much power that it is immune to criticism and correction. Dictators arise when leaders no longer feel the need to compromise, to adhere to the law.

We are today a long way from dictatorship, but we should not forget the night in October, 1973, when President Nixon decided the independent prosecutor, Archibald Cox, had gone too far in probing the Watergate scandal and ordered him fired. The sham of Mr. Cox's "independence" was revealed in those hours; it's fortunate that Mr. Nixon could not as easily dismantle Congress and the judiciary.

Out of that debacle came the Ethics in Government act and the new independent counsel. Since then, admittedly, there have been many more investigations than indictments or convictions and some efforts—the baseless investigations of Carter aide Hamilton Jordon and Reagan labor secretary Raymond Donovan stand out—did more harm than good. The Justice Department is also right to complain that some independent investigations take too long and cost too much money.

But that's an argument for more selective and restrained use of this tool, not for its utter redesign. Not only would an investigative prosecutor under the wing of the executive be susceptible to another Nixonian "Saturday Night Massacre," but public trust in this office would be lost forever. The people, one suspects, wants more thoroughly independent forces in Washington, not fewer.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I want to, first of all, commend my colleague from Michigan, Senator LEVIN. I have had really the great privilege and pleasure of working with him for a number of years, since we have been in the Senate together, but on a number of different committees, Armed Services as well as Governmental Affairs.

I must say that he has always approached every subject matter with determination, scholarship, persistence, and, I might add, fairness.

There have been a number of legitimate questions raised about this bill since its passage into law back in 1978.

Working together, we have tried to correct whatever deficiencies or inequities we saw as included in that act, and I must say that it does reflect this openness and fairness of mind that he has displayed by always being willing to make modifications to try and improve what obviously has never been a perfect product. Anything that we have passed has never been perfect, nor has this particular act been so.

I think Senator LEVIN has really captured the essence of this particular debate.

I was, as I mentioned earlier today, on the House Judiciary Committee during the very controversial and politically explosive debates that took place back in 1973 and 1974 with the impeachment proceedings of President Nixon.

This particular legislation was a direct product of the kind of controversy and conflict that emerged during those proceedings with the firing of Archibald Cox and the appointment of a special prosecutor.

This legislation was enacted to try and give statutory protection to the independence of a counsel picked to investigate allegations concerning violations of the law.

The fact is that Presidents pick their closest friends or their political supporters or their philosophic allies to serve in positions in Cabinet and sub-Cabinet levels.

That is particularly so when it comes to the Justice Department and the Attorney General. That was true with President Nixon. It was an exception, I might add, with President Ford who took over as President and appointed Mr. Levy. But it certainly was true with President Carter with Griffin Bell, and it is true with President Reagan with Attorney General Meese.

This has been the historical precedent where Presidents pick their friends to serve in one of the most important positions in Government; namely, the administration of justice, and that is why this particular position is so critically important.

The Attorney General is the symbol of the impartial administration of justice. It is almost inconsistent because of the fact of the political association that has been established with Presidents over the years that there has always been a doubt about how impartial that particular individual is no matter how objective that individual might be.

So the President picks his friends or political supporters to hold high positions.

We also have a rule or at least a belief in this country that no person, including the President of the United States, stands above the law, just as no person, no matter how lowly his position might be, no pauper falls below its protection. That is something that is fundamental to our core values. No person is above or below the law.

So we should not have a different standard for a President or his appointees and his Cabinet and subcabinet officials.

They should not be held to a different standard, be allowed to do things that the average person cannot do. Nor, we have found, should they be held to a higher standard than the average person might otherwise be.

And this is something we found out, and I called my friend's attention to it, during the Carter years. We found, for example, that Hamilton Jordan was in fact investigated on a matter that the average person would not have been investigated upon. We found that we do not want to establish different standards for public officials by virtue of their position that either exempts them from the provisions of the law or puts a higher or more severe burden on them. So we changed that.

What is ironic about the challenge being leveled against this act now is that we have made improvements over the 1982 amendments, which sailed through both Houses of Congress and was signed into law. We do not want a different standard for high officials, and that is one of the principles involved here.

Now I must tell you, as a former prosecutor, that the toughest decision in determining whether or not one goes forward with investigating or prosecuting an individual on a criminal charge, the toughest decision is not to prosecute. That is easy. The toughest issue is when not to prosecute. That is the hardest decision for any prosecutor to make, when not to prosecute. When you have heard allegations, you have seen some evidence of wrongdoing, but you decide the evidence really is not sufficient and it is not warranted and you are pursuing an individual, it is a very tough decision because you come under public scrutiny and public criticism: "Why didn't you go forward?"

In this particular case, when we are dealing with high-level officials, it seems to me that someone who is in the Justice Department, be it the Attorney General or one of his subordinates who is then given the responsibility for making such a determination and he decides not to prosecute, he has a problem. Because the appearance will exist that the decision was not based upon an independent or objective analysis but, rather, it was because of his political friendship or his superiors' friendship or the fact that his job was due to a appointment made by the President of the United States. And so by the very appearance, suddenly, the net is cast out there that this has been a political judgment rather than an independent one.

Or he could do something else. He could decide to prosecute in order to dissipate the appearance of impropriety, of lack of objectivity. And that also causes an injustice. Because if you decide to satisfy the public appetite for these individuals being brought to justice, even though the evidence is either insufficient or it is a case not warranted for prosecution, and you decided, nonetheless, for fear that this might appear to be a political decision, "I am going to initiate criminal proceedings against this individual," that is not doing justice.

That is precisely the reason why we decided, back in 1978, to set up a process whereby an independent counsel or special prosecutor—we had to change the name. We changed the name, because the word "prosecutor" connoted criminal wrongdoing when in fact it might not even amount to criminal wrongdoing. So we changed it to independent counsel to have an investigation so that the public would be satisfied that whatever decision was made, if the decision was made to go forward, evidence supported it; and if the decision was made not to prosecute, there was no hint that there was impropriety based upon political pressure or the basis of a personal decision.

So I think the law has served us well. It has been imperfect. We are constantly trying to modify it to take into account whatever deficiencies have been revealed through its operation.

I believe that what it comes down to, as I suggested earlier today, it has to do with control. No President wants to yield control. No Attorney General wants to agree to have an independent counsel intrude upon his jurisdiction.

What this really does, it amounts to a compromise. This is a hybrid. We have tried to strike a balance in this particular case, because we feel that the overriding issue is one where if high-level officials are accused of wrongdoing or there is evidence presented or allegations made, a process has to be institutionalized that would allow the investigation of those allegations to the satisfaction of the public that justice is being done.

That is the essence of this act. We want to assure the public that justice is being done, in terms of whether that independent counsel goes forward with prosecution or whether he makes a determination that prosecution is not warranted, and the public will be satisfied.

I would point out that this act has served this administration well. It has served other administrations well. Where evidence has been insufficient, the independent counsel has said so, and the public has in fact accepted it.

So I want to again urge my colleagues to look at this legislation, to see its importance, to see that in fact it is imperative—it is not important, it is imperative—that we have such a mechanism which guarantees to the people not only the reality that justice is being done, but the appearance that justice is being done.

Mr. President, I am pleased that the Senate is now considering S. 1293, a bill to extend the independent counsel provisions of the Ethics in Government Act. Earlier this year, I joined Senator LEVIN in introducing this legislation to extend the authorization for this very important process that guards against conflicts of interest when the executive branch is called upon to investigate wrongdoing by its own top-level officials. The bill also includes several amendments to strengthen and clarify the law developed from hearings held by the Subcommittee on Oversight of Government Management on the independent counsel law.

Unless reauthorized, the independent counsel provisions of the Ethics Act will expire in January of next year. The independent counsel process was established by the Congress in 1978—and reauthorized in 1982—to ensure that investigations and prosecutions of top-level executive branch officials are conducted fully and fairly. By providing for a judicially appointed independent counsel to handle such cases in limited circumstances, the process established by the Ethics Act helps assure the public that criminal wrongdoing by top-level Government officials will not be buried or tolerated, and that top-level officials will not be treated as if they are above the law.

As my colleagues are well aware, the independent counsel law has come under sharp attack by this administration as being constitutionally unsound and as intruding into the legitimate authority of the executive branch to investigate and prosecute violations of Federal criminal law. Of course, the issue of constitutionality can ultimately be decided only by the courts. So far, however, the law has had a consistent record on the side of constitutionality. Three judges have rejected challenges to the law on constitutional grounds. Several legal scholars, as well as the American Bar Association, consider the law to be constitutional, and the Congress reaffirmed its commitment to the current law in 1982 when it reauthorized the law for 5 years.

The judicially appointed independent counsel process is necessarily a hybrid in our constitutional system of separation of powers. It is one, however, that furthers, rather than inhibits our constitutional system of checks and balance by ensuring that the executive branch will not accumulate too much power through controlling all prosecutions of its own top officials. The law merely, in a narrowly drawn class of cases, insulates the prosecutorial power within the executive branch from the threat of improper influence or conflicts of interest.

In the event that this law is definitively ruled unconstitutional by the courts, the Congress should then alter the appointment mechanism in a way that will preserve the independence of the investigations of top-level officials. Until we are faced with that necessity, however, we should extend the current process as by far the best means of guarding against conflicts of interest in these sensitive investigations.

I firmly believe that the independent counsel process should not be viewed as an affront to the integrity of any one Department of Justice or administration. Conflict of interest problems are not unique to any one administration or political party. Scandals involving high-ranking Government officials date far back into our Nation's history and transcend party lines. An institutional mechanism, such as the independent counsel law, will always be necessary to guard against inherent conflicts of interest that occur whenever the executive branch is called upon to investigate itself. Not only does such a statutory process enhance public confidence in the handling of prosecutions involving officials, but it also helps the officials themselves who have been cleared by such a process, by removing the suspicion that the official was "let off easy" by his or her own administration.

Because these conflict-of-interest problems will always be with us, it is imperative that we extend the independent counsel process to ensure maximum public confidence in Government.

In addition to a 5-year reauthorization, this legislation corrects flaws in the law that have come to light since its last reauthorization. In 1982, the Subcommittee on Oversight of Government Management, which I then chaired, conducted an extensive investigation and held several hearings on how well the independent counsel process was working. At that time, we were faced with the problems that the law triggered too easily and at times treated public officials unfairly. Legislation proposed by the subcommittee in 1982 and signed into law corrected those deficiencies in the law.

Now, years later, we are faced with a different set of problems. Hearings held by the Oversight Subcommittee this past March revealed disturbing evidence that the Department of Justice has interpreted the standards established by the law too broadly, and has conducted extensive inquiries before triggering the law even when the statutory standard has been met. Such extended inquiries outside the scope of the law can undermine the entire independent counsel process itself, by allowing the Attorney General to exercise too much discretion in deciding when the law must be used and by removing accountability of the Attorney General's actions.

The hearings also revealed that the Attorney General has participated in cases, arising under the independent counsel law, in which he has a personal or financial interest, raising questions over whether the decisions in these cases are tainted by conflicts of interest. Other problem areas exist in the statute, such as ambiguity over the extent to which the court can expand the jurisdiction of an existing independent counsel to investigate other matters or persons, the grounds on which an independent counsel can be removed for good cause, and the appropriate standards of conduct that govern an independent counsel who has been named by the court to investigate an official under the act.

Finally, significant concerns have been raised over the monetary costs of the independent counsel investigations, in light of the unanticipated number and scope of such investigations over the past 2 years.

The legislation we are considering today would go far in correcting these problems. This bill would, for example, amend the threshold triggering a preliminary investigation to require the Attorney General to conduct such an investigation if he or she receives information that an official covered by the act may have violated a Federal criminal law. The bill would also prohibit the Attorney General from basing his decision not to conduct a preliminary investigation or to seek appointment of an independent counsel on the grounds that the subject of the investigation lacked the state of mind required to prove a criminal violation, as determinations of intent should properly be resolved by an independent counsel. The bill would also require the Attorney General to report to the court, in limited circumstances, when he or she has decided not to conduct a preliminary investigation, thus guarding against abuse of discretion by the Attorney General.

This legislation would further establish a mechanism to handle requests by the independent counsel for expanded jurisdiction in a means that would be consistent with the constitutional principle of separation of powers. The bill specifies that whenever the independent counsel, during the course of his or her on-going probe, receives information that an additional person or matter not covered in his or her original jurisdiction involves a violation of criminal law, he or she must submit this information to the Attorney General as specific and credible information that requires investigation under the act. The Attorney General would then conduct an expedited preliminary investigation, as prescribed by the law, and report to the court on whether an independent counsel is required for this new allegation. I believe that this approach will ensure accountability of the Attorney General's decision not to honor the request of an independent counsel, while remaining within constitutional limitations.

This legislation also includes provisions to address the need for refusal of the Attorney General in cases in which he or she has a personal or financial interest, the ethical standards that govern the independent counsel, and the need for adequate oversight of, and cost controls on, the independent counsel process by the courts and the Congress.

Mr. President, amending this law is a delicate process requiring the Congress to strike the appropriate balance between the needs of public confidence in government and the fair treatment of individuals who are subject to the law. In striking this balance, we must also ensure that we remain soundly within the constitutional mandate of separation of powers. The bill we are considering today balances all of these concerns fairly and reasonably.

The need for an independent counsel law is greater now than ever before. There are six on-going independent counsel investigations and several pending challenges to the law, both by persons under investigation and by the Department of Justice itself. It is crucial that the Congress act now to ensure the public that it will not tolerate conflicts of interest in the investigation of public officials. I urge the Senate to reaffirm its commitment to the independent counsel process.

I want to commend the able chairman of the Subcommittee on Oversight of Government Management, Senator LEVIN, for his valuable efforts in amending this law, which is so important to ensuring public confidence of our citizens in the integrity of Government.

Mr. GLENN. Mr. President, the Senate Committee on Governmental Affairs, which I chair, recommends Senate passage of the Independent Counsel Reauthorization Act of 1987, which improves and reauthorizes the Independent Counsel law, which otherwise expires on January 2, 1987. I want to commend Senator LEVIN and Senator COHEN, who jointly introduced this legislation, held hearings on the law as chairman and ranking minority member of the Governmental Affairs Subcommittee on Oversight of Government Management, and are now leading the effort on the floor of the Senate for passage of the bill, for their tremendous work.

The independent counsel law was established to ensure that high administration officials suspected of criminal activity could be investigated and prosecuted in an atmosphere free from any conflict of interest or appearance of conflict of interest. During the 9 years during which this law has been in force, it has served its purpose well: the American people know that when an independent counsel is investigating a senior Government official, the investigation is, without question, fair and impartial. Particularly now, when we have an unprecedented number of allegations of impropriety on the part of members of the current administration, the Congress must act to protect the fundamental achievement of the independent counsel process and reauthorize the law to prevent its expiration.

The independent counsel statute was enacted in 1978 as title VI of the Ethics in Government Act. Title VI was written in response to the 1973 "Saturday Night Massacre," the firing of top Justice Department officers who refused to support President Nixon's order that Watergate Special Prosecutor Archibald Cox limit his investigation into charges of Nixon administration obstruction of justice. The Saturday night massacre raised the public's awareness of the conflict of interest or appearance of conflict of interest inherent in Justice Department prosecution of high Government officials. The independent counsel law addressed this weakness in the criminal justice system by creating the office of an independent special prosecutor, who is appointed by a special division of the U.S. Court of Appeals for the District of Columbia and is removable by the President only for good cause.

The independent counsel law is a measured response to the problem of political interference in the investigation of high Government officials. Only a small class of the most senior executive branch officers, those individuals who often have a special relationship with the President and top Justice Department officials, are covered by the law's provisions. An independent counsel is appointed only after a preliminary investigation of a violation of any Federal criminal law other than a petty offense by the Attorney General indicates that reasonable grounds exist to warrant further investigation or prosecution of the alleged violation. When determining whether such reasonable grounds are present, the Attorney General need apply standards no higher than those provided in the written or other established policies of the Justice Department with respect to the enforcement of criminal laws for all citizens.

The Governmental Affairs Committee, through its Subcommittee on Oversight of Government Management, undertook an in-depth investigation into the experience with the independent counsel law. This investigation showed that the independent counsel statute has been invoked 36 times since its inception in 1978, with 11 of these cases resulting in the appointment of an independent counsel. In a number of these cases, including those involving Attorney General Edwin Meese, former Presidential Adviser Michael Deaver, and the Iran Contra affair, the targets of the investigations themselves asked for the appointment of an independent counsel. They requested an independent counsel because the office of the independent counsel has become respected throughout the Nation as the best means available for conducting a criminal investigation of high Government officials free from the taint of political favoritism.

The Governmental Affairs Committee, while determining that the independent counsel law has been a remarkable success, did find some areas in which the law can be improved. As shown in pages 8 through 14 of the committee's report on the reauthorization bill, limited problems with the law have arisen regarding both the procedures of the Justice Department in handling cases under the statute, and also the implementation of the statute by the special division of the court which appoints the independent counsels and by the independent counsels themselves. Changes in the law, which are discussed in pages 14 through 30 of the committee's report, are proposed in the reauthorization legislation to ameliorate these problems; however, none of the proposed changes affects the core elements of the statute.

Despite the proven success of the independent counsel law, the Justice Department argues that the independent counsel law is unconstitutional. This legal attack on the law is at odds with the position of nearly all of the witnesses who testified at the Governmental Affairs Subcommittee hearings on the reauthorization legislation. At the hearings, the American Bar Association, for example, reaffirmed its longstanding view that the independent counsel law is constitutional. Furthermore, in the one case which has addressed squarely the question of whether the law is constitutional, Judge Aubrey Robinson of the U.S. District Court for the District of Columbia law upheld the constitutionality of the statute. He wrote, in his opinion:

> The Independent Counsel provisions of the Ethics in Government Act represent Congress' measured response to the recurrent question of how to enforce the laws of the United States when they are violated by high government officials. Congress chose to use its authority, well settled under the Constitution and Supreme Court precedent, to create a mechanism to guarantee the integrity and independence of criminal investigations in matters where the Department of Justice has real or apparent conflicts of interest. By carefully assigning the functions necessary for the accomplishment of its purpose, it has constitutionally addressed an important national need. For the United States, the act represents a landmark effort to instill public confidence in the fair and ethical behavior of public officials.

Although this ruling has been appealed, I am hopeful that the courts will continue to find that the independent counsel law is constitutional.

Mr. President, the independent counsel law is a good law and an important law, and I urge the Senate to reauthorize it.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, if I might, just so that I could be able to give Senators some idea of what I am hoping to do today. I would hope that by 12:30, or after the distinguished Senator from Utah [Mr. HATCH] has had an opportunity to address the pending matter, I would hope to go to the veterans' legislation on which we have a time agreement. That should not take too long. Then I would like to go to war powers.

There will be probably two votes on the veterans' legislation and there will be a vote on tabling the Byrd-Warner amendment. That tabling motion will be made by Mr. WEICKER.

I am going to give up the floor now. I make these comments just so that those that are discussing the pending matter might know that that would be my preference, if we could go to 12:30 or 45 minutes or whatever, after the distinguished Senator from Utah has had his opportunity to address the matter.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I do not intend to take more than 5 minutes, and I then will be happy to go off this bill to the other matters that the distinguished majority leader would like to do.

One of the amendments that I will call up to show that this side is not trying to delay this is a simple reauthorization or extension of the present law for 2 years to give us time to really see what does happen, what is the ultimate shakeout in court of this particular legislation. I think we would all be better off if we had the benefit of the court's decisionmaking authority and writing on this matter.

Mr. President, I would like to address the constitutionality of this bill. We rushed to judgment on Gramm-Rudman and got struck down by the Bowsher case. I want to avoid another unconstitutional act by precipitous action.

This bill has been opposed by every administration—Republican and Democrat—for constitutional reasons.

Let me cite a few of these constitutional reasons from a statement by Rudi Guilani in 1981.

I begin, however, with some basic principles. Ordinarily, the President, as the head of the Executive Branch, has the constitutional authority both to appoint and to remove all officials exercising executive functions.[1] The prosecution of federal offenses is a core executive function within the exclusive prerogative of the Attorney General and ultimately the President.[2] For that reason, federal prosecutors, like all other officers exercising executive functions, must be accountable to the President, the Attorney General, or both. The Department's constitutional reservations with respect to the Special Prosecutor Act derive in substantial part from the fact that the Act removes the responsibility for enforcement of the federal criminal laws from the Executive Branch and lodges it in an officer who is neither appointed by, accountable to, nor, save in extraordinary circumstances, removable by the Attorney General or the President. This office, moreover, may set its own prosecutive standards, investigate, try and appeal any case and take any legal position in the name of the United States without the consent of the President, the Attorney General or the Solicitor General. In form, the Special Prosecutor is an officer of the Department of Justice. In reality, he exercises executive functions in a matter wholly independent of the Department or the Executive Branch. Such a role is difficult to square with the fundamental design of the Constitution.

It is true that under Art. 2, § 2, cl. 2, of the United States Constitution—the so-called "Appointments Clause"—Congress is authorized to vest the power to appoint "such inferior Officers as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." The appointment provision of the Special Prosecutor Act is an attempted exercise of Congress' power to vest appointment authority in the "Courts of Law." The Appointments Clause, however, like all provisions of the Constitution, must be read in conformity with the general constitutional principle of separation of powers. For example, do not believe that it could plausibly be argued that the Appointments Clause, despite its literal terms, allows Congress to vest the appointment of Cabinet-level officials in the federal courts. For this reason, the Appointments Clause must be read to allow judicial appointment only when that method of appointment would not undermine the separation of powers among the three branches.

In the principal case dealing with the scope of the Clause, *Ex parte Siebold*, 100 U.S. 371 (1879), Congress vested in the courts the power to appoint election supervisors. The Court rejected the argument that the congressional action was unconstitutional because the supervisors exercised some executive functions. The Court noting that it "is no doubt usual and proper to vest the appointment of inferior officers in that department of the government . . . to which the duties of such officers appertain," the court concluded that "there is no absolute requirement to this effect in the Constitution." *Id.* at 397. At the same time, however, the Court emphasized that "in the present case there is no such incongruity in the duty required as to excuse the courts from its performance, or to render their acts void." *Id.* at 397-98. Indeed, "[n]either the President, nor any head of department, could have been equally competent to the task" of appointing election supervisors. *Id.* at 398.[3]

In my view, the *Siebold* decision is by no means controlling when evaluating the constitutionality of the Special Prosecutor provisions. *Siebold* did not involve appointment of a criminal prosecutor, who exercises purely executive functions. Further, I believe that there are at least some circumstances in which the courts would regard judicial appointment of a prosecutor—who has virtually unlimited discretion over the prosecution of a wide range of public officials for a host of alleged criminal violations—as creating the kind of "incongruity" against which the Court warned in *Siebold*.

The Act's restrictions on the President's removal power are also highly questionable. As the Supreme Court stated in the leading case of *Myers* v. *United States*, 272 U.S. 52, 121 (1926), a restriction on the removal power is generally "a much greater limitation upon the Executive branch and a much more serious blending of the legislative with the Executive than a rejection of a proposed appointment." *Myers* articulated the basic proposition, unquestioned in any subsequent case, that the President has the constitutional power to remove at his pleasure any official exercising purely executive functions, and that a congressional infringement on the removal power with respect to such officials is constitutionally impermissible.[4] If the Special Prosecutor exercises purely executive functions—and it seems plain that he does—the restrictions on the President's removal powers are highly questionable, and maybe justified, if at all, only by reference to the distinctive nature of the duties that the Special Prosecutor is called upon to perform.

The Supreme Court has indicated that limitations on the removal power might be justifiable when limited to extraordinary circumstances that make presidential control inappropriate. See *United States* v. *Perkins*, 116 H.S. 483 (1886); *Myers* v. *United States, supra*, 272 U.S. at 162; n.4 *supra*.[5]

Thus, the cases provide some support for the view that a restriction on the removal power may not, in circumstances involving a tangible and significant conflict of interest, be an impermissible infringement on Executive authority.

However, the Supreme Court has never upheld an Act of Congress that purported to prevent the President from discharging officers performing purely executive functions. Indeed, *Myers* suggests a general rule that any such Act would be unconstitutional. Therefore, we believe the Court might refuse to uphold the Special Prosecutor Act in light of the fact that it is the exclusive constitutional duty of the President to execute criminal laws. The grant of executive power solely to the President contains no exceptions—not even for conflict of interest cases. Therefore, I have serious reservations about the constitutionality of those provisions of the Act that deprive the President of powers to appoint, supervise, or remove the Special Prosecutor.

My constitutional reservations apply with particular strength to the breadth of the Act, which covers a range of Executive Branch officials in addition to the President, the Vice-President, advisers in the White House, the Attorney General, and high-level Justice Department employees. The necessary appearance of a conflict of interest may not be present in the case of many of those serving at Level III or IV of the Executive Schedule. For this reason, portions of the Act might well be unconstitutional as applied to those officials. Similarly, I believe that serious unconstitutional questions are raised by the Act's broad coverage of all crimes other than "a petty offense."

In concluding my discussion of the constitutional issues, I emphasize that although there are respectable arguments for the constitutionality of the Act on its face, the cumulative effect of the limits on the appointment and removal power, the absence of any Executive branch control of the exercise of exclusively executive functions, the breadth of the persons embraced by the Act, and the virtually unlimited scope of the criminal acts covered raise serious constitutional doubts about the Act as a whole. Of course, only a ruling by the Supreme Court would definitely resolve the constitutional issues. It is clear, however, that the Act has constitutional deficiencies in some or all of its applications and should be replaced with a statute that more closely conforms to constitutional principles of separation of power.

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[1] See *Myers* v. *United States*, 272 U.S. 52 (1926).

[2] *United States* v. *Nixon*, 418 U.S. 683, 693 (1977).

[3] See also *United States* v. *Solomon*, 216 F.Supp. 835 (S.D.N.Y. 1963) (upholding authority of the district court to appoint U.S. Attorneys in cases where temporary vacancies occur); *Hobson* v. *Hansen*, 265 F.Supp. 902, 911-16 (D.D.C. 1967).

[4] Congress has been permitted to restrict removal of officials who do not exercise purely executive functions. *See Wiener* v. *United States*, 357 U.S. 349 (1958); *Humphrey's Executor* v. *United States* 295 U.S. 602 (1935).

[5] I note that Congress properly concluded that removal power under the Act should not be vested in the courts, for that power would imply supervision over the Special Prosecutor's functions and perhaps impermissibly blend the prosecutorial and judicial tasks. *See United States* v. *Solomon*, 216 F.Supp. 235 (S.D.N.Y. 1963).

In conclusion, I would only reiterate my intention to offer an amendment. I also understand that other Senators will have amendments as well, including an effort to cover Members of Congress with this law.

Mr. President, I would ask that a letter from Mr. John Bolton, the Assistant Attorney General in charge of the Office of Legislative and Intergovernmental Affairs, plus an appendix to that letter which sets forth in detail the Department of Justice objections to S. 1293 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVENMENTAL AFFAIRS,
Washington, DC, September 4, 1987.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: This letter conveys the objections of the Department of Justice to S. 1293, the Independent Counsel Amendments Act of 1987, legislation which will permanently authorize the appointment of independent counsels by the judiciary and will amend the existing Independent Counsel statute to have far-reaching ill effects on law enforcement under this statute.

Over the past year, the Department has articulated its concerns about the constitutional and other infirmities of this legislation in testimony before the Senate and in writing. We have made frequent offers to work with Members to develop a constitutionally sound statute that will preserve the integrity of public office. However, in spite of our offers, none of the defects in the current statute or in S. 1293 have been corrected. Thus, should this bill be enacted, the Department of Justice will recommend its disapproval to the President on both constitutional and policy grounds. We highlight below our constitutional and law enforcement problems with S. 1293, which are discussed more fully in an appendix to this letter. We are available to discuss our concerns with any Member.

CONSTITUTIONAL DEFECTS

The Department has set forth its constitutional concerns regarding S 1293 and existing law both in testimony before the Governmental Affairs Subcommittee on Oversight of Government Management and by letter. Our letter of June 15, 1987 to Senator Levin states that S. 1293 disregards the constitutional imperative that federal prosecutors be accountable to the President. Simply put, to the extent that this legislation, and the present statute, authorize a prosecutor to investigate and prosecute federal crimes without such accountability, and render a prosecutor subject to the direction and control of a court rather than the Executive, we believe the statute and the legislation are unconstitutional.

The Committee itself recognizes the bill's constitutional infirmities, but in a wholly inconsistent manner. On the one hand, the Committee report comments that the bill's procedure for expanding an independent counsel's jurisdiction, requiring an independent counsel to approach the Attorney General rather than the special court, is a requirement that is founded on constitutional separation of powers concerns. On the other hand, the bill's attempt to prohibit the President from removing an independent counsel for failing to obey an order that "would compromise the independence of proceedings" or "otherwise violate the purposes of this chapter," raises no constitutional concerns with the Committee. Certainly, legislation which values a desired result more highly than the Constitution, should not be enacted.

LAW ENFORCEMENT PROBLEMS

The Department's views on the constitutional infirmities of this legislation are well-known. However, in addition to these concerns, S. 1293 creates serious practical problems for law enforcement under this statute.

For example, S. 1293 prohibits the Attorney General from considering lack of criminal intent in deciding that a preliminary investigation, which is conducted by the Attorney General and precedes the appointment of an Independent Counsel, is unnecessary. The implications of this prohibition, if plainly interpreted and enforced, are stunning. Many acts, if done with criminal intent, are crimes of some sort: the act of signing an erroneous travel voucher, which would be wholly innocent if the error is an unknown mathematical miscalculation, is a crime if done knowingly and willfully. Misstating a fact in congressional testimony, unfortunate but not criminal if done innocently, is perjury if done with a corrupt motive. The FBI Director's act of authorizing an undercover purchase of a stolen vehicle in order to gather evidence against a car-theft ring is not a crime, but only because of the absence of the required state of mind. Indeed, our notion of what is a "crime" is so infused with the notion of criminal intent that it is almost impossible to analyze conduct under the criminal code without reference to intent. Thus, it would be an absurd result if every few days an independent counsel had to be appointed to do nothing other than to decline to prosecute such facts.

The bill also includes new provisions governing the Attorney General's recusal from independent counsel matters that will also lead to absurd results. One provision requires that the Attorney General make a written recusant determination before making any other determination under the Act. This requirement creates a severe logistical burden, since each allegation that is developed in every case will have to be sent to the Attorney General for his personal consideration before any other steps can be taken in the investigation. A burdensome and time-consuming process under normal circumstances, this procedure would break down altogether at times when the Attorney General is out of the country or on vacation.

Finally, S. 1293 mandates the disclosure of sensitive investigatory information to the Congress, which would in turn be vested with the discretion to disclose this information at will. We have managed to work successfully with Congress in the past to accommodate the need for effective oversight and protect information about both open cases and sensitive cases. Forcing a process of accommodation into a rigid statutory framework, counterproductive in any case, is especially so under S. 1293, which requires that preliminary investigations be conducted in situations which will certainly not result in prosecution by an independent counsel, but which will nevertheless generate files of sensitive paperwork.

We have highlighted for you our most serious concerns with this legislation, and attach an appendix which discusses these concerns in detail. In view of the multiple, serious problems in this legislation, the Department of Justice opposes the enactment of S. 1293 and, should it be enacted, will recommend its presidential disapproval. The Office of Management and Budget has advised this Department that it has no objection to the submission of this report to Congress.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

APPENDIX

This appendix sets forth in detail Department of Justice objections to S. 1293.

1. CONSTITUTIONAL PROBLEMS

The Department's serious concerns about the constitutionality of the independent counsel statute have their roots in the constitutional imperative that all federal prosecutors must be accountable to the President. To the extent that the present statute authorizes a prosecutor to investigate and prosecute federal crimes without such accountability, and makes a prosecutor subject to the direction and control of a court rather than the Executive, we believe it is unconstitutional.

Our prior testimony, and our record of responsiveness to congressional committees' requests for information, establish the seriousness of our commitment to investigate and prosecute violations of law by high officials of the executive branch. We are also more concerned than ever that the proliferation of special arrangements outside the three branches of government to investigate and prosecute such cases threatens the coherence of our governmental structure and the ultimate source of its integrity; political responsibility.

Recent developments have confirmed our constitutional concerns about the dangers inherent in the operation of the independent counsel statute. Independent counsel Whitney North Seymour served a subpoena on the Canadian ambassador in defiance of the most basic principles of diplomatic immunity and over the protests of the State Department; independent counsel Alexia Morrison's investigation of Theodore B. Olson has now entered a second year without word of the prosecutor's intentions; the representation by an independent counsel of a private party under investigation by another independent counsel an unprecedented claim to special treatment for independent counsels under federal conflict of interest laws, laws that have been applied uniformly and without complaint to all federal prosecutors for over a century, and; the extraordinary role assumed by the court charged with appointing independent counsels in becoming an advocate for the very law which created that court.

As noted in Department testimony in the Senate, the Department of Justice has, with a single exception, consistently opposed the independent counsel legislation on constitutional grounds for fourteen years. That single exception was the Department's support in 1977, under Attorney General Griffin Bell, for the bill that was eventually enacted into law in 1978. We therefore found it significant to hear Judge Bell's critical comments on the law in testimony in the House, and his support for the view that the law be allowed to expire. Increasingly, more prominent members of the legal community who previously supported the law are recognizing and pointing out the serious harm that can be done by a prosecutor who is responsible to no one.

We believe abuses have arisen in connection with independent counsel investigations precisely because of the mistaken notion, incorporated into the statute, that a criminal prosecution can be allowed to go forward free of any constraints on the conduct of the prosecutor. This is not to say that there are not situations in which important public needs can be filled by an independent prosecutor. However such prosecutors can only be appointed by the Executive branch.

It is the power of public opinion that, under our constitutional system, is the ultimate check against Executive abuse. It is the prospect of embarrassment and obloquy, and ultimately impeachment, that in the end secures the Executive's constitutional commitment faithfully to execute the laws, not congressional efforts to wrest control of the prosecutorial process from duly appointed executive officials.

2. UNNECESSARY PRELIMINARY INVESTIGATIONS REQUIRED BY REVERSION TO PRE-1982 STANDARD

Section 591(a)(1) now requires the Attorney General to conduct a preliminary investigation when he receives information that a covered person may have committed a crime. These changes represent a reversion to the unsatisfactory standard that was amended in 1982 to provide that the Attorney General may conduct an investigation when he received information that a covered person has committed a crime. The bill's pre-1982 standard will require the conduct of many more preliminary investigations which will result in a conclusion that the appointment of an independent counsel is not warranted. Today, such fruitless machinations are avoided, and the flexibility to gather sufficient facts to make an informed judgment is maintained under existing law. The Department thus opposes reversion to the pre-1982 standard.

Section 591(a)(2) provides that the Attorney General may *only* consider specificity and credibility of the information in deciding whether to seek an independent counsel. In practice, there are the two major factors considered in any event, but there are other factors that bear on a determination that further investigation is warranted. For example, one that has been relied on in the past is that the information concerns conduct outside the statute of limitations. The Department opposes this change.

Section 591(a)(3) requires the Attorney General to decide within 30 days whether the information received is sufficient to trigger a preliminary investigation, or certain reporting requirements come into effect. This provision is entirely unnecessary. In fact, it is rare that a determination could not be made within 30 days. The effect of this provision will merely be to require the Attorney General to make a formal finding that existing facts do not trigger the Act, but that further inquiry is appropriate.

3. LENGTHIER PERIOD OF COVERAGE

As a general matter, the Department of Justice opposes any expansion of the coverage of this statute, and we note that one of the exemplary accomplishments of the 1982 amendments was to limit the application of the Act to covered individuals to two years after they left office. The extension of that coverage to five years in section 591(b)(6) is an unfair burden to former public officials. In addition, the one year extension past the incumbency of the President under which the covered individual held his or her position serves no useful purpose and should be avoided.

In addition, section 591(b)(8) changes the definition of covered campaign officers, but without resolving existing ambiguities or other problems. It is still not clear which officers are intended to be covered, whether officers of both campaigns are intended to be covered, and whether officers of campaigns during the primary period are intended to be covered. Furthermore, there is no reason for campaign officers to be covered for a potential eight years after the election simply because they worked on the campaign. We recommend that: 1) all Presidential campaigns be required to identify their top six national campaign officers in their FEC filings; 2) the campaign officials of a President seeking re-election be covered during the primary and election period and until inauguration, and; 3) the campaign officers of the successful candidate be covered for one year after the inauguration.

4. UNNECESSARY AND BUREAUCRATIC ATTORNEY GENERAL RECUSAL PROVISIONS

Section 591(c) would add Attorney General recusal provisions to the existing statute. Paragraph (c)(1) would require the United States Attorney for the District of Columbia to perform the duties of the Attorney General in any case where the Attorney General is disqualified. This provision presumptively and unnecessarily attributes any disability of the Attorney General in criminal cases to all other Department of Justice officials who would otherwise be in line to take up the Attorney General's responsibilities in cases where he is unable to act. This provision unnecessarily disrupts the Department's chain of command and presumes the worst about the independence and integrity of all the officials in that chain.

Section 591(c)(2) requires the Attorney General to make a written recusal determination before making any other determination under the Act. This requirement creates a severe logistical burden, since each allegation that is developed in every case will have to be sent to the Attorney General for his personal consideration before any other steps can be taken in the investigation. A burdensome and time-consuming process under normal circumstances, this procedure would break down altogether at times when the Attorney General is out of the country or on vacation.

5. CRIMINAL INTENT NO LONGER AN ELEMENT OF AN ATTORNEY GENERAL DECISION TO CONDUCT A PRELIMINARY INVESTIGATION

Section 592(a)(3)(B) prohibits the Attorney General from considering lack of criminal intent in deciding that a preliminary investigation, which is conducted by the Attorney General and precedes the appointment of an Independent Counsel, is unnecessary. The implications of this prohibition, if plainly interpreted and enforced, are stunning. Many acts, if done with criminal intent, are a crime of some sort: the act of signing an erroneous travel voucher, which would be wholly innocent if the error is an unknown mathematical miscalculation, is a crime if done knowingly and willfully. Misstating a fact in congressional testimony, unfortunate but not criminal if done innocently, is perjury if done with a corrupt motive. The FBI Director's act of authorizing an undercover purchase of a stolen vehicle in order to gather evidence against a car-theft ring is not a crime, but only because of the absence of the required state of mind. Indeed, our notion of what is a "crime" is also infused with the notion of criminal intent that it is almost impossible to analyze conduct under the criminal code without reference to intent. Thus, it would be an absurd result if every few days an independent counsel had to be appointed to do nothing other than to decline to prosecute such facts. In addition, this provision is an unconstitutional interference with the Attorney General's authority and responsibility to enforce the criminal laws. Where intent is an element of a criminal offense, the Attorney General must determine whether, under the statutory standard ("reasonable grounds to believe"), a crime may have been committed. If he determines that one or more elements of a crime are not present, he has no alternative but to conclude that the statutory standard for proceeding has not been met. If Congress wishes to modify any particular criminal statute so as to remove the intent requirement, it is free to do so, but it may not direct the Attorney General to exercise his prosecutorial discretion in a manner which would be contrary to existing law.

6. PRELIMINARY INVESTIGATION REQUIRED IN CASES NOT NORMALLY PROSECUTED

Section 592(c)(1) provides that the Attorney General is to consider policies concerning the "conduct of criminal investigations" in determining whether further investigation by an independent counsel is warranted. This is a seriously flawed reversion back to the pre-1982 statute. Prior to the 1982 amendments, the two independent counsels appointed that year were appointed to investigate allegations of one-time, personal drug use by White House staff members. It was the established policy of the Department at that time not to prosecute such matters at the federal level, and it was felt to be totally unfair to subject high-level government officials to expensive, intensive criminal investigations for alleged crimes for which no ordinary citizen would be prosecuted. The standard was therefore changed in the 1982 amendments to that found in existing law, which permits the Attorney General to take into account prosecution policies as well as investigation policies in determining whether to seek the appointment of an independent counsel. Reverting back to the pre-1982 standard proposed by this paragraph would require appointment of an independent counsel to investigate even crimes that the Department is on record as routinely declining to prosecute because of a lack of any substantial federal interest. This regression to a standard rejected as unfair by Congress five years ago is totally inappropriate.

7. NO FISCAL ACCOUNTABILITY FOR INDEPENDENT COUNSELS

Section 593(f) briefly refers to the independent counsel's obligation to undertake an investigation or prosecution "in a prompt, responsible, and cost-effective manner." Beyond this toothless exhortation, however, the bill does little to ameliorate the serious problems created by the independent counsel's present unrestricted access to the fiscal and personnel resources of the Department of Justice. The Department has urged on several previous occasions that some controls be imposed on the expenditures of independent counsels, and we take this opportunity to do so once again.

Section 594(i) would require the independent counsel to submit to the appointing court periodic reports on expenditures, to account for any "unexpected" expenses, and to estimate future budgetary needs. However, since these reports would be confidential unless the court chose to release them, neither Congress or the Department would be able to oversee independent counsel expenditures on a timely basis. In addition, we are not hopeful that an obligation to make financial reports to the court will have any particularly salutary effect on the spending habits of independent counsels. The rule that fiscal accountability can be enforced only by the hand that also controls the purse strings is one that Congress knows well. However, even if we were more sanguine about the likely efficacy of the proposed reporting system, we would in any event question the appropriateness of putting a court in the position of enforcing prosecutorial frugality.

8. CONSTRAINS JUSTICE DEPARTMENT ACCCESS TO CLOSED INDEPENDENT COUNSEL CASE RECORDS

Subsection (k) is new and places inexplicable limitations on access by the Department of Justice to information gathered in the course of independent counsel investigations. In order for the Department of Justice to obtain access to such records, the Attorney General must apply in writing to the National Archivist, who may then disclose such records to the Department only if they are necessary "for purposes of an ongoing law enforcement investigation or court proceeding," and, where applicable, in accordance with Rule 6(e) of the Federal Rules of Criminal Procedure, which protects grand jury information. Although the Committee report reveals that law enforcement investigations here includes civil as well as criminal proceedings, there may be instances in which administrative proceedings would involve such information, and the Department or other agency involved would only be able to obtain these records through a FOIA application. We see this restriction as needless and not well thought out.

9. REQUIRES DISCLOSURE OF SENSITIVE INVESTIGATION INFORMATION TO CONGRESS

We strongly object to the statutory requirements of congressional access to potentially sensitive information about ongoing criminal investigations. With regard to closed investigations, we do not object to disclosing investigative conclusions, but we strongly object to the disclosure of deliberative documents. We have managed to work with Congress in the past on a case-by-case basis, and believe that in the main we have managed to accommodate their informational needs while protecting information about our open cases. Forcing a process of accommodation into a rigid statutory framework is always counterproductive.

10. UNCONSTITUTIONALLY RESTRAINS POWER TO REMOVE INDEPENDENT COUNSELS

The bill would amend the statute's section on removal of an independent counsel by adding a provision that "removal for good cause shall not justify a removal based on a refusal of an independent counsel to obey an order of the President if that order would violate the purposes of this chapter." In order to withstand constitutional scrutiny, we would necessarily have to construe this provision simply to confirm the obvious and unexceptional proposition that an officer is bound to comply only with the lawful orders of a superior.

Beyond any constitutional problems, the phrase "if that order would violate the purpose of this chapter" is so vague that an independent counsel is left to guess as to when he must obey an order, which is unfair to him and potentially seriously harmful to the national interest.

Mr. HATCH. Mr. President, I yield the floor at this point.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have cleared this request with the distinguished Republican leader, and it has also been cleared with Mr. HATCH.

I ask unanimous consent that the pending measure be temporarily laid aside and that it not be called up until such time as the majority leader has consulted with the Republican leader, and in no event may it be called back with regular order until after the disposition of the Bork nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, this is the order which has the approval of the Republican leader, and he authorized me to put the request in his absence for the moment.

This means that the measure will not be called up again—regular order will not bring it back, either—until such time as the majority leader has consulted with the distinguished Republican leader, and in no event will a call for regular order bring it back prior to the disposition of the Bork nomination.

Mr. President, I had indicated that the Senate would go to the veterans bill on which there is a time agreement—that is S. 1464, Order No. 353—at around 12:30. Mr. CRANSTON will be here at 12:30 to manage that measure. It should not take too long. There is a time agreement thereon of 2 hours. I understand that the amendment by Mr. DURENBERGER will not be called up. We will have two rollcall votes.

Then we will go to the war powers resolution which has been introduced by Mr. WEICKER and Mr. HATFIELD. The pending question at that time will be on the amendment offered by the majority leader and Mr. WARNER. Mr. WEICKER has indicated that, after some discussion, he will move to table that amendment.

We may anticipate, I would say, at least three rollcall votes within the next 2 or 3 hours.

RECESS UNTIL 12:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:30 p.m. today. Before the Chair puts that request, I will exercise my authority under the order to have the veterans' bill laid before the Senate at the hour of 12:30 today.

There being no objection, the Senate, at 12:16 p.m., recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

TRAVEL PAYMENTS TO AND FROM VETERANS' ADMINISTRATION FACILITIES

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1464) to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE; REFERENCE TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—BENEFICIARY TRAVEL PROGRAM

SEC. 101. VETERANS' ADMINISTRATION BENEFICIARY TRAVEL PROGRAM.

Section 111 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f);

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Except as provided in subsection (g) of this section and notwithstanding subsection (f)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator, in such fiscal year, shall make the payments provided for in this section, subject to any applicable deduction under paragraph (2) of this subsec-

tion, to or for the following persons for travel for examination, treatment, or care:

"(A) A person receiving benefits under this title for or in connection with a service-connected disability.

"(B) A veteran receiving pension under section 521 of this tiile.

"(C)(i) A veteran whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) a veteran who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(D) A veteran whose travel to a Veterans' Administration facility was incident to a scheduled compensation and pension examination.

"(2)(A) Except as provided in subparagraph (B), (C), or (D) of this paragraph, the Administrator, in making a payment under this section to or for a person described in subparagraphs (A), (B), or (C) of paragraph (1) of this subsection for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3.75 for one-way each trip.

"(B) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to subparagraph (A) of this paragraph from payments for trips made to or from such facility during any such month shall not, except as provided in subparagraph (D) of this paragraph, exceed $22.50.

"(C) No deduction shall be made pursuant to subparagraph (A) of this paragraph in the case of a person whose travel to or from a Veterans' Administration facility was required to be performed by a special mode of travel and such travel (i) was authorized by the Administrator before such travel was commenced, or (ii) was in connection with a medical emergency of such a nature that the delay incident to obtaining authorization under clause (i) of this subparagraph would have been hazardous to the person's life or health. In the case of such travel, if the Administrator determines that providing payment prior to determining the eligibility of such person is in the best interest of furnishing care and services, the Administrator may so provide payment to the provider of the transportation subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

"(D) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in subparagraphs (A) and (B) of this paragraph as such amounts may have been increased or decreased pursuant to this subparagraph prior to such date.";

(3) in paragraph (4) of subsection (f) (as redesignated by clause (1))—

(A) by inserting "or adjusting amounts" after "rates" the first place it appears; and

(B) by inserting "and amounts" after "rates" the third place it appears; and

(4) by adding at the end the following new subsections:

"(g)(1) Whenever the Administrator exercises with respect to any fiscal year the authority to make payments under this section, the Administrator shall, not later than the fifteenth day after the date on which the Administrator so exercises such authority or the first day of such year, whichever is the later, make an allocation to each Veterans' Administration medical facility sufficient to enable the head of such facility to make such payments during the portion of the year beginning on the first day as to which the authority is exercised and ending on the last day of such year to persons eligible for such payments under subsection (b) of this section.

"(2)(A) In any fiscal year in which funds are allocated pursuant to paragraph (1) of this subsection, the head of each such facility, unless granted a waiver under subparagraph (B) of this paragraph and regulations which the Administrator shall prescribe thereunder, shall utilize such funds solely for the purpose of making payments under this section.

"(B)(i) In any case in which the head of such a facility demonstrates to the Chief Medical Director that, on April 12, 1987, such facility was making payments under this section at an annual expenditure level less than the annual expenditure level would have been if such payments were being made to all eligible persons in the maximum amounts then authorized under this section, the Chief Medical Director shall waive the provisions of subsection (b) of this section and authorize payments to be made at any such prior level or at any higher level, proposed by such facility head, that is less than the level that would otherwise be provided for under this section.

"(ii) In any other case in which the head of such a facility proposes to make payments under this section at an annual expenditure level less than the level that would otherwise be provided for under this section, if the Chief Medical Director determines that making payments at such lesser level, or at any higher level that is less than the level that would otherwise be provided for under such subsection, would be in the best interest of furnishing care and services to eligible veterans at such facility, the Chief Medical Director may waive the provisions of subsection (b) of this section and authorize payments to be made at the level specified in the Chief Medical Director's determination.

"(C) Any funds which are allocated to a facility pursuant to paragraph (1) of this section for the purpose of payments under this section but which, pursuant to a waiver granted under subparagraph (B) of this paragraph, are not expended for such purpose shall be available to the head of such facility to be expended for direct patient-care services.

"(h)(1) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans, primarily those residing in areas which are geographically accessible to such facilities, who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.

"(2) Not later than 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of this subsection.".

TITLE II—QUALITY ASSURANCE PROGRAM

SEC. 201. ESTABLISHMENT OF OFFICE OF MEDICAL INSPECTOR GENERAL.

(a) In General.—Chapter 73 is amended by inserting after section 4103 the following new section:

"§ 4103A. Office of Medical Inspector General

"(a) There is established in the Office of the Chief Medical Director an Office of Medical Inspector General.

"(b) The Office of the Medical Inspector General shall consist of the following:

"(1) The Medical Inspector General who (A) shall be the head of the Office of Medical Inspector General, (B) shall be directly responsible to the Chief Medical Director for such functions as may be assigned to the Medical Inspector General in regulations prescribed by the Chief Medical Director consistent with the provisions of this section, and (C) shall be a qualified doctor of medicine appointed by the Administrator upon recommendation of the Chief Medical Director.

"(2) Not less than five Assistant Medical Inspectors General who shall be qualified doctors of medicine, doctors of dental surgery or dental medicine, or registered nurses and who shall be employed on a full-time basis in the Veterans' Administration.

"(3) Not less than two registered nurses (including any who are Assistant Medical Inspectors General) who are employed on a full-time basis in the Veterans' Administration.

"(4) Not less than one qualified doctor of dental surgery or dental medicine (who may be an Assistant Medical Inspector General) who is employed on a full-time basis in the Veterans' Administration.

"(5) Not less than five support personnel, who are employed on a full-time basis in the Veterans' Administration.

"(c) The Medical Inspector General shall be appointed for a term of 4 years, with reappointment permissible for successive like periods. The Medical Inspector General shall be subject to removal by the Administrator only for reasonable cause upon the recommendation of the Chief Medical Director.

"(d)(1) The Medical Inspector General shall monitor, review, and investigate any adverse incident which is experienced by a patient during the course of the patient's care in a Veterans' Administration health-care facility, including any incident that would not normally be considered a natural consequence of the patient's disease process or illness and any incident that would carry a recognized need for medical intervention.

"(2) The Medical Inspector General shall also conduct such reviews and investigations as the Medical Inspector General considers necessary to identify problems in the provision of health care to veterans and, when problems are detected, shall propose to the Chief Medical Director such corrective measures as the Medical Inspector General considers necessary or appropriate.

"(3) The Medical Inspector General shall conduct such other studies, reviews, and investigations relating to the quality of health

care provided to veterans as the Administrator or the Chief Medical Director may assign to the Medical Inspector General.

"(4) Subject to paragraph (3) of this subsection, the Medical Inspector General shall have sole discretion in determining whether to investigate any incident involving patient care or to study or review any problem in the provision of health care to veterans.

"(e) In conducting an investigation of any incident involving the care of a patient or any study or review of any problem in the provision of health care to veterans, the Medical Inspector General shall assign to the investigation, study, or review at least one health-care professional from the Office of the Medical Inspector General.

"(f) The Medical Inspector General shall submit to the Administrator, the Chief Medical Director, and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report not later than February 1 of each year, on the activities of the Office of the Medical Inspector General under this section during the preceding fiscal year. The Medical Inspector General shall include in each such report—

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department of Medicine and Surgery disclosed by such activities during the preceding fiscal year;

"(2) a description of (A) the recommendations for corrective action and of any recommendations for disciplinary action made by the Office during the preceding fiscal year with respect to significant problems, abuses, or deficiencies identified pursuant to clause (1) of this subsection, and (B) the action taken as of the end of such fiscal year on each such recommendation, including any such recommendations on which action had not been completed prior to the end of such fiscal year;

"(3) a specification of (A) which activities of the Office were carried out pursuant to an assignment by the Administrator or the Chief Medical Director, and (B) which activities of the Office were carried out on the initiative of the Medical Inspector General;

"(4) an identification of each significant recommendation for corrective or disciplinary action described in the report or in previous annual reports under this subsection on which action has not been completed;

"(5) a summary of any matters referred to prosecutorial authorities and the prosecutions and convictions which have resulted; and

"(6) a summary of each incident in which information or assistance requested by the Medical Inspector General from the Department of Medicine and Surgery during the preceding fiscal year has been, in the judgment of the Medical Inspector General, unreasonably refused or not provided.

"(g) The Medical Inspector General shall be an ex officio, nonvoting member of all policymaking bodies within the central office of the Department of Medicine and Surgery that are concerned with the quality of health care provided in Veterans' Administration facilities or that are concerned with quality assurance in the provision of such care. The Medical Inspector General shall not, however, have any direct responsibility for quality assurance activities, including patient risk management and the reporting of patient injuries under quality assurance procedures.

"(h)(1) The Administrator shall transfer to the Office of the Medical Inspector General each fiscal year, out of any funds available to the Veterans' Administration for such fiscal year (other than funds available for the operation of the central office of the Department of Medicine and Surgery), such amounts as may be necessary, as determined by the Chief Medical Director, to support five full-time medical doctors and five full-time support personnel in the Office of the Medical Inspector General.

"(2) The positions of five full-time medical doctors and five full-time support personnel in the Office of Medical Inspector General shall be counted against the number of full-time employees authorized by the Office of Management and Budget for the program, function, or activity for which the funds transferred pursuant to paragraph (1) of this subsection would be available except for the transfer of such funds. In the event that the Administrator transfers funds from more than one program, function, or activity, the ten full-time positions shall be counted against the number of such positions authorized by the Office of Management and Budget for each such program, function, or activity in proportion to the amount of funds transferred therefrom.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4103 the following:

"4103A. Office of Medical Inspector General.".

SEC. 202. ASSISTANT CHIEF MEDICAL DIRECTOR FOR QUALITY ASSURANCE.

Section 4103(a)(4) is amended by adding at the end the following new sentence: "One Assistant Chief Medical Director shall be a qualified physician trained in, or having suitable extensive experience in, health-care quality assurance and risk management who shall be responsible to the Chief Medical Director for carrying out the responsibilities assigned to the Chief Medical Director in subchapter V of this chapter and such related responsibilities as are assigned to the Assistant Chief Medical Director by the Chief Medical Director.".

SEC. 203. IMPLEMENTATION OF THE HEALTH CARE QUALITY ASSURANCE PROGRAM.

Section 4151 is amended by adding at the end the following:

"(f) The Chief Medical Director shall take such action as may be necessary to ensure that all personnel of the Department of Medicine and Surgery—

"(1) are given an explanation periodically of their responsibilities for the quality assurance activities of such department; and

"(2) are advised that any failure to comply with quality assurance procedures prescribed in regulations or in procedural publications issued by the Department of Medicine and Surgery, including any failure to report any incident as required under such procedures, will result in appropriate disciplinary action.".

SEC. 204. ESTABLISHMENT OF THE VETERANS' ADMINISTRATION ASSISTANT INSPECTOR GENERAL FOR HEALTH CARE QUALITY ASSURANCE REVIEW.

(a) IN GENERAL.—(1) Chapter 3 is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—OTHER VETERANS' ADMINISTRATION OFFICES

"§ 250. Assistant Inspector General for Health Care Quality Assurance Review

"(a) There is established in the Veterans' Administration Office of the Inspector General, in addition to the positions of Assistant Inspector General of the Veterans' Administration provided under section 3(d) of the Inspector General Act of 1978 (5 U.S.C. App. 3), the position of Assistant Inspector General for Health Care Quality Assurance Review.

"(b) The Administrator shall make available to the Office of the Inspector General sufficient resources to provide for an Assistant Inspector General for Health Care Quality Assurance Review and the personnel required by subsection (d) of this section and to enable such Assistant Inspector General and personnel to perform the duties of such Assistant Inspector General.

"(c) The Assistant Inspector General for Health Care Quality Assurance Review shall be a qualified doctor of medicine appointed by the Inspector General of the Veterans' Administration.

"(d) The staff of the Assistant Inspector General for Health Care Quality Assurance Review shall include the following:

"(1) Not less than two qualified doctors of medicine.

"(2) Not less than one qualified doctor of dental surgery or dental medicine.

"(3) Not less than one qualified registered nurse.

"(4) Not less than one attorney who has expertise in health-care law.

"(5) Not less than one individual who has expertise in health-care quality assurance and risk management.

"(6) Not less than one individual who has expertise in health-care administration.

"(7) A sufficient number of support and additional personnel, but not less than the equivalent of five full-time personnel, to enable the Assistant Inspector General for Health Care Quality Assurance Review to perform the duties of such Assistant Inspector General.

"(e) The Assistant Inspector General for Health Care Quality Assurance Review, in addition to performing (with respect to activities of the Department of Medicine and Surgery) such other functions and duties prescribed for the Inspector General of the Veterans' Administration in the Inspector General Act of 1978 (5 U.S.C. App. 3) as may be directed by the Inspector General, shall—

"(1) monitor, including thorough reviews of Veterans' Administration health-care facilities, the establishment and implementation of the health-care quality assurance and risk management programs of the Department of Medicine and Surgery;

"(2) monitor the activities of the Medical Inspector General of the Department of Medicine and Surgery;

"(3) recommend that the Medical Inspector General of the Department of Medicine and Surgery conduct such investigations as the Assistant Inspector General for Health Care Quality Assurance Review considers appropriate;

"(4) coordinate the activities of the Assistant Inspector General with the activities of the Medical Inspector General of the Department of Medicine and Surgery;

"(5) review any investigation conducted by the Medical Inspector General of the Department of Medicine and Surgery of any adverse incident or incidents occurring during the course of furnishing health-care services in a Veterans' Administration facility or facilities and make such recommendations for additional action to such Medical Inspector General as the Assistant Inspector General considers appropriate;

"(6) monitor and analyze the collection and analysis of quality assurance and risk management information by the Depart-

ment of Medicine and Surgery (including information relating to medical malpractice claims), review such quality assurance and risk management information in order to identify data that is not collected and should be collected, and monitor the analysis by the Department of Medicine and Surgery of trends in the provision of health-care services by such Department;

"(7) make to the Inspector General such recommendations for corrective action on health-care matters as the Assistant Inspector General considers appropriate; and

"(8) monitor the implementation of recommendations for corrective action made to the Administrator by the Inspector General on health-care matters.

"(f) The Inspector General of the Veterans' Administration, in addition to preparing and submitting the reports required by the Inspector General Act of 1978 (5 U.S.C. App. 3), shall submit to the Administrator and the Committee on Veterans' Affairs of the Senate and the House of Representatives, not later than February 1 of each year, a report containing—

"(1) a discussion of the activities undertaken by the Assistant Inspector General for Health Care Quality Assurance Review during the fiscal year preceding the fiscal year in which the report is submitted, including—

"(A) the findings and conclusions resulting from such activities;

"(B) the recommendations made (on the basis of such activities) by the Inspector General to the Administrator for corrective action in the activities of the Department of Medicine and Surgery; and

"(C) any corrective actions taken with respect to those recommendations; and

"(2) a discussion of the activities undertaken by the Assistant Inspector General for Health Care Quality Assurance Review to monitor the activities of the Medical Inspector General of the Department of Medicine and Surgery during the fiscal year preceding the fiscal year in which the report is submitted, including—

"(A) the findings of the Inspector General of the Veterans' Administration and the Assistant Inspector General on the activities of the Medical Inspector General during such preceding fiscal year;

"(B) the recommendations, if any, made by the Inspector General of the Veterans' Administration to the Chief Medical Director or the Administrator on the basis of such monitoring activities, including any recommendations for remedial or disciplinary actions as a result of such activities; and

"(C) an assessment of the extent to which the Inspector General has been effective during such preceding fiscal year in bringing about such recommended remedial and disciplinary actions.

"(g) The rate of pay for the position of Assistant Inspector General for Health Care Quality Assurance Review shall be the same rate of pay established for the positions of the other Assistant Inspectors General of the Veterans' Administration.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER V—OTHER VETERANS' ADMINISTRATION OFFICES

"250. Assistant Inspector General for Health Care Quality Assurance Review.".

(b) RESOURCES FOR MONITORING QUALITY ASSURANCE PROGRAM.—Section 4151(e)(2) is amended by inserting "to the Assistant Inspector General for Health Care Quality Assurance Review" after "qualifications)".

TITLE III—VIETNAM VETERANS' READJUSTMENT COUNSELING PROGRAMS

SEC. 301. READJUSTMENT COUNSELING PROGRAM IMPROVEMENTS.

(a) Section 612A is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "Upon";

(B) by amending the first sentence of paragraph (1) (as redesignated by clause (A) of this section) to read as follows:

"(1) Upon the request of—

"(A) any veteran who served on active duty during the Vietnam era, or

"(B) any veteran who served on active duty after May 7, 1975, in an area during a period in which hostilities (as defined in paragraph (3) of this subsection) occurred in such area,

the Administrator shall furnish counseling to assist such veteran in readjusting to civilian life."; and

(C) by adding at the end the following new paragraphs:

"(2) Upon the request of (A) any veteran who served on active duty during World War II or the Korean conflict, or (B) any person who is serving on active duty and who served on active duty during either of the periods described in clause (A) or (B) of the first sentence of paragraph (1) of this subsection, the Administrator may furnish counseling to such veteran or person in overcoming any psychological problems associated with such veteran's or person's service during such period. In furnishing counseling under clause (A) of the first sentence of this paragraph, the Administrator shall place particular emphasis on the needs of those who engaged in combat with the enemy. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran or person has mental or psychological problems associated with such veteran's or person's active military, naval, or air service.

"(3) For the purposes of subparagraph (1)(B) of this subsection, the term 'hostilities' means a situation in which members of the Armed Forces were, as determined by the Administrator in consultation with the Secretary of Defense, subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in battle with the enemy during a period of war.";

(2) in subsection (d)—

(A) by inserting "(1)" before "The"; and

(B) by adding at the end the following new paragraph:

"(2)(A) Any individual who has satisfactorily completed 2 years of substantially continuous employment in the program established to carry out this section under a time-limited appointment and who is so employed on the ninetieth day after the date of the enactment of this paragraph shall be converted by the Administrator to career-conditional or career employment. Such conversion shall be accomplished not later than (i) 30 days after the date on which such 2-year period has expired, or (ii) 120 days after the date of the enactment of this paragraph, whichever is the later. An employee converted under this paragraph shall automatically acquire a competitive status.

"(B) Not later than 15 days after an individual becomes entitled to conversion under subparagraph (A) of this paragraph, the Administrator shall notify such individual of such entitlement and the timetable for such employee's conversion.";

(3) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

"(1)(A) No Vet Center in existence on July 1, 1987, may be closed or relocated to another location unless the Chief Medical Director—

"(i) determines, in accordance with subparagraph (B) of this paragraph and pursuant to regulations prescribed by the Chief Medical Director, that such closure or relocation will not result in any diminution in the continuing availability and effective furnishing of readjustment counseling services to persons entitled to and needing such services in the geographic area served by such Vet Center, and so certifies in the notification described in clause (iii) of this subparagraph;

"(ii) in the case of such a relocation, certifies in such notification that the requirements of subparagraph (C) of this paragraph will be met; and

"(iii) provides to the Committees on Veterans' Affairs of the Senate and the House of Representatives at least 60 days prior to any such closure or relocation a notification thereof, including a description of the results of the consideration given to the factors specified in subparagraph (B) of this paragraph.

"(B) In making a determination under clause (i) of subparagraph (A) of this paragraph, the Chief Medical Director shall give full consideration to—

"(i) the distribution of Vietnam-era veterans in the geographical area served by the existing Vet Center and the relationships between the location of such Vet Center and the general Veterans' Administration facility and such distribution;

"(ii) the distance between the existing Vet Center and the general Veterans' Administration facility;

"(iii) the acceptability of the proposed closure or relocation to (I) the staff of both the existing Vet Center and the general Veterans' Administration facility, (II) representatives of veterans' service organizations located in the geographic area served by the existing Vet Center, and (III) individual veterans who are being furnished services at the existing Vet Center;

"(iv) the availability of other entities, such as State, local, or private outreach facilities, which provide assistance to Vietnam-era veterans in the area served by the existing Vet Center;

"(v) the availability of transportation to, and parking at, the existing Vet Center and the general Veterans' Administration facility;

"(vi) the availability, cost, and suitability of the space at the general Veterans' Administration facility, including the opportunity to establish a direct entry into the area where readjustment counseling services would be furnished and the suitability of the environment where such services would be furnished;

"(vii) a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the existing Vet Center and the general Veterans' Administration facility;

"(viii) the impact of the proposed closure or relocation on the program at the existing Vet Center pursuant to which eligible veterans are furnished readjustment counseling services by private facilities under a contract with the Veterans' Administration; and

"(ix) the workload trends over the prior 2 fiscal years at the existing Vet Center; and *"(x) such other factors, specified in the regulations prescribed under subparagraph (A)(i) of this paragraph, as the Chief Medical Director determines are relevant to making the determination described in such subparagraph (A)(i).*

"(C)(i) Except as provided in division (ii) of this subparagraph, in the case of a relocation of a Vet Center to a general Veterans' Administration facility, not less than the average annual budget and personnel ceiling provided to such Vet Center in each of the 3 fiscal years prior to such relocation (calculated on an annualized basis for any year in which a Vet Center was not operational for an entire year) will remain available to furnish readjustment counseling services for 2 full fiscal years following such relocation.

"(ii) In the event that the Chief Medical Director determines at the end of the first full fiscal year following such relocation that the demand for services at the relocated Vet Center's current location, when compared with the demand for services at such Vet Center's prior location, does not then justify the budget and personnel ceiling levels described in division (i) of this subparagraph, the Chief Medical Director may, as an exception to such division, reduce such levels to such levels needed to meet such demand and the estimated future demand for such services if (I) the Chief Medical Director determines that relocation of the Vet Center to a location away from the general Veterans' Administration facility is highly unlikely to result in a demand sufficient to justify the levels initially provided, and (II) the Chief Medical Director promptly notifies the Committees on Veterans' Affairs of the Senate and the House of Representatives of such determinations and the bases therefor.

"(D)(i)(I) Any proposed closure or relocation during any fiscal year after fiscal year 1988 of more than 10 percent of the Vet Centers in existence on July 1, 1987, shall be deemed to be an administrative reorganization for the purposes of section 210(b)(2) of this title.

"(II) Not more than 5 percent of the Vet Centers (including relocated Vet Centers) in existence on July 1, 1987, may be closed or relocated to a general Veterans' Administration facility prior to October 1, 1988.

"(ii)(I) Except as provided in subdivision (II) of this division, in the event of a proposed administrative reorganization as described in division (i) of this subparagraph, the Administrator, at the time specified in subparagraph (A) of such section 210(b)(2), shall submit, in lieu of a report containing a detailed plan and justification, a notification as described in subparagraph (A)(iii) of this paragraph including information as to each Vet Center or relocated Vet Center that is proposed to be closed or relocated and a justification of such proposed administrative reorganization in light of the contents of the report required to be submitted by paragraph (2) of this subsection, particularly the contents of such report in response to the requirement in the second sentence of subparagraph (A) of such paragraph.

"(II) In the event of a proposed administrative reorganization as described in division (i) of this subparagraph which is proposed to take effect in fiscal year 1989, the Administrator may delay submitting the notification described in subdivision (I) of this division until the date on which the report required by subsection (g)(2) of this section is submitted or to April 1, 1988, whichever is the earlier.

"(E) For the purposes of this paragraph—

"(i) the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a Vet Center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a Vet Center; and

"(ii) the term 'relocated Vet Center' means a Vet Center that has been relocated to a general Veterans' Administration facility.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(II) by striking out "(or" and all that follows through "available)";

(ii) in subparagraph (B)—

(I) by striking out in clause (i) "a program" and all that follows through "health-care facilities" and inserting in lieu thereof "Vet Centers"; and

(II) in clause (ii) by striking out "paragraph (1) of"; and

(C) by striking out paragraphs (3) and (4);

(4) by redesignating subsection (h) as subsection (i);

(5) by inserting after subsection (g), the following new subsection:

"(h)(1) The Administrator may provide to eligible veterans at Vet Centers, in addition to furnishing readjustment counseling services under this section, other services (including counseling with respect to, and assistance in applying for, all benefits and services under laws administered by the Veterans' Administration for which such veterans may be eligible) that the Administrator is authorized to furnish such veterans.

"(2) The Administrator may assign such personnel and other resources as are necessary to provide such additional services under this subsection and are otherwise available to the Administrator for such purpose."; and

(6) by adding at the end the following new subsection (j):

"(j) For the purposes of this section:

"(1) The term 'Vet Centers' mean facilities (including Centers) which are operated by the Veterans' Administration for the provision of services under this section and which (except in the cases of 'relocated Vet Centers' (as that term is defined in subsection (g)(1) of this section)) are situated apart from Veterans' Administration general health-care facilities.

"(2) The term 'Veterans' Administration general health-care facilities' means health-care facilities which are operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the programs established under this section.".

(b) Not later than 150 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendment made by subsection (a)(2)(B). Such report shall include information on the number of employees employed under a time-limited appointment on the date 90 days after such date of enactment, the number, assignment, and duty station of those converted to career-conditional or career employment by the date 120 days after such enactment date, and the plans and timetable for accomplishing the conversion of other such employees.

SEC. 302. POSTPONEMENT OF REPORT DUE DATE.

Section 102(b) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 994) is amended by striking out "October 1, 1986" and inserting in lieu thereof "October 1, 1987".

SEC. 303. PROHIBITION ON DELEGATION OF AUTHORITY.

The functions and authorities assigned to the Chief Medical Director of the Veterans' Administration by any provision of this title or any amendment made by this title may not be delegated to or exercised by any other official.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise to urge my colleagues to support passage of S. 1464—the proposed Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987—as unanimously reported from the Committee on Veterans' Affairs on July 31. This bill as reported, which has 40 cosponsors and which I will refer to as the committee bill, has three titles. Title I incorporates provisions derived from S. 1464, the proposed Veterans' Administration Beneficiary Travel Restoration Act of 1987. Title II incorporates provisions from S. 1443, the proposed Veterans' Administration Medical Inspector General Act of 1987, and S. 1444, the proposed Veterans' Administration Assistant Inspector General for Health Care Quality Assurance Review Act of 1987. Title III is derived from S. 1501, the proposed Vietnam Veterans Readjustment Counseling Program Preservation Act; and amendment No. 610 to it.

S. 1464, which I introduced on July 1, 1987, was cosponsored by the ranking minority member, Senator MURKOWSKI, committee members MATSUNAGA, DECONCINI, ROCKEFELLER, GRAHAM, and STAFFORD, and Senators MOYNIHAN, HEFLIN, BINGAMAN, DODD, DASCHLE, SANFORD, CHILES, COHEN, EVANS, and GRASSLEY. Joining later as cosponsors were committee members THURMOND and SPECTER and Senators ROTH, HECHT, COCHRAN, BAUCUS, SHELBY, BURDICK, BRADLEY, PRYOR, ADAMS, LEAHY, GORE, TRIBLE, KERRY, MELCHER, INOUYE, and SIMON. As introduced, S. 1464 provided for the payment of beneficiary travel reimbursements—payements generally made to certain veterans to defray the expenses of their travel to Veterans' Administration health care facilities—to certain service-connected disabled veterans and low-income veterans, and provided for a deductible of $3.75 per one-way trip from such reimbursements, except that a maximum total of $22.50 in deductibles would have been required of certain frequent users of VA care, and no deductible would have been required in connection with special mode or emergency transportation.

On June 26, 1987, S. 1443 and S. 1444 were introduced as complementary measures. S. 1443, which I introduced, was cosponsored by ranking minority member Murkowski and committee members Matsunaga, DeConcini, Graham, and Simpson, and proposed the upgrading within the VA's Department of Medicine and Surgery [DM&S] of the medical investigation, quality assurances, and risk management programs and operations by establishing an autonomous Office of the Medical Inspector General [MIG], with specified staffing and direct accountability to the Chief Medical Director, which would be charged with investigating reports of inadequate quality of care, and by establishing an Assistant Chief Medical Director for Quality Assurance. S. 1444 introduced by Senator Murkowski, which I cosponsored along with committee members Specter, Simpson, Thurmond, Matsunaga, DeConcini, and Graham, proposed upgrading the monitoring by the VA's independent inspector general of DM&S's quality assurance, risk management, and inspection activities by establishing a new Assistant Inspector General for Health Care Quality Assurance Review with a specified minimum staffing level and a statutory functional statement.

On July 15, 1987, I introduced S. 1501 with the cosponsorship of committee members Senators Matsunaga, DeConcini, Mitchell, Rockefeller, and Graham, and Senators Dodd, Kerry, Gore, Harkin, and Daschle. Joining later as cosponsors were Senators Cohen, Simon, Pell, and Bingaman. As introduced, S. 1501 proposed to grant readjustment counseling entitlement or eligibility to certain additional categories of veterans and active duty personnel, would have eliminated the requirement in current law that the Administrator of Veterans' Affairs carry out a transition under which community based vet centers would be moved to general VA facilities, and would have provided standards and procedures governing any closure or relocation of existing vet centers.

On July 17, 1987, I submitted amendment No. 610 to S. 1501. Amendment No. 610 to make a technical correction in the description of two groups of individuals who would be given entitlement to readjustment counseling by S. 1501 so as to clarify that individuals in those two groups are active duty personnel.

Mr. President, due to the urgency accompanying these issues, these measures were not the subject of specific committee hearings. However, testimony was received at the committee's February 17 and 18 and May 21 hearings in regard to a proposed 1-year extension of the vet center program and provisions relating to eligibility for such services. Also, certain comments were received in the form of letters and informal communications from the Veterans' Administration, the Department of Defense, veterans' service organizations, and others interested in the various issues. These comments and testimony were carefully reviewed prior to the committee meeting and taken into careful consideration when the legislation was considered.

COMMITTEE BILL AS REPORTED

Mr. President, title I, Beneficiary Travel Program, includes provisions which would establish a statutory framework pursuant to which beneficiary travel reimbursement would be made to certain veterans in connection with their travel to VA facilities. These provisions would:

First, require the Administrator of Veterans' Affairs, if the Administrator makes any beneficiary travel payments in any fiscal year, to provide beneficiary travel reimbursements during that year to those who were eligible for such payments prior to the issuance on April 13, 1987, of VA regulations restricting eligibility; namely, persons receiving benefits for or in connection with a service-connected disability, veterans with annual incomes not more than pension rates, and those who are otherwise unable to defray the cost of transportation.

Second, apply a $3.75 one-way deductible in connection with any such travel except for veterans traveling by special modes of transportation or to take compensation and pension examinations.

Third, limit the veterans' cost as a result of the deductible to a maximum $22.50 per month for those who, prior to such travel, are approved by the VA as being required to make frequent trips to the VA.

Fourth, require the Administrator, with respect to any fiscal year in which the Administrator makes any beneficiary travel payments, to allocate to each VA medical facility funds sufficient to make such payments in accordance with the provisions described in items 1 to 3, above.

Fifth, provide to VA facility directors, subject to the approval of the Chief Medical Director [CMD], flexibility to reduce or eliminate beneficiary travel reimbursements under certain circumstances and thus make certain beneficiary travel funding allocations available for direct health care purposes.

Sixth, require the Administrator to promote the establishment and maintenance of transportation networks, in conjunction with veterans' service organizations and the Secretary of Transportation, to promote local transportation for veterans to VA facilities.

Title II, Quality Assurance Program, includes provisions which would establish an expanded and autonomous Office of the Medical Inspector General and strengthen the activities of the Office of the Inspector General for the purpose of ensuring a high quality of health care within VA facilities. Mr. President, these provisions would:

First, establish an expanded and autonomous Office of the Medical Inspector General [MIG], directly accountable to the CMD, with specified support positions and funding and responsibility for investigating reports of inadequate quality of care and other matters relating to quality of care as determined by the MIG or CMD.

Second, establish the position of Assistant Chief Medical Director for Quality Assurance directly accountable to the CMD and with responsibility for the VA's statutorily mandated quality assurance program.

Third, require the CMD to issue regulations prescribing appropriate disciplinary action when employees fail to comply with reporting requirements relating to the quality assurance program.

Fourth, establish within the VA's Office of Inspector General [IG] an Assistant Inspector General for Health Care Quality Review, and support positions, responsible for comprehensive monitoring of the functioning of the MIG's operation as well as of the DM&S quality assurance and risk management programs.

Fifth, require the MIG and IG to submit annual reports on their activities, findings, and recommendations for the preceding fiscal year to the CMD, Administrator, and House and Senate Committees on Veterans' Affairs.

Mr. President, title III, Vietnam Veterans' Readjustment Counseling Programs, includes provisions which would, among other things, repeal the requirement in current law that the Administrator of Veterans' Affairs must carry out a transition under which a majority of community based vet centers would be moved to general VA facilities and provide standards and procedures governing any closure or relocation of existing vet centers. These provisions would:

First, eliminate the statutory mandate for the transition of the Vietnam-era veteran readjustment counseling program from one conducted primarily through vet centers in community locations to one conducted primarily through VA medical facilities.

Second, replace the statutory mandate with provisions permitting the closure of a vet center or the relocation of a vet center in a general VA facility, such as a VA medical center, only upon case-by-case determinations by the Chief Medical Director after taking into account certain criteria relating to ensuring the continued availability and effective provision of readjustment counseling services.

Third, require that 60 days' advance notification, including the results of consideration of the specified criteria, be submitted to the Veterans' Affairs Committees before any such relocations are made.

Fourth, protect for 2 years the budget and personnel ceiling for any vet center relocated to a VA medical facility but would allow the CMD to reduce the budget and ceiling after 1 year on the basis of a determination of a real reduction in workload.

Fifth, provide for the closure or relocation in any fiscal year of 10 percent or more of the vet centers in existence on July 1, 1987, to be deemed to be an "administrative reorganization" for the purposes of existing reorganization requirements in section 210(b) of title 38, thereby allowing such a reorganization to proceed for a fiscal year only if, at the time of the President's budget submission for that fiscal year—approximately 8 months before the first day thereof—Congress is given notification of the reorganziation and certain information relating to the bases for it.

Sixth, extend entitlement for readjustment counseling to veterans who have served in hostilities after May 7, 1975, the end of the Vietnam era.

Seventh, extend eligibility for readjustment counseling to active duty personnel who served during the Vietnam era or in hostilities after May 7, 1975, the end of the Vietnam era, and to World War II and Korean conflict veterans, with particular emphasis in the furnishing of counseling on the needs of those who served in combat.

Eighth, explicitly authorize the provision of appropriate Department of Veterans' Benefits and health services at vet centers.

Ninth, require that, 90 days after the date of enactment, all vet center personnel who have served satisfactorily and substantially continuously for 2 years be converted to career positions.

TITLE I—BENEFICIARY TRAVEL PROGRAM

PURPOSE

Mr. President, the basic purpose of title I of the committee bill, as reported, is to restore beneficiary travel reimbursements which were significantly reduced by amendments to the governing regulations which, effective April 13, 1987, eliminated VA payments for the nonemergency travel by nonspecial mode of transportation of veteran patients who live within a 100-mile radius of the facility at which they seek health care.

Section 111 of title 38, United States Code, in conjunction with certain other title 38 authorities, provides a discretionary program for the payment of the necessary travel expenses of certain VA beneficiaries. Section 111 specifies that the Administrator may provide reimbursement or allowances to certain veterans, dependents, and survivors traveling in connection with vocational rehabilitation or educational counseling or for the purpose of examination, treatment, or care as authorized under title 38 or other law. Those eligible for payment include: First, veterans and dependents or survivors receiving benefits in connection with a service-connected disability; second, veterans receiving pensions under section 521 of title 38; third, persons whose annual incomes do not exceed the maximum annual rate of pension that would be applicable under section 521 if they were otherwise eligible for pension; and fourth, persons who have been determined, pursuant to regulations promulgated by the Administrator, to be unable to defray the expenses of travel. In 1983, the VA published regulations, codified in section 17.100 of title 38 of the Code of Federal Regulations and modified by the April 13 amendments, which provide for paying travel expenses based on inability to defray only when the individual "can present clear and convincing evidence, in a form prescribed by the Administrator, to show the inability to defray the cost of transportation" or "when medically indicated ambulance transportation is claimed and an administrative determination is made regarding the claimant's ability to bear the cost of such transportation.

On April 13, 1987, the VA issued revised beneficiary travel regulations to implement reductions proposed by the Administrator in the VA's fiscal year 1987 budget. Initially, in January 1986, the Administration had requested only $10 million for fiscal year 1987 for this program, for which the VA spent $106.7 million in fiscal year 1986. Once fiscal year 1987 began and it became clear that such a reduced funding level was not workable, even for the program as planned to be restricted, the Administration made an additional $58 million available for the beneficiary travel program by realigning to it, within the VA's medical care account, funds that had been intended to be used for capital investments. The resulting $68 million was later proposed to be increased by a total of $17 to $85 million. In the joint explanatory statement accompanying the conference report on the fiscal year 1987 Supplemental Appropriations Act, Public Law 100-71, the conferees redirected $10 million to the program, and on August 11, 1987, the VA proposed that an additional $7 million be reprogrammed to beneficiary travel payments as a result of the delay until April 13, 1987, in the implementation of the new regulations which restricted beneficiary travel payments. For fiscal year 1988, the administration has requested $51.9 million for this program.

There is a great need to reduce the towering Federal deficit, and it is certainly incumbent upon to exercise prudence and restraint as we consider legislation relating to Federal programs of benefits and services. At the same time, I continue to have an unswerving commitment—and I am confident that U.S. Congress shares that commitment—to the maintenance of a strong, separate, and vital VA health care program for those who answered their Nation's call in its hours of need. In addition, I am concerned about veterans being effectively denied access to health care as a result of their being unable to afford transportation to a VA facility.

The new regulations as implemented by DM&S Circular 10-87-23, dated March 31, 1987, effectively eliminated the payment of most beneficiary travel reimbursements except for veterans who meet the general eligibility criteria and require special mode or emergency transportation and veterans scheduled for compensation and pension examinations. Thus, although not amending the general eligibility criteria, the new regulations permit payment for travel, other than by special mode or in emergencies or for those receiving scheduled compensation and pension examinations, only to those traveling from beyond a 100-mile radius to the nearest appropriate VA health care facility. No payment is made for ordinary travel of less than 100 miles or less one way for health care regardless of the cost of the travel or the number of times the veteran must make the trip to receive the needed care. Those living outside the 100-mile radius are charged a deductible—based on the VA's current, 11-cents-per-mile reimbursement rate—of $11 per one-way trip, $22 per round trip.

DESCRIPTION OF PROVISIONS

TITLE I—BENEFICIARY TRAVEL PROGRAM

Mr. President, section 101 of the title I of the committee bill, which is derived from S. 1464 as introduced, would strike an appropriate balance between meeting the special travel distance needs of individual veterans seeking VA care and pursuing sound fiscal policy. It would require that, if the VA provide any beneficiary travel reimbursement under section 111 in any given fiscal year, then payments must be provided in that year in the cases of travel for health care services by all of the following beneficiaries: First, persons receiving a benefit for or in connection with a service-connected disability, which encompasses all service-connected disabled veterans and all service-connected disabled veterans' dependents or survivors receiving VA benefits, such as dependency and indemnity compensation or VA health care; second, a veteran receiving a VA pension under section 521 of title 38; third, a veteran whose annual income is not more than the applicable maximum pension rate that would be applicable if he or she were eligible for pension benefits; four, a veteran whom the Administrator determines is otherwise unable to defray the cost of the transportation; and fifth, a veteran traveling to receive a scheduled compensation and pension examination.

The committee bill would also make beneficiary travel reimbursements subject to a deductible administered in the following manner: First, veterans eligible for beneficiary travel reimbursement would be subject to a $7.50 per round trip—$3.75 one way—deductible amount, which the Administrator would be authorized to increase periodically so as to keep pace with inflation in transportation costs; second, in the case of veterans preapproved as needing to make trips for health care more frequently than six one-way trips per month, deductibles would not exceed $22.50 per month, which amount could also be increased periodically; and third, no deductible would be imposed in connection with special mode or emergy transportation and travel for a scheduled compensation and pension examination.

In addition, the committee bill would expressly provide that, when the Administrator determines that it is in the best interest of furnishing VA care, the VA may, prior to determining the beneficiary travel eligibility of a patient traveling by a special mode of transportation, pay the transportation provider subject to the VA subsequently charging the individual for the amount of the payment if found ineligible for the payment.

Further, the committee bill would require the Administrator to make annual allocations to each health care facility sufficient to fund beneficiary travel reimbursements pursuant to the basic program. Two waiver authorities would be provided under which the CMD could permit individual stations to pay beneficiary travel at a reduced level—including making no payments at all—and instead to expend the funds for direct health care of veterans. Also, the Administrator would be directed to take all appropriate steps to provide for a transportation program, in conjunction with veterans' service organizations and in cooperation and consultation with the Secretary of Transportation, under which veterans would be transported to and from VA facilities within each VA facility's catchment area.

The committee bill provision limiting eligibility for special mode and emergency travel benefits to those with eligibility based on service connection, pension entitlement, income, or inability to pay is consistent with provisions of current law and VA regulations.

COST

Mr. President, based upon cost estimates furnished by the Congressional Budget Office, the overall cost of the beneficiary travel program provided for in the committee bill, including both the $7.50 roundtrip deductible and the $22.50 monthly cap on veteran payments, would be $81 million, $34 million more than the cost of the program under current regulations. This is at least $40 to $55 million less than the cost of carrying out the program under the pre-April 13, 1987, regulations would have been in fiscal year 1988.

DEDUCTIBLE

In keeping with that approach and in order to limit the overall cost of this program, the committee bill includes a provision for a modest deductible of $7.50 per roundtrip—$3.75 oneway—for all health care related travel other than special mode and emergency travel and travel for scheduled compensation and pension examinations. Mr. President, both the deductible amount and the monthly maximum amounts would be increased at the same time, and by the same percentage, as the Administrator increases the rates of allowances and reimbursement pursuant to the provisions in section 111(e) requiring no less frequent than annual reviews and authorizing the Administrator to adjust those rates.

Recognizing that some veterans who are receiving care from the VA must return frequently to a VA facility for health care, the committee has proposed that, where veterans have been determined in advance to be required to make more than six one-way trips per calendar month to receive health care, the maximum deductible they would pay for travel to the facility in any one calendar month would be $22.50, regardless of the number of trips made. This $22.50 figure—as well as the $7.50 per round-trip figure—could be periodically increased by the Administrator to help meet inflation. This provision would protect veterans receiving frequent treatment, for such things as needing kidney dialysis, radiation therapy, chemotherapy, treatment for psychiatric illnesses, and PTSD, from being denied access to urgently needed health care by virtue of their being unable to pay for their substantial transportation costs. Under current regulations, there is no relief for veterans who must travel to the VA on a frequent basis.

REIMBURSEMENT IN FULL

Mr. President, as noted above, no deductible would be applied under the committee bill with respect to travel in medical emergencies, by medically indicated specialized modes of transportation, or for the purpose of scheduled compensation and pension examinations.

The provision relating to emergency travel recognizes that there are times when an individual's health becomes such that immediate transportation to a medical facility is necessary. It is my view as well, as the committee's, that the veteran, or his or her family, should not be burdened with the concern of how they might pay for emergency transportation in such time of crisis.

The provision relating to the use of special modes of travel such as a wheelchair van or ambulance, when authorized in advance by the Administrator, is included so as to ensure that veterans who can travel only by such modes have access to VA health care. These and other specialized modes of transportation are common for many disabled individuals, and without special conveyances some veterans would be unable, because of their unique needs, to travel. These special modes are also very expensive and frequently beyond the means of the average veteran. The committee bill's provisions for the payment for emergency and special mode transportation for otherwise eligible veterans is consistent with the provisions of current law and VA regulations. We do, however, urge the Administrator, in defining special mode transportation, to give careful consideration to the special needs of various categories of veterans such as those who are blind, paralyzed, or otherwise seriously disabled and unable to utilize public transportation.

Regarding the provision to clarify the VA's authority to pay special mode transportation providers before determining the patient's eligibility for VA payment for the travel, subject to recovering the payment from the individual if later found to be ineligible, so providing these payments—or agreeing to make them—may be important in order to avoid disruptive occurrences that could be very unsettling to the patient and pose major inconveniences to the ambulance company or other provider of special mode transportation. Private sector providers and special mode transportation generally wish to have the assurance of payment that the VA can provide but which a veteran patient may for a variety of reasons be unable to provide at the time of need for travel to a health-care facility.

Finally Mr. President, with reference to travel in connection with examinations for compensation and pension benefits, the VA has interpreted the authority in current law—section 111(a))—to pay eligible veterans an allowance based upon mileage traveled for the purpose of examination to include, among other things, visits necessary to determine eligibility for compensation and pension benefits. Because the VA's authority to pay beneficiary travel for compensation and pension exams in certain cases may be questionable, the legislation clarifies the existence of that authority.

WAIVERS

Mr. President, recognizing that, within the VA health care system there are 172 hospitals and 226 outpatient centers located in different geographic regions of the country and that each may have unique characteristics, the committee bill includes provisions under which VA station beds could gain flexibility to administer the beneficiary travel program in a manner they can show would be the most beneficial to the health care of veterans.

A GAO report published February 7, 1985, entitled "administration of and veterans participation in the VA Beneficiary Travel Program," disclosed that in 1983 there were 116 facilities which were not implementing beneficiary travel programs according to the VA's then current regulations. The Committee has also received reports from field stations to the effect that veterans in certain areas are generally able on their own resources to reach the VA without undue hardship. Thus, at least in some areas of the country, it may not be necessary to implement the provisions of this legislation fully in order to ensure that eligible veterans receive needed care. It is our intent that any decision at the local station level to seek a waiver to pay less than the full amount authorized for beneficiary travel will be made in consultation with local representatives of veterans' service organizations.

In this regard, the committee bill would require the VA Administrator to make an annual allocation to each health-care station sufficient to fund the beneficiary travel reimbursement provisions of the bill, and it would provide for two waiver authorities under which individual VA facility heads could be authorized to pay beneficiary travel at reduced levels. First, in those instances where a facility head can demonstrate to the CMD that, prior to the issuance of the new regulations, the facility was making beneficiary travel reimbursements at levels less than those authorized by this legislation, the CMD would be required to allow payments to be made at those levels or at any higher, requested levels, up to the level specified in the legislation. Second, in other cases in which the head of a facility proposes to make payments at a level less than that prescribed in this bill, if the CMD determines that making payments at such a level would be in the best interests of furnishing health care services to eligible veterans at that facility, the CMD may waive the requirements for paying beneficiary travel as prescribed in the legislation and authorize payments to be made at the level proposed by the facility director or any higher level less than that specified in the legislation. In the case of either waiver, any funds not utilized for beneficiary travel payments would be required to be used for other authorized direct health care purposes.

LOCAL TRANSPORTATION NETWORKS

Finally, as a supplement, or possibly an alternative in some places, to paying beneficiary travel reimbursement, the committee bill would direct the Administrator to facilitate the establishment of transportation networks in conjunction with veterans' service organizations, as well as to explore the creation of special agreements in cooperation and consultation with the Secretary of Transportation—for example, under section 16(b) of the Mass Transportation Act of 1964, which authorizes grants to assist in providing mass transportation services to meet the special needs of elderly and handicapped persons—under which veterans would be transported to and from VA facilities within each VA facility catchment area.

Mr. President, veterans' service organizations can be very instrumental in establishing volunteer transportation services for veterans needing this type of assistance. Many of these organizations see this type of program as a natural extension of the services they already provide. In fact, the Disabled American Veterans [DAV] has already begun to place hospital service coordinators in VA acute-care facilities to assist in the development and implementation of such networks and has allocated $2 million in grant funds to provide for these programs if the funds are not available locally. As of today, the DAV has placed 104 coordinators within VA facilities and has actually put 103 transportation network programs into operation. Mr. President, I ask unanimous consent that a copy of the letter I received today from the DAV describing the current status of that organization's program be printed in the Record at this point.

There being no objection the letter was ordered to be printed in the Record, as follows:

DISABLED AMERICAN VETERANS,
Washington, DC, October 16, 1987.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON: We are aware of your beneficiary travel bill, S. 1464, that is currently pending in the U.S. Senate. In this regard, I would like to give you the current status of the DAV's Transportation Network.

As you know, the DAV Transportation Network was created in response to the Veterans' Administration's cutback in beneficiary travel payments. It is the goal of the Disabled American Veterans to establish DAV Transportation Programs, coordinated by full-time DAV Hospital Services Coordinators (HSCs) in each of the 172 Veterans' Administration medical centers (VAMCs). These programs will provide transportation to veterans needing treatment at VAMCs through the use of volunteers. In the 11 months since the program's inception, 104 DAV HSCs have been placed in VAMCs across the country. Additionally, 103 DAV Transportation Network Programs are now in full operation. These programs have already provided more than 100,000 miles of transportation to thousands of disabled veterans. In the months ahead, we will continue our efforts to staff the remaining VA medical centers with DAV HSCs.

To assist DAV Departments in setting up transportation programs, the National Organization budgeted $2 million in grant monies. As of October 5, 1987, we have issued $357,668.17 and pledged an additional $356,950 in grant monies. In addition to this, DAV Departments have committed another $1,367,760 in financial support to this program. We currently have 30 states with active DAV Transportation Programs and 17 states in the planning stages with action pending.

The DAV National Organization, its Departments and Chapters will donate to the Veterans Administration 24 1988 Dodge 12-passenger vans at a cost of $378,072 for use in DAV Transportation Programs at VA medical centers. On November 17, 1987, 19 vans will be presented to the Veterans Administration.

DAV National Commander Gene A. Murphy has stated that "the unselfishness and genuine desire of our DAV HSC's and volunteers to provide needed services to veterans in their communities is what makes the program go." With this same spirit in mind, you may rest assured that we will not consider the DAV Transportation Program complete until all veterans can be provided transportation to VA medical centers, regardless of where they may live.

I hope you will find this information helpful.

Sincerely,
CHARLES E. JOECKEL, Jr.,
Executive Director,
Washington Headquarters.

Mr. CRANSTON. It is our hope that local public transit operations might also be encouraged by the Administrator and the Secretary of Transportation to assist veterans needing transportation services to VA facilities. Many of these companies already have special programs for senior citizens or handicapped persons, and the VA may be able to negotiate special rates for certain veterans at a lower cost than they might otherwise have to pay.

INTERFACILITY TRANSFERS

Although payment for interfacility transfer is not specifically referenced in section 111 of title 38, both the new regulations which took effect on April 13 and the old regulations provide authority for payment of interfacility transfer in some, but not all cases. VA health care facilities have generally used basic health care authority, other than section 111, to provide VA facility-to-facility transfers, and it is not our intent—of the Committee—to make any changes with respect to current practice with regard to payment of this type of travel expense.

TITLE II—QUALITY ASSURANCE PROGRAM

The basic purpose of title II, Mr. President, is the establishment of an autonomous Office of the Medical Inspector General charged with investigating reports of inadequate quality of care. The Medical Inspector General would have a specified minimum staffing level, a statutory functional statement, and direct accountability to the Chief Medical Director. Title II would also establish an Assistant Chief Medical Director for Quality Assurance and upgrade the monitoring by the VA's independent Inspector General of the Department of Medicine and Surgery's quality-assurance, risk-management, and inspection activities by establishing a new Assistant Inspector General for Health Care Quality Assurance Review—also with a specified minimum staffing level and a statutory functional statement.

The provision of high quality health-care services is a primary mission of the VA health care system. In recent years, there has been a growing emphasis on developing ways to determine the extent to which that mission is being fulfilled and to identify problem areas within the VA's DM&S.

An extensive history exists regarding the VA's efforts in the quality assurance arena and our committee's involvement in oversight activities relating to these issues. A chronicle of events is summarized in Senate Report 100-187 which accompanies this proposed legislation and I refer you, my colleagues, to that document for a complete overview. The most recent event occurred on May 18, 1987, when the GAO released a report entitled "VA's Patient Injury Control Program Not Effective," which found that at the nine VA facilities visited, 86 percent of the incidents which, according to VA regulations, are required to be reported were not reported in ways required by those regulations. Hence, important corrective actions were not being taken that would protect the health of other veterans receiving VA health care, the GAO found. It identified several factors as contributing to the ineffectiveness of the program, including employee disincentives associated with reporting and "inadequate guidance and limited oversight" on the part of the medical inspector [MI].

On May 20, 1987, Ranking Minority Member MURKOWSKI, the GAO, and I held a joint press conference to announce the results of the study. At that time, Senator MURKOWSKI and I indicated that extensive followup would be undertaken, involving experts in the field of quality assurance and patient-injury monitoring and personnel responsible for the Defense Department's quality-assurance program, to explore alternatives for improving DM&S' system of monitoring serious patient injuries, to emphasize the importance of this function in the field, and to find the best organizational arrangement within the VA's Central Office to facilitate the implementation and monitoring of the quality-assurance and risk-management programs.

I do want to stress, Mr. President, that it was pointed out by the GAO at the press conference that the GAO findings regarding a failure of the VA medical centers to report incidents of patient injury to the Central Office did not necessarily mean that the quality of the patient care being provided was inadequate. It was also stated in the report that the VA's regulations provided an adequate basis for initiating a Patient Injury Control Program, but that DM&S needed to provide its medical centers with additional implementation guidance.

A lengthy meeting was held on May 29, 1987, involving committee staff, the IG, CMD, Deputy CMD, MI, and Director of Quality Assurance for the VA, a representative of the Department of Defense [DOD] Health Quality-Assurance Program, and staff from the GAO. The organization and functioning of the VA's present quality-assurance and risk-management programs were discussed in detail, including the perception that the VA was not open to external inspections and that the agency has responded to the need for changes in its Quality-Assurance Program only as a result of public pressure. The process of inspection and oversight for military hospitals was described in detail and it was noted that, in some instances, the service equivalent of the IG reported that the service commander responsible for the hospitals and, in other instances, the IG-equivalent reported to a commander outside of that system. The DOD representative indicated his belief that neither organizational structure operated better than the other and that all arrangements could function well. At that meeting, the CMD again stressed his statutory accountability for care provided in VA health-care facilities and his very strong belief that peer review of physicians should be the responsibility of the CMD.

Mr. President, the VA needs to be a leader in the provision of quality health-care services, not a follower. If this is to be the case, problems which appear to arise in the provision of health-care services must be fully investigated in a constructive and aggressive manner. Title II of the committee bill would offer this much needed improvement in the areas of quality assurance and risk management and, hopefully, result in enhancing the level of public confidence in the VA health-care system.

Mr. President, the ranking minority member, Senator MURKOWSKI, and I developed complementary bills, S. 1443 and S. 1444, which have been melded together in title II of the committee bill to first, establish statutorily the Office of the Medical Inspector General [MIG] in the Office of the CMD and make the MIG directly accountable to the CMD; second, require the MIG to be a physician who would be appointed for a term of 4 years, removable only for cause; third, require the office of the MIG to be staffed by not less than five Assistant MIG's who must be full-time VA physicians, dentists, or registered nurses, by not less than two full-time VA registered nurses—including any nurse who is an Assistant MIG—by not less than one full-time VA dentist—including any dentist who is an Assistant MIG—and not less than five full-time support personnel; fourth, require the Administrator to transfer to the MIG 10 FTEE's and such funds as are designated by the CMD to be necessary to support the statutorily mandated positions; fifth, except for those instances where the Administrator or the CMD specifically requests an investigation, give the MIG sole discretion as to which investigations to conduct; sixth, require that all MIG investigations conducted by personnel from outside of the medical facility being investigated include at least one Central Office MIG professional staff member; seventh, require that the MIG be a member of all DM&S policymaking bodies relating to the quality of care and quality-assurance programs; eighth, require the MIG to make annual reports regarding the activities of the MIG for the preceding fiscal year; ninth, require the establishment of an Assistant Chief Medical Director for Quality Assurance; tenth, require the CMD to issue regulations prescribing appropriate disciplinary action when employees fail to comply with reporting requirements relating to the quality-assurance program; eleventh, establish in the Office of the VA's IG an Assistant Inspector General for Health Care Quality Assurance Review (AIG); twelfth, require the AIG to: monitor the establishment and implementation of quality-assurance and risk-management programs; monitor the activities of the MIG and recommend the conduct of needed investigations, as well as coordinate activities with those of the MIG; review MIG investigations and recommend appropriate additional action; monitor and analyze the collection and analysis of quality-assurance and risk-management data, determine if additional data should be collected, and monitor the analysis and trending of data relating to the provision of health-care services; make recommendations to the IG for corrective action on health-care matters and monitor the implementation of the recommendations made by the IG to the Administrator; and perform any other IG duties as directed by the IG; and thirteenth, require that the Office of the AIG consist of at least 13 full-time employees to include at least two doctors of medicine, and a minimum of one of each of the following: a doctor of dental surgery or medicine, a registered nurse, a health-care attorney, a person with expertise in quality assurance and risk management, and a health-care administrator.

ESTABLISHMENT OF THE OFFICE OF MEDICAL INSPECTOR GENERAL

Section 201 of the committee bill would establish the Office of the MIG in the Office of the CMD. Since the inception of the MI office, I have questioned the advisability of the office remaining within DM&S versus the feasibility of moving this investigative function to the IG. Because the CMD is clearly ultimately acccountable under law for the quality of care provided to veteran-patients, and since one aspect of ensuring such quality is to investigate questionable practices in the provision of clinical services, I am satisfied for the time being to leave this investigative function in the hands of an official reporting directly to the CMD as long as safeguards such as these proposed in the committee bill are put in place to ensure the autonomy and resources of the office. If it is found in the implementation of this legislation that a substantial enhancement of the operations of the investigative function currently performed by the MI is not forthcoming, we will consider further whether there is a need for legislation to assign investigative responsibility to the Office of the Inspector General.

Because the MIG must have the capability to make credible medical judgments, the committee bill would require the MIG to be a physician. To provide protection from retribution from those who disagree with the conduct of an investigation or a decision forthcoming as a result of a MIG investigation, the committee bill specifies that the MIG be appointed by the Administrator, upon the CMD's nomination, for a tenure of 4 years, and be removable only for cause, in the same way as are Assistant Chief Medical Directors, for example.

I have been concerned for many years about the level of resources available to the MI and the background and training of those assigned to carry out or monitor investigations. To address this concern, the committee bill would mandate a minimum number, and the qualifications, of employees in the MIG offices, as I have already discussed.

The mandated mix of staff, in the committee's view, should provide the necessary diversity of skills to enable the MIG to carry out, and to analyze the required information obtained, in such investigations. Further, this measure would mandate that the Administrator transfer to the MIG—from funds other than those appropriated to support the Central Office operation of DM&S—the funding and employment authorization to support at least 10 MIG positions.

The committee bill would provide for the autonomy of the MIG by authorizing that office to carry out investigations deemed necessary by the MIG, without obtaining prior approval from either the CMD or the Administrator. Conversely, although the measure provides for the Administrator or CMD to request an investigation that either one deems necessary, the Administrator or the CMD would not be permitted to prohibit an investigation. This protection should help prevent accusations that an investigation was not made because the operating VA officials were attempting to hide or "cover up" an incident.

In order to discourage the Administrator or CMD from overwhelming the MIG with management-prescribed investigations, to the point of preventing the MIG from studying other potential problems on his or her own initiative, the committee bill would also require the MIG to delineate in a mandated annual report, described below, the number of investigations, and the total resources devoted to them, which were requested by the Administrator or CMD and the number which were self-initiated.

The bill would further provide that, when an investigation team is sent into the field to interview staff and review documentation, a member of the MIG Office would be part of the team. At present, when a site visit is carried out to determine the facts in a particular case, staff from other facilities within the VA generally are assigned to conduct the investigation. Although such visiting experts may have technical knowledge within their specialties, they often lack training in investigation procedure and, more importantly, may feel pressure—inadvertent or advertent—from their peers to dilute their findings. It is difficult to rely entirely on the objectivity and aggressiveness of a field investigation by DM&S employees who one day are critiquing the work of others and who, the next day, may be assigned to work with those they are critiquing and who know that that is the way the system operates. This factor should be mitigated by having a member of the MIG office as a member of each site-visit team.

Mr. President, the committee bill would specify that the MIG may not be assigned direct responsibility for quality-assurance activities, including patient-risk management and the reporting of patient injuries under quality-assurance procedures. However, the bill would mandate that the MIG be an ex officio, nonvoting member of all Central Office policymaking committees which address quality of care or quality-assurance issues. Thus, the committee has acted to avoid a real or apparent conflict of interest raised by the MIG having direct responsibility for any programs within DM&S that he or she would have responsibility for investigating. At the same time, the committee bill seeks to lend expertise and concrete information to quality-assurance policymaking activities by including the MIG in all pertinent quality-assurance, risk-management, and health-care-quality discussions.

The MIG would be required to submit to the Administrator, the CMD, and both Committees on Veterans' Affairs, by February 1 of each year, a report describing the activities of the MIG office over the preceding year, including the outcome of MIG recommendations for remedial or disciplinary action and an assessment of the effectiveness of that office, and, as described above, a listing of those investigations which were self-initiated and those which were assigned by the Administrator or CMD. Our committee is very interested in the scope and types of problems occurring in the VA health-care system and, more importantly, what is being done to correct and prevent these problems from recurring. This annual MIG report should help the committee maintain effective oversight of these issues.

ASSISTANT CHIEF MEDICAL DIRECTOR FOR QUALITY ASSURANCE

It is evident from recent GAO reports that DM&S is not meeting the goals and objectives it has established for itself in the area of quality assurance. This lack of emphasis contrasts with action in the private sector placing greater stress on quality-assurance activities. Because of the impact that quality-assurance and risk-management programs have on the operations of a hospital, private sector hospital boards of directors are now requiring indepth quality assurance analyses and reports to be provided to them. The Joint Commission on Accreditation of Hospitals is also giving quality assurance more prominence than it has in the past. In this regard, the Commission is developing clinical indicators which will be used as measures of quality care when each facility is surveyed by Commission representatives.

To provide a similar emphasis in DM&S, section 202 of the committee bill would upgrade quality-assurance activities in DM&S by establishing the position of ACMD for quality assurance charged with carrying out the responsibilities assigned to the CMD under subchapter V of chapter 17 of title 38, which include data collection, evaluations, and reports regarding VA mortality and morbidity rates for surgical procedures and other quality-assurance responsibilities which have been delegated to the CMD by the Administrator.

The establishment of this position at the level of ACMD is intended to provide a greater impetus to and support for those in the field carrying out quality-assurance activities. By placing the function of quality assurance and risk management at this high level within the organization, Congress would be sending a message to both employees within DM&S and the general public that quality is an important goal and one that is to be actively pursued. It is our intent that the ACMD for quality assurance be assigned general responsibility for quality-assurance programs and systems, such as those outlined in 38 CFR sections 17.500-17.540, and that he or she then develop and improve upon them based on new developments in the field of quality assurance. We considers programs which provide for the safety of patients and the review of the appropriateness of patient care as primary functions of any quality-assurance program.

INDIVIDUAL DM&S EMPLOYEE RESPONSIBILITIES FOR IMPLEMENTATION OF THE DM&S QUALITY-ASSURANCE PROGRAM

Section 203 of the committee bill would require the CMD to issue regulations prescribing disciplinary action in those instances in which employees fail to comply with reporting requirements relating to the Quality-Assurance Program. As previously discussed, the GAO reported that many patient-injury or adverse occurrences were not, because of a variety of reasons including disincentives associated with reporting, reported according to established policy. Although employee apprehension is understandable, we feel strongly that, in order to have an effective Quality-Assurance Program, employees must understand and fulfill their responsibilities in the areas of problem detection and reporting. Equally important to an effective quality-assurance effort is a program to promote greater quality-assurance awareness on the part of health-care staff through major educational efforts and the development of a Creative Program to reward positive behavior.

ESTABLISHMENT OF THE ASSISTANT INSPECTOR GENERAL FOR HEALTH CARE QUALITY ASSURANCE REVIEW

In view of the critical importance that an effective Quality-Assurance Program plays in the delivery of quality of care, our committee believes that independent oversight of quality assurance programs is necessary. Accordingly, section 204 of the committee bill would amend section 250 of title 38 to establish in the IG's office the position of Assistant Inspector General for Health Care Quality Assurance Review. The primary responsibilities of this new position would be to: First, monitor the establishment and implementation of Quality-Assurance and Risk-Management Programs, through, among other activities, onsite reviews of VA health-care facilities; second, monitor the activities of the MIG and recommend the conduct of investigations, as needed, as well as coordinate activities with those of the MIG; third, review MIG investigations and recommend appropriate additional action; fourth, monitor and analyze the collection and analysis of quality-assurance and risk-management data, determine if additional data should be collected, and monitor the analysis and trending of data relating to the provision of health-care services; and fifth, make recommendations to the IG for corrective action on health care matters and monitor the implementation of those recommendations which the IG makes to the Administrator. The Assistant IG would also perform such other IG functions as may be directed by the IG.

The Office of the Assistant IG for Health Care Quality Assurance Review would consist of at least 13 full-time employees to include at least two doctors of medicine, and a minimum of one of each of the following: a doctor of dental surgery or medicine, a registered nurse, a health care attorney, a person with expertise in quality assurance and risk management, and a health-care administrator. This interdisciplinary team is intended to have the medical expertise and experience to perform the functions of the office effectively and to cooperate and exchange ideas with the MIG.

The committee does not intend for the Assistant IG for Health Care Quality Assurance Review to duplicate the work of the Medical Inspector General. The committee believes it may become necessary, upon occasion, for the Assistant IG, in the course of carrying out responsibilities under the legislation, to visit health care facilities and, through reviews, analyze independently data obtained there in order to test the reliability of that data and investigations carried out by DM&S in the course of its quality-assurance, risk-management, and inspection programs.

Finally, Mr. President, the committee bill would require a report, not later than February 1 of each year, to the Committees on Veterans' Affairs, on the activities of the Assistant IG. This report would be required to include a discussion of the activities of this office, findings and conclusions resulting from those activities, recommendations made to the Administrator for corrective action, corrective action taken with respect to those recommendations, and a discussion of the specific activities undertaken to monitor the MIG.

READJUSTMENT COUNSELING PROGRAM IMPROVEMENTS

Mr. President, title III of the committee bill, which is derived from S. 1501, legislation I introduced on July 15, 1987, contains several provisions relating to the VA's Readjustment Counseling Program for Vietnam-era veterans and, more specifically, to the mandate in current law that the program undergo a 2-year transition beginning October 1, 1987, from a program providing services primarily through vet centers—generally storefront facilities situated in local communities apart from general VA facilities—to a program providing such services primarily through such general VA health-care facilities, such as medical centers and out-patient clinics.

BACKGROUND

Mr. President, the legislative history of the VA's readjustment counseling program is described in some detail in the committee report accompanying this measure—Senate Report 100-187, pages 33 to 34—and I refer my colleagues and others with an interest in this information to the report.

It is enough to note at this time, as a result of various laws dating back to 1979, there are a number of milestones in current law which are related to a process whereby the existing readjustment counseling program is scheduled to undergo an orderly and gradual 2-year transition beginning October 1, 1987, from a program providing services primarily through the vet centers to a program providing such services primarily through general VA health care facilities, such as medical centers and freestanding outpatient clinics. The "primarily" criterion has been construed by the VA's General Counsel to require that by the end of the transition period a majority of readjustment counseling programs must be operated at traditional VA facilities. The committee agrees with this interpretation.

The first of the milestones relating to the transition was October 1, 1986, the date by which the Administrator of Veterans' Affairs was required to submit to the two Veterans' Affairs Committees a report on the results of the statutorily-mandated PTSD/other-postwar-psychological-problems study. Following that report, and taking the results of the study into consideration, the Administrator was required under current law to submit two additional reports—one on April 1, 1987, and the other on July 1, 1987—before the transition period was to begin.

VA REPORTS AND RECOMMENDATIONS REGARDING PROGRAM

This first report, which was due on April 1, 1987, and sent to the committee under cover of July 9, 1987, letter, was to set forth the Administrator's evaluation of the program's effectiveness in helping to meet the readjustment needs of Vietnam-era veterans, the Administrator's opinion on the extent to which the readjustment needs on Vietnam-era veterans remain unmet, and the extent to which vet centers are needed to meet that need. The second report, which was due on July 1, 1987, and sent to the committee under cover of an August 3, 1987, letter, was to set forth the Administrator's plan for accomplishing the transition required by current law to take place gradually during fiscal years 1988 and 1989.

With respect to the April 1–July 9 report, I note that the Administrator recommended no change in the current-law transition requirement but instead recommended that the relocation process go forward. This recommendation was in contrast to the results of three other evaluations of the Vet Center Program which are summarized in an appendix to the April 1–July 9 report. Specifically, the report describes the work of the VA's Department of Medicine and Surgery Vet Center Planning Committee and characterizes its January 1986 recommendations as follows:

> The present Vet Center Program should be continued after Fiscal Year 1988 with no major alterations in structure, services, or eligibility.
>
> The Committee recommended that the Veterans' Administration should forward a legislative initiative to remove the concept of a general disbanding of vet centers, substituting a provision indicating that the availability of readjustment counseling services will be provided by the VA in a manner determined by the Agency.

The VA Advisory Committee on Readjustment of Vietnam Veterans also was asked to evaluate the Vet Center Program and to make recommendations about its future. In January 1986, the advisory committee "endorsed the recommendations ultimately approved by the planning committee," which I have just described, and, according to the VA report, in September 1986, after being asked by Administrator of Veterans' Affairs Thomas Turnage to again review the program, the advisory committee responded as follows:

> The Committee recommends that the Vet Centers, as a unique community-based delivery system, be made a permanent part of the DM&S health care organization.
>
> The Committee recommends that the Administrator seek legislative authority to expand the eligibility criteria for Vet Center services to include veterans of all eras.
>
> The Committee recommends that the Administrator initiate several pilot projects at designated Vet Center sites designed to expand the Vet Centers into general community-based VA resource centers inclusive of other DM&S and DVB functions, as indicated appropriate by needs assessment and outcome evaluation.

Finally, the April 1–July 9 report describes the work of the Chief Medical Director's Special Committee on Post Traumatic Stress Disorder. According to the report, that committee made the following recommendations in its most recent report, described in the VA report as "The Special Committee's 1987 Report":

> The Special Committee recommends that Readjustment Counseling Service and its vet centers, as a unique and valuable community based delivery system, be preserved and incorporated into the changing organizational matrix and service delivery patterns of the VA's Department of Medicine and Surgery.
>
> Program's mission should be comprehensively reviewed and clarified.
>
> Vet center staff should be given career appointments as VA employees so that they may provide service to veterans without fear that their jobs will be terminated in the near future.
>
> Quality Assurance criteria should be established and utilized to monitor operations.
>
> Legislative authority should be sought "to expand the eligibility for services from vet centers to include combat veterans from all wars.

In addition to not being in accord with the unanimous findings and recommendations of these prior evaluations of the program, the recommendation in the April 1/July 9 report to go ahead with the transition also conflicts with various other statements in the report, including the following:

> Our evaluation as of 1987 is that the VA Readjustment Counseling Program is quite effectively carrying out the mission designed for it by the Congress and the VA.
>
> If the VA's ongoing assumption, based on the two major epidemiologic studies conducted in 1977 and 1979, [is correct] that 700,000 to 800,000 veterans formed the target population for this program, and if the target population has neither expanded nor declined in the interval, the readjustment counseling program has to date seen slightly over half of the target population.
>
> Vet centers were implemented by the agency in 1980 with some urgency, in an effort to relieve a disturbing and troubling situation which had arisen among some returnees from the Nation's most recent war. The model is effective in accomplishing that purpose. In addition, however, the operation and refinement of the program during the past seven years has provided a challenge for the Agency in organizational development. The program has brought the VA generally closer to the community, and has fostered the perception, among both Vietnam era veterans and veterans of other wars, of the Veterans Administration as flexible and responsible.

These statements from the VA's report, together with the recommendations from other evaluations discussed above, seem more consistent with a decision to repeal the transition requirement rather than one to go forward with it. It is the former course that the committe bill proposes along with provisions to carry out most all of the other recommendations from the various review groups.

The administration's July 1/August 3 report describes in outline the VA's plans under current law for relocating vet centers to general VA facilities on a gradual and orderly basis over the 2-fiscal-year period, 1988–89. This plan calls for 8 centers to be relocated in the first quarter of fiscal year 1988 (October-December 1987), with the number of centers relocated in subsequent quarters increasing by one center each quarter through the third quarter of fiscal year 1989, and then with 18 centers proposed for relocation in the final quarter of fiscal year 1989 for a total of 95 centers relocated and one closed over the 2 years. It should be noted that the Wilmington, DE, center was relocated to the Wilmington VAMC on or about May 1 of this year.

Delay in PTSD study.—One possible explanation of the apparent contradiction between the content of the report and its principal conclusion lies in the lack of availability of the major PTSD/other-postwar-psychological-problems study report, due last October 1. As the administrator's April 1/July 9 report indicates, this study is not yet available and the "report has been prepared in advance of any results of the [PTSD report] and thus cannot reference them. its conclusions must therefore be understood to be tentative."

I note that this approach in current law of a comprehensive study together with sequenced reports was designed to enable the Congress to make informed decisions about the future of the Readjustment Counseling Program, including the nature and timing of its integration into other VA health care facilities. However, as just noted, the underlying PTSD/other postwar psychological problems study on which this process was to be based has been delayed and the initial report on that study has yet to be submitted although it is expected in the near future.

As a result of this delay in the PTSD/other postwar psychological problems study, our committee ordered reported on February 26, reported on March 18, and the Senate passed on March 31, in S. 477, legislation to postpone the vet center transition for 1 year. The House Committee on Veterans' Affairs has been unwilling to accept this legislation up to this point.

ADMINISTRATION OPPOSITION TO VET CENTER PROGRAM

However, since earlier this year, I have grown increasingly concerned that a simple delay is not the right course and that, instead of a requirement that a fixed number of vet centers undergo a transition within a fixed period of time, the law should be amended to provide that any change in the status of an individual vet center should be carried out only after a careful, case-by-case, analysis results in a decision that the purposes of the Readjustment Counseling Program and the mission of the VA can best be served by moving a vet center to a VA medical or other facility rather than by maintaining its community-based location. This is the course proposed in the committee bill.

Not only does such an approach represent a more appropriate approach to the future of the Readjustment Counseling Program, but it also helps guard against arbitrary changes in the program. This latter element is particularly important in light of what seems to be a renewed hostility toward the program by this administration and the current political leadership in the VA.

In March 1981, the administration proposed, in its first budget request to the Congress, to eliminate all funding for the Vet Center Program as of September 30, 1981, and opposed legislation to extend beyond fiscal year 1981 eligibility to request counseling; it later opposed legislation to extend until September 30, 1984, eligibility to request counseling. Congress rejected all of these recommendations from the President and, as noted above, extended eligibility through fiscal year 1984. In 1983, with the support of Administrator of Veterans' Affairs Harry L. Walters, the 1-year mandatory transition of the vet centers was postponed from fiscal year 1984 to fiscal year 1988.

The administration's negative attitude toward vet centers, which had been largely held in abeyance under the 3-year VA leadership of Administrator Walters, during 1983-85, surfaced again early this year in the extraordinarily hasty and haphazard decisions made in late January in the name of current Administrator Thomas K. Turnage to relocate 9 vet centers beginning on July 1. Those relocations were blocked by a June 29, 1987, order of the U.S. District Court for the District of Columbia (*Vietnam Veterans of America* v. *Veterans' Administration,* Civil Action No. 87-1610) until November 1, 1987, although as I noted, one center, in Wilmington, DE, was relocated prior to the court's order.

Another recent manifestation of this animosity is the recommendation in the administration's April 1/July 9 report to go ahead with the transition even though much of the tenor of the rest of that report, as described above, speaks to a continuing need for readjustment counseling and the vet centers as being effective in providing it. It is generally understood that the VA's Chief Medical Director recommended that the VA propose legislation to repeal the mandatory transition requirement.

With specific reference to the proposed relocation of the nine vet centers, the committee report, on pages 40 to 56, included an exchange of correspondence I had with the VA's Chief Medical Director, Dr. John A. Gronvall, which sets forth the criteria which supposedly were used by the agency in selecting the nine centers and also provided specific information on the proposed relocation of each of the nine. These same criteria and this same information were also included in the Administrator's April 1/July 9 and July 1/August 3 reports. I refer my colleagues and others to the reports for this information.

There is one point from this correspondence that I want to highlight—only two of these nine vet centers were planned to be relocated into buildings at the general VA facility where the vet center will be the only occupant of the building, and five of the centers were planned to be relocated in close proximity to an existing Mental Hygiene Clinic at the VA facility. The obvious impression that such an arrangement may create—that a vet center is simply another mental-health facility and that those being furnished services through the program suffer from mental illness—is one that has been wisely and deliberately avoided since the inception of the program in 1979 and is one of the cornerstones of the program's success. This characteristic should, I believe very strongly, continue for several years after any center is relocated.

With further reference to the proposed relocation of the nine centers, we have been advised that there is significant opposition to some of the proposed relocations, including from officials at medical centers to which the vet centers would be relocated. Also, despite the fact that the VA's criteria call for assessments by local vet centers regarding the feasibility and workability of the proposed move, a participant in the Vietnam Veterans of America versus Veterans' Administration lawsuit, which I noted earlier, submitted a declaration to the court which noted, among other things, that "eight of the nine vet centers directors admitted that they were not consulted by VA officials regarding the decision to relocate their vet center prior to the decision."

I note that, despite the various problems with some of the first centers selected for relocation and the fact that this legislation is under consideration here in the Senate and complementary legislation has been enacted by the House, the VA has just recently announced its intention to proceed with the relocation of six of the eight remaining centers from this original list of nine. Although there are rumors that the VA has abandoned plans to relocate some or all of these centers while the Congress works its will on the pending legislation, I have received no official notification to that effect.

GAO REPORT ON READJUSTMENT COUNSELING PROGRAM

Mr. President, the General Accounting Office recently released a report—"Vietnam Veterans: A Profile of VA's Readjustment Counseling Program", GAO/HRD-87-63—which was in response to a November 1, 1984, request from the then-chairman of the committee, Senator ALAN K. SIMPSON, for a comprehensive review of the Readjustment Counseling Program.

The GAO's overall evaluation of the program was generally positive. In response to one specific request—to evaluate the need for retaining vet centers in community-based locations—the GAO recommended that the "VA should be able to decide on a case-by-case basis whether vet centers should be relocated to existing VA facilities * * * and that Congress should consider enacting legislation to permit the VA to do so." In support of this recommendation, GAO noted that there were "no compelling reasons, concerning the cost or quality of counseling services or veterans' access to them, for the VA to be required [as under current law] to provide [counseling] services through existing VA facilities."

The VA, in a June 11, 1987, letter in response to a draft version of this report, which is included in the GAO report, endorsed the GAO's recommendation that the agency be permitted to make decisions regarding the relocation of vet centers on "a case-by-case basis," noting that that approach would "permit the Agency to consider each center's changing needs and the method and location best suited to meeting those needs." Somehow between June 11 and July 9, the Administrator's position changed to one of supporting the VA being required to proceed according to a fixed, arbitrary schedule and ratio.

COMMITTEE BILL

Mr. President, it is in light of the experience with the proposed relocation of the nine centers, this administration's historic hostility to the program, and the recent GAO report that our committee came to the view that there should be no fixed formula requiring such relocations on a wholesale basis, as under present law. I share this view without reservation.

The committee bill reflects the view that the current-law transition requirement is today an anachronism—enacted for a protective not a destructive purpose—that will lead to arbitrary decisions and to poor public policy results.

Despite our committee's success last year, in Public Law 99-576, in making the transition period a gradual, 2-year process, current law contains no express restriction on any closures of vet centers during the transition period. Rather, it requires that more than half of whatever number of vet centers exist at the end of the transition be operated at general VA facilities. Based on the information currently available, including a 3.4-percent increase in new clients and a 3.2-percent increase in visits at vet centers for the first 10 months of fiscal year 1987 as compared to a year ago, our committee concluded that the policy reflected in current law is seriously flawed and should be repealed.

The committee bill would do just that and substitute an approach designed to ensure that decisions regarding the Readjustment Counseling Program and individual vet centers are made carefully, and in accordance with the best professional judgments available, on a case-by-case basis based on objective criteria derived directly from the VA's own published criteria.

SUMMARY OF PROVISIONS

Specifically, title III of the committee bill would:

First, eliminate the statutory requirement for a fixed transition of vet centers.

Second, replace that transition provision with one permitting a closure or relocation of a vet center only upon a determination by the VA's Chief Medical Director, based on the application of certain criteria which I will describe in a moment, that such a closure or relocation would not result in any diminution in the continuing availability and effective furnishing of readjustment counseling needed by veterans entitled to such services in the geographic area.

Third, require that 60 days' advance notification and detailed information be submitted to the two Veterans' Affairs Committees before any such closure or relocation is carried out.

Fourth, with respect to substantial Readjustment Counseling Program reorganizations, permit in any fiscal year the closure or relocation of more than 10 percent of the vet centers in existence on July 1, 1987, a total of 189 centers, to proceed only if proposed at the time of the President's budget submission for the year in which they would occur, approximately 8 months before fiscal year begins on October 1. This same type of process currently applies in the case of administrative reorganizations at other VA facilities that involve certain employee reductions of 10 percent or more of the full-time equivalent employees at such facilities in any fiscal year. Thus, up to 18 vet centers per fiscal year could be closed or relocated without recourse to this notify-and-wait process.

Fifth, protect for 2 full fiscal years the budget and personnel ceiling for any relocated vet center, with authority granted to the Chief Medical Director to reduce funding or staffing or both after the first year upon finding a real reduction in the center's workload.

Sixth, make veterans who served since the end of the Vietnam era in combat conditions entitled to readjustment counseling services.

Seventh, make World War II and Korean-conflict veterans and active-duty personnel who served either during the Vietnam era or since then in combat conditions eligible for, although not entitled to, readjustment counseling services.

Eighth, explicitly authorize the relocation to vet centers of other VA personnel—from the Department of Veterans Benefits and elsewhere in the Department of Medicine and Surgery—for the purpose of providing veterans with other VA benefits and services at vet centers.

Ninth, require that all vet center personnel who have served satisfactorily for 2 years be converted to career positions beginning 90 days after the enactment date of this measure.

NOTICE PRIOR TO ANY CLOSURE OR RELOCATION

In order that the two Veterans' Affairs Committees may effectively monitor and evaluate any planned vet center relocation or closure, the committee bill would require notice at least 60 days prior to the execution date of any such proposed action. Such notification would be required to include a description of the results of the consideration given to the criteria specified in the bill in terms of the selection of the particular vet center for closing or relocation.

CRITERIA TO BE CONSIDERED

The specified criteria—each of which is derived from the criteria developed by the VA itself, as described in Dr. Gronvall's June 18 letter to me, which I discussed earlier, and as set forth as part of the Administrator's April 1/July 9 and July 1/August 3 reports—require consideration of:

First, the distribution of Vietnam-era veterans in the geographic area served by the existing vet center and the relationship between the location of the vet center and the medical or other facility, which I will hereinafter refer to as the "receiving facility", where readjustment counseling services would be furnished if the vet center were closed or relocated and such distribution of Vietnam-era veterans so as to evaluate the likely impact of any relocation on veterans' receipt of services.

Second, the distance between the existing vet center and the receiving facility so as to evaluate whether any hardship would be imposed on veterans currently being furnished services at the vet center if they would have to travel to the receiving facility to receive services.

Third, the acceptability of the proposed closure or relocation to various groups that would be affected by such an action, including the staff of both the existing vet center and the receiving facility, representatives of veterans' service organizations located in the geographic area served by the existing vet center, and individual veterans who are being furnished services at the existing vet center, so as to determine if a positive attitude toward the proposed action exists, thereby enhancing the likelihood of its success, without giving any particular group or all the groups a veto over the proposed action.

Fourth, the availability of other entities, such as State, local, or private outreach facilities, which provide assistance to Vietnam-era veterans in the area served by the existing vet center, so as to evaluate whether any need for services in the immediate geographic area of the vet center could be met by other entities.

Fifth, the availability of transportation to, and parking at, the existing vet center and the receiving facility.

Sixth, the availability, cost, and suitability of the space at the receiving facility, including the opportunity to establish a direct entry into the area where readjustment counseling services would be furnished and the suitability of the environment—including the VA services located nearby—where such services would be furnished so as to avoid locations, such as in the vicinity of mental health programs, that would be counterproductive to the furnishing of such services and to promote locations, preferably separate buildings, where a vet center identity could best be maintained.

Seventh, in the case of a relocation, a comparison of the recurring nonpersonnel costs at the existing vet center and the receiving facility, so as to determine the cost effectiveness of the proposed action.

Eighth, the impact of the proposed closure or relocation on the program for furnishing eligible veterans readjustment counseling services through private facilities under a vet center-administered contract, so as to determine if the contract program would have to be increased as a result of the closure or relocation of the vet center.

Ninth, the workload trends over the prior 2 fiscal years at the existing vet center, so as to determine the cost effectiveness of a proposed relocation.

In addition to these criteria, the Chief Medical Director would be given authority to consider other factors as long as they relate to the effective provision of readjustment counseling services.

Information relating to each of these factors should enable the VA and the committees to evaluate fairly any proposed closure or relocation.

ADDITIONAL ADVANCE NOTICE REQUIREMENTS FOR MAJOR CHANGES

In order to ensure that any changes in the character of the Readjustment Counseling Program are carried out in a gradual, orderly manner, as is currently required by law to occur during the fiscal 1988-89 transition period, the committee bill would prohibit, in any fiscal year after fiscal 1988, the relocation or closure of vet centers involving more than 10 percent of those in existence on July 1, 1987—18 centers in total—unless such a change were proposed at the time of the President's budget submission, 8 months prior to the start of the new fiscal year in which such a change would occur. In fiscal year 1988, the limitation would apply to any relocation or closure involving 5 percent of the vet centers in existence on July 1, 1987—or a total of nine centers.

This limitation should give the VA significant flexibility to take actions to close or relocate some centers while retaining protection in the case of major reorganizations affecting the overall Readjustment Counseling Program.

PROTECTION OF PERSONNEL CEILING AND BUDGET

To ensure the integrity of the budgetary and personnel ceiling of the Readjustment Counseling Program and thereby guarantee the quality of services being provided to veterans utilizing the services of vet centers, the committee bill would generally protect for 2 full fiscal years the budget and personnel ceiling of any vet center relocated to a VA general facility. However, the Chief Medical Director would be given the authority to reduce funding or staffing or both after the first full fiscal year based on a determination that there has been a real reduction in a vet center's workload, that is, a reduction in the need for the services in the geographic area concerned without regard to any reduction in demand stemming from the original relocation. In making this determination, the CMB would be required specifically to determine whether a move away from the VA general facility—either back to the vet center's prior location or to another location in the community—would be highly unlikely to result in a workload sufficient to justify the existing funding and staffing levels. I believe that such protection is vital if a relocated facility is to continue to furnish the services needed by those veterans who are seeking assistance. In this regard, I note that Administrator Turnage, in response to a question I asked during the committee's February 18 hearing on the VA's fiscal year 1988 budget, agreed to provide similar such protection of vet center staff and funding.

EXTENSION OF READJUSTMENT COUNSELING ELIGIBILITY

The committee bill would make three changes in the statutory eligibility for readjustment counseling under current section 612A of title 38. First, the bill would extend readjustment counseling entitlement to veterans of service in hostilities after May 7, 1975, the end of the Vietnam era. Under this change, the Administrator, after consultation with the Secretary of Defense, would determine that service during specific periods of time in specific locations in which U.S. Armed Forces were under hostile fire would be qualifying service for readjustment counseling purposes. This provision recognizes that members of our Armed Forces are at times exposed to combat situations short of declared war—such as existed in Beirut or Grenada or in connection with our actions against Libya, or that existed most recently during the incident that occurred with the U.S.S. *Stark* and in connection with efforts ongoing at this moment in conjuction with the reflagging of Kuwaiti tankers in the Persian Gulf, or that possibly exist today in Central America. These situations well might produce the need among those involved in them for readjustment counseling to help deal with the psychological aftermath of the experiences.

Mr. President, I note, as did the committee in our report, that this authority, if enacted, should be used only in very limited circumstances in which our service personnel actually experienced combat situations.

A second proposed change in eligibility relates to individuals who served during the Vietnam era but who are still on active duty and, thus, are not at present considered veterans under the applicable definition in section 101(2) of title 38, United States Code. Under provisions in the committee bill, which are derived from provisions in S. 6, legislation, I introduced on January 6, these individuals would be made eligible for—but, in a change from the bill as introduced and as distinguished from Vietnam-era veterans, not entitled to—readjustment counseling. The same eligibility—also changed from entitlement as proposed in the bill as introduced—would be extended to those still on active duty who served in the types of combat situations described above since the end of the Vietnam era.

Although I am not aware of any data suggesting a widespread unmet need for counseling among active duty personnel who served in Vietnam or in combat situation since then, I am also not aware of any study having been made regarding such needs. I have received considerable anecdotal information of such active duty personnel having requested counseling at vet centers, and of informal efforts by personnel at some vet centers to provide services to active duty personnel despite a lack of express authority to do so. I do not believe that any individual who served in the Armed Forces during the Vietnam era or in a combat situation since then and feels a need for readjustment counseling should be barred from receiving help simply because he or she is still on active duty. The committee bill would provide the VA with authority to furnish the necessary counseling.

With further reference to this issue, I note the August 7, 1987, letter from Secretary of Defense Caspar Weinberger which was reprinted in the "Agency Reports" section of the committee's report, pages 95-96, which expressed the opposition of the Department of Defense to the extension of eligibility for readjustment counseling to active duty personnel. In expressing DOD's opposition, Secretary Weinberger made the point that military health care openly plays the role of weeding out personnel on health grounds. I am concerned that it is exactly this practice that could discourage active duty members from seeking assistance that might be needed to help them overcome psychological problems related to their combat service and thus enhance their effective functioning during service as well as thereafter.

The VA, in its testimony at the committee's May 21 hearing, expressed the view that such services should be furnished under a sharing agreement with the Department of Defense pursuant to Public Law 97-174. However, in response to a question I asked, the VA indicated that only one such sharing agreement between VA and DOD exists at present. Further, the VA agreed with the point made by the American Legion that it is unlikely that such sharing agreements would work because many career personnel would not seek readjustment counseling for fear of jeopardizing their advancement because of receiving "what could be construed as psychiatric treatment." The VA, in response to another question I asked, noted that it "is likely that anonymity would be an important matter for active duty career personnel who contemplate any form of psychological counseling or mental health services." Thus, it does not appear likely that sharing agreements would be a useful or appropriate approach in this area.

Third, the committee bill includes provisions pursuant to which veterans of World War II and the Korean conflict, with a particular emphasis on those who were in combat with the enemy, would also be made eligible for—but, in a change from the legislation as introduced, not entitled to—counseling through the Readjustment Counseling Program if they requested it. In my view, the Federal Government should never allow to go unmet the requests for counseling help from those who have experienced the stress of combat while serving in the Armed Forces.

With references to this issue of meeting the needs of veterans of prior wars, I note, as I have in the past, the testimony at an April 30, 1981, committee hearing of Dr. Arthur Arnold, then the Chief of Psychiatry at the Bay Pines, FL, VA Medical Center and now the Chief of Psychiatry at the Phoenix VAMC, about a World War II veteran he was treating for alcoholism. Dr. Arnold described the case as follows:

> There was a man in his late 50's who had been treated in VA hospitals for probably 30 admissions for alcoholism over the last 40 years who finally because of the growing awareness of the staff of the importance of knowing the war experience, was asked what he had done in World War II.
>
> Finally, it came out that he has had nightmares for 40 years of being under fire

> pinned down on a beach in the South Pacific for 72 hours as a teenage corpsman trying to patch pieces of bodies together. This had never come out . . . until now, so the man had never really gotten treatment that went to the core of his problems.

It seems clear that that veteran was suffering from problems related to his combat experience and needed assistance which recognized that fact.

In a similar vein is an article by Marlene Cimmons in the August 15, 1985, Los Angeles Times, headlined "Stress Problems Show Up Among Veterans of WWII," which describes war-related problems among WWII veterans. This article was printed in the Congressional Record at my request on July 15, 1987, at S10068-69.

AUTHORIZING THE PROVISION OF ADDITIONAL VA SERVICES

Certain services, other than radjustment counseling services, provided by the Department of Veterans Benefits [DVB] such as assistance in applying for compensation, education, or vocational rehabilitation benefits, and the Department of Medicine and Surgery [DM&S] such as furnishing drug and alcohol counseling, screening for other health problems, or preventive health services, can be and, in some instances already are appropriately and effectively provided at vet center locations by DVB and DM&S staff. The vet center provides an excellent setting for the provision of various VA services to veterans who might not otherwise be reached at traditional VA facilities, and the committee bill would provide express authority and sanction for such services to be provided at vet centers and for the Administrator to assign personnel to vet centers to provide such services. In this regard, I note, as did the committee in our report accompanying S. 1464, that it is not the committee's intent that any additional personnel or other resources would be added to support this new authority. Rather, the committee expects that, under this discretionary authority, currently employed personnel would be reassigned to vet centers on a full- or part-time basis if it were determined that they could cost effectively be utilized to provide their services in those settings.

In this regard, I note that the VA in recent years has been supporting various new initiatives that involve greater VA cooperation with community entities so as to meet the health care needs of eligible veterans in community settings. Among such initiatives are the VA's program of halfway house contract care for veterans with drug or alcohol abuse dependencies, the newly implemented community based treatment of homeless veterans with chronic mental illness disabilities, and the agency's adult day health care program. Requiring the Vet Center Program, which has been so successful in community locations, to undergo a wholesale shift to a more inhouse program would be counter to this successful trend in other VA health care settings. I believe therefore that consideration should be given to moving appropriate other VA services to the community settings in which vet centers function.

CAREER CONVERSION OF CERTAIN VET CENTER PERSONNEL

At some vet centers, certain staff members who have been with the Readjustment Counseling Program for an extended period of time continue to work under time limited appointments and have not yet received career status within the Federal civil service system.

This issue of program personnel being employed on time limited appointments has been a matter of concern to me and other members for some time. On October 29, 1986, I wrote to Dr. John Gronvall, the then-Acting Chief Medical Director of the VA, regarding this issue. Dr. Gronvall, by now the Chief Medical Director, in a December 4 letter, indicated that an effort was underway to convert personnel to career status. This exchange of correspondence is printed in the committee report at pages 65 to 72.

Although I am pleased that such an effort has been made by the agency, I am very concerned that it is neither as complete nor as timely as it should be.

In my view, any individual who has been with the program for at least 2 years and who, in that time, has performed in a satisfactory manner should be given career status. Thus, the committee bill would require, beginning 90 days after the date of the enactment of this measure, that all Readjustment Counseling Program personnel who have served in a satisfactory manner for such a period of time be promptly converted to career positions. Those who have so served as of the 90th day after the enactment date of this bill, must be converted within 120 days after the enactment date, and others must be converted within 30 days after reaching the 2-year mark.

With further reference to the conversion of these employees, I note, as did the committee in the report accompanying this measure, that the 2-year service period in the committee bill is a maximum and does not preclude action to convert an employee to career status at any earlier point if the agency considers such action appropriate.

CHANGES IN S. 1501 AS INTRODUCED

Prior to the committee's July 31 meeting, there was an attempt to develop a compromise on the provisions relating to the Readjustment Counseling Program, as proposed in S. 1501 as introduced and amended by amendment No. 610, that would be acceptable to most if not all of the members of the committee. Although that compromise ultimately was not agreed to, I proposed and the committee agreed to include in the committee bill, most of the revisions developed during that effort in order to narrow the differences and to demonstrate the good faith that had characterized the attempt to reach a consensus. These revisions are as follows:

The provision in S. 1501 to make any action which resulted in the relocation of 25 personnel in the Readjustment Counseling Program an administrative reorganziation that could proceed only with at least 8 months advance notice, was modified to rasie the threshold for such a "notify and wait" requirement to any action after fiscal year 1988 involving the movement or closure of 18 vet centers—9 in fiscal year 1988—thereby providing significantly more flexibility for the VA to take actions to relocate or close up to this many centers without such a long waiting period while still retaining protection in the case of major reorganizations affecting the program.

The provision in S. 1501 that would have protected the budget and staff of any vet center relocated to a VA medical center for 3 full fiscal years was modified so as to provide protection for 2 full fiscal years, with authority given to the Chief Medical Director to reduce funding or staffing or both after the first such year based on a real decline in the center's potential workload.

The S. 1501 provision requiring the conversion, on the date of enactment, from time limited appointments to career or career conditional appointments of any employees who had been serving on a time-limited basis for 2 or more years has been modified so as to provide for a delay of 90 days after the enactment date before the conversion would be required.

The provision in S. 1501 providing an entitlement for readjustment counseling for active duty personnel who served either during the Vietnam era or since then in combat conditions has been modified so as to make such individuals eligible for—rather than being entitled to—such counseling.

Authority was added for the Chief Medical Director to establish criteria other than those specified in the bill to be considered before any individual vet center is moved or closed so long as the factor chosen relates to the effective provision of readjustment counseling services.

CONCLUSION

Mr. President, I want to take this opportunity to thank our committee's ranking minority member, Senator Frank Murkowski, for his support in putting together titles I and II, both bipartisan measures, and to express appreciation to his very effective staff—Tony Principi, Lisa Moore, Annie Patterson, Laura Stepovich, Susan Theroux, and Chris Yoder—for their fine efforts and cooperation on those measures.

Of course, I also extend thanks to the committee's majority staff for their excellent work on this bill—George Bentley, Bill Brew, Cathy Chapman, Liz Giffin, Charlotte Hughes, Claudia Kashin, Sandi Isaacson, Darryl Kehrer, Jennifer Loporcaro, Loretta McMillan, Ingrid Post, Ed Scott, and Jon Steinberg, and our fine editorial director, Roy Smith.

I urge all of my colleagues to support this important measure. Each element of the bill has an important role to play in assuring the provision of effective and responsive health care for our Nation's veterans.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am certainly pleased to join with my friend and colleague, the senior Senator from California, the chairman of the Veterans' Affairs Committee, in support of the joint effort that has been made on titles I and II. I think that the staffs have worked very well and it is indicative of the committee we all have to further veterans' benefits. There is no question that the obligation we have to veterans is one which never can be adequately repaid. There is a continuing commitment on behalf of the Senate Veterans' Affairs Committee to forge ahead. So I am very pleased to join with my friends with regard to the legislation we have before us, Senate bill 1464.

This is a most important piece of legislation because it deals with the two very critical components of the VA health-care delivery system; that is, access and quality of care.

Title I is designed to ensure that our veterans, subject to a very, very small deductible, will be reimbursed for their travel expenses, irrespective of distance, and title II ensures that the infrastructure will be in place to provide oversight of the VA's quality assurance program to ensure that it receives the highest priority of the Veterans' Administration.

I have an amendment to title III. I would be pleased to call that up at the pleasure of the chairman. I wonder if that meets with his agreement.

Mr. CRANSTON. I would like to suggest that he proceed with his amendment now.

Mr. MURKOWSKI. I thank my colleague, the senior Senator from California.

AMENDMENT NO. 1007

(Purpose: To provide a substitute for title III of the bill)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself, Mr. SIMPSON, Mr. THURMOND, and Mr. HELMS, proposes an amendment numbered 1007.

Mr. MURKOWSKI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, strike out line 16 and all that follows through page 38, line 17 and insert in lieu thereof the following:

TITLE III—READJUSTMENT COUNSELING

SEC. 301. POSTPONEMENT OF TRANSITION PERIOD FOR READJUSTMENT COUNSELING PROGRAM.

(a) POSTPONEMENT OF TRANSITION PERIOD.—Section 612A(g)(1) is amended—

(1) by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990"; and

(2) in clause (A), by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1990".

SEC. 302. REQUIREMENT TO OBTAIN SOCIAL SECURITY NUMBERS OF BENEFICIARIES.

Section 612A is amended by adding at the end the following new subsection:

"(i) The Administrator, for the purpose of determining and analyzing information on the workload and workflow in furnishing servces under this section, shall obtain from each veteran receiving such services the veteran's social security number.".

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, S. 1464 as reported by the Committee on Veterans' Affairs contains important provisions which provide for veterans' travel to and from VA medical facilities, and improve the oversight of VA quality assurance programs. As I have indicated, I consider these provisions—which address access to care and quality of care—to be an integral part of the VA health-care system. And I urge their adoption.

Mr. President, I continue to, of course, commend my good friend from California, the distinguished chairman of the committee, for his outstanding efforts on the bill. I know of his commitment to all veterans and of his special interests in the needs of Vietnam-era veterans. With regret, however, I cannot support the provisions contained in title III of S. 1464 relating to the so-called storefront counseling centers. I cannot agree to the provision because we have a situation where we are perpetuating, expanding, and making major changes in the program. Let there be no mistake about it, Mr. President what Congress believed would be and intended to be a short-term program when established in 1979 would be made permanent by title III.

So we are going from a congressional intent of a temporary program to fill a specific need today to making that a permanent program.

The problem we have, Mr. President, is that we are moving in this area on very short notice and, unfortunately, without hearings. It is very, very important, I think, as we reflect on the changing needs of our veterans to have input from the various veterans' organizations as to how they see the continuing needs of our veterans being met.

So, to move on this legislation to make permanent the storefront counseling vet centers does so without the support of the Veterans' Administration, the Department of Defense, or the major veterans' service organizations. I think that is significant, and I ask that my colleagues who are following this debate reflect on that. We do not have the support of the Veterans' Administration, the Department of Defense, or the major veterans' service organizations. I will reflect on their opinions a little later in my statement.

Mr. President, my amendment would simply strike the farreaching provisions of title III and in its place extend for 1 year the date by which the relocation of storefront centers to the VA medical centers would occur. We are not doing away with it this year, by any means. We are simply facing the reality of winding it down and putting it where it really needs to be, in the VA medical centers.

Thus, Vietnam veterans would continue to receive services, and the Senate would have the chance, as well as the Veterans' Affairs Committee, to hear from the interested and affected parties and consider in a careful and deliberate manner the very best way to meet the challening and changing needs of veterans in the 1990's.

Mr. President, in establishing this program 8 years ago the Senate Committee on Veterans' Affairs stated:

> The readjustment counseling program is establishing an entirely new area of eligibility, and the committee believes that proceeding with caution is fully warranted.

It is inconceivable to the Senator from Alaska that we would not adhere to our own admonition.

Mr. President, I must ask the question: Why are we bypassing today the appropriate legislative hearing process? What is the emergency? The Vet Center Program is not threatened with extinction.

Current law requires the VA to complete, by September 30, 1989, a transition of the majority of vet centers to the grounds of the VA medical centers, and obviously for good reason.

At the end of the transition, 94 of the 189 vet centers could still be in their current location. The other 95 could continue their work from the grounds of the VA medical centers.

I further emphasize that I said "transition." It is very important that we communicate this message—transition, not termination. Vietnam-era veterans have a permanent entitlement to readjustment counseling services, and so forth.

So, the question is not if the services will be provided but where the services will be provided.

Mr. President, how do veterans and their organizations react to the proposed legislation? We have not had a hearing—that has already been brought out—and the minority recommend that this hearing be held before we proceed with these provisions. Let us look at the attitude of the American Legion, with 800,000 Vietnam veteran members; the Veterans of Foreign Wars, with 700,000 Vietnam veteran members; and the Amvets, with 40,000 Vietnam veteran members. They requested that the Committee on Veterans' Affairs not proceed with the consideration of these provisions. These organizations, representing the interests of all veterans, including those of the Vietnam era, have asked for time to study the impact of these provisions and to comment on their merits and shortcomings. I believe their request is reasonable and one that should be honored by the committee and the Senate.

I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, letters from these organizations. There is a letter from Cooper Holt, executive director of the Veterans of Foreign Wars of the United States, dated July 21, 1987, in which he says:

> We strongly urge you to refrain from marking up the Senate bill which is part of title III so as to properly allow for a congressional hearing.

There are letters from AMVETS, the Noncommissioned Officers Association, the Disabled American Veterans, and the American Legion.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **MURKOWSKI**. So I think the attitude of the veterans' organizations with regard to this legislation is clear. They feel that they should be heard. I feel that we have an obligation to hear them. I think their request is a reasonable one and should be honored.

Mr. President, in addition to the procedural questions I have raised, I have some serious concerns about the substance of the title.

First, S. 1464 proposes to extend eligibility for readjustment counseling services at vet centers to certain active duty military personnel. That is rather significant. We are extending the services to certain active duty military personnel. These are Vietnam vet centers, storefront centers, to assist in the transitional process. Now we are moving out of that.

The Department of Defense is responsible for providing these services to those active duty individuals, and it has more than adequate resources to do so. We are told repeatedly that the Veterans' Administration does not have sufficient medical care resources to take care of its own; yet, this provision potentially makes over 2 million active duty military personnel eligible for certain medical care services, without so much as a hearing. Think about it. We are opening it up to 2 million more active duty military personnel—in what was designed by this body as temporary vet center counseling program—without so much as a hearing.

Most important, the Secretary of Defense, in a letter dated August 7, 1987, expressed his strong opposition to this proposal. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, August 7, 1987.

Hon. FRANK H. MURKOWSKI,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: This letter presents the views of the Department of Defense with respect to Section 3 of S. 1501, 100th Congress, a bill to amend Title 38, United States Code, to eliminate the requirement that the Administrator of Veterans Affairs carry out a transition under which community based Vet Centers would be moved to Veterans Administration medical facilities, and for other purposes.

Section 3 of S. 1501 would establish authority for the Veterans Administration to furnish psychological counseling to active duty military personnel who had served on active duty during the Vietnam era or during a period of hostilities. By permitting the Veterans Administration to furnish counseling to assist such persons in "readjusting to active duty" following such service, S. 1501 circumvents the primary goal of the Military Health Care System which is to maintain the medical (including psychological) readiness of the active duty force.

The Department of Defense is strongly opposed to the readjustment counseling program provisions of Section 3 as they pertain to active duty personnel. The Department of Defense operates a comprehensive health care system which provides quality psychological counseling to all active duty personnel in need of such care. Further, it is imperative that the Department remain fully cognizant of the psychological status of its active duty personnel. The Military Health Services System (MHSS) maintains a medical record on every active duty person that is annotated each time this member seeks care. By retaining responsibility for providing medical care to all active duty personnel, the MHSS ensures that a complete record of each individual's medical and psychological history is maintained. These records form the basis for medical opinions concerning flight status, fitness for duty, security clearances, and a host of other equally important medical readiness determinations. Should these records be incomplete because medical treatment was provided by another agency, one of these determinations could be fatally flawed.

Accordingly, the Department is opposed to this provision of S. 1501 and any provision that would permit the Veterans Administration to provide medical or psychological care to an active duty member except under a formal VA/DoD Sharing Agreement entered into under P.L. 97-174. The Administration continues to support taking advantage of mutually beneficial opportunities for sharing health care resources in accordance with the Sharing Act.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

CAP WEINBERGER.

Mr. **MURKOWSKI**. Mr. President, I will make specific reference to one portion of the letter:

> The Department of Defense is strongly opposed to the readjustment counseling program provisions of Section 3 as they pertain to active duty personnel. The Department of Defense operates a comprehensive health care system which provides quality pyschological counseling to all active duty personnel in need of such care.
>
> Further, it is imperative that the Department remain fully cognizant of psychological status of its active duty personnel.

Obviously, this is very professional care, Mr. President.

> Further, it is imperative that the Department remain fully cognizant of the psychological status of its active duty personnel.

There is a message there, Mr. President.

> The Military Health Services System (MHSS) maintains a medical record on every active duty person that is annotated each time this member seeks care. By retaining responsibility for providing medical care to all active duty personnel, the MHSS ensures that a complete record of each individual's medical and psychological history is maintained. These records form the basis for medical opinions concerning flight status, fitness for duty, security clearances, and a host of other equally important medical readiness determinations. Should these records be incomplete because medical treatment was provided by another agency, one of these determinations could be fatally flawed.

So, Mr. President, it is quite obvious that there is more than a casual concern about this matter.

Now, in addition eligibility for readjustment counseling would be extended for veterans of World War II and Korea. I would submit that these veterans, in many cases, need hospital and nursing home care far more than counseling for readjustment to civilian life. Obviously the Vietnam war has been over for a number of years. I recognize that it will never be over in the minds of many of those who gave so much for their country.

But the point is, have the Vietnam vet centers served the basic purpose that they were designed to do?

The other question that comes before us is the realization that we are talking about phasing out the store front centers. Can some of the needs of the Vietnam veterans be met better by professional counseling associated with the existing VA facilities and hospitals?

Most of these veterans of World War II, of course, are in their late fifties, sixties, some in their seventies, and have readjusted to civilian life over the last 40 years.

Limited resources should be directed at providing more services to address the needs of an aging veteran population and not on expanding eligibility for vet centers to aging veterans. Mr. President, it troubles me greatly that this body would tell a combat veteran of World War II that he cannot receive treatment for medical problems at a VA outpatient clinic or a nursing home but he can go down to the local vet center and participate in a rap session to readjust to civilian life or talk to a counselor who may have never even been in combat. This, in my view, is bizarre, and I think the chair would agree.

In August 1987, the General Accounting Office [GAO] released a report on the Vet Center Program which found several significant problems in the program.

I am not here to belittle the program. I think the program has been a contribution. But the point is, when is the obligation met and when do we go on to the next phase?

These problems are:

First, the VA has little assurance that vet centers provide quality professional care to veterans.

It does not mean that the counseling is not worthwhile. But no quality assurance reviews are conducted.

Second, according to GAO the data base used to determine workload and justify the expenditures of medical care dollars on this program shows that 35 percent, Mr. President—35 percent of the contact sheets were completed on clients for visits that simply did not occur or when no assistance to the client was provided.

I am told by GAO of one instance in which a vet center organized a softball team which is fine, but then they gave themselves credit for client services to the team members when they met for a practice or a game.

Obviously that is an exception rather than the rule, but it does exist.

In another instance, a vet center used its address, taxpayer-paid mail privileges—franked envelopes—and a VA sanction to establish and solicit membership in a Vietnam veterans' motorcycle club.

We have some of this here, and we will put it in the RECORD.

Mr. President, are these examples of the types of activities we wish to support at the expense of medical care staff and additional clinics and nursing homes? Mr. President, I love softball and although I do not ride motorcycles much anymore—to each their own, but, I find it simply outrageous that this body would support using limited medical dollars in this manner at a time of increased demand at VA hospitals, outpatient clinics and nursing homes brought on by an aging veteran population.

I further suggest to you, Mr. President, this is all proposed to be done without a hearing.

I do not mean to imply that there are no veterans—from Vietnam, World War II, Korea, or peacetime—who may have psychological problems. However, we have a medical-care system that is more than capable of meeting the needs of all veterans. I repeat, Mr. President, all veterans.

I would note for my colleagues some further GAO findings:

The average Vietnam vet center saw 486 veterans per year of which, 11 percent were not even Vietnam era veterans.

Only 56 percent of the veterans has served in Southeast Asia; and DOD tells me that only 1 in 4 who serve in a combat theater actually serve in combat. My math tells me, Mr. President, that only about 60 of the 486 were Vietnam combat veterans, the veterans for whom the vet centers were established. I repeat, Mr. President, 60 combat veterans per year at a time when combat veterans from all wars are waiting in line in VA outpatient clinics and facing at least a year waiting list to get into a VA nursing home. These are the tough decisions which this body must make. How do we spend limited health care dollars?

And, also, only 49 percent were seen for problems relating to their military service.

We are never going to have enough dollars to do the entire job in the manner that we would like to or that our veterans deserve. But we have to make a decision, with the help of the veterans' organizations, to prioritize the needs as the needs change and the only plausible way to do that is with input of the veterans' organizations through the hearing process, and I plead the case of the merits of the hearing.

Mr. President, does the situation which I just described meet the psychological needs of combat veterans?

Mr. President, how can we expect to meet the future needs of our Nation's veterans—not just those of the Vietnam era but of all veterans—if we are not willing to make the difficult decisions. After all, this program—when established—was for only 2 years and now 15 years after the last combat troops returned home we're taking the first steps to make it permanent.

I think we have to ask ourselves, are we shortchanging our obligations to Vietnam veterans? Of course not. Are we doing away with the program? Of course not. We are extending it, but we are going to phase it down. These Vietnam veterans should be helped into the mainstream after this period of time. Many of them are going to need a higher capability of professional care. That is just the harsh reality. We are prepared to meet that. But the question of making these permament, in some cases many professionals will tell you is the worst possible thing to isolate and segregate these people because it does not assist in bringing them into the mainstream. It leaves them in their little core segments, some who really need professional help.

Mr. President, perhaps most importantly it is counterproductive to the psychological well-being of Vietnam veterans to continue to encourage the erroneous perception that these individuals have not adjusted to civilian life.

I know my colleagues and the chairman on the other side look at this issue as an obligation to the Vietnam vets and if we reduce this program why then somehow we are shortchanging them. What we are asking for, Mr. President, is a hearing and I just cannot understand why the veterans of this country of all the veterans' organizations cannot come before our body and express their true attitudes and their experience.

Vietnam veterans carry no greater burden than the erroneous perception that they are poorly educated, which they are not emotionally crippled outcasts unable to adjust to civilian life, or successfully exist in a normal environment. I believe this legislation will serve to perpetuate that unfortunate stereotype. That is not what we are looking for. That is not what the Vietnam vets of America are looking for.

Mr. KERRY. Mr. President, will the distinguished Senator yield?

Mr. MURKOWSKI. No; I am going to finish my statement prior to yielding, and then I will be very happy to yield to my friend from Massachusetts.

Mr. President, let me put this in proper perspective. I recently received a copy of a resolution adopted by the one veterans' service organization that has lobbied in strong support of title III. I will read for you this resolution which troubles me greatly and is a most vicious attack on individuals and organizations who have only asked for a hearing on this issue before Senate consideration.

I will read the resolution:

Whereas, VVA is a not for profit organization whose purpose is working toward social and economic justice; and

Whereas, other national veterans organizations that are also not for profit institutions have been funded with money machines that pay their leadership exorbitant salaries; and

Whereas, the greed, selfishness and corruption of excessive compensation has insulated the decision makers from the plight of their constituencies and transformed their organizations into entities concerned primarily with perpetuating their money machines; and

Whereas, VVA is sensitive to the potential for abuse and exploitation and is desirous of maintaining its integrity and principles: Therefore be it

Resolved, that no person working full time at VVA can be compensated at a level greater than three times the Bureau of Labor Statistics moderate but adequate standard for a family of four living in Washington, D.C.

That comes out to about $98,000, Mr. President.

They are personal attacks on dedicated individuals such as Mylio Kraja of the American Legion and Cooper T. Holt of the Veterans of Foreign Wars who are combat Veterans of World War II, Butch Joeckel of the Disabled American Veterans, a double amputee combat veteran of the Vietnam war; and Jack Powell of the Paralyzed Veterans of America, also a combat veteran of Vietnam who, as a result, will spend the remainder of his life in a wheelchair. I deeply regret that they resorted to this tactic as part of their campaign to somehow imply that these organizations are not sensitive to the needs of Vietnam veterans.

Mr. President, I have a few more points, but, without losing my right to the floor, I am going to yield to accommodate the Senator from Georgia briefly for a statement.

DEPARTMENT OF DEFENSE AUTHORIZATIONS

Mr. NUNN. I thank the Senator from Alaska. This will not take but a few minutes. But there is something we need to do and have to do today to facilitate the beginning of the conference on the military authorization bill on which we have a considerable number of differences between the House and the Senate.

The Senator from Virginia and I have worked very closely together in discussing the conferences and the number of conferees, not the names of the conferees but the number, because we have felt for some time that the number of conferees was growing out of all proportions of our abilities to manage that number on the House side and on the Senate side.

The unanimous-consent request that I will propound will reflect an effort to cut down on the number of conferees to facilitate a more expeditious conference. I am hoping our colleagues on the House side will reciprocate and cut down drastically the number that they have had in the past.

(Ms. MIKULSKI assumed the chair.)

Mr. WARNER. Madam President, I join the distinguished chairman. It was a difficult task for the chairman and myself as ranking member to address the problem of the conference this year against the background of last year where the House had in excess of 80 participants on their side in conference. We felt that we should return to procedures followed by Mr. Richard Russell and the distinguished Senator from Mississippi, Mr. STENNIS, where they utilized fewer than the full membership. Each of us consulted with our membership and they were most cooperative and agreeable in this objective.

On the Republican side, Mr. THURMOND, who is going to be quite actively engaged in future activities of the Judiciary Committee with reference to the Supreme Court, felt the need to be involved in that arena and could not spare the time for purposes of this conference. So he yielded his position and suggested that one of the more junior Members on our side be included, and we have done that.

So the composition of this conference is the result of private consultations with your side of the aisle and indeed joint consultations between the chairman and myself with the Republicans.

We reached, I think, a very harmonious consensus. We have now established, I think, a baseline which hopefully the House this year and in the years to come will use as guidance in reducing the number of their Members.

Furthermore, the chairman and I have proposed this year more authority in the chairmen of the subcommittees and the ranking members such that they can be more active in the decision process. I yield to the chairman to comment on that.

Mr. NUNN. I thank my friend from Virginia. I agree with everything he has said. We are going to try to have more in terms of authority and responsibility on the subpanels.

I might add that all of our membership will be invited to participate in the subpanels and those subpanels will be increasingly important because we hope to resolve most of the issues in the subpanels.

The Senator from Virginia mentioned that the Senator from South Carolina, who is one of our most valued members of our committee, has other very important responsibilities. The same situation applies to the Senator from Mississippi. He, of course, is chairman of the Appropriations Committee. They are in the middle of all of their markups, so the Senator from Mississippi has graciously decided not to become a conferee this year, even though he is one of our most valued members and has been chairman of our committee, because of the full load he has on appropriations.

Mr. WARNER. Madam President, likewise Senator HUMPHREY is engaged very actively in other endeavors and asked Mr. PHIL GRAMM of Texas to be sort of his alter ego on the conference. Senator GRAMM will carry forward a number of objectives that Senator HUMPHREY had in mind.

DEPARTMENT OF ENERGY—NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1988

Mr. NUNN. Madam President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 865, a bill to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Strike out all after the enacting clause and insert:

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SEC. 101. SHORT TITLE.

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 111. OPERATING EXPENSES.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,523,225,000 for fiscal year 1988, to be allocated as follows:

(A) For research and development, $769,019,000.

(B) For weapons testing, $396,550,000.

(C) For production and surveillance, $1,893,830,000.

(D) For nuclear directed energy weapons research, development, and testing, $240,000,000.

(E) For the defense inertial confinement fusion program, $149,000,000.

(F) For program direction, $74,826,000.

(2) For defense nuclear materials production, $1,424,521,000 to be allocated as follows:

(A) For uranium enrichment for naval reactors, $141,500,000.

(B) For other uranium enrichment, $11,500,000.

(C) For production reactor operations, $540,035,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $485,700,000, of which $80,000,000 shall be used for special isotope separation.

(E) For supporting services, $221,747,000.

(F) For program direction, $24,039,000.

(3) For environmental restoration and management of defense waste and transportation, $578,519,000, to be allocated as follows:

(A) For environmental restoration, $97,798,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $411,597,000.

(C) For waste research and development, $51,082,000.

(D) For hazardous waste process planning, $7,112,000.

(E) For transportation management, $8,400,000.

(F) For program direction, $2,530,000.

(4) For verification and control technology, $128,290,000 for fiscal year 1988, of which $102,975,000 shall be used for detection technology, to be allocated as follows:

(A) $10,800,000 for on-site monitoring, of which $3,500,000 shall be allocated for CORRTEX hydrodynamic yield estimation technology training and equipment, $3,500,000 shall be allocated to improve the accuracy at low thresholds of nuclear test yield estimation using the CORRTEX hydrodynamic yield estimation technology, and $1,000,000 shall be used to support a program to develop seismic, gravity, and electromagnetic methods for on-site monitoring of suspected clandestine nuclear test sites.

(B) $47,000,000 for satellite instrumentation, of which $3,000,000 shall be allocated for a nuclear test monitoring payload for the Boost Surveillance and Tracking System, and $9,000,000 be allocated for multiyear procurement of nuclear detection payloads for the Defense Support Program satellite.

(C) $18,300,000 for seismic monitoring, of which $9,000,000 shall be used for development and fabrication of a Deployable Seismic Verification System.

(D) $2,000,000 for debris and effluent monitoring.

(E) $8,000,000 for other technical means of verification, of which $1,000,000 shall be allocated for a study evaluating the efficiency of an integrated comprehensive or low-threshold nuclear test ban verification system consisting of seismic monitoring systems, satellite monitoring systems and on-site inspections, and $4,000,000 shall be allocated for the development of alternative and confirming nonseismic means of verifying nuclear testing limitations, including infrasound research, improved data processing capabilities, and extremely low frequency monitoring technologies.

(F) $3,900,000 for directed energy verification.

(G) $12,975,000 for advanced concepts and technology development, of which $4,000,000 shall be allocated for research and development of technologies to support monitoring of a negotiated agreement to dismantle nuclear warheads and monitoring of a negotiated agreement halting the production of plutonium and uranium for nuclear weapons.

(5) For nuclear materials safeguards and security technology development program, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 112. PLANT AND CAPITAL EQUIPMENT.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $24,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project-D-103, seismic upgrade, Building 111, Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $26,500,000.

Project 88-D-122, facilities capability assurance program, various locations, $15,400,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $29,400,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health upgrade, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $76,929,000.

(2) For materials production:

New production reactor, location to be determined, $20,000,000.

Project 88-D-146, general plant projects, various locations, $31,230,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $35,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $55,160,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 84-D-135, process facility modifications, Richland, Washington, $10,000,000.

Project 83-D-148, non-radioactive hazardous waste management, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $10,600,000.

(3) For defense waste and transportation management:

Project 88-D-171, general plant projects, various locations, $20,436,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $7,500,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $742,000.

Project 85-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $4,800,000.

Project 88-N-102, expanded core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $266,230,000, of which $17,000,000 shall be allocated for nuclear directed energy weapons and $10,000,000 shall be allocated for the defense inertial confinement fusion program.

(B) For materials production, $91,285,000.

(C) For defense waste and transportation management, $43,687,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $45,000,000.

SEC. 113. FUNDING LIMITATIONS.

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not less than $159,000,000 shall be used for the defense inertial confinement fusion program.

(c) REPROGRAMMING PROHIBITION.—No amount appropriated to the Department of Energy for fiscal year 1988 for operating expenses for verification and control technology may be used for any other program.

PART B—RECURRING GENERAL PROVISIONS

SEC. 121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3012 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN.

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for operating ex-

penses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 128. ADJUSTMENTS FOR PAY INCREASES.

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 129. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 131. ALLOWABLE COSTS TO INCLUDE CERTAIN INFORMATION PROVIDED TO CONGRESS AND STATE LEGISLATURES.

(a) ALLOWABLE COSTS.—Section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 42 U.S.C. 7256a(b)), is amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

"(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

"(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.".

(b) EFFECTIVE DATE.—Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) shall be prescribed not later than 90 days after the date of the enactment of this Act. Such regulations shall apply as if included in the original regulations prescribed under such section.

SEC. 132. LIVERMORE NATIONAL LABORATORY.

(a) REDESIGNATION.—The Ernest Orlando Lawrence Livermore National Laboratory facilities at Livermore, California, which were so named by section 212(d)(2) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164; 93 Stat. 1265), shall be known hereafter as the "Livermore National Laboratory". Any reference in any law, regulation, map, document, or record of the United States to such facilities shall be deemed hereafter to be a reference to the Livermore National Laboratory.

(b) REPEAL.—Section 212(d)(2) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164; 93 Stat. 1265) is hereby repealed.

SEC. 133. MODERNIZATION OF NUCLEAR WEAPONS COMPLEX.

(a) STUDY.—The President shall conduct a study, in consultation with experts in both the Federal Government and the private sector, on the nuclear weapons complex for the purpose of determining the overall size and productive capacity necessary to support national security objectives.

(b) PLAN.—The President shall formulate a plan, based on the study conducted under subsection (a), to modernize the nuclear weapons complex by achieving the necessary size and capacity determined under the study. Such plan shall include—

(1) actions necessary to ensure operation of facilities in the nuclear weapons complex in a safe and environmentally acceptable manner;

(2) a schedule for implementation of the plan; and

(3) the estimated costs of implementation of the plan.

(c) REPORT.—The President shall submit a report to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives containing recommendations resulting from the study required by subsection (a) and a description of the plan required by subsection (b). The report shall be submitted by February 15, 1988.

(d) NUCLEAR WEAPONS COMPLEX DEFINITION.—In this section, the term "nuclear weapons complex" includes facilities for nuclear weapons research, development, and testing, nuclear materials production, nuclear weapons components manufacture, and assembly of nuclear weapons.

SEC. 134. NUCLEAR WEAPONS COUNCIL AMENDMENTS.

(a) UNDER SECRETARY OF DEFENSE FOR ACQUISITION TO BE CHAIRMAN.—Section 179(a) of title 10, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Under Secretary of Defense for Acquisition.".

(b) ASSISTANT TO SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"There is an Assistant to the Secretary of Defense for Atomic Energy, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(3) Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy".

SEC. 135. NUCLEAR TESTING LIMITATION.

(a) LIMITATION.—Effective 90 days after the date of the enactment of this Act, funds appropriated for fiscal year 1988 may not be obligated or expended to carry out a nuclear explosion with a yield exceeding one kiloton, or a nuclear explosion that is conducted outside a designated test area, unless the President certifies to Congress—

(1) that the Soviet Union, after the end of the 90-day period beginning on the date of the enactment of this Act, has carried out a nuclear explosion with a yield exceeding one kiloton;

(2) that the Soviet Union, after the end of such 90-day period, has carried out a nuclear explosion outside a designated test area; or

(3) that the Soviet Union has refused to accept and implement reciprocal in-country monitoring arrangements to take effect not later than the last day of such 90-day period and extend through the remainder of fiscal year 1988.

(b) TERMINATION FOR CERTAIN NEW AGREEMENTS.—The limitation on nuclear explosions in subsection (a) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union establishing significant limits on nuclear explosions by such countries that is negotiated after the date of the enactment of this Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "in-country reciprocal monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through the emplacement by each country of seismic monitoring stations on the national territory of the other so that the seismic monitoring network of each nation will be capable of detecting and identifying nuclear explosions with a yield exceeding one kiloton at known nuclear weapons test sites of the other nation and at any other site of the other nation that currently has the capability to accommodate decoupled nuclear explosions with a yield exceeding one kiloton.

(2) The term "designated test area" means an area within the Soviet Union or the United States which—

(A) is known to be composed of strong-coupling rock; and

(B) is located within the boundaries of a single existing nuclear weapons testing site in such country.

SEC. 136. ANNUAL REPORT ON SAFETY OF THE NUCLEAR WEAPONS COMPLEX.

(a) REQUIREMENT FOR ANNUAL REPORT.—(1) The Secretary of Energy shall request the National Academy of Sciences to submit an annual report on the status of the nuclear weapons complex. Each such report shall include—

(A) an evaluation of the safety of current facilities and steps that are required to assure the continued safe operation of such facilities;

(B) an evaluation of the environmental impact of the operation of those facilities;

(C) an estimation of the approximate maximum production capability for each nuclear reactor of the Department of Energy consistent with safe operation;

(D) the approximate date on which a replacement will be required for each such reactor; and

(E) findings and recommendations.

(2) The report shall be submitted concurrently to Congress and the Secretary not later than February 1 of each year, beginning with February 1, 1988.

(b) REVIEW AND COMMENT BY SECRETARY.—(1) The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

(A) the Secretary's comments on such findings and recommendations; and

(B) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

(2) The Secretary shall submit the report required by paragraph (1) no later than 30

days after receipt of the report required by subsection (a).

SEC. 137. REQUIREMENTS TO ENSURE SAFE OPERATION OF N REACTOR.

(a) REPORT BY NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to submit by October 1, 1987, a report summarizing its findings, conclusions, and recommendations relating to the safety of operation of the N Reactor at the Hanford Reservation, Washington (hereafter in this section referred to as the "N Reactor"). Such report shall be prepared from the Academy's current assessment of safety and technical issues at Department of Energy class A reactors being conducted pursuant to section 3136 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (division C of Public Law 99-661; 100 Stat. 4064). The report may include a review of the reports and recommendations of the so-called Roddis panel and shall be in addition to any other report submitted by the Academy on the N Reactor to the Department of Energy. The report shall be submitted to—

(1) the Secretary of Energy; and

(2) the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(b) RESTRICTION ON OPERATION OF N REACTOR.—The Secretary of Energy—

(1) may not operate the N Reactor before November 1, 1987; and

(2) may not operate the N Reactor until the Secretary submits to the Committees specified in subsection (a) a certification that the N Reactor is safe to operate.

(c) EFFECT ON ENVIRONMENTAL IMPACT STATEMENT.—No requirement or restriction in this section (including the delay in operation of the N Reactor until at least October 31, 1987) shall affect or be considered in the application or interpretation of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) to the N Reactor.

(d) OPERATION DEFINED.—For purposes of this section, the term "operation" with respect to the N Reactor means any activity carried out for the purpose of producing special nuclear materials by achieving a state of criticality.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 201. SHORT TITLE.

This title may be cited as the "Strategic and Critical Materials Stock Piling Amendments of 1987".

SEC. 202. STOCKPILE REQUIREMENTS.

(a) PURPOSE OF STOCKPILE.—Section 2 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a) is amended by adding at the end the following new subsection:

"(c) It is the intent of Congress—

"(1) that the National Defense Stockpile be used to serve the interest of national defense only and not be used for economic or budgetary purposes; and

"(2) that the quantities of materials stockpiled under this Act should be sufficient to sustain the United States for a period of not less than three years during a war emergency situation that would necessitate total mobilization of the economy of the United States for a conventional global war of indefinite duration.".

(b) ESTABLISHMENT OF STOCKPILE REQUIREMENTS BY LAW.—Section 3 of such Act (50 U.S.C. 98b) is amended to read as follows:

"ESTABLISHMENT BY LAW OF STOCKPILE REQUIREMENTS

"SEC. 3. (a) The materials that are strategic and critical materials for the purposes of this Act, and the quality and quantity of each such material to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored, shall be established by law.

"(b) Such materials when acquired, together with the other materials described in section 4, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the 'stockpile').

"(c) Determinations under subsection (a) shall be known as 'stockpile requirements'.".

(c) INITIAL LEVEL OF STOCKPILE REQUIREMENTS.—The determinations in effect as of October 1, 1984, under section 3(a) of the Strategic and Critical Materials Stock Piling Act shall be the stockpile requirements for the purposes of such section, as amended by this Act, until otherwise provided by law.

SEC. 203. TRANSFER OF CERTAIN STOCKPILE FUNCTIONS TO THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—Sections 5, 6, 6A, 10, and 11 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d, 98e, 98e-1, 98h-1, 98h-2) are amended by striking out "President" each place it appears and inserting in lieu thereof "Secretary".

(b) DEFINITION OF SECRETARY.—Section 12 of such Act (50 U.S.C. 98h-3) is amended by adding at the end the following new paragraph:

"(3) The term 'Secretary' means the Secretary of Defense.".

SEC. 204. ANNUAL RECOMMENDATION OF STOCKPILE REQUIREMENTS BY SECRETARY OF DEFENSE.

The Strategic and Critical Materials Stock Piling Act is amended by adding at the end the following new section:

"ANNUAL REPORT ON STOCKPILE REQUIREMENTS

"SEC. 14. (a) IN GENERAL.—In order to assist Congress in determining stockpile requirements under section 3, the Secretary shall submit to Congress an annual report on stockpile requirements. Each such report shall be submitted with the annual report submitted under section 11(b) and shall include—

"(1) the Secretary's recommendations with respect to stockpile requirements; and

"(2) the matters required under subsection (b).

"(b) NATIONAL EMERGENCY PLANNING ASSUMPTIONS.—Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary, based upon total mobilization of the economy of the United States for a conventional global war for a period of not less than three years. Assumptions to be set forth include assumptions relating to each of the following:

"(1) Length and intensity of the assumed emergency.

"(2) The military force structure to be mobilized.

"(3) Losses from enemy action.

"(4) Military, industrial, and essential civilian requirements to support the national emergency.

"(5) Budget authority to meet the total mobilization, military, industrial, and essential civilian requirements.

"(6) The availability of supplies of strategic and critical materials from foreign sources, taking into consideration possible shipping losses.

"(7) Domestic production of strategic and critical materials.

"(8) Civilian austerity measures.".

SEC. 205. STOCKPILE MANAGEMENT.

The Strategic and Critical Materials Stock Piling Act is amended by adding after section 14 (as added by section 3204) the following new sections:

"INTERAGENCY AGREEMENTS

"SEC. 15. (a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an interagency agreement with the head of any other department or agency for the performance of functions of the Secretary relating to section 6.

"(b) REIMBURSEMENT.—The Secretary shall reimburse the head of any such agency for expenses incurred by that agency in the administration of functions relating to the stockpile assigned to that agency by the Secretary under such an interagency agreement.

"APPROPRIATIONS TO BE MADE TO DEPARTMENT OF DEFENSE

"SEC. 16. Appropriations for the operation and management of the stockpile and for deposit to the National Defense Stockpile Transaction Fund shall be made as part of appropriations made to the Department of Defense for the military functions of the Department.".

SEC. 206. USES OF STOCKPILE TRANSACTION FUND.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended by striking out subparagraph (F).

TITLE III—CIVIL DEFENSE

SEC. 301. AUTHORIZATION OF APPROPRIATION.

There is hereby authorized to be appropriated $134,806,000 for fiscal year 1988 for the purpose of carrying out the Federal Civil Defense Act of 1950.

SEC. 302. PROHIBITION.

Notwithstanding any other provision of law, funds available to the Federal Emergency Management Agency for fiscal years 1987 and 1988 for obligation and expenditure under the Federal Civil Defense Act of 1950 may not be withheld or withdrawn at any time (before, on, or after the date of the enactment of this Act) during such fiscal years from any State or any other entity on the basis of such State or other entity's failure to participate, or determination not to participate, in a simulated nuclear attack exercise.

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1988 for defense activities of the Department of Energy, and for other purposes.".

Mr. NUNN. Madam President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agree to; and the Presiding Officer appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. WARNER, Mr. COHEN, Mr. QUAYLE, Mr. WILSON, and Mr. GRAMM conferees on the part of the Senate.

MILITARY CONSTRUCTION AUTHORIZATION ACT

Mr. NUNN. Madam President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 866, a bill to authorize certain construction at military installations for fiscal years 1988 and 1989, and for other purposes.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Construction Authorization Act, 1988".

TITLE I—ARMY

SEC. 101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $43,710,000.

Fort Campbell, $12,410,000.

Fort Carson, Colorado, $2,050,000.

Fort Devens, Massachusetts, $1,840,000.

Fort Greely, Alaska, $6,400,000.

Fort Hood, Texas, $31,500,000.

Fort Hunter Liggett, California, $1,000,000.

Fort Irwin, California, $4,450,000.

Fort Lewis, Washington, $960,000.

Fort McCoy, Wisconsin, $720,000.

Fort McPherson, Georgia, $1,400,000.

Fort Ord, California, $6,890,000.

Fort Pickett, Virginia, $390,000.

Fort Polk, Louisiana, $490,000.

Fort Riley, Kansas, $4,850,000.

Fort Sam Houston, Texas, $3,300,000.

Fort Stewart, Georgia, $12,570,000.

Fort Wainwright, Alaska, $25,100,000.

Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.

Hawaii Various, $12,300,000.

Schofield Barracks, Hawaii, $10,550,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $10,110,000.

Fort Benning, Georgia, $11,000,000.

Fort Bliss, Texas, $13,040,000.

Fort Dix, New Jersey, $7,750,000.

Fort Hamilton, New York, $960,000.

Fort Lee, Virginia, $14,350,000.

Fort Leonard Wood, Missouri, $10,000,000.

Fort McClellan, Alabama, $4,700,000.

Fort Rucker, Alabama, $5,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $7,160,000.

Anniston Army Depot, Alabama, $2,100,000.

Corpus Christi Army Depot, Texas, $2,950,000.

Dugway Proving Ground, Utah, $5,250,000.

Fort Wingate, New Mexico, $370,000.

Lake City Army Ammunition Plant, Missouri, $21,000,000.

Letterkenny Army Depot, Pennsylvania, $2,000,000.

Lexington-Blue Grass Depot Activity, Kentucky, $570,000.

Navajo Depot Activity, Arizona, $4,000,000.

Pine Bluff Arsenal, Arkansas, $2,000,000.

Pueblo Depot Activity, Colorado, $620,000.

Red River Army Depot, Texas, $7,950,000.

Redstone Arsenal, Alabama, $21,000,000.

Savanna Army Depot, Illinois, $2,550,000.

Seneca Army Depot, New York, $1,250,000.

Sierra Army Depot, California, $2,600,000.

Tooele Army Depot, Utah, $6,700,000.

Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $1,250,000.

Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $14,800,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $1,300,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.

Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan Various, $13,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.

Camp Castle, Korea, $3,200,000.

Camp Hovey, Korea, $11,800,000.

Camp Howze, Korea, $4,150,000.

Camp Jackson, Korea, $4,350,000.

Camp Kyle, Korea, $2,750,000.

Camp Mercer, Korea, $720,000.

Camp Nimble, Korea, $2,200,000.

Camp Page, Korea, $5,900,000.

Camp Red Cloud, Korea, $8,500,000.

Korea, Various, $4,850,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY SOUTH

Honduras, $4,150,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.

Baumholder, Germany, $10,800,000.

Einsiedlerhof, Germany, $5,900,000.

Giessen, Germany, $1,250,000.

Grafenwoehr, Germany, $5,700,000.

Hanau, Germany, $1,300,000.

Hohenfels, Germany, $19,250,000.

Mainz, Germany, $1,100,000.

Rheinberg, Germany, $8,650,000.

Stuttgart, Germany, $14,200,000.

Various, Germany, $19,500,000.

Vilseck, Germany, $60,400,000.

Wiesbaden, Germany, $38,900,000.

Wildflecken, Germany, $16,100,000.

Zweibruecken, Germany, $1,900,000.

SEC. 102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 104(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Irwin, California, two hundred and seventy units, $30,000,000.

Fort Ord, California, two hundred and eleven units, $19,000,000, of which not more than twenty-four units may be constructed at Fort Hunter Liggett, California.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Saint Louis Support Center, Illinois, one hundred units, $9,700,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort A.P. Hill, Virginia, twenty-five units, $2,200,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 104(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $21,900,000.

SEC. 103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve, using amounts appropriated pursuant to section 104(a)(6)(A), existing military family housing units in an amount not to exceed $100,000,000, of which $9,223,000 is available only for energy conservation projects.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, Uni'ed States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units hown, and in the amount shown, for each installation:

Sharpe Army Depot, California, thirty units $1,300,000.

Fort McNair, District of Columbia, four units $220,000.

Fort Riley, Kansas, one hundred and twenty-eight units, $5,100,000.

Selfridge Air National Guard Base, Michigan, two hundred and ten units, $8,000,000.

Fort Leonard Wood, Missouri, fifteen units $600,000.

Fort Bliss, Texas, one hundred and forty-four units, $5,300,000.

Fort Belvoir, Virginia, one hundred and ninety-eight units, $8,800,000.

Giessen, Germany, one hundred and forty-four units, $5,152,000.

Various locations, Germany, convert unused attic space and upgrade one hundred and two units into three hundred and thirty adequate units, $24,388,000.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,508,333,000 as follows:

(1) For military construction projects inside the United States authorized by section 101(a), $400,610,000.

(2) For military construction projects outside the United States authorized by section 101(b), $335,530,000.

(3) For military construction projects inside the United States at New Cumberland Army Depot, Pennsylvania, authorized by section 101 of the Military Construction Authorization Act, 1986, $30,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $133,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $309,490,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,281,183,000, of which not more than $36,008,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $144,122,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) Limitation on Total Cost of Construction Projects Authorized in This Title.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) Planning Assistance.—Of the amount appropriated pursuant to subsection (a)(5), the Secretary of the Army shall use at least $250,000 for community planning assistance for communities located near the newly established Light Infantry Division Post at Ft. Drum, New York.

SEC. 105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS.

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) Extension of Authorization of Certain Fiscal Year 1985 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(3) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(4) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(5) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(c) Extension of Authorization of Certain Fiscal Year 1986 Projects.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Military personnel administration center in the amount of $2,650,000 at Presidio of Monterey, California.

(2) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(3) Ammunition storage in the amount of $850,000 at Amberg, Germany.

(4) Boiler plant automation in the amount of $6,000,000 at Bamberg, Germany.

(5) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(6) Military operations on urbanized terrain in the amount of $3,250,000 at Hohenfels, Germany.

(7) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(8) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(9) Flight simulator building in the amount of $2,900,000 at Weisbaden, Germany.

(10) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(11) Upgrade multi-purpose building in the amount of $800,000 at Elefsis, Greece.

(12) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(13) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(14) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(16) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(17) Unaccompanied personnel housing complex in the amount of $2,550,000 at Yongin, Korea.

(18) Water pollution abatement in the amount of $770,000 at Army Materials and Mechanics Research Center, Massachusetts.

(19) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(20) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(21) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(22) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(23) Museum site preparation and utilities in the amount of $2,500,000 at Fort Rucker, Alabama.

TITLE II—NAVY

SEC. 201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $38,705,000.

Marine Corps Air Station, Camp Pendleton, California, $3,350,000.

Marine Corps Base, Camp Pendleton, California, $25,410,000.

Marine Corps Air Station, Cherry Point, North Carolina, $28,500,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $24,153,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $18,420,000.

Marine Corps Air Station, Yuma, Arizona, $3,870,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Tactical Interoperability Support Activity Detachment Six, Mayport, Florida, $500,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $20,920,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $24,190,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.

Naval Air Station, Key West, Florida, $6,580,000.

Naval Station, Lake Charles, Louisiana, $2,770,000.

Naval Amphibious Base, Little Creek, Virginia, $16,720,000.

Naval Station, Mayport, Florida, $1,480,000.

Naval Station, Mobile, Alabama, $40,700,000.

Naval Submarine Base, New London, Connecticut, $5,200,000.

Naval Station, New York, New York, $16,200,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

Naval Air Station, Norfolk, Virginia, $4,970,000.

Naval Air Station, Oceana, Virginia, $4,540,000.

Naval Station, Pascagoula, Mississippi, $42,100,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $44,200,000.

Naval Air Station, Alameda, California, $11,400,000.

Trident Refit Facility, Bangor, Washington, $1,080,000.

Naval Amphibious Base, Coronado, California, $2,760,000.

Naval Station, Everett, Washington, $37,500,000.

Naval Air Station, Lemoore, California, $2,560,000.

Naval Magazine, Lualualei, Hawaii, $5,310,000.

Naval Air Station, Miramar, California, $6,500,000.

Naval Air Station, North Island, California, $25,270,000.

Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.

Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.

Naval Station, Pearl Harbor, Hawaii, $430,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.

Naval Station, San Diego, California, $36,680,000.

Naval Submarine Base, San Diego, California, $4,120,000.

Naval Station, Treasure Island, San Francisco, California, $4,430,000.

Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Corpus Christi, Texas, $1,180,000.

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.

Naval Guided Missiles School, Dam Neck, Virginia, $550,000.

Naval Training Center, Great Lakes, Illinois, $2,310,000.

Naval Air Station, Kingsville, Texas, $10,000,000.

Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $10,800,000.

Naval Air Station, Memphis, Tennessee, $11,220,000.

Naval Education and Training Center, Newport, Rhode Island, $7,480,000.

Naval Training Center, Orlando, Florida, $3,050,000.

Naval Air Station, Pensacola, Florida, $28,200,000.

Naval Technical Training Center, Pensacola, Florida, $8,170,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Norfolk, Virginia, $1,310,000.

Naval Supply Center, Pearl Harbor, Hawaii, $3,280,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $2,950,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $5,870,000.

Navy Public Works Center, San Diego, California, $5,700,000.

Navy Public Works Center, San Francisco, California, $11,700,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $1,400,000.

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $6,720,000.

Naval Weapons Station, Earle, New Jersey, $3,540,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $8,170,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $14,000,000.

Naval Weapons Station, Seal Beach, California, $15,970,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $22,880,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $86,415,000.

VARIOUS LOCATIONS

Land Acquisition, $8,091,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $4,790,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $14,120,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $1,490,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $8,460,000.

Naval Ship Repair Facility, Guam, $5,100,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Support Office, La Maddalena, Italy, $7,480,000.

Naval Activities, London, United Kingdom, $600,000.

Naval Support Activity, Naples, Italy, $25,650,000.

Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Muster Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $770,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.

Naval Security Group Activity, Terceira Island, Azores, $700,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 205(a)(8)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, five hundred and eighty units, $52,840,000.

Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.

Nuclear Power Training Unit, Ballston Spa, New York, two hundred units, $15,810,000.

Naval Station, New York, New York, two hundred and fifty units, $25,490,000.

Marine Corps Base, Camp Pendleton, California, two hundred and sixty-eight units, $25,760,000.

Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.

Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.

Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.

Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.

Naval Station, Keflavik, Iceland, two hundred fifty units, $20,000,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 205(a)(8)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $6,248,000.

SEC. 203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve, using amounts appropriated pursuant to section 205(a)(8)(A), existing military family housing units in the amount of $28,943,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $14,207,800.

Navy Public Works Center, Great Lakes, Illinois, sixty units, $1,996,300.

Navy Public Works Center, Great Lakes, Illinois, five units, $164,100.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $4,725,500.

Naval Air Station, Brunswick, Maine, two hundred and twenty-four units, $8,130,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty-two units, $2,251,700.

Naval Security Group Activity, Winter Harbor, Maine, ten units, $294,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Naval Air Engineering Center, Lakehurst, New Jersey, four units, $190,000.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $3,398,400.

Naval Weapons Station, Yorktown, Virginia, twenty units, $625,300.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

Naval Station, Roosevelt Roads, Puerto Rico, two hundred and sixteen units, $6,840,000.

SEC. 204. DEFENSE ACCESS ROADS.

The Secretary of the Navy may, using funds appropriated pursuant to section 205(a)(7), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Naval Construction Battalion Center, Hueneme, California, $800,000.

Naval Air Station, Moffett Field, California, $400,000.

Naval Station, San Diego, California, $350,000.

Naval Station, Norfolk, Virginia, $1,200,000.

Naval Submarine Base, Groton, Connecticut, $1,250,000.

Naval Station, Everett, Washington, phase I, $10,000,000.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,119,390,000 as follows:

(1) For military construction projects inside the United States authorized by section 201(a), $992,244,000.

(2) For military construction projects outside the United States authorized by section 201(b), $121,147,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For military construction projects at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act, 1987, $19,500,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $148,655,000.

(7) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $14,000,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $234,857,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $543,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 206. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) PROJECTS.—(1) In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(2) Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by paragraph (1) may not exceed the total amount authorized for such projects by such paragraph.

(b) FAMILY HOUSING.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 207. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS.

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1984 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(3) Heating, Ventilation and Air Conditioning System, in the amount of $4,540,000 at the Naval Air Station, Alameda, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) LAMPS Mark III training building in the amount of $305,000 at the Fleet Combat Training Center, Pacific, San Diego, California.

(4) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(5) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(6) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(7) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

(8) Special intelligence support facility in the amount of $1,520,000 at the Marine Corps Base, Camp Pendleton, California.

(9) Combat swimmer trainer facility in the amount of $3,000,000 at the Naval Amphibious Base, Coronado, California.

(10) Communications facilities in the amount of $2,750,000 at the Naval Station, Guantanamo Bay, Cuba.

(11) Bachelor enlisted quarters in the amount of $15,300,000 at the Naval Station, Long Beach, California.

(12) Seabee material transit facility in the amount of $6,960,000 at the Naval Construction Battalion Center, Port Hueneme, California.

SEC. 208. NAVAL WEAPONS STATION, EARLE, NEW JERSEY.

Section 2201(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661) is amended by striking out "Naval Weapons Station, Earle, New Jersey, $34,760,000" and inserting in lieu thereof "Naval Weapons Station, Earle, New Jersey, $54,760,000".

TITLE III—AIR FORCE

SEC. 301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $36,300,000.
Kelly Air Force Base, Texas, $19,750,000.
McClellan Air Force Base, California, $23,100,000.
Newark Air Force Base, Ohio, $580,000.
Robins Air Force Base, Georgia, $15,500,000.
Tinker Air Force Base, Oklahoma, $11,500,000.
Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.
Brooks Air Force Base, Texas, $4,100,000.
Edwards Air Force Base, California, $5,750,000.
Eglin Air Force Base, Florida, $22,150,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.
Columbus Air Force Base, Mississippi, $5,450,000.
Goodfellow Air Force Base, Texas, $5,500,000.
Keesler Air Force Base, Mississippi, $6,300,000.
Lackland Air Force Base, Texas, $13,900,000.
Laughlin Air Force Base, Texas, $1,872,000.
Mather Air Force Base, California, $7,100,000.
Randolph Air Force Base, Texas, $8,100,000.
Reese Air Force Base, Texas, $1,660,000.
Sheppard Air Force Base, Texas, $13,700,000.
Vance Air Force Base, Oklahoma, $3,190,000.
Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $8,800,000.
Maxwell Air Force Base, Alabama, $24,200,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $5,465,000.
Elmendorf Air Force Base, Alaska, $4,300,000.
Shemya Air Force Base, Alaska, $38,350,000.
Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.
Andrews Air Force Base, Maryland, $20,000,000.
Dover Air Force Base, Delaware, $2,300,000.
Kirtland Air Force Base, New Mexico, $46,000,000.
Little Rock Air Force Base, Arkansas, $5,880,000.
McGuire Air Force Base, New Jersey, $1,640,000.
Pope Air Force Base, North Carolina, $11,000,000.
Scott Air Force Base, Illinois, $7,080,000.
Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Base, Hawaii, $460,000.
Hickam Air Force Base, Hawaii, $2,450,000.
Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.
Cavalier Air Force Station, North Dakota, $3,750,000.
Clear Air Force Base, Alaska, $4,000,000.
Peterson Air Force Base, Colorado, $1,650,000.

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $2,900,000.
Beale Air Force Base, California, $2,180,000.
Blytheville Air Force Base, Arkansas, $5,900,000.
Carswell Air Force Base, Texas, $5,010,000.
Castle Air Force Base, California, $10,650,000.
Dyess Air Force Base, Texas, $1,300,000.
Ellsworth Air Force Base, South Dakota, $11,550,000.
Fairchild Air Force Base, Washington, $6,000,000.
F.E. Warren Air Force Base, Wyoming, $2,108,000.
Grand Forks Air Force Base, North Dakota, $1,600,000.
Griffiss Air Force Base, New York, $12,730,000.
Holbrook Radar Bomb Score Site, Arizona, $1,890,000.
K.I. Sawyer Air Force Base, Michigan, $840,000.
Loring Air Force Base, Maine, $3,630,000.
Malmstrom Air Force Base, Montana, $14,460,000.
McConnell Air Force Base, Kansas, $4,750,000.
Minot Air Force Base, North Dakota, $8,600,000.
Offutt Air Force Base, Nebraska, $3,950,000.
Plattsburgh Air Force Base, New York, $2,900,000.
Vandenberg Air Force Base, California, $6,200,000.
Whiteman Air Force Base, Missouri, $89,300,000.
Wilder, Idaho, $2,350,000.
Wurtsmith Air Force Base, Michigan, $10,200,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.
Base 51, $610,000.
Base 52, $600,000.
Bergstrom Air Force Base, Texas, $9,190,000.
Davis-Monthan Air Force Base, Arizona, $4,650,000.
England Air Force Base, Louisiana, $2,300,000.
George Air Force Base, California, $210,000.
Holloman Air Force Base, New Mexico, $6,400,000.
Indian Springs Auxiliary Air Field, Nevada, $4,400,000.
Langley Air Force Base, Virginia, $9,150,000.
Luke Air Force Base, Arizona, $2,800,000.
MacDill Air Force Base, Florida, $3,041,000.
Mountain Home Air Force Base, Idaho, $1,900,000.
Nellis Air Force Base, Nevada, $8,650,000.
Seymour-Johnson Air Force Base, North Carolina, $11,150,000.
Shaw Air Force Base, South Carolina, $4,980,000.
Tyndall Air Force Base, Florida, $2,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Classified Location, $1,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.
Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Camp Humphreys, Korea, $5,550,000.
Clark Air Base, Republic of the Philippines, $15,140,000.
Diego Garcia Air Base, Indian Ocean, $18,600,000.
Kadena Air Base, Japan, $12,350,000.
Kunsan Air Base, Korea, $11,000,000.
Osan Air Base, Korea, $16,640,000.
Suwon Air Base, Korea, $3,650,000.
Yokota Air Base, Japan, $2,600,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $3,600,000.

TACTICAL AIR COMMAND

Masirah, Oman, $3,325,000.

Seeb, Oman, $8,260,000.

Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $2,150,000.

Aviano Air Base, Italy, $1,450,000.

RAF Bentwaters, United Kingdom, $11,210,000.

Bitburg Air Base, Germany, $4,690,000.

Camp New Amsterdam, The Netherlands, $2,600,000.

RAF Chicksands, United Kingdom, $1,250,000.

RAF Croughton, United Kingdom, $900,000.

RAF Fairford, United Kingdom, $2,950,000.

Hahn Air Base, Germany, $7,670,000.

RAF Lakenheath, United Kingdom, $3,620,000.

Pruem Air Station, Germany, $2,000,000.

Ramstein Air Base, Germany, $3,460,000.

San Vito Air Station, Italy, $390,000.

Sembach Air Base, Germany, $1,100,000.

Spangdahlem Air Base, Germany, $5,050,000.

RAF Upper Heyford, United Kingdom, $2,400,000.

RAF Welford, United Kingdom, $1,200,000.

Wenigerath Storage Site, Germany, $1,750,000.

RAF Wethersfield, United Kingdom, $1,300,000.

RAF Woodbridge, United Kingdom, $1,650,000.

Zweibrucken Air Base, Germany, $4,500,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 305(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units, $2,530,000.

Clark Air Base, Philippines, three hundred units, $23,260,000.

RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 305(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve, using amounts appropriated pursuant to section 305(a)(6)(A), existing military family housing units in an amount not to exceed $110,000,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, twenty units, $758,000; fifty-six units, $2,710,000.

Eielson Air Force Base, Alaska, sixty-eight units, $5,504,000.

Elmendorf Air Force Base, Alaska, twelve units, $760,000; sixty-four units, $4,669,000.

Edwards Air Force Base, California, one hundred units, $4,024,000.

Lowry Air Force Base, Colorado, one unit, $74,000.

Peterson Air Force Base, Colorado, six units, $363,000.

Eglin Air Force Base, Florida, eighty-two units, $2,422,000.

Homestead Air Force Base, Florida, one hundred and fifty units, $5,287,000.

Eglin Auxiliary Airfield No. 9, Florida, one hundred and sixty-four units, $3,177,000.

MacDill Air Force Base, Florida, seven units, $556,000; one unit, $110,000.

Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.

England Air Force Base, Louisiana, one hundred and six units, $3,465,000.

Andrews Air Force Base, Maryland, five units, $325,000.

Offutt Air Force Base, Nebraska, two hundred units, $8,122,000.

Pease Air Force Base, New Hampshire, two hundred units, $7,177,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,263,000.

Holloman Air Force Base, New Mexico, one hundred and sixty-four units, $6,102,000.

Plattsburgh Air Force Base, New York, twenty-nine units, $2,800,000.

Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; one hundred and thirty-one units, $4,702,000.

Carswell Air Force Base, Texas, one hundred and thirty-six units, $7,904,000.

Kelly Air Force Base, Texas, eighteen units, $1,356,000.

Lackland Air Force Base, Texas, one unit, $46,000.

Randolph Air Force Base, Texas, five units, $400,000; eighty units, $2,619,000.

Langley Air Force Base, Virginia, seven units, $540,000; one hundred and thirty-two units, $4,039,000.

Ramstein Air Base, Germany, eight units, $536,000; nine units, $350,000; two hundred and forty units, $11,202,000; two hundred and eighty units, $16,990,000.

Kadena Air Base, Japan, eighty-two units, $4,143,000; four units, $407,000; one hundred and ninety-nine units, $12,177,000.

Yokota Air Base, Japan, ninety-five units, $5,061,000.

Torrejon Air Base, Spain, two units, $68,000.

RAF Mildenhall, United Kingdom, two units, $183,000.

SEC. 304. DEFENSE ACCESS ROADS.

The Secretary of the Air Force may, using funds appropriated pursuant to section 305(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Havre Air Force Station, Montana, in an amount not to exceed $4,100,000.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,990,423,000 as follows:

(1) For military construction projects inside the United States authorized by section 301(a), $806,909,000.

(2) For military construction projects outside the United States authorized by section 301(b), $192,365,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $124,536,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $143,120,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $703,393,000 of which not more than $8,818,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,024,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2353 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 306. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) IN GENERAL.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of the Philippines, as follows:

(A) Aerospace systems branch, $1,050,000.

(B) Alter unaccompanied enlisted personnel housing, $1,850,000.

(C) Alter unaccompanied enlisted personnel housing, $3,150,000.

(D) Child care center, $2,000,000.

(E) COPE THUNDER operations facility, $4,650,000.

(F) Essential maintenance facility, phase II, $4,600,000.

(G) Fire station, $760,000.

(H) Petroleum operations facility, $1,600,000.

(I) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) LIMITATION.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by subsection (a) may not exceed the total amount authorized for such projects by such subsection.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 307. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS.

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986, (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a Classified Location, overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, The Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODDS Site 5 in Portugal.

(8) Florennes, Belgium, Four Hundred units, $29,200,000.

(9) Ramstein Air Base, Germany, Four Hundred units, $30,000,000.

(10) Camp New Amsterdam, The Netherlands, Ninety units, $7,444,000.

TITLE IV—DEFENSE AGENCIES

SEC. 401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $13,565,000.

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $805,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $9,400,000.

Defense General Supply Center, Richmond, Virginia, $3,800,000.

Defense Fuel Support Point, Mukilteo, Washington, $7,290,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.

Kings Bay, Georgia, $6,600,000.

Malmstrom Air Force Base, Montana, $16,500,000.

McGuire Air Force Base, New Jersey, $550,000.

Lackland Air Force Base, Texas, $1,350,000.

Langley Air Force Base, Virginia, $1,500,000.

Naval Air Station, Whidbey Island, Washington, $16,500,000.

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOL

Hanscom Air Force Base, Massachusetts, $4,432,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $5,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $4,950,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.

Classified Location, $43,148,000.

STRATEGIC DEFENSE INITIATIVE

Fort Monmouth, New Jersey, $3,450,000.

White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.

RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.

Classified, $7,000,000.

Rheinberg, Germany, $2,250,000.

Iraklion Air Station, Greece, $340,000.

Naples, Italy, $30,000,000.

San Vito Air Station, Italy, $670,000.

Camp Lester, Japan, $1,400,000.

Misawa Air Base, Japan, $4,700,000.

Woensdrecht, The Netherlands, $360,000.

Subic Bay, Republic of the Philippines, $3,500,000.

RAF Fairford, United Kingdom, $7,300,000.

RAF Weathersfield, United Kingdom, $740,000.

RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitberg, Germany, $2,413,000.

Schweinfurt, Germany, $5,320,000.

Sembach, Germany, $2,930,000.

Spangdahlem, Germany, $7,300,000.

Stuttgart, Germany, $3,030,000.

Wuerzburg, Germany, $3,153,000.

San Miguel, Republic of the Philippines, $2,960,000.

Fort Buchanan, Puerto Rico, $1,200,000.

RAF Bicester, United Kingdom, $5,650,000.

RAF Upwood, United Kingdom, $3,900,000.

NATIONAL SECURITY AGENCY

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 402. FAMILY HOUSING.

The Secretary of Defense may construct or acquire four family housing units (including land acquisition), using amounts appropriated pursuant to section 405(a)(9)(A), at classified locations in the total amount of $1,000,000.

SEC. 403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 405(a)(9)(A), existing military family housing units in an amount not to exceed $186,000.

SEC. 404. DEFENSE ACCESS ROADS.

The Secretary of Defense may, using funds appropriated pursuant to section 405(a)(8), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Brooke Army Medical Center, San Antonio, Texas, in an amount not to exceed $8,600,000.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $522,312,000 as follows:

(1) For military construction projects inside the United States authorized by section 401(a), $173,201,000.

(2) For military construction projects outside the United States authorized by section 401(b), $141,011,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $62,800,000.

(8) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $8,600,000.

(9) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $18,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) PROJECT.—Of the amount appropriated pursuant to the authorization in subsection (a)(7), at least $2,000,000 shall be used for the planning and design of a bridge for route 32 over the Gladys Spellman Memorial Parkway providing access to the National Security Agency.

SEC. 406. AUTHORIZATION OF PROJECTS FOR WHICH APPROPRIATIONS HAVE BEEN MADE.

(a) IN GENERAL.—In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and may carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg

Air Force Base, California, in the amount of $1,900,000 which has been appropriated for such project before the date of the enactment of this Act.

(b) Limitation.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the project authorized by subsection (a) may not exceed the total amount authorized for such project by such subsection.

(c) Effective Date.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 407. EXTENSION OF PRIOR YEAR AUTHORIZATIONS.

Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later.

SEC. 408. BROOKE ARMY MEDICAL CENTER.

(a) Report.—The Secretary of Defense shall, not later than March 1, 1988, transmit a report to the Committees on Armed Services of the Senate and the House of Representatives containing—

(1) a cost estimate for the construction of such medical facility authorized by section 2401 of the Military Construction Authorization Act, 1987, at Brooke Army Medical Center, San Antonio, Texas, with space for 450 beds;

(2) a cost estimate for the construction of such medical facility with space for 200 beds, and an estimate of the costs likely to be incurred as a result of the transfer of services from Brooke Army Medical Center to Wilford Hall Air Force Hospital; and

(3) a cost estimate of the expansion of such medical facility from 200 to 450 beds.

(b) Repeal.—Section 2403(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is repealed.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization infrastructure program as authorized by section 501, in the amount of $396,000,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $163,734,000, plus $602,000; and

(B) for the Army Reserve, $95,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $67,637,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $126,475,000; and

(B) for the Air Force Reserve, $67,370,000.

TITLE VII—GENERAL PROVISIONS

Part A—Expiration of Authorizations; Effective Date

SEC. 701. EXPIRATION OF AUTHORIZATIONS.

(a) In General.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefore) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) Exception.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 702. EFFECTIVE DATE.

Except as otherwise provided, the provisions of this division shall take effect on the date of the enactment of this Act.

Part B—Military Construction Program Changes

SEC. 711. TURN-KEY SELECTION PROCEDURES FOR DEFENSE AGENCIES.

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "The Secretaries of the military departments, with the approval of the Secretary of Defense," and inserting in lieu thereof "The Secretary concerned", and

(B) by adding at the end the following new sentence: "Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense."; and

(2) in subsection (b), by inserting after "The" the following: "Secretary of Defense, with respect to any Defense Agency, or the".

SEC. 712. LONG-TERM FACILITIES CONTRACTS.

(a) New Coverage.—Section 2809(a)(1)(B) of title 10, United States Code, is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) by adding after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) Extension.—Section 2809(c) of such title is amended by striking out "1987" and inserting in lieu thereof "1988".

(c) Report.—Each Secretary who has entered into a contract under section 2809 of title 10, United States Code, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives by February 15, 1988, containing—

(1) the date and duration of, the other party to, and the nature of the activities carried out under each contract entered by the Secretary under such section; and

(2) recommendations, and the reasons therefor, concerning whether the authority to enter into contracts under such section should be extended.

SEC. 713. SETTLEMENT OF CONTRACTOR CLAIMS.

(a) In General.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts using any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.".

(b) Technical Amendment.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2863. Payment of contractor claims.".

(c) Effective Date.—The amendment made by subsection (a) shall apply only to funds appropriated after the date of enactment of this Act.

SEC. 714. GUARD AND RESERVE MINOR CONSTRUCTION.

Section 2233a(b) of title 10, United States Code, is amended by striking "$100,000" and inserting in lieu thereof "$200,000".

SEC. 715. FAMILY HOUSING IMPROVEMENT THRESHOLD.

Section 2825(b)(1) of title 10, United States Code, is amended by striking out "$30,000" and inserting in lieu thereof "$35,000".

SEC. 716. FAMILY HOUSING LEASING.

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting after "constructed" the following: "or rehabilitated to residential use"; and

(2) by adding the following new subparagraph at the end of paragraph (8):

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph, the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units, the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units, and the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units.".

SEC. 717. FAMILY HOUSING RENTAL GUARANTEE PROGRAM.

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a)—

(A) by inserting after "constructed" the following: "or rehabilitated to residential use"; and

(B) by striking out "The Secretary of a military department," and inserting in lieu thereof "The Secretary concerned, ";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by adding before the semicolon at the end the following: "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term"; and

(4) in subsection (b)(11), by striking out "of the military department".

SEC. 718. NO-COST ACQUISITION OF FAMILY HOUSING.

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired for no consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 21 days elapses after the notification is received by those committees.".

SEC. 719. HIGH COST THRESHOLD.

Section 2828(e)(1) of title 10, United States Code, is amended by striking out "$16,800" and inserting in lieu thereof "$20,000".

SEC. 720. ENCROACHMENT ON INSTALLATIONS.

Section 2391(b)(1) of title 10, United States Code, is amended to read as follows:

"(b)(1)(A) Subject to subparagraph (B), the Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments, and regional organizations composed of State and local governments, in planning community adjustments required—

"(i) by the proposed or actual establishment, realignment, or closure of a military installation,

"(ii) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(iii) by the encroachment of a surrounding civilian community on an installation.

"(B) The Secretary may carry out subparagraph (A) only if the Secretary determines that—

"(i) the action described in clause (i) or (ii) of such subparagraph is likely to impose a significant impact on the affected community; or

"(ii) in the case of action described in clause (iii) of such subparagraph, the encroachment of the surrounding civilian community is likely to impair the continued operational utility of the military installation.".

SEC. 721. MINOR CONSTRUCTION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Section 2805(c) of title 10, United States Code, is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) The authority provided in paragraph (1) may not be used with respect to any exercise-related unspecified military construction project outside the continental United States.".

(b) ADDITIONAL LIMITATION.—Section 2805(a) of such title is amended—

(1) by striking out "Within" and inserting in lieu thereof "(1) Except as provided in paragraph (2), within"; and

(2) by adding at the end the following new paragraph:

"(2) No Secretary may use more than $5,000,000 for exercise-related unspecified minor military construction projects outside the continental United States during any fiscal year.".

PART C—MISCELLANEOUS PROVISIONS

SEC. 731. PILOT PROGRAM FOR MILITARY FAMILY HOUSING.

(a) IN GENERAL.—(1) The Secretary of Defense shall, using funds appropriated pursuant to the authorization in subsection (f), establish and carry out a pilot program for the purpose of assisting units of general local government to increase the amount of affordable family housing available to military personnel.

(2) In establishing and carrying out such program, the Secretary shall select at least five units of general local government which are severely impacted by the presence of military bases and personnel and which meet the criteria in subsection (b).

(b) SELECTION CRITERIA.—The Secretary shall select such local governments on the basis of the following criteria:

(1) The extent, or the potential extent, of a joint civilian-military effort to increase, or prevent the decrease of, affordable housing units in the community served by the local government.

(2) The extent of willingness, or potential extent of willingness, of private corporations to contribute or loan money for the purpose of assisting in the effort described in paragraph (1).

(3) A commitment by the local government to assure that a reasonable proportion, taking into consideration the extent of Federal funding, of the housing units provided as a result of the effort described in paragraph (1) will be made available to military personnel.

(c) TYPES OF ASSISTANCE.—In carrying out this section, the Secretary may make grants, enter into cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist units of general local government and housing and redevelopment authorities and nonprofit housing corporations authorized by such local governments.

(d) USE OF FUNDING.—Funds made available under this section may be used for—

(1) funding a revolving housing loan fund established and administered by a government, authority, or corporation described in subsection (c);

(2) funding a housing loan guarantee fund established and administered by such a government, authority, or corporation to ensure repayment of housing loans made by a private lender;

(3) funding feasibility studies of potential housing programs;

(4) funding one-time start-up costs of housing programs;

(5) funding joint community-military technical advisory organizations; and

(6) other similar and related activities,

in order to expand the supply or prevent the loss of affordable family housing.

(e) REPORT.—The Secretary of Defense shall make a report to the Committee on Armed Services of the Senate and the House of Representatives no later than March 15 of 1988, 1989, 1990, and 1991 with respect to activities carried out under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1988, 1989, and 1990, a total of not more than $1,000,000 for the purpose of carrying out this section.

(g) TERMINATION.—The authority to provide assistance under this section shall terminate on September 30, 1990.

SEC. 732. FORT DERUSSY, HAWAII.

(a) DESIGNATION.—Congress hereby designates Fort DeRussy, Hawaii, as the primary Armed Forces Recreation Center for the Pacific. The Secretary of the Army shall administer that fort as the primary rest and recreation area for members of the Armed Forces and their families throughout the Pacific.

(b) PROHIBITION.—Funds appropriated or otherwise available to the Department of Defense or any other department, agency, or instrumentality of the United States may not be used in any way for the express purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land constituting Fort DeRussy, Hawaii (as constituted on the date of the enactment of this Act).

(c) CONSTRUCTION OF SECTION.—Subsection (b) applies notwithstanding any other provision of law, including subsection (b) of the fiscal year 1987 Treasury-Postal section.

(d) TERMINATION OF SUPERSEDED AUTHORITY.—Any authority provided by subsections (c) and (d) of the fiscal year 1987 Treasury-Postal section shall not have any force or effect after the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "fiscal year 1987 Treasury-Postal section" means section 509 of the Act entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes", as contained in section 101(m) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (H.J. Res. 738; Public Laws 99-500 and 99-591).

SEC. 733. RESTRICTIONS ON USE OF CERTAIN FUNDING.

(a) NELLIS AIR FORCE BASE, NEVADA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 474th Tactical Fighter Wing stationed at Nellis Air Force Base, Nevada.

(b) MATHER AIR FORCE BASE, CALIFORNIA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, in connection with (including any study made with respect to) any closure or realignment of Mather Air Force Base, California.

(c) FORT MONMOUTH, NEW JERSEY.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to relocate the headquarters element and the elements of the several directorates of the Joint Tactical Command, Control, and Communications Agency at Fort Monmouth, New Jersey.

(d) STRATEGIC HOMEPORTING.—(1) Funds appropriated pursuant to the authorizations in section 2208 of the Military Construction Authorization Act, 1987, and in section 205 of this Act for Naval Station Everett, Washington, may not be obligated or expended for such purpose until—

(A) all Federal, State, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued, including all permits required pursuant to, or otherwise in connection with, the Federal Water Pollution Control Act; and

(B) the State of Washington has appropriated in fiscal year 1987 its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(2) The provisions of this subsection shall apply to any activity carried out after November 14, 1986.

(e) MINOT AIR FORCE BASE, NORTH DAKOTA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 5th Fighter Interceptor Squadron, stationed at Minot Air Force Base, North Dakota.

(f) AIR DEFENSE RADAR STATIONS.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish the air defense radar stations located at Calumet Air Force Station, Michigan; Port Austin Air Force Station, Michigan; Makah Air Force Station, Washington; Port Arena Air Force Station, California; and Oceana, Virginia.

(g) None of the funds available for use by the Department of Defense in fiscal years 1987 and 1988 may be used by the Department of Defense, directly or indirectly, before January 1, 1988, to take, or condemn, or close, any portion of the Port Chicago Highway which lies within the Concord Naval Weapons Station in Concord, California.

SEC. 734. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM.

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this Act may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 735. PENTAGON ANNEX DESIGN.

Section 2725 of the Military Construction Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4043) is hereby repealed.

SEC. 736. COMMUNITY PLANNING ASSISTANCE.

The Secretary of Defense may use not more than $250,000 from funds appropriated to the Department of Defense for fiscal year 1988 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Everett, Washington, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

SEC. 737. PROHIBITION ON CERTAIN EXPENDITURE.

None of the funds available to the Department of Defense for any fiscal year may be expended in accordance with the directive which is under the heading "Claims, Defense" in title II of the Department of Defense Appropriations Act, 1987, in Public Laws 99-500 and 99-591, and which concerns the construction of the Norfolk Navy Steam Plant, except that payments shall be made, in accordance with such directive, for losses incurred during the period beginning on October 18, 1986, and ending at the close of the date of the enactment of this Act.

PART D—REAL PROPERTY TRANSACTIONS

SEC. 741. LEASE OF FACILITY, SAN FRANCISCO, CALIFORNIA.

(a) IN GENERAL.—The Secretary of Defense shall enter into a lease with the City and County of San Francisco, California, which shall provide for the use, without consideration and for a 10-year period, by such City and County of the former Public Health Service facility located in the Presidio of San Francisco, California, and currently administered by the Secretary of the Army and used for a language school, storage, and other purposes.

(b) EFFECTIVE DATE.—Such lease shall be executed no later than 6 months after the date of enactment of this Act and shall provide for immediate occupancy by the City and County at the end of such 6-month period.

(c) USE OF PROPERTY.—The property is to be used by the City and County throughout the term of such lease for an AIDS treatment and research center.

(d) REVERTER.—If the City and County fails to use the facility for the purpose described in subsection (c), the Secretary of Defense shall terminate the lease and provide the facility for use by the Secretary of the Army.

SEC. 742. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 43.72 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate facilities located on such property.

(b) CONSIDERATION.—In consideration for the real property and improvements described in subsection (a), the purchasers of such property and improvements shall pay the United States—

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) SALE AND REPLACEMENT ACTIVITIES.—The Secretary may use any amount received from the purchaser as described in paragraphs (1) and (2) of subsection (b) for the purpose of carrying out this section.

(d) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) COMPETITIVE BID PROCEDURES.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 743. LAND CONVEYANCE, LAWRENCE TOWNSHIP, INDIANA.

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey to Lawrence Township, Marion County, Indiana all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) CONDITIONS OF SALE.—(1) In consideration for the sale and conveyance, the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(2) The Township shall execute and file the deed of conveyance in the appropriate registry.

(c) RECAPTURE RIGHTS.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of a national emergency or declaration of war.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 744. LAND TRANSFERS: ROCK ISLAND, ILLINOIS, AND FORT SAM HOUSTON, TEXAS.

(a) AUTHORITY TO TRANSFER.—Subject to subsections (b) through (d), the Secretary of the Army may transfer, without consideration, to the administrative jurisdiction of the Administrator of Veterans' Affairs—

(1) two parcels of real property, and improvements thereon, totaling approximately 17.17 acres, comprising a portion of the Rock Island Arsenal, Rock Island, Illinois; and

(2) a parcel of real property, and improvements thereon, totaling approximately 8.5 acres, comprising a portion of Fort Sam Houston, Texas.

(b) CONDITIONS ON CONVEYANCE.—The Administrator shall—

(1) use the real property described in subsection (a) for cemeteries which are to be part of the National Cemetery System;

(2) transfer any such real property back to the administrative jurisdiction of the Secretary of the Army, if it is not used for such a cemetery; and

(3) enter into an agreement with the Secretary to carry out the purposes of this section.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the *real property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the Administrator.*

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 745. PROPERTY TRANSFER, BROOKLYN, NEW YORK.

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Navy the excess six story building and associated land, known as Dayton Manor, located near Fort Hamilton, Brooklyn, New York, for rehabilitation and use as military family housing.

SEC. 746. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA.

(a) Transfer.—Subject to subsection (b), the Secretary of the Navy may convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon, consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California.

(b) Consideration.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of real property, with improvements thereon, consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin.

(c) Payment by County.—If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property conveyed by Orange County under subsection (b), the county shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) Obligations of Parties.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 747. USE OF LAND AT FORT A.P. HILL FOR NATIONAL SCOUT JAMBOREES.

(a) In General.—The Secretary of the Army may grant a license to the National Council of the Boy Scouts of America for the use of certain land and facilities at Fort A.P. Hill, Virginia, by the Boy Scouts of America as a permanent site for National Scout Jamborees.

(b) Terms and Conditions.—Any land and facilities made available by the Secretary for use by the Boy Scouts of America under this section shall be made available without charge, but shall be made available subject to such other terms and conditions as the Secretary of the Army considers appropriate to protect the interests of the United States.

(c) Legal Description and Surveys.—The exact acreage and legal description of the real property and the exact facilities to be subject to a license under this section shall be determined by the Secretary of the Army. The cost of any surveys necessary to establish such legal description shall be borne by the Boy Scouts of America.

SEC. 748. TRANSFER OF LAND, JOLIET ARMY AMMUNITION PLANT, ILLINOIS.

(a) Authority To Convey.—Subject to subsections (b) and (c), the Secretary of the Army shall convey to the Administrator of Veterans' Affairs not less than 200 acres of real property, including improvements thereon, located on the Joliet Army Ammunition Plant, Illinois, and with access to State Route 53.

(b) Use of Land.—(1) The Administrator shall use the real property conveyed under subsection (a) for a national cemetery.

(2) A national cemetery established on such real property shall become part of the National Cemetery System and shall be administered under chapter 24 of title 38, United States Code.

(c) Legal Description.—The exact acreage and legal descriptions of any property conveyed under this section shall be based on surveys which are satisfactory to the Secretary. The Administrator shall bear the cost of such surveys.

SEC. 749. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) In General.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) Term of Lease.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years and an option to extend for a term not to exceed 25 years.

(c) Replacement and Relocation Payments.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) Use of Funds.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority To Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 750. AUTHORITY TO RELEASE CERTAIN RIGHTS.

(a) In General.—Subject to subsection (b), the Secretary of the Army may release, discharge, waive, and quitclaim all right, title, and interest which the United States might have by virtue of the quitclaim deed dated November 22, 1957, in approximately 46.1186 acres of real property, with improvements thereon, in Tarrant County, Texas.

(b) Condition.—The Secretary may carry out subsection (a) only after obtaining satisfactory assurances that the State of Texas shall obtain, in exchange for the real property referred to in subsection (a), a tract of real property—

(1) which is at least equal in value to the real property referred to in subsection (a); and

(2) which shall be, on the date on which the State obtains it, subject to the same restrictions and covenants with respect to the Federal Government as are applicable on the date of the enactment of this Act to the real property referred to in subsection (a).

(c) Legal Description of Real Property.—The exact acreage and legal descriptions of the real property referred to in subsection (a) shall be based upon surveys which are satisfactory to the Secretary.

Amend the title so as to read: "An Act to authorize certain construction at military installations for fiscal year 1988, and for other purposes.".

Mr. NUNN. Madam President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Nunn, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Warner, Mr. Cohen, Mr. Quayle, Mr. Wilson, and Mr. Gramm conferees on the part of the Senate.

DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE AMENDMENT—H.R. 1748

Mr. NUNN. Madam President, I ask unanimous consent to amend the title of H.R. 1748 to read as follows:

To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title. The title amendment is agreed to.

Mr. NUNN. Madam President, I move that the Senate insist on its amendment to H.R. 1748 and request a conference with the House on the disagreeing votes of the two Houses.

The motion was agreed to; and the Presiding Officer appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. WARNER, Mr. COHEN, Mr. QUAYLE, Mr. WILSON, and Mr. GRAMM conferees on the part of the Senate.

Mr. NUNN. Madam President, as I understand it now, the conferees have been appointed on H.R. 1748.

The PRESIDING OFFICER. The title amendment is agreed to and the conferees have been appointed.

S. 1174 AND S. 864

Mr. WARNER. Madam President, I ask unanimous consent that when the Senate receives the House messages on S. 1174 and S. 864 that it be in order that the Senate move to disagree to the amendments of the House on those bills and request a conference with the Houses on the disagreeing votes of the two House on each of those bills and that the Chair be authorized to appoint the conferees.

Those conferees shall be the same conferees as earlier indicated to the Chair by the chairman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair and the managers.

Mr. NUNN. Madam President, we have two more bills here that the Senator from Virginia and I had agreed to. I understood these bills had been at the desk, but I am now informed that they are not at the desk, so I will have to withhold unanimous consent on S. 1174 and S. 864, and I would ask the Chair to instruct the clerk to please get those bills from the House as expeditiously as possible under the Senate rules and the House rules.

The PRESIDING OFFICER. The Chair issues such instruction.

Mr. WARNER. Madam President, I hope to join the distinguished chairman at such time as he addresses S. 1174 and S. 864. However, should I not be present, I indicate that his action on these bills would be consistent with the membership of the Republicans on the committee.

Mr. NUNN. I thank my friend from Virginia. I thank the Senator from Alaska for yielding. We may have to borrow 1 more minute later in the afternoon, but I thank my colleague from California and the colleague from Alaska.

TRAVEL PAYMENTS TO AND FROM VETERANS' ADMINISTRATION FACILITIES

The Senate continued with the consideration of the bill (S. 1464).

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. MURKOWSKI. I thank my friend from Georgia.

In conclusion, I can think of no words which can better express the need to proceed with an orderly transition than the very eloquent and powerful statement of the Past National Commander of the Disabled American Veterans, Ken Musselmann, himself a very severely disabled Vietnam veteran:

> If we establish an official policy that says to Vietnam veterans that they are so different from all veterans of prior wars, that services of this type will always have to be provided in a segregated setting, we are encouraging and perpetuating the very things we wish to abolish.

As the Senate deliberates legislation which would perpetuate a segregated system of services for Vietnam veterans and which could serve to reinforce a false and often self-defeating stereotype of these gallant men and women, the last of whom returned home more than 15 years ago, I urge my colleagues to reflect on the words of Commander Musselmann.

Madam President, it is time for the Senate to "welcome home" our Vietnam veterans. We can't do that by perpetuating a system that leaves them segregated outside of society as outcasts.

I urge my colleagues to support my amendment, which would substitute for the provisions of title III a 1-year extension—until September 30, 1990—of the date by which the majority of the vet centers must be relocated onto the grounds of the VA medical care system.

Madam President, while we agree on title I and title II, my colleague from California, the chairman of the Veterans' Committee, title III is simply unacceptable to the veterans of this country, as indicated through the letters that we have submitted for the RECORD without, Madam President, consideration of a hearing on the merits of whether what we are all trying to do, which is in the interests of the Vietnam-era veterans, is indeed in their interest.

So I would conclude by urging that my colleagues on the other side address the issue. Why can't we have a hearing on this issue. We are not doing away with the program. We are extending it for a period of 1 year. But this issue deserves consideration and discussion. It warrants a hearing.

EXHIBIT 1

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
July 21, 1987.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Veterans of Foreign Wars was greatly disturbed with the discovery of your intention to mark up the "Veterans Readjustment Counseling Preservation Act of 1987" this coming Thursday, July 23, 1987. We firmly believe this bill, S. 1501, should have the benefit of a hearing in order to fully explore its merits and/or shortcomings.

As you know, S. 1501 not only counters the intent of current law but redirects the entire thrust of the Vet Center Program. A bill of this magnitude demands careful congressional oversight coupled with the recommendations and concerns of the Veterans of Foreign Wars and other veteran's organizations.

For these reasons, we strongly urge you to refrain from marking up S. 1501 so as to properly allow for a congressional hearing.

Sincerely,

COOPER T. HOLT,
Executive Director.

ALEXANDRIA, VA, *July 28, 1987.*

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Non Commissioned Officers Association (NCOA) is deeply concerned about the provisions of S. 1501 and your amendment No. 610 which would extend psychological readjustment counselling benefits through vet centers to active duty servicemembers. While NCOA appreciates the obvious concern this legislation expresses for active duty servicemembers, we believe it is likely to create substantial problems.

Both the physical and mental health of members of the armed forces are critical to military readiness. Accordingly, the military provides a full support network (including individual and family counselling) to meet the health needs of service personnel and to identify individual health problems which may adversely affect readiness or safety. Extending psychological counselling to active military personnel outside this monitored system could have a devastating effect on readiness and the safety of both the member and his unit. It would be most tragic and unfortunate to allow this to happen.

NCOA urges you to withdraw the provisions concerning care for active duty military personnel from S. 1501. Thank you for your consideration.

Sincerely,

RICHARD W. JOHNSON,
Director for Legislative Affairs.

JULY 17, 1987.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN CRANSTON: On review of legislation, S. 1501, which you introduced on July 15, we find ourselves in substantial disagreement over some of the specific provisions. Therefore, we respectfully request a formal public hearing to examine the contents of this legislation. While we are mandated by National Convention resolution to support the "Vet Center" program, the general explanation of it under section 3 (A) and (B) of S. 1501 to include eligibility for counseling for "any veteran or person" is objectionable. The meaning of "or person" in the legislation is without definition in title 38 and we fear it may permit access to the program by dishonorably discharged individuals or others for whom the program was never intended.

A second consideration we believe justifies a hearing is the matter of personnel and fiscal resources that will be required to implement the expansion of the "Vet Center" program. By this we refer specifically to the provision of services by the VA's Department of Veterans Benefits and Department of Medicine and Surgery.

Moreover, in view of the foregoing reservations concerning S. 1501, we must conclude that it would be premature to mark up this legislation at the committee session scheduled for July 23. As always, your attention to the views of The American Legion is appreciated.

Sincerely,

E. PHILIP RIGGIN, *Director,*
National Legislative Commission.

DISABLED AMERICAN VETERANS,
Washington, DC, July 30, 1987.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, 202 Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: During the July 31, 1987, Veterans Affairs Committee "markup" hearing, Senator Frank Murkowski will offer an amendment in the nature of a substitute to S. 1501, The Vietnam Veterans Readjustment Counseling Program Preservation Act of 1987.

As presently drafted, S. 1501 proposes to delete certain language contained in Section 612A, Title 38, USC, and thereby remove the current statutory requirement that, by October 1, 1989, an orderly transition shall have occurred, transforming the current program of readjustment counseling services from one primarily located in centers situated apart from VA medical facilities, to a program primarily located within VA medical facilities.

As we understand the Murkowski Amendment it would, among other things, retain the current law requirement for an orderly transition of the majority of readjustment counseling services to VA medical facilities, however, it would postpone the date for such a transition to be completed until October 1, 1990.

In this regard, the DAV is supportive of an orderly and gradual programmatic transition of VA's Readjustment Counseling Centers into VA medical centers. Accordingly, we favor this aspect of the Murkowski Amendment which seeks to set a timeframe for the accomplishment of the transition.

Our organization has long been and continues to be a strong supporter of VA Psychological and Readjustment Counseling Services for Vietnam veterans. Indeed, the authorization for such services (P.L. 96-22) and subsequent evolution of the VA's "outreach" or "Vet Center" concept for provision of such services were influenced greatly by the DAV's own Vietnam Veteran Outreach Program which had its beginning in 1976.

A decade ago, when recognition and understanding of the post-traumatic stress disorder (PTSD) problems of Vietnam veterans was just beginning to emerge and when Vietnam veterans themselves were filled with feelings of anger, suspicion and bitterness toward government authority and government institutions—including the Veterans Administration—it made a great deal of sense to position counseling and readjustment services out of the "traditional" VA setting. The logic—and it proved to be very sound—was that Vietnam veterans, distrustful of government authority/bureaucracy, suffering from PTSD and other types of readjustment problems, would be much more receptive to the extension of services in a local community setting.

Indeed, the VA's current program may never have gotten off the ground had it not been physically separated from the traditional setting.

But while the commitment was made to provide these services for as long as they were needed, a history of the program and its development reveals that all who were involved—the Congress, the VA and the veterans' community—envisioned that at some point in time, although the need for these services might well continue to exist, their provision, in the majority of cases, could be phased back into the traditional setting of VA medical facilities.

The DAV has continues to subscribe to this scenario.

We believe, from the standpoint of the ultimate reconciliation, readjustment and, if you will, self-acceptance of Vietnam veterans themselves, that it is essential for these services to be phased back if Vietnam veterans shall not, in fact, continue to be alienated or continue to perceive themselves to be alienated from the rest of the veterans' community and society as a whole. In a very real sense, if we establish an official policy that says to Vietnam veterans that they are so different from all veterans of prior wars that services of this type will always have to be provided in a segregated setting, we are encouraging and perpetuating the very thing we wish to abolish.

The national environment and the mindset of Vietnam veterans and many Americans that existed ten to fifteen years ago, that required segregated Vet Centers if the program was to work at all, no longer exists today . . . signs of this are everywhere: the attraction of the Vietnam Veterans Memorial to millions of Americans, the plethora of movies and books about Vietnam and televised fund raising tributes are recent indications of an ongoing and healthy national reconciliation process. We would submit the attitudes and self-image of Vietnam veterans themselves have been and continue to be improved.

In short, the appropriate and orderly "phase back" of the majority of readjustment and counseling services for Vietnam veterans at a VA hospital setting is an attainable goal, born of sound policy, and should not be abandoned. The DAV does not support any change of current law that would deter us from such a goal or fundamental alter such a policy.

We therefore urge that you and other members of the Committee strongly support this portion of the Murkowski Amendment to S. 1501.

Sincerely,

KENNETH G. MUSSELMANN,
National Commander.

AMVETS,
Lanham, MD, July 20, 1987.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN CRANSTON: The American Veterans of World War II, Korea and Vietnam (AMVETS) wishes to respectfully comment on the proposed bill: "Vietnam Veterans Readjustment Counseling Program Presentation Act of 1987" introduced by yourself together with Senators Matsunaga and Kerry.

While AMVETS is supportive of the Vet Centers' concept and their unique ability to deliver needed psychological services to Vietnam Era Veterans, we believe that the proposed "Act" need to be at this time more fully aired and debated. There is scant time for AMVETS to fully review the merits of the "Act", especially Section 3, in order to make an informed decision.

AMVETS, therefore, cannot at this time support the Act until we have had time to fully review the Act's implication with respect to the Vet Centers.

Thank you for allowing AMVETS the opportunity to express its views.

Sincerely,

DAVID J. PASSAMANECK,
National Legislative Director.

Mr. MURKOWSKI. Madam President, I yield to my colleague from South Carolina. In my final statement I will remind my friends who will speak to the contrary on title III on the question before us: Why not address this matter in a hearing? I yield to my friend from South Carolina.

Mr. THURMOND. Mr. President, as a veteran and as a member of the Veterans' Affairs Committee, I rise today in support of title I and title II of S. 1464, the Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987. I was pleased to be a cosponsor of this bill as originally drafted. However, I am opposed to title III of the bill, which was added at committee markup. At the appropriate time in this debate, I shall comment further on that title.

Madam President, titles I and II of this bill make sound improvements to the VA Health Care Program. Title I establishes, by statute, a framework for reimbursing certain needy veterans for their travel expenses to and from VA medical facilities. This provision provides travel reimbursement for the following groups of veterans—the service-connected disabled, pension recipients, those with pension-level income, and those unable to defray the cost of travel as determined by the VA Administrator.

In addition, title I is fiscally responsible. These veterans would receive reimbursement for their travel expenses only after paying the first $7.50 of the costs of a round trip visit to a medical facility. In other words, the costs of travel would be shared by both the veteran and the Veterans' Administration. However, those veterans requiring a compensation or pension exam, those requiring a special mode of transportation such as a wheel chair van or ambulance, and those requiring emergency travel would not be required to pay the $7.50 deductible. In these cases, the VA would pay the entire amount.

Madam President, these beneficiary travel provisions are reasonable and I commend them to my colleagues.

Title II of this bill improves the health care quality assurance program at the VA. It does this by expanding the Office of Medical Inspector General and by establishing the position of Assistant Chief Medical Director for Quality Assurance. The Assistant Chief Medical Director would be directly responsible for carrying out the Quality Assurance Program at the VA. Quality health care is a necessity. This title will help ensure that veterans receive the quality of care they need and deserve.

Madam President, I urge my colleagues to support titles I and II of this bill.

I support the amendment offered by the distinguished Senator from Alaska. This amendment would delete title III of S. 1464. Title III relates to Vietnam Veterans' Readjustment Counseling Centers, commonly referred to as vet centers. Before discussing the merits of this amendment, I want to first briefly describe the vet centers. In 1979, a program of readjustment counseling centers was established for Vietnam-era veterans. These centers were located in community "storefront" facilities, away from VA medical facilities. They were located in this manner to provide easy access to Vietnam-era veterans, who might be less likely to go to a medical center for counseling. Most importantly, these centers were to be temporary, and according to current law they are to be phased back into the traditional VA medical centers over a short timespan.

Madam President, title III of S. 1464 would do just the opposite of what I have just mentioned. It would make fundamental changes in the Vet Center Program. First, the program would effectively be made permanent, and second, it would do that without the benefit of hearings. This is simply no way to legislate.

There are several other reasons why I oppose title III of this bill and they can be found in the minority views of the committee report. I now want to briefly highlight just two of these reasons.

First, we need to ask ourselves the following question—if this program of separate vet centers is made permanent, will it represent wise use of limited VA resources? The answer is no; it will not. In fact, a recent report on the effectiveness of the Vet Center Program indicated that in certain circumstances, vet centers were not a cost-effective use of limited VA resources. The counseling services provided at vet centers could be provided just as effectively at VA medical centers.

Second, some of the major veteran service organizations oppose going forward with title III. The American legion, the Veterans of Foreign Wars, and the AMVETS have all formally requested that title III not be considered until they have had the opportunity to study its impact and comment on its merits and shortcomings.

Because of my concerns with title III, I urge my colleagues to support the amendment offered by the distinguished Senator from Alaska. His amendment would simply delete title III from the bill, and delay the current transition of vet centers back into medical facilities by 1 year.

Madam President, I do not know anybody more interested in veterans than the American Legion, the Veterans of Foreign Wars, the AMVETS, and the Disabled American Veterans. They all take one position: They are all for this amendment by the Senator from Alaska. They want time to look into this matter and they want to consider it and see what impact it is going to have. They want an opportunity to comment on its merits and shortcomings.

Why can we not have hearings on this? What is the objection to it? What is the use to rush into it?

I say to you, Madam President, for the benefit of the veterans this amendment by my able colleague from Alaska should be adopted.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Madam President, I would like to make a brief opening statement and then I will yield to my friend from Hawaii.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Madam President, I rise in strong opposition to the amendment to maintain in current law the direction to the VA to eliminate at least 95 of the 189 existing community-based vet centers.

I have sent a "Dear Colleague" letter to each of my colleagues rebutting point by point the arguments of my colleague from Alaska. That letter is on each desk and in each office and I urge my colleagues to review it very carefully.

First, it is important to stress that the provisions of title III of the committee bill do not propose to make the Vet Center Program permanent or to make any major expansion of the current program, as he has been suggested is our purpose. Rather, the basic thrust of the committee bill is to repeal the requirement in current law that the Vet Center Program must undergo a transition according to a particular arbitrary timetable and ratio that would force the elimination of at least 95 community-based vet centers. We seek to replace that requirement with a provision limiting relocation or closures of existing vet centers by requiring the VA to follow certain procedures and provide certain advanced certification to the two Veterans' Affairs Committees that those procedures have been added.

This was the purpose of S. 1501 that I introduced on July 15 and which 17 Senators have joined me in cosponsoring. Our committee's reported bill is derived from S. 1501. Our committee is convinced that a transition requirement under which a fixed number of centers—more than half—would have to be moved to VA hospitals within a fixed period of time—now 2 years—no longer makes sense.

Mr. President, in 1981 I was very actively involved when the transition requirement was first enacted. At that time, there was a deadline in the law by which Vietnam veterans had to make their request for readjustment counseling, and the transition requirement was enacted with a protective purpose in mind. The transition requirement was meant to ensure that, following that deadline, those veterans who were already receiving readjustment counseling, and thus were still eligible to continue to receive counseling, might have the opportunity to continue to utilize vet centers until a capacity was developed at VA medical centers to provide that counseling.

In 1984, the deadline to request readjustment counseling was repealed. In hindsight, I now think the mandatory transition should have been repealed at that time as well, but I doubt we could have succeeded with such a repealer in the Senate under control of the other side at that time. In any event, in 1984 a time sequence was established for a major assessment study of the needs among Vietnam veterans for assistance to help deal with postwar psychological problems—the so-called PTSD study for which we have expended $5.5 million—to be provided to the Congress one year before the transition was to begin. This time sequence was enacted into law in 1984 to enable the administration and the Congress to make informed decisions about the future of the Vet Center Program before the transition was to begin.

Earlier this year, in response to a delay in the conduct of the PTSD study, our committee reported a bill—S. 477—that included a provision to delay the start of the transition by 1 year in order to put the events back in sequence. However, the House committee has refused to accept this provision or take any action on S. 477.

Since the time our committee acted on S. 477, we have concluded that a mere delay in the transition will not be sufficient and that the transition mandate should be repealed. That is what would be accomplished by title III of S. 1464. Instead of a mandated, arbitrary transition, we propose that decisions regarding the Readjustment Counseling Program and individual vet centers should be required to be made on a case-by-case basis in accordance with objective criteria and the best professional judgments available. As late as June 11 in comments on a GAO recommendation to the Congress to this very effect, the VA endorsed such an approach to "permit the Agency to consider each center's changing needs and the method and location best suited to meeting those needs."

Mr. President, our reasons for the committee bill's title III provisions are:

First, it is hard to understand the basis for advocating a blind, by-the-numbers, time-fixed cutback in the number of centers. The VA has indicated that the demand for services from vet centers is growing, not declining, and that hardly supports eliminating half of these community-based facilities.

Second, in a report to the Congress submitted on July 9 by the Administrator of Veterans' Affairs setting forth the VA's own evaluation of the Vet Center Program, the following points were made:

> Our evaluation of 1987 is that the VA Readjustment Counseling Program is quite effectively carrying out the mission designed for it by the Congress and the VA.
>
> If the VA's ongoing assumption, based on the two major epidemiologic studies conducted in 1977 and 1979, [is correct] that 700,000 to 800,000 veterans formed the target population for this program, and if the target population has neither expanded nor declined in the interval, the readjustment counseling program has to date seen slightly over half of the target population.
>
> Vet centers were implemented by the Agency in 1980 with some urgency, in an effort to relieve a disturbing and troubling situation which had arisen among some returnees from the Nation's most recent war. The model is effective in accomplishing that purpose. In addition, however, the operation and refinement of the program during the past seven years has provided a challenge for the Agency in organizational development. The program has brought the VA generally closer to the community, and has fostered the perception, among both Vietnam era veterans and veterans of other wars, of the Veterans Administration as flexible and responsive.

These are the Administrator's own words on July 9 about the success of the Vet Center Program. Moreover, all of the evaluations of the Vet Center Program discussed in the Administrator's July 9 report advocated a repeal of the mandatory transition. Yet in the same report the Administrator recommended that Congress not change the law mandating him to close down 95 community-based vet centers. The facts just fail totally to support this position.

Mr. President, a final reason our committee has recommended repeal of the mandatory transition requirement is our very real concern that there is substantial animus in the political leadership of the VA with respect to the future of the Vet Center Program. We have yet to hear any other explanation of the extraordinarily hasty and haphazard decisions made in late January to relocate nine specific vet centers beginning on July 1. Indeed, on June 29, a U.S. district court issued an order temporarily enjoining the relocation of these vet centers as proposed by the administration.

I want to stress that we are not opposed to changes in the status quo for individual vet centers. Indeed, among the nine vet centers selected for relocation this year, one was in California, and I was and am satisfied that that proposed move probably makes sense. However, our committee was equally satisfied that three or four of the nine centers picked were poor decisions by any standard and that their selection revealed either a conscious animus toward the program or a reckless disregard for its integrity and well-being.

As a more recent demonstration of this animus, the VA has now announced its intention to go forward with the relocation of six of those nine vet centers by November 2, despite action in both Houses which would, as a minimum, delay any transition at this time. Although the VA now seems to be backing away from this latest relocation plan, there is no telling when or where the next arbitrary cut will come.

Hence, the provisions of title III of the committee bill were carefully crafted so as to require the VA, in a public fashion, to make decisions about individual vet centers on a case-by-case basis using objective criteria derived directly from criteria developed and published by the Agency itself.

Mr. President, as I have said many times in the past, our committee does its best work when we work in a bipartisan, consensual fashion. I tried very hard to reach a compromise with the distinguished ranking minority member, Mr. MURKOWSKI, on this issue. In fact, the legislation reported by our committee incorporates five of the compromises tentatively agreed to before our negotiations broke down on this issue.

Finally, I know that some concerns have been raised about the fact that the provisions of title III were acted on by our committee without there having been a specific hearing on them. Although this statement is technically correct, the committee did receive testimony on the Vet Centers Program twice this year—on February 18 and 19 regarding S. 477 and on May 21 regarding S. 6.

Although my policy as chairman is that legislation generally should first be subjected to the hearing process, there are times when the information developed at hearings and through the committee's oversight activities warrants preparation of legislation for committee action as an exception to that policy. On the same date that the committee acted on the pending bill, we also marked up without prior hearings S. 1443, S. 1444, and S. 1464, as well as 15 Loan Guaranty Program changes and I have heard no similar complaints. In any event, I was and am satisfied that our committee had before it the information it needed to make a good and fair decision on this legislation without the need for further hearings.

Mr. President, I note that the Vietnam Veterans of America—the only veterans organization exclusively dedicated to the needs of Vietnam Veterans—and the Paralized Veterans of America, in letters dated July 29, 1987, and September 21, 1987, expressed their support for the provisions now included in title III of the committee bill. I will insert these letters in the RECORD at the conclusion of my remarks. In a similar vein, the new national commander of the American Legion, Jake Comer, during his presentation of the Legion's legislative priorities on September 22, 1987, testified that the Legion's supports—

> A continuation of the Vet Center Program, contingent upon a plan wherein decisions on assimilating the readjustment counseling program into the VA medical centers will be made on a case by case basis, as the utilization of services diminishes.

Likewise, the Veterans of Foreign Wars, during that group's national convention in New Orleans this summer, adopted a resolution, Resolution No. 794, which included the following statements:

> *Be it resolved*, by the 88th National Convention of the Veterans of Foreign Wars of the United States, that the authority of the Administrator of Veterans' Affairs to operate community-based vet centers on a case-by-case basis be extended; and,
>
> *Be it further resolved*, That the Veterans' Administration notify, for comment, the Congress and the veterans service organizations prior to taking action that would eliminate or relocate any vet center.

The case-by-case process that both the legion and VFW are advocating is precisely what title III of the committee bill contemplates.

Mr. President, adoption of the provisions of title III of the committee bill is necessary to remove the extremely unfair and counterproductive state of uncertainty and anxiety that has beset, and still does, the 189 vet centers around the country. I urge my colleagues to support these provisions to save the vet centers from arbitrary termination and to reject the pending amendment which would put the Congress on record in 1987 as wanting to require that more than half of these community-based offices be eliminated.

Mr. President, I ask unanimous consent that the July 29, 1987, letter to me from Robert O. Muller on behalf of the Vietnam Veterans of America, and the September 21, 1987, letter to me from Gordon Mansfield, associate executive director for Government relations of the Paralyzed Veterans of America, appear in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Vietnam Veterans of America, Inc.,
Washington, DC, July 29, 1987.

Senator Alan Cranston,
Chairman,
Veterans' Affairs Committee,
Washington, DC.

Dear Mr. Chairman: I am writing to inform you of our unqualified and enthusiastic support of S. 1501 which would save the vital Vet Center program.

As you are aware, the Vet Centers are not only one of the most successful programs in the history of veterans affairs, they are also enormously popular with legislators, health care professionals and veterans. Both the House and Senate have already unanimously approved Vet Center bills in this session.

In light of this popularity I must admit to being puzzled by the recent opposition to S. 1501. I am especially concerned that vital health care services for our nation's veterans not become a pawn in a partisan struggle.

As we convene our Third National Convention this week, please be advised that we are closely watching the outcome of this issue. Please allow me to offer our services, and the services of our assembled delegates from VA chapters around the country, in explaining the importance and necessity of the Vet Centers.

Thank you for all you are doing in support of the Vet Center program. We are looking forward to working with you to preserve this valuable resource for Vietnam veterans.

Sincerely,

Robert O. Muller,
President.

Paralyzed Veterans of America,
Washington, DC, September 21, 1987.

Hon. Alan Cranston,
Chairman,
Senate Committee on Veterans' Affairs,
Washington, DC.

Dear Senator Cranston: On behalf of the membership of Paralyzed Veterans of America, I would like to express our support for Title 3 of S. 1464 which calls for significant improvements in current law governing the management, function, and future services provided by the Veterans Administration's Vet Center Counseling Program for Vietnam Veterans.

As you know, the provision would repeal the mandatory requirement that the VA relocate the operation of more than 50 per cent of the 189 existing Vet Centers from their storefront locations to general VA health care facilities within a two-year transition period beginning October 1, 1987. PVA believes the repeal of the two-year mandatory transition requirement to be fully warranted.

Since its inception in 1979, the Vet Center Program has provided valuable counseling services to thousands of Vietnam veterans. It has proven to be a unique and cost-effective asset to the VA as well. We believe that the need for these services will continue in many areas of the country. The VA's own analysis of the program has found that the storefront setting is a very effective means of outreach and the provision of direct services to this targeted veteran population. The recent GAO report, moreover, concludes that the relocation of Vet Centers to VA Medical Centers would not be more economical than the current situation. This is not to say that, based on future caseload and operation, some readjustment in the provision of these services might be necessary.

However, to require the VA to close more than 50 per cent of the storefronts over an arbitrary two-year period without the proper analysis, administrative flexibility, or Congressional oversight and review, we find to be poor management practice.

Title 3 of S. 1464 would also provide for the expansion of the mission of the Vet Center Program to include, in addition to readjustment counseling where feasible, the provision of other direct services in the area of health care and benefit delivery. PVA consistently believes that the addition of these services, in a community-based setting, many of which are already being provided by Vet Centers, to be a natural and advisable adjunct to program mission.

The legislation would also expand eligibility for Vet Center services to other categories of veterans in need. Here again, PVA believes this extension would merely codify the provision of these services which even the VA has admitted in Congressional testimony this year are already being provided by existing Vet Centers in many cases where needed.

PVA strongly believes that the success of the Vet Center Program lies in its model community-based approach in bringing direct, accessible and compassionate services to the veteran population. We have felt for a long time that, without significant additional cost, the mission of these centers could be broadened in time, and, where feasible, help meet the growing needs of other categories of deserving veterans as the demand for services from the Vietnam veteran population declines.

One only has to look at the mission of the VA, in this decade and beyond, to realize that the VA is going to have to develop a new inventory of cost-effective service delivery systems to help meet the growing needs of the veteran population. The community-based approach to health care and benefit delivery could be an important addition to this inventory in meeting the demands placed on the VA by growing numbers of aging and infirm veterans, the unemployed, or the significant numbers of homeless veterans to name just a few areas.

The Vet Center Program is in place and staffed. Its facilities are strategically located in 189 communities and designed for their convenience to the veteran, as well as their full accessibility for veterans with disabilities. PVA finds this resource and infrastructure too valuable an asset for the veteran and the VA to allow its elimination without further review and careful consideration by the Congress.

Paralyzed Veterans of America commends you, Mr. Chairman, for introduction of this provision and fully supports its unanimous passage in the Senate.

Sincerely yours,

Gordon H. Mansfield,
Associate Executive Director
for Government Relations.

Mr. CRANSTON. One final point: Several of our colleagues have expressed their concerns to me about the provisions in title III which would permit the VA to furnish readjustment counseling services to active-duty personnel, either those who served during the Vietnam-era or those who have served since then in a combat situation.

Although I continue to see merit in allowing the VA to furnish services to such individuals I respect the strongly held positions of a number of my colleagues, including my colleague from Alaska, on this matter, and in light of those views should this measure be passed by the Senate with this provision included I will not insist on it in conference.

I am certain, inasmuch as there are no comparable provisions in the House-passed bill—and I am familiar with the views of my colleagues on the House committee on this issue—that it will not be in any final measure which goes to the President relating to the Vet Center Program.

I wish to ask my colleague from Hawaii how much time he would require.

Mr. MATSUNAGA. I would say to my distinguished colleague I would wish 5 minutes.

Mr. CRANSTON. I yield 5 minutes to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 5 minutes.

Mr. MATSUNAGA. Madam President, I join the distinguished chairman of the Senate Veterans' Affairs Committee, Mr. Cranston, in expressing strong opposition to the amendment offered by the Senator from Alaska and in strong support for the committee-approved provisions relating to veterans' readjustment counseling centers included in S. 1464, the Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987.

Madam President, title III of S. 1464 eliminates the statutory mandate for the transition of the Vietnam-era Veterans Readjustment Counseling Program from one conducted primarily through storefront vets centers located in respective communities to one conducted primarily through VA medical facilities. Instead of the current transition rules requiring at least half of all vets centers to be rolled into VA medical centers or outpatient clinics in just 2 years, title III would give VA the authority to close vets centers or relocate them at VA hospitals or clinics only after ad hoc, case-by-case determinations made by the Chief Medical Director. The determinations themselves, however, would be governed by strict criteria designed to ensure that effective readjustment counseling services would still be available after any relocation.

I support these provisions not out of pure sentimentality of a war veteran, but because there still exists a great need for readjustment counseling. If we are to believe VA's figures, the target population of 700,000 to 800,000 veterans, half of whom have participated in the readjustment counseling program, has not decreased in recent years. And as the chairman of the committee has pointed out, three independent evaluations of the Vets Center Program—conducted by the VA's Department of Medicine and Surgery, the Advisory Committee on Readjustment of Vietnam Veterans, and the Special Committee on Post Traumatic Stress Disorder—have all confirmed both the success of the Vets Center Program and the importance of retaining substantially the program's current structure.

In my own State of Hawaii, readjustment counseling is in extremely short supply, and limited to the capital island of Oahu. Thousands of veterans on the neighbor islands must travel by air to Oahu or accept inferior contract care in their local communities not tailored to their specific needs. Faced with this Hobson's choice, many of course prefer not to seek counseling services. Indeed, the lack of such counseling on the neighbor islands is reflected in the fact that perhaps hundreds of Vietnam veterans seek refuge in the abundant tropical forests of Kauai, Maui, Molokai, and Hawaii—forests not unlike those of Southeast Asia. This is a fact poignantly illustrated most recently by an ABC television documentary, "The Vietnam War: Gone, But Not Forgotten," a documentary I urge my colleagues to view. Many of these vets still walk point armed with guns and knives, dressed in jungle fatigues and smeared with camouflage paint, unable to cope with society or deal with physical and psychological problems caused by a painful, contradictory war. Untreated, many of them are a danger to themselves and to society. For these individuals, help is not presently available.

But for those lucky enough to live on Oahu, the Honolulu Vets Center is a godsend. Part of its success is due, of course, to the quality of its staff. Another part is due to its location in the community. This latter factor is no small advantage. As members of the Veterans' Affairs Committee are aware, for a variety of reasons many veterans refuse to utilize facilities readily identified with the Veterans' Administration, the military, or the government in general. They prefer the low-key, noninstitutional settings commonly found in many if not all of the 189 existing vets centers. Since the only VA medical facility we have in Hawaii is a small outpatient clinic located in the Federal building, it is likely that any relocation of the vets center to the clinic will result in a precipitous drop in utilization. The fact that many veterans are unaware that the clinic itself exists, hidden in the bowels of the Federal building, is also bound to detract from the efficient use of a relocated vets center. At a field hearing held on April 14 of the Senate Veterans' Affairs Committee conducted in Honolulu, the clinic director himself essentially affirmed that a clinic-based vets center would not be as effective as one based in the community. Yet, Madam President, despite the obvious drawbacks to rolling the Honolulu Vets Center into the outpatient clinic, and despite a history of outstanding counseling service to Hawaii veterans provided through the present community-based architecture, I have in my possession an internal VA planning document which targets the Honolulu Vets Center as among those to be transitioned into a VA medical facility—in this case, not even into a hospital but only a small outpatient clinic.

Madam President, this is the type of problem which title III intends to address. Our provisions do not prevent the VA from moving vets centers into VA medical facilities, they are not even designed to prevent the agency from eliminating vets centers altogether sometime in the future. Rather, the provisions of title III establish a mechanism by which the existence of vets centers are predicated on performance, need, and other objective criteria, not on arbitrary time schedules or OMB's fiscal whims.

I urge my colleagues to support the committee-approved provisions of S. 1464, and to oppose the amendment to strike title III offered by the junior Senator from Alaska [Mr. MURKOWSKI].

Mr. CRANSTON. I am now prepared to yield to my friend from Massachusetts. How much time does the Senator need?

Mr. KERRY. I would like at least 10 minutes.

Mr. CRANSTON. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I had wanted earlier to ask my colleague, the Senator from Alaska, a question, but I will not ask that question now as I think at the end of his comments he may have clarified his perception of the status of this transition. But I want to talk about this from a number of different perspectives.

Obviously, I want to talk about it as a Vietnam veteran, but more importantly I want to talk about it as a legislator, and as an American citizen who is concerned about where we are in the overall effort to try to deal with the problems of Vietnam veterans and to try to deal fairly with the overall veteran community.

Let me make it clear at the outset, we are not talking about all Vietnam veterans here. We are talking about a small group of Vietnam veterans who continue to need counseling, assistance, various forms of health care in one form or another. But let me make it very clear. If Senators today vote for the motion to strike by the Senator from Alaska, if they follow the Senator from Alaska in this, they will immediately, without any process by which we can set up a system of determining which center deserves to move, at what rate, when, we will automatically begin an immediate and full termination of the vet program over a period of years.

Admittedly, it is a transition process over a period of years, but it is automatic. It is arbitrary. It does not take into account whether a particular community where there is a vet center may have a larger number of people in need of continuing that center.

It does not take into account the total distance from a vet center, from a VA community, to a hospital. It does not take into account what the immediate benefits and the advantages of a particular vet center may be.

It is arbitrary. It is going to start to phase out a so-called transition.

I think my colleagues ought to understand as they vote on this that money is not at issue. This is not a question of savings. This is not a vote by which we are going to allow more money to somehow be distributed to another part of the veterans' community or to any other community.

I would like to read from the Vietnam veterans' profile of VA readjustment counseling program report by the GAO which was requested by the distinguished ranking member of the committee. And in that report, the GAO says very clearly that:

> Relocating vet centers to existing VA facilities will probably not have a significant effect on program costs.

The conclusions they drew were:

> There does not appear to be much to be gained by requiring that vet centers be relocated to existing VA facilities. Costs would not be significantly reduced. Some veterans' willingness to seek counseling would be adversely affected, and according to the majority of officials we interviewed the quality of counseling could suffer.

That is in the GAO report requested by the ranking minority member who now proposes we proceed ahead no matter what. So cost is not at issue here.

I heard the distinguished Senator from South Carolina come to the floor and cite the support of the American Legion, the Veterans of Foreign Wars, and other groups saying we think the time has come for them to move back to the VA hospitals.

Madam President, not one of the organizations cited by the Senator from South Carolina ever supported the creation of these vet centers in the first place. In point of fact, they were put in place over the tooth-and-nail opposition of every one of those organizations, and for 9 years the struggle went on to create these vet centers, and, finally, in 1979 at the moment that they were about to be created, the DAV came out and supported that effort.

We are grateful for that support. They helped it to happen. But be mindful of the fact that not one of those organizations wanted these vet centers in the first place. They came about over their opposition, and they came about because, Madam President, there was a need and because, Madam President, there is a need today. That need today is documented.

I do not know how many of my colleagues have taken time to go into some of these vet centers. During the last recess. I made a point of touring the vet centers in Massachusetts. I got to four or five of them. We are blessed with 11 in Massachusetts, Madam President. In fact, there is so much need that the State of Massachusetts has expended its own money to open its own vet centers in an effort to try to augment the minimal amount that the Federal Government has seen fit to do.

I went to a number of those centers. At one of them 100 vets came—the Avon Center. It just happens to be that the Avon Center is one of those centers that the VA has conducted its own search-and-destroy mission against in an effort to close. In recent weeks, in a covert action of its own, the VA has tried to shut down the Avon Center.

Madam President, this Senator had to join in a lawsuit, along with others who thought that center should stay open. We got a Federal judge to say that center should stay open. Just the other day we learned again that General Turnage at the VA wanted to shut the center. So we started to activate, we got people in the House and Senate. And I am grateful for the fact that they have again decided not to close the Avon Center.

I wrote to General Turnage last September 18, Madam President. A U.S. Senator wrote a letter to the head of the VA in September requesting specific action about Avon Center. It is now October. We learned covertly of their effort to shut it. I have still not received a response from the head of the VA. Is it any wonder then that veterans across this country who have had to deal with the VA are suspicious about their ability to get service from the VA?

Here we are, we are telling Vietnam veterans that the vet centers that were set up to assist them in counseling, that have fought the centers themselves, are going to become the new home of those centers.

I do not understand how it is that anybody believes that the organization which has been fighting their existence is somehow going to do a better job of actually managing them and providing services to veterans if they are transitionally moved over there.

In addition, Madam President, here I think we have to go back a little bit in time.

I remember when I first came back from Vietnam in 1969, and I was based in New York for a brief period of time. I went to visit some of my fellow vets in VA hospitals at the time, becoming active in veterans' affairs. Shortly after I visited a friend of mine who was in the New York VA, Life magazine did a story on the VA hospitals; and just about the same time as the story on the VA hospitals, which talked about the poor quality of care the veterans were getting, the fellow in the bed next to my friend died. He did not die because of his wounds, specifically. He died because he had a tracheotomy incidental to those wounds and there were not enough people there to care for them; and he suffocated on the mucus in his own tracheotomy tube, while people were ringing bells, attempting to get people to come and help. That is one incident.

I guarantee that if you talk to Vietnam veterans across this country, they will tell you about the reception at the front desk at the VA. They will tell you about the discharges and the problems and the lack of care.

I am not pointing fingers at the VA, but I am trying to describe to my colleagues a rampant feeling among those veterans most in need of this service that they do not trust the VA, they are not going to go to the VA.

These centers were set up precisely because they were a response to those years of neglect, and they came about in an effort to provide for veterans some other outlet. I am not saying that these centers should stay open forever. There is nothing in this bill that makes them permanent. On the contrary—and again I ask my colleagues to take note—in this bill, in the committee-approved part of the bill, there is set out a process for orderly transition. I think my colleagues should be aware of that process.

It says specifically that in making a determination about closing one of these centers, the chief medical director should consider the distribution of Vietnam-era veterans in the geographical area served by the existing vet center, the distance between the existing vet center and the general Veterans' Administration facility, the acceptability of the proposed closure or relocation to the staff of both the existing vet center and the general Veterans' Administration facility, the acceptability to representatives of veterans' service organizations located in the geographical areas.

Is my time up, Madam President?

The **PRESIDING OFFICER**. The Senator has used his time.

Mr. **KERRY**. I do not see the distinguished chairman here. How much time remains on our side?

Mr. **BYRD**. Madam President, on behalf of Mr. CRANSTON, I yield to the Senator. How much time does he desire?

Mr. **KERRY**. May I have such time as I need?

Mr. **BYRD**. I yield 4 minutes.

The **PRESIDING OFFICER**. The Senator may proceed for 4 minutes.

Mr. **KERRY**. In addition, Madam President, there are other criteria: The availability of transportation; the availability, cost, and suitability of space at the VA hospital; the comparison of the recurring cost of providing readjustment counseling in the center; the impact of the proposed closure or relocation on the program of the existing vet center; and so forth.

The point I make is that the bill as set forth by the committee establishes an orderly, sensible, and appropriate procedure by which judgments can be made in the long run as to whether or not such closure should take place. The Senator from Alaska, however, has an arbitrary, automatic process that ignores all the existing benefits and realities.

Madam President, in the paper of the Vietnam Veterans of America relating to this issue, there is an important point that I think people should take note of. The question was asked by the distinguished Senator from Alaska: "Is not transition really over? Have we not reached these people, and should we not begin now?"

The evidence is absolutely contrary to that. There were 78,000 new clients who visited these centers over last year; and even with that increase in client visits, costs have remained the same.

Also, there is evidence from Dr. Arthur Blank, who is the national director of the Readjustment Counseling Service, who said that there is no evidence of a plateau in the numbers of vets needing help with readjustment.

Finally, I want to reiterate and underscore the importance of these centers in personal terms to vets. Countless vets have told me of how these centers have provided them with drug or alcohol programs, with personal counseling, even with employment disorders; in some cases, with counseling to hold marriages together.

I find that all this has been a self-start program where veterans, through their own initiative, have been able to come together and meet their needs. I think nothing could be more important to that group that most is in need of this service than to be acting on their own and to help each other go through this process of readjustment.

We saw recently a study on agent orange. The VA hid that study for 6 months. Only after it was leaked to the press did the VA let the study come out. The study showed what veterans have known for a long time: A 58-percent higher incidence of lung cancer among marines who served in Vietnam and a 110-percent higher incidence of non-Hodgkin's lymphoma among those veterans who were exposed to dioxin in Vietnam.

Many of the people who come for counseling in these centers are veterans who have been exposed to dioxin, resulting in birth defects and nerve disorders.

Now we are saying that the VA, which has not compensated one person in all these years, which has fought the process and hid its own study, is going to become the home of the new vet centers which will bring these people in, in some realistic way. I cannot think of anything more specious or insulting to Vietnam veterans, who struggled to get where they are today, than to say that we are going to be well served as a result of this move.

I think we should adhere to the work of the distinguished chairman and hold onto that which we have and set up a process which is orderly and appropriate.

I yield back the remainder of my time.

Mr. HELMS. Mr. President, I am happy to cosponsor the amendment sponsored by the Senator from Alaska. This amendment represents the best interest of the American veteran and the American taxpayer.

Mr. President, the amendment proposes to delete title III of S. 1464. Title III would do two things: First, it makes permanent the separation between readjustment counseling centers for Vietnam veterans and regular Veterans' Administration hospitals. Second, it unwisely expands eligibility for counseling services to veterans of World War II, the Korean war, and active duty military personnel.

Mr. President, I do not believe it is necessary to separate readjustment counseling centers from regular VA hospitals. It's been at least 15 years since the last Vietnam vet returned home. Client demand for counseling services to help Vietnam vets readjust to civilian life naturally decreases over time. As the demand decreases, it is more efficient to provide these services within regular VA health care facilities than out of entirely separate "store front" facilities. Without the amendment sponsored by my colleague from Alaska, the present bill would effectively make the separation of these centers from regular VA medical facilities a permanent part of the counseling program.

Second, Mr. President, making these counseling centers permanently separate does a disservice to Vietnam veterans. The Disabled American Veterans (DAV) believes that title III would "encourag[e] and perpetuat[e] the very thing we wish to abolish." The DAV is right—this title would indeed perpetuate the misperception that Vietnam vets are societal outcasts to be separated from the rest of society. The provisions imply to everyone that Vietnam veterans continue to be so different that they need counseling rendered in areas separate and apart from everyone else, including combat veterans from other wars. It is this precise alienation from society which the centers were originally intended to remedy.

As I stated earlier, title III would expand eligibility for counseling services to veterans of World War II and the Korean war. Mr. President, I find this expansion untenable. These veterans at this point in their lives need scarce Government funds spent on hospital and nursing home care much more than they need Government paid psychological counseling to help them "readjust to civilian life" 35 to 45 years after their return from battle.

The vet center provisions in the present bill also extend eligibility for readjustment counseling to active duty personnel. Title III therefore enables active duty soldiers to obtain psychological counseling outside normal Department of Defense health care channels. Defense Secretary Weinberger has rightfully expressed strong disagreement with this provision in the bill. He has pointed out that it is imperative that the military be aware of the psychological status of all active duty personnel. This title would create a gap in the military's ability to ensure that personnel in highly sensitive positions are in fact psychologically stable.

Mr. President, I think it is also important to state for the record that almost every veterans group in the Nation asked the committee not to proceed with its consideration of these provisions but instead to allot time to study their impact. No emergency exists which justifies the fact that the normal legislative hearing process has not been followed in connection with the provisions in title III. As the minority in the committee report stated, "What is the hurry?" Mr. President, the counseling program will continue to exist without the changes in this bill. More time needs to be spent studying their impact on the present law and that is precisely what the amendment offered by my distinguished colleague from Alaska will accomplish.

In summary Mr. President, title III of S. 1464 prevents the merger of the veteran readjustment counseling centers into regular VA medical facilities. The title unnecessarily interferes with the Department of Defense health-care system in a manner which would affect national security. The Department of Defense and most veterans groups are opposed to it. I urge Senators to support Senator MURKOWSKI's amendment.

Thank you, Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I want to add my strong support to Senator MURKOWSKI's amendment, which I cosponsor. This amendment would substitute for this ill-advised and ill-timed bill the readjustment counseling provisions adopted by this body earlier this year. There are several compelling reasons to support this amendment, and I urge my colleagues to carefully consider these reasons.

The bill now before the Senate would bring about a major mission change in the Readjustment Counseling Program, and it would do so without one single hearing having been held to permit the Veterans' Administration, the Department of Defense, or various veterans' service organizations to testify. We are occasionally faced with the necessity to consider legislation without first holding hearings when there is an urgent need for action, but this is surely not such a case. There exists an entitlement for readjustment counseling for Vietnam-era veterans. That is not in danger of going away.

This bill appears to be designed to lead to perpetuation of what was originally conceived as a temporary program to assist Vietnam-era veterans in adjusting to civilian life.

Let's look at exactly what this bill, without a hearing being held, would do. It would, for the first time, extend eligibility for readjustment counseling services to people still on active military duty who served during the Vietnam war or who have served in hostilities since the end of the Vietnam war. It would make veterans of World War II and the Korean conflict eligible for readjustment counseling.

Now, I would suggest to my colleagues that this temporary program would no longer be such and that we would be losing sight of its original intent and purpose. The program initiated to help veterans of that recent conflict readjust to civilian life has been extended time and again. There are still, admittedly, Vietnam-era veterans who have had much difficulty adjusting to civilian life, and readjustment counseling services are, for them, an important entitlement. The counseling has been provided in "store front" counseling centers. Under current law, the program is to gradually move into the VA medical facilities, where a broader range of medical and psychological support services are available to assist the veteran.

I feel that most Vietnam-era veterans have adjusted quite well to civilian life. The Vietnam era ended 12 years ago, and the United States effectively ended its military presence in Vietnam over 14 years ago, in the spring of 1973. As for extending these services to veterans of our earlier wars, I must honestly ask, "Why?" How many decades should be set aside to readjust to civilian life? Armistice was declared in the Korean conflict in 1953—34 years ago—and World War II ended 42 years ago. Yet this bill proposes that veterans of those wars be eligible for counseling to help them to readjust to civilian life. I do not feel that is necessary. It will draw away resources from the Vietnam veteran.

These veterans of Korea and World War II seem to me to have done a fine job of adjusting up to this point.

I do not mean to suggest that some veterans of those earlier wars may not have had very real readjustment problems or that some may not still suffer great mental anguish as a result of their experiences. But the strain and pressures of modern life are also certain to take their toll on any person, and psychiatric services are available through VA medical centers for those veterans who find they have problems as a result of their military service or other societal pressures.

A part of the original justification for the "store-front" vet centers was that Vietnam-era veterans were more likely to feel alienated from the system. To suggest, as this bill does, that veterans of these earlier conflicts are so alienated from the VA's medical care system that they hesitate to seek help from its medical centers strains credulity.

The American Legion, Veterans of Foreign Wars, Amvets, and the Non-Commissioned Officers Association have all requested that no action be taken on the bill until hearings have been held.

The Secretary of Defense has objected to the mission change which would permit the Veterans' Administration to furnish readjustment counseling for active duty personnel. As the Secretary points out in his letter of August 7, 1987, the Department of Defense has a comprehensive health-care system under which active duty personnel may receive psychological counseling. The military health services system maintains records on active duty personnel indicating what medical and psychological care each person has received. This data is crucial to the military in making vital decisions concerning assignments, fitness or personnel, security clearances, and so on. It is not unreasonable for the military to wish to have access to such information on its personnel.

Extending eligibility to readjustment counseling to active duty personnel and veterans of other wars is not appropriate on several counts. Active duty personnel receive medical and psychological services through the military. Surely, it is not necessary to provide them through the VA at the expense of other VA medical programs.

A little over 3½ years ago, we extended eligibility for the temporary program permanently to Vietnam-era veterans. The bill would eliminate the statutory requirement for transition of readjustment counseling services to VA hospitals or outpatient clinics. I suggest that we ought not perpetuate a system that may contribute to or suggest the alienation of Vietnam-era veterans. A statement by Kenneth Musselmann, National Commander of the DAV, in a letter to Senator MURKOWSKI, outlines DAV objections to this bill, and I believe he states it very well. Commander Musselmann states that:

> * * * If we establish an official policy that says to Vietnam veterans that they are so different from all veterans of prior wars that services of this type will always have to be provided in a segregated setting, we are encouraging and perpetuating the very thing we wish to abolish.

The "very thing" he was referring to was a perceived alienation from veterans and society as a whole. By mandating the transition of readjustment counseling services to VA medical centers, we are not eliminating the program. We are saying that those services should be performed in settings in which strong support services are available to the veteran who seeks counseling. We are saying that the program should be merged with the medical care program to provide the best care for our veterans.

In addition to the programmatic changes this bill would make, it would create an administrative nightmare for the Veterans' Administration. It would require that the VA notify Congress 60 days before carrying out any closing or relocation of a readjustment counseling center. It would require detailed information to be submitted to the House and Senate Veterans' Affairs Committees. It would prohibit the closing or relocation of more than 18 readjustment counseling centers in any 1 year, regardless of the justification for doing so, unless the administration had requested the reorganization at least 8 months prior to the beginning of the fiscal year in which the closing or relocation is to occur. It would protect the budget of relocated readjustment counseling centers for 2 full years, regardless of the need, and would require a wait of 1 year from the time a substantial drop in client contacts is documented before a reduction in staffing levels could be accomplished.

Finally, Mr. President, I would like to point out that in continuing to operate these satellite counseling centers, actually many of which are underused, is a cost that comes out of the medical care funds allocated for all veterans.

I urge my colleagues to support this amendment to substitute provisions which would extend the "store front" counseling centers through 1990. There is no need for haste in this matter. Hearings must be held before any such drastic change in mission is enacted by this body. The bill is very ill-advised. The amendment is vital. I urge its passage.

Mr. ADAMS. Mr. President, I would like to state my opposition to the amendment offered by Senator Murkowski. The veteran centers, or storefront counseling centers, are a success story in VA health care. The Veterans Administration began the Readjustment Counseling Program in 1979 as a direct response to the difficulties faced by many Vietnam veteran's in readjusting to nonwartime conditions. Many veterans who served in the Vietnam war suffered from posttraumatic stress syndrome. The nature of PTSS, characterized by anger, suspicion and hostility toward the Government authority and Government institutions, prevented those who most needed counseling from seeking it.

The vet centers removal from the VA medical centers is the key to their success. By being removed from the VA the vet centers have proved to be far more receptive to the needs of veterans suffering from PTSS. They are not subject to the VA bureaucracy and as such they can offer far more personal and more immediate care than is available at the VA medical centers. Their physical separateness from the VA serves to remove the hostility that many veterans suffering from PTSS feel toward the VA. In addition, because these centers are located within communities they are both physically more accessible and more in tune with the needs and the personality of that specific veterans community.

Mr. President, there is no fact that attests more to the success of the vet centers than the increasing number of veterans which seek care there each year. In my State alone there are three centers serving between 4,000 and 5,000 veterans annually, and nationwide, 78,000 new veterans sought care at the centers this year. Senator MURKOWSKI has expressed concern that the vet centers original objective has been achieved, that they have expanded beyond this original intent, and as such they should be incorporated into the VA medical centers. Ironically, Senator MURKOWSKI cites the tremendous success of the vet centers as the very reason for doing away with them.

Contrary to what some supporters of this amendment contend, this bill will not force the VA to keep all the vet centers open. Rather, it allows the VA to keep the centers open at their discretion. I believe that the VA should have the authority to make these decisions based on the effectiveness and the number of patients served at each center, and should not be forced to automatically relocate all the centers regardless of their contributions to the veterans community.

Mr. President, I cosponsored this bill because it preserves important benefits which are vital to our Nation's veterans. In addition to preserving the status of the vet centers this bill also maintains beneficiary travel expenses to veterans traveling to and from VA medical centers. Without the reimbursement for these travel expenses which the VA provides, many low-income veterans would not be able to receive care at VA hospitals. Because some veterans must travel long distances at high costs this provision is vital if VA health care is to remain accessible to all veterans who seek it.

Mr. LAUTENBERG. Mr. President, I rise to oppose Senator MURKOWSKI's amendment to strike provisions of S. 1464 which protect Vietnam veterans' storefront centers against closure. Senator MURKOWSKI's amendment would instead allow a 1-year period during which at least half of the vets centers must be transferred to VA medical centers.

The provisions which the Murkowski amendment would strike are in essence the text of S. 1501, a bill which I cosponsored. These provisions limit the VA's discretion to force the readjustment counseling done at vets centers to be moved mostly to VA medical centers in the next 2 years.

New Jersey's Vietnam veterans have been well served by its four storefront veterans centers in Newark, Trenton, Jersey City, and Linwood. They have made a unique contribution to the readjustment of Vietnam veterans, and the demand for services they provide is as great now as it was when the centers were set up. Closing such centers down now is ill-advised, and could seriously disrupt an effective, ongoing counseling program. The New Jersey chapter of the Vietnam Veterans of America has frequently been in contact with me on the value of these centers, and I have also been convinced of their usefulness from my own personal visit to a New Jersey vets center.

The provisions in this bill would permit the closing or relocation only if the VA's Chief Medical Director can demonstrate that such a move would not result in any decrease in the availability and effectiveness of readjustment counseling. It would also require that 60 days advance notice and detailed information to be submitted to the House and Senate Veterans Affairs Committees before any centers are closed.

This bill would also protect the budget and personnel of any vet center relocated to a VA medical facility for 3 years, and make Korean and World War II vets eligible for readjustment counseling.

I urge my colleagues to defeat the Murkowski amendment and preserve the valuable readjustment counseling services provided in the vets centers.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 25 minutes and 10 seconds. The Senator from California has 23 minutes and 24 seconds.

UNANIMOUS CONSENT AGREEMENT—WAR POWERS

Mr. BYRD. Mr. President, I wonder if the distinguished majority whip would yield for a question while Mr. MURKOWSKI is here, and I think he is agreeable.

Mr. MURKOWSKI. Yes; I am.

Mr. BYRD. I wonder if the following would be agreeable: that I lay down the war powers amendment at 2:10 p.m.; that there be 15 minutes of debate thereon, Mr. WEICKER in control of at least 10 minutes of the 15 minutes; that at 2:25 p.m., the Senate proceed to vote on the Murkowski amendment, that to be followed with a vote immediately, and without further debate, amendment, or point of order, on passage of the bill, with paragraph 4 of rule XII being waived; that the Senate then proceed immediately, without further debate, to the motion by Mr. WEICKER which will be made to table the war powers resolution; that the vote which would begin at 2:25 be no more than 15 minutes, which is in accordance with the order that was entered at the beginning of this Congress, with the call for the regular order to be made automatically at the conclusion of the 15 minutes; that the call for the regular order on the passage of the bill occur automatically at the conclusion of 10 minutes; that the call for the regular order occur at the conclusion of the 10 minutes on the Weicker motion to table the war powers resolution.

Those would be the only three rollcall votes today.

Mr. MURKOWSKI. Mr. President, there appears to be a question about the accuracy of 10 minutes to accommodate Senator WEICKER. We have not checked with that.

Mr. BYRD. All right. I had asked for 15 minutes but Mr. WEICKER will control at least 10 minutes out of the 15.

Mr. MURKOWSKI. I wonder if the majority leader would allow us to check with Senator WEICKER.

Mr. BYRD. Absolutely.

Mr. CRANSTON. May I add we are making a concerted effort to start the last rollcall today before 3 o'clock for Senators who have to leave at 3 o'clock. We want to try to accommodate.

Mr. MURKOWSKI. I agree. I want to attempt to do that. I assure you. I am simply advised at this time we cannot agree to the second vote on the 10-minute timeframe. I certainly will attempt to work this out with the leader.

Mr. BYRD. I thank the Senator.

Mr. CRANSTON. Will the Senator from Alaska ask unanimous consent to lay aside his amendment momentarily so we can deal with the Chafee amendment?

Mr. MURKOWSKI. I am pleased to do that. I think it is appropriate because I think we both agree to accept the Chafee amendment.

The PRESIDING OFFICER. Does the majority leader withhold?

Mr. BYRD. I thank the Chair.

Mr. CRANSTON. We are waiting momentarily for the Senator from Rhode Island.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Mr. President, if the Senator will yield the Republican leader is here. I am wondering if we can get this agreement so all Senators will know and be prepared for the rollcall vote.

Mr. MURKOWSKI. Mr. President, in view of the fact that we are still working toward accommodating the two leaders, I would like to conclude with my closing remarks concerning the status of title III.

The PRESIDING OFFICER. Does the majority leader yield the floor?

Mr. BYRD. Mr. President, let me rephrase the request.

Mr. President, I ask unanimous consent that at 2:10 the Senate go to the war powers resolution, that there be 20 minutes for debate on the war powers resolution, that 5 minutes of that be allocated to Mr. QUAYLE, that 5 minutes be allocated to Mr. ADAMS, 10 minutes to Mr. WEICKER—I have to have at least 10 minutes for Mr. WEICKER—and then that the vote begin at 2:30 p.m. on the amendment by Mr. MURKOWSKI. That would be a 15-minute rollcall vote. The call for the regular order will occur automatically at the end of 15 minutes. The next vote would be on passage of the bill. That would be the 10-minute rollcall vote with the automatic call for regular order at the end of 10 minutes, and that immediately thereafter the vote occur on the tabling motion by Mr. WEICKER which he would discuss during the time that we are alloting and that that be a 10-minute rollcall vote with the call for the regular order to be made automatically at the close of 10 minutes.

Mr. President, Senators may discuss this war powers resolution as long as they wish after the vote. I doubt that the resolution will be tabled in any event. They can speak afterward and put their statements in the RECORD. That would be the last rollcall vote today.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

TRAVEL PAYMENTS TO AND FROM VETERANS' ADMINISTRATION FACILITIES

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I have an amendment that will be ready immediately. Is there going to be time for that?

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Is the Senator from Rhode Island ready to proceed with his amendment? I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Chair will inform the Senator from Rhode Island it will take unanimous consent for the amendment to be considered because it is not part of the bill.

Mr. MURKOWSKI. I ask the Chair for unanimous consent. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1008

(Purpose: To authorize the Administrator of Veterans' Affairs to waive the imposition of a deductible for travel by veterans in cases of severe financial hardship.)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 1008.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 20, strike out "or (D)" and insert in lieu thereof "or (D), or (E)".

On page 11, between lines 3 and 4, insert the following:

"'(D) The Administrator may waive the deduction requirement of subparagraph (A) of this paragraph in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this subparagraph.".

On page 11, line 4, strike out "'(D)" and insert in lieu thereof "(E)".

Mr. CHAFEE. Mr. President, the amendment I am proposing will correct what I believe is a flaw in the travel benefits section of this bill, S. 1464. In my view, the new veterans' beneficiary travel program established by this bill does not adequately provide for very needy veterans who qualify for travel benefits but cannot afford to pay the required deductible. My amendment would allow the Administrator of the VA to waive the deductible in the case of veterans for whom the deductible "would cause severe financial hardship."

The Veterans' Committee worked hard on this bill. The beneficiary travel section of the bill contains some good provisions, particularly its coverage of special and emergency transportation, and its requirement that the Administrator of the VA facilitate the establishment of transportation networks in conjunction with veterans' service organizations. The Disabled American Veterans in Rhode Island have established just such a network in my State—transporting veterans to the hospital by van—and I understand it has helped meet some important needs.

The bill's approach to beneficiary travel is different from the approach I took in legislation that I introduced 5 months ago. My bill, the Veterans Beneficiary Travel Act, S. 1234, would restore full travel benefits to many veterans who were denied such benefits under new VA regulations issued last April.

Under those regulations, the VA removed from the beneficiary travel program veterans who live outside a 100-mile radius of the VA medical facility where they receive care. Since, according to a 1985 VA report, 97 percent of America's 28 million veterans live within 100 miles of a VA medical facility, the effect of these regulations was to remove most veterans from the program. The only exceptions are for veterans requiring special transportation—such as vans for the handicapped—or emergency transportation; and for veterans traveling for compensation and pension examinations.

This regulatory change was a mistake, Mr. President. It fails to recognize the extent to which many veterans rely on beneficiary travel assistance to obtain needed medical care. The short-term effect of the new regulations is to discourage veterans of modest financial means from seeking health care. The long-term effect would be an increase in illnesses that might have been averted with prudent preventive and early intervention care. The regulations provide what might be called an "incentive" for veterans to neglect their own health, which is the last sort of incentive we should be providing. In the end, the VA's beneficiary travel regulations would probably end up costing us a great deal more in VA medical costs than we would save by limiting access to the program.

Let me provide an example of the serious implications of the new VA regulations. At the Davis Park VA hospital in Providence, the regulatory change forced an estimated 5 percent of the veterans who normally receive medical care to miss their appointments. Extrapolating this figure to the rest of the country, it is not unreasonable to conclude that thousands of veterans who in May found themselves excluded from the beneficiary travel program began simply staying away from their doctor's appointments, their medical tests, and their other important health care activities.

Now is exactly the wrong time for the VA to make its health care services less accessible to veterans. The ranks of older veterans are swelling rapidly as veterans of World War II approach the age of 70. Increasingly, elderly, disabled and low-income veterans will be looking toward VA health care facilities to meet their medical needs. Failure to reverse the VA's decision to curtail the beneficiary travel program would result in unwarranted hardship for many men and women who served this country and who should be allowed to avail themselves of the services of our large, excellent VA medical system.

I am pleased that the Committee on Veterans' Affairs shares my concern about the ill-advised regulatory change and has produced a remedy. As I have stated, it is a remedy that is different from the one I introduced in May. My bill restores full travel benefits to:

Low-income veterans; service-connected disabled veterans who are traveling for treatment of their service-connected disability; service-connected disabled veterans who have at least a 50-percent disability rating and who are traveling for treatment of other medical problems; veterans who cannot defray their own travel expenses; and any other veteran deemed eligible by the Administrator.

The committee's legislation restores travel benefits to the same categories of veterans, as well as some additional categories. The main difference from my bill is that the committee bill requires payment of a deductible: $7.50 per round trip, not to exceed $22.50 per month.

In my view, there is nothing wrong with deductibles, Mr. President. The deductible will help this program pay for itself and will cut back on unnecessary trips to VA medical facilities. For many veterans who are frequent clients of VA hospitals, $22.50 per month is entirely affordable and reasonable. I am concerned, however, about the veterans who cannot afford to pay $7.50 per round trip, or $22.50 per month, and who may, under the committee bill's system, continue to neglect their own medical needs simply because travel expenses cause them financial hardship.

For example, an individual with no dependents who receives a veterans pension has an income of $5,963. Now it is clear to me that for an individual with an annual total income of less than $6,000, $22.50 per month is a great deal of money. To such an individual, $22.50 per month is money needed for food, for rent, for heating bills—in short, for the basic, daily, human needs of an American citizen. If such a veteran is feeling ill, and perhaps should visit his local VA medical facility for a physical exam, he could—under this legislation—be faced with a choice between paying a deductible and paying for his basic needs.

For the poor veteran, the deductible could present a difficult financial burden. For example in the case of the pensioner receiving less than $6,000 per year, $22.50 per month over the course of a year equals 4.5 percent of total annual income. That may be hard for most middle-class Americans to imagine, but it is the reality of life for some of our impoverished veterans. My point is that these people have served this Nation, and served it well, and we should take their needs into account in this legislation.

My amendment provides the Administrator of the VA with the authority to provide a modest safety net for the poorest veterans. Under this provision, the Administrator is allowed to waive the deductible for veterans who simply cannot afford to pay it without severe financial hardship.

That is the extent of the amendment, Mr. President. It makes a simple change, and will not, I am certain, affect most veterans who use VA facilities. It is not binding, Mr. President, by which I mean that the Administrator is not forced to waive the deductible for anyone. But the Administrator is required to issue regulations setting out the conditions under which a veteran will be determined to be suffering "severe financial hardship" as a result of the deductible. I hope that when such a finding is made, the Administrator will have the compassion to grant such a waiver. That is certainly the intent of the amendment—that this power be granted to the Administrator so that he use it when its use is appropriate and warranted by circumstances.

If this amendment is approved, I will be keeping close track of the program to ensure that the Administrator uses this new authority to prevent poor veterans from being left out of the VA health care system. If it turns out that he does not use this authority appropriately to assist the poorest veterans, then we may have to come back at some future date with a more binding provision. For the time being, I believe granting the authority is as far as we should go.

Mr. President, the authors of this bill have worked hard trying to meet the needs of veterans who travel to VA health care facilities. I believe that my amendment will only strengthen what they have done, and I urge its approval by the Senate. It is my understanding that the amendment is acceptable to both sides.

Mr. MURKOWSKI. Mr. President, I rise in support of the amendment offered by my friend from Rhode Island, Senator CHAFEE, which would provide the Administrator of Veterans' Affairs with the authority to waive the requirement for the deductible in cases in which the deductible would cause the veteran severe financial hardship.

I thank Senator CHAFEE for his outstanding leadership in the area of veterans' beneficiary travel payments. I applaud his strong commitment to this important veterans program.

Mr. President, the distinguished chairman of the committee and I worked together in a bipartisan effort to come up with what we believe to be a fair and reasonable approach to the issue of reimbursement for veterans travel. The committee believes that the $3.75, one way, deductible is reasonable and ultimately in the best interest of all veterans. I believe this policy effectively balances the need to ensure access to veterans' health care and the need to ensure that those services are of the highest quality. This balance is the difficult issue which we must address. Let us keep in mind that funds provided for travel are those which are diverted from direct medical care. That is the harsh reality.

I accept the Chafee amendment which would allow the deductible to be waived in cases of severe financial hardship. Although I do not expect that such a waiver will be necessary in many cases, it is important that the VA have the authority to provide a waiver, when necessary.

Therefore, I am prepared to accept this amendment; and, once again, I thank the distinguished Senator from Rhode Island for his hard work on this most important issue.

I thank the Chair.

Mr. CRANSTON. Mr. President, I am pleased to note that the amendment of our good friend from Rhode Island, Mr. CHAFEE, is acceptable to the committee. The amendment would amend title I of S. 1464 to give the VA Administrator discretionary authority to grant waivers to veterans for whom the payment of a deductible would cause severe financial hardship and to require the VA to proscribe regulations under which these waivers would be made.

Mr. President, the provisions of title I of the committee bill were conceived in the current environment of restricted funding. As was indicated in the committee report and my statement of the overall measure today, title I of S. 1464 is a response to the VA's April 13 regulations substantially reducing beneficiary travel reimbursement as a result of the administration's cutback in funding for this program—from over $103.5 million to $68 millon. In view of the towering Federal deficit, it is certainly incumbent upon us to exercise prudence and restraint as we consider legislation relating to Federal programs of benefits and services. At the same time, I continue to be totally committed to the maintenance of a strong, separate, and vital VA health care program acceptable to those who answered their Nation's call in its hours of need.

As described in more detail in our committee report, to help defray the cost of the Beneficiary Travel Program, title I of the bill includes a provision for a modest deductible of $3.75 to be paid each way by veterans eligible for beneficiary travel reimbursement. The bill also limits a veteran's cost as a result of the deductible to a maximum of $22.50 per month for those who, prior to such travel, are approved by the VA as being required to make frequent trips to the VA. Although we believe that this is generally an amount that is affordable by the vast majority of veterans, there may be instances, as Senator CHAFEE suggests, when a veteran may find this payment very onerous. This amendment would ensure that those veterans would not be denied access to needed health care by virtue of their being unable to pay the deductible required.

Because we expect the vast majority of veterans to be able to meet the deductible, this amendment should not have a significant impact upon the estimated cost. I congratulate the Senator on his amendment and yield to our distinguished ranking minority member.

I yield back time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 1008) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VA INSURANCE CENTER CONSOLIDATION

Mr. DURENBERGER. Mr. President, I would like to engage the managers of the bill in a short colloquy on a matter of great importance to me, Senator BOSCHWITZ, and other members of the Minnesota delegation.

As the chairman and ranking member may know, for a number of years now the Veterans' Administration has had in the works a consolidation of their two insurance center offices, one of which is in St. Paul and the other in Philadelphia, in one office, to be located in Philadelphia. The goal of the VA is a commendable one, reduced costs to the taxpayer; $2.4 million to be specific.

In my own review of the justification given by the VA, there appeared to be a number of inconsistencies and problems. Earlier this year, the member of the Minnesota delegation asked the General Accounting Office to review the proposed consolidation. I ask that a copy of our request be printed at this point in the RECORD.

There being no objection, the request was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, May 1, 1986.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR COMPTROLLER GENERAL BOWSHER: On February 5, 1986, the Veterans' Administration submitted to Congress a study plan for the consolidation of all insurance activities in Philadelphia, PA, thereby closing down the facility in St. Paul, MN. Since that time, many questions have arisen concerning this proposed move which have gone unanswered by the VA.

The Minnesota delegation appreciates the VA's desire to operate more effectively and efficiently. However, we feel that the consolidation decision was made before sufficient study was conducted and many gray areas have not been clarified to our satisfaction.

Specifically, we are disturbed that the VA's rationale for this move does not appear to take into account the long range costs of this action. Incomplete figures have been presented on renovating the VA's Building 43 in St. Paul and no figures have been forthcoming in a long-term Philadelphia leasing/renovation comparison. Incomplete information has been offered on employee productivity comparison and the impact of the move on current employees and support staff. High cost of equipment transfer/buying and salvage values are disturbing areas in this report and are not clearly explained.

We request that the General Accounting Office initiate a comprehensive study into the cost effectiveness of this proposal and its long term consequences. We have contacted the Veterans' Administration and requested that the transfer of insurance services to Philadelphia be delayed until this GAO report is finished and we have had an opportunity to review your findings.

Thank you for your consideration in this matter.

Sincerely,

Dave Durenberger, U.S. Senator; Rudy Boschwitz, U.S. Senator; Martin Sabo, U.S. Representative; Timothy Penny, U.S. Representative; Bruce Vento, U.S. Representative; Arlan Stangeland, U.S. Representative; William Frenzel, U.S. Representative; Vin Weber, U.S. Representative; Gerry Sikorski, U.S. Representative; James Oberstar, U.S. Representative.

Mr. DURENBERGER. On September 16, 1987, the GAO responded with a report that seriously questioned the basis on which the VA was proceeding: Cost savings. The report, which I ask be included in the RECORD at this point, stated that the validity of the VA's assumptions was debatable, and that the consolidation might not realize any savings at all.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PROPOSED CONSOLIDATION OF PHILADELPHIA AND ST. PAUL INSURANCE OFFICES

[B-229029]

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC.

HUMAN RESOURCES DIVISION

(September 16, 1987)

The Honorable Rudy Boschwitz;
The Honorable Dave Durenberger;
United States Senate;
The Honorable Bill Frenzel;
The Honorable James L. Oberstar;
The Honorable Timonthy J. Penny;
The Honorable Martin Olav Sabo;
The Honorable Gerry Sikorski;
The Honorable Arlan Stangeland;
The Honorable Bruce F. Vento;
The Honorable Vin Weber;
House of Representatives;

In response to your May 7, 1986, request, we have reviewed the Veterans Administration's (VA's) cost-benefit analysis of a proposal to consolidate its insurance operations by merging the St. Paul office with the Philadelphia office.

VA estimated that during the first 5 years, the consolidation would save $3.94 million. On a discounted basis (estimated present value of future costs and savings), VA estimated 5-year savings of $2.4 million.

We question the validity of VA's estimated savings because (1) those for personnel cost were made primarily on the basis of lower salaries in Philadelphia without consideration that at the time of the analysis, Philadelphia's productivity level and lower and (2) those for space cost in Philadelphia to accommodate the St. Paul operations were not included. We believe that VA's estimated 5-year savings would be greatly reduced or could be eliminated if (1) the Philadelphia office's future productivity is similar to its current productivity and (2) office space cost was included. VA does not agree with us.

BACKGROUND

VA's life insurance program is administered by its Philadelphia and St. Paul insurance field offices. During fiscal year 1987, staffing was about 427 positions for Philadelphia and about 163 for St. Paul. In March 1987, VA administrated about 3.7 million life insurance policies, issued to veterans of the Korean conflict and prior wars and to disabled veterans. Of this total, Philadelphia administered about 2.4 million policies and St. Paul about 1.3 million. For the past 20 years or more, most veterans' insurance has been administered by private insurance companies under VA supervision rather than directly by VA. As a result, VA's workload has declined and will continue to decline.

VA had already consolidated its insurance operations twice, consolidating 13 insurance field offices into 3—Denver, Philadelphia, and St. Paul—before 1959. In a 1962 report, GAO stated that insurance services for veterans would not be adversely affected if either the three field offices were further consolidated into one or two of the field offices were consolidated into one. GAO said that the most logical single-office operation would be in Philadelphia because about two-thirds of all VA insurance accounts were processed there. Following this report, VA moved the Denver office to St. Paul.

In a 1969 report (B-114859, Sept. 29, 1969), GAO recommended that VA consolidate its St. Paul office with the Philadelphia one. GAO estimated savings of $872,500 annually during the first 4 years after the consolidation began in 1970 and as much as $1,118,700 each year, beginning in January 1974. GAO estimated onetime costs would be about $2.5 million, but pointed out that accumulated savings would exceed nonrecurring costs within 3 years. Estimates of costs and savings made in 1969 cannot, however, be expected to be applicable to a consolidation initiated in 1987, given the reduction in the size and staffing of the insurance operations since that time.

In January 1986, VA completed an initial cost-benefit analysis to evaluate the feasibility of consolidating its two insurance offices. The conclusion of this analysis was that it was cost-beneficial to consolidate the two offices at the Philadelphia location; an 18-month phased consolidation, to be initiated in April 1986, was recommended. VA adopted this recommendation but with a commencement date of October 1, 1986.

In July 1986, we began a review of the VA analysis; in September 1986, we discussed the tentative results with the requesters' offices. At that time, we pointed out concerns we had about certain aspects of VA's analysis. Before we were able to fully resolve these concerns and write our report, the Congress passed legislation for fiscal year 1987 appropriations including provisions delaying VA's initiating the consolidation until October 1, 1987.

At the request of the Office of Management and Budget, VA, in December 1986, recalculated its costs-benefit analysis, and provided it to us in January 1987. VA officials made some adjustments to the recalculation and, in May 1987, provided the adjusted recalculation to us. This recalculation eliminated some of our concerns relative to VA's January 1986 analysis.

SCOPE AND METHODOLOGY

We focused mainly on three critical elements of VA's consolidation justification: (1) recurring savings for the cost of personnel, (2) recurring savings for the cost of space, as well as equipment, and (3) projected onetime cost for relocation. We reviewed the methodology and computations that VA used to estimate the costs and savings of consolidation. We did not address the basic question of whether VA should consolidate the Philadelphia and St. Paul offices.

We made our review at VA's central office in Washington, D.C., and at the St. Paul and Philadelphia offices. Our review included:

Interviewing VA officials to obtain their comments and explanations on how VA did the cost-benefit analysis;

Testing the arithmetical accuracy and methodological appropriateness of selected aspects of VA's analysis including obtaining and examining documentation supporting selected data elements;

Interviewing and obtaining data from General Services Administration (GSA) officials in both cities concerning VA's rental of office space; and

Obtaining data from the Office of Personnel Management concerning (1) federal employment opportunities in the St. Paul area and (2) federal employees' experience with early retirement.

GAO EVALUATION OF VA STUDY

VA's estimated savings of $3.94 million over a 5-year period are:

Personnel cost, $3.04 million;

Space cost, $1.88 million; and

Equipment cost, $0.54 million.

The total costs saved are $5.46 million, less $1.52 million for the cost of relocation, equaling $3.94 million (undiscounted).

We are not questioning VA's estimates of savings in costs of equipment and relocation. However, we believe that VA's estimated savings in personnel cost and office space cost are not valid. VA's estimated savings in personnel cost were based on the difference between the average salaries at the two offices, which were lower at Philadelphia, and expected savings of 24 positions—mostly supervisory and clerical. However, VA, in calculating estimated savings in personnel cost, did not consider that VA's statistics showed that Philadelphia's productivity was lower than St. Paul's.[1]

Moreover, VA did not include the cost for space in Philadelphia that had been allocated to accommodate the operations to be transferred from St. Paul.

ESTIMATED SAVINGS AND COST FOR PERSONNEL

VA's estimated 5-year savings of $3.04 million for personnel included (1) savings of $2.26 million ($451,000 annually) because the average salaries for Philadelphia employees were lower than for St. Paul employees and (2) savings of $1.63 million because VA estimated that 24 positions would be eliminated,[2] and (3) added cost of $0.85 million because of an overlap of employees at the two offices during the 18-month phase-in period.

According to the VA analysis, the average salary, as of June 30, 1986, in the Philadelphia office was about $2,600 lower than in the St. Paul office. However, although the average Philadelphia salary on June 30, 1986, was lower, VA work measurements covering that period showed that productivity in St. Paul was substantially higher.

According to VA's productivity indexes for fiscal year 1982 through the first half of fiscal year 1987, as shown in table 1, Philadelphia out-performed St. Paul through 1984. In fiscal year 1985, Philadelphia's performance declined so that it was 8 percent less efficient that St. Paul.[3] Since then, the disparity between the performances of the two offices has substantially increased. For fiscal year 1986 and the first half of 1987, St. Paul was about 26 percent more efficient than Philadelphia.

TABLE 1—PRODUCTIVITY INDEXES COMPARED FOR PHILADELPHIA AND ST. PAUL

	Productivity index		Percent by which St. Paul is more efficient than Philadelphia[1]
	Philadelphia	St. Paul	
Fiscal year:			
1982	81.0	79.0	−3
1983	87.0	81.0	−7
1984	93.0	87.0	−7
1985	87.0	94.0	8
1986[2]	109.7	137.7	26
1987 (6 months)	97.5	122.6	26

[1] See footnote 3.

[2] VA changed its standards for measuring productivity in fiscal year 1986 to provide more accurate measurements.

VA data we analyzed showed that the average salary was lower in Philadelphia, mainly because of a greater employee turnover and a large number of lower-paid, less-experienced employees in that office. According to VA, the drop in Philadelphia's productivity during fiscal year 1985 was attributable to (1) a "temporary" decline in the level of experience and (2) the need to train new employees.

Using VA's indexes, we estimate that the work performed at the St. Paul insurance office in fiscal year 1986 would be required 28 more full-time equaivalent personnel had it been performed at the Philadelphia office. Annual salaries and fringe benefits for these personnel on June 30, 1986, would be about $643,500. We recognize that as new employees in Philadelphia would gain experience, their productivity would improve. However, it would be expected that their salaries would also increase because of promotions; this would reduce the average salary differences between the offices. But VA's analysis did not consider increases in salaries as these employees were promoted.

ESTIMATED SAVINGS AND COST FOR SPACE

VA estimated that it would save $605,000 in office space annually, beginning in fiscal year 1990. These savings equal the GSA annual rental charges for the 48,000 square feet of St. Paul office space, as well as other charges at the building. Savings would be nominal for the first 2 fiscal years (1988–89) of the 5-year period, while the consolidation was being phased in. For the whole period, VA's estimated savings totaled $1.88 million.

VA did not, however, include the cost of space in Philadelphia to accommodate St. Paul insurance operations as an additional cost of consolidation. As the result of a program change and a reorganization of existing space, VA would have sufficient space, about 27,500 square feet, available. However, without the consolidation, the 27,500 square feet would seem to be in excess of the Philadelphia office's needs. Thus, there would be an opportunity for VA to release the space to GSA and save the rental cost which, at current rental rates, is about $202,000 annually.

The recurring rental cost—$202,000 annually for 5 years—would reduce VA's estimated savings of $1.88 million in space cost by about $1.0 million.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report, VA said that the consolidation of its insurance operations was a prudent management decision and would result in savings.

Concerning savings in personnel cost, VA said:

> Personnel savings are based on a model of a more efficient organizational structure, which "reduces overhead costs for supervision and clerical and support services, reflects a lower average grade, and is not site specific." Because the declining workload requires less staffing, the ratio of overhead costs as a percentage of overall personnel cost will have to increase if consolidation does not occur.
>
> GAO attempted to use the VA's Department of Veterans Benefits' productivity measurement system to offset the savings that would be achieved through the elimination of the 24 supervisory and clerical overhead positions identified in the VA study. The system, installed in fiscal year 1986, is being refined; at this time, it is not possible to accurately compare relative productivity between offices, especially two offices where there is a significant difference in the workload mix and the functions performed.
>
> The productivity indexes produced by the system do not account for changes that are attributable to training or the use of overtime, nor do they reflect backlogs that occur when staffing falls below the required levels.
>
> GAO used productivity indexes derived from national base-year weights, which represent averages for the two offices. However, these weights do not reflect all of the time spent on administrative functions—support and finance—in Philadelphia; in addition, these weights overstate the amount of time spent by the St. Paul office, where most administrative functions are performed outside the insurance office.
>
> GAO chose a "snapshot picture of productivity," based on the fiscal year 1986 productivity indexes, to arrive at the conclusion that Philadelphia would need 28 more people to do the work being done by St. Paul. GAO's conclusion is unsupported by its analysis, in which GAO (1) used the wrong base-year weights and (2) ignored the varying impact of the fiscal year 1986 hiring freeze and early-out retirement option, which had a direct impact on the work force. In Philadelphia, for example, there were 46 persons in full-time training status during fiscal year 1986 and 78 in this status during fiscal year 1987.

We agree that consolidation offers opportunities for reducing overhead costs as the direct workload declines. Our report does not question VA's estimated savings of $1.63 million in personnel cost, that is, 24 supervisory and clerical overhead positions.

We did not, as VA indicated, use VA's productivity measurement system to offset savings of the 24 overhead positions. We used the system to assess the reasonableness of VA's estimated savings of $2.26 million, which were specifically based on the average salary difference between the Philadelphia and St. Paul offices. Lower salaries per person may not result in savings if more people are needed to do the same work.

VA's productivity measurement system may need to be refined, but VA has used it to compare the performances of the two offices. In responding to congressional inquiries concerning the productivity of the St. Paul and Philadelphia offices, the VA Administrator, in April 1986 letters, stated that "during fiscal years 1982, 1983, and 1984, Philadelphia's productivity was higher than that of St. Paul"; however, during fiscal year 1985, Philadelphia's productivity dropped because of a decline in the experience level of new employees. This information is consistent with the productivity indexes we used for those years.

VA said that its productivity indexes do not account for changes attributable to training, use of overtime, or backlogs that occur when staffing levels drop. VA's comments imply that the need to train a large number of new employees in fiscal years 1986 and 1987 has continued to affect Philadelphia's productivity. VA officials had earlier told us that the need for this extensive training program was attributable to a high employee turnover rate. We agree that hiring large numbers of employees needing training could affect productivity. For that reason, we do not believe that the salary difference between the St. Paul and Philadelphia offices, by itself, necessarily represents savings that might be realized.

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[1] Productivity relates the output of an individual organization to the labor required to produce the output.

[2] These savings are for only a portion of the 5-year period because VA did not expect the 24 positions to be immediately terminated.

[3] Efficiency is the difference between the productivity indexes of the two offices and the ratio of that difference to the index for the less productive office.

The productivity measurement system included overtime incurred by the two offices, but overtime was not used in computing the productivity indexes. The percentages of overtime hours incurred relative to total hours paid in these offices were low, about 2.5 percent for Philadelphia and about 0.6 percent for St. Paul. If overtime was considered in computing productivity indexes for fiscal years 1985, 1986, and the first half of 1987, the indexes for both offices would be somewhat lower, with the reduction for Philadelphia being slightly greater than for St. Paul. The existence of a backlog, in our view, should not affect the productivity indexes, which are based on input and output data.

We used national base-year weights, which VA said represent averages for the two offices. However, adjustment these weights to reflect the time spent on administrative and finance support functions in St. Paul, which are performed outside of the insurance office, produces results that favor St. Paul's performance even more. In addition, we measured St. Paul's performance using Philadelphia's production rates, thus adjusting for differences in the functions performed by the two offices; again, we found St. Paul's performance favored.

Our computations for staffing needs were based on the productivity indexes for fiscal year 1986; this time period approximated the June 30, 1986, date VA used to calculate the average salaries, which were the basis of a major portion of VA's estimated savings in personnel cost. We realize that as the new employees complete their training, their productivity should increase. However, VA's study did not recognize any increase in Philadelphia's salaries, which could be expected as a result of promotions to new employes.

In summary, VA has, in effect, estimated salary savings based on lower-paid, less-experienced employees without recognizing that (1) such employees produce less and (2) as their productivity increases, so will their salaries. We believe that productivity should have been considered in comparing salaries; although VA's measurement system is not perfect, it did provide a basis for evaluating the impact of differences in productivity.

With regard to space cost, VA said we neglected to consider the onetime cost that VA would have to bear in order to rearrange the Philadelphia office so as to release contiguous space. VA stated that VA officials had recently discussed with GSA's Philadelphia Regional Headquarters the disposition of the Philadelphia space set aside for the consolidation, if the consolidation did not take place.

According to VA, the space could be released to GSA, but costly renovations would be required. VA noted that, according to a GSA representative, the space that could currently be considered excess was not suited for another agency to occupy; therefore, VA would have to (1) reorganize large portions of the work force to make suitable space available and (2) incur other costly modifications, such as building a wall around the space the new agency would occupy. VA said that the GSA representative also stated that the space would be difficult to rent and would probably be vacant for a long time. If consolidation does not occur, VA said, there would be a significant onetime cost to VA and no savings, unless GSA is able to place another tenant in the space.

We believe the cost for space allocated to the consolidation is appropriately part of the total consolidation costs. We did not include the one-time cost to rearrange and renovate space in Philadelphia for a new tenant because we were not able to reasonably estimate what that cost might be; however, we believe that the onetime cost to renovate the 48,000 square feet of space that would become available in St. Paul under the consolidation would offset the cost of renovating the 27,500 square feet of space in Philadelphia. VA did not include in its study any cost for renovating the St. Paul space. The cost of the Philadelphia renovation would be recovered over time through the approximately $202,000 VA would save in annual rent charges for the Philadelphia space released to GSA.

If the consolidation does occur, the concern about filling excess space in Philadelphia would shift to St. Paul. Because the amount of space leased by the government in Philadelphia is considerably greater than in St. Paul, it would seem to us that the opportunities for finding a tenant for excess government-owned space would be better in Philadelphia. According to data provided to us by GSA, the government leases about 1.5 million square feet of space in Philadelphia and about 250,000 square feet in the Minneapolis-St. Paul area. About 35,000 square feet of space that became vacant in St. Paul in February 1986, when VA's Data Processing Center relocated, is still vacant. A GSA official in Philadelphia told us that the excess space in Philadelphia could possibly be used for records storage. He said that a portion of the building occupied by VA in Philadelphia was being so used by the National Archives.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to the House and Senate Committees on Veterans' Affairs, other appropriate congressional committees, and the Administrator of Veterans Affairs. We will make copies available to others on request.

JANET L. SHIKLES,
Associate Director.

[Appendix I]

COMMENTS FROM THE VETERANS' ADMINISTRATION

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, DC, July 30, 1987.

MR. RICHARD L. FOGEL,
Assistant Comptroller General, Human Resources Division, U.S. General Accounting Office, Washington, DC.

DEAR MR. FOGEL: The Veterans Administration has been making a concentrated effort to provide better service while also improving efficiency of operations. One of our most significant efforts in this regard has been to review very carefully the management and administration of the VA insurance programs. The GAO itself recommended on two previous occasions that we consolidate insurance activities in order to achieve greater economy of operations. The gradual decline in workload that is occurring, as current policyholders age and death benefits are paid, prompted reconsideration of that recommendation. The Office of Program Analysis and Evaluation, an independent staff office specializing in management and consulting activities, conducted a detailed analysis that considered a full range of options from continued two site operations to consolidation at St. Paul and consolidation at Philadelphia. The analysis focused on delivery of service to veterans and beneficiaries as well as the estimated costs and benefits of each option. The study was conducted over a five-month period from August 1985 to January 1986. The study concluded that a consolidation of operations at Philadelphia would be the most cost-beneficial and would also result in improved timeliness and service. For this and for other sound management reasons, the Congress was notified of our intention to achieve a consolidation to Philadelphia over an 18-month period beginning on October 1, 1986, as required by section 210(b)(2) of title 38. A phased consolidation was selected in order to minimize employee disruption and achieve an orderly transition even though it would be slightly less cost-beneficial than an immediate consolidation.

Due to Congressional action precluding the expenditure of funds for consolidation during Fiscal Year 1987, and at the request of the Office of Management and Budget, the VA recomputed the results of the cost-benefit analysis in December 1986. The results again indicate that the VA could achieve significant savings through the transfer of St. Paul insurance activities to Philadelphia. A net savings of $3.9 million and 23.6 full-time equivalent employees can be achieved over a five-year operational life cycle (Fiscal Years 1988-1992). Once the one-time implementation costs have been offset, annual savings in excess of $1.6 million are anticipated. Congress was apprised of these results on February 6, 1987.

The General Accounting Office (GAO) began a review of our consolidation plan in June 1986. On April 8, 1987, the VA received a preliminary review of the GAO's findings. On July 10, 1987, the GAO provided the VA with a draft report of these findings which indicates in essence that consolidation is not cost effctive due to productivity variances and office space costs. The VA does not agree with the findings in the GAO draft report and offers the following information to support our position that the consolidation of Insurance operations is a prudent management initiative.

Personnel savings are based on a model of a more efficient organizational structure that reduces overhead costs for supervision and clerical and support services, reflects a lower average grade, and is not site specific. If consolidation does not occur, the ratio of overhead costs as a percentage of overall personnel costs will have to increase as the declining workload requires fewer and fewer direct labor staff.

In their current analysis, GAO attempted to use the VA's Department of Veterans Benefits (DVB) Productivity Measurement System to offset the savings that would be achieved through the elimination of the 24 supervisory and clerical overhead positions identified in the study. Installed in FY 86, this system is patterned after the Department of Labor's Federal Productivity Measurement System, and is designed primarily as a management tool for use in formulating and justifying the Department's budget submission. DVB is refining the system, but until a new system is installed it is not possible to accurately compare relative productivity among stations, especially the two insurance centers where productivity among stations, especially the two insurance centers where there is a significant difference in the workload mix and the functions performed. For example, the Philadelphia Office handles all of the World War I (USGLI) accounts, all of the accounts that are paid by deductions from military retired pay and VA compensation benefits, the New York State Tax letters, the dividend hoax mail, and performs a whole series of administrative support and finance functions that are not performed by the Insurance Division in St. Paul.

Productivity is an after the fact measurement that does not necessarily reflect a station's ability to produce, but rather what it did produce with a given employment during a given period of time. The current system measures the change over a period of time in the amount of employee resources (FTE) required to produce certain selected groups of end products. The indexes produced by the system do not account for changes that are attributable to training or the use of overtime, nor do they reflect backlogs that occur when staffing falls below the required levels.

Local base year weights are used to reflect the amount of FTE required in the base year to produce 1,000 end products. The different local base year weights developed for both Insurance offices reflect in part the differences in the functions that are performed as well as the difference in the types of work performed. The national base year weights represent averages for the two offices. However, national base year weights do not reflect all of the time spent on insurance support activities in Philadelphia and overstate the amount of time spent on insurance support activities in St. Paul where most administrative and finance support functions are performed in other divisions. In using the indexes based on national base year weights, GAO has in effect compared apples to oranges.

In addition, GAO chose a snapshot picture of productivity based on the FY 86 indexes to arrive at its conclusion that Philadelphia would need 28 more people to do the same work that St. Paul is currently doing. The fact of the matter is that both offices have been very productive under the current and previous systems. The conclusion reached by GAO that 28 more employees would be needed in Philadelphia is unsupported by their analysis which used the wrong base year weights, and ignored the varying impact of the FY 86 hiring freeze and early out retirement option which had a direct impact on the work force. In Philadelphia, for example, there were 46 individuals in a full time training status during FY 86 and 78 in full time training status this year.

The GAO findings regarding space costs rest on the supposition that a block of space could be released to the General Services Administration in the Philadelphia building if a consolidation does not occur. Even if GSA is able to find a tenant for that space, GAO neglected to consider the one-time costs which the VA would have to bear to rearrange the entire office to release a contiguous block of space while maintaining an efficient office layout and the security and office integrity required in any operation. In our discussions, the GAO constantly emphasized the need to consider cost to the Government rather than cost to the VA. Yet unless GSA is able to place another tenant if consolidation does not occur, there will be no savings at all and actually result in significant one-time costs to the VA.

In our analysis, the GSA regional officials indicated to us that it was doubtful that the space in Philadelphia could be used by another agency. As recently as July 5, 1987, VA officials again discussed this issue with GSA's Philadelphia Regional Headquarters and were informed that the VA could release the space back to GSA, but GSA would put certain requirements on it that could make it costly to release. For example, any space to be made available to another agency would need to be "accessible and assignable". A GSA representative familiar with the location of the Insurance activity stated that the area that could currently be considered excess is located in a corner of the building that would not be suitable for another agency to occupy. Therefore, GSA would require the VA to reorganize large portions of the work force to free up space in the front portion of the building. Further, he stated that other costly modifications would need to be made and he cited the specific example of the need to build a wall around whatever space the new agency would occupy.

In addition, when questioned as to the likelihood of obtaining another tenant for the space, even with the above-mentioned modifications, the GSA representative stated that it would be difficult to rent and would "probably be vacant for a long, long time". In light of this, the 27,500 square feet of space that would be used for the consolidated office could theoretically be made available. However, as a practical matter, that does not mean that it can become productive space by releasing it back to GSA. Since the additional staff required by the consolidation is the only realistic way of filling the space in question and it would remain vacant and unproductive without that staff, the stated reduction by $1.0 million in the VA's estimated savings is not likely to occur, as is suggested by the draft report.

We believe that a consolidation will be cost-beneficial and are confident that the estimated personnel savings can be achieved while improving service. We also feel that there are additional economies of scale that can be achieved through consolidation of the Insurance program. Although GAO made no mention of this in the current draft report, the following statement appeared in an earlier report:

"In addition to achieving the savings identified by our review, we believe that other savings could possibly be achieved in the future because of greater opportunities for increased efficiency and effectiveness from centralizing all insurance field operations at one site." (page 11 of GAO's Report to the Congress on "Savings Available Through Consolidation of Veterans Administration Insurance Field Offices," dated September 29, 1969.)

In conclusion, we do not believe the GAO has found valid reasons for the consolidation not to take place.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

Mr. **DURENBERGER**. As I know the managers are aware, there are two measures which have been sent over to the Senate from the House of Representatives containing amendments barring the VA from proceeding with the consolidation. As a matter of fact, the VA has been prevented from implementing the consolidation during fiscal year 1987 by a previous action of the Congress, and that bar is almost certain to be extended in the HUD and independent agencies appropriation bill.

What I would like to ask the two managers of this bill, the chairman and ranking member of the Veterans' Affairs Committee, is do you believe it would be wise and appropriate for the VA to proceed at this time with the consolidation?

Mr. **MURKOWSKI**. Mr. President, I thank the Senator from Minnesota for bringing this issue to the attention of the Senate. I do not normally associate myself with efforts to mandate the location or organization of VA facilities. In this case, however, the VA seems determined to proceed with a proposed consolidation of facilities which makes absolutely no sense.

The current organization, with VA insurance centers located in St. Paul and Philadelphia, is working well. There is more than enough workload for two insurance centers and any savings from improved management can be realized with two centers as well as with one.

I wish to emphasize that this is not a political issue. This is not a Minnesota issue. The issues are: service to veterans, and efficient use of taxpayer money.

The GAO study referred to by our colleague from Minnesota makes clear that the claimed savings resulting from the move simply do not exist. What does exist are the costs and disruption that would be imposed by uprooting and moving a well functioning and efficient office and its work force halfway across the country.

In short, the current system is not broken and the proposed move would not fix it, even if it were broken. However, it is clear that the proposed move is likely to cost money.

I urge my colleagues to review the GAO report obtained by our colleagues from Minnesota. I commend them and the rest of the Minnesota delegation on their interest and initiative in obtaining the GAO review and on their persistence in bringing the results of that review to the attention of the Senate.

Again, this is not a Minnesota issue. The current organization with two insurance centers is good for veterans who depend upon the effective administration of VA programs. It is also good for the taxpayers who have to pay for VA programs.

Veterans throughout the Western United States, including those in Alaska, California, Hawaii, and Arizona are now well served by the St. Paul center.

Would they be served as well if their records are disrupted by a move?

Would they be served as well if their mail, and the VA's responses, have to travel the additional distance to and from the east coast?

Would they be served as well if their long-distance calls are answered by a recording because of the additional time zone difference?

The proposed consolidation of insurance centers would have enormous impact on service to veterans, particularly those in the Western United States. For that reason, I wish to put my colleagues on notice that I will continue to monitor this issue closely. I would propose to the distinguished chairman of the Veterans' Affairs Committee and the Senators from Minnesota that we join in a letter to the Administrator urging the VA to take no further action while the committee reviews this proposal.

Mr. CRANSTON. Mr. President, the VA's chief benefits director has determined that maintaining 2 separate offices to administer the VA's life insurance program—one office in St. Paul with approximately 163 positions during fiscal year 1987 and one office in Philadelphia with approximately 427 positions during fiscal year 1987—runs counter to sound management principles and practice. Specifically, the VA's chief benefits director has made the determination, which has been endorsed by the head of the VA, that maintaining the two offices; first, creates a dual management structure and unnecessary organizational layering; second, diffuses authority and responsibility, thus making it more difficult to fix managerial accountability; third unnecessarily broadens the chief benefits directors' span-of-supervisory-control thus jeopardizing effective organizational communication and responsiveness; and fourth, is counterproductive because the workload in the insurance program is declining and it would be administratively undesirable to maintain—and justify—two separate offices.

Mr. President, the proposal to consolidate the St. Paul VA insurance office into the Philadelphia office is not new. In separate 1962 and 1969 reports, the General Accounting Office recommended that VA consolidate the St. Paul office into the Philadelphia office in order to achieve greater economy of operations.

Moreover, the recent GAO report, which follows a 16-month GAO analysis of the VA cost-benefit study of this issue—in which an independent VA office of program analysis and evaluation found that during the first 5 years of the consolidation the VA would save $3.94 million—did not address the basic question of whether the VA should consolidate the Philadelphia and St. Paul offices. Instead, GAO took a much more indirect approach and concluded that the VA's estimated 5-year savings would be greatly reduced or could be eliminated if first the Philadelphia office's future productivity is similar to its current productivity; and second, office space was included. The Administrator of Veterans' Affairs strongly disagreed with this conclusion—as acknowledged by the GAO in its September 16 report—and the Administrator in a detailed July 30, 1987, response to the GAO draft report provided data in support of his position.

Finally, Mr. President, I note the GAO's statement on page 7 of its report that GAO "agrees that consolidation (of the two offices) offers opportunities for reducing overhead costs as the direct workload declines." Moreover, GAO's report "does not question VA's estimated 5 years' savings of $1.63 million in personnel costs, that is 24 supervisory and clerical positions." It is this savings that is the essence of the VA's argument.

Mr. President, nevertheless, this matter is not at all free from doubt. The GAO has raised some good points, and so has the VA in response. In light of the fiscal year 1988 prohibition on the consolidation in the HUD-Independent Agencies Appropriations Act, 1988, already passed by the House and approved in the bill reported by our Senate Appropriations Committee, the VA is going to have ample time to rethink, review, and restudy this issue.

Mr. President, there is surely little value in false economies, especially when disruption and relocation may well adversely affect the quality of service provided to veterans for a considerable length of time. On the other hand, long-term cost savings could well more than offset immediate costs. There seem to be more questions than answers here. Therefore, I would be pleased to join my colleagues in a letter to the VA urging that no action be taken on the consolidation while the Congress studies it further, and directing that a careful reexamination of this proposed consolidation be undertaken—preferably by an outside consultant.

MURKOWSKI AMENDMENT NO. 1007

Mr. CRANSTON. Mr. President, before we vote on Senator MURKOWSKI's amendment, I would like to respond to some of the points made in his October 13 "Dear Colleague" letter.

First, Senator MURKOWSKI stated that the provisions of title III of S. 1464 would "dramatically expand the nature and scope of the [VA's readjustment counseling program]."

It is correct that the legislation would permit the VA to provide readjustment counseling services to new categories of veterans (World War II and Korean conflict veterans) and active-duty service personnel (those who served during the Vietnam era or since in combat situations). However, because of the discretionary nature of these changes, I do not believe that it is fair to characterize this as a dramatic expansion.

The only new category of veterans that the legislation would entitle to readjustment counseling services are those who have served since the end of the Vietnam era in combat situations. Both Senator MURKOWSKI and the administration have expressed support for this provision.

The only other basis for asserting that the legislation "dramatically" expands the existing program is a provision that would permit the VA to furnish other VA benefits and services at vet centers using employees who are currently employed elsewhere in the agency. Again, this is a discretionary authority and the VA can already do this and has in some cases.

It seems somewhat ironic for Senator MURKOWSKI to raise concerns about program expansion in view of his authorship of the pilot program of Vietnam veteran resource centers enacted in 1985 to require the transformation of 10 regular vet centers into multiservice centers to furnish, in addition to readjustment counseling services, expanded assistance with other VA benefits and services.

Second, Senator MURKOWSKI stated that the measure would "in effect, freeze in place the 189 separate centers, without regard to workload or effectiveness."

In lieu of current law, which requires eliminating more than half, at least 95, of the existing community-based centers over an arbitrary 2-year time period, title III of S. 1464 would establish a process through which the VA could relocate or close an existing vet center after evaluating such an action according to a series of specified criteria—which are based directly on criteria the VA developed—and giving the two Veterans' Affairs Committees 60-days advance notice of the proposal, including the results of the application of the specified criteria. If the VA proposed to close or relocate a substantial number of centers in a particular year, the bill requires that 8-months notice be provided so as to permit legislative consideration of the import of the changes.

The only way that this approach could be construed as freezing in place the existing number of centers is if one believes that it would not be possible to justify any proposed relocations or closures. I do not hold that view and indeed have already agreed to a relocation of a vet center in California. Where good justification exists, I feel sure other of our colleagues would do the same.

Third, Senator MURKOWSKI stated that this measure would "perpetuate the misconception that Vietnam veterans are outcasts, to be perpetually segregated from the rest of society."

As the author of the 1979 legislation that led to the establishment of the vet centers, I have never perceived the program as making Vietnam veterans "outcasts" or that somehow veterans seeking assistance at such facilities are "segregated from the rest of society" any more than a veteran receiving care, for example, in a VA nursing home is so segregated. Rather, I see both as receiving needed care and services in an appropriate setting.

Robert Muller, the founder and immediate past-president of the Vietnam Veterans of America, the only national veterans organization dedicated exclusively to the concerns of Vietnam veterans certainly does not see vet centers this way in his recent letter to me in which he stated:

> The vet centers are not only one of the most successful programs in the history of veterans affairs, they are also enormously popular with legislators, health care professionals and veterans.

In contrast to the characterization of vet centers in Senator MURKOWSKI's October 13 letter, my general evaluation of the centers would be more in line with the statement Senator MURKOWSKI made during a hearing of our committee in 1983 when the committee was considering legislation to extend the program:

> Alaska's four vet centers have provided crucial services to veterans spread out over an area one-fifth the size of the Lower 48. From Kenai to Fairbanks, AK, Vietnam veterans have benefited greatly from the readjustment counseling assistance provided by the hard-working vet center operators in the State. These centers have become highly visible and meaningful symbols of what this country has to offer those who served their country.

Fourth, Senator MURKOWSKI noted that the provisions of title III of S. 1464 brought before the committee with "no chance for health care providers or veterans' organizations to study and comment on the bill" and enclosed copies of letters from veterans' organization asking for an opportunity to express their views on the legislation.

Although this statement is technically correct, the committee did receive testimony on the Vet Centers Program twice this year—on February 18 and 19 regarding S. 477 and on May 21 regarding S. 6—and I described in detail during our committee's May 21 hearing my intentions with regard to the introduction of legislation—ultimately introduced as S. 1501—dealing with the Readjustment Counseling Program, thereby putting the various veterans organizations on notice regarding this legislation and providing an opportunity for them to provide their views on it.

There are times, I believe, when the information developed at hearings and through the committee's oversight activities warrants preparation of legislation for committee action without a hearing on the precise provisions brought before the committee. On the same date that our committee acted on S. 1501, the committee also marked up without prior hearings specifically on these provisions, S. 1443, S. 1444, S. 1464, as well as 15 Loan Guaranty Program changes and I have heard no similar complaints about that action. In any event, I was and am satisfied that it was sufficiently important that the committee act when it did that proceeding without benefit of a specific hearing was fully justified.

Finally, on the issue of the views of veterans organizations on S. 1464, I note that the letters Senator MURKOWSKI made reference to were all dated in July and all focused principally on the issue of the committee's holding a hearing before acting on this legislation and did not focus on the merits of the measure. As of this time, both the American Legion and the Veterans of Foreign Wars have resolutions adopted by their national conventions favoring a case-by-case approach to the relocation or closure of any vet center, the approach called for in title III on S. 1464, and the Paralyzed Veterans of America and the Vietnam Veterans of America have both written letters expressly endorsing the provisions of the legislation. The Disabled American Veterans, in an August 27 letter to me, stated "we have not yet had the opportunity to review the language contained in title III of S. 1464".

Fifth, Senator MURKOWSKI expressed concerns that, as a result of provisions in the measure which would extend eligibility to active-duty personnel to receive counseling at vet centers, DOD might be prevented from learning about "possible mental-health problems which may adversely affect [active-duty personnel's] ability to perform sensitive duties in fields such as nuclear weapons or intelligence."

While I sincerely hope that DOD has more effective ways of monitoring the performance and health status of active-duty service personnel than using health-care records as this statement suggests, it is precisely the likelihood that an active-duty member might, because of such monitoring, avoid seeking assistance from the military for problems related to his or her service that the provision in title III of S. 1464 seeks to prevent. In any event, this is a totally discretionary authority, and the administration need not implement it. Further, personnel at vet centers are already furnishing such services in some instances to active-duty personnel who seek it, and I have never heard a report suggesting even remotely that this had caused any problems for our Armed Forces.

Sixth, Senator MURKOWSKI stated that this measure "would perpetuate VA services for some nonveterans and veterans with other-than-honorable discharges, at a time when resource limitations restrict the VA's ability to provide care to combat veterans with honorable service."

There are a number of problems raised by this statement.

For one thing, eligibility for VA benefits—including for readjustment counseling—is not stated in terms either of "combat veterans" or "honorable service." With specific reference to type of discharge which qualifies a veteran for VA benefits, the standard in title 38, United States Code, is a discharge "under conditions other than dishonorable." Thus, it is not clear what distinction is being made with this statement.

In addition, it is not clear what the reference to "some nonveterans and veterans with other-than-honorable discharges" was meant to convey. The only "nonveterans" who are furnished services in vet centers, as far as I am aware, are individuals—family members and others in close association with the veteran—who receive services as a result of a judgment that such services are necessary for the "effective treatment and rehabilitation of the veteran," the same standard that applies in furnishing general VA mental health treatment as well.

With reference to "veterans with other-than-honorable discharges," as was just noted, veterans with discharges under conditions other than dishonorable are eligible for VA benefits so it is certainly correct to suggest that some veterans with other-than-honorable discharges are being furnished readjustment counseling just as such veterans are being furnished other VA benefits and services.

Seventh, Senator MURKOWSKI, in describing the transition requirement in current law noted that the "question is not whether readjustment counseling services will be provided—but where" and stated further that "half of the storefronts can continue as they are while the other half can continue on the grounds of VA medical centers."

The question is, I believe, where can and will effective readjustment counseling services be furnished. The transition requirement refers to the program offering services "through" general VA health-care facilities. That is not limited to a placement "on the grounds of" a VA medical center, but also includes placement within a VAMC.

Of the initial nine centers that were selected by the VA for relocation earlier this year, only three were slated to be in separate buildings with no other general VA services located in the same building. Five others were slated to be placed near or adjacent to existing VA mental health clinics, creating the obvious impression that a vet center is simply another mental-health facility or is an extension of mental-health care and that those who are being furnished services there are suffering from mental illnesses. This is a perception that has been wisely and deliberately avoided since the inception of the program in 1979 and is one of the fundamental reasons for the program's enormous success. I believe that this characteristic should be continued—at least in the first few years after any center's relocation.

Mr. President, for all of those reasons, I urge defeat of the pending amendment.

Mr. MURKOWSKI. Mr. President, I wish to respond to some of the associations made by the distinguished chairman and the Senator from Massachusetts.

A program the Congress was assured would be a short-term program to address a unique problem would have its current format made permanent.

Here is what the Vietnam Veterans of America in support of the bill said in its newsletter.

> [T]he bill would make the VA's Vet Center Program virtually impregnable.
>
> In effect, the legislation makes it virtually impossible to close any (emphasis in the original) Vet Centers without the express consent of Congress.

The distinguished author of the bill is quoted as telling that group, "The Vet Center Program will be saved."

Mr. President, I emphasize the issue is not saving the Readjustment Counseling Program. These services will be provided as long as there is a need.

No one is proposing to change the entitlement for these services.

These services will continue no matter which way the Senate votes today.

Vet centers will not close. Neither current law nor my amendment require a single Vet center to close.

The issue is:

Will the scope and eligibility for the program be expanded?

Will the program be frozen in a posture which mandates that Vietnam veterans be segregated apart from the rest of America's veterans—and, by implication, from the rest of America?

We also believe that decisions should be made on a case-by-case basis, and that is exactly what the VA intends to do. The VA has established criteria to make those decisions and, in fact, S. 1464 sets forth the VA's criteria for making such decisions.

I believe that the criteria are fair, but I don't believe that the most important and overriding criteria is acceptability to vet center clients. Distance from the medical center, availability of space on VA grounds and workload date are equally important criteria.

It deeply concerns me that, under S. 1464, the Congress would, in effect, make decisions on the location of each vet center. We have a VA Administrator charged with that task. Let the VA make those management decisions.

Current law—which my amendment liberalizes—provides a mechanism for that case-by-case evaluation.

Restrictions in S. 1464 would make case-by-case change very difficult if not impossible. For example:

Allows no more than 10 percent of vet centers to be moved in 1 year.

Restrictions on resource reductions irrespective of workload.

Require approval of vet center changes by staff and clients.

The notice and wait requirement of 60 days, and the limitation on the number of vet centers to be moved in any year, does not really allow these case-by-case decisions. It politicizes the process. Each time the VA proposes a relocation—chances are that this body will become involved in determining the fate of its location. It will no longer be an administrative decision but rather a congressional decision.

That is, some in this body are of the view that "we are not opposed to the principle of relocating vet centers." The fact is we wind up finding fault with each proposed relocation. In the final analysis, there is never any change. That's what I am opposed to.

GAO stated that relocation would have no significant effect on costs, and that veterans' access to readjustment counseling would probably not be significantly affected. GAO did not look at issues such as the effectiveness of the program, but found significant problems associated with the VA's workload data and lack of quality assurance reviews.

GAO may be correct but cost is not the only issue. We are not relocating the vet centers just to save money. The Congress has for years advocated relocating the vet centers—and I remain convinced that this action is appropriate.

It is unwise to, in effect, prohibit the relocation of vet centers as proposed in the committee bill without the benefit of hearings. We should not indefinitely perpetuate the segregation of the Vet Center Program.

Most importantly, let us keep in mind that location is not the reason veterans go to vet centers. The team leaders, and many counselors that work with veterans are the real heart of readjustment counseling services.

These counselors are full-time VA employees. I would rather have them working on the grounds of medical centers—where they can use their expertise to help veterans if they have excess time rather than have them isolated away from the VA and lacking sufficient workload to keep them busy.

The GAO report shows the workload data is not reliable.

Thirty-five of one hundred files reviewed showed no services provided.

Sixty percent of veterans were seeking help with employment problems. We have funded thousands of local veterans' employment representatives and disabled veterans Outreach Program specialists to help veterans with employment.

The claimed increase in workload vet center softball games and practices—such as GAO found at one vet center.

If the workload increases, the vet center staff will still be there to provide counseling.

The Readjustment Counseling Program will continue—the only question is where the counseling will be provided.

The heart of the program is the counseling staff—not the buildings.

If this is true, the Readjustment Counseling Program will still be available to meet those needs.

But we need to remember: Vet centers serve all Vietnam era veterans; two-thirds of Vietnam era veterans did not serve in Southeast Asia; three-fourths of those who served in Southeast Asia did not serve in combat.

The GAO study documents the fact that vet centers don't focus on combat veterans. Eleven percent of the sample were not Vietnam veterans. Only 49 percent of the sample were seen for problems related to their military service. No services were provided in 35 percent of the files sampled.

The vet center effectiveness study shows 60 percent of the veterans served cited employment problems. This duplicates the function of the Veterans' Employment and Training Service.

I agree. We can't turn our backs on Vietnam veterans.

My amendment does not turn the Nation's back on Vietnam veterans.

It leaves unchanged the Nation's commitment to provide readjustment counseling.

It would not require a single vet center to close.

Readjustment counseling is provided by readjustment counselors—who will continue their service—not by the buildings in which they work.

Most importantly, my amendment will allow the Senate, the VA, and the Nation to welcome home our Vietnam veterans.

It will allow us to draw away from the idea that Vietnam veterans can only survive in an isolated segregated setting.

It will allow services for Vietnam veterans to rejoin the VA medical care system.

One of the most difficult, and unfair burdens carried by the 3 million veterans who served in Vietnam is the misperception that they are alienated, isolated individuals, unable to function as a part of normal society.

I believe freezing the readjustment counseling program in its current segregated format reinforces this false stereotype.

I believe adoption of my amendment will begin to lift the undeserved burden of this false stereotype from the backs of our Vietnam veterans.

Mr. HECHT. Mr. President, I rise today in support of veterans beneficiary travel legislation. Recently, I held a veterans forum in my home State of Nevada. During the forum, several veterans told me of the great distances they must travel to receive proper medical care. Because of the absence of a veterans hospital in the southern part of the State, many Nevada veterans must travel a long way to get to the closest veterans hospital. As a solution, I have worked to move up construction of a joint Air Force/Veterans Administration hospital at Nellis Air Force Base to 1990, and I am happy to say that we have been successful in that effort. Nevertheless, the problem of veterans health care is acute now, and must be addressed. What stands in the way, unfortunately, are recent VA regulations restricting reimbursement for veterans travel benefits, called beneficiary travel.

When the regulations changed many of us in the U.S. Senate received letters and phone calls from veterans who are now unable to travel to medical facilities to receive care. In the past, veterans were provided with travel reimbursement so long as prior authorization was requested and the individual facility had sufficient funding. The new regulations allow reimbursement only in cases where specialized modes of transportation are medically indicated, where patients are scheduled for compensation and pension examinations, and where travel is in excess of a 100-mile radius from the nearest VA medical facility. Many veterans are left out of this list.

I join with my colleagues in expressing opposition to these new regulations because I believe they place an unnecessary burden on veterans who have faithfully served this country in the armed services. To restore travel benefits, I have cosponsored several bills which will restore beneficiary travel to veterans. These proposals will assist many of Nevada's veterans, including veterans receiving treatment for their service-connected disabilities, veterans with a VA pension, and low-income veterans.

I support this legislation because I believe that it is imperative to care for our veterans. Nevada's veterans are at a critical point, since many World War II veterans are now turning 65. As the ranks of veterans over 65 increases, the need for first rate health care also increases. I am committed to doing everything I can to ensure that Nevada's veterans are provided with beneficiary travel to receive this care.

In summation, I am proud to be a cosponsor of beneficiary travel legislation, and I urge my colleagues to vote for its enactment.

VETERANS' HEALTH-CARE PROGRAMS

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Committee on Veterans' Affairs, I rise today, along with the distinguished chairman of the committee, Senator CRANSTON, in strong support of titles I and II of S. 1464, the proposed Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987.

Mr. President, S. 1464 contains provisions relating to three issues: Travel reimbursement for eligible veterans to and from VA medical centers, VA health-care quality assurance programs, and readjustment counseling for Vietnam-era veterans. I strongly support the beneficiary travel and quality assurance provisions included in the bill as reported. These provisions—which address access to care and quality of care—are an integral part of the VA health-care system.

I remain opposed to title III of the bill which would make significant changes to the Vietnam Veteran Readjustment Counseling Program—otherwise known as the Vet Center Program. My colleagues perhaps heard the debate on that issue and, thus, I will not reiterate my concerns at this time.

Notwithstanding my strong opposition to title III of S. 1464, I believe that generally that the provisions of the bill merit passage by the Senate. These provisions are described in detail in the committee report which accompanies S. 1464 (S. Rept. 100-187).

First, title I of S. 1464—which is substantially similar to legislation crafted by Senator CRANSTON and me—would provide travel reimbursement after a deductible of $7.50—round trip—is met by the veteran for each trip to a VA medical facility for veterans who: One, have a service-connected disability; two, are recipients of a VA pension or have a pension level income; or three, are unable to defray the cost of their travel, to be determined by VA regulations. In order to provide some relief for veterans who are frequent users of the VA health-care system—such as those who require dialysis or radiation treatment therapies—the bill would limit the veterans' cost as a result of the deductible to $22.50 per month for those who are approved by the VA. This legislation takes into account that many—if not all—of our VA medical facilities operate under extreme fiscal constraint. Medical center directors are forced to make difficult spending decisions. In order to address this harsh reality, S. 1464 provides for a waiver authority whereby medical centers could be authorized to pay travel payments at reduced levels or not at all—if determined to be in the best interest of providing care to veterans. Finally, the bill provides a mechanism to promote the voluntary transportation of veterans by requiring the VA to coodinate with the Secretary of Transportation, veterans' service organizations, and others to facilitate such transportation. I believe that the approach taken in the beneficiary travel provisions are fair and reasonable. I am pleased that this bill takes into consideration the needs of veterans while at the same time the tremendous need to control program costs.

Second, title II of S. 1464 would improve the oversight of VA health-care quality assurance programs. Senator CRANSTON and I worked diligently to develop companion measures which would accomplish this goal. I am pleased that the committee bill contains provisions derived from these efforts. I strongly believe that if veterans, the Congress, and the taxpayers are to maintain confidence in the VA health-care system, we must be assured that the VA is delivering high quality health-care services. Among other things, title II of the committee bill contains provisions derived from S. 1444, a measure which I introduced, to set forth a mechanism for the independent review of VA quality assurance programs. Specifically, this legislation would enhance the role and duties of the VA inspector general [IG] by providing a statutory mandate that there be in the Office of the IG an assistant inspector general for health care quality assurance review. Through this office, an interdisciplinary team of health-care professionals would carry out important oversight of quality of care issues. I believe that the IG should work closely with the medical inspector general in the Department of Medicine and Surgery; however, I strongly believe that onsite reviews of VA health-care facilities and analysis of information and data obtained through those reviews is vital in order to validate the Department of Medicine and Surgery information.

Mr. President, I commend the many men and women who serve veterans in VA facilities. They are dedicated and professional individuals. Their efforts have made the VA health-care system a model in this country. However, an effective quality assurance program is essential so that any quality of care problems can be quickly identified and corrected. Therefore, the provisions contained in title II are vital to ensure that such a quality assurance program is fully implemented and functioning effectively.

Mr. President, in concluding I wish to thank my friend, the distinguished chairman of the committee from California, Senator ALAN CRANSTON. I also commend the fine efforts and spirit of cooperation between the majority and minority staffs. In particular, I wish to acknowledge the work of my most dedicated staff including my chief counsel and staff director Anthony Principi, Lisa Moore, Chris Yoder, Laura Stepovich, Susan Theroux, and Anne Rothgeb, and a new member of our staff, Tom Roberts. In addition, I wish to recognize the outstanding efforts of Kathleen McTighe, my former general counsel—who recently left the staff to return to graduate school. This was among the last legislative initiatives which she worked on. We wish her the best of luck in her new endeavors. I further recognize the hard work of the majority staff headed by Jon Steinberg, and including Ed Scott, Bill Brew, Sandi Isacon, Liz Griffin, and Roy Smith our printer.

I urge my colleagues to support this legislation. I thank the Chair.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1464, which includes provisions I support on beneficiary travel.

I am a cosponsor of this bill, as introduced, which seeks to remedy the effects of the VA's revised beneficiary travel regulations which took effect on April 13, 1987. Without adequate travel allowances, veterans throughout New Jersey who can't afford to pay travel costs will be denied the decent health care they earned when they answered this country's call.

S. 1464 provides for the payment of beneficiary travel reimbursements—payments to certain veterans to help defray the costs of their travel to VA health care facilities—to service-connected veterans, to low-income veterans, and to veterans who need assistance to overcome the high costs of travel because they live in rural or remote areas.

This bill is needed to reverse the effects of the VA's beneficiary travel regulations which went into effect in April 1987. Those VA regulations permit only partial reimbursement for veterans traveling from beyond a 100-mile radius to the nearest VA medical care facility.

Under the regulations, if travel occurs outside the 100-mile one-way radius, a veteran is reimbursed 11 cents per mile for that travel. But no payment is made for travel of less than 100 miles one way. If the travel occurs within the 100-mile radius, the VA will provide no reimbursement regardless of the cost of the travel or the number of times the veteran must make the trip to receive the needed care.

S. 1464 provides travel reimbursement after paying a deductible of $7.50 for a round trip for each trip for veterans with service-connected disabilities, in receipt of pension or pension level, or those unable to defray the cost of their travel, to be determined by VA regulations. Veterans who require special modes, emergency travel or compensation and pension exams would not be subject to a deductible. Additionally, there would be a deductibility cap of $22.50 per month for veterans who are frequent users of the VA system. This provision is designed to ensure that the veteran does not have unreasonable travel costs. It applies in the case of veterans preapproved as needing to make trips for health care more frequently than at least six one-way trips per month.

Since in some areas of the country it may not be necessary to implement the provisions of the bill to the full extent, this bill would provide, subject to central office approval, VA station heads with flexibility to administer the beneficiary travel program in ways they determine, in consultation with local representatives of veterans' service organizations, would be most beneficial to meeting the needs of the veterans in their region.

Finally, the bill directs the Administrator of the VA to take the lead in promoting the establishment and maintenance of transportation networks, in conjunction with other organizations, to promote local transport for veterans to VA facilities.

I urge my colleagues to approve this bill swiftly.

Mr. LEAHY. Mr. President, I rise today in support of S. 1464, the Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987.

I am proud to be a cosponsor of the original version of S. 1464, a bill to make modifications to the new VA travel reimbursement regulations introduced in April. Under these new regulations, veterans traveling to VA hospitals and clinics are no longer reimbursed for travel within a 100-mile radius of the treatment center unless special transportation is needed. This amounts to a $22-deductible per trip. S. 1464 reduces the deductible to $7.50 per trip and places a monthly cap on the deductible at $22.50.

The new VA regulations were designed to save approximately $55 million. Although I recognize the VA's concerns about saving money to assist reducing the Federal deficit, I am concerned that these regulations will deny some veterans access to health care because they cannot afford transportation to VA facilities.

In Vermont, for example, there is only one VA medical center, located at White River Junction. Vermont is a rural State and veterans regularly must travel long distances to get treatment at White River Junction. To simply impose a complete ban on reimbursement for travel within 100 miles of the center would seriously jeopardize the quality of health care for Vermont's veterans.

In addition to modifying the VA's travel reimbursement regulations, S. 1464 includes two other provisions important to our Naiton's veterans.

Title II of S. 1464 is derived from S. 1443 and S. 1444 and would to strengthen the quality health care assurance program of VA health care services. S. 1443 and S. 1444 were introduced by Senators CRANSTON and MURKOWSKI after the General Accounting Office [GAO] fund deficiencies in quality assurance at nine VA medical facilities.

Title III of S. 1464 incorporates the language of S. 1501, a bill to cancel the 2-year transition period for moving the VA's Readjustment Counseling Program from community based vet centers to general VA health care facilities. This important program treats veterans for post traumatic stress disorder [PTSD]. I am also proud to be a cosponsor of S. 1501.

Presently, the VA's Readjustment Counseling Program is mandated by current law to undergo a 2-year transition period from a program providing services through vet centers located in local communities to one providing these services at general VA health care facilities.

In March, the Senate passed legislation to postpone the transition period for 1 year.

Mr. President, I joined with Senator CRANSTON, chairman of the Senate Veterans' Affairs Committee in sponsoring S. 1501 because this legislation promotes a commonsense approach to deciding the future of vet centers. Under the provisions of this bill, any change in the status of vet centers must be handled on a case-by-case basis in an attempt to guard against arbitrary changes in the program.

One of the vet centers which may face relocation is the vet center in White River Junction. During the past 2 fiscal years, veterans have made over 6,000 visits to this vet center and 750 new individuals have begun counseling. This facility is extremely important to Vermont's Vietnam veterans and it is clear that it is serving its community well as it now functions. I would oppose any attempt by the VA to relocate this Readjustment Counseling Program.

I urge my colleagues to vote for S. 1464 as reported from the Veterans' Affairs Committee.

Mr. MITCHELL. Mr. President, I have only brief comments to make regarding the matter before the Senate, S. 1464, the "Veterans Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987."

First of all, I want to commend the leaders of the Veterans' Affairs Committee for their leadership in crafting this legislation.

It involves a number of highly contentious items and again demonstrates the ability of Senator CRANSTON and Senator MURKOWSKI to work together on issues of importance to this Nation's 28 million veterans.

Their opening statements describe in detail the provisions of this legislation. Therefore, I do not feel it necessary for me to go into detail here.

I do wish to make a few observations about title I of this legislation which affects the VA's Beneficiary Travel Benefits Program. Title I requires the VA to provide beneficiary travel reimbursements to veterans eligible for reimbursement prior to the VA's April 1987 regulations. This includes service-connected disabled veterans, veterans receiving VA pensions, veterans with annual incomes not more than base pension rates, and veterans who are unable to defray the cost of transportation.

To contain VA costs, it provides for a $7.50-round-trip deductible for beneficiary travel benefits that would apply in all instances except for veterans who travel by special mode transportation or for pre-scheduled compensation and pension examinations. To limit these costs to veterans, there would be a $22.50 monthly cap on the deductible.

Since their promulgation, the revised beneficiary travel regulations of the VA have been a great concern to Maine's veterans.

At the committee's hearing on health care this May, the chairman and our distinguished ranking minority member pledged to forge a bipartisan response to the VA's proposed beneficiary travel regulations which effectively terminated travel payments to millions of veterans.

They have done so and I commend them for their effort on this very difficult problem.

Unfortunately, S. 1464 creates a new $7.50 round-trip deductible that most veterans would have to pay. There is no such provision in current law. In committee, I offered an amendment to delete the deductible provision. Unfortunately, my amendment was defeated and the provision remains in the bill.

In his fiscal year 1987 budget message, President Reagan proposed cutting the annual beneficiary travel allowance from $110 million to $10 million.

I strongly opposed the President's proposal then and joined with other Senators in the committee in recommending that beneficiary travel funding be set no lower than $50 million, with an additional $5 million going to improve health care delivery in rural areas.

A number of Maine's veterans or their spouses have contacted me about this matter.

Despite the deductible provision, the bill represents an improvement over the current situation. Accordingly, I will vote for the bill and will continue my efforts to eliminate or reduce the deductible.

Mr. KARNES. Mr. President, I rise today in support of this legislation. Although I support all the aspects of the measure, the provision I am most interested in is that of restoring veterans' travel benefits.

As you know, earlier this year, in response to funding cuts, the Veterans Administration [VA] adopted new regulations eliminating the reimbursement of travel expenses to VA medical centers. As a result, eligibility for this benefit has been denied for thousands of veterans.

I am extremely concerned because many of America's veterans, men and women who made huge sacrifices to defend their country, have been effectively denied their VA medical benefits as a result of the VA travel restrictions.

Mr. President, as a result of my concern with this issue, I joined my good friend from Alaska, Senator MURKOWSKI, in introducing legislation (S. 1646) which seeks to restore veterans' travel benefits. This bill is identical to the amendment Senator MURKOWSKI offered earlier and though its focus is on three important issues, its main objective is to restore travel benefits.

It is tragic to think that veterans who rightly qualify for care and who desperately need it might be going without it because the Government has abandoned its commitment to help with travel expenses. Veterans have already made their share of sacrifices in the Nation's effort to cut Federal spending. I am hopeful that through our favorable votes on veterans' appropriations yesterday and a favorable vote on final passage of this measure today, we will lay to rest any further campaigns which are aimed at targeting veterans' programs for additional cuts. Thank you Mr. President.

Mr. HATFIELD. Mr. President, I was pleased to support final passage of S. 1464, entitled the "Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987."

This bill will improve the two critical aspects of our veterans health care delivery system: Access to medical care and the quality of the care which is provided.

The legislation would restore VA beneficiary travel reimbursements to all service-connected disabled veterans, veterans receiving VA pensions, veterans with annual incomes not more than base pension rates, and veterans who are otherwise unable to defray the cost of transportation.

In order to help restrain the costs associated with this provision, a $3.75 one-way deductible would apply for travel reimbursement, except for veterans traveling by special modes of transportation or traveling to take compensation and pension examinations. However, to limit the costs incurred by veterans, the bill would establish a $22.50 per month cap on the deductible for preapproved frequent beneficiary travelers.

S. 1464 also establishes an expanded and autonomous Office of the Medical Inspector General, an Assistant Chief Medical Director for Quality Assurance, and a new Assistant Inspector General for Health Care Quality Assurance Review within the VA's Office of Inspector General. The purpose of these new offices is to ensure that our veterans receive the highest quality medical care available within the VA health care system.

Finally, the bill would eliminate the statutory mandate for the transition of the Vietnam-era veteran readjustment counseling program from one conducted primarily through vet centers in their community locations, to one conducted primarily through VA medical facilities.

Mr. President, this legislation provides timely and necessary improvements in veterans' health care and deserved the nearly unanimous support it received.

Mr. MOYNIHAN. Mr. President, at a town meeting in Elmira last April I learned from Mr. John Dombroski that the March 12, 1987, Federal Register contains provisions drastically curtailing the reimbursement for beneficiary travel to and from VA facilities. Previously veterans could travel to and from a hospital so long as they had prior authorization and the hospital had sufficient funding.

Under the new regulations there is much less flexibility; reimbursement is no longer allowed for nonemergency travel in cars, buses, or taxis unless the trip is in excess of 100 miles, and then it is subject to limitations and a deductible.

The only exceptions are emergencies, inter-VA facility transfers travel to or from compensation or pension examinations, and when specialized modes of transportation are necessitated.

Mr. President, I introduced S. 1059 on April 21. It simply states that the new regulations shall be terminated. Today the Senate is considering S. 1464. The effect of S. 1059 is incorporated in S. 1464. It is a sound bill and I encourage its passage.

New York has approximately 1,915,000 veterans and only 12 VA hospitals. In so large a State, many veterans live less than 100 miles from the nearest center but still must travel a long ways for medical care. It is the same in many States. I do not believe we should attempt to control spending by encumbering our veterans with the expenses and hardship this regulation has established. They deserve better. I encourage my colleagues' support for S. 1464.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that upon the third reading of the Senate bill (S. 1464) that is presently before the Senate, once the bill has reached third reading, that the Senate go to the House companion bill, that all after the enacting clause be stricken, the language of the Senate bill, as amended, be inserted in lieu thereof, and that the House bill take its place in the order that has been entered and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Provided that the House bill be discharged.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays with one show of seconds on the motion to table by Mr. WEICKER and the passage of the House bill and on the amendment by Mr. MURKOWSKI.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on all three.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The PRESIDING OFFICER. The hour of 2:10 having arrived, the Senate will resume consideration of Senate Joint Resolution 194, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 194) to require compliance with the provisions of the war powers resolution.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Warner-Byrd Amendment No. 951, in the nature of a substitute.

(2) Byrd-Warner Amendment No. 952 (to Amendment No. 951), of a perfecting nature.

The PRESIDING OFFICER. The time for debate between now and the hour of 2:30 is divided between the Senator from Connecticut, the Senator from Indiana, and the Senator from Washington.

Who yields time?

Mr. WEICKER. Mr. President, I am going to be brief in speaking on the War Powers Act. I think much of the argument has been presented eloquently on both sides. But, obviously, recent events necessitate a revisiting of the issue.

For indeed now, by virtue of a United States-flagged Kuwaiti tanker being hit by a missile, a hostile missile, a United States ship, a United States ship, has now been hit by a missile. When that missile hit a reflagged tanker flying the Stars and Stripes, it was no different than if a missile hit this Capitol.

The question now is: What response? And who is to share in the response?

When this debate started weeks ago, people were debating as to whether or not we were engaged in hostilities. Nobody debates that any longer. Now I hear the cry, "Well, the War Powers Act may or may not be constitutional." That, of course, is an issue to be decided by the Supreme Court of the United States, not by any one of us as an individual, be it the President or a Senator.

So what we really come down to is a matter of the policy itself. And, of course, that is not covered by the War Powers Act. All that we ask to do in this resolution is to live up to the law. Everybody agrees we are in hostilities. The law requires a report from the President within 48 hours. No such report has been delivered either today or on any of the previous incidents. The reason that report is required to be delivered is so that this Nation can speak with one voice. Under our democratic principles, we could not speak just through the President when American lives and resources are to be committed, but, rather, we speak through a President and the Congress because it is the people of this Nation that will pay the ultimate price.

In effect, all the War Powers Act stands for is that adequate information be given to the Congress in order to make a decision. The matter of war and peace, the matter of life and death, belongs to all of us.

Now, we cannot get an up-or-down vote on the War Powers Act because it is being filibustered, or it lies under the threat of a filibuster from those that feel for some reason or other we cannot have an expression here one way or the other on Presidential policy.

Well, I will make a clear-cut offer on the floor of the U.S. Senate. Let us have an up or down vote on war powers and let us have an up or down vote on Presidential policy in the gulf. Let me make a prediction on the floor of the U.S. Senate as to what will happen. The Senate will vote for the War Powers Act and the Senate will vote to support Presidential policy in the gulf as it relates to our presence there to guarantee the right of free passage in international waters.

There may be debate as to whether we ought to reflag Kuwaiti tankers, and well there should be a debate. That is a rather bizarre way, I think, of our entry into that part of the world. But there is no debate or very little on the presence of U.S. Armed Forces in international waters to guarantee free passage for our ships and for the ships of the world.

So there should be no fear, either at the White House or on the floor of the U.S. Senate, as to what needs to be done. What needs to be done is to live up to the law to make decisions of war and peace jointly between a Congress and a President and then to move ahead on what seems to be a sound policy insofar as the freedom of passage of our ships throughout the waters of the world, not just the gulf.

I would hope that we would get to that point, where we live up to our obligations and our responsibilities; that when this Nation speaks, as a matter of policy; and when we risk lives, as a matter of policy, we do it as one Nation. That is what is lacking up to this point. It should not just be a Presidential policy.

For those that say to even debate is to weaken the hand of our President or our Armed Forces: Nonsense! We are our weakest when we do not debate in the United States. And I will end my few comments by saying I remember standing on this floor when a resolution was voted adjunct to the War Powers Act extending the time of our U.S. Marines in Lebanon by 18 months. Everybody knows what tragedy ensued when 241 brave young men lost their lives. After they lost their lives, people started to ask the questions: Was that a tactically sound position? Why were we there? Why were they not protected? Those questions should have been asked before the resolution passed this floor. Those questions need to be asked now as to the policy of this Nation in the Persian Gulf, indeed throughout the world where brave young men and women risk their lives on behalf of this flag.

That is what the War Powers Act calls for. That is what should be done. That is the law of the land. It is not what Senator WEICKER thinks. It is the law of the land and there is no better place to enforce the law of the land than the floor of the U.S. Senate.

I yield the floor to my good friend from Oregon.

Mr. HATFIELD. Mr. President, a parliamentary inquiry. We are under a time constraint, are we not?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. What is the time constraint?

The PRESIDING OFFICER. One minute remains on the time of the Senator from Connecticut. Three minutes and forty-five seconds each to the Senator from Indiana and the Senator from Washington.

Mr. HATFIELD. Mr. President, to whom do I look for allocation of time?

The **PRESIDING OFFICER.** The time is controlled by the Senator from Connecticut, the Senator for Indiana, and the Senator from Washington.

Mr. **ADAMS.** Mr. President, would you repeat the allocation of time? I understood that the Senator from Washington had 5 minutes but I did not——

The **PRESIDING OFFICER.** The Chair would inform the Chamber that the time ran and was subtracted from all three Members controlling the time at the very outset. There were several minutes of nondebate.

There is a time certain under the unanimous-consent request, that the vote occur at the hour of 2:30.

Mr. **ADAMS.** I would, then Mr. President, do mine in 3 minutes so that the Senator from Oregon would have time, and we would have divided it. I am sorry that this happened. I did not know this was occurring.

Mr. **HATFIELD.** I am very grateful to the Senator from Washington. I do not want to cut your time short.

Mr. **ADAMS.** I yield.

Mr. **HATFIELD.** What is the total I would have?

The **PRESIDING OFFICER.** The Senator would have 45 seconds from the Senator from Washington and 15 seconds——

Mr. **HATFIELD.** Mr. President, I think this is much too important a subject to get into these silly time situations within 2 minutes or 1 minute and 45 seconds we are limited to speak on this subject.

I do hope people will look at this Byrd-Warner amendment and realize that it does not address the issue. It is an attempt to dodge the issue. It is an attempt to water down the War Powers Act by an amendment process, and I hope that when the motion is made to table the underlying amendment, all of the Senators will vote against tabling to indicate that we reject both the Byrd-Warner at this time as we have attempted in the past to amend the war powers.

The **PRESIDING OFFICER.** The time of the Senator has expired. Who yields?

Mr. **ADAMS.** Mr. President, in this very brief time I simply want to state that we have been debating the wisdom of the War Powers Act for some time and I can state that it will continue to come up on this floor and the problem that I have with the Byrd-Warner amendment will not cure that. It removes all reference to the War Powers Act.

I can understand how some individuals, and I certainly do not question either motives or the way they want to approach this, would say that this is a compromise, would give us a certain vote so we can break this filibuster and get to the actual vote on having the War Powers Act started.

The War Powers Act in my opinion is already in effect. We have had the hostilities.

Today and last night we had absolute hostilities and casualties. I would like, Mr. President, to have my entire statement included in the RECORD at this point.

Mr. President, we have been debating the wisdom of the administration's policy in the Persian Gulf, and the role of Congress in shaping the policy, for months. We now have an amendment before us which offers the attractive possibility of allowing us to bring this debate to an end by a date certain.

This Senator has spent a good deal of time over the last year on this issue. The Foreign Relations Committee on which I serve was the first to raise alarm over the proposed reflagging of Kuwaiti vessels. In June, the Foreign Relations Committee held hearings on the situation in the Persian Gulf. In July, at my strong urging the committee reported S. 1343 to invoke the war powers resolution. Also in July with the reflagging policy imminent, I joined with Senators BUMPERS and HATFIELD to offer an amendment to the trade bill to delay the reflagging operation in the Persian Gulf until the President's policy could be debated. During the debate on the Department of Defense authorization bill, I joined again with Senators BUMPERS, HATFIELD, and MURKOWSKI to offer an amendment to trigger the war powers resolution. Since then, I have been working with the majority leader and Senator WARNER and others to develop the Byrd-Nunn-Adams-Bumpers amendment which we offered to the Department of Defense bill.

I am distressed that it is now October and we have had a series of ever more serious incidents in the gulf. I certainly would like to see this issue resolved and I would like to see it resolved with bipartisan support. The hour is very late and Congress needs to exercise its responsibilities under the Constitution and to speak to the President's policy in the Persian Gulf. But I can't support this amendment. In my mind, it sacrifices important principles for the sake of political expediency; it shys away from the tough issues and settles for an easy answer to the wrong question; it ignores institutional issues of supreme significance and constitutes a capitulation to the Executive.

I understand why some may support this compromise and I do not dispute or fault their motives. But Mr. President, the law is clear: Congress has a legal obligation to become a full and equal partner in developing policies which place our Armed Forces at risk. Unfortunately, this amendment is equally clear: it relegates Congress to a subsidiary position and, by reducing our role, threatens our national ability to sustain our commitments in the face of increased threats.

My colleagues may disagree with the requirements of the War Powers Resolution, but there is no debate about its mandate. When we passed that resolution, after lengthy debate and over a Presidential veto, we said that no American forces could remain in areas of imminent hostility unless the Congress had voted to authorize their continued deployment. That is the law. But that is not what would happen under this amendment; that is not the principle or process which this amendment reaffirms.

The pending amendment contains two critical infirmities.

First, it fails to assert a legal basis for congressional action. At least two times in the past 2 months, a majority of the Senate has voted in favor of continuing debate on amendments which explicitly held that the conditions in the Persian Gulf require congressional action under section 4(a)(1) of the war powers resolution. Yet the pending amendment does not invoke the war powers resolution, it does not refer to the act itself or to section 4(a)(1). I simply cannot understand why the administration and the Senate are unwilling to recognize the reality that we have asked our military to face. We sent them into the gulf and told them to operate under rules of engagement which clearly indicate the hostilities are imminent, yet we refuse to operate under the same assumption. We criticized the crew of the *Stark* because they were not prepared for an attack, yet we refuse to prepare the Nation for the possibility of hostilities when we reject the requirements of the war powers resolution.

The situation in the gulf is becoming more intense and confrontational each day. We have been told that our President and our military commanders may issue the order for U.S. Forces to broaden their task to include protecting any ship in the gulf no matter whose flag that ship is flying. Similarly, in light of the attack on an American flagged ship in Kuwaiti waters, I assume that someone will soon suggest that our protection ought not be limited to international waters. And I also assume that someone will suggest that, despite the fact that the attack took place in an area under Kuwaiti control, we ought to retaliate and strike against Iran. Are we prepared to permit decisions of this magnitude to be made without the benefit of debate in this Senate? If we do, we are abdicating our responsibilities under the Constitution.

We can defer a decision date, but we can't avoid it. And defering a decision carries with it a high cost. It means that the United States is willing to operate as we have for the past 5 months without a policy based on a national consensus. This debate will ultimately happen though because this President has involved this Nation in a conflict in the gulf which will not be resolved in the next 60 days, nor even perhaps the next 6 months. For those who doubt the wisdom of invoking the war powers resolution in this situation, for those who suggest that open debate will only create doubt about our resolve, I would suggest that decisions made without open debate can create doubt about our wisdom and our resolve. Does anyone really believe that the decisionmaking process used in the Iran-Contra affair is superior to an open debate? Does anyone believe that the crisis in confidence created by those secret decisions has done more damage to our interests than could be done by an open debate in the Senate?

We are a democracy, governed by a system of checks and balances. The debate under the war powers resolution is needed to establish the national will on this Persian Gulf policy. The approval or disapproval of our policy in the gulf which is required under the war powers resolution will help our democracy function as the framers intended it to. But, the process established by the Byrd-Warner compromise amendment will neither resolve their doubts or reaffirm our commitment.

I object to this amendment, then, Mr. President because it avoids the specific language of war powers. But I also object to the fact that it dilutes the philosophy of that resolution.

The war powers resolution adopts a very specific procedure for action. It requires the Congress to authorize continued deployment of troops and it requires the troops to come home if such authorization is not secured.

This amendment modifies that process in subtle yet significant ways. The law now says that the President does not have the right to place troops in hostile situations unless the Congress authorizes their continued deployment within 60 days. The Byrd-Warner amendment rejects that assumption. It actually reverses presumption: it implies that a President's decision will stand until and unless the Congress reverses it. It is the equivalent of saying that a Presidential declaration of war will stand unless the Congress revokes it. Thus, the amendment gives the President more power than he has under the law—and more power than I believe he has under the Constitution.

The shift in presumption institutionalize a bad theory of government. And that bad theory has clear consequences. Under the present law, the Congress can act by a majority vote. Under this amendment, since the President can be expected to veto any congressional action which threatens his policy, the Congress needs to express its will by a two-thirds vote in order to restrain unilateral Presidential action.

But in fact, the Byrd-Warner amendment goes further than this. Congress could escape meaningful action on this Persian Gulf policy altogether. Under the Byrd-Warner amendment, the joint resolution which is voted on in 90 days does not have to formally approve or disapprove of the President's action. Conceivably, it could be a nonbinding sense-of-the-Senate resolution. The difference between the two approaches is profound.

If my colleagues want to see a policy rip this country apart, all they have to do is adopt a procedure which allows us to send our troops into hostilities by a minority vote in the Congress.

The pending amendment abandons the assumptions built into the war powers resolution and it rejects the protections provided by the Byrd-Nunn-Adams-Bumpers amendment which was offered to the Department of Defense authorization bill. I cannot support that shift and I will not vote for it. Sometimes around here we justify our votes on compromises by saying that voting for something was better than having nothing at all. In this case, I believe that is flawed reasoning. It would be different if by voting for the Byrd-Warner amendment we could make this issue go away. But we can't. The President has placed our military into a hostile situation that is slowly sucking us into a war which has been raging in that region for 6½ years. The sooner we acknowledge our responsibility under the Constitution and under the war powers resolution, the stronger our policy will be in the Persian Gulf and the more prepared this Nation will be for the difficult days which lie ahead for us all.

Let me say a final word about the war powers resolution. The President doesn't like it and some doubt its constitutionality. But when we used it in Lebanon, it worked. Because the Congress had authorized deployment of our forces in that tortured land, there were no recriminations, no political divisions, when a bomb blast killed them. The Congress could not blame the President, the President could not blame the Congress—we mourned as one people and we remained united in the face of tragedy. No one wants death to flow from our involvement in the gulf—but it already has and it inevitably will. We can try to pretend it won't happen or we can prepare for it. The procedures and the process of the war powers resolution will allow us to deal with these events; this amendment will not.

Mr. President, there are some who say that it is too late. They argue that the purpose of the war powers resolution was to allow the Congress to help shape policy before it was implemented. They point out that the theory behind the war powers resolution is a form of Gramm-Rudman-Hollings persuasion: the fear that a deployment would be canceled would require the President to consult with the Congress in shaping a policy. Well, primarily because we have a reluctant President, Gramm-Rudman-Hollings hasn't worked in that context and neither has the war powers resolution. The President hasn't negotiated on the budget and he didn't involve us in the reflagging decision.

This notwithstanding, and while time is of the essence, we still have some time. While there is broad agreement about our interests in the gulf, our Persian Gulf policy is not well developed. We do not have a national consensus about critical elements of that policy. How long are we prepared to stay? How much will it cost our economy? What are our objectives? Under what circumstances will we feel comfortable trimming back our presence in the gulf to the prereflagging days? These are critical questions which must be answered.

The Congress is not the enemy; we aren't an adversary; we aren't even a reluctant ally. We share the same view as the administration's on U.S. goals and we are willing to share the burden of protecting national interests. And more than that, we know that our interests cannot be protected, our goals cannot be achieved, unless and until the American people are united. The war powers resolution will help bring us together. This amendment, despite the intentions of its authors, will not accomplish that goal. It will paper over differences which ought to be address and disguise infirmities which ought to be faced. We still have time to do what we ought to do—what the law requires us to do. So I hope that this amendment will be defeated and that we will be allowed to vote for a course of action which recognizes the serious threats we face and recognizes that existing law gives us a way to deal with those threats.

I am distressed, Mr. President, that we started in this in the Foreign Relations Committee in April of this year and I have here in my hand the report where we passed out of the Foreign Relations Committee a statement that the War Powers Act should be used. We should be using this time to debate policy, not procedure.

The problem with the Byrd-Warner amendment—and as I say I do not question the motives of those starting it—is that it would not go into effect until January. We do not have that time.

The second thing is it does not put the Congress in a coequal role with the executive branch, which is necessary to establish a national policy; not an administration policy, not a congressional policy, but a united policy in the Persian Gulf.

In the Persian Gulf we have some clear objectives. No one has said cut and run. Our objectives should be to protect those gulf states, but to require from them some commitments; to require from our allies commitments. We should not simply be out there with individual commanders, trying to say: What am I supposed to do now? Firing when fired upon. Fire when they hear an intent to be fired upon? Standing there with Silkworm missiles pointed at them wondering if they are going to be fired.

We should have a strong defensive position, clearly stated policy objectives, so the Iranians and Iraqis know exactly what our position is. We cannot get to that under the Byrd-Warner amendment until January. We cannot get to it on this floor because it is filibustered all the time.

We want it to go to the Foreign Relations Committee, come back to this floor, be debated, go with a united policy for the United States that says: We want peace. Seal off that war, seal off Khomeini and get to a point where the United States acts as a superpower and not as somebody that is fumbling from day to day as to what our policy is.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from Indiana has 3 minutes 45 seconds.

Mr. QUAYLE. I ask unanimous consent that the Senator from Virginia have 1 minute of my time.

The PRESIDING OFFICER. The Senator has a right to give that time.

Mr. QUAYLE. I would yield myself 2 minutes, 45 seconds.

Mr. WARNER. Parliamentary inquiry. The pending matter is a motion to table. Has it been made as yet?

The PRESIDING OFFICER. The motion to table has not been made.

Mr. WARNER. Then I put a question to the managers of the bill here. Your motion to table would go to what portion of the bill?

Mr. WEICKER. The motion to table will be to table the resolution.

Mr. WARNER. In which case the Byrd-Warner amendment would be brought down, should that motion be successful.

Mr. WEICKER. If it were successful, everything goes. Both the resolution and those amendments attached thereto.

Mr. WARNER. Mr. President, I rise in opposition to what I understand will be a motion to table for the reason that the Senate has not had an opportunity to consider the amendment by the distinguished majority leader and myself.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. WARNER. Mr. President, did I lose that minute in connection with the parliamentary inquiry?

The PRESIDING OFFICER. Yes, you did. The Senator from Indiana.

Mr. QUAYLE. I have 2 minutes and 45 seconds. I will try to give you a couple of seconds, but I think this just shows how ridiculous the whole situation has evolved to. Here we are: I am relegated 2 minutes and 45 seconds. The ranking member of the Armed Services Committee had 1 minute. And he had to spend half the time asking about a parliamentary situation. And yet I believe this is the U.S. Senate, the great deliberative body that we all invoke so many times.

I would imagine that 90 percent of the Senators do not even know what is in the Byrd-Warner amendment. It was laid down about 6 o'clock Friday. It was just brought to the floor at 2:10. And yet there is an understanding we are going to have a cloture vote next Tuesday on this amendment, or the War Powers Resolution.

Some deliberation.

Well, Mr. President, before we get ready to just bail out of here and have what I think is a trivial vote because everybody is going to vote against the motion to table, we ought to think about what we are doing, think about what kind of message we are sending to the men and women who are in the Persian Gulf right now. Every time we have one of these incidents we have to stand up on the floor and start talking about it. I dare say it is not helpful to the present situation going on in the Persian Gulf. It is not helpful to the U.S. Senate not to have a debate on this. Two minutes forty-five seconds? That is an outrage in what is going on here.

The Senator from Missouri said it pretty well the other night, a cacophony of confusions is what it is. What are we doing? Do not anybody answer because I do not think anybody knows.

We are talking about the War Powers Act, about life and death in the Persian Gulf. Here we are sitting here on a rampage to get out of town, limiting the debate to about 2 minutes and 45 seconds and 1 minute?

This is the U.S. Senate? I hope the people are watching so that the American people know what is going on. We are not debating this issue. Everybody is going to leave after this motion by Weicker to table. It is going to be unanimous. I do not think anybody is going to vote against it. It is absolute trivia.

Yes, this is the U.S. Senate. I imagine some watching might wonder.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

TRAVEL PAYMENTS TO AND FROM VETERANS' ADMINISTRATION FACILITIES

The Senate continued with the consideration of the bill.

VOTE ON MURKOWSKI AMENDMENT NO. 1007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1464. The pending matter is the Murkowski amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. DOLE. I announce that the Senator from Washington [Mr. Evans], the Senator from Utah [Mr. Garn], the Senator from Nebraska [Mr. Karnes], the Senator from Idaho [Mr. McClure], the Senator from Wyoming [Mr. Simpson], the Senator from Utah [Mr. Stafford], and the Senator from California [Mr. Wilson], are necessarily absent.

I further announce that the Senator from Kansas [Mrs. Kassebaum] is absent due to a death in the family

I further announce that if present and voting, the Senator from California [Mr. Wilson], would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 33, nays 57, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—33

Armstrong
Bond
Boschwitz
Chafee
Cochran
D'Amato
Danforth
Dole
Gramm
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Kasten
Lugar
McConnell
Murkowski
Nickles
Packwood
Proxmire
Quayle
Roth
Rudman
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NAYS—57

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Stennis
Weicker
Wirth

NOT VOTING—10

Evans
Garn
Gore
Karnes
Kassebaum
McClure
Simon
Simpson
Stafford
Wilson

So the amendment (No. 1007) was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The committee substitute, as amended, is agreed to.

Under the previous order, S. 1464 is considered read the third time; H.R. 2327 is discharged from the committee and the Senate shall proceed to its consideration. All after the enacting clause is stricken, and the text of S. 1464, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. DOLE. I announce that the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Nebraska [Mr. KARNES], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Vermont [Mr. STAFFORD], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—89

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NAYS—1

Proxmire

NOT VOTING—10

Evans
Garn
Gore
Karnes
Kassebaum
McClure
Simon
Simpson
Stafford
Wilson

So the bill (H.R. 2327) was passed.

TITLE AMENDMENT

Mr. CRANSTON. Mr. President, I send an amendment to the desk to amend the title of H.R. 2327 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

Amend the title so as to read:

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the title so as to read: "A bill to amend title 38, United States Code, to restore beneficiary travel payments to certain individuals in connection with travel to and from Veterans' Administration facilities, to establish the Office of Medical Inspector General, and the position of Assistant Chief Medical Director for Quality Assurance, in the Office of the Chief Medical Director of the Veterans' Administration and the position of Assistant Inspector General for Health Care Quality Assurance Review in the Office of the Inspector General of the Veterans' Administration, and to eliminate the requirement for a transition under which community-based Vet Centers would be moved to Veterans' Administration medical facilities and provide standards and procedures for any closure or relocations of Vet Centers; and for other purposes.".

Mr. CRANSTON. Mr. President, this is simply an amendment to the title.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment to the title was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, for the information of Senators, there will be a rollcall vote on Tuesday next, and it will be on the motion to invoke cloture.

Mr. DIXON. At what time?

Mr. BYRD. Ten o'clock. It will be a 30-minute rollcall vote.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWER RESOLUTION

The Senate continued with the consideration of the joint resolution (S.J. Res. 194).

Mr. WEICKER. Mr. President, I move to table Senate Joint Resolution 194, as amended, and I hope I am defeated.

The PRESIDING OFFICER. Under the previous order, the yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. DOLE. I announce that the Senator from Washington [Mr. EVANS], Senator from Utah [Mr. GARN], Senator from Nebraska [Mr. KARNES], Senator from Idaho [Mr. MCCLURE], Senator from Wyoming [Mr. SIMPSON], Senator from Vermont [Mr. STAFFORD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 3, nays 87, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—3

Boren
DeConcini
Hollings

NAYS—87

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NOT VOTING—10

Evans
Garn
Gore
Karnes
Kassebaum
McClure
Simon
Simpson
Stafford
Wilson

So the motion was rejected.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Warner amendment, No. 951, to S.J. Res. 194, a joint resolution to require compliance with the provisions of the War Powers Resolution.

Robert C. Byrd, John Warner, Bob Graham, Sam Nunn, Wyche Fowler, Alan Cranston, John F. Kerry, Dale Bumpers, Tom Harkin, Alan J. Dixon, Dennis DeConcini, Timothy F. Wirth, Terry Sanford, John D. Rockefeller, Barbara A. Mikulski, Spark Matsunaga, John Melcher, and Claiborne Pell.

(Later the following occurred:)

Mr. BYRD. Mr. President, I ask unanimous consent that the cloture motion be corrected so that it will apply to amendment No. 951. This has been cleared on the other side with the Republican leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing motion has been corrected to reflect the above order.)

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent now that there be a period for morning business not to extend beyond 1 hour and Senators may speak therein not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONFIRMATION OF ROBERT H. BORK TO THE U.S. SUPREME COURT

Mr. HEINZ. Mr. President, on July 1 of this year, President Reagan submitted the nomination of Judge Robert H. Bork for the Supreme Court. The vacancy the President proposes to fill with the advice and consent of the Senate is occasioned by the retirement of Associate Supreme Court Justice Lewis F. Powell, Jr. Judge Bork currently serves as chief judge of the U.S. Circuit Court of Appeals for the District of Columbia.

Judge Bork's nomination has generated intense and at times emotional statements from both his supporters and opponents. While such a strong degree of interest and concern is not unprecedented in the Senate's consideration of earlier court nominees, it is unusual and demands of each of us the highest possible level of scrutiny of the nominee, of our process and our individual decisionmaking.

At the outset of the confirmation process, I began by listening carefully to my constituents' concerns, reviewing all relevant aspects of the hearing record, and studying Judge Bork's prior writings and performance as a jurist, Solicitor General, and academic in order to come to a fair and fully informed conclusion. Further, as I indicated early on, I have endeavored to determine first, whether Judge Bork's qualifications—scholarship, legal acumen, professional achievement, integrity, sound judgment, fidelity to the law, and commitment to uphold the Constitution—are of the highest order, and second, and equally if not more important, whether Judge Bork's judicial philosophies are so unusual or extreme that they may impede, or cloud in any way, an honest interpretation of our constitutional rights and responsibilities. Finally, I met with Judge Bork on two separate occasions, the most recent yesterday, in order to question him on several critical issues and to size up the man.

Because a Supreme Court Justice is appointed for a lifetime on the Court as one of only nine persons, I approach this decision with an especially keen sense of responsibility. For me, as a nonlawyer, this has been a time-consuming, difficult, and challenging process most of all because I owe both my constituents and the nominee, Judge Bork, impartiality and fairness in casting my vote.

To many outside this Chamber, I expect the controversy over Judge Bork's nomination is extremely perplexing. After all, Judge Bork's qualifications and record, on their faces, would seem to preempt any logical challenge to his suitability for the Supreme Court. He had a distinguished career both in private practice at a prominent firm and as a professor of law at a nationally renown university. He was confirmed by this body as Solicitor General in 1973 and as an appellate judge in 1982. His writings and philosophy were well known to this body in both instances, but nevertheless proved no impediment to his confirmation. Indeed, when the full U.S. Senate considered him in 1982, we voted to confirm unanimously.

His record as an appellate judge over the past 5 years is extraordinary. He has written more than 100 majority opinions. He has voted in the majority in hundreds of cases of which only one has attracted sufficient attention at the Supreme Court to warrant further review. In not a single 1 of these over 400 opinions has he ever been reversed. In fact, several of the positions he has taken in dissent have been adopted as law by the Supreme Court.

Given these credentials, I think it fair for a nonlawyer to ask, "What happened?" What has led dozens of law professors and interest groups at both ends of the political spectrum to engage in hand to hand combat? Most importantly, what led Senators whose opinions I hold in the highest regard, including my colleague from Pennsylvania, to conclude that this man should not serve on the High Court?

My own search for answers to these questions has carried me into the unfamiliar territory of constitutional jurisprudence and, in the process, has contributed mightily to the education I receive every day I serve in this body. The debate has, in most respects, been enlightening and even exhilarating.

But some parts of the debate have not been so uplifting. I am referring, of course, to some of the crass personal attacks that have been leveled against Judge Bork. I am aware, of course, of the equally crass attacks against some of Judge Bork's opponents in this body, but I place them in a different category. While such attacks equally lack any redeeming social value, we are elected to office and must, indeed, we have chosen to endure a certain amount of that sort of thing; judicial nominees should be spared that misery or we may find ourselves without qualified men and women willing to put up with it.

The critical questions involving Judge Bork do not appear to be the important but standard qualifications as to legal acumen, scholarly ability, professional achievement, personal character, honesty, or integrity. To the best of my knowledge, and I have reviewed the entire 407-page report of the Judiciary Committee for such commentary, the only serious detrimental allegation made about any aspect of Judge Bork's personal conduct from the time of his enrollment at the University of Pittsburgh in 1945 to the present was his role in the "Saturday Night Massacre," and whether he should have followed President Nixon's direct order to him, as U.S. Solicitor General, to fire Special Prosecutor Archibald Cox. After noting that his actions "remain controversial" and that "evidence and testimony on certain factual questions are contradictory," the committee report concludes that, albeit as a member of the executive branch, Solicitor General Bork gave too great a "degree of deference to Executive authority."

I shall not take the time to debate that issue here, but what is noteworthy is that neither in the committee's report, which is, of course, submitted in opposition to Judge Bork's confirmation, nor in any of the many pages of witnesses' testimony I have personally reviewed, can I find a single challenge to Judge Bork's personal honesty or integrity. Considering that 120 witnesses testified before the committee, this is remarkable in the extreme. Indeed, even Judge Bork's harshest critics must surely come to the conclusion that Judge Bork has performed his responsibilities as a public servant, teacher, academic, and citizen with exemplary commitment to the standards of honesty and integrity in which we and the American people believe.

I believe the contentious and pivotal issue concerning Judge Bork concerns his judicial philosophy. The questions about his approach to the law are put in several different ways: Doesn't Judge Bork always side with the Government over the individual, or business over labor, or the strong over the weak? Wouldn't a Judge Bork seek to roll back 200 years of constitutional guarantees, ignoring both precedent and the changed and evolving values of our society? Isn't Judge Bork fundamentally against women and minorities, seeking to impose his own views instead of a fair and impartial judgment? In short, isn't Judge Bork some kind of judicial extremist who would be a danger?

Mr. President, irrespective that some, including President Reagan, tell us that we as Senators have no business inquiring beyond intellectual ability into the realm of judicial philosophy, these are the right questions.

My standard has been from the start that if Judge Bork is an extremist or activist, we should reject this nomination. While this is, for me, a fully legitimate test, I must point out that it is a double-edged sword that can and should cut against extremism of both right and left, the nomination of either a conservative activist or a liberal activist. To endorse the principle of "judicial restraint," as have apparently all our Senate colleagues, is to necessarily reject any Supreme Court nominee whose reading of the Constitution is either too expansive or too narrow.

In analyzing Judge Bork's judicial philosophy, I will examine three areas that have given me particular concern: equal protection, privacy, and first amendment free speech rights.

Before discussing these, however, I would like to state for the record that some of the charges made against Judge Bork are, at least in this Senator's judgment, distorted and grossly unfair. In particular, I am concerned that many of my constituents may have received the impression that Judge Bork is a racist or anti civil rights. Insofar as I can tell, this impression springs from a 1963 magazine article, arguing against the coerced desegregation of private establishments where Judge Bork writing as an explorer of the libertarian theory. Judge Bork rejected this view years ago along with his search for a unifying libertarian legal theory. He has testified that he has upheld laws that outlaw racial discrimination, and consistently supported Brown versus Board of Education, calling it "perhaps the greatest moral achievement of our constitutional law." These are not the words of a racist, neither are his deeds.

As Solicitor General, Bork, time after time, argued cases before the Supreme Court on behalf of expanded opportunities for blacks and women. On 17 occasions, Judge Bork argued for a position no less favorable to women and minorities that the Supreme Court ultimately supported. Two cases are especially worth noting: Runyor versus McCrary, where Judge Bork successfully argued that the civil right laws prohibited private schools from denying admission to children solely because they were black, and General Electric versus Gilbert, where Judge Bork argued that discrimination by employers because of pregnancy was prohibited sex discrimination under title VII of the Civil Rights Act. And, as has been pointed out in the hearings, Judge Bork, on the circuit court was equally consistent, voting, in seven out of eight cases, in favor of minorities and women asserting a substantive civil rights claim. While one can come to unfavorable conclusions about other aspects of Judge Bork's record, there is simply no credible evidence to support the claim that he is some kind of racist or bigot.

Let me turn to what I believe is the central issue. Is Judge Robert Bork a conservative extremist or activist who will seek to overturn the constitutional guarantees we take for granted?

As I read his earlier writings, some even written these last few years, criticizing the reasoning of the Supreme Court in reaching decisions that I, like most Americans, strongly believe in, I too have worried a great deal. For this reason, I have made every effort to examine his analysis of several pivotal issues.

The equal protection clause by judicial tradition and development over the last century has been deemed to protect the rights of individuals against discrimination beyond the core categories of race and ethnicity. The Court has held that other categories of individuals, particularly those most vulnerable to discrimination by virtue of being deprived of political power, do not deserve less protection simply because they do not belong to a group singled out by the reconstruction-era Congress.

The equal protection clause preserves the individual rights of women. It protects illegitimate children. It protects aliens and still other individuals from unfair treatment. I would submit that these protections are legitimate because they are grounded in the fundamental values of this country.

Judge Bork has frequently disputed in his writings and speeches the settled reasoning behind the application of a broader view of the equal protection clause. And that has caused me a great deal of concern.

The danger in democracy is the tyranny of the majority. America is the world's oldest democracy. We have survived as a democracy because our Constitution protects a minority—the smallest majority being a minority of one, the individual—against the tyranny of the full array and power of the state. The equal protection clause, a post-Civil War amendment, was enacted because the tyranny of the majority had enslaved a whole race of individuals. It was a narrow reading of the equal protection clause in Plessy versus Ferguson that allowed the creation of a new form of discrimination—separate but equal. It took many years of divisive struggle across this country before the main institutions spawned by the Plessy doctrine were brought low, and its vestiges remain with us still.

Judge Bork has defended the theory, based on original intent, that the heightened protections of the 14th amendment were intended to apply only to race and ethnicity. While there may have been some validity to arguing this position a century ago, I reject this reading of the 14th amendment. To complicate matters, however, Judge Bork in the course of his testimony before the committee went on to recognize and accept that the modern Supreme Court had expanded its reach beyond those two categories. Most significantly, he expressed his willingness to employ the approach to equal protection—the reasonable basis test—promoted by Justice Stevens. Judge Bork has elaborated on his views on egual protection—and the privacy issue—in his letter to Senator BIDEN dated October 1, 1987. Because of its pertinence, I ask that it be printed at the conclusion of my remarks. Suffice it to say that he makes a strong case that the reasonable basis test which he fully endorses could well be more positive for women and minorities than the strict and intermediate scrutiny test.

Another troubling area is Judge Bork's unyielding criticism of the privacy cases particularly, Griswold versus Connecticut. To be honest, I cannot agree with Judge Bork's conclusion, and I am not alone in my dismay about Judge Bork's position on the right to privacy as created by the Supreme Court in Griswold. But to be fair, it should be clearly noted that two other Supreme Court Justices generally considered liberal or moderate—Hugo Black and Potter Stewart—registered vigorous dissents in the case.

Judge Bork has also been critical of Roe versus Wade because the decision, he says, rests on a right of privacy that is neither expressed nor implied in the Constitution. It is a fair statement that his critics either overlook or ignore mentioning that many other notable constitutional scholars—liberal and conservative—have reached the same conclusion. Archibald Cox has said that Roe was an illegitimate exercise of judicial power. John Hart Ely has said that not only was Roe bad constitutional law, it was not a matter of constitutional law at all. Obviously, Judge Bork does not stand alone in his concern about the legitimacy of the decision.

It is ironic that Judge Bork voiced his criticism of the right to privacy in conjunction with his testimony against—I repeat, against—the so-called human life bill, which proposed to define the word "life" in the due process clause of the 14th amendment as beginning at the moment of conception. Judge Bork's fidelity to the supremacy of the Constitution took precedence over what some apparently assume to be his personal views on the issue of abortion.

Another perplexing aspect of Judge Bork has been his position on freedom of speech.

Judge Bork argued in 1972 that the first amendment should apply only to speech with a political content. The Court however, has gradually increased the types of expression protected by the first amendment to include literature, art, and even commercial advertising. Critics of Judge Bork argue that he cannot be trusted to apply to nonpolitical speech the generous protections to which we have all become accustomed. However, Judge Bork recanted his earlier analysis in 1982, and testified at the hearing that he is now "about where the court is" on this issue.

Similarly, Judge Bork has attacked the Court cases permitting the advocacy of civil disobedience. The history of this disagreement goes all the way back to cases decided early in this century, in which Justices Holmes and Brandeis dissented from several decisions upholding convictions of persons who had advocated overthrowing the U.S. Government. Over time, the dissenters approach, which required a "clear and present danger" to public safety, emerged as the majority position. More recently, the Court reaffirmed the clear-and-present danger test in the context of civil rights leaders and dissidents who had advocated civil disobedience, most notably in Brandenburg versus Ohio (1969).

Because Judge Bork has claimed that the clear-and-present danger test is unwarranted, he is viewed as hostile to freedom of speech. But during the committee's hearings, while Judge Bork noted his continuing trouble with the logical basis for the test, he nevertheless stated that he would treat it as settled law and would not attempt to overturn it.

Mr. President, what are we to make of this complex and sometimes apparently contradictory record? I think there are several pertinent questions.

First, are any of Judge Bork's opinions, irrespective of my disagreement with any one of them, outside the bounds of respectable judicial argument?

This is ultimately a matter of opinion. Although there will be some who disagree, I have difficulty challenging the opinion of former Chief Justice Warren Burger, who testified, "If Judge Bork is not in the mainstream, then neither am I, neither have I been. I simply do not understand the suggestion that he is not in the mainstream of American constitutional doctrine."

Second, does Judge Bork show indications of being an activist judge bent on rewriting critical Supreme Court decisions and precedents to fit a personal ideological agenda? Here the answer is less clear. His record on the circuit court and his answers to the committee respecting his deference to precedent on freedom of speech and equal protection are reassuring if taken at face value. His stance on privacy issues, however, is troubling. Yet, if this is the only issue on which I or others have grave concerns, I would be reluctant to disqualify a man simply on a single issue, especially one where he enjoys distinguished company like Archibald Cox and Justice Hugo Black, both noted for their liberal views. Indeed, if one accepts the sincerity of Judge Bork's views today, one is forced to conclude that he does not have a personal ideological agenda but is a man willing not merely to seek out the original intent of the Constitution and its framers but also to fully respect and follow precedent in critical areas like civil rights, women's rights, voting rights, freedom of speech, and equal protection.

Necessarily, the third question is whether or not one can and should accept the sincerity of Judge Bork's views as he states them today. More accurately, would a Justice Bork respect not just the letter but the spirit of precedent? Or, as the committee report charged is it true that "Judge Bork would simply see future cases through a lens that embodied his own strong views about original intent and would thereby be likely to see the erroneous but settled decisions as inapplicable to new situations?"

This is not an easy conclusion to come to, but it seems to me that one relevant test of any judge's respect for precedent is whether there is any evidence of "trimming"; that is, taking a narrow view of established precedent in deciding whether the facts of a given case fall within "the four corners" of prior case law. As I have read and re-read the committee report, critical as it is of Judge Bork generally, I see no evidence there or in his record on the Circuit Court of Appeals that he has either expanded or attempted to reduce the scope of existing precedent.

In this connection, I find reassurance in Judge Bork's reputation for scholarly excellence, most particularly his searching and sifting through 200 years of constitutional history to define the impulses, past and present, to our rights and responsibilities as Americans. In reviewing the charges of his harshest critics, and in asking him many hard questions myself, I find no fault with the integrity of his scholarly work. This seriously undercuts the arguments of those who believe Judge Bork seeks to bend facts or theory to fit his own personal philosophy.

Mr. President, I want to add a comment about my most recent meeting with Judge Bork, which was for 2 hours yesterday afternoon. I pressed him repeatedly on the question of how he would resolve conflicts between his originalist views and court decisions with which he disagreed. His answers were consistently revealing:

> An originalist has to have a very strong belief in precedent. * * * A judge's function is not to keep tearing up the Nation. * * * Nations and law require stability and continuity. * * * These issues [that he has criticized] have been resolved by society.

These are the words that most of us in this body want to hear. Some have questioned Judge Bork's sincerity or accused him of a confirmation conversion. In the final analysis, we must make a subjective judgment as to a person's credibility. I do not find any lack of sincerity in Judge Bork's comments to the committee or to me.

The critical question that remains is not one of qualifications, integrity, sincerity or the presence of an activist agenda. It is whether a member of the Supreme Court will dispense something other than brilliantly conceived opinions. Simply put, will he dispense justice?

Justice is a quality so indefinable that words like evenhandedness, impartiality, equitableness do not capture the full meaning of justice. But even though the synonyms are inadequate, we all know what we mean by that heightened sense of fairness we term justice. And we know that without a well-developed sense of justice no man or woman should be elevated to the Supreme Court. And this is the most important judgment any of us can make about Judge Bork.

Mr. President, I have come to a conclusion about Judge Bork. A good deal of what has been said about him has been unfair and misrepresented his character and record. He is certainly not a racist or sexist. He has undeniably been a critic of the logic of many important Supreme Court decisons that I and others support. In his role as critic, he has often failed to offer solutions. Yet he has demonstrated a remarkable record for supporting, as a circuit court judge, the decisions and precedents with which he has found intellectual fault. He has sworn under oath before the Senate and the Judiciary Committee that he fully accepts and supports many landmark decisions which he criticized as an academic.

I find that the mark of a tolerant and fair mind. Therefore, notwithstanding disagreements I may have with some of his conclusions, I shall vote for Judge Bork.

Exhibit 1

U.S. Court of Appeals,
District of Columbia Circuit,
Washington, DC, October 1, 1987.

Hon. Joseph R. Biden, Jr.,
Chairman,
Committee on the Judiciary,
Washington, DC.

Dear Senator Biden: I would like to thank you and the other members of the Committee for your courteous and insightful questions during my appearance before the Committee. They confirmed my belief that discussion and debate are essential to growth and change in the law. In response to several concerns raised by Senator DeConcini, I would also like to take this opportunity to set out at somewhat greater length my views on the issues of gender discrimination under the Equal Protection Clause and privacy rights.

I. EQUAL PROTECTION

On the gender discrimination question, it has been suggested that I previously maintained that women and members of other non-racial groups were not covered by the Equal Protection Clause, but then changed my view in connection with the confirmation hearings. This is simply inaccurate and, I suspect, stems in large part from confusion about the scope and basis of my criticism of modern equal protection analysis.

There are two basic questions presented when reviewing an equal protection challenge to a legislative classification. The first question is whether the individual disadvantaged by the classification is within the *coverage* of the Equal Protection Clause. The second question is what *standard of review* is employed in assessing the validity of the classification.

With respect to the first issue, the scope of coverage under the Fourteenth Amendment, I have always believed that women are subject to the protection of that provision. A judicial "interpretivist" "or intentionalist" like myself always looks first to the language of the constitutional provision to discern its meaning. Any understanding of the Equal Protection Clause as being inapplicable to women would seem to be directly contrary to the plain language of the Amendment, which prohibits denying "*any person*" equal protection under the law. Indeed, in my 1971 Indiana Law Review Article, I criticized Supreme Court equal protection cases such as *Goesaert* v. *Cleary*, 335 U.S. 464 (1964), which upheld discrimination against women bartenders, as "improper and intellectually empty". Bork, *Neutral Principles and Some First Amendment Problems*, 47 Ind. L. J. 1, 12 (1971).

The sole focus of my criticism in this area has been the method by which the Supreme Court chooses varying levels of judicial review for different groups in our society—the so-called "tier" or "group" approach.

Under this approach, the Court adjusts the level of judicial review depending upon the Court's perception of the relative political power of the group being disadvantaged. If the Court determines that a particular group is a "discrete and insular minority" or otherwise unlikely to succeed politically, it provides the group with "special protection" under the Equal Protection Clause in the form of heightened judicial scrutiny of any classification affecting that group. Suspect classifications, such as race or ethnicity, are subject to "strict scrutiny" and are invariably impermissible as a result. Various other "groups"—aliens, illegitimate children, women, and so on—are subject to different, more lenient standards of review.

I did not and do not believe that this group-based approach is an appropriate or consistent method of analyzing an equal protection claim. First, determining which groups are entitled to special protection is an inherently subjective process which necessarily involves the judiciary in *ad hoc* intrusions into the democratic process. Judges are forced to pick and choose among various elements of society, favoring some and disfavoring others, without any guidance from the text of the Constitution or any principle that can be neutrally applied in various cases. For this reason I have criticized the "protected groups" theory as propounded by Professor John Ely because it "channels judicial discretion not at all and is subject to abuse by a judge of any political persuasion." Catholic University Speech, March 31, 1982.

There is an additional difficulty with the group approach. Since the Court announced that it was protecting "discrete and insular" minorities there was difficulty in explaining why the clause applied to women, a group that is actually a slight majority of the population. Indeed, under the group approach, it would be difficult to explain why the clause should apply to more than racial minorities since newly freed blacks were the focus of concern when the fourteenth amendment was ratified.

If literally applied, and approach based on special solicitude for "discrete and insular" minorities would not only preclude scrutiny of gender classifications but would lead to other absurd results. For example, convicted murderers would be granted "special protection" since they are a discrete and insular minority and certainly without political influence. Considerations of this sort gave me intellectual difficulty in seeing how a group approach could justify extending the clause beyond race and, perhaps, ethnicity, although I also thought that the gender discrimination involved in *Goesaert* v. *Cleary*, should have been invalidated rather than upheld.

I really did not begin to resolve this difficulty until I became aware of Justice Stevens' suggestion in *City of Cleburne* v. *Cleburne Living Center*, 473 U.S. 432 (1985), that the group approach be dropped and a rational basis test be substituted. As he wrote:

"In my own approach to these cases, I have always asked myself whether I could find a 'rational basis' for the classification at issue. The term 'rational,' of course, includes a requirement that an impartial lawmaker could logically believe that the classification would serve a legitimate public purpose that transcends the harm to the members of the disadvantaged class. Thus, the word 'rational'—for me at least—includes elements of legitimacy and neutrality that must always charactrize the performance of the sovereign's duty to govern impartially.

"The rational-basis test, properly understood, adequately explains why a law that deprives a person of the right to vote because his skin has a different pigmentation than that of other voters violates the Equal Protection Clause. It would be utterly irrational to limit the franchise on the basis of height or weight; it is equally invalid to limit it on the basis of skin color. None of these attributes has any bearing at all on the citizen's willingness or ability to exercise that civil right. We do not need to apply a special standard, or to apply 'strict scrutiny,' or even 'heightened scrutiny' to decide such cases.

"In every equal protection case, we have to ask certain basic questions. What class is harmed by the legislation, and has it been subjected to a 'tradition of disfavor' by our laws? What is the public purpose that is being served by the law? What is the characteristic of the disadvantaged class that justifies the disparate treatment? In most cases the answer to these questions will tell us whether the statute has a 'rational basis.' The answers will result in the virtually automatic invalidation of racial classifications and in the validation of most economic classifications, but they will provide differing results in cases involving classifications based on alienage, gender, or illegitimacy. But that is not because we apply an 'intermediate standard of review' in these cases; rather it is because the characteristics of these groups are sometimes relevant and sometimes irrelevant to a valid public purpose that the challenged laws purportedly intended to serve."—*Id.* at 452-454 (footnotes omitted).

This seems to me to provide a much more coherent methodology for application of the Equal Protection Clause than does the group approach. It applies the clause to all persons *as individuals*. Under my view, all persons, including women, illegitimate children, aliens, and others are entitled to protection from classifications which do not rest upon a reasonable basis in fact.

That is, the Equal Protection Clause prohibits unreasonable distinctions among *all* persons; it does not afford special protection to certain groups. In every instance, the question is whether the trait being used to distinguish among citizens is in fact relevant because it actually tells the legislature something about a person's needs, abilities, or merit. If it is not a relevant trait to which a reasonable legislature would attach significance, then it is invidious discrimination and should be struck down.

It seems to me that this method of equal protection analysis is both more objective and more faithful to the language and intent of the Equal Protection Clause. A judge who claims adherence to the framers' intent and to neutral principles must search for a single standard which can be applied to all laws that distinguish between individuals on any basis. The search must begin with core concern of those who drafted the Fourteenth Amendment which is, of course, racial classifications.

The central tenet of the Fourteenth Amendment is that race is an unreasonable basis upon which to judge an individual's worth or status in the community. As Justice Stevens said, race is an attribute over which the individual has no control, which cannot be altered, and which tells society nothing about the individual's moral worth or ability. It is *per se* "unreasonable" for a legislature to make distinctions between individuals based on a trait which is so utterly irrelevant to any valid legislative goal.

In applying the Equal Protection Clause to gender classifications, a judge must refer to the framer's concern with race for guidance. Gender, like race, is an immutable trait. It is a status over which the individual exercises no control, and it indicates nothing about a person's moral or intellectual stature. Since gender is irrelevant to almost all human activities, virtually any statute which limits the opportunities open to women because of their sex would not have a reasonable basis in fact.

For example, in the *Goesaert* case, which I referred to earlier, the Supreme Court upheld a restriction on the opportunity of women to work in bars. Under my analysis, the law would clearly violate the Equal Protection Clause. There is no reasonable basis in fact for distinguishing between men and women in such a situation. The physical differences between men and women have no bearing on their relative abilities in this field. The same is true of virtually every employment situation. One's gender is irrelevant to one's ability as a lawyer, doctor or accountant, and any restriction on women in any of these fields would be as unreasonable as a law which disfavored people with blue eyes.

By focusing on the factual differences between individuals, the reasonable basis test distinguishes between laws which rest on genuine distinctions between persons and those based upon mere stereotypes. A law which limits the combat duties of women in the armed forces may indeed have a reasonable basis. It may be a fact that certain battlefront tasks require a physical strength or speed which very few women possess. Outside of the narrow areas where physical differences between the sexes are relevant, the reasonable basis test would operate to strike down all laws based upon mere habit or assumption. Distinctions based upon outmoded stereotypes can never satisfy a requirement that they have "a reasonable basis in fact" because they are in essence counterfactual, they ignore the factual similarities between persons in favor of unsupported assumptions.

The results in cases like *Reed* v. *Reed*, 404 U.S. 71 (1971), and *Frontiero* v. *Richardson*, 411 U.S. 677 (1973), would not change under my reasonable basis analysis. In *Reed*, the Court struck down a provision of the Idaho Probate Code which established an absolute preference for men over women in the appointment of administrators of estates. *Reed* was the first victory for women under the Equal Protection Clause, and the test applied by a unanimous court was remarkably similar to my own. The Court stated:

"A classification 'must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike,"—*Reed*, 404 U.S. at 76 (citation omitted).

The preference for male administrators in *Reed* was not based on and factual difference between men and women, rather it was the product of an unthinking and *unreasonable* stereotype.

In *Frontiero*, the Supreme Court concluded that an Air Force regulation prohibiting women from claiming their spouses as dependents on the same basis as men offended the concept of equal protection. Four justices would have elevated sex to the category of suspect classifications applying "strict scrutiny." Justices Stewart and Powell, joined by Chief Justice Burger and Justice Blackmun, applied the rational basis test as announced in *Reed*. The result for all eight Justices was the same: the preference for men rested on the outmoded stereotype that men are "breadwinners" and women are dependent upon them. Under my view, the same result would follow. The law had no reasonable basis in fact as applied to servicewomen like Sharron Frontiero, whose husband was a student *dependent on her* for a large part of his support.

There was some suggestion at the hearings that my rejection of a rigid two- or three-tiered approach was a novel or extreme view. Yet both academics and sitting Justices have expressed their problems with this approach. Thus, in 1972, Professor Gerald Gunther wrote in the Harvard Law Review, "There is mounting discontent with the rigid two-tiered formulation of the Warren Court's equal protection doctrine." Gunther, *Supreme Court Foreword: 1971 Term*, 86 Harv. L. Rev. 1, 12 (1972). In *Chicago Police Dep't* v. *Mosley*, 408 U.S. 92 (1972), Justice Marshall criticized "the abstract dichotomy between two different approaches to equal protection that have been utilized by [the] Court." As noted above Justice Stevens has also made his discontent with a group approach crystal clear. See *Cleburne, supra; Craig* v. *Boren*, 429 U.S. 190 (1976) (Stevens, J., concurring).

It has also been suggested that my reasonable basis approach would result in less protection for women, or other nonracial groups that have suffered discrimination, than the current Supreme Court methodology. However, as the discussion above demonstrates, my approach would result in the same or greater protection than that currently afforded women: invalidation of all gender-based distinctions except that narrow category of cases based on genuine biological differences between the sexes. While it is true that the Supreme Court in past eras had upheld gender based discrimination as rational, the same results simply would not obtain today under my analysis.

Under the "three-tier" approach, the rational basis test is the lowest level of scrutiny given to any classification and was often used simply to "rubber-stamp" manifestly irrational distinctions. As previously noted, I *criticized* this toothless and inconsistent "rational basis" analysis, employed in such gender cases as *Goesaert*, as far back as my 1971 Indiana Law Review article. Thus, it is simply inaccurate to compare the "rational basis" analysis employed under the three-tier approach as a device for upholding classifications to the much more searching inquiry I would employ. That is why I prefer to refer to the proper approach as a "reasonable basis" test—to avoid confusing it with the "rational basis" test which has proved wholly unsatisfactory.

Moreover, this comparison fails to recognize that a basic principle of my judicial philosophy is that "it is the task of the judge in this generation to discern how the framers values, defined in the context of the world they knew, apply to the world we know," *Ollman* v. *Evans*, 750 F. 2d at 995-996 (Bork, J., concurring). As I have testified, this means that the reasonableness of a gender-based classification will change along with the role of women in modern society. Even if the framers of the Fourteenth Amendment believed that imposing second-class citizenship on women was reasonable in the 19th century given "the world they knew", it is certainly no longer reasonable in light of the economic and independent status of women in the "world we know". Accordingly, the Court's view of reasonableness must evolve along with that of society in order to "insure that the powers and freedoms the framers specified are made effective in today's circumstances." *Ibid.*

Finally, I should note that I have found that male prisoners state a claim of sex discrimination under the Equal Protection Clause, *Cosqrve* v. *Smith*, 697 F.2d 1125 (D.C- Cir. 1983), and that I argued as Solicitor General that single-sex schools were unconstitutional where the all-female school was unequal. *Vorcheimer* v. *School District of Philadelphia*, 430 U.S. 703 (1977). Both of these actions involved applying the Equal Protection Clause to gender classifications.

In sum, I think my approach to the Equal Protection Clause is fully consistent with the text and history of the Fourteenth Amendment. The reasonable basis test will provide *at least* as much protection for women and racial and ethnic minorities as present Supreme Court doctrine. In some areas it will provide more. Under the present "group approach," if a group fails to qualify for "heightened scrutiny" it receives virtually no protection from discriminatory laws. Since under my approach all individuals are protected by the reasonable basis test, members of these groups would be more fully protected from unreasonable and arbitrary laws than they are at present.

II. RIGHT TO PRIVACY

Another area you asked about is the Constitution's protection of individual liberty. As I commented before the Committee, the Constitution protects numerous and important aspects of liberty. For instance, the first amendment protects freedom of speech, press, and religion; the fourth amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures;" and the sixth and seventh amendments protect the right to trial by jury. All of these freedoms and more are fundamental. A judge who fails to give these freedoms their full and fair effect fails in his judicial duty. But to say that a judge must be tireless to protect the liberties guaranteed by the Constitution does not mean that one can find a right to liberty or personal autonomy more expansive than those found in the Constitution. Once a judge moves beyond the constitutional text, history, and the structure the Constitution creates, he has only his own sense of what is important or fundamental to guide his decisionmaking.

More fundamentally, where the constitutional materials do not specify a value to be protected and has thus left implementation of that value to the democratic process, an unelected judge has no legitimate basis for imposing that value over the contrary preferences of elected representatives. When a court does so, it lessens the area for democratic choice and works a significant shift of power from the legislature to the judiciary. While the temptation to do so is strong with respect to a law as "nutty" and obnoxious as that at issue in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965), the invention of rights to correct such a wholly, misguided public policy inevitably involves the judiciary in much more difficult policy questions about which reasonable people disagree, such as abortion or homosexual rights. (In saying this, I do not preclude the possibility that some cases I have criticized could be defended on more adequate constitutional grounds than the opinions offered. I think I made that clear at the hearings.)

While a legislator obviously can and should make distinctions between such things as the freedom to have an abortion and the freedom to use contraceptives, a court cannot engage in such *ad hoc* policy making. A court cannot invent rights that apply only in one case and are abandoned tomorrow in a case that cannot fairly be distinguished. The process of inventing such rights is contrary to the basic premises of self-government and inconsistent application denies litigants the fairness and impartiality they are entitled to expect from the judiciary.

This was the basis of my criticism of Justice Douglas' opinion in *Griswold*, the case invalidating Connecticut's statute banning the use of contraceptives. To put the decision in perspective, it is important to note that *Griswold*, even in 1965, was for all practical purposes nothing more than a test case. The case arose as a prosecution of a doctor who sought to test the constitutionality of the statute. There is no recorded case in which this 1879 law was used to prosecute the use of contraceptives by a married couple. The only recorded prosecution was a test case involving two doctors and a nurse, and in that case the state itself moved to dismiss.

This point was made by Justice Frankfurter four years before *Griswold* in *Poe* v. *Ullman*, 367 U.S. 497 (1961), a case rejecting an earlier attempt to have the Connecticut law invalidated. In addition, Justice Frankfurter's opinion took judicial notice of the fact that "contraceptives are commonly and notoriously sold in Connecticut drug stores," and concluded that there had been an "undeviating policy of nullification by Connecticut of its anticontraceptive laws throughout all the long years that they have been on the statute books." *Id.* at 502. Thus, it cannot realistically be said that failure to invalidate the Connecticut law would have had any material effect on the ability of married couples to use contraceptives in the privacy of their homes.

My principal objection to the majority opinion in *Griswold* was the Court's construction of a generalized right of privacy not tied to any particular provision of the Constitution to strike down a concededly silly law which is found offensive. Justice Black's dissent, joined by Justice Stewart, made precisely the same point:

"While I completely subscribe to the [view] that our Court has constitutional power to strike down statutes, state or federal, that violate commands of the Federal Constitution, I do not believe that we are granted power by the Due Process Clause or any other constitutional provision or provisions to measure constitutionality by our belief that legislation is arbitrary, capricious or unreasonable, or accomplishes no justifiable purpose, or is offensive to our own notions of 'civilized standards of conduct.' Such an appraisal of the wisdom of legislation is an attribute of the power to make laws, not of the power to interpret them."—381 U.S. at 513.

Of course, had the state actually sought to enforce the law against a married couple, questions under the fourth amendment as well as under the concept of fair warning would certainly have been presented.

Absent a violation of such a specific, constitutionally granted right of privacy, however, it is difficult to discern the constitutional impediment to the Connecticut law. In my view, Justice Douglas' attempt to do so by creating a free-floating "right to privacy" does not state a principle of constitutional adjudication that was either neutrally derived or which could be neutrally applied in the future.

As I stated in my Indiana Law Review article (page 7):

"If we take the principle of the decision to be a statement that government may not interfere with any acts done in private, we need not even ask about the principle's dubious origin for we know at once that the Court will not apply it neutrally. The Court, we may confidently predict, is not going to throw constitutional protection around heroin use or sexual acts with a consenting minor. We can gain the possibility of neutral application by reframing the principle as a statement that government may not prohibit the use of contraceptives by married couples, but that is not enough. The question of neutral definition arises: Why does the principle extend only to married couples?

"Why, out of all forms of sexual behavior, only to the use of contraceptives? Why, out of all forms of behavior, only to sex? The question of neutral derivation also arises: What justifies any limitation upon legislatures in this area? What is the origin of any principle one may state?"

As I went on to note in the article, the "zones of privacy" discussed by Justice Douglas do not really have anything to do with privacy at all. These zones of privacy, I stated "protect both private and public behavior and so would more properly be labelled 'zones of freedom'. If we follow Justice Douglas' next step, these zones would then add up to an independent right of freedom, which is to say, a general constitutional right to be free of legal coercion, a manifest impossibility in any imaginable society. . . . We are left with no idea of the sweep of the right of privacy and hence no notion of the cases to which it may or may not be applied in the future."—Indiana Law Review Article at 9.

With all modesty, my suggestions that the right of privacy was not really about "privacy" as such, that this right would not be applied consistently, and that it would lead the Court into much more difficult moral and social issues, have all proved prophetic.

For example, the "privacy" right recognized in *Roe* v. *Wade*, 410 U.S. 113 (1973)—a right to terminate a pregnancy—is not really about privacy, but is more accurately described as a right to personal autonomy or liberty. Privacy refers to an interest in anonymity or confidentiality whereas liberty describes freedom to engage in a certain activity. The question in *Roe*, therefore, is whether any provision of the Constitution recognizes an individual right to terminate pregnancy against state intrusion. The Court's opinion in *Roe* made no attempt to ground such a right in the Constitution except to say that it was "founded in the 14th Amendment's concept of personal liberty and restrictions upon state action." *Id.* at 153.

This is my difficulty with the opinion. As Justice White's dissent, joined by Justice Rehnquist, stated, there is "nothing in the language or history of the Constitution to support the Court's judgment," which the dissent termed "an exercise of raw judicial power." The due process clause of the fourteenth amendment provides that "No State shall . . . deprive any person of life, liberty, or property, without due process of law." If the clause is read as written, then it guarantees that life, liberty, and property will not be taken without the safeguard of fair and adequate legal procedures to challenge the legality of the deprivation. Once such procedures have been given, and the legality of the deprivation established, the due process clause does not establish an independent barrier to the deprivation. If, on the other hand, the clause is read to protect liberty against deprivation regardless of procedures, then the judge must have a theory for deciding which liberties are protected and which are not since no one would suggest that *all* liberty is immune from state regulation.

So far as I can tell, no one has ever been able to explain why some liberties not specified in the Constitution should be protected and others should not. As far as the Constitution is concerned, when it does not speak to the contrary the state is free to regulate. A judge who uses the due process clause to give substantive protection to some liberties but not others has no basis for decision other than his own subjective view of what is good public policy.

Attempts to read substantive protections of liberty into the due process clause have failed in the past precisely because the clause gives no indication of which liberties are to be preferred to others. In the early part of this century, for example, the Supreme Court read the due process clause of the fifth and fourteenth amendments to protect a generalized liberty of contract, and routinely struck down laws that interfered with that liberty. Thus, in *Lochner* v. *New York*, 198 U.S. 45 (1905), the Supreme Court invalidated a New York labor law limiting the hours of bakery employees to 60 hours a week. Similarly, in *Adair* v. *United States*, 208 U.S. 161 (1908), the Court struck down a federal law prohibiting interstate railroads from requiring as a condition of employment that its workers agree not to join labor unions. And in *Adkins* v. *Children's Hospital*, 261 U.S. 525 (1923), the Court held the District of Columbia's minimum wage law unconstitutional.

As I have said elsewhere, the Supreme Court's modern attempts to use the due process clause as a substantive protection of liberty have also been unconvincing. Although the Court has held in *Roe* that a woman has a constitutional right to receive an abortion, it has more recently held that consenting adults do not have a constitutional right to engage in homosexual sodomy. See *Bowers* v. *Hardwick*, 106 S. Ct. 2841 (1986). Justice White's opinion for the Court in *Bowers* reasoned as follows:

"It is obvious to us that neither ['the concept of ordered liberty' nor the liberties 'deeply rooted in this Nation's history and tradition' formulation] would extend a fundamental right to homosexuals to engage in acts of consensual sodomy. Proscriptions against that conduct have ancient roots."—*Id.* at 2844.

The difference between these two decisions illustrates my point that it is difficult, if not impossible, to apply the undefined right of privacy in a principled or consistent manner. It is difficult to understand why abortion is a constitutionally protected liberty and homosexual sodomy is not. Neither activity is mentioned in the Constitution, both involve activity between consenting adults, and "[p]roscriptions against [both activities] have ancient roots."

Some have said that the principle may be that individuals have a constitutional right to use their bodies as they wish. Not only is this principle to be found nowhere in the Constitution, but also its application would invalidate laws against prostitution, consensual incest among adults, bestiality, drug use, and suicide, not to mention draft laws and countless safety measures such as laws requiring the use of seat belts and motorcycle helmets. This principle is thus far too general to support a particular decision without sweeping in these other cases.

As I stated before the Committee, it would be inappropriate for me to give any indication of how I would vote as a member of the Supreme Court should the issue arise again. But suffice it to say that the question would be one of searching for an appropriate constitutional basis and precedent. As I have emphasized not every incorrectly decided constitutional decision should be open to reconsideration.

Although I cannot claim to have exhaustively researched the question, I do not think that the ninth amendment provides any basis for a contrary conclusion. The ninth amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The historical meaning of this amendment is revealed by the circumstances of its adoption. As you are certainly aware, the original Constitution did not contain a Bill of Rights. Rather, it established a national government of enumerated powers. But during the ratification debates, calls were made with increasing frequency by the so-called Anti-Federalists for adoption of a Bill of Rights. The Federalists raised two objections to inclusion of a Bill of Rights. First, it was said to be unnecessary because Congress would have no power to abridge fundamental rights of the people as the general government was one of enumerated, and therefore limited, powers. Second, the Bill of Rights was said to be dangerous because the reservation of certain rights might be read to imply that power was given to the federal government to regulate all others.

Once James Madison became convinced of the need for a Bill of Rights, Madison defended his proposal as follows:

"It has been objected also against the bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow, by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I ever heard urged against the admission of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution."—(1 Annals of Congress 456 (J. Gales & W. Seaton ed. 1834)).

The clause to which Madison referred was the provision that would later be adopted in somewhat shorter form as the ninth amendment. Thus, it appears that the amendment's instruction that the enumeration "of certain rights, shall not be construed to deny or disparage others retained by the people" was meant to prevent any implication, as Madison put it, "that those rights which were not singled out, were intended to be assigned into the hands of the General Government."

This means that whenever the Constitution does not grant the *power to regulate* conduct to the federal government, the people have a right to engage in that conduct free from *federal* interference even though the conduct is not specified in the Bill of Rights. It must be emphasized that the "right" protected by the ninth amendment runs against the federal government when it undertakes to regulate individuals through an unwarranted expansion of its powers. For this reason, it makes little sense either textually or historically to speak of ninth amendment rights enforceable against the *states*. As I have said elsewhere, if that were the meaning of the ninth amendment, then surely there would have been heated debate in the state ratifying conventions, and litigants and courts would have invoked the amendment in that capacity. That neither occurred, I think, is strong evidence that the amendment was not intended to create federally enforceable rights against the states.

Moreover, even if one agrees with the recent suggestion that the ninth amendment protects natural rights against state and federal intrusion, the nature and scope of those rights is undefined and virtually limitless. For example, John Locke, a thinker whose writings profoundly influenced the framers' view of "natural rights," regarded property and contract rights as among the most important natural rights of men. Accordingly, if the ninth amendment were to be interpreted as a grant of liberty against government intrusion, it would necessarily include the freedom of contract. Of course, this would lead to invalidation of the worker protection legislation struck down by *Lochner* and its progeny, or any other form of economic regulation that hampers the "right" to contract.

Alternatively, members of the Supreme Court have invoked their own notions of natural law in the past. For example, Justice Bradley's concurrence in *Bradwell* v. *State*, 83 U.S. 130 (1973), upholding a law forbidding women from practicing law, states: "The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. . . . [The] paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."

But those who now urge reliance on the ninth amendment see a different set of natural rights emanating from the ninth amendment. For example, Professor Tribe filed a brief with the Supreme Court in *Bowers* v. *Hardwick* suggesting that one of the rights "retained by the people" under the ninth amendment is the right to engage in homosexual sodomy. Equally plausible are claims that the ninth amendment protects drug use, mountain climbing, and consensual incest among adults. Certainly the text of the amendment makes no distinction among any of these "rights." Therefore, unless the ninth amendment is to be read to invalidate all laws that limit individual freedoms, judges who invoke the clause selectively will be doing nothing more than imposing their subjective morality on society.

Although Justice Goldberg's concurrence in *Griswold* invoked the ninth amendment, the problems just discussed are, I think, the reason why the Supreme Court has *never* rested a decision on the ninth amendment. For instance, even Justice Douglas, the author of the majority opinion in *Griswold*, stated in a concurring opinion in the companion case to *Roe* v. *Wade*, that "The Ninth Amendment obviously does not create federally enforceable rights." *Doe* v. *Bolton*, 410 U.S. 179, 210 (1973) (Douglas, J., concurring). Unless someone can find a way both to read the ninth amendment to apply against the states and to discover which additional rights are retained by the people, I do not see any principled way for a judge to rely on the clause to invalidate state laws.

There is one final matter I wish to mention. There appears to be some confusion concerning my view of, and the Court's decision in, *Skinner* v. *Oklahoma*, 316 U.S. 535 (1942). *Skinner* held that a state statute requiring sterilization of recidivist robbers but not embezzlers worked "a clear, pointed, unmistakable discrimination," *id.* at 541, and therefore violated the equal protection clause of the fourteenth amendment. It is important to understand the rationale given by the Court for its decision. The Court did *not* rely on a substantive due process right to privacy. In fact, the Court declined Chief Justice Stone's invitation in a separate concurrence to decide the case under the due process clause. Instead, the Court rested its decision squarely on the equal protection clause: "The equal protection clause would indeed be a formula of empty words if such conspicuously artificial lines could be drawn." *Id.*

In my 1971 article, I was critical of what I believed to be the Supreme Court's inconsistent application of the equal protection clause. I cited six cases as examples in which the Court both upheld and invalidated challenged classifications. One of the cases I cited was *Skinner* v. *Oklahoma*. I did not cite *Skinner*, or any other case I listed, for the correctness or incorrectness of its holding. Rather, my point was merely that it appeared that "the differing results cannot be explained on any ground other than the Court's preferences for particular values." Indiana Law Review at 12. This was the sum total of my "criticism" of *Skinner*, and I think it is at best inaccurate to suggest, as some have, that my inclusion of *Skinner* in a string cite means that I disagree with the decision in the case.

As I stated in my testimony before the Committee, the state's decision to sterilize robbers but not embezzlers may have been indicative of racial bias because the statute operated disproportionately against racial minorities and the poor. If that is true, and if robbery and embezzlement are, as the Court said, "intrinsically the same quality of offense," 316 U.S. at 541, then I think it may be fair to say the state engaged in impermissible discrimination. In addition, I note that sterilization of criminals raises serious and independent questions under the eighth amendment's prohibition on cruel and unusual punishment, questions neither I nor the Court addressed.

I hope that these additional comments prove to be of assistance to you.

Sincerely,

ROBERT H. BORK.

NOW IT'S UP TO THE SANDINISTAS

Mr. DOLE. Mr. President, yesterday afternoon, I and a number of other Senators were briefed by the leaders of the Nicaraguan Democratic Resistance on their plan to return to Managua—and challenge the Sandinistas to make good on their commitment to the Guatemala City peace accord.

What the freedom fighters seek is so simple and fair that it will stand as a clear, clear test of the Sandinistas true intentions. They want to go back to their own country; they are not asking for any amnesty, because they don't believe that wanting their freedom is something that requires anyone's pardon or forgiveness.

What they do want is to sit down and talk with the Sandinistas—no preconditions, except for guarantees of their safe conduct; and they want to talk about how to stop the fighting; how to stop the war.

The resistance forces intend to ask the democratic governments of Central America to provide an escort delegation—and there is reason to believe that will happen.

In addition, the freedom fighters have also asked whether a congressional delegation would be available to accompany them—as a further guarantor of their safe conduct. And several Senators—including Senator McCAIN, who heads the Republican Senators on the Central America observer group—have already agreed.

President Arias—who has just won the Nobel Prize and has been rightfully hailed in this Chamber—President Arias has endorsed the idea of direct talks; he says, flat out, that the Sandinistas are bound to accept such talks, if their word is good.

President Duarte told me, and other Senators, yesterday that he endorses this effort. President Azcona has already spoken out in favor of direct talks. And President Cerezo wants these talks, too—just as he has already talked to the resistance forces in his own country.

So every signator of the Guatemala City accord favors this idea—except one.

And what does Daniel Ortega say?

Well, I don't want to keep anybody in suspense.

He says n-o. No. Not now. Not ever.

And he says: If the resistance leaders come back here, and this is a quote:

> They will go to jail—even if they arrive accompanied by American Congressmen, they will go to jail.

That is adherance to the Guatemala City accord, Sandinista style.

That is good faith pursuit of a cease-fire, Sandinista style.

That is justice, Sandinista style.

Daniel Ortega has given us his answer, Sandinista style.

I hope we have all listened carefully, and understood.

Mr. President, it seems to me that those who, for some reason I have not been able to determine, continue to support Daniel Ortega and his Marxist government in Nicaragua, and those who support the Arias peace plan—there has been a lot of rhetoric about it on the Senate floor, a lot of talk about it, and it was a good idea and it ought to be given every opportunity and every chance for peace with freedom.

But, in order to make the Arias plan work, each of the five Central American countries and their leaders must be willing to cooperate. President Duarte is talking with rebels in his country, trying to reach some agreement, some cease-fire to bring them back into the system. All Daniel Ortega has to do is to sit down with the Contras, no preconditions, and talk about the future: talk about a cease-fire; talk about peace with freedom; talk about lifting emergency decrees; talk about freedom of the press. Restore democracy to the Nicaraguans. But democracy that also means liberty, means freedom, means the same in that country as it means in the United States.

But Ortega told reporters in Nicaragua today, "As long as they don't accept amnesty and put down their arms, they are going to jail."

I am not certain that is part of the Arias peace plan. I do not believe it is. I think many of us felt from the start that this plan would never work because of one roadblock and that roadblock was Daniel Ortega, who is a Communist who has no interest in giving up any of his power over the poor Nicaraguan people, many of whom live in abject poverty.

He informed us when we were there recently: Oh, we have peace in Nicaragua. Well, they have all the guns. They have over 150,000 men under arms in that small country.

Everybody else lives in fear, whether it is the Catholic Church or whether it is the newspapers or whether it may be peasants that we saw and refugees that we visited in Honduras.

It seems to me that those who support the Sandinista government in this Chamber, those who seek to deny aid to the freedom fighters who want only freedom, democracy, should weigh very carefully the words of Daniel Ortega, who said also in this statement that I just referred to:

> Even if they arrive accompanied by American Congressmen, they will go to jail because they are guilty of crimes against the Nicaraguan people.

I am not certain when members of the resistance are going to Managua, but when they do, I am quite certain there may be Members of Congress accompanying them. I would hope that Daniel Ortega would assure safe passage and safe conduct and I would hope the leaders of the other countries would insist on safe passage and safe conduct.

I just believe that Daniel Ortega, as I said, in Sandinista style, has given us his answer. The answer is he does not want to deal with anyone who wants freedom. He wants what he calls democracy as he defines it: Democracy at the end of a gun, where people can be intimidated, where people live in abject poverty, where people flee the country by the hundreds of thousands because of Daniel Ortega and the Soviet-Cuban influence in that small country.

So I would hope that Mr. Ortega just had a bad day or bad night, that he will understand in the final analysis that the Central American countries are going to insist on fairness, and I would hope that there can be direct negotiations.

Mr. President, I ask unanimous consent that the entire text of the wire story be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. CENTRAL AMERICA

(By Jim Drinkard)

WASHINGTON.—Leaders of Nicaragua's Contra rebels say they're ready to play "hardball" in the Central American peace process by traveling to Managua for direct talks aimed at achieving a cease-fire.

But Nicaraguan President Daniel Ortega says they'll find jail cells rather than a negotiating table waiting for them unless they agree in advance to lay down their arms.

Salvadoran President Jose Napoleon Duarte today endorsed the idea of Contra leaders going to Nicaragua. "I think that's a good idea that people from Nicaragua go back to Nicaragua and present themselves and say, 'here we are, accept the amnesty, we want the ceasefire.' I think that's a very good attitude," said Duarte on NBC's "Today."

The Contra directorate on Thursday proposed the direct talks in Managua to work out a cease-fire by the Nov. 7 deadline set in a regional peace plan.

"We are starting today the hardball game in the peace process," said Alfredo Cesar, a member of the directorate. "So far, the Sandinistas have been able to comply with the easy part of the plan."

Since it joined four other nations in the Peace Accord Aug. 7, Nicaragua has restored some press freedoms and civil liberties and has declared a unilateral cease-fire in some parts of the country.

But the leftist Sandinista government has steadfastly refused in the past to talk directly with the rebels, contending that they are creatures of U.S. policy and that any talks should be with the United States.

Ortega told reporters in Nicaragua on Thursday that "as long as they don't accept amnesty and put down their arms, they are going to jail."

"Even if they arrive accompanied by American Congressmen, they will go to jail because they are guilty of crimes against the Nicaraguan people," he said.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

THE MINNESOTA TWINS

Mr. BOSCHWITZ. Mr. President, I rise today to salute an impressive group of Minnesotans. They have distinguished themselves in the past 10 days, and I predict they have even a brighter future ahead of them. They are the Minnesota Twins, and to anyone who follows baseball, they are truly the exciting success stories of recent years.

The players who make up the core of this team came to the major leagues together in 1981, and in 1982 they were on the losing side of what those of us in politics would call a landslide. In the 1982 season they lost 102 games. Putting that in political terms, they would have lost an election and got only 39 percent of the vote. That would discourage most politicians from running again.

But the team did not give up. Two years later they were in a pennant race, but came up short. Then, in 1987, they finally won the American League's West Division title. Few gave them a chance to win the league championship series against the Detroit Tigers.

These Twins, however, drew from a secret source of strength. That source was the incredibly supportive crowd they found in the Humphrey Metrodome in Minneapolis. As a national television audience saw last week, more than 50,000 Minnesotans cheered, clapped, and whistled their way through the beginning of one of sport's great upsets. And finally, on this past Monday, the Twins beat Detroit for the fourth time, putting Minnesota into the World Series for the first time in 22 years.

Besides winning a pennant, however, this talented group has done something else. They have brought Minnesotans together with a wonderful sense of community and State spirit. I have not been back to Minnesota since the pennant was clinched on Monday, but everyone I talk to says the entire town, the folks are going crazy. Last Monday night, as the team returned from Detroit, more than 50,000 people crowded into the Metrodome well after 10 p.m. to welcome them home. It has been a great outpouring of the Minnesota spirit.

Yesterday my colleague Dave Durenberger distributed "homer hankys" to many of us, and I will join in his invitation to all of you—with the exception of my two distinguished friends from Missouri—to become honorary Minnesotans for the next few days as you root for Herbie, Kirby, G-Man, and all the others as they attempt to bring Minnesota its first world championship in any sport in more than 25 years.

Mr. President, I hail those heroes from Minnesota. I yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

NATIONAL SECURITY REQUIRES THAT WE HAVE A STRONG DOMESTIC EXPENDABLE LAUNCH VEHICLE PROGRAM

Mr. WIRTH. Mr. President, I rise today to address an issue of grave importance to the economic viability of an industry essential to America's national security and to the maintenance of our traditional leadership role in the utilization and exploration of space—the commercial launch industry. Despite the initial promise of the development of a private sector launch capacity, this new industry may be threatened by unfair foreign competition from the non-free-market economies of the Soviet Union and China.

During recent consideration of the Commerce, Justice, State, and Judiciary spending bill, I had considered offering an amendment to prohibit any Federal funds from being used by the Department of State to issue a license for the export of domestic communications satellites—which the domestic manufacturers of these devices would be required to obtain in order to use Soviet or Chinese launch capabilities. However, at this time, I do not think this step is necessary, since the State Department and the Defense Department appear to be determined to prevent the export of this critical technology.

Nevertheless, this is an issue about which I feel strongly and which I believe should be addressed on the Senate floor.

Following the tragic loss of the space shuttle *Challenger*, it became clear that it was unwise to expect the Shuttle Program to accommodate all of our military and civilian needs for access to space. As we took the success of the shuttle and our Space Program for granted, the domestic industrial capability for the development and construction of expendable launch vehicles [ELV] was allowed to languish. With the shuttle's failure and no quick fix in sight, America suddenly found its doors to space closed.

However, with the passage of the Commercial space Launch Act of 1984, and the administration's revocation of all contracts for the shuttle launch of commercial payloads, the market became fertile for the development of an expendable launch vehicle industry. Several American companies have responded admirably to the challenge extended by the Government, including two which have a significant presence in my own State of Colorado—Martin Marietta and McDonnell Douglas. These corporations have made significant investments in the development, construction, and marketing of a private sector launch capacity. This domestic fleet of expendable launch vehicles [ELV's] will not only remove significant pressures on NASA to launch, but, by assuring America's access to space, will contribute to our economic and national security.

Unfortunately, a serious threat to the continued welfare of this fledgling industry—and, consequently, our Nation's essential ability to gain and retain access to space—has developed. Recently the Soviet Glavkosmos, which launches the Proton launch vehicles, and the Great Wall Industry of China, which operates the Long March launch vehicle, have begun to offer cutrate deals to United States manufacturers of satellites, the primary purchasers of private expendable launch vehicles. And I understand that both Hughes Space and Communications Group, and General Electric/RCA are interested in pursuing the Soviet and Chinese offers. In other words, two large American companies are asking that they pursue launching their satellites on Soviet and Chinese launch vehicles.

One of the attractions of the Chinese and Soviet launch programs to United States satellite manufacturers is their relatively low cost. That should not be surprising. Our domestic manufacturers of expendable launch vehicles cannot successfully compete against the Government-subsidized and controlled Chinese and Soviet ELV manufacturers. The substantial Government subsidies received by both the Proton and Long March vehicles reduce the price of placing a satellite in orbit to less than half that for a comparable American launch. With higher labor costs and the need to recover expenses, and in the absence of Government subsidies domestic ELV companies are hard pressed to remain in business in the face of such subsidized competition.

If we permit the Soviets and Chinese to undercut our domestic expendable launch vehicle industry, its demise is virtually certain. And with its loss, America will also lose its ability to launch both civilian and military payloads. Moreover, launching satellites on Soviet ELV's will risk delivery of America's far-superior satellite technology to the U.S.S.R., further compromising our national security.

Mr. President, I want to urge both U.S. satellite manufacturers to resist the allure of the heavily subsidized Soviet and Chinese launch programs. The participation of Hughes and General Electric/RCA in our domestic commercial launch industry is essential to its ability to survive and flourish. The State and Defense Departments are correct in insisting that satellite technology not be exported to Communist countries. Instead, we should be building a strong, viable expendable launch vehicle industry at home that will preserve and further our national security and ability to utilize space—without any dependence on foreign nations.

And I want to commend the Departments of Defense and State for their steadfast resistance to granting the licenses necessary if we were to export domestic communications satellites. I'm all for as much trade as possible, and the fewer the trade barriers the better. But the idea of licensing the export of our technology so the U.S.S.R. can carry our satellites is just going too far. I stand ready to amend whatever legislative vehicle may be available if DOD and State were to change their present position. We should launch our satellites with American launch vehicles, and strengthen—not weaken—our commercial launch industry.

I yield the floor.

NOMINATION OF JUDGE ROBERT BORK

Mr. D'AMATO. Mr. President, I have today a statement regarding the nomination of Judge Robert Bork.

Mr. President, I have reviewed the testimony from the confirmation hearings and considered carefully the thoughts of my colleagues.

Let me say that Judge Bork would not have been my personal choice for the Court. I have serious concerns about certain of the statements and positions he has taken both in his writings over the years and in his testimony before the Judiciary Committee. I am particularly troubled by his apparently restrictive view of the application of the 14th amendment to the rights of all of our citizens. At the same time, it is clear to me that the judge's views on these matters have been somewhat misrepresented.

It is worth noting that Judge Bork was unanimously confirmed in 1982 by this body to serve as a judge in the U.S. court of appeals. Seventy-two of my present colleagues were Members of the Senate at that time.

Since that time Judge Bork has participated in over 400 decisions and authored 125 opinions. In 95 percent of those cases, he joined his colleagues in the majority. The Supreme Court reversed none of those decisions.

In each of the six cases in which a matter reached the Supreme Court in which Judge Bork had dissented—every single one—the Supreme Court agreed with Judge Bork and reversed the majority. Every one, Mr. President. That is hardly the record of a judge beyond the mainstream. Judge Bork has instead consistently reflected and been upheld by his colleagues on the court of appeals and the Supreme Court.

Judge Bork is the President's choice. My job as I see it is not to test the adherence of the President's nominee to my particular views. My job, and that of my colleagues is thoughtfully, carefully, and honestly to judge him on his qualifications, experience, integrity, and temperament. Based on those standards, Mr. President, I will vote to confirm Judge Bork, knowing that this nomination will be rejected. Hopefully, the President will quickly nominate someone who will represent the best of the Reagan revolution, and who will be confirmed quickly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is there time remaining in morning business?

The PRESIDING OFFICER. The time has expired.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the time be extended 20 minutes and that Senators may be permitted to speak therein for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, first let me acknowledge and thank our leader for the extended time and the courtesy. I am very appreciative. I know it has been a long day and I will not prolong it other than I think this is an important matter for the body to consider.

(The remarks of Mr. MURKOWSKI relating to legislation are printed under "Statements on Resolutions.")

Mr. MURKOWSKI. I want to again thank the majority leader for his willingness to accommodate me. It is most appreciated. I thank the Chair as well.

Mr. BYRD. Mr. President, the Senator is welcome. He is always most cooperative and courteous and understanding. I am doing the best I can to return that understanding and courtesy.

THE SPECTER OF SEQUESTER: III

Mr. CHILES. Mr. President, yesterday the Congressional Budget Office released its initial sequester report.

For those who haven't been paying that much attention to the situation, the report may hit them about the same as if somebody dropped a toaster in the bathtub. Unfortunately, a lot of folks haven't taken sequester all that seriously. They seem to think it's a tolerable way to sidestep the choices that deficit-reduction requires.

I have a hard time understanding that kind of approach.

If you've looked at the financial news the last couple of days, it's clear that Rome is on fire again while people are standing around with fiddles on their shoulders.

Wednesday, the stock market dropped a record 95 points. Yesterday, it dropped nearly 58 points. That's more than 150 points in just 2 days.

Chemical Bank, the fourth largest bank in the country, has raised its prime rate from 9.25 to 9.75 percent.

Mr. President, with the market dropping, and our trade deficit continuing at record levels, interest rates are up and climbing.

To keep attracting the foreign funds needed to fuel our borrowing habit, we have to dangle even higher incentives. So the cycle goes on and on and on.

Bigger deficits? More borrowing.

More borrowing? Higher interest rates.

Higher interest rates? A depressed economy.

All those things are staring us right in the face, and we can't find a way to reduce the deficit less than one-half of 1 percent of GNP.

And it's not only a matter of what we won't do. It's also a matter of how this inertia tends to undo programs we've already set in place.

It was just last year, Mr. President, that most everybody in Congress as well as the President of the United States were worried about the terrible drug problem in this country.

We didn't just sit around and assume the problem would take care of itself. We did something. We passed comprehensive antidrug legislation. We faced up to our responsibility.

But right now, with a Presidential sequester hanging over our heads, there are precious few people who seem to care very much. Well, believe me, they ought to care plenty. If sequester goes through, it will go against the grain of the drug legislation we passed less than a year ago.

For one thing, a sequester would mean a cut of $45 million in the Drug Enforcement Administration—the spearhead agency in the fight against drugs. Let me explain what those cutbacks would mean

It would mean an 11-percent furlough of Drug Enforcement personnel. It would mean cutbacks in modernization activities and a freeze on building expansion mandated by the drug bill. Ongoing operations like the Cocaine Investigation Program would be cut back. And the South American drug interdiction effort known as Operation Snowcap would be trimmed

Those are serious cuts. It seems to me that if we're serious about fighting the drug war, we better start getting serious about fighting the sequester war

A sequester would also mean a $90 million cut from the 1987 appropriated level for the U.S. Customs Service. A cut that size converts into a likely average furlough of 1 day a week for all Customs Service employees. Besides the cut in usable manpower, there will also be cuts in key programs.

We can expect a decline in seizures of narcotics. Here's an example. The Customs Air Interdiction Program just acquired enough helicopters to keep surveillance underway 7 days a week, 24 hours a day. Sequester would cut those activities down to 5 days a week, 8 hours a day. Mr. President, if drug smugglers worked 9 to 5, observed rules of etiquette and took weekends off, maybe these cuts wouldn't be so bad. But my guess is there are a lot of smugglers who might think sequester's not such a bad idea.

The fact is, Mr. President, the impact of a sequester would range through our law enforcement activities.

The FBI would lose $119 million from the 1987 level of budget authority. We'd end up with a hiring freeze, and furloughs of 1 day a month for most employees. The National Drug Policy initiative would be undermined as personnel reductions would mean the loss of 873 agent work years. That comes down to less work just when and where it's needed most.

Within the past year, Congress approved a sweeping new immigration law. To enforce that law, we approved the hiring of 2,400 new personnel, and most of those were supposed to be hired in fiscal 1988. A sequester would mean that 65 percent of those positions couldn't be filled.

The immigration law also called for a 50-percent increase in border patrol personnel, but sequester would make that kind of a build-up all but impossible. We aren't going to keep our borders safe with sandstone lions and paper tigers. We need the kind of well-trained, qualified people we'll lose under a sequester.

Sequester will mean cuts in Federal prison funding. It will cut $14 million for the U.S. Marshal's Service, and undermine their efforts under the Comprehensive Crime Control Act.

For the Coast Guard, a sequester under the latest action would mean a $170 million reduction. A cut that size could mean taking out of service as many as one-third of the drug-interdiction boats; one-sixth of all the patrol boats; a loss of 3,000 military pesonnel, and other substantial cuts in the drug war.

Mr. President, sequester means giving up the chance to make choices. When money is cut automatically, we lose the chance to decide how to safeguard key programs.

Right now, the clock has started running, and we're in the middle of a countdown to an avoidable accident. But I don't hear people voicing their indignation. I don't see meetings underway to deal with the problem. The phone in my office hasn't been ringing off the hook with calls from the White House.

It's almost as though the operating principle right now is to turn your back, and get as far away from the problem as possible to avoid being hit when the sequester falls.

Mr. President, if and when the sequester falls, there's no place to go that's far enough away to protect us from the consequences.

What it comes down to is this: It's time we were for something rather than just being content to do nothing. For the life of me, I can't understand how we can get enthusiastic enough to work day and night to address our law enforcement needs, then let sequester take apart what we worked so hard to put together.

I ask unanimous consent that a fact sheet detailing the effect of a sequester on law enforcement programs, along with an analysis of the CBO report by the staff of the Senate Budget Committee be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET: EFFECTS OF A SEQUESTER ON LAW ENFORCEMENT AND JUSTICE PROGRAMS

A sequester would result in reductions from 1987 enacted levels of $119 million in budget authority for the Federal Bureau of Investigation (FBI). Approximately, 60 percent of the cut would be applied to personnel accounts resulting in a hiring freeze and mandatory employee furloughs of at least one day a month. Upper grade employees would be furloughed for two days a month. The cut would result in a loss of 873 agent work years and 2058 support personnel work years, effectively returning the FBI to near its 1984 operational level. In addition, initiatives such as the five-year Foreign Counter Intelligence Initiative (FCI) and the National Drug Policy Initiative would be largely undermined. Modernization efforts in an effort to maintain pace with technological advances would also be hampered.

A sequester would cut $69 million in budget authority from 1987 enacted levels for the Immigration and Naturalization Service (INS). The INS is the agency responsible for implementing the recently enacted Immigration Reform bill. Because 1988 is the critical year for implementation of the bill, a sequester would severely inhibit the ability of the INS to carry out the bill's mandates. For example, 90 percent of the 2,400 positions authorized by the Immigration Bill are due to be hired in the 1988 fiscal year. A sequester could mean that as much as 65 percent of those positions might not be filled. The bill calls for a 50 percent increase in border patrol personnel within the next 4 years. Again, a sequester would hamper this buildup. The INS is also required to administer the "Special Agricultural Worker" program in which massive growth is expected. This program screens aliens who want to work in a temporary capacity for American employers. A sequester would reduce the number of employees the INS could use to administer this program and thus delay approval of work permits during the crucial harvest season. Finally, a sequester would prevent the INS from hiring and training the personnel necessary to carry out the border enforcement, amnesty and employer sanction provisions of the Immigration Bill.

A sequester would mean a cut of $45 million for the Drug Enforcement Administration—the lead federal agency in the fight against drugs. The result would be an 11 percent furlough of DEA personnel, a reduction in employee transfer and promotion efforts, cutbacks in modernization activities and a freeze on building expansions undertaken in response to mandates in the recently enacted Drug Bill. Ongoing operations such as the Cocaine Investigation program would be curtailed. The South American drug interdiction effort known as Operation Snowcap would also have to be cut back.

A sequester would mean a $70 million cut in federal prisons funding. Because personnel comprise 65 percent of the funds, a sequester would result in a 6 week furlough for each of the 12,000 federal prison system employees. Personnel would bear the brunt of cuts because the remainder of the prisons budget is made up for nondiscretionary items such as food and clothing for prisoners. A sequester raises the issue of how well federal prison administrators will be able to meet the agency's mission in the coming years. Since 1981, the inmate population has grown from 24,000 to 44,000. Federal prisons are currently 60 percent over capacity. Recently enacted laws, such as the drug bill, presage even more growth by imposing minimum penalty requirements and narrow sentencing guidelines. In fact, the U.S. Sentencing Commission predicts the inmate population will at least double within 10 years. The General Accounting Office estimates that the cost of prisons to house those inmates will run between $2 and $5 billion.

A sequester would mean a cut of $14 million in funds for the U.S. Marshals Service. A sequester will eliminate program increases needed to address the Comprehensive Crime Control Act and other anti-drug activity. For example, time devoted to criminal proceedings is expected to increase by 10,000 hours, prisoners' transportation expenses will grow by 15 percent and participants in the endangered witness program are expected to rise by 290 people. Current services provided by the Marshals would also be reduced by a sequester. For example, the number of new witnesses admitted to the witness protection program could be limited. Child visitation enforcement might be eliminated except in the case of a court order. Security services provided to the judiciary could be reduced, causing a backlog in court calendars and increasing the time prisoners spend in jail in violation of their Speedy Trial Act rights. Finally, a sequester would eliminate flexibility the Marshals Service might need to respond to emergecy situations at a time when major organized crime and drug cartel leaders are entering the system.

A sequester would mean a cut of $90 million from 1987 appropriated levels for the U.S. Customs Service. Because the Customs Service account is personnel intensive, staff would bear the brunt of cuts. The sequester would likely mean an average furlough of one day per week for all emloyees, thus reducing staffing levels for all Customs activities. While the primary impact of a sequester would fall on personnel the secondary impact will be on services. Likely effects include a decline in narcotics seizures, a slowdown in the processing of cases and decreased readiness for a variety of programs. For example, the Customs Air Interdiction program just completed acquisition of helicopters and other capital equipment necessary to support activities seven days a week and 24 hours a day. With reductions in staffing levels, however, this program and others like it would suffer from decreased deterrence. Readiness on many programs like this one might drop to five days a week and eight hours a day. The Customs Service recently added 950 employees to Project Alliance, its Southwest Border facilities initiative. A sequester would clearly erode the effectiveness of this program by reducing the funds available to support border control activities.

Coast Guard Operations.—The Coast Guard has recently assumed new responsibilities in the war on drugs which are in addition to its existing responsibilities for marine safety and law enforcement. A sequester under latest action would result in a reduction of $170 million, leaving funding for operations at a level of $1.8 billion. A short-term C.R. sequester would result in a cut of $168 million and a post-sequester program level of $1.6 billion. These reductions would seriously cripple drug interdiction efforts, resulting in laying up of at least one-third of the Coast Guard's medium endurance cutters used in the Caribbean. Three C-130s, scheduled for delivery in 1988, would have to be mothballed. 16 to 95 patrol boats would be laid up and unavailable for law enforcement and drug interdiction activities. Finally, military personnel would have to be reduced by 3,000 either by attrition or forced outages.

THE POTENTIAL EFFECTS OF A SEQUESTER UNDER THE AMENDED GRAMM-RUDMAN-HOLLINGS LAW

THE GRAMM-RUDMAN-HOLLINGS SEQUESTER

If by November 20th the Congress does not act to reduce the deficit by $23 billion, the revised Gramm-Rudman-Hollings law will trigger across-the-board spending cuts. Half of the required reductions would come from defense programs. The other half would be taken out of domestic spending with discretionary programs bearing the brunt of the cuts.

A full sequester would lead to deep cuts in both defense and high-priority domestic programs. Funding levels would fall far below the amounts envisioned by Congress in the 1988 budget resolution. In fact, a sequester would cause defense and domestic discretionary spending to drop beneath 1987 levels in absolute dollar terms.

The sequester would leave military spending nearly $11 billion short of the high tier level called for in the Congressional budget resolution. Domestic outlays would be reduced at least $5 billion below Congress' intent.

IMPACT ON DEFENSE PROGRAMS

Under a $23 billion sequester, $11.5 billion in outlays and $28.7 billion in budget authority would be cut from defense accounts. The uniform across-the-board cut in all defense programs, projects, and activities (PPA) other than military personnel would be 10.4 percent. On October 10, the President exercised his discretion under the new G-R-H law and chose to exempt military personnel accounts from sequestration. As a result, the remaining defense accounts would have to absorb a larger share of the required cuts.

For defense, the Gramm-Rudman-Hollings law requires that both new 1988 budget authority and prior-year unobligated budget authority (about $50 billion) be sequestered by the same percentage. Under a $23 billion sequester, new budget authority would be cut by $23.7 billion and prior-year budget authority would be cut by $5.0 billion. A total of $28.7 billion less in budgetary resources would be available for defense programs in 1988.

The impact of a full sequester on defense is most revealing when compared to the 1988 budget resolution. Defense budget authority and outlays would be substantially below both the high and low tier levels in the budget resolution, as shown in the following table. A full sequester would yield a budget authority level $16.7 billion below the high tier and $9.7 billion below the low tier (The differences are even greater if $5.0 billion in prior-year BA cuts are included). Outlays would be $10.9 billion less than the high tier and $5.0 billion below the low tier.

POST-SEQUESTER DEFENSE LEVELS COMPARED TO BUDGET RESOLUTION

[In billions of dollars]

	1988	
	Budget authority	Outlays
Budget resolution:		
High tier	296.0	289.8
Low tier	289.0	283.9
Midpoint	292.5	286.9
Post-sequester total (full exemption of Mil. Personnel)	279.3	278.9
Compared to:		
High tier	−16.7	−10.9
Low tier	−9.7	−5.0
Midpoint	−13.2	−8.0

In the absence of full-year defense appropriations at the time of the final sequester order on November 20, the defense sequester would be taken from whatever part-year continuing resolution (C.R.) is operative at the time. Each defense program would be reduced from the 1987 level in a continuing resolution and not the Gramm-Rudman-Hollings baseline. As a result, defense budget authority and outlay levels would drop even lower.

SEQUESTER FROM SHORT-TERM C.R. FOR NATIONAL DEFENSE

	Budget authority	Outlays
C.R. level	291.4	284.5
Sequestration amt	−23.7	11.5
Post-Sequester level	267.7	273.0
Prior yr. BA cut	−5.0	

A $23 billion sequester would result in the first year-to-year reduction in defense outlays since 1975. Some of the programmatic effects of a sequester of $11.5 billion in outlays and $28.7 billion in budget authority would include:

RESEARCH AND DEVELOPMENT

The post-sequester funding level would be 23 percent lower than the President's request—$10 billion lower in budget authority and $6 billion in outlays.

The Strategic Defense Initiative would be cut by nearly $2 billion; the C-17 transport plane by more than $600 million; the Advanced Tactical Fighter by more than $300 million; and, the National Aerospace Plane by nearly $100 million.

Operations and Maintenance: The funding level after sequestration would be below the President's 1988 budget request by $11 billion in budget authority and $8 billion in outlays.

Readiness programs would be substantially affected. Flying hours for all services could be reduced below 1980 levels. Naval steaming hours could be cut by 20 percent.

The revised GRH law allows the President to propose modifications to the sequester order to reduce the outlay cuts (partially or entirely) in some programs so long as outlay cuts in other specified defense programs are increased by an equivalent amount. Congress would have to approve such a proposal (or develop its own version). The total outlay cut under a Presidential proposal could not be decreased. The total BA cut might change, however, depending on the program mix of the proposed modifications.

IMPACT ON DOMESTIC PROGRAMS

Under a $23 billion sequester, $11.5 billion in outlays and $17 billion in budget authority would be cut from domestic programs. As a result, domestic outlays would be below the 1988 budget resolution by $5.2 billion, and domestic budget authority, by $13.2 billion. Cuts under a sequester would be taken principally from the one-third of the domestic budget made up primarily of discretionary spending.

These discretionary program outlays would be cut by $9.9 billion—a uniform 8.7 percent reduction. Mandatory spending programs with special rules—such as Medicare and guaranteed student loans—would absorb the remaining $1.6 billion of reductions. Programs exempted under the Gramm-Rudman-Hollings law, and outlays resulting from existing obligations and contracts, are not affected by the sequester.

1988 DOMESTIC SEQUESTER

[In billions of dollars]

Total required outlay reduction	11.5
Outlay savings under special rules	1.6
Outlay savings remaining	9.9
Sequester outlay base	113.5
Uniform sequester percentage (in percent)	8.7

Significant domestic program cuts include:

Chapter 1 education funding for disadvantaged children would be reduced below levels in the Senate Labor/HHS bill by $390 million in budget authority and $19 million in outlays. Although only 40 percent of eligible participants are now served by this program, a sequester would preclude new participants and diminish services to current participants.

Funding for the National Institutes of Health would be reduced by $598 million in budget authority below the Senate-passed appropriations level resulting in 3,300 fewer research grants. Funding for high priority AIDS research would be cut by $82 million below the Senate-appropriated level.

Drug prevention and interdiction activities of the Drug Enforcement Administration would be significantly hampered by a sequester of $45 million in budget authority below Senate-passed appropriations. FBI funding would be cut by $125 million in budget authority resulting in employee layoffs. Coast Guard funding would lose at least $170 million crippling their drug interdiction efforts.

NASA R&D and space flight programs would be reduced by $792 million below the appropriations level being considered by the Senate. Space shuttle operations and work on the manned space station would be checked.

At a time of great public concern over air safety, funding for the Federal Aviation Administration would be cut by at least $500 million. This would mean that the FAA could not fill the over 1100 new positions needed to operate the air traffic control system. In addition, a sequester would result in the *loss* of at least 3000 positions from the current air traffic control workforce.

A sequester would reduce funding for Community Development Block Grants by about $270 million. Such a decrease in a program already suffering from reduced funding would mean lower levels of support for economic development programs.

SEQUESTER SCENARIOS

The following tables and narrative explain in detail the effects of a sequester on specific functions and programs in the budget. Each table displays function totals for 1988 based on the Congressional Budget Committee's (CBO) August baseline estimates and 1987 enacted levels.

Most importantly, these tables show the impact of a sequester on each function under two scenarios: (1) assuming enactment of full-year appropriations based on latest action in the Senate; and, (2) assuming a sequester under a short-term continuing resolution at current spending levels for both military and domestic spending. The second scenario could occur if Congress and the President reach gridlock on spending levels.

The CBO August baseline shows spending levels that would occur if existing programs and policies were continued unchanged. In this baseline, all programs are adjusted for inflation so that real levels of activity are maintained. The 1987 enacted level shows the actual amounts appropriated for each function without adjustments for inflation.

Because the amount of cuts and funding levels after sequestration for each function will depend on Congressional action between now and November 20th, the tables and narrative refer to two sequester scenarios (mandatory programs and programs covered by special rules are treated identically under both scenarios).

The latest action scenario postulates that full year appropriation bills will be enacted before November 20th. If this is the case, the sequester cuts will be calculated against the appropriated levels for discretionary accounts. But because no appropriations bills have yet been signed into law, the appropriated levels in this exercise are estimates based on latest Congressional action—whether it be Senate-passed, Committee-reported, etc.

If final appropriations bills are not enacted before November 20th, the program-by-program implications of sequestration could differ substantially. In such a case, sequester cuts will be applied against the 1987 enacted level in the C.R. for discretionary programs. A sequester under this short-term C.R. scenario may produce lower funding levels than the latest action scenario because programs are generally adjusted for inflation in the appropriations process.

In these tables, the "uniform reduction percentage" estimated by CBO is 8.7 percent for domestic programs and 10.4 for defense. The actual percentage reduction governing the sequester will be released by the Office of Management and Budget (OMB) on October 20th.

FUNCTION 050: NATIONAL DEFENSE

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	304.2	291.3
1987 enacted level	285.6	280.5
Sequester Scenario: CBO post-squester level	279.3	278.9

OVERVIEW OF SEQUESTER IMPACT

Under a sequester, the Department of Defense (DOD) would be confronted with real reductions from the previous year's funding level for the first time since 1975. Such reductions would have a harsh effect on all Department of Defense operations. The President's budget would be reduced by over $32 billion in budget authority and by more than $19 billion in outlays. Reductions of this scale would undo much of the progress made by the Pentagon in such areas as equipment, training, and readiness during the buildup of the past ten years. As shown in Figure 1, Defense Department spending would be reduced to its 1985 level.

As a result of the decision to exempt military personnel, the remaining Defense Department accounts will be forced to absorb the full magnitude of the cuts. The two DOD accounts that will bear the brunt of the sequester-imposed reductions are Research and Development and Operations and Maintenance. The concentration on these two accounts stems from the fact that the sequester cuts are outlay driven and R&D and O&M are fast spending accounts.

[Graphs and figures not reproduced for the RECORD.]

FUNCTION 050: NATIONAL DEFENSE

TABLE 1.—COMPARISON OF PRESIDENT'S REQUEST WITH POST SEQUESTER LEVEL OF DEFENSE

[In billions of dollars]

	President's request	Post sequester	Sequester vs. President's request
Military personnel:			
Budget Authority	76.3	75.4	− 0.9
Outlays	75.7	74.9	− 0.8
Operations & Maintenance:			
Budget Authority	86.1	75.1	−11.0
Outlays	82.7	74.7	− 8.0
Procurement:			
Budget Authority	84.1	79.9	− 4.2
Outlays	83.0	81.7	− 1.3
Research & Development:			
Budget Authority	43.7	33.6	−10.1
Outlays	38.1	32.5	− 5.6
Other:			
Budget Authority	21.7	15.3	− 6.4
Outlays	19.0	15.1	− 3.9
Total:			
Budget Authority	311.9	279.3	−32.6
Outlays	298.5	278.9	−19.6

Figure 2 illustrates the severe effect of a sequester on the Department of Defense's Research and Development program. Over $10 billion in budget authority and nearly $6 billion in outlays would be cut from the President's request for DOD R&D spending, a 23 percent reduction in the Budget authority level requested by the President. These cuts would represent the largest reductions in the President's request for the DOD R&D account in post-World War II history. Reductions of this scale would substantially slow a broad range of research programs including the new attack submarine, the ICBM modernization program, and the C-17 transport. Details on the sequester's impact on specific R&D programs can be found in Table 2.

Similarly, DOD's Operations and Maintenance account would be reduced from the President's request by $11 billion in budget authority and $8 billion in outlays. Again, this reduction represents the largest one year cut in readiness funding in post-World War II history. Figure 3 illustrates the decline in O&M that would be caused by the sequester. Although earlier reductions have occurred in this account—most notably $10 billion and $6 billion cuts in 1955 and 1969 respectively—these reductions were the result of well-planned and carefully implemented national security policy decisions—not an arbitrary across-the-board cut. Implementation of a reduction of this magnitude will be difficult to make over a one year period. In all likelihood, the more controllable readiness program elements will bear the brunt of the reduction. Therefore, flying hours for all services, naval steaming hours, and equipment maintenance will be hardest hit by the sequester. Program specifics can be found in Table 4.

PROGRAMMATIC IMPACT OF SEQUESTER

The absence of a Department of Defense appropriations bill for 1988 makes it difficult to determine the precise impact of a sequester on specific DOD programs. In the following section we have derived the programmatic effect of a sequester by assuming the reductions are based on the 1987 enacted level of appropriations for procurement, R&D, and O&M programs.

TABLE 2.—ILLUSTRATIVE IMPACT OF SEQUESTER ON R&D PROGRAMS

[In millions of dollars]

R&D program	President's request	Post sequester level	Sequester vs. President's request
Strategic Def. Init	5,220.8	3,293.9	−1,926.9
ICBM modernization	2,875.7	1,415.9	−1,459.9
Air Force classified strategic programs	3,458.4	2,323.3	−1,135.1
C–17 transport	1,219.9	573.0	−646.9
B–1B bomber	415.5	103.2	−312.3
Adv. tactical fighter	536.8	227.7	−309.1
LHX helicopter	267.2	0	−267.2
Space defense system	402.4	173.2	−229.2
Link spruce	283.9	63.0	−220.9
Nat'l aerospace plane	236.0	144.7	−91.3

TABLE 3.—ILLUSTRATIVE IMPACT OF SEQUESTER ON PROCUREMENT PROGRAMS

[In millions of dollars]

Procurement program	President's request	Post sequester level	Sequester vs. President's request
AF special programs	3,532.2	2,467.1	−1,065.1
Army Communications/electronic eqpmt	3,843.3	2,824.1	−1,019.2
Trident II missile	1,931.3	1,013.6	−917.7
LHD–1 amphib assault	740.7	0	−740.7
AC carrier SLEP	685.7	0	−685.7
AC carrier advanced procurement	644.0	0	−644.0
C–17 transport	617.9	13.3	−604.6
DDG–51 destroyer	2,122.3	1,541.1	−581.2
A–6 E/F aircraft	702.2	233.6	−468.6
Army ammunition	2,025.7	1,623.5	−402.2

TABLE 4.—ILLUSTRATIVE IMPACT OF SEQUESTER ON READINESS

	1987	Post sequester	1980
Flying hours:			
Air Force	19.5	15.2	15.6

TABLE 4.—ILLUSTRATIVE IMPACT OF SEQUESTER ON READINESS—Continued

	1987	Post sequester	1980
Navy/Marine Corps	25.0	19.5	24.2
Steaming hours: Navy	50.5	39.4	56.5
Tank miles per annum: Army	850	663	850
Depot maintenance backlog (In billions of dollars): DOD	0.4	2.6	1.3

PROGRAM IMPACTS

FUNCTION 150: INTERNATIONAL AFFAIRS

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	18.0	17.0
1987 enacted level	14.9	12.8
Sequester scenarios:		
Level assuming latest action	16.0	15.8
Level under a short-term CR	14.4	14.9

PROGRAM IMPACTS

Foreign Assistance: Foreign assistance programs could be reduced by some $1.3 billion below the 1987 enacted levels. However, since these programs were sharply constrained under Budget Resolution assumptions and Appropriations Committee allocations, it is unlikely that many of these will be further reduced under a sequester.

State Department: A sequester would cut State Department operating funds by some $142 million below levels contained in the *Senate-reported* appropriations bill. A sequester would cut State Department funding by some $147 million below 1987 levels under a *short-term C.R.* Sequestration at these levels could force major layoffs in State Department personnel, reducing the Department's ability to conduct the nation's foreign affairs as well as services to American citizens overseas.

FUNCTION 250: SCIENCE, SPACE AND TECHNOLOGY

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	10.9	11.1
1987 enacted level	12.5	9.4
Sequester scenarios:		
Level assuming latest action	10.2	10.7
Level under a short-term C.R.	11.4	10.0

PROGRAM IMPACTS

NASA Space Programs: NASA research, development and space flight programs would be reduced by $792 million below *Senate-reported* levels if the final appropriation were enacted before November 20. Under a short-term C.R. at 1987 levels, NASA space programs would be reduced by $940 million. This would severely curtail ongoing research and development activities, including work on the manned space station. It could also jeopardize NASA's ability to begin space shuttle operations in 1988. However, since the base used to calculate NASA's sequester includes 1987 funding for a new space shuttle, it is possible that if the final appropriations bill is not enacted until after November 20, NASA will not face a sequester below levels contained in the Senate-reported appropriations bill.

National Science Foundation: Research and educational activities of the National Science Foundation (NSF) were slated to grow by 16 percent over 1987 levels in the President's budget request and the Budget Resolution. Under sequestration, these programs would instead be cut by $147 million below the 1987 levels contained in a *short-term C.R.* A sequester would cut $162 million below the levels contained in the *Senate-reported* appropriations bill. These cuts would reduce important NSF research and education programs.

FUNCTION 270: ENERGY

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	5.5	5.1
1987 enacted level	4.4	3.7
Sequester scenarios:		
Level assuming latest action	4.5	4.1
Level under a short-term C.R.	3.1	3.8

PROGRAM IMPACTS

Energy Supply Research and Development Activities: This account supports research and development funding for basic and applied research on energy supply. The sequester based on *latest action* would reduce the account by $155 million in budget authority and $82 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by $122 million in budget authority and $65 million in outlays from the 1987 enacted level. While the immediate effects of cuts in research and development are difficult to see, it is clear that cuts will have a significant impact on the development of longer term energy supply options to provide the energy resources necessary to sustain national growth and to alleviate dependence on fossil fuels and foreign oil.

Uranium Supply and Enrichment: This account funds uranium enrichment activities for private nuclear power plant operators as well as for Department of Defense activities. The sequester based on *latest action* would reduce the account by $97 million in budget authority and $83 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by $110 million in budget authority and $94 million in outlays from the 1987 enacted level. In the short-run, cuts in this account would likely come from research and capital activities, resulting in little visible impact. In the long-run however, a sequester could result in reducing the amount of uranium enriched, thus reducing the receipts from the program. Thus the savings achieved through the sequester would be lost because receipts from the program would also drop.

Rural Electrification Administration. This account provides loans and loan guarantees to rural electric and telephone systems for electric and telephone service in rural areas. A sequester based on *latest action* would reduce appropriations for direct loans by $75 million in budget authority and $9 million in outlays from the level in the Senate-reported appropriations bill. It would reduce appropriations for loan guarantees by $79 million. In budget authority alone. A sequester under a *short-term C.R.* would reduce direct loans by $78 million in budget authority and $10 million in outlays from 1987 enacted levels. Guaranteed loans would be reduced by $85 million in budget authority alone. The effect of a sequester would thus be to reduce the number of direct and guaranteed loans the REA could issue.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	16.8	15.8
1987 enacted level	13.4	13.9
Sequester scenarios:		
Level assuming latest action	14.5	14.5
Level under a short-term C.R	11.7	12.7

PROGRAM IMPACTS

Bureau of Reclamation: The sequester based on latest Senate action would reduce budget authority by $61 million and outlays by $51 million from the Senate-reported appropriation bill. A sequester under a short-term C.R. would reduce budget authority by $55 million and outlays by $46 million from the 1987 enacted level. These reductions will delay new starts and construction schedules.

Corps of Engineers Construction: The sequester based on latest Senate action would reduce budget authority by $101 million and outlays by $68 million from the Senate-reported appropriated levels. A sequester under a short-term C.R. would reduce budget authority and outlays by about the same levels. New starts, construction contracts, planning, engineering, permit issuance and dredging activities would all be delayed.

Forest Service-National Forest System: The sequester based on latest Senate action would reduce budget authority by $110 million and outlays by $96 million from the Senate-passed appropriated levels. A sequester under a short-term C.R. would reduce budget authority by $109 million and outlays by $96 million from the 1987 enacted level. The sequester would result in delays in processing minerals, a cutback and/or shutdown of recreational campgrounds, decreases in law enforcement activities and road maintenance, and an increase in fire risks. The Forest Service estimates that timber harvest levels under a sequester would stand at 10.7 billion board feet under a short-term C.R. and 10.4 billion board feet based on anticipated conference action. Nearly 1300 Forest Service employees could be lost due to a sequester.

Superfund program: The sequester based on latest Senate action would reduce budget authority by $103 million and outlays by $20 million from the Senate reported appropriation levels. A sequester under a short-term C.R. would reduce budget authority by $129 million and outlays by $29 million from the 1987 enacted level. Up to 10 fewer hazardous waste site projects will receive funding in 1988. Under current schedules, 50 sites are scheduled for remedial action in 1988 and 27 sites are scheduled for construction and other second phase activities.

Construction Grants: The sequester based on latest Senate action would reduce budget authority by $209 million (minimal outlay impact) from the Senate reported appropriation levels. A sequester under a short-term C.R. would reduce budget authority by $214 million from the 1987 enacted level. Sewage treatment appropriations were delayed last year and a sequester would further delay achievement of water quality goals.

National Oceanic and Atmospheric Administration: The sequester based on latest Senate action would reduce budget authority by $102 million and outlays by $69 million from the Senate reported appropriation levels. A sequester under a short-term C.R. would reduce budget authority and outlays by about the same levels. The sequester would delay polar orbiter and geostationary weather satellite purchases, delay planned upgrades in the weather monitoring system, result in 15-20 day furloughs of weather station employees, and reduce fisheries enforcement and Sea Grant and Coastal Zone management programs.

Land Acquisition (National Park Service/Forest Service/Fish and Wildlife Service/Bureau of Land Management: The sequester based on latest Senate action would reduce budget authority by $18 million and outlays by $7 million from the Senate passed appropriation levels. A sequester under a short-term C.R. would reduce budget authority and outlays by about the same levels.

FUNCTION 350: AGRICULTURE

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	27.6	26.9
1987 enacted level	31.5	28.1
Sequester scenarios: [1]		
Level assuming latest action	27.4	26.5
Level under a short-term C.R.	25.2	26.3

[1] CCC reductions of $652 million would also occur in 1989.

PROGRAM IMPACTS

Commodity Credit Corporation: This program provides farm price supports to agricultural producers. The sequester would result in reductions of $772 million in 1988 and $652 million in 1989 in farm price support programs. Cut would be made in 1988 crop payments. The Secretary of Agriculture is constrained by law to allocate the reductions evenly across commodities. During the previous sequester, the Secretary simply reduced all cash disbursements by the sequester percentage. Wheat and feed grain programs will likely bear the brunt of the reductions, contributing over $1 billion over two years since outlays from these commodity programs comprise over 70 percent of the sequestrable base. Dairy, rice, cotton and soybean programs will contribute between $24 million and $75 million to the sequester amount. Maximum corn deficiency payments could be reduced by almost 11 cents per bushel; wheat deficiency payments would suffer a 17 cent cut. Soybean loan rates may be reduced by nearly 40 cents per bushel.

Agricultural Credit: The sequester based on latest Senate action would reduce the direct loan program by $135 million in budget authority and $80 million in outlays and the guarantee program by $250 million in budget authority (with no outlay impact in 1988) from the level in the Senate-markup appropriation bill. A sequester under a short-term C.R. would reduce the direct loan program by $165 million in budget authority and $138 million in outlays and the guarantee program by $226 million in budget authority from the 1987 enacted level. The cuts under latest action would result in over 1,850 fewer direct farm operating loans and 2,500 fewer guaranteed operating loans.

Animal Plant and Health Inspection Service: The sequester based on latest Senate action would reduce budget authority by $30 million and outlays by $26 million from the Senate appropriation bill. A sequester under a short-term C.R. would reduce budget authority by $29 million and outlays by $25 million from the 1987 enacted level. These reductions could lead to the elimination of 500 Federal positions. Most of these reductions would occur in the Agricultural Quarantine Inspection (port of entry) program.

Agricultural Extension Service: The sequester based on latest Senate action would reduce budget authority by $31 million and outlays by $25 million from the Senate appropriated levels. A sequester under a short-term C.R. would reduce budget authority by $30 million and outlays by $24 million from the 1987 enacted level. These cuts could lead to the elimination of 800 Federal positions and the closure of several county offices.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

[In billion of dollars]

	1988	
	Budget authority	Outlays
CBO August basline total	9.4	6.2
1987 enacted level	11.0	8.1
Sequester Scenarios:		
Level assuming latest action	8.7	5.7
Level under a short-term C.R	7.8	5.5

PROGRAM IMPACTS

Rural housing: Rural housing programs were reduced by at least a third two years ago. The sequester based on latest action would reduce these programs by $169 million in budget authority from the level in the Senate-passed appropriation bill, leaving a loan limitation of $1.8 billion. A sequester under a short-term C.R. would reduce the program by $174 million in budget authority from the 1987 enacted level, leaving a program level of $1.9 billion. Rural housing programs are critical to ensuring an adequate supply of housing units for the poor in rural areas, where the existing housing stock is often inadequate or nonexistent. The cuts under either case would result in the loss of thousands of new construction units for elderly and low income individuals.

Elderly and handicapped housing: The Section 202 housing program for the elderly and handicapped is the only federal program providing specially designed housing units necessary for these groups to live independently. The sequester based on latest action would reduce the loan limitation for Section 202 by $52 million, leaving a program level of $551 million. A short-term C.R. sequester would be $54 million, leaving a program level of $539 million for new loans. Despite the projected growth in the elderly population and the increasing homeless problem (many of whom are physically and mentally handicapped), these sequesters would each mean a loss of over 1,000 new housing units.

Postal Service revenue foregone: The revenue foregone program compensates the Postal Service for reduced mailing rates for preferred rate mailers such as nonprofits, charitable organizations, and religious institutions. A sequester based on latest action would reduce this program by $45 million, leaving a program level of $472 million. A short-term C.R. sequester would cut $59 million from the current program level of $650 million. Either reduction will affect the Postal Service, but the latest action sequester could result in rate increases for preferred rate mailers in excess of rate changes currently under consideration.

Periodic censuses and programs: This program supports the various programmatic costs of the Bureau of the Census. This program is currently gearing up for the 1990 census, which requires a doubling of last year's funding levels. A latest action sequester would result in a $31 million reduction while a sequester under a short-term C.R. would cut $16 million from this account. More importantly, a short-term C.R. sequester would leave a program level of only $159 million, less than half of what is needed to prepare for the 1990 census. A sequester would be in addition to OMB's current efforts to radically scale back housing, community development, and transportation related data collection. This information is crucial for federal programs and for state and local government planning efforts.

FUNCTION 400: TRANSPORTATION

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	28.0	28.1
1987 enacted level	25.2	25.3
Sequester scenarios:		
Level assuming latest action	24.6	27.6
Level under a short-term C.R.	23.9	27.1

PROGRAM IMPACTS

Aviation safety. Concern about aviation safety has risen to a crescendo in the past six months due to a variety of factors, including worsening safety indicators, a series of near misses and crashes, increased delays and passenger frustration, and concerns over the impact of deregulation. These problems have led to proposals for significant increases in spending on key federal aviation programs to increase the air traffic control workforce, speed up modernization of the air traffic system, and build more system capacity. Overall FAA spending would be reduced by $449 million under a short-term C.R., leaving a program level of $4.5 billion. A latest action sequester would cut FAA spending by $552 million, leaving a program level of $5.8 billion. Specifically, FAA operations would be reduced by either $270 million under a short-term C.R. sequester (program level: $2.7 billion) or $282 million under latest action (program level: $3.0 billion). A sequester would mean that the FAA could not fill over 1,100 new positions for the air traffic control workforce necessary to operate the system. Additionally, a sequester under either scenario could result in a minimum loss of at least 3,000 positions from the current workforce.

Federal-aid highways. Since the highway bill passed earlier this year has already established contract authority levels for the 1988 highway program, a sequester is the same under both latest action and a short-term C.R. The sequester would reduce contract authority for highways by $1.2 billion, leaving a program level of $12.5 billion. This reduction below the recently passed highway bill could disrupt plans for the completion of the Interstate system by the early 1990's. In addition, repair work on highways could be seriously curtailed, increasing maintenance costs for existing infrastructure in future years.

Coast Guard operations. The Coast Guard has recently assumed new responsibilities in the war on drugs which are in addition to its existing responsibilities for marine safety and law enforcement. A sequester under latest action would result in a reduction of $170 million, leaving funding for operations at a level of $1.8 billion. A short-term C.R. sequester would result in a cut of $168 million and a post-sequester program level of $1.6 billion. These reductions would seriously cripple drug interdiction efforts, resulting in laying up of at least one-third of the Coast Guard's medium endurance cutters used in the Caribbean. Three C-130s, scheduled for delivery in 1988, would have to be mothballed. 16 of 95 patrol boats would be laid up and unavailable for law enforcement and drug interdiction activities. Finally, military personnel would have to be reduced by 3,000 either by attrition or forced outages.

Mass transit. Total spending for mass transit programs would be reduced by $326 million in a short-term C.R. sequester or by $291 million under latest action. Reductions of this magnitude take spending far below levels enacted earlier this year in the mass transit bill. The mass transit forumla grant program, which includes funds for operating assistance, could be reduced by as much as $181 million (under a short-term C.R. sequester). Such a cut could result in significant service reductions and/or fare increases at the local level. Contract authority for the mass transit discretionary grant program would be reduced by $104 million under either a short-term C.R. or latest action. Such a sequester could seriously disrupt and delay new system construction projects.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	7.8	6.7
1987 enacted level	8.4	6.7
Sequester scenarios:		
Level assuming latest action	7.0	6.5
Level under a short-term C.R.	6.9	6.4

PROGRAM IMPACTS

Community development block grants: The CDBG program has been reduced from a level of $4.5 billion in the early 1980's to its current level of $3 billion. A sequester under latest action would cut $261 million, leaving a new program level of $2.7 billion. A short-term C.R. would result in a sequester of $272 million, or program-funding at $2.7 billion. With massive reductions in federal assistance to localities over the past seven years, CDBG has become the cornerstone of local assistance programs, supporting economic development, housing, and social services in the nation's cities and counties. A sequester would seriously hamper localities' redevelopment efforts on behalf of low-income residents.

Urban development action grants. The UDAG program has been reduced by exactly two-thirds to its current level of $225 million. A sequester under either a short-term C.R. or latest action would further reduce the program level by $20 million. This program has been key to economic development efforts creating jobs at the local level, and has leveraged at least six dollars of private investment for every dollar of federal expenditures. In addition, reduced funding would seriously hamper the effectiveness of recent Congressional efforts to redesign the UDAG program.

Regional development programs. The Economic Development Administration and the Appalachian Regional Commission would be reduced under both a short-term C.R. and latest action by a total of $27 million ($17 million and $10 million, respectively). EDA would be funded at a program level of approximately $175 million, while ARC would receive between $93 million (short-term C.R.) and $100 million (latest action). These programs provide targeted assistance to create jobs and improve living conditions in depressed, rural areas.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	35.2	33.2
1987 enacted level	33.1	30.7
Sequester scenarios:		
Level assuming latest action	33.9	32.3
Level under a short-term C.R.	31.9	32.0

PROGRAM IMPACTS

Most accounts in this function are forward-funded. This means that budget authority reductions from a 1988 sequester have their greatest impact on 1989 program levels.

Chapter 1 of the Education Consolidation and Improvement Act provides compensatory educational services to five million disadvantaged children aged 5 to 17. The sequester based on latest action would reduce this program by $390 million in budget authority and by $19 million in outlays from the $4.5 billion budget authority level provided in the Senate-passed 1988 appropriaton bill. A sequester under a short-term C.R. would reduce the program by $358 million in budget authority and by $18 in outlays from the 1987 enacted level of $3.9 billion.

A sequester based on latest action would preclude State and local education agencies from adding new participants to this program, which currently serves about 40 percent of the eligible population. A sequester under a short-term C.R., depending on how the cut is apportioned by States and schools, could result in diminished services to over 400,000 students. These cuts would come at a time when the number of children from low-income families is on the rise. In 1985, there were 1.5 million more children living below the poverty level than there were in 1980.

Education of the Handicapped Act programs provide services to approximately 4.5 million children with special educational needs. The sequester based on latest action would reduce this program by $171 in budget authority and $8 million in outlays from the over $1.9 billion budget authority level provided in the Senate-passed 1988 appropriation bill. A sequester under a short-term C.R. would reduce the program by $158 million in budget authority and $7 million in outlays from the 1987 enacted level of $1.7 billion. Reductions in this program would force education agencies to serve even fewer physically, emotionally, and mentally handicapped children. This would happen in an environment where approximately half the eligible population is being served. In 1986, Congress increased federal investments in early intervention programs as an inducement to States to improve services to preschool aged children. Learning professionals say that the first few years of cognitive development are important for all children, but critically important to the ultimate intellectual achievement of handicapped children.

The Office of Vocational and Adult education provides grants to education and training agencies and underwrites research studies on nationally significant programs. The sequester based on latest action would reduce activites of this office by $93 million in budget authority and $2 million in outlays from the $1.1 billion budget authority level provided in the Senate-passed appropriation bill. A sequester under a short-term C.R. would reduce the program by $90 million in budget authority and $1 million in outlays from the 1987 enacted level of $988 million.

Program cuts under either sequester would not affect delivery of services until 1989. At that time, vocational courses to over 19 million high school and technical school students would be curtailed. Either cut would make it difficult for schools to update equipment and training methodologies necessary to keep abreast of changing job opportunities and technologies. Functionally illiterate adults would find fewer educational courses available to them during evening hours. Over 3 million adults participate in literacy program.

Federal *Impact Aid* payments are sent to over 800 school districts located on federal property or schools that educate students of parents on the federal payroll. These payments help replace local tax revenue forgone. The sequester based on latest action would reduce this program by $61 million in budget authority and $51 million in outlays from the $701 million budget authority level provided in the Senate-passed appropriation bill. A sequester under a short-term C.R. would reduce the program by $65 million in budget authority and $54 million in outlays from the 1987 enacted level of $718 million. Any program funding reduction would place a hardship on school districts that are helping the federal government provide vital services to federal employees' families. Local governments would either increase their contributions to these schools or services would be reduced.

Federal *Student Financial Assistance* provides grants and loans to postsecondary students. In academic year 1986-87, the Pell Grant program dispensed almost $4 billion to over 2.5 million recipients. The sequester based on latest action would reduce SFA accounts by $508 million in budget authority and $96 million in outlays from the $5.8 billion budget authority level provided in the Senate-passed appropriation bill. A sequester under a short-term C.R. would reduce the program by $497 million in budget authority and $94 million in outlays from the 1987 enacted level of $5.5 billion. Under either scenario, financial aid to potential new recipients would be drastically cut.

Training and Employment Services are provided to enhance the employment and earnings of economically disadvantaged and dislocated workers. Grants are dispensed to all states and territories through a decentralized system of skill training and related services, as authorized by the Job Training Partnership Act. The sequester based on latest action would reduce this program by $343 million in budget authority and $9 million in outlays from the $3.9 billion budget authority level provided in the Senate-passed 1988 appropriation bill. A sequester under a short-term C.R. would reduce the program by $336 million in budget authority and $9 million in outlays from the 1987 enacted level of $3.7 billion.

JTPA programs are provided technical assistance from the Department of Labor. Depending on how the DoL apportions sequestration cuts, some of these 1100 federal employees could be effected. State efforts to train and educate disadvantaged workers would be reduced at a time when American corporation and small businesses productivity is suffering from an under-educated work force.

Community Service Employment for Older Americans provides part-time work experience in community service activities to unemployed citizens aged 55 and older. The sequester based on latest action in the Senate-passed appropriation bill and under a short-term C.R. would reduce this program by $30 million in budget authority and $6 in outlays. A program cut of this magnitude would mean a reduction of about 5,000 jobs for older unemployed Americans.

The *Community Services Block Grant* provides money to over 900 community action agencies that work to mitigate the effects of poverty. The sequester based on latest action would reduce this program by $35 million in budget authority and $24 million in outlays from the $407 million budget authority level provided in the Senate-passed appropriation bill. A sequester under a short-term C.R. would reduce this program by $37 million in budget authority and $25 million in outlays from the 1987 enacted level of $405 million. The cuts would place an increased burden on local governments and volunteer agencies.

FUNCTION 550: HEALTH SERVICES AND RESEARCH

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	44.7	44.3
1987 enacted level	41.0	40.3
Sequester scenarios:		
Level assuming latest action	43.9	44.0
Level under a short-term C.R.	42.7	42.5

PROGRAM IMPACTS

Medicaid: The program is exempt from sequester.

Biomedical research: If a sequester took place based on latest action, funding for the National Institutes of Health would be reduced by $598 million in budget authority and $277 million in outlays below levels in the Senate-passed appropriations bill level of $6.9 billion. Such a reduction would represent a loss of 3,300 anticipated awards of new and competing research grants. A sequester under a short-term C.R. would reduce NIH funding by $563 million in budget authority and $261 million in outlays below 1987 enacted levels, forcing NIH to reduce current award levels and/or reduce current commitments by 3,100 grants.

AIDS: A sequester based on the Senate-passed appropriations bill level of $946 million would reduce funding for AIDS research and education activities by $82 million in budget authority and $45 million in outlays. Even with the significantly increased funding in this year's appropriations bill to finance the war against AIDS, this reduction could slow down the development of new research and education programs. Under a short-term C.R., AIDS funding would be $462 million—$46 million in budget authority and $25 million in outlays below the 1987 enacted level. Severe constraints would be put upon even the existing low level of AIDS prevention activities.

Maternal and child health. A sequester based on latest action in the Senate would reduce funding by $48 million in budget authority and $27 million in outlays for a post-sequester level of $509 million in budget authority. Under a short-term C.R., the program would be operating at a level of $452 million in budget authority, a reduction of $45 million in budget authority and $25 million in outlays below the 1987 enacted level.

Community health centers: Sequester cuts in funding for primary care services for the low-income are limited by a special rule to a maximum reduction of 2 percent. If a sequester took place based on latest action, the cut would be $8 million in budget authority and $4 million in outlays below the Senate-passed bill. Under a short-term C.R., a sequester would reduce operating levels by $9 million in budget authority and $5 million in outlays below the 1987 enacted level. In either case, new initiatives to provide health care to the homeless and to mothers and infants would be jeopardized.

Other selected programs: Operating budget authority levels resulting from a sequester based on the Senate-passed appropriations bill and on a short-term C.R. are as follows;

[In millions of dollars]

	Latest action	Short-term CR
Immunizations	97	79
Preventive health grants	82	81
Substance abuse grants	156	148
Family planning grants	133	133
ADAMHA block grant	465	463
Food safety and inspection	361	335
Food and Drug Administration	438	407

FUNCTION 570: MEDICARE

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	92.8	83.0
1987 enacted level	83.5	73.6
Sequester scenarios:		
Level assuming latest action	[1] 94.9	80.8
Level under a short-term C.R.	[1] 94.9	80.7

[1] Incorporates latest technical and economic reestimates of the Medicare Program.

PROGRAM IMPACTS

Payments to Providers and Beneficiaries. Direct payments for services would be cut by $1.4 billion. All payments to Medicare providers, including hospitals, physicians, home health agencies and others, would be reduced by 2.3 percent. Claims submitted directly by beneficiaries would be reduced by the same amount. (A special rule limits Medicare payment reductions to 2 percent, but for 1988 the amount would be applied on an annualized basis, increasing the percentage to 2.3 percent.)

Medicare Contractors. Payments to the contractors who process and pay claims and perform utilization safeguards would be reduced by $107 million based on latest action in the Senate-passed appropriations bill. A sequester under a short-term CR would reduce funding for contractor activities by $100 million from the 1987 enacted level, which is 18.7 percent below the level anticipated necessary by the Senate-passed appropriations bill. Reductions under either scenario would delay payment of claims, disrupt safeguard activities, and preclude timely implementation of anticipated new benefits from catastrophic insurance.

Other Administrative Activities. Reductions of 8.7 percent would also occur in funding for the activities of Peer Review Organizations, survey and certification of Medicare providers, program administration, and research.

FUNCTION 600: INCOME SECURITY

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	169.1	132.7
1987 enacted level	158.6	124.5
Sequester scenarios:		
Level assuming latest action	166.3	131.6
Level under a short-term C.R.	166.8	131.8

PROGRAM IMPACTS

Child Support Enforcement: Under any sequester, federal spending for the child support enforcement program would be cut by $87 million, in budget authority and outlays (8.7 percent). But this result is to be accomplished by cutting the matching rate (for basic administrative expenses) from 68 percent to 60 percent. If states cut their own spending for this program in response to the lower matching rate, the reduction in total spending for the program could be much greater than $87 million.

Assisted Housing: Assisted housing programs have been cut by over two-thirds since 1980. The mix of housing programs has shifted due to budgetary pressures, towards an almost exclusive reliance on the existing housing stock. A *short-term* sequester would result in a reduction of $684 million, leaving a program level of $6.8 billion. A sequester under *latest action* would cut $655 million from a program level of $7.5 billion. These reductions translate into losses of around 8,500 units and come at a time when the needs of the homeless and families with children are seriously underserved. In addition, mortgage prepayments on low-income housing projects, continued deterioration of the existing public housing stock, and the coming wave of expiring long-term assistance contracts magnify the effect of a sequester.

Public Housing: Operating subsidies for public housing projects would be reduced by $122 million under a *short-term* sequester, and by $132 million under *latest action.* More importantly, a *short-term* sequester would leave a program level of only $1.2 billion. These reductions leave public housing authorities facing skyrocketing insurance costs which are not even completely covered under the current performance funding system. In addition, a sequester under either scenario would mean that the costs of a proposed legal settlement with HUD over recaptures could not be funded. Finally, with over $21.3 billion projected to be required over the next five to ten years to modernize the public housing stock, a sequester could severely curtail preventative maintenance efforts in existing projects.

Cost-of-living adjustments for federal civilan, military and railroad retirees are exempt from sequester.

Many low-income programs, including AFDC, Food Stamps, WIC, SSI, Child Nutrition, and the Earned Income tax Credit are exempt from sequester.

FUNCTION 650: SOCIAL SECURITY

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	258.4	220.7
1987 enacted level	226.7	207.5
Sequester scenarios:		
Level assuming latest action	258.4	220.6
Level under a short-term C.R	258.4	220.6

PROGRAM IMPACTS

All Social Security benefit payments and cost-of-living adjustments are exempt. (from sequester)

Administrative Expenses: A sequester would cut administrative costs for the Social Security program by about $150 million relative to either the Senate-passed appropriation bill or a *short term* continuing resolution. This could result in the loss of 4,000 staff or cuts in administrative expense or some combination of both. Service to the public undoubtedly would be reduced.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	28.2	27.7
1987 enacted level	27.4	26.7
Sequester scenarios:		
Level assuming latest action	27.7	27.2
Level under a short-term C.R	27.2	26.9

PROGRAM IMPACTS

Veterans Medical Care: Though protected by a special rule limiting medical care sequester cuts to 2 percent, a sequester based on *latest action* would reduce medical care by $254 million in budget authority and $219 million in outlays from the level in the Senate-reported appropriation bill. The result could be no new staff for newly-opened medical facilities and a reduction in staff for currently-operating hospitals and nursing homes. A sequester under a *short-term C.R.* would reduce medical care funding $259 million in budget authority and $224 million in outlays from the 1987 enacted level. If a sequester took place under a short-term C.R., available funding would be $9.5 billion, or $616 million below the level in the Senate-reported appropriations bill. A reduction of this magnitude, if it persisted for a significant period of time, could require turning away patients or closing some hospitals.

Housing Loan Guarantees: Under either scenario, the sequester imposes a ceiling for veterans housing loan guaranty commitments which would be $2.8 billion below currently estimated demand. Once the ceiling was reached, the Veterans Administration would have to stop making loan guarantees.

Medical Research: A sequester based on *latest action* would reduce funding for medical research by $17 million in budget authority below the Senate-reported level. A sequester under a *short-term C.R.* would cut funding by $20 million in budget authority below the 1987 enacted level. Cutbacks could compromise ongoing research activities related to Agent Orange, spinal cord injuries, and other high priority areas.

Medical Facility Construction: A sequester based on *latest action* would reduce funding by $47 million in budget authority below anticipated Senate appropriations action. If sequester took place under a *short-term C.R.*, funding would be reduced by $42 million below the 1987 enacted level. Construction of new nursing home units and improvements in existing facilities could be delayed for a year or more.

General Operating Expenses: Administrative operations of the Veterans Administration would be reduced by $72 million in budget authority under a *short-term C.R.*, leaving the VA and its field operations at a level of $699 million. Processing of claims for veterans benefits and services could suffer a major disruption. If a sequester took place based on the *Senate-reported* appropriations level of $805 million, the reduction would be $70 million bringing the final operating budget to $735 million.

Other affected programs include veterans burial benefits, education and readjustment benefits, job training, and Veterans Administration administrative operations.

FUNCTION 750: ADMINISTRATION OF JUSTICE

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	9.4	9.3
1987 enacted level	8.7	7.7
Sequester scenarios:		
Level assuming latest action	8.7	8.8
Level under a short-term C.R	8.1	8.2

PROGRAM IMPACTS

Federal Bureau of Investigation: This account funds the activities of the FBI including traditional law enforcement investigations as well as state and local assistance. A sequester based on *latest action* would reduce funding for the FBI by $125 million in budget authority and $100 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by $119 million in budget authority and $95 million in outlays. The cuts would result in a hiring freeze, a bureau-wide furlough for all employees, and major cuts in funding for modernization and basic FBI law enforcement programs.

Drug Enforcement Administration: This account funds efforts to control abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. The DEA is the lead federal drug law enforcement agency. A sequester based on *latest action* would reduce funding for the DEA by $45 million in budget authority and $38 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by the same amounts from the 1987 enacted levels. The cuts would result in agency furloughs, cutbacks in modernization efforts and limitations on operational activities such as South American drug interdiction activities.

Immigration and Naturalization Service: This account funds the administration of laws relating to aliens in this country. The INS is the lead agency responsible for implementing the Immigration Reform and Control Act of 1986.

A sequester based on *latest action* would reduce funding for the INS by $71 million in budget authority and $63 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by $91 million in budget authority and $80 million in outlays from the 1987 enacted level. The cuts would significantly hamper INS efforts to respond to congressional mandates in the Immigration Reform bill. For example, 90 percent of all positions authorized in the bill are due to be hired in fiscal year 1988. Without the personnel resources necessary to carry out the bill's provisions, most of the goals associated with immigration reform will not be achieved.

Legal Services Corporation. This program funds state and local agencies that provide free civil legal assistance to the poor. A sequester based on *latest action* would reduce funding for the INS by $27 million in budget authority and $24 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by similar amounts from the 1987 enacted level.

FUNCTION 800: GENERAL GOVERNMENT

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	7.4	7.0
1987 enacted level	7.2	6.9
Sequester scenarios:		
Level assuming latest action	6.9	6.7
Level under a short-term C.R.	6.4	6.0

PROGRAM IMPACTS

Internal Revenue Service: This program funds activities associated with tax collection, investigation, administration and auditing. A sequester based on *latest action* would reduce the IRS accounts by $434 million in budget authority and $378 million in outlays from levels set in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the programs by $409 million in budget authority and $356 million in outlays from the 1987 enacted level. Because so much of IRS funding is for personnel expenses, the effect of a sequester will most likely be to reduce staffing levels or impose heavy furloughs on the agency.

Congressional Budget Office: The Congressional Budget Office (CBO) provides assistance to Congress in fulfilling its responsibilities over the budget process. A sequester based on *latest action* would reduce funding for CBO by $2 million in budget authority and $1.8 million in outlays from levels set in the Senate-passed, 1988 Legislative Branch Appropriations Bill. A sequester under a *short-term C.R.* would reduce the program by $2 million in budget authority and $1.8 million in outlays from the 1987 enacted level. Because nearly two-thirds of CBO's budget is for personnel, the effect of a sequester will most likely be to freeze or reduce staffing levels and/or impose furloughs.

General Accounting Office: The General Accounting Office (GAO) serves Congress by determining the legality of public expenditures, investigating important policy issues and providing guidance on financial management matters. A sequester based on *latest action* would reduce funding for GAO by $30 million in budget authority and $27 million in outlays, from levels set in the Senate-passed, 1988 Legislative Branch Appropriations Bill. A sequester under a *short-term C.R.* would reduce the program by $29 million in budget authority and $26 million in outlays from the 1987 enacted level. As with other accounts in this function, the majority of the cuts will be borne by personnel.

Office of Management and Budget: A sequester based on *latest action* would reduce funding for OMB by $3 million in budget authority and $2.6 million in outlays from levels set in the Senate-passed, 1988 Treasury-Postal Appropriations Bill. A sequester under a *short-term C.R.* would reduce funding for the Office by $4 million in budget authority and $3.5 million in outlays from the 1987 enacted level. As with other accounts in this function, the majority of sequester cuts will be applied to personnel expenses.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE

[In billions of dollars]

	1988	
	Budget authority	Outlays
CBO August baseline total	1.9	1.9
1987 enacted level	1.6	1.9
Sequester scenarios:		
Level assuming latest action	1.8	1.7
Level under a short-term C.R.	1.8	1.7

PROGRAM IMPACTS

Payments in Lieu of Taxes: This account funds payments in lieu of taxes (PILT) to counties and other units of local government for lands within their boundaries which are owned or administered by certain federal agencies. A sequester based on *latest action* would reduce PILT payments by $9 million in budget authority and $9 million in outlays from the level in the Senate-passed appropriation bill. A sequester under a *short-term C.R.* would reduce the program by $10 million in budget authority and $10 million in outlays from the 1987 enacted level. The cuts from a sequester would most strongly affect those states in which federal land comprises a large portion of the total state land area.

Payment to the District of Columbia: This account is used to reimburse the government of the District of Columbia for the net cost of the Federal presence. A sequester based on *latest action* would reduce the payment by $51 million in budget authority and $51 million in outlays from the level in the Senate-passed appropriations bill. A sequester under a *short-term C.R.* would reduce the program by $53 million in budget authority and $53 million in outlays from the 1987 enacted level.

BICENTENNIAL MINUTE

OCTOBER 16, 1806: WILLIAM PITT FESSENDEN BORN

Mr. DOLE. Mr. President, today marks the 181st anniversary of birth in 1806 of Senator William Pitt Fessenden. In his early years, Fessenden was one of Maine's most prominent lawyers. By the 1854, his antislavery views and his role in founding the Republican Party earned him national prominence and a seat in the U.S. Senate. During his 15 years in the Senate, until his death in 1869, Fessenden became a leading Member of this body and one of the Nation's outstanding political figures.

Historian Allan Bogue has written of Fessenden:

> His level gaze, high-bridged nose, and firm lips and chin identified a man who would be intimidated by none. Although known as a genial friend and a speaker who on occasion enlivened the Chamber with humorous sallies, he was also capable of devastating sarcasm and a remorseless recall and logic that left his senatorial opponents licking their wounds in frustrated fury.

At the outbreak of the Civil War, Fessenden became chairman of the Senate Finance Committee. In that position, he had the thankless task of raising funds to carry on the war and, in those days before the existence of a separate appropriations committee, he had a major responsibility for guiding the Government's spending priorities. In an atmosphere of intense crisis and impending national disaster, he toiled long hours, in committee and on the Senate floor. Tired and apprehensive, he observed early in the war: "When a man feels as if he could cut everybody's throat and that everybody could cut his, he is in pretty bad condition. The truth is," he continued, "that nobody can be found who is equal to this crisis in any branch of the Government."

Fessenden succeeded as wartime chairman of the Finance Committee through his tireless efforts to confine expenditures to war-related necessities and his avoidance of wasteful precedents. His solid character and deep intellect earned for him a secure place as one of our Nation's great financial leaders.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

CRIMINAL JUSTICE REFORM ACT—MESSAGE FROM THE PRESIDENT—PM 78

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am transmitting to the Congress today a legislative proposal entitled the "Criminal Justice Reform Act of 1987."

As you know, I have always believed that government's most fundamental responsibility is the protection of the security of its people. In the area of law enforcement, this critical priority has been reflected in the unprecedented commitment of resources under my Administration to combating the scourge of drug trafficking and drug abuse, in our recent major advances and ongoing effort against organized crime, and in important initiatives against white collar crime.

Effective enforcement, however, depends on the legislative will to provide the tools needed to do the job. If the Congress had not enacted the RICO provisions of the Organized Crime Control Act in 1970 and the court-ordered wiretap and electronic surveillance provisions of the Omnibus Crime Control and the Safe Streets Act in 1968, we would lack essential tools in the war against organized crime. If the Congress had not enacted the bail reform, forfeiture reform, and drug enforcement provisions of the Comprehensive Crime Control Act in 1984, law enforcement would be denied basic tools in our fight against drug trafficking.

The legislative proposal that I am transmitting today encompasses three measures—relating to the exclusionary rule, habeas corpus, and capital punishment—which are also of critical importance to the suppression of crime and the improved operation of the criminal justice system. These proposals are summarized in some details in the materials accompanying this message. I do, however, wish to highlight the principal reforms proposed in this legislation:

Exclusionary Rule. Under the provision of the bill, reliable evidence of guilt would no longer be thrown out and cirminals set free because of innocent errors by law enforcement officers in carrying out searches and seizures. Evidence would be admissible if an officer acted in an objectively reasonable belief that his conduct was consistent with the law.

Habeas Corpus. As a result of judicial expansions of the habeas corpus remedy, State prisoners are now free to re-litigate their convictions and sentences endlessly in the lower Federal courts. The bill would curb the abuse of habeas corpus by imposing reasonable limits on its scope and availability.

Capital Punishment. It is scandalous and intolerable that Federal law now provides no enforceable death penalty for terrorists who slaughter defenseless American hostages, for drug traffickers who engage in cold-blooded murder of our law enforcement officers, for prisoners already serving life terms who murder guards or other inmates, or for traitors who jeopardize the security of millions by betraying our most sensitive military secrets to the Nation's enemies. The bill would correct these omissions and others by establishing an enforceable capital sanction for aggravated crimes of murder, espionage, and treason.

The need for reforms in these areas is familiar to all members of Congress. Substantially similar titles relating to the exclusionary rule, habeas corpus, and capital punishment were included in my initial proposal of the Comprehensive Crime Control Act of 1983. At the time of the passage of the Comprehensive Crime Control Act in 1984, all these proposals were passed as separate bills by large majority votes in the Senate. Similar proposals have been passed or introduced with broad support in the House of Representatives.

There is little question in my mind that these measures would again be approved without difficulty if the membership of both Houses of Congress were permitted to vote on them. Yet despite the passage of years, exhaustive hearings and study at the committee level, extensive floor consideration and debate, and vigorous efforts by numerous members of Congress in promoting these important reforms, they have not yet been enacted. This inaction is almost entirely attributable to determined delay and obstruction by those few who oppose the public's justified demand for effective action against crime and seek to deny the full membership of the Congress an opportunity to voice its will concerning these proposals.

We should not and cannot tolerate further delay on these important issues affecting the fundamental right of all Americans to justice in the courts and protection against crime. I accordingly urge prompt consideration and enactment of these legislative proposals.

Ronald Reagan.

The White House, *October 16, 1987.*

MESSAGES FROM THE HOUSE

At 11:17 a.m. a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1628. An act to extend the Aviation Insurance Program for five years.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3025. An act to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact.

At 2:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1174. An act to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3025. An act to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee of Environment and Public Works:

Brigadier General Charles Ernest Edgar III, United States Army, to be a Member of the Mississippi River Commission; and

Frank H. Walk, of Louisiana, to be a Member of the Mississippi River Commission for a term of nine years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO (for himself and Mr. Moynihan):

S. 1791. A bill to amend the Airport and Airway Improvement Act of 1982 with respect to the operation of flight service stations; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (for himself and Mr. Durenberger):

S. 1792. A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself, Mr. Pryor, and Mr. Bradley):

S. 1793. A bill to reinstate and make permanent the disregard of nonprofit organizations' in-kind assistance to SSI and AFDC recipients; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1794. A bill to establish, within the Department of Transportation, the High-Speed Ground Transportation Office; to develop the technology for a magnetically levitated superconducting transportation system; and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. Dole, Mr. Durenberger, Mr. Wallop, and Mr. Chafee):

S. 1795. A bill to make permanent the provisions under which certain support and maintenance assistance is disregarded as income under titles IV and XVI of the Social Security Act; to the Committee on Finance.

By Mr. GRAMM:

S. 1796. A bill to provide for the establishment of the Special Committee on Rio Grande Water Quality; to initiate a process leading to the identification of the causes of pollution in the Rio Grande; to outline the measures necessary to insure clean water in the Rio Grande; to propose methods for financing the costs involved in the recommended remedial measures; and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI:

S. Res. 298. A resolution expressing the sense of the Senate condemning violations by Japanese fishing fleets of boundaries established for ligitimate conservation purposes and the failure of the Government of Japan to adequately police its nationals' high seas fishing activities; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. Moynihan):

S. 1791. A bill to amend the Airport and Airway Improvement Act of 1982 with respect to the operation of flight service stations; to the Committee on Commerce, Science, and Transportation.

REOPENING OF CERTAIN FAA FLIGHT SERVICE STATIONS

● Mr. D'AMATO. Mr. President, I rise to introduce legislation that will require the Federal Aviation Administration to reopen certain flight service stations that were closed last summer. This important safety legislation was recently included in the House-passed airport and airway improvement bill, H.R. 2310, by my colleagues, Representatives Solomon and Martin.

This bill provides that on or after July 15, 1987, the Secretary shall not close or reduce the hours of operation of any flight service station unless service will be provided by an automated flight service station with model 1 or better equipment. In addition, the legislation directs the Secretary of Transportation to reopen any flight service station closed between March 25, 1987, and July 14, 1987, if the service provided by an automated flight service station has not been with model 1 or better equipment.

This measure is designed to ensure that the FAA reopens flight service stations in Albany, Massena, Glens Falls, and Watertown, NY, as well as in Montpelier, VT, Concord, NH, and in Houlton and Augusta, ME. These eight stations were closed between March 25, 1987, and July 15, 1987, and their functions were consolidated at the new, automated flight service station in Burlington, VT. Unfortunately, the new Burlington site is unable to provide the level of service promised by Congress: service that is "as good as or better" than what was sprovided in the past—Public Law 97-248, section 528(c). Pilots simply are not getting the flight information they need to maximize air safety.

FAA's flight service station automation program is supposed to provide pilots with better prelight and inflight weather and operational services through automation. FAA's plan encompasses the consolidating of 320 flight service stations across the Nation into 61 automated flight service stations. FAA anticipated making significant savings through the release of 25 percent of total flight service station personnel by 1990. Problems often arise, however, when automated flight service stations lack the advanced equipment needed to improve service. Model 1 or model 1 full capacity equipment will not be available to Burlington for many years.

In areas such as northern New York, New Hampshire, Maine, and Vermont, weather patterns change rapidly and pilots must have rapid access to the most current weather information. Many pilots who fly in northern New York State have told me that the automated flight service station in Burlington does not provide them with up-to-date information, and that they often must wait an unreasonable amount of time to get through to receive any information. Moreover, some pilots are flying without the information they need because the service is so poor. Data such as temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity must be given to pilots in an accurate and timely manner for it to be of value.

In addition, I echo the frustration of my House colleagues regarding the way in which the FAA went about closing these flight service stations. Last summer, we passed a fiscal year 1987 supplemental appropriations bill—Public Law 100-71—that contained a provision barring the FAA from closing any more flight service stations unless the new automated stations were equipped with model 1 or model 1 enhanced service. I, as well as my colleagues in the House, urged the FAA not to proceed with any further closings before Congress could complete action on the legislation. However, before the President had the opportunity to sign the supplemental bill on July 11, 1987, the FAA went ahead and closed these stations.

Under current law, the FAA could not have closed the flight service stations covered by my legislation. It is simple fairness to permit those stations to be reopened in order to assure that pilots in New York State and the surrounding New England region are afforded no less protection than pilots in other areas of the country.

I intend to offer this proposal as an amendment to the aviation reauthorization bill when it is considered by the full Senate. I ask my colleagues for their support, and urge them vote for this proposal when we take up the reauthorization legislation.●

By Mr. BAUCUS (for himself and Mr. DURENBERGER):

S. 1792. A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989; to the Committee on Environment and Public Works.

OFFICE OF ENVIRONMENTAL QUALITY AUTHORIZATION ACT

● Mr. BAUCUS. Mr. President, today, Mr. DURENBERGER and I are introducing legislation to authorize appropriations for the Office of Environmental Quality. The Office of Environmental Quality provides staff and administrative support to the Council on Environmental Quality.

The Council on Environmental Quality is responsible for implementation of the National Environmental Policy Act. The National Environmental Policy Act is the basic foundation of our national environmental ethic. Its passage in 1970 changed forever the way the Federal Government does business.

For every decision of the Federal Government, both large and small, a conscious public review and decision-making process ensures that effects on the environment are thoroughly considered. When adverse effects are pinpointed, steps are taken to minimize impacts. Over the past 17 years, the National Environmental Policy Act has made a major contribution to the protection of national environmental quality.

The Council on Environmental Quality was made responsible for the implementation of NEPA by Executive orders in 1970 and in 1977. The Council promulgated final regulations implementing NEPA in 1978 citing these two Executive orders.

Continuing questions regarding CEQ's authority to bind all Federal agencies with their regulations have persisted. The Supreme Court in *Sierra Club* v. *Andrus*, 442 U.S. 347 (1978) addressed this question for the executive branch. The Court found the regulations to be a "detailed and comprehensive process, ordered by the President, of transforming advisory guidelines into mandatory regulations applicable to all Federal agencies" 442 U.S. 347, 358 (1979). Yet Congress has never clarified its intent. The legislation being introduced today will once and for all settle this question by clarifying Congress' intent.

A persistent question in implementing NEPA has been the need for independent agencies to follow the Council's NEPA guidelines. While most independent agencies embraced the CEQ regulations in their entirety, one agency has failed to do so. The Federal Energy Regulatory Commission while finally implementing environmental review procedures has chosen to implement certain provisions of the regulations and to ignore other parts.

This unilateral action by a single independent regulatory agency seems to be without justification. This action is both difficult to comprehend and not supported by congressional intent. FERC is no different than every other Federal agency either within the executive branch or an independent agency. A single comprehensive environmental review framework is justified.

The Commission's attitude is particularly troubling in light of recent congressional action. Congress in 1986 amended the Federal Power Act specifically highlighting the need for greater emphasis on environmental concerns in Federal hydropower licensing. FERC's failure to adopt CEQ regulations ignores congressional concerns over environmental consequences of Commission actions.

The public has become accustomed to uniform environmental review procedures. These procedures have proven to be workable for every other Federal agency. The legislation I am introducing today will ensure uniformity across all Federal agencies.

The Federal Energy Regulatory Commission recently reaffirmed its insensitivity to environmental concerns and the need for input from States in addressing these concerns. The Federal Energy Regulatory Commission reversed its Clean Water Act certification policy. In 32 States this action foreclosed any opportunity of State certification for 227 projects. The Commission's reversal of longstanding policy regarding certification of ongoing license applications by States under section 401 of the Clean Water Act retroactively voided water quality certifications States had under review or had completed. Applications both under review and applications whose projects had been certified or denied more than 1 year after certification requests were deemed voided.

While the Clean Water Act in establishing a procedure to ensure water quality was protected recognized the need to avoid undue delay of FERC license applications, the retroactive nature of FERC's recent policy change ignores Congress' desire for a strong State role in protecting a State's water quality. The retroactive nature of this regulation is an affront to a State's responsibility to protect its waters.

The legislation being introduced today will not change the basic intent of the 401 certification process. Nor will it affect FERC's handling of State certification of new license applications as implemented in its recent policy change. Legitimate questions exist as to the workability of the policy strictly adhering to a 1-year certification process. This legislation does not change either the basic thrust of the Clean Water Act or the Federal Power Act. Rather, the legislation will ensure that the 32 States denied an opportunity to certify, waive or deny conformance with clean water standards will be provided sufficient time to complete certifications for applications pending at the time FERC reversed its certification policy.●

By Mr. MOYNIHAN:

S. 1794. A bill to establish, with the Department of Transportation, the High-Speed Ground Transportation Office; to develop the technology for a magnetically levitated superconducting transportation system; and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL ADVANCED SUPERCONDUCTING TRANSPORTATION ACT

● Mr. MOYNIHAN. Mr. President, I rise to introduce the Federal Advanced Superconducting Transportation [FAST] Act—legislation that will create this country's next transportation revolution. It will be an entirely new ground transportation system. This bill is not about incremental changes and improvements to our Nation's existing ground transportation system. It is not about adjustments that will increase the speed of conventional train travel or that will increase the speed or durability of the automobile. The FAST Act is about the development of a form of transportation that is inevitable.

Recent advances in engineering and superconductivity have now made it possible to develop a magnetic levitation transportation system that will move large volumes of people at speeds in excess of 300 miles per hour. The system will be environmentally superior to all existing forms of transportation and will require much less energy. The system will move people and cargo between major cities at travel times below those now achieved on airplanes. The system will also be easily accessible, since numerous entry stations can be accommodated.

In the United States we have passed through a number of transportation revolutions. The opening of the Erie Canal and the inland waterway was the first such revolution. The canal era began with initial construction on the Erie Canal in 1817. By 1840, 3,200 miles of canals had been constructed. With the exception of the Erie, the Federal Government contributed substantially to the construction of the system.

Next came the railroads. They provided more dependable and faster service than the canals. By 1860, with the help of Federal lands grants, the railroad became the dominant transportation system.

Then the automobile. First introduced in 1892, the automobile soon overwhelmed the railroad as a means of passenger travel. By 1918 the United States was home to 6.2 million cars, and the era of the automobile was fully upon the Nation. In 1956, the federally funded Interstate Highway System was begun. With the passage of the highway bill earlier this year, the greatest public works project in history has essentially been completed.

Finally, organized air travel began with the passage of the Air Mail Act in 1925. The Federal Government has provided significant assistance for the construction of the Nation's airports and provides regulatory and safety oversight.

It is now evident that these forms of transportation have reached their limits. The railroad has changed very little in over a century. The automobile is a mature technology. Air travel also created a transportation revolution. However, the skies in many air corridors are saturated, and delays are now the inevitable result.

Magnetic levitation technology could alleviate many of the problems faced by our Nation's transportation industry: congestion, pollution, and safety. But no major transportation system has ever progressed in the United States without substantial Federal involvement. Magnetic levitation is no exception. We must meet this challenge now and the FAST Act will initiate this effort. If we fail to act now, the inevitable result will be that one of the largest capital projects in the United States during the 21st century will be based upon imported foreign technology, either Japanese or German.

It was, after all, the United States that pioneered magnetic levitation research in the 1960's. In a shortsighted decision, the United States terminated its funding for mag-lev research in 1975, while Japan and Germany pressed on.

It is also American scientists that have been responsible for most of the breakthroughs in superconductivity technology that can be applied to magnetic levitation transportation. But we are on the threshold of losing world economic leadership in the production of a transportation system every bit as important as the jet airplane.

What is a magnetic levitation transportation system? It is not a railroad in any sense that we know it today. It is not an automobile or metro system either. Magnetic levitation vehicles will travel on a guideway. The vehicles will move along the guideway on a magnetic field, will utilize the latest in superconductor technology, and will be extremely energy efficient. And such a system is not just some scientist's dream for the future; Japan and West Germany have prototypes in operation.

Indeed, the uses of magnetic levitation transportation will not be limited to travel between major cities. Feeder guideways will inevitably branch into smaller communities and lower speed systems will connect points closer together. An example of the latter type of use already exists in Birmingham, England, where a magnetic levitation system operates from the airport.

Of course, one appropriate location for a super speed magnetic levitation system is the Northeast corridor. Ideally, the loads of the vehicles would be more limited in size and would depart on more frequent intervals than conventional trains. Since these vehicles can travel in excess of 300 miles per hour, a trip from New York to Washington would take only an hour. A similar trip from New York to Boston could also be completed in under an hour. Currently, even with high speed conventional trains these trips take 3 to 4 hours. Just this week, excitement was created by a conventional train traveling between Boston and New York in 3 hours and 44 minutes at top speeds of 110 miles per hour. Just imagine the excitement if the traveltime is reduced to 1 hour—and it can be if we adopt the FAST approach. Then we will have a genuine technological breakthrough. And it will attract passengers away from congested air travel.

In addition, since magnetic levitation vehicles will be much more maneuverable than conventional trains, with much quicker loading and unloading times, and much faster acceleration and deceleration times, no time need be wasted on multiple-stop trips. A vehicle can leave Washington at, say, 12 noon on a nonstop trip to Philadelphia. Once the train arrives in Philadelphia, it would be able to pull off the main guideway onto a siding.

Thus, the only time delay to launch the next vehicle leaving, say, for New York nonstop will be the time that it takes to load the passengers.

In addition to the Northeast corridor which faces drastic congestion problems in its air and highway transportation systems, many other areas of the country would benefit from a commitment to a super speed system. Indeed, the State of Florida under the leadership of then Governor Graham, and now Senator GRAHAM, established a high speed rail committee in 1982 to find a suitable system for the burgeoning Miami-Orlando-Tampa corridor. Florida has gone on to create a model effort at trying to establish a government/private sector partnership to build a system.

However, it remains unclear what type of technology Florida will select—railroad or magnetic levitation. And it is not clear whether they will select an American or foreign technology. Florida is also attempting to implement this project without any Federal support, a situation which our past experience with developing new transportation systems suggests is virtually unprecedented.

Other viable corridors for initial system development include, San Diego-Los Angeles, Los Angeles-Las Vegas, Detroit-Chicago, Chicago-Milwaukee, and Ohio-Pennsylvania. It is, however, critical that whatever corridors take the lead in developing new ground transportation systems, that they select the innovative technology proposed in the FAST Act rather than a 19th century conventional rail technology, even if it be high-speed French TGV technology or the Japanese bullet train technology. We must channel our efforts to develop the technology of the new transportation revolution—superconducting magnetic levitation. If we do not move aggressively forward in this field, we will once again fail to commercialize and lead the revolution that our scientists have set in motion. We might leave it to the Europeans and Japanese. That would be a national tragedy.

Mr. President, this form of transportation is inevitable. And we cannot afford to lose our leadership in this field. Consequently, the FAST Act calls for the establishment of a national super transportation system. We will provide NASA—the same agency that took us to the Moon in a decade—with the responsibility of perfecting the technology of magnetic levitation. We are already close. We will also establish an office in the Department of Transportation to oversee the design and regulations for a national system. Too often, the Federal Government provides basic research moneys for technological development and then fails to provide the necessary support to bring the technology to commercial development.

The FAST Act would also require States to provide private entities with an exclusive franchise to construct and operate the systems, and the States will have to secure whatever rights-of-way are necessary. We should establish the Federal, State, and local governments and the private sector as full partners in this next transportation revolution.

Of course, some Federal tax incentives will be considered, and ultimately some Federal funding may be necessary to complete the national system. However, the system will start in those corridors where the traffic already suggests the commercial viability for such a system. And the most critical responsibility of the Federal Government for the next several years is to provide the assistance to perfect the technology and to establish the design and standards so that construction can begin. My bill suggests a 3-year period to complete the technological development and 2 more years to complete the design and standards. Thus, by 1993 we should be prepared to begin construction. Let us begin the 21st century with the United States firmly in the lead of the superconductivity transportation revolution. And not as its main importer.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; FINDINGS

SECTION 1. (a) This Act may be cited as the "Federal Advanced Superconducting Transportation Act".

(b) The Congress finds that—

(1) congestion on the Nation's air and highway systems poses serious safety and transportation problems;

(2) the technology for a magnetically levitated, superconducting transportation system can be quickly developed for commercial applications;

(3) the United States terminated its magnetic levitation research program in 1975, while other nations, including Japan and West Germany, are continuing their programs;

(4) construction of a super high-speed transportation system would provide a highly efficient and convenient mode of transportation;

(5) substantial Government funds continue to be spent to support conventional air, rail and automobile travel; and

(6) if the Federal Government fails to assert leadership in the development of a magnetically levitated superconducting transportation system, the commercial development of such system will be achieved by other nations.

OBJECTIVES

SEC. 2. (a) The objective of this Act is to fully develop magnetic levitating superconducting technology for the purpose of constructing a national super high-speed transportation system with the initial locations of such systems most likely in the Northeast corridor, Florida corridor, Los Angeles-Las Vegas corridors, and other viable corridors in the United States.

(b) It is the intent of Congress that the objective of this Act shall be met through a four-phase approach as follows:

(1) Phase I will involve the development of the general technology necessary to the construction of a magnetically levitated superconducting transportation system requiring $100,000,000 of Federal assistance over a 3-year period;

(2) Phase II will involve the development of a full-scale design for such a system of transportation, and require $200,000,000 of Federal assistance. Congress intends that Phase II will be completed within 2 years after the completion of Phase I;

(3) Phase III will involve the construction of such systems, and is intended to be completed by private entities and will be financed by private or governmental entities, or a combination thereof. It is the intent of Congress that the exact financing formula will be determined after Phases I and II are completed and will be based on the recommendations to the Congress by the High-Speed Ground Transportation Office (hereinafter referred to in this Act as the "Office"), and State and regional economic development authorities; and

(4) Phase IV will involve the operation of the transportation system following its completion. It is the intent of Congress that Phase IV will be implemented by private entities, and that it will require no governmental funds.

(c) In carrying out Phase I, general research and development, it is the intent of Congress that such phase shall assure the development of the technology for a magnetically levitated superconducting transportation system with the following properties:

(1) will be developed by utilizing superconducting magnetic levitation technology;

(2) will be developed to achieve speeds of at least 200 to 300 miles per hour;

(3) will be developed to assure that the system is environmentally compatible; and

(4) will be developed by utilizing existing rights-of-way to the greatest extent possible.

(d)(1) In carrying out Phase II, full scale design of regional systems, it is the intent of Congress that such design will be developed by private entities selected by the Office and in cooperation with regional economic development authorities.

(2) In carrying out Phase II, only regional economic development authorities in States and regions that have enacted into law enabling legislation to vest in a statutory entity (A) the power of eminent domain, and (B) the right to grant an exclusive franchise for the project will be eligible to participate in Phase II.

(e) The Office shall have regulating authority over the regional systems established pursuant to this Act.

(f) It is the intent of Congress that the Federal Government shall assist approved regional economic development authorities by—

(1) providing financial assistance for Phase II;

(2) providing necessary tax incentives for all phases; and

(3) recommending such other actions as necessary and appropriate.

ESTABLISHMENT OF OFFICE

SEC. 3. (a) There is established, within the Department of Transportation, the High-Speed Ground Transportation Office (referred to in this Act as the "Office"). The Office shall be headed by a Director, who shall be appointed by the Secretary of Transportation. The Director shall report to the Secretary. The Secretary shall provide such personnel for the Office as are necessary to carry out the functions of the Office.

(b) It shall be the function of the Office to—

(1) establish national uniform standards for a magnetically levitated superconducting transportation system technology;

(2) regulate the design and construction of a regional high-speed transportation systems to ensure that they conform to national standards on technology, safety, and environmental quality; and

(3) recommend funding mechanisms for Phase III, tax incentives, regulatory relief and liability limitations as necessary and sound to facilitate the project.

(c)(1) The Office, within the 12-month period following the date of enactment of this Act, shall conduct a preliminary study of the feasibility of constructing a magnetically levitated superconducting transportation system.

(2) Such study shall—

(A) examine the extent to which such systems would accommodate the traffic volume on other modes of transportation;

(B) examine the significant issues regarding the engineering, construction, and operation of such systems, including use of existing rights-of-way;

(C) assess the capital and operating costs of constructing such systems, the extent to which the systems can recover their costs (including capital costs), and the alternative methods of private or public financing, or both;

(D) examine any negative environmental impact of such transportation systems and the environmental benefits due to decreased traffic volume on other modes of transportation with respect to (i) air quality; (ii) energy; (iii) noise; (iv) land use; and (v) health and safety;

(E) examine the effect of the construction and operation of such transportation systems on regional employment and economic growth; and

(F) determine the necessary actions of the appropriate regional governments for construction of such a system, including the duties of a regional economic development authority and the content of enabling legislation.

AUTHORIZATIONS

SEC. 4. (a)(1) There is authorized to be appropriated to the National Aeronautics and Space Administration, for the purpose of carrying out Phase I of the magnetically levitated superconducting transportation systems, the sum of $100,000,000. Moneys appropriated pursuant to this authorization shall remain available until expended.

(2) The National Aeronautics and Space Administration shall solicit bids to carry out Phase I of the project as set forth in section 2(b)(1), and in accordance with section 2(c).

(b) There is authorized to be appropriated to the High-Speed Ground Transportation Office, for the purpose of assisting in the implementation of Phase II of the project, as set forth in section 2(b)(2), and to carry out the other duties and functions of the Office under this Act, the sum of $200,000,000. Moneys appropriated pursuant to this authorization shall remain available until expended.●

By Mr. DANFORTH (for himself, Mr. DOLE, Mr. DURENBERGER, Mr. WALLOP, and Mr. CHAFEE):

S. 1795. A bill to make permanent the provisions under which certain support and maintenance assistance is disregarded as income under titles IV and XVI of the Social Security Act; to the Committee on Finance.

PERMANENT INCOME DISREGARD FOR CERTAIN SUPPORT AND MAINTENANCE ASSISTANCE

● Mr. DANFORTH. Mr. President, the Social Security Administration sent an instruction to Social Security field offices that, if implemented, would reduce welfare benefits for many elderly, blind, and disabled people. These are some of the neediest people in our country, people that our Government has a responsibility to protect.

The proposal dictates that any noncash assistance in excess of the first $20 that a person receives will be counted as income when determining the amount of the supplemental security income benefit. This means that private donations to these people, such as blankets given to the homeless, meals served at soup kitchens, or turkeys provided at Thanksgiving time, will result in a dollar-for-dollar reduction of their monthly benefit. The effect of this policy will be an immediate and unconscionable reduction in help for the neediest people in our country as well as an explicit message to the general population discouraging them from making donations to the poor. Currently, SSI recipients receive only $340 a month, an amount that is often not enough to cover 1 month's rent. If Congress does not act immediately, this amount could be reduced as much as $113 for an individual and $170 for a couple.

Mr. President, we are faced with a true emergency. The legislation that would extend the policy protecting these individuals is included in a highly politicized budget reconciliation package for which there is a little hope of passage. The differences between the House and Senate on reconciliation are very substantial and may not be resolved. Moreover, the President already has said he would veto either version. The proper way to address this problem is to pass freestanding legislation that will correct the problem immediately. We must not subject the needs of some of the poorest people in our country to the politics of the Senate. They need our help. We must pass this legislation as soon as possible.●

By Mr. GRAMM:

S. 1796. A bill to provide for the establishment of the Special Committee on Rio Grande Water Quality; to initiate a process leading to the identification of the causes of pollution in the Rio Grande; to outline the measures necessary to ensure clean water in the Rio Grande; to propose methods for financing the costs involved in the recommended remedial measures; and for other purposes; referred to the Committee on Foreign Relations.

ESTABLISHMENT OF THE SPECIAL COMMITTEE ON RIO GRANDE RIVER WATER QUALITY

● Mr. GRAMM. Mr. President, today I am introducing critically needed legislation which will lead to the reduction of pollution in the Rio Grande.

This river is more than an international boundary. It provides water that benefits literally millions of people on both sides of the border. However, the lack of adequate sewage treatment facilities and other factors has placed a tremendous burden on this vital natural resource. Pollution levels are on the rise. The contamination of the Rio Grande can have a devastating effect on a vast geographic area, not to mention obvious international repercussions.

My bill would establish a Special Committee on Rio Grande Water Quality, consisting of the U.S. Commissioner on the International Boundary and Water Commission as well as others with expertise in international finance and water pollution remedies. These individuals would conduct a thorough study of the sources of pollution in the Rio Grande and recommend remedial actions. The panel would also look for sources of funding for Rio Grande antipollution measures, including the use of World Bank or other multilateral funds, private capital, and cost sharing between the United States and Mexico. The special committee would submit its findings to the President who, within 3 months, would submit a legislative proposal which would enact the recommended pollution control program.

The legislation also urges United States officials to work with their Mexican counterparts in an effort to create a joint effort that will lead to lasting solutions to this serious problem.

Mr. President, I urge my colleagues to adopt this effective first step to address a growing problem. The people of two nations await our leadership on the issue of Rio Grande pollution. It's time to act.

I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Clean Water Act of 1987".

TITLE I—ESTABLISHMENT OF THE SPECIAL COMMITTEE ON RIO GRANDE RIVER WATER QUALITY

SEC. 101. PRESIDENTIAL MANDATE.

(a) IN GENERAL.—The President, after consultation with the Secretary of State and the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in this Act referred to as the "Commissioner" and the "Commission"), shall establish the United States Special Committee on Rio Grande River Water Quality (hereafter in this Act referred to as the "Special Committee").

(b) COMMITTEE MEMBERSHIP—

(1) The members of the Special Committee shall be appointed by the President of the United States and shall consist of the following—

(A) The Commissioner who shall serve as Chairman of the Special Committee;

(B) one representative drawn from individuals in the private sector having expertise and experience in remedying water pollution problems and in civil engineering matters (in addition to the United States Commissioner);

(C) one representative drawn from individuals having expertise and experience in international finance and in international economic development activities;

(D) one representative of the Department of State;

(E) one representative of the Environmental Protection Agency (EPA); and

(F) the Governor of Texas or his designee shall be an ex officio, non-voting member of the Special Committee.

(2) A majority of the Special Committee shall constitute a quorum and decisions of the Special Committee shall be based upon majority vote of the Special Committee.

TITLE II—DISCUSSION AND PLANNING WITH REPRESENTATIVES OF THE GOVERNMENT OF MEXICO

SEC. 201. FORMATION OF A JOINT COMMITTEE.

The President of the United States shall request the Secretary of State to instruct the Commissioner to propose to the Mexican Commissioner of the Commission the formation of a similar Mexican Special Committee or such other appropriate structural framework as may be determined best able to cooperate and assist with the attainment of the objectives of the United States Special Committee and which would assist in the formation of a Special Joint Committee on Rio Grande River Water Quality.

TITLE III—MISSION AND RESPONSIBILITIES OF THE SPECIAL COMMITTEE

SEC. 301. SCOPE OF THE COMMITTEE'S MANDATE.

(a) IN GENERAL.—The Special Committee shall undertake and conduct a complete study and analysis of the problem of pollution of the Rio Grande caused by—

(1) the direct or indirect discharge of raw or inadequately treated sewage into the river; and

(2) such other pollutants as may be identified by the Special Committee.

(b) INVOLVEMENT OF COMMUNITIES.—The Special Committee shall provide appropriate opportunities and public forums for officials and residents of communities, cities and counties located in close proximity to the Rio Grande River to provide comments and information and to fully participate in the activities of the Special Committee.

(c) IDENTIFICATION OF POLLUTION SOURCES.—The Special Committee shall identify the known and suspected sources of pollution in the Rio Grande River.

(d) COORDINATION WITH FEDERAL AND STATE AGENCIES.—The Special Committee shall involve in its activities appropriate officials of the U.S. Army Corps of Engineers as well as such federal and state agencies, departments and officials as deemed necessary and proper.

(e) USE OF EXISTING INFORMATION.—The Special Committee shall review existing information and documentation relating to pollution in the Rio Grande and shall have as part of its duties the compilation and consolidation of existing material, studies, documentation and other related material that has been prepared and is available for study and use.

(f) PROGRESS REPORTS TO THE PRESIDENT AND TO THE CONGRESS.—No later than 3 months after the date of appointment of the Chairman of the Special Committee, the Special Committee shall prepare and transmit to the President and to the Congress a report describing the activities of the Special Committee during the preceeding three months.

(g) PREPARATION OF A POLLUTION ABATEMENT PLAN.—Not later than 12 months following the date of appointment of the Chairman of the Special Committee, the Special Committee shall prepare and submit to the President, to the Congress and to such other officials as the Special Committee deems appropriate, a plan to achieve the abatement of the pollution of the Rio Grande River. Such plan shall include—

(1) a description of the facilities that would be needed to be constructed or other actions that would be required to reduce pollution of the river to a level that meets the target standards established by the Special Committee;

(2) an estimate of the cost of planning, constructing, operating, and maintaining such facilities or activities and implementing such procedures; and

(3) alternative means of financing the costs of the actions referred to in paragraph (2). Such cost sharing alternatives shall include—

(A) the use of private capital to finance the cost of the activities referred to in paragraph (2); the means and arrangements required to attract such capital; and proposals to maximize efficiencies, encourage economies of scale and take advantage of the demonstrated value of private sector capabilities and experience.

(B) the resources of the International Bank for Reconstruction and Development (World Bank); the Inter-American Development Bank; and other international, multilateral lending institutions.

(C) proposed formulas for potential United States-Mexico cost sharing agreements including the transfer of non-financial assets; and proposed cost sharing formulas between local, state and federal government.

(D) such additional proposals and recommendations as the Special Committee deems necessary and appropriate.

TITLE IV—SUBMISSION OF REMEDIAL LEGISLATION BY THE PRESIDENT

SEC. 401. PRESIDENT TO SUBMIT PROPOSED LEGISLATION TO CONGRESS.

No later than 3 months after the receipt from the Special Committee of the final report of the Special Committee, the President shall submit to the Congress a proposal for legislation based on the findings of the Special Committee and which he deems effective in producing the pollution abatement goals as defined in the report of the Special Committee.

TITLE V—EXISTING INTERNATIONAL AGREEMENTS

SEC. 501. USE OF EXISTING FRAMEWORK OF INTERNATIONAL AGREEMENTS

The activities of the Special Committee shall be undertaken with a recognition of the requirements of existing agreements between the governments of the United States and of Mexico and shall be conducted in accord with the procedures contained in the United States-Mexico Water Treaty and Protocol signed at Washington on November 14, 1944; with Minute number 261 of the Commission signed at El Paso on September 24, 1979; with Agreement of Cooperation for the Protection and Improvement of the Environment in the Border Area signed at La Paz on August 14, 1983; and with the provisions of such other agreements as applicable.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS

(A) IN GENERAL.—For the activities of the Special Committee, there are authorized to be appropriated sums as are necessary to fund the activities of the Committee but not to exceed $1,000,000.●

ADDITIONAL COSPONSORS

S. 552

At the request of Mr. EVANS, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government and for other purposes.

S. 756

At the request of Mr. LAUTENBERG, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 756, a bill to ensure the amounts paid for home improvements to mitigate indoor air contaminants such as radon gas qualify for the tax deduction for medical care expenses.

S. 814

At the request of Mr. HATFIELD, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Illinois [Mr. DIXON], and the Senator from Washington [Mr. EVANS] were added as cosponsors of S. 814, a bill to facilitate the resettlement of Indochinese refugees and to provide for the protection of Indochinese refugees along the border of Thailand from cross-border attacks, and for other purposes.

S. 840

At the request of Mr. THURMOND, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 840, a bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated.

S. 1171

At the request of Mr. HATFIELD, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 1171, a bill to establish a national population policy and to improve methods for correcting, analyzing, and employing natural resource, environmental, and demographic data.

S. 1230

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1230, a bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings.

S. 1438

At the request of Mr. DURENBERGER, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1438, a bill to assist rural hospitals facing unfair Medicare payment policies.

S. 1464

At the request of Mr. CRANSTON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1489

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through passthrough entities.

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1489, supra.

S. 1520

At the request of Mr. BAUCUS, the names of the Senator from Illinois [Mr. DIXON], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from Tennessee [Mr. SASSER], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1520, a bill to amend the Internal Revenue Code of 1986 to allow certain entities to elect not to make changes in their taxable years required by the Tax Reform Act of 1986, and for other purposes.

S. 1561

At the request of Mr. BOND, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1620

At the request of Mr. PELL, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1620, a bill to reauthorize and revise the Act of September 30, 1950 (Public Law 874, 81st Cong.) relating to Federal impact aid, and for other purposes.

SENATE JOINT RESOLUTION 41

At the request of Mr. GLENN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution to designate the period commencing on November 22, 1987, and ending on November 29, 1987, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month."

SENATE JOINT RESOLUTION 126

At the request of Mr. PACKWOOD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day".

SENATE JOINT RESOLUTION 134

At the request of Mr. WARNER, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Vermont [Mr. STAFFORD], the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. GARN], the Senator from Alaska [Mr. STEVENS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Oregon [Mr. PACKWOOD], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. SHELBY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from New Jersey [Mr. BRADLEY], the Senator from Massachusetts [Mr. KERRY], the Senator from Tennessee [Mr. GORE], the Senator from Montana [Mr. BAUCUS], the Senator from Michigan [Mr. LEVIN], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Arizona [Mr. DECONCINI], the Senator from Florida [Mr. CHILES], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mr. CRANSTON], the Senator from Michigan [Mr. RIEGLE], the Senator from Arkansas [Mr. PRYOR], the Senator from Georgia [Mr. NUNN], the Senator from New York [Mr. D'AMATO], the Senator from Louisiana [Mr. JOHNSTON], the Senator from West Virginia [Mr. BYRD], the Senator from Vermont [Mr. LEAHY], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate the week commencing on the third Sunday in May, 1988, as "National Tourism Week".

SENATE JOINT RESOLUTION 141

At the request of Mr. NICKLES, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day".

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. SANFORD, the name of the Senator from Washington [Mr. ADAMS], was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

SENATE RESOLUTION 298—RELATING TO JAPANESE VIOLATIONS OF CONSERVATION BOUNDARIES IN HIGH SEAS FISHING ACTIVITIES

Mr. MURKOWSKI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 298

Whereas Japanese gillnet vessels engaged in squid fisheries in the northern Pacific Ocean are known to cause significant mortality among a variety of non-targeted resources, including marine mammals, sea birds and salmon;

Whereas the activities of these vessels contribute to the substantial economic losses annually suffered by Alaskan fishermen due to salmon interceptions by drift gillnet fleets, which are most heavily felt by residents of Alaska's Arctic Yukon-Kuskokim region, where annual per capita income averages only $2,700, primarily from commercial fishing;

Whereas geographic boundaries have been established to restrict the activities of these vessels to areas where the incidental mortality of North American-origin salmon is minimized;

Whereas vessels of the squid fleet have violated the established boundaries during five out of the last six years' fishing seasons;

Whereas numerous of these vessels have crossed the northern and eastern boundaries established for squid fishing and engaged in fishing in waters likely to contain large numbers of salmon but relatively low concentrations of squid;

Whereas the operators aboard a significant number of the vessels found in prohibited areas have deliberately attempted to avoid identification by U.S. Coast Guard patrol aircraft by covering or obscuring the vessels' markings;

Whereas the boundary violations have been far in excess of what might be considered accidental, including 80 individual sightings in 8 patrols between July 20 and August 28, 1987, with vessels sighted fishing up to 89 miles north of the boundary, and underway as far as 195 miles outside the fishing area, and

Whereas the Government of Japan consistently has failed to enforce laws and regulations covering the activities of the Japanese squid gillnet fleet despite assurances that it would do so: Now, therefore, be it

Resolved, That it is the sense of the Senate that these continued violations by the Japanese squid gillnet fleet and the failure of the Japanese government to provide for adequate enforcement of regulations under which the fleet operates are to be condemned as contrary to the letter and spirit of agreements to conserve valued North American species such as salmon, marine mammals and seabirds occurring in areas contiguous to accepted squid fishing grounds.

SEC. 2. The Senate hereby requests the President to direct the appropriate Executive agencies to achieve—

(1) a negotiated settlement providing for needed changes to the Japanese laws and regulations relating to the Japanese squid gillnet fishery and more active enforcement by Japanese authorities; and

(2) more effective monitoring and enforcement by U.S. Government agencies.

SEC. 3. It is further the sense of the Senate that the Secretary of State should direct the efforts of the Department of State toward an agreement providing for—

(1) a guaranteed level of at-sea boardings and inspections by Japanese enforcement vessels, particularly in the areas of the eastern and northern boundaries of the accepted squid fishing area, with full information on all detected violations to be immediately furnished to U.S. authorities, including information as to sex, age, length and weight figures for a statistically valid sampling of each species of salmon which may be found on board;

(2) the installation and operation by each squid gillnet vessel of sealed electronic equipment capable of transmitting the vessel's identification code, location, course and speed via satelite to U.S. and Japanese receiving stations not less than once each day;

(3) forfeiture of vessel or loss of fishing privileges for a minimum of one year for vessels fishing outside accepted boundaries, fishing with concealed identifying markings, retaining incidentally caught salmon, or other serious violations;

(4) a fisheries observer program using United States observers or observers approved by the United States, with accomodations and support for such observers provided aboard an appropriate vessel not otherwise involved in the fisheries, covering a statistically adequate number of the vessels in the squid fleet, and charged with providing the governments of Japan and the United States with detailed information on the incidental taking of salmon, sea birds, marine mammals or other species of concern to either government, including information as to numbers, areas and dates caught for each species, and sex, age, length, and weight data for a statistically valid sampling of individuals of each species taken, with information collected on incidentally taken salmon to include scale samples;

(5) authorities to guarantee the right of United States enforcement authorities to board and inspect Japanese driftnet fishing vessels on the high seas to determine if the vessel has engaged in activities that constitute a violation of U.S. or Japanese fisheries laws and regulations, or international agreements regarding fisheries;

(6) provisions to ensure that evidence of squid fishing or other appropriate fisheries violations collected by agencies of the United States, including sighting reports, photographs, and testimony and/or affidavits by knowledgeable persons, is given equal weight in proceedings of Japanese law regarding such violations;

(7) provisions whereby the costs of enforcement and research are to be borne by the owners and/or operators of the vessels participating in the subject fisheries.

SEC. 4. It is further the sense of the Senate that the Secretary of Transportation should direct the efforts of the United States Coast Guard toward increasing surveillance and enforcement efforts in connection with the squid fishery, including boarding and inspection for violations of international agreements and the use of more effective equipment and techniques of surveillance photography to obtain evidence of violations;

SEC. 5. It is further the sense of the Senate that the Secretary of Commerce should examine the applicability of 16 USC 1824(b)(10)(C) to the activities of the squid fishing fleet, and either invoke the provisions of subparagraph (C) for the fiscal year beginning October 1, 1987, or provide to Congress a full and adequate justification for not doing so in light of the failure of the Government of Japan to adequately regulate Japanese squid fishing vessels according to the terms of applicable U.S. and Japanese laws and international agreements.

SEC. 6. The Secretary of the Senate shall transmit a copy of this resolution to the President and to the Secretary of State, the Secretary of Transportation and the Secretary of Commerce.

Mr. MURKOWSKI. Mr. President, I am today submitting a resolution to express the sense of the Senate in regard to repeated and flagrant violations by the vessels of Japan's squid-fishing fleet of the boundaries established for that fleet in the North Pacific Ocean, primarily off the coast of Alaska.

This resolution accomplishes two goals: First, it clearly states for the record the Senate's condemnation of these continued abuses; and second, it identifies a series of specific steps that may be undertaken by our Government to alleviate the problem.

Section three of the resolution directs that the State Department should achieve an agreement with Japan that includes:

First, a guaranteed level of Japanese enforcement activity; in other words, the Japanese must enforce the activities of their own fishing vessels in this area.

Second, the use of technology, electronic positioning which is available on these ships so that they can be positively identified, and, as I will show the Presiding Officer very shortly, the inconsistencies and the situations where there have been violations of procedure in attempting to keep the names and numbers of these vessels covered up.

Third, a proposal for either forfeiture of the vessels or some types of loss of fishing privileges for the vessels that demonstrate serious violations.

Fourth, the establishment of a Fisheries Observer Program capable of providing detailed statistical information on incidentally harvested species;

Fifth, commitments assuring that United States authorities may board and inspect Japanese squid fishing vessels for violations of either United States or Japanese laws;

Sixth, provisions to ensure that evidence collected by the United States is given equal weight in Japanese judicial proceedings as evidence collected by Japanese authorities; and

Seventh, provisions that ensure the cost of the increased enforcement and monitoring made necessary by these illegal activities is borne by those responsible.

Section four calls for increased enforcement efforts by the U.S. Coast Guard, as well, in order to ensure compliance with salmon regulations established by the International North Pacific Fishery Commission, the members of which are the United States, Canada, and Japan.

And finally, section five calls on the Secretary of Commerce to invoke a provision of the amended Magnuson Act, which calls for the fees levied on a nation which fishes in the U.S. exclusive economic zone to be doubled if the Secretary finds the nation in question is either harvesting anadromous fish at an unacceptable level, or is failing to take sufficient action to benefit the conservation and development of U.S. fisheries.

High seas gillnet fisheries are known to cause significant mortality among a variety of species, including salmon, sea birds and marine mammals. It is thought, for example, that the squid fleet contributes substantially to estimated U.S. losses of up to $20 million annually from salmon interceptions alone. These losses are disproportionately borne by residents of the Arctic-Yukon-Kuskowkwin region of Alaska, where annual per-capita income—derived primarily from commercial fishing—averages only $2,700.

I will point out to the Presiding Officer that these salmon are anadromous fish. That means they go back to native streams in Alaska and Canada from where they were hatched as salmon-fry, and they intermingle out here in the middle of the north Pacific during the time in which they are maturing. And then, depending on a 2- or 4-year cycle, go back to these streams; my point being you can have all the necessary capability on the land mass, but if you are fishing unrestricted on the high seas, very shortly you will lose the runs. As a consequence of taking the fish out here, they will never get back to the streams to spawn and the loss, not only monetarily, but to the native salmon stocks, is impossible to measure.

That is what we are talking about. We intend to keep an eye on this fleet because what happens during the wintertime is this fleet is basically in the southern regions of this red area; however, in the summertime when the waters warm up, this fleet begins to move outside their areas and there are some specific boundaries.

Mr. President, we just cannot afford to allow continuation of these flagrant abuses to occur.

The boundaries these vessels are so consistently violating were established as a result of concern over the potential for extensive incidental harvest of North American salmon, and are intended to keep the fleet in the warmer waters favored by squid, and out of the cooler temperatures preferred by salmon. Since water temperatures vary during different times of the year, the boundary shifts also. The northern boundary for July, for example, is 42° north latitude, but is shifted northward to 44' north latitude in August.

Because the boundaries regulate a high-seas fishery for a nonanadromous species, they were established in Japanese law rather than by international agreement. Thus, it is the responsibility of the Government of Japan to enforce them—a task it has so far failed to perform adequately.

Mr. President, we cannot afford to allow these flagrant abuses to continue. The boundaries for this fishery were established before the squid fishing season in 1982, and there is no acceptable excuse for fishing outside them. Yet the fact remains; the boundaries were crossed in 1982, and although no sightings were made in 1983, they were crossed in 1984, in 1985, in 1986, and again this year.

This year, in fact, a new high-water mark for violations has been established, with close to 100 vessels fishing outside the accepted area in July and August alone, many of them with their numbers covered to avoid identification.

Let me explain to the Chair the significance in the efficiency of this fishery. These vessels can contain gill nets as much as 30 miles long. It is not just a small fishery. Can you imagine the effectiveness of a 30-mile net fishing on the high seas? And you multiply that by close to 100 vessels that were seen fishing outside the accepted area in July and August of this year.

Well, 30 miles times 100 vessels is a pretty extensive net. Someone has suggested that sometimes there are enough nets out there to nearly go across the north Pacific Ocean.

I would like to share with the Presiding Officer photographs taken during routine aerial patrols on August 5 and 11 of this year by the U.S. Coast Guard personnel flying out of Kodiak, AK. They clearly show Japanese gillnet vessels operating in areas they should not be.

These vessels have been identified by the U.S. Coast Guard as four Japanese vessels. The date is shown on the chart. The first one is August 5, 36 miles north of the August boundary.

This particular ship has a number that is partially blocked out in the bow. There is no further identification on the stack. So, obviously, the ability to apprehend this vessel is an impossibility.

On the same date, on August 5, 38 miles north of the August boundary, even a greater violation of the traditions of the sea. The bow of the vessel is covered up, either with paint or sacks or blankets. The entire name of the vessel is stricken.

Over here, you see ordinarily a number on the vessel. This is blackened out, as well, and there is another blackened out area here. So what we are seeing is obviously more than a casual effort to disguise the flag of the vessel and the home port. But these have been identified, unfortunately, as Japanese vessels.

On August 11, 11 miles north, another vessel. And we see the same thing. This is where the name would ordinarily occur on the bow and what we are seeing here is covered up and it is also covered up where the number would go.

Again, on August 5, 61 miles north of the boundary, we see the same situation, only this one is a little different. This is where the name would normally go. It is covered up. We see on deck fish believed to be salmon. And I have an enlargement of this photograph, which will show what is believed to be seals in the net in this particular photograph.

This is a blown-up photograph. It shows the extensive communication capability. This is just not your average fishing vessel. Again, the name is covered up here, and covered up here in the stern. No identification, other than the Coast Guard's satisfaction that they have seen enough of these vessels to know who they belong to.

This is a rendition of the detail of the vessel. It shows the net, which is in this picture, as the net is being retrieved and the fish taken aboard.

The conditions that are out there of course are very difficult. There is a huge area. A photograph is very hard to take from a moving Coast Guard C-130. But make no mistake about it, these vessels have circumvented the intent of the law and, as a consequence, it is necessary that we tighten up and ask that we proceed with this sense-of-the-Senate resolution to draw the attention of our concern to our friends in Japan that they are going to have to work collectively with us to terminate this illegal fishing.

Each year we have heard the Japanese Government promise to bring this fleet under control, to send our patrol vessels to enforce the law, to punish the violators with "severe" penalties. Yet each year the violations have continued. As a consequence, we have clearly not done enough nor said enough to deter their vessels from fishing illegally.

I might remind the Chair that there is a great deal of money to be made, so the motivation is there.

It is my intention to offer this resolution to provide the Government of Japan, the Japanese fishing industry, and other concerned parties with the clear signal that we consider these violations both inexcusable and intolerable. Adequate controls must be reestablished. I urge my colleagues to support the resolution.

AMENDMENTS SUBMITTED

TRAVEL EXPENSES TO CERTAIN INDIVIDUALS FOR TRAVEL TO AND FROM VETERANS' ADMINISTRATION FACILITIES

MURKOWSKI (AND OTHERS) AMENDMENT NO. 1007

Mr. MURKOWSKI (for himself, Mr. SIMPSON, Mr. THURMOND, and Mr. HELMS) proposed an amendment to the bill (S. 1464) to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities; as follows:

On page 27, strike out line 16 and all that follows through page 38, line 17 and insert in lieu thereof the following:

TITLE III—READJUSTMENT COUNSELING

SEC. 301. POSTPONEMENT OF TRANSITION PERIOD FOR READJUSTMENT COUNSELING PROGRAM.

(a) POSTPONEMENT OF TRANSITION PERIOD.—Section 612(g)(1) is amended—

(1) by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990"; and

(2) in clause (A), by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1990".

SEC. 302. REQUIREMENT TO OBTAIN SOCIAL SECURITY NUMBERS OF BENEFICIARIES.

Section 612A is amended by adding at the end the following new subsection:

"(i) The Administrator, for the purpose of determining and analyzing information on the workload and workflow in furnishing services under this section, shall obtain from each veteran receiving such services the veteran's social security number.".

CHAFEE AMENDMENT NO. 1008

Mr. CHAFEE proposed an amendment to the bill S. 1464, supra; as follows:

On page 9, line 20, strike out "or (D)" and insert in lieu thereof "or (D), or (E)".

On page 11, between lines 3 and 4, insert the following:

"(D) The Administrator may waive the deduction requirement of subparagraph (A) of this paragraph in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this subparagraph.".

On page 11, line 4, strike out "(D)" and insert in lieu thereof "(E)".

WAR POWERS RESOLUTION

HECHT AMENDMENT NO. 1009

(Ordered to lie on the table.)

Mr. HECHT submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers Resolution; as follows:

Add a new section in the appropriate place, as follows:

SEC. The Secretary of Energy and the Secretary of the Interior shall, within 90 days of the date of enactment of this section, submit to the Congress a report which shall indicate how the United States could rapidly increase domestic petroleum production in response to a major world oil supply shortfall caused by hostilities in the Middle East.

Mr. HECHT. Mr. President, today I am filing an amendment I will offer during the debate on the War Powers Act. Most of the debate concerning the War Powers Act centers around military activities taking place in the Persian Gulf. But the countries surrounding the gulf also represent the vast majority of the Western World's oil supplies. Once again, our lack of a national energy policy leaves us in danger of being caught off guard.

A recent analysis of the effects of a cutoff in the oil supply through the Straits of Hormuz indicates that the world would lose 6 million barrels per day of oil production. Within 90 days, about half of the world's strategic petroleum reserves would be depleted. Oil prices would skyrocket to roughly $50 per barrel immediately following the cutoff, and gradually level out at around $30.

In America, we could expect gas lines to reappear. Inflation, interest rates, and unemployment would increase. Our balance-of-payments deficit would worsen, and our Nation's economic growth would be endangered.

Clearly, we can't afford to rely exclusively on our strategic petroleum reserves to get us through such a crisis. Nor can we assume that renewed exploration will rapidly solve the problem, because it normally takes the industry about 15 years to turn a newly discovered oil deposit into a reliably producing oil field.

We must have some contingency plan to make fuller use of our domestic oil production potential. We must have a plan to quickly draw on our proven but presently untapped reserves of oil. What we need in this country, Mr. President, is a comprehensive national energy policy to protect against these dangers.

Mr. President, my amendment would require the Secretaries of Energy and the Interior to submit to the Congress within 90 days a report which shall indicate how the United States could rapidly increase domestic petroleum production in response to a major world oil supply shortfall caused by hostilities in the Middle East. We simply cannot trust our economic future and our energy supplies to continued good fortune. Too much is on the line.

I encourage my colleagues to support this amendment, and to join me in pressing for a comprehensive national energy policy, so we can better prepare for our Nation's energy future.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources on Tuesday, November 3, 1987, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the oversight hearing is to receive testimony concerning the United States-Canada Free Trade Agreement.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, Room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke at 202-224-2383 or Lisa Vehmas at 202-224-7555.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MINERAL RESOURCES AND PRODUCTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources Subcommittee on Mineral Resources and Production be authorized to meet during the session of the Senate on Friday, October 16, 1987, to receive testimony concerning the processing of oil shale mining claims and patents by the Department of the Interior under the mining law of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, October 16, 1987, to hold hearings on product substitution in Department of Defense Contracting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, October 16, 1987, in open session to consider the nomination of Stephen M. Duncan to be Assistant Secretary of Defense for Reserve Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee of Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Friday, October 16, 1987, at 1 p.m to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

"WORLD FOOD DAY" OCTOBER 16, 1987

● Mr. LEAHY. Mr. President, I am pleased to join with my colleagues in marking, today, October 16, 1987, as the seventh annual international observance of "World Food Day".

Support has grown steadily for World Food Day since I first introduced a Senate resolution to commemorate the day in 1981. The purpose of this day is to increase the global awareness of poverty and hunger in the world and to stimulate national and international action in the fight to feed the world. To this end, over 400 organizations in the United States and over 140 foreign countries are participating in a variety of activities. These activities range from soccer matches between rural village farmers in Guinea-Bissau where the winners will receive agricultural tools and supplies to the largest Teleconference in the United States with 400 sites in 50 States.

This year, World Food Day focuses on the small farmers of the world. There are 2 billion small farmers in Africa, Asia, and Latin America. These farmers comprise the largest single socioeconomic group in the world and supply over 70 percent of the food supply to the populations in these countries.

These farmers need our help. By bringing the plight of the small farmers to national and international attention, World Food Day helps to search for and bring about solutions to end hunger in developing countries.

Mr. President, as leaders of the world's richest Nation, we have a moral obligation to end world hunger. We live in an age of abundance and in a time when all the world's food needs could be met. Yet the question still remains, why are one in four people in developing countries, over 400,000 million people total, still malnourished to the point where they are more susceptible to disease and their productivity in society is diminished? And why are more than 40,000 children dying of hunger and related diseases before reaching school age?

The problem is very complex. The sole cause of hunger and malnutrition is not just the underproduction of food. Hunger is a product of the population explosion, of environmental degradation, of poverty, and of the failure of countries to work together to establish sound, long-term effective policies to end hunger. Until these problems are addressed, world hunger and malnutrition will not be stopped.

We should be proud of our country's commitment to ending world hunger. But there is still much more that we can do. For this reason World Food Day is extremely important.

Today we must also look at hunger and malnutrition in our country. Unfortunately, hunger remains a daily fact of life for thousands of Americans. In fact, the number of men, women, and children that do not get enough to eat everyday in this country is growing. In 1985, the Harvard Physicians' Task Force on Hunger estimated that 20 million Americans go hungry each month and that of this number, 12 million are children. Hunger in the 1980's in this country is due to the increased number of people below the poverty line, cuts in Federal assistance programs, changes in economic conditions, and increased numbers of homeless people. It is unconscionable that in a country with copious natural and technological resources, in a country that has warehouses with literally tons of surplus agricultural commodities, that people go hungry. We have the power and the resources to stop hunger in our country today, but we lack the will.

World Food Day brings attention to the challenge of hunger that faces all of us—both nationally and internationally—from world leaders, politicians, researchers and development experts to students, citizens, nutritionists, clergy, and the small farmers. All of us, each and everyone of us, has an obligation to contribute to the eradication of hunger in the world.

Mr. President, throughout the world today, millions of people will be observing World Food Day. I feel a personal attachment to ending hunger as a close friend of mine, Harry Chapin, was a fierce advocate for the world's hungry people. His own drive led to the President's Commission on World Hunger, on which both the distinguished Senator from Kansas, Senator DOLE, and I served. It is my hope and trust that active participation in World Food Day and champions like Harry Chapin, will inspire many people to join together so that never will a child be malnourished or go hungry.●

FRAUD OF THE DAY—PART 6

● Mr. HEINZ. Mr. President, in my past discussions of customs fraud, I have often stressed the deterrence value of a private right of action. I have discussed how my amendment would prevent, or at least dissuade, importers from committing acts of customs fraud by increasing financial penalties and by bringing individual initiative and resources to bear. Today, I wish to show that my amendment would not only help enforce current customs laws, but it would also give teeth to other trade regulations, regulations which are sorely in need of additional tools of enforcement.

Today's fraud is a big one. In September 1987, Texas Pipe and Supply Co., Inc. of Houston, TX, entered a plea of nolo contendere to three counts of 19 U.S.C. 1304(h), relating to marking of imported articles or containers. The Customs investigation found that Texas Pipe and Supply had imported foreign steel pipe valued at $14.5 million and had $62 million worth of pipe imported for them through other parties. In itself, that was no big deal. But Texas Pipe and Supply had a work crew with a very interesting, very time consuming duty. This crew was made up of a few men in a truck whose sole reponsibility consisted of driving around the company's facilities removing the country of origin markings from this $76 million worth of pipe imported from a whole host of countries. The pipe would then be sold as domestic product. So went this massive, yet simple fraud.

The penalties paid by Texas Pipe were substantial, but not exhorbitant considering the magnitude of their crime. They paid a $15,000 criminal fine and, prior to their nolo plea, a settlement had been reached whereby Texas Pipe agreed to pay $2 million in penalties and $320,000 in marking duties in settlement of all civil liabilities.

What is important in this case is not really the fraud itself, but the impact that this fraud had on the entire pipe and tube industry. The foreign tube brought in the illegally misrepresented as domestic product was counted by the International Trade Commission in several dumping and subsidy cases as true domestic product. In this way, the industry looked $76 million healthier than it actually was at the time. This deception obviously lessens the chances the industry has for future relief through the ITC and therefore undermines our antidumping laws.

A private right of action could very possibly have deterred Texas Pipe and Supply from committing this fraud. If this had been the case, domestic producers of pipe would have had $76 million less foreign pipe with which to unfairly compete. This is important. What is equally important is that if Texas Pipe had not committed this fraud, the ITC, when reviewing the pipe and tube industry's strength, would not have seen an industry $76 million healthier than it actually was, but an industry that needs the help of effective dumping regulations. My amendment would not only act as a simple deterrent to basic customs fraud. It would also, through pressures both direct and indirect, help to strengthen any number of vital trade regulations.●

"BUSINESS WEEK" ON MYTH AND REALITY IN THE MINIMUM WAGE

● Mr. KENNEDY. Mr. President, as chairman of the Senate Labor and Human Resources Committee, I have introduced S. 837, the Minimum Wage Restoration Act of 1987, and held three full committee hearings on the legislation.

The committee has received a great deal of testimony, both for and against the bill, and I have received quite a bit of mail on the subject—as I'm sure many of my colleagues in the Senate have.

The committee has heard dire predictions from many businesses and trade associations about how many jobs would be lost if the minimum wage were to be restored to prior levels.

In fact, these predictions are always made whenever Congress raises the minimum wage to account for inflation, and they have always been proved wrong in the subsequent years. The problem with the predictions is always the same—the econometric models used to make the predictions are flawed, resulting in significant overestimates of the job impact of increasing the minimum wage. The flaw in the econometric models has been emphasized in an article in the current issue of Business Week.

The article explains why the predicted large job losses in the past never occurred, and why the current predictions about similar job losses are equally flawed.

I ask that the article may be printed in the RECORD.

The article follows:

[From Business Week, Oct. 19, 1987]

DISPELLING THE MYTHS ABOUT A HIGHER MINIMUM WAGE

(By Aaron Bernstein)

Sometimes economists are so busy predicting the future that they neglect to look at the past. This seems to be the case in the current debate over the minimum wage. Liberal and conservative economists alike have churned out predictions of how many jobs will be lost if the $3.35-an-hour minimum is raised. The liberals say very few, the conservatives say a lot. But a close look at how each side reaches its conclusions throws doubt on both their estimates. Indeed, the harm from a higher minimum may not only be less than conservatives figure—but even less than liberals think.

The problem lies in the econometric models on which the projections are based. Lobbying groups ranging from the U.S. Chamber of Commerce to the AFL–CIO buy these computerized profiles of the economy, which they then use to project what happens when variables such as the minimum wage are altered. It turns out that the models used on both sides of the current debate assume that the percentage of workers earning the minimum wage will remain the same.

In reality, the percentage has been dropping. As a result, the pool of workers likely to be affected by a higher minimum wage is smaller than most models assume—some 35% smaller (chart). The implication is a matter of arithmetic: The fewer minimum-wage jobs there are, the less impact on employment if the minimum wage rises.

To be fair, the glitch in the econometric models has caught nearly everyone off guard. Even such staunch opponents of a minimum wage hike as Finis R. Welch, a labor economist at the University of California at Los Angeles, now concede that the smaller number puts the matter in a different light. Although he still is against raising the minimum, he agrees "there will be less problems if there are fewer workers at the current minimum."

That may be an understatement. Conservatives point out that if higher labor costs aren't matched by productivity gains, minimum-wage workers could be priced out of a job. The Chamber of Commerce predicts that 750,000 jobs could be lost by 1990 if the minimum wage were raised in steps to $4.65, as is called for by legislation being debated in Congress. It predicts a loss of up to 1.9 million jobs by 1995.

Liberals, arguing that employers would offset the wage hike with productivity gains, show far fewer jobs being lost. F. Gerard Adams, an economist at the University of Pennsylvania, puts the loss at 100,000 by 1990. Liberals also argue that it's worth losing some jobs to keep other minimum-wage workers out of poverty.

Whatever the merits of that argument, even Adams' number may be too high. The model he used, from Wharton Econometric Forecasting Associates Inc., assumes a constant proportion of minimum-wage workers versus all hourly workers in the economy—even though the actual share fell from 15% in 1981 to 8.8% in 1986. Thus "the model could be overcounting [anticipated] job losses," says John Hagens, the head of Wharton's macro unit. The impact could be overstated further because the number of hourly workers above $3.35 but below the proposed new minimum wage has fallen, too.

The Chamber of Commerce used a Washington University econometric model with similar flaws. "We do assume a rise in the number of minimum wage workers," concedes Chris Varvaes, an economist at Laurence H. Meyer & Associates, which built the model. The Chamber economist, Graciela Testa-Ortiz, apparently didn't realize that. By contrast, Data Resources Inc. used a "very conservative assumption" on how many workers earn $3.35, says Roger Brinner, its chief economist. He sees 87,000 jobs lost by 1990.

Indeed, the opponents' own logic indicates that raising the minimum shouldn't be devastating. If business hires fewer minimum-wage workers when they become more expensive, then it should hire more such workers when they become cheaper. They've become an absolute bargain since 1981, as the real value of the minimum wage has fallen by 25%. Yet there are 2.7 million fewer minimum-wage workers now, while overall employment has risen by some 9 million.

Why did this happen? Many economists say the education and skill requirements of new jobs are rising. While some of these may be low-paid retailing or fast-food jobs, even they are starting to pay more than $3.35. That may be because the number of teens is falling and labor shortages are developing, making it harder to hire workers at the minimum. If these trends continue, the economy will replace more of the lowest-paying jobs with higher-paying ones. So letting the minimum rise shouldn't be so harmful.

There's another point that some economists have missed. Opponents argue that lifting the minimum wouldn't help many poor people anyway. Only 1 million of the 5.1 million minimum-wage workers live in poverty, they say—the rest live with other wage-earners. But few mention that the 5 million counts only hourly workers.

TRADE-OFF

In unpublished surveys, the Bureau of Labor Statistics estimates the number of piece-rate or daily-rate workers who earn the minimum. They raise the number of those workers to "probably 7 or 8 million," says Welch. Some of them live in poverty. The BLS also found that in 1985, 1.1 million impoverished workers earned $3.36 to $4.35 an hour. A higher minimum would push up their pay, too.

Increasing the minimum wage would raise costs for those companies still paying it. But if the economy is shifting toward higher-wage work anyway, a hike wouldn't cost many jobs—and would help many poor people keep up with inflation. That may well be a trade-off worth making. But before the country can decide whether it is, someone will have to bring those antiquated forecasting models up to date.

GARRISON PARKER THE CORNPLANTER

● Mr. PELL. Mr. President, I wish to bring to the attention of my colleagues the exemplary career of Garrison Parker, 63, a Rappahannock Indian who plans to retire next month from his position as executive director of the Rhode Island Indian Council.

Mr. Parker's knowledge and leadership has been of vital importance to the Rhode Island Indian Council over 10 of its 12 years, during which time his vision and skills have directed the council's efforts.

Mr. Parker's native American name is the Cornplanter and he has been active in native American affairs since the 1950's. He was instrumental in setting up the Federation of Eastern Indians League and later became chairman of the Boston Indian Council.

In that latter capacity, he helped organize other councils, including those in New Hampshire, Rhode Island, and Vermont. He then became assistant to the Rhode Island Indian Council's director, Big Toe, who was then the executive director.

In 1976, Mr. Parker was instrumental in developing and setting up the Rhode Island Commission for Indian Affairs. He was hired in 1978 by the board of directors of the Rhode Island Indian Council as the executive director.

Mr. Parker's most compelling vision includes a place where modern Indians can live and work together—a community where Indians can study and retain their heritage, while learning skills they need to survive in the modern world.

That community, including apartments, a day-care center, job-training centers, a museum, a store, and a laundromat, soon may start to grow on a four-block area in South Providence.

Although groundbreaking has been delayed, I understand that it now is planned for early next month. Mr. Parker has planted the seeds for his vision. I know I speak for all Rhode Islanders when I say those seeds grow and prosper.

Mr. President, I ask that an article from the Providence Journal of May 27, 1987, entitled "Indian Leaders See a New Community Rising from Rubble" be printed in the RECORD.

The article follows:

INDIAN LEADERS SEE A NEW COMMUNITY RISING FROM RUBBLE—CONSTRUCTION TO BEGIN IN JULY ON FIRST PHASE

(By Kevin Sullivan)

PROVIDENCE.—From his second-floor corner office in South Providence, Garrison Parker looks out over two vacant lots, a derelict oil tank, rusting cars and burned-out houses.

But through his chestnut-brown eyes, set deep in his rutted, mahogany face, Parker sees something very different.

He sees a village, not unlike the villages where his Indian ancestors lived and worked, where they followed the beat of an ancient drummer—a cadence that led them to futile confrontation with white Europeans who came uninvited into their world.

Parker sees a place where modern Indians can live and work together again. He sees a community—apartments, a day-care center, job-training centers, a museum, a store and even a laundromat—where Indians can study and retain their heritage, while learning skills they need to survive in the modern world.

It's no dream: Parker's vision will soon rise from the sand and weeds in the lots around his office at the Rhode Island Indian Council at 444 Friendship St.

In July, construction will begin on the first phase of an ambitious plan—backed by federal, state, city and private money—to create an Indian Village in the Trinity Gateway redevelopment area in South Providence.

Phase One is a $2.4-million development of 36 apartments, which, along with 10 existing apartments owned by the Indian Council, will become the cornerstone of the overall project.

Eventually, the development will cover much of the four blocks bounded by West Clifford, Pine, Myrtle and Somerset Streets. The council purchased the land from the Providence Redevelopment Agency, which is attempting to revitalize a neglected, arson-riddled area that was once among the city's most elegant neighborhoods.

The Indian Council has considerable backing for Phase One: a $1.1 million grant from the federal Department of Housing and Urban Development, $900,000 from the Rhode Island Housing and Mortgage Finance Corporation, $300,000 from the city and $100,000 from the Women's Opportunity Realty Corporation.

MORE THAN HOUSING

But according to Parker, who founded the Indian Council in 1975, and staff member Steve Graham, the apartments will be more than housing. Parker said the project aims to bring together a people who have never adjusted well to modern society.

"For 350 years, these people have been getting the short end of the stick," Graham said. "They have lost a lot of their cultural identity. The Indian culture is different than the white man's culture, and there is resentment about being part of white man's society, and resistance."

Graham said that among the 3,200 or so Indians in Rhode Island—about half of whom live in Providence County—the average annual income is $7,000, and 70 percent live below the poverty level. Many Indians are illiterate, as most have only a ninth grade education. And alcoholism and drug use are wide-spread problems.

Parker blames Indian problems on discrimination, and the white world's insistence that Indians abandon their traditional ways. Public education and a capitalist system where money measures success are foreign and damaging to Indians, he said.

"It's destroying a population," Parker said.

COUNCIL SERVES 53 TRIBES

The Indian Council was formed 11 years ago to help with the problems. Parker moved here from Boston and started the council in a leased office on Washington Street. In 1980, the council moved to South Providence, which has a heavy Indian population, and expanded its services.

Today, the council serves Indians from 53 tribes, offering federally-funded job-training programs, an emergency food bank and a state-backed weatherization program.

In 1982, the council got into the housing business by purchasing a brick apartment building across the street at 451 Friendship, and rented the 10 one-bedroom apartments to Indian families.

Now, in conjunction with the Women's Opportunity Realty Corp., the council wants to expand to, as Graham said, "work together to develop something we can control."

The 36 apartments will be ready for occupancy by July 1988. There will be two 4-bedroom units, 18 three-bedroom units, and 16 two-bedroom units, each renting at below-market prices.

The *apartments will be rented first come, first served.* While Parker said the community would be mainly Indians, federal funding regulations require all races to be considered for housing. And Parker said a mix of races would be healthy: "We can learn from each other and learn how to live together on this planet."

Phase Two involves renovating a building next-door to the council headquarters and creating a daycare center there. It would serve up to 65 children, and give parents—especially single parents—time to attend job-training sessions sponsored by the council.

Ideally, Parker and Graham said, the council would like people to live in the project until they learn to be self-sufficient, move to their own home, and thus open up an apartment for someone else who needs it.

The renovations would cost about $115,000, and the council hopes to open the center in July 1988, when the apartments are completed.

Graham said blues guitarist Stevie Ray Vaughan and the rock group, The Fabulous Thunderbirds, are each interested in Indian causes and have each agreed to perform benefit concerts in Providence to raise money for the day-care center.

The council is also looking for other funding sources, including private foundations and federal grants.

Phase Three would be a large two-story building along Linden Street, which would house a cultural heritage museum, a convenience store, a laundromat, a craft shop and meeting rooms.

Each of the business would be Indian-run, with proceeds going back into council programs and the operation and maintenance of the development. Parker and Graham said they were unsure how much that building would cost, or when it would be built.●

KERVORK HOVNANIAN: MAKING THE AMERICAN DREAM REAL

● Mr. LAUTENBERG. Mr. President, in recent years, the American dream of owning a home has for many Americans been reduced to just that: a dream. With housing costs soaring, fewer and fewer Americans are able to afford their own residence. This is an especially serious problem in my State of New Jersey, where the cost of housing has reached astronomical levels.

One man, however, has begun to help many New Jerseyans turn the dream of a home into reality. His name is Kervork Hovnanian. Hovnanian is the founder, chairman of the board, and president of Hovnanian Enterprises, Inc., a corporation which has provided thousands of citizens with quality housing at reasonable prices.

The Business Journal of New Jersey recently published an excellent article which details the many contributions of Kervork Hovnanian and his company. I ask that the article be printed in the RECORD.

The article follows:

THE EMPIRE THAT HOVNANIAN BUILT

(By Mary Jo LoBello Jerome)

K. Hovnanian Companies can't build homes fast enough to satisfy the state's young, hungry buyers. The company turns away thousands of would-be customers every time it opens another of its moderately priced housing developments.

In the past, interested buyers have camped overnight at Hovnanian building sites hoping to get a chance to spend between $100,000 and $150,000 for one of the attached homes. Earlier this year, the company received more than 14,000 applications for 250 condominiums going up in Mahwah.

The residential builder has tried to deal with the demand over the years, and garner some media coverage at the same time, by staging events such as a television telethon and a lottery at the Brendan Byrne Arena in the Meadowlands. The former didn't work because the company couldn't handle all the calls. The latter show, while effective in creating national publicity and in dealing with the 9,000 people clamoring for one of the few hundred units in a Bernards Township development, is not an event easily nor inexpensively duplicated.

The first phase of a community called Society Hill at Kilmer Woods and one of the 28 Society Hill communities that Hovnanian has built in New Jersey, the new Mahwah homes were made available to first-time homebuyers through a random, though private, computerized drawing. "The computer lottery is really the only fair way to deal with the demand," says Kervork S. Hovnanian, the 64-year-old founder, chairman of the board and president of Hovnanian Enterprises Inc., the Red Bank corporation under which the popular and prospering homebuilding division falls.

Why do New Jerseyans stand in line, now hopefully only in the figurative sense, for a Hovnanian-built home?

When Kervork Hovnanian started the company 28 years ago, he targeted the lower priced end of the market. Today, some 18,500 units later, he has remained true to this target. More than 12,000 have been built in the last five years alone.

"In the beginning I decided to produce housing that the majority of the public could afford. It happened to be the right move," he explains.

In recent years, even though the high interest recessionary period, inexpensive fare in housing—like ketchup and hamburger—remained staples of the American diet. Then, as interest rates plunged, the baby boomers' demand for housing rose. And Hovnanian was there all along, quickly building affordable condo complexes and communities of attached homes that fit the bill.

The company's thirty-ish executive vice president and director, Ara K. Hovnanian, the only son of the founder, attributes their success to a number of factors including a focused direction, standardization and the economies of scale that come with being the state's largest homebuilder. (That epithet, while self-proclaimed, is hard to dispute yet equally hard to verify; state housing authorities and industry associations do not doubt the claim but cannot support it in independent figures.)

"First we made a conscious decision that affordable attached homes were the kind of product we wanted to develop and then we designed a product around it," Hovnanian says. A mix of entry levels condos ($100,000, 1,100-square-feet, garden apartment types) and expanded units ($120,000 and up, 1,200 to 1,500-square-feet, townhouse style) make up the typical Hovnanian development.

"Entry level products are designed without expensive add-on features, such as garages, basements and cathedral ceilings," he says. "We concentrate on site engineering, an area in which we have a lot of expertise. We've developed a state-of-the-art design with cost efficiency in mind. Each site needs only minor modifications. Standardization alone is a tremendous cost savings, and we have it down to a science."

Moreover, standardized mass production of units means lower subcontractor costs and a product that can be churned out quickly. An average Hovnanian site of 350 units will take 14 to 16 months from groundbreaking to completion.

Of course, being a large and established developed adds much to the equation of success: subcontractors work eagerly for a group like Hovnanian with good cash flow and quick payment. The company can also take advantage of economies of scale in buying building materials, in marketing and overhead.

"We make a lower margin per unit but make it up in volume," Ara Hovnanian says. "In effect, we are wholesaling to the consumer."

Those "wholesale" prices, generally 10 to 20 percent under market value, keep the demand up among buyers looking to cash in on appreciation of the property. A two-bedroom condo in Lincoln Park initially sold for $80,000 three years ago; today it could be listed at a firm $185,000.

Stories of overwhelming appreciation are not rare in the New Jersey multi-family homebuilding industry. In fact, big builders and small developers alike can expect even greater demand and growth. "The market is and has been growing tremendously. There's a big need for this kind of housing and the need will continue," says a spokesperson for the New Jersey Homebuilders Association.

Growth has been steady for Hovnanian. In the year ending December 1977, Hovnanian Enterprises took in revenues of just over $15 million. By year end of fiscal 1987, revenues topped $287 million. Net income in 1987 was $18.5 million, a 60 percent increase over the previous year. A 2 for 1 stock split brought earnings per share to 88 cents.

The company president predicts even better results next year. "We expect to reach between $320 and $350 million in revenues, with $24 million in pre-tax income." The slowdown in the New Jersey real estate market, due in part to increasing interest rates, won't effect the company, he says. "People need basic homes to start in. Interest rates won't have much impact, especially with the different mortgages that are available."

With approximately 700 full-time employees on its payroll and providing jobs for almost 3,000 workers including subcontractors, Hovnanian completed 3,255 units in fiscal 1987.

The real key to Hovnanian's continued success and future growth, and the asset that the competition envies most about the company, is its control of large tracts of undeveloped land in New Jersey. Kurt Feuerman, an analyst with Drexel Burnham and Lambert, says Hovnanian is one of the top homebuilders around. "Hovnanian controls a lot of land in New Jersey, which is what every other homebuilder wants to do. In New Jersey, where there is a shortage of land and a tremendous demand, Hovnanian is in a very good position. Whatever they build, they sell. And the land they have they buy at very good prices. So they'll make money."

The company's roots go back to the late 1950s when Kervork Hovnanian and his three brothers fled a revolution in their homeland of Iraq. During the revolution, the roadbuilding company that Kervork owned had been nationalized. In New Jersey, the brothers capitalized on Kervork's building experience and entered the residential construction field.

Today, each brother runs his own homebuilding company: Hovbilt in Freehold; Hovsons in Toms River; and 411 Builders in Mount Laurel. Hovnanian Enterprises, by far the largest of the four, also employs two other family members—two of Kervork's sons-in-law.

Residential homebuilding will continue to be the major focus for Hovnanian Enterprises, while the company sets up other divisions to explore new areas of growth. For example, one division is concentrating on the single-family detached home segment to take advantage of the move-up syndrome among market-making baby boomers. The group has completed a number of single-family prototypes so far—about 40 of them—in a recent development in Tinton Falls, as well as in Florida where the company also has a strong presence. These move-up homes carry price tags of nearly $200,000.

Moreover, Hovananian is expanding into new locations, entering New York, New Hampshire, Massachusetts and North Carolina, while continuing its core money making building in New Jersey.

According to Drexel's Feuerman, "the best part of the housing market today nationwide is the move-up market." But Hovnanian's main business is in New Jersey "and selling starter homes, affordable housing in an area where housing is unaffordable."

Kervork Hovnanian quotes state figures that predict that "50,000 new homes will be built in New Jersey in the next four to five years. As long as the demand is there, we will be there."

Recent diversification has taken Hovnanian into development of commercial income-producing properties through its investment properties division, and into inner-city residential complexes and congregate care housing.

The investment division is awaiting approval of a combined residential and commercial complex in New Brunswick, which would include 1,000 condos and about 100,000 square feet of commercial space. The project was to have been started last fall, however, negotiations with local authorities, the state Department of Transportation and utility companies have caused delays. "If we start next spring, we'll be lucky," Kervork Hovnanian explains. The delays are typical, he says, of doing business in New Jersey and New York, where available land is scarce and zoning and other regulations are quite stringent.

An inner-city development division is making plans to develop 600 homes in Jersey City and 1,300 in Newark. Over the next few years, Hovnanian expects to increase its emphasis on inner-city renewal.

A new and entirely different concept for the corporation is the development of congregate care housing, the first complex of which is in final negotiations. This first senior citizens community would be located in Central Jersey and started in 1988. The complex would include up to 300 apartments linked to an activity center where a dining hall, recreational facilities and shops would be located. A nursing staff would be available 24 hours a day and doctors would have on-site office hours. Hovnanian Enterprises would retain ownership of the facility and hire a management company to run it.

The corporation also operates a separate company that manages 15 of its condo communities. "The company is not a major profitmaker but it's important to us and for the homebuyer that we stay involved and offer support," Kervork Hovnanian says. Justified by the same motive—service—the company also runs a mortgage company that does not add much to the bottom line.

Still, despite assurances of service and consumer satisfaction, the company has had its share of complaints. In particular, the Lawrenceville development has received some bad publicity based on homeowner complaints of shoddy workmanship—a situation the elder Hovnanian brushes off.

"We allow about $1,000 per unit to service a unit after it's turned over to the owner," says the company president. "We maintain a service department just for that reason. I still read each complaint personally. I want to know if we have a problem in service and it will show if the incoming letters increase. . . We'll try everything possible to satisfy a buyer. In one case we even bought back the unit."

About the Lawrenceville project, he says that many of the owners bought at $75,000 and could sell their units today for more than $175,000 each. "We don't make business decisions because of fear of adverse publicity. It's gotten to the point where we won't do anymore (at Lawrenceville)."

In the future, the company will expand not only through start-ups of Hovnanian-conceived projects but through acquisition and merger. The company started testing this strategy in 1984, when it bought 49 percent of Calton Inc., the Freehold-based builder of townhouses and single family homes. Hovnanian paid $8.3 million for the shares which were sold back to Calton in 1985 in a leveraged buyout by Calton management for $14.25 million. Kervork Hovnanian calls this split "a mutually profitable transaction. It was a short marriage and a good divorce." Other mergers are not ruled out.

Hovnanian, currently holding land options to 15 home sites, can stop investing today and still have enough land left to build 15,000 units in New Jersey. This, in essence, is the Hovnanian hedge against a scarcity of undeveloped tracts and another reason it can build so quickly: it always has another project waiting in the wings, ready to make a profit.●

VLADIMIR SLEPAK GRANTED PERMISSION TO LEAVE THE U.S.S.R.

● **Mr. D'AMATO.** Mr. President, I rise today to express my happiness for Vladimir and Mariya Slepak upon his receipt of notification that Soviet officials have granted permission for them to emigrate to Israel. This permission comes 17 years after Vladimir first applied to emigrate, after years of suffering and of struggle on behalf of Soviet Jewry, and 12 years after he first became a member of the Moscow Helsinki Monitoring Group.

As a former chairman of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, I am especially pleased to see the resolution of his case. As a member of the Moscow Helsinki Monitoring Group, he was one of a handful of courageous Soviet citizens who decided, in full knowledge of the risks involved, to attempt to hold the Soviet Government to the promises it made when Soviet President Leonid Brezhnev signed the final act of the Conference on Security and Cooperation in Europe in Helsinki on August 1, 1975. Like the other members of the group, he suffered greatly for his actions.

Vladimir Slepak's career, since he first applied to emigrate in 1970, spans major areas of concern for human rights advocates in the United States and abroad. Vladimir's leadership for Soviet Jewry and for human rights and fundamental freedoms is widely admired. The Helsinki Commission raised his case on more than one occasion, seeking for him the emigration permission he has now received.

The cause of Soviet Jewry has mustered substantial support here in the United States and elsewhere in the West. While emigration figures for 1987 are already well ahead of the total for 1986, they still do not come close to meeting the Soviet Union's obligations under international declarations and accords to which the U.S.S.R. is a party.

Last year's Soviet Jewish emigration level of under 1,000 has already been eclipsed by this year's total of more than 5,000 who have either left the Soviet Union or who have been granted permission to leave. However, that improvement must be assessed in light of the fact that the 1979 emigration total was in excess of 51,000. So, in terms of levels the Soviet Union achieved in the past, this year's total is worthy of note but not of acclaim. It must also be assessed in light of Natan Shcharansky's estimate that approximately 400,000 Soviet Jews have taken some action indicating that they wish to leave the Soviet Union.

Vladimir Slepak himself highlighted the core of the issue in comments reported in a Washington Post article by Gary Lee, which was published on the front page of today's edition. I quote: "Slepak said, however, that the recent resolution of a cluster of cases of Jews long refused permission to leave the U.S.S.R. 'is not a solution to our problem. *The problem will be solved when anyone who wants to leave can do so.*'" (Emphasis added.)

When discussing this issue, people take it for granted that it is somehow reasonable for the Soviet Union to prohibit its citizens from emigrating or even from traveling outside their country. It is not reasonable. It is outrageous.

No modern civilized nation limits the ability of its citizens to leave, either permanently or for the purposes of travel. So long as the Soviet Union stubbornly insists upon controlling its citizens' movement and travel, it will be unable to escape being branded a police state.

Vladimir and Mariya are now promised freedom. We must not cease our efforts until all those who want to leave the Soviet Union are permitted to do so—until all those divided families are reunited—and until the Soviet Government respects in fact and in practice, human rights and fundamental freedoms as it has given its word to do.

Mr. President, I ask that an article entitled "Soviet To Let Key Jewish Dissident Leave," by Philip Taubman, which was published on page A3 of today's New York Times, be printed in the RECORD.

The article follows:

[From the New York Times, Oct. 15, 1987]

SOVIET TO LET KEY JEWISH DISSIDENT LEAVE

(By Philip Taubman)

Moscow, October 14.—Vladimir S. Slepak, one of the Soviet Union's most prominent Jewish dissidents, was told today that he and his wife may move to Israel.

Mr. Slepak, who first applied to emigrate 17 years ago, said he was summoned this afternoon to the Government agency that handles emigration applications and was given a card saying he and his wife would soon receive exit visas.

"It was like a dream," he said. "I thought it was happening to someone else."

The resolution of the Slepak case was the latest indication that the Government apparently hopes to reduce the number of high-visibility emigration cases before Mikhail S. Gorbachev's expected trip to the United States later this year to meet with President Reagan. Jewish groups in the United States have called for anti-Soviet demonstrations if Mr. Gorbachev visits Washington.

EXILED TO SIBERIA

Mr. Slepak was exiled to Siberia from 1978 to 1982 on charges of "malicious hooliganism" after he hung a banner from his Moscow apartment window declaring his desire to move to Israel. He was a member of the Moscow Helsinki Group, a unit established in 1976 to monitor Soviet human rights policy.

Mr. Slepak, a broad-shouldered man of about 60, with gray hair and a gray beard, has two sons who left in the late 1970's and live in the United States. Mr. Slepak said he and his wife, Mariya, plan to settle in Israel.

Several hours after receiving word, the Slepaks were mobbed when they arrived at a farewell dinner for Ida Nudel, another longtime Jewish campaigner. Miss Nudel, who received permission to leave 12 days ago, is scheduled to fly to Israel on Thursday aboard the private jet of Armand Hammer, the American oil executive.

Other prominent dissidents, including Iosif Z. Begun, who received permission to emigrate last month, and Aleksandr Y. Lerner, still awaiting word 16 years after applying, hugged the Slepaks as guests applauded and cheered.

HOPES HAVE BEEN RAISED

The emotions and hopes that have been raised among Jewish dissidents here were evident in the private dining room of the Vilnius Restaurant as Mr. Slepak held aloft the card he received earlier in the day.

Although about 100 emigration cases pending for 10 years or more still remain unresolved, about a dozen of the most prominent longtime dissidents have returned approval recently.

The overall pace of emigration has increased this year, with more than 5,000 Jews receiving approval to emigrate.

Prominent Jews still denied permission to emigrate include Naum Meiman, Valery N. Soifer and Aleksandr Joffe.

Others who have already departed, or have approval to do so, include Viktor and Irina Brailovsky, who had tried to emigrate for 15 years, Yevgeny and Rimma Yakir, who first applied to emigrate to Israel in 1974, and Vladimir O. Feltsman, the pianist, who moved to New York this summer.

As the celebrants started gathering to see off Miss Nudel, Mr. Begun, his wife, Inna, and about 50 other demonstrators gathered outside the state television studios where a Soviet-American television broadcast on human rights issues was scheduled Thursday morning Moscow time.

According to some of the demonstrators, they were pummelled by bystanders who ripped off placards and punched and kicked people. About a dozen demonstrators were taken into a police bus, Mrs. Begun said.

U.S. GROUP LAUDS DECISION

The National Conference on Soviet Jewry, in a statement released in New York yesterday, said the decision on the Slepaks indicated that "Soviet authorities now have under serious consideration their promise to review thousands of cases of those refused exit permits over the years for arbitrary and capricious reasons."

It said the Slepak case "can be a meaningful step toward creating a system which would allow for the substantial emigration of all Jews."●

IN HONOR OF ALPHA DELTA KAPPA WEEK

● Mr. PELL. Mr. President, this week we celebrate the fine work of the Alpha Delta Kappa Sorority. I am very pleased to stand in this Chamber to pay tribute to this outstanding organization of women educators.

The Alpha Delta Kappa Society was founded 40 years ago. It annually recognizes the excellent work of women educators throughout the country. In fact, this sorority has close to 2,000 chapters throughout our Nation, as well as several chapters in foreign countries. This professional organization establishes high teaching standards for its members, promoting excellence and dedication among its ranks. In so doing, it challenges all educators to strive for excellence.

We do not sufficiently recognize the importance of the work of teachers. Truly theirs is the most critical of professions, for they hold the future of this country in their hands. I applaud the efforts of the Alpha Delta Kappa Society for providing this richly deserved recognition. But the Alpha Delta Kappa Society goes far beyond recognition. It nurtures a close fellowship among its members, enabling women educators to take pride in their work. Rhode Island has now developed eight such chapters in our State, and these chapters actively promote charitable projects, which include college scholarships.

I for one am keenly impressed by the work of these chapters. I would encourage all of my colleagues to join me in celebration of Alpha Delta Kappa Week. On its 40th anniversary we take this week to nationally recognize this society. In so doing we also pay tribute to the outstanding contribution its members make to the education of our society.●

CONFIRMATION OF C. WILLIAM VERITY TO BECOME SECRETARY OF COMMERCE

● Mr. CHILES. Mr. President, I would like to say a few words about the confirmation of William Verity for the position of Secretary of Commerce. Mr. Verity's professional and leadership credentials are impressive. His position on the President's Task Force on Private Sector Initiative, his chairmanship of the Armco Steel Co. and the U.S. Chamber of Commerce have provided him with the breadth of experience to carry out his responsibilities in an exemplary fashion.

My sole concern does not regard Mr. Verity's capabilities, nor his achievements. Rather, it is the question of whether Mr. Verity intends to uphold the Jackson-Vanik amendment, as he has pledged to do. In my view, it is extremely important that Mr. Verity fully support a basic policy which maintains that until all of those who wish to emigrate from the Soviet Union are allowed to do so, we cannot ease existing trade restrictions. After studying Mr. Verity's statements on this matter, I will accept that Mr. Verity does understand the importance of this matter. With this in mind, I voted for his confirmation.●

FLIGHT SERVICE STATION LEGISLATION

● Mr. MOYNIHAN. Mr. President, it is essential that before the Federal Aviation Administration [FAA] close down flight service stations as part of its automation and consolidation program, there be safe levels of service available through other sources. Consequently, the fiscal year 1987 Supplemental Appropriations Act, Public Law 100-71, contains a provision prohibiting the FAA from closing flight service stations unless an airport is served by an automated flight service station with model 1 or better equipment. This directive went into effect on July 15, 1987.

However, between March 25, 1987, the day the provision was included in the House version of the supplemental appropriations bill, and July 14, the FAA closed down eight flight service stations without model 1 coverage, including four stations in New York at Messina, Glens Falls, Watertown, and Albany.

As a result of these closings, flight service in the affected areas has deteriorated. According to Bill Bingham, president of the Glens Falls Pilots Association:

> Weather briefings are no longer timely and accurate, up to 2 hours old, which creates an extremely hazardous situation in areas with rapidly changing weather conditions, such as Glens Falls. In addition, pilots are experiencing up to half hour delays in reaching Burlington to obtain weather briefings and file their flight plans.

Clearly, this situation is not consistent with the FAA promise when it initiated the automation and consolidation program that it would provide equal or better service after closing flight service stations.

This bill would simply require the FAA to reopen the eight flight service stations as soon as practicable until they are provided with model 1 coverage as required under the law. The bill is identical to an amendment offered by Congressman SOLOMON to the Airport and Airway Improvements Act of 1987, H.R. 2310. That amendment was accepted by voice vote on October 1, 1987. Senator D'AMATO and I intend to offer the substance of this bill as an amendment to the Airport and Airway Capacity Expansion Act of 1987, S. 1184, when it comes before the Senate and I urge my colleagues to join us in this effort.●

SECRETARY OF LABOR BILL BROCK

● Mr. DURENBERGER. Mr. President, I rise today to comment on the departure from the administration of an exceptionally able public servant and a good friend. William Brock, who stepped down yesterday as Secretary of Labor.

Bill Brock has served this President and this administration faithfully and well as U.S. Special Trade Representative and then as Secretary of Labor. It speaks well of both the judgment and the foresight of our Republican leader that he has selected Bill Brock to chair his campaign for election to the highest office in this land.

As Labor Secretary, Bill Brock has made as his No. 1 project an effort to move that agency—and all of Government—to look to the future, to the needs of the workers who will continue to enter a rapidly changing workplace. That project, work force 2000, has touched every agency of this Government.

Mr. President, I believe that we, as policymakers, must be aware of the kind of world we're shaping for those who will come after us. I refer to that approach as generational equity. Bill Brock, in project 2000, points us toward the year 2000 when 80 percent of the new entrants to the job market will be those who have traditionally been disadvantaged—women, minority races, and immigrants. At the same time, with a shrinking labor force, job creation will continue. But the jobs will be high-skilled jobs, so Bill Brock wants to make sure we will have workers trained for those jobs. If we do not deal with the problem of adaptation, we will have failed both the employer and the worker.

Thus, Bill Brock has been pushing legislation such as the Worker Readjustment Act to provide training for dislocated workers, and another program, straight out of his personal experience as a volunteer, would provide funding for year-round programs of literacy training for disadvantaged youth. And he has not forgotten the older worker, having proposed pension fund reform for that segment of our population.

Previous to his appointment as Labor Secretary, as President Reagan's U.S. Trade Representative, Bill Brock demonstrated his ability as a leader and as a compromiser in the 1984 Senate-House Conference on Trade, when he was very effective in taking two extremely negative bills and hammering from them a positive piece of legislation which then became law. Coming in as someone both sides really trusted and respected, he was able to build in meaningful trade remedy provisions which were acceptable to all.

Bill Brock has built his political and Government career on reaching out and including the excluded, taking on the difficult, and succeeding against odds. When he was elected to the House of Representatives in 1963, he was the first Republican from Tennessee in more than 40 years to do so. He accomplished that by drawing into his campaign people who had dropped out of—or had never been drawn into—the process.

Rather than being content with trying to change things at only the policy level for those who had been left behind by the educational system, Bill Brock, in Chattanooga, began his own training program for impoverished and illiterate people.

Later, as national chairman of the Republican Party, Bill Brock again reached out, restructuring the party at the grassroots level to include young people, women, blacks, Hispanics, and minorities. And as the Washington Post noted, Chairman Brock helped to restore financial and political vitality to the Republican Party after the Watergate scandals.

Bill Brock has dealt with personal tragedy and with triumph. He has won and he has lost—and done both with grace and with patience. I congratulate Senator DOLE on winning him and his organizational skills to his campaign organization. Senator DOLE'S gain is the administration's loss, and I want to thank Bill Brock for the many contributions he has made in public service. He will be missed.●

HUD-INDEPENDENT AGENCIES APPROPRIATIONS

● Mr. DANFORTH. Mr. President, as ranking member of the Commerce Committee and a member of the Budget Committee, I want to thank the Members of the Senate for the strong support shown for the National Science Foundation in H.R. 2783, the HUD-Independent Agencies appropriation bill. These moneys will be used by the foundation to sponsor science and engineering research at colleges and universities and science and engineering education at secondary schools and undergraduate institutions. These moneys will also be used by the foundation to fund science and technology centers around the country. These centers will link industry and universities together in a collaborative effort to perform research that seeks to make our country more competitive.

Earlier this year the President requested $1.89 billion for the foundation's fiscal year 1989 budget and recommended that the foundation's budget be doubled over the next 5 years. The Budget Committee supported that request. I look foward to working on a strong authorization bill for the foundation within the Commerce Committee. With the Senate's action on this appropriation measure, there seems to be a consensus in the Senate that the foundation needs to be funded at levels close to the President's request.

This legislation will help improve our Nation's research infrastructure, encourage American students to pursue scientific careers, and support our current research efforts at adequate funding levels. An improved research ability means a strong, competitive United States.●

INFORMED CONSENT: RHODE ISLAND

● Mr. HUMPHREY. Mr. President, the health and well-being of all Americans is certainly of concern to every Member of this body. Today I bring to your attention the thousands of women who suffer negative effects from their abortions, effects they were never warned might occur. In essence, what has happened to these women is that they consented to an abortion without first being provided with the necessary facts for informed consent. What has followed is not at all what they expected—in some cases depression, nightmares, or even sterility.

My informed consent legislation, S. 272 and S. 273, would require that appropriate information be provided to women considering abortion so that they can consent or decline based on the facts. I urge my colleagues to support these bills. I also ask that a letter from Rhode Island, one of hundreds sent to my office from around the Nation, be entered into the RECORD. It shows clearly what can happen without informed consent.

The letter follows:

AUGUST 6, 1986.

DEAR SENATOR: I'm writing you about the present law on abortions, regarding specifically, the issue of withholding information from the women.

Nine years ago I had an abortion, for what seemed to be, at that fearful time, all the right reasons. It ended up being the most disastrous experience of my whole life. Something I shall never forget as long as I live.

The saddest part is that I know now that if the truth were given to me *then*, I wouldn't be living in misery *now*!

Being in a very vulnerable and scared position can lead any person to jump too quickly and removes all rationalization. This is exactly the place women are when we think the option of abortion as an answer. This is the very reason I feel women should be given *all* facts on abortion, from the development of the child (a factual one), to the exact process of the procedure itself, (there again factual).

It has been my personal experience and that of women I now counsel with, that the statements made to us during our fear, such as, "It's only a *blob* of tissue." "I'm only starting your period.", "I'm only cleaning the walls of your uterus.", "*It's* nothing yet," and the list goes on, are so untruthful it seems a crime that they can treat women so ignorantly. Don't they realize that some day, later, we will see and/or hear that the blob had fingers and toes and a heart beat, etc. The agony of this realization is horrid enough, but it is always compounded eventually with the facts of the procedure. The fact that, my child at this stage had arms and legs and they *ripped that child apart* with suction equipment to remove it. That's a horrible thing to have to live with. To know all the facts and find them out when it's too late to change your mind is an extremely debilitating experience to live with.

Please Sir, we need your help. My plea is supported by women in every state of this country. We all agree "If I knew then what I know now, I never would have done it." We need your help. This present law must be addressed and changed for the dignity of choice, (*real* choice) and the sanity and respect of today's women.

Thank you Sir, so much, for your time and attention to this very crucial issue.

Gratefully Yours,

MRS. ALEXANDRIA BELLINO.●

HOW TO BEST HELP DOMESTIC ANIMALS

● Mr. WIRTH. Mr. President, I would like to bring to the attention of my colleagues a program recently initiated in Los Angeles to help reduce the number of stray and unwanted pets in that city. More than 100,000 pets have no homes and have to be put to death each year in Los Angeles. However, building on the leadership provided by Joy Goldschmidt, the vice president of an advertising design firm, the city has initiated a program that encourages pet owners to spay and neuter their pets, and thus reduce the growth in the number of such animals, many of which ultimately become homeless.

I believe that this is a very basic step toward humane treatment of animals and I applaud the efforts of Mrs. Goldschmidt and the city of Los Angeles. This also is a good example of the progress that can be made through the cooperation of the public and private sectors. I urge my colleagues to join me in encouraging communities in their States to closely examine this program and to consider implementing these steps. Domestic animals—and we of the human race as well—will be better off as a result.

Mr. President, I ask that the text of a press release detailing the implementation of this program be printed at this point in the RECORD.

The text of the press release follows:

PRESS RELEASE

Conceived and organized by Joy Goldschmidt, vice-president of Intralink Film Graphic Design, and with the sponsorship of five outdoor advertising firms, a $1 million campaign has been launched jointly with the city of Los Angeles to save the lives of the more than 100,000 stray and unwanted pets put to sleep at L.A. animals shelters annually.

According to Goldschmidt, president of the Cassidy Foundation which is undertaking the unique humanitarian effort, the campaign, almost entirely underwritten by advertising industry firms, will serve as a pilot for national expansion to save the lives of millions of pets throughout the United States each year.

The campaign, and the massive city of Los Angeles support it required, originated at Intralink, the leading film advertising design firm which is headed by Goldschmidt's husband, Anthony Goldschmidt. The award-winning mastermind behind the advertising and trailer campaigns of such films as "E.T.," "Blade Runner," "The Color Purple" and "Victor, Victoria," Goldschmidt had his firm create an emotionally moving graphic depicting desperate homeless animals. His wife, Joy, then went out and got commitments for over $800,000 in outdoor billboard, bus siding and bus shelter space from Patrick Media, Gannett Outdoor Advertising, Winston Network, and Mutual Shelter Advertising.

With this campaign in place, Joy Goldschmidt then went to Los Angeles City Councilman Joel Wachs and obtained a city council ordinance providing 4 months of free spaying and neutering beginning on the official Adopt-A-Pet Day, Saturday, September 26.

With the blessing and cooperation of Los Angeles Mayor Tom Bradley and Robert Rush, general manager of Department of Animal Regulation, Goldschmidt had her save-the-animals program in place. Administrators feel it can go a long way toward achieving the goal of zero destruction of stray pets, a first for any American city.

At the unveiling of the 44 foot prototype of the billboard, Mayor Bradley expressed his appreciation to Joy Goldschmidt in his statement:

"We are grateful to Joy Goldschmidt and for the tremendous leadership which she has given. I believe with this program we're going to see a new day in Los Angeles, a time when there will not be homeless animals on our streets. When there will not be the kind of impregnaiton of animals without the guidance or direction of their owners. We are going to provide a new life, a new hope to the animals of this community."

Following the mayor, City Councilman Joel Wachs added:

"None of this would be possible if it weren't for the extraordinary efforts of Anthony and Joy Goldschmidt. It was their expertise and their talent and this remarkable combination of charm, ingenuity and professionalism that in less than 3 months has gotten the unanimous support of everybody in City Hall, our Mayor, our City Council unanimously, our department, our commission unanimously. This ordinance has passed in record speed."

With an October 1 launch date, preceded by a high-promotion Adopt-A-Pet day on September 26, the advertising industry-backed program hopes to achieve a success that can spread to other cities. Goldschmidt advises that Intralink will donate the use of the centerprice graphic to any city desiring to emulate the Los Angeles effort.

A special 44 foot by 14 foot mural of the design image was created by Metromedia Technologies through its revolutionary process of computer-generated robotic painting, and this painting will tour six sites during the campaign.

The Cassidy campaign—the organization was named after a three-legged mutt that shelter workers adopted rather than destroy—will make the Intralink image the most highly communicated image in Los Angeles advertising history.●

APPOINTMENT OF CONFEREE ON H.R. 2714

Mr. BYRD. Mr. President, I ask unanimous consent that the Chair appoint Mr. STEVENS as a conferee on H.R. 2714, the Legislative Branch Appropriations Act, 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL INDEFINITELY POSTPONED—S. 1464

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar No. 353, S. 1464, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILING OF PROPOSED AMENDMENTS TO WARNER-BYRD AMENDMENT NO. 951

Mr. BYRD. Mr. President, I ask unanimous consent that if Senators wish to file first-degree amendments to the language proposed to be stricken by the Warner-Byrd amendment No. 951, that such amendments be filed with the Journal clerk by 1 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF SEGMENT OF MERCED RIVER AS A COMPONENT OF THE WILD AND SCENIC RIVERS SYSTEM

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 317.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 317) entitled "An Act to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. DESIGNATION OF MERCED RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) MERCED, CALIFORNIA.—The main stem from its sources (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyell Fork) on the south side of Mount Lyell in Yosemite National Park to a point 300 feet upstream of the confluence with Bear Creek, consisting of approximately 71 miles, and the South Fork of the river from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately 43 miles, both as generally depicted on the map entitled 'Merced River Wild and Scenic Rivers—Proposed', dated June 1987, to be administered by the Secretary of Agriculture and the Secretary of the Interior. With respect to the portions of the river designated by this paragraph which are within the boundaries of Yosemite National Park, and the El Portal Administrative Unit, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph, except that no more than $235,000 may be appropriated to the Secretary of Agriculture for the acquisition of lands and interests in lands.".

SEC. 2. STUDY.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof—

"(96) MERCED, CALIFORNIA.—The segment from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level).".

(b) RENUMBERING.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by redesignating the paragraphs relating to the Klickitat and White Salmon as paragraphs (94) and (95) respectively.

Mr. CRANSTON. Mr. President, I rise in support of H.R. 317, to add the Merced River in California to the National Wild and Scenic Rivers System.

The measure before us today represents a compromise between earlier versions of the bill passed by the House and the Senate. The original Senate bill which I sponsored with my colleague from California, Mr. WILSON, would have designated the entire Merced River as a component of the National Wild and Scenic River System. The original House bill called for designation of the south fork of the Merced River from its headwaters to its confluence with the main stem and the main stem from its sources to Briceberg, and provided section 7(a) protection for the 8-mile segment of the Merced between Briceberg and Lake McClure Reservoir. Our compromise adds 71 miles of the main stem and 43 miles of the south fork of the Merced River to the National Wild and Scenic Rivers System and designates the remaining 8-mile segment as a study river.

Mr. President, there is no question that the Merced River belongs in the National Wild and Scenic Rivers System. This magnificent river originates in Yosemite National Park and flows through Sierra Nevada mountain landscape and some of the most beautiful scenery anywhere in the world. Below El Portal outside the park, the Merced River descends through Sierra chaparral foothills, national forest, and BLM lands where there is tremendous recreational use—rafting, kayaking, camping, picnicking, fishing, swimming, and floating. According to the Forest Service, an increasing number of campers are making the Merced River from El Portal to Lake McClure their destination rather than Yosemite National Park.

However, near El Portal, just 100 yards outside the park a diversion project has been proposed by Keating Associates. The project would be a visual intrusion at the gateway to Yosemite National Park. It would reduce flows of the Merced for about 4 miles, 3 of which are designated a California wild trout stream, and have adverse impacts on the environment and serious effects on the local economy which depends very heavily on tourism. Enactment of H.R. 317 will preclude the construction of this highly unpopular and unnecessary hydroelectric project.

There also has been some discussion of—but no specific plans for—another project on the Merced River between Briceberg and Lake McClure Reservoir to provide additional water supplies for Mariposa County. By designating this segment of the Merced as a study river, our compromise will give this stretch all the protections of the Wild and Scenic Rivers Act for up to 6 years while allowing time for Mariposa County to look at the possibility of water development.

The Bureau of Land Management and the Forest Service have already examined the question of whether this segment qualifies for the National Wild and Scienic River System and in the draft environmental impact statement for the Sierra National Forest, dated September 1986, recommended designation of the entire river to Lake McClure Reservior. I fully expect the BLM and the Forest Service to recommend designation again when the study called for in this bill and the final land use plan for the Sierra National Forest are completed. I intend to support designation again at that time.

Returning to the present bill, I would like to add that it will not affect private property at Wawona, an inholding area on the south fork of the Merced within Yosemite National Park. Under the provisions of the Wild and Scenic Rivers Act, the Secretary of the Interior normally has the authority to acquire scenic easements within the designated river corridor. However, the Secretary already has authority to acquire lands within Wawona in fee or by easement. H.R. 317 is not intended to give the Secretary any additional authority within the Wawona section. The department assures me that any acquisition or other land protection activities at Wawona would continue to be governed by the land protection planning process for the park.

I am aware that there are other existing developments within the Merced River corridor, including the Merced River High Sierra Camp operated by the Yosemite Park & Curry Co. Designation of the Merced as a National Wild and Scenic River is not intended to interfere with the existing development and land use associated with the Merced Lake High Sierra Camp. Nor is it the intent by this designation to interfere with other existing developments.

Mr. President, I urge my colleagues to support this bill to give the Merced River the lasting protection it deserves.

Mr. BYRD. Mr. President, on behalf of Mr. Cranston, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. BYRD. Mr. President, on Tuesday, the first vote will occur at 11 o'clock. It will occur on the cloture motion on the first-degree amendment offered by Mr. Warner and myself to the Weicker-Hatfield war powers legislation. If that cloture motion should succeed under the rule, then the Senate would continue, to the exclusion of all other business, until the completion of action on that amendment. If the cloture motion fails, I will move to go to the Bork nomination.

I will not need unanimous consent on Tuesday to take up the Bork nomination. The 2-day rule will have expired, so I will be at liberty to proceed by nondebatable motion to executive session and directly to the Bork nomination, and the Senate will begin debate thereon.

I had earlier hoped to get a time agreement. I sought yesterday and the day before to get an agreement to take up the Bork nomination and a time agreement on the length of that debate and a final time and date for a vote on the Bork nomination. I was unable to get such an agreement. Therefore, the inhibiting factor—namely, the lack of freedom to move the Bork nomination—has now been removed and I do not need unanimous consent to take it up. So I will move to go to it.

I hope that the debate will not be overly lengthy, but I have been unable to get an agreement on when that debate may end. I certainly would want to avoid moving to table the nomination and expect to make such a motion only as a last resort.

I hope that Senators will be ready to vote on the nomination within a reasonable time for debate after the nomination is brought before the Senate.

Mr. President, there are other pieces of legislation that I hope to complete action on in the not-too-far-distant future. One is the catastrophic illness bill. Another is the transportation appropriations bill. There are other appropriations bills on the calendar already. They are as follows:

I have not mentioned the energy and water development appropriation bill.

The Senate has passed 7 of the regular appropriations bills—that is more than half of the total of 13 regular appropriations bills. The Senate is at last making good progress on appropriations bills.

I understand that the House has appointed conferees on the first four appropriations bills that were passed by the Senate and I am now informed that the military construction appropriations bill has now been filed by the Senate Appropriations Committee. Then there is the airline safety legislation that I hope the Senate can get to soon.

Mr. President, these pieces of legislation will have to await the action on the Bork nomination. This means that catastrophic illness will await action on the Bork nomination. The remaining appropriations bills will have to await final action on the Bork nomination. Airline safety legislation will have to await action on the Bork nomination. Once I call up the Bork nomination, we will stay on it until it is finished.

I hope that Senators will take all this into consideration because the Bork nomination is going to have backed up behind it, legislation that is important to the health and the safety of the American people.

There is also the reconciliation bill that is coming along. I hope we do not have to go to a sequester. Because if we do, that means that education, for one item, is going to be severely hurt.

I look forward to what I hope will be a good and productive debate on the Bork nomination. I hope that Senators will restrain themselves in debate. I hope that the administration will keep its rhetoric under control and let the Senate debate this nomination without inflammatory rhetoric form the sidelines. Let us have a good debate and reach a final decision on the nomination in due course.

ORDERS FOR TUESDAY, OCTOBER 20, 1987

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders have been recognized under the standing order, there be a period for the transaction of morning business not to extend beyond 10 o'clock a.m.; that Senators may speak during that period for morning business not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON CLOTURE MOTION

Mr. **BYRD.** Mr. President, I ask unanimous consent that at 10 o'clock a.m. on Tuesday next, the 1 hour under the cloture rule begin running and that there be no mandatory quorum or quorum of any other nature prior thereto, and that the vote on the cloture motion begin at 11 o'clock a.m.; provided further that that vote be a 30-minute rollcall vote, and provided further that the call for the regular order at the close of the 30 minutes be automatic.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the time between 10 o'clock a.m. and 11 o'clock a.m. on next Tuesday be under the control of the two leaders or their designees. My designee will be Mr. WARNER.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TUESDAY, OCTOBER 20, 1987

Mr. **BYRD.** Mr. President, does my friend, the Senator from Alaska, the acting Republican leader, have any further statement today or any further business he would like to transact?

Mr. **MURKOWSKI.** I thank the majority leader. No. I think he has concluded the remaining business of the day. I wish him a good weekend.

Mr. **BYRD.** Mr. President, I reciprocate and wish the gentle Senator the best of a very good weekend. I hope that all Senators will have the opportunity to rest. I think we have had a good and a productive week this week. We passed two appropriations bills yesterday, one the day before, and passed other legislation.

If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. on Tuesday next.

The motion was agreed to, and at 4:47 p.m. the Senate recessed until Tuesday, October 20, 1987, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 16, 1987:

DEPARTMENT OF EDUCATION

LINUS D. WRIGHT, OF TEXAS, TO BE UNDER SECRETARY OF EDUCATION, VICE GARY L. BAUER, RESIGNED.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

MARIANTHI LANSDALE, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS FOR A TERM EXPIRING MAY 8, 1990, VICE MARY JO ARNDT, TERM EXPIRED.

NATIONAL INSTITUTE OF BUILDING SCIENCES

DIANNE E. INGELS, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1988, VICE CHARLES A. DOOLITTLE, JR., TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Monday, October 19, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we sense Your spirit, O God, in the special moments when Your voice speaks to us the words of peace, whether in the quiet of prayer, or in a moment of silence or even in the midst of the rush of daily events. Teach us to respect those moments when Your voice is heard—admonishing us, correcting us, forgiving us, and always, loving us, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 1777. An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes;

H.R. 2342. An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes;

H.R. 2893. An act to reauthorize the Fishermen's Protective Act; and

H.J. Res. 234. Joint resolution to designate the month of November in 1987 and 1988 as "National Hospice Month."

The message also announced that the Senate insists, upon its amendment to the bill (H.R. 1777) entitled "An act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. BIDEN, Mr. SARBANES, Mr. HELMS, and Mr. LUGAR to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 317) entitled "An act to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System."

The message also announced that the Senate has passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 53. Joint resolution to designate the period commencing November 22, 1987, and ending November 28, 1987, as "American Indian Week";

S.J. Res. 144. Joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week";

S.J. Res. 168. Joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week";

S.J. Res. 171. Joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week"; and

S.J. Res. 198. Joint resolution to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *October 16, 1987.*

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House on Friday, October 16, 1987 as follows:

(1) At 3:41 p.m. and said to contain a message from the President wherein he transmits draft legislation entitled, "Criminal Justice Reform Act of 1987", and an accompanying section-by-section analysis; and

(2) At 5:59 p.m. and said to contain a message from the President whereby he certifies that statutory requirements have been satisfied with respect to the production of chemical binary weapons.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

CRIMINAL JUSTICE REFORM ACT OF 1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-117)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on the Judiciary and ordered to be printed:

(For message, see proceedings of the Senate of Friday, October 16, 1987, at page S14528.)

CERTIFICATION OF STATUTORY REQUIREMENTS FOR PRODUCTION OF CHEMICAL BINARY WEAPONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-118)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

Pursuant to section 1233 of the Department of Defense Authorization Act, 1984 (Public Law 98-94), I hereby certify with respect to the binary chemical munitions program that for each 155 millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to section 1411 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), is ready to be implemented.

I note with regard to the fourth numbered paragraph above that the plan, submitted to the Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Act as an essential element of the decisionmaking process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July 1986.

I am pleased to make this certification on a program so vital to our national security. We continue to seek a global, effectively verifiable ban on chemical weapons. Until we achieve that goal, however, it is essential that we maintain a safe, modern chemical weapon stockpile to deter use of chemicals by our potential adversaries. I will be counting on your continued support for this program.

RONALD REAGAN.

THE WHITE HOUSE, *October 16, 1987.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. This is the day for the call of the Consent Calendar.

There are no bills on the Consent Calender.

PRESSURE FOR STABILIZED BUDGET

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the stock market nosedived last week, and it is in chaos today. It was down 134 the last time I heard. It may very well come back, but there are two reasons for the incredible volatility we have seen over the last 5 days.

First of all, for the last 5 years this economic recovery has been running on borrowed money and borrowed time, and a lot of air that kept the system in the stratosphere is now being let out.

Second, the markets are afraid that we have a Government which is simply not in control of events. What is happening in the market today ought to tell the White House that waiting for Gramm-Rudman to put the Government on automatic pilot is simply not enough in this situation.

We desperately need the President to call leaders of both parties down to the White House, put them in a room and say, "Boys, we are going to work out a 2-year budget and trade deal to try to prevent an economic collapse."

The greatest gift that this President and this Congress could give to the next President is a stabilized budget situation, so that the new administration can deal with the whole range of new problems facing our economy and our society.

Unless the President places his administration and the congressional leadership together in a desperately needed compromise on the budget, we are going to see more of the kind of instability that we have seen in the last 3 weeks, and risk turning the next 4 years into a period of very messy damage control.

SUPPORT FOR PRESIDENT'S RETALIATORY ACTION AGAINST IRAN

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, "Loose lips sink ships" is not just a World War II theme, but can be applied to the situation in the Persian Gulf today.

We should be supporting the retaliatory measure taken by the President of the United States.

I am not afraid of retaliation by the Iranian terrorists at this point. I am more afraid of loose lips on the floor of the House or of the other body in which they would not be supporting the President of the United States 100 percent.

That kind of a signal could result in giving courage to the Iranian terrorists to continue the escalation of the conflict in the Persian Gulf.

Loose lips sink ships only because the Iranians who watch what happens on the floor of the Congress can gain some sort of aid from the fact that Members of Congress themselves seem not to be supporting the President of the United States.

Let us turn these loose lips into full support of the President's retaliatory action.

SUPPORT FOR GOVERNMENT ACTION IN PERSIAN GULF

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Mr. Speaker, I rise this afternoon in strong support of my Government's action in the Persian Gulf.

Mr. Speaker, I think it has to be made clear to the Iranian Government that when American flags, American sailors or American servicemen are attacked, that we in this country will stand by them, that we will do everything in our power to make sure that they are protected and protect themselves.

I commend the Government's prudent, and it seems well-placed, retaliatory measure, and I hope that this sends a signal to those who think it easy and expedient to tread upon those who would fight for their country and this country's flag.

UNITED STATES REPRISAL AGAINST IRAN

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, a strong policy in the Persian Gulf would have Congress and President working together, as provided by American law.

It is time for the administration to get straight with Congress and the American people and to invoke the War Powers Act.

How can 4 U.S. Navy warships lob 1,000 5-inch shells at 2 armed Iranian installations, destroying them totally, without being involved in hostilities?

The administration gave the Iranians 20 minutes notice that we were going to attack. But they still haven't given Congress notice that we are involved in hostilities under the War Powers Act.

Mr. President, the Iranians know we're in hostilities. Our soldiers know we're involved in hostilities. It's time for the Reagan administration to admit to Congress and the American people that we're involved in hostilities.

What will it take, Mr. President? How long will you wait to admit that our forces are involved in hostilities?

The problem is not over in the Persian Gulf, and the matter is not closed.

When you are making war on Iranians, Mr. President, it's not over because you won the latest battle.

The fat lady may not sing until we're involved in a full-scale conflict with Iran.

We are getting deeper into confrontation with Iran every week.

This is precisely the kind of situation the War Powers Act was designed to deal with.

Hasn't the Reagan administration learned anything from its Iranscam adventure with the Ayatollah? It's not a good idea to do an end-run around American law when dealing with Iran.

PRESIDENT MUST NEGOTIATE WITH CONGRESS OVER BUDGET DEFICIT

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise to voice yet another warning about the relationship between the health of the economy and the budgetary stalemate.

Three weeks ago, I expressed disappointment over the Gramm-Rudman conference agreement. The budget cuts it schedules for 1988 and 1989 are too small. They are about half of what they should be. Even so, President Reagan refuses to set aside political pride and negotiate in earnest with Congress on the budget.

I warned at that time that, without an indication that meaningful deficit reduction is going to take place, pressure on the dollar and interest rates will continue to mount, our trading partners will continue to resist calls to stimulate their economies, and the financial markets will continue to reel.

The stock market's plunge is the most graphic evidence to date that it is high time the President abandon his dangerous political gamble with the world economy and negotiate with Congress over meaningful cuts in the budget deficit.

□ 1215

MEDICARE PREVENTION TESTS FOR CANCER

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, everyone, certainly including myself, is very pleased that Nancy Reagan is doing so well; doctors say that she has a 95- to 100-percent chance of survival and that the prognosis is excellent. We are all thrilled about that.

One of the reasons she is doing so well and her cancer is probably cured is because she had a mammogram in her annual checkup.

Mr. Speaker, 20 years ago 1 out of 20 women acquired breast cancer. Today the figure is 1 out of 9.

In Medicare, it does not include prevention. It does not include a free mammogram or screening for women, but it will include coverage to an extent for the surgery.

We could save an awful lot of lives if we would only include a prevention mammogram in the Medicare Program.

Mr. Speaker, we had in the catastrophic bill a minimum program related to mammograms. It was taken out. I really urge this Congress to either put that provision back in or pass the bill that I have introduced for the last 6 years, H.R. 2935, which would include in Medicare coverage this type of situation.

Nancy Reagan is not the only woman who should have this kind of coverage. Every older woman should have this and certainly older men as well with respect to screening and other kinds of cancer screening; so I am hoping that this killer of women will be arrested by an ounce of prevention and Congress has the opportunity to do something about this dreadful disease.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, October 20, 1987.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3071

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of the bill, H.R. 3071.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VETERANS OMNIBUS HEALTH CARE AMENDMENTS OF 1987

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3449), to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, as amended.

The Clerk read as follows:

H.R. 3449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2 NONPROFIT RESEARCH CORPORATIONS.

(a) AUTHORITY OF ADMINISTRATOR.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"§ 4161. Authority to establish; status

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center at which significant medical or scientific research is carried out of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise provided in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of its establishment a corporation established under this subchapter is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall immediately dissolve the corporation.

"§ 4162. Purposes of corporations

"Any corporation established under this subchapter shall be established to carry out medical research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be administered by the corporation for those purposes.

"§ 4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) members appointed from outside the Government who are familiar with issues involving medical and scientific research, including members who are not affiliated with any source of funding for research by the Veterans' Administration.

"(b) Each such corporation shall have an executive director, who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration, and who shall be responsible for the day to day operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"§ 4164. General powers

"(a) In order to carry out the purposes of this subchapter, any corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals, private corporations, professional societies, institutions, and Government agencies solely to carry out the purposes of this subchapter; and

"(2) employ such employees as it considers necessary and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds.

"§ 4165. Applicable State law

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

"§ 4166. Accountability and oversight

"(a) The Inspector General of the Veterans' Administration shall have the right to examine the records of any corporation established under this subchapter.

"(b) Each such corporation shall submit a detailed annual report to the Administrator on its operations, activities, and accomplishments during the preceding year. The report shall include a report of independent auditors concerning the receipts and expenditures of funds by the corporation during the preceding year.

"(c) Each member of the board of directors of a corporation established under this subchapter and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions.".

"§ 4167. Expiration of authority

"No corporation may be established under this subchapter after September 30, 1990.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purposes of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Expiration of authority.".

SEC. 3. INCENTIVE PAY FOR NURSES.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may enter into agreements under this subsection for the recruitment and retention of registered nurses by the Veterans' Administration. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration Medical Center that is designated by the Administrator as a medical center with a significant shortage in registered nurses in any clinical service.

"(2) A registered nurse entering into an agreement under this subsection shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement. Such period shall be not less than two years or more than four years.

"(3) The Administrator shall pay to any nurse entering an agreement under this subsection incentive pay for the duration of the agreement. The amount of such incentive pay shall be—

"(A) $1,000 per year, in the case of an agreement for two years,

"(B) $2,000 per year, in the case of an agreement for three years, and

"(C) $3,000 per year, in the case of an agreement for four years.

"(4) Each agreement under this subsection shall include provisions requiring the Administrator to require repayment, with suitable penalties to be specified in the agreement, of amounts paid under this subsection if the nurse concerned fails to complete the period of employment with the Veterans' Administration specified in the agreement.

"(5) The authority of the Administrator to enter into agreements under this subsection is subject to the availability of appropriated funds for such purpose.".

SEC. 4. OFFICIAL SEAL.

Section 202 is amended—

(1) by inserting "(a)" before "The seal"; and

(2) by adding at the end the following:

"(b) The Administrator may authorize the use, for purposes approved by the Administrator, of the seal and other official symbols of the Veterans' Administration, and of the name 'Veterans' Administration', by any person who makes a significant gift or contribution to the Administrator for the support of special recreational activities which further the rehabilitation of disabled veterans.".

SEC. 5. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) No appropriation may be made for a major medical facility project unless each committee has first adopted a resolution approving such project and setting forth the estimated cost of such project.".

SEC. 6. APPOINTMENT OF RESEARCH PSYCHOLOGISTS.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) The Chief Medical Director may waive for the purpose of appointments under this section the requirements of section 4105(a) of this title that the licensure or registration, as appropriate, of a physician, dentist, podiatrist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist must be in a State if the person—

"(A) is to be employed to conduct research or serve in a academic position and to have no responsibility for furnishing direct patient-care services; or

"(B) is to be employed to serve in a country other than the United States and the licensure or registration of such person is in the country in which the person is to serve.

"(2) The Chief Medical Director may for the purpose of the appointment under this section of a psychologist who meets the conditions described in paragraph (1)(A) of this subsection waive the requirement of section 4105(a)(8) of this title that a psychologist must have completed an internship.".

SEC. 7. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) CATEGORY OF APPOINTMENT.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) AUTHORITY FOR NURSE SPECIAL PAY.—The second sentence of section 4107(f) is amended—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 8. VETERANS' ADMINISTRATION CHILD DAY CARE CENTERS.

(a) OPERATION BY VETERANS' CANTEEN SERVICE.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child day care centers

"(a) The Service may operate child day care centers at facilities of Veterans' Administration medical centers. The centers shall be available for the children of Veterans' Administration employees.

"(b) For the purposes of subsection (a) of this section, the Administrator shall provide to the Service without charge space in existing Veterans' Administration facilities, support services (including custodial services), and utilities. Any other facilities or services provided by the Administrator to the Service for the purpose of subsection (a) of this section shall be provided on a reimbursable basis.

"(c) The Service may establish reasonable charges, to be approved by the Administrator, for day care services provided under subsection (a) of this section. Such charges shall be sufficient to cover all costs of the operation of day care centers operated under subsection (a) of this section (other than the cost of services provided without charge by the Administrator under subsection (b) of this section).

"(d) In assigning employees to the operation of day care centers under this section, the Administrator shall ensure that such employees are assigned based on their suitability and fitness for such duties.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4209. Child day care centers.".

SEC. 9. INTEGRITY OF CONTRACTING OUT PROCESS.

(a) REQUIREMENT FOR TWO BIDDERS.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under requests for proposals issued after the date of the enactment of this Act.

SEC. 10. EVIDENCE OF INABILITY TO DEFRAY EXPENSES OF DOMICILIARY CARE.

(a) CATEGORY A.—Section 622(a)(1) is amended by striking out "section 610(a)(1)(I)" and inserting in lieu thereof "sections 610(a)(1)(I) and 610(b)(2)".

(b) CONFORMING AMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and 624(c)" and inserting in lieu thereof "section 624(c)".

SEC. 11. REPORT ON EFFECT OF CERTAIN SPECIAL PAY AMENDMENTS.

Not later than one year after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to Congress a report on the implementation of the amendments made by sections 3 and 7 and the implementation of any other provision of law enacted during the first session of the One Hundredth Congress making changes in special and incentive pay for various health care professionals in the Department of Medicine and Surgery. The report shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists and shall include such recommendations for further legislative action as the Administrator considers appropriate.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House H.R. 3449, as amended. This bill was reported unanimously by the Committee on Veterans' Affairs, after having held several hearings on the subjects addressed in its provisions.

Mr. Speaker, there are 11 provisions in the bill and I would like to describe them.

First, Mr. Speaker, I want to thank the very able gentleman from Arkansas, the ranking minority member of our Subcommittee on Hospitals and Health Care, Mr. HAMMERSCHMIDT, for the leadership he provided on this bill.

I am also grateful to the distinguished ranking minority member of the committee, Mr. SOLOMON, for his cooperation and support in bringing the bill to the House.

Mr. Speaker, there are three provisions concerning health care personnel recruitment and retention. The committee has received extensive testimony regarding the shortage of health care personnel, especially registered nurses, throughout the country. In the VA, the nurse staffing problem is especially critical, since Federal agencies cannot move as quickly as small, private concerns and since the Federal deficit and budget situation limits the financial incentives. In addition, the committee received testimony that VA pharmacies are severely understaffed and that the VA is also having significant difficulty in recruiting and retaining occupational therapists. Therefore, the committee recommends the passage of the following provisions dealing with pay and nonpay VA employment incentives:

Authorize the Administrator to enter into incentive pay agreements with registered nurses, both currently employed by VA and new hires, at facilities which are determined to have a significant shortage of registered nurses in any clinical service as follows: $1,000 per year for an agreement to work 2 years; $2,000 per year for an agreement to work 3 years; and $3,000 per year for 4 years. A payback requirement, similar to that for the Health Professional Scholarship Program, would operate in instances where the nurse were to default. This incentive pay authority for nurses would exist in addition to the special pay rate provision. However, since this incentive authority can be tailored to specific clinical services, the budget impact of implementing it is small. CBO estimates an annual cost of only $5 million per year after implementation.

Authorize the transfer for pay purposes only to the title XXXVIII personnel system of pharmacists and occupational therapists. The VA report concerning a similar transfer involving physical therapists and licensed and/or practical nurses showed definite improvements in retention and recruitment.

Authorize the VA canteen service to operate child day care centers at VA medical centers for children of VA employees on a fee basis sufficient to cover all costs of the operation of such day care center other than the costs of services provided by the Administrator. One of the recruitment incentives used by the private sector in health care and other employment categories, according to the General Accounting Office's recent report on child day care, is the provision directly or indirectly of child day care services. This provision would authorize day care for VA employees both to encourage more people to enter the work force and to encourage more of those in the work force to apply for employment in the VA.

The reported bill includes a provision that would authorize the establishment of a nonprofit corporation at each VA medical center at which significant medical research is carried out to provide a funding mechanism for moneys received from other than VA appropriations to conduct approved research projects at the medical center. Mr. Speaker, a large amount of non-VA research money is expended by the VA to conduct VA approved research projects. There are two main ways to keep account of these funds: The general post fund and affiliated medical school accounts. The general post fund was not designed for the ongoing disbursements of research dollars, but instead was established to deal with the personal property of veterans who die while in VA facilities. When funds are channeled through affiliated educational institutions, an indirect cost charge is levied ranging from 15 to 40 percent and more which results in a loss of resources for effective research. Yet, the committee believes it is necessary to keep careful account of funds which come to the VA for research. This provision would allow a VA medical center to establish a nonprofit corporation to do this. Any such corporation must comply with laws of the State in which it is incorporated and also be recognized as a nonprofit corporation under the laws and regulations of the U.S. Internal Revenue Service.

Mr. Speaker, the VA in concert with community groups and veterans service organizations has developed therapeutic activities for disabled veterans in the form of recreational and competitive events. One example, is the National Wheelchair Games. The committee feels that, in recognition of the fiscal and other resource contributions made by individuals and organizations, the significant support of these special recreational activities should earn the use of the official VA seal, other VA symbols and the name "Veterans' Administration" at the discretion of the Administrator.

The reported bill would also waive the State licensure or registration requirement for practical or vocational nurses, or physical therapists who are: First, employed to conduct research or serve in an academic position and who have no responsibility for furnishing direct patient care services; or second, employed to serve in a country other than the United States and the licensure or registration of the person is in the country in which the person is to serve. Additionally, the requirement for an internship for employment as a VA psychologist would be waived only if the psychologist is to be employed to conduct research and will have no direct patient care responsibilities. The committee has received testimony that in the Philippines, nurses can be licensed and entitled to practice while having no State licensure. This would help the recruiting and retaining of nurses at the VA medical facility in Manila. The waiver of internship for employment as a research psychologist with no patient care responsibilities would aid the recruitment of psychologists with research expertise who do not have patient care internships. The committee was reassured by the VA that no patient care would be performed by such employees.

Mr. Speaker, the VA testified in 1981 that it would require two or more bidders to be responsive to solicitations to contract out certain medical care functions under OMB Circular A-76. A recent decision of the General Services Administration Board of Contract Appeals held that this "rule of two" policy could only be successfully invoked if the VA promulgated a change in the Federal acquisition regulations. In order to ensure the continued high quality medical care of the VA, the reported bill would codify the current VA practice of requiring two responsible, financially autonomous bidders to exist before medical center support services may be contracted out under OMB Circular A-76.

Last, Mr. Speaker, H.R. 3449 would set the income limit for the provision of domiciliary care in VA and State veterans' homes at the category a threshold limit of Public Law 99-272; that is, $15,195 for veterans with no dependents and $18,234 for veterans with one dependent plus $1,013 for each additional dependent. The current monthly income limit of $415 has not been adjusted since 1980 and is unreasonably low in addition to its inconsistency with income limits for other VA medical care services.

I want to thank all members of the committee who worked on the bill, especially members of the subcommittee who spent so much time on the measure.

I especially wish to thank the gentlelady from South Carolina [Mrs. Patterson], a very able member of the committee, for her leadership in proposing the Day Care Center Program for the VA. Section 8 of the bill is identical to H.R. 3409 which she introduced a few weeks ago. I appreciate her work in this area.

This is an important bill and I urge all Members of the House to vote for it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking member of the Veterans' Affairs Subcommittee on Hospitals and Health Care, I rise in strong support of H.R. 3449, to improve health care programs of the Veterans' Administration. The House has already acted favorably on a major veteran's health care bill this past June, and this second bill results from a continuing focus by the committee on the health care needs of our Nation's veterans.

Mr. Speaker, several sections of the bill address the critical and growing shortages of certain health care professionals at many VA medical facilities. These shortages are being felt in private and municipal hospitals as well, and the competition is growing fierce to attract and retain nurses, pharmacists and occupational therapists with all sorts of compensation and fringe benefit packages, including bonuses for nurses of up to $20,000.

The VA is experiencing a widening gap between what it can offer nurses, pharmacists and occupational therapists and what its competition can offer. Too often these essential professionals are simply taking a walk to the hospital down the street because of the inducements of substantially better pay and working conditions.

Mr. Speaker, the very ability of the VA to maintain high quality health care for veterans is at stake. The VA must be able to attract well-qualified, experienced health care professionals. Granted, the VA will probably never be able to match its competition dollar for dollar, and it has never been able to. But the totality of VA employment must remain sufficently attractive. There must be enough reasons the VA hospitals are a good place to work so that nurses, pharmacists, occupational therapists and other health care professionals will seek employment in them and stay.

Specifically, this legislation would allow incentive pay agreements with registered nurses of up to $12,000 for a 4-year contract. Of course, there are penalty agreements if the nurses don't stay the entire length of time.

Also, the legislation would expressly permit the veterans' canteen service to operate day care centers for children of VA employees at VA medical centers. This is already being done at some facilities, but there have been questions about the legal basis for the activity. The bill would clearly sanction day care.

The day care services would entail no cost to the Government, since they would be on a fee basis. Obviously, the availability of day care for their children is a major consideration for working parents, and many employers in the health-care field provide various arrangements for child day care. Nurses, who are mainly women, may have a particular interest in the availability of day care, but it is a benefit which is generally attractive across the board.

Additionally, under H.R. 3449, the more attractive pay scales under title XXXVIII would be made applicable to pharmacists and occupational therapists, who are now under the regular civil service pay provisions. These two occupations would retain their other civil service rights and protections, so in a sense they would be getting the best of both worlds.

Mr. Ridge of Pennsylvania, an active member of the Hospitals and Health Care Subcommittee, offered a unanimously accepted amendment at the full committee markup to require the VA to report after 1 year on the results of the implementation of these sections I have just discussed, except for day care. Feedback is necessary to evaluate the effectiveness of the incentives offered, and Mr. Ridge's thoughtful amendment is a valuable contribution to the bill.

Mr. Speaker, H.R. 3449 has 11 sections, all of them important, and they are outlined in the remarks of my distinguished colleague, Mr. Montgomery. However, one other provision warrants particular notice. It would establish authority for establishment of nonprofit research corporations to receive private grants of money for medical research.

The authority is needed because the VA has no mechanism specifically designed to handle these grants, which total millions of dollars. Currently, the grants go into the VA's general post fund, which was intended to handle donations for patients' recreational activities and for such things as day room television sets.

Mr. Speaker, the millions of dollars donated for medical research projects are a far different matter. There are at least a dozen nonprofit research corporations operating today at VA medical facilities, including the one here in Washington, DC. These nonprofit corporations have been operated openly, and as far as I know, responsibly, but the VA's general counsel questions the legal basis for their operation, and, while we have no quarrel with the general counsel's views, the committee believes that the nonprofit corporations believes that the nonprofit corporations should continue to operate and should have the chance to prove themselves, after a promising start.

Authority for their establishment will expire on September 30, 1990. The corporations will be subject both to State laws governing nonprofit corporations and to examination by the VA's inspector general. Also, the committee would certainly exercise close oversight over any corporations established under the authority granted by this legislation.

Mr. Speaker, I am proud to count the chairman of the full committee and of the Hospitals and Health Care Subcommittee as a close friend. Sonny Montgomery works tirelessly for the benefit of veterans and I commend him for H.R. 3449. Also, I commend my good friend and colleague, Jerry Solomon, who succeeded me as ranking member of the committee, for all that he has done. I was confident I was leaving the leadership of the minority in good hands, and Mr. Solomon during this session has certainly lived up to my high expectations.

Mr. Speaker, this veterans health care bill is within the budget, and I strongly urge its passage by this body.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. Oakar].

Before yielding her the time, I would like to say that the next bill that the gentlewoman will handle does have some retirement provisions and benefits for veterans. I would like to compliment her for her work in that field.

Ms. OAKAR. Mr. Speaker, I thank the chairman for yielding this time.

I will extend the gentleman's good words to my chairman, Congressman Ford as well.

I want to compliment the gentleman from Mississippi and the minority leader on this legislation because we do have a shortage of health deliverers in the Veterans' Administration. Part of the problem, frankly, is that we do not pay them fairly. One of the reasons why we have a shortage, for example, of nurses and other health providers is for that reason. It is not competitive enough. One of the things that we have been trying to do, and I must say that the House has always passed my bill, is that we need to study the classification system of Federal employees and take a look at why certain jobs are kept, like nurses, et cetera. We passed that bill overwhelmingly in the House. The Senate has always sat on that bill.

Frankly, instead of giving incentives for people to go into these types of jobs, we ought to just get it over with and pay them fairly and we would not have that recruitment problem; but until we do that, study the system and then hopefully implement the study on where our shortages and needs are and be in equity in terms of salaries, we will have to rely on the good work of the gentleman's committee, which will provide these kinds of incentives.

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So I want to compliment the gentleman. It is the short-term thing to do but in the long term we really ought to take another look at the classification system and the system for Government workers which we really have not done comprehensively since 1923.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I certainly want to thank the gentlewoman from Ohio [Ms. OAKAR] for her comments and I hope she will continue to introduce this legislation. I want to say that it is a very serious situation that has developed in our veterans' hospitals and outpatient clinics, that we do have a number of shortages around the country in registered nurses, and we are competing with the private sector. We are going to have to make some changes to keep the qualified people in the Veterans' Administration to take care of the veterans.

Mr. Speaker, I also want to take this opportunity to say that Senator JOHN STENNIS, our senior Senator from Mississippi, and President pro tempore of the Senate, will not seek reelection next year. He has always been a great friend of the veteran and has worked with us on veterans' programs, and he has made this announcement from his Washington office. He certainly will be missed by not only those on the Senate side but certainly those on the House side.

JOHN STENNIS has decided not to seek reelection.

Mr. Speaker, this is an excellent bill. I urge my colleagues to support it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to join the chairman of the subcommittee, the gentleman from Mississippi [Mr. MONTGOMERY], and the distinguished gentlewoman from Ohio [Ms. OAKAR] for her statement and her interest.

Mr. SOLOMON. Mr. Speaker, I rise in strong support of H.R. 3449, the Veterans' Health Care Amendments of 1987. As the ranking member of the Veterans' Committee I was pleased to have worked with Mr. MONTGOMERY, Mr. HAMMERSCHMIDT and the other members of our committee in the development of this important legislation. This measure addresses one of the most serious problems we have faced in our efforts to insure that America's veterans receive quality health care.

The growing national shortage of skilled health care professionals at veterans' hospitals is jeopardizing the health care our veterans are entitled to receive. This shortage of certain skilled health care professionals to treat our veterans threatens the commitment we in Congress have made to insure quality health care for veterans.

H.R. 3449, which was reported from the Veterans' Affairs Committee last week addresses this problem by providing both recruitment and retention benefits for nurses, occupational therapists, and pharmacists. The bill allows the Administrator to pay occupational therapists and pharmacists under the auspices of title 38 but retains for these professionals the personnel protection afforded them under title 5.

The chairman has already explained the other provisions of the bill, and I support each of them.

I would also like to note that this legislation is one more tribute to our Chairman SONNY MONTGOMERY's ability to identify a problem, and to develop a workable response in the form of bipartisan and timely legislation. This ability guarantees that our veterans will continue to receive quality health care treatment at our national veterans' hospitals.

I urge all Members of the House to support the bill before us. Thank you, Mr. Speaker.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 3449, the Veterans' Omnibus Health Care Amendments of 1987. H.R. 3449 contains various provisions to improve the delivery of health care to our Nation's veterans at VA medical centers.

I would like to concentrate for a moment on two of the many important provisions in H.R. 3449. The first provision will authorize incentive pay of $1,000, $2,000, or $3,000 yearly for registered nurses who agree to commit their services to the VA for 2-, 3-, or 4-year periods respectively. The bill also establishes child day care centers at VA medical centers for the children of VA employees. Employees will cover the cost of salaries for child care personnel and the VA will supply the facility.

These provisions specifically address the problem the VA is currently experiencing in recruiting and retaining nursing personnel. Without adquate nursing staff in VA medical facilities, doctors' orders cannot be carried out, treatment cannot be delivered to the patients, and subtle changes in a patient's condition can go unnoticed. The nurses in our VA medical centers often do the work of two people in order to ensure standard patient care.

Mr. Speaker, our Nation's veterans are the ones who ultimately suffer from the consequences of understaffed medical units. The provisions I have highlighted will make VA medical centers a more attractive and desirable place for nurses to work and for veterans to obtain health care. Bonus pay and convenient child care will make VA medical centers more competitive with nearby hospitals and will attract and retain nursing personnel—thus providing improved working conditions and a stronger staff to deliver to veterans the quality care they deserve.

As a member of the Veterans' Affairs Commitee and strong supporter of our Nation's veterans, I urge my colleagues to vote in support of H.R. 3449.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3449, the Veterans' Omnibus Health Care Amendments of 1987. I commend the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs, as well as the committee's distinguished ranking minority member, the gentleman from New York [Mr. SOLOMON], for their outstanding efforts in reporting this important measure.

H.R. 3449 takes significant steps to address major problems of concern to those of us in Congress who have been longstanding supporters of veterans' benefit programs. Chief among these is the significant problem of work force shortages among the registered nurses who provide the services and high-quality care which is so vital to our Nation's veterans. The legislation before us would authorize the Veterans' Administration [VA] Administrator to offer an incentive pay bonus to new and currently employed nurses at facilities designated as having a nursing shortage. Specifically, the VA Administrator could offer $1,000 per year for an agreement to work 2 years, $2,000 per year on an agreement to work 3 years, and $3,000 per year for an agreement to work 4 years in any clinical service.

In addition, H.R. 3449 would authorize the Veterans' Canteen Service to operate child day care centers for use by VA employees at VA medical centers. These services would be provided at a reasonable cost, sufficient to cover personnel and other incidental services. Finally, H.R. 3449 will facilitate the recruitment and retention of pharmacists and occupational therapists by allowing the VA Administrator to reimburse these professionals under the auspices of title 38 of the United States Code. The provisions of H.R. 3449 will thus work in concert to ensure the adequacy of health care services which go to benefit the Nation's 28 million eligible veterans.

Equally important is the issue of continued funding for medical research throughout our veterans' health care facilities. H.R. 3449 establishes a nonprofit research corporation to act as a flexible funding mechanism in support of VA-approved research projects. Mr. Speaker, the importance of these projects cannot be underestimated. The valiant veterans of our Nation deserve nothing but the best in return for their courageous service in defending our Nation. The provision of adequate, high-quality care is the very least that our Nation can do to provide for the welfare of these outstanding citizens. Similarly, the provision of quality services to the families of veterans is but a small recompense for the sacrifices which these families must suffer for sending their sons and daughters out to war.

As Members of Congress, we must honor our Government's commitment to these individuals. When we asked them to give of their time, and in too many cases, to give of their lives, these brave men and women stood ready to defend our country. As we asked our veterans to serve our Nation, so must we now serve them. I submit that H.R. 3449 is a small but significant step toward fulfilling our obligation to our Nation's soldiers, both past and present. Accordingly, I urge my colleagues to vote in support of the Veterans' Omnibus Health Care Amendments of 1987.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 3449, the veterans' omnibus health care amendments. I am pleased to see the House considering this bill and acting on legislation recognizing the needs of our veterans. For too long now our veterans who have selflessly served this country, ofttimes with their lives, have been denied the gratitude and respect they deserve.

Benefits for veterans date back to the wars of the early settlers against the Indians and the French. Throughout time, service for veterans has expanded to meet the medical care needs of returning war-injured veterans. Today, the Veterans' Administration [VA] facilities make up the largest medical care delivery system in the United States. During 1984, the VA cared for approximately 1.32 million hospital inpatients in VA and non-VA facilities; 65,627 nursing home patients in VA and community facilities; and 21,579 patients in VA and State domiciliaries. It is apparent that this service is essential and vital to a large number of our veterans.

H.R. 3449, among other things would raise the cap on the income threshold for eligibility for domiciliary care from $415 per month to $1,250 per month. This increase introduces a more realistic ceiling. The deciding factor for medical and professional care in a residential setting should not be a substandard salary. It is not poverty that should determine this eligibility but true medical need.

The bill would also provide a much needed pay-incentive system for nurses at VA facilities. At a time when these facilities are facing the potential of greatly increased admissions as our veteran population is rapidly aging, nurses must not become a rare commodity. Improper salaries coupled with an overwhelming workload must not be allowed to continue. Many VA nurses may find it impossible to provide essential care without improved staffing and adequate compensation.

I am pleased to support a bill that enhances the work of VA facilities. Although we cannot turn back the hands of time and change the events of the past, we can and must make a statement for the future. H.R. 3449, the Veterans' Omnibus Health Care Amendments of 1987 provides such statement by providing the essential and basic care these courageous veterans and their families deserve.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 3449, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 3449, the bill now before us.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL RETIREMENT TECHNICAL CORRECTIONS ACT

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3395), making technical corrections relating to the Federal Employees' Retirement System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM AND THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

SEC. 101. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

SEC. 102. DEPOSITS FOR "COVERED SERVICE" AFTER 1986 FOR EMPLOYEES UNDER CSRS OFFSET PROVISIONS.

Section 8334(c) is amended by striking the period at the end of the last sentence and inserting in lieu thereof the following: ", and, with respect to any such service performed after December 31, 1986, be equal to the amount that would have been deducted from the employee's basic pay under subsection (k) of this section if the employee's pay had been subject to that subsection during such period.".

SEC. 103. AMENDMENTS RELATING TO LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS.

(a) MAXIMUM ENTRY AGES.—

(1) IN GENERAL.—Section 3307 is amended—

(A) in subsection (d), by striking "may, with the concurrence of such agent as the President may designate," and inserting in lieu thereof "may"; and

(B) by adding at the end the following:

"(e) The head of an agency may determine and fix the maximum age limit for an original appointment to a position as a firefighter or law enforcement officer, as defined by section 8401(14) or (17), respectively, of this title.".

(2) CLARIFYING AMENDMENTS.—Paragraphs (14)(A)(ii) and (17) of section 8401 are amended by striking "are required to be" each place those words appear and inserting in lieu thereof "should be".

(b) DEFINITION UNDER THE LIFE INSURANCE PROGRAM.—Section 8704(c)(2) is amended by inserting "or 8401(17)" after "8331(20)".

(c) AMENDMENTS TO DEFINITIONS.—

(1) LAW ENFORCEMENT OFFICERS.—Section 8401(17) is amended—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(B) by inserting after subparagraph (A) the following:

"(B) an employee of the Department of the Interior or the Department of the Treasury (excluding any employee under subparagraph (A)) who occupies a position that, but for the enactment of the Federal Employees' Retirement System Act of 1986, would be subject to the District of Columbia Police and Firefighters' Retirement System, as determined by the Secretary of the Interior or the Secretary of the Treasury, as appropriate;"; and

(C) by amending subparagraph (C), as so redesignated by subparagraph (A), to read as follows:

"(C) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) or (B); and".

(2) FIREFIGHTERS.—Section 8401(14)(B) is amended by striking "for at least 10 years".

(d) COORDINATION OF FERS WITH THE DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM FOR EMPLOYEES OF THE PARK POLICE AND THE SECRET SERVICE.—

(1) IN GENERAL.—Section 4-607(1) of title 4 of the District of Columbia Code is amended by striking the period and inserting in lieu thereof the following: ", but does not include an officer or member of the United States Park Police force, or of the United States Secret Service Division, whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986, and who is not excluded from coverage under chapter 84 of title 5, United States Code, by operation of section 8402 of such title.".

(2) CONFORMING AMENDMENT.—Section 8401(11)(i)(II) is amended by striking "(other than an employee of the United States Park Police, or the United States Secret Service, whose civilian service after December 31, 1983, is such employment)".

(e) OFFSETS TO PREVENT FULL DOUBLE COVERAGE FOR EMPLOYEES OF THE PARK POLICE AND THE SECRET SERVICE.—Notwithstanding any other provision of law, in the case of an employee of the United States Secret Service or the United States Park Police whose pay is simultaneously subject to a deposit requirement under the District of Columbia Police and Firefighters' Retirement and Disability System and the contribution requirement under section 3101(a) of the Internal Revenue Code of 1986—

(1) any deposits under the District of Columbia Police and Firefighters' Retirement and Disability System shall be adjusted in a manner consistent with section 8334(k) of title 5, United States Code (relating to offsets in deductions from pay to reflect OASDI contributions); and

(2) any benefits payable under the District of Columbia Police and Firefighters' Retirement and Disability System based on the service of any such employee shall be adjusted in a manner consistent with section 8349 of title 5, United States Code (relating to offsets to reflect benefits under title II of the Social Security Act).

(f) EFFECTIVE DATE.—This section, and the amendments made by this section, shall be effective as of January 1, 1987.

SEC. 104. MILITARY SERVICE DEPOSITS BY SURVIVORS.

(a) Section 8422(e) is amended by adding at the end the following:

"(5) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.".

(b) Section 8411(c)(4)(A) is amended by striking "subsection (f)(4)" and inserting in lieu thereof "section 8422(e)(5)".

SEC. 105. DEPOSITS AND REFUNDS RELATING TO CERTAIN SERVICE UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEPOSIT FOR SERVICE COVERED BY REFUND PERMITTED ONLY IF REFUND WAS PURSUANT TO APPLICATION FILED BEFORE BECOMING SUBJECT TO FERS.—Section 8411(f)(1) is amended by adding at the end the following: "A deposit under this paragraph may be made only with respect to a refund received pursuant to an application filed with the Office before the date on which the employee or Member first becomes subject to this chapter.".

(b) LUMP-SUM CREDIT FOR CERTAIN CSRS SERVICE SOUGHT AFTER BECOMING SUBJECT TO FERS IS PAYABLE TO THE EXTENT THAT IT EXCEEDS 1.3 PERCENT OF BASIC PAY.—The last sentence of section 8342(a), as added by section 207(h) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 596) is amended to read as follows: "In applying this subsection to an employee or Member who becomes subject to chapter 84 (other than by an election under title III of the Federal Employees' Retirement System Act of 1986) and who, while subject to such chapter, files an application with the Office for a payment under this subsection—

"(i) entitlement to payment of the lump-sum credit shall be determined without regard to paragraph (1) or (3) if, or to the extent that, such lump-sum credit relates to service of a type described in clauses (i) through (iii) of section 302(a)(1)(C) of the Federal Employees' Retirement System Act of 1986; and

"(ii) if, or to the extent that, the lump-sum credit so relates to service of a type referred to in clause (i), it shall (notwithstanding section 8331(8)) consist of—

"(I) the amount by which any unrefunded amount described in section 8331(8) (A) or (B) relating to such service, exceeds 1.3 percent of basic pay for such service; and

"(II) interest on the amount payable under subclause (I), computed in a manner consistent with applicable provisions of section 8331(8).".

SEC. 106. OPTION FOR CERTAIN EMPLOYEES TO ELECT FERS COVERAGE.

Section 301(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599) is amended by adding at the end the following:

"(3)(A) Except as provided in subparagraph (B), any individual—

"(i) who is excluded from the operation of subchapter III of chapter 83 of title 5, United States Code, under subsection (g), (i), (j), or (l) of section 8347 of such title, and

"(ii) with respect to whom chapter 84 of title 5, United States Code, does not apply because of section 8402(b)(2) of such title,

shall, for purposes of an election under paragraph (1) or (2), be treated as if such individual were subject to subchapter III of chapter 83 of title 5, United States Code.

"(B) An election under this paragraph may not be made by any individual who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).".

SEC. 107. CERTAIN CSRS SERVICE CREDITABLE TO DETERMINE ELIGIBILITY FOR 1.1 PERCENT ACCRUAL RATE.

Section 302(a)(1)(D) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 602) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) by striking the period at the end of subclause (V) and inserting in lieu thereof "; and"; and

(3) by adding after subclause (V) the following:

"(VI) the provision of subsection (g) of section 8415 which relates to the minimum period of service required to qualify for the higher accrual rate under such subsection.".

SEC. 108. AMENDMENTS RELATING TO MISCELLANEOUS PROVISIONS OF LAW EXTENDING COVERAGE OR BENEFITS UNDER CERTAIN FEDERAL PROGRAMS TO INDIVIDUALS NOT OTHERWISE ELIGIBLE.

(a) TERMINATION OF CERTAIN SPECIAL ELIGIBILITY PROVISIONS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8347 is amended by adding at the end the following:

"(o) Any provision of law outside of this subchapter which provides coverage, service credit, or any other benefit under this subchapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage, credit, or benefit, shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(2) LIFE INSURANCE.—

(A) IN GENERAL.—Section 87 of title 5, United States Code, is amended by inserting after section 8712 the following:

"§ 8713. Effect of other statutes

"Any provision of law outside of this chapter which provides coverage or any other benefit under this chapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage or benefit shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 87 of title 5, United States Code, is amended by inserting after the item relating to section 8712 the following:

"8713. Effect of other statutes.".

(3) HEALTH INSURANCE.—

(A) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"§ 8914. Effect of other statutes

"Any provision of law outside of this chapter which provides coverage or any other benefit under this chapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage or benefit shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"8914. Effect of other statutes.".

(b) EXTENSION OF OFFSET PROVISIONS UNDER CHAPTER 83.—

(1) CONTRIBUTIONS.—Section 8334(k) is amended by adding at the end the following:

"(4) In administering paragraphs (1) through (3)—

"(A) the term 'an individual described in section 8402(b)(2) of this title' shall be considered to include any individual—

"(i) who is subject to this subchapter as a result of a provision of law described in section 8347(o), and

"(ii) whose employment (as described in section 8347(o)) is also employment for purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986; and

"(B) the term 'Federal wages', as applied with respect to any individual to whom this subsection applies as a result of subparagraph (A), means basic pay for any employment referred to in subparagraph (A)(ii).".

(2) BENEFITS.—Section 8349 is amended by adding at the end the following:

"(d) In administering subsections (a) through (c)—

"(1) the terms 'an individual under section 8402(b)(2)' and 'an individual described in section 8402(b)(2)' shall each be considered to include any individual—

"(A) who is subject to this subchapter as a result of any provision of law described in section 8347(o), and

"(B) whose employment (as described in section 8347(o)) is also employment for purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986; and

"(2) the term 'Federal service', as applied with respect to any individual to whom this section applies as a result of paragraph (1), means any employment referred to in paragraph (1)(B) performed after December 31, 1983.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as of January 1, 1987.

SEC. 109. CONTINUED COVERAGE UNDER CERTAIN FEDERAL EMPLOYEE BENEFIT PROGRAMS FOR CERTAIN EMPLOYEES OF SAINT ELIZABETHS HOSPITAL.

(a) IN GENERAL.—Section 207 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 594) is amended by adding at the end the following:

"(o) An employee of Saint Elizabeths Hospital who is appointed to a position in the government of the District of Columbia on October 1, 1987, pursuant to the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (Public Law 98-621; 98 Stat. 3369 and following) shall, for purposes of chapters 83, 87, and 89 of title 5, United States Code, be treated in the same way as an individual first employed by the government of the District of Columbia before October 1, 1987.".

(b) The amendment made by this section shall be effective as of October 1, 1987.

SEC. 110. CREDITABILITY UNDER CSRS OF CERTAIN SERVICE PERFORMED UNDER A PERSONAL SERVICE CONTRACT WITH THE UNITED STATES.

(a) IN GENERAL.—

(1) CONDITIONS FOR RECEIVING CREDIT.—Subject to the making of a deposit under section 8334(c) of title 5, United States Code, upon application to the Office of Personnel Management within 2 years after the date of the enactment of this Act, any individual who is an employee (as defined by section 8331(1) or 8401(11) of such title) on such date shall be allowed credit under subchapter III of chapter 83 of such title for any service if such service was performed—

(A) before November 5, 1985; and

(B) under a personal service contract with the United States, except as provided in paragraph (3).

(2) CERTIFICATION.—

(A) IN GENERAL.—The Office shall, with respect to any service for which credit is sought under this subsection, accept the certification of the head of the agency which was party to the contract referred to in

paragraph (1)(B), but only if such certification—

(i) states that the agency had intended, through such contract, that the individual involved (or that persons like the individual involved) be considered as having been appointed to a position in which such individual would be subject to subchapter III of chapter 83 of title 5, United States Code; and

(ii) indicates the period of service which was performed under the contract by the individual involved, and includes copies of appropriate records or other documentation to support the determination as to the length of such period.

(B) Finality.—A decision by an agency head concerning whether or not to make a certification under this paragraph in any particular instance shall be at the sole discretion of the agency head, and shall not be subject to administrative or judicial review.

(3) Exception.—Nothing in this subsection shall apply with respect to any service performed under—

(A) a contract for which any appropriations, allocations, or funds were used under section 636(a)(3) of the Foreign Assistance Act of 1961; or

(B) a contract entered into under section 10(a)(5) of the Peace Corps Act.

(b) Applicability to Annuitants.—

(1) In general.—In the case of any individual who—

(A) performed service for which credit is allowable under subsection (a), and

(B) retired on an annuity payable under subchapter III of chapter 83 of title 5, United States Code, after January 23, 1980, and before the date of the enactment of this Act,

any annuity under such subchapter based on the service of such individual shall be redetermined to take into account the amendment made by subsection (a) if application therefor is made, and the deposit requirement under such subsection is met, within 2 years after the date of the enactment of this Act.

(2) Amounts to which applicable.—Any change in an annuity resulting from a redetermination under paragraph (1) shall be effective with respect to payments accruing for months beginning after the date of the enactment of this Act.

SEC. 111. EXCLUSION OF FOREIGN NATIONAL EMPLOYEES UNDER CSRS FROM PARTICIPATING IN THE THRIFT SAVINGS PLAN.

(a) In General.—Section 8351 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) A member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980 shall be ineligible to make any election under this section.".

(b) Effective Date.—The amendments made by subsection (a) shall be effective as of March 31, 1987. Any refund which becomes payable as a result of the preceding sentence shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

SEC. 112. FOREIGN NATIONAL EMPLOYEES APPOINTED AFTER DECEMBER 1987 EXCLUDED FROM CSRS.

Section 8331(1) is amended—

(1) by striking "or" at the end of clause (x);

(2) by striking the period at the end of clause (xi) and inserting in lieu thereof "; or"; and

(3) by adding after clause (xi) the following:

"(xii) a member of the Foreign Service (as described in section 103(6) of the Foreign Service Act of 1980), appointed after December 31, 1987.".

SEC. 113. EXCLUSION OF FOREIGN NATIONAL EMPLOYEES FROM FERS.

(a) No Election To Convert From CSRS.—

(1) In general.—Section 301(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599) is amended by adding at the end the following:

"(4) A member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980 shall be ineligible to make any election under this subsection.".

(2) Effective date.—The amendment made by paragraph (1) shall be effective as of June 30, 1987. Any refund which becomes payable as a result of the preceding sentence shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

(b) Exclusion From FERS.—

(1) In general.—Section 8401(11) is amended—

(A) by striking "or" at the end of clause (i)(III);

(B) by inserting "or" after the semicolon in clause (ii); and

(C) by adding at the end the following:

"(iii) a member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980;".

(2) Effective date.—The amendments made by paragraph (1) shall be effective as of January 1, 1987. Any refund which becomes payable as a result of the preceding sentence shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

SEC. 114. EXCLUSION OF CERTAIN ONE-TIME GOVERNMENT CONTRIBUTIONS TO THRIFT SAVINGS PLAN.

Section 8432(d) is amended by adding at the end the following: "However, no contribution made under subsection (c)(3) shall be subject to, or taken into account, for purposes of the preceding sentence.".

SEC. 115. GOVERNMENT'S 1 PERCENT THRIFT CONTRIBUTION NOT FORFEITABLE FOR DEATH IN SERVICE.

Section 8432(g) is amended—

(1) in paragraph (1), by striking "Except as provided in paragraphs (2) and (3)," and inserting in lieu thereof "Except as otherwise provided in this subsection,"; and

(2) by adding at the end the following:

"(4) Nothing in paragraph (2) or (3) shall cause the forfeiture of any contributions made for the benefit of an employee, Member, or Congressional employee under subsection (c)(1), or any earnings attributable thereto, if such employee, Member, or Congressional employee is not separated from Government employment as of date of death.".

SEC. 116. CLARIFICATION RELATING TO AMOUNTS SUBJECT TO LEGAL PROCESS FOR CHILD SUPPORT OR ALIMONY.

Section 8437(e)(3) is amended by adding at the end the following: "For the purposes of this paragraph, an amount contributed for the benefit of an individual under section 8432(c)(1) (including any earnings attributable thereto) shall not be considered part of the balance in such individual's account unless such amount is nonforfeitable, as determined under applicable provisions of section 8432(g).".

SEC. 117. CLARIFICATION RELATING TO SOURCE OF FUNDING FOR ADMINISTRATIVE EXPENSES OF THE THRIFT SAVINGS PLAN.

(a) In General.—Section 8437 is amended—

(1) in subsection (d), by inserting a period after "earnings in such Fund" and by striking the matter thereafter; and

(2) in subsection (e)(1), by inserting "subsection (d) and" before "paragraphs (2) and (3),".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

SEC. 118. EXCLUSION FROM AGE-BASED REDUCTION UNDER CHAPTER 83 FOR CSRS PORTION OF ANNUITY MADE SUBJECT TO REDUCTION UNDER CHAPTER 84 FOLLOWING AN ELECTION INTO FERS.

Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 603) is amended by adding at the end the following: "Notwithstanding the preceding sentence, in computing accrued benefits under this paragraph for an individual retiring under section 8412(g) or 8413(b) of title 5, United States Code, section 8339(h) of such title (relating to reductions based on age at date of separation) shall not apply.".

SEC. 119. INTEREST ON REFUNDS OF CERTAIN EXCESS CONTRIBUTIONS BY INDIVIDUALS MAKING ELECTIONS UNDER TITLE III OF THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986.

(a) For Individuals Electing FERS Coverage.—Section 302(c)(2) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605), as amended by section 302(a) of the Federal Employees' Retirement System Technical Corrections Act of 1986 (Public Law 99-556; 100 Stat. 3136), is amended to read as follows:

"(2) In accordance with regulations prescribed by the Office of Personnel Management, a refund under this subsection shall be payable upon written application therefor filed with the Office and shall include interest at the rate provided in section 8334(e)(3) of title 5, United States Code. Interest on the refund shall accrue monthly and shall be compounded annually.".

(b) For Individuals Electing Coverage Under CSRS With Offsets for Social Security.—The last sentence of section 303(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605), as added by section 302(b) of the Federal Employees' Retirement System Technical Corrections Act of 1986 (Public Law 99-556; 100 Stat. 3136), is amended to read as follows: "A refund under this subsection shall be computed with interest in accordance with section 302(c)(2) and regulations prescribed by the Office of Personnel Management.".

SEC. 120. EFFECTIVE DATE OF FINAL MERIT INCREASE UNDER THE PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM FOR EMPLOYEES OF SAINT ELIZABETHS HOSPITAL.

(a) In General.—Notwithstanding any other provision of law, the effective date of any merit increase under section 5404 of title 5, United States Code, during calendar year 1987 shall, in the case of any individual employed in or under Saint Elizabeths Hospital on September 1, 1987, be considered to be the first day of the first applicable pay period commencing on or after September 1 (rather than October 1) of such year.

(b) DEFINITION.—For purposes of this section, "Saint Elizabeths Hospital" refers to the institution identified under section 3(1) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (Public Law 98-621; 98 Stat. 3371).

SEC. 121. DEADLINE FOR AGENCY CONTRIBUTIONS TO THRIFT SAVINGS PLAN.

(a) THE 1-PERCENT CONTRIBUTION.—Section 8432(c)(1)(A) is amended—

(1) by striking "At the end of" and inserting in lieu thereof "At the time prescribed by the Executive Director, but no later than 12 days after the end of"; and

(2) by striking "at the end of each succeeding pay period," and inserting in lieu thereof "within such time as the Executive Director may prescribe with respect to succeeding pay periods (but no later than 12 days after the end of each such pay period),".

(b) AMOUNTS BASED ON INDIVIDUAL CONTRIBUTIONS.—The second sentence of section 8432(c)(2)(A) is amended by striking "at the end of such pay period." and inserting in lieu thereof "within such time as the Executive Director may prescribe, but no later than 12 days after the end of each such pay period.".

SEC. 122. AMENDMENTS RELATING TO DISABILITY ANNUITIES.

(a) INITIAL DISABILITY ANNUITY OFFSET TO BE BASED ON ACTUAL SOCIAL SECURITY DISABILITY INSURANCE BENEFIT; AMOUNT OF OFFSET NOT SUBJECT TO ADJUSTMENT UNTIL AFTER THE FIRST YEAR.—Section 8452(a)(2)(B)(i) of title 5, United States Code, is amended to read as follows:

"(B)(i) For purposes of this paragraph, the assumed disability insurance benefit of an annuitant for any month shall be equal to—

"(I) the amount of the disability insurance benefit to which the annuitant is entitled under section 223 of the Social Security Act for the month in which the annuity under this subchapter commences, or is restored, or, if no entitlement to such disability insurance benefits exists for such month, the first month thereafter for which the annuitant is entitled both to an annuity under this subchapter and disability insurance benefits under section 223 of the Social Security Act, adjusted by

"(II) all adjustments made under section 8462(b) after the end of the period referred to in paragraph (1)(A)(i) (or, if later, after the end of the month preceding the first month for which the annuitant is entitled both to an annuity under this subchapter and disability insurance benefits under section 223 of the Social Security Act) and before the start of the month involved (without regard to whether the annuitant's annuity was affected by any of those adjustments).".

(b) REVISED METHOD FOR REDETERMINING A DISABILITY ANNUITY AT AGE 62.—Section 8452(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as provided in subsection (d), if an annuitant is entitled to an annuity under this subchapter as of the day before the date of the sixty-second anniversary of the annuitant's birth (hereinafter in this section referred to as the annuitant's 'redetermination date'), such annuity shall be redetermined by the Office in accordance with paragraph (2). Effective as of the annuitant's redetermination date, the annuity (as so redetermined) shall be in lieu of any annuity to which such annuitant would otherwise be entitled under this subchapter.

"(2)(A) An annuity redetermined under this subsection shall be equal to the amount of the annuity to which the annuitant would be entitled under section 8415, taking into account the provisions of subparagraph (B).

"(B) In performing a computation under this paragraph—

"(i) creditable service of an annuitant shall be increased by including any period (or periods) before the annuitant's redetermination date during which the annuitant was entitled to an annuity under this subchapter; and

"(ii) the average pay which would otherwise be used shall be adjusted to reflect all adjustments made under section 8462(b) with respect to any period (or periods) referred to in clause (i) (without regard to whether the annuitant's annuity was affected by any of those adjustments).".

(c) METHOD FOR APPLYING COST-OF-LIVING ADJUSTMENTS TO CERTAIN DISABILITY ANNUITY PROVISIONS.—

(1) MINIMUM DISABILITY ANNUITY AMOUNT SUBJECT TO ADJUSTMENT AFTER THE FIRST YEAR.—Section 8452 is amended—

(A) by redesignating subsection (d) as subsection (d)(1); and

(B) by adding after subsection (d)(1), as so redesignated, the following:

"(2) In applying this subsection with respect to any annuitant, the amount of an annuity so computed under section 8415 shall be adjusted under section 8462 (including subsection (c) thereof)—

"(A) to the same extent, and otherwise in the same manner, as if it were an annuity—

"(i) subject to adjustment under such section; and

"(ii) with a commencement date coinciding with the date the annuitant's annuity commenced or was restored under this subchapter, as the case may be; and

"(B) whether the amount actually payable to the annuitant under this section in any month is determined under this subsection or otherwise.".

(2) DISABILITY ANNUITY COLAS.—

(A) IN GENERAL.—Section 8452(a)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) An annuity computed under this paragraph—

"(i) shall not, during any period referred to in subparagraph (A)(i), be adjusted under section 8462; but

"(ii) shall, after the end of any period referred to in subparagraph (A)(i), be adjusted to reflect all adjustments made under section 8462(b) after the end of the period referred to in subparagraph (A)(i), whether the amount actually payable to the annuitant under this section in any month is determined under this subsection or otherwise.".

(B) CLARIFYING AMENDMENT.—Section 8452(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Section 8462 shall apply with respect to amounts under this subsection only as provided in paragraphs (1) and (2).".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 1987, as if they had been enacted as part of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 514 and following).

SEC. 123. CLARIFYING AMENDMENTS RELATING TO FUNDING.

(a) FUND BALANCE.—Section 8331(18) is amended by adding at the end the following:

"but does not include any amount attributable to—

"(i) the Federal Employees' Retirement System; or

"(ii) contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 by or on behalf of any individual who became subject to the Federal Employees' Retirement System;".

(b) Section 8423(b)(1) is amended by striking the period and inserting in lieu thereof ", except that in computing any supplemental liability under subparagraph (B), any benefits, deductions, or other amounts may not be taken into account unless they relate to a period of service performed by the current or former employee involved while subject to this chapter.".

SEC. 124. CONCURRENT ENTITLEMENT TO BENEFITS UNDER CHAPTER 81 AND CHAPTER 83 OR 84 OF TITLE 5, UNITED STATES CODE.

(a) IN GENERAL.—

(1) AMENDMENTS.—

(A) CSRS.—Section 8337 is amended by striking subsections (f) and (g) and inserting in lieu thereof the following:

"(f)(1) An individual is not entitled to receive—

"(A) an annuity under this subchapter, and

"(B) compensation for injury to, or disability of, such individual under subchapter I of chapter 81, other than compensation payable under section 8107,

covering the same period of time.

"(2) An individual is not entitled to receive an annuity under this subchapter and a concurrent benefit under subchapter I of chapter 81 on account of the death of the same person.

"(3) Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this subchapter or subchapter I of chapter 81.

"(g) If an individual is entitled to an annuity under this subchapter, and the individual receives a lump-sum payment for compensation under section 8135 based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

"(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

"(2) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under this subchapter warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.".

(B) FERS.—Subchapter VI of chapter 84 is amended by inserting after section 8464 the following:

"§ 8464a. Relationship between annuity and workers' compensation

"(a)(1) An individual is not entitled to receive—

"(A) an annuity under subchapter II or V, and

"(B) compensation for injury to, or disability of, such individual under subchapter I of chapter 81, other than compensation payable under section 8107,

covering the same period of time.

"(2) An individual is not entitled to receive an annuity under subchapter IV and a concurrent benefit under subchapter I of chapter 81 on account of the death of the same person.

"(3) Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this chapter or subchapter I of chapter 81.

"(b) If an individual is entitled to an annuity under subchapter II, IV, or V, and the individual receives a lump-sum payment for compensation under section 8135 based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

"(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

"(2) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under subchapter II, IV, or V warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 84 is amended by inserting after the item relating to section 8464 the following:

"8464a. Relationship between annuity and workers' compensation.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subchapter V of chapter 84 is amended—

(A) by striking section 8456; and

(B) by redesignating section 8457 as section 8456.

(2) The analysis for chapter 84 is amended—

(A) by striking the item relating to section 8456; and

(B) by striking "8457" and inserting in lieu thereof "8456".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective as of January 1, 1987, and shall apply with respect to benefits payable based on a death or disability occurring on or after that date.

(2) EXCEPTION.—The amendment made by subsection (a)(1)(A) shall take effect on the date of the enactment of this Act and shall apply with respect to benefits payable based on a death or disability occurring on or after that date.

SEC. 125. ELIGIBILITY OF CERTAIN INDIVIDUALS TO PARTICIPATE IN THE THRIFT SAVINGS PLAN.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Executive Director" means the Executive Director under section 8474 of title 5, United States Code; and

(2) the term "Thrift Savings Plan" refers to the program under subchapter III of chapter 84 of title 5, United States Code.

(b) REGULATIONS.—

(1) IN GENERAL.—The Executive Director shall prescribe regulations relating to participation in the Thrift Savings Plan by an individual described in subsection (c).

(2) SPECIFIC MATTERS TO BE INCLUDED.—Under the regulations—

(A) in computing a percentage of basic pay to determine an amount to be contributed to the Thrift Savings Fund, the rate of basic pay to be used shall be the same as that used in computing any amount which the individual involved is otherwise required, as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be), to contribute to the Civil Service Retirement and Disability Fund; and

(B) an employing authority which would not otherwise make contributions to the Thrift Savings Fund shall be allowed, with respect to any individual under subsection (c) who is serving under such authority, and at the sole discretion of such authority, to make any contributions on behalf of such individual which would be permitted or required under the provisions of section 8432(c) of title 5, United States Code, if such authority were the individual's employing agency under such provisions.

(c) APPLICABILITY.—This section applies with respect to any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(1) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(2) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(3) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the regulations prescribed under this section shall become effective in accordance with the provisions of such regulations.

(2) EXCEPTION.—The regulations prescribed under this section shall, with respect to individuals under subsection (c)(3), be effective as of January 1, 1987.

SEC. 126. SPECIAL PAY OF VETERANS' ADMINISTRATION PHYSICIANS INCLUDED IN AVERAGE SALARY UNDER FERS.

Section 4118(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking "81 or 83" and inserting in lieu thereof "81, 83, or 84"; and

(2) in paragraph (2)—

(A) in the first sentence, by striking "chapter 83 of title 5" and inserting in lieu thereof "chapter 83 or 84 of title 5, as the case may be";

(B) in the second sentence, by striking "section 8331(4)" and all that follows thereafter through "; or" and inserting in lieu thereof the following: "section 8331(4) or 8401(3) of such title (as applicable) only—

"(A) for the purposes of computing benefits paid under section 8337, 8341 (d) or (e), 8442(b), 8443, or 8451 of such title; or"; and

(C) in subparagraph (B), by inserting "if" at the beginning thereof.

SEC. 127. APPLICATION DEADLINE FOR CERTAIN FORMER SPOUSES.

Section 4(b)(1)(B) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205), as amended by section 201(b)(1)(C) of the Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251; 100 Stat. 22), is amended—

(1) in clause (i), by inserting ", and before May 8, 1987" before the semicolon; and

(2) by amending clause (iv) to read as follows:

"(iv) the former spouse files an application for the survivor annuity with the Office on or before May 7, 1989; and".

TITLE II—FOREIGN SERVICE RETIREMENT

PART A—GENERAL PROVISIONS

SEC. 201. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.).

SEC. 202. FORMER SPOUSES MARRIED BETWEEN 9 MONTHS AND 10 YEARS.

(a) IN GENERAL.—Subchapter I of chapter 8 (22 U.S.C. 4041 et seq.) is amended by adding after section 829 the following new section:

"SEC. 830. QUALIFIED FORMER WIVES AND HUSBANDS.—(a) Notwithstanding section 4(h) of the Civil Service Retirement Spouse Equity Act of 1984, section 827 of this Act shall apply with respect to section 8339(j), section 8341(e), and section 8341(h) of title 5, United States Code, and section 4 (except for subsection (b)) of the Civil Service Retirement Spouse Equity Act of 1984 to the extent that those sections apply to a qualified former wife or husband. For the purposes of this section any reference in the Civil Service Retirement Spouse Equity Act of 1984 to the effective date of that Act shall be deemed to be a reference to the effective date of this section.

"(b)(1) Payments pursuant to this section which would otherwise be made to a participant or former participant based upon his service shall be paid (in whole or in part) by the Secretary of State to another person if and to the extent expressly provided for in the terms of any court order or spousal agreement. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall only apply to payments made by the Secretary of State under this chapter after the date of receipt by the Secretary of State of written notice of such court order or spousal agreement and such additional information and documentation as the Secretary of State may prescribe.

"(c) For the purposes of this section, the term 'qualified former wife or husband' means a former wife or husband of an individual if—

"(1) such individual performed at least 18 months of civilian service creditable under this chapter; and

"(2) the former wife or husband was married to such individual for at least 9 months but not more than 10 years.

"(d) Regulations issued pursuant to section 827 to implement this section shall be submitted to the Committee on Post Office and Civil Service and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. Such regulations shall not take effect until 60 days after the date on which such regulations are submitted to the Congress.".

(b) Conforming Amendment.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 829 the following:

"Sec. 830. Qualified former wives and husbands.".

SEC. 203. ELECTION TO PROVIDE SURVIVOR ANNUITY FOR CERTAIN SPOUSES ACQUIRED BEFORE THE EFFECTIVE DATE OF THE FOREIGN SERVICE ACT OF 1980.

(a) Election.—A former participant who married his or her current spouse before the effective date of the Foreign Service Act of 1980 and who married such spouse after retirement under the Foreign Service Retirement and Disability System and who was unable to provide a survivor annuity for such spouse because—

(1) the participant was married at the time of retirement and elected not to provide a survivor annuity for that spouse at the time of retirement, or

(2) subject to subsection (e), the participant failed to notify the Secretary of State of the participant's post-retirement marriage within one year after the marriage,

may make the election described in subsection (b).

(b) Election Described.—

(1) The election referred to in subsection (a) is an election in writing—

(A) to provide for a survivor annuity for such spouse under section 806(g) of the Foreign Service Act of 1980 (22 U.S.C. 4046(g));

(B) to have his or her annuity reduced under section 806(b)(2) of such Act; and

(C) to deposit in the Foreign Service Retirement and Disability Fund an amount determined by the Secretary of State, as nearly as may be administratively feasible, to reflect the amount by which such participant's annuity would have been reduced had the election been continuously in effect since the annuity commenced, plus interest computed under paragraph (2).

(2) For the purposes of paragraph (1), the annual rate of interest shall be 6 percent for each year during which the annuity would have been reduced if the election had been in effect on and after the date the annuity commenced.

(c) Offset.—If the participant does not make the deposit referred to in subsection (b)(1)(C), the Secretary of State shall collect such amount by offset against such participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to such participant. Such participant is deemed to consent to such offset.

(d) Notice.—The Secretary of State shall provide for notice to the general public of the right to make an election under this section.

(e) Proof of Attempted Election.—In any case in which subsection (a)(2) applies, the retired employee or Member shall provide the Secretary of State with such documentation as the Secretary of State shall decide is appropriate, to show that such participant attempted to elect a reduced annuity with survivor benefit for his or her current spouse and that such election was rejected by the Secretary of State because it was untimely filed.

(f) Deposit.—A deposit required by this subsection may be made by the surviving spouse of the participant.

(g) Limitation.—The election authorized in subsection (a) may only be made within one year after the date of enactment of this title in accordance with procedures prescribed by the Secretary of State.

(h) Definitions.—For the purposes of this section, the terms "participant" and "surviving spouse" have the same meaning given such terms in subchapter I of chapter 8 of the Foreign Service Act of 1980.

SEC. 204. BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBERS OF THE FOREIGN SERVICE.

(a) In General.—Subchapter I of chapter 8 (22 U.S.C. 3901 et seq.), as amended by section 202 of this title, is amended by inserting after section 830 the following:

"SEC. 831. RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

"(b) A former spouse shall not be entitled to benefits under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(c)(1) The entitlement of a former spouse to benefits under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

"(ii) the first day of the month in which the divorce or annulment involved becomes final; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

"(ii) the date of the benefits of the participant terminates.

"(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

"(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

"(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

"(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

"(d) For the purpose of this section, the term 'benefits' means—

"(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

"(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

"(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"SEC. 832. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

"(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

"(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

"(ii) in the case of any other former spouse, beginning on the later of—

"(I) the date that the participant or former participant to whom the former spouse was married dies; or

"(II) the effective date of this section; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(e) The Secretary shall—

"(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

"(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"SEC. 833. HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

"(2) The Secretary shall, as soon as possible, take all steps practicable—

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 830 the following:

"Sec. 831. Retirement benefits for certain former spouses.

"Sec. 832. Survivor benefits for certain former spouses.

"Sec. 833. Health benefits for certain former spouses.

PART B—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 211. DEFINITION OF SURVIVING SPOUSE.

Paragraph (13) of section 804 (22 U.S.C. 4044) is amended—

(1) by striking out ", in the case of death in service or marriage after retirement,";

(2) by striking out "one year" and inserting in lieu thereof "9 months"; and

(3) by inserting before the semicolon the following: ", except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

"(A) the death of such participant or annuitant was accidental; or

"(B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months".

SEC. 212. CONTRIBUTIONS FOR PRIOR SERVICE.

Paragraph (1) of section 805(d) (22 U.S.C. 4045(d)) is amended—

(1) by striking out "equal to" and inserting in lieu thereof ". Special contributions for purposes of subparagraph (A) shall equal"; and

(2) by adding at the end thereof the following: "Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.".

SEC. 213. COMPUTATION OF ANNUITIES.

(a) JOINT ELECTION TO WAIVE SURVIVOR ANNUITY WITH RESPECT TO A FORMER SPOUSE.—Subparagraph (C) of section 806(b)(1) (22 U.S.C. 4046(b)(1)) is amended by striking out "12-month" and inserting in lieu thereof "24-month"; and

(b) RECALL SERVICE.—Paragraph (2) of section 806(i) (22 U.S.C. 4046 (i)) is amended by striking out "section 814(b)" and inserting in lieu thereof "this subchapter".

SEC. 214. SURVIVOR BENEFITS FOR CHILDREN.

(a) SURVIVOR BENEFITS FOR CHILDREN.—Section 806 of Chapter 8 (22 U.S.C. 4046) (as amended by section 213 of this Act) is amended—

(1) in subsection (c), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant" after "survived by a spouse" each place it appears; and

(2) in subsection (d), by amending the first sentence to read as follows: "On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant.".

(b) DEATH IN SERVICE.—Section 809 (22 U.S.C. 4049) is amended—

(1) in subsection (c), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant," after "spouse"; and

(2) in subsection (d), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant," after "spouse,".

SEC. 215. MINIMUM AGE REQUIREMENT.

(a) DISABILITY ANNUITY.—Subsections (a) and (b) of section 808 (22 U.S.C. 4048) are each amended by striking out "65" each place it appears and inserting in lieu thereof "60".

(b) DEATH IN SERVICE.—Subsection (e) of section 809 (22 U.S.C. 4049) is amended by striking out "65" and inserting in lieu thereof "60".

SEC. 216. VOLUNTARY RETIREMENT.

Section 811 of Chapter 8 (22 U.S.C. 4051) is amended by adding at the end thereof the following: "The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. Any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, United States Code, if the participant had been covered under the Civil Service Retirement System rather than subject to this chapter while a member of the Service, may receive an annuity under section 8836 or 8338, notwithstanding section 8333(b) of title 5, United States Code, if all contributions transferred to the Fund under section 805(c)(1) of this Act, as well as all contributions withheld from the participant's pay or contributed by the employer, and deposited into the Fund during the period he or she was subject to this chapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service.".

SEC. 217. FORMER SPOUSES.

(a) 5 YEAR FOREIGN SERVICE REQUIREMENT.—Paragraph (1) of section 814(a) is amended by inserting "if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service and" after "annuity".

(b) Court Order Effective 24 Months After Marriage is Dissolved.—Paragraph (4) of section 814(a) (22 U.S.C. 4054(a)) is amended by striking out "12" and inserting in lieu thereof "24".

(c) Monthly Rate of Annuity Not Applicable in Certain Situation.—

(1) Subsection (1) of section 806 (22 U.S.C. 4046) is repealed.

(2) Subsection (d) of section 814 (22 U.S.C. 4054) is repealed.

SEC. 218. LUMP SUM PAYMENTS.

(a) Requirements for Payment.—Subsection (a) of section 815 (22 U.S.C. 4055) is amended to read as follows:

"(a)(1) A participant is entitled to be paid a lump-sum credit if the participant—

"(A) is separated from the Service for at least 31 consecutive days, or is transferred to a position in which the participant is not subject to this chapter and remains in such a position for at least 31 consecutive days;

"(B) files an application with the Secretary of State for payment of the lump-sum credit;

"(C) is not reemployed in a position in which the participant is subject to this chapter at the time the participant files the application;

"(D) will not become eligible to receive an annuity under this subchapter within 31 days after filing the application; and

"(E) has notified any spouse or former spouse the participant may have of the application for payment in accordance with regulations prescribed by the Secretary of State.

Such regulations may provide for waiver of subparagraph (E) under circumstances described in section 806(b)(1)(D).

"(2) Such lump sum credit shall be paid to the participant and to any former spouse of the participant in accordance with subsection (i).".

SEC. 219. COST OF LIVING ADJUSTMENTS.

Paragraph (1) of section 826(c) (22 U.S.C. 4066(c)) is amended to read as follows:

"(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest $\frac{1}{10}$ of 1 percent) of—

"(A) $\frac{1}{12}$ of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of months (counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.".

Part C—Foreign Service Pension System

SEC. 241. DEFINITION OF LUMP-SUM CREDIT.

Section 852 of chapter 8 (22 U.S.C. 4071a) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made from the basic pay of a participant under section 856 of this chapter (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);

"(B) amounts deposited by a participant under section 854 to obtain credit under this System for prior civilian or military service; and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury (compounded annually); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less; or

"(ii) for a fractional part of a month in the total service;".

SEC. 242. CONTRIBUTION FOR CREDITABLE SERVICE OF EMPLOYEE OF A MEMBER OR OFFICE OF THE CONGRESS.

The second sentence of subsection (e) of section 854 (22 U.S.C. 4071c) is amended—

(1) by striking out "matching"; and

(2) by inserting "determined under section 857(a)" after "participant)".

SEC. 243. CONFORMING AMENDMENT, HEALTH CARE.

Subsection (b) of section 904 (22 U.S.C. 4084) is amended by inserting "or Foreign Service Pension System" after "Foreign Service Retirement and Disability System".

Part D—Savings Provisions and Effective Date

SEC. 261. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 90 days after the date of enactment of this title.

(b) Exceptions.—

(1) The amendments made by section 202 shall apply to any individual who, on or after the date of enactment of this title, is married to a participant or former participant.

(2) The amendment made by section 217(a) shall not apply with respect to the former spouse of a participant or former participant who is subject to subchapter I of chapter 8 of the Foreign Service Act of 1980 if, on the date of enactment of this title, that former spouse—

(A) was the spouse of that participant or former participant; or

(B) is entitled to an annuity under section 814 of the Foreign Service Act of 1980 pursuant to the divorce or annulment of the marriage to that participant or former participant.

(c) Definitions.—For the purpose of this section, the terms "participant" and "former participant" have the same meaning as such terms in chapter 8 of the Foreign Service Act of 1980.

The SPEAKER pro tempore. Is a second demanded?

Mr. MYERS of Indiana. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I want to say what a pleasure it will be to share the floor with the gentleman from Indiana [Mr. MYERS], the distinguished minority leader of the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service. It is a real pleasure to be able to work with the gentleman from Indiana, in this case on the floor.

Mr. Speaker, the primary purpose of H.R. 3395 is to make necessary technical changes in the laws relating to the Federal employees' retirement system, the civil service retirement system, and the two retirement systems applicable to Foreign Service personnel.

Last year, the Congress passed, and the President signed into law, the Federal Employees' Retirement System Act of 1986. That act established a new three tiered retirement system consisting of a defined benefit plan, a deferred compensation plan, and social security benefits. A similar system was established for Foreign Service personnel.

The new systems are applicable to those Federal employees first hired by the Government after December 1983 and covered by Social Security, and to employees under the civil service retirement system who elect to convert to the new system before the end of this year.

Over the past year, the various executive branch agencies responsible for administering the new retirement programs have brought to the attention of the Committee on Post Office and Civil Service numerous problems—mostly technical in nature—which have been discovered during implementation of the 1986 act. Almost all of the provisions of H.R. 3395 reflect changes proposed by these executive branch agencies.

The numerous technical changes proposed by H.R. 3395 are necessary to ensure that the new retirement provisions will be applied in a fair and effective manner, as originally intended by Congress.

For example, when implementing the new disability provisions of the Federal employees' retirement system, the Office of Personnel Management discovered that the application of certain provisions would result in a significant reduction in total income for certain disability annuitants upon their attaining age 62. Such a result, of course, was not intended, and section 122 of the bill corrects the problem.

In another instance, it has been discovered that, contrary to the original intent of Congress, certain employees may not be eligible to participate in the newly established thrift savings plan on a tax-deferred basis. The employees involved are employees on leave without pay to serve as officers of employee organizations, employees serving on Intergovernmental Personnel Act assignments, and certain employees engaged in cooperative extension work. Although these individuals are Federal employees and are entitled to participate in the Federal retirement systems, a question has been raised as to whether they may participate in the thrift savings plan because they receive no salary from the Federal Government. Section 125 of the bill addresses this problem by specifically authorizing such employees to participate in the thrift plan.

In addition to the necessary technical changes, H.R. 3395 contains a few minor substantive amendments. One of these substantive amendments relates to the retirement coverage of law enforcement officers and firefighters under the Federal employees' retirement system. The 1986 act included a requirement that firefighters and law enforcement officers who are transferred to administrative or supervisory positions must have completed at least 10 years of firefighter or law enforcement service prior to such transfer in order to continue coverage under the more generous firefighter or law enforcement retirement provisions of the act. Various law enforcement agencies of the Government have persuaded the committee that this 10-year requirement will have a disastrous effect on their ability to promote talented employees to supervisory or administrative positions. The committee, therefore, is proposing to eliminate the 10-year requirement.

Mr. Speaker, H.R. 3395 was ordered reported by a voice vote of the Committee on Post Office and Civil Service. The bill has only minimal budgetary impact, and we are not aware of any opposition to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Ohio [Ms. OAKAR] for the very kind words that she has just expressed, and I want to thank her for the fine job she always does on the committee.

Mr. Speaker, last year the Congress passed the Federal Employees' Retirement System Act of 1986. The act established a new retirement system for those Federal employees hired after January 1, 1984, and now covered under Social Security. As might be expected with legislation as complicated as FERSA, the need for numerous technical corrections has become apparent as implementation of FERSA proceeds. For the last 8 months the committee staff has worked with the Office of Personnel Management and other agencies to develop provisions to correct any technical defects.

H.R. 3395 makes numerous technical amendments concerning the Federal employees' retirement system and the civil service retirement system. Some minor substantive amendments made by the bill include:

The elimination of the FERSA requirement that a law enforcement officer or firefighter who transfers to a supervisory or administrative position must have completed at least 10 years of law enforcement or firefigher service in order to continue coverage under the law enforcement officer and firefigher retirement provisions;

Providing retirement credit for certain service by Foreign Service national employees which prior to a 1982 OPM policy change had been deemed creditable;

Exclusion of Foreign Service nationals from FERS and from the thrift savings plan;

Providing that the expenses of the thrift savings plan shall be paid from the earnings on all contributions held in the fund, not just from earnings on matching Government contributions; and

Extending the application deadline for certain former spouses to apply for survivor benefits from May 7, 1987, to May 7, 1989.

Mr. Speaker, the Federal Employees' Retirement System Act represented historic legislation by bringing the Government pension system closer in line with comparable private sector plans. It is an excellent system and Congress should facilitate all means to make it an even better system. These technical amendments represent just one area where Congress can further fine tune a system which benefits all Federal employees. I urge all my colleagues to support this legislation.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 3395 which clarifies and makes technical corrections to the laws providing retirement benefits to Federal employees. Section 126 of the bill clarifies that special pay for VA dentists and physicians will be treated in the same manner for both retirement plans [FERS and CSRS]. Our committee believes that special pay is essential in order to retain the services of qualified doctors in the VA's Department of Medicine and Surgery. It is only fair that this pay be considered in calculating a physician's retirement benefit. I commend the gentleman from Michigan [Mr. FORD] for reporting this legislation. I'm also grateful to the gentlelady from Ohio [Ms. OAKAR].

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 3395, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3395, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

RURAL CRISIS RECOVERY PROGRAM ACT OF 1987

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3492) entitled the "Rural Crisis Recovery Program Act of 1987."

The Clerk read as follows:

H.R. 3492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Crisis Recovery Program Act of 1987".

SEC. 2. COUNSELING AND OUTREACH PROGRAMS TO AID FARMERS AND RURAL FAMILIES.

Subsection (f) of section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662(f) is amended to read as follows:

"(f) SPECIAL GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—

"(1) GRANT PROGRAM.—

"(A) PROGRAM BENEFICIARIES.—The Secretary shall provide special grants for programs to develop educational, retraining, and counseling assistance for farmers, dislocated farmers, and rural families, who have been adversely affected by the current farm and rural economic crisis.

"(B) SERVICES TO BE PROVIDED.—Such programs shall provide the following services:

"(i) Clinical outreach counseling and crisis management assistance through appropriate State officials.

"(ii) Assistance is evaluating individual or family finances, preparing financial plans, and implementing financial plans and management strategies.

"(iii) Evaluation of vocational skills and counseling in enhancing such skills.

"(iv) Assistance in obtaining training in basic, remedial, and literacy skills.

"(v) Assistance in job search and training in job-seeking skills.

"(vi) Assistance in obtaining training for operating a business or enterprise.

"(vii) Formal on-the-job training to the extent practicable.

"(viii) Tuition assistance (including fees, books, and other educational expenses) to the extent practicable.

"(C) AUTHORITY OF GRANT RECIPIENTS TO CONTRACT FOR DELIVERY OF SERVICES.—The recipients of a grant under this subsection may contract for the delivery of such services with units of local government, State agencies, accredited educational institutions, and other appropriate public and private nonprofit agencies and organizations.

"(D) DEVELOPMENT OF COMPREHENSIVE PLAN.—The Agricultural Extension Service of the Department of Agriculture is encouraged to work with State agencies, units of local government, and other public and private nonprofit agencies and organizations in developing a comprehensive plan for the use of the special grant funds and the delivery of services provided for in this subsection.

"(2) GRANT PERIOD.—Grants may be made under paragraph (1) during the period beginning on the date of the enactment of this Act and ending on December 23, 1990.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3492, the Rural Crisis Recovery Program Act of 1987. This bill would amend the Rural Development Act of 1972 (7 U.S.C. 2662) to require the Secretary of Agriculture to provide grants for education and counseling assistance to financially stressed farmers, dislocated farmers, and rural families. This program is an essential part of our efforts to help revitalize rural America.

A grant program established by section 1440 of the Food Security Act of 1985 provided the basis for financial assistance to the States for a variety of counseling and assistance programs. The funds appropriated under this authorization have been used for a variety of purposes, including financial planning and career counseling, job training, and to a limited degree, outreach counseling. H.R. 3492 responds to the immediate need to provide additional assistance to those who are attempting to deal with the personal and family stress that has resulted from the rural economic crisis.

Although there are signs that the financial stress in some sectors of the agricultural community may be lessening, many farmers and rural communities continue to suffer. A recent U.S. Department of Agriculture report to Congress on the status of family farms indicates that total farm debt in the United States has increased by nearly 30 percent since 1980. Over one-fifth of all U.S. farms have a debt to asset ratio greater than 40 percent, which is indicative of a farm that is "highly leveraged" and financially vulnerable. Among those hardest hit are young farmers who have recently entered agriculture. Over 20 percent of operators under age 35 are suffering financial stress in comparison to about 7 percent of the operators aged 55 or older. Ultimately, the Department predicts that "as many as 15 percent of all farm operators who were in business before 1980 may leave farming for financial reasons before the current financial adjustments end."

The repercussions of financial stress on many farm operators are felt by their families, friends, and by the communities in which they live. The stress leads to a variety of personal and social problems, some of which may be life threatening. We hear of cases of depression, anxiety, functional impairment, spouse abuse, child abuse, alcoholism, drug abuse, suicide, and even homocides. The personal tragedies associated with the rural economic crisis are widespread. Many of my colleagues may recall the national headlines when a farmer from Hills, IA shot his banker upon learning that he would be forced to leave farming. In Nebraska the number of divorces in rural areas has increased 10 percent while those in urban areas have declined by nearly the same amount. Colorado officials report that the number of children and adolescents admitted to rural mental health centers with depression is nearly double the number of cases at urban centers during the last 6 years. And just last month, six members of one financially pressed rural family in Missouri were slain by a family member.

A number of States, local communities, civic and church groups have responded to this crisis by developing their own mental health assistance programs for farmers and rural families. For example, the State of Missouri, with the benefit of section 1440 moneys, established its "rural community service project" to address the mental health problems of those affected by the rural economic crisis. The State of Illinois, largely with State funds, initiated "Stress: Country Style," a program to provide stress counseling and intervention services to rural families. In Iowa, two rural mental health centers have provided outreach, education, and counseling services to increasing numbers of rural residents. The Kansas Legislature established the Farmers Assistance, Counseling, and Training Service [FACTS], a toll-free hotline to provide information, counseling, and referral services for rural families in need. Similar hotline programs have been initiated in my home State of Texas and other States.

In fiscal year 1987, approximately $1.5 million was appropriated to initiate rural assistance programs in eight States under the authority of section 1440 of the 1985 Food Security Act. However, much more needs to be done to ensure that farmers and rural families have the assistance they may need to cope with their immediate financial problems so that they can look ahead to a brighter future.

H.R. 3492 will expand the scope of the existing 1440 grant program of the 1985 farm bill to provide a source of immediate support to those who have been impacted by the farm crisis. This program, developed by my colleague Mr. COLEMAN of Missouri, has provided a good start in some States. But more help is needed now.

Working with Mr. COLEMAN and with the distinguished chairman of the Agriculture Committee's Subcommittee on Conservation, Credit, and Rural Development, Mr. JONES of Tennessee, we have fashioned H.R. 3492 to make needed improvements in the "1440" program. Specifically, the rural recovery program act of 1987 broadens the list of those who can benefit from the services provided from special grants. Recognizing that the farm crisis is, in fact, a rural economic crisis, others not directly involved in farming but equally affected by agriculture's financial problems may also avail themselves of educational, outreach counseling, and retraining services.

In addition to financial counseling, vocational training, and job-seeking services, H.R. 3492 would provide, to the extent practicable, on-the-job training and financial support for educational expenses such as tuition and books to those who wish to learn a new skill or go back to school to launch a new career.

Finally, and perhaps most importantly, H.R. 3492 would direct the Secretary of Agriculture to provide clinical outreach programs in crisis management assistance such as 24-hour hotlines and local counseling services to farmers, their families, and their rural neighbors. This service is critical to ensure that those in distress are able to obtain the professional support and counseling that they need to pick themselves up and move on.

This portion of H.R. 3492 was developed with the help of rural sociologists and other professionals familiar with the mental health problems facing rural families. The assistance of the "rural family issues coalition" in developing this element of the legislation deserves special recognition.

I view this bill as one small, but critical element in revitalizing rural America. The career and financial counseling and job training programs authorized by section 1440 of the Food Security Act have been extremely successful and remain essential to help financially stressed and dislocated farmers and rural families. These programs warrant renewal and refinement in accordance with H.R. 3492. Their continuation through 1990 as provided by H.R. 3492 is essential.

I remain optimistic that the Food Security Act will work to restore the strength of American agriculture. There are already signs that this is occurring. Nevertheless, we still have severe economic problems in some segments of agriculture, and without the assistance that would be provided by the Rural Crisis Recovery Program Act of 1987, I fear that many rural residents will be unable to see beyond their immediate financial problems to avail themselves of the career counseling, financial assistance, and other sources of support that are intended to help get them back on their feet.

I urge immediate passage of H.R. 3492.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from Iowa [Mr. GRANDY] will control the time for the minority.

There was no objection.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3492, the Rural Crisis Recovery Act of 1987.

The program authorized in this bill may be better known by some as "section 1440" of the 1985 farm bill. The program was developed to help distressed and displaced farmers cope with the ailing agricultural economy. My colleague from Missouri, Mr. COLEMAN, was the original author of this program.

The legislation that we are considering today extends the life of this program authorized by the 1985 farm bill through 1990. Under this program, Federal grants are provided through the University Extension Service to develop education, retraining, and counseling assistance for financially stressed farmers, dislocated farmers and rural families who have been adversely affected by the current farm and rural economic crisis.

Specifically, these services may include: Clinical outreach counseling and crisis management assistance; individual or family financial planning and management; job search assistance and training in job-seeking skills; on-the-job training; assistance in obtaining training in basic, remedial and literacy skills; assistance in obtaining training for operating a business or enterprise; evaluation of vocational counseling in enhancing such skills; tuition assistance, including fees, books and other educational expenses.

This program is important to help ease the transition for farmers who may have to leave farming. It helps them to develop confidence in themselves and to recognize that they have something to contribute to society.

In closing, I would like to urge my colleagues to join me in supporting H.R. 3492.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 3492.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3492, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REGARDING SOVIET MISSILE FIRINGS NEAR HAWAII

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 199) with regard to Soviet missile firings near Hawaii.

The Clerk read as follows:

H. CON. RES. 199

Whereas the Union of Soviet Socialist Republics and the United States are presently negotiating a reduction of nuclear weapons and have recently concluded an agreement with respect to reducing the risks of accidental nuclear war;

Whereas the Soviet Union has recently conducted two tests of its heavy intercontinental ballistic missiles over trajectories similar to those which could be used in actual attacks on the Hawaiian Islands;

Whereas the announced impact points for reentry vehicles from these tests could have resulted in the overflight of sovereign United States territory, namely the Hawaiian Islands;

Whereas the Soviet Union reportedly encrypted telemetry from the flight tests in potential violation of the provisions of bilateral arms control agreements;

Whereas the Soviet Union used a directed energy device, believed to be a laser, to irradiate a United States military aircraft in international airspace that was monitoring the tests, having the potential effect of interfering with our national technical means of verification;

Whereas had this test misfired, Soviet ballistic missile test re-entry vehicles could have landed on population centers in the Hawaiian Islands; and

Whereas the United States does not test strategic missiles in the direction of or in close proximity to sovereign Soviet territory: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the actions of the Soviet Union in testing intercontinental ballistic missiles in the Hawaiian region and irradiating United States monitoring aircraft are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

(2) the United States Government—

(A) should officially and at the highest levels protest these actions by the Soviet Union and should inform the Soviet Union that it cannot tolerate flight tests in close proximity to sovereign United States territory or interference with United States monitoring aircraft; and

(B) should seek Soviet assurances that such missile testing near United States territory and irradiation of United States aircraft will not occur in the future; and

(3) the President should report to the Congress within ten days, in both classified and unclassified forms, on—

(A) the details of these Soviet missile tests, including the irradiation of the United States monitoring aircraft;

(B) Soviet explanations offered in response to United States protests; and

(C) what steps will be taken to ensure that such activities will not happen in the future.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 199, before us today, highlights the provocative nature of two recent Soviet actions. These include the Soviet Union's test firings of heavy intercontinental ballistic missiles [ICBM's] which landed uncharacteristically close to the Hawaiian Islands, and Soviet use of a directed energy device, believed to be a laser, to irradiate and temporarily blind a United States military officer of a United States reconnaissance aircraft.

Needless to say, this has been the cause of considerable concern in the House and the Senate. These actions by the Soviet Union are not only provocative, but unnecessary and inconsistent with behavior designed to reduce the risk of nuclear war. The United States does not test strategic missiles in the direction of, or in close proximity to Soviet territory. We should, therefore, be able to expect reciprocal restraint on the part of the Soviet Union.

It is with these thoughts in mind that I and my colleagues Representatives BROOMFIELD, SAIKI, and AKAKA introduced House Concurrent Resolution 199, which was approved by the House Foreign Affairs Committee last Wednesday, October 14. House Concurrent Resolution 199 incorporates many of the elements of House Concurrent Resolution 191 introduced by Mrs. SAIKI. I would like to take this opportunity to thank our colleagues, Mr. AKAKA, Mrs. SAIKI, and Mr. BROOMFIELD for their contributions in drafting this important resolution and bringing it to the attention of the full House today.

The resolution is intended to send a clear message to the Soviet Union that Congress finds these activities unacceptable. The resolution also calls on the President to submit a full report to the Congress outlining: First, the details of the missile tests and the irradiation of United States aircraft; second, Soviet explanations offered in response to United States protests; and third, what steps will be taken to ensure that such activities will not happen in the future. I might add that the other body has attached similar language to the State Department authorization bill.

For these reasons, I urge my colleagues to support this legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii, Mrs. SAIKI, the original sponsor of this legislation.

Mrs. SAIKI. Mr. Speaker, I rise in strong support of House Concurrent Resolution 199, a resolution protesting the recent Soviet nuclear tests near Hawaii.

I cannot speak firmly enough on behalf of all the people of Hawaii, when I say we are outraged that the Soviet Union has made our islands the latest target of nuclear intimidation. The Soviets' test of their ICBM's several weeks ago, were the closest to American soil ever conducted by a foreign nuclear power. The tests were intended to "bracket" Hawaii by firing one missile each to the north and south sides of the islands.

Had the tests been conducted according to plan, Soviet nuclear missiles would have flown over the Hawaiian Islands. Had any of the dummy warheads misfired even by seconds, missile debris could have hit Hawaii.

According to published reports, Soviet spokesmen have belittled and dismissed our concerns. I urge my fellow Members to support this resolution to send a clear message that the United States will not tolerate such heavy-handed tactics in the future.

I also endorse the committee's protest of Soviet interference with legitimate United States monitoring efforts. The Soviets reportedly used a directed energy device, or laser, to temporarily blind a United States military officer who was attempting to monitor the tests from the air, an established and acceptable means of verification.

Mr. Speaker, I would like to thank Chairman FASCELL, Vice Chairman BROOMFIELD, and Congressman SOLOMAN, for expediting this resolution through the Foreign Affairs Committee. In addition, I would like to thank the many Members of the House who cosponsored the resolution which I originally introduced the day the tests were revealed to the public. These Members helped call attention to the seriousness of the situation and I include their names at this point in the CONGRESSIONAL RECORD.

LIST OF COSPONSORS OF H. CON. RES. 193

Bill Broomfield, Jim Bunning, Larry Coughlin, Paul Henry, Jim Lightfoot, Ron Packard, Bill Clinger, Frank Wolf, Cass Ballenger, Elton Gallegly, Dan Lungren, Jim Inhofe, Helen Delich Bentley, Newt Gingrich, Dick Cheney, and Arthur Ravenel.

Donald Lukens, Olympia Snowe, Marge Roukema, Steve Gunderson, Tom Tauke, Jim Jeffords, Barbara Vucanovich, Jan Myers (IN), Henry Hyde, Dennis Hastert, Gerald Solomon, Bob Walker, John Rowland (CT), Robert Smith (NH), Fred Grandy, Steve Bartlett, Bob Dornan (CA), Tommy Robinson, Richard Baker, Jim Courter, Fofo Sunia, Joel Hefley, Jack Buechner, John Hiler, Nancy Johnson (CT), David O'B. Martin (NY), Mickey Edwards (OK), Lynn Martin (IL), Wally Herger, Ben Blaz, and John Rhodes.

Pat Swindall, Bob McEwen, Ben Gilman, French Slaughter (VA), Bob Lagomarsino, Frank McCloskey, Sam Stratton, Bill Schuette, Ray McGrath, John Conyers, Frank Horton, Clarence Miller (OH), Norm Shumway, Dan Schaeffer, John Porter, and Al Bustamante.

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Mr. FASCELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. I thank the gentleman from Florida, the chairman of the Committee on Foreign Affairs, for yielding time to me.

Mr. Speaker, as a cosponsor of House Concurrent Resolution 199, I rise in strong support of the resolution. First, let me thank the distinguished chairman of the Committee on Foreign Affairs, Mr. FASCELL, for his leadership in calling for a complete and coherent examination of the circumstances relating to the two recent missile test firings conducted by the Soviet Union in the vicinity of Hawaii.

I am deeply troubled by the events of September 29 and 30, during which time the Soviets bracketed areas of the Pacific Ocean, only a few hundred miles from Hawaii, as splashdown points for intercontinental ballistic missiles launched from Soviet Central Asia. As we are now well aware, the situation could have been far more ominous if the test of September 29 had not failed. Indeed, a successful reentry of the first firing in the announced impact area southwest of the State would have resulted in the overflight of the Hawaiian Islands.

We have recently concluded an agreement with the Soviets aimed at lessening the possibility of an accidental nuclear war. In the wake of that agreement, these tests are all the more appalling. With American and Soviet negotiators currently in Geneva seeking an agreement to eliminate INF missiles in Europe, the recent Soviet actions in testing ICBM missiles and irradiating United States aircraft in an attempt to obstruct detection serve to undermine their credibility and professed commitment to lasting peace and stability.

I sincerely hope that the events of September 29 and 30 are an aberration. The people of our State remember all to well how it is to be the herald of war. It is my fondest wish to see Hawaii serve not as a target, but as a bridge between the U.S.S.R. and the U.S.A., as a link of understanding and peace between our two nations.

Mr. Speaker, a final point of concern and bewilderment for my constituents and me, was the failure on the part of a single administration, State Department, or Defense Department official to notify and brief the Governor and Members of the Hawaii congressional delegation of the impending tests in a timely manner. Are we so preoccupied protecting foreign waters and resources from Soviet influence and Iranian silkworms, and negotiating for the safety of Western Europe that this incident will be written off as an inconsequential close call?

Mr. Speaker, I join with my colleague, the gentlewoman from Hawaii [Mrs. SAIKI], and all the people of Hawaii in calling upon the administration to issue a thorough report on the details of the test and our response to it, and to take the necessary steps to ensure no repetition of such provocative behavior.

I would like to take the opportunity to again thank the distinguished chairman of the Foreign Affairs Committee, Mr. FASCELL, the ranking member, Mr. BROOMFIELD, and the committee and subcommittee staff for their diligence in bringing this matter to the floor, and urge my colleagues to join us in sending this strong message.

Mr. FASCELL. Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor with Chairman FASCELL, of this resolution, I want to strongly support this legislation and voice my opposition to the Soviet Union's recent missile tests aimed at the State of Hawaii.

These tests are just another example of provocative actions that the Soviet Union has directed against the United States.

While the United States and the Soviet Union reach agreement on ways to reduce the risk of nuclear war, the Soviets threaten the Hawaiian people with warlike ICBM tests.

And even while we negotiate with the Soviets at Geneva on arms reductions, according to press reports, the

Soviets encrypt the telemetry of this missile test, in open violation of the verification provisions of existing arms control agreements which they purport to honor.

Moreover, during their missile test, the Soviets used a laser or other directed energy device to target a United States aircraft monitoring this test, temporarily blinding the United States copilot.

Quite simply, Mr. Speaker, I find these Soviet actions outrageous. There is absolutely no excuse for what the Soviet Union did to endanger American lives.

As a result, I think we should demand that the Soviet Union never do this again. The resolution before us supports a United States protest at the highest level and requires a report to the Congress on the explanations the Soviets offer in response to this protest.

I would also like to take a moment to thank the Congresswoman from Hawaii, PATRICIA SAIKI, for first offering a resolution condemning Soviet tests in close proximity to her home State. She should be commended for acting immediately to ensure that the Soviet Union gets a very direct message—we do not approve of this type of provocative behavior.

I believe this resolution makes great sense and should be adopted.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO], a member of the Committee on Foreign Affairs.

Mr. LAGOMARSINO. Mr. Speaker, I strongly support this resolution, condemn the Soviet Union for conducting ICBM tests off the coast of our 50th State, Hawaii, and commend the sponsors of this legislation, Chairman FASCELL, Vice Chairman BROOMFIELD, especially Congresswoman PAT SAKAI of Hawaii, an original sponsor. These test missiles landed only several hundred miles off Hawaii, the closest a Soviet nuclear missile test has ever been conducted to American territory.

As the resolution states, these Soviet tests so close to American soil are "provocative, unnecessary, and inconsistent with the behavior designed to reduce the risk of nuclear war." Furthermore, these Soviet actions took place following the preliminary INF arms control accords that would lead to an historic elimination of entire classes of offensive nuclear weapons. This ICBM testing raises questions about Soviet seriousness for real arms control.

It appears that the Soviets planned their tests to bracket the Hawaiian Islands by firing one missile to the north and one to the south. In essence, the Soviets launched a practice nuclear strike on Hawaii. Aside from showing Soviet nuclear intimidation, these tests posed real safety concerns for the inhabitants of Hawaii. Had the test misfired, the test reentry vehicle could have landed on population centers in that State.

Later this week, we will be voting on a motion to go to conference on the DOD authorization bill. Part of this bill includes dangerous and ill-conceived unilateral arms control restrictions on the United States. It ignores all the Soviet violations including the all-important provision prohibiting the encryption of telemetry. The Soviets, in a clear violation of arms control treaties, encrypted telemetry on the improved heavy SS-18's that landed off Hawaii.

I also call attention to the Soviet irradiation of an American aircraft during these tests. The Soviets used a direct-energy weapon, probably a laser, to temporarily blind a United States military officer who was in international airspace monitoring the tests. This clearly threatens national technical means of verifying compliance with arms-control treaties. These unwarranted and provocative actions by the Soviets must not be ignored. I urge my colleagues, especially those who eloquently argued for restrictive arms control measures, to consider what the Soviets did off Hawaii, how they did it, and when they did it. Then consider why. Clearly arms control with the Soviets is desirable, but it is a very serious issue. Congressional actions like those in the DOD bill, despite good intent, hurt not help real arms control. These tests off Hawaii indicate that the Soviets appear to ridicule, rather than follow, our restrictive, unilateral arms control programs.

Again, I strongly support House Concurrent Resolution 199 and join in condemning the Soviets for these tests.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 199 condemning Soviet ICBM tests off Hawaii. The reports showing two tests of heavy ICBM's over trajectories similar to those which could be used in an actual attack against the Hawaiian Islands raises disturbing questions during a time of sensitive arms negotiations between the Soviets and the United States.

It is troubling not only because in the process of these tests, the Soviets encrypted telemetry potentially in violation of an earlier arms agreement and used a directed energy device to temporarily blind a U.S. military officer who was in international airspace monitoring the tests, but also because the missile might have misfired and landed on population centers in Hawaii. This action is a reminder that we must proceed carefully and cautiously in our developing relations with the Soviets. All arms control agreements obviously need to be reliably verifiable. We clearly cannot and should not place great faith in the Soviets verbal assurances.

Accordingly, I urge my colleagues to take this opportunity to make it clear to the leaders of the Soviet Union that their actions always have and always will mean more to Americans than their words. I share the desire of many Americans to improve the relations between our Nation and the Soviet Union. Verifiable arms control agreements can play an important role in the improvement of relations. But the Soviets must show restraint. Firing an ICBM near U.S. territory is certainly not indicative of restraint or a sincere desire for improved relations.

I believe this resolution, in calling for a high-level U.S. protest of the missile firing and seeking assurances that such behavior will not be repeated, deserves the support of the Congress. I urge my colleagues to vote in favor of House Concurrent Resolution 199.

Mr. SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 199.

The question was taken.

Mr. LAGOMARSINO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcment, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING RELEASE OF USIA FILM, "AMERICA THE WAY I SEE IT"

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3428) to provide for the distribution within the United States of the film entitled "America the Way I See It."

The Clerk read as follows:

H.R. 3428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "AMERICA THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America the Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3428 would provide that the U.S. Information Agency film entitled, "America, the Way I See It," could be purchased and viewed in the United States.

Current law, as you know, section 501 of the United States Information and Educational Exchange Act of 1984, prohibits the dissemination within the United States of certain USIA Program materials. The Congress has, however, provided for the domestic release of certain films on request. Since 1965, when a film on John F. Kennedy was released—entitled, "Years of Lightning, Day of Drums," the Congress has passed legislation regarding over 50 USIA films.

Subcommittee staff, both majority and minority have viewed this film and see nothing controversial in it. Likewise, it is my understanding that the U.S. Information Agency has no objection to its release.

This entire issue is under review by the Subcommittee on International Operations in order to address this outdated procedure. There must be a better way to release these USIA films in the United States.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to congratulate the gentleman from Maryland [Mr. HOYER] as a principal sponsor of this bill, and also thank the gentleman from Florida [Mr. MICA] and the gentlewoman from Maine [Ms. SNOWE], the chairman and ranking member of the Subcommittee on International Operations of the Committee on Foreign Affairs, for reporting this bill out.

Mr. Speaker, I support the legislation before us which permits the distribution of the film "America the Way I See It" here in the United States.

Members and staff who have reviewed the film have commented on the creative merits of that production. The film is a masterful survey of the physical wonder of America. All of us who admire the many marvels of this great Nation should have the opportunity to see this remarkable production.

Because of its high quality and memorable treatment of the historic beauties of our country, "America the Way I See It" should be seen by both foreign and domestic audiences. In the past, other USIA productions also have been released for purchase and viewing here in the United States. Special legislative exceptions, as this one, were made to allow those productions to be viewed in this country.

All proceeds from the viewing of the film will be credited to the USIA.

I call upon my colleagues to join me in supporting this worthwhile legislation.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3428, the bill presently under consideration.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3428.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONGRATULATING AND COMMENDING PRESIDENT ARIAS FOR RECEIVING 1987 NOBEL PEACE PRIZE

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 200) to congratulate and commend President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize.

The Clerk read as follows:

H. CON. RES. 200

Whereas the Nobel Peace Prize is the highest honor to which a political leader can aspire;

Whereas it was announced on October 13, 1987, that the Nobel Peace Prize for 1987 would be awarded to President Oscar Arias Sanchez of Costa Rica in recognition of his efforts to achieve a diplomatic settlement of conflicts in Central America;

Whereas President Arias has been a tireless leader for the causes of peace and democracy in Central America; and

Whereas the Congress has expressed its strong support in the past for the efforts of President Arias to bring peace to Central America: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress congratulates and commends President Arias of Costa Rica for being the recipient of the 1987 Nobel Peace Prize.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 200, congratulating President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize.

I would like to commend my colleagues on both sides of the aisle, especially Congressman LEVINE of California, and the distinguished chairman of the Subcommittee on Western Hemisphere Affairs, Mr. CROCKETT, for bringing this resolution before the House.

President Arias has been the driving force behind the regional peace plan signed by the five Central American countries some 2 months ago. His tireless efforts on behalf of peace and stability in this strategic and vitally important region is important because it is a Central American initiative. President Arias recognized the importance of the Central American nations taking their problems in their own hands and mapping out a framework for resolution of those problems.

The Norwegian Nobel Committee said it best when they nominated President Arias for the 1987 Nobel Prize:

> President Arias is being awarded the Nobel Peace Prize for this outstanding contribution to the possible return of stability and peace to a region long torn by strife and civil war.

President Arias is seeking through his initiative to return functioning democracies and civil freedoms to all countries in Central America. It is our hope that this plan will succeed and that peace and stability will return to this important region.

I urge the adoption of the resolution.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California [Mr. LEVINE], the original sponsor of this resolution, and I commend the gentleman for raising the matter and getting the resolution out of the Committee on Foreign Affairs and to the floor of the House.

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, House Concurrent Resolution 200 extends the congratulations of the Congress to President Oscar Arias of Costa Rica on his receipt of the Nobel Peace Prize for 1987. This resolution was approved unanimously by the Foreign Affairs Committee last Wednesday, and is cosponsored by a bipartisan group of committee members including Chairman FASCELL, the chairman of the Western Hemisphere Subcommittee, Congressman CROCKETT, and the ranking minority members of both the full committee and the subcommittee, Congressmen BROOMFIELD and LAGOMARSINO. I would like to thank each of them for their support in ensuring the very expeditious consideration that this resolution has received.

The Nobel Peace Prize is the highest honor to which a political leader can aspire. It is entirely appropriate that the Congress take this opportunity to congratulate and commend President Arias on receiving this magnificent award.

President Arias has proven himself to be a great statesman through his tireless pursuit of peace among his Central American neighbors. He has been the driving force behind efforts to turn this war-ravaged region away from conflict, and toward negotiation and reconciliation.

As the administration is fond of pointing out, President Arias's peace plan is not comprehensive, in the sense that it does not address every U.S. concern about the situation in Central America. It also is still in the process of being implemented. Each of the signatory nations of Central America has further steps which must be taken to bring them into compliance with the agreement.

Nevertheless, the Arias peace plan represents a giant leap forward from the years of debilitating confict which have left that region so devastated. This breakthrough would never have been possible without the devoted and skillful efforts of President Arias to forge agreement among neighbors who have grown accustomed to conflict.

President Arias deserves our warm congratulations on receiving this great honor, and our support in this continuing efforts to bring peace to Central America. I urge my colleagues to give this resolution their strong bipartisan support.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 200 to congratulate Costa Rican President Oscar Arias for having been named this year's winner of the Nobel Prize for Peace.

The Nobel Peace Prize is perhaps the most prestigious recognition any statesman may hope to achieve. If the final result of President Arias' initiative turns out to be peace in Central America then he richly deserves this award. Even if peace in Central America is not the ultimate outcome of the efforts of President Arias, he still deserves our commendation for calling to our attention the essential prerequisite for peace in the region: That is, democracy. As President Arias has said, "without democracy, there can be no peace." President Arias makes it absolutely clear that democracy does not now exist in Nicaragua, and until it does, there cannot be peace and security for the other four nations in Central America, all of whom are democracies.

President Arias has also emphasized that a negotiated cease-fire between the Sandinistas and the Contras must be achieved. Although the Sandinistas have refused direct negotiations with the Nicaraguan resistance, President Arias has stated that a cease-fire must be worked out between the two sides, even if it means using an intermediary such as Cardinal Obando y Bravo. Both President Duarte of El Salvador and President Azcona of Honduras have joined in this request. Thus far the Sandinista regime has been the only government in Central America to refuse to negotiate with its armed opposition. President Duarte's initiative in El Salvador in meeting with his armed opposition began only a few short months after his inauguration in 1984. He renewed talks with the Salvadoran guerrillas 10 days ago, even though they include persons who kidnaped his daughter. I would hope that some time in the future, President Duarte would receive the same kind of recognition for his efforts to bring peace to the region as President Arias has.

There can be no question that President Arias is sincere in his effort to bring peace to Central America and democracy to Nicaragua. For this contribution, he deserves our praise. I am proud to be an original cosponsor of this resolution and I urge my colleagues to give it their full support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman for yielding time to me.

I would like to pay tribute to the gentleman from California [Mr. LEVINE], the gentleman from California [Mr. LAGOMARSINO], and the gentleman from Florida [Mr. FASCELL], the committee chairman, and other Members who have cosponsored this bill.

Mr. Speaker, I am happy to join my colleagues in congratulating Costa Rican President Arias for having been awarded the Nobel Peace Prize.

While much still remains to be done in Central America before genuine peace can come to this region, President Arias has helped to set in motion a process which will hopefully lead to democracy in every one of the Central American nations.

As President Arias has stated so often, democracy will be the ultimate measure of whether his peace proposal will be gauged a success or not.

For this reason, all eyes are on Nicaragua, as we wait to see if the Sandinistas take meaningful steps to embrace the peace proposals which President Arias has so determinedly espoused.

Mr. Speaker, I strongly support this resolution congratulating President Arias for receiving the Nobel Peace Prize, an award he so richly deserves.

Mrs. COLLINS. Mr. Speaker, this past Tuesday, the Norwegian Nobel Committee awarded their 1987 Peace Prize to Costa Rican President Oscar Arias.

As the initiator of a treaty designed to bring peace to Central America, President Arias richly deserves this prestigious honor.

Over the past year or so, he has tried to reconcile the considerable differences between the Governments of Nicaragua, El Salvador, Honduras, and Guatemala and their political opposition. Barring outside interference, the fact that each of the key political figures in these disputes has signed this treaty gives me hope Arias will achieve his objective of national reconciliation by November 7.

President Arias also deserves to be commended for encouraging the adoption of democratic principles in the region. His treaty requires each government to provide its citizens with certain basic rights—the opportunity to speak freely and engage in peaceful forms of political expression, and the ability to participate in free elections.

Equally important, President Arias' treaty requires each of the signatories to request all outside governments to stop supplying aid to armed rebels in the region.

As the author of the first resolution calling for an end to funding the Nicaraguan Contras, I have consistently argued for a peaceful resolution of these disputes. Thus, I believe the Arias treaty reflects the objectives we need for achieving true peace in Central America.

If anyone has doubts about this, they only have to look at the fruits of President Arias' efforts. Direct talks have already been initiated between the Governments of Guatemala and El Salvador and their armed opposition. Indeed El Salvadoran President Duarte said today that concrete progress has been made toward achieving an equitable cease-fire in his country. Finally, the Nicaraguan Government has begun relaxing some of its restrictions on the press.

If the Nobel Committee can see the value of this accord, I hope we can convince this administration that President Arias is a man of peace who is clearly headed on the right course.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 200 offering congratulations to the courageous President of Costa Rica. His personal efforts to achieve a stable and secure peace in Central America are certainly laudable. The world waits to see the bold beginning launched by President Arias in Guatemala on August 7 culminate in the transformation of the Sandinista government in Nicaragua from an aggressor and repressor to a government that protects the rights of its citizens and respects the rights of its neighbors.

In spite of the difficulties that lay ahead the progress made in the peace process during the last several months does offer cause for hope. There has been National Reconciliation Commissions formed in El Salvador and Nicaragua. President Duarte of El Salvador has personally set down face to face to negotiate with the leaders of the Marxist insurgents in his country. President Arias has added his voice, enhanced by the Nobel committee, to the many in Central America and in the United States who realize that the Sandinista's must negotiate directly with the political leadership of the Nicaraguan resistance to achieve a lasting solution to their civil war.

The Nobel Peace Prize is an honor which Oscar Arias Sanchez richly deserves. His name is properly placed beside others who had a vision of a better world and sought to make that vision a reality. I join my colleagues in offering heartfelt congratulations to President Arias for this great honor.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. LEVINE of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 200.

The question was taken.

Mr. LEVINE of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LEVINE of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 200, the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RIO GRANDE POLLUTION CORRECTION ACT OF 1987

Mr. LEVINE of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2046) to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande.

The Clerk read as follows:

H.R. 2046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTON 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Pollution Correction Act of 1987".

SEC. 2. AGREEMENTS TO CORRECT POLLUTION OF RIO GRANDE.

(a) IN GENERAL.—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in this Act referred to as the "Commissioner"), is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting the international problem of pollution of the Rio Grande caused by discharging of raw and inadequately treated sewage and other wastes into such river from the border cities including but not limited to Ciudad Acuna, Nuevo Laredo, and Reynosa, Mexico, and Del Rio, Laredo, and Hidalgo, Texas.

(b) CONTENT OF AGREEMENTS.—Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and Mexico of measures to protect the health and welfare of persons along the Rio Grande from the effects of pollution, including—

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the cost of plans, construction, operation, and maintenance of the facilites referred to in paragraph (1);

(3) formulas for the initial division between the United States and Mexico of the cost of plans, constructions, operation, and maintenance of the facilities referred to in paragraph (1);

(4) a method for review and adjustment of the formulas referred to in paragraph (3) at intervals of five years which recognizes that such initial formulas should not be used as a precedent in their subsequent review and adjustment; and

(5) dates for the beginning and completion of construction of the facilities referred to in paragraph (1).

SEC. 3. AUTHORITY OF SECRETARY OF STATE TO PLAN, CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES.

The Secretary of State, acting through the Commissioner, is authorized to act jointly with the appropriate representative of the Government of Mexico and to—

(1) supervise the planning of, and

(2) supervise construction, operation, and maintenance of,

the facilities recommended in agreements concluded pursuant to section 2 and approved by the Government of the United States and Mexico.

SEC. 4. CONSULTATION WITH THE ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY AND OTHER AUTHORITIES.

The Secretary of State shall consult with the Administrator of the Environmental Protection Agency and other concerned Federal, State, and local government officials in implementing this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for the United States to fund its share of the cost of the plans, construction, operation, and maintenance of the facilities recommended in agreements concluded pursuant to section 2 and approved by the Governments of the United States and Mexico.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. LEVINE] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2046, legislation which would facilitate efforts to address the complex and serious pollution problems of the Rio Grande. The bill would specifically authorize the Secretary of State to conclude agreements with appropriate officials in the Government of Mexico to reduce Rio Grande pollution.

The health and welfare of many North Americans and Mexicans along the Rio Grande are in jeopardy from the effects of the river's pollution. While agreements between Mexico and the United States have established procedures to deal with environmental issues, specific authority as provided by H.R. 2046 would greatly expedite the process with respect to the Rio Grande.

The administration supports the bill because it would advance the efforts of both our countries to correct Rio Grande pollution and improve sanitation. H.R. 2046 constitutes a sensible approach in alleviating a problem which has the potential to create tensions between Mexico and the United States.

I want to commend Congressman KIKA DE LA GARZA for sponsoring this farsighted and timely measure. He has truly been an outstanding leader on United States-Mexican issues. I also want to commend GUS YATRON, chairman of the Subcommittee on Human Rights and International Organizations, GEORGE CROCKETT, chairman of the Western Hemisphere Subcommittee, and DANTE FASCELL, Foreign Affairs Committee chairman, for their efforts in bringing this measure to the floor.

Mr. Speaker, H.R. 2046 is a very important bill which deserves our expeditious approval today.

□ 1325

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], the sponsor of the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank my distinguished colleague for yielding time to me.

Mr. Speaker, I rise briefly only to extend my appreciation to Chairman FASCELL, Chairman YATRON, Chairman CROCKETT, the gentleman from California [Mr. LEVINE], the gentleman from Michigan [Mr. BROOMFIELD], and all members of the Foreign Affairs Committee for their cooperation in this endeavor. This certainly is needed legislation. I would hope that this would be one step in helping us to correct something that badly needs to be done along the Rio Grande.

Mr. Speaker, in addition to the discussion which we will conduct this afternoon on my bill H.R. 2046 which calls for negotiations with Mexico on pollution of the Rio Grande, I would like for the record to reflect a few personal observations.

For many years prior to today, I have been fortunate to benefit from the help of Joseph Friedkin who just recently retired as head of the U.S. section of the International Boundary and Water Commission.

Commissioner Friedkin and I have long shared a desire to correct the problems which contribute to pollution of the Rio Grande, and I could not allow this day to pass without paying tribute to my good friend and a man who throughout his life was a major benefactor of the river. His concepts, and my desire on seeing this to a successful legislative end, have combined to produce the bill H.R. 2046.

Many of our colleagues who have known me for many years have heard me speak about my homeland of the Rio Grande Valley. The river we call the Rio Grande means "Big River" or "Great River." And the river has always played a central and prominent role in the lives of those who make this part of Texas their home.

The Rio Grande has enabled us to turn the fertile soil of the region into a flowering garden—boasting nearly $500 million in yearly sales of dozens of horticultural crops and grains. Without the river, this would not have been possible. The river has given life to deep south Texas and now the river needs our help.

My bill, on which our friend Representative ALBERT BUSTAMANTE is an original cosponsor, would do one main thing: It authorizes our U.S. Secretary of State to begin negotiations with appropriate Mexican representatives and it gives our Secretary the authority to conclude an international agreement with Mexico designed to curb pollution from raw and inadequately treated sewage and other municipal/industrial wastes.

This international agreement would set up the framework for later, more detailed discussions about the proportionate contributions by each nation. Both the United States and Mexico would eventually provide an agreed-on amount of money to be used in the construction of wastewater treatment facilities on both sides of the river.

Our Department of State has written the esteemed chairman of the House Foreign Affairs Committee to advise that the Secretary fully supports the purposes of H.R. 2046.

So our bill today is a beginning step—and a very important one—on the way to ultimately correcting the pollution problem that is now plaguing the Rio Grande. We applaud our good neighbors in Mexico for their willingness to consider a joint approach to our mutual problem. The Rio Grande is as important to Mexico as it is to Texas—we share this boundary equally.

It is my hope the House will approve H.R. 2046 to further our Nation's commitment to cleanse our waterways and protect natural resources vital to agriculture production and potable water.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of H.R. 2046 to authorize the Secretary of State to conclude agreements with Mexico to correct the problems of pollution on the Rio Grande.

I wish to commend the two Members from Texas, Mr. DE LA GARZA and Mr. BUSTAMANTE, for their initiative in trying to solve this long-term problem of pollution on the Rio Grande.

As a regular participant in the Mexico-United States interparliamentary conferences, I am keenly aware of the importance of discussing with the Mexicans the problems that mutually affect us. Without the full cooperation of the Mexican Government, the problems of pollution on the Rio Grande cannot be resolved.

I believe the proposal set forth in this bill is an appropriate, cost-effective approach for correcting the problem. The agreements to be negotiated between the two countries would attack the problem comprehensively by determining the facilities that would be needed and the sharing of costs and expenses for construction and maintenance of those pollution control facilities.

I urge my colleagues to support this worthwhile effort and pass H.R. 2046.

Mr. YATRON. Mr. Speaker, I rise in strong support of H.R. 2046, which authorizes the Secretary of State to conclude agreements with the appropriate representatives of the Government of Mexico to correct the pollution of the Rio Grande.

The Foreign Affairs Subcommittee on Human Rights and International Organizations, which I chair and which oversees global environmental issues, waived jurisdiction over this measure to facilitate its consideration. The Subcommittee on Western Hemisphere Affairs also waived its jurisdiction and the full Foreign Affairs Committee approved H.R. 2046 October 14, without dissent.

Environmental problems can be, and often are, a source of tension between neighboring countries. Fortunately, the United States and Mexico have signed agreements establishing mechanisms and procedures to address serious cross-border pollution problems amicably.

The State Department supports the bill because it would give useful authority to the Department through the existing structure—the United States Commissioner of the International Boundary and Water Commission—in furtherance of the efforts of both the United States and Mexico to deal with Rio Grande pollution and sanitation.

I want to commend the bill's sponsor, KIKA DE LA GARZA, for his outstanding leadership on United States-Mexican relations and for his actions to reduce the mounting environmental problems confronting both nations. I also want to commend the chairman of the Subcommittee on Western Hemisphere Affairs, GEORGE CROCKETT, and the ranking minority member of the Human Rights and International Organizations Subcommittee, JERRY SOLOMON for their efforts to expedite this measure. Let me also commend Chairman FASCELL for his leadership in bringing H.R. 2046 to the floor.

The pollution of the Rio Grande is a serious problem and growing worse every day. H.R. 2046 does not mandate a specific action. It clarifies negotiating authority and calls for agreements between United States and Mexico to establish and maintain facilities in each country, estimates of costs, and allocation of those costs to mitigate the effects of Rio Grande pollution.

Mr. Speaker, H.R. 2046 is noncontroversial, timely, and deserves our speedy approval to protect the health and environment of American and Mexican people along the Rio Grande.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. LEVINE of California. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEVINE] that the House suspend the rules and pass the bill, H.R. 2046.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVINE of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2046, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD PANAMA

Mr. LEVINE of California. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res 197) to express the sense of the Congress with respect to United States policy toward Panama, as amended.

The Clerk read as follows:

Suspend the rules and pass the resolution (H. Con. Res. 197) with amendments as follows:

Page 2, line 6, strike out "Nortega" and insert in lieu thereof "Noriega".

Page 3, line 2, insert "and" after the semicolon; line 5 strike out "and"; and strike out lines 6 through 11.

Page 3, beginning in line 12, strike out "45 days after the date of enactment of this Act—" and insert in lieu thereof "30 days after the date on which the Congress adopts this resolution—".

H. CON. RES. 197

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. FINDINGS.

The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups—

(A) have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and

(B) have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed;

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by the Panamanian constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

SEC. 2. STATEMENT OF POLICY.

It is, therefore, the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama (except for assistance to meet immediate humanitarian concerns); and

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions;

unless no later than 30 days after the date on which the Congress adopts this resolution—

(A) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(B) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(C) a nonmilitary transitional government is in power; and

(D) freedom of the press and all other constitutional rights have been restored to the Panamanian people.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. LEVINE] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bipartisan resolution expresses the sense of the Congress regarding United States policy toward Panama. It is cosponsored by my distinguished colleague, the gentleman from New York [Mr. GILMAN], and was approved unanimously by the Foreign Affairs Committee last week. Very similar language was approved last month by the Senate by a vote of 97 to 0.

Mr. Speaker, civilian government does not exist in Panama today. The Panama Defense Forces, formerly known as the Panamanian National Guard, dominate every aspect of governing in that nation. They control the press, they control the puppet executive branch and legislature, and they largely control the streets. Their leader, Gen. Manuel Antonio Noriega, is absolute ruler of Panama.

The people of Panama have demonstrated this summer that they have had enough of military dictatorship. When a military colleague of General Noriega's, Col. Roberto Diaz Herrera, accused the military of murdering Dr. Hugo Spadafora, Noriega's chief political rival, the people took to the streets. Today, 4 months after these accusations were leveled and the accuser thrown in jail without trial by the regime, public protests against Noriega continue.

In the meantime, the Noriega regime has conducted a smear campaign against the United States. It has incited riots outside our Embassy in Panama City. Embassy and military personnel have been harassed and arrested. The Panamanian Government has done its best to whip up anti-American fervor in order to distract the Panamanian people from the real issues of freedom and democracy in their country.

More recently, the Human Rights Commission of the Organization of American States issued a report stating that it believes the Noriega regime was indeed responsible for the murder of Dr. Spadafora. Other allegations against the Noriega regime range from drug-smuggling and money-laundering, to diverting sophisticated United States technology to Cuba.

This resolution calls on the Government of Panama to make significant progress in assuring civilian control over the military and to put a nonmilitary transitional government into place. If these changes are not made within 30 days, the resolution recommends that we suspend all United States aid to Panama.

Frankly, I would have preferred to proceed with binding legislation enacting the measures described in this resolution right away. General Noriega's recent activities do not suggest reason for optimism that changes will be forthcoming in Panama any time soon. But with the Senate having taken unanimous action on language very similar to this, and with the understanding that Congress will have the opportunity to revisit this issue upon the expiration of the resolution's 30-day deadline, I felt it best to pursue this option for now.

Although not binding, this resolution does send a strong message to General Noriega and his cronies: The era of authoritarian rule in Panama is winding down. The voices of democracy are being heard in the streets, even as they were in the Philippines. As in the Philippines, the United States will not be an obstacle to such welcome democratic change. Let us all hope for the sake of the Panamanian people that General Noriega does not ignore this message.

I urge my colleagues to give this resolution their strong bipartisan support.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the two Members from Texas, Mr. DE LA GARZA and Mr. BUSTAMANTE, for their initiative in trying to solve the long-term problems of pollution on the Rio Grande.

Mr. Speaker, I rise in support of House Concurrent Resolution 197, expressing the sense of Congress regarding United States policy toward Panama.

I led a congressional delegation in August to Chile and Argentina, which included stops in Panama. I was accompanied by Congressmen JERRY LEWIS, JIM SENSENBRENNER, and GEORGE WORTLEY. As a result of our discussions in Panama, I have become even more concerned about the current political situation there and the threat that poses for American interests in Panama and in the region.

As part of the consideration of House Concurrent Resolution 197, I urge my colleagues to review the following report on the findings of codel Lagomarsino to Panama. I believe the information in this report will offer useful background information which will be helpful in gaining a better understanding of the critical crisis we face in Panama.

REPORT ON PANAMA

POLITICAL SITUATION IN PANAMA

Since the delegation was traveling by military aircraft which required refueling in Panama, arrangements were made for the delegation to receive briefings on the political, economic and security issues affecting U.S.-Panamanian relations during each stopover on August 10 and August 17. The delegation received classified briefings from US Southern Command Commander in Chief General Fred Woerner and Chief of Staff Rear Admiral Richard Ustick on the political-military situation in Panama, the peace process in Central America and U.S. military interests in Chile and Argentina.

The American Embassy officers gave the members of the delegation their assessment of the recent events in Panama and the background leading up to them. The Panama Defense Forces (PDF), formerly called the National Guard, has generally exercised power in Panama since 1968. Since the public accusations in early June against PDF commander General Manuel Antonio Noriega of corruption, complicity in murder and fraud in the 1984 elections, civic and political opposition forces have been calling for his removal. The political unrest, general strikes and demonstrations have received wide coverage in the United States. A generally unsuccessful strike and demonstration August 17, a day when the delegation was in Panama, was the first evidence the opposition's efforts were losing steam.

Considering the PDF's entrenched position in Panamanian life, it is difficult to foresee an easy resolution of the current political crisis. A democratic, constitutional system of government prevailed in Panama from its independence in 1903 until 1968, when the democratically-elected president Arnulfo Arias was overthrown by the National Guard under the leadership of General Omar Torrijos. Although the military continued to dominate the political system, some democratic openings were apparent in the 1970's, especially with the beginnings of the national debate on the Panama Canal Treaties in 1977. The debate concerned not only the treaties but also the government and its policies.

The Canal Treaties went into effect on October 1, 1979. General Torrijos was killed in a plane crash in 1981. In May 1984, direct popular presidential elections were held. Pro-military candidate Nicolas Barletta was declared the winner in a closely contested race marked by numerous irregularities and charges of fraud. Barletta, the government candidate, had run against Arnulfo Arias, who was seeking the presidency for the fifth time. Barletta was inaugurated in October 1984, but was forced to resign in September 1985 after allegations surfaced connecting the death of Hugo Spadafora, an opposition political leader, with the PDF. Barletta had been pressured to pursue an investigation of his death, but the military would not permit it and forced him to resign instead. He was succeeded by First Vice President Eric Arturo Delvalle. In the May 1984 elections, pro-government parties also won a majority of seats in the new Legislative Assembly. Those results were also tainted by charges of fraud and corruption.

The main political parties in Panama are as follows: The Democratic Revolutionary Party (PRD) which is the main pro-government party and is considered the civilian arm of the PDF. The leading opposition parties are the Authentic Panamenista Party of Arnulfo Arias and the Christian Democratic Party led by Ricardo Arias Calderon, no relation to Arnulfo Arias. The delegation in its discussions in Panama learned that a majority of Panamanians, according to a recenty published poll, do not like Noriega and want to see him go. However, they also believe the opposition does not offer a viable candidate. General Noriega has said he will abide by the results of the elections of 1989 as long as Arnulfo Arias does not win. The civic and political opposition forces are seeking elections earlier than 1989. The U.S. Government has said the Pananamians must resolve their own political crisis and if that requires early elections, then they should be arranged.

At the end of June, the U.S. Senate passed a resolution supporting the civic opposition and calling for an investigation of the allegations against General Noriega, and recommending he step down during any such investigation. The Panamanian Legislative Assembly passed a resolution, supported only by pro-government PRD legislators and boycotted by all opposition party legislators, condemning the U.S. Senate resolution and declaring an end to the State of Emergency effective the next day. That next day, June 30, with the ban on demonstrations lifted for the occasion, a government-orchestrated demonstration attacked the U.S. Embassy. Among the crowd inciting the violence were pro-government legislators and a government minister. Damage to the American Embassy amounted to approximately $130,000. Following tnat action, the United States suspended all aid to Panama and reduced contacts between the U.S. military and the PDF to the bare minimum. The Panamanian Government eventually sent a check to the Embassy to cover the cost of the damages. U.S.-Panamanian relations, however, are still cool, but correct.

A significant opposition rally took place on July 10, with the PDF firing tear gas and birdshot at anti-government demonstrators. More than 100 were wounded, and several hundred were detained, including a number of American citizens. Numerous human rights violations were reported. The delegation received a report by Orlando De La Guardia, a member of the National Civilian Crusade who was participating in the July 10 rally in the city of David, in western Panama. His account of the events of July 10 are as follows:

"I Orlando De La Guardia, manager of Panamotor of Chiriqui (Nissan Distributor) and Hertz Rent-a-Car Chiriqui hereby certify that the following statement is true and objective to the best of my knowledge. I am one of two representatives of the Chamber of Commerce of Chiriqui [western province of Panama] in the National Civilian Crusade (Chiriqui Chapter). I have no political affiliation.

"The National Civilian Crusade (Chiriqui Chapter), fully identified with the principles of the crusade established in Panama City, is not a partisan political organization formed to overthrow the government or to obtain political positions. It is a civil movement formed by nonpolitical organizations whose quest is to insure freedom, justice and a democratic system of government under which all Panamanians can live in peace. We insist on rescuing moral values, such as: honesty, patriotism, responsibility . . . values long lost in our society due to the extremely corrupt way of life forced upon us by the Defense Forces who run the country. This movement does include political parties because they are formed by Panamanians and not only have the right to do something for the country but also have the obligation to do so.

"We had programmed an automobile caravan for noon July 10 and a march to be held at 3 p.m. Early that morning, the city of David was occupied by troops of the Peace Battalion stationed in Rio Sereno at the border with Costa Rica. Heavily armed, in fatigue uniforms, with an armed helicopter flying over the city and road blocks set up in the city and on main highways, they were ready for war. War? Yes, they went to war against the peaceful Panamanian protesters. The Panama Defense Forces declared war on the Panamanians. Disgracefully, Latin American armies normally have only served to suppress their own people in their own countries.

"This intimidation did not stop the peoples determination of manifesting our discontent with the situation imposed upon us, and we proceeded to go ahead with our caravan in peace, armed with valor and a white flag. On our way back to the point of meeting, we were intercepted and attacked by soldiers. My car was surrounded; they threw four tear gas bombs inside and shot at me at a range so close that it is a miracle I am still alive. Once we managed, my wife and I, to get out of the car we fled towards my companies' premises looking for cover. The soldiers right behind us were hitting me with hoses. I managed to close an iron door that leads to our repair shop and resisted, trying to give my wife time to hide in the false hope they would respect private property. The helicopter descended closely above the company and located my wife, and I was threatened to have my brains blown out if I did not open the door. I obeyed, opened the door and all hell broke lose. I was dragged out, brutally beat up, kicked, clubbed and shot at. My wife was captured, insulted, beaten, and kicked. We were arrested and taken quickly to jail.

"At the jail, we were further harassed and intimidated (verbally), photographed and ordered to be taken to the patio with common criminals. This happened around 1:15 PM. The order to be taken to the patio was reconsidered, and we were then taken to a classroom. Later on, men and women were separated. Our estimate was over 100 persons were arrested, and everybody was taken to different areas. Over fifty were thrown in with common prisoners. Thanks to the immediate pressure made by Bishop Nunez, the Chamber of Commerce and other groups, the women were freed around 5 PM. We were let out at 11 PM. During my arrest, I witnessed maltreatment of other persons who were arrested.

"Due to the unjustified, brutal and criminal attitude of our so-called defense force, the people of this agricultural and cattle country have united firmly and strongly around the civilian crusade. If those who have to enforce the law are the first to violate it, then whom shall we turn to?

"I live in the town of Volcan. I was going there last Saturday, the 25th [of July] and was notified that there were orders that I be arrested on sight because traveling with me was Mr. Cornelio Guerra, President of our Chamber of Commerce. Due to this and other intimidations and threats to my family's personal welfare, I have proceeded to send my family out of this area and have myself moved to the city. This province is well known for its pro-American attitude and expects as well as hopes for U.S. assistance to put an end to this state of corruption.

"The National Civilian Crusade is a strong movement spearheaded by middle class professionals and with great support from lower classes as well as the upper class. Very few, if any, anti-government movements have been headed by this kind of people. Generally, it has been through leftist or Communist groups. In Panama, the Communists are with the government which is strongly infiltrated. Mr. Noriega and his gang are in cahoots with them trying to annihilate the general peaceful uprising in Panama. We know Washington has adopted a 'wait-and-see' attitude. We just hope they do not wait until it is too late."

God Bless the Americas

A chronology of key events occurring from early June to our second visit August 17 follows:

PANAMA: CHRONOLOGY OF KEY EVENTS IN CURRENT CRISIS

June 6: Newly retired Panama Defense Forces (FDP) Colonel Roberto Diaz Herrera alleges FDP//Noriega involvement in 1984 electoral fraud, the 1985 murder of Hugo Spadafora, Cuban visa fraud.

June 7: Sunday papers carry Diaz accusations. Catholic Church, civic organizations, and opposition groups call for impartial investigation of Diaz charges.

June 8: Crowd gathers at Diaz house and in front of opposition Radio Continente.

June 9: First serious outbreak of unrest—FDP use teargas, truncheons to disperse students and large group of oppositionists gathered in front of Radio Continente. Church calls for public airing of Diaz accusations in an atmosphere of peace.

June 10: President declares state of emergency; freedom of press, assembly, other guarantees suspended. Civic/business groups announce formation of a National Civilian Crusade, call for indefinite strike and General Noriega's removal from office pending an investigation into Diaz allegations. White flags first appear at spontaneous noon demonstration on Calle 50.

June 11: U.S. issues press statement calling for getting facts out in open and free and unfettered media.

June 12: Crusade-organized mass-cum-rally attracts over 1200 supporters. Church calls for non-violent protest. Crusade strike loses steam.

June 13: Crusade-organized mass attracts at least 3000 supporters and FDP troops/helicopters.

June 15: Most businesses open. Tense calm returns. Legislative Assembly passes resolution naming Gabriel Lewis and others as conspirators.

June 20: Assembly votes to extend State of Emergency.

June 26: U.S. Senate passes resolution on Panama.

June 29: GOP ends State of Emergency, passes resolution which rejects U.S. Senate resolution and calls for Ambassador to be declared PNG. Embassy splashed with paint during the night.

June 30: GOP-orchestrated crowd attacks Embassy with rocks as uniformed Panamanian military look on.

July 1: U.S. very strongly protests stoning of Embassy, especially GOP involvement. American banks hit with rocks and paintbombs. Renewed demonstrations, both pro- and anti-government. Government press calls for July 9 rally in support of "sovereignty."

July 2: Renewed opposition demonstrations on Calle 50—car caravans, white handkerchiefs. Armed civilians burn opposition-owned Dante department store while riot control troops stand aside. Crusade calls for huge rally July 10.

July 5: President Delvalle delivers speech calling for "truce," dialogue, and investigation of Diaz charges by Attorney General. Response by Crusade/opposition: No resolution possible while Noriega in power. Widespread opposition protest erupts—pot-banging, car caravan of 2000.

July 6: Several thousand join largest opposition car caravan yet assembled.

July 7: Delvalle issues decree prohibiting both pro-government rally July 9 and opposition rally July 10. Large opposition car caravans continue.

July 9: Pro-government groups honor Delvalle's decree prohibiting their rally. Crusade continues to call for huge opposition rally July 10.

July 10: Thousands attempt to attend rally. FDP fires tear gas and birdshot at anti-government demonstrators, wounding 130. Hundreds, perhaps as many as 600, demonstrators are detained by FDP. FDP fire tear gas into National Sanctuary. Reports of widespread property damage aimed at Crusade/opposition figures.

July 11: Uneasy calm. Reports of human rights violations.

July 14: All prisoners still under detention for participating in July 10 demonstration released.

July 15: Church issues communique condemning human rights abuses.

July 16: Limited skirmishes between students and riot police; opposition car caravans continue.

July 18: Opposition mass fails to attract crowd; FDP deployed.

July 20-24: Lull marked by visit of human rights specialist from Department, extensive FDP intimidation tactics against opposition.

July 26: Opposition youth shot and killed by FDP in resort town of El Valle; first death resulting from unrest. FDP close opposition press.

July 27: Crusade-sponsored strike begins. FDP arrest Diaz Herrera and 45 supporters. Pro-govt car caravans replace opposition caravans on Calle 50.

July 28: Successful strike concludes. Pro-govt car caravans continue on Calle 50.

July 31: Government-sponsored rally draws 30,000.

August 4: Government raids Civilian Crusade headquarters, seizes "seditious" documents.

August 6: Crusade-sponsored rally attracts 30,000 spirited supporters.

August 17: Crusade-sponsored general strike and rally fails to attract the broad support of previous efforts.

During the course of the Embassy briefing, Congressman Lagomarsino gave to Ambassador Davis a copy of a letter to President Reagan which he and Congressman Jim Leach had written to express concern about the recent events in Panama. A copy of that letter follows:

Committee on Foreign Affairs,
August 7, 1987.

Hon. Ronald Reagan,
President, The White House, Washington, DC.

Dear Mr. President: We view with grave concern the political unrest in Panama and the threat it poses for U.S. security interests in that nation and in the region.

As you know, we have strongly supported efforts to promote and strengthen the institutions of democracy in the Western Hemisphere. The success stories over the past few years have been impressive. The failure in Panama, however, to advance the cause of democracy represents a serious setback to the objectives we jointly pursue. We believe that it is imperative that the United States demonstrates its resolve in opposing further delays in Panama in providing for an orderly, peaceful transition to democracy.

We applaud recent U.S. actions to distance ourselves from the repressive actions of elements of the Panamanian Defense Forces and approve of the decision to suspend all U.S. assistance to Panama following the unwarranted actions by the Government of Panama during the attack on the U.S. Embassy in Panama City. We urge you to continue to suspend U.S. aid and to restrict U.S. contacts with the Panamanian Defense Forces until such time as concrete steps are taken to establish the framework for the prompt and orderly transition to democracy in Panama.

We also urge you to consider a temporary halt in imports of Panamanian sugar if progress toward democracy is not apparent in the near future. Such action might have the effect of persuading prominent Panamanian officials to push more quickly for democratic reforms.

We believe there is a strong, bipartisan consensus in the Congress for resolute U.S. action to promote democracy in Panama. For U.S. security interests in the Panama Canal and in Central America and the Caribbean, a viable, civilian, constitutional government in Panama is essential. We urge your continued attention to this vital issue and pledge our continued support.

Sincerely,

Robert J. Lagomarsino,
Jim Leach,
Members of Congress.

The delegation was told that the presidents of the Chambers of Commerce in Panama are considered to be national assets. Because Panama's existence depends so heavily on economic and financial stability, the political unrest can have a seriously destabilizing effect on the economy, which would in turn further affect the political situation.

ECONOMIC SITUATION IN PANAMA

For the past 70 years, the demand for goods and service generated by the Panama Canal, and by the U.S. military forces and dependents involved in its defense and operation, has been a major factor in the country's economic development. Panama's economy grew rapidly in the 1960s and early 1970s due, in large part, to excessive foreign borrowing. When the canal treaties were signed in 1977, the economy was given another boost and annual real growth continued at 5% until 1982. As with most of the rest of Latin America, 1983 and 1984 saw a recession. The economy bounced back in

1985 and was predicted to continue doing well until the political crisis began in June.

Since 1968, Panama has developed into a major international financial center, capitalizing on its central location, good communication and transportation facilities, Spanish-speaking environment combined with widespread English proficiency, well-educated labor force, a relative absence of work stoppages and the uncontrolled use of the U.S. dollar as the unit of currency. Including off shore deposits, the number of banks in Panama exceeds 120 with assets of about $42 billion. The large international banking community improves the ability of public and private sectors to borrow on relatively good terms. The banking sector is the country's largest employer moving ahead of the Panamanian and U.S. governments.

Since the crisis began, however, the financial picture in Panama has not been particularly positive. Nearly one-half billion in local deposits have left Panama since the beginning of June. Net liquidity for the banks has now dropped to a substantial negative after having previously been a healthy surplus. The First Chicago Bank has left Panama, and the Panamanian Government is feeling strong fiscal pressures in trying to reach its government payroll. The government does not have a monetary policy; it has no bonds; and it has lost its ability to finance its budget. It has an external debt of $3.6 billion, one of the highest ratios of per capita debt in the region. There is great potential that Panama may end up defaulting on its near term interest payments on its debt.

U.S. Government canal area expenditures continue to figure heavily in the Panamanian economy. The estimated contribution in 1986 was $532 million. Revenues from the canal itself have risen slowly, with about $77 million in treaty-related payments going to Panama in 1986. Payments to Panama from the Operation of the canal have remained a point of contention between the Panamanians and the United States, with the Panamanians claiming more of the profits should be given to Panama and the United States stating that adequate funding must be set aside each year for the proper maintenance and upkeep of the canal. Panama, the United States, and Japan are presently considering the feasibility of canal alternatives, which might include expansion of the existing canal's capacity or even the eventual construction of a new canal. There has been some talk that the Panamanians may turn to the Japanese for assistance in operating the Canal once the United States turns over full operation of the Canal on December 31, 1999.

THE PANAMA CANAL

The political unrest in Panama has provoked a number of charges from General Noriega against the United States, among them the charge that the United States is promoting the unrest in order to avoid having to turn over the Panama Canal to Panama at the end of 1999. Both the Administration and key Congressional leaders have rejected that allegation, but political instability in Panama certainly raises concern among Americans about the future of the Canal.

The delegation met with Dennis McAuliffe, Administrator of the Panama Canal Commission, and discussed with him the operation of the Canal and the prospects for the future.

The treaties that were signed in 1977 between the United States and Panama governing the Panama Canal addressed the following issues:

(1) A basic treaty governing the operation and defense of the canal, extending through December 31, 1999 (Panama Canal Treaty);

(2) A treaty guaranteeing the permanent neutrality of the canal (Treaty on the Permanent Neutrality and Operation of the Panama Canal);

(3) Separate agreements for implementing the provisions of the Panama Canal Treaty dealing with the operation and defense of the canal;

(4) Related agreements dealing with other U.S. activities in the Republic of Panama.

In negotiating these treaties, the United States sought to protect its strong national interest in having the canal continue to be efficiently operated, secure, neutral and open to American commerce and military vessels and to vessels of other nations on a nondiscriminatory basis. The treaties were negotiated with Panama in the belief that the best way to ensure Panamanian cooperation with these objectives was to make Panama feel it had a concrete stake in the operation and defense of the canal. By responding to Panamanian aspirations for eventual control of the waterway and adjacent Canal Zone, the United States helped to create a more satisfactory long-term environment for the canal's continuing successful operation and defense.

TREATY PROVISIONS

Canal Operations.—The United States is responsible for operation of the canal until expiration of the Panama Canal Treaty on December 31, 1999. Panama grants to the U.S. the rights to use land and water areas and facilities necessary for the management, operation, maintenance and defense of the canal during this period. The Panama Canal Commission, a U.S. Government agency, manages, operates and maintains the canal under the supervision of a board consisting of five Americans (appointed by the President of the United States) and four Panamanians (nominated by the Government of Panama). Until 1990, the Administrator (Mr. McAuliffe), who is the Commission's senior operating official, is an American, and the Deputy Administrator is a Panamanian. Those positions will be reversed in 1990 and the treaty also requires that Panamanians participate increasingly at all levels in the canal's operation in preparation for Panama's assumption of responsibility in 1999.

Jurisdiction.-Panama assumed general territorial jurisdiction over the former Canal Zone when the treaties entered into force on October 1, 1979. Nongovernmental businesses and nonprofit activities located in the former Canal Zone were permitted to continue operating on the same terms as apply elsewhere in Panama.

Defense and National Security.—The United States has primary responsibility for the canal's defense during the Panama Canal Treaty's term. Allied Panamanian forces participate with U.S. forces in the protection and defense of the canal. During the course of the recent political unrest, the United States has emphasized the need for the Panama Defense Force to return to its primary role as a defense force and remove itself from politics. U.S. rights to station forces and maintain bases in Panama are established in the canal treaty and terminate with that treaty in 1999. New base rights agreements will have to be negotiated with Panama in order to maintain bases in Panama after the year 2000. U.S. and Panamanian warships are entitled to expeditious passage through the canal at all times. No nation's ships are prohibited from using the Panama Canal.

Economic Provisions.—The canal treaty's financial provisions involve no appropriation of U.S. taxpayer funds for canal operation, including payments to Panama. By law, the Panama Canal Commission must be self-sustaining, and the amounts appropriated by Congress which it spends may not exceed its revenues from canal tolls and other sources. During the treaty's life, Panama receives the following payments exclusively from canal revenues:

(1) A fixed annual payment of $10 million;

(2) An annual payment of $10 million, which is adjustable, to defray the cost of police, fire, road maintenance and other services provided to canal operating areas by the Panamanian Government;

(3) An annual payment of $.31 per Panama Canal ton transiting the canal (in FY 1986, this payment was almost $57 million); and,

(4) A contingency payment of up to $10 million in the event that canal operating revenues in a given year exceed commission expenditures that year. As was mentioned earlier, Panama claims that more canal profits should be turned over to Panama, while the U.S. insists excess canal revenues are necessary for capital improvements and maintenance.

In a note separate from the treaties, the United States agreed to cooperate with Panama in programs designed to give Panama economic and military assistance. For this purpose, the U.S. pledged its best efforts to arrange for an economic program of loans, loan guarantees, and credits to be implemented over the years following ratification of the treaties under existing programs and subject to the availability of funds. This economic cooperation program included approximately $200 million in Export-Import Bank support for U.S. exports to Panama, $75 million in AID housing investment guarantees, and $20 million in Overseas Private Investment Corporation loan guarantees. All of these cooperative activities have been offered and, where accepted, are being implemented. The U.S. also undertook to offer some $50 million in U.S. Government-guaranteed foreign military sales (FMS) credits over a period of 10 years to improve Panama's ability to assist in the canal's defense. In the years since the treaties entered into force, the U.S. has offered about $19 million in such FMS credits, as well as about $40 million in grant military assistance and $3.7 million in military training.

U.S. treaty obligations and policy are to train Panamanians in all areas of canal operation in anticipation of Panama's assumption of full responsibility of the canal in 1999. Currently, about 80% of the Panama Canal workforce is Panamanian.

Negotiations and Ratification of the Treaties.—Among the issues discussed during the course of negotiations on the canal treaties was the question of transition to democracy. While not a formal agreement as a result of the negotiations, an understanding was reached that Panama would move toward fully democratic government, with the military withdrawing from the political arena. The current political crisis has brought forward once again the issue of transition to democracy in Panama and the question of how that will affect U.S. interests regarding the future of the canal.

At the time of Senate ratification of the canal treaties, Senator DeConcini of Arizona offered a reservation providing for the United States to use military force in Panama to reopen the canal if it were to be closed for any reason. The original DeConcini reservation provoked considerable controversy between the United States and Panama over whether this allowed U.S. intervention once again in Panama. A compromise was worked out and the final language agreed to was as follows:

> "Pursuant to its adherence to the principle of non-intervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure and accessible, pursuant to the provisions of this Treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity."

Although the delegation's primary mission was to carry a message to Chile in support of the transition to democracy in that country, the Members returned to the United States with even greater concern for the current situation in Panama. The Members of codel Lagomarsino believe that political instability and lack of movement toward democracy in Panama have the potential for an even greater impact on U.S. national security interests than the situation in Chile.

The resolution introduced by my colleague from California, Mr. LEVINE, reflects the concerns of many of us in this House. I share the concerns of the sponsor about the allegations made against some members of the Panama defense forces. However, I am also concerned that some of the wording in the resolution may prove to be counterproductive and may delay movement toward democracy rather than promote.

I would also like to point out that the resolution recommends the President cease all economic and military assistance to Panama and prohibit sugar imports from Panama. The Members should understand that the administration took the initiative itself in suspending aid to Panama following the unwarranted action by the Government of Panama in facilitating a destructive demonstration against the U.S. Embassy building in Panama City. Also, on August 7, Congressman JIM LEACH and I wrote President Reagan applauding his action in suspending United States aid to Panama and urging him to halt imports of Panamanian sugar.

Because the situation in Panama is so critical to United States security interests, it is imperative that we be extremely sensitive to the effects our actions may have. In the case of this resolution, I believe opposing the resolution would send a worse signal than supporting it. I also believe it would have been more effective if we had had the opportunity to consider the language of this specific resolution in subcommittee before acting on it now on the floor. However, we are beyond that point now, and we must take a stand on preserving our interests in Panama and on the importance of promoting a prompt return to democracy in that nation. For that reason, I am supporting this resolution and urge my colleagues to support it as well.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 197, United States policy toward Panama.

The Committee on Foreign Affairs has been following with deep concern developments in Panama. In July the committee considered a resolution regarding the lack of human rights and political democracy, but did not bring the resolution before the full House because of suggestions from various quarters that, given a little more time, the powers-that-be in Panama would commence a return to real democracy.

That has not happened, and it is now time for the House to state its view loud and clear that the continued deprivation of basic human liberties and democracy by the Government of Panama will affect United States policy and our relations with that government.

Panama is an old and trusted friend, and it pains us to see its people deprived of their natural rights of freedom of expression and freedom to chose their own government.

I commend the gentleman from California [Mr. LEVINE] for introducing what I consider to be a tempered and appropriate response to the deplorable situation in Panama.

I urge support for the resolution.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 197, legislation expressing a sense of Congress that the United States should cease all economic and military assistance to Panama except for assistance required for immediate humanitarian concern. I believe that recent events in this country justify such an action.

It has become apparent that the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian military. A broad coalition of church, labor, business, civic, and political groups have called for investigations into the allegations of serious violations of laws by certain officials of the government and military in Panama. Many have demanded that General Noriega and others involved resign their positions until an investigation has been completed.

It is indeed tragic that the Panamanian people are denied the basic rights guaranteed by their constitution. Arrests without due process, censorship and even closure of the independent media and use of excessive force by the Panamanian Defense Forces have become common occurences. Panama's problems can only be resolved through a return to the rule of law.

When basic human rights are denied to a people it is inappropriate for the United States to offer military or economic aid to that people's government. It is my hope that when this message is received in Panama, some change will be forthcoming. Accordingly, I urge my colleagues on both sides of the aisle to support this timely and sensible resolution.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEVINE of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEVINE] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 197 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVINE of California. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on H. Con. Res. 197, the concurrent resolution, just agreed to.

The SPEAKER pro tempore. (Mr. DE LA GARZA). Is there objection to the request of the gentleman from California?

There was no objection.

TRANSFER OF SUBMARINE U.S.S. "TURBOT," TO DADE COUNTY, FL

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3283) to allow the obsolete submarine U.S.S. *Turbot* to be transferred to Dade County, Florida, before the expiration of the otherwise applicable 60-day congressional review period.

The Clerk read as follows:

H.R. 3283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer, under section 7308(a) of such title, by the Secretary of the Navy of the obsolete submarine United States ship Turbot to Dade County, Florida.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. BENNETT] will be recognized for 20 minutes and the gentleman from California [Mr. HUNTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Armed Services recommends approval of the bill H.R. 3283. H.R. 3283 would waive the normal 60-day congressional notification-and-wait period for the transfer of the obsolete U.S. Navy vessel, *Turbot*, to Dade County, FL.

The *Turbot*, is a partially-completed submarine of World War II vintage that was never commissioned as a Navy ship. At one time *Turbot*, was used in experiments at the David W. Taylor Naval Ship Research and Development Center in Annapolis, MD, where she is still located. She has since been declared to be excess property by the Navy and was about to be sold for scrap when Dade County, FL, requested her use.

Dade County would use the hulk to create an artificial reef in its coastal waters. The Navy is agreeable to the transfer under the usual conditions that Dade County pay all associated costs and assume liability for the transfer. The Dade County Board of County Commissioners approved a resolution on September 1, 1987, agreeing to the conditions and accepting the donation of the ship by the Navy. On October 15, the Secretary of the Navy notified the Congress of his intent to transfer the hulk, and the 60-day clock specified in section 7308 of title 10 has started.

We understand that Dade County would like to move the hulk before the onset of colder weather makes its transfer more difficult, hence the request for the waiver. A similar bill has been introduced in the Senate.

Mr. Speaker, because the Navy is amendable to this transfer and the hulk has no military value, I strongly urge the adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

1340

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to associate myself with the remarks of the distinguished chairman of the Seapower Subcommittee.

Current law provides that the Secretary of the Navy may transfer by gift or otherwise, on terms prescribed by him, any obsolete or condemned vessel of the Navy to any State, municipal corporation, or political subdivision thereof. Each agreement for the transfer of a vessel under this law shall include a stipulation that the transferee will maintain the vessel in a condition satisfactory to the Navy and that no expense to the United States will result from the transfer. Current law also provided that no transfer be made until the Congress is notified of the proposal, and a period of 60 days of continuous session of Congress passes.

In this instance, Mr. Speaker, Dade County has agreed to take delivery of the obsolete naval vessel, *Turbot*, "as is, where is" and to pay all charged incident to the transfer. They have further agreed not to use the hulk for anything other than the creation of an artificial reef, and to accept all liabilities associated with the transfer.

Waiver of the required 60-day notification-and-wait period is entirely justified in this case. The Secretary of the Navy has notified the Congress of his intent to transfer the hulk. The Armed Services Committee has satisfied itself that the hulk in question has no remaining useful military value. Hence, waiver of the waiting period is fully in keeping with the spirit and intent of the current law.

Mr. Speaker, I urge the adoption of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BENNETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from Florida [Mr. BENNETT] that the House suspend the rules and pass the bill, H.R. 3283.

The question was taken; and (two-thirds having voted in favor thereof) there rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROHIBITING DOD FROM ENTERING INTO CERTAIN OVERSEAS CONTRACTS HAVING TO DO WITH SEVERANCE PAY

Mr. DANIEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2873) to prohibit the Secretary of Defense or Secretary of a military department to enter into any overseas contract that allows for the payment of severance pay greater than the typical rate of severance pay in the United States or that requires the Government to reimburse a contractor for overseas banking services for bad debt expenses.

The Clerk read as follows:

H.R. 2873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON ENTERING INTO OVERSEAS CONTRACTS CONTAINING CERTAIN SEVERANCE PAY PROVISION.

(a) PROHIBITION.—The Secretary of Defense or Secretary of a military department may not enter into a contract to be performed outside the United States if such contract contains a severance pay provision described in subsection (b).

(b) SEVERANCE PAY PROVISION.—The severance pay provision referred to in subsection (a) is any provision which allows for the payment of severance pay to an employee of the contractor in an amount in excess of the prevailing practice in the United States with respect to severance pay for similar employees in the industry involved, as determined by the Secretary under regulations.

SEC. 2. PROHIBITION ON ENTERING INTO OVERSEAS BANKING CONTRACTS CONTAINING CERTAIN ALLOWABLE COST PROVISION.

(a) PROHIBITION.—The Secretary of Defense or Secretary of a military department may not enter into a contract to be performed outside the United States for the provision of banking services if such contract contains an allowable cost provision described in subsection (b).

(b) ALLOWABLE COST PROVISION.—The allowable cost provision referred to in subsection (a) is any provision which allows the contractor to be reimbursed by the Secretary for—

(1) any losses arising from uncollectible loans made by the contractor to authorized banking customers under the contract and losses arising from uncollectible checks cashed by the contractor for such banking customers; and

(2) any reasonable costs incurred by the contractor in the collection of delinquent loans made by the contractor to authorized banking customers under the contract and dishonored checks cashed by the contractor for such banking customers.

SEC. 3. EFFECTIVE DATE.

Sections 1 and 2 apply with respect to any contract awarded pursuant to a solicitation issued after the end of the 180-day period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Virginia [Mr. DANIEL] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KASICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill now under consideration, H.R. 2873, would prohibit Department of Defense from entering into two kinds of overseas contracts. The first would be a contract that allows for the payment of severance pay that exceeds what is paid in the United States. The second would be any overseas contract that requires the Government to reimburse a contractor for overseas banking services for bad debt expenses.

This bill is the direct result of the Readiness Subcommittee exercising its oversight responsibility.

On June 23, 1987, the Readiness Subcommittee, which I chair, held a hearing to receive testimony concerning the Army's request to transfer $12.3 million to cover the additional costs associated with the termination liability involving an overseas banking contract in Japan. Testimony by witnesses from the office of the Secretary of Defense and the Army resulted in a number of eye-opening revelations about the Department of Defense's Overseas Banking Program.

First of all, the subcommittee learned that from the time that the Department of Defense assumed responsibility for the Military Banking Program in 1978, American Express Bank and Chase Manhattan Bank had a virtual monopoly of contracts for banking services in Japan. However, when the contract was recompeted in 1986 it was awarded to the National Bank of Fort Sam Houston, primarily because its bid called for the exclusive reliance upon less expensive United States dependent hire and the termination of Japanese employees previously working for the American Express and Chase Manhattan Banks. The termination of these 141 Japanese employees involved the payment of more than $28 million which equates to $200,000 per employee! This astounding level of severance pay, the subcommittee was told, stemmed from the Japanese custom of lifetime employment and was based upon a formula determined by a Japanese labor court in a recent case involving the civilian operations of the American Express Bank.

Equally disturbing is the magnitude of the severance pay and how it was derived, however, was the fact that it was an allowable cost under the contract and the Department of Defense had no choice but to reimburse the banks for these costs.

Testimony also revealed a second major problem with current oveseas banking contracts. That being that the Government had to reimburse contractors for bad debt expenses. Specifically, the Government was required to cover any uncollectible loan or checks and reasonable costs incurred by the contractor in the collection of delinquent loans or dishonored checks. In short, under the current overseas banking contracts, the taxpayer assumes all the risk for bad debt expenses and the contractor has no incentive to curtail these costs.

At a time when this Nation is facing severe fiscal constraints and defense dollars are hard to come by, I am deeply disturbed about these excessive costs involving overseas contracts. I see no reason why severance pay for foreign contract employees should not be the same as that received by U.S. employees. I see no reason why contractors providing overseas banking services should not assume a greater risk for bad debt expenses.

H.R. 2873 addresses these problems and I congratulate the gentleman from Ohio for introducing this legislation and pushing for its early consideration. It was unanimously approved by the Readiness Subcommittee and the full Armed Services Committee and I urge its favorable consideration by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I could briefly explain how we found out about this and how it came about, I think the Members would find it very interesting.

This could almost be entered into a Ripley's "Believe It or Not," when you get right down to it. The chairman of the Subcommitte on Readiness held a hearing on reprogrammings by the Army to help pay off part of a contract to former employees of a United States bank in Japan. What happened essentially is this: We entered into banking services back in the 1940's to provide services to United States servicemen in Japan. Under the deal, the situation was that any Japanese employee who went to work for a United States company would be treated as though the United States company was a Japanese company and we assumed the responsibility for those Japanese employees for their lifetime.

What happened in the 1970's was that American Express Bank signed a contract to provide banking services. They had employed 141 Japanese employees. American Express Bank lost the contract last year and they were forced to terminate these 141 Japanese employees. The Japanese employees who were tellers in the banks, were being paid somewhere between $60,000 and $70,000 a person to be a teller in a United States bank in Japan.

Mr. Speaker, all the tellers that I know of in this country, if they could figure out a way to get $60,000 or $70,000 a year, believe me we would have such a rush on those jobs it would be unbelievable. The simple fact of the matter is Americans do not make $60,000 to $70,000 as tellers in a bank anymore than the people who are here doing their job in the House who are listening to this debate do not make $60,000 to $70,000 a year. But that is what we were paying these Japanese employees.

When they lost their jobs under the original contract there was a severance pay provision established so not only were they getting paid $60,000 to $70,000 a year, as a result of losing their jobs they are going to be getting paid an average of $200,000 a piece in severance pay.

Mr. Speaker, I want everybody to understand, $200,000 is exactly correct. It is not $20,000, it is not $2,000, it is $200,000 a piece in severance pay to these 141 Japanese ex-employees.

There is not a severance pay deal that I can think of that exists in this country that has these kinds of provisions.

Additionally, under the agreement that we had, if an American soldier would write a bad check or default on a bad loan, the American taxpayers would pay up. If a serviceman, for example, cashed a bad check and the bank does not collect, we pick up the bill.

Now we heard this testimony and we also found out later that in fact a suggestion was made to the Pentagon that we allow these bank employees to go out of work by attrition, that they be allowed to stay on, and we could avoid paying this $200,000 average severance to these Japanese employees. For some reason that was rejected by the Pentagon.

So what we had was a situation that allowed the severance pay to be paid and also being able to pick up bad checks and bad loans for servicemen.

The gentleman from Virginia [Mr. DANIEL], the chairman of the Readiness Subcommittee, held the hearing and we got all this information and we decided the best way to go about solving this problem was, No. 1, to prevent the American Government from ever being put in a position of being forced to pay severance pay in excess of traditional customs in our country. Never again will we have a situation where a foreign employee is going to get paid an average of $200,000. They will get paid no more than what we pay an American employee now.

So, for example, taking an employee at a bank, if that employee gets terminated and the severance pay is a total of $2,000, that is the maximum we would pay to any other employee around the world who is working for the Department of Defense.

Additionally, we want to end the practice of allowing U.S. servicemen to receive a loan and not pay it back, or to cash a bad check and let the taxpayers pick it up. We think the burden ought to be on the financial institution to make sure that these loans are repaid and that the checks that are cashed are properly handled.

□ 1350

What we also want and were not able to write in this legislation, but as we move through the process we hope we will, we want the Armed Forces to aggressively pursue these servicemen who do not want to live up to their financial responsibility.

So the bill is simple. I think it addresses an outrageous example of waste in the Pentagon, and I hope that this is going to prevent us from ever getting into this kind of a situation again.

I salute the chairman of the Readiness Subcommittee who held the hearing and who was as incensed about this as I am and provided the leadership to the committee to express this thing in the right way, and also the Armed Services Committee for passing it unanimously.

Mr. Speaker, I ask approval of the legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DANIEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from Virginia [Mr. DANIEL] that the House suspend the rules and pass the bill, H.R. 2873.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2873, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONSULTATION ON THE REFUGEE ADMISSIONS PROGRAM FOR FISCAL YEAR 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, the Refugee Act of 1980 (Public Law 96-212) requires the President to consult with Congress prior to the beginning of each fiscal year with regard to his proposals for refugee admissions for the coming year.

On September 9, 1987, U.S. Refugee Coordinator Jonathan Moore transmitted to me the President's proposal for fiscal year 1988. (See annex 1.)

Comparative tables of the U.S. refugee admission allocations for fiscal years 1987 and 1988, as well as relevant budget information on refugee resettlement and assistance were supplied to the members of the Committee on the Judiciary. (See annex 2.)

On September 23, 1987, consistent with the two-stage consultation format used in prior years, a private meeting was held between the Acting Secretary of State, Mr. John C. Whitehead, and the four consultative members of the Committee on the Judiciary, myself, the ranking minority member of the full committee, and the chairman and ranking member of the Subcommittee on Immigration, Refugees and International Law.

On the same day, the committee held a public hearing to comply with the statutory requirement to do so. Therefore, immediately following the private meeting, the committee received testimony from: Ambassador Jonathan Moore, U.S. Coordinator for Refugee Affairs; Alan C. Nelson, Commissioner, Immigration and Naturalization Service, Department of Justice; Robert Funseth, Senior Deputy Director of the Bureau of Refugee Programs, Department of State; and Billy Gee, Director, Office of Refugee Resettlement, Department of Health and Human Services.

The hearing record will be issued as a committee document in the near future.

Upon completion of the consultation process two letters were sent to the President expressing the views of the consultative members. (See annex 3.)

On October 5, 1987, the President issued Presidential determination 88-01 establishing the Fiscal Year 1988 refugee admissions numbers and authorization of the in-country refugee status. This Presidential determination was transmitted to me on October 14, 1987, by the U.S. Coordinator for Refugees, Ambassador Jonathan Moore. (See annex 4.)

ANNEX 1

U.S. COORDINATOR
FOR REFUGEE AFFAIRS,
Washington, DC, September 9, 1987.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: In accordance with the Refugee Act of 1980, I am pleased to transmit the President's recommendation for the Fiscal Year 1988 refugee admissions ceiling in preparation for our annual consultations with the Congress.

The President's final determination on refugee admissions levels and regional allocations will be made only after we have carefully considered Congressional and other views expressed during the consultation process.

Sincerely,

JONATHAN MOORE.

THE WHITE HOUSE,
Washington, September 5, 1987.

Memorandum for: The Honorable George P. Shultz, The Secretary of State; The Honorable Johathan Moore, United States Coordinator for Refugee Affairs.

Subject: FY 1988 Refugee Admissions Consulations.

In accordance with the Refugee Act of 1980, you are authorized to consult with the appropriate committees of the Congress on the following points:

The admission of up to 72,500 refugees to the United States during FY 1988. Of this ceiling, 68,500 would be allocated by specific region as follows: 3,000 for Africa, 29,500 for East Asia/First Asylum, 8,500 for East Asia/Orderly Departure Program, 15,000 for Eastern Europe and the Soviet Union, 3,500 for Latin America and the Caribbean, and 9,000 for Near East and South Asia. The remaining 4,000 admissions numbers would be held as an unallocated reserve for refugee admissions needs contingent upon the availability of private sector funding.

An additional 5,000 refugee admissions numbers which shall be made available for the adjustment to permanent resident status of aliens who have been granted asylum in the United States, as this is justified by humanitarian concerns or is otherwise in the national interest.

Further, I propose of specify that special circumstances exist such that, for the purpose of admission under the limits established above, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam and Laos with past or present ties to the United States, persons who have been or currently are in reeducation camps in Vietnam or seminar camps in Laos, and Amerasian children in Vietnam, and their accompanying family members; and

Present and former political prisoners, and persons in imminent danger of loss of life, and their accompanying family members, in countries of Latin America and the Caribbean.

RONALD REAGAN.

ANNEX 2

COMPARATIVE U.S. REFUGEE ADMISSION ALLOCATIONS FOR FISCAL YEAR 1987 AND FISCAL YEAR 1988

Area of origin	Proposed admission, fiscal year 1988		Estimated admissions, fiscal year 1987	
		Consultation levels	Reallocated levels	Estimated arrivals in United States
Africa	3,000	3,500	2,000	2,000
East Asia:				
First asylum	29,500	32,000	32,000	30,800
Orderly Departure Program	8,500	8,500	8,500	8,500
Eastern Europe and Soviet Union	15,000	10,000	12,300	12,300
Latin America and the Caribbean	3,500	4,000	1,000	400
Near East and South Asia	9,000	8,000	10,200	10,000
Subtotal	68,500	66,000	66,000	64,000
Unallocated reserve	4,000	4,000	4,000	0
Total	72,500	70,000	70,000	64,000

AFRICA

The level of 3,000 refugees is a slight reduction from the 3,500 ceiling set by the Presidential Determination (PD) for FY 1987, but well above the estimated 2,000 actual arrivals for FY 1987.

Refugees from Ethiopia located in first asylum countries Sudan and Europe will be resettled.

EAST ASIA

The FY 1988 ceiling for East Asian refugees is 29,500, a reduction of 2,500 from FY 1987. This continues the decrease since 1979 for this program. The level keeps intact the encouragement for countries to continue humane first asylum policies.

The Orderly Departure Program retains the same 8,500 ceiling allocated in FY 1987.

EASTERN EUROPE AND SOVIET UNION

The FY 1988 ceiling for refugees from the Soviet Union and Eastern European countries is 15,000, up 2,700 from the revised ceiling for FY 1987.

The more liberal immigration policies adopted by the Soviet Union in 1987 resulted in an outflow of nearly 1,000 per month. This is expected to continue through FY 1988.

LATIN AMERICA AND THE CARIBBEAN

The proposed ceiling for this region for FY 1988 is 3,500. The FY 1987 ceiling was reduced to 1,000 because of the suspension of the agreement with the Cuban government. The FY 1988 ceiling will permit entry of current and former political prisoners from Cuba and elsewhere. A new program was also introduced during the current fiscal year for non-Cuban refugees. Prescreening indicated there is a pool of several hundred who may be eligible for this program.

NORTH EAST AND SOUTH ASIA

The proposed ceiling for this region in FY 1988 is 9,000, an increase of 1,000 from the original FY 1987 ceiling. The FY 1988 ceiling will permit processing of an appropriate number of Iranian, Afghan and other regional refugee applicants who have families here in the U.S. or are members of persecuted religious minorities.

UNALLOCATED RESERVE

The FY 1988 proposal continues to include an unfunded, unallocated reserve of 4,000, the use of which is to be contingent upon the development of a private sector program.

It should be noted that there was a similar reserve in FY 1987 which was not used.

Migration and Refugee Assistance, FY 1988 Justification of Program Activities

[Refugee admissions; in thousands of dollars]

1986 actual	$105,342
1987 estimate	108,731
1988 request	94,550
Increase/decrease	−14,181

The Department of State is requesting $94,550,000 for its Admissions Program for FY 1988, a decrease of $14,181,000 from the FY 1987 estimate. This level of funding will support all FY 1988 activities related to the admission of approximately 55,000 refugees to the United States.

The President, as required by the Refugee Act of 1980, will consult with Congress and set the actual admissions ceiling (also referred to as the consultation level) shortly before FY 1988 begins. The specific regional ceilings established in the consultations process will be based on an assessment of the worldwide refugee situation at that time. For planning and budget request purposes, however, the Department has conducted a thorough analysis of current worldwide refugee situations and expected trends. Our funding request is based on regional assumptions outlined below. The table compares the 1988 estimates with FY 1986 actual admissions and the FY 1987 estimates.

REFUGEE ADMISSION LEVELS

	Fiscal year		
	1986 actual	1987 estimate	1988 estimate
East Asia, First asylum	36,954	32,000	270,000
East Asia, ODP	8,500	8,500	8,500
Eastern Europe/USSR	9,500	10,000	9,000
Near East/South Asia	5,998	8,000	6,000
Western Hemisphere	173	4,000	1,500
Africa	1,315	3,500	3,000
Total	62,440	[1] 66,000	[2] 55,000

[1] Consultations ceiling of 70,000 includes an additional 4,000 numbers, unallocated by region, as an unfunded contingency.

[2] Levels are approximate.

MIGRATION AND REFUGEE ASSISTANCE, FY 1988 SUMMARY BY PROGRAM

[In thousands of dollars]

	1986 actual	1987 estimate	1988 request	Increase/Decrease
Refugee admissions	105,342	108,731	94,550	−14,181
Refugee assistance:				
East Asia	32,932	29,350	28,000	−1,350
Africa	56,015	60,475	60,000	−475
Near East	85,000	87,500	89,200	1,700
Latin America	15,770	17,400	15,500	−1,900
Subtotal	189,717	194,725	192,700	−2,025
Other assistance:				
Refugees to Israel	11,962	25,000	10,000	−15,000
Other International Organizations	9,500	9,900	9,200	−700
Subtotal	21,462	34,900	19,200	−15,700
Administration	7,720	8,500	8,000	−500
Total	324,241	346,856	314,450	−32,406

Annex 3

COMMITTEE ON THE JUDICIARY,
Washington, DC, September 24, 1987.

Hon. RONALD REAGAN,
The President,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The Committee on the Judiciary of the House of Representatives has completed the consultation process required by the Refugee Act of 1980, with regard to your proposed refugee admissions and allocations for Fiscal Year 1988.

We interpose no objection to the numbers and allocations as proposed.

We wish to confirm the commitment made at the Full Committee hearing on Wednesday, September 23, 1987, that there will be advance notification to the Committee of any plans to utilize the 4000 unfunded numbers included in the proposal. Additionally, should more numbers be required to accomodate the admission of Soviet Jews beyond those specified in the proposal, we are pleased by the assurances given by Ambassador Moore, U.S. Coordinator for Refugee Affairs, that existing numbers within the ceilings will be reallocated or additional numbers under the emergency provisions of the Refugee Act will be immediately requested.

Concerns were expressed during the consultation that adequate funds had not been requested for the level of refugee admissions which have been proposed. We, therefore, acknowledge the further assurances provided by Deputy Secretary of State, John Whitehead and Ambassador Moore that supplemental funding would be requested to make up for this shortfall.

As in the past, we reiterate that the allocated numbers are to be considered as ceilings rather than quotas.

Also, the Committee would appreciate continuing to receive monthly reports on the progress of the FY 1988 refugee admissions program.

We are grateful to the Secretary of State, the Deputy Secretary of State, Ambassador Jonathan Moore, and the representative of the Departments of State, Justice, and Health and Human Services for having given the Committee their cooperation and assistance in carrying out this consultation.

We look forward to working with you and your representatives in the successful implementation of the refugee program.

Sincerely,

Hamilton Fish, Jr., Ranking Minority Member; Patrick L. Swindall, Ranking Minority Member, Subcommittee on Immigration, Refugees, and International Law; Peter W. Rodino, Jr., Chairman.

COMMITTEE ON THE JUDICIARY,
Washington, DC, September 28, 1987.

Hon. RONALD REAGAN,
The President,
The White House, Washington, DC.

DEAR MR. PRESIDENT: On September 23, 1987, The Committee on the Judiciary of the House of Representatives completed its consultation on your FY 1988 proposed Refugee Admissions Program. Because certain issues arose during these consultations, I would like to address them now.

Of primary concern to me is the 68,500 proposed level of refugee admissions. This is an increase of 2,500 over last year's program and 4,500 more than the estimated arrivals for FY 1987. More significantly, the proposal is considerably over the number contained in the budget request for FY 1988, which provided funds for the resettlement of 55,000 refugees.

Having requested funding for the admission of 55,000 refugees, and then having decided that a more appropriate ceiling would be 68,500, the Administration now finds itself in the difficult position of needing an additional $23 million to compensate for the 13,500 differential. I find this extremely disturbing and must conclude that the original budget submission was designed not so much to reflect the admissions numbers actually contemplated, but to suggest a winding down of the overall numbers and to promote the perception that the refugee program, like most other federal programs, would be subjected to the fiscal restraints imposed by our large federal deficit. Indeed, over the years there seems to be a pattern of submitting unrealistically low budget requests for this program. I would hope this practice would cease, so that the Congress would not be put in the awkward position of having to consider requests for additional funding outside the normal budgeting and appropriations process.

Also, I still am unclear on the purpose of the inclusion, once again, of 4,000 unfunded, unallocated numbers and feel strongly that this allocation should be deleted. Under the Refugee Act, a primary purpose of the consultation process is to provide Congress with "a description of the number and allocation of the refugees to be admitted and an analysis of conditions within the countries from which they came." (8 U.S.C. 1157(e)(2)). Clearly, an unallocated reserve is fundamentally at odds with this statutory mandate and, to the extent utilized, prevents Congress from fulfilling its consultative obligations.

Once again, I wish to comment that the FY 1988 refugee program is heavily weighted in favor of Indo-Chinese refugees. With thousands of former refugees from that area now resettled in the United States and eligible to petition for their families under the regular immigration preference system, I believe that the Secretary of State and the Attorney General should make a serious effort to convert much of this refugee program into a statutory immigration program.

As a final observation, I still think that more attention should be paid to increasing the flow of refugees from Latin America and Africa. The initiation of a non-Cuban pilot refugee program in cooperation with the Intergovernmental Committee for Migration (ICM) in Central America seems to be a start in this direction. I hope that this may progress to a more substantial program in the near future.

To further the program in Africa, the Attorney General should not delay in implementing his plan to open an Immigration and Naturalization Service (INS) office on the African Continent.

Mr. President, the United States has been in the forefront in providing for the resettlement of refugees, as well as in making substantial resource contributions towards the humanitarian relief of world-wide refugee situations. I have stressed through the years that these programs should be internationally supported. I reiterate that there should be a continuing appeal by U.S. representatives to the international community to assume their fair share of these responsibilities.

I wish to thank the Secretary of State, the Deputy Secretary of State, the U.S. Coordinator for Refugees and the representatives of the Departments of State, Justice, and Health and Human Services for their assistance in the FY 1988 consultation process.

Sincerely,

ROMANO L. MAZZOLI,
Chairman,
Subcommittee on Immigration,
Refugees and International Law.

ANNEX 4

U.S. COORDINATOR
FOR REFUGEE AFFAIRS,
Washington, DC, October 14, 1987.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: I am pleased to transmit herewith a copy of Presidential Determination No. 88-1, signed and dated October 5, 1987, entitled: "Determination of FY 1988 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act."

The Presidential Determination is the formal result of the consultations process, but it does not complete it. I and my colleagues in the Administration have been giving careful consideration to the points raised in the several letters to the President and to the Secretary of State from the consultative members of Congress, and you may expect our replies shortly. In addition, I wish to reconfirm my belief that consultations between the Congress and the Executive Branch must continue on a regular and informal basis throughout the year, and I will endeavor to adhere to this principle.

As instructed by the President, I will cause this Determination to be published in the Federal Register.

I was again impressed by the informed, bipartisan concern for the plight of refugees which forms the common ground for the refugee admissions program and the consultations process, and I personally appreciate your cooperation in the formulation of our national humanitarian response.

With best wishes,

Sincerely,

JONATHAN MOORE.

THE WHITE HOUSE,
Washington, DC, October 5, 1987.

(Presidential Determination No. 88-01.)

Memorandum for: the U.S. Coordinator For Refugee Affairs.

Subject: Determination of FY 1988 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act.

In accordance with Section 207 of the Immigration and Nationality Act ("the Act"), and after appropriate consultation with the Congress, I have made the following determinations:

(a) The admission of up to 72,500 refugees to the United States during FY 1988 is justified by humanitarian concerns or is otherwise in the national interest.

(b) Four thousand of these admissions numbers shall be set aside for private sector admissions initiatives. The admission of refugees using these 4,000 numbers shall be contingent upon the availability of private sector funding sufficient to cover the essential and reasonable costs of such admissions.

(c) The 68,500 refugee admissions covered under Federal programs shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this Determination and in accordance with the following regional allocations:

Africa	3,000
East Asia, first asylum	29,500
East Asia, Orderly Departure Program	8,500
Eastern Europe/Soviet Union	15,000
Latin America/Caribbean	3,500
Near East/South Asia	9,000

Unused admissions numbers allocated to a particular region may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. The Coordinator will consult with the Congress prior to any such reallocation.

(d) The 4,000 privately funded admissions may be used for refugees of special humanitarian concern to the United States in any region of the world at any time during the fiscal year. The Congress shall be notified in advance of the intended use of these numbers.

(e) An additional 5,000 refugee admissions numbers shall be made available for the adjustment to permanent resident status under Section 209(b) of the Act of aliens who have been granted asylum in the United States under Section 208 of the Act, as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with Section 101(a)(42) of the Act, and after appropriate consultation with the Congress, I have specified that the following persons may, if otherwise qualified, be considered refugees for the purposes of admission to the United States while still within their countries of nationality or habitual residence:

(a) Persons in Vietnam and Laos with past or present ties to the United States; persons who have been or currently are in reeducation camps in Vietnam or seminar camps in Laos; Amerasians in Vietnam; and the accompanying family members of such persons.

(b) Present and former political prisoners and persons in imminent danger of loss of life in countries of Latin America and the Caribbean, and their accompanying family members.

You are hereby authorized and directed to report this Determination to the Congress immediately and to publish it in the Federal Register.

RONALD REAGAN.

TRIBUTE TO MARK FRANKLIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. GRAY] is recognized for 5 minutes.

Mr. GRAY of Illinois. Mr. Speaker, I rise in the well of the House today to pay tribute to Mark Franklin of Benton, IL.

Mark Franklin is a Special Education senior at the Benton Consolidated High School in Benton, IL. Last August Mark won a gold and a silver medal at the International Special Olympics at Notre Dame University. His gold medal was for the individual high jump event. Mark won the silver medal in the pentathalon.

Mark Franklin is the son of Denzil and Loretta Franklin. Denzil Franklin is a teacher at the Benton Middle School. Mark and his family have been involved in the Special Olympics since Mark was in grade school. In 1986 Mark Franklin finished first in the pentathalon at the Illinois finals.

Mark is a popular student at the Benton High School where he is the manager of the football and basketball team. In that role, he has become "one of the boys" in the Athletic Department.

On Saturday, October 24, 1987, at 2 P.M., Mayor Charles Smith will lead a city wide celebration for Mark Franklin on a street now officially designated "Mark Franklin Street." Appropriately, Mark Franklin Street is adjacent to the Franklin Hospital. This may mark the first time that an American street has been named for a Special Olympian.

The Citizens of Benton, the Special Olympics, the Franklin Hospital, and the Benton High School will join together to honor Mark Franklin and his family and, through them, honor all Special Olympians.

Mr. Speaker, as Mark's Congressman I want to join Mayor Charles Smith and all the citizens of Benton and southern Illinois in saluting this great athlete. He brings great credit to all of us as well as himself. Congratulations Mark.

U.S. POLICY IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today to complete, to round out a subject matter that I discussed last week concerning the fact that on that occasion, on that date, if I remember correctly, it was October 7, I pointed to an article appearing that day in the Washington Post in which the President was quoted as saying that he was going to make an address, I believe at the U.N., in which he was going to express his support for the so-called President Arias peace plan. I then said for the RECORD that if that were true it was the best thing I had heard since 1980, and that means since Jimmy Carter, because it has been since that day that I have spoken on the question of Central America specifically and Latin America generally.

It seems strange that having been here since 1961 that it would not have been until 1980 that I would have even so much as made any kind of remarks concerning Latin America, as we call it. But the fact is that in 1966 I was named by the Organization of American States to represent the United States as an observer at the July 1, 1966, elections in Santa Domingo, and indeed I went to Santa Domingo.

Of the group of observers who were there from various and diverse countries, I was the only one that went into every precinct, at least in the capital, and it was quite an experience. Other than reporting on that, I have not deliberately, I guess, done so because I did not want anybody to think that I was presuming to be an expert because my last name being what it is, and that such a presumption would be one that I did not want to establish, because it is not true, and it was not a fact. I do not consider myself an expert.

However, given the nature of the history of my background and my family, there naturally have been things that I am sensitive to that the average American who has neither knowledge or is not cognizant of the peculiar historical antecedents, not only of the countries immediately to the south of our border, but Latin America generally, Caribbean, for instance, would not be sensitive about. It is one reason why we have not had some actions critical of the President, and I think that I am speaking the truth when I say that there is not a Member I know, including myself, that takes any pleasure in not being cooperative or in being critical of a President.

However, under our system, in order to be true to it, we must adhere to the independence, the co-equality and the separation of powers, and that means that branch of Government which we happen to belong to and which the people elected us.

So in the course of doing that, of the six Presidents that I have had the honor to serve with or be associated with co-equal service in the House, there have been times when even the closest, and no man was any closer as President, nor did I have such privity as I did with President John F. Kennedy, whom I had met as far back as 1951. Even my fellow Texan and neighbor, President Lyndon Johnson, and I never quite developed the degree of friendship and intimacy that did exist between President John F. Kennedy and myself. And it was a very, very fortuitous thing, because it was John Kennedy who since the postwar period, if such we can call it—I have long maintained, by way of parentheses, that there is no such thing as a postwar period because there never has been a peace treaty, and we still have 300,000 of our soldiers in Germany, 45,000 in Korea, and I would say that that was far from being the termination or cessation of World War II—but nevertheless, that is my point of view, and I said that by way of parentheses in order to emphasize that since that period, since 1945, the only President that has developed or attempted to a unique and a seminal approach to our relations with the nations that share the New World with us, and that destiny has proscribed to sharing this destiny in common, and that was through his Alliance for Progress Program which, as deficient as the critics may have labeled it, did in fact receive the wholehearted and good willed acceptance of these countries to the south of us even though, as I have said before, if President Kennedy were President today, in the 1980's, and he would have unveiled that program it would not take in the Latin America of the 1980's. Those days are gone forever.

In the decade of the 1960's it was a unilateral approach. That will not work.

I think I am impelled to speak because, as I have been since April 1, 1980, and I will remind my colleagues that President Jimmy Carter was President, not Ronald Reagan, but many of the remarks I have made for the RECORD have been criticized by some as being partisan because I have been very severe of my criticism of President Reagan. I have taken no pleasure in doing so, and I wish that it could have been otherwise. But even in the case of John F. Kennedy, there were votes that I did not go along with that he had requested. One of the very first in the second session of the 87th Congress, the so-called Kennedy round of GATT, the General Agreement on Tariffs and Trade, I could not go along with that because of a clause that it included. That antagonized people at the time, it antagonized the congressional liaison that President Kennedy sent over to try to figure out why I would not support Secretary Freeman and the chairman of our Agriculture Committee who, incidentally, was a fellow Texan at the time, Robert Pogue, Bob Pogue. They said we sent you our expert because you had questions that you had asked and I said, that is right, but the questions were never answered. They asked, well, specifically, what, and I said there is a chapter here that says that in the event that this agreement results in detriment to business in America there shall be a study conducted and a commission created to study that adverse impact. I said here you are telling us that there is going to be no adverse impact, that all of this is gone. Then why is this clause in here? They said, well, that is just in case. I said, no, that is not good enough, because if there is even the slightest iota of detriment and adverse impact on American business life, manufacturing and industry, then I want more than some study commission. I want a system set up in order to either attenuate or, if possible, prevent that adverse impact. So my vote was no. It was not very well received by those who surrounded the President, though he himself understood. I heard no complaint from him.

With President Johnson there were occasions I could not go along. I noticed in some of these later, after the event publications that have the biographies or the summaries of the Members of Congress, there are two basic high-cost publications. Some of them have never bothered to read the RECORD, and fortunately, and that is one reason I go on record, for I had not been sworn in 1 week before I took advantage of this privilege of special orders and addressed the House.

□ 1405

At that time the system was used only by submitting prepared statements, with the Member not having to say the speech on the House floor, and with nothing to indicate that he had not at that time. But I felt that the reason for this privilege, also demanded, and it was by the very nature of the history of this privilege which I have read, that it was assumed that the Member would make use of it because it was this opportunity given the Member of a numerous body to enlarge on the subject matter of his interest and concern which he would not be able to during ordinary debate in a limited debate environment, in a numerous body such as a 435-Member body of the House of Representatives of the United States.

So I literally have taken that and have come to the floor at the time, as I said, at the very initial point of my career here in the House and that was some 25 or 26 years ago—more than 25 years.

So that if I rise it is because I am impelled to do so by way of adding to, by way of either creative criticism; that is, if I criticize I have a suggestion; or offering suggestions where it looks very much like there is none.

So in reading these biographical sketches I noticed that they refer to me as a supporter of President Johnson, and then they add something that is not true, "and the war in Vietnam." You had better believe I was a supporter of President Johnson's domestic program. America has never had a President as interested in education and doing something about it, for he came from the teaching levels back in the grim depression eras and he taught among the poor minorities in Texas. He knew what it meant.

Lyndon Johnson was not an ideological intellectual, he did not come by that kind of liberalism by intellect, he came by gut, by gut feeling. That is why I was for the economic opportunity programs. That is what I was all about when I made up my mind to seek public office and then stay in it, which I had never intended to, in my early manhood. So that when I say today that what I want in the RECORD is that which, hopefully, my colleagues will have some opportunity to look over and take for what it is worth. In the case of the Vietnam period, I was the only Member of the House or the Senate who raised the issue about the questionability, the unconstitutionality of a President conscripting an unwilling American and sending him out of the continental United States against his will in an undeclared war.

I brought out the history of the first peacetime draft that was passed by one vote in 1941. And the reason it passed by that one vote was that they had to add a clause to that law. And I invite my colleagues to look up the history of this law. I have. I looked up the history of the bill itself, I looked up the history of the debate pending on that bill. And it was not until that clause was placed in there saying that, "Notwithstanding any of the hereinabove, no person shall be conscripted against his will unless declaration of war or specifically provided so by the Congress."

So I got up time after time and pointed that out. Yes, it did bring the displeasure of those who surrounded President Johnson. And at one time he himself was somewhat miffed. That came later, when the protests began to swell and when the laud and raucous and the cacophonous voices of those shouting, "Hey, hey, LBJ, how many babies have you killed today?" I never did join those voices.

And so these latecomers, because I did not, insinuate that I supported the war. Well, the record is that I was the one in the House that introduced the Senator from Alaska Gruening's resolution in the Senate. He was one of those who voted against the war from the beginning together with Senator Morse of Oregon. He was a real close friend of mine. He introduced a resolution in the Senate saying:

> Mr. President, pull out of your unilateral involvement in Southeast Asia and if you must let us do it, as you did in Korea, under the aegis of the United Nations.

I took that resolution, introduced it in the House and got 72 others to do likewise. At that time we did not have cosponsors like they have today. If you wanted to show that you were for a bill and wanted to be a cosponsor you introduced the same identical bill. I got 72 of my colleagues to do so. That brought about some criticism from the administration, but if that shows support, then I do not know what support really is. Anybody who knows me knows that if I am for something everybody is going to know it; if I am against something, everybody is going to know it.

And I certainly was for President Johnson's most enlightened, most progressive and the most beneficial legislation that enabled us in my hometown, where we had a dropout rate of over 80 percent among the Mexican-Americans out of high school, in 10 years' time after the passage of the Economic Opportunity Act, of which I was not only a cosponsor, I was a coauthor and was author of the section on community action; and that enabled us in 10 years to reduce the dropout rate from 82½ percent to less than 20 percent.

Tell me if there is any cause and effect about congressional programs that are targeted to help Americans, because I will give you the statistics on every one of them, from the Economic Opportunity Act of 1964 to the Elementary and Secondary Act of 1965 to the Model Cities Act which we first called demonstrations. That came out of my committee and subcommittee. It was no accident that the city of San Antonio was designated as one of the first five and was the only city south of the Mason-Dixon Line and it was the only city with a population of less than 1.5 million.

That was no accident. There was cause and effect in that too, because I had everything to do in the Subcommittee on Housing on what we first called demonstration cities but then at that time with the demonstration taking place, the word had an unpopular sound so we changed it to model cities.

So I give that as an illustration of why it is that I will stand up here while everybody is in a state of euphoria, a fact we just heard earlier, a resolution complimenting the President of Costa Rica, President Arias, for his peace plan, and we heard comments from some Members indicating that they do not quite understand what the shooting is all about, those that are for aid to the Contras. You cannot be for that and have peace in Central America. You cannot be for President Reagan and what he has done in the last 6½ years and be for peace in Central America.

What President Arias has done is far more insinuative of the destructive nature of President Reagan's administration's actions in Central America specifically, in Latin America generally.

And what is that? It is that the Central American nations, the select few, with the joinder of the so-called Nicaraguan Sandinista regime, which incidentally was freely elected by the people of Nicaragua in November 1984, a lot freer that Napoleon Duarte was elected in El Salvador where we paid for that election. We paid for all the observers we sent down. We underwrote the election in El Salvador. Do you think we were about to accept anybody being elected except somebody that would certainly be subject to our mandate?

Today what this means is that the United States has lost whatever residual moral or political leverage, as leadership, that it could resolve. It is the ultimate outcome of a bankrupt—policy I will not call it, that is dignifying it—ever since Secretary of State Haig drew the line; he had not been in office 1 week in 1981 when he drew the line of El Salvador, the smallest country in Central America there, drew the line and said that this was an East-West confrontation. By golly, if necessary, he was going to go to the source, meaning Cuba.

What that did was merely consolidate all of those forces that would identify the United States as an enemy of their causes.

Now are those causes communistic, are Marxist-Leninist? There are five revolutionary units or groups in El Salvador alone. The least numerous, the least influential until lately when we started the fire bombing through our attack helicopters, killing dozens and dozens of elderly men, women, and children. We do not like to think that we do those things, but let me say, my colleagues, that is exactly what we have been doing. We have no moral right to get up in the halls of international assemblies and point our finger of indignation, moral or otherwise, to such countries as Russia when we are doing the identical same thing, and again egregiously wrong.

If somebody had said 10 years ago at this point in the 1980's, in the waning period of the 20th century, "You are going to get a President and an administration and Congress is going to go along to revert to the Calvin Coolidge gunboat/Marine type of policy," I would have said that is crazy, it cannot happen here.

But it is and it has and it continues.

The President has been conducting war in Central America. The Congress has not declared war.

So I intoduced a resolution in 1982 in which I pointed out that the President was in violation of the War Powers Limitation Act. That is as far as I have gotten.

In the case of Nicaragua, it is even worse for we have been adjudicated by the international tribunal of justice, the World Court, guilty of terrorism.

Oh that is what the Arabs are supposed to do, that is what the Palestinians are supposed to do, that is what the Russians are supposed to do. But not Americans.

But we are. We have been tried and found guilty in the World Court of Justice.

Our reaction was to walk out and the very world tribunal that America had taken the leadership in formulating many decades ago, and which we had used to success in identical circumstances. In 1957, President Eisenhower was President. Even President Eisenhower had more enlightenment. You know they always pictured him as being a torpid sort of backward-minded type of fellow. But he had, at least he gave consent to the Secretary of State to join these four countries, Mexico and three of the South American nations, Venezuela, Colombia, and the like.

□ 1420

That was almost the identical membership of what we call today the Contadora countries. There was a dispute between Honduras and Nicaragua which had been a longstanding, sputtering dispute along the frontier there. They formed this group in order to bring about a peaceful solution that both Honduras and Nicaragua accepted.

Mind you, at that time Nicaragua was ruled by the dictator, Somoza. He was our man, our puppet. We put him in, and we kept him in power. The United States did not feel put down. It joined, and when it joined, it became the leader, and it ended up going with those other countries to the World Court in order to solve the problem. And there had not been any kind of a problem between those two countries until "President Haig" borrowed Argentine soldiers in 1981 to bring them into Honduras to attempt to destabilize a Sandinista junta which ruled at that time.

This is the history that is bearing on us today. Then I hear my colleagues, as I did this afternoon, talk about the fact that Arias was saying, "Oh, yes, but the Sandinistas don't have democracy." Well, the only democracy is in that country of Costa Rica. And what was our Ambassador trying to do when Mr. Arias himself was running for office a couple of years ago? He was trying to knock him out. We used our threat of withholding aid to try to persuade the Costa Ricans to vote against Arias.

Costa Rica had a revolution in 1949. Costa Rica is radically different from any one of those nations. El Salvador, right next to Costa Rica, is sunk in ignorance, lack of education, and poverty. Costa Rica has had mandatory, compulsory, free education for more than a hundred years. It is true, socially speaking, that it never had the indigenous situation that exists in these neighboring countries. The 1949 revolution came along because a ruling oligarchy that still controls the banks, the newspapers, and the television stations wanted to do the same thing the ruling oligarchs had been getting away with in every one of the neighboring countries, the 12 families in El Salvador, the Somoza family in Nicaragua—Somoza, who got so greedy that he had a stake in every single venture in Nicaragua. And, of course, he was anti-Communist, so we thought he was great.

The President of Costa Rica, when he appeared here on this same floor, was very nice, but he is a very agile politician, as most of those men are. Of course, our concept is very different. The generalized stereotype of a Latin American that we have is a far cry from what reality is, and this, I think, is going to take many, many bitter lessons to learn.

Reflecting on the churning history of the centuries, while our country was barely seeing the Pilgrims land at Plymouth Rock, in Mexico City and in Cuba they already had printing presses and colleges and universities. The first all-American-born historian was Garciloso de la Vega—half Inca, half Spanish. His father, a Spanish captain, sent him to Spain to be educated. He came back and was the first historian in the New World. And what did he write? I wish my colleagues would familiarize themselves with Florida de Las Incas, the Florida of the Incas, his history. The Spaniards, when they had a rebellious Indian, what they did was they imported mastiffs, huge dogs, from Spain, and if an Indian gave them any truck, any lip, as we say, they would set the dogs on him. Garciloso de la Vega was reflecting on this, and he wrote a beautiful passage that I wish I could translate in the beauty that he wrote in Spanish, but he talks about these rulers and he says this:

> Ah, yes, but who is to tame a wild beast? For he of power is not susceptible to advice?
>
> For who is to advise him?
>
> For he accepts none, particularly those whom he considers lesser, certainly of lesser power.

In other words, we have an old saying in the United States that "if you're smart, why aren't you rich?" And presidents, I have observed, once invested with this panoply of tremendous power, seem to say, "Well, if you're so smart, how come you're not President?"

What Garciloso de la Vega was saying is, what was true in those imperious days is equally true today, because power, power of any kind, even power in this office here, uncontrolled, unaccountable, is corrupted. As Lord Acton said, total power corrupts totally. And what we are reaping is what we have sowed to the winds in our democracy, creating agencies and vast offices without demanding the accountability that the men who wrote the Constitution envisioned. And it is ironic that we celebrate the 200th year of the writing of the Constitution. We still have yet until 1989 to say that we have lived 200 years under the Constitution, under this form of government.

God is no respecter of nations. There is nothing to vouchsafe that if we continue the way we have allowed things to continue, for the biggest, the greatest, most serious constitutional crisis since the Civil War is enveloping us, and yet it seems there is no consensus of it in these halls of deliberation. It seems there is no awareness, naturally because there is no discussion.

How can our constituents know if we do not debate, if we do not discuss? How are they going to judge? How are they going to be informed if an administration can garner the tremendous power it has under the fancy word of disinformation that this administration has gotten and used over the American press, if that power has been allowed to develop with no countervailing source of information?

We have reached that point that James Madison warned against, for he said that popular knowledge must be available in order to have popular government, "popular" meaning in that sense a people's government. Of course, that is true. This is why there is now such confusion and perplexity.

What is this all about? Why would a President say first, "Well, yes, it looks like maybe this peace plan is all right," and then, instead of what I had thought was going to be the case based on what I read in the Washington Post, the very next day the President repudiated the plan and said, "No, it was fundamentally inadequate and probably would never have worked"?

But what this means, I say to my fellow Members, is that these Central American Presidents, despite United States determined opposition—even Honduras, which we occupy and control totally—said, "Look, Mr. President, we don't care now what you want. This is what we say we want to do."

President Arias knows that he can demand of the rulers and the President of Nicaragua that they want to sit down on par and recognize a group that we have formed, we have paid for, we have armed, and who have murdered and pillaged and plundered—and killed American citizens, incidentally.

Revolutions are not Boy Scout troops courts of honor. And this is what so many of us do not understand. We do not know what a revolution is. It is a bloody thing, I say to my colleagues. That is where I came in, for I remember those beginning years as I was growing up in the midst of a group that today probably would be called refugees. At that time they were "just a bunch of Mexican greasers coming over to eat up our substance." And that was the constantly recurring turmoil of a 30-year period in the history of that great Republic of Mexico, the bloodiest revolution in its history. The Russian revolutionary leaders used it as an inspiring model, incidentally. It was not the other way around. The Mexican Revolution came first, and it was the bloodiest. Mexico had less than 13 million in population. Over 1 million died, and more than 1 million fled, left because of the horrors and the convulsion, the disorder.

Revolutions are walking down the street and holding your nose because there is somebody hung by a lamppost, dangling there and in the way for days, with his body decomposing and stinking. Revolution means father fighting son, brother fighting brother, mother fighting daugther, husband fighting wife. That is a revolution.

Is there any thought in anyone's mind in the United States of America that this revolution was won by these veritable heroes in Nicaragua against one of the most rotten and corrupt and tyrannical regimes in the history of the world, imposed by us on these people? For we sent in Marines in 1929 and occupied their land for 13 years until we organized the Guardia Nacionale, the National Guard, and imposed the Somoza tribe on those hapless people.

It is for good reason that they called the movement Sandino's movement, in memory of Sandino. Our Marines never could catch Sandino. They tried for 13 years, but it was said afterwards that he was murdered by Somoza. That is the reason that means a vote today, I say to my friends, and you can repeat this all up and down that isthmus and south of the isthmus.

We have since the beginning attempted to divide and rule. This is despite all the churning processes of history that we have ignored, for we have been self-contained, and I guess that is the problem of the world today, even though it is contracted and even though we have instantaneous means of communicating. We know in seconds about an earthquake in Japan, but something man to man, not yet, for we want to conduct the most serious of actions, ignoring history, walking blithely into areas that we do not even understand, conceiving of ourselves in a way that the external world does not look upon us.

We do not like to think of ourselves as imperialists, and even the designers of the "good neighbor policy," including Sumner Welles, Assistant Secretary of State for Latin American Affairs under Franklin Roosevelt, who was the first 20th century leader that recognized what the future held for America, felt that we could not continue in our ignorance of history and the fact that destiny had irrevocably placed us here to share this part of the world. How we want to share it is what we are determining today.

□ 1435

It does not seem that way, but that is exactly what we have been doing. What I have been saying is that the wiser and the better choice is that which is in conformity with the interests and the hopes and aspirations of the submissive mass for 300 years that have been victimized, tyrannized, exploited miserably, and for whom we have not had one finger lifted.

In the great revolution efforts of Simon Bolivar, the liberator, the emancipator, the one who led the fight for independence in South America, but all up and down the isthmus as well against Spain, and who naively thought that they were patterning themselves after the great American Revolution with its hopes and ideals and its promises, and the great liberator who dreamed of a great Congress of the Americas, and finally even after he was exiled and came back, called the first Congress of the American Nations in Panama City in 1826 in June.

The United States was invited, but the Secretary of State at that time was Henry Clay. What did he say?

He said, "We can't abide that. We can't have those nations together in a concert," and it is no coincidence that 2 years later we had the Monroe Doctrine.

What were the utterances of these men? Nobody has ever read about it in our American history, but we should. They did not want European intervention. They fought for freedom from Spain, and at that time the other triumvirate of nations that was trying to reach into the New World, which is why the Monroe Doctrine was ostensibly initiated and repudiated by these nations meeting in concert in 1826.

We did everything we could to break that up, and we did. We learned nothing from history.

We are like the old Bourbon kings, learn nothing and forget nothing. That is fatal, for I predict as I did in 1980, and this was before the election and before Mr. Reagan was elected, and it sounds strange that I would say it, but it is there. It is recorded.

I said, "If this man is elected, your children will be fighting in the jungles not of Southeast Asia, in the New World, the jungles of Central and South America."

So it has not happened, you say. It has. We have had better than 22 of our own soldiers killed. They were not exactly innocent bystanders.

The President has been in open and tacit violation of the War Powers Limitation Act, but the War Powers Limitation Act, as faulty as it might have been, is the law of the land.

Yet, the President and the Secretary of Defense, Mr. Weinberger, said, "We won't heed it, because we consider it unconstitutional."

If that is the case, if we have got a President, and he is on record, and we have a Secretary of Defense, and he is on record, who say that they shall pick and choose what law they shall follow, and the Congress sits by supinely and does not oversee its own enactments, then should we be surprised if we should in history show that we have lost our liberties by increments?

That is the history of the law of liberty in all lands in all times. Free people did not lose their liberties overnight. They lost them by increments.

If a President can pick and choose the law he sees fit to obey, then he is not President, he is a king, because that is the definition of a kingly potentate. He makes the laws. That was the definition of a king.

Where did he get his power and sovereignty? Well, he got it from God, he claimed.

Our Constitution says, "We, the people of the United States," and that is the source of all power, not the President, not the Congress, not the judges or the judiciary, but the people.

When you say that today, you are immediately called a Socialist, or maybe even perhaps what is worse, a Communist.

Communists like to use the people's this, the people's that; but I am saying to the Members, we best be alerted.

The Arias peace plan can work only if we realize the implications; and that is that we have done everthing we could to thwart the Contadora nations, Mexico, Venezuela, Colombia, Panama. They have put something together. It was we who tore it apart.

What Arias did was to get the Central American leaders from Guatemala to Costa Rica; and I say that, and I have suggested the better way, that I think are really exerting the true American leadership which all of us take for granted which is what we are doing, but which has not been happening and which will in the long run not proscribe our children, or grandchildren and great-grandchildren to strife and hatred among the neighbors of the New World, but rather to one which will inure to the benefits of the United States which will enable us to extricate ourselves economically, politically, diplomatically for after all, it is only when you fail diplomatically that you resort to the soldier.

I at this point wish to offer for the RECORD an article that appeared in the Christian Science Monitor on Wednesday, October 14 entitled "The U.S. stands alone on Central America" by Peter Hakim.

I submit a copy of the article referred to as follows:

[From The Christian Science Monitor, Oct. 14, 1987]

THE U.S. STANDS ALONE ON CENTRAL AMERICA

(By Peter Hakim)

United States secretaries of state, past and present, seem to believe, like Oscar Wilde, that consistency is a refuge for the unimaginative.

Both Henry Kissinger and George Shultz have urged renewed U.S. assistance to the Nicaraguan contras. In effect, they are calling on the U.S. to ignore the peace agreement reached in Guatemala by five Central

American countries, which demands an end to such assistance.

These reactions to the Guatemala accords by Secretaries Kissinger and Shultz are surprising only if one gives credibility to earlier statements by them. Last year, Dr. Kissinger urged the U.S. to "Latinize" the negotiating process to the "greatest degree possible." Now he demurs because he does not like the outcome of the "Latinized" process.

Secretary of State Shultz rejected Nicaraguan President Daniel Ortega Saavedra's call for talks between the U.S. and Nicaragua, claiming that what Washington wanted were "regional discussions designed to find an agreement." And that's just what happened. The Central American countries held regional discussions and found agreement. But the results were not to the liking of the State Department or the White House; so Mr. Shultz now proposes that the U.S. proceed as if the discussions he once advocated had simply not occurred.

It is not that Shultz and Kissinger are duplicitous men. Their transgressions in this instance are minor, and would hardly merit attention if they did not point to a broader problem in U.S. foreign policy: the U.S.'s inability to work with its allies and consistent friends, like Costa Rica, for example, to solve international problems. The U.S. now stands virtually alone in its approach to the Central American crisis.

Cooperation is clearly not suitable to every foreign policy issue. Sometimes the U.S. must pursue its own unilateral course, regardless of the advice and judgment of others. But it is cynical for the U.S. to actively promote international cooperation when it has no intention of accommodating its actions to the views of others. Multilateral approaches require concessions and compromise by all parties involved. The U.S. cannot dictate the terms of international agreement, nor can it expect other countries simply to ratify a course of action the U.S. has already decided on.

Time and again in its Central American policy, the U.S. has endorsed multilateral negotiations and then backtracked when those negotiations came close to producing agreement. Although Washington had long declared its support for the Contadora peace process, when a settlement seemed possible in mid-1986, the White House argued that Nicaragua could not be trusted to abide by any treaty. If that is the case, why did President Reagan express his "strong support" for Contadora? What did we think the Contadora group was trying to do if not to negotiate a treaty with Nicaragua?

Similarly, when Costa Rican President Oscar Arias Sánchez first put forth his peace plan last February, the U.S. was quick to endorse it. Now that these five Central American countries have agreed to a modified version of the plan, the U.S. is working to block its implementation. He now says that their agreement is "fatally flawed." President Reagan is now pressing for $270 million in new military aid to the contras unless Nicaragua goes well beyond the conditions of that plan, signed Aug. 7 in Guatemala.

U.S. credibility has been damaged in Central America, precisely for the reason that has been suggested by Kissinger: U.S. rhetoric bears little relation to U.S. actions. But it is not that the U.S. has failed adequately to support the contras in their military struggle. It is rather that the administration has persistently sought to convince U.S. friends and allies in Latin America—not to mention Congress and the American people—that this nation favors a diplomatic solution, when the U.S. has, in fact, been undercutting efforts to achieve one.

It may be in the best interests of the U.S. to pursue its own course of action in Central America. If the administration believes that to be the case, it should say so forthrightly. It will not make the U.S. popular, nor will it bring an end to the destructive wars in the region. It might, however, help to restore our credibility—which will be crucial when we finally decide to negotiate a settlement.

(Peter Hakim, staff director of the Inter-American Dialogue, writes frequently on U.S.-Latin American relations. The views expressed are his own).

BREAST CANCER IN AMERICAN WOMEN

The SPEAKER pro tempore (Mr. BRENNAN). Under a previous order of the House, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 60 minutes.

Ms. OAKAR. Mr. Speaker, it is not often that I take the floor during special orders to discuss a subject; but I thought the timing might be the right time to discuss a subject that has really gained another degree of prominence over the weekend with the discovery that Nancy Reagan, our First Lady, has breast cancer, and indeed did have surgery over the weekend.

We are all very, very delighted that Mrs. Reagan is doing fine and will have probably a 100-percent chance of recovery.

As a matter of fact, Dr. John Martin in an article in today's Washington Post, who is a professor of radiology and mammography, as well as Dr. Feller, a great doctor from Georgetown Hospital, and Dr. Martin said, "The real news here is having regular mammograms helped cure her," meaning Nancy Reagan, "of this disease. That is the message that should go out to thousands of women in this country."

Nancy Reagan is not the first First Lady that has had breast cancer. Betty Ford had her breast removed some years ago. Rosalynn Carter had a lump, and fortunately for Rosalynn, it was a benign lump. It was removed.

They just mirror the kind of epidemic that is going on that unfortunately we do not take notice of or do something about. There are some things we can really do.

Unless you have someone of prominence acquire the disease and it gets that kind of highlighting, in that respect, there is some good that hopefully will come out of this unfortunate situation, although Nancy Reagan is going to be fine, thank goodness.

They mirror the proportion of women who do get breast cancer. Twenty years ago 1 out of 20 women in this country got breast cancer. Today one of nine women in this country get breast cancer. Thirty-eight thousand women die of breast cancer every year, and we also know that an additional 120,000 new cases will be diagnosed in our country alone.

For some reason, American women acquire breast cancer in a larger proportion than other countries in the world, and so out of the million cases worldwide, American women get breast cancer more often. About 120,000 get breast cancer, and today 1.5 million American women have or have had breast cancer.

My own sister had a lumpectomy, and I dare say—and she is doing fine, thank goodness—I do not think that there are many families that have not had somebody that they are close to who have had breast cancer, and it is the No. 1 or No. 2 killer of women.

The thing about it that is so interesting is that in studies that have been taken concerning health problems in American women, more American women fear getting this disease than any other disease.

While they may get lung cancer in slightly higher proportions, they are more afraid of getting breast cancer. There are several things that we can learn from Mrs. Reagan's courage, and we want to certainly commend her and the manner in which she has handled it and urged other women to get cancer screening and so on.

One thing we should do is take the fear out of this disease. We ought to say to the American women and their families; and by the way, 10 percent of the cases really relate to American men, but it is so-called the women's disease.

We ought to say to the American women, do not be afraid to check, to examine your own breasts, to have physicians do that for you, and do not be afraid to have a mammogram.

We know that we are kind of being penny-wise and pound-foolish about mammograms today.

We know, for example, that Americans spent $3 billion in medical expenses for breast cancer in 1986 alone.

We know that Medicare, which is something we have in Congress some control over, we have something to say about what goes in Medicare and what is covered by Medicare. We know that of the $3 billion, Medicare paid $680 million of that total.

If you are interested in saving money in terms of health delivery and health care in this country, we know if you get breast cancer at an early stage, its cost is between $10,000 and $20,000. If you get it at a later stage, it is more than $60,000, and indeed the person in late-stage breast cancer does not have a good chance for survival, so there is a lot of reasons to address the issue of breast cancer, and what we ought to be doing in Congress related to something that we have something to say about.

There are two main reasons. One is, for the sake of survival. We want people to live longer, and certainly that applies to American women, and so we can do something about prevention.

The other issue is that it saves a lot of money if you do not have a deal with the disease in its late-stage areas, so we are not doing either.

Medicare only covers 40 percent of an individual's need. It deals with very little related to prevention. We are going to be seeing the conference report related to catastrophic illness, and I am frankly extraordinarily disappointed that the provision that related to cancer screening, and in particular mammograms, was stricken from that bill that was to come to the floor with older women to have an opportunity to have a mammogram once every 3 years free.

It does not make sense that we have not only Medicare, but hospital plans and health delivery plans that will not pay for preventing the disease, but will pay for the disease itself, and pay for the catastrophe which costs so much more money and really does not allay a person's problems with health care.

□ 1450

Why do we not put free cancer screening in Medicare? For the life of me, I cannot figure it out, because we know it is cheaper to do it that way in the long term, and in the short term there is a very short interim period where they estimate that it will cost about a dime a month if we had all the people involved paying that small amount of money in the extra premium.

We also know that it would save an awful lot of peoples' lives.

Why do we not do it? Why are not older women as fortunate as Nancy Reagan?

Well, frankly, and I do not begrudge Mrs. Reagan, she has the means to be able to afford a mammogram. The average older woman does not get a mammogram because, honestly, she cannot afford to get it, and when things are not in higher proportion in screening, when it is not in higher proportion, it costs more money, so that the average mammogram in this country costs about $100.

It is true that in some enlightened places in the country you can get a mammogram for about $35, but it costs any where from $35 to $250 or $300, and the typical cost is about $100.

Now, they had a screening project where they interviewed 10,000 women. They estimated that if you gave each of these women a mammogram that costs $100 it would actually save the economy probably the trust fund, if they were all older women, $850,000. So we are just not really doing the right thing.

Honestly, I think that breast cancer in women is as problematical as AIDS is to some people in this country and we ought to view it in the same manner and the same alarm as we view other diseases. I am very concerned about the rapidity of AIDS and other types of cancer and other types of viruses.

So what I want to urge the American people to do, I really think and I do not do this very often, but I tell you, I think it is time to get mammography and colon screening for men, which is the most common difficulty for men, I think Medicare ought to cover those types of screening. We would save the trust fund a lot of money and we would save an awful lot of lives.

So I want to urge the American people to write to their Members of Congress. I think they ought to do that and say, "Get on some of these bills and get with it. You ought to be covering this type of prevention."

You know, here is the thing. You cannot find a hospital plan, unless it is an HMO, that covers cancer screening, that covers physicals, that covers mammography, that covers colon testing for men. The reason for that is that very often these hospital plans and these health plans mirror the Government-sponsored plans and because they mirror these plans, they are very seldom covered. Mammography, for example, is very, very seldom covered.

So I think you ought to force us. I hope the American women are listening or watching, because if you do not make us do the right thing, we are going to see so many of our daughters, mothers, sisters, and others, really not being as fortunate as Nancy Reagan is, because they will not catch that malignancy in time. Her doctors could not feel the lump, but the mammography showed the lump, and as a result, her chances for full recovery are almost 100 percent. We ought to be doing the same thing for every other American woman in the country.

One other area that I really would like to stress—by the way, I have a bill that covers cancer screening. It is H.R. 2935. Some of my colleagues, the gentlewoman from Illinois, CARDISS COLLINS, the gentleman from Arkansas, TOMMY ROBINSON, and others have bills that are very similar. Senator MIKULSKI has one on the Senate side. We have no pride of authorship. It does not matter which one passes. We just want one to pass.

One of the other areas besides prevention that we ought to be looking at is that women do have options. Women ought not to be afraid of this disease. They ought not to be afraid to ask their doctors what their options are.

Now, Nancy Reagan, for example, chose what I consider to be a somewhat conservative approach. She chose, some would say, a method that she really did not have to choose, but it was her decision and I respect that. She chose to have her entire breast removed. Some women would choose to take a more conservative approach by just removing the lump of the tissue that was cancerous because it was a small lump. That could have been, it seems, to me, one of the options. Others would say remove the lump with radiation and others would even give other kinds of therapy.

The entire point of all this is that American women ought to understand that they have options with respect to breast cancer and sometimes they are not always told of them. They ought to take their health in their own hands in the sense that they ask questions.

Now, I have a bill that I am proud to say the State of Maryland has adopted, the same idea on a State level. It is H.R. 671, that would be based on an informed decision. In other words, the doctor would have to tell you your options. A simple way of doing it would be to give you the NIH booklet. It tells the woman about her options with respect to breast cancer.

I honestly think that a lot of women when they do see something suspicious relative to this disease are afraid to go to the doctor because they are afraid they are going to be maimed for life and they are going to have extensive surgery and that there are not an awful lot of things that will do it and take care of their problem.

The fact is that with plastic surgery, even if it is more serious, doctors, enlightened doctors, not all doctors have the same degree, unfortunately, of enlightenment, but enlightened doctors really do understand that you do not always have to remove the muscles and all the nodes. Some doctors have even removed ribs. Some of that is just way-out unnecessary surgery.

I am very proud to be from and to represent Cleveland, OH, because one of the great doctors from my hometown, who is still doing very well, is Dr. Crile, who put among other places, the Cleveland Clinic on the map, because Dr. Crile's first wife died c. breast cancer and I think that may have influenced him to take another look at why so many women wait too long to get their problem cared for.

What Dr. Crile did, in fact, was discover that you could simply remove the lump with some radiation and not have to remove all the tissue and muscles and the whole breast, et cetera, and that it seemed as if, depending on the size of the lump, that the person would have the same chance of survival, rather than removing all the muscles, et cetera, that sometimes women unnecessarily have to go through.

There is another study by Dr. Bernard Fisher, who took a look at varieties of cases where women had lumpectomies and radiation, versus women who had radical mastectomies, and the survival rate was the same. So you do not necessarily have to be disfigured for life by having this type of surgery.

So I guess the message that I want to give today is that we ought to be doing something with prevention. We ought to have in, frankly, every hospital cancer screening, particularly for women, mammography and colon testing for men.

Is it not interesting that the President of the United States and his wife both have had those diseases, because it is very common for men and women in terms of colon problems and breast cancer. So we ought to be doing something with prevention. It makes sense. You save a person's life and, frankly, you save an awful lot of money.

Second, we ought to insist, women and men ought to insist that their doctors talk about options.

Finally, ultimately we ought to have a vaccine against cancer and that ought to be a national goal, just as having a polio vaccine was some years back which arrested that disease pretty much from our country and now we are giving our wonderful knowledge of immunology to other countries in the world.

The fact is that we have decreased the money spent on cancer research. It is very interesting to me that over the last 8 years or so we used to spend 75 percent of our research money on items such a health care, education, et cetera, and 25 of our research on the military budget. Today it is just the reverse. We spend 75 percent of American tax dollars on research for the military on how to destroy things and 25 percent on everything else.

It seems to me that, with all the wonderful work that the people are doing, immunologists and doctors and nurses and others, biochemists, are doing throughout our country, and especially at NIH, they really are barely close to discerning what those cancer cells are all about. It seems to me that if we gave them the push necessary, perhaps in the near future, we would find a vaccine for cancer so that no little child would ever have to grow up having the fear of that disease.

I hope it is within my lifetime. I personally think it can happen if we have the American willpower to see it happen.

So I want to say to our audience, whether they are in the gallery or watching at home, I hope you will tell us what to do about these diseases. We need to hear from you a little more. If we did, I think you would see many, many women, in particular in this case, as fortunate as Nancy Reagan.

Mr. Speaker, I submit the following material in the context of my discussion:

MAMMOGRAPHY SCREENING VERSUS THE COST OF DYING

(A report presented to the Texas State Legislature, April 1987)

The American Cancer Society has endorsed mammography screening by stating that it has proven to be the most effective tool in the early detection of breast cancer.

But mammography screening is of little value if women do not use it. One of the biggest problems we, in the medical profession, encounter is recommending a "screening" procedure which customarily costs at least $100 and may run as high as $160 to $200.

The fact is that most insurance companies do not provide coverage for screening or preventive medicine but will only pay for mammography after a palpable mass has been found in the breast. At this point it is usually too late.

To cure breast cancer it must be detected early, preferably before it has advanced to the palpable stage. Studies have clearly shown that cancerous masses can be seen on mammograms as much as three years before it can be felt.

In fact, the most comprehensive study of its type, the Breast Cancer Detection and Demonstration Project, which screened 280,000 asymptomatic women (women who had no symptoms of cancer, no family history, no palpable masses) found 3,500 early cancers and this project also proved that mortality could be decreased by 42% if asymptomatic women were routinely screened.

The overwhelming response from women to the Texas Breast Screening Project, a recent campaign launched by the American Cancer Society, is a clear indication that women are becoming better educated about the importance of early screening and would be willing to use it if it were affordable.

Although we are encouraged that over 20,000 women took advantage of the ACS's program which offered screening at a special low price of $50, I realize that for many women taking even $50 from an already limited household budget may impose a hardship.

I am sure that in the future the price of mammography will be more affordable for most women. Until that time, which could be many years away, there are thousands of women who would benefit if insurance companies and medicare could be persuaded to cover the cost of screening.

Perhaps the most important message we must convey to insurance carriers is that it is very expensive to cover the cost incurred by a patient who is dying from metastatic breast cancer. In fact, the total costs are so high that there can be no true comparison between the cost of dying and those incurred for yearly screenings and if cancer is detected early, the cost of a mastectomy or lumpectomy.

The enclosed report shows the hospital costs of some of my patients who have died recently from metastatic breast cancer. Please note that on all of these patients this total amount DOES NOT include the cost of the mastectomy which was done elsewhere. It represents only the costs involved in providing hospital care as they waited to die. Also note that these figures do not include the oncologist's fees which range from $1,700 to $2,000 nor the primary care physician's fee which can range from $500 to $1000, nor any other physician fees (interpretation, consulting, and so forth) who may be involved in the care.

In essence, these figures reflect what it costs to go into a hospital and die once cancer has spread past a treatable stage.

Another factor for consideration is the cost of the various "treatments" normally prescribed for the women with advanced disease or recurrent disease such as chemotherapy and radiotherapy. A two year course of chemotherapy usually costs $9,600 and radiotherapy is around $5,000. Among the other "hidden" costs for the women dying from breast cancer are medications, rehabilitative or physical therapy treatments, and home nursing care. The purchase of a "good" prothesis is close to $300.

Of course, we could never put a figure on the emotional costs of breast cancer—for some women, it has meant more than the loss of a breast but also the loss of husbands, family, friends and, most importantly, any feelings of self worth. In many cases, it has meant the loss of their jobs, which later on impacts their "eligibility" for insurance coverage with a new employer.

If we took the "lowest" figure from my report and added even a portion of the above costs, the most conservative total would be a fraction of what it would have cost to screen the same woman on an annual basis and to have treated her cancer at an earlier, and therefore curable stage. Most importantly, if this woman had been screened and treated as described, we wouldn't be discussing a woman who has died from breast cancer!

If, on the other hand, we added the additional costs to the highest figure from my report, then we have a more accurate sum of the true cost involved when a woman dies from breast cancer.

It should be obvious that the costs of annual screening and a curative mastectomy are substantially lower than the ultimate costs involved in caring for a patient who is treated when the cancer has moved to a more advanced stage.

Because of patient confidentiality, I have protected the identity of my patients in the attached report. However, I can verify that these figures are accurate and reflect true hospital stays. Should you require additional information concerning any or all of these patients, I would be glad to contact their families for release of such information.

Thank you for your time and consideration.

DIXIE MELILLO, M.D.,
General Surgeon.

Hospital charges for breast cancer patients

[Does not include cost of mastectomy]

	Charges
Patient No. 1, E.A. (1st admission date, Oct. 31, 1984; last admission date, Mar. 26, 1986; total number of admissions, 7)	$52,257
Patient No. 2, A.J. (1st admission date, Aug. 25, 1985; last admission date, Apr. 16, 1986; total number of admissions, 7)	36,886
Patient No. 3, O.L. (1st admission date, Mar. 20, 1985; last admission date, Sept. 7, 1986; total number of admissions, 5)	29,821
Patient No. 4, D.K. (1st admission date, Apr. 5, 1985; last admission date, Jan. 6, 1986; total number of admissions, 4)	21,433
Patient No. 5, R.P. (1st admission date, June 27, 1985; last admission date, June 3, 1986; total number of admissions, 9)..	16,285

	Charges
Patient No. 6, B.H. (1st admission date, Feb. 21, 1982; last admission date, Apr. 22, 1986; total number of admissions, 7)..	10,960

Please note: the following patient is currently hospitalized and not expected to live. These charges represent hospital charges for only a nine-month period. This patient is only 40 years old.

Patient No. 7, C.J. (1st admission date, July 3, 1986; number of admissions, 6)	$59,840

H.R. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF AN ANNUAL MAMMOGRAM UNDER THE MEDICARE PROGRAM

(a) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by adding at the end the following new subsection:

"(j)(1) Notwithstanding paragraphs (1) and (7) of subsection (a), payment may be made under part B for an annual mammographic procedure (meeting the requirements of paragraph (2)), for a woman 65 years of age or older, for the purpose of diagnosis of breast cancer.

"(2) A mammographic procedure meets the requirements of this paragraph only if—

"(A) it is a standard 4-view radiological mammographic procedure (with 2 views per breast) produced on equipment which is dedicated specifically for mammography and which provides a maximum radiation exposure level of not more than ½ rad per view;

"(B) it is performed by a technologist who is certified as qualified to perform the procedure by a State or by such an appropriate organization as the Secretary specifies in regulations; and

"(C) the results of the procedure are interpreted by an individual who is certified as qualified to interpret the results by a State or by such an appropriate organization as the Secretary specifies in regulations.".

(b) PAYMEMT.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m)(1) Notwithstanding any other provision of this part, with respect to expenses incurred for an annual mammographic procedure payment for which may only be made under this part because of the operation of section 1862(j), there shall be considered as incurred expenses for purposes of subsection (a) an amount not to exceed the cap amount established under paragraph (2).

"(2)(A) For purpose of paragraph (1) and subject to subparagraph (B), the cap amount established under this paragarph is $50.

"(B) The Secretary shall review the cap amount established under this paragraph and may adjust such cap amount from time to time as may be appropriate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to mammographic procedures conducted on or after January 1, 1988, without regard to whether or not final regulations have been promulgated to carry out such amendments on or before such date.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KASICH) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, on October 22.

Mr. LEACH of Iowa, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. RODINO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GRAY of Illinois, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, each day, on October 20 and 21.

Mr. FRANK, for 60 minutes, on October 21.

Mr. OWENS of New York, for 5 minutes each day, on October 19, 20, 21, and 22.

Mr. DYMALLY, for 60 minutes on October 20.

Ms. OAKAR, for 60 minutes, today.

Mr. GONZALEZ, for 30 minutes each day, on October 20 and 21.

Mr. GONZALEZ, for 60 minutes on October 22.

(The following Member (at the request of Ms. OAKAR) to revise and extend his remarks and include extraneous material:)

Mr. ALEXANDER, for 45 minutes, on October 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KASICH) and to include extraneous matter:)

Mr. SMITH of New Jersey.
Mr. MARLENEE.
Mr. LAGOMARSINO.
Mr. LEWIS of California.
Mr. RITTER.
Mr. BLILEY.
Miss SCHNEIDER.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. LAFALCE.
Mr. SKELTON in three instances.
Mr. RODINO.
Mr. LIPINSKI.
Mr. MILLER of California.
Mr. SOLARZ.
Mr. LEVINE of California.
Mr. WISE.
Mr. FLORIO in two instances.
Mr. DINGELL.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 53. Joint resolution to designate the period commencing November 22, 1987, and ending November 28, 1987, as "American Indian Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 144. Joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 168. Joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 171. Joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 198. Joint resolution to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 317. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System;

H.R. 2741. An act to authorize the minting of commemorative coins to support the training of American athletes participation in the 1988 Olympic Games; and

H.R. 2782. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1417. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the programs established in such act, and for other purposes; and

S. 1628. An act to extend the Aviation Insurance Program for 5 years.

ADJOURNMENT

Ms. OAKAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3:03 p.m.), the House adjourned until tomorrow, Tuesday, October 20, 1987 at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2252. A letter from the Assistant General Counsel (Legal Counsel), Department of Defense, transmitting a report of individuals who during the past 3 years held positions of GS-13 or above within the Department and filed DD Form 1787, report of DOD and defense related employment for fiscal year 1986, pursuant to 10 U.S.C. 2397(e); to the Committee on Armed Services.

2253. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the decision to convert to contractor performance the public works facilities at the Naval Air Station, Cecil Field, FL, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

2254. A letter from the Secretary of the Navy, transmitting notification of the proposed transfer of the obsolete submarine ex-*Turbot* (ex-SS-427) to Dade County, FL, for use as an artificial fishing reef, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

2255. A letter from the Secretary of Energy, transmitting a copy of energy information requirements on targets for net imports, domestic production and end-use consumption of energy for calendar years 1985, 1990, 1995, and 2000, pursuant to 42 U.S.C. 7363(a); to the Committee on Energy and Commerce.

2256. A letter from the Administrator, General Services Administration, transmitting a report summarizing and analyzing the reports submitted by executive agencies showing the amount of personal property furnished to non-Federal recipients, pursuant to 40 U.S.C. 483(e); to the Committee on Government Operations.

2257. A letter from the Associate Commissioner, U.S. Customs Service, Department of the Treasury, transmitting a report entitled, "Anti-Drug Law Enforcement and Its Impact," prepared at the request of the Service; to the Committee on the Judiciary.

2258. A letter from the General Accounting Office, transmitting a report on the assessment of the Export-Import Bank's role in providing export credit insurance, pursuant to Public Law 99-472, section 16 (100 Stat. 1205); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2259. A letter from the Chairman, National Transportation Safety Board, transmitting copies of the Board's 1989 budget submission, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

2260. A letter from the Comptroller General, transmitting a report on the agency's analysis of the availability of insurance for individuals who may be liable for releases of hazardous substances into the environment, pursuant to 42 U.S.C. 1951; jointly, to the Committees on Government Operations, Energy and Commerce, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of Oct. 15, 1987]

Mr. UDALL: Committee on Interior and Insular Affairs: H.R. 3479. A bill to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes; with amendments (Rept. 100-377). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Oct. 19, 1987]

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2167. A bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under the act, to increase the maximum daily benefit provided under the act, and for other purposes; with amendments (Rept. 100-02, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2683. A bill to amend the Atomic Energy Act of 1954 to improve security procedures, and for purposes; (Rept. 100-223, Pt. 2). Ordered to be printed

Mr. de la GARZA: Committee on Agriculture. H.R. 3492. A bill entitled the "Rural Crisis Recovery Program Act of 1987" (Rept. 100-379). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIEL: Committee on Armed Services. H.R. 2873. A bill to prohibit the Secretary of Defense or Secretary of a military department to enter into any overseas contract that allows for the payment of severance pay greater than the typical rate of severance pay in the United States or that requires the Government to reimburse a contactor for overseas banking services for bad debt expenses (Rept. 100-380). Referred to the Committee of the Whole House on the State of the Union.

REPORT OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRYANT: Committee on the Judiciary. H.R. 2358. A bill with an amendment (Rept. 100-381). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the Record of Oct. 15, 1987]

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 2851. A bill to amend the Mineral Lands Leasing Act of 1920 to reform the onshore oil and gas leasing program; with an amendment; referred to the Committee on the Judiciary for a period ending not later than November 6, 1987 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(m), rule X (Rept. 100-378, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

[The following action occurred on Oct. 16, 1987]

The Committee on Energy and Commerce discharged from further consideration of H.R. 1570; H.R. 1570 referred to the Committee of the Whole House on the State of the Union.

H.R. 2683 referred to the Committees on Energy and Commerce and the Judiciary extended for a period ending not later than October 19, 1987.

[Submitted Oct. 19, 1987]

The Committee on the Judiciary discharged from further consideration of H.R. 2683. H.R. 2683 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. Waxman, Mr. Wyden, Mr. Panetta, Mr. Horton, Mr. Walgren, Mr. Richardson, Mr. Markey, Mr. Coelho, Mr. Brown of California, Mr. Schuette, Mr. Durbin, Mr. Traxler, Mr. Smith of Florida, and Mr. Weiss):

H.R. 3504. A bill to require the Secretary of Health and Human Services to make improvements in the management systems available and in the activities carried out to review food products for compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act and for other purposes; to the Committee on Energy and Commerce.

By Mr. McGRATH:

H.R. 3505. A bill to make permanent the existing provisions of titles IV and XVI of the Social Security Act which provide for the exclusion from income of in-kind assistance furnished on the basis of need to AFDC and SSI recipients; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

233. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to fishing; jointly to the Committees on Ways and Means and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1635: Mrs. Schroeder, Mr. Martinez, and Mr. Smith of New Hampshire.

H.R. 1721: Mr. Vander Jagt.

H.R. 1729: Mr. Roe and Mr. Perkins.

H.R. 1782: Mrs. Vucanovich, Mr. Murtha, Mr. Torricelli, Mr. Davis of Illinois, Mr. Daniel, Mr. Erdreich, Mr. Clarke, Mr. Visclosky, Mr. Tauke, Mr. Sundquist, Mr. Fawell, Mr. Mineta, and Mr. Gallo.

H.R. 1955: Mr. Konnyu, Mr. Upton, and Mr. Carr.

H.R. 2248: Mr. Clay, Mr. Weiss, and Mr. Lowry of Washington.

H.R. 2272: Mr. Edwards of Oklahoma.

H.R. 2586: Mr. Baker, Mr. Akaka, Mr. Coughlin, Mr. Manton, Mr. Roth, Mr. Roe, Mr. Weiss, Mr. Dannemeyer, Mr. Clay, Mr. Pursell, Mr. Bonior of Michigan, Mr. Nichols, Mr. Oberstar, Mr. Mineta, Mr. Buechner, Mr. Robinson, Mr. Biaggi, Mr. Coelho, Mr. Smith of New Hampshire, Mr. Hochbrueckner, Mr. Carper, and Mr. Lowery of California.

H.R. 2694: Mr. Edwards of California.

H.R. 2804: Mrs. Collins.

H.R. 2858: Mr. Fascell and Mr. Gray of Illinois.

H.R. 2859: Mr. Torricelli, Mr. Shays, and Mr. Studds.

H.R. 3005: Mr. Gray of Illinois.

H.R. 3071: Mr. Stokes.

H.R. 3112: Mr. Gonzalez, Mr. Campbell, Mr. Hawkins, Mr. Bryant, Mr. Bonior of Michigan, and Mr. Rangel.

H.R. 3154: Mr. Edwards of California, and Mr. Foglietta.

H.R. 3171: Mr. Porter, Mr. Kolbe, and Mr. Dornan of California.

H.R. 3268: Mr. Hunter and Mr. Smith of Texas.

H.R. 3288: Mr. Annunzio and Mr. Lantos.

H.R. 3344: Mr. Nagle.

H.R. 3433: Mr. Owens of New York, Mr. Green, Mr. Bonker, Mr. Foglietta, Mr. Mrazek, Mr. LaFalce, and Mr. Rangel.

H.R. 3460: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Applegate, Mr. Stump, Mr. Mica, Mr. McEwen, Mr. Penny, Mr. Burton of Indiana, Mr. Staggers, Mr. Bilirakis, Mr. Rowland of Georgia, Mr. Rowland of Connecticut, Mr. Bryant, Mr. Smith of New Hampshire, Mr. Florio, Mr. Davis of Illinois, Mr. Gray of Illinois, Mr. Kanjorski, Mr. Robinson, Mr. Stenholm, Mr. Harris, Mr. Johnson of South Dakota, Mr. Leath of Texas, Mr. Hefner, Mr. Jenkins, and Mr. Richardson.

H.R. 3478: Mr. Traficant.

H.J. Res. 50: Mr. Howard, Mr. McCloskey, Mr. Valentine, Mrs. Collins, Mr. Hansen, Mr. Gonzalez, Mr. Mack, Mr. Panetta, Mr. Traficant, Mr. Clay, Mr. AuCoin, and Mr. Foglietta.

H.J. Res. 192: Mr. DioGuardi.

H.J. Res. 330: Mr. Dymally, Mr. Sharp, Mr. Fuster, Mr. Hayes of Illinois, Mr. Kildee, Ms. Pelosi, Mr. Weiss, Mr. Mrazek, Mr. Dellums, Mr. Berman, Mrs. Collins, Mr. Biaggi, Mr. Owens of Utah, Mr. Gonzalez, Mr. Sikorski, Mr. Gilman, Mr. de Lugo, Mr. Porter, Mr. Studds, Mr. Conyers, and Mr. Mineta.

H. Con. Res. 15: Mr. Burton of Indiana.

H. Con. Res. 158: Mr. Dornan of California and Mr. Cardin.

H. Con. Res. 193: Mr. Schaefer, Mr. Porter, and Mr. Bustamante.

H. Con. Res. 199: Mr. Blaz.

H. Con. Res. 200: Mr. Clarke.

H. Res. 131: Mr. Garcia, Mr. Sunia, Mr. Solarz, Mr. Gejdenson, Mr. Leach of Iowa, and Mr. Matsui.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3071: Mr. Montgomery.

PETITIONS, ETC.

Under clause 1 of rule XXII,

85. The SPEAKER presented a petition of the Michigan Department of Natural Resources, Lansing, MI, relative to continued use and construction of confined disposal facilities; which was referred to the Comittee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1720

By Mr. BROWN of Colorado:

1. In subsection (h)(6) of the proposed new section 416 (Page , line), strike out ". . . the current pay scale for that position, or, if there is no current pay scale for that position,".

2. Strike the entire subsection (h)(8) in the proposed new section 416 (Page , line).

3. Strike the entire subsection (j)(1)(B) in the proposed new section 416 (Page , line).

4. Strike subsection (a)(1)(B) of section 201 (Page , line).

EXTENSIONS OF REMARKS

CISPES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. DYMALLY. Mr. Speaker, recently there has been some discussion about the role of the Committee In Solidarity With the People of El Salvador [CISPES].

I am attaching a letter for your review for CISPES. I trust this communication will shed some light on their role in El Salvador.

The letter follows:

SEPTEMBER 23, 1987.

COMMITTEE IN SOLIDARITY WITH PEOPLE OF EL SALVADOR

Hon. MERVYN M. DYMALLY,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN DYMALLY: During the Iran-Contra hearing Congressman McCollum (June 11, 1987) made an inference that your support for The Committee in Solidarity with the People of El Salvador (CISPES) equates to the illegal sale of arms to Iran. More recently Congressman Dannemeyer (September 10, 1987) implied that your support for our work is violating the public trust by "implicitly or explicitly" endorsing or encouraging political activism of Marxist-Leninism abroad.

Red baiting and anti-communist hysteria are constantly being used to obscure the real issue: U.S. foreign policy in El Salvador and Central America. CISPES's open and legal efforts to support the Salvadoran people's struggle for peace with justice can hardly be compared to the illegal sale of arms to Iran or to the illegal funding of the Contras by U.S. Government officials.

We consider the attempts to smear your honorable reputation an extension of the unjustified and unconstitutional attacks on CISPES. Even though CISPES's work is totally legitimate, we have been subjected to illegal surveillance and harassment by Government agencies in disregard of the First and Fourth Amendments of the U.S. Constitution. This disregard of fundamental Constitutional rights by Government agencies has indirectly unleashed a wave of terrorist attacks on CISPES and Salvadoran refugees by right-wing groups and Salvadoran death squads operating in the U.S.

Congressman McCollum submitted documents to Congress in an attempt to show that CISPES is a U.S. organization founded and controlled by the leaders of the Salvadoran Communist Party (CONG. REC. 6/11/87 E2370). I am submitting this letter to you in an effort to rectify some of the misrepresentations being made by Congressman McCollum and Congressman Dannemeyer. In it I will profile CISPES's background, decision making process and political perspective; then outline illegal surveillance and harassment of CISPES, and detail the most recent and outrageous red-baiting campaigns unleashed against us.

CISPES was founded in October 1980 at conferences on the east and west coasts. In response to the escalation of U.S. intervention in El Salvador, thirty to forty national representatives from religious, student, and peace organizations concerned about U.S. policy in Central America participated in the founding conferences.

In the ensuing seven years CISPES has developed from a loose network into a national organization with over 150 chapters, many hundreds of affiliates, and tens of thousands of individual supporters. We support political negotiated solutions to the conflicts in Central America. Within this context, we work to change the present U.S. militaristic policy towards Central America in general and El Salvador in particular.

CISPES makes it decisions democratically, CISPES's national conventions are held every two years. These conventions bring together chapters and affiliates to make decisions about CISPES's strategy and program. Between conventions, CISPES's governing board is the National Administrative Committee (NAC) which meets every three months to evaluate and adjust CISPES's program. The NAC is made up of the National Executive Committee (NEC), a three-member nationally elected body, and Regional Directors elected by committees from their respective regions, CISPES chapters and affiliates provide input through regional structures which meet on a regular basis.

Through this democratic process the membership sets both CISPES's long range goals and immediate strategies, which have included: public protest and education, grassroots lobbying of elected officials, and fundraising for humanitarian aid to El Salvador.

CISPES's membership has voted to give political support to the movement in El Salvador for self-determination and peace based on social justice; to include support for the Salvadoran labor movement, human rights organizations and the Christian based communities. We recognize the FMLN/FDR as a legitimate political force within El Salvador.

We support the position put forward by these political forces in El Salvador, which have called for non-participation by external military forces or military blocks, as well as: a just economic system; national sovereignty and independence; a political system based on pluralism; the development of a mixed economy, combining free enterprise and private property with state property and enterprise.

Most importantly, we believe that the political solutions to the present crisis in El Salvador must be sought, solved and agreed upon by the Salvadorans themselves.

Public polls show that over 70% of the people in the U.S. oppose U.S. military intervention in Central America. Since our founding in 1980, CISPES has organized hundreds of thousands of North Americans to actively show their opposition. We have done this through demonstrations, letter writing campaigns and local referendums. In addition, CISPES committees have raised over $1 million in humanitarian aid for the civilian population who are most affected by the war in El Salvador. This aid has been sent through tax exempt institutions who fund projects for food, clothing, and medical supplies. These institutions are independent organizations and their work is not coordinated by CISPES.

Despite our constitutional protected activity, and although we speak to the legitimate concerns of the American people, organizing around U.S. policy in El Salvador and Central America has not been an easy task. For the past seven years CISPES has been subjected to systematic spying and harassment by right-wing groups and the FBI. Our offices have been broken into and our files stolen. Right-wing groups, including Soldier of Fortune magazine and the National Conservative Political Action Committee (NCPAC), are publishing outrageous lies about us.

For three and a half years, an FBI informer infiltrated our Dallas chapter collecting dossiers and transmitting the names of Salvadoran activists and U.S. citizens to the Salvadoran National Guard, thereby sentencing these individuals and their families to harassment or possible death. The informant admitted that he was unable to find any sign or evidence of links with Salvadoran rebels and signed an affidavit stating: "Not once did I find, see, hear, or observe any illegal conduct of any nature. The CISPES organization was peaceful, nonviolent, and devoted to changing the policies of the United States towards Central America by persuasion and education."

The National Conservative Political Action Committee (NCPAC) has targeted CISPES for smear campaign. Soldier of Fortune magazine published an article full of misrepresentations about us, and printed the addresses and phone numbers of our offices suggesting that reader "call".

This conduct has triggered a wave of terror by death squad elements from El Salvador now operating in Los Angeles. CISPES staff and Salvadoran refugees have been followed and their offices watched. Their cars and homes have been broken into and vandalized. Their lives have been threatened—over the phone, at public meetings and through letters arriving in the mail. One Salvadoran woman was kidnapped, tortured and sexually assaulted. More then 20 people, including a Catholic priest and myself, have been threatened with death.

Following the pattern in Los Angeles, this terrorist activity is moving eastward. At our Midwest Regional office in Chicago, midnight intruders painted graffiti such as "Death to CISPES" all over the corridor outside the office. The office of our Washington, D.C. chapter has been receiving threatening calls almost daily for the last few days, saying: "We know where you are and we're going to get rid of you."

The anti-communist rhetoric is another established pattern of harassment and disinformation often used by the right-wing extremist to diminish support for CISPES work and discourage people from joining legitimate and legal activities in opposition to U.S. policy in Central America.

For example, the claim has been made that the recent April 25, 1987 Mobilization for Peace and Justice in Central America

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and Southern Africa was a result of CISPES's creation of "popular fronts such as those put together by the Communist in the 1930's" (CONG. REC. 9/10/87 E3496). In fact the origins of the April 25 mobilization can be traced to September, 1986 when representatives from the labor movement and the religious community met to examine the commonality between the Reagan administration's policy in Central America and in Southern Africa.

Building upon the growing popular concern about the U.S. policy in both regions, the call for the mobilization was made by a group composed of 55 religious leaders and 20 presidents of national and international trade unions, including: AME Zion Bishop Philip Cousin, President of the National Council of Churches; Dr. James Andrews, Clerk of the Presbyterian Church; Dr. C. J. Malloy, General Secretary of the Progressive National Baptist Convention; Rabbi Alexander Schindler, President of the Union of Hebrew Congregations; Rev. Joseph Lowery, president of the Southern Christian Leadership Conference; Gerald W. McEntee, President of AFSME; Owen Bieber, President of the United Auto Workers; William Wynn, President of the United Food and Commercial Workers; William Winpisinger, President, of the International Association of Machinists; Mary Futrell, President National Education Association; John Sweeney, President, Service Employees International Union; Morton Bahr, President of the Communications Workers of America, 11 bishops of the Roman Catholic Church and other leaders from every major denomination.

CISPES joined the Steering Committee of the National Coalition after we received an invitation from the leadership of the coalition. To claim that this Mobilization was put together by CISPES is to undermine and diminish the true historic meaning of this event. More importantly it attempts to mask the political message being sent to the Reagan Administration: that we strongly condemn the Reagan administration for cooperating with the apartheid South African government's domestic repression and militaristic attacks on its neighbors; and that we strongly condemn the Reagan Administration for escalating the terrorism against Nicaragua and for increasing military intervention in El Salvador, Honduras, and Guatemala.

The massive campaign to discredit this event, however, was not successful. Hundreds and thousands came to Washington, D.C. and San Francisco to show their opposition for the present policy.

This pattern of anti-communist attacks is clearly designed to delegitmize the honest concerns of the American people and to discredit the legal means being used to try and stop an illegal and immoral war.

In closing I would like to thank you for your continued support. I would also like to assure you that we intend to continue to defend our democratic and Constitutional right to dissent and to work for a U.S. policy in El Salvador and Central America based on political solutions, economic justice, the respect for human rights and self-determination.

Thank you so much,

ANGELA SANBRANO,
Executive Director.

CRITICALLY ILL CHILDREN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Ms. OAKAR. Mr. Speaker, on October 5, 1987, Cleveland, OH's, favorite son and America's favorite actor, Paul Newman, came closer to making his dream of establishing a camp for critically ill children a reality. Prince Bandar bin Sultan, the Ambassador of the kingdom of Saudi Arabia to Washington, presented a gift of $5 million to Mr. Newman at a reception held in his honor at the Embassy.

Prince Bandar said that the gift was being made on behalf of King Fahd and the people of Saudi Arabia in the belief that all the children of the world could benefit from the camp.

Newman named the camp "The Hole in the Wall Gang Camp," after the gang of outlaws in one of his movies, "Butch Cassidy and the Sundance Kid." The camp has been designed to meet the needs of children with cancer and other serious illnesses and their families.

It is situated on a 300-acre site in Connecticut and will be staffed primarily by physicians from Yale University Medical School, who will work as volunteers, and by nurses from Yale-New Haven Hospital. The camp will be equipped to treat children undergoing chemotherapy. There will be no charge for these special campers when the facility opens in 1988.

We congratulate Mr. Newman and the Saudi Arabian Government for remembering the critically ill children. It is indeed a noble beginning of service.

CELEBRATION OF ROSA PARKS DAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. RANGEL. Mr. Speaker, on September 15, 1987, a very important ceremony took place at New Rochelle, School of New Resources in Harlem, NY. This momentous celebration was the dedication and designation of a new college campus in Harlem as the Rosa Parks Campus.

Rosa Parks, whose courageous act, over 30 years ago, of refusing to give up a seat on a Jim Crow bus, sent shock waves of pride and determination throughout black America and those committed to racial equality. More so, her personal acts of sacrifice and nonviolent resistance in the pursuit of the civil rights of all Americans have led to the establishment of a more just society; a society dedicated to a greater respect for the ideals, human dignity, equal opportunity, and equal protection under the law for all Americans.

It is with these contributions in mind that I propose that September 15 be recognized in the minds of all Americans as Rosa Parks Day in this great land of freedom, justice, and democracy.

Rosa Parks' efforts inspire us to push forward, and continue the quest for equality for all Americans. As we continue in the struggle to maintain in "more perfect union," we can keep the fire burning by recognizing Rosa Parks' achievements, and honoring her with Rosa Parks Day.

INSURANCE FOR THE ELDERLY AND HOPES FOR THE FUTURE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. FLORIO. Mr. Speaker, in the Nation today, the elderly are facing an insurance crunch that threatens their livelihood and their welfare. When faced with long-term health problems, the elderly often have no one to turn to.

In the absence of complete coverage by Medicare of the long-term health costs associated with some of the diseases and conditions affecting the elderly, including Alzheimer's disease, cancer, stroke, and other debilitating conditions, the elderly are left without insurance to cover their expenses.

If there is any question as to the need for coverage, one need look only at the demand for nursing home care, among other things. As an indicator of one of the main components of long-term health care costs, nursing homes account for a great part of the costs incurred by the elderly.

In 1987, today, the nursing homes are peaking at capacity, with 92 percent of the available space already taken up by patients.

As the number of elderly in the United States continues to increase in the coming years, these nursing homes will face an increased demand for medical attention.

However, the great demand for nursing home home care and long-term health care is keeping those medical costs way out of reach for the elderly.

Similarly, those high costs have a restrictive effect on the availability and types of insurance for the elderly. The insurance policies that do exist are expensive and thus, are very much out of reach for the elderly poor, that is those elderly who are often most vulnerable to the need for a long-term health care.

Faced with a lack of incentives on the State level by State regulators, the insurance industry numbers only a few dozen companies who provide that type of long-term coverage for the elderly.

Part of the problem is that the consumers of the insurance, that is the elderly themselves, are not aware of even the minimal amount of coverage that is available. But an even greater problem is that for those who are aware of the availability of insurance, the high costs of the premiums are prohibitive.

Consequently, in the last year, as more people have become aware of the existence of policies for long-term care, 100,000 policies were taken out by the elderly.

But those 100,000 policies will provide coverage for only 1 percent of the total for nursing home expenditures.

Ninety-nine percent of the expenditures that will be in incurred at those nursing homes will go uncovered. Without the proper insurance, the elderly, and especially the elderly without means, will not receive the proper medical attention that they deserve.

It is time to focus on improving the environment of providing insurance. Much can be done at the State level to foster improved access to and availability of insurance.

The situation will not improve if no attention is given to the matter. Rather, the situation will only worsen as the number of elderly increases dramatically by the end of the century.

I am including below an article from the Newark Star-Ledger in which columnist Herb Jaffe described the dire need for long-term health care and the insurance to cover it:

AGE-OLD PROBLEM OF INSURANCE FOR INFIRMED ELDERLY

The most serious insurance problem in New Jersey, and indeed all of America, is not auto coverage, nor is it medical malpractice, commercial liability or product liability.

It's catastrophic illness insurance for the elderly, and in particular coverage that insures long-term health care.

Several congressional committees have been studying the problem at the federal level. On the state level, there are numerous bill in the Legislature intended to open the avenues of health care coverage for seniors.

A recent staff memo produced by the House Subcommittee on Commerce, Consumer Protection and Competitiveness, chaired by Rep. James J. Florio (D-First District), explains how the insurance industry and the state insurance regulators have neglected the problem in the past.

The memo also details how both have taken a conservative approach toward resolving a situation that has already reached critical proportions.

The seriousness of the problem, according to the memo which was prepared for Florio, can best be measured by the fact that nursing home care costs for the elderly totaled $32 million in 1984, a figure that was six times the cost only 14 years earlier.

But that was only for starters. The memo adds: "Nursing home expenditures are expected to reach $82 billion by 1990 and may reach $200 billion by 2000."

It also noted that in 1984 insurers paid only 2 percent of the cost. That's because there were so few insurers that sold the coverage and so few seniors who could afford to buy it.

In fact, the lack of coverage is such a critical element that the insurers have hardly kept pace with the growth in nursing home costs. "Currently, long-term care insurance pays for about 1 percent of nursing home outlays, with only 200,000 policies (half in 1986) purchased by individuals," the memo said.

It stated that by the early 1990s, "industry expectations are for long-term care insurance premiums to exceed $8 billion, or about 10 percent of total nursing home expenditures."

And it pointed out that by the end of last year there were more than 40 companies that had either developed or were developing long-term care policies for the elderly, "up considerably from the 16 companies selling the insurance in 1985."

The memo attributes several factors for inhibiting the development of long-term care, including:

"Lack of consumer awareness about the need for long-term coverage." For example, it noted that a poll conducted in 1985 by the American Association of Retired Persons found that almost 80 percent of the elderly were of the opinion Medicare would pay for their long-term nursing home care. But Medicare's contribution is almost nonexistent.

"Lack of data on use and costs of nursing homes." The memo says that most of the data available on nursing home use are outdated and inadequate for determining admissions and length of stay for the elderly.

"Insurers' fears about underwriting risks and marketing strategies." Insufficient experience data, as a result of limited entry in the past into this area, have left insurers with a conservative posture that has resulted in numerous limitations on benefits.

Neglect by the state regulators. "The states provided few incentives for market development and in some cases inhibited growth," the memo stated.

The lack of incentives by state insurance commissioners has been costly for the states in other ways, such as the fact that 46 percent of all long-term care costs for the elderly are being paid by Medicaid. This is state and federal funding that is earmarked for the poor.

However, officials are also aware of the fact that the cost of long-term care commonly drains the assets of senior citizens, many of whom have worked a lifetime to gather these resources in order to enjoy their "golden years?" The result is that once they become destitute they become Medicaid recipients.

The memo pointed out that "the willingness of the states to encourage long-term care insurance is increasing. States are looking more favorably to long-term care insurance in order to reduce state expenditures for Medicaid.

"Long-term care is the fastest growing portion of the Medicaid program, topping $15 billion in 1984, accounting for more than one-third of all Medicaid expenditures. In fact, Medicaid has been the fastest growing component of many state budgets, according to a recent NAIC (National Association of Insurance Commissioners) report," the memo added.

The NAIC, however, may be ignoring one of the most needy aspects of the overall problem. In a model act adopted by the NAIC, a hospital stay of at least three to five days would be required as a condition of long-term health coverage.

The NAIC model favors the prior hospital stay "even though an NAIC report acknowledges that some policyholders who may truly need nursing home care may not be eligible for benefits since they were not hospitalized prior to nursing home admission."

Most noteworthy among the eligibles are persons who suffer from Alzheimer's disease, cancer and strokes. Yet these are the individuals for whom long-term care insurance is most essential.

TRIBUTE TO LARRY R. GALE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to an outstanding Missourian, Mr. Larry R. Gale, of Jefferson City. He recently received the Conservation Service Award, the highest honor the Department of the Interior can bestow upon a private citizen for indirect service to the Department of the Interior.

Larry Gale's broad knowledge of conservation matters and effective agency administration have earned national recognition for the Missouri Department of Conservation as one of the best organized and managed State conservation agencies in the country. Under Larry's leadership, his organization has made numerous significant contributions which have greatly benefited programs of the U.S. Fish and Wildlife Service and other agencies. Noteworthy among his achievements was the development of the wildlife habitat evaluation procedure, an internationally recognized tool for assessing habitat values. In addition, major land acquisitions have been made under his direction to provide habitat for many endangered, threatened and rare species, including the bald eagle. He is also credited with the development of one of the largest and best conservation education programs in the country.

Mr. Speaker, Larry has consistently provided technical, financial, and personnel assistance to the Service's Missouri Cooperative Fish and Wildlife Research Unit. His dedication to the cause of conservation has also been clearly demonstrated by his service in numerous Southeast and Midwest associations of the Fish and Wildlife Agencies.

CONGRESSMAN STOKES: COMFORTABLE IN THE HOT SEAT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. CLAY. Mr. Speaker, I am proud to enter into the RECORD the timely and thoughtful article on our very distinguished colleague from Ohio, the Honorable LOUIS STOKES. A man of the highest principle and a treasured friend, he is an invaluable Member of our esteemed Halls of Congress.

The article follows:

[From the Metro Chronicle, Oct. 15, 1987].

CONGRESSMAN LOUIS STOKES: COMFORTABLE IN THE HOT SEAT

(By Reggie Terrell)

The intensity in Louis Stokes, Democratic Congressman from the 21st District of Ohio, is one of the first things you notice about him. It is in his eyes; it is in his voice.

A member of Congress since 1968, Stokes was the first Black ever elected to the Congress from Ohio, and the first Black ever to serve on the powerful House Appropriations Committee. He has chaired the House Ethics Committee, and served on the Iran-Contra and John F. Kennedy assassination investigation committees. And through it all, Stokes remains, as Ebony Magazine has recognized, one of the 100 most influential Blacks in America.

Asked about his assessment of the Iran-Contra investigation, Stokes says almost as much about himself as the investigation. The word is 'integrity,' and Stokes exudes it.

"This was a crisis in government," Stokes says. "People in the Executive Branch broke laws; they sold arms contrary to stated American public policy.

"But the strength of the United States," Stokes continues, "is that the hearings exposed all this; the fact that we are a nation of laws and that we operate under the law."

On the issue of the hotly debated nomination of federal judge Robert Bork for the Supreme Court, an edge comes into Stokes' voice. It is a familiar edge for a man who has stood against injustice in a number of forums, down through his 62 years—19 of them as a member of the United States Congress.

"Bork is an intelligent, able lawyer and judge," says Stokes. "But philosophically and ideologically, he is completely incapable of bringing to the Supreme Court the fairness and equity which is a requirement for sitting on that bench. I'm happy to report, however, the tide has turned. His nomination is headed for defeat."

Stokes is equally frank when discussing the Reagan Administration. "Reagan has the worst civil rights record of any president in 50 years," says Stokes. "He has tried to turn the clock back in every area of Black life."

Asked if the damage is irreparable, Stokes replies acidly. "We're holding the line. Under Reagan, that's a gain."

The latter notwithstanding, Stokes has never been a man satisfied with presenting anything short of both sides of an issue. When the issue is Black progress—particularly in the Congress—Stokes is optimistic, albeit, guardedly so.

"The Congressional Black Caucus is in a unique position these days," Stokes begins. "There are a large number of Blacks in key committees. We've begun to garner a certain amount of seniority, of power. Still, until we reach numerical parity in the Congress, we'll be operating at a deficit."

Referring to the recent Black Caucus Weekend, held in Washington, Stokes says, the sessions he chaired could well lead to the introduction of important legislation aimed at curbing the disproportionately high level of negative statistics pertaining to the health of Black Americans.

"During the sessions I chaired regarding the epidemic spread of AIDS (Acquired Immunity Deficiency Syndrome) in the Black community, we discussed targeting appropriations that would help blunt the AIDS impact. For Black Americans, that would be a plus".

"Turning to the issue of the ongoing attack on Black politicians, the edge returns to Stokes' voice. "Part of the problem," he says, "is that the Reagan Administration has made racism respectable. But we're working, and others are working, to counteract that."

"The Jackson (prospective) campaign is part of the credit side of the picture. I think Jackson has an excellent chance," Stokes says. Asked if the Caucus would be "chained" to supporting a Black candidate, Stokes is cautious.

"I believe Jackson enjoys the support of the majority of the Caucus," Stokes intones. "The last time out, he didn't have that."

The answer is part of the Stokes persona. It is simply as direct as he chooses to be. For the most part that is extreme directness, extreme frankness, and integrity. That's the Stokes style.

JACK YOHE, FORMER CONGRESSIONAL AIDE, HONORED FOR CONTRIBUTIONS TO THE LEHIGH VALLEY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. RITTER. Mr. Speaker, it is always a stimulating experience to work with Jack Yohe, director of the Allentown-Bethlehem-Easton Airport [ABE] on projects that enhance the overall operation of the outstanding airport facility that we have in the Lehigh Valley. These projects not only benefit the airline users but also contribute to economic development and job creation.

For example, it was Jack's request that prompted me to make special presentations to the House Transportation Subcommittee on Appropriations for additional funds from the Federal Aviation Agency's discretionary pool. I am pleased that ABE received "priority consideration" for the development of a general aviation complex.

As a result, Jack advises me that the Mario Andretti-Bill Thayer firm and the Lehigh-Northampton Airport Authority are currently negotiating for the construction of what may very well become the finest general aviation facility in the country. Mr. Speaker, it was indeed a pleasure to work with Jack on this as it is with all of the dedicated county and local officials in my congressional district.

Jack Yohe, a former reporter for the Allentown Morning Call and administrative assistant to the late Representative Tad Walter, is sensitive to these key issues and active in pursuing them to a successful conclusion. It is therefore fitting and proper that Jack be presented with the 1987 Commerce Plaza Award "for the enhancement of the quality of life and economic development in the Lehigh Valley."

Mr. Speaker, I rise in support of that accolade and under unanimous consent include the following article from the October 7, 1987 Morning Call.

[From the Allentown (PA) Morning Call, Oct. 7, 1987]

A-B-E DIRECTOR TO BE HONORED FOR CONTRIBUTIONS TO VALLEY

(By Dan Pearson)

Jack Yohe, director of Allentown-Bethlehem-Easton Airport, has been named to receive the 1987 Commerce Plaza Award for enhancing the quality of life and fostering economic development in the Lehigh Valley.

The award will be presented Oct. 22 at a reception in A-B-E's Glass Terrace Restaurant attended by 200 community, business and government leaders plus members of the Lehigh-Northampton Airport Authority. The program will begin at 5:30 p.m.

Commerce Plaza, based at 5000 Tilghman St., South Whitehall Township, is a company in real estate development and property management that recognizes individuals, institutions and organizations that improve the economic and cultural environment of the Lehigh Valley. The Allentown Art Museum received the first award last year.

Yohe was selected by a committee composed of Watson Skinner, president of Allentown City Council; Francis X. Hackett of the Pennsylvania Power & Light Co.'s economic development department, and Marianne Leh, a civic leader in Lehigh County.

Thomas J. Dunn, vice president and general manager of Commerce Plaza, said the company became acquainted with Yohe in 1985 when Yohe participated in a seminar on the "Lehigh Valley in Transition."

With the Bethlehem Steel Corp. in decline and other heavy-industry companies having serious financial problems, Dunn said, the seminar sought to overcome the fears of people and have them look to the future.

Yohe, recalled Dunn, was one of the most positive seminar speakers—talking about A-B-E Airport as the "economic Jewel" of the Lehigh Valley and the catalytic role it would play in improving transportation of business people and air cargo, attracting new companies and creating more jobs.

Yohe succeeded Wilfred M. "Wiley" Post as director of A-B-E Airport in January 1984. Among his accomplishments have been the establishment of an International Port of Entry—one of the first in the nation authorized by the U.S. Customs Service on a user-fee basis—the start of an air cargo facility with Federal Express as the initial tenant, and the attraction of the ITT Corp.'s aviation division to the airport, where it has built a large hangar for its corporate aircraft.

In addition, Yohe has been largely responsible for obtaining more than $6 million in aid from the Federal Aviation Administration for various airport improvement projects.

Starting out as Morning Call reporter in the 1950s, Yohe worked as a copy editor for the Washington Star in Washington, D.C., became administrative assistant to the late U.S. Rep. Francis E. "Tad" Walter, D-15th District, and switched to the former Civil Aeronautics Board after Walter's death.

Director of public information and chief troubleshooter of the agency, Yohe was appointed the first and only consumer advocate of the CAB. It was Yohe who established a system for processing consumer complaints about ticketing and luggage, and clamped down on overbooking by the scheduled airlines.

When he retired from the CAB in the late 1970s, he joined a colleague in an aviation consulting and marketing business based in Washington. One of their accounts was A-B-E Airport.

Yohe grew up in Allentown and attended its schools. His father was a city policy chief.

"Although the decision on the Commerce Plaza Award recipient was made by an independent committee," Dunn said, "I think that the selection of Yohe was, in part, an offshoot of our seminar held two years ago."

Commerce Plaza was founded in 1946 and the business was moved to South Whitehall in 1970. Among the larger holdings of the company is The Lakes Apartments complex at Tilhgman Street and Cedar Crest Boulevard.

RULE ON H.R. 2167, RAILROAD UNEMPLOYMENT INSURANCE AND RETIREMENT ACT OF 1987

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to serve notice to my colleagues that, pursuant to the rules of the Democratic Caucus, I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of the bill, H.R. 2167, the Railroad Unemployment Insurance and Retirement Act of 1987.

SAVE THE CHILDREN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. SOLARZ. Mr. Speaker, in the coming months, the administration and the Congress will intensify the wrestling match with one of the thorniest issues of our day, the budget deficit. Countless balancing act proposals—many involving spending cuts—will be offered. Many of these will have merit. But we can accept no proposal that would dramatically threaten our Nation's future. We can accept no proposal that would harm the development of our most treasured natural resource. In our efforts to find solutions to the budget crunch, we can accept no proposal that would—quite literally—"throw the baby out with the bath water." We must save the vital programs which protect and nurture our children.

Yesterday, the New York Times published an editorial urging President Reagan to spare several most important Federal initiatives from his budget cutting ax. This editorial is timely and eloquent, and I commend it to all of my colleagues. In my district and around the country, these programs have proven time and time again that they work. The benefits of chapter 1, Head Start, WIC, and other key programs far exceed their modest costs. By providing critically needed services to children and families who are most in need, these programs collectively represent one of the soundest investments we can possibly make in our country's future.

Marian Wright Edelman, president of the Children's Defense Fund, has written, "the budget deficit and the trade deficit pale in comparison to (the) human development deficit and the national spiritual deficit that permits it." To balance these deficits, Ms. Edelman calls for a "national commitment to ensure that every child has basic health, nutrition, and early childhood services." As usual, Marian Wright Edelman is right on target. And for defending a handful of Federal programs that we can ill afford to lose, so is the New York Times.

[From the New York Times, Oct. 18, 1987]

THE PRESIDENT AND THE CHILDREN

Children are a nation's greatest future resource; that's why America is heading for trouble. In the next 12 weeks, President Reagan will either seize—or forfeit—his last chance to do something about it.

At this moment, his Office of Management and Budget is constructing the 1989 Federal budget, for his last full year in office. The usual strains of budget-making are intensified by merciless pressure to cut the deficit, notably the present struggle to bring the 1988 budget within Gramm-Rudman's mandatory targets. Temptation is strong to cut back everywhere, on the theory that All Must Share the Burden. Yes, But not the children.

Many American children, and the number is rising, need help, especially in early childhood. More than 20 percent of children are now growing up poor; in 1970 it was 15 percent. The nation has developed programs that work to prevent or ameliorate poverty's worst effects. A new consensus is coalescing around early childhood health and education; people are coming to recognize that insuring a fair chance for every child saves futures and also millions, in increased productivity, decreased crime and dependence.

The judgment Mr. Reagan passes on five programs especially will do much to establish how he is remembered when today's toddlers become adults.

WIC (Women-Infants-Children). By providing supplemental food to those at nutritional risk, this program helps reduce infant mortality and increases birthweight. It has the greatest effect on pregnant women: every dollar spent on the prenatal component saves three in short-term hospital costs. Now funded at about $1.7 billion, it serves less than half those eligible.

Prenatal Care. Several programs, including a block grant for maternal and child health and Medicaid, provide prenatal services to low-income women. Investing one dollar in prenatal services saves $3.38 in the cost of care for low-birthweight infants. Every dollar spent on comprehensive prenatal care for Medicaid recipients saves $2 in care during a baby's first year. Still, in 1985, nearly 25 percent of mothers did not begin prenatal care in the critical first trimester. Congress has approved an increase of $27 million in the maternal and child health block grant. That could provide complete prenatal care services to 40,000 more women.

Childhood Immunization. Each dollar spent to immunize young children saves $10 in later medical costs. Yet in 1985, one of four children between ages 1 and 4 was not immunized for rubella, mumps, polio or measles and 13 percent lacked immunization for diptheria, tetanus and pertussis. Congress would increase funding by about $20 million, enough to immunize 600,000 more youngsters.

Preschool Education. Enriched preschool programs increase later school success. Head Start, the celebrated Federal contribution to this effort, is now funded at about $1.1 billion, enough to serve barely one of every five eligible children. Congress contemplates an increase that could cover 28,000 more children.

Remedial Education. Since 1965, the Federal Government has provided remedial services to educationally disadvantaged children. A year of such service costs about $600. Compare that with the $4,000 it costs taxpayers when a child must repeat a grade. Congress would add about $350 million for remedial education, targeting most of it to the poorest students. That could allow school districts to serve another half-million children.

Big funding increases for child welfare programs may be unrealistic at a time of huge deficits. But the modest Congressional increases approved so far are well within Gramm-Rudman's budgetary limits. They make progress toward 100 percent coverage of those eligible. If the President cares about poor children, he'll do well to continue these modest but steady gains. These are investments that America cannot afford *not* to make.

B'NAI B'RITH WOMEN OF CLEVELAND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Ms. OAKAR. Mr. Speaker, I rise today to honor the 90th anniversary of a most worthy organization—the B'nai B'rith Women of Cleveland. For 90 years Greater Cleveland has benefited from the tremendous amount of community service generated by this compassionate group of women.

While the members of B'nai B'rith certainly share a religious and cultural foundation they have in no way limited their good works to that background. Instead the organization has always reached out to the community at large by volunteering in hospitals, centers for the aged and the very young—in short anywhere there are the poor, infirm, and vulnerable.

Women have had to adjust to many changes in 90 years. Women have gotten the vote, burned their bras, abandoned and embraced marriage and children, and become 45 percent of the work force to name a few. B'nai B'rith women have helped ease the transitions associated with these changes in women's status by providing a forum for discussion and action.

As a women I salute the B'nai B'rith women for providing 90 years of service and support to generations of Cleveland women. As a Clevelander, I thank B'nai B'rith women for giving selflessly to my community and I am proud to commemorate their 90th anniversary.

REMARKS OF NORMAN HILL IN TRIBUTE TO BAYARD RUSTIN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. RANGEL. Mr. Speaker, on August 24, the world mourned the loss of Bayard Rustin, one of this world's foremost independent thinkers and advocates for freedom and democracy. Time and again, Mr. Rustin demonstrated his lifelong commitment to social and economic justice throughout the world. Confirmed by his work with both Dr. Martin Luther King, Jr., and Mahatma Gandhi, he was an invaluable strategist, organizer, and warrior for civil, human, and workers' rights.

Despite being the subject of controversy over the years, Bayard Rustin never strayed from his mission of making the world a better place through the elimination of injustice and oppression through creative thinking and nonviolent means. At a time when we face the possibility of stepping backward from several important civil rights gains that we have made over the last 20 years, Bayard Rustin's life work truly serves as an inspiration to all of us in the struggle to maintain world harmony and equality.

Mr. Speaker, I would like to take this opportunity to present to you the remarks of Mr. Norman Hill, president of the A. Philip Randolph Institute, in tribute to this great man. I ask that "Bayard Rustin: A Personal Tribute" be inserted into the CONGRESSIONAL RECORD on this day. And I ask that each and every one of my colleagues join with me in honoring this great American.

The material follows:

BAYARD RUSTIN: A PERSONAL TRIBUTE

(By Norman Hill)

When Bayard Rustin died so unexpectedly on August 24, I lost a cherished compatriot and long-time friend. The black community lost a legendary and tenacious tactician and organizer whose fearless devotion to principle and direct action laid the monumental building blocks that, piled one on top of the other, made the civil rights movement the powerful moral juggernaut that changed the nation. American workers lost a tireless warrior for social and economic justice. And the world lost a passionate and outspoken advocate of freedom and democracy who, at an age when most men would have retired, criss-crossed the globe to confront injustice and defend the oppressed, be it in South Africa, Haiti, Poland, or Chile.

The contributions and sacrifices of this often misunderstood, controversial, and fiercely intellectual man are enough to fill two lifetimes. There wasn't a major civil rights battle in the last four decades in which he did not play a significant role. In the 1940s, he helped organize CORE and worked closely with his mentor, A. Philip Randolph, to secure executive orders ending hiring discrimination in the defense industry and eliminating segregation in the Armed Forces. He took part in a "Journey of Reconciliation" to test enforcement of the 1946 Irene Moran case decision outlawing discrimination in interstate travel, a protest that was a model of the "freedom rides" of the 1960s. Arrested in North Carolina, he served 30 days in a chain gang, one of over 20 times he was to be arrested for his protest activities.

In the 1950s, Bayard organized several Prayer Pilgrimages and marches, and assisted Dr. Martin Luther King, Jr. in the early days of the Montgomery Bus Boycott. His extensive background in the theories, strategies, and tactics of non-violent action—confirmed by his work with Gandhi during India's struggle for independence—proved invaluable and were the foundation of his close association with Dr. King.

And, of course Bayard was the logistical coordinator and point-man for the triumphant 1963 March on Washington, which saw 250,000 people peacefully demonstrate for jobs and freedom in what was surely the civil rights movement's finest hour. In 1964, Bayard was behind the massive New York City school boycott to protest de facto segregation in that city's schools.

A complete list of his achievements would be impossible in this space. He was committed to the labor movement and its program for social and economic justice, and walked many a picket line to defend worker's rights. He was committed to the struggle for human-rights and freedom around the world.

Yet, there are those who would minimize Bayard Rustin's accomplishments and influence. There are those who insist that he was no longer relevant, and that his rejection of violent militancy and steadfast commitment to the labor movement showed that he was out of touch with the black community over the last 20 years.

Such a perspective is not only short-sighted, it is inaccurate. First, Bayard rejected the tactics of Black Power radicals because he abhorred violence. But more importantly, he believed that any political strategy rooted in a militant separatism would be completely ineffective in a multiracial society and would merely result in heightened alienation and needless death and destruction. The fact that the militants produced no effective, long-term or lasting program serves to prove the correctness of his vision.

As to Bayard's faith in the labor movement, it is nonsensical to argue that labor and the black community are somehow incompatible or mutually exclusive. Bayard, like Randolph, understood that most black men and women are workers and therefore have a stake in a strong and vibrant trade union movement. As a skillful tactician and strategist, he understood that after the legislative and judicial victories of the 1960s knocked down the legal barriers barring blacks from full and normal participation in American life, the next phase of the civil rights movement would entail the fight for political empowerment and economic rights. He realized that the newly emerging black middle class, made up largely of blue-collar workers and public employees, was vulnerable to such vagaries as foreign trade, budget policies, unfair labor practices—contingencies that could only be effectively addressed politically and in concert with a strong, well-organized labor movement. And he understood that the so-called black urban underclass was a by-product not only of continued racism, but of the successful social and economic mobility of blacks out of the inner-city ghettos and into the mainstream. Many years before it was an issue, Bayard foresaw that, without help from the government, the underclass would be an enduring problem, and that the central issue was one of poverty and not race. Interpreting it as a matter of race would only lead to ethnic stereotyping and renewed racism rooted in society's misguided perception that the so-called "pathologies" of the underclass—family dissolution, teenage pregnancy, substance abuse, crime—were an issue of color and not class.

What made Bayard Rustin a person a New York Times editorial recently called a man of continued influence was not only his foresight, but his ability to articulate the need for direct action and how it could be used to highlight a problem, involve the right people to deal with the problem, and thus bring about change. For example, while politicians debated about sanctions and ways to deal with South Africa, Bayard established Project South Africa to act as a liaison between community groups in South Africa and organizations and individuals willing to help them. To date, the Project has provided direct, hands-on aid to religious groups, women's organizations, labor advice centers, health clinics, and other grass-roots vehicles committed to non-violent and democratic change and which provide front-line help to the daily victims of apartheid. The Proejct exemplifies Bayard's ability to merge principle with direct, pragmatic action.

Finally, it is difficult for any obituary to capture the multi-faceted dimensions of this complex and talented man. He was intensely proud of his blackness, and had a keen interest in black American and African culture. A gifted tenor, he often entertained guests with beautiful, heart-felt renditions of spirituals and freedom songs. He had an infinite capacity to respond to human suffering in a human manner, and that generosity of spirit was even extended to many who had publicly rebuked him and later came to him for aid and advice. His intolerance for injustice was limitless, and he was on the front-lines on issues ranging from aiding refugees to gay rights. I have lost a good friend, but am richer for having known him. Because of him, the world is a better place. And it will be an infinitely poorer place now that his eloquent and righteous voice is still forever.

JOHN SCANLAN NAMED TO CALGARY OLYMPIC COMMITTEE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of my colleagues one of my constituents, Mr. John Scanlan of Haddon Township, NJ, who has recently been named to the XV Olympic Winter Games Organizing Committee in Calgary, Alberta, Canada.

Mr. Scanlan brings to these games a wealth of experience gained from his involvement in the past with the Sarajevo winter and Los Angeles games of 1984 and the 1980 winter games in Lake Placid, NY. Additionally, he has participated in the planning and execution of the Pan American games in Caracas, Venezuela, and Indianapolis, IN.

As an executive of ARA Services, Inc., of Philadelphia, PA, for more than 25 years, 5 of which he has been vice president, Mr. Scanlan has continually proven to be an instrumental and integral part in the success of all of the projects he has undertaken. It is, indeed, apparent that he possesses a unique skill which has enabled him to excel in his profession on an international level.

Gaining from his experience, the games in Calgary will undoubtedly be an overwhelming success because of his involvement.

As the chairman of the Subcommittee on Commerce, Consumer Protection and Competitiveness, with jurisdiction over the Olympic games, I look forward to the role that Mr. Scanlan will fulfill in making the games enjoyable for both the competitors and the spectators.

The games have a history of uniting the different nations of the world in an atmosphere of healthful competition and friendship. I am certain that Mr. Scanlan will only add his qualifications once again to the organizing committee and to the games.

As I applaud John Scanlan's expertise and his commitment to persevering in the spirit of the Olympic games, I also applaud the support that his family, including his wife, Mary Louise, and their children and grand-children, have given him throughout the years.

With his organizational experience and working knowledge of the games in the past, he will certainly ensure that the Olympic flame will burn brightly throughout the games.

IN HONOR OF MR. VENTURA P. HUERTA

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. LEHMAN of California. Mr. Speaker, I would like to take this time to honor Mr. Ventura P. Huerta, a man who has devoted his life to the improvement of medical services for the poor and medically underserved in California's San Joaquin Valley. Mr. Huerta is an extraordinary individual who against all odds has risen to become a true leader in the health care community.

Mr. Huerta, the son of migrant farmworkers, spent his early days living in farm labor camps. After serving in the Marine Corps, Mr. Huerta spent many years working as a nursing assistant and went on to receive his license as a registered nurse. This achievement is especially commendable considering the fact that he had no formal education and had left school in the 10th grade. Mr. Huerta continued his education and received a master's degree in medical care administration and health education from the University of California at Berkeley. He has since worked relentlessly to help advance the cause of affordable quality health care for our underserved population.

Mr. Huerta's career achievements have been nothing short of outstanding, including the directorship of one community and five migrant health center programs, as well as serving for 3 years as a migrant representative for the U.S. Public Health Service.

Mr. Huerta's efforts on behalf of the improvement of public health on a statewide as well as nationwide level have been duly recognized. In 1983 he was awarded the John Gilbert Award by the National Association of Community Health Centers in Washington DC. for his outstanding achievement in public health. Most recently he was appointed by the Secretary of Health and Human Services to sit on the National Advisory Council on Migrant Health of the Health Resources and Services Administration.

Mr. Speaker, the number of Americans unable to afford the high cost of medical care has increased significantly in recent years making the need for community health centers indisputable. Mr. Huerta's work in contributing to the development of health services is also indisputable. In recognition of his work the board of directors of the Sequoia Community Health Foundation, Inc., has voted unanimously to name their new health center the Ventura P. Huerta Health Center. This recognition is well deserved and I would like to applaud the board of directors for this action.

In closing, Mr. Speaker, I would like to add that it is my pleasure and honor to join in recognizing the outstanding achievements of Ventura Huerta in providing health services to the medically underserved.

OPTIMISM FOR AMERICAN MANUFACTURING

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. FRENZEL. Mr. Speaker, today, Members received an interesting summary of the highlights of a Coopers and Lybrand survey on critical domestic and international issues confronting American manufacturers: 301 senior executives from manufacturing firms in the Fortune 500 and 351 "knowledgeable workers" were interviewed in the survey.

The Lou Harris survey shows an optimism for manufacturing future that is not reflected in congressional attitudes. Neither group surveyed foresees the demise of manufacturing in America, and both believe America can reverse any decline in competitiveness.

Surprisingly, 55 percent of the manufacturing executives see American companies as their toughest competitors. Only 13 percent say that Japanese companies are toughest, and 11 percent cite European companies.

A 72-percent majority of executives believe that significantly upgrading technical education and training in secondary and higher education would be a very effective government action. Only 10 percent of survey respondents think restricting imports is an effective means of restoring American competitiveness.

I commend this very readable Coopers and Lybrand summary to all Members.

PERSONAL EXPLANATION

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. MOODY. Mr. Speaker, I was unavoidably detained on October 13, 1987, and missed the vote on H.R. 940, the Plastic Pollution Research and Control Act. Had I been present, I would have voted in favor of the bill.

This bill is necessary. Each year, more than 1 million pounds of plastic garbage is disposed of in the ocean, and each year plastic garbage traps and kills about 1 million seabirds and 100,000 marine mammals. We need to take steps to stop this wasteful killing and destruction.

CLYDE A. BOYD RECOGNIZED

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to have this opportunity to recognize Mr. Clyde A. Boyd with the following resolution:

Whereas, Clyde A. Boyd, the outgoing President of the Western San Bernardino County Bar Association, is deserving of special honors and highest commendations in recognition of his innumerable contributions to the betterment of his community and state; and

Whereas, a native of California, Mr. Boyd graduated from the California State University at Los Angeles and has obtained a postgraduate Doctor of Jurisprudence Degree, in his capacity as a senior Deputy District Attorney for San Bernardino County has successfully prosecuted numerous serious felony cases, and has demonstrated a professional expertise which has been the source of great respect and admiration from his colleagues and fellow members of the Bar; and

Whereas, he has distinguished himself as the President of the Western San Bernardino County Bar Association by developing and implementing an expanded legal aid clinic for indigent citizens; has actively supported the lawyer referral service; has greatly improved communication between the bench and bar; and is also serving his community as the Chairman of the City of Rancho Cucamonga Public Safety Commission; and

Whereas, the efforts and leadership of Clyde A. Boyd bring credit upon himself, the Bar and his community; and

Whereas, as President of the Western San Bernardino County Bar Association, the State of California is indeed fortunate to have citizens of the caliber of Clyde A. Boyd, whose efforts reflect the highest ideals of public leadership; now, therefore, be it

Resolved, that Clyde A. Boyd be commended by the United States House of Representatives.

TRIBUTE TO MARION SPROULS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. SKELTON. Mr. Speaker, during the past week, Missouri lost an outstanding leader and public servant. Marion Sprouls had served as treasurer and co-officio collector of revenue for Barton County for 18 years prior to his death on September 26. He was a popular community leader and an active participant in his church and in civics clubs and veterans' organizations. Mr. Sprouls service to his country included a tour of duty in Korea where he was gravely wounded.

It was my pleasure to have known Marion and to call him my friend. My rememberance of him is characterized by his warm greetings and friendly conversations during my visits in the county. I know his warmth to me was a natural extension of his attitude toward his family and friends, and it was obvious the affection was returned, providing the source of strength to overcome his disability and accomplish so much.

Mark Twain wrote: "The miracle, or the power, that elevates the few is to be found in their perseverance under the promptings of a brave, determined spirit." Marion Sprouls life is exemplary of that statement. His record of service in the face of adversity is one we would all do well to emulate.

H.R. 2631, U.S. MINT AUTHORIZATION

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. HILER. Mr. Speaker, on October 6, 1987, the House of Representatives passed H.R. 2631 providing for the continuing authorization of the U.S. Mint. As the ranking Republican member of the Consumer Affairs and Coinage Subcommittee, I worked with the chairman of the subcommittee, FRANK ANNUNZIO, to draft a compromise piece of legislation that received bipartisan support. I would like to clarify my intent as to the meaning of certain provisions of the Annunzio-Hiler compromise for U.S. Mint authorization.

Section 4 of H.R. 2631 as passed would require that procurement of articles, materials, supplies, and services necessary to produce coins should be awarded to American firms unless the Secretary determines that this is inconsistent with the public interest or the cost is unreasonable and publishes a written finding stating the basis of his determination in the Federal Register. This provision would generally require the Secretary to follow standard Government procurement practices in evaluating bids by suppliers to provide articles, materials, supplies, and services necessary to produce coins. If the Secretary does not select an American firm, then he must publish this fact in the Federal Register along with a reasonable description as to his basis for determining that the foreign bid was superior to American bids under standard Government procurement practices. No elaborate cost-benefit analysis is necessary and the Secretary must take into account only those factors normally considered in a government procurement. The Secretary need not consider the incidental effects of awarding a foreign bid, but must look strictly at the direct costs to the U.S. Mint involved in the procurement and its direct effect on the public's interest in having an efficiently run mint operation. The Secretary's only burden of proof is that, based on the facts presented, he has not acted in an arbitrary and capricious manner in reaching his determination. The Secretary's determination would be unreviewable in any administrative proceeding or court of law.

Section 8 of the bill would require the mint to make available bullion coins directly to the public, in limited numbers, at such mint facilities as the Secretary deems appropriate. This in no way affects the current, highly successful distribution system now used by the mint. It would still allow the mint to sell bullion coins at a discount to selected bulk distributors. The mint's distribution system has created an active secondary market in U.S. bullion coins and correspondingly enhanced their value. Section 8 merely encourages the mint to make the bullion coins available in limited numbers at the mint's souvenir sales areas. Thereby, persons touring a mint facility could be able to directly purchase the coins in limited numbers while at the mint site.

TENTH ANNIVERSARY OF SANTA BARBARA COUNTY ARTS COMMISSION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. LAGOMARSINO. Mr. Speaker, I rise to call the attention of the members to the Santa Barbara County Arts Commission's 10th anniversary celebration. This event coincides with "National Arts Week" which President Reagan has proclaimed for November 15 through November 21 of this year.

This celebration is dedicated to Santa Barbara County's most valuable resource—its visual, performing and literary artists. Through this series of events the arts commission hopes to expand its vision with the establishment of a program to benefit individual artists.

At this time I would like to extend my congratulations to the Santa Barbara County Arts Commission on its 10th anniversary on behalf of the U.S. House of Representatives in the hope that this tradition will continue in the years to come.

MILLER HONORS LABOR LEADER, TONY CANNATA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. MILLER of California. Mr. Speaker, in 12 years as the secretary-treasurer of the Contra Costa Labor Council, my good friend Tony Cannata has come to personify the ongoing movement for worker dignity, worker safety, and the proud tradition of the American labor movement.

It is therefore with a great deal of regret that I must take the floor today to honor Tony on the occasion of his impending retirement. He has served working men and women well; he has served his community well; and throughout a life which has included active military service in defense of this Nation, he has served his country honorably and with great dignity.

I am proud to know Tony Cannata, to call him a close friend whose judgment and advice I value greatly, and to bring this admirable man to the attention of the full House of Representatives, which I am certain joins me in saluting his outstanding career.

Ours is a country to which Tony Cannata emigrated from his birthplace of Sicily in 1930, when he was 9 years old. He entered this country, as had millions before him, through Ellis Island, and he began an adventure which took him to one of the highest positions in the labor movement in northen California.

Tony arrived in California after serving in the Army for 4 years during World War II. In 1948, he began working for United States Steel in Pittsburgh. Tony recalls promising himself that his employment with United States Steel would last a year at most: in fact, it lasted 30 years, beginning as a laborer, and moving upward to machinist's helper and machinist.

He also became active in Steel Workers Local 1440, and held a number of leadership positions with the union, including legislative chairman and subdistrict chairman for northern California. In 1962, Tony was elected president of the Contra Costa Central Labor Council, a position he held for the next 13 years with great distinction and to the benefit of working people and the labor movement of our country.

In 1976, Tony was elected to his current position as the secretary-treasurer of the Central Labor Council. In this capacity, and earlier as president, he has played a significant role in the economic development of Contra Costa County, which has become one of the most prosperous communities in our State. Working people have not only provided the labor by which that growth has occurred: They have, in many cases, greatly prospered from it, thanks to the leadership and the strength of Tony Cannata and the Labor Council.

Tony Cannata understands the traditional principles of strength through unity, of free and active trades unions, and of standing by your members and fighting for improvement in their quality of life.

His lifetime of commitment to working men and women, and to the unions that have given them organizational, economic, and political strength in this country, exemplify the creed of Samuel Gompers, who said,

> To protect the workers in their inalienable rights to a higher and better life; to protect them, not only as equals before the law, but also in their health, their homes, their firesides, their liberties as men, as workers, and as citizens; to overcome and conquer prejudices and antagonism; to secure to them the right to life, and the opportunity to maintain that life; the right to be full sharers in the abundance which is the result of their brain and brawn, and the civilization of which they are the founders and the mainstay * * * The attainment of these is the glorious mission of the trade unions.

Tony Cannata has fulfilled that creed well, and the lives of many thousands of Contra Costans and Californians are richer, more prosperous, and more secure because of his decades of dedication to the labor movement and its members.

In the years which lie ahead, working people in California and throughout this Nation will confront new issues and greater threats to their hard-won security. The scourges of occupational disease, of unfair overseas competition, of lax government enforcement of safety and health laws, and laws that protect the wages and standards of American's workers; and new concerns like the internationalization of the workplace and the marketplace, increasing employment in the services trades where organizing more challenging—these difficulties confront those who follow in Tony's footsteps.

They will not be easy issues to resolve. They require thoughtfulness and dedication from a new generation of labor leaders, who would do well to learn the lessons that can be taught by a man of the experience and the wisdom of Tony Cannata.

A SALUTE TO FRANK LAUTENBERG

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. RODINO. Mr. Speaker, I consider it a distinct privilege to call FRANK LAUTENBERG, the junior Senator from New Jersey, my friend.

Since his election to the U.S. Senate in 1982, FRANK has directed his expertise and tireless energy to serving both our State and the Nation with distinction. His contributions in addressing a broad range of issues have improved the quality of life for all Americans. It has also earned him the respect of his colleagues and the affection of the citizens of New Jersey.

But FRANK is truly a man for all seasons. Before he entered the Senate, this outstanding individual, with little fanfare, left an impressive legacy as a corporate and community leader, humanitarian and philanthropist.

Recently, FRANK was honored for his long and unselfish commitment to public service and his compassion for others. Mr. Speaker, with your permission, I would like to include in my remarks an article from the Star Ledger highlighting FRANK LAUTENBERG'S dedication and exemplary leadership:

A PROUD SALUTE TO MR. LAUTENBERG

(By John Soloway)

The effort against human affliction and disease is never ending . . . And, perhaps nowhere are the initiatives and the initiators more in evidence than in New Jersey.

Which is as it ought to be, for the Garden State is famed as the "Medicine Chest of the Nation"—the country's main arena where combatting the ills of men is an aim unlimited, uninterrupted and unending. And united.

In recent days, the Jersey business community has been alerted respecting a pair of upcoming major milestones worthy of note among segments of business beyond the health-care industry proper.

Next Sunday evening, the Jerseyan-originated/funded internationally recognized Lautenberg Center for Immunology will observe the 20th anniversary of its founding. It's a Jersey event.

On Friday evening, Nov. 6, the Emmanuel Cancer Foundation, which operates in the Essex County community of Bloomfield, will stage a gala, at which will be bestowed the organization's 1987 award for exceptional support of its activities to aid families with youngsters stricken with cancer.

At both events, to be held at the Parsippany Hilton Hotel, the honoree will be Frank R. Lautenberg, the Montclair corporate and community leader, humanitarian and philanthropist who has graced the United States Senate since leaving the Automatic Data Processing Inc. as chairman and chief executive officer of the Roseland-headquartered company he helped found.

The community response to both events has been inspiring, according to business leaders laboring in their behalf.

Each event is expected to attract more than 500 or more guests and a host of prominent public figures including, among others, Gov. Thomas Kean, State Senate President John F. Russo, Congressman Jim Courter, demonstrating that when campaigns are waged against mankind's maladies the partisanship of political convictions is cast aside.

Frank Lautenberg, poised for what appears to be another successful run for the U.S. Senate, has labored in the public's behalf long before his interest in national affairs prompted his political activity. Health welfare of the people, for instance, has been an abiding aim.

Currently, for example, as one of the Senate's most effective voices, he speaks out against the hazards of smoking and the contamination of New Jersey's coastline through waste dumping in the waters off the Garden State.

"This is an all-out attack on pollution of our ocean and beaches," Lautenberg declared in the introduction to his Shore Protection Act of 1987.

He took on an uphill battle against tobacco interests in a valiant effort to ban smoking on commercial airline flights. Protecting the health of nonsmokers, maintains Lautenberg, is a vital public cause.

A score of years ago, Lautenberg, then chief executive of Automatic Data Processing, provided the grant that launched the cancer research institute that bears his name.

Accorded status as Lautenberg Center for General and Tumor Immunology and located at the Hebrew University in Jerusalem, the facility is a major immunology research center which has devoted significant efforts to investigating the immune system as the key to finding the answer to cancer, AIDS and other auto-immune diseases.

Recognized internationally as a major seat of investigation and training, the center is described by Dr. James F. Holland, head of Oncology at the Mount Sinai Medical Center in New York, as being "at the pinnacle of research in immunology and cancer today."

More than 800 publications and books have originated from the center. Several early diagnostic tests for malignancies, including breast and colon, are being developed.

Moreover, more than 90 percent of all monies raised for the center goes for research, while less than the balance is spent on administrative needs, according to Paul Densen, the New Jersey industrialist who is chairman of the Endowment Committee of the center. Densen is chairman of the Eastern Packaging & Display Co. in Bloomfield.

Next Sunday's event, sponsored by American Friends of Hebrew University, will have as special guests Ambassador Max M. Kampelman, head of the U.S. Delegation in the nuclear and space arms negotiations, and Dr. David W. Weiss, the noted scientist and chairman of the center who holds the Merck Senior Postdoctoral Fellowship presented by the National Academy of Sciences among other distinctions.

As the 1987 recipient of the Emmanual Cancer Foundation Award at the Nov. 6 affair, Frank Lautenberg will join another New Jerseyan of prominence in public affairs—Gov. Kean, an earlier honoree of the foundation. The Governor will address the gala, as will Sen. Russo, the event's honorary chairman and a likely gubernatorial aspirant.

The foundation, according to Joseph Vizzoni, the well-known land development and construction executive of Vizzoni Group of Kenilworth, was established to provide important support benefits to families whose children are stricken with cancer.

The foundation was founded by Joe Vizzoni and his wife Susan after they lost their son Emmanuel, then 7, to cancer. The Vizzonis provided the initial grant to establish the foundation.

In the past five years, some 200 families with cancer-stricken youngsters have been provided with support, and 109 families are currently receiving benefits through the foundation.

The tributes to Frank Lautenberg, recognized widely for his high status among the foremost leadership of the general and Jewish communities in the U.S. are certainly well deserved.

His identification with causes of charity, health care and culture "has become his hallmark and an example of human concern with the welfare of society," to quote an assessment voiced in a recent accolade to Lautenberg.

Born in Paterson, Lautenberg served in the U.S. Armed Forces during World War II, and then obtained his collegiate education at Columbia University in 1949. In the early 1950s he founded, together with Henry and Joseph Taub, Automatic Data Processing which under his direction has become one of the most prestigious companies in the field.

Lautenberg traces the origins of his care for humanity to the inspiration engendered in the course of his friendship with Shai Shacknai, an Israeli who took the post of Rabbi in Wayne, and who died in his late 30s.

Within a number of years, Lautenberg has taken into his hands the reins of numerous organizations and missions for the advancement of mankind, according to a historical account on the Lautenberg Center.

Among the many key offices Lautenberg has held are the presidency of the American Friends of the Hebrew University and the chairmanship and presidency of the United Jewish Appeal. He has been a key member of the executive committee of the Jewish Agency and of the board of governors of Hebrew University as well as the boards of major philanthropic and cultural bodies in the United States and Israel and of international business and banking enterprises.

The historical account continues:

"No less impressive than this plethora of public roles is the boundless energy which Sen. Lautenberg brings to every cause with which he associates himself, and the wisdom and tenacity of his advocacies."

Frank Lautenberg looks like a winner next year when he'll be up for re-election to the Senate.

PERSONAL EXPLANATION

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. WISE. Mr. Speaker, last Tuesday, October 13, I inadvertently missed one vote. Had I been present and voting on the motion to suspend the rules and pass H.R. 940, the Plastic Pollution Research and Control legislation, rollcall No. 352, I would have voted "aye." This bill is designed to regulate the dumping of plastic waste at sea, and is a much needed piece of legislation.

The reason for my absence was the cancellation of two flights by Piedmont Airlines from my home in Charleston, WV to Washington, DC. Had I been able to return to Washington on the morning flight, I would not have missed this important vote.

MALMSTROM'S MISSILES AT OCTOBER CELEBRATION

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. MARLENEE. Mr. Speaker, I am proud to join the State of Montana and the U.S. Air Force in saluting "Malmstrom's Missiles of October Celebration" October 23–25 at Malmstrom Air Force Base in Great Falls, MT. The celebration heralds 25 years of Minuteman missiles on alert in Montana in the 341st Strategic Missile Wing. The celebration remembers 1962 when, at the peak of the Cuban missile crisis, President John F. Kennedy referred to this first flight of Minuteman missiles on alert as our "ace in the hole." Today, still, Malmstrom's 341st Strategic Missile Wing is nicknamed our Nation's Ace in the Hole."

The celebration will focus on the history and future of the Minuteman missile, as well as the effect new ICBM systems like the MX and Midgetman will have on our Air Force, which recently celebrated its 40th anniversary of military excellence. The weekend at Malmstrom will be highlighted by tours, symposiums, and defense contractors' exhibits.

As Americans dedicated to freedom and democracy and committed to peace through a strong national defense, Montanans are proud to contribute to this vital aspect of our Nation's strategic triad. Montanans take pride in playing such a crucial role in the maintenance of nuclear deterrence, the protection of U.S. citizens and in the preservation of secure borders.

This pride has not only been evident in Malmstrom's and Montana's collective efforts on the Minuteman, but continue in evidence as Montana prepares to house the Midgetman missile. If Congress approves deployment of the Midgetman, Montanans heartily avail themselves to continue a prominent role in the defense of this country.

I ask all my colleagues to recognize the contribution to national defense by Malmstrom Air Force Base, the city of Great Falls, and the State of Montana and to join in honoring Malmstrom's Missiles of October Celebration.

HIGH SULFUR TEST CENTER IN SOMERSET, NY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. LAFALCE. Mr. Speaker, on September 30, 1987, a high sulfur test center was dedicated on the grounds of New York State Electric & Gas Corp's. [NYSEG] Somerset Generating Plant. The 10-year research program to be conducted at this facility will identify the least costly ways of protecting the environment from sulfur based acid rains.

The center is funded by the Electric Power Research Institute, the science and innovative technology arm of the U.S. utility industry, NYSEG, Empire State Electric Energy Research Corp., New York State Energy Research and Development Authority, Consolidation Coal Co., and the U.S. Department of Energy.

Wells P. Allen, Jr., chairman and chief executive officer of NYSEG served as host at the dedication ceremonies, welcoming participants to view the test center and NYSEG's coal-fired powerplant at Somerset. Allen expressed the commitment to "coal and a clean environment" that is shared by all involved with the test center and the Somerset plant.

I invite my colleagues to learn more about the test center, its supporters and the Somerset NYSEG plant, by reading the following remarks by Wells P. Allen, Jr.

REMARKS BY WELLS P. ALLEN, JR., CHAIRMAN AND CHIEF EXECUTIVE OFFICER, NEW YORK STATE ELECTRIC & GAS CORP., AT THE DEDICATION OF HIGH SULFUR TEST CENTER, SEPTEMBER 30, 1987

On behalf of New York State Electric & Gas, let me add my warm welcome to that of Kurt Yeager.

NYSEG is glad to serve as co-host on this landmark day for the High Sulfur Test Center. I say co-host because, as is obvious to anyone entering this 1,200-acre site alongside Lake Ontario, this is home not only for the Test Center but also for my Company's Somerset Generating Station.

I see many familiar faces and familiar organizations here today. Kurt Yeager has already acknowledged many of you, and so I won't take up time to repeat his greetings. But I would like to recognize a couple of organizations. The first is EPRI (Electric Power Research Institute) itself. We welcome them and their research project. We have worked closely with them over the years—notably since the late 1970's at EPRI's Coal Cleaning Test Facility at our coal-fired power plant at Homer City in Pennsylvania—and we know their excellent track record.

I also have a word of ESEERCO (Empire State Electric Energy Research Corporation), another co-funder of the Test Center. I remember with pride and affection my 17 years (1966 to 1983) as a member of their Board and of the ESADA Board (Empire State Atomic Development Associates, Inc.), its predecessor. I was fortunate enough to be an active participant while ESEERCO was developing into the wide-ranging research organization that it is today.

We also have with us some friends with new responsibilities. Both Henry Williams and James McFarland have recently taken their places on the Public Service Commission. Let me congratulate and wish them well in their new and arduous roles.

We at NYSEG felt honored when EPRI selected Somerset as the location for the Test Center. I hope you will forgive me, however, if I say that we think Somerset and NYSEG are good choices.

For my Company is strongly committed to coal and has a large stake in clean coal technology right here at Somerset. No other utility in New York State depends so much on coal for generating its electricity. With six coal-fired power plants in this state and another large one in Pennsylvania, we look to coal for nearly 75 percent of our electricity supply.

Somerset is the newest, cleanest, and one of the largest of the coal-fired power plants in the state. We are proud of its performance. Its heat rate places it among the top 10 percent of the nation's plants for operating efficiency. Last year its availability was 96 percent and its capacity factor 78 percent. Both ratings were well above the national average.

Over a third of the $1 billion we spent on building this Somerset plant was devoted to protecting the local environment. And of that environmental investment a major portion ($177 million) was spent on one of the most up to date and extensive flue gas desulfurization (FGD) systems in the country. Our wet limestone scrubber has not let us down. It has been available 100 percent of the time.

With this commitment to coal and a clean environment we at NYSEG are particularly pleased to have the Test Center here supplementing our power plant. We are supporting it with much more than words. NYSEG is contributing more than $5 million in cash, utilities and services to the Test Center through 1991. We are confident of receiving a good return on that investment. FGD systems remain expensive to install and operate. We expect that research at the Test Center will lead to more efficient and economical ways to remove sulfur dioxide and oxides of nitrogen, and those improvements will be of direct benefit to our Somerset plant.

However, we cannot limit ourselves to what this Test Center will do for us. That is too narrow a focus for a project that it truly national in scope and promise. Success at this facility will yield important rewards for all utilities that burn high-sulfur coal, for the coal industry that mines and delivers high-sulfur coal and for the public who want a clean environment.

The Test Center is off to a good start. We at NYSEG wish it every success.

PERSONAL EXPLANATION

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. BLILEY. Mr. Speaker, on Thursday, October 15, 1987, I was necessarily absent from the House and received a leave of absence due to a death in my family.

Had I been present during floor proceedings that day, I would have voted "no" on rollcall vote No. 355, the motion to approve the House Journal of October 14; "yes" on roll number 357, the Henry amendment to the Gaydos amendment to H.R. 162; "yes" on roll number 358, the Dannemeyer amendment to H.R. 162; and "no" on roll number 359, passage of H.R. 162.

IN HONOR OF KATHERINE AND FREDERIC McNAIRY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today on behalf of Katherine and Frederic

McNairy, who will be honored at the 60th anniversary celebration dinner dance of the Santa Monica Family YMCA on October 28, 1987.

Fred and Kay McNairy make their home in Pacific Palisades while Fred maintains his law practice in Santa Monica. Born in Los Angeles, Fred grew up in Santa Monica, graduated from UCLA and earned his law degree at Stanford University. He served in the military in World War II, attaining the rank of captain. Kay was raised in Kingsburg, CA. The McNairy's have three sons, Jim, Fred and Chris.

The McNairy's have been active in many local organizations, holding leadership positions in Kiwanis; Kiwaniannes; Westside Charity League; Santa Monica Hospital and Medical Center; Santa Monica First Methodist Church and Church School, lay leader and conference delegate; Santa Monica Breakfast Club; Santa Monica Bay District Bar Association; Lawyers Wives, including State president; and Santa Monica Family YMCA where Fred was on the staff at the first camp at Big Bear in 1938.

Fred McNairy is a past president of the Evening Y's Men's Club and served as president of the YMCA Board of Directors in 1959–60. Kay McNairy was active in the Y's Menettes Club.

It is a pleasure to bring this record of community activity to the attention of my colleagues in the U.S. House of Representatives. I ask that they join me in congratulating the McNairy's on this find achievement.

RAY McDONALD COMMUNITY ACHIEVEMENT AWARD RECIPIENT, VERA SMITH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to recognize Mrs. Vera Smith as the recipient of the 5th Congressional Community Advisory Committee's Ray McDonald Community Achievement Award for the Month of July 1987. The outstanding contributions she has made to her community through the Chicago area public libraries are truly deserving of recognition.

Mrs. Smith was initially employed by the Stickney/Forest View Library District in February of 1961 as a library cataloger. She was later promoted to the assistant librarianship under Helena Kysela and became the library administrator in 1969, a position she retained until her retirement on January 4, 1986. As the library administrator, she assisted in the development of summer programs for children, preschool story hours, and the teaching of library skills to public and private school students from kindergarten through eighth grade. For the adults, she developed programs in crafts, travelogs, insurance, and speed reading. For those interested in the arts, she coordinated local artists with available space for artistic showings through the Cicero-Berwyn Fine Arts Council.

Perhaps most importantly, Mrs. Smith was instrumental in changing the Stickney/Forest View Library from its strict library form to a media concept library by making audio visual materials—filmstrips, cassettes, 8 mm films, et cetera—and all equipment necessary for their use available to the public at the library. In 1980, she expanded this concept by introducing video cassettes and recorders into the collection for patrons use. This new program alone has received a tremendous response from the community. Mrs. Smith also served her community in other ways. She helped recatalog the library collection at Nazareth Academy and has served on the advisory boards for the Suburban Library System and on various advisory boards at Morton College in Chicago.

Consistent with her interest in library sciences, Vera is an active member and has chaired and served committees of the American Library Association, Illinois Library Association, LACONI—Library Administrators Conference of Northern Illinois—South Suburban Librarians Association, Reading Round Table, and other library and media associations. In her years with the public library she also assisted in the development of the Suburban Library System and the Suburban Library Trustee Association, an organization she was involved with for many years.

I am sure that my colleagues join me in congratulating Mrs. Smith upon receiving this award and thanking her for her dedication to the public and to knowledge, the most important object libraries contain.

THE PESTICIDE MONITORING IMPROVEMENTS ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1987

Mr. DINGELL. Mr. Speaker, currently there is a high level of public concern about pesticide residues in food, and a February 1987 report of the Environmental Protection Agency entitled "Unfinished Business" ranked pesticide residues in food as one of the Nation's most serious health and environmental issues. Over the past decade, however, various reports have found serious deficiencies in the Federal Government's program for monitoring pesticide residues in the food supply.

Today, I plan to introduce, with a number of distinguished colleagues from the Energy and Commerce, Agriculture, Appropriations, Government Operations, and Foreign Affairs Committees, the "Pesticide Monitoring Improvements Act"—legislation which would significantly strengthen the Food and Drug Administration's [FDA] ability to protect the public against unsafe pesticide residues. This legislation would address several major problems in the FDA's pesticide monitoring program, which were highlighted by an April 30, 1987, hearing of the Subcommittee on Oversight and Investigations.

According to the testimony of the General Accounting Office, the Food and Drug Administration annually tests less than 1 percent of domestic and imported food for pesticide residues. In view of the small percentage of foods tested for pesticides, it is crucial that FDA target its testing resources effectively. The subcommittee's hearing, however, revealed large gaps in the Agency's testing program. For example, the testimony indicated that, notwithstanding the fact that a category of pesticides called the EBDC's (ethylenebisdithiocarbamates) constitutes the most widely used fungicides in the world and the fact that the primary breakdown product of the EBDC's called ETU (ethylene thiourea) is an acknowledged carcinogen and teratogen, FDA had not tested a single sample of imported food for EBDC's or ETU from fiscal year 1979 through the first 6 months of fiscal year 1987.

The hearing record established that FDA's ability to focus its testing resources effectively has been seriously impaired by inadequate computerization of the Agency's data management systems, by insufficient data about pesticides used on imported food, and by gaps in the coverage of testing methods generally applied by FDA to determine compliance with pesticide residue limits. The "Pesticide Monitoring Improvements Act" responds to these problems by requiring FDA to automate the summarization of results of its pesticide monitoring and enforcement program, by requiring import documents to identify those pesticides used on imported food during its production, by requiring FDA to develop long-range research plans for the development and validation of pesticide analytical methods, and by requiring FDA to review the potential use of rapid pesticide analytical methods in its monitoring and enforcement program. In addition, the legislation requires FDA to issue laboratory audit guidelines to assure the validity and reliability of pesticide residue monitoring results submitted by private laboratories, and it contains provisions designed to facilitate communication between FDA and other Federal and international agencies and foreign countries exporting food products to the United States.

The proposed legislation is focused exclusively on the pesticide monitoring and enforcement activities of the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act. It is intended to complement parallel efforts, such as proposals to amend the Federal Insecticide, Fungicide, and Rodenticide Act, which would strengthen the pesticide registration authorities of the Environmental Protection Agency.

A section-by-section analysis of the legislation follows.

SECTION-BY-SECTION ANALYSIS "PESTICIDE MONITORING IMPROVEMENTS ACT"

SECTION 1—SHORT TITLE

This section names the Act the "Pesticide Monitoring Improvements Act."

SEC. 2—PESTICIDE MONITORING AND ENFORCEMENT INFORMATION

Summary

This section requires the Food and Drug Administration (FDA) to establish computerized data management systems to track and evaluate the results of its program for monitoring imported and domestic food products for pesticide residues. The information summarized under this provision must be compiled annually and made available to Federal and State agencies and other interested persons.

Background

According to the testimony of the General Accounting Office (GAO) at the Subcommittee's April 30, 1987 hearing, FDA annually tests less than one percent of domestic and imported food for pesticide residues. In view of the small percentage of food tested for pesticide residues, officials of both the GAO and the Natural Resources Defense Council have stressed the need for the Agency to target its limited resources more effectively by thoroughly evaluating the results of its previous pesticide monitoring. For example, in a September 1986 report on pesticide residues in imported food, the GAO emphasized:

> FDA does not produce a comprehensive monitoring summary containing (1) the commodities being imported, (2) the country of origin, (3) the volume, (4) the number of samples taken, and (5) the number of violations. This information is available from various sources within FDA and other federal agencies; however, FDA has not compiled all of this information. Such a summary would enable FDA headquarters to analyze what each district is doing and what coverage is being given on a nationwide basis. Thus, FDA would be able to make adjustments in its program within current resources. . . . Also, such a summary would assist the Congress in its oversight responsibilities of independently reviewing coverage of imported food. (p. 21)

The NRDC expressed concern at the April 30 hearing that "[c]urrently, there is virtually no analysis of the data obtained from FDA's domestic [pesticide] surveillance program."

At the Subcommittee's hearing, FDA officials conceded that there is a long backlog in preparing summaries and evaluations of the results of EDA's pesticide monitoring program because of inadequate computerization of the Agency's data management systems. They agreed with the assessment that "the summarization and interpretation of monitoring results under FDA's current computer system is cumbersome and time-consuming because all of this data processing and analysis has to be done manually." At a June 8, 1987 hearing before the Subcommittee on Health and the Environment, representatives of the National Agricultural Chemicals Association, the National Food Processors Association, the United Fresh Fruit and Vegetable Association, and the Natural Resources Defense Council all supported the concept of improvements in FDA's computer systems to facilitate the summarization and analysis of the results of FDA's pesticide monitoring program.

The Food and Drug Administration has recognized that the effectiveness of its pesticide monitoring program has been impaired by inadequate computerization of its data management systems since 1979, when the Agency issued an internal critique of its program. However, the first significant steps to address these concerns did not take place until late 1984, when FDA's Associate Commissioner for Regulatory Affairs initiated the Chemical Contaminants Data Project Workgroup, and the final report and recommendations of this Workgroup were not issued until May 4, 1987.

Section 2 of the proposed legislation is consistent with the general thrust of the recommendations of the Chemical Contaminants Data Project Workgroup with respect to the computerization of pesticide residue monitoring and enforcement data. However, given the past delays of the Agency in this area, the provision is intended to provide a clear mandate to accomplish the computerization effort in a timely manner. Moreover, this provision goes beyond the recommendations of the Chemical Contaminants Data Project Workgroup by mandating an annual compilation of specific monitoring and enforcement information following completion of the computerization effort and by requiring that such compilation be made available to Federal and State agencies and other interested persons. Such a compilation would be extremely useful to EPA and State agencies in carrying out their pesticide regulatory responsibilities. In addition, this provision goes beyond the recommendations of the Chemical Contaminants Data Project Workgroup by requiring the computerized summarization of volume data on imported food product categories. The GAO has strongly advocated the use of such data to facilitate improved identification of gaps in the monitoring of food products from specific countries.

SEC. 3—DOCUMENTATION OF PESTICIDE USE

Summary

This section prohibits, one year after enactment, the importation of any raw agricultural commodity into the United States unless it is accompanied by an import document which identifies each of the pesticides used during production of the commodity. If additional pesticides are found during FDA sampling, the importer will be required to test a designated number of future shipments for certain pesticide residues.

Background

In its September 1986 report on pesticide residues in imported food, the General Accounting Office concluded that FDA's ability to monitor imported foods for illegal levels of pesticide residues was limited by a lack of knowledge about actual pesticide use in foreign food production. The report indicated that such pesticide use information would be invaluable in targeting FDA's limited testing resources more effectively. The GAO explained that FDA laboratories normally analyze imported food samples for illegal pesticide use using one of five multi-residue methods. These methods individually can detect from 24 to 123 pesticides, and cumulatively, they can detect less than half of the pesticides currently in use worldwide. According to the 1986 report, the FDA laboratory staff determines what pesticides will be tested based on limited information about known or suspected uses of pesticides in the producing country or pesticides found in previous analyses.

The 1986 GAO report recommended three alternative means of obtaining improved information on actual foreign pesticide use. One of these alternatives was the imposition of a requirement that foreign growers or importers certify which pesticides were used during production as part of their import documentation. The other two alternatives presented were (1) requirements for U.S. pesticide manufacturers who export pesticides to foreign countries to report the pesticides and quantitites sold overseas and (2) the development of cooperative agreements with foreign countries for the exchange of pesticide use information.

According to a 1987 follow-up letter from the GAO to the Subcommittee, the import documentation alternative possesses a major advantage because it is the only approach to collecting foreign pesticide use data which informs the FDA laboratory analyst which pesticides were used on the specific food shipment being sampled. Such information is much more valuable than general country-by-country pesticide use data in assisting a laboratory analyst in deciding which pesticides to test for in a given food sample.

Since the publication of the 1986 GAO report, the FDA has obtained additional information on foreign pesticide use from the Battelle World Agrochemical Data Bank, a computerized data base containing information on pesticide usage in the production of selected crops in about 30 countries. However, in its 1987 letter to the Subcommittee, the GAO has recommended that FDA should supplement the Battelle information with an import documentation requirement because of various limitations in the Battelle data. Whereas the United States imports food from about 150 countries, the Battelle data base contains information on pesticide use in only 30 countries and only on selected crops in those countries. In addition, the GAO has emphasized that: "[u]nlike the disclosure of pesticides used by growers/importers, the Battele data would not directly identify the pesticides that were actually used on the food being tested, rather, it provides information about what pesticides are frequently used on that crop in that country."

SEC. 4—FOREIGN PESTICIDE INFORMATION

Summary

This section requires the FDA to compile basic information about the pesticide programs of foreign countries which export significant quantities of food products to the United States. This information shall include the names of the entities of such foreign countries responsible for the registration and monitoring of pesticides, the identity of the individual directly responsible for the pesticide registration and monitoring programs, the identity of the laboratories used for pesticide use monitoring, and any manuals or other publications which set out pesticides approved for use in such countries. This information shall be distributed to appropriate offices of the Food and Drug Administration engaged in the monitoring of imported food for pesticide residues.

This section also requires the FDA, in coordination with other appropriate Federal agencies, to cooperate in notifying appropriate entities in foreign countries when imported food products violate U.S. pesticide laws.

Background

Since port-of-entry inspection systems that test only a small percentage of imported food, it is widely recognized among food safety experts that pesticide and other food safety problems must be corrected at the source in the exporting countries. This section would require FDA to acquire basic information about entities abroad that are responsible for pesticide monitoring and enforcement and to make this information available to FDA's District offices. This action would facilitate efforts by FDA's District offices to establish improved lines of communication with responsible entities abroad so that quicker corrective action can be taken when pesticide violations are discovered. It is also designed to spur cooperative efforts with entities abroad to develop preventive measures so that tainted shipments do not tie up U.S. resources at border inspection facilities.

Expanding the lines of communication with entities responsible for pesticide monitoring and enforcement abroad is particularly important when FDA testing reveals a persistent pattern of pesticide violations in an important food product. For example, a June 19, 1987, meeting between Congressman Leon E. Panetta and officials of the U.S. and Mexican governments revealed that FDA officials had previously found that a large number of grape shipments imported from Mexico contained Omethoate, a pesticide which is not registered for use on grapes in the United States. Although the FDA officials indicated that they had sent a letter to the Mexican government informing them of this problem, the Mexican officials responded that they had not received such information and were unaware of the problem. It was subsequently revealed that the import violation information has been sent to the wrong office in Mexico. Both the FDA and Mexican officials attending the meeting agreed that improved communications would lead to better pesticide enforcement, and since the meeting, FDA's Los Angeles District Office sent its Pesticide Coordinator to Mexico to gain additional information on pesticide use in Mexico and to establish better communications.

This provision also is intended to provide officials in FDA's field offices with increased information about pesticide use abroad by facilitating access to manuals setting forth pesticides approved for use in foreign countries. Such manuals could serve as a useful supplement to other information on foreign pesticide use.

SEC. 5—LABORATORY AUDIT PROCEDURES

Summary

This section requires the FDA to issue guidelines to assure the validity of pesticide residue monitoring results submitted to the Agency by private laboratories.

Background

When the Food and Drug Administration finds illegal pesticide residues on a commodity from a particular grower, FDA may place subsequent shipments from the grower on "certification status." Under certification status, FDA requires that imported produce be accompanied by a certificate of analysis from a private laboratory indicating that the shipment complies with the pesticide tolerance levels set under the Federal Food, Drug, and Cosmetic Act. Shipments accompanied by a certificate of analysis are normally released into the United States without FDA sampling and analysis. FDA may periodically analyze samples of food under certification status to audit the validity of the certificate. However, FDA has not established uniform guidelines to help assure the validity and reliability of pesticide residue monitoring results submitted to it by private laboratories.

In March 1986, FDA completed a draft of proposed revisions to its Regulatory Procedures Manual to provide guidelines to assure the validity and reliability of results submitted by private laboratories which conduct analyses of FDA regulated imported commodities. These guidelines have not been finalized but the Commissioner has established a target date of December 31, 1987 for their completion.

Section 5 of the proposed legislation follows the general approach of FDA's proposed revisions to its Regulatory Procedures Manual. The provision is designed to spur the Agency to complete its ongoing efforts in a timely manner.

SEC. 6—PESTICIDE ANALYTICAL METHODS

Summary

This section requires the FDA to develop long-range research plans for the development of new and improved methods for detection of pesticide resides. It also mandates the Agency to conduct a review to determine whether the use of rapid pesticide detection methods would enable the Agency to improve the cost-effectiveness of its monitoring and enforcement activities.

Background

Since the late 1970's, various Congressional Committees, outside parties, and FDA officials have expressed concern about gaps in the coverage of testing methods generally applied by FDA to determine compliance with pesticide residue limits. According to the GAO, FDA does not analyze each food sample for all possible pesticide residues because of limitations with existing testing methods as well as time and resource constraints. Since multiresidue test methods, which screen for multiple pesticide residues in a single sample, are most cost-effective, FDA normally analyzes food samples using one of five such methods it has developed.

However, according to FDA's testimony, the Agency's five commonly used multiresidue methods cover only approximately 55% of the pesticides having a moderate to high potential for dietary exposure in domestic food production and cover only approximately 41% of the pesticides having a moderate to high potential for dietary exposure in imported food production.

GAO testified that FDA is not testing for a number of pesticides with moderate to high health risk because of its heavy reliance on mulitresidue testing methods. The most dramatic example presented at the Subcommittee's hearing was the case of the EBDC's (ethylenebisdithiocarbamates). The testimony indicated that FDA had not tested a single sample of imported food for EBDC's or its breakdown product ETU (ethylenethiourea) from FY 1979 through the first six months of FY 1987, notwithstanding the fact that the EBDC's constitute the most widely used category of fungicides in the world and the fact that ETU is an acknowledged carcinogen and teratogen.

FDA does conduct some selective sampling utilizing single-residue methods. However, the Agency generally limits the use of these methods because they are extremely resource intensive. A single-residue test, which can detect only a single pesticide on a single sample, usually takes as much time to conduct as a multiresidue method, which can detect 24 to 123 pesticides.

Efforts to spur the development of new and improved pesticide analytical methods, which will provide a cost-effective substitute for single-residue methods, is a major undertaking which will require the initiative of both industry and govenment. This undertaking will involve the expansion of existing multiresidue methods to cover additional pesticides and breakdown products, the extension of existing analytical methods to encompass additional food products, the adaptation of new techniques into existing analytical methods, and the development of totally new analytical methods. Among the new analytical methods receiving increased attention are so-called rapid pesticide analytical methods, such as immunoassay and enzyme inhibitition techniques.

Section 6 of the proposed bill is intended to help spur the development and validation of new and improved pesticide analytical methods of requiring FDA to make a detailed assessment of its research priorities and by requiring the Agency to conduct a review to determine whether the use of rapid pesticide analytical methods would improve the cost-effectiveness of its pesticide monitoring and enforcement activities. These actions will clarify FDA's long-range objectives in the area of analytical methods development, validation, and use. Such clarifiation will be extremely valuable to EPA, to State agencies, and to the food and pesticide industries since their role in pesticide methods development and validation and their use of rapid analytical methods is highly interdependent with the actions of the FDA.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 20, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 21

9:00 a.m.

Rules and Administration

To hold hearings on the feasibility of providing captioning for the hearing impaired of television broadcasts from the Senate Chamber; and to hold a business meeting, to consider pending administrative business.

SR-301

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.

SR-253

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on government handling of Soviet and communist bloc defectors.

SD-342

Judiciary

Antitrust, Monopolies and Business Rights Subcommittee

To hold hearings on competition in the pharmaceutical drug industry.

SD-226

Labor and Human Resources

Business meeting, to consider S. 1366, to revise and extend the programs of assistance under title X of the Public

Health Service Act, Population Research, and Voluntary Family Planning Program.

SD-430

Joint Economic

Education and Health Subcommittee

To resume hearings on the competitiveness and quality of the American work force.

2359 Rayburn Building

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

Foreign Relations

Business meeting, to consider the nominations of Deane R. Hinton, of Illinois, to be Ambassador to the Republic of Costa Rica, William H. Houston III, of Mississippi, for the rank of Ambassador during his tenure as U.S. Negotiator on Textile Matters, Richard C. Howland, of Maryland, to be Ambassador to the Republic of Suriname, Richard N. Viets, of Florida, to be Ambassador to the Republic of Portugal, and M. Alan Woods, of the District of Columbia, to be Administrator of the Agency for International Development, and to consider the International Wheat Agreement (Treaty Doc. 100-1), and the Treaty on Fisheries Between Governments of Certain Pacific Island States and the United States (Treaty Doc. 100-5).

SD-419

2:00 p.m.

Foreign Relations

To resume hearings on the International Labor Organization Convention (No. 144), relating to tripartite consultations to promote the implementation of international labor standards (Treaty Doc. 99-20).

SD-419

3:00 p.m.

Conferees

On labor provisions of H.R. 3, Omnibus Trade and Competitiveness Act of 1987.

H-328, Capitol

OCTOBER 22

9:15 a.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to review U.S. policy toward South Africa.

SD-419

9:30 a.m.

Energy and Natural Resources

To resume hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on government handling of Soviet and Communist bloc defectors.

SD-342

10:00 a.m.

Agriculture, Nutrition, and Forestry

Nutrition and Investigations Subcommittee

To hold joint hearings with the House Committee on Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition to review the quality control and fiscal sanctions system in the Food Stamp Program.

1300 Longworth Building

Environment and Public Works

Environmental Protection Subcommittee

Business meeting, to mark up S. 675, authorizing funds for fiscal years 1988 through 1992 for programs of the Endangered Species Act, and other pending subcommittee calendar business.

SD-406

Judiciary

To hold hearings to review new Federal sentencing guidelines and proposals to delay implementing the guidelines.

SD-226

2:00 p.m.

Environment and Public Works

Business meeting, to resume mark up of proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas which violate the health-protective national air quality standards.

SD-406

Judiciary

To hold hearings on the nominations of William L. Dwyer, to be U.S. District Judge for the Western District of Washington, and R. Kenton Musgrave, of California, to be a Judge of the U.S. Court of International Trade.

SD-226

2:30 p.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings on S. 1614, to restrict United States assistance for Panama.

SD-419

OCTOBER 23

9:30 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To hold closed hearings on drugs, law enforcement, and foreign policy.

SD-419

Select on Indian Affairs

Business meeting, to consider pending committee business.

SR-485

10:00 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings on S. 1426, to provide tax incentives to small businesses who want to establish pension plans.

SD-215

Foreign Relations

International Economic Policy, Trade, Oceans and Environment Subcommittee

To hold joint hearings with the Subcommittee on Terrorism, Narcotics and International Operations to review the lending practices of the Overseas Private Investment Corporation (OPIC).

SD-419

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To hold oversight hearings on the management of the Abandoned Mine Land Fund of the Office of Surface Mining, Department of the Interior.

SD-342

10:30 a.m.

Judiciary

Immigration and Refugee Affairs Subcommittee

To hold hearings on S. 1611, to effect changes in the numerical limitation and preference system for the admission of immigrants.

SD-226

OCTOBER 26

10:00 a.m.

Judiciary

To hold hearings on pending nominations.

SD-226

OCTOBER 27

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

EF-100, Capitol

9:30 a.m.

Joint Economic

Education and Health Subcommittee

To resume hearings on the competitiveness and quality of the American work force.

2359 Rayburn Building

10:00 a.m.

Energy and Natural Resources

To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.

S-407, Capitol

Environment and Public Works

Environmental Protection Subcommittee

Hazardous Wastes and Toxic Substances Subcommittee

To hold joint hearings on the implications of the Fall Expedition to investigate the Antarctic ozone hole on stratospheric ozone depletion.

SD-406

2:00 p.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.

SD-406

OCTOBER 28

9:00 a.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings with the Select Committee on Indian Affairs on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.

SD-562

Select on Indian Affairs

To hold hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.

SD-562

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Small Business
Rural Economy and Family Farming Subcommittee
To hold hearings on the effect of airline deregulation on the rural economy.
SR-428A

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.
SR-253

OCTOBER 29

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on S. 14, S. 100, S. 1769, and S. 1770, bills to reorganize the functions of the Nuclear Regulatory Commission and to establish an office of Inspector General in the NRC.
SD-406

OCTOBER 30

10:00 a.m.
Finance
Health Subcommittee
To hold hearings to examine the affects of the current nursing shortage on health care.
SD-215

NOVEMBER 3

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the United States-Canada Free Trade Agreement.
SD-366

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest, Alaska.
SD-366

NOVEMBER 4

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the implementation of the Kamehameha School/Bishop Estate Kamehameha Elementary Education Program at Rough Rock, Arizona.
SR-485

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
To resume hearings on safety and regulation of the airline industry.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

NOVEMBER 5

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To resume hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest, Alaska.
SD-366

Select on Indian Affairs
To hold oversight hearings on the implementation of title IV, part C of the Omnibus Drug Act (P.L. 99-570).
SR-485

NOVEMBER 10

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 12

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.
SR-485

NOVEMBER 16

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.
SR-301

NOVEMBER 18

10:00 a.m.
Commerce, Science, and Transportation
To resume hearings on safety and regulation of the airline industry.
SR-253

NOVEMBER 19

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations, and on proposed legislation to implement the report recommendations.
SR-485

NOVEMBER 24

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation Program.
SR-485

DECEMBER 2

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. Con. Res. 76, to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.
SR-485

DECEMBER 3

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1321, to declare that the United States holds certain lands in trust for the Camp Verde Yavapai-Apache Indian Community.
SR-485

CANCELLATIONS

OCTOBER 20

10:00 a.m.
Labor and Human Resources
Business meeting, to consider S. 1366, to revise and extend the programs of assistance under title X of the Public Health Service Act, Population Research and Voluntary Family Planning Program.
SD-430

OCTOBER 21

9:00 a.m.
Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), and S. 795, San Luis Rey Indian Water Rights Settlement Act.
SR-485

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.

Foreign Relations

To hold hearings on the nominations of William C. Harrop, of New Jersey, to be Ambassador to the Republic of Zaire, James B. Moran, of Virginia, to be Ambassador to the Republic of Seychelles, Robert M. Pringle, of Virginia, to be Ambassador to the Republic of Mali, and David H. Shinn, of Washington, to be Ambassador to Burkina Faso.

SD-419

SENATE—*Tuesday, October 20, 1987*

(Legislative day of Friday, October 16, 1987)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

Mr. DASCHLE. Our prayer today will be offered by the Reverend Charles P. Sarelis, Protopresbyter, St. George Greek Orthodox Cathedral, Manchester, NH.

PRAYER

Rev. Charles P. Sarelis, Protopresbyter, St. George Greek Orthodox Cathedral, offered the following prayer:

Let us pray:

Almighty and merciful Lord our God, who alone holds all of Creation in Your dominion and governs the universe by Your divine and sovereign will: Who has benevolently bestowed Your mercies in abundance upon this our homeland, the United States of America and has guided her by Your might to become the haven of the storm tossed and oppressed and a beacon of light among the nations of the world; as now we pause and lay aside our observances of the bicentennial anniversary of her Constitution and Bill of Rights; receive our prayer of thanksgiving and adoration. Make us worthy of these wonderous gifts: the liberties, the rights and privileges which we enjoy as citizens of this land. Guide and protect our President, the Members of Congress, the judiciary, all those in civil authority and in the service of our country. Give them strength and courage to proclaim Your divine and moral law and the desire to continue to follow and to obey it. Lead us all in paths which are pleasing to You and unto every good work. For unto You are due all glory, honor and worship, now and forever more. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 20, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. BYRD. Mr. President, today the Senate will vote on the motion to invoke cloture. If we do not invoke cloture, it is my plan to go to the Bork nomination. However, I say this to the distinguished Republican leader: I do not think we ought to spend a lot of time on the Bork nomination. I think it is beating a dead horse. It is not going anywhere. There is no change in the outcome that one can realistically envision from what the count obviously is going to be, based on the public statements that Senators on both sides have made and the public positions that they have taken.

It seems to me that we have a crisis facing the country. We need to be getting on with the reconciliation legislation. We need to be getting on with dealing with the budget deficits and the trade deficits. I would hope that the President, the Speaker, the leaders on both sides of the aisle in both Houses, and others in positions to make decisions ought to sit down together—and soon—to show the financial markets, the American people, and other governments that this Government is going to take action and is not going to just let matters drift.

So it seems to me it is not wise for the Senate to be debating a nomination that is not going anywhere, and be hung up on that nomination for 2 or 3 or 4 days. Why do we not just get an agreement that we will vote on this nomination this evening or no later than tomorrow noon, or 3 o'clock tomorrow, or whatever, get that behind us, and then turn our attention then to matters more uppermost in the minds of the American people, I am sure, right at this moment. What is happening to the economy? What is happening to their pocketbooks? What is happening to world confidence in this Government of ours at this critical moment?

We all know this nomination is not going anywhere. The President has asked for a vote and said he wanted to see a vote last week. And the sooner we vote on that nomination, it seems to me, the better, and we can get on to something else because if we spend 3 or 4 days debating a nomination that is not going anywhere, it is not going to stimulate confidence among the American people about what our Government is doing or can do about the stock market crisis that confronts us.

I wonder if the distinguished Republican leader could respond to my suggestion that we try to reach an agreement to dispose of this nomination today, or at a reasonably early hour tomorrow.

Mr. DOLE. Mr. President, I would say to the majority leader I will be happy to make inquiries on this side. I doubt that it can be done that quickly. It might be that we can do it in a day or two, or a couple of days. But I think there are some on this side who feel, notwithstanding what may have happened yesterday in the stock market, that this is a very basic, fundamental matter that affects the process in this institution of ours. There is some indication that witnesses may have been intimidated, and that those should be investigated prior to any final vote. As I understand, if cloture is invoked we would stay on the war powers in any event.

Mr. BYRD. That is accurate. But I have my doubts that cloture will be invoked. But in the event it is invoked today, it would seem to me that we ought not be on that business very long. Thirty hours is the total that is allotted under rule XXII. But we should not be that long, even if cloture is invoked. I think we ought to vote up or down on the Byrd-Warner amendments, go on from there, and do so without taking too much time.

Mr. DOLE. If the majority leader will yield, I would be happy to raise the Bork matter, at the policy luncheon at noon. I am prepared to take it up, I was ready last week, and I am today. I do not believe the results will change. I think, as the majority leader has indicated, when a Senator states his position publicly, unless there is some overwhelming reason to make a change, he is not going to change his vote. So I do not believe anyone is under any illusion about the outcome. Judge Bork indicated he was under no illusion. So I think if we could get on with the nomination, it would be very helpful because there are a number of things we need to do.

Mr. BYRD. Mr. President, upon the outcome of the cloture vote, if cloture is invoked, I wonder if we could not explore the possibility of voting today and completing action on the war powers matter? I kind of have my doubts that it will be invoked because I know of three absentees on this side, which could affect the outcome of that vote. If it is not invoked, I wonder then if we could discuss, or would be in a position by that time to discuss possibly, getting a time agreement on the Bork nomination so that we do not tie up the Senate too long in disposing of that matter.

Mr. DOLE. I would be happy to explore that.

Mr. BYRD. I thank my friend, the minority leader.

Mr. President, I yield the floor. If I have any time remaining, I reserve it.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I will take a couple of minutes of my time. I know that the distinguished Senator from Wisconsin has been waiting.

A CALL FOR CALM IN THE STOCK MARKET STORM

Mr. DOLE. Mr. President, the stock market fall is serious. I have already read about 25 different reasons by experts as to why it happened. I have watched them on television; and I have had someone check with a number of experts around the country. I have had all kinds of memos given to me, saying, "This is what happened."

I am not certain that we really know at this point why this has happened. But I do know that things we may say in this body, or say as a group, might affect the market even more.

So it seems to me that, first of all, it is time for a little calm in the body politic. Because sometimes we make statements without much knowledge. Knowledge is not a requirement in our business. But what we say would have an impact on what might happen in the market.

I have heard that it is the Fed's fault. I have heard that it is the fault of Congress. I have heard that it was the tax bill approved by the Ways and Means and Finance Committees last week. I have heard that it is the deficits we have refused to deal with in Congress. I have heard that it is the fault of the White House. I have heard that it is a number of other things: That stocks have been overvalued, that we have been living on a credit card economy. Even the Treasury has been faulted for some of their actions, so I guess that nobody really knows at this point why it happened, when it did or what will be the aftermath.

I assume that after 2 or 3 days, there is going to be a turn and the markets will start solidifying and maybe even start going back up again.

I think yesterday's events should send a signal to those of us in Congress not to pass any more big spending bills for a while, to have a moratorium on spending bills. If something comes to this floor that is over the budget, or some new program that is going to increase spending, we need to set an example by voting against it.

I understand that so far the tally in the reconciliation bill is $1.5 billion in savings and $11 billion in new taxes—and that is it. I would guess that is not the answer the stock market is waiting to hear—that we are going to raise taxes.

In the final analyses, someone has to provide the leadership, someone has to take charge, someone has to provide a forum so that we can discuss problems affecting the market and maybe find out what some of the answers are.

In this country there is only one person who can provide that leadership, and that is the President of the United States. I assume right now the President of the United States may be looking at options on what he might do.

He could convene a meeting of congressional leaders, but I doubt that would be enough. It seems to me that we need to reach out and bring in experts from the business community, from Wall Street, and maybe even leaders from around the world.

I assume there will be a number of solutions offered today; probably resolutions that will clear it all up if we just vote "aye."

I believe that that deficit is public enemy No. 1 and has been for the past several years. It is not going to go away. It is going to take a willingness on the part of Republicans and Democrats and the President to make some hard choices. But I am not certain when that will come. At least, we have had an early warning.

The deficit may not be the only cause, and I do not want to suggest that that is the only cause, although that is what many people are pointing at.

I am certainly willing to accommodate whatever the President may wish to do with respect to expressing concern, providing leadership, and trying to find a solution. It may not be easy. Maybe it is an overreaction and an overcorrection. And maybe it will work itself out—although perhaps not at the same level.

So it is not all doom and gloom. The economy is sound. It is not 1929. Inflation is low. Interest rates are not too bad. Essentially, we have a very sound economy. This is the basic difference between now and 1929. And that is why I think perhaps there will be some way to work it out.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The majority leader has 2 minutes and 45 seconds remaining.

Mr. BYRD. Mr. President, will the distinguished Republican leader yield me some of his time?

Mr. DOLE. I yield all my time to the majority leader.

Mr. BYRD. I thank the distinguished Republican leader.

DEBTS AND DECLINE: A WALL STREET RECORD

Mr. BYRD. Mr. President, Wall Street ran for a record, yesterday, but they ran the wrong way. Last Friday, the Dow Jones industrials fell a record 108 points. Monday, the Dow fell by 508 points, almost five times as much. In percentage terms, the market dropped by a near record 22.6 percent. That is almost 10 percentage points greater than the previous record decline of 12.8 percent on October 28, 1929. Yesterday's plunge is exceeded only by the 24 percent drop recorded in 1914.

In less than 2 months, the Dow Jones industrials have plummeted by 36 percent. For America's small savers, a house, the children's college education, and the promise of a secure retirement are now that much further out of reach.

The bad news was broadly spread. On the New York Stock Exchange, there were almost all losers and only a small handful of gainers. The rush to sell pushed volume beyond the planned capacity of the New York Exchange's computer to exceed 600 million shares.

The decline in the market has put bulls in a stampede all around the world. After Friday's decline, the Monday markets in London, Hong Kong, and Tokyo all fell sharply. Today has brought more of the same. The Australian Market is down almost 25 percent. The Tokyo Exchange dropped 15 percent—4½ times the previous record decline. Markets are down again in London, Paris, and Frankfurt as well.

Mr. President, I am afraid that this has been a storm that has been brewing for a long time. The unending parade of trade and budget deficits has finally taken its toll.

Not long ago, Mr. President, I pointed out that the growing mountain of debt we owed to foreigners had made us vulnerable to financial decisions made in London, or Bonn or Tokyo. The importance of interest rates and the dollar are no longer read just for their impact on long run growth in the United States. Instead, financial specialists worry about dollar depreciation driving foreign capital to other markets. Economists point to a tightening of German monetary policy and wonder if that will keep German capital at home.

Rising interest rates had already put downward pressure on stock market prices. But the tumble started with the trade news last Wednesday. The third largest trade deficit in our history was simply too much for the markets to swallow.

Mr. President, I am an optimist by nature. I have seen America walk through the valley of the deepest depression in our history. I have seen America rise up to defeat the forces of fascism and bring freedom back to the world. I have seen an American walk on the Moon, and I have seen America reach down a hand to those in need.

We met those challenges and we can meet others. But we can not face the future by turning our back on our problems. For a month, Mr. President, I have been calling for the administration to talk seriously about working to reduce our trade and budget deficits. No one is going to reflag those deficits, Mr. President. We have to deal with them ourselves. It is time the administration sought compromise, not confrontation; real policies, not partisan politics.

Mr. President, this is a time that requires leadership and calls for leadership, and there is no way we can avoid our responsibilities of leadership. The responsibility is upon this President and upon this Congress to deal with this problem, and we need to do something quickly.

I can remember, as a boy, hearing the soothing assurances that "Prosperity is just around the corner"—but it never came. It never made that corner.

We hear those soothing assurances today with respect to the present situation. The world is not wanting assurances by way of platitudes and words. It needs leadership, and this country is being looked to for that leadership.

I hope that the President will take action. I stand ready to do whatever I can do, and I hope that the President will call us together and let us talk about these trade deficits and about the budget deficits. The administration can no longer wink at the budget deficits. The President needs to lend his shoulder, his hands, and his strength to dealing with the budget deficit. He has thus far avoided it, and I do not think it can be avoided any longer.

It seems to me that action, not words, should be the order of the day.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 2 minutes.

The Senator from Wisconsin is recognized.

WHY THE PRESIDENT WINS BY INVOKING WAR POWERS ACT

Mr. PROXMIRE. Mr. President, the Reagan administration would be wise to invoke the War Powers Act, right now with respect to the Persian Gulf. I say that although I concede that the measured, limited retaliatory steps taken pursuant to Presidential orders in the Persian Gulf in the last 48 hours were exactly right. But failure of the President to invoke the War Powers Act puts the administration in conspicuous violation of the law. Section 4(A)(1) of the law flatly mandates the President to invoke the War Powers Act within 48 hours of the introduction of our troops "into hostilities or into situations where imminent involvement in hostilities is clearly indicted by the circumstances." Since last May there have been seven separate incidents of violence involving U.S. forces in the Persian Gulf. Four of those incidents have occurred this month. These are not "imminent" hostilities. These are actual hostilities. This Senator cannot conceive of a more serious offense by a President of the United States than the failure to comply with the law of the land. Of all of our 230 million American citizens, the President should be the very last to refuse to obey the law. Here's why: No person in the world is in a stronger position than the President of the United States to secure the repeal of a law that he opposes. He can go to the Congress. He can appeal over the heads of the Congress to the American people. If he believes the law to be unconstitutional he can throw the full force of the Justice Department into a fight against the War Powers Act that he can swiftly carry to the Supreme Court. It is shameful that with all these recourses the President should simply choose to so conspicuously flaunt a law that goes to the very heart of our constitutional democracy.

And the War Powers Act does exactly that. The Constitution declares that the Congress and only the Congress can declare war. Our Founding Fathers fully understood that the President should be the Commander in Chief of the Nation's Armed Forces. But they recognized that the Commander in Chief should not be empowered to carry the Nation into a war by himself. The constitutional fathers understood that all persons including the President of the United States are fallible human beings. All of us are subject to those very human emotions of anger, hate, and revenge. All of us act impulsively at times. And we often regret our actions later. Those founders of our country knew how tragic war can be. So they thoughtfully and rightly declared that the country cannot go to war without a declaration of war by the Congress.

Now, Mr. President, what has happened to that constitutional congressional power over the past decades? Consider: Since 1941—46 years ago the Congress has never declared war. Never. But we have gone to war. Tens of thousands of Americans have died in those wars. We fought a war in Korea. We fought a war in Vietnam. We have lost American servicemen fighting in Lebanon. All of these violent episodes of war took place without a declaration of war by the Congress. Now we are engaged in violent hostilities in the Persian Gulf. After Vietnam the Congress understood that the great fundamental provision of the Constitution that provided that only the Congress can declare war was a dead letter. It was said that never again would the Congress declare war. One man, on his own impulse would decide whether this great country went to war anywhere on the face of the Earth. In this fast moving world of instant communications, the Congress had been taken completely out of the picture. Presidents declare war. Congress has nothing to say about it. Oh sure, the Congress still has the power of the purse. The Congress could refuse to fund the war. But who are we trying to kid? The Congress learned in Vietnam that the congressional power over Federal funding is absolutely useless in trying to stop a war. Is any Congress going to refuse to give American troops the supplies, the ammunition, the weapons they need to defend themselves when the President has put them under fire in foreign lands? Of course, not.

So how do we give the President the freedom to act effectively to protect American interests throughout the world while retaining the sensible constitutional authority of the Congress to declare a war that can only succeed if it has the support of the American people? The War Powers Act is not a perfect answer. But it is a constructive step in the right direction. As we know, it requires the President to withdraw our troops from hostile action within 60 days unless the Congress extends the date.

This has the advantage of enabling the President to move and to move promptly. At the same time, it puts a limit on the President's power to extend a military policing action into a full scale war. And most important of all it provides for a decision on war or peace by a Congress that is accountable to the people. It means that if the American people overwhelmingly oppose a war, and let the Congress know it, a President cannot continue it. What's wrong with that in a democracy?

Now, Mr. President, the President would be well served in this Persian Gulf situation if he invoked the War Powers Act because he would receive solid support, in fact, overwhelming, support by the Congress. This Senator has talked to many of his colleagues about this matter. I have particularly talked to the Democratic Senators who would be the most likely to disagree with the President. There is no question the Congress would emphatically support the President in the Persian Gulf. And frankly, this Senator cannot think of any action that would do more to end the hostilities in the Persian Gulf than an emphatic vote in the Congress of the United States to keep our massive naval power there to enforce the freedom of safe passage in international waters. Iran will continue its terrorist actions such as firing its Silkworm missiles at American-flagged ships as long as it believes our country is divided over this issue. But as soon as a Democratic Congress joins a Republican President in an emphatic endorsement of our presence in the gulf the Iranians will get the message. So, Mr. President, obey the law, invoke the War Powers Act and secure the freedom of transportation in international waters.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that I be authorized to speak for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I certainly will not object, I am inquiring as to the possibility of maybe following the distinguished Senator from Florida for a few minutes. Would the Parliamentarian and Chair advise me with respect to the present procedure?

The ACTING PRESIDENT pro tempore. Morning business under the previous order will not extend beyond the hour of 10 o'clock this morning. There remains 10 minutes in morning business. The Senator from Florida has requested 5 minutes, which would mean that 5 minutes remain of morning business.

Mr. WARNER. I wonder if I might ask unanimous consent that I be given 3 minutes following that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized for 5 minutes.

ECONOMIC SUMMIT

Mr. CHILES. Mr. President, the United States stands at one of those peril points, I think in its history. Yesterday we watched a financial panic that was unparalleled in our modern history.

On October 28, 1929, the day that signals the beginning of the Great Depression, the stock market lost 13 percent of its value. Yesterday we watched a far greater depreciation as the stock averages fell by over 22 percent. Yesterday over $750 billion worth of wealth was annihilated.

In the last week the American equity markets have lost close to $1.5 trillion, and the story is the same in Tokyo and in Hong Kong and everywhere.

We, the modern capitalist democracies, are standing at a precipice and looking in the abyss of something we cannot see.

Mr. President, I know it is not the time for trying to cause panic. It is a time for reassuring the markets. It is certainly not the time for partisanship.

I listened to the distinguished minority leader, and I found much I would agree with in what he said. What he did say is that it is the time for us to send a signal to all of the people in this country as well as the other countries that we are going to do something about this, that we recognize it is serious, that we do not know exactly what the cause is, and it is a multiple cause, and I do not think it is a question of finger pointing now.

It is a question of what do we do as a country to show our people and the rest of the world that we are going to get on top of this situation.

I think that means that we do have to try to bring together the most knowledgeable leaders and the people that have to participate in finding a solution and trying to bring them together in some kind of a forum in which we can deal with this.

I listened to Arthur Levitt, the chairman of the American Stock Exchange, last night, and he made as much sense as anybody I heard when he said that the Congress and the President really have to come together in a nonpartisan, not a bipartisan, in a nonpartisan, national economic summit and to try to deal with this problem.

So, Mr. President, today I am going to introduce a joint resolution that would call for an economic summit to deal with the financial crisis. I do that constructively. I do that because I think that it is the kind of assurance that we can use out there today and that we should be putting out there today, and it would require and show that the economic security of the United States and its trading partners are threatened by this kind of action that we had, that we are going to try to deal with this.

Mr. President, we are not trying to say there is only one thing that we have to deal with. So the language would call upon the President to convene a summit of the Nation's economic leaders to implement a plan to resolve the Nation's financial crisis, including stabilizing the international value of the U.S. dollar, stabilizing interest rates in the United States and abroad, calming the equity and commodity markets, taking concrete action to sharply reduce the U.S. Federal budget deficit, including a credible plan to bring it below 2 percent in the GNP in the next 3 years.

Mr. President, I think we have gotten ourselves off to where we are sort of straining at gnats in this $23 billion this year and whether we are going to have $12 billion of revenue or not, and whether we are going to have a sequester across the board or not, and then we signal that we are not going to do anything there. We are going to let it be automatic. That again is sort of a signal of a failure of leadership that we are not going to deal with it.

I think perhaps we need to bring together people outside of the congressional players that have been trying to work with this and the President and look at a plan that really is going to deal with this and get away from the finger pointing of the partisan politics and try to see what we can do that is really going to do something.

Mr. President, it would significantly reduce the U.S. trade deficit by a combination of fiscal restraint and multinational negotiation and there are three or four other things.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CHILES. Mr. President, I send to the desk the joint resolution and ask unanimous consent that it be placed on the calendar.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. And I will have to object, I say to my good friend from Florida.

In the brief moments that I had to look at the resolution which I think the Senator will admit is rather all encompassing——

Mr. CHILES. Yes.

Mr. DOMENICI. I have talked to the distinguished Republican leader and he indicated that he would like very much to have an opportunity to review this, take it up with our caucus and our policy group and we will get back with the distinguished chairman in short order.

Mr. CHILES. I think that would be a good idea.

I ask that it be read for the first time.

The ACTING PRESIDENT pro tempore. The joint resolution will be read for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 204) calling for an economic summit to deal with the financial crisis.

Mr. CHILES. Mr. President, I ask that the joint resolution be read the second time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The joint resolution will stay at the desk pending the second reading on the second legislative day.

The Senator from Virginia sought recognition, and under a unanimous-consent agreement was given 3 minutes.

WAR POWERS

Mr. WARNER. Mr. President, I am very hopeful today that the Senate can dispose of this issue of the War Powers Act. It is a very important one. Congress does have a role with respect to implementation of our foreign policy and the use of our troops abroad.

The distinguished majority leader and I have placed before this body an amendment to the pending bill which I am hopeful will meet the requirements of the membership.

It in all ways tries to meet the goals of the War Powers Act.

I am urging Senators to accept the amendments as a solution for this time. I do so for the reason that this amendment, the Byrd-Warner amendment, specifically recites that the Congress of the United States is in accord with the President and his policies in the gulf area.

I think we need to lay to rest whatever uncertainty exists about the support of the Congress for our President.

I am reminded of when it was said that Nero fiddled and Rome burned. We are having financial problems here at home because of uncertainty and we should not lay on those problems additional uncertainty with respect to the gulf region.

That area of the world possesses 60 to 70 percent of the known oil reserves essential for the economies of the whole world. Now is not the time to have any uncertainty with respect to our policies and the policies of other allies and friends working together to try and secure peace in the gulf.

I am hopeful today that our body reaches a decision with respect to the War Power Act.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Chair informs the Members that there are 2 minutes of morning business remaining.

The Senator from New Mexico.

ECONOMIC SUMMIT

Mr. DOMENICI. Mr. President, I did not get a chance while the distinguished chairman of the Budget Committee was still on the floor to complete my statement because of the parliamentary situation. I just wanted to repeat that I objected to immediate consideration of the proposed joint resolution because we want to study it. We want to give the right signals, send the right information out to the American people about where things are.

Obviously, we have had some significant trauma in the last few days in the stock market, but clearly there are many good signs in the American economy and the economies of the free world. And we just want to make sure that what we do is positive today, if we can do anything. For the most part, the problems are longstanding and cannot be solved in 1 day.

But clearly the signals that we want to send are not those of panic, because obviously things that have happened in the last few days may get worse if, in fact, we lead people to believe that the entire economy has in some way overnight changed. It has not. From our standpoint, we believe that some positive signals can be sent from the administration, from our trading partners, from those members of the free industrial nations and their communities of interest. We hope that will occur today.

In the meantime, we will study and evaluate collectively what the distinguished Budget Committee chairman proposes here and we will get back to him and the distinguished majority leader in very short order as to what we desire on our side with reference to that.

As we speak, I am reminded that the market is now up dramatically for any ordinary day, I think 101 points. But for the very dramatic things of the last few days, that would be exceptionally good news. I think it is. I think it indicates that we had some kind of precipitous developments in the marketplace and they are apt to right themselves in short order, and we ought not act precipitously here.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The hour of 10 o'clock having arrived, morning business has expired.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour to be equally divided between the majority and minority leaders or their designees.

The clerk will report the pending measure.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers Resolution.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Warner-Byrd Amendment No. 951, in the nature of a substitute.

(2) Byrd-Warner Amendment No. 952 (to Amendment No. 951), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Who yields time?

The Chair would inform all Members that the majority leader or minority leader or their designees control time.

The majority leader.

Mr. BYRD. Mr. President, I designate Mr. WARNER, the chief cosponsor of this amendment, to handle the time on our side of the question?

Mr. WEICKER. Mr. President, will the distinguished Senator from Virginia yield for 30 seconds?

Mr. WARNER. Yes.

MODIFICATION OF SENATE JOINT RESOLUTION 194

Mr. WEICKER. Mr. President, pursuant to the rules of the Senate, I send a modification to the desk of Senate Joint Resolution 194.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his joint resolution. The joint resolution will be further modified.

The modification is as follows:

On page 2, strike lines 3 through 7 and insert the following in lieu thereof the following:

"(2) On October 19, 1987, United States Armed Forces carried out an appropriate response to the unprovoked October 15, 1987 Iranian silkworm missile attack on a U.S. flagged vessel in the Persian Gulf."

(Mr. SANFORD assumed the chair.)

Mr. WARNER. Mr. President, pending before the Senate at this time is an amendment offered by the distinguished majority leader and myself. It represents the culmination of many, many hours of deliberation privately among a bipartisan group of Senators. It represents, in our judgment, the best solution that we know of now to solve the problems confronting the Congress with respect to the War Powers Act.

My good friend from Connecticut has said, with accuracy, that the War Powers Act is the law of the land. But we recognize at this time that there are serious problems regarding the constitutionality of the War Powers Act. The President of the United States, in his role as Commander in Chief has committed the forces of this Nation toward a policy in the gulf, a policy to achieve peace and stability, a policy to protect navigation in the international waters.

As we debate here this morning, that policy is yielding fruits—fruits in the sense that the international fora, primarily the Security Council of the United Nations, is addressing resolutions calling for cessation of hostilities, calling for an embargo of arms. Our allied nations and friends have joined us in the gulf region with their military support. The gulf states themselves have given an unprecedented measure of support, albeit quietly, but nevertheless support in terms of infrastructure, assistance to the military forces, the combined military forces trying to bring about a greater measure of peace and stability in that region.

We are witnessing here in our Nation today some uncertainty in the financial markets. I say respectfully to my colleagues that there is a direct linkage, in my humble judgment, between that problem and the problems in the gulf. The gulf possesses somewhere between 60 and 70 percent of the known oil reserves, the petroleum reserves of the world, and all of us know how essential those energy reserves are to the economies of the world. If one nation or if two nations were to control those reserves in such a manner as to control prices, distribution, and the free flow of oil from that region, it would have devastating consequences on the economies of the world.

That is the reason our President has sent forth our troops, to provide for the freedom of navigation, the free flow of oil, so that the economies can function. Hopefully we can participate as one nation, along with others, in bringing about a cessation of hostilities, not only to the gulf region in the waters of the gulf but in the land war between Iraq and Iran.

We seek not to take sides. We seek not to become a belligerent power. With one exception, this Nation thus far has only reacted militarily to defend itself or those interests that we are committed to defend.

But when there was a ruthless attack by a Silkworm missile which struck one of our flag vessels, this Nation, under the direction of the President, had no recourse but to retaliate. The President very wisely took his time to make a decision, listen carefully to his advisers, indeed consult the U.S. Congress through its leaders, and then make a proportional response to that attack. This response sent a clear signal to the leadership in Iran, whatever that leadership may be today—and, indeed, that is a puzzle. We hope and pray that there are some sensible minds functioning in that nation. We sent a clear message that this Nation is prepared to use such forces as necessary to protect our interests and the interests of others to whom we have made a commitment.

Now, Mr. President, it is up to this body to determine how we deal with the law of the land. The Byrd-Warner amendment leaves the War Powers Act intact. It leaves that law to be examined by the courts, possibly by a commission—which I will discuss perhaps later today—to look at it in a totally detached and impartial way from any situation in the gulf. To determine the course of action between the executive and the legislative branches, to look at this act now, would be in the light of a changing world, one quite different than 1973, when we had far less terrorism and sporadic and unpredicted actions throughout the world.

This law is simply drawn in a manner flawed with unconstitutional provisions and drawn such as to not meet the realities of today's world. It needs revision. But this morning is not the time to undertake that revision.

Now is the time, however, to meet the basic goals of the War Powers Act, as does the Byrd-Warner amendment, calling for the President to give us a complete and detailed report, a report that is more detailed than that required under the War Powers Act. Then this body has the option, after receiving that report, of coming forth with a resolution, either one in support, or one of nonsupport, of the President and his policy. It is an option.

It does not set in place a timetable requiring the withdrawal of troops as does the War Powers Act. To the contrary, it is carefully drafted to leave an option to the Congress to respond if they felt it was necessary at some future period.

Then it is up to us to determine, largely through the power of the purse, which is our constitutional prerogative, the manner in which we would continue, hopefully, to support our President in that area.

Mr. President, much has been said about the consultation and the lack thereof. I will introduce this morning a record which shows that over 123 times the President, or members of his Cabinet or the JCS availed themselves to come before this body—either in committee or in private sessions—and to keep us advised with respect to the President's policies and his intentions for the use of the military force in the gulf region. I feel that President Reagan has met the spirit of the act in every respect. He has exceeded what previous Presidents have done under the War Powers Act. Indeed, no President has ever lived up to the full measure of the law, Democrat or Republican. But this President has, in every respect, lived up to, if not exceeded, his responsibilities to keep this body informed.

I am hopeful today that we will invoke cloture. I am hopeful today that we will vote cloture and that the Congress will stand up and be counted and put aside this issue of the War Powers Act at this time. There is no time for uncertainty in that region of the world, which controls so much of the nations'—this Nation's and other nations'—energy supply.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of 123 consultations between the President and members of his Cabinet and the Joint Chiefs of Staff with the Congress of the United States in the last 6 months in connection with the Persian Gulf.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSULTATIONS

List of hearings, briefings, meetings and consultations with Members of Congress and their staff regarding the Persian Gulf region, including policies and military operations:

Total: 123 meetings, briefings, hearings and consultations since mid-May 1987.

OCTOBER 1–20, 1987

OSD: 3 occasions

CIA: 1 occasion

NSC staff (Mr. Carlucci): 1 occasion (with Senators Nunn and Warner, on 10/16)

The President: 3 occasions (with the bipartisan leadership, on 10/6, 10/8 and 10/18)

Subtotal: 8 occasions

MID-MAY THROUGH SEPTEMBER 1987

OSD: 52 occasions

State Dept: 30 occasions

CIA: 24 occasions

NSC staff: 7 occasions

The President: 2 occasions

Subtotal: 115 occasions

Details of meetings from mid-May through September follow:

OCTOBER 1, 1987, DEPARTMENT OF DEFENSE

Hearings/Briefings to Congress on the U.S.S. Stark/Persian Gulf

Date	For whom	Briefers
18 May	HASC	LTG Burpee, OJCS; VADM Mustin, OPNAV.
18 May	SASC (Glenn and staffers)	COL Lotzbire, OJCS; CAPT Twomey, OPNAV.
18 May	Pentagon Press	LTG Burpee; VADM Mustin.
19 May	HFAC [1] and SFRC (separate briefing for each cte).	Asst SecState Murphy; LTG Burpee, OJCS; Sandy Charles, OSD.
19 May	Representative w/ HAC Def Subcte staffers Paul Magliocchetti and Don Richbourg.	COL Lotzbire, OJCS; CAPT Stephan, OJCS.
20 May	SASC	GEN Herres.
21 May	House members (hosted by HFAC at request of Rep. Trent Lott).	GEN Herres.
22 May	Senators Sasser, Glenn, and Warner w/staffers.	COL Lotzbire; CAPT Stephen (also reps from State and DIA).
22 May	Jim Locher, SASC staffer	GEN Herres; LTC Hemming, OJCS.
22 May	Michelle Van Cleave, Representative Kemp's staffer.	COL Warren, CJCS.
26 May	Senators Warner and Glenn	BG Schlossberg, OJCS; CAPT Plott, OJCS; CAPT Stephan; COL Levy, OJCS.

Date	For whom	Briefers
28 May	HASC Inv. Subcte [1] and DPP.	GEN Herres; GEN Welch; GEN Morgan; ADM Trost; LTG RisCassi.
29 May	Paul Magliocchetti, HAC Def Subcte staffer.	CAPT Stephen.
29 May	SFRC	Asst SecState Murphy; Mr. Armitage, ISA; VADM Mustin.
2 June	HAC Def Subcte [1]	COL Lotzbire; CAPT Stephen.
2 June	SASC [1]	RADM Rogers, OJCS.
3 June	HASC	RADM Rogers.
4 June	Representative Chappell, Ch, HAC Def Subcte.	RADM Rogers.
5 June	SASC [1]	Admiral Crowe; General Welch; Admiral Trost; General Morgan; LTG RisCassi.
9 June	HASC Invest. Subcte and Defense Policy Panel [1].	SecDef; CJCS.
10 June	HFAC [1]	SecDef; CJCS.
11 June	SASC [1]	UndSecState Armacost; ASD(ISA) Armitage.
11 June	HASC Invest. Subcte and Defense Policy Panel [1].	AsstSecState Murphy.
11 June	HFAC [1]	UndSecState Armacost.
15 June	Archie Barrett, HASC staffer.	COL Lotzbire; OPNAV. Rep.; DIA Rep.
16 June	HFAC [1]	SecDef; CJCS.
16 June	SFRC [1]	UndSecState Armacost; ASD(ISA) Armitage; RADM Kime, USCG.
16 June	SASC [1]	ASD(ISA) Armitage; VADM Carter, DJS.
17 June	SFRC [1]	AsstSecState Murphy; VADM Carter, DJS.
18 June	Senate Leadership	CJCS.
19 June	HASC Invest. Subcte and Defense Policy Panel [1].	VADM Carter, DJS; LTG Perroots, DIA; Daniel Webster, CIA; DASD Clark, State; CDR Minor, ISA.
19 June	SSCI [1]	UndSecState Armacost; ASD(ISA/NESA) Gnehm; Dick Kerr, CIA; RADM Schmidt, DIA; RADM Clark, NSA.
19 June	Senators Quayle and Wilson, SASC.	CJCS.
23 June	SSCI [1]	CJCS.
25 June	HASC Invest. Subcte and Defense Policy Panel [1].	GEN Crist.
29 June	House Republican Leadership (Michel, Lott, Dickinson, Hyde, McDade, Broomfield, Cheney, and Lewis).	CJCS.
30 June	HPSCI [1]	VADM Carter, DJS; Daniel Webster, CIA; Mr. Creekmore, State.
8 July	Representative AuCoin and staffer Bob Sherman.	COL Lotzbire; CAPT Stephan.
8 July	Various House members during a floor vote.	COL Lotzbire.
9 July	Jim Locher, SASC staffer, for Senators Byrd and Nunn.	COL Lotzbire.
10 July	Senator Humphrey, SASC	RADM Rogers, J–3.
14 July	Congressional Leaders, Persian Gulf.	SecDef, SecState, Admiral Crowe.
20 July 1000	Senator Cohen, Senator Kassebaum.	Reps. OSD/ISA, J3/JOD.
22 July	Senator Warner, Staffers from SASC, SFRC, SSCI, Persian Gulf.	Col. Lotzbire, Capt. DeBobes, Capt. Trafton.
6 Aug	Senator Stennis, Senator Warner, Representative Aspin, Representative Dickinson, Representative Chappell, Persian Gulf.	SecDef, JCS, CNO, BGen Lotzbire.
11 Aug	Representative Hopkins, Persian Gulf.	Lt. Col Hemming.
1 Sept	Senator Warner, SASC Staffers, Persian Gulf.	BGen Lotzbire, Capt. Trafton, Capt. DeBobes.
9 Sept	Representative Daniel, funding issues related to the Persian Gulf.	Admiral Walsh, Capt. Trafton, Mr. Gniehm/ISA.
15 Sept. 87	Representative Chappell, Representative McDade, Senator Warner, Senator Nunn.	DepSecDef, VCJS, CNO, BGen Lotzbire, RAdm Brooks.
17 Sept. 87	Representative Bennett	BGen Lotzbire, Capt. DeBobes, Capt. Trafton.
22 Sept. 87	Senate and House Leadership.	BGen Lotzbire, Capt. Trafton.

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[1] Indicates a hearing (rather than a briefing).

Notes.—HASC—House Armed Services Committee; SASC—Senate Armed Services Committee; HASC Inv. Sub. & DPP—HASC Investigations Subcommittee and HASC Defense Policy Panel; SFRC—Senate Foreign Relations Committee; HFAC—House Foreign Affairs Committee; SSCI—Senate Select Committee on Intelligence; HPSCI—House Permanent Select Committee on Intelligence.

OCTOBER 1, 1987, DEPARTMENT OF STATE

Congressional consultations on Persian Gulf

May 17: (Stark incident).

May 19: DAS Creekmore—HFAC.

May 21: AS Murphy—HFAC.

May 29: AS Murphy—HFAC.

June 1: DAS Ed Djerejian to HFAC, Ed Fox with GOP leadership.

June 3: Secretary Schultz with Dole.

June 8: DAS Marian Creekmore—HASC staff.

June 9: DAS Creekmore—HFAC.

June 10: AS Murphy—SFRC.

June 11: US Armacost—HFAC; AS Murphy—HASC; US Armacost—SASC.

June 15: DAS Creekmore—HFAC.

June 16: US Armacost—SFRC.

June 17: AS Murphy—SFRC.

June 18: DAS Creekmore—Merchant Marines.

June 19: AS Allen—Helms/SASC; INR (with DIA, CIA)—HASC.

June 23: Joint Chiefs of Staff—SSIC.

June 30: DAS Marian Creekmore—House Intelligence Committee.

July 1: Lehovich—House Energy Staff.

July 21: DAS Creekmore—HFAC Staff.

July 24: AS Murphy—SFRC.

July 28: AS Murphy to Hamilton S/C.

July 30: DAS Creekmore—HFAC.

Aug. 5: DAS Creekmore—HFAC.

Aug. 6: DAS Creekmore—HFAC S-C on Merchant Marine; AS Murphy—HFAC S-C on Europe and the Middle East.

Sept. 15: Murphy—HFAC S-C on Europe and Middle East.

Sept. 17: Murphy—HFAC S-C on Europe and Middle East.

Total, 30.

NOTE.—AS—Assistant Secretary; DAS—Deputy Assistant Secretary; S-C—Subcommittee.

OCTOBER, 1, CENTRAL INTELLIGENCE AGENCY

Since mid-May 1987, the CIA has provided briefings or hearing testimony relating to the Persian Gulf on 24 occasions for members of Congress and/or their staff.

Ref: CIA legislative liason.

Briefings by the National Security Council staff

28 May: Office briefing(s) with Senators Lugar (R-IN) and Humphrey (R-NH) by Ambassador Oakley.

4 June: Meetings separately with Senators Glenn (D-OH) and Warner (R-VA) and separate meetings with Carl Smith, Minority Staff Director, Senate Armed Services Committee, Gordon Riegle and Mark Robinson, Professional Staff Members, SASC, by Ambassador Oakley.

5 June: Meetings separately with Senator Wilson (R-CA) and Carl Smith, SASC, by Dennis Ross and W.J. Burns, NSC staff.

8 June: Meeting with Andrew Ellis, Professional Staff Member, House Armed Services Committee, in preparation for 9 June hearing with SecDef on CJCS as witnesses by W.J. Burns, NSC staff.

July 14: Carlucci, Shultz, Weinberger, Crowe meet with bipartisan leadership.

August 21: Oakley updates staff of Byrd, Dole, and Michel.

August 28: Oakley updates staff of Byrd, Dole, and Michel.

Total NSC: Seven.

Meetings with the President

June 23: President meets with GOP leadership.

June 30: President meets with bipartisan leadership.

Mr. BENTSEN. Mr. President, I have a request of the manager of the bill that I be yielded 6 minutes.

Mr. WARNER. Mr. President, I yield such time as the Senator from Texas may require.

Mr. BENTSEN. We have had extensive debate, Mr. President. I strongly urge cloture. But I noted yesterday that JOHN STENNIS, one of our great towers of strength, a Senator's Senator, patriot, man of integrity, intelligence, commitment, was choosing not to run for reelection. I could not help but think back to the day I entered the Senate, in 1971, and I came to the floor of the Senate for what in those days was supposedly a big event for a new Member, his maiden speech. I made that speech on the War Powers Act and joined with Senator STENNIS, following his lead and being one of the original cosponsors of it.

I did that because I cared then and I care now about the role of Congress in issues of war and peace.

In drafting that war powers resolution, Congress did not challenge the authority of the President as Commander in Chief of the military forces. Nor did we challenge his right to direct the conduct of that war, once the decision had been made through the democratic process that we must wage war. But we would have been negligent if we had relegated to one man the decision as to whether or not our sons and daughters go to war.

No President should welcome or accept the sole responsibility of involving our Nation in war. The President instead should welcome the fact that he has a partner in such a terrible decision.

You cannot conduct a war today unless you have consensus, unless you have the support of the American people. That means it has to be a shared support with the congressional branch, insofar as it was set forth in the Constitution.

The President should insist that the Congress participate in any decision leading in that direction and Congress for its part should demand its rightful role in that process.

That should not be a test of wills or a partisan issue. True bipartisanship, however, must be a product of prior consultation, of consensus building. It must grow out of mutual trust and shared convictions.

I believe there is still some time to develop a joint, nonpartisan policy that protects our national interests and adds that broad base of support that is necessary. But the longer we argue over the process, the sooner our day-to-day policies will propel us beyond our ability to control the events. That has to be our concern.

As a first step, then, the President should acknowledge the applicability of the war powers procedures to this situation and seek congressional support for our commitments in the Persian Gulf. Only then, when the President and the Congress have to face those tough choices together, are we likely to develop a policy which can be sustained.

For example, I personally believe that the decision to put American flags on the Kuwaiti tankers was a big mistake. That restricts your options and that is one of the problems we are having now. We had ships placed at Kuwaiti docks where we could not defend them and that is where we had an American flag that was struck. I believe the action, that part of it, should be reconsidered as part of the broader effort to develop a unified policy.

Earlier I supported legislation which would have required an end to that reflagging policy unless and until Congress enacts authorizing legislation. I still favor that approach.

As I told the Senate on October 1, the U.S. Government reduced our options, limited our flexibility, and increased our exposure to Iranian attacks by agreeing to reflag and protect Kuwaiti tankers.

We are now in the awkward position of giving priority to the defense of these Kuwaiti tankers, for largely diplomatic reasons, while American-owned ships which fly foreign flags of convenience remain vulnerable. We have to sort out, in a coherent way, just who deserves our protection, and how much. We also have to avoid being tied to others who are only too willing to shed their ties to us.

The Kuwaitis, for example, have not volunteered to let U.S. military forces use Kuwaiti territory as a staging area or operational base for our activities to defend their tankers. I am told that the Kuwaitis have done all that the United States has formally requested that they do. But I suspect that we have tailored our requests to our expectations of what they are willing to do.

Other nations are defending their ships—the British, the French, the Italians, the Belgians and Dutch. Together, they have about as many warships in the region as the United States. But those nations have not adopted the high-profile, confrontational approach which we have. They may be ready for a fight, but they do not seem to be spoiling for a fight.

This United States of ours should be defending our ships and the freedom of the seas for innocent passage. That would be consistent with our history and our national interests. But I am opposed to convoys of ships which have only recently rushed to acquire Old Glory as a flag of convenience and continue to try to trade us off against the Russians.

I also believe that the United States has important reasons for trying to avoid the domination of the gulf by the zealots in Teheran and for trying to avoid the economic chaos which would follow the loss of oil supplies to the West.

Whenever Americans are asked to risk their lives in defense of our Nation's interests, there should be a collective consensus on undertaking those risks. War is too serious a matter to be left to the solitary decision of the President.

And our Constitution, in my judgment, requires the sharing of this awesome decision with the Congress.

I yield the floor.

Mr. WARNER. Mr. President, I yield 4 minutes to the Senator from Connecticut, who I understand is in support of the cloture motion.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise in support of the cloture motion. I have my reservations about the Byrd-Warner amendment; those reservations are based on the fact that the amendment still avoids the law of the land, the War Powers Act.

Let us understand there are two issues that are involved here—the War Powers Act and our policy in the gulf. They are separate and distinct.

Only if the War Powers Act is enacted will the Senate and the American people have the information necessary upon which to base their decisions relative to our policies in the Persian Gulf.

In 1982, the President reported he sent 1,200 marines into Lebanon. A little less than a year later this body voted to extend that period of time to 18 months.

And only shortly after that, 240 marines were killed on the tarmac at Lebanon.

And then people asked the question that should have been asked before the Marines were sent in the first place. What were they doing on the tarmac? Wasn't that a vulnerable military position? Et cetera, et cetera, et cetera.

Did it occur to anybody that when that reflagged Kuwaiti tanker was hit, for example, that our commitment as enunciated by the Secretary of State was only to protect it in international waters? Well, as soon as you restrict yourself to that extent, that tanker becomes a sitting duck when it is in the harbor and yet it still flies the American flag. What is the United States going to do about it at that point? Somebody ought to ask the question as to whether or not it is responsible policy to commit ourselves only to the protection of that ship under the American flag while it is in international waters.

Do you think somebody should have asked, why did we send arms to Iran? Why did we send military information to Iraq? Do you think these are questions that are deserving of an answer before we commit as a matter of policy?

Nobody is going to argue against the retaliation against Iranian platforms in the Persian Gulf. It was an appropriate response. To some of my Democratic friends who are worried with the President, let me assure them I will stand side by side with them to those who accuse that in any way invocation of the War Powers Act is being soft on Iran. Nobody is condoning Iran. Indeed, I think most of us would agree that the United States should have a presence in the gulf to protect the free passage of commerce in that part of the world. I believe we all agree on that point.

But I don't know if we did agree on the policy of reflagging? A policy that restricts U.S. protection to certain ships and not others? Those are questions that should be asked.

Underlying all of this, the argument is that to continue to use the War Powers Act is unconstitutional. We cannot go running around this country on our own hook deciding which laws we are going to obey and which we will not obey, and saying to ourselves, "I do not think this law is constitutional."

We have a process, and, indeed, when the Supreme Court declares a law unconstitutional only then is it unconstitutional. Constitutionality is not based on what Senator Weicker thinks or what President Reagan thinks or what Senator Warner or what Senator Byrd thinks.

Lastly, the War Powers Act does exactly what the amendment does, except it is currently the law of the land. The law gives us the information necessary to make our decisions and those decisions of war and peace are decisions of life and death. Indeed, if you think we have a commitment to those who are in the gulf now, I also would suggest that we have a commitment to those who will go to the gulf and we better have the facts upon which to make our decisions.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, in fairness to those who may be in opposition, I think at this point in time I will yield to Senator Dole.

Mr. DOLE. Mr. President, I will yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I rise in opposition to the cloture motion at this time.

Let me make a couple of factual statements to begin with.

One, we have not debated the Byrd-Warner amendment. There has, in effect, been absolutely no debate whatsoever. The amendment was filed on October 9 without any debate. We debated it very briefly on a tabling motion last Friday, about 20 minutes. Now, we are seeing the cloture motion being filed on this amendment.

I believe if we are going to look at this with due deliberation, as we should, that we ought to discuss it. I, quite frankly, think that the amendment, the Byrd-Warner amendment, is certainly better than the War Powers Act. I think it is a very good faith attempt by the majority leader and the ranking member of the Senate Armed Services Committee to wrestle with the constitutional problems that we find ourselves in, that the constitutional dilemma is the fact that we all know the War Powers Act is unconstitutional.

My friend from Connecticut and others keep saying, "Well, it is the law of the land."

It is the law of the land and we ought to comply with the law of the land. But this law of the land is not a highway bill, Mr. President. This law of the land happens to deal with the War Powers Act which is a very important issue and a dispute which has been between the executive and the legislative branch for a long, long time.

This is nothing new. What is new is when it was passed perhaps the executive was at an all-time low in its power, respect and credibility. The Congress, quite rightly at that particular time, over the President's veto, passed the law. Now we come back and find it is completely unconstitutional. We know that. It is unworkable.

I think what the Senator from Virginia and the Senator from West Virginia have done is to come up with an approach. Quite honestly, I congratulate them on trying to figure it out. I wish we had time to debate this.

As I said last Friday, I doubt if too many Senators really know what is in the Byrd-Warner amendment. It is a fairly straightforward amendment. After 60 days a report gets sent up and 30 days after that a resolution may be introduced and, in fact, if it is introduced there is an expedited process. The expedited process would take away anybody's right to filibuster.

Mr. President, for us at this particular time to rush in and invoke cloture without having any debate I think really takes away from the serious matter. It is the law of the land but we also have a Constitution. It is the law of the land, too. The Constitution says that the President of the United States is the Commander in Chief. I do not think anybody is challenging his right to deploy Armed Forces around the world. The Constitution says that the Congress has the power to appropriate and support and raise moneys for the Army. This is a conflict that everyone is wrestling with.

It is something that is very, very important.

But this is not, and I think it is important to realize this is not, really a highway bill. This is a very important issue. It is a matter of life or death. We are going to deal with this issue sometime.

As I said, I think this amendment we are currently debating is a major step forward from the War Powers Act. My own preference is that I think the President had to comply certainly with the spirit of the War Powers Act, consultation with leaders of Congress before the action took place. There was consultation. That is what the War Powers Act says. The President said he will, in fact, send a report up within 48 hours. That is in the War Powers Act. Certainly, with the spirit of the War Powers Act the executive branch and the President are trying to cooperate.

But I do not think we ought to ask them to do something that is clearly unconstitutional, something that we think as far as invoking the War Powers Act, per se, that in my judgment and in their judgment would be detrimental to our efforts of peace and stability in the Persian Gulf.

On the issue of confrontation, Mr. President, let me point out for the record as nearly as I can count since the *Stark* incident we have had 122 different consultations with Congress, 122. There have probably been a lot more. You can probably multiply that times two with private briefings I cannot account for, briefings where we have had notice and they have come up here and given us the information.

If that is certainly not in the spirit of cooperation, consultation and developing a consensus, I do not know what is.

But we are certainly not going to invoke a War Powers Resolution that, by inaction of one House, says that we have to get out of the Persian Gulf. That is the War Powers Act. That is not the Byrd-Warner amendment.

The Byrd-Warner amendment does not do that. As I said, I think it is a very good faith effort to try to deal with this constitutional, and very delicate constitutional, balance between the President, the executive branch, and the Congress.

Where has been the debate?

Mr. WARNER. Mr. President, will the Senator yield on my time for a question?

Mr. QUAYLE. I will be glad to yield.

Mr. WARNER. When the Senator asks where is the debate, I can recount 10 times since the *Stark* incident we have been on the floor of the Senate debating the War Powers Act. If cloture is invoked today, we have 30 hours of debate afterwards. I say to my distinguished friend that it is the uncertainty of whether the Congress of the United States and the people speaking through the Congress are behind the President that is causing the problem and it could well be spilling over into the problem we are facing today in terms of our own economy. It is for that reason we should bring about cloture, have our debate of 30 hours—that is only on the amendment—and then we can go on to the underlying bill itself. So there is adequate time. We have already had at least 10 debates in this Chamber, albeit sporadically on this issue.

Mr. QUAYLE. Mr. President, there certainly has been sporadic debate. I certainly agree with the Senator from Virginia. We have had a lot of debate and discussion about the so-called War Powers Act. I do not believe the Senator from Virginia will dispute that we have had absolutely no debate with the exception of 20 minutes last Friday, which was not directly on this amendment. We are going to have 1 hour of debate on cloture on this amendment, which is a very good-faith effort by two distinguished, fine gentlemen to try to figure out what is the balance of power and how should we proceed with the War Powers Act. The Senator from Virginia, I know, would agree with me that the best way to show support and rally behind the President—I believe the American people are behind the President—would not be calling on the invocation of the War Powers Act. We ought to just pass a resolution in support. Congress ought to realize that it has a lot of clout. I do not believe this Congress is a very timid, nor do I believe that it is a powerless entity in our constitutional form of government. The Congress of the United States clearly has the power of the purse, and if in fact it does not like what is going on in the Persian Gulf, it can through the power of the purse control what is going on in the Persian Gulf. So I do not think this is rendering the Congress powerless. I just simply do not buy that argument.

Mr. SPECTER. Will the Senator from Indiana yield for a question?

Mr. QUAYLE. On the Senator's time.

Mr. WARNER. Mr. President, I inquire of the desk the amount of time remaining under the control of the Senator from Virginia.

The PRESIDING OFFICER. Eight minutes ten seconds.

Mr. WARNER. Mr. President, I have to say to my good friend I will not be able to permit that, but I think my good friend from Indiana has a pocketful of time and he might be generous.

Mr. SPECTER. Will the Senator yield for a question on his pocketful of time?

Mr. QUAYLE. I will yield for a question assuming it does not last beyond 35 seconds.

Mr. SPECTER. Easily done—within 8 seconds. Is it constitutional for a President, as for example in the Korean war, to involve the Nation in a war in violation of the constitutional mandate that only Congress may declare war?

Mr. QUAYLE. I answer my good friend that under the Constitution the President can deploy armies if in fact there is a need for a declaration of war. The Korean war, as the Vietnam war, was a situation where we were entering on the side of a combatant nation. My own judgment is that there should be some sort of declaration of war at that particular time. I do not believe there is an analogy between the Persian Gulf and Vietnam or Korea. This Vietnam analogy has been thrown up in our faces a lot. In Vietnam we entered on the side of a combatant nation that was in fact at war. There was civil war. We are not in the Persian Gulf entering on the side of a combatant nation. We are there on a mission of peace with our allies. As a matter of fact, there are more allied ships, I might point out for the record, in the Persian Gulf today than there are American military.

Mr. SPECTER. Will the Senator yield for another 8-second question?

Mr. QUAYLE. So I think the distinguished fact is that difference. I get this Vietnam analogy thrown up many times and I just do not see the analogy.

Mr. SPECTER. If the Senator will yield for another very brief question, I do not raise Vietnam because of the Gulf of Tonkin resolution, but I raise Korea as a clear illustration where there was a war. The Senator raises the issue of the executive's constitutional responsibility and authority and that is why I raised the question of the congressional responsibility and authority to declare war. My question for the Senator from Indiana is, considering the importance of maintaining the President's constitutional authority, is it not equally important to maintain the authority constitutionally of the Congress to declare war and is not some action necessary for congressional involvement without having this most vital congressional authority under the Constitution usurped by the power of the Presidency?

Mr. QUAYLE. Mr. President, let me answer that question. I believe the question that the Senator from Pennsylvania raises is the constitutional issue that confronts us. I would reiterate that the constitutional authority vests in the President as Commander in Chief the right to deploy forces around the world, clearly his constitutional authority as Commander in Chief. The Congress of the United States constitutionally clearly has the right to declare war and it also has the right to raise the moneys to support the armies. Under the constitutional authority of the Congress, if in fact it does not like, for example, the deployment of troops somewhere, or it does not like a specific action, it in fact can cut it off.

Now, as far as a declaration of war—and I think this is where the Senator is getting on very weak ground from a constitutional point of view—there is absolutely no desire of the United States to enter into the war between Iraq and Iran. We are not going to go in and help out Iraq, for example. We are not going to go in and help out Iran, certainly. If in fact we would actually go in and invest our capital in helping declare the winner of that particular war—we do not want a winner on either side. We are not directly involved in that war. Now, if we would become involved in that war, then I think that the Senator's question about this declaration of war proposition is a far more legitimate question and a more precise point then than now because I submit, Mr. President——

Mr. SPECTER. Will the Senator yield?

Mr. QUAYLE. That the conditions now are not in the category of any kind of declaration of war and we ought to just put that aside.

Mr. SPECTER. Will the Senator yield? Aside from being involved in the Iran-Iraq war, is there not a distinct possibility we may become involved in a war of our own if the matter continues to escalate? And how much further need it escalate before there would be a war in the view of the Senator from Indiana?

Mr. QUAYLE. Now, Mr. President, we are getting into an entirely different thing. What I think the Senator is talking about is if in fact this conflict would escalate and we would be directly involved. That is an entirely different situation. Let us say, for example, Iran decides to escalate activities against the United States. I hope they do not do that, and I do not think they will, but we will see. We do not know what Iran is going to do. We do not have very good intelligence on what Iran is going to do. They are totally unpredictable. But I would submit right now that we are certainly not in a situation, which I think the Senator is somewhat implying, that the Congress ought to be considering a declaration of war. I do not buy that at all, and I do not believe that we are even close to that kind of a situation.

Mr. SPECTER. If the Senator will yield, I am not——

Mr. QUAYLE. A declaration of war—as a matter of fact, even a discussion of it. The President has said, the Secretary of Defense has said, the Secretary of State has said we are not there to have any kind of conflict. We will obviously defend ourselves. Are we in fact being provocative by being in international waters, trying to help transport the oil of nonbelligerent nations out of the Persian Gulf for our own security interests? I daresay that is not a provocative act. That is certainly not an act of war. That is an operation of peace. That is a mission of stability. We are operating in international waters. We have not taken and do not contemplate taking any offensive action. Certainly we have the right to defend—and I hope that the Senator agrees that the United States of America can defend itself from an attack without coming to the Congress and asking for the War Powers Act. I think there is a huge difference in defending yourself against a terrorist act. Go back in history to the time of piracy and things of that sort. The ability to defend ourselves is certainly not declaring war. Declaring war is something that we do not even really want to think about. That is why we make an investment in national defense, to deter nations from harming the United States and deter nations from harming our allies. That is why we make that investment.

So this idea that somehow the Congress ought to get involved because we are on the edge of declaring war I think is really missing the point. We are certainly not there, and, quite frankly, I do not think we are going to be there. I do not believe this is analogous to the Vietnam situation or to Korea. A lot of people say, "Well, it is going to be step-by-step," or "We are going to see this thing escalate." I hope and pray that we do not see an escalation. We will have to see what this latest response will be. I am told in recent reports that it is quiet right now in the Persian Gulf. We will have to wait and see. That area is totally unpredictable. Anybody who thinks the Middle East is not unpredictable does not really understand the Middle East. It really is.

Mr. WARNER. Will the Senator yield for one question on that point?

Mr. QUAYLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twelve minutes and twenty seconds.

Mr. QUAYLE. I have to close. I have to save the minority leader at least 10 minutes.

Mr. WARNER. I likewise want to save the majority leader and the distinguished chairman of the committee some time. The Senator keeps using the word "unpredictable." As long as we let this War Powers Act be a continuing debate around here, it puts unpredictability into the gulf, which controls the energy of the world.

Mr. QUAYLE. I could not agree with the Senator more, that raising this War Powers Act every time there is an incident trying to legislate by headlines is creating instability in the Persian Gulf. I do not believe this is the best way to proceed. I cannot control what Senators or Congressmen do. I wish, if they really want to have a voice, they would have consultation. We have the power of the purse. If, in fact, we do not like what is going on, fine, cut it off. But I hear time and time again, well, we ought to go ahead and vote this War Powers Act, but I still think we ought to stay there.

Well, the administration does not think invoking the War Powers Act, and I agree with them particularly the War Powers Act as such, not necessarily the Byrd-Warner amendment to the War Powers Act, is certainly not going to help the situation. As a matter of fact, I think it will harm the situation. As a matter of fact, I think it will make the situation more unstable. I think Khomeini knows full well the resolve of Ronald Reagan and the administration. If he does not know, I do not think he is certain, nor am I certain in the resolve and endurance of the Congress. That is the question.

I reserve the balance of my time.

Mr. SPECTER and Mr. PELL addressed the Chair.

Mr. SPECTER. Would the Senator yield 3 minutes to me at this time?

Mr. WARNER. Mr. President, the balance of my time I must out of courtesy to my cosponsor of the amendment yield to the majority leader. I would be hopeful that in view of the fact that there appears to be none others speaking on behalf of the opposition that the opposition be generous enough to defend its case by allowing us some use of its time.

Mr. SPECTER. Would the ranking member yield 3 minutes?

Mr. PELL. Will the Senator from Virginia yield to me 5 minutes?

Mr. WARNER. Mr. President, I simply do not have 5 minutes to yield to the distinguished chairman of the Foreign Relations Committee. The distinguished majority leader requires the amount of time remaining under the control of this Senator.

Mr. BYRD. Mr. President, I wonder if we could add a little time to both sides and accommodate the chairman in that way. I ask unanimous consent that there be an additional 5 minutes on each side under the control as heretofore.

Mr. SPECTER. Would the distinguished majority leader yield for a question?

Mr. BYRD. Yes.

Mr. SPECTER. Would the Senator be willing to expand that 8 minutes for 3 minutes to this Senator.

Mr. BYRD. Yes. I ask unanimous consent there be an additional 10 minutes on each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Will the Senator from Virginia yield 5 minutes?

Mr. WARNER. Mr. President, the Senator from Virginia yields the distinguished chairman of the Foreign Relations Committee 5 minutes.

Mr. PELL. I thank my colleague.

ANNOUNCEMENT OF WAR POWERS HEARINGS

Mr. President, in recent days, amidst debate over the War Powers Resolution and its application to the current situation in the Persian Gulf, some have suggested establishing a commission to reexamine the law. I share the concern which this proposal reflects. Since its enactment in 1973, the War Powers Resolution has failed to achieve its aims and has actually proven to be a continuing source of controversy.

In that controversy is a considerable irony. For the motive behind the War Powers Resolution was a determination to establish a procedure that would ensure national unity. The aim was to devise a mechanism, consistent with the Constitution and pursuant to the intent of the Constitution, through which the Congress and the President would of necessity act together in the momentous decision to go to war—so that, once committed, America would not again find itself rent by internal division.

Sadly, rather than fostering unity, the War Powers Resolution has generated only dissent. Instead of providing the means of executive-legislative cooperation, the resolution in and of itself has been a recurrent subject of dispute. The current debate is a salient case in point. In the Persian Gulf, American forces have been committed to a situation not only of "imminent hostilities" but actual hostilities. Yet the very application of the War Powers Resolution remains at issue. Unable to decide, mired in dispute, we have rendered ourselves not only impotent on the solemn issue of warmaking, but negligent in the fulfillment of our constitutional responsibilities.

Critics of the War Powers Resolution continue to characterize it as an idiosyncratic product of its time—an effort to prevent another Vietnam. But that involves a distortion. The War Powers Resolution is not intended to prevent the necessary use of American military power, but rather to prevent the commitment of power unaccompanied by careful analysis and the commitment of national will.

The framers of the Constitution intended that Congress be an active participant in the decision to declare or commence hostilities. While the War Powers Resolution, in its current form, has failed, a way must be found to give modern meaning to constitutional intent.

Accordingly, I believe that the time has come to reopen the question—to reexamine the War Powers Resolution with a view to possibly revising the law. I intend that the Foreign Relations Committee accomplish this through a series of hearings which will provide for a full airing of the constitutional dimensions of the question, which will consider practicalities as well as principles, and which will draw upon 14 years of experience with the War Powers Resolution as written.

These hearings would begin on November 12, extend over several months, and involve as witnesses former and present Government officials and eminent constitutional and legal scholars. Our aim is not to satisfy some narrow sense of congressional or Senate prerogative, but to see whether we can devise a war powers mechanism that works.

Let me reiterate that this is not an effort to resolve the present dispute over the applicability of the War Powers Resolution to the current situation in the Persian Gulf. While that dispute has given rise to the effort I have described, our work is unlikely to be completed in time to bear upon the issue now at hand. Ours will be an endeavor aimed at a long-term solution to the war powers question, not a quick fix for current circumstances.

Meanwhile, I will support the measure offered by the majority leader and the Senator from Virginia [Mr. WARNER], in recognition that the present stalemate over application of the War Powers Resolution leaves little alternative to an ad hoc approach. For my own part, I do not intend that this compromise constitute, by implication, any disparagement of the war powers law now in effect or the principles which underlie it. We face a practical reality. Administration policy has placed the United States in de facto alliance with Iraq and Kuwait in the Iran-Iraq war, and deployed American forces accordingly. Meanwhile, Congress stands at loggerheads with a President unwilling to comply with procedures mandated by existing law. Consequently, for those who believe that Congress has the responsibility to play a participatory role in shaping American policy vis-a-vis the gulf, the measure put forward by the leader appears as the only approach realistically available.

This compromise would not, however, lay the war powers issue to rest. Regardless of the administration's circumlocutions, American naval forces have engaged in hostilities, and they remain deployed in harm's way. So long as that remains true, the issue of the war power—and of compliance with the law—will be before us.

As we continue to follow events in the gulf, and the implications for U.S. forces there, I wish to note that the Foreign Relations Committee will on October 28 conduct a hearing concerning the potential for the United Nations to play a constructive role in bringing a settlement to the Iran-Iraq war. It must be a central tenant of U.S. policy that the earliest possible end to that conflict holds that best hope for stabilizing the gulf region and minimizing the danger to American interests as well as American forces.

I look forward to the coming review of the efficiency of the War Powers Resolution which our committee intends to conduct.

In reviewing the war powers issue, I solicit the testimony and advice of any and all of my colleagues. I also urge the constructive participation of the administration, from which we will seek testimony. It will not be enough for the executive branch simply to adopt the position that the War Powers Resolution and any successor are unconstitutional. For what is constitutional beyond doubt is the intent of the framers that Congress—the elected representatives of people—be centrally involved in any decision which commits this Nation and its people to war. Our task must be to construct an executive-legislative mechanism that operates effectively; and to create that mechanism will require executive-legislative cooperation.

Let us view this effort to reconsider the war power not as an institutional struggle but as a joint constitutional duty. Indeed, in this 200th anniversary year, we could pay the founders no greater honor than to approach this task with a spirit of judicious obligation to fulfill the Constitution's intent.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator.

Mr. SPECTER. I thank the Chair. I thank the distinguished majority leader.

Mr. President, continuing with the discussion which I had with the distinguished Senator from Indiana, [Mr. QUAYLE] this Senator is not interested in considering a declaration of war. What this Senator is concerned about is that the United States of America may be involved in a war without a congressional declaration of war, just as we were involved in Korea and in Vietnam without declarations of war.

The Secretary of State in testimony before an appropriations subcommittee in 1984 conceded that Korea, for example, was a war, and it seems to me that when we talk about the President's constitutional authority as the Commander in Chief, we are talking about very important constitutional authority, but there is equally important constitutional authority for the Congress to declare war, and that constitutional authority has to be safeguarded, and simply stated it has not been.

The War Powers Resolution is an effort to preserve congressional activity.

Mr. President, we have a War Powers Act. The law is that an act of Congress is presumptively constitutional. So we are functioning under a constitutional act at the present time. It is not realistic for Senators to take this floor and make a bland assertion that the act is unconstitutional because the rule of law is clear that an act of Congress is presumptively constitutional.

There have been sincere efforts made to litigate the constitutionality of the War Powers Act, one of which this Senator was involved in in 1984, to prepare a complaint which the then majority leader, Senator Howard Baker, took up with the Department of Justice. The executive branch was unwilling to join in a test case on the constitutionality of the War Powers Act because, simply stated, the President at this time has the power to proceed which the Congress does not have. And there ought to be a test of constitutionality of the War Powers Act. But until that is accomplished, the act is presumptively constitutional.

Beyond the presumption of constitutionality I submit, Mr. President, that there are strong arguments in support of the constitutionality of the War Powers Act, notwithstanding the Chadha case. There is also an issue of severability. Even if one House legislates a veto, would it be unconstitutional? There are provisions under the War Powers Act for notice and consultation, and those provisions are constitutional, and, I think, would be upheld as being constitutional even if other parts of the War Powers Act were to fail.

Mr. President, it seems to this Senator that the War Powers Act clearly should have been invoked, in the light of the events in the Persian Gulf, and those events are escalating.

The Byrd-Warner amendment is a modest step forward. Cloture ought to be invoked so that there can be a period of extended debate which would be provided, and then this body ought to take a stand, and Congress ought to take a stand, and express itself, perhaps backing the President.

This Senator would vote to support the President on the action which he took yesterday. But the time has passed for unilateral Executive action. The time is present for congressional involvement, and the Byrd-Warner amendment would provide for that important involvement.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Senator from Pennsylvania.

Mr. President, it will be noted that the Byrd-Warner amendment clearly states that Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage in this region. I think that statement should be made, and made today, by the U.S. Senate.

Mr. President, will the Chair advise the Senator from Virginia as to the remainder of the time under his control?

The PRESIDING OFFICER. Eight minutes.

Mr. WARNER. Mr. President, I yield a minute-and-a-half to the distinguished Senator from Washington.

Mr. ADAMS. Mr. President, I intend to vote for cloture. But I will do so because I believe that we must dispose of the pending amendment. The Byrd-Warner amendment is not what we should be debating on the floor of the Senate. It misses the mark and ignores existing law and procedures contained in the War Powers Resolution. I am hopeful that after we dispose one way or another with the Byrd-Warner amendment we can move to a debate on our goals and policy in the Persian Gulf under the procedures identified in the war powers resolution.

I have been arguing on this floor for months that the situation in the Persian Gulf is slowly escalating to war and that it demands that we apply the War Powers Resolution. Yet, the President continues to deny that the War Powers Resolution applies to this situation and continues to flaunt the law. We need to unite the country behind a policy. As we stand here today, our policy is confused and our goals unclear.

I know what the President told us our goals in the Persian Gulf should be—to keep the sea lanes open and to end the war without victor or vanquished. While I can agree with those goals, I have never agreed that the President's reflagging policy would help achieve those goals. That reflagging policy put us in the gulf on the side of a belligerent in the war. It was a provocative act, and as a result we have been inching our way slowly toward war with Iran.

Now with the events of the last few days, we have attacked Iran directly and they have stated that they regard that attack as a declaration of war to which they will respond. While we were certainly justified in our action because of the Iranian attack off the shore of Kuwait, tensions have been escalated and our policy or goals are not clear.

I will not repeat what I have said so many times on the floor of this Senate in recent weeks about the applicability of the War Powers Resolution and our responsibility to uphold the law and fulfill our responsibilities under the Constitution. I will simply urge that we get on with that responsibility. I urge you to vote for cloture on the Byrd-Warner amendment—then vote to defeat it—and support the underlying resolution to invoke the War Powers Resolution. We must get on to develop a national consensus around a viable policy to achieve our goals in the Persian Gulf and we must do so without further delay.

It has been a long and frustrating fight. It is not a question of using the power of the purse or some other power. It is a question of a law that was passed over a Presidential veto, the veto of President Nixon, to say that Congress and the President are involved when the matters of war are concerned.

Iran has indicated that it considers that it has a warlike posture toward us.

I think many here, including myself, support a presence in the gulf. We felt that the reflagging policy was a terrible mistake because it tilted us on one side or the other. But the only way we can get at this is to invoke cloture and start with Byrd-Warner and debate it. But I hope we will simply invoke the War Powers Act, and I will support that position.

I know that the majority leader and Senator WARNER and a number of the rest of us have spent a lot of time trying to develop a way to get a consensus to break a filibuster. What we are dealing with here is to break a filibuster of enforcing the law, where a President of the United States has said: "I don't like the law. I think it is unconstitutional. So I won't follow it."

What would all of us do in this country if everybody who did not like a particular law or thought it was unconstitutional, instead of going to the courts and having it declared constitutional or unconstitutional, simply said, "I will not observe it"? We would have chaos. We would have absolute chaos.

I want to pay my respects to the majority leader for what he has done, which has been to state constantly that the power of Congress is involved under the Constitution. I hope we will exercise that power. I want to express my gratitude to him for presenting this cloture motion and for trying to get Congress to move.

Mr. BYRD. Mr. President, we have a situation in which the proponents of cloture are using their time and the opponents are not on the floor to use theirs.

I would hope that the opponents of cloture would appear on the floor and speak. Otherwise, if we do not have anybody speaking, the time is charged equally against both sides, and the time of the proponents is being frittered away.

Mr. QUAYLE. Mr. President, a parliamentary inquiry.

How much time do the opponents have?

The PRESIDING OFFICER. Twenty minutes and 24 seconds.

Mr. QUAYLE. I yield myself such time as I may consume.

Mr. President, I will try to instruct the staff of the majority leader, who I know wants to be heard on this, that now would be a good time for him to come over and debate this.

Let me just go back to recite once again where we are strategically in the process.

Again I submit that this amendment, itself, except for about 20 minutes of debate, which was on the Weicker amendment and the Byrd-Warner amendment, on last Friday, has been debated for close to an hour. So that is an hour and 20 minutes, and I hardly think that is doing service to a very substantive amendment, an amendment which many people including myself, indicate is far preferable than the War Powers Act.

I think it is a recognition that the War Powers Act not only is unconstitutional but also unworkable. I applaud the Senators for coming forth and trying to figure a way out of this.

Whether now is the time we are going to enter into this debate is another question. I hope this is not the time. I think we want to get on and have the Bork nomination, which will come on if cloture is not invoked. We will be on the Bork nomination, and we will be able to conclude that. It will be up to the majority leader as to whether he wants to go back to this or to other matters.

If cloture were to be invoked, we would have 30 hours of debate on the Byrd-Warner amendment, and then there would be a vote on that, assuming cloture is invoked. We would be back on the bill, and I would imagine there would probably be a lot of amendments offered at that time.

So we would be into a different type of situation, and I just am not sure that this is the right time to get into this debate.

No one is shunning the debate. I think we should have it. I do not think we have had it on this, and I am sorry the cloture motion was filed, but that is where we are today.

Mr. WARNER. Mr. President, will the Senator yield for a question on his time, since the Senator from Virginia has run out of time?

Mr. QUAYLE. Mr. President——

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. QUAYLE. Mr. President, I will, of course, yield to my good friend, the ranking member of the Senator Armed Services Committee, assuming that he is not going to take the question into a long statement. Under those circumstances, I will briefly and momentarily yield to the Senator for the purpose of a question only.

Mr. WARNER. I thank my distinguished colleague from Indiana.

Mr. President, I have been privileged to be associated with the Senator throughout much of my career in the U.S. Senate. We served together on the Armed Services Committee. We have taken this floor together time and time again in many a debate. Without being personal, and only in the spirit of friendliness, to my good friend, I know when he has fire in the belly, I know when he is speaking with conviction and speaking from the heart. This morning he drones on almost as if he were somnolent on this issue. [Laughter.]

Mr. QUAYLE. Mr. President, I think I had better reclaim the floor.

Mr. WARNER. Mr. President, this goes directly to the question.

Mr. QUAYLE. Mr. President, who has the floor?

The PRESIDING OFFICER. I do not want to hurry it up, but you do.

Mr. QUAYLE. Are you finding this entertaining, I ask the Presiding Officer?

In that case, I will yield for further entertainment, for the purpose of a question.

Mr. WARNER. I appreciate the indulgence of the Chair and my colleagues to a little lightheartedness, but I wish to return to a very serious aspect of this.

It is this Senator's grave concern that Congress must speak, and speak now, with reference to its support for the President with respect to the actions in the gulf to date and those for the foreseeable future. That is what this amendment endeavors to do.

I am trying to be dramatic about the problems at home today, and I am not watching the ticker of the stock market.

But I do firmly believe that there is a relationship, perhaps at this point in time relatively small, but it could well grow if indecision persists in the gulf with respect to the utilization of the Armed Forces of the United States. So long as the Congress continues to dwell on this war powers issue that indecision continues not only with respect to the utilization of our forces, but those of our allies.

My question to my good friend is does he see any linkage between continuing indecision over the War Powers Act in the gulf and as the possibility of that indecision reflecting on this very mercurial situation here at home with respect to our domestic economy?

Mr. QUAYLE. Let me answer the question of my friend from Virginia in saying certainly the indecision, the lack of decisiveness on the debate of the War Powers Act itself, the questioning of our policy, the questioning of the reflagging, the questioning of why we are in the gulf to begin with, I think that that has a very profound negative impact, I might add, to the operation and the mission of peace and stability that we are conducting in the Persian Gulf.

I would think that the best way to in fact have the lack of indecision and the lack of consensus I believe on which we would probably have a majority vote is for the Congress to put up and say a resolution not asking a report, not coming up with an expedited process, which the Senator's amendment does, just pure and simple take part of his amendment out and say, "Mr. President, you know what, we think that you are doing the right thing in the Persian Gulf; Mr. President, we believe that you were absolutely right yesterday in that surgical proportionate response to Iran because, Mr. President, you know more than anybody else that in fact had we not done anything what kind of a message would that have sent."

But, no, we are sitting here today and the Congress is once again debating the War Powers Act, and I will say again I think that the Byrd-Warner amendment is a positive step forward. I think it is a positive development because it is a recognition by two very distinguished Members of this body that the War Powers Act as such is not a workable proposition.

It is not a workable proposition and you two have put your minds together to try to figure out how we ought to proceed.

No, I do not believe this debate. I do not believe in people coming up and questioning whether the President should retaliate or not retaliate or whether we should be there or not be there, because you know what Iran understands very well is that this administration is committed to a stable course of action in the Persian Gulf. Iran knows that when President Reagan and the Secretary of Defense and the Secretary of State and the administration speak on foreign policy and say that they are going to do something, they are going to do it. But you know what they also know? Our constitutional form of government, and they are not certain about what the Congress is going to do.

I say to my dear friend if in fact we want to get this indecision and get this paralysis of self-doubt beyond us, we ought to come forth in a very straight manner and say we support the President in what he is doing. If the Congress does not like what the President is doing, we have the power of the purse. Someone could stand up and offer an amendment to cease operations. Why do we not do that?

No, this is a typical situation where Congress wants to have it both ways. That is why we have the responsibility of the deployment of forces and foreign policy in the executive branch, one person making those decisions. Can you imagine Congress trying to sit down and trying to make a decision whether we ought to go in the Persian Gulf? It would be years making that decision. It is our form of Government.

And that is why we have certain constitutional rights that are reserved for the President in the area of foreign policy, being the Commander in Chief of our Armed Forces.

Mr. WARNER. Mr. President, will the Senator yield again on his time for a brief question?

Mr. QUAYLE. Brief.

Mr. WARNER. I thank the Senator.

Look at the record of the Senate here in the past 6 to 8 weeks. We have had no less than four votes on the issue of the War Powers Act. Indeed, they have been in the form of tabling and otherwise not sending a clear signal, but clearly indicating that there are very respected Members of this body who differ between your view and the same view that I hold, namely, that we should not invoke the War Powers Act. We have tried steadfastly, the two of us together on this floor, but we have not succeeded. In deference to those whose views, which are credible, are that this is the law of the land, we have tried to reach this compromise. Now, if you can build a better compromise, build one. Put it on the floor, put it on the floor today.

This indecision is eating at the very heart of our President's ability to bring about peace in that region, and it could well spill over into the economic problems that we are experiencing here at home.

Mr. QUAYLE. Mr. President, I might say to my dear friend that in fact what we will be doing, if in fact we invoke cloture beyond his amendment for 30 hours and then be on the bill and there will be a lot of amendments offered, there will be amendments probably in support of what is going on. More specifically, there will be amendments to probably change the War Powers Act itself. There will be amendments to do various and sundry things, and we will be on this all week.

I am not so sure—I presume we will be on it a long time. I presume there will be a lot of amendments. My presumption may be wrong. But we will be on this for quite some time, and I think that we ought to perhaps maybe sit down and I do not think that there will be that much difficulty to try to work out a logical way to proceed. I do not believe this is a good way to proceed because we have had a cloture motion filed late Friday, after 20 minutes of debate and now we are faced with a cloture motion now, but I think you could probably in due time once we get on the Bork nomination and conclude that in the period of time sit down and figure out a logical way to proceed with the War Powers Act and I think it would be a far better procedure and process for the Senate and I think a far better procedure and process for the President. I think it would be a far better procedure and process to send any kind of message to allies in the Persian Gulf if we have a logical way we are going to proceed, and I think we could probably in fact get it.

Mr. WARNER. A 2-second question. What is a higher priority, the safety of the men and women of the Armed Forces of the United States and other allies and friends in the Persian Gulf, or the economy at home? What is the higher priority?

Mr. QUAYLE. I think that you have the highest priority of trying to protect the lives of those individuals who are in the Persian Gulf, immediately. Obviously, our economy is very important. But when you start talking about lives, I might say to my friends that lives are lost sometimes due to instability, lives are sometimes lost because of certain messages that are sent to the adversary and your adversary might see a potential weakness. Lives are lost when there are miscalculations, and I certainly do not want Iran to miscalculate by this Congress time and time again jumping up and invoking the the War Powers Act or talking about war powers every time there is an incident that there is this uncertainty, that there is this indecision, because the more you show indecision and paralysis, self-doubt and not knowing where we are going, and the more Congress sits there and turns and twists with the President, the less decisive the message we send to our adversaries. I think it is very important for those lives and people in the Persian Gulf to know there is resolve, there is dedication, and there is going to be a staying of the course of our policy in the Persian Gulf.

There would be the best message that would be able to create a more stable situation. Obviously, when we have more stability our lives are going to be better protected than one where we have an unstable situation.

Mr. BYRD. Mr. President, I ask unanimous consent that second-degree amendments may be filed up until the vote begins on cloture.

The PRESIDING OFFICER (Mr. REID). Without objection it is so ordered.

THE PERSIAN GULF

Mr. HATFIELD. Mr. President, we are flirting with disaster, sliding down a slippery slope, skating on the edge. Whichever cliche you choose, the result is the same: Unless this Congress wakes up—and wakes up fast—the United States is headed for a de facto war with Iran.

For 7 years—7 long years—the administration has been faced with a difficult problem: What to do with Iran. This is an administration which came into office in the midst of the Ayatollah Khomeni's rise to power. This is an administration which came into office as 444 days of captivity for almost 100 American hostages in Teheran were drawing to a close. And this is an administration which vowed that it would never happen again.

But what to do with Iran. At first it seemed that the mighty Ayatollah would solve the problem for us by dying. Reports of his death were greatly exaggerated, however, so the next plan was to sit by as the revolutionaries destroyed themselves and their economy. But that never came to pass either. The next plan was to bribe Iran. Arms for hostages, arms for oil—however it's described, the plan was to bribe the Ayatollah, if not out of existence, then at least into submission.

But then that failed too, Mr. President. Our deal with the devil backfired. And the haunting problem remained, like an albatross securely hung around the President's neck: What to do with Iran?

Sometime last spring, as the Kuwaitis announced their intention to lease three oil tankers from the Soviet Union, the answer came: If they won't just go away and bribery doesn't work, maybe bombing them will do the trick. What better way to create a pretext for it than by putting the very symbol the Iranians despise right in the middle of their backyard?

The decision to reflag 11 Kuwaiti oil tankers was not an attempt to insure freedom of navigation in international waters any more than were our trips over the so-called "line of death" 18 months ago.

It was, instead, an excuse—an excuse to send the United States Navy—more than 17,000 troops and more than 40 U.S. ships—into the Persian Gulf, into Iran's backyard. It was, instead, an excuse to create a pretext.

Well, Mr. President, that pretext came last Friday when an Iranian "Silkworm" missile hit a reflagged Kuwaiti tanker as it sat in port.

If its implication weren't so serious—so desperately serious—the response would have been laughable. Four U.S. gunships surround a lone and inoperative oil platform in the middle of nowhere. They announce their intention to shoot, give the Iranians on board 20 minutes to leave, and then open fire: 1,000 rounds. They emptied 1,000 rounds into that platform—enough ammunition to level all of Capitol Hill.

That's America standing tall, Mr. President. No one is going to challenge us. They would not dare.

But isn't that what the administration said of the reflagging and escort operation? No one is going to challenge us. They would not dare.

Of course the administration knew that Iran would dare when it made those comments about the reflagging and escort operation. So what if we did have to stretch the policy a little, so what if the ship attacked on Friday was in Kuwaiti waters instead of international waters? The administration had the pretext it wanted—and we struck back. What to do with Iran, Mr. President.

But does the administration know that the Iranians will dare now? When the Vice President says things like "nobody's thinking this will end it," I can't help but wonder. The administration wanted a strike, but does it really want a war?

And what about us, Mr. President. We may have been forced to support the strike, but are we prepared to support a war?

I must warn my colleagues, Mr. President. Watch what you say, be careful how you craft your position, because support for that strike may well be construed by the administration as support for a war.

For 5 months of imminent hostilities we have abdicated our responsibility. We, Mr. President, the Members of Congress. We have refused to put our fingerprints on the policy. No support, no dissent. Silence.

It is an all too familiar story.

We—this Congress—remained silent as the administration pulled this country into Korea.

We remained silent during Vietnam.

And we have remained silent on this distant but deadly policy too.

There are those who still question my reference to Korea and to Vietnam, those who will accuse me of crying wolf. But let me remind my colleagues: neither Korea nor Vietnam started out as wars.

They were police actions. They were limited engagements. They were described with a lot of innocuous lables that hid the spilled blood of our sons, but they were not wars.

They did not start out as wars and they did not end up as wars because we could not then—and I suspect could not now—muster the courage to define the threshold for war—to define the point at which enough soldiers have shot at each other, enough targets have been destroyed to turn hostilities into war.

So what we have here—like what we had in Korea, like what we had in Vietman—is incremental involvement. Step by step by step into war.

And the most amazing thing is that each step seems logical, each step seems appropriate.

Just as you cannot jump from the bottom of a staircase to the top, the administration could never have gone from bribing the Ayatollah to bombing him in one jump—that would have seemed crazy. So the administration had to do it step by step by step—and now it seems rational.

Reflag 11 Kuwaiti oil tankers. No one would dare challenge the U.S. flag.

Send the U.S. Navy in to protect the tankers in international waters. No one would dare challenge the U.S. Navy.

Launch a strike on speed boats caught red handed laying mines in those waters—that sent a message.

And now: attack an Iranian facility in retaliation for a strike against a reflagged tanker in Kuwaiti waters. That showed them.

Logical. Rational. Appropriate.

But what is next? What is the next step?

War, Mr. President. Unless we stop this charade, this stupidity wrapped in the veil of patriotism, the next step is war.

Do not tell me that I am crying wolf. Five months ago I warned that we were spoiling for a fight and some of my colleagues told me I was crying wolf then. Well now we have our fight, our logical, rational, appropriate fight. And mark my word: Unless we stand up, unless the Members of this Congress take the responsibility given them by the Constitution to stand up and be counted, we will soon have a war. A logical, rational and appropriate war.

Mr. President, if the goal we support is freedom of navigation in the Persian Gulf—and let me tell my colleagues that that is a worthy goal to support—we ought to say so. Not with some weakly worded resolution, but with a strong and unified call to action.

I'll vote for cloture on this amendment, not because I support it but because the alternative is silence, filibuster. But let's stop playing this silly game. Let's invoke war powers—all of it. Now. And then let's debate the policy.

Let's go to the United Nations, Mr. President. Not just for an embargo on arms sales. You can't really believe the United States has much credibility with that call anymore. Let's go to the United Nations and call for the reflagging of nonbelligerent shipping with the U.N. flag—call for protection from a U.N. force.

We would not be backing out of the Gulf. The United States could take the lead. Heaven knows we have the manpower and the equipment.

But I plead with my colleagues: We must take the target away, take back the gauntlet before its too late, before we have step by stepped this country into war.

Mr. BIDEN. Mr. President, I wish to commend the chairman of the Foreign Relations Committee for his leadership today in initiating a review of the War Powers Resolution.

The chairman spoke wisely of the irony which surrounds the current status of that law, which was designed to foster unity in the most solemn area of national decisionmaking, but which has in itself become a continuing source of conflict, both within this body and between the executive and the Congress. One of my own earliest actions in the Senate was voting in favor of the War Powers Resolution—and voting for it again, to override President Nixon's veto. But after 14 years, in which every President from Nixon to Reagan has refused to acknowledge the constitutionality of this law—14 years in which the law has failed to operate as envisaged—a review is clearly called for.

Some have reflected their agreement with the need for such a review by suggesting the creation of a blue ribbon commission. But I believe that to refer the matter to a special group would represent an abdication of responsibility within this body. The Senate has accorded jurisdiction over the subject of war powers to the Committee on Foreign Relations. Accordingly, it is the Senate Committee on Foreign Relations which holds both the duty and the authority to perform this review.

It is clear from his statement that the distinguished chairman of the Committee on Foreign Relations recognizes that duty, and is prepared—as one would expect of him—to accept it. I trust that the chairman will have the full support of the Foreign Relations Committee and of the Senate as he sets out to accomplish this fundamentally important task. He spoke eloquently of the committee's review of the war power as a profound constitutional responsibility. I agree wholeheartedly, I commend him, and I shall look forward to working with him on the project he has announced.

Mr. President, I ask unanimous consent that my remarks appear in the RECORD following the remarks earlier today by the chairman of the Foreign Relations Committee.

Mr. DOLE. Mr. President, I will vote against invoking cloture on the Warner-Byrd amendment, As Senator QUAYLE has already noted, there has been no substantial debate of this amendment at all. Indeed, most Senators may not have examined its rather complex procedures at all. Let us have some debate, before deciding whether or not to cut it off.

But I also oppose cloture on an important substantive ground.

We are just playing games here. This amendment is just playing games.

It asks for a report. But as Senator WARNER himself has already noted, we have had report after report—some in writing, some in oral briefings and consultations. And I am confident the administration is ready to give us any other information we need or want. In fact, yet another briefing is scheduled for this afternoon, in S. 407.

So we don't need to demand a report. If we actually need one, just ask for it—and it will appear.

So we are playing games in that sense.

But we are playing much more dangerous games, too. We refuse to face up to the policy question. We do not want to say: We support the President's policy. But we also don't want to say we oppose it, and take the political responsibility for that political judgment.

Instead of that, we say: Come back to us in 60 or 90 days, and we'll let you know what we think. Put America's word; the reliability of America's commitment—put that on hold. And then the Senate and the House will decide whether the President's policies are really America's policies; whether the President can really speak for this country as Commander in Chief, as the Constitution says he does.

And buried in all the procedural wording of this amendment is one simple fact: By passing this amendment, we are guaranteeing a vote on an amendment whose wording we haven's seen—and whose wording will basically be decided upon by the majority leader.

Now we have provided expedited procedures before—but rarely, if ever for a resolution whose content is not spelled out. It is just not our way of doing things to say categorically we will vote—but we haven't quite decided—or the majority leader hasn't quite decided—what we'll be voting on.

I will not buy a pig in the poke. I will not buy it in an INF Treaty. I won't buy it in this resolution.

I want to see what I am asked to vote on—before I agree that we will vote.

So let us vote against invoking cloture. Let us give the Senate time to consider this measure—and its policy and parliamentary implications—seriously. And—most important—if we want to deal with Persian Gulf policy, let's do so openly and in a politically responsible way.

I am going to vote against cloture on the Warner-Byrd amendment. As the Senator from Indiana has already said, we have not had any debate on it. The copy I have still has things scribbled in. It is not even in final form. It was put together very quickly, and cloture was filed. I happen to think we are in a very dangerous and very sensitive area, and we ought to be careful what we do.

I hope the stock market might correct itself. Maybe we should correct this here on the Senate floor. But the market is up 126 points now. We might apply the same patience to this kind of maneuver.

I think we do need some debate. Yesterday everyone I knew, Democrat and Republican, was praising the response in the gulf by the President as being restrained, measured, appropriate, proper. I note we say in this resolution that we support the continued U.S. presence in the Persian Gulf. We also continue to express reservations.

It seems to me we ought to have an up or down vote today, or everyday, if people have to have a vote every day. If people want to manage our policy, as some would like to do, every morning we ought to come in and have a vote whether we do anything in the Persian Gulf today and then the President would know what he could do.

But I think the big problem with this amendment is that we are going to be asked today, in effect, to lock ourselves into some amendment in January, and nobody even knows what it is. The majority leader is going to decide what we vote on. The Republican leader can offer an amendment and have an hour of debate. Then that amendment could be tabled, second-degreed, or whatever. We do not have the foggiest notion of what is going to be in that amendment.

We say, "Oh, we want the President to make a report." Well, the Senator from Virginia said he has had 122 different communications, reports, whatever, contacts, already, or somebody has with the administration. If we want a report, all we have to do is ask for it. We do not have to pass this amendment.

But if somebody would tell me what we are going to vote on in January or February, whenever this might be enacted, then we would be in a better position to know whether this is a good idea. Maybe it is. Maybe this is not invocation of the War Powers Act. But we do not know what it is because we do not know what the resolution is. It may be the War Powers Act. It may be something else.

It seems to me that we have gotten somewhat carried away. Everybody is looking for some solution where there may not be any needed. The President is consulting with the Congress. The President sent up a report, or will within 48 hours, complying with the spirit of the War Powers Act. Maybe what we should be doing is passing some resolution—and we are looking into that—to make certain that the War Powers Act is going to be tested in the Supreme Court. Or perhaps those of us in the Senate could take it to Court to determine whether or not it is constitutional.

That is what the argument ultimately is all about. If it is constitutional, the President is going to have to abide by it. If it is not, he is going to have to continue to say, "Well, it's unconstitutional." Why do we not find out whether or not it is constitutional? If we have to do something on war powers, why do we not do something that would be of some constitutional value, instead of trying to second-guess what the President may or not be able to do?

So I hope sometime soon—and I have already discussed this with the Senator from Pennsylvania, Senator

SPECTER, who has done some preliminary work on it—that we ought to get down to the real question: Is the War Powers Act constitutional or not? And there are some precedents for us being able to raise that.

Maybe the majority leader will enlighten us this morning on what he plans to offer under this rather closed process, where there is a time agreement. And there is written in here—I have not seen the final draft, but in pencil: "Within the 10-hour time limitation, an amendment which may be offered by the minority leader is in order under a 1-hour time limitation." That does not mean we are going to get a vote on it.

I think we could have a vote today up or down on do we approve of the President's action in the Persian Gulf or do we disapprove of the President's action in the Persian Gulf. I will bet it would be almost unanimous in approval of what the President is doing. Does anybody here want us to leave the Persian Gulf to the Ayatollah or the Soviet Union? No, no one that I know of on either side of the aisle.

We are getting good cooperation from our allies. This was a concern early on by a lot of us. But now we have cooperation.

But I guess we just have to pass something and everybody will go home and feel good that we have now done something, we have solved this problem in the Senate. It may never become law, but we have washed our hands of it.

But I just want to make this point again and again in the couple of minutes I have left: If cloture is invoked and this amendment is finally agreed to—I do not think anybody has read the amendment; probably not too many. I do not know anybody in the press who has read the amendment, but they ought to take a look at it. All they want to talk about is the War Powers Act and not give any details.

But by agreeing to this amendment, we are voting on an amendment whose wording we have not even seen. Now, that is a new record. Generally we at least see it as it goes to the desk. We do not even know what it is. It can be anything. And that decision is going to be made by one Senators, not all of us, but by one Senator.

We have provided expedited procedures before, but rarely ever for a resolution whose contents is not spelled out. It is not our way of doing business. It is supposed to be a great deliberative body. Not only do we not get to deliberate, we do not even get to see it. I think it is a bad idea.

It is a better idea if you want to vote up or down on the War Powers Act. At least we know what that applies to, what it means.

Now, I guess it is not a requirement in this body to know what we vote on. But I think, in this case, it is rather important.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired in opposition.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes and 26 seconds remaining.

Mr. BYRD. The proponents of cloture have 4 minutes and 26 seconds remaining?

The PRESIDING OFFICER. That is right.

Mr. BYRD. Mr. President, the distinguished minority leader has created a strawman here. And what is that strawman? It is that under the Byrd-Warner amendment, nobody knows what is going to be in the subsequent resolution that is provided for under the amendment, and that nobody has read the amendment that Mr. BYRD and Mr. WARNER have provided. The leader says that all we have here is a form on which there are scribbled bits of verbiage.

Mr. President, the Byrd-Warner amendment was printed in the RECORD as of October 9. It is set forth there for all Senators and the press to have read. And, so, so much for that.

But as to the strawman of "We don't know what Senator BYRD, what the majority leader might introduce as a resolution," we do not know, Mr. President, what might be introduced by way of a resolution under the War Powers Act, either. That act provides for a resolution and it provides for amendments thereto. It does not set forth any prescribed verbiage for such resolutions or amendments. So we have no way of knowing what amendments might be offered or what the resolution might require under the War Powers Act, which is the law of the land today and which, while some may state and may feel strongly that it is not constitutional, no court has rendered such a decision thereon holding it unconstitutional.

So, until it is adjudged unconstitutional by a competent court, Mr. President, we have to take it as the law of the land and assume that it is constitutional. We cannot go about assuming that laws are unconstitutional, and none of us, even the President of the United States, may choose what law he will obey and what law he will not obey, for the reason he or she may think that this or that law is not constitutional; hence, "I will not obey it."

So, Mr. President, the distinguished minority leader's strawman is just that.

I think we should all observe also, that there is a strong feeling here that, come what may, the War Powers Act or the Byrd-Warner approach, this Congress is not going to jerk U.S. forces out of the Persian Gulf. There ought to be a distinction made here.

I was down at the White House on Sunday night. The congressional leadership was called down to the White House. I said that I did think we should recognize—I did not say this by way of raising an objection to the action that was being proposed and that was already under way and would occur finally at 7 o'clock the yesterday morning. I had no objection to that. I felt that it was appropriate under the circumstances. It was a low level and modest action.

But I said: "I think we have to keep in mind that a lot of people in this country don't support what we are doing in the Persian Gulf."

A response to that was, "Oh, yes, polls show that they do support our being in the gulf." Therein was the distinction. The distinction is that none of us who have been raising questions with regard to the actions—none of us suggests that we pull our forces out of the Persian Gulf.

What I had reference to, what a great majority of the people in this country do have concerns about, is the reflagging and convoying of the Kuwaiti vessels. That is the distinction.

So, if the Byrd-Warner amendment is agreed to under cloture, then I do not envision this Congress ordering the President to bring out U.S. forces from the Persian Gulf. We have been in the gulf for years. We ought to be there. We are going to stay there.

But the amendment does provide for Congress to act in due time, based on the circumstances at the time, and on the report that is received from the President as required under the amendment.

Mr. President, I hope that the Senate will invoke cloture on the amendment.

Mr. WARNER. Mr. President, I ask unanimous consent that the time for debate on this matter be extended 10 minutes; that it be equally divided between the two leaders.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, what do we need more time for?

Mr. WARNER. It is this Senator's belief that the fine print that was referred to here does protect the rights of the minority leader and is an important element for discussion. As one of the drafters I purposely tried to work with the majority leader to assure the minority leader has as many rights under this amendment as he does under the War Powers Act, so I renew my request for perhaps another 10 minutes equally divided between the two leaders to address that point.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia? Hearing none, debate will be extended for an additional 10 minutes, 5 minutes for the proponents and 5 minutes for the opponents.

Mr. BYRD. Mr. President, it would seem to me that the administration should want Congress in on the action. Congress is not going to pull the U.S. forces out of the Persian Gulf.

The amendment which is being offered by Mr. WARNER and myself expresses support, and I read the words:

> The Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage * * *

It also states that:

> Congress continues to express reservations about the convoy and escort operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

Under this amendment, Mr. President, the President of the United States would be required to send a report to the Congress within 60 days after the enactment of the act.

What would the report require? The report would require the President to state what the objective is of the action in the gulf. It would require the President to state the estimated costs, the anticipated duration of the operation, and the extent to which the policy of protecting reregistered vessels supports the overall U.S. regional strategy.

It would require the President to state how the administration measures progress toward those objectives and the impact of such operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war; also the commitments which have been made, if any, by other governments to support this operation; also the impact that these operations have had on the operational deployments and readiness of United States forces in other regions.

Such a report, under this amendment, would include specifics that are not set forth in the War Powers Act, so it is more clear as to what the report should contain.

After the report reached the Congress then, Mr. President, Congress would have 3 days in which to introduce a resolution in each House. That resolution would go to the Foreign Relations Committee in the Senate. The Foreign Relations Committee would not be permitted to report the resolution before the 8th session day after its introduction. But, by the end of 15 session days after the introduction of the resolution, the committee would have had to report the resolution or it would be considered as automatically discharged from further consideration. And then any Member—not just the majority leader but any Member could move to take up that resolution.

The time on the resolution would be limited to 10 hours, and it is specific——

Mr. WARNER. President, if I could interrupt the distinguished majority leader? Presumably we could have a dozen or more resolutions brought up on both sides of the aisle. Am I not correct on that?

Mr. BYRD. I suppose that would also be the case under the War Powers Act, but practically speaking that would not happen.

Mr. WARNER. But there is no limitation on a Member bringing it up.

Mr. BYRD. That is correct. It is specifically provided in the Byrd-Warner amendment that the minority leader may offer at least one amendment.

That is not provided under the War Powers Act. The minority leader does not have the protection under the War Powers Act of being able to offer amendments that he would have under the Byrd-Warner amendment.

As I say, there will be a 10-hour limitation on the overall debate on the resolution and there is an expedited procedure, then, which provides that Senators may offer amendments. The amendments would be limited to 2 hours, all of which would come out of the overall 10 hours for debate.

Mr. President, it is believed by those of us who proposed this amendment that we are providing something here that is better than the War Powers Act, because under the War Powers Act the President "shall terminate any use of U.S. Armed Forces." The President shall terminate any use, that means pull out the battleships, pull out the helicopters, pull out the Armed Forces, pull them all out of the Persian Gulf, everything comes out under the War Powers Act, unless the Congress has declared war in the meantime or has extended by law the 60-day period in which, under the War Powers Act, the President may act to send Armed Forces into an area where there are imminent hostilities.

Then the 60-day period under the War Power Act shall be extended for not more than an additional 30 days. For what? For what purpose? For the purpose of bringing about the removal of U.S. Forces.

The Byrd-Warner amendment does not provide for withdrawal and termination of the use of Armed Forces. But what it does do is it allows the Congress to fulfill a constitutional role in a situation such as this. Congress has the power to declare war. Congress should have the power, in a situation like this, to deal where there are more limited but imminent hostilities, in support of the President. Or, in its judgment, based on his report, based on the circumstances at the time, it can carve out such limited action as it may deem feasible, effective, and appropriate to meet the situation at that moment.

Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 951) as modified, is as follows:

Strike all after the word "Congress" the first time it occurs and insert in lieu thereof the following:

determines that the circumstances now existing in the Persian Gulf region, including the incidents involving U.S. military forces on September 21, 1987 and October 8, 1987, and October 19, 1987 justify an Administration Report and a comprehensive Congressional review of the use of U.S. military forces in that region.

(2) The Congress expresses support for a continued U.S. presence in the Persian Gulf region and the right of non-belligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

(b) Within 60 days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of U.S. commitments and military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following—

(1) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(4) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expanded funds;

(5) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of US forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or should have been submitted, or on the first day of session thereafter, whichever is later, a Resolution, if such Resolution is introduced, shall be acted upon in accordance with subsection (d) below.

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identified in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within 3 session days after the date on which the report of the President described in subsec-

tion (c) is received or should have been received, by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the consideration of the joint resolutions are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment within the 10-hour time limitation, an amendment which may be offered by the Minority Leader, is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

At the end add the following:

Notwithstanding any other provision of this joint resolution, when the time for debate on a resolution considered under this resolution has been used or yielded back, no further amendments may be proposed and the vote shall occur without any intervening motion or amendment on the adoption of the resolution.

On page 1, after "October 8" add "1987, and October 19".

Mr. BYRD. This modification does two things.

It brings in the third date, yesterday's date, because the original amendment mentions two dates on which there were obviously hostilities. They were not just imminent. They were hostilities.

It brings in yesterday's date, as of yesterday morning, as an additional date when hostilities obviously took place.

Second, it defines that there will not be an amendment by filibuster in the event this amendment is enacted into law. At such time as the resolution which the amendment calls for is reported from the Foreign Relations Committee, there are 10 hours on such resolution. A filibuster, I think the distinguished minority leader would agree, could conceivably occur by the offering of amendments after time has expired, which is usually the case under a normal time agreement. Senators may call up their amendments after the expiration of time and have a vote on them without debate.

This would provide that only those amendments immediately pending at that moment would be entitled to a vote. That is the language that is used under our post-cloture rule.

The PRESIDING OFFICER. All time of the proponents of the amendment has expired. The Republican leader has 5 minutes remaining.

Mr. HATFIELD. Will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the distinguished Republican leader for yielding.

Mr. President, I merely would like to observe that it seems to me we are getting bogged down into legislative or parliamentary mechanics here rather than getting to the heart of the matter. To me, the President has now indicated his wish to comply with at least a part of the War Powers Act by submitting a report to Congress and then the ball will be in our park, actually, after that, to determine what we will do in assessing a policy. If that policy is leading to increasing difficulties and hostilities in the Persian Gulf, then we ought to get to it in terms of the debate.

I think the question of retaliation requires a very extensive and profound debate. Retaliation is now being applauded by both sides of the aisle as a wise policy. I happen to question the policy because to me, retaliation certainly has to raise the question of whether our presence is valid, our presence in the Persian Gulf. I think when one looks at that issue, one has to ask the questions, "Are we stabilizing the gulf?" "Are we really accomplishing an objective?"

I think we have to recognize, too, that the American flag draws fire. We cannot say that our presence there has moved to stablize that gulf. With the fanaticism of the Khomeini government against the United States, the extensions of the flagging antagonism coming out of Iran. We should have the United Nations flag in there, have a multination peacekeeping force as we have elsewhere in the world. That is the kind of debate we should be moving on.

I am going to vote for cloture in order to get to the Byrd-Warner amendment where I will vote against it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I think we just have to decide again. I do not think this is a strawman because I still have not seen the resolution, but I think we have seen the folly of this procedure saying we have to cover yesterday's incident. Maybe there will be another one next week and we will put another one up. Every time there is a popgun that goes off in the Middle East we will be in there offering some amendment to change it.

I just hope we do not invoke cloture. If we do not invoke cloture, maybe we can figure out something here that would protect the rights of all Senators, not just the majority leader.

I have great respect for the majority leader. He has the priority of recognition. All of this stuff about what rights anybody else has does not mean a thing, I say to my distinguished friend from West Virginia and he understands that. The majority leader has the right of recognition.

There is nothing that says the Republican leader's amendment cannot be amended. Anybody can amend it.

The language here is rather useless. But, beyond that, why do we want one Senator to decide for the 100 of us what the resolution is going to be? There are not going to be 10 other resolutions offered or 10 other amendments offered. That is not the way it works.

I do not fault the majority leader. He knows precisely what he is doing, but I think we ought to know precisely what we are doing. We ought to find out what we are doing. We ought not invoke cloture. We can then go on to the Bork nomination and complete action on the Bork nomination. Maybe by the time we finish that we can come back and put together an appropriate amendment to protect the rights of all Senators—all Senators—not just the one. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has yielded back the remainder of his time.

CLOTURE MOTION

The PRESIDING OFFICER. The hour having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Warner amendment, No. 951, to S.J. Res. 194, a joint resolution to require compliance with the provisions of the War Powers Resolution.

Robert C. Byrd, John Warner, Bob Graham, Sam Nunn, Wyche Fowler, Alan Cranston, John F. Kerry, Dale Bumpers, Tom Harkin, Alan J. Dixon, Dennis DeConcini, Timothy F. Wirth, Terry Sanford, John D. Rockefeller, Barbara A. Mikulski, Spark Matsunaga, John Melcher, and Claiborne Pell.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the Warner-Byrd amendment, No. 951, in the nature of a substitute, to Senate Joint Resolution 194, the War Powers Act compliance, shall be brought to a close.

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Washington [Mr. EVANS] are necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 67, nays 28, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—67

Adams
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stevens
Trible
Warner
Weicker
Wirth

NAYS—28

Armstrong
Bond
Boren
Cochran
D'Amato
Danforth
Dole
Domenici
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
Kasten
Lugar
McCain
McClure
McConnell
Nickles
Pressler
Quayle
Rudman
Simpson
Symms
Thurmond
Wallop
Wilson

NOT VOTING—5

Chafee
Evans
Gore
Simon
Stennis

The PRESIDING OFFICER. On this vote, the yeas are 67, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BYRD. Mr. President, I yield myself 2 minutes.

Under the cloture rule, 30 hours will be allowed for action on the amendment that has been clotured. Only those amendments which were filed by 1 o'clock p.m. yesterday, first-degree amendments, are in order, and only those second-degree amendments that were filed prior to the moment that the vote began today will be in order.

Would the Chair state how many first-degree amendments qualified and how many second-degree amendments qualified?

The PRESIDING OFFICER. The Chair states that 6 amendments were filed yesterday and 21 amendments have been filed that are in order.

Mr. BYRD. So there are 6 first-degree amendments and there are 21 second-degree amendments that qualify?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, I wonder if the distinguished Republican leader would consider entering into a time agreement on this question rather than pursuing the 30 hours that are allowed under the cloture rule?

Mr. DOLE. Mr. President, let me say to the majority leader I will be happy to discuss that with our policy luncheon. There might be a better opportunity there.

Mr. BYRD. Yes.

Mr. DOLE. We have reached a time agreement. Then what would happen after the disposition of this matter? What would be the intention of the majority leader?

Mr. BYRD. I would hope that once this matter is disposed of one way or the other the Senate could go to the Bork nomination. I hope again that we could reach a time agreement on the Bork nomination so that the Senate can reach its decision on what really is a foregone conclusion, I believe.

I should mention that there will be a briefing in room 407 at the hour of 2 o'clock p.m. today for Senators only anent the events of yesterday in the Persian Gulf.

ORDER FOR MID-DAY RECESS

So at this moment I ask unanimous consent that the Senate stand in recess today between the hours of 12:45 p.m. and 2 p.m. for the regular party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Then, at those conferences, as I understand it, we might be able to discuss the possibility of entering into a time agreement on this question so that the 30 hours could be considerably reduced and then once the matter is disposed of it would be my intention to go to the Bork nomination.

Perhaps the distinguished Republican leader could also discuss in his conference a time agreement on the

Bork nomination, and I would be happy to do the same in mine.

Mr. DOLE. Mr. President, if the majority leader will yield, if in fact I could state it is the majority leader's intention to go to the Bork nomination if we can obtain a time agreement on this it might be of some help to the Republican leader.

Mr. BYRD. That is my intention.

Mr. DOLE. I am not certain I can accommodate the majority leader on a time agreement on the Bork nomination, but I will explore that.

My own view is that after a reasonable amount of debate it is going to end. I do not know of anybody on this side who wants to extend it. I think the point is I want to make the record.

Mr. BYRD. The question is what is a reasonable amount of debate?

Mr. DOLE. Making a record.

Mr. QUAYLE. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. QUAYLE. The majority leader said disposition of this matter. He is talking about the pending Byrd-Warner amendment; is that correct?

Mr. WARNER. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. WARNER. Mr. President, it seems to me we are disposing of the entire matter which is the pending bill which would be the underlying amendment as well as the Byrd-Warner amendment. The whole thrust of the debate today was to express, and I think the vote reflects that, the urgency that this body consider these issues.

Mr. BYRD. Well, the Senator makes a very appropriate pertinent point.

The question before the Senate is the Warner-Byrd amendment in the first degree. That is what has been clotured and not the resolution itself.

But I have authority after consultation with the Republican leader to bring that matter back before the Senate at any time. I think at that point if we could dispose of the pending question, then we can discuss where we go from there.

Mr. QUAYLE. I thank the majority leader.

Mr. WARNER. Mr. President, it would be my hope that the leadership can reach an understanding as to a time agreement on the two amendments, Byrd-Warner, as well as the Weicker-Hatfield amendment, so that we can dispose of these issues and proceed to other matters that are of urgency before this body.

That is entirely a leadership prerogative and I am confident they will address it.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I make a parliamentary inquiry and then I yield the floor.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD. Mr. President, is it not a fact that the two managers on the pending question would be the authors of the underlying first-degree amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. There should be a manager in opposition to the amendment and that should be the minority leader or his designee.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. And then other Senators may yield to the two managers 2 additional hours for each of the two managers. Is that not accurate?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Then, under the cloture rule, other Senators may yield as much as 2 hours to each, the majority and minority leaders?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. In view of the fact that the majority and the minority leaders or their designees are the managers, does this mean that other Senators then may yield to the majority and minority leaders as leaders and as managers an additional 4 hours each?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent to speak out of order not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BORK NOMINATION

Mr. PRYOR. Mr. President, in the early part of the afternoon, it would be my desire to read into the RECORD, if not myself, one of our colleagues in the Senate, the transcript of a telecomputer conversation which is being called to thousands and thousands of homes across America relative to the Bork nomination. Because I do not see one of the parties in the Chamber at this time, I will refrain from attempting to read this transcript, which is supported by four affidavits, into the RECORD at this moment.

But I am hopeful that the distinguished Senator from New Hampshire, Senator HUMPHREY, might be notified that his name may be used in connection with this transcript supported by four affidavits. I will not now take the time of the Senate, but merely notify the parties necessary to be on the floor at that time.

I yield the floor.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The Senate resumed consideration of the joint resolution.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. LEAHY. What is the situation now on the War Powers Act? Are we into the time for debate on that?

The PRESIDING OFFICER. The situation is that cloture has been invoked on the Warner-Byrd amendment which is amendment No. 951 and the pending amendment is the Byrd-Warner amendment No. 952.

Mr. LEAHY. And what amount of time is available to individual Senators under the cloture rule?

The PRESIDING OFFICER. One hour is available to each Senator under the rules of cloture.

Mr. LEAHY. Mr. President, I wonder if I might inquire of the distinguished majority leader if he has plans on the schedule of this or whether each Senator who wished to speak should just seek recognition at an appropriate time to be able to speak on the overall question of the War Powers Act and of course the pending amendment.

Mr. BYRD. Mr. President, in response, first of all, I should say this: debate must be germane under the cloture rule to the question that is pending. Second, unless we can achieve a time agreement, each Senator may simply get recognition and utilize his time under the cloture rule.

I had earlier hoped and still hope that we might be able to achieve a time agreement, which would allow for a balanced approach on both sides, of evenly divided time, in which case the Senate would operate as it normally does under any time agreement.

But, absent such a time agreement, any Senator may get recognition without being yielded time by either of the leaders.

Mr. LEAHY. I thank the majority leader.

Mr. President, I would then seek recognition on my own time on a matter germane to the subject we have just voted cloture on.

The PRESIDING OFFICER. The Senator from Vermont is recognized accordingly.

Mr. LEAHY. Mr. President, it is sometimes forgotten that the authors of the Constitution assigned the responsibility to declare war to the legislative branch, and they did it because they were fearful of putting that power in the hands of the Chief Executive.

The Constitution therefore assigns to the people's elected representatives the decisive voice in whether this Nation's sons and daughters shall be committed to fight and perhaps to die in "police actions," "low-intensity conflicts," "naval escorts," and the like. These and other euphemisms for war have been used by Presidents in the past to get us committed, leaving Congress unable to carry out its constitutional duty to speak for the people in determining if what was at stake was really worth the lives of some of our youth.

In adopting the War Powers Resolution, Congress sought a way to stop the historical trend of Presidents getting U.S. military forces involved in undeclared wars. It was intended to get Congress in at the beginning of such a commitment, instead of in the middle, when our only recourse was to support American troops in combat. Using the power of the purse to stop involvement in an undeclared war is just too difficult. Patriotic Members of Congress are not going to cut military budgets and withhold support of our forces when they are already engaged in fighting.

What we said in passing the War Powers Act was: If Americans are going to lose their lives in conflicts overseas, Congress has to share in the responsibility. Evading that responsibility should not even be an option open to Congress.

Any doubt that United States forces in the Persian Gulf are in the midst of hostilities went up in smoke 3 weeks ago, when the United States fired on an Iranian mine-laying ship killing three Iranian sailors.

Two weeks ago United States military helicopters sank three Iranian gunboats, after the Iranians fired on a United States helicopter.

Yesterday, 3 days after Iran fired a Silkworm missile into a United States reflagged ship seriously injuring its American captain, the United States destroyed an Iranian oil drilling platform that was equipped with radar to target tankers in the gulf.

At the commencement of the reflagging operation administration officials said Iran would never be so foolish to attack a United States reflagged ship. Obviously, they were wrong. I suspect the Secretary of Defense is still wrong when he says this matter is closed. Experience shows that instead of being deterred by our military actions which put us squarely on the side of Iraq, Iran's leaders are using them to incite new resolve among the Iranian people to win the war against Iraq. There is no telling where this increasing spiral of violence will end.

Ever since Congress passed the War Powers Act in 1973, Presidents have resisted its implementation. They have argued that it is unconstitutional—that it should be modified.

Perhaps it should be. I do not argue that it is perfect. But this Senator believes it is a law made necessary by history. It allows the President authority to take immediate military action for up to 60 days. That lets the President deal with any emergency situation.

Anything more than that is not an immediate emergency, it is a conflict. After that, the Congress should decide whether to keep U.S. troops in places where their lives are in jeopardy.

But whether or not one thinks War Powers is good or bad law, it is the law of the land.

Now, I am going to have to vote against the joint resolution which is being offered as an alternative to the War Powers Resolution, because I believe so strongly that we should act according to the law on the books. If the President does not like it, if Congress does not like it, then seek its repeal. Do not ignore it, seek its repeal. Either uphold it, either follow the law on the books, or get rid of it. Those really should be our answers, not try to find some way to ignore it.

Now, if the resolution by the distinguished Senator from West Virginia and the distinguished Senator from Virginia was defeated, that would bring us back to the underlying Weicker-Hatfield resolution to invoke the War Powers Resolution. This Senator feels that is what the Senate should be voting on. I really think if we voted on something less than that, we are failing that basic responsibility of why we are here in the first place.

I recognize that the resolution of the distinguished senior Senator from Virginia and the distinguished senior Senator from West Virginia is a result of negotiations to overcome a Republican filibuster and get a vote on the policy of military engagement in the Persian Gulf and the Iran-Iraq war. I deeply respect the untiring efforts the distinguished majority leader is making to find a way for the Senate to face up to its duties. He has tried time and time again, through cloture votes, through alternative resolutions, through eloquent pleas, and to little avail.

American forces are under fire in the midst of a major war that threatens the future security of the entire gulf region. I think Congress should not shirk its responsibility to take a stand on continuing such a potentially dangerous and open ended policy.

Mr. President, no Member of the U.S. Senate and no Member of the other body is suggesting that what we ought to do is to have American warships suddenly stop going into international waters.

No Member of this body is suggesting that American-flagged ships do not have a right to be in international waters. All of us defend the right of our warships and our commercial shipping to be in international waters. If we did otherwise, then we lose any credibility we have as one of the two superpowers of the world.

The British are there, the French are there, the Soviets are there, the Italians are there. That is not the issue.

The issue, and the thing that concerns people in my State is that if we have a War Powers Act, should we not be paying attention to it? This was debated, fought for, and was one of the major debates of this body toward the end of the Vietnam war. It was done for a very real purpose so that the American people, through the Congress, would be there at the take off, as well as what often happens, the crash landing.

All I am saying, Mr. President, and I would urge my colleagues to consider this, let us face up to the War Powers Act. If we do not want to face up to it, then let us be honest enough and just repeal it. But let us not do a half-way measure and tell the American people—especially those who were so concerned toward the end of the Vietnam war, that, well, we finessed this one, we will wait until there are real hostilities. It is not a question of whether we are going to have more hostilities than we have already had in the Persian Gulf. I think the fact is, Mr. President, we are not going to have less. We know we are going to have more. Now it is up to us to decide what we are going to do with it.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, if I yield the time to myself under cloture, amendments are in order to be called up; is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 1014

(Purpose: To authorize the United States Navy to sink any Iranian vessel, destroy any Iranian missile battery or neutralize any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America)

Mr. HELMS. Mr. President, I call up amendment No. 1014 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1014.

The amendment is as follows:

Add at the end of the language proposed to be stricken by amendment No. 951 the following new section:

"SEC. . Nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WARNER. My understanding is the Senate is operating under a cloture, which has not been invoked and under that procedure the amendments which were filed as of, I think 1 o'clock yesterday, are the only amendments which can be brought to the pending matter. Is that correct?

The PRESIDING OFFICER. Or amendments filed at the desk prior to this morning.

Mr. WARNER. May I inquire of the desk and of the proponent of this amendment, does this amendment meet this criteria?

The PRESIDING OFFICER. The amendment is to the language proposed to be stricken and it is an amendment which was filed prior to the time required. Therefore it does qualify.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is: Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

AMENDMENT NO. 1022

(Purpose: To authorize the United States Navy to sink any Iranian vessel, destroy any Iranian missile battery, or neutralize any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States)

Mr. HELMS. Mr. President, I filed timely, in a timely fashion this morning, a second-degree amendment. I do not have the number but here is a copy of it for the clerk's benefit.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment No. 1022 to amendment No. 1014.

The amendment is as follows:

Add before the period at the end of unprinted amendment No. 1014 the following: "; *Provided further,* That nothing in this Resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom".

Mr. WARNER. The Senator from Virginia inquires of the Chair, this amendment which has just been read: Does this come within the strictures of the pending cloture order?

The PRESIDING OFFICER. The amendment is germane and the amendment was timely filed.

Mr. WARNER. I have a parliamentary inquiry, Mr. President, with regard to the prior amendment. Did the Chair include in his pronouncements that that amendment was also, not only within the framework of the cloture order, but germane?

The PRESIDING OFFICER. This Chair did not state it at the time, but the Chair will state at this time that the amendment is germane.

Mr. WARNER. Mr. President, I thank the Chair. I had not heard that and I wished to have it clarified for the RECORD.

Mr. WEICKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Connecticut will state his parliamentary inquiry.

Mr. WEICKER. Mr. President, am I to understand that the first amendment submitted by the distinguished Senator from North Carolina was to Senate Joint Resolution 194 and that the second amendment submitted by the distinguished Senator from North Carolina was to what is called the Byrd-Warner amendment? Is that correct?

The PRESIDING OFFICER. No. The Chair will state to the Senator from Connecticut that both of the amendments submitted by the Senator from North Carolina were perfecting amendments to the first-degree amendment, which is the Warner-Byrd amendment No. 951.

Mr. WEICKER. I would again ask the Chair——

The PRESIDING OFFICER. The Chair asks the Senator to withhold for one moment.

The Helms first-degree amendment perfects the underlying resolution.

Mr. WEICKER. Senate Joint Resolution 194, is that correct?

The PRESIDING OFFICER. The second-degree amendment perfects the first-degree amendment.

Mr. WEICKER. Commonly called Byrd-Warner?

The PRESIDING OFFICER. The Helms first-degree amendment.

The Helms first-degree amendment is the amendment to the underlying Warner-Byrd, No. 951. The Helms second-degree is to the first-degree amendment.

Mr. WEICKER. Therefore, again inquiring of the Chair as a matter of parliamentary inquiry, neither of the amendments of the distinguished Senator from North Carolina are to Senate Joint Resolution 194?

The PRESIDING OFFICER. The Chair ask the Senator to suspend for a moment.

The first amendment of the Senator from North Carolina amends Senate Joint Resolution 194. The second amendment amends that first amendment.

Mr. WEICKER. I thank the Chair.

Mr. HELMS. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from North Carolina reserves the balance of his time. Who seeks recognition?

If there is no further debate, the question is on the amendment. The clerk will call the roll.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, at 12:45 p.m., the Senate recessed until 2:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DODD).

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes and that the time be charged against the 30 hours.

I withdraw that request.

Mr. PRYOR. Mr. President, before the majority leader does make the request for a recess, I wonder if I might be allowed to speak out of order for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JUDGE ROBERT BORK

Mr. PRYOR. Mr. President, I am attempting at this moment to notify the Senator from New Hampshire [Mr. HUMPHREY] that the remarks I will make will be associated with his name, and it is my understanding that Senator HUMPHREY has been notified.

Mr. President, the following is a paid telephone communication that has gone into many States, from South from West. We have four affidavits stating that this was in fact the wording of the telephone conversation, done by computer. I will read this statement at this time to my colleagues:

Senator HUMPHREY. Hello, this is Senator Gordon Humphrey. In my role as Honorary Chairman of the National Conservative Political Action Committee, I decided to speak to you by tele-computer because of the urgent need for citizens to rally behind the President. President Reagan needs your support in his effort to have Judge Robert Bork confirmed to the United States Supreme Court.

Please hold for an important message from President Reagan.

President REAGAN. Judge Bork deserves a careful highly civil examination of his record, but he has been subjected to a constant litany of character assassination and intentional misrepresentation. Tell your Senators to resist the politicization of our court system. Tell them you support the appointment of Judge Robert Bork to the Supreme Court.

ANNOUNCER. As the President and Senator Humphrey said, it's absolutely vital you call your Senator —— at —— in —— immediately. Urge him to vote in favor of Judge Robert Bork.

And, if at all possible, please consider making a contribution to help win this important battle. If you would like to make a contribution, please tell me your name at the sound of the tone.

Please tell me your telephone number at the sound of the tone, so that one of our volunteers can contact you.

Thank you for your support. Good evening.

Mr. President, I ask unanimous consent to have printed in the RECORD, at this time four affidavits by the affiants as to the representations of this particular telephone message.

Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, the Senator from New Hampshire rose to object.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, I wonder if the Senator from Arkansas would permit the Senator to ask a few questions.

Mr. PRYOR. Mr. President, I have yielded the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

Mr. HUMPHREY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, what is the parliamentary situation? Is the Senator from New Hampshire free to speak for a few moments at this point?

The PRESIDING OFFICER. The Senator from Arkansas has yielded the floor. The Senator is operating under cloture. Debate is required to be germane except by unanimous consent.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I be permitted to respond to the remarks of the Senator from Arkansas in which case I will not object to his inserting material in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I so withdraw my objection, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Wake County, North Carolina]

AFFIDAVIT OF JO ANNE ECHOLS

My name is Jo Anne Echols. I reside at 4220 Green Road, Raleigh, Wake County, North Carolina.

Late in the week of October 12, 1987 I received a telephone call and the speaker stated he was Senator Gordon Humphrey. The call seemed to be a recording and the message stated that President Reagan needed help to have Judge Bork confirmed and that I should stay on the phone to hear a message from the President.

The recording asked me to call Senator Sanford and to urge him to vote for Judge Bork.

At the end of the telephone message I was asked to consider making a contribution to the battle for Judge Bork.

Further affiant sayeth not.

JO ANNE ECHOLS

[Wake County, North Carolina]

AFFIDAVIT OF LUE S. TERRELL

My name is Lue S. Terrell. I reside at 4030 Edwards Mills Road, Raleigh, Wake County, North Carolina.

On October 18, 1987 at 7:15 p.m. I received a telephone call. The speaker stated he was Senator Gordon Humphrey. The call was prerecorded. Mr. Humphrey said that the effort for Judge Bork was continuing and that was the reason for the telephone call. He then stated that I should hold on to hear a plea by President Ronald Reagan for the nomination of Judge Bork. At that point, I hung up the telephone.

Further affiant sayeth not.

LUE S. TERRELL

[Wake County, North Carolina]

AFFIDAVIT OF PAUL NICKELL

My name is Paul Nickell. I reside at 4574 Springmoor Circle, Raleigh, Wake County, North Carolina.

Late in the week of October 12, 1987 I received a telephone call. The speaker stated he was Senator Gordon Humphrey. The call seemed to be prerecorded. Mr. Humphrey said that the effort for Judge Bork was continuing and that was the reason for the telephone call. He then stated that I should hold on to hear a recorded message from President Ronald Reagan. At that point, I hung up the telephone.

Further affiant sayeth not.

PAUL NICKELL.

[Wake County, North Carolina]

AFFIDAIVT OF ALEXANDER MIHAJLOV

My name is Alexander Mihajlov. I reside at 3600 Corbin Street, Raleigh, Wake County, North Carolina.

Late in the week of October 12, 1987 I received a telephone call and the speaker stated he was Senator Gordon Humphrey. The call seemed to be a recording and the message stated that President Reagan needed help to have Judge Bork confirmed and that I should stay on the phone to hear a message from the President. The recording asked me to call Senator Sanford and to urge him to vote for Judge Bork.

At the end of the telephone message I was asked to consider making a contribution to the battle for Judge Bork.

Further affiant sayeth not.

ALEXANDER MIHAJLOV.

Mr. HUMPHREY. I thank the Chair.

Mr. President, I certainly bear no personal animosity toward the Senator from Arkansas. I have always gotten along very well with him. I expect I always will, given his good nature and good faith, and indeed I thank him for notifying me ahead of time that he intended to complain on the floor about this phone effort.

I simply want to say this about it. The Senator has read for the RECORD the script of that phone effort. It is a straightforward effort to encourage citizens to phone their Senators and to encourage their Senators to support the Bork nomination. There is no criticism whatever in this script of any Senators and as I understand it this effort was undertaken in some 18 States that involves I guess that many Senators.

There is no criticism either indirectly or directly by name or by implication of any Senator. It is a straightforward factual statement urging citizens to support the President's nomination and to call the Senators at whatever number is stipulated.

There is at the end, as the Senator from Arkansas read, a very low-key pitch for a contribution. It says, "And, if at all possible, please consider making a contribution * * *." "If you would like to make a contribution, please tell me your name * * *."

You can be sure that about 95 percent of the respondents hung up at that point, and this is certainly in no way primarily or secondarily a fundraising effort. This phone campaign was undertaken for 5 days as I understand, and Senators know full well that any fundraising effort is something that requires several weeks.

This was and is, or I should say was, because it is now complete as far as I know, a straightforward factual effort to encourage its citizens to phone their Senators and express their support of Judge Bork if indeed they supported Judge Bork. It is not criticism of any Senator.

I think it is wholesome frankly to encourage citizens to contact their Senators, particularly wholesome where there is no untoward tactics involved.

And just to substantiate the record further, I ask unanimous consent that a copy of the script be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NCPAC BORK SCRIPT

Senator HUMPHREY. Hello, this is Senator Gordon Humphrey. In my role as Honorary Chairman of the National Conservative Political Action Committee, I decided to speak to you by tele-computer because of the urgent need for citizens to rally behind the President. President Reagan needs your support in his effort to have Judge Robert Bork confirmed to the United States Supreme Court.

Please hold for an important message from President Reagan.

President REAGAN. Judge Bork deserves a careful highly civil examination of his record, but he has been subjected to a constant litany of character assassination and intentional misrepresentation. Tell your Senators to resist the politicization of our court system. Tell them you support the appointment of Judge Robert Bork to the Supreme Court.

ANNOUNCER. As the President and Senator Humphrey said, it's absolutely vital you call your Senator —— at —— in —— immediately. Urge him to vote in favor of Judge Robert Bork.

And, if at all possible, please consider making a contribution to help win this important battle. If you would like to make a contribution, please tell me your name at the sound of the tone.

Please tell me your telephone number at the sound of the tone, so that one of our volunteers can contact you.

Thank you for your support. Good evening.

Mr. SANFORD. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I do not have the floor, but I am happy to respond to a question.

Mr. SANFORD. it seems to me that the effort here has maybe been straightforward, but it was a straightforward politicization. It seems to me that the complaint is that people were calling Senators and giving them all kinds of information, imposing on other Senators and our colleagues by having them receive phone calls tying up their phones. If that is not politicizing the system what is?

Mr. HUMPHREY. Mr. President, I simply disagree in my judgment with that of the Senator from North Carolina.

To call Senators and urge them if they support their Senators hardly constitutes any unfair tactics, any untoward tactics.

Mr. SANFORD. But it is a political effort. It is politicizing the system.

Mr. HUMPHREY. I suppose in the absolute terms, it is a political tactic. If Senators pay attention to their constituents, which they do, I suppose that is a political fact of life, but I see nothing wrong with a straightforward, nonsensational appeal to voters to contact their Senators if they support the nomination.

Mr. SANFORD. In effect the Senator sees nothing wrong with politicizing the process?

Mr. HUMPHREY. No. The Senator knows I did not say that. If the Senator is trying to draw a parallel between this very mild-mannered, respectful, reasonable approach to stimulating public debate and the distortion of Judge Bork's record which is the true politicization in this Bork controversy, then the Senator is way off base, in my judgment, and I say that with all due respect and friendship to the Senator. He is simply off base.

Mr. SANFORD. I greatly respect my colleague from New Hampshire, but it seems to me that is perhaps at least a questionable thing of putting the burden on our colleagues' offices to tie up their phones and have people calling in. I am not so sure that is a process we ought to pursue in this Senate.

Mr. HUMPHREY. I would be greatly encouraged if the result of this effort tied up Senators' phone. I rather doubt it did. If that were the case, I would be delighted.

Mr. SANFORD. Just for the record, then, 9 out of 10 calls, that is 90 percent in protest being subjected to this kind of a telephone call, so all in all it would probably be good, but I do not think that I would tie up the Senator's phone.

Mr. HUMPHREY. The Senator is welcome to do so.

Mr. SANFORD. I do not think it is a good system for this Senate to practice reaching colleagues in this indirect way. I just point that out to my colleague. I thank the Senator.

Mr. HEFLIN. I wonder if the Senator would yield for a question or two?

Mr. HUMPHREY. I am happy to yield to the Senator from Alabama. In fact I do not have the floor. I did not ask for recognition.

The PRESIDING OFFICER. The Senator has the floor.

Mr. HUMPHREY. If the Chair insists, I am happy to have the floor.

Mr. HEFLIN. Will the Senator yield?

Mr. HUMPHREY. With pleasure.

Mr. HEFLIN. It has been brought to my attention now for several days and it was first brought to our attention in Huntsville, AL, by a lady who was a news reporter for a radio station. This lady and other people who we talked to say that there is a different version of the telephone message, the electronic telephone messsage that Senator PRYOR and I assume Senator HUMPHREY also submitted for the RECORD, that the original one had my voice on it and it was saying that: "This is Senator HEFLIN" and that Senator HEFLIN is reconsidering his vote.

Now, I cannot establish this as being true because I did not hear it and no one of my staff has been able to get a transcript. I could understand that perhaps some people might misunderstand the name HUMPHREY and HEFLIN since both started with an "H." I doubt if they would misunderstand our accent.

But anyway that has been reported, and I would like to know, since the Senator I believe is on this electronic telephone message stating that the Senator is the honorary chairman of the National Conservative Political Action Committee——

Mr. HUMPHREY. That is correct.

Mr. HEFLIN. Whether or not there is a different version and whether or not my voice was placed on there. I certainly did not give any permission to use my voice. I would like to know whether or not my voice was used in regards to this electronic telephone message that went out.

Mr. HUMPHREY. I would regard that unauthorized use of the Senator's voice would be highly unethical. I certainly would not associate myself with such an effort nor am I aware any such effort was undertaken.

Indeed, I am confident it was not. As the Senator knows, people often get confused.

If you ask people what the content was of the phone call 10 minutes or so after they received it, some will make mistakes about who said what. Perhaps that explains it. I do not know what explains it, but I can assure the Senator that is not part of any effort in which I associated myself.

Indeed, I honestly do not think it took place.

Mr. HEFLIN. Let me ask the Senator another question. There is an organization that is running full-page ads in the daily newspapers in my State under the name of "We, the people." Is that connected with this National Conservative Political Action Committee? And do you have any connection with those full-page ads that are running?

Mr. HUMPHREY. I am totally unaware of those ads, Senator. I do not know what that organization is. As far as I know, it is no part of this effort.

I hope Senators are not going to hold this Senator responsible for every ad that is being published or every effort that is being made to support the nomination, with good taste or with bad taste, any more than this Senator would hope to hold Senators who are opponents of the nomination accountable for the ads of opponents, which, if I may say, have been far more prevalent and far more lavishly financed and far more irresponsible in their distortions than anything coming from the pro-Bork side.

But, in any event, to answer the Senator's question, I have no knowledge of those ads and no involvement with them.

Mr. HEFLIN. Well, this "We, the people" ad is similar to the ad that was run in the USA Today several days ago. But you or your organization has no connection with that organization?

Mr. HUMPHREY. Senator, I am honorary chairman of the National Conservative Political Action Committee. The Senator is politically savvy enough to know that means almost nothing. It means I have lent my name—that is to say, I have no direct role in the operation of this organization—I have lent my name on the condition that all operations be cleared with me ahead of time. I have done so only recently and only upon the recent change in management in that organization. I have full confidence in the new management, new manager, new director, I should say, Maiselle Shortley.

That is why, when she asked me for this kind of support, I was glad to give it.

Let me make this final point, at least in regard to this question. I really feel that this is an honorable undertaking. It is straightforward. It in no way criticizes the Senator from Alabama, the Senator from Arkansas, or the Senator from North Carolina. It mentions their names only in connection with their being Senators from that State. It is there for those who feel so disposed to call their Senators and register——

Mr. HEFLIN. You are speaking of the telephone ad, not the newspaper ads?

Mr. HUMPHREY. I have no connection with the newspaper ads.

Mr. HEFLIN. I thank the Senator for straightening that out for me.

Mr. HUMPHREY. Mr. President, the Senator from Arkansas is seeking recognition, so I will yield the floor. But I am perfectly willing to answer any further questions.

Mr. PRYOR. Mr. President, I appreciate the Senator from New Hampshire yielding the floor at this time.

First, Mr. President, the distinguished Senator and my good friend from New Hampshire has sort of raised the issue that the Senator from Arkansas complained. And I think the word was "complained."

Mr. President, I have not complained. I have simply brought to light a telephone communication done by computer by one of our colleagues, including the President of the United States, and included in that telephone communication a suggestion that the recipient of the telephone call send in a contribution or turn in their phone number so that they could be contacted by a representative of the National Conservative Political Action Committee.

Mr. President, this in itself might not be bad. It may not be wrong. I am not chastising the Senator. I am not condemning the Senator. I am simply bringing up the fact of an issue that surfaced last week, the latter part of the week, an allegation that several thousand of these communications were going forward throughout the country in selected States and in selected areas of our Nation.

But I do think, Mr. President, that the Senator from New Hampshire has himself raised a critical question when he stated this is no more than to "stimulate debate." Now, Mr. President, I think it is up to the American people, I think it is up to our colleagues, I think it is up to the press, I think it is up to all of us whether this is merely an attempt to stimulate debate or, the more critical question, to stimulate money—money for an organization that desperately needs financial resources at this particular moment.

If the latter is the case, then I could only say that I think the judgment of the American people will certainly be heard on tactics such as this. I certainly believe, I say, Mr. President, to my friend from New Hampshire, that, in my opinion, this is not becoming of our political system, especially when it relates to a lifetime appointment on the U.S. Supreme Court.

One final thing, Mr. President, and I should not say this—and that is when I usually get in trouble is when I know I should not—I believe that Judge Robert Bork is a good man. I do not think he is an evil man. If his name ever comes before this Senate—and I hope it is sooner rather than later, because of what is happening on the stock market, because of what is happening in the Persian Gulf—I think that we have to get on with this nomination and get it behind us as soon as possible. I hope that we can vote this week. I know that our leader has attempted to work with the leadership on the other side.

But, Mr. President, I will go to my grave feeling that Judge Robert Bork has been used, that he is a pawn, and that some day we may know the truth about the Bork nomination. I hate to say that, because I respect Judge Bork. I hate to see any person dragged around as this administration has dragged this man through the mill if it all comes down to one thing—being able to polarize this country and polarize this Senate and ultimately to be used as a fundraiser somewhere in the middle.

I sympathize with that man. I hope that is not the case. I hope that my perception of what is going on is wrong.

Mr. President, I yield the floor.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am not going to continue this debate. It is really fruitless. I still bear no animosity toward the Senator from Arkansas. Nobody in this body does. I doubt that he has an enemy in the world, such a kind man.

But I truly believe he is mistaken in this case in his suggestion that this is really, the bottom line, a fundraising effort. It is not.

The Senator knows, with a 5-day effort, with a low-key, softball pitch at the very end, which is pro forma in this day of expensive communications, that this is not going to be, that this is not, in fact, a fundraising effort. It is what it appears to be. If you read the transcript, 95 percent of the verbage applies to encouraging people to call their Senators. No criticism of Senators. No characterization of any kind, just urging people, if they are disposed, to call their Senators and support this nomination.

As to who is dragging whom around, who is dragging Judge Bork around, I think the Senator's statement is really—well, it is silly. I mean, the American people at this point know which side has dragged Judge Bork through the mud. There may be different opinions between the Senator and me on that point, but I think the American people can really appreciate it.

After all, which side was it that got Gregory Peck, which side was it that got Hollywood that was involved in a TV shot that was aired extensively across the country? Do you think that did not cost anything, Senator? Do you think they did not have to ask somebody to pay for the production and airing of that ad? Of course they did, in the same fashion making these calls cost money. We do not have any special deal at NCPAC with AT&T or any of those AT&T clones. It costs money. You have to ask. Nowadays it is pro forma when you make a contract. You cannot afford not to ask people to help you pay for the cost of that contract.

So it is what it appears to be. If you analyze this, it is a straightforward, reasonable effort, respectful effort, to get people to call their Senators in support of Judge Bork.

I am glad I did it. Frankly, if the Republican Party were doing anything, if the Republican Party had gotten off its big, fat capitalistic fanny to help this nomination, then we would not have to rely upon NCPAC or any other organization.

So I make no apologies, either to the Democrats or the Republicans, or to anyone. I am glad I did it and I am glad that phones rang.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. If I may have only a moment or two to respond? My good friend from New Hampshire says that this is a softball situation. If you are sitting in Magnolia, AR, some night and you are watching the World Series game and the telephone rings and you pick up the phone and on the other end of the line there is a U.S. Senator from New Hampshire and then he introduces the President of the United States and then a fundraiser from NCPAC comes on and says please give us your name so we can call on you because Judge Bork has been intentionally misrepresented and character assassination has taken place—if that is softball, I would like to see what hardball is. That is a pretty strong message down in our part of the country, Mr. President.

Furthermore, I think it certainly, in my opinion, is beginning to go against the grain. Whether you are for Bork or against Bork, I think it is going against the grain of the American people as to the polarization of this country at this time. I just hope, Mr. President, that by calling attention to things like this we can minimize the record and get on with the vote, for goodness sake, so that we can have another nominee coming before this body as soon as possible.

I yield the floor.

Mr. HUMPHREY. Mr. President, my last word, I promise. The announcer does not come on and say please send us money. The announcer comes on and says please contact your Senator, his name is, his phone number is, et cetera. Then at the very end after the announcer has urged people to contact their Senators—and what is wrong with that? Are Senators afraid to hear from their constituents on this issue? I hope not. Are Senators afraid of groups stimulating citizens to contact their elected representatives? I hope not. After he says all of that, then at the very end he says: And if—I have already turned in the copy of the statement, I do not have it to read any longer. But he says: And if you think you would like to make a contribution, please stay on the line and provide your name.

As I said, you can be sure 95 percent of the people do not respond to fundraising appeals. You can be sure 95 percent of the people hung up at that time. I really think the Senator from Arkansas is overreacting to this but he is entitled to his judgment. Ordinarily I trust that judgment.

Mr. SANFORD. Mr. President, may I add one interpretation to what the distinguished Senator from New Hampshire has pointed out? I do not know about Gregory Peck and all of those people, but those were citizens outside of government doing what citizens outside of government have every right to do. Here we are talking about a colleague and the use of the President's name and there is a big distinction there. I leave that just as an added interpretation.

Thank you. I yield the floor.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I have no objection to proceeding to a vote on the Helms amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I am going to support the amendment of the distinguished Senator from North Carolina. I think it gives an opportunity to explain exactly what is at issue here in terms of both war powers and in terms of the attitudes of Senators and with respect to our policy in the gulf.

If I could have a copy of the amendment, I would appreciate it.

Thank you very much. The amendment says:

> "; provided, further, that nothing in this Resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom".

Nobody can argue with that. None of us that have been trying to invoke the War Powers Act would disagree with this.

Likewise, the amendment which has also been submitted by the distinguished Senator from North Carolina:

> "Sec. . Nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

Speaking for this Senator, I cannot disagree with that.

So, let us understand carefully the distinction between the invocation of the War Powers Act—whether it be by virtue of the Weicker-Hatfield amendment or by the spirit of the War Powers Act as contained in the Byrd-Warner—Warner-Byrd amendments; the difference between those amendments and the matter of our policy in the gulf.

Unfortunately, because of the rhetoric which has been directed against invocation of the War Powers Act, there are those Members on this floor that have been painted in the posture of being soft on Iran because they support the War Powers Act. One has nothing to do with the other.

I have not heard a Senator on this floor that is asking for the withdrawal of U.S. forces in the gulf. I have heard Senators, whether by virtue of the Weicker-Hatfield resolution or the Warner-Byrd amendments ask for information upon which they can base their decisions as they relate to our policies in the gulf.

This is the only comment I want to make and I make these remarks in support of both these amendments. I will vote for both these amendments.

But it has made it very difficult, because of the rhetoric directed against Senators, principally out of the White House, to support the War Powers Act for fear of being painted as being for Iran and against our Armed Forces.

That is preposterous and I am glad these amendments are offered. As a matter of fact, if you will recall early on, what I asked for was a vote on the War Powers Act followed by a vote on our policy in the gulf. I said I thought probably under those circumstances the Senate would vote for the War Powers Act and would vote to support the President. I said that early on. I still make that offer, that we have both those votes on a pure war powers invocation and on statements similar to those proffered to the Senate by the distinguished Senator from North Carolina.

Remember, first things first. Without information, without fact, this body cannot make proper decisions. All the War Powers Act ever did was to require the President to notify the Senate within 48 hours of hostilities of exactly what transpired. I would imagine also he should report on the background thereto. At which time, certain events are triggered which could eventually have this body refuse to support a particular policy or, just as assuredly, have this body support those activities.

I have to point out to my colleagues that we went through a similiar exercise here on the floor. I state it again because it is important to understand that if you are not going to learn from history, you are condemned to repeat it.

I remember the debate that took place on this floor relative to the introduction of the United States Marines into Lebanon and more particularly, a Congress that was supporting the President when it voted to keep our marines in Lebanon for an additional 18 months. Some of us voted against that resolution and we did so not out of disrespect for our Armed Forces or disrespect for the President. But because we thought there was a rather bad tactical situation present there as to having those men on the tarmac in Beirut, that it was an indefensible—from the military point of view—position.

And then after the tragedy that took 241 young lives, all of a sudden we heard from many other sources: "Well, we advised the White House that this should not have been done." I heard from one military expert that this was indefensible.

Gentlemen, the time to ask these questions as to any policy is now. It is now. So that everybody goes into this, including most importantly, the American people, with their eyes wide open. Our obligation is not just to those that serve in the gulf area now. It is to those who might be asked to serve in the gulf area.

The way events are going, many more will be serving in the gulf area.

I have no quarrel with that, as long as we are in possession of all the facts.

This has been a blurred debate, a blurred debate. The implication is that anybody who does not go along with the President is somewhat less than patriotic. That is not so at all. Those of us who want to invoke the War Powers Act, of something akin thereto, feel that matters of war and peace and of life and death are matters to be decided by a Congress and the President. Nobody in this body is equipped, nor does anybody want, to run a war. That is the job of the Commander in Chief. That is the job of our military commanders. But it is our job to say what the policies of the Nation should be, and it is impossible to do that in an intelligent way without facts and without a broad dialog between the executive and the legislative branches of Government.

So in both these instances this is sort of a backward way of doing what I said should be done in the first instance, clearly stating support for these broad principles, for the protection of our American vessels in the gulf, protection of the right of free passage for international commerce. All these are matters that we are for and have long stated that we are for.

For example, has it occurred to anyone to ask the question—it has been asked sporadically but let us state it here—why would we ever want to publicly state to the Iranians that we will protect reflagged Kuwaiti tankers when they are in international waters, but we will not protect them when they are in port? It seems to me that is an open invitation to Iranians to fire at American-flagged vessels in port. I do not think that is very smart, militarily.

Does that show a lack of fervor for our men and women in the Armed Forces or our lack of patriotism because I see a certain stupidity in a declaration which puts in jeopardy those we are trying to help and then, with the ensuing lives that are at risk, once that attack takes place?

I do not think so. I think it is a rather intelligent question. I think it deserves an answer.

Why should there be blind trust in a policy devised by those who were not hesitant to sell arms to Iran, which are being used to kill persons on our side of the issue, that gave information to Iraq? The same people who devised those brilliant policies are now asking, "Trust us." I do not trust them. I do not. Neither should anyone else. Anybody who wants to put their trust in that again are bound to repeat the mistakes we have learned over the past several months.

That is the reason why the executive and the legislative have to work together.

Then, of course, the greatest reason of all, if we are going to put lives at risk in a situation of hostilities and conflict, we do that far better as one Nation than as one man.

The other day in debate here on the floor, and I cannot remember which of my colleagues said it, but it does not make much difference who said it, but what was said is very important, the statement was made over and over again, we made a commitment, we made a commitment, we said this and we said that.

We did not make a commitment. One man made a commitment. That is a lot different. He is not we. That is terribly important for this Nation to keep in mind as it moves to the potential commitment of enormous resources and lives.

One last point again to be made, and I think it is important, is this matter of the constitutionality of the War Powers Act.

Lately, in so many different forums and in so many different ways, various Americans have "done their thing" because they thought that the law was either unconstitutional or illegal, or whatever term they wanted to apply to it.

Well, let us get rid of that notion right out here on the floor and not compound it. We have a War Powers Act which is the law of the land. I do not care whether anybody thinks it is unconstitutional. If it is unconstitutional, it would be proclaimed to be unconstitutional. Otherwise, it is the law of the land. You cannot go ahead and ignore it. You cannot disobey it. Right now both things are being done. It is being ignored by the Senate and disobeyed by the President. We are supposed to be a government of laws, not of men.

Once U.S. Senators and Presidents pick and choose as to what laws they are going to obey, I would say we would have anarchy on our hands across the countryside. I think we have almost seen anarchy over the past several years.

The time has come, not as Republicans protecting the President or Democrats afraid to challenge the President—the time has come to behave intelligently.

The fact remains that I understand that probably, and I hope so, something akin to Warner-Byrd will be passed. It will be an evasion of the War Powers Act, but I suppose a half-loaf is better than none.

We have come a long way from just a few weeks back when people were actually standing on this floor asking, "What hostilities?" People were being killed. Mines were being laid. Ships were being blown out of the water. People were actually standing, U.S. Senators, asking, "Well, what hostilities?" We got around it using terms this was defensive, not offensive; this was terrorism, not war.

I have never heard such illogic presented as intelligence in my life.

We are over that hurdle. We all agree it is hostilities. We do not have to argue that. All we have to argue at this juncture is whether or not two things will happen: the law, either by its letter or its spirit, will be obeyed, and I am talking about the War Powers Act, and we will have within our grasp the information necessary to formulate an intelligent policy which gets to the points of the amendments of the distinguished Senator from North Carolina and the amendments before us; and we move to the matter of that policy not just in generalities which we all support but in specifics. This is the logical sequence. This is what needs to be done. Stand up and get counted on war powers; stand up and get counted on policy.

I suspect that in so doing, we will present a very resolute image to those who would indiscriminately take life in the Persian Gulf. Let those in Iran and the Ayatollah know that this Nation stands by its principles, that we are a government of laws, not of men, unlike his government, which is a government of men, not laws. Let them understand that this principle is not going to go out the window as a matter of the Persian Gulf war. It has been our heritage and our history. We are going to preserve it. We are a government of laws, not of men.

Let them understand that there is going to be the right of free passage in the international waters and that is not just something that is believed by the President of the United States but rather by the representatives of the people of the United States.

Let them understand that we are not going to devise any policies which on the face invite further risk and add nothing to the perception of our intelligence, that is, such as reflagging tankers and just saying we are going to protect them in certain situations setting them up for other situations. These are really the issues that stand before us.

I do not know what further amendments my distinguished friend from North Carolina has, but I certainly have no quarrel with some very essential statements of U.S. intentions, and U.S. history, and U.S. policy as is contained in the amendments before us. And it gives an opportunity to everyone on this floor now to say OK, this is the way we feel on these matters. Indeed, the more of these kinds of amendments that are presented, I hope maybe we would not only have going on record as being against Iran but once the record is clear if we can go to the pure war powers amendment of Weicker-Hatfield rather than the watered down one of my good friends, Senator BYRD and Senator WARNER—when I say "watered down" I do not mean that in a derogatory way. I think what they are doing is something that at least can get passed around here. There is much merit in that. But by the time we are through with these statements that I think in the absence of which a lot of people are nervous around here, once we get through with these statements, maybe we can actually do the job that the law requires us to do which is to invoke the War Powers Act.

Mr. DODD. Would my colleague yield?

Mr. WEICKER. I yield to my distinguished colleague from Connecticut for a question.

Mr. DODD. Let me, I can, Mr. President, commend my colleague from Connecticut for his statement. I know there have been those who have suggested that because he has expressed concerns about invocation of the War Powers Act that that should be interpreted as a lack of support for the decisions made by the President, and the actions that have been taken by our Armed Forces over the last several days hopefully will be the last, but I think all of us must accept the fact that it may not be the last.

I listened last evening in my home State of Connecticut to the Senator respond to the questions raised about whether or not he supported the decision by the President and the Department of Defense to hit the various targets that were hit over the last 48 hours. He expressed in unequivocal terms his strong support about what the administration has done. His junior colleague did as well, I might suggest.

I would only disagree with my colleague on one point, and I think it is more than just another fellow downtown making a decision. It is not just one man. That one man happens to be the President of the United States. And the Constitution provides tremendous authority and power to that one man.

So I would only disagree on that one point. But I do agree with him about the invocation of the War Powers Act. Frankly, I think it is becoming almost irrelevant. As I sense the people at home, out in the street, want to know whether or not what we are doing in the gulf makes sense or not. Should we be there? Should we not be there? I happen to agree with him. I think if we had a vote this afternoon on an amendment, whether it be offered by our good friend from North Carolina or the Senator from Connecticut on whether or not the President made the right decision, whether or not we ought to have the Armed Forces in the gulf, I think this body would vote overwhelmingly in support of that decision. That would by my guess, if there were an up or down vote on that proposition.

But I think the Senator also is correct in his assessment that there are those who have used the debate on the war powers to confuse, I think, the common commitment to protect our interests and the interest of our allies in what happens to be without any equivocation, any doubt whatsoever, one of the most or three or four most important strategic places on the globe. I hope we might get beyond the debate of the war powers and provide the President with what I think would be an invaluable tool because I suspect from some quarters of the globe, maybe from here on, particularly that there is doubt about whether the American people support the President and the decision to place forces there. I think it would be an invaluable tool for him to be able to have a vote in this body and in the other body which would endorse the support of those actions.

So my hope would be that we get beyond the War Powers Resolution, do what the law says, have the debate constitutionally in another forum, we have forums for that, and give that kind of expression of support so that it can be a tool for the President in convincing Iran or others that we are serious, and we are determined to remain committed in protecting what is a vital interest to ourselves, and to our allies.

So I commend my colleague from Connecticut for his statements.

Mr. WEICKER. I thank my colleague.

I yield the floor.

Mr. WARNER. Before the junior Senator leaves the floor, Mr. President, I am sure he is aware of the facts in the pending matter. I will recite in paragraph 2 precisely what the Senator from Connecticut asks. I read:

> Congress expresses support for a continued U.S. presence in the Persian Gulf of region and the right of nonbelligerent shipping of free passage in this region.

So we have before us now in the form of those amendments which are the subject of the business of the Senate right now such a recitation.

Mr. DODD. If my colleague from Virginia will yield, I appreciate him bringing that to my attention. I was aware of it. I wanted to make sure there was no doubt in anyone's mind about whether we stood on these two matters and not allowed them to be confused. I appreciate his statement.

Mr. WEICKER. I believe, and am I correct also that the Warner-Byrd amendment expresses reservations about the convoy's operations in the gulf?

Mr. WARNER. Mr. President, the Senator is quite direct. That is in paragraph 3. That is the consensus of a wide majority of the Members of this body. It has been expressed many times including by this Senator—that perhaps the reflagging in hindsight was not the best decision. But once it was made by the President, this Senator and I think almost all Senators said we will stand with the President on this issue. Nevertheless, it is important to recite for the benefit of him their reservations on that point.

Mr. WEICKER. I would just like to say so the record does state clearly that I completely support first of all, the sentiments expressed by the distinguished Senator from North Carolina in these amendments. I do support a U.S. presence in the gulf if it guarantees free flow of commerce in international waters. I have serious reservations about the effectiveness of a reflagging policy, and certainly of the reflagging policy that I now learn only applies to reflagging Kuwaiti ships in international waters.

Mr. LEAHY. Mr. President, during the debate on the Defense authorization bill 1 month ago, I joined 93 other Senators in voting for an amendment by the Senator from North Carolina which was similar, with one important exception, to this amendment. However, I will vote against this amendment and urge my colleagues to do the same, and I want to explain why.

The amendment offered by Senator HELMS last month expressed the sense of the Senate that the U.S. Navy is justified in sinking any Iranian vessel which threatens: First, the safe passage of any American warship or, second, other vessels known to have on board any citizen of the United States.

However, that amendment also contained an important qualification which distinguished it markedly from the one we are voting on today. It provided that it "shall not in itself be construed as legislative authority for any specific military operation."

Today's amendment states very clearly that the Congress "authorizes" the U.S. Navy to destroy any Iranian ship, missile site, or installation which threatens any ship with an American onboard.

If that isn't a 1987 version of the Gulf of Tonkin Resolution I don't know what is.

Obviously, as I have said over and over, I believe the United States has the right to respond with appropriate force to hostile acts by Iran directed against United States citizens or property. But I strongly oppose a blanket authorization by the Congress for U.S. military action against any country, with no limitation on the nature of force to be used, no explanation of what would constitute a sufficient threat to trigger the use of force, and no limitation on the duration of that authority.

It was just that kind of seemingly harmless, open-ended, and vaguely worded authorization which was used to justify our full-fledged involvement in Vietnam. I remember all too vividly how deeply Senator Fulbright, the chairman of the Foreign Relations Committee at the time of Tonkin Gulf, regretted his support for that fateful resolution.

This amendment is entirely unnecessary. If Iran threatens the United States the Congress will, as it always has, support an appropriate response commensurate to the threat. But we should not grant blanket authority for whatever military action this or future administrations want without even knowing the facts beforehand. I urge my colleagues to oppose this amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Will the Senator from North Carolina withhold for a moment? He is recognized. But the Chair in his capacity as a Senator from Illinois yields his hour under cloture to the majority leader.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

May I ask if this Senator's impression is correct? There is now an underlying amendment with a second-degree amendment on both of which the yeas and nays have been ordered?

The PRESIDING OFFICER (Mr. DIXON). The Senator from North Carolina is correct. When the question is put, the question will be on the adoption of amendment No. 1022, offered by the distinguished Senator from North Carolina, to his own amendment No. 1021, offered to the language of Senate Joint Resolution 194, proposed to be stricken by amendment No. 951 offered by the Senator from Virginia.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

The PRESIDING OFFICER. I want to clarify the record if I may. The underlying amendment is No. 1014.

Mr. HELMS. That is correct.

Mr. BYRD. Mr. President, I intend to support both the first- and second-degree amendments that have been offered by the distinguished Senator from North Carolina [Mr. HELMS]. I would hope that we can vote on these amendments en bloc rather than vote on the second-degree amendment and then vote on the first-degree amendment.

It seems to me that it would be well to vote on them as a package.

Will the distinguished Senator yield further?

Mr. HELMS. I am going to suggest exactly the same thing in the light of the comments by my friend from Connecticut and others. So if that is agreeable with the majority leader, certainly it is to me.

Mr. BYRD. Yes.

Mr. HELMS. They will be spread severally on the record.

Mr. BYRD. Yes. Let me read them en bloc in the RECORD. I believe the distinguished Senator from Connecticut did that. The amendment in the first degree reads as follows:

> Nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

The amendment in the second degree reads as follows:

> *Provided, further,* That nothing in this Resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom.

Mr. President, they are both in the RECORD—both in the RECORD twice, I believe. I support them both. I would hope that the Senator would ask the Senate that they be voted on en bloc, and I would also like to see the Senate vote on those amendments without further ado.

Mr. HELMS. I thank the distinguished majority leader for his suggestion. I do propound such a unanimous-consent request.

The PRESIDING OFFICER. The Senator from North Carolina asks unanimous consent that amendments numbered 1022 and 1014 be considered en bloc.

Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, will the Chair withhold granting the unanimous-consent request?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, just as the Chair was ruling on the unanimous-consent request, I was advised that a Senator on this side wishes to have two votes. To accommodate him, I ask unanimous consent that the order for the unanimous-consent request just agreed to be vitiated.

Mr. BYRD. Mr. President, reserving the right to object—and I will not object—could we include in the request those two votes occur back to back and without further debate or action intervening?

Mr. HELMS. I appreciate that suggestion, and I so request.

Mr. BYRD. I do not object.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The order for the original unanimous-consent request is vitiated, and the unanimous-consent request now is that there be separate rollcalls on each of those two amendments, amendments numbered 1022 and 1014, in sequence.

Mr. BYRD. And immediately.

The PRESIDING OFFICER. And immediately, without further debate.

Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, for months now, there have been efforts to try and get the Senate to vote to undercut the President in the Persian Gulf. We have spent countless hours discussing the U.S. presence in the gulf and the War Powers Act over and over and over again. I suspect much of this has to do, not with the Persian Gulf per se, but rather with 1988.

But, every time we go through this exercise of debating this issue, it sends a signal to the Ayatollah that the American presence in the gulf is neither firm nor resolute. This signal, in turn, just encourages Iran to test our will in much the same way it did th other night when it fired a Chinese-made Silkworm at a tanker flying the United States flag.

Mr. President, Congress needs to stop hyperventilating everytime a threat arises in the Persian Gulf. With this in mind, I am offering this amendment to make it clear to the world that regardless of what Congress says about the War Powers Act, or the Byrd-Warner amendment, the U.S. Navy is authorized to continue protecting American interests in the gulf.

Specifically, this amendment states that:

> Nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America.

The amendment is similar to the sense of the Senate amendment I proposed to the Defense authorization bill, which passed 91 to 4. This amendment, however, goes somewhat further by authorizing the Navy to protect U.S. interests in the Persian Gulf—notwithstanding the text of the underlying amendment.

Mr. President, it's about time we stood up to the Ayatollah. Iran—which is behind a great deal of international terrorism—has been harassing the United States and the rest of the free world for some time now.

While this latest provocation may be just another act in this pattern of harassment, this Senator believes that the Ayatollah is also testing us to see how we would react. Would the United States stand firm—or would we run with our tail between our legs at the first sign of trouble?

And that, Mr. President, is the issue before us with this amendment. Is the United States the kind of nation which stands up for its rights under international law? Or do we harp and whine and wring our hands over whether to cut and run from our commitments at the first sign of trouble?

It is not essential that each Senator agree with the U.S. commitment to the gulf. This Senator, for one, has had questions about the wisdom of the State Department's plan to protect Kuwaiti tankers.

But that is not at issue here—and indeed should not be at issue before the Senate. What we are talking about is standing behind President Reagan, our naval forces in the Persian Gulf, and his commitment to protect the American flag, and American lives from the Ayatollah.

So, that is the question before us. Do we cut the legs out from under the President and our forces in the Persian Gulf. Or do we make it clear that the U.S. Navy will not be prohibited by Congress from protecting American citizens in the Persian Gulf.

VOTE ON AMENDMENT NO. 1022

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1022.

Mr. BYRD. Mr. President, could we have a 10-minute time limitation on the second rollcall vote, and with the understanding that there will be an automatic call for the regular order at the end of 10 minutes?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to amendment No. 1022, submitted by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Sanford], the Senator from Illinois [Mr. Simon], the Senator from Mississippi [Mr. Stennis], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. Evans] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—2

Hatfield
Matsunaga

NOT VOTING—5

Evans
Gore
Sanford
Simon
Stennis

So the amendment (No. 1022) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1014

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment No. 1014, as amended, offered by the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD. Mr. President, so the clerk may hear the responses, may we have order?

The PRESIDING OFFICER. May we have order in the Senate?

The bill clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Sanford], the Senator from Illinois [Mr. Simon] and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. Evans], the Senator from Iowa [Mr. Grassley], the Senator from New Hampshire [Mr. Humphrey] and the Senator from Pennsylvania [Mr. Heinz] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 10, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—82

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Hatch
Hecht
Heflin
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Levin
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—10

Biden
Chafee
Cohen
Harkin
Hatfield
Leahy
Lugar
Matsunaga
Pell
Stevens

NOT VOTING—8

Evans
Gore
Grassley
Heinz
Humphrey
Sanford
Simon
Stennis

So the amendment (No. 1014) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to, Mr. President.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I want to indicate, I may not have been alert, the Senator from Iowa was on his way to vote but time expired before he had an opportunity to vote.

Mr. GRASSLEY. Mr. President, I was unfortunately delayed in reaching the Senate floor in time to cast my vote on amendment No. 1014 to Senate Joint Resolution 194. I just want to state that I would have voted "aye" on this amendment which supports the United State's right to protect the principle of Freedom of the Seas.

Mr. ROCKEFELLER. Under the cloture rules I yield my time to the Senator from West Virginia.

Mr. BYRD. I thank the Senator from West Virginia and also the Senator, now presiding, Mr. Dixon, for yielding his time.

Mr. Leader, this would be as good a time as any for us to explore the possibility for getting a time limitation and time agreement on the pending Warner-Byrd-Byrd-Warner amendments in the first and second degrees.

The distinguished Republican leader had indicated earlier today he would explore during his conference the possibility of getting a time agreement on these amendments and also a time agreement on the Bork nomination.

I wonder if the distinguished leader on the other side of the aisle now has anything that he can tell the Senate in this regard.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. We have been in the process of (a) trying to get a time agreement on the pending Byrd-Warner amendment, and we have been quite successful in that effort. We still have a couple of Members to clear it with. If we could obtain their approval—I have not yet been able to get a time agreement on—I have not even tried, I might add to the majority leader—to get a time agreement on the Bork nomination. We tried last week and I think there are one or two problems there.

I must say I think once we are on the Bork nomination, that we could make good progress.

I hope to be able to come back to the majority leader in the next 30 minutes on the so-called Warner-Byrd amendment with some agreement, if that would be helpful.

Mr. BYRD. Mr. President, I am going to propound a request to the distinguished Republican leader who has an objecter on his side of the aisle, I believe. It might be well if that objecter did the objecting.

May I say to the Republican leader that if we could reach an agreement on voting, say by 12 noon tomorrow, on the Warner-Byrd, Byrd-Warner amendments, I would ask consent that they be voted on en bloc and it would be my intention, then, not to stay in late this evening, if we could get an agreement to vote on those amendments at, say, noon tomorrow. It will be my intention, Mr. President, to go to the Bork nomination on the disposition of the Byrd and Warner amendments.

This would mean that upon disposition of the Bork nomination I would bring the Senate back to the War Powers Resolution. Otherwise that resolution could be debated for a considerable length of time. I would hope to be able to go to the Bork nomination upon the disposition of the pending amendments, en bloc, with a vote up or down on them and then go to the Bork nomination and then upon the disposition of the Bork nomination come back to the War Powers Resolution.

Mr. President, would the distinguished Republican leader like to respond to that before I make a request?

Mr. DOLE. Let me indicate, I think we should, as I have said for some days now, proceed to the Bork nomination. I happen to believe there is some momentum. I do not think it will change any votes, probably not. With all the other activity, with the stock market and the Persian Gulf and every other thing, it seems to me if we are going to have anyone listening to us on the Bork debate we need to start it. The American people are now concerned about the stock market and Persian Gulf activities. The longer we delay debate on the Bork nomination, in my view—and I could be wrong—the less interest there is going to be as far as the average American is concerned. I think we have a story to tell. The sooner we can tell it, the better it will be.

I am always an optimist, always very hopeful that some Members can discover the error of their ways and maybe change their votes. I do not think that will happen. If it would happen, we would certainly appreciate it.

In any event, I would like to move on the Bork nomination. I hope we can get the agreement on the Byrd-Warner amendment and have that vote by noon tomorrow, and go to the Bork nomination without a time agreement.

Mr. BYRD. I would be willing, if no Senator wishes to discuss the Byrd-Warner amendment, after a reasonable time this afternoon to go to the Bork nomination, and vote on Warner-Byrd, Byrd-Warner tomorrow, say at noon.

We can use some time today, as far as I am concerned, discussing the Bork nomination, and then on the disposition of the Byrd-Warner, Warner-Byrd amendment we would stay on Bork. I share the Republican leader's belief that the American people do not want to perceive this institution as being tied up for days on the Bork nomination. I do not think there will be any change in what I consider to be the foreordained decision on the nomination.

We can get on with other matters of concern to the American people.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent, Mr. President, that the vote on the Warner-Byrd underlying amendment in the first degree and the Byrd-Warner amendment in the second degree occur tomorrow at noon, that the vote on the amendments be en bloc; provided further, that upon the disposition of the two amendments en bloc the Senate proceed to the consideration of the Bork nomination in executive session, and, meanwhile, that there be 3 hours of debate today on the Warner-Byrd, Byrd-Warner amendments to be equally divided between and controlled by the two leaders or their designees, and that tomorrow there be 2 hours of debate beginning at 10 a.m. on the Warner-Byrd, Byrd-Warner amendments to be equally divided and controlled in the same manner.

Mr. DOLE. Mr. President, reserving the right to object, and I do not intend to object, though it may be that other Members will on this side, I will just ask a question: If, in fact, there is objection to the time agreement when we complete our debate on the Byrd-Warner, I guess we will just vote on it anyway?

Mr. BYRD. I did not hear the distinguished Republican leader.

Mr. DOLE. Let us say there were no further amendments offered to the Byrd-Warner amendments, I guess we could go to a vote on it yet today?

Mr. BYRD. Yes. That would be preferable, to vote on it today, dispose of it and get on with the Bork nomination. The only reason I mentioned noon tomorrow was because the distinguished leader on the other side of the aisle had mentioned that hour in his discussion.

Mr. DOLE. I may have indicated to the majority leader some time ago there is a Republican function this evening that I know some Members would like to leave here early this evening to attend.

I have no objection to the request.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. HUMPHREY. Mr. President, reserving the right to object, let me say I would have no objection to scheduling a time certain for Byrd-Warner, nor would I have any objection to returning to the Bork nomination. But it would seem to me that after 3 months, during which the opponents have dragged Judge Bork through the mud, as the confirmation comes to the floor of the U.S. Senate, the world's greatest deliberative body, as we have said, it deserves to be more than an on again, off again debate. I think we owe that much to Judge Bork and to the institution, the process. If we take it up, we ought to stay on it. If we want to go to Judge Bork today, fine, but I am afraid I cannot agree to such an agreement that makes the Bork confirmation an on again, off again issue.

Mr. BYRD. Mr. President, I am certainly not insisting on going to the Bork nomination, then going off and going on and going off again. I was merely throwing that out as a possibility for this afternoon only, if we can get the agreement on the Byrd-Warner amendment, following the theme that had been struck by the distinguished Republican leader that there be a vote thereon tomorrow at noon. I would be happy to have a vote this afternoon, say at 6 o'clock. We are ready to vote at 6 o'clock today, with the time evenly divided on the two amendments en bloc, and have the Senate then go to the Bork nomination. I can assure the Senator that, barring any emergency, it will not be my plan to leave the Bork nomination until it is disposed of.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, may I inquire? We have just had two decisive rollcall votes. I reserved the right to object, but I will not object. I wonder if we can have unanimous consent that these two amendments just voted upon be incorporated in the Byrd-Warner, Warner-Byrd.

Mr. BYRD. Mr. President, I have no objection to incorporating the Helms amendments into the Byrd-Warner.

Mr. HELMS. I thank the Senator.

(Mr. CONRAD assumed the chair.)

Mr. WEICKER. Reserving the right to object, I think we are on record as a matter of policy. I am having a great deal of difficulty with the watered-down evasion of our duty under the law as it is written. I am still grappling with that.

As you have said all along, these are two different debates, the war powers and our policy in the gulf.

I was glad to support the distinguished Senator from North Carolina in a statement of policy. But now incorporating it into a war powers enactment, which is a dilution of the War Powers Act, I am now given the choice of voting for something which is both a watered-down powers and a statement of policy merged with diluted war powers. I am afraid I have some problems with that.

It is not that I am not proud of my vote on both of these amendments. I am. I will stick by them. But conceptually, we have now come to the very point that I warned against at the outset of the debate, both as far as Byrd-Warner is concerned and as to a merging of war powers with policy.

And therein lies my objection.

Mr. HELMS. Very well. I am merely trying to save the Senate some time. I can, of course, offer them with the resolution. I will do that but I thought I would spare Senators the time of two rollcall votes. But I thank the distinguished majority leader. I do not object.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on the Byrd—I kind of shifted my thinking. I thought we were talking about finishing today on Byrd-Warner and then going to Bork full time.

Mr. DOLE. If the majority leader will yield, I think I was thinking the other way. That is how I cleared it. I would have to go all the way around the horn again.

Mr. BYRD. That is all right.

Mr. DOLE. If we got to the end maybe we could take up something else as long as we do not lose time. But I have cleared it one way.

Mr. BYRD. All right.

Mr. WEICKER. Mr. President, reserving the right to object, it was my understanding we were talking about continuing on the war powers debate on Byrd-Warner until noon tomorrow, and then moving to Bork. The reason why I think that is important is I have an amendment to Byrd-Warner, not as the amendment of the distinguished Senator from North Carolina to the underlying resolution. I wanted to make sure there was time to go ahead and do that. I do not think anybody wants to delay.

Mr. BYRD. All right. I ask unanimous consent that the vote on Warner-Byrd, Byrd-Warner as amended occur tomorrow at noon, and that the time therein, namely the time between this point and that point, namely not to exceed the 3 hours today, and not to exceed 2 hours tomorrow, be equally divided and controlled by the distinguished Republican leader and the majority leader or our designees; and that the amendments be voted en bloc.

Let me make it clear, Mr. President, that this agreement does not keep any Senator from offering an amendment to the underlying resolution. There are some Senators who want to offer amendments to that. It does not affect their right to do that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I hope it is understood that in this agreement, I thought I stated the amendment, the two amendments voted on, if amended, which implies that Senators who have second-degree amendments are not going to be shut out of their opportunity to offer them. It is not my intention to shut anybody out. The problem is not on occurring on that side, may I say. Senators on my side are not going to be shut out. God bless them. I love them too much to shut them out.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. It is my understanding the Chair did rule on the unanimous-consent request.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I thank the Chair.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have a procedural matter that is important to me. I want to clear it up, if I can. First, I must enter a parliamentary inquiry: Is my understanding correct that the Byrd-Warner amendment was modified to allow Senators controlling time to shut off the consideration of amendments simply by yielding back time?

The PRESIDING OFFICER. Would the Senator repeat that?

Mr. HELMS. Sure. My understanding is that the Byrd-Warner amendment was modified to allow Senators controlling time to shutoff the consideration of amendments simply by yielding back time.

The PRESIDING OFFICER. The Chair will take a moment to consult with the Parliamentarian.

Mr. HELMS. I understand. I had to do a lot of consultation before raising the issue. I understand the Chair's situation.

The PRESIDING OFFICER. The language of the amendment as modified does preclude the offering of amendments at such time as time has been used or yielded back. So that could preclude the offering of an amendment.

Mr. HELMS. Mr. President, Will Rogers a long time ago took note that the Congress was going back into session the following morning. He said, "I was afraid they were going to do that." I was afraid that my understanding was correct. I must raise a point of order, Mr. President, that this modification confers a new power upon the said Senators in violation of the rule excluding nongermane amendments. And I make that a point of order.

Mr. BYRD. Mr. President, I hope the Senator will withhold that point of order. I wonder if we are all talking on the same wavelength here.

Mr. HELMS. I hope so.

Mr. BYRD. It may be the distinguished Senator misunderstands, or maybe I misunderstand.

The modification that was made earlier today with respect to amendments that would be pending at the time all time under the statutory order had run its course, had to do with the resolution that will be in order 90 days from the time that this act becomes law, if it becomes law. It has nothing to do with shutting off any amendments to the Byrd-Warner, Warner-Byrd amendments. The modification that was sent to the desk only precludes such situations as arise with time-honored time agreements around here which often provide for a final time to vote, or an overall amount of time on a given matter, after which numerous amendments that are called up in many instances may still be voted on but without further debate.

So there can be a filibuster by amendment. But there are other situations in which only those amendments that are actually pending at the closing time may be voted on, rule XXII providing a case in point. Once the 30 hours have run their course under rule XXII, after cloture has been invoked, there is no longer an opportunity to filibuster by amendment because then only those amendments that are then actually pending are entitled to a vote.

That is what the modification provides.

It provides that with reference to the resolution that would be introduced, say 90 days from the enactment of the act, the resolution would go to the Foreign Relations Committee, it would be reported out no later than 15 session days after it had been in the committee, and then within 3 days it could be called up by any Member of the Senate. Then there would be a 10-hour limitation thereon. At the expiration of the 10 hours on that resolution, only those amendments that would then be actually pending would be entitled to a vote. That is what the modification provides.

Mr. HELMS. Mr. President, I appreciate the majority leader's explanation, and I certainly agree with him about any filibuster on amendments. I know of nobody who is proposing to do that. But once we establish a precedent, as the Senator knows far better than I do, it is there.

It seems to me that the modification, itself, is nongermane to the underlying amendment, under rule XXII. It is not a limitation but a grant of power, and hence it is nongermane.

I think we can work this thing out. I do not want the Parliamentarian to rule on it until we think about it a little. I am concerned about the effect this may have in the future. I have no problem with what the Senator wants to do on this particular legislation. So I withdraw my point of order temporarily.

The PRESIDING OFFICER. The point of order is withdrawn.

Mr. HELMS. But I shall raise it again.

Mr. BYRD. Mr. President, if any Senators have amendments—and I understand that there are some Senators who have amendments which were offered in a timely manner under the rule—now would be a good time for them to call up their amendments.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have been trying to work around a slight dilemma in which I find myself. Let me approach it another way so as not to create more disorder and accomplish the same thing I believe the distinguished majority leader wants.

Let me emphasize that the last thing I want to do is to even appear to be denying the distinguished majority leader, Mr. BYRD, and the distinguished Senator from Virginia, Mr. WARNER, an opportunity for a vote on the second-degree amendment to the underlying motion to strike and insert.

I ask unanimous consent that notwithstanding the provisions of rule XXII the pending second-degree amendment be in order.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina.

Mr. BYRD. Mr. President, reserving the right to object, will the Senator put in a brief quorum call so we can get this settled?

Mr. HELMS. Certainly.

The PRESIDING OFFICER. Is the quorum call suggested?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the time that was consumed during the quorum call be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum and I make the same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield myself 2 minutes.

REASSERTION OF AMERICAN FINANCIAL LEADERSHIP

Mr. BYRD. Mr. President, today I have sent the following telegram to the President of the United States:

THE PRESIDENT,
The White House,
Washington, DC.

Dear Mr. President: The continuing turmoil in financial markets around the world requires a reassertion of American financial leadership. The turmoil began here and we need to bring it under control here. I urge that action be taken immediately to restore confidence in this nation's financial markets and in the economic leadership of the United States.

The financial problems confronting this nation and the world now are too important to be relegated to rhetorical recriminations. The double deficits in trade and the budget are within our power to resolve, if we act cooperatively. The leadership in Congress is prepared to sit down with you to work out solutions to these problems that are in best interest of the people. Continued confrontation is not in the national interest.

I suggest that you convene a meeting of the bipartisan Congressional Leadership to reach an agreement on a course of action to lower our budget and trade deficits.

A clear statement that you will join with the Congress in moving to reduce the huge budget and trade deficits is needed. Internationally, we need policies that fulfill the earlier pledge that the world's key economies will work together to stimulate growth, reduce trade imbalances, and stabilize currencies.

Mr. President, it is time for all of us to join together and work toward constructive solutions for the good of the country.

Sincerely,

ROBERT C. BYRD,
Majority Leader,
U.S. Senate.

Mr. President, the Speaker and I, and others in the Democratic leadership of the House and Senate, have repeatedly stated to the President that we want to cooperate, that we do not want confrontation. The time has come when that cooperation is going to be absolutely necessary. I think it would be a breakthrough that would renew hope in the money markets in this country and around the world if the President would indicate that he is ready, at last, to sit down with the bipartisan leadership of both Houses and work together to lower the budget deficits and work together to enact reconciliation legislation that would indicate beyond any peradventure of a doubt that we are determined to bring the budget deficits down.

It seems to me that this is in order, it is appropriate, and it is imperative. I hope the President will join us.

Mr. President, I suggest the absence of a quorum and I ask that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The Senate continued with the consideration of the resolution.

Mr. BYRD. Mr. President, the Warner-Byrd amendment on which cloture was invoked is an amendment in the first degree. The Byrd-Warner amendment, which is the amendment in the second degree, virtually repeats the language in the first-degree amendment but makes such change as is necessary to qualify the second-degree amendment to key in such a way that they both virtually mean the same, but at the same time they have the effect of shutting out a second-degree amendment.

The agreement which has been entered into allows what essentially is a third-degree amendment, so that Senators who have entered amendments in a timely fashion, as required by rule XXII, may in the case of some of those amendments offer them still, even though they would otherwise be considered third-degree amendments.

Mr. President, let me state what the Warner-Byrd, Byrd-Warner amendments do not do. They do not require the President of the United States to terminate "any use" of U.S. Armed Forces in the Persian Gulf. They do not, if agreed to by the Senate and later by the House, require the President to pull a single helicopter, patrol boat, battleship, frigate, man or woman in uniform, or airplane from the Persian Gulf.

But the War Powers Act itself, if carried to its ultimate conclusion, could—could—require the President to terminate "any use" of the U.S. Armed Forces in the Persian Gulf unless the Congress declared war or had enacted legislation that would allow continued use of the armed forces that are there.

What the Byrd-Warner and Warner-Byrd amendments would provide are as follows: First of all, the Congress would determine by virtue of the enactment of the amendments, that the circumstances now existing in the Persian Gulf region, including the incidents involving U.S. military forces on September 21, October 8, and yesterday, October 19, justify an administration report and comprehensive congressional review of the U.S. military forces in that region. The combined amendments, which will be voted on en bloc, express support for a continued U.S. presence in the Persian Gulf region and express support for the right of nonbelligerent shipping to free passage in that region. In other words, the amendments if adopted would be saying we support continued U.S. presence in the Persian Gulf, so that we debunk any idea, any suggestion, any thought, any opinion, or any contention that the President would have to withdraw anything from the Persian Gulf.

So that would be clear on the face of the amendment. Congress expresses support for a continued U.S. presence in the Persian Gulf region. Nobody is saying get out of the Persian Gulf. Nobody is saying withdraw from the Persian Gulf. Nobody is attempting to jerk the rug out from under the President in the Persian Gulf. The Congress would, however, express its reservation about the convoy and U.S. operations of U.S. naval vessels in connection with tankers reregistered under the U.S. flag.

Mr. President, that has been the bone of contention all along, not that we have a presence there. There should not be any doubt that we intend to stay in the gulf. That has not been the bone of contention ever, although some have perhaps unintentionally made it appear to be so. Some have perhaps intentionally made it appear to be the question in issue. It is not.

I support the continued U.S. presence in the gulf. But I have, from the very beginning, expressed serious question as to the wisdom of reflagging and convoying Kuwaiti ships. At the present time, it is an open-ended policy. There is no termination date. Who is to say that the reflagging and escorting of Kuwaiti ships will end 6 months from today? Who is to say that it will end 1 year from today, or 2 years from today, or 3 years from today? There is no termination date. It is an open-ended policy. It is a provocative policy, and I think it is an unwise policy.

Why should the United States be putting American flags on Kuwaiti vessels and then convoying those vessels? That is not a policy that the Congress has supported.

I believe that the majority of the American people question the wisdom of that policy. That is what we are talking about. The majority of the American people support the continued U.S. presence in the Persian Gulf. But that is not to be confused with American support for the administration policy of reflagging and escorting of Kuwaiti vessels carrying oil.

So the Byrd-Warner amendment would express support for continued U.S. presence in the gulf, but it would continue to express reservations about the convoy and escort operations in connection with tankers reregistered under the U.S. flag. It would provide that within 60 days after the date of enactment of this act, the President would have to submit a report to the Congress in classified and unclassified form. How does that differ from the War Powers Act? The War Powers Act requires the President to submit a report within 48 hours. This amendment provides that he submit a report within 60 days, and the amendment sets forth certain specified information that would be required of the President. That information would be as follows:

The report would provide a complete review of the range of U.S. commitments in military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States.

The report would also include information as to the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy and the anticipated duration of the policy.

In other words, how long are we going to carry on the operation of reflagging and convoy? What is the anticipated timeframe within which that operation will continue and end? The amendment would require the President to state the objectives of the escorting operation, and how the administration measures progress toward those objectives. It would require that there be information concerning the funds that have been expended to date on the escort operation, and anticipated future funding requests. And the report would also indicate the impact of the operations on diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war. And what commitments have been made, if any, by other governments to support this operation? And what commitments have been made, if any, by the United States toward those other governments, and the impact that these operations have had on the operational deployments and readiness of U.S. forces in other regions?

In other words, what weapons, if any, have been drawn down from other world areas vital to U.S. interests? How have these operations impacted upon our military interests in NATO, in Europe, or elsewhere?

Well, after all, the American people are entitled to have this information. They are entitled to know what funds have been spent, what the anticipated future funding will be, how long the administration intends to carry on this policy of reflagging and convoying. What is the termination date? Is there any end in sight?

Then, following the receipt of the report, to make a long story short, the resolution would be introduced, it would go to the Foreign Relations Committee, it could not be reported out of committee in less than 8 days after its referral to that committee, but it would have to be reported back by to the Senate by the 15th day, or the committee would be considered automatically discharged from further consideration of that resolution. And within 3 days, any Member of this body, not just the majority leader, could move to proceed to the consideration of that resolution. That motion would not be debatable, and upon an affirmative vote to proceed to the resolution, there would be a time limitation of 10 hours on that resolution.

Amendments would be in order. The minority leader would be assured of at least one amendment. And there would be 2 hours on any amendment to be taken out of the overall 10 hours. And the minority leader would be assured of at least 1 hour on his amendment.

Mr. President, there are those who think that this is a watered-down war powers approach.

This approach will allow Congress to go to the crux of the matter and deal with the reflagging and convoying of the ships if it sees fit to do so, but does not require the President to terminate the use of armed forces in the Perisan Gulf and would not necessarily require the pulling out of those forces.

It seems to me that this is a very reasonable approach, and it would give the administration an opportunity to get Congress on board with the administration.

Why does the administration insist on going it alone? Why not let Congress have an opportunity to join in the gulf operation?

We hear this old idea thrown around that we cannot have 535 Secretaries of State. Nobody is suggesting that. But we are suggesting that Congress has a role in war under the Constitution. A declaration of war can be filibustered in the U.S. Senate. If there are not 60 votes to shut off a filibuster, then Congress will not declare war. The same is true in relation to any more limited military action that Congress might want to mandate. Congress would have to marshall 60 votes in the Senate to do that. But under this resolution, there would be no filibuster, because there would be an expedited procedure.

I should think the administration would want Congress to join. Who knows? Congress may even approve of the reflagging and convoying operation by that time. I do not know. I might even vote for that. But at this time I have a serious question. I might vote for it if I knew we were going no longer than, say, X amount of months, 6 months, whatever. I might be willing to vote for that; I might not.

At the present time, I have to express continued concern with an open-ended operation. We do not know how much it is costing. We do not know how long it will last. We do not know what the overall regional objectives are. We do not know whether the implementation of this particular part of the policy is playing into and furthering the overall regional policy objectives. These are among our concerns.

Mr. President, I yield the floor.

PRESIDENT REAGAN AND CONGRESSIONAL LEADERS TO DISCUSS BUDGET DEFICIT

Mr. CHILES. Mr. President, while the minority leader and the majority leader are here, I wish to call attention to the fact that I have heard some good news moments ago, and that is that the President has said that he is ready—I do not know whether the word is ready or anxious or exactly what it was—to sit down and discuss with Congress how we deal with the deficit.

I am sure that that did not happen without some Members on the other side of the aisle making that request as well. Given the events we have had of yesterday, I think that is very good news, in view of the fact that we have the automatic across-the-board cuts that are hanging out there unless we can come to some agreement.

In our discussion this morning, when we were talking about trying to get a meeting like this together, we were saying that it is a time that we come together and that we not attempt to point the finger at anybody, but that we try to find a solution to it.

We know that the deficit is a horrible problem for this country; that we have been borrowing more money than we have been paying for, for a long time.

We know that it affects the trade deficit, we know that it affects interest rates, we know that it affects banking and monetary policy, and certainly it creates problems with respect to our relationships with our allies. We know all those things, and we have been unable to come to grips with it. Through this year, we have been at a stalemate so far as having Congress and the White House sitting down and dealing with this is concerned. I think this is very good news. I am glad to see the market make a recovery today and go up a little. But, to me, this is news that is just as good as seeing the fact that the market did not go down any further. I think it is very good news for the country.

The leadership on both sides of the aisle in Congress should be ready to participate in this. I look forward to our now being able to perform our role of leadership and responsibility and try to find a way of coming to grips with this deficit. I think it is very important, and I am delighted to see it.

I want to thank our friends on the other side of the aisle who I know were making some calls today and making their views and requests known in this, as well as anybody else who participated in it. I think it is excellent news, and I am delighted to see this action taken.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. CHILES. I am happy to yield.

Mr. BYRD. Mr. President, the President has said that he would sit down with congressional leaders to discuss reducing the deficit; but after offering these conciliatory and heartening comments, I understand that he again blamed 50 years of Democratic control of Congress for the deficit.

I am encouraged that the President is apparently willing at last to talk with the bipartisan leadership in Congress about reducing the budget deficits. I believe that it is time to stop pointing fingers and cool the rhetoric, if progress in such talks is to be made.

I am willing, at any hour, to sit down. I am sure that the distinguished Senator from Florida, the Senator from Texas [Mr. BENTSEN], their counterparts in the House, and their counterparts on the other side of the aisle in both Houses are willing and eager to sit down and work together with the President in the effort to have bipartisan approaches and bipartisan support for reconciliation, for any measures that will effectively and realistically reduce the budget deficit.

I welcome the opportunity to do this. I hope that we will all approach the task—if indeed we are given that opportunity—with open minds and with a determination to put politics aside and deal with difficult questions to which there are no simple answers, to which there are no painless answers, to which there are no easy answers. I welcome this change of attitude on the part of the President. I think that, in itself, is a breakthrough. I hope that we will see that kind of openmindedness as we hopefully go forward in the effort.

Mr. CHILES. Mr. President, I knew that the Senate majority leader would approach it in that spirit, and that is the spirit in which we do approach it. We accept the first message. We think it is good news, and we look forward to participating.

Mr. DOLE. Mr. President, I, too, want to comment on the President's statement.

As I said this morning, the leadership must come from the President. He must be the focal point. He must call the meeting. He must lead the discussion. We have heard the distinguished Senator from Florida and the distinguished majority leader state precisely what the President indicated he would do.

I think it is time that we have a new compact with Congress. This problem needs to be addressed. And many involved may have to take a look at their positions and long held views—whatever they may be.

So I would hope that that meeting would come very quickly. I think the efforts by the distinguished Senator from Florida were very helpful. The President has indicated that he will discuss the broad range of issues with us and that should satisfy all of our concerns. We do not need to pass a resolution.

So I first of all commend the President and I hope that his statement will reassure American investors that we are going to deal with this problem and that our economy is essentially strong and sound. But if the economy needs attention, it is going to happen in a bipartisan way, it is going to happen in a global way. We are not going to dillydally in the process, though I think we need to wait, a few days to see precisely what may happen.

The market was up over 100 points today. It may not mean much at this point, but it was at least some positive sign.

So I would indicate as a Republican leader, we are ready to meet. I think I speak for all of my colleagues. As far as this Senator knows none of us has an answer. If we had an answer we would be in a pretty strong position, because a number of people who are experts indicated that there are many problems we have dealt with over the past several years—but one thing we have not dealt with is the deficit. It is not going to grow away or blow away or go away. It is going to have to be dealt with and it is going to take hard choices, difficult votes; it is going to make us look at any new spending programs that may be headed for the Senate floor. I can think of three or four, whether it is farm credit or catastrophic coverage or welfare reform, there are a lot of them waiting in the wings, that are going to cost a lot in the out years. We may have to back up and take another look as to how we can resolve some of the problems.

I say that because the Congress cannot have it both ways. We cannot complain about the President, whoever he may be, Democrat or Republican, and then continue to pass more spending bills because somebody out there wants it done.

So, I think everyone understands, the need for a meeting at the earliest possible time. I do not know when that will be but I get a clear impression it will be very soon.

The President will call upon us to provide bipartisan support, and I think that is, as I understand it, what most everybody would like to have.

We can start blaming Democrats or Republicans or the White House or the Treasury or the Fed or Japan or the Germans, and I assume we can probably make a pretty good speech in any one of those areas. I could make a great speech blaming the Democrats, come to think of it. I am not going to do that. And I think probably the majority leader could make a pretty good speech, maybe pointing the finger at Republicans. But I really do not believe the time has come for that. It may come later. The market is back up and we can take a long look. But the time now is for action and resolution and anything else we can do to send the appropriate signal to the markets, that if there is a responsibility, then we intend to meet it.

So once again, I thank the team effort between the majority leader and the minority leader for what I think is a very, very important turn of events for the good.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I just want to compliment the majority leader and the minority leader. I cannot be more pleased than in what I just heard. Maybe the tragic crash in the market yesterday sent some signals to all of us here that it is time to get together and face the problems head on, and so very early this morning I went to the majority leader's office and we discussed this difficult position that we are facing.

I believe that the efforts on the part of the majority leader and the minority leader and the signal that we just received here on the floor of the U.S. Senate is something that we can be proud of and maybe, just maybe, it is going to be a direct turn around from the road that we were going down, the road of confrontation, confrontation, confrontation, for the sake of confrontation. Maybe we will awake the Congress of the United States and we will work together to cast some very hard votes that we are going to have to cast and get the confidence of America back where it belongs, and that is that we have a country that can move forward if we move forward with some relationship between how much money we spend and how much money we take in.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I want to join in what has just been said by the Senator from Nebraska and also associate myself with the comments that have been made by the two distinguished leaders and by the chairman of the Budget Committee, the Senator form Florida, who on the floor earlier today urged and suggested that we have an economic summit.

What we most need right now is confidence-building, and I can think of no action that will do more to build the confidence of the American people than a firm demonstration of a determination by the White House and Congress to go forward together on a bipartisan basis to reach some kind of an agreement that will make a meaningful impact on the budget deficits this year.

Frankly, I think one of the things that has been upsetting the American people is their observation that we appeared once again to be on a collision course. We were trying to act on a budget reconciliation package that was going to be acceptable to the White House; the White House seemed determined to try to see that a sequester order was carried out that would set the stage for a confrontation with some later resolution, perhaps next year, in the total amount of social spending and defense spending.

Mr. President, we simply cannot afford that kind of vision in our country at this time. We cannot afford to have a state of suspension about important economic policy matters for 4 or 5 months. We cannot afford the image of division between the White House and the Congress. The war between the two ends of Pennsylvania Avenue must end. The country will be so much better served if we can enter into negotiations now and in a few days enter into an agreement on a reasonable and a balanced package to reduce the deficit, than waiting after 4 or 5 months of serious division, of partisan rhetoric before we attempt to try to reach the same result.

It is time for us to move forward now. We must do it in a consensus way. We are dealing with an American problem. We must do it as Americans, not as Republicans and Democrats, and I am very encouraged, I am very encouraged that there has been a signal given that the way is open now to start these negotiations, and I would urge the President, I would urge all parties involved to put aside partisan rhetoric, to try to struggle to try to reach some kind of accommodation to meeting with each other halfway and move forward.

The distinguished chairman of the Finance Committee is on the floor seeking recognition. I do not want to take more time because I want to hear what he has to say.

Let me say, Mr. President, that the chairman of the Finance Committee, the Senator from Texas, has set an example for us in trying to do the responsible thing. Under his leadership the Finance Committee has hammered out a package which is fair and balanced. He has made it clear that the Finance Committee would meet its responsibility on revenues but it did so with the expectation that the rest of the Senate would meet its responsibilities in terms of cutting off spending, and by proposing this kind of moderate approach I think the action that was taken by the Finance Committee is one that opens the door to participation by the White House and to what I hope will be an ultimately positive conclusion to negotiations that will soon get underway.

So I want to compliment him for his responsible leadership and compliment also the distinguished chairman of the Budget Committee who for so many years has tried to awaken the American people to the danger caused by increasing budget deficits and to do something responsible about it.

With this message from the White House we see that the way is open now for some resolution that will begin the confidence-building process. We have to admit both ends of Pennsylvania Avenue are part of the problem. If we are going to restore confidence in this country the best way we can do it is demonstrate that we can all work together to tackle this problem.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Texas.

Mr. BYRD. Mr. President, I yield such time as the Senator from Texas requires. I assume he wishes to continue to speak out of order and I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Thank you very much, Mr. Leader.

Mr. President, the United States is not so rich nor so powerful nor so isolated from the financial markets of the world that we can repeal the laws of economics. We cannot continue to go into debt to the extent we have. We cannot continue to increase our foreign debt to the point that we have increased it without the financial markets of the world finally reacting to it. That is what has happened over the last week. We have to turn that around.

What you have is a financial crisis in the market of this country, and that means that we have to have a cooperative effort. We cannot assign it to some commission to report back to us in 90 days. But it means a situation where the President of the United States and the leadership of the Congress, Republicans and Democrats alike, have to address this problem, have to make the tough and the hard choices, have to determine the priorities for our country.

One of the things that we did in the Finance Committee was to say that we are just going to raise half of the money to comply with the Gramm-Rudman fix and the rest of it has to be done with savings. It seems to me that it ought to be the President, too that is making a major move to try to say the cuts are a priority of this country of ours and we have to reduce the spending but, at the same time, there has to be some restoration in the tax cut that we have made in the past. And that is the kind of a package that we have put together.

I discussed this early this morning with the White House people, urging that we have this kind of a meeting of minds, that we quit talking past each other, and that we get together in a dialog, not trying to make partisan points off of each other, not trying to lay the blame here or there, but reconciling the differences and facing up to the responsibility that we are charged with. That is what we hired out for and that is for us to measure up to.

I congratulate the distinguished chairman of the Budget Committee calling for a summit meeting. We are not talking about the kind of a fanfare, the television extravaganza that we saw at the time we had President Ford and we had hundreds of people that went down to the White House. We are talking about a few people meeting in quiet sessions, making the tough, hard choices and finally doing those things that are necessary to meet this kind of a cut.

What we have seen is a very substantial cut in that deficit for this year. But part of that is an aberration. Part of that is because of the change in capital gains and increased collection of taxes at the end of last year being paid this year. That makes about a $20 billion swing on this year and works in the negative next year to add about $12 billion to that deficit. So we cannot bring the cut down next year as much as we would like to.

I think the figure of $23 billion is a reasonable figure because you have an uncertain market now. And the one thing that you do not want to do is to have too tight a fiscal policy as you try to evaluate how the market is going to react.

I, frankly, think that we have seen the market reduce the price earnings multiples to basic values that are attractive. But you do not know how the public is going to react and how much they are going to be cautious in withdrawing purchases. So it is a delicate market and it is important to this country that we act responsibly to it.

I am delighted to see what the majority leader has done and how he has responded and the minority leader. That is the kind of a move toward a bipartisanship resolution of this problem that I think is important. I congratulate them. Anything we can do on the Finance Committee to try to participate and assist, we will do that.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from New Mexico?

Mr. DOMENICI. Will the distinguished Republican leader yield to the Senator from New Mexico?

Mr. DOLE. I am happy to yield 10 minutes.

Mr. DOMENICI. Up to 10 minutes. I thank the distinguished minority leader.

Mr. President, I think everyone knows that the train wreck of the Gramm-Rudman-Hollings $23 billion sequester is upon us. We have had a reminder in the last few days that we have a very serious responsibility to reduce the deficit. Obviously, if we do nothing, the deficit will be reduced on November 20 or thereabouts, add another 5 to 7 days, it will be reduced in a very arbitrary, almost capricious manner without regard to any reasonable policies, without regard to any kind of activity on our part as policymakers. And that clock is ticking.

We have now had a reminder that there are many things that contribute to the economic well-being of our country and the free world. But without any question, we are constantly reminded by those who make decisions and who purport to understand the workings of the marketplace that one of the major problems is the continued American deficit and our inability to grasp it, put our hands around it and do someting with it.

We made rather significant gains last year. But it is obvious that the deficit is upon us again, and we have a very serious responsibility to do something about it. I think it is obvious that since early this morning, the distinguished chairman of the Budget Committee made a point that we ought to get on with some kind of dialog, albeit he suggested a much broader base of dialog with the White House than that which is occurring.

But it should be obvious to everyone that some of us on this side—the distinguished Republican leader, Senator DOLE; myself and I am sure others—have been in touch with the White House in an effort to suggest that the time is not only right but it is obvious that the time is upon us to get together and see if we cannot put together a bipartisan or nonpartisan, however you want to call it, deficit reduction package, eliminating the need for a sequester, but nonetheless in a real way getting $23 billion in deficit reductions.

I have had the opportunity today to talk to all kinds of experts. I had the opportunity to talk to Paul Volcker twice. And while, obviously, the distinguished former chairman of the Federal Reserve has many ideas, he concluded that for starters we ought to live up to our commitment to get started on that trail of deficit reduction as prescribed.

We have talked to the White House and I am very pleased that at least we have the signal that will permit us to try to put together, at the pleasure and under the leadership of the distinguished majority leader, and the minority leader on this side, and obviously their counterparts in the House, a team. It does not have to be a replica of the gang of 21 or the gang of 17, nor is there any absolutely imperative group. But clearly, those who can make binding commitments, as binding as we can here in the Congress, have to start to get together.

I have a couple of admonitions. You know we have a $23-billion deficit redution package waiting out there. It will come down on us either as a train wreck, as I have described it, or it will be the guillotine, as the distinguished chairman from Florida has described it. We have an opportunity to put something together that is better than that, better for the American people and better for policies that will be meaningful and good for our country.

But I hope everyone knows that we cannot go into those kinds of sessions with absolute, fixed positions. I can tell you right now, if I am privileged to be on the group, I will not go there with absolute, firm, fixed positions. I am willing to consider it a result-oriented, thoroughly bipartisan approach. That does not mean that we will roll over and play dead and we will accept just anything.

I mean, the idea of not being stuck in one's foot tracks and saying "it will be my way" applies to everyone, as I see it. It applies to the majority, it applies to us and, hopefully, it applies to the President of the United States.

If we can all go there with that idea, with that kind of openmindedness, with a willingness to decide what we can agree upon and what we can agree upon in order to accomplish this, and then commit to execute it, I think we have a reasonably good chance, No. 1, of avoiding a sequester; and, No. 2, within a very short timeframe, sending a clear signal that we are going to get part of our work done in a manner consistent with the U.S. House, the U.S. Senate, and the President, all of whom were elected to do part of it. And we ought to get ourselves together quickly and try to get it done.

I want to thank all of those who have been instrumental and clearly it is a lot of Senators, a lot of House Members, Democrats and Republicans, who have pushed and were waiting for this day and look anxiously for the next 3 or 4, perhaps the next week to 10 days.

I will go there, as I indicated, with an open mind, with a minimum of obstructions in my mind because I do believe we ought to quit arguing around the margins, and perhaps we have been doing too much of that, and get on with a package that we can all support.

Mr. President, I thank the distinguished minority leader for yielding time and I yield the floor.

Mr. CHAFEE. If the Senator will yield, before he came on the floor, I did say I wanted to compliment some people on this side of the aisle whom I knew had made calls. I am glad the Senator acknowledged each one of those, and I personally want to thank him. I think, as I said earlier, that this is good news.

The sooner that we can show a meeting, I think, the better, again for the economy. But as the Senator said, I think it now shows that we are serious. This is the kind of crisis that we always respond to in this country, and we respond to it in a way that we leave partisanship aside and we begin to deal with the problem, and I think that is the opportunity we have. I certainly look forward to going to that meeting. The majority leader has already said he does, and I thank the Senator.

Mr. DOMENICI. Mr. President, might I indicate to the distinguished chairman of the Budget Committee, while the majority leader was here on the floor, that clearly we have a rare opportunity. I want to say I think we all understand the basic ground rules and what we have to get accomplished. We cannot go there unless our leadership has put together the right kind of team that can make commitments to our President. We cannot go there and talk about contingencies that we might be able to do this. At some point in time if we are asking him to concede, we have to be ready to concede.

I might say to the majority leader it has been very difficult to do that in the past because we have had one committee or two committees negotiating or a Budget Committee negotiating.

Far be it from me to suggest that I understand it better than the distinguished majority leader. I do not even begin to presume that. But clearly we need appropriators and we need those people who are on the Ways and Means and Finance and we need budgeteers and we need the leaders. We need some armed services experts, I assume.

All added together, I think, if they all understand that we are there to make some firm commitments, we will not make them unless we have the wherewithal to live up to them. I think that is the case and I think that is very, very important.

As my good friend from Florida knows we can draw all the budgets we want. We can set parameters and there is a lot of room for debate and discussion. We have some parameters. Now we have to get down to some specifics and I believe it can be done. I thank you for your kind words. Mr. Majority Leader, I hope with your urging the right people on your side and our side we can accomplish something and thank you for your leadership.

To the distinguished Senator from Kansas, I know you have been working on this today. You are anxious to make sure we get something constructive done. As you said today so eloquently we have to be concerned about reducing expenditures as well as the other side of the ledger. Clearly I have heard from the chairman of the Finance Committee. If I read him right he is talking about the same thing.

So, I think when we get that kind of spirit going we can get it done.

I yield the floor.

Mr. BOREN. Mr. President, I would ask that the majority leader might yield to me for the purpose of my offering an amendment to the pending matter.

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. The majority leader has 23 minutes remaining.

Mr. BYRD. I yield as much time as the distinguished Senator may require up to 8 minutes.

Mr. BOREN. I thank the distinguished majority leader.

REQUIRING COMPLIANCE WITH THE PROVISIONS OF THE WAR POWERS RESOLUTION

Mr. BOREN. Mr. President, of course on Monday, October 19, the President initiated action as a response to the unprovoked attack on an American-flagged tanker in Kuwaiti waters on October 16.

As we have been dealing with the pending matter, I think all of us have understood that it is extremely important for the United States to speak with a single voice whenever possible when we are dealing with matters which constitute a threat to our national security.

It must be clearly understood by those who would test the United States, by those who would seek to inflict damage upon the United States, that when it comes to those kinds of threats, those kinds of actions, that the American people stand united; that the Members of Congress put aside party labels, that they do not act as Democrats or Republicans, that we do not act as Members of the legislative branch but we act together in concert.

Therefore, Mr. President, it is my desire to send to the desk an amendment which would be modified to read as follows:

> It is the sense of the Senate that the Senate express its approval and support of the President's action of October 19 making an appropriate and carefully considered response to the Iranian attack on a U.S. flagged ship in Kuwaiti waters on October 16, 1987. And that the Senate strongly endorses these actions as a firm indication of the United States' resolve that the Iranian government cannot take military action against the United States with impunity.

I think it is very important, Mr. President, that we send this kind of strong message to the other side.

We cannot be pressured into not living up to our own vital national interests. We cannot be pushed out of the Persian Gulf region. We will not give in to threats. We will not give in to attempts to inflict damage on the United States. And we will not allow that damage to be inflicted without a price being exacted for it.

Mr. President, the President acted very carefully. He did not overreact. He took action which was very limited, which did not imperil the lives of civilians in Iran. But it should have sent a message, and it is a message that should be underlined by an expression of support here in the Congress.

Those kinds of attempts to inflict damage on the United States and our national interests must stop, that they will not be tolerated, and that a price can be expected to be exacted in any kind of actions of a similar kind ever taken again in the future.

Hopefully this kind of limited, carefully thought out response will lead, not to escalation, but will lead to a deescalation of tensions in the Persian Gulf region.

It is a message forcefully delivered but carefully delivered.

Therefore, Mr. President, it is my desire to offer this amendment so that the Senate can end the day today by going on record firmly in support of the action which the President has taken.

I filed this amendment as amendment No. 1027, earlier, before the cloture vote. However, the current language is a modification in the sense that I have removed the word "Resolved" and inserted "In lieu thereof it is the sense of the Senate." And I also specified the actions of October 19 in the amendment and made some other minor technical wording changes.

Mr. President, I have cleared this with both the majority leader and the minority leader and I would ask unanimous consent that it might be in order to consider this amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1027

(Purpose: To amend amendment No. 951, to express the Sense of the Senate with regard to the President's actions in the Persian Gulf on October 19, 1987)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment, as modified, numbered 1027.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BYRD. The amendment is short. Would the Senator withdraw his request?

Mr. BOREN. I would be happy to.

The bill clerk read as follows:

At the appropriate place in the amendment insert the following:

It is the sense of the Senate that the Senate express its approval and support of the President's actions of October 19 making an appropriate and carefully considered response to the Iranian attack on a U.S. flagged ship in Kuwaiti waters on October 16, 1987. And that the Senate strongly endorses these actions as a firm indication of the United States' resolve that the Iranian government cannot take military action against the United States with impunity.".

Mr. BOREN. Mr. President, I ask unanimous consent that the distinguished majority leader, Senator BYRD, the distinguished minority leader, Senator DOLE, and the distinguished Senator from Florida [Mr. GRAHAM] be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I also ask unanimous consent that the distinguished Senator from North Carolina, Senator HELMS, be added as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, the matter is self-explanatory. I would urge my colleagues to firmly go on record on this matter so we can send a very clear signal that this country is united on the action the President has taken, united behind the message that the action was intended to send.

Mr. BYRD. Mr. President, I will take 1 minute to compliment the distinguished Senator on offering this amendment and to thank him for allowing me to cosponsor it. I think that it strengthens the measure which, in the final analysis, I hope will be adopted by the Senate.

Mr. President, did the Senator ask for the yeas and nays? I understood he was going to.

Mr. BOREN. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, this will be the last rollcall vote today, but Senators should be alerted to the fact that there will be a rollcall vote tomorrow morning beginning at 9:30 a.m. on an amendment that will be offered by Mr. DOLE. That will be, in accord with the late, usual practice, a 30-minute vote and the call for the regular order will be made at the expiration of 30 minutes.

Mr. DOLE. Mr. President, I also want to commend the distinguished Senator from Oklahoma. It is a good amendment and should be supported by everyone, and I assume it will be supported by everyone.

I would also like to include in the RECORD at this point a letter received from the President, addressed to the distinguished President pro tempore, Senator STENNIS, which, in fact, is consistent with the War Powers Act. I ask that it be made part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 20, 1987.

Hon. JOHN C. STENNIS,
President pro tempore of the Senate, Washington, DC.

DEAR MR. PRESIDENT: At approximately 10:45 p.m. (EDT) on October 15, 1987, a Silkworm missile fired by Iranian forces from Iranian-occupied Iraqi territory struck the *Sea Isle City*, a U.S.-flag tanker, in Kuwaiti territorial waters. This action is the latest in a series of such missile attacks against targets in Kuwait, including neutral vessels engaged in peaceful commerce. It also is the latest in a series of acts by Iranian forces against the United States, as described in my letters of September 23 and October 10, 1987.

At approximately 7:00 a.m. (EDT) on October 19, 1987, Armed Forces of the United States assigned to the Middle East Joint Task Force, after warning Iranian naval personnel and allowing them to depart, attacked Rashadat Platform, an armed platform equipped with radar and communications devices which is used for surveillance and command and control. This platform, located in international waters, also has been used to stage helicopter and small boat attacks and to support mine-laying operations targeted against non-belligerent shipping in the Persian Gulf. It is now believed that this platform also was the source of fire directed at a U.S. helicopter on October 8, 1987. United States Navy ships fired upon and destroyed the platform. Additionally, U.S. forces briefly boarded another platform in the area, which had been abandoned by the Iranians when the operation began.

United States forces have returned to their prior state of alert readiness in the Persian Gulf region. They will remain prepared to take any additional action necessary to protect U.S. forces, U.S.-flag vessels, and U.S. lives.

These restrained and measured actions by U.S. forces were taken at my specific direction in accordance with our inherent right of self-defense, as recognized in Article 51 of the United States Charter, and pursuant to my constitutional authority with respect to the conduct of foreign relations and as Commander in Chief.

Since March 1987, I and members of my Administration have provided to the Congress letters, reports, briefings, and testimony in connection with developments in the Persian Gulf and activities of U.S. Armed Forces in that region. Additionally, congressional leaders were consulted on Sunday, October 18, 1987, concerning this operation. In accordance with my desire that the Congress continues to be fully informed in this matter, I am providing this report consistent with the War Powers Resolution. I look forward to cooperating with the Congress in pursuit of our mutual, overriding aim of peace and stability in the Persian Gulf region.

Sincerely,

RONALD REAGAN.

The PRESIDING OFFICER. Is there further debate on the amendment? The Chair hears none. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH] and the Senator from Washington [Mr. EVANS] are necessarily absent.

The PRESIDING OFFICER (Mr. FOWLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz

Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Hatfield

NOT VOTING—7

Danforth
Dixon
Evans
Gore
Sanford
Simon
Stennis

So the amendment (No. 1027), as modified, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1017

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I send an amendment to the desk, and I indicate that the amendment will be laid down this evening. I will make my statement tomorrow. It is amendment No. 1017. I think it was properly filed.

Let me indicate that the amendment is in behalf of myself, the distinguished majority leader, Senator BYRD, Senator BOREN, Senator HELMS, and Senator D'AMATO.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. BYRD, Mr. BOREN, Mr. HELMS, and Mr. D'AMATO proposes an amendment numbered 1017.

Nothing in this resolution should be construed as limiting the President's Constitutional powers as Commander-in-Chief to utilize American military forces in self-defense operations, or as urging the withdrawal of American military forces from the Persian Gulf region.

Mr. BYRD. Mr. President, I believe it is our earlier understanding that there would be a rollcall vote on this amendment.

Mr. DOLE. Yes.

Mr. BYRD. And it will begin at 9:30.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. FOWLER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the rollcall vote on the amendment by Mr. DOLE begin at 9:30 a.m. tomorrow; that that be a 30-minute rollcall vote; that the regular order be automatic at the conclusion of the 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT REAGAN'S STATEMENT ON THE ECONOMY

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD the statement made by the President this afternoon, at 5:02 p.m. eastern daylight time. I read the last paragraph:

However, I think it prefereable, if possible, that the Executive and Legislative Branches reach agreement on a budget deficit reduction package. Accordingly, I am directing that discussions be undertaken with the bipartisan leadership of the Congress for that purpose.

That is what we discussed earlier today.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The PRESIDENT. I have a statement I'd like to read here. I guess you all know now that the market closed with up 102.27 points, and 604 million shares traded. I've just finished a meeting with my economic advisors, and we thoroughly reviewed the developments of the financial markets of the last few days, and the actions we've taken thus far and our options for additional measures.

We've been in constant contact with financial leaders of both countries, with the exchanges around the world, and with market participants. While I remain concerned, I'm pleased that the steps taken by the Federal Reserve have had a salutary effect on the markets. Interest rates are down across the spectrum. I'm also pleased with the actions by two major banks today to lower their prime interest rates.

I believe that there remains room in the markets for a further decline in interest rates, and specifically, I'm pleased that the bond market is strong and the foreign exchange markets are stable.

Yesterday Secretary Baker and his German counterpart reaffirmed our agreement with the Germans to coordinate our economic policies to provide for noninflationary growth and stable exchange rates. Finance Minister Miyazawa issued a similar statement reaffirming Japan's intent to cooperate with other industrial economies and follow economic policies that will provide for a sustained growth in the Japanese economy.

And in a phone conversation with Prime Minister-Designate Takeshita this morning, he stated that his top priority was to maintain stable economic relations with the United States. The United States remains committed to the Louvre Agreement, and today I signed the preliminary sequester order under the Gramm-Rudman-Hollings law.

However, I think it is preferable, if possible, that the Executive and Legislative Branches reach agreement on a budget deficit reduction package. Accordingly, I am directing that discussions be undertaken with the bipartisan leadership of the Congress for that purpose. The economic fundamentals in this country remain sound, and our citizens should not panic. And I have great confidence in the future.

ROBERT E. (BOB) JONES, JR. HIGHWAY

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3325, a bill designating a highway in Alabama as the Robert E. Jones, Jr. Highway and that the Senate proceed to its immediate consideration.

I also ask unanimous consent that no amendments be in order to the bill and that no motions to recommit the bill be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, this request has been cleared on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3325) to designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway.

There being no objection, the Senate proceeded to consider the bill.

Mr. HEFLIN. Mr. President, I am delighted to rise, today, to voice my support for H.R. 3325, a bill which has introduced by Congressman RONNIE FLIPPO, of Alabama, that will designate the Alabama segment of Corridor V, Appalachian Highway System, as the Robert E. (Bob) Jones, Jr. Highway.

Bob Jones, as many of my colleagues will remember, was a Congressman from the Fifth Congressional District of Alabama for over 30 years—from 1946 until the end of the 94th Congress in 1977—a longer tenure in the House of Representatives than any other Alabamian in history. He is an outstanding statesman, who has represented the interests of the people of his district, the State of Alabama, and, indeed, all America in a superb manner.

This is a fitting tribute to him and to his work in Congress, for his efforts stand as a landmark to the devotion and dedication he demonstrated for Alabama and America. Congressman Jones was instrumental in the passage of the Appalachian Regional Development Act that enabled this highway, which will bear his name, to be built. All who travel on that road will see his name as a testament to all of the good that has come from this act for the people in rural areas throughout this region.

During his tenure in Congress, Bob Jones was responsible for many of the benefits that are enjoyed by all the people of the Nation. As a member for many years, as acting-chairman, and chairman of the House Committee on Public Works and Transportation, Congressman Jones worked on legislation and issues that touched almost every aspect of the lives of the citizens of America, and his accomplishments continue to be vital today.

He worked to improve the Tennessee Valley Authority, thus enabling thousands of people to enjoy the benefits of electricity and otherwise develop and improve their lives, their homes, and their businesses. He worked on water bills that allowed the citizens of this Nation to enjoy clean drinking water without fear of sickness and disease, and that helped to clean the pollution of our Nation's lakes, streams, and rivers. He played a huge role in the construction of many of the Federal buildings in Alabama, here in Washington, and throughout the Nation as the author of the Public Building Act of 1959. Among the buildings that were made possible by this legislation are the National Portrait Gallery, the Smithsonian Museum of Science and Technology, and the John F. Kennedy Center for the Performing Arts, as well as many others. He worked on highway bills that enable the citizens of America safer, faster, and more economical travel throughout the Nation. These are but a few of the many accomplishments that Bob Jones made possible during his many years of service on behalf of my State and our country.

Congressman Jones had, throughout his life, been devoted to helping the people of America and in Congress would take all necessary action to accomplish his goals, but he was adamantly opposed to any measure that he considered irresponsible or unwise, despite its potential for good. House veterans will cite an example that occurred during the Eisenhower administration. Congressman Jones was the key man blocking the administration's plan for financing the proposed interstate system with Federal bond issues. He believed, and I might add was wise in his views, that the system should have been built on a "pay as you go" basis. As a result of his work, the gasoline tax was developed and the highways of this Nation are build without any funds from the Federal Treasury. I believe that Members of both the House and the Senate can learn from his great example.

Mr. President, I am delighted that this bill will help to recognize the tremendous work of Congressman Bob Jones for our State, our region, and our Nation. He is, indeed, a great man who has served Alabama and America in a tremendous manner. There is no way that we could ever adequately repay him for all his work, or express our gratitude, but this is a small step in the right direction.

Thank you, Mr. President.

SALUTE TO BOB JONES

Mr. **SHELBY**. Mr. President, I rise today to offer my heartfelt support for H.R. 3325, a measure which is now before the Senate to designate the segment of Corrider V in my home State of Alabama as the Robert E. (Bob) Jones, Jr. Highway. I especially take this opportunity to pay tribute to a man for whom I hold deep respect and admiration.

Bob Jones is one of the greatest leaders the State of Alabama has ever been blessed with and one of the finest men I have ever had the privilege of knowing. He served for 30 years in the U.S. House of Representatives and his ambition and devotion has been felt by many. He was responsible for making the Appalachian Regional Commission a realty and as a result has offered his beloved Appalachia growth, expansion, and direction to be felt by generations to come.

As chairman of the Committee on Public Works and Transportation, he blazed a trail of reform in the areas of water pollution, water resources, and transportation for the South. His contributions to the Tennessee Valley Authority provided a desperately needed boost to his home region and to much of the rest of the Nation. He served as an outstanding role model for the entire Alabama delegation during his years of service, and his reputation as the very finest in southern statementship will never be forgotten.

It is my honor to salute Bob Jones, my fellow Alabamian and my friend.

The **PRESIDING OFFICER**. The question is on the third reading and passage of the bill.

The bill (H.R. 3325) was ordered to a third reading, was read the third time, and passed.

Mr. **HEFLIN**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **McCAIN**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WAR POWERS

Mr. **PELL**. Mr. President, earlier today I announced that next month the Foreign Relations Committee intends to reexamine the War Powers Resolution with a view to possibly revising the law. The committee will do this through a series of hearings which will provide for a full airing of the constitutional dimensions of the question, which will consider practicalities as well as principles, and which will draw upon 14 years of experience with the War Powers Resolution as written.

I wish to emphasize that this will not be an effort to resolve the present dispute over the applicability of the War Powers Resolution to the current situation in the Persian Gulf. While that dispute has given rise to our effort, the committee's work is unlikely to be completed in time to bear upon the issue now at hand. Ours will be an endeavor aimed at a long-term solution to the war powers question, not a quick fix for current circumstances.

I also want to stress that while I intend to support the measure offered by the majority leaders and the Senator from Virginia, I do not intend that this compromise constitute, by implication, any disparagement of the war powers law now in effect or the principles which underlie it.

Critics of the War Powers Resolution continue to characterize it as an idiosyncratic product of its time—an effort to prevent another Vietnam. But that, in my view, is a distortion. The War Powers Resolution is not intended to prevent the necessary use of American military power, but rather to prevent the commitment of power unaccompanied by careful analysis and the commitment of national will.

The framers of the Constitution intended that Congress be an active participant in the decision to declare or commence hostilities. While the War Powers Resolution, in its current form, has failed, a way must be found to give modern meaning to constitutional intent. As the Foreign Relations Committee undertakes this project, our aim is not to satisfy some narrow sense of congressional or Senate prerogative, but to see whether we can devise a war powers mechanism that works.

In this effort, I solicit the testimony and advice of any and all of my colleagues. I also urge the constructive participation of the administration, from which we will seek testimony. It will not be enough for the executive branch simply to adopt the position that the War Powers Resolution and any successor are unconstitutional. For what is constitutional beyond doubt is the intent of the framers that Congress—the elected representatives of people—be centrally involved in any decision which commits this Nation and its people to war. Our task must be to construct an executive-legislative mechanism that operates effectively; and to create that mechanism will require executive-legislative cooperation.

NONPROFIT ORGANIZATIONS ASSISTANCE TO SSI AND AFDC RECIPIENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 1793, a bill dealing with nonprofit organizations assistance to SSI and AFDC recipients, and I ask unanimous consent further that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. Without objection, the appropriate committee will be discharged.

Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1793) to reinstate and make permanent the disregard of nonprofit organizations inkind assistance to SSI and AFDC recipients.

AMENDMENT NO. 1036

(Purpose: Making technical corrections in S. 1793.)

Mr. BYRD. Mr. President, on behalf of Senators MOYNIHAN and DANFORTH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. MOYNIHAN [for himself and Mr. DANFORTH], proposed an amendment numbered 1036.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"(a)" before Section 2639(d); and add after "period." the following:

"(b) The amendment made by this section shall be effective on October 1, 1987.".

Mr. MOYNIHAN. Mr. President, I rise today to urge immediate passage of S. 1793, a bill to reinstate and make permanent the disregard of charitable in-kind donations to recipients of the Supplemental Security Income [SSI] and Aid to Families with Dependent Children [AFDC] Programs.

Congress first put this disregard in place in 1983 and extended it through September 30, 1987.

I want to emphasize that both Houses were in the process of making this disregard permanent when the Reagan administration instructed Social Security offices across the Nation to begin counting the value of charitable donations—such as blankets, food, or fuel for home heating—when calculating a poor household's eligibility for public assistance benefits.

At present, individuals on SSI are entitled to receive a maximum Federal payment of $340 per month, couples $510 per month. It is estimated that these monthly benefits for poor elderly, blind, and disabled persons could be cut by as much as $113 for individuals and by $170 for couples if the administration's instructions are carried out.

Mr. President, the administration's handling of this situation has shocked Senators on both sides of the aisle. According to press accounts, even the Secretary of Health and Human Services, Dr. Otis R. Bowen, was taken completely by surprise. To his credit, the Secretary took quick administrative action to temporarily forestall the implementation of the new policy.

Mr. President, it is the administration's insensitive and haphazard handling of this entire issue that leads members of the Finance Committee to move as an emergency bill a provision that we had just included in our budget reconciliation bill.

Both the House Ways and Means Committee and the Finance Committee have acted to make this disregard of charitable donations permanent. Both committees included the necessary provision in the budget reconciliation bill. Unfortunately, the President is threatening to veto our budget bill.

Consequently, we must act on separate legislation if we are to protect SSI and AFDC households from unconscionable benefit reductions when they receive charitable assistance. We must act quickly because the Secretary has put in place only a stop-gap measure. At the same time, we must reassure indigent persons and families that their public assistance benefits will not be cut if they accept in-kind donations of food or fuel.

Mr. President, it is my understanding that S. 1793 has been discharged from the Finance Committee, with one technical amendment in order.

This amendment, which I now offer on behalf of Senator DANFORTH and myself, makes clear that the disregard of in-kind charitable assistance is made effective retroactive to October 1, 1987.

Mr. President, as amended, I believe S. 1793 has been cleared on both sides of the aisle.

Mr. President, I want to thank the distinguished chairman of the Finance Committee, Senator BENTSEN, for expediting consideration of this bill. I also thank Senators DANFORTH, DOLE, DURENBERGER, WALLOP, CHAFEE, and WARNER for joining with Senators PRYOR, BRADLEY, MITCHELL, and myself in seeing that this important provision is passed by this body as quickly as possible.

Mr. President, I ask that two articles from the New York Times, detailing the administration's actions on this issue, be included in the RECORD at the conclusion of my statement.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 16, 1987]

NEW REAGAN POLICY TO CUT BENEFITS FOR THE AGED, BLIND AND DISABLED

(By Robert Pear)

WASHINGTON.—The Reagan Administration has adopted a new policy that will reduce welfare benefits for many elderly, blind and disabled people who receive free food, shelter, firewood or winter clothing from churches and charitable organizations.

Such non-cash assistance must be counted as income under the new policy, Administration officials said today.

The policy applies to people seeking or receiving benefits under the Supplemental Security Income program, which issues monthly checks to 4.3 million elderly, blind, and disabled people who have little or no other income.

The program, run by the Social Security Administration, is expected to cost $12.3 billion this year. More than 60 percent of the beneficiaries are physically or mentally disabled and cannot provide for themselves.

Rhoda M.G. Davis, the Associate Commissioner of Social Security, declared the new policy in a confidential "emergency instruction" to Social Security field offices last month. There has been no public announcement of the policy, which took effect Oct. 1.

From May 1, 1983, through Sept. 30 of this year, the Government disregarded the value of food, shelter, clothing and certain home energy assistance in determining eligibility for Supplemental Security Income. Mrs. Davis said the statutory authority for such exclusions expired at the end of September. Legislation to extend it is pending in Congress, but has become snarled with other issues.

The Administration has sent mixed signals to Congress about whether it would accept the legislation. Several Administration officials said today they would not oppose it.

Members of Congress, church groups and advocates for the homeless expressed outrage at the new policy and said the Administration could have extended the old policy if it had wanted to.

"For every bag of groceries we give these poor people, the Government will reduce their benefit checks," said Sharon M. Daly of the United States Catholic Conference, the social action arm of the Roman Catholic Church. "The more we help these people through local parish programs, the poorer they will be."

Gregory Machler, director of assistance programs for the Social Security Administration in New York and New Jersey, said Mrs. Daly's analysis was correct. "The more people receive in the form of charitable contributions, the less they will receive in benefits," he said. "It defeats the whole purpose of trying to help someone with private assistance."

Under the new policy, he said, any non-cash assistance that a person receives from a private nonprofit group will be assessed at its market value and counted as income. "Any such assistance in excess of the first $20 will be charged against the individual, and the monthly benefit will be reduced dollar for dollar," Mr. Machler said.

A $510 MONTHLY MAXIMUM

The maximum Federal benefit under the Supplemental Security Income program is $340 a month for an individual and $510 for a couple. Monthly benefits could be reduced as much as $113 for an individual or $170 for a couple. That reduction would be enough to eliminate benefits for some people receiving less.

Federal officials said the new policy was in effect for people who apply for benefits, as well as for those already on the rolls, who must have their cases reviewed periodically at local Social Security offices.

Representative Ron Wyden, an Oregon Democrat, said he had already heard complaints about the new policy from constituents who stand to lose welfare benefits because they have been receiving gifts of food from local nonprofit groups.

"The Administration appears to be grasping at technicalities to force further cutbacks in programs that serve domestic needs as we go into the cold-weather months," Mr. Wyden said in an interview. "Administration officials are continually urging the private sector to do more to help poor people, but now they are throwing up roadblocks to such voluntary efforts."

BENEFITS CALLED INADEQUATE

Maria Foscarinis, a lawyer with the National Coalition for the Homeless, a nationwide federation of advocacy groups, said Supplemental Security benefits were already inadequate to cover the cost of such basic items as food and shelter in many cities. "This new policy will further diminish the ability of recipients to make ends meet," she said.

Mrs. Daly of the Catholic Conference said the Social Security Administration was moving with "uncharacteristic haste" to count donations of food, clothing and shelter as income. "The agency has been much slower in carrying out laws to help the poor," she said.

For example, she said, the law that required the Government to disregard charitable gifts in calculating benefits under the program was passed on July 18, 1984. But final rules to carry out this section of the law were not issued until Oct. 29, 1986.

John B. Trollinger, a spokesman for the Social Security Administration, said the new policy was actually a reversion to the policy that existed before 1983. There was bipartisan support for the more generous policy first adopted in 1983 and extended in 1984.

Under the policy that took effect this month, Mr. Trollinger said, Social Security officials will count the value of hot meals served in soup kitchens, as well as bags of groceries taken home from food pantries.

Social Security officials said they would also count the value of oil and other fuel donated to poor people, portable heaters, fans, blankets, storm doors and other items that help reduce the cost of heating or cooling a home. In many cases, the officials said, the value of shelter provided in church basements would also be counted as income, and benefits would be reduced accordingly.

The House Ways and Means Committee has approved a bill that would extend indefinitely the requirement for the Government to disregard the value of such assistance. A similar provision is being considered by the Senate Finance Committee.

[From the New York Times, Oct. 17, 1987]

U.S., FACING CRITICISM, DROPS PLAN TO CUT BENEFITS FOR POOR

(By Robert Pear)

WASHINGTON.—Under a hail of criticism, the Reagan Administration quickly retreated today from its policy of reducing welfare benefits for elderly, blind and disabled people who receive free food, clothing or shelter from churches and charitable groups.

Dr. Otis R. Bowen, the Secretary of Health and Human Services, said that he would take administrative action to prevent the reduction of benefits, with the expectation that Congress would soon pass legislation banning such cuts.

ADMINISTRATION BLAMES CONGRESS

His action came after disclosure of the new policy caused profound political embarrassment for the Administration, which criticized Congress for not acting on the issue. Details of the policy were disclosed today in The New York Times.

The effect of Dr. Bowen's action will be to suspend instructions already sent to Social Security field offices around the country. The instructions, from Rhoda M. G. Davis, an Associate Commission of Social Security, said that donations of food, clothing, shelter and fuel oil must be counted as income in determining eligibility for welfare benefits.

Under that policy, which took effect Oct. 1, recipients of Supplemental Security Income benefits would lose a dollar of Federal support for every dollar of private or charitable assistance they received. The program issues monthly checks to 4.3 million elderly, blind and disabled people who have little or no other income.

Representative Marge Roukema, Republican of New Jersey, joined Senator Daniel Patrick Moynihan and Representative Thomas J. Downey, both Democrats of New York, in denouncing the restrictive policy.

Mrs. Roukema said she called the White House today as soon as she learned of the policy. She said she told White House officials: "This is an outrage. It's totally unacceptable. It is completely inconsistent with the intent of Congress, and you should disavow it immediately."

Social Security officials in some states had already begun to notify charitable groups and welfare recipients of the new policy, which was in effect for people who applied for benefits as well as for those already on the rolls. These people would have been required to report any charitable assistance they received. The case worker would calculate the approximate value of such assistance, to the extent it exceeded $20, and subtract the value from the monthly benefit.

BOWEN SAID TO ACT QUICKLY

Secretary Bowen said he was issuing the administrative order "to protect the interest of poor elderly and disabled Americans," and he added: "It was never our intention that these most fragile of Americans be harmed by this lapse in the legislative process, and none will be."

An aide to Dr. Bowen said that the Secretary did not know of the new policy before today.

Until today, Federal officials had insisted that no one in the Department of Health and Human Services had the administrative discretion or leeway to grant such a dispensation. They said they had to count the value of non-cash assistance because Congress had failed to extend a law exempting charitable gifts from the computation of welfare benefits.

The exemption was first adopted, with bipartisan support, in 1983, and Congress extended it in 1984. It expired Sept. 30 of this year.

Joseph R. Wright, deputy director of the Office of Management and Budget, said: "I blame Congress for letting the law lapse. Members of Congress are the only ones who can pass a law. The President can't pass a law."

Mr. Wright said that Dr. Bowen's dispensation would last for six months. The Secretary is using authority that he has under the Social Security Act to suspend enforcement of parts of the law and to approve demonstration projects. Such projects are usually small-scale experiments designed to test novel methods of delivering social services. But the waiver for the Supplemental Security Income program applies nationwide.

Senator Moynihan, who is chairman of the Finance Committee panel on Social Security programs, said the policy adopted Oct. 1 was "sneaky, mean and contemptible." Moreover, he said that Administration officials never told Congress that they had adopted the policy.

"They did this in the dark of night," he said. "I suppose that if you are going to steal food from the blind, you should do it in the dark of night."

Both houses of Congress are considering legislation that would establish a permanent policy excluding charitable gifts from the computation of Supplemental Security Income benefits. But the legislation is also the vehicle for Democratic proposals to raise taxes, and President Reagan has threatened to veto any bill containing such tax increases.

Senator Moynihan introduced a separate bill to protect recipients of Supplemental Security Income this afternoon.

Mr. Downey, who is acting chairman of the Ways and Means subcommittee on public assistance, said the policy was "a metaphor for the way the Administration has dealt with the poor for the last seven years." In the past, the Administration has often tried to restrict eligibility for welfare and Social Security disability benefits.

The Supplemental Security Income program is expected to cost $12.3 billion this year. The maximum Federal benefit under the program is $340 a month for an individual and $510 for a couple.

Mr. Downey said, "Members of this Administration ignore laws they don't like, such as the War Powers Act," which limits the President's ability to send American troops into combat areas. "But when it comes to enforcing laws that hurt the poor, they're Johnny on the spot."

Dr. Bowen said that Congress was "criticizing the department for following the letter of the law."

Dr. Bowen said the Administration had been "working with members of Congress since June" to extend the exemption for gifts of food, shelter and clothing.

However, Congressional aides of both political parties said they had been told by Social Security officials earlier this year that the Administration opposed a permanent extension of the law permitting poor people to accept such gifts without suffering any reduction in welfare benefits.

Sharon M. Daly of the United States Catholic Conference, the social action arm of the Roman Catholic Church, said: "We are very pleased that Secretary Bowen acted quickly to rescind the ill-advised instruction issued by the Social Security Administration.

Mr. DANFORTH. Mr. President, earlier this month, the Social Security Administration sent an instruction to Social Security field offices that, if implemented, would have reduced welfare benefits for many elderly, blind, and disabled people. These are some of the neediest people in our country and implementation of the regulations would have been a disaster.

The proposal—which has since been rescinded—required that any noncash assistance in excess of the first $20 that a person receives be counted as income when determining the amount of the supplemental security income benefit. This would have meant that private donations to these people, such as blankets given to the homeless, meals served at soup kitchens, or turkeys provided at Thanksgiving time, would have resulted in a dollar for dollar reduction of their monthly benefit.

Mr. President, the Senate is now acting to put a statutory end to this near emergency. In this regard, I am pleased to join with Senator MOYNIHAN in merging S. 1793 and S. 1795—bills we introduced on Friday to correct the problem. I commend his leadership on this matter and am pleased that with the enactment of this bill into law, SSI recipients will not have to wait for the passage of the highly politicized budget reconciliation package to know that their benefits are safe.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1036) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section (a)2639(D) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

(b) The amendment made by this section shall be effective on October 1, 1987.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR SENATE LEGAL COUNSEL REPRESENTATION

Mr. BYRD. Mr. President, I send to the desk a resolution on behalf of myself and Mr. DOLE. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 299) to direct the Senate Legal Counsel to represent Senator Heinz and Senator Specter in the case of Wesley Carroll v. Pennsylvania Board of Probation and Parole, et al.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. A plaintiff in a civil lawsuit in the U.S. District Court for the Western District of Pennsylvania has named Senator HEINZ and Senator SPECTER as defendants. The plaintiff, who is a prisoner in a State penitentiary, has also named several State officials and agencies in Pennsylvania. Although the plaintiff alleges various deprivations relating to his incarceration, his complaint includes no specific factual allegations relating to either Senator HEINZ or Senator SPECTER.

This resolution will authorize the Senate Legal Counsel to represent Senator HEINZ and Senator SPECTER to seek the dismissal of the claims against them in this case.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 299

Whereas, in the case of Wesley Carroll v. Pennsylvania Board of Probation and Parole, et al., Case No. 87-2119, pending in the United States District Court for the Western District of Pennsylvania, the plaintiff has named as defendants Senator John Heinz and Senator Arlen Specter;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a) (1982), the Senate may direct its counsel to defend the members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Heinz and Senator Specter in the case of Wesley Carroll v. Pennsylvania Board of Probation and Parole, et al.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCain. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER EXTENDING DATE OF REFERRAL—S. 1085

Mr. BYRD. Mr. President, I ask unanimous consent that the referral of the bill S. 1085 to the Committee on Armed Services be extended to November 9, 1987, and that the committee have the authority to report amendments only to title I of the bill, and that the committee be discharged from all further consideration of the measure if it has not reported the bill by November 9, 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—INTERNATIONAL RUBBER AGREEMENT, 1987 (TREATY DOCUMENT NO. 100-9)

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Natural Rubber Agreement, 1987 (Treaty Document No. 100-9), which was transmitted to the Senate today by the President of the United States.

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the International Natural Rubber Agreement, 1987, adopted at Geneva on March 20, 1987. The Agreement was signed on behalf of the United States of America on August 28, 1987. The report of the Department of State is attached for the information of the Senate.

Like its predecessor, the International Natural Rubber Agreement (1987) seeks to stabilize natural rubber prices without distorting long-term market trends and to foster expanded natural rubber supplies at reasonable prices. It provides for continuation of the buffer stock of not more than 550,000 metric tons established by the 1979 Agreement. The new Agreement incorporates improvements sought by the United States and other consuming countries designed to ensure that it fully reflects market trends and operates in an effective and financially sound manner. The buffer stock is to be used to defend a price range that is adjusted regularly in accordance with market conditions; its financing is to be shared equally between importing and exporting members.

To meet U.S. financial obligations arising from membership, authorization and appropriation legislation will be submitted for congressional approval. The necessary funds will be included in the budget for Fiscal Year 1989. Approval will allow the United States to deposit its instrument of ratification in the fall of 1988. The appropriation will be offset to a substantial degree by assets to be transferred to the United States from the existing Agreement.

The Agreement will have a term of five years that can be extended for two additional years. It should provide substantial benefits for consumers of natural rubber. The buffer stock is of sufficiently large size to provide, over time, adequate protection for both the maximum and minimum levels of the price range, thereby providing balanced protection for all members. Moreover, exporting members undertake to pursue policies to maintain continuous availability of natural rubber supplies to consumers. Finally, by moderating price increases during periods of high demand, the buffer stock also could help avoid inflationary pressure on manufactured rubber product prices.

The Agreement is consistent with our broad foreign policy objectives. It demonstrates our willingness to engage in a continuing dialogue with developing countries on issues of mutual concern and embodies our belief that long-run market forces are the appropriate determinants of prices and resource allocations. It will also strengthen our relations with the ASEAN countries, since three of them—Malaysia, Indonesia, and Thailand—account collectively for approximately 80 percent of world production of natural rubber.

For all these reasons, I urge the Senate to give this Agreement prompt consideration and its advice and consent to ratification to enable the United States to join the Agreement on a timely basis.

RONALD REAGAN.

THE WHITE HOUSE, *October 20, 1987.*

PROGRESS ON THE TAXPAYERS' BILL OF RIGHTS

Mr. PRYOR. Mr. President, I would like to direct the attention of my colleagues to some articles which appeared recently in several of the country's foremost business publications.

These articles, which appeared in Forbes, Business Week, Barron's, and Financial Planning, make an eloquent and factual case for passage of the "Omnibus Taxpayers' Bill of Rights Act of 1987." Mr. President, I would request that these articles be included in the RECORD.

Mr. President, the Senate Finance Committee has agreed to make this bill, S. 1774, a part of the budget reconciliation package which it will soon send to the Senate floor. It is my earnest hope that the House will agree to take similar action and that we can get the President's signature this year on a bill which gives taxpayers the same rights in their dealings with the IRS which our citizens have come to expect in other dealings for the past 200 years.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Forbes, Nov. 2, 1987]

THE SCARIEST DUNNER

On Halloween last year, gremlins in an IRS computer played a trick on Henry James of Charlotte, N.C. James, who is general counsel of a Pepsi bottler, received an IRS notice with big black letters at the top saying "Final Notice" and demanding immediate payment of $7,799.02 that he didn't owe. "It came totally out of the blue," says James.

What followed was Kafkaesque. Despite numerous phone calls and letters to the IRS, James could not unravel the problem, though he had often practiced before the IRS in his 30 years as a lawyer. The IRS slapped a lien on his property in November 1986, potentially ruining his impeccable credit rating, he says. It stayed there for about two months—until the IRS finally figured out that it had made a mistake, removed the lien and formally apologized to James.

"The whole thing was embarrassing and humiliating," says James. "But at least I wasn't alarmed. I wonder what something like this would do to an average citizen." Believe it or not, the IRS started to make the same mistake all over again four months later. It sent another final notice before realizing its error and stopping the collection juggernaut.

The cry of innocents in distress has evoked a white knight in the person of Senator David Pryor (D-Ark.). Pryor's proposed Taxpayers' Bill of Rights aims to safeguard taxpayers from the worst excesses of the IRS collection machine.

A huge wave of popular support for the bill has surprised official Washington. "We were shocked, actually," says an aide to Senator Alfonse D'Amato (R-N.Y.). A mention of the bill in a flier from D'Amato produced an unexpected 11,500 letters from constituents, many with similar tales of IRS blunders.

In part, Congress has only itself to blame. It has enacted five major tax laws in the last six years, confusing taxpayers and tax authorities alike. The tax changes have included "a nuclear arsenal of penalties," as Peat Marwick Main tax expert Gerald Portney terms them, making it dangerous for taxpayers to be on the losing end of an argument with the goverment. Meanwhile, IRS computer automation has ground relentlessly forward, not always smoothly. The U.S. Chamber of Commerce estimates that about half of its members have suffered because of IRS administrative error.

Among other things, Pryor's legislation would:

Generally require that the IRS deal with a taxpayer's authorized representative instead of the taxpayer himself. This has been a sore point in recent years, as agents have often gone behind the CPS's back to ambush the defenseless taxpayer.

Allow taxpayers to tape-record audit sessions.

Make the IRS send two separate notices of deficiency by registered mail to taxpayers at least 30 days apart, instead of just one. Too often taxpayers who move find themselves threatened with seizure out of the blue. "This helps remind the IRS to do more major investigation before seizing assets," snorts David Burton, tax policy chief at the U.S. Chamber of Commerce, "like checking addresses in a current phone book or tax return." The IRS has been known to mail notices to the address on an old return being audited, while ignoring the current address contained on a return for a later year.

Remove penalties and interest on taxes owed as a result of a taxpayer's reliance on incorrect written advice given by the IRS.

Give taxpayers the right to recover professional fees and costs when they win appeals from IRS actions within the IRS' own appeal channels. Current law permits recovery of costs for successful taxpayer appeals to Tax Court, but the vast majority of tax disputes never go to court. Thus, bullying taxpayers is all too often a risk-free proposition for the IRS. As with the current law covering Tax Court costs, the taxpayer would be reimbursed only if the IRS agent's position was unreasonable. At the same time, the bill doubles the penalty for taxpayers who bring frivolous suits under these provisions.

Empower officials in each IRS district and service center to yell "Stop!" in cases like James'. "Too often" says one expert, "you deal with people who see and understand a problem but are powerless to do anything about it."

Make the IRS itemize "amount owed" figures into tax, penalty and interest components, and tell which parts of a return generated them.

The IRS is anticipating some provisions of the bill, clarifying its publications, for example, that outline taxpayer rights and obligations. But it is fighting most of the bill—arguing that it could cost millions in revenue and delay the collection of taxes. "I am afraid this bill is not going to solve anything," says IRS Commissioner Lawrence Gibbs, nothing that lawmakers aren't promising any extra funds to implement the requirements. "It is a legislative solution to what are essentially problems of management. It could raise false expectations from taxpayers, and I'm afraid we will be unfairly blamed as a result."

The bill, which has 55 cosponsors, stands a good chance of passage as a whole or in part this year, says the Chamber's Burton. That can't come too soon for John Owings, a self-employed insurance and mutual funds salesman from Bedford, Mass. As this was written, he was still trying to get the IRS to return $2,600 it wrongly seized from his bank account in July.

Here's his story. In the process of changing accountants in 1986, Owings missed remitting a quarterly tax payment. His new accountant found the mistake when completing his 1986 return and sent in the tax—about $3,000. He sent in the interest and penalties later.

The IRS, however, misapplied the payment to 1987, which Owings noticed and told the IRS about. But that didn't stop a flurry of erroneous IRS letters demanding payment of the 1986 withholding. Each time Owings explained the mistake. Then, in June, before leaving for a two-week vacation in July, he received a notice threatening to size the money from his bank account in ten days if he didn't pay immediately.

Extremely upset, Owings called the IRS and again attempted to explain the mistake. At this point he received assurances—as he had in all other conversations—that the problem was being corrected, " 'even as we speak,' they said." So he left for vacation.

When he returned, $2,600 from his bank account had disappeared.

[From Business Week, Oct. 26, 1987]

Congress Wants A Fierce IRS The Public Will Love

(By Catherine Yang)

For years the legislation gathered moss in far-right field, drawing enthusiastic support only from an assortment of archconservatives and libertarians. But suddenly, the "Tax payers' Bill of Rights," a package of new curbs on the Internal Revenue Service's operatives, has become a hot issue in Washington.

The legislation, drafted by Senator David H. Pryor (D-Ark.), has attracted 55 Senate co-sponsors and is gaining momentum daily. Conservatives still like the bill, of course. But this time, so do moderates. And liberals, seeking tougher procedural safeguards, are joining in. Even Vice-President George Bush, not noted as a populist, finds the issue irresistible. On Oct. 12, Bush broke with the Reagan Administration by declaring that "I would put the force of my Presidency" behind the taxpayers-protection movement.

What's going on here? In a sense, the IRS is about to reap the political whirlwind born of years of resentment of heavyhanded collection tactics. But while many of the curbs proposed by Pryor make eminent good sense, in the stampede to rein in the revenue agents, lawmakers are overlooking one thing: Much of the IRS inforcement staff's zeal stems from the insatiable demands of Congress for deficit-reducing tax collections.

Anticipating revenues from stepped-up enforcement efforts has become a painless way for Congress to slash projeted budget deficits. For instance, proposals from congressional tax writing committees assume $2 billion this year in extra revenues from "compliance" measures a euphemism for tougher enforcement.

PIGGY BANKRUPTCY

But enforcement, most folks would argue, can get out of hand. Take the case of Thomas L. Treadway, a real estate investor in Pipersville, Pa. Five years ago, Treadway says the IRS slapped a $247,000 tax assessment on him for allegedly moving taxable assets out of the country. The agency quickly seized his assets and those of his girlfriend, suspecting that he might have hidden money in her accounts. A month later, after he had contested the assessment, the IRS Appeals Div. concluded that Treadway didn't owe the government a dime. By that time, he had lost his business.

Sometimes, the IRS's zeal gets downright comical. Last summer the service made national headlines when it seized a 12-year-old Chesapeake (Va.) boy's $10.35 bank account. His parents owed back taxes, and his mother's Social Security number was on the account.

Pryor and his backers aim to curb such blatant excesses. His legislation requires the IRS to wait 30 days, instead of the current 10 days, to seize property after notifying a taxpayer of a deficiency. If the government seizes an individual's bank account to satisfy a tax claim, the bank must wait 21 days before turning the money over to the feds. That makes it much easier for taxpayers to hang onto their money if the IRS has made a mistake.

The legislation would also write into law some existing IRS internal rules. Revenue agents would be required to schedule audit interviews at a time that is convenient to the taxpayer and to explain procedures and taxpayers' rights before an audit begins. And the bill would bar the agency from pursuing a traffic-cop mentality—evaluating employee performance on the basis of the number of property seizures or cases closed. The IRS vehemently denies following any such quota system.

Not surprisingly, the IRS opposes the bill. Says Commissioner Lawrence B. Gibbs: "This is a legislative solution to management issues, and management by legislation is not effective."

Such arguments are not likely to stop Congress. In their preelection haste to tap populist resentment of the IRS, many legislators see the Pryor bill as a surefire way to curry favors with the voters. Unfortunately for the agency, many of those same legislators may line up next year to pass another deficit-reduction measure—and rather than chop some favored program they'll demand that the IRS make up the shortfall through more vigorous tax collections.

[From Barron's Magazine, Sept. 14, 1987]

New Bill of Rights? Taxpayers Should Get the Same Respect as Other American Citizens

(By Walter Olson)

One way or another, the U.S. government keeps making it harder for business to collect its debts. Anti-foreclosure laws shear farm lenders the way liberalized bankruptcy laws have shorn consumer lenders. Courts are putting up new legal barriers to such traditional creditor remedies as attaching debtors' assets and garnishing wages. Lenders worry that default rates, already higher than the economy's general health would indicate, will balloon in the next economic downturn.

The law's tilt against creditors is often excused as an effort to control the age-old evils of overzealous debt collection, and to ensure struggling debtors a maximum of due process. But if so, there's a curious exception to the trend. One creditor is remarkably free to do as it pleases in collecting debts: the government's Internal Revenue Service.

The IRS can seize property first and ask questions later, stoop to dunning tactics that would shame an inner-city schlock merchant, and humiliate and trample its victims with scant fear of defamation or invasion-of-privacy suits. It enjoys remarkable impunity when it ruins a small business with an unfounded seizure order, or even seizes the wrong person's property by mistake.

This spring Congress held hearings on IRS abuses, and Democratic Sen. David Pryor of Arkansas has introduced a "Taxpayers Bill of Rights," aimed at curbing some of the agency's worst excesses. Pryor's bill should sound the opening shot in a campaign to win for taxpayers the civil liberties that we all take for granted as Americans.

The IRS is proud of its enforcement prowess. When all else fails, the tax code, can nail an Al Capone or an Ollie North fundraiser. One reason for this prosecutorial success is the code's sheer complexity; another is its relative freedom from civil-liberties constraints. Tax law is a topsy-turvy place, where the familiar landmarks of the Bill of Rights are turned upside down.

Thus, the presumption of innocence, from which so many other rights spring, gives way to a requirement that taxpayers prove they owe no money. The right not to incriminate oneself turns into an obligation to do so. The expectation of privacy applies not to the citizens, whose most intimate domestic details lie open to inspection, but to the enforcers, who enjoy broad exemption from scrutiny under the Freedom of Information Act and Sunshine Act.

Revenuers claim that to follow due-process norms would so tie their hands as to make impossible today's tax system as we know it. If not for their power to seize without a hearing, they say, wrong-doers would run off to Brazil; if not for their right to set selective enforcement policies outside public view, malefactors would figure out what they could get away with (and the Service would lose its sporadically exercised power to audit its most vocal critics). As for the dangers of rummaging through private records, what's there to worry about if you have nothing to hide? When arguments like this are made in areas like criminal law, they tend to get short shrift from modern commentators. In tax law, they still command respect.

Congress may now be flirting with reform, but in recent years it has handed the agency one arbitrary new power after another. For example, the 1982 Dole tax bill gave it a long wish list of enforcement powers and procedural advantages, some of which it had sought in vain since the days of Harry Truman. Along with tighter deadlines, stiffer fines and new reporting and record-keeping rules, came such things as a ban on "frivolous" returns (invoked to punish an Atlanta woman who wrote "signed involuntarily under penalty of statutory punishment" on her return). Another highlight was the "audit-me" rule, which makes taxpayers flag for IRS attention all "aggressive" positions to which the Service had not consented, even if a court had upheld the taxpayer's view.

Unbridled power naturally leads to outrages, and some came out at the hearings this spring. Tales of IRS abuse are rife throughout the country, and stimulate no end of mail to Capitol Hill, but it's hard to quantify the problem because (despite the valiant efforts of the National Taxpayers Union) there is no sophisticated lobby to sift out, verify and publicize the most sympathetic and troubling cases.

However, there is wide consensus that the seizure process is a focus of abuse. In one Pennsylvania case, IRS agents seized the assets of a businessman's girlfriend on the assumption that he was transferring assets to her. According to a report in the Times, an appeals officer later threw out all but $11,000 of the $247,000 assessment against him. IRS agents also seize children's bank accounts, like the $70.76 of little Carmin Fisher of Eugene, Ore., taken to pay her grandparents' tax bill.

Spurring on such bullying is the unofficial policy at some field offices of basing agents' promotions on seizure numbers and volumes. Ambitious agents like to grab assets "as soon as possible" (as a veteran tax agent put it), a practice that provides great bargaining power in subsequent negotiations with the taxpayer. One internal Service memo explains: "The object should be to put as little space between his back and the wall as possible."

An article of faith at the agency is that people who owe it money, deliberately or not, are "evaders." Some, of course, are trying to beat the system. Others expected to pay their obligations but got in over their heads when their business did unexpectedly well or poorly or their deductions fell short of expectations. But others, like many private borrowers who fall behind on loan payments, are simply disorganized and lose track of bills—and the ever-shifting array of tax obligation is a lot harder to keep track of than, say, a car loan.

In the case of farm or consumer loans, of course, the law takes ample notice that not all defaulters fit the deadbeat image. Borrower good faith is a prime tenet of the new pro-debtor statutes, and of the new common-law doctrines by which courts are raising new barriers to creditor recovery—a policy that, in a replay of the tort revolution, shifts wealth to sympathetic litigants at the cost of making obligations unpredictable.

This approach is nowhere to be found when the creditor is the Internal Revenue Service. Sinners in the hands of an angry IRS face the sternly unforgiving moralism of a Cotton Mather. Taxpayers must know and heed procedural as well as substantive commandments on pain of hellfire: They now get fined for filing late even when the government owes *them* money. Good faith efforts count for nil or thereabouts. Shutting down a business sets an example for others who might think of getting away with nonpayment. Showing mercy would encourage the flouting of solemn obligations.

The irony is that the IRS's "problem accounts" probably include at least as many well-meaning unfortunates as the bad-debt rolls of Sears, Roebuck or Bank of America. No one is compelled to buy a stereo system on credit or borrow to expand a farm: Voluntary obligations needn't surprise the unwary the way many tax assessments do when they turn up in the mailbox. Moreover, private lenders have at least some motive to avoid treating a borrower with gross injustice, if only because he talks to friends and neighbors—one reason stores usually run through a series of dunning letters before proceeding to legal extremities. The repeat business of the IRS's captive clientele is guaranteed.

The Pryor bill would bar the Service from conducting investigations or surveillance relating to taxpayers' beliefs and associations (criminal activity excepted), and authorize it to bind itself when it negotiates payment plans with delinquent taxpayers. Currently it is free to renege. There are other provisions, too. But the bill's main significance lies in its symbolic assertion that constitutional limits apply to regulators as well as cops, to white-collar as well as blue-collar enforcers, and who knows?—maybe even to the SEC as well as the FBI.

High time. Too many civil libertarians ignore abuses of economic liberty, apparently on the theory that when money comes in the door, the Bill of Rights flies out the window: that the Constitution forbids warrantless searches of homes but not of factories, censorship of editorials but not of investment newsletters, police entrapment of call girls but not inside traders. Occasionally, there's a welcome exception, as in the ACLU's defense of cigarette advertising; there ought to be more.

The Reagan administration, which can't say no to the overreaching of its enforcement lawyers and the rapacity of its revenue enhancers, has become part of the problem. It helped Sen. Dole push the egregious 1982 tax bill through Congress. And it has carried out a sustained assault on financial privacy, notably bank confidentiality both here and abroad. Invariably, these measures are advertised as the only way of running to earth Colombian drug kingpins and other unpopular types. But as Justice Scalia observed when he ruled for the defense in a recent search-and-seizure case: "The Constitution sometimes insulates the criminality of a few in order to protect the privacy of us all."

The well-known line about the power to tax being the power to destroy has its obvious corollary: Like the power to throw people in jail, tap their telephones, and confiscate their passports, the arbitrary power of taxation must be watched with perpetual vigilance. Tax collectors, like pit bulls, may have their lovable side; but that is no reason not to put them on a tight leash.

[From Financial Planning, September 1987]

CATCHING THE FEVER

(By Lauren Chambliss)

"Seizure fever—catch it."

So reads a sign on a Los Angeles IRS agent's office door, according to testimony given during the final day of hearings into the IRS' modus operandi and the so-called Taxpayer's Bill of Rights. "We know more about what goes on in the KGB than we do our own IRS," said Sen. David Pryor as he called forth five IRS agents for testimony.

The agents offered an unusual—and often frightening—look at how the tax-collection agency operates. All five described an overworked and overheated bureaucracy where agents generally ignore basic tenets of courtesy and sometimes violate the constitutional rights of taxpayers. The head of the union that represents agency employees told members of Pryor's IRS oversight subcommittee that "statistics-worship fostered by IRS management" was to blame for "most if not all of the seemingly irrational IRS actions."

Backing up the union's claim, the agents testified that they are under tremendous pressure to rack up monthly collections through levies and seizures and that this omnipresent obsession with numerical totals can lead some agents to run roughshod over taxpayers' rights. With the collective weight of more than 100 years' experience between them, the five agents said that their bosses routinely ignore directives from Washington and base staff promotions on the size and number of property seizures.

"We have a complex tax system that is difficult to administer, and we, the agents, are under inordinate pressure to collect, seize and levy," said Robert Miller a 14-year veteran of the IRS. "This pressure on us translates into pressure on the taxpayer."

The agents' testimony tended to support the sweeping legislative package sponsored by Pryor that would corral the IRS' enforcement activities and dramatically alter the balance of power between the nation's taxpayers and the government's revenue-collection agency. The bill itself may never become law, but less controversial portions of the bill aimed at tempering some of the IRS' zeal now appear to have a fair chance of passage. A Senate committee has already approved one of the key measures of the bill, a provision to establish an independent inspector general's office to oversee the IRS. Action on some of the other less controversial measures is expected later this year.

Earlier, senators had heard victims of IRS abuse describe hair-raising encounters with agents who seized property first and asked questions later. In one example, as inner-city housing redeveloper in Colorado told of how his bank accounts were seized less than two hours after the IRS had told him he had 10 days to come up with $35,000 in back taxes. This treatment was afforded a man who had voluntarily alerted the IRS that he owed money because of an oversight by an inexperienced bookkeeper; the $35,000 represented six months' worth of federal withholding taxes.

The agents' testimony did, however, run counter to that of IRS Commissioner Lawrence Gibbs, who in April had urged the committee to set aside the Taxpayer's Bill of Rights and let the IRS do its own housecleaning. Gibbs testified that the national office had made it clear to its regional divisions that staff promotions were not to be based on any sort of numerical totals. But Pryor said it was increasingly obvious to him that the message of restraint had not trickled down to the IRS' administrative levels. And he had some damning evidence to prove it, including a memo from the chief of an IRS divisional office written in late February that lambasted group agents for lackluster collection totals during January. "The revenue officers that are performing above a satisfactory level will be rewarded, and the ones that are not will be documented with corrective action taken," Baltimore district IRS Chief Wilbur McKean wrote. "Your midyear evaluations will be prepared in approximately 2½ months. You will be evaluated on your accomplishments or lack of accomplishments; need I say more?"

Shirley Garcia, one of McKean's group agents, said she got the message loud and clear when the ill-fated memo crossed her desk. "We had to go out and make seizures to keep our manager and ourselves out of hot water," said Garcia, a 13-year IRS veteran. "We all began to fear for our jobs."

Agents Garcia, Miller and Robert Brown, a 26-year veteran of the IRS who also testified, did note that in recent months office morale had improved and the stress on the staff to make collections had lessened slightly. They attributed this change in attitude to Gibbs' all-out effort to improve the agency's battered image. Indeed, none of the senators attending the committee hearings blamed Gibbs or the IRS' Washington office for the apparent shortcomings out in the field. During his first nine months in office, Gibbs has taken a number of concrete steps designed to remedy the agents' adversarial working environment, and in the course of the hearings, he personally asked the five IRS agents to testify before Congress and promised to protect them from any possible backlash from their immediate supervisors.

"It seems that it is more thorough bureaucracy than any force of mean-spirited will that we have a situation where so many agents have run roughshod over taxpayers who were trying to do their best to settle their tax bills," say Damon Thompson, an aide to Pryor. "There is this element of fear within the agency that results in agents trying to quickly close cases because they perceive that's how to get ahead."

Following the final day of hearings on the Taxpayer's Bill of Rights. Pryor scored his first victory when he persuaded the Senate Government Affairs Committee to adopt a key element of the package. Both Democrats and Republicans on the committee joined in approving a measure to establish an independent inspector general's office at the Treasury Department. The inspector general would be given the power to independently review IRS procedure, and—more importantly—the office would serve as a sounding board for citizens who feel they have been mistreated by IRS personnel. The inspector general would also hear grievances from agency employees. The measure was attached to a broader bill and is expected to be voted on by early fall.

IRS personnel have argued that an independent inspector general is unnecessary because the General Accounting Office already provides an annual review of about 40 IRS cases brought to its attention. However, the Senate committee not only approved the formation of the inspector general's office but also beat back an attempt by Delaware Sen. William Roth to water down the power of the position. "We need an office where abused taxpayers and IRS employees can take their problems and know they will be looked into by someone whose paycheck doesn't depend on the IRS commissioner," says Pryor. "This marks the first of what I hope are many legislative victories for the Taxpayer's Bill of Rights."

Pryor's staff admits that the package has little chance of passage in its entirety. Some elements of the bill are simply too controversial to muster the necessary support. One particularly contentious measure would change the delicate legal balance between the IRS and the taxpayer by placing a greater burden of proof on the IRS. There is scant support for this provision because critics say it would hamper the IRS' ability to collect revenues from delinquent taxpayers. Another controversial measure would stretch out the levy-notification period from 10 days to 30 days in order to give the taxpayer more time to challenge the assessment or come up with the necessary back taxes. The problem with this proposal is that it would give tax evaders more time to transfer personal funds or hide assets from the agency. Opponents worry that in an effort to protect the few unwitting taxpayers who are manhandled by overzealous agents, Pryor's bill may emasculate the agency to the benefit of a far greater number of tax cheats and villains.

Nevertheless, there is widespread support for some of the more basic constitutional elements of the bill. The Senate bill has 28 co-sponsors, while a similar version in the House has 70. Two of the less contentious proposals that have a good chance of passage would guarantee the right of a taxpayer to have counsel (either a lawyer or an accountant) present at an IRS audit questioning and would make it illegal for the IRS to reward its agents on the basis of their "take," or collections.

A related measure that has broad appeal would order the IRS to encourage its agents to establish payment plans for delinquent taxpayers, wherever and whenever possible. Particularly in the case of small-business accounts, the agents who testified said they aren't given enough latitude to arrange payment plans because their superiors are much more interested in settling tax bills quickly, even if it means shutting down the business and eliminating a future source of revenue. One businessman, restaurant owner Daniel Maestri of Tontitown, Arkansas, told the committee he was forced to place his family's restaurant, which the family had run for three generations, in bankruptcy after the IRS gave him less than a month to come up with $55,000 in back taxes.

Whether the Taxpayer's Bill of Rights is passed in one piece or not, Pryor intends to continue his battle to hold the IRS in check. It appears that the fear of the government's most powerful agency has, for now at least, been overcome by congressional leaders, a few private citizens and even some employees of the revenue service. To the extent that this triumph allows serious issues to be discussed and—everyone hopes—solved by the nation's lawmakers, it may be the best news taxpayers have heard from Congress in years.

ANTONIO POMERLEAU

Mr. LEAHY. Mr. President, as a resident of Burlington, VT, I am extremely pleased and proud of its quality of life. As a former prosecutor in Burlington, I know the importance of good law enforcement for that area.

The Burlington Police Department has long been recognized as one of the best law enforcement agencies in Vermont and one of the reasons is because of the tireless efforts Antonio Pomerleau has given it as police commissioner for nearly 17 years.

Tony Pomerleau has given countless hours of his time, at no pay, over nearly two decades to improve the Burlington Police Department. During this time he has given unstintingly of his enormous talents and the Burlington Police Department, the city of Burlington, and the surrounding communities have all benefited by it.

He has recently resigned as police commissioner to spend more time with his wife, his children, and his grandchildren.

He is a special person to the whole Leahy family, and I ask unanimous consent that an article in the Burlington Free Press detailing his exemplary record as chairman of the police commission be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Sept. 15, 1987]

POMERLEAU RESIGNS AS POLICE COMMISSION CHIEF

(By Enrique Corredera)

Antonio Pomerleau, the Burlington developer and self-made millionaire who has headed the Police Commission for 17 years almost uninterrupted, has resigned.

In a letter delivered to Mayor Bernard Sanders Monday, Pomerleau cited personal reasons for his resignation, which becomes effective Nov. 1. His current term on the commission would have expired next June.

"The time to resign is when everything is in good shape," said Pomerleau in an interview. "If there was any kind of problem, I would not resign.

"I have no problem with the chief or the commissioners or the mayor, no complaints. The house is in order, and this is a good time to exit in a nice way."

A Canadian native who grew up in Newport, Pomerleau was first asked to serve on the commission that oversees Police Department operations in 1970, 28 years after he arrived in Burlington.

He was elected chairman of the Police Commission the first year. Every year since then, with the exception of 1983, when he was not a commissioner, Pomerleau has served as chairman.

Pomerleau said the main reasons for his departure are plans for an overseas trip with his wife, Rita, this fall, and a promise to his six grandchildren and family to spend more time with them.

"I'd just love to spend a lot of time with them," said Pomerleau, adding that serving on the commission, on top of his real estate and insurance businesses, left little time.

Anticipating that it would require an even greater commitment when the Police and Fire departments gear to consolidate services into one building later this year, Pomerleau said it would not be fair to be overseas during the process.

Pomerleau said he used to fly from Florida during this winter vacations to attend commission meetings, but joked that he may not be able to do that from Japan or China.

The departing commissioner said he is proud that the department has increased in size from 47 officers in 1970 to 92 this year. "A commissioner's real job is to fight for the department," Pomerleau said.

Sanders said Pomerleau has done exactly that. "The department in his view and in my view is in better condition that it has ever been," the mayor said. "I think he deserves more credit than anybody in bringing that about.

"The city owes him a very, very great debt of gratitude for the enormous amount of time and commitment to the Police Department," Sanders said.

Pomerleau has also found the time for charity. For the past six years he has given money to the Mayor's Youth Office for a Christmas party at Memorial Auditorium. He also has donated money to the department.

"It's been a lot of fun, I've enjoyed it a lot," he said. "But there's a time for everything, and there's a time when you should call it quits."

BICENTENNIAL MINUTE

OCTOBER 20, 1803: SENATE APPROVES LOUISIANA PURCHASE

Mr. DOLE. Mr. President, 184 years ago today, on October 20, 1803, the Senate consented to the ratification of the Louisiana Purchase Treaty.

Soon after becoming President in 1801, Thomas Jefferson learned of the secret agreement in which Spain had returned the Louisiana territory to France. Napoleon intended to use the province as the base for a French colonial empire in North America. Jefferson correctly feared that this would pose a great threat to the Nation's security.

Early in 1803 Napoleon changed his plans and decided to sell the Louisiana territory. American negotiators successfully offered nearly $15 million for the 828,000 square miles lying between the Mississippi River and the Rocky Mountains. This extraordinary transaction more than doubled the land area of the United States, giving the country more tillable land than any other nation.

Jefferson called Congress into session before its regular December convening date to present the treaty to the Senate and to obtain necessary funding. The Senate acted immediately. Fearing that the French might change their minds, Senators voted 24 to 7 to approve the treaty. Only New England's Federalist Senators opposed the pact, arguing that the President lacked the power under the Constitution. New Hampshire's Senator William Plumer complained that "the Senate have taken less time to deliberate on this important treaty than they allowed themselves on the most trivial Indian contract."

As Secretary of the Senate Samuel A. Otis carried the approved treaty to the White House, he passed John Quincy Adams, who had just arrived in Washington to take his oath as a newly elected Senator. Adams later observed that he was sorry he had not arrived at the Senate in time to vote for the treaty, for he "regarded it as one of the happiest events which had occurred since the adoption of the Constitution."

TRIBUTE TO SENATOR JOHN C. STENNIS

Mr. BENTSEN. Mr. President, it was the fall of 1947. The Second World War had ended barely 2 years earlier. The cold war was in its infancy, and Korea was nearly 3 years in the future. Vietnam was still a part of what was called French Indochina, and the postwar baby boom had just gotten underway. New automobiles were advertised at less than $1,000. Sirloin steak was 45 cents a pound. And the State of Mississippi had just elected a new Senator.

In a tough fight against a distinguished group of opponents, a relatively unknown circuit judge from Kemper County in the eastern part of the State won a special election to the U.S. Senate and took his seat on November 4, 1947. That man was John C. Stennis, and he has served his State and his Nation for the past 40 years.

Senator Stennis, the man to whom so many of us have turned for advice and from whom so many of us have learned by example, has set a record of service and dedication that may never be equaled. He has taken on tough and unpleasant responsibilities, like the investigation of another Senator in the 1950's; and he served this body as chairman of both the Armed Services and Appropriations Committees. In all that he has done and said, he has conducted himself with unquestioned integrity and absolute and total dedication to this Senate.

Fifteen years ago when Senator Stennis was assaulted and shot in the chest outside his home in northwest Washington, DC, there were many who marveled at his ability to recuperate from an injury which would have caused a lesser man to retire from a strenuous public service career.

But John Stennis, a man in whose veins runs the blood of Mississippi pioneers, recovered from his injuries and returned to serve his State and his Nation. Just a few years ago he battled cancer and was forced to undergo an operation that again would have caused many to retire from public life. But Senator Stennis has come back stronger and more vigorous than ever, and I am confident that his most recent surgery will only prove to be a minor interruption in the seventh term of his unparalleled career.

As I wrote in a letter to Senator Stennis just yesterday, I feel highly privileged to have worked with such a man as he, a man who has served as a wise counselor to all, and I am distressed to learn that he has decided to leave the Senate at the end of this term. I trust and hope that even in retirement he will be available to advise us and to give us the benefit of his experience.

The career of John C. Stennis has been synonymous with the modern history of this body, and the lack of his daily presence with us will leave an unimaginable void in the work and deliberations in this historic Chamber.

He has set an impossible standard for us all, and in so doing has created a monument far greater than anything in granite or marble or bronze. John C. Stennis is truly a giant of the U.S. Senate, and it is an honor to have been his colleague during part of his Senate career.

IN TRIBUTE TO MAJ. GEN. ROBERT R. RANKINE, JR.

Mr. WARNER. Mr. President, Maj. Gen. Robert R. Rankine, Jr., Director of Air Force Space and Strategic Defense Initiative [SDI] Programs, will be leaving the Washington area soon for a new assignment. I would like to commend him for his support to the Senate Armed Services Committee during the past several years.

Maj. Gen. Robert R. Rankine, Jr., has demonstrated unsurpassed leadership and made vital contributions to the security and space posture of the United States through his stewardship and tireless advocacy of important space launch, satellite, SDI, and Air Force research programs. General Rankine's accomplishments in the space arena have been exceptional in both breadth and depth. Most notable have been his achievements in providing for assured access to space. This has been a critically important Air Force effort in light of the unfortunate series of launch vehicle failures encountered in 1985 and early 1986. These failures resulted in the prolonged grouping of the space shuttle and the unmanned Titan II family of space boosters, and virtually shut down U.S. capability to place heavy payloads into space. The failures forced the Nation to replan its space launch strategy. General Rankine was instrumental in formulating a program for the United States to recover and enhance its space launch capability. He planned and implemented a program to provide the United States with assured access to space through the turn of the century.

General Rankine's efforts and management achievements will assure the United States is never again faced with the national crisis caused by the past launch vehicle failures. For the near and midterm, he championed plans to eliminate single paths to space, where in a single launch failure could ground a booster system or damage a unique launch facility to the point that access to space for our critical national payloads is denied. The result will be two entirely new families of launch vehicles—the Titan IV for heavy payloads and the Delta II for medium-weight payloads—will achieve initial launch capability during 1988 and will support U.S. launches through the 1990's. In addition, launch facilities will be constructed on both the east and west coasts to ensure that a robust launch posture can be maintained even if one of the pads becomes damaged. General Rankine's leadership has successfully implemented a complex recovery plan in support of the vital national space launch capability.

We on the Armed Services Committee owe General Rankine a great deal, but more important, his endeavors in support of these critically important programs will have untold positive impacts on both our national security and space posture for years to come.

Major General Rankine has been reassigned as the Vice Commander, Space Division, Los Angeles Air Force Station. We wish him well.

SUBSTANCE ABUSE PREVENTION IN EDUCATION WEEK

Mr. JOHNSTON. Mr. President, I rise today to recognize substance abuse prevention programs in the State of Louisiana. Our dedicated officials and educators in Jefferson Parish have spearheaded an effort to designate the week of October 26-30 as "Substance Abuse Prevention in Education Week." Activities planned during this week will heighten awareness of the evils associated with substance abuse and hopefully lead to a decline in the use of illegal drugs by our young people.

Mr. President, I would like to note that prior to the enactment of the Drug-Free Schools and Communities Act of 1986, the Louisiana State Legislature had already ensured a mechanism whereby the problem of drug abuse could be addressed in our schools. In 1979, the legislature passed a law mandating drug prevention and education programs throughout the State. Known as the "Substance Abuse Prevention in Education [SAPE] Program," it was designed to impact students, educators, parents, and the community. The number of individuals reached through this program has grown steadily from 270,500 in 1983-84 to 510,000 in 1986-87.

The success of the program depends on school-based teams comprised of teachers, administrators, counselors, support personnel, and parents. These teams have a twofold responsibility, that of substance abuse prevention and intervention. Prevention activities include faculty in-services, parent awareness nights, and schoolwide activities such as guest speakers, films/videos, and brown-bag lunches.

The intervention process primarily involves students referral services. Following a complete evaluation, parents are called in for conferences and efforts are made to channel the student to proper sources for assistance. Support groups, headed by trained facilitators, include awareness groups for students who are experimenting with drugs, concerned persons groups for students who have family members or friends involved in substance abuse, after-care groups for students who have been through substance abuse treatment and are attempting to stay straight, and parent support groups.

Mr. President, the efforts of this impressive network of individuals should be applauded. I would like to commend all of those involved in the Substance Abuse Prevention in Education Program in Louisiana and to pay special tribute to Jefferson Parish for their efforts toward eliminating drugs in our schools. I am proud to inform my colleages of activities underway in my State relating to drug prevention. Mr. President, I ask that they join me in recognizing October 26-30, 1987, as "Substance Abuse Prevention in Education Week" in the State of Louisiana.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty.

(The treaty received today is printed at the end of the Senate proceedings.)

CERTIFICATIONS WITH RESPECT TO THE BINARY CHEMICAL MUNITIONS PROGRAM—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 79

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on October 16, 1987, during the recess of the Senate, received the following message from the President of the United States; which was referred to the Committee on Armed Services:

To the Congress of the United States:

Pursuant to section 1233 of the Department of Defense Authorization Act, 1984 (Public Law 98-94), I hereby certify with respect to the binary chemical munitions program that for each 155 millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell form the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to section 1411 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), is ready to be implemented.

I note with regard to the fourth numbered paragraph above that the Plan, submitted to the Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decisionmaking process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July 1986.

I am pleased to make this certification on a program so vital to our national security. We continue to seek a global, effectively verifiable ban on chemical weapons. Until we achieve that goal, however, it is essential that we maintain a safe, modern chemical weapon stockpile to deter use of chemicals by our potential adversaries. I will be counting on your continued support for this program.

RONALD REAGAN.

THE WHITE HOUSE, *October 16, 1987.*

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS AND APPOINTMENT OF CONFEREES PURSUANT TO PREVIOUS ORDER

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on October 19, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 864. An act to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes.

Pursuant to the order of the Senate of October 16, 1987, the Senate was deemed to have disagreed to the amendments of the House to the said bill, asked a conference with the House on the disagreeing votes of the two Houses thereon, and appointing Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. WARNER, Mr. COHEN, Mr. QUAYLE, Mr. WILSON, and Mr. GRAMM as managers of the conference on the part of the Senate.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on October 19, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bills:

S. 1417. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the programs established in such Act, and for other purposes;

S. 1628. An act to extend the Aviation Insurance Program for five years;

H.R. 317. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System;

H.R. 2741. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games; and

H.R. 2782. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development;' space flight, control and data communications; construction of facilities; and research and program management, and for other purposes.

Under the authority of the order of the Senate of February 3, 1987, the enrolled bills were signed on October 20, 1987, during the recess of the Senate, by the Deputy President pro tempore (Mr. MITCHELL).

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 162. An act to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes.

At 11:34 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 940. An act to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes; and

H.R. 2578. An act to amend the Federal Deposit Insurance Act and other laws to prohibit the establishment or acquisition of depository institutions by certain foreign nationals and the issuance of Federal deposit insurance to depository institutions controlled by such foreign nationals, and for other purposes.

At 3:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2046. An act to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande;

H.R. 2873. An act to prohibit the Secretary of Defense or Secretary of a military department to enter into any overseas contract that allows for the payment of severence pay greater than the typical rate of severence pay in the United States or that requires the Government to reimburse a contractor for overseas banking services for bad debt expenses;

H.R. 3283. An act to allow the obsolete submarine United States ship *Turbot* to be transferred to Dade County, Florida, before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3428. An act to provide for the distribution within the United States of the film entitled "America The Way I See It";

H.R. 3449. An act to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration; and

H.R. 3492. An act entitled the "Rural Crisis Recovery Program of 1987."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 197. A concurrent resolution to express the sense of the Congress with respect to United States policy toward Panama.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 940. An act to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2046. An act to authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande; to the Committee on Foreign Relations.

H.R. 2578. An act to amend the Federal Deposit Insurance Act and other laws to prohibit the establishment or acquisition of depository institutions by certain foreign nationals and the issuance of Federal deposit insurance to depository institutions controlled by such foreign nationals, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2873. An act to prohibit the Secretary of Defense or Secretary of a military department to enter into any overseas contract that allows for the payment of severence pay greater than the typical rate of severence pay in the United States or that requires the Government to reimburse a contractor for overseas banking services for bad debt expenses; to the Committee on Armed Services.

H.R. 3428. An act to provide for the distribution within the United States of the film entitled "America The Way I See It"; to the Committee on Foreign Relations.

H.R. 3449. An act to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 3492. An act entitled the "Rural Crisis Recovery Program of 1987"; to the Committee on Agriculture, Nutrition, and Forestry.

The following concurrent resolution was read; and referred as indicated:

H. Con. Res. 197. A concurrent resolution to express the sense of the Congress with respect to United States policy toward Panama; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 162. An act to establish a system of identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 20, 1987, he had presented to the President of the United States the following enrolled bills:

S. 1417. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the programs established in such act, and for other purposes; and

S. 1628. An act to extend the Aviation Insurance Program for 5 years.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1995. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on budget rescissions and deferrals; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-1996. A communication from the Director, Contract Policy Division, Naval Facilities Engineering Command, Department of the Navy, transmitting, pursuant to law, notice of determination and finding to restrict competition to joint ventures companies of the United States and the Republic of the Philippines; to the Committee on Armed Services.

EC-1997. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for a period November 1, 1987 to December 31, 1987; to the Committee on Armed Services.

EC-1998. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Export Credit Insurance: Assessment to Export-Import Bank's Role"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1999. A communication from the Secretary, Interstate Commerce Commission, transmitting, pursuant to law, notice of an extension of time for a decision in Docket No. 40073, South-West Car Parts Company v. Missouri Pacific Railroad Company; to the Committee on Commerce, Science, and Transportation.

EC-2000. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report on Customer Pickup of Food and Grocery Products; to the Committee on Commerce, Science, and Transportation.

EC-2001. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, copies of the National Transportation Safety Board's 1989 budget submission; to the Committee on Commerce, Science, and Transportation.

EC-2002. A communication from the Secretary of the Interior, transmitting, pursuant to law, the seventh annual report on the Oil and Gas Leasing Program for Non-North Slope Federal Lands in Alaska covering fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-2003. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2004. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2005. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2006. A communication from the Secretary of Energy, transmitting, pursuant to law, certain energy information requirements; to the Committee on Energy and Natural Resources.

EC-2007. A communication from the Administrator of General Services, transmitting, pursuant to law, an informational copy of a lease prospectus; to the Committee on Environment and Public Works.

EC-2008. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Developing a Prospective Payment System for Excluded Hospitals"; to the Committee on Finance.

EC-2009. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, its 51st quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-2010. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to October 8, 1987; to the Committee on Foreign Relations.

EC-2011. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit; Examination of GSA's Financial Statements for Fiscal Years 1986 and 1985"; to the Committee on Governmental Affairs.

EC-2012. A communication from the Administrator of General Services, transmitting, pursuant to law, a report summarizing and analyzing the reports submitted by executive agencies showing the amount of personal property furnished to non-Federal recipients; to the Committee on Governmental Affairs.

EC-2013. A communication from the Secretary of Agriculture, transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2014. A communication from the Deputy Chief of Staff for Installations and Logistics, Department of the Navy, transmitting, pursuant to law, a copy of the annual report of the Retirement Plan for Civilian Employees of the United States Marine Corps Exchanges, Recreation Funds, Clubs, Messes, and the Marine Corps Exchange Service; to the Committee on Governmental Affairs.

EC-2015. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, final proposal of a plan to demonstrate an alternative personnel management system at the National Bureau of Standards; to the Committee on Governmental Affairs.

EC-2016. A communication from the Assistant General of the United States (Office of Legislative Affairs), transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide general arrest authority for officers of the Immigration and Naturalization Service; to the Committee on the Judiciary.

EC-2017. A communication from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the Military Personnel and Civilian Employees' Claims Act to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim under the act; to the Committee on the Judiciary.

EC-2018. A communication from the Assistant Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Immigration Reform: Verifying the Status of Aliens Applying for Federal Benefits"; to the Committee on the Judiciary.

EC-2019. A communication from the Administrator of the Office of Juvenile Justice and Delinquency Prevention, Department of Justice, transmitting, pursuant to law, a report regarding the use of official mail in the location and recovery of missing children; to the Committee on the Judiciary.

EC-2020. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of the decisions granting defector status in the cases of certain aliens under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2021. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copy of the decisions granting defector status in the case of a certain alien under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2022. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Pell Grant Program; to the Committee on Labor and Human Resources.

EC-2023. A communication from the Secretary of Education, transmitting, pursuant to law, the Drug Abuse Education and Prevention Materials Program; to the Committee on Labor and Human Resources.

EC-2024. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms for October 1986 through July 1987; to the Committee on Small Business.

EC-2025. A communication from the General Manager, Norfolk Naval Shipyard Co-Operative Association, transmitting, pursuant to law, a report on the Norfolk Naval Shipyard Pension Plan for the year 1986; to the Committee on Governmental Affairs.

EC-2026. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the initial Sequester Report for fiscal year 1988; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on Appropriations; the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs; the Committee on Commerce, Science, and Transportation; the Committee on Energy and Natural Resources; the Committee on Environment and Public Works; the Committee on Finance; the Committee on Foreign Relations; the Committee on Governmental Affairs; the Committee on the Judiciary; the Committee on Labor and Human Resources; the Committee on Rules and Administration; the Committee on Small Business; the Committee on Veterans' Affairs; the Select Committee on Indian Affairs and the Special Committee on Aging.

EC-2027. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notification of the President's intent to exempt the military personnel accounts from sequestration; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-2028. A communication from the President of the United States, transmitting, pursuant to law, notification, pursuant to the War Powers Act, of an incident in the Persian Gulf involving United States military personnel; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 278. A bill to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for continued ownership of lands and corporate shares received pursuant to the Act, and for other purposes (Rept. No. 100-201).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1009. A bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians (Rept. No. 100-202).

By Mr. BURDICK, from the Committee on Appropriations, without amendment:

S. 1800. An original bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-203).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

June Gibbs Brown, of Virginia, to be Inspector General, Department of Defense;

John J. Welch, Jr., of Texas, to be an Assistant Secretary of the Air Force;

Kathleen A. Buck, of Virginia, to be General Counsel of the Department of Defense; and

Stephen M. Duncan, of Colorado, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the Congressional Record and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

*Maj. Gen. Donald J. Kutyna, U.S. Air Force, to be lieutenant general (REF. 639).

*Lt. Gen. Johnny J. Johnston, U.S. Army, to be placed on the retired list in the grade of lieutenant general (REF. 640).

*Maj. Gen. Orren R. Whiddon, U.S. Army, to be lieutenant general (REF. 641).

*Vice Adm. William F. McCauley, U.S. Navy, to be placed on the retired list in the grade of vice admiral (REF. 642).

**In the Navy there are 33 appointments to the grade of captain and below (list begins with Jeffrey T. Barr) (REF. 644).

**In the Navy and Naval Reserve there are 36 appointments to the grade captain and below (list begins with Stephen A. Eilertson) (REF. 648).

**In the Marine Corps there are 185 appointments to the grade lieutenant colonel and below (list begins with Pedro Gutierrez) (REF. 649).

*Lt. Gen. Richard A. Burpee, U.S. Air Force, to be reassigned in the grade of lieutenant general (REF. 661).

*Maj. Gen. James B. Davis, U.S. Air Force, to be lieutenant general (REF. 662).

*Lt. Gen. James E. Light, Jr., U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (REF. 663).

*Lt. Gen. Edward L. Tixier, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (REF. 664).

*In the Army National Guard there are 3 promotions to the grade major general and below (list begins with James F. Fretterd) (REF. 665).

*In the Army Reserve there are 14 appointments to the grade major general and below (list begins with Clyde R. Cherberg) (REF. 666).

Total: 279.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 1797. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Finance.

By Mr. DeCONCINI (for himself, Mr. Byrd, and Mr. Cranston):

S. 1798. A bill to prohibit the sale, lease, donation, or other transfer of Stinger antiaircraft missiles to foreign governments in the Persian Gulf region; to the Committee on Foreign Relations.

By Mr. GRAMM:

S. 1799. A bill to amend the Immigration and Nationality Act to ensure the use of the H2A Agricultural Workers Program for all of agriculture, and for other purposes; to the Committee on the Judiciary.

By Mr. BURDICK from the Committee on Appropriations:

S. 1800. An original bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes; placed on the calendar.

By Mr. CRANSTON (for himself, Mr. Matsunaga, Mr. DeConcini, Mr. Mitchell, Mr. Graham, and Mr. Murkowski):

S. 1801. A bill to amend title 38, United States Code, to increase the maximum Veterans' Administration home loan guaranty, reduce Veterans' Administration-guaranteed loan defaults and foreclosures, and make other improvements in the Veterans' Administration home loan program, and for other purposes.

By Mr. BREAUX:

S. 1802. A bill to provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ADAMS:

S. 1803. A bill to amend title 39, United States Code, to prohibit the mailing of certain locksmithing devices, and for other purposes; to the Committee on the Judiciary.

By Mr. CHILES (for himself and Mr. Boren):

S.J. Res. 204. Joint resolution calling for an economic summit to deal with the financial crisis; read the first time.

By Mr. MOYNIHAN:

S.J. Res. 205. Joint resolution expressing the sense of the Congress that United Nations General Assembly Resolution 3379 (XXX) should be overturned, and for other purposes; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself and Mr. Bingaman):

S.J. Res. 206. Joint resolution to declare Dennis Chavez Day; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 299. Resolution to direct the Senate Legal Counsel to represent Senator Heinz and Senator Specter in the case of "Wesley Carroll v. Pennsylvania Board of Probation and Parole, et el."; considered and agreed to.

By Mr. MURKOWSKI (for himself and Mr. Cranston):

S. Con. Res. 84. Concurrent resolution relating to the transfer of silkworm missiles by the People's Republic of China to Iran; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 1797. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Finance.

EXEMPTION FOR RELIGIOUS SCHOOLS FROM STATE UNEMPLOYMENT TAX

Mr. THURMOND. Mr. President, today I am introducing legislation which would ensure that elementary or secondary schools which are operated primarily for religious purposes are exempt from mandatory participation in State unemployment compensation taxation.

Under current law, all organizations which are exempt from Federal income taxation under section 501(c)(3) of the Internal Revenue Code are likewise exempt from payment of the Federal unemployment taxation. Therefore, religious elementary and secondary schools—the vast majority of which qualify for tax-exempt status under 501(c)(3)—are exempt from Federal unemployment taxation.

Mr. President, under the Federal Unemployment Tax Act, taxpayers may receive a credit against the Federal unemployment tax they owe, in the amount of contributions they have paid under a State unemployment compensation law. To receive such a credit, the State law must have been certified by the Secretary of Labor as having met certain minimum requirements. All 50 States have unemployment compensation laws implementing the Federal mandatory minimum standards of coverage. Those requirements provide, in part, that the State unemployment compensation law must include participation of 501(c)(3) organizations, with certain exceptions.

Under 26 U.S.C. 3309(b)(1), one such exemption from participation is provided to churches or associations of churches. Another exemption is provided to organizations which are operated primarily for religious purposes and which are operated, supervised, controlled, or principally supported by a church or association of churches.

However, no exemption exists in the law today for those elementary or secondary schools which are operated primarily for religious purposes, but which are not operated by or otherwise controlled by a church or association of churches.

Mr. President, these institutions are as religious in nature as those institutions operated by churches, and should enjoy the same religious liberties as churches. In my view, taxation of religious schools violates the Constitution. Therefore, it is appropriate to provide them an exemption from unemployment compensation taxation.

Mr. President, I ask unanimous consent that this measure be printed in the Record following my remarks, as well as a legal memorandum explaining this situation in more detail.

I urge my colleagues to review this meritorious proposal and to support its enactment.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1797

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) section 3309(b)(1) of the Internal Revenue Code of 1986 (relating to exemption from unemployment tax) is amended by inserting before the semicolon at the end thereof the following: ", or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a)".

(b) The amendment made by subsection (a) shall apply to services performed after December 31, 1977.

MEMORANDUM RE: UNEMPLOYMENT TAX COVERAGE OF RELIGIOUS SCHOOLS

1. Federal Unemployment Tax.—The Federal Unemployment Tax Act (Ch. 23, Internal Revenue Code (IRC), 26 U.S.C. §§ 3301-3311) instituted a cooperative federal-state program supplying periodic payments to persons who become unemployed through no fault of their own. The Act imposes a federal tax on all employers, which may be offset by credits obtained from payment of taxes to state programs which have been certified by the United States Secretary of Labor as being in compliance with federal requirements.

All organizations exempt from federal income taxation under IRC § 501(c)(3) are likewise exempt from payment of the federal unemployment tax under IRC § 3306(c)(8). Thus, nearly all religious schools have been exempted from payment of the federal unemployment tax.

2. State Unemployment Tax.—Even though all 501(c)(3) organizations are exempt from federal unemployment taxation, each state which wishes to be certified by the Secretary of Labor as in compliance with federal requirements must require all such 501(c)(3) organizations to participate in the state program (either on the contribution method or on the reimbursement method), with certain exceptions. See IRC § 3304(a)(6). Prior to the Unemployment Compensation Amendments of 1976 (P.L. 94-566), IRC § 3309(b)(3) had excluded from taxation that service performed "in the employ of a school which is not an institution of higher education . . .". However, Section 115(b)(1) of the Unemployment Compensation Amendments of 1976 removed § 3309(b)(3) from the Federal Unemployment Tax Act. At that point, the United States Department of Labor stated its position that the removal of § 3309(b)(3) was intended by Congress to result in state unemployment tax coverage of all religious schools, even church-related schools. Following this statement of position by the United States Department of Labor, litigation arose in many states concerning the extent of the exemption from mandatory state coverage afforded by IRC § 3309(b)(1). Even after 1976, that section continued to exempt service—

"in the employ of (A) a church or convention or association of churches, or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches."

The federal Secretary of Labor interpreted the exemption in § 3309(b)(1) as follows:

"[W]e think the only services performed in the schools that may reasonably be considered within the scope of the exclusion permitted by 3309(b)(1) are those strictly church duties performed by church employees pursuant to their religious responsibilities within the schools."

The Secretary's interpretation, however, was overturned in the case of St. Martin Lutheran Church versus South Dakota, 451 U.S. 772 (1981), and the U.S. Labor Department subsequently announced that states need not cover church-related schools, whether or not separately incorporated from their sponsoring churches.

Approximately 48 of the 50 United States have enacted exemptions which are the mirror image of § 3309(b)(1). To our knowledge, only the laws of Hawaii and New York do not contain the precise language of the federal exemption. Even in those states which do follow the federal model, numerous litigations arose over the scope of the exemption for schools which are separately incorporated from churches, and are not "operated, supervised, controlled or principally supported by a church or convention or association of churches." These litigations are now making their way through various state courts.

Early in 1979, a group of churches, pastors, parents, teachers, and separately incorporated religious schools, instituted an action in a federal district court against the Employment Development Department of the State of California seeking to enjoin application of the California Unemployment Insurance Code to employment of teachers within the religious schools which they operated or with which they were associated. (Grace Brethren Church, et al. versus State of California, et al., C.D. Cal. No. 79-0093 MRP). The plaintiffs contended, inter alia, that employment in their schools was exempt from coverage by virtue of § 634.5 of the California Unemployment Insurance Code (modeled upon 26 U.S.C. § 3309(b)(1)), or, if the statute be not so construed, that the statute was unconstitutional under the First, Fifth and Fourteenth Amendments to the United States Constitution. The federal district court entered a preliminary injunction, enjoining the application of the Unemployment Insurance Code as to the plaintiffs on September 21, 1979. In a Supplemental Opinion, dated June 2, 1980, the Federal District Court divided the employees of the religious schools involved in the case into three categories:

Category 1.—Those who are in the employ of a church or a convention or association of churches.

Category 2.—Those who are in the employ of a separate corporation formed by a church or a convention or association of churches.

Category 3.—Those who are in the employ of a corporation which is operated primarily for religious purposes, but which is not operated, supervised, controlled or principally supported by a church or convention or association of churches, i.e., an independent, non-church affiliated religious school.

In that Supplemental Opinion, the court entered injunctions with respect to coverage of employees of the schools in Categories 1 and 2, and denied a preliminary injunction request with respect to coverage of the employees of the schools in Category 3.

The court thereafter proceeded, after trial, to a decision on the motion for permanent injunction which had been brought by the plaintiffs, and, on April 6, 1981, issued a Second Supplemental Opinion. Based on that opinion, the court entered a final injunction exempting the employees of all three categories of schools. Shortly thereafter, on May 26, 1981, the United States Supreme Court issued its opinion in the St. Martin case, holding that employees of all church-related schools (which schools had no separate legal existence from the Church), were exempt under § 3309(b)(1) of the Federal Unemployment Tax Act. As a result of the St. Martin decision, and as a further result of a determination by the United States Department of Labor that so-called "Category 2 schools" (church-related schools, which are separately incorporated) were also exempt under § 3309(b)(1), appeals were taken to the United States Supreme Court in the Grace Brethren Church case, but were limited to challenging the federal district court's ruling as to "Category 3" schools only.

The United States Supreme Court did not reach the merits of the issues raised in the appeals, but rather dismissed the federal court complaints on the basis of the Tax Injunction Act, 28 U.S.C. § 1341. California versus Grace Brethren Church, 457 U.S. 393 (1982). Therefore, the issues raised by the plaintiffs in Grace Brethren have not been definitively addressed by the Supreme Court. However, recognizing that constitutional issues inhere in the question of extending unemployment tax liability to "Category 3" schools, the United States Department of Labor has indicated that it would not institute conformity proceedings against any state which exempted those schools, "until the constitutional issue is definitively resolved." (See Attachment A).

Litigations have been conducted, with widely varying results, in a number of states, testing the constitutionality of taxing "Category 3" schools, as well as over the interpretation of the "Category 2" exemption. Compare Salem College and Academy versus Employment Division, 695 P.2d 25 (Oregon, 1985) with Christian School Association of Greater Harrisburg versus Commonwealth, 423 A.2d 1340 (Pa. Commonwealth Ct. 1980).

In addition, there has been no definitive nationwide standard announced for determination of what constitutes church "control", "support", or "supervision" of a religious school, that, too, having been left to litigation in state courts. A recent decision of the Idaho Supreme Court has interpreted the analogous provision of the Idaho law so as to consider the "moral" support which a church gives a school, in addition to the financial support provided. See Nampa Christian Schools versus State of Idaho, Dept. of Employment (May 19, 1986).

In our opinion, to deny the exclusion for religious institutions which are every bit as religious as institutions operated by churches, would be violative of the Free Exercise and Establishment Clause of the First Amendment to the United States Constitution, as well as the Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. The religious liberties of the institutions not operated by churches would be burdened by taxation (thus violating the Free Exercise Clause). The exclusion would favor those religious institutions which are operated by churches and would give rise to excessive entanglements between government and religion (thus violating the Establishment Clause). Finally, a distinction, without even rational basis, would have been made between similarly situated religious institutions (thus violating the Equal Protection Clause).

Included as Attachment B herewith is draft statutory language which would serve to resolve the question of the unemployment tax liability of non-church affiliated religious schools on a uniform, nationwide basis.

BALL & SKELLY,
By William B. Ball.

By Mr. DECONCINI (for himself, Mr. BYRD, and Mr. CRANSTON):

S. 1798. A bill to prohibit the sale, lease, donation, or other transfer of Stinger antiaircraft missiles to foreign governments in the Persian Gulf region; to the Committee on Foreign Relations.

PROHIBITION ON SALE OF STINGER MISSILES TO FOREIGN GOVERNMENTS IN THE PERSIAN GULF REGION

Mr. DECONCINI. Mr. President, I rise to introduce a bill on the Stinger missile, the most sophisticated technology in the world with a surface-to-air capability. This weapon has been touted as the top-of-the-line, the most effective, and one which significantly enhances the tactics and moral of those groups that utilize it. This technology, both fortunately and unfortunately, can fit into a large suitcase and is easily transportable. It can therefore prove to be an ideal terrorist weapon if it should fall into the wrong hands. It can also seriously threaten United States military aircraft and those of our allies, since it is so much more advanced than the Soviet SA-7 or the British Blowpipe.

Unfortunately, press reports last week quoted a Pentagon spokesman who said that parts of the Stinger were found in the water after United States helicopters fired upon Iranian speedboats. Subsequent reports have varied as to how and from where the Stinger had been compromised. Some reports even indicated that the Iranians hoped to begin producing the Stinger.

Mr. President, all this leads me to this legislation. While the Stinger is one of the most effective weapons in the world, everyone wants it. This administration has started to use the Stinger as a tool of diplomacy. If a country requests the Stinger, they are automatically considered and it seems likely they will get it. The old adage—"Ask and you shall receive"—applies to the Stinger.

For example, Bahrain recently asked for the Stinger and the administration is still, as I understand, seriously considering a sale. Bahrain is assisting the United States in the Persian Gulf. However, the situation within that country is not politically stable enough for the Stinger. This country has over 60 percent Shiite population ruled by a Sunnai religious dynasty. We are worried in the United States with Shiite populations of 4 or 5 percent in Egypt or Saudi Arabia. Also, Iran has sought twice in the last 5 years to destabilize this country of almost one-half million people. Iran periodically makes historical claims on Bahrain. If Iran were to overthrow Bahrain, Stinger missiles would threaten United States helicopters and planes in the gulf. They would also threaten our allies in the Middle East. The reasons go on and on.

This administration is also considering sales to Oman and the United Arab Emirates. While I do not have objections to the Stinger being transferred to democratic resistance movements in Afghanistan and Angola, as the press reports, I do have strong disapproval for Stingers being sold or transferred to countries in the Persian Gulf region. The dangers and difficulties in the Persian Gulf do not need to be exacerbated by cavalier arms trading with foreign governments in this region.

This bill would prohibit the sale, lease, donation, or other transfer of Stinger antiaircraft missiles to foreign governments in the Persian Gulf region. Even if stringent and meticulous safeguard measures were implemented to protect Stingers in Bahrain, absolutely nothing assures their safety with Iran constantly threatening to overrun this country. Second, our own sailors and personnel have the ability to use Stingers in this region. We do not need to proliferate the area with this weapon as a sign of goodwill to foreign governments. Additionally, our own aircraft are susceptible to Stingers fired by newly trained forces who do not have the knowledge or expertise to properly fire this complex weapon. Moreover, our allies in the Middle East are threatened both immediately by an increased Stinger presence and with the potential of terrorist utilization.

Mr. President, I have been interested in this Stinger security issue for 2 years now. Almost 2 years ago, I wrote an article for the New York Times hypothesizing about the scenario of Libya or Iran getting the Stinger. This is not the type of prediction one is particularly proud of being accurate about. We must prevent future or further compromising of this state-of-the-art weaponry. I realize an outright ban is a big step, but one which is appropriate and fair, given the circumstances. We also need to develop an overall policy of transferring these missiles to foreign governments. We just recently transferred Stingers to Chad, which also greatly concerns this Senator. Stingers should not symbolize diplomatic gifts—that is what cigars, rugs, and glassware are for. Mr. President, I ask unanimous consent that a copy of the bill and the following articles on the Stinger be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, no Stinger antiaircraft missiles may be sold, leased, donated, or otherwise provided, directly or indirectly, during fiscal year 1988 to foreign governments in the Persian Gulf region.

[From the Washington Post, Oct. 10, 1987]

IRAN SAID TO OBTAIN U.S.-MADE STINGERS—AFGHAN REBELS MAY HAVE SOLD MISSILES

(By Molly Moore and David B. Ottaway)

Defense Secretary Caspar W. Weinberger said yesterday that some Iranian gunboats in the Persian Gulf may have been equipped with American-made Stinger missiles, the first official U.S. indication that Iran has obtained the sophisticated surface-to-air weapons.

The Stingers are reported by The London Sunday Times and U.S. government sources to have been sold to Iran by one of the seven Afghan rebel groups to which the United States has been secretly sending hundreds of the antiaircraft weapons over the past year. Pentagon officials said yesterday they do not know how the Iranians obtained the Stingers and said they are investigating.

Pentagon sources said U.S. forces found "pieces of a Stinger," including batteries and packing, aboard two bullet-riddled gunboats retrieved after Army assault helicopters attacked four Iranian vessels in response to shots fired at one of the U.S. helicopters Thursday night.

Weinberger characterized the attack as self-defense and warned that when gulf shipping "is interfered with, then we teach lessons or we take the necessary steps to make sure that it isn't interfered with."

"We have repeatedly communicated to the Iranian government the seriousness with which we view such Iranian interference with our forces in the gulf operating in international waters and airspace," State Department spokesman Charles E. Redman said yesterday.

"We are following up after this most recent incident and warning the government of Iran that it bears the consequences of such actions," Redman added.

Iranian radio reported yesterday that the crew on one of the speedboats used a Stinger to shoot down a U.S. helicopter after the attack on the gunboats. The Pentagon said it has received "absolutely no reports" of such an attack and said it has received no notification that any U.S. helicopters have been lost.

Three Army special operations helicopters fired at four Iranian gunboats after the Iranians shot at one of the American helicopters late Thursday night, Pentagon sources said.

Weinberger said that U.S. forces sank a 43-foot Swedish-made Boghammer patrol boat and yesterday captured two smaller vessels, which he identified as Boston Whalers, that were severely damaged. He said a fourth vessel, believed to be a Corvette speedboat, escaped the attack.

U.S. officials said six Iranians were rescued after the attack, two of whom later died. Iranian officials said they believe 12 crew members were aboard the three craft.

The attack provoked a strong reaction from Iranian officials yesterday. Iran's U.N. Ambassador Said Rajaie Khorassani said, "I think it's a declaration of war by the United States against Iran, that's definite." He also alleged that U.S. helicopters, not the Iranian gunboats operating in international waters off Farsi Island, provoked the attack.

Senate leaders, debating the 1973 War Powers Resolution, yesterday proposed sharply scaled-back constraints on the Reagan administration's tanker-escort operations in the gulf, but the White House and the Pentagon reiterated that they do not believe the resolution should apply to the gulf mission.

During a speech to a conference at the U.S. Information Agency here yesterday, Weinberger revealed that the Iranians may now be using the shoulder-fired Stinger missiles. He said that the two Iranian boats retrieved by U.S. forces "are little . . . boats that have machine guns and sometimes Stinger equipment."

Sen. Dennis DeConcini (D-Ariz.), the member of the Senate Select Committee on Intelligence who has been most concerned about Stingers falling into the hands of terrorists, said Weinberger's report, if true, is "the worst scenario" that could happen in the gulf.

"Now one of our worst enemies may have one of our best weapons in one of the most volatile regions of the world," DeConcini said. "This is something I warned the president about almost two years ago," he said, referring to his warnings about Stingers being supplied by the Central Intelligence Agency to Afghan rebels.

The Stingers have proved highly effective in the hands of Afghan rebels, who recently were reported to be shooting down Afghan and Soviet aircraft, particularly helicopters, at a rate of one or more a day.

U.S. military experts said American helicopters, rather than planes, are likely to be threatened the most by Stingers in the Persian Gulf.

Just two days ago the administration was forced to abandon plans to provide Stingers to the Persian Gulf shiekhdom of Bahrain, a key ally for U.S. forces, because of strong opposition in the Senate. The cancellation of the Stinger sale to Bahrain was part of a deal reached with the Senate over a $1 billion arms package to Saudi Arabia.

According to DeConcini, the administration also was planning to provide the missiles to two other Arab states on the gulf, Oman and the United Arab Emirates, which also have been providing support for U.S. forces involved in escorting reflagged Kuwaiti oil tankers.

It is unclear whether the administration will still press to provide Stingers to Oman and the United States Arab Emirates in light of the strong congressional opposition to their sale to Bahrain.

An aide to DeConcini said yesterday that the senator plans to introduce legislation that would require the administration to obtain approval of Congress for sale of Stingers to any of the Arab gulf states.

The London Sunday Times on Sept. 20 reported that the Younis Khalis' Islamic Party, perhaps the most fundamentalist of the seven Afghan rebel factions with close ties to the Iranian regime, had sold the Stingers to the Iranians. It said that two local Islamic Party commanders in western Afhanistan sold at least 16 Stingers to the Iranians for $1 million out of a stock of 32 they had received through the covert U.S. military aid program to the Afghan anticommunist resistance.

The story said the two commanders denied selling the Stingers and claimed instead the weapons had been "captured" by Iranians operating inside Afghanistan.

The Middle East Economic Digest reported in its Oct. 3 edition that the Iranian military had put some of the Stingers on display during "war week" parades in late September.

[From the Washington Times, Oct. 13, 1987]

Source of Stingers Still Being Debated

Islamabad, Pakistan—(Reuters).—Reports that two Afghan Guerrilla commanders sold U.S. Stinger missiles to Iran were circulating among rebel exiles in Pakistan as long ago as July, rebel sources said yesterday.

According to the reports, a batch of 16 of the anti-aircraft missiles was handed over to Iranian Revolutionary Guards in April in Nimruz Province that borders on Iran, the sources said.

Western diplomatic Afghanwatchers in Islamabad said it was impossible to know for certain whether the report were accurate, because Nimruz is far from the rebel bases in Pakistan and contacts were unreliable.

Interest in the subject increased last week when Iran said its gunboats had used the portable missiles against U.S. helicopers in the Persian Gulf. It said it acquired Stingers a long time ago and was making copies of them.

The Pentagon said batteries and packing cases usually used for the missiles were found on an Iranian gunboat captured in a clash on Thursday. It also said it was investigating how Iran might have acquired Stingers.

The Stingers were the most sophisticated weapons supplied by the West to the anti-Soviet Afghan rebels waging war against the Kabul government, according to the Western diplomats.

Like other Western assistance to the Mujahideen guerrillas, the missiles were channeled through the seven-party Afghan rebel alliance based in Peshawar in northwest Pakistan, they said.

The Afghan sources, speaking by telephone from the west Pakistani city of Quetta, said the two rebel commanders were given the Stingers by the party to which they owed allegiance.

The missiles, and some 122mm cannon, were intended for an attack on the big Soviet air base at Shindand, north of Nimruz.

According to the reports, the strategy was for the majahideen to open fire on the base with the cannon and then shoot down any Soviet or Afghan aircraft that came to attack them.

But instead, the two commanders, who belonged to a group of pro-Tehran rebels with strong ties in the Iranian city of Zahedan, took the missiles in pickup trucks and sold them to Iran, the sources said.

The Stingers, and British-made Blowpipe anti-aircraft missiles, have had a profound effect on the fighting in Afghanistan, according to guerrilla commanders and Western experts.

While the United States had said the rebels were shooting down as many as one aircraft a day, the deterrent effect on the Soviet and Afghan government air forces has been even more significant, they say.

The first shipments were made through Pakistan last year to counter what was seen as Kabul's increasingly successful use of its control of the air.

One of the first batches taken inside Afghanistan was captured almost immediately after crossing the border last December, the Afghan sources said. Three Soviet helicopter gunships hunted down the rebel supply convoy north of Quetta.

Captured Stingers were later shown to visiting Western correspondents by the Kabul government.

By Mr. CRANTSON (for himself, Mr. Matsunga, Mr. DeConcini, Mr. Mitchell, Mr. Graham, and Mr. Murkowski):

S. 1801. A bill to amend title 38, United States Code, to increase the maximum Veterans' Administration home loan guaranty, reduce Veterans' Administration guaranteed loan defaults and foreclosures, and make other improvements in the Veterans' Administration Home Loan Program, and for other purposes; referred to the Committee on Veterans' Affairs.

VETERANS' HOME LOAN PROGRAM IMPROVEMENTS ACT

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am pleased to introduce today, along with my good friend, the committee's ranking minority member, the Senator from Alaska [Mr. Murkowski], S. 1801, the proposed "Veterans' Home Loan Program Improvements Act of 1987." Joining us as original cosponsors of this measure are four of our fellow committee members, Senators Matsunaga, DeConcini, Mitchell, and Graham. This bill would increase from $27,500 to $36,000 the maximum VA home loan guaranty and make various significant improvements in the Veterans' Administration Home Loan Guaranty Program to protect its financial stability and solvency and to reduce the current high default and foreclosure rates that hurt both the program and the veterans who use it.

Mr. President, S. 1801 is comprised of provisions which on July 31, 1987, the committee originally unanimously ordered favorably reported in part C of title I of S. 9. Those provisions pertaining to the VA Home Loan Guaranty Program were developed jointly by Senator Murkowski and me following our extensive oversight hearing, chaired most ably by the distinguished Senator from Florida [Mr. Graham] on June 17. We are now introducing these provisions separately so they can immediately be reported in order to expedite consideration of the provisions in the bill—sections 13 and 6 to extend the VA loan fee and the "no-bid" formula, which is used to determine whether, at the liquidation sale of property securing a defaulted VA guaranteed loan, the VA acquires the property or pays the guaranty. These provisions expired on September 30, 1987, and on October 16 were temporarily extended through November 15, 1987, by legislation which I introduced on September 16 with Senator Murkowski and which was enacted into law as Public Law 100-136 on October 16.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) Short Title.—This Act may be cited as the "Veterans' Home Loan Program Improvements Act of 1987".

(b) References to Title 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. LOAN PROGRAMS GENERALLY.

(a) Increase in Maximum Guaranty.—(1)(A) Section 1810(c) is amended by striking out "$27,500" and inserting in lieu thereof "$36,000".

(B) Section 1811(d)(2)(A) is amended by striking out "$27,500" both places it appears and inserting in lieu thereof "$36,000".

(2) The amendments made by paragraph (1) shall be effective for a fiscal year only to such extent as is or in such amounts as are provided in appropriation Acts.

(b) Exemption of Loans.—Section 113 is amended—

(1) in subsection (a), by adding at the end the following new clause:

"(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans."; and

(2)(A) by striking out subsection (e); and

(B) by redesignating subsections (f) and (g) as (e) and (f), respectively.

SEC. 3. REFINANCING HOME LOANS.

(a) Certain Loans Guaranteed or Insured by the Veterans' Administration.—Section 1810(e)(1) is amended—

(1) in clause (B), by striking out "and such" and all that follows through "home"; and

(2) by amending clause (E) to read as follows:

"(E) the veteran must own the dwelling or farm residence securing the loan and—

"(i) must occupy such dwelling or residence as such veteran's home; or

"(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied such dwelling or residence.".

(b) Other Loans.—Section 1810 is amended by adding at the end the following new subsection:

"(h) The amount of a loan guaranteed for the purpose specified in subsection (a)(5) may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator.".

(c) Manufactured Housing Loans.—Section 1819(a)(4)(A) is amended—

(1) in clause (ii), by striking out "and such" and all that follows through "veteran's home";

(2) in clause (v), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clause:

"(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

"(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan; or

"(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot).".

SEC. 4. DETERMINATION OF MINIMUM RESIDUAL INCOME.

Paragraph (3) of section 1810(g) is amended by adding at the end the following new sentence:

"Where the procedures described in clause (C) of this paragraph include standards for evaluating residual income, those standards shall be based on State statistics pertaining to residual income and cost of living in the State in question rather than in a larger region if the Administrator finds that there are reliable such data available for a particular State.".

SEC. 5. FINANCIAL COUNSELING ASSISTANCE.

(a) Assistance to Veterans.—Section 1816(a) is amended by adding at the end the following new paragraph:

"(4)(A) Within a reasonable time after receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

"(i) provide the veteran with information and, to the extent feasible, counseling regarding—

"(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by section 1816(a)(2) of this title; and

"(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

"(ii) advise the veteran regarding the availability of such counseling.

"(B) The Administrator, subject to the availability of appropriations and funds made available pursuant to section 1824(e) of this title, shall take such steps as are necessary to ensure that sufficient personnel are available for the effective implementation of this paragraph.".

(b) Termination Date.—The amendment made by subsection (a) shall terminate on December 31, 1989.

SEC. 6. LIQUIDATION OF LOANS IN DEFAULT.

(a) Determination of Total Indebtedness.—Section 1816(c) is amended—

(1) in paragraph (1)(D)—

(A) in clause (ii), by striking out "of the liquidation sale" and all that follows in such clause and inserting in lieu thereof "applicable under paragraph (10) of this subsection, and"; and

(B) in clause (iii), by striking out "such regulations" and inserting in lieu thereof "regulations prescribed by the Administrator to implement this subsection"; and

(2) by adding at the end the following new paragraphs:

"(10)(A) Except as provided in subparagraph (B) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan.

"(B)(i)(I) Except as provided in subdivision (II) of this division, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forbearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forbearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations prescribed by the Administrator to implement this subsection.

"(II) The Administrator may specify a date under subdivision (I) of this division only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph (7)(A) of this subsection, to accept conveyance of the property.

"(ii) In any case, other than a case described in division (i) of this subparagraph, in which there is a delay in such sale beyond a reasonable period of time for such sale to occur, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such earlier date on or after the date on which such period expires as the Administrator may specify pursuant to such regulations.

"(11) This subsection shall cease to have effect on October 1, 1988.".

(b) Repeal of Termination Dates of Provisions for Determining Whether the Veterans' Administration Acquires Properties at Liquidation Sales and the Proportion of Acquired Properties Sold for Cash.—Paragraph (2) of section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369) is repealed.

SEC. 7. DOWNPAYMENT AND LOAN FEE REQUIREMENTS FOR VENDEE LOANS.

(a) Downpayment.—Section 1816(d) is amended by adding at the end the following new paragraph:

"(4) The amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 90 percent of the purchase price of such real property.".

(b) Loan Fee.—The second sentence of section 1829(a) is amended by inserting ", except that, in the case of a loan made by the Administrator to finance the purchase of real property from the Administrator, the amount of the fee shall be 2.5 percent of the total loan amount" after "loan amount".

SEC. 8. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) Increased Cash Sales Proportion.—Section 1816(d)(1) is amended—

(1) by striking out "75 percent, nor less than 60 percent" and inserting in lieu thereof "60 percent, nor less than 40 percent"; and

(2) by striking out "80 percent" and inserting in lieu thereof "70 percent".

(b) Extension of Termination Date of Provisions Prescribing Cash Sales Proportions.—Section 1816(d) is amended by adding at the end the following new paragraph:

"(5) This subsection shall cease to have effect on October 1, 1990.".

SEC. 9. VOLUNTARY DEEDS IN LIEU OF FORECLOSURE.

(a) In General.—Section 1816 is amended by adding at the end the following new subsection:

"(g)(1) Except as provided in paragraph (2) of this subsection, if, in the case of a loan which was guaranteed, insured, or made under this chapter and is in default, the Administrator refuses to accept from the veteran who is obligated under the loan a timely and voluntary offer to convey the property securing the loan to the Administrator by means of a deed in lieu of foreclosure and without release from such veterans' liability to the United States in connection with such loan, the Administrator may not include in the amount of such veterans' liability in connection with the loan the cost of a foreclosure proceeding.

"(2) For the purposes of subsection (c) of this section a veteran's voluntary conveyance shall be deemed a liquidation sale, and paragraph (1) of this subsection shall not apply in any case in which the Administrator would not be permitted under such subsection to accept conveyance of the property.

"(3) Notwithstanding any provision of other law, a veteran's voluntary conveyance of the property securing a loan guaranteed, insured, or made under this chapter by means of a deed in lieu of foreclosure to the Administrator or to the holder of the loan shall, at the written request of the veteran to the Administrator, not release such veteran from any liability to the Administrator.".

(b) Conforming Amendments.—Section 1802(a)(2)(B) is amended by inserting "(as such indebtedness may have been reduced under section 1816(g)(1) of this title)" after "United States".

SEC. 10. CREDITWORTHINESS DETERMINATION IN CASE OF ASSUMPTION OF LOAN.

(a) Credit Investigations.—Section 1817 is amended by adding at the end the following new subsections:

"(c)(1) No guaranteed, insured, or direct housing loan obtained by a veteran under this chapter may be assumed unless, prior to the veteran's disposing of the property securing such loan and the assumption of the loan, the veteran notifies the holder of the loan in writing of the proposed assumption and the acceptability of the assumption is established under paragraph (2) (A) or (B) of this subsection.

"(2) The acceptability of the assumption shall be considered to be established if—

"(A) upon application made by the veteran and the transferee, the criteria under clauses (1) and (2) of subsection (a) of this section are determined by the Administrator to be satisfied, or

"(B)(i) the veteran has elected, after full disclosure by the Administrator or the holder to the veteran regarding the veteran's rights and liabilities, to be made jointly and severally liable with the transferee, and

"(ii) the transferee is obligated by contract to purchase the property securing such loan and to assume joint and several liability with the veteran for the repayment of the balance of the loan remaining unpaid and for all of the obligations of the veteran under the terms of the instruments creating and securing the loan.

"(d) If the acceptability of an assumption is established under subsection (c)(2)(A) of this section, the veteran shall be relieved of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or of any subsequent purchaser of such property) unless the Administrator determines that such release would not be in the interest of the solvency or stability of the Loan Guaranty Revolving Fund and so notifies the veteran promptly.

"(e) If, pursuant to subsection (c)(2)(B) of this section, a veteran becomes jointly and severally liable with an assumptor of a loan, the veteran shall, at the end of the 5-year period beginning on the date of the sale, be relieved of all further liability to the Administrator on account of the loan (including liability for any loss resulting from any default of the transferee or of any subsequent purchaser of such property) unless, as of the last day of such period, suit or foreclosure has been initiated and not dismissed or withdrawn.

"(f) In the case of a sale of the property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter, unless the acceptability of an assumption is established under subsection (c)(2) of this section, payment in full of the principal, interest, and all other amounts owing under the terms of the loan shall upon demand of the holder be immediately due and payable to the holder at any time beginning on the date of transfer of title by the veteran.

"(g) The Administrator, or an approved lender described in section 1802 of this title in the case of such lender, shall, upon notification by the veteran pursuant to subsection (c)(1) of this section, provide to the veteran a written explanation, in such form as the Administrator shall specify, of the veteran's rights and liabilities, including the veteran's right to elect one of the alternatives described in subsection (c)(2) (A) or (B) of this section.

"(h) If a veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter and the veteran fails to notify the holder of the loan before the property is disposed of, payment in full of the principal, interest, and all other amounts owing under the terms of the loan shall upon demand of the holder be immediately due and payable to the holder at any time beginning on the date of the transfer of title by the veteran.

"(i)(1) In any case in which the holder of a loan described in subsection (c)(1) of this section has knowledge of a veteran's transfer of title of residential property securing such loan, the holder shall immediately notify the Administrator of such transfer.

"(2) If a holder with such knowledge fails to so notify the Administrator, the holder shall be liable to the Administrator for any damage, as determined by the Administrator at the time at which the Administrator is required to make payments in accordance with any guaranty, insurance, or recourse provided with respect to the loan concerned, sustained by the United States as a result of such failure.

"(j) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a veteran with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2½ times larger than the regular type on such page: 'THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE VETERANS' ADMINISTRATION OR ITS AUTHORIZED AGENT'.".

(b) Protection Against Transfers to Persons Not Creditworthy.—Section 1804 is amended by adding at the end the following new subsection:

"(f) Any loan for the purchase or construction of residential property to be financed through the assistance of this chapter shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to section 1817(c) of this title.".

(c) Loan Fee.—Section 1829 is amended by adding at the end the following new subsections:

"(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan in connection with a disposition of residential property referred to in section 1817 of this title. The amount of the fee shall be equal to one-half percent of the balance of such loan on the date of the transfer of the property.

"(e) The Administrator shall establish in regulations—

"(1) a reasonable amount as the maximum amount that a lender may charge for processing an application for—

"(A) a creditworthiness determination and assumption of a loan pursuant to subsection (c)(2)(A) of section 1817 of this title, which amount shall not exceed $500; and

"(B) an assumption of a loan pursuant to subsection (c)(2)(B) of such section 1817, which amount shall include only reimbursement for expenses incurred by the lender in such processing and shall not exceed $50; and

"(2) requirements for the timely processing of applications for acceptance of assumptions.".

SEC. 11. DOWNPAYMENT REQUIREMENT FOR PURCHASES OF MANUFACTURED HOMES.

Section 1819(e)(4) is amended by inserting "the lesser of the amount equal to 95 percent of the purchase price of the property which shall secure such loan or" after "in excess of".

SEC. 12. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

(a) In General.—Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts, may contract for the performance of such supplementary services described in paragraph (2) of this subsection and may acquire such supplementary equipment described in such paragraph (not including services or equipment for which the Fund is available under subsection (b) of this section) as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1987, or services in excess of the level of such services performed during fiscal year 1987, and may include, among other things, the services of—

"(A) appraisers to review appraisal reports and issue certificates of reasonable value;

"(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

"(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certificates;

"(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter; and

"(G) contractors to prepare closing documents and review them after closing.

"(3) The Administrator shall have available for a fiscal year for the purposes of this subsection such funds as are obtained during such fiscal year by requiring, pursuant to section 1829(d) of this title, payment of a fee by buyers who assume loans guaranteed, insured, or made under this chapter and, pursuant to section 1829(a) of this title, payment of a fee greater than 1 percent by persons obtaining loans to finance the purchase of real property from the Administrator, plus in fiscal years 1988 and 1989 an additional $2,000,000, but not exceeding a total of $15,000,000 in any fiscal year.

SEC. 13. EXTENSION OF LOAN FEE.

Section 1829(c) is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 14. LENDER REVIEW OF APPRAISALS.

(a) IN GENERAL.—Section 1831 is amended—

(1) in subsection (c), by striking out "The Administrator shall, upon request," and inserting in lieu thereof, "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall";

(2) in subsection (d), by inserting "(other than a lender described in subsection (f) of this section)" after "lender"; and

(3) by adding at the end the following new subsection:

"(f)(1) Subject to the provisions of paragraph (2) of this subsection, the Administrator may, in accordance with standards and procedures established in regulations prescribed by the Administrator, authorize a lender which is authorized to make loans which are automatically guaranteed under section 1802(d) of this title to determine the reasonable value of property for the purposes of this chapter. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Administrator.

"(2) Prior to the Administrator exercising the authority provided in paragraph (1) of this subsection, the Administrator shall establish an appraisal-review system to monitor on at least a random-sampling basis the making of appraisals by appraisers and the determination of reasonable value of property by lenders. Such monitoring shall be performed by contract personnel paid for from the Loan Guaranty Revolving Fund as provided for in section 1824(e) of this title.".

(b) CONFORMING AMENDMENT.—Section 1810(b) is amended—

(1) in paragraph (5), by striking out "by the Administrator" and inserting in lieu thereof "pursuant to section 1831 of this title"; and

(2) by striking out the final sentence.

(c) TERMINATION DATE.—The amendments made by subsections (a) and (b) shall terminate on September 30, 1989.

SEC. 15. MARKETING VETERANS' ADMINISTRATION-ACQUIRED PROPERTIES.

Section 1832 is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.".

SEC. 16. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of and amendments made by this part shall take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—(1) The amendments made by section 2(b) shall take effect on November 19, 1987.

(2) The amendments made by section 3 shall apply with respect to loans for which applications are made more than 30 days after the date of the enactment of this Act.

(3) The amendment made by section 5(a) shall take effect on January 1, 1988.

(4) The amendments made by section 6(a) shall apply to defaults which occur more than 30 days after the date of the enactment of this Act.

(5) The amendments made by section 7 shall apply with respect to loans made more than 30 days after the date of the enactment of this Act.

(6) The amendments made by section 8(a) shall take effect as of October 1, 1987.

(7) The amendments made by section 9 shall apply with respect to defaults occurring after the date of the enactment of this Act.

(8) The amendments made by section 10 shall apply with respect to loans made more than 180 days after the date of the enactment of this Act.

(9) The amendment made by section 11 shall apply to loans for which guaranty commitments are issued more than 60 days after the date of the enactment of this Act.

By Mr. BREAUX:

S. 1802. A bill to provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes; referred to the Committee on Environment and Public Works.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. BREAUX. Mr. President, I wish to bring to the attention of the Senate and to the press an incident that is ongoing right now, which very severely threatens the southern coast of North America, particularly the States of Texas and Louisiana.

The incident I point to is an October 10 blowout of a major oil installation in the Gulf of Mexico, off the coast of Mexico. That very large blowout, which is currently spewing forth oil, does so in an uncontrolled fashion, throwing into the Gulf of Mexico oil at the rate of 30,000 barrels per day.

As we do business here on the floor of the Senate, that blowout is continuing. It has not been stopped. It rivals a similar type of accident that occurred off the Bay of Campeche several years ago, which was a major environmental disaster, with certainly the potential for long-term, lasting, negative effects. That well took several months to cap, and this well is blowing out at an even greater rate than the one off the Bay of Campeche.

As I have indicated, the well continues to discharge oil at the rate of 30,000 barrels per day. It has presented a situation where the spill can now be measured by an oil slick in the Gulf of Mexico that is some 250 yards wide by 55 miles long, stretching in the gulf.

The slick is headed in a westerly direction; and the spill, if it continues with the current in the Gulf of Mexico the way it happens to be in this season, is likely to enter into U.S. waters, posing a grave potential for damage to natural resources and wildlife habitat, in addition to the beaches along the coast of Texas and Louisiana. And who knows where it might end up?

We spent a lot of time discussing the so-called famous Ixtoc spill off the coast of Mexico in 1977, which spilled oil into the gulf at the rate of 28,000 barrels per day.

This incident, by all estimates, is even more severe than the situation that occurred back in 1977. Members may remember that that spill cost over $10 million to clean up, with some of the damages being damages that could never be assessed by dollar figure; damages that occured that can never be replaced because of the loss of natural resources in that area.

It is also important to note that efforts to cap this well that is spewing oil daily has repeatedly failed over the last 9 to 10 days, indicating that this is a situation that has presented some very special problems.

It is interesting to note that the Mexican Government has indicated that they should have it capped within 3 more weeks, they said at least 3 more weeks.

It is interesting to note that is what they said the last time a major blowout occurred and we were still talking about it 9 months later after they said that they would have it under control.

The second point that I bring this up for this afternoon is to point out the critical need for some type of legislative approach to these types of spills.

It seems unfortunate that we only get serious about doing something legislatively when in fact a disaster is imminent. I would say to my colleagues that a disaster is imminent unless we do something to correct it immediately.

We have been working on oil spill legislation for 10 years. For 10 years we have had legislation that has been in various stages of getting completed and adopted in both the House of Representatives and in the Senate, and yet 10 years later we still do not have oil spill comprehensive legislation on the books to prepare a means by which we can clean up these spills before they cause the damage which is so likely.

I am introducing legislation today, Mr. President, which has already been introduced in the House which has made progress in the House. I think it has already been reported by the various committees in the House which would provide a comprehensive system of liability and compensation for oil spill damage and removal costs.

This legislation would in fact address the situation in the Gulf of Mexico. It would allow us to clean up oil even though it originates from a foreign country and assess the damages before they cause they damages like Ixtoc caused back in 1977.

It is incredibly important that we move on this legislation, not yet have another spill like this before we decide to take action in addressing this very serious problem.

So I commend this legislation to our colleagues. I am hoping that our committee will be able to act expeditiously on it. We can no longer wait for another spill to occur before Congress gets serious about this problem.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Oil Pollution Liability and Compensation Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 101. Definitions.
Sec. 102. Liability.
Sec. 103. Uses of the fund.
Sec. 104. Claims procedure.
Sec. 105. Designation and advertisement.
Sec. 106. Subrogation.
Sec. 107. Financial responsibility.
Sec. 108. Litigation, jurisdiction, and venue.
Sec. 109. Relationship to other law.
Sec. 110. Effective date.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Trans-Alaska pipeline fund.
Sec. 202. Intervention on the High Seas Act.
Sec. 203. Federal Water Pollution Control Act.
Sec. 204. Deepwater Port Act.
Sec. 205. Outer Continental Shelf Lands Act Amendments.
Sec. 206. Notice to State; increased penalties for failure to report.
Sec. 207. Qualified authorizing legislation.

TITLE III—IMPLEMENTATION OF INTERNATIONAL CONVENTIONS

Sec. 301. Definitions.
Sec. 302. Applicability of conventions.
Sec. 303. Recognition of international fund.
Sec. 304. Action in United States courts.
Sec. 305. Contribution to international fund.
Sec. 306. Recognition of foreign judgments.
Sec. 307. Financial responsibility.
Sec. 308. Regulations.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 101. DEFINITIONS.

For the purposes of this Act, the term—

(1) "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge, or substantial threat of a discharge, of oil;

(3) "claimant" means any person who presents a claim for compensation under this Act;

(4) "damages" means damages for injury to, destruction of, or loss of natural resources and damages for economic loss specified in section 102(a)(3) of this Act;

(5) "discharge" means any emission, intentional or uintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(6) "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983;

(7) "facility" means an onshore facility and an offshore facility;

(8) "foreign offshore unit" means a structure or group of structures which is located, in whole or in part, in the territorial sea or on or over the continental shelf of a foreign country and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country's territorial sea or from the foreign country's continental shelf;

(9) "Fund" means the Oil Spill Liability Trust Fund, established by section 9509 of the Internal Revenue Code of 1954;

(10) "guarantor" means any person, other than the responsible party, who provides evidence of financial responsibility for a responsible party under this Act;

(11) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil;

(12) "internal waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside that baseline which are a part of the Gulf Intracoastal Waterway;

(13) "lands beneath navigable waters" has the meaning provided in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(14) "lessee" means a person holding a leasehold interest in an oil or gas lease on lands beneath navigable waters on or submerged lands of the Outer Continental Shelf, granted or maintained under applicable State law or the Outer Continental Shelf Lands Act;

(15) "mobile offshore drilling unit" means a vessel capable of use as an offshore facility;

(16) "national contingency plan" means the national contingency plan published under section 311(c) of the Federal Water Pollution Control Act or revised pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act;

(17) "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act), any State or local government, or any foreign government;

(18) "navigable waters" means the waters of the United States, including the territorial seas; and

(19) "offshore facility" means a facility of any kind (other than a vessel or a public vessel) which is located, in whole or in part, on lands beneath navigable waters or on the Outer Continental Shelf and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from lands beneath navigable waters or the Outer Continental Shelf;

(20) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(21) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(22) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, whether by lease, permit, contract, license, or other form of agreement, except that such term does not include a person who, without participating in the management or operation of a vessel or a pipeline, holds indicia of ownership primarily to protect his security interest in the;

(23) "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body;

(24) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act or applicable State law;

(25) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(26) "remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(27) "removal costs" means the costs of removal taken after a discharge of oil has occurred, including all costs of completing removal and the costs to prevent, minimize, or mitigate oil pollution where there was a substantial threat of a discharge of oil including costs incurred under subsection (c), (d), (e), or (l) of section 311 of the Federal Water Pollution Control Act, the Intervention on the High Seas Act, or section 18 of the Deepwater Port Act of 1974;

(28) "responsible party" has the meaning provided in section 102(a)(4);

(29) "Secretary" means the Secretary of Transportation;

(30) "tanker" means a vessel constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo; except that the term does not include a non-self-propelled vessel of less than 3,000 gross tons carrying oil in bulk as cargo or in residue from cargo and operating on the internal waters of the United States; and

(31) "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(32) "United States" and "State" mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction; and

(33) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.

SEC. 102. LIABILITY.

(a) Elements of Liability.—

(1) Joint, several, and strict liability.—Notwithstanding any other provision of law and subject to the provisions of this section, the responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the waters of the exclusive economic zone is jointly, severally, and strictly liable for the removal costs and damages specified in paragraph (2) that arise out of or directly result from such discharge or threat.

(2) Covered removal costs and damages.—The removal costs and damages referred to in paragraph (1) are the following:

(A) removal costs consistent with the national contingency plan;

(B) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss; and

(C) damages for—

(i) economic loss resulting from injury to, or destruction of, real or personal property or natural resources;

(ii) loss of subsistence use of natural resources;

(iii) loss of taxes, royalties, rents, or net profits shares by the Federal Government or any State or political subdivision thereof for a period of not to exceed one year; and

(iv) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources if the claimant derives at least 25 percent of the claimant's earnings from the activities which utilize the property or natural resources or, if such activities are seasonal in nature, 25 percent of the claimant's earnings during the season.

(3) Excluded discharges.—Paragraph (1) does not apply to a discharge referred to in clause (A), (B), or (C) of section 311(a)(2) of the Federal Water Pollution Control Act or any other discharge permitted by Federal law.

(4) Responsible party.—For purposes of this Act, the term "responsible party" means the following:

(A) Vessel.—In the case of a vessel, the responsible party is any person owning, operating, or chartering by demise, the vessel.

(B) Facilities.—In the case of a facility (including a pipeline but not including any other offshore facility), the responsible party is any person owning or operating the facility.

(C) Offshore facilities.—In the case of an offshore facility (other than a pipeline and except as provided in paragraph (5)), the responsible party is the lessee or permittee of the area in which the facility is located, or the holder of a right of use and easement granted under applicable State law or the Outer Continental Shelf Lands Act for the area in which the facility is located (where the holder is a different person than the lessee or permittee).

(5) Division of responsibility for MODU discharges on or above the water.—

(A) Treated first as a tanker.—For purposes of determining the responsible party and applying this Act, a mobile offshore drilling unit which is being used as an offshore facility shall be deemed to be a tanker with respect to the discharge, or the substantial threat of a discharge, of oil on or above the surface of the water, except as provided in subparagraph (B).

(B) Treated as a facility for excess liability.—To the extent that removal costs and damages from any incident described in subparagraph (A) exceed the amount for which the responsible party is liable under subparagaph (A) (as such amount may be limited under subsection (c)(1)(A)), the mobile offshore drilling unit shall be deemed to be an offshore facility. For purposes of applying subsection (c)(1)(C), the amount specified in such subsection shall be reduced by the amount for which the responsible party is liable under subparagraph (A).

(6) Liability of third parties.—In any case where the responsible party for a vessel or a facility can establish that a discharge and the damages resulting therefrom were caused solely by an act or omission of one or more third parties in accordance with subsection (b)(1)(B) (or solely by such an act or omission in combination with an act of God or an act of war), such third party or parties shall be liable under this section.

(b) Defenses to Liability.—

(1) Complete defenses.—Except when the responsible party has failed or refused to report the discharge, or substantial threat of a discharge, of oil where required by law and where the responsible party knows or has reason to know of the discharge, there is no liability under subsection (a) if the responsible party establishes that the discharge or substantial threat of discharge—

(A) resulted from an act of God, an act of war, hostilities, civil war, or insurrection; or

(B) was solely caused by an act or omission of one or more persons other than—

(i) a responsible party;

(ii) an employee or agent of a responsible party; or

(iii) one whose act or omission occurs in connection with a contractual relationship with a responsible party.

(2) Defenses as to particular claimants.—There is no liability under subsection (a)—

(A) as to a particular claimant, where the discharge or substantial threat of discharge of oil is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(c) Limits on Liability.—

(1) General rule.—The total of the liability of a responsible party under subsection (a) and any removal costs incurred by, or on behalf of, the responsible party with respect to each incident involving the discharge or substantial threat of a discharge of oil shall not exceed—

(A) $500 per gross ton or $5,000,000, whichever is greater (but not to exceed $60,000,000), for any tanker carrying oil in bulk or in commercial quantities as cargo;

(B) $300 per gross ton or $500,000, whichever is greater, for any other vessel; or

(C) $75,000,000 for any facility.

(2) Exceptions.—Paragraph (1) shall not apply if—

(A) the discharge of oil was proximately caused by willful misconduct or gross negligence within the privity or knowledge of the responsible party or a violation (within the privity or knowledge of the responsible party) of applicable Federal safety, construction, or operating regulations; or

(B) the responsible party fails or refuses to report the discharge where required by law and where the responsible party knows or has reason to know of the discharge, or to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities.

(3) Adjusting limits of liability.—

(A) Facilities.—The Secretary is authorized to establish by regulation, with respect to any class or category of facility (other than an offshore facility) a maximum limit of liability under this section of less than $75,000,000, but not less than $8,000,000, taking into account the size, storage capacity, oil throughput, proximity to sensitive areas, type of oil handled, history of discharges, and other factors relevant to risks posed by the class or category of facility.

(B) Periodic reports.—The Secretary shall, from time to time, report to the Congress on the desirability of adjusting the limits of liability specified in paragraph (1) of this subsection.

(d) Liability for Interest.—

(1) General rule.—The responsible party or his guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of a claim under this section for the period described in paragraph (2).

(2) Period.—

(A) In general.—Except as provided in subparagaph (B), the period for which interest shall be paid under paragraph (1) is the period beginning on the date on which the claim is presented to the responsible party, or guarantor, and ending on the date on which the claimant is paid, inclusive.

(B) Certain periods excluded.—If the guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in subparagraph (A) shall not include the period beginning on the date such offer is made and ending on the date such offer is accepted. If such offer is made within sixty days after the date upon which the claim is presented pursuant to section 103, the period described in subparagraph (A) shall not include any period before such offer is accepted.

(C) Calculation of interest.—The interest paid under this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve bulletin.

(D) Interest not subject to liability limits.—Interest under this paragraph shall be in addition to damages for which claims may be asserted under section 102 and shall be paid without regard to any limitation of liability under subsection (c)(1) of this section. The payment of interest under this subsection by a guarantor shall be subject to section 104(e).

(e) Natural Resources.—

(1) Liability.—In the case of an injury to, destruction of, or loss of natural resources under this section, liability shall be—

(A) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States,

(B) to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State, and

(C) where subsection (f) of this section applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such country.

(2) Designation of trustees.—

(A) In general.—The President, or the authorized representative of any State or of the foreign government, shall act on behalf of the public as trustee of such natural resources to recover for such damages.

(B) Federal trustees.—The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act. Such officials shall assess damages for injury to, destruction of, or loss of natural resources for purposes of this Act for those resources under their trusteeship and may, upon request of and reimbursement from a State and at the Federal officials discretion, assess damages for those natural resources under the State's trusteeship.

(C) State trustees.—The Governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of such designations. Such officials shall assess damages to natural resources for the purposes of this Act for those natural resources under their trusteeship.

(D) Rebuttable presumption.—Any determination or assessment of damages to natural resources for the purposes of this Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act.

(3) Measure of damages.—The measure of damages in any action under this section for injury to, destruction of, or loss of natural resources shall not be limited by the sums which can be used to restore or replace such resources. There shall be no double recovery under this Act for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, or acquisition for the same discharge and natural resource.

(4) Use of recovered sums.—Sums recovered by the United States Government or a state as trustee under this subsection shall be retained by the trustee, for use only to restore, replace, or acquire the equivalent of such natural resources in accordance with section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended.

(f) Recovery by Foreign Claimants.—

(1) In general.—A foreign claimant may only recover removal costs and damages under this Act in accordance with this subsection.

(2) Covered discharges.—A foreign claimant may recover only if the discharge of oil was from—

(A) a facility,

(B) a vessel in the navigable waters of the United States, or

(C) a tanker that received oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act for transportation to a port in the United States, the discharge having occurred prior to delivery to that port,

and resulted in the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country.

(3) Requirements.—A foreign claimant may only recover if—

(A) the claimant has not been otherwise compensated for the removal costs or damages; and

(B) recovery is authorized by a treaty or executive agreement between the United States and the claimant's country, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, has certified that the claimant's country provides a comparable remedy for United States claimants.

(4) Exception for Canadian claimants respecting Trans-Alaska pipeline oil.—Paragraph (3)(B) shall not apply with respect to recovery by a resident of Canada in the case of a discharge of oil described in paragraph (2)(C).

(5) Definition of foreign claimant.—For purposes of this subsection, the term "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof.

(g) Recovery of Removal Costs by Responsible Party.—

(1) In general.—The responsible party for a vessel or facility from which oil is discharged, or which posed the substantial threat of a discharge of oil, may assert a claim for removal costs under subsection (a) only if he can show that—

(A) he is entitled to a defense to liability under subsection (b), or

(B) he is entitled to a limitation of liability under subsection (c).

(2) Extent of recovery.—A responsible party who is entitled to a limitation of liability, may assert a claim under paragraph (1) of subsection (a) only to the extent that the sum of the removal costs incurred by the responsible party plus the amounts paid by the responsible party or by the guarantor on behalf of the responsible party for claims asserted under subsection (a) exceeds the amount to which the total of the liability under subsection (a) and removal costs incurred by, or on behalf of, the responsible party is limited under subsection (c).

(h) Contribution.—A person may bring an action for contribution against any other person who is liable or potentially liable under this section. Such an action shall be brought in accordance with section 108.

(i) Indemnification Agreements.—

(1) In general.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer the liability imposed under this section from the responsible party for any vessel or facility or from any person who may be liable for a discharge or substantial threat of discharge under this section to any other person. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

(2) Relationship to other causes of action.—Nothing in this Act, including the provisions of paragraph (1) of this subsection, shall bar a cause of action that a responsible party subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(j) Consultation on Removal Actions.—The Secretary shall consult with the affected State or States on the appropriate removal action to be taken in connection with any discharge of oil. Removal with respect to any discharge shall be considered completed when so determined by the Secretary and the Governor or Governors of the affected State or States, in accordance with the national contingency plan.

SEC. 103. USES OF THE FUND.

(a) In General.—The Fund shall be available to the Secretary for—

(1) the payment of removal costs and the cost of carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act, sections 5 and 7 of the Intervention on the High Seas Act, and section 18 of the Deepwater Port Act;

(2) the payment of removal costs and damages not otherwise compensated under this Act;

(3) the payment of removal costs and damages resulting from the discharge, or substantial threat of discharge, of oil from a foreign offshore unit;

(4) the payment of administrative and personnel costs and expenses reasonably necessary for and incidental to the implementation of this Act, and

(5) the payment of contributions to the International Fund under title III of this Act.

(b) Defenses to Liability for the Fund.—The Fund shall not be available to pay any claim for removal costs or damages—

(1) as to a particular claimant, where the discharge or substantial threat of discharge of oil or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(2) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(c) Maximum Amount Payable From Fund.—The maximum amount which may be paid from the Fund with respect to any single discharge or substantial threat of discharge, of oil in combination with payment, if any, under the International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage, 1984, shall not exceed $500,000,000.

(d) Federal and State Officials Who May Obligate From the Fund.—The Secretary is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The Secretary is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(e) Obligation of the Fund by State Officials.—

(1) Authority.—In accordance with regulations promulgated under this subsection, the Governor of each State, or any appropriate State official designated by the Governor, is authorized to obligate the Fund for payment in an amount not to exceed $100,000 for removal costs not inconsistent with the national contingency plan required for the immediate response to a discharge or substantial threat of a discharge of oil.

(2) Notification.—A Governor or designee exercising the authority granted by this subsection shall notify the Secretary within 24 hours of any obligation of a payment from the Fund.

(3) Regulations.—Not later than six months after the date of the enactment of this Act, the Secretary shall publish proposed regulations detailing the manner in which the authority to obligate the Fund and to enter into agreements under this subsection is to be exercised, and, not later than three months after the close of the comment period on such proposed regulations, the Secretary shall promulgate the regulations.

(f) Rights of Subrogation.—Payment of any claim by the Fund under this Act shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the removal costs or damages from the responsible party.

(g) Audit.—The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(h) Period of Limitations for Claims.—

(1) Removal costs.—No claim may be presented under this section for recovery of removal costs after the date six years after the date of completion of all removal action.

(2) Damages.—No claim may be presented under this section for recovery of damages unless the claim is presented within three years after the date of the discovery of the loss and its connection with the release in question, or in the case of damages under section 102(a)(2), if later, the date on which final regulations are promulgated under section 102(d)(3) of this Act.

(i) Limitation on Payment for Same Costs.—Where the Secretary has paid an amount out of the Fund for any costs or damages specified under subsection (a), no other claim may be paid out of the Fund for the same costs.

(j) Plan Required for Natural Resources.—Amounts may not be obligated from the Fund for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such amounts for such purposes has been developed and adopted by affected Federal or State trustees after adequate public notice and opportunity for hearing and consideration of all public comment. The preceding sentence shall not apply in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action.

SEC. 104. CLAIMS PROCEDURE.

(a) Presentation to Responsible Party or Guarantor.—Except as provided in subsection (b), all claims for removal costs or damages shall be presented first to the responsible party or guarantor of the source designated under section 105(a).

(b) Presentation to Fund.—Claims for removal costs or damages may be presented first to the Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 105(c);

(2) by a responsible party who may assert a claim under section 102(g);

(3) by the Governor of a State for removal costs incurred by that State; or

(4) by a United States claimant in a case where a foreign offshore unit has discharged oil causing damage for which the Trust Fund is liable under section 103(a)(3).

(c) Election.—If a claim is presented in accordance with subsection (a) and—

(1) each person to whom the claim is presented denies all liability for the claim, or

(2) the claim is not settled by any person by payment within 180 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 105(b), whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Trust Fund.

(d) Uncompensated Damages.—If a claim is presented in accordance with subsection (a) and full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 102 or because the responsible party and his guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Trust Fund.

(e) Procedure for Claims Against the Fund.—The Secretary shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims under this Act against the Fund.

SEC. 105. DESIGNATION AND ADVERTISEMENT.

(a) Designation of Source and Notification.—When the Secretary receives information of an incident that involves the discharge, or the substantial threat of the discharge, of oil, he shall, where possible and appropriate, designate the source or sources of the discharge. If a designated source is a vessel or a facility, the Secretary shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) Advertisement by the Responsible Party or Guarantor.—If a responsible party or guarantor fails to inform the Secretary, within five days after receiving notification of a designation under subsection (a), of his denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented to such party or guarantor, in accordance with regulations promulgated by the Secretary. Advertisement under the preceding sentence shall begin no later than fifteen days after the date of the designation made under subsection (a). If advertisement is not otherwise made in accordance with this subsection, the Secretary shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than thirty days.

(c) Advertisement by the Secretary.—

(1) the responsible party and the guarantor both deny a designation within five days after receiving notification of a designation under subsection (a),

(2) the source of the oil pollution was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the oil pollution under subsection (a),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Trust Fund.

SEC. 106. SUBROGATION.

(a) In General.—Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for costs or damages shall be subrogated to all rights, claims, and causes of action for those costs and damages that the claimant has under this Act.

(b) Actions on Behalf of the Fund.—Upon request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any responsible party or (subject to section 107(e)) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

SEC. 107. FINANCIAL RESPONSIBILITY.

(a) Vessels.—

(1) Requirement.—The responsible party for any vessel over 300 gross tons (except a non-self-propelled vessel that does not carry oil as cargo or fuel), using any port or place in the United States or the navigable waters or any offshore facility shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to meet the maximum amount of liability to which, in the case of a tanker, the responsible party could be subjected under section 102(c)(1)(A) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 102(c)(1)(B) of this Act, in a case where the responsible party would be entitled to limit liability under that section. If the responsible party owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) Withholding clearance.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United

States of any vessel subject to this subsection that does not have the certification required under this subsection.

(3) Denying entry to or detaining vessels.—The Secretary of the department in which the Coast Guard is operating may (A) deny entry to any offshore facility or any port or place in the United States, or to the navigable waters, or (B) detain at such a facility or port or place, any vessel that, upon request, does not produce the certification required under this subsection or the regulations issued under this subsection.

(4) Seizure of oil.—Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility and any oil carried as cargo on such vessel shall be subject to seizure by the United States.

(b) Offshore Facilities.—Each responsible party with respect to an offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability to which the responsible party could be subjected under section 102 of this Act in a case where the responsible party would be entitled to limit liability under this section. In cases where a person is the responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to one such facility.

(c) Methods of Financial Responsibility.—Financial responsibility under this section may be established by any one, or by any combination, of the following methods, which the Secretary determines to be acceptable: evidence of insurance, surety bond, guarantee, letter of credit, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In promulgating requirements under this section, the Secretary is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.

(d) Claims Against Guarantor.—Any claim for which liability may be established under section 102 of this Act may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke all rights and defenses which would be available to the responsible party under section 102. The guarantor may also invoke the defense that the discharge was caused by the willful misconduct of the responsible party but the guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.

(e) Limitation on Guarantor's Liability.—Nothing in this Act shall impose liability with respect to the discharge or substantial threat of discharge of oil on any guarantor for damages or removal costs which exceeds, in the aggregate, the amount of financial responsibility which that guarantor has provided for the responsible party for any vessel or facility that was a source of oil pollution in that discharge or substantial threat. Nothing in this subsection shall be construed to limit any other Federal or State statutory, contractual, or common law liability of a guarantor to any responsible party for whom such guarantor provides evidence of financial responsibility including, but not limited to, the liability of such guarantor for negotiating in bad faith a settlement of any claim.

(f) Civil Penalty.—

(1) In general.—Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of this section or the regulations issued under this section, or with a denial or detention order issued under subsection (a)(3) of this section, shall be liable to the United States for a civil penalty, not to exceed $25,000 per day of violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability, any history of prior violation, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this paragraph. If any person fails to pay an assessed civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

(2) Judicial relief.—In addition to, or in lieu of, assessing a penalty under paragraph (1) of this subsection, the Secretary may request the Attorney General to secure such relief as necessary to compel compliance with this section, including, but not limited to, a judicial order terminating operations. The district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(g) Continuation of Regulations.—Any regulation respecting financial responsibility, which has been issued pursuant any provision of law repealed or superseded by this Act, and which is in effect on the date immediately preceding the effective date of this Act, shall be deemed and construed to be a regulation issued pursuant to this section. Such a regulation shall remain in full force and effect unless and until superseded by new regulations issued under this section.

(h) Unified Certificate.—The Secretary may issue one certificate or financial responsibility for purposes of this Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

SEC. 108. LITIGATION, JURISDICTION, AND VENUE.

(a) Review of Regulations.—Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within 90 days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

(b) Jurisdiction.—Except as provided in subsection (a) of this section, the United States district courts shall have original jurisdiction over all causes of action arising under this Act (which shall be deemed to include actions under the International Convention on Civil Liability for Oil Pollution Damages, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984), without regard to the citizenship of the parties or the amount in controversy.

(c) Venue.—Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for services of process. For the purposes of this section, the Fund and the International Fund, established under article 2 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984, shall reside in the District of Columbia.

(d) Savings Provision.—Nothing in this Act shall affect any action commenced before the date of enactment of this Act.

(e) Period of Limitations.—

(1) Damages.—Except as provided in paragraphs (3) and (4), an action may not be commenced for damages under this Act, unless that action is commenced within three years after the date of the discovery of the loss and its connection with the release in question, or in the case of damages described in section 102(a)(4)(B), if later, the date on which regulations are promulgated under section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(2) Removal costs.—Except as provided in paragraphs (3) and (4), an action may not be commenced for recovery of removal costs under this Act, unless that action is commenced within three years after completion of the removal action. An action may be commenced under section 102 for recovery of removal costs at any time after such costs have been incurred.

(3) Actions for contribution.—An action may not be commenced for contribution for any removal costs or damages unless that action is commenced within three years after—

(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

(4) Subrogation.—An action based on rights subrogated pursuant to this Act by reason of payment of a claim may not be commenced under this Act unless that action is commenced within three years after the date of payment of such claim.

SEC. 109. RELATIONSHIP TO OTHER LAW.

(a) Preemption.—Except as provided in this Act, an action may not be brought in a court of the United States, or of any State or political subdivision thereof, for removal costs or damages.

(b) Preservation of State Funds.—Nothing in this title or section 9509 of the Internal Revenue Code of 1954 shall affect the authority of any State to establish or continue in effect, and to require any person to contribute to, a fund a purpose of which is to pay for removal costs or damages arising out of or directly resulting from the discharge, or the substantial threat of discharge, of oil.

(c) No Preemption of Civil Penalties.—Nothing in this Act or section 9509 of the Internal Revenue Code of 1954 shall affect the authority of the United States or any State or political subdivision thereof to impose, or to determine the amount of, any fine or penalty for any violation of law relating to the discharge, or substantial threat of a discharge, of oil.

(d) FINANCIAL RESPONSIBILITY.—Except as provided in this Act, a responsible party for a vessel or facility who establishes and maintains evidence of financial responsibility in accordance with this title shall not be required under any State or local law, rule, or regulation to establish or maintain any other evidence of financial responsibility in connection with liability for the discharge, or substantial threat of a discharge, of oil from such vessel or facility. Evidence of compliance with the financial responsibility requirements of this title shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the release of a hazardous substance from such vessel or facility. A State may enforce, on the navigable waters of the State, the requirements for evidence of financial responsibility imposed under section 107 of this Act.

SEC. 110. EFFECTIVE DATE.

This title shall apply with respect to a discharge, or substantial threat of a discharge, of oil after the date of the enactment of this Act.

TITLE II—CONFORMING AMENDMENTS

SEC. 201. TRANS-ALASKA PIPELINE FUND.

(a) Section 204(b) of the Trans-Alaska Pipeline Authorization Act is amended in the first sentence—

(1) in the first sentence, by inserting after "any area" the following: "in the State of Alaska";

(2) in the first sentence, by inserting after "any activities" the following: "related to the trans-Alaska oil pipeline"; and

(3) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Pollution Liability and Compensation Act of 1987.".

(b) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is repealed. The repeal made by the preceding sentence shall not affect the applicability of that subsection to claims arising before the date of the enactment of this Act. The repeal of paragraphs (4), (5), and (8) of that subsection shall only become effective upon the payment by the Board of Trustees of the Trans-Alaska Pipeline Liability Fund of all claims certified under subsection (c) of this section and the rebate of all remaining amounts under, and the completion of all actions required to carry out, such subsection.

(c)(1) Not later than 210 days after the date of enactment of this Act, the Board of Trustees of the Trans-Alaska Pipeline Liability Fund shall certify to the Secretary the total amount of claims outstanding against that Fund as of the date of enactment of this Act. The amount of that Fund exceeding the total amount so certified shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(2) After the settlement of all claims described in paragraph (1) and the completion of all actions, if any, by the Trans-Alaska Pipeline Fund for recovery of amounts paid on such claims, the remaining amounts in that Fund shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(3) Whenever a rebate is made on a pro rata basis to the owners of oil under paragraph (1) or (2) of this subsection, each owner's share of the rebate shall be an amount determined by dividing the amount contributed by that owner to the Trans-Alaska Pipeline Liability Fund by the total amount contributed by all such owners of that Fund.

(d) Officers and trustees, both present and former, of the Trans-Alaska Pipeline Liability Fund shall not be subject to any liability incurred by that Fund or by the present and past officers and trustees of that Fund, other than liability for gross negligence or willful misconduct.

SEC. 202. INTERVENTION ON THE HIGH SEAS ACT.

Section 17 of the Intervention on the High Seas Act is amended to read as follows:

"SEC. 17. The Oil Spill Liability Trust Fund shall be available to the Secretary for actions taken under sections 5 and 7 of this Act.".

SEC. 203. FEDERAL WATER POLLUTION CONTROL ACT.

Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Subparagraph (H) of paragraph (2) of subsection (c) amended by striking out "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal" and inserting in lieu thereof the following: ", in the case of any discharges of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Oil Spill Liability Trust Fund".

(2) Subsection (d) is amended by striking out the last sentence.

(3)(A) Subsections (f), (g), and (i) of section 311 of the Federal Water Pollution Control Act shall not apply with respect to any discharge of oil resulting in removal costs for which liability is established under section 102 of this Act.

(B) Paragraphs (2) and (3) of subsection (f) are amended by striking out "under subsection (c) for the removal of such oil or substance by the United States Government" each place it appears and inserting in lieu thereof "under subsection (c) for the removal of such oil or substance by the United States Government and for payments made pursuant to section 103(a)(4)(A) of the Oil Pollution Liability and Compensation Act of 1987".

(4) Subsection (i) is amended by striking out "(1)" after "(i)" and striking out paragraphs (2) and (3).

(5) Subsection (k) is repealed. Any amounts remaining in the revolving fund established under that subsection shall be deposited in the general fund of the Treasury. The Oil Spill Liability Trust Fund shall assume all liability incurred by the revolving fund established under section 311(k) of the Federal Water Pollution Control Act.

(6) Subsection (l) is amended by striking out the second sentence.

(7) Subsection (p) is repealed.

(8) Section 311 is amended by adding at the end thereof the following new subsection:

"(s) The Oil Spill Liability Trust Fund shall be available to carry out subsections (c), (d), (i), and (l). Any amounts received by the United States under this section shall be deposited in the Oil Spill Liability Trust Fund.".

SEC. 204. DEEPWATER PORT ACT.

The Deepwater Port Act of 1974 is amended as follows:

(1) In section 4(c)(1) strike "section 18(l) of this Act;" and insert in lieu thereof "section 104 of the Oil Pollution Liability and Compensation Act of 1987,".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and paragraph (1) of subsection (m) of section 18 are deleted.

(3) Paragraph (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section", and inserting in lieu thereof "Oil Spill Liability Trust Fund".

(4) Subsections (c), (k), and (m) of section 18 are redesignated as subsections (b), (c), and (d) respectively, and paragraphs (2), (3), and (4) of subsection (m) are redesignated as paragraphs (1), (2), and (3), respectively.

(5) Any amounts remaining in the Deepwater Port Liability Fund, established under section 18(f) of the Deepwater Port Act of 1974, shall be deposited in the Fund established under this Act. The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund.

SEC. 205. OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.

Title III of the Outer Continental Shelf Lands Act Amendment of 1978 is hereby repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the Oil Spill Liability Trust Fund. The Oil Spill Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund.

SEC. 206. NOTICE TO STATE; INCREASED PENALTIES FOR FAILURE TO REPORT.

(a) Section 311(b)(5) of the Federal Water Pollution Control Act is amended by inserting after the first sentence the following: "The Federal agency shall immediately notify the appropriate State agency of any State that is, or may reasonably be expected to be, affected by the discharge of oil.".

(b) The second sentence of section 311(b)(5) of the Federal Water Pollution Control Act is amended by striking "fined not more than $10,000, or imprisoned for not more than one year, or both" and inserting in lieu thereof "fined in accordance with the applicable provisions of title 18 of the United States Code, or imprisoned for not more than three years (or not more than five years in the case of a second or subsequent conviction), or both".

SEC. 207. QUALIFIED AUTHORIZING LEGISLATION.

This Act shall be considered to be qualified authorizing legislation for purposes of section 4611(f)(2)(B) of the Internal Revenue Code of 1986.

TITLE III—IMPLEMENTATION OF INTERNATIONAL CONVENTIONS

SEC. 301. DEFINITIONS.

For the purposes of this title—

(1) the terms "ship", "owner", "oil", "pollution damage", and "incident" shall have the meanings provided in article I of the Civil Liability Convention;

(2) the term "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1984;

(3) the term "financial responsibility" has the same meaning as "financial security" under the Civil Liability Convention;

(4) the term "Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984; and

(5) the term "International Fund" mean the International Oil Pollution Compensation Fund, established under article 2 of the Fund Convention.

SEC. 302. APPLICABILITY OF CONVENTIONS.

During any period in which the Civil Liability Convention and the Fund Convention are in force with respect to the United States, liability of an owner for pollution damage arising from an incident involving a ship shall be determined in accordance with the Civil Liability Convention and Fund Convention. Nothing in this title shall constitute a ratification of either the Civil Liability Convention or the Fund Convention.

SEC. 303. RECOGNITION OF INTERNATIONAL FUND.

The International Fund is recognized under the laws of the United States as a legal person, and shall have the capacity to acquire and dispose of real and personal property, and to institute and be party to legal proceedings. The Director of the International Fund is recognized as the legal representative of the International Fund. The Director shall be deemed to have appointed irrevocably the Secretary of State as the International Fund's agent for the service of process in any legal proceedings involving the International Fund within the United States. The International Fund and its assets shall be exempt from all direct taxation in the United States.

SEC. 304. ACTION IN UNITED STATES COURTS.

(a) SERVICE OF PROCESS ON FUND.—In any action brought in a court in the United States against the owner of a ship or its guarantor under the Civil Liability Convention, the plaintiff or defendant, as the case may be, shall serve a copy of the complaint and any subsequent pleading therein upon the International Fund at the same time the complaint or other pleading is served upon the opposing parties.

(b) INTERVENTION.—The International Fund may intervene as a party as a matter of right in any action brought in a court in the United States against the owner of a ship or its guarantor under the Civil Liability Convention.

SEC. 305. CONTRIBUTION TO INTERNATIONAL FUND.

(a) PAYMENTS TO BE MADE FROM OIL SPILL LIABILITY TRUST FUND.—The amount of any contribution to the International Fund which is required to be made under article 10 of the Fund Convention by any person with respect to oil received in any port, terminal installation, or other installation located in the United States shall be paid to the International Fund from the Oil Spill Compensation Fund, established under this Act.

(b) INFORMATION.—The Secretary may, by regulation, require persons who are required to make contributions with respect to oil received in any port, terminal, installation, or other installations in the United States under article 10 of the Fund Convention to provide all information relating to that oil as may be necessary to carry out subsection (a) of this section and articles 10, 12, 13, 14, and 15 of the Fund Conventions.

SEC. 306. RECOGNITION OF FOREIGN JUDGMENTS.

Any final judgment of a court of any country which is a party to the Civil Liability Convention or to the Fund Convention in an action for compensation under either convention shall be recognized by any court of the United States having jurisdiction under this Act, when that judgment has become enforceable in that country and is no longer subject to ordinary form of review, except where—

(1) the judgment was obtained by fraud, or

(2) the defendant was not given reasonable notice and a fair opportunity to present its case.

SEC. 307. FINANCIAL RESPONSIBILITY.

(a) UNITED STATES DOCUMENTED SHIPS.—The owner of each ship which is documented under the laws of the United States which is subject to the Civil Liability Convention shall establish and maintain, in accordance with regulations promulgated by the Secretary evidence of financial responsibility as required in Article VII of the Civil Liability Convention.

(b) OTHER SHIPS.—The owner of each ship (other than a ship to which subsection (a) applies or a ship which is a public vessel), which is subject to the Civil Liability Convention and which enters or leaves a port or terminal in the United States or uses an Outer Continental Shelf facility or an offshore facility that is or was licensed under the Deepwater Port Act of 1974, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility as required in article VII of the Civil Liability Convention. Any ship which has on board a valid certificate issued in accordance with article VII of the Civil Liability Convention shall be considered as having met the requirements of this subsection. Any ship carrying only oil as cargo, fuel, or residue, which has on board a valid certificate issued in accordance with article VII of the Civil Liability Convention shall be considered as having met the requirements of section 104 of this Act.

(c) AUTHORITY OF SECRETARY TO ISSUE.—The Secretary is authorized to issue any certificate of financial responsibility which the United States may issue under the Civil Liability Convention.

(d) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any ship which does not have a certificate demonstrating compliance with this section.

(e) DENYING ENTRY AND DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (1) deny entry to any facility or to any port or place in the United States, or (2) detain at the facility or port or place in the United States, any ship subject to this section which, upon request, does not produce the certificate demonstrating compliance with this section or regulations issued hereunder.

(f) CIVIL PENALTY.—Any person who, after notice and an opportunity for a hearing, is found to have violated this section, any regulation issued under this section, section 105(e), or section 305(b), or any denial or detention order issued under subsection (e) of this section shall be liable to the United States for a civil penalty, not to exceed $25,000 per day of violation. The amount of the civil penalty shall be assessed by the Secretary in accordance with the procedures set forth in section 104(f) of this Act.

(g) WAIVER OF SOVEREIGN IMMUNITY.—The United States waives all defenses based on its status as a sovereign State with respect to any controversy arising under the Civil Liability Convention or the Fund Convention relating to any ship owned by the United States and used for commercial purposes.

SEC. 308. REGULATIONS.

The Secretary may prescribe the necessary regulations to carry out this Act and all obligations of the United States under the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984.

By Mr. ADAMS:

S. 1803. A bill to amend title 39, United States Code, to prohibit the mailing of certain locksmithing devices, and for other purposes; referred to the Committee on the Judiciary.

MAIL ORDER LOCK PICK PROHIBITION ACT

● Mr. ADAMS. Mr. President, today I am introducing legislation prohibiting mail order sales of lock picks to the general public. I believe that the Mail Order Lock Pick Protection Act of 1987 will assist in protecting our citizens from unlawful entry to their homes, businesses, and cars by criminals using lock picks purchased through the mail.

The proposed bill seeks to amend title 39 of the United States Code, relating to the U.S. Postal Service, by adding a section that states that "Any locksmithing device is nonmailable, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs * * *." The bill also amends title 18 of the United States Code, relating to criminal procedure, by providing for penalties of imprisonment not to exceed 10 years and fines of up to $10,000 or both for knowingly mailing a locksmithing device in violation of the statute.

This bill would prohibit the practice of using the U.S. mails to provide lock picks to individuals untrained in their use or for illegal activities. The United States Code already contains a list of items that are prohibited from being mailed, including poisons, explosives, liquor, reptiles, and switchblade knives. There is also a prohibition in the same section of the code that prohibits the general mailing of motor vehicle master keys.

This legislation contains four exceptions to its mail order prohibition. Locksmithing devices may be mailed to lock manufacturers or distributors; to bona fide locksmiths; to bona fide repossessors; and to motor vehicle manufacturers and distributors. These exceptions are in accord with precedent. In 1986, Congress prohibited the mailing of motor vehicle master keys. The Postal Service regulations implementing the legislation includes exceptions for bona fide locksmiths, motor vehicle dealers and parking lot employees. I believe that the exceptions provided for in my bill are legitimate and necessary for the locksmith and lock industry.

Mr. President, there are far too many burglaries and break-ins in our country. According to FBI crime statistics, the total number of homes burglarized in 1986 was over 3.2 million, up 6 percent from 1985 and representing over $3.1 billion in losses. We in Congress must address this growing crime problem. Certainly, this bill will not solve the problem of burglaries, but I believe it is a good and reasonable step in making our homes and vehicles more secure. It is surprisingly easy to order lockpicking tools through the mail; more often than not, these tools fall into the wrong hands.

I urge the Members of the Senate to join me in ensuring that only authorized individuals and businesses are able to procure these specialized implements.

Mr. President, I request that the text of the proposed legislation be reproduced in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mail Order Lock Pick Prohibition Act of 1987".

SECTION 2. NONMAILABILITY OF LOCKSMITHING DEVICES.

(a) IN GENERAL.—Title 39, United States Code, is amended by inserting after secton 3002 the following:

"§ 3002a. Nonmailability of locksmithing devices

"(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

"(1) a lock manufacturer or distributor;

"(2) a bona fide locksmith;

"(3) a bona fide repossessor; or

"(4) a motor vehicle manufacturer or dealer.

"(b) For the purpose of this section, 'locksmithing device' means—

"(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

"(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening of a lock or similar security device; and

"(3) a device or tool designed for making an impression of a lock or similar security device to duplicate such lock or device.".

(b) CHAPTER ANALYSIS.—The analysis for Chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3002 the following:

"3002a. Nonmailability of locksmithing devices.".

SECTION 3. PENALTIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable locksmithing devices

"Whoever knowingly deposits for mailing or delivery, knowingly causes to be delivered by mail, or knowingly causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be fined not more than $10,000 or imprisoned not more than then ten years, or both.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable locksmithing devices.".●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S.J. Res. 206. Joint resolution to declare Dennis Chavez Day; to the Committee on the Judiciary.

DENNIS CHAVEZ DAY

Mr. DOMENICI. Mr. President, I send to the desk a joint resolution to honor the late Senator Dennis Chavez.

April 8, 1988 marks the 100th anniversary of Dennis Chavez' birth, and my resolution would designate that day as "Dennis Chavez Day."

As the first native-born Hispanic elected to the U.S. Senate, Senator Chavez served as New Mexico's Senator for 27 years, from March 11, 1935, until his death on November 18, 1962. He also served 4 years in the U.S. House of Representatives, making him the highest ranking Hispanic in the Federal Government for over 30 years.

Mr. President, Dennis Chavez provides an everlasting symbol of opportunity found only in America.

He came from humble beginnings. He was born in a home with a dirt floor. Too poor to even attend high school, Dennis Chavez dropped out of school in the eighth grade and took a job as a grocery delivery boy.

After working for Senator A.A. James during the 1916 election, Dennis Chavez earned a job as a clerk in the U.S. Senate. While working there, he passed a special entrance exam to attend Georgetown Law School.

Never forgetting his roots, Senator Chavez made it a priority to improve the lot of the poor and oppressed. As a member of the New Mexico State Legislature, Dennis Chavez introduced the first bill to provide free textbooks to New Mexico's school children. Actions like this served as a source of pride, inspiration and encouragement to the underprivileged.

As a U.S. Senator, Dennis Chavez served as chairman of the Committee on Public Works, and as chairman of the Defense Subcommittee, Committee on Appropriations.

Senator Chavez's distinguished career continues to provide proof that anybody in America can reach any goal that he or she desires. Senator Chavez provides all of us with a reminder how special and privileged it is to live in this great land of opportunity.

Support for this resolution will indicate the Senate's appreciation for Senator Chavez's work. More importantly, it will serve as a reminder to our citizens that they can attain anything they desire, even against the most difficult odds.

ADDITIONAL COSPONSORS

S. 373

At the request of Mr. PELL, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Utah [Mr. HATCH], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Indiana [Mr. QUAYLE], the Senator from Connecticut [Mr. DODD], the Senator from South Carolina [Mr. THURMOND], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. WEICKER], the Senator from Maryland [Ms. MIKULSKI], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 373, a bill to reauthorize the program of finance assistance to meet special educational needs of disadvantaged children, and to reauthorize chapter 2 of the Education Consolidation and Improvement Act of 1981, through fiscal year 1993.

S. 444

At the request of Mr. BOSCHWITZ, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 444, a bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential and for other purposes.

S. 533

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1220

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1281

At the request of Mr. BREAUX, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1281, a bill to amend Public Law 97-360, and for other purposes.

S. 1519

At the request of Mr. LAUTENBERG, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 1522

At the request of Mr. RIEGLE, the names of the Senator from Virginia

[Mr. Trible] and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1551

At the request of Mr. Roth, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 1551, a bill to grant the consent of Congress to the Appalachian States Low-Level Radioactive Waste Compact.

S. 1561

At the request of Mr. Bond, the names of the Senator from Georgia [Mr. Nunn] and the Senator from Louisiana [Mr. Breaux] were added as cosponsors of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1630

At the request of Mr. Heflin, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of S. 1630, a bill to provide for retirement and survivors' annuities for bankruptcy judges and magistrates, and for other purposes.

S. 1673

At the request of Mr. Chafee, the names of the Senator from Alabama [Mr. Shelby] and the Senator from Utah [Mr. Hatch] were added as cosponsors of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1774

At the request of Mr. Pryor, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 1774, a bill to promote and protect taypayer rights, and for other purposes.

S. 1787

At the request of Mr. Daschle, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1793

At the request of Mr. Moynihan, the names of the Senator from Maine [Mr. Mitchell], the Senator from Missouri [Mr. Danforth], the Senator from Kansas [Mr. Dole], the Senator from Minnesota [Mr. Durenberger], the Senator from Wyoming [Mr. Wallop], the Senator from Rhode Island [Mr. Chafee], and the Senator from Virginia [Mr. Warner] were added as cosponsors of S. 1793, a bill to reinstate and make permanent the disregard of nonprofit organizations' inkind assistance to SSI and AFDC recipients.

At the request of Mr. McCain, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 1793, supra.

S. 1795

At the request of Mr. Danforth, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 1795, a bill to make permanent the provisions under which certain support and maintenance assistance is disregarded as income under titles IV and XVI of the Social Security Act.

At the request of Mr. Thurmond, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 1795, supra.

SENATE JOINT RESOLUTION 26

At the request of Mr. Pell, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of Senate Joint Resolution 26, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 125

At the request of Mr. Roth, the name of the Senator from New York [Mr. Moynihan] the Senator from West Virginia [Mr. Rockefeller], the Senator from North Carolina [Mr. Sanford], the Senator from Nebraska [Mr. Exon], and the Senator from Colorado [Mr. Wirth] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. Reigle, the name of the Senator from Utah [Mr. Garn] and the Senator from Delaware [Mr. Biden] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE JOINT RESOLUTION 201

At the request of Mr. Garn, the name of the Senator from Connecticut [Mr. Dodd] and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of Senate Joint Resolution 201, a joint resolution to designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.

SENATE JOINT RESOLUTION 203

At the request of Mr. D'Amato, the name of the Senator from Massachusetts [Mr. Kerry] and the Senator from Florida [Mr. Graham] were added as cosponsors of Senate Joint Resolution 203, a joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States.

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. Heflin, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of Senate Concurrent Resolution 15, a concurrent resolution expressing the sense of the Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. Stevens, the name of the Senator from Florida [Mr. Graham] the Senator from Oklahoma [Mr. Nickles], and the Senator from Idaho [Mr. Symms] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 84—RELATING TO THE TRANSFER OF SILKWORM MISSILES BY THE PEOPLE'S REPUBLIC OF CHINA TO IRAN

Mr. MURKOWSKI (for himself and Mr. Cranston) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 84

Whereas, on October 16, 1987 the American flagged tanker Sea Isle City, was struck by a Chinese produced Silkworm missile;

Whereas, at least 18 persons aboard the Sea Isle City were injured, among them two Americans;

Whereas, on October 15, 1987 the American owned tanker Sungari was struck by a Chinese produced Silkworm missile;

Whereas, China has continued to supply Silkworm missiles to Iran despite repeated official protests by the United States;

Whereas, China has so far not unreservedly declared its willingness to support an arms embargo of Iran if Iran refuses to accept United Nations Security Resolution 598, passed July 20, 1987;

Whereas, the United States is engaged in significantly military related technology transfers to China;

Therefore, it is the sense of the Congress that:

(a) the United States should review all transfers of United States military related technology to the People's Republic of China until the Government of the People's Republic of China indicates its willingness to support an arms embargo in the event that Secretary General Perez de Cuellar's new round of negotiations with Iran and Iraq fail to gain Iran's acceptance of Security Council Resolution 598.

(b) the Administration should make a strong representation to the Government of the People's Republic of China that the continued transfer of Silkworm missiles to

Iran may seriously jeopardize U.S.-China relations, and

(C) the Administration should report to the Congress within 30 days of the enactment of this Resolution whether the representation has been made, and if so, what response has been received.

SENATE RESOLUTION 299—TO DIRECT THE LEGAL COUNSEL TO REPRESENT SENATOR HEINZ AND SENATOR SPECTER

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Whereas, in the case of Wesley Carroll v. Pennsylvania Board of Probation and Parole, et al., Case No. 87-2119, pending in the United States District Court for the Western District of Pennsylvania, the plaintiff has named as defendants Senator John Heinz and Senator Arlen Specter;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a) (1982), the Senate may direct its counsel to defend the members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Heinz and Senator Specter in the case of Wesley Carroll v. Pennsylvania Board of Probation and Parole, et al.

AMENDMENTS FILED DURING ADJOURNMENT

Under the authority of the order of the Senate of October 16, 1987, the following amendments were filed on October 19, 1987, during the adjournment of the Senate.

WAR POWERS RESOLUTION

DOLE AMENDMENTS NOS. 1010 THROUGH 1013

Mr. DOLE submitted four amendments intended to be proposed by him to the joint resolution (S.J. Res. 194), to require compliance with the provisions of the War Powers Resolution; as follows:

AMENDMENT No. 1010

On page 2, line 2, strike all after the quotation marks and insert: Nothing in this resolution should be construed as limiting the President's constitutional powers as Commander-in-Chief to utilize American military forces in self-defense operations, or as urging the withdrawal of American military forces from the Persian Gulf region.

AMENDMENT No. 1011

On page 2, line 2, strike all after the quotation marks and insert: Nothing in this resolution should be construed as disapproval of the President's policies in the Persian Gulf region.

AMENDMENT No. 1012

On page 2, line 2, strike all after the quotation marks and insert: Nothing in this resolution should be construed as limiting the President's constitutional powers as Commander-in-Chief.

AMENDMENT No. 1013

On page 2, line 2, strike all after the quotation marks and insert: Nothing in this resolution should be construed as disapproval of the October 19, 1987, attack by American forces on the Iranian oil platform, used by Iranian military forces in its operations against innocent shipping in the Persian Gulf region.

HELMS AMENDMENTS NOS. 1014 AND 1015

Mr. HELMS submitted two amendments intended to be proposed by him to the joint resolution (S.J. Res. 194), supra, as follows:

AMENDMENT No. 1014

Add at the end of the language proposed to be stricken by amendment No. 951 the following new section:

"SEC. . Nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

AMENDMENT No. 1015

Add at the end of the language proposed to be stricken by amendment No. 951 the following new section:

"SEC. . The United States Navy is authorized and justified in sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

AMENDMENTS SUBMITTED

WAR POWERS RESOLUTION

DOLE AMENDMENT NOS. 1016 THROUGH 1019

(Ordered to lie on the table.)

Mr. DOLE submitted four amendments intended to be proposed by him to the joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers Resolution; as follows:

AMENDMENT No. 1016

At the end, add: Nothing in this resolution should be construed as limiting the President's Constitutional powers as Commander-in-Chief.

AMENDMENT No. 1017

At the end, add: Nothing in this resolution should be construed as limiting the President's Constitutional powers as Commander-in-Chief to utilize American military forces in self-defense operations, or as urging the withdrawal of American military forces from the Persian Gulf region.

AMENDMENT No. 1018

At the end, add: Nothing in this resolution should be construed as disapproval of the October 19, 1987, attack by American forces on the Iranian oil platform, used by Iranian military forces in its operations against innocent shipping in the Persian Gulf region.

AMENDMENT No. 1019

At the end, add: Nothing in this resolution should be construed as disapproval of the President's policies in the Persian Gulf region.

BOREN AMENDMENT NO. 1020

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to amendment No. 951 proposed by Mr. BYRD (and Mr. WARNER) to the joint resolution (S.J. Res. 194) supra; as follows:

Amend the Byrd-Warner Amendment No. 951, by striking all after subsection (c) of paragraph (3).

HELMS AMENDMENT NO. 1021

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1015 submitted by him to the joint resolution (S.J. Res. 194) supra; as follows:

Add before the period at the end of unprinted amendment No. 1015 the following: "; *provided, further*, that nothing in this Resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom."

HELMS AMENDMENT NO. 1022

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1014 submitted by him to the joint resolution (S.J. Res. 194) supra; as follows:

Add before the period at the end of unprinted amendment No. 1014 the following: "; *provided, further*, that nothing in this Resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom."

HELMS AMENDMENT NO. 1023

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1013 submitted by Mr. DOLE to the joint resolution (S.J. Res. 194) supra; as follows:

Add before the period at the end of unprinted amendment No. 1013 the following: "; *provided, further*, that nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

HELMS AMENDMENT NO. 1024

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1012 submitted by Mr. Dole to the joint resolution (S.J. Res. 194) supra; as follows:

Add before the period at the end of unprinted amendment No. 1012 the following: "; *provided, further,* that nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

HELMS AMENDMENT NO. 1025

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1011 submitted by Mr. Dole to the joint resolution (S.J. Res. 194) supra; as follows:

Add before the period at the end of unprinted amendment No. 1011 the following: "; *provided, further,* that nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

HELMS AMENDMENT NO. 1026

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1010 submitted by Mr. Dole to the joint resolution (S.J. Res. 194) supra; as follows:

Add before the period at the end of unprinted amendment No. 1010 the following: "; *provided, further,* that nothing in this Resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America."

BOREN AMENDMENT NO. 1027

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to amendment No. 951 proposed by Mr. Byrd (and Mr. Warner) to the joint resolution (S.J. Res. 194) supra; as follows:

At the appropriate place in the amendment insert the following: *"Resolved,* That the Senate express its approval and support of the President's actions making an appropriate and carefully considered response to the Iranian attack on a U.S.-flagged ship in Kuwaiti waters on October 16, 1987. Be it further resolved that the Senate strongly endorses these actions as a firm indication of the United States' resolve that the Iranian government cannot take military action against the United States with impunity.".

WEICKER AMENDMENT NOS. 1028 THROUGH 1033

(Ordered to lie on the table.)

Mr. WEICKER submitted six amendments intended to be proposed by him to the joint resolution (S.J. Res. 194) supra; as follows:

Amendment No. 1028

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

Amendment No. 1029

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

Amendment No. 1030

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

Amendment No. 1031

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

Amendment No. 1032

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

Amendment No. 1033

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

BOREN AMENDMENT NO. 1034

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 194) supra; as follows:

Notwithstanding the foregoing subsections (c) and (d) are null and void.

BOREN AMENDMENT NO. 1035

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to amendment No. 951 proposed by Mr. Byrd (and Mr. Warner) to the joint resolution (S.J. Res. 194) supra; as follows:

Strike all after the period on page 2 at the end of paragraph (7).

TAX TREATMENT OF CERTAIN INKIND ASSISTANCE TO SSI AND AFDC RECIPIENTS

MOYNIHAN (AND DANFORTH) AMENDMENT NO. 1036

Mr. BYRD (for Mr. Moynihan, for himself and Mr. Danforth) proposed an amendment to the bill (S. 1793) to reinstate and make permanent the disregard of nonprofit organizations inkind assistance to SSI and AFDC recipients; as follows:

"(a)" before section 2639(d); and add after "period." the following:

"(b) The amendment made by this section shall be effective on October 1, 1987."

NOTICE OF HEARING

SUBCOMMITTEE ON RURAL ECONOMY AND FAMILY FARMING

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's Subcommittee on Rural Economy and Family Farming will hold a hearing on Wednesday, October 28, 1987, on the effect of airline deregulation on the rural economy. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call Chuck Culver of the committee staff at 224-4318, or Tamara McCann of Senator Baucus' office at 224-2651.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 20, 1987, to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FOREST

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forest be authorized to meet during the session of the Senate on Tuesday, October 20, 1987, to receive testimony concerning H.R. 2629, a bill to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native corporations, and the State of Alaska; S. 1335, a bill to establish the City of Rocks National Reserve in the State of Idaho and for other purposes; S. 1675, a bill to provide for the establishment of the Hagermen Fossil Beds National Monument in the State of Idaho, and for other purposes; H.R. 2566, a bill to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 20, 1987, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be autorized to meet during the session of the Senate on October 20, 1987, to report a resolution authorizing supplemental committee funding.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, October 20, 1987, to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 20, 1987, to hold hearings on S. 816, S. 1026 and S. 1040, legislation regarding the sale of rail lines to shortline and regional railroads.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law and the Subcommittee on Antitrust Monopolies, and Business Rights of the Committee on the Judiciary, be authorized to hold a joint hearing during the session of the Senate on October 20, 1987, on S. 438, Intellectual Property Antitrust Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, October 20, beginning to conduct an oversight hearing on the Nuclear Regulatory Commission's regulatory interface with the industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, October 20, 1987, in open session to receive testimony on the military balance in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SVETLANA BRAUN—HOW LONG MUST SHE WAIT?

● Mr. LEVIN. Mr. President, almost 4 weeks ago, I informed my colleagues that Svetlana Braun had been allowed to emigrate from the Soviet Union to join her husband, Keith Braun, in Michigan. The Supreme Soviet had finally decided to allow this divided couple to live together in the United States.

Unfortunately, my happy news of last month was apparently premature. Although Svetlana has confirmed several times that she has received permission, her repeated attempts to obtain the necessary emigration papers have met with failure. Just last Thursday, Svetlana tried again to get her exit visa from OVIR, the office that handles emigration matters, and was told that they did not have the necessary papers for her.

Whether this represents a change in policy or merely bureaucratic bungling, it has caused tremendous pain and uncertainty for this divided couple, who have waited more than 3 years in forced separation.

I have been trying for more than a week now to get an explanation from Soviet officials for this confusing and upsetting situation. However, officials at the Soviet Embassy have not returned my phone calls. I hope that this deplorable situation can be cleared up expeditiously, and that Keith and Svetlana will soon be reunited in Michigan.●

APPROPRIATIONS FOR THE NATIONAL SCIENCE FOUNDATION

● Mr. PRESSLER. Mr. President, I want to rise in support of the Senate action on the appropriations for the National Science Foundation contained in H.R. 2783, the HUD-Independent Agencies appropriation bill.

Some may ask why Congress should support increased funding for the National Science Foundation [NSF] when other agencies and programs are being cut. Our country is facing an unprecedented challenge to its economy. As the President's Council on Economic Competitiveness pointed out in its 1983 report, the United States must rely on our advantage in technology if we want to maintain a strong economy.

But our science infrastructure is crumbling. Currently only 7 out of every 1,000 U.S. students will graduate with a science or engineering degree. In some graduate sciences, more than half of those obtaining degrees are foreigners. Science faculty positions are vacant as many professors reach retirement with no replacements being trained. Many schools have obsolete science instrumentation, while the schools that do have modern instruments often cannot afford to maintain them. This incapacitation is occurring at the same time industry, which is spending less on research and development, is turning to our colleges and universities for the knowledge on which new products can be based.

If Congress is serious about increasing our competitiveness, we need to support the President's funding request for NSF in the appropriations conference with the House. If our counry is to compete, we need a pool of scientifically educated people, our schools need modern science instrumentation, our industry needs university based science and technology centers that will link university and industry rearchers, and our country needs to support university research in exciting scientific areas. Funding for NSF will provide more fellowships, more faculty support, more engineering research centers, new science and technology centers, and more research in superconductivity, advanced computing, biotechnology, advanced materials, automated manufacturing, continental drilling, and global geosciences.

Mr. President, we have more talented people and more resources than any other nation. We can put our resources to work if we strongly support university and college research.●

FRAUD OF THE DAY—PART 7

● Mr. HEINZ. Mr. President, since I began my daily discussions of customs fraud, I have stressed the deterrent power a private right of action would have in combating customs fraud. I have also occasionally touched upon the way a private right of action would redress some of the losses suffered by domestic industries due to customs fraud. Today's fraud clearly shows that something must be done for those domestic companies which are hurt by fraud.

A Customs Service investigation currently under way has found that something was seriously wrong with import entries made by four different firms which import wood from Brazil. The import specialists of the Customs

Service found that the company was entering Brazilian virola plywood into the United States as softwood, which is duty free under the Generalized System of Preferences Program. Virola is, however, a hardwood which is not entitled to GSP status. The total loss of revenue to date has been estimated at $132,335, and penalty notices have been issued in the amount of $2.5 million.

The penalty assessed for the fraud was almost 20 times greater than the amount of money the companies saved by committing the fraud. This would make this fraud appear as one of the few cases where the culprits got what they deserved. Except for two important points. The money has not yet been collected, so the company has not yet been effectively penalized; and even when it is collected, domestic producers will get none of it. They are the injured parties; yet they get on financial compensation, nor have any legal right to seek such compensation. A private right of action would allow these domestic producers to seek some form of financial redress through the Court of International Trade.

As I indicated, it is also true that just because a $2.5 million fine is assessed, it does not by any means ensure that a $2.5 million fine will be paid. There has been a marked tendency for customs fraud defendants to drag out civil proceedings as long as possible. This delaying action often leads the Government to settle for a reduced or mitigated penalty. Further, restrictions on the sharing of grand jury information developed by the Justice Department in the course of the criminal investigation further hamper the Customs Service's ability to hold the line on tough penalties. As a result, the four firms which have been found guilty of fraud can use delays and appeals to evade any significant financial penalty.

A private right of action in the Court of International Trade [CIT], however, could lead to a more rapid outcome, since the CIT is neither overworked nor overcrowded and would therefore be able to handle cases of customs fraud expeditiously.

Reasonable economic compensation for victims of customs fraud, as well as significant financial penalties for the perpetrators of such fraud, makes the Senate provision on a private right of action both necessary and fair.●

THE IMPLICATIONS OF THE CRASH OF 1987

● Mr. KERRY. Mr. President, like many of my fellow citizens, and my colleagues on the floor of the Senate, I am stunned by the sudden and spectacular decline in the world's financial markets yesterday—a decline which measured by the Dow Jones averages has seen the market decline by some 35 percent since August of this year. A decline which even the Wall Street Journal headlines as "The Crash of 1987."

Stunned as we are should this decline surprise us? Or put differently, are we surprised that the market has reversed it's long bull run—or is it the sudden timing, the global scale, and the intensity of the reaction that shocks us? Speaking as just one Senator—but as one who has followed American economic policy with great interest for many years—I can say that I am not surprised to see financial markets reacting to the persistence of two twin deficits caused by mismanagement of U.S. fiscal and trade policy. On the contrary, I only wonder why it took so long.

For 7 years now the conduct of our national economic policymaking has been a lot like the fable about the emperor's new clothes. Enchanted by fanciful descriptions of wealth and finery conjured up by a small coterie of unorthodox economic advisors, the President has repeatedly paraded before the Congress asking us to admire his commitment to deficit reduction while all the time the deficit has grown and grown. Similarly on trade and industrial policy—until yesterday, Wall Street has pretended that the President—like the emperor—was wearing a superb set of new clothes.

There are many complex factors contributing to the current meltdown in the stock market. And there is no consensus on how long, how deep, and how damaging to our economy this unprecedented plunge will be. Indeed, there are a great many factors about which we are not clear. But while the experts debate these matters in the days and weeks ahead, let us move ahead promptly on those matters about which there is an overwhelming consensus.

It is absolutely clear that the borrow and spend policies of the Reagan administration produced the largest Federal budget deficit in our history. And it is clear that this deficit is a fundamental cause of the conditions that produced today's grave economic news. It is also clear that the world economic community has lost any confidence it may have had that this administration is going to take the steps necessary to clean up its deficit mess. The White House and Republican Congressional "budget boycott," as evidenced most recently by the Republican walkout of the Finance and Ways and Means Committee, had a chilling effect in the world's money markets.

In hearings before this Congress economists from both liberal and conservative think tanks have underscored the connection between budget and trade deficits. Early this year while chairing the Subcommittee on International Economic Policy of the Foreign Relations Committee I heard eloquent testimony from economists from Wall Street, The Brookings Institution, the American Enterprise Institute, and the Institute for International Economics. Their message was clear. Budget deficits induced increases in real interest rates which attracted foreign capital to the United States and raised the value of the dollar. The increase in the value of the dollar led to our trade imbalance as the rising dollar made our exports expensive to foreigners and their imports cheap to us.

To reverse the process required a reduction in budget deficits which would lead to a fall in real interest rates and ultimately a fall in the dollar and a correction in our trade imbalance.

But economists also warned that if the budget deficit were not reduced the dollar would fall not because interest rates fell but because foreigners lost confidence in our ability to manage the U.S. budget deficit. This free fall in the dollar—as opposed to a more orderly decline—could result in a so-called hard landing of a steep recession and/or upheavals in financial markets.

This analysis has not been seriously challenged by this administration. Yet the administration has never seriously followed through with a budget program that would result in an orderly decline in real interest rates and exchange rate value of the dollar and therefore a so-called recession free soft landing.

It is also absolutely clear that the massive U.S. trade deficit, in large measure a reflection of the Federal budget deficit, has resulted in a deteriorating dollar and higher interest rates. These in turn raise the specter of both increased inflation and recession—or to resurrect the favored shorthand of the 1970's "stagflation." The borrow and spend budget profligacy of this administration has required an unprecedented foreign capital infusion in order to support American consumption. In fact, America, which was the largest creditor nation in the world when President Reagan entered the White House, is now, as we all know, the world's greatest international debtor.

Two other aspects of our trade deficit that are clear to all and fundamentals requiring attention are the failure to coordinate macroeconomic policies with our allies and the debt crises of the Third World. These are basic causes of our current world economic crisis and must finally be dealt with seriously and without political posturing.

One more important item on which there is consensus is that the current stock market crisis is not 1929 revisited. Most importantly, all agree that the safety net established largely under Democratic leadership after or during the great depression will protect Americans from a replay of 1929. For example, Social Security, health care, savings deposit insurance, unemployment insurance, to name but a few strands of the safety net, are in place, strong, and will protect our families and basic economic institutions. We can all be grateful that the Republican supply-siders were not permitted to destroy these essential safeguards.

The consensus is clear that we must finally address these fundamentals if we are to restore long-term economic stability and growth in the American economy. For now, I believe we must take the following steps. And, I believe they must be taken immediately and on a bipartisan basis.

First, the White House and its Republican allies in Congress must abandon the budget boycott they have engaged in for most of this year. Together we must find a bipartisan solution to the Federal budget deficit—a solution that can be sustained over several years, a solution that will send a powerful and unequivocal message of our serious intent throughout the world. Last year and the year before I voted against the congressional budget resolution because it was not an adequate response, it did not contain adequate immediate deficit reductions, it was not a strong and serious effort. We are now paying the price of our timidity. We cannot permit the current policy drift to continue until the 1988 elections as currently appears to be inevitable. This simply is not in America's interest and we must not allow it to occur.

And we can begin this process by taking two important and dramatic steps.

First, the President, with the leaders of Congress, must jointly convene a national economic summit. This historic convocation should be charged with developing a consensus policy for dealing with the budget deficit, the trade deficit and related matters.

Second, the Republicans must immediately end their budget boycott by returning to the Finance Committee, the Ways and Means Committee, and the Budget Committees and actively engage themselves in the process of tough bargaining an compromise that alone can solve our budget deficit crises.

In addition, the White House and the congressional leadership must produce a trade bill in conference within the next 2 weeks that the President will sign. We must send a clear message to our trading partners that our trade deficit is coming down now and that fair trade means our goods and services are treated in their markets exactly as theirs are in ours. This legislation, coupled with strong action on the budget deficit, can rapidly restore the United States to creditor status and remove us from our unprecedented and incomprehensible lodging in the international poorhouse.

Third, I believe Congress should immediately enact and implement Senate Joint Resolution 193, Bipartisan Commission on Third World Debt. This measure, which I introduced on September 30, would establish a bipartisan commission to develop a consensus approach to solving the debt problem of the Third World. It is critical to our trade position that this massive market for American goods be financially able to buy from us. Today, these countries are so burdened in paying back old loans to American banks that little remains to buy American goods—goods that are vital to these countries' own development as well. This commission, modeled carefully on the Greenspan Commission which successfully restored the long-term financial soundness of the Social Security system, is key to restoring our long-term trade balance.

Fourth, and more narrowly, Congress and the President must carefully evaluate the new techniques and policies operating in our stock exchanges today. Practices such as programmed buying appear to have contributed to the unprecedented gyrations we have experienced in the capital markets. From a public policy standpoint, we must have a better grasp on these practices and what they mean for our economic performance and for economic policy.

Finally, let me say once more what many have said today—this is not the time for the American people or their leaders to panic. We are a country of unprecedented wealth and resources. We have a proven safety net to protect our families and institutions from the worst ravages of an economic crisis. And we have always had the "guts" as a people to face reality and deal with it head on—"eventually." We all recognize that "eventually" arrived yesterday and must be dealt with today.●

HONORING FLOYD J. McCREE AND LEEBERTA McCREE

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to Floyd and Leeberta McCree, who will be honored at a tribute dinner on October 26, 1987. Mr. McCree, and his wife, have given much of themselves, both in time and energy dedication to make Flint and Genesee County a better place for those who live there. Their dedication is an inspiration for all of us.

Mr. McCree, who was elected mayor of Flint, MI, in November 1966, had his first taste of political life as many young people do today. Before reaching voting age, he became aware of the role of politics in our society through his father who was a precinct captain in his hometown of Webster Groves, MO. Floyd attended political meetings and helped in campaigns during his youth. This experience may well have sparked his interest in public service and his acceptance of the leadership role.

Floyd McCree was born March 29, 1923, in Webster Groves, located on the outskirts of St. Louis. He attended high school in St. Louis County, where his public speaking skills were recognized with awards in local and regional oratorical contests. He also participated in school athletics and was a member of his high school basketball team. His interest in sports did not diminish as he later played class "A" and semiprofessional baseball and basketball.

Following high school, he attended Lincoln University at Jefferson City, MO. He answered the call of World War II, and went from college to military life. He served from January 1943 to January 1946.

Following the war, he came to Flint and, after a short period at Chevrolet, he was employed by the Buick Foundry. There has been a steady increase in the demands upon his leadership ability and his willingness to serve. He was elected to the executive board of the UAW Local 599, and to the Foundry Council. He was also a member, for 6 years, of the UAW's Michigan Foundry Council, a statewide organization that deals with problems common to foundry operations. With local 599, he was a member of the educational committee and the Fair Employment Practices Committee. He was upgraded to supervisor of Buick Foundry Maintenance before taking a leave of absence for his present position.

In the area of government service, he was appointed to the Genesee County Board of Supervisors in 1956. In 1958, he was elected commissioner of the third ward, and held that position for many years without opposition. In 1964, his fellow commissioners elected him mayor pro tem, and in 1966, elevated him to mayor.

Mr. McCree has not limited his activities to union and political leadership. In the early 1950's, he was president of the PTA, and was divisional superintendent of the Metropolitan Baptist Church Sunday School. He has served for many years on the Urban League Board of Directors.

The McCree family includes his wife, Leeberta, their children, Anita, Byron, Marsha, and Melvin.

Although Floyd McCree's election as major of the city of Flint, and as Genesee County Register of Deeds, were hailed as large steps forward in race relations, he has distinguished himself through his skill and knowledge of government, the city and the functions of parliamentary procedure. He and his family are truly an important and vital resource to the Flint community and I am very pleased to join in honoring them.

I ask that the list of Mr. McCree's affiliations be included in the RECORD.

The list follows:

OTHER PAST AND PRESENT AFFILIATIONS

Committeeman-Buick Foundry.

Executive Board, UAW Local 599.

Member, UAW's Michigan Foundry Council.

Secretary, Genesee County Democratic Party.

Chairman, Genesee County Democratic Party.

Delegate Democratic National Convention.

President Parkland P.T.A.

Divisional Superintendent, Metropolitan Baptist Church Sunday School.

Board of Directors Urban League of Flint.

President of Urban League of Flint.

Trustee National Urban League.

Central City Optimist Club.

Board of Directors, Economic Development Corp.

Community Civic League.

Chairman, County Government, United Fund Drive.

National Association of Register of Deeds.

N.A.C.O.-National Association of Counties.

Chairman Citizens Probation Authority.

Register of Deeds-Genesee County-First Black elected County Officer.

Former Member-United States Council of Mayors.

Chairman Cenesee County Action Program.

Board of Directors-NAACP.

Foreman General Motors Foundry.

Tall Pine Council.

Former Board Member Genesee County Federation of the Blind.

Genesee County Plat Board.

Member Metropolitan Church.

Member Urban Coalition.

Mayor of the City of Flint-First Black Mayor in the State of Michigan.

Board Member of Flint Retirement Homes Inc.,

Board of Directors of Big Sisters, former president.

Two time co-chairman Education Millage renewal drive.

President of Model Cities EDC and M.C.D.C.

Flint Compensation Commission.

Member of Flint General Hospital Board of Trustees.

Board of Directors Visually Impaired, former President.

FEMMA Board of Directors.

Emergency Service Council.

Subcommittee Planning United Way.

J.O.B.S. for Flint, Chairperson.

Member of United Way Emergency Allocation Committee.

Former member of Board of Directors of Genesee Township Economic Development.

Board of Directors Foss Avenue Christian Church School.

Member of Vehicle City Lodge No 1036 (ELKS).

Member of Rose of Sharon Lodge (Masons).

Member VFW Post 3791.

And many many more.

NORMA WILLIAMS VOLUNTEERS HER TIME SO THAT OTHERS CAN READ

● **Mr. WIRTH.** Mr. President, for the last year, Norma Williams has volunteered a considerable amount of her time to the Denver Public School System to establish and maintain an adult literacy project. Ms. Williams, a former teacher, has matched more than a hundred tutors with adults who want the opportunity to learn to read.

Ms. Williams and another volunteer, Jane McCotter, had no funding and little else but their desire to serve the community when they established project LEARN, an acronym for "Let Every Adult Read Now."

I commend Ms. Williams, Ms. McCotter, and the Denver Public School System for their dedicated efforts and ask that a copy of a recent article in the Denver Post which details their accomplishments appear at this point in the RECORD.

The article follows:

[From the Denver Post, Oct. 5, 1987]

WOMAN VOLUNTEERS HER TIME SO OTHERS CAN LEARN TO READ

(By Janet Bingham)

Norma Williams volunteers up to 30 hours a week of her time in the Denver Public Schools running an adult literacy program called Project LEARN—"Let Every Adult Read Now."

Operating out of an office in Denver's Kunsmiller Middle School, the 52-year-old woman has arranged training for more than 100 volunteer tutors in the last year.

She has matched them with adults who want to improve their reading and has helped them find quiet places to study in schools, libraries, churches and businesses.

The program is offered free to Denver citizens through Denver's six community schools. In the daytime, the schools are regular middle schools. In the evening, the buildings are opened to the community for a wide range of self-supporting courses, forums and other activities.

"She's an extraordinary woman," says Bill Rosser, who helps coordinate the work of thousands of volunteers for the school district.

He says Williams and another volunteer, Jane McCotter, built the adult literacy program "with no funds and little support because they had the desire to serve the community effectively."

People of all ages, races, and walks of life have come to the program for help.

Some are high school graduates who have hidden their reading problems for years. Some run their own businesses, while others are on welfare. Most read at the second- or third-grade level; Williams' goal is to see them reach at least the sixth-grade level. Some want to help their children learn to read, while others hope for better jobs.

Volunteer tutors, who must provide assistance at least two nights a week, include students, housewives and retirees.

"I've always loved working with people," says Williams. Rosser says she is "very insightful in the way she matches tutors and students."

Williams is a former teacher with degrees in history and English. She and her husband are both graduates of the Denver Public Schools, and their three grown children also graduated from the system.

"All my life I've volunteered for things like the PTA, but this is the first time I've done anything on such a grand scale," says Williams.

Although she has had rheumatoid arthritis for much of her adult life, "this job makes my arthritis better because I'm doing something. This is ideal for me."

Much of her work is done quietly on the phone. She interviews tutors and students. She sets up appointments for testing. She orders materials. She solicits businesses for money to pay for the materials.

Rosser says the program is growing faster than the funding to support it. Another volunteer helped Williams last year, but this year she's doing all the work alone. He hopes to be able to find some private funds to pay her at least part-time.

Her commitment, says Rosser, "has opened the door to full participation in society from people who would otherwise have no chance to participate."●

HONORING NEW MEXICO ANTHROPOLOGISTS

● **Mr. BINGAMAN.** Mr. President, recently the Albuquerque Journal published an editorial lauding a traveling Smithsonian exhibition, "Daughters of the Desert." This exhibition recognizes the efforts of 45 women anthropologists whose work has contributed so much to our understanding of native cultures and civilizations. Seven of these women are New Mexicans and several of them are people I have known and whose work I have respected for many years. Mr. President, I ask that the editorial of October 9, 1987, be included in the RECORD as a tribute to these distinguished pioneers.

The editorial follows:

DAUGHTERS OF THE DESERT

Marjorie Lambert remembers begging dental tools those many years ago to coax archaeological treasures from a frozen earth. Florence Hawley Ellis hocked a wristwatch to travel to New Mexico to teach, and conducted her research at nearby Mesa Verde with an infant under one arm. Pablita Velarde, as the only girl in her Santa Fe Indian School art class, was told by a teacher she'd be better at washing dishes. Would that the teacher were still alive to see Velarde's book illustrations or her watercolors of Pueblo life.

For most of the seven distinguished New Mexico women featured in a traveling Smithsonian exhibit, the recognition comes some 50 years late. Still, the accolade "Daughters of the Desert," as the exhibit is titled, is a fitting one for Lambert, Ellis, and Velarde, along with Bertha Dutton, Katherine Spencer Halpern, Kate Peck Kent and Nancy Wood.

These New Mexicans are among the 45 women featured in the exhibit on women anthropologists of the Southwest, mounted by the Smithsonian and opening Saturday at the University of New Mexico's Maxwell Museum.

Pioneers in their field, working with little institutional support and less pay, theirs has been an invaluable contribution to our understanding and appreciation of past civilizations.

That New Mexico is known as something of a mecca in anthropological research is due, in part, to the work of women such as these.

Also deserving of recognition are the two women whose research inspired the exhibit, former University of Arizona Professor Barbara Babcock and Nancy Parezo, ethnologist at the Arizona State Museum. The two women aren't acknowledged in the traveling show, an unfortunate omission for an exhibit that seeks to showcase women's long-overlooked contributions to anthropology.●

NEW JERSEY INSTITUTE OF TECHNOLOGY BUILDS NEW CENTER FOR INFORMATION TECHNOLOGIES

● Mr. LAUTENBERG. Mr. President, today I rise to salute a great advance by the New Jersey Institute of Technology. On Thursday, October 22, 1987, NJIT will hold groundbreaking ceremonies for its new Information Technologies Building—InfoTech—in Newark, NJ.

With the construction of InfoTech, NJIT has launched into the forefront of information age technology. NJIT's new facility will bring under one roof the expertise and equipment in manufacturing and information sciences. InfoTech will contribute to the economic revitalization of downtown Newark by creating jobs and spurring investment in the city. InfoTech will be home to some of our most outstanding scientists, mathematicians, and other researchers, and will be a major resource for new directions in teaching and learning. This facility will also be a resource for community colleges in New Jersey and other colleges and universities to collaborate with NJIT on information technology projects.

One of the components of InfoTech will be the Center for Advanced Manufacturing Engineering Systems, where research will be conducted on more efficient and economical ways to produce goods. InfoTech will also house the Center for Computer Integrated Manufacturing, a laboratory where students, faculty, and practicing professionals can simulate manufacturing methods and equipment.

The Center for Information Age Technology will provide assistance to goernment and nonprofit organizations on adapting to computerization. The Technology Extension Center for Information Services will help small businesses in the same way. In addition, the facility will house the Computerized Conferencing and Communications Center to support group communications in a wide variety of disciplines.

Since its founding in 1881, NJIT has been a consistent leader in meeting the challenges of a changing workplace and marketplace. NJIT has also been a leader in the creation of new technologies to protect the environment from hazardous wastes. I am proud to have worked to provide funding for NJIT's joint Industry/University Cooperative Center for Research in Hazardous and Toxic Substances.

In constructing InfoTech, NJIT has recognized the critical partnership of education, industry, and government in meeting the challenges of our changing world. I applaud the university for its continued commitment to excellent and advances in education, technology, and environmental protection.●

MERCK & CO.—THE MIRACLE COMPANY

● Mr. LAUTENBERG. Mr. President, at a time when the air is full of speeches about the need for American companies to be competitive in the world economy, some companies are already showing how it should be done. One such shining example is Merck & Co., which has its headquarters in Rahway, NJ. We in New Jersey have long been proud to have Merck in our State.

Merck is also a company with a heart. It will be donating a new drug to be used in Third World countries to combat the disease known as river blindness or onchocerciasis.

I was pleased to see Merck and its dynamic chairman and CEO featured on the cover of Business Week of October 19. The article on Merck is titled "The Miracle Company." I ask to have the article and an editorial about Merck from the same magazine printed in the CONGRESSIONAL RECORD. I urge my colleagues to take a few minutes to read this article.

The article follows:

THE MIRACLE COMPANY—EXCELLENCE IN THE LAB AND EXECUTIVE SUITE MAKES MERCK A POWERHOUSE

Alfred W. Alberts was in Colorado helping his son settle into college on Sept. 1 when Merck & Co. Chairman P. Roy Vagelos called with the news. Mevacor, the anticholesterol drug that Alberts had toiled over for a decade, had just won Food & Drug Administration approval, and it could go to market immediately.

"Here it is," the 56-year-old scientist remembers thinking. "It's finally happening. So many years of my life are ending. It was one of the most thrilling periods in my scientific career." But just as Alberts was reveling in the congratulations from his longtime boss, Vagelos abruptly changed the subject. Recalls Alberts: "Roy asks, 'So how are we coming on backups [possible substitutes]?'"

You can pardon Vagelos for not allowing Alberts to savor his moment of triumph—that's just how things are at Merck. "You have to function that way," says Alberts. "You have your elation, and then you go on to the next job." The style is part of a unique management that has made Merck the king of the pharmaceutical industry and one of the best-managed companies anywhere.

ALMOST MAGIC

Today, the company, whose origins stretch to a 17th century German apothecary, has found a formula for success: It skillfully blends scientific initiative with commercial enterprise in a culture that seems more like a university campus than a corporate powerhouse. It plows more money into research and development than any of its competitors, gives its scientists extraordinary freedom, and works near-magic in gaining quick regulatory approval and bringing drugs to market.

Perhaps most remarkable, Merck is managed for the long term in a period when many corporate leaders are obsessed with immediate results. You won't find it stalking a giant takeover target in another business or doing a massive recapitalization to prop up its share price. Merck does regularly buy back chunks of its own stock. But for the most part, it spends its money the old-fashioned way, developing new products that may take a decade to roll out. "I know how to run a company, but I don't know how to run Wall Street," Vagelos says. "I don't worry about it. The only thing I worry about is our own performance."

Nevertheless, Merck has emerged as an unrivaled star on Wall Street. Its stock, driven up by dramatic earnings gains and excitement over Mevacor and other new drugs, has jumped fourfold, to over 200, since 1985. Merck now has a market value of about $28 billion—incredible for a company with only about $5 billion in sales this year. It has catapulted to No. 7 in market value among U.S. corporations—past such giants as Ford, Coca-Cola, Mobil, and American Express that are many times Merck's size. It is even worth more than General Motors, a company with 20 times the revenues.

Is Merck just overvalued? Doubtful, says Neil B. Sweig, drug industry analyst for Prudential-Bache Securities Inc.: "There may not be another company in the U.S. with 30% pretax margins and sales over $5 billion with the opportunity to expand those numbers fast."

Even before Mevacor, Merck impressed analysts. By yearend, profits will have leaped 60% since 1985, to an estimated $865 million. That equals a return on equity of 27.1%, up from 20.5% two years ago and higher than any major rival. Merck is also popular among investors because it doesn't depend on one or two products, as many drug companies do. It boasts 13 major drugs with sales of more than $100 million each.

Mevacor, its newest entry, could crash the gates on a new class of drugs. It comes to market at a time when public awareness of the link between high cholesterol and heart disease is at its peak. On Oct. 5, a panel of the National Heart, Lung & Blood Institute made headlines by urging adults to undergo cholesterol tests on a regular basis—something that is likely to benefit the drug.

The group, however, also advised doctors to use existing drugs before Mevacor, because its long-term safety has not been established. That news sent Merck stock sharply lower. In testing, Mevacor showed adverse side effects in a small percentage of patients. Still, some analysts believe that Mevacor, plus its soon-to-follow anticholesterol cousin, Zocor, could add $1 billion to Merck's annual sales within five years.

Merck won't have the market to itself. Squibb Corp., for one, plans to file with the FDA for approval of a Mevacor challenger by mid-1988. Its drug is based on a compound developed by Japan's Sankyo Co. "It's always an advantage to be first," says Squibb Chairman Richard M. Furlaud, "but the second product in what I think will be a very big market has a good chance of being important."

The record thus far has earned widespread praise for Merck's chief executive, who grew up a few blocks away from Merck's Rahway (N.J.) headquarters. "Vagelos," predicts Reginald H. Jones, former General Electric Co. chairman and a Merck director, "will be one of the truly outstanding CEOs in the history of American business."

FEAR OF FAILING

Even though Merck has been a leading research house during most of its 100 years in the U.S., it was about to enter a slump when Vagelos joined in 1975. He took over management of the research labs at a time when few products were coming out of the pipeline. He recruited hunderds of new researchers to help get Merck's labs back on track.

Many of the company's newest products can be traced to work done in the labs under Vagelos' leadership. Merck's scientists have cranked out six of the eight new products the company has launched in the past two years, including Vasotec, used to treat high blood pressure, which could rack up sales of almost $500 million this year. More are on the way, including a second-generation Vasotec, a new treatment for peptic ulcers, Losec, and Merck's first diabetes drug, MK-538.

Vagelos helped to reignite the labs by quickly targeting key areas for special attention. One of his top priorities was to make cholesterol-lowering drugs. Merck had studied the field for more than two decades but did not have enough pieces of the puzzle to develop a drug. Mevacor's creation provides a fascinating look at Merck's management magic. It is a saga worthy of good fiction, a tale of personal triumph and fear of failure. And it begins with Vagelos.

A physician and biochemist, Vagelos came from Washington University to Merck as senior vice-president for research. He quickly recruited a fellow faculty member, Alberts, his friend and colleague for some 16 years. They brough their expertise in biochemistry, particularly lipids—the fatty substance that can clog the arteries and cause heart attacks and strokes.

PRISON TOWN

As soon as the pair arrived, Alberts started up a laboratory in building 80N on Merck's leafy, 200-acre campus in Rahway, a city better known for its state prison. Early work convinced Alberts and Vagelos that they could block one step in cholesterol formation. The eventual key: a substance Merck scientists had discovered in a soil sample that could inhibit an important enzyme called HMG-CoA reductase. The enzyme forms mevalonic acid, a link in the 25-step chain leading to the production of cholesterol.

Using this discovery to make a drug became Vagelos' "pet project." As with most Merck research programs, the company provided its scientists with extraordinary freedom to decide on an approach and carry it through. "There is no Merck way of doing it," says Alberts. "Or maybe there is a Merck way: It's going out there and letting the best people find the best way. And then taking those people and putting everything together. That's the nitty-gritty of getting a drug from discovery to marketplace."

Merck's structure is informal. Research is divided into 12 therapeutic classes, from antibiotics to cardiovascular drugs. There are also projects, like the Mevacor effort, that are organized around product candidates. Each potential drug area has a leader—or "champion"—whose job is to keep the laboratories fueled with ideas and excited about the possibilities for drug discovery. Alberts was Mevacor's champion. An upbeat scientist without a PhD, he would be charged with selling the program to fellow scientists in various disciplines.

If there is magic at Merck, it exists in the scientific expertise supported by its $530 million-plus R&D budget—the scores of microbiologists, biochemists, toxicologists, and others who cluster around a project. "It's like running a battle," muses Vagelos, "in which you have different forces lined up. You call on an infantry, a cavalry, an air force. That's the great strength of Merck."

What makes this process even more unusual is that no project team has a budget or a grant of authority. All team members from each discipline must commit their own resources to a project. Since Mevacor had no budget of its own, Alberts had to persuade specialists such as chemists, pharmacologists, and safety assessors to pledge their own budgets to work on the project. The idea is to gain greater collegiality and unity of purpose. As a consensus develops around a project, it gains support—intellectually and financially—from the team's members.

Bringing people aboard sometimes takes persistent coaxing. As a result, champions try to involve people long before their talents are needed. Alberts brought his work to the attention of marketing in late 1979—nearly eight years before Mevacor would hit the market. He invited outside experts to help convince his marketing colleagues of the project's enormous potential. "I needed to win them over," he says. "Marketing people generally respond to what's out there, and the existing cholesterol drugs had not generated much of a market."

Indeed, marketing later would discover that sales of cholesterol-reduction drugs were only about $100 million. The biggest drug in the field is Bristol-Myers Co.'s Questran, which patients complain is unpleasant to swallow. Still, Alberts convinced the Merck marketers that a more effective, more palatable drug would create an enormous market.

A consensus started forming. "Everybody here wants to do a drug, so they naturally gravitate around the hot projects," says Vagelos. "It's like a live organism, and the nature of it is to discover new things."

The project team on MK-733803—Mevacor's internal registration number—swelled from a handful of members at the beginning to 20 people by 1979 to about 100 today. During the height of the drug's final development in 1985-1986, the project commanded as much as 25% of the company's R&D resources.

The team made remarkable progress, discovering an enzyme inhibitor in November, 1978, and deciphering its structure in February, 1979. Then Merck was jolted by news that it was not the only company in hot pursuit of a cholesterol-buster. Sankyo filed a patent application in its home country for a compound similar to Merck's. Four months later, in June, Merck had rushed to file for patent protection in the U.S. beating Sankyo to the punch in this country.

Alberts quickly mobilized Merck's pilot production plant to make enough of its compound to begin testing. In the spring of 1979, the compound was ready to face its first critical test—on animals. The odds were against it: The industry loses 9 out of every 10 drugs it sends into safety assessment.

The race was on. "The more we found," Alberts recalls, "the more excitement, enthusiasm, and pressure we felt. Basic research is very competitive. It's something most people don't realize: The competition starts at the lab bench."

VERY OPEN

At Merck, winning the battle means more than just getting your product to market first. The drug must be significantly better than the competition. Indeed, when Vagelos was president of Merck's research labs in the early 1980s, he halted internal efforts to develop a drug to treat peptic ulcers when Japan's Yamanouchi Pharmaceutical Co. created a compound ahead of Merck's. Feeling he had no competitive edge, Vagelos struck a licensing deal with Yamanouchi, and Merck developed Pepcid, which hit the market in 1986.

It was a courageous decision, unpopular at the company's labs. But it demonstrated one of Merck's great strengths. "Some drug companies suffer from the not-invented-here syndrome," say Norman Selby, who heads McKinsey & Co.'s pharmaceutical counsulting practice. "Merck is very open about accepting ideas from the outside."

Mevacor, however, wasn't about to suffer a similar fate. The drug emerged from its safety trials with a fairly clean bill of health. And as Merck then moved the drug further into animal studies and human trials, Alberts passed his role as champion of the project team to Dr. Jonathan Tobert, who would oversee the drug's clinical studies. "Week after week after week, the data built," says Eugene F. McCabe, 57, then vice-president for marketing. "Each day we became more excited as the trials showed no unusual adverse reactions."

A bombshell hit the company in September, 1980. Merck heard that Sankyo had halted clinical trials of its rival compound, compacten. The rumored reason: It caused cancerous tumors in dogs.

Although unconfirmed, the news dealt Mevacor a devastating blow. Merck immediately halted its clinical tests. At worst, it was a sign that all drugs of its class could cause cancer. At best, it was just a freak accident. "That's when we began to hold our breath," says Dr. Marvin E. Jaffee, clinical research vice-president. Vagelos says the setback was hardly unusual. "The majority of things we do fail," he says. "The fact that anything ever comes out the door is a tribute to the tremendous tenacity of hundreds of people."

For weeks and months the scientists wondered if all their work would go down the drain. The team pulled itself together and pushed to develop other compounds, eventually creating a half-dozen backups. Other researchers began new safety tests to determine if Mevacor should proceed. But Merck didn't resume large-scale clinical studies until May, 1984. In effect, clinical testing had been delayed almost four years. Sankyo today says the rumors were false and that it stopped its tests on compacten because it discovered a more effective compound it hopes to bring to the Japanese market by the spring of 1989.

SIDE EFFECTS

By 1985, Merck was sure enough of Mevacor that the project team was busy planning its marketing. Tobert, Mevacor's second champion, got word that Merck's pharmaceutical staff—the people who help design the product—were going to create Mevacor as a yellow tablet. Concerned that "yellow is the color of butter"—a product high in cholesterol—he protested. He won his point, and the pharmacologists designed a new, light-blue tablet.

MERCK: WORTH A BUNDLE

Company	Market value[1] (billions)	1986 ranking[2]	1987 revenues[3] (billions)
1. IBM	$91.0	1	$56.0
2. Exxon	68.8	2	72.0
3. General Electric	56.2	3	39.8

MERCK: WORTH A BUNDLE—Continued

Company	Market value[1] (billions)	1986 ranking[2]	1987 revenues[3] (billions)
4. AT&T	36.2	5	32.2
5. Du Pont	28.7	6	30.0
6. Philip Morris	28.3	12	27.5
7. Merck	28.3	23	5.1
8. General Motors	26.2	4	100.0
9. Ford Motor	25.5	10	69.6
10. Digital Equipment	23.9	40	9.4

[1] As of Sept. 30.
[2] As of Mar. 21, 1986.
[3] Estimated.

Data: Standard & Poor's Compustat Services Inc., Value Line Inc.

Merck's tests showed Mevacor was effective at lowering cholesterol. But some dogs who were given high doses of the drug developed cataracts. Moreover, something under 2% of the humans who tested the drug suffered liver dysfunction. Because the side effects affected such a small percentage of patients, however, Merck felt they did not pose a danger to the drug's viability.

The next step: seeking FDA approval. Merck sent a van loaded with 104 volumes, each averaging 400 pages, to the FDA on Nov. 14, 1986. Getting the agency to act on a new application can take two to three years. Indeed, a full year can pass before the drug is publicly reviewed by an FDA advisory panel. But Merck had another team ready to speed up the process. As early as 1978, officials of the regulatory affairs group worked on Mevacor. During the tests, this group kept FDA officials informed of progress and problems. "We want to make them part of the development process," says Dr. Charles C. Leighton, regulatory affairs vice-president. "We inform them immediately of all issues. If they are ever surprised, they will be more skeptical.

At Leigton's command were 120 people who grind out mountains of information required by regulatory bodies. Merck knows exactly what the FDA wants and how it wants it—down to the size of the margins on the pages. It divides each task into small responsibilities, assigning a rigid deadline to each. Over the course of six months some 75 regulatory people met 6,000 individual target dates to win FDA approval. Other Merck officials were in constant contact with the FDA by phone and in person.

DRESS REHEARSAL

One good sign emerged almost immediately: Merck won its date for an advisory committee session only three months after filing its application. At that meeting, on Feb. 19, Merck would make its first public presentation of the drug public presentation of the drug and its supportive material.

For two months a group of presenters spent hundreds of hours rehearsing. Dr. Edward M. Scolnick, who succeeded Vagelos as head of the company's research labs, took a delegation of 50 people to Washington by train the day before the meeting for a final run-through.

At 6 the next morning—two hours before the doors would open—people had started lining up outside an auditorium at the National Institutes of Health in Bethesda, Md. Once the presentation began, small antennae waved above the sea of heads in the packed room as Wall Street analysts, via cellular phone, kept their home offices briefed. "We sat on the edge on our chairs," recalls Dr. Eve Slater, a Merck biochemist. At the end of the day, the panel voted unanimously in favor of Mevacor.

"We were literally ecstatic," says Scolnick. "It's what you see when a baseball team wins the World Series. It was a tremendous feeling of camaraderie." The group's unabashed excitement was evident on its train ride home that evening, in contrast to the mood of Squibb officials who also attended the hearing. "We were whooping it up on our side of the train, while the Squibb guys were sitting subdued in the back," Slater recalls.

Final approval wouldn't come for months. At 4:30 p.m. on Aug. 31, the FDA called Merck to ask for five minor labeling changes. The company scrambled to complete them, and by 6 p.m. FDA officials gave Mevacor the final go-ahead. Marketing took the reins.

Physicians are hesitant to prescribe a new class of drugs, especially ones that need to be taken for prolonged periods. But Merck believes it can overcome this by aggressively promoting the dangers of excessive cholesterol levels. Merck plans seminars, symposiums, and one-on-one meetings with key cardiologists and internists. It also is considering consumer ads on the cholesterol issue. By the end of January, 750 of Merck's detail people, or drug salesmen, will have visited nearly 100,000 U.S. physicians likely to prescribe the medication.

Because of public attention on cholesterol, Vagelos expects Mevacor to catch on quickly. And as improved versions of the medication are developed, he predicts that treatment of excessive cholesterol will become as common in the early 1990s as blood pressure remedies are today. By comparison, it took more than 20 years for the market for antihypertension drugs to reach the $4.5 billion mark. Analysts are saying that the market for cholesterol-lowering drugs could reach that level within five years.

WHITE BANNERS.

There's obviously no guarantee that Mevacor will live up to its potential. As the tortuous process of the drug's development demonstrates, anything can happen at any time. "You never know when you're going to succeed, and you often fail," says Alberts. "But once you've tasted that success, you want more and you get more."

Big success, of course, often breeds a certain arrogance and complacency in major companies. Can it happen to Merck? After a 1986 *Fortune* poll showed that Merck derailed International Business Machines Corp. as the most admired U.S. corporation, the company put up large white banners in its facilities congratulating itself. The one at corporate headquarters was recently taken down. Says Walter R. Trosin, human resources vice-president: "Someone once said that laurels make a very uncomfortable seat." Vagelos isn't about to let anyone at Merck rest on theirs.—By John A. Byrne in Rahway, with bureau reports.

Merck's Miracle Was Hard-Earned

It takes a decade or more and about $125 million to develop a single new drug. While a lot of drug companies strayed in the late 1970s' buying up companies in other businesses when the industry slumped, Merck & Co. stuck with its mission. It kept pouring more money into research and development than any of its competitiors—about 11% of sales—even though its profit margins and stock price were slipping. It elevated to CEO not a financial or marketing whiz, but physician-biochemist P. Roy Vagelos, who spent most of his career sniffing around labs.

Merck is reaping the benefits of its commitment to its basic business. it has rolled out eight new drugs in the past two years, six of them developed in-house. Sales have been soaring 25% annually, equity return is an industry-leading 27%, and Merck's stock has quadrupled in only two years. The company now has a market value greater than General Motors or Ford, topped by only six other U.S. companies.

Now, Merck may be on the verge of an even bigger payoff. It has won approval from the Food & Drug Administration for a cholesterol-lowering drug, Mevacor, that could be a true blockbuster. Wall Street reckons it might be a $1 billion drug in just five years.

True, Merck has gotten some breaks. The weak dollar has helped it sell drugs abroad, and after a decade of work on Mevacor, the drugs is coming to market just as public attention is focused on the cholesterol issue. But it is also true that Merck's management has done a better job of managing its business than anyone we can think of in its industry or, for that matter, in U.S. business.

Merck management has not been pressured into quick-fix strategies by Wall Street the way so many others have. Its reward: Investors now can't seem to get enough of Merck.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee has received a request for a determination under rule 35, for Ms. Mary Winton Hughes, a member of the staff of Senator Ernest H. Hollings, to participate in a program in the Republic of Turkey, sponsored by the Turkish Democracy Foundation from August 22-30, 1987.

The committee has determined that participation by Ms. Hughes, in the program in the Republic of Turkey, at the expense of the Turkish Democracy Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Bruce W. MacDonald, a member of the staff of Senator Dale Bumpers, to participate in a program in the Federal Republic of Germany, sponsored by the Max Planck Society of West Germany, from August 23-28, 1987.

The committee has determined that participation by Mr. MacDonald in the program in the Federal Republic of Germany, at the expense of the Max Planck Society of West Germany, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Senator Jesse Helms, Mrs. Helms, and two members of the Committee on Foreign Relations, Mr. James Lucier and Mr. Quentin Commelin, to participate in a program in South Africa, sponsored by the South African Agricultural Union, beginning August 21, 1987.

The committee has determined that participation by Senator HELMS, Mrs. Helms, and Messrs. Lucier and Crommelin, in the program in South Africa, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Mr. Robert Dibblee, a member of the staff of Senator JAKE GARN, to participate in a program in Santiago, Chile, sponsored by the Adolfo Ibanez Foundation, from August 22-29, 1987.

The Committee has determined that participation by Mr. Dibblee, in the program in Santiago, Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.●

THE AUTOMOTIVE STIRLING ENGINE PROGRAM

● Mr. D'AMATO. Mr. President, I rise today with some good news—a legislative success story. Too often, the press focuses on the golden fleeces of government funding. I think it is about time we recognize an outstanding program. In this case, we have shown that it is possible to legislate national technical goals, address those goals with proper funding, and achieve those goals with a research and development program which is within budget and on schedule. At the same time, the pursuit of research and development goals can lead to spinoffs which are, in themselves, beneficial to our taxpayers.

I am speaking of the Automotive Stirling Engine Program, which is in its final year of Federal funding and is expected to achieve the national goals described in the Automotive Propulsion R&D Act of 1978. Once again, it was not a major national corporation which achieved this feat, but a small high-technology company in a small town in upstate New York.

In the early 1970's, my colleague, Senator DOMENICI, and others realized that the Nation needed engines which could use a variety of fuels interchargeably, be environmentally benign, have at least 30 percent better gas mileage, and an affordable price. The NASA Jet Propulsion Laboratory was chosen to carry out the congressionally mandated study to determine which engine options might possibly achieve such ambitious goals. The results of the study indicated that there were only two possible contenders; advanced turbine engines and Stirling engines.

At the time of the study, Stirlings were little more than a laboratory curiosity. The concept of a Stirling was invented by Rev. Robert Stirling in 1816, when he sealed up air inside a basic engine design, and alternatively heated and cooled it from the outside. The alternate heating and cooling caused expansions and contractions which alternately pushed and pulled on the pistons, thus powering the engine. In the 1800's such simple Stirling designs were used to pump water from coal mines, using the tailings from the mining operation as fuel.

By the early 1970's, many different Stirling sizes and designs had been built and tested, but with little success. Theoretically, they remained the most efficient of all engine options, but experimentally, they were too heavy, too bulky, contained very expensive metals in order to withstand the heating part of the cycle, and were not durable and reliable. With the passage, in 1978, of the Automotive Propulsion R&D Act, the authorization of Stirling R&D—and turbine R&D—became a reality, and the effort to make viable Stirling designs began.

In 1979, Senator TOM HARKIN was Congressman TOM HARKIN and chaired the Subcommittee on Transportation of the House Committee on Science and Technology. He chaired the early hearings overseeing the onset of the Stirling R&D and saw, in detail, the formidable obstacles to be overcome. At that time, the most advanced Stirling technology resided in Sweden, and the highly entrepreneurial company from upstate New York, MTI, formed a team to include the Swedes and AM General Corp., then a subsidiary of American Motors.

In 1979, the Swedish engines were extremely heavy, contained large amounts of cobalt, had severe sealing problems, were of a complex design, and if they ran for a few hours, it was considered a major victory. I'd also like to mention at this point that the average new jet engine program in our armed services effort costs over $400 million to develop. In the case of Stirling, the goal was to go from the inadequate Swedish design to a viable, fully developed engine design with less than $130 million, or about a third of what we spend for new military engines. In the ensuing years, not only were the technical problems formidable, but the budgetary constraints forced this program to be congressionally mandated year after year, after year. Constantly facing the threat of termination, this small New York firm continued to excel in technical performance to reach the program's legislative and contractual goals. The weight has been reduced by a factor of three, all rare materials have been removed from present engine designs, the efficiency greatly exceeds that of any other engine in the same horsepower range, the emissions are below any forseeable regulations, and the sound level is about the same as a sewing machine.

Today, the amazing achievement is at hand. With the other competitive R&D programs long since falling in disarray, the Stirling Program has test vehicles operating, and a final engine design expected to meet all the original goals of the program, giving the Nation this sorely needed, highly efficient, multifueled, environmentally benign engine option. A major engine manufacturer, Deere & Co., is preparing for the manufacturing process, and using entities are coming forward to be the first to try a variety of applications.

In September of this year, an Air Force flightline van completed over 1,400 hours of operational testing—the equivalent of 50,000 miles—on the Langley Air Force Base flightline with a Stirling engine. The van ran alternatively on unleaded gasoline, diesel fuel, and jet fuel. During the test, it was operated routinely by flightline personnel, just like any other maintenance van. Some minor problems were expected and encountered, but they all had to do with ancillaries, not the basic engine design. The gas mileage of the Van improved about 20 percent with the Stirling engine while noise and pollution were greatly reduced from the original diesel. The test was successful to the point that the Air Force now has a second vehicle which they requested, which will be more extensively tested for operation under unusually harsh conditions. Obviously, tremendous strides have been made since the program began. The technology and product spinoffs from this program are now evolving, and they are substantial in number and benefit. NASA has found that Stirlings can provide low cost space power. A particular engine design is being funded to operate from the heat generated by either nuclear reactors or solar reflectors. One NASA study indicates potential space station lifetime cost reductions of $2 billion by implementing Stirling engines for onboard power. Other applications include military generators, gas heat pumps, remotely piloted underwater vehicles, and cogenerators. It should be pointed out that a variety of funds, including gas industry and private sector moneys are now coming into this program to fund these various applications.

A longer term option, but one that could help our present agricultural crisis, is the solid fueled Stirling engine. Because of their capability to operate from heat instead of a specific fuel, Stirling engines can operate from the heat of combustion of solid fuel. A Midwest agricultural equipment corporation, Valmont Industries, has spent $8 million of their own funds to develop a unique Stirling engine design which operates from the heat from a fluid bed combustor, fed with coarse fuels such as wood, rice husks, and coal. A breadboard prototype system has shown successful operation for over 1,000 hours without overhaul. A cost shared arrangement with the Government, to accelerate the development of this system, has been proposed. USDA has published a report describing the system as potentially highly beneficial to agricultural interests.

Solid fueled engines open up a wide spectrum of potential products: Coal-fueled generators for small businesses, solid fuel generators for those parts of the world which do not have electric grids and must generate on site from available fuels, and think of just the Chinese market, where an infrastructure to deliver on a variety of highly refined fuel simply does not exist.

It is clear to those of us who have followed this program since its inception that we have a winner. America has now an engine option which gives us the needed flexibility to address oil and gas interruptions. We have a technology which can drastically lower space station costs, and we have a potential option for agriculture, which sorely needs some economic relief. Not only are these things true, but we also have a new American option for overseas sales, to offset the horrible trade deficit. These things have evolved in a slow-but-sure fashion, to date, and will continue in the same manner in the future, but the inescapable fact is that America is 3 to 5 years ahead of the competition this time. It behooves us in the Congress to ensure that we keep this lead and its economic advantages. We will all be winners if we press forward with this program.●

INFORMED CONSENT: SOUTH CAROLINA

● Mr. HUMPHREY. Mr. President, I urge my colleagues to support my informed consent legislation, S. 272 and S. 273. The bills would simply require medical personnel to provide women considering abortion with all the facts necessary to make an informed decision. Time and time again, women and even girls have been denied accurate information about the risks, alternatives and effects of abortion.

Such was the case for one South Carolina woman, whose letter I present to you today. The letter relates what can happen if women are not given all the facts about abortion, and it is only a sampling of hundreds of similar letters sent to my office from around the country. Each one speaks clearly to the need for informed consent. I ask that the letter be entered into the Record.

The letter follows:

February 6, 1987.

Dear Senator Humphrey: At 17 (summer of '75) I suspected I was pregnant so I went down to our county health dept.'s Planned Parenthood clinic for a pregnancy test. At the lab I was given a slip of paper to give to the nurse who would tell me the results of the test. Well, I peeked at it before I got to the nurse. It read "pos.". It's amazing how shocked I was. How my world crumbled so quickly. At the nurses office I was asked "Is this an unwanted pregnancy?" Quickly, I made that "unwanted pregnancy" my situation. It also set my mind with that attitude. She sent me to another counselor. She asked me the particulars of the whole situation, about me, my boyfriend, my parents and all that and then, she asked me "Did you know that abortion is legal now?" Again an idea, a mind set was established in my mind. It was related to me that I did not have to tell my parents and no one would tell them. It was confidential. Then she gave me names, addresses and phone numbers to call for an appointment. I hope that you noticed what is so painfully outstanding to me now! She never even mentioned any of the other alternatives to abortion. That cuts me to the quick. First, because I did not even know what the word abortion meant. I don't believe I'd ever heard the word before.

Well, I went to the abortion clinic and they counseled about 7 of us at one time of the medical procedure we were about to have, in medical terminology. We were told that an "abortion was safer than giving birth." The unborn baby was referred to as "tissue" or "cluster of cells." (These terms and quotes were actual—they were not acquired from any other source than this clinic). Now, referring to the baby in this way set my mind into believing that "it" wasn't a baby yet. (Later I realized when a human conceives, she is carrying a human child and if let alone it would grow and be born, and I had stopped that life.) Then we had our babies aborted. You know, before the abortion, a bunch of tissue was sure causing me a lot of trouble, and yet right after the abortion, I could not shake the words "my baby." I left him alone in that jar, in that room, how can I leave him there alone? 2 years later I had another abortion out of desperation to break all ties with a horrible demanding boyfriend. I didn't want "his baby." Now I grieve for my little girl. (I'm sure you're wondering about the he and she bit, they were individuals, their little lives could not be put on hold or repeated. I love them—and my only grasp of them is in my mind—in my mind's eye—they have names, faces, personalities and characteristics. I can only picture them as babies, but had I allowed them life my boy would be 11 and my girl 9). At the second clinic they gave no counsel. In fact there was almost no verbal exchange between nurses and clients and none with the doctor, just a list of do's and don't's and beware of's.

I suffered severely for 5 years ('75-'81) with emotional torment and considerable physical pain that (the pain has rarely bothered me in the last 5 years ('81-'86) was directly caused by the abortions. I'm grieving for my babies I became more and more depressed until I could only start recovering or go beyond the point of no return. I lost weight (128 lbs to 99 lbs), I lost the will to live (but discovered I was too much of a chicken to kill myself). I could barely function normally. My drinking and pot smoking increased during this time to void my brain.

And then some how God entered my life. I asked him to forgive my most horrible of sins and to clense me. And He did!

Thank you again for your unselfish efforts.

Renette,
South Carolina.●

THE CRASH OF AN AIR FORCE FIGHTER IN INDIANAPOLIS, IN

● Mr. HECHT. Mr. President, I have just learned some shocking news. Today, a pilot flying an Air Force A-7 fighter experienced an engine flameout and crashed into a crowded hotel in Indianapolis, IN. As many as 25 people are feared dead, and several others are injured or missing.

But Mr. President, as bad as it was, it could have been worse. We are fortunate that the crash and the resulting fire did not do more damage, that more people in the hotel were not killed, and that the pilot, Maj. Bruce L. Teagarden of Nellis Air Force Base, was able to eject safely.

Preliminary indications suggest that Major Teagarden, attached to the 4450th Tactical Fighter Group at Nellis, did all he could to land the plane safely after the engine fire, but had completely lost control of the aircraft. Enroute from Pittsburgh back to Nellis, Major Teagarden attempted an emergency landing at Indianapolis airport, and fell just short of the runway. He was able to eject just seconds before the crash, and was taken to a local hospital.

My heart goes out to the victims of this crash. I am in constant contact with the Air Force and with my colleagues from Indiana, to learn of their progress, and the steps being taken to keep this tragedy from happening again.

Mr. President, terrible tragedies like this serve to remind us how lucky we really are—lucky that accidents like this don't happen more often, lucky that when they do, they're controlled quickly and the damage is limited, and lucky that we have brave young men and women who take these risks every day to protect the rights and freedoms of all Americans.●

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I wish to inquire of the distinguished acting Republican leader whether or not Calendar Orders No. 365, 366, and 367 on the Executive Calendar are cleared on his side of the aisle.

Mr. McCAIN. May I respond? Calendar Nos. 365, 366, and 367 have, indeed, been cleared on this side.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I thank the Senator from Arizona, Senator McCain. I ask the Senate go into executive session.

I ask unanimous consent the Senate consider en bloc and confirm en bloc

Calendar Nos. 365, 366, and 367; that the motion to reconsider be laid on the table and the President be immediately notified of the confirmation of the nominees; that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

David M. Walker, of Virginia, to be an Assistant Secretary of Labor.

[NEW REPORTS]

MISSISSIPPI RIVER COMMISSION

Brigadier General Charles Ernest Edgar III, United States Army, to be a Member of the Mississippi River Commission.

Frank H. Walk, of Louisiana, to be a Member of the Mississippi River Commission for a term of 9 years.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that the call of the calendar under rule VIII be waived tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that following the prayer, there be 10 minutes for morning business tomorrow morning, with Senators permitted to speak therein for 5 minutes each; that at the conclusion of morning business, the Senate resume consideration of the pending business; provided, further, that there be a 20-minute time limitation on the amendment by Mr. DOLE, to be equally divided between and controlled by the two leaders.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I believe that that would clock out in such a way that the Senate will begin the rollcall vote at 9:30 a.m. tomorrow.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, does the distinguished Senator from Arizona have any further statement to make? Any additional business he would like to transact today?

Mr. McCAIN. I would again like to thank the distinguished majority leader for his continued instruction and guidance.

Mr. BYRD. Mr. President, I thank the Senator, my good friend.

Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to, and at 6:47 p.m., the Senate recessed until Wednesday, October 21, 1987, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 20, 1987:

DEPARTMENT OF LABOR

DAVID M. WALKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

MISSISSIPPI RIVER COMMISSION

BRIG. GEN. CHARLES ERNEST EDGAR III, U.S. ARMY, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION.

FRANK H. WALK, OF LOUISIANA, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM OF 9 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, October 20, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We recognize, gracious God, the great task before us and we pray for courage and wisdom to meet those tasks and to do the things that promote justice in our Nation and in the world. We pray, O God, for Your whole creation and for people of every place and every need. We especially pray this day for our own land that we may understand our stewardship in doing justice, loving mercy, and in walking humbly with You. May Your special blessing be with those to whom great responsibility has been given and to every person grant peace and good will. In Your name, we pray. Amen.

THE JOURNAL

The **SPEAKER.** The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PRIVATE CALENDAR

The **SPEAKER.** This is Private Calendar day.

The Clerk will call the first individual bill on the Private Calendar.

KUMARI RAJLAKSHMI BAIS

The Clerk called the bill (H.R. 526) for the relief of Kumari Rajlakshmi Bais.

There being no objection, the Clerk read the bill as follows:

H.R. 526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kumari Rajlakshmi Bais may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Doctor and Mrs. Vijay C.S. Bais, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 6, delete the word "his" and insert in lieu thereof "her".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PABLO CRUZ PATAG

The Clerk called the bill (H.R. 1112) for the relief of Pablo Cruz Patag.

There being no objection, the Clerk read the bill, as follows:

H.R. 1112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Pablo Cruz Patag may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Tomas T. Patag, Senior, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subject to subsection (b), for the purpose of the Immigration and Nationality Act, Pablo Cruz Patag shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) Subsection (a) shall only apply if the beneficiary applies to the Attorney General for permanent residence status under the subsection within two years after the date of the enactment of this Act.

(c) Upon the granting of permanent residence to Pablo Cruz Patag, the beneficiary under subsection (a), the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the beneficiary's birth under section 203(a) of the Immigration and Nationality Act or, if section 202(e) of the Act is applicable to the country, from the total number of immigrant visas which are made available to natives of such country under that section.

SEC. 2 The natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. **SENSENBRENNER** (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA HELENA VAS AND JOSE MARIA VAS

The Clerk called the bill (H.R. 1191) for the relief of Maria Helena Vas and Jose Maria Vas.

There being no objection, the Clerk read the bill, as follows:

H.R. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of section 202(b)(1) of the Immigration and Nationality Act, Maria Helena Vas and Jose Maria Vas shall be considered to be children.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert in lieu thereof:

That, for purposes of section 202(b)(1) of the Immigration and Nationality Act, Jose Maria Vas shall be considered to be a child.

Mr. **SENSENBRENNER** (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Jose Maria Vas."

A motion to reconsider was laid on the table.

CHU PEI YUN (ZHU BEI YUN)

The Clerk called the bill (H.R. 1390) for the relief of Chu Pei Yun (Zhu Bie Yun).

There being no objection, the Clerk read the bill, as follows:

H.R. 1390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Chu Pie Yun (Zhu Bei Yun) shall be

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition filed under section 204 of that Act by Chu Sun Yun, M.D. and Yung-Ching Chu, M.D., citizens of the United States, who are eligible to file the petition on her behalf.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANTHONY STANLEY ORLOFF

The Clerk called the bill (H.R. 1420) for the relief of Anthony Stanley Orloff.

There being no objection, the Clerk read the bill, as follows:

H.R. 1420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Anthony Stanley Orloff shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act, upon the approval of a petition filed under section 204 of that Act by Chester Orloff, a citizen of the United States. The petition may be filed in the United States. Upon the approval of such petition, the status of Anthony Stanley Orloff shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if Anthony Stanley Orloff meets the requirements of clauses (1) through (3) of section 245(a) of that Act.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATASHA SUSAN MIDDELMANN, ET AL.

The Clerk called the bill (H.R. 1826) for the relief of Natasha Susan Middelmann, Samantha Abigail Middelmann, Naomi Katrina Orloff Middelmann, and Hannah Emily Middelmann.

There being no objection, the Clerk read the bill, as follows:

H.R. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF PHYSICAL-PRESENCE REQUIREMENT OF SECTION 301(g) OF IMMIGRATION AND NATIONALITY ACT.

With regard to the nationality and citizenship of the persons listed in section 2, periods during which Deborah Middelmann (a United States citizen living in Gryon, Switzerland)—

(1) lived as a dependent unmarried daughter and member of the household of her parents in Switzerland while they were employd by the L'Abri Fellowship Foundation (an organization with administrative headquarters in Rochester, Minnesota), or

(2) was employed by such foundation,

may be counted in determining satisfaction of the physical-presence requirement of section 301(g) of the Immigration and Nationality Act.

SEC. 2. PERSONS AFFECTED.

The persons referred to in paragraph (1) are—

(1) Natasha Susan Middelmann,

(2) Samantha Abigail Middelmann,

(3) Naomi Katrina Orloff Middelmann, and

(4) Hannah Emily Middelmann,

all of whom are minor children living with their mother, Deborah Middelmann, in Gryon, Switzerland.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HELEN YING-YU LIN

The Clerk called the bill (H.R. 1863) for the relief of Helen Ying-Yu Lin.

There being no objection, the Clerk read the bill, as follows:

H.R. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Helen Ying-Yu Lin shall be classified as a child within the meaning of section 101(b)(1)(F) of that Act, upon the approval of a petition filed under section 204 of that Act by Rose and Gerald Christensen, citizens of the United States, who are eligible to file the petition on her behalf. Upon the approval of such petition, her status shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if she meets the requirements of clauses (1) through (3) of section 245(a) of that Act.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purpose of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Helen Ying-Yu Lin shall be held and considered to be the natural-born alien child of Mr. & Mrs. Gerald Christensen, citizens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHUN WEI WONG, ET AL.

The Clerk called the bill (H.R. 2108) for the relief of Chun Wei Wong, Bic Ya Ma Wong, Wing Sing Wong, Wing Yum Wong, and Man Yee Wong.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

EMILIE SANTOS

The Clerk called the Senate bill (S. 393) for the relief of Emilie Santos.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

KIL JOON YU CALLAHAN

The Clerk called the Senate bill (S. 423) for the relief of Kil Joon Yu Callahan.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PAULETTE MENDES-SILVA

The Clerk called the bill (H.R. 1574) for the relief of Paulette Mendes-Silva.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1748. An act to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes;

H.R. 2327. An act to amend title 38, United States Code, to ensure eligibility of certain individuals for beneficiary travel benefits when traveling to Veterans' Administration medical facilities;

H.R. 2763. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 2783. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; and

H.R. 3058. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 1748) "An act to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Warner, Mr. Cohen, Mr. Quayle, Mr. Wilson, and Mr. Gramm to be the conferees on the part of the Senate.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 2763) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Hollings, Mr. Inouye, Mr. Bumpers, Mr. Chiles, Mr. Lautenberg, Mr. Sasser, Mr. Stennis, Mr. Rudman, Mr. Stevens, Mr. Weicker, Mr. Hatfield, and Mr. Kasten to be the conferees on the part of the Senate.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 2783) "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Proxmire, Mr. Stennis, Mr. Leahy, Mr. Johnston, Mr. Lautenberg, Ms. Mikulski, Mr. Inouye, Mr. Garn, Mr. D'Amato, Mr. Domenici, Mr. Grassley, Mr. Nickles, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 3058) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Chiles, Mr. Byrd, Mr. Proxmire, Mr. Hollings, Mr. Burdick, Mr. Inouye, Mr. Harkin, Mr. Bumpers, Mr. Stennis, Mr. Weicker, Mr. Hatfield, Mr. Stevens, Mr. Rudman, Mr. Specter, Mr. McClure, and Mr. Domenici to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendments of the House to the bill (S. 864) "An act to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Warner, Mr. Cohen, Mr. Quayle, Mr. Wilson, and Mr. Gramm to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendments of the House to the bill (S. 865) "An act to authorize appropriations for civil defense programs for fiscal years 1988 and 1989, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Warner, Mr. Cohen, Mr. Quayle, Mr. Wilson, and Mr. Gramm to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendments of the House to the bill (S. 866) "An act to authorize certain construction at military installations for fiscal years 1988 and 1989, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Warner, Mr. Cohen, Mr. Quayle, Mr. Wilson, and Mr. Gramm to be the conferees on the part of the Senate.

The message also announced that the Senate disagree to the amendments of the House to the bill (S. 1174) "An act to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Warner, Mr. Cohen, Mr. Quayle, Mr. Wilson, and Mr. Gramm to be the conferees on the part of the Senate.

The message also announced that Mr. Stevens be appointed a conferee, on the part of the Senate, on the bill (H.R. 2714) "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes."

(By unanimous consent, Mr. Wright was allowed to speak out of order for 5 minutes.)

PROPOSAL FOR ECONOMIC SUMMIT

Mr. WRIGHT. Mr. Speaker, today is not a day for partisanship. This is a day to set aside partisan political posturing, fingerpointing, and blame placing—a time to face reality and seek solutions that build confidence in America.

Yesterday's volatile reaction of the stock markets need not be—indeed must not be—a signal to panic, but instead a timely warning for us all. It was a rude awakening. For the country's sake, let us be awakened.

Confrontational threats and flights of rhetorical overkill between the executive and legislative branches of Government do not breed confidence. They are unsettling, particularly if they lead to a public expectation of stalemate at the highest echelons of Government while problems go untended.

The unprecedented plunge in the stock market reflects a growing recognition of the fragility of the bubble of borrowing which has boosted our economy during the 1980's. The United States faces severe economic problems. It is time that we take politics off the table, and serve up a double helping of reality.

The most challenging problem is the bubble of debt. Simply put, we are living off borrowed money—both publicly and privately. The only way these debts can be repaid is for the American people to produce at least as much as we consume—and to begin again to pay as we go for the services we ask of Government.

Another serious problem is the erosion of America's industrial strength. We have allowed the marauding acquisition of companies to substitute for the basics of manufacturing and production. Speculation has replaced real investment and America's competitive edge has been blunted.

These twin indulgences have led inexorably to a rise in interest rates which suffocate the opportunities for research and renewed growth. In this process, America has been surrendering our leadership role in the world economy, allowing other nations to rewrite the de facto rules of trade by keeping American products out. This year, the trade balance may fall to a new depth of a $180 billion deficit—even at a time when the dollar has lost so much strength.

In face of these serious problems, the Congress stands ready to act. We earnestly invite the active participation and cooperation of the President and the executive branch of Government as we seek solutions to these problems. Next week, the House will pass a reconciliation bill as one first real step toward deficit reduction. It is a modest step, only $23 billion, but surely a step in the right direction. Failing to take this minimum action could be interpreted by the rest of the world as a signal that the United States is incapable of making hard decisions and managing its own fiscal affairs.

This step, however, is not enough. Far more needs to be done. As soon as we pass the reconciliation bill, I invite the President to join with the bipartisan leadership of Congress in convening an economic summit, without crippling preconditions, to deal with America's long-term structural problems.

A genuine facing of the problems and an open-minded bipartisan search for solutions could do much to restore the confidence America so vitally needs. I do not refer to a staged event or an empty public relations show. Rather, the President and the Congress must be willing to sit down together to work out a new real approach to the looming budget and trade deficits and the problem of rising interest rates. The purpose of such a summit would not be to fix blame, but to find the solutions to our economic crisis.

CONGRESS SHOULD BE FISCALLY RESPONSIBLE

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, we have just heard the Speaker deliver a message that I trust in all due respect is a very bipartisan statement.

Last week on this Hill Paul Volcker came and spoke to the Committee on the Judiciary in opposition to an issue that I have been a champion of for some time.

Although we disagreed on the point that he came to make, we did not disagree on what he believed is the problem, a systemic problem here in this body in Congress and in Washington.

Paul Volcker said that the U.S. Congress has lost its political will to be fiscally responsible, and they have demonstrated that for the last 10 to 15 years.

☐ 1215

Yesterday the American economy lost its trust in the U.S. Congress, recognizing, as Mr. Volcker and many of us do, that we have in fact lost our political will to be fiscally responsible.

Now the leadership of this House is at this time blocking a measure from due hearings and due debate on the floor. It is a measure that I and 236 other Members support. We believe it is what Mr. Volcker says may be necessary, a constitutional fix to force the political will of this body toward fiscal responsibility; that is the balanced budget amendment to the Constitution and I urge my colleagues to join and support it by signing discharge petition No. 2. Gather your political will to be fiscally responsible.

DON'T RAISE INTEREST RATES

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, with the chaos in the stock market, I have a couple of thoughts that just might help us get out of this mess.

The first bit of advice to the Federal Reserve Board of the Administration is, "Don't raise interest rates like you have begun to do." Nothing would do more to put this economy into a tailspin than higher interest rates.

I realize that inflation is a concern and a rise of interest rates is being talked about to restrain inflation, but a little inflation is a heck of a lot better than a big depression.

Second, I would like to echo the Speaker's comments. It is time to stop the rhetorical ideological debate. It is time to compromise and start a consensus. All parties need to put their ideological rhetoric behind them in connection with budget and trade issues, the President particularly on taxes and defense spending, the Congress on its priorities as well; otherwise, without consensus, without trying to decide who is at fault, we will have political deadlock, economic chaos and a far shakier America than any of us want to see.

PRESIDENT REAGAN'S ECONOMIC POLICIES HAVE NOT CHANGED IN 6½ YEARS

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, last night and this morning I have been listening to the news and I have heard some of the most outrageous nonsense I think I have ever heard.

I heard people—some of them from this very institution—blame the panic on Wall Street yesterday on President Reagan and his economic policies.

I know it is popular to kick somebody when they are down. But this is ridiculous. President Reagan's economic policies have not changed in 6½ years.

Those policies were the same while the stock market climbed to record highs.

Those policies didn't change yesterday. They didn't change last week. They haven't changed in 6½ years.

If you want to find a scapegoat for the panic on Wall Street yesterday that is fine with me. But I would suggest that we look at something else that hasn't changed in 6½ years—the fact that this body has failed to reduce the deficit significantly.

That is why the stock market is falling. Because of rising interest rates, fears of inflation and huge trade deficits all caused by this body's failure to reduce the Federal budget deficit.

We can sit here and blame the President for it but what have we done? Have we passed a balanced budget amendment? No. Have we passed a line-item veto bill? No, we haven't.

Yesterday, the stock market told us in no uncertain terms that we had better do something. We can blame the President or we can give him the power to bring the deficit under control by passing a balanced budget amendment and a line-item veto.

SUPPORT H.R. 3 AGAINST UNFAIR TRADE PRACTICES

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, yesterday this Nation witnessed a precipitous drop in the stock market. The Dow Jones Industrial Average fell over 508 points, 22 percent in 1 day. Many analysts have pointed out that one factor behind the recent record losses in the stock market is our failure to bring our Nation's trade deficit under control.

The August trade deficit of $15.7 billion is lower than the preceding $16.5 billion record set in July, but it is still the third biggest monthly trade deficit in our Nation's history. Although we heard from some that because of the declining dollar and improved trade balances right around the corner, there has been no significant improvement.

Mr. Speaker, this Congress must move to turn our great trade deficit around and we need a strong trade bill to do it.

I come to this well today to urge my colleagues on the trade bill conference committee to bring to the House a tough, results-oriented bill. H.R. 3, as passed by this House last April, meets that test. It would provide for effective remedies against unfair trade practices and would require trade deficits to be reduced to the extent that such surpluses are the result of unfair trade practices.

This country must let our trading partners know that we are willing and able to compete in a free and fair international market, but we will stand firm against anyone who attempts to exploit our good faith.

Some have said that H.R. 3 is protectionist and would be an unmitigated disaster for America. I disagree. H.R. 3 is aimed at reducing our trade deficit primarily by opening foreign markets to U.S. goods and services. The bill provides for retaliatory measures, as well it should, but such measures only apply if our trading partners fail to negotiate fair bilateral trade agreements. H.R. 3 provides a mechanism for our country to find its way back to its rightful place in the international market.

Mr. Speaker, the recent events on Wall Street indicate that our economy's more vulnerable than many are willing to admit, and our trade deficit is a major weakening factor. We cannot afford to be complacent. We must pass a strong, results-oriented trade bill as soon as possible.

HALT PROGRAM TRADING IN THE STOCK MARKET

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, it remains to be seen what factors played the major role in yesterday's stock market tumble. Certainly our retaliation in the Persian Gulf didn't cause it. Economic indicators alone could not, and, do not, indicate a downturn of any magnitude related to yesterday's crash. In fact, more people than ever are working and America has enjoyed 59 months of sustained growth.

While certainly tax increases poised in Congress may be a major factor, especially those provisions in the House tax bill targeted toward Wall Street, I doubt that even these could have shaken the foundations of our business community so soundly.

No, Mr. Speaker, it appears that perhaps those utilizing program trading techniques have learned how to dramatically manipulate the stock market. What better way than to initiate a panic than to start a selling spree in a certain blue chip stock, and then to buy another at a huge discount after prices drop. Perhaps a large program trader could involve other such brokers in a massive sell out, knowing profits would be there for the taking the next day.

I urge a sustained halt to program trading, an investigation of those who utilize this technique, and a close examination of who profits the most should today's market rebound dramatically.

PRESIDENT SHOULD JOIN CONGRESS TO PUT OUR FINANCIAL HOUSE IN ORDER

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, yesterday's record drop on Wall Street points up what so many of us have been talking about for months, the huge, soft underbelly in our economy, bloated by borrowed money, much of it from foreign creditors. That self-indulgence could not go on without a drop in our standard of living. The shot across the bow yesterday was further warning.

The President of our country should not acquiesce to all of this. He should not let the roulette of the market place attack the problem. He should accept the responsibility for his own economic program that has produced the largest Federal deficits in history by cutting taxes for the wealthy, borrowing to the hilt to pay for an enormous defense build up, and importing vast amounts of foreign-made goods, displacing U.S. production. There is still time, Mr. President, for you to join Congress at the table and put our financial house in order, both the red ink of the Federal budget deficit and the spiraling trade deficit. It is time to stop the borrowing. It is time to sign a trade bill.

Mr. Speaker it is not morning in America. It is "Truth or Consequences."

NICARAGUA RESUMES CENSORSHIP OF RADIO CATOLICA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, on the first Monday in October, Radio Catolica resumed broadcasting after a year of silence. On the third Monday of the month, the Marxist Sandinista government of Nicaragua resumed censorship of Radio Catolica.

Thus, President Ortega and the revolutionaries of Nicaragua have already shown their arrogant disregard for the peace process he had pledged to respect.

How long did it take the Soviet-inspired Sandinistas to get a belly full of freedom of information? Exactly 14 days. What did the Sandinistas choose not to have the people hear? An interview with Lino Hernandez, director of the independent Permanent Commission on Human Rights.

And how long do you think it will take witless peaceniks to begin apologizing for this lapse in democratic reforms in America? If you listen closely, you can already hear the liberal public relations wheels grinding out excuses.

DEFICIT REDUCTION—THE BEST WAY TO CALM FINANCIAL MARKETS

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise to once again express alarm over the panic in financial markets. As I stated yesterday, the best way to calm the financial markets is for the White House to announce that it will negotiate directly with Congress on a program of significant budget deficit reduction, and I was glad to hear our Speaker call for that today.

I had always thought of Secretary Baker as the one competent economic policymaker in the administration. My faith in him is shaken by his inexplicable statement blaming the Democratic tax legislation for the crash. If he really believes that, we are in deeper trouble than I thought. The markets are reacting to U.S. fiscal policy all right; they're reacting to the continuing stalemate on the budget and the higher interest rates it has created.

It is bad enough that the Reagan administration has mismanaged economic policy on a scale that leads to a stock market crash. I hope that it is not also failing to actively manage and contain the crisis.

Mr. Speaker, a stock market crash is not a spectator sport. The American people have right to expect that their leaders to be engaged during a crisis—to engage in crisis management. The time for muddling through is over. The time for political expediency and partisan wrangling is gone.

A TIME FOR STATESMANSHIP AND COOPERATION

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, yesterday's collapse of stock prices on Wall Street and around the globe should be considered an opportunity for Congress and for the administration. The deadlock we're experiencing in setting the course for our Government's economic policies has created the most damaging kind of crisis imaginable: A crisis in public confidence. All our safeguards and all our institutions are ultimately powerless to prevent economic catastrophe if people don't believe the political system is working.

That's why I call on the Members of Congress, my colleagues, and members of the administration to put aside our past conflict. Now is not the time for finger pointing. Now is the time for statesmanship and cooperation. President Reagan, Speaker WRIGHT, and Majority Leader BYRD should meet today. The symbol of these three leaders together on the White House lawn expressing their commitment to eliminate the budget deficit will go a long way toward bolstering public confidence, and preventing further calamity.

For the rest of us, it is vital that pronouncements of blame be put aside. The past is gone; it is time now to look ahead, and develop a positive program for eliminating the deficit and alleviating the jitters associated with 5 straight years of massive borrowing by the U.S. Government.

SUPPORT H.R. 3482, DEMONSTRATION CHILD DEVELOPMENT CENTERS

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, let me share some statistics about our children. Forty percent of the poor in America are children. One in four of all children lives below the poverty line for disadvantaged children; early intervention makes the difference between a lifetime of equal opportunity or a continual game of catch-up ball. Today I am introducing legislation to create a series of demonstration child development centers.

Recent hearings held by the Senate Education Committee and the House Education Committee showed the need for programs that intervene even earlier than the 20-year-old successful Head Start. Head Start starts at age three. We need to start at birth. State and local bodies would have to match only 20 percent of the Federal funds provided.

Under my bill, a minimal cost of only $25 million a year would provide 30 planning and 25 operational grants.

Mr. Speaker, the Federal Government spends billions for education in later years, but almost nothing for the early years, yet these are the years that decide how well a child will learn and what kind of future that child will have.

Mr. Speaker, I urge Members to cosponsor H.R. 3482 to create these demonstration child development centers.

A CALL FOR LEADERSHIP

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the irony is that the bottom has fallen out of the stock market when the short-term economic indexes are solid. Unfortunately, the fear that gripped Wall Street yesterday could turn into a panic unless strong leadership is exercised over the political decisions that affect the economy in the longer term.

In a call for leadership, my advice is for Washington to reverse gears in five areas:

First, conservatives must recognize that there is a limit to prudent military spending and a confidence-shattering toll to war games, whether they be in Central America, the Persian Gulf, or southern Africa. Peace, not war, is the rallying cry of a bull market.

Second, liberals have to realize the enormity of the societal cost implicit in commitments to every acronymed special interest group, and that deficits should be reduced primarily by cutting spending, not raising taxes. Tax hikes undercut, rather than bolster, confidence in our free enterprise system.

Third, liberals also have to realize that the twin sister of fear is protectionism. The surest guarantee of economic chaos is a return to the competitive erection of trade barriers, a la the Smoot-Hawley era. The only jobs saved by protectionist statutes are those of politicians, not workers.

Fourth, as part of a spending restraint policy, the Fed has to back off its credit-tightening kick and at the same time ensure that regulatory comparability is established in the savings and loan industry. Regulators should not allow runs to be precipitated in this undercapitalized linchpin of our credit system.

Fifth, finally, the White House can no longer afford to remain disengaged from economic decisionmaking. The time has come for the legislative and executive branches to sit down together and rein in the political machine called government. Partisanship must be put aside; so must pride. Fiscal policy must be constrained, so that monetary policy can be eased.

□ 1230

REA: A GOVERNMENT SOLUTION TO POVERTY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, 50 years ago today, the First Electric Cooperative of Jacksonville, AR, began construction on a electric distribution system that would increase productivity and bring more prosperity to 85 percent of the farm families who were not then served with electric power. During its 50 years of service the REA has improved the quality of life in America and may be looked upon as a good example of how Government can help its citizens out of poverty.

Congratulations to the First Electric Cooperative for 50 years of service and a note of gratitude to a great President, the late Franklin Delano Roosevelt, for providing a legacy of leadership for present and future generations.

Mr. Speaker, millions of Americans enjoy a higher standard of living because of a sound public policy. Government indeed can provide solutions to problems to help people help themselves.

Before the REA came into being, millions of Americans in small towns and rural areas were not served by electricity. Only 15 percent of all American farms had electricity. Today, 99 percent of all farms have electricity. In Arkansas, there are 18 distribution systems serving more than 290,000 customers, because the Roosevelt administration tools the initiative to provide opportunities for progress in rural Arkansas.

The First Electric Cooperative Corp. in Jacksonville is celebrating the 50th anniversary of the first pole-setting in Arkansas rural electrification in 1937. I congratulate the First Electric Cooperative, and I wish them many successes in the future.

I have always supported the REA, and I always will. The REA has improved the quality of life in rural Arkansas, expanded productivity on the farms, and brought balance to the rural economy by helping to create industrial jobs. Those who complain that Government is the cause of problems should look to the shining example of progress founded by President Franklin Delano Roosevelt.

WELFARE REFORM LEGISLATION

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, it is now apparent that the majority side of the isle has refused our call to bring welfare reform legislation to the floor as a free-standing bill. Instead, the Committee on Ways and Means has voted on a party line basis to fold this important issue into the reconciliation bill we will take up sometime soon. This is a real unfortunate situation because the debate over this issue is sure to be rushed and limited.

Welfare reform proposals should be judged on how well they assist welfare families to get them off the various programs and become self-sufficient. Clearly, the majority party's proposal, H.R. 1720, is deficient in this regard. It rewards people for staying on welfare. According to the Congressional Budget Office, at best 365,000 AFDC recipients will participate in the work, education, and training programs contained in the Democrat bill. Under the bill proposed in the Senate by the Senator from New York, Mr. MOYNIHAN, the participation levels are some 86,000 AFDC recipients.

Contrast these bills with the Republican bill, H.R. 3200, which will bring on board some 935,000 participants.

Mr. Speaker, let us put both bills on the floor for debate, let us see which one will hold true and which version is truly welfare reform.

WE NEED TO REDUCE OUR FEDERAL DEFICIT

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, I expect that there will be dozens of theories about the cause of yesterday's market drop. No matter how it is explained, or by whom, one factor will be present in every analysis—the need to reduce our Federal deficit.

The deficit is central to the recent increase in interest rates and to our continued trade imbalance. The stock market has sent the President and the Congress an unequivocal message to stop the political games and agree on a deficit reduction plan.

For 10 months, the leadership in the Congress has been pleading with the President to get involved in the deficit reduction process. Our pleas have been ignored. It is my hope that Wall Street will be able to get through to the White House.

It is time for the President and the Congress to sit down and negotiate a balanced deficit reduction package of spending cuts and revenues. Investors and our trading partners are not looking for miracles or excuses. They are looking for leadership and honesty. A real budget compromise would be a signal that we are finally ready to meet our responsibilities.

WE MUST RESOLVE THE DEFICIT

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, yesterday the stock market told this administration what many of us in Congress have been telling it for some time: When you borrow, borrow, borrow, there must come the day when you have to pay, pay, pay.

The blast that rocked Wall Street, and was heard around the world, should surprise no one. On October 7, I wrote to Chairman Ruder of the Securities and Exchange Commission to urge him to address immediately the unprecedented volitility in our securities market because this volitility, when coupled with the markets increased velocity due to program trading, could create a free-fall situation that would drive our markets out of control.

Unfortunately, yesterday that is precisely what happened.

What can we do today?

In the short run, I have asked the SEC and CFTC to consider instituting stricter position limits on futures trading, to consider higher margin requirement for stock index futures and options, and to assess the impact of a ban or a suspension on program trading.

The United States presently has over $7 trillion of debt on its books, consumer debt is $1 trillion, public debt is $2 trillion, corporate debt is $4 trillion. Only a very small fraction is for research and development for plants and equipment debt. We are now beginning to pay for our national spending spree.

Now is the time, internationally and domestically, for us to work together.

AT WAR IN ALL BUT NAME

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, 6 months ago the U.S. Navy was not escorting foreign tankers through a war zone. We were not attacking Iranian ships or military installations. We were truly neutral in a war which has dragged on for 7 long years, and threatens to drag on for 7 more.

Today we are at war in all but name.

It was 3 years ago that the Secretary of Defense laid down some guidelines for the use of U.S. Armed Forces overseas. Have we satisfied the tests he set for that use? The answer is "no" on three counts.

We do not have clearly defined military and political objectives in the Persian Gulf.

Rather than using armed force as his last resort, the President has consistently used it as his first.

And, most important, there is no reason to believe that the American people or their elected representatives will support this war, not after the body bags begin coming home.

The President has taken it upon himself to rule the war powers resolution unconstitutional. He apparently believes he can pick and choose which laws he will abide by and which he will ignore. Mr. Speaker, it is not the President's job to interpret the law, but rather, as the Constitution puts it, to "take care that the laws be faithfully executed." Let the courts rule on the constitutionality of the law. Let the President begin to observe it.

PUTTING OUR HOUSE IN ORDER

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, much has been said about the stock market, but I would like to try to put this in perspective with the Congress of the United States.

No one knows for sure whether this is just a bubble whose time will pass, overinflated stock prices, or whether there is something fundamental going on here in the country. But dare we let it go? Dare we just say it might be the former and not the latter?

Mr. Speaker, I have a feeling that now is the time when the Congress of the United States itself must take the leadership in saying to this Nation that we are going to put our own financial house in order. We are going to do it at such a date and this is the way we are going to do it.

I would like to propose that this body along with the Senate and along with the President of the United States get at this fast because we need it.

THE WAR POWERS ACT MUST BE INVOKED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, we gave a half-hour notice to Iran before we attacked that unused oil platform. We used 1,000 rounds of ammunition.

We should not be beating our chests here today. This is not Hollywood.

Iran is irrational. They have vowed revenge and they give no notice.

The President must invoke the War Powers Act. America and Congress is ready to sing out of the same hymn book. Failing to do that, he keeps us in a dangerous position where our troops face coming home in body bags. Let us not forget Beirut, where 240 marines were killed when a nut drove a truck through weak security. They were sleeping. They had no bullets in their weapons.

□ 1240

My God, before that happens again, if this President does not do what he should, Congress will be forced to declare war, and we should before our troops come home again in body bags. It is time when we send our troops into tough positions that we help them win.

SILVER LINING IN DARK FINANCIAL CLOUD

(Mr. SWINDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWINDALL. Mr. Speaker, there is an old expression that every cloud has a silver lining. There is a potential silver lining to the cloud that emerged yesterday on the financial horizon of this country when the New York Stock Exchange took an unprecedented plummet. There is also, however, a potential silver lining.

That silver lining will exist only, however, if this Congress understands that yesterday was much needed shock therapy for this Congress. There is one conclusion that can be drawn absolutely about what happened yesterday. There may be many factors that contributed to that drop, but one certain factor was this Congress' unwillingness to deal with continuing Federal deficits. In fact, we have not balanced the Federal budget since 1969.

There is plenty of room for blame for the administrations and the various Congresses that have contributed to the problem. But in the final analysis, Congress must bear the ultimate responsibility for one reason alone: Under our Constitution, only Congress can appropriate money.

Should we fail to respond to yesterday's shock therapy, every American, young and old, black and white, rich and poor will suffer the consequences.

THE ECONOMY

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, today, America awoke to a frightening new world.

A strange, complex, and economically interdependent world in which our Nation is only one part of the economic equation.

It is a world in which we alone no longer call the shots.

We are afloat in the stormy ocean of international competition.

What is most disheartening is that while we in Congress, the crew for this vessel, are arguing about the proper course to safety.

The captain of the boat is locked in his cabin, reminiscing about ancient voyages.

But this is not time for finger pointing. Democrats can blame Republicans, and Republicans can blame Democrats—and nothing will be accomplished.

Instead its time for cooperation.

It's time for an international economic summit, where the world's and our Nation's economic and political leaders sit down together and steer a course for a safe harbor.

Here at home, we will have to come face to face with the disease that has left our economy on the critical list.

In every aspect of life the United States has drifted away from production and toward consumption.

It has been a junk food diet without enough exercise.

We in Government have been unable to balance our budget.

Corporations have become preoccupied with quick paper profits, at the expense of long-term investment.

And the American family has been on a consuming binge and a saving drought.

Mr. Speaker, the stock market may bounce back temporarily, but if we continue to worship consumption and disdain production, these demons will come back to haunt us.

STOCK MARKET CATACLYSM

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, there have been a number of perorations today on the subject of the market cataclysm of yesterday and last week.

My friends in the Democrat majority have mostly lectured that it is the President's fault, that somehow he needs to be blamed because they declared his budget dead on arrival, because they have not passed any appropriation bills, because they cannot pass the reconciliation bill, that it is his fault. I have a little trouble believing that is the problem.

I believe the problem is the poison that we have injected in our economy over all of these many years of not being able to control our spending and rolling up enormous deficits back to back.

But I am ready to call a truce in the name calling myself. I believe that it is time to sit down first in our own economic summit to put our own house in order, and, second, then to move out internationally and make sure that we have some stable currencies with which to work there.

It is an appropriate time to get together. Perhaps Republicans now must concede a bit on taxes. Certainly Democrats are going to have to concede on spending.

WE HAVE BEEN THROWN A LAFFER CURVE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, everyone is wringing their hands over the fall in the stock market. But we must remember that the stock market is nothing but a giant confidence game. People only buy when they are confident in the economy and corporate profits. We can discount the idea that yesterday's sell-off was based on poor profit reports.

What does it all mean? The President doesn't think it means very much, but one commentator blamed the fall on the defeat of Judge Bork's nomination. One member of the Cabinet blamed the fall on the tax legislation presently under consideration in the Committee on Ways and Means.

The simple truth is that after 7 years of "feel good economics" based on the Laffer curve, the day after the largest market drop in history, no one is left laughing.

If we simply look at certain economic fundamentals, we can easily understand the lack of confidence. The recent health of our economy, the growth in jobs, and the people's general sense of well-being has been based on that nasty four letter word—debt. Eight years ago our trade accounts were in surplus, now they are out of control. The annual budget deficit is now four to five times larger than it was in 1980.

The party is over, all we have left is the hangover. We need to face facts in a bipartisan way.

ECONOMIC CRISIS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I would like to congratulate most of the speakers who have come up here to take 1 minute today because they have talked about the debacle that took place yesterday by saying that we should get together, both Democrats and Republicans, to try to work this out, and there should be a summit with the White House and with both sides of the aisle participating to make sure we come to grips with the terrible deficit we are facing, which is one of the main causes of the terrible tragedy that occurred yesterday and last Friday.

But some of my colleagues have come up here and they have pointed fingers at the President of the United States and tried to lay blame solely on the front door of the White House. But that is not factual. The fact of the matter is that spending originates in the House of Representatives and in the U.S. Senate. The Congress controls spending, and according to the National Taxpayers Union, who puts out a pamphlet every year telling who are the biggest spenders in Congress and those who are the most frugal, the facts show that the biggest spenders, 28 of the top spenders in Congress are on the Democrat side of the aisle, and of the lowest spenders, 27 of the lowest 30 are on the Republican side of the aisle.

So the facts bear out that the big spenders are over there and the low spenders are over here, and if we are going to come to grips with this terrible tragedy we face we have to come to grips with the deficit, and you folks are going to have to cut spending.

INTRODUCING THE NELSON MANDELA DAY RESOLUTION

(Mr. CROCKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROCKETT. Mr. Speaker, I rise today, on behalf of myself and 30 of my colleagues, to introduce legislation designating June 26, 1988 as a national day of recognition for Nelson Mandela, South Africa's imprisoned, premier black leader.

Although he has languished for the last 25 years of his life in a South African prison, for an offense that carriers a maximum of 5 years in our country, Nelson Mandela remains South Africa's most widely recognized black leader. He still embodies the aspirations of the majority of the South Africans for a free, united, democratic, and nonracial society in which all may participate unconditionally.

Nelson Mandela is known and revered throughout the world as a living symbol of the ongoing struggle against racial oppression. The U.N. General Assembly, on December 16, 1980, and the U.N. Security Council, on June 13, 1980, demanded the release of Nelson Mandela and all other political prisoners in South Africa. More than 2,000 mayors from 56 countries and the European Parliament have called for Mandela's unconditional release. Mandela has been granted India's "Nehru Award," Venezuela's "Simon Bolivar Award," and Rome's "Honorary Citizenship Award."

This resolution for a National Mandela Day is fully in keeping with United States foreign policy toward South Africa. The 98th Congress unanimously adopted the "Mandela Freedom Resolution," calling for the unconditional release of Nelson Mandela, on September 18, 1984. The President of the United States, at the request of Congress, has called for the South African Government to end the lengthy imprisonment of its black leaders, including Nelson Mandela; and the Secretary of State has urged the release of Nelson Mandela and indicated the need for the South African Government to meet with leaders of the black majority including Nelson Mandela.

Little has changed—for the better—in South Africa since Mandela was imprisoned 25 years ago. Today, there are tens of thousands of South Africans—including thousands of children—in prison for their opposition to apartheid. And thousands more have been killed.

The adoption by this Congress of the Nelson Mandela Day resolution would send a clear and undeniable signal to the apartheid regime that the American people and Government will not sit silently by while these gross abuses of human rights occur.

I urge all of my colleagues to join us in this effort to make June 26, 1988, a potent reminder to the Botha government that the first step in securing equal justice for all South Africans is the immediate release of Nelson Mandela and all other political prisoners.

NEED FOR A DOMESTIC SUMMIT

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, in 1981 I asked President Ronald Reagan to convene a domestic economic summit. He did not.

I went to the leader, JIM WRIGHT, who is now our Speaker, and he asked the President to assemble a domestic economic summit. The President did not.

I have asked each year for the President to call a domestic economic summit. The President has found time to meet with our international allies, in several economic summits, but he has never found time to call for a domestic economic summit with the leadership of both House and Senate, both Republicans and Democrats, to form a bipartisan budget, all-American budget, not a Republican and not a Democrat budget. He has never been able to find that time. He has ignored this call and now we have serious economic problems.

Yes, we have had a drastic situation occur as of yesterday in the stock market. Yes, we have had 59 months of growth, underwritten by debt, with foreign investors underwriting that debt.

Mr. President, today more than ever I ask you again to assemble an economic domestic summit with the leadership of the House and the Senate, both Democrat and Republican and present to the American people an all-American budget to try to resolve our economic problems.

LOWER INTEREST RATES TO RESTORE CONFIDENCE IN OUR ECONOMY

(Mr. HUCKABY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUCKABY. Mr. Speaker, the day after the great stock market fall of 1987 I simply want to urge the Fed to lower the discount rate. If there is one action that can be taken, that can be taken immediately to restore confidence to people in America and throughout the world, that is for us to reduce interest rates, to keep this economy going.

Let us not let this economy get away from us. Let us lower interest rates so that business can continue to grow and we can restore confidence in our economy.

IN THE MATTER OF REPRESENTATIVE RICHARD H. STALLINGS

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, today the Committee on Standards of Official Conduct filed a report containing the results of its preliminary inquiry regarding Representative RICHARD H. STALLINGS.

The report addresses a recurring problem: Use of campaign funds and, once again, points out that under House rule XLIII, clause 6, Members may only expend campaign funds for bona fide campaign purposes.

In this regard, the committee wishes to emphasize that the House rules are more restrictive than the Federal Election Campaign Act regarding the use of campaign funds. Specifically, while the law permits the use of campaign funds for "any legal purpose," "any legal purpose," House rules restrict the use of such moneys for only bona fide campaign purposes.

In sum, the committee's view is that campaign expenditures are proper only, only, if they solely and exclusively benefit a Member's campaign. Consequently, any other use of campaign funds, while perhaps proper under the Federal Election Campaign Act, would not be proper under House rules.

SUPERCONDUCTING SUPER COLLIDER AUTHORIZATION

(Mr. BRUCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRUCE. Mr. Speaker, I am pleased to report that last Thursday, the Science, Space, and Technology Committee, of which I am a member, reported a bill authorizing funding for the superconducting super collider [SSC]. I urge my colleagues to support this bill when it comes to the House floor.

The SSC authorization bill, of which I am an original cosponsor and which has over 260 cosponsors, symbolizes Congress' commitment to the largest and most powerful scientific instrument in the world.

The exciting new project will enable the United States to maintain its world lead in basic high-energy physics research. The knowledge we take from the super collider could ultimately be as valuable to our economy as electromagnetics or quantum theory, which provided the intellectual foundation for today's billion-dollar communications and semiconductor industries.

More immediate spinoffs from the construction of the super collider also promise to benefit our economy—and even other sciences. For example, the Nation's first hospital-based proton accelerator designed for cancer treatment will soon be installed at Loma Linda University Medical Center. This accelerator, which some say will rank with the x ray as a therapeutic tool, was designed by Fermi National Laboratory in Chicago, and based on accelerator-technology spinoffs.

The decision to build the super collider in the United States will bring a new generation of scientists to this country and inspire young students here to pursue careers in science and technology. These developments are critical for the United States as we prepare to enter the 21st century.

Mr. Speaker, I wish to commend Chairman ROE of the Science Committee and the ranking minority member, Mr. LUJAN, for their excellent work on the SSC bill. And I again urge my colleagues to support the super collider authorization bill when it comes to the House floor.

STOCK MARKET CRISIS

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, we have a crisis in confidence in our stock market, but I believe it is a temporary crisis. I believe people will soon come to their senses and stop overreacting to avenues that have been building up over a period of several years. Fundamental values are there.

This Congress needs to forget politics and to work toward a bipartisan deficit reduction plan at long last for both our trade and budget deficits.

□ 1255

In the meantime, we need to remember the words of Franklin Roosevelt who said, "The only thing we have to fear is fear itself."

DECENNIAL CENSUS IMPROVEMENT ACT OF 1987

(Mr. DYMALLY asked and was given premission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, today I am proud to be joined by over 40 of my colleagues in introducing legislation which will promote the constitutional and civil rights of all Americans.

The Decennial Census Improvement Act of 1987 will improve the accuracy of the census by requiring a statistical adjustment of the population figures to correct undercounts and overcounts.

This legislation tackles an issue of constitutional dimensions because decennial census figures are used to reapportion seats in Congress, to draw district boundaries in compliance with the Voting Rights Act, and to distribute program funds at the Federal, State, and local levels.

This substantial undercount of minorities, the homeless, and the rural poor makes these efforts imprecise, at best.

Mr. Speaker, the time has come to ensure equal representation in Congress for all Americans and a fair distribution of Federal funds.

When we are talking about a guarantee of constitutional rights, we should settle for nothing less than the most accurate figures modern science will allow us to produce.

BLACK MONDAY

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, "Black Monday" is the dawn of the brave, new world of economic interdependence for the United States. As H. Ross Perot alluded to in the Wall Street Journal, the losses in the stock market of the past week are the shot across the bow for the United States: A warning that we must get our economic house in order and do something about our twin deficits of the $220 billion Federal budget deficit and the $170 billion trade deficit. Mr. Speaker, no longer will the United States be able to run such deficits again and avoid the agony of a correction from abroad.

Economic decisionmakers for the United States no longer travel only between the great financial houses of New York and the Government institutions of Washington, Mr. Speaker. Increasingly, we see our economic policy being formulated in Bonn and Tokyo. In this week's E.F. Hutton research newsletter that is delivered to congressional offices, the opening sentence presents the question, Will Japanese bond dealers determine the fate of the U.S. election by their willingness to buy American Treasury debt and keep our interest rates low?

If there was ever any question why we are keeping the shipping lanes open for oil tankers in the Persian Gulf, it was answered yesterday, Mr. Speaker. The $1 million we are spending daily pales in comparison to the $600 billion that the American stock market has lost in equity in less than a week. It is unfortunate that we are a combatant in the gulf, but the carnage in the free world economy would be of an unimaginable magnitude if the oil flow from the Middle East was shutoff to Japan and other industrialized nations.

THE AMERICAN PEOPLE AND THE WORLD ARE WORRIED ABOUT THIS COUNTRY CHOKING ON RED INK

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, there is a lesson in yesterday's market collapse and I think the lesson is that the American people and the world is worried about this country choking on red ink. We are literally hemorrhaging in a trade deficit, a fiscal policy deficit and in fact, in the private sector, in consumer debt and corporate debt.

The message is to, I think, the President and the U.S. Congress to sober up and provide some leadership. We need that leadership now. Put aside the slogans and search for solutions.

The American people expect, want and deserve to see a President working with Congress, to see Republicans working with Democrats, working for solutions that I am convinced are there if we will only turn our attention to them.

It is time to put aside all the nonsense and all the partisanship and get to work. Yes, we need a domestic summit; yes, we need leaders of both parties working with each other; and, yes, we need the White House working with Congress to find the solutions for this country's economic future.

LET US LOOK BEYOND OUR OWN POLITICAL AGENDAS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have listened this morning to all of the talk about bipartisanship and the need to do something about what took place in the stock market yesterday and I have been somewhat amazed, and I think maybe I should not have been, but I have been somewhat amazed how each person's opinion seemed to fit precisely with his political agenda. Now it seems to me that bipartisanship will demand that we look beyond our own political agendas. There is one fact we have to look at. The one fact is that the stock market started down as the Democrats in the Congress began writing their tax bills. That is, there is a precise correlation between the two. And so if we are going to talk about tax increases we are going to have to recognize that that has sent signals to the investment community. They are signals that are decidedly bearish. The Wall Street Journal said it; tax increases are bearish.

It is absolutely essential that if we are going to have this bipartisanship meeting that the Democrats in the Congress bring something to the table with them. I would suggest what they should bring to the table with them is an elimination of their tax increase philosophy.

Let us talk about how we can get together to cut spending in this body, but let us stop the business of talking about tax increases. It is driving the market down.

THE LAWS OF GRAVITY HAVE FINALLY RETURNED

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, the laws of gravity have finally taken hold. The fact is that we have been operating in terms of our economy, in terms of our budget as if they did not exist. The fact is that it has taken something on Wall Street to make the administration and Congress sit up and take note. It is a disappointment to me and many other Members that this 760-plus point Dow Jones stock drop has occurred on Wall Street. But was has been happening on main street across this country for the last 6 years has been the real tragedy. When the banks were foreclosed, when the farmers were flat on their backs, when the steelworkers were out of work because of the trade problems, nothing seemed important enough. But now the paper losses of Wall Street have brought home the chickens to roost and the message to the powers to be.

That message is a message that we have been writing in the agony of workers and their families for the last 6 years as the number of people below the poverty level increased by nearly 5 million. The problem and the suffering has been going on for a long time for too many Americans.

It is masked by the unemployment statistics in this country but it is not masked by the high-interest rates, during the last recession or the continued high-interest rates that are reoccurring today, far above the real rate of inflation.

We, as a Congress, have much to do in correcting monetary policy; we as a Congress, need to address the spending problems and we must face up to the real laws of gravity.

If this administration and Congress want to spend, we must support the dollars to pay for them, Mr. Speaker. Or surely those warning of economic crash is going to pull down the consumer economy and the facade of well-being that grips the Hollywood image of Reagan economic well being in America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DEFAZIO). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, October 19, 1987, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Concurrent Resolution 199, by the yeas and nays; and House Concurrent Resolution 200, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote after the first such vote.

REGARDING SOVIET MISSILE FIRINGS NEAR HAWAII

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 199.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 199, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 27, as follows:

[Roll No. 360]

YEAS—406

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Davis (IL)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)

Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—27

Baker
Bates
Biaggi
Bilirakis
Bustamante
Cheney
Collins
Daub
Davis (MI)
Dowdy
Downey
Duncan
Flake
Frost
Garcia
Gephardt
Kemp
Livingston
Mack
Matsui
Moody
Pursell
Roberts
Roemer
St Germain
Tauzin
Towns

□ 1310

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DEFAZIO). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

CONGRATULATING AND COMMENDING PRESIDENT ARIAS FOR RECEIVING 1987 NOBEL PEACE PRIZE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 200.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 200, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 18, not voting 23, as follows:

[Roll No. 361]

YEAS—392

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—18

Armey
Boulter
Crane
Daniel
DeLay
Dornan (CA)
Hall (TX)
Holloway
Hunter
McCandless
Nielson
Ridge
Shuster
Smith, Robert (NH)
Solomon
Stratton
Stump
Vucanovich

NOT VOTING—23

Baker
Bates
Biaggi
Bilirakis
Bustamante
Cheney
Collins
Davis (MI)
Dowdy
Flake
Frost
Gephardt
Kemp
Livingston
Mack
Matsui
Moody
Pursell
Roemer
Roth
St Germain
Tauzin
Towns

□ 1325

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 158

Mr. DORNAN of California. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 158.

The SPEAKER pro tempore (Mr. DeFazio). Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
October 15, 1987.

Hon. Jim Wright,
Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with subpoenas issued by the United States District Court for the Southern District of New York. After consultation with my General Counsel, I will notify you of my determinations as required by the House Rule.

With great respect, I am,
Sincerely yours,
Donnald K. Anderson,
Clerk, House of Representatives.

APPOINTMENT OF CONFEREES ON H.R. 1777, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

Mr. MICA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Speaker, I offer a motion to instruct.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. Burton of Indiana moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes, be instructed to agree to the provisions contained in title XI of the Senate amendment (entitled "Anti-Terrorism Act of 1987").

The SPEAKER. The gentleman from Indiana [Mr. Burton] is recognized for 1 hour.

Mr. BURTON of Indiana. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Florida [Mr. Mica].

Mr. MICA. Mr. Speaker, let me say that we have no objection to this. We would be happy to accept the instruction.

Mr. BURTON of Indiana. Mr. Speaker, since the motion has been accepted, I will simply submit my formal statement.

Mr. Speaker, my motion would instruct House conferees to agree to an amendment that has broad bipartisan support in both Houses of Congress and passed by voice vote in the Senate.

Though I am confident that this provision would be retained in conference given its broad support, I believe that it is important that the whole House be on record in support of closing the official offices of the PLO in the United States.

The PLO is the world's premier terrorist organization. Its terror is not only directed against our ally, Israel, but directly against American citizens.

In 1974 a TWA jet was exploded in midair by the PLO; 88 people were killed, including many Americans.

In 1976, an aide to Senator Jacob Javits was murdered by an affiliate of the PLO.

In 1985, Navy diver Robert Stethem was murdered in cold blood by the hijackers of a TWA plane. This terrorist act was carried out by Abu Abbas, who was just a few months ago promoted by the PLO to its executive committee.

The State Department, recognizing the support for the Kemp-Mica-Grassley bill, closed the Washington office of the PLO with considerable reluctance. But the PLO "mission" at the U.N. will remain open unless the Kemp-Mica-Grassley bill is signed into law.

Some Members have claimed in a "Dear Colleague" that Kemp-Mica-Grassley is "dangerous to civil liberties in the United States and to the search for a just and lasting peace in the Middle East."

I find it hard to understand how throwing a bone to the PLO helps bring peace to the Middle East.

I too would object to the provision if it denied a single American his or her constitutional right to free speech—it does not. The bill prohibits paid agents of the PLO from operating an official office on U.S. soil. It does not prohibit an American of advocating, or even actively promoting, whatever cause they wish within U.S. law.

Nor would this provision conflict with the U.N. Headquarters agreement, which specifically states that [quote] "nothing in the agreement shall be construed as in anyway diminishing, abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens."

The bottom line is that the United States cannot talk tough about terrorism while continuing to be a safe harbor for agents of PLO terrorism and legitimating the PLO presence in official bodies and capitols around the world.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana [Mr. Burton].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Foreign Affairs, for consideration of the House bill and Senate amendment, and modifications committed to conference: Messrs. Fascell, Mica, Yatron, Dymally, Kostmayer, Smith of Florida, Atkins, and Broomfield, Ms. Snowe, and Messrs. Gilman, Mack, and DeWine.

As additional conferee solely for consideration of section 156 of the House bill, and modifications committed to conference: Mr. Solarz.

As additional conferee solely for consideration of section 199E of the House bill, and modifications committed to conference: Mr. Bonker.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 124, 134, 139, 145, 151 through 154, 156 through 162, 179, 189 through 194, 196, and 403 of the House bill, and sections 111 through 114, 116 through 124, 303, 525, 551, 555 through 557, 559, and 606 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mrs. Schroeder, and Mr. Horton.

As additional conferees from the Committee on the Judiciary, for consideration of sections 132, 143, 146, 182, 199, 199B, and 212 of the House bill, and titles VII, IX, X, and XI and sections 502, 503, 504, 506, 512, 526, 528, 531, 549, 552, 558, and 570 of the Senate amendment, and modifications committed to conference: Messrs. Rodino, Mazzoli, Hughes, Frank, Fish, McCollum, and Swindall.

As additional conferees from the Committee on Armed Services, for consideration of section 199F of the House bill, and modifications committed to conference: Mrs. Byron, Mr. Bustamante, and Mr. Bateman.

As additional conferees from the Committee on Ways and Means, for consideration of sections 552, 912, and 913 of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Rangel, and Downey of New York.

The Chair reserves the right to appoint two minority conferees from the Committee on Ways and Means.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 401 through 404 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, SHARP, LENT, and MADIGAN.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 401 through 404 of the Senate amendment, and modifications committed to conference: Messrs. ROE, SCHEUER, HALL of Texas, LUJAN, and SENSENBRENNER.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 552 of the Senate amendment, and modifications committeed to conference: Messrs. MINETA, DE LUGO, and HAMMERSCHMIDT.

□ 1340

APPOINTMENT OF CONFEREES ON H.R. 1748, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. ASPIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1748) to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. DICKINSON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes, be instructed to agree to the provisions contained in section 827 of the Senate amendment (entitled "Soviet Union Embassy Agreements") with an amendment that would provide for termination of the current Embassy agreements one year and 10 days after the date of enactment of those provisions or on such earlier date as may be agreed upon by the United States and the Soviet Union, with the Mount Alto site to be unavailable for use by the Soviet Union after such termination.

The SPEAKER. The gentleman from Alabama is recognized for 1 hour.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of my motion is to instruct our conference managers on the Defense authorization bill to recede to the Senate language on one point only: we should approve the Senate amendment voiding the Embassy agreements which gave the Soviets Mount Alto here in Washington and which gave the United States a KGB soundstage in Moscow.

The Senate language to which the House conferees should recede was amendment No. 722 to the Senate Defense authorization bill and it can be found in the RECORD of September 24 on page 25077.

It isn't easy to find out who is responsible for the 1969 agreement that gave the Soviets rights to Mount Alto. No one has stepped forward to take the credit.

The intelligence community tells the press that the accords were signed over its strong objections; former CIA Deputy Director Bobby Inman says "the State Department wouldn't listen" to their counsel. Otheres say that the U.S. intelligence community signed off on the accords and has no rights to complain now about poor judgment.

James Schlesinger, a former Secretary of Defense, suggested before Congress this past June that the State Department might not be to blame, having signed the 1972 agreement "under duress" from the White House pressure.

Regardless of past history, at present the Soviets are already using their new hilltop Embassy complex to intercept U.S. communications, according to William Webster, Director of the FBI. The April issue of Popular Mechanics includes a lengthy discussion by Senator MOYNIHAN, formerly on the Intelligence Committee, about how the sweeping of the electronic airwaves can be done from Mount Alto. He argues, among other things, that the Soviets are using parabolic dishes to pull in microwave signals right now from the occupied apartment complex on the new Embassy site. Senator MOYNIHAN has tried three times to have the Soviets expelled for this reason.

There are various opinions as to how much of an intelligence advantage the Soviets really gain from conducting their electronic eavesdropping activities from Mount Alto. However, one thing we've learned from the bugging of our new Embassy in Moscow is that the Soviets are very good and very serious about technological espionage.

The Mount Alto accords were bad for the United States for a second equally important reason; They permitted the Soviets to build and bug the new U.S. Embassy in Moscow.

Only extreme carelessness can explain why we are left, after 17 years and $23 million, with a compromised embassy building. Poor construction, leaking roofs, and bugged so badly that Mr. MICA and Ms. SNOWE, who have visited the site, reported in May that even reconstruction of whole floors might never seal off the Soviet's electronic ears.

It would appear from the press that our intelligence services are still trying to figure out the type and extent of Soviet bugging. We can be certain that inhabiting the building would be foolish. The uncompleted chancery tower in Moscow is a travesty—a KBG tunning fork, as Senator CHILES calls it. According to the Senate Intelligence Committee, it simply must be torn down.

Lets face it; the accords of 1969 and 1972 which made all this possible were a big mistake. We gave up the wrong ground in Washington and we agreed to arrangements for our new Embassy site in Moscow which permitted us to be completely blindsided by the Soviets.

President Carter's CIA Director, Stansfield Turner, says that we refuse to see how serious the Soviets are about espionage. He says "Few people in Washington are prepared to pay the price for security." Well, I hope my motion to instruct the conferees on this important matter will begin to wake some of us up.

The Senate gave its overwhelming approval on September 24 to an amendment by Senator SYMMS to the defense authorization bill. It directs the President to "void the current embassy agreements" and "enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level." Senator SYMM's amendment passed by a 70-to-27 vote. The purpose of my motion today is to direct our conference managers to recede to the Senate position in conference.

We have a chance today to show some resolve in the face of continuing and aggressive Soviet intelligence activities both in Washington DC, and in Moscow. We can do this by uniting our congressional voices in a call to void the agreements. We are compelled to do so because there is no consensus within, and little action from, the administration on this issue.

Failure to act on these glaring security problems would reflect poorly upon the Congress, which has assumed sweeping oversight authority. We can end the danger and the embarrassment by receding to the Senate language which voids the original treaties.

Let me add one final point: Voiding the accords does not necessarily mean abandoning our new Embassy site in Moscow. I know that, in general, the State Department is very satisfied with the residences. We may be able to negotiate a new agreement that permits the completion of the new site and some arrangement for a new chancery. The point is that all this will remain open to negotiation.

Therefore, I urge your support for my motion to instruct the conferees on the Defense authorization bill so we can start to put this matter behind us and begin all over again with our eyes wide open.

□ 1350

Mr. Speaker, I feel this is not more than a commonsense approach. I think that we have put ourselves into an untenable situation. I think we can correct it here today, and what we are doing is in the best interests of this country.

I urge the support of my colleagues here on the floor to act with the same resolve as did the Senate. Let us vote to instruct the conferees, to accept the Senate amendment, thereby really ensuring to a very large extent the security of this great Nation of ours.

Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey. [Mr. Courter].

Mr. COURTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I stand in strong support of the motion to accede to the Senate language on our Embassy situation. The Soviet Union got a great deal, and they got the second tallest place in Washington, DC. They are using their facility as a sound stage, as was indicated by the gentleman from Alabama [Mr. Dickinson] and it is also as was indicated by the gentleman from Alabama very difficult to find anybody who is willing to assume the responsibility for this ridiculous decision made in the late 1960's or early 1970's. The intelligence community blames it on the State Department. The State Department said that they were muscled by the White House. The White House said that the intelligence community checked off on it. The Defense Department is blamed as well. There is nobody, nobody that I can find that claims credit for making this agreement.

The reason is upon reflection we know it was a stupid and a bad decision. The Mount Alto, as was indicated before, is the second highest point in Washington, DC, the most perfect location to create espionage in the city of Washington.

What is more, the new Soviet Embassy is less than 3 miles over a direct line of sight from the White House, and from the State Department a little bit over that distance. The line of sight which would be used by laser beam microwave is 3.5 miles from Mount Alto to the FBI. The Pentagon is about 4 miles away, a direct line of sight. Microwaves can be beamed there, and this body, the Congress of the United States, is slightly more than 4 miles away.

Accordingly to Timothy Johnson, who is a former Air Force electronic countermeasures expert, there are three terrible things that are happening right now on Mount Alto.

No. 1, reception and monitoring of low-frequency emanations generations by U.S. Government computer terminals, telephones, and electronic typewriters. Virtually anything that is electronic can be picked up and the signals can be deciphered on Mount Alto right now.

No. 2, he says, laser beam microphones directed at U.S. Government facilities can pick up conversations behind closed doors and behind shut windows.

No. 3, by covertly placing a small unit, called a light modulator, inside a target area, inside the Congress, inside the hallway of the Rayburn Building, up on the fourth or fifth floor of the Capitol Building itself, inside a hallway in the Pentagon, for example, sound conversations can be intercepted using a telescope and special equipment capable of converting the light vibrations into sound.

This is obviously with the technology that the Soviets have today. What is their technology going to be like 5 years from today, 10 years from today or 20 years from today. If they can gain that type of important information, monitor those important conversations today with their existing technology, what is the situation going to be like in the future?

As was indicated by the gentleman from Alabama [Mr. Dickinson] the second reason we should void the Mount Alto agreement or these accords is the fact that our own Embassy in Moscow was mostly constructed by Soviet personnel, creating, as has been indicated, the likes of a tuning fork and the likes of a broadcasting terminal. There is nothing we can do with our Embassy to feel secure or our chancery building now other than demolish it.

For those important reasons, it is important to void these agreements so we do not proliferate this mistake. The mistake has been made; we have not moved into our Embassy, the Soviets have not completed their entire move into theirs. Let us not compound the mistake.

The House of Representatives a number of months ago attached to the State Department bill an embassy security package. This instruction to the conferees strengthens that package. It does not alter it, it does not weaken it, it does not modify it, it strengthens it because it requires a renegotiation of these agreements of the late 1960's.

As was indicated, the Senate of the United States approved language which would void these agreements overwhelmingly by vote of 70 to 27.

There is a glaring problem here and we can solve it. The problem is Mount Alto and the problem is Moscow. These agreements need to be renegotiated.

For the security of the United States, I plead with my colleagues to vote yes on the Dickinson motion to instruct the conferees.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. Murtha.) The gentleman from New Jersey [Mr. Courter] yields back 1 minute.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I strongly support the motion offered by Congressman Bill Dickinson to instruct the conferees to accept the Senate language requiring the President to void current embassy agreements with the Soviet Union.

Letting the Soviets build their new Embassy on Mount Alto, the second highest point in Washington, was a strategic mistake. From that location they can easily eavesdrop on our most important national security centers: the White House, the State Department, the Pentagon, and the Capitol. Already, the roof of their theoretically unoccupied chancery appears to be bristling with antennas. KGB and GRV? Imagine the security compromises that will happen if this spy center becomes fully operational. However, we are in a position to correct this problem. As the lapel pin many of us sported earlier this year proclaims, we can "Reclaim Mount Alto."

The massive Soviet bugging of our new Embassy in Moscow gives us clear ground to invoke the implied escape clause in our agreement on embassies. The Senate amendment voids this agreement that gave the Soviets Mount Alto an us and Embassy in Moscow so filled with bugs it is useless. The House has already supported this action in passing H.R. 1777, the State Department authorization. I urge my colleagues to join me in supporting this motion to instruct the conferees to accede to this timely and pro-American Senate amendment to the DOD bill.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, the gentleman was talking about the capability of intercept. Am I correct in my understanding that by the use of parabolic microphones and other devices it is more or less a line of sight, and that is why the high ground gives them a tremendous advantage over some other location? So long as they are above, looking down in a straight line of sight, that gives them a tremendous advantage in electronic eavesdropping that they would not have otherwise, is that correct?

Mr. LAGOMARSINO. The gentleman is correct; that is my understanding.

Mr. DICKINSON. I thank the gentleman.

Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I must say that this concerns me very much. At a time when the Secretary of State is in Moscow, when we are about ready to negotiate an arms control agreement with the Russians, when the administration is not asking that we close the Embassy on Mount Alto, why are we doing this right now? I grant my colleagues, I was not happy with the security measures at the American Embassy in Moscow, but when we are this close to an arms control agreement with the Russians, when we are about ready to sell them millions of tons of grain, when it looks like relationships are better than they have ever been in the last 10 or 15 years, and when Ronald Reagan is not asking us to close the Embassy, why at this stage are we down here on the floor closing their Embassy?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I think I can at least lend some insight into that. It was at a time when our relationships "were better than ever" in 1969 and 1970, and during the halcyon days of détente that we negotiated that bargain.

I was up at Mount Alto with a former KGB agent who has defected to the United States, and I think he gave me the definitive word with respect to that kind of consideration when he said for the Soviets there is no détente in espionage.

This is the security of our Nation which must be attended to.

Mr. GLICKMAN. I would say to the gentleman on this issue I would trust the President and the Secretary of State. They obviously do not believe this is enough of a security issue to close the Embassy, and it is a very bad time to do that.

Mr. DICKINSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, we are embarking on one of the most serious issues in foreign policy in the next few minutes on this floor as we have had in this year. The Secretary of State is on his way to Moscow at this very moment. And as the gentleman who preceded me said, the President is not asking for this motion. As a matter of fact, I can all but guarantee my colleagues that the President would veto this bill with this provision in it. The President has opposed this provision. The President has asked that we have no language. They even objected to our State Department language in the Mica-Snowe amendment that said that we would do something about Mount Alto and the Moscow Embassy.

I am as upset as anyone else in this Chamber with the State Department, with their conduct, and more recently with the way they have been attacking Congress. But to break unilaterally a treaty, break an agreement by adding a nongermane amendment to a DOD bill at this time I think would be absolutely inappropriate.

□ 1405

Ms. SNOWE and I inspected the Moscow Embassy. We have looked at the Mount Alto situation. We have studied this situation for over 2 years. I will tell my colleagues and those back in their offices the authors of this amendment, and the motion to instruct mean well but the intent will hurt us tremendously by kicking us out of Moscow, by starting over with all of our intelligence work on both sides just at a time when the Foreign Affairs Committee, and the House, the Senate, the CIA, and the President and everyone are coming together, we think, in a way that we can appropriately handle this; in a way, we think, that would benefit the United States. We have included the Department of Defense, we have included CIA, we have included the National Security Council, and this body voted 414 to zero.

That means that any of you who vote for this amendment will be totally overriding your earlier decision to do it the right way and say, "Let us be emotional, let's break some treaties, let's show the Russians how nasty we can be," without any thought. Believe me when I say this, I know this subject in great detail. I know the intelligence reports and assessments and the background.

If you have a question when you come in to ask about voting, ask me about some of it. I would be happy to tell you.

There is a boomerang effect in doing what you are about to do today.

We had breakfast with the Secretary of State last Thursday and he said that if he even thought this amendment would pass he would consider canceling his trip to Moscow.

Now everyone in this Chamber knows that we have taken a tough, hard, difficult position for the Russians and for our Government on Mount Alto and on the Moscow Embassy. I think Ms. SNOWE, myself, and our committee have taken a leadership approach on this. We need some assistance from this body, not just an emotional reaction.

So I urge you to think, think carefully and keep in mind one aspect: If this were offered as an amendment on the DOD bill, it would not even be germane in this Chamber. The same amendment has been added to the Senate version of the State Department authorization bill. We have Mica-Snowe in the House version. It will be conferenced. We have the latitude, we have the knowledge, we have the background, we have the expertise and we have the support of the administration including, I think, the Department of Defense, State Department, CIA, National Security Council, all of whom, I believe, strongly oppose this approach.

So I ask my colleagues to do everything they can to work with us. I think they will be very pleased with the outcome.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, my question is, the gentleman said this will be a terrible tragedy for the United States to violate this treaty agreement. My question is, Did the Soviets violate any treaty agreement when they bugged our Embassy so thoroughly?

Mr. MICA. The gentleman knows full well that I have totally acknowledged——

Mr. BURTON of Indiana. What is the answer to my question, Did the Soviets violate the treaty?

Mr. MICA. The Soviets' improper activity——

Mr. BURTON of Indiana. Was that a violation of the treaty?

Mr. MICA. Two wrongs do not make a right.

Mr. BURTON of Indiana. Was that a violation of the treaty, was that a violation of the treaty?

Mr. MICA. If we can get them to acknowledge it, certainly, all the technical aspects would make it a violation of the treaty. But what you are addressing here today are not these technical aspects. What you are saying today is that we move unilaterally on the floor of the House without 435 Members here.

What we are being asked to do today, Mr. Speaker, is not to address this issue diplomatically, or rationally, or even appropriately. Instead, we are being asked to deal with a matter, on the floor of the House, which now is being negotiated and dealt with, as it should be, by the best experts in the United States who are, I might add, Republicans and Democrats. I believe, I sincerely believe that we will hurt ourselves much worse by doing this in this way than negotiating it.

Mr. DICKINSON. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I just listened to the speech by the gentleman from Florida for whom I have a great deal of respect. We serve together on the Foreign Affairs Committee. But I disagree strongly with him when he says we are being irrational by taking this action. The gentleman from Texas [Mr. ARMEY] and the gentleman from Alabama and others have been working on this for some time. This has been very well thought out.

The Soviet Union bugged our Embassy when it was under construction. We spent $195 million on that Embassy. It is going to have to be torn down. But the State Department is now saying, "Well, you can clean up the top two floors if you spend an extra $90 million so it won't be bugable." I question that.

I think the State Department made some severe errors in judgment that is going to cost us $195 million and now they want to add $90 million more to it by trying to clean up a mess, a garbage pile that cannot be cleaned up.

The State Department and previous administrations have allowed them to get the second highest spot in Washington, DC, from which they can monitor things that go on in every single facility in this city from the FBI to the Pentagon to the Capitol to the White House. And we have allowed them to start construction up there while they bug our Embassy and have cost the American taxpayers at least $195 milion. It does not make sense to me that we should not do something about that.

The State Department that got us into this mess in the first place and is upset because they want the Soviet Embassy to be able to be built on Mount Alto. Well I say that the State Department deserves some instruction on this issue. And the instruction should be very clear to them.

I think if the Secretary of State said he would not have gone to Moscow if we had done this, maybe we ought to call him on the phone right now and say, "You had better get back here, because there is going to be vote on this issue today on the House floor." And if you put this question to the American taxpayers, people all across this country: "Do you want the Soviet Union to have one of the most strategic points in Washington, DC, as far as spying is concerned, Mount Alto, while they are bugging our Embassy to such a degree in Moscow that we can't use it?" Then I think the American people would say overwhelmingly, "Kick the rascals out, make them pay." And we should make them pay.

We should get them off Mount Alto and put them out where Senator SYMMS said they should be, where they cannot bug and peruse everything that is going on in Washington, DC.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, I would like to respond to the gentleman in the well for whom I have a great deal of respect also. But he said that if this were in the bill, the President would veto it. Let me tell you Ronald Reagan will not veto this bill if this amendment is in there. You know, this is how we got the Boland amendment in 1984. In the continuing resolution it would have brought this Government to a standstill; the President signed that bill.

The last thing in the world he would ever want to do.

Believe you me, he will sign this. This is not a diplomatic body; this is a lawmaking body. We want them out of there. Let up pass this resolution.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Jersey [Mr. COURTER].

Mr. COURTER. I thank the gentleman for yielding.

Mr. Speaker, it was indicated during the debate that we would be trashing this agreement, that the United States would be violating this agreement. Let me just point out, I have a copy of the first page of the agreement, the agreement signed in Moscow, May 16, 1969, where it says as follows:

> The allocated plots of land and the buildings constructed on them shall be considered by both Parties as servicing diplomatic missions. Neither Party will create nor permit conditions that will interfere with full access to them and their proper use and enjoyment.

The point made is that everybody in this Chamber knows that our Moscow Embassy cannot be used. They have interfered with its proper use.

It is the Soviet Union which has violated the agreement.

Mr. MICA. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Florida [Mr. MICA].

Mr. MICA. I thank the gentleman for yielding.

Mr. Speaker, I will try to lower the rhetoric.

Some have asked that someone take the floor and try to be responsible on this. I do not disagree with any of the allegations that the gentleman has made about the Russians. Indeed, it was my team that made public what we found in Moscow and a great deal on Mount Alto.

I just think, and I feel very, very strongly about this, that we have this under control. There is a conference that has just been appointed. We have already met with the Senate. We are doing our best to get them out in a way that makes America the good guys and America is in an enforceable position. I am concerned that this will make the bad guys and kick out of the wrong way.

Mr. BURTON of Indiana. I appreciate the gentleman's point of view and I understand it. But the fact of the matter is they are still going to be up there on that hill looking down at all the facilities in Washington, DC. And with the lasers that they have and the other scientific achievements that have been made in espionage, they are going to be able to monitor everything that is going on in this city.

We need to keep them below that line. That is what Senator SYMMS is trying to do and that is what we should be supporting.

One other thing I would like to say is: They brought up the arms control agreement saying that it might be in jeopardy if we take this action. The arms control agreement has nothing to do with this. This issue should stand on its own merits.

PARLIAMENTARY INQUIRY

Mr. MICA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MICA. With regard to a secret session of Congress, Mr. Speaker, is that a privileged motion?

The SPEAKER pro tempore. It is a privileged motion.

Mr. MICA. And if a secret session were called at this time what would be the procedure? Would there be a vote on such a session? As I understand it, if a Member has information that cannot be shared in a public session and could be shared in a secret session, a Member has an opportunity to request a secret session. Is that correct?

The SPEAKER pro tempore. The Chair would advise the Member if there were a vote for a secret session, the Chamber would have to be cleared and swept and, of course, we would have to recess. It would take a considerable amount of time.

A closed briefing could be held, of course, the Chair would suggest.

Mr. MICA. I will not at this time request a secret session of the Congress, but I hope that Members will make themselves available to get any information about this legislation before they even think of supporting it.

Mr. DICKINSON. Mr. Speaker, for purposes of debate only, I am very pleased to yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Speaker, this debate generates a lot of controversy. It has from the time it arose back when we were considering the State Department bill, back even to the time when in fact the discoveries were made in Moscow.

There is nobody on this floor that does not believe that the Russians, the Soviet Union has taken advantage of the United States and has done it cold-bloodedly, deliberately, and probably effectively.

The problem is always, for us on this floor, framing an appropriate response.

It seems to me that with the work that has been done over the last 6 or 8 months since the revelations took place by the Committee on Foreign Affairs, by both the chairman of the Subcommittee on International Operations and its ranking member, Mr. MICA, and Ms. SNOWE, that we could probably frame an appropriate response and in fact have done so. The State Department authorization bill contains an appropriate response, a measured, reflective, intelligence response to the Soviet Union's intrusion into our Embassy in Moscow.

I am not going to yield.

The gentleman is sitting on a lot more time than I have.

Everybody in this Chamber voted for that measured appropriate response. Yes, sure that leaves some people unsatisfied, in the hole; it leaves some people a little bit annoyed that we will——

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield if we get him an additional 30 seconds, will he yield just for a question?

Mr. SMITH of Florida. I would be happy to yield if I can get some time from the gentleman.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman tell us what that measured response was?

Mr. SMITH of Florida. Now, now, the gentleman knows very well that the State Department authorization bill contains the Mica-Snowe amendment. And the gentleman knows that the Mica-Snowe amendment contains a provision for Presidential certification so that the Soviet Union cannot occupy until such time as there is parity between our Embassy in Moscow and there is here.

□ 1420

They cannot occupy the Mount Alto site.

This contains a number of other provisions. I am aware that the gentleman probably is not happy with that. Most people feel that way.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I will not yield any further. Let me take 2 minutes of time on my own. The gentleman has spoken four times on this already.

This is a doctor-feel-good amendment. Everybody wants to swat at them because of what they have done. It violates the diplomatic laws, it violates the diplomatic sanctity, all the things we have accused them of over the years.

But let me say to the Members of Congress that we have other fish to fry, we have other agendas to run, and we will be seriously hampering and harming our own efforts, and nothing further needs to be said, by doing what the gentleman proposes to do. We have an appropriate response. I say, listen to your President, listen to your Secretary of State. Let us go with the one that everybody here voted for unanimously, and let us defeat this motion.

Mr. DICKINSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

I, too, have been studying this agreement and the ensuing construction practices of the two nations for some time.

The agreement on Embassies negotiated by the State Department is a case of incomprehensible diplomatic bungling. Even though the Soviets were and remain notorious for ignoring the recognized norms of diplomatic relations, virtually no attempt was made to prevent Soviet espionage activities against our facility in Moscow, or from their facility here. The result is a national security disaster.

In Washington, the Soviets were allowed to build their Embassy on the second highest point in the District of Columbia. From that location on Mount Alto, the Soviets are able to eavesdrop on 70 percent of the private telephone calls in the entire region, intercept sensitive military communications, and train listening devices on almost every important Government facility in this town. Mount Alto offers them an intelligence bonanza. There simply is no other real estate in the Nation's Capital that is more suited for spying against American interests. As far as the KGB is concerned, if Washington were a monopoly board, our State Department has handed them Park Place.

In Moscow, by sharp contrast, the State Department agreed to let the Soviets prefabricate our Embassy for us—with little or no supervision from United States security personnel. The Soviets built entire walls offsite. As a distinguished Member of the other body put it, "the KGB was the general contractor of our Embassy in Moscow." Naturally, it is full of bugs. We're not talking about a few dozen microphones hidden in the walls; the building is honeycombed with hundred of interconnected; miniature electronic devices. It is nothing but an eight-story microphone plugged into the Politburo.

Now we all understand that mistakes are sometimes made. Even if the dimensions of the State Department's naivete over the last 15 years are almost incomprehensible, our concerns may have been allayed if we had some indication that current State Department officials are committed to addressing the problem effectively.

Mr. Speaker, let me talk about that point for a moment. Back in February, a year ago, I had a briefing from State Department people. Prior to the Mica-Snowe trip, they assured me there was nothing to be concerned about in the Moscow Embassy. Certainly, they said, the Soviets are not as good contractors and builders as the Americans, and they pooh-poohed from beginning to end any allegation of Soviet espionage in that Embassy. And look what MICA and SNOWE on their trip found and reported back to the American people after our briefing.

Furthermore, the State Department official that was supposed to have been responsible for oversight, even after all we have discovered about the failure in oversight and the total preempting of our Moscow Embassy for espionage purposes, was given a special meritorious security award and a check for $5,000.

Now, does that tell you or me or anybody here that our State Department all of a sudden has a newborn diligence in being concerned about the security of our Nation? No, we have no indication of that. Quite the contrary. Their chief concern today seems to be to try to deny or minimize the serious errors that were made. They have given an award to the State Department official who supervised the fiasco in Moscow, and they have recently announced that they will take an entire year to even decide what—if anything—to do about the total compromise of our new Moscow facility. Clearly it is time for us to exercise our oversight responsibility and demand that the State Department take firm action on this matter.

Mr. Speaker, I must ask the Members, if you are like I am and if you have been traveling across this country, going back home and talking to the citizens of America, you know the question has been asked, "Who wants the Soviets off Mount Alto?" And the answer that I have heard resoundingly clear from everybody, including taxicab drivers in this town who will take any of us up there with disdain and disgust and point out the deplorable circumstance, the answer is this: You ask any American citizen you want, and you will be told, "We want the Russians off Mount Alto." So it is time that the decision be made and taken by this body. The other body has done so, and they have done so decisively on two occasions.

The motion to instruct that is now being offered by the gentleman from Alabama [Mr. Dickinson] is a motion to instruct our conferees to agree with the Senate, to agree with the American people, and to get the Russians off Mount Alto.

Mr. Speaker, the issue is very clear. A "yes" vote on the motion to instruct offered by the gentleman from Alabama [Mr. Dickinson] is a "yes" vote for American security.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

I would just like to close, Mr. Speaker, by saying that we have heard the argument postulated from the other side that it would certainly be inapropriate at this time of very sensitive negotiations with the Soviets to enter into such a rash act. Yet at this very moment and on this very day we will go into conference, and the liberals from the Congress have already added to this bill on which we would add this motion, they have already required that this Congress deal with the INF issue, with arms control, with ABM, with SALT II, with nuclear tests, and with Asat, and they want to talk about this as inappropriate for us to even discuss, the bugging of our own Embassy? How ludicrous can we get?

If this is going to upset diplomatic relations, how about all these other matters in the conference that should not even be on the armed services bill? But they put them on here. They insisted on it. They even have a special panel set up to negotiate these things at the same time we are negotiating in Geneva on these items.

So I just think that is a pretty spurious argument. Just in closing, Mr. Speaker, let me say that we know the Soviets have, in fact, violated the spirit of the agreement by bugging our Embassy. We know that they have secured for themselves an advantage, and we know with hindsight that should not have occurred. We have an obligation to correct the situation.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am glad to yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have just two very quick points. It was suggested in the debate that the Soviet Union has not moved in and is not using Mount Alto. Nothing could be further from the truth. As we sit here, they have electronic intelligence-gathering information devices, they have microwaves that are penetrating Washington, DC, from Mount Alto. It is now being used, and it is a threat to the security of the United States.

Second, it was suggested in the debate that the House vote 5 or 8 weeks ago was good and measured. If it was so good and so measured, why did the other body on two occasions reject it by better than 2 to 1, almost 3 to 1?

Mr. DICKINSON. Mr. Speaker, in closing, let me say, to paraphrase another speaker at another time, if we do not do something about this, if not now, when? If not us, then who? And if not in this bill, how?

If we want to do something about it, we have the vehicle, we have the reason to do it, and I would ask that all the Members of this House support this motion to instruct the conferees, which in essence will say that then the United States and the Soviet Union can go back and renegotiate, not necessarily vacate the premises, but renegotiate our Embassy in Moscow and any other thing that might be pertaining thereto.

Mr. HERGER. Mr. Speaker, I rise in strong support of the motion introduced by my colleagues, Mr. Courter and Mr. Dickinson. The time has come for this Government to just say no to unacceptable Soviet espionage activity and demand that American interests, and not those of the Soviet Union, are protected.

There can be no doubt that the Mount Alto location is ideal for espionage. At 350 feet above sea level, the site offers unimpeded visual access to the State Department, the White House, the Pentagon, and nearly every single Government building in Washington, including those here on Capitol Hill. This location is ideal for conducting electronic surveillance on all of Washington. We should also remember that the Soviets placed the new United States Embassy in Moscow in a swamp at one of the lowest points in the city. Simply put, their location couldn't be better, and ours couldn't be worse.

There is mounting evidence that the Soviets have already begun to use the Mount Alto complex for espionage activities. They currently utilize sophisticated electronic surveillance devices to pick up and translate electronic signals from our computers, to pinpoint and record sound vibrations from window panes miles away, including our "private" offices here on the Hill, and to listen in on other sensitive telephone conversations throughout the area.

As my colleagues have pointed out, the current Embassy agreement was negotiated during the 1960's, when electronic surveillance techniques were not as developed as they are today. Despite this fact, there is ample reason to believe that American negotiators at that time were careless in not anticipating the advantages of the Mount Alto location. Today, we are faced with a completely unacceptable situation, one that could have been alleviated 2 years ago had we chosen to deal with it when we first became aware of its seriousness.

Mr. Speaker, for the good of the Nation, we must take this decisive action that the administration finds so difficult to accept.

We have no choice but to remove this cancerous growth from Mount Alto. We have heard of other "options," including "countermeasures" that might be used to protect against KGB spying. Unfortunately, countermeasures can never be guaranteed effective given the ever improving Soviet espionage capabilities.

This motion offers the only chance to completely and effectively address the problem. It is both timely and necessary. The language passed by the House earlier this year in the State Department authorization bill leaves too much latitude to the executive branch which faces a variety of diplomatic pressures on this issue. We can no longer afford to sit idly by while the Soviets chip away at our already questionable security measures. This action is absolutely necessary to protect our Nation's Capital and our national security from the prying eyes and ears of Soviet spies. We must regain the initiative from the Soviets, and this motion is designed to meet that goal. I hope that it will be overwhelmingly supported on both sides of the aisle.

Mr. DICKINSON, Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Murtha). The question is on the motion to instruct offered by the gentleman from Alabama [Mr. Dickinson].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DICKINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 216, not voting 18, as follows:

[Roll No. 362]

YEAS—199

Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Bryant
Buechner
Bunning
Burton
Callahan
Chandler
Chappell
Coats
Coble
Coleman (MO)
Combest
Cooper
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Florio
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jones (TN)

Kasich
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison (WA)
Murphy
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Pepper
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sikorski
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—216

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Beilenson
Bennett
Bereuter
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Byron
Campbell
Cardin
Carper
Carr
Chapman
Cheney
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Conte
Conyers
Coughlin
Coyne
Crockett
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Houghton
Howard
Hoyer
Hughes
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rodino
Rose
Rostenkowski
Roybal
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sisisky
Skaggs
Skelton
Slattery
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—18

Bates
Biaggi
Bustamante
Collins
Davis (MI)
Dellums
Dowdy
Flake
Frost
Gephardt
Kemp
Livingston
Mack
Matsui
Moody
Roemer
Tauzin
Towns

□ 1435

The Clerk announced the following pairs:

On this vote:

Mr. Kemp for, with Mr. Matsui against.

Mr. Davis of Michigan for, with Mrs. Collins against.

Messrs. HERTEL, GORDON, LEWIS of California, and CLINGER, and Mrs. JOHNSON of Connecticut changed their votes from "yea" to "nay."

Mr. COOPER and Mr. RAY changed their votes from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

□ 1450

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Armed Services, for consideration of the entire House bill and Senate amendment, and modifications committed to conference, unless otherwise restricted: Messrs. ASPIN, PRICE of Illinois, BENNETT, STRATTON, NICHOLS, DANIEL, MONTGOMERY, and DELLUMS, Mrs. SCHROEDER, Mrs. BYRON, Messrs. MAVROULES, HUTTO, SKELTON, LEATH of Texas, MCCURDY, DYSON, HERTEL, RAY, SPRATT, MCCLOSKEY, DARDEN, ROBINSON, DICKINSON, SPENCE, BADHAM, STUMP, COURTER, HOPKINS, DAVIS of Michigan, HUNTER, MARTIN of New York, and KASICH, Mrs. MARTIN of Illinois, and Messrs. BATEMAN, SWEENEY, and BLAZ.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Messrs. STOKES, KASTENMEIER, and CHENEY.

As additional conferees from the Committee on Ways and Means, for consideration of sections 828, 856, 857, 858, and 2818 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, DOWNEY of New York, PEASE, RUSSO, GEPHARDT, GUARINI, MATSUI, DUNCAN, CRANE, FRENZEL, SCHULZE, and CHANDLER.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 833 of the House bill, and sections 234, 801, 811, 817, 849, 852, 854, and 863 of the Senate amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, SOLARZ, BERMAN, BROOMFIELD, GILMAN, and LAGOMARSINO.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 321, 331, 332, 333, 728, 820, 826, 828, 829, 831, 835, 841, 842, 850, 851, 855, and 856 of the Senate amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, SOLARZ, BROOMFIELD, and GILMAN.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 827, 833, and 862 of the Senate amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, MICA, BROOMFIELD, and Ms. SNOWE.

As additional conferees from the Committee on the Judiciary, for consideration of section 825 of the House bill, and sections 835 and 841 of the Senate amendment, and modifications committed to conference: Messrs. RODINO, HUGHES, STAGGERS, MCCOLLUM, and SHAW.

As additional conferees from the Committee on Small Business, for consideration of section 840 of the Senate amendment, and modifications committed to conference: Mr. LAFALCE and Mr. MCDADE.

As exclusive conferees, solely for consideration of sections 117, 206(e)(2), 206(e)(13), 221(a), 224, 247, 812, 3113(a), and 3135 of the House bill, and sections 231, 233, 235, 864, 865, and 3114 of the Senate amendment, and modifications committed to conference: Messrs. ASPIN, BENNETT, DELLUMS, and Mrs. SCHROEDER, and Messrs. MAVROULES, MCCURDY, HERTEL, SPRATT, MCCLOSKEY, FASCELL, SOLARZ, BERMAN, BROWN of California, DICKS, DOWNEY of New York, AUCOIN, MARKEY, DICKINSON, BADHAM, COURTER, BATEMAN, KASICH, BROOMFIELD, LAGOMARSINO, HYDE, SOLOMON, and DORNAN of California.

MOTION TO CLOSE CONFERENCE OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Speaker, I offer a motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. ASPIN moves that pursuant to House Rule XXVIII 6(a), the conference meetings between the House and the Senate on H.R. 1748, the fiscal years 1988-89 Department of Defense authorization bill, be closed to the public at such time as classified information is under consideration, provided however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin [Mr. Aspin].

Under the rules of the House, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 406, nays 5, not voting 22, as follows:

[Roll No. 363]

YEAS—406

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

DeFazio
Edwards (CA)
Kastenmeier
Lowry (WA)
Roybal

NOT VOTING—22

Ackerman
Applegate
Bates
Biaggi
Bustamante
Collins
Davis (MI)
Dellums
Dowdy
Frost
Gephardt
Hoyer
Jones (NC)
Kemp
Livingston
Mack
Matsui
Moody
Roemer
Roth
Tauzin
Towns

□ 1505

So the motion was agreed to.

The result of the vote was announced as above recorded.

APPOINTMENT OF CONFEREES ON S. 1174, DEPARTMENT OF DEFENSE AUTHORIZATION FOR FISCAL YEARS 1988 AND 1989

Mr. ASPIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1174), to authorize appropriations for fiscal year 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and the list of conferees will be printed in the Record at this point since they correspond precisely to those conferees previously announced from the Chair.

The list of conferees previously appointed is as follows:

From the Committee on Armed Services, for consideration of the entire Senate bill and House amendment, and modifications committed to conference, unless otherwise restricted: Messrs. Aspin, Price of Illinois, Bennett, Stratton, Nichols, Daniel, Montgomery, and Dellums, Mrs. Schroeder, Mrs. Byron, Messrs. Mavroules, Hutto, Skelton, Leath of Texas, McCurdy, Dyson, Hertel, Ray, Spratt, McCloskey, Darden, Robinson, Dickinson, Spence, Badham, Stump, Courter, Hopkins, Davis of Michigan, Hunter, Martin of New York, and Kasich, Mrs. Martin of Illinois, and Messrs. Bateman, Sweeney, and Blaz.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Messr. Stokes, Kastenmeier, and Cheney.

As additional conferees from the Committee on Ways and Means, for consideration of sections 828, 856, 857, 858, and 2818 of the Senate bill, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Jenkins, Downey of New York, Pease, Russo, Gephardt, Guarini, Matsui, Duncan, Crane, Frenzel, Schulze, and Chandler.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 234, 801, 811, 817, 849, 852, 854, and 863 of the Senate bill, and section 833 of the House amendment, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Solarz, Berman, Broomfield, Gilman, and Lagomarsino.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 321, 331, 332, 333, 728, 820, 826, 828, 829, 831, 835, 841, 842, 850, 851, 855, and 856 of the Senate bill, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Solarz, Broomfield, and Gilman.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 827, 833, and 862 of the Senate bill, and modifications committed to conference: Messrs. Fascell, Hamilton, Yatron, Mica, and Broomfield, and Ms. Snowe.

As additional conferees from the Committee on the Judiciary, for consideration of sections 835 and 841 of the Senate bill, and section 825 of the House amendment, and modifications committed to conference: Messrs. Rodino, Hughes, Staggers, McCollum, and Shaw.

As additional conferees from the Committee on Small Business, for consideration of section 840 of the Senate bill, and modifications committed to conference: Mr. LaFalce and Mr. McDade.

As exclusive conferees, solely for consideration of sections 231, 233, 235, 864, 865, and 3114 of the Senate bill, and sections 117, 206(e)(2), 206(e)(13), 221(a), 224, 247, 812, 3113(a), and 3135 of the House amendment, and modifications committed to conference: Messrs. Aspin, Bennett, and Dellums, Mrs. Schroeder, and Messrs. Mavroules, McCurdy, Hertel, Spratt, McCloskey, Fascell, Solarz, Berman, Brown of California, Dicks, Downey of New York, AuCoin, Markey, Dickinson, Badham, Courter, Bateman, Kasich, Broomfield, Lagomarsino, Hyde, Solomon, and Dornan of California.

APPOINTMENT AS MEMBER TO THE SELECT COMMITTEE ON AGING

The SPEAKER. The Chair desires to announce the appointment of the gentleman of Nevada [Mr. Bilbray] as a member of the Select Committee on Aging.

□ 1515

RESIGNATION AS MEMBER OF SELECT COMMITTEE ON HUNGER

The SPEAKER laid before the House the following resignation as a member of the Select Committee on Hunger:

House of Representatives,
Washington, DC, October 6, 1987.

Hon. Jim Wright,
Speaker, House of Representatives, H204 Capitol, Washington, DC.

Dear Speaker Wright: It is with regret that I hereby request that I be allowed to resign from the Select Committee on Hunger. I currently serve on three other Committees of the House and have found myself unable to devote the time to the Hunger Committee that it and the important issues it handles deserve.

Sincerely,

Sam Gejdenson,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 1777, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

The SPEAKER. Pursuant to the permission previously granted, the Chair appoints the following conferees from the minority on H.R. 1777; as additional conferees from the Committee on Ways and Means for consideration of sections 552, 912, and 913 of the Senate amendment and modifications committed to conference: Mr. Duncan and Mr. Crane.

The Clerk will notify the Senate of the change in conferees.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to advise the Members of the schedule for the remainder of the afternoon.

We will be receiving motions from the Committee on Appropriations for conferences with the Senate on Commerce, State, and Justice appropriations, on Labor, Health and Human Services, and on the HUD appropriations. There may be an instruction offered on one of those motions.

Following that, the House will consider four bills under suspensions of the rules:

H. Res. 141, calling for the immediate release of all children detained under state of emergency regulations in South Africa;

H.R. 85, to eliminate security assistance and arms export preferences for New Zealand;

H. Con. Res. 158, concerning the establishment of a South Pacific nuclear free zone; and

H. Res. 277, expressing the sense of the House with respect to human rights abuses in Afghanistan.

It is difficult to estimate the time of adjournment, Mr. Speaker, but I think that the business of the day will be concluded at or around 6 or 7 p.m., probably closer to 6 p.m. We do not anticipate a late evening this evening.

APPOINTMENT OF CONFEREES ON H.R. 2783, HUD-INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1988

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. Boland, Traxler, and Stokes, Mrs. Boggs, and Messrs. Mollohan, Whitten, Green, Coughlin, Lewis of California, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 2763, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1988

Mr. SMITH of Iowa. I ask unanimous consent to take from the Speaker's table the bill (H.R. 2763) making appropriations for the Department of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? The Chair hears none, and appoints the following conferees: Messrs. Smith of Iowa, Alexander, Early, Dwyer of New Jersey, Carr, Mollohan, Whitten, Rogers, Regula, Kolbe, and Conte.

APPOINTMENT OF CONFEREES ON H.R. 3058, LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS, 1988

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3058) making appropriations for the Departments, of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988 and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Dannemeyer moves that the managers on the part of the House at the Conference on the disagreeing votes of the two Houses on the Senate amendments to the bill, H.R. 3058 be instructed to agree to the provisions contained in amendment No. 963 of the Senate amendments.

The SPEAKER. The gentleman from California [Mr. DANNEMEYER] is recognized for 1 hour.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time to instruct conferees relating to a matter that has become perhaps the No. 1 issue in America, at least certainly in the area of public health; namely, the AIDS epidemic. It is a major public health issue of immense dimensions.

When anyone in the political process in the public health world, or in a conference or in a State Legislature begins to talk about taking certain steps in the public health world to control the epidemic, inevitably one comes into contact with the group that has contributed 73 percent of the AIDS cases in America, male homosexuals. We cannot avoid it. It is a public health issue, but as I say, when steps that we should be taking but are not taking to control this disease, are not being pursued in the public health world that are advocated by this Member from California, such as reportability and testing, the people who contribute the largest percentage of the cases in America object, claiming, and this is the essence of the debate, that the civil rights of those that are involved with the disease, in their view, takes precedence over the public health of the rest of us who choose not to acquire the disease, because whether we like it or not, we are talking about homosexuality in our society.

I think it is appropriate for us to examine and find out a little bit about how extensive the movement of homosexuality in America has become in terms of changing the cultural values of our society so that we will accept and equate homosexuality on a par with heterosexual lifestyle. That is why this Member from California is offering this motion to instruct conferees on this HHS appropriations bill.

Very simply, it says that none of the money that is appropriated to CDC in Atlanta, GA, the Centers for Disease Control, can be used directly or indirectly for propagating or expanding directly or indirectly the homosexual lifestyle. When any of us makes such a claim or a motion, immediately the question properly arises: Congressman, what evidence do you have that there is any necessity for this kind of a motion at all? Is your justification for making this motion merely hypotheses that it might happen, or do you have any empirical evidence that Federal funds are now being used to propagandize and expand the homosexual lifestyle?

In the event that there may be some in this Chamber who think that this evidence does not exist, please disabuse yourself of that notion, because I have it right here, a publication of a group in New York City called the Gay Men's Health Crisis, which in the last 2 years has received two grants totaling $674,679 from CDC in Atlanta for conducting their operations.

I would like to share with my colleagues how this Member got involved in this particular aspect of the issue. A good friend of mine now living in Texas called the U.S. Public Health Service hotline maintained here in Washington, DC, an 800 number, and he received a recorded message. At the end of the recorded message a counsellor came on the telephone and advised this caller that if more information was desired they could call the American Social Health Association in New York, and gave him a phone number and an address. My friend called this number that was given to him for the American Social Health Association in New York and talked with a person at that office. At the conclusion of that conversation the operator at that office in New York referred my caller, my friend, to an outfit in New York City called the Gay Men's Health Crisis.

My friend called this Gay Men's Health Crisis on the telephone and explained that he wanted some information that could be useful for teenagers in order to instruct them as to how they could avoid getting AIDS. In response to that request for that kind of information, this material was mailed out from the Gay Men's Health Crisis in New York City. It consists of probably 25 pages in comic book form, and I can share with my colleagues that the pictures in this text have 2 men engaged in any physical contact involving the sex organs that the mind of man can conjure.

In a nutshell, as one Supreme Court Justice said, "I can't define pornography very well, but I know it when I see it." What was mailed out from this Gay Men's Health Crisis Center in New York City that received $674,000 of the U.S. Government in the last 2 years can only be charitably described as pornographic, clearly trash.

If the American taxpayer was familiar with what is coming out of this Gay Men's Health Crisis they would be on the telephone to all of us immediately saying do what you have to do, but cut out this nonsense.

It is not the function of the U.S. taxpayer or the U.S. Government to directly or indirectly advance or encourage the homosexual lifestyle. We live in a pluralistic America and people, if they choose to pursue the homosexual lifestyle, I conceded, have the right to do that. But I submit to my colleagues they do not have the right to advance that lifestyle by applying to an agency of the U.S. Government and getting Federal funds and then put out trash like this when a caller calls in and says they want information for teenagers as to how teenagers can avoid getting AIDS.

So that is what this motion does. I would hope that my colleagues would see fit to vote aye, in favor of this motion to instruct conferees, because I believe it is the only rational course that our body should pursue.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend, the gentleman from New York City.

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding to me. I do not treat his motion very seriously, because I do not think the motion has much to do with the material he has just displayed to us, or most of the matters he has just discussed.

But let me state for the record that I know the Gay Men's Health Crisis. It functions in my district. It has been an organization which has been a major source of medical assistance to members of the gay community afflicted with AIDS and other ailments, and it ha been a major actor in reducing the incidence of AIDS in the gay community in New York. In fact, the statistics on sexually transmitted diseases among male homosexuals in New York shows a very marked decline in the sexual transmission of diseases among male homosexuals in New York City, and certainly the Gay Men's Health Crisis has been a major reason that we have had that reduction in sexually trnasmitted diseases in that community.

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Let me say that there is no doubt that their educational material is extremely graphic, as is probably necessary in order to bring home the very harsh facts of AIDS to that community. But that graphic material has been effective and I certainly would not want to discourage it.

Let me say that neither the gentleman from California nor I, of course, drafted the amendment to which he refers. I would have to say that I do not think that material which is designed to teach male homosexuals about the transmission of AIDS is encouraging, directly or indirectly, homosexuality. I think it is trying to discourage the transmission of AIDS and I think that is a very good thing. But I would hope that people would not confuse those two issues because plainly it is necessary to educate the male homosexual community in very explicit terms about how AIDS is transmitted and about how the transmission of AIDS can be reduced, and one hopes eliminated. To the extent that the gentleman's motion would prevent that, it should be offered.

And I should say that providing such education for that community is no different from telling the intravenous drug-using community not to share needles or, alternatively, to sterilize needles and showing them explicitly with comic strips how you mix up bleach in order to sterilize needles. That is not encouraging intravenous drug use; it is teaching people how to avoid AIDS.

In conclusion, I want to repeat for the record that the Gay Men's Health Crisis Organization has been an extremely effective organiation in New York in delivering health care to the male homosexual community and in reducing the transmission of sexually transmitted diseases within that community.

I thank the gentleman for giving me the opportunity to state that.

Mr. DANNEMEYER. I thank my colleague for that expression.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Speaker, I would disagree with the analysis of my dear friend from New York. Having just looked through this material, it is just as I suspected. It is not graphic because it shows how to use condoms, it is not graphic because it portrays in cartoon form male genitalia. What is offensive, outrageous, about any Federal money being spent on this, is that, like all pornography—the writing of whores, in this case male prostitutes—it is to stimulate sexual desire. It is written lustfully. It talks glowingly of how fantastic the sexual high is of these contacts between Ed the Jock and Julio the Pump Boy. It would be like writing a motor vehicle document on the value of the seatbelt while glorifying how great it is to run red lights and to drive your car 130 miles an hour.

The material is so offensive, such typical pornography, that it conjures up some of the uglier moments of one weekend 9 days ago, when a massive demonstration took place in this town. A Hollywood star, a very talented actress, got up and used the ultimate Anglo-Saxon obscenity in reference to our President. And this was after demeaning the House, Members of the House, and the other body. It reminds me of Eleanor Smeal, the last president of NOW, getting up and telling everybody to go out and spread love. Well, what they are really spreading is fatal AIDS, ARC, syphilis, gonorrhea, chlamydia, venereal warts—that one has a particularly lovely sound to it. What they are out there spreading is death.

These are not pamphlets written to explain technically how to prevent spreading AIDS. They merely advocate the use of something that promotes safer—not safe—but safer sex where there is still a tremendous failure rate, as the gentleman in the well has pointed out using National Institutes of Health statistics. And it takes this one little semifix and interjects it into hard-core, pornographic, lustful, ugly comic strips. And I suppose the next thing will be that some Member will stand up and say, "Let's put it into braile at Federal expense and put it over in the Library of Congress."

This is offensive in the extreme. The one thing that I think we had better stop is murdering the English language. If there was anything about that demonstration a week ago, it was that it showed the utter idiocy of taking an adjective, the adjective "gay" and turning it into a noun at the behest of some of these homosexual groups. That was a sad gathering a week ago. People crying all over The Mall. That gigantic quilt which had only a couple of thousand names on it of the 25,000 that will be dead by the end of next week was not "gay," it was not gay at all. It is a sad, horrible tragedy.

And as people of faith in The United States, we are ordered by every religion that is worthy of the name to love the victims of this disease. But to try and block those who go on spreading this disease to those who do not have it yet is too much. Let's face it, AIDS is the first politically protected disease in the history of civilization. And to put Federal money into these comic books and to say that on its face it is cutting down the rate of passing of this fatal disease in San Francisco and New York and Los Angeles is to ignore some of the other people, equally respected medical people, who say that the reason there has been a drop in the rate of increase of AIDS—and I submit this to my good colleague from New York—in the, not gay, let us stop using that stupid word, in the homosexual communities of our major cities is that the reaper's scythe that has cut so viciously through this the—high-risk group. There are so many dead already or dying—shriveled up with all sorts of diseases because they have no immune system, their sex drive completely obliterated—that they are not out on the streets, or in their saunas, or in private homes, spreading this disease because they are lying on their back with their relatives around them, tragically dying, begging for love in the last moments of their life. I would say that if we had a national referendum in this country—we had one in California, our largest State—which I am against because it would make us eunuchs around here—the Senate and the House would be worthless, but if we put this up to a national referendum and left it up to intelligent people, I think I know what the results would be. If we looked at this thing rationally and submitted it to a referendum, I believe the results would come in from 85 to 90 percent voting "no" to put these precious U.S. tax dollars into comic books that foment lust and more death, more spreading of AIDS across this country.

Now let me say something in closing, because when you take this well or take the floor in this House and say the word "gay" to apply tens of thousands of people crying out there on The Mall because this death toll is striking them down, it is an absurdity. I think I am going to tell this House something I had intended to keep private but maybe it is nice to know before somebody attacks me: I have put my pay raise in escrow until a court case that I am on challenging the constitutionality of that raise is resolved. That money is building up. I know what I am going to do with it.

I announced it to my family. It was my wife's idea. I am giving it to AIDS hospices in New York and Los Angeles to nurture the victims of this terrible modern disease that is a direct outgrowth of the so-called sexual revolution. And any Member who wants to come up and tell me my heart is not in the right place, they better expect to be asked what they did with their pay raise, how they are spending it, because my pay raise goes to the victims. I am not going to get rolled back by a demonstration out there on The Mall by people insisting they be described by an adjective turned into a noun, crying over the death toll, wheeling people by in wheelchairs, people who will not be there for a demonstration next year. I will not sit on the House floor and have respected Members get up and say this pornographic comic is the only way we can reach intelligent homosexuals and drug users. Here is my final thought—imagine a similar pamphlet for drug users, a pamphlet for people who hang out in the alleys and shove dirty needles in their arms. A pamphlet to get them to use clean needles or to sterilize them in Clorox or disinfectants. Imagine publishing pamphlets that say, "It is great to shove a needle in your arm. The heroin high is fantastic. Shove that needle in. Lust for that high. Snort that cocaine. Jam those needles in your body in between your toes, underneath your fingernails, underneath your tongue, everywhere you can, get that needle into your body but, please, do it with a clean needle." That is a perfect analogy. And it is no more outrageous than are these pamphlets telling people to "get it in there, get it as much as you can, it is a great lustful high, but, by the way, here" in some rotten sort of distortion of the English language "is how to use condoms mixed in between all this lust." This House and the other body has been running from this issue in an intelligent, straightforward way and this is one Member—the first one to take the well to ever speak against it 2 years ago, who has sponsored six luncheons on AIDS to which nobody ever came except for the gentleman in the well, the gentleman from Indiana and maybe one or two others—that has had enough. I am going to go on Thursday to get a 2-hour briefing at the National Institutes of Health. And then I am going down to Georgia to the Centers for Disease Control. But the first thing I am going to ask at NIH is why one of their own doctors, a young married doctor in research who tested positive for AIDS a year ago in May 1986, was not told he had tested positive. Weren't his superiors concerned that he would go home and infect his loved ones? How was it he was not told a year and a half ago. How was it that he only found out last month?

That is the first question I am going to ask of all these highly paid and dedicated researchers at the National Institutes of Health. I hope we get a vote on this, Mr. DANNEMEYER. I thank the gentleman for this time.

Mr. DANNEMEYER. I thank the gentleman.

Mr. BURTON. of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage my colleague from California in a brief colloquy if I may.

As I understand it now, this information or pornography or whatever you want to call it is supposed to educate the homosexual community about ways to prevent the spreading of AIDS and is mailed out to people who call in on the telephone, is that right?

Mr. DANNEMEYER. That is how it came to my attention.

Mr. BURTON of Indiana. In other words, if a young fellow in grade school or high school who has a deep voice and wants to get some pornography and he has heard about it, he can call in, give his name, say he is concerned about possibly getting the AIDS virus through homosexual acts, give his address, and they will mail this stuff to him?

Mr. DANNEMEYER. That is exactly right. I can say to my colleague that my friend who brought this to my attention when they talked with the agent from the Gay Men's Health Crisis Center in New York, questioned receiving material that could be used for teenagers that would promote safe sex, the caller—rather the operator for the Gay Men's Health Crisis Center said, "This material is wonderful to be used for educating teenagers and I am sure you will like it."

They mailed it to him and here it is.

Mr. BURTON of Indana. So they do not know the age of the person calling, all they get is their address and know they have a desire to get it and they send it right out.

Mr. DANNEMEYER. That is right.

Mr. BURTON of Indiana. I appreciate very much the gentleman's making this motion today and I sincerely hope it passes.

I support the gentleman getting a rollcall vote, because everybody in this body ought to be put on record on this issue, because this is hardcore pornography that taxpayers have been paying for and it is being sent out through the mail with just a telephone call to teenagers. In my view after reading just a little bit of it here it promotes sexual activity, homosexual activity. It promotes the very thing we want to stop.

Instead of stopping the spread of AIDS I think it is going to promote the spread of AIDS. It may be intended to do something to the contrary, but the fact of the matter is this kind of thing is going to lead to a bigger problem than we already have.

Mr. Speaker, I congratulate the gentleman for taking the time and support his motion.

I thank the gentleman for his comments.

Mr. Speaker, if there are no further requests for time I yield back the balance of my time.

Mr. WOLPE. Mr. Speaker, I rise in opposition to Mr. DANNEMEYER's proposed instruction to the House conferees on the Labor/HHS appropriations bill. My colleague has served up a dishful or red herring today, as I am sure he is aware. Surely there is not a single Member of Congress who believes the Federal Government—or our Centers for Disease Control—should, in the language of the Senate amendment, "promote or encourage, directly or indirectly, homosexual sexual activities."

So why oppose this language? Because it may well have the effect of intimidating health care officials into restricting the distribution of lifesaving information. Indeed, there are some who have argued that even Surgeon General Koop's report on AIDS, and his advocacy of the use of condoms to prevent the spread of AIDS, is tantamount to encouraging homosexuality or sexual promiscuity. That, of course, is nonsense. But the Dannemeyer-Helms language might in fact preclude the mailing of the Surgeon General's report on AIDS. What an irresponsible and dangerous result this would be.

My fear, very frankly, is that language like that in the Senate amendment may unintentionally create a climate of fear and intimidation in which we would all ultimately be the losers—heterosexuals and homosexuals alike. At a time when the Centers for Disease Control predicts that 270,000 Americans will be infected with the AIDS virus by 1991, we need to do everything we can to ensure open discussion and research. In this respect, the Dannemeyer proposed instruction is worse than a red herring: It's an ostrich with its head planted firmly in the sand.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the grounds a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 368, nays 47, not voting 18, as follows:

[Roll No. 364]

YEAS—368

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Courter

Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fields
Fish
Flake
Flippo
Florio
Foley
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)

Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas

Lukens, Donald
Lungren
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—47

Ackerman
Beilenson
Berman
Bonior
Boxer
Brown (CA)
Clay
Conyers
Crockett
Dellums
Dixon
Dymally
Early
Edwards (CA)
Fazio
Foglietta
Ford (MI)
Frank
Gonzalez
Green
Hawkins
Hayes (IL)
Hoyer
Kennedy
Kostmayer
Lehman (FL)
Leland
Levine (CA)
Lewis (GA)
Lowry (WA)
Markey
Miller (CA)
Morrison (CT)
Owens (NY)
Pelosi
Rodino
Roybal
Sabo
Scheuer
Stark
Studds
Swift
Visclosky
Waxman
Weiss
Wolpe
Yates

NOT VOTING—18

Bates
Biaggi
Bustamante
Collins
Davis (MI)
Dowdy
Ford (TN)
Frost
Gephardt
Kemp
Livingston
Mack
Matsui
Moody
Roemer
Stokes
Tauzin
Towns

□ 1600

The Clerk announced the following pair:

On this vote:

Mr. Moody for, with Mr. Ford of Tennessee against.

Mr. VISCLOSKY and Mr. RODINO changed their votes from "yea" to "nay."

Messers. SHAYS, DINGELL, SAVAGE, and SYNAR changed their votes from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees: Messrs. NATCHER, SMITH of Iowa, OBEY, ROYBAL, STOKES, EARLY, DWYER of New Jersey, HOYER, WHITTEN, CONTE, PURSELL, PORTER, YOUNG of Florida, and WEBER.

MEETING OF COMMITTEE ON APPROPRIATIONS TODAY

(Mr. WHITTEN asked and was given permission to address the House for 1 minute.)

Mr. WHITTEN. Mr. Speaker, the Committee on Appropriations will meet immediately in room 2360 in the Rayburn Building to consider the Rural Development, Agriculture, and related agencies appropriations bill.

I ask every member to come as soon as possible, so we will have a quorum.

LET US SOLVE OUR FISCAL DILEMMA

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I welcome your willingness to sit down and compromise over the fiscal dilemma we face.

We have yet to come to the table over fiscal issues during your tenure as Speaker. We have tried. We have asked before. This would be an excellent time to begin again. We feel we have been shut out from those deliberations over reconciliation and deficit reduction. At your specific direction, I understand we were even to be deprived of a substitute.

I can deliver you the votes on a compromise on deficit reduction. I cannot speak for the President, but I know his commitment and you know his record on compromise. I will do whatever I can to bring the President to the table, as we did when he signed the Gramm-Rudman extension.

Now, however, it is not up to him alone, Mr. Speaker. But up to all of us in leadership positions.

We must put an end to the political histrionics, Mr. Speaker. You have your ideas about the stock market decline; I have mine. Neither of us is an expert, so let us not join the chorus of experts, at least until they can agree.

Let us have less talk and more work in our respective offices now on how we can pull the loose ends together.

THE STRUGGLE AGAINST AIDS DESERVES THE BEST IN EACH OF US

(Mr. STUDDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUDDS. Mr. Speaker, I would like to make a very brief personal statement.

I was unaware, as were most of the Members, that we were going to have the vote which just occurred, and that the motion to instruct would be offered. Had I been aware of that, I certainly would have been here, although not in any expectation that I could have changed the outcome.

I understand that most Members arrived to be greeted with rumors of a frightening nature with respect to the subject matter of the vote, and that its outcome was a foregone conclusion.

I would, however, because we have to live with only one person every day, and that is ourselves, have taken the floor to speak against it.

An organization composed, to a large extent, of saints, the Gay Men's Health Crisis of New York, was maligned in the discussion.

Mr. Speaker, we have lost over 25,000 lives, human beings, to AIDS. We are going to lose many thousands more who are ill now and, in all probability, many thousands more who are not yet ill.

Insofar as anyone in this Nation is extending themselves in a superhuman effort to prevent that tragic loss of life, it is the men and women of organizations such as the Gay Men's Health Crisis in New York.

I rise only to caution Members that I suspect there will be many, many more similar motions to instruct, similar amendments coming from a similar place; and I simply wish to ask Members of good will on both sides of this aisle to do the best they can to summon the courage of their own convictions.

Certainly none of us Members anticipated this motion; but I ask Members to anticipate motions, read them, and think about them in a very real and very human fashion.

The instructions, for example, which we just adopted might, and I do not know, but they might be read so as to preclude the mailing of the Surgeon General's Report on AIDS. That is clearly not anything any responsible Member of this House would wish to do. I am confident the conferees will not allow any such final wording into law.

I do wish to take the floor, however, to state that the Gay Men's Health Crisis of New York, and similar other AIDS action organizations in every major city of this country, are comprised of men and women of whom every one of the Members of this

House ought to be proud, and of whom we would never say the kinds of things that were said on this floor. All of the Members owe it to our fellow citizens to think with immense care from now on before casting our votes on subjects where human lives are at stake.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Government Operations:

Committee on Government Operations,
Washington, DC, October 20, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that a member of the staff of the Subcommittee on Environment, Energy, and Natural Resources of the House Committee on Government Operations, Mr. Eric Young, has been served with a subpoena issued by the United States District Court for the Western District of Missouri. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

Sincerely,

Jack Brooks,
Chairman.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SENSE OF THE HOUSE WITH RESPECT TO HUMAN RIGHTS ABUSES IN AFGHANISTAN

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 277) expressing the sense of the House of Representatives with respect to human rights abuses in Afghanistan, as amended.

The Clerk read as follows:

Suspend the rules and pass the resolution (H. Res. 277) with the following amendments:

Page 3, line 4, strike out "recent" and insert in lieu thereof "past"; line 16, strike out the comma and insert in lieu thereof "and"; beginning in line 17, strike out "and should be spurned by the Afghan resistance"; and page 5, line 21, strike out "of no more than four months".

H. Res. 277

Whereas December 27, 1987 will mark the eighth anniversary of the Soviet invasion of Afghanistan;

Whereas the Soviet occupation has been characterized by extreme brutality and a campaign of indiscriminate violence that has taken the lives of an estimated 1 million Afghans, and displaced more than 4 million others;

Whereas the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985 report, documented examples of a barbaric Soviet military campaign against civilians, including attacks on women and children, and in a subsequent report of February 14, 1986, found the situation unchanged and concluded that the "only solution to the human rights situation in Afghanistan is the withdrawal of foreign troops";

Whereas the Soviet invasion was a major factor in the postponement of consideration by the Senate of the SALT II Treaty of 1979, and the presence of Soviet troops in Afghanistan today continues to adversely affect the prospects for the long-term improvement of the United States-Soviet bilateral relationship in general;

Whereas the Soviet leadership appears to be engaged in a cynical and hypocritical public relations campaign aimed at portraying an ongoing staged withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion;

Whereas the offer by the Soviet puppet regime in Kabul for a cease-fire and amnesty in the name of "national reconciliation" is a transparent attempt to isolate the democratic resistance (the mujaheddin), confuse the populace and accomplish the surrender of the democratic resistance while the Soviet military occupation continues unabated; and

Whereas the Congress condemned Soviet policy toward and behavior in Afghanistan in Public Law 99-399, calling for appropriate provision of material support to the people of Afghanistan, so long as the Soviet military occupation continues: Now, therefore, be it

Resolved, That the House of Representatives hereby—

(1) renews its condemnation of the continued Soviet invasion and occupation of the sovereign state of Afghanistan against the will of the Afghan people, an activity which violates all standards of conduct befitting a responsible nation, which contravenes all recognized principles of international law, and which has been reflected in seven United Nations resolutions of condemnation;

(2) finds that past Soviet representations concerning withdrawal of Soviet troops have been indisputably demonstrated to be a sham, are a cynical and calculated campaign of disinformation, and do not reflect genuine reductions in the Soviet occupation force, which continues to stand at an estimated 120,000 troops inside Afghanistan, with 30,000 more positioned in contiguous areas of the Soviet Union, available for use against the Afghan population;

(3) finds that recent offers of a ceasefire, amnesty, and a government of national reconciliation advanced by the Soviet puppet regime in Kabul fail to provide the essential framework for a settlement and undermine the prospects for genuine progress, so long as Soviet troops continue to occupy Afghanistan;

(4) believes that the only acceptable formula for a settlement of the Afghan situation is one which results in a government genuinely representative of the Afghan people, outlines a definite timetable for the complete withdrawal of Soviet troops in the near future, and provides for the return of refugees in safety and dignity;

(5) renews its commitment, which was begun within weeks of the Soviet invasion of Afghanistan in December 1979 when the United States Government began to supply light infantry weapons to Afghan freedom fighters, a fact made public by the White House on February 15, 1980, to support the people of Afghanistan through the provision of appropriate material support;

(6) urges the Secretary of State to—

(A) develop continued multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan, and a peaceful political settlement acceptable to the people of Afghanistan, including provision for the return of Afghan refugees in safety and dignity;

(B) develop a vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world on a frequent basis;

(C) encourage the Soviet leadership and the Soviet puppet regime in Kabul to remove the barriers erected against the entry into and reporting of events in Afghanistan by journalists;

(D) make vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress; and

(E) review United States policy with respect to the continued recognition of the Soviet puppet regime, and continued United States diplomatic presence in Kabul, to determine whether such recognition and presence is in the interest of the United States and the people of Afghanistan;

(7) urges the Soviet Union, at any present or forthcoming session of United Nations-sponsored indirect negotiations with representatives of Pakistan, to present through its Afghan puppet representatives an expeditious timetable for the complete withdrawal of its forces from Afghanistan; and

(8) urges the government of Pakistan in accord with its stated position, at any such United Nations-sponsored indirect negotiations, to resist the pressure of the Soviet Union to accept anything less than such a timetable of withdrawal.

The SPEAKER. Is a second demanded?

Mr. SOLOMON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New York [Mr. Solarz] will be recognized for 20 minutes and the gentleman from New York [Mr. Solomon] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. Solarz].

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Fascell], the very distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I support House Resolution 277, expressing the sense of the House of Representatives with respect to human rights in Afghanistan, and urge my colleagues to join in adopting it today.

I would like to take this opportunity to commend the authors of this resolution, Representatives GERALD SOLOMON and GUS YATRON, as well as Representatives SOLARZ and LAGOMARSINO, whose cooperation enabled the Committee on Foreign Affairs to act promptly on this matter.

Passage of House Resolution 277 gives the House an opportunity to express its continued condemnation of the Soviet invasion and occupation of Afghanistan, renews the United States commitment to support the Afghan freedom fighters, urges the Secretary of State to develop and continue efforts to encourage a Soviet military withdrawal and a peaceful political settlement acceptable to the people of Afghanistan. This measure is a strong statement of our opposition to the illegal Soviet occupation of Afghanistan, which has resulted in the death of 1 million Afghans and created one of the largest refugee movements in history, as more than 4 million Afghans have fled to Pakistan.

In acting today on this resolution, we pay tribute to the Afghan freedom fighters, whose continued strong resistance against the more than 120,000 Soviet troops in their country has given new meaning to the terms courage and tenacity. The costs they have inflicted on the Soviet troops have greatly exceeded initial expectations and convey to the Soviet Government that continued occupation of the country will continue to be expensive in terms of lives, equipment, and opposition of the world community. As the resolution before us recognizes, the presence of Soviet troops in Afghanistan today continues to affect adversely the prospects for long-term improvement in United States-Soviet bilateral relations.

As we approach the eighth anniversary of the Soviet invasion of Afghanistan, I urge your support for House Resolution 277, once again condemning the gross violation of human rights which that invasion signified.

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Florida.

I think the gentleman from New York [Mr. SOLOMON], my very good friend, deserves the thanks and appreciation of the House for taking the leadership in bringing this resolution before the Members.

Together with the gentleman from California [Mr. LAGOMARSINO], the gentleman from New York has been one of the great champions in the Congress of the cause of the Mujadheen in Afghanistan.

I also think the gentleman from Pennsylvania [Mr. YATRON], the chairman of the Subcommittee on Human Rights and International Organizations, also deserves the appreciation of the Members for facilitating the expeditious consideration of this resolution.

Mr. Speaker, I think that the adoption of this resolution today would constitute a timely reaffirmation of the American commitment to the cause of the resistance movement in Afghanistan.

For 8 long years now, ever since the unprovoked and unjustified Soviet invasion of Afghanistan in 1979, the people of Afghanistan have been waging a heroic resistance against the Soviet Army of occupation which controls their country.

During that period of time, over 4 million Afghans out of a population of 14 million have been driven into exile outside of their own land. Hundreds of thousands of Afghans have been killed, many of them in the most brutal fashion imaginable.

This resolution today, in addition to once again calling attention to the pervasive and systematic abuse of human rights by the Soviet Union in Afghanistan, expresses the sense of Congress that the Soviet Union should expeditiously withdraw all of its forces from that country in order to facilitate a political settlement of the conflict in Afghanistan in which the refugees, who have been driven from their homes, would be entitled to return, and in which the people of Afghanistan at long last would be given the opportunity and the right to determine their own destiny.

□ 1615

This resolution will not be itself bring about the withdrawal of the 120,000-man Soviet Army of occupation in Afghanistan, but it will contibute, at least in some small measure, to the mobilization of the kinds of diplomatic pressures on the Soviet Union, which in combination with the pressure generated by the courageous resistance of the Afghan people, are a necessary condition for a political settlement in that conflict, which would result in the withdrawal of all Soviet forces from Afghanistan.

So, Mr. Speaker, I urge Members on both sides of the aisle who have stood with us in the past in support of the Mujahadeen and in opposition to the Soviet occupation in Afghanistan to stand up once more for the cause of freedom, for the cause of human rights, and for the cause of self determination of the Afghan people.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am very pleased to have the opportunity of offering this resolution on behalf of myself and our good colleague from Pennsylvania, GUS YATRON, the chairman of the Human Rights Subcommittee. And I thank them.

I would also thank my friend, the gentleman from New York [Mr. SOLARZ]. He truly is showing mettle in being a modern day Lafayette in his ability to negotiate and cooperate with the minority in this much needed resolution.

I want to thank Chairman DANTE FASCELL and also the gentleman from Michigan [Mr. BILL BROOMFIELD], the ranking member.

Mr. Speaker, this resolution is vertually identical to one that passed unanimously, 92 to 0, in the Senate last January 6. A couple of minor changes have had to be made. The Senate resolution, for example, made reference to December 27, 1986, as the seventh anniversary of the Soviet Invasion of Afghanistan. The resolution now before us makes reference to December 27, 1987, as being the eighth anniversary. One other thing: The Senate resolution spoke of the forthcoming United Nations talks on Afghanistan. That meeting is now past, and this resolution makes a more general reference to "any present or forthcoming" United Nations-sponsored indirect negotiations between the Soviet Union and Pakistan. These are just a couple of minor changes from the Senate-passed version.

Mr. Speaker, the continuing Soviet invasion of Afghanistan and the ongoing atrocities being committed by the Soviets in that country cry out for redress. And this resolution renews the commitment of Congress to provide "appropriate material support" to the people of Afghanistan. It is clear to all of us by now that so-called glasnost does not extend to the suffering people of Afghanistan—innocent people whose land is being scorched by the Soviets.

What greater opportunity for Gorbachev to show he means business about reform can there be than in Afghanistan? One million Afghanis have died in less the 8 years. Millions more are refugees in Pakistan and Iran. Still more are displaced within their own country. These are people who never offended Gorbachev. Their only "crime," as the Soviet may see it, was to have the courage to defend their own land and sovereignty against alien and hostile invaders, namely the Soviet Union.

The point is often made that never in its long history has Afghanistan been successfully conquered or subjugated. And I am confident the Soviets will not succeed where others have failed. But the Soviets have already wrought untold death and destruction in the process. Afghanistan is a scorched and bleeding land, and still the people resist.

Mr. Speaker, passage of this resolution will reinforce America's commitment to stand with the people of Afghanistan as they resist this Soviet scourge—this brutal attempt at colonial occupation that has killed or uprooted fully one-third of the people of Afghanistan.

Mr. Speaker, I would point out that all of the Soviet abuses aside, their puppet regime in Afghanistan is a notorious human rights violator in its own right. Summary executions, torture, censorship, wiretaps, house-to-house searches, the complete supression of all rights to peaceful assembly, public expression, and religious worship—all of these horrible things have become part of daily life for those Afghanis who live in areas of the country that are under effective control of the Soviets and their puppets.

And finally, Mr. Speaker, what greater example of inhumanity to man than the torture and maiming of innocent little children, as Soviet aircraft drop boody-trapped toys, blowing off the arms and legs and blinding innocent little children.

There can be no resolution of the crisis in Afghanistan, until the Soviet forces are out and their puppets are gone with them. Afghanistan will be at peace only when the Afghanis themselves are in charge of their own destiny.

Mr. Speaker, too little attention has been paid to this terrible situation by the world news media. If we are ever to help these poor oppressed people the world press must dramatize the inhumane human rights abuses that the Soviets are perpetrating on the Afghan people.

Mr. Speaker, I yield such time as he might consume to my good friend, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support for House Resolution 277 and the brave people of Afghanistan who have suffered so severely under the bloody hand of the Soviet Army occupying their nation. As you know, I introduced two bills in the beginning of the 100th Congress the contents of which are incorporated in House Resolution 277. Too often, recently, our attention has been diverted to other crises in the world and the plight of the Afghan people has been relegated to the back burner. Legislation like House Resolution 277 helps to remind us of the grave injustice and suffering borne by the Afghan people due to the harsh, illegal Soviet invasion and occupation of their country. The fact this legislation is being discussed and voted on today emphasizes that the issue of Afghanistan and the ghastly human rights situation there deserves to remain on the "front burner."

December 27, 1987, marks the eighth anniversary of the Soviet invasion of the independent nation of Afghanistan. In examining the events of the past 8 years, it is obvious that this is a day of mourning, not celebration. This past May, the Subcommittee on Human Rights under the leadership of this bill's sponsors, Chairman YATRON and Vice Chairman SOLOMON, held a hearing on the barbaric human rights situation in Afghanistan. Just 2 weeks ago, the Congressional Task Force on Afghanistan, of which I serve as cochairman, held a hearing on this same sad subject. In both cases, the reports of the U.N. special rapporteur, Dr. Felix Ermacora, and the independent lawyers of Project on War Crimes in Afghanistan, served to educate Americans on the genocide happening today in Afghanistan. It is not hard to compile a long list of barbarous crimes the Soviets and their Afghan collaborators have committed against the innocent Afghan population. The 13-page annex of Dr. Ermacora's findings that the United Nations wrongly refused to make part of the official report is even more revealing. The following heinous crimes are frequently being committed by the Soviets in Afghanistan. Incidentially, these are the same Soviets who are proclaiming a policy "glasnost" or openness. Apparently this means "open season" on Afghans:

The Soviets are engaged in a scorched-earth policy designed to force Afghans to become refugees. The Soviets have purposely burned villages and crops. They have destroyed irrigation systems, schools, and mosques. Their obvious goal is the destruction of the Afghan nation as a whole.

The Soviets have purposely bombed innocent civilian targets. There has been extensive use of napalm and high explosives against nonmilitary targets. Oftentimes, the Soviets will opt for maiming rather than killng innocent Afghan women and children to increase their suffering and burden on the rest of the population. The use of land mines is widespread and the dropping of bombs designed to look like toys means that young children are deliberate targets.

Those Afghans who have stayed or have become internal refugees in the Soviet controlled cities are subject to indiscriminate arrest and torture. The Soviet and puppet Afghan jails have absolutely no concept of even rudimentary human rights. Violent torture is common and executions routine. A December 1986 UPI report detailed the brutal execution of prisoners at Kabul's Puli Charki Prison to relieve overcrowding.

In their efforts to eradicate traditional Afghan culture and heritage, the Soviets have kidnaped Afghan children from their parents and have forceably sent them to the Soviet Union for Communist indoctrination. Other children, yes children, have been conscripted into the military. According to the U.N. rapporteur, the conscription system is governed by severe discriminatory methods.

The brutality unleased against the brave Mujahideen freedom fighters is almost incomprehensible. Prisoners are not taken, they are executed. Medical treatment is denied. Unfortunately, as we have recently experienced, the Soviets and their Afghan puppets have not constrained themselves to Afghanistan. Their bombings and the terrorist actions carried out by the KGB and the KHAD have killed many Afghan refugees in Pakistan as well as Pakistani citizens. In fact, because the Pakistanis have been so helpful, the Soviets have deliberately tried to destabilize this important American ally. And, with all of the attention we have focused on the Persian Gulf, we must not forget that the Soviets have always coveted this region. Their actions in Afghanistan and Pakistan and the geographical proximity of these countries to the gulf are further reasons for concern.

Finally, a picture is worth a thousand words. I recently received a very revealing book from the Writers Union of Free Afghanistan. It was filled with pictures of innocent Afghan villages and villagers who were subject to the Red army's inhuman policies. I urge concerned citizens to review this book. However, I must warn them to do so only when they have a strong stomach—the brutality is gut wrenching.

As I previously mentioned, the list of atrocious human rights violations and blatant disregard for numerous international laws, treaties, and conventions is very, very long. It is incumbent upon us to continue to try to focus international attention on this Afghan genocide. I hope my colleagues, especially those who argued during the debate on the defense bill that the Soviets can be trusted and that perhaps the Soviets really aren't that bad, to carefully review the sorrowful happenings in Afghanistan. Talk to our colleague CHARLIE WILSON, who it is reported has traveled with the Mujahideen into occupied Afghanistan, and has seen the destruction firsthand. The rape of Afghanistan is the policy of the Soviet Union. The Afghan genocide is the result of the Red army. Let us not fool ourselves, the Soviet advisers who murder Afghans in cold blood are the same Soviet advisers "teaching" the MPLA in Angola and the Sandinistas in Nicaragua. The tragic situation in Afghanistan cannot be looked at as if it were in a vacuum.

Mr. Speaker, this resolution is a sound and timely one. Its provisions are designed to help the suffering Afghan people and encourage negotiations that would restore freedom and independence to Afghanistan. As the U.N. special rapporteur said, "The only solution to the situation in Afghanistan is a withdrawal of foreign troops." It is very important for Congress to officially go on record in condemning the brutal, inhuman Soviet policy in innocent Afghanistan. I strongly urge my colleagues to join me in supporting the struggle for freedom in Afghanistan and this important legislation.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD] the ranking minority member on the committee.

□ 1630

Mr. BROOMFIELD. Mr. Speaker, I strongly support the legislation before us, and I commend the gentleman from New York, Congressman SOLOMON, for his dedication on the issue of human rights in Afghanistan.

Human rights violations committed by the Soviet Army in Afghanistan, and the illegal occupation which the United Nations General Assembly has condemned, obviously are not included in the new Soviet policy of glasnost. But it is there, in Afghanistan, that the Soviets could prove to skeptics in the West that glasnost is more than hollow words. It is through action that the Soviet Union will prove its commitment to a better relationship with the West and a true respect for human rights.

It has been 8 years since the first Soviet divisions crossed the northern borders of Afghanistan and began the wholesale slaughter and repression of the Afghan people. In those 8 tragic years many lives have been lost, including thousands of young Soviet soldiers. The Soviets have lied to their own people and the world about why they invaded, what they are seeking to accomplish and how costly it has been.

Mr. Speaker, the time for Soviet posturing is over. I strongly support this resolution demanding the Soviets to withdraw from Afghanistan immediately.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. LEACH], the ranking member of the Subcommittee on Asian and Pacific Affairs.

Mr. LEACH of Iowa. Mr. Speaker, I rise in support of House Resolution 277, expressing the sense of the House regarding the human rights situation in Afghanistan.

I want to commend the author of the resolution, Mr. SOLOMON, for bringing this issue once again before the House and also make special note of the efforts of another of our colleagues on this side of the aisle, Mr. LAGOMARSINO, who also had a resolution on the subject of the Soviet occupation of Afghanistan, House Joint Resolution 25, which was approved last week by the Subcommittee on Asian and Pacific Affairs, but who has generously yielded to the consideration of House Resolution 277.

For nearly 8 years, Soviet troops have occupied Afghanistan and for nearly 8 years, the people of that country have resisted that occupation with an indomitable spirit and impressive military effectiveness. The American people and the international community have been witness to a calculated and brutal effort to deprive the people of Afghanistan of their internationally recognized human rights, including their right to self-determination.

Let there be no doubt: this is one of the greatest resistance efforts of this, if not any century. Whatever attention this Congress can give this issue is meritorious in the extreme.

In the face of blatant Soviet aggression, the United States has lent its support to the Afghan resistance and to our friends in Pakistan who provide a haven to Afghan refugees fleeing the violence in their homeland and who are involved in efforts to bring the Soviet occupation in that country to an end. The United States also supports the negotiating process under the auspices of the United Nations.

The resolution before us today, House Resolution 277, seeks to once again make clear the condemnation of this body of the Soviet invasion and occupation of Afghanistan and to promote a settlement which will set an expeditious timetable for the withdrawal of Soviet occupation troops and result in a government genuinely representative of the Afghan people. The resolution also urges the Secretary of State to take certain actions, including to develop continued multilateral initiatives on this subject, develop a vigorous public information campaign, and impress on the Soviets the cost of their Afghan policy to overall United States-Soviet relations.

Mr. Speaker, the passage of this resolution will remind the Soviets that the United States Congress will not forget or overlook their outlaw conduct in Afghanistan. I urge its approval.

Mr. SOLOMON. Mr. Speaker, I wonder if the gentleman from New York [Mr. SOLARZ], the chairman of the Subcommittee on Asian and Pacific Affairs, will yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER]?

Mr. SOLARZ. Mr. Speaker, far be it for me to refuse such a gentlemanly request from my very good friend from New York. Mr. Speaker, I am happy to yield to the gentleman from Pennsylvania [Mr. RITTER].

Let me remind my colleagues on the other side of the aisle, however, that we do have three more resolutions to take up and I would hope we could consider them expeditiously.

I do not believe that they are particularly controversial.

Mr. Speaker, I am happy to yield 4 minutes of my time to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman from New York for yielding this time. I want to thank the gentleman from New York [Mr. SOLOMON] and the gentleman from Pennsylvania [Mr. YATRON] for sponsoring this resoltuion. It is a very important resolution and it should demand a significant focus from this Congress. It should demand a significant amount of attention from the American people in that it is the single-most egregious war that is currently underway on this Earth and it is a war of aggression on the part of the Soviet Union against the Afghan people. This war is being conducted against the Afghan people while Soviet officials talk of glasnost and peace.

Mr. Speaker, this war is going on with its attendent atrocities in a way remindful of the excesses of Adolph Hitler, in a way remindful of the excesses of Joseph Stalin, at a time when the Soviet Union seeks to be regarded as more civilized player in the global game between nations; it seems to me that if Mr. Gorbachev is going to talk about peace, if Mr. Gorbachev is going to talk about glasnost, if Mr. Gorbachev is going to talk about change, there is one place in the world where it really counts on a life and death basis, and that is in Afghanistan.

In Afghanistan 1 million people have been killed out of a nation of only 15 million people. That is equivalent to tens of millions of Americans losing their lives.

Mr. Speaker, 4 to 5 million Afghans have been driven across the borders into Pakistan and into Iran. That is something like one-third of the population. It is as if 70 or 80 million Americans being driven out of their country and across the borders into Canada and Mexico.

This is a tragedy that is taking place on a monumental scale and yet Mr. Gorbachev talks about peace. How can he have peace when he is warring against the Afghan people and the Afghan nation? How can he perpetuate a policy of glasnost with any kind of honesty or integrity when he is dropping toy bombs in the midst of children to blow off their hands or their feet in order to tie up their families, when he is destroying whole villages, when there is absolutely no concern for any human rights whatsoever?

Mr. Speaker, he is taking children, by the thousands right now from Afghanistan and shipping them into the Soviet Union so that they will receive 10 years or 15 years of indoctrination. Mr. Speaker, this is a long-range effort. This is not peace by any definition we know of. Given the intensity Gorbachev pursues this war; given the transfer of children to the U.S.S.R., we can only conclude that this war is a long-range war to integrate Afghanistan into the Soviet Union and only the support of the West at many different levels will deter Mr. Gorbachev from achieving the Soviet goal.

When Gorbachev came to power the war was intensified against the Afghan people. So I ask my colleagues, when they meet with the officials of the Soviet Government, and I ask the American people, when they meet with Soviet citizens and I ask members of the American media who cover world affairs, to please keep the suffering of the Afghan people uppermost in their minds.

Mr. SOLARZ. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

(Mr. LEVIN of Michigan asked and was given permission to revise and extend his remarks.

Mr. LEVIN of Michigan. Mr. Speaker, I rise in support of the resolution and to commend the committee for its actions. Like many others in this House, I have been involved in this issue for several years and there always seem to be rays of hope. Progress seems to be around the corner.

I pulled out of a rather thick file an article from a December 1986 Detroit News paper, and the headline was "Soviets May Pull Out of Afghanistan Soon."

Well, it has not happened. I am afraid it is not even close to happening, at least tomorrow. It seems to me on this issue, as on other human rights issues, it is crystal clear and critical that we in the Government, executive and legislative, must speak with one voice, that we must speak with a firm voice, indeed we must speak with a loud voice because it is absolutely clear only pressure may work.

Mr. Speaker, I am glad to join with my colleagues in this one additional bit of pressure. Hopefully it will work.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. DREIER], a Member of Congress who along with the gentleman from Texas [Mr. WILSON] has been a real leader in bringing attention to the fact that this resolution was a combined resolution of that of the gentleman from California [Mr. LAGOMARSINO], a distinguished member of our Committee on Foreign Affairs, and my resolution. In combining them, they combined to present an exact replica of the resolution that passed the Senate, and I want to thank the gentleman from California [Mr. LAGOMARSINO] for his help in drafting this very important piece of legislation.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from California [Mr. DREIER] is recognized for 4 minutes.

Mr. DREIER of California. Mr. Speaker, I would like to join in congratulating my colleagues, the gentleman from New York [Mr. SOLOMON] and the gentleman from Pennsylvania [Mr. YATRON], for introducing this resolution, and thank the gentleman from California [Mr. LAGOMARSINO] for his fine work, and the gentleman from Michigan [Mr. BROOMFIELD], the ranking member of the full committee, and express my appreciation for the excellent statements from the gentleman from New York [Mr. SOLARZ], the gentleman from Michigan [Mr. LEVIN], the gentleman from Iowa [Mr. LEACH], the gentleman from Pennsylvania [Mr. RITTER], and, of course, the fine work of the gentleman from Texas [Mr. WILSON].

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A number of people have said that one of the reasons that the war in Afghanistan has become the forgotten war is that there is not enough controversy surrounding the issue. There is almost unanimity of thought here in the Congress and among the American people that we must do something to redress the Soviet invasion there. But unfortunately, it has, because there is too little controversy, become the forgotten war.

Many of the important points surrounding this issue have been brought to the forefront. My California colleague, Mr. LAGOMARSINO, made a very important statement when he said that one picture is worth a thousand words, and there are some very graphic pictures which have come from this.

I think if we look at the report that was done by Charles Norchi of the Committee for a Free Afghanistan on the human rights violations in Afghanistan, the people in the Congress and the American people will be very, very distressed. That full report is due to come out within the next couple of weeks.

But I have a picture which I have shown on the House floor several times, but I think it needs to be shown again. What I have in my mind, Mr. Speaker, is a part of a butterfly bomb, a cluster bomb, which is used by the Soviets when they fire off of the MI-24, the Hind D attack helicopter. We all know the tremendous capability of that, what is known as the most powerful helicopter around. What happens here is that this little butterfly bomb is part of about 200 in a cluster which shoots as a cartridge off the MI-24. It then floats to the ground, and there are just enough explosives in here, just enough power not to kill someone, but to maim a child, and many young children have picked these up.

We know very well that throughout history, tragically children have been the victims of war. The unfortunate fact of life in Afghanistan is that with these kinds of devices the Soviets have made children the targets of war.

That is a sad commentary. I congratulate my colleagues for introducing this resolution, and I urge every Member of the House to vote in behalf of it.

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of House Resolution 277, condemning Soviet human rights abuses in Afghanistan. Mr. Speaker, despite the new leadership of Mikail Gorbachev and his glasnost policies, the Soviet Union continues to maintain a huge military presence in Afghanistan and the Soviet Army continues to oppress the Afghan people. Contrary to recent Soviet pronouncements, an estimated 120,000 Soviet troops remain in Afghanistan and another 30,000 are posed on the border ready to attack. Despite these overwhelming military odds, the mujaheddin continue to struggle against their Communist oppressors.

As a nation dedicated to freedom and the protection of basic human rights, it is vitally important for the United States to continue to speak out against human rights abuses—no matter where they occur. To turn a deaf ear on the plight of the people of Afghanistan would be a great crime. This is one reason why this resolution is so important. It states clearly to the world how the American people feel about human rights and it further shows the resolve of Congress and the Nation to continue to support the struggle for freedom.

Equally important, Mr. Speaker, is the fact that this resolution urges the State Department to take steps aimed at encouraging the Soviet Union to withdraw its troops entirely from Afghanistan and allow the people of that war-torn country to establish a nonaligned, democratic government. House Resolution 277 also urges the Soviet Union to present a timetable for the complete withdrawal of its troops. This timetable is not to exceed 4 months.

In the Gorbachev era of glasnost I believe it is crucial that the United States seize this window of opportunity to not only negotiate with the Soviets on issues such as arms control, Soviet Jewry, and conventional force reductions—but also discuss other apsects of Soviet behavior around the world. Glasnost may be just a cosmetic change, but the fact is the Soviets are talking. Mr. Grobachev may be growing weary of the war in Afghanistan. As a result, he may, in fact, pull out of Afghanistan. But, as far as we here in this Chamber are concerned, our policy should not concentrate on what the Soviets may or may not do, rather, it should continue to stress and call for the withdrawal of all Soviet troops on a timely fashion, and the establishment of an independent government—free from the shackles of Soviet-sponsored Communist oppression.

This resolution is in line with what America stands for and will communicate to the Soviets that the United States will not remain silent on the fact of Communist oppression and in the face of such gross human rights violations. I urge all of my colleagues to support this important resolution.

Mr. YATRON. Mr. Speaker, I strongly support House Resolution 277, legislation expressing the sense of the House of Representatives with respect to human rights abuses in Afghanistan. The Subcommittee on Human Rights and International Organizations held hearings in May 1987 to examine the situation in Afghanistan and to focus national and international attention on the plight of the Afghan people.

Since the Soviet invasion in December 1979, Afghanistan has had one of the most egregious human rights records in the world. It is a country ravaged by war, country in a state of domestic upheaval. One-third of its population of 16 million have fled their homeland to Pakistan, Iran, and other countries, making Afghans the largest group of refugees in the world. Up to 2 million Afghans are trying to survive in the throes of a civil war, and an estimated 1 million have been killed since the Soviet invasion.

Today, in this resolution, Congress indicates, once again, its strong and unwavering support for the Afghan resistance. We ask for Soviet withdrawal from Afghanistan, and call for an end to the heinous crimes being committed in this war-torn country. We also ask that the Afghan people are given what they have fought heroically to acheive—a genuinely independent Afghanistan.

I would like to thank the gentleman from New York [Mr. SOLOMON] for his leadership on this issue as well as for his leadership as ranking minority member on the Subcommittee on Human Rights and International Organizations.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the resolution, House Resolution 277, as amended.

The question was taken.

Mr. SOLARZ. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 277, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONCERNING ESTABLISHMENT OF A SOUTH PACIFIC NUCLEAR FREE ZONE

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 158) concerning the establishment of a South Pacific Nuclear Free Zone, as amended.

The Clerk read as follows:

H. CON. RES. 158

Whereas the nations of the South Pacific, which share with the United States a strong regional interest in nonproliferation, have negotiated and signed the Treaty of Rarotonga, establishing a South Pacific Nuclear Free Zone;

Whereas the Treaty of Rarotonga came into force on December 11, 1986, with the ratification of 8 nations, including Australia and other friends of the United States;

Whereas the Treaty of Rarotonga prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons in the territory of parties to the Treaty and the dumping of radioactive wastes at sea;

Whereas three protocols to that treaty require of the nuclear powers a commitment to abide by the treaty's provisions in their territories in the region, not to contribute to violations of the treaty or to threaten to use nuclear weapons against its parties, and to refrain from testing nuclear devices in the zone;

Whereas in announcing its decision to accede to the protocols of the treaty on December 15, 1986, the Soviet Union stated five reservations which completely undermine the significance of accession, have the effect of posing a nuclear threat to nations party to the treaty which freely engage in peaceful cooperation with the United States consistent with its provisions, and were intended to undercut the security interests of the United States and its friends and allies in the South Pacific;

Whereas the Treaty of Rarotonga does not prejudice or in any way affect the rights of all nations to freedom of the seas under international law and leaves to each party policy decisions on visits or passage through its territory by foreign ships and aircraft;

Whereas it has been the policy of the United States to favor the establishment of effective nuclear-weapon-free-zones in regions of nonproliferation concern and where such zones would enhance international stability and security;

Whereas the United States has set forth seven criteria whereby the effectiveness of proposed nuclear-weapon-free-zones will be judged: (1) the initiative is from the nations in the region, (2) all nations whose participation is deemed important participate, (3) adequate verification of compliance is provided, (4) it does not disturb existing security arrangements to the detriment of regional and international security, (5) all parties are barred from developing or possessing any nuclear device for any purpose, (6) it imposes no restrictions on international legal maritime and aerial navigation rights and freedoms, and (7) it does not affect the international legal rights of parties to grant or deny others transit privileges, including port call and overflights;

Whereas the United States has signed and ratified the protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco), establishing a nuclear-weapon-free-zone in Latin America, whereby the United States committed itself not to test, manufacture, acquire, or store nuclear weapons in its territories in the region (namely Puerto Rico and the United States Virgin Islands), not to contribute to any violation of the treaty, and not to threaten to use nuclear weapons against the parties;

Whereas the United States is also a party to the Antarctic Treaty, the Seabed Arms Control Treaty, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which preclude nuclear weapons from these regions;

Whereas a representative of the United States Arms Control and Disarmament Agency testified before the Congress on June 9, 1987, that in order to advance United States non-proliferation goals, the United States "continues to support efforts to establish effective nuclear-weapon-free-zones in other regions of nonproliferation concern, such as the South Asian Subcontinent, Africa, and the Middle East";

Whereas the administration has testified to the Congress that the protocols to the Treaty of Rarotonga do not prohibit any current or anticipated activities in American territories in the South Pacific (American Samoa and Jarvis Island) or elsewhere in the region; and

Whereas the administration announced in February 1987 that while the United States could not, under current circumstances, sign the protocols to the Treaty of Rarotonga, United States practices and activities in the South Pacific Nuclear Free Zone region are not inconsistent with the Treaty or its protocols: Now, Therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Treaty of Rarotonga is consistent with the Security Treaty between Australia, New Zealand, and the United States (the ANZUS Treaty) and with United States security commitments in the South Pacific since it does not prohibit port calls by naval vessels which may be nuclear-powered or nuclear-armed and does not create other impediments to United States military operations in support of the ANZUS Treaty and other United States security commitments;

(2) the Treaty of Rarotonga satisfies the seven criteria, set forth in the preamble of this resolution, which have been established by the United States Government for judging the effectiveness of proposed nuclear-weapon-free-zones; and

(3) signature and ratification of the protocols would be in the national interest of the United States.

SEC. 2. STATEMENT OF POLICY.

Noting the administration has declared that United States practices and activities in the region are not inconsistent with the Treaty of Rarotonga and its protocols, it is the sense of the Congress that the President should seriously consider the United States signing and ratifying the protocols to that treaty.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a year ago a number of countries in the South Pacific, including Australia, New Zealand, the Cook Islands, Fiji, Kiribati, Niue, Tuvalu, Western Samoa, and Nauru adopted the Treaty of Rarotonga. The Treaty of Rarotonga prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons as well as the dumping of nuclear wastes within the South Pacific nuclear free zone established by the treaty.

Subsequent to the adoption of this treaty, the signatory countries appealed to the five nuclear powers, the United States, the Soviet Union, the People's Republic of China, France, and the United Kingdom, to sign protocols to the treaty in which they pledged to respect its terms, and not to threaten to use nuclear weapons against parties to the treaty, or to test nuclear devices in the zone. This resolution which we have before us today expresses the sense of the Congress that it would be in the national interest of the United States for our country to sign the protocols to the Treaty of Rarotonga.

At the same time, in recognition of the constitutional separation of powers between the legislative and executive branches of the Government, it calls upon the President to consider signing the protocols and seeking their ratification, rather than instructing him to do so. But it does make clear that it is the sense of the Congress that signing the protocols would be in our interests.

During the hearings which we held on this treaty and this legislation, Mr. Speaker, the administration testified that there was absolutely nothing in the Treaty of Rarotonga which, in any way whatsoever, would prevent us from doing anything we are currently doing in the South Pacific, or from doing anything which we might contemplate doing in the future.

We are not testing nuclear devices in the South Pacific, we are not storing nuclear weapons in the South Pacific, we are not dumping nuclear waste in the South Pacific. To the extent that from time to time we do transport nuclear weapons through the treaty area, that is not an activity which would in any way be prohibited by the treaty which preserves the rights of innocent passage under international law and leaves to each country to decide their policy on ship visits.

As a consequence, there is no doubt that the approval of this treaty by the United States, should we sign the protocols, would in no way compromise the vital interests of our country.

There was some concern expressed in our hearings that even if the Treaty of Rarotonga was not incompatible with American security interests, that nevertheless there were other areas of the world where the establishment of a nuclear free zone, such as Central Europe, for example, might very well not be in our security interests. And the concern was expressed that the American approval for the Treaty of Rarotonga might set a precedent which would lead to the establishment of nuclear free zones elsewhere.

The fact of the matter is, Mr. Speaker, that the United States has already signed or subscribed to the protocols of several other treaties, including the Treaty of Tlatelolco in our own Hemisphere, the Deep Seabed Treaty, the Outer Space Treaty, the Treaty of Antarctica and others which in one form or another preclude nuclear weapons or establish nuclear free zones. Indeed, the administration testified that the Treaty of Rarotonga is completely consistent with the criteria we have previously established to determine whether or not any particular nuclear free zone is in our interest. This admission convinced many of my colleagues conerned abut nuclear proliferation to support this legislation.

The adoption of this resolution is so timely today because while the treaty was being considered, the drafters of the Treaty, and particularly our friends in Australia, went to great lengths to accommodate United States interests and to negotiate out of the treaty any provisions that might create problems for the United States. Yet having succeeded in that effort, they were unsuccessful, at least so far, in persuading the United States to actually sign and ratify the protocols of the Treaty of Rarotonga.

As a consequence, not only do our friends, particularly in Australia, to some degree feel let down, having moved might and mind on our behalf to make the treaty acceptable to us, but we also seem to have given the Soviet Union a gratuitous and utterly unnecessary opportunity to bang us over the head by virtue of the fact that they have signed the protocols to the treaty while we have not. The Soviets, to be sure, have signed the protocols only after issuing statements of reservations which have the effect of rendering the treaty null and void, and the countries of the South Pacific have rejected the approval of the Soviet Union on those grounds.

But nevertheless, the Soviets are in a posture of supporting the treaty, while we appear to be in a posture of opposing it, when in fact we have announced our intentions to abide by its terms.

Finally, Mr. Speaker, the protocols to the treaty would require us to pledge to refrain from using nuclear weapons or even the threat of using nuclear weapons or even the threat of using nuclear weapons against the South Pacific countries that have signed the treaty. I simply cannot believe, Mr. Speaker, that it would in any way diminish the security interests of our country if we were to pledge to the world never to threaten the use of nuclear weapons against Fiji or New Zealand or Australia or the other friendly democracies in that part of the world.

So I think Mr. Speaker, that if we adopt this resolution today we will send a message to the people of the South Pacific that we are sensitive and sympathetic to their desire to create a nuclear free zone in their part of the world.

We also would send a message to our own administration that the Congress of the United States, at least the House of Representatives, believes that it would be in our national interest to sign the protocols to the treaty, and we commend the South Pacific forum countries for their efforts in drafting and adopting this important Treaty. After our action, the administration can then take these views into consideration and decide how best to proceed so that the important goal of preventing further nuclear proliferation can be accomplished.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 158, a resolution which urges the President to seriously consider signing and ratifying the protocols to the Treaty of Rarotonga, more commonly referred to as the South Pacific Nuclear Free Zone Treaty.

As the resolution points out, the treaty essentially bans the testing, manufacture, acquisition, and stationing of nuclear weapons in the territories of parties to the agreement and calls on the nuclear powers to sign three protocols which would bind them to abide by the treaty's provisions in their territories in the region, to refrain from testing in the region, and not to contribute to violations of the treaty or threaten to use nuclear weapons against its parties. The treaty preserves international freedoms of airspace and the high seas and does not ban port visits by nuclear-powered or nuclear-armed vessels.

As a cosponsor of the legislation, and as the ranking minority member of the Subcommittee on Asian and Pacific Affairs which held recent hearings on this treaty, I believe the body of information available on this treaty supports the thesis that U.S. adherence to the protocols to the South Pacific nuclear free zone is compatible with the national interests of the United States, a conclusion which is noted in the preamble to the resolution.

Even the administration, which has thus far declined to lend U.S. signature to the three protocols to the treaty, has declared that United States practices and activities in the region are not inconsistent with the South Pacific Nuclear Free Zone Treaty or its protocols. And, in making its statement last February, the administration made clear that it was not signing "under current circumstances", thus distinctly leaving open the prospect of a future decision by the United States to sign.

While I believe that the United States by its statements has gone a long way toward meeting the basic underlying nuclear concerns of the countries in the region, I would hope that at some point in the near future, the United States would find its way clear to undertake the next logical steps to codify its position under international law.

In addition, I would point out that this is not the first treaty which seeks to limit the spread of nuclear weaponry. The United States is already a party to the protocols to the Treaty of Tlatelolco which require of us basically the same kinds of commitments the South Pacific Nuclear Free Zone Treaty would and the United States is also a party to other treaties—the Antarctic Treaty, the Outer Space Treaty, and the Seabed Treaty—which obligate us not to place or test nuclear weapons in those regions. The Treaty of Rarotonga is also compatible with our obligations under the Nuclear Nonproliferation Treaty not to transfer nuclear weapons to nonweapons states or to assist such countries in acquiring such weapons.

The administration also testified at hearings held by the Subcommittee on Asian and Pacific Affairs that it supports nuclear-weapons-free zones in other regions of the world—Africa, the South Asian subcontinent, and the Middle East. In fact, as recently as December 1986, the United States voted at the U.N. General Assembly in favor of a resolution calling for a nuclear weapons free zone in South Asia.

The United States also has a set of seven criteria by which to judge proposals for nuclear-weapons-free zones and the Treaty of Rarotonga, as House Concurrent Resolution 158 notes, satisfies those criteria.

If for any reason the United States should, in the future, find itself in a position where its activities and practices in the region were no longer compatible with the treaty or its protocols, the United States could protect its interests by withdrawing from the protocols.

Mr. Speaker, as long as our policies are consistent with the goals of the Treaty of Rarotonga, it is irrational not to embrace reasonable efforts of this nature. Failure to do so only makes us appear to be in league with those who are not so sensitive, as is the United States, to the nuclear concerns of the region, such as the French who continue to engage in nuclear testing in the South Pacific.

I believe House Concurrent Resolution 158 is a step in the direction of strengthening our relationships with the island states of the South Pacific and undercutting any potential political gains the Soviets might attempt to achieve at our expense.

House Concurrent Resolution 158 is a moderate resolution in that it urges the President to give serious consideration to the protocols but in no way dictates that the President must sign.

Mr. Speaker, I urge the unanimous adoption of House Concurrent Resolution 158.

Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the full committee, the gentleman from Michigan [Mr. Broomfield].

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman from Iowa for yielding this time to me.

Mr. Speaker, I had certain reservations regarding this resolution in its original form. Changes were made in the resolution to express congressional support for the concept of having the administration consider signing the protocols to the South Pacific Nuclear Free Zone Treaty, rather than directing the administration to take action.

I would like to thank Chairman Fascell of the Committee on Foreign Affairs, as well as Mr. Solarz and Mr. Leach, the chairman and ranking Republican member of the Subcommittee on Asian and Pacific Affairs, for working together to ensure a balanced resolution.

Prior to reporting this resolution, the committee accepted my amendment which changed the resolving clause to include a more specific recognition that the nuclear free zone would not prohibit the operations of U.S. military forces in the region.

Even more importantly, the amendment made clear that through this resolution the Congress is calling upon the administration to seriously consider agreeing to the protocols.

This puts the ball back where it belongs—with the President, who has primary constitutional responsibility to judge the wisdom of having the United States enter into binding treaty commitments.

As a result of this amendment, I do not oppose the resolution.

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As a result of the amendments that have been adopted in the committee, I do not oppose the resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, while I rise in support of House Concurrent Resolution 158, the resolution that urges the President to seriously consider the United States signing and ratifying the protocols to the Treaty of Rarotonga, I want to voice my concern regarding a number of issues which have been addressed by amendments to the original legislation.

It should be clear that a country can participate in defense alliances with nuclear deterrence and also have nuclear free laws. The Treaty of Rarotonga is consistent with the Anzus Treaty since it does not prohibit port calls by nuclear-armed or nuclear-powered naval vessels. Although the ANZUS Treaty has been deactivated due to New Zealand's lack of security cooperation, a reexamination of the Treaty of Rarotonga and New Zealand's nuclear-free laws reflects New Zealand's desire to be nuclear free is compatible with a nuclear-capable ANZUS defense alliance.

The United States has enjoyed uninterrupted mutual security cooperation from a number of Pacific island countries for over a century. However, for the past four decades the United States has relied upon the ANZUS Treaty as the primary security agreement for the Pacific. Now, with the deactivation of ANZUS, the United States should seek to strengthen defense commitments to Pacific island countries who relied upon the ANZUS umbrella for their security. Many Pacific island countries have remained friends of the United States and have kept their ports open to our ships. It is incumbent upon the United States to recognize and meet the security needs of these Pacific islands through formal commitments, such as a treaty of friendship, navigation, and commerce.

The failure of the United States to fulfill the expressed security needs of Pacific island countries may have two undesirable outcomes. Ports that were once open to our naval vessels will be slammed shut by legislative action by island countries whose security needs were not met by the United States or, other countries, such as the Soviet Union, will meet those security needs through direct commitments, thereby gaining base and landing rights.

Within the next year, the South Pacific will see Soviet fishing vessels regularly using the port facilities in Vanuatu. There are strong indications that the Soviets will establish an operations base for the maintenance of fishing, merchant and other ships at the World War II, United States-built port of Espiritu Santos in Vanuatu. Charter flights of the Soviet Airline Aeroflot from Cam Ran Bay to Vanuatu are reportedly to begin once the extension of the Vanuatu Airport is completed.

The Soviets have recently offered to assist the Republic of Nauru in rehabilitating their island which was intensively mined by the British, Australia, and New Zealand prior to Nauru's independence. Nauru is located on the Equator in the middle of the Pacific and has been a prospective site for rocket launches due to the increased payload efficiency.

The Soviet desire to establish relationships in the Pacific is well-known. To date, they have only been moderately successful.

The United States must seriously undertake to respond to the defense needs of the islands by developing bilateral security commitments. I believe such arrangements would be received as positive and constructive and consistent with the spirit of the Treaty of Rarotonga.

The United States has been derided by some for its decision to not sign the protocols although announcing at the same time that the United States would abide by the principles of the Treaty of Rarotonga. It is the Soviets who should be castigated for signing yet stating that they would not abide by the treaty and the resolution now does pursuant to an amendment I offered the Soviet Union's reservation which accompanied their signature amounts to nuclear blackmail against the countries party to the treaty. The Soviets stated that if any signatory country admitted a nuclear capable vessel into their territory, they would no longer honor the protocol pledging not to use or threaten to use nuclear weapons.

I, for one, take strong exception to such a coercive position and expect that those stated reservations will be removed by the Soviet Union. The resolution has been amended to clearly state that the Soviet reservation has the effect of posing a nuclear threat to nations party to the treaty which freely engage in peaceful cooperation with the United States.

I want to acknowledge the efforts of our many friends in the South Pacific who worked to develop the Treaty of Rarotonga. It was a formidable task to formulate a treaty that would provide for a zone of peace in the Pacific, and be compatible with the need for strong deterrence until our world is truly free and nuclear free.

I also want to commend my colleagues who have shown so much interest in Pacific issues. A considerable amount of time has been spent on this and other island-related legislation that is vitally important to the United States. The Pacific is changing at an accelerating pace. It is in the interest of the United States to stay in tune with the many changes in the Pacific and to take a responsive and leading role in maintaining a stable region for the economic and security interests of all.

Mr. LEACH of Iowa. Mr. Speaker, the minority would like to express its appreciation to Chairman SOLARZ for bringing forth this resolution.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion I want to express my appreciation to my friends on the other side of the aisle, particularly the gentleman from Iowa [Mr. LEACH] and the gentleman from Michigan [Mr. BROOMFIELD], who played a very constructive role in helping us to shape this resolution in a way that was compatible with all of our concerns. I do think that although it is a very modest measure, that it is a classic example of how the legislative process can work at its best.

It has been a real pleasure working with these two gentlemen on this and other issues. I only wish that we could somehow or other extend that example to others around here, and then maybe we would make some progress on some of the more pressing problems confronting the country.

Mrs. SAIKI. Mr. Speaker, I rise in support of House Concurrent Resolution 158, which calls on the President to "seriously consider" signing and ratifying the protocols to the Treaty of Rarotonga. That treaty, which I endorse, establishes a South Pacific nuclear free zone.

The nations and territories of the South Pacific have long been among our closest friends and allies. During World War II, American forces liberated many of those islands. That memory is still alive.

Now the people of the South Pacific are asking us to support them in their desire for a peaceful region. They have drafted the Treaty of Rarotonga, which establishes a South Pacific nuclear free zone.

Mr. Speaker, the United States can and should support the treaty. This regional document in no way hinders our legitimate security interests. Our Armed Forces will still be able to carry out their missions across the Pacific in a matter consistent with international law.

The Treaty of Rarotonga asks of the nuclear powers three things: That we not manufacture, station or test nuclear weapons within their territories in the zone; that we not threaten to use or use nuclear weapons against a regional signatory; and we not test nuclear weapons within the zone.

Mr. Speaker, it would be a sorry day indeed for the United States if we could assure the people of Fiji, Kiribati or Niue, among others, that they are safe from nuclear intimidation by our Nation.

The Treaty of Rarotonga is a call for peace by people who have known war.

I urge my colleagues to support this concurrent resolution and support the hopes of our friends and allies in the Pacific islands.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 158, relating to the establishment of a South Pacific nuclear free zone. The treaty, established by the countries of the region and ratified by many of them last year, is fully consistent with U.S. security interests in the region, especially the nonproliferaton of nuclear weapons. It is very similar in form and content to the Treaty of Tlatelolco, which established a nuclear-weapons-free zone in Latin America. The countries of the South Pacific region made the sovereign decision to forswear the acquisition or manufacture of nuclear weapons. It is only right, therefore, that those nations which possess nuclear weapons provide a guarantee against the use, or threat of use, of those weapons against the nonnuclear countries of a region such as the South Pacific. Such a policy underscores the longstanding U.S. commitment to nonproliferation and applauds the decision of those countries to foreclose their own nuclear option.

The resolution recommends that the President seriously consider signing and ratifying the protocols to the treaty, the elements of which are fully consistent with the administration's own criteria for adhering to such arms control regimes. The Soviet Union has ratified the protocols to the treaty in a craven and dishonest fashion, expressing five reservations which in effect deny the pledge not to threaten the use of nuclear weapons to those countries which cooperate with the United States. The resolution was amended in the Foreign Affairs Committee to take note of this disingenuous act. Finally, the resolution was amended to reflect the fact that the treaty is fully consistent with the Anzus Treaty, and leaves to each country the decision whether or not to allow port visits by the U.S. Navy.

For all these reasons, relating to nonproliferation, equity, and national security, the resolution deserves the support of all Members, and I urge its adoption.

Mr. ATKINS. Mr. Speaker, I rise in support of this resolution urging the administration to sign and ratify the Treaty of Rarotonga.

There are two different strategies for bringing the nuclear arms race under control: The "encirclement strategy" of which nonproliferation is the centerpiece, and the "frontal assault" strategy with United States-Soviet limitations as its goal. Both are essential, and trumping up one to make daily headlines out of Geneva doesn't diminish the importance of the other.

By failing to sign the Treaty of Rarotonga and supporting this nuclear free zone, we are missing an opportunity to further the goal of arms control. And, we are telling a part of the world uniquely familiar with nuclear detonations that we regard their deeply held principles and carefully crafted treaty as irrelevant. Is it only the United States that can dictate the terms for arms in the world, rendering irrelevant the work of other nations?

The real hostility toward this treaty in the current administration, I am convinced, is that we might find ourselves reviving the old domino theory. Other areas of the world might wish to adopt nuclear free zones and then, heaven forbid, we might have an outbreak of peace.

Therefore, I urge my colleagues to vote to urge the administration to favorably consider this treaty.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Torres). The question is on the motion offered by the gentleman from New York [Mr. Solarz] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 158, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NEW ZEALAND MILITARY PREFERENCE SUSPENSION ACT

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 85) to eliminate security assistance and arms for export preferences for New Zealand and for other purposes, as amended.

The Clerk read as follows:

H.R. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Zealand Military Preference Suspension Act".

SEC. 2. STATEMENT OF FINDINGS AND POLICY.

(a) Findings.—The Congress finds that—

(1) the people of the United States enjoy a longstanding friendship and close association with the people of New Zealand, and not only share common democratic values, heritage, and national interests but have fought side-by-side in the two World Wars of this century as well as the Korean conflict and the Vietnam conflict, and have participated jointly in numerous multilateral peacekeeping efforts under United Nations and similar auspices;

(2) visits to New Zealand ports by United States naval vessels are a part of this historical, overall framework of military cooperation and coordination which includes many other functions of benefit to all parties to the ANZUS Treaty;

(3) the recent codification of New Zealand Government policy to deny port access to United States ships which might be nuclear powered or nuclear armed is incompatible with the "neither confirm nor deny policy" of the United States, has raised serious operational difficulties for United States naval forces in defending the national security interests of the United States and its allies, and impairs the objective of maximum military cooperation between the United States and New Zealand under the ANZUS Treaty;

(4) the President has taken appropriate action in response to New Zealand's diminished defense cooperation with the United States by suspending United States obligations to New Zealand under the ANZUS Treaty, as announced in August 1986; and

(5) important aims of United States policy, in reaction to the port policies and law of New Zealand, must be to maintain the ANZUS Treaty alliance structure during the absence of New Zealand, to look forward to New Zealand's early return to a normal trilateral defense relationship, and to deny the Soviet Union any potential benefit it might otherwise derive from this temporary discord in the ANZUS Treaty alliance.

(b) New Zealand Should Reconsider Its Policy.—The United States urges the Government of New Zealand—

(1) to reconsider its decision and law denying port access to certain United States ships, and

(2) to resume its fulfillment of its obligations under the ANZUS Treaty.

(c) ANZUS Treaty.—As used in this Act, the term "ANZUS Treaty" means the Security Treaty Between Australia, New Zealand, and the United States.

SEC. 3. SECURITY ASSISTANCE AND ARMS EXPORT CONTROL PREFERENCES FOR NEW ZEALAND.

(a) Suspension of Preferences.—Section 515(a)(6) of the Foreign Assistance Act of 1961 and sections 3(d)(2)(B), 21(e)(2), 21(g), 36(b)(1), 36(b)(2), 36(c)(2)(B), and 63(a)(2) of the Arms Export Control Act shall apply with respect to New Zealand only if the President determines, and reports to the Congress, that New Zealand is complying fully with its obligations under the ANZUS Treaty.

(b) Assignment of United States Military Personnel To Manage Defense Cooperation Measures.—Section 515(a)(6) of the Foreign Assistance Act of 1961 is amended by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand".

(c) Charges for Certain Arms Sales Costs.—Section 21(e)(2) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand".

(d) Cooperative Military Training Agreements.—Section 21(g) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand".

(e) Congressional Review of Arms Transfers.—The Arms Export Control Act is amended—

(1) in section 3(d)(2)(B), by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand";

(2) in section 36(b)(1), by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand" in the second sentence following subparagraph (P);

(3) in section 36(b)(2), by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand";

(4) in section 36(c)(2)(B), by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand"; and

(5) in section 63(a)(2), by inserting "(if the President has made the determination described in section 2(a) of the New Zealand Military Preference Suspension Act)" after "New Zealand".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. Solarz] will be recognized for 20 minutes and the gentleman from Michigan [Mr. Broomfield] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. Solarz].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 85, the New Zealand Military Preference Suspension Act, now before us, was drafted and introduced by the gentleman from Michigan, the distinguished ranking minority member of the Committee on Foreign Affairs. He has devoted a good deal of effort and energy in bringing this legislation before us today.

I think he deserves a good deal of credit for his conscientious approach to what could have been a very contentious question but which, as a result of the manner in which he has handled it, has been brought before the House in a fashion which enjoys broad bipartisan support and which expresses, I think, a fairly wide consensus here in the House.

What H.R. 85 in effect would do, is to suspend certain discretionary preferential treatment under the Arms Export Control Act and the Foreign Assistance Act unless the President determines and reports to the Congress that New Zealand is complying fully with its obligations under the ANZUS Treaty. These preferences have been available to New Zealand as a result of the existence of a formal defense and security treaty between our countries which also involves Australia, known as ANZUS. As a matter of law and policy, the United States has extended certain preferences with respect to the acquisition of arms, the training of military officers and the like to allied countries whom we have formal defense relationships, such as our NATO allies, Australia, and Japan.

Unfortunately, a few years ago New Zealand adopted a nuclear policy which, in effect, would have required us to breach our historic and worldwide policy of "neither confirming nor denying the presence or absence of nuclear weapons on any plane or vessel, policy if any of our naval warships were to enter New Zealand waters.

We made it very clear to the New Zealanders that given our global responsibilities we could not and would not repudiate our "neither confirm nor deny" policy under which we refused to disclose whether any of our ships have nuclear weapons on board. As a consequence of New Zealand's unwillingness to either change its policy or permit us to maintain our "neither confirm nor deny" policy, we were put in a rather awkward position of not being able to have any of our warships enter New Zealand waters, or to put in at New Zealand harbors.

It was a very understandable feeling on the part of the administration, shared by most of us in the Congress, that there was no way in which we could continue to justify the maintenance of a defense commitment to an island country into whose waters our ships were not permitted to sail.

Consequently, in August 1986 the President announced that the United States was suspending its defense commitment to New Zealand within the framework of the ANZUS Treaty, until such time as New Zealand was prepared to modify its nuclear policy so we could send our ships into its territorial waters.

At the same time the administration also served notice on New Zealand that pending its restoration as a full-fledged member of the alliance enjoying a complete American defense commitment, these minor privileges and preferences, which they had been previously given, would no longer be available to them.

The legislation before us today, therefore, simply codifies what is already American policy on these preferences.

At the same time, as a result of an amendment that was adopted in the committee, the President would be entitled to restore these privileges and preferences to New Zealand at any time in the future that New Zealand modifies its policy in such a way as to enable us to fulfill our defense commitment to that country.

Mr. Speaker, there were some Members who, in the wake of our rupture with New Zealand, following the adoption of its new nuclear policy, argued that we should impose sanctions against New Zealand to force the New Zealanders to change their policy.

Fortunately, cooler and wiser heads prevailed. We may have our differences over defense issues with New Zealand, we certainly have our differences with them on nuclear questions, but there can be little doubt but that New Zealand is one of our closest friends in the entire world.

New Zealand has fought with us in four wars in this century. They share our values, they share our culture, they share our language, they share our commitment to democratic values.

I doubt there is another country in the world which is as friendly to the United States as New Zealand, and one does not treat friends in such a fashion.

Furthermore, if the only way to sustain a defense relationship with a country is to bludgeon and browbeat them into agreeing to do what we want them to do, that is not a defense relationship worth having.

An alliance can only be maintained among friendly and democratic countries if it is an alliance entered into by the free will of the nations involved. To be viable, an alliance must be voluntary.

So I am pleased that this legislation not only foregoes imposing any sanctions against New Zealand, but, thanks to language proposed by the gentleman from Iowa [Mr. LEACH] strongly reaffirms the desire on the part of the American people to resume a close and constructive defense relationship with New Zealand, and for the retention of close ties between our two countries.

Finally, Mr. Speaker, let me say to those of my friends on this side of the aisle who may be concerned about how the New Zealanders will react to this, that we have received word from some of the highest officials in the New Zealand Government and from their Embassy here in Washington that they fully anticipated the adoption of this legislation. They consider it, actually, in a certain sense a reaffirmation of the American desire for friendship with New Zealand.

I do not think they are particularly discomforted by it. But I do think it is the very least we could do.

New Zealand adopted legislation which put into law a nonnuclear policy which unfortunately made it impossible for us to fulfill our defense commitments to them. You cannot come to the rescue of an island nation if you cannot send your ships there.

And I think that in light of the adoption of that antinuclear legislation by New Zealand in June some response on our part was called for. I pay tribute to the gentleman from Michigan, one of the most seasoned diplomats in the House of Representatives. After his many years of distinguished service in this body—and he has seen them come and go, he has been here through war and peace—that in his wisdom and maturity, he was able to craft legislation which sends a gentle message to our friends in New Zealand. We hope they come back into the fold, like the good friends they are. But until they do, they should recognize they cannot continue to enjoy all of the perquisites and privileges they were entitled to as formal allies of the United States.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just hope the people of Michigan are tuned in to hear those nice comments of the gentleman from New York. I am very grateful. He is a tremendous member of the Committee on Foreign Affairs. I especially want to thank him as well as the gentleman from Iowa for their work in helping get this bill through the committee and to have such broad support.

Mr. Speaker, I am grateful for this opportunity to speak in favor of H.R. 85, the New Zealand Military Preference Suspension Act.

I particularly wish to thank the members of the Foreign Affairs Committee—especially Chairman FASCELL and the chairman and ranking member of the Subcommittee on Asian and Pacific Affairs, Mr. SOLARZ and Mr. LEACH—for their efforts in support of this legislation.

I introduced H.R. 85 on January 6 because of my concern over the direction of New Zealand policy with respect to the security relationship between New Zealand and the United States.

On June 4, 1987, the New Zealand Parliament enacted into law the policy the New Zealand Government adopted 2 years earlier that prevents United States Navy ships from entering New Zealand ports. The decision of the Government of New Zealand to enact this policy into law casts a further shadow over the future security relationship of the United States and New Zealand.

Ever since New Zealand refused to accept the visit of the U.S.S. *Buchanan* in February 1985, New Zealand has blocked access by United States Navy ships to enter New Zealand ports because they might carry nuclear weapons. The New Zealand Government has demanded that the United States identify which of its ships carries nuclear weapons, and has indicated that only those ships that do not carry such weapons may enter New Zealand ports.

The United States has a unitary navy, not separate nuclear and nonnuclear navies. Moreover, in order to safeguard the security of the United States and its allies, as well as to protect naval personnel at sea, the United States must maintain a firm policy of declining to confirm or to deny whether particular United States Navy ships carry nuclear weapons. Thus, the New Zealand policy has effectively banned United States Navy ships from New Zealand ports since February 1985.

The Australia-New Zealand-United States Defense Treaty—commonly referred to as ANZUS—is a critical element in the Western alliance system whose global defense strategy has successfully deterred major warfare in the four decades since the Second World War. Under the ANZUS Treaty, United States forces constitute an important deterrent to hostile action by the Soviet Union and other countries that might threaten United States and allied security, endanger regional stability, or block vital sealanes of communication in the Pacific.

The United States has exercised considerable patience in responding to New Zealand's breach of its ANZUS Treaty obligations. With the hope that New Zealand might abandon its ship-ban policy and resume its security obligations, the United States initially chose to leave the treaty regime and its mutual military support arrangements intact.

By August 1986, however, New Zealand's intransigence became clear, and the United States—with the concurrence of Australia, the other treaty partner—suspended its security obligations to New Zealand.

New Zealand remained committed to its policy banning United States Navy ships from its ports. For this reason, in February 1987 the United States informed New Zealand that it would not renew or renegotiate the expiring United States-New Zealand memorandum of understanding which provided for mutual military support arrangements.

On June 4, the New Zealand Parliament enacted the New Zealand Nuclear Free Zone, Disarmament and Arms Control Act. That act makes all New Zealand territory, waters, and airspace a nuclear-free zone; prohibits the entry of nuclear-powered ships; and prohibits the entry of foreign military aircraft and ships unless the Prime Minister is satisfied that they will not be carrying any nuclear explosive device.

Beyond this, Prime Minister David Lange of New Zealand has explained his Government's policy by stating that New Zealand wishes to disengage its defense from all nuclear activities.

The effect of the New Zealand Disarmament Act is to place in law the ban on United States Navy ships entering New Zealand ports. It is not likely that this important legal development will be reversed in the near future.

The decision of the Government of New Zealand to enact the ship ban into law therefore constitutes a major turning point in the United States-New Zealand security relationship.

I have received letters from Secretary of Defense Weinberger, National Security Adviser Frank Carlucci, former Secretary of the Navy John Lehman, and a representative of the State Department indicating to me that the enactment of H.R. 85 would be an appropriate response after the passage of antinuclear legislation by New Zealand. I ask that copies of their letters be entered into the Record at the conclusion of my remarks.

New Zealand has every sovereign right to exclude United States Navy ships from its ports, but that decision has necessary consequences. New Zealand cannot expect to enjoy the benefits of a close defense alliance with the United States without accepting the burdens that go with it. New Zealand has made the decision to shift its security relationship with the United States from alliance to simple friendship. After waiting with patience and hope for New Zealand to change its mind, the United States must now accept New Zealand's sovereign decision about its future course.

The time has come to adjust U.S. law to reflect this new reality.

Accordingly, I encourage the House of Representatives to act favorably on H.R. 85, the New Zealand Military Preference Suspension Act. This bill would suspend New Zealand from the list of allies—NATO countries, Japan, Australia, and New Zealand—entitled to preferential treatment under various provisions of the Foreign Assistance Act of 1961 and the Arms Export Control Act.

The bill would shift New Zealand's status under those statutes from that of an allied country to that of a friendly country, reflecting the new security relationship with the United States that New Zealand has chosen for itself.

The bill is a measured and proportionate response to New Zealand's decision to enact into law its United States ship ban. Under the bill as reported by the committee, the President could reinstate the military preferences if he determined that New Zealand had once again taken up its security obligations under ANZUS.

This bill does not impose any economic or other sanctions on New Zealand. The United States and New Zealand enjoy, and should continue to enjoy, close economic, political and cultural ties, even though close security cooperation has ended by New Zealand's choice.

The United States greatly regrets the choice New Zealand has made to leave the group of America's military allies. Nevertheless, it was New Zealand that banned visits by United States naval vessels and has made this action permanent through legislation.

Congress should adjust United States law to reflect this new, diminished relationship, by enacting the New Zealand Military Preference Suspension Act.

At this point in the Record I include the following letters:

The Secretary of Defense,
Washington, DC, March 26, 1987.

Hon. William S. Broomfield,
Committee on Foreign Affairs, House of Representatives, Washington, DC.

Dear Congressman: Thank you for giving me a copy of H.R. 85, The New Zealand Military Preference Elimination Act, at the House Foreign Affairs Committee hearing on February 18. I appreciate this opportunity to provide our comments.

We have argued consistently with the Government of New Zealand that enactment of its anti-nuclear policies into law would be counterproductive in resolving the port access issue and would contribute to further erosion of our bilateral relationship. For this reason, we believe that passage of U.S. legislation would be appropriate if and when New Zealand enacts its anti-nuclear bill currently before the Parliament.

On February 25, I met with Douglas Kidd, the Defense Spokesman of the National Party of New Zealand. He commented that while New Zealand parliamentary legislation can be repealed with a change in the party in power, U.S. legislation might prove to be more permanent, possibly creating difficulties for those who seek to restore New Zealand's place in the alliance. In general, he expressed the opinion that the proposed legislation would not be helpful at this juncture. I pass these comments on for your consideration, knowing that restoration of the ANZUS alliance is your primary goal.

Sincerely,

Cap.

The White House,
Washington, DC, February 17, 1987.

Hon. William S. Broomfield,
House of Representatives,
Washington, DC.

Dear Bill: Thank you for seeking my views on H.R. 85, your bill to eliminate preferences for New Zealand. In essence, I like your proposal, but I'd like it even better later. The Administration has been telling the New Zealanders that it would be a mistake for them to enact their anti-nuclear legislation into law. To do so will only make it much more difficult for New Zealand to resume its responsibilities as an ally if and when that time comes.

We have been terminating special aspects of the alliance relationship as they come due for review. A recent example was the expiration of our bilateral Memorandum of Understanding on FMS sales. We have not sought legislation, however, out of concern that we not force the New Zealanders to set Prime Minister Lange's policy into legal concrete.

I think your bill would be very helpful if it hits the floor just after the New Zealand Parliament passes the anti-nuclear legislation. our estimate is that will occur in August or later. I recognize how difficult it is to finetune the timing of bills before our Congress.

If there is a way to delay action on H.R. 85, I would welcome your doing so. When New Zealand enacts its legislation, we will be at somewhat of a loss for an appropriate response. Your bill would then be a real help. If, however you feel you need to press ahead now with H.R. 85, we will not oppose you.

I'm grateful you gave me a chance to comment on your proposal. I appreciate how helpful you have been and will be, and have every intention to maintain our cooperation.

Frank C. Carlucci.

THE SECRETARY OF THE NAVY,
Washington, February 17, 1987.
Hon. WILLIAM S. BROOMFIELD,
House of Representatives, Washington, DC.

DEAR MR. BROOMFIELD: Thank you for the copy of your recent letter to Secretary of State Shultz concerning New Zealand's non-nuclear policy. New Zealand's present policy regarding visits by U.S. Navy ships is unacceptable. Our longstanding defense policy of neither confirming nor denying the presence of nuclear weapons aboard any U.S. Navy ship is based on sound military considerations.

New Zealand has set an alarming precedent by refusing to accept an ally's naval ship visits in its ports. If we do not make a firm response to such a policy, the temptation to implement similar policies elsewhere in the world will become more irresistible and obviously cost-free. If New Zealand is unwilling to participate in all aspects of alliance defense, then New Zealand should not look forward to receiving the many benefits such a relationship provides.

Our Navy and our nation rely on the cooperation of our allies and friends in providing resupply bases for our ships which are deployed throughout the world in support of U.S. and allied interests. When allies enter into mutual defense agreements, their solidarity enhances a region's stability, thus encouraging the development of trade. Although every nation has unique areas of concerns, neither the United States nor any of her allies has ever before allowed national political agendas to evolve into issues that would cause harm to their mutual defense compacts.

Sections 2213, 2401a and 7227 of Title 10 of the U.S. Code state that the President may grant preferential treatment to allies, if he so chooses, in the areas of military airlift, communications support, and naval supplies and services. The President's current policy in the case of New Zealand is that there is no special preference. Since the U.S. security obligation to New Zealand under ANZUS has been suspended, New Zealand has been given no benefits of alliance. Additionally, any agreements that were suspended during the past two years are being allowed to expire when their renewal dates occur. For example, the U.S.-New Zealand Memorandum of Understanding on Logistical Support will expire in June.

The legislation you have proposed, the "New Zealand Military Preference Elimination Act," will certainly aid in focusing attention on the degree of New Zealand's commitment to mutual defense issues involving the United States. The 100th Congress has an opportunity to address a vital issue of national security. I look forward to working with you and your staff to resolve this most important problem.

Sincerely,

JOHN LEHMAN.

WASHINGTON, DC, *February 24, 1987.*
Hon. WILLIAM S. BROOMFIELD,
Committee on Foreign Affairs, House of Representatives.

DEAR MR. BROOMFIELD: This is in response to your letter to Secretary Shultz of January 6 soliciting the Department's views on your legislation to amend the Foreign Assistance Act and the Arms Export Control Act to reflect the current diminished status of our relationship with New Zealand.

As you are aware, the United States has taken a number of actions in the defense and security areas over the past two years in response to New Zealand's denial of normal port access for allied warships. These actions culminated in Secretary Shultz's announcement of the suspension of security obligations to New Zealand under ANZUS last August. Since then we have taken a low-key approach toward a more limited relationship with New Zealand commensurate with our friendly, but non-allied status. We look to the time when New Zealand's port access policies will make it possible to resume a normal defense relationship, and thus have sought to keep the ANZUS structure intact toward an eventual return to trilateral defense cooperation in the region.

The practical impact of your legislation would be limited, given current low levels of defense cooperation with New Zealand. New Zealand pays cash at the prevailing price for military hardware. Purchases being approved are those items normally approved for sale to friendly, non-aligned countries.

We have argued consistently with the Government of New Zealand that enactment of its anti-nuclear policies into law would be counterproductive in resolving the port access issue and would contribute to further erosion of our bilateral relationship. For this reason, passage of U.S. legislation would be appropriate if and when New Zealand enacts the anti-nuclear bill currently before the Parliament.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

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Mr. Speaker, again I want to really thank the gentleman from New York [Mr. SOLARZ] sincerely. If there is any one Member who can work out a difficult problem, he is the one that can do it in the House of Representatives.

Mr. LEACH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the ranking member of the subcommittee.

Mr. LEACH of Iowa. Mr. Speaker, I thank the distinguished gentleman from Michigan for yielding.

I certainly echo everything the distinguished subcommittee chairman said about our distinguished ranking Member. The people of Michigan are well served.

Frankly, though, Mr. Speaker, it is not easy for many of us to support a diminished strategic relationship with New Zealand, no matter how modest that diminished status may be. Few countries share stronger cultural ties and no country has been with us any more than New Zealand in every war in this century.

This bill, however, is the least of the negative alternatives that were considered by Congress. It simply codifies existing policies, but at the same time it makes clear the strong United States preference for the ANZUS structure to remain intact, with the temporary absence of New Zealand. Hopefully, our governmental differences with New Zealand can be put behind, but the people of New Zealand must understand that despite the differences relating to governmental policies, we, the citizens of the United States, will be with them in the event of a future national emergency. Our history and our traditions are more binding than any piece of paper.

Mr. SOLARZ. Mr. Speaker, I yield 2½ minutes to my very good friend, the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank my distinguished colleague, the chairman of the Subcommittee on Asian and Pacific Affairs, the gentleman from New York [Mr. SOLARZ], for this time and also for the improvements made in the bill under his leadership. However, I still do rise in opposition to the proposed legislation.

This is a time when the United States should be turning to its allies and strengthening its relationships around the world, and there is certainly no better ally of the United States than New Zealand. They fought beside us in World War I, in World War II, in Korea, and in Vietnam. Few other countries have that record.

They play a very significant role in an area of growing importance, the South Pacific, in providing for the security needs of that area. They have provided very substantial development assistance in that region, nearly $50 million as compared to the United States' contribution of $14 million.

In short, New Zealand has been a major factor in the peaceful and democratic development of the new nations of the South Pacific and a real force for regional stability. And now we are lessening our ties to that nation and in fact rebuking them for some actions they have taken through their domestic policies.

After New Zealand refused port access to the U.S.S. *Buchanan* in 1985, the administration responded with a wide range of punitive measures, many of which hurt our interests in the region as much as they hurt New Zealand.

There is language in this bill endorsing the administration's response to New Zealand's port ban which goes beyond the preferential military areas. We should not endorse those measures. For instance, the United States has stopped sharing vital intelligence with New Zealand, and we have ceased conducting joint military exercises with New Zealand. The administration's measures clearly impair our ability to respond effectively to any future crisis that might arise in this region. We have cut off our nose to spite our face.

This bill, as amended, does nothing to change the current state of affairs between the United States and New Zealand. It is an unnecessary bill. It perpetuates and supports the shortsighted diplomatic efforts of this administration.

Mr. Speaker, I cannot and will not support this legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I support the legislation H.R. 85, introduced by my colleague, the gentleman from Michigan [Mr. Broomfield] to suspend security assistance and arms control preferences for New Zealand and commend him, Chairman Solarz and Mr. Leach.

It is unfortunate that the security relationship between New Zealand and the United States has diverged from the historically close ties that have been shared in most every area. We have enjoyed a symbiotic relationship economically, socially, and—in the past—militarily. American and New Zealand lives were lost in past conflicts as they fought side by side to defend the mutual goals of democracy and freedom.

The United States has looked to New Zealand and Australia as equal partners in the Pacific. A peaceful and secure Pacific has been maintained during the past four decades due to the strong security cooperation of ANZUS.

Why should anyone seek to change such an effective security relationship that only contributed to the economic and social well-being of the people by providing a stable and secure environment? It appears that New Zealand has traded a time-tested secure Pacific region for a hypothetically hostile-free New Zealand enclave.

New Zealand's utopian views and lack of continued security cooperation in the ANZUS relationship is truly unfortunate as it has disturbed the tranquility of the Pacific basin.

The emerging South Pacific island states have looked to the ANZUS alliance for their security. With the deactivation of ANZUS, a number of the island countries have felt insecure.

During the past decade, some of the emerging South Pacific island countries have looked to the United States for formal defense commitments. Rather than enter into direct bilateral defense arrangements, the United States has pointed to the ANZUS alliance and the security it offers to the Pacific Island states.

With the deactivation of ANZUS, a number of island countries now feel an increased need for some commitment for their defense. Perhaps, it is time for the United States to strengthen and establish direct mutual security relationships with South Pacific island countries.

The desire to eliminate nuclear weapons from New Zealand is understandable. But until nuclear weapons are eliminated worldwide, they are an integral part of any serious defense alliance. A peaceful Pacific basin can be ensured by the reactivation of ANZUS.

I hope that New Zealand will reexamine their current position regarding their security relationship with the United States. I believe their desire for a New Zealand free of the storage, testing, using or disposal of nuclear weapons can be achieved with their complete cooperation in a nuclear-capable ANZUS alliance. Until this type of relationship is obtained, I believe that the United States should suspend security assistance and arms export preferences for New Zealand.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Speaker, let me point out to my colleagues in the House that I fully support this legislation.

I think it ought to be made clear that this legislation does not impose any burdens on New Zealand. It recognizes that they have removed themselves from a special status, and it merely suspends preferences that are available to close security allies. They are no longer a close security ally. They may become one again; I hope so, when the leftwing government understands that it is the United States' nuclear deterrent that has preserved the peace for 45 years. And it seems to me—I hesitate to use the word, but it is true—parasitic to get the benefits of a peace that is borne by the United States and our taxpayers in having a nuclear arsenal that stands as a deterrent to the Soviets' nuclear arsenal and to wash your hands of it and say, "We will have none of it."

It is a burden to be a nuclear power. It costs money, and it costs manpower. But should we feel guilty because we are preserving the peace and stopping a nuclear war? No. It ought to be every country's burden. We do not ask New Zealand to have a nuclear arsenal. We simply ask them to be an ally of ours, as they agreed to be in the ANZUS treaty, and to permit our ships to visit their port. They, by their unilateral action, have stepped outside the ANZUS treaty, and there should be a recognition of that fact by treating them as any other friendly country but not with a special preference that is available to close security allies.

I am tired of this country being made to look as guilty somehow because we have those awful nuclear bombs. I suggest that those awful nuclear bombs have preserved the peace and the tranquility of New Zealand and Australia and all the other countries of the region.

So, Mr. Speaker, I hope this bill passes. It is only simple equity.

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume, and I will be very brief.

Mr. Speaker, let me say, first of all, that it is entirely possible to be in favor of arms control and the reduction of nuclear weapons and still support this bill. I presume and trust that my good friend, the gentleman from Illinois, would agree with that.

Let me simply say that if this were just a question of New Zealand, we might conceivably be persuaded to overlook New Zealand's policy, given our historic friendship with that country. But it involves much more than just New Zealand. We have a network of global alliances with countries in Asia and Europe and elsewhere around the world to whose security we are committed by formal defense arrangements. We have entered into those alliances, not as a favor to foreign countries, but because we believe that those relationships are necessary in order to protect and defend our vital interests.

The fact of the matter is that it is not just in New Zealand but in many other countries around the world where people would like to be free of nuclear weapons. It is an understandable desire. But if we were to accept New Zealand's policy of prohibiting American ships capable of carrying nuclear weapons or ships which are nuclear powered from entering their waters, while maintaining our defense commitment to New Zealand, it would simply encourage other nations with whom we have defense relationships and treaties to adopt similar policies as well. If one country after another, to whom we have these commitments, adopted policies similar to New Zealand's, we would find ourselves in a position where we had worldwide obligations to defend other countries from aggression but where we were unable to send our ships into their waters.

The truth is that many of our naval warships now have nuclear weapons on board. They have nuclear weapons on board because the Soviet navy has nuclear weapons at sea, and we need those weapons in order to defend our Navy. We do not have two navies. We do not have a nuclear navy and a nonnuclear navy; we have one Navy. We cannot have a nonnuclear navy for New Zealand and a nuclear navy to send somewhere else.

So this policy which was adopted by New Zealand is a policy which, if we accepted it, would create potentially serious problems for us elsewhere in the world. As my friends on the other side have indicated, this is a very mild and modest bill. It does not impose any economic sanctions on New Zealand, but it simply codifies in law a basic principle which says, "If you want the benefits of American security commitment, you have to be prepared to accept the responsibilities, and if in your sovereign judgment you decide not to accept the responsibilities, then you lose the benefits."

I think it is a tribute to our country, in comparison to the Soviet Union, that if we have an ally that wants to leave the alliance, that country is free to leave and we do not force them to remain. Ultimately, I think that is why our alliance is a stronger and more meaningful one than that of the Soviet Union. The Soviet Union depends on allies that are likely to turn against them the minute they can escape from the clutches of the country that has dominated them.

So this is really a relatively modest measure. It is entirely symbolic in its effect, but I think it is justifiable, and I think we will be reaffirming an important American principle if we adopt it this afternoon.

Mr. FASCELL. I rise in support of H.R. 85, as amended, which provides for the suspension of security assistance and arms export control preferences for New Zealand. The bill was amended in the Foreign Affairs Committee, and the version we are considering represents a bipartisan approach which passed by voice vote.

The long standing, cooperative military relationship between New Zealand and the United States under the ANZUS Treaty has provided an important counter to widening Soviet influence in the Pacific. Therefore it is unfortunate that New Zealand has chosen to diminish that cooperation by refusing to allow port visits by nuclear-powered or -armed ships. In response, the President has chosen to suspend treaty privileges and coverage for New Zealand. The bill before us simply suspends for New Zealand the preferential treatment typically granted other treaty partners and close allies in licensing arms transfers and providing security assistance. The President may reinstate those privileges if he determines that New Zealand is complying fully with its obligations under the ANZUS Treaty.

The refusal of New Zealand to allow U.S. port visits is a sad development in our close relationship. It is to be hoped that New Zealand will reconsider its policy, and that is of course up to them to decide. Or perhaps another solution to the problem may someday be found. In the interim, however, the rights and privileges of membership in the ANZUS alliance should be suspended. I urge all Members to support the bill.

Mr. DOWNEY of New York. Mr. Speaker, I rise today in opposition to H.R. 85, a bill to eliminate security assistance and arms export preferences for New Zealand. Though I anticipate that I will be one of the few in this Chamber to speak against this bill, I suspect that many of my colleagues join in my sense of apprehension in publicly chastizing one of our Nation's oldest friends for its deeply held conviction on the nuclear question. Finger pointing and legislating punitive measures appears to me to be the less effective way of dealing with New Zealand's antinuclear policy.

I recognize that this bill does not prescribe new sanctions against New Zealand, but rather codifies a preexisting administration policy and urges the New Zealand Government to reconsider its antinuclear position. But in so doing, I am afriad we might accomplish the opposite. This bill, if passed, will fall hardest upon New Zealand's military, those who, as one might imagine, have been more hestitant in accepting the Labor Party's antinuclear policy. We should not overlook this fact. Making a public example of what happens to allies who take a bold, and some might say courageous stand on the nuclear question, may only help to galvanize their position. It is clear that such a development runs contrary to the stated purpose of the bill we have before us.

Mr. MOLINARI. Mr. Speaker, I rise today in strong support of H.R. 85, a bill to eliminate security assistance and arms export preferences for New Zealand. This legislation represents an appropriate and necessary response to New Zealand's breach of the ANZUS treaty that established an alliance between Australia, New Zealand, and the United States in 1951.

My involvement in this issue dates back to early 1985 when New Zealand announced that it would not allow port access to the USS *Buchanan* because the ship might carry nuclear weapons. Although the United States Navy's policy is to neither confirm nor deny the presence of nuclear arms on Navy ships, New Zealand insisted that the United States disclose which ships carried nuclear weapons and announced that it would only grant port access to ships that did not carry such weapons. Shortly after New Zealand announced its port access ban, I sent a cable to the Members of the New Zealand Parliament signed by over 140 Members of the House of Representatives asking New Zealand to reconsider its position on the port access issue in light of its obligations under the ANZUS treaty.

In August 1986, after it had become clear that New Zealand would not modify its position on the port access issue, Secretary of State Shultz announced that the United States had officially suspended our security obligations under the ANZUS treaty. On June 4, 1987, New Zealand took the final step of enacting its port access ban into law by passing the New Zealand Nuclear Free Zone, Disarmament and Arms Control Act.

Mr. Speaker, I have a special interest in this issue. A few years ago, the Navy made the decision to base a seven ship surface action group in Staten Island in my congressional district. The base is right now under construction. Groups opposing the Staten Island homeport have asked about the presence of nuclear weapons on the ships of the surface action group. These groups have been given the same response as the New Zealanders: that because of national security imperatives, the United States will neither confirm nor deny the presence of nuclear arms on ships. My constituents have demonstrated overwhelming support for the Staten Island homeport. They recognize that defense entails both blessings and burdens. New Zealand must realize this as well.

By passing H.R. 85, the United States is responding to New Zealand's repudiation of the ANZUS alliance. While the legislation suspends preferential treatment for New Zealand with respect to security assistance and arms exports from the United States, H.R. 85 does not impose sanctions on New Zealand. In addition, the legislation urges New Zealand to reconsider its port access policy and resume fulfillment of its ANZUS obligations. I sincerely hope that New Zealand will do just that.

In closing, let me suggest to my colleagues that both our nations have policies of integrity, policies rooted in and reflective of our national interests. Recognizing that fact, I am certain that there are more effective ways to approach both this issue and our shared goal of a safer, more secure world for our children.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and pass the bill, H.R. 85, as amended.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1725

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 85, the bill just considered.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from New York?

There was no objection.

CALLING FOR IMMEDIATE RELEASE OF ALL CHILDREN DETAINED UNDER STATE OF EMERGENCY REGULATIONS IN SOUTH AFRICA

Mr. WOLPE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 141) calling for the immediate release of all the children detained under the state of emergency regulations in South Africa, as amended.

The Clerk read as follows:

H. RES. 141

Whereas the Government of the Republic of South Africa under its system of apartheid indiscriminately and repeatedly has detained black children without charge or trial and has denied parental access to such children for extended periods of time;

Whereas the Detainees' Parents' Support Committee of South Africa has compiled information estimating that more than 25,000 people have been detained since June 12, 1986, under state of emergency regulations, of whom approximately 10,000 were children, some as young as age 10;

Whereas the Government of the Republic of South Africa has admitted on numerous occasions that it has detained childen without charge, and that on a certain day in December 1986 256 children under the age of 16 were in detention, that on a certain day in February 1987 281 children under the age of 15 were in detention, that on a certain day in April 1987 1,424 children under the age of 18 were in detention, and that on a certain day in May 1987 280 children under the age of 16 were under detention;

Whereas human rights groups in South Africa estimate that many more children have been detained under the state of emergency regulations than the Government of the Republic of South Africa admits and that approximately 700 to 1,000 children currently are being detained;

Whereas the state of emergency regulations authorize the detention of individuals without charge for an indefinite period of time; and

Whereas the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11": Now, therefore, be it

Resolved, That the House of Representatives—

(1) calls for the cessation of the practice of detaining, without charge or trial, children under 18 years of age in South Africa;

(2) calls for the immediate release of all children currently under detention in South Africa under state of emergency regulations and other laws which authorize detention without charge or trial; and

(3) pending the release of children under detention, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel;

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food, clothing, and protection; and

(D) permit a recognized independent and impartial international humanitarian organization to verify that the provisions of this resolution are being carried out and that the detained children are not being abused, tortured, held in solitary confinement, or held under detention in the company of adults.

The SPEAKER pro tempore. Is a second demanded?

Mr. BURTON of Indiana. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. WOLPE] will be recognized for 20 minutes and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to urge support and passage of a Foreign Affairs Committee amended version of House Resolution 141 which passed unanimously in both the Subcommittee on Africa and the full Foreign Affairs Committee.

This resolution, sponsored by Congresswoman CARDISS COLLINS maintains bipartisan support and has more than 100 cosponsors. House Resolution 141 calls for:

First, the immediate release of children detained by the South African Government under the state of emergency and other laws which authorize detention without charge or trial;

Second, the cessation of the practice of detaining children under 18 years of age; and

Third, parental and legal access, along with permitting a recognized independent and impartial international humanitarian organization to monitor and verify the conditions of children in detention in South Africa.

The Senate under the sponsorship of Ms. MIKULSKI and Mr. HELMS has adopted a similar amendment which was attached to the State Department authorization last week.

The issue of children in detention in South Africa is, unfortunately, not a new phenomena in South Africa. As early as the Soweto Uprisings in 1976, the South African Government has regularly assaulted and detained children.

This horrendous practice of incarcerating children, and holding them indefinitely without charge or trial is only one example of the actions that the South African regime has undertaken to maintain control. The South African Government continues to jail its political activists; to jail its labor leaders; and to attack people in the streets of South Africa. All of these repressive acts are a reminder that the South African Government survives not as a result of consensus but only as a result of the coercive means at its disposal.

Since the July 12, 1986, state of emergency we have seen the wholesale detention of South Africans. Internationally respected South African organizations have estimated that more than 30,000 people have been detained, including approximately 10,000 children. Conditions of detention under security legislation are brutal and inhumane: detainees have no legal rights, they have no access to family or lawyers, they can be detained without charge or trial for an indefinite period, and many are subject to assault or torture by security forces.

Precise numbers of those detained are difficult to determine because the South African Government has refused to permit an independent investigation to verify the numbers and to examine the conditions under which people are being held. The Detainees Parents Support Committee, a monitoring group formed by concerned parents in South Africa, and others estimate that the number of children still being detained range between 700 to 1,000.

The South African Government has recently stated that it has released most of the children who were detained, and that there are currently 11 children under age 16 and 200 under the age of 18 who remain in detention. These figures differ from the estimates of both independent South African organizations and our own administration. The South African Government has yet to explain why these children are being held? If they are suspected of criminal acts, as they have asserted, why are they not charged?

In June 1987 the Lawyers Committee for Civil Rights Under the Law, South Africa project, held a symposium on South African children in detention which has both House and Senate sponsorship. Fifteen South Africans, including youth who had been detained, spoke on the current situation. Their testimonies are astounding. They spoke of being brutally arrested, held in solitary confinement, of being assaulted through beatings, tortured both physically and mentally, teargassed, and deprived of both food and sleep during periods of detention. Further, they talked of their parents and of lawyers being denied the right to visit them, and of their sense of isolation.

One young man, age 17, testified that: "they would handcuff me, push me against a wall and push a table against me so I couldn't move, then someone would jump on the table and help himself to me—just beat me, beat me in the face. Every time they asked me a question, they would beat me."

Another young man who spent more than 3 months in a communal cell with 36 other young people remembers that there were two 9-year-olds detained in that cell. He recounted the pain and isolation that these young children suffered being locked in prison without any of the comforts needed by the young.

The impact of this horrendous practice was reiterated by a South African physician. He noted that the traumatic impact of detention on children is psychologically devastating. He testified that: "Children are subject to physical violence and abuse. They are separated from their families, their friends, and their intimates. They are cut off sources of support and help and have to face the rigors of brutal imprisonment alone. Their world is disrupted and no longer predictable. They can no longer play, exercise, or interact socially in normal and healthy ways."

Further, it was reported by the detainees that warders at the prison had been responsible for indiscriminate assault and harassment of detainees. In particular, the detainees were forced to squat for lengthy periods of time, eat extremely hot food with their bare hands, and, after being placed in a confined space, were viciously assaulted by a group of approximately 50 warders armed with batons and similar weapons. Thereafter, they were teargassed and placed back in their cells.

These practices must end. I would like to urge support of this noncontroversial resolution which calls for the South African Government to end this intolerable situation by immediately releasing all children still in detention. Through this action we can again make clear to the South African Government that the continued inhumanity of the apartheid regime is a cause of growing concern within the United States Congress that, if unabated, will lead to a much stronger sanctions initiative in the months ahead.

Mr. Speaker, I want to express my appreciation to the gentleman from Indiana [Mr. BURTON] for his cooperation in moving this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, no one can condone the detention of children without due process of law. No one can condone the mistreatment of children already placed in detention. We should however make sure, that we address the entire problem of violence by and against children in South Africa. Most of the children placed in detention were not picked up jay walking. We do not know how many of these children placed in detention were involved in acts of murder, assault, robbery, and arson.

In subcommittee I worked with the majority to clarify the language of this bill to refer to children who are detained without charge. With this change, I support the bill. I would however like to expand on the issue of children in South Africa.

The sad fact is that children in South Africa are caught in the middle of a cycle of revolution and retribution. Both sides are to blame in the perpetuation of this cycle. Tragically, children are used as the cannon fodder of the revolution by the African National Congress, an organization controlled by Communists, the chief proponent of violent change in South Africa.

Executive member of the Communist ANC and their spokesmen have used every propaganda device available to them in the past few years to incite the youth of South Africa to greater and greater heights of outrage and bloody violence.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

One of those tools that they have used is necklacing. In Time magazine on January 26 of this year, they defined what necklacing is, and every Member who is listening to this discussion ought to know what necklacing is all about.

Mr. Speaker, I submit a copy of the January 26, 1987, Time magazine article entitled "The War of Blacks Against Blacks," as follows:

[From Time, Jan. 26, 1987]

The War of Blacks Against Blacks—Bloody Battles for Political Control Torment the Townships

The term is familiar by now, but the "necklace" is so benign a description that it barely hints at the horror of one of the world's most savage forms of execution. This is how it happens. In the townships of South Africa, militant black youths first capture a victim. Next they chop of his hands or tie them behind his back with barbed wire. Finally they place a gasoline-filled tire over the terrified victim's head and shoulders and set it ablaze. The melting rubber clings like tar to the victim's flesh, while flames and searing fumes enshroud him. Within minutes the execution is over. By the time the police arrive, the charred body is usually burned past recognition. Horrified family members, who may be forced to watch the killing, are often too intimidated to identify the murderers.

Such viciousness is a regular occurrence in South Africa today. Two people were killed by necklaces in Soweto, the sprawling black township outside Johannesburg, on New Year's Day. Steve Kgame, a well-known community leader in the Soweto-Witzaterstrand area who has faced demands from radicals to quit his local government post, was in serious condition last week with gunshot wounds in the head and chest. Near Durban, two officials of Inkatha, a political organization made up mainly of members of the Zulu tribe, died earlier this month after fire bombs struck their homes. Outside Port Elizabeth, a vengeful mob last week murdered two youths in the Kwanobuhle township. Nearly 80 gold miners have been killed during the past ten weeks in tribal battles among black workers.

Since racial unrest broke out in South Africa in September 1984, more than 2,300 people have been killed. In the past six months nearly three-quarters of the victims have been blacks killed by other blacks. And for all its cruelty, the necklace is only one form of the violence that South Africa's blacks are inflicting on one another in segregated townships across the courty. The bloodshed has made ungovernable many of the townships in which the country's 24 million blacks are forced to live and has given the government of State President P.W. Botha a potent propaganda weapon. Invariably referring to the slaughter as "black-on-black" violence, officials suggest that it proves blacks are to ouncivilized to rule one another, much less the whites.

In fact, the reign of terror is in large part a grisly reflection of the apartheid system that gives power to South Africa's 5 million whites. Bottled up in teeming townships and denied any voice in the political life of their country, many blacks are filled with fury. The Rev. Nico Smith, a white Dutch Reformed minister who has moved into Mamelodi, a black township outside Pretoria, compares the situation to that of laboratory animals that begin to devour one another when conditions become unbearable. Says Smith: "Social pathology is consuming the townships. There is a loss of sensitivity for people's own lives and for the lives of others."

The relentless toll stems in part from the breakdown of traditional authority in the townships. Of about 20,000 blacks who have been arrested since the state of emergency was imposed last June, many were local leaders who headed activist community organizations and helped maintain order in the black townships. With them now in jail, new and more violent leaders have come forward. In some cases the toughest person on the street rules, exercising a savage authority that does not dispense much justice and drives many townships toward chaos. Some township residents have complained that white police authorities often remain on the outskirts, watching to make sure that the violence stays confined to the black community. Inside the townships, meanwhile, the mobs seize control.

In many areas the violence is part of a struggle among South Africa's black factions for the soul of the antiapartheid movement and for political power. The battle is waged between youths and their elders, between tribes, classes and political organizations. The names and identities may differ widely, as gangs call themselves the A-Team, the Green Berets, Amabutho (the Warriors) or Mabangalala (the Intimidators). In Soweto, the conservative Zulu tribesmen are often in open warfare with the more radical Xhosas. In Kwanobuhle, the fighting is between members of the all-black Azanian People's Organization and the multiracial United Democratic Front.

The most dangerous group is the militant youths known as the "comrades," who have been responsible for much of the killing in the townships. Ranging in age from about 14 to 22, they are typically poor, uneducated and overflowing with rage. In their fierce battle to gain control of communities like Soweto, they have become the chief users of necklaces, the executioners who make the night a time of terror for the black populace. Barbara Harker, training manager in Johannesburg for the National Institute for Crime Prevention and Rehabilitation of Offenders, has studied the comrades. She concluded that the poverty and hopelessness of life in the townships make them impulsive and largely incapable of compromise. The primary object of their wrath is anyone suspected of collaborating with the government. The victim's "crime" can be trivial or wholly nonexistent. Even payment of rent for government-owned housing can be a capital offense. Some recent victims:

Mbuseli ("Freddy") Nqgene, 39, a mental-hospital attendant, was murdered in Kwazakele township near Port Elizabeth because the comrades thought he was a police informer. Nqgene had been mistakenly arrested on a rape charge and released within hours. His killers assumed that he was let loose so quickly because he was in the pay of the police. As a consequence, they struck him with axes, stabbed him 13 times and set him on fire.

Patrick Marenene, a community council member in the township outside Oudtshoorn in the Cape province, was watching television at his home when a mob gathered in front and demanded that he come outside. Marenene managed to escape as the comrades threw his furniture into the street and ignited it. As Marenene was picking through the rubble two days later, the youths returned. This time they quickly hacked and burned him to death.

Masabata Loate, a leader of the 1976 antiapartheid student uprising, was slain with axes and knives near her Soweto home after serving a five-year prison term for treason. Loate, 29, had angered the comrades by speaking out strongly against necklaces.

So intimidating have the comrades become that in many parts of South Africa they can terrify township residents simply by holding up boxes of matches. When they are not carrying out spontaneous attacks, they may hold kangaroo "people's courts" that are designed to intimidate the public. In a typical court session, young toughs drag the accused forward, inform him or her of the charges and then pronounce and execute the sentence. The outcome is never in doubt.

The people's courts are a brutal offshoot of street committees that were once promoted by the United Democratic Front and the African National Congress, South Africa's outlawed antiapartheid group. Initially formed to discuss grievances and political protests, the committees have since turned to more direct and violent action.

After first expressing support for the comrades, the A.N.C. now disavows their tactics. Winnie Mandela, the wife of jailed Black Leader Nelson Mandela, caused a furor last April by declaring, "With our boxes of matches and our necklaces, we shall liberate this country." A.N.C. leaders later told her to stop making such statements, and at the group's 75th anniversary celebration in Lusaka two weeks ago, A.N.C. President Oliver Tambo declared, "Of course we are not in favor of necklacing. We don't like necklacing, but we understand its origins. It originated from the extremes to which people were provoked by the unspeakable brutalities of the apartheid system."

The violent radicals are not responding to calls for moderation. Notes Allister Sparks, a liberal South African journalist: "An element is emerging in the black townships of South Africa that is beyond anyone's control, an element so brutalized that it now seeks only to kill and burn in blind revenge."

A black and just as violent backlash, however, has grown against the comrades. In the Crossroads squatter camp near Cape Town, community leaders known as "fathers" have donned white headbands and armbands and organized patrol groups called vigilantes. "The people of Old Crossroads will hunt them down and beat the comrades," said Sam Ndima, a leader of the fathers. Frequent clashes have claimed dozens of lives on both sides and destroyed thousands of shanties. In Soweto the city council has called for the formation of vigilante bands to stamp out "political renegades" and protect local citizens.

Many vigilantes are middle-class people who are willing to strike back at the comrades to protect their property and the positions they have achieved. A recent study by Jeremy Seekings of Witwatersrand University found that they include shopkeepers, taxi owners, teachers, police officers and town councilors. Seekings says such people are driven by their "material interest in stability, a related inclination toward conservatism and fear for their lives and property."

None of the vigilante groups that have recently sprung up are linked, and none have a political agenda. Many of their battles with the comrades come down to generational conflicts. Says Wilfried Schärf, a lecturer at Cape Town University's Institute of Criminology: "The clashes between the vigilantes and the comrades are indicative of the youth movement's attempts to shatter the older generation's power." To that extent the feuding is, quite literally and tragically, a battle between fathers and sons.

White police forces look favorably upon the vigilantes. In fact, many blacks suspect that the police are secretly advising and supporting groups like the fathers. "I wouldn't have any trouble choosing sides," says one white officer. In Crossroads, witnesses have reported seeing men atop armored police vehicles firing at comrades in support of the fathers. The Rev. Allan Boesak, a U.D.F. founder, has charged that the government is behind much of the township killing. Says he: "It is not a question only of black-on-black violence. It is a question of the South African government deliberately creating groups and supporting them, even creating situations of violence."

The issue of who is ultimately responsible for the bloodshed is one of the most politically charged in South Africa. While many black leaders blame whites, the Botha government insists that the violence proves that ever more crackdowns and restrictions are needed to maintain order. While that debate goes on, the appalling parade of violence is one more sign of a people in agony.—By John Greenwald. Reported by Peter Hawthorne and Bruce W. Nelan/Johannesburg.

On June 25, I chaired a hearing by the Republican Study Committee on the plight of children in South Africa. I listened to testimony from Salaminah Borephe, an African National Congress youth wing organizer and participant. Let me quote directly from her testimony describing the ANC youth wings.

> These organizations use children of the age of 12 to 18. The children at these ages become easily influenced. We were told to burn schools because they said Communists will come and build better schools for blacks * * * Anglican ministers taught me and other young terrorists to make petrol bombs that are used to burn down the homes of blacks who oppose the ANC and the violent overthrow of South Africa's white-minority government.

She said the ministers "always used the bible to tell us why we must murder black township councilors * * * I used to pour petrol on people, every time we burned a person with a tire, we would shout 'Tambo! Tambo!'." Oliver Tambo, by the way is the exile leader of the Communist dominated ANC, who recently visited Washington for a meeting with Secretary of State George Schultz and was welcomed with open arms by the chairman of the House Africa Subcommittee.

There are countless other testimonies by children not unlike the one I just mentioned. I recently witnessed a reporter's film of a woman attending the funeral of an antiapartheid activist. She was pointed out as a collaborator by youthful activists known as "comrades" on the grounds that she once had an affair with a policeman. Within seconds she was surrounded, beaten viciously, and set on fire with kerosene. As she lay dying, she was kicked and stoned. Long after her body has ceased to twitch under the rain of blows from clubs, stones and feet—the chanting mob danced around her, kicking and stoning her lifeless corpse. The film showed that several of the killers were children, clearly younger than 12 years old.

Oliver Tambo said in a radio interview on May 12, 1987 that "the youth for instance in our country * * * have been clearing our townships of collaborators, of black bullies and black councilors." Mr. Chairman, while it is tragic that a child must be detained by the police at any time, we must take into consideration the harsh realities of the situation in South Africa today.

We should also note that the New York Times has reported that the South African Government has released 269 of the 280 children under the age of 16 and that the 11 children still held were facing charges of violence, including murder.

We all agree, there must be due process. Anyone held by the authorities should be charged and given the benefit of legal counsel. I think all freedom loving Americans would agree to that. But in addition, we must all remember it is the Communist backed ANC that is using children to do their dirty work in South Africa.

Mr. Speaker, I reserve the balance of my time.

Mr. WOLPE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

First let me say that the gentlewoman from Illinois [Mrs. COLLINS] who introduced House Resolution 141 absolutely could not be here today, and the gentlewoman wanted to be here very much.

I joined with the gentlewoman in cosponsoring this resolution, and I am sure that if the gentlewoman were here, the gentlewoman would want the Members to know that it has been a year since we have had a debate on this floor with regard to the brutality of apartheid in South Africa.

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But because we have not talked about apartheid does not mean that it no longer exists or its systematic brutality no longer exists. Because President Botha forbids journalists to show the suffering in that troubled land does not mean that all is well. Over the past year alone, Mr. Speaker, the South African Government has arrested more than 30,000 men, women, and children, without bail, without charge, without trial.

The physical and psychological torture suffered by these individuals has been documented by not only international organizations, but also the United States based Lawyers Committee for Human Rights, as well as our own State Department and our own Ambassador.

Mr. Speaker, the denial of human rights is a despicable event whenever and wherever it takes place; but almost 10,000 of the 30,000 South Africans who were arrested and thrown in jail were children, that is right, children, 14, 11, 9, and even 7 years of age.

How much of a threat can a 7-year-old pose to the South African Government?

How can the South African Government justify throwing children in jail for wearing T-shirts urging their friends released from jail?

In fact, last year when I was in South Africa with a bipartisan delegation, we met and saw children who had been put in jail, had been abused and tortured, and they were 11 and 12 years of age.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. WOLPE. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. Bipartisanly, Mr. Speaker, we were shocked and appalled that these children had been put in jail simply because they had gone to a church meeting and as they came out the security forces had arrested them.

Our own U.S. Ambassador, Ambassador Perkins, when he was here this summer testified that they had documented that nearly 8,000 children had been placed in jail without charge, without trial, many of them with no contact with their parents.

Mr. Speaker, I think it is time for this Congress to speak out on behalf of the children of South Africa. If it were children in the Soviet Union, we would all speak out loud and clear. If it were children in Poland, we would have spoken already. I think today is a perfect opportunity for us bipartisanly to say that it is wrong to incarcerate without trial, without charge, and torture and abuse children in South Africa.

Therefore, Mr. Speaker, I join with my colleague, the gentlewoman from Illinois, Mrs. CARDISS COLLINS, in cosponsoring this resolution and urging the unanimous passage of this resolution. We are not a nation who sits idly by while children are oppressed.

Mr. BURTON of Indiana. Mr. Speaker, I yield back the balance of my time.

Mr. WOLPE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to first of all compliment the distinguished chairman of the subcommittee that deals with the important continent of Africa. I think that his work, not only on this resolution, but on the whole subject of apartheid has been outstanding.

I want to also compliment the minority leader of the subcommittee for his words. I think it is very important to have a bipartisan attempt to pass a resolution that sends a clear message to South Africa.

I especially wanted to take the floor to say a few words about the major sponsor of this legislation, Congresswoman CARDISS COLLINS. Congresswoman COLLINS has spend really most of her career worrying about children. That is why she has introduced for many years a comprehensive bill dedicated to day care for American children and Congresswoman CARDISS COLLINS is indeed the major sponsor of this resolution. She, as Congressman GRAY of Pennsylvania said, wanted to be here. Her mother, unfortunately, is very ill and she could not be here for something that means an awful lot to her. That is why she was able to get more than 100 cosponsors for the bill; so we want to say a few words to Congresswoman CARDISS COLLINS to wish her and her mother well and especially to compliment her on the very hard work that she did relative to this resolution.

Mr. Speaker, I rise in support of this resolution and commend my colleagues for their hard work in keeping our concern for children before us, wherever in the world they live.

In the press of personal concern with our security here at home and half way round the world, I would urge us to pause a moment to reflect how much closer to the heart the harm can come. With all our woes, we are still more fortunate than most.

Stephen Vincent Benet, in his "Litany for Dictatorships," laid out the injustice:

> We thought we were done with these things but we were wrong.
>
> We thought because we had power, we had wisdom.
>
> Our fathers and ourselves sowed dragon's teeth.
>
> [Now] our children know and suffer the armed men.

In February, the South African Minister of Law released the apartheid regime's list of those detained without charge under the emergency. Among the 4,000 names were 281 children 14 years old and younger. The Minister of Prisons later admitted that 2,677 children under 18 were in prison last year. Human rights monitors estimate that the actual number of children detained since the emergency was declared June 12 is closer to 10,000.

As appalling as they are, these reluctant, sterile numbers do not begin to confess the extent of the crime.

Most parents say they are never informed that their children have been arrested or where they are being held. One mother with two children in detention—one only 14 years old—expressed the fears of mothers and fathers everywhere. She cried: "I can't eat, because I wonder if my children are eating. I can't sleep because I don't know where my children are sleeping."

Even infants are held in South African prisons when their mothers are detained. Over 2,200 babies were imprisoned last year. One mother was arrested with her 2-year-old son Richard in June 1986. After 3 weeks the infant was so thin that she thought he was going to die. Despite his critical condition, Richard was admitted to the hospital only after fierce protests by all the imprisoned women. Richard and his mother were held for a total of 8 months.

In police cells and prisons, children are mistreated the same as adults. They are sometimes held in overcrowded, unsanitary conditions, supplied with thin lice ridden bedding.

Torture of children appears to be all too commonplace. It typically involves severe beating with whips, fists, or rifles. Broken teeth, and broken bones result. One young boy reported:

> I had to lie on a bench face down and then different police took turns delivering between 50 and 56 lashes to my body * * *. About three hours later, a five liter can of petrol was poured over me * * *. There was talk among the police of burning me * * *.

Another 11-year-old had wires connected to his mouth as he lay in handcuffs and leg irons. The wires were connected to a socket in the wall and then a policeman turned the switch.

Mr. Speaker, it is time and past time that the South African regime release all the children detained under the emergency. With this measure we record the human horror we share with parents whose love of their own becomes a weapon in war.

The plight of these children is but a part of the continuing tragedy of South Africa. This resolution is an important step toward humanity on the larger questions of the conflict.

With the maturing of a new generation here in America, we are returning to fundamental values of family and the future of our children. If I may, I would remind us all of the sentiment President Kennedy expressed as our own youths were finally treated as equals during the American civil rights struggle. All peoples "ought to have the right to be treated as we would wish to be treated, as one would wish his children to be treated."

I urge support for House Resolution 141.

Mr. WOLPE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. CLARKE], a member of the subcommittee.

Mr. CLARKE. Mr. Speaker, I rise in strong support of House Resolution 141, which was supported by a bipartisan consensus in the Committee on Foreign Affairs as well as in the Subcommittee on Africa. I commend the gentlelady from Illinois for sponsoring this resolution and providing effective leadership on this important issue.

One of the cruelest results of apartheid, Mr. Speaker, has been the suffering of children. South African authorities have detained children for long periods without bringing charges against them in most cases without allowing visits from their parents. The police have rounded up thousands of children and subjected them to extended questioning in isolated, harsh conditions. The American people and Congress want this inhuman practice to stop. The South African Government must understand that. This resolution will help them get the message that we want these children released.

The American people lack full information about events in South Africa because of the strict press censorship exercised by the authorities there. Without that censorship, the level of American indignation at this mass retention of children would be even higher than it is.

Mr. Speaker, I urge strong support for House Resolution 141.

Mr. FASCELL. Mr. Speaker, I rise in support of House Resolution 141 and commend the gentlelady from Illinois [Mrs. COLLINS] for bringing this matter before the House.

Mr. Speaker, among the many distressing occurrences which appear to be a part of daily life in South Africa none touches the hearts of Americans more than the plight of those children who have been detained without charge or trial under the current state of emergency in that country. Detention of anyone without charge or trial strikes at the core of the American sense of justice; detention of children under such circumstances is even more repugnant. This resolution is an attempt to focus on that problem.

Mr. Speaker, the resolution is straightforward and to the point. In calling on the Government of South Africa to release those children in detention without charge or trial, it seeks to protect those persons least able to protect themselves. I urge all Members to join in urging the Government of South Africa to release these children and cease in this policy.

Mr. HOYER. Mr. Speaker, I am pleased today to support House Resolution 141 and the efforts of Congresswoman CARDISS COLLINS to gain the release of the more than 10,000 black children who are being detained under the current state of emergency in South Africa. As a cosponsor of House Resolution 141, I am honored to lend my support to efforts to gain the release of the children in South Africa.

Pretoria has repeatedly insisted that it is working toward the reform of its brutal system of apartheid, that they are "struggling" to correct a bad situation. The Government of South Africa, however, has simply changed its tactics of enforcing its racial segregation. By detaining the children of South Africa, Pretoria has reached what I consider an all time low. Does Pretoria have any shame? Do they even care what the rest of the world thinks about the brutal treatment of what we here in the United States consider to be our most precious resource, our children?

Children, many as young as 6 years old are being snatched from their homes, schools, and off the streets by the South African authorities. Those who are fortunate enough to be released have told horror stories of being sexually abused, tortured, given shock treatments, starved, and nearly beaten to death.

I am the father of three children. And, I can only imagine what the parents of these children are experiencing, especially since they are not told anything about the whereabouts of their children.

House Resolution 141 calls upon the Government of South Africa to release all of the children who have been detained. Pending their release, the bill calls on the Government of South Africa to allow parents to visit their children, publicize the names of the children with information about their whereabouts, provide the children with adequate food and clothing. In addition, the bill calls upon Pretoria to allow an international organization to monitor their enforcement of the provisions of House Resolution 141.

Mr. Speaker, I think it is important to note that the Government of South Africa has not implemented any of the measures which Congress approved last year in the Comprehensive Anti-Apartheid Act. Pretoria has not repealed the state of emergency; Nelson Mandela and other black leaders remain imprisoned. And, all citizens have not been given the right to participate in the political process. In addition, Pretoria has not developed a timetable for the abolishment of apartheid laws. They have not even begun good faith negotiations with representatives of all racial groups. Military and paramilitary activities in neighboring countries have not ceased.

Since the United States enacted sanctions legislation, the Government of South Africa has continued its state of emergency, arresting an estimated 30,000 people. Even more frightening is the country's budget which was recently presented to Parliament. This budget contains an increase of 43 percent in police expenditures and 30 percent in defense expenditures. Moreover, the Government has organized the National Security Management System, committees charged with involving the military directly in policymaking toward the black townships.

Mr. Speaker this does not sound like the Government of South Africa is planning on taking steps to institute reforms. It is clear to me that Pretoria is holding firm to its political structure, in spite of international public outcry.

Congress took an unprecedented action last year by overriding a veto of a foreign affairs bill for the first time during this administration. Since then President Reagan has been lax in implementing several key features of the sanctions law. By allowing loopholes to exist in the enforcement of the sanctions law, and by not supporting the implementation of stronger sanctions, the administration is attempting to continue its old policy of constructive engagement and thus contributing to the continuance of apartheid in South Africa.

Mr. Speaker, I am appalled by the detention of the 10,000 black children in South Africa and by that government's refusal to create a nonracial democracy. The South African Government's brutal treatment of children is morally repugnant to me, and to the people in my district and our country. I am losing patience with the Government of South Africa and believe that it is time for the United States to take an even stronger position by imposing even more far reaching sanctions.

It is morally right for the United States Government to take a strong stand against apartheid and even more so against the detention of the children of South Africa. These children have not been charged with anything; they have simply been jailed for no apparent reason other than to hold blacks hostage of Pretoria.

Again, I want to congratulate Congresswoman COLLINS for introducing this timely measure. I know how committed she is to gaining the release of the children in South Africa. I want to join her in sending a strong message to Pretoria to release the black children in South Africa who have been detained under the current state of emergency.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding. I would like to reiterate for the record at this time the problem in this regard that the Republic of South Africa is facing.

Earlier this year, my good friend from Indiana served as chairman of the hearing of the Republican Study Committee. I participated in the hearing, and at that time we heard the testimony of several witnesses. One of these witnesses was Salaminah Borephe, a former youth wing organizer of the African National Congress.

This remarkable young woman—who demonstrated great courage in coming in the United States from her native South Africa and testifying—explained to us just what many of the children we are talking about today were led to do.

I would like to read to you some excerpts from her testimony if I may, Mr. Speaker:

> In 1975 I joined SASO (South African Students Organization), the student organization which was operating at black schools, because they said that they would help get us better education. All their meetings were held through the Student Christian Movement at our school. After I had joined they told us that SASO was a branch of the ANC.
>
> In 1976 we were fighting against Afrikaans at our schools, but we at Jordan High School were not doing Afrikaans. So we influenced other students from other schools. We assaulted our teachers and burned cars.
>
> * * * * *
>
> We used to hold meetings at school for the students. The easy way to get the students was through SCM [Students Christian Movement]. We pretended to be having the service but in fact we were told by our leaders about communism.
>
> * * * * *
>
> Because our leaders told us that we must burn the schools if the students wanted to go to school, we burnt down some of the schools in the area. Our leaders told us that white people had told them to tell us to burn down schools. Our leaders in SASO also told us that the communists would set us free from slavery.
>
> * * * * *
>
> In 1979 I joined COSAS [Congress of the South African Students]. This was seen by

the Students as a continuation of SASO, and had the same leadership. We were told by our leaders in COSAS that COSAS was the youth wing of the ANC.

* * * * *

In COSAS we were told how to make petrol bombs. We were told by the Church Ministers how good communism was, and they promised us a better education in other countries which are ruled by the communists. That was the thing which made me to join these organizations. The Anglican Ministers taught us in the Catholic churches how to make petrol bombs, and told us that the communists would kill the whites to set the blacks free. We were told that the communists were black people from central Africa, and they taught us that Samora Machel from Mozambique, and Dos Santos from Angola, and Mugable and Nkomo from Zimbabwe were heroes and would liberate us. Once they took us to a meeting in a large hall in Johannesburg where there were a lot of white people. There they explained what COSAS was, and told us how to make petrol bombs.

* * * * *

In 1983 a COSAS meeting was called. When we arrived at church there were lots of weapons. The minister told us that the Russians had sent the weapons, and that the children from 16 to 18 must take a gun. The leaders took one first. They were all AK.47's. The guns that were left over were given to the COSAS members. The minister told us that they would teach us how to use the guns because everybody were asking. He told us that the guns were to kill white people, but we never killed white people, only blacks. He then told us that we must always try and get more guns, and that we must kill the policemen to get their guns.

* * * * *

They told us that all community counsellors must die on the 3rd September 1984, if they did not want to listen to the people.

* * * * *

On Monday people were confused, some went to work and when they returned they were assaulted, others were even killed. Some of the residents who went to work were burnt with petrol.

* * * * *

The ministers told the people to kill the community counsellors the following day because they did not want to listen to the residents. On Monday morning at about 5:30 a.m. we were already on the streets stoning cars and buses.

* * * * *

At about 8:00 a.m. we went to the community counsellors' homes. The person we wanted more than others was the Mayor Mr. Mahlatsi. Firstly we went to Mr. C. Motshiane's home because he was the nearest of them all.

* * * * *

After that we went to the shop centre and we burned all the shops, but before burning we took all the things out of the shops and took them home. After burning the shops we sent some of the students to go to Mr. Motshiane's home and check if he's not yet back. They came quickly and told us that he was there.

* * * * *

He locked himself in the house together with one of his friends. The wife and children were not there.

The friend tried to escape. He went out of the house and tried to go to the street. The boys caught him and burned him with a petrol bomb. Mr. Motshiane also came out and was hacked by knifes and pangas. He died there in the street.

* * * * *

We ran away and went back to zone 12 to finish off the shops. The other three died this way. Mr. Diamin was necklaced, in Sharpville. Mr. Diphoko was shot while running to the helicopter. The other one was also hacked by knifes and pangas.

* * * * *

While we were members of COSAS we were told that the town councellors were sell-outs, and must be killed. They always used the bible to tell us why we must murder the councellors.

* * * * *

We were also told to kill the policemen. Some COSAS members had guns to do this.

* * * * *

These organizations use children of the age of 12 to 18. The children at these ages become easily influenced.

So, Mr. Speaker, I say yes, let us urge the South African Government to expeditiously free anyone detained without cause. However, let us not through our actions here in this Chamber, unwittingly join with those who sanction murder and violent revolution. For lining up with such terrorists cannot possibly achieve the goal of peace in that troubled land.

Mrs. COLLINS. Mr. Speaker, as the first Member to introduce a resolution condemning human rights violations in South Africa 10 years ago, and as the sponsor of House Resolution 141, I want to express my appreciation to my distinguished colleagues, HOWARD WOLPE and DANTE FASCELL, and the members of the Foreign Affairs Committee for their expeditious consideration of this critical resolution.

Eleven years ago, in 1976, the children of Soweto bled in the streets; victims of the horrors of apartheid. They had marched in opposition to the imposition of Afrikaans, the language of their oppressors, in their schools. They began their protest peacefully, but the South African police responded with tear gas and bullets.

Over the next few days, the protest spread throughout black South African communities and universities. Many unarmed demonstrators were killed by the police.

Since that time, I have introduced several resolutions protesting continued American involvement in South Africa. House approval of these resolutions has been overwhelming.

Regrettably, however, the administration's response to the injustice committed by South Africa has been tepid at best. It has taken far too long for this administration to act responsibly and cut off American support for this regime.

Eleven years ago, blacks in South Africa rose up to fight for their fundamental rights. Eleven years later, these rights are still being denied. The world's condemnation of the South African Government's repression rings ever louder in the ears of rulers, who lord over a land where the ancestors of those being oppressed today lived long before there were any Dutch or other white people in South Africa.

Increasingly, the white minority government in South Africa has lost any pretense of being a representative government. Blacks are jailed, tortured, and killed. They are manipulated to serve the interests of the whites in power. We hear talk of reform, yet how are circumstances in South Africa different today than they were 10 years ago?

In fact, little has changed. The most tragic victims of the inherent oppression of apartheid are children. Forty percent of the 25,000 people detained under the state of emergency laws are children; many less than 10 years old. Any regime that feels threatened by children will never be at ease to open its iron fist.

Many of these children have been beaten, whipped, threatened, and subjected to electric shock while in custody of South African security forces. Parents are often left ignorant as to the nature of their childrens' fate. Worse, they are not even informed of their whereabouts. It is essential that these activities do not go unnoticed.

House Resolution 141 calls for the immediate release of all children detained under South African state of emergency regulations. Pending their release, my resolution urges the Government to do the following:

Provide parents with access to jailed children;

Prepare an official list of the childrens' names;

Supply these children with adequate clothing and housing; and

Verify their health and safety by means of an international organization.

Mr. Speaker, the Government of South Africa must be warned, in no uncertain terms, that Congress will not tolerate the jailing and torturing of children. It is our moral and ethical obligation to do the most we can to end this heinous policy. I urge my colleagues to approve House Resolution 141.

Mr. MILLER of Washington. Mr. Speaker, Congress has often spoken out on human rights abuses throughout the world. It is our responsibility and duty to do so. Yesterday, Congress had the opportunity to speak out on a particularly gruesome abuse of human rights. For as I speak here today, the Government of South Africa still holds hundreds of children in prison who were arrested under the guise of the state emergency regulations. Not only were these children imprisoned, they were not even allowed to see their parents or even communicate with their parents. Mr. Speaker, this is an intolerable situation. The imprisonment of children demonstrates once again to the world the complete moral bankruptcy of the South African Government and its policy of apartheid.

House Resolution 141 will speak to not just the South African Government, but to all the world that the U.S. Congress deplores this abuse of human rights. Eventually, Congress and the President will need to address how we can make our antiapartheid policy more effective so that not only will there be no more imprisonment of children in South Africa, but so apartheid itself will be abolished. Yesterday the Congress spoke loud and clear to the South African Government: release your nation's children.

Mr. WOLPE. Mr. Speaker, in closing today's debate, I would like first of all to pay tribute to Congresswoman COLLINS, the principal sponsor of this legislation, and Congressman BILL GRAY, both of whom have provided the leadership on this issue in bringing this matter and keeping it before the attention of the Congress and the American people. I personally greatly appreciate the role that they have played in this matter.

I also think it is well to note that the treatment by the South African regime of the children of South Africa is perhaps as dramatic an expression as there can be of the level of dehumanization that has occurred within that society. We talk oftentimes about the concern that we all share in this body about the growing violence in South Africa. Most of that discussion focuses upon the violence of those who are opposing the apartheid regime.

I think we need to remind ourselves constantly that the origins of the violence in South Africa are the regime itself. This is a government that exists by reason of violence. Twenty-six million people do not willingly acquiesce in their subjugation. It is force and force alone that keeps this government in power. It is force that is now being directed against the children of South Africa.

By the passage of this resolution we will be, I think, expressing as clearly as can be the bipartisan consensus that exists within this country and within this body. We may have differences with respect to particular policies to be pursued by this Government toward the South Africa regime, but there is no difference when it comes to our abhorrence of the inhumane kinds of policies and practices of the apartheid regime itself.

Again, I want to express my appreciation to the gentleman from Indiana [Mr. BURTON], the distinguished ranking member of this committee, for his cooperation in advancing this legislation and in making possible this kind of bipartisan expression.

Mr. Speaker, I am told there is one more speaker. I thought I would be closing the debate, but I yield 1 minute to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like also to lend my support to House Resolution 141.

Mr. Speaker, I keep hearing the voice of 17-year-old Patrick Makhoba. He was held by South African security police for 42 days last summer—the first 39 in solitary confinement. It was June 11, 1986, the day before a new state of emergency was declared in his homeland. Patrick was with six friends on the grounds of his Soweto high school when the police came out of nowhere. "We had no way of running. They were everywhere," he recalls. "The school is huge. It was surrounded. I couldn't believe so many people would come for seven little boys. I was 16."

One of the ugliest and perhaps least known aspects of South Africa's oppressive apartheid system is the arbitrary detention of children during the current state of emergency. It is estimated that of the 25,000 people who have been detained since June 12, 1986, under state of emergency regulations, approximately 10,000 were children, some as young as age 10.

According to the Lawyers Committee for Civil Rights Under Law, a group that has been monitoring the detention of children in South Africa and that brought Patrick Makhoba and two other young men to Capitol Hill in June to participate in a symposium on the problem, many of the children in detention are being held without formal charges and most of them are assaulted or tortured. For these and many other reasons I ask Members of this body on both sides of the isle to unanimously support this very important and humane resolution.

Mr. WOLPE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. WOLPE] that the House suspend the rules and agree to the resolution, H.Res. 141, as amended.

The question was taken.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 141, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.Res. 277, by the yeas and nays;
H.R. 85, by the yeas and nays; and
H.Res. 141, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SENSE OF THE HOUSE WITH RESPECT TO HUMAN RIGHTS ABUSES IN AFGHANISTAN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 277, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the resolution, H. Res. 277, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22, as follows:

[Roll No. 365]

YEAS—411

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)

Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—22

Anthony
Bates
Berman
Biaggi
Bustamante
Collins
Crockett
Davis (MI)
Dixon
Dowdy
Ford (TN)
Frost
Gephardt
Gray (PA)
Kemp
Livingston
Mack
Matsui
McEwen
Moody
Roemer
Tauzin

□ 1805

Mrs. KENNELLY changed her vote from "nay" to "yea."

Mr. WATKINS changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. Torres). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

NEW ZEALAND MILITARY PREFERENCE SUSPENSION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 85, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. Solarz] that the House suspend the rules and pass the bill, H.R. 85, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 111, not voting 22, as follows:

[Roll No. 366]

YEAS—300

Alexander
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Carper
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
DeLay
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dornan (CA)
Dreier
Duncan
Dyson
Early
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kennedy
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McDade
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Olin
Ortiz
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—111

Ackerman
Akaka
Anderson
AuCoin
Bonior
Boucher
Boxer
Brown (CA)
Cardin
Carr
Clay
Coelho
Coleman (TX)
Conyers
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Evans
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Garcia
Gejdenson
Gibbons
Gonzalez
Guarini
Hall (OH)
Hawkins
Hayes (IL)
Hochbrueckner
Howard
Hoyer
Jontz
Kastenmeier
Kennelly
Kildee
LaFalce
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
MacKay
Markey

Martinez
Mavroules
McCloskey
McHugh
Mfume
Miller (CA)
Mineta
Moakley
Morrison (CT)
Mrazek
Nagle
Oakar
Oberstar
Obey
Owens (NY)
Panetta
Pease
Pelosi
Penny
Perkins
Rangel
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Skaggs
Smith (FL)
St Germain
Stallings
Stark
Stokes
Studds
Swift
Synar
Towns
Traxler
Vento
Weiss
Wheat
Williams
Wolpe
Wyden
Yates

NOT VOTING—22

Anthony
Bates
Berman
Biaggi
Bustamante
Collins
Davis (MI)
Dixon
Dowdy
Ford (TN)
Frost
Gephardt
Gray (PA)
Kemp
Livingston
Mack
Matsui
McEwen
Moody
Pepper
Roemer
Tauzin

□ 1820

Messrs. SYNAR, LEHMAN of California, and LEVINE of California changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "An act to suspend security assistance and arms export control preferences for New Zealand."

A motion to reconsider was laid on the table.

CALLING FOR IMMEDIATE RELEASE OF ALL CHILDREN DETAINED UNDER STATE OF EMERGENCY REGULATIONS IN SOUTH AFRICA

The SPEAKER pro tempore (Mr. TORRES). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 141, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. WOLPE] that the House suspend the rules and agree to the resolution, H. Res. 141, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 3, not voting 25, as follows:

[Roll No. 367]

YEAS—405

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—3

Crane
Shumway
Stump

NOT VOTING—25

Anthony
Bates
Berman
Biaggi
Bonker
Bustamante
Collins
Davis (MI)
Dixon
Dowdy
Fascell
Ford (TN)
Frost
Gephardt
Gray (PA)
Kemp
Livingston
Mack
Matsui
McEwen
Moody
Roemer
Studds
Tauzin
Volkmer

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS BILL, 1988

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Rural Development, Agriculture, and Related Agencies appropriation bill for 1988 for printing under the rule.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FISHERMEN'S PROTECTIVE ACT

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2893), to reauthorize the Fishermen's Protective Act, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 1, after line 5, insert:

Sec. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

Page 1, after line 5, insert:

Sec. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calena after the date of enactment." and inserting thereof the following: "on October 22, 1989.".

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I do not object, but I only take this time for purposes of exploration and discussion with the chairman of the committee, and I yield to the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I rise today to urge my colleagues to support H.R. 2893, a bill to reauthorize the Fishermen's Protective Act and for other purposes.

H.R. 2893 as originally passed by the House of Representatives would reauthorize the Fishermen's Protective Act for an additional year. The Fishermen's Protective Act establishes a program to reimburse U.S. fishing vessel owners when foreign countries seize or detain U.S. fishing vessels in a manner inconsistent with international law as recognized by the United States. The Congressional Budget Office estimates that enacting H.R. 2893 will result in no net costs to the Federal Government, because the fees collected from vessel owners are expected to cover all payments from the fund in 1988.

Last week, the other body passed this bill with amendments, with which we concur.

The other body amended H.R. 2893 by attaching S. 1591. S. 1591 is a stopgap measure that would temporarily restrict for 30 additional days the ability to document foreign-built fish processing vessels under the laws of the United States. The Committee on Merchant Marine and Fisheries has marked up a comprehensive bill dealing with this subject and is completing the report for the House. The other body is continuing its work on such legislation also, but has not been able to proceed as actively. This additional stop-gap measure is necessary to assure, in the interim, that U.S. industry retains the opportunity to "Americanize" both the harvesting and processing sectors of the fishing industry.

Also, the other body would amend H.R. 2893 by continuing certain provisions of Public Law 97-360, which sets aside three vessels in the national defense reserve fleet for use by life international in Third World countries. The amendment would reauthorize the set-aside for 2 years, to October 22, 1989, and would provide additional authority to operate the humanitarian vessels domestically.

H.R. 2893 as amended by the other body is broadly supported without objection, and I urge your support for the bill today.

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Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 2893, a bill to reauthorize the Fishermen's Protective Act, and for other purposes.

Mr. Speaker, as originally passed by the House, H.R. 2893 would reauthorize the Fishermen's Protective Act for 1 year. Among other things, the Fishermen's Protective Act contains the Fishermen's Guaranty Fund, a program administered by the State Department to compensate U.S. fishing vessel owners who have entered into guaranty agreements with the State Department for certain losses covered by the seizure and detention of their vessels by foreign countries under rights or claims not recognized by the United States.

The Fishermen's Guaranty Fund covers such losses as damage to, or destruction of, the vessel and its equipment; the market value of fish and shellfish caught before seizure of the vessel and confiscated or spoiled during the period of retention; and, up to 50 percent of the vessel's gross income lost because of the seizure or detention.

Mr. Speaker, I strongly believe that the Fishermen's Guaranty Fund is essential as long as the threat of seizure of our fishing vessels, primarily tuna vessels, by foreign countries remains. Because the United States does not recognize the jurisdiction of any nation over tuna due to the highly migratory nature of this species beyond 12 miles off a nation's coast, our tuna fishermen, as well as our shrimp fishermen, need some kind of insurance policy while taking on the risk of fishing in areas close by or within the exclusive economic zones of nations who do not recognize the U.S. jurisdictional position on tuna and other highly migratory species. I am convinced that the Fishermen's Guaranty Fund provides this necessary insurance policy. Moreover, this insurance policy will entail no costs to the U.S. Government because the fees collected from vessel owners in order to participate in the Fishermen's Guaranty Program are expected to cover all potential payments from the fund in 1988.

Last week, the Senate passed H.R. 2893 with two amendments, with which I have no problems. The first amendment refers to S. 1591 which would temporarily restrict for 30 additional days the ability of foreign-built fish processing vessels to reflag under the laws of the United States. Second, as amended by the Senate, H.R. 2893 contains language that would amend Public Law 97-360, which sets aside three vessels in this country's national defense reserve fleet for use by the humanitarian nonprofit organization Life International in Third World countries. The Senate amendment would reauthorize the set-aside for 2 more years as well as providing the authority for Life International to operate the three vessels domestically.

I strongly believe that H.R. 2893 as amended by the Senate is needed, and I urge my colleagues today to support this measure.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, I rise in strong support of the request to take H.R. 2893 from the desk and pass it without objection.

H.R. 2893 reauthorizes the Fishermen's Protective Act for a 1-year period. This bill was reported unanimously by the Committee on Merchant Marine and Fisheries and was passed by the House earlier this year. It has been returned from the other body with an amendment in two parts. The first part involves extension of an existing authorization for a private nonprofit charitable organization to purchase surplus vessels for humanitarian purposes. The second part—which is most important to our committee and my State of Alaska—involves an extension of the moratorium on redocumentation of fish processing vessels that was approved by the House on August 6, 1987. The moratorium expired on October 15 and is being extended to allow both the House and the other body to complete action on permanent legislation.

As was explained by me and the gentleman from Massachusetts [Mr. Studds] on August 6, this moratorium is necessary to prevent foreign-built vessels from being documented as fish processing vessels during the time that we are working on permanent legislation addressing this issue. When the original moratorium was passed, we expected to have completed action by October 15. Unfortunately, delays in both bodies resulted in no final action being taken. We expect to have a permanent bill before the House in November and this will preclude the need for additional extensions of the moratorium. In the interim, it is the intent of the committee to maintain existing law.

Mr. Speaker, this is a noncontroversial measure and I believe it deserves the support of the House and urge its adoption today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Torres). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the Senate amendments to H.R. 2893.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NATIONAL ADOPTION WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 274) to designate the week beginning November 22, 1987, through November 28, 1987, as "National Adoption Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey [Mr. SMITH], who is the chief sponsor of House Joint Resolution 274, designating the week beginning November 22, 1987 through November 28, 1987, as "National Adoption Week."

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend, the gentleman from New York [Mr. GILMAN], for yielding.

Mr. Speaker, House Joint Resolution 274 designates Thanksgiving week—November 22 to 28—as "National Adoption Week of 1987" and is intended to focus public attention on the advantages of adoption for all concerned—the child, the birthparents, and the adoptive parents. There is companion legislation in the Senate.

Mr. Speaker, a tragic situation exists in this country. Every year, there are approximately 2 million couples and another million single people who are waiting to adopt a child. This means that there are 60 homes for every child adopted in the United States. At the same time, there are approximately 36,000 children in fostor care and institutions who are legally free and waiting for permanent adoptive homes. These children, however, have special needs—that is, they are older, handicapped—physically, mentally, or emotionally—in sibling groups, or members of minorities.

As my colleagues well know, Mr. Speaker, most aspects of adoption are governed by State law. However, in the 96th Congress, landmark legislation was made law in the form of the Adoption Assistance and Child Welfare Act—Public Law 96-272. This law made numerous changes in the child welfare services and foster care programs as well as establish a Federal matching adoption subsidy for special needs children. Before Public Law 96-272, the Federal Government reimbursed States for foster care only; State and local government would pay for subsidized adoption. However, States would lose their foster care match when a child was placed into subsidized adoption—effectively providing an incentive to keep children in foster care. With Public Law 96-272, this situation has fortunately changed. Now the Federal Government provides States an incentive through adoption subsidies to place special needs children eligible for AFDC or SSI in adoptive homes.

Much more needs to be done to encourage adoption of special needs children and to promote adoption as an option for a problem pregnancy. Forty percent of all pregnancies to teens end in abortion. Of those babies who are carried to term and born out of wedlock, only 5 percent are placed for adoption, according to 1982 data.

In order to further promote adoption, President Reagan on August 24, announced the formation of a Federal task force on adoption. The task force will identify and categorize Federal and State laws on adoption and prepare recommendations for the President on the following: First, whether new Federal legislation is needed and should be proposed; second, possible regulatory changes to encourage and support adoption; third, State or local actions that could encourage and support adoption of both infants and special needs children; and fourth other activities that could be undertaken to educate the American people about all aspects of adoption and its benefits.

The task force on adoption will complete its report to the President by November 22, 1987, the beginning of "National Adoption Week of 1987."

During National Adoption Week, a variety of media, Federal, State and local government agencies, adoptive parent and advocacy groups, civic and church groups, and businesses will sponsor special events and provide information to heighten community awareness of adoption and the availability of adoptable special needs children.

In my view, Mr. Speaker, nothing is more important, no one more precious, or vulnerable than children. All children belong in families where they can grow in love and discipline and become responsible adults. National Adoption Week enables us all to applaud the generosity of adoptive parents, to commend assisting organizations such as the Adoptive Parent Committee, and to focus on the law to ensure that adoption policy is the best we can enact.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to commend the gentleman from New Jersey [Mr. SMITH] and thank him for his remarks. I know that he has been an outstanding advocate in the Congress for all of children's needs. I know of his work in trying to achieve immunity for some of the childhood diseases around the world and now, through his work on the National Adoption Week resolution, focusing the attention of the Congress on this important need.

As a cosponsor of this resolution, I am particularly thankful that we have allocated this measure for Thanksgiving week as National Adoption Week. I think it is an appropriate recognition, and I commend the gentleman from New Jersey.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Further reserving the right to object, I am pleased to yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, I thank my colleague, the gentleman from New York, and I would just like to join with him in congratulating our colleague, the gentleman from New Jersey [Mr. SMITH], because I believe from the very first day he entered this body one of his main issues has been children. I think it is a credit to us as a body that a Representative takes that kind of interest.

So I would just like to say to my colleague, the gentleman from New Jersey, that I do not know if I am a cosponsor of this resolution, but if I am not, I want to make gosh darn sure that I am. Again I want to commend the gentleman on his resolution.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 274

Whereas the week of November 22 has been commemorated as National Adoption Week for the past ten years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 22, 1987, through November 28, 1987, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ADULT IMMUNIZATION AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 168) designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 168

Whereas the Surgeon General of the Public Health Service launched a decade-long initiative in 1979 to reduce preventable death and disease among adults in the United States;

Whereas reducing the incidence of infectious disease through immunization is an objective of the initiative;

Whereas the Surgeon General established for influenza an immunization goal of 60 percent of the elderly and individuals with chronic illnesses and for pneumococcal pneumonia an immunization goal of 60 percent of individuals over the age of 40 and individuals weakened with underlying medical conditions;

Whereas, by the end of 1985, only 17.6 percent of the elderly and individuals with chronic illnesses were immunized against influenza and 10.3 percent of individuals over the age of 40 and individuals weakened with underlying medical conditions were immunized against pneumococcal pneumonia;

Whereas influenza, pneumonia, and other infectious diseases including measles, rubella, diphtheria, tetanus, and hepatitis B are among the top killers of adults in the United States particularly the elderly, despite readily available vaccines that have been proven safe and effective by the Food and Drug Administration and could save the lives of tens of thousands of adults in the United States;

Whereas reducing the incidence of infectious disease through immunization would help decrease the high cost of health care in the United States; and

Whereas efforts to educate adults in the United States about the benefits of immunization generally are vital and will encourage more adults in the United States to be immunized against infectious diseases so that the immunization goals of the Surgeon General are met: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 25, 1987, is designated as "National Adult Immunization Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HOSPICE MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 234) to designate the month of November in 1987 and 1988 as "National Hospice Month," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 2, line 3, strike out "and 1988".

Amend the title so as to read: "Joint resolution to designate the month of November in 1987 as 'National Hospice Month' ".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL FAMILY BREAD BAKING MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 163) to designate the month of November 1987 as "National Family Bread Baking Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Oklahoma [Mr. ENGLISH], who is the chief sponsor of House Joint Resolution. 297, designating the month of November, 1987 as "National Family Bread Baking Month."

Mr. ENGLISH. Mr. Speaker, I appreciate the gentleman's yielding. Mr. Speaker, I rise today to ask for your support for American agriculture and industry by designating November 1987 as National Family Bread Baking Month. Bread baking has played a significant role in the lives of American families for generations. The traditional family values embodied by family bread baking, values of unity and self-sufficiency, are those upon which our Nation was founded and continues to thrive.

Family bread baking today utilizes a number of important agricultural products including wheat, rye, corn, sugar, and dairy products. In view of this, National Family Bread Baking Month has been strongly endorsed by the National Association of Wheat Growers, the National Corn Growers Association, the American Butter Institute, and the Sugar Association.

Several organizations which continue to foster important traditional values in our country also endorse this commemorative. In fact, the National 4-H Council and the Future Farmers of America are planning a number of activities in schools and homes across the country in celebration of the event.

With November fast approaching, we have signed on over 100 cosponsors to the House resolution. Let us join in supporting American agriculture and industry, and in lending our blessings to those organizations which help us to remember the values and traditions which have helped give us the strength and unity to survive as a nation.

Again, I ask for your support.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kansas [Mr. ROBERTS], who is another chief sponsor of House Joint Resolution 297.

Mr. ROBERTS. Mr. Speaker, I rise in strong support of House Joint Resolution 297.

Mr. Speaker, I rise to voice my support for House Joint Resolution 297, a bill to designate November as "National Family Bread Baking Month." House Joint Resolution 297 is a bipartisan resolution developed and sponsored by many of my colleagues to recognize the important values of family strength and unity inherent in the culinary art of bread baking.

Since the time of our forebears, baking bread has been a traditional activity in daily lives of citizens all across the Nation. It helped forge the bonds that united family and neighbors in the spirit of working together to build this great Nation. As this Nation has grown over the years, we have continued to draw on those traditional values to face the challenges of the ever increasing pace of life we call progress.

This resolution was developed to coordinate with 4-H and FFA student educational programs. It is supported by 4-H and FFA, as well as the National Association of Wheat Growers, the National Corn Growers Association, the Sugar Association, the United Egg Association, and the American Butter Institute. These organizations represent the many ingredients used in baking bread. The resolution will be a part of planned activities through 4-H, extension and high school home economics programs.

America is still a nation of families. Designating November 1987 as National Family Bread Baking Month is one way we can recognize the importance of the family and agriculture to the strength of our Nation, and the importance of traditional values to the strength of our families. I urge my colleagues to support this worthwhile legislation.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 163

Whereas baking bread in the home is a long-standing American tradition, and has contributed to the well-being and nutrition of the family since the earliest days of colonial settlement;

Whereas family bread baking utilizes American agricultural commodities and the products thereof (notably wheat, rye, corn, dairy products, sugar, and eggs), resulting in a significant contribution to the economies of the States in which these commodities are grown and produced;

Whereas homemade bread provides health benefits and valuable nutrients to the American diet; and

Whereas family bread baking contributes to the strength and unity of the family and provides an important means for educating future generations about American traditions and values; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November, 1987, is designated as "National Family Bread Baking Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TOURETTE SYNDROME AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 198) to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 198

Whereas Tourette syndrome is a neurological disorder which occurs in children between the ages of 2 and 16 and lasts for the remainder of the life of each afflicted child:

Whereas Tourette syndrome is characterized by repeated tic movements and involuntary vocalizations which are phsyically debilitating, socially crippling, and emotionally devastating;

Whereas an estimated 100,000 Americans currently suffer from Tourette syndrome and an additional 3,500,000 Americans suffer from less severe forms of this affliction;

Whereas the lack of knowledge about this disorder on the part of health professionals and the public causes additional hardships for those afflicted with Tourette syndrome;

Whereas greater public understanding of Tourette syndrome will encourage those persons currently diagnosed as suffering from this disorder, and nurture hope for those who are suffering from the disorder but whose afflictions have not been diagnosed or have been diagnosed incorrectly; and

Whereas thousands of caring volunteers and the families of persons afflicted with Tourette syndrome have devoted much time and energy to educate health professionals and the public about this disorder: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 2, 1987, and ending on November 8, 1987, is designated as "National Tourette Syndrome Awareness Week", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups and organizations, and all of the people of the United States to observe such week by engaging in appropriate activities and programs to show their support and concern for those Americans afflicted with Tourette syndrome.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions considered and passed today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the Dickinson motion to instruct conferees on H.R. 1748, Department of Defense authorization for fiscal year 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

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REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 115 AND H.R. 2238

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1115 and H.R. 2238.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Georgia?

There was no objection.

TIME TO STAND TIGHT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, yesterday panic came to Wall Street. And that's panic with a capital P and that rhymes with D and that stands for Democrat.

Yesterday's plunge in the stock market is bad enough. But to add insult to injury, we now have to suffer while all those people who have predicted doom and gloom every month of the 59-month economic expansion, explain to us yet again that higher taxes and a lower dollar would be good for stocks.

But Mr. Speaker, it is not the twin deficits that are driving the market down, it is the proposed Democratic solutions the market is reacting to. The markets do not want protectionist policies that prompt a global trade war. The markets do not desire higher taxes so that liberal politicians can continue to rob Peter to buy Paul's vote. The markets do not want 535 secretaries of state orchestrating a power grab of the executive branch.

Mr. Speaker, we have heard a lot about the twin deficits and how they caused the market crash yesterday. But those making such an absurd charge need to explain why stocks rose in the first place.

The stock market is sending a very strong signal our way. It is telling us to stop trying to balance the budget by raising taxes. It is telling us to cease this suicidal trade policy that is leading us to a global trade war and worldwide recession. And it is telling us to stabilize the dollar. What it is not telling us, Mr. Speaker, is to return to the economic policies of the 1970's, for which the Democrats in this House yearn.

TIME TO STAND TIGHT

The injury of the stock market plunge is bad enough, even if prices are still at levels considered high last May. But to add insult, we will now have to listen to all the people who've predicted doom every month of the 59-month business expansion, explaining to us yet again that higher taxes and a lower dollar would be good for stocks.

The stock decline since August and the rout last week have traced the disintegration of the Reagan administration in general and the Louvre exchange-rate accord in particular. The Bundesbank has been pushing up interest rates in the face of low inflation and high unemployment, and the Fed explained its discount-rate boost without reference to the dollar. The administration has been increasingly belabored; if it can't get the nation's most distinguished legal scholar confirmed to the Supreme Court, can it really fight off protectionism and make good on its pledge of no tax increases? And the big economic news last week was the action of the Democratic tax-writing committees, which put together packages featuring soak-the-rich proposals virtually designed to depress business activity, reduce tax revenues and push up the deficit they are ostensibly meant to reduce.

So we were reassured yesterday by Treasury Secretary Baker's remarks on "Meet the Press." He explicitly said that the Louvre agreement remains in effect, which means there is still a floor under the dollar exchange rates with the yen and d-mark. And in everything but name, he denied a leak the New York Times published Sunday saying the administration had abruptly changed to a policy of letting the dollar fall. (The news Mr. Baker was prepared to make on these pressing topics had to be amplified after the program, since after he brought up the dollar his Beltway interlocutors immediately went back to beating on him to raise taxes.)

Now, on these issues Secretary Baker is cast as Horatio at the Bridge. His recent suggestion of including gold in a basket of indicators was done over the opposition of his staff. No doubt the Times accurately reported what it was told; there are strong forces in the administration for a lower dollar. The recent denials of inflationary dangers by the secretary himself and by Fed Chairman Greenspan are certainly not helpful, and probably not accurate. The high price of gold and other commodities is an inflationary signal; certainly a further fall in the dollar would do more to raise inflation than to cut the trade deficit.

And of course, the secretary is justified in looking for something to do about the Germans. The Louvre boundaries imply a tighter monetary policy in the United States and an easier one in Japan and Germany. But the Germans are tightening, despite a stagnant economy and low inflation. While they profess to see inflation signs in M-whatever, the real problem is that the Germans do not want their Gemuetlichkeit disturbed by economic growth. When they tighten money to constrain growth, either the U.S. must follow or the Louvre boundaries must fall. So Mr. Baker is quite right to complain about their boosting interest rates and expecting the U.S. to do the same.

The answer to this surely is not to let the dollar fall, punishing ourselves (and throwing away the process Secretary Baker has so painfully won toward exchange-rate stability). Short of sending the U.S. troops in Kaisers-lautern to beseige the Bundesbank, the answer is to get on with exchange-rate stability with the French and British. Both have expressed sympathy with Mr. Baker's latest proposals, and neither can be interested in aborting their own impressive recoveries in order to protect Germany from the threat of Turkish immigrants. Faced with a U.S., British and French initiative to obsolete the German-led European Monetary System, the Germans would quickly fall in line.

On the domestic scene, meanwhile, everyone in Washington should write on a blackboard ten times a day, "Tax increases are bearish." If we can get this truism into Beltway minds, perhaps we could get on to subtleties, such as whether increases in tax rates increase revenues, whether a deficit signals too much spending or too little taxation, whether trade deficits mean anything and so on. Those who blame the twin-deficit mania for the stock-market decline need to explain why stocks rose in the first place.

The great stock market crash in 1929 came with the collapse of the political coalition against the Smoot-Hawley Tariff. In 1930, stocks remained at 1928 values until the tariff passed and President Hoover announced he would not veto. The fall in stocks caused by the protectionists encouraged the protectionists and shook the confidence of their foes. They carried the day and turned an ordinary correction into the Great Depression. (Not so incidentally, Hoover, Smoot and Hawley were all promptly cashiered by the electorate.)

The 1982-1987 bull market resulted from the Reagan policies, and the fall in the last two months resulted from renewed doubts about whether those policies would be sustained. The dramatic fall in stocks is all the more reason to stand tight: no tax increases, no protectionism and further initiatives toward exchange-rate stability.

ELECTIONS IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, the Haitian people, 90 percent of them, indicated firmly that they were in favor of free elections. They voted for a constitution which had an election timetable. That election timetable has now begun.

The Haitian Government, however, made up of old members of the Duvalier regime insist on establishing a reign of terror which is threatening these elections.

Any candidate is now threatened by the terror which is being promoted by the official Government of Haiti.

These armed thugs, these military terrorists, are thwarting the will of the people; and it is necessary for us to act immediately to guarantee that these elections do take place.

It is hypocritical to insist on free elections in Nicaragua when Haiti, which is 90 miles from our shore, has voted for free elections.

They have started the process, and we are permitting a small group to stop those elections. It is no secret, we all know that Haiti is a client state of the United States.

We do have tremendous influence in Haiti. We do not have to send troops to make our influence felt in Haiti. The ruling junta will not stand against the influence of the United States if we firmly assert ourselves and make it clear that we want free elections in Haiti.

I must congratulate the administration for appropriating $5 million to the election commission for these elections. I must also congratulate France, Venezuela, and a few other countries for appropriating an additional amount of $2 million to assist with the elections.

Following the killing of a candidate for President, Yves Volel, on last Thursday in front of the police station across the street from the Palace, the seat of the government, it has been made quite clear that more than just money to supervise the elections is necessary.

According to an article appearing in today's New York Times, it is quite clear that the government in power, the ruling junta, wants to thwart the Constitution. They have taken the first step openly by insisting that former Duvalierists, people who were aids of Duvalier, be allowed to become candidates for President.

The Constitution clearly says that no former member of the Duvalier Cabinet can run for office for 10 years; but they have, nevertheless, inserted the names of former Duvalier aides. They have let it be known, if the election commission attempts to stop them, there will be trouble.

There is trouble already. They have withdrawn any semblance of civil protection for the election commission.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. OWENS of New York. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, a lawyer from Haiti had recently come to me with the same complaint about the dangerousness of the election, that those few renegade groups from the Duvalier regime were running the election out of the point of barrels. The lawyer who was active in the political campaigns was told that if he returned to Haiti, that he would be assassinated.

I join with the gentleman's concerns so articulately expressed, and would like the record to show that I, like the gentleman, would like to see intervention on the part of the United Nations, Amnesty International, or even a postponement of the elections, if necessary, so we do not go through the empty sham of an election.

I praise the gentleman for taking his time to bring this to the attention of the House.

Mr. OWENS of New York. Mr. Speaker, we need to have a more affirmative peaceful intervention. We should saturate Haiti with observers from the United Nations, observers from the Organization of American States, from anywhere, and make it clear that we are watching this election, and we are watching the civil process.

We are watching the fact that the government is responsible for guaranteeing the safety of the candidates.

Mr. Speaker, I include the article from the New York Times in its entirety, because of the fact it clearly states what the problem is; and I am saying that the solution is that the United States must act to make its client state observe the will of the people, and the will of the people is to have free elections.

We should do everything possible to guarantee that those free elections take place, and that their free candidates are not threatened by the military terrorists who are ruling Haiti at this time.

Mr. Speaker, I submit a copy of the New York Times, October 20, 1987, article, as follows:

DUVALIER CANDIDATES AND A KILLING BLUNT OPTIMISM OF HAITI VOTERS

(By Joseph B. Treaster)

PORT-AU-PRINCE, HAITI, October 17.—After a brief moment of optimism, Haiti's march toward elections has encountered new obstacles with the assassination of a presidential candidate and the entry into the presidential campaign of several key officials in the deposed Duvalier dictatorship.

The killing of the candidate, Yves Volel, at the entrance to police headquarters in the heart of the capital, and the candidacies of the Duvalier aides have sent a wave of fear through the country and raised new questions about whether the elections can be held on Nov. 29 as scheduled.

One of the main selling points of the new constitution that was overwhelmingly endorsed by Haitians earlier this year was a 10-year ban on Duvalier aides running for public office. But those who announced candidacies last week, including a former Duvalier finance minister and a former army chief of staff, suggest violent reactions if anyone tries to stop them.

As nighttime shootings, vigilante killings and the discoveries of bullet-torn bodies in the streets have risen, the security forces have withdrawn, giving rise to speculation that the army-dominated provisional Government wants Haiti's first elections in 30 years to fail.

IDENTIFYING THE CULPRITS

The nine members of the electoral council constitutionally designated to conduct the elections have appealed for Government action against the pervasive insecurity and for administrative assistance from regional government officials. The provisional Government, which has been administering Haiti since President Jean-Claude Duvalier fled into exile 20 months ago, has said in letters to the council that it would be happy to do something about security if the council could identify the culprits, something no one seems able to do. It said administrative assistance would violate the spirit of neutrality expected of the Government.

"The Government is telling us 'Your're on your own,' " said Alain Rocourt, the treasurer of the council and head of the Methodist Church in Haiti.

"I think the Government sees it cannot openly object to the elections," a Western diplomat said. "But if the climate becomes such that there cannot be elections, I think they will say: 'It's not our fault. We must step in to save the country.' The Government has not done enough to encourage and promote elections. They should have and could have done more."

The United States, which has backed the provisional Government as offering the best guarantee of elections, has provided nearly $5 million for the elections and council members say that money is flowing through the Finance Ministry without a hitch. Canada, France and Venezuela are providing nearly $2 million worth of election materials and training.

CANDIDATES USE EXTREME CAUTION

Presidential candiates and members of the council, whose downtown offices are without any security guards have been receiving death threats. Some of them have begun carrying weapons, traveling with bodyguards varying their routes to work and sleeping in different places at night. The few candidates who are campaigning are doing so with great caution and some foreign diplomats are arming themselves.

Until early this month, elections with a heavy voter turnout were considered likely. An attempt by the provisional Government to take control of the elections was defeated during the summer and most opposition groups, which had been resisting elections, said they had been resisting elections, said they had come to believe that the only way to get rid of the provisional Government was to vote in a replacement.

Many political leaders said they were trying to look beyond the killing of more than 35 demonstrators by soldiers in June and July, the slaying of a political leader in August and assaults on several clergymen. Now, however the future once again seems uncertain.

Asked whether he thought the elections would be held on schedule, Marc Bazin, a former World Bank official and a presidential candidate regarded as being among the front-runners, replied simply, "I don't know."

POSSIBILITY OF VIOLENCE

"It's anybody's guess," said Louis Dejoie 2d, another leading presidential candidate, whose father and namesake was defeated by François Duvalier in 1957 in an election that historians say was rigged by the army and started the family dictatorship.

The constitutional challenge created by the emergence of the Duvalier aides and the possibility of violence from their supporters, one Western diplomat said, "could create problems which would be insurmountable."

According to the constitution, the council must rule on the eligibility of the candidates. It has up to 10 days before the election to make a decision, but many Haitian political leaders and diplomats say it is clear that the constitution requires the rejection of the most prominent of the Duvalier aides. In the meantime, the Duvalier candidates are expected to press their campaigns hoping to muster public support that could be used to justify a refusal to accept rejection by the council. They are also expected to step up their efforts at intimidation.

Many organizational problems, including the registration of three million voters in the next two weeks, add to concerns about the elections. No national voter list now exists. Many Haitians have no birth certificates or other documents to affirm their ages and identities and many live in remote mountain villages, reachable only on foot or by mule.

The deadline for filing presidential candidacies passed Friday night with 35 men having declared for the office including a dozen or so centrist lawyers, businessmen and intellectuals, the head of the Communist Party of Haiti and the former Duvalier aides.

Elections to choose mayors and two deputies in 137 municipalities and a chief and two deputies in 565 rural sections are supposed to be held on Nov. 15. But by midday on Friday, only 27 candidates had registered for the municipal elections and 17 for the rural sections, and the registration deadline was extended.

"People are afraid," said Louis Roy, a retired physician who was one of the principal authors of Haiti's new constitution and now heads a committee to defend the constitution.

The most prominent of the Duvalier aides, Clovis Desinor, a 73-year-old lawyer who campaigned for the election of François Duvalier in 1957 and served more than 11 years as his principal financial officer, said in an interview that he regarded the constitution as discriminatory. He said no document "can take away my rights, not even the constitution," and raised the possibility of civil war.

Mr. Desinor, tall and graying, described Mr. Duvalier, who is accused of murdering thousands of Haitians, as a "great man" who was driven to violence by enemies who repeatedly tried to overthrow him.

GEPHARDT-WRIGHT BEAR MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk about the bear market we have seen in the last few days, how it happened and what it means.

It is fascinating that on August 23 on a page 1 of New York Times story, the Western White House announced that it no longer had enough power on Capitol Hill to stop a trade bill which would start a protectionist trade war, to stop a catastrophic insurance bill that was written in such a way that it was a massive tax increase, and that in fact Reaganism would have to compromise with Carterism, and the White House can no longer stop the left which now dominated the House and the other body.

Two days after that New York Times article was the peak of the bull market, and as investors began to watch and realize that the left was serious, the left wanted to raise taxes on those who save and invest, and on those who work.

The left wanted to risk a trade war with the protectionist bill that risked German and Japanese investors pulling out and risk breaking up the world market. The left wanted to pass a bigger welfare system putting more burden on those who want to work, and less incentive for those on welfare, that the left was passing already a dozen bills in the House and the other body increasing new Government programs, new power in Washington, new redtape.

Then with the debate and the fight over the nomination of Judge Bork to the Supreme Court, it became increasingly obvious that the Reagan White House and Reaganism had lost power in the National Capital, that the left was increasingly in charge, increasingly arrogant, and increasingly willing to dominate.

In that setting, it is little wonder that people who had lived through Jimmy Carter's years of 22-percent interest rates, 13-percent inflation, massive unemployment, the collapse of the American economy, as they looked at the left in both the House and the other body, offered to re-create Jimmy Carter's disaster, and as they looked at the constant drumbeat of "Let's raise taxes," more taxes from those on the left, and as they looked at the increasingly confident threat of a trade war, that savers, people who worried about the future, came to the conclusion that we are drifting away from Reagan and Reaganism and back into the policies of the left which had made America so sick in the 1970's.

Monday's 500-point drop in the stock market shocked everyone, and we ought to be honest about how severe a challenge it is.

The Speaker today offered a bipartisan response, and let me suggest tonight, there is a very easy bipartisan response.

Take the Reconciliation Program which has so far been written only in a narrow partisan way by the Democrats, open it up, allow the Republicans to be involved in writing the reconciliation bill. Take out the welfare increase which has been added to reconciliation, and recognize we cannot afford it.

Take out all the new programs we cannot afford. Get serious about deficit reduction and cutting spending.

If the gentleman from Texas [Mr. WRIGHT], the Speaker is sincere, tomorrow the Speaker has a very easy, very simple job.

All the gentleman has to do is pull back all of the partisan parts of the reconciliation that have already been written, pull back the Democratic Ways and Means package, pull back the Democratic packages from each committee, offer to the gentleman from Illinois [Mr. MICHEL] and the House Republicans a truly bipartisan task force, and within 2 or 3 days in a bipartisan way, we can write a debt-reduction package for reconciliation that is real, that cuts spending for real, that achieves the goal we want, that increases revenue by offering a 15-percent capital gain, so that there are more jobs created, so more money is invested in the stock market, so we rebuild confidence on the part of those interested in America's future.

That kind of a true bipartisan approach by the Speaker would mean something; but if in fact the Democrats intend to ram through a one-sided leftwing tax increase, bigger-welfare-system bill, then they should not get up here and talk about partisanship.

If they are determined to dominate the House with a machine, they ought to be honest with the country, and they ought to be honest about the degree to which it is the Gephardt-Wright bear market theory, the Gephardt-Wright sector of the liberal welfare state, a tax increase which is scaring those who would invest in America's future.

INTRODUCTION OF LEGISLATION TO DELAY 90-PERCENT THRESHOLD ESTABLISHED IN TAX REFORM ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. McCANDLESS] is recognized for 5 minutes.

Mr. McCANDLESS. Mr. Speaker, our constituents should not be penalized for the mistakes of the Federal Government. We should not pass a law; make it extremely difficult for people to comply with that law; and then fine people for not complying. Yet that is exactly what we have done.

For good or for bad, the Tax Reform Act of 1986 made major changes in our tax laws. Many of these changes will not be recognized or understood until taxpayers prepare their returns for 1987. One of those changes is the requirement that workers have at least 90 percent of their total tax liability withheld.

To assist taxpayers with that obligation, the IRS was to design a new W-4 form. The IRS got off to a late start. There was a series of proposed forms, and many provisions. Finally the IRS issued a new W-4. That led to a deluge of questions and complaints to the IRS and congressional offices. With congressional pressure, the IRS went back to the drawing board and produced yet another form, Form W-4A. Workers had until October 1 to file a new W-4 with their employer.

As a result of IRS foot-dragging, many Americans who acted in good faith and who complied fully with the law, will not meet the new 90 percent withholding threshold. Consequently, they will be subjected to tax penalties next year.

Today, I am introducing legislation to correct that injustice. My bill would simply delay the 90 percent threshold for 1 year. This would give our constituents an opportunity to understand and to comply with the new law without being subjected to penalties.

My colleagues, if you are concerned about this injustice, I invite you to join me in cosponsoring this legislation.

THE PARTY IS OVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, the era of Alice in Wonderland economics is over.

It took a 500-point drop in the stock market to convince a lot of people that record-breaking budget and trade deficits—mounting year after year—can only lead to economic disasters.

With these record deficits and with the economy so heavily dependent on foreign investors to finance the red ink, it is no surprise that the markets are reflecting massive uneasiness. The only real surprise is that it didn't come sooner.

The administration has been living in an "Alice in Wonderland" world and failed consistently to face economic realities. Economic platitude piled on top of economic platitude isn't a decent substitute for economic policy.

It's been economic fantasy fed to the country by a pleasant, well-liked President. But, the hard facts have been ignored too long and the markets reflected this yesterday.

Many of those who play the markets can well withstand the massive drops in stock prices. Unfortunately, in the final analysis, it will be the people—who can least afford to pay—that will suffer much of the adverse fallout.

There will be higher interest rates, in part to continue to attract foreign investors to finance our huge deficits. The young couple trying to buy a home will see new demands for higher down payments and higher mortgage interest rates which will price many out of the market. The small businessman, who needs credit to survive, will either find it too expensive or nonexistent. Consumer interest rates, including credit cards, will reflect the impact.

Happily, Mr. Speaker, we have incorporated many social and regulatory safeguards through the years that cushion economic downturns and even 500-point drops in the stock markets.

Not the least of these are the safety nets that surround our financial system. The deposit insurance of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation assure that no individual depositor—with a deposit of $100,000 or less—will lose a dime in the event of a bank failure. In addition, we now have a sophisticated regulatory system in place and the Federal Reserve, as the central banker, can and does provide funds to the banking system for liquidity purposes.

So, there is absolutely no danger for the millions of individual depositors in insured institutions. However, these safeguards are not reasons for complacency. It is time to face realities and to end the "Alice in Wonderland" party.

LARGEST FALL IN STOCK MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. ECKART] is recognized for 5 minutes.

Mr. ECKART. Mr. Speaker, yesterday and today were momentous days in the financial history of this great country.

Without any doubt, many of the Members, many financial analysts and experts will spend many days and long hours, and the regulators perhaps, will spend weeks trying to ascertain what it is that actually drove the marketplace of the New York Stock Exchange, followed subsequently by other foreign markets, to the depths and levels of activity that actually occurred.

Politically, probably there is a lot of blame to share. Economically for tens of millions of Americans, and hundreds of thousands of investors abroad, the consequences are just about the same: uncertainty, and in certain sets of circumstances, fear.

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I saw some fear yesterday, for as part of my activities as a member of the Securities and Financial Institutions Subcommittee of the Committee on Energy and Commerce I was in New York. I was on the floor of the New York Stock Exchange yesterday. What I saw as a witness to the market's largest ever fall, I think, holds some important lessons for all of us people who are part of the public debate. Over a trillion investor dollars were lost yesterday. Millions of dollars changed hands. I was a first-hand witness to large chunks of stock coming on the market as a result of program buying and selling.

I listened to several of my colleagues try to dissect what happened. I believe the messages are several.

First, the marketplace worked. A system designed to handle no more than 400 million shares, designed to handle no more than 80 orders a second, exceeded those numbers and actually helped explain why what happens when willing buyers, if they can find willing sellers, meet.

The record volume of back-to-back days of over 600 million shares is testimony to the foresight of the executives of the exchange, but it does not mean that they are completely prepared for the future.

For 5 years we have witnessed an unabated bull market. The correction was inevitable. Yesterday's was extreme; but the marketplace making a massive correction is part of an economic assessment of our future.

A third lesson to be learned is the importance or significance of rumors, the distress that was immediately imminent when the new SEC Chairman, David Reutter, simply suggested that he was thinking about closing the market spread like a prairie fire among those fighting for their financial life. All of us should learn an important lesson from political or regulatory officials speaking out of turn and for an administration that has spoken so well of an unfettered marketplace to have one of their chief financial experts even suggesting that in the middle of what became a calamitous day I think proves to be difficult.

In the 1930's we learned the lesson of the Federal Reserve Bank of New York erroneously closing its doors. That pent-up demand of closing the marketplace only exacerbated the problem. The marketplace needs to work.

Another lesson is that the program trading, the so-called buying and selling by computer orders happening in microseconds, flooding the market, contributed to the volatility of those exchanges.

I saw one system's expert, one specialist, holding 375,000 shares to sell and not a buyer on the floor, be handed additional orders of 250,000 shares generated by an unthinking computer making that sale only that much more difficult; huge blocks of stock resulting from these computerized buying and selling depressed the ability of the market to respond.

The conduct of the specialists is another lesson to learn. These folks, forced to buy on their own account when the market would not absorb the stock, are not as well capitalized as the larger brokerage firms that trade on behalf of millions of Americans. If there is a weakness in the system, the SEC must examine it and the foresight of the market executives who just a few months ago were criticized for spending millions and not knowing exactly what it would bring; the dollar fall of the 5-year bull market, the interest rate increases, the trade and budget deficits, all contribute in some synergistic way to tell us an important message—get your house in order.

The trade deficit and foreign takeovers, financed by borrowed money, should be of grave concern to us. That is why we should look closely at the tax bill soon to come to this floor which will for the first time deny to American corporations the ability to finance takeovers, because as the Wall Street Journal and other editorial commentators tell us today, all takeovers are not bad, leaving open to only the foreign markets of Japan and Germany to be able to deduct interest and thus to come in and buy American corporations at bargain basement prices. Not only mergers are bad.

Learn the lessons of yesterday and today. Beware of false hopes and false promises and understand that while the marketplace works, the world looks to us in Congress to address these problems.

A SALUTE TO MR. PHIL CHELNICK—OHIO SENIOR CITIZEN HALL OF FAME INDUCTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, on October 29, 1987, the Ohio Department of Aging will hold its Eleventh Annual Ohio Senior Citizens Hall of Fame Induction Ceremony. This year nine individuals will be honored for their vital role in the community. I am pleased to report that Mr. Phil Chelnick, a resident of my congressional district, is among those being honored.

A longtime community activist, I can think of no one more deserving of this special honor. Mr. Chelnick founded the Social Action Committee of the Jewish Community Center Senior Adult Department and has served as its chairman for 14 years. The committee was established to create a vehicle for adult advocacy and involvement in issues of concern. The Social Action Committee has worked in areas such as housing for the elderly and against cuts in Social Security and Medicare. Mr. Chelnick has also served as chairman of the Center's House Council. However, his interests have not been limited to the problems of the elderly. He has also worked against budget cuts for the needy, and in support of a nuclear freeze.

Mr. Chelnick is the recipient of numerous awards and citations for his efforts, including the Jewish Community Center's Leonard Kronenberg Award for Outstanding Service and the Senior Adult Leadership and Community Service Award of the JCC. He was named as one of six outstanding seniors in Ohio in 1973 and has served as a delegate to the White House Conference on Aging.

In 1986 Mr. Chelnick served as my Congressional Senior Citizen Intern on Capitol Hill. Brimming with enthusiasm and vitality, he did an excellent job of representing the concerns of seniors in the 21st Congressional District and throughout the Nation.

Mr. Speaker, I am pleased that the Ohio Department of Aging will be recognizing these special individuals for their tireless efforts and significant contributions to our community. It is an honor to salute my friend, Phil Chelnick, on this occasion.

THE PESTICIDE MONITORING IMPROVEMENTS ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I urge my colleagues to support the Pesticide Monitoring Improvements Act which I joined in introducing yesterday with Mr. DINGELL and others. This legislation will not only improve our food import inspection system but also assist in monitoring all food products for pesticide residues sold in the United States. I want to preface my remarks by saying how pleased I am to have had the opportunity to work closely with Chairman DINGELL and the other distinguished members of the Energy and Commerce Committee in developing this bill.

Persistent deficiencies in FDA's pesticide monitoring and enforcement system expose American consumers to unacceptable health risks and put American farmers at an unfair disadvantage with foreign farmers. In the last 5 years alone, food imports have increased overall by more than 20 percent. With a growing share of the American diet coming from imported food, we must ensure that this food meets the same health and safety standards required of U.S. farmers and food processors.

Our legislation makes significant improvements in FDA's pesticide monitoring and enforcement system and sends a clear signal to private industries that imported food marketed in the United States must comply with U.S. standards. It is designed to give American consumers adequate protection from dangerous pesticides and to ensure that United States and foreign farmers compete on a level playing field.

Last March, I introduced similar legislation in response to concerns raised in a September 1986 GAO report about FDA's import inspection and enforcement operation. I later traveled to a border inspection station located in Otay Mesa, CA to get a firsthand view of our import inspection operations. During my visit, I met with importers, and officials from FDA, Customs, USDA's Animal and Plant Health Inspection Service, and Mexico's Secretariat of Agriculture. Based on my observations and discussions, I found that information presented in the GAO report was both fair and accurate.

If we don't deal with these problems now, we are confronting a time bomb. GAO's September 1986 study reported that FDA only samples a miniscule amount of food crossing our borders and that its laboratory methods can only detect a small portion of pesticides that are available on world markets. GAO also found that FDA's enforcement system is so weak that tainted food often reaches American consumers and violators are rarely penalized.

More specifically, the GAO report identified the following problems in FDA's food inspection system:

1. SAMPLING

GAO found that FDA samples less than 1 percent of the approximately 1 million food shipments imported annually. Between 1979 and 1985, GAO noted that FDA collected and analyzed 33,687 samples of imported food and found that 6.1 percent of them contained illegal residues—more than twice the violation rate for domestically grown food. Dangerously high levels of pesticides were found on everything from tomatoes to bananas.

But even these numbers do not reflect the true scope of the problem because the percentage of shipments sampled is too small and is not representative of the total imported food supply which may contain such residues. Based on current FDA inspection and monitoring operations, it is impossible to determine the extent to which American consumers are being exposed to dangerous pesticide residues.

2. LIMITED LABORATORY TECHNOLOGIES

The technology used in FDA laboratory to detect pesticide residues is inadequate. Although GAO estimates that 496 pesticides are available for use on food crops, FDA's laboratory methods can detect less than half of the pesticide residues that might appear in our food.

3. ENFORCEMENT IS WEAK

Even when imported food shipments contain illegal pesticide residues, the food is often marketed and consumed in the United States. There are two reasons why tainted food can easily escape detection. First, the odds are only 1 in 100 that a shipment will be sampled. Second, FDA generally allows perishable foods to be distributed before laboratory analysis is completed. Since 2 to 5 days are needed to complete the test, foods are often marketed and consumed before illegal pesticides are detected. GAO found that 60 percent of the imported shipments found to contian illegal pesticide residues in 1985, through routine sampling methods, ended up reaching American consumers. GAO also found that importers who fail to recalll adulterated shipments from U.S. markets are frequently able to evade any type of penalty. Clearly, a weak enforcement system does little to curb buses and deter future violations.

4. INADEQUATE INFORMATION ABOUT PESTICIDE USE ABROAD

FDA's efforts are further hampered because the officials of that agency lack adequate information about pesticide usage abroad. This makes it extremely difficult for FDA to know which multiresidue test should be used in the laboratory. Consequently, even if a shipment is detained for testing, FDA labs may fail to detect illegal pesticide residues unless the proper test method is used.

There is a pressing need for FDA officials to develop a better line of communication with their foreign counterparts who are responsible for pesticide monitoring and enforcement activities. Such communication is particularly important when FDA inspections reveal a persistent pattern of pesticide violations in an imported food product.

For example, during my visit to a border inspection station, FDA officials said that they were having problems with a large number of Mexican grape shipments because they were found to contain Omethoate, a pesticide not approved for use in the United States. Although FDA officials indicated that they had sent a letter to the Mexican Government informing them of this problem, the Mexican officials said that they had not received this information and were unaware of the problem. It was subsequently revealed that the import violation information had been sent to the wrong office in Mexico. Both FDA and Mexican officials agreed with me that better communication would lead to better enforcement and a safer food supply.

Following this meeting, FDA officials from the Los Angeles district office traveled to Mexico to establish better communications with Mexican officials and to gather information on Mexican pesticide practices and regulations. In addition, FDA has agreed to provide technical training on U.S. laboratory methods for a number of Mexican technicians. Expanding communications in this manner with other exporting countries will enable FDA to take quicker corrective actions when violations are discovered and hopefully encourage foreign countries to take preventive steps aimed at discouraging misuse in the field.

Mr. Speaker, it is time that Congress does everything possible to see that food we import is safe as the food we produce here in the United States. I believe that our bill is a carefully crafted measure which will accomplish this goal.

Our bill requires FDA to establish computerized data management systems to track and evaluate the results of its pesticide monitoring and enforcement program for domestic and imported food. It requires food imports to be accompanied by an import document which will identify those pesticides used during the production of food coming in from abroad. This will help FDA target potentially volatile shipments and improve the accuracy of its laboratory methods. Our bill also requires FDA to expand the exchange of information on pesticide usage, monitoring, and violations between U.S. officials and their foreign counterparts so that preventive and constructive action can be taken to reduce the tide of pesticide problems at the border. And finally, the bill requires FDA to develop long-term research plans for development of more accurate and timely pesticide analytical methods.

In conclusion, the Pesticide Monitoring Improvements Act will make long overdue changes in the way food products entering the United States are monitored for pesticide residues. This bill will help ensure a safe and wholesome food supply untainted with dangerous chemicals and pesticide residues—a fundamental and basic right of every American consumer. I urge my colleagues to support quick enactment of this urgently needed legislation for the protection of the American consumer.

CIVIL RICO REFORM AND SECURITIES FRAUD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, this Congress may be soon asked to consider the important task of civil RICO reform. During the last Congress, the Subcommittee on Criminal Justice, which I am privileged to chair, held extensive hearings on complaints about civil RICO abuse by various segments of the business community, the most vociferous of which came from representatives of the securities industry. We also heard from various consumer and law enforcement groups, in particular from the State attorneys general. In response, my distinguished colleague, the gentleman from California, Mr. DON EDWARDS, and I have introduced carefully crafted comprehensive, and well-balanced legislation, the Racketeer Influenced and Corrupt Organization Act of 1987, (H.R. 3240), which would, not only fine tune the civil RICO statute to guard against abuse, but also strengthen it in a number of important areas, including organized crime, white-collar crime, and terrorism. My distinguished colleague and friend, the gentleman from Virginia, Mr. FREDERICK BOUCHER, has also introduced legislation (H.R. 2983), which reflects, among others, the views of the securities industry. I rise to discuss Congressman BOUCHER's proposed legislation and to share with the House some of the reasons why I, for one, cannot support H.R. 2983 as it is presently drafted, but basically because it will give special treatment to the securities industry and unwisely relieve it—retroactively—of much of its sorely needed RICO liability.

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Mr. Speaker, civilization requires trust. Fraud undermines it. No less than the integrity of the free enterprise system is at stake in what we do with civil RICO reform. Far from according the securities industry—or any other group—special status, I believe, if anything, that civil RICO should be strengthened, not weakened in this crucial area. Civil RICO facilitates integrity in the marketplace by providing deterrence to systematic illegal conduct. It also provides ample compensation to the victims of sophisticated forms of crime and encourages them to help themselves and society by acting to sanction it. Sam Zell, a corporate official in Chicago, who was involved in three takeovers last year, in reference to the recent insider trading arrests in New York, told Fortune Magazine (Dec. 22, 1986 at 29):

> You get market discipline for many reasons. But the most important is fear. Now there is fear and there will be discipline.

Criminal convictions and civil judgments for treble damages provide an appropriate level of deterrence for insider traders and compensation for their victims. I firmly believe, too, that civil RICO ought to be retained for all forms of systematic, that is, "patterns" of securities fraud. Securities fraud was generally estimated by the U.S. Chamber of Commerce in 1974 to cost the Nation's businesses and individuals $8 billion each year. If fraud has kept pace with trading—and I have every reason to believe that it has—that figure today could be as high as $25 billion. As the current Wall Street scandals demonstrate, insider trading fraud is today prevalent in the stock markets, despite the well-known general rule that anyone who has information, knowing that is intended to be available only for legitimate corporate purposes, must either disclose that information before trading or abstain from trading. The victims of such fraud are not only individuals, but various institutional investors, who represent individuals—mutual funds, pension funds, and the like. Obviously, businesses, too, are victimized. Civil RICO must, therefore, remain intact as a deterrent, not only to insider trading, but also to general securities fraud, and it must be preserved as a remedy to victimized businesses as well as individuals to obtain for them an appropriate measure of just compensation. For this reason, I register my strong disagreement with the basic premise of the Boucher bill, which is that civil RICO is not needed and that it ought to be weakened in this vital area.

II

It may be useful to describe the tragic outlines of the current Wall Street scandals, so that the application of current law is clear; it will then be possible, too, to understand the unwise and indefensible provisions of the Boucher bill.

The Dennis Levine, Ivan Boesky, and Martin Siegel scandals have been rightly described as the worst scandals since the tragic 1920's in the stock market, a $2.5 trillion industry. Indeed, since 1982, the beginning of the current bull market the value of all stocks has swelled $1.8 trillion, about a billion a day. These scams bilked millions of dollars from legitimate investors by trading in securities based on nonpublic information that, once publicized, would make the price of the stocks increase or decrease. The very existence of such wide spread insider fraud threatens that investor confidence so necessary for the vitality of the market. The adverse consequences of insider trading were well summed up by former Chairman of the Security and Exchange Commission John Shad:

> Capital formation and our nation's economic growth depend on investor confidence in the fairness and integrity of the securities markets. Investors will be less willing to place their money at risk in securities if they believe insiders, who have access to material nonpublic information utilize it to take advantage of them. . . . [I]nside traders also take advantage of market makers and specialists, who are obligated to maintain fair and orderly markets. . . . [T]o the extent that market makers and specialists increase the spread in bid and asked prices, and take other precautions to avoid being disadvantaged by insider traders, it reduces the efficiency of the markets at the expense of all investors
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> [I]nside traders increased the prices paid to acquire corporations. To the extent this occurs, it is at the expense of bidding companies' shareholders. (Statement of John Shad, Chairman of the Securities and Exchange Commission, Before the House Subcommittee on Energy and Commerce, Dec. 11, 1986 at 3-4.

When he was arrested in May 1986, Dennis Levine was a managing director for Drexel Burnham Lambert in its mergers and acquisitions department. The Government alleged that Levine had illegally earned $12.6 million in a 5-year period by trading on inside information. Subsequently, Levine admitted to forming a group of Wall Street professionals to act as tipsters in his insider trading scheme. Creating such a group of conspirators is, moreover, all too easy. Time magazine (Dec. 1, 1986 at 55) stated the problem well.

> [T]he close proximity of a small core of professional takeover specialists, and their towering importance in the market of the 80's, makes the prospects for collusion virtually endless. Since brokers and junk-bond dealers often know about a raider's plans well in advance of the general public, those professionals have the opportunity to tip off other investors or to make their own profits by trading in the target stock.

As of March 20, 1987, Levine's information has resulted in the arrest of 11 other Wall Street professionals, including Ivan Boesky, one of America's richest and most influential stock market speculators.

Ivan Boesky himself specialized as a risk arbitrageur, which entails buying and selling stocks in companies that are involved in takeover battles. On November 14, 1986, the SEC charged that Boesky had been involved in insider trading with Levine. According to the SEC's complaint, Boesky bought stocks of takeover targets based on inside information. Levine has been supplying Boesky with such information since about February 1985. Boesky settled with the SEC by agreeing to pay $50 million in penalties and returning another $50 million in illegal profits to a disgorgement fund for defrauded investors. Boesky was also banished from stock trading, and he currently awaits sentencing on a criminal charge, conspiracy to file a false statement with the SEC, which could lead to imprisonment. Boesky has not yet been sentenced. Like Levine, Boesky has begun to assist Federal investigators. Boesky's help thus far has resulted in the arrest of Martin Siegel, one of the highest paid and most glamorous stars in the merger business.

Martin Siegel, the cohead of mergers and acquisitions at Drexel, has also recently pleaded guilty to two felony charges involving insider trading. Like Levine and Boesky, Siegel led investigators to three arbitrage professionals from Kidder, Peabody & Co. and Goldman Sachs & Co., who were then arrested and charged with insider trading violations.

Civil RICO promises appropriate relief to the victims of these fraudulent schemes. As such, I believe that it would be profoundly unwise—particularly retroactively—to curtail the impact of RICO in this area. Once again, Time Magazine (Id. at 56) put it well:

> [O]ne of the best defenses against illicit insider trading is to increase the likelihood that offenders will be caught and that getting caught will hurt.

Limiting civil RICO will contribute to further abuse of economic power, since insider traders can make millions in quick, easy profits with inside information. I do not believe that securities fraud generally should be treated any differently. The mere threat of being held accountable for three times the illegal profits acquired—at least if its applicability is well-known—unfortunately, RICO's possible civil impact has not been well-known—will have a powerful deterrent impact on all forms of securities fraud. Boesky's $100 million penalty included a $50 million in returned illegal profits, which is about the same amount that he allegedly made from insider trading. Clearly, deterrence does not exist when any offender is only penalized the same amount that he illegally obtained. Boesky, however, could face additional liabilities of $150 million under RICO's treble damage provision. Unlike Congressman BOUCHER, I would do nothing to alter Boesky's current liability.

Insider traders will continue to trade on nonpublic information as long as they have the opportunity to make millions of dollars with little risk. In 1983 and 1984, for example, 60.6 million shares of stocks, excluding over-the-counter trading, were sold on all registered exchanges. The market value of these stocks was $2,011 billion. About $130 billion in stocks, bonds and other securities change hands every day merely on the basis of telephone calls. Many of these trades—how many no one knows—were tainted by fraud.

The increasing number of mergers and tender offers, moreover, is an important factor in the temptation to seek and use inside information. Takeovers are at an all time high because the price of many stocks has become depressed, while the value of corporate assets remains high. Indeed, the ratio of market value to replacement value is only about 80 percent. Some 2,806 mergers and buyouts worth nearly $130 billion occurred in 1986, up from 2,755 deals worth about $100 billion during a comparable period of 1985. Corporate America is being held hostage by the corporate raiders. Profitable companies are being forced into unnecessary debt, and jobs are being lost as research and other expendable divisions are scrapped, all so a few enormously wealthy individuals can add to their fortunes—too often by conduct that can only be fairly described as "theft." Among arbitragers, according to a recent SEC study, 5 firms accounted for 65 percent of the profits realized in 1986 by 31 firms surveyed. Indeed, the 31 firms, together, earned an estimated $1.11 billion from 1984 to 1986, claiming each year an even larger share of total profits from corporate takeovers. Significantly 25 of the 31 firms had invested in potential takeover stocks before the public disclosure of a takeover bid, a tell-tale sign that inside information may have been leaked.

Similarly, the growth of the options market provides insider traders with the opportunity to acquire extraordinary profits. In 1977, 40 million options contracts were traded on registered exchanges. By 1984, that number had increased to 119 million. The market value of the contracts traded in 1984 was $33.8 billion.

Even among legitimate brokerage firms, the incentive structure for commissions encourages a fraud known as churning, trading stock to make a commission without regard for investment objectives. Within the last year, for instance, seven former customers of Drexel sued the firm for $2.24 million, alleging, among other things, that the broker handling the accounts made more than 1,400 trades, which netted 400,000 dollars' worth of commissions in 4 years, despite instructions from the customers to preserve capital.

According to the National Association of Securities Dealers, 2,054 complaints were filed with their market surveillance department in 1985. The list of complaints included late delivery of securities or funds, mishandling of accounts, execution of customers' orders, failure to transfer accounts in a timely manner, and unauthorized transactions, including churning.

Stock market fraud most hurts individual investors, who typically are between the ages of 21 and 44 years and make between $25,000 and $49,999 a year. Today, however, they represent only half the market, compared to 83 percent in 1975. The rest come from mutual funds, pension funds, banks, life insurance companies, investment companies, and corporations themselves. Indeed, the number of mutual funds have increased from 361 in 1970 to 1,352 in 1984; the value of mutual fund assets in 1984 was $370.6 billion. Mutual fund shareholder accounts have swollen from 28.2 million in 1984 to 42.2 million today. Should these institutionally held assets, too, not have the benefit of the protection of RICO? What of pension funds? Their assets have mushroomed from $548 billion in 1970 to more than $1.5 trillion now—and more than a third of that is invested in equities. In 1965, pension funds held only 60 percent of all corporate equity. They now own about a quarter of it. By the year 2000 that share could climb close to 50 percent. Together, the holdings of all institutions—pension funds, mutual funds, insurance companies, banks, brokers, and dealer—now add up to a third of all corporate stock, up 25 percent from 1977. Nevertheless, the Boucher bill would deprive these assets of civil RICO's most powerful protection—the threat of treble damages.

III

To understand how the Boucher bill would unwisely work to the substantial disadvantage of the securities fraud victim, it is necessary to understand the coverage and remedial structure of current law. Rule 10b-5, promulgated under section 10(b) of the Securities Exchange Act of 1934, is the principal securities law tool available to the SEC and private plaintiffs to rout out securities fraud. Section 16(b) of the 1934 act also applies to a narrow range of short term trading activity. Because of its limited scope, it, however, may be disregarded in this analysis. The securities acts were passed in the 1930's to curtail "financial racketeering [by] investment bankers." (77 Cong. Rec. 3801 (1933) (statement of Senator Duncan Fletcher, chairman of Senate Banking Committee and leading sponsor of the Securities Act of 1933). Unfortunately, standing alone, they are not strong enough to get the job done. Enforcement measures for rule 10b-5 include SEC administrative actions, criminal prosecutions, and private civil actions by purchasers or sellers for actual damages. Punitive or treble damages are not available to victims under the Federal securities laws as such. Under the Insider Trading Sanctions Act of 1984, the SEC itself—but not private victims—may sue in a Federal district court for civil penalties up to three times the profit gained or loss avoided in otherwise fraudulent purchases and sales of securities by insiders. The 1984 act, however, does not contain a separate definition of insider trading; its application depends on a showing that "any person" has "violated any provision of [the securities acts] or the rules * * * thereunder by purchasing or selling a security while in possession of material nonpublic information." (15 U.S.C. § 78 U9d) (2)(A)). In addition, it does not envision aiding and abetting, controlling person, or respondent superior liability. (Id. at (B)) It also carries a 5-year statute of limitations. (Id. at (D)).

Rule 10b-5, (17 C.F.R. § 240.10b-5) makes it unlawful for any person: First, to employ any device, scheme or artifice to defraud; second, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or third, to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

The elements of a cause of action under rule 10b-5 are as follows:

First, a misrepresentation, omission (where there is a duty to speak), or other fraudulent device;

Second, in connection with a purchase of sale of securities;

Third, scienter; and

Fourth, materiality.

Generally, rule 10b-5 envisions not only direct liability, but also civil conspiracy, aiding and abetting, and respondeat superior liability, although a minority of court decisions question the application of the common law doctrine of respondeat superior in light of the statutory provision for controlling person liability.

The element that is most troublesome to the private plaintiff in seeking to recover civil damages on a fraud related to insider trading is "misrepresentation or omission."

In order for trading on material, nonpublic information to be actionable under rule 10b-5, the defendant must be under a duty to disclose that information. In *Chiarella* v. *United States,* (445 U.S. 222 (1980)), the Supreme Court overturned a criminal conviction of an employee of a financial printer. The employee had used information gleaned from takeover bids to purchase stock in certain target companies. When the takeover plans were made public, he sold the stock.

The Court held the Chiarella's conduct did not violate section 10(b). Silence operates as a fraud only, the Court found, when the defrauding party had a duty to disclose arising from a relationship of trust and confidence between the parties to the transaction. Chiarella did not have such a relationship with the sellers of the target companies' securities. "[A] duty to disclose under section 10(b) does not arise from the mere possession of nonpublic market information." (*Id.* at 235)

The Court refused to consider the argument, based on rule 10b-5(3), that Chiarella may have breached a fiduciary duty to his employer by misappropriating confidential information, since the argument had not been presented to the jury. Nevertheless, the theory has since been recognized in other criminal actions under section 10(b). (See, e.g., *United States* v. *Newman,* 664, F.2d 12 (2d Cir. 1981), cert. denied, 464 U.S. 863 (1983)) Because of the standing problems—explained below—a private plaintiff, however, cannot bring a civil claim for relief under the misappropriation theory. The validity of the theory itself is before the Supreme Court in the Carpenter appeal (107 S. Ct. 666 (1986)), a criminal prosecution. If the Supreme Court rejects the misappropriation theory, the SEC and the government will be left without its only effective theory in many situations under the securities act—or the Mail Fraud Statute (18 U.S.C. § 1341)—the appeal involves both—for prosecuting criminally certain kinds of insider traders.

In *Dirks* v. *SEC* (463 U.S. 646 (1983)), the Supreme Court further clarified the duties of insiders. Dirks, an officer in a broker-dealer firm specializing in investment analysis of insurance company securities, received information that the assets of a particular insurance company were vastly overstated due to fraudulent corporate practices. He investigated the allegations, finding employees of the corporation, who corroborated the fraud charges. He discussed his findings with a number of clients and investors. Some sold their holdings in the suspect corporation, "including five investment advisors who liquidated holdings of more than $16 million." (Id. at 649)

The court held that Dirks "had no duty to abstain from use of the inside information that he obtained." (Id. at 667) The guiding principle for this conclusion was "that there must be a breach of the insider's fiduciary duty before the tippee inherits the duty to disclose or abstain." (Id. at 664) Dirks was the tippee. He had no preexisting fiduciary duty to the corporation's shareholders. He obtained his information from insiders, who were not breaching any duty by disclosing the information, nor did they expect that Dirks would keep the information confidential.

According to the Court, the tipper and/or tippee violate insider trading rules in either of two situations. First, when the tippee is a quasi-insider, that is, he receives information from insiders with the expectation that he will keep the information confidential. An investment banker, such as Dennis Levine or Martin Siegel, who receives confidential information on an impending merger through a client involved in the transaction and then trades on that information, is a prime example of a fraudulent quasi-insider.

Second, one who participates after the fact in an insider's breach also violates the disclose or abstain rule by trading on that information. "[A] tippee assumes a fiduciary duty to the shareholders of a corporation not to trade on material nonpublic information only when the insider has breached his fiduciary duty to the shareholders by disclosing the information to the tippee and the tippee knows or should know that there has been a breach." (Id. at 660) The insider (tippee) must also disclose the information for personal benefit.

Chiarella and Dirks make it extremely difficult for a private plaintiff to recover civil damages under Federal securities law, standing alone, in insider tipping situations. The duty to disclose arises only when a relationship of trust or confidence exists between the fraudulent insider and the defrauded purchaser or seller. Put another way, the direction of the tip is crucial. For example, when a quasi-insider obtains inside information from the acquiring corporation about an impending takeover, and then purchases stock, that person has only misappropriated inside information. He maybe subject to criminal prosecution under the misappropriation theory under the criminal provisions of the securities statutes (e.g., 15 U.S.C. section 78ff) or the Mail Fraud Statute (18 U.S.C. section 1341). But because that individual has no relationship of trust or confidence with the target corporation, he cannot breach a fiduciary duty to target's shareholders; he owes them no duty under rule 10b-5 as interpreted by Chiarella and Dirks. As such, the securities statutes themselves offer the victim no civil relief in this situation. Yet the target's shareholders were defrauded. They sold their stock on the day when the fraudulent tipper or tippee purchased stock. Had they known the good news that the insider traders knew—and illicitly used—they would not have sold their shares. They may be subject to criminal responsibility under the misappropriation theory, but they have no civil responsibility under the Securities Acts. The misrepresentation theory, on the other hand, has not been extended to civil actions under the securities statutes, because the misappropriator breaches a duty to his employer, not to a purchaser or seller. The misappropriator owes no duty to a purchaser or seller, leaving the defrauded purchaser or seller without standing to sue civilly the misappropriator under the securities statutes standing alone. Since the Government is not bound by these standing requirements, it is able to prosecute criminally the misappropriator under rule 10b-5(3) or the Mail Fraud Statute.

The Supreme Court has also sharply limited standing to bring private civil actions for damages under section 10(b)/rule 10b-5 to actual purchasers and sellers of securities in *Blue Chip Stamps* v. *Manor Drug Stores, Inc.*, (421 U.S. 723 (1975)). Merely attempting to purchase or sell does not confer standing. Nevertheless, the Supreme Court in *Superintendent of Insurance* v. *Bankers Life & Casualty Co.*, (404 U.S. 6 (1971)) did interpret broadly the in connection with requirement. The necessary nexus is established if the fraud "touch[es]" the purchase or sale of securities. (Id. at 12-13)

Because RICO enforces not the civil but the criminal provision of the securities acts—as well as the Mail Fraud Statute—it may, however, provide civil relief where the securities statutes standing alone do not. (But see *International Data Bank Ltd.* v. *Zepkin*, 812 F.2d 149, 152-54 (4th Cir. 1987) (purchaser-seller rules enforced under civil RICO); see generally Blakey and Cessar Equitable Relief Under Civil RICO, 62 Notre Dame Law Rev.—n. 183 (1987) (International Data Bank Ltd. wrongly decided)). That is one of the most important points of the Boucher bill. It would narrow the relief currently available to victims of insider trading by substantially cutting back the scope of Civil RICO.

RICO allows private suits for treble damage relief for victims of a pattern of criminal conduct, including criminal securities fraud, mail fraud, wire fraud or travel fraud. (See, e.g., 15 U.S.C. sections 77x, 78ff; 18 U.S.C. sections 1341, 1343, 2314.) While the conduct that the plaintiff complains of must meet the elements of RICO's predicate offenses, it is not necessary to show that the offender has, in fact, been convicted of an offense. As such, Civil RICO, like the securities statutes themselves—and the antitrust statutes—embodies the concept of the private attorney general. (See generally *Agency Holding Corp.* v. *Malley, Duff & Associates, Inc.*, 107 S. Ct. 2759, 2764 (1987) (Civil RICO) ("private attorneys general [for] a serious national problem for which public prosecutorial resources are deemed inadequate"); *Shearson/American Express, Inc.* v. *McMahon*, 107 S. Ct. 2332, 2345 (Civil RICO) ("Vigorous incentives for plaintiff"); *Sedima* v. *Imrex*, 473 U.S. 479, 493 (Civil RICO) (private attorney general)). For many of the defrauded shareholders in these transactions, Civil RICO, therefore, provides them their only civil remedy under Federal law. Even though they were defrauded by parties trading on inside information, they do not have a civil rule 10b-5 case, based on Chiarella, because the fraudulent traders owed those shareholders no duty. Nevertheless, if those shareholders can prove the necessary of criminal conduct, they may be able to recover under Civil RICO.

In sum, the private plaintiff seeking recovery for securities fraud under the securities statutes must be a purchaser or seller. In addition, in the case of fraud perpetrated by insiders, the private plaintiff must be a shareholder in a corporation to which the fraudulent insider owed a duty of trust or confidence. Because the alleged fraud was the insider's failure to disclose the information or abstain from trading, the plaintiff must prove that the insider owed to the plaintiff a duty to disclose or abstain. The plaintiff must also prove the defendant's scienter, a subjective state of mind of at least recklessness. In *Ernest & Ernst* v. *Hochfelder*, (425 U.S. 185 (1976)), the Supreme Court held that, at least in private actions for damages under section 10(b) rule 10b-5, scienter, rather than mere negligence, must be established. The court found that the terms manipulative or deceptive, when used in conjunction with "device or contrivance," strongly suggested that section 10(b) was intended to proscribe "knowing or intentional conduct." Finally, the plaintiff must generally prove materiality; reliance; and damages. RICO, however, promises not only treble damage relief where systematic fraud is present, it also covers a wider range of transactions. Its value as a deterrent to egregious securities fraud, therefore, can hardly be overestimated.

Each of the following transactions involved criminal violations of the securities and other fraud predicate offenses under RICO, either specifically or based on the general misappropriation theory. Under civil RICO, therefore, plaintiffs, who otherwise have no civil remedy under the security statutes may be able to use the misappropriation theory to prove the necessary pattern of predicate criminal offenses. Accordingly, civil RICO provides a private civil remedy for victims of aggravated securities fraud, who might otherwise have no way to recover their losses under Federal law. It is that promise of current Federal law that the Boucher bill would renege on.

A. LEVINE

According to the SEC's complaint, Dennis Levine was involved in insider trading in the stock of 54 companies over a 5½ year period. Levine joined Smith Barney, Harris Upham & Co. in June 1978. He went to a Shearson Lehman Bros. predecessor, Lehman Brothers Kuhn Loeb, Inc., in November 1981. From Shearson Lehman Bros., he joined Drexel Burnham Lambert Inc., in February 1985. The deals explained below each represent an actionable criminal securities fraud under the misappropriation theory under the Securities Act of 1934 or the Mail Fraud Statute. Levine either breached the fiduciary duty owed to his employers by misappropriating insider information (19 of these transactions involved deals in which his employers were involved as investment bankers), or he was a participant after the fact in a tipper's misappropriation.

1. ITEK CORP.

Ira Sokolow, a colleague of Levine's at Lehman Brothers, tipped Levine about an upcoming tender offer by Litton Industries for Itek Corp. Lehman Bros. represented Litton in the transaction. Levine purchased Itek shares in November 1982 and sold those shares for an alleged $805,000 profit after the tender offer materialized in January 1983.

Levine was a participant after the fact in Sokolow's breach, making both criminally liable under the misappropriation theory. Both had a fiduciary duty to their employer and to the shareholders of Litton Industries, a client. Nevertheless, neither Levine nor Sokolow owed any fiduciary duty to the shareholders of Itek Corp. The defrauded sellers in this case are the Itek shareholders, who sold Itek shares on the days when Levine bought Itek shares. Had they known the good news that Levine knew—the forthcoming tender offer—they would have held on to those shares. These shareholders were defrauded by Levine, but they do not have a civil remedy under rule 10b-5 because, as in Chiarella, Levine did not have a relationship of trust or confidence with Itek Corp.

In sum, Levine and Sokolow are criminally liable, but not civilly liable under the securities laws. Criminal liability is also present under the Mail Fraud Statute. RICO liability would follow criminal liability.

Litton, however, has brought suit against Levine's employer, now Shearson Lehman Bros., Inc., alleging that Litton had to pay substantially more to acquire Itek because of the Sokolow-Levine breach. (*Litton Industries. Inc.* v. *Lehman Brothers Kuhn Loeb, Inc.*, 86 Civ. 6447 (JMC) (S.D.N.Y.)) Litton faces the difficult task of proving that the insiders' breach was the cause of the increased cost of Itek, as well as proving that Lehman Bros., an agent of Litton, should be held liable for a runaway employee.

2. JEWEL CO., INC.

Shearson Lehman Bros., Levine's employer, represented American Stores Co. in their tender offer for Jewel. Levine used the knowledge of the forthcoming tender offer to purchase Jewel stock. When the tender offer materialized, in June 1984, Levine sold his shares for a $1.2 million profit.

Levine pleaded guilty to criminal securities fraud under the 1934 Act on this transaction. Nevertheless, as in the Itek-Litton deal, Levine has no civil liability to the victims of the fraud under rule 10b-5 in light of Chiarella. Levine was employed by an agent of American Stores. He had no relationship with, and so owed no duty to, the shareholders of Jewel. Levine would be criminally guilty under the misappropriation theory under the Securities Act of 1934 or the Mail Fraud Statute. RICO liability would follow criminal liability.

3. AMERICAN NATURAL RESOURCES

Shortly after his move from Shearson to Drexel, Levine handled Coastal Corp's. bid for American Natural Resources. He purchased ANR during a 2-week period just prior to Coastal's tender offer announcement on March 1, 1985. Levine made almost $1.4 million on these trades.

As Levine represented the acquiring corporation, Coastal, he had no relationship of confidence with ANR's shareholders. Consequently, he owed those shareholders no fiduciary duty. Under rule 10b-5, as interpreted by Chiarella, ANR's shareholders have no private civil remedy for Levine's fraud under the securities statutes. Levine would be criminally guilty under the misappropriation theory under the Securities Act of 1934 and the Mail Fraud Statute. RICO liability would follow criminal liability.

B. BOESKY

In February 1985, Levine and Ivan Boesky entered into an agreement, which provided Levine with a percentage of the profits made by Boesky on Levine's tips. The SEC's complaint against Boesky focused on the insider deals he made with Levine. The complaint alleges that Boesky's profits from his illicit dealings with Levine totaled $50 million. As one anonymous securities lawyer told Business Week (Dec., 1986 at 34) "He beguiled everybody about his exhaustive research, * * * when he really made money the old fashion way: He stole it." The two had agreed that Boesky would pay Levine $2.4 million, but Levine was arrested before the payment was made.

1. HOUSTON NATURAL GAS

According to the SEC's complaint, Levine was tipped by his informant at Lazard Freres & Co. (presumably Robert Wilkis) that InterNorth Inc. planned a tender offer for Houston Natural Gas. The tender offer was successful, and the two corporations became Enron Corporation. InterNorth was a Lazard client, making the informant (Wilkis) a quasi-insider and Levine a participant after the fact in the informant's breach. Levine purchased 75,000 shares of Houston stock on April 30, 1985. The tender offer was announced 2 days later. For his efforts, Levine took a $908,000 profit.

Levine and Boesky received this inside information from a tipper, who owed a fiduciary duty to InterNorth, the acquiring corporation. But they traded in the stock of the target, Houston Natural Gas. Based on the Chiarella holding, they had no fiduciary obligation to the shareholders of Houston. Those Houston shareholders, who sold on the days when Levine and Boesky purchased, have no private civil remedy under Federal securities law. The tipper and tippees are, of course, criminally liable for securities fraud under the misappropriation theory under the Securities Act of 1934 and the Mail Fraud Statute. RICO liability would follow criminal liability.

2. NABISCO BRANDS INC.

This transaction affords a more likely civil remedy under the securities statute for defrauded Nabisco shareholders. In early May 1985, Levine received a tip from an informant at Shearson Lehman Bros. Levine had moved from Shearson to Drexel in February 1985. Nabisco, a Shearson client, was involved in merger discussions with R.J. Reynolds Industries, Inc. Levine purchased Nabisco stock and tipped Boesky, who also purchased Nabisco stock. Levine sold his shares for a $2.7 million profit, and Boesky netted $4 million.

As in the transactions above, the tipper and the tippees are criminally liable under the misappropriation theory under the Securities Act of 1934 and the Mail Fraud Statute. RICO liability would follow criminal liability.

There is also a solid theory for Nabisco shareholders, however, to bring a private civil claim for relief under section 10b-5. The tip came from a quasi-insider, an employee of Nabisco's agent. That investment banker had a fiduciary obligation to Nabisco's shareholders. The tippees, Levine and Boesky, inherited that obligation by participating in the tipper's breach. They had a fiduciary duty to either disclose the nonpublic information that a merger negotiations were taking place, or to abstain from trading in Nabisco stock. By purchasing the Nabisco stock, they breached that inherited duty. Their profits were fraudulently obtained from individuals to whom they owed a fiduciary duty, the Nabisco shareholders.

3. FMC

In early 1986, David Brown at Goldman, Sachs tipped Ira Sokolow, then at Shearson Lehman Bros., on FMC's proposed recapitalization plans. FMC was a Goldman, Sachs client. Sokolow then tipped Levine, who, in turn, passed the information to Boesky. Boesky purchased 95,300 shares of FMC stock between February 18 and February 21. On February 21, FMC announced that the recapitalization plan was under consideration, and on February 22, FMC's board of directors approved the plan. Boesky realized a $975,000 profit on his FMC trades.

For an FMC shareholder, who sold their shares on one of the days when Boesky was buying, this case is very similar to the Nabisco transaction. Brown, at Goldman Sachs, was a quasi-insider, and all those in his tippee chain, who acted with knowledge, inherited Brown's duty to FMC's shareholders. Nevertheless, the longer the chain of tippers and tippees, the harder it is to prove knowledge and to recover against the downstream tippees. But the organized nature of this tip network, and the Levine-Boesky profit sharing agreement, make this a good case for imposing the fiduciary obligation of the tipper (Brown) on the downstream tippee (Boesky).

FMC has filed a civil claim for relief against Boesky, his tippers and their employers, charging that Boesky's illicit profit taking increase the cost of recapitalization. (*FMC* v. *Boesky* No. 86C9879 (N.D. Ill)) FMC alleges that it had to offer an extra $10 per share in its recapitalization efforts because of Boesky's insider trades. This cost the company $225 million. In addition, FMC is seeking to recovery Boesky's $975,000 profit and the $17.5 million fee paid by FMC to Goldman Sachs, its financial adviser.

As in the Litton suit mentioned above, FMC will have some difficulty proving that Boesky's trading was the cause of FMC's increased recapitalization costs. Nevertheless, Boesky has both potential criminal and civil liability under the Securities Act of 1934 and criminal liability under the Mail Fraud Statute. RICO liability would follow criminal liability.

C. SIEGEL

The SEC has charged that Boesky made at least $33 million on tips from Martin Siegel, then a Kidder Peabody vice president. Boesky and Siegel agreed, around August 1982, that Siegel would provide inside information in return to cash payments from Boesky. These payments totaled $700,000. The last deal between the two, involving Carnation Co., was also the biggest.

1. CARNATION

From April to June 1984, Siegel leaked details of plans by Carnation to sell 20 percent of its shares. Kidder Peabody, Siegel's employer, represented Carnation. The sale would make Carnation an attractive takeover target. Based on these tips, Boesky purchased 1.7 million shares of Carnation stock. In September, Nestle Holdings launched a takeover bid for Carnation. Boesky and his partners sold their shares for a $28.3 million profit.

Boesky defrauded the Carnation shareholders, who sold their shares on the days when Boesky and partners were buying. Had those shareholders known the "good news" that Boesky knew, they would not have sold their shares. More importantly, Boesky had a duty to those shareholders to either disclose the information or abstain from trading. He inherited the duty from his tipper, Siegel, who, as an agent of Carnation, had a confidential fiduciary relationship with Carnation's shareholders.

Those defrauded Carnation shareholders have a private civil claim for relief against Boesky and Siegel under Rule 10b-5. Criminal liability exists, too, under the Securities Act of 1934 and the Mail Fraud Statute. RICO liability would follow criminal liability.

The Carnation deal was not the last deal on which Siegel traded on inside information. He and Robert Freeman, Head of Arbitrage at Goldman Sachs, were allegedly tipping each other on forthcoming deals. Siegel had been in the Mergers and Acquisition Department at Kidder Peabody. When Kidder Peabody established an Arbitrage Department, Siegel was directed to help get it going. This order pierced the "Chinese wall" that supposedly restricts the flow of information between the Arbitrage Department and the Mergers and Acquisitions Department within the same investment banking firm.

2. UNOCAL

Goldman Sachs represented Unocal in its defense against T. Boone Pickens' hostile takeover attempt. Freeman, at Goldman Sachs, tipped Siegel on Unocal's upcoming exclusionary tender offer, a tactic intended to isolate Pickens' Unocal holdings. Siegel allegedly passed this information to Richard Wigton and Timothy Tabor in the Kidder Peabody Arbitrage Department. Wigton and Tabor, using the brokerage's private trading account, are accused of purchasing Unocal put options. They sold the Unocal shares sometime later for the present price. This and other transactions allegedly generated "millions of dollars in illegal profits to Kidder," according to the SEC complaint.

This transaction is different from the others, outlined above, because the insiders did not trade for their personal accounts. Instead, the profits from the illicit tips allegedly went to the firm. If so, Wigton and Tabor, the trading tippees, were participants after the fact in Freeman's breach of his fiduciary obligation to Unocal. Freeman was a quasi-insider. Because the profits accured to Kidder Peabody, that firm is vulnerable to civil suits under rule 10b-5 brought by Unocal shareholders, who were on the wrong side of the Wigton-Tabor trades. Kidder and Goldman are also vulnerable to a civil suit from Unocal, similar to the Litton and FMC suits, charging that their employees' breach increased the cost of defending against Pickens. Criminal liability, of course, exists under the Securities Act of 1934 and the Mail Fraud Statute. RICO liability would follow criminal liability.

3. STORER COMMUNICATIONS

Siegel returned the favor to Freeman by passing information that a Kidder Peabody client, Kohlberg Kravis Roberts, Inc., was about to launch a takeover bid for Storer. Freeman used the information to devise his options strategy. He traded on his personal account. Freeman's profit on his Storer trades has not been specified in public sources.

Storer shareholders have no civil remedy against Freeman or Seigel under Federal securities laws. Siegel's fiduciary duty was to the acquiring firm, Kohlberg Kravis. He had no relationship of trust or confidence with Storer or its shareholders. Consequently, Freeman inherited no duty by acting on Siegel's tip. Of course, both men face criminal liability for misappropriation of inside information under the Securities Act of 1934 and the Mail Fraud Statute. RICO liability would follow criminal liability.

In sum, these various transactions are representative of the many insider trades carried out by these individuals, and they are also apparently representative of other similar illegal trades, which are apparently of epidemic proportions on Wall Street. In each transaction, the individuals committed criminal violations either by misappropriating inside information from their employers, or by participating after the fact in their tipper's misappropriation, under both the Securities Act of 1934 and the Mail Fraud Statute. Their civil liability under Federal securities law, however, is less certain. Generally, if the quasi-insider had a duty to the target corporation, then the shareholders of the target who sold, will likely have a claim for relief against the parties who purchased target stock based on inside information. Nevertheless, the shareholders of the target corporation will have no private civil securities remedy, if they sold their shares to parties having inside information misappropriated from the acquiring corporation. The fraudulent traders owed the target shareholders no fiduciary duty. As such, there was no breach of fiduciary responsibility cognizable under the security statutes. This group of defrauded sellers may, however, have a private claim for relief under civil RICO predicated either on criminal securities fraud or mail fraud. Nothing that Congress does under the guise of so-called civil RICO "reform" ought to interfere with that claim for relief. Nevertheless, it will be largely destroyed if the Boucher bill becomes law.

III

The Boucher bill, H.R. 2983, would radically change current law—largely to the disadvantage of the victims of security fraud. Apart from suits by governmental agencies, the bill adopts three routes of civil recovery for victims of crime once the required "pattern of illicit activity" is established..

First, a private plaintiff—"other than a natural person"—under H.R. 2983 may seek triple damages plus costs against a defendant who was "convicted of an illicit activity or of a violation of section 1962 of this title." Why this remedy should be denied to individuals wholly escapes me? Congressman BOUCHER tells me that this was a mistake in drafting. I am afraid, however, that it is illustrative of the lack of concern and attention to detail that is generally reflected in this unwise legislation. In a rush to protect the securities industry, this legislation, all too often, characteristically, rides roughshod over the rights of victims of crime. Nevertheless, only the victims of the specific crime for which the individual defendant was convicted have standing to sue. For example, Dennis Levine pleaded guilty to felony counts based on one transaction, his trading in Jewel Company stock. Even though he was involved in illicit trading in the stock of 54 companies, only the defrauded Jewel shareholders, who are not individuals, could bring suit for treble damages under this first subsection. Boesky, of course, was not convicted of any securities fraud offense. He would have no treble damage exposure under the Boucher bill. In addition, his current liability would be retroactively eliminated, as I will explain next. Can this sort of discrimination among victims of crime be justified?.

Second, H.R. 2983 provides for the recovery of the "the actual damages to a person's property or business sustained by reason of such injury." This provision reduces—and reduces retroactively—current treble damage recovery to actual damages. This provision will have its primary impact on businesses already victimized and victimized in the future, but it will also affect mutual funds, welfare funds, universities, churches, and other-not-for-profit institutions. Each of these institutions represents people, but they will be treated just like commercial concerns—left to fend for themselves. How can this sort of special interest legislation be justified?

Third, if the plaintiff is a natural person, the bill allows for the recovery of actual damages plus costs, but not, as it is presently drafted, automatic treble damages following a specified criminal conviction. In addition, a natural person—but only a natural person—may recover double punitive damages along with his actual damages if, among other things, "neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based." If securities laws cover the "type of behavior," then plaintiff cannot recover double punitive damages; he will be limited to actual damages. The phrase "type of behavior" is, therefore, a loophole for wrongdoers of Carl Sagan proportions—billions of dollars of fraudulent stolen money may well safely pass through it.

The legislative history of similar legislation (H.R. 5445), which passed in the House, but failed to pass in the Senate last year, contains, however, conflicting statements on the meaning of this "securities law exclusion." Clearly, if State or Federal securities laws provide a civil remedy for them, then a natural person plaintiffs could not recover their punitive damages; they would be limited to actual damage. Nevertheless, a sharp conflict exists on whether the coverage of the securities acts of the "type of behavior"—whether or not the plaintiff has a remedy, that is, does he or she have standing to sue—prevents the plaintiff from recovering punitive damages. If the coverage by the statutes of the "type of behavior," but without providing a private civil remedy, as in many of the transactions outlined above, prevents a plaintiff from recovering punitive damages, then many of the victims of aggravated securities fraud, as now practiced on Wall Street, would be unjustifiably denied a RICO civil remedy. Similarly, the fraudulent traders would receive an unwarranted safe harbor of protection under this proposed legislation.

Congressman BOUCHER's statement in support of H.R. 5445 in the 99th Congress indicated that it is the "type of behavior," rather than the presence of a remedy in a Federal securities laws that is crucial. If the behavior is generally within the statute, his bill would have prevented the plaintiff from recovering punitive damages. "As long as a case is based on behavior that falls within the reach of securities law regulation, a plaintiff may not use civil RICO to seek punitive damages." (132 Cong. Rec. E3533 (daily ed. Oct. 10, 1986)) Senator LEAHY's similar comments in the Senate indicate that the securities law exemption applies "whether or not the securities laws provide the particular plaintiff with the remedy and whether or not the plaintiff's remedy has lapsed or otherwise been lost." (132 Cong. Rec. S16701 (daily ed. Oct. 16, 1986)) Both Congressman BOUCHER and Senator LEAHY would, therefore, leave many of the defrauded shareholders of these current scandals with no civil remedy at all under the securities acts or civil RICO. It is difficult for me to see how that result can be justified.

Senator METZENBAUM, however, expressed a different interpretation of H.R. 5445 in the 99th Congress. "The provision * * * is not designed to insure that no punitive damages are available as long as the securities laws regulate the conduct, whether or not the plaintiff himself or herself would have standing to press the claim." (132 Cong. Rec. S16698 (daily ed Oct. 16, 1986)) Senator METZENBAUM interpreted H.R. 5445 last year to allow victims of securities fraud to sue under civil RICO for punitive damages in situations where the private plaintiff merely did not have standing to sue under rule 10b-5. "The scope of suits for which punitive damages are available should be interpreted liberally in favor of the plaintiff." (132 Cong. Rec. S16698 (daily ed. Oct. 16, 1986))

When Congressman BOUCHER introduced H.R. 2983 this year he suggested, however, that it retained "a multiple damage cause of action for consumers injured by insider trading." (133 Cong. Rec. H6616 (daily ed. July 23, 1987)) Nevertheless, the scope of that cause of action is considerably less than it might appear to be. "Consumers," of course, are limited to natural persons. Businesses are excluded. So, too, are all of the institutions through which consumers participate in the market—mutual funds, welfare and pension funds, et cetera. In addition, since the insider trading "exclusion" from the securities law "exception" to multiple damage liability provisions of H.R. 2983 is framed in terms of the current securities statutes, if the Supreme Court holds in the *Carpenter* appeal that the misappropriation theory is not viable under the securities statutes, the exclusion will also only reach trades, where the fraud is on the target side of takeover, which in fact composed only a minor portion of the current scandals. Victims of other kinds of trades will, therefore, be left without effective means of recovery under Federal law. How can that result be justified? Moreover—and just as significantly—the insider trading exclusion in H.R. 2983 is so worded that it excludes—and therefore makes liable to multiple damages—only those primarily liable, the immediate insider himself. Those who might be secondarily liable—aiders and abettors, principal or employers, or controlling persons, that is, those who usually have a deep pocket, and those who might be able to make effective the consumer's claim for relief, are indefensibly immune from multiple damage relief under the Boucher bill. Indeed, it is, therefore, clearly the fact that the provisions of H.R. 2983 reflect the perspective, not of victims, but of insiders, investment bankers, securities lawyers, and others with special connection to the takeover business. Where here is the public interest reflected in this unwise legislation?

IV

Mr. Speaker, I have come to the reluctant, but firm conclusion that H.R. 2983 too faithfully reflects the perspective of the security industry, and it does not give due attention to the general rights of the victims of crime. I believe, too, that its insider trading exclusion is altogether too narrow to fulfill its stated purpose of not giving a windfall to the crooks on Wall Street. For these reasons, I cannot support it, and I hope that other Members of the House, as they learn of its provisions, will join me in voting against this most unwise legislation.

Tragically, too, it may well be that the market—ever sensitive to how the wind blows—is reacting to the prospect of the enactment of legislation like the Boucher bill. Two years ago Business Week, after a detailed statistical analysis, concluded that heavy trading in stocks prior to takeover announcements was so widespread that illegal insider trading was almost certainly a factor. (Business Week, Apr. 29, 1985 at 79.) Business Week proved to be right, as the infamous Wall Street arrests promise to prove. Now the magazine has done another study. (Business Week, Aug. 24, 1987 at 20.) It showed that insider trading cooled off after the scandals broke. But the impact did not last. Since July 1, 1987, 70 percent of the 130 acquisition targets examined by the Business Week study showed a rising price pattern that exceeded the pace of the New York Stock Exchange Composite Index for all stock. The odds against that occurring were 392,000 to 1. Obviously, some of that rise could be attributed to the impact of knowledge of the impending takeover legitimately public, but even among 83 targets not subject to such public speculation, 64 percent rose at a higher rate through the market as a whole. Business Week thought that greed had once again replaced fear; it quoted (at 21) one takeover attorney: "When nothing happens with [U.S. Attorney for Manhattan Rudolph] Giuliani for awhile, the people start getting more active."

Mr. Speaker, public opinion polls show that the American people believe that white-collar crime is widespread. I fear their perception is accurate. We must not do anything to contribute to the further decline of integrity of our stock market. We must resist effort to weaken Civil RICO in this crucial area. Indeed, the RICO "reform" movement of today calls to mind similar efforts in the 1930's directed at the Securities Act of 1933, which were described by Justice, then professor, Frankfurter:

> The leading financial law firms who have been systematically carrying on a campaign against this Act have been seeking—now that they and their financial clients have come out of their storm cellar of fear—not to improve but to chloroform the Act. They evidently assume that the public is unaware of the sources of the issues that represent the boldest abuses of fiduciary responsibility * * *. (Quoted in J. Seligman, "The Transformation of Wall Street 77" (1983)).

Mr. Speaker, the Boucher bill must not be allowed to beome law.

□ 1920

A TRIBUTE TO THE LATE HONORABLE HOWARD W. ROBISON OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. McHugh] is recognized for 60 minutes.

Mr. McHUGH. Mr. Speaker, I have asked for this special order so that we may pay tribute to the late Howard Robison, who died on September 26. Howard was my predecessor in representing the Southern Tier and Catskill regions of New York State, a true gentleman who served with great distinction in this House from 1958 through 1974.

Howard Robison was not a flamboyant man. Yet, because of his thoughtful manner and sound judgment, he was a real leader. On the strength of his genuine personal qualities, he led by example. I know that for me, who had the privilege of succeeding him, it was enormously helpful to have his example of public service to follow.

During his 17 years in the House of Representatives, Howard served as a valued member of the Public Works, Post Office and Civil Service, and Appropriations Committees. At the time of his retirement, he was dean of New York State's Republican congressional delegation. He was a loyal member of his party, but was respected by members on both sides of the aisle.

Howard was much more of a partriot than a partisan. He first served our Nation in World War II as a member of the Army Counter-Intelligence Corps, and his devotion to country was a motivating force all the days of his life.

More than anything else, Howard Robison was a man devoted to his family, a trait not easy to sustain in this profession. He and the former Gertrude Frederick were married in 1946. They had two sons, Howard Jr., and Douglas. Theirs is a warm, closely knit family. We know what a great loss Howard's death must be, and we all extend to Trudy, Howard Jr., and Douglas our heartfelt sympathy and affection.

Howard and Trudy always felt close to their home community in Tioga County, NY, and it must have been with mixed emotions that they moved to the Washington area during Howard's years in Congress. They were both natives of the area and retained many close friendships. Following his wartime service, Howard returned to the community to practice law. He was a partner in the Owego law firm of Robison and Manyon. He was also very active in community affairs, serving as president of the Owego Kiwanis Club, exalted ruler of Owego Lodge 1039 of the Order of Elks, and commander of Tioga Post 140 of the American Legion.

Throughout his life, including his years in Congress, Howard had an especially close relationship with Cornell University, from which he earned both his bachelor and law degrees. He served as a member of the university council from 1970 until 1981, and a member emeritus thereafter. Commencing in 1970, he also served on the advisory council for the Cornell Law School.

In reflecting on Howard's life, perhaps his most enduring legacy relates to those personal qualities that were so exceptional—devotion to family, community, country. It is not surprising that given his essential honesty, independence of mind, and good judgment, he earned the nickname from his colleagues of "Mr. Integrity."

There are two experiences in Howard's life that exemplify that quality for me. One was his attitude toward the Vietnam war, which so polarized and divided our people over a period of years. Originally, like most Americans, he was a supporter of our involvement, but later, as the war took its toll on our Nation's resources and spirit without early prospects of ultimate success, Howard changed his mind. It took courage to do that publicly, particularly at a time when it was still popular to press ahead and when emotions ran high.

The second experience related to Howard's decision to retire from Congress in 1974. This could not have been an easy decision, because he loved public service and this institution especially. But he was personally wounded by the Watergate scandal, which he described as "a great tragedy, a national tragedy and a world tragedy." At the same time that he voiced his sadness and frustration with this episode, he yearned for national reconciliation; and he believed that it could more easily be achieved if there were changes in Government, which included his own departure. This conclusion was not forced upon him, for his record was unblemished and he remained very popular in his home district. His decision was motivated by his belief that reconciliation in our country would somehow be served by his taking a different course. As he said in his retirement announcement:

> [I]t is crystal clear to me that I will be far freer to work in that direction if I am not a candidate for reelection.

At the time of his retirement Howard had just turned 59; he could have stayed in Congress if he had so chosen. It was typical of him, however, to decide the issue on unselfish grounds. Moreover, retirement from Congress did not mean an end to his public service. Howard later served as a vice president of the U.S. Railway Association and as a consultant to the Consolidated Railroad Corporation. And, of course, retirement also had the special benefit of permitting Howard to spend more time with Trudy and the family he loved.

I believe that Howard Robinson's career is an inspiring reminder that politics can be an honorable profession. Although he will be sorely missed by his family and friends, his life and work will continue to be celebrated by those who loved and respected him.

Mr. Speaker, I yield to the gentleman from New York [Mr. Stratton], the dean of our New York delegation.

Mr. STRATTON. Mr. Speaker, I very much appreciate the gentleman yielding.

Mr. Speaker, I, too, want to rise to remember a former colleague, Howard Robison, who served in Congress one year before I came to Congress and one who had always been a close friend of mine during my service in the Congress.

Howard was a Republican and the Dean of the Republican delegation for a number of years but he was not a partisan individual, as the gentleman from New York [Mr. McHugh] as already indicated.

Howard Robison did oppose the Vietnam war but he did not do it in a way that oftentimes in those years led to extreme actions. But as an individual who had served during World War II and in the Army Counterintelligence Corps, he recognized the responsibility for military leadership and he was willing to serve his country in any encounter that was involved.

I think perhaps one of the most important associations and achievements that Congressman Robison had was the assignment that he got to be the vice president of the U.S. Railway Association, and this honor to him and also responsibility occurred in the days when the railroads were beginning to feel that they had no future and Howard, as one who had served in the Congress, it was easy for him to come back here and meet with his former friends and colleagues to get their ideas on what might be done to improve our railroads.

In fact, New York State traditionally had relied on railroad operations both in passenger and freight and the demise of the railroads, particularly the New York Central Railroad, was one that was of great concern to the people of New York State and particularly to those of us who lived in upstate New York.

I think what Congressman Robison was able to do was to show the way for carrying on of the idea of railroad activity, not only through the U.S. Railroad Association, but also through the Conrail organization which is now operating in many parts of the country, and also with Amtrak.

I think Howard had a very substantial impact on the development of Amtrak. So many people in the Congress and people outside the Congress thought that railroads were done for but we have seen that Amtrak has gained new life, and we have already seen how the railroads have carried on in spite of what many people felt would not be possible.

I think certainly with his friendly approach to matters of business, Congressman Robison's experiences here in Congress have really made a magnificent contribution to the revival of U.S. railroad activity and particularly in his home State of New York.

I know that we are going to miss him and indeed his very gracious and charming wife Trudi. They had moved to Rehobeth, MD, as I think many Members of Congress have thought of doing the same thing. They loved the ocean and they loved the relaxing atmosphere in Rehobeth and when he passed away he had been in Rehobeth for several years, having died as a result of an ailment that he had quietly never mentioned but hastened his declining years.

We are proud of the service that he gave to us and to our State and to our country and we will certainly miss him and remember him for many years.

Mr. McHUGH. Mr. Speaker, I thank the dean of our delegation for his comments.

Mr. Speaker, I yield to our colleague from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from New York [Mr. McHUGH] for arranging this special order to allow us to pay tribute to our former colleague, the late Howard Robison.

When I was first elected to Congress in 1972, Congressman Robison, a senior member of our New York delegation, served as the dean of our New York Congressional delegation. As the Representative for Sullivan County and parts of Ulster County, Howard and I enjoyed adjacent districts with many mutual concerns and problems. Howard was the kind of Member who was always willing to lend an ear to his colleagues, and a welcome, helping hand to an incoming freshman.

Howard W. Robison who was born on October 30, 1915, in Owego, NY, attended the Owego public schools and was graduated from Cornell University in 1937 with an A.B. degree and from the Cornell University Law School in 1939. For many years thereafter, he was senior partner of the Owego firm of Robison and Manyon.

When our Nation entered World War II, Howard loyally served our Nation in the U.S. Army from 1942 to 1946 as a sergeant-investigator with the Counter Intelligence Corps. A natural leader like Howard W. Robison was extremely active in many community organizations; in numerous Masonic lodges, in the B.P.O. Elks, in the New York State and Tioga County Bar Associations, the U.S. Power Squadron, the Phi Kappa Sigma fraternity and the Owego Kiwanis. He was an active member of the Owego Methodist Church and served on the board of directors of the Tioga County General Hospital in Waverly.

Howard, who was considered a natural for politics, was first elected to the House in a special election held on January 14, 1958, filling the vacancy created by the death of the gentleman from New York, Sterling Cole. Thereafter he was reelected in each subsequent election, until his voluntary retirement 16 years later in 1974.

Howard served his district and his Nation admirably as a member of the House Appropriations Committee. As a member of the Post Office and Civil Service Committee, I can attest that our committee still fondly recalls the many contributions Howard made during his tenure as ranking minority member on that committee.

When I first came to the Congress in 1973, Howard Robison willingly extended a helping hand in providing guidance and support in our many battles to improve rail transportation in the southern tier of New York State. Following his retirement, Howard continued to devote himself to helping our rail industry as a consultant and as the vice chairman of the U.S. Railway Association.

Howard's recent passing leaves a void that will be difficult to fill. In many ways, he survives as a legend to the New York delegation. Howard leaves behind his widow, Gertrude. To Trudy and their two sons, Howard, Jr., and Douglas, and to Howard's four grandchildren, we offer our deepest condolences.

Howard's family and loved ones, as well as the many who looked to him for leadership, have the consolation of knowing that many of us here in the House share their loss.

Mr. MICHEL. Mr. Speaker, once again we have lost a friend, this time our former colleague Howard Robison of New York. Howard died on September 26 and those of us who had the privilege of knowing him and working with him feel a deep sense of loss. He was a gentleman, a fine legislator and, to those of us on this side of the aisle, a distinguished Republican friend and colleague.

Howard came to Congress in a special election in January 1958 and we soon became aware of his dedication and skills. He served on the Appropriations Committee with me, joining that committee during the 89th Congress in 1965. Out of the Republican members on that committee at that time there are only three of us left in the House—SIL CONTE, JOE MCDADE, and myself. We had the honor of serving with Howard and each of us can recall his service to his party and his country.

When something like this happens, when we lose a dear friend or former colleague, we are all reminded of the transitory nature of our life in politics. There is just a relatively short time to get things done, to make a mark, to put forth an agenda for the country, to work for your district. And I know all of those who worked with and knew Howard, as I did, will join with me in saying Howard used his time well, worked for his district, and his party, and his country.

Mr. HORTON. Mr. Speaker, it is with profound sorrow that I join my colleagues today in paying our last respects to Howard W. Robison, a past Member of Congress from the southern tier of New York.

I came to the House of Representatives in 1963, 5 years after Howard was elected in a special election. Many will remember his steady hand on the House Committee on Appropriations, on which he served with diligence and integrity for his 17 years in this body.

Howard spent most of his life living in the southern tier. He was born in Owego, he received both his undergraduate and law degrees from Cornell University in Ithaca, and his district comprised the southern tier towns of Binghamton, Elmira, and Ithaca. He retired from the House in 1975, and moved to his retirement home in Rehoboth Beach, DE, shortly thereafter.

Since he has been gone from Congress for a dozen years, many of my colleagues today did not have the opportunity to know Howard or his wife, Trudy. I have many fond memories of my years with the Robisons. Both personally and professionally, Howard will always hold a very special place in my heart. His leadership of the New York State Republican delegation, of which he was dean when he retired, and his compassion and caring for the many problems unique to upstate New York, make me very proud to have had the opportuntiy to serve with and work beside him.

Following his retirement, many of us worked with him while he served as the vice president for congressional relations with the American Railroad Association. He was an outstanding colleague and reputable representative for the railroads. But, most importantly, Mr. Speaker, he was a true friend. And that is what I will miss the most—his friendship.

Mr. Speaker, my wife Nancy and I expressed our deepest sorrow and sympathy to Howard's wife Trudy, his sons, Howard Jr. and

Douglas, and the rest of the Robison family during this difficult time.

Mr. BIAGGI. I rise today to join my colleagues in paying tribute to a former Member of the New York delegation, Howard Robison. We were all very saddened to learn of his death and I join my colleagues in extending our special condolences to his wife Gertrude, sons Howard and Douglas, and the rest of the Robison family.

Howard was a leader in the New York delegation and in Congress when I took office in the late sixties. He was a compassionate Representative, who devoted himself to the concerns of his constituents. His example inspired the entire New York delegation to strive to serve our constituency and our country to the best of our abilities.

After his tenure in Congress, Howard continued to work with us as vice president of the U.S. Railway association. Howard has always impressed those who knew him as a man of honor and conviction. The people of the Finger Lakes/southern tier of New York should be proud that they were represented by a man of such integrity and dedication.

I would also like to thank my friend and colleague Matt McHugh for allowing us the opportunity to express our sentiments by holding this special order. Howard Robison's family and former constituents can be proud of the legacy of excellence he left behind and the example he has set for future New York leaders.

Mr. HAMMERSCHMIDT. Mr. Speaker, I was saddened to learn of the passing of my friend and former colleague Howard Robison. Congressman Robison represented the 28th District of New York for 17 years. For 8 of those years, I was privileged to serve in Congress with him. I came to know Howard as a caring and compassionate individual who was deeply committed to the people he served. A graduate of both Cornell University and Cornell Law School, he had a keen intellect and understanding of the law. I can recall many occasions when his insight and discernment led to better understanding of the issue at hand. His ability to formulate a compromise enabled him to bring together many different factions to form a consensus that would promote the general welfare of all concerned.

A World War II veteran, he began his lifetime of service to his country with the U.S. Army Counterintelligence Corps. After the war ended, he returned to New York and became county attorney of Tioga County, a position which he maintained until his election to Congress in 1957. When he retired in 1975, he was the dean of the New York delegation. After retirement, he went on to become vice president for congressional relations for the American Railroad Association. He maintained an active interest in politics and community service and he will be missed by all who knew him.

I extend my condolences to his wife and family.

Mr. CONTE. Mr. Speaker, it is with fond memories and a saddened heart that I join my colleagues today in paying tribute to a distinguished former Member of Congress, a former member of both the Public Works and the Appropriations Committee, and above all a fine man and friend. The death of Howard Robison is a tragic loss for me personally and will no doubt be grievous for the people of New York, and the Nation.

Mr. Speaker, I had the pleasure of serving with Howard Robison on the Treasury, Postal Service, and Government Operations Subcommittee. During the time we worked together I came to know Howard not only as a thorough, conscientious lawmaker but also as a warm and trusted friend. He approached his colleagues with the same high level of personal concern that he displayed for his constituents in New York.

Howard never let any of us forget the importance of compassion and understanding in our jobs. For Howard, constituent concerns were not mere statistical blemishes nor were his colleagues simply understood by their political clout. His genuine and human concern was reflected in every aspect of his life.

Mr. Speaker, I deeply regret the death of Howard Robison and would like to extend my most sincere sympathies to his wife, Trudy, and to his two sons. I also want to thank my colleague from New York for arranging this special order today. I am grateful for this opportunity for all of us to share our memories of a man we so loved and respected.

Thank you, Mr. Speaker.

Mr. FISH. Mr. Speaker, I rise today to pay tribute to our late colleague from New York, the Honorable Howard W. Robison. We served together in this body for 6 years and and in that time I came to know Howard as a warm and thoughtful colleague.

His legislative accomplishments are well known. Howard was an active member of the House Committee on Appropriations and was ranking Republican on its Post Office and General Government Subcommittee.

Howard was the senior member of the New York Delegation when I was first elected. I recall vividly a week after the November 1968 election, visiting Howard in his office in Washington to discuss committee assignments. He was interested in advancing each member of our delegation and treated us with unfailing consideration and courtesy. In other ways Howard was an example. I remember him sitting at a typewriter writing his own newsletters to his constituents.

After leaving Congress, the American Railroad Association benefited from Howard's talents as vice president, congressional relations. Cornell, to which he was devoted, was the beneficiary of his time and wisdom.

We use the term "gentleman" to refer to our colleagues in the House. Well, Howard was more than just a gentleman, he was a gentle person. He was a distinguished colleague, highly respected for his intelligence and good humor.

I extend my deepest sympathies to his wife, Gertrude, and his children Howard and Douglas.

Mr. HOUGHTON. Mr. Speaker, Howard Robison is dead. He was a great man. He joins other great men from my home base who have recently passed away. The southern tier has now lost three of its former Representatives this year—Charlie Goodell, Sterling Cole, and now, Howard Robison.

Howard Robison came to Congress as the result of a special election to fill the seat Sterling Cole had vacated. He would serve in the House for 16 years.

Howard was never a man to grab headlines, though his work on the Appropriations Committee clearly merited them. Instead, Howard preferred to work behind the scenes. When divisive issues arose, his basic sense of fairness allowed him to see the worth in other points of view. Often he would find himself the broker between opposing arguments. His intelligence and skill would bring both sides together in a workable compromise.

Howard Robison was the most valuable sort of legislator—a man willing to share the credit, while he gently nudged his colleagues and his country in the right direction. His loss is sad news for the southern tier of New York, and may we who remain behind remember the example this dedicated and able man set for us all.

Mr. YATRON. Mr. Speaker, I rise today in great sadness to pay tribute to our late colleague, former Congressman Howard W. Robison. Howard Robison's life was dedicated to public service and to representing the people of New York's southern tier region.

Howard represented the southern tier for 17 years, from 1958 to 1974. I was privileged to serve with Howard for much of this period. He was a hardworking Member who earned the respect and admiration of his colleagues on both sides of the aisle. Through his position on the Appropriations Committee, he did much to assist his constituents. Throughout his career, he served the people of the southern tier with the utmost dedication and sense of responsibility. After his retirement from the House in 1974, he continued his commitment to public service by serving with the American Railroad Association and later as a consultant to Conrail. Howard also mantained his longtime strong ties with his alma mater—Cornell University.

I am honored to have known and served with Howard Robison. He was a dedicated public servant and a tremendous leader. Mr. Speaker, I join with my colleagues in extending my deepest sympathies to Howard's wife and his entire family.

Mr. COUGHLIN. Mr. Speaker, I want to thank Mr. McHugh for arranging this special order and rise to join my colleagues in paying tribute to one of our former colleagues who passed away recently.

Howard Robison served in the U.S. Congress for 17 years and his contributions to our Nation, as well as to this body, were commendable indeed. The dean of New York State's Republican Delegation he served our Nation at a time when all his leadership and intellectual skills were most needed. He gave us all these skills and so very much more.

Like many of us, Howard served during two of the most painful periods in our Nation's history.

He was here in Congress from the initial days of the Vietnam conflict, to its last. Like many Members of Congress who served in the House at that time, Howard initially supported the American involvement in Vietnam. Yet as the years dragged on, as the casualties mounted, and as the tragedy of the conflict shook our country's very foundations, he became an outspoken opponent.

Howard Robison was also a Member of Congress during the Watergate scandal—a scandal which fundamentally challenged our Government's constitutional process. The times were difficult, but he was able to calmly and fairly evaluate the information which was presented to the Congress, and reach politically difficult decisions on what would best serve the interests of the United States. His decision process always had the interests of the United States as its base, not what might be politically popular.

But aside from these difficult and trying problems, there were many other areas in which Howard's wisdom and foresight was in evidence. The instance I recall most vividly was his early skepticism of the Liquid Metal Fast Breeder Reactor—a project which would eventually be called the Clinch River Breeder Reactor.

As the Members in the Chamber will recall, I worked to eliminate this environmental and budgetary nightmare. Although the project was eventually killed, it was not until millions of taxpayer dollars were wasted. However, had the Congress heeded the advice of Howard Robison these scarce dollars would have been saved. In fact, during the 1972 debate on the breeder, Howard warned against over-reliance on the reactor. In fact he remarked:

> We should guard against any AEC [Atomic Energy Commission] to put all of its "eggs"—so to speak—in this particular basket. There are alternative avenues for both research and development which the AEC should pursue . . .

When this statement was made, the financial obligation Howard * * * was stood at $50 million. But we know that the price tag eventually rose to $4 billion before the project was scrapped in the mid-1980's.

I have deeply missed Howard since his retirement both as a friend, and as an adviser. He was a senior member of the Appropriations Committee when I was first appointed to the panel. Of tremendous assistance, I only wish I had known that my first term on the Appropriations Committee would parallel his last.

In conclusion, I want to extend my deepest sympathy to Howard's wife, Trudy, and to the other members of his family. We sincerely share in your great loss.

Mr. BROOMFIELD. Mr. Speaker, on September 26, our country lost a dedicated public servant with the death of former Congressman Howard Robison.

Howard and I came to the Congress about the same time in the mid-fifties, and we soon become good friends. We sat on the same side of the political aisle, and we worked together as Members of this great body for 17 years until Howard's retirement in 1975. Outside of our assocation in the House, we lived in the same neighborhood with our children growing up together and our families becoming close.

As a legislator and in his personal life, Howard was always a kind and considerate person. He was never affected by the atmosphere of Washington, and always remained a down-to-earth person in his relations with everyone he met, from his colleagues in the Congress, to his staff, his constituents, and his neighbors.

Howard was a conscientious and dedicated Member of the Congress who brought honor to this body. I remember his fine work as a member of the House Appropriations Committee, and how carefully he considered the many issues of those years. I particularly remember the difficult internal debate that Howard went through as his disillusionment with our military involvement in Southeast Asia grew, and again over the question of President Nixon's involvement in the Watergate incident.

Howard was a public servant in the finest sense of the term, as he looked after the needs and concerns of his constituents in New York's 27th District, which included the Binghamton, Elmira, and Ithaca areas. He worked late into the evenings on behalf of his constituents, and his concerns voiced their approval time and again by sending him back to Washington as their representative.

Mr. Speaker, my wife, Jane, and I mourn the death of our close friend, Howard Robison, and we join my colleagues in the House in extending our deepest sympathies to his wife, Trudy, and their children. May their deep feelings of loss be lessened through the support of their friends in the Congress and around the country.

Mr. McHUGH. I thank my colleague for his remarks. There are a number of other Members, Mr. Speaker, who wanted to be here this evening but because of other commitments could not be with us, but they have asked that they be permitted to submit their statements in writing. Among those was the gentleman from Massachusetts [Mr. CONTE].

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks regarding the subject of my special order this evening.

The SPEAKER pro tempore (Mr. ENGLISH). Is there objection to the request of the gentleman from New York?

There was no objection.

TAX INCREASES ARE BEARISH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I want to take a little bit of time this evening to discuss the roller coaster performance of the stock market the last few days and entitle my remarks something that was written in a Wall Street Journal editorial within the last day or two, "Tax Increases Are Bearish."

□ 1935

I think it is important to look at what has brought about the current problems for the stock market. We have heard a number of interpretations on this floor in the course of the day about what has gone wrong. We have heard Reaganomics blamed; we have heard deficits blamed; we have heard trade deficits blamed. We have heard all kinds of interpretations of what went wrong.

The fact is, probably all of them have some validity. Some of these issues have each played a part in what took place. But the fact is that there is something that caused the stock market to take a particular plunge at a particular time. The budget deficit has been with us for some years. The last time we balanced the budget in this country goes back to fiscal year 1969, so certainly the stock market's performance has lived with budget deficits for some time.

The trade deficit is very worrisome, but in fact it has been with us for many months, and the stock market has risen dramatically during many of those months when the trade deficit was going up, not coming down, as it is now.

The conditions that others have mentioned about the economy, such as the liquidity and Federal Reserve performance, sure, they could have played a role. But the fact is that some of those things have also been obvious in the economy over a period of some weeks and months.

But there is something which took place which parallels the plunge in the stock market, and that is that the plunge in the stock market started when Congress appeared to be really serious about raising taxes.

Some will say that the idea of tax increases has been around for some time. The stock market certainly is discounting for that. I think it is fair to believe that some people not directly associated with Washington and not necessarily attuned to all of the things that we do in Disneyland on the Potomac would believe that we just could not have been serious about those tax increases. There are certainly some people who would interpret it as being so ludicrous to talk about tax increases that it certainly could not have been real even in Washington.

So when the Speaker of the House some months ago suggested to the stock market that the way to get taxes was to tax stock transfers, many investors thought well, you know, that is so silly that it just cannot be real. They cannot really be contemplating at a time when investments are going up, when capital is being created in the country of taxing the formation of that capital. It cannot be real.

Then, when other proposals have come forth for the taxation of capital and of investments, many people seeing the performance of the economy and understanding that we have had 59 months of growth could have certainly told themselves they just cannot be serious about it. They must be just trying to make some points in Washington, they cannot be serious.

But when they actually sat down and began to write a tax bill, and it appeared as though it was going to be real, some of those investors became worried. And as that worry spread, the stock market began to reflect that, not necessarily based upon what they saw as the problems of the moment, but what they saw as the problems of the future. Stock market investors tend to be people who are looking 6, 9, 12 months down the pike, and what they were seeing was the possibility that we would have increased taxes on business and on investment which in fact would make the stock market less attractive, and so they became worried about their investments.

They also saw a protectionist trade bill hanging around the Congress that could make business activity in this country decline, and that bothered them, and it bothered them that their investments might be in a business that would be affected poorly by the protectionism that was being talked about in the Congress, and so that, too, worried them.

So they began the process of bailing out, and the stock market took a tremendous plunge.

Some around here have interpreted that as just a sign that we have been living outside of our means and therefore it was bound to come. The fact is, as I stated before, we have had a bull market for the better part of 5 years, and the fall in the last 2 months, according to the Wall Street Journal, resulted from renewed doubts about whether the policies that brought about the bull market would be sustained, the point being that people began to lose confidence that Congress was going to continue the policies of lower taxes, more growth, more opportunity that had brought on the bull market. So the Investors bailed out.

Tax increases, the Wall Street Journal said, are bearish. It goes on to say if we can get this truism into the beltway minds, perhaps we could get on with the subtleties such as whether increases in tax rates increase revenues and whether a deficit signals too much spending or too little taxation, whether trade deficits mean anything, and so on.

Those who blame the twin deficits mania for the stock market decline need to explain why stocks rose in the first place.

Stocks rose in the first place because we had the kinds of economic conditions that encouraged people to invest. What people are now concerned about is that those conditions are being changed.

Does that mean that we can ignore the deficit? Of course not. The people who came to the floor today to decry Reaganomics or to decry all of the various things that go into the deficit seem to ignore the fact that we create those deficits, that it is nice to place the blame on the President, who happens to be sitting in the White House, and certainly by signing some of the spending bills that he has signed he has contributed to our deficit problem, but we cannot avoid the fact that we are the creators of the deficits. We through our spending make the determinations that lead to either balanced budgets or deficits. We by our decisions decide whether or not we are going to have the kind of tax system that encourages investment or the kind of tax system that discourages investment. We make those decisions beginning in this body, because the Constitution says so.

It is somewhat amusing, and yes, somewhat amazing, that some of the very people who come to the floor decrying deficits and decrying the kind of spending that went into those deficits turn up time after time on the score sheet of the National Taxpayers Union that rates the spending of the Congress as some of the worst performers in the Congress with regard to spending. I have here their most recent listing, and I find that if my colleagues look at the best scores, in other words the people who the taxpayers union rate as best in terms of keeping down spending, helping to reduce deficits, it is interesting to note that out of 21 Members of the House of Representatives who rate the best scores, only 1 of those Members was a Democrat. Furthermore, the National Taxpayers Union looks at worst scores, those people who spend us blind, who vote for every spending program that comes down the pike, who are absolutely the worst scorers in terms of mounting up increased deficits in Congress that cause them to have to come to us and suggest tax increases because they have no other solution, of those people only one was a Republican. All the rest, some 25, were Democrats.

It tells you a little bit, not in a partisan way, but in a real way how the lines get divided in this Congress, who is for spending and who is for saving. Why the Democrats have to come forward with tax increase ideas is because they are determined to spend. The statistics say so. Why Republicans insist that we ought to have more investment in the economy and therefore lower taxes, and we ought to take along with that the need to decrease spending shows up in the figures too. Republicans, by and large, believe that we ought to do in the economy the job of making certain that people are working, that people have opportunities, that real growth is there and that we ought not be spending Government money that we do not have.

That is the conclusion that I come to and that is the conclusion of the National Taxpayers Union based upon rating people on their spending and so, therefore, the challenge is to those people who come to the floor telling us we ought to do something about deficits; why do they not do something about the spending.

You see, what they would like to have you believe is that the problem of deficits comes from not enough money to spend. It is a little like the family that would blame the fact that they are in debt on the fact that their employer did not pay them enough money, despite the fact that the amount of money the employer paid them kept going up. That is right, the Federal revenues have not down gone, they have gone up. Tax reductions have not led to decreased revenues for the Federal Government, they have led to increased revenues for the Federal Government. We have more money to spend today in the Federal Government than we had 2 years ago, than we had 5 years ago, than we had 10 years ago. The tax cuts of the early 1980's produced economic growth that led to growth revenues. Those growth revenues are in fact producing the kinds of money that should give us the opportunity to spend more, but not as much as we want to spend.

We have about $887 billion worth of revenues available to the Federal Government today. That compares with just a couple of years ago when we had only $600 billion of revenues available to us.

We have seen a massive increase in the amount of money, and yet we overspend. No family can operate that way. Families hope that the employer will give them increased revenues, hope that the employer will provide them with increased money to spend, but they cannot go on spending even though the employer raises the pay more and more and more and not run into tremendous problems.

The country has now run into tremendous problems because we have not been willing to hold down spending.

Some people will say it is all being spent on good things. No matter that it is being spent in the nonproductive part of the economy; namely, government, it is still being spent for good things. Yes, some of it is. There is a lot of the money that the Federal Government spends that is very necessary, it is the only way that we can get some of the things done in our country that need to be done. Not all government spending is bad.

But the fact is that there is a lot of spending that is done that is bad, that makes no sense whatsoever. So again it is interesting to note that another group has done a little bit of work on just what we spend our money for, and they have created what is known as the Pork Book. This was done by the Citizens for America Educational

Foundation. The Pork Book looks at spending in a little different way. It does not look on just who is voting for the spending bills, it looks at what they are voting to spend the money on.

In the Pork Book what they look at is two different groups: One, a taxpayers hall of fame of people who do not vote for porkbarrel spending, and the other, the porkbarrel hall of shame of people who vote for porkbarrel spending. In other words, spending that we could probably do without if we were really serious about bringing down deficits.

Again, for purposes of illustration, the breakdowns between those two categories are rather interesting. In the taxpayer hall of fame, namely those people who do not vote for porkbarrel spending, there are 106 Republicans and one Democrat. In the porkbarrel hall of shame, those Members who received the worst possible score and according to the Citizens for America can be regarded as enemies of fiscal responsibility, there are 180 Democrats and 6 Republicans. Again, the breakdown is rather astounding and tells you a lot about what goes on in this body when deficits get created.

□ 1950

Those massive deficits, that massive spending has led to a conclusion by the liberals in this Congress that there is only one way out of their problem and that is to raise taxes. They are determined to go on spending, they are determined to go on spending money for pork and so therefore they have only one solution to the problem, raise taxes.

They have touted now for the better part of 6 to 9 months the idea that raising taxes is a plus for the economy, that there are positive goods to come out of raising taxes, that it will lower deficits. I doubt it. Chances are when they get the money in here that we will spend it away just as we have spent away all that revenue we have gotten from growth. But that is their claim, because the only way that they can approach the budget problem is to suggest that increased taxes is an answer.

Now we find out the truth, that when you get serious about raising taxes it creates major economic dislocations. We found that out yesterday, that when you get serious about raising taxes, investors get panicky and the stock market drops.

I think that it is time that we do get serious about sitting down together and coming up with some real solutions to our budget crisis and to our economic problems. It should be done in a bipartisan way. It would help if that bipartisanship included Democrats in this body talking to Republicans in this body rather than just going their merry way setting up their own economic scenarios most of which are reminiscent more of Jimmy Carter's policies than they are policies designed to take us into the next century.

It would help if there was going to be true bipartisanship if we would all sit down and talk together about how we reduce spending, how we really reduce spending to bring down deficits. And it would help if we sat down and understood that tax increases are bearish and should not be permitted to drive down the economy and ultimately put people out of work.

How do we bring that about? Well, the President has announced that he certainly is willing to see a coming together of the various parties to discuss the economic conditions. The Speaker of the House on the floor today indicated that. And I hope that happens.

But I also hope one other thing, and it is a message I would give to the President, to the Speaker and to my colleagues: I hope we have learned from yesterday that tax increases cannot and should not be a part of that package; that tax increases are not the solution, they are the problem; that tax increases will lead to economic devastation in this country; that as a part of coming to that table, the bipartisan table that the Democratic leadership in this body should announce they have pulled their tax increase package off the table.

No tax increases in an economy as shaky as what we now understand this economy to be.

If we can take tax increases off the table there are a number of us who are willing to look for spending cuts in all phases of the budget. I am known as one who is willing to support the defense budget when it comes through, but I am willing to find places to cut defense. I think there are obsolete bases all over this country that could be closed down and save us some money. Why do we not do that?

Some of my friends on the Democratic side, they may have to look at some of their sacred cows, some of the social programs, some of the big welfare spending programs. We may have to find some places there to save some money.

But the fact is in a $1 trillion budget we should be able to find the $23 billion of savings that we say we need. It may take some courage but if we come together in a bipartisan way it should be able to happen.

The bottom line is this: It cannot happen in a way which helps the country so long as tax increases are part of the package. Tax increases are bearish, tax increases will lead to economic devastation.

We ought to take tax increases off the table of negotiation in this Congress and get down to the serious business of doing what is really needed to solve deficit problems; that is, cut spending.

I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. FOLEY), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, on October 21.

Mr. WALKER, for 60 minutes, today.

Mr. MCCANDLESS, for 5 minutes, today.

(The following Members (at the request of Mr. ECKART) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. ECKART, for 5 minutes, today.

Mr. STOKES, for 5 minutes, today.

Mr. SOLARZ, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. WYDEN, for 15 minutes, today.

Mr. SKELTON, for 30 minutes, on October 26.

Mr. SKELTON, for 30 minutes, on October 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDWARDS of California, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,473.

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. MICHEL.

Mr. SCHUETTE.

Mr. LENT.

Mr. CONTE.

Mr. MYERS of Indiana.

Mr. LAGOMARSINO.

Mr. SOLOMON in five instances.

Mr. LEACH of Iowa in two instances.

Mr. LEWIS of California.

Mr. GEKAS.

Mr. DUNCAN.

Mr. GINGRICH.

Mr. BROOMFIELD.

Mr. DONALD E. LUKENS.

Mr. MOLINARI.

(The following Members (at the request of Mr. ECKART) and to include extraneous matter:)

Mr. HALL of Ohio.
Mr. GAYDOS.
Mr. SKELTON.
Mr. TRAFICANT in two instances.
Mr. FEIGHAN.
Mr. STOKES in two instances.
Mr. RODINO.
Mr. LEVINE of California in two instances.
Mr. WYDEN.
Mr. MONTGOMERY.
Mr. JONES of Tennessee.
Mr. DOWNEY of New York.
Mr. MINETA in two instances.
Mr. GUARINI in two instances.
Mr. EDWARDS of California.
Mr. KOLTER in two instances.
Mr. THOMAS A. LUKEN.
Mr. MATSUI in two instances.
Mr. FASCELL in two instances.
Mr. HOYER.
Mr. GARCIA.
Mr. JACOBS.
Mr. DORGAN of North Dakota.
Mr. SCHEUER.
Mr. COLEMAN of Texas.
Mr. SCHUMER.
Ms. OAKAR.
Mr. ACKERMAN.

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 21, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2261. A communication from the President of the United States, transmitting a report on the October 19, 1987 actions by U.S. Armed Forces in the Persian Gulf (H. Doc. No. 100-120); to the Committee on Foreign Affairs and ordered to be printed.

2262. A letter from the Office of Legislative Affairs, Assistant Attorney General, transmitting a draft of proposed legislation to provide for the recovery by the United States of the costs of hospital and medical care and treatment furnished by the United States in certain circumstances, and for other purposes; to the Committee on the Judiciary.

2263. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to authorize the Secretary of Health and Human Services to charge fees for receiving and responding to requests for information from the Federal Parent Locator Service, and for other purposes; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIXON: Committee on Standards of Official Conduct. A report on the matter of Representative RICHARD H. STALLINGS (Rept. No. 100-382). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3097. A bill to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes; with an amendment (Rept. No. 100-383). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2858. A bill to provide for refunds pursuant to rate decreases under the Federal Power Act; with an amendment (Rept. No. 100-384). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2818. A bill providing exemption from certain Federal and State laws for solar small power production facilities; with an amendment (Rept. No. 100-385). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. H.R. 3520. A bill making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-386). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, Public bills and resolutions were introduced and severally referred as follows:

By Mr. DIOGUARDI:

H.R. 3506. A bill to amend title 18, United States Code, to require drug testing for individuals to be released on parole, and appropriate conditions of release in the case of those individuals found to be using illegal drugs; to the Committee on the Judiciary.

H.R. 3507. A bill to ensure that funds made available to carry out the Anti-Drug Abuse Act of 1986 and the amendments made by such act are not used to provide, directly or indirectly, counsel who assist defendants accused of violations of laws relating to the distribution and use of drugs; to the Committee on the Judiciary.

H.R. 3508. A bill to amend the Controlled Substances Act to increase penalties for certain offenses involving the possession of cocaine base; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. DIOGUARDI (for himself and Mr. LELAND):

H.R. 3509. A bill for the relief of Henry Johnson; to the Committee on Armed Services.

H.R. 3510. A bill for the relief of Dorris Miller; to the Committee on Armed Services.

By Mr. DYMALLY (for himself, Mr. SCHUMER, Mr. GREEN, Mr. GARCIA, Mr. ACKERMAN, Mr. BERMAN, Mr. BIAGGI, Mr. BOEHLERT, Mr. CROCKETT, Mr. DELLUMS, Mr. de LUGO, Mr. DIXON, Mr. DOWNEY of New York, Mr. FAUNTROY, Mr. FISH, Mr. FLAKE, Mr. FUSTER, Mr. GILMAN, Mr. GRAY of Pennsylvania, Mr. HAWKINS, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. LAFALCE, Mr. LELAND, Mr. LENT, Mr. LEVIN of Michigan, Mr. MANTON, Mr. MARTIN of New York, Mr. MATSUI, Mr. MCHUGH, Mr. MRAZEK, Mr. NOWAK, Mr. OWENS of New York, Mr. RANGEL, Mr. RICHARDSON, Mr. ROYBAL, Mr. SCHEUER, Ms. SLAUGHTER of New York, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. STRATTON, Mr. TORRES, Mr. TOWNS, and Mr. WEISS):

H.R. 3511. A bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself, Mr. MICHEL, and Mrs. ROUKEMA):

H.R. 3512. A bill to make permanent the provisions of titles IV and XVI of the Social Security Act which permit or require the disregarding of in-kind assistance to AFDC and SSI recipients; to the Committee on Ways and Means.

By Mr. FORD of Tennessee:

H.R. 3513. A bill to suspend until January 1, 1991, the duty on N,N-Bis (2,3-dihydroxpropyl)-5-[N-(2,3-dihydroxypropyl)-acetamido]-2,4,6-triiodoisophthalamide; to the Committee on Ways and Means.

By Mr. HUBBARD:

H.R. 3514. A bill to designate the Port of Hickman, located on the Mississippi River at Hickman, KY, as the "Elvis Stahr Harbor, Port of Hickman"; to the Committee on Public Works and Transportation.

By THOMAS A. LUKEN (for himself, Mr. RINALDO, Mr. FLORIO, Mr. TRAFICANT, Mr. FORD of Michigan, Ms. SLAUGTHER of New York, Mr. HOWARD, Mr. MFUME, Mr. HUGHES and Mr. RIDGE):

H.R. 3515. A bill to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste; to the Committee on Energy and Commerce.

By THOMAS A. LUKEN (for himself, Mr. FLORIO, Mr. TRAFICANT, Mr. FORD of Michigan, Ms. SLAUGHTER of New York, Mr. HOWARD, Mr. MFUME, Mr. HUGHES, and Mr. RIDGE):

H.R. 3516. A bill to regulate certain transportation of solid waste and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCCANDLESS:

H.R. 3517. A bill to amend the Tax Reform Act of 1986 to delay for 1 year the effective date for the increase in the current year liability test for estimated tax payments by individuals; to the Committee on Ways and Means.

By Mr. MYERS of Indiana (for himself and Mr. BROOMFIELD):

H.R. 3518. A bill to amend the Social Security Act to prohibit false advertising or the misuse of names in reference to the Social Security Administration, the Health Care Financing Administration, and their programs; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 3519. A bill to provide for the termination of trade and defense agreements between the United States and any country which restricts access to its ports by U.S. naval vessels which are nuclear powered or which carry nuclear weapons; jointly, to the Committee on Ways and Means and Foreign Affairs.

By Mr. WHITTEN:

H.R. 3520. A bill making appropriations for rural development, agriculture, and related agencies programs for the fiscal year ending September 30, 1988, and for other purposes.

By Mr. BILIRAKIS (for himself, Mrs. Vucanovich, Mr. Stratton, and Mr. Archer):

H.J. Res. 381. Joint resolution to designate October 1988 as "Phobia Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. CROCKETT (for himself, Mr. Clay, Mrs. Collins, Mr. Conyers, Mr. Dellums, Mr. Dixon, Mr. Dymally, Mr. Espy, Mr. Fauntroy, Mr. Flake, Mr. Ford of Tennessee, Mr. Gray of Pennsylvania, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Leland, Mr. Lewis of Georgia, Mr. Mfume, Mr. Owens of New York, Mr. Rangel, Mr. Savage, Mr. Stokes, Mr. Towns, Mr. Lantos, Mr. Leach of Iowa, Mr. Levine of California, Mr. Owens of Utah, Mr. Studds, Mr. Weiss, Mr. Bonior of Michigan, Mr. Fish, and Mr. Frank):

H.J. Res. 382. Joint resolution designating June 26, 1988, as a national day of recognition for Nelson Rolihlahla Mandela; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.J. Res. 383. Joint resolution designating March 25, 1988 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself and Mr. Michel):

H. Con. Res. 204. Concurrent resolution to affirm the vital importance to the United States and our allies and friends of actions necessary to preserve peace and security in the Persian Gulf; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. Ridge.

H.R. 276: Ms. Pelosi.

H.R. 378: Mr. Courter.

H.R. 458: Mr. Chapman, Mr. Lewis of Georgia, Mrs. Lloyd, Mr. McCurdy, Mr. Mfume, Mr. Rhodes, Mr. Skeen, and Mr. Upton.

H.R. 592: Mr. Rhodes, Mr. Dwyer of New Jersey, Mr. Davis of Michigan, and Mr. Valentine.

H.R. 613: Mr. Lowery of California and Mr. Bilirakis.

H.R. 737: Mr. Berman, Mr. Bates, Mr. Garcia, Mr. Stokes, Mr. Pickle, Mr. Price of North Carolina, Mr. Roybal, Mr. Dellums, Mr. Cardin, Mr. Sunia, Mr. Vento, Mr. Hayes of Illinois, Mr. Leath of Texas, Mr. Hoyer, Mr. St Germain, Mr. Conyers, Mr. Conte, Mr. Fauntroy, Mr. Savage, and Mr. Panetta.

H.R. 778: Ms. Pelosi.

H.R. 1095: Mr. Coble.

H.R. 1242: Mr. Wolpe, Mr. Skaggs, and Mr. Synar.

H.R. 1425: Ms. Pelosi.

H.R. 1437: Mr. Chandler.

H.R. 1438: Mr. Holloway.

H.R. 1467: Mr. Bates and Mr. Rodino.

H.R. 1531: Mr. Borski, Mr. Thomas of California, Mr. Holloway, Mr. DioGuardi, Mr. Morrison of Washington, Mr. Wortley, and Mr. Gingrich.

H.R. 1536: Mr. Baker.

H.R. 1546: Mr. Jeffords and Mr. Udall.

H.R. 1566: Mr. Perkins, Mr. Fawell, Mr. Conyers, and Mr. Solarz.

H.R. 1620: Mr. Lewis of Georgia.

H.R. 1647: Mr. Lipinski.

H.R. 1709: Mr. Boucher and Mr. Daniel.

H.R. 1885: Mr. Lehman of California.

H.R. 1917: Mr. Bruce and Mr. Coleman of Texas.

H.R. 1951: Mr. Morrison of Connecticut, Mr. Berman, Mr. Cardin, Mr. Lungren, and Mr. Coble.

H.R. 2052: Mr. Bates, Mr. Kildee, Mr. Olin, and Mr. Weldon.

H.R. 2115: Mrs. Martin of Illinois.

H.R. 2125: Mr. Hatcher and Mrs. Boxer.

H.R. 2165: Mrs. Kaptur, Mr. Sabo, and Mr. Feighan.

H.R. 2248: Mr. Dixon.

H.R. 2287: Mr. Bryant, Mr. Gilman, Mr. Fish, Mr. Donald E. Lukens, Mr. Garcia, Mr. McMillan of North Carolina, Mr. MacKay, Mr. Gingrich, Mr. Roe, Mr. Foglietta, Mr. Davis of Illinois, Mr. Houghton, Mr. Howard, Mr. DeFazio, Mr. Conyers, Mr. Gunderson, Mr. DeLay, Mr. Boulter, and Mr. Atkins.

H.R. 2290: Mr. Dorgan of North Dakota.

H.R. 2433: Mr. Wortley and Mr. Bliley.

H.R. 2439: Mr. Ackerman, Mr. Foglietta, Mr. Bateman, and Mr. Torricelli.

H.R. 2541: Mr. Eckart and Mr. Bates.

H.R. 2641: Mr. Regula.

H.R. 2690: Mr. Davis of Michigan.

H.R. 2692: Mr. Saxton, Mr. Upton, and Mr. Shumway.

H.R. 2743: Mr. Bevill.

H.R. 2752: Mr. Penny.

H.R. 2793: Mr. Lewis of Georgia.

H.R. 2920: Mr. Martinez.

H.R. 2934: Mr. DeFazio and Mr. Ravenel.

H.R. 3005: Mr. Hayes of Illinois, Mr. Johnson of South Dakota, and Mr. Conyers.

H.R. 3020: Mr. Frost and Mrs. Meyers of Kansas.

H.R. 3044: Mr. Tauke, Mr. Skeen, Mr. Applegate, Mr. Marlenee, Mr. Staggers, and Mr. Williams.

H.R. 3045: Mr. Skeen, Mr. Applegate, Mr. Marlenee, Mr. Staggers, and Mr. Williams.

H.R. 3047: Mr. Dornan of California, Mr. Hutto, Mr. DeWine, and Mr. Edwards of Oklahoma.

H.R. 3050: Mr. Oberstar, Mr. Fazio, and Mr. Bryant,

H.R. 3054: Mr. Feighan.

H.R. 3178: Mr. Shumway, Mr. Parris, Mr. Marlenee, Mr. Barnard, Mr. Hopkins, Mr. Horton, Mr. Whittaker, Mr. Campbell, Mr. Slattery, Mr. McCurdy, Mr. Bunning, Mr. Dornan of California, Mr. Chapman, Mr. Sweeney, and Mr. Daub.

H.R. 3187: Mr. Brooks.

H.R. 3250: Mr. Vander Jagt and Mr. Torres.

H.R. 3260: Mr. Evans, Mr. Jontz, Mr. McCloskey, Mr. Coats, Mr. Boulter, Mr. Brown of Colorado, and Mr. Penny.

H.R. 3290: Mr. Bilirakis.

H.R. 3294: Mr. Shumway and Mr. Fawell.

H.R. 3312: Mr. Bevill.

H.R. 3324: Mr. Denny Smith, Mr. Grandy, Mr. Boulter, Mr. Sunia, Mr. Dornan of California, Mr. Dannemeyer, Mr. Smith of Florida, Mrs. Collins, and Mr. Ballenger.

H.R. 3330: Mr. Roe, Mr. Wheat, Mr. Owens of New York, Mr. Levin of Michigan, Mr. Espy, Mr. Kildee, Mr. Conyers, Mr. Frost, Mr. Wolpe, Mr. Stokes, and Mr. Crockett.

H.R. 3335: Mr. Mrazek, Mr. Quillen, Mr. Fields, and Mr. Young of Alaska.

H.R. 3338: Mr. Horton, Mr. Weber, Mr. Annunzio, Mr. Swindall, Mrs. Collins, Mr. Schuette, Mr. Schaefer, Mr. Jeffords, Mr. Hochbrueckner, Mr. Kildee, Mr. Conyers, Mr. Martinez, Mr. Evans, Mr. Jontz, Mr. Moorhead, Mr. Flake, Mr. Bunning, Mr. Coats, and Mr. Mfume.

H.R. 3348: Mr. Shumway.

H.R. 3461: Mr. Lagomarsino and Mr. Clay.

H.R. 3462: Mr. Lagomarsino and Mr. Clay.

H.R. 3478: Mr. Gallo, Mr. Conyers, Mr. Dwyer of New Jersey, and Mr. Rodino.

H.R. 3485: Mr. Hutto, Mr. Blaz, Mr. Wortley, Mr. Conyers, and Mr. Callahan.

H.R. 3487: Mr. Foley and Mr. Coelho.

H.J. Res. 148: Mr. Callahan and Mr. McCloskey.

H.J. Res. 206: Mr. Lancaster.

H.J. Res. 230: Mr. Barton of Texas, Mr. Kanjorski, Mr. Shumway, Mr. DeLay, Mr. Hutto, and Mr. Bevill.

H.J. Res. 257: Ms. Snowe, Mr. Mfume, Mr. Kildee, Mrs. Saiki, Mr. Vento, Mr. Derrick, Mr. Donnelly, Mr. Rose, Mr. Callahan, Mr. Ford of Tennessee, Mrs. Martin of Illinois, Mr. Brown of California, Mr. Jeffords, Mr. Roberts, Mr. Murtha, Mr. Bartlett, Mr. Coble, Mr. Spratt, Mrs. Morella, Mr. Daub, Mr. Rowland of Georgia, Mr. Bateman, Mr. Frank, Mr. Moakley, Mr. Gephardt, and Mr. Foley.

H.J. Res. 287: Mr. Goodling and Mr. Jacobs.

H.J. Res. 297: Mr. Dicks, Mr. Rowland of Georgia, Mr. Fascell, Mrs. Meyers of Kansas, Mr. Chappell, Mr. Bonker, Mr. Conyers, Mr. Pepper, Mr. Lowry of Washington, Mr. Fazio, Mr. Gallo, Mrs. Boxer, Mr. Miller of California, Mr. Whittaker, Mr. Bosco, Mr. MacKay, Mr. Weiss, Mr. Matsui, Mr. Stallings, Mr. Dellums, Mr. Hopkins, Mr. Hatcher, Mr. Bateman, Mr. Scheuer, Mr. Rahall, Mr. Hoyer, Mr. Nichols, Ms. Pelosi, Mr. Yatron, Mr. Garcia, Mr. Moakley, Mr. Gordon, Mr. Coelho, Mr. Shumway, Mr. Florio, Mr. McHugh, Mr. Rodino, Mr. Vander Jagt, Mr. Boucher, Mr. Hansen, Mr. Hubbard, Mr. Borski, Mr. Mineta, Mr. Mrazek, and Mr. Sikorski.

H.J. Res. 303: Mr. Espy, Mr. Alexander, Mr. Andrews, Mr. Annunzio, Mr. Anthony, Mr. Aspin, Mr. Atkins, Mr. AuCoin, Mr. Badham, Mr. Baker, Mr. Barnard, Mr. Bartlett, Mr. Bates, Mr. Beilenson, Mrs. Bentley, Mr. Berman, Mr. Bilirakis, Mrs. Boggs, Mr. Borski, Mr. Brennan, Mr. Broomfield, Mr. Brown of California, Mr. Brown of Colorado, Mr. Bryant, Mr. Buechner, Mr. Bustamante, Mrs. Byron, Mr. Cardin, Mr. Chandler, Mr. Chapman, Mr. Chappell, Mr. Clarke, Mr. Clay, Mr. Coats, Mr. Derrick, Mr. Dornan of California, Mr. Fields, Mr. Frenzel, Mr. Gordon, Mr. Gray of Illinois, Mr. Guarini, Mr. Gunderson, Mr. Hall of Texas, Mr. Hansen, Mr. Hertel, Mr. Jenkins, Ms. Kaptur, Mr. Kolter, Mr. Leath of Texas, Mr. Lent, Mr. Lewis of California, Mrs. Lloyd, Mr. Lowry of Washington, Mr. Martinez, Mr. Mfume, Mr. Montgomery, Mrs. Morella, Mr. Mrazek, Mr. Murtha, Mr. Natcher, Mr. Neal, Mr. Ortiz, Mrs. Patterson, Mr. Ray, Mr. Robinson, Mr. Shumway, Mr. Skelton, Ms. SLAUGHTER of New York, Mr. ROBERT F. SMITH, Mr. STENHOLM, Mr. STUMP, Mr. TORRICELLI, Mr. VOLKMER, Mr. WELDON, Mr. WOLPE, Mr. YATRON, Mr. GRAY of Pennsylvania, Mr. KLECZKA, Mr. SYNAR, Mr. HUBBARD, Mr. VENTO, Mr. WORTLEY, Mr. CROCKETT. Mr. DAVIS of Michigan, Mr. FORD of Michigan, Mr. YOUNG of Florida, Mr. HAYES of Illinois, Mr. NICHOLS, Mr. BRUCE, Mr. RANGEL, Mr. LAFALCE, and Mr. WYDEN.

H.J. Res. 349: Mr. SOLARZ, Mr. WAXMAN, Mr. HOYER, Mr. GLICKMAN, and Mr. CLINGER.

H.J. Res. 359: Mr. KOSTMAYER, Mr. WYDEN, Mr. CONYERS, and Mr. SIKORSKI.

H.J. Res. 365: Mr. BOUCHER, Mr. BROWN of Colorado, Mr. CHENEY, Mr. COELHO, Mr. DAVIS of Illinois, Mr. EDWARDS, of Oklahoma, Mr. FIELDS, Mr. FRENZEL, Mr. GRANDY, Mr. LEWIS of Florida, Mr. MARTIN, of New York, Mr. MCCANDLESS, Mr. MILLER of Washington, Mr. RAVENEL, Mr. RIDGE, Mr. SKELTON, Mr. ROBERT F. SMITH, Ms. SNOWE, and Mr. YOUNG of Alaska.

H.J. Res. 368: Mr. EMERSON, Mr. FLORIO, Mr. QUILLEN, Mr. WYDEN, Mr. MATSUI, Mr. SUNIA, Mr. DORGAN of North Dakota, Mr. CARR, Mr. TRAXLER, Mr. FLAKE, Mr. GEJDENSON, Mr. SCHEUER, Mr. FAZIO, Mr. HORTON, Mr. COELHO, Mr. MORRISON of Washington, Mr. FAUNTROY, Mr. HOCHBRUECKNER, Mr. MRAZEK, Mr. UPTON, Mr. BILBRAY, Mr. GRAY of Illinois, Mr. MFUME, Mrs. COLLINS, Ms. KAPTUR, Mr. LAGOMARSINO, Mrs. BOXER, Ms. PELOSI, Mr. NEAL, Mr. LEWIS of Georgia, Mr. HALL of Ohio, Mr. LIPINSKI, Mr. HAYES of Illinois, Mrs. PATTERSON, Mr. STENHOLM, Ms. OAKAR, Mr. BOUCHER, Mr. STARK, Mr. FUSTER, Mr. EVANS, Mr. PERKINS, Mr. CARPER, Mr. JEFFORDS, Mr. OLIN, Mr. RANGEL, Mr. CHAPMAN, Mr. CONYERS, Mr. CLAY, Mr. BRYANT, Mr. JONES of North Carolina, Mr. OWENS of Utah, Mr. SABO, Mr. MARKEY, Mr. HOWARD, Mr. LEHMAN of Florida, Mr. RODINO, Mr. CONTE, Mr. RAVENEL, Mr. LATTA, and Mr. ROBINSON.

H.J. Res. 377: Mr. BERMAN, Mr. BLILEY, Mrs. BOXER, Mr. BRENNAN, Mr. CARPER, Mr. CLAY, Mr. DELLUMS, Mr. DIXON, Mr. ESPY, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. GRAY of Pennsylvania, Mr. HARRIS, Mr. HAYES of Illinois, Mr. LELAND, Mr. MANTON, Mr. MAVROULES, Mr. MFUME, Mr. MINETA, Mr. OWENS of New York, Mr. SOLARZ, Mr. TOWNS, and Mr. WORTLEY.

H. Con. Res. 52: Mr. SYNAR.

H. Con. Res. 97: Mr. HAWKINS and Mrs. BOGGS.

H. Con. Res. 138: Mr. SKAGGS, Mr. HOCHBRUECKNER, Mr. BEVILL, Mr. KASTENMEIER, Mr. HAYES of Illinois, Mr. OLIN, Mr. GORDON, and Mr. LAFALCE.

H. Con. Res. 172: Mr. GARCIA, Mr. UDALL, Mr. DELAY, Mr. BIAGGI, Mr. NEAL, Mr. FAWELL, Mr. LEVIN of Michigan, Mr. BATEMAN, Mr. OWENS of New York, Mr. DYMALLY, Mr. CARDIN, Mr. PORTER, Mr. LAGOMARSINO, Mr. MARTINEZ, Mr. BUSTAMANTE, Mr. ECKART, Mr. MCEWEN, and Mr. SWINDALL.

H. Con. Res. 184: Mr. APPLEGATE, Mr. MARTINEZ, and Mr. DORNAN of California.

H. Res. 188: Mr. BOULTER, Mr. RIDGE, and Mr. ROBERTS.

H. Res. 224: Mr. FISH and Mr. PICKETT.

H. Res. 261: Mr. PANETTA, Mr. VENTO, Mr. FOGLIETTA, Mr. WOLPE, Ms. OAKAR, and Mr. DORNAN of California.

H. Res. 262: Mr. LAGOMARSINO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1115: Mr. LEWIS of Georgia.

H.R. 2238: Mr. LEWIS of Georgia.

H. Con. Res. 158: Mr. DORNAN of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2939

By Mr. GEKAS:

—Page 12, line 21, strike out "Such" and all that follows through page 13, line 2.

EXTENSIONS OF REMARKS

TRIBUTE TO DR. LAURENCE A. GROSSMAN

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay tribute to my good friend Dr. Laurence A. Grossman, a physician of great stature in Nashville, TN. Saint Thomas Hospital in Nashville recently dedicated its new Medical Learning Center in Dr. Grossman's honor. It is especially fitting that his dedication and commitment to the highest standards of patient care and medical education be so honored.

Dr. Grossman has been noted over the years for his great skill as a physician, his vision as a leader in the field of health care, and his intellectual honesty. He possesses every one of those characteristics and more. Most importantly, he is a great humanitarian who guides his life with the same principles by which he guides the practice of his profession.

He is known far and wide as a doctor that instills confidence in his patients. He takes the practice of medicine far beyond the art of healing. He sums up his profession better than anyone I know by saying, "Love of God, love of man, and love of truth—these are the foundation of the practice of medicine, and they are the keystone of human relations."

Guided by those principles, Dr. Grossman has been a guiding force in Nashville for the establishment of a center for the treatment of heart disease at Saint Thomas. He also led the effort to strengthen the role of Saint Thomas as a teaching hospital through a closer relationship with Vanderbilt University. Both of those efforts contributed immensely to Saint Thomas Hospital moving into the upper echelon of the Nation's hospitals that specialize in the care of critically ill patients.

It is a privilege to call Dr. Grossman my friend. His work in the field of medicine sets a standard by which other physicians should measure themselves. His determination to treat others as he would want them to treat him in his personal life is a standard by which we can all measure ourselves.

I would like to insert into the RECORD at this point the following article that appeared in The Nashville Tennessean upon the dedication of the Laurence A. Grossman Medical Learning Center at Saint Thomas Hospital.

DR. LAURENCE A. GROSSMAN: A MAN OF VISION, LOYALTY, CONVICTIONS

Dr. Laurence A. Grossman casts a giant shadow at Saint Thomas Hospital.

At age 70, he is recognized as the "dean" of practicing physicians in the Saint Thomas community and perhaps throughout Nashville as well.

Grossman has been a leader not only by the force of his outspoken convictions about where medicine should be going, but also as a teacher, mentor, and role model to young doctors. He is known for the way he deals with his patients and demands the best of care for them.

When Saint Thomas Hospital dedicates its $3.5 million Medical Learning Center in Grossman's honor today, it will be recognizing his vision that led to the center's establishment as well as his nearly 40 years of involvement in the hospital's development.

"He is a true medical visionary. He has the ability to predict the future of medicine and the direction in which this hospital should go," said Dr. Clifton Meador, director of Medical affairs at Saint Thomas Hospital.

Two directions that Grossman proposed ultimately moved Saint Thomas into the upper echelons of the nation's hospitals which specialize in the care of critically ill patients.

Grossman is like E.F. Hutton. When he speaks, people listen.

During the mid-1960s Sister John Gabriel McPhee, D.C., administrator of Saint Thomas, listened when Grossman told her the time was right for the hospital to establish a center for treating heart disease because a large number of Nashvillians had to go to other states for heart surgery.

He helped to recruit cardiologists Dr. Harry L. Page Jr. and W. Barton Campbell and cardiac surgeons Dr. William S. Stoney Jr. and Dr. William C. Alford Jr., who formed the nucleus of what was to become one of the nation's premier centers for the diagnosis and treatment of heart disease.

In 1984, he helped ensure that the hospital's reputation would remain secure with the establishment of the Tennessee Heart Institute at Saint Thomas Hospital. The institute achieved one of its primary goals when, in March 1985, Saint Thomas became the first hospital in Tennessee to perform a heart transplant. The institute, of which Grossman is president, is involved in the advancement of the diagnosis and treatment of heart disease through research, patient care, state-of-the-art technology, physician and community education, and health promotion.

In 1972 Grossman was one of the principals in another major hospital development. He and other attending physicians—sensing the need for an academic presence at Saint Thomas—encouraged the hospital administration to explore an affiliation with Vanderbilt University Medical Center.

Grossman and Sister Irene Kraus, D.C., Saint Thomas administrator at the time, met with Dr. Grant Liddle, chief of medicine at Vanderbilt, and worked out an agreement to allow residents, interns, and medical students to rotate through Saint Thomas Hospital. Under the agreement four Vanderbilt physicians, full-time members of the School of Medicine faculty, were assigned to Saint Thomas. The number of Vanderbilt faculty members since has grown to 10.

Thus, Saint Thomas greatly strengthened its role as a teaching hospital, and "in large measure, that affiliation is why we are as good as we are now," said Meador. Because the physicians in training and faculty members have the latest in medical knowledge, they challenge the rest of the hospital's physicians to stay as current as possible.

"The benefits to Saint Thomas of such an affiliation are innumerable," said Grossman. "It has led to excellence."

Dr. Roscoe (Ike) Robinson, vice chancellor for medical affairs at Vanderbilt, commenced on the significance of the affiliation to the university:

"Larry Grossman has been a principal contributor to the design and structure of Vanderbilt educational programs at Saint Thomas. Those programs add another dimension to clinical training of our young people and we can only be grateful for Larry Grossman's past support and dedication to them."

Robinson also said that Grossman "is an outstanding clinician who is dedicated to the highest standards. He has served as an outstanding role model for countless numbers of Vanderbilt students, interns, and residents."

Grossman has been a member of the clinical faculty at Vanderbilt since the 1940s and for more than 20 years has been a clinical professor of medicine.

"I have said many times that Larry Grossman was the best internist of his generation," said one of his former teachers, Dr. Rudolph H. Kampmeier, professor emeritus of medicine at Vanderbilt University and Saint Thomas Hospital's first director of medical education. "He was always in the top of his class.

"After he finished his training, he worked for me in the Vanderbilt clinics supervising the medical students and interns. He very quickly established himself as an outstanding clinician, diagnostician, and teacher. I looked upon him as one of the strongest teachers of the medical students," Kampmeier said.

Like his role model, the late Dr. Hugh Morgan, former chief of medicine at Vanderbilt, Grossman is at his best when dealing with patients.

Those patients who appreciate his direct, but engaging, manner stay with him for many years, as do their families, relatives, and friends.

"He really pushes for his patients," says Shelby Eaton, his office receptionist. "Those who don't know him and what his motives are probably misunderstand his directness. He is determined that his patients' needs are going to be met."

"Those who view him as aloof or dogmatic should see him sitting on the side of a patient's bed during his rounds between 4:30 and 7 a.m.," said Dr. James P. Wilson, a member of Grossman's medical group since 1977. "He has an uncanny ability to establish rapport with patients and to make them aware that they are getting the best of care."

"His patients adore him," said a close friend of Grossman.

"Although Larry is aware of his ability, he is not pompous. He has a sense of humor," said neurologist Dr. Bertram Sprofkin, who has known Grossman since his medical school days.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"He has no tolerance for mediocrity," says Del Staecker, president of the Saint Thomas Foundation. "He sets high standards for himself and he expects others to also have high standards. He helps them to meet theirs."

Nashville CPA Joe Kraft has known Grossman since they were both youngsters growing up in the 1930s. A professional association as doctor and CPA developed in 1950.

"He has always given me expert care," Kraft said. "As a doctor, he is a no-nonsense guy who likes to get to the root of the problem. He is honest with you but also tries to keep you from overemphasizing your illness."

Kraft and Grossman are lookalikes who are often mistaken for each other. For awhile they tried to straighten out their identities with well-wishers, but eventually gave up.

"I tell him often: 'Larry, I hope your tax advice to people is as good as my medical advice,' " Kraft said.

Holland Adkisson, a semi-retired Nashville businessman, met Grossman in 1943 at Camp Gordon, Ga., two years after Grossman received his medical degree from Vanderbilt University. Their 10th Armored Division later was shipped to Cherbourg, France, and they eventually served under Gen. George Patton during the Battle of the Bulge in Belgium.

After the war, in 1951, Adkisson became a patient and was treated by Grossman for pericarditis, an inflammation around the heart. He later developed a blockage in one of his coronary arteries and had bypass surgery in 1984.

"Larry is really interested in people, and he has the empathy to be able to put himself in the other person's shoes," Adkisson said.

Grossman is noted for his decisiveness. "He's not a sweet talker. I like that. If you are sick enough to go to a doctor, you want a firm opinion," said Adkisson's wife, Mary, who is also a Grossman patient. "He treats you, gets you well, and doesn't have you keep coming back."

The postwar years were "lean times" for Grossman and wife, Dorothy.

They already had three daughters, and when he finished his assistant residency at Vanderbilt Hospital in 1947, Grossman was earning $25 a month. During the next few years he struggled to begin a medical practice, and much of his income came from fees for insurance examinations and processing medical claims for the Veterans' Administration Hospital.

"We certainly didn't have very much," Grossman said. "I spent a lot of time at Meharry for almost 10 years and wrote articles for national publications." He was appointed associate clinical professor of medicine at Meharry Medical School in 1949.

Through hard work, long hours, and leadership roles in a large number of community and professional associations, Grossman became known and respected by area physicians. Through the years he built up one of the city's largest networks of referrals from doctors in other cities and towns.

Many of these patients required consultations in Grossman's specialties, cardiology and internal medicine, but others he referred to specialists in other disciplines.

Before he added more doctors to his medical group, Grossman personally had an average of 40 patients a day in Saint Thomas Hospital. The heavy volume sometimes presented problems, according to Sally Wright, the hospital's director of admissions.

"During times when the patient census was unusually high, his demand for beds always exceeded the supply," she recalled. "He's always called me Chief. He would say, 'If Chief tells me there are no beds available, I believe her.' "

Grossman's Saint Thomas Medical Group has grown from four to 13 physicians, and he usually has his pick of young doctors just beginning their practice who often drop by to seek his advice and counsel.

"Larry has always been quick to recognize ability in others," said Sprofkin. "He always seems to make remarkably good choices when he picks doctors to join his group."

What does he look for in a young doctor?

"He respects intellectual integrity—he doesn't like someone who ducks," said Wilson. "He has high expectations of performance and is a stickler for honesty in practice—standing up for what's right.

"He thinks the real net worth is the quality of the individual."

When you work with someone for more than a quarter of a century you get to know that person very well.

So say Shelby Eaton and Doris Mitchell, who have been Grossman's receptionist and bookkeeper for 26 and 28 years, respectively. The picture they paint of their boss is one of a doctor who on one hand drives himself very hard yet who treats his employees with great respect.

"I've always admired his ability, knowledge, and the unbelievable stamina that he has," Mrs. Eaton said. "He can endure more pain and stress and works harder than three or four doctors put together."

Even a fall and a broken hip several years ago did not keep Grossman away from the office very long, they said. "He came back on crutches and worked four or five hours a day," Mrs. Eaton said.

They recounted instances of compassion and kindness shown by Grossman toward his patients, including cancelling his charges before treatment was given if he thought patients might worry about their ability to pay . . . and giving money out of his own pocket to patients who could not afford to buy prescribed medicines.

Through the years, Grossman also has shared his employees' personal tragedies and helped them through times of hardship, they said.

"I'm a Christian, and I've never known anyone who lives by the Golden Rule the way he does," Miss Mitchell said. "He's so good to his fellow man."

"We love him," Mrs. Eaton said. "He's a dear friend."

Larry Grossman has been described as a person "with no bigotry in his heart."

As a Southerner growing up during the Depression, he was accustomed to the color barriers—separate restrooms, segregated eating facilities, and blacks sitting in the back of the bus. The war years, seeing black soldiers fighting and dying alongside white ones, made a profound impact on his thinking. He was later to recall:

"I said to myself, 'If the Lord is good enough to let me go back to my wife and children, there will be no segregated citizens in my life."

Fulfilling that pledge was not without cost to Grossman.

He lost some patients when he became the first doctor in Nashville to integrate his waiting room in 1949. Later, in the mid-1950s, when as president he led a successful effort to integrate the Nashville Academy of Medicine, he lost something even more valuable—friends.

The depth of that loss is still evident when he talks about those days. A momentary expression of pain crosses his face. "Sometimes when you try to do right, your family are the ones who suffer," he says quietly.

In 1982 Grossman was honored for his human relations efforts with a humanitarian award from the National Conference of Christians and Jews. In his acceptance speech, he noted the similarities between medicine and human relations:

"The wonders of the human body should be looked on with thankfulness, faith, and worship—all of which are an expression of the love of God. Love of truth is the foundation of science and scientific progress. Love of man is the basic source of inspiration in medicine and propels its progress.

"The true physician must know his patient as an individual in order to guide, encourage, and console him. Love of God, love of man, and love of truth—these are the foundation of the practice of medicine, and they are the keystone of human relations."

Laurence Grossman is a man of intense and deep-seated loyalties.

When he talks about someone whom he admires or respects, he speaks in superlatives—"that man's genius" or "he's the best thing that's happened to Nashville."

His wife of 45 years, Dorothy, admits that even she finds it difficult to comprehend the depth of Grossman's loyalty and devotion.

"He is a man who truly loves his profession . . . . He loves his city . . . and his school, Vanderbilt," she said. "Also, he truly believes in his fellow man. . . . sometimes to the point of being naive."

Grossman has always been very competitive, and "better" is a key word in his vocabulary, she said. "He has never stopped believing that the Vanderbilt football team won't be better next year, and as a doctor he will not believe that a patient cannot be saved."

A TRIBUTE TO OHIO SENATOR HARRY MESHEL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Ohio Senate minority leader Harry Meshel, a very special resident of my 17th Congressional District. Senator Meshel has served in the Ohio Senate for the past 17 years, and in that time has become the most influential and powerful Mahoning County resident to serve in Ohio government in the 20th century. He did an outstanding job as president of the Ohio Senate from 1983 to 1985, and is currently chairman of the National Democratic State Legislative Leaders and is a delegate to the Democratic National Committee.

After fighting for America in World War II as a member of the U.S. Navy, Senator Meshel returned to become an honors graduate from Youngstown College, and then went on to receive a master's degree in Urban Land Economics from Columbia University. He has helped to form countless young minds as a professor at both Youngstown State University and Ohio University. He served admirably as executive assistant to the mayor of Youngstown and as Youngstown Urban Renewal Director before his election to the Ohio Senate in 1970.

Senator Meshel has worked tirelessly and diligently to see that jobs and programs come to the Mahoning Valley. He has been the driving force behind the growth of Youngstown State University, and was singlehandedly responsible for Y.S.U. obtaining a High Technology Center—recently named Harry Meshel Hall in his honor. He is also overseeing the growth of the National Steel Museum in Youngstown. In fact, during his tenure in the Ohio Senate, Senator Meshel has secured over $30 million in State capital improvement funds for Mahoning County—in addition to the over $100 million he has obtained for Youngstown State University. Senator Meshel has also made numerous trade missions seeking jobs and investments for the Youngstown area, including trips to India, the Peoples' Republic of China, and Egypt.

Every citizen of the Mahoning Valley is deeply indebted to Senator Meshel for his exemplary and awe-inspiring achievements in Columbus. Harry, I am certain that every person in your district greatly appreciates your many astounding accomplishments, and salutes your truly amazing career. Thus, it is with thanks and special pleasure that I join the residents of the 17th Congressional District in honoring the extremely noble character and inspiring life story of Ohio Senate minority leader Harry Meshel.

A TRIBUTE TO DOMINIC BRICILLO AND VANCE WADAS

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. KOLTER. Mr. Speaker, it is with great pride and privilege that I rise today to pay tribute to a group of citizens from Indiana County, PA. Dominic Bricillo and Vance Wadas of the Indiana County Tree Growers' Association, Indiana County Commissioner Beatrice States, Lisa Ofman of the Indiana County Tourist Bureau, and Marilyn Berry, the lovely Queen Evergreen XXIV, visited Washington this past Thursday to distribute pine seedlings to every Member of this great body. I am almost beyond words in expressing my pride at this group's efforts in making the project such a success.

I have long known that Indiana County, PA, is an indescribably beautiful region, graced by God with an abundance of natural riches. I am gratified that, through the distribution of these seedlings, these fine citizens have provided my colleagues with a small sample of Indiana County's magnificent bounty.

I am sure that there now can be no dispute that Indiana County, PA, has truly deserved its title as "Christmas Tree Capital of the World."

Thank you, Mr. Speaker.

SENATOR CRANSTON AND PRESIDENT ALFONSIN HONORED WITH HARRIMAN DEMOCRACY AWARD

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LEVINE of California. Mr. Speaker, last month the National Democratic Institute for International Affairs [NDI] announced that it will present its 1987 W. Averell Harriman Democracy Award to Senator ALAN CRANSTON and Argentine President Raul Alfonsin. The award recognizes outstanding commitment to democracy, internationalism and human rights. It is fitting that one of the awardees, a colleague and friend, is the senior Senator from California.

ALAN CRANSTON has been a leader in promoting international human rights as a politician and journalist. His career in international affairs goes back to the early 1930's, when as a young journalist he was sued by Adolf Hitler for publishing an unexpurgated version of "Mein Kampf." First elected in 1968, ALAN came to the Senate as a proponent of peace. He has since built a record of passionate concern and respected leadership in the foreign policy arena where he has strived to make his country's policies reflect its highest moral principles. He is a member of the Foreign Relations Committee and chairman of the Subcommittee on East Asian and Pacific Affairs from where he has earned the respect and admiration of leaders throughout the world.

As Averell Harriman's life exemplified the best traditions of the Nation and the Democratic Party, so too does ALAN CRANSTON's. In the 1950's, he founded the California Democratic Council, the leading liberal force in the State and forum for issues of peace and social justice. ALAN's current efforts with U.S.A. votes to register voters nationwide is characteristic of his commitment to the principles of participatory democracy at home.

Senator CRANSTON will share the Harriman Democracy Award with another distinguished international leader, Argentine President Raul Alfonsin. President Alfonsin's role in restoring democracy to the people of Argentina is an inspiration not only to his own countrymen, but to those united in the same cause around the world. In his struggle to make democracy work in order to create better lives for the citizens of his country, President Alfonsin has faced tremendous odds and has prevailed.

As my colleagues know, NDI has been engaged in successful democratic development programs since it was established in 1983 by the National Endowment for Democracy Act. Chaired by former Vice President Walter Mondale, the Institute has provided concrete support to institutions that are critical to the maintenance of democracy in many Third World countries. From organizing the international observer delegation for the "snap" presidential elections in the Philippines to assisting the civic opposition in Nicaragua, NDI has provided timely support to courageous people throughout the world who are struggling for freedom and social justice.

I commend NDI's work and its choice for recipients of the 1987 Harriman Democracy Award.

ST. BRIDGET'S CHURCH, JERSEY CITY, CELEBRATES CENTENNIAL

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. GUARINI. Mr. Speaker, the parishioners, past and present, will be commemorating the 100th anniversary of St. Bridget's Church in downtown Jersey City.

While the church was first organized in 1869 and a cornerstone of the original St. Bridget's Church was laid on November 14 of that year, the present edifice was opened on Christmas Day in 1887.

According to Msgr. Martin R. Kelley:

> It is that anniversary that we are celebrating, October 25th, when Archbishop Theodore E. McCarrick can join us to celebrate this centennial. On this special day of celebration, Archbishop McCarrick will greet members of the clergy and parishioners at a reception in the church auditorium immediately following the Mass. We will also commemorate our parish's 118th anniversary.
>
> Jersey City has grown tremendously in the past century and so has St. Bridget's. Each has prospered from the rise in immigration, each has felt hard times, but both will continue to thrive in the future.
>
> The cornerstone of the original little framed church was laid Nov. 14, 1869 and its first pastor was the Rev. Patrick Corrigan. At first things didn't look too good for the new church because it was built in an area with few houses, surrounded by sandhills and swampy ground. But, as the city grew, so did the number of parishioners. Land was filled in and what was once sand and swamp became the site of homes.
>
> In 1876, the Rev. Patrick E. Smythe succeeded Corrigan as pastor. During his time, the rectory was built. In January, 1886, the Rev. James Hanly came to St. Bridget's from Dover, England. During that pastorate, the church was relocated, with a new building erected at the corner of Montgomery and Brunswick Streets, its present site. Hanly remained with the parish until his death in 1889.
>
> The Rev. P.M. Corr, next appointed pastor, accomplished the building and opening of the parish school. Also during his administration, the now defunct Young Men's Lyceum was erected. Within less than a quarter of a century, St. Bridget's had become a parish with a new edifice, a school, a lyceum and a rectory.
>
> Today, the church can be seen from the New Jersey Turnpike and the World Trade Center in New York. Parishioners today are as proud and as happy as the parishioners a century ago. The real story of the parish is written in the hearts of her people. For those first people in 1869, predominantly Irish and immigrant, the church was a focal point for their faith, their hopes and their love. Succeeded by their children and new waves of immigrants, St. Bridget's is still a stabilizing force in the community.

The history of St. Bridget's Church, its serving of the tens of thousands of immigrants who came to New Jersey upon their arrival to

America, reminds me of the message Pope John Paul II, the pilgrim of peace, delivered on October 5, 1979, in his homily at Grant Park in Chicago:

> I see also the whole people of America, one nation formed of many people: "E pluribus unum."
>
> In the first two centuries of your history as a nation, you have travelled a long road, always in search of a better future, in search of stable employment, in search of a homestead. You have travelled "From sea to shining sea" to find your identity, to discover each other along the way, and to find your own place in this immense country.
>
> Your ancestors came from many different countries across the oceans to meet here with the people of different communities that were already established here. In every generation, the process has been repeated: new groups arrive, each one with a different history, to settle here and become a part of something new. The same process still goes on when families move from the south to the north, from the east to the west. Each time they come with their own past to a new town or a new city, to become part of a new community. The pattern repeats itself over and over: E pluribus unum—the many form a new unity.
>
> Yes, something new was created every time. You brought with you a different culture and you contributed your own distinctive richness to the whole; you had different skills and you put them to work, complementing each other, to create industry, agriculture and business; each group carried with it different human values and shared them with the others for the enrichment of your nation. E pluribus unum: you became a new entity, a new people, the true nature of which cannot be adequately explained as a mere putting together of various communities.
>
> And so, looking at you, I see people who have thrown their destinies together and now write a common history. Different as you are, you have come to accept each other, at times imperfectly and even to the point of subjecting each other to various forms of discrimination; at times only after a long period of misunderstanding and rejection; even now still growing in understanding and appreciation of each other's differences. In expressing gratitude for the many blessings you have received, you also become aware of the duty you have towards the less favored in your own midst and in the rest of the world—a duty of sharing, of loving, of serving. As a people, you recognize God as the source of your many blessings, and you are open to his love and his law.
>
> This is America in her ideal and her resolution: "one nation, under God, indivisible, with liberty and justice for all." This is the way America was conceived; this is what she was called to be. And for all this, we offer thanks to the Lord.

I extend my best wishes and congratulations to all the faithful parishioners, past and present, who have worshiped at St. Bridget's Church, located on the corner of Montgomery and Brunswick Streets, Jersey City, in the heart of my district.

Faithful parishioners, clergy leadership and the good nuns who staffed the school spared neither personal sacrifice or physical effort to share their adoration of the Lord. Giving testimony to their belief in caring for this edifice with willing hands and generous hearts, they have contributed their skills, labor and money to serve God and express His glory.

Indeed it was human faith and aspiration, along with human ability and energy which built this remarkable religious monument captured in red brick.

During the time St. Bridget's Church was under construction, the annals of American history report that fresh milk in bottles was used for the first time by John Borden, Morton Salt was introduced, and the new American Federation of Labor was founded under the leadership of the cigar maker Samuel Gompers. Also, an Indian chief named Geronimo was captured on the Mexican border in the last major Indian war; Johnson & Johnson of New Brunswick began its medical supply empire; Steve Brody made his famous jump off the Brooklyn Bridge; Sears-Roebuck had its beginning in Redwood, MN; Bloomingdale's opened its New York City store and Coca Cola went on sale in Atlanta. Additionally, Alexander Graham Bell received a request from a teacher, Anne Mansfield Sullivan, to examine 6-year-old Helen Keller; in his West Orange, NJ laboratory Thomas Alva Edison invented the first motor driven phonograph and the world was introduced to Log Cabin Syrup in St. Paul, MN.

It was during this time that the parishioners of St. Bridget's parish and church provided their great love and effort as part of the poor of Europe who came together in Jersey City, their new land, to make a new life for the families.

The people who settled and developed under the protective umbrella of St. Bridget's parish became some of the finest citizens any nation could have, raising their families, serving their country, loving God and man.

In this year of the 200th anniversary of the U.S. Constitution, there is deep and meaningful significance in this centennial celebration of St. Bridget's Church. It has proven to be another bastion of strength working for and developing the freedom of religion that our forefathers advocated so strongly.

One elderly parishioner told us recenty of the strength he acquired when entering his church, stating:

> The outlook may be dark but the uplook is glorious.

I am certain that all those involved in the greatness of St. Bridget's Roman Catholic Church and parish join in expressing:

> Non nobis, sed tibi, Domine,
> (Not for us, but for Thee, O God).

I am sure that my colleagues wish to join me in this celebration.

SALUTE TO PHILIP AND SUSAN HAMMER

HON. NORMAN Y. MINETA

OF CALIFORNIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MINETA. Mr. Speaker, it is our great pleasure to take this opportunity to salute two great Americans, Philip and Susan Hammer. The Hammers will be honored by Temple Emanu-El with the Tzedek Award at a dinner on November 14, 1987 in San Jose.

We join in commending the Hammers for many reasons. Phil and Susan have distinguished and illustrious careers, and together they make a dynamic team. We've both been fortunate to work with them on many occasions. We can attest to their hard work, compassion, and dedication to our community.

Philip Hammer is a practicing attorney who has served San Jose since 1964. He maintains the highest ranking from the Martindale-Hubbell Law Directory and is listed in "The Best Lawyers in America." His professional and community activities reflect both his expertise in law and his commitment to San Jose. He is a past president of the Santa Clara County Bar Association, a former chairman of the Bench/Bar Committee on Fair Judicial Elections, a frequent lecturer and panelist on family law, and author of several articles. Phil has served as president of the board of trustees of the San Jose Repertory Co., president of the San Jose Unified School District Board of Education, president of Temple Emanu-El and president of the World Affairs Council of San Jose. In short, Phil Hammer has distinguished himself as a lawyer and has devoted almost all of his free time to worthy civic and charitable endeavors.

Susan Hammer was elected to San Jose's City Council District 3 in November 1982. She served as vice mayor for 2 years and was subsequently reelected to her council seat in June 1986. Her public service leadership in the community has included membership in the Community Foundation of Santa Clara County, the Mexican American Legal Defense and Education Fund, the National Conference of Christians and Jews, the San Jose Fine Arts Commission, and many others. She's been honored with the Investment in Leadership Award by the Coro Foundation, and with the Distinguished Citizen of San Jose Award, presented by the Exchange Club of San Jose. She has been the recipient of the Rosalie M. Stern Award from the University of California.

Mr. Speaker, we are proud to salute Philip and Susan Hammer on the occasion of their latest award. We know of no finer honorees and extend our best wishes for many more years of continued success. We ask our colleagues in the House of Representatives to join us in commending Phil and Susan for their tremendous contribution to San Jose.

DECENNIAL CENSUS IMPROVEMENT ACT OF 1987

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. DYMALLY. Mr. Speaker, today I am proud to be joined by over 40 of my colleagues in introducing legislation which will promote the constitutional and civil rights of all Americans.

The Decennial Census Improvement Act of 1987 will improve the accuracy of the census by requiring a statistical adjustment of the population figures to correct undercounts and overcounts.

This legislation tackles an issue of constitutional dimensions because decennial census figures are used to reapportion seats in Congress, to draw district boundaries in compliance with the Voting Rights Act, and to distribute program funds at the Federal, State, and local levels.

The substantial undercount of minorities, the homeless, and the rural poor makes these efforts imprecise, at best.

The most troubling aspect of the undercount is the difference between the undercount of the population overall and the undercount of miorities.

Over the past 40 years, the Census Bureau has made great strides in reducing the undercount. In 1940, the undercount for the population as a whole was 5.6 percent. By 1980, that fugure was reduced to 1.4 percent.

But even though the overall undercount has been reduced substantially, the differential undercount between whites and blacks has remained at 5.2 percent each decade.

And while the most accurate estimate of the undercount exists for blacks, we assume that the undercount for Hispanics, Asian-Americans, American Indians, the homeless, and residents of remote rural areas, is also disproportionately greater than the overall undercount.

Looking at the undercount figures from another angle highlights the magnitude of the problem even more.

In 1980, blacks made up 11.7 percent of the U.S. population. But they accounted for 53 percent of the persons missed in the 1980 census. And for certain segments of the black population, the undercount has reached a critical level. For example, the undercount of black males between the ages of 40 and 45 is 18.5 percent.

Because the census figures are used as the base for calculating Federal statistics throughout the subsequent decade, the inaccuracy of these figures makes other statistics misleading, as well.

A case in point is the official estimate of the number of unemployed people, reported each month by the Bureau of Labor Statistics. This figure is derived by combining the results of a survey with figures from the decennial census.

According to a statement made in March 1987 by Labor Statistics Commissioner Janet Norwood, the decennial census undercount causes the estimate of the number of black men who are unemployed to be 15 percent lower than it actually is.

Mr. Speaker, it is clear to me that we cannot ensure constitutional mandates of equal representation and the right to vote, nor begin to adequately address numerous social and economic problems, if the very numbers on which we base our fundamental policies are wrong.

The Census Bureau has employed numerous coverage improvement procedures in recent decades, designed to improve the accuracy of the initial population counts. But the persistence of the undercount despite expanded field efforts means we have reached a point where standard coverage improvement procedures are not yielding improved counts of historically hard-to-enumerate groups.

After many years of extensive research on the subject by statisticians, demographers, and other experts, a methodology for statistically adjusting the census figures to correct for undercounts and overcounts has been developed.

My subcommittee has held several hearings on this issue and has consulted with numerous experts in the field. I believe a consensus has emerged that a full-scale post enumeration survey is a statistically valid and technically feasible method of adjusting the raw census counts.

I should point out, however, that my legislation does not specify the method to be used for an adjustment, as this decision should be made by nonpartisan experts at the Census Bureau, in consultation with the panels of experts the Bureau has commissioned.

The legislation also contains a requirement that the Secretary of Commerce report to Congress by April 1, 1989—1 year before the census—on the plans and activities for carrying out an adjustment in accordance with the bill.

Mr. Speaker, the time has come to ensure equal representation in Congress for all Americans and a fair distribution of Federal funds.

This can be achieved by adjusting the decennial census figures to eliminate known undercounts and overcounts of the population.

When we are talking about a guarantee of constitutional rights, we should settle for nothing less than the most accurate figures modern science will allow us to produce.

OHIO STATE UNIVERSITY AND AFFIRMATIVE ACTION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. STOKES. Mr. Speaker, Ohio State University, which is located in Columbus, OH, is a leading institution of higher education. Since 1981, the university has been under the direction and guidance of Dr. Edward H. Jennings. Dr. Jennings is a well-known and highly respected member of the education community. During his tenure as president of Ohio State, I have had the privilege of working with Dr. Jennings and his staff on issues of concern to the university.

One issue of particular importance to the university is affirmative action. Dr. Jennings believes that "affirmative action is essential to the creation of educated women and men," and that "as an educated community we must do all that is possible to embrace those individuals who have not traditionally had full access to equality of education."

Recently the Cleveland Plain Dealer reprinted an excerpt from Dr. Jennings' "state of the university" report which addressed the issue of affirmative action at Ohio State. I am pleased to bring this report to the attention of my colleagues. It is worthwhile reading.

Mr. Speaker, I am proud of Dr. Jennings' achievements at Ohio State University, particularly in the area of affirmative action. I hope that other universities will follow the excellent example and high goals which he has set.

OSU PRESIDENT DEMANDS AFFIRMATIVE ACTION

The final but no less critical issue for this university in the coming year is affirmative action. This issue is fundamental to advancing one of our greatest strengths—our diversity. Diversity is central to our mission as a landgrant university. It is central to our identity as a major research university. It is central to our potential as a pre-eminent instution. It is central to our goal of having the very best faculty, staff and students in our midst. And it is absolutely essential to the creation of educated women and men.

While Ohio State can in some ways be proud of its record and proud that selective admission has helped, not hindered, affirmative action, it is abundantly clear that we are facing major national problems in terms of black young people receiving the fullest benefits of America's educational opportunities.

Even as high school graduation rates across the country rose 29% for black students between 1975 and 1982, college enrollment rates decreased by 11%. The black community is seriously underrepresented in higher education throughout the nation. Unfortunately, I must say that the patterns for Ohio State University are not much better.

We have for some time been talking about affirmative action and attempting to bring more diversity to this institution. I have espoused affirmative action each time I have come before you to begin a new academic year. You have all, to your credit, nodded your endorsement. Yet as we come together again, the best I can call our improvement is inadequate.

I need only to look around this room and note that this University Senate is essentially a white organization. Indeed, as I review my own staff or as I review the Council of Deans, I see the rare exception, but these areas also remain too much white male preserves.

We have followed a philosophy, in times gone by, that if a program existed to address these issues, that was sufficient. If advertisements were placed in appropriate periodicals, that was enough. If we made the "good college try" to bring in minority students of faculty, that was all that was required. If we were doing better than most, we could be satisfied.

Worse, we have all used excuses. We claim that we cannot do anything about this because these students are unprepared. But if we look at the students at Ohio State who are in the top 10% nationally in ACT scores—students who are far from unprepared—the graduation rate for black students is roughly 50%, compared to a graduation rate of 75% for all such students.

Our poor record on black student retention is probably to some extent a financial aid issue, but it also is a quality of life issue that must be addressed. Establishing a focal point for cocurricular life in the Black Cultural Center planned for Bradford Commons will be helpful. But it is only one element of the comprehensive solution we need.

We use as an excuse the pool size, and we say we cannot add black faculty because there are none or few available. While I can appreciate that this is true in certain areas, it is not an excuse for inaction. If black faculty are not available, then we must increase doctoral enrollments. If qualified Ph.D. students are not available, we must focus our efforts on increased enrollment at the master's and undergraduate levels.

We use as an excuse the traditional academic reluctance to "hire our own" when we fail to take advantage of Ohio State's long tradition as one of the largest producers of black doctoral graduates in the nation. There is validity in our concern about becoming too insular. But we should not be overly rigid when the advantages of diversity and quality outweigh the potential disadvantages. Our size and comprehensive nature endow us with great opportunities for flexibility.

We use as an excuse that universities are not to blame and, therefore, we have no obligations. We can blame primary and secondary education. We can blame parents. We can blame historical circumstances. We might even be tempted to blame the black community. Obviously, there is plenty of blame to go around. But we must blame ourselves first and foremost.

I also have heard the excuse that quality and affirmative action are inconsistent—that the top people we seek to attract may, indeed, be put off by all this focus on the black community because they think it is incompatible with excellence. Such racist attitudes have no place at Ohio State University.

Enhancing our diversity is an absolutely necessary precondition of achieving pre-eminence. Mere neutrality is not enough. If we do not insist upon affirmative action results, we can never become a pre-eminent institution by any definition which I would accept.

As a land-grant institution, we do have an obligation to bring all aspects of our heterogenous society into higher education. Further, as an educated community we must do all that is possible to embrace those individuals who have not traditionally had full access to equality of opportunity.

In the past year, three major studies of this issue were commissioned: one on recruitment of black students, one on quality of life retention issues, and the third on retention of academically at-risk students. Combined with earlier studies of affirmative action results among faculty and staff members, they form a powerful summary of the essence of our problems and point the way to solutions.

In response to these studies, to faculty initiatives of years past, and to the current disturbing circumstance of reversals in black participation in higher education, the provost's office has developed a strong and ambitious action plan. It will be distributed soon in full detail.

Fundamentally, it emphasizes filling the pipeline through student recruitment and retention and, most importantly, through increasing the black college-going rate, whether to Ohio State or any other institution. The key to long-term success is increasing the pool from which all universities draw.

We are developing a pioneering young scholars program in which targeted sixth and seventh graders from around the state will be admitted to Ohio State and provided necessary financial aid if they complete an appropriate college preparatory curriculum. These students will have continuing contact with the university and attend summer programs at Ohio State, which should enhance our own black enrollments. But even if some of these students ultimately choose other colleges or universities, much will be accomplished by our leadership in this effort.

I am extremely satisfied with the provost's recommendations, but I think we need to put a great deal more teeth into our plan. I am prepared to add $2 million to the $5 million we already spend annually on affirmative action as additional incentive money over the next five years to enhance our results in all areas.

But I also am prepared to develop concomitant sanctions for not accomplishing the affirmative action goals that the provost's plan requires each area to establish by Jan. 1.

While individual units will be able to claim incentive funding to reward recruitment results, if an area does not meet its goals, appropriate budgets will be reduced. And while affirmative action results will be important considerations in awarding a merit increase; at the same time, if goals are not met, merit salary increases will be reduced for the responsible leadership.

These suggestions may seem like harsh penalties. Some may say they place too much emphasis on affirmative action. But I do not believe there can be too much emphasis on affirmative action at this institution. If we truly intend to become pre-eminent, we must not accept excuses.

We must do more to make our campuses truly diverse environments in which all individuals are valued. The new action plan calls for all of us to participate, whether formally as one of 2,000 mentors helping to retain students or simply by challenging on the spot any person who has the bad taste and bad judgment to make a racist remark.

We do have some cause for optimism at Ohio State. This autumn quarter, it appears that our black freshman admissions have increased by about 8% over last year. Our College of Law shows a total minority enrollment of 13% in its first-year class. These achievements merit praise.

Affirmative action must be a top priority for all of us—in the context of results, not simply programs; in the context not only of enhancing the diversity so vital to our greatness, but also of our obligation to lead society as a whole.

AIDS TESTING

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. WYDEN. Mr. Speaker, top medical experts yesterday told my Subcommittee on Regulation and Business Opportunities that the results of AIDS tests performed by private laboratories are far less reliable than previously believed.

New data from the College of American Pathologists analyzed at the subcommittee's request by the Office of Technology Assessment reveal four crucial facts:

The confirmatory test for AIDS fails to identify 1 out of 10 people carrying the AIDS virus. Among individuals in high-risk groups tested by private U.S. labs, 984 out of 10,000 people tested were incorrectly identified as AIDS free.

For every individual in a low-risk population accurately identified as a carrier, nine individuals were falsely told they have AIDS. That is a false positive rate of almost 90 percent.

The quality of AIDS testing being done in this country has apparently declined in the last year. False positive rates obtained by labs that went through proficiency testing increased between July 1986 and April 1987.

Ten out of nineteen private laboratories tested by the Army failed its proficiency test. Even the labs that failed continue to perform AIDS tests in the private sector.

Mr. Speaker, AIDS testing—a potentially crucial weapon in the fight against this deadly disease—can only be useful if the results are reliable. In order to ensure greater accuracy of those highly sensitive tests, the Federal Government must step up its oversight of private laboratories. Uniform standards for AIDS testing must be established. Training programs for laboratory workers who evaluate test results should be instituted. The Centers for Disease Control and the Food and Drug Administration have to be given the authority to sanction labs that fail quality assurance tests.

Congress and public health policymakers must carefully consider the potentially far-ranging implications of this lab proficiency data, and recognize that a prerequisite to a successful testing policy is accuracy in our laboratories.

WILLIAM CASEY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SOLOMON. Mr. Speaker, I never thought I would see the day when I would nominate Bob Woodward for a literary prize, but I must confess that day has finally arrived. When the awards are handed out for the best fictional writing of 1987, I hope his book on William Casey receives the acclaim it richly deserves.

I may even create a new award and give it to him myself. Perhaps I will call it the Clifford Irving Prize for Bogus Biography. You remember Clifford Irving, the hoaxster who produced a phony biography of Howard Hughes back in the 1970's. What person would be more deserving of receiving an honor in the name of Clifford Irving than Bob Woodward, who has done so much to perpetuate that kind of writing? One more book like this last one and Woodward will have given yellow journalism a bad name.

Woodward's preposterous claim that he received William Casey's deathbed confession reveals far more about Woodward himself than it does about Mr. Casey. In fact, it might be said that Woodward's gift for imaginative writing and his exploitation of literary license are exceeded only by his sense of bad taste.

I learned a long time ago, Mr. Speaker, to always keep in mind one thing about reporters: That they make their living off the achievements of other people. And, indeed, the life and achievements of William Casey will be enough to provide a livelihood for any number of writers. But no amount of potshotting by these intellectual pygmies will ever be able to diminish the lustre of distinguished accomplishment that will always be attached to the name of William Casey.

William Casey understood the nature of the world we live in. He was keenly aware of the stakes involved in the global struggle between totalitarian ideologies and free societies. He devoted his life to winning that struggle on behalf of people everywhere who love and value liberty.

William Casey's loyalty and dedication to the country he loved and the Presidents he served were well known to everyone who was acquainted with him. As someone who knew and respected Bill Casey for 30 years, I can assure every Member of this House that the William Casey I knew bears no resemblance at all to the straw man that has been fabricated in Woodward's book. May I add that William Casey had a profound respect and admiration for President Reagan, a conviction of heart and mind that he reiterated every time I saw him—and I met with Bill Casey many times when he was director of Central Intelligence.

Our country is much in debt to William Casey. Few Americans in this or any other era of our history have a record of public service that equals his. Throughout a career of service to our country that spanned over 40 years, William Casey focused all of his considerable intellect and energy on the great cause of protecting America and extending the blessings of our way of life to others in all parts of the world.

His was a life well spent, and his legacy is secure despite the overheated imaginations of his critics. One final word of caution about Woodward's book: Don't believe even the page numbers unless you count them yourself. William Casey the man is far more impressive than William Casey the myth.

A TRIBUTE TO MR. WILLIAM BOBOLIS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished member of the Sacramento community, Mr. William Bobolis, upon his presentation of the Medal of St. Paul, for his talent and dedication to his church and the Sacramento community.

Upon receiving his degree in music education from the University of Utah, Mr. Bobolis continued to earn his master's degree in voice from the California State University, Sacramento. Mr. Bobolis then began his teaching career in Utah where he was active in the Utah Opera Theater. Mr. Bobolis moved to Sacramento in 1963 and has performed numerous bartione roles in local operas and oratios.

Since his arrival in Sacramento, Mr. Bobolis has become one of Sacramento's most respected choir directors. At the dedication of the new State capitol building, Mr. Bobolis had the honor of directing the combined high school choirs. His high school group, known as the Starmakers, performed at the 1986 World Exposition in Vancouver. That same year, his Starmaker record album won the highest studio recording award in a national competition sponsored by Downbeat magazine. Furthermore, under Mr. Bobolis' leadership, the Annunciation Choir has become one of the largest choirs in the Western Choir Foundation, renowned for their musical and artistic excellence.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to congratulate Mr. Bobolis for a job very well done. Mr. Bobolis' dedication to Sacramento is very admirable indeed, and I want to take this time to offer my warmest wishes to this outstanding individual and wish him the very best of luck in all his future undertakings.

IN REMEMBRANCE OF DAVID WILSON PROFFITT

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. DUNCAN. Mr. Speaker, I am submitting the following memorial in honor of David Wilson Proffitt, a good Tennessean and respected businessman.

In Remembrance of

David Wilson Proffitt was born in 1891 on a small farm near Maryville, TN. He was the son of Mr. and Mrs. Nicholas W. Proffitt who came from North Carolina to Blount County in 1889 so their children could attend Maryville College.

Mr. Proffitt graduated from Maryville College in 1916. The next year he married college sweetheart, Lillian Gray Webb, who preceded him in death in 1979. The Proffitt's made their home in Cleveland, TN where he received his first merchandising experience as manager of Miller's. In 1919 Proffitt fulfilled his childhood dream to own a store. He returned to Maryville and bought the Ellis-Chandler store on Main Street. Several months later, the two stores were consolidated in the former Badgett building as Ellis-Proffitt. In 1921 Ellis decided to sell his share and the name was changed to Proffitt's. Presently, there are five Proffitt's located throughout East Tennessee. The newest and largest store was opened in the summer of 1984 at East Towne Mall in Knoxville.

"Mr. D.W.", as he was called by friends and employees, was a very active member of the community. As listed in "Who's Who in America": founder and past president of the Maryville Kiwanis, founder and past president of the Blount County Chamber of Commerce, chairman of United Fund and Finance Committee for building Blount Memorial Hospital. Proffitt served on 1972 Tennessee Commission on Human Rights, Blount County Red Cross, member of Selective Service Appeals Board, member of Blount County Farm Bureau and founder and director of Board of First Federal Savings and Loan.

He devoted much time raising money for Maryville College and served on the Board of Directors; a private dining room was given in honor of Mr. and Mrs. Proffitt. He also served on Board of Directors of Wilson College in North Carolina.

Since childhood he has been a member of New Providence Presbyterian Church and served the church in numerous capacities. He was a former Sunday School Superintendent, Chairman of the Board of Deacons and served as an Elder. In 1951-1952 he served as president of the National Council of Presbyterian Men, an organization he helped found. He spent time touring the world on behalf of One Great Hour of Sharing, the Protestant world-wide relief offering.

During 1956-1957 Proffitt was the moderator of the United Presbyterian Church, USA, one of the few laymen and first businessman to hold that position. He was vice-president of the Presbyterian Foundation and member of the General Board of National Council of Churches in 1958. On behalf of his unselfish church involvement, Proffitt received two honorary LLD degrees, one from Maryville College and Hanover College.

Surviving family members include his four children: Harwell, John W. (Jack), Mrs. Harry (Lillian) Lyle of Blount County and Neil of New York; eight grandchildren, and six great-grandchildren.

WHAT THE STOCK MARKET IS TELLING WASHINGTON

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. GINGRICH. Mr. Speaker, Congressman Jack Kemp offers an insightful perspective on the cause of the recent stock market decline. He believes that trade protectionist legislation, tax increase campaigns, and exchange rate instability are causing millions of investors to question whether Congress will spoil the President's winning economic strategy. Representative Kemp often has exhibited an uncanny ability to dissect economic problems, and I ask that his views be reprinted below for the benefit of my colleagues.

Statement by Jack Kemp on Stock Market Decline

The stock markets have fallen sharply, not only in the United States, but in countries all over the world. This points to an international problem—our unstable world monetary system, which threatens the world economic and trading system.

Protectionist trade legislation and the threat of a tax increase—including, in effect, triple taxation of dividends—have played large roles. The immediate trigger was Treasury Secretary James Baker's remarks late last week, throwing doubt on the Louvre agreement to stabilize the dollar against other currencies, particularly the Deutschemark. This raised the spectre of yet another round of competitive devaluation, and triggered the current world financial crisis.

As I am advising the White House, three things must be done immediately to halt this crisis:

First, the Federal Reserve and other central banks must step in to restore order to the markets.

Second, Treasury and Finance officials of the major countries must meet at once to put back together a stable monetary system, defending the dollar and stabilizing currencies.

Third, the Democratic leadership in Congress must withdraw the protectionist trade bill, and the damaging tax bills. If they do not, the Administration must veto both.

PIONEER UPBRINGING SPARKS LUMPKINS' DESIGNS, PAINTINGS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. RICHARDSON. Mr. Speaker, in the past few years, the city of Santa Fe, NM has received a great deal of national attention. It has been featured in every travel magazine and in numerous other publications because of its great natural beauty and its many cultural offerings. It is widely considered to be the cultural heart of the region and among the art capitals of the country.

The natural attributes of Santa Fe, its ethnic and cultural diversity, and its low-key atmosphere have attracted generations of artists, including such well-known figures as Georgia O'Keeffe, Ansel Adams, and D.H. Lawrence, as well as many other lesser known but equally gifted individuals.

Last week, I was pleased to learn of an exhibition recognizing the contributions of William Lumpkins to Santa Fe's artistic development. Mr. Lumpkins' works in watercolor are the subject of a new retrospective exhibit at the Jonson Gallery of the University of New Mexico. I have long enjoyed and admired Mr. Lumpkins' paintings and I am glad that they are being brought to the attention of more New Mexicans. It is time that this pioneer in New Mexico's art world be honored.

The following article from the Albuquerque Journal traces Mr. Lumpkins' upbringing in one of New Mexico's pioneer families and the influence of that experience on his career as an architect and painter.

I am proud to have such a gifted and distinguished gentleman among my constituents and I hope you enjoy reading about his work.

[From the Albuquerque Journal, Oct. 11, 1987]

PIONEER UPBRINGING SPARKS LUMPKINS' DESIGNS, PAINTINGS

(By William Clark)

William Lumpkins is a dapper, gray-haired man, with a kindly, softspoken manner that masks a prolific energy.

At 78, he is known primarily as an architect, as an early proponent of solar design and a champion of adobe construction, about which he has written three books. Lumpkins has planned everything from shopping malls to award-winning historic renovations—some 1,800 buildings in all.

But there is another side to this man. Throughout his distinguished career, he has also been an innovative artist. Thirty-nine works, primarily watercolors, are in a retrospective exhibit at the University of New Mexico's Jonson Gallery.

Seated in the living room of his home in the hills north of Santa Fe, wearing stitched cowboy boots, a plum-colored shirt with a gray bandana knotted at his throat, Lumpkins describes roots that run deep in New Mexico's frontier past.

"My father came west from Kentucky in 1880 as a hunter for a wagon train, and then worked for the Matador Ranch in west Texas," Lumpkins says. "It was all open range then, and he saw that all you had to do was register a brand and go to work raising cattle."

The elder Lumpkins chose the SS Bar marking and moved to New Mexico around 1883 where, on the Rabbit Ears Ranch west of Clayton, William Lumpkins was born in 1909.

Growing up there, then on a ranch in Arizona, and finally on another New Mexico ranch on the south side of the Capitan Mountains, Lumpkins experienced a kind of pioneer upbringing that would influence the rest of his life, spark his own explorations and experiments in his chosen fields of architecture and art. "My main asset has always been my curiosity," he says with a grin.

Living at the Capitan ranch, attending Roswell High School and already beginning to draw, Lumpkins established two important friendships—with artist Peter Hurd and writer Paul Horgan—that helped shape his nascent artistic impulse. "I met Pete Hurd when I was a sophomore in high school, and he had a lot of influence on me early on Lumpkins says. "He'd already been back east to study with N.C. Wyeth, and I though the wiltiest, most romantic thing I could think of was to be an artist. He'd come up to the ranch at Thanksgiving, Christmas, spring break, and we'd hit for the hills and he'd do India ink drawings," Lumpkins remembers.

"Pete was doing watercolors, too. Paul Horgan, who was the librarian at the New Mexico Military Institute, got him started on those," Lumpkins says. Horgan, himself a watercolorist as well as writer, also broadened the horizons of the two young artists by loaning them art books from the institute's library. "There were about seven members of the intelligentsia in Roswell at that time, and Paul was the leading light," Lumpkins says.

In 1929, Lumpkins moved on the UNM, where he took mostly classes in art, including a watercolor course. "It fascinated me," Lumpkins says, "and I knew I'd found my medium."

Over the last half century, Lumpkins has experimented with a variety of media, including acrylics, printmaking, collage, and clay sculpture, but water color has remained his medium of choice. "It does marvelous things on its own," Lumpkins says, "The color runs, mixes, and if you work with it, don't try to control it, it will help you. You can't control water color unless you're a complete master."

Lumpkins did achieve that mastery as one painting in the Jonson Gallery retrospective demonstrates. "Untitled," 1935, is drawn with an architect's precision (it was in fact at about this time that Lumpkin's designed his first solar building). But another watercolor, "Dancing Trees," 1930, with its vibrant, quivering movement, its sense of barely contained energy, is more indicative of the direction Lumpkins' art would take.

"I started fooling with abstraction while I was at UNM, and by 1930-31 I was pretty well into it, there was a bit of the rebel in me," Lumpkins says. An encounter with the landscape painting of John Marin in 1931 reinforced Lumpkins' instinct for abstraction.

"I saw his work in Taos and it just blew me wide open," Lumpkins remembers. "The pictures were leaning against the wall and I was reading them as abstracts it turned out they were upside down," he says with a chuckle. "But they were based on abstractions, and they worked either way."

In 1935, Lumpkins' interest in abstraction led to another influential friendship, this time in Santa Fe, with painter Raymond Jonson, for whom the Jonson Gallery is named. Learning that Lumpkins was an abstract painter, Jonson asked to see the young artist's work and then, in 1938, invited him to join the Transcendental Painting Group founded in Santa Fe.

"The group was organized primarily to try and generate shows," Lumpkins says. "If you did abstracts, you were pretty much excluded from local exhibitions—the whole thrust at that time was American landscapes or pictures of the working man. The group was founded on the idea of abstraction, it was 'transcendental' in the dictionary meaning of 'to go beyond' reality. We thought that, as a group, we could kick open a few doors, and we did—we were shown at the San Francisco World Fair, the New York World Fair, the museum in New York that became the Guggenheim."

The Transcendental Painting Group split up with the coming of World War II and Lumpkins, a pilot, was commissioned as a flight instructor in the U.S. Navy, ultimately becoming chief of flight operations in Memphis, Tenn. He returned to Santa Fe after the war, and then moved to La Jolla, Calif., where he lived and worked as an architect for 17 years before returning to Santa Fe in 1967.

Lumpkins' architectural work has brought honor—a National Historic Preservation Award; inclusion in "*Des Architecture de Terre,*" a landmark exhibition on earth architecture at the Centre Georges Pompidou in Paris; and a Governor's Award for Excellence and Achievement in New Mexico for painting as well as architecture.

Through the years, Lumpkins has always painted. "There's an urge you can't stop," he says simply. "I work very fast and I don't start with a preconceived idea. I just face the paper or canvas, start with a bit of color, a squiggle or two, and feel it out from that—you're working with it, you're moving it, and it just happens. That's what a watercolor should be—a happening."

Lumpkins also describes a long fascination with Asian philosophy, with Zen Buddhism in particular, and its influence is evident in his work, seen in his deft, quick, bold brush strokes.

Many of the works in the Jonson show echo the shapes of Asian calligraphy; the use of the white field of paper in Lumpkins' abstract landscapes evokes the subtle, feathery brush strokes of Japanese sumi (ink) work or Chinese landscape painting.

Lumpkins has written many "koans," the brief riddles or statements used by Zen masters to provoke thought, and in these writings he speaks of ". . . a oneness with the instant without habit, conditioned attitudes, learned behavior patterns, attachments or revulsions."

"Architecture and painting are two different worlds," Lumpkins muses. "Architecture is about 5 percent creativity and 95 percent work, while painting can be completely creative.

"Architecture is discipline—painting is freedom," he says. "I need both."

THE WAR POWERS RESOLUTION: THE CASE AGAINST IT IN THE GULF

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MICHEL. Mr. Speaker, our distinguished colleague, BILL BROOMFIELD, ranking Republican member of the House Committee on Foreign Affairs, was one of the original cosponsors of the War Powers Resolution in the House of Representatives. His knowledge of the history and the goals of that resolution makes all the more impressive his arguments against using it in the Persian Gulf operation. In an excellent article published in the Christian Science Monitor, BILL has given us a capsule summary of the events in the Persian Gulf and a brief history of the War Powers Resolution itself. His conclusion is clear:

"If a provision directly invoking the war powers resolution on these operations is sent to the President's desk, I would hope that he would veto it."

I recommend this article to all our colleagues because it combines scholarly objectivity with personal knowledge of the resolution.

At this time I wish to insert in the RECORD, "Congress and the Gulf: The case against invoking the War Powers Resolution," by WILLIAM S. BROOMFIELD, the Christian Science Monitor, October 19, 1987.

[From the Christian Science Monitor, Oct. 19, 1987]

CONGRESS AND THE GULF: THE CASE AGAINST INVOKING THE WAR POWERS RESOLUTION

(By William S. Broomfield)

While I was one of the original co-sponsors of the War Powers Resolution in the House of Representatives, I have come to feel that the resolution has proved counterproductive. Many members of Congress are suggesting that the War Powers Resolution should apply to current United States military operations in the Persian Gulf. Neither the situation in the Gulf nor the action of Congress to date justifies such a step.

The War Powers Resolution, enacted over presidential veto in 1973, requires the president to consult with Congress before introducing US military forces into actually or potentially hostile situations. It also requires the president to report within 48 hours on the introduction of US forces into such situations or into foreign territory in a combat mode. The president would be required to withdraw the forces within 60 to 90 days if Congresss did not extend the period. The president is also supposed to report periodically during the deployments.

Many observers believe that the War Powers Resolution is an unconstitutional intrusion on the powers of the president. The resolution attempts to impose a legislative framework on the exercise of the president's constitutional prerogatives; in specific cases, the resolution could create obstacles for the president's exercise of his constitutional responsibilities.

The constitutionality of the War Powers Resolution has never received a decisive judicial test. The courts have been unwilling to intervene in disputes between the executive and legislative branches in which there were major unresolved issues. When members of Congress and others challenged the deployment of military advisers to El Salvador in 1982, for example, the courts refused to apply the resolution, on the grounds that Congress had not attempted to clarify its applicability. It is highly likely the court will take the same position in the pending lawsuit by several members of Congress against US Navy protection for the reflagged Kuwaiti tankers.

Assuming the constitutionality of the War Powers Resolution, does the current situation in the Gulf call for its being used? I believe that neither the substantive requirements, as clarified by previous executive-congressional practice, nor the procedural prerequisites have been met. In fact, the basic decision whether to proceed under the war powers framework appears to be largely a political question rather than a legal one. For the good of the country, Congress should work together with the president to see to it that any application of the resolution is designed to support rather than detract from the efficacy of US military deployments in complex and dangerous circumstances abroad.

It is true that there have been hostilities in the Gulf involving US forces. On May 17, the USS Stark was struck, while on routine patrol, by a missile fired from an Iraqi warplane; there was grievous loss of life and serious damage to the vessel. On July 24, the Bridgeton, a Kuwaiti-owned US-flag tanker being escorted by US naval vessels, struck a mine that in all probability was placed in its path by Iranian forces.

On Aug. 10, a US interceptor fired two missiles at an Iranian warplane approaching a US reconnaissance aircraft. On the evening of Sept. 21, US helicopters incapacitated an Iranian vessel observed laying mines in international waters; several Iranian sailors were killed or injured and 26 taken into US custody. The next day, warning shots were fired at an Iranian hovercraft approaching the US flagship at high speed.

Most recently, on Oct. 8, US helicopters responded to an attack from Iranian patrol boats, sinking one, damaging two others, and causing serious losses to their crews. Shortly thereafter, shots were fired from an Iranian oil platform as another US helicopter was passing.

The mere fact of hostile action does not trigger the War Powers Resolution, however. It is true that the resolution speaks of "hostilities . . . where imminent involvement in hostilities is clearly indicated by the circumstances." Military operations in support of maritime freedoms are not acts of war under international law, however.

In the Corfu Channel case, which arose when Albania damaged transiting British warships with mines, the Permanent Court of International Justice (under the League of Nations) decided that reparations were owed to Britain because the ships were in "innocent passage"—notwithstanding the fact that they were on a show-the-flag operation.

The administration has refrained from applying the War Powers Resolution to military operations designed to uphold traditional maritime freedoms, and Congress has never objected to this practice. For example, in August 1981, President Reagan did not report under the War Powers Resolution on the downing of two Libyan fighters over the Gulf of Sidra, which Libya claims as its territory. The US Navy returned to the Gulf of Sidra thereafter without reports being filed. Finally, in the spring of 1986, during a period of high political tension with Libya, the US fleet returned to the Gulf of Sidra for exercises. On March 24, 1986, US forces responded to Libyan military movements by attacking Libyan vessels and coastal missile sites. The President reported to Congress the next day, but not under the resolution.

Because of such complexities, Congress should engage in constructive dialogue with the administration and not attempt to invoke the War Powers Resolution unilaterally. This follows not only legally but because premature or unwise application of the resolution could have undesirable political consequences at home and abroad. When US forces are committed to a dangerous mission abroad, disputes over war powers can harm their morale, divide the country, communicate uncertainty to our friends overseas, and send a signal of vacillation to our opponents.

The situation in the Gulf changes day to day. Congress deserves to be consulted fully and often on the evolving US military and political objectives in the Gulf. The decision to invoke the War Powers Resolution, however, should be taken only after serious reflection, dialogue, and the development of a measure of consensus in the country as a whole. Otherwise, attempts to apply the resolution will fail—as occurred in the Senate Sept. 18 when an amendment to invoke the resolution was tabled by a vote of 50-41.

Successive administrations have been extremely cautious in agreeing to execute war powers procedures. The record of the current administration is actually quite positive in this regard. While the administration did not consult with Congress on the freedom-of-the-seas operations in the Gulf of Sidra, the President did consult and promptly report on the April 14, 1986, air raid against Libya itself. Congressional leaders were consulted hours before the onset of hostilities, and the President reported on the operation, "consistent with" the resolution, within two days.

The administration has also reported on significant developments in the Persian Gulf. On June 15, pursuant to congressional request, Secretary of Defense Caspar Weinberger reported on planned naval support for the reflagged Kuwaiti tankers; he stressed that consultations with Congress had been going since Kuwait agreed to the administration's reflagging proposal. Secretary of State George Shultz reported May 20 on the Stark incident, citing the President's authority and the fact that the US had maintained a naval presence in the Gulf for 40 years. On Sept. 24 and Oct. 10, President Reagan reported on the incidents involving the mine-laying vessel and the patrol boats; he cited the historical US presence in the Gulf, his constitutional authority as commander in chief, and considerations of international law which made the US actions defensive in nature.

Experience shows that application of war powers procedures is most successful when the administration and Congress work carefully together to create a framework for cooperation under the resolution. For the deployment of US Marines to the second multinational force in Lebanon, for example, Congress passed and the President signed a joint resolution under which Congress provided its authorization for the deployment and extended the reporting period (thereby preventing further conflict between Congress and the administration) to 18 months.

There have recently been discussions in Congress of an approach that would simply request a full report on operations in the Gulf or even provide specific authorization for a period of deployment sufficient to allow US forces in the gulf to discharge their mission effectively. It would be undesirable, however, to combine such an approach with any near-term date for further congressional action, since this could tend to undercut the authority for deployment. We should by all means avoid the kind of action that the Senate considered earlier, which would have unilaterally invoked the War Powers Resolution and sought to cut off after a brief period legislative authority for US naval protection of tankers owned by friendly Gulf states.

The subject of war powers is a difficult one, because of the historical disagreement between the executive branch and Congress over their constitutional roles concering military operations abroad. For the benefit of all, every attempt should be made to reach a satisfactory outcome through dialogue between these branches of government.

Recent actions by US allies and comments by leaders of friendly Gulf states show growing international support for US actions to maintain freedom of navigation in the Persian Gulf. Opinion surveys show that the American public understands and supports the President's policy of protecting shipping in the Gulf's vital seaways. To reverse policy at this time would divide the country and confuse our friends and allies abroad. If a provision directly invoking the War Powers Resolution on these operations is sent to the President's desk, I would hope that he would veto it.

A TRIBUTE TO DOROTHY RYAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Ms. Dorothy V. Ryan, a very special resident of my 17th Congressional District. I am extremely pleased to be able to inform my fellow Members of the U.S. House of Representatives that she was recently reelected President of the Ohio State Council of Senior Citizens, Inc. This momentous and wonderous event took place at the Ohio council's constitutional convention in Columbus.

Ms. Ryan is perhaps the most active member of the Ohio State Council of Senior Citizens in that group's history. She has slavishly and tirelessly devoted countless hours to the advancement of that organization's programs and agenda. Ms. Ryan became president of the Ohio council in 1976 at the saddest time of her life—upon the death of her beloved husband. Since completing her husband's term of office, the Ohio council has expressed their complete confidence in her astounding leadership abilities by reelecting her as president an amazing total of six times.

I also have total confidence that Dorothy Ryan will lead the Ohio Council of Senior Citizens to the greatest heights in that organization's history over the course of her next 2-year term as president. Thus, it is with thanks and special pleasure that I join with the residents of the 17th Congressional District in saluting the great accomplishments and honorable character of Dorothy V. Ryan.

A TRIBUTE TO REV. JOHN "MIKE" LOUDON

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to a good friend and community leader, Rev. John "Mike" Loudon. Reverend Loudon, senior pastor of the Highland Presbyterian Church for the past 10 years, has resigned his post and accepted an invitation to become head of staff of the Eastridge Presbyterian Church in Lincoln, NE.

Born in New Castle, PA, to John B. and Fanny Patterson Loudon, he graduated from New Castle High School in 1966, Westminster College in 1970, and the Gordon-Conwell Theological Seminary in 1973. A good father to his three children, Andrew, Amanda, and Nathan, and a faithful husband to his wife Joyce, "Mike" has set a fine example for all of us in the Fourth District through his untiring efforts on behalf of his community.

He has served as vice-president and president of the New Castle Rotary Club, secretary of the board and membership drive chairperson of the New Castle Community Y, a member of the nominating Chapter of the American Cancer Society, Lawrence County Chapter of the American Red Cross, and the Automobile Show Committee of the Greater New Castle Chamber of Commerce. He received the "Distinguished Service Award" from the New Castle Jaycees in 1984.

I would like to wish Reverend Loudon and his family a healthy and prosperous future with his new parish. I take this time to tip my hat to Mike and to say "thanks!" His untiring efforts on behalf of Lawrence County will be missed, not only by his parishioners, but by myself and the many people of the area.

Best of luck to you, Mike. Thank you for all you have done. You are a tribute to America.

IN HONOR OF MAURICE "BUD" SCHOENHOLZ

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to salute a fine and compassionate man, Maurice "Bud" Schoenholz, who will be honored by the Professions and Finance Associates for the City of Hope on November 21, 1987, with the most prestigious honor given on behalf of the City of Hope Medical Center and Beckman Research Institute with its "Award of Hope."

This 1987 "Award of Hope" recipient, Maurice Schoenholz, started his highly successful business career as an office boy with United Factory in his native New York. In 1983, he resigned as chairman of the board of Republic Factors Corp., concluding a long and productive career.

Following a tour of duty in the U.S. Air Force, Maurice "Bud" Schoenholz came west to Los Angeles in 1948 to represent United Factors. In 1953, he started United Factors West as a separate operation. Subsequent sales and changes in ownership made him president of Crocker United Factors, followed by his becoming head of Republic Factors Corp. in 1978 when he established the firm's west coast operation.

Throughout his business life, Bud Schoenholz has consistently given of himself to philanthropic endeavors. He is a past president of the Merchants Club, the medical center's apparel industry support group. He is one of the founding members of the support group which became today's Professions and Finance Associates. He also served on the City of Hope board of directors from 1959-69.

Maurice "Bud" Schoeholz has been active in many organizations and has been the recipient of numerous awards. He is on the board of the American Jewish Committee and received its Community Service Award in 1982. He is also active in the United Jewish Fund and the National Conference of Jews from which he received the Humanitarian Award in 1977. The Fashion Industries Club of Cedars-Sinai Medical Center presented him with its own Humanitarian Award in 1985.

Maurice and his wife Dawn, who have three sons and three grandchildren, are residents of my 27th Congressional District in Santa Monica, CA.

It is a pleasure to share Maurice Schoenholz's accomplishments with my colleagues in the U.S. House of Representatives. I ask that they join me in wishing him the best of luck in all future endeavors.

ASSEMBLYMAN JOSEPH V. DORIA, JR., HONORED IN BAYONNE, NJ

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. GUARINI. Mr. Speaker, a dedicated educator and community leader is being honored for his many years of public service.

Mr. Doria, who is director of educational services at St. Peter's College, in Jersey City, has been elected to serve the 31st Legislative District, Bayonne and Jersey City in the New Jersey Assembly since 1980.

Truly a man for all seasons, his involvement in commnity life has been of tremendous significance, resulting in his receiving almost 40 citations and awards in the areas of education, community involvement, the environment, older Americans, the blind, and awards from industry. He has provided his leadership qualities for more than 50 organizations.

With the assistance of the leadership of the Sicilian Citizens Club of Bayonne and Denise Konopka, associate editor of the Bayonne Community News, the following information on Assemblyman Doria's background is being provided. He will be honored on Saturday, October 24 by the above mentioned club at their 1987 annual dinner dance to be held at the Villa Nova, Avenue E, in Bayonne:

Doria, having served as Assemblyman in the 31st Legislative District of New Jesery since 1980 is the Democratic candidate in the November elections. He was elected Democratic Conference Chairman in 1984 by his party and serves on the Education and Higher Education and Regulated Professions Committees.

He is a member of the Joint Committee on Public Schools of New Jersey. He was appointed by Gov. Thomas H. Kean to the Governor's Commission of Science and Technology and by the Speaker of the General Assembly to the New Jersey Statue of Liberty Centennial Commission. He is currently a member of the board of directors of the New Jersey Historical Society.

After graduating from Marist High School, Doria received his B.A. degree from St. Peter's College where he was elected to Who's Who is American Colleges and Universities. He received a graduate Fellowship to Boston College where he received an M.A. degree. He is presently in the doctoral program at New York University Graduate School of Education.

The honoree has been the director of Educational Services at St. Peter's College since 1972 and a member of the adjunct faculty where he teaches courses in educational administration and history. Prior to that he was chairman of the Social Studies department of Holy Family Academy, where he designed and implemented a unique two week Community Involvement Program which placed the entire student body into human service jobs on a voluntary basis. He has also been an Educational Consultant to schools, school districts and other colleges and universities.

He has served on many conferences and commissions which have discussed and formulated educational policies by government and education leaders. During the summer of 1986 he was selected by the American Council of Young Political Leaders as a delegate in an international exchange program between the United States and the People's Republic of China.

He was elected to the Bayonne Board of Education in 1975 and served as its president from 1975 to 1980. While serving as president he worked together with the board and top administrators in the formulation of school policy.

Doria has served on many organizations, boards and committees as a member and officer. These include: The Hudson County Human Services Coalition, Bayonne Italian Earthquake Relief Committee, Bayonne Columbus Committee, Rotary Club of Bayonne, Bayonne Coumunity Nursery Fund Drive Committee, International Year of the Disabled Committee, Bayonne Youth Center, Bayonne Mental Health Center, Trustee of Our Lady of Assumption Parish, YWCA Advisory Board and many other groups, agencies and political organizations.

Many organizations have recognized his efforts on behalf of his fellow man and honored Doria over the years. Some of these have been: the Community Involvement Award at Holy Family Academy, Legislator of the year Award—International Federation of Public and Technical Engineers, Commander's Award—Disabled American Veterans, Legislator of the year Award—Hudson County School Boards Association, Appreciation Award—Bayonne Council of Boy Scouts of America, Legislative Leadership Award—United Way of Hudson County, Jersey City Environmental Champion Award.

Also, Legislator's Award—New Jersey Association of Independent Colleges and Universities, Friend of Education Award—Hudson County Education Association, Legislator's Award—New Jersey Chapter of the American Physical Therapy Association, Certificate of Appreciation—Bayonne Economic Opportunity Foundation, Knights of Pythias Civic Achievement Award, Outstanding Citizen of the Year Award—Concerned Citizens of Bayonne and many other organizations.

Doria and his wife, Maribeth, live in Bayonne.

Assemblyman Doria has authored publications, some of which have been published by the U.S. Department of Education regarding the multiple use of school facilities. He has been coeditor of the New Jersey Association for Affirmative Action in Higher Education Newsletter and member of the College and University Personnel Association's Research and Publications Advisory Board.

It has been my pleasure to work with Assemblyman Doria in the important Federal and State relationships. His work in the New Jersey State Legislature has been outstanding and most important as it complements, aids and assists the flow of the legislative process funding and programs to the Garden State of New Jersey.

Joe Doria has been at the forefront in aiding and administering St. Peter's College in educational funding opportunities and he is held in the highest esteem by the president of that great institution, Father Edward Glynn, S.J.

This tribute to Joe Doria by this community group is far reaching as the membership and those in attendance come from every community facet, including government, labor industry, older Americans, veterans and cultural groups. They all know of some of Doria's great input and the need for the continuance of his community service.

It has been said to every man there opens a high way and a low and every man decides the way that he shall go. Joseph Doria, while a very young man decided that the real purpose of his existance was not only to make a living but to make a life—a worthy useful life. He lives the following:

"Do all the good you can
By all the means you can
In all the ways you can
In all the places you can
At all the times you can
To all the people you can
As long as ever you can."

I commend this citizens club on their 59th annual dinner dance. I further commend them for honoring Joseph V. Doria, Jr. This tribute has extra significance during this 200th anniversary year of the signing of our U.S. Constitution. Joe Doria's life has complemented the advocacy of our forefathers who in this great document wish to provide Americans all the freedom of opportunities, religion, and the dignity of all individuals.

I commend Rudo Nolfo, president of this outstanding community organization, which has served many just causes in Hudson County, working for community gain, the protecting of the environment, assisting in the Ethiopian famine relief fund drive, and constant charitable works known and unknown.

I also wish to commend the chairman of this function, Frank Di Micelli, for his organizational ability, organizing this committee to make this tribute to Joseph V. Doria a meaningful and lasting one.

In my opinion, succinctly speaking, the best way I personally can describe and commend Joe Doria is that he possesses the four cornerstones of character on which the structure of this Nation was built as described by the famed Capt. Edward Rickenbacker: "independence, imagination, individuality and initiative." I believe his career is still unfolding because no individual who has added so much to the moral well being, the intellectual and material needs of a city, State, and Nation can or should be left long without proper reward.

I am certain that my colleagues here in the House of Representatives want to join me in this salute to Assemblyman Joseph V. Doria, Jr., community leader—community servant.

SALUTE TO DONALD L. LUCAS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MINETA. Mr. Speaker, I am pleased to take this opportunity to salute a great American and a good friend, Donald L. Lucas. On November 24 Don will receive the Distinguished Citizen Award from the Santa Clara County Council of the Boys Scouts of America for his dedication to the betterment of our community and our Nation.

Don Lucas is extremely active in community affairs, having served on the board of directors or as the president of many civic and professional organizations. He has been an active member of the boards of the Better Business Bureau, the San Jose State Alumni Association, the San Jose Chamber of Commerce, and the Hospice of the Monterey Peninsula. In 1977 he served on the Board of the Santa Clara County Council, Boy Scouts of America, and has served on the Advisory Board of the Santa Clara County Council since 1978.

Don has been deservedly acknowledged on several occasions as a prominent member of our community. He is a recipient of the Outstanding Alumnus Award from San Jose State University School of Business, was named a Lifetime Honorary Member of the American Marketing Association, and was honored as Citizen of the Year by the San Jose Police Activities League.

In addition to his public service commitments, Don is the president and founder of the Lucas Dealership Group which now operates eight automotive companies in the bay area and in Hawaii. The roots of this very successful business venture can be traced to the late 1950's when, during his sophomore year at San Jose State University, Don began selling automobiles. Clearly the success of each of Don's endeavors is due to his energy, his talent and his utter enthusiasm for whatever he chooses to take on.

Don is a man of impeccable integrity and character. He has always been quick to offer his friendship and counsel. As a result, he stands tall in stature in our community.

Mr. Speaker, Don Lucas has devoted a lifetime to this community and our Nation. In light of his achievement, I respectfully request that my esteemed colleagues in the House of Representatives join me in saluting him and offering our best wishes for continued success in the years to come.

FREEDOM OF SPEECH FOR FEDERAL EMPLOYEES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. DYMALLY. Mr. Speaker, the House of Representatives will consider, in the near future, the bill H.R. 3400, which would repeal the Hatch Act restrictions on Federal and postal employees.

As a member of the Subcommittee on Civil Service, I strongly support this bipartisan effort to restore the right of political participation to civil servants.

Post Office and Civil Service Committee Chairman WILLIAM FORD, the ranking minority member GENE TAYLOR, subcommittee Chairwoman PATRICIA SCHROEDER, and of course, the sponsor of H.R. 3400, Congressman WILLIAM CLAY, should be highly commended for their efforts to draft a bill which has received widespread bipartisan support in the House.

Mr. Speaker, the Hatch Act continues to be a thorn in the side of civil service employees because it denies them basic constitutional rights.

The first amendment to the Constitution of the United States says, in pertinent part, "Congress shall make no law * * * abridging the freedom of speech * * *."

Perhaps more than any other right secured by the Constitution, the right to free speech and expression has been zealously guarded by the courts and the legislature.

Political speech, in particular, has been accorded the highest standard of protection, to be denied only when there is a "clear and present danger" to the safety of the people or the security of the country.

This cherished freedom has been guarded fiercely, I suspect, for good reason.

The right to speak out, to express opposing or unpopular views, to assert the truth as each person sees it, allows our democracy to move forward, to adapt to changing circumstances. In short, freedom of speech is the foundation of progress.

Our Constitution established a representative form of government.

Each citizen over the age of 18 has the right to express his or her opinion of government at the ballot box. Combined with the right of free speech, the right to vote gives each one of us a say in government.

It is often said that a democracy is ruled by the majority. That isn't quite right.

A democracy is ruled by a majority of those who participate.

Forgive me if I sound facetious, but I can't seem to find any wording in the first amendment which says that the right to freedom of speech shall not be abridged unless you work for the Federal Government!

And yet, that's exactly what the Hatch Act has produced—the denial of a constitutional right to a particular group of American citizens.

And the basis for this abridgment of a constitutional right—one's employment in the civil service—seems to me to be arbitrary, at best.

Freedom to speak on political issues should never be denied unless there is an overriding interest of the highest importance, such as national security.

I am aware of no such overriding interest in the case of Federal employees expressing their political preferences.

The time has come to repeal the Hatch Act.

Fortunately, it appears that many Members of Congress now agree with this idea. On October 6, the Committee on Post Office and Civil Service reported Congressman CLAY's bill, H.R. 3400, to the full House.

I am confident the Congress will, at long last, see fit to grant full rights of freedom of speech and political participation to Federal and postal employees.

A SALUTE TO B'NAI B'RITH 90TH ANNIVERSARY COMMEMORATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. STOKES. Mr. Speaker, this year B'nai B'rith Women, an international Jewish organization, is celebrating its 90th anniversary. B'nai B'rith Women of the Greater Cleveland area has provided 90 years of community service in northeastern Ohio by responding to the unmet needs of many needy individuals. On behalf of the residents of the 21st Congressional District of Ohio, I salute B'nai B'rith Women on this auspicious occasion.

B'nai B'rith Women of Cleveland presently has over 2,000 members. It was the first organization in the Cleveland area to work with the March of Dimes. In conjunction with the March of Dimes, B'nai B'rith Women created Operation Stork, an organization designed to provide prenatal health care and educational assistance to pregnant women. Also, for over a century B'nai B'rith Women has offered monthly programming at the Veterans Administration hospital, including bingo games and live entertainment, which has helped to inspire many of the hospital's patients.

B'nai B'rith Women of Cleveland has compassionately delivered services to handicapped children and the elderly in nursing homes, as well as to those homebound requiring meals. These dedicated women not only have been leaders in advocacy, but also have involved themselves in the social and ecumenical fiber of their communities.

Mr. Speaker, it is an honor to have this opportunity to commemorate the 90th anniversary of B'nai B'rith Women of Cleveland and I hope it continues its great tradition of providing assistance in the Cleveland community.

STOPPING PLANS TO HURT THE POOR

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. WYDEN. Mr. Speaker, on Friday, October 9, 1987, Carol Mitchell, the energy assistance manager for the Community Services Consortium of Linn, Benton, and Lincoln Counties, OR, called my office to ask for assistance. Ms. Mitchell, an old friend from the days when I was codirector of the Oregon Gray Panthers, called with some outrageous news. She reported that the Social Security Administration had issued a memorandum calling for reductions in the welfare benefits of elderly, blind, and disabled Americans when they receive free food, clothing, firewood, and shelter from community service groups, churches, and charities.

Ms. Mitchell was concerned that her clients, many of whom receive supplemental security income—SSI—were being asked by staff with the local Social Security office to account for the amount of gleaned firewood they received from Ms. Mitchell's organization. When Ms. Mitchell called the Social Security office herself about this policy, she was told that Social Security was required by law to report not only free firewood—but also any other cash donation.

At first, I was incredulous. How in the world could the Reagan administration—an administration that has continually called on the private sector to do more to serve the poor—possibly issue a ruling such as this? For some time, by statute, an exemption had been provided that stipulated that charitable donations would not be counted against SSI benefits.

After Ms. Mitchell's call, my staff and I did some investigating. The legislation authorizing the exemption expired September 30, 1987. But even before the exemption expired, September 18, 1987, the administration had sent a memorandum to regional Social Security offices to prepare them to deny the exemption absent congressional action.

The House Ways and Means Committee had already approved legislation that would extend the exemption on a permanent basis—but the legislation was awaiting action by the full Congress. Obviously, administration officials were looking for legal—but very technical—reasons to cut the benefits of the poor at the earliest possible date.

At this point, I decided that a congressional appeal should be made to Secretary Bowen asking him to reverse this policy immediately. Thirty three of my colleagues joined me in this appeal. On October 16, 1987, as a result of public outcry, the administration rescinded the policy and stated that charitable gifts to the poor could not be matched with dollar-for-dollar reductions in SSI benefits.

The administration's about-face is an appropriate response to a cruel policy that should never have been promulgated. The health and well-being of the most vulnerable in our society could have been jeopardized.

Today, I want to thank everyone who helped, on short notice, get this policy rescinded. Now, as a result of congressional efforts, the poor won't risk their SSI benefits by accepting holiday food baskets and other gifts that help make their lives easier.

October 16, 1987.

Secretary Otis R. Bowen,
Department of Health and Human Services, Washington, DC.

Dear Mr. Secretary. It has come to our attention that regional Social Security offices have begun counting as income any non-cash assistance from non-profit organizations when calculating public assistance benefits, such as Supplemental Security Income (SSI). We are requesting that you reverse this policy immediately.

This recent directive is in contravention of both Congressional intent and previous Administration policy. In 1983, President Reagan's Commission on Private Sector Initiatives recommended that this kind of assistance be disregarded when calculating benefits as a way to encourage charitable efforts to help the poor. The Congress then included this disregard under Section 1612(b)(13) in the Deficit Reduction Act of 1984 (DEFRA). But when DEFRA expired on September 30, 1987, the Social Security Administration (SSA) alerted its field offices that these in-kind contributions should be considered resources available to the household (see attached memorandum).

As you may know, the pending Budget Reconciliation Act of 1987 contains language to continue this disregard of in-kind contributions. This successful program has allowed low-income people to get extra assistance when they need it most. This help can come in the most simple of ways—from donated clothing to gleaned food and firewood—and should not be considered a calculable resource since these simple donations have no actual value by themselves.

The SSA memorandum requires the field offices to also consider "home energy assistance" as a resource. We believe that this term needs clarification; as it now stands, it could lead to confusion that the federal Low-Income Household Energy Assistance Program (LIHEAP) payments be considered as income or resources when computing SSI benefits. The authorizing statute, PL 99-425, explicitly states that LIHEAP payments be disregarded [Section 2605(f)].

We hope that you will rescind this memorandum in keeping with Congressional intent and past Administration policy. It seems only reasonable that SSA continue this disregard until the Congress has finished action on the Budget Reconciliation Act. Thank you for your prompt attention to this vital matter.

With regards,

Sincerely,

Mr. Wyden (OR), Mr. Downey (NY), Mr. Gephardt (MO), Mr. Weiss (NY), Mr. Sharp (IN), Mr. Matsui (CA), Mr. Scheuer (NY), Mr. Kastenmeier (WI), Mr. Edwards (CA), Mr. Kildee (MI), Mr. DeFazio (OR), Mr. Gejdenson (CT), Mrs. Kennelly (CT), Mr. Kanjorski (PA), Mr. D. Smith (OR), Mr. Synar (OK), Mr. Rodino (NJ), Mr. Waxman (CA), Mr. Hawkins (CA), Mr. Rangel (NY), Mr. Leland (TX), Mr. Jeffords (VT), Mr. Slattery (KS), Mr. Bates (CA), Mr. Sawyer (OH), Mr. Kolbe (AZ), Mr. Schumer (NY), Mr. Chandler (WA), Mr. Lowry (WA), Mrs. Schroeder (CO), Mr. Bruce (IL), Mr. Bosco (CA), Mr. Gonzalez (TX), and Mr. Young (FL).

JUDGE BORK FOR THE COURT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SOLOMON. Mr. Speaker, once again I have the privilege of sharing with my colleagues the excellent editorials of one of my hometown newspapers, the Times-Union of Albany. In this case, an October 4 editorial gives us what I believe will be history's verdict on the nomination and character assassination of Judge Robert H. Bork.

There also appeared in the newspaper a Hy Rosen cartoon showing the chief assassin, Senator Ted Kennedy, dressed as a sideshow barker and gleefully brandishing a bottle labeled "Anti-Bork Hyperbole."

In my opinion, Mr. Speaker, hyperbole is too gentle a word to describe what was done to the professional and personal reputation of Judge Bork, who will always tower like a giant not only above any other possible Supreme Court nominee, but especially over his detractors.

Consider the nature of those detractors. Judge Bork was subjected to an unprecedented inquisition, in some cases from men who are singularly ill-equipped to lecture anyone on morals or judgment.

This editorial also shatters the caricature of Judge Bork as an extremist totally out of the American mainstream and likely to threaten every civil rights advance of the last 30 years. "Judge Bork," the editorial reminds us, "joined with the majority in over three-fourths of the cases decided. Moreover, in not a single case in which Judge Bork wrote the majority opinion has he been overturned by the Supreme Court." Yet, the Kennedys and Metzenbaums in the Senate would have us believe Judge Bork would lure four other Supreme Court Justices into an extremist assault on our rights.

[From the Times-Union, Oct. 4, 1987]

Judge Bork for the Court

Over the past several weeks, within Congress and without, serious questions have been raised about Judge Robert Bork's writings and about his thinking on the role of the Supreme Court in American government.

On balance, however—and despite reservations we have—Judge Bork's nomination for U.S. Supreme Court justice should be approved by the Senate. It is highly doubtful that any other jurist the President would pick, and the Senate would find acceptable, would be as qualified as Judge Bork.

Judge Bork's curriculum vitae testifies to a life devoted to the study of the law and to a deep and subtle understanding of the Constitution and the Supreme Court. His several days of testimony before the Senate Judiciary Committee two weeks ago showed Judge Bork to be reasonable, wide-ranging in his knowledge and temperate in his demeanor—even in the face of near irresponsible remarks from certain members of the Senate committee.

To be sure, some of Judge Bork's writings will give many Americans reason to pause. It is disconcerting, for example, to learn that Judge Bork, then Professor Bork, would not have extended Constitutional protection to non-political speech—and still wouldn't extend such protection to artistic expression. It is reason for concern, moreover, that Judge Bork, as federal judge, has often ruled in favor of the government when faced with a contest between individual rights and majority will. He appears to be reluctant to place limitations on the central government. Finally, we wonder how Judge Bork could fail to view racially restrictive covenants as anything but unconstitutional.

But these objections, held next to the man's considerable qualifications, soon pale. And, in fairness, it must be said that if previous Supreme Court nominees had consented to answer as many of the Senate's questions as Judge Bork has—or if they had written as extensively on the law—there would surely have been reason to wonder about some of their peculiar views, too. The fact is, most Supreme Court justices don't even make up their mind on most constitutional questions until they are on the bench. They simply haven't faced the issue before.

Judge Bork, on the other hand, having devoted his life to constitutional theory, has reached conclusions on nearly every major constitutional question that has come before the court. Even his changing views are little else but the product of a vigorous and questing mind.

For some of the positions he now holds, or has held, Judge Bork has lately been caricatured as an extremist, out of step with mainstream America, an eccentric even within the legal profession. One merely has to look at his record while serving on the federal bench to see how wide of the mark these charges are. During the five years he has sat on the federal appeals court, Judge Bork joined with the majority in over three-fourths of the cases decided. Moreover, in not a single case in which Judge Bork wrote the majority opinion has he been overturned by the Supreme Court.

Judge Bork maintains an "originalist" view of the Constitution. In other words, he believes that Supreme Court justices are charged with deciding the cases before them according to guidance that the Constitution itself provides. For him, the Constitution is something definite, and he would rely on it to guide the nation into the future.

This nation will not go wrong with such a justice on the court.

A TRIBUTE TO COL. LEONARD L. HEIMERICKS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished member of the Sacramento community, Lt. Col. Leonard L. Heimericks. He will be transfering from the Sacramento Army Depot to Fort Sheridan in Illinois.

Colonel Heimericks' military career has been a distinguished one. Upon his graduation from Lincoln University in 1966, Colonel Heimericks went on to earn his masters degree in comptrollership from Indiana University in 1974. Colonel Heimericks was commissioned through the Army ROTC Program in 1966 and began his military career at the U.S. Armory in Springfield, MA. Subsequent assignments included the U.S. Army Finance Center at Fort

Benjamin Harrison, IN, Fort Leavenworth, KS, the Pentagon, and his last assignment before coming to Sacramento, the colonels assignment division and the U.S. Army Personel Center in Alexandria, VA. Colonel Heimerick has also served in Italy and Vietnam during his career.

While Army depot director of resource management, Colonel Heimerick was instrumental in assuring that the Sacramento Army Depot achieve many of its crucial goals. Through his efforts, the Sacramento Army Depot has improved productivity, has acquired modernized facilities as the first step to complete depot modernization, consolidated finance and accounting functions of the depot, and has also assured improved working conditions for employees by providing state-of-the-art working equipment and furniture.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to congratulate Colonel Heimerick on a job well done. The city of Sacramento is losing a very fine soldier and a good friend and I want to thank Colonel Heimerick for all that he has done for our community.

PERSECUTION OF THE BAHA'IS DEFINE IRAN AS AN INTERNATIONAL OUTLAW

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LEACH of Iowa. Mr. Speaker, we have recently received the tragic news of the executions in Iran of two members of the Baha'i faith, Mr. Ardeshir Akhtari and Mr. Amir Husayn Naderi, bringing to 188 the number of Baha'is killed in Iran for their religious faith since 1979. Of urgent concern is the fate of 12 more Baha'is who, it is feared, are in imminent danger of a similar fate.

The latest two victims of Iranian religious persecution, Mr. Akhtari and Mr. Naderi, served as members of the National Assembly of the Baha'is before the Iranian authorities ordered it disbanded 4 years ago. They, like many other Iranian Baha'is, have been the targets of officially conducted and condoned religious persecution and violence. Besides those executed, other Baha'is have been imprisoned, tortured, denied religious freedom and otherwise persecuted. The pattern of persecution defies all international standards of human rights and decency.

In the wake of these latest atrocities, it becomes all the more crucial that the United Nations General Assembly stand fast in its record of concern regarding human rights in Iran, including the rights of those of the Baha'i faith. It is my hope that the General Assembly will once again, through the adoption of a resolution, bring the focus of international attention and condemnation to bear on Iran's gross disregard of the most basic of human rights for its citizens.

Mr. Speaker, even though the world's attention is focused today on Iran's latest outlaw acts of aggression in the gulf, it is imperative that we focus as well on Iran's outlaw behavior in the area of human rights. Iranian authorities should be on notice that its Baha'i victims shall not suffer or perish in silence.

I would urge the Members of this body to join me in protesting in the strongest possible terms the executions of Mr. Akhtari and Mr. Naderi and in putting the Iranian Government on notice that international law requires an accounting for crimes of genocide.

CONGRESSMAN MILLER SALUTES MELVIN HAROLD ROOTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MILLER of California. Mr. Speaker, when a man puts 40 years of his life toward a cause, a cause that strengthens the backbone of America, that man should be praised.

Melvin H. Roots is such a man. He began his career as an apprentice craftsman. He was a plasterer who worked with his hands to create the artistic touches and solid surfaces the plastering trade is noted for. To this day, his craftsmanship endures in the State of California, as does the handiwork of innumerable other building craftsmen and women throughout the United States.

Those are the beginnings Mr. Roots never forgot as he went on to become one of the most respected labor leaders in the State of California and a moving force behind the trade unions tha represents his fellow craftsmen and women; the working people of America who make up the backbone of our building and construction industry.

It was after his service in the U.S. Army, during which he was awarded a Purple Heart for the wounds he suffered, that Mr. Roots began his active involvement in the labor issues of the State of California and eventually the entire United States.

He became the president of Oakland's Local 112, went on to become president of the California State Conference and then the president of the Northern California District Council. In 1955, Melvin H. Roots began his employment with the Operative Plasterer's & Cement Mason's International Association; the organization that represents 60,000 plasterers and cement masons who devote their lives to building places in which we live and work and the highways on which we travel.

Mr. Roots moved through that organization to eventually become it's general president. It was from that pinnacle that Melvin Harold Roots retired in February 1987, and was named general president emeritus. Now living in Martinez, CA, general president emeritus, Roots has spent the last 32 years of his life waging a constant battle for the union way of life that protects the people he represents, the working people, the backbone of America, the middle class without whom our economy would collapse.

Mr. Roots supported with conviction the charter of the AFL-CIO, of which the OP&CMIA is part. He acted as international representative and spokesman for American labor unions from Tunisia to Japan.

The Solidarity Day march on Washington in 1981 was due in great part to the active involvement of labor leaders such as Melvin H. Roots and the result was the revitalization of pride in the abilities and talents of our American labor force.

As a labor leader, Mr. Roots has also devoted his time and attention to the needs of the young people who are beginning their careers in the building and construction trades. His efforts in behalf of apprenticeship training are to this day making an impact on the quality and skill of the next generation of craftsmen and women.

In honor of his recent retirement, Mr. Roots is being recognized by the AFL-CIO, the labor unions of California, and representatives of OP&CMIA, at a testimonial dinner on November 6, 1987, in Oakland, CA.

Over 400 people, including his peers, family, and friends, will be in attendance to pay tribute to this very special man. And I would like to be part of this tribute and ask my colleagues in the House of Representatives to join me in praising general president emeritus, Melvin Harold Roots, for his dedicated efforts on behalf of the working people of America and the union way of life.

EMERGING CRISIS IN SOLID WASTE MANAGEMENT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I am introducing today two bills that will begin to address the emerging crisis in solid waste management in this country. The events of this past year, from the incredible odyssey of the garbage barge to the alarming trash slick that washed ashore in New Jersey, provide startling evidence of the fact that the Nation is not handling its solid waste properly from the standpoint of protecting human health and the environment.

As chairman of the subcommittee with jurisdiction over solid waste management, I intend to conduct a close examination of the Nation's municipal and industrial waste management practices over the next year and propose legislation necessary to ensure sound and economical management of solid waste that is also protective of human health and the environment. The two bills that I am introducing today take the first steps in that direction.

The first bill requires EPA to promulgate regulations for the management of infectious waste. Infectious hospital waste is causing increasing concern among the public, concern aggravated by the fear of AIDS-contaminated materials. In addition, there is growing evidence that State regulation of infectious waste is not adequate. Hospital waste was found in the trash that washed up on the New Jersey shore. EPA has published guidelines for infectious waste management, but these guidelines are neither mandatory nor enforceable. The bill directs EPA to promulgate regulations governing the generation, transportation, and disposal of infectious waste. It also provides Federal inspection and enforcement authority for ensuring compliance with the regulations, including civil and criminal penalties.

The second bill imposes Federal controls for the first time on interstate shipments of solid waste. With disposal capacity in certain Northeastern and mid-Atlantic States diminishing, interstate transportation of solid waste will continue to increase. Such shipments penalize the States that have adequate capacity for their own solid waste disposal. Because these shipments are not currently covered by Federal environmental law, EPA does not monitor interstate transportation of solid waste and lacks legislative authority to extend Federal control over such transportation. The bill requires a written contract between shipper and facility for interstate transportation of solid waste and imposes a standard of care for the handling and transportation of such waste. In addition, the bill applies the same requirements for international shipments of solid waste as are currently required for export of hazardous waste. Finally, the bill provides Federal inspection authority and Federal enforcement by means of administrative orders and civil and criminal penalties for violation of the requirements.

Clearly it is time for this Nation to take responsible action to control the solid waste that it produces. With over 150 million tons of garbage generated annually in the United States, ground rules are needed to ensure that waste reaches its destination in facilities that are designed to protect human health and the environment. I believe that the legislation I am introducing today will accomplish this.

HAIG ON REAGAN'S DEFICITS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, there is no need to engage in partisan rhetoric to lay responsibility for our economic and fiscal mess at the doorstep of the White House.

David Stockman, in "The Triumph of Politics," months ago warned us that Reaganomics was a prescription for disaster:

> The final reckoning of the original fiscal plan of the Reagan Revolution shows where we were headed. . . . We were not headed toward a brave new world, as I had thought. . . . Where we were headed was toward a fiscal catastrophe.

As Director of the Office of Management and Budget, Stockman was certainly in the best position to know.

This week, we have heard a similar analysis from former Reagan Secretary of State, Alexander M. Haig, Jr. General Haig made clear that the twin towers of economic doom originate with misguided economic policies made at 1600 Pennsylvania Avenue.

> Our most important problem, the deficit and our debtor nation status, dwarfs everything else. It overwhelms everything else. And we have problem areas such as the rust-bucket industries and agriculture sector.

Haig went on to explain that the budget deficit grows out of tax cuts and tight money policies. He also called the Reagan administration's defense spending "excessive."

Many of my Democratic colleagues and I have been pressing this case for years. It's good to know that we have bipartisan support from the likes of David Stockman and Alexander Haig.

I include for the benefit of my colleagues an article from the Washington Post of October 20, 1987, which outlines General Haig's views in greater detail.

[From the Washington Post, Oct. 20, 1987]

HAIG HITS REAGAN TAX CUTS, CALLS DEFENSE BUILDUP "EXCESSIVE"

By James R. Dickenson

Republican presidential candidate Alexander M. Haig Jr. yesterday criticized his rivals for neither understanding the nation's problems nor offering realistic solutions, but reserved equally tough criticism for President Reagan.

Haig told Washington Post editors and reporters that Reagan's tax cuts and spending policies, particularly his defense buildup, are responsible for the enormous federal budget and foreign trade deficits and said that the defense buildup in the first years of the Reagan administration was wasteful and possibly counterproductive.

"Our most important problem, the deficit and our debtor nation status, dwarfs everything else," Haig said. "It overwhelms everything. And we have problem areas such as the rust-bucket industries and the agriculture sector."

The budget deficit, Haig said, is the result of the tax cuts and the Federal Reserve Board's tightening of the money supply and raising interest rates to fight inflation.

We had two directly contradictory economic theories, one—the tax cuts—a growth theory, the other a restraint theory," he said. "We threw the economic engine into first gear and reverse at the same time and the grinding you heard was the mounting federal deficit."

He said the defense spending surge in 1981, 1982 and 1983 was "excessive."

"You can't spend that much money in a coherent way, and [Defense Secretary Caspar W.] Weinberger failed to put forth a coherent strategic cost estimate to flesh out what was needed," Haig said.

Because of this and the budget deficit, Haig said that all the other presidential candidates are looking at the defense budget as a primary area for spending cuts.

"This administration threatens in eight years to be the largest defense spender and the largest defense cutter simultaneously, and that's the worst kind of defense policy there is," he said. "Most of the major procurements are on five- or 10-year programs, and terminating those is the most expensive way to cut. It leaves a narrow window of expungeable spending on personnel, readiness and other vital areas."

Haig also faulted the administration's policy in Nicaragua and said that the United States missed a diplomatic opportunity to work out a broad solution with the Soviet Union and Cuba in 1981 and 1982.

"We should have made a broad approach, gone to the source, to the Soviet Union and Havana, to get them out of Nicaragua," he said.

The United States could have offered Cuba incentives through an altered relationship with the United States, he said.

"You have to have some sort of understandings in a situation like that," he added.

Haig also charged that the administration ignored his proposal when he was secretary of state that the United States try to bring an early end to the Iran-Iraq war.

"I sent a memo that this is a strange war in which we don't want a winner, and I suggested that we launch a United Nations effort to bring it to a conclusion without a victory for either side," he said. "It sat on [former national security adviser] Bill Clark's desk for months."

Haig credited the administration with returning the nation's focus to "traditional values and institutions" and reliance on "free enterprise and the private sector" rather than centralized federal programs.

"It's important that we feel good about ourselves, but now it's time to be good," he said. "It's time to go from a feel-good to a be-good society."

He predicted that Jesse L. Jackson will win the southern regional "Super Tuesday" primary with 25 percent to 30 percent of the Democratic vote and that white Democrats will turn to New York Gov. Mario M. Cuomo, who he says is "clearly going to run."

"Our two front-runners [Vice President Bush and Sen. Robert J. Dole (R-Kans.)] were 20 or 30 points in the polls behind Gary Hart when he dropped out and they'll be in the same position in relation to Cuomo when he gets in," Haig contended. Republican voters then will turn to him, he said.

A TRIBUTE TO ONE OF NEW YORK'S FINEST: MR. JOE FRANKLIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. ACKERMAN. Mr. Speaker, I rise today to honor one of New York City's greatest, most popular, and longest lasting institutions, Mr. Joe Franklin. In this age of pop culture when fame is fleeting, Joe Franklin's enduring success proves that quality broadcasting—informative, stimulating, educational, and very entertaining—can find a loyal following.

This Thursday, October 22, 1987, Joe Franklin will be honored by the John F. Kennedy Regular Democratic Club of Queens County, NY, on the occasion of the 35th anniversary of the Joe Franklin Show. Thursday has been declared "Joe Franklin Day" as a fitting tribute during which various dignitaries from the worlds of television, radio, and government will celebrate his lengthy and unsurpassed career.

As all New Yorkers know, Joe Franklin's television talk show—which began when Harry Truman was President and has now seen Joe interview more than 100,000 guests—is as much part of the New York scene as Central Park, Times Square, and pastrami on rye. Not surprisingly, he is listed in the Guinness Book of Records as being America's longest running TV talk show host.

Joe Franklin began his amazing career when he had his first radio talk show at the tender age of 17. Still fond of radio, Joe continues to host a live radio program heard every Saturday in New York. Of course, this is on top of his daily TV show which is now carried not only in New York, but on cable throughout the United States and in many foreign countries.

What many people may not be aware of is that Joe's love of the entertainment business extends far beyond his television background. He is the proud owner of between 75,000 and 100,000 rare "78" recordings in mint condition; he possesses a collection of show business memorabilia estimated to be the largest in the United States; he is the editor of "Joe Franklin's Memory Lane News," a bimonthly publication for collectors, dealers, and investors; he once wrote for the Kate Smith and Eddie Cantor radio shows; and he puts his voluminous knowledge and background to great use by also running a troupe which entertains senior citizens.

Mr. Speaker, I also want to take this opportunity to thank the officers of the JFK Club for their fine work in general, and their wise decision in paying tribute to Joe Franklin. Under the direction of club president John Chartier, executive members Morton Povman and Elaine Weinstein and the entire committee and membership, the club continues to play a vital role in the life of our community.

Mr. Speaker, the JFK Club's tribute to Joe Franklin honors a great New Yorker who has enriched the lives of millions of our citizens who week after week tune in to enjoy one of America's most popular personalities. I know I speak for countless of his devotees who wish him continued success well into the next century.

A TRIBUTE TO DAMIEN MOORE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. BUECHNER. Mr. Speaker, I rise today to pay tribute to a youngster who attends elementary school in my district for his heroism in leading 34 of his classmates to safety after their schoolbus crashed and caught fire.

Nine-year-old Damien Moore and the other students were on their way to school in Hazelwood when their bus became involved in a seven-car collision.The bus struck another car in the rear, igniting the car's fuel tank. Flames then spread to the bus.

Without panicking, young Damien moved to the rear of the bus and opened the emergency escape door. He jumped out, and held the door so his classmates could escape the burning bus safely.

Damien was taught how to use the escape door during a bus safety program sponsored by the St. Louis County Police. The program, called Officer Friendly, provides safety tips, information, and advice about a wide range of subjects.

The officer who taught Damien to use the emergency exit showed up at the hospital where the pupils who were injured with cuts and bruises had been taken. The officer, Terry Day, commended Damien for his heroism, and for remembering to use his safety advice.

Damien Moore is indeed a hero. His selfless concern for the other schoolchildren outweighed concern even for his own safety.

Mr. Speaker, Damien Moore deserves the sincere commendation of all the Members of this body for this most humanitarian act—saving lives.

A TRIBUTE TO JOE REED

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Joe Reed, a very special resident of my 17th Congressional District. A very special dinner/dance will be held to honor Mr. Reed on October 24, 1987, at P.J.'s Restaurant in Warren, OH. It is an enormous honor for me to inform my fellow members of the U.S. House of Representatives about this great man's life.

Mr. Reed has spent the past 38 years working diligently and exhaustively as director of the Rebecca Williams Community Houses' youth program. Hundreds of persons in Trumbull County have fond and heart-warming memories of how Mr. Reed helped them and tirelessly devoted his life to them when they were young. Countless youths who were molded into adulthood by Mr. Reed at the Rebecca Williams Houses have become outstanding leaders in the community, and others have become some of the greatest athletes in sports history. They include Paul Warfield—the Hall of Fame football receiver for the Cleveland Browns and the Miami Dolphins, the Browner Brothers—star football players for the Notre Dame Fighting Irish, and Bill White—an excellent baseball player for the St. Louis Cardinals.

Mr. Reed has been a valuable asset for the Warren area for the past 63 years. He has also been one of the most active members of the Top Hatters Club, and his red-blooded patriotism led him to fight for America in World War II. Joe, on behalf of the numerous young people you have helped over the years, I salute you. Thus, it is with thanks and special pleasure that I join with my fellow residents of the 17th Congressional District in paying tribute to the outstanding accomplishments and noble character of Mr. Joe Reed.

IN HONOR OF MERV ADELSON

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to salute a good friend and creative leader, Merv Adelson, as he will be honored at the American Jewish Committee's 1987 Sherrill C. Corwin Human Relations Award Dinner on October 25, 1987.

Merv Adelson is the chairman and chief executive officer of Lorimar Telepictures Corp., a leading entertainment production and distribution company involved in all areas of television, theatrical motion pictures, and home video. Merv Adelson was born and raised in southern California, and began his early business career working in his father's grocery store. He moved with his family to Nevada in 1953, where in his late 20's, he opened Las Vegas' first 24-hour supermarket.

In the late 1950's, Merv Adelson entered the broadcast business when he and partner Irwin Molasky became owners of Nevada's KSHO-TV (now KTNV-TV), taking it from a fledgling independent and turning it into a rising ABC affiliate. Concurrently, he added real estate to his business background when he and Molasky formed Paradise Development. The company became one of the largest real estate development and construction firms in Nevada, where it built residential subdivisions, individual homes, shopping centers, office complexes, and Nevada's largest medical facility, Sunrise Hospital. In 1963, Merv's real estate activities brought him home to California, where he became one of the developers of the world-renowned La Costa Hotel and Spa as well as thousands of prime acres of real estate.

Merv Adelson's entertainment industry related activities included the Academy of Motion Pictures Arts and Sciences, the Academy of Television Arts and Sciences, the National Academy of Cable Programming as well as serving on the boards of trustees of the American Film Institute, the Entertainment Industries Council, and American Museum of the Moving Image.

A dedicated supporter of numerous educational, community, charitable, and philanthropic organizations, Merv Adelson is especially committed to the Nathan Adelson Hospice. The hospice, which Merv, his family and friends established in 1980, is a living memorial to the humanitarian deeds of his beloved father and to his philosophy of maintaining patient's dignity, easing suffering, and improving the quality of life even in death.

Merv Adelson has always been civic minded and is active in the support of many organizations, such as the Cystic Fibrosis Foundation, the Deafness Research Foundation (board of directors), Dystonia Medical Research Foundation, Friends of the Hebrew University, Lorimar's Blue Ribbon Children's Festival for the Los Angeles Music Center, Hospital for Special Surgery, the Motion Picture and Television Country Home, Phoenix House, the Simon Wiesenthal Center, the U.S. Holocaust Memorial Museum, and the Weitzman Institute of Science, to name a few.

Merv Adelson is a devoted family man. He is married to the distinguished television journalist Barbara Walters, has four grown children, Ellen, Gary, Andy, and Ms. Walter's daughter, Jacqueline, and was recently blessed with his first grandchild, Kori Natalie.

It is a pleasure to share the outstanding accomplishments of Merv Adelson with my colleagues in the U.S. House of Representatives. I ask that the Members of this body join me in saluting this extraordinary American.

RIPLEY'S BELIEVE IT OR NOT—"A GET-WELL LETTER"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SOLOMON. Mr. Speaker, I opened the Albany Times-Union this morning and just happened to spot Ripley's "Believe It or Not."

It seems as though a 6-year-old girl in Fort Worth, TX, hometown of our distinguished Speaker, sent a get-well letter to her grandmother with nothing more than "Nana, 1712 Watson" on the envelope. No city, no State, no ZIP Code, and no postage stamp.

Yet, our Postal Service, which I happen to believe is far and away the best in the world, delivered it in 1 day to the correct address bearing only a trading stamp.

Ladies and gentleman, Ripley doesn't have to convince me, but apparently he has to convince the senior senator from New York [PATRICK MOYNIHAN], who last week on ABC's "Capital to Capital" program told some Soviet hacks disguised as Congressmen that their postal system is superior.

For some reason, the distinguished Senator from New York hasn't gotten the message, but then again, it takes a while for messages from the Soviet Union to get anywhere, even inside that socialist paradise.

So, I'll repeat the message—our letter carriers are the best, believe it or not.

[From "Believe It or Not"]

A get-well letter sent by 6-year-old Melissa Reeder of Ft. Worth, Texas, to her grandmother was addressed only to "Nana, 1712 Watson"—with no city, State, ZIP Code or postal stamp. Yet the U.S. Postal Service delivered it in one day to the correct address bearing only a trading stamp.

THE POLICY OF THE WEEK MAKES SENSE; THAT OF THE MONTH DEMANDS REFURBISHING

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LEACH of Iowa. Mr. Speaker, even though many Americans like myself have registered strong doubts about the reflagging of Kuwaiti tankers and the escalation of United States military involvement in the Persian Gulf, a measured and proportionate response to the wanton attack of an American-flagged vessel is clearly in order. No American president can be expected to watch idly, as a spectator at a sporting event, to the tarnishing of the American flag.

Under the circumstances the response that the administration crafted was, if anything, minimalist, aimed at circumscribing military actions to the gulf itself rather than expanding the conflict to the Iranian mainland. Hopefully, it served its purpose, but in this anarchist caldron, where the witches brew of Islamic fundamentalism is little understood in the West, an action-reaction cycle is fast developing where events are getting out of control and where it is increasingly difficult for outside parties to differentiate between who is responding to whom.

That is why it seemed more appropriate 3 months ago to seek United Nations, rather than United States, reflagging. The sharing of responsibility internationally would not only have caused a sharing of cost, but it would have avoided the nationalistic nature of the confrontation that is developing. At issue is less the policy of this week—which is warranted under the circumstances—than the policy of last month which created this very unmanageable circumstance in the first place.

The attack on the tanker and the counterattack on the Iranian platform should stand as an international cautionary flag. It is not too late for the administration to review the prospect of seeking a greater U.N. role in the gulf, perhaps with a U.N. naval peacekeeping force supplementing a more modest U.S. presence.

From a domestic perspective, the administration is obligated under law—whether it likes that law or not—not only to consult with congressional leaders, but to make a definitive report to the legislative branch which will precipitate under the War Powers Act a congressional partnership in establishing foreign policy accountability. The act may, if challenged, prove to be unconstitutional, but unless and until it is so declared by a competent court, the administration has the constitutional responsibility to obey and uphold the law of the land. It does not have the luxury to take an "eat your cake and have it too" approach to law and choose to report, as it has eight times, to Congress under the War Powers Act and not report under like circumstances, as it is refusing to today.

PROTECTING AMERICAN WORKERS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MILLER of California. Mr. Speaker, I am pleased the House has passed H.R. 162, the High Risk Occupational Disease Notification Act. I strongly supported the bill because it provides for a cost effective investment in the future health of our Nation's workers.

Each year, 100,000 American workers die from work exposure to hazardous substances. That's the equivalent of over four 747 jets, filled to capacity, crashing every week of the year. Another 400,000 Americans become disabled annually as a result of contact with these materials.

Yet for the past 7 years, the major Federal agency charged with protecting workers and their families from hazardous substances that cause cancer and other diseases has been grossly negligent.

When it comes to making its presence felt in safety enforcement, the Occupational Health and Safety Administration has been all but invisible. OSHA's organizational structure is in a shambles. The lip service paid to workers protection in recent months has only highlighted the depths to which this Administration has left the agency in chaos.

OSHA has failed to issue exposure standards for many high risk substances found in the workplace. OSHA did not produce a standard to meet the threat of ethylene oxide, a gas linked to cancer, even though it knew of the danger for over 5 years. A Federal appeals court ruled that OSHA's inaction was "one of hesitation and lack of resolve."

We have tried to push the Reagan administration to do more, but always against tremendous opposition. In 1982, for example, I was finally able to secure enactment of the first Federal workers' compensation law that specifically addressed the needs of victims of occupational diseases, like those associated with asbestos exposure.

But even that law was secured over administration opposition.

We must do much more to safeguard American workers from dangerous substances on the job.

H.R. 162 sets that process in motion.

The High Risk Occupational Disease Notification and Prevention Act will reduce death and disability associated with exposure to toxic and hazardous substances in the workplace.

Under this bill, a program would be established within the Department of Health and Human Services to warn all workers at risk of occupational disease because of their type of employment. Once notified, these workers would then be encouraged to enter a program of medical monitoring and corrective health counseling.

This program will save billions of dollars for American taxpayers and businesses, who are now absorbing the enormous medical costs caused by health hazards in the workplace.

Occupational disease costs the Government almost $5½ billion annually; by contrast, H.R. 162 will cost the Government only $25 million each year.

Occupational disease costs business as much as $4 billion annually; by comparison, H.R. 162 will cost business no more than $38 million in medical monitoring each year, and perhaps as little as $3 million.

The lax attitude of OSHA and the Reagan administration toward the growing danger of occupational diseases makes this bill particularly urgent. In California, Governor Deukmejian has compounded the problem by dismantling Cal-OSHA in July and sending administration of the worker safety program in our State back to Washington.

We have heard a great deal about the need for the American worker to be more productive and more competitive to challenge foreign imports. We all agree that all aspects of American industry must be competitive in order to regain our predominance in the world market. However, it is difficult to think of a more disconcerting signal to American workers than for their own government and employers to fail to do all that is possible to protect them from known dangerous substances on the job.

With the passage of the High Risk Occupational Disease Notification and Prevention Act, we have provided an important part of the remedy.

BIPARTISAN BUDGET SUMMIT CAN AVOID AUTOMATIC CUTS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. COLEMAN of Texas. Mr. Speaker, the Federal Government today withheld nearly one-tenth of fiscal year 1988 spending for most Federal programs under the provisions of the new Gramm-Rudman deficit reduction legislation.

The concern over the direction of the Federal budget deficit, the trade deficit and the national economy helped sparked yesterday's debacle on Wall Street. A bipartisan budget summit would go a long way toward reassuring investors, the market, and the American people. It would begin the process by which these indiscriminate, across-the-board cuts can be avoided.

Under the provisions invoked today of the new Gramm-Rudman law, the President's Office of Management and Budget [OMB] made the determination that defense programs will be cut by 10 percent and domestic programs by 8.5 percent by November 20, 1987, unless the Congress and the President can reduce the deficit by $23 billion by other means. OMB will sequester, or withhold, the funds until that date, when they will be eliminated entirely unless that deficit reduction target has been met.

Defense programs will be cut by the slightly higher percentage because President Reagan has decided to exempt military personnel from the Gramm-Rudman automatic cuts.

Mr. Speaker, a comprehensive, bipartisan budget summit is the only way we can avoid potentially devastating cuts in Fort Bliss' training and weapons systems, the Orogrande free electron laser construction project, Pell grants and other financial aid that goes to students at the University of Texas at El Paso and El Paso Community College, the Bridge and Border Crossings Revitalizations Program, the war on drugs, and hundreds of other programs vital to our national security and domestic needs.

Congressional leaders on the Democratic side have called for this bipartisan budget summit all year. Why won't the President agree to sit down, put our cards on the table, and come up with a reasonable plan to reduce the deficit that avoids these blind, indiscriminate cuts?

We now have exactly 1 month to reduce the Federal deficit by $23 billion, and the job will not get done without the cooperation and participation of the White House.

Mr. Speaker, the task before us is too immense and the stakes too high for the administration to continue its brand of head in the sand politics when it comes to fashioning a way out of our current fiscal mess. We need the attention of the President, we need the participation of the President, and we need the cooperation of the President. Members of Congress from both parties stand ready to participate in this comprehensive, bipartisan budget summit that is so desperately needed to put our fiscal house in order.

There's an empty seat at the national roundtable to solve the Federal budget deficit crisis, and it belongs to the President. The action of the Office of Management and Budget that today sequestered nearly one-tenth of the Federal funding in fiscal year 1988 for the nonexempt programs ought to serve as a warning. At the very least, it ought to wake up the White House to the need for a comprehensive, bipartisan budget summit, and I urge them to join me in this effort.

TRIBUTE TO ST. BERNADETTE ATHLETIC ASSOCIATION OF BROOKLYN, NY

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MOLINARI. Mr. Speaker, I rise to congratulate St. Bernadette's Athletic Association of Brooklyn, NY, on celebrating their 50th year of athletic activities for the young men and women of the St. Bernadette Parish.

In 1937, Rev. Francis P. Barilla, the pastor of St. Bernadette's funded and organized the athletic program. Father Barilla's program was successful because of the help of active and interested parishioners who were willing to donate their time and money.

It is because of Father Barilla's leadership, and the associations first Moderators, Father O'Loughlin and Father Varriale, and the many volunteers who followed them, that the St. Bernadette Athletic Association has prospered. Now in fact the association is recognized by our diocese as one of the most successful sports programs in Brooklyn.

The athletic program began in 1937 with one football team. Today, the program has 2,000 youngsters, both male and female, ranging in age from 6 to 16 years of age. The program now includes not only football, but baseball, softball, basketball, soccer, and bowling. There are activities to interest everyone in the parish.

St. Bernadette's Athletic Association can be proud of its many accomplishments and contributions to the community. But most importantly, St. Bernadette's has given young boys and girls in Brooklyn the opportunity to participate in recreational activities for 50 years.

A TRIBUTE TO BAYARD RUSTIN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. RODINO. Mr. Speaker, the recent death of my good friend Bayard Rustin deprived this Nation of a great humanitarian and an outstanding American. For over half a century, Bayard was unwavering champion of civil rights in this country and an effective advocate of human rights around the world.

I, along with all the civil rights leaders who have stood tall with Bayard from the early marches until today, long valued his guidance and counsel, and most his friendship.

Bayard Rustin's name was synonymous with economic justice, human rights, and international freedom. A dedicated Quaker, Bayard was associated with the Fellowship of Reconciliation, the Congress of Racial Equality, and A. Philip Randolph's March on Washington Movement. Working to end discrimination in the military, he was instrumental in securing President Truman's order eliminating segregation in the Armed Forces.

In the early days of the Montgomery, AL, bus boycott, Bayard's extensive background in the theory, strategies, and tactics of nonviolent action proved invaluable to Martin Luther King.

To honor his mentor, the noted labor and civil rights activist A. Philip Randolph, Bayard helped found the A. Philip Randolph Institute in 1964. As its long time cochairman, he worked to create an organization with over 180 local affiliates which have sponsored voter registration drives and programs to strengthen relations between the black community and the labor movement.

Bayard Rustin's vision of a just world was not confined by national boundaries. He was also an effective crusader in the international struggle for human rights. His efforts and travels as vice chairman of the International Rescue Committee helped secure food, medical care, and humanitarian assistance for thousands of refugees.

Bayard Rustin was a pioneering spirit urging America to fulfill all of its promises as a great nation. His death is a deep loss for all of us who worked closely with him and for those he touched throughout a lifetime of dedication. But his commitment and ideals will continue to inspire us all and his voice will continue to be heard on behalf of the poor, underprivileged, and oppressed for years to come. Bayard Rustin's legacy is that he carried a bright beacon for freedom and equality that will never be extinguished.

OPPOSING THE KLU KLUX KLAN

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, those of us in this body know the gentleman from Pennsylvania, Mr. WALKER, to be one of our most outspoken colleagues. He does not hesitate to speak out against the enemies of freedom on the left, and a recent incident in his home district shows that he is equally ready to speak against freedom's enemies on the right.

On October 3, the Klu Klux Klan came to Lancaster County, PA. The Klan may have thought the area's residents would welcome, or at least condone their appearance. They were very wrong. The people of Lancaster County, who before the Civil War opened their homes to escaping slaves seeking freedom through the underground railroad, rose up and opposed the Klan. Speaking at an anti-Klan rally, Mr. WALKER reminded his listeners that America stands for freedom and that hatred and intolerance are a form of tyranny. I recommend his comments so that all may see that hatred has no place in America.

Remarks of Rep. Robert S. Walker Speaking Before a Rally Opposing the Klu Klux Klan in Lancaster, Pennsylvania, October 3, 1987

Around the dome of the Jefferson Memorial in Washington, DC are inscribed these words: "I have sworn upon the alter of God eternal hostility against all forms of tyranny over the mind of man.

That bears repeating: "I have sworn upon the alter of God eternal hostility against all forms of tyranny over the mind of man."

Intolerance is a kind of tyranny because it consumes men and women and makes them intellectually dishonest. Hatred is a kind of tyranny because it consumes men and women and makes them morally bankrupt.

We are a nation founded and built upon the ideal that humankind's highest value is liberty. But liberty fails if humankind does not live by certain values.

When some men are held in bondage other men and women must rise up and say those held must be free.

When some men pervert liberty by making it an excuse to spew forth filth and bigotry, other men and women must defend freedom with words and actions that lift human aspirations.

When some men try to pull us apart other men and women must say and mean that there is strength in our diversity.

Kahlil Gibran once wrote: "I have learned * * * toleration from the intolerant. * * * " Maybe that's happening here this evening. The intolerant have brought us together to reflect upon what we must be and what we must do.

We must be people of good will, who love liberty and who recognize that the tyranny of hatred and the tyranny of intolerance is the enemy of our most basic values.

We must go forth from this place with a determination that our community and our nation will reflect the words of the old hymn:

"The wrong shall fail, the right prevail.
"With peace on Earth, good will toward men."

AWARDS GO TO NIAGARA MOHAWK EMPLOYEES FOR VOLUNTARISM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SOLOMON. Mr. Speaker, it was my pleasure last weekend to attend a breakfast in my hometown of Glens Falls, NY, and to present awards to a group of people who represent what civic-mindedness is all about.

Now, I take equal pleasure in placing on record my tribute to these officials and employees of Niagara Mohawk Power Corp., who are part of an unprecedented rise over the last 7 years of voluntarism and donation to charitable causes.

John T. Farnan, general manager of the Northeast Region of Niagara Mohawk, was joined by William P. Decker and James A. Maynes in accepting awards for their "Care and Share" program and a variety of other conservation and safety projects.

In addition, individual awards went to N. Elaine Pickard for her involvement in the "Energy SAVGO" program and to David R. Fuller and Susan Doyle for their leadership in the New York Special Olympics.

These projects represent the contining emphasis of Niagara Mohawk to reach out to both its customers and the community at large to demonstrate "We Can" and "We Care."

I'm sure all of you join me in saluting Mr. Farnan, Francis E. Kelly, manger of regional consumer services, and the other civic-minded employees of Niagara Mohawk.

THE RETIREMENT OF DR. ANTHONY J. CALIO

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SCHEUER. Mr. Speaker, I would like to pause for a moment and pay tribute to the accomplishments of a very dedicated public servant who retired recently after 26 years of service to the American people. He is Dr. Anthony J. Calio and he was Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration [NOAA].

After 10 years in private industry, Tony Calio joined NASA at the dawn of the space age. In those days NASA invented as it went along. A fraternity of pioneers emerged whose bond was disciplined management. Both industry and government have benefited from their skills, energy, vision, and can-do spirit. Tony is among the best of them.

In 1981, Tony accepted a Presidential appointment as Deputy Administrator of NOAA. He moved up to the top job in 1985. He worked closely with Secretary Malcolm Baldrige on high technology issues and the commercialization of space. His background, training, and determination served him well and suited NOAA's mission at a critical juncture.

Tony Calio believes that the individual can make a difference in Government and led his agency with great distinction and unflagging devotion to the public interest. He set an example of vigor and enthusiasm that I hope will stay with NOAA and be imitated elsewhere in Government. He found practical solutions to difficult problems. It is a source of pride that this Nation produces and educates people of the caliber of Tony Calio and that Government provided challenges to motivate them when job satisfaction is in the doing, not the salary. It doesn't always happen, but we should take notice of it when it does.

In the final analysis, Tony knew it was people who deserve credit for good work. In his letter of resignation to the President, he concluded by saying:

> I commend to you the people of NOAA who have carried out their mission of saving lives and protecting property during a time of fiscal reform and dramatic change in high technology. They have adapted to new realities while maintaining a dedication to the work they love and keeping faith with the rigors of their scientific pursuits. Among the men and women of NOAA are many of the American heroes you seek to honor. It has been my privilege to work with them.

And I say Mr. Speaker that likewise it had been my privilege to work with Tony Calio. It contributes to my sense of commitment to our system and renews my conviction that this country will continue to advance if we keep developing people who know their abilities and apply their skills to our great purposes.

Tony Calio has achieved his accomplishments with a style, wit, and unpretentious manner that are so refreshing among high officials as they are uncommon. His disarming frankness, along with his willingness to confront hostile inquisitors in Congress and in business have earned him respect, and not a few converts. Dr. Calio's successor will do well to build upon his outstanding record of achievement.

SUPPORT FOR CENSUS ADJUSTMENT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. GARCIA. Mr. Speaker, as a member and a former chairman of the Subcommittee on Census and Population, I would like to express my full support for Congressman DYMALLY'S bill on census adjustment. Although the Census Bureau has made significant progress in improving the accuracy of the census, the undercount of the minority groups, especially of blacks and Hispanics, remains a serious problem. What this bill would do is to correct the longstanding problem of census undercount.

The census data are the most detailed picture of our Nation we have available. We use the data to draw legislative district lines, to allocate Federal funds for a variety of programs, and to understand the makeup of the residents of our country. Accuracy of the census means a more effective public policy. Because of the undercount problem, we have not been addressing, as effectively as we should, the needs of the minority groups. We rely on the census too much to allow inaccuracies, like minority undercount, to persist.

The undercount problem has been especially serious for minority groups living in urban areas like the city of New York due to their lack of trust in the Federal Government. This year we have been celebrating the bicentennial of our Constitution, and in 1990, we will be having the bicentiennial census. In honor of both we must do what we can to ensure the best possible census.

I call upon our colleagues on both sides of the aisle to support this bill. Supporting the bill would mean improved accuracy of the census. Opposing the bill would mean allowing undercount of minorities to continue.

A TRIBUTE TO THE OWOSSO POLICE DEPARTMENT

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SCHUETTE. Mr. Speaker, today I would like to take the opportunity to pay tribute to the Owosso Police Department in Owosso, Michigan for their outstanding achievements this past year.

In 1987, the Owosso Police Department received first place in the Annual Michigan Association of Chiefs of Police Traffic Safety Memorial Award for cities with population between 5,000 and 20,000. This is the second consecutive year that the Michigan Association of Chiefs of Police have choose the Owosso Police Department for this high honor. I want to point out to my colleagues that it is extremely rare for any police department to receive such an honor even once, making this award all the more outstanding. I commend the Owosso Police Department for this tribute to their high standard of achievement.

The Owosso Police Department is one of the oldest departments in my great State. Over its first 140 years, the Owosso Police Department has grown to twenty sworn officers who are committed to the safety of their community. Members of the department have distinguished themselves in such areas as accident investigation, speed enforcement, law enforcement, and special actions against intoxicated drivers.

Mr. Speaker, I hope my colleagues in the House will join me today in commending the Owosso Police Department for its commitment and dedication to the community in the often thankless job of fighting crime. As we all know, this is so important to our quality of life. I urge you, Mr. Speaker, and my colleagues in the U.S. House of Representatives, to join me in congratulating the Owosso Police Department for their outstanding achievements during 1987, and in wishing them continued success.

RAILROAD RETIREMENT GAP

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. ANDREWS. Mr. Speaker, last week I introduced legislation which would bridge an improper "gap" in the Railroad Retirement Act of 1974. My bill would bring the Railroad Retirement Act into alignment with Social Security and military retirement by allowing divorced wives, who have been divorced for over 2 years, and who have reached retirement age of 62, to collect the annuity due them without their husband having to be retired.

As the Railroad Retirement Act currently exists, a woman who has been divorced for over 2 years and who has reached retirement age, cannot receive any retirement benefits due her unless her husband has himself retired. Thus, we find the inequitable situation, as I have found with some of my constituents, where a woman, either because she is older than her ex-husband or because her ex-husband simply refuses to retire, is left without any retirement annuities.

Obviously, this situation contrasts sharply with the pension equity provisions of the Social Security and military retirement reforms of 1984, which sealed these types of retirement gaps for divorced spouses. From what I can determine, the only reason that Railroad Retirement was not likewise amended in 1984 is simple oversight.

The Congressional Budget Office has estimated that closing this benefit gap would cost $0.5 to $1 million per year, a small cost to pay for an unfair situation which should have been rectified years ago. The divorced women of railroad employees deserve the same consideration and retirement benefits which we afford the spouses of employees covered by Social Security and military retirement. My bill provides long-overdue correction for this small, but nonetheless important, group of citizens.

BLATANT VIOLATION OF THE ARIAS PEACE PLAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SOLOMON. Mr. Speaker, this morning's New York Times brings us the news that the Sandinista Communists in Nicaragua will not allow "Radio Catolica" to freely bring the news to the Nicaraguan people, in blatant violation of the Arias peace plan.

Mr. Speaker, the problem with the Arias plan is that there is no way to enforce compliance. Whether the Sandinistas squash a free press today, tomorrow, or months from now—after the freedom fighters have been disbanded—there is absolutely no punishment.

On the other hand, if the Congress would join President Ronald Reagan in appropriating and holding ready assistance for the freedom fighters in the event that the commandantes continue to violate their solemn promises, we might actually see them comply with the plan.

If we do not provide assistance to keep the freedom fighters ready to resume their struggle, this peace plan will provide no freedom for the Nicaraguan people, and, I predict, no peace or security from Communist subversion in Central America.

Therefore, Mr. Speaker, when the House votes today on commending President Arias for receiving the Nobel Peace Prize, I will vote a "no" vote to protest the first—of many to come—reneges of Commandante Ortego in failing to live up to the provisions of the Arias peace plan.

THE SOCIAL SECURITY AND MEDICARE PROTECTION AND INTEGRITY ACT OF 1987

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MYERS of Indiana. Mr. Speaker. During the past several years, I have heard from hundreds of constituents informing me of numerous solicitation letters they have received from senior citizen lobby groups based here in Washington. There appears to be over a dozen of these groups who prey upon the generosity of elderly Americans.

These so-called senior citizen lobby groups have targeted older Americans with a campaign of fear, using fund raising techniques designed to add more loot to their coffers. One group, the National Committee to Preserve Social Security and Medicare will reportedly raise more than $40 million in 1987.

Senior citizens tell me that most of these senior citizen groups warn of the imminent collapse of the Social Security and the Medicare system. These unethical practices and tactics unduly frighten senior Americans.

In one unfortunate case, an 84-year-old widow called my office to ask for my assistance in getting her money back from one group called the "Social Security Protection Bureau." She was sending a monthly donation because she mistakenly thought the donation to this group would help ensure receipt of her monthly Social Security benefits, her only source of income.

Confused by the official Government sounding name of this group, the "Social Security Protection Bureau," my constituent was lured into making monthly contributions on the chance she could win prizes such as color TV's, expensive luxury cars, European dream vacations, and large sums of cash. After reading a newspaper article about senior citizen groups, she realized that she was ripped off. She received absolutely nothing for her money.

Representative WILLIAM S. BROOMFIELD and I have introduced the Social Security and Medicare Protection and Integrity Act of 1987. This legislation will protect the millions of vulnerable citizens by restricting the use of the words "Social Security" and "Medicare" when used in an effort to deceive and solicit funds. The restricted use of these words is based upon Federal law that restricts the inappropriate use of U.S. Government insignias and names such as "FBI," "EDIC" and many others. This proposal does not infringe upon the free exchange of political discussions.

Organizations that play on our older Americans' fear of losing Social Security benefits or employ the use of verbal trickery designed to solicit funds, deserve no place in our society. For the sake of the 125,000 individuals over 65 who reside in my congressional district and the millions of senior citizens across the United States, I hope Congress will act swiftly to pass this legislation which will force these groups to stop using unsavory practices.

I hope my colleagues will join with me and Representative BROOMFIELD in support of this important legislation.

TRIBUTE TO MAE DELLA WILKERSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SKELTON. Mr. Speaker, I rise today to inform the Members of the outstanding achievements of retired Lexington, MO, teacher, Mae Della Wilkerson.

Mae Della Wilkerson was honored this past August at a banquet sponsored by the Missouri Department of Elementary and Secondary Education as a Pioneer in Education. The award signifies this woman's outstanding service and contribution to public education.

Mrs. Wilkerson began her professional career as a teacher at Neosho in 1942. Over the years she has taught math, home economics, English, and special education. She has also been a principal.

In 1955, she received certification to teach mentally retarded children. After teaching briefly in Odessa, she returned to Lexington, where she taught handicapped students for 20 years.

To recognize her exemplary accomplishments over the years, Mrs. Wilkerson was honored by the Lexington Community Teachers Association when she was voted "Teacher of the Year" for 1982. She also received the Central Missouri Teachers Association "Outstanding Educator Award."

Mr. Speaker, Lexington was certainly fortunate to have had such a fine educator in its school system. Let me take this opportunity to commend Mae Della Wilkerson for all her years of service and to congratulate her on her recent award.

CLEVELAND CITY CLUB'S 75TH ANNIVERSARY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Ms. OAKAR. Mr. Speaker, on October 28, the City Club in Cleveland will be celebrating its 75th anniversary with an anniversary dinner that will be held at the Stouffer Tower City Plaza Hotel in Cleveland, OH. The Cleveland City Club was founded on October 28, 1912. One hundred eleven people attended the first meeting. The main speaker was Cleveland Mayor Newton D. Baker, who went on to serve as Secretary of War from 1916 to 1921. Since that time, the City Club has had an uninterrupted schedule of distinguished speakers from all parts of the United States and the world, offering a forum for their ideas and views. This outstanding record has earned the City Club the reputation as a citadel of free speech.

Fittingly, the theme of the City Club's 75th anniversary dinner will be "The Power of Ideas." Eight outstanding and articulate Americans will give a focused, concentrated 5-minute talk during which they will develop and address themselves to a single idea related to their respective fields. The speakers come from a wide variety of professions: Mario Cuomo, Governor of New York; John Kenneth Galbraith, the economist and Presidential advisor; Jeanne Kirkpartick, former U.S. Ambassador to the United Nations; Dr. C. Everett Koop, Surgeon General of the United States; Eleanor Holmes Norton, lawyer and educator; T. Boone Pickens, chairman of Mesa Petroleum Co.; Felix G. Rohatyn, Wall Street financier; and Gloria Steinem, publisher of Ms. Magazine.

"We feel this is a most appropriate way to observe 75 years of 'America's soapbox,' where people from many walks of life have been able to use the City Club as a vehicle to express a wide variety of views to the public," said David T. Sindell, president of the City Club.

Cleveland commentator Rena Blumberg is chairperson of the banquet advisory committee. She expects more than 1,000 guests to attend the anniversary dinner.

Over the past 75 years, the City Club has been host to literally thousands of speakers who presented their ideas and tested them in the invariably lively discussion that followed. The City Club has an admirable record that exemplifies our country's tradition of free speech and our national propensity to debate issues. I want to add my voice of congratulations to the City Club on its diamond jubilee and wish this venerable institution continued success in promoting the "Power of Ideas."

I am proud to represent Greater Cleveland and proud of the Cleveland City Club, truly a citadel of free speech.

THE 25TH ANNIVERSARY OF THE PLUMB BEACH CIVIC ASSOCIATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SCHUMER. Mr. Speaker, I would like to recognize today the 25th anniversary of the Plumb Beach Civic Association from my district in Brooklyn. Their motto "For the Betterment of the Community" only hints at the dedication of this fine group of citizens who have freely given their time and effort over 25 years and brought great changes and improvements to their neighborhood.

Plumb Beach Civic has worked for better parks, streets, and other public areas, making them beautiful and safe. They constantly monitor the quality of government services, striving to improve the lives of those in the community. They sponsor public events such as the annual Memorial Day parade and ceremonies. They are involved in local government, acting as an important link between the people and their elected officials. Plumb Beach Civic touches every aspect of community life and serves as testament to the strength of people willing to give of themselves to improve the neighborhood they live in.

On Sunday, October 24, the group is holding a ceremony marking this anniversary. I take this occasion to offer Plumb Beach Civic Association and their President Margaret McCord congratulations on 25 successful and productive years and my best wishes for 25 more.

A TRIBUTE TO DR. FREDERICK C. ROBBINS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. FEIGHAN. Mr. Speaker, I would today like to recognize the very important work and many achievements of one of America's leading physicians, Frederick C. Robbins, who has not only won a Nobel Prize for research that led ultimately to the elimination of polio as a threat to the lives of our children and young people, but who also has been one of the country's foremost medical educators.

In recognition of his distinguished contributions to the field, Dr. Robbins, who is university professor emeritus of the School of Medicine of Case Western Reserve University in Cleveland, will on November 8 receive the 1987 Abraham Flexner Award in a ceremony at the Washington Hilton Hotel. This award, which is given annually by the Association of American Medical Colleges, is the highest honor in the field of medical education.

As a testament to the quality and importance of the academic program at Case Western Reserve's medical school, Dr. Robbins is the fourth faculty member to win a Flexner Medal since the award was established in 1958. Case Western Reserve medical faculty have won more Flexner Medals than any other medical school in the United States.

Dr. Frederick Robbins shared the Nobel Prize for physiology and medicine in 1954 for his studies of the polio virus in an era when the crippling disease afflicted thousands of children and young people across the country and around the world. He was part of a medical team that developed a reliable method for cultivating viruses in test tubes, introducing the modern tissue culture era of virus discovery. Dr. Robbins and his colleagues were responsible for a major breakthrough in the method of producing viruses for vaccines, and, indeed, they paved the way with these landmark achievements for the development of the two polio vaccines.

Dr. Robbins joined the Case Western Reserve medical faculty and became head of the pediatrics department at Cleveland Metropolitan General Hospital—known then as City Hospital—in 1952, at a time when the school's new curriculum was revolutionizing medical education and focusing international attention on Cleveland.

He was dean of the school of medicine from 1966 to 1980, during which time student enrollment nearly doubled and many physicians and scientists of national and international eminence joined the faculty. In 1980, he became president of the Institute of Medicine of the National Academy of Sciences in Washington, an important and prestigious position he held until March 1986, when he returned to Case Western Reserve as university professor and dean emeritus. Dr. Robbins has always advocated the human side of medicine, has encouraged his students to be as involved with human beings as with science, and with the human side of medicine in sharp focus, and has been a strong supporter of the establishment of neighborhood health centers in the city of Cleveland.

Dr. Robbins, a graduate of the Harvard University Medical School, has received many prestigious honors in his illustrious career, among them honorary degrees from his undergraduate alma mater, the University of Missouri, and a number of others. And it is fitting that in his many achievements and contributions to medicine and medical education, Dr. Robbins has continued a long and noteworthy family tradition; he is married to the former Alice Northrop, daughter of Dr. John Northrop, who himself shared the Nobel Prize in chemistry in 1946.

I can think of no better way to pay tribute to Dr. Frederick Robbins on this occasion than to borrow the words of Richard E. Behrman, M.D., the man who succeeded Dr. Robbins as dean of the Case Western Reserve University School of Medicine.

Dr. Behrman said:

> This is another important and richly deserved award for a man whose contributions to medicine have been monumental. In a lifetime devoted to clinical pediatrics and medical research, medical education has been and remains at the core of Fred Robbin's dedication, and the Flexner Award is a testament to his achievements.

THE 75TH ANNIVERSARY OF THE HOLY FAMILY CHURCH OF PITTSFIELD; OCTOBER 25, 1987

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. CONTE. Mr. Speaker, at this time of harvest and reflection, it is a special celebration for the parishioners of the Holy Family Church in Pittsfield to be marking the founding of their church 75 years ago.

For in this month, declared Polish American Heritage Month by the President, we are provided with an additional impetus to draw strength from the Polish quest for political, religious, and economic liberty.

It was within the very spirit of this quest, that the Polish community of Pittsfield joined together three-quarters of a century ago to found a church. Now celebrating its 75th jubilee, the Holy Family Church stands as a testimony to the strength of the Polish spirit. For embodied within this church, we find an inspiring accounting of the Polish commitment to solidarity, religious devotion, and selfless contribution.

His Holiness Pope John Paul II during his recent visit to this Nation expressed the sentiments of many when he thanked God for our 200-year-old Constitution and its blessings of liberty. His remarks touched upon all Americans, as they warmed the collective soul of this great Nation. And they were remarks flowing with the grace of all who struggle for freedom, justice, and dignity.

The struggle is one that burns deep within the Polish heart, as those in the homeland continue to labor for political, religious, and economic freedom. And while the struggle may sometimes seem distant and removed, we need look only to the founding of the Holy Family Church to be reminded of the depth of the Polish love of liberty and religious expression.

The first Polish immigrants arrived in the Berkshires seeking freedom and opportunity. Speaking an unfamiliar language, they, nonetheless, quickly adapted to their new life in America, working on farms and in factories, and saving whatever they could to send for their families back home.

Soon the desire grew to form a church where they could pray and rejoice in their native tongue. Resounding within the walls of the church, their words could echo as an expression of the freedom found in this country and as a link to their cherished heritage.

An organization was formed to work toward that goal, and in 1913 the Society of the Sacred Heart requested the assignment of a Polish priest to the small city of Pittsfield.

The community of Polish immigrants were few in number and minus great wealth, yet, what they accomplished could only be done by a people with the richness of spirit. For in the year 1924, this small group of Polish-Americans raised the then unheard of sum of $68,500 to purchase and renovate a trolley car barn into the proud and noble church that still stands today.

It was an accomplishment born of determination, selfless contribution, and devotion. It was a feat grown from the seed of idealism and self-sacrifice.

Three quarters of a century later, the sons, daughters, grandchildren, and great grandchildren of the original founders continue the commitment to spiritual growth and contribution to their community. The fine church building constructed by their ancestors still resonates with the sound of the native tongue and remains readily available for any group seeking a meeting place.

In celebration of the 75th anniversary, the parishioners, like those before them, have given freely of their wages and labor to refurbish the church's murals, statues, and Stations of the Cross. For in this spirit of giving, the church shall remain as a pillar of the Polish-American community and as a symbol of the ongoing strength of their shared heritage.

It is an honor for me to represent the parishioners of the Holy Family Church of Pittsfield in the First Congressional District of Massachusetts. On behalf of my colleagues in the U.S. House of Representatives, I offer my congratulations upon the 75th anniversary of your church. I also offer my warmest best wish for your continued success in the pursuit of spiritual growth and excellence in community service.

TRIBUTE TO ROSE MARIE CRUZ

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LAGOMARSINO. Mr. Speaker, I rise to commend Rose Marie Cruz, a native of Santa Barbara, and for over 20 years owner/operator of the Cruz Dance and Entertainment Studio, who will be the 1987 honoree at the Santa Barbara Hispanic Achievement Council's Fifth' Anniversary Awards Dinner-Dance. Ms. Cruz is being honored not only for her professional dancing and teaching accomplishments, but also for a lifetime of contributions for the betterment of the community.

Ms. Cruz, a graduate of Santa Barbara High School, has studied classical Spanish, Flamenco, and Mexican folklorico dances since early childhood, but also includes in her repertoire jazz, modern, and ballet dancing. In addition, she teaches baton twirling, drill team and drum corps routines. Her dance groups have, for decades, been a mainstay of the annual Old Spanish Days festivities. The Cruz Dance Studio is headquartered in Santa Barbara with a current enrollment of over 150 students and 7 instructors.

Ms. Cruz has studied and performed with many of the world's most prominent Spanish and Mexican dancers including José Greco, Roberto Amaral, and Juan Talavera. She has also studied in Mexico City with the Ballet Folklorico de Mexico.

Ms. Cruz provides tuition-free instruction to low-income students provided they maintain a better-than-average school grade average and also to boys and girls who are on probation provided they stay out of trouble. Ms. Cruz also sponsors an annual overseas student tour wherein students not only study with European masters but also have the opportunity to perform. Not satisfied with traditional instructional responsibilities, she has pioneered efforts to instruct handicapped children at various south coast institutions.

In addition to her many entertainment responsibilities, Ms. Cruz has also been active in many charitable organizations in Santa Barbara including the Goleta Valley Hospital Ladies Auxiliary, the Franklin Senior Citizens, the Goleta Community Center, and the Special Olympics.

Ms. Cruz and her husband, David, are lifelong residents of Santa Barbara and have two children, David and Linda.

The Santa Barbara Hispanic Achievement Council is a group of private and public sector and community representatives whose mission is to promote public recognition of local Hispanics who have achieved professional distinction or who have excelled in service to the community. By recognizing and supporting these individuals, the council not only provides positive and effective role models for young Hispanics, but also focuses community attention on the many and varied contributions to our society by Hispanics.

At this time I would like to extend my congratulations to Rose Marie Cruz on behalf of the U.S. House of Representatives for being named Hispanic Achievement Council's honoree.

EDWARD P. ZEMPRELLI, THE ELOQUENT ORATOR

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. GAYDOS. Mr. Speaker, on Sunday, November 1, Lodge 941 of the Sons of Italy in Glassport, PA, will honor a man whose voice has been heard in the hills of southwest Pennsylvania and in the halls of the Pennsylvania State Legislature for nearly 25 years.

He is a long-time friend and colleague, a dedicated public figure and one of the most eloquent orators it has been my privilege to hear. It is a personal pleasure, therefore, to join in the "Man of The Year" tribute planned for the Senator from the 45th District of Pennsylvania—Senator Edward P. Zemprelli!

Senator Zemprelli is one of those individuals who possesses a voice that can move people from one end of the emotional spectrum to the other. He can bring a crowd to its feet shouting cheers or leave them sitting in solemn silence shedding tears. And, he has used that voice to benefit the citizens of Pennsylvania and the residents of the Mon-Yough Valley.

The Senator is a native of the Valley, born and raised in the city of Clairton where he still resides and maintains a legal practice. His hometown was the springboard for a political career that first took him to the State House of Representatives in 1963, and then to the State Senate in 1969. He has been his party's floor leader since 1979, and may hold the modern record for consecutive service in that key post.

Senator Zemprelli essentially was the author of legislation in the Pennsylvania Senate that rewrote the State's banking code in the late 1970's, and he played a major role in streamlining the process by which State budgets now are submitted and adopted according to schedule.

The Clairton native has been extremely active in support of projects that will revitalize the economy of the Mon-Yough Valley, an area hit hard by the decline of the steel industry. He has been a leading force in road and bridge construction that ties the region together, notably the bridge linking Clairton and Glassport and the Regis Malady Bridge at Elizabeth, PA.

Senator Zemprelli is a noteworthy choice for lodge 941's "Man of The Year" award, but I would be remiss if I did not also commend the officers and the members of the lodge for the purpose behind this annual banquet. It is, Mr. Speaker, a most important cause. It is to raise funds for the Sons of Italy statewide campaign against "Cooley's Anemia," an insidious disease that singles out as its targets the children of Mediterranean-American parents.

Consequently, as the elected representative from the 20th District of Pennsylvania to the Congress of the United States, I extend, on behalf of my colleagues in this body, our congratulations to State Senator Edward P. Zemprelli, his wife, Margaret, and his daughter, Carla. And, I also express our commendations to Lodge 941 of the Sons of Italy and to Edward George, the cochairman of the statewide fundraising drive for "Cooley's Anemia," on a most worthy undertaking.

THE BIRTH OF LAURA ELIZABETH DONOVAN

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SWIFT. Mr. Speaker, Laura Elizabeth Donovan was born on October 18 this year. The coming of a new life into the world is always a time for contemplation and speculation.

It is time to contemplate the good things life has brought to us and to wish those bounties for the life that lays before the baby. Spring days. Fall leaves. The perfect Christmas time when the snow starts the day before and leaves a printless blanket to greet the morning. The first love and the lasting one. All the good things are what we wish for that new life.

And we must also speculate about the kind of world we will leave for these children. Yesterday, with Laura just 1 day old, the stock market crashed by 520 points, the largest in history. We are living under regular $200 billion Federal Government budget deficits and a huge trade deficit—probable reasons for the stock market crisis. And we're exchanging fire with crazy people of Iran, the kind of confrontation that may preserve the free world's sources of oil or could pull the world into war.

It is the arrival of a new child, like Laura, that should make us each take our role here very seriously for we are creating the world she will grow up in. In the year 2039, when Laura is the age I am how, we would hope she will look back and say we did a fair job of managing the world in our time. That's what we would hope. And that is worth contemplating about.

H.R. 162, THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1987

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. SYNAR. Mr. Speaker, I voted in favor of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987. I am pleased that Congress is considering a measure which will improve the health of our Nation's work force and establish a worker's right to know that they are at high risk of occupational disease.

Each year, as many as 100,000 American workers die from occupationally related diseases. More than 300,000 American workers are newly disabled each year because of diseases caused by exposures to toxic substances in the workplace. The average annual outlay under Social Security disability and Medicare/Medicaid for disabled workers is estimated to be almost $5.4 billion. These tremendous costs don't even begin to take into effect the enormous emotional strains on families and the loss to our economy of productive workers.

H.R. 162 would establish a national system for identifying and notifying current and former employees exposed to dangerous substances in the workplace. It will provide high risk workers with esential information that will permit them to take the kinds of actions necessary to prevent cancer, or detect it early so treatment has a better chance of success. The goal of this bill is to prevent disease and reduce health care costs.

H.R. 162 sets up a Risk Assessment Board of both Government and private sector experts who would evaluate medical and scientific data to identify groups of workers who are "at risk." A "population at risk" is defined as a population which exhibits a statistically significant increased incidence of disease compared to a nonexposed population. The Risk Assessment Board must rely on studies of humans; studies that test laboratory animals cannot be used as the basis for a notification.

After the Board reviews pertinent medical and scientific evidence regarding a particular occupational health hazard, it issues a notice of proposed determination. This notice, specifying which classes or categories of employees are being considered for notification and why, is subject to public comment and hearing for a period of up to 160 days. The Board's final determination is subject to judicial review.

The Secretary for Health and Human Services is then responsible for the notification of current and former employees. Notification may be carried out by the Federal Government or, if they wish to do so, by employers, as long as they follow standards set by the Secretary. The notification would include identification of the hazardous substance and associated diseases, known latency periods and the type of testing, evaluation and subsequent monitoring recommended. H.R. 162 doesn't include provisions for the treatment of occupational disease.

Employers would be required to pay for the testing and monitoring of current workers, but former employees would have to pay for their own testing and monitoring. The bill authorizes $25 million annually for 3 years for the Risk Assessment Board and the notification process. This also funds 10 regional health centers that will be established at existing health facilities to provide training and education services for physicians monitoring the health of notified workers.

H.R. 162 prohibits discrimination against employees notified that they are at risk. If health concerns necessitate their transfer to another assignment, employers would be required to provide a job equal in pay, benefits, and seniority.

Opponents of the measure believe it will increase litigation against employers. The General Accounting Office's May 1987 report on risk notification said that even without passage of this bill, the number of personal injury lawsuits and worker's compensation claims might be expected to increase because workers are becoming more aware of workplace hazards and of their rights to sue when exposure to such hazards causes disease or illness. It is important to note, however, that section 8(b) of H.R. 162 prohibits the use of the Board's determinations, including being notified, from being used as a legal basis for, or as evidence in, any claim for compensation, loss or damage.

Some claim that H.R. 162 duplicates the actions and responsibilities of the Occupational Safety and Health Commission's [OSHA] hazard communication standard. However, the OSHA standards apply only to some current workers and current exposures. It does nothing for current or former workers exposed in the past to hazardous substances. The OSHA standard also provides no information on appropriate surveillance for workers at high risk of occupational diseases.

I could not support the Jeffords substitute amendment. The Jeffords amendment addressed the issue of occupational disease through lowering and preventing exposure of current workers to hazardous materials. However, we already have an agency established to set exposure levels and train workers in proper handling of hazardous materials. H.R. 162, on the other hand, will provide for informing workers who have already been exposed to hazards about the types of illnesses they are in danger of developing and how to watch for signs of disease so that it might be caught in early stages and treated.

The Jeffords amendment wasn't really a substitute. It did little more than codify currently existing regulations into statutory law. The Jeffords amendment would have provided for the notification of workers who have been covered by NIOSH mortality studies and shown to be at risk; however, NIOSH requests for funds to notify these workers have been turned down by the administration three times. It would have required that OSHA update the exposure limits for 400 hazardous substances; OSHA already has the authority to do this.

The Jeffords amendment also would have expanded the scope and coverage of the OSHA hazard communication standard. In fact, OSHA has already expanded the scope and coverage of the standard because it was forced to do so under court order. In announcing the expanded regulations in August, an OSHA spokesperson stated that the regulations will cost industry $687 million to follow and more than $100 million a year to maintain. In contrast, the amount appropriated to carry out the provisions of H.R. 162 is substantially less—$25 million a year for 5 years—to notify previously exposed workers. This two-pronged approach should serve to prevent current workers from exposure while addressing the health needs of those who have been exposed.

The House adopted several amendments which improve the bill. Congressman JOE GAYDOS offered an amendment which prohibits employee requests for medical removal benefits unless workers show symptoms of the disease they are at high risk of developing. This will prevent needless disruptions of the workplace while assuring that workers who are susceptible to occupational disease are protected. I also supported his amendment to allow individual companies which can prove that they have effective health and safety programs to apply for exemption from the notification requirements of the bill. If a company can show that their employees have not been exposed at hazardous levels, then there is no need to notify those employees. A third amendment offered by Mr. GAYDOS will allow the Risk Assessment Board, where possible, to limit the notification to the period of latency of the disease. This will help channel efforts toward those still in the latency period who have a chance of intervening before the onset of disease.

Two additional amendments were adopted which further improve the medical removal aspects of H.R. 162. Congressman CHARLES ROSE offered an amendment which exempts seasonal agriculture workers employed by an employer for less than 6 months of continuous employment from the medical removal provisions of the bill, and Congresswoman BEVERLY BYRON offered an amendment which exempts businesses of 15 or fewer employees from the medical removal provisions if the company has made a good faith effort to prevent occupational exposure. This was further amended to exempt businesses with 50 or fewer workers.

All in all, Mr. Speaker, I think the bill that passed will make great strides toward not only further improving the health and productivity of our workforce but also saving Federal dollars which are currently spent on medical care and disability payments.

HOW DO YOU SPELL HUTZPAH

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. JACOBS. Mr. Speaker, on the "Today Show" this morning Secretary Weinberger confided that the stock market crashed because of fears that his budget wasn't high enough.

Mr. Speaker, lexicological inquiry: How do you spell hutzpah?

INTRODUCTION OF A CONCURRENT RESOLUTION CONCERNING UNITED STATES POLICY IN THE PERSIAN GULF

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. BROOMFIELD. Mr. Speaker, I introduce a resolution on behalf of myself and the minority leader, the gentleman from Illinois [Mr. MICHEL]. This concurrent resolution would affirm the vital importance to the United States and our allies and friends of actions necessary to preserve peace and security in the Persian Gulf.

There has been much talk in recent days of applying the War Powers Resolution to the situation in the Persian Gulf. The War Powers Resolution not only requires the President to consult with Congress on military planning and report on military activities.

Applying the War Powers Resolution could also deprive the President of his constitutional authority as Commander-in-Chief of U.S. Armed Forces to make necessary deployments of forces in defense of U.S. interests.

While I was one of the original cosponsors of the War Powers Resolution in the House of Representatives, I have come to feel that the resolution has proved counterproductive. Premature or unwise application of the resolution could have undesirable political consequences at home and abroad.

When U.S. Forces are committed to a dangerous mission overseas, disputes over war powers at home can harm their morale, divide the country, communicate uncertainty to our foreign friends, and send a signal of vacillation to our opponents.

There have been discussions in Congress of approaches to the situation in the gulf that would merely request a full report from the President on current military operations. There have also been suggestions that Congress provide specific authorization for deployment during a definite period of time.

Congress should by all means request regular and full consultation and reporting on the military situation in the gulf. It would be undesirable to set a date for further congressional action, however, since this could tend to undermine ongoing military and political initiatives.

Before Congress moves to limit the President's authority through the War Powers Resolution or in any other way, it should carefully formulate its own approach.

We should by all means avoid the kind of action that was considered a few weeks ago in the Senate, under which the War Powers Resolution would have been explicitly invoked and legislative authority for the reflagging of the vessels of friendly nations and naval protection for them withdrawn in a short period of time.

The resolution I am introducing today would be a concurrent resolution, not available for Presidential signature, which would not have the force of law. It contains a set of findings and a policy for Congress to adopt with respect to the current situation in the Persian Gulf.

The findings contained in the resolution include statements of support for the United States and allied military presence in the gulf, continued authorization for U.S. Forces to be able to operate effectively in self-defense and that further responses to provocations should continue to be measured and proportionate. The findings would also encourage the President to continue to consult with Congress on planned military responses and on incidents involving U.S. Forces. The policy statement would endorse the President's policy of protecting freedom of navigation and restoring peace and security in the gulf through diplomacy, coordinated action with our allies and friends, and appropriate military activities.

It would be premature for the Congress to advance a joint resolution with the force of law at this time. The situation in the gulf keeps changing and there has not yet been adequate time for dialog between the administration and Congress on the best procedures to apply in order to balance the interests of the branches.

The President has done his part to see to it that Congress is included in policymaking with respect to military developments in the gulf. He has reported on the incidents in which United States Forces responded to Iranian provocations, and he consulted beforehand with Congress on the planned military response to the Iranian missile attack on the United States-flag tanker.

United States military operations in the Persian Gulf have continued the traditional United States role in the peace and security in this region. Recent actions by our allies and statements by the leaders of friendly Gulf States show growing international support. The American public, according to opinion surveys, also understands and favors the President's policy of protecting freedom of navigation in the gulf.

The time has come for Congress to put itself on the record with respect to the situation in the gulf. The concurrent resolution I am introducing would give the House and Senate a chance to state their findings and policy with respect to that situation, to provide important support for the administration's efforts, and to demonstrate to our own forces as well as to foreign interests that the Congress stands behind the administration's policy.

U.S. Forces in the gulf have discharged their responsibilities superlatively in a difficult and dangerous environment. U.S. military planning has also emphasized prudent operations and proportionate and measured responses to threatening activities in the gulf.

This is no time to attempt to invoke the War Powers Resolution or attempt to legislate on the delicate situation in the gulf. I urge my colleagues to support this resolution, which would express the findings and policy of Congress on current Persian Gulf developments. Such a resolution will be an essential step if the Congress is to work constructively with the administration in support of a sound policy on the Persian Gulf.

HOW WE RESPOND TO GORBACHEV AND HIS "NEW THINKING"

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. DOWNEY of New York. Mr. Speaker, on October 10, I had the privilege of addressing a very important conference in Minnesota. The conference, sponsored by the Institute for East-West Security Studies and entitled "The Implications of Soviet New Thinking," went to the very heart of how the United States should respond to new policy directions coming out of the Kremlin.

Of all the subjects discussed by the distinguished speakers, one point was repeated over and over. Soviet new thinking, to the extent we fully understand it here in the West, mandates new thinking here in Washington as well. This is a time for acting rather than simply reacting to Mr. Gorbachev's overtures. It is a time for testing Soviet intentions, for engaging Mr. Gorbachev in meaningful dialogs that will advance our common security and economic interests, and for clarifying our own policy objectives vis-a-vis the East. As the institute's task force report correctly states, "New political thinking in the East requires new policy thinking in the West."

Mr. Speaker, because I think that this conference, and the task force report which preceded the conference, make a valuable contribution to the current debate on the state of the United States-Soviet relationship, I ask that the executive summary of the report, entitled "How Should America Respond to Gorbachev's Challenge?" be inserted into the RECORD.

The text of the summary follows:

EXECUTIVE SUMMARY

KEY FINDINGS

In the face of domestic economic stagnation, widespread social apathy, and a widening technological gap vis-a-vis the West, Soviet General Secretary Mikhail Gorbachev has undertaken the most far-reaching revamping of the Soviet system in over half a century. While the Soviet Union remains a closed communist society, Gorbachev has challenged a whole series of ingrained practices and attitudes, from strictly centralized economic management to an often militarized foreign policy, which has been the basis for Soviet policy since Stalin's time. In foreign affairs, he has introduced new concepts and new flexibility into Soviet diplomacy. Yet the West has not come to terms with these changes.

Balancing Soviet power and maintaining a strong Western alliance remain central to U.S. national interests. By the same token, the U.S. and its allies have a long-term interest in encouraging the moderation of Soviet power. Because the Soviet Union is a global power, Gorbachev's initiatives demand an active response by the United States and its Western allies. In many areas, from arms control to emigration, the Soviet Union has begun to make changes in directions long advocated by the West. While far from complete, these changes present new opportunities, and challenges, which the West should not ignore. The Task Force strongly recommends that the United States and its Western allies welcome the reformist tendencies that Gorbachev has set in motion and encourage those which promote a moderation of Soviet power. Toward that end, the U.S. and its allies should engage the Soviet Union in an effort to explore possibilities for agreement and resolve key points of tension.

A purely reactive Western approach in the face of the new Soviet policy is not an acceptable option, the Task Force believes. Western policies as well as Gorbachev's domestic policy priority are bound to affect Soviet foreign policy. There is considerable uncertainty about the long-term success of Gorbachev's reforms. Nevertheless, over time, the new course chosen by Gorbachev will affect the ways in which the Soviet Union carries out its role as a superpower. A more subtle and flexible Soviet diplomacy requires the West to develop a broader and more active policy toward the Soviet Union, including standards to define and meet common security requirements in a rapidly changing international environment. Failure to do so would sacrifice the diplomatic initiative to the Soviet Union as well as abdicate our responsibility to future generations to pursue prospects for substantially improving relations between East and West.

WHAT IS CHANGING IN SOVIET FOREIGN AND DOMESTIC POLICY?

The West needs to think anew about specific changes the Soviet Union has made in its own policies. Many of these changes are only beginnings and ultimate Soviet intentions remain unclear, but it is important to note that some of them move toward long-standing Western performances.

Arms Control—The USSR adopted the Western proposal of a zero option on the INF issue. In addition, the USSR has moved toward the Western positions on verification, including on-site inspection. It has also raised the prospect of asymmetrical conventional force reductions in central Europe. It has accepted the principle of deep reductions in offensive strategic weapons and proposed concept of "sufficiency" in military forces.

Role of the Military—There has been a reduction in the Soviet military's role and influence in the highest policy-making councils, and Gorbachev has made clear to the military that they have to accept spending restraints and greater openness in the dissemination of military information.

The International Economy—Gorbachev has placed special emphasis on reducing Soviet autarky by increasing trade, joint ventures, and expressing an interest in cooperating with such major international organizations as GATT.

The Domestic Economy—Gorbachev has initiated a major decentralization of operational responsibility for the economy, and he clearly intends to move toward a more flexible, modern, and efficient economic planning and management. He has admitted the inadequacy of Soviet statistics and called for more accurate economic information.

Human Rights—In the fields of culture and dissent, Gorbachev has displayed a degree of openness and toleration unthinkable just three years ago. In the area of emigration, the change has been less dramatic but Gorbachev has increased the emigration of Soviet Jews, Germans and other groups. While glasnost has a long way to go, it has clearly led to progress on human rights, which has been a major concern of the West.

Regional Issues—While Gorbachev has as yet made no significant effort to scale back existing Soviet global commitments, he has given a lower priority to the military expansion of Soviet interests in the Third World than his predecessors.

Eastern Europe—While urging closer and more "efficient" economic integration, Gorbachev has permitted a somewhat more flexible expression of specific national interests in Eastern Europe than his predecessors.

AGENDA FOR ACTION

These changes in Soviet policy and the prospect of a Soviet-American INF treaty and summit by the end of this year highlight the need to tackle a wide range of problems in East-West relations. The Task Force recommends that as first steps Western policy choices focus on five key areas:

Security Issues—The U.S. and its NATO allies should intensify talks with the Warsaw Pact aimed at reducing conventional forces and eliminating offensive strike potentials, particularly those designed for surprise attack. Given the geographical differences and existing force imbalances, new apoaches must include asymmetrical reductions of forward-based armored units, which present the greatest threat of surprise attack.

Both sides need to move rapidly to conclude an agreement on deep cuts in strategic offensive nuclear forces. These reductions should be designed to enhance strategic stability and eliminate the capacity to launch a crippling first strike. At the same time, both sides need to find ways to strengthen the ABM Treaty and to ensure that any research on strategic defensive systems is consistent with preservation of the Treaty.

The West should push for a rapid conclusion of the global Geneva chemical weapons negotiations, including the establishment of an international verification regime. Such an agreement would help increase confidence in Europe at a time when some are concerned over the implications of the elimination of medium- and shorter-range nuclear missiles from the continent.

International Economic Issues—Except in a precisely defined area of strategic technologies, which entails tighter, more efficient COCOM regulations, expanded East-West trade is in our interest. The West should welcome Soviet efforts to develop the legal foundation for a system of equitable joint ventures. While Western governments should not subsidize credits, neither should they oppose the extension of private credit through normal commercial rates and practices to the Soviet Union. The prospect of observer status in the GATT and IMF should be used to encourage greater openness and information about the Soviet economy.

If the Soviet Union demonstrates heightened respect for human rights, the U.S. government and Congress should consider bringing their policy in congruence with U.S. allies by reevaluating the Jackson-Vanik and Stevenson amendments restricting trade with and credit to the USSR. The West should aim to normalize the framework for trade with all Warsaw Treaty countries, on the basis of mutual and reciprocal interests.

In addition, the U.S.-Soviet umbrella agreements on scientific and technological cooperation should be revived and expanded, on the basis of full reciprocity.

Human Rights—The West should welcome increased glasnost while continuing to make clear to the Soviet government that its observance of internationally recognized human rights is the mark of a civilized power and a condition for truly collaborative relations between the Soviet Union and the West. The West should insist that the Soviet Union fully live up to the commitments it undertook under the Helsinki Final Act to encourage the free movement of people, ideas, and information across international boundaries.

Regional Issues—In Afghanistan, the West must continue to make clear that Soviet occupation of that country poses strict limits to genuine collaboration between the USSR and the West. Conversely, a rapid Soviet withdrawal, with sufficient international guarantees, would be a forceful demonstration that the "new political thinking" has specific policy implications.

In other areas of conflict which could lead to possible superpower confrontation—such as Central America, southern Africa, and the Persian Gulf—the West should intensify discussions aimed at clarifying interests and creating conditions for greater stability. Within this framework, U.S.-Soviet meetings on regional issues should be upgraded as part of a regularized summit process. The purpose would be to seek solutions to these problems in conjunction with other concerned parties.

In the Arab-Israeli dispute, the U.S. and USSR should work together to advance a peace process which guarantees the territorial integrity and interests of all states and parties.

Political Dialogue—U.S.-Soviet summit meetings, as well as meetings at other governmental and non-governmental levels, should be held on a regular basis.

CONCLUSION

The West must have no illusions about the need to balance Soviet power, but neither should it overlook opportunities to encourage the Soviet Union to be a more responsible and integrated member of the international community. Although the long-term success of Gorbachev's policy remains uncertain, the process he has launched holds out a promise of a further moderation of Soviet power and an opportunity to develop and institutionize areas of cooperation in the East-West relationship. Some in the West worry about giving the Soviet Union a "breathing spell." They fear that Gorbachev's economic reforms will simply strengthen the USSR in the long run. But Soviet economic and social problems will not be quickly solved. In the meantime, greater openness and pluralization should be welcomed for their own sake as well as for the effect they can have in moderating the way Soviet power is used.

In order to seize the opportunities offered by new Soviet policies, the U.S. and its allies need to respond creatively to Gorbachev's initiatives. In order to do that, the West must be clear about its own policy objectives and priorities. New political thinking in the East requires new policy thinking in the West.

FOREIGN INVESTMENT AND OWNERSHIP IN THE UNITED STATES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LENT. Mr. Speaker, in the past few weeks, there has been a great deal of debate about the level of foreign investment and ownership in the United States. While some of the rhetoric in this debate has been exaggerated, it has been healthy. We Americans are right to question the level of foreign investment and ownership and to discuss the relative benefits and risks of such ownership. But I think it is important to note that a few definite facts have come out of that healthy debate:

The level of foreign investment and ownership in the United States is small by any measure, and it is growing at a manageable rate.

Foreign investors are making U.S. investments because of their confidence in the stability and liquidity of our markets, the health of our economy, and the strength of our political system. Simply put, we are the most attractive investment market in the world.

This investment has produced tremendous benefits for Americans, including lower inflation and hundreds of thousands of jobs.

The U.S. Government imposes extensive restrictions and recordkeeping requirements on foreign investors. Most of the information provided is kept confidential, as are any financial data and records of American investors and companies which, if disclosed, could cause unjustifiable harm to those Americans. But our Government is well aware of both the specifics and the flows of foreign investment.

Other than where national security might be threatened (in which case severe prohibitions and restrictions apply), there really is no justification for imposing public reporting burdens on foreigners that are not imposed on Americans, and which could harm their business or personal interests. Imposing injurious burdens will inevitably discourage foreign investment and its benefits.

This is why I oppose strongly the approach taken in Section 703 of H.R. 3, the omnibus trade bill now being considered by a House-Senate Conference. The Senate rejected this section by an overwhelming vote, and I hope it is dropped from the bill. I am not alone in my views, as demonstrated by a recent article from The Wall Street Journal, and a recent editorial from The Washington Post, which I commend to my colleagues' attention:

[From the Washington Post, October 15, 1987]

WHERE IT COMES FROM

Congress suffers occasional attacks of anxiety over the foreign investments pouring into this country and asks whether Americans are losing control of their economy. In that spirit, the House has written a misconceived and damaging registration requirement into its version of the trade bill. The House worries a lot about Japan.

Although Japanese investment in this country is growing, most of the long-term investment—the kind that means control of companies and property—is still coming from Western Europe. Foreign investment in this country last year came to $144 billion, but nearly five-sixths of it had nothing to do with control of companies. It was portfolio investment—bank deposits and securities in volumes not large enough to gain influence over companies.

The kind of foreign investment that implies some degree of real control—direct investment, as the statisticians call it—came to $25 billion last year. Of that, according to the Commerce Department, $20 billion came from Europe. Among individual countries, Britain led with $7.8 billion of direct investment here. The Netherlands was second with $5.9 billion, although some of that money came originally from elsewhere in Europe. Japan was third, with $4.1 billion.

The British performance is remarkable. With the abolition of exchange controls by Mrs. Thatcher and the acceleration of its domestic economy, Britain is rapidly rebuilding the great structure of worldwide investment that it largely sold off, a generation ago, to pay for its defense in World War II.

While the amounts of foreign money coming here are large, Americans' direct investment abroad is larger. Last year it was $28 billion. Americans now own about 15 percent of British manufacturing industry, while Britons own barely 1 percent of American manufacturing.

The trade bill, as the House passed it, would impose very extensive financial reporting rules on foreign direct investment here. The Europeans, who would be most affected, protest that these rules would by no means be neutral. They would require foreign investors to disclose much more than American companies do, revealing business strategies to their American competitors' advantage. These new requirements would also violate international agreements that the United States has signed. Meanwhile, of course, American trade negotiators are hard at work trying to persuade other countries to open their doors wider to a free flow of foreign investment, on grounds that it benefits everybody.

[From the Wall Street Journal Oct. 1, 1987]

FOREIGN INVESTORS DESERVE SAME TREATMENT AS AMERICANS

[By Michael F. Butler]

The small print of the House version of the trade bill contains a provision that, if enacted, would be a major deterrent to foreign investment in the U.S. Sponsored by John Bryant (D., Texas), the provision calls for a massive and unprecedented system of public disclosure on foreign investment in the U.S. It would undercut years of U.S. government efforts to eliminate investment restrictions in other countries and would violate U.S. treaty obligations.

Under the provision, a foreign investor with an equity interest—either direct or indirect—in a U.S. business (including real-estate investments), would be required to file detailed information on itself and the U.S. enterprise with the U.S. Commerce Department—information that would be available to the public. Current law requires foreign investors to file reports that contain much of the same information specified in the Bryant provision, but the reports are not available to the public and are considered highly confidential.

The most egregious disclosure requirements would be imposed on a foreign investor holding 25% or more of the equity of a U.S. business enterprise with assets or sales of $20 million or more. The investor would be required to file an audited financial statement on the U.S. enterprise, including sales, assets, operating income, depreciation by industrial segment, and changes in financial condition. The compensation of the executive officers of the U.S. enterprise, related business transactions of the enterprise's directors, and any significant civil litigation involving the enterprise for the prior year would also have to be disclosed.

The disclosure obligations would apply whether the investor purchased the U.S. enterprise or developed it from scratch. And they would apply to any entity that meets the $20 million test: a wholly owned subsidiary, a branch bank, and even an otherwise private joint venture or partnership.

When a foreign investor has less than a 25% interest in U.S. enterprise, the disclosure requirements would be less onerous. However, a foreign investor with as little as a 5% interest in a U.S. enterprise that has assets of $5 million or sales of $10 million would be required to disclose the name, location and industry of the enterprise, the size of the interest when acquired and the price paid.

All reports would have to be updated annually. There would be a $10,000-a-week penalty for late filing and criminal penalties for failure to file.

There is no good reason to require such detailed public disclosure for U.S. businesses with foreign investors when similar enterprises with no foreign ownership do not have to make such disclosures. (Enterprises with foreign investors that have publicly traded securities in the U.S. are, of course, already subject to SEC and state securities-law requirements.) The Bryant provision would put foreign investors and their U.S. partners at a considerable disadvantage with competitors, customers and suppliers. No other industrialized country imposes similar disclosure provisions on foreign investors.

Foreign investors would consider enactment of the Bryant provision a clear statement that the U.S. wants to discourage foreign investment—something that certainly would be disastrous for the economy. Almost three million jobs in the U.S. are in entities which foreign investors own at least 10%. In 1986, foreigners spent $31.5 billion to establish or acquire businesses in the U.S. (almost 90% of which was in manufacturing, mineral development, wholesale and retail trade and services); these investments alone involved 320,000 jobs.

The Bryant provision would violate U.S. treaty obligations with most industrialized countries. These treaties typically provide that foreign investors in the U.S. shall receive the same rights as Americans except for measures necessary for national security. The Bryant provision would also violate Organization for Economic Cooperation and Development agreements to which the U.S. is a party.

The U.S. has long opposed investment restraints imposed by other countries and is actively seeking bilateral investment treaties with a number of Third World countries to remove investment barriers there. A few years ago it strongly objected to Canadian disclosure restrictions that were much less onerous than the Bryant provision. In the current Uruguay Round of trade negotiations, the U.S. is leading a major effort to remove host-country restraints on foreign investment. Enactment of the Byrant provision would be used by foreign countries to counter these efforts and would invite counterlegislation abroad.

Proponents maintain that the Bryant provision will prevent foreign dictators or terrorist organizations from making hidden investments here, but that argument is farfetched. Assuming such unscrupulous investors would file at all, law-enforcement agencies can get this information from existing reports; it is hard to see how public disclosure would help. The argument is about as sensible as saying we could find out what the Mafia does with its illegal proceeds by requiring every U.S. business to publicly disclose all aspects of its operations.

Labor unions supports the Bryant provision because the public-disclosure requirement would give them information that would be valuable in unionizing foreign-owned installations or in bargaining at those installations. They also consider that enactment of the Bryant provision would be a useful precedent in seeking future legislation to require domestic companies to furnish detailed financial information to them.

The Bryant provision has received scant public attention. It was slipped into the House bill at the last minute and without hearings. The Senate defeated an effort to add a proposal similar to the Bryant provision to its trade bill, so it is possible the provision will not make it into the final bill. But given the scope and complexity of the trade bill (the House and Senate versions, which differ substantially, are each about 1,000 pages), the Bryant provision has a clear chance of remaining in the final bill—if only because it hasn't attracted sufficient attention. If it is enacted into law it would significantly reduce investment and jobs in the U.S. and would encourage restraints on U.S. investment abroad.

FERS, CSRS, AND OTHER RETIREMENT SYSTEMS TECHNICAL AMENDMENTS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mrs. MORELLA. Mr. Speaker, I am pleased that H.R. 3395, a bill providing technical corrections to the new Federal retirement system was approved by the House of Representatives yesterday. As the Representative from the Eighth Congressional District of Maryland with over 60,000 Federal employees and retirees, and 89,000 veterans, the topic of FERS, CSRS, and Foreign Service retirement is of vital interest to my constituency.

The Committee on Post Office and Civil Service has passed this technical corrections act in order to correct some of the shortcomings of the Federal Employees' Retirement System of 1986. This was an exceedingly complex piece of legislation and consequently H.R. 3395 addresses many needed corrections.

I am particularly pleased that included among the changes is the extension of the deadline—from May 7, 1987, to May 7, 1989—for application of certain former spouses to apply for survivor benefits.

Title II of the bill addresses foreign service retirement, including benefits for former spouses married between 9 months and 10 years and survivor benefits for children. These are both basic and vital provisions.

Also included in the amendments is a section which provides that special pay for physicians and dentists in the Veterans' Administration Department of Medicine and Surgery may, in certain instances, be included in the computation of average salary for civil service retirement purposes.

A minor substantive amendment of the bill addresses the expenses of the thrift savings plan. The provision mandates that the expenses of the thrift plan are not limited just to earnings on matching Government contributions but will be paid from all the contributions held in the fund. Since the fund is comprised of CSRS and FERS contributions, this would mean that the cost will be spread out to the full universe of participants in the thrift savings plan.

The bill liberalizes disability and retirement benefits for certain workers and their surviving spouses, and establishes some additional benefit provisions, particularly to spouses or former spouses of Foreign Service officers.

MISLEADING, FLAWED SURVEY DOES DISSERVICE TO WASHINGTON VA HOSPITAL

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MONTGOMERY. Mr. Speaker, a major injustice has been done to the fine staff of our Washington, DC, Veterans Administration

Medical Center and, worse still, to the veterans who may need its health care services.

The "Washington Consumers' Checkbook" recently published a rather lengthy article—the results of which were subsequently reported by regional media—in which it rated area hospitals. The information was gathered by the magazine from a mail survey of 6,000 Washington area physicians, 25,000 registered nurses, and subscribers who were asked to evaluate hospitals in which they had been patients or had regularly visited patients.

Only 437 physicians and 2,000 nurses responded. Of that number, only 8 physicians and 12 nurses mentioned the VA medical center. Of the 8 doctors who mentioned the VA hospital, the likelihood of their knowing much about the hospital is slight, since Checkbook disallowed the opinions of physicians who use the hospital for 50 percent or more of their admissions.

So, based on the opinions of 20 individuals who utilize the facility the least, the Washington VA Hospital was rated. Based on a miniscule sampling—less than one one-thousandth of 1 percent of those asked to participate—the magazine saw fit to make a misleading generalization regarding the quality of care offered by the facility, and that is a shame. Though Checkbook did state in its article that "there are obviously serious limitations to the opinion data we have reported," this was not picked up in other news coverage and the damage was done.

Mr. Speaker, that Checkbook chose to publish such a sketchy and flawed survey is indeed unfortunate. I would like to set the record straight. The veterans of the Washington region who seek medical treatment at the Washington VA Medical Center can rest assured that they will receive high quality, compassionate health care.

PLASTIC DEATH REMAINS AFLOAT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. BENNETT. Mr. Speaker, last week the House overwhelmingly passed H.R. 940, the Plastic Pollution Research and Control Act. This was a good and much needed piece of legislation.

But plastic wastes continue to haunt us, especially plastic driftnets which are lost or discarded at sea, also known as ghost driftnets. They continue to fish and indiscriminately kill fish, seabirds, and marine mammals. Currently the foreign driftnet fishery in the North Pacific loses or discards as much as 1,000 miles of netting each year. Although the total impact of the foreign driftnet fishery is not known, it appears that the killing of marine life is staggering. Driftnets are also an inefficient and wasteful method of harvesting fisheries resources. As much as 50 percent of the fish ensnared in driftnets die and dropout of the net before it is picked.

In the 99th Congress and again in the 100th, I have introduced the Driftnet Monitoring, Assessment, and Control Act, H.R. 537, as a companion bill to the Senate version introduced by Senator TED STEVENS. When the plastic pollution bill, H.R. 940, was introduced during the 100th Congress, a portion of the bill addressed the driftnet problem. But during subcommittee markup, this portion was dropped. Driftnets pose a very serious problem and need to be addressed immediately. H.R. 537 has received strong support and currently has 52 cosponsors.

H.R. 537 would require the State Department to initiate monitoring programs with the foreign governments involved to assess the adverse impacts of driftnets on the high seas. If an adequate arrangement is not agreed to within a year, those particular foreign flag vessels involved would be denied the issuance of a fishing permit within the U.S. Exclusive Economic Zone.

The inshore runs of salmon in Alaska in 1986 have been the lowest in 7 years, and many of the United States fishermen in the area say that the foreign high seas driftnet fisheries, mainly those of Japan, Taiwan, and the Republic of Korea, are responsible for this. They claim that, because the runs are lower, tighter restrictions are placed on the taking of salmon in U.S. waters by U.S. fishermen, costing the Alaskan fisheries between $4 and $8 million. While Alaska fishermen purposely allow salmon to escape to the sea so that the fish can then return to the freshwater streams to lay their eggs, these same salmon are being caught with driftnets on the high seas before returning to their spawning grounds.

The International Convention for the High Seas Fisheries of the North Pacific Ocean sets seasonal and area restrictions for the highseas fishery so that impacts on U.S.-origin salmon are minimized. Coast Guard surveillance flights have repeatedly detected numerous violations by the Japanese squid driftnet vessels that have been sighted on salmon fishing grounds. This consistent record by the Japanese demonstrates their disregard for the international agreement. Yet the United States continues to allow the Japanese the privilege to fish within its 200-mile Exclusive Economic Zone [EEZ].

We must remind foreign fleets operating within our EEZ that it is their privilege to fish in this area, not their right. If these foreign fleets refuse to negotiate with us concerning U.S.-origin marine resources on the high seas, then they should be ready to face the consequences.

The unregulated use of driftnets has devastated the marine resources of the North Pacific for too long. This problem will not go away by itself, and I urge my colleagues to join me in support of this legislation.

CHAMPIONSHIPS ARE NOT NEW TO MILTON

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. GEKAS. Mr. Speaker, Most people in the small community of Milton, PA, were not surprised when Milton's 13-year-old junior all-stars won the Pennsylvania championship in August. They already knew that their kids were champions. But the icing on the cake came when the Milton all-star baseball team triumphed 5-4 in an eight-inning State Championship clincher over Oil City at Veterans Memorial Park in Milton.

Championships are not new to Milton. This year's team effort represents the third Pennsylvania champion team in 4 years. No one will ever forget the accomplishments that led this team from Milton, PA, to the Pennsylvania Little League Junior Division State Championship. Behind all the statistics stands a skillful group of athletes and their coaches who has the uncanny ability to ignite and excitement that has left not only the town of Milton in a frenzy but the surrounding communities as well.

Milton Little League's Junior Division All-Stars, led by coaches James Hafer and Randy Mabus, boasts a 10-1 season. After winning the State title, the team won the first game of the regional contest beating Vernon, CT.

On Sunday, October 25, 1987, Milton Little League will honor the State Champions at a banquet to be held at VFW Post 1665.

The players and coaches are to be congratulated for their outstanding performances both as athletes and citizens of their community. The sportsmanship which was displayed throughout the season is a credit to themselves and the fans who enjoyed watching them play.

Those players contributing to the team's winning effort this year include: Tom Brouse, Matthew Waltman, honorary team member Tony Waltman, Chad Hafer, Lee Kaar, Brent Bastian, Chad Gonzales, Steve Shrawder, Matthew Vargo, Ryan Paling, Chris Burrows, Jerry Bastian, Shane Schneider, Stephen DeLong, Matthew Robol and Buddy Rager. Scott Rearick serves as the league's president.

MINERAL POTENTIAL IN THE CALIFORNIA DESERT CONSERVATION AREA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. LEWIS of California. Mr. Speaker, as the debate over protection and management of the California desert continues, I would like to bring to the attention of my colleagues a letter written by Dallas Peck, Director of the U.S. Geological Survey, to Senator DALE BUMPERS, chairman of the Subcommittee on Public Lands, National Parks and Forests.

During the subcommittee's consideration of S. 7, the California Desert Protection Act of 1987, a great deal of attention has been given to mining in the desert, and the adverse effects S. 7 would have upon this important industry. While proponents of the bill argue that current mining operations have been accommodated by the legislation, Mr. Peck points out that only 19 percent of the acreage proposed for national park wilderness has been surveyed for mineral resource potential and only 32 percent of the acreage proposed for nonpark wilderness has been surveyed.

As the Nation's preeminent geologist and Director of a highly revered and admired professional Federal agency, Mr. Peck's concerns about S. 7 should not be taken lightly. Blind designation of wilderness is extremely dangerous and places future generations in the unenviable position of importing strategic and other critical minerals. Clearly, passage of S. 7 or its House companion, H.R. 371, would set a costly and dangerous precedent for our Nation. I urge all Members to consider this letter prior to forming a position on wilderness legislation in the California desert.

Hon. DALE L. BUMPERS,
Chairman, Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Recently, the Geological Survey and the Bureau of Mines sent you information on the mineral resource potential of California desert lands. On looking further at the issues, we conclude that some additional information and comments regarding the nature of our assessments could be helpful to the subcommittee. We are enclosing a map showing a comparison of areas studied and areas proposed for wilderness in S. 7 (enclosure 1), a preliminary mineral-resource assessment map of California completed prior to our wilderness studies (enclosure 2), specific information and maps of areas we have studied within the boundaries of S. 7 (enclosure 3), and brief summaries of areas that we have not studied that are within the boundaries of the bill (enclosure 4).

We would like to emphasize that we and the Bureau of Mines have not planned or carried out mineral surveys for a substantial fraction of the total acreage proposed for wilderness in bills S. 7 and H.R. 371. Only 19 percent of the acreage proposed for National Park Wilderness has been surveyed for mineral resource potential and only 32 percent of the acreage proposed for non-Park Wilderness has been surveyed. Such surveys are based on surface geologic mapping, geochemical and geophysical investigations, mineral-deposit studies, and geologic inference. These surveys provide essential mineral information for the wilderness land decision process.

The California desert is known for its many mineral deposits. Mineral deposits are abundant because of the variety of rocks and the many natural geologic processes that have affected them. In addition to the favorable geologic factors leading to mineralization, past and current climatic factors have played a key role in the formation of additional types of mineral deposits, such as borates. The proximity to major cities (Los Angeles, San Diego, etc.) makes the Mojave Desert a primary economic source of industrial minerals, such as sand, gravel, and limestone, to fill the needs of the expanding urban areas.

New geologic information, new uses of minerals, changing technology, supply, and supply-demand relations in mineral markets may make subeconomic mineral resources minable and help us find more, as yet, undiscovered mineral resources. The evaluation of an area for undiscovered resources is a complex process, changing with the development of new concepts and technologies. The state of the art of mineral-resource assessment and exploration is constantly improving in terms of accumulated knowledge and available technology. Therefore, areas currently classified as having low potential for mineral resources may be classified higher in the future. As such, our present assessments of undiscovered minerals may be conservative. In addition, new types of mineral deposits, previously unknown and thus not searched for, may be found. A prime example, the so-called invisible gold deposit, was unknown just 20 years ago, yet it is now the major exploration target in the United States. New mining and beneficiation technology can turn formerly subeconomic mineral deposits into economic resources. Renewed assessment and exploration activity are consequences of such innovations. New uses may greatly increase demands for mineral resources. A good example is the rare earth elements, which at one time had few uses, but are now in great demand by several industries.

We hope that the enclosed information will be helpful to you and the subcommittee in determining how wilderness decisions will affect access, exploration, and development of mineral resources.

Sincerely yours,

DALLAS L. PECK,
Director, U.S. Geologic Survey.

TRIBUTE TO L.R. JORDAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. HALL of Ohio. Mr. Speaker, on October 16, 1987, L.R. Jordan retired as president and chief executive officer of MedAmerica Health Systems, the parent corporation of Miami Valley Hospital of Dayton, OH, in my district.

In his 9 years at Miami Valley Hospital, "Rush" Jordan has been responsible for keeping the hospital up to date in the constantly changing health-care field. His improvements include closer coordination with other area hospitals, expanding into new services, and reducing costs by improving productivity.

Rush's leadership extends beyond Miami Valley Hospital to the Dayton community. He serves on the boards of the Dayton Area Chamber of Commerce, the Dayton Philharmonic Association, and other local organizations.

I wish all the best to Rush and his wife, Jean.

INTERNMENT: REMEMBERING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. EDWARDS of California. Mr. Speaker, it was a proud day when the House of Representatives on September 17 voted to approve H.R. 442, the bill to extend the Nation's apologies and provide redress to the 120,000 Japanese Americans interned in relocation camps during World War II.

The Los Angeles Times on October 4, contained two articles which explore the human dimensions of the internment. For the benefit of those who may have missed them, I would like to insert these articles in the CONGRESSIONAL RECORD. I urge my colleagues to take the time to read them.

The articles follow:

[From the Los Angeles Times, Oct. 4, 1987]

INTERNMENT: REMEMBERING

(By Betty Cuniberti)

WASHINGTON.—They were not death camps. But freedom, pride and dreams died a thousand times in California, in Colorado, in Arizona and in Wyoming, in the sprawling makeshift camps to which Japanese-Americans were herded shortly after Japan attacked Pearl Harbor on Dec. 7, 1941.

Imprisoned by their own country for fear that they could be spies who would aid the Japanese, 120,000 men, women and children—two-thirds of them American citizens—were neither formally accused nor convicted of anything. They were simply incarcerated for the duration of the war, their farms and their livelihoods lost.

Across the barbed wire that kept these forced settlers separate from their neighbors sprang a friendship between two Boy Scouts, one a self-described chubby, pimply Caucasian, the other an animated Japanese-American.

SUPPORTING BILL

It was a friendship that lasted long after the war. Today those two former scouts—Rep. Norman Mineta (D-San Jose) and Sen. Alan Simpson (R-Wyo.)—are supporting the Civil Liberties Act of 1987, a bill that would officially apologize and pay $20,000 tax-free in reparation to each former Japanese-American internee still alive, estimated to be about half of the original 120,000. Because of the bill's $1.25-billion price tag, a White House official said advisers would recommend that President Reagan veto the bill, which has passed the House and is expected to pass the Senate soon.

The bill's main sponsor in the Senate is Sen. Spark M. Matsunaga (D-Ha.), who, along with Sen. Daniel K. Inouye (D-Ha.), was wounded during World War II while fighting with the famous 442nd Regimental Combat Team in Northern Italy. Matsunaga's father, a Shinto Buddhist priest, was arrested in Hawaii the day after the Pearl Harbor attack but was later released because of the high respect for the 442nd, a unit of Japanese Americans that became one of the most highly decorated in the history of American fighting forces. Inouye lost his right arm in a battle in Northern Italy.

Unlike other bills that are decided after a flurry of special-interest lobbying and political bargaining, votes for and against restitution are being wrenched straight from the heart.

Stories from the camps are surfacing, some for the first time, as members of Congress share their personal, often poignant, experiences.

FIRST TIME HE SAW FATHER CRY

Kay Mineta had lived in the United States for 39 years when his native country bombed Pearl Harbor. The 53-year-old insurance agent, his wife, Kane, and their five children had just come home from services at the Methodist church when the radio screamed the news. Mineta, a leader in San Jose's Japanese community, went into his office off the porch and closed the doors as frightened neighbors began to rush over, wondering what it would mean. For 10-year-old Norman, the youngest, it was the first time he saw his father cry.

Norman and his close friend, Joyce Hirano, used to crawl under the hedge that separated their houses to visit each other. But on that day, Rep. Mineta recalled, she ran over "yelling, screaming and crying that the FBI was there to take her father away." Joyce's father was the executive director of the Japanese Association of San Jose.

"My dad went over there right away. But by the time he had gotten there, Mr. Hirano had already been whisked away. It was a long time, something like eight months, before the Hirano family ever found out what happened to Mr. Hirano. He was in Crystal City, Tex."

'OH, MY GOD, MY LIFE IS OVER'

It had been a wonderful time in the life of Yasuji Matsui. Born in San Francisco in 1916, he had been able to marry the woman of his choice rather than take a "picture bride," as his parents and in-laws had done in the marriages that were arranged by their families. Yasuji and his American-born wife, Alice, had a 6-month-old baby, Robert, and a thriving produce business in Sacramento.

Soon after the bombing of Pearl Harbor, Matsui received a notice telling him the family was to be evacuated. It also specified, said his son, now a five-term Sacramento Democrat, "to make sure you take forks, spoons, one set of plates for each individual, and, I think, blankets, and sundry items like tooth-brushes.

"My dad told me: 'I just didn't know what to do. I was told I had 72 hours to pack everything, whatever I could carry. I thought, "Oh, my God, my life is over." I've got this child and this business and I don't know what to do.'"

PEOPLE CAME IN FROM EVERYWHERE

Like all 10-year-old boys of that time, Alan Simpson listened to the progress of the war on the radio, re-creating the great battle scenes in his imagination. He had a map of Europe on the wall in his room to plot with red pegs the Axis power victories and with blue pegs the battles won by "the good guys." Shortly after Pearl Harbor, a strange thing happened in Simpson's little home town of Cody, Wyo.

"Suddenly we were told that every able-bodied man in the county, in the area of the Big Horn Basin, should come to this particular office if they had any skills in carpentry or plumbing or fencing or building, and the money was big," Simpson recalled.

"They just dropped their hammers and went out to work at the, quote, Jap Camp, unquote, because the word had got out that there would be a war relocation center built between Powell and Cody. People came in from everywhere to work."

DAILY PICKUPS; RUMOR, PANIC ABOUND

"In January," said Norman Mineta, "all you could think about was, 'What's going to happen to all of us?'"

The answer came Feb. 19 in the form of Executive Order 9066, signed by President Franklin D. Roosevelt and used to move persons of Japanese ancestry, both American citizens and resident aliens, away from the West Coast due to "military necessity."

"Notices were posted on telephone poles, sides of buildings, very large cardboard signs, saying, 'Notice to those of Japanese ancestry, alien and non-alien,'" Mineta recalled. His family immediately began to prepare for their evacuation.

The insurance agency Kay Mineta had owned for more than 20 years was shut down after the state insurance commissioner suspended the licenses of all insurance agents of Japanese ancestry. "They sent out a regular license, but stamped on it was something like, 'Suspended for the duration of the war,'" his son said.

The family's savings accounts in the Yokahoma Species Bank were confiscated. The family dog, a wire-haired terrier named Skippy, was sold to a stranger. And the family car, a brand-new Packard Clipper bought five months earlier for about $1,000, was sold for $300.

"People would come and rap on your door and say, 'I'll give you five bucks for your refrigerator.' They would just walk the streets, going in and out of Japanese homes, offering to buy stuff," Mineta said.

"We'd have a dry run to see how much we could carry, and how much we could pack into a suitcase. There was a list of contraband articles: regular AM radios, irons, cameras, knives, scissors in excess of four inches or so. The only special thing I took with me was a baseball mitt I had gotten as an Easter gift in 1941. You couldn't take a bat because that was a deadly weapon."

The uncertainty grew in February and March as Japanese Americans were being swooped up daily and no one knew exactly where they went. Rumor and panic abounded.

Kay Mineta gathered the family and told them that the children might be separated from the parents; he had heard talk that aliens born in Japan—as he and his wife were—might be sent to different camps or even traded for American prisoners of war in Japan, while Japanese born in America, like the Mineta children, would be herded off to other camps in the States.

"I didn't want to be separated from my parents," Mineta said, faltering. He had been recounting the story over lunch in the House member's dining room, but stopped altogether as he started to cry. Listening in, one of his young congressional aides also started to cry.

The Congressman composed himself. "We should have done this in the office," he said, and then remained silent for a few minutes.

SISTER BORN BLIND

Yasuji and Alice Matsui and baby Robert became Family No. 25261 in the Tule Lake camp in Newell, Calif., just south of the Oregon border.

In the camp, Robert Matsui suffered an ear infection and high fever. He learned years later that he had a 20% loss of hearing in each ear due to nerve damage. His mother became pregnant and contracted German measles. His father, who had been sent to Idaho to work on the beet farm, asked permission to come back and check on his family before the birth. Permission was denied.

Alice and Robert were moved to a camp in Caldwell, Ida., where she gave birth to a blind baby girl, Barbara, in the camp. Robert Matsui said he does not attribute either his hearing loss or his sister's blindness to conditions in the camp. These were things, he said, that could have happened anywhere in those days. "I wouldn't want to even speculate," he said.

While Matsui was a toddler in Tule Lake, a baby girl named Doris Okada was born in the Colorado River Camp in Poston, Ariz. Many years later, the two would meet and marry.

A DAY I WILL REMEMBER

Norman Mineta saw his father cry for the second time on May 29, 1942, when the family boarded the trains for the camp at the Santa Anita race track in Southern California, 400 miles away.

In a letter to friends, Kay Mineta later wrote: "I looked at Santa Clara Street from the train over the subway. I thought this might be the last look at my loved home city. My heart almost broke, and suddenly hot tears just came pouring out, and the whole family cried out, could not stop, until we were out of our loved country."

Norman Mineta remembered: "We left about 1 p.m.; it was lunch hour, so some of my friends from school five or six blocks away came down to the freight yard to see us off. They had armed guards, Army MPs [military police] with bayonet rifles in each car. All the window shades were drawn, even during the daylight, so you couldn't peek out to see where you were.

"There were about a dozen Boy Scouts and half a dozen Cub Scouts in our uniforms and we were designated to be messengers. We could go from car to car, but others couldn't.

"I do recall I had commented about the excitement, I guess you might say, of going on an overnight train ride. It was going to be the longest train ride I'd ever been on to that point. No one knew where we were going to go.

"It is a day that I will remember for the rest of my life."

AN ISSUE OF SHAME

Robert Matsui lived in internment camps until he was almost 4 years old. Although he remembered nothing of the camps, he recalled the foreboding silence that followed, a subtle message of shame that hung heavily over all Japanese-American homes.

"When I was a kid, 11 or 12, I was sitting down with my friend, Eddie Takahashi, in Sacramento in the backyard of my house on the porch. One day he just said, "I wish I wasn't Japanese.' And I said, 'Yeah, me too.'

"We knew exactly what we meant. We were trying to repudiate our heritage or wash ourselves of our heritage because we were interned and there was a sense we were disloyal to our country, that we were spies or aliens, working for the Japanese government," Matsui said.

"My father and everybody in his generation couldn't talk about it. Looking back on it now, I know why they couldn't speak about it. . . . I can't think of anything worse than being considered disloyal to your country.

Matsui says that instead of solving this problem by deciding they didn't love their country anymore, many Japanese Americans decided in an unspoken way that they didn't love themselves. It was a way to make sense of what happened and remain here. "I think that happened to all of us," said Matsui, "a sense of lack of selfworth.

"I have not heard much bitterness [against the government] out of the Japanese American community. You would think, 'My God, how could they not be? But it just hasn't happened. I guess they were very stoic about it. They didn't speak out against it until the last 10 years. Before that, it was an issue of shame.

"One way in which the experience changed my parents' lives is that they wanted us to be mainstream Americans," Matsui added. "They didn't want us to know anything about our culture, our ethnic background. That's why you'll find a whole generation of people about my age who cannot speak Japanese. It's almost embarrassing when I run into somebody from the embassy and they'll speak it. Our parents wanted to really demonstrate their loyalty to their country, that they were really Americans."

THE STENCH WAS STILL THERE

When the Minetas arrived at the Santa Anita camp they were loaded on trucks and taken to the stables, where they gathered enough hay to stuff into mattress covers. "We were fortunate," said Mineta, because we were one of the last ones to go into camp and we were not in the horse stables. We were in barracks buildings that had been built. I remember going to visit friends of ours who were over in the horse stables during the hot months of summer. They might have swept out the horse stables but the stench was still there. How, frankly, they lived in those, I'll never understand.

"We were in a clean barracks building, six of us in one room about 15 by 20. It was literally wall-to-wall beds. Your suitcase became the dresser bureau." As he spoke, Mineta drew a diagram of the camp on his luncheon place mat, making rows of circles for the barbed wire fencing. His barracks was the third row in, and the search light from the guard tower passed through a window back and forth across his face all night, making it difficult to sleep.

"Some say the camps were for our protection," Mineta told his House colleagues. "If that was so, why were the submachine guns pointing in at us?"

For amusement one day, Mineta and a young friend went to watch a riot that broke out when police came to search the barracks for contraband irons—not tire irons but the irons used to press clothing. Bullets whistled by as the two watched from the white paddock fence, so they hit the dirt. Several people were wounded, Mineta recalled.

"Right across the street was the Arcadia Theatre," Mineta added, "and I remember as kids we used to go over to the fence and sit there and look at the marquee to see what was going to be playing at the movies, and thinking, 'Gosh, wouldn't that be nice to be able to go see a movie?'

"We used to take showers in the paddock where the horses used to get showered. Generally, you take showers with friends, so three or four of us would go down there. Over each of the shower paddocks there would be a sign dedicating this shower stall to Man 'O War or Seabiscuit, all the great horses of the day."

"So we would say, "Now, let's see, who are we going to take a shower with today?' "

KEEP UP WITH THE JONESES

In October the Mineta family was put on a train for five days, destined for the camp in Great Mountain, Wyo., where they would live for three years. On the way, the train was to stop in Salt Lake City.

Guyo Okagaki was living in Salt Lake at the time and knew that her family from the West Coast, good friends of the Minetas, would be coming through on the train on a certain day. But she didn't know what time, so she had to spend the day waiting at the station. She had brought her father a box of his favorite cigars to take to Great Mountain.

When the train pulled in, people who had come to the station to visit were kept two platforms away by a string of armed guards. The people ran up and down the platform, trying to spot their loved ones in the various cars.

"She gave the cigars to a guard, who gave them to an officer," said Mineta, who again started crying in the dining room. "The officer opened up the cigar box, went through as if to inspect every cigar and broke every one in half in full view of everybody on this platform. That probably made more of an impression on me than anything else I probably experienced. We all knew Mr. Okagaki loved cigars."

An icy Wyoming wind whistled through the camp as the group arrived at their new barracks, which were larger than at Santa Anita, about 18 by 25 feet, and contained potbellied stoves. "We had regular mattresses this time," Mineta said. The periodic winds would kick up the sand and blow it right through the floorboards, so that the family often had to sit inside with handkerchiefs over their mouths.

"People started becoming very innovative about doing things in these units. They would throw up a string across the room so that the 'living quarters' would be separated by an Army blanket."

Some people made desks out of crates, and the improvements became a kind of "Keep up with the Joneses" affair, with each unit trying to outdo the other. Many of the inmates were from warm California climates and had to order heavy jackets from the Sears catalogue, a favored method of shopping.

"In camp we started getting organized because we knew we'd be there for a long time. There were schools, theaters with candy counters; movies were a dime. So the life was probably typical of what it might have been in any community anywhere, except you had barbed wire, armed guards, the sentries and the search lights."

ABSOLUTE SWIFT RAPPORT

As some 15,000 Japanese Americans streamed into the Great Mountain camp, which had sprung up from a field of sagebrush, Wyoming citizens became full of fears and questions.

"The war hysteria was at high level," Sen. Simpson recalled, "and the people said, 'Do you realize the third-largest city in Wyoming is now sitting between Powell and Cody and what would happen if those people somehow broke out of there and armed themselves? They would take over the area!' "

Storekeepers in nearby Cody hung signs in the windows that said "No Japs allowed," and Simpson recalled one day that someone tacked a message on one store door, saying, "my son was killed at Iwo Jima."

Some townspeople wanted to reach out to the inmates, and Simpson's Cub Scout troop decided it would visit a troop inside the camp and have a jamboree. "We wanted to go," said Simpson, "but we were all a little frightened. If you went out there, might you be captured? We had been playing Japs versus Americans in games."

When their bus finally got by the barbed wire and the sentries, Simpson was struck by the rows of potato cellars the internees had made, and by the scout uniforms the kids wore. "They had merit badge sashes and they played mumbletypeg with knives, where you see how many times you can flip the knife up and have it come down with the blade in the ground.

"I'd say, 'I see you got a health badge. How did you get that?' And the guy would say, 'I went to a hospital and did a report.' There was an absolute swift rapport because of scouting.

"I didn't hear any comment about, 'I don't know what I'm doing here.' I didn't hear them complain. We were into kids' stuff. 'Did you ever see this Blondie and Dagwood?' I thought, God, they have the same earthy humor, the same outrageous stories. Suddenly I realized as much as you can realize at that age that these were just like guys from Powell, Wyoming, or Cody, Wyoming."

Simpson spotted Mineta as a soulmate right away because Mineta was "animated and active, always messing around." Today, each of the lawnmakers claims the other still is the better knot-tier. They became close friends and continued to send each other Christmas cards through their high school years.

Then they lost touch until Simpson read in the Cody newspaper of Mineta's election as San Jose mayor in 1971. A photo caption said the new mayor had been interned in Great Mountain. Simpson, who was then a member of the Wyoming Legislature, called Mineta and they renewed their friendship. Seven years later, they were living in the same city again after Simpson was elected to the U.S. Senate in 1978. Mineta, whose parents are both dead, has been in the House since 1974.

A VERY CONFOUNDING TIME

At the Great Mountain camp, the Japanese-American scouts invited the visitors to see where they lived. "This was row on row on row of tar paper shacks," said Simpson. "The old wind can blow pretty hard in Cody, Wyo. There may be a three-day wind that will pound on you, pound here," he said, pointing to his head.

"I remember distinctly walking inside and seeing a lot of personal things, lamps, teak, tassels. There would usually be a mother but not very often a father because the fathers were maybe 25 or 30 and they were in the United States Army. So on the bureau would be a picture of a U.S. soldier or a Navy guy and they'd say, 'That's my brother,' or, 'That's my father.' And we'd say, 'Well, where are they?' And they were fighting in Italy or Germany. And that would puzzle you as you thought about it for a minute or two.

"Then I do distinctly remember a very lovely woman, white-haired, about 60, and she said, 'Come and sit down. I don't want to know anything about scouts. I want to know, do you have grandmothers? What do they look like? How are they?' "

"She asked what kind of home I had. 'What is your home? What does Cody look like? Maybe I'll see that one day.' And I said, 'I'm sure you will.' I didn't know what's going on. She was thirsting for information about life outside that place.

"Then the mother came in, I suppose she was 40. She asked, 'What is Wyoming like? What is this place, this Heart Mountain? Is Yellowstone Park near?'

"Now that was the most curious conversation I've ever had. It was a very confounding time."

THE SURVIVOR SYNDROME

Long after World War II had ended, in fact during all the time Matsui can remember, his mother kept as many as 100 boxes of Jell-O in her closets. Also boxes of tissues by the score.

"One day I was in San Francisco meeting with some Jewish leaders, and this woman said, 'I have to leave now and go see my mother. She's got all this Jell-O.' And I said, '*What?*'

"She said, 'My mother has Jell-O coming out of the closets.' And I said, 'What do you mean? Because my mother had Jell-O when she was alive; that's all she had, Jell-O, and all these supplies.'

"And she said, 'That's the survivor syndrome.' Her mother was a survivor of the Holocaust.

"And I said, 'My God, I just can't believe that. Here all these years I thought it was just eccentricity.'

"I did a little reading on survivors and found out they have a need to accumulate basic necessities. And Jell-O was, I guess, one because it's something you could keep."

Matsui's 71-year-old father still works for the produce business he went back to after the war.

"My mother has been gone three years now," Matsui added, "and we're still using her tissue paper that's 6 years old."

[From the Los Angeles Times, Oct. 4, 1987]

DEBATE OVER REPARATIONS TRIGGERS MEMORIES

(By Betty Cuniberti)

WASHINGTON.—Passions ran high on both sides of the issue when the House debated reparations.

During his turn at the microphone, Rep. Samuel Stratton (D-N.Y.) exclaimed, "Remember Pearl Harbor? That was not hysteria. That was war!"

Rep. Ron Packard (R-Carlsbad) talked about how his father had been taken prisoner by the Japanese on Wake Island, leaving 17 children struggling to survive back home.

"Would you now ask our government or the Japanese government to satisfy these injustices with a money settlement? Never!" said Packard, who was strongly opposed to the money issue but not to the apology.

Packard shared this story with his House colleagues:

"I was raised in a family of 17 children. My father was a simple carpenter and farmer. We were a very poor family. In 1941, we were about to lose our small farm in Idaho. It was decided my father would accept a job working for a government contractor to build an air base on Wake Island in the Pacific.

A TOKEN SETTLEMENT

"The contract read that workers would be paid from the time they left San Francisco until the time they returned. The contract, of course didn't anticipate war. Wake Island, as many of you know, was bombed the same day as Pearl Harbor. The island fell 15 days later and Dad, along with 1,500 other workers, was taken prisoner. I was 10 at the time and was 15 when he was released at the end of the war.

"No money came for two years. Finally Congress passed a bill that paid $100 a month to the families of prisoners. That didn't even make the payment on the farm, much less feed and clothe the family. At the end of the war there was no back pay, only a token settlement of the contract."

A sizable money settlement, Packard said, "would demean a time when our family learned to work together, pull together and pray together. Money cannot buy the lesson of that experience. That was the beginning of a typical American success story. Our Japanese [-American] friends don't need it [the $20,000 reparation]. Many will not accept it. Our budget can not afford it."

APOLOGY NOT ENOUGH

Five-term Rep. Robert Matsui (D-Sacramento), who was evacuated to the Tule Lake, Calif., camp when he was 6 months old, had this reaction:

"Ron is a wonderful person, a very fair individual. I understood what he was saying. We all have an obligation to die for our country. But one thing we don't have is a responsibility to be incarcerated, to be interned without due process. Maybe in the Soviet Union, but not in this country.

"You know why the $20,000 was essential to the passage of the bill? A mere apology isn't enough."

On Sept. 17, the House voted in favor of the cash reparation, 237 to 162.

"I don't know if there was a vote that had more emotion, at least in my years in Congress" is how Matsui summed it up.

To avoid conflicts of interest, members of Congress do not vote for or against a bill that could directly result in their deriving some financial benefit, but they often vote "present" to show they were there at the time of the vote and interested in the proceedings.

Rep. Norman Mineta (D-San Jose) voted "present" on the bill, saying that "I have not yet decided whether to take the compensation that is part of this bill." He is considering using the money to endow a chair at a California university.

Matsui said he took a different approach, waiving his right to accept the money, because he wanted to be on record as voting for the measure.

HOUSE OF REPRESENTATIVES—*Wednesday, October 21, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for the women and men before us whose dedication has made our experiences more meaningful and our lives more secure. We recognize that we are but custodians of the land and of our Nation, stewards of the resources of our Nation, both spiritual and material, so may we use but not abuse the richness and worth of all the good things given to our hand, and to our responsibility. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

THREATENED EXECUTION OF MOSES MAYEKISO

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, I rise to voice the strongest opposition to the threat by the South African Government to execute a respected leader of the black trade union movement in that country.

The father of seven children, Moses Mayekiso, and his brother have been charged with unsubstantiated violations including treason and sedition—each punishable by hanging. The Botha regime has made these allegations as a direct result of Mr. Moses' successful efforts in organizing residents committees, rent and consumer boycotts, as well as his work as an architect of the black South African trade unions' constitution.

The Pretoria government seeks, by this action, to make an example of Mr. Moses and to discourage the growth of trade union and civic group activism. This ultimate violation of human rights cannot be allowed to happen—nor can the international community permit such atrocities to transpire in silence.

Mr. Speaker, I ask the support of the Members of this House in stopping the proposed execution of Mr. Moses.

THE HARD FACTS OF SEQUESTRATION

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, I am a member of the Housing Subcommittee.

Sequestration. Here are the hard facts: A thousand elderly and handicapped households would be cut off without a penny; 8,700 families who receive rent assistance would be left out in the cold to fend for themselves; the CDBG Program would be slashed by $272 million.

If you don't think those are serious cuts, you'd better take a look around your district.

Count the cities and towns who are trying to rebuild streets and sewers and urban areas with Federal grants.

Count the elderly housing projects. Count the tenants who depend on help from section 8 to pay their bills every month.

Count the public housing authorities struggling to keep bricks and mortar together with $122 million less in their operating subsidies.

Where were the people calling for evenhanded cuts when the President asked for and got lopsided increases in his defense budget? We didn't go across the board on the way up, so why should we go across the board on the way down?

Our job is to make the hard choices required to balance the budget. Sequestration is not a magic wand that will diminish the real and pressing needs of the people. Sequestration is a bureaucrat with a butcher's knife at the throats of the poor and senior citizens of this country.

THE PROBLEMS IN OUR ECONOMY

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, we woke up to some good news this morning. The New York Stock Exchange had bounced back a little, and the Tokyo Stock Exchange went back up. But let us not fool ourselves. The market could crash again because there are fundamental problems with the world and with the American economy, and that lack of confidence, that deep gnawing in the gut that something is wrong, is what caused the market to crash.

Small fixes will not work. It is not the computers or the ticker tapes that are the problem. It is not someone's remark here or someone's remark there that sends the market down 500 points. It is the structuring of the American and world economy.

We have two major problems. First, we are in a new international economy. What happens in Bonn or Tokyo or Rio de Janeiro affects us dramatically here in America, and yet we are in unchartered seas. We do not know how it affects us, why it affects us or when it affects us. In the last 5 years we have seen the economy be internationalized and we have no track record.

Second, we are a nation involved in overconsumption—serious and debilitating overconsumption. Our Government has a huge deficit. Our corporations are interested in short-term profits and borrowing, and not in long-term investment. Our people are much more eager to consume than produce.

We do not have confidence in this economy and we need some help.

An international economic summit and a national summit is what we need. Mr. President, we do not need people talking at the staff level. These are serious problems. We need a major summit to discuss these problems and to try and resolve them, because if we ignore the lesson of Monday's crash it will happen again.

Today the symptoms are in remission, but the patient is as sick as ever.

THE COLONIA WATER AND SEWAGE SERVICE ACT OF 1987

(Mr. ORTIZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ORTIZ. Mr. Speaker, I rise to inform my colleagues that I am introducing legislation that will begin to correct a serious poverty and quality of life issue along the United States-Mexico border. Please join me in supporting the Colonia Water and Sewage Service Act of 1987.

Some of you may not be aware of colonias.

They have existed along the border for many years.

Colonias are unincorporated areas, located outside a city's limits. Rates of disease are high, and a primary reason for this is the lack of adequate sanitary waste facilities and sanitary water supplies. These are rural regions of

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

poverty where the basic necessities of life are not available.

That is why I have introduced this bill to improve the quality of life of colonia residents on the border, and to assist county governments who work with those Federal programs designed to provide these services to low-income rural areas, this legislation will authorize $25 million in grants for section 306 of the Farmers Home Administration and $20 million in grants and loans for section 504 of the Housing Act.

Financially strapped county governments have attempted to accept this responsibility. County officials in my district have tried their best, but they are simply unable economically to do it by themselves. The problems in the colonias are many, but one immediate need that I believe can be solved is the lack of an adequate clean water supply and sewage facilities.

UNCONDITIONAL SUMMIT

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, I support the concept of a summit because I think it is time that we do something about the deficit. But in order for us to have any chance of success, we must go into it, as has been suggested by the Speaker, with no preconditions, including no preconditions that we address the problem by raising taxes.

There must be spending cuts. We must agree that we will look at it across the board. If you are talking about a summit where the Democrats walk in and say, Mr. President, you are going to take taxes and that is how we are going to address the problem, we, the Republicans, are not buying it. It has to be across the board, and that is the way we should approach it.

But I want to say, Mr. Speaker, that if this body is serious about really addressing the economic problems of the country and the deficit, the first thing you should do is to pull the ridiculous reconciliation, tax increase, and spending bill on welfare that you have scheduled for next week. Then we will see if you are serious. Then we can get on with the serious business of the country.

THE EFFECTS OF SEQUESTRATION ON AGRICULTURE

(Mr. THOMAS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Georgia. Mr. Speaker, in the simplest terms, sequestration will mean the removal of 8.5 percent from each of our farmers' incomes. That reduction will literally come out of the hides of our farmers at a time when they have shown the first signs of recovery from a financial crisis equal to the days of the Great Depression.

It is unanimously agreed that the farm bill is bearing the fruits of success planned on by the Congress when it was drafted in 1985. This is clearly illustrated by the fact that farm prices are rising and exports are increasing.

The cost to the taxpayers for the U.S. farm program is expected to drop 37 percent—to $16.2 billion—in fiscal year 1988 compared with 1986 levels, according to the revised budget estimates of the Office of Management and Budget. In large part, that reduction is due to the fact that the 1988 price support figures, which have already been announced, fall significantly below 1987 levels with an 8.5 percent cut under Gramm-Rudman-Hollings, these payments to farmers would decline even further.

The Agriculture Committee has carefully drafted its recommendations to reach the $1.3 billion cut needed to meet its budget reconciliation. Those cuts were designed to provide the most painless impact possible on our agricultural community. Defeat of the budget reconciliation and allowing sequestration to take effect will mean that we are opening a Pandora's box of across-the-board problems for U.S. farmers and this could easily mean the difference between a farmer staying in business or simply becoming another statistic as a foreclosure.

Therefore, I would urge my colleagues to work in a bipartisan effort to avoid sequestration.

REAGAN POLICIES NOT RESPONSIBLE FOR STOCK MARKET CRASH

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, who did not know that the Reagan baiters would seize the platform as soon as possible after the Wall Street aberration to blame the President of the United States for what happened.

They have forgotten completely or refused to acknowledge that the lowest unemployment rate in a generation is also the President's. The steady growth for 60 months of the economy is also the President's. The keeping down of inflation is also the President's. The gross national product upsurge of the last 60 months is also the President's.

The President of the United States is correct. This economy, so long as we do not blast it away, is in good shape. All we need to do as a people and as a Congress is to have confidence that the strongest Nation in the world will remain strong in every arena.

□ 1015

BIPARTISAN SUMMIT TO ADDRESS CAUSES OF STOCK MARKET CRASH

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I take this time to publicly thank the President for accepting your invitation to meet at a bipartisan summit to address the causes of the stock market crash this week. Most Americans already know that one of the reasons for the crash is that we as a nation are living too high, spending too much money, accumulating too much private and public debt.

Mr. Speaker, I propose for consideration at the summit the establishment of a national energy policy, the result of which would reduce the trade deficit. We cannot afford to spend $40 billion a year for foreign oil. This would also reduce the trade deficit, reduce the budget deficit, by cutting the cost of maintaining the farm programs and make us energy independent, provide a clean environment because air would be cleaner for us.

Mr. Speaker, proposing a national energy policy at the economic summit will be an important step toward fiscal sanity.

BIG SOUTH FORK NATIONAL FOREST IS TRULY BEAUTIFUL

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, this past weekend I had the opportunity to go down to Kentucky at the invitation of Congressman "HAL" ROGERS of the Fifth Congressional District. "HAL" has been a good friend and I really appreciated the invitation to come down and see what his district was like. I took my two children and my wife down there.

He took us on a trip through the Big South Fork National Forest. Now we hear all about Yellowstone National Park and the Grand Canyon and everything but we do not hear much about the beauty of the central part of the United States. I want to tell you, my colleagues and people of this country, that the Big South Fork National Forest is one of our hidden treasures.

We had one of the finest times, my family and I, that we have ever had. We went on a canoe trip through that beautiful forest and we saw sights I had never seen before. The foliage was absolutely fantastic. I do not think my children ever had a better time.

So I want to publicly thank "HAL" ROGERS for inviting me down, me and my family down, to see his district and the Big South Fork National Forest and I would urge all my colleagues if you get a chance to go to Kentucky, be sure to go through that beautiful, beautiful national treasure.

OUR HOUSE RULES MAY NEED SOME REFORM

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, yesterday the House instructed the conferees on the Labor/HHS bill to take an action which I hope will not have the negative consequences which it might have.

It is an irony that many of those who have most ardently urged people to fight the spread of AIDS yesterday proposed an action which, if the appropriations conferees are not careful, could interfere with precisely those like the Gay Men's Health Crisis who are doing the most effective job in curbing the spread of AIDS.

But what bothered me yesterday was not just the action that was taken, which is an unwise one, the language is so loosely drafted that it can probably be prevented from having quite as negative an effect as its sponsors intended. What also bothers me is the effect of our rules.

Let me speak generally, Mr. Speaker, now. Our rules allow Members to get up and impugn the motives and attack the character without any basis whatsoever of anybody in the world as long as he or she is not a Member of the House or the Senate. And those same rules prevent others of us from describing what those Members are doing.

As I listened to the debate yesterday and read it this morning, it seems to me that our rules need some revision from the standpoint of equity and I will seek to do this next session; so that unwarranted attacks on decent people can be effectively refuted. But I would close by again expressing the hope that the conferees will look at this seriously and not take the kind of action that would restrict the ability of groups like the Gay Men's Health Crisis to be effective in the fight against AIDS. They deserve our thanks and support; not harassment.

PROHIBITING DOD CONTRACTS TO WARSAW PACT NATIONS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I rise today in protest of a recent multimillion-dollar award by the U.S. Air Force for the procurement of ammunition carriage containers to a European company that will have them built in a Warsaw-Pact country.

The Maritime Administration is investigating this award as a result of the failure of the contractor to certify carriage of the finished products to various points in Europe by American-flag vessels.

Because of DOD's policy action, I plan to have H.R. 3254, a bill designed to prohibit the Secretary of Defense from entering into a contract with a Warsaw-bloc country for transportation services, amended to include prohibitive language to restrict DOD's purchase of containers manufactured in Warsaw-Pact countries.

This prohibitive legislation is needed to ensure that domestic or allied countries receive defense contracts when contracting for transportation services or the production of ammunition carriage containers. Our national security interests are at stake and this amending language to the Defense Production Act of 1950 is in order.

When was the last time an American manufacturing company received a defense contract from a Soviet-bloc nation? If the United States expects to maintain a strong national defense then we must provide the U.S. domestic production of transportation services and such equipment for the next bid.

I urge my colleagues to join me by registering our disapproval in awarding a Warsaw-Pact nation a Defense contract to construct ammunition carriage containers by joining as a cosponsor of H.R. 3254 and support restrictive measures on Warsaw-Pact manufacturers producing and servicing U.S. defense hardware.

WE WORRY ABOUT EVERYONE EXCEPT AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, experts are asking, "Can we, in fact, have another depression?" I say "yes." I say we will have a depression that will make the crash of 1929 look like a fender bender.

The reason is very simple, Mr. Speaker, we cannot miss because we in Congress do not take care of America first. We worry about Japan, we worry about Europe, we worry about Nicaragua, we worry about everybody except America. We send $17 billion overseas in foreign aid but we cut education in America. We spend $90 billion on the defense of NATO countries and they call us Yankees and ask us to go home.

It is time they start paying for their own defense.

I passed a buy-American amendment to the massive defense bill and the Senate throws it out. Foreign nations lobby our Senators and the Congress, in conference here, lets them throw it out.

Is there any surprise to all this? I am not surprised. In fact, if your kids want a piece of the rock in the future, they will have to import a boulder from Mount Fuji.

Mr. Speaker, the answer is very simple; we worry about everyone except America; it is time we start taking care of America first.

MR. SPEAKER, EXPEDITE THE TRADE CONFERENCE COMMITTEE AND AVOID A PROTECTIONIST TRADE BILL

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I congratulate you, I congratulate the Republican leader, Mr. MICHEL, and I congratulate the President for all agreeing to the concept of a bipartisan summit to deal with the deficit and other economic challenges facing our country.

We need to and the American people demand of us a bipartisan commitment to solve the problems before us.

But I must tell you that for words to have meaning they must be followed with actions.

I would suggest that the first and most important action that can be taken at this point in time is for you, Mr. Speaker, to withdraw from consideration next week the very partisan reconciliation bill that is likely to come before us.

We all know the partisan motives under which that bill was developed and presented. We all know that that legislation calls for $13.5 billion in new taxes next year, $60 billion in new revenues over the next three years. We all know that that reconciliation proposal intended to cut spending includes a highly controversial welfare reform proposal that will not cut spending, but will increase benefits and increase spending.

In addition to that, Mr. Speaker, we know that the economy in the market will be assured with a bipartisan effort to deal with our deficit. They will also be assured with a bipartisan effort to send the signal on trade.

Mr. Speaker, expedite the trade conference committee and assure the markets in the world that this Congress will not, in 1987, pass a very protectionist trade bill.

Mr. Speaker, now we need bipartisan action; we ask you to provide part of the leadership.

ON RECONCILIATION: WE NEED A BALANCED APPROACH COUPLING SPENDING REDUCTIONS WITH REVENUE INCREASES

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I rise today to commend the House leadership on their attempts to have an appropriate reconciliation process. As we enter the final week I want to offer my support for a balanced approach, an approach that couples spending reductions with revenue increases.

As we enter that last week I would also ask that we look at another area of balance and that is a balance in the area of spending.

I think as it is inappropriate to look at sequestration and a target of 20 percent of the domestic budget, it is equally inappropriate to narrow our focus on reconciliation to only a small percentage of the overall Federal budget. I think we must cast a wide net, remember who we are responsible to serve in this country, especially those least able to defend themselves, and, again, be balanced in spending and revenues but especially when we look at spending to be more balanced and to cast a wider net.

THE CONGRESSIONAL BASE-LINE TWO-STEP

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, Congressional Quarterly reports that the new Gramm-Rudman sequestrations will cut funding for AIDS research 5 percent below last year's level. This cut concerned me, so I dug a bit deeper.

What I uncovered was number fudging, fear mongering, and outright deception. To set the record straight, the House and Senate have put AIDS at a high priority and both have passed 90- to 100-percent increases in AIDS funding for fiscal year 1988.

The cut is a result of a CBO snapshot that assumes last year's spending level will continue next year. Yet everyone knows that fiscal year 1987 levels are not going to last. As soon as the sequestrations are made on November 20, a new continuing resolution with much higher funding levels, will be passed. As a consequence, sequestration levels will be determined by fiscal year 1987 baseline and then switched and applied to the higher fiscal year 1988 budget levels. This is the "baseline two-step," a process by which the budget will never be balanced.

Sequstrations may look tough and effective on paper, but a close look shows a different story. Like a limbo dancer, you will never really be able to figure out how the congressional two-steppers get under the Gramm-Rudman targets, but deficits continue at market-shaking levels.

THE PLIGHT OF MOSES MAYEKISO: A HUMAN RIGHTS SCANDAL

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, this administration continues to be racist in its implementation of our human rights policy. Moses Mayekiso is facing death by hanging in South Africa. He is a trade union leader guilty of nothing more than organizing his community in a boycott designed to force the local people to stand with the blacks and whites together against outside forces intimidating the local blacks.

Moses Mayekiso is facing death by hanging. He is charged with treason.

Not a single voice in our State Department or administration has spoken up.

This is a human rights case just as human rights anywhere else in the world. Yet we are silent when it comes to death daily in Haiti, we are silent on the imprisonment and brutality exercised against children, black children in South Africa and now we have another situation where a respectable leader guilty of nothing more than doing his duty and organizing his people, is faced with death, and our administration does not speak out.

I think the words of Shakespeare's King Lear are quite appropriate in this case: "Fool me not to bear tamely, touch me with noble anger."

Why do we not have any more noble anger in the United States of America when it comes to deaths in Haiti, deaths in South Africa? Why is not the Judeo-Christian tradition operating to motivate us?

Thank God for the United Auto Workers. They have made a crusade against this particular outrageous sentencing of a trade union leader in South Africa.

I think the rest of us should get on board the campaign to save the life of Moses Mayekiso.

BUDGET RECONCILIATION HEARINGS: THE ROLE THAT WAYS AND MEANS REPUBLICANS HAVE PLAYED OR HAVE NOT PLAYED

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, much has been written in the press about the role that Ways and Means Republicans have played, or have not played, in the budget reconciliation process. Very little of it has been accurate.

When our committee met to mark up revenue legislation, we Republicans expressed our opposition to the partial chairman's mark that was presented. We were not closing a door on further negotiations, we wanted to see the whole package before committing ourselves on any part of it.

The chairman then adjourned the meeting "subject to the call of the Chair." When the Chair finally called, we responded. We have attended every committee meeting open to us.

Some reporters, noting that we Republicans did not take part in the Democrat's caucuses, where the tax bill was developed, said we were on strike. Far from it. That was no strike, it was a lockout.

□ 1030

WALL STREET COLLAPSE OF OCTOBER 19, 1987

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, between September 1, 1929, and July 1, 1932, the value of all stocks listed on the New York Stock Exchange shrank from a total of nearly $90 billion to under $16 billion—a loss of 83 percent. The banking system collapsed, people panicked and the United States and world economies sunk into a crippling depression. Unemployment skyrocketed and the Nation's workers were living in Hoover-villes, shanties, and boxcars, and were selling apples on street corners.

Thanks to a number of significant New Deal reforms, our economy has a strong defense against a repeat of that Depression.

Today we have a strong Federal Reserve System overseeing the banking system and wielding effective fiscal and monetary policy tools.

We created a strong Securities and Exchange Commission and an exchange self-regulatory system over our securities markets.

Federal Deposit Insurance covers bank accounts of up to $100,000 and, in the event of a brokerage failure, investors are protected by the Securities Investors Protection Corp.

Under Federal Reserve Board margin rules, investors can borrow only 50 percent of the value of the shares they buy, thus limiting the degree of speculation and disastrous margin calls that fed the 1929 market collapse.

Moreover, the Glass-Steagall wall between the banking and securities industries insulates savers from the cascading effects of a stock market panic. A host of Government programs, such as Social Security, unemployment, and welfare benefits, help support spending levels.

These protections represent a commitment to the well-being of the American people and to our economy that we must not, and will not abandon or weaken.

The way to deal with collapses of financial markets and related economic disasters is to prevent them from happening before the event. That is the system put in place in the New Deal days. It has been somewhat cut back during the Reagan years but still works.

The only other method of dealing with such a catastrophe is by trying to cure it after the fact. In the 10 dark years following 1929, that was the course forced on the United States. It did not work as well as prevention. The wisely devised system of prevention we now have must be preserved and enhanced. It is, as Monday, October 19, shows, working well.

The Committee on Energy and Commerce will be reviewing these events over the coming weeks and months, and looking, in particular, at program trading as well as margin and position limits in the futures markets.

In closing, I would like to commend the men and women of the New York Stock Exchange who have performed their jobs under tremendous pressure these past few days. Through their efforts, our capital market has met the demands placed on it, and we have no reason to believe it will not continue to do so. My thanks and the thanks of our citizens to all of them.

TIME TO SHOW A PROFIT IN CONGRESS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, 33 years ago today I soloed a jet aircraft in the U.S. Air Force for the first time. It was in your great State of Texas at Bryant Air Force Base, near Texas A&M.

Thirty-three years ago is a long time, but it does not seem so long ago when there is some fond memory to recall.

My solo flight seems like only a few years ago.

On that date, October 21, 1954, the Speaker was walking precincts in Texas looking forward to his first electoral victory and hoping to be sworn in on January 5, 1955. Thirty-three years have brought you to this pinnacle of glory as the Speaker of this great people's House.

That day on the New York Stock Exchange, the Dow Jones Industrial Average was 358.08, and our entire Federal budget for the year was $68,444,000,000.

Our deficit alone this year, according to the Office of Management and Budget, will be $158.47 billion. According to our own CBO, it will be $157 billion. Yet, when the Speaker was walking precincts, the entire budget was $68½ billion, or less than half those estimates of our deficit.

The gavel had been brought down to adjourn the House in the year of 1954 on August 20. It was a Republican Speaker presiding, Joe Martin.

There are only eight people left in this House, and they are all on the majority side of the aisle, who were there to see the last Republican Speaker.

The gentleman from Texas [Mr. WRIGHT] and the gentleman's Democratic team have been in the majority since the gentleman was sworn in on January 5, 1955. They have controlled this Chamber for 33 years and have made deficit spending standard operating procedure. Isn't it about time that they started showing a profit around here?

WAR POWERS RESOLUTION ENACTMENT

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, I join my many colleagues who are justifiably worried that this administration, without any clear policy, is drawing our country into a widening conflict in the Persian Gulf.

I am just as alarmed about another gulf, this one between the President and this Congress—a gulf created by the President's refusal to comply with the War Powers Resolution.

The War Powers Resolution is indisputably the law of the land, and clearly should have been invoked months ago. Yet, the President continues to thumb his nose at the Constitution, and attempts to just ignore the laws he doesn't like.

Our country is a nation of laws, and this disregard for those laws is as much a problem, as great a threat, as any Silkworm missile.

INTRODUCTION OF CONCURRENT RESOLUTION CONCERNING U.S. POLICY IN THE PERSIAN GULF

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, yesterday I introduced a resolution on behalf of myself and the minority leader, Mr. MICHEL. This concurrent resolution would affirm the vital importance to the United States and our allies and friends of actions necessary to preserve peace and security in the Persian Gulf.

When U.S. forces are committed to a dangerous mission overseas, disputes over war powers at home can harm their morale, divide the country, communicate uncertainty to our foreign friends, and send a signal of vacillation to our opponents.

Congress should by all means request regular and full consultation and reporting on the military situation in the gulf. It would be undesirable to set a date for further congressional action, however, since this could tend to undermine ongoing military and political initiatives.

Before Congress moves to pull the plug on the President's authority through the War Powers Resolution or in any other way, it should carefully formulate its own approach.

The resolution I introduced yesterday would be a concurrent resolution, not available for Presidential signature, which would not have the force of law. It contains a set of findings and a policy for Congress to adopt with respect to the current situation in the Persian Gulf.

The time has come for Congress to put itself on the record with respect to the situation in the gulf. The concurrent resolution I have introduced would give the House and Senate a chance to state their findings and policy with respect to that situation, to provide important support for the administration's efforts, and to demonstrate to our own forces as well as to foreign interests that the Congress stands behind the administration's policy.

This is no time to attempt to invoke the war powers resolution or attempt to legislate on the delicate situation in the gulf. I urge my colleagues to support this resolution, which would express the findings and policy of Congress on current Persian Gulf developments. Such a resolution will be an essential step if the Congress is to work constructively with the administration in support of a sound policy on the Persian Gulf.

INVESTIGATION INTO CAUSES OF OCTOBER 19, 1987 WALL STREET COLLAPSE

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, the Subcommittee on Telecommunications and Finance, is today commencing an investigation into the causes of Monday's Wall Street collapse. The subcommittee's investigation will focus on both the macroeconomic factors that contributed to the downward direction of the market on Monday, and the technical factors that governed the speed of the decline.

The first area of inquiry will be program trading. Last July, my subcommittee held a hearing on program trading at which Wall Street and regulatory experts were asked whether the precise scenario which happened on

Monday could occur. In July, they were virtually unanimous in predicting it would not happen. They were wrong. On Monday, of this week we all discovered that program trading was like an incompletely designed new car. It had a great engine that provided tremendous acceleration with little safety risk as long as you were in a bull market. But it provided the same tremendous acceleration without a braking system when you were going downhill. Congress is going to find out how to retool this program trading automobile, but this time with brakes. Investors in America deserve that kind of protection from a technology that can wreak havoc on our entire economy.

DANGERS OF IRAN CONTRA AFFAIR JUST BEGINNING

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, before the last chapter of the Iran-Contra affair is written, we need to consider that sorry episode again.

Some Americans were never really disturbed that laws were broken, that the Constitution was violated, and that the administration lied to the Congress and to the American people.

To those few, consider this: Last week a Silkworm missile was fired from the Faw Peninsula at a ship bearing the American flag. A member of the crew was blinded, and America was challenged.

Perhaps there were many reasons why the administration chose not to attack those Silkworm missiles, and not to destroy them when they were fired.

One reason was certainly this. Those Silkworm missiles are under the umbrella being protected by Hawk missiles being sold by Colonel North and President Reagan.

The Constitution was not the only thing violated by the Iran-Contra affair. So was the security of this Nation.

It was done so with the willing accomplice with our own administration.

Before those in Washington forget, remember this: That for those who represent our country in the Persian Gulf, the Iran-Contra affair and its dangers are only just beginning.

SEQUESTRATION IS A DEVASTATING POLICY

(Mr. ATKINS asked and was given permission to address the House for 1 minute.)

Mr. ATKINS. Mr. Speaker, like most Americans, I awoke yesterday morning with a deep sense of foreboding and trepidation. Bing Crosby was singing "Brother Can You Spare a Dime" on the radio and the headline in the Boston Globe was "The Bottom Falls Out of Wall Street—1929 Again?" My sense of alarm resulted from believing that the economic stability of our Nation was in a precarious state of imbalance. But, it came from more than that. It came from the belief that the sequestration process, which began yesterday, could be as potentially devasting to Americans, as Monday's free fall on Wall Street.

The sequestration process throws programs which are critical to our Nation's ability to remain secure, competitive and compassionate into jeopardy. Just last month a group of business leaders called for increased attention to the special needs of disadvantaged children saying that as a nation we cannot compete and prosper when more than a third of our youth grow up severely undereducated. And yet, as the result of sequestration, we are going to be cutting 450,000 children and 12,600 teachers from the compensatory education program and denying services to 41,000 handicapped children. As the result of sequestration, 1 million students will have their Pell grant awards reduced and 89,000 fewer students will receive Perkins loans.

This grim future can be avoided. There are 31 days left for Congress and the White House to reach a compromise on deficit reduction measures. Let us use this month to discuss, negotiate, and fashion an agreement which takes our budget process off automatic pilot and puts it back on a steady and guided course.

DUTIES OF THE CONGRESS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. (Mr. GRAY of Illinois). Without objection, the gentleman from Tennessee is recognized for 1 minute.

There was no objection.

Mr. DUNCAN. Mr. Speaker, it is always easy to assess blame or claim credit on matters involving the duties of the Congress.

Last night I happened to run across an article or speech that Senator WILLIAM PROXMIRE from Wisconsin made on July 24, 1985, and I shall read a part of that.

He says:

> The series of immense Federal deficits represents the biggest moral and intellectual failure of our Government in this generation. Who is responsible for that failure? One institution: The Congress. The Congress and the Congress alone can authorize appropriations. The Congress and the Congress alone can raise the taxes to pay for Federal expenditures. We cannot pass the buck. The spectacular failure of our Federal Government to bring the budget under control is not the failure of the President or the pressure groups or the people of the country. They cannot spend or tax. Only the Congress can do that. The failure of fiscal policy is the failure of the Congress.

CONGRESS MUST MOVE FORWARD ON RECONCILIATION AND AVOID SEQUESTRATION

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, 1 month from now, unless we act positively, sequestration will begin.

Deep, savage cuts will play across a host of programs, impeding their effectiveness.

The 8.7-percent cut would mean a 50-percent cut in foreign aid programs from the fiscal 1985 level.

It would mean that the number of children participating in Head Start, a group already underserved, would be further reduced.

The cut would mean that over a quarter of a million students would not be served by Pell grants.

One of our biggest concerns is the declining level of safety of our air traffic system. Improvements would not be forthcoming under sequestration. New air traffic controllers, who are critically needed, could not be hired.

Sequestration would mean fewer research grants for the National Institutes of Health, reduced funding for AIDS research and prevention education, many fewer mothers and babies served by the WIC nutrition program.

In defense, 8.7 percent translates to a cut of $24 billion, clearly undermining our efforts.

Our economic situation is going to require every one of us to vote to cut programs we support. I support every progam I have named, but I am willing to take a hard look at them all.

The American people want us to reduce the deficit. They want to see cooperation between the administration and Congress. The Democrats are ready to cooperate. Let us hope that the murmurs we heard from the White House will grow into a roar of cooperation.

The American people want to see positive leadership. Sequestration is not leadership, it is abdication.

Let us move forward on reconciliation.

□ 1045

PARLIAMENTARY INQUIRY

Mr. LUNGREN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The gentleman will state his parliamentary inquiry.

Mr. LUNGREN. Mr. Speaker, several weeks ago when I had a special order dealing with the nomination of Mr. Bork to the U.S. Supreme Court, I was told by the Chair, there was a ruling by the Chair at that time that no references could be made to actual statements or actions taken by the Senate.

I inquired to whether or not an objection had to be registered by a Member present, and I was told no, that was within the prerogative of the Chair.

Earlier this morning reference was made to the President of the United States in which he was characterized in his administration as racist, yet there was no action by the Chair.

As I read Cannon's Procedures and Precedents, Members are to be called to order for references to the President of the United States in language that is considered personally offensive, or language which is considered to be of personal abuse, innuendo, or ridicule of the President, or language that is taken in terms of opprobrium.

Mr. Speaker, I would suggest that referring to the President and his actions as being racist falls either under one of those or all of those. My inquiry is this: Is it not within the prerogative and the obligation of the Chair to call a Member to order for using language such as that which is personally offensive to the President of the United States?

The **SPEAKER** pro tempore. The Chair would state that the gentleman is absolutely correct, if the Chair had heard that. The Chair did not hear any direct reference to the President individually. The references that the Chair heard were to the administration policies; but the gentleman is absolutely correct, but the gentleman would have to raise that point at the time.

Mr. **LUNGREN.** Mr. Speaker, is the Speaker then suggesting to me that when a Republican Member makes a reference to a Senator of the United States, not for criticism, but merely to quote the words of a Senator of the United States with respect to the business before the Senate, that is, the nomination of Mr. Bork either to the Supreme Court or his prior nomination to the appellate court in the District of Columbia, that it is the obligation of the Chair to interject itself at that time, but if a reference is made to the President of the United States by a Member of the Democratic Party, that that requires an objection by a Republican Member; is there in fact a double standard in this case?

The **SPEAKER** pro tempore. The Chair would state to the gentleman from California that the gentleman is incorrect. The Chair would intervene on his own initiative if the Chair heard a personally offensive reference.

Mr. **LUNGREN.** Mr. Speaker, can the Chair indulge this Member and explain how the Chair can tell me that the reference was made to the administration, rather than the President, when the Chair has just informed me that the Chair did not hear it?

The **SPEAKER** pro tempore. The Chair did not hear the reference to which the gentleman was alluding, but let the Chair state rule XIV to the gentleman from California:

RULE XIV.

OF DECORUM AND DEBATE.

§ 749. Obtaining the floor for debate; and relevancy and decorum therein.

1. When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker", and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality. Debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, and to the pendency or sponsorship in the Senate of bills, resolutions and amendments, but may not include other references to individual Members of the Senate, expressions of opinion concerning Senate action, or quotations from Senate proceedings.

That is rule XIV, referring to the information the gentleman alluded to about the other body.

But as far as the Chair, it is up to the Chair, the gentleman is absolutely correct, to call to order any Member who is obviously referring to the President personally in an improper way; but this occupant of the Chair was not in the Chair at the time and did not hear those remarks.

Mr. **LUNGREN.** Mr. Speaker, a further parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state it.

Mr. **LUNGREN.** Mr. Speaker, since the rules are directed to strike from the record references which are in language personally offensive to the President, that is under Cannon's 5-5094, personal abuse, innuendo or ridicule of the President, that is Cannon's 8-2497, or referring to the President in terms of opprobrium, that is Cannon's 8-2497 and 8-2498, since that is the purpose, as I understand the Speaker to suggest, is it now in order for me to move that the words that were spoken earlier in reference to the President in violation of those precedents of the House pursuant to the rules of the House be now stricken?

The **SPEAKER** pro tempore. The answer to the gentleman's question is that the Chair will examine the record and if an improper reference does appear, it would be in order to ask that those remarks be stricken and the Chair would take the initiative.

Mr. **LUNGREN.** At what point in time, would it be appropriate for the Chair to do that,

The **SPEAKER** pro tempore. The Chair will examine the record shortly and consult with the gentleman in the next few minutes.

Mr. **LUNGREN.** Mr. Speaker, I thank the Chair.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON SELECT EDUCATION OF COMMITTEE ON EDUCATION AND LABOR TO SIT ON THURSDAY, OCTOBER 22, 1987, UNDER THE 5-MINUTE RULE

Mr. **OWENS** of New York. Mr. Speaker, I ask unanimous consent that the Subcommittee on Select Education of the Committee on Education and Labor be permitted to sit on Thursday, October 22, 1987, while the House is in session under the 5-minute rule.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. **LOTT.** Reserving the right to object, Mr. Speaker, just to inquire, is the minority aware of this request and do they agree to the request being made here?

Mr. **OWENS** of New York. The minority has been informed and anticipates the hearing.

Mr. **LOTT.** Further reserving the right to object, Mr. Speaker, if the gentleman would withdraw his request at this time so that we could make a call and check on it, we would like to acquiesce.

Mr. **OWENS** of New York. Mr. Speaker, I withdraw my request.

INDEPENDENT COUNSEL AMENDMENTS ACT OF 1987

Mr. **GORDON.** Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 273 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 273

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2939) to amend title 28, United States Code, with respect to the appointment of independent counsel, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 273 is an open rule providing for consideration of the bill, H.R. 2939, to amend title 28 of the United States Code to authorize permanently the appointment of independent counsels. The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and by the ranking minority member of the Committee on the Judiciary. The rule makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment under the 5-minute rule. The bill shall be considered by sections and each section shall be considered as having been read.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

The purpose of H.R. 2939 is to provide a permanent authorization of the independent counsel statute, which will expire in January 1988, if Congress does not act.

This authorization is critical to ensure continuing public confidence in our democratic system. The independent counsel system was established in the 1978 Ethics in Government Act to ensure that a fair, impartial, and thorough investigation is conducted into all criminal allegations against senior executive branch officials.

Investigations of possible wrongdoing by high-level Government officials pose special problems for the Federal criminal justice system. The Attorney General is the chief Federal law enforcement official. But he is also a Presidential appointee who is a key member of the President's Cabinet. The purpose of the independent counsel, Mr. Speaker, is to insulate the investigation of senior officials from personal or political influence, to protect the reputation of innocent officials and to ensure a credible conclusion.

Attorneys General of both the Carter and Reagan administrations have sought the appointment of independent counsels. This legislation has served its purpose well during its 9-year history and its permanent authorization enjoys board bipartisan support.

In conclusion, Mr. Speaker, I want to commend the distinguished chairman of the Judiciary Committee, Mr. RODINO, and the chairman of the Subcommittee on Administrative Law and Governmental Relations, Mr. FRANK, for their leadership in bringing this important legislation to the floor today.

Mr. Speaker, I urge my colleagues to adopt this rule and pass H.R. 2939.

Mr. Speaker, at this time I yield to my colleague from Mississippi. Mr. LOTT, for purposes of debate only.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, I would like to begin my remarks on the rule on the independent counsel bill by quoting words from James Madison, which I think would be very appropriate in describing the independent counsel bill: "It is at best a precarious security."

Mr. Speaker, House Resolution 273 provides for the consideration of H.R. 2939, the Independent Counsel Amendments Act of 1987. Following 1 hour of general debate, the Judiciary Committee's amendment in the nature of a substitute will be considered as original text under an open amendment process.

This is the third consecutive open rule I have managed in the last 2 weeks. In bowling that would be called a turkey. In Rules Committee parlance it is called a miracle. Keep in mind that during the early months of this session some 85 percent of the rules were restrictive, closed, or modified closed, or as the Democrats would call it, modified open. We now have that percentage down to around 42 percent. That is still too high; but the trend is at least in the right direction, and I want to acknowledge that this is an open rule.

Mr. Speaker, while it is open, it does make in order a bill, H.R. 2939, that certainly should not even be considered here today. So I am kind of torn. I really think we probably ought to defeat the rule and spare ourselves the time that would be involved in taking up this legislation. But that is not the way we do business. We will have an open and full debate and it will take the customary time and will have a chance to offer amendments. That is all well and good and I am glad it is an open rule.

Mr. Speaker, if it were not for the fact that I am so concerned about the legislation, I would not take but just a few minutes and we would talk about the rule and go on into general debate. But I am very much concerned about the legislation itself. So I am going to take a few minutes, I might say to the gentleman from Tennessee, to talk about a little of the history not only on this rule, but on the legislation.

□ 1100

The special prosecutor proposal was one of the Senate Watergate Committee's recommendations. It passed the Senate twice, in the 93d and 94th Congress. In the 95th Congress the Senate included in its bill a provision for a special prosecutor to investigate Members of Congress involved in the Koreagate scandal.

A similar amendment was offered in the House Judiciary Committee by then Representative Elizabeth Holtzman to H.R. 9705, but was rejected 7 to 26. The bill was then reported, but was never brought to the House floor. Instead, the House did pass financial disclosure legislation which then was hooked up in conference with the Senate ethics bill, S. 555, which included the special prosecutor provision.

The special prosecutor provision came to the House floor only in a conference report, not as a part of a bill that was originally fully debated and discussed. When the conference report came to the House there was a motion by the gentleman from California, Mr. Wiggins, to reject the special prosecutor provision, but his motion failed.

So I think we should emphasize that when this was first passed, it was just a part of a conference report and it was only a procedural vote.

We had a direct vote, but we did not have full discussion on it.

Let me tell my colleagues what the special prosecutors are doing now. We have four of them. It has just been disclosed that these four public independent counsel investigations have run up bills of nearly $5 million through August, with investigation of the Iran-Contra prober, Mr. Walsh, accounting for almost $3 million of that $5 million.

Mr. Speaker, I would like to point up just a couple of interesting points. Apparently, these special prosecutors need very nice office facilities; in fact, very posh office facilities.

Mr. Walsh's investigation alone has spent $336,579 for office space. I find it also very interesting that this investigation has spent $69,866 for car rentals. A lot of traveling is going on and this is being done on investigations that I thought would primarily be going on right here in this city.

But, if it is the will of the Congress to extend this act and perpetuate this environment of mistrust, there is not valid reason to exclude the Congress from its coverage. The same Justice Department is just as capable of protecting Members of Congress of the same party as it is members of the administration. Moreover, if we extend this same illogic and mistrust a bit more, it is apparent that the same department is also capable of harassing members of the other political party.

Mr. Speaker, we in the Congress already exempt ourselves from far too many laws, mainly on the grounds that permitting the Justice Department to prosecute Congress would violate the separation of powers. Bringing ourselves under the authority of the independent counsel would erase that separation of powers objection. We could, once again, bring ourselves under the same antidiscrimination, health and safety, and environmental laws which now apply to our constituents.

James Madison, writing in the Federalist 57, said that the Congress would be restrained from oppressive measures in part because, and I quote:

> They can make no law which will not have its full operation on themselves and their friends as well as the great mass of society.

Madison went on to write that if this spirit is ever so debased, "as to tolerate a law not obligatory on the legislature as on the people, the people will be prepared to tolerate anything but liberty."

Mr. Speaker, I think that people are becoming increasingly intolerant of the way we have exempted ourselves from laws which we impose on the mass of society. If we must extend this law, which I think we should not do, let us at least make it apply to the Congress, too. In so doing we can begin to bring ourselves back under the other laws we have enacted, as the framers intended us to be.

But having said all that, Mr. Speaker, I must reiterate my previously stated opposition to any renewal of the independent counsel law. This runs completely contrary to what our republican form of government should be all about and that is accountability by our elected institutions of government.

To the extent that we rely increasingly on independent entities such as this, we are undermining the republican institutions that made this country what it is today.

James Madison, writing in Federalist 51, observed that there are two methods of protecting one part of society from the injustice of the other. The first method is "by creating a will in the community independent of the majority." The other method, which he said "will be exemplified in the Federal Republic of the United States is one in which all authority will be derived from and dependent upon society." But "the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of the individuals, or of the minority, will be in little danger."

Madison went on to warn that creating an independent authority "at best, is a precarious security" because in his words, "a power independent of society may as well espouse the unjust views of the major party as the rightful interests of the minority party and may possibly be turned against both parties."

Hamilton got into this discussion, too, in Federalist No. 70, in arguing for a unitary executive. In his words, "the ingredients which constitute energy in the executive are unity, duration, an adequate provision for its support, and competent powers. The ingredients which constitute safety in the Republican sense are due dependence on the people and a due responsibility."

Mr. Hamilton concluded on this point that—

> It is far more safe, there should be a single object for the jealousy and watchfulness of the people—in a word all multiplication of the Executive is rather dangerous than friendly to liberty.

Mr. Speaker, in my opinion, the creation of this special prosecutor authority as a part of the 1978 Ethics in Government Act, was one of the so-called Watergate reforms that went too far in attempting to trim the powers of the Presidency.

Instead of being bound by laws of physical sciences, we tend to follow our own weird law of political science up here. That is a law which says that for every action there is an unequal and opposite overreaction. And, establishing this new fourth branch of government called the independent counsel is a classic example of congressional overreaction.

Think about it, my colleague in the House of Representatives. Think about the independent counsels we have had, not only during this administration, but in the previous administration, during the Carter administration. Do you remember the independent counsel involved with the investigation of the gentleman from Georgia, Mr. Jordan? That was totally uncalled for in my opinion. It was a ridiculous usurption of his rights as an individual and a private citizen. Now these independent counsels are multiplying. I believe it is not necessary. We have a Justice Department to do this job. If they do not do their job, then we can take action to deal with the Justice Department and the administration can remove an Attorney General that will not do the job. An independent counsel, such as we have now, is doing us a disservice. It is costing millions of dollars. We then turn around and say that we should exempt ourselves.

How ridiculous. How hypocritical. Let us defeat the rule, or, at the very minimum, let us make this apply to Congress as well.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to thank the gentleman from Mississippi [Mr. LOTT] for his compliments on the nature of the procedure established by this rule.

Mr. Speaker, since I do not have my "Bartlett's Quotations" with me and have no further request for time, I yield back the balance of my time and move the previous question on the resolution.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I support the concept of independent counsel. I thought that during a previous administration, that high officials in the White House could not appropriately be investigated by the then Attorney General's Office and I do not think in this administration certain former high officials can appropriately be investigated by this Attorney General.

I say that simply because perceptions are important, sometimes more important than reality. I do not mean in any sense to demean the integrity of the Attorneys General involved in the previous administration and this one. I am simply saying there is a question of perception and appropriateness that is all important.

Mr. Speaker, I will support and do support the concept of independent counsel. I must say this bill unwisely expands the independent counsel's power at the same time it diminishes the Attorney General's power. I am very reluctant to see the constitutional infirmities in this legislation which I can see exists, exacerbated by a diminution of the Attorney General's traditional power in an investigation barring him from a determination as to whether specific criminal intent was present or not.

As I say, as we add on to the powers and functions of the independent counsel, we do so by taking away from the Attorney General a traditional function of a prosecuting attorney, prosecutorial discretion, and I think that is a very big mistake.

□ 1110

Second, I think a fatal flaw in this legislation is its failure to include Members of Congress. We cannot have a double standard, we cannot have an elaborate structure or a process set up to investigate and indeed prosecute members of the executive while at the same time standing back from this process and saying we are immune, we will investigate ourselves. That has not worked, Mr. Speaker, and I do not think that even requires further discussion.

We are members of the club. The other body has their club and the Bar Association has its club, and the very notion of an independent counsel to do this investigation and prosecution, if it is good for the executive, and it is, it ought to certainly be good for the Members of Congress, and it is.

So I hope this body will not commit the hypocrisy, of setting forth a process to investigate and prosecute only members of the executive. We are just as capable of error and criminality as anybody else, and God knows we are tempted.

So I hope Members of Congress are included within the ambit of this very good concept.

Last, I think we make a mistake in permitting a runaway independent counsel in the sense that the court may expand the jurisdiction of the counsel without reference to the Attorney General or reference to Congress or the executive. One of the potential flaws in this notion is unaccountability, a runway independent counsel. We have seen some possibility of that happening in one of the pending matters now.

So I simply say let us support the concept, but let us fashion this into a better bill, a more constitutional bill and one that covers Members of Congress as well as the executive.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, one of the concerns I think those of us have with respect to the independent counsel's office is the cost, as alluded to a little earlier by the gentleman from Mississippi. Just so we might know what we talking about, we ought to look at some of the costs involved with specific investigations.

Alexia Morrison, in the investigation she has into former Assistant Attorney General Ted Olson's testimony to Congress about the EPA Superfund scandal has cost taxpayers $7,787. I bring this up, Mr. Speaker, because Miss Morrison is acting on a part-time basis, and as much as we may be concerned about the independence of the prosecutor, we ought to be concerned about the fairness to the accused. Mr. Olson does not know when the investigation may end, there are no time lines there, and Miss Morrison has said or has been quoted as saying that she cannot give any such time lines because she has to do only part-time work here because she has her own law practice to take care of.

An amendment I will offer during this bill, if the bill does pass and we are dealing with the bill itself, is to require that the prosecutors be operating on a full-time basis. It is only fair that when one's reputation is clouded by the announcement of an investigation that with all due dispatch the special prosecutor go forward and try and resolve the questions inherent in the investigation. To do otherwise is to ruin reputations of individuals who have served our country and to not give them the due regard that anybody who is innocent until proven guilty ought to be accorded.

The special prosecutor's status is a special status. The investigations are special in nature. They ought to be prompt in nature, because with people only working on them on a part-time basis because they are involved in their own practice, that is not the case.

I will have such an amendment. I hope that it will be adopted if this bill goes forward.

Mr. LOTT. Mr. Speaker, I am glad to yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would invite all of the Members today to listen very carefully to the debate and keep in mind during the debate a very important question. We are not talking about a Republican administration. We are talking about the Office of the Presidency, and there is a vast difference.

Unfortunately, in the Judiciary Committee many of the votes on the various amendments that I will be offering today here in the House went down party lines. I think that was unfortunate. However, there were some departures from it for which I was grateful.

But what we are talking about is right now the power of the executive to investigate itself. The Constitution, article II, section 3, specifically provides in stating the President's responsibility: "He shall take care that the laws be faithfully executed and shall commission all the officers of the United States." That is just as plain as possibly can be stated because that is stating a direct quote from the Constitution itself.

Further, if you take the independent investigator away from the executive branch where you may think that from a standpoint that is the way you might like it to be, we have to look at what we are supposed to do under the Constitution, and the Constitution is very clear in this regard. In pursuit of that, I am going to be offering a number of amendments. These amendments are going to bring the bill that is before us more in line with existing law.

I quite frankly have grave questions about existing law and to the constitutionality of it. I think it is stretching the fabric of the Constitution beyond its tolerance.

However, in an attempt to try to patch up the bill that is before us so that there may be a greater possibility that it will undergo the challenges that are inevitable on the question of constitutionality, I will be trying to bring it more under the powers of the executive so that we can find it is constitutional.

One other item that I think we will be considering is the expansion of the law into the Members of Congress. This has gotten a great deal of attention in the last few weeks. I think it is vitally important that we as a Congress put upon ourselves the same responsibility and the same chance of prosecution or the chance that we would come under independent counsel as the administration itself.

The same argument applies as to conflict of interest. There are obvious conflicts of interest between the executive branch and dealing with Members of the legislative branch. So I would ask that all of the Members listen carefully to the debate today.

I support this rule. It is a good rule. I want to thank the chairman of the full committee and the subcommittee for supporting the open rule that is before us today, and I would urge the Members to vote "yes" on the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I had hoped that we could confine the debate to the general debate time, but since Members of the minority have decided they wanted to start making substantive arguments now, I think it requires us to respond.

People should understand where we are here. In 1982, in December, the current law under which we are now operating and which will expire in a couple of months, was reenacted. It was supported overwhelmingly by Members of both parties. However, the gentleman from Mississippi [Mr. LOTT] gets today's consistency award. He voted against it in 1982. He is one of the few. Most of the Republican members of the Judiciary Committee who today sit on the committee who voted in 1982, not everybody voted, it was in December, but everybody who voted, voted for this bill. Ronald Reagan signed the bill, and I trust my friend from California will not think I am referring inappropriately to the President if I note the fact that he signed the bill. I make no comment on the extent to which he understood the contents of what he signed, because having signed the bill in 1982, Ronald Reagan now thinks it is unconstitutional, and this was a free standing bill. This was a vote on this bill only.

So all but about 40 Members voted for the bill. All of the Republicans now sitting on the Judiciary Committee, including the ranking member of the subcommittee and the ranking member of the full committee, voted for the bill.

Having signed the bill, the President later decided that it was unconstitutional. The only thing that has occurred since then that strikes me as having changed his mind is the indictment of several of his close aides. I do not think that rises to the level of a constitutional reexamination.

What we have is a situation where the President signs the bill in 1982. There are then investigations which make him unhappy, and we are now told it is unconstitutional, and my colleagues on the other side are telling us the following things today:

First of all, most of them voted for the bill in 1982, the one we are now under.

Second, they tell us it is probably unconstitutional, the bill they voted for and the President signed.

Third, they are telling us what we ought to do is to take this bill they voted for in 1982, and that they now think probably is unconstitutional, and extend it for 2 years so that we can have 2 more years of unconstitutionality.

Finally, they are asking if we cannot just extend this unconstitutional bill that they voted for in 1982 for 2 years, 2 more years, but that we ought to extend it to cover Members of Congress.

I hope they will be arguing these points one at a time, because arguing them simultaneously seems to me to tax even the flexibility of the most rhetorically limber of the Members on the other side.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I am glad to yield to the gentleman from Florida, the ranking minority member.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding. I think, much to the credit of the gentleman in the well, one of the reasons that many of us are questioning the constitutionality of this is because the gentleman has held hearings on it, and called witnesses on both sides of the issue, and they have raised constitutional questions which are very serious.

Also, second, the bill before us today is not the same bill that was before us in 1982.

At some time during the debate, I am going to offer an amendment that would simply extend existing law through 1988.

Mr. FRANK. I understand that.

Mr. SHAW. Third, with the experience that we have had with this bill, with existing law over the last several years, we have spent millions and millions of taxpayer dollars and we have not convicted one single person.

Mr. FRANK. I take back my time. The gentleman is factually wrong, and I hope for the last time today. There have been two convictions. Mr. Walsh was appointed an independent counsel and secured convictions of two individuals, Mr. Channell and Mr. Miller for abuse of the Tax Code. So we have two convictions.

Second, I want to say to the gentleman that he says he is just for extending the current bill, but the current bill is the one he tells us is probably unconstitutional.

I have been here 7 years. I have for the first time today listened to Members say on the floor, as they said in their report, that a bill that they think is unconstitutional should be extended. It is true we do not think it is unconstitutional. We cite in our majority report the fact that six judges who have dealt with this, Federal judges appointed by all kinds of Presidents, say it is constitutional.

But I must concede the minority was able in the dissenting views to come up with a judge, who I will name, who said it was probably unconstitutional. Those who are surprised that the name of that judge is Robert Bork will be caucusing in the third phone booth in the Republican Cloakroom after this debate.

I agree that the bill we have today is different. It is different in minor respects, because I want Members as I close here to understand the general thrust of the administration's argument about the unconstitutionality. They believe that the counsel investigating them must be able to be fired by the President anywhere, any time, any place. We have on the Republican side today and in the White House the only people in America who are nostalgic for the days of the Saturday Night Massacre. They thought firing Archie Cox was fun, and if you say to them can we not have a mechanism for an independent prosecution, do you really think Ed Meese is the best one to investigate Michael Deaver and Lyn Nofziger?

It is no criticism of the Attorney General personally to say he is probably not the best one to investigate his close working companions. But they say no, we will do it like we did in 1973. First we appoint an independent counsel. Then we fire the independent counsel when he gets too close, and then there is a fire storm of criticism, and then we will appoint another one. Wasn't that a good time? I do not think so. I do not think that it is a good way to run the Government.

Mr. SHAW. If the gentleman will yield again, I must correct the gentleman's statement in saying there are six cases that have ruled on the constitutionality. That is not true.

Mr. FRANK. I will take back my time. I said six judges have indicated that it was constitutional, if the gentleman will look at the words. I did not say that six cases have ruled it was constitutional. I said six separate judges have indicated their belief in its constitutionality. It was not always directly before them.

Mr. SHAW. Would the gentleman then agree with me that the cases he is referring to except for one the statements were either in a footnote or in dicta, and that only one case has actually ruled on it, and that case is on appeal?

Mr. FRANK. I will be glad to take back my time and agree not only with the gentleman but with myself, because that is exactly what I said. I think I said six judges indicated it was constitutional.

□ 1125

Mr. LOTT. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore (Mr. GRAY of Illinois). Pursuant to House Resolution 273 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2939.

The Chair designates the gentleman from North Dakota [Mr. DORGAN] as Chairman of the Committee of the Whole and requests the gentleman from Tennessee [Mr. GORDON] to assume the Chair temporarily.

□ 1126

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2939) to amend title 28, United States Code, with respect to the appointment of independent counsel, with Mr. GORDON [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN** pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I am honored to be able to yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO], the chairman of the full committee who has been with this whole issue for its entire life and who is the leader who has, I think, been responsible for some excellent public policy in this area.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, first let me commend the chairman of the subcommittee for his industry and diligence in pursuing this matter, which is very significant, very important, and I am hopeful that the whole body today will see the wisdom of extending this legislation which serves such a very useful purpose in our system of justice.

Mr. Chairman, H.R. 2939, the Independent Counsel Amendments Act of 1987, provides for the permanent authorization of the independent counsel statute. This bill is one of the most important pieces of legislation that Congress will consider this year. The authorization of the independent counsel statute is critical for several reasons:

First, this statute will expire in January 1988 if Congress does not act to reauthorize it.

Second, there are at least four independent counsel invesigations currently being conducted. These investigatios will be jeopardized by failure to reauthorize the statute under which they operate.

Third, the statute maintains public confidence in the fairness of our legal system and the integrity of our Government.

A democratic government is only as strong as the trust and confidence of the people in its public officials. I believe it is important that there be no cloud over the dispensation of justice. There have always been, and no doubt will continue to be, instances in which the public will be more confident in the result of an investigation, no matter what the outcome, if a completely impartial, independent person conducts the investigation.

The purpose of the independent counsel statute is to ensure that criminal investigations of high-level Government officials are carried out impartially and without favoritism. The Attorney General is the chief law enforcement official of the United States. He is also a Presidential appointee who is a key member of the President's Cabinet, and in most instances, a close personal friend of the President. Public confidence in our system of Government requires that the Attorney General not be responsible for investigating and prosecuting high-level executive branch officials with whom he serves the President.

This statute was designed to achieve certain goals: To ensure that an aggressive, unbiased, and thorough investigation is conducted into all criminal allegations against senior Government officials; to ensure continuing public confidence in our democratic system and to protect the executive branch from unwarranted suspicion; to insulate the investigation of senior officials from personal or political influence and therefore to ensure that its conclusion will have the fullest credibility; and to afford protection to the reputation of any innocent official subject to investigation. It is precisely because the independent counsel's investigation is independent that its results are deserving of trust.

As reported by the Judiciary Committee, H.R. 2939 is substantially the same as current law in most respects. For example, the covered persons under H.R. 2939 are the same as current law, as are the standards to be applied by the Attorney General in deciding whether to conduct a preliminary investigation under the statute.

Most of the changes to the current statute that are contained in H.R. 2939 are clarifying amendments which were drafted to address specific problems encountered with the current law or to make legislative intent clear in statutory language.

The two major substantive changes from current law contained in this bill are: First, a permanent authorization of the independent counsel statute; and second, specific ethics requirements for independent counsel, their staffs, and their law firms.

The independent counsel statute has been in existence for 9 years now. It has served its purpose well and should be permanently authorized.

One wonders why the current Department of Justice is doing everything possible to sabotage the statute. The Department, representing the administration, has attacked the statute on constitutional and policy grounds. It has gone into court to attempt to invalidate it.

This statute and the constitutional questions involved have been thoroughly considered by the House and Senate during many Congresses. Two Presidents signed it, neither of whom expressed any concern about its constitutionality.

In 1982, Congress reconsidered the special prosecutor statute, tightened the triggering mechanism for the preliminary investigation, and changed the name to independent counsel.

President Reagan signed the reauthorization (Public Law 97-409) of this statute in January 1983, and did so without expressing any concern or reservation about its constitutionality.

Since this administration came into office in 1980, there have been six public independent counsel investigations and reportedly two nonpublic independent counsel investigations. These independent counsel investigations involve former high-level officials of the current administration and the Attorney General himself. And, of course, the Iran-Contra affair is a current independent counsel investigation of which the entire country is aware—which was requested by the President.

As the Judiciary Committee noted in its report when this statute was first enacted in 1978:

> Few people disagree that there are occasions when it is necessary to have a special prosecutor who is independent of the Attorney General. Investigation of possible wrongdoing by high-level executive branch officials poses special problems for the Federal criminal justice system.
>
> The Attorney General is at the same time the chief Federal law enforcement official and a Presidential appointee who is a key member of the President's Cabinet. Cases involving possible wrongdoing by high-level executive branch officials, therefore, present a fundamental institutional conflict of interest.
>
> * * * * *
>
> In addition to the public concern about the vigor and thoroughness of the investigation, however, the conflict of interest situation has another dimension. The proper exercise of discretion may require no prosecution or plea bargain. Public acceptance of such a decision is more likely to occur if someone without a conflict of interest—such as an independent prosecutor—makes the decision. Thus, an independent special prosecutor, by being able to make hard decisions free of a conflict of interest, serves to help protect the good name and reputation of innocent persons wrongly accused of crime. (H. Rpt. No. 95-1307, 95th Congress, 2nd Session, Special Prosecutor Act of 1978 (1978).)

This statute carefully limits its coverage to those individuals and relationships which create the greatest potential for a serious conflict of interest if the individual were to be investigated by the Department of Justice.

It is critical that this statute be reauthorized. We simply cannot afford to return to the pre-Watergate era, where the Attorney General may appoint an independent counsel, but can fire him just because the administration doesn't like the direction the investigation is taking.

I believe that our experience with this statute, including the number of times it has been necessary to utilize it, demonstrates that this mechanism must become a permanent part of our law.

Ours is a system where no individual or public official is above the law. The passage by the House today of this important legislation reaffirms this fundamental principle. The independent counsel statute maintains public confidence in the fairness of our legal system and the integrity of our Government.

I strongly urge my colleagues to support H.R. 2939, as reported.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I previously stated during the debate on the rule, we are going to be focusing here on three basic areas. We are going to be focusing on the constitutionality of the bill before us. We will attempt to take those areas that are more than gray areas, but really dark areas, which in our opinion are blatantly unconstitutional and we are going to try to patch it up and try to make it constitutional.

The second area that we are going to be talking about is the amendment that is going to apply this to Members of Congress, of which much has already been said. Third, we are going to be talking about the tremendous expense that present law has been to the taxpayers of this country.

Let there be no mistake about it, the bill before us greatly expands the jurisdiction and independence of the special prosecutor. No one is going to deny that. That is exactly what it does. By doing that we take the fabric of the Constitution which is already stretched beyond tolerable limits and we rip it. We take discretion away from the Attorney General in many,

many areas. One that I would like to talk about is the question of criminal intent. The Attorney General cannot make a determination on criminal intent unless it is backed up by something else. What does this mean?

It means simply that in a situation where an allegation has been raised and the question lies upon the question of whether or not the Attorney General believes there was criminal intent, the Attorney General is required at that point to go to the court, have a special investigator appointed to make that decision that he was appointed by the President to make.

Now the special prosecutor himself, under existing law, is appointed by a three-man court upon petition of the Attorney General. The Attorney General sets forth the area that he wants investigated.

After that area is defined, the court makes the determination that a special investigator should be appointed and I assume that they do that automatically, and a special investigator is then appointed by the judge to investigate within those guidelines. Those guidelines are greatly diminished in the bill before us and the special prosecutor can then investigate in other areas that are designated in the bill or he can then unilaterally and by himself go back to the court and ask for an expansion of his authority.

That authority then is taken completely out of the hands of the Attorney General.

Now you may wonder, "say what is wrong with that? That eliminates further problems of conflict of interest." That argument is a good argument until you go back and look and see what the Constitution says.

□ 1140

The Constitution says that the President shall "take Care that the Laws be faithfully executed and shall Commission all of its Officers of the United States." That is again a quote from article II, section 3.

At all times during this debate, at all times during consideration of the amendments it is vitally important that we go back again to our Constitution and examine what the Constitution says. The framers of the Constitution were very, very cautious that the powers of the Federal Government, the powers of the executive, the judicial, and the legislative branches, were specifically set forth. I think it is also very important that we take this document out and read it during the debate today.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK. Mr. Chairman, I am very pleased to be able to yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN], a freshman Member of this body who, as a member of the Subcommittee on Administrative Law, put a great deal of very creative work into this bill and is partly responsible for the product that we are so proud of today.

Mr. CARDIN. Mr. Chairman, I thank the gentleman from Massachusetts for yielding this time to me, and I rise in strong support of H.R. 2939.

Mr. Chairman, I would first like to compliment the chairman of the subcommittee, the gentleman from Massachusetts [Mr. FRANK], for the leadership he has displayed in bringing this bill before the House. As has been pointed out on both sides of the aisle, the gentleman from Massachusetts [Mr. FRANK] has given everyone an opportunity to be heard on this very important statute.

I also want to compliment the chairman of the committee, the gentleman from New Jersey [Mr. RODINO], for the high priority this particular statute has been given in the Judiciary Committee and in bringing this bill to the floor.

I ask my colleagues not to forget the reason why in 1978 the Congress enacted the Ethics in Government Act that included the part of the law that authorized the independent counsel. At that time we were very concerned with the effects of Watergate on the credibility of our Government and on public confidence.

The reauthorization of this act is absolutely vital if we are going to be able to restore public confidence in Government, so that we can assure the public that where conflict exists, where a prosecutor is asked to look into alleged violations of the criminal statutes by individuals in high office, by the President or the Vice President or by Cabinet-level officials or officials in the Justice Department, we have a mechanism in Government that allows an independent review of those circumstances so that we can reduce the amount of cynicism in Government among our people.

Mr. Chairman, I think this is very important. My colleague has indicated that we have made changes in the bill that came out of the committee. In fact, we have reauthorized and made permanent the statute, and the only changes that are found in this bill over current law are changes that are brought about because of problems that have occurred since the last reauthorization in 1982. I think Members will find that each change that has been suggested has been made because of a problem that came out as a result of some investigation since 1982.

I urge my colleagues to reject any effort made to add by amendment significant changes in the independent counsel law. This bill is too important, too important to this Congress and too important to the people of this Nation, to consider a change by way of amendment. I particularly refer to including Members of Congress. There has been no problem on investigations of Members of Congress, and I urge my colleagues to stick to the law that we have before us.

Let me just comment very briefly, if I might, on the constitutionality of this particular statute. There has been much said about the constitutionality of the statute, but let me quote, if I might, from Judge Robinson. Judge Robinson is the judge who heard the case in which we do have a ruling on the constitutionality of the independent counsel statute. Judge Robinson said:

> The independent counsel provisions of the Ethics in Government Act represent Congress' measured response to the recurrent question of how to inforce the laws of the United States when they are violated by high government officials. Congress chose to use its authority, well settled under the Constitution and Supreme Court precedent, to create a mechanism to guarantee the integrity and independence of criminal investigations in matters where the Department of Justice has real or apparent conflicts of interest. By carefully assigning the functions necessary for the accomplishment of its purpose, it has constitutionally addressed an important national need.

Mr. Chairman, I urge my colleagues to support the bill and reject amendments.

Mr. SHAW. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, the gentleman from Massachusetts did pose an interesting question some time ago, which is why some of us supported passage of the statute in 1982 and may have some problems with it today. I would say they primarily revolve around the question of constitutionality.

To suggest that if a constitutional question has arisen over the statute, we ought to ignore it and we ought to be absolutely bound by our previous discussion and previous decision seems to me to suggest that we are nothing but automatons, and that somehow ignorance is bliss and we ought to follow that old proverbial saying, "Don't confuse me with the facts."

I do not think that is what we ought to do here. I do believe that we have a problem. How can we assure that certain individuals who may be members of the executive branch or former members of the executive branch may be investigated fully and fairly without an overwhelming conflict of interest? There is no doubt in my mind that that is a problem that is difficult for us to deal with. At the same time, if the Constitution throws an impediment in our way, we have to at least recognize the impediment and attempt to not avoid it or attempt to emasculate it but attempt to work with it.

One of the things that ought to be crystal clear is that ever since its passage, attorneys general in different administrations have expressed their doubts about its constitutionality. As we mentioned before, former Attorney General Griffin Bell acknowledged that he supported enactment of the statute in 1978 despite his "considerable doubt" about its constitutionality, and he, of course, has now urged that the law be allowed to expire.

I happen to think we ought to be concerned about where the current statute is with respect to court matters. As this matter is before us on the House floor, the Court of Appeals for the D.C. District sits in deliberation over its constitutionality. One wonders, why this rush to judgment? Will it be for naught? Will we have basically extended a principle which the Federal courts will have found to be unconstitutional? If the current statute is constitutionally dubious, this legislation is certain to be stricken due to an even greater usurpation of what is essentially an executive branch function.

We ought to look back and recognize that the Constitution was influenced by Montesquieu's theory of distinct and separate departments of government, not because that makes government more efficient, not because that allows the most efficient prosecution of all cases, for instance, not because it allows for the most efficient passing of laws or even execution of laws, but, rather, as a check on government tyranny.

Article III, section 2, limits the judicial power of the United States to cases or controversies. Under the Ethics in Government Act, Congress has invested the judicial branch with something beyond that, with wide-ranging powers that have no roots in any particular case or controversy. They may become cases or controversies, but they are not cases or controversies in the legal sense, in the constitutional sense.

The Supreme Court has consistently held that Congress cannot impose nonjudicial functions on the courts. "Neither the legislative nor the executive branches can constitutionally assign to the judicial branch any duties, but such as are properly judicial, and to be performed in a judicial manner." That is a note to the Hayburns case, 2 U.S. 409 (1972).

As Justice Harlan argued in Glidden versus Zdanok, requiring the courts to perform executive tasks or to act as legislative commissioners would undercut the framers' desire to safeguard the independence of the judicial branch from the other branches by confining its activities to "cases of a judicial nature."

There is no evidence to suggest that the framers of the Constitution—if we still consider that to be an important consideration, and I do believe it should be—that the framers imagined that judges would be assigned the authority by Congress to appoint officers that would perform executive functions.

It cannot be any other way. Without the applicability of the separation of powers, we would have the judicial branch appointing those who would prosecute the criminal cases. This star chamber scenario is as far from the constitutional framework as one can get.

As Madison explained:

> (For) the preservation of liberty, it is evident that each department should have a will of its own: and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others.

We may not like it, but that is what Madison said.

That seems to speak directly to this point. The prosecution of crime and the investigation prior to the prosecution of crime is the function of the executive branch, not the courts.

So, therefore, there is no justification for treating prosecutors as the kind of inferior officers that courts may appoint under article II, section 2.

While there was a case where an interim U.S. attorney was appointed by a Federal court, that is not an appropriate precursor for the independent counsel. First of all, that was never tested in any court, and second, the President could have gone on and appointed his own person.

Mr. Chairman, many times we are stopped in this Chamber from doing things because people say the Constitution does not allow it. Many times we have to explain to our constituents why something seems to interfere with the investigation of criminal activity. Some criminals are actually perpetrators of crimes—at least all the evidence suggests that—and are allowed to walk on our streets because of the "technicalities of the law." Sometimes that is because the court has gone beyond what many of us would consider to be a reasonable interpretation of the Constitution. Nonetheless, when it is a reasonable interpretation of the Constitution, we recognize that that is an impediment we cannot scale.

Mr. Chairman, here we have the same situation. Constitutionality is a question that ought to be faced, not only by the courts but also by us as well.

Mr. FRANK. Mr. Chairman, I am very pleased to yield 6 minutes to the gentleman from New Jersey [Mr. HUGHES], one of the distinguished members of the Judiciary Committee and one of the experts in the House on matters of criminal justice.

Mr. HUGHES. Mr. Chairman, first, let me congratulate the chairman of the subcommittee for an excellent job in drafting a very important piece of legislation, reauthorizing the Independent Counsel Act, and the chairman of the full committee, the gentleman from New Jersey [Mr. RODINO], for providing the kind of priority he has accorded to this particular legislation.

Mr. Chairman, the independent counsel legislation has served us well. It should be continued, as this bill provides. I urge its enactment.

The independent counsel, originally called a special prosecutor, was originally provided for in a 1978 act, passed by a Democratically controlled House and a Democratically controlled Senate and signed into law by a Democratic President.

Some fine tuning was done in the law in 1983, which was passed by a House controlled by Democrats and a Republican Senate, and signed by the President.

The legislation is not, as this history indicates, politically motivated or politically partisan legislation. Indeed, it is the opposite. The essence of the legislation is a requirement that anytime credible allegations of criminal wrongdoing are leveled against a person appearing on a list of high-ranking executive branch officials, those allegations must be investigated and evaluated by a person independent of the administration whose official is under scrutiny. Almost all of the enumerated officials covered by the act are political appointees of the President, and thus placing control in an independent counsel is a step which tends to depoliticize the consideration of the charges in question.

In fact, almost all of the special prosecutor and independent counsel investigations have concluded that criminal prosecution of the charges was not warranted. There have been only two convictions, both this year, and both resulting from guilty pleas. Clearly, the act has not generated runaway, overzealous prosecutors conducting star chamber proceedings.

In 1983, we made some modest adjustments in the law based on experience to date. Today, we are considering a bill which essentially does the same thing.

One change we made in 1983 was to change the name of the office from special prosecutor to independent counsel. The title special prosecutor was not really descriptive of the office, since no prosecutions had been brought. In fact, the Michael Deaver trial just commencing is the first trial under the act.

The present title, independent counsel, is not really accurate either. The counsel is not independent of the Department of Justice, in that no independent counsel can come into existence except by act of the Attorney General in applying for the appointment of such counsel to a special three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit. I point this out not in the interest of precision in nomenclature, but to illustrate that this law is fine-tuned to involve the interaction of all three branches of Government to address difficult situations which test the fairness of our criminal justice system and the integrity of our political processes.

The function of the Attorney General is to make a preliminary investigation of charges leveled against any one of the statutorily enumerated officials, and to determine after this investigation if there are, in the words of the statute, "reasonable grounds to believe that further investigation is warranted."

The law is well balanced from both the point of view of preserving a role for the Department of Justice in evaluating allegations of criminal wrongdoing, and from that of taking ultimate prosecutorial decisions out of the hands of political appointees when other political appointees or political party officials are the subject of the allegations.

Another interest that is well served by the process is the interest of the individual who is the subject of the charges. As I previously noted, most of the special prosecutor/independent counsel investigations have been closed with no criminal charges being filed. These decisions have been accepted as fair and objective, and the vindication that targets of such investigations have rightfully claimed has not been tainted by allegations that the vindication was the result of a "fix."

Significantly, the controversy has almost all swirled about the stages of the process which are under the control of the executive branch.

For example, this administration has been the subject of controversy in its failure to begin preliminary investigations, thus effectively shutting off the processes of the law which can lead to the appointment of an independent counsel. Similarly, several decisions not to apply for appointment of special counsel following preliminary investigations have been strongly criticized, as have failures to support expansion of investigations being conducted by independent counsels.

Experience has shown that in situations involving politically charged atmospheres and substantial interbranch tensions and conflicts, the processes of this stature can bring us through to effective and fair results. For these processes to work, however, the transition from control of the investigation in the hands of the Justice Department to control in the hands of a court-appointed independent counsel must take place at the proper time—not too soon or too frequently, and not too late or too rarely.

I believe the law provides properly for that transition. The judgment made in 1983 was that the original act tilted too far in the direction of referral, and that was scaled back somewhat. Recently, handling of a number of investigations cause me concern that Justice Department officials are improperly withholding application of the statute. In this regard, it is important to recognize that the role of the Attorney General under the act is to make a preliminary investigation to determine if further investigation is warranted, not to conduct a full investigation and to decide if indictment should be sought or if the subject of the allegations is guilty of criminal conduct.

With this objective in mind, I sponsored an amendment at full committee which was adopted, providing that the Attorney General may not refuse to apply for the appointment of an independent counsel on the grounds that he or she feels that the subject of the allegations did not have the requisite criminal intent. Determination of criminal intent is not an appropriate conlusion to be reached in a preliminary inquiry. Furthermore, in some instances an absence of criminal intent has been asserted as a basis for precluding further investigation in circumstances which suggest that, properly applied, principles of criminal intent would compel even the ultimate trier of fact to conclude that the requisite criminal intent was present.

□ 1155

Determination of criminal intent is not a conclusion to be reached in a preliminary inquiry. You cannot take a snapshot of criminal intent. You have to glean it from the circumstances, and that is a conclusion to be arrived at the end of the process, not the beginning of the process.

I urge Members to support this legislation and oppose weakening amendments. It is a good bill, and I urge the Members to support it.

Mr. SHAW. Mr. Chairman, I yield 8 minutes to the gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this legislation. First, to understand my position, it is necessary to examine why this legislation in its original form in 1978 was passed in the first instance.

It was passed as a reaction to Watergate; but the point is, Watergate proves the lack of necessity of this particular legislation. For example, all of the President's men were not only prosecuted but convicted of exactly the type of problems that this legislation was designed to address.

I mention that because since this bill became law, we have not seen a single conviction of a single covered individual. There have been statements made on the floor that there have been two convictions under plea bargains. There have been, but not of covered individuals, not the individuals that this legislation focuses upon.

The reason that individuals such as myself are so uncomfortable not only with the current law, but a new law that even broadens the scope, has to do with a very fundamental law in this country, the supreme law of the land, the Constitution.

An individual whom I admire greatly, an individual who served very capably in the office of Attorney General under former President Jimmy Carter, a member of a party different from my own, Griffin Bell, testified before our subcommittee and made a number of points which I would like to share with this body.

The points that he made with respect to the unconstitutionality of this statute was, and I quote:

> First, in my view, the statute is unconstitutional in that it intrudes on the duty and right of the President to faithfully execute the law as is provided in our Constitution. The Independent Counsel, in essence, is another attorney general—pro tanto—and in part displaces the Attorney General and the Department of Justice. The Independent Counsel is not an agent of the President but of the courts and reports to the courts and the Congress. In no way can an Independent Counsel be classified as an "inferior officer" subject to being appointed under Article II of the Constitution. This "inferior officer" has the unfettered discretion to prosecute the President himself. An Independent Counsel is part and parcel of the federal law enforcement function which is reserved to the President under our Constitution.
>
> It may be said that the question of constitutionality is something reserved to the courts, but I am of the President Andrew Jackson school which is that it is the duty of every member of the government, whether the President or individual members of Congress or the courts, to interpret and uphold our Constitution. We should not act if we have a doubt as to the constitutionality of a proposed law.
>
> Second, the Independent Counsel operation seems to me to be contrary to our precept of equal protection of the laws. It sets aside a small group of public officials to be treated differently from other American citizens. They are handled by a special investigator. The investigation is announced under great notoriety, and any conclusion reached is likewise notorious. Other citizens are investigated without announcement—indeed usually under great confidentiality given the secrecy of the grand jury rule, Federal Rules of Criminal Procedure 6(e), and the practice of the Department of Justice in not commenting on ongoing investigations. Usually the fact of an investigation is never known if there is no indictment. This is completely contrary to the practice in the Independent Counsel cases to date.
>
> Third, the Independent Counsel provision and operation seems to me to be against the public interest. It is an operation from beginning to end which is fraught with great publicity and seems almost to be set up to create publicity. It indicates to the rest of the world, when the contrary is true, that our government is in a state of disarray and operated by people so unworthy of trust as to be under investigation in a much publicized manner. The overwhelming proportion

of public officials and civil servants in our country are absolutely honest. This special kind of investigation reflects adversely on these people and gives other governments the idea that, as a French journalist said, we are practicing regicide.

Fourth, the Department of Justice is perfectly capable of handling any kind of investigation of anyone in the government, from the President down. My experience in two matters is very instructive on this point. One was the Carter warehouse investigation which involved press charges of campaign funds laundering. This was handled by a special counsel appointed by me as Attorney General. The investigation was handled without any publicity whatever other than the appointment and the conclusion. The Watergate investigation itself was handled by the appointment of a special counsel on an ad hoc basis. Another method used was in the Bert Lance case, where the matter simply followed a downward process at the Department when I recused myself. The deputy took over and appointed lawyers in the Department under an order giving him authority to investigate and to prosecute if that proved to be the case.

There are many career people at the Department of Justice who are willing and able to carry out any investigation, and there are regulations in place for recusal of anyone about whom it might be said that participation in a particular matter would give an appearance of impropriety. Justice Department officials are at pains to follow canons of ethics and reasonable ethical practices. People at the Department of Justice take great pride in believing that they are employed in a department of government where neutral principles obtain in administering our justice system. The Independent Counsel law disparages the Department of Justice. It is a statement, whether intended or not, that the Department cannot be trusted if an investigation of certain government officials is indicated.

Fifth, it is an unsound principle of government to give such broad powers to any government official, including an Independent Counsel who may spend millions of dollars of public funds, employing large staffs, all without ongoing oversight by the Congress. The oversight function of the Congress has become more severe, as the years go by, in the case of the Department of Justice, and even hearings are held on the prosecutorial discretion of the Department, something not even the President has claimed to have. There has never been an oversight hearing to my knowledge on the activities of any Independent Counsel.

Our Constitution makes the President of the United States the Chief Executive Officer. The words "Executive Officer" means the power to execute the law. This bill strips him of that power.

The other reason that he mentions in his testimony with respect to his discomfort here is that one of the most fundamental tenets of our law is that we have three branches of Government, all coequal, but each with checks and balances on the other.

The legislature, this body and the other body, has the power to write the law. The President has not only the power but the responsibility to execute it, and the courts have the responsibility to interpret it.

What we have done here is, we have taken the very heart of the President's responsibility and shifted it over to the judiciary, where it certainly does not belong under our Constitution.

At this point I would like to interject an argument made by Raymond Randolph at the same committee hearing, the attorney that represented Timothy Crafts, an individual who is the subject matter of one of these particular inquiries.

He made the observation that the purpose of this statute in the first instance was to address a very obvious problem. The problem, he states, is that under the Constitution, the executive branch is to enforce the laws, but what is to be done if members of the executive branch themselves violate the law?

Can the executive branch be entrusted to enforce the law against itself?

He then goes on to say that he would be surprised if the framers of our Constitution had not at least considered that problem. He says that a careful study of the Constitution and its history indicates that in fact they were concerned about this problem, and they made a provision for it. He quotes Hamilton in the Federalist Papers, Nos. 65 and 66, as setting forth not only a clear understanding of the problem but also a clear solution.

He says, what they wanted to accomplish was to solve the problem he just mentioned, but at the same time preserve the separation of powers between the executive branch, the legislative branch, and the judiciary.

What was their solution? Very simple. They gave Congress the power to impeach and remove and they took away the power of the President to pardon in cases of impeachment. In other words, their solution was, if the executive branch fails in and of itself to enforce the law as they apply it to itself, then this body and the other body have the respective power under our Constitution first to impeach, and then to remove. Under those circumstances, the President cannot pardon.

This is why the logic of the Members on the other side of this issue is flawed. Those Members suggest that the reason we need this law is, the executive branch cannot be trusted.

The point is, if that is the basis of their logic, why do they trust the executive branch not to pardon the individuals that are the subject of these actions, the individuals that are ultimately convicted and sent to prison?

All the President has to do is pardon them, and the entire stated objective of the independent council process is meaningless.

The real purpose of this statute is so that it can be used as it has been used so far, and that is to antagonize political enemies.

Take a classic case in point, Mr. Mike Deaver's. Mr. Deaver is the subject matter of one of the investigations initiated under the current law. He has been indicted now by a special prosecutor, not on the grounds of what the original jurisdiction was but rather for perjury.

The special prosecutor had to go forward and seek additional jurisdiction. Mr. Deaver's special prosecutor in this case is indicative of the problem with this statute.

His special prosecutor is a former political enemy. His special prosecutor, Mr. Seymour, was a candidate for the Republican Party for the Senate race in New York, and was defeated in large part because Mike Deaver worked against him.

In the course of the hearings before our subcommittee that we held on this matter, when I asked about whether Mr. Seymour's appointment was problematic, and whether his past problems with Mr. Deaver has been considered before Mr. Walsh was appointed as a special prosecutor, literally subject to no one's review, the answer was, "Well, we don't know, because it was all done in secret."

The point is, these individuals are selected in secrecy, and there is not even an ability to address these issues. What is even more regretful about this is that most individuals, if they are serving on the bench in similar situations, would recuse themselves because of the clear conflict of interest.

There is no ability in this particular legislation to address the very heart of the problem; and that is, using this for a political witch hunt by anyone that chooses to do so.

I would suggest if you really want to see whether the Members of this body are concerned about this, let us see how we handle ourselves when we offer an amendment to include Congress among those covered by this bill, because I would suggest that the reason it will not pass, and mark my words at 12:10 I am saying this, it will not pass, because Members of this body do not want to have themselves subjected to this type of political witch hunt that is absolutely guaranteed once you throw the Constitution out the window and decide that you are going to pass laws based on a majority at a particular point in time deemed to be politically expedient.

That is what this law is all about, and it will ultimately be declared unconstitutional. More individuals like Raymond Donovan, who has been indicted, tried, and acquitted, because of what a special prosecutor did, expended millions of dollars and time and energy and effort to defend himself, and what he had to go through, and others will as well.

Mr. FRANK. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to compliment the gentleman from Massachusetts [Mr. FRANK] as the chairman of the subcommittee, and the gentleman from New Jersey [Mr. RODINO], the chairman of the full committee, for bringing this to the floor.

It is a very important issue for all of the Members, and for good government in the United States.

Frankly, listening to the last Member speak, one would have thought that this was a definite assault on the Constitution. Yet, somehow I feel, and I think most of the Members of this Chamber will feel at the time the vote is taken, that this is a reaffirmation of the process of justice in the United States where everyone, regardless of what position they hold, is entitled to a fair and impartial prosecutor, a fair and impartial jury and judge, and a judicial system that guarantees that fairness.

□ 1210

That is basically all that is being asked in the reauthorization of this independent counsel law. You would have thought, my God, the pillars of justice in this country are going to be torn asunder by reauthorizing this bill, from what we have heard from the last few speakers, but that is not true at all, because since 1978 nothing, but nothing has happened to make this appear as if it was some kind of assault on the constitutional guarantees afforded to everyone, even people who are in high places by virtue of being elected or by virtue of being appointed. There is not anything they can point to which would indicate or prove that this in fact has been a deleterious issue, that this has harmed the justice system, that this has taken away the guarantees of the Constitution that everyone receive a fair trial—nothing. All these arguments are so specious.

Let us look at the record if you want to prove something. Try the facts. It might give you some light to shed on the issue.

In this administration since 1980, we have had Attorney General Smith who preceded Attorney General Meese ask for the independent counsel in the Raymond Donovan case and Mr. Leon Silverman was appointed. He has asked in his own case for the independent counsel to be appointed, and Jacob Stein was appointed.

Edwin Meese has asked that independent counsel be appointed in the Ted Olson case regarding the ETA, if I am not mistaken, and we have an independent counsel reviewing that matter now.

In Michael Deaver's case, he asked himself for an independent counsel.

If this is such a terrible assault on the judicial system and on justice guaranteed to highly placed officials, how come Mr. Deaver asked for one himself? He has got one, Whitney North Seymour.

An independent counsel was appointed after review and being asked for by Attorney General Meese in Lt. Col. Oliver North in these last Iran-Contra hearings, and Mr. Walsh is currently the prosecutor or independent counsel.

And an independent counsel has been appointed in the Lyn Nofzinger and Edwin Meese matter of James McKay, regarding some allegations of wrongdoing there.

In addition, the President of the United States has sought the appointment of independent counsel in the Iran-Contra matter.

Mr. Meese at his request in the investigation of his own activities before his confirmation as Attorney General and in addition the Nofzinger investigation regarding Wedtech allegations regarding Mr. Meese's own activities.

Oh, yes, Mr. Chairman, in addition to Mr. Deaver, Raymond Donovan sought the appointment of an independent counsel to investigate allegations regardings his contracting activities before assuming office.

Now, Mr. Chairman, if this statute was such a terrible piece of work, so unconstitutional, so harmful to the rights of all these individuals, would all of these independent counsel have been asked for and/or appointed? I do not think so.

Now, Mr. Chairman, we have to look at the history and we only have to remember one thing, one thing. This law was made to protect both the rights of the individual who may be the subject of an investigation and the rights of the people of the United States in cases where conflict of interest arises. And what is conflict of interest? Conflict of interest is basically where a person or an administration has to investigate itself.

There is, most people would readily admit, most judicial authorities would readily admit, most legal scholars would readily say it is true, that there is an inherent conflict when the Attorney General, for instance, would have to investigate himself or one of his Assistant Attorneys General.

That is what this statute changed, the ability to have an independent counsel, previously called the special prosecutor, look at independently, to remove the cloud of the conflict of interest.

Now we are being asked to reauthorize it and a litany, a litany of terrible problems have been laid before this body on this statute. None of them exist.

There is an amendment to make it mandatory that Members of Congress have special independent counsel appointed immediately upon allegations. What silly nonsense. There is no conflict of interest to have the Justice Department investigate Members of Congress. There has been plenty of opportunity. Why do we have to be included? Because it raises a nice political issue that sounds pretty good. There is no basis in fact.

The genesis, the history, the foundation of the statute, do not require that that occur because it flies in the face totally of the reason the statute was passed.

As a matter of fact, just to give you an idea of the facts, a Congressman who was recently convicted in New York of certain charges asked for an independent counsel, asked the Attorney General of the United States to appoint one at the beginning of the investigation. And do you know what happened? He was turned down because under the current law an independent counsel can be appointed. And do you know why he was turned down? The Attorney General found, "no conflict of interest in having the Justice Department prosecute this Congress."

There is a lack of necessity, it is said, for this law. Is it a lack of necessity to ensure that the justice system and the fairness in our system be applied to everyone? I do not think so.

A lack of convictions, is that the yardstick that we use to determine the validity of keeping the Constitution strong? What we should celebrate is the fact that we have guaranteed the vitality of the system, not be sorry there are no convictions. As a matter of fact, the fact that there are not any convictions means to me that the independent counsel, the whole structure of this law, the whole basis for this law pleads for a reauthorization on the basis as the law exists now with the technical fine turning.

Mr. Chairman, I would urge my colleagues not to allow any of the amendments. They are meddlesome. They are in a way nothing more than political and they will not help this statute. They will only harm it, and if you want to continue a good tradition in this country of protecting the rights of individuals, you will reauthorize this statute on a clean bill.

Mr. SHAW. Mr. Chairman, I yield myself 2 minutes at this point in the debate to answer some of the questions that were just raised in the well with regard to the political motivation behind including Members of Congress.

I would suggest to the Members that this suggestion came in the hearings from Attorney General Griffin Bell, a Democrat under President Carter, when he pointed out the necessities to include not only Members of Congress, but he wanted to go further and even include the judges within the independent counsel law.

In examining it, I felt that Attorney General Griffin Bell made a very good point with regard to the Members of Congress and, indeed, the very Congressman that has been referred to from New York by my friend, the gentleman from Florida, as my friend from Florida rightly stated, he himself felt that there was a conflict of interest.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield on that point?

Mr. SHAW. Yes, I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, is the gentleman aware that most legal scholars believe that if you include judges, you would make this law totally unconstitutional?

Mr. SHAW. Well, I have serious questions about the constitutionality of the bill before us; but the gentleman from Florida also talked about reauthorization of this law that we now are serving under. I would say I am going to offer that as a straight reauthorization of existing law, because I think until the courts speak to the matter, that is exactly what we should do, reauthorize existing law for a period of 1 year, let the courts come back and tell us how they feel about the constitutionality of the bill and at that time then the Judiciary Committee can go back to work on it.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I ask unanimous consent to read some papers.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, there is an article in this morning's Wall Street Journal, entitled "Ethics Games" that puts the sitaution we have before us today in pretty clear perspective. It says:

> Members of Congress often speak of their status as a coequal branch of government. Yet they shrink from equal treatment under the independent-counsel law, though the record indicates there is at least as much cause for concern about the ethics of Congress as there should be for the executive branch. Since 1977, 14 members of Congress have been convicted of crimes. But not one of the dozens of executive-branch officials covered by the independent counsel has been convicted of any crime.

The editorial goes on and says:

> The concept of independent counsels is a clear violation of the separation of powers. But if Congress insists on reauthorizing such a blatantly unconstitutional law, fairness dictates that it not immunize itself from the investigations and prosecutions it so obviously feels appropriate for the executive branch.

At the beginning of that editorial the Wall Street Journal raises an ugly word, "hypocrisy." Hypocrisy, and that is precisely what we have before us if we do not approve the Shaw amendment today.

We have ethics problems in the House of Representatives. I raised the question on the floor some weeks ago of whether or not there was not a pattern of ethical and criminal abuse in this House, and the answer in the weeks that have followed is clearly, yes.

In fact, as of tomorrow, 10 Members of this House will introduce a book to the public which focuses on the House of Representatives, which is called, "A House of Ill Repute." We think it probably pretty adequately describes what is going on here.

The question is clear that we have a problem. We need to address the problems that we have. If we are to regain public confidence, if we are to regain public respect, we must at the very least impose the same laws on ourselves that we require of others.

Hypocrisy is an ugly word, but it is a word that fits if we pass this legislation without the Shaw amendment.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

I would just like to ask the gentleman if he is not aware, and I am sure he is, of the fact that this law as it would be reauthorized includes a provision that allows the Justice Department on its own motion at any time to seek an independent counsel in cases where a Member of Congress is being investigated. Does the law preclude that from happening? Are we not already covered in that?

Mr. WALKER. The Shaw amendment——

Mr. SMITH of Florida. Mr. Chairman, I wish the gentleman would answer.

Mr. WALKER. Mr. Chairman, reclaiming my time, I would say to the gentleman that the Shaw amendment assures that we get precisely the same coverage under the law that presently would be there for the executive branch, and that is what we ought to do. We ought not to make that special exception——

Mr. SMITH of Florida. The gentleman does not wish to address the problem, is that the case?

Mr. WALKER. Mr. Chairman, I have not yielded to the gentleman.

Mr. Chairman, we need the Shaw amendment.

Mr. SHAW. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, what is quickly forgotten is that if this law in the first instance was spawned by the ills of Watergate, it was Judge Sirica who uncovered most of the ills of Watergate. It was the regular grand jury process that served this Nation so well in pursuing and prosecuting the individuals who fell by the wayside in Watergate. It was an independent or a special prosecutor who was appointed by the President of the United States who did the cleanup work on the Watergate situation.

Then in the face of all that successful working of the institutions of jurisprudence and criminal justice in our country, then in 1978 this law comes into being, almost too late to be of any meaning.

If I should remain, and I am trying to remain unemotional about the existence of the present independent counsel law which we seek here to reauthorize, I cannot remain unemotional about the fact that in certain instances in which I will try to cure by an amendment that I will offer, even these special prosecutors or independent counsel who are doing the work now are going far afield.

What justification is there in the Deaver case, for instance, for an independent counsel to proceed on a change of perjury? If indeed evidence of perjury has come forth during the investigations of the independent counsel, now is the time for that independent counsel to turn that over to the regular grand jury and criminal justice pursuits that are already a part of our system.

□ 1225

There is no justification for that. What makes anyone feel that a normal pursuit of a perjury case in the grand jury will not lead to an independent pursuit of that facet of what was uncovered by an independent counsel?

If at the very least we cannot circumscribe the work of the independent counsel to the target originally set, and all things that follow if they show some criminal nature to be vested in the criminal justice system, we are wasting the taxpayers money, we are bastardizing the process of an independent counsel, and we are going far astray just from any reasonable standard that we can apply to the rationale of this law.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I would ask the gentleman if he thinks that in the Deaver case that he mentioned, that it would make perfect sense to have Edwin Meese be in charge of the prosecution of Michael Deaver after they had worked so closely together?

Mr. GEKAS. That has nothing to do with this. What I am saying is that whatever is uncovered, such as perjury, if indeed there was, it would be turned over to the regular grand jury.

Mr. FRANK. But the grand jury would have to prosecute under the guidance of a U.S. attorney who is under Edwin Meese. The grand jury is not an entity unto itself. The prosecution would have to flow from the U.S. Attorney's Office, which is under Edwin Meese.

Mr. GEKAS. The same grand jury that prosecuted in the Watergate case can prosecute in the Deaver case.

Mr. FRANK. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I thought some people thought I was kidding when I said Members on the other side have a nostalgia for the "Saturday Night Massacre."

We got prosecutions in the late 1970's because of the firestorm after the firing of Archibald Cox. I cannot believe Members are seriously advancing that as the model to be followed.

Yes, we did get some prosecutions because there was a grand jury and a judge, but they were independent prosecutors because of the special circumstances that Elliot Richardson's nomination as Attorney General happened to be pending before the Senate. In that nomination proceeding, Elliot Richardson gave as a pledge extracted from him because he was then waiting for his confirmation, that he would appoint an independent counsel.

When Richard Nixon forced him to violate that pledge, he resigned.

That is why we got, fortunately, that set of prosecutions. But to expect that set of circumstances always to obtain, to ask for a constitutional crisis every time we want to prosecute that kind of wrongdoing does not make any sense whatever.

The arguments that have been made on several fronts are simply wrong.

With regard to Members of Congress, the gentleman from Pennsylvania [Mr. WALKER] has now left the Chamber, but I was disappointed to hear how harshly he attacked Edwin Meese and the Justice Department because corruption, and the violation of laws by Members of Congress is to be dealt with by the Justice Department's criminal prosecutions. The independent counsel does not substitute for the House Ethics Committee. The House Ethics Committee has a different charge.

The prosecution that would be superceded by putting Members of Congress automatically, rather than discretionarily, as they now are, under the Department of Justice, that comes from the Justice Department. So when the gentleman from Pennsylvania [Mr. WALKER] said that we need to put the independent counsel in place because of corruption in Congress, he was condemning Edwin Meese. Apparently, the gentleman from Pennsylvania [Mr. WALKER] thinks that Edwin Meese is looking the other way. If he thinks that the Attorney General is guilty of nonfeasence with respect to corruption committed by Members of Congress, he ought to bring some appropriate charges.

But that is simply a false argument in this context because any prosecution of Members of Congress would come from the Justice Department.

The gentleman cited figures about Members of Congress being prosecuted. There is a clear conflict of interest when Edwin Meese is asked to prosecute the following people who were under investigation now by independent counsel: Can Edwin Meese fairly prosecute Lynn Nofzinger? Can Edwin Meese fairly prosecute Michael Deaver? Can he prosecute himself fairly since he is now under investigation? The relationship between Edwin Meese and himself is a far closer one than the relationship between Edwin Meese and Members of Congress. That is what we are talking about. That is the fundamental issue.

There is, we believe, a conflict of interest if the executive branch has to investigate itself. We are asking that in that limited class of cases, that there be, with safeguards, investigations.

Now, people have said that they have not gotten any covered people yet. That is true. There have been no convictions of covered people.

Many in the minority want to make sure that we do not get any convictions because some of them would abolish the whole thing right now. But the fact that there have not been convictions, I think speaks well for the process. The independent counsel have not been hanging judges, they have not been people out to prove themselves by getting indictments no matter what. In most cases, they have vindicated the people accused. In a couple of cases, there have been convictions of other figures, and there are some serious issues now pending.

This law was passed by a Democratic Congress when a Democratic President was in power in 1978. It was reauthorized in 1982 very nearly to what we are passing today, the bill the Members say is unconstitutional, passed by a Republican Senate and Democratic House and signed by a Republican President. The independent counsel are starting to hit too close to home, bringing matters forth for prosecution that I do not believe would be prosecuted in their absence, and that is why we have people who voted for this bill in 1982, people who have supported it for years, and suddenly without any rational basis, reversing themselves and calling a question of constitutionality of a bill that they voted for and the President signed.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to start out, if I could, by again answering the gentleman from Massachusetts [Mr. FRANK]. I intend to vote for the same bill that I voted for in 1982 because I plan to vote for a simple extension of existing law.

What I am warning the Congress about is an expansion of the law. The words have been used that we want a fair and impartial investigator, a fair and impartial prosecutor. Yes, we do, but we want one that is answerable, also. Right now I question whether some of these prosecutors are answerable.

Who approved the amount of lease money being paid by Mr. Walsh? Who approved the extent of his lease? It did not go through the regular channels that another lease would have to go through by going through the General Services Administration with a prospectus to the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation.

Who in the world told Mr. Walsh that it was all right to spend $69,264 for telephone equipment; $242,701 for word processing equipment; and almost $70,000 for car rental?

Who told Mr. Walsh that it was all right to talk to Mr. Woodward? I invite you to Mr. Bob Woodward's book "Veil," which has gotten so much publicity within the last few weeks with regard to whether or not he interviewed the dying head of the Central Intelligence Agency?

I invite the attention of the Members to page 13 where the author says, "The various investigations of the Iran-Contra affair, including those of the Senate Select Committee on Intelligence, the Tower Review Board, the Joint Senate Select Committees, the Independent Counsel Lawrence Walsh provided additional information and documentations expressly for the years 1985 and 1986.

I would like to know exactly what Mr. Walsh did give Mr. Woodward. Mr. Woodward is a newspaper reporter. His job is to report the news.

Mr. Walsh has secured information that is highly sensitive located within his office.

Mr. FRANK. Mr. Chairman, would the gentleman yield?

Mr. SHAW. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I do not know whether the gentleman is charging Mr. Walsh with any impropriety. If he is, I would hope we get it down more specifically. If we are going to compare the independent counsel with the Reagan Justice Department with a propensity to leak to reporters, derogatory information about people being investigated, that is a contest the independent counsel would win hands down.

Yes, there was always a problem of leaking. But this Reagan Justice Department, when it comes to leaking adverse information about people under investigation, would drown the independent counsel in a half hour. If that is consistently an argument, let us address it, but to suggest that the independent counsel and not this Justice Department, is simply wrong.

Mr. SHAW. Mr. Chairman, reclaiming my time, I think it is very important to note that the Department of Justice is answering to Congress in its oversight authority.

I have constantly asked for hearings over and over again, so that Congress can exercise its oversight authority with regard to the independent counsel's and these outrageous bills that are coming in, and I have been turned down by the Chairman of the full Committee time and time again.

□ 1235

When we find that we are finding an independent counsel such as Lawrence Walsh on one case, on one case Mr. Walsh is spending $2.97 million and he is not even through yet. And when we find that the U.S. Justice Department for the Northern District of Florida for $1.8 million prosecutes 1,292 cases, I say something is wrong.

When I see that Alexia Morrison on one case spends $7,700, and the list goes on and on and on with the expenses, the accountability is not there. I say, Mr. Chairman, that Congress itself is not exercising its oversight authority into looking into these investigations and seeing exactly what it is costing the American taxpayers.

This is an important question, and I think that we all can agree that we should craft a bill that would give independent counsel independence, but he must be answerable, and he must be answerable to those Members of the Federal Government who are elected.

Mr. Chairman, I do not have any additional requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Amendments Act of 1987".

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in reviewing the legislation we are considering today I find myself torn in many ways. In one way I agree with my colleagues on the other side of the aisle. I think the process by which we determine the need for an independent counsel has become all too political. This mixture of politics and prosecution is a dangerous one, dangerous to individual liberties and dangerous to the credibility of the political process.

But I think that when the other side put together their amendments they missed the point. If you look at the process, look at where have things worked out well and where have they not, you find that the independent counsels themselves have been remarkably apolitical. They have handled their jobs in a very professional manner. As my colleague from Massachusetts noted, the number of leaks have been few and far between. They have not succumbed to pressure to produce indictments nor have they come up with a clean bill of health in response to other pressures. They have been quite, quite good.

In my opinion, my colleagues, the process has broken down at the point where the determination of whether to appoint an independent counsel is made. The stage known as the preliminary investigation. The law now requires the Attorney General to conduct a preliminary investigation to determine if the appointment of an independent counsel is warranted. We all know that the Attorney General, who is appointed by the President and can be removed by the President, is a political animal. So even if the Attorney General conducts his preliminary investigation as rigorously and as fairly as possible the appearance of impropriety and the appearance of a conflict looms large.

Current law also permits a majority of the Democrats or a majority of Republicans on either the House or Senate Judiciary Committees to request that the Attorney General conduct a preliminary investigation. Again, we in Congress are political animals. We cannot escape the fact that such a call will be perceived as motivated by political considerations.

In my opinion, we need the independent counsel because there is an inherent conflict when the Attorney General is required to investigate high-ranking officials within the administration. But the process by which we determine the need for an independent counsel should and could be changed to make it as removed from the political process, removed from the political arena as possible.

I had an amendment drawn up, that I will not introduce or seek a vote on, that would have made such a change. Under my proposal the President would appoint a commission, a part-time commission, of four people, no more than two of whom could be from the same party, to conduct the preliminary investigation that is now done by the Attorney General. The commission members would be confirmed by the Senate and could only be removed for cause. In a workmanlike and careful way, in a way not subject to leaks, not subject to political pressures, the commission would determine whether to go to court and apply for an independent counsel. I think such a system would be far better than the present law and the proposals made by those on the other side of the aisle. However, since I prepared the amendment after the full committee considered the bill and thus did not give the subcommittee time to consider it I will not ask my colleagues to vote on it today.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding. I appreciate the thoughtfulness he has brought to this process. The proposal he has made is a serious one, it is one that deserves a great deal of consideration.

We will be continuing to look at this. We inherited a structure. We inherited a situation where people were appointed under that structure.

Our feeling is that the points the gentleman makes are excellent ones, and I appreciate his acknowledging the good behavior of the current independent counsel.

I should just mention parenthetically, when the gentleman from Florida read from the acknowledgment in the Bob Woodward book of Judge Walsh, he has had two public proceedings during his tenure. He has successfully prosecuted two individuals. Information has been spread upon the record as a result of that. I am willing to bet, knowing Judge Walsh and the care that he takes, that what Mr. Woodward is referring to when he says he got information from the investigation was no private chit-chat of any improper kind, but the access to the material spread upon the record which would be wholly proper.

But let me just say, to get back to the gentleman from New York, that I appreciate the thoughtfulness with which he is addressing this, and I look forward to giving it some attention in the future.

Mr. SCHUMER. I thank the gentleman from Massachusetts.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, I had hoped that we could come together, Democrats and Republicans, to resolve the problems with the independent counsel statute—acknowledge that we need the independent counsel, but try to remove the politics from the process. Let's face it, when one party attacks the other, and there will be a different party in power at different times, we demean the entire political process and all of us look bad. The people lose faith in government to the detriment of this commonweal. Therefore, I would urge my colleagues in the weeks and months to come to consider this proposal or one like it. To keep an independent counsel, because we do need such an office, but to take it out of the hands of the politically appointed Attorney General, from whatever party he or she may be, and out of the hands of the partisan Congress and set up an independent commission. Then let that commission and whatever independent counsels that would come from it do their work.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman from New York for yielding to me. I want to compliment him for crafting the amendment that he is not going to offer today. I think it is certainly worthy of consideration by our subcommittee, and I would be very happy to join with the gentleman from Massachusetts [Mr. FRANK] in having hearings on this particular matter.

I think the comments the gentleman raised with regard to taking the politics out of this is very important. I wish we could take politics out of it, but it just does not seem to be something that this body can do. I would suggest that the courts themselves are going to take the politics out of this shortly.

I think there is one other thing I would like to make reference to. This is again just simply by way of underscoring what I said earlier. I do believe in the concept of independent counsel, but I do also believe in the Constitution, and I believe that we have to work very closely within that framework to be sure that what we craft and what we turn out of this Chamber will undergo the scrutiny when it gets across the street at the Supreme Court. It is going to do absolutely nothing for good government for us to pass a law that is unconstitutional and spend months or years and millions of dollars putting together a prosecution that falls apart once it gets into the Court because the person heading that investigation has not been legally appointed by the Court.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 30 additional seconds.)

Mr. SCHUMER. I thank both the gentleman from Massachusetts [Mr. FRANK], the chairman of the subcommittee, and the gentleman from Florida [Mr. SHAW], the ranking Member, and express the hope that we can join in an effort to take politics out of the process by considering something like the amendment that I was going to offer today. I promise next time I will be a little more timely.

Mr. FRANK. Mr. Chairman, pursuant to an agreement with the ranking minority Member, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. AMENDMENTS RELATING TO INDEPENDENT COUNSEL.

Chapter 40 of title 28, United States Code, is amended to read as follows:

"CHAPTER 40—INDEPENDENT COUNSEL

"Sec.
"591. Applicability of provisions of this chapter.
"592. Application for appointment of an independent counsel.
"593. Duties of the division of the court.
"594. Authority and duties of an independent counsel.
"595. Reporting and congressional oversight.
"596. Removal of an independent counsel; termination of office.
"597. Relationship with Department of Justice.
"598. Severability.

"§ 591. Applicability of provisions of this chapter

"(a) PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN COVERED PERSONS.—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a petty offense. This subsection applies to a person described in any of paragraphs (1) through (8) of subsection (b) even if the violation of law may have occurred before the person assumed the office or position described in the applicable paragraph.

"(b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—The persons referred to in subsection (a) are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of two years after the individual leaves the office or position;

"(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position; and

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of a campaign for the election or reelection of the President who exercises authority at the national level, such as the campaign manager or director, during the incumbency of the President.

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO PERSONS NOT LISTED IN SUBSECTION (b).—The Attorney General may conduct a preliminary investigation in accordance with section 592 if—

"(1) the Attorney General receives information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a petty offense; and

"(2) the Attorney General determines that a complete investigation or prosecution of the person (with respect to the violation of criminal law involved) by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest.

"(d) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.—In determining under subsection (a) or (c) whether grounds to investigate whether a violation of a Federal criminal law may have been committed, the Attorney General shall consider—

"(1) the degree of specificity of the information received, and

"(2) the credibility of the source of the information.

"(e) CONGRESSIONAL REQUEST.—

"(1) BY JUDICIARY COMMITTEE OR MEMBERS THEREOF.—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

"(2) REPORT BY ATTORNEY GENERAL PURSUANT TO REQUEST.—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under section 592 of the matters with respect to which the request is made, in accordance with subsection (a) or (c) of section 591, as the case may be. The report shall set forth the reasons for the Attorney General's decision regarding such preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report

shall include the date on which the preliminary investigation has begun or will begin.

"(3) SUBMISSION OF INFORMATION IN RESPONSE TO CONGRESSIONAL REQUEST.—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to section 592 with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), such notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under section 592 pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why such application was not made, addressing each matter with respect to which the congressional request was made.

"(4) DISCLOSURE OF INFORMATION.—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such report, notification, application, document, material, or memorandum as will not in the committee's judgment prejudice the rights of any individual.

"§ 592. Application for appointment of an independent counsel

"(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

"(1) IN GENERAL.—A preliminary investigation conducted pursuant to section 591(a) or (c) shall be such preliminary investigation of the matters involved as the Attorney General considers appropriate in order to make a determination under subsection (b) or (c) of this section with respect to each allegation of a violation of criminal law. The preliminary investigation shall be conducted for a period of—

"(A) except as provided in subparagraph (B), not more than 90 days after the information referred to in section 591(a) or (c) (as the case may be) is received, or

"(B) in the case of a preliminary investigation conducted after receipt of a congressional request under section 591(e), not more than 90 days after the request is received.

The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement.

"(2) LIMITED AUTHORITY OF ATTORNEY GENERAL.—(A) In conducting preliminary investigations under this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

"(B) The Attorney General shall not base a decision—

"(i) not to conduct a preliminary investigation with respect to a person, or

"(ii) not to apply for the appointment of an independent counsel with respect to a person,

upon a determination that such person lacked the state of mind required for the violation of criminal law involved.

"(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

"(b) FINDING THAT FURTHER INVESTIGATION NOT WARRANTED.—

"(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Attorney General, upon completion of a preliminary investigation under this section, finds that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

"(2) FORM OF NOTIFICATION.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

"(c) FINDING THAT FURTHER INVESTIGATION IS WARRANTED.—

"(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

"(A) the Attorney General, upon completion of a preliminary investigation under this section, finds reasonable grounds to believe that further investigation is warranted, or

"(B) the 90-day period referred to in subsection (a)(1) (and any extension granted under subsection (a)(3)) elapses without a determination by the Attorney General that there are no reasonable grounds to believe that further investigation is warranted.

In determining whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

"(2) RECEIPT OF ADDITIONAL INFORMATION.—If—

"(A) after submitting a notification under subsection (b), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, and

"(B) the Attorney General determines, after conducting (for a period of not more than 90 days after receiving such additional information) such additional investigation as the Attorney General considers appropriate, that reasonable grounds exist to warrant further investigation,

then the Attorney General shall apply to the division of the court for the appointment of an independent counsel.

"(d) CONTENTS OF APPLICATION.—Any application under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction.

"(e) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter, and subject to section 595(b)(3), notifications, applications, and any other documents, materials, or memoranda supplied to the division of the court under this chapter shall not be revealed to any individual outside the division of the court or the Department of Justice without leave of the division of the court.

"(f) LIMITATION ON JUDICIAL REVIEW.—The Attorney General's determination under subsection (c) to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

"§ 593. Duties of the division of the court

"(a) REFERENCE TO DIVISION OF THE COURT.—The division of the court to which this chapter refers is the division established under section 49 of this title.

"(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—

"(1) AUTHORITY.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

"(2) SCOPE OF PROSECUTORIAL JURISDICTION.—In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel will have adequate authority to fully investigate the subject matter with respect to which the Attorney General has determined grounds exist warranting further investigation, and all matters related to that subject matter. Such jurisdiction shall include the authority to investigate Federal crimes, other than petty offenses, arising out of the investigation or prosecution of the matter with respect to which the Attorney General's determination was made, including perjury, conspiracy, obstruction of justice, destruction of evidence, and intimidation of witnesses.

"(3) DISCLOSURE OF IDENTITY AND PROSECUTORIAL JURISDICTION.—An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (c)) shall not be made public except upon the request of the Attorney General or upon a determination of the division of the court, on its own motion, that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned or any criminal information is filed.

"(c) EXPANSION OF JURISDICTION.—The division of the court, upon the request of the Attorney General which may be incorporated in an application under this chapter, or upon the request of an independent counsel appointed under this chapter, may expand the prosecutorial jurisdiction of such independent counsel to include any additional persons described in section 591(b) or offenses related to matters within such prosecutorial jurisdiction, and such expansion may be in lieu of the appointment of an additional independent counsel. Any such request by the Attorney General or an independent counsel shall include the reasons for the request. In the case of a request by an independent counsel for an expansion of jurisdiction, the division of the court shall notify the Attorney General of the request. The Attorney General may, during the 14-day period beginning on the date on which the Attorney General receives such notice, submit comments to the division of the court on the request. The division of the court may make a decision with respect to the request only after the end of that 14-day period.

"(d) RESTRICTIONS ON APPOINTEES.—The division of the court may not appoint as an independent counsel any person who holds or recently held any office of profit or trust under the United States.

"(e) VACANCIES.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death,

or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed.

"(f) ATTORNEYS' FEES.—Upon the request of a person who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorneys' fees incurred by such person during such investigation if—

"(1) no indictment is brought against such person; and

"(2) the attorneys' fees would not have been incurred but for the requirements of this chapter.

The division of the court shall notify the Attorney General of any request for attorneys' fees under this subsection.

"(g) DISCLOSURE OF INFORMATION.—The division of the court may, in accordance with section 592(e), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

"(h) AMICUS CURIAE BRIEFS.—When presented with precedential legal issues, the division of the court may disclose sufficient information about the issues to permit the Attorney General and the Houses of Congress to file timely amicus curiae briefs.

"§ 594. Authority and duties of an independent counsel

"(a) AUTHORITIES.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such independent counsel considers necessary;

"(3) appealing any decision of a court in any case or proceeding in which such independent counsel participates in an official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case in the name of the United States; and

"(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

"(b) COMPENSATION.—An independent counsel appointed under this chapter shall receive compensation at a per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

"(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5.

"(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.

"(e) REFERRAL OF OTHER MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction as established by the division of the court. If the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

"(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—An independent counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws.

"(g) DISMISSAL OF MATTERS.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

"(h) INDEPENDENCE FROM DEPARTMENT OF JUSTICE.—All independent counsel appointed under this chapter, together with the persons appointed by independent counsel under subsection (c), constitute an agency separate from and independent of the Department of Justice for all purposes, including sections 202 through 209 of title 18.

"(i) STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.—

"(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—(A) During the period in which an independent counsel is serving under this chapter—

"(i) such independent counsel, and

"(ii) any person associated with a firm with which such independent counsel is associated or was associated immediately before the appointment as independent counsel,

may not represent any person in any matter involving any investigation or prosecution under this chapter.

"(B) During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel—

"(i) such person, and

"(ii) any person associated with a firm with which such person appointed by the independent counsel is associated or was associated immediately before that appointment,

may not represent any person in any matter involving any investigation or prosecution under this chapter.

"(2) THREE-YEAR BAN ON REPRESENTATION BY INDEPENDENT COUNSEL AND APPOINTEES.—Each independent counsel and each person appointed by the independent counsel under subsection (c) may not, for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be—

"(A) represent any individual in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel; or

"(B) represent any individual in any matter involving any investigation or prosecution under this chapter.

"(3) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS.—(A) Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following such termination, represent any individual in any matter involving any investigation or prosecution under this chapter.

"(B) Any person who is associated with a firm with which a person appointed by the independent counsel under subsection (c) is associated or becomes associated after termination of the service of that appointed person under this chapter may not, for 1 year following such termination, represent any individual in any matter involving any investigation or prosecution under this chapter.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'firm' means a law firm whether organized as a partnership or corporation; and

"(B) a person is 'associated' with a firm if that person is an officer, director, partner, or other member or employee of that firm.

"§ 595. Reporting and congressional oversight

"(a) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate, except that the independent counsel shall at least submit to the Congress a report on the budget of the independent counsel's office—

"(1) in the case of an office of independent counsel that terminates in less than 1 year after appointment of the independent counsel, upon termination of that office, and

"(2) in every other case, at least once in the 1-year period beginning on the date on which the independent counsel is appointed, at least once in each 1-year period occurring thereafter until the office terminates, and upon such termination.

In addition, such independent counsel shall submit such information to the Committee on the Judiciary of either House of Congress as such committee may request.

"(b) REPORT TO DIVISION OF THE COURT UPON TERMINATION.—

"(1) IN GENERAL.—In addition to any reports made under subsection (a), and before the termination of an independent counsel's office under section 596(b), such independent counsel shall submit to the division of the court a report under this subsection.

"(2) CONTENTS OF REPORT.—A report under this subsection shall set forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel.

"(3) RELEASE OF INFORMATION IN REPORT.—The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a report under this subsection available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such report.

"(c) INFORMATION RELATING TO IMPEACHMENT.—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(d) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and such independent counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"§ 596. Removal of an independent counsel; termination of office

"(a) REMOVAL; REPORT ON REMOVAL.—

"(1) GROUNDS FOR REMOVAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties.

"(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in accordance with section 595(b)(3).

"(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. If such removal was based on error of law or fact, the independent counsel may be reinstated or granted other appropriate relief by order of the court.

"(b) TERMINATION OF OFFICE.—

"(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

"(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions, and

"(B) the independent counsel files a report in full compliance with section 595(b).

"(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the report required by section 595(b).

"§ 597. Relationship with Department of Justice

"(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

"(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

"§ 598. Severability

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.".

SEC. 3. STATUS OF INDEPENDENT COUNSEL AS A SPECIAL GOVERNMENT EMPLOYEE; FINANCIAL DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 18.—The first sentence of section 202(a) of title 18, United States Code, is amended—

(1) by striking out "or" after "United States commissioner" and inserting in lieu thereof a comma; and

(2) by striking out the period at the end of the sentence and inserting in lieu thereof the following: ", or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28.".

(b) FINANCIAL DISCLOSURE REQUIREMENTS.—

(1) FILING OF REPORTS.—Section 203(b) of the Ethics in Government Act of 1978 is amended by striking out "and the Vice President" and inserting in lieu thereof ", the Vice President, and independent counsel and other persons appointed under chapter 40 of title 28".

(2) LIMITATION ON PUBLIC DISCLOSURE.—(A) Section 203(d) of the Ethics in Government Act of 1978 is amended by inserting before the period at the end the following: ", except that any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title".

(B) Section 205(a) of the Ethics in Government Act of 1978 is amended by striking out "Each" in the first sentence and inserting in lieu thereof "Except as provided in section 203(d) of this Act, each".

SEC. 4. CLERK OF THE DIVISION OF THE COURT.

Section 49(a) of title 28, United States Code, is amended by adding at the end thereof the following: "The Clerk of the United States Court of Appeals for the District of Columbia Circuit shall serve as the clerk of such division of the court and shall provide such services as are needed by such division of the court.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) TITLE 28, UNITED STATES CODE.—Section 49(f) of title 28, United States Code, is amended by striking out "a independent" and inserting in lieu thereof "an independent".

(b) COMPREHENSIVE CRIME CONTROL ACT OF 1984.—Section 228(b) of the Comprehensive Crime Control Act of 1984 is amended by striking out "Section 591(a) is amended" and inserting in lieu thereof "Subsections *(a) and (c) of section 591 are each amended".*

(c) CONTINGENCY FUND.—Section 601(c) of the Ethics in Government Act of 1978 (28 U.S.C. 591 note) is amended by striking out "39" and inserting in lieu thereof "40".

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this Act take effect on the date of the enactment of this Act.

(b) PREVIOUSLY APPOINTED INDEPENDENT COUNSEL SERVING ON DATE OF ENACTMENT.—With respect to any independent counsel who was appointed, before the date of the enactment of this Act, under chapter 39 of title 28, United States Code (before the redesignation of such chapter as chapter 40 by section 144(g) of Public Law 99-554)), or under chapter 40 of such title (after such redesignation), and who is serving on such date of enactment—

(1) except as provided in paragraph (2), the provisions of chapter 40 of such title as in effect on the day before such date of enactment shall, in lieu of the amendments made by this Act, continue to apply on or after such date to such independent counsel, and to persons appointed by such independent counsel, until the termination of the office of such independent counsel under section 596(b) of such title, as in effect on the day before such date of enactment; and

(2) the provisions of section 594(i) of title 28, United States Code, as added by section 2 of this Act, and the amendments made by section 3 of this Act, shall apply on or after such date of enactment to such independent counsel, to persons appointed by such independent counsel, and to persons associated with firms with which such independent counsel or any such appointed person is associated.

For purposes of paragraph (2), the terms "associated" and "firm" have the meanings given those terms in section 594(i) of title 28, United States Code, as added by section 2 of this Act.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 8, line 12, strike out "(A)".

Page 8, strike out lines 16 through 24.

Mr. SHAW. Mr. Chairman, the provision that I want to strike from this bill is not present in existing law, and I do not think should be present in the law that is before us today. That language simply says that "the Attorney General shall not base a decision not to conduct a preliminary investigation with respect to a person, or not to apply for the appointment of an independent counsel with respect to a person, upon a determination that such person lacked the state of mind required for the violation of criminal law involved."

I offer this amendment for two reasons. One, I think good prosecution always involves a determination as to whether there has been criminal intent. What we are talking about when the Attorney General goes in and asks for the appointment of an independent prosecutor, under the theory that is set forth in this bill, the court then sets up a separate agency, separate, apart from any other branch of the Government. This means that we set up shop.

We can have a situation where the Attorney General finds that there is absolutely no shred of evidence as to criminal intent. He still has to go in and get a special investigator appointed who then will have to set up his office, and then go back and do another criminal investigation. This is absolutely absurd and it is extremely expensive.

The second reason I offered it is because I think it is constitutionally infirm right on its face. It is taking an area that is specifically described as a discretionary area that belongs to the executive branch, and it says that he no longer has that authority. This I think will be enough to sink the independent counsel bill.

It is very important on these amendments that we are talking about to say we are not talking about gutting amendments. We are not talking about crippling amendments. Nobody can get up and say that I am gutting the bill by offering any of the amendments that I am offering today. I am improving the bill. I am assuring that when we do get over across the street to the Supreme Court and this bill or whatever bill is passed by this Congress is the law that it will pass muster of constitutionality. It is vitally important that we act responsibly in this regard.

It is also vitally important that we do not set up a mechanism which is just going to pepper any administration with independent counsel after independent counsel, or if we should include Members of Congress that we do not have a situation where we are peppering ourselves with that same brush. It is very important that we act responsibly and that we act slowly and that we act somewhat conservatively with regard to the interpretation and the wording of the Constitution.

We are on new ground. The courts have not even ruled upon existing law. It has not even been determined that the law is constitutional except in one trial court. That is existing law that passed in 1978, and now we are trying to expand upon it.

The whole question right now is before an Appellate Court in the District of Columbia, and we expect within days, in fact maybe before the debate is through today, we will have a decision of the Appellate Court as the constitutionality of existing law.

Let us roll back some of the provisions that are in these bills that I am offering the Members an opportunity to do today, including this most important provision. Let us roll it back to a question of an area where we are on better ground constitutionally, and let us not expand it to areas where we could just have hundreds of these investigations going on. They are both expensive and they are very disruptive to the governmental process.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

□ 1250

Mr. Chairman and members of the committee, I oppose the amendment, commonly known as the state of mind amendment. What it basically says is, once a preliminary investigation is made and there is a reasonable basis for further investigation, the question of the subject's state of mind shall be for the independent counsel to examine. It seems to me that one of the most difficult determinations a prosecutor or a jury has to make is the defendant's state of mind; what was his or her intent? Whether malice or an evil or a criminal intent was involved in the acts.

The reason that I oppose this amendment is because we should not be making a determination in a preliminary investigation as to the defendant's state of mind.

You cannot take a snapshot or a photograph of an individual's state of mind. You need to look at every aspect of the case. Juries generally determine state of mind from all the circumstances and behavior of the target or defendant in a particular case.

Often, not one individual or specific act or omission determines defendant's intent; it is gleaned from all the facts and circumstances. Under the law as presently constituted and as rewritten, the Attorney General, conducting a preliminary investigation under this section shall have no authority to convene a grand jury, he does not have the authority to plea bargain, he does not have the authority to grant immunity, he does not have the authority to issue subpoenas.

Basically it is a preliminary investigation. What prompted this particular fine tuning is in the situation involving former Assistant Attorney General Schmults; it was determined by the Attorney General that even though that target of that inquiry, Mr. Schmults, had in fact not produced information to the Congress that was required, that he did not do it with a wrongful intent. That is not a decision that the Attorney General should be making in any situation. That should be made by the independent counsel who has to make a much more exhaustive examination once a preliminary investigation has been completed and the matter referred to such counsel. It should be made at the end of the process, not at the very beginning of the proceedings.

For that reason, I would oppose the gentleman's amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I know the gentleman in the well has experience as a prosecutor, as I indeed have too. But would you not say that in cases other than the cases covered by the independent counsel statute that the Attorney General makes that decision every day, as to whether there was criminal intent, particularly in the area of perjury?

Mr. HUGHES. But I would say to the gentleman that the defendant's state of mind should be closely examined after the prosecutor has convened a grand jury, issued subpoenas, secured a great deal of information about the case. Often the most difficult aspect of a case for a prosecutor or a U.S. attorney is the state of mind, question, that is, whether or not the defendant has the requisite criminal intent. And that is something you cannot determine preliminarily. That is something you have to glean from all the facts and circumstances as a result of a total investigation.

Mr. SHAW. Mr. Chairman, I would suggest that every day that that decision is made and not every case that we are talking about talks about subpoenaing witnesses and presenting a case to the grand jury. Not every case that is investigated goes to the grand jury.

So this decision is made every day by the Attorney General independently and separately.

Mr. HUGHES. Sometimes that is the case, but more often than not that is not the case. One of the most difficult elements that one has to prove as a prosecutor, as my colleague well knows, is the question of criminal intent. And the U.S. attorney or prosecutor often subpoenas witnesses, presents that evidence to a grand jury and it is only after that grand jury has sifted through that evidence and determinded that there is a basis to return an indictment that a decision is made.

What the gentleman would argue is that that decison about intent should be made by the Attorney General at the very beginning of the process without the aid of subpoenas, without the ability to plea bargain, without the ability to grant immunity and without the ability to convene a grand jury.

And I submit to my colleagues that that is not where we should be making that threshold determination.

That determination should be made at the end of the process, not at the beginning of the process, and after all the tools of the prosecutor are used.

That is why this amendment has to be defeated, because it would in fact have the Attorney General make that decison without all those tools that are essential to make the decision to begin with.

So I urge my colleagues to defeat the amendment.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the chairman of the full committee.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I want to support what the gentleman stated, merely to reaffirm that the very reason why the Attorney General is limited insofar as the investigation is concerned is that this is only a preliminary investigation. The Attorney General may or may not, after having made that preliminary investigation, determine to go forward with his application for an independent counsel.

In determining state of mind, the Attorney General would have to have additional tools which he really does not have and, as a matter of fact, the statute specifically for that reason limits his preliminary investigation to the specific and credible evidence that is presented for him to make his application.

Mr. HUGHES. The gentleman is absolutely correct. And to just reduce it down to its lowest common denominator, the problem that we are trying to address is the inherent conflict of the Attorney General investigating members of his branch of Government in certain circumstances.

Mr. RODINO. If the gentleman will yield further, I would like to point out that in one recent case, the Attorney General specifically rejected the appointment of an independent counsel, only because he did not find the requisite state of mind. In that very investigation, his Public Integrity Division had found a basis for going forward. We believe that it is important to adhere strictly to what the statute has, up until now, required the Attorney General to do in order to perform this preliminary investigation without having to finally determine at that stage the state of mind.

Mr. HUGHES. The gentleman is absolutely correct.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has again expired.

Mr. HUGHES. The gentleman is absolutely correct. Basically what the legislation, the authorizing legislation says is that where all of the other elements of the offense are present the defendant's state of mind determination is for the special prosecutor to examine. Just because someone says that "I did not intend to do that," which is entirely subjective, is insufficient, and that the intent should be gleaned from all the facts which can only come about after it moves forward with the appointment of a special prosecutor. That will often require the convening of a grand jury and issuing subpoenas and assembling witnesses and evidence that will focus in on not just the other elements of the offense but the actual intent of the defendant or the target of the investigation. That is all we are saying. That decision should not be made at the beginning of the process. The gentleman is right, it should be made at the end of the process or during the process where you have all the tools available to you.

The Attorney General does not have those tools during the preliminary investigation.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I hope that this amendment passes, because if it does not we are installing in this already fragile legislation a constitutional infirmity that it ought not have to bear. I think this amendment cures a mistake we have made in the bill which loads the dice in favor of an independent counsel.

Now I am for independent counsel, the concept; I think it is essential. But I also think we should not so burden this process with constitutional flaws that we lose the advantages of independent counsel.

I think by depriving the Attorney General of his legal and traditional right, as any prosecutor has, to evaluate criminal intent and divesting him of that traditional legal function which concerns an essential element of any crime, you are diminishing the office of Attorney General, you are denying to the target equal protection of the law, due process of the law. You are saying where someone is accused by somebody they do not get the same benefit that every mugger, every rapist, every bank robber gets, namely the exercise of prosecutorial discretion by the Attorney General, by the prosecuting attorney.

Now there would be a political penalty to the Attorney General if he gave somebody a pass simply for political reasons. Once the machinery is in gear, the preliminary investigation is underway, there is publicity, there is attention being paid to this, but I think it would be a terrible mistake to diminish and to demean the functioning of the office of the Attorney General in our zeal to divest the office, the institution of Attorney General, of one of the traditional resources and discretions that that office has, namely of determining whether or not there was criminal intent.

My friend from New Jersey may be very strongly committed to doing this, but when this law applies to Members of Congress—and I assure you if this body gets a chance to vote on that, it may well happen. The chairman is shaking his head, but we shall see what we shall see. I simply say that the right of a prosecutor to determine whether or not there was criminal intent is important. You will recall in 1982 when a very high official in the White House was accused by a couple of people in a disco in New York of using cocaine, we changed the law, we permitted, we authorized the Attorney General, we mandated the Attorney General to evaluate the credibility of the source. We said, "Mr. Attorney General, before you go in and get an independent counsel and put the target through the cost and the public exposure and the humiliation, you evaluate the source and the credibility of that witness." That raised the threshold for appointing an independent counsel. Now we are lowering the threshold. We are eliminating the threshold by saying, "Mr. Attorney General, as far as criminal intent, which is an essential element of any crime, you cannot inquire into that, you cannot make any judgment." That is a disabling notion and it is going to weaken this bill constitutionally.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, I have a great deal of respect for my colleague from Illinois. We work together on a lot of things. We share many views and a whole host of issues dealing with the criminal justice system, but I just disagree with the gentleman on this issue. I think the state of mind is a special category. I do not think it is sufficient for someone in the executive branch of the Government, the Attorney General to call one of their staff people and say, "Now, look, you did this, you did this, and you did this. Now what was your intent?" "Well, geeze, I didn't have any criminal intent." I do not think we can use a subjective standard that has to be an objective standard.

Mr. HYDE. The gentleman sets up a straw man. You do not have to ask somebody what their intent was, you infer their intent from the surrounding circumstances.

Mr. HUGHES. The gentleman just made my case. You make it from the surrounding circumstances and you cannot do that at the beginning of the process, you have to have subpoena power. You need the power to grant immunity. You need the power to convene a grand jury. The Attorney General does not have that power.

Mr. HYDE. You may or you may not, but you are depriving the prosecuting attorney of certain powers.

The CHAIRMAN pro tempore (Mr HEFNER). The time of the gentleman from Illinois [Mr. HYDE] has expired.

Mr. HYDE. The gentleman from New Jersey is perfectly willing to let the Attorney General determine the credibility of the source of the information, but not the state of mind. You cannot emasculate the Office of Attorney General, elevate the office of independent counsel and say you have a constitutional bill. If I am the target and you have deprived the Attorney General of one of the functions traditionally and legally of his Office and I am deprived of him exercising his judgment as to whether under all of the circumstances there is criminal intent, you have emasculated the Office, I have not gotten due process, nor am I getting equal protection of law with the next criminal who is not caught in the web of this law.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me further?

Mr. HYDE. Of course I yield to the gentleman from New Jersey [Mr. HUGHES].

□ 1305

Mr. HUGHES. And that is a jury question more often than not. A jury has to decide what in fact was the specific intent.

Mr. HYDE. Mr. Chairman, recapturing my time, prosecutorial discretion has existed since the first day there was a prosecutor. Prosecutors exercise discretion every day. I just think you are reshaping the Office of the Attorney General. You are tilting toward the appointment of independent counsel. You are imposing on targets, financial ruination, humiliation in the press, and you are burdening the taxpayers with a terrible imposition.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, that is the purpose of the independent prosecutor who does not have the inherent conflict. He is not a part of the executive branch of the Government, and he can make that determination after he secures all the evidence.

Mr. HYDE. Yes. Once an independent counsel is appointed, you had better get yourself a good lawyer, and you are already in the soup. You may never reach that threshold. You are lowering the threshold, tilting toward independent counsel. That is not justice.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words, and I also rise in opposition to the amendment.

Mr. Chairman, the gentleman from Illinois is very thoughtful, and much of what he says is accurate when he says we are trying to reshape the office of the Attorney General. We are precisely doing that in that very, very narrow class of cases where there is a mandatory coverage by independent counsel. That is precisely the point.

We are saying that with regard to Attorney General Meese's closest colleagues—let me just quote Attorney General Meese. In the press conference he had in November, when news of the Iran-Contra diversion first came forward, Mr. Meese was asked by the press to be critical of some of his Cabinet colleagues. He was asked leading questions. They tried to get him to criticize the Secretary of Defense and the Secretary of State, and he said:

> I serve with these men. They are my colleagues. I am not the one you ought to be asking to evaluate their behavior.

He was right then, and because he was right then, we are right now. If it is a difficult problem for the Attorney General in a public forum to comment cirtically on the behavior of his colleagues, it is all the more a problem. I suppose so people will know that lawyers are in this, I should say a fortiori. It is a problem for the Attorney General to be asked to initiate and supervise prosecutions against Ambassador Whittlesey and against Mr. Deaver. Some of these have not been brought forward. Some of them did not have that degree of merit.

So we are saying that the Attorney General is a political colleague, coworker, coappointee of the same President, an Attorney General who worked closely with that President, as most Attorneys General have, whether it was Robert Kennedy for John Kennedy or whether it was Griffin Bell.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, the gentleman is making a valuable argument for us to do something about our Ethics Committee in the House, because the gentleman is so right.

Mr. FRANK. I will take back my time.

Mr. HYDE. The gentleman is so right because we work with each other and we develop friendships, so we need somebody to be looking at possible malfunctions and malfeasances.

Mr. FRANK. I agree. I believe that peer-group policing barely works at West Point, and it certainly does not work among adults. That is why I am a cosponsor of the resolution that many of the gentleman's colleagues have put forward, the gentleman from Pennsylvania and the gentleman from Georgia. I am a cosponsor of that resolution calling for a new look at the way we handle ethics in the House.

I agree that with the best will in the world—let me say that you would not get me on the Ethics Committee without a subpoena to serve on it. When I was in the Massachusetts House and a motion was offered to elect the ethics committee, I put in an amendment that said the people who got the fewest votes should be the members because only people with no friends in the first place would be effective.

I completely agree. On that subject, when it comes before us, the gentleman and I will be side by side.

On this subject we are now talking about, the Attorney General can decide adequately when facts are presented that indicate the possibility of the commission of crime, what the Attorney General's role should be. We are saying that where the facts are that a violation of the law was indicated, we ought to——

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, did I just hear the gentleman say that only people who serve on the Ethics Committee have no friends?

Mr. FRANK. No. I just say that the people who have the fewest friends would be the best members of the Ethics Committee because they would be the least worried about offending others.

Mr. MYERS of Indiana. Mr. Chairman, if the gentleman will yield, some of us serve out of a sense of responsibility. We do not like the job, but it has to be done.

Mr. FRANK. That is my point, too. I do not like the job either. I admire the gentleman for doing it. He certainly has not lost my friendship for that reason, but I would not say that is the best way to win a popularity contest.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. FRANK. Over the apparent objection of my friends on the minority side, I would like to discuss the bill. We can do special orders on the Ethics Committee.

Mr. SWINDALL. That is the purpose of my asking the gentleman to yield.

Mr. FRANK. The question is, do we let the Attorney General say, yes, the facts are the crime was committed, the law was violated, but this pattern of behavior which appears to violate the law took place, but the person did not mean it? What we are saying is that is far beyond the threshold which the Attorney General ought to be asked to make a decision on with regard to the individuals with whom he had worked so closely.

As a matter of fact, I do not believe what we have in the bill was meant to be a change until the current Attorney General said with regard to several appointees that there was possibly a violation of the law, but they did not mean it. No one, I believe, though the Attorney General had that power. That is an effort by us, frankly, to bring the law back to where it should have been, because if we put this in the law, we render the prosecution, I think, a service.

The CHAIRMAN pro tempore (Mr. HEFNER). The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Georgia, who asked me once before to yield.

Mr. SWINDALL. Mr. Chairman, as long as we are talking about bringing the law back where it ought to be, I would like to ask the gentleman from Massachusetts how he can reconcile the provisions of the Constitution that guarantee equal protection under the law with this particular provision of the bill, as well as the bill in general. Certainly we have here targeted individuals in saying, "As to you individuals, you will not have the same protection under the law that is afforded any other individual except those that chose to work in the executive branch of Government at the pleasure of the President."

Mr. FRANK. Mr. Chairman, the gentleman has asked a question, and I will respond to it.

As he pointed out, he is one of the lucky ones on the Republican side. He did not get here until 1983. Most of those who were here in 1982 got caught voting for this bill before they decided retroactively it was unconstitutional. I do not refer to the gentleman from Illinois. I do not put him in that category. But many of the opponents today were for it in 1982 and later came out against it. The gentleman got here late enough to avoid that fate. I congratulate him on his timing. He is against the whole bill, so, of course, he is against this particular piece of it. If you do not want the independent counsel, then, of course, you do not want it to work.

The obverse does not hold. You can be for the bill and against this piece.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. FRANK. No; I will not yield. The gentleman asked a question.

Mr. SWINDALL. Well, the gentleman has not answered it.

Mr. FRANK. I am going to get to the answer. I ask the gentleman to be patient and work hard, and maybe he will understand it.

The point is that part of my answer is that when the gentleman is opposed to the whole bill, I am not surprised that he wants to make it less effective. That means as a piece the denial of equal protection is not a very sensible argument. I understand the gentleman's new-found attachment to the Attorney General of the Carter administration, Mr. Bell. Mr. Bell is being asked to do more work by the Republicans these days, in the Bork nomination, on this bill, and the E.F. Hutton investigation, not for them but for others. I think he is entitled to a second pension for all the extra work they are laying on the poor fellow and in whom lately they have found virtues they never saw before.

Mr. HYDE. And let us not forget Lloyd Cutler, too.

Mr. FRANK. No. Lloyd Cutler testified, I say to the gentleman—and I say this to the gentleman to whom I did not yield, but I will overlook that.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. Lloyd Cutler testified in favor of this bill. The point that I would make is this: It is not denial of equal protection, because what we are saying is this: The Independent Counsel is the one who should take into account state of mind. We are not saying you should be prosecuted regardless of your state of mind; we are not saying you should be indicted regardless of your state of mind. We are saying that if the Attorney General finds you committed these acts, it is not him but the independent counsel who then ought to make that conceptual inquiry about the state of mind. The inquiry the gentleman from Illinois made about state of mind is a valid one to be made, but by the independent counsel, not the Attorney General.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just hope that historians in the future will take note of the interesting fact that civil liberties are being protected by the Republican side and the avenging angels are on the Democratic side.

Mr. FRANK. I think events that happen so rarely often do come to the attention of historians, and they probably will. But I do not regard it as in any way a violation of civil liberties, because we are not in any way, shape, or form diminishing for the person who might be accused, the availability of the defense that he or she lacked the requisite state of mind, because all we are saying is that the decision about state of mind ought to be made not by the Attorney General but by the independent counsel, and that is the position all of us thought was the case until we had the situation with Mr. Meese where his public integrity section and his Assistant Attorney General in one case recommended prosecution, and the independent counsel asked for that prosecution. But when the public integrity section and the Assistant Attorney General recommended the prosecution, Mr. Meese said, "Oh, no, my former colleague here didn't have the requisite state of mind, so I won't go forward with it." That is the situation we are trying to remedy.

Mr. SWINDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a couple of comments with respect to the argument that the gentleman from Massachusetts made. First of all, his reference to the bill that was passed in 1978 and renewed in 1982 is totally nongermane to this debate because none of the provisions that we are seeking to strike appeared in either of these bills.

The second point that I would make is with respect to his response to my question regarding equal protection. I asked a question, and the gentleman's response to my question was this: He said that we have no problem here with equal protection under the law because this individual will still have an individual who will determine the state of mind; it just will not be the Attorney General, like everyone else in America, but this individual will have someone else, an independent prosecutor, to make that determination.

I would suggest that while on the surface that may appear to be only a slight distinction, it is actually quite significant. Such an argument is no different than agruing that the fact that while our Constitution guarantees a jury trial by one's peers that right can be satisfied by allowing a jury trial, only it will not be by your peers.

The point is there is a major distinction between an independent counselor who is chosen in secrecy, when none of the protections are given that are afforded other individuals, and again I would cite the case of Mr. Deaver, who now has a special prosecutor whom no one in this Congress has any oversight of and who is empowered to spend millions of dollars, and that individual was chosen without even, as far as I know, a single question being asked with respect to whether or not he has a political ax to grind because Mr. Deaver helped to defeat him in the Republican primary in New York.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Deaver requested the appointment of a special prosecutor.

Mr. SWINDELL. I do not believe he requested Mr. Seymour. Certainly the gentleman would not suggest he requested this person who has a political ax to grind, would he?

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I would just point out that this has absolutely nothing to do with the amendment under consideration, because the question of state of mind never came up in the *Deaver* case; it came up in two other cases. I know the gentleman wants to talk about it, but I would like the Members to talk about this amendment. This has absolutely nothing to do with the amendment under consideration.

Mr. SWINDALL. Mr. Chairman, reclaiming my time, I would suggest it has everything to do with it because I was correcting the gentleman's misplaced logic with respect to the fact that the fact that equal protection is not an issue here because this person will still have his state of mind considered, only by someone different than the rest of the population of the United States of America, is very significant.

The other point is that the gentleman was not present when I made this point, but I would love to hear his comment on this. The gentleman from Massachusetts has referred to the fact that the previous law passed in 1978 and renewed in 1981 was supported by those folks who all voted for it and who are somehow now preempted from considering deleting this provision we are debating here. It never appeared. It never appeared in that statute.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, first I was referring to those who voted for the bill in 1982 and decided the bill they voted for was unconstitutional. On this provision, I agree it was not in the original bill. My point is that the intent, I believe, of those who put it forward was not to allow the Attorney General to make this change. I agree that this language was not in the original bill. I believe this was the thrust of the original bill, and because of a new invention of Mr. Meese to get the people off the hook, it was necessary for us to put this language in, as it will be in a couple of other cases.

Mr. SWINDALL. Mr. Chairman, reclaiming my time, I would like to ask another question of the gentleman.

With respect to the fact that these individuals that are targeted for coverage under this bill will be treated substantially different than anyone else in the population, would the gentleman not concede that does deprive them with respect to that particular aspect of equal protection, and if not, does the gentleman define "equal" as only slight or close to being the same?

□ 1320

Mr. FRANK. The gentleman's argument applies to the whole bill. Yes, we do say that Edwin Meese, talking about prosecuting Michael Deaver, Lyn Nofziger, the procedure should be different than if we were prosecuting a purely private citizen.

I do not believe that is in any way, shape or form a denial.

The **CHAIRMAN.** The time of the gentleman from Georgia has expired.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding.

If you are investigated by the independent counsel as opposed to the Attorney General, in some ways you are better off, if you are not indicted.

If I am investigated by the Attorney General and ultimately exonerated, not indicted, I have to pay my lawyer. If an independent counsel does it, and I am not indicted, I get my lawyer's fees paid by the Government. In some cases there is a preference.

In general all of the safeguards that are to be taken into account before initiating an indictment remain fully available to any individual.

All we are saying is, not that you are judged by a different standard, a different individual makes the judgment. The independent counsel makes them rather than the Attorney General.

The independent counsel have a very, very good record of not bringing indictments when there was no basis for it.

Mr. SWINDALL. If that logic is sound, I suppose the gentleman would say whether one has a jury of one's peers or just a jury trial in general is really meaningless?

Mr. FRANK. The gentleman from Georgia would suppose a great deal, very little of which I usually agree with.

The fact is that the jury question comes at conviction. Whether or not you have an independent counsel or an Attorney General as an individual bringing the prosecution is to me very, very different from whether you are tried and convicted by a jury or a judge.

If they are the same thing to the gentleman, I guess I am not surprised; but neither am I convinced.

Mr. SWINDALL. Reclaiming my time, our Constitution guarantees certain rights. For a fact, it guarantees a trial by jury of one's peers. It also guarantees that we will all be tried, we will all be prosecuted, all investigated under the same rules of procedure and under the same substantive rights.

This bill guts that with respect to a targeted group of individuals. it certainly denies due process and equal protection of law to those individuals, and all of the gentleman's words to the contrary do not change that fact.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding to me.

I think it is very important to distinguish, there is a difference between an independent prosecutor going after you and just the Attorney General going after you.

If anybody feels any different, tell me how many cases you know of will you spend $2½, almost $3 million on one person, and with that huge staff of investigators?

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

Mr. SHAW. Mr. Chairman, will the gentleman yield further?

Mr. SWINDALL. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

The prosecutor is single minded in going after one individual which has been his charge. Anyone who says that is the same justice everyone else is getting is kidding themselves when you talk about these kinds of assets coming after you.

To find out that an independent prosecutor with almost unlimited assets, unlimited ability to bring in investigators is going to come in and investigate you. It is a tough call, one that we are putting on a very large number of people associated with the administration.

When the Members talk about civil liberties, the Members are taking them away from this group of people, and do not forget it.

We have another question. The gentleman questioned whether Mr. Seymour was truly independent. If he was injured in an election campaign by the people that he has investigated, then I would say that gentleman is not independent in any way. That is another argument for another day.

I would like to associate myself with the remarks of the gentleman from Georgia. I think the gentleman has pointed out in this debate some very interesting points.

One additional point I would like to make is that I believe it was Griffin Bell, Democratic Attorney General, who made the statement that the bill before the Members assumes that the Attorney General is a crook. This is not the case.

The language we are trying to strike does assume the Attorney General is a crook.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has again expired.

(On request of Mr. HYDE, and by unanimous consent, Mr. SWINDALL was allowed to proceed for 1 additional minute.)

Mr. SWINDALL. Mr. Chairman, reclaiming my time, one other major distinction between independent counsel and Attorney General, the Attorney General must be approved by the other body.

There is no similar provision for the independent counsel. There are no checks on this individual as to how they are appointed or after they are appointed.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman is setting up a special unique class of defendants, a class of targets, who are guaranteed that they must deal with an independent counsel.

This comes as close to a bill of detainer as I can imagine.

Second, surgeons exist to perform surgery. There is a bias on the part of a surgeon; they seldom say, "No, you don't need the operation."

Plaintiff lawyers in personal injury cases exist to sue, or they force a settlement. They are not there to dismiss their case.

An independent counsel, and I know it happens, and a lot of things happen; but independent counsel will labor under a bias to proceed and prosecute.

The gentleman is setting forth a special group of people. That is not equal protection, not due process.

Mr. SWINDALL. Mr. Chairman, reclaiming my time, we do have a tremendous problem in this country already seeking and getting qualified individuals to serve in public office.

I would suggest that the passage of this law would be one additional reason for any sane individual to leave the private sector, and to come to public service where frequently the pay is substantially less than elsewhere, in order that they might be subjected to this new classification where their constitutional rights are put on hold, so long as they are serving their country.

I would suggest that that is perverse; but more importantly, it does a disservice to this country, because in effect we need the very best we can find, particularly in these times.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have strayed far away from the amendment that the gentleman proposed.

As a drafter of the original legislation back in 1978, we did not include a provision on state of mind. We did not do so because we only were concerned with the Attorney General having the power, the authority, to conduct a preliminary investigation, and then leave the investigation when he makes the application for the independent counsel.

We did not again in 1982, when we extended the legislation, include a provision on state of mind.

The only reason that a provision on state of mind is included in this legislation is because the Attorney General, in a case in which he was required to conduct an investigation, stated that he was unable to find state of mind; and therefore, he did not go forward with an application.

That is the reason why this language is included in this bill. There was no intent in the 1978 statute to allow the Attorney General to reach a decision only on state of mind. There was none in the 1982 statute, and there certainly is not in this statute, and we make that explicit by these words.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 256, not voting 16, as follows:

[Roll No. 368]

AYES—161

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nielson
Packard
Parris
Pashayan
Petri
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Schaefer
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie

NOES—256

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin

Atkins
AuCoin
Barnard
Bates
Beilenson
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schroeder
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith, Robert (OR)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—16

Biaggi
Bosco
Bustamante
Dowdy
Duncan
Gephardt
Hayes (LA)
Kemp
Livingston
Morrison (WA)
Oxley
Quillen
Roemer
Sawyer
St Germain
Tauzin

☐ 1335

Mr. MOORHEAD and Mr. FISH changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 12, line 21, strike out "Such" and all that follows through page 13, line 2.

☐ 1350

Mr. GEKAS. Mr. Chairman, the present law which is now the subject of seeking reauthorization, after a request is made for the appointment of an independent counsel, gives the court the right to set the parameters and the target areas in the law. What this amendment does now, or the new bill that is before us does now, is to change that and sets in law, if this bill passes in its present form, the present law vests in the court that is selecting the independent counsel to determine the boundaries of investigation that is to come under the independent counsel. This new proposition which is before us now states by law the areas into which the independent counsel may go, thus expanding widely by word of Congress, wherein and to what extent the independent counsel might go.

This is a great danger in my estimation. What this says, for instance, in the ongoing Deaver case, is that where the original target of the investigation, things that come out of the conflict of interest, or the violation of other laws having to do with those who serve in the White House or in an executive capacity, when no evidence of that may be found, the independent counsel still has the right to go into other matters, other criminal offenses, like perjury, which had nothing to do with the original request for authorization for independent counsel and for inquiring into other matters having to do with conflict of interest.

I say to my colleagues that if evidence should come of rape or of any criminal conduct or perjury that is far and apart from the original intent of the court that appointed the independent counsel, or the independent counsel himself, then that evidence should be turned over to the regular grand jury process which is already in place.

That would constrict the independent counsel to those very areas which were intended in the first instance by the purport of the law in 1978 which we are trying to authorize, to keep it narrow, to keep it for those special features of conflict of interest which the Congress has felt we could get to in no other way except through independent counsel.

My amendment would bring back to this reauthorization the status of the original law and if you liked that law and do not seek to expand it needlessly, then vote for my amendment. My amendment would restore the narrow pathway that the independent counsel can take toward those targets which the Congress originally intended.

If my colleagues defeat my amendment, they automatically expand that into fishing expeditions far beyond the need and far beyond that which was foreseen by this Congress in 1978 when it produced the original law.

Mr. FRANK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, much of the context of the debate was made in consideration of the rule and I suppose we will make it again now.

Mr. Chairman, I hope this amendment is defeated. What the amendment says is that if someone has been under the statute referred to an independent counsel and in the course of the independent counsel's investigation, the subject of that investigation might have violated the law in covering up the investigation, or in lying under oath, the independent counsel himself or herself cannot prosecute that individual.

So the argument would be that the Attorney General must refer someone to the independent counsel because it is an individual to close to him for him to be the investigator. The individual is then being investigated by an independent counsel and may have committed perjury, or may have obstructed justice. According to the amendment of the gentleman form Pennsylvania [Mr. GEKAS] the independent counsel would not be allowed to deal with the potential perjury or the obstruction of justice, but would have to let the Justice Department do that one so that we would have two parallel investigations, apparently, of the same individual. The independent counsel would be investigating this individual for the crime, the Attorney General whom we had originally thought could not conscientiously investigate that individual would be investigating for the perjury and the obstruction of justice.

It does not make any sense. It is a further effort, it seems to me, to undo the basic act. It bifurcates the prosecution because it says, and apparently the Deaver case is one which the gentleman from Pennsylvania [Mr. GEKAS] alluded to earlier, Mr. Deaver was originally investigated for certain things, the independent counsel now alleges, and that would have to be proven in court, that Mr. Deaver lied during the course of the various investigations and the gentleman says that the independent counsel should not do that, but the Justice Department should.

If the Justice Department had too close a relationship with an individual in the first instance to investigate the underlying allegation, it is just as improper for the Justice Department to investigate any misconduct that may have resulted from the investigation.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, no one in his proper mind would expect that once a perjury set of evidence is presented by the independent counsel, when he turns that over to the grand jury, that that is like turning it over to the desk of the Attorney General himself. If my colleagues have no faith in the grand jury system as it now exists, then they have no faith at all in the ordinary process of the Constitution and in the separation of powers.

I say to the gentleman from Massachusetts [Mr. FRANK] that when we turn evidence of perjury over to a grand jury, we are not giving discretion to Edwin Meese to determine whether or not the grand jury should find the case of perjury.

Mr. FRANK. Mr. Chairman, I will take back my time.

The gentleman having said earlier that he could not understand me, has now given eloquent testimony to that fact. The notion that when you turn over prosecution you are giving it to this independent grand jury and the nature of the prosecutor is not a matter of relevance, simply does not square with the facts. We do not have independent acting grand juries. There is not going to be an effective prosecution by a grand jury alone without the prosecutor. You are not being asked, under the gentleman's amendment, to turn this over to some unrestricted grand jury, rather we are saying, "independent counsel, you do not do this, the Justice Department does."

That is a further example of people who do not like the whole bill. We bifurcate the prosecution, and would have the individual being prosecuted simultaneously by the independent counsel for the underlying allegation and by the Justice Department for the alleged perjury, all of which would have to be proven, and the gentleman's allegation that I am somehow showing lack of faith in the grand jury system does not have any relevance. We are not denying that the grand jury would act fairly. We are saying, as every prosecutor understands, grand juries do not act all by themselves, particularly if it may be a complicated case involving perjury or obstruction of justice when we do not have a conscientious prosecutor unhindered by conflict of interest, and this is not an indictment of the individuals now holding office. I remind Members this is a bill that was passed by a Democratic Congress during the administration of a Democratic President.

We are saying that to make it work well, we have discovered a new category and we want to make clear it is covered.

□ 1400

If you are being investigated and you perjure yourself during the investigation, the same person prosecuting you for the crime ought to prosecute you for the perjury. That is what we say. The gentleman from Pennsylvania says no, split it in two. I do not think that makes any sense.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the legal points and the constitutional points are very similar to the issue that we just had a few moments ago. The language being stricken simply says in addition to the jurisdiction that the Attorney General may petition to the court for the appointment of a special prosecutor that the Congress deems it is necessary to include various other things that it gratuitously throws in here. That sounds all right until you start thinking about the constitutional question. Now the independent prosecutor, without this language, can still go back into the court and he can ask that this jurisdiciton be expanded.

This language simply says it is expanded anyway so this is what we are doing here, is mandating that by the petition for the appointment of a special prosecutor that the Attorney General is required to delegate this extra authority. That is not going to pass the question of constitutionality of this particular part of the bill.

I think that it is fine to think that the special prosecutor should have this type of jurisdiction. In fact, he is getting it now because he is going back and petitioning the court. In the whole Deaver case right now, that special prosecutor was not appointed to investigate a perjury charge. The special prosecutor has gone back to the court and said, look, I could not get him on this and this and this, expand my jurisdiction to go after perjury, and that is exactly the way it is going forward.

So I think the point I am trying to make is by our trying to put language in there that sounds good, it might maybe make you feel good, it is going to mess up the bill itself, and it is going to weaken the law regarding the special prosecutor, because it is going to put another constitutional impediment in the bill.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have listened very attentively as some of my colleagues referred to a regular grand jury, as opposed to I suppose an irregular grand jury. We are talking about the same grand jury. It is from the same pool of grand jurors.

All the special prosecutor statute does is to set a special independent counsel to present matters to a grand jury and to present matters to a court if a true bill or indictment is returned or if, in fact, they act upon a prosecutor's complaint. That is all the independent counsel statute does.

It would not make sense to take from the special prosecutor the prosecution of criminal conduct that develops as a part of that investigation. You are talking about a tremendous waste of resources. What you are talking about is an investigation that could take upward of a year, a year and a half, to pursue, and during that investigation the investigators might find evidence of wrongdoing of various kinds, perjury, false swearings, obstruction of justice, et cetera. What you are suggesting is you should send that information back to the Attorney General to prosecute or return to the court. That does not make sense. It should be in that special prosecutor's or independent counsel's province to prosecute whatever criminal cases arise as a result of that investigation.

It is not going to go to a different grand jury. It is the same pool of grand jurors that is going to hear that evidence.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Would the gentleman agree that under my theory, if the independent counsel finished his work on the original target but finds a side issue like perjury, would the gentleman agree with me that when he turns that over to the normal grand jury process, and then removes himself that that would save the taxpayers money, that the cost of the independent counsel, if that is the only thing he found, would be over with and then the already paid for, already authorized U.S. attorney, grand jury, criminal justice system already in place taking it over, would that not save money instead of going farther with expenses for the independent counsel to carry it to its ultimate end rather than having two agencies work on it at the same time, the ongoing grand jury to which the gentleman referred and the U.S. attorney who has to be there and independent counsel?

Mr. HUGHES. No, it does not work that way. That is not the way the system works. I say to my colleague that it is not a special or regular grand jury, it is the same pool of grand jurors. It may very well be that if as a result of presentations before the grand jury perjury or false swearing occurs, it should be for that prosecutor handling that case to present that to a trial court, if indictments are returned, not for the Attorney General, because the inherent conflict is still there. The very reason we have an independent counsel statute is to remove the inherent conflict that an Attorney General cannot prosecute those that he is working with, either within his own agency or other high offices in the executive branch of Government. That is the reason we have an independent counsel statute. If, in fact, that individual who is the target of the investigation, who still is perhaps an employee of the Attorney General commits false swearing, then the inherent conflict is still there, whether the charge is obstructing justice, of not providing information to Congress required by the law, or whether it is perjury or false swearing or obstruction of justice. The conflict is still there and it would be a total waste of resources to refer that back to the Attorney General to prosecute matters that developed during that investigation or require them to return to court for permission to proceed.

I urge my colleagues to reject the amendment.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I am going to be brief, but I am going to urge my colleagues to please read the language that the amendment would seek to strike. The language says:

> Such jurisdiction shall include the authority to investigate Federal crimes, other than petty offenses, arising out of the investigation or prosecution of the matter with respect to which the Attorney General's determination was made.

This does not expand the scope. It is within the area in which the Attorney General made the determination.

It then clarifies to say it includes perjury, conspiracy, obstruction of justice, destruction of evidence, and intimidation of witnesses.

I think we all would agree that we do not want those specific individual parts of the investigation handled by a second prosecutor. We want it all within one prosecutor.

The genesis of this amendment came as a result of the hearings before the subcommittee where it was brought out that we should clarify this point to make it clear that all of the matters should be handled within one prosecutor.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I am glad to yield to my colleague, the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, would the gentleman agree that under the current law if the special prosecutor sought or felt it were necessary that he could then approach the court which handed him the original jurisdiction and ask for expansion of authority to deal with X, Y, and Z that he found during the course of his investigation? And if the answer is yes, which I think is obvious, then why change it and intrude the Congress into the specificity of things that can be mischevious and almost demand independent counsel on his own to go into without checking with the courts. We have a safeguard now, do we not, in having the court who originally granted the independent counsel authority to determine whether or not it would be a wild goose chase to go into perjury or obstruction of justice. But now this language demands it by word of Congress, and that is a flaw.

Mr. CARDIN. Reclaiming my time, the protection the gentleman is so concerned with is the ability of the Attorney General to make the determination whether to seek the appointment of the independent counsel. It is at that stage that the Attorney General has the power not to seek the appointment of the independent counsel. It is at that point where the determinations are made.

This amendment simply clarifies the fact that the independent counsel will be given the power to look at all elements of the investigation and not have his hands tied behind him in not being able to look at obstruction of justice or intimidation of witnesses or similar issues.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I am glad to yield to my colleague, the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I think one of the things we have not touched upon is that the very misconduct that is addressed in this bill, in all probability or certainly may not have even occurred at the time that the appointment of the independent prosecutor was made. So what you could have is expanded authority by the person being investigated committing additional offenses after the appointment of the independent prosecutor, which means that the Attorney General did not even envision that part of the investigation because the crime had not even been committed. That is the constitutional problem, and that is the crux of it that I am concerned about.

Mr. CARDIN. I agree with the gentleman as to the point that it may not be known at the time that the special independent counsel is appointed. But as the independent counsel does his investigation, if there has been an obstruction of justice aspect to the matter involved, I would think we would want the independent counsel able to go into the obstruction of justice, not have to go back and forth and perhaps reach an impasse with the Attorney General and find ourselves with two different investigations going on with the same facts or same area of controversy. I think that would be wasteful, and it certainly is against the intent of the independent counsel statute.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise briefly in support of the amendment.

Mr. Chairman, I just simply want to say this is another compounded constitutional infirmity because you are divesting the executive, the Attorney General authority of a normal prosecutorial judgment and by statute we are investing this independent counsel with that discretion and with that judgment. Leave of court certainly ought to be granted, and if indeed it is appropriate, if there has been obstruction, if there has been a perjury, if there has been destruction of evidence, intimidation of witnesses, I am certain that the independent counsel could go to the court and ask leave of the court to widen his inquiry and his grand jury and his prosecutorial function.

But simply to invest the independent counsel with this executive authority is wrong, since under the separation of powers it is the executive which initiates prosecutions, which has the duty to see that the laws are faithfully executed. Here you are erasing that doctrine and you are saddling this bill with another unconstitutional infirmity.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman referred to the provision elsewhere in the bill which would allow the independent counsel to go to the court and get the jurisdiction extended. That is one section that the minority tried to kill in the full committee and has an amendment to try to kill later on in the day, so I take it from the references of the gentleman from Illinois that he is going to oppose that later amendment?

Mr. HYDE. I think at least leave of court is one check against a runaway independent counsel, which is certainly conceivable. Because someone is appointed independent counsel does not mean that they are prudent that they are going to do the wise thing.

Accountability. It is under the A's, Mr. Chairman, and if my colleagues will look it is called accountability. There must be some accountability,

and as you have crafted this bill, there is none.

Mr. FRANK. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. Of course, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, the prosecutor or independent counsel can be dismissed for cause by the Attorney General. That is appealable to the court. So there is accountability. A runaway who is abusing his or her office could be dismissed for cause.

Mr. HYDE. I simply say you are loading this bill down with several albatrosses that will guarantee that it will never pass constitutional muster.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 258, not voting 11, as follows:

[Roll No. 369]

AYES—164

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)

NOES—258

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith, Robert (OR)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—11

Biaggi
Bustamante
Dowdy
Gephardt
Green
Hayes (LA)
Kemp
Livingston
Roemer
St Germain
Tauzin

□ 1430

Mrs. KENNELLY changed her vote from "aye" to "no."

Mr. HAMMERSCHMIDT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 22, insert the following after line 19:

"(j) TREATMENT AS SPECIAL GOVERNMENT EMPLOYEES.—An independent counsel appointed under this chapter, and any person appointed by an independent counsel under subsection (c), who performs duties for the 130-day period specified in section 202(a) of title 18 may thereafter be considered to be a special government employee as defined in that section, but only—

"(1) for additional periods each of which consists of not more than 130 days in a 365-day period; and

"(2) if the division of the court, before each such additional 130-day period begins, issues an order appointing such independent counsel, or allowing the independent counsel to appoint such person, for such additional 130-day period.

Page 29, strike out line 1 and all that follows through page 30, line 8 and insert in lieu thereof the following:

SEC. 3. FINANCIAL DISCLOSURE REQUIREMENTS

(a) FILING OF REPORTS.—Section 203(b) of the Ethics in Government Act of 1978 is amended by striking out "and the Vice President" and inserting in lieu thereof, "the Vice President, and independent counsel and other persons appointed under chapter 40 of title 28".

(b) LIMITATION ON PUBLIC DISCLOSURE.—

(1) IN GENERAL.—Section 203(d) of the Ethics in Government Act of 1978 is amended by inserting before the period at the end the following: ", except that any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title".

(2) CONFORMING AMENDMENT.—Section 205(a) of the Ethics in Government Act of 1978 is amended by striking out "Each" in the first sentence and inserting in lieu thereof "Except as provided in section 203(d) of this Act, each".

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, under existing law anyone who is employed by the Federal Government over 130 days is considered a general employee. The special prosecutor is a special employee of the Federal Government.

We are trying to have the appointments of special investigators limited to 130 days, within the provision that

the special investigator then petitions to the court for an extension of the period of time.

We have talked about independence, and we have talked about accountability. This will bring about a certain accountability. We have special investigators; we have Alexia Morrison, for instance, who has been serving now for almost 2 years, who has spent taxpayers' money of over $707,000 and has not returned a single indictment, and as a matter of fact she had been a part-time employee by carrying on her law practice elsewhere.

That is absurd. This is unfair to the potential defendant, and it is certainly not fair to the taxpayers of this country. It is vital that we have accountability.

I am in no way limiting the special prosecutor to a 130-day total term. I am simply saying that if the special prosecutor is going to go beyond 130 days, he or she should be required to return to the same court that appointed them and make them justify the need for an additional period of time. It is not burdensome, but it does give accountability as to the time and the tremendous expense that we are seeing caused by these special prosecutors.

There is no question in my mind that a number of these special prosecutors are doing nothing other than just nesting and waiting and filling in the time and spending Government money, and they are being very unproductive in their time. I do not see any problem in having them go back to the same court that appointed them and justify the same period of time they have been in existence and justify the need that their existence be continued for traditional periods of time.

Certainly in some instances, particularly when you have trials, when you have had indictments, when you have appeals, it is going to be necessary for the special investigators to serve for several years. I recognize that. But they should have to at least go back and explain what they have been doing and explain to the court why their period or their term of office should be extended.

Mr. CARDIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I find it somewhat unusual that this amendment that would try to restrict the ability of the independent counsel to do his or her work would be offered. We do not impose a similar restriction on the Attorney General. We do not know how long an investigation will take place. We do not require the Attorney General to go back to court or go back and seek some reaffirmation of the need for an investigation.

What I find particularly disturbing about this amendment is that the defendant himself or herself may be the cause for the investigation taking so long to complete. The defendant may challenge the constitutionality of a particular action. The defendant may challenge a subpoena or seek a separate court hearing on it. The defendant may in fact, as part of the strategy of the case, seek to delay the issue. If we place the independent counsel at the disadvantage of having to go through a time limit in order to complete an investigation, I think we are really hampering the ability of the independent counsel to do his work.

Mr. Chairman, I urge my colleagues, in reviewing this amendment, to not put obstacles in the path of the independent counsel law. Let us allow the independent counsels to do their job. Let us not require them to continue to go through hoops that can only impede the administration of justice.

Mr. Chairman, I urge the defeat of the amendment.

Mr. RODINO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, first of all, I would like to address the gentleman from Florida [Mr. SHAW]. I do not believe that he would want the record to show that in the Morrison case the independent counsel delayed voluntarily or that she delayed because she felt she wanted to prolong the investigation. I am sure the gentleman is aware of the fact that the Morrison investigation was triggered as a result of the Judiciary Committee having investigated for a period of a couple of years and having adopted a resolution which requested the appointment of an independent counsel, this request was then made of the Attorney General, there was delay in that matter, and finally an Independent Counsel was appointed.

When Ms. Morrison during the course of her investigation found that because of the evidence she developed there was need to expand her prosecutional jurisdiction, she asked the Attorney General to expand her jurisdiction. She only did so because she had found that there was ample reason to go forward. Then when the Attorney General refused her request, she requested the court to do so. The record makes clear that the length of her investigation is directly attributable, first, to the refusal of the Attorney General to agree to her request for additional jurisdiction, and, second, to the efforts of the putative defendants to litigate the constitutionality of the independent counsel statute.

Ms. Morrison was not appointed until the end of May last year. After investigating for some 5½ months, she was apparently ready to move forward. At that point she asked the Attorney General for added jurisdiction—to include former Deputy Attorney General Edward Schmults and former Lands Division head Carol Dinkins. This request was consistent with the earlier recommendation of the Public Integrity Section of the Department. After a delay of more than a month, the Department responded, refusing to grant Ms. Morrison's request for additional authority. Ms. Morrison was then forced to go to court, where the Department again opposed her. This litigation—which effectively placed her investigation on hold—was not resolved until April 1987. At that time, the court upheld the independent counsel statute but ruled on statutory, not evidentiary, grounds that it could not expand Ms. Morrison's jurisdiction over the objections of the Attorney General.

Ms. Morrison then moved ahead with her work. She may have subpoenaed individuals before a grant jury. They apparently resisted the subpoenas, challenged the independent counsel law, and were held in contempt. Now Ms. Morrison is involved in separate litigation regarding the constitutionality of the statute. On July 20, the law was upheld by Chief Judge Aubrey Robinson of the U.S. District Court in Washington.

Mr. Chairman, the length of Ms. Morrison's investigation has been caused directly by the refusal of the Attorney General to allow her to proceed and by attacks on the independent counsel statute. In sum, she has been consumed in litigation—not investigation—since the end of last year. These events have not been within her control. In fact, she has been aggressively and promptly doing her job by following the evidence wherever it leads, defending her authority in court, and arguing to uphold the constitutionality of the statute. Any attack on her work is not only unfair, but simply does not comport with the facts.

Under no circumstances did Ms. Morrison delay her investigation. Had she been permitted to go forward with her investigation, she would have long ago terminated her investigation, I can assure the gentleman.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I think in the instant case one of the problems with Ms. Morrison was that she went ex parte back before the court asking for her jurisdiction to be extended. I am not saying in this particular instance that Ms. Morrison might not be able to justify the length of time that she has been making this investigation. We think the fact that she has been in there as long as she has certainly makes it subject to inquiry.

As the chairman of the committee knows, I have asked that our Subcommittee on Administrative Law have oversight and be able to call these people in, not to in any way obstruct their investigation, but to simply find out what they are doing, why it is taking so long, and exercise oversight authority. At this particular point there is nobody these people are answering to—nobody.

Mr. RODINO. Mr. Chairman, I want to reclaim my time and say in response to the gentleman that insofar as exercising oversight at this time over the present investigations that are going on, I think that kind of oversight would merely have a chilling effect by inquiring into the details of an ongoing investigation. As the gentleman knows, most of that information is supposed to be kept confidential until reports are then sent to the Congress.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what our colleague, the gentleman from Florida, is asking us to do would impose an impractical obstacle on the special prosecutor. Can we imagine what it would be like if the special prosecutor had to go back in about every 4 months on a number of employees and have them reauthorized every 4 months?

The courts are already congested. We have tremendous backlogs now. The special prosecutor would be back in every other week or so, when that employee's 130 days are up, having it reauthorized. It is taking sometimes 4 to 6 months and more to be heard in court on some of these matters attacking the constitutionality of the statute and attacking the interpretation of the statute.

So what this amendment would do, it would simply require the special prosecutor to take time out from his schedule and go back into court every 130 days to reauthorize the appointment of an investigator or special prosecutor. That does not make sense.

Mr. Chairman, I urge my colleagues to reject the amendment.

Mr. SHAW. Mr. Chairman, will the chairman of the committee, the gentlemen from New Jersey, yield for 1 second to me so I may answer the gentleman from New Jersey?

Mr. RODINO. I yield to the gentleman from Florida.

□ 1445

Mr. SHAW. There is no problem with these courts being bottled up, because the court that appoints the special prosecutor has nothing else to do.

Their jurisdiction is so limited. Yet, their docket is always open. I am talking about a situation where they would have some accountability to go in and ask for an extension; and I do not think it will be an adversarial relationship.

In most instances where the Attorney General has asked the special prosecutor be appointed anyway, they can go back in and probably agree to it all the time.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. RODINO] has expired.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

These are Federal judges that are overworked, overloaded. Right now we have tremendous backlogs.

They are the ones that would be called upon to make these decisions. Who else would make the decisions?

We would have to go back into court with more court time, and the gentleman is talking about dozens and dozens of individuals that would have to be reappointed every 130 days.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding.

There also is the possibility of appeals to the Supreme Court. The independent counsel has been spending too much money, we have been told. One reason, not the only reason, they have been spending a lot of money is that they have been forced to litigate time and again just to survive.

They have been forced to litigate, forced by the Justice Department, by defendants.

The more we make them go into court, the more money they will spend; and the more they will be criticized for having spent that money which we made them spend.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The amendment was rejected.

AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COURTER: Page 26, line 22, strike out "An" and insert in lieu thereof "Subject to paragraph (3), an".

Page 27, insert the following after line 22:

"(3) TERMINATION 1 YEAR AFTER APPOINTMENT.—(A) Subject to subparagraph (B), an office of independent counsel shall terminate 1 year after the independent counsel is appointed unless the independent counsel, with respect to each matter within the prosecutorial jurisdiction of such independent counsel, has either commenced a prosecution by indictment or information or has dismissed the matter under section 594(g).

"(B) The division of the court may, upon the petition of the independent counsel, extend the 1-year period referred to in subparagraph (A) for an additional period of not more than 6 months if the division of the court finds extraordinary circumstances have prevented compliance with subparagraph (A), such as the receipt of new evidence or the inability of the independent counsel to gain access to information necessary for the investigation of a particular matter.

"(C) Upon termination of an office of independent counsel under this paragraph, the independent counsel shall file the report required by section 595(b)."

Mr. COURTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. COURTER. Mr. Chairman, I have an amendment that really is a modification of the amendment we just heard, the amendment of the gentleman from Florida [Mr. SHAW].

It is quite different in its thrust. It says that the independent counsel after an inquiry would have to get an indictment by presentment, or not seek an indictment on each matter if, after a 1-year period of time, the independent counsel found that there were extraordinary circumstances, found that there was difficulty in getting evidence, found that because the defendant himself or herself made his life difficult, then they could file a petition with the appropriate court that gave them jurisdiction in the beginning once for an additional up to 12 months.

We all know that the independent counsel's work is somewhat different than the normal grand jury's investigative powers quite different than the Attorney General or the State prosecutor's or county prosecutor's, because they come into being because there is a cloud on a public person.

Normally, the identity of that individual is well known; so therefore, his work is quite different with respect to individual liberties and individual rights of individuals than you would find under the normal circumstances.

I, as well as many Members in this body, have worked as defense counsel and as prosecutor.

The names of individuals, the identities of individuals who are being brought before grand juries is jealously kept secret, so their reputations are not destroyed, so their standing in the community is not sullied, but not so with the independent counsel.

Normally everybody knows which individual he is investigating, which individual is being exposed to this type of a treatment.

It seems to me that we should hold the independent counsel to just some loose standards of rapid work, some loose standards with regard to speedy efforts. This amendment is a reasonable one.

This amendment gives the independent counsel, from first appointment, 12 months, and then permits him to make a simple application for up to an additional 12 months. It is reasonable, logical, and simple justice requires that it be passed.

As every Member knows, those individuals who are targeted by the special prosecutor or independent counsel are normally public figures. During the time that they are being investigated, their reputations are being sullied. They cannot live in the normal way, and they have to watch for every telephone call, every meeting that they have; and after 9 months, 12 months, 18 months, and with the existing law perhaps 3 or 4 years, living under a cloud of the independent counsel which everybody knows really is the special prosecutor, if there is insufficient cause even for an indictment, an injustice has been served and meted out on that individual.

We should at least require the independent counsel to attend to his work in prudent, logical, and direct and speedy fashion.

My amendment is a very simple one. It requires that the independent counsel move expeditiously. We are all concerned in this body about the fact that individuals are not given speedy trials. They are not brought to justice on a speedy basis.

This amendment will give modest pressure to the independent counsel. I might mention that the gentleman from New Jersey [Mr. HUGHES] was concerned about the court backlog.

The requirement in the amendment offered by the gentleman from Florida [Mr. SHAW] that the independent counsel seek reauthorization every 3 or 4 months, this amendment is not like that at all.

It is a simple 1 year, and then permits him by one application to request 1 additional year. It is reasonable and appropriate, and simple justice requires this amendment.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this amendment substantially weakens the independent counsel; and in many cases may render him impotent to conduct criminal investigations. The pending amendment would provide that independent counsel could be appointed for only 1 year, and that this appointment could be extended only under extraordinary circumstances.

Let us look at it practically. There is simply no way to know at the beginning of the investigation the amount of time that will be needed to complete it. Certainly the Justice Department does not at the beginning of a criminal investigation put a time limit on a prosecutor by which the investigation must be completed. Such an investigation must be continued until the issues are resolved.

I would also point out that often the reason for delays in any criminal investigation are the legal challenges and delays that occur because of the defendant or target of the investigation—such as in several of the current pending independent counsel investigations where lengthy delays have resulted because the subject of the investigation has challenged the constitutionality of the independent counsel statute or made other legal challenges to the authority of the independent counsel.

The Deaver case, there are several challenges being made to the constitutionality of the statute.

Under this amendment it would end regardless of the decision made as to Mr. Deaver. Motions to quash have been made in all of these cases which take many, many months. The Iran-Contra situation, the independent counsel was attempting to obtain documents from the Swiss Government, financial documents, taking months and months and months of time.

Under the Courter amendment the whole process would stop because an arbitrary time deadline prevented you from looking after to see if a violation of law occurred.

This amendment would allow an investigation to be stopped by the court, even though the evidence would justify its continuation.

Such oversight by court would raise constitutional issues as to court supervision of a prosecution. Clearly, that is unconstitutional in my judgment.

This would put the independent prosecutor always under the gun. I understand the concern to keep him moving, but the question is under the gun, so he would not be able to finish his work in time.

In my judgment, the delays that a competent counsel would put an independent counsel or special prosecutor through make this impossible to ever carry out fully an investigation, so I just think what the gentleman is trying to do is kill the independent counsel, and make it too difficult to properly investigate a high-level conflict of interest.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding to me.

Is it not true under the gentleman's reading, interpretation of the amendment, to focus on the Irangate controversy, that the independent counsel could be hamstrung over matters not of his concern; for instance, the Swiss banking records subject to a lawsuit in another country under their legal jurisdictions would under the provisions of this terminate the investigation?

Mr. GLICKMAN. Absolutely.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yeilding to me.

My amendment, I do not think, places the independent counsel in a straitjacket at all. It permits him 2 years to bring an indictment.

Where are the civil libertarian concerns of some of the Members of this body? I try to make the distinction between the work of a grand jury, a county or State prosecutor where the individual's name is not bandied about in the press.

The identity of an individual is not known, but the identity of the targets of the independent counsel normally are public figures. Their reputation is known very well. They have a high public profile, and there is story after story about the fact that the independent counsel is investigating.

My amendment grants the independent counsel 2 years to bring an indictment. It may require another 2 or 3 years for trial. That should be a sufficient period of time.

I am concerned about the uniqueness of the people targeted by the independent counsel. I think that a simple requirement of allowing him 2 years to bring a simple indictment is sufficient.

I appreciate the gentleman from Kansas yielding me so much time.

Mr. GLICKMAN. Mr. Chairman, reclaiming my time, I understand the gentleman's concern; but I think the net effect of the amendment is to hamstring and stifle high-level, sophisticated, complicated investigations; and that is what we do not intend to do under these circumstances.

Mr. COURTER. Mr. Chairman, if the gentleman will continue to yield, I do not intend to do that.

If I wanted to stop the investigation, I would vote against the independent counsel.

I understand the logic and appreciate the need of a truly independent investigation. It is very difficult.

That is why I am going to vote that we have the right to investigate Members of Congress as well.

Mr. GLICKMAN. The gentleman may not want to hamstring him, but that is what the gentleman is doing under this amendment.

Mr. SHAW. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the arguments have been made and the counterarguments to my 130 days. The 130 days was chosen by me, because that appears in other places within the Code as to a definition of a certain class of employees of the Federal Government.

I tell the Members, the existing law says that the Congress shall have oversight authority over what is going on with the special counsel. Not once has the Judiciary Committee exercised that responsibility, not once.

It is not asking too much that the special counsel at least go back to the court that appointed him once a year and say, "I need more time," and give the reasons for it.

If his investigation is being obstructed by the defense counsel on its face, that will be enough. Let the Members at least have some accountability to some people in the world.

Congress should accept its responsibility in having oversight hearings. Let us move these things along.

I say to the gentleman from Connecticut [Mr. MORRISON], who I am about to yield to, who is always very sensitive to matters having to do with civil liberties, why are we trashing the civil liberties for this class of Federal employees? I have no understanding of that.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding to me.

All that was required here was that the special counsel go back, the independent counsel go back to the court once a year, which is what the gentleman said.

As I understand the amendment, there is merely a 1-year appointment and a possibility of a 1-year extension; and that is it.

Do I understand what the amendment says?

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding to me.

He can simply make an application for an extension of 12 months once. If there are other circumstances, he could be reappointed.

It does not mean that the investigation must end. If there are really extraordinary circumstances, he would be reappointed. It seems to me that if this institution is concerned about individual human rights, then speedy justice is a requirement of those rights.

The names of these individuals are obviously normally public; and therefore, these are extraordinary circumstances.

After being the target of an independent counsel for 18 months, or under my amendment originally 24 months, and there is no indictment brought, to which institution and to which court does one go in order to get back their name and their reputation?

It seems to me if we are concerned about individual liberties and individual rights, this is a very modest, a very small demand to place on the independent counsel.

All we are asking him is to work expeditiously. We are talking in terms of 24 months being expeditious.

It seems to me if an independent counsel cannot get a simple indictment in 24 months, he simply does not have the case.

I was a prosecutor, and I know how easy it is to indict. It is not easy to convict, but it is simple to indict. Twenty-four months should be sufficient.

□ 1500

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat uncomfortable in this environment, discoursing on a subject that is not familiar to me and on which I have little experience. However, with trepidation, I will try it.

I am very nervous about the independent counsel, or special prosecutor or whatever it is we call this person, from the very beginning. Perhaps those of us who are not lawyers have some subconscious lack of trust in the legal profession. I hope it is not deep seated.

When we appoint a special prosecutor, that special prosecutor's job is to prosecute. There is no other purpose. If the prosecutor doesn't prosecute someone, he is not doing the job. We give the prosecutor the whole armament that the U.S. Government can provide. We give this person an indefinite time charter. We give the person an unlimited dip into the public resources of the country.

If we could put some modest limitation of power into the situation, like that proposed by the Courter amendment, it would provide a modicum of needed accountability.

I notice that we have one special prosecutor working now who spent $2.9 million, including over 300,000 dollars' worth of rent. He was pursuing difficult cases, I assume.

I called up the U.S. attorney in Minneapolis, and tried to find out what the total budget is for the 23 attorneys that work out of that office. Well, is not wholly comparable, but the Minneapolis U.S. Attorney's Office budget is less than one special prosecutor has consumed already, without bringing in an indictment, or giving any signal that an indictment is about to be brought in.

As stated, the comparison is not a good one, but to let one prosecutor work without limitations while all others are subject to rather severe restrictions seems unfair. Some prosecutors are more equal than others. The ones who defend my constituents are unequal.

My problem with this is that what we have done is set up a very unequal contest. I do not have any complaint with what has happened so far. I do not even know if the $2.9 million is a lot of money or a little money; but I do think there needs to be some sort of restriction, some sort of limitation on the amount of time this person can have, on the amount of dollars this person can have.

There must be some accountability in the system. If any of the charges by the people who are moving these amendments are anywhere near correct, the committee has provided neither limitation nor accountability on this particular job.

Again, as somebody who does not know the territory very well, I am not altogether certain of my position, but I must say the committee's argumentation has given me no comfort. The managers have demanded their terms and no others. The result is that I am not going to be able to support the bill if we do not do something to impose some reasonable limitations on an independent counsel now accountable to no one.

I hope that this House will accept the amendment to include the Congress, because that is simple equity. If it does, I assume that each of us could be the target of one of these prosecutors. That would mean that for a couple or 3 or 4 years somebody would be inspecting everything that we do, with the press displaying every day that we are being investigated by a gimlet-eyed attorney with platoons of assistants and with an unrestricted dip into the public treasury.

I would feel more comfortable about this enormous blank check transfer of authority if the bill's managers would include the Congress. Since they won't be excluded themselves, I can only assume the arrangement may be as bad as my worst fears.

I do not expect to commit any high crimes, but it makes me nervous to think that I could be in that kind of position with none but my own manager resources to defend myself.

There ought to be some limitations here. I think the Members on this side have been struggling to provide them and I think they are getting little help from the majority. The amendments make sense to me. Since they are not being accepted. I shall vote "no."

Mr. Chairman, if I have any time left, I yield to my friend, the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I appreciate his support.

I would just like to reiterate that 24 months is a long period of time. I think it is a very modest effort and responsibility and charge to be put on the independent counsel.

CORRECTED VERSION OF AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, through a clerical mixup, it is my understanding that an original version of my amendment was read, rather than the one that had the 12-month extension. The original version had 6 months. It is my understanding that that was the one that was read.

I ask unanimous consent that the corrected version of my amendment be considered at this time.

The CHAIRMAN pro tempore (Mr. Smith of Iowa). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The text of corrected version of the amendment offered by Mr. Courter is as follows:

Amendment offered by Mr. Courter: Page 26, line 22, strike out "An" and insert in lieu thereof "Subject to paragraph (3), an".

Page 27, insert the following after line 22.

"(3) Termination 1 Year After Appointment.—(A) Subject to subparagraph (B), an office of independent counsel shall terminate 1 year after the independent counsel is appointed unless the independent counsel, with respect to each matter within the prosecutorial jurisdiction of such independent counsel, has either commenced a prosecution by indictment or information or has dismissed the matter under section 594(g).

"(B) The division of the court may, upon the petition of the independent counsel, extend the 1-year period referred to in subparagraph (A) for 1 additional period of not more than 12 months if the division of the court finds extraordinary circumstances have prevented compliance with subparagraph (A), such as the receipt of new evidence of the inability of the independent counsel to gain access to information necessary for the investigation of a particular matter.

"(C) Upon termination of an office of independent counsel under this paragraph, the independent counsel shall file the report required by section 595(b).

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had asked the gentleman from Minnesota to yield on a couple points.

One, the gentleman said that he does not trust lawyers and that is why he is skeptical of the independent counsel.

The Justice Department is not staffed by carpenters, so the alternative to the independent counsel is not nonlawyers. It is different lawyers.

The other point the gentleman mentioned was that we have a man who spent $2.9 million so far. That is Mr. Walsh, who I think is doing a very excellent job. I am distressed at the extent to which Members want to be critical, I think unfairly, of Judge Walsh, a Republican who served with great distinction in a Republican administration, but who I think is doing a very good job.

The gentleman said that he had done all this without getting an indictment or conviction. In fact, the judge has gotten two convictions. Judge Walsh has secured two convictions of Mr. Donovan and Mr. Miller; so as I read the amendment, Mr. Walsh would not be covered by it anymore because he has brought some.

Now, it does say that it depends on each matter within the jurisdiction. I do not know how you would count the matters. I think there is a lot of ambiguity in here. I do not know whether the thing starts to run again.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Chairman, I would just like briefly one more time for the record to state that we all know that the two convictions to which the gentleman referred are not of covered individuals. They were plea bargains.

Mr. FRANK. Well, Mr. Chairman, I take back my time to say that I do not read in this bill that it says only covered individuals. What it says that if he did not bring in any convictions. It is the subject matter. He did not indict two people for jaywalking and malicious prosecution. He convicted two people who were convicted because of events that grew out of the matter that was referred to him. These gentlemen were convicted out of the matter that was referred to him. It was not that he was wasting his time.

The other problem that we have is this. The gentleman from New Jersey says, "My goodness, it has been 24 months and they can't get an indictment."

Indictments are easy to get. It is convictions that are hard.

Let us not give anyone an incentive to bring easy indictments. Why do we want to pass a measure that gives a prosecutor—the gentleman says, "Hey, indict. It is the conviction that is serious. No indictment is serious."

There is a reason to ask him to withhold. Under our statute, I think thoughtfully, when the gentleman from New Jersey brought out the new version in 1982, it said if you are investigated and not indicted the Govenment will pay your legal fees; so if someone is in fact indicted, he or she then forfeits the right to have the legal fees paid; so I do not understand why we want to give the people an incentive to indict.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman very much for yielding.

The gentleman mentioned the fact that this would encourage independent counsel to bring frivolous indictments.

Mr. FRANK. I never said frivolous.

Mr. COURTER. Well, that is my construction of it.

Mr. FRANK. Wrong construction.

Mr. COURTER. The gentleman said easy, easy indictments. Easy means without justification, not real, therefore frivolous.

I do not think any of the remarkable individuals, attorneys with great reputations, would bring a frivolous or easy indictment. I do not think that is a good argument against the amendment.

Mr. FRANK. Neither do I.

Mr. Chairman, I am taking back my time. The gentleman may continue on later in the regular order, but I want to reclaim my time.

I did not think that was a good argument, either. That is why I was surprised that the gentleman from New Jersey made it.

When I referred to indictments that were easy, I was quoting the gentleman from New Jersey who is now standing. He is the one who said, "Well, gee, all they have to do is bring an indictment. An indictment is easy to bring," the gentleman said.

I disagreed that that is something we ought to be encouraging our people, so I am glad that we now agree that urging people to have easy indictments is not a very good idea.

I just want to deal with the accountability issue. There are several kinds of accountability here. You are dismissible for cause. This is not a case of a runaway who cannot be disciplined. If the Attorney General has cause, he can be fired.

Understand what the Reagan administration means by accountability, because we continue to get back to the central point. Their brief says, their arguments say, their general approach is, and it is generally being supported in the minority report that says the bill is unconstitutional, the President must be able to dismiss the prosecutor anytime, anywhere, for no reason whatever, or else it is unconstitutional; so that is what they mean by accountability at the Reagan administration.

What we mean is that you are appointed with a specific charter. If you abuse it, you may be fired for cause by the Attorney General with judicial review.

Mr. COURTER. Mr. Chairman, will the gentleman yield further?

Mr. FRANK. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman again for yielding.

There are two points I would like to make. Number one, the gentleman said that a person who is not wronged because they are found not to be indicted, that their legal fees are paid if they are found innocent.

Mr. FRANK. No. I want to correct the gentleman again. The gentleman may not misquote on my time. I did not say you were not wronged. I did say that the difference between indicted and not being indicted was the forfeiture of your funds. I did not say you were not being wronged if you were investigated.

Mr. COURTER. But my point is that so you grant the fact that somebody would be wronged if their reputations were dragged through the marketplace for 2 years without an indictment. My point is that there should be some time limits on that. It should not just go on forever.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. FRANK. Mr. Chairman, I agree that people should not have their reputations dragged—I thought it was through the mud that you did not want to be dragged, not through the marketplace. I am surprised that the gentleman on that side of the aisle uses the marketplace in such a derogatory fashion. I did not think being dragged through the marketplace was such a bad idea, unless it was Monday and you owned something; but the issue is that, of course, we do not want people to be unfairly investigated.

I think if you look at the record of the independent counsel, particularly after the chairman's bill came out in 1982, people who have been investigated and have had the independent counsel say that there is no problem and have had their fees paid have not had their reputations damaged. I do not think at the conclusion those are people who have come away with their reputations damaged. I do not think people who are investigated and exonerated are thought less of, particularly once the government pays their fees.

Yes, it is an inconvenience to be investigated. It may even be a serious problem, that when that ends with a statement, "There is no grounds for any prosecution. Here is your money back." I do not believe that people who have been successfully exonerated are hurting.

Mr. COURTER. Mr. Chairman, will the gentleman yield further?

Mr. FRANK. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I am really surprised that the gentleman is suggesting that their reputations are reinstated because their out-of-pocket expenses are reimbursed. The gentleman knows as well as I do that if an individual is a target of a special prosecutor for 2 or 3 or 4 years and there is no indictment, that story is over in 4 minutes. It will be an end to the matter.

Mr. FRANK. Well, Mr. Chairman, I take back my time.

I disagree with the gentleman. Perhaps the gentleman thinks less of Attorney General Meese because he was investigated by an independent counsel and then exonerated.

I do not think that the Jacob Stein investigation resulted after it was announced in the diminution of that.

In fact, I have debated members in the Justice Department who have said, "How can you criticize Attorney General Meese? The independent counsel said he did nothing wrong." So I do not think there is a good argument there.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment. I am not going to take the 5 minutes.

Mr. Chairman, I disagree to some extent with my colleague, the gentleman from Massachusetts. I believe that anybody's name in public office that surfaces in connection with a criminal investigation suffers. I think we share the desire to try to see it expedited.

My only quarrel with the gentleman's amendment is the fact that as the gentleman well knows, you never know how long a criminal investigation is going to take. These criminal investigations are complex. There is a great deal of maneuvering by defense counsel and if one just looks at the facts in the Olson investigation, you will find that the vast majority of the time that the special prosecutor, Miss Morrissey, has spent on that particular investigation is maneuvering within the courts defending her position, attempting to get in fact access to information, attempting to extend the jurisdiction, and she spent the better part at this point of about 16 months and most of that has been in court.

The gentleman well knows that it is good defense tactics to prolong and stretch out these defenses, and that is what they have done in the final analysis.

A special prosecutor, like the Attorney General, really has very little control often over those delaying tactics. What the gentleman would do would be to require the special prosecutor once again to periodically go back into court to become reauthorized.

The gentleman suggests his reasons for that extraordinary circumstance (A) such as the receipt of new evidence or the ability of the independent counsel to gain access to information necessary for investigation of a particular matter.

Actually, special counsel, just like the Attorney General and the U.S. attorney, often have to go through all types of delaying tactics. It seems to me to require the special prosecutor to go back into court after a year to be reconstituted is just an unnecessary expense. It puts the overburdened courts to the task once again of hearing those matters. I do not think that makes sense.

□ 1515

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, it also gives the person who is the subject of investigation, or allies that he may have in the Department of Justice, for example, an incentive delay. The more delay, the more they are pushed into the process of going into court. The person under investigation is given more incentive to delay because a penalty can be imposed on the independent counsel.

Mr. HUGHES. Mr. Chairman, the final thing I want to say, and I thank the gentleman from Massachusetts [Mr. FRANK] for that contribution, I would venture to say that if one were to talk to Attorney General Edwin Meese today and ask him if he wanted us to put a time limit on his criminal investigation, he would say, absolutely not.

Why should we put this kind of baggage on the special prosecutor that we would not put on the Attorney General?

I would say to my colleagues that while the amendment may be well intentioned, I think it would, in fact, defeat the thrust of the special prosecutor or independent counsel statute. It would cause additional expense and, unfortunately, would simply burden the courts with unnecessary litigation.

Mr. SWINDALL. Mr. Chairman, I move to strike the requisite number or words.

Mr. Chairman, I feel as though I am almost being repetitive but since the gentleman from Massachusetts [Mr. FRANK] on the other side of the aisle continues to be repetitive on this point, I at least want to set the record straight for those individual members who have only heard part of this debate.

I think that there is a major difference between individuals being convicted that are covered and those that are not covered. The fact remains that this legislation that we currently debate here today, has never yielded a single conviction of covered individuals.

Why is that important? It is important because we are being asked here today to believe that it is necessary to trash the constitution, throw out due process, throw out equal protection, all because of the extraordinary problems that exists in this country because of these covered individuals.

That is a major distinction.

There is not a covered individual involved, and so for the gentleman to continue to argue that two very, very low in the priority of this whole scheme of things, individuals have now not been convicted, but plead guilty. I suspect because they could not afford the lack of productive time to go through this procedure.

Let us remember just a moment what happened with Secretary Donovan. After a special prosecutor went after him, and failed to find sufficient evidence to indict and stop the investigation, under court order the State of New York required that he turn over his information in order that they could bring a frivolous indictment in New York. After the indictment, after the jury heard the evidence, after an innocent verdict came forth, one of the jurors made the statement, "I don't understand why this individual was in the first place indicted."

I do think it makes a difference.

The next point that I would like to make is that we have expended $2.9 million and the only thing that we can come forth with is this statement that we have two individuals who, more out of intimidation by an unlimited resource in the name of the special prosecutor, pled guilty, most likely, and we are now being asked to justify no accountability whatsoever here with respect to the special prosecutor.

Mr. Chairman, on another point, another one of my colleagues made the statement that there is really no distinction here between an Attorney General and the special prosecutor.

There is a world of distinction. An Attorney General, is, in fact, held accountable to this body. The Attorney General must come back to this body on an annual basis for appropriations for their work, and finally I would suggest there is one major difference between being the target of a special independent counsel and an Attorney General investigation, that is there is secrecy in reverse. When an individual is the target of an Attorney General investigation, all of that investigation is secret. It is not on the front page of every newspaper in this country because grand jury investigations and hearings are, at least supposedly, conducted behind closed doors in private.

In this situation, we see that that is not the case and, in fact, most individuals have their reputations drug through the mud. I am reminded of a friend of mine, Hamilton Jordan from Georgia. Many will remember that the coke charges that were raised against him were drug through the newspapers, through the headlines, his reputation was tarnished, and in the final analysis, yes, great, 3 or 4 years later we reimbursed his attorney fees.

Timothy Kraft is another example. He is another one of the Carter administration folks that were the subject of this type of witch-hunt.

Nothing happened there. He only had to give up his position in the administration before the election. That was his sole purpose for being there, he was the campaign adviser. He had to surrender that position in order to clear his name from this witch-hunt.

Then after the election, in November of 1980, sure enough, the special prosecutor finds that there was really no basis for it, so what he does basically is clear Mr. Kraft's name.

One last point, and that is that I say there is secrecy in reverse. There is as I have mentioned earlier secrecy in terms of how the special prosecutor is selected, what the criteria are, and we do not know that. We do not know if there are any conflicts of interest except in the case of Mr. Seymour and his relationship with Mr. Deaver. We do know there is a very clear conflict of interest there and yet Mr. Seymour continues to expend great amounts of money with no accountability whatsoever.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I say to the gentleman that if Mr. Meese thinks there is an impropriety there, he could dismiss for cause.

Second, when the gentleman talked about the distinction between convicting covered and non-covered individuals, I was referring to the gentleman from New Jersey's [Mr. COURTER] amendment. That distinction is not part of this amendment.

Under the amendment, a conviction of anybody, whether covered or not covered, would end the period. So the distinction the gentleman from Georgia [Mr. SWINDALL] believes is important, may be important in other contexts but it is not for purposes of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. COURTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COURTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 185, nays 231, not voting 17, as follows:

[Roll No. 370]

AYES—185

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Kanjorski
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pickle
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—231

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Moody

Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wolpe
Wyden
Yates
Yatron

NOT VOTING—17

Biaggi
Boggs
Brooks
Bustamante
Clarke
Dowdy
Gaydos
Gephardt
Hayes (LA)
Kemp
Kleczka
Livingston
Oakar
Roemer
St Germain
Tauzin
Wise

□ 1540

Mr. DAVIS of Michigan and Mr. HUTTO changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 17, strike out line 24 and all that follows through page 18, line 3 and insert in lieu thereof the following:

"(b) INDEPENDENT COUNSEL A FULL-TIME POSITION; COMPENSATION.—The position of independent counsel shall be a full-time position. An independent counsel appointed under this chapter shall receive compensation at the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

Mr. LUNGREN. Mr. Chairman, regardless of how one feels about the structure of the independent counsel statute, I think that everything everyone has said here indicated that we agree about the need for fairness in the law. One important aspect of fairness in the law is a concern for the need for expeditious treatment of those cases which fall under the independent counsel statute. That is what the last amendment was intended to go to. I do know that Members were concerned about its reach and were concerned that it might interfere perhaps with investigations.

While I think that fear is not well placed, nonetheless that was the majority vote here. My amendment goes in a different direction, Mr. Chairman.

One of the arguments that I think held up in the last debate was the fact that the time of an investigation by the independent counsel is a time during which the individual who is being investigated does have his or her reputation placed under a shadow of public doubt, regardless of their eventual guilt or innocence. In this regard, it has come to my attention that independent counsels right now are not required to act on a full-time basis. They can, and many do, operate on a part-time basis. This in my estimation opposes the difficulty that we see, the potential problems beyond any of those already mentioned with the more publicized questions facing the statute.

Mr. COURTER talked about the problem of unlimited time, dragging out the investigation with no resolution. The membership here decided they did not want to put some, as they view it, arbitrary limit on time.

I am asking if we are not going to do that, at least have us require full-time commitment by the independent prosecutor on the case. It seems to me that is the minimum of fairness that we ought to ask for the individual under investigation. My amendment would simply convert the independent counsel into a full-time position. It would continue compensation at level 4 of the executive schedule except that it would no longer be on a per diem basis, since the position would be full-time. So I do not change the rate of pay; I change it from per diem to a regular salary for the balance of time during which they serve. With the burden of a regular case load in private practice in addition to the responsibilities inherent in accepting the position of independent counsel it is simply not possible for independent counsel to devote the time and attention that a complicated investigation requires. These cases can go, and some are now, going on for extended periods of time. Part-time prosecutors are inherently inconsistent with swift justice. We may say, "Let us bring down the hammer of justice on these people who we suspect of wrongdoing who also happen to have served the country in the executive branch." At the same time we ought to give them the idea of resolution of their problems within a regular period of time, that is with some sort of swiftness. Those empowered with such authority and impact on the lives of these public officials, present and past, should be expected to give cases their full and undivided attention.

In addition to the interest of justice, there is a public interest in expeditiously bringing these cases to a conclusion.

Investigations under the independent counsel statute impact on public perceptions about government itself. The longer we allow the investigations to drag out without a full-time commitment to their resolution, the longer we have clouds about the people who are serving in government or who may have served in government in the recent past.

My amendment, I believe, would not set unrealistic limitations upon the appointment of the independent counsel. Rather it would enhance the process by ensuring that other distractions will not impede investigations which are of critical importance to the American people.

Mr. Chairman, I will admit that I will not support the overall statute because I do think there are constitutional infirmities. But this amendment is not an amendment to reduce the effectiveness of the bill; it is not a gutting amendment. In fact, it strengthens the bill.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the chairman of my committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I am sympathetic to what the gentleman is attempting to do. I have some serious reservations though as to whether or not we are going to be able to recruit the kind of people who would be essential in circumstances where you want an independent counsel who is really independent. Now can the gentleman tell me how he is going to resolve that problem? It is a practical problem.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. LUNGREN. I would say to my chairman that schedule 4 of the executive level which I have kept in the bill, which is the present per diem level, is an annual salary of $77,500.

While that is somewhat less than we as Members of Congress earn, it is I believe in the range where you would find assistant U.S. attorneys around the country. I would have to confess I do not have the figures before me for U.S. attorneys around the country. But if the chairman is suggesting that we are going to attract people to independent counsel status by the amount we pay them, I think he is wrong. All I am doing is taking the figure that is currently the law for per diem and extending it to a full salary.

Mr. RODINO. I believe the gentleman misunderstands my concern. My concern is not with the amount of money that we are going to pay. I think we all recognize that being paid at that level is certainly substantial.

I am concerned with the fact that in many instances, many of the independent counsel who have been sought after have already been fully employed in their own law firms. We are seeking high-caliber people. We do not know whether the independent counsel's work would last a period of 3 months, 6 months. Are we in a position to say that we can recruit the kind of people who now would be willing to come in for 3 to 6 months or maybe even 9 months?

Mr. LUNGREN. I would answer the chairman in two respects: One is I think the quality people that we have recruited, and your side and our side will admit they are of the highest quality, would not by and large be stopped from taking these jobs because of this commitment. Second, I would say it is in the nature of public service. Many of us had law practices and had to give them up entirely to serve Congress for a 2-year period of time before we reenlisted, so to speak, to this place. The only thing I would say to my chairman is this: The very argument that you make that we have outstanding people with heavy schedules with virtually full-time commitment to their law firms who will no longer be allowed to be recruited is proof that these are the people I do not think we would want recruited any longer. Their full-time commitment to their law firms would, I fear, interfere with an expeditious investigation and prosecution of the matters at hand.

Yes, it is a balancing act. But I would suggest if on the one hand we have the question of fair treatment and swiftness of justice to individuals who have not been convicted, have not even been indicted but are merely under suspicion, on the one hand versus losing a few people on the other who might be attracted to this job, I think the balance would have to be in favor of fairness and swiftness of resolution of the question.

Mr. RODINO. Mr. Chairman, will the gentleman continue to yield?

Mr. LUNGREN. I yield to the chairman of the full committee.

Mr. RODINO. I thank the gentleman for yielding.

Would the gentleman assure me that if we are confronted with some practical problems in trying to accomplish this through his amendment, that the gentleman will try to work this out?

Mr. LUNGREN. Absolutely. If I might just say I do not know whether this is the perfect amendment, but I do think it takes us in the right direction. If there are some refinements that are necessary I would be happy to work with the chairman on this.

Mr. RODINO. I want to be certain that the gentleman's amendment is going to be, as the bill is going to be, prospective, and does not affect present individuals.

Mr. LUNGREN. All I can say is that it is in the same position as the bill is. If the bill is prospective, so is my amendment; my amendment does nothing more than amend the bill in its present status. So it would not deal with those who are already there. I hope to ameliorate the problem henceforth.

Mr. RODINO. With the gentleman's assurance, I am prepared at least to try to work it out and I offer no objection.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. LUNGREN. I will be happy to yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, as I see the problem, it would be a practical one also. I do not think there is any question about the pay level 4 of the executive schedule under 5315 of title V, but I would worry that perhaps we might have a practical problem in attracting the kind of individuals on a full-time basis. I also have a question as to whether or not the gentleman means it to apply just to independent counsel or is he talking about staff as well?

Mr. LUNGREN. Well, my concern is the independent counsel. The independent counsel has the direction of the case, has the responsibility, and the charter given, as an independent counsel and that is the person I am concerned about.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has again expired.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. It cures several of the problems that we hear about, that we heard about during the hearing process; the slowness of the investigation. We have constantly been hammering on that all morning and all afternoon trying to find ways to expedite the process.

□ 1555

This is a very good way to do it. You cannot have the captain of a team working part time when he has these huge staffs and these huge budgets that we have. It prolongs the investigation, it makes it more expensive, and we all know that a case cannot move along or an investigation cannot move along any faster than the person who is conducting the investigation is able to move.

Mr. Chairman, I think this is a good amendment, and I urge the Members to support it.

Mr. LUNGREN. Mr. Chairman, in the interest of time and justice, I yield back the balance of my time.

Mr. FRANK. Mr. Chairman, in reverse order, in the interest of justice and time, I am not going to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 22, insert the following after line 19:

"(j) CUSTODY OF RECORDS OF AN INDEPENDENT COUNSEL.—

"(1) TRANSFER OF RECORDS.—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to Rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Amendments Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of such records.

"(2) MAINTENANCE, USE, AND DISPOSAL OF RECORDS.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

"(3) ACCESS TO RECORDS.—(A) Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

"(B) The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding or, in the case of grand jury materials, as permitted by Rule 6(e) of the Federal Rules of Criminal Procedure. Notwithstanding any restriction on access imposed by law. the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

"(4) RECORDS PROVIDED BY CONGRESS.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

"(A) shall be maintained as a separate body of records within the records of independent counsel; and

"(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in paragraph (3)(B), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, I believe this is the one corrective amendment that has come out of the committee, and I believe it is acceptable to the minority. It is probably something that already has been allowed.

It has to do with the archival control over the records. It is not controversial. It may be declaratory of what is already in there, but if we can reduce ambiguity, it is useful.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I have reviewed the amendment. I think what it simply does is put into the proposed law what is happening now, and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SHAW:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 598 of title 28, United States Code, is amended by striking out "five years after the date of enactment of the Ethics in Government Act Amendments of 1982" and inserting in lieu thereof "December 31, 1988".

Mr. SHAW. Mr. Chairman, this is a most important amendment. However, I think that most of the debate on the subject matter has already transpired. At the conclusion of the debate, if I do prevail, I will ask for a recorded vote, as I do believe this is a most important matter.

Mr. Chairman, throughout the hearing process we heard many witnesses. We had some extremely knowledgeable constitutional lawyers and judges that testified before the subcommittee, we had a couple of former prosecutors, and we had several former Attorneys General. One thing they all had in common, where they disagreed on which side to come down on the constitutional issue, they all agreed that this was in a gray area, that this was on the line. We now have a case that is before the appellate court of Washington, DC. We are expecting a ruling literally any minute. It could even come in before the conclusion of this matter. It will be the first time that an appellate court is addressing the question of constitutionality.

Why, then, if existing law is on the edge of constitutionality, would we want to push it further toward that edge or over that edge? I think that is what the bill before us does. Also I think there is another considration here.

Several of the speakers on both sides of the aisle have talked about politics in their arguments. We find ourselves constantly talking about the existing administration.

If my amendment, which is a simple extension of existing law through the end of 1988, is agreed to, we will have accomplished two things. First, we will no longer be talking about a sitting administration because the Reagan administration will have concluded by the end of 1988. Second, we will know that we will have by the time an appellate decision and in all probability a Supreme Court decision that will give us the guidance we need so we no longer need to take the time to talk about the constitutionality of the law.

I favor an extension of a special investigator provision in the code. I think it is very important. I think it needs some fine tuning and it needs some work, but on the whole it has served us well in that it has satisfied the public when a conflict of interest has come up and the Attorney General has sought the assistance of an independent source to supply that independent prosecutor.

I have some concern, though, that we will be passing this bill which will then take the place of existing law. Existing law will then be found unconstitutional, and then we will be looking at the alternative of either having to go back and extinguish the law we might pass today or simply ignore it, leaving the Attorney General in the very unhappy and uncomfortable position of finding himself running afoul of the law that he himself knows is unconstitutional.

Further, if the existing law is extended until the end of 1988, I shall not offer the balance of my amendments. The next amendment I will offer after this is going to include the Members of Congress. I would delay that debate until next year, at which time we would have a clear guidance as to what is the decision on constitutionality. I have several other amendments I plan to offer this afternoon, but, of course, I would not offer them if we could extend existing law until we could get the guidance of the Supreme Court as to its constitutionality.

Mr. FRANK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the cooperation of the gentleman that I think is helping to move this bill along. I have to say, though, that I think my friend is offering this amendment at the wrong time. He should have offered it first because, among other things, if we were to adopt this amendment, we would reverse nearly every vote taken by the House earlier today, because this amendment is not merely a 1-year extension of the law, it is a 1-year extension of the law as it was passed in 1982.

In effect, if the gentleman wins the amendment, he will have reversed the votes that we took earlier today on his other amendments, because he will have succeeded in accomplishing what was defeated elsewhere. Not only that, he will have undone the amendment we just agreed to. The gentleman from California [Mr. LUNGREN] just got up and argued to many of us, quite persuasively, that the independent counsel should be full time. The full-time requirement is now part of the pending bill, but the gentleman's amendment would negate that. If we adopted the pending amendment, what we just did to make this position full time would go out the window.

We have taken the independent counsel statute and tried on both sides to make it conform better to what we had in mind. The gentleman is saying, let us not do any of that; let us just extend it for a year. In addition, he says, suppose it is unconstitutional in some aspect. Even here we would be better off with the bill before us than with the current law. The current law omitted the severability clause. The pending bill has a severability clause.

If some of the amendments put into this bill are deemed to be unconstitutional—I do not think they will be, but I cannot always predict the Supreme Court—then under our bill they are severable. Under existing law, there is no severability clause.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would point out to the gentleman that severability clauses are already interpreted in the case law by the courts generally, whether it is in the law or not.

Mr. FRANK. I know the severability clause is sometimes used by the court, and sometimes not. I would rather depend on the severability clause which is specific and statutory than on one that exists at the discretion of the court. I think it is strengthening to have the severability clause in there.

In addition, we argued a long time today about whether or not the state-of-mind question should be in there. We decided by a hundred votes to take the action which we took regarding state of mind. The gentleman's amendment would undo that vote that we took a few hours ago. We agreed, at the urging of the gentleman from California [Mr. LUNGREN], to make these people full time. The gentleman's amendment would undo the effect of that and allow them for another year to be part time. We decided that we would be explicit, that you could prosecute for a perjury or for obstruction of justice that arose out of an investigation. The gentleman's amendment would undo that.

This amendment would have made more sense if it had been offered earlier in the day, because what it says is to just extend it. I would point out that it does not deal with the constitutionality questions raised by the administration. There are some that many on that side also said were unconstitutional. If a court should decide that some piece of this is unconstitutional—and I do not think it will—we will have to deal with it, whether it is under the old statute or the new statute. We have been going forward with a statute which we believe is generally good, one which can be improved and which we have in fact spent 4 hours trying to improve and which we have improved in several aspects. It seems to me to be a grave error just to go with the existing law.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I merely want to rise to oppose the amendment.

Mr. Chairman, a short-term extension of current law, be it 1 year, 2 years, or 5 years, solves nothing. It is the current law that is under constitutional attack. H.R. 2939 does not alter the provisions of the current law which are under constitutional attack, such as the appointment mechanism.

If Congress enacts a permanent authorization and the statute is ruled constitutional, Congress will not need to act on this statute again.

If the statute is ruled unconstitutional, Congress will have to act on new legislation, regardless of whether the reauthorization is permanent or short term.

In any event, extending the current law does not in any way solve the alleged constitutional defect, and in the absence of any congressional action, the independent counsel statute will expire before the second session of the 100th Congress begins.

This statute has proven the necessity of its existence. It is no longer an experimental statute. It should be permanently reauthorized.

I will also point out that an amendment which would have provided for a simple reauthorization of the current statute through December 31, 1989, was considered and rejected by the committee.

The committee noted that the statute was originally enacted in 1978 and was reauthorized in 1983. The committee considered against the constitutional issues and policy reasons for reauthorization and concluded that the statute should be permanently reauthorized.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 245, not voting 17, as follows:

[Roll No. 371]

AYES—171

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moorhead
Morrison (WA)
Murphy
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pickle
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—245

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CO)
Bruce
Bryant
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—17

Alexander
Aspin
Biaggi
Boggs
Brown (CA)
Bustamante
Clarke
Dowdy
Gephardt
Hayes (LA)
Kemp
Livingston
Roemer
Sharp
St Germain
Stokes
Tauzin

☐ 1625

Mr. MARTINEZ, Mr. SLATTERY, and Miss SCHNEIDER changed their votes from "aye" to "no."

Mr. HALL of Texas changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 3, insert the following after line 14 and redesignate succeeding paragraphs accordingly:

"(6) any Member of Congress;

Page 2, line 17, strike out "(8) and insert in lieu thereof "(9)".

Mr. SHAW. Mr. Chairman, this is I think the most significant vote that we are going to have today with regard to the special counsel code. It brings for the first time Members of Congress under the umbrella of the conflict of interest that is afforded under the bill to the executive branch.

There is no constitutional issue here. There is no constitutional argument, but there is an argument of morality. No one in this Chamber can say that there is no conflict of interest when the executive branch is dealing with members of the legislative branch, whether it be of the same party or a different party. There is an extraordinary conflict of interest, particularly when you are dealing with the leadership.

The President of the United States relies heavily upon us, the Members of the Congress of the United States, in putting his programs through, in the oversight authority that we have of the executive branch. Our jobs are so intertwined, even though the specific division of power is set forth in the Constitution, that there is inevitable conflict of interest which are every bit as great, if not greater, than the conflict of interest that the executive branch may find within its own branch.

In the full Judiciary Committee when I brought this amendment up, there was a hue and cry from members for the first time starting to talk about reputations of Members. The time has come, my colleagues, that the Congress quit excluding itself from those laws that it does not want to be under and to face the cold reality that there are areas that we should be included in simply because the same measure that we are applying to the executive branch does indeed apply to us in the Congress.

There are conflicts of interest between the executive branch and the Congress. Therefore, it is important that we come under the umbrella of the special counsel.

Mr. Chairman, I urge a "yes" vote on this at the conclusion of the debate. I feel that the Congress will indeed raise its own profile among the American people when we can say we are standing up to be counted. We know that the special counsel is an extraordinary measure that we are applying to the executive branch, but we are willing also to apply it to ourselves.

Mr. CARDIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I can only think of one reason why we would support, any Member would support this particular amendment, and that reason would be if you are opposed to the independent counsel statute and you are looking for some way to confuse the issue.

Let me give you some reasons why this amendment should not be adopted.

First, the reason for the independent counsel statute is because there is a conflict within the executive branch on objectively investigating a matter involving certain high ranking executive officials. That conflict does not exist for Members of Congress. There is no inherent conflict in the Justice Department investigating Members of Congress. There has been no indication of a lack of aggressiveness by the Justice Department in investigating Members of Congress.

There is no reason for that particular amendment. We have heard no complaints. We should not adopt the amendment.

The next reason: If in fact there is a problem within the executive branch, if the Justice Department has a conflict in regard to a Member of Congress, there is the discretionary right for the Attorney General to seek the appointment of the independent counsel; so he can do it now under the discretionary power within the statute.

This amendment would make it mandatory and would take away from the Justice Department the power that it currently has to investigate Members of Congress. We should not be taking away from the Justice Department that particular right.

Let me emphasize the point. There is no problem here in investigating Members of Congress. We should not be looking for a legislative solution.

Let me also point out that this truly would restrict the power of the Justice Department as it relates to the legislative branch of Government. If in fact we need to change the way we deal with Members of Congress, it should be done through separate legislation when we can have public hearings.

The committee in its philosophy in bringing the bill before the House today has basically made permanent the current law, with changes that are necessary because of problems that have been brought to our attention since 1982. This amendment truly is an effort to sabotage the bill and I would urge my colleagues to reject the amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I am glad to yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman from Maryland for yielding.

I would take issue with the point where the gentleman said that there was no conflict of interest. I would say that the Attorney General indeed would have a substantial problem if he were dealing with a chairman or a ranking member within the Judiciary Committee or a ranking member within this House itself, whether that ranking member be of either party or the Speaker himself.

I would also say that to take that discretionary power away from him, you can apply the same argument to the investigation of the executive branch itself.

Mr. CARDIN. Reclaiming my time, if I might, Mr. Chairman, if there is an alleged violation involving the President of the United States, the Vice President of the United States, a Cabinet-level officer in the executive branch, a member of the Justice Department, there is the appearance to the public that an objective investigation cannot be done by the Attorney General. That is why the independent counsel statute was developed. That does not apply to Members of Congress. The Justice Department has shown that it can prosecute Members of Congress.

If in fact there is a conflict, then the discretionary power will allow the Attorney General the ability to appoint or seek the appointment of an independent counsel; but to say per se that all Members of Congress should be subjected to the independent counsel only, I think avoids the real issue why we created the independent counsel statute initially.

Mr. SHAW. Mr. Chairman, will the gentleman yield further?

Mr. CARDIN. Yes, I am glad to yield to my colleague from Florida.

Mr. SHAW. Mr. Chairman, I would only point out to the gentleman that where the gentleman says the Attorney General can objectively investigate Members of Congress, we have had two former Attorneys General, Griffin Bell and Attorney General Smith, who both testified before our subcommittee that they felt that Members of Congress should be included.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. CARDIN. I am glad to yield to my colleague, the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, just to make matters clear, the bill that comes to the floor does include Members of Congress under the statute in those cases where the Attorney General believes that there would be a conflict of interest in that department to conduct the investigation, so I do not want it to be left here that there is no circumstance under which an independent counsel could not be appointed in connection with a Member of Congress. That is not true.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I am glad to yield to my colleague, the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding.

The point that the gentleman from Maryland was making, which is that this is really an effort to kill the bill, is strengthened by the citation of two former Attorneys General.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, as I was saying, the bill is strengthened by the citation of two former Attorneys General who were for this amendment, Griffin Bell and William French Smith. They are also the two former Attorneys General who served under the statute who are opposed to it. Both of those gentlemen are opposed to this statute. They do not like it and they are therefore not surprisingly for this amendment.

All the organizations that have been for this and have worked to keep it going are against the amendment.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the chairman of the committee, the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, the reason I asked the gentleman to yield is because the gentleman from Florida made reference to the fact that an Attorney General might be prohibited or inhibited from proceeding against a Member of Congress. The Attorney General, of course, can always proceed against a Member of Congress even without the independent counsel statute.

I would say there is an opportunity for an independent counsel if the Attorney General finds there would be a conflict of interest which would be personal, financial, or political.

The CHAIRMAN. The time of the gentleman from Maryland has again expired.

Mr. RODINO. Mr. Chairman, if the gentleman will yield further, only in those instances would the Attorney General then have the discretion of making application for a special counsel; but I think otherwise history has shown that the Justice Department certainly has not been reluctant about proceeding against Members of Congress.

Mr. SHAW. Mr. Chairman, will the gentleman from Maryland yield to me?

Mr. CARDIN. I am glad to yield to my colleague, the gentleman from Florida.

Mr. SHAW. Mr. Chairman, we have had two speakers now who have said that to apply it to Members of Congress would kill the bill.

I would like to ask all the Members, is this bill so bad that if it applies to us, that we will kill it?

Mr. CARDIN. Reclaiming my time, Mr. Chairman, the concept and the reason that we brought the bill to the floor in its present form was to carry out basically the current law, not to seek any major expansion of the independent counsel statute.

If you recall, the original bill before the committee contained many changes that we have not brought before the House.

I would urge my colleagues to take that issue up in separate legislation so that we can keep the independent counsel statute basically in its current form before the House.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment, although as my colleagues know, I have something of a different perspective than my colleagues on this side of the aisle. It is my view that we must take politics out of the whole prosecutorial process, the selection of special prosecutors and the implementation of special prosecutors or independent counsel, because politics and prosecution are an explosive combination.

That impels me to get up and oppose this amendment. I understand the anxiety and anguish that my colleagues from this side and the other side of the aisle have. They do not like seeing this process made political.

Well, what I ask would be more political than having in a fiercely partisan body the ability of any Member or group of Members to go and immediately get an independent counsel appointed?

□ 1640

There might be no wrongdoing at all. There might not be a scintilla of truth to the allegations, but once an independent counsel is appointed, it inevitably leads to speculation and articles in newspapers and on television, and it will put a blot over this body. One say perhaps the other side will be in control here and they were in the Senate in control recently. It will put a blot on them. It makes Democrats look bad. It makes Republicans look bad. It makes Government look bad.

I would say to my colleagues that there are a lot better ways to straighten out the problems that I have and some of them have with this legislation than simply compounding the injury, because after all, as the gentleman from Maryland [Mr. CARDIN] has pointed out, if one pursues a narrow conflict of interest doctrine, there is not a conflict of interest between the Attorney General and the Congress where there is a conflict of interest between the Attorney General and his own administration. But I advocate, as I mentioned before, to get the Attorney General out of it. Simply having Congress automatically subject to this after a series of allegations does a disservice to this entire body. It just makes the people more and more distrustful of Government, entrenches the notion that everyone out here has venal or other motives, which we all know not to be true at all, and I think that the amendment really is a travesty. I sympathize with the problems some of the gentlemen on the other side of the aisle have with the concept of the bill. I cannot sympathize or even understand the logic of this amendment because this compounds and aggrevates the injury.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Chairman, I certainly agree with at least part of the statement of the gentleman from New York [Mr. SCHUMER]. We need to get politics out of the prosecutorial process, but what the gentleman is really suggesting is that we partially remove politics from the process because we are not removing it with respect to the politics that has occurred in this administration as well as the previous administrations when it comes to wielding this very, very uncontrollable tool. The truth is, every one of the statements that the gentleman from New York [Mr. SCHUMER] made with respect to why this is bad law if applied to Congress, is equally applicable when it is applied to the administration.

Mr. SCHUMER. Mr. Chairman, reclaiming my time, I understand the argument of the gentleman from Georgia. I had a proposal here earlier today which I shopped around on the other side of the aisle as well as on this side of the aisle, that would be a far more salutary way to cure the problem the gentleman speaks about rather than compounding and aggravating it. To say something is wrong for one suggests there are perhaps two ways to correct it. Either make right for one, the other way is to make it wrong for both. It does not seem to me to solve the problem, but rather exacerbates it and we will all be at each other's throats for the worst of reasons. The vast majority of people in this body, I think, would be very careful about such a statute. But I will say to the gentleman that all that is needed is one or two Members on either side of the aisle to wreak total havoc and it could happen and I think we ought to guard against that.

Mr. SWINDALL. Mr. Chairman, if the gentleman will yield further, the gentlemen is suggesting that it would be very hypocritical for this body if we are trying to depoliticize the prosecutorial process, to vote against this amendment?

Mr. SCHUMER. Mr. Chairman, I take back my time. Of course the gentleman knows I am not saying that. There is a rationale for a special prosecutor, and independent counsel in the administration because there is a natural conflict of interest. There is no natural conflict of interest with Congress. I would simply say to the gentleman from Georgia [Mr. SWINDALL] that if he is truly concerned with getting politics out of it, then this amendment has no place. I am strongly opposed to the amendment.

Mr. HYDE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, assume something that is just the opposite of what we have here today. Let us assume a Republican Congress and a Democrat in the White House, and the Speaker of this hypothetical Republican Congress has gotten himself into some difficulty.

The Democratic Attorney General knows that if he undertakes an investigation, if he indicts, the first accusation will be that it is a political indictment. When a politician of any party is indicted, the first defense is that it is a political vendetta.

Now the Attorney General of whatever party is going to think twice about indicting a high political official of this Congress or the other body. It just creates more problems than it is worth.

The purpose of an independent counsel statute is not simply to avoid conflicts of interest within an administration. It ought to be to avoid political indictment. That ought to be the worst thing in the lexicon of justice, "political indictment."

Now to obviate the perception that politics is playing a role in accusing, indicting, having grand jury hearings concerning a prominent Member of this body, there ought to be an easy way, a simple way, a direct way, a statutory way, to get that wonderful, dispassionate, impartial, nonpolitical independent counsel to investigate and if an indictment is warranted, to bring it.

If the gentleman from New Jersey [Mr. RODINO] is the father of this independent counsel legislation, and he is, Elizabeth Holtzman is the mother of this independent counsel legislation.

I had the honor to serve with both the gentleman from New Jersey [Mr. RODINO] and the former Member of Congress from New York, Elizabeth Holtzman.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, I yield to my chairman.

Mr. RODINO. Mr. Chairman, I do not know what the gentleman is trying to infer, but I disavow.

Mr. HYDE. Does the gentleman disavow paternity of this conception of independent prosecutor?

Mr. RODINO. I told the gentleman, no, the gentleman knows what I am talking about.

Mr. FRANK. He is talking about misconception.

Mr. HYDE. I assure the gentleman that it was a legitimate birth. In any event, Elizabeth Holtzman was one of the driving forces behind this independent prosecutor legislation and I used to sit in Committee in awe at her zeal to see that we took politics out of prosecuting the Executive and Members of Congress, and I have in my hand the report of June 19, 1978, on the Special Prosecutor Act of 1978. That is back when we called it like it was, "special prosecutor." Today we indulge in euphamisms such as "independent counsel," but we call it the same office, special prosecutor.

I quote from the Honorable Elizabeth Holtzman's comments in the committee report, her additional views concerning this act:

> The bill recognizes this, but it takes the unrealistic position that the Justice Department will never be politically inhibited when it investigates Members of Congress. The Korean investigation is an obvious example of a case involving Members of Congress in which the Department has not done its job as rigorously as we would have wished.
>
> I do not believe that there can be any compromise with the principle that Members of Congress, like executive branch officials, should be held strictly accountable under the law. There can be no justice when there is a dual system of laws—one for the high and mighty and one for everyone else.

She was never more correct.

□ 1650

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Illinois [Mr. HYDE] in his hypothetical said suppose the Attorney General felt that the Speaker had done something wrong and did not want there to be an indictment that he brought because it would appear to be political and there might be retribution. That is why there is in current law and in the bill the following provision:

> The Attorney General determines that a complete investigation or prosecution of the person by the Attorney General or other office of the Department of Justice may result in a personal, financial, or political conflict of interest.

As a matter of the Attorney General's discretion he can refer a matter to an independent counsel. He could say with regard to a Speaker there has been evidence brought forward, as it would have been, and he can say because we are of the other party or of the same party, and because there would be the perception that I might not be totally independent in this, I will now exercise the discretion under the statute to refer this to an independent counsel. There is no adverse inference to be drawn, and the reason we changed it from special prosecutor to independent counsel was to lessen the likelihood of adverse inferences being drawn. And the Attorney General could say I have high regard for the Speaker, I have no basis myself to determine any accuracy here, and I am not an appropriate person to do it. I therefore designate an independent counsel. No adverse inferences ought to be drawn, and that independent counsel will during a period of time be able to report as to whether it is good or bad. That is in the law today.

In those instances where there may be a conflict of interest, the Attorney General can refer it.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

What the gentleman is saying is that the permissive language is fine as far as it applies to Congress, but as to the executive branch he wants the mandatory language?

Mr. FRANK. That is exactly what I am saying, and the reason I am saying it is this: There will always be, in our judgment, a conflict of interest when the Attorney General is asked to prosecute another member of the Justice Department, another high-ranking official. Elizabeth Holtzman was in the minority. I do not know if the gentleman from Illinois [Mr. HYDE] was on the committee then. If the gentleman from Illinois was on the committee in 1978, he was on the Judiciary Committee later, I guess he decided not to agree.

There are Members in the body now, Republicans, who were on the Judiciary Committee then. I wonder how many of them joined in Ms. Holtzman's additional views. The answer is they did not. The fact is that virtually no one has argued that this must mandatorily include Members until we got to the situation where people on the other side wanted to derail this bill.

In 1982, when we had Ronald Reagan as President and the Republicans in control of the other body, the Republicans in the other body did not bring forward this amendment.

Mr. HYDE, Mr. Chairman, will the gentleman yield?

Mr. FRANK. I will, despite the fact that the gentleman from Illinois refused to yield to me, yield to him.

Mr. HYDE. I thank the gentleman. I wanted to finish my statement. The gentleman has a way sometimes of breaking "Big Mo" when I have got it going.

Mr. FRANK. I will take back my time. The gentleman's "Mo" is not that big.

Mr. HYDE. I will try to talk faster so that we can communicate. But as far as I am concerned, the ethics setup we have around here, I say to the gentleman from Massachusetts [Mr. FRANK] is a farce. I do not mean to demean the members of that committee. I think they are wonderful people and they do an impossible job. The gentleman surely cannot be satisfied that we do a good job in investigating ourselves.

The American people have a right to look to us as leaders, moral leaders, and it would seem to me if we are going to impose this process on executive branch people we ought to do it on ourselves. There should not be two tracks.

Mr. FRANK. It seems to me the gentleman is wrong in many, many regards.

Mr. HYDE. By the way, I was on the committee.

Mr. FRANK. The gentleman was on the committee? Did the gentleman decline to join Ms. Holtzman?

Mr. HYDE. I did join Ms. Holtzman and I voted for it.

Mr. FRANK. Did you join her additional views? The gentleman cited Ms. Holtzman's additional views as being for adding members. Did the gentleman agree with her additional views?

Mr. HYDE. If she had invited me I would have. I did not communicate that well in those days.

Mr. FRANK. I take back my time. Again, the gentleman would not yield to me, I have yielded to him and I think for quite some time now. I do want to get back my time. The gentleman has made my point. He was on the committee when Elizabeth Holtzman gave those views which he now finds so compelling. Back then he did not find them so compelling. Back then he did not agree with her.

I will not yield again to the gentleman who has been interrupting me. The gentleman answered the question.

POINT OF ORDER

Mr. HYDE. I have a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HYDE. Mr. Chairman, I believe my name has been mentioned in debate and should I be given a chance to respond?

Mr. FRANK. That is not a point of order.

The CHAIRMAN. The gentleman from Illinois should be advised that does not require the gentleman from Massachusetts [Mr. FRANK] to yield. The gentleman from Massachusetts controls the time.

Mr. FRANK. Mr. Chairman, the gentleman did not state a point of order. I thought he knew the rules better than that. The gentleman was speaking and I asked him to yield and he would not yield. I yielded to him and I asked him a question, I asked him was he on the committee at the time and did he join in the views of Ms. Holtzman. He did not. He said she did not ask him. But she did not control what he wrote on his own. If the gentleman thought that was such a good idea he could have offered it as an amendment, he could have joined in the views. The fact is people on the other side did not think this was such a great idea.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

Mr. FRANK. This argument was not put forward by Republicans in 1978. It was not put forward by Republicans in 1982. It came forward now, late in the process, because it was suggested as a way to slow this down.

As to the two-track argument, there is a difference. There is always a conflict of interest between the Attorney General and his closest colleagues. There is usually not one, and Republicans have cited the fact that the current Justice Department and the previous one have, in fact, indicted many Members of Congress, they have not indicted a lot of each other. There is always a conflict of interest between members of the Justice Department and other members of the administration. There is not always one here, and if there is one they have the right to ask for a special prosecutor.

Finally, references to the Ethics Committee are entirely inappropriate because this amendment has nothing to do with their function. This amendment supersedes the Justice Department. It leaves the Ethics Committee alone. So if you do not like what the Ethics Committee is doing you should join in another forum, and I am a Member of a group that has a resolution that would look at the Ethics Committee and we do it not that we find the individuals wanting, but we find a structural problem. But this amendment does zero to deal with the problem of the Ethics Committee because they have two separate jurisdictions, and this is one that says the Justice Department does not do its job.

I do not think the record is clear that you have that kind of conflict of interest. The record is clear that their interest in putting the Members on it as a mandatory as opposed to a discretionary matter is as a result of the changes.

I do not remember in 1982 the amendment being offered. I do not remember it being discussed early on in our process. It was suggested by a couple of opponents of the bill as a stick with which to try to beat the bill, and some of the other opponents latched onto it, and that is why it is here.

Mr. LUNGREN. Mr. Chairman, I move to strike the requiste number of words, and I rise in support of the amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. I thank my friend for yielding.

Mr. Chairman, I would just like to convey to my friend from Massachusetts [Mr. FRANK] my admiration that he is so able to quickly reach a conclusion because he is never deterred by accurate information.

I supported the amendment of Ms. Holtzman in 1978. I supported including Members of Congress and I support it now. I am entirely consistent, and I thank the gentleman for yielding.

Mr. LUNGREN. Mr. Chairman, I thank my friend from Illinois for those comments. I might just say, Mr. Chairman, that there are problems here in the House of Representatives with respect to the whole question of ethics, and some of it arises out of our peculiar circumstances in the House.

Under the speech-and-debate clause of the Constitution any Member of this House virtually anywhere can say anything they want, as slanderous as it may be about anybody and be protected, with one exception. We cannot say a single thing about another Member of the House or a Member of the Senate here on the floor of the House that may involve a question of their ethics until after the Ethics Committee has reported out on the floor their findings.

If I were to make a suggestion about another Member's lack of ethics here, under the rules of the House someone could make a point of order and I could be ruled out of order, in fact in violation of the rules of the House, and as a result of that violation of the rules be sent before the Ethics Committee and censored as a Member of this House for daring to raise a question about the ethical standards of another Member. Only after the Ethics Committee has examined the proposition and brought forward the question to the floor of the House am I allowed even to express first amendment rights here on the floor about that question. And under the rules of the House, once that resolution is on the floor, if I am to explain that I think what has taken place with respect to a Member is worse than or deserves worse than the recommendation of the Ethics Committee, I am barred by the rules of the House from requesting that we have a more serious punishment than recommended by the Ethics Committee.

So in many ways there is a built-in conflict of interest here with respect to our ability to point out problems of our brethren. And I am not suggesting that we should go out and point out problems of our brethren. I am suggesting that we have a unique situation with a unique conflict of interest which makes it difficult, in some cases almost impossible, for us to regulate ourselves. And that is the perception, and there should not be any reason why we should be surprised that that is the perception out there.

The question is, Are we going to clean up our own House? In the context of this bill, it seems to me entirely appropriate that the independent counsel be allowed to extend the same jurisdiction as it has over executive branch members to Members of the House of Representatives.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, before the gentleman gets to that point where we will disagree, I want to agree with most of what he said earlier about the rules, and he and I would agree this is not covered by this amendment. This amendment would not undo that.

As I said in a 1-minute speech today, it is unfortunate that a Member can get up and make the most abusive, vituperative, unjustified, and unfair attack on any person in America, but if another Member calls him to account for that, the second Member might be in violation of the rules for impugning his motives. So I agree that the rules ought to be changed.

I would point out nothing in this amendment would deal with that inequity, and I will be glad to work with the gentleman later so that we can give ourselves the same free speech that we give everyone else.

Mr. LUNGREN. I appreciate the gentleman's comments.

Mr. Chairman, I am trying to suggest that we have, because of our very, very unique convergence of our protections under the Constitution, and yet our own form of rules a unique conflict of interest with respect to our ability to deal with ourselves. Therefore, we must look outside this body. I would suggest, as others have said, that there is a conflict of interest with an Attorney General acting to investigate certain Members of Congress who might have the leverage over that department, over that individual, over that administration. It is not unheard of. I mean for us to suggest that somehow we are purer than people in the executive branch I do not understand. There might be those temptations which arise and conflicts may result.

So if we believe this sort of system is appropriate where we have unique types of conflicts, and I will agree there are unique types of conflicts of interest in the executive branch, we ought to recognize that there are unique conflicts with respect to the House of Representatives within itself and as we deal with the executive branch itself.

So I would just say why do we so much concern ourselves with the adverse impact of the application of this law on us.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

Mr. LUNGREN. As the gentleman from New York earlier suggested, we have to realize what it means to be brought under the scope of the special prosecutor. Reputations are questioned, that is true. But it certainly is as true of the executive branch as it would be with those of us Members of the House of Representatives or the U.S. Senate. And if it is appropriate there, why is it not appropriate here as well?

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to my friend, the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I would like to quote from the hearings that took place on May 18, 1977, in the Judiciary Committee on special prosecutor legislation. At page 18 of the printout Mr. HYDE says, and I quote:

> Supposing a member of the leadership of the House were involved in corruption rather extensively; would it be useful to have in place a mechanism to appoint a special prosecutor for that? In other words, what I am saying is that Members of Congress—if we are going to have a cabinet and we are going to have to go after the Vice President, what about Members of Congress? Shouldn't they be prosecutable under any special prosecutor legislation? The political sensitivity is just as tough, you know, for going after the Secretary of the Treasury as I would say for going after one of the leaders of the House.

I thank the gentleman and I will give the gentleman from Massachusetts a xerox of this for his files.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I want to say the gentleman is consistent, but he sounded better then than now, and I would work on that.

Mr. HYDE. I am getting older.

Mr. LUNGREN. I would make a point if someone wonders about whether there is a conflict, let us remember when we had the Abscam investigation. That was not so long ago. Those Abscam investigations were carried out under another party's administration. I remember Attorney General Civiletti. He was up and down to the Hill so many times he was like a yo-yo, and we were not asking him are you doing a good job, are you making sure you press forward with the Abscam investigation. He was being asked what are you doing, why are you doing it, are you doing it in the proper fashion, is this being done for a political reason.

□ 1705

Now, of course, that was not influence on the Attorney General, that did not give rise to any political influence over the Attorney General's judgments, but there could be that appearance. And as an Attorney General comes up here and is asked repeatedly, "Are you doing the right thing in the Abscam investigations? Are you violating the rights of Members of Congress?" The suggestion might have been received by him that maybe, "you had better be careful when you investigate Members of Congress."

I am not suggesting that was done. I am suggesting we ought to be concerned about the perception, and that is a modern-day recent-memory situation in which a conflict, I would suggest, did exist because of the relationship the Attorney General of the United States has with the Congress of the United States.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey [Mr. HUGHES] if he wishes to ask a question.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, I want to point out that in Abscam there were seven convictions as I recall. But more importantly, the scam resulted in a lot of people, Members of Congress and others, who really did nothing, who were brought in by middlemen. And much of the concerns directed to the Attorney General dealt with the innocent people.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

Mr. HUGHES. Mr. Chairman, will the gentleman continue to yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. The gentleman makes the point and it is a valid one, he says there are going to be times when the Attorney General will find himself in a conflict position with some Members of Congress. And that is true. And the statute contemplates that. And when that occurs the Attorney General can then refer it to a special prosecutor.

The law provides for that. But not every Member of Congress presents a conflict for the Attorney General.

Mr. LUNGREN. I understand what the gentleman says. It is still within the discretion of the Attorney General. While that discretion remains there, there is the possibility of conflict.

Let me just sum up by saying this: Congress, we have exempted ourselves from labor laws, we have exempted ourselves from civil rights law, we have exempted ourselves from a whole host of laws, as has been pointed out repeatedly.

Why should we exempt ourselves from the law of investigation and prosecution which we think should extend to the highest reaches of the executive branch? It seems to me it is ultimately fair to accept this amendment.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we need to deal with the point the gentleman from California [Mr. Lungren] raised because I do not want the word to go out that we are exempting ourselves from anything. Under the current law, if a Member of Congress violates a law, a criminal law, the Justice Department has the complete and full discretion to investigate and prosecute. The same way they could investigate and prosecute any other American citizen in this country.

What this amendment does, however, is to go to the merits of the issue of what the statute is all about. This statute was adopted to make it perhaps more difficult, more complicated, but because of conflict of interest rules, to take care of about 100 higher level Government officials most of whom were appointed by the President of the United States.

What it says in those cases when we have reason to believe that a criminal law has been violated we are going to go through a special procedure because the same man who appointed the Attorney General appointed these people.

Therefore, ergo, conflict of interest, an inherent conflict of interest. That is the purpose of the statute.

Now the President of the United States did not appoint me, did not appoint the gentleman from Pennsylvania [Mr. Walker], the gentleman from California [Mr. Lungren], the gentleman from New Jersey [Mr. Rodino], or anybody else in this room. And if he wants to come out and find that I or anybody else in this Chamber violated some criminal law, a U.S. attorney or the Justice Department will begin an investigation and will prosecute if the probable cause is there.

Now what this amendment does is put Members of Congress in a special preferred position without the conflict of interest statutes.

Right now if I want to be prosecuted, a U.S. attorney in my district—I am sorry, may the record show that I never want to be prosecuted—right now if a prosecution should ensue, the normal process of going to the U.S. attorney with its full scale numbers of investigators and personnel, investigates the case and it proceeds in the normal way.

Under this amendment, for any Member of Congress to be prosecuted, any Member of Congress to be prosecuted really for any circumstance, that must go to an independent counsel.

Now what that does, that puts that Congressman in a special preferred position because it makes it more difficult, more cumbersome to prosecute that Congressman. After all, you have the existing number of U.S. attorneys out there investigating cases, you do not have to hire anybody else and you go through the normal process. But under this amendment, you make it much more difficult to prosecute a Congressman because you have got to go to an independent counsel in Washington.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my chairman, the gentleman from New Jersey [Mr. Rodino].

Mr. RODINO. Mr. Chairman, I point out that only recently a Member of Congress who was under investigation by the Justice Department, by a division of the Justice Department in his particular State, requested of the Attorney General that he be prosecuted by an independent counsel. He set forth the facts. The present Attorney General refused on the ground that there was no personal, no political, nor financial reason to establish a conflict of interest and therefore that that Member of Congress was eligible for prosecution otherwise, and indeed has been prosecuted.

Under circumstances, where institutionally there are conflicts of interest, where a special prosecutor or independent counsel is required and is essential, there are only a limited number of covered cases. And I would think that the Member from Florida knows full well that we had a debate during the consideration of this bill in Judiciary and I was one of those who voiced some concerns because, as chairman of the Committee on the Judiciary, there have been Members of Congress who have come to me from time to time saying they were being harassed by their own U.S. attorneys in their particular locality.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. Glickman] has expired.

Mr. RODINO. Mr. Chairman, will the gentleman yield further?

Mr. GLICKMAN. I yield to the gentleman from New Jersey [Mr. Rodino].

Mr. RODINO. I thank the gentleman. And in those particular instances, there was nothing that we could do. I then, during the course of the debate brought up this particular concern of mine and stated that it was an area that I believed it was necessary for us to explore. And as a matter of fact, it was then that I also urged the chairman of the subcommittee to consider this matter separately, at some other time, because there may be some reason at some time to take into account some of the concerns. But certainly not in this particular statute which is based on this particular principle of an institutional conflict of interest.

Mr. GLICKMAN. Let me make a point. I understand your concerns. I have some of those same concerns myself, because I want it to appear that we are not treated specially, are not treated differently from other people. The point is that that independent counsel under objective circumstances makes it more difficult to prosecute a case than if you go through the normal U.S. attorney process. I say that is justified in cases where there is a conflict of interest and we want to avoid the improprieties of an Attorney General who is friends or relatives or a political crony with the person who is also appointed by the President of the United States like he is. But when you are talking about a Member of Congress or all other Federal employees who are not appointed by the President of the United States, why put us into that special class where it is going to make it tougher for somebody to get a prosecution against us? That is exactly what you are going to do here, you are going to make it more difficult to investigate and prosecute us. I do not think that is what the gentleman intends to do, but I think that is how it is going to end up.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, I would just point out that the chairman of the committee was even more persuasive than he suggested just a moment ago and that when we voted on this on September 15 in the full committee, the chairman not only spoke on behalf of this but voted for this very amendment. We lost, but I was happy to see the chairman voting with us. And I am sorry to hear that he has changed his mind since then. But I was persuaded in part by the gentleman's argument at that time that this was necessary in order to eliminate not only the possibility but the appearance of politicizing the process.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the chairman.

Mr. RODINO. I thank the gentleman.

Mr. Chairman, I must, in order to address what the gentleman just raised state that I agree with him, I did vote for it. There was no doubt in my mind that I wanted to be as emphatic as I possibly could be about those other separate concerns I mentioned earlier. However, as the gentleman knows, in committee, I voted some of the proxies of members of the committee who were absent, and I voted all of them against the Member-of-Congress amendment.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has again expired.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, I think we will all be able to get into this. There is an important reason why this is particularly inappropriate for Members of Congress as a mandatory measure. As the gentleman from Kansas has pointed out, we have an argument to be made which has been made by other Members that in some cases the independent counsel would be a protection for the Members. And Acting Attorney General Burnes, because Attorney General Meese refused himself, refused a request of a Member of this body to have an independent counsel appointed. He said no, there is no conflict.

Now there is another problem here, there are two factors in the independent counsel; one is the independence, the other is the relatively low trigger whereby an independent counsel comes into effect. Now with an appointed official what we have done, we changed the name from special prosecutor to independent counsel. We require that you get your money that you pay for attorneys' fees reimbursed by the Government when you are not indicted, as most people here have not been.

There is an inevitable problem that an independent counsel will be appointed and adverse inferences will be drawn. But at the time when he or she comes in and says, "Nothing wrong has been done," people are made more nearly whole. For a Member of Congress, timing is a problem that it is not for other people. If you are an appointed official and an independent counsel is triggered, and 5 months later that independent counsel says, "This person did nothing wrong and here are the attorneys' fees," I do not believe they suffer serious damage. But if you are a Member of Congress and an independent counsel investigation is triggered 3 months before your election or your primary and then 6 months later the independent counsel comes back and says this person did nothing wrong, you may have an ex-Member of Congress who is saying, "Thanks for the vindication."

So the timing problem is a special problem which exists for us and not for the individuals who are appointed officials.

When they are vindicated it is not completely made whole but we do our best. But if you are a Member of Congress, what you are saying is let us have this triggered in August and let us be exonerated in February and let us have an intervening November election which will be a problem. I thank the gentleman from Kansas.

Mr. COBLE. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman and ladies and gentlemen, it has been said that Americans love their Congressmen but hate the Congress. I think generally what is perceived from this is that individually they trust and respect us but when they view us as a body that trust and respect diminishes. And it diminishes because we have all had charges directed to us as a body, alleging hypocrisy, alleging immorality, alleging conflict of interest, alleging double standard, alleging double dealing, and all of the others. It may be justifiable and it may not, but nonetheless directed to us. As the gentleman from Florida said previously, independent counsel is indeed an extraordinary measure, but it is a measure nonetheless that we are attempting to apply to certain parties. Now if we are willing to apply to one group, we should be equally willing to have it applied to ourselves. What is good for the goose is good for the gander. Inside the beltway, Mr. Chairman, this confined area beyond the real world, inside the beltway this matter is perceived as a conflict-of-interest issue. Beyond the confinement of the beltway I assure you it is perceived as a law-enforcement issue.

Now we are in a position today to send an important symbolic, but nonetheless important message.

□ 1720

And that message or signal is that we are willing to be measured by the identical standard that we are about to impose upon others.

Mr. SMITH of Florida. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am somewhat at a loss to understand how we can talk about conflict of interest of the administration having to investigate itself, that is, any administration, and conflict of interest as it relates to administering Members of Congress in the same breath.

The last speaker who talked about conflict of interest spoke of it as if it were a newspaper term. It is not a newspaper term. It is a legal art word form. It has certain meanings, certain connotations, and certain statutory proscriptions. We do not invent conflict of interest; we do not say there is a conflict of interest when none exists. It takes courts generally to decide that, and one of the things that is very important about this is, in fact, the genesis of the statute. It has been held that there is, in fact, conflict of interest when an administration has to investigate itself, when an Attorney General is called upon to investigate allegations against himself or against members of his team.

This administration has in fact had a number of independent counsels appointed when investigations were being made of members of the Justice Department or other branches of the executive branch of the Government. There has never been a request by the Attorney General for an independent counsel to investigate any Member of Congress.

If what is good for the goose is good for the gander, how come the shepherd has never exercised the option? The truth is that if you want to be consistent with what the law has been in this country, what justice requires, and what the Constitution says is the separation of powers, then what is good for the goose is not good for the gander because the goose in this case is different from the gander.

Now, this sounds real good. This is another one that is like I said yesterday: it is a doctor-feel-good amendment. Sure, we can throw them in. What the heck, everyone should be involved in it. After all, they are high Government officials.

The fact is, Mr. Chairman, that it does not work and it does not stand the scrutiny of a real test when it comes to constitutional requirements. This body, if it has anything, at least has some hope that it attempts to meet some constitutional standards.

Let me just give the Members some history. In 1981, when this administration came in, and since then, Attorney General William French Smith has asked for two independent prosecutors, for Ed Meese and Ray Donovan. This Attorney General, Ed Meese, has asked for four independent counsels. The President himself has asked for a number of independent counsels. During that period of time a number of Members of Congress have in fact been prosecuted by the Justice Department through U.S. attorneys around the United States, and they have gotten convictions. They did not need independent counsel. They did not ask for independent counsel, and as the chairman of the committee so ably pointed out, when one Member of Congress asked on his own, as is his right under the existing statute and under the statute as it is being proposed for reauthorization, for an independent counsel, the Justice Department said, "No." They have the right to review it and say, no. And on what basis? "No conflict of interest."

In addition, when this bill was first filed this year, over 400 people were covered under the bill. The Justice Department came in and argued against the mandatory coverage of so many people, and the chairman of the committee changed the bill so that it reauthorizes mandatory coverage under the administration of only 59 people. That is only 59 people.

The Justice Department argued against mandatory coverage of any others.

This amendment seeks to add another 535, and the administration and the Justice Department do not support this amendment. There would be no logic in supporting this amendment if they declined the mandatory coverage of other members of the administration who are in fact part of the automatic conflict of interest.

The CHAIRMAN pro tempore (Mr. PANETTA). The time of the gentleman from Florida [Mr. SMITH] has expired.

□ 1735

Mr. SMITH of Florida. The bottom line is that there is absolutely no compelling reason other than to make some kind of political statement.

Quite honestly, I have been an associate, a colleague and a friend of the gentleman from Florida [Mr. SHAW] for many years. I have found the gentleman to be very much a person who has only the highest motives.

I frankly cannot understand why, in this instance, the gentleman seeks to do this. It flies in the face of what the courts have construed to be conflicts of interest.

It flies in the face of the genesis of the statute. It flies in the face of the Justice Department's objections to mandatory coverages, and flies in the face of what has been the track record of the bill over the years.

It adds nothing except cost, because if there are these kinds of obligations, it will cost an awful lot of money to run with this many special prosecutors.

Mr. SWINDALL. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding to me.

The Justice Department does support this amendment, and I would also like to tell the gentleman from Florida that I think it is very important that what this amendment does, it requires, as it does in the executive branch, certain investigations to go forward that are not going forward that do involve allegations, serious allegations of criminal conduct on the part of Members of Congress. That is my motivation.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

First, I know it is a fact that the Justice Department opposed the mandatory coverage of those in the bill originally when it was filed this year, so that I do not understand how they could oppose mandatory coverage of people inside the administration when there is not an area in conflict, and yet they approve putting in mandatory Members of Congress.

I take the gentleman at the gentleman's word, but I have seen nothing whatsoever from the Justice Department which says that they support this amendment.

Third, the gentleman knows very well that there is within the existing statute, and within this bill which would reauthorize the statute, a specific provision which allows the Justice Department, if they believe there is a conflict of interest, or if the person being investigated would be a Member of Congress, feels there is a conflict of interest, to make an application to the Attorney General to determine whether or not an independent counsel will be appointed.

Mr. SWINDALL. Mr. Chairman, reclaiming my time, that is precisely the point with respect to why this whole statute is unnecessary.

The Attorney General already has the authority to do exactly that with respect to any individual of the administration, so I would ask the gentleman from Florida, what is the difference here, because we happen to be dealing with a different class of people; that is, those in Congress rather than those that are appointees under the administration.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman said that the gentleman knew of no report from the administration with regard to the opinion of the Department of Justice.

I would invite the gentleman's attention to the report and additional dissenting views filed in this case, and I read from a letter from Assistant Attorney General Bolton.

It says:

> We have urged that Members of Congress and key staff persons also be covered H.R. 1520, as originally considered in Subcommittee, would have expanded coverage measurably.

That letter was sent to Chairman RODINO, so it has been available to all Members.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

I would be happy to answer the gentleman's question if the gentleman would reframe it for me. I apologize to the gentleman.

Mr. SWINDALL. The gentleman made the point that there is no question to extend the provisions of this particular statute to cover Members of Congress, because already the Attorney General may appoint special prosecutors to investigate Members of Congress who do things that are worthy of investigation.

My point is, the same logic is equally applicable when it comes to the administration. The Attorney General has already the ability to appoint special prosecutors, so the point is that they are exactly the same, so why do we need this new statute?

The argument that has been posed time and time again is, there is some type of personal conflict here; but I would suggest to the gentleman that this same conflict exists vis-a-vis this Congress.

I think our problem here is, because this bill is so partisan and so politically motivated, that we are blind to the fact that Congress itself is bipartisan.

If there is a Republican administration, certainly there has to be political cronyism between a Republican President and Republican Members of Congress.

Conversely, if there is a Democratic President, there has to be political cronyism between the members of the administration and Members of Congress, so why is it different when we are dealing with Members of Congress?

All of the criteria that have been stated so articulately here with respect to why it is applicable to the administration is equally applicable to the Congress.

Mr. SMITH of Florida. Mr. Chairman, having reframed the question in that way, first of all, the gentleman has basically left out one element: The inherent conflict of interest when members of administrations have to investigate themselves or people they themselves have appointed.

There is no such inherent conflict when dealing with Members of Congress. The special prosecutor, now the independent counsel, is mandatory when there is an inherent conflict, but only optional when there is no inherent conflict.

The CHAIRMAN pro tempore (Mr. PANETTA). The time is the gentleman from Georgia [Mr. SWINDALL] has expired.

(By unanimous consent, Mr. SWINDALL was allowed to proceed for 5 additional minutes.)

Mr. SWINDALL. Mr. Chairman, there is an inherent conflict of interest, one of those being that the Attorney General of the United States must come to this Congress for appropriation to proceed with any prosecution.

The same logic that leads us to the conclusion that this is bad legislation, as it is applied to the Congress, is equally applicable.

Returning to my initial point, it is time to strip all the veneer off of this argument and focus at the reality of what we are dealing with here.

We are not talking about conflicts of interest or about public perception, public confidence, because if we are, this body ought to be arguing in favor of this amendment, because if there is a shaking of public confidence, it exists when Members of this body are brought before the Committee on Standards of Official Conduct, and we can list at least eight cases in this Congress where that exact situation has occurred and individuals have been asked to give restitution.

One that comes to mind is the gentlewoman from Ohio who has admitted that the gentlewoman was paying an individual who was not even on her staff in Washington.

The woman was in New York, which is outside of the gentlewoman's congressional district. She paid $47,000.

The point is, the Committee on Standards of Official Conduct obviously thought it was wrong, because they said, repay the $47,000. The gentlewoman did repay the $47,000, and no indictment has been forthcoming.

I suspect that if there is a situation where public confidence is shattered, it is that type of situation, the point being, this is bad law.

I do not deny it for a moment. It is bad law for all of the constitutional flaws, equal protection, due process. The public confidence is not going to be strengthened any by targeting out 59 people.

We have already established today that there has not been a single conviction of any covered member during the several years going back to 1978, never a single conviction, and millions of dollars spent.

Mr. Walsh has now spent $2.9 million, and he has yet to bring forth a single indictment of covered individuals.

We see all types of arguments here that are being made with straight faces, because they apply to Members of Congress; but then they can turn right around and be applied to the statute at large.

No one makes the same points. We simply say, well, that does not quite apply here because of this inherent conflict. What we are really saying is, it is a constitutional conflict, because we are in reality rewriting here today the Constitution, throwing out all of the constitutional standards to which the gentleman from Florida just paid lipservice.

The point is, we are ignoring the most fundamental right; the 14th amendment right to equal protection under the law is totally ignored.

We are in fact passing a bill of attainder, which is outlawed by the Constitution; and it says, you target special individuals or classes of individuals, and you treat them differently before any type of procedure or due process.

We are saying that if one accepts an appointment in any administration, that necessarily that ought to subject that individual to that special treatment.

The gentleman from Kansas suggests that the flaw here is that Members of Congress ought not to be elevated to this special position, because it would make them more difficult to prosecute. If it would, why do we want to make it more difficult to prosecute members of the administration?

I would go back to a point, though, that I made early on this morning; and that is, if the Members look at the entire history, the Members will find that we have handled these types of problems very well.

Watergate, the greatest constitutional crisis of this country's history, we prosecuted all of the President's men without having this statute on the books.

Since this statute has been placed on the books, none of the President's men have been successfully prosecuted under this provision.

Borrowing from the works of the gentleman from Massachusetts, a fortiori, this is totally unnecessary.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding to me.

I have to disclaim authorship of the phrase, a fortiori, I read it in a book.

We are here creating a bill of attainder, and so forth, and that is not historically accurate.

Partisan motivation, it is indisputed, the original bill for a special prosecutor then called with a much lower trigger easily brought into being which passed by a Democratic Congress with a Democratic President.

It was reenacted in the form we are now talking about, applying mandatorily to members of the administration but with discretion to Members of Congress. It was reenacted in that form, this violation of the 14th amendment by the Democratic House and the Republican Senate, voted for by all of the Republican members of the Committee on the Judiciary and signed by the Republicans.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia has again expired.

Mr. SWINDALL. Mr. Chairman, I yield to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I thank the gentleman for yielding to me.

Not only does the bill as we have it before the House talk about members in the executive branch being under the mandatory coverage, it also includes the chairman and treasurer of the principal national campaign committee seeking election or reelection of the President, and any officer of a campaign for the election or reelection of the President who exercises authority at the national level, such as the campaign manager or director, during the incumbency of the President.

If we accept the argument of the gentleman from Missouri that this makes it more difficult to prosecute people, we do not want to put Congress under it, then we have made it more difficult to prosecute the chairman and treasurer of the principal national campaign committee. However, those candidates for President are trying to find supporters in the House of Representatives and in the other body. That is an indication of strength in the campaign, and we are not going to be involved, because there is no conflict.

We know there are relationships between Members of Congress, both in the House and in the other body, and with an administration.

We know those conflicts exist, and they exist in the real world, and maybe not here in this ephemeral atmosphere which we are dealing with now, but in the real world they do.

This bill ought to be in the real world.

Mr. SWINDALL. Mr. Chairman, the statute at large, we continue to hear various arguments as to why this statute is necessary.

Suddenly we are reversing all of those arguments that have been made; and we said, however, when it comes to Members of Congress, all of these things are suddenly bad. Now as soon as this amendment is defeated, as I predicted it would be at 12:10 today, I made that prediction because of the partisanship of this particular statute, I can predict that with total safety, and listen very carefully to those of the Members who have not made up their minds, listen to all of the arguments that are going to be made when we close debate on this important statute, and then ask yourself very candidly and honestly on each of the arguments, is that not equally true of Congress. Is that not equally true of Congress, is that not equally true of Congress; and if it is flawed with respect to Members of Congress, it is flawed with respect to each and every one of the individuals, the 59 individuals whom we seek here to set aside and put into a special privileged category which in effect means the Constitution is without meaning to them.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Earlier today in the debate, I suggested one of the leading newspapers in the country had raised an ugly word with regard to what we would do if we passed this bill without the Shaw amendment. That word is the word "hypocrisy."

We suggest that there is another ugly word that could be applied to what we would do today if we do not adopt the Shaw amendment as a part of that which we do.

That word would be "indecency."

Indecency is defined as not conforming to the generally accepted standards of morality. That is what we do if we fail to adopt the Shaw amendment.

Morality requires that we all live under the same laws. No one is above the law. Yet consistently this Congress says that it is indeed above the law.

We have exempted ourselves from civil rights laws, labor protection laws, and from sex discrimination laws. The other day when we passed the risk notification bill, we exempted ourselves from that one, too.

We consistently say that somehow we are above the law; and when we raise the question of whether or not this law, because it deals with criminals, ought not to be one that we include ourselves in, we are accused of killing the bill.

I find that a little hard to follow.

I will tell the Members that if this amendment is included in the bill, I will vote for the bill. If this amendment is not included in the bill, I am going to vote against the bill. Where does my vote come down?

It seems to me that the Members who have refused to include the amendment are losing my vote, and therefore, may kill their own bill.

It does not follow very much logic that we are in fact going to kill the bill by offering an amendment that includes Members of Congress.

I am a little puzzled about how so many Members who, a few weeks ago, were telling the House all about the rule of law, and how we ought to be confined to the rule of law in our society, find it so difficult to understand why some of the Members who want the rule of law to apply to Members of Congress.

Oh, I know, we are told that there is a provision in here that includes Members of Congress.

That is a catchall provision, including a little bit of everybody. It is the difference between mandatory and optional, and every one of the Members involved in the legislative process knows there is a big, big difference between a mandate and an option. That is what we are talking about.

It is Members of Congress that are not going to be included under mandatory provisions.

Here is the problem. There are criminals in the Congress. That is right, we have got criminals in the Congress.

It seems to me that those criminals ought to be brought under the same law that applies to the executive branch.

Do we need this law because of conflict of interest? I submit to the Members that a couple of Members under investigation recently have indicated that indeed a conflict of interest is involved.

I have a letter from the Criminal Division of the Justice Department writing to one of the Members mentioned here on the floor today talking about the allegation of potential conflict of interest in the Department's continued investigation.

I have a newspaper article in front of me out of the Washington Post, a reputable source as some people would think—I am not sure I agree—but it talks about another of the Members under investigation who is claiming alleged political motives of the Republican administration which that Member claims is persecuting him because of his political views and his race.

□ 1745

There is a need. What I would say about this amendment is that we are not above the law. You are not above the law. I am not above the law. If we vote against this amendment, what we are saying is that we are above the law. You are above the law. I am above the law. That is not right.

We are not better than the law. You are not better than the law. I am not better than the law, and yet if we pass this amendment we are saying that we are.

We are not empowered to ignore the law, and yet if we do not adopt this amendment we are going to say that we can ignore the law. You can ignore it. I can ignore it.

We are not given special privileges under the law. You are not, I am not, and yet if we do not adopt this amendment, what we are going to say is that we have special privileges under the law.

If we adopt the Shaw amendment, we will put ourselves under the law. If we do not adopt the Shaw amendment, we are going to say we are above the law, that we are better than the law, that we can ignore the law, that we grant ourselves special privileges under that law. That should not be.

Mr. Chairman, I think we ought to adopt the Shaw amendment. Let us have decency, rather than indecency.

Mr. BROWN of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise not only in support of the amendment, but in support of the bill as well. It seems to me with this amendment, this bill is a thoughtful, a logical and valuable contribution to our statutes. What it suggests is that we ought to have an objective system in prosecution and investigation.

I would like to share two thoughts with my colleagues. The first is this. There are a lot of things that we fight about in a partisan manner. That serves a purpose, not only for ourselves, but for the country as well, and there is some logic to that; but this is not a partisan issue.

The question of whether or not criminals in the executive branch ought to be prosecuted is not a partisan issue. If they have done wrong, they ought to answer for it.

The question of whether or not we have criminal activity in legislative bodies is not a partisan issue. All of us agree, both Democrats and Republicans, that if there is wrong it ought to be investigated, whether it is in the executive branch or the legislative branch.

So this is not a partisan issue. Neither the question of investigation or unbiased prosecution should be partisan.

The simple fact is that we do not know what political party the next administration will be or who it will be. We do not know who is going to win the next election.

It strikes me that there are some folks on your side of the aisle that seem to think they will win. We are very hopeful our folks will win; but the reality is that the people who will live under this law in the executive may be either Democrats or Republicans. I suggest, that we cannot be sure which party will enjoy the benefit of this statute.

Let me also suggest that that same nonpartisan application will apply to the legislative branch. We should not be partisan in approaching this issue. It is true that one party has the White House now, but let me suggest that is not permanent and that fact should not influence our votes on this issue.

The second thought is this. Much discussion has taken place with regard to prosecution and the need for independence in that function. I share that view. But the real issue here that is the most significant is not that. Let me read to you the opening lines of the first paragraph under section 591. It is simply this: "The Attorney General shall conduct a preliminary investigation" and it goes on. "Shall" is the operative word.

What we are suggesting here is that if you come under subparagraph (a) is that they shall conduct a preliminary investigation if you are in that group. Now, what is the difference?

(c) says: "The Attorney General may conduct a preliminary investigation."

Now, the whole point of this is that members of the executive shall have a preliminary investigation if charges are brought. Members of the legislature, the legislative branch, are under the "may" category. The amendment moves the members of the legislative branch into the same category as the members of the executive branch.

The simple plain question is this, are you going to have the same standards for a preliminary investigation apply to both branches of Government, or are you going to have the mandatory investigation apply only to the executive?

This is a question of fairness. It is a question of evenhandedness. I think it is a question of respect for the law. To have one branch under this application and not have both branches under the application would be a travesty. It makes a mockery of our interest in justice in this matter.

Mr. Chairman, I think we have a strong bill. I intend to support it whether this amendment passes or not, but let me suggest to my colleagues, we are open to extreme criticism if we suggest that the executive is the only branch that ought to bear the burden of having a mandatory investigation. That demeans this body. We demean this body if we fail to pass this amendment.

This amendment is simply evenhandedness and fairness. I plead with my colleagues, do not demean this body. Both parties that have worked on this bill deserve more than to have this come out as a simple partisan jab at the executive. It should not fall to that level.

The value of evenhandedness, the value of fairness, goes far beyond that. This bill goes far beyond how you vote on this amendment. If we believe in evenhanded justice, we will vote for this amendment. We do this legislative body great disservice if we exclude ourselves.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. The gentleman is a very thoughtful member of the Judiciary Committee.

When the gentleman reads from the statute, however, the gentleman is only reading a portion of it. It provides that the Attorney General shall conduct a preliminary investigation preparatory to referring it to a special prosecutor.

Any Attorney General, any U.S. attorney, has a duty under the law, takes an oath, that he or she will investigate any criminal wrongdoing, whether it be a Member of Congress, a member of the Supreme Court or whoever.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. BROWN of Colorado. Mr. Chairman, I yield further to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, the Attorney General and the U.S. attorney takes an oath to in fact prosecute any individual, whether he be a Member of Congress or a member of the court system or a member of the executive branch of the Government; but what we are doing, we are saying basically, or what the Shaw amendment is saying is, that we are going to take the discretion entirely away from the Attorney General to do his job in those instances where there is not an inherent conflict of interest.

The gentleman would not support, I hope, an amendment that would bring the Supreme Court and the members of the judicial system under the law to trigger a mandatory referral to a special prosecutor. They are not in inherent conflict with the executive branch of the Government.

I would say to my colleagues, by the same token Members of Congress are not members of the executive branch of the Government, and that is the difference, a major difference between members of the executive branch of the Government and Members of Congress.

Mr. Chairman, this bill was targeted, as the gentleman well knows, to the inherent conflict, the potential conflict and the perceived conflict of the Attorney General investigating himself. That is the problem.

Mr. BROWN of Colorado. Mr. Chairman, I say to the gentleman, I appreciate his comments.

Frankly, with regard to the judiciary, I think some evenhanded nature in that regard would be appropriate as well.

It does seem to me that an evenhanded policy with regard to investigations is appropriate for both branches.

The CHAIRMAN. The time of the gentleman from Colorado has again expired.

(By unanimous consent, Mr. BROWN of Colorado was allowed to proceed for 1 additional minute.)

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

I would like to underscore, and this is something that has gotten lost in this debate, the biggest thing contained in this bill is the obligation under certain circumstances for the Attorney General to apply to the court for a special investigator who then is charged with the responsibility of investigating.

Now, make no mistake about that. I am simply saying that that same provision should apply to Members of Congress. If the question of impropriety or criminal conduct is raised to the extent to cross over this threshold, then I want the Members of the U.S. Congress also to be investigated. Do not try to go home and tell your friends how you opt yourself out of this bill. That is going to be tough to explain.

"Why did you, Mr. Congressman, vote that the special prosecutor shall not apply to Members of Congress?" That is going to be the issue and that is the issue that the American people are facing tonight. Why is Congress excluding itself?

Vote for the Shaw amendment.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I rise in strong support of H.R. 2939 and in strong opposition to this amendment.

It bears repeating that the fundamental purpose of the independent counsel law is to prevent the institutional conflict of interest that exists when executive branch officials—the Attorney General and the Department of Justice—are the parties charged with investigating criminal allegations against themselves or others in the same branch of Government.

Generally, there is no such conflict of interest when executive branch officials investigate those in a separate branch of Government, such as Members of Congress in the legislative branch. The Attorney General and the Department of Justice are properly charged, under current law, with conducting criminal investigations of Members of Congress. Executive branch officials have not shirked that duty, and they have been successful in prosecuting Members of Congress of both parties.

For the rare cases when such a conflict of interest does exist, current law—which H.R. 2939 continued—does already provide for the appointment of an independent counsel to handle the investigation of the Member of Congress.

I believe this is exactly the balance that needs to be struck, and I commend the Committee on the Judiciary in achieving this result. If the amendment before us were adopted, however, the balance drawn in the current law, and continued in H.R. 2939, would shift in very harmful ways indeed.

We constantly are working to eliminate problems of political abuse. This amendment merely creates another such problem. If adopted, Members of Congress will be more easily targeted for completely unfounded criminal investigations that really are designed to affect general elections.

We do not have to create this new potential for political abuse. We can retain the sensible, proven, effective system for conducting criminal investigations of executive branch officials and of Members of Congress that is already in place.

We can do this by rejecting this amendment, and I strongly urge my colleagues to do so.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the distinguished gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I know that the gentleman in the well is going to speak eloquently in opposition to the amendment, but one thing I want to stress is that this bill and the need for this bill arose as the result of the basic institutional conflict of interest that existed, that still exists, and will continue to exist when you have got high-level Government employees or Government officials appointed by the President or this particular administration or whatever administration. That is the reason for it. That certainly does not exist with Members of Congress.

Mr. HUGHES. Mr. Chairman, I am reminded of my early law school days when I was told that as good legal strategy, when the facts are against you, you argue the law, and when the law is against you, you argue the facts, and when they are both against you, you get up there and argue. We have proven once again as lawyers that we know how in fact to wear them out when in doubt.

I just hope we can put this back on the right track.

First of all, the executive branch of the Government is where the power of the grand jury in here. That is where prosecutions are begun, grand juries are polled as an extension of the court or the executive branch of the Government to use to ferret out criminal wrongdoing of all kinds on the part of people within the legislative branch of the Government, within the courts, and those who do not serve in Government. That is the province of the executive branch of the Government.

Mr. Chairman, I was a trial prosecutor for about 10 years and I handled grand juries for 10 years. I do not remember 1 year in that 10 years when I handled grand juries that we did not have somebody in the political process running for office that wanted to manipulate the criminal process and make allegations about the person he was running against. We faced that each and every year.

The Justice Department does a pretty good job of trying to in fact ferret out the criminal wrongdoing and they have handled complaint after complaint, year after year, directed at you and others running for office in the political process where they want to in fact try to get even in some way or try to embarrass somebody. You have all seen it. I do not try to tell you about it. That is a major problem to be dealt with by the U.S. attorney and prosecutors around this country every year.

Now, Members of Congress are not special citizens. We are covered both ways under the law. We are not changing that. If an Attorney General finds that he is in a conflict position and cannot handle a criminal prosecution against a Member of Congress, there is a provision in the statute which enables him to refer that to a special prosecutor. We are not changing that. That is the law.

The law also provides, and we are not changing that, if in fact a Member of Congress commits criminal wrongdoing, he is subject to all the sanctions of the law, just like anybody else, and we are not changing that.

What in fact the Shaw amendment would do would be to put Members of Congress into a preferred category and yet, it would make it more difficult.

So what my colleague, the gentleman from Florida is doing, is turning the argument upside down. It is going to become more difficult, not easier, and there are Members of Congress who have sought the appointment of special prosecutors because they felt that they could in fact perhaps get a fairer break. That is the reason they sought that.

One of the reasons why Members of Congress just recently have applied to the Attorney General to have the Attorney General remove himself and to have a special prosecutor appointed is because they felt there would be an advantage in that. Otherwise, they would not have done it through counsel. I have to presume that.

But the point is that there is no inherent conflict of interest on the part of the judiciary or Members of Congress in being prosecuted by an Attorney General. We are not part of the executive branch of Government, so we are not part of the inherent conflict that was the genesis for the statute to begin with.

The Attorney General, as I have indicated, has the authority under the law to remove himself if in fact in those situations the Attorney General feels that he cannot adequately prosecute a case for one reason or another, conflict or otherwise.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, let me just make a point, and I think it is an important one. Members of Congress have to run every 2 years. Members of the executive branch that are basically targeted are not running every 2 years. You are going to find if in fact we were to bring Members of Congress in, a lot of mischief because you can rest assured that in October of an election year you would have charges brought against individuals who harbor malice and the headlines will be that somebody charged you or other Members of Congress or other elected officials with wrongdoing and it will be after the election that a decision will be made that there is no substance to those charges.

□ 1805

I say to the gentleman it has potential for tremendous mischief. So, First, there is no inherent conflict. Second, the Attorney General already has the authority to refer conflict cases of interest to a special prosecutor where it involves Members of Congress or the Judiciary.

Third, this invites more mischief that I am sure the gentleman would want. If the gentleman wants to defeat the bill, vote against it. If you do not want the bill, vote against it, but do not do it this way.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I yield to the gentleman form Florida.

Mr. SHAW. Mr. Chairman, I would like to take issue with one of the points that the gentleman from New Jersey [Mr. HUGHES] has raised and that is the question of making prosecution more difficult. It is going to make investigation under the set of circumstances that we are applying to the executive branch, mandatory on Members of Congress. That is all we are trying to do. That is a very fair and equitable way to go about it. I would disagree with the gentleman that there are not conflicts of interests. The business of the executive branch and the legislative branch is so intertwined that there are inherent conflicts of interests in dealing with most of the Members of Congress.

Mr. HUGHES. Mr. Chairman, reclaiming my time, I want to tell the gentleman if I were a defense attorney defending a Member of Congress I would want a special prosecutor because I believe that, first of all, we would put the additional delaying tactics we are now seeing in place, and part of defense strategy today is to delay, delay, delay, and get into court with motions. That is what we have seen with all the special prosecutors.

We are forced to go in the manner in which we are going because there is an inherent conflict with the Attorney General investigating members within his department. There is no inherent conflict between the Attorney General and Members of Congress.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am glad to yield to the gentleman from Florida just briefly.

Mr. SHAW. Mr. Chairman, I would say to the gentleman, if he was employed as a defense attorney, would he want to know that the opposition had unlimited resources, unlimited resources that the prosecutor was prepared to spend $3 million in his prosecution, as has been the case?

Mr. HUGHES. Mr. Chairman, if I may recapture my time, I spent 10 years as a prosecutor, and I know prosecutors have all kinds of resources available. The Justice Department has all kinds of resources available.

The average defendant does not have those kinds of resources.

That issue is another red herring. We have had so many red herrings surface here today, I wonder whether we are talking about the same matter.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, without alluding to individuals, there is a Member of this body who has been under investigation by the Justice Department for a very long time and has come to no culmination. I think he is unfairly treated by the current Justice Department. There will often be in the prosecutorial process, some improper action, or at least some actions that result in people being distressed, but the notion that it only happens to the independent counsel and not the other way around, simply is not the case.

I will again repeat, Mr. Chairman, that when it comes to leaks, that when it comes to prosecutors leaking information about those under investigation, the independent counsel have a much, much better record than the Justice Department.

The CHAIRMAN pro tempore. (Mr. GRAY of Illinois). The time of the gentleman from New Jersey [Mr. HUGHES] has again expired.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. SWINDALL. The crux of the gentleman's argument is really twofold. One, that there is an inherent conflict that is unique to the executive branch. I certaintly agree with that.

The point though, is that the Constitution has already addressed that uniqueness, specifically in article II, section 4, which says that the President, Vice President, and all civil officers of the United States shall be removed from office by impeachment.

The point is that if we want to look at that inherent conflict from the constitutional perspective, which I would hope is the supreme law of the land, we have already got a solution.

Mr. HUGHES. Mr. Chairman, if I might recapture my time, I say to the gentleman from Florida that I heard the gentleman's argument before and basically the gentleman is partially correct. We have also attempted to address the inherent conflict of interest by statute and that is the legal and proper prerogative of the Congress, because what we are seeing is the appointment of inferior officers under the Constitution and what has been done is totally consistent with the Constitution.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the Shaw amendment to include Members of Congress among those high level Government officials who may be subject to mandatory independent counsel investigations.

The Department of Justice should and must bear the primary role in Federal law enforcement. There are extraordinary circumstances, however, which require the presence of an alternative mechanism, for investigating allegations of misconduct. These arise when the allegations are made against the President of the United States, Cabinet members, or other high-ranking executive branch officials appointed by and serving at the pleasure of the President. In such circumstances, the interests of justice would not be well served by having the investigation conducted by a person who also serves at the pleasure of the President.

The executive branch is clearly separated from the legislative branch under our constitutional system and, with the rare exception of Congress' possible invocation of the impeachment power, the Attorney General does not serve "at the pleasure" of the Congress. Thus, there is no reason to extend the coverage of the independent counsel provisions to allegations of misconduct by Members of Congress.

I am not urging a double standard for Members of Congress in terms of their rights and obligations under the Federal criminal laws. The only question before the House is whether, given the current state of the substantive laws, should the prosecution of alleged criminal violations against Members of Congress continued to be handled by the Justice Department, or should they be transferred to a new Office of the Independent Counsel? I believe the Justice Department should retain this authority. I urge my colleagues to join with me in defeating the Shaw amendment.

Mr. KOLBE. Mr. Chairman, the American public keeps asking its public officials questions. They ask things like how are we going to lower the deficit or reduce the threat of nuclear war or feed the poor, as well they should. But constituents also ask their political officials why they tolerate backroom deals cut for personal gain. And it's really too bad they have to ask questions like that.

I believe Congress must do everything possible to reassure the people of this country that their Government is being run properly. The House Judiciary Committee reported out a bill aimed at strengthening the special prosecutor and his role in investigating public officials. However, the committee rejected an amendment offered by my distinguished colleague from Florida, Mr. SHAW, to include Members of Congress under the special prosecutor's jurisdiction.

The Judiciary Committee had unique opportunity to show the American people that we in the Congress care about ethics and doing the right thing. We could have included Members of Congress under the Special Prosecutor Act, just as we could include Congress under most of the labor legislation, the health and safety legislation, that apply to the rest of the country. But, we don't. Congress seems bent on telling the American public to do as we say not as we do.

Some argue that the Justice Department hasn't had any problem yet prosecuting Members found to break the law. If a U.S. attorney finds evidence of wrongdoing in Congress, this argument runs, then he or she can initiate a prosecution against the Member. Of course. But the same is true for someone from the executive branch. This law was established because it was feared there could never be an arms length, independent decision to investigate or to prosecute. Well, the same argument applies for Members of Congress. We control the purse strings and we can have a chilling effect on an investigation or a prosecution.

To exclude the legislative branch of government from the purview of the special prosecutor gives the wrong message to the American people. But with this amendment, offered by my colleague from Florida, we can send the right message to the American people. We can let them know that Congress does not believe that it, as an institution, is above the law. By excluding the Congress from the special prosecutors jurisdiction we say to the American people that Congress doesn't think it should be subject to the same standards as the rest of the Government. A Member who's the subject of false accusations of wrongdoing would invite an investigation by the most powerful investigator he or she could find.

The special prosecutor is that official. Thus when the Member is cleared there are no lingering doubts, doubts that are inherent in any investigation of a political figure. To make the Congress exempt from his jurisdiction does not give the public the assurance they are entitled to that laws are being applied evenly to all citizens—in the executive branch or in Congress.

I want to go back to my district and hold this legislation up in front of the people of Arizona and say, "See! Read this!" The Congress shares your concern about making sure this country is run by servants of the public and not political bosses and their cronies. I urge Members to vote yes and include Members of Congress under the jurisdiction of the special prosecutor.

That's why this amendment is so vitally needed. When we vote ourselves loopholes in the law, we demean our own credibility. We say, in effect, that the majority of elected officials in the national Government have refused to hold themselves to the highest standards of personal and professional conduct. The Shaw amendment is an opportunity to put an end to these double standards and assuage the doubts and fears of our citizenry about the integrity of all our country's elected officials. I urge you to support this amendment. We all will be better for it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 243, not voting 21, as follows:

[Roll No. 372]

AYES—169

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Combest
Conte
Coughlin
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Gradison
Grandy
Gregg
Gunderson

Hall (TX)
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Murphy
Nichols
Nielson
Oxley
Packard
Parris
Petri
Porter

Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stallings
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (FL)

NOES—243

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Berman

Bevill
Bilbray
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant

Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conyers
Cooper

Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)

Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper

Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Williams
Wilson
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—21

Biaggi
Boggs
Buechner
Bustamante
Clarke
Courter
Dowdy

Ford (TN)
Gephardt
Goodling
Hayes (LA)
Kemp
Livingston
Lott

McDade
Roemer
Shuster
St Germain
Tauzin
Whitten
Wise

□ 1815

The Clerk announced the following pair:

On this vote:

Mr. Courter for, with Mrs. Boggs against.

Mr. BRUCE and Mr. STAGGERS changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 13, lines 17 through 20, strike out "or upon the request of an independent counsel appointed under this chapter, may expand the prosecutorial jurisdiction of such independent counsel" and insert in lieu thereof "may expand the prosecutorial jurisdiction of an independent counsel appointed under this chapter".

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, the argument that I am making I have made before on other provisions earlier in the day, and those provisions were as to the constitutionality of the law that we are going to undoubtedly pass this evening.

This provision that I am asking to strike allows the special counsel to unilaterally expand his own prosecutorial jurisdiction. Again, we are taking the link between the special investigator or special prosecutor and the executive branch and we are severing it. By severing this connection, we are throwing the special investigator into a place where he is not provided for in the Constitution, and we are just putting constitutional holes in the law by doing this. Any time that the question of the independent prosecutor is challenged in court, we are simply giving to the defense attorney more equipment to shoot holes in it, and to shoot it down.

I urge adoption of the amendment that would delete that portion which does add to the unconstitutional portion of the bill.

I yield back the balance of my time.

Mr. FRANK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment is very similar in thrust to many of those we defeated earlier. What we are saying in the bill is that if the independent counsel in the course of his or her investigation discovers evidence that makes it obvious to that counsel that there needs to be a broadening of the investigation to complete it as originally intended, that independent counsel may go to court and not on his or her own, but only after going to court can get jurisdiction expanded. We have in our bill a provision that the Attorney General must be notified of any such request and be allowed to appear in opposition.

So I hope the amendment is defeated. It would be inconsistent with what we have done for much of the day to adopt it.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The amendment was rejected.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 20, strike out lines 1 through 6.

Page 20, line 7, strike out "(i)" and insert in lieu thereof "(h)".

Mr. SHAW. Mr. Chairman, this amendment would strike from the bill language which provides that each independent counsel appointed pursuant to this law would constitute a new agency of the Federal Government totally unrelated to any branch or department of the U.S. Government.

□ 1830

This language has been taken out of some case law in which the judges have appointed the independent counsel. Again, if you are looking for a provision in the Constitution that says the courts can set up a new independent agency, I would certainly like to see it because it is not in there. That is the prerogative of the U.S. Congress. It is up to us if we are going to set up new agencies and we cannot even do it if it is not related to one of the branches of the Government.

So we are not only diluting the power of the executive by adopting this language, but we are attempting to dilute our own power and we are again driving nails into the argument of a successful prosecution and we are setting up ourselves for this bill to be held unconstitutional.

Mr. Chairman, I yield back the balance of my time.

Mr. FRANK. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, it seems to me this amendment is simply out of touch with what we have done previously. We believe that the independent counsel was never part of the Department of Justice. This Justice Department has argued we believe contrary to the intent of the statute originally that the independent counsel were members of the Department of Justice. That would cause serious problems. In fact, the three-judge court appointed, I should say, by President Reagan and Justice Rehnquist to preside over this, have decided that the Department of Justice should not have these people in their power, that they should be independent. We decided the court was correct. We made an independent statutory judgment that they should be independent. We have put in our own conflict of interest provision which all agree to. So the amendment would just cause confusion. I hope it is rejected.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The amendment was rejected.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 25, line 9, insert after "cooperate" the following: ", whether during or after the period in which the independent counsel is serving under this chapter,".

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, this amendment would clarify that oversight jurisdiction by Congress over the independent counsel means oversight of ongoing independent counsel investigations and that currently appointed independent counsels shall have a duty to cooperate with such oversight by Congress.

Mr. Chairman, in this particular regard, we have had the argument about the costs of many of these investigations. I believe that it is not only the responsibility but the affirmative duty of the Congress to go forward with oversight. There is no other oversight that is available and Congress should have oversight authority with regard to the ongoing investigations. We have heard some of the horror stories on some of the costs that we have seen incurred by independent counsel. I have tried to get hearings on this. Simply, this refers to the dollar figures, not talking about getting into the investigations. That is really none of our business. But we have, as a Congress, the ability to do overight hearings on any of the functions of the Justice Department when it comes to spending money and I think we should certainly exercise this as far as the independent counsel is concerned. They are too far adrift, they are away from themselves, away from us, away from the executive branch and I think they need to account for the moneys being spent and what they are doing.

Mr. Chairman, I yield back the balance of my time.

Mr. RODINO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I have to oppose this amendment. First of all, the law does, in every instance, require oversight. But to require that we codify into the law oversight in these particular cases would only run counter to what we are trying to do. It would send a chilling effect when an investigation is taking place.

Under the statute, the rules of confidentiality must be adhered to during the course of an investigation. If we were to have oversight hearings and inquire into the various, specific details we would certainly be running counter to that very basic requirement. I believe that the gentleman recognizes that, with the ongoing investigations, we, who served on the Iran-Contra Committee, were indeed prohibited from inquiring of the independent counsel into certain matters which we thought were relative to the committee inquiry.

I think that there is no reason to codify this kind of requirement.

Mr. Chairman, I therefore oppose the amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield to me?

Mr. RODINO. I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I ask my chairman, I can understand the sensitivity of what he said and I can understand the logic of it. However, with these ongoing investigations I think we have a responsibility to at least look into the finances of how they are spending their money, make it a subject of a hearing as to how much rent they are paying, how much per square foot, how many cars they are leasing, a lot of legitimate questions.

Mr. Chairman, would the chairman agree to consent to hearings that were limited in their scope, that were prohibited from going into the investigation but look into the finances?

Mr. RODINO. Without adopting it in the bill we are presently considering, I certainly would. We have held three hearings as the gentleman knows. I know that the gentleman is certainly interested in the expenditures and certainly if we limit it to only those areas that relate to cost, I would be glad to go along.

Mr. FRANK. Mr. Chairman, would the gentleman from New Jersey yield?

Mr. RODINO. I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, I would just say that I admire the diligence with which my friend from Florida has persevered here. I think he has been speaking about a legitimate congressional interest and I just want to promise him that I will work with him to the maximum extent that I am able to.

Mr. SHAW. Mr. Chairman, with that commitment, I would ask unanimous consent that I be allowed to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 28, after line 22 add the following (and strike out the closing quotation marks and final period on line 22):

"§ 599. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date of the enactment of the Independent Counsel Amendments Act of 1987, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of such counsel require such continuation until that independent counsel determines such matters have been completed.".

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. This is an amendment to the law that is similar to what was in the original law. It simply provides that the amendments made by this legislation to the current independent law will be sunsetted in 5 years after enactment requiring at that time a reauthorization by the Congress. I think this is very important.

We are on new ground. I think it is most important that the Committee on the Judiciary in 5 years have an opportunity to go back, revisit it, see what is being done, what has not been done, and see what is left of the law and require it at that time to be reauthorized.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from New Jersey [Mr. Rodino].

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I certainly understand the sincerity and the genuine interest of the gentleman from Florida in offering this amendment. I know that personally I do have some concern. The law that we now have under consideration is the same law, with certain improvements, that we adopted and enacted in 1978. That is already some 10 years that that law has been in effect, and it has been working well. I do know that the gentleman is concerned with going beyond a period of time. However, I do not think that the institutional conflict of interest problems that exist are going to go away in 5 years. But we will let somebody else deal with that.

Mr. Chairman, I accept the amendment of the gentleman.

Mr. SHAW. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. Shaw].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Foley] having assumed the chair, Mr. Dorgan of North Dakota, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2939) to amend title 28, United States Code, with respect to the appointment of independent counsel, pursuant to House Resolution 273, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 87, not voting 24, as follows:

[Roll No. 373]

AYES—322

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Williams
Wilson
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOES—87

Archer
Armey
Badham
Ballenger
Barton
Bateman
Bliley
Boulter
Broomfield
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coble
Combest
Craig
Crane
Daniel
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Gingrich
Gradison
Gregg
Hammerschmidt
Hansen
Hefley
Herger
Holloway
Hopkins
Hunter
Inhofe

Konnyu
Kyl
Lewis (CA)
Lowery (CA)
Lukens, Donald
Lungren
Mack
Marlenee
McCandless
McCollum
McEwen
Michel
Miller (OH)
Murtha
Myers
Nielson
Packard
Petri
Quillen
Ridge
Ritter
Roberts
Rogers
Rowland (CT)
Schaefer
Shaw
Shumway
Skeen
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Spence
Stump
Sundquist
Sweeney
Swindall
Taylor
Thomas (CA)
Vucanovich
Walker
Whittaker
Young (AK)

NOT VOTING—24

Bates
Biaggi
Boggs
Buechner
Bustamante
Clarke
Coughlin
Courter
Dowdy
Ford (TN)
Gephardt
Goodling
Hayes (LA)
Kemp
Lipinski
Livingston
Lott
Roemer
Shuster
St Germain
Tauzin
Weldon
Whitten
Wise

□ 1845

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs for, with Mr. Courter against.

Mr. Weldon for, with Mr. Lott against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1900

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2939, the bill just passed.

The SPEAKER pro tempore (Mr. LOWRY of Washington). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RESIGNATION AS A MEMBER OF COMMITTEE ON AGRICULTURE AND AS A MEMBER OF COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER pro tempore laid before the House the following resignations as a member of the Committee on Agriculture and as a member of the Committee on Merchant Marine and Fisheries:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 21, 1987.

Hon. JIM WRIGHT,
Speaker, House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign my positions as a member of the House Committee on Agriculture and the House Committee on Merchant Marine and Fisheries, effective immediately.

Sincerely,

LINDSAY THOMAS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignations are accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON APPROPRIATIONS

Mr. WATKINS. Mr. Speaker, I offer a privileged resolution (H. Res. 287) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 287

Resolved, That the following Member be, and is hereby, elected to the following standing committee of the House of Representatives:

Committee on House Appropriations, Robert Lindsay Thomas, Georgia.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RISKS OF CIGARETTE SMOKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, what are the risks of cigarette smoking? Most Americans have heard the message "Smoking is hazardous to your health." Hundreds of times, however, rarely is it spelled out for them what those dangers are. That regular smokers increase their risk of death from lung cancer by over 700 percent, cancer of the larynx 500 percent, mouth 300 percent, esophagus 400 percent, bladder 100 percent, and pancreas 100 percent as well as emphysema 1,300 percent, and coronary heart disease 100 percent. Moreover, all these risks are assumed at the same time the tobacco companies continue to claim "smoking doesn't cause cancer."

The topic shouldn't be whether cigarettes are harmful, the evidence that smoking causes at least 350,000 premature deaths per year is as conclusive as it could be. The debate instead should center on why the tobacco industry still is allowed to sell and promote a lethal, addictive drug.

We are all aware of the addictive properties of illegal recreational drugs like heroin. According to Dr. William Polin, Director of the National Institute on Drug Abuse, cigarette smoking is "the most widespread drug dependence in our country." Repeated studies indicate that tobacco is more addictive than heroin, producing very strong physical dependence. One cannot overstate the contribution that this addictive nature has made to the continued use of the cigarette.

Cigarettes not only kill those who choose to smoke, they cause an estimated 65,000 fires each year, killing 2,300 people, and result in more than $300 million in property damage. Also, approximately 5,000 people a year die from passive smoking, yet 54 million Americans continue to smoke. Who are these smokers and why to they smoke?

According to the American Lung Association,

> An 11-year trend shows the initiation of regular daily smoking being highest among 12- to 14-year-olds. Half—49 percent—of high school seniors reporting a pack-a-day habit, began their daily smoking habit by ninth grade. Experts conclude that cigarette advertising plays an important role in the decision of young people to start smoking. Of those presently smoking approximately 2 million quit smoking or die from smoking-related diseases or death from other causes every year. This means that 5,000 new smokers must start smoking every day in order for the industry to maintain its market.

Cigarette manufacturers claim that their advertising is aimed at promoting brand switching among current smokers, not at recruiting new consumers. However, each year only 10 percent of current smokers change brands. In addition, leading advertising exports concede that advertising is aimed at market expansion, and that cigarettes are no exception. For instance, Emerson Foote, former chairman of the board of McCann-Erickson, one of the world's largest advertising agencies, and once responsible for $20 million in cigarette accounts, once stated:

> The cigarette industry has been artfully maintaining that cigarette advertising has nothing to do with total sales * * *. This is complete and utter nonsense * * *. I am always amused by the suggestion that advertising, a function that has been shown to increase consumption of virtually every other product, somehow miraculously fails to work for tobacco products.

The tobacco companies continue to deny that they are seeking to attract new smokers or trying to appeal to teenagers. A voluntary industry-wide code prohibits cigarette advertisements from allowing anyone depicted in the advertisement from being, or appearing to be, under 25 years of age, participating in, or obviously just having participated in, a physical activity requiring stamina or athletic conditioning. However, even a brief review of current cigarette advertising campaigns reveals the ineffectivenss of this alleged voluntary code. Cigarette advertisements are showing up in magazines read by teens, such as People Magazine, Vogue, Motor Trend, Sports Illustrated, and the list goes on. With 90 percent of smokers starting before the age of 20, it's a powerful incentive for the cigarette companies to use whatever techniques are available to get kids to smoke.

Children, especially 13- and 14-year-olds, have a basic need to improve their self-image. Cigarette advertising which reliefs on images on self-reliance, independence, and an absence of authority figures appeal directly to this need of youngsters. For example, in former advertising agency executive

William Meyers' words, "* * * The solitary cowboy's message for young men is to smoke Marlboro if they want to be independent and strong." The macho outdoorsmen from Camel and Winston seem to say "Take a puff of this and you'll be tough like us." Fifty percent of teenage smokers smoke Marlboros.

A May 1981, Federal Trade Commission report on cigarette advertising trends and expenditures, included the following analysis of cigarette advertising themes:

> Cigarette ads have continued to attempt to allay anxieties about the hazards of smoking and to associate smoking with good health, youthful vigor, social and professional success, and other attractive ideas, individuals and activities that are both worthy of emulation and distain from concerns relating to health. Most cigarette advertisements express at least one of these themes. Often more than one such theme can be found in a single advertisement. Thus, the cigarette is portrayed as an integral part of youth, happiness, attractiveness, personal success and an active, vigorous, strenuous lifestyle.

It is time this body took the bull by the horns and banned tobacco advertising. We are risking our Nation's most important asset, our children, by allowing cigarette companies to continue to advertise this addictive and lethal product.

If I may add one thing a surgeon told me who does all of the surgery of taking the jaws off of people and putting them into back rooms where they can never be seen again.

They say, "Was this caused by tobacco?"

He cannot believe people say things such as this.

ELECTIONS IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, the status report for the elections in Haiti today brings no better news than it did yesterday.

The lawyers in the capital of Port-au-Prince, the capital of Haiti, are today staging a vigil and observing a week of mourning for Yves Volel, who was shot in front of the central police station of Haiti across the street from the Capitol Building last week.

His body has been held for some time by the police, and finally it has been released, and so Volel's funeral will take place tomorrow in Port-au-Prince.

At this juncture in the elections scheduled for Haiti, large numbers of voters are registering or supposed to be registering, because the country has never had an official list for registration.

Many Haitian citizens are afraid to register. They are afraid to come forward. Many others who had plans to run for office are afraid now to file and meet the deadlines for running for office.

This is a country which has 13 or 14 political parties. Shortly after the fall of Jean-Claude Duvalier, hundreds of people indicated they wanted to run for office; but the period for the filing has been extended now.

It was supposed to take place between October 8 and 16, and they were forced to extend it because the candidates are afraid to come forward.

Each candidate is afraid that they will be targeted; and as a result, their lives will be in danger.

We know the election process calls for a period after registration where there will be public training for the officials. The candidates will get certain kinds of aid.

It is a very good timetable on paper, a very impressive election process that was set out in the constitution of Haiti when the people voted overwhelmingly for that constitution.

All of this has little meaning, because however, the junta, the people in charge of the military government, are determined not to allow it to work.

They have already committed the first crime by forcing into the process the registration, or the filing as candidates ex-Duvalier aides.

The constitution says for 10 years no members of Duvalier's cabinet would be allowed to run. They have already allowed two people to enter the process.

It is up to the Provisional Electoral Council now to reject those people and eject them. A violent scene is predicted when they attempt to eject these people who have forced their way into the process out of it.

What is needed now, not on November 29, because November 29 is the culmination of the process—there are municipal, legislative elections, and on November 29 there are Presidential elections.

We do not need observers on November 29, or we do not need action by the Organization of American States on November 29, or by the U.S. State Department or the U.S. Government on November 29.

We do not need action by the United Nations. All of these bodies could peacefully act right now to guarantee a fair election in Haiti.

If they do not act now and allow a situation to be created where the candidates feel safe, and they will come forward to register today, where the candidates feel safe, and they can go out and campaign, and the voters feel safe in terms of registering, if all that does not happen now, the election in Haiti is doomed.

If this administration does not show more concern, it is an indication of the hypocrisy of this administration.

It may be an indication of the hypocrisy of America when we insist there must be fair elections in Nicaragua, observation of human rights around the world, and 90 miles from our shore, we are letting a process go forward which is supervised by a bunch of military thugs and armed bandits.

We must take action now to do something to guarantee real elections in Haiti.

□ 1915

The only bright spot that has occurred in the last few days has been the individual action of former President Jimmy Carter. Jimmy Carter is scheduled to go to Haiti tomorrow on a 2-day visit sponsored in part by the National Democratic Institute for International Affairs. He will be in Haiti to show his support for the process of democratization and to observe the electoral process.

I hope that former President Jimmy Carter will come back with a real and true report. I hope that he will use his high visibility, his integrity, his credibility in America, to make a statement about what is going on in Haiti. There is a desperate need for action and that action is needed now.

I do not see why we are hesitating to take peaceful action to intervene. I do not see why the United Nations acts as if it were paralyzed. I do not see why the Organization of American States takes no action.

I hope that Jimmy Carter will be a catalyst and that his presence in Haiti will indicate the importance of it. His presence will stimulate some real and meaningful action by our Government to guarantee that the people of Haiti, who have voted overwhelmingly for a democratic election process will have that process.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. OWENS of New York. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman on this very important subject.

MINT IS PENNYWISE AND THOUSANDS OF DOLLARS FOOLISH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 6, the House passed legislation that will require the U.S. Mint to contract with U.S. firms. The mint may award a contract to a foreign bidder over an American bidder only if the Secretary of the Treasury determines that an award to an American firm is inconsistent with the public interest or the cost would be unreasonable.

During the debate on this legislation, I said that unreasonable cost is one in which there is a significant difference between the U.S. bidder and the foreign bidder. Small differences in cost are not unreasonable.

A recent mint contract award shows the need for this legislation.

On October 5, the mint awarded a contract to suppy 2.7 million pounds of strip for use in the manufacture of 5 cent coins to a Canadian corporation. The Canadian firm submitted a bid of $715,484. The lowest U.S. bidder submitted a bid of $715,754, a difference of only $270. Nevertheless, the mint awarded the contract to the Canadian bidder. The cost difference between the two bids was one one-hundredth of a cent per pound. In other words, the difference in price was only $1 for every 10,000 pounds of strip purchased.

Nobody can believe the Government saved $270 from this Canadian purchase. The U.S. bidder would have paid many times that amount in income tax had it been awarded the contract. American workers would have paid many times that amount in income tax.

Indeed, the American bidder is located in a labor surplus area. For $270 the mint could have sent work to an area where the Federal, State, and local governments are doing all they can to attract business.

Instead, the mint sent the contract overseas, increasing our horrendous trade deficit, taking work from American workers, and costing a U.S. firm profits that could have been reinvested in America.

It is because of this shortsighted approach to costs that the mint authorization bill requires the Secretary to consider the net cost to the United States when awarding contracts to foreign firms. Surely, no one can argue that a $270 difference on a $715,000 contract is an unreasonable cost difference.

This contract is just the sort of contract that the House passed legislation is intended to prevent. It is the clear intent of this legislation to require that our coins be made with material procured within the United States unless there is a significant cost saving or other overriding reason why foreign sources should be used. For a false saving of $270, the mint has cost the Treasury thousands of dollars. This is not any way to run the mint. H.R. 2631 will put an end to these shenanigans.

I hope the Senate will act promptly on this bill. We cannot afford for the mint to save the taxpayers another $270.

THE CHINESE SILKWORM MISSILE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. Bereuter] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, last week a Silkworm missile fired from the Faw Peninsula struck an American flagged Kuwaiti vessel in Kuwaiti waters. That missile was manufactured in the People's Republic of China. Directly or indirectly, with full intention, the People's Republic of China has been providing Silkworm missiles to Iran. It has provided them in significant amounts and there is every reason to believe that additional Silkworm missiles are intended to be provided under contract to Iran.

Many nations make mistakes in policy related to arms sales. Certainly the covert action of the Government of the United States to provide arms to the Iranian Government recently was a tragic mistake. It is a mistake now, it should be recognized by the People's Republic of China, to be continuing to sell Silkworm missiles to Iran.

I understand that the People's Republic of China denies that they are providing those Silkworm missiles to Iran, but the evidence is clear that they are providing them directly or indirectly with full intention to the Government of Iran.

I call on the People's Republic of China to desist, to stop providing Silkworm missiles to Iran. They are placing in danger the Nation's shipping and personnel from all nonbelligerent countries that are attempting to use the Persian Gulf and they are placing in danger the noncombatant nation's citizens of the Persian Gulf.

I hope that my colleagues will join this Member in asking the People's Republic of China to stop further sales of Silkworm missiles to Iran and that it will stop the transfer of any missiles that have already been contracted for. It is a hostile act from this point forward. I hope that my colleagues will join me in sending that message to the People's Republic of China.

HAROLD FORD'S "NO COMMENT" ORDER LIFTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. Conyers] is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I rise today to review the decision of the Sixth Circuit Court of Appeals in Cincinnati to overturn the so-called gag order entered in the district court against our distinguished colleague from Tennessee, Harold Ford. The rights to free speech and to a fair trial have been vindicated for all supporters of civil liberties.

The gag order prohibited Congressman Ford from making any statements about the evidence and facts in the case, the prosecuting attorneys, possible Government motivations in filing the indictment or the merits of the case. In so holding, the district court prevented Congressman Ford from communicating with his constituents, hindered his ability to fight the pending charges and impaired his efforts to raise funds to sustain his defense.

In striking down the district court's gag order, the court of appeals followed the precedent established in *CBS* v. *Young,* 522 F.2d 234 (6th Cir. 1975), in which the court applied the clear and present danger test to a similar gag order in the Kent State civil litigation. Despite the high visibility of that case and the media attention it attracted, the court held that "any restrictive order involving a prior restraint upon first amendment freedoms is presumptively void and may be upheld only on the basis of a clear showing that an exercise of first amendment rights will interfere with the rights of the parties to a fair trial." In the case of Congressman Ford, the district court completely failed to consider such less restrictive alternatives like change of venue, extensive voir dire or jury sequestration. According to the court of appeals, these precautions would have been more than sufficient to ensure a fair trial in this case.

Furthermore, the Young standard for applying gag orders must be applied more strictly in relation to criminal defendants who have the full power and resources of the Government focused upon them.

The sixth circuit also noted the highly political context of the case. Because Congressman Ford is a black Democrat representing a largely black constituency in Memphis, "he is entitled to attack the alleged political motives of the Republican administration which he claims is persecuting him because of his political views and his race" and "to fight the obvious damage to his political reputation in the press and in the court of public opinion * * *."

This is particularly true given that Mr. Ford will soon be up for reelection, and would certainly be attacked by his opponents as an indicted felon. Moreover, the circumstances surrounding the indictment were somewhat suspect: the prosecutor investigated Mr. Ford for 4½ years, and sought the indictment in Knoxville after a grand jury in Memphis rejected the initial petition. In addition, Mr. Ford was denied the opportunity to present evidence to the grand jury which could have established his innocence.

Finally, as the leadership of the House of Representatives argued in its amicus brief, the doctrine of separation of powers would be undermined "if the judicial branch should attempt to control political communication between a Congressman and his constituents."

Given these circumstances, the circuit court's ruling was undeniably correct. Any other decisions would have violated the constitutional rights of Congressman Ford, and placed the rights of all Americans in jeopardy.

What follows is the opinion of the Sixth Circuit Court of Appeals in the important matter:

In this federal criminal case for mail and bank fraud, set for trial on November 9, 1987, the defendant, Congressman Harold Ford of Memphis, seeks an interlocutory ruling setting aside as constitutionally invalid a broadly worded, so-called gag order entered *sua sponte* in the District Court. The order prohibits Congressman Ford from "making" any "extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication," including any "opinion of or discussion of the evidence and facts in the investigation or case," any statement about a prosecuting attorney, any statement about "any alleged motive the government may have had in filing the indictment" or any statement "which relates to any opinion as to * * * the merits of the case." The order excepts from these restrictions on Ford's speech any statement "on the floor of the House," or in committee or to another member of the House or any statement that he is "not guilty of the charges placed against him." (See Appendix A for the full text of the order in question.) The parties have filed with the court numerous press clippings indicating that the case against congressman Ford has received wide publicity, including editorials condemning Ford for the conduct charged in the 19 counts of the 34 page indictment, and statements by Ford attacking the government's prosecution.

The first question presented on appeal is whether the free speech clause of the First Amendment limits the authority of a federal trial judge to restrain the extra-judicial comments of an accused standing trial before him in a criminal case. No issue is presented in the instant appeal concerning the authority of judges to restrain the speech of lawyers, officers of the court, or witnesses. Only the interests of the defendant are raised.

The free speech issue is also presented to us as a separation of powers issue by Congressman Ford and *amici curiae*, who are the Speaker of the House, Mr. Wright, the Majority leader, Mr. Foley, and the House Leadership Group. They assert that the District Court order abridges the authority of the legislative branch. They present the separation of powers issue as follows:

"This case presents questions of institutional importance to the House: Whether, upon indictment, a Member of Congress may continue to perform the representational and communicative functions of his office in a vigorous, effective manner free from any fear of judicial interference and without censorship by court order curtailing his communications with the electorate who have chosen him; and whether a Representative's half-million constituents may be deprived of a major aspect of representation—the accountability of their Representative to them, through his communication with them—on the basis of a mere issuance of charges against their duly chosen Representative.

"In the words of Thomas Jefferson, the House is 'entrusted with the preservation of its own privileges' and has an obligation to 'vindicate its immunities against the encroachments and usurpations of a co-ordinate branch.' 8 *The Works of Thomas Jefferson*, 327 (Fed. ed. 1904). It is in performance of this obligation that the Speaker and the Leadership Group appear today." (Brief for *Amici Curiae*, p. 2.)

We have jurisdiction of this interlocutory appeal. Courts of Appeals have found orders restraining speech in connection with pending cases appealable as § 1291 final orders under the "collateral order" doctrine of *Cohen* v. *Beneficial Ind. Loan Corp.*, 337 U.S. 541 (1949), *see, e.g., United States* v. *Schiavo*, 504 F.2d, 4-5 (3rd Cir. 1974), *Cert. denied* 419 U.S. 1096 (1974) (en banc decision reversing pretrial order restraining the press from reporting on a criminal trial), and as injunctive orders under § 292(a)(1), *Parker* v. *CBS, Inc.*, 320 F.2d 937 (2nd Cir. 1963) (injunction against plaintiff's communication concerning trial document), as well as in mandamus, *CBS* v. *Young*, 522 F.2d 234 (6th Cir. 1975) (mandamus lies to review order restraining public comment by parties and their relatives in Kent State civil litigation): *Chase* v. *Robson*, 435 F.2d 1059 (7th Cir. 1970) (mandamus available writ to attack "no comment" order against defendant in a criminal case). The government does not contest appellate jurisdiction in this case.

I.

The defendant argues that the broad "no discussion-of-the-case" order entered *sua sponte* is a content based prior restraint on speech and that it therefore must meet the exacting "clear and present danger" test for free speech cases enunciated in *Near* v. *Minnesota*, 283 U.S. 697 (1931). The government contends in response that in a criminal case the *Near* test is inapplicable and that the question is whether there is a "likelihood that prejudicial news prior to trial will prevent a fair trial, "quoting language taken from *Sheppard* v. *Maxwell*, 384 U.S. 333, 363 (1965), as establishing a lower standard in such cases. This contention is in error. *Sheppard* arose from the failure of a state criminal court to prevent irresponsible elements of the press from taking "over practically the entire courtroom, hounding most of the participants in the trial" and creating a "carnival atmosphere" in which the defendant was held up to ridicule. 384 U.S. at 355, 358. No restraint on the defendant's speech was at issue. In *Nebraska Press Ass'n* v. *Stuart*, 427 U.S. 539, 556 (1976, decided ten years after *Sheppard*, the Supreme Court held that the *Near* standard applies to restraints on the press in criminal cases. We see no legitimate reasons for a lower threshold standard for individuals, including defendants, seeking to express themselves outside of court than for the press. *See Pell* v. *Procunier*, 417 U.S. 817, 834-35 (1974) (rejecting distincition between first amendment rights of the press and "members of the public generally").

In *CBS* v. *Young*, 522 F.2d 234 (6th Cir. 1975), we applied the clear and present danger test to a similar broad "no discussion" order entered in the Kent State civil litigation. Our court issued the writ of mandamus after making the following observations that apply equally to the case at bar:

"We are not unmindul of the sensitive nature of the trial, the public interest in it, and the heavy responsibility resting upon the district judge to take such reasonable measures as may be required by the circumstances to obviate the possibility of contamination of the trial process. We entertain no doubt that the respondent [district judge] entered the order in the good faith belief that his duty required it because of the nature of the case itself, the parties connected with it, and the publicity which the trial would be likely to attract. Every trial judge is charged with the primary respnsibility of ensuring that the judicial proceedings over which he presides are carried out with decorum and dispatch and thus has every broad discretion in ordering the day-to-day activities of his court. * * * Yet, as the authorities demonstrate, any restrictive order involving a prior restraint upon First Amendment freedoms is presumptively void and may be upheld only on the basis of a clear showing that an exercise of First Amendment rights will interfere with the rights of the parties to a fair trial." *Id.* at 241.

As we indicated clearly in the *CBS* case, such broadly based restrictions on speech in connection with litigation are seldom, if ever, justified. Trial judges, the government, the lawyers and the public must tolerate robust and at times acrimonious or even silly public debate about litigation. The courts are public institutions funded with public revenues for the purpose of resolving public disputes, and the right of publicity concerning their operations goes to the heart of their function under our system of civil liberty. The courts have available other less restrictive approaches for insuring a fair trial. They may, for example, consider a change of venue or the sequestration of the jury or a searching voir dire examination of the jury. On this record, these remedies are sufficient to preserve the conditions of a fair trial in the instant case.

The principles that underlie *Young*, a civil case, are even more forceful in the area of criminal proceedings. A criminal defendant awaiting trial in a controversial case has the full power of the government arrayed against him and the full spotlight of media attention focused upon him.

The defendant's interest in replying to the charges and to the associated adverse publicity, thus, is at a peak. So is the public's interest in the proper functioning of the judicial machinery. The "accused has a First Amendment right to reply publicly to the prosecutor's charges, and the public has a right to hear that reply, because of its ongoing concern for the integrity of the criminal justice system and the need to hear from those most directly affected by it." Freedman & Starwood, *Prior Restraints on Freedom of Expression by Defendants and Defense Attorneys: Ration Decidendi* v. *Obiter Dictum*, 29 Stan. L. Rev. 607, 618 (1977).

The ABA Standards for Criminal Justice likewise decline to endorse court orders suppressing the extra-judicial speech of parties or witnesses, as opposed to court personnel or jurors in a criminal case, because:

"Once parties and witnesses in a criminal case are outside the courtroom, they have the full prerogatives of any private citizen to question, criticize, or condemn the actions of government even though they may be swept up on its processes at the time. Alternative measures are available to the courts to protect the integrity of the jury's deliberations.

"Jurors and court personnel stand in a different relationship to the court and the criminal justice system generally. They aid the court in carrying out its judicial responsibilities and in that respect are agents of the state. As a consequence, they are subject to speech restrictions that would violate the first amendment if imposed against private citizens generally." 2 ABA Standards for Criminal Justice, Standard 8-3.6 & Commentary at 8-54-55 (2d Ed. 1980).

It is true that permitting an indicted defendant like Ford to defend himself publicly may result in overall publicity that is somewhat more favorable to the defendant than would occur when all participants are silenced. This does not result in an "unfair" trial for the government, however.

It is the individual defendant to whom the Sixth Amendment guarantees a fair trial.[1] *See Levine* v. *United States District Court,* 764 F.2d 590, 596 (9th Cir. 1985), *cert. denied,* 106 S. Ct. 2276 (1986). It is the public to whom the First Amendment guarantees reasonable access to criminal proceedings. *Richmond Newspapers, Inc.* v. *Virginia,* 448 U.S. 555 (1980). And it is individuals, not the government, to whom First Amendment interests attach. To the extent that publicity is a disadvantage for the government, the government must tolerate it. The government is our servant, not our master.

If the combined workings of these constitutional guarantees, coupled with the operation of reasonable restraints of professional responsibility applicable to the attorneys in a case, should result in an atmosphere that threatens the ability of the government to try the defendant in a "fair" forum, the trial court still would have available other remedies suggested above. *See Nebraska Press Association* v. *Stuart,* 427 U.S. 539, 551-55 (1976); *Sheppard* v. *Maxwell,* 384 U.S. 333, 362-63 (1966). Although in unusual situations the balance may occasionally tip against the prosecution, this is an inevitable result of our deep-rooted American tradition of open judicial proceedings. *See Richmond Newspapers,* 448 U.S. at 569; *Brown & Williamson Tobacco Corp.* v. *FTC,* 710 F.2d 1165, 1177-80 (6th Cir. 1983).

II.

The order in the instant case is clearly overboard and fails to meet the clear and present danger standard in the context of a restraint on a defendant in a criminal trial. Such a threat must be specific, not general. It must be much more than a possibility or a "reasonably likelihood" in the future. It must be a "serious and imminent threat" of a specific nature, the remedy for which can be narrowly tailored in an injunctive order. *Carroll* v. *President and Commissioner of Princess Anne,* 393 U.S. 175, 183 (1969) (such an order "must be couched in the narrowest terms that will accomplish the pin-pointed objective permitted by constitutional mandate"); *Chicago Council of Lawyers* v. *Bauer,* 522 F.2d 242, 251-52 (7th Cir. 1975), cert. denied, 427 U.S. 912 (1976) *CBS* v. *Young, supra.* In the instant case, no facts were found which would suggest "a serious and imminent threat," and the order was neither narrowly tailored nor directed to any specific situation. Nor was there any specific consideration of the less budensome alternatives of vior dire, sequestration or change of venue.

III.

That the "clear and present danger" standard should apply to the District Court's "no discussion" order is reinforced by the divisive political context of this case. The protection of political speech which concerned the court in *Near* is at the core of the First Amendment. Here the defendant, a Democrat, a black congressman who represents a largely black constituency in Memphis, is entitled to attack the alleged political motives of the Republican administration which he claims is persecuting him because of his policial views and his race. One may strongly disagree with the political view he expresses but have no doubt that he has the right to express his outrage. He is entitled to fight the obvious damage to his political reputation in the press and in the court of public opinion, as well as in the courtroom and on the floor of Congress. He will soon be up for reelection. His opponents will attack him as an indicted felon. He will be unable to respond in kind if the District Court's order remains in place. He will be unable to inform his constituents of his point of view. And reciprocally, his constituents will have no access to the views of their congressman on this issue of undoubted public importance.

Because of the political context of this case, the Speaker of the House, Mr. Wright, and the majority leader, Mr. Foley, and other members of the House leadership have filed an extensive amicus brief with the Court. They say that this is the first modern case in which such a political "no discussion" order has been imposed on a member of Congress. They cite the case of Congressman Samuel Jordan Cabel in 1797, see 8 *The Works of Thomas Jefferson* 322 (Fed. ed. 1904), in which Jefferson, with Madison's assistance in drafting, asserted the absolute right of an elected representative to inform his constitutents free from the control of the judicial branch. Amici assert that the American doctrine of separation of powers, as espoused by Jefferson and Madison, gives a member of Congress the authority to confer with and inform the people he represents without judicial limitation of his speech. Jefferson and Madison observed that the people "have professed the right of being governed by laws to which they have consented by representatives chosen by themselves immediately. [I]n order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive; *and that their communications with their constituents should of right, as of duty also, be free, full, and unawed by any* * * *." *Id.* (Emphasis added.)

We agree with the House leadership that the doctrine of separation of powers—a unique feature of our constitutional system designed to insure that political power is divided and shared—would be undermined if the judicial branch should attempt to control political communication between a congressman and his constituents. It would tend to undermine the representative nature of the democratic process and the legislator's responsibility to the electorate to account for his actions. To illustrate this point the House leadership quotes the indignant response of Jefferson and Madison to the judiciary's role in the *Cabel* case:

"[F]or the Judiciary to interpose in the legislative department between the constituent and his representative, to control them in the exercise of their functions or duties towards each other, to overawe the free correspondence which exists and ought to exist between them, to dictate what communications may pass between them, and to punish all others, to put the representative into jeopardy of criminal prosecution, of vexation, expense, and punishment before the Judiciary, if his communications * * * do not exactly square with their ideas of fact or right, or with their designs of wrong, *is to put the legislative department under the feet of the Judiciary, is to leave us, indeed, the shadow, but to take away the substance of representation,* which requires essentially that the representative be as free as his constituents would be * * *; is to do away the influence of the people over the proceedings of their representatives by excluding [them] from knowledge." *Id.* at 325-26 (emphasis added). A representative's legislative role is not limited to formal speech and debate in Congress but includes communication with the electorate. *United States* v. *Brewster,* 408 U.S. 501, 524 (1972).

We appreciate the thoughtful brief filed by the leadership of the House concerning the relationship of this case to the American doctrine of separation of power. In addition to the reasons stated in parts I and II of this opinion, the broad order issued by the District Court also is invalid because it represents an unnecessary intrusion by the judiciary into the legislative sphere. Accordingly, the order of April 29, 1987 as modified on May 7, 1987 restraining the defendant's speech outside of court is vacated and set aside.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mrs. BENTLEY for 60 minutes, on October 22.

(The following Members (at the request of Mr. CONYERS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. FRANK, for 60 minutes, on October 26.

Mr. DYMALLY, for 30 minutes, on October 31.

Mr. GAYDOS, for 60 minutes, on October 27.

Mr. JACOBS, for 60 minutes, on October 28.

Mr. WEISS, for 60 minutes, on October 28.

Mr. MORRISON of Connecticut, for 60 minutes, on October 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mrs. MORELLA.

Mr. HYDE.

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[1] The government has a more limited interest, supported by the common law and by Article II's prescription that the executive "take care that the laws be faithfully executed" to see that a prosecution produces a just result. *See Singer* v. *United States,* 380 U.S. 24, 36 (1965) ("[T]he government, as a litigant, has a legitimate interest in seeing that cases in which it believes a conviction is warranted are tried before [a jury] which the Constitution regards as most likely to produce a fair result."); ABA Standards for Criminal Justice 3-1.1(c) (2d ed. 1980) ("The duty of the prosecution is to seek justice, not merely to convict.").

Mr. DORNAN of California.
Mr. DANNEMEYER.
Mr. SCHULZE.
Mr. STUMP.
Mr. EMERSON.
Mr. LEWIS of California.
Mr. LAGOMARSINO.
Mr. HORTON.
Mr. MOORHEAD.
Mr. DUNCAN.
Mr. SCHAEFER.
Mr. DONALD E. LUKENS.

(The following Members (at the request of Mr. CONYERS) and to include extraneous matter:)

Mr. LIPINSKI.
Mr. HAMILTON.
Mr. LANTOS in three instances.
Mr. MONTGOMERY.
Mr. SMITH of Florida.
Mr. CLARKE.
Mr. TAUZIN.
Mr. BRYANT in three instances.
Mr. VENTO.
Mr. FASCELL in two instances.
Mr. RAHALL.
Mr. MILLER of California.
Mr. MOODY.
Mr. DORGAN of North Dakota in two instances.
Mr. WOLPE.
Mr. WHEAT.
Mr. PEASE.
Mr. FLORIO in two instances.
Mr. LOWRY of Washington.
Mr. SAWYER.
Mr. DOWNEY of New York.
Mr. DYSON.
Mr. BEILENSON.
Mr. BERMAN.
Mrs. SCHROEDER.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 234. Joint resolution to designate the month of November in 1987 as "National Hospice Month."

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 163. Joint resolution to designate the month of November 1987, as "National Family Bread Breaking Month";

S.J. Res. 168. Joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week"; and

S.J. Res. 198. Joint resolution to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 317. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System;

H.R. 2741. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games; and

H.R. 2782. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities, and research and program management; and for other purposes.

ADJOURNMENT

Mr. CONYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, October 22, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2264. A letter from the Principal Deputy (Shipbuilding and Logistics), Department of the Navy, transmitting notification that a cost comparison study of the training devices and simulators functions at Fleet Aviation Specialized Operational Training Group Detachment, Barbers Point, HI, has revealed that performance by contract will result in a savings of the total Government cost over a 4½-year period, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Armed Services.

2265. A letter from the Secretary of Labor, transmitting the Department's annual report on the administration of the Longshore and Harbor Workers' Compensation Act Amendments for the period October 1, 1985, through September 30, 1986, pursuant to 33 U.S.C. 942; to the Committee on Education and Labor.

2266. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for serving a final decision by an additional 114 days to June 30, 1988, in Docket No. 38301S, *Coal Trading Corporation* v. *The Baltimore and Ohio Railroad Company, et al.*, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

2267. A letter from the Secretary of Health and Human Services, transmitting a report of the Interagency Committee on Spinal Cord Injury, pursuant to 42 U.S.C. 285j-1 note; to the Committee on Energy and Commerce.

2268. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmiting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14 million or more to the Republic of Korea (Transmittal No. MC-42-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2269. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of proposed issuance of export license and manufacturing agreement of defense articles or defense services sold commercially under a contract to the Government of Japan (Transmittal No. MC-43-87), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2270. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting the 11th annual report covering the Commission's activities in fiscal year 1987, pursuant to 22 U.S.C. 2904(b); to the Committee on Foreign Affairs.

2271. A letter from the Acting Comptroller General, General Accounting Office, transmitting the Comptroller's list of all reports issued or released in September 1987, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2272. A letter from the Secretary of Agriculture, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2273. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on customer pickup of food and grocery products for the period from mid-1986 to mid-1987, pursuant to 49 U.S.C. 10732(b); to the Committee on Public Works and Transportation.

2274. A letter from the Secretary of Energy, transmitting the ninth annual report on the Automotive Technology Development Program, pursuant to 42 U.S.C. 5914; to the Committee on Science, Space, and Technology.

2275. A letter from the Administrator, Small Business Administration, transmitting the final report on the Administrations pilot program involving sale of development company debentures to investors other than the Federal financing bank, pursuant to Public Law 99-272, section 18008(b) (100 Stat. 367); to the Committee on Small Business.

2276. A letter from the Acting Under Secretary International Affairs and Commodity Programs, Department of Agriculture, transmitting the Department's initial commodity and country allocation table showing current programing plans for food assistance under titles I/III for fiscal year 1988, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

2277. A letter from the Acting Under Secretary International Affairs and Commodity Programs, Department of Agriculture, transmitting the Department's initial commodity and country allocation table showing current programing plans for food assistance under title II for fiscal year 1988, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

2278. A letter from the Chairman, Commission on Merchant Marine and Defense, transmitting the first report on the condition of America's maritime industries as it effects national security, pursuant to 46 U.S.C. app. 1120 note; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3460. A bill to amend chapter 41 of title 38, United States Code, with respect to veterans' employment and training; with amendments (Rept. 100-387). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 1951. A bill to amend section 914 of title 17, United States Code, regarding certain protective orders for semiconductor chip products. (Rept. 100-388). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 3521. A bill to authorize the several States and the District of Columbia to collect certain taxes with respect to sales of tangible personal property by nonresident persons who solicit such sales; to the Committee on the Judiciary.

By Mr. CRANE (for himself and Mr. Porter):

H.R. 3522. A bill to extend duty-free treatment to railway car bolsters and frames; to the Committee on Ways and Means.

By Mr. McCANDLESS:

H.R. 3523. A bill to amend title 18, United States Code, to preserve personal privacy with respect to the rental or purchase of video tapes by individuals; to the Committee on the Judiciary.

By Mr. ORTIZ:

H.R. 3524. A bill to provide grants and loans to enable rural areas near the international border separating the United States from Mexico to develop plans for the construction and improvement of, and to construct and improve, water and waste disposal facilities; jointly, to the Committee on Agriculture and Banking, Finance and Urban Affairs.

By Mr. RAHALL:

H.R. 3525. A bill to amend the Federal Power Act to prohibit the transfer of environmental degradation to foreign countries involved in the generation and transmission of electric power for sale in interstate commerce within the United States; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER (for himself and Mr. Kleczka):

H.R. 3526. A bill to amend title 18, United States Code, to eliminate special privileges accorded prison industries in the purchase of goods by Federal agencies; to the Committee on the Judiciary.

By Mr. SMITH of Florida:

H.R. 3527. A bill to suspend temporarily the duty on calcium carbaspirin; to the Committee on Ways and Means.

By Mr. Dornan of California (for himself, Mr. Michel, Mr. Lott, Mr. Aspin, Mr. Dickinson, Mr. Montgomery, Mr. Solomon, Mr. Broomfield, Mr. Lewis of California, Mr. Stratton, Mr. Hunter, Mr. Mack, Mr. Burton of Indiana, Mr. Denny Smith, Mr. Coleman of Texas, Mr. Packard, Mr. Courter, Mr. Kasich, Mr. Hamilton, Mr. Frenzel, Mrs. Vucanovich, Mr. Smith of New Hampshire, Mr. Mica, Mr. Kennedy, Mr. Duncan, Mr. Grant, Mr. Dreier of California, Mr. Harris, Mr. Smith of New Jersey, Mr. Weber, Mr. Pashayan, Mr. Crane, Mr. Moakley, Mr. Vander Jagt, Mr. Taylor, Mrs. Morella, Mr. Chappell, Mr. Martin of New York, Mr. Lagomarsino, Mr. Gallegly, Mr. Brown of California, Mr. Martinez, Mr. Gingrich, Mr. Lungren, Mr. Richardson, Mr. Hyde, Mr. Shaw, Mr. Lujan, Mr. Davis of Michigan, Mr. Hopkins, Mr. Stump, Mr. McDade, Mr. Parris, Mr. Rowland of Connecticut, Mr. Emerson, Mr. Hutto, Mr. Conyers, Mr. Young of Alaska, Mr. Yatron, Mr. Coughlin, Mr. Badham, Mr. Roth, Mr. Dymally, Ms. Kaptur, Mr. Wolf, Mr. Coleman of Missouri, Mr. Ritter, Mr. Sundquist, and Mr. Dannemeyer):

H.J. Res. 384. Joint resolution designating November 14, 1987 as "Congressional Medal of Honor Day"; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself, Mr. Gilman, Mr. Green, Mr. Boehlert, and Mr. Shays):

H.J. Res. 385. Joint resolution expressing the sense of Congress that United Nations General Assembly Resolution 3379 (XXX) should be overturned, and for other purposes; to the Committee on Foreign Affairs.

By Mr. WATKINS:

H. Res. 287. Resolution electing Representative Robert Lindsay Thomas of Georgia to the Committee on House Appropriations; considered and agreed to.

By Mr. HAMILTON:

H. Res. 288. Resolution authorizing printing of the transcript of proceedings of the Committee on Foreign Affairs incident to presentation of a portrait of the Honorable Dante B. Fascell; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

234. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to Emil Mendzheritsky and Tsylia Raitburd; to the Committee on Foreign Affairs.

235. Also, memorial of 17th Legislature of Virgin Islands, relative to the proposed Federal Building for St. Croix, in Frederiksted; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. HORTON introduced a bill (H.R. 3528) for the relief of Woodrow Charles Herman; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 190: Mr. Sikorski and Mr. Smith of New Jersey.

H.R. 622: Mr. Edwards of Oklahoma.

H.R. 639: Mr. Moakley.

H.R. 778: Mr. Saxton.

H.R. 994: Mr. Bilirakis.

H.R. 1038: Mr. Parris.

H.R. 1093: Mr. Coats, Mr. Owens, of Utah, Mr. Hamilton, Mrs. Lloyd, Mr. Jones of Tennessee, Mr. Jacobs, Ms. Oakar, Mr. Guarini, Mr. Coleman of Missouri, Mr. Hayes of Illinois, Mr. Baker, Mr. Espy, Mr. Johnson of South Dakota, Mr. Whittaker, Mr. Shuster, Mr. Boulter, Mr. Hawkins, Mrs. Collins, Mr. Ford of Michigan, Mr. McCurdy, Mr. Myers of Indiana, and Mr. Mazzoli.

H.R. 1259: Mr. Brennan and Mr. Wyden.

H.R. 1481: Mr. Bruce, Mr. Clinger, Mr. Swindall, Mr. Jacobs, and Mr. Fawell.

H.R. 1516: Mr. Hayes of Louisiana, Mr. Davis of Illinois, Mr. Slattery, Mr. Darden, and Mr. Gordon.

H.R. 1709: Mr. Parris.

H.R. 1726: Mr. Horton.

H.R. 1786: Mr. Sisisky, Mrs. Saiki, and Mr. Upton.

H.R. 1815: Mr. Coats.

H.R. 1873: Mr. Owens of Utah.

H.R. 1874: Mr. Owens of Utah.

H.R. 2051: Mrs. Collins, Mr. Sawyer, Mr. Hastert, and Mr. Conyers.

H.R. 2148: Mr. Bateman, Mr. Darden, Mr. Borski, Mr. Hayes of Louisiana, Mr. McCurdy, and Mr. Swift.

H.R. 2248: Mr. Clinger, Mr. Armey, and Mr. Lancaster.

H.R. 2260: Mr. Herger, Mr. Price of North Carolina, Mr. Wilson, and Mr. Clinger.

H.R. 2727: Mr. Brown of California.

H.R. 2776: Mr. Edwards of Oklahoma and Mr. Davis of Michigan.

H.R. 2794: Mr. Hawkins.

H.R. 2828: Ms. Pelosi, Mr. Clay, Mr. Bryant, and Mrs. Boxer.

H.R. 2883: Mr. Morrison of Connecticut, Mr. Carper, Mr. Evans, Mr. Kleczka, and Mr. Howard.

H.R. 2924: Mr. Eckart, Mr. Ballenger, and Mr. Manton.

H.R. 3021: Mr. Daniel and Mr. Slaughter of Virginia.

H.R. 3065: Mr. Lungren, Mr. Campbell, Mr. Roe, Mr. Stallings, Mr. Wortley, Mr. Lagomarsino, Mr. Mrazek, Mr. Daniel, Mr. Hiler, Mr. Wolf, Mr. Ackerman, Miss Schneider, and Mr. Porter.

H.R. 3146: Mr. Staggers.

H.R. 3160: Mr. Anthony and Mr. DeFazio.

H.R. 3174: Mr. Jontz, Mr. Ford of Michigan, Mr. Howard, and Mr. Conyers.

H.R. 3175: Mr. Feighan, Ms. Kaptur, Mr. Clinger, and Mrs. Johnson of Connecticut.

H.R. 3176: Mr. Feighan, Ms. Kaptur, and Mrs. Johnson of Connecticut.

H.R. 3180: Mr. Fish and Mr. Martinez.

H.R. 3332: Mr. Williams, Mr. Gray of Pennsylvania, Mr. Daub, Mr. Lewis of Georgia, Mr. Murtha, Mr. Kildee, Mr. Lipinski, Mr. Vento, Mr. Swift, Mr. Oberstar, Mr. McEwen, Mr. Owens of New York, and Mr. Murphy.

H.R. 3351: Mr. McGrath, Mr. Dornan of California, Mr. Regula, Mr. Dannemeyer, Mr. Boulter, Mr. Fawell, Mr. Davis of Illinois, Mr. Lightfoot, Mr. Hughes, Mr. Swindall Mr. Young of Alaska, and Mr. Herger.

H.R. 3390: Mr. McGrath, Mr. Dornan of California, Mrs. Boxer, Mr. Biaggi, Mr. Bryant, Mr. Gingrich, Mr. Tauzin, Mr. Davis of Illinois, Mr. Porter, Mr. Buechner, Mr. Whittaker, Mrs. Johnson of Connecticut, Mrs. Vucanovich, Mr. Swindall, and Mr. Bevill.

H.R. 3413: Mr. Gilman, Mr. Boehlert, and Mr. Houghton.

H.R. 3433: Mr. Dixon, Mr. Conyers, Mr. Solarz, Mr. Hughes, Mr. Lehman of Florida, and Mr. Torres.

H.R. 3454: Mr. Bustamante, Mr. Cardin, Mr. Chapman, Mr. Coleman of Texas, Mr. Courter, Mr. Coyne, Mr. Crockett, Mr. Dellums, Mr. Donnelly, Mr. Hamilton, Mr. Hatcher, Mr. Hoyer, Mr. Hughes, Mr. Hunter, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Mavroules, Mr. Mfume, Ms. Oakar, Mrs. Patterson, Mr. Rangel, Mr. Ravenel, Mr. Rinaldo, Mrs. Saiki, Mr. Shays, Mr. Stangeland, Mr. Vander Jagt, Mr. Weldon, Mr. Wilson, and Mr. Young of Alaska.

H.R. 3457: Mr. Darden.

H.R. 3478: Mrs. Lloyd and Mr. Foglietta.

H.R. 3494: Mr. Nagle and Mr. Penny.

H.R. 3502: Mr. McCurdy.

H.J. Res. 43: Mr. Leland, Mr. Akaka, Mr. DioGuardi, Mr. Bosco, Mr. Rangel, Mr. Wyden, Mr. Staggers, Mr. Coleman of Texas, Mr. Solarz, Mr. Sundquist, Mr. Matsui, Mr. Conte, Mr. Bonior of Michigan, Mr. Watkins, Mr. Robinson, Mr. Traficant, Mr. Latta, Mr. Callahan, Mr. Boulter, Mr. Dingell, Mr. Henry, Mr. Hatcher, Mr. AuCoin, Mr. Tauke, Mr. Parris, Mr. Roth, Mr. Towns, Mr. Ritter, Mr. MacKay, Mr. Dicks, Mr. Wylie, Mr. Scheuer, Mr. Kanjorski, Mr. Donnelly, Mr. de Lugo, Mr. Dorgan of North Dakota, Mr. Price of Illinois, Mr. Hyde, Mr. Kennedy, Mr. Broomfield, Mr. Coughlin, Mr. Emerson, Mr. Dickinson, Mr. Hayes of Louisiana, Mr. Mavroules, Mr. Buechner, Mr. Spratt, Mr. Ravenel, Mr. Martin of New York, Mr. Stenholm, Mr. Kasich, Mr. Annunzio, Mr. Shuster, and Mr. Mica.

H.J. Res. 48: Mr. Boehlert and Mr. Mavroules.

H.J. Res. 55: Mr. Sunia, Mr. Hansen, Mrs. Boggs, Mr. de Lugo, Mr. Thomas A. Luken, Mr. Applegate, Mr. Matsui, Mr. Traficant, Mr. Gregg, and Mr. Gejdenson.

H.J. Res. 171: Mr. Badham, Mr. Rodino, and Mr. Stallings.

H.J. Res. 227: Mr. Thomas of Georgia, Mr. Dyson, Mr. Brown of California, Mr. Biaggi, Mr. Russo, Mr. Rangel, Mr. Ortiz, Mr. Young of Florida, Mr. Rhodes, Mr. Rowland of Georgia, Mrs. Kennelly, Mr. Archer, and Mr. AuCoin.

H.J. Res. 289: Mrs. Bentley, Mr. Bilbray, Mr. Bilirakis, Mr. Bliley, Mr. Carper, Mr. DioGuardi, Mr. Espy, Mr. Matsui, Mr. Roe, Mr. Schumer, Mr. Shumway, Mr. Stump, Mr. Valentine, and Mr. Wyden.

H.J. Res. 303: Mr. Kasich, Mr. Conte, Mrs. Saiki, Mr. Smith of Florida, Mr. Mack, Ms. Pelosi, Mr. Bonior of Michigan, Mr. Gonzalez, Mr. Moody, Mr. Kostmayer, Mr. Sisisky, Mr. Olin, Mr. Rahall, Mr. Fauntroy, Mr. Murphy, Mr. Ravenel, Mr. Packard, and Mr. Parris.

H.J. Res. 320: Mr. Conyers, Mr. Anderson, Mr. Hatcher, Mr. Wolf, Mr. Towns, Mr. Neal, Mr. Dornan of California, Mr. Carper, Mr. Roe, Mr. Lewis of Georgia, Mr. Horton, Mr. Livingston, Mr. Bevill, Mr. Bustamante, Mr. Hughes, Mr. DeLay, Mr. Sweeney, Mr. Hochbrueckner, Mr. Smith of Iowa, Mr. Martinez, Mr. McEwen, Mr. Nagle, Mr. Henry, Mrs. Lloyd, Mr. Perkins, and Mr. Sheuer.

H.J. Res. 336: Mr. Matsui, Mr. Carper, Mr. Dickinson, Mr. Boland, Mr. Coats, Mr. Gray of Pennsylvania, Mrs. Collins, Mr. McDade, Mr. Mavroules, and Mr. Wortley.

H.J. Res. 361: Mr. Espy and Mr. Mineta.

H.J. Res. 365: Mr. Kennedy and Mr. Matsui.

H.J. Res. 371: Mr. Akaka, Mrs. Boxer, Mr. Coelho, Mr. Conyers, Mr. Crockett, Mr. de Lugo, Mr. Fauntroy, Mr. Fuster, Mr. Garcia, Mr. Gray of Illinois, Mr. Hayes of Illinois, Mr. Horton, Mr. Lipinski, Mr. Matsui, Mr. Mfume, Mr. Neal, Mr. Quillen, Mr. Solarz, and Mr. Wyden.

H.J. Res. 376: Mr. Garcia, Mr. Hughes, Mr. LaFalce, Mr. Molinari, Ms. Kaptur, Mr. Bonker, Mr. Conyers, Mr. Boucher, Mr. Owens of Utah, Mr. Spratt, Mr. McMillen of Maryland, Mr. Scheuer, Mr. Schuette, Mr. Jontz, Mr. Levin of Michigan, Mr. DeWine, Mr. Armey, Mr. Solarz, Mr. Dwyer of New Jersey, and Mr. Bonior of Michigan.

H. Con. Res. 97: Mr. Armey.

H. Con. Res. 169: Mr. Moakley, Mr. Bustamante, Mr. Levin of Michigan, Mr. Conyers, Mr. Edwards of Oklahoma, Mr. Shaw, and Mr. Ravenel.

H. Con. Res. 201: Mr. Livingston, Mr. Ravenel, Mr. Boulter, Mr. Oxley, Mr. Courter, Mr. Rogers, and Mr. Swindall.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 640

By Mr. MILLER of California

—On page 8, line 7, delete the period and insert in lieu thereof the following:

"*Provided*, That, unless specifically authorized by Act of Congress, none of the funds authorized to be appropriated by this section shall be obligated or expended by the Western Area Power Administration to—

(i) construct,

(ii) participate in the construction of,

(iii) purchase an interest in, or

(iv) execute any arrangement for financing construction by non-Federal entities of any major

transmission lines and related facilities in California which have not been specifically authorized by Act of Congress. The prohibition contained in the previous sentence shall not apply to the Pacific Northwest-Pacific Southwest Intertie previously authorized in Public Law 98-360, nor interconnections, services and facilities related thereto; to the Mead-Adelanto transmission line previously authorized in Public Law 88-552; or to the Tracy-Livermore Transmission Project. As used in this section, the phrase "major transmission lines and related facilities" means transmission lines and related facilities—

(i) used to provide services to entities not previously served by the Western Area Power Administration, or

(ii) for which the total estimated construction or acquisition cost represents more than two and one-half per centum (2½%) of the total fixed transmission assets of the Western Area Power Administration.".

—At the end of the bill, insert the following new title:

TITLE —KESTERSON RESERVOIR PROHIBITION, CALIFORNIA

Sec. . The Secretary of the Interior is prohibited from dewatering or otherwise causing a discharge of water from Kesterson Reservoir, California into the San Joaquin River or its tributaries.

—At the end of Title V, add the following new section:

"Sec. . Bonneville Power Administration.—Section 8(d)(3) of the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96-501, 16 U.S.C. 838 K(a)) is amended by deleting '$1,250,000,000' and inserting in lieu thereof: '$1,246,567,000'."

SENATE—*Wednesday, October 21, 1987*

(Legislative day of Friday, October 16, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God is our refuge and strength, a very present help in trouble. Therefore we will not fear, though the earth be removed, and though the mountains be carried into the midst of the sea; though the waters thereof roar and be troubled, though the mountains shake with the swelling thereof.—Psalm 46:1-3.

Mighty God, Creator, Sustainer, Consummator of history, we have much for which to be thankful—Mrs. Reagan's successful surgery and recovery—the rescue of little 18½-month-old Jessica McClure—the stability of our Nation despite the unprecedented drop in Wall Street. We are grateful for common blessings routine day after day: food, clothing, shelter, family, friends, work. Thank You, Gracious Father, for Your daily, hourly faithful providential love and care.

But, Omniscient Lord, we have much about which to be concerned: Pressing legislative schedule, uncertainty on Wall Street, indebtedness—national, corporate, and private—infectious cynicism among leadership and people, Persian Gulf, Central America. Give us, Omnipotent God, strong, wise, dependable direction. Grant to the Senate the trustworthy leadership so desperately, critically needed. Help the Senators to make room for divine direction and provision. In His name who is all wise, all sufficient, all caring. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 21, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to exceed 10 minutes, with each Senator permitted to speak therein for not to exceed 5 minutes.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

STOCK MARKET DROP MAY NOT HAVE BEEN BIG ENOUGH

Mr. PROXMIRE. Mr. President, what does the big drop in the stock market mean? It means first that stocks were overpriced. They were much too high in relationship to earnings. Before the market began to fall a couple of weeks ago, the Standard & Poor 500 stock price earning ratio was 22.3. That is the price of the average stock was 22.3 times earnings. Those earnings theoretically belong to the person who owns the stock. I say theoretically because only part of the earnings are paid out in dividends to the stockholder. So what did the investor receive in dividends on the average at the price stocks were selling before the big drop? They were paying dividends that yielded the investor on the average about 2.75 percent.

So, you see, Mr. President, stocks were selling at a very high price relative to the investment you or I might make in the stock market. We would get in dividends from a typical stock market investment only about half what we would get from putting our money in a savings account fully guaranteed, up to $100,000, by the Federal Government in any federally insured bank or savings and loan. Of course, it is true that part of the earnings of the stock not actually paid in dividends also belong to the investor. If we include both dividend and undistributed earnings our potential return on our average stock market investment would be about 4½ percent. But even that is well below what we could earn in actual cash paid to us by putting our money in any insured bank.

Now how about the attraction of an investment in the stock market after, I repeat after, the huge drop in the market? Does the stock market represent a pretty good return now? Well, it is a better return. But it is hardly a bargain. The morning after the big October 19 drop the average price earnings ratio of 500 stocks in the Standard & Poor index was about 17.5. That means the stockholder's total gross return, including both his dividends and the earnings retained by the corporation, were about 5.7 percent. His average dividends gave him an actual cash return of about 3.4 percent. That is not very impressive. It is hardly better than socking away your money in a savings account. And it is not nearly as good as investing in tax free municipal bonds that would yield about 7 to 9 percent after taxes, I repeat after taxes, depending on their maturity.

So is the stock market still oversold? Is it still too high? That depends entirely on what happens to future earnings. And, of course, Mr. President the trouble with my analysis so far is that I have assumed that an investor makes his stock market decision based on present earnings. He does not. Present earnings are the beginning bedrock basis on which a wise investor will start the analysis on which he bases his investment. But the price the investor is willing to pay is not based fully and finally on present earnings. It is based on what the investor estimates future earnings of that stock will be. It is also based on the investor's estimate of how other investors will estimate the stock's future earnings.

Here is why both those considerations determine stock prices: An investor who expects a stock to earn more in the future can usually anticipate that if the stock does, in fact, earn more, it will pay higher dividends out of those higher earnings. So although the stock may be high in relationship to its present earnings, it will be worth more in the future as its earnings and the stockholder's stake in those earnings rise in value. Second, if other investors are optimistic about the future earnings of the stock then the price of that stock will rise. So whether the investor buys the stock to hold and enjoy the rise in dividends paid on that stock in the future, or buys to sell at a higher price in the future, his willingness to buy at any price will depend on the estimate of what will happen to future earnings of the stock and the optimism or pessimism of other investors about the future earnings of that stock.

So obviously a couple of weeks ago most investors were positive and upbeat about future corporate earnings and the economy on which they depend. They were so positive that they were willing to pay much more for stocks than their current earnings would justify. They still are. What other way is there to explain the clear discrepancy between the return on stocks and the return on alternative completely safe investments? So even at present prices the average American stock market investor is showing a rosy view of the country's economic future. Considering the fact that the country's present economic recovery has now outdistanced every peacetime recovery in our country's modern economic history, and considering that a recession in the reasonably near future is certain unless the economic laws that have governed free economies in the past have been repealed, we still have an optimistic American public.

Now, Mr. President, when you add the fact that this country is in debt up to its eyeballs at the Federal Government level, the household level, and the business level, and that that debt makes both American business and the American consumer more vulnerable to recession than any time in the past 50 years, it is hard to understand why the stock market crash did not come even sooner and why it was not even bigger.

OCTOBER FLEECE GOES TO ENERGY DEPARTMENT

Mr. PROXMIRE. I am awarding my Golden Fleece of the Month for October to the Department of Energy for concocting a witches brew to dispose of nuclear waste which may cost the taxpayers a glowing $1.6 billion by 1998. The Department has let some utilities avoid paying any of the costs of this disposal until a decade from now. As a result, the taxpayers are likely to end up with hot wallets.

The Department of Energy is making some of our more extravagant saving and loan associations look like paragons of virtue. This approach is wasting the taxpayers and belongs in the pits. Somebody's common sense has decayed.

In 1982, Congress required that the Federal Government assume the responsibility of disposing of nuclear waste. Those who generated this waste, usually private utilities operating nuclear plants, were to pay all costs of this disposal.

The Department of Energy established three methods of payment, two of which make sense. These are payment in full, and payment over 40 quarters, 10 years, with interest. Of the 47 companies which own spent nuclear fuel, 36 selected one of these two methods of payment.

But that leaves 11 who selected the third method—a future lump-sum payment with accumulated interest. These companies are charging their customers a fee to cover the costs of disposal and have collected about $625 million. But the Department, in an electrifying decision, did not require these utilities to set this money aside in escrow.

The Department's inspector general did a survey and found that many of these companies were using this money for internal company purposes, such as paying for new construction or meeting the payroll. They intended to pay the disposal fee, when the time came, either by borrowing the money or by using internally generated cash. The problem with this approach: Six of these utilities are already in financial hot water, usually because of the cost of constructing nuclear powerplants.

What is going to happen 10 years from now when these utilities will be facing a $1.6 billion bill? One possibility would be a whopping big rate increase for those served by these utilities. But after serving in the Senate for over 30 years, I believe a much more likely outcome is a Federal bailout. The taxpayers will be stuck with this $1.6 billion bill.

The Department of Energy richly deserves the October Fleece for this "waste now, pay later" policy. They have done a much better job of digging a grave for the taxpayers than of disposing of nuclear waste.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from Nevada is recognized.

A BATTLE KENTUCKY HAS LOST

Mr. REID. Mr. President, the hill country of Kentucky is a beautiful land; Daniel Boone walked those hills leading the way west, and they gave rise to much of the moral steel that strengthened the soul of this body in the years before the Civil War.

It is a beautiful land, but it has suffered its share of troubles. Soil erosion, union-busting, lack of a communications infrastructure; those were all battles the strong and silent people of the Kentucky hills fought and won over the years.

Some of those troubles took decades to complete, but eventually they were won through the persistence and courage of Kentuckians; courage which has run through their veins for generations.

Those battles they have won, Mr. President. Today, I would like to tell you about a battle that Kentucky has lost; a fight for the land which is slated never to end, and never to be won.

The hill country is beautiful, and nowhere more so then in northeastern Kentucky near a ridge called Maxey Flats. From that ridge in Flemming County you can look down the wooded slopes into valleys snaking along creek sides and broken by small farmsteads as they were a hundred years past.

You could look down those slopes, that is, if standing on Maxey Flats did not threaten to poison you with the deadliest poison known to mankind—the soil of Maxey Flats you see contains plutonium.

That plutonium did not grow there. It was not spilled by accident. It was intentionally placed in the soil of Kentucky by our friends in the Federal Government; the folks this body wants the people of my State to trust.

The decision to place a permanent, geologic repository anywhere in the United States is as premature today as the decision to use Maxey Flats, KY, for a low-level radioactive waste burial ground was in 1962. Like Nevada, Kentucky produced no significant amount of radioactive waste, yet it was selected to host a nuclear waste dump. There were those in the Commonwealth of Kentucky that believed the establishment of such a dump would be a magnet for other industries to locate within the State. That, of course, was not to be the case.

Maxey Flats lies 53 miles northeast of Lexington. The burial ground there began to accept nuclear wastes, including plutonium, strontium, cesium, and cobalt in 1963. For the next 9 years the site operated with virtually no fanfare. Since the site was not accessible and could hardly be considered a tourist attaction, it is doubtful whether the general population was even aware of its existence. The nuclear industry, however, knew of its existence and used it to dump over 4.5 million cubic feet of radioactive waste.

According to the report of the Speical Advisory Committee on Nuclear Waste Disposal commissioned by the Kentucky Legislature, in 1972, during the course of one of its monitoring activities, the State detected measured increases in the level of offsite radioactivity. A number of studies carried out by the State, Nuclear Regulatory Commission, Environmental Protection Agency, and U.S. Geologic Survey determined that plutonium had migrated to areas outside the confines of the dump.

Once stung, the Commonwealth of Kentucky has been decidedly antinuclear since the debacle at Maxey Flats. The State, by necessity, closed the site and has even gone so far as to oppose the siting of a nuclear powerplant on the Indiana side of the Ohio River.

Again, as I have pointed out with sites at Savannah River, South Carolina, and West Valley, NY, a massive cleanup effort was initiated which cost millions of taxpayer dollars to undo the damage—damage that could have been avoided. The frightening parallel between what happened at Maxey Flats and what is happening today is best illustrated by a quote from a member of the U.S. Geologic Survey before the House Committee on Government Operations during 1976 hearings on the Maxey Flats problem:

> It now seems apparent that, on hindsite, even considering the state of technology at the time, more attention was given to the economics of handling the material, and to the cost, location, and ready availability of a site for burial use, than was given to the ultimate fate of the waste. This philosophy of land disposal prevailed throughout the 1950's and into the 1960's.

I submit that that philosophy survived the 1960's and is manifested today in S. 1668, a bill currently attached to the Energy and Water appropriations bill that purports to be a "redirection" in the Nuclear Waste Policy Act of 1982. That legislation would replace the fairness reached by compromise and consensus in the Nuclear Waste Policy Act of 1982 and would select the Nation's first geologic high-level radioactive waste repository in the exact same manner as Maxey Flats was selected in 1962. Cost, as envisioned in S. 1668, is an overriding factor in chosing the first site for characterization.

If this legislation is allowed to pass, the proponents of this bill and the Department of Energy will be flush with victory and you may be sure that the first monitored retrievable storage facility will follow in similar haste. One can then envision the second repository and MRS being similarly rushed ahead of their present schedules.

I ask each of my colleagues to reflect upon the facts I have discussed and to ask themselves whether they believe S. 1668 represents a solution to the siting of another Maxey Flat or whether it represents the same thinking that led to the poisoning of northeastern Kentucky. The answer, I believe, is obvious.

How many times will the mistake be made, how many lives must be put at risk, how many times can you turn your backs on the helpless, the powerless, your fellow Americans and upon the truth? The time has come to face reality and for this body to fulfill its role as a conscience of the American dream, and not to continue to act as an instrument by which an Eastern majority of poison producers can impose its will upon the helpless West.

I yield the remainder of my time.

HONORING FLOYD J. McCREE AND LEEBERTA McCREE

Mr. RIEGLE. Mr. President, I rise today to pay tribute to Floyd and Leeberta McCree, who will be honored at a tribute dinner on October 26, 1987. Mr. McCree, and his wife, have given much of themselves, both in time and energy dedication to make Flint and Genesee County a better place for those who live there. Their dedication is an inspiration for all of us.

Mr. McCree, who was elected mayor of Flint, MI, in November 1966, had his first taste of political life as many young people do today. Before reaching voting age, he became aware of the role of politics in our society through his father who was a precinct captain in his home town of Webster Groves, MO. Floyd attended political meetings and helped in campaigns during his youth. This experience may well have sparked his interest in public service and his acceptance of the leadership role.

Floyd McCree has born March 29, 1923 in Webster Groves, located on the outskirts of St. Louis. He attended high school in St. Louis County, where his public speaking skills were recognized with awards in local and regional oratorical contests. He also participated in school athletics and was a member of his high school basketball team. His interest in sports did not diminish as he later played class "A" and semi-professional baseball and basketball.

Following high school, he attended Lincoln University at Jefferson City, MO. He answered the call of World War II, and went from college to military life. He served from January 1943 to January 1946.

Following the war, he came to Flint and, after a short period at Chevrolet, he was employed by the Buick Foundry. There has been a steady increase in the demands upon his leadership ability and his willingness to serve. He was elected to the executive board of the UAW Local 599, and to the foundry council. He was also a member, for 6 years, of the UAW's Michigan Foundry Council, a statewide organization that deals with problems common to foundry operations. With Local 599, he was a member of the educational committee and the Fair Employment Practices Committee. He was upgraded to supervisor of Buick Foundry Maintenance before taking a leave of absence for his present position.

In the area of government service, he was appointed to the Genesee County Board of Supervisors in 1956. In 1958, he was elected commissioner of the third ward, and held that position for many years without opposition. In 1964, his fellow commissioners elected him mayor pro tempore, and in 1966, elevated him to mayor.

Mr. President, I ask unanimous consent that a list of Floyd McCree's affiliations be included in the RECORD after my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OTHER PAST AND PRESENT AFFILIATIONS

Committeeman—Buick Foundry.

Executive Board, UAW Local 599.

Member, UAW's Michigan Foundry Council.

Secretary, Genesee County Democratic Party.

Chairman, Genesee County Democratic Party.

Delegate, Democratic National Convention.

President, Parkland P.T.A.

Divisional Superintendent, Metropolitan Baptist Church Sunday School.

Board of Directors, Urban League of Flint.

President of Urban League of Flint.

Trustee, National Urban League.

Central City Optimist Club.

Board of Directors, Economic Development Corp.

Community Civic League.

Chairman, County Government, United Fund Drive.

National Association of Register of Deeds.

N.A.C.O.—National Association of Counties.

Chairman, Citizens Probation Authority.

Register of Deeds—Genesee County—First Black elected County Officer.

Former Member—United States Council of Mayors.

Chairman, Genesee County Action Program.

Board of Directors—NAACP.

Foreman, General Motors Foundry.

Tall Pine Council.

Former Board Member, Genesee County Federation of the Blind.

Genesee County Plat Board.

Member, Metropolitan Church.

Member, Urban Coalition.

Mayor of the City of Flint—First Black Mayor in the State of Michigan.

Board Member of Flint Retirement Homes Inc.

Board of Directors of Big Sisters, former president.

Two time co-chairman, Education Millage renewal drive.

President of Model Cities EDC and M.C.D.C.

Flint Compensation Commission.

Member of Flint General Hospital Board of Trustees.

Board of Directors, Visually Impaired, former President.

FEMMA Board of Directors.

Emergency Services Council.

Sub Committee Planning United Way.

J.O.B.S. for Flint, Chairperson.

Member of United Way Emergency Allocation Committee.

Former Member of Board of Directors of Genesee Township Economic Development.

Board of Directors, Foss Avenue Christian Church School.

Member of Vehicle City Lodge No. 1036 (Elks).

Member of Rose of Sharon Lodge (Masons).

Member VFW Post 3791.

And many many more.

FLOYD McCREE: FOUR DECADES OF SERVICE

Mr. LEVIN. Mr. President, on October 26, 1987, the family, friends, and colleagues of Floyd McCree will gather in Flint, MI, to honor him for his accomplishments. It should be a long program.

After all, just listing Floyd's accomplishments takes a considerable amount of time. Floyd McCree was born in Webster Groves, MO, just outside of St. Louis. It was in the St. Louis area that Floyd first demonstrated his public speaking ability and where he won local and regional oratory contests. Floyd was also a star athlete. He attended college at Lincoln University in St. Louis but left to serve in the Army during World War II. A platoon sergeant, he spent 24 months in the Pacific front.

After his discharge Floyd relocated to Flint where he worked at the Buick Foundry. Then, as now, he was a union man and he was quickly elected to the executive board of United Auto Workers Local 599 and to the UAW's regional foundry council. He also served on local 599's education committee, on the Fair Employment Practices Committee and in key leadership positions with the Urban League and the NAACP. He was president of Parkland PTA and was divisional superintendent of the Metropolitan Baptist Church Sunday School. At the Buick Foundry, he was promoted to supervisor of maintenance.

Floyd also found the time to marry Leeberta Townsend. They have two sons and two daughters and two grandchildren.

In 1956, Floyd was appointed to the Genesee County Board of Supervisors. Two years later he was elected to the Flint City Council, the first black person to serve on the council. During 12 years on the council, he chaired—at one time or another—every single committee. From 1964-66, he was mayor pro tempore of Flint and was elected mayor in 1966. He was Michigan's first black mayor and the first black mayor of any American city with a population above 100,000. In 1968, he led the successful drive to make Flint the first city in the United States to pass an open housing ordinance by referendum.

Since 1971, Floyd has been the Genesee County Register of Deeds, a position he first gained through appointment and to which he has been twice reelected. Floyd McCree is also a leader in the Democratic Party and has served as a precinct delegate and as secretary of the Democratic County Committee.

In short, Floyd McCree has led a life of service to his community, his State, and his Nation. Time after time, he has been called upon to assume responsibility in behalf of the greater good. And, time after time, Floyd has said "yes." He's been there—for four decades.

He has been a personal friend of mine for over 20 years. His advice and support has made a difference in my life on a number of occasions. I am glad that Floyd's legion of friends in Flint are getting together to honor him. Because, to put it simply, Floyd's life and career has honored every one of us.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 194) to require compliance with the provisions of the War Powers Resolution.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Warner-Byrd Amendment No. 951, in the nature of a substitute.

(2) Modified Byrd-Warner Amendment No. 952 (to Amendment No. 951), of a perfecting nature.

(3) Dole Amendment No. 1017, stating that nothing contained in the joint resolution should be construed as limiting the President's Constitutional powers as Commander-in-Chief to utilize American military forces in self-defense.

The PRESIDING OFFICER. The pending question is on amendment No. 1017. The time between now and 9:30 a.m. will be equally divided and controlled. Who yields time? The majority leader is recognized.

THE CHAPLAIN

Mr. BYRD. Mr. President, I have listened to the Chaplain this morning as he quoted from the King James version of the Bible. I look forward every morning to our Chaplain as he brings us together in a brief moment of communion and fellowship with our Maker. This Chaplain sets a fine example of the meaning of the words "brotherly love." He goes about his ministry with a clear mission. He consoles the sorrowing, he comforts those who are in pain, he visits the sick, and he daily exudes love for his neighbor as he greets each of us

The poet summed it all up for me:

I'd Rather See a Sermon

I'd rather see a sermon than hear one any day,
I'd rather one should walk with me than merely show the way;
The eye's a better pupil and more willing than the ear,
Fine counsel is confusing, but example's always clear.
And the best of all the preachers are the men who live their creeds,
For to see the good in action is what everybody needs;
I can soon learn how to do it if you'll let me see it done,
I can watch your hands in action, but your tongue too fast may run.
And the lectures you deliver may be very wise and true,
But I'd rather get my lesson by observing what you do;
For I may misunderstand you and the high advice you give,
But there's no misunderstanding how you act and how you live.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. DOLE. Mr. President, I certainly appreciate the remarks just made by the distinguished majority leader concerning our beloved Chaplain.

Mr. President, the pending business as I understand it is amendment No. 1017.

The ACTING PRESIDENT pro tempore. The Senator is correct.

THE STOCK MARKET

Mr. DOLE. Mr. President, let me just say before I speak to the amendment that I think we are all encouraged by yesterday's stock market activity. We hope it continues in a positive way today. I do believe that at least the groundwork has been laid for meetings, bipartisan meetings, with the President. I hope they start today. And I hope it will be earlier rather than later because I think that an indication we are meeting in a serious way, in a nonpartisan way, will send the appropriate signal to not only Americans, but to people around the world. It would indicate that when we have a problem, we deal with it in the best way possible with nonpartisanship, bipartisanship, in trying to find common ground. And I hope we can start that process today.

Mr. BYRD. Mr. President, while the leader on the other side is on that point, may I say that I was encouraged likewise to see what I thought was the change in attitude of the President and the willingness to at least negotiate with the leadership on both sides of the aisle, and both sides of the Hill. I was disturbed, however, to learn that shortly after the President gave that indication, some of his aides took pains to say that the President did not mean this or that or another option.

So what I saw was a backing and filling on the part of his aides that left me wondering as to whether or not the President really was serious about sitting down and negotiating with the leaders in Congress. I am ready to give whatever I can give to such a meeting: time, effort, work; and I know that I speak for the others on this side of the aisle. I am sure that the distinguished Republican leader is serious about this. But unless the President really is serious, Mr. President, then we ought not kid ourselves. If he is ready to negotiate, that is a clear change of attitude, and a real breakthrough. But if it is just a PR pitch of sitting down briefly and then going out before the cameras, still having one's feet in concrete, and pushing options off the table, Mr. President, that would be a pulling of the blinders over the eyes of the American people.

I have spoken with the Speaker. We are both on the same wavelength. We are ready, if the President is really serious, and the ball is in his court. And until we hear directly from him, or get an invitation from him that he is ready to sit down—and it does not mean he is not to have his aides, of course, he does—but if this is just going to be a meeting with the Director of OMB, or somebody like that, why then that is not the President. I stand willing and ready for a serious negotiation with the President. That is what we all have to be willing to go into that with open minds.

I am ready to listen to whatever suggestions the President has, and I hope he will have an open mind to listen to whatever suggestions the leadership on both sides of the aisle and both sides of the Hill have. It has to be a meeting with clear and open minds, and a willingness to make tough decisions. Only then will it be meaningful.

I thank the distinguished Republican leader for allowing me to interrupt his remarks at this juncture.

Mr. DOLE. I thank the majority leader. I certainly share in his concerns. This will have to be at top level. It is top level business we are hoping to discuss.

Mr. President, last evening, I offered the amendment on which we will vote shortly. I did so because of my conviction that we are getting onto some very delicate and dangerous ground, with our ongoing debates over the war powers issue; and with legislation such as the Byrd-Warner amendments, on which we also will act shortly.

I'm under no illusion that my amendment, even if passed overwhelmingly, will take us safely off that ground. My hope for the amendments is more modest: that it will help limit the damage that I fear we are about to do, probably inadvertently, to American credibility and American interests in the Persian Gulf region.

POTSHOTS FROM HIDING

I can't avoid the conclusion that there are some hidden agendas around. There are some people who want to criticize the President and his policy in the gulf; who actually want to shoot down that policy—but who don't want to take political risk in doing that openly.

Instead, they hide behind a constitutional and legal facade; raising the war powers cry every time there is an incident in the gulf; demanding endless reports and now we're locking in votes, on unknown resolutions—resolutions that haven't even been dreamed up yet—2 or 3 months down the road.

Some are doing everything they can think of to take potshots at the President's policy without facing up to the simple question: Should we be doing what we're doing in the gulf, or not?

THE CLOCK HAS TICKED

The Senator from Connecticut, Mr. WEICKER, wants to invoke war powers—to get a clock ticking; ticking until some point when our Persian Gulf commitment could go down the drain—if that's what Congress, unilaterally, decides—no matter what the President, the Commander in Chief, says.

Well, there's no need to get any clock ticking. If war powers should be invoked—and let me stress I do not think it should be invoked here—but if you believe it should; well, it should already be invoked. We've been at our military operations in the gulf for months.

In fact, as long as the War Powers Resolution contemplated, before the need for congressional approval kicked in. So if we want to abide by the letter, or the spirit, or whatever, or war powers—let's do it. Let's vote, up or down, right now, on the President's policy.

In that sense, I guess I agree with Senator WEICKER.

ENOUGH REPORTS

And what about Warner-Byrd, or Byrd-Warner? First, it demands a report. In my view, we've had report after report, routinely and promptly, at the President's initiative.

We know what's happening in the gulf. We know what the President's policy is. We know what the issue is. Let's vote on the issue. Let's not wait 60 or 90 days, to vote on some unknown resolution.

A GREAT PLOY

Maybe we'll leave the impression that we're doing something about the Persian Gulf. But some may just want to see which way the winds blow—to see if the President's policy remains as popular as it is now; or to see if there might be some political capital in attacking his policy.

DANGEROUS NONSENSE

As I said earlier, this is dangerous ground. Like playing tag on the edge of a cliff.

THEN GET BACK TO US

I'm afraid, inadvertantly perhaps, we are telling the world that you can believe in America's word; America's commitment—for 60 or 90 days. Then get back to us—and we'll see if we can extend the guarantee for another month or two.

We are telling the world that America is in the gulf to stay—at least for 60 or 90 days. Then get back to us—and we'll tell you whether we'll be around any more.

We're telling the world to join us; cooperate with us; help us; share the risk with us—for 60 or 90 days. Then get back to us—and we'll let you know whether we will stay the course with you; or saw off the limb and let you go crashing down, alone.

WHEN THE SENATE SPEAKS

Mr. President, when the Senate speaks—people listen, all around the world.

They will listen if we pass the Dole amendment. And I hope that will have a positive impact. Because at least it will leave the message: the Senate believes the President has the right to do what he's doing; not make war; but make sure that American forces committed to the peaceful goal of keeping the international shipping lanes of the Persian Gulf open—that those forces will stay; will be able to stay—because they will have the authority to defend themselves.

But let me say that, whether or not we pass the Dole amendment, I'm not under any great illusions. It will help. But we are also going to pass Byrd-Warner. And we may pass some other, even more damaging legislation, too. And the world is going to listen to what we say in that legislation, as well.

And this is the message we could inadvertently give to the world in that kind of legislation: You see where we are now. But stay tuned for 60 or 90 days. And then and only then, maybe we'll let you know where we go from there.

THE WRONG TIME

Mr. President we've been debating this issue over and over again, for days on end. That in itself is clear evidence that war powers needs fixing, or at least clarification, before we start invoking it. And certainly, before we invoke it in what obviously—judging by all this debate—is a gray area.

This is not the time or place to drag in questionable procedures. This is not the time or place to hide behind constitutional and legal facades.

Fundamental American interests are at stake. Equally important, American lives are at stake.

Maybe we need to make a judgment on the policy. That is what this is all about.

So let's make that judgment.

THE BEST WAY

And so, Mr. President, I urge a unanimous vote for my amendment—not as the best course; but as the best possible course, in the circumstances in which we find ourselves.

The **PRESIDING OFFICER.** The Senator from Connecticut.

Mr. WEICKER. Mr. President, I should like to respond to one aspect of the comments of the distinguished minority leader, where he said that the Senator from Connecticut wants to set the war powers clock ticking, so as to see our commitment go down the drain.

No, that is not what the Senator from Connecticut wants. The Senator from Connecticut wants our commitment to be just that—our commitment, not the President's commitment.

I think it is proper for the minority leader to carry the President's water on the floor. He is of the same party; so am I. On the other hand, this is the legislative branch of Government, and we have an obligation, both under the Constitution and under the War Powers Act, to involve ourselves in decisions of war and peace, life and death.

So, what I have been speaking for to my good friend from Kansas is that the commitment be just that—our commitment. That means joint deliberation by Congress and the President—not in the managing of a war but in the stating of a policy.

The minority leader has expressed reservations, and did early on, about the reflagging policy. Now he says we did not, so we are stuck with it. No, we are not. We all agree, from beginning to end, that there will be a presence in the gulf to make sure of the free flow of commerce in international waters. That was a policy stated early on, and I think everybody in this body agrees with that. But whatever the decisions to be made, which involve not only the men and women of our Armed Forces in the gulf now but also those that will go to the gulf, I suggest that we are going to have a far stronger Nation and the commitment will be far stronger if it is our commitment, rather than his commitment.

I yield the floor.

The PRESIDING OFFICER. The time has expired.

Under the previous order, the question is agreeing to amendment No. 1017, offered by the Republican leader. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH] is necessarily absent.

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 343 leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—6

Biden
Danforth
Dixon
Gore
Simon
Stennis

So the amendment (No. 1017) was agreed to.

AMENDMENTS NO. 951 AND 952, AS AMENDED

The PRESIDING OFFICER (Mr. SHELBY). Under the previous order, the time between now and 12 noon will be equally divided and controlled by the leaders or their designees on amendment No. 951 and amendment No. 952, as amended.

Who yields time? The Senator from North Carolina.

Mr. HELMS. I am going to take the liberty of yielding myself a little time until the leader arrives—may I?

Mr. DOLE. Certainly.

Mr. HELMS. I thank the distinguished minority leader.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, yesterday I was considering raising a point of order on a modification which was unintentionally nongermane, I am sure. I do not want to make a precedent out of it, but my concern as stated yesterday, and I reiterate it today, is that under the terms of the modification after the 10 hours have elapsed, Senators will be cut off or could be cut off who have been waiting patiently in good faith to get the floor.

I have discussed this matter at some length with the distinguished majority leader and we all know Senator Byrd. He would not want that to happen. I wonder if we could just have an understanding that while I do not disagree with the proposition that the Senate ought to move along, neither do I want to put Senators in a position where their rights are denied them with respect to calling up amendments.

I wonder if the distinguished majority leader would just say for the RECORD that he will be attending to this matter when the 10 hours have elapsed, if a problem does exist at that time?

Mr. BYRD. Mr. President——

Mr. HELMS. Mr. President, I think we ought to have order. I want to hear what the distinguished majority leader has to say.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the language to which the distinguished Senator from North Carolina refers is contained in the expedited procedures provision of the Byrd-Warner amendment. The purpose of the language is to avoid a situation in which Senators might, by offering amendments, conduct a filibuster at the end of the 10 hours provided by the Byrd-Warner amendment. We are talking about the resolution which would be reported from the Foreign Relations Committee or from which the Foreign Relations Committee would be automatically discharged, whichever situation would pertain.

At the end of the 90 days that is set forth in the Byrd-Warner amendment the President has 60 days within which to submit a report. This would mean that such a resolution would probably be before the Senate, if the measure becomes law, in mid-January, give or take.

Without this language Senators could offer any number of amendments without debate thereon, and be entitled to a vote on those amendments.

The Senate foresaw such a contingency when it wrote into rule XX of the Standing Rules language that deals with a post-cloture filibuster. A post-cloture filibuster assumed forces that made it more difficult to deal with in reality than the pre-cloture filibuster. That was brought about by virtue of the fact that Senators would have hundreds, literally hundreds, of amendments at the desk which they would call up after cloture had been invoked. In order to deal with that situation the Senate decided, once cloture has been invoked, and at the end of the 30 hours, to limit voting on amendments once the 30 hours had run to only those amendments which were actually pending at the time the 30 hours had expired. So if there were two amendments actually pending, or three, fine, but not 200 or 300.

It was to avoid that same kind of a situation when the Senate deals with the resolution envisioned by the Byrd-Warner, Warner-Byrd amendments that I added that language. It does provide that at the end of the 10 hours, only those amendments that are then actually pending may be entitled to a vote.

We are dealing here with a situation involving peace and war, or perhaps a situation that may be somewhat more limited than all-out war. It certainly envisions military action of some kind. It would be an urgent matter, a matter requiring the immediate attention of the Congress—made up of the elected representatives of the people—and I do not think it a situation which should brook continued filibuster by Members. That is the reason for the language.

Having said that, I do not believe there is anything I further can say except that, depending upon the circumstances at the time, I would say that I would want to be as considerate as I possibly could be of the needs for another amendment or amendments. That would depend upon the circumstances at the time, and it might become obvious to all that an amendment, unforeseen, would be necessary in order to adequately deal with a given situation.

I would think that any majority leader should, in such a situation, be willing to give consideration to unanimous consent in order to deal with a matter of a vital nature. This majority leader would certainly try to act within those parameters.

Mr. HELMS. Will the Senator yield?

Mr. BYRD. I yield.

Mr. HELMS. The Senator is exactly correct. I have no doubt whatsoever that he would do exactly as he stated.

Furthermore, I believe it is correct that the 10 hours would be equally divided between the two leaders. Surely, with that understanding, I do not believe anybody would be cut off any way. But without this modification written in, there could have been a zillion amendments, all at the desk, and all to be called up. I can understand that. But that will not happen, either.

On the other hand, I was apprehensive that some would attach too much zeal on either side and maybe get into the other business and take up the time. But, as the distinguished majority leader said yesterday, that cannot happen but for 5 hours and then it goes to the other side, whether it be the majority or the minority doing it.

I am perfectly satisfied. I am confident, Mr. President, that a point of order would lie since we were under cloture yesterday. But I will not raise that point of order because I do not see a point in it. I do thank the majority leader for his statement.

Could I ask one other question?

Mr. BYRD. Yes.

Mr. HELMS. No, I believe I will ask him privately.

Mr. BYRD. May I say on the record, Mr. President, I do not agree that a point of order would lie, but that is not necessarily a matter we need to debate unless the Senator does raise the point of order.

I thank the distinguished Senator.

Mr. HELMS. I thank the majority leader.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Delaware.

Mr. ROTH. Will the minority leader yield me such time as I may require?

Mr. HELMS. Yes.

Mr. ROTH. Mr. President, I ask to speak out of order for the purpose of introducing a bill.

(The remarks of Senator ROTH pertaining to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, who controls the time?

The PRESIDING OFFICER. The leaders or their designees control the time.

Mr. HATFIELD. What is the pending business of the Senate?

The PRESIDING OFFICER. The pending question is amendment No. 952, as amended, the Byrd-Warner amendment.

Mr. HATFIELD. Mr. President, I wonder if I could have a few moments.

Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I would like to just make a few comments about why I oppose the Byrd-Warner amendment.

First of all, I think we have to recognize that the whole amendment is flawed because it very clearly seeks to diffuse the underlying war powers amendment. We can argue and we can debate, and I have followed this logic before. We can take a half a loaf, a fourth of a loaf, or none. I think the circumstances are different today than they were when we thought we would support maybe a half a loaf, when I thought maybe I could support a half a loaf. The circumstances are different because the President of the United States has recognized the applicability of the War Powers Resolution.

On October 20, the President of the United States sent a letter to the President pro tempore of the Senate, Senator JOHN STENNIS. In the latter part of his letter to Senator STENNIS reported in the 20th of October RECORD, he said: "I am providing this report consistent with the War Powers Resolution." His report related to the Persian Gulf and is consistent with the War Powers Resolution.

We all understand the Queen's English—the word "consistent" is not "compliance." But the President recognizes that this debate has been going on up here and realizes that there is a growing public sentiment in support of the War Powers Resolution. He has now given us the victory that some of us have been looking for—"I am providing this report—a report which is required under the War Powers Act—consistent with the War Powers Resolution."

In effect, the ball in now in our court. The clock is ticking.

We are bogged down in a debate over the mechanics—I could care less about the mechanics. I want to debate the policy now being pursued in the Persian Gulf. And we should now turn to that debate because even the President has finally come around to recognize the importance and the existence of the War Powers Resolution.

I frankly think the best way for the Senate to get on with the business at hand is to table the underlying amendment and pull the whole thing down. Get rid of the mechanics that we have not been able to resolve. We are now how many weeks into a debate over mechanics?

The American people do not understand all these refinements or all this parliamentary procedure. They begin to perceive the Senate as a paralyzed body that is dodging the issue of policy in the Persian Gulf, arguing instead on amendments to amendments to amendments. And they are right.

This is the time to face up to the fact that we have not yet debated the policy or the merits of U.S. policy in the Persian Gulf. If we need some kind of vehicle, I will be happy to introduce a resolution disapproving the present policy in the Persian Gulf. There is no problem getting a vehicle to debate the policy in the Persian Gulf.

Let us move beyond these mechanical procedures and operations. It is obvious that we are not going to get to a vote on the War Powers Resolution, up or down. That has been made very clear now, by the leadership on both sides and by the offering of the Byrd-Warner amendment.

We have gone through this exercise in futility. Both sides have made a point. My side has not won the issue any more than the other side has, but I think we have all won it so far as the President is concerned: "I am providing this report consistent with the War Powers Resolution."

Again, the President's letter does not use the words "in compliance with," but let us not get hung up arguing semantics or legalese. The White House has now recognized the War Powers Resolution, and the administration has submitted a report under the provisions of that law, the law of the land.

Mr. WARNER. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Who yields time?

Mr. WARNER. I yield myself such time as I may require, and I will be happy to provide some of my time to my distinguished colleague from Oregon.

The PRESIDING OFFICER. Without objection, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I will eventually speak to this broader issue, but I wish to direct a question on the point raised by my colleague.

The phrase "consistent with" has been the phrase carefully crafted and used by every President since 1973. Every President, since the passage of the War Powers Act, has recognized a need to comply within the spirit, and they have chosen, artfully, the phrase "consistent with."

I urge my colleague to do his research on that point or accept mine, that the use of that phrase has been identical by all previous Presidents; and they have carefully preserved, under the guidance of their counsel, their position that the War Powers Act is unconstitutional and, as such, it is ill-advised for a President to comply with it.

So, at this point in time, I would not want this record to indicate that this President has done anything different from that done by previous Presidents, all of whom have consistently stated that they will comply with the spirit of the War Powers Act and provide these reports consistent with the spirit.

Mr. HATFIELD. Mr. President, will the Senator give me an opportunity to respond, under his time?

Mr. WARNER. I yield.

Mr. HATFIELD. First of all, regardless of how many Presidents feel an act is unconstitutional, no President has the power to rule it unconstitutional. No President has the power to declare any act unconstitutional. Only the Supreme Court can do that. Therefore, that point is really not relevant.

Let me go back however, to the President's report. Remember the whole essence of the War Powers Act to create a cooperative relationship between the President and Congress in pursuing a crisis or a policy dealing with a crisis in international affairs.

He said, following the statement I read earlier, "I am providing this report consistent with the War Powers Resolution—and I emphasized the word "consistent" when I first stated it—"I look forward to cooperating with the Congress in pursuit of our mutual, overriding aim of peace and stability in the Persian Gulf region."

The President has seen fit to move this debate into the context of the War Powers Resolution. I think the fact that he has referred to the war powers means that he recognizes and his counsel recognizes—even though they may not think it is constitutional and they do not like it—that it is the law of the land. That is all we have been suggesting in this whole debate.

The President would be well served by the resolution. If you look at the Boren amendment vote yesterday, this Senate gave its endorsement of the most recent incident and a tacit endorsement of the policy that is being pursued. You cannot separate the incident from the policy, any more than you can separate the word "consistent" from the War Powers Resolution. My point is that the President would welcome joint support from Congress and he could no doubt have it under the War Powers Resolution.

Yesterday, Congress endorsed the policy as it relates to this latest incident by a vote of 92 to 1. What bigger margin would you want in a vote than that? As I understand it, they are ecstatic in the various agencies of the Federal Government downtown with that vote yesterday. And they should be. It was an overwhelming outpouring of sentiment and support for the President.

I will now end my response. It was longer than I intended.

Mr. WARNER. Mr. President, I appreciate the opportunity to enter into a colloquy with the Senator, who is an opponent of the underlying amendment.

In brief rebuttal to his observation, I point out that yesterday I placed in the RECORD 122 instances in which the President, members of his Cabinet, members of the Joint Chiefs of Staff, and various subordinate officers have come to Congress or have been present at the time the executive branch has briefed Congress with respect to United States policy in the Persian Gulf.

So the War Powers Act has certain goals; and this President, perhaps more so than any other President, has complied with the objectives of that law. The references in the RECORD this morning to which my distinguished colleague from Oregon refers clearly confirm the attitude of President Ronald Reagan toward working with Congress in a cooperative way to get all American behind the men and women of the Armed Forces of the United States as they are implementing and supporting our foreign policy objectives in the Persian Gulf.

Mr. WEICKER and Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Could I have 1 minute? I want to yield to the distinguished Senator from Maryland. I have an amendment to offer, and I will get to that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I say with respect to my distinguished colleague, the Senator from Oregon [Mr. HATFIELD], that prior to his initial effort in trying to invoke the War Powers Act—his initial effort, not Weicker-Hatfield, but Hatfield—to invoke the War Powers Act, when he was tabled, to the point where we have had two tabling motions on Weicker-Hatfield which have not succeeded, that is the measure of the perspicacity of this man, of seeing what the issue was before any of us say the issue.

Indeed, we have come to the point where we are today largely by virtue of his efforts, and I want the Record to state that he had his neck out there when it was totally unpopular, way ahead of any of us and he still does. We are discussing the War Powers Act and the American people are appreciating what it is all about and, yes, I think the President has given a recognition of what the law of the land is—it may not be compliance, but recognition—as indicated by the Senator from Oregon.

I want to say that, and I yield the floor now, and I ask unanimous consent upon the termination of the remarks of the distinguished Senator from Maryland that I regain the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BYRD. Mr. President, I yield myself just 1 minute.

Mr. President, I would not want the record to stay as it presently is; namely, based on the words of the distinguished Senator from Oregon that the vote on the Boren amendment yesterday shows that this Congress or this Senate supports the "policy" of the administration as the reflagging and convoying of ships. It does not say that at all.

Let us read what the amendment says.

> It is the sense of the Senate that the Senate express its approval and support of the President's action of October 19——

That is this past Monday——

> making an appropriate and carefully considered response to the Iranian attack on a U.S.-flagged ship in Kuwaiti waters on October 16, 1987.

It did not say anything about a policy, supporting a policy of reflagging a convoy of Kuwaiti ships.

Continuing with the reading of the amendment:

> And that the Senate strongly endorses these actions——

What actions? Not reflagging and convoying but the actions in responding to the Iranian attack on a U.S.-flagged ship.

> And that the Senate strongly endorses these actions as a firm indication of the

United States' resolve that the Iranian government cannot take military action against the United States with impunity.

I fully supported that language but I do not support the policy of reflagging and convoying. I might support it at some time in the future, but based upon the information I have at this point, I have never supported it and do not support it today, and that is what this whole argument is about as far as I am concerned.

Nobody is suggesting that the President get out of the Persian Gulf. Nobody is suggesting that the United States remove its fleet, its battleships, its minesweepers, its airplanes, its helicopters, its frigates, whatever, or that it even remove one rifle or one machine-gun or one shell.

But as to the policy of reflagging and convoying, that is different, and that is what this argument has been about all along. That is what the concerns have been about, and the vote in support of the Boren amendment does not support one iota of that policy. No mention, explicit or implicitly, is in that amendment in support of that particular policy.

Mr. HATFIELD. Mr. President, will the Senator yield 1 minute?

Mr. BYRD. I yield.

Mr. HATFIELD. Mr. President, I appreciate what the Senator has said and it is accurate.

I want to emphasize again that I used the term "the incident" when I described what we endorsed. I did not say the policy. I said the incident that is part of the policy or a result of the policy being followed in the Persian Gulf. But let us look at the incident we endorsed by passing the Boren amendment.

The reason I voted "no" on that amendment was that I certainly am not supportive of an action or any kind of a situation which puts our people into a sitting duck position. That is what our American service personnel and others out there are now in, and my point was I do not know how I could approve of an incident that evolved out of an unwise policy or that was a result of that policy.

I would say to the Senator, we have both seen how these sense-of-the-Senate resolutions are crafted in a way in which we can vote up or down and how they are used outside of the Senate. I voted for many of them myself. But again, I have heard today already on the floor of the Senate how pleased the administration was with that resolution. The President has used the resolution already as a basic endorsement. Most people cannot actually separate out of the policy from the situation that created the incident nor should they. We may get into those fine distinctions, but I say with great respect and regard, I am not sure that the general public and even those downtown at the White House will make those fine distinctions, those very careful distinctions the Senator has made.

Mr. BYRD. Mr. President, I am not sure the incident resulted from the policy at all. American ships have business in the Persian Gulf. We have been in there for 40 years or more and we will be in there until the crack of doom and it will not be as a result of any reflagging and escort policy necessarily.

An attack on an American ship in that Persian Gulf or anywhere else should necessitate a response, and we supported the response on Monday. It was a low-level, modest, minimal response, but nevertheless it was a response.

We would be talking about "policy" next January. If this amendment becomes law, we will know more about the policy. We want information about the reflagging and escort policy. What is it going to cost? What are the objectives? By what standard does the administration know when it is achieving those objectives? What commitments are we making to other governments in pursuance of this policy, and what commitments are they making to us? What impact are our actions in implementing this "policy" having upon U.S. operations elsewhere? Are we drawing down weapons from other areas of the world? Is the policy taking away, is it siphoning, is it bleeding off American strength elsewhere?

These and other kinds of information are what we are asking for in this amendment. When we have the information then we will discuss policy. We will have the information that we need and then we will talk about policy. We may even support it.

The American people's representatives in the Senate, duly elected and sent here by and in accordance with the Constitution and the 17th amendment to the Constitution, certainly should have a role in whatever policy we are going about implementing in the gulf or anywhere else.

We are not asking to manage the war or any military action. That is not our function, and nobody is insisting upon that. It would be ludicrous for us to do so, just as it is ludicrous for the administration to continually talk about "535 Secretaries of State" on the Hill. Who is so dumb as to argue that 535 people in Congress are equipped to or want to or have been authorized to act as Secretaries of State? That is just an old straw man that people in the administration always conjures up "you cannot trust 535 Secretaries of State." Of course, you cannot.

One cannot even trust a half-dozen people elsewhere in the Government sometimes—whether it be at the Pentagon, the Department of State, or the White House.

But we will talk about the policy once this legislation is enacted. Then we will be able to deal with the policy. We can get our teeth into it. And, hopefully, the administration will recognize that the American people are entitled to have their elected representatives participate in the development of a "policy" in the Persian Gulf that involves American treasure and the expenditure of American blood.

Mr. HATFIELD. Will the Senator form Maryland yield for just 2 minutes on my own time?

Mr. MIKULSKI. The Senator from Maryland is happy to yield.

Mr. HATFIELD. I thank the Senator from Maryland for her patience.

I would like to make one brief response to the majority leader. Again, I do not think we have a disagreement on the basic purpose we are trying to achieve: stability in the Persian Gulf.

Of course the alternative is not to cut and run, and I would not advocate that at all. But we have to go back and remember that we had some options to the present policy, options to the policy which will create more and more of this current type of incident. We asked the Senate to delay the reflagging of those Kuwaiti ships for 90 days with an effort hopefully in that meantime to get United Nations flags on those ships, to maintain that flow of oil, to maintain the freedom of the seas. Unfortunately, that option was ignored.

Let me just say one fundamental fact with which none of us can disagree. American flags and Iranian fundamentalism and fanaticism do not mix. They did not mix yesterday, they do not mix today, and they will not mix tomorrow.

Somehow we have to re-create that situation out there, and the best way to do that is to bring the United Nations flag into the situation. The best way is to reduce the American symbol and the American target that the Iranian fanatics will be firing at time and time again.

I do not see why we want a watered-down substitute for a law with which the President, in my view, has already complied. And I hope we vote everything down when the time comes.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you, Mr. Majority Leader, for yielding me 5 minutes.

I would like to associate myself with the remarks that you made earlier about why we have the need for this legislation.

I rise to support the principle of the Byrd-Warner amendment, expressing, of course, the fact that I would prefer full implementation of the War Powers Act legislation. We do need consultation, we do need debate, we do need discussion, and then we need a timetable for discisionmaking about our actions and presence in the Persian Gulf.

Our efforts here today will solve the mechanism where we could get to the debate, but it does not solve the question of the policy itself. As has been stated here earlier, we need to have a clear understanding of what our objectives are in the region. Then we need a policy to implement our objectives. And then we need to examine the tools that we need to fulfill that policy, be they diplomatic or military.

This U.S. Senator feels that we have two objectives to be achieved in the Persian Gulf region. No. 1, of course, is that the free flow of commercial shipping in channels not be vulnerable or victim of the hostilities in the region. Second, the other political objective we seek is the deescalation of conflict.

In the best of all worlds, we would like to see the end of hostilities between Iran and Iraq and an end to hostilities both on land and sea. There are several ways that we could achieve that. But right now, we are reacting incident to incident.

The War Powers Act should be triggered were there are hostilities or imminent hostilities. Right now we have 30 American ships in the Persian Gulf carrying more than 20,000 military personnel. An American warship has been attacked and 37 killed. An American flagged Kuwaiti tanker has been shot at, in which injury was caused. If that is not hostilities in the Persian Gulf, this Senator does not know what it is.

But while we are taking a look at the military force in the gulf, we also have to take a look at what other tools we have to keep the navigational waters open and also to deescalate the conflict between Iran and Iraq. I think there is a diplomatic tool that is currently being explored but is not being very much publicly discussed, and that is an activity going on at the United Nations.

The United Nations exists to provide solutions on a multilateral basis. Monday I was in New York and met with our Ambassador to the United Nations, General Walters. I also spoke to the head of the U.N. peacekeeping forces, as well as the Secretary General.

Members of the Senate, let me tell you where the United Nations is heading. By the way, this is one Senator who, at times, is quite ambivalent to the United Nations. In this particular situation, however, the Security Council is acting the way the Security Council should and the United Nations is acting the way the United Nations should.

On July 20, the U.N. Security Council passed Resolution 598, which is a mandatory resolution calling for a complete cease-fire in Iran and Iraq. It mandates withdrawal to internationally agreed boundaries, the exchange of prisoners, and reparation. Iraq has agreed to that resolution. Iran, as yet, has not.

As a result, the Secretary-General of the United Nations has told Iran: "You must signify in writing your intention to comply or we will take further action in the Gulf." What that means is that the United Nations has the authority to have not only peacekeeping but peace enforcement. The Security Council has given guidance to the Secretary-General to aggressively pursue that policy. If Iran fails to comply with Resolution 598, there are a variety of actions that could be taken on a multilateral basis, ranging from an arms embargo to U.N. minesweeping to even a U.N. marine force.

I discussed the idea of a U.N. marine force with the Secretary-General. It is somewhere along the lines of a plan discussed by former Secretary of State Cy Vance and Elliot Richardson in an article in the New York Times, which I ask unanimous consent to have printed in the RECORD at the end of my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 20, 1987]

PUT THE U.N. INTO THE PERSIAN GULF

(By Cyrus R. Vance and Elliot L. Richardson)

We proposed on this page 104 days ago that the United Nations undertake the task of flagging, inspecting and escorting commercial vessels in the Persian Gulf. A lot has happened since then.

The United States has committed a growing portion of its Navy to escorting Kuwaiti tankers up and down the Gulf. Other Western nations have begun similar operations on a smaller scale. The United Nations Security Council, in a historic display of unity, passed Resolution 598 demanding a cease-fire in the Iran-Iraq conflict on land, sea, and air. Secretary General Javier Pérez de Cuéllar has conducted face-to-face discussions in Teheran and Baghdad, and the Security Council is considering an arms embargo against any belligerents refusing to observe the cease-fire.

But one thing has not changed: the logic behind establishing a United Nations presence in the Gulf. Last week's Iranian missile attack on a United States tanker in Kuwaiti waters—and the United States' response yesterday—underline the gravity of the situation.

Neither the presence of Western and Soviet Navies nor the initiation of United Nations diplomacy has stopped the war on land or at sea. Each day, more ships are attacked, more cities are bombed and more civilians die. An equilibrium of sorts has evolved but it is neither stable nor permanent. The international community has agreed on the need to bring the carnage to an end without either side gaining a military victory. And the Western countries have demonstrated their commitment to keeping the sea lanes open and to aiding their friends in the region.

Now it is time for the next stage—for a bolder United Nations initiative before an unanticipated incident undoes these promising first steps toward concerted international action.

Our proposal for the provision of United Nations observers and lightly armed patrol boats, to be drawn from countries other than the United States and Soviet Union, does not contemplate the assembling of a United Nations armada of warships.

The parallel presence of naval contingents from major powers, however, could underline the message that attacks on unarmed commercial vessels, especially those flying the United Nations flag alongside their own, would be unacceptable.

A Security Council authorization of even a modest United Nations naval presence in the Gulf would permit important Western countries now sitting on the sidelines to assist the joint undertaking. Japan, West Germany and Norway, for example, have major interests in the Gulf but have been prevented by constitutional or political restrictions from playing an active military role in the Gulf. But they could assist and fund a United Nations mission.

Such a mission would not require the United States to abandon its commitment to Kuwait or to beat a hasty retreat from the Gulf.

Under Article 51 of the United Nations Charter, each member retains the inherent right of self-defense. But what a United Nations mission would give us is greater flexibility in selecting how it could best meet its commitments in the region as the situation evolves. In such a dangerous and unpredictable environment, it does not serve American interests to be locked into an open-ended reflagging and escort operation with no feasible options.

Moreover, the estimated annual cost of our present reflagging and escort operation, $240 million, is more than the United States' dues to the United Nations and 25 times the cost of the proposed United Nations seafaring peacekeeping force.

Furthermore, should the exchanges of fire between United States and Iranian forces continue to escalate, it is in our interest to have the international community firmly on our side, as we did in Korea.

That would be far easier to achieve if the Secretary Council authorized efforts to keep the sea lanes open before an incident rather than for the United States to seek international support after the fact.

By going it alone, the United States has only one sanction to impose: military escalation. By working through the United Nations, the alternatives range from diplomatic censure, economic sanctions, oil or arms embargoes to joint military action.

In recent weeks, the United States and United Kingdom have pressed for an arms embargo on Iran. If an embargo is to be effective, however, it must be backed by international inspections of merchant vessels entering the Gulf to be sure they are not carrying military contraband.

Resolution 598, moreover, called for United Nations observers to monitor the cease-fire on land, sea and air. Both monitoring and inspection would be carried out by our proposed United Nations mission.

The validity of these arguments has been generally acknowledged in the many consultations that we and our colleagues in the United Nations Association have undertaken with top officials in Washington and in the United Nations community over the past 104 days.

Two other questions are raised frequently. First, if the tanker war is ended, will Iran have sufficient incentive to stop its attacks on land, where it has gained the upper hand? By offering United Nations guarantees only to shipping of nonbelligerents, the proposal would in some ways be more advantageous to Iraq, since its Gulf allies' oil exports would be protected while Iran's oil shipments in its own tankers would not be.

The United Nations umbrella might be extended to vessels of belligerents observing Resolution 598's provisions for a cease-fire on land as well as at sea—with a monthly review by the Secretary General of the situation—so as to provide an additional incentive for respecting the cease-fire.

In the long run, the prospect of United Nations efforts to keep Persian Gulf oil flowing should benefit Iran, with its dependence on oil exports through the Gulf, making peace look more attractive than the continuation of a war the international community cannot let either side win. Iranian leaders, moreover, should find it more palatable to defer to a United Nations presence than to an American one as part of a comprehensive peace settlement package.

Second, it is asked, would United Nations involvement provide a bridge for a growing Soviet military presence in this vital region? By projecting a low military and high diplomatic profile, Moscow has already increased its influence in the area.

A United Nations observer and escort mission, on the other hand, could prevent an escalation of the Soviet-American competition in the Gulf. Soviet units—as American—would be excluded from direct participation in this as in past United Nations peacekeeping forces.

More importantly, it would be a good test of the content of Mikhail S. Gorbachev's "new look" foreign policy and of the possibility of expanding Soviet-American cooperation in an area where their interests substantially coincide. Mr. Gorbachev's sweeping Sept. 16 statement on ways to more fully use the United Nations role in protecting Gulf shipping, may well mark a reversal in traditional Soviet reluctance to strengthen the United Nations peacemaking and peacekeeping role.

The tragedy of the Persian Gulf offers the international community a historic opportunity to prove that the United Nations vision enunciated in San Francisco in 1945 can still work. If we can begin to think imaginatively about the potential of cooperative efforts, rather than dwelling on how difficult they are to achieve, then the United Nations itself could be on the verge of a renaissance. What we are suggesting is a step in that direction.

Ms. MIKULSKI. Under such a plan, the United States could stay in the Persian Gulf and, there could still be reflagged tankers. But in addition to that, there would be a U.N. marine force which would actually be responsible for maintaining peace, and ensuring the safe passage of all ships through the gulf. I do not know if that is a good idea for doing it. I do not know if that is the best idea for keeping the navigational waters open. I am not sure what is the best way to bring about deescalation of the conflict.

But while we are looking at our own military presence, we need to make sure that we are pursuing all other tools—diplomatic and multilateral. That is why we need discussion. That is why we need debate and a careful examination of this.

The idea of U.N. marine force might be a great idea. It also might be an idea that is unworkable, unfeasible, and undesirable.

But what the Senate needs to be doing at this time is pursuing a legislative framework for discussion, debate, and decisionmaking to occur, in partnership with our U.S. President, where we have clear objectives, a clear policy, and a clearly agreed upon set of tools to pursue that.

So that is why I will be voting in the affirmative later on today.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. WARNER. Mr. President, I yield myself such time as I may desire out of my hour.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I urge all Senators to make note of the remarks of the distinguished Senator from Maryland. That was a very fine framework and analysis of where the Senate finds itself at this hour under the various courses of actions under war powers.

I strongly concur in the observation of the Senator from Maryland with respect to the need for allowing the United Nations Security Council to address this second resolution. Great credit is owed to our President for augmenting our military forces in the Persian Gulf, putting aside the thorny issue of reflagging for the moment, and then persuading other nations to likewise augment their military forces and other nations to introduce for the first time forces in that region in support of a coordinated foreign policy objective of many nations to bring about in the Security Council a unified framework within which to try and achieve a more peaceful situation in the gulf and to hopefully terminate the land war.

That is why this Senator, along with many others, has continuously urged this body to go on record, first as supporting the President—and, indeed, the Byrd-Warner resolution unequivocally states that—and then to set out a reasonable framework of time within which further deliberation should take place in this body. As I understand it, the proponents of the underlying amendment will shortly bring forth an amendment which will provide for the shortening of that time. I intend to strongly endorse that amendment because, throughout, I have urged that the quicker Congress acts, the less indecision, the less doubt is injected in that arena.

I think we have an obligation, in view of the uncertainty around the War Powers Act, to put that act to one side for the moment, chart a course of action as the Byrd-Warner amendment does, and to state the intention of this body to support the President now, to require that report which will establish the framework for a debate and then announce our decision at the earliest possible date.

The distinguished majority leader, in the drafting of this amendment—I was privileged working with him on that—I think has established that framework.

I am also hopeful this morning that after the amendments of the Senator from Connecticut are considered, that there is a consensus among the leadership in the Senate that perhaps we can conclude this matter today, that is conclude a policy so that for the time being we will set the War Powers Act to one side, proceed under a legislative framework to meet the goals—and I stress meet the goals of the War Powers Act—and do it in a manner that is clear, timely, and the U.S. Senate and the U.S. House of Representatives stand up and be counted for or against the policy as determined by our President in the Persian Gulf.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut, Senator WEICKER.

Mr. WEICKER. Mr. President, I believe my distinguished colleague from Arkansas wishes recognition. I recognize—I ask unanimous consent I be able to recognize the distinguished Senator from Arkansas without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. PRYOR. I am really grateful to the distinguished Senator from Connecticut for yielding to me and I will speak no longer than 3 minutes.

Mr. President, I rise today not to speak for or against the Byrd-Warner amendment. I do rise today to express a concern that I have about the way that we are handling the issue of war powers in the Senate.

For example, Mr. President, on yesterday alone, this Senate adopted four amendments—one of those amendments may have been this morning, the Dole amendment—four amendments. Taken singularly, one by one, all of these that I have voted for, may not be setting a policy that we do not understand. But when you put all of these sense-of-the-Senate resolutions together, Mr. President, and finish this patchwork quilt with only a few moments of debate, without having the sense-of-the-Senate resolutions going through any committee or any clearing process, having Members of this body coming over here with no cosponsors, throwing an amendment out here, saying: Oh, this is supportive of the President, the Commander in Chief's powers and all of this—each day we are coming to this body, it seems, and endorsing what we have done the previous day in the Persian Gulf.

MILITARY CONSTRUCTION APPROPRIATIONS

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed at any time to the consideration of Calendar No. 380, H.R. 2906, the Military Construction Appropriations bill, and that it be considered under the following agreement: 30 minutes on the bill equally divided and controlled by Senators SASSER and SPECTER; that the committee amendments be agreed to as original text; that the following amendments be the only amendments in order and with the following time limitations:

A Hollings-Sasser amendment involving land transfer at Fort Jackson, SC, 10 minutes to be equally divided and controlled in accordance with the usual form; an amendment by Mr. DANFORTH and Mr. SASSER involving land transfer for an Air National Guard project at Lambeth Field, MO, 10 minutes equally divided in accordance with the usual form; a Stevens and Sasser amendment to restore funds for the White House Communications Agency, 10 minutes to be equally divided and controlled in accordance with the usual form; a Murkowski amendment to deny funds for U.S. projects that use the services of any foreign country that does not provide U.S. firms access to provide such services for the foreign country, 10 minutes to be equally divided in accordance with the usual form; that there be 15 minutes on any debatable motion, appeal, or point of order if submitted by the Chair; that no motion to recommit, with or without instructions, be in order; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there any objection to the unanimous-consent request?

Mr. DOLE. Reserving the right to object, I shall not object.

This agreement has been cleared on this side. There was one question raised by the Senator from Indiana, Senator QUAYLE, but I think that can be disposed of in the colloquy, so we have no objection to the agreement.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his assistance and cooperation. I now yield the floor and I thank the Senator from Connecticut.

REQUIRING COMPLIANCE WITH PROVISIONS OF THE WAR POWERS RESOLUTION

The Senate continued with the consideration of the joint resolution.

Mr. WEICKER. Mr. President, I will shortly offer a brief amendment to the Warner-Byrd Byrd-Warner amendment which, in effect, reduces the time within which the President has to report from 60 to 30 days.

Before getting to that amendment, I would like to indicate now that should Byrd-Warner Warner-Byrd pass, we would then have a situation of Weicker-Hatfield amendment as amended by Warner-Byrd. That will be open to amendment.

I will offer an amendment that states the following:

> At the end of the resolution as amended add the follwing: Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying or negating any provision of the War Powers Resolution of 1973, Public Law 93-148.

I think it would be very difficult for many of us who have argued strict compliance with the War Powers Act to agree with anything less than the law.

Now, neither do I, or many others, want to stand in the way of a spirit of cooperation between the executive and legislative branch. I do not mind participating in that. But all that has been stated by this Senator and others—most particularly the distinguished Senator from Oregon—is true. Byrd-Warner Warner-Byrd does not comply with the War Powers Act and we have been arguing out here, up until the most recent remarks of the distinguished Senator from Oregon, not the policy in the gulf but the War Powers Act. Indeed, it is the President who has tried to confuse the two issues by making it look as if those of us that are for the War Powers Act are somehow undermining our men and women in uniform in the gulf.

I have been offended by that and others have been offended by it. There are two different subjects: compliance with the War Powers Act and our policy in the Persian Gulf. It is true, as my friend from Oregon indicated this morning, there is disagreement with many actions taken in the Persian Gulf. That is his prerogative. As the distinguished Senator from Virginia indicated and the distinguished Senator from Connecticut has indicated, I have serious reservations about the reflagging policy. I think it is a terrible policy. It leads to exactly the type of situation we saw the other day where we reflag a Kuwaiti tanker and everyone has the right to presuppose that we are going with the full backing of the United States of America, flying the Stars and Stripes. All of a sudden the Secretary of State is on television saying, "We agreed to protect it only in international waters rather than in the harbor."

What kind of nonsense is that? They are making it a sitting duck. Obviously, the Iranians will not attack it in international waters, but only in the harbor.

So there are ways of expressing dissatisfaction with that type of policy.

I think the interests of this Nation and the Armed Forces are served by a spirit of cooperation. We have yet to see that, I might add, in terms of a free flow of information between the executive and the legislative branches. As I said earlier this morning, it has not been our commitment. It has been his commitment. It is time it was either our commitment or our disagreement or whatever.

So it is in the spirit of cooperation that I will back the amendment of the distinguished Senator from Virginia and the distinguished Senator from West Virginia. But I will not say that this is either compliance nor do I want the record to show that de facto we are modifying the War Powers Act.

Some individual can stand up on this floor a year from now and he can use this as a precedent, this type of amendment, as satisfying the requirements of the War Powers Act. I am going to make darn sure that is not going to happen because what this says is we are not complying with, we are not modifying, and we are not negating one period, not one word, in the War Powers Act.

I would suggest that such language as I have just read I think far more accurately describes what it is my distinguished colleagues from West Virginia and Virginia are trying to do than the title language that was left by virtue of the construction of their amendment. Somehow, and I will leave it to the distinguished Senator from West Virginia who I think we all agree is the parliamentary genius around here, I will leave to him to devise how he so modifies that language.

I am putting everybody on notice as to exactly what will happen immediately upon passage of Byrd-Warner, and I hope it will pass, that this language will be coming hard on its heels and I hope it will pass.

As far as this Senator is concerned, I have no further interest in this debate. As a matter of fact, I hope we can wrap it up. I think we all have the right to introduce war powers resolutions any time we want to. But I think it is important that the world perceive we have done something precise and concise around here, although it might be less than I hoped for, I say to my distinguished friend from Virginia, but at least we have done something that is directed toward the stalemate.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. WEICKER. I yield.

Mr. HATFIELD. The Senator said this would not be an amendment or modification to the War Powers Resolution. Will the Senator describe what the Byrd-Warner is?

Mr. WEICKER. Exactly what I stated already to my distinguished friend from Oregon. I think it is an attempt to begin the process of cooperation, the flow of information, between the executive and legislative branch. Let us say the facts as to what they are. With due deference to my good friend from Virginia and all these meetings that have taken place—and I know he has listed them and they are as stated but that is a rather small group—we do have the letter from the President in the CONGRESSIONAL RECORD. But really there has been no communication. On the other hand, the U.S. Senate, no credit to it, has been unwilling to exercise its responsibilities under the War Powers Act. It tries to get things off dead center as far as both institutions are concerned.

Mr. HATFIELD. Would the Senator call it a substitute for the War Powers?

Mr. WEICKER. No.

Mr. HATFIELD. I only ask the question because under the Byrd-Warner amendment, there are 60 days for a report. Under the War Powers Resolution, it is 48 hours. Would we not call that a substitute?

Mr. WEICKER. No, it is not, because there is no mention of the War Powers Act.

Mr. HATFIELD. But it contains requirements which are substituted for the requirements of the War Powers Resolution.

Mr. WEICKER. Again I repeat to my good friend, you do not have to argue with me. I am saying in the amendment I hope will pass this body, we are not complying with the War Powers Act. Neither are we modifying or negating for the future.

Mr. HATFIELD. I just want to make the point that at most we can call it a susbstitute, but it still does not comply with the War Powers Resolution.

I yield to the distinguished majority leader.

Mr. BYRD. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, the report that we have mentioned in the amendment is this: Quite clearly, in the case of the Byrd-Warner amendment it is a report, but it does not invoke the War Powers Act. That is the distinction.

Mr. BYRD. Will the Senator yield?

Mr. WEICKER. Yes.

Mr. BYRD. Nowhere in the Byrd-Warner or Warner-Byrd amendments is there any reference to the War Powers Act. This language has no more impact on the War Powers Act than it does on the State Department authorization bill that was passed a few days ago.

Mr. President, the distinguished Senator from Connecticut has rendered a service in offering his amendment. That amendment makes it preeminently clear that the Byrd-Warner language does nothing to the War Powers Act. It does not add to it, it does not subtract from it.

I would be happy to offer the following suggestion, and this has been discussed with the Senator from Connecticut.

In Senate Joint Resolution 194, offered by Mr. WEICKER and Mr. HATFIELD, the title thereto reads as follows: "To require compliance with the provisions of the War Powers Resolution."

Mr. President, I would propose that after the Senate has acted on the resolution, there be an amendment to the title to read as follows: "To require a comprehensive review of U.S. policy and commitment in the Persian Gulf region."

Strike out the language of the resolution, which reads: "To require compliance with the provisions of the War Powers Resolution," and insert a new title reading: "To require a comprehensive review of U.S. policy and commitment in the Persian Gulf region."

Moreover, I would suggest that we strike out the words "Meeting the Requirements of the War Powers Resolution," which follow the resolving clause in the resolution. We can do that by unanimous consent.

Mr. DOLE. I would move that now.

Mr. WEICKER. I would certainly agree to that. My difficulty is that I agree to it in the expectation that the Weicker amendment is going to pass, the one I stated I intended to propose, after we voted on Byrd-Warner.

Mr. BYRD. Yes.

Mr. WEICKER. I will rely on that.

Mr. BYRD. Is that the language——

Mr. WEICKER. In other words, let us assume the fact that we modified the beginning title such as described by the distinguished Senator from West Virginia. The title is modified. Then we have Byrd-Warner, and let us assume that passes.

Then I will offer an amendment at the end of the resolution as amended, add the following:

> Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying, or negating any provisions of the War Powers Resolution of 1973, Public Law 93-148.

Mr. BYRD. Mr. President, I have no problem with that at all. I would be supportive of that language.

Mr. DOLE. Mr. President, if the majority leader will yield——

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. I am about ready to offer an amendment. I have been yielding. I would like to be able to do that. Let me put it this way. It will take me 1 minute to offer the amendment, but I do want to vote on it. We are going to vote on Byrd-Warner at noon. I would be glad to yield the floor but I would ask——

Mr. DOLE. Will the Senator yield for an observation?

Mr. WEICKER. Of course, I will.

Mr. DOLE. It seems to me we could dispose of the amendment the Senator just referred to and the amendment to the title by unanimous consent. That would take about 30 seconds. I do not know what the other amendment is. I am not for the final product. I think it is going to confuse our allies and otherwise take us on a downhill slope. But we can take care of three of those immediately.

Mr. BYRD. Mr. President, I think we should wait until after the passage of the resolution to amend the title. That is in accordance with procedure around here. But we could take care of the heading immediately following the resolving clause—I read it—"Meeting the Requirements of the War Powers Resolution." By unanimous consent, we should eliminate that language.

Mr. WEICKER. I certainly have no problem. Knowing the position of the distinguished minority leader, I am sure he would not have a problem with that.

Mr. DOLE. Mr. President, I ask unanimous consent that the words beginning on line 3 and ending on line 4 of Senate Joint Resolution 194, "Meeting the Requirements of the War Powers Resolution" be deleted.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, immediately upon the passage of the resolution, if it is adopted, I have an amendment to the title which reads as follows: Strike out the title and insert in lieu thereof the following words, "To require a comprehensive review of U.S. policy and commitments in the Persian Gulf region." I have that amendment and will offer it to the title, and that comports with the feelings expressed by the distinguished Senator from Connecticut. I think it is very appropriate to do it. It will remove any semblance of doubt as to whether or not this legislation modifies, negates, repeals, adds to, substracts from, or divides and has no impact whatsoever on the War Powers Resolution.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join the distinguished majority leader. All along in the drafting of this, it was never our intent in any way to have this amendment in a legal-sense impact on the War Powers Act. That is a landmark piece of legislation. Many of us feel it has to be readdressed, I think preferably in the Congress rather than in the courts, but nevertheless, it has to be readdressed and brought up to a certain standard that meets the changing conditions of the world. Terrorism and other things are threats now and they are really not dealt with in the War Powers Resolution.

I strongly support the amendment that is about to be acted on for the 30 days. All along, I felt the more swiftly the Congress exercised its rightful authority to inject its wisdom into the foreign policy decisions, particularly as those decisions relate to the implementation of our Armed Forces abroad, the better. But I would want to say once again that with respect to the second amendment, again I accept that. That is the "Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying, or negating any provisions of the War Powers Resolution of 1973."

Again, the object of the Byrd-Warner amendments is clearly to establish a procedure which hopefully will be accepted by this body shortly, a procedure which it elects as of now to follow in the case of the Persian Gulf situation rather than invoke the War Powers Act.

Mr. WEICKER. I thank my distinguished colleagues. I wonder if I might ask the distinguished majority leader, so that we can get some orderly process, that immediately upon the vote on Byrd-Warner, that unanimous consent be obtained to move to his amendment and following that move to my amendment as we have discussed heretofore.

Mr. BYRD. When the Senator says his amendment——

Mr. WEICKER. That would be "notwithstanding any language" to be added on the end should Byrd-Warner pass. In other words, I would like to come hard on the heels——

Mr. BYRD. Yes.

Mr. WEICKER. As I understand it, the majority leader has an amendment coming on also.

Mr. BYRD. The amendment I would offer would be after the adoption of the resolution because until that resolution is adopted the title, which should reflect the substantive contents of the measure, should not be amended.

Mr. WEICKER. Then might I ask the majority leader if he could propound a unanimous consent request that upon the disposition of Byrd-Warner I be recognized to offer the amendment that is described relative to the War Powers Act.

Mr. BYRD. Yes; Mr. President I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair will state that the remaining time is under the control of the majority leader.

Mr. BYRD. That is 25 minutes then.

The PRESIDING OFFICER. The Senator is correct, 25 minutes remains.

Mr. BYRD. I yield 10 minutes to Mr. WARNER and 3 minutes to the Senator from Connecticut.

Mr. SPECTER. If available, Mr. Majority Leader, may I have 5 minutes?

Mr. BYRD. Yes; let me yield to this Senator first.

AMENDMENT NO. 1028

Mr. WEICKER. Mr. President, I call up amendment No. 1028, which is at the desk and eligible for consideration pursuant to rule XXII.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Connecticut.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 1028.

Mr. WEICKER. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days.

Mr. WEICKER. This basically reduces the reporting time from 60 days to 30 days. Mr. President, I ask that I be able to modify it. I ask unanimous consent to modify the amendment to read at the last line: "To be submitted within 30 days after enactment." This is at the request of the distinguished Senator from Virginia.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

The modification is as follows:

At the end, add the following: Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of the Act, shall be required to be submitted within 30 days after enactment.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WARNER. Mr. President, it is this Senator's understanding that the standing order states that at the hour of 12, the Byrd-Warner amendments could be voted. I, therefore, address the majority leader, perhaps a resolution of how we vote on this amendment and then vote at 12.

It would seem to me, if I may suggest, we might set the votes together and that the Weicker vote would occur at 12 and immediately following that would be the vote on our amendments, say a 10-minute vote on our amendments. That is just a suggestion. I now yield the floor to the majority leader. Because there are a few remarks remaining on the Byrd-Warner amendment which I think the Chamber should receive before we start the votes.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. WEICKER occur at the hour of 12 noon; that that be a 20-minute rollcall vote, which is 5 minutes more than is in accordance with the standing order, and that the call for the regular order occur at the conclusion of the 20 minutes; that that vote be immediately followed without further amendment, debate, motion, or action by a vote on the Warner-Byrd, Byrd-Warner amendments which has already been ordered to be a vote en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. And that the second vote be a 15-minute vote as in accordance with the standing order entered at the beginning of the 100th Congress; and that at the conclusion of the 15 minutes the regular order be automatic.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. SPECTER addressed the Chair.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished majority leader.

Mr. President, I support the Byrd-Warner amendment. I believe that it is necessary to have congressional involvement and debate on the policy in the Persian Gulf. It has been this Senator's view that there is a real necessity for the Congress of the United States to reassert its constitutional responsibilities to declare war, and those responsibilities and authorities have been significantly usurped by actions in Korea which was an undeclared war, and Vietnam which was an undeclared war. Underlying so much of the debate which has transpired in this Chamber has been the lurking question of the constitutionality of the War Powers Act.

Mr. President, it is my view that the War Powers Act is clearly applicable, that U.S. military personnel have been subjected to hostilities because of the underlying facts in the Persian Gulf, so many events in the escalation of activities there, but there has not been compliance with the War Powers Act because of questions which have been raised about the constitutionality of the War Powers Act.

It seems to this Senator that the War Powers Act is constitutional on the basis of the current record, that an act of Congress is presumptively constitutional, and even if one section as the one-House veto were to be declared unconstitutional, other provisions of the War Powers Act are severable.

But in any event, Mr. President, I suggest that the Congress of the United States take action to see to it that there is a judicial determination of the constitutionality of the War Powers Act. We have at the present time a classical confrontation between the executive and the legislative branches with the Congress seeking to assert its authority under the Constitution, the authority to declare war and the corollary authorities under the War Powers Act which were enacted because of short-circuiting of the constitutional authority to declare war and the executive—not only this President but past Presidents consistently—denying the constitutionality of the War Powers Act.

I have discussed with a number of my colleagues, including the Republican leader, the desirability of legislation which would confer standing on Members of the Congress to take this case to the Supreme Court of the United States. And at an appropriate time, this Senator intends to offer an amendment to perhaps a separate bill which would confer that standing, patterned significantly after the legislation which was involved in the judicial test under the Federal Election Act of 1974 which led to the decision of the Supreme Court of the United States in Buckley versus Valeo.

The constitutional requirement of a case or controversy is a more complex issue than is the standing issue. Some Court decisions have intermixed standing with the case or controversy issue, but there is no question but that under the decision of the Supreme Court in Buckley versus Valeo the congressional enactment was critical to the Court's decision to take the case into hearing.

The Supreme Court of the United States said on page 12, of 424 U.S. Reports:

> In our view the complaint in this case demonstrates that at least some of the appellants have a sufficient personal stake in a determination of the constitutional validity of each of the challenged provisions to present a real and substantial controversy admitting of specific relief through a decree of a conclusive character as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.

Mr. President, the procedures in Buckley versus Valeo further contemplated an accelerated path with a three-judge court and a direct appeal to the Supreme Court of the United States.

There is litigation currently pending in the U.S. District Court in the District of Columbia brought by Members of the U.S. House of Representatives, which does not have the benefit of such an expedited proceeding and does not have the benefit of such legislation conferring standing. But I wanted to make this comment to my colleagues because I believe that we ought to move forward as promptly as we can to have a resolution of the important constitutional issues of the War Powers Act.

As I had commented in brief remarks yesterday, this Senator made an effort to structure such litigation in 1984 with the assistance of the then-majority leader, Senator Howard Baker. The matter was taken up at the Department of Justice and they were unwilling at that time to have the matter moved forward. According to information received there is a willingness now on the part of the executive branch to have a determination of this constitutional issue, and it is the sense of this Senator that this ought to be done at the earliest time and the standing legislation would be enormously helpful.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, would the majority leader yield to me 5 minutes? How much time is there on the Republican side?

The PRESIDING OFFICER. All time on the Republican side has expired. The time is controlled by the majority leader.

Mr. BYRD. Mr. President, the quality of mercy is not strained. I will be very glad to yield to my friend who opposes this amendment. I yield 3 minutes.

Mr. President, I will yield 3 minutes to the Senator.

Let me just yield myself 1 minute. I will read from the UPI wire which is as follows:

> A powerful explosion rocked oil installations near the Kuwait-Saudi Arabian border Wednesday in what was evidently a Silkworm missile attack or an operation by Iranian saboteurs, gulf-based oil executives said.
>
> Foreign oil workers heard the blast and felt shock waves from it near the Port of Mina Saud on the southern edge of the border.
>
> We don't know as yet whether it was due to a missile attack or sabotage, one executive told United Press International in Abu Dhabi.
>
> There was a loud explosion and our personnel could hear it, he said. They felt it like a shockwave vibration.
>
> Military experts said Mina Saud is beyond the range of a fully Laden Chinese-made Silkworm led from Iran's batteries at the Faw Peninsula. But they said the missile's range could be increased by reducing the size of its warhead.
>
> Meanwhile, the 12th Navy-escorted convoy of re-flagged Kuwaiti tankers moved southward through the Persian Gulf Wednesday and threats by Iran to strike a severe blow in retaliation for a U.S. attack on an armed Iranian oil platform.
>
> Iraqi warplanes accurately and effectively attacked a large naval target, a euphemism for an oil tanker, off the Iranian coast Tuesday night, Baghdad radio quoted an Iraqi military spokesman as saying Wednesday.
>
> There was no immediate confirmation from shipping executives of the attack. Earlier Tuesday, shipping company radio monitors heard a vessel of Iran's Lavan Island oil terminal in the southern gulf put out a distress signal.
>
> The two-tanker convoy shepherded by the frigate *Ford* set out Tuesday from international waters just outside Kuwait territory for the 600-mile, two-day voyage south to the Strait of Hormuz and the seas beyond, a Pentagon statement said.
>
> Iranian gunners, meanwhile, fired on a remote area along Kuwait's northern border in what some diplomats described as an apparent attempt to intimidate the tiny gulf nation.
>
> Kuwait, which is concerned about being drawn into the 7-year-old Iran-Iraq war, initially denied the report. But a defense ministry spokesman quoted by the Kuwaiti News Agency said later the shells fell randomly along the northern border and apparently came from an exchange of gunfire between Iran and Iraq.
>
> Some oil installations are located in northern Kuwait along the southern Iraqi border. The largely unpopulated desert area is close to the southern warfront of the Iran-Iraq conflict.

Mr. President, I yield 3 minutes to the Senator from Oregon.

Mr. HATFIELD. I am very grateful for the mercy of the majority leader in yielding 3 minutes.

Mr. President, it seems to me that we had a pretty clear indication a while ago what this exercise was about when the Senator from Virginia indicated that the word in the President's letter that he was providing us with the report was "consistent" with the war powers. The word "consistent" was crafted in such a way as to be "compliance" because there was a concern about the constitutionality of the question.

Now we have heard other attorneys, and I am glad to see we have attorneys in the membership of this body. Everybody is rendering a constitutional opinion.

But Mr. President, neither the President nor any Member of this body has any power to render a constitutional judgment that would be final and binding. We all can have opinions, but only the Court can do that. In the meantime, this is still the law of the land.

I think also it is a fact that we are now engaged in carefully crafted words to avoid the various and sundry problems of legal or law-of-the-land points. I think also it is very obvious that this is now called a substitute for when really it is clearly in competition with the war powers resolution. We can play these charades but it still comes to the simple fact that the President already has triggered the war powers by sending us the report required under it.

It is clearly a substitute. And it really is not a very believable substitute when people then say that we are going to require reports in 60 days because we already have a report now from the President.

The American people expect a little more from the Senate. I hope somehow we will vote down this whole mishmash, and it has become mishmash, starting with the underlying amendment and the whole Byrd-Warner proposal, as modified or amended, or as may be modified or amended. We must get to the issue of U.S. policy in the Persian Gulf.

We have a report now of another attack. Are we just going to go on approving these incidents of a policy that has produced them but not address the policy?

We had better get down to the fundamental issue. It is not procedure or process. It is the policy. We have not debated that. We have debated procedures piled upon procedures, reminiscent of the Budget Act and Gramm-Rudman-Hollings—all things which have substituted procedures and process for the substantive decisions we have to make.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Ten minutes remain, under the control of the Senator from Arkansas.

Mr. WARNER. Mr. President, if the Chair will kindly recognize the manager of the bill, I am the designee of the majority leader at this time.

The **PRESIDING OFFICER.** The Senator from Virginia is recognized.

Mr. WARNER. I am willing to try to accommodate the distinguished Senator from Arkansas, if he could acquaint me with his desires.

Mr. BUMPERS. The Senator from West Virginia, the majority leader, has 10 minutes remaining.

Mr. WARNER. That is correct.

Mr. BUMPERS. Does the Senator from Virginia wish some of that time?

Mr. WARNER. We have a conflict, because the majority leader just came up and advised me that I was to control time. Irrespective of who is in control, what time does the Senator desire? We will see that he has it.

Mr. BUMPERS. I would like to have 2 or 3 minutes.

Mr. WARNER. I am more than happy to accommodate the distinguished Senator from Arkansas.

The **PRESIDING OFFICER.** The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have labored mightily as to how I was going to vote on the Byrd-Warner amendment and concluded that I will vote against it.

I have looked at the polls in the Washington Post this morning. Everything that the Senator from Oregon, the Senator from Connecticut, and I have been saying on the floor for over 30 days has occurred. Once the shooting starts, the American people feel compelled to support the President. The poll in the Washington Post this morning shows that roughly 57 to 60 percent of the people think the President's policy was correct, that the response was appropriate, and that we should continue the policy. Sixty days ago, public opinion was the very opposite, before the shooting started.

Strangely, the same poll shows that even though Secretary Weinberger says that so far as we are concerned, the matter is closed, the American people, by 57 to 60 percent, say it is not closed and Iran will respond.

I was interested in seeing this resolution, which says, "Despite military activities, including the incidents involving U.S. military forces on September 21, 1987, October 8, 1987"—and here has been added October 19, 1987; and if we will debate this another month, you will find about four more dates to be inserted in there because that war is in effect.

As for anybody who does not think we have taken sides, there is a reference here to nonbelligerent shipping, that we are going to protect nonbelligerent shipping. There is Iraq, which perpetrates two-thirds of the attacks in the Persian Gulf, not Iran. But we are not about to stop Iraq from attacking nonbelligerent shipping. We are only going to stop Iran.

So, we are participants in that war, and public opinion is strongly in favor of the President now. Everything that we have predicted and that history would tell anybody with any knowledge of it is in the process of occurring.

I sometimes think we love war until we get into it; and then when the green body bags begin to be unloaded off ships, people wonder, "How did we get into this?"

There is no question that we do not want Iran to win the war. I support American warships in the Persian Gulf. I have never argued about the proposition of freedom of the seas. What I have argued about is blundering into this policy of reflagging some of these ships and making a shooting gallery out of the American flag, for reasons that nobody can explain. Not to get oil out. I have said that you can put the entire United States fleet in the Persian Gulf and you will not improve on the 99 percent of the oil we are getting out of the Persian Gulf right now.

This policy, which is bad, will never get any better, just as no bad policy ever gets any better.

We have the War Powers Act on the books, and we ought to live with it and not try to scuttle it and make it publicly popular with everybody who happens to be watching.

The **PRESIDING OFFICER.** The time of the Senator from Arkansas has expired.

Mr. WARNER. Mr. President, we will soon vote on the Byrd-Warner amendment. I say to my good friend from Arkansas that we have been together on this floor in the course of 3 months, shortly after the *Stark* incident. This Chamber began its debates on the War Powers Act, what it meant and what we should do. I go back and read section 5(b), which states, under the War Powers Resolution:

> Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1)—

That report has not been submitted.

> whichever is earlier, the President shall terminate any use of United States armed forces * * *

Mr. President, it is clear under this act, in several places, that Congress itself—and it is an arguable case—can invoke the War Powers Act. Even if this body accepts this amendment—and hopefully it will—within the next half-hour, there is nothing to preclude any Senator from coming into this Chamber and once again initiating the debate, under the War Powers Act. It is as simple as that. We are not taking away the rights of anyone. The act is left intact.

I thank the Senator from Connecticut. He came back with his proposed amendment, which I shall support. And he confirms the objective the distinguished majority leader and I had from the beginning. Leave that act, a landmark piece of legislation, intact. Many of us have problems with regard to its constitutionality and its enforceability. It is an ill-advised procedure by which there is a triggering mechanism to pull the troops out, through inaction by Congress.

All rights of all Senators are preserved under that act. A vote for this amendment is simply a vote that this is the best resolution of this complex matter that could be arrived at over these many months of debate.

I have watched and indeed I was aligned with Senators in the beginning who were steadfastly opposed to any invocation of the War Powers Act or requiring the President to take any action in partial compliance. There are others here who have wanted the act—I respect their right to do so—invoked as the law of the land.

Somewhere, we had to reach a consensus, and this amendment represents the best that those of us who drafted it and who supported it and who have amended it can do. It is the best that can be achieved under the present circumstances.

Immediately after the adoption of this, any Senator may stand and raise the issue once again.

Mr. BUMPERS. Mr. President, will the Senator yield 1 minute?

Mr. WARNER. I believe we have 1 minute. I yield.

Mr. BUMPERS. Mr. President, the art of compromise is absolutely essential around here from time to time, and I have done it many times, and I thought many times it has been helpful to the body. But this particular amendment, we all know, is designed to make certain that this body does not force the invocation of the War Powers Act.

The Senator from Virginia spoke very well just now, but the Senator from Virginia knows as well as I do that once Congress adopts this amendment, once the Senate adopts this amendment, the chances of invoking the War Powers Act are gone.

What this has done, it has been very carefully crafted to do nothing. It really does nothing. We have the War Powers Act standing out there, which was carefully crafted. It needs revision and it needs amendment, and we should deal with it that way.

But you could not get 10 votes to invoke the War Powers Act once this passes, and it is designed to torpedo the War Powers Act. It is not that it does not have some merit. I am not saying it is absolutely without merit, but I am saying that it is designed to make sure that we do not address our Persian Gulf policy in accordance with the War Powers Act which we have tried and tried and almost every time have gotten a majority vote for in the Senate.

But because of rule XXII in which 41 Senators can keep a big majority of this body from functioning, we have not been able to accomplish it. So I have decided I will just take my stand, unpopular or not, in favor of the War Powers Act and opposed to our policy in the Persian Gulf because I know where it is heading.

Mr. BIDEN. Mr. President, yesterday the chairman of the Foreign Relations Committee announced his intention to initiate a review of the War Powers Resolution. In my view, nothing could be more timely. The process established to fulfill the constitutional responsibility of Congress to declare war and build consensus between the executive and legislative branches for critical foreign policy decisions is obviously not working.

Although no administration from Nixon to Reagan has accepted the constitutionality of the law I voted for 14 years ago, the breakdown of the system of consultation that was envisaged then is particularly acute with respect to our policy in the Persian Gulf today.

We have been debating the prudence of that policy for the last 5 months. The Byrd-Warner amendment we are voting on today reflects the fact that there is still a fundamental lack of consensus between Congress and the White House about a strategy for deescalating the conflict in the Persian Gulf and protecting American interests there.

In my view, the Byrd-Warner amendment falls short of making the point that needs to be made, and so I intend to vote against it. The point is that the administration is refusing to engage war powers on one of two grounds, neither of which is acceptable.

The first is based on the claim that war powers is unconstitutional. War powers is in fact the opposite: It asserts the congressional right, as provided for in the Constitution, to shape the decision about when and under what circumstances the Nation goes to war.

The second excuse the administration is giving for refusing to engage war powers is even more absurd in the present context. This is that U.S. forces are not in a situation of "imminent hostilities." The hostilities are not imminent: They are present.

In the face of the administration's resistance to engaging war powers, I intend to continue to support Senate Joint Resolution 194, which would require compliance with the provisions of the War Powers Resolution.

However, the fact that we have to legislate compliance with war powers is evidence that the process intended by Congress in enacting the law in 1973 is not working. So whatever the outcome of this vote, we are going to have to look closely at the underlying problem here, not just with respect to policy in the Persian Gulf, but more generally at why the War Powers Resolution is not operating as originally envisaged and what should be done to fix it.

The experience of the past 5 months, however frustrating, has at least produced one positive result: A commitment to reexamine and clarify the constitutional responsibilities of the Congress in the war power. I look forward to playing an active role in the review of the War Powers Resolution that will be conducted by the Foreign Relation Committee, and I commend the chairman of the committee for his leadership on this important issue.

Mr. WARNER. Mr. President, this Senator has tried to work in the best interest of all conflicting sides. I think in the end we owe a duty to the men and women in the Armed Forces and I am not questioning the patriotism of anyone.

I do believe that some decision, albeit not the best but some decision, is required to express the support of this body for the heroic actions of our men and women in the Armed Forces and the decisions of our President and our allies to work together toward peace in the gulf.

Mr. DURENBERGER. Mr. President, there is no issue of greater importance to the U.S. Senate than war and peace—the actions taken by this body in this area directly affects each and every American. The events of the last 5 months in the Persian Gulf have raised concerns that the United States is moving toward involvement in a conflict with Iran. After an Iraqi attack killed 37 Americans on the U.S.S. *Stark*, a series of incidents took place leading to the current high state of tension between Iran and the United States.

After Iranian minelaying in international waters resulted in great damage to shipping, the United States captured an Iranian vessel in the act on September 21. Earlier this month, United States helicopters returned fire and sunk three Iranian patrol boats. Finally, last Friday, an Iranian Silkworm missile struck the *Sea Isle City*, flying the United States flag, in Kuwaiti territorial waters. In retaliation, four United States Navy destroyers shelled an inoperative Iranian oil platform that was used for tracking shipping and as a base for small boat attacks. While the White House indicated it would submit a report to Congress on the latest incident, many feel much more must be done. An escalatory spiral that could result in a broader conflict appears to be underway—and this has raised important questions about the appropriate role for Congress.

The power of the Congress to declare war is rooted in article I, section 8 of the Constitution. The framers of that document wisely vested the power to declare war solely in the hands of the elected representatives of the people.

Fearing the kind of unrestrained warmaking power associated with European monarchies, the Founding Fathers set up an artful "delicate balance": Congress had the power to declare war while article II gave the President treatymaking powers and named him Commander in Chief of the Armed Forces. This designed tension provides a classic example of shared but separate powers—of how the constitutional framers sought to ensure that the executive branch had the flexibility it needed to conduct foreign affairs but that the fateful decision to go to war would have to be shared with the elected Congress.

Congress has declared war only twice in this century—in the First and Second World Wars. In fact, those wars have been the only ones in this century in which war was formally declared by the belligerents. While the 20th century has been plagued by dozens of conflicts which have wreaked unmeasurable damage and killed millions, the declaration of war has "gone out of style." In the 7-year conflict between Iran and Iraq, for example, not only has war not been declared, but the two nations still maintain embassies in each other's capitals.

The new character of war in the modern world is something the authors of the Constitution could not foresee. They met in Philadelphia a decade before Napoleon began to change the nature of conflict forever. In the last 200 years, war has changed from set-piece battles between professional armies in Europe to total war which involves an entire nation—through mass mobilization, air bombardment, and occupation. In the Third World, colonial conflicts became wars of independence in the postwar era, and they have been succeeded by insurgency and civil strife that rages throughout Latin America, Africa, and Asia today. The United States took part in the "police action" in Korea and our Nation's longest—but also undeclared—war in Vietnam.

As war has changed since the Constitution was ratified, so has the relationship between the executive and legislative branches on the subject of war powers. The Constitution is vague on the exact distribution between the branches of government. It does not, for example, spell out precisely what Congress' role is in situations approximating, but not equaling, war. This ambiguity is particularly important as we continue to face conflicts and military involvement that do not fit the definition of a declared war between legally recognized belligerents.

It was the 1964 Gulf of Tonkin resolution and the Vietnam war that brought the issue to a head in recent times. The aftermath of the Vietnam "conflict" that led to congressional action designed to address the constitutional gray area of war powers in the modern world. The War Powers Act, Public Law 93-148, was passed over President Nixon's veto in 1973. The act was a direct response to congressional perceptions that the executive usurped power in its conduct of the Vietnam war.

In essence, the War Powers Act was intended to increase the involvement of Congress in decisions to commit U.S. Forces into foreign conflicts. It has three essential provisions. First, section 3 requires the President to consult with Congress "in every possible instance" before troops are committed to hostilities. Second, section 4 requires the President to report to Congress within 48 hours after deployment has commenced concerning the disposition of the Forces. Third, section 5 requires that deployment cease after no more than 90 days unless Congress has specifically authorized the action.

Since it became law, no President has accepted the constitutionality of the War Powers Act. Reports have been submitted to Congress on 12 occasions but without acknowledging that the requirements triggering the section 5 termination provision apply. The law states that the termination procedures apply only when U.S. Forces are introduced into hostilities or into situations where "imminent hostilities are clearly indicated by the circumstances." Unless a deployment of American Forces meets those narrow criteria, a Presidential report cannot start the 90-day clock ticking.

The record of the War Powers Act is mixed. While successive Presidents have questioned its constitutionality, no Congress has ever enacted a resolution disapproving the deployment of U.S. Forces. The executive branch has viewed "consultation" as simply notification while Congress has argued for an actual seeking of advice rather than a mere briefing.

The last time we considered the War Powers Act during a foreign policy crisis was in 1983 over the issue of United States Forces in Lebanon. At that time, an important precedent was set after extensive negotiation and compromise. Congress passed a joint resolution authorizing the deployment of forces in Lebanon for 18 months. This path was chosen so as to avoid one of the more serious drawbacks of the War Powers Act: The 60- to 90-day timeclock during which our allies doubt our commitment and our adversaries can choose courses of action to influence congressional action.

But the limitations of the 90-day clock are not the only problem with the War Powers Act. Not only are there serious questions about its constitutionality, war powers is an imprecise guide to action. War powers was intended to ensure the United States would not become involved—through incremental or massive escalation—in a war without the approval of Congress. It would more than likely work well to prevent this type of scenario from becoming a reality. It is less workable, however, when the scenario is a high-risk but not "warlike" policy.

The current situation in the Persian Gulf is a good example of the shortcomings of the act in dealing with an ambiguous foreign policy that has great risks but no intention of involvement in war. If the War Powers Act was invoked concerning our deployment in the gulf, and if Congress were not to authorize a continued U.S. role, American forces would have to be withdrawn. But there are no guidelines as to which forces would have to be removed.

The United States had a naval presence in the gulf for some 40 years. The vast majority of the vessels currently in the gulf are on station in international waters. If the termination provisions of the act were to come into force, what forces would be subject to termination? And where would they go—from international waters in the gulf to international waters in the Arabian Sea, or in the Indian Ocean? And what would happen if they ran into a mine outside the gulf, or were attacked by aircraft outside the gulf? Would we be forced to remove our forces further?

As these questions illustrate, the termination provisions of the War Powers Act are a very blunt instrument in the case of naval operations conducted outside territorial waters. And it should be remembered that once U.S. Forces are deemed to be in a situation of hostilities or "imminent" hostilities, the Forces must be withdrawn even if Congress does nothing—because termination of deployment occurs unless Congress takes affirmative action.

There is a still deeper problem with the War Powers Act. Such legislative restrictions actually create an incentive to formulate courses of action designed to avoid the requirements of the law—whether or not they are the best courses of action. For example, the 60- to 90-day time limit gives the President an incentive to plan interventions to be short in duration. This may not be negative in every case, but it may be in some cases. And if such constraints lead to poor policy in even one case, the cost could be devastating.

The requirements of the War Powers Act can also lead an administration to take a minimal course of action designed to avoid invocation—whether or not such action is the best way to protect U.S. interests. And there are tremendous gray areas where the act is inadequate—such as counterterrorist or counterinsurgency operations.

The many shortcomings of the War Powers Act do not mean that it should be ignored or repealed. They do mean that there is a pressing need to change or modify the act so it better fits the world of 1987. Such adaptation is necessary but difficult. While I was chairman of the Senate Select Committee on Intelligence, I tried to initiate a dialog with the executive branch on how the War Powers Act could be reshaped into a more effective tool.

Though my efforts ultimately did not succeed, I am pleased to support the recent calls for a national commission to address the fundamental issue of war powers, not just its application to the Persian Gulf. We must fashion a tool that leads to an examination of the important policy issues during times of crisis, instead of debating issues that are mere distractions. In our present consideration, we have heard a discussion of semantics—such as how "imminent hostilities" is defined in Webster's Dictionary. When we considered war powers over Lebanon in 1983, there was extensive debate over when a Presidential letter was postmarked to determine if notification was made within 48 hours. These are clearly not the kinds of issues that the framers of the Constitution envisioned for congressional debate when they wrote section 8 of article I.

The issue before the Senate today is a Byrd-Warner substitute amendment to the Senate Joint Resolution 194. Where Senate Joint Resolution 194 would invoke the War Powers Act with respect to U.S. Forces in the Persian Gulf, the Byrd-Warner substitute would satisfy the intent of the act while avoiding many of its flaws. The substitute as introduced requires a Presidential report within 60 days—but on far more than the disposition of forces. The administration would be required to lay out its policy; objectives; how to measure progress toward those objectives; the anticipated duration of the gulf operations; and how any military deployments support our regional diplomatic strategy.

After the President files his report, Congress would have 30 days to act on a resolution dealing with the gulf under expedited procedures. The Byrd-Warner substitute does not spell out exactly what form a resolution would take—it wisely defers that decision until Congress has had a chance to study the Presidential report. It could be that Congress will choose to support the disengagement of U.S. Forces from the gulf but, under Byrd-Warner, we will not be locked into a rigid timetable when events are changing rapidly. And the expedited procedures ensure that parliamentary delaying tactics will not be able to halt consideration of any resolution.

Byrd-Warner is not a perfect solution; in such difficult matters the choices are often between lesser evils. I have a number of reservations about the course we are pursuing in the gulf. I want our goals clearly laid out. I want to know how long the Emir of Kuwait's tankers will be flying American flags on his tankers. And I want to know how escorting selected ships will aid in a peaceful resolution of the Iran-Iraq war. The Byrd-Warner substitute requires the Presidential report to address these questions.

There are many in the Senate who feel that Byrd-Warner does not go far enough, that this body should invoke the War Powers Act. There are others who seem to feel that any role for Congress in foreign policy—beyond the power of the purse—is going too far. But I feel that the Byrd-Warner substitute is the best way for our Nation to speak with one voice in foreign policy. I will support the substitute and I urge my colleagues to do the same.

ADRIFT IN THE PERSIAN GULF

Mr. **BYRD.** Mr. President, the most troubling aspect of our expanded involvement in the Persian Gulf region is its open-ended nature and the lack of a clear set of objectives underlying our increased military role.

In the months since the decision was made to reregister Kuwaiti tankers with the United States flag, the administration has provided varying justifications for that action and has continually shifted its estimates of the amount of naval force which would be required to implement the policy of escorting the reflagged tankers.

It is now clear that we are involved in something much larger than the convoying and escorting of 11 reflagged tankers. The past 2 weeks have seen two separate incidents in which United States Forces have engaged Iranian patrol boats, in both cases employing lethal force, and two incidents of Iranian attacks on United States-owned or United States-flagged vessels in Kuwaiti internal waters. To many Senators, this involvement of U.S. Forces in what the Pentagon itself calls hostile incidents fully justifies the triggering of the requirements under the War Powers Resolution.

Early Monday morning yet another incident involving United States military forces occurred, this one by far the most significant of any to date, as ships of the United States Middle East Force shelled and destroyed and Iranian offshore platform which had been used for staging Iranian attacks in the gulf.

I believe this retaliation by the United States was justified in light of the Silkworm attacks and continuing Iranian provocations. But the episode only serves to underscore the perilous and questionable underpinnings of our reflagging and escort policy in the gulf region.

The difficulties which such a policy can produce are illustrated by Monday's events. The President, in his letter dated October 20 to the President pro tempore of the Senate, made specific reference to the attack on the United States-flagged Kuwaiti vessel, but no specific reference to the attack the previous day on a United States-owned ship flying the Liberian flag.

The absurd outcome of the escort and convoy operation appears to be that our forces are committed to defending Kuwaiti-owned tankers flying the American flag, but not American-owned ships flying various flags of convenience—and not the ships of our allies, regardless of the flag they fly. We retaliate in self-defense on a selective basis. There is no logic to this situation.

The U.S. commitment to the escorting operation is forcing the administration to draw artificial lines among different types of incidents with no real persuasive logic. Statements by the administration in a defense of this convoying and the rules of engagement are becoming more and more strained.

The situation in the gulf is becoming more unpredictable and American policy is more in need of a bipartisan consensus between the executive and legislative branches than ever before. Attempts to forestall and stymie the Senate from speaking on this matter does the Nation a disservice.

An example of the dangers we confront and the unpredictable nature of our involvement can be seen in the latest incident in the gulf. According to news accounts which I have just received, an attack, which may have been conducted by a Silkworm missile, has been made on Kuwaiti oil installations near the Kuwaiti-Saudi Arabian border. The dangers of a wider war in the gulf region are present, and this gives even more urgency to the search for an end to this gruesome war.

We are now confronted with the alternative of whether to establish a definite timetable and structure for the Senate to express its will on the full range of U.S. commitments and involvement in the Persian Gulf region, or do nothing at all for the foreseeable future. Doing nothing, I believe, is irresponsible. For those who have cited the Tonkin Gulf resolution of 1964 as an example of congressional abdication of responsibility in the area of war making, I think doing nothing at all at this juncture is in a sense the de facto equivalent of that kind of action. By inaction we cannot escape responsibility for what happens in the Persian Gulf. We must, I believe, continue to try to take an active and responsible position in regard to this situation—the American people expect us to take such a role.

The administration refuses to acknowledge that the War Powers Resolution should apply to the situation in the gulf. It portrays efforts in Congress to invoke the War Powers Resolution as calling into question the commitment of the United States to the security of its friends in the region and to the defense of our national interests. This is not, of course, an accurate interpretation of the intent of various approaches which have been tried in the Senate.

The War Powers Resolution is not an ideal instrument for addressing these kinds of issues. Three weeks ago, in debate over the reflagging operation, several Senators joined me in offering an amendment which targeted our actions only on the reflagging and the convoy and escort operation. In doing this, we made it clear that we were not seeking to call into question the overall U.S. commitment in the gulf or the presence of a U.S. military force there. Instead, we were calling into question the expanded military involvement and the open-ended nature of this commitment to provide escort service for the former Kuwaiti tankers. This amendment, had it been adopted, would have mandated an end to the convoying of the reflagged tankers unless Congress specifically authorized it. This amendment had the support of a majority in the Senate, but we did not have enough votes to invoke cloture.

For the past 6 months the Senate has been unable to express its position on Persian Gulf policy and to speak clearly, due to the inability to obtain 60 votes to overcome a filibuster. The result is that the administration continues to expand the military involvement in the gulf and to alter the rationale and justification for our presence, but the American people, through their elected representatives, have been unable to express support or reservations about the policy.

The amendment offered by Senator WARNER and myself is another attempt to overcome this situation. It offers the Congress a guaranteed opportunity to express support or reservations about the policy, and it provides the administration with another chance to explain clearly what our objectives in the gulf are and what the long-term implications of our expanded involvement in the region will be. The administration is instructed to report within 60 days, and the Congress will then act within 30 days.

Unlike the requirements in the War Powers Resolution or in the earlier Byrd-Nunn amendment, no termination of military involvement is mandated if Congress fails to enact a resolution supporting that involvement. This should address the concern which many in the body have that by invoking the War Powers Resolution—or the earlier Byrd-Nunn amendment—the Senate would be putting a deadline on United States presence in the region and would be giving too much initiative to others, especially the Iranians, to dictate the duration of our involvement. The Byrd-Warner amendment explicitly endorses a U.S. presence in the region. It defers for 90 days the question of whether specific limitations need to be placed on that involvement.

At some point the administration must clearly explain the long-term objectives of its policy in the gulf and obtain the active support of the Congress. Failure to do so can only lead to further confusion and erosion of U.S. prestige in the future. This amendment offers a bipartisan opportunity for constructive action by the Congress. It deserves the support of the Senate.

THE PRESIDENT SHOULD CONSULT WITH CONGRESS

Mr. WIRTH. Mr. President, I support the amendment by the distinguished majority leader and the distinguished senior Senator from Virginia directing the President to report to the Congress on his policy of escorting reflagged vessels in the Persian Gulf.

In recent history we have seen many examples of the dangers democracies face when they attempt to conduct foreign military operations without popular support. Indeed, Secretary of Defense Caspar W. Weinberger has asserted that popular support was crucial to future military operations by U.S. forces. This amendment asks the President to provide Congress with the information necessary to determine, as representatives of the people, whether such support is warranted in the Persian Gulf.

In the ideal world, I would rather Congress put into motion the provisions of the War Powers Act. It was devised and enacted over Presidential veto to apply to just such circumstances as these. But unresolved questions about that act have polarized debate in this Chamber. The Byrd-Warner amendment is a good-faith effort to strike a compromise that would allow Congress to obtain the information it needs to fulfill its vital constitutional duties of raising and supporting armies, providing and maintaining navies, and, if necessary, declaring war.

In recent months, we have heard much about the clash between the executive and legislative branches over matters of foreign policy. Someone once called the provisions of the Constitution governing the separation of powers over foreign relations "an invitation to struggle." But it need not be that way. Conflict is not necessary if we consult and agree.

But President Reagan's idea of consulting with Congress on foreign policy and national security matters is to send us cryptic reports that assert a policy and for us to act as his rubber stamp. He wants a legislative cheering section, not a deliberative body that advises and consents. No one here is disputing the President's role as Commander in Chief. But Mr. Reagan seems to dispute that the Congress too has a constitutional role in foreign policy and national defense. We are charged with raising and supporting the forces the President commands.

On September 29, the Chairman of the Joint Chiefs of Staff, Admiral Crowe, told the Senate Armed Services Committee that the Persian Gulf operation was costing $20 million a month. Who is paying this bill? The Defense Department has not asked us for supplementary appropriations to defray these expenses. Are the funds coming from elsewhere in the Defense Department? Is the readiness of other services in other parts of the world being degraded to support this operation? During the Vietnam conflict the readiness of the Seventh Army in Europe declined significantly as skilled personnel were diverted to the combat theater. Funds for operations and maintenance in Europe dropped. Morale declined. Equipment deteriorated. What is being slighted today to keep up these operations in the Persian Gulf?

But there is a considerably more profound reason for this amendment, Mr. President. The Constitution grants to the Congress—not to the President—the authority to declare war. Accompanying authority is responsibility. And there is no responsibility held by the legislative branch that is of greater gravity than this one.

As a rule, it is instructive to consult history when one is confronted with a significant decision in modern-day government. In looking over the history of conflicts through the world in the past several hundred years and, specifically, of conflicts involving the United States, at least one common thread runs through all of them: warning signs, available at least to those who were watching for them, have always revealed the imminence of conflict and war.

Sadly, we have not always analyzed the information at our disposal correctly. We have moved forward too quickly on the basis of incomplete information. Others who have spoken on this issue have referred to Vietnam. The Persian Gulf is not the Gulf of Tonkin and we have not been asked to give carte blanche to the President, but I am reminded of how quickly this body moved then to authorize military operations on the basis of incomplete information. And we all remember the consequences. I am also reminded of George Ball's warning to President Johnson at about the same time: "Once we are sitting on the tiger's back we can never again be sure that we will be able to find a place to jump off."

One of the principal reasons why we have not always been more prepared to make sound judgments involving ourselves in conflict, or once committed to prosecute them vigorously, competently, and victoriously, was that the executive branch would fail or refuse to provide Congress with complete or accurate information about the circumstances. The Congress, in such situations, needs to understand better the nature of the threat or perceived threat. We need a more thorough analysis of the options available to counter the threat and the projected cost of executing each option. We need to fully understand the risks for this Nation. And we need to know the readiness and ability of our Armed

Forces to successfully execute each of the options in which they would be directed to participate.

The need for this kind of information led to the enactment of the War Powers Act. That act is designed to assure that, when the very first steps are taken that could plunge us into hostilities, the executive branch will bring the Congress into the deliberations and the policy formulation process as informed participants.

The War Powers Act is not an attempt to deny the Commander in Chief of his command powers. It is not an attempt to substitute congressional judgment concerning tactics or means for the Commander's judgment. It does not deprive the Commander in Chief—the Chief Executive—of the capability to respond immediately and effectively to unexpected acts of aggression or other immediate threats to our national security. But in our system of Government, fundamentally based in a system of checks and balances, the War Powers Act is a legitimate assertion of a congressional role in determining the broad policies that involve our Armed Forces.

Congress intended the War Powers Act to apply in such situations of ambiguity that we now face in the Persian Gulf. Much time has been consumed over the past several weeks in debating the fine points of the law—trying to define with precision the circumstances to which the act applies and determine with a legalistic microscope whether the situation in the Persian Gulf is a perfect fit.

Such scrutiny fails to grasp the spirit of the War Powers Act. We already have had loss of life when the U.S.S. *Stark* was hit by two missiles. We already have seen convoys of American-flagged vessels damaged by mines while under U.S. Navy escort. We already have attacked an Iranian Navy ship because it was laying mines in international waters in the gulf. Iranian ships already have fired upon our helicopters and been attacked and destroyed in retaliation. The Iranians have fired their Silkworm missiles at one of our reflagged ships, and we have retaliated. The question is no longer whether or not hostilities are imminent. Our forces already have been involved in hostile actions.

I want to commend those on both sides of the aisle, who have sought to get us back on track. The amendment now pending emerged from these bipartisan discussions. Between those who wish to avoid a confrontation with the administration, those who would make changes in the War Powers Act, and those who would require the President to comply with the War Powers Act. Approval of the compromise amendment would permit Congress, based on careful examination of facts provided by the President, to determine whether it is in the national interest to continue the full scope of our involvement in the Persian Gulf.

I believe the War Powers Act properly applies to this situation, and could work, if employed and designed, to the benefit of the administration, the Congress and the Nation. However, I think this amendment is a reasonable way to resolve this stalemate.

I urge all Senators to support this amendment—and then, once it becomes law, to apply all our faculties to determining whether the actions in the Persian Gulf initiated by President Reagan are in our national interest and should be permitted to continue—and for how long.

Mr. LEVIN. Mr. President, I will vote for the Byrd-Warner amendment because it guarantees that the Senate will vote within a relatively short amount of time on this Nation's policy in the Persian Gulf. This amendment does not in any way amend or undercut the War Powers Act. In fact, if there were the votes in the Senate to pass a resolution invoking the War Powers Act, we could still pass that resolution tomorrow, even if the Byrd-Warner amendment passes today. So, this amendment allows the Senate to proceed on two tracks: the one the Byrd-Warner amendments sets out, and the one established by the War Powers Act.

I believe that the War Powers Act applies to our current activity in the Persian Gulf. I would hope that the President recognizes that reality. But if he does not, then the Congress should take action, and I will vote to invoke the War Powers Act. However, in seeking to pursue the approach of the War Powers Act, we should not rule out other ways for the Congress to take an active role in formulating this Nation's policy in the Persian Gulf. The Byrd-Warner amendment gives the Congress just such an opportunity.

Mr. WARNER. Mr. President, might I suggest that the Chair restate the question that is pending for the convenience of Senators, since the hour of 12 o'clock has arrived?

VOTE ON AMENDMENT NO. 1028

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, under the previous order, the question now occurs on adoption of the Weicker amendment. The yeas and nays have been ordered. This will be a 20-minute vote.

The clerk will please call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—59

Adams
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Specter
Stafford
Warner
Weicker
Wirth

NAYS—38

Armstrong
Bond
Boren
Chafee
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Nickles
Pressler
Quayle
Reid
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Wilson

NOT VOTING—3

Kassebaum
Simon
Stennis

So the amendment (No. 1028) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Regular order.

VOTE ON AMENDMENTS NO. 952 AND 951

The PRESIDING OFFICER. Under the previous order we now recur to a vote en bloc on the Byrd-Warner, Warner-Byrd amendments No. 952 and 951. The yeas and nays have not been ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendments. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—47

Baucus
Bentsen
Bingaman
Breaux
Chiles
Cohen
Conrad
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Heflin
Heinz
Hollings
Johnston
Lautenberg
Levin
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Warner
Wirth

NAYS—51

Adams
Armstrong
Biden
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Cochran
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Harkin
Hatch
Hatfield
Hecht
Helms
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Leahy
Lugar
Matsunaga
McCain
McClure
McConnell
Nickles
Pressler
Proxmire
Quayle
Rudman
Symms
Thurmond
Trible
Wallop
Weicker
Wilson

NOT VOTING—2

Simon
Stennis

So the amendments (No. 951 and No. 952) were rejected.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I move to reconsider and I qualify as having voted with the prevailing side.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. BYRD addressed the Chair.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, has there been a response? Has there been a response on the quorum call?

Mr. ADAMS. Yes, I have answered.

The PRESIDING OFFICER. Once the clerk calls the first name on a quorum call, the quorum call has commenced.

Mr. BYRD. So there has been a response.

The bill clerk continued with the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 1 hour for debate on the motion to reconsider, the time to be equally divided and controlled by the two leaders.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order.

The majority leader.

Mr. BYRD. Mr. President, I understand that some of our colleagues voted against the amendment under the mistaken impression that this amendment negates, repeals, modifies, changes, or makes references to in any way the War Powers Act. If they voted against the amendment under that misconception, then I hope that they will change their vote when we vote again on the amendment.

This act in no way touches the War Powers Act. It does not repeal it. It does not negate it. It does not modify it. It does not add to it. It does not subtract from it. That was made clear in the debate that preceded the vote.

Mr. President, what this amendment does, it requires the President to report to the Congress, not in accordance with the War Powers Act but in accordance with the language in this amendment, within 60 days, and within that report he must set forth certain information specified by the amendment.

For example, what is the policy of reflagging and convoying? What is it costing? When is it going to be terminated? What commitments have other nations made to this Nation in support of this policy? What commitments has this Nation made to other nations? What impact is this policy of reflagging and convoying having upon United States commitments elsewhere—on NATO or on any other vital part of the world? Does it mean we are drawing down our weapons, our material, our men, from other parts of the world? How much has been spent? Are not the American people entitled to know this? We are not getting such information otherwise. Are the American people not entitled to know when this policy is likely to end? Are they not entitled to know what our commitments are, what the strategic objectives of this policy are, and what standards this administration is applying to determine whether or not we are achieving those objectives?

Do we want to deny the elected representatives of the American people the information that is required by this amendment? We are not getting this information otherwise. Then the amendment provides that following the receipt of that report from the President, a resolution can be introduced which would go to the Foreign Relations Committee in the Senate. And that committee could not report out such resolution until the 8th day of session of this House but between the 8th day and the 15th day of the session of this House, that committee would report out a resolution.

If it did not report out a resolution, then the committee would be considered discharged, and the resolution would go on the calendar. And any Member could then move to take up that resolution. That would be a nondebatable motion. Once the resolution is before this body, we Senators would have an opportunity to study that resolution, and to amend it.

The distinguished Republican leader has said we do not know what would be in that resolution. How do we know what would be in that resolution? Only God knows what would be in that resolution. And only God knows what would be in any amendment or resolution complying with the War Powers Act. Who knows? The answer to that question by my good friend, the Republican leader, as to what will be in that resolution will depend upon the circumstances at the time, and on the information that the President includes in his required report to Congress. We make our judgment. And then it goes to the Foreign Relations Committee where it is worked on by a bipartisan group of Senate committee members. They will determine what is in the resolution that is reported.

Nobody has the prescience to foresee today what language will go in the resolution. It will be introduced circa 60 days from the enactment of this act. Without knowing what is going to happen in the meantime, what will be the circumstances? What are the data in the report that the President is required to send to this Congress?

We are all grown men and women. It seems to me we ought to be able to deal with the resolution that is reported out of a duly-constituted standing committee of this Senate. And even the minority leader in this amendment is guaranteed that he will be able to offer an amendment. He is not guaranteed that in the War Powers Resolution. He is not guaranteed that in any budget resolution. He is not guaranteed that in any reconciliation measure that comes to this floor. But he is guaranteed that in this legislation.

Mr. President, it seems to me that this resolution provides a sure way, if it is enacted into law, for the elected representatives of the people to have a role in determining policy. We are not talking about managing the day-to-day operations in the gulf. We are talking about policy. Are we going to leave the policy only to the other end of Pennsylvania Avenue? That is the problem now. That end of the avenue does not want this end of the avenue to have a voice in policy. When this body strains in the effort to give itself the role to which the American people are entitled, then it is accused of "Oh, there are 535 Secretaries of State up there." Hogwash!

Are Senators afraid to give to the elected representatives of the people in this body a role in passing on a policy which right now is in effect and about which you can do nothing other than exercise control of the purse. Are Senators afraid of a report? Why not require the President to send a report to Congress? Why not? Why should there not be a timeframe in which the elected representatives of the people, we Senators, will have a voice in the policy, a policy that requires the treasure, t-r-e-a-s-u-r-e, treasure of this Nation, a policy which will require the blood of the sons and daughters and grandsons and granddaughters of the American people?

So those who do not wish to vote to repeal of the War Powers Act, I hope they will think a second time. This measure does not repeal the War Powers Act. But it assures, if it is enacted into law, that we, the representatives of "We, the people," will have the opportunity that most Senators in here want, namely, to have a role in policymaking. Senators are not going to get that role, in all likelihood, under the War Powers Act.

The Senate is unable to shut off a filibuster on that act. But this legislation guarantees against a filibuster on the resolution that would come before this Senate in due time under this amendment.

Mr. President, I am sorry if I have taken all the time. I want my colleague, Mr. WARNER, to have some time. I yield the floor.

Mr. DOLE addressed the Chair.

Mr. ADAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. A parliamentary inquiry as to how the time is divided. I think it is between the proponents and opponents, and we wish to exercise the time of those of us who do not favor the motion to reconsider. I just want to know from the President how the time is being divided.

The PRESIDING OFFICER. One hour of debate has been ordered equally divided with time controlled by the majority and minority leaders.

Mr. ADAMS. Has the minority leader declared against the motion to reconsider?

Mr. DOLE. Yes.

The PRESIDING OFFICER. Yes.

Mr. ADAMS. I thank the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I thank the Senator from Washington. I am going to make a brief statement, and I will leave the remainder of the time to the distinguished Senator from Oregon, who is in opposition to the motion to reconsider.

The PRESIDING OFFICER (Mr. DASCHLE). The minority leader is saying he is designating the Senator from Oregon to control the time?

Mr. DOLE. Control the remaining time after my statement.

Mr. President, let me just say very quickly that I understand what has happened here. There are those who are opposed to Warner-Byrd and those who are opposed to doing anything other than invoking the War Powers Act. That produced a majority. Whether or not it would be sustained I do not know.

But there is more in this than just asking for a report from the President. We do not need to pass a law to get a report from the President of the United States. I am certain any committee chairman of the Foreign Relations Committee or of the Armed Services Committee or the majority leader or the minority leader, whoever, could write the President of the United States, and ask for all the information that is on page 2: Let me quote—"the extent to which the policy is protecting registered vessels; support U.S. regional strategy; the anticipated duration of the operation"—those seven or eight things listed, I assume we can find the answer without passing a law.

But the problem with this Byrd-Warner amendment is that we do not have any idea what is going to happen after that. What happens after the report? What is the resolution going to be? The majority leader is right—nobody knows. It would be hard if nobody knew and there was not a time agreement once the resolution came to the floor. But under this procedure, we are locked in. We do not know what the resolution is; we do not need to know. As long as the majority leader knows and if he offers a resolution——

Mr. BYRD. The majority leader does not know.

Mr. DOLE. I said you will know.

Mr. BYRD. The Senator said as long as I know.

Mr. DOLE. In the final analysis, once you know what it is, that is what it is. That is the way it works. You have the right of recognition and you have a time agreement. Maybe that is all right. I have every confidence in the majority leader. I think he is concerned about the Persian Gulf. He has a right to be concerned. It seems to me that, as a matter of procedure, up to that point it is all right. But when you lock us into a time agreement, those of us who have any other ideas, we cannot debate it. Everything is laid out.

The minority leader is entitled to offer one germane amendment, and I am thankful for that. I do not have any illusion that it might be adopted. But if we want to have a test vote today, instead of playing all these games, why do we not put up a resolution and get consent to vote on it? The resolution could say that no more money shall be appropriated for U.S. forces in the Persian Gulf. That is something the American people can understand.

Either we get out of the Persian Gulf or we stay in the Persian Gulf. If Congress wants a role, we have the power of the purse. We can cut of the money, and we can vote on that resolution today or tomorrow or the next day. But we do not want to do that. We want to have it both ways. We want to be in a position to blame the President of the United States if something goes wrong and be in a position to do something else if something else happens. That is a right we have, too.

Nobody gives the President a blank check. But it seems to me that we have reached the point where maybe there ought to be an up or down vote on the War Powers Act. I do not think we are at war, and I do not think the War Powers Act is meant to cover this type of activity. But there are some in this Chamber who feel strongly about that. I do not consider this amendment to be a middle ground. We do not know what it is. We know what the War Powers Act is. We know what to expect under the War Powers Act. We do not have any idea what the final resolution may be under the Byrd-Warner amendment.

If we need to pass a law to get a report, let us strike out everything after the report. We can get that without passing legislation. We have many reports now from different agencies that are never read, and we can get another one without passing a law.

The Senate has spoken on this amendment. I hope the motion to reconsider fails and that we go on to the Bork nomination. Then, perhaps, we can come back and finish this up later on.

So, Mr. President, I am opposed to the Byrd-Warner amendment. It does not make any sense to this Senator. If its purpose is just because we want a report, I do not understand why we need to adopt this amendment. I do not understand how we can anticipate what may be in the resolution. The majority leader says we can. Nobody knows. But someone will know. And that someone will make a determination, and that will go to the Foreign Relations Committee, where, by a party line vote if nothing else, it will come to the floor under a time procedure that locks everybody in. You cannot filibuster the resolution, even if it is wrong.

So I would hope that this will not be reconsidered, and I say that with all respect to my colleagues, Senator BYRD and Senator WARNER.

I yield the remainder of my time.

Mr. BYRD. Mr. President, I yield myself 1 minute.

My good friend the Republican leader is a very shrewd debater. Again he says we will not know the contents of the resolution that is provided for in the Byrd-Warner amendment. I ask the distinguished Republican leader: Looking at the War Powers Act, it reads as follows:

> Any concurrent resolution submitted pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within 15 calendar days—

And so on.

Will the distinguished Republican leader tell the Senate: He has pointed to what he perceives as a weakness in the Byrd-Warner amendment—namely, we do not know what will be in the future resolution. Will the distinguished Republican leader state to the Senate what would be in the concurrent resolution that would be introduced and referred to the Committee on Foreign Relations of the Senate and reported out within 15 calendar days, as provided in section 7(a) of the War Powers Resolution? What would be in that resolution?

Mr. DOLE. If the majority leader will permit me to take a look at the War Powers Act, I can respond to that question.

Mr. BYRD. Yes.

I hope all Senators will read the War Powers Act before they again vote against the Byrd-Warner amendment.

Mr. ADAMS. Mr. President, while the minority leader does that, I ask that time be allocated to the opposition, which has not had a chance yet to speak.

The PRESIDING OFFICER. The Chair informs all Senators that the Members who control the time are the majority leader and, under the unanimous-consent agreement, the Senator from Oregon.

Mr. ADAMS. I ask the Senator from Oregon to yield 5 minutes.

Mr. BYRD. Not at this point. I want an answer to my question.

The PRESIDING OFFICER. The majority leader is in control.

Mr. BYRD. I will protect the rights of the Senator to see that he has whatever time he desires.

Mr. DOLE. I do not have my glasses.

Mr. BYRD. I can lend the Senator mine. [Laughter.]

Mr. DOLE. The concurrent resolution has to be in the affirmative or the forces come home. That is what the War Powers Act says. We know pretty much what the resolution is going to be. It says:

> Within 60 calendar days after the report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law.

So the resolution is going to be somewhere in that category, I say to the distinguished majority leader.

Mr. BYRD. I am not so sure that I subscribe to that response. I do not think we know today what would be in that resolution in the War Powers Act. So it is a weak reed if I may say, in a generous and charitable a way as I can, to my friend, the Republican leader, to oppose the Byrd-Warner amendment because we do not know what will be in that resolution, when the same must be said of the War Powers Resolution.

Congress passed the act over the President's veto, and it does not set forth the language that would be in the resolution provided for in the War Powers Act. Additionally, it requires that this House should vote on any resolution that is reported under the War Powers Act within 3 calendar days—within 3 calendar days.

Now, the Byrd-Warner approach does not require the Senate to act within 3 calendar days.

Mr. President, I thank the distinguished Republican leader.

Mr. DOLE. If I might, I would like to include in the RECORD that section of the War Powers Act.

Mr. BYRD. Mr. President, I ask unanimous consent that the entire act be printed in the RECORD.

There being no objection, the act was ordered to be printed in the RECORD, as follows:

1. WAR POWERS

a. WAR POWERS RESOLUTION

Public Law 93-148 [H.R. Res. 542], 87 Stat. 555, 50 U.S.C. 1541-1548, passed over President's veto November 7, 1973

Joint resolution concerning the war powers of Congress and the President.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

Sec. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

Sec. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations whre imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

Sec. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities within respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress less often than once every six months.

CONGRESSIONAL ACTION [1]

Sec. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the

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[1] See also sec. 1013 of the Department of State Authorization Act, fiscal years 1984 and 1985 (Public law 98-164; 97 Stat. 1062) which reads as follows:

"EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTION AND BILLS

"Sec. 1013. Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of sec-

Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL [1]

SEC. 6. (a) Any joint resolution or bill introduced to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section, shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days therafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

SEC. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

SEC. 9. If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 10. This joint resolution shall take effect on the date of its enactment.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas and the majority leader control the time.

Mr. DOLE. I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself some time and then the Senator from Washington some time.

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tion 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House."

For text of sec. 601(b) of International Assistance and Arms Export Control Act of 1976, see vol. 1, page 334.

I yield myself whatever time I may need.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, basically this Byrd-Warner amendment, any way you look at it, is a substitute for war powers. In fact, here is Senate Joint Resolution 194, our original resolution setting forth the War Powers Resolution. This amendment literally is an amendment to it, to the War Powers Resolution.

Mr. President, I think the American public expects us to get to base. We are up to bat. The ball is coming in our direction—the President of the United States has already complied with the spirit of the law of the War Powers Resolution.

I have repeated it before and I will repeat it again. On October 20, in the Congressional Record is a letter that the President sent to the President pro tempore of the Senate outlining the incident in the Persian Gulf. He said, "I am providing this report consistent with the War Powers Resolution." I emphasize the crafted word "consistent."

He recognizes that he has an obligation of some kind—whether he thinks the act is constitutional or not—to send this letter, this report within the consistent framework of the war powers. All the Byrd-Warner amendment does is to postpone another 60 days what the President has already triggered.

We have danced a lot of interesting pirouettes around this floor on this issue. This is indeed a collection of strange bedfellows on this issue. There are those voting against Byrd-Warner who do not want to deal with the policy at all. And there are those who want to get to the war powers and stand up to the responsibility of the war powers, those who do not want to delay another 60 days taking the responsibility, the role that is vested in the Senate of the United States.

Mr. President, I do not think we should give the American public the impression that somehow we have crafted another way to dodge the responsibilities, the responsibilities clearly stated in the War Powers Resolution.

As the majority leader has said, the report required in Byrd-Warner could be sent up here within a matter of hours. We do not have to pass a law to get that kind of information. Once we get it—what do we do with it? Read the language of Byrd-Warner: "Within 30 days after the report required by paragraph (b) is submitted or should have been submitted—or on the first day of the session thereafter, whichever is later, a resolution if such resolution is introduced shall be acted upon."

We do not have any specific requirement to take a role even after we get the information, even if some resolution is introduced.

But on the other hand, war powers very specifically says that after the report is submitted: Within 60 days the Congress has declared war or has enacted a specific authorization for such use of U.S. Armed Forces. Otherwise, the policy must end. Very specific is the role assigned to the Congress of the United States under war powers.

Some of my colleagues will say that, those who are opposing this and who oppose the war powers as well will filibuster. We cannot get to the war powers question, they will not let us. That is very obvious. We have been trying to do it now for a month or 6 weeks.

But, Mr. President, on October 20, the whole situation has changed. We are no longer really required to pursue the strategy of trying to trigger war powers by voting for it in this resolution. The President has said, "I am submitting this information on the Persian Gulf consistent with the War Powers Resolution."

Now someone will say—he did not say "compliance." My point is this: If it is only the spirit of the law with which he is complying, then we can move with the spirit of the law as well and introduce a resolution on the Persian Gulf in compliance with the spirit of the war powers.

I will offer the resolution to bring the troops home if that is the vehicle we need, but I am sure the Senate Foreign Relations Committee is quite capable of moving on this in a resolution and with the information we can ask for to make that resolution meaningful.

I think it is also interesting that the same word "consistent" has been used by previous administrations as the Senator from Virginia pointed out earlier today.

I frankly would like to see us get beyond these mechanical problems and procedural problems and get to the debate on the policy in the Persian Gulf. We have not debated that. We have been doing nothing but debate procedure in all these weeks.

The American people expect us to get to that issue and to debate the validity of the Persian Gulf policy. We did yesterday take an incident out of the Persian Gulf policy and we approved it 91 to 1. Already that has been interpreted as someone's endorsement. But from where did the incident come? It came from the policy that we are following in the Persian Gulf. It is artificial to try to delineate between the incident that we approve and the policy that we have not acted upon, approval or disapproval.

I will be happy to yield 5 minutes to the Senator from Washington State.

Mr. ADAMS. That is fine. I thank the Senator from Oregon.

Mr. President, what has happened this morning with this vote is a clear indication that we now have accomplished the triggering of the War Powers Act which many of us believe has been triggered long prior to this.

One of the reasons that many of us opposed the resolution, the Byrd-Warner resolution, this morning is that that must go through the other House, go to the President, and could be vetoed. It is to break a filibuster and I compliment the majority leader for doing everything possible to break a filibuster on what we were trying to do which was to trigger the War Powers Act.

The Senator from Connecticut, Mr. Weicker, the Senator from Oregon, Mr. Hatfield, the Senator from Arkansas, Mr. Bumpers, and the Senator from Washington, Mr. Adams, have all been stating the act is in effect and, yes, that is why I wanted the minority leader here.

Under the terms of the act it is absolutely false to say that the only action that can take place is that all the troops come home, absolutely false.

What it does do and what the act was constructed to do by Senator Javits, and I will read again from it, is to say to the President there is a power to declare war only in the Congress and the War Powers Resolution is a subsidiary part of that power to declare war and that subsidiary part says, "Mr. President, you can take actions as the Commander in Chief, but you cannot run a long-term policy that leads us into war or has goals that neither the Congress nor the American public understands unless you report to us.

Then we immediately go to the Foreign Relations Committee and, Mr. President, I want to say to the majority leader and to the minority leader, Mr. Weicker, and the rest, that I, too, will enter a resolution on this matter and under the act any joint resolution introduced under this section which we now say is triggered shall go to the Committee on Foreign Affairs in the House and Foreign Relations in the Senate and then there is an expedited procedure so it shall come back.

What is means, though, and why it was so important to us and why we voted the way we did this morning was that the burden shifts. Now the President is going to have to take things out unless he comes up here and helps us form a resolution—and I am prepared to work with the President, I know the majority leader is, I know the minority leader is—to form a resolution out of the Foreign Relations Committee, bring it to this floor under expedited procedures, and say that in the gulf we shall do these things.

And I want to read the specific thing because it was inadvertently, I am sure, misrepresented as to the fact that all you could do was vote up or down on troops being there.

We would specifically be doing this. We would be enacting a specific authorization for use in the gulf. And the President, by his report, by his appearance in front of the Foreign Relations Committee, by his contact with the majority leader, the minority leader, the other leaders of this Congress, as well as the Foreign Relations Committee, can say what he thinks that policy is. We have been asking him since April what it was.

Many of us feel we have stumbled, step by step, into not a policy but simply moving ahead with first being caught giving tow missiles to Iran, which tilted it one way; so then we come back and reflag Kuwaiti vessels to tilt it the other way. Since then, we have sent a lot of ships over and we do not know what our goal or policy is.

The majority leader has asked for it, and rightfully so. "Mr. President, just follow the law. Come up here." Now he sent a letter.

I think we ought to do just like John Kennedy did with the two letters from the Russians. Accept the interpretation of the letter the way we want and say it is triggered.

Now, let us act responsibly. We are all ready to do that. We are ready to debate the substance of this. We are ready to have the President, the Secretary of Defense, the Secretary of State, and anybody else that wants to come up here and tell us what they think the policy should be. We will respond to that. We will then pass a resolution. We will have followed the law. The world, our allies, our adversaries, and our people will know what our goals are and what our policies are to carry out those goals. That is all we want, Mr. President, That is why the vote went the way it did this morning.

So let us get on with the Weicker amendment, vote it through. If they block us again, let us go to the expedited procedures.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ADAMS. I ask the Senator from Oregon for 1 additional minute.

Mr. HATFIELD. I yield 1 additional minute.

Mr. ADAMS. I thank the Senator from Oregon.

Mr. President, I just want to say to my colleagues that this is and has been and will continue to be a long and lonely fight for many Members in this body. It is a simple attempt to say to the President of the United States, and every one of us, that none of us are above the law. Whether we like or dislike this law, think it is constitutional or unconstitutional, we are going to follow through with our responsibilities under it and we are going to try to do the right thing. And we are going to try to listen carefully to the administration's position and to the position that others advocate and come forth with the best possible joint resolution.

We will do this to protect our vital interests, to protect our servicemen, to protect our Nation, and we will unify this Nation. We will go to such things as what is the cost. And if there is a cost, we will not be like Vietnam. We will pay it. We will not simply borrow and say it does not exist.

The PRESIDING OFFICER. The additional time has expired.

Mr. ADAMS. I plead with everyone to support that position. I think it is right. I hope that we will not reconsider this matter, that we will proceed with Weicker, vote on it, and that the resolution will be submitted to the Foreign Relations Committee and will come forth on this floor, because that is where this Senator intended it to go.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 5 minutes to the Senator from Virginia.

Mr. WARNER. I thank the distinguished leader.

Mr. President, in a very calm way, I would like to express my views on this issue. I have been working with others on a means to try to effect a compromise of this very complicated, fragmented Senate on this issue.

The distinguished majority leader and I, on Friday, worked throughout the day circulating drafts of this amendment freely, and, finally, I think about 7 o'clock at night, we filed the amendment. This body has had some 10 days to look at that amendment, to study it, to bring forth other ideas as to how they would solve the problem.

In other words, the distinguished majority leader and I have worked in the true spirit of compromise of this body as the world's greatest debating body, the oldest. I do not know which title we would like to claim, but I am beginning to think neither is appropriate.

But, nevertheless, we have not tried to force our views on any particular individual. We have been open. We have accepted amendments for 1 week. And then, much to my distress, I see a colloquy about what the War Powers Act means.

Well, I say to my colleagues, without mentioning any names, that I have sat in the various rooms all around this Chamber for the last 3 or 4 months with Senators conscientiously looking at that act and saying to themselves: "We're not certain what it says. We're not certain how you enforce it."

So we have to find some solution to this problem. And the Byrd-Warner amendment was, in my judgment, the best compromise that could be arrived at.

I ask the Senate: Are there 51 votes for any position? Because I think we have an obligation to cease playing—and I do not say this disrespectfully—a game of hide and seek. There are those strongly opposed to the War Powers Act, those strongly in favor of it. And yet we dart about and form small coalitions to block any type of consensus or compromise that comes forward. This one was put together with reasonableness, with an invitation to all to participate, recognizing that the best of minds could not decide how to interpret the War Powers Act, how to make it work. And now it is the target, presumably, of the majority in opposition.

Mr. President, I think that we would send the worst of messages to the young men and women abroad, indeed all over the world, but most particularly in the Persian Gulf. The message would say: "You're doing a fine job and we are all ready to pass a resolution"—indeed, I think it would virtually be unanimous—"that we support what you're doing and we support the President's policy. But then when it comes time for us to do our job back here—namely, to determine how to get out from this gridlock of the War Powers Act—we cannot reach the compromise in that institution that is noted for its ability to reach compromises."

So I say to those Senators who are opposed to Byrd-Warner, you had a fair opportunity for some 10 days to come forward with your own ideas. And if you have a better idea, I do not know where it is.

I hope that if we turn this thing down—I do not hope we turn it down, I hope it is passed on reconsideration. But if it is not, I think you have an affirmative obligation, an obligation now, to come forward and present your solution so we can get 51 votes. Because I think a very good, honest faith effort has been made by the majority leader—and it has been my privilege to work with him on this—to try and forge the consensus. And we thought we had it. But if that consensus fails, then what this Senate will do is, it plunges itself back into a boiling cauldron of indecision and says to the troops abroad: "Keep on. Do your job. But, for reasons we cannot give you, we cannot do ours."

Mr. HATFIELD. Mr. President, I yield myself 2 minutes.

Mr. President, I think we ought to make it clear where the problem is. We do not have the problem. Those of us who proposed the original amendment, we are not the ones with the problem. The problem is with those who oppose addressing this amendment on an up or down vote.

We have been willing to have an up or down vote on this amendment ever since we introduced it. All of these efforts to try to find some alternative, some substitute, to try to indirectly amend the War Powers Act, has been on the other side.

We are happy right now to say, in effect, if we can go to a vote up or down on this, everything is resolved. That is what the joint resolution is—Senate Joint Resolution 194. What we are dealing with today and what we have been dealing with are substitutes for it—substitutes.

Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. WEICKER. Mr. President, I would be delighted to have a vote up or down on the Weicker-Hatfield resolution. Indeed, that has been my position consistently over the past weeks.

Unfortunately, after we dispose of Byrd-Warner, assuming it is defeated, we are not going to any consideration of the Weicker resolution.

I introduced an amendment here a few minutes ago reducing the reporting time from 60 to 30 days. Thirty-eight Senators voted against that. And, mind you, 30 days is 28 days longer than required by the War Powers Act. So it is very clear that there is a substantial body that does not want anything to do with the U.S. Senate involvement, insofar as either the War Powers Act or policy in the Persian Gulf.

What is the alternative? The alternative is we do not vote on Weicker-Hatfield. We defeat Byrd. And, in effect, this body ends up saying: We really do not want to have anything to do with the situation. What kind of an image does that present to the Nation insofar as the Senate is concerned?

We want to have a say in policy, yet we are unwilling to go ahead and enforce the law as it stands and we are not even willing to make the most modest of efforts to devise a policy jointly between the legislative and the executive branch of Government.

I was not for Byrd-Warner. There is no question in my heart: I am against it. But I look at what has transpired up to this point—which is nothing; I look to what is going to occur after the defeat of Byrd-Warner—and I see nothing; and it is "nothing" that is unacceptable, insofar as stating what the policies of this Government are going to be.

I have already stated for the record that immediately upon the disposition of Byrd-Warner, assuming that it were passed, that I would offer an amendment saying that we have neither complied with the War Powers Act, we have not modified it, we have not negated it. We have not done anything with the War Powers. All we have done is take one small step, hopefully bringing together the legislative and executive branches of our Government in devising joint policy for U.S. involvement in that part of the world.

I love the idea, and I think the colleagues who know my style, they believe me when I say it: I love the idea of hanging out there alone with Weicker-Hatfield.

The PRESIDING OFFICER. The Chair informs the Senator his 5 minutes have expired.

Mr. WEICKER. I ask for 2 minutes.

Mr. BYRD. I yield 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WEICKER. I love hanging out there with Weicker-Hatfield. The focus is on us and I know we are going to be right. Already we have moved to a point of no debate whatsoever and nobody caring to an involvement and that is a step forward. But when men and women are risking their lives, the idea of hanging out and drawing attention to ourselves, that really does not appeal to me. I think this administration is making bad mistakes in the Persian Gulf. I know we are making a very bad mistake to disregard the law. And, no, the President has not informed us of anything. I know this letter that has been referred to by my good friend, the Senator from Oregon, but it does nothing. It is just a sidestepping, if you will, of a consultation process with the Congress. So nothing has been triggered and nothing is being done.

Now, I do not want it said that when we move on to Weicker-Hatfield, should Byrd be defeated, that at least I also did not listen to others and try to bring about a meaningful participation by the Senate in the policies of this Government. To that extent I supported this bonafide effort by the distinguished Senator from Virginia [Mr. WARNER] and the majority leader. Neither in terms of my principles nor in terms of my belief is this an acceptable answer, but it is a small step beyond nothing.

When we move on the continuing debate, and I will be at the center of it, so be it. But we do have a responsibility now and it cannot rest in a coalition of those that are opposed to any involvement at all and those who feel as rigidly as I do on matters of obeying the law.

Somehow we have to get together before the naysayers win because they are the ones that won in defeating this amendment. Which is not to criticize my good friends from Washington and Oregon. We are on the same side of the issue. But I have to say to you when the headlines are written, if this goes down to defeat, the headlines will be written as to what the U.S. Senate cannot do. They will not be written as to what we did do.

The PRESIDING OFFICER. Who yields time? The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 1 minute.

Mr. President, I know we are on the same side of the issue, the Senator from Connecticut and I, but I must in all due respect and great affection disagree that if we do not pass Byrd-Warner we have opted for nothing. We only choose to do nothing. Our option is to do something.

We have hung the Weicker-Hatfield amendment out here on anything that could come along. We have the same opportunity to hang a resolution under the War Powers Resolution on any instrument that comes along on the basis of the President saying: I am submitting this report consistent with the War Powers Resolution.

If we do nothing, it is by choice rather than because we have been prevented from doing something. I hope we defeat the Byrd-Warner amendment as we have on the previous vote and move on to the substance of the issue: the Persian Gulf policy.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. LEVIN. Mr. President, would the majority leader yield me 2 minutes?

Mr. BYRD. Yes, I yield.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I happen to be someone who strongly supports the War Powers Act. I felt very deeply that we have not been doing our duty nor is the President, in the way we have not abided by the terms of that act. That is the fact. We have been deadlocked. We have not been able to move this Senate to implement that act in the way it should be.

As I understand this amendment, it does not modify or amend in any way the War Powers Act. I am wondering if the majority leader would confirm that?

Mr. BYRD. The distinguished Senator is indubitably, unquestionably, and preeminently correct.

Mr. LEVIN. I think that used up the rest of my 2 minutes.

[Laughter.]

Mr. LEVIN. My other question is this. It has been represented to us by our friend from Washington that the report filed yesterday by the President in fact triggers the War Powers Act. I, by the way, hope it would. I really hope the Senate would find, some day, that it did trigger the War Powers Act.

My question though, is this: If, in fact, that report triggered the War Powers Act yesterday, would the adoption of this amendment, the Byrd-Warner amendment, in any way change that status or change that fact?

Mr. BYRD. No.

Mr. LEVIN. I thank my friend.

Mr. BYRD. This amendment does not repeal, modify, alter, change, add to, subtract from, divide, or have any impact whatsoever on the War Powers Act. The distinguished Senator from Oregon held up this resolution a moment ago in support of his position that this amendment does, somehow, impact on the War Powers Act, to change it, or whatever word the dictionary will allow us to use.

Mr. President, I call to the attention of the distinguished Senator from Michigan that the subsequent heading just below the resolving clause, namely "meeting the requirements of the War Powers Resolution" has been stricken already, by unanimous consent.

I also say to the distinguished Senator that I have an amendment to the title which can be acted upon after the resolution has been agreed to, which will strike out the words in the title, "to require compliance with the provisions of the War Powers Resolution" and insert this language instead: "to require a comprehensive review of U.S. policy and commitments in the Persian Gulf region."

Mr. LEVIN. The Senator has been very helpful.

Mr. BYRD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The majority leader has 4 minutes remaining.

Mr. BYRD. Mr. President, the Senate vote was simply terrible. The Senate cannot move. It is musclebound. Senators want to have a voice in the formulation of policy in the Persian Gulf. Yet, we cannot do anything. The Senate cannot act. It cannot act on the War Powers Resolution. It has already demonstrated that.

Now the Byrd-Warner amendment is a pragmatic way to give Congress a chance to express its will within a given timeframe, the only way the distinguished Senator from Virginia [Mr. WARNER] and I could see to ensure this body of a vote on the direction that we are heading in the Persian Gulf.

The American people expect us to do the responsible thing. We can continue to duck the issue. We can continue to wrangle about it. We can pull our hair. We can tweak noses. We can castigate the President at the other end of the avenue. Or we can follow the spirit of the law. I hope that Senators will choose to step up to their responsibilities. If we incur further casualties in the gulf, we may all wish we had faced our responsibilities. The American people will want to know at that time where the United States Senate was when they needed us.

Mr. President, I do not intend to attempt to force my will on other Senators. But this is a serious matter. I hope Senators will vote to reconsider and then vote in support of the amendment. I would hope then that we could finalize action on the resolution and go to the Bork nomination. But I do not know where we are going right now.

Mr. WEICKER. Will the majority leader yield for a question?

Mr. BYRD. Yes, I yield.

Mr. WEICKER. I would ask the majority leader if there is any possibility of entertaining a unanimous consent request that the Weicker amendment, which has been discussed previously, had Byrd-Warner passed, would there be any parliamentary way of seeing that amendment added, by unanimous consent, added to the Byrd-Warner amendment in order that the package might be voted on at one time rather than coming after the fact?

Mr. BYRD. Is it the amendment of the Senator which reduces the number of days from 60 to 30? Is that the amendment the Senator is talking about?

Mr. WEICKER. No. I am talking about that amendment which had a unanimous consent request that had Byrd-Warner passed it would have been the next order of business and would have said at the end of the resolution add the following:

> Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying or negating any provision of the War Powers Resolution of 1973 (Public Law 93-148).

The PRESIDING OFFICER. The Chair informs the Senator that the time of the majority leader has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes and that the Republican leader may proceed for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. My question was whether or not by agreement that could be included in Byrd-Warner so that the matter might be voted on at one time.

Mr. BYRD. Mr. President, I certainly am amenable to the inclusion of that language. After all, that is the spirit and the intent of both the distinguished Senator from Virginia, Mr. WARNER, and myself. We have stated that from the beginning. That would be agreeable to me. I would be pleased to pose the unanimous consent request that that be grafted in.

Mr. HATFIELD. Will the Senator yield for a question on that point?

Mr. BYRD. Yes.

Mr. HATFIELD. Would the Senator be willing to further incorporate in the unanimous consent request that the Senate also would consider the President's letter on October 20 as triggering the War Powers Act?

Mr. BYRD. No, I would not, because I sincerely do not believe that it does.

Mr. President, has anybody placed this letter in the RECORD today in the context of this debate?

Mr. DOLE. I did yesterday.

The PRESIDING OFFICER. The Chair does not believe the letter has been submitted.

Mr. BYRD. Mr. President, I shall make the request shortly.

The President's letter does not do that. The letter reads in one place as follows:

> In accordance with my desire that the Congress continue to be fully informed in this matter, I am providing this report consistent with the War Powers Resolution.

That is the language that all Presidents have used, "consistent with."

What it should say is "pursuant to." If it said, "pursuant to," then there would be a clear recognition that there is no attempt to avoid the War Powers Act. This does not comply with the War Powers Act nor does it contain the information that, may I say to my friend, the Republican leader, is required by the Byrd-Warner amendment to be included by the President in his report.

The PRESIDING OFFICER. The additional 2 minutes of the majority leader have now expired.

Mr. BYRD. I ask unanimous consent that the letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 20, 1987.

Hon. JOHN C. STENNIS,
President pro tempore of the Senate, Washington, DC.

DEAR MR. PRESIDENT: At approximately 10:45 p.m. (EDT) on October 15, 1987, a SILKWORM missile fired by Iranian forces from Iranian-occupied Iraqi territory struck the SEA ISLE CITY, a U.S.-flag tanker, in Kuwaiti territorial waters. This action is the latest in a series of such missile attacks against targets in Kuwait, including neutral vessels engaged in peaceful commerce. It also is the largest in a series of acts by Iranian forces against the United States, as described in my letters of September 23 and October 10, 1987.

At approximately 7:00 a.m. (EDT) on October 19, 1987, Armed Forces of the United States assigned to the Middle East Joint Task Force, after warning Iranian naval personnel and allowing them to depart, attacked Rashadat Platform, an armed platform equipped with radar and communications devices which is used for surveillance and command and control. This platform, located in international waters, also has been used to stage helicopter and small boat attacks and to support mine-laying operations targeted against non-belligerent shipping in the Persian Gulf. It is now believed that this platform also was the source of fire directed at a U.S. helicopter on October 8, 1987. United States Navy ships fired upon and destroyed the platform. Additionally, U.S. forces briefly boarded another platform in the area, which had been abandoned by the Iranians when the operation began.

United States forces have returned to their prior state of alert readiness in the Persian Gulf region. They will remain prepared to take any additional action necessary to protect U.S. forces, U.S.-flag vessels, and U.S. lives.

These restrained and measured actions by U.S. forces were taken at my specific direction in accordance with our inherent right of self-defense, as recognized in Article 51 of the United Nations Charter, and pursuant to my constitutional authority with respect to the conduct of foreign relations and as Commander in Chief.

Since March 1987, I and members of my Administration have provided to the Congress letters, reports, briefings, and testimony in connection with developments in the Persian Gulf and activities of U.S. Armed Forces in that region. Additionally, congressional leaders were consulted on Sunday, October 18, 1987, concerning this operation. In accordance with my desire that the Congress continue to be fully informed in this matter, I am providing this report consistent with the War Powers Resolution. I look forward to cooperating with the Congress in pursuit of our mutual, overriding aim of peace and stability in the Persian Gulf region.

Sincerely,

RONALD REAGAN.

The PRESIDING OFFICER. The minority leader has 5 minutes 43 seconds.

Mr. DOLE. Mr. President, I just want to indicate I do not know what is going to happen. I assume that sooner or later the will of the Senate will be voted. But I have been informed that if I had addressed a letter to the President asking all those great questions that are in this resolution, he would respond and we would not need to go to the expense of passing a law to get a report. I have the franking privilege. I could get the letter down to the President. He has the franking privilege. It could be done without any cost at all and he is willing to answer all seven or eight of those questions.

There has been a lot of debate about how we have to get this report. He will do it within 30 days. He will do it within 30 days of today, not the date of enactment.

I would say to my colleagues if we are going through this exercise, assuming we must pass legislation to get the President to respond, we can do it by letter. I have been advised that they will answer every question and they will do it within 30 days of the date the letter is received, not the date this is enacted, which may be months from now.

I know that has been a matter of some concern, and it must be because it takes up 1 page of a 4-page resolution. I hope that matter has been resolved. I say that for the record.

I have no objection to doing what the Senator from Connecticut asked. I agreed earlier to do that by unanimous consent. If that is the intent, we can do it right now. It might get you a few votes. I think that is the intent.

Mr. BYRD. It might not get us a few votes. It might help the other side as well. But regardless of the votes, that clearly reflects the intent of the two prime cosponsors of the amendment.

Mr. President, I ask unanimous consent that the langauge that the distinguished Senator from Connecticut was proposing in his amendment be included in the Byrd-Warner amendment.

Mr. WARNER. Reserving the right to object, and I will not, I think it is of such importance that I will ask that the amendment be read so that all Senators will know precisely what the amemdent states, and, further, it has been from the very inception the objective of the majority leader and myself to draw up this amendment in such a way as to comport with the thrust of the amendment of the Senator from Connecticut.

AMENDMENT NO. 1037 TO AMENDMENT NO. 952

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 1037 to the end of the Byrd-Warner amendments package.

At the end of amdt. 952 as amended, add the following:

Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying or negating any provision of the War Powers Resolution of 1973., (P.L. 93-148).".

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there an objection to the unanimous consent request? Hearing none, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair informs all Senators that the amendment has been added to the end of the Byrd-Warner amendment. The Republican leader.

Mr. DOLE. I just underscore what has been said by others, that it never was the intent to negotiate the War Powers Act. It does not do anything either way. The amendment is precisely what it says. It does not say very much. But it does indicate everything is just as it was. There was never any intent to do anything other than what has been done in this amendment, and that is the big question. We know that sometime there is going to be a resolution. We do not know what it is. But it is going to come to this floor under a strict time agreement. It cannot be debated except for a while, and therein lies the problem. We no longer have the problem with the report. The President says he will send us a report without this legislation.

I yield any other time I have to the Senator from Oregon, Senator HATFIELD.

The PRESIDING OFFICER. The remaining time is with the Republican leader and that is 2 minutes 30 seconds.

Mr. DOLE. I yield the time back.

Mr. WARNER. Might I ask the distinguished minority leader a question on his time?

Mr. DOLE. I just yielded it back.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a vote on invoking the War Powers Resolution immediately and without further debate.

Would the Senator rather have it before or after the vote on the Warner-Byrd amendment?

Mr. WARNER. Mr. President, I suggest that that vote take place before the vote on the Byrd-Warner amendment and then we would have some clarity if there are 51 votes to take a course of action in the Senate.

The PRESIDING OFFICER. Is there an objection?

Mr. DOLE. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. As I understood, after we disposed of the Warner-Byrd amendment, we would go to the Bork nomination.

Mr. BYRD. That is not an order. That was just a statement of my intent. I do not believe it was ordered, was it?

Mr. DOLE. Not ordered but it was my understanding.

Mr. BYRD. It was the understanding that we would go to the Bork nomination. That was my intent. But I think this pending matter is of serious enough degree that we might want to spend a little more time on it.

Mr. DOLE. Mr. President, I would not be able to agree without checking with other Members that we could just have a vote on the War Powers Act with no debate.

Mr. BYRD. Mr. President, I make that request.

Mr. DOLE. And I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the two leaders may have 2 minutes each.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I find that some of our colleagues are under the mistaken impression that the letter which the President sent to the President pro tempore on yesterday, and which was put into the RECORD by the distinguished Republican leader yesterday, complies with the report that is required under the War Powers

Act. It does no such thing. Let me remind Senators, as I read from the War Powers Act, exactly what is required in that report under the War Powers Act. I will be brief.

> The President shall submit within 48 hours a report setting forth, (A), the circumstances necessitating the introduction of U.S. Armed Forces.

That letter of yesterday says nothing about the introduction of U.S. Armed Forces. It only directs attention to the incident of Monday, October 19.

> (B), the constitutional and legislative authority under which such introduction took place.

The letter does not do that. The War Powers Act refers to the introduction of U.S. Armed Forces into an area where there are hostilities or imminent hostilities.

> (C), the estimated scope and duration of the hostilities or involvement.

If anybody will show me in the President's letter where it sets forth, the estimated scope and duration of the hostilities or involvement in the gulf, I will eat this War Powers Act right here in front of everybody, in front of the television cameras. I will eat it! Take the letter. Show me!

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader yields the floor. The Republican leader.

Mr. DOLE. Mr. President, I do not disagree with what the majority leader said. But I did want to assure my colleagues if they are worried about the report required in the Byrd-Warner amendment, the President said he is going to send it up without passing legislation. But I would say, if I believed in the War Powers Act, I do not know how I could vote for the Byrd-Warner resolution. I voted for the War Powers Act in 1973. Some on this floor voted for the War Powers Act. I do not think it applies in this instance, but some people do. I want to make certain. We probably will not bring up the War Powers Act while passing the Byrd-Warner amendment.

I yield the balance of my time to the Senator from Oregon.

Mr. HATFIELD. Mr. President, there has been a lot of talk about whether or not the President's letter on the 20th triggers the War Powers or not because it uses the word "consistent" rather than "pursuant." Let me remind the body that twice before the Congress of the United States received the same language from President Reagan in the matter of Lebanon, in the matter of Grenada, and used the same consistent word "consistent," and in both cases, the Congress considered the report to be under the War Powers Resolution. Twice before we have set the precedent on the same kind of letter we have received now on the Persian Gulf.

I see no reason to really argue the fact the President has already triggered the War Powers. Now it is up to us to demonstrate the courage to stand up and introduce the legislation necessary to comply with the war powers.

Mr. WARNER. Mr. President, if I may reply to my distinguished colleague from Oregon, I think the record will show—

The PRESIDING OFFICER. Who yields time to the Senator from Virginia?

Mr. DOLE. If I have any left.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I think the record will show in those instances that Congress acted basically on the record in totality, the actions themselves, and it was not just the letter. It was the totality of all of the facts which led to the judgment at the time.

Mr. HATFIELD. Does the Senator yield? Does the Senator have any question that this administration will supply whatever additional information we may need?

Mr. WARNER. Mr. President, I am not able to hear the question.

Mr. HATFIELD. Does the Senator have any question at all in his mind that the President will respond to any information that the Senator asked for under the Byrd-Warner resolution?

The PRESIDING OFFICER. The Republican leader's time has expired. The majority leader has 20 seconds.

Mr. BYRD. I yield the 20 seconds to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished majority leader.

Let the record be straight. We did not invoke the War Powers Act vis-a-vis Grenada; we did not invoke the War Powers Act. We passed a resolution vis-a-vis Lebanon at our own determination, and not because of anything that the President triggered. I think the record should be square on that account.

The PRESIDING OFFICER (Mr. ADAMS). All time has expired.

The question is on agreeing to the motion to reconsider the vote by which the amendments (Nos. 952 and 951) were rejected.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendments (Nos. 952 and 951) were rejected. On this vote, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—58

Baucus
Bentsen
Bingaman
Bradley
Breaux
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Warner
Weicker
Wirth

NAYS—40

Adams
Armstrong
Biden
Bond
Boren
Boschwitz
Bumpers
Chafee
Cochran
D'Amato
Danforth
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Leahy
Lugar
McCain
McClure
McConnell
Nickles
Pressler
Proxmire
Quayle
Rudman
Symms
Thurmond
Trible
Wallop
Wilson

NOT VOTING—2

Simon
Stennis

So the motion was agreed to.

The PRESIDING OFFICER. The question recurs on the amendments (Nos. 951 and 952) of Senator BYRD and Senator WARNER.

Mr. QUAYLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are automatic.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—54

Baucus
Bentsen
Bingaman
Bradley
Breaux
Burdick
Byrd
Chiles
Cohen
Conrad
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Lautenberg
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes

Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Warner
Weicker
Wirth

NAYS—44

Adams
Armstrong
Biden
Bond
Boren
Boschwitz
Bumpers
Chafee
Cochran
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Evans
Garn
Gramm
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Leahy
Lugar
McCain
McClure
McConnell
Nickles
Pressler
Proxmire
Quayle
Rudman
Symms
Thurmond
Trible
Wallop
Wilson

NOT VOTING—2

Simon
Stennis

So the amendments (No. 951 and No. 952) were agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, what amendments have been adopted thus far which are not included at this point in the Warner-Byrd Byrd-Warner amendments?

The PRESIDING OFFICER. Amendment No. 1014, as amended by amendment No. 1022, both offered by the Senator from North Carolina.

Mr. BYRD. Are there any others?

The PRESIDING OFFICER. Those are the only two amendments.

Mr. BYRD. Mr. President, I ask unanimous consent that they be incorporated into the language appropriately.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, I wonder if we might reach an agreement on final passage, final adoption of the resolution.

Mr. DOLE. Right now.

The PRESIDING OFFICER. There being no further debate, the question occurs on the third reading of the joint resolution.

The joint resolution (S.J. Res. 194), as amended was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Is there any further debate on this joint resolution as amended? If not, the question is on passage of the joint resolution as amended.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LEAHY. Mr. President, I withdraw the request.

The PRESIDING OFFICER. There does not appear to be a sufficient second. If not, the question is on passage of the joint resolution as amended.

The joint resolution (S.J. Res. 194), as amended, was passed.

The joint resolution (S.J. Res. 194), as amended, is as follows:

S.J. RES. 194

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) FINDINGS.—

Strike all after the word "Congress" the first time it occurs and insert in lieu thereof the following:

(1) The Congress determined that the circumstances now existing in the Persian Gulf region, including the incidents involving United States military forces on September 21, 1987, October 8, 1987, and October 19, 1987 justify an Administration Report and a comprehensive Congressional review of the use of United States military forces in that region.

(2) The Congress expresses support for a continued United States presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of United States naval vessels in connection with tankers reregistered under the United States flag.

(b) Within 60 days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of United States commitments and military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following—

(1) the extent to which the policy of protecting reregistered vessels supports United States regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(4) the funds which have been expanded to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(5) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of United States forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or should have been submitted, or on the first day of session thereafter, whichever is later, a Resolution, if such Resolution is introduced, shall be acted upon in accordance with subsection (d) below.

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identified in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c) is received or shall have been received, by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the consideration of the joint resolutions are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment. Within the 10-hour time limitation, an amendment which may be offered by the minority leader, is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules, and

(B) with full recognition of the constitutional rights of either House to change the rules (so far as relating to the procedure of that House) at any time. In the same manner and to the same extent as in the case of any other rule of that House.

(9) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

SEC. 2. Notwithstanding any other provision of this joint resolution, when the time for debate on a resolution considered under this resolution has been used or yielded back, no further amendments may be proposed, and the vote shall occur without any intervening motion or amendment on the adoption of the resolution.

SEC. 3. It is the sense of the Senate that the Senate express its approval and support of the President's actions of October 19, making an appropriate and carefully considered response to the Iranian attack on a United States flagged ship in Kuwaiti waters on October 16, 1987, and that the Senate strongly endorses these actions as a firm indication of the United States resolve that the Iranian government cannot take military action against the United States with impunity.

SEC. 4. Nothing in this resolution should be construed as limiting the President's Constitutional powers as Commander-in-Chief to utilize American military forces in self-defense operations, or as urging the withdrawal of American military forces from the Persian Gulf region.

SEC. 5. Notwithstanding any other provision of this resolution, the report required to be submitted by the President within 60 days after enactment of this joint resolution, shall be required to be submitted within 30 days after enactment.

SEC. 6. Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying or negating any provision of the War Powers Resolution of 1973. (Pub. L. 93-148).

SEC. 7. Nothing in this resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America: *Provided further*, That nothing in this resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank all Senators. I especially thank my colleague, Senator WARNER, who was the prime author of the amendment along with myself. We had two amendments that we worked together on.

I also thank Senators who, on the final rollcall vote——

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order. The Senate will be in order. Those in the galleries will take their seats. The Sergeant at Arms will enforce the rules so that Senators may be heard.

Mr. BYRD. Mr. President, I also thank Senators who voted to reconsider the vote and who voted on final passage in support of the amendment.

Mr. President, as I have indicated heretofore, it would be my intention to go to the Bork nomination.

Before I proceed to move to go into executive session, may I ask whether or not there is any Senator who wishes to speak on a legislative matter?

Mr. MURKOWSKI. I have a unanimous-consent request on a concurrent resolution which has been cleared on both sides.

Mr. COCHRAN. Will the majority leader yield?

Mr. BYRD. I yield.

I wonder if I can get a better understanding of what the Senator from Alaska mentioned?

Mr. MURKOWSKI. This has been cleared on both sides. It is a unanimous consent for a concurrent resolution of the Senate with regard to the continued sales of Silkworm missiles to Iran.

Mr. BYRD. May I say to the distinguished Senator, Mr. President, that this resolution has not been cleared fully on this side of the aisle.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I will shortly yield to the distinguished Senator from Mississippi.

I indicated earlier, Mr. President, that I would offer an amendment to the title of Senate Joint Resolution 194. That amendment to the title deletes the title as shown on Senate Joint Resolution 194, which makes reference to the War Powers Act. It would delete that title and would insert in lieu thereof these words:

> To require a comprehensive review of U.S. policy and commitments in the Persian Gulf region.

I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> Amend the title so as to read:
>
> Joint resolution to require a comprehensive review of U.S. policy and commitments in the Persian Gulf region.

The PRESIDING OFFICER. The question is on adoption of the amendment.

The amendment was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Mississippi.

RETIREMENT OF SENATOR JOHN C. STENNIS

Mr. COCHRAN. Mr. President, my colleague and friend JOHN STENNIS has announced his intention not to seek reelection next year. As Senators know, JOHN STENNIS came to the Senate as a result of a special election in November 1947 and since that time has earned the affection and the respect of the constituents back home in Mississippi and of his colleagues here in the Senate because of his diligence, his remarkable integrity, his intelligence, and his sense of purpose as a Senator.

He has been looked to many times by Senators to take the lead in times of crisis here in the Senate. He was the principal author of the first code of ethics for the Senate and served as chairman of the Ethics Committee.

Back in the dark days of McCarthyism, he was the first Senator to really speak out to object to the way in which hearings that were being conducted then were being guided, the direction they were taking, and the tone of that entire experience. He has served very capably as chairman of the Armed Services Committee, as chairman of the Appropriations Committee, and as President pro tempore of the Senate.

We have had a few Senators from our State of Mississippi, Mr. President, who have earned national recognition and commendation because of their leadership as national figures here in the Senate.

Pat Harrison was one; John Sharp Williams was another; L.Q.C. Lamar also comes to mind.

I think as we reflect on Senator Stennis' career, we have to all agree that John Stennis also should be placed among those giants of Mississippi history who have served our State and this Nation in the U.S. Senate.

We will certainly miss him, but our best wishes go with him. We know that we will continue to call upon him for his advice and counsel in the months and years ahead.

Mr. President, I thank the distinguished leader for yielding.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I hope we might get an agreement with respect to the time for debate on the Bork nomination for the remainder of today. This would not affect action on tomorrow but will only deal with today.

Mr. President, I wonder if we can go until 9 o'clock. That would give us 6 hours of debate today. We could have that equally divided and controlled by the leaders or their designees.

Mr. THURMOND. Mr. President, I think we can finish this debate by Friday night. A lot of Members on our side will want to speak. I was going to suggest that we go to about 7:30 or 8.

Mr. BYRD. Mr. President, I have no greater respect for any Senator in this body than for the distinguished Senator from South Carolina [Mr. Thurmond]. But this Senator does not want to go until Friday evening to have a final vote on this nomination if we can possibly avoid it.

Of course, Senators may speak and prevent an earlier vote from happening, if Senators wish to stand and speak. But there is no reason why this Senate should spend the rest of this week on the Bork nomination.

We have three appropriations bills that are ready for action. We have the catastrophic illness legislation. I think it is extremely important that this Senate act on catastrophic illness this Friday, if at all posible, for the reason that the chairman of the Finance Committee Mr. Bentsen, is involved in the reconciliation legislation; he is involved in the conference on the trade legislation; and he is going to be managing the catastrophic illness legislation. He is not so ubiquitous as to be in all three of these places at once.

I think that, out of consideration for him and other Members on both sides of the aisle who have to manage the catastrophic illness legislation—and it is vitally important to the American people—we should get on with that legislation before this week is out.

It is my intention to go back to that legislation as soon as the Bork nomination is disposed of. If we want to hold back that legislation, catastrophic illness, just by droning on and on and on about the Bork nomination, then, of course, catastrophic illness will have to wait. But we do not have a lot of time for the reasons I have already stated.

If we cannot get an agreement on the Bork nomination, Mr. President, then we will just stay in this evening as long as Senators wish. I have a short speech on the nomination. I will be glad to put it in the Record. I am not going to close the Senate at 7:30 tonight if Senators wish to speak. I do not mean that to sound cryptic or abrupt or as a brusque answer in response to the distinguished Senator from South Carolina. He is a gentleman. He is a man who has always considered his colleagues. He is courteous and he is a Senator on the other side of the aisle who has said that in his opinion we could finish this debate, I believe he said 3 days when others were talking of 4 or 5 days or longer.

Mr. THURMOND. That is right, 3 days.

Mr. BYRD. So that the Senator has been very reasonable from the start.

But I must say to the distinguished Republican leader and to the distinguished Senator from South Carolina, I cannot as majority leader be responsible in my own eyes, and say that we will quit today as early as 7:30 on the Bork nomination.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader, Mr. Dole.

Mr. DOLE. Mr. President, we apparently will not get an agreement on time today, but it seems to me once this nomination is before us it may go more quickly than some expected; it may take a bit longer. But I would say that in an effort to get to the nomination we have been trying to cooperate with the majority leader, with time agreements on the Byrd-Warner amendment to try to keep it moving, so there is obviously no effort to delay the business of the Senate. But I do believe that the Bork nomination to 40-some Members and to millions of people is a very important matter. I would suggest that those who feel strongly about the nomination on both sides may not want to be here to 9, 10 or 11 o'clock at night; they would like to be heard in the daytime, morning or afternoon. But as the majority leader has already recognized, certainly the distinguished Senator from South Carolina is and will be cooperative. It could be that this matter will roll along very quickly. But I would be happy to do what I can to move it along as the majority leader knows.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. THURMOND. I might say there will certainly be no desire on my part to delay this matter. I was ready to go starting Monday and we could have finished tonight. But I estimate about 3 days would be required since so many are interested in it. It has created so much interest that I think 3 days would be reasonable. If we can finish sooner, it suits me.

Mr. BYRD. Mr. President, I thank the distinguished senior Senator from South Carolina. I do not doubt at all that he does wish to proceed in an orderly and reasonable way and finish action on this nomination soon. But, Mr. President, I see no alternative but just to go to the nomination and let Senators speak as they will as wish.

Mr. President, the Senate will be in session as long this evening as Senators wish to speak.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session and proceed to the consideration of the nomination of Robert H. Bork to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

The clerk will report the nomination.

SUPREME COURT OF THE UNITED STATES

The legislative clerk read the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. Biden], the chairman of the committee.

Mr. BIDEN. Mr. President, I hope we can move somewhat expeditiously on this nomination.

Mr. President, the Senate Judiciary Committee has completed what I consider to be, and I think many do, a significant constitutional debate on an issue that is as old as the Republic, and that is what is the role of Government in the lives of individuals and the rights of individuals to cede to their Government certain rights. The debate that has gone on for over 200 years in this Republic has been one about whether or not our rights as individuals emanate from a grant of the Government or whether or not the Government has certain rights that individuals have ceded to that Government. The essence of the debate relating to the nomination of Judge Bork to be an Associate Justice of the Supreme Court in this Senator's opinion revolves around that age-old question. In the words of former Secretary of Transportation, William Coleman, the debate is about whether "we are held together as a nation by a body of constitutional law constructed on the premise that individual dignity and liberty are the first principles of our society," or as former Representative Barbara Jordan eloquently told the committee, our debate was about whether, in the future as in the past, "The Supreme Court will throw out a lifeline when legislators and Governors and everybody else refuse to do so."

Today, as we begin here on the floor of the Senate our historic debate on the nomination of Robert Bork to the Supreme Court, it seems to me it is the obligation of every Senator to maintain the same level of seriousness and substance that characterized the proceedings before the Judiciary Committee.

The debate between Judge Bork and the committee members should set the example for us here on the floor, for as most acknowledge, those for and against Judge Bork, it was a thoughtful, educational, and enlightening discussion of constitutional principle.

The witnesses, for and against the nomination, largely maintained this high standard. This was no parade of ideologues or interest groups before the committee, both either from the left or from the right, and many of those, by the way, on the left and the right who were parts of interest groups would have been very informed and competent witnesses. But, nonetheless, they did not participate.

The men and women who participated—who testified for and against the nomination of Robert H. Bork to the Supreme Court—were, with few exceptions, of the highest integrity, the sharpest intellect, and the greatest learning in the law.

These were panels of unprecedented distinction: top law professors and deans, leaders of the bar, respected former office-holders from the highest levels of Government, both Democratic as well as Republican administrations. This was a debate of consequence and caliber.

And throughout, Republican and Democratic committee members alike acclaimed the fairness of the hearings.

I challenge any one of the Members of this body to show us where in the record it would indicate otherwise, that the hearings were anything other than fair.

In Judge Bork's 32 hours of forthright testimony, he was free to speak as much or as little as he wished with as much or as little detail as he desired, and to answer every accusation, charge, question, and compliment that was put before him.

I kept my commitment to Judge Bork that every single witness he requested would testify. On the other hand, dozens of witnesses against the nomination were turned away by the chair. When it was finally over, this 12th day of hearing with over 100 witnesses, 62 of the witnesses who appeared to testify in favor of the nomination of Judge Bork. And 48 appeared in opposition.

No, there was no mud-slinging or name-calling in the committee. I hope no Senator will adopt such tactics on the floor, for to do so would debase the standards of this noble Chamber.

As with any legislative decision of great moment, a prudent decison on confirmation of a Supreme Court Justice must be rooted in the substantive record.

In this case, the record that was set before and compiled by the Judiciary Committee is beyond dispute the most extensive, detailed, and complete record ever compiled on a Supreme Court nomination.

This is the entirety of the record before us, the report before us. The record is much, much larger. It is complete, and it is as complete as any that was ever done. There is no reason in my view that any Senator need reach beyond the record for his or her decision on this nomination.

And the reasons for the votes of my colleagues on the Judiciary Committee are forthrightly stated by each of my colleagues and their statements when they voted. And those who have announced in the Senate against this nomination, they announced based upon reasons that are well rooted in the record. Let us look at a few of them. Perhaps the most basic reason of all underlying our opposition is a matter of principle. The principle of human dignity, that our rights come not as a gift from the Government but as a gift from the grace of God.

The right to privacy. Judge Bork told us that because he does not know how to limit this right, he cannot find that it exists—unlike every Supreme Court Justice for the last 65 years.

The first amendment and dissenting speech: Judge Bork says he "accepts" Brandenburg as "settled law" but still finds its "clear and present danger" standard to be a "fundamentally wrong interpretation of the first amendment."

Such a conflict suggests that he would apply Brandenburg narrowly, or would say it doesn't apply at all—as he did in calling Cohen versus California and Hess versus Indiana obscenity cases, when no member of the Court in either case found the vulgarity of the speech at issue was relevant to its protection.

Equal protection: Here, there are several difficulties with his position.

First, Bork said through June of 1987 that the equal protection clause "should have been kept to matters of race and ethnicity," and now he says it applies to everything.

Second, Bork says his "reasonableness" standard is very much like Justice Stevens' rationality standard, but there are several critical differences.

Judge Bork's standard is so general that it is potentially arbitrary for exactly the reason he has condemned many other judicial standards:

It has failed historically to protect women because it is undemanding. It now lacks a "principled" way to generate greater attention to discrimination against certain groups—one that does not depend on the judge's own values to determine what is reasonable.

It omits the test in Stevens's standard that the benefit from the Government's classification must outweigh the harm to the groups affected.

Finally, it omits the part of Stevens's standard that makes it inherently unreasonable to use statistical generalizations to justify discrimination against specific members of a group.

Judge Bork made it clear at the hearings that statistical generalizations would be enough to justify discriminatory classifications under his standard—he stated this in regard to the different male and female drinking ages addressed by the Supreme Court in Craig versus Boren.

And on civil rights; Judge Bork's past record of decision at key moments is especially troubling. On public accommodations, on the constitutionality of State poll taxes and of Congress' power to strike down literacy tests, on understanding the nature of discrimination underlying restrictive convenants voided in Shelley versus Kramer—from all of this record, we may or may not be able to project how Judge Bork would rule in specific future cases. But we can see a disturbingly narrow, technical basis for judging great questions of human liberty.

Encompassing all of these issues are two basic matters of principle. One is the principle of human dignity: that our rights come not as a gift from the Government but by the grace of God.

In the majestic phrases of the Constitution, Justice Brandeis saw "the right to be let alone," Justice Cardozo saw a noble vision of "ordered liberty."

Justice Harlan saw "postulates of respect for the liberty of the individual," Justice Powell saw "values deeply rooted in this Nation's history and tradition."

They were referring in each of these cases to rights which were not specifically enumerated nor able to be found in the text of the constitution.

In the same majestic phrases, Judge Bork seems, sadly, to see a fatal vagueness in the protection of individual rights, and an expansive field for temporary majorities to wreak their will upon the minority and upon individuals.

And at the hearings, Judge Bork held firmly to his view that we possess our liberties because the Constitution names them, and that rights not named are granted or withheld at the pleasure of the Government, placing him squarely at odds with our great tradition of fundamental, unenumerated rights—a tradition of which the Supreme Court liberal as well as conservative jurists over the past 75 years have seen and found with little difficulty, a tradition of which the Supreme Court has been the great and sometimes the only defender of these unenumerated rights.

A second principle which was hotly contested and debated in the hearing was the question of equality. The fundamental question of how this Justice, this potential Justice, this judge, Judge Bork, would deal with the equally fundamental question of "the dozens of other landmark cases," to use his term, that he has long rejected.

He has rejected dozens of landmark cases as "being wrongly decided" or being "unconstitutional." He has set out for us on numerous occasions the fact that he thought much of what has gone before was not well founded, much of what the Court has done went beyond their writ.

But he came before us, and he committed himself to accept these landmark cases or many of them at least as "settled law," although he strongly disagreed with them and strongly disagreed with the reasoning in these cases.

This commitment—though it was given in good faith and should properly be accepted as such—still leaves many concerns too great to justify his confirmation.

A judge with Robert Bork's constitutional philosophy cannot stay faithful to that philosophy if he continues to expand "unconstitutional" precedents.

He says that the rationale for a number of landmark cases is unprincipled, and in some cases, unconstitutional. Yet, he comes before us, and he says in the specific area, for example, that he will abide by the settled law. How does he remain consistent with the principle that he says requires him to read the Constitution a certain way, and at the same time accept the settled law with which he has such profound disagreement?

That philosophy may not require him to overturn "settled" precedents he thinks are wrong, but it does require him to confine them, to halt their growth.

The cases at issue are not overruled, the commitment not to overturn settled law is thus genuinely honored—but gradually the principle behind that law is eroded.

For areas like equal protection for women, which are largely unmapped, or like dissenting speech, which are always under pressure, this philosophy risks dangerous consequences.

Under a jurisprudence of "original intent" and settled law, precedents for individual rights in these areas seem fated to become lonely outposts surrounded by majoritarian forces.

And that, combined with his historically unfounded and judicially unprecedented view of fundamental, unenumerated rights, threaten the traditional core of our national character and our constitutional history, and justify—indeed, urge—the rejection of this nomination by the Senate.

For under our living Constitution, every generation has the task of harmonizing the liberty and popular sovereignty that comprise free government. If we circumscribe liberty within such historical bounds, we betray the heritage of our forebears and endanger the legacy of our descendants.

As we approach the Senate's moment of action on this nomination, however, we have been told that the judiciary is being dangerously politicized, and that as a result the independence of the judiciary is in great jeopardy.

I will acknowledge that there has been politicization. But any politicization has been driven by President Reagan's single-minded pursuit of a judiciary packed with his ideological allies.

It is President Reagan who has politicized this matter by allowing his Justice Department to adopt litmus tests for nominees to be Federal judges, by failing to include even one Democrat among his nearly 70 appointments to the Federal appeals courts; unprecedented campaigning for Republicans across the country just last year, saying that Democratic Senators would, in the quote offered by my Democratic colleague from North Carolina, allow "drugs, thugs, and hoodlums" to pervade society by placing "a bunch of sociology majors on the bench." Is that not politicizing how we choose and who we choose for the Court? Or by nominating Judge Bork to pursue his ideological agenda on the Supreme Court—an agenda that has been repudiated by Congress—in the face of a warning from key Senators and from his own staff that the nomination would be the most controversial and divisive one he could make.

The nomination was greeted by the right as the means to realize their social agenda and spoke of it in the clearest political terms:

> Here is the chance to have the Court tilt in favor of Ronald Reagan's social and civil rights agenda. (Bruce Fein, *Reuters North European Service*, 7/3/87);
>
> We have the opportunity now to roll back 30 years of social and political activism by the Supreme Court. (Daniel Popeo, *Wash. Post* 7/6/87)

Thereafter, the right-wing groups explicitly organized an election-style campaign—with phone banks, TV, radio, and newspaper ads—that is exactly what the Republicans are attacking today:

> You can surmise that whatever the liberals have, we're going to have—radio, television, newspaper ads. (Richard Viguerie, *Wash. Post* 7/7/87);
>
> We're going in with newspaper ads, with television ads, with radio spots. (Bill Roberts of "We The People," CBS Evening News, 7/23/87)

This politicization has also come from the scrupulous inattention, among many of Judge Bork's proponents, to the extensive and substantive committee record upon which most Senators have rested their votes.

These vague claims about "distortions" and "lynch mobs" and "misleading advertisements" and most of all about "political campaigns," are nothing but a smokescreen to distract the Senate and the American people from the testimony of Judge Bork, the other witnesses and the committee record.

Any Senators who fail to focus their remarks on the merits of this decision; any Senators who fail to root their discussion of the merits in the record that was set before and established by the committee, are making it clear: They accept a politicized process; and they are, in effect, challenging the sincerity of the reasons given for our decisions by those of us who oppose this nomination.

Let me make this choice clear to every Senator. We can make our cases on the merits, and set forth for the American people and for history exactly why we are for or against this nomination. That is the only proper course. Or we can start on the very dangerous road of personal attacks on the integrity of our colleagues, which will threaten the mutual respect and the personal restraint that holds this body together.

I did not read anywhere, in any paper, in any place, during the hearings that the Judiciary Committee conducted where anyone questioned the depth of the debate. It seems to me that there are very good reasons for some to be for Judge Bork. Those in this body who subscribe to his philosophy and his interpretation of the Constitution should make that case. It is a case that deserves to be made, and it should be engaged by those of us who have strongly held, principled views as to how the Constitution should be interpreted differently from the way Judge Bork sees it.

I think we will be denying this body the historical record and our fellow citizens the benefit of a debate that hopefully could enlighten us all on what our Constitution is all about and what it should be and how it will be interpreted in the future or how it should be interpreted in the future. But I fear, in light of what has been discussed the last week or so, that the merits will be the last thing we are likely to discuss here.

Let us be fair about one other thing. Independence of the judiciary is not at stake in the process of advice and consent. I hear this drivel about, "Well, you can no longer have a debate on whether or not someone should be sent to the Supreme Court. The Senate cannot somehow exercise its constitutional responsibility in giving advice and withholding its consent under present circumstances." There are those who now suggest that the independence of the Court is at stake because of the constitutional requirement of advice and consent. The Constitution assures sitting Federal judges lifetime tenure and so assures them of independence from political reprisals for their decisions, and that is how it should be. But it appears that some of those who are advocating the voicing of concern for judicial independence here really mean a judicial appointment process that is independence of the Senate. They seem to suggest that the Senate should play no role in determining who sits on the Court. That advice and consent, they seem to be saying, is fine so long as the Senate always agrees and consents to the President's first choice.

Mr. President, that is not our Constitution, and that is not our history. Over 25 judges who have been nominated by previous President have been rejected by this body. More Supreme Court nominees have been rejected by this body over our history than any other high-ranking office in the Government that the Senate is required to advise and consent to. This is nothing new. We are doing our job.

Of course, the President does not have to make judicial nominations that please Congress. He does not even have to meet us halfway, though at this point that would be prudent.

But he may not treat the Senate as a body whose substantive views are an illegitimate part of the confirmation process. He may not ignore the reality that a majority of Senators were elected to expound views that may sometimes differ greatly from his own.

And that is the essential thing for all Senators to remember as we begin this debate. Citizens of each State elected their Senators to bring thought, discretion, and judgment to bear on the great issues of this country and this day and on who should sit on the Supreme Court of the United States.

Let us keep in view the wise reminder that Oliver Wendell Holmes gave to the Supreme Court over 80 years ago: that our "Constitution is made for people of fundamentally differing views." So too, this Senate was conceived to represent a nation of diverse opinions.

And unless we respect the good faith and the sincerity and the integrity of our colleagues' judgments, the harmony of this body and the effective representation we owe to the people are in grave peril.

By all means, let us air our differences and debate the merits of this nomination fully. Let us debate without rancor, so we can return thereafter to the urgent business of the Nation not as enemies, but as colleagues, so that we can join in deciding who will fill the next vacancy in the Supreme Court.

There is a great deal more to say, Mr. President, and I am prepared, like others on this floor, to speak to all the issues raised today in as much detail as people would like. But I sincerely hope that we do not deny our colleagues or the Nation the benefit of a great debate on the principles involved in this nomination and whether or not the views which Judge Bork has expounded for many years, and reaffirmed before our committee, are the views that should be represented on the Court.

Reasonable men and women can differ; and there are some very bright, respected, honorable Members of this body, and people outside this body, who strongly believe that Judge Bork's judicial philosophy should be represented on the Court. There are others of us who believe that it should not be.

We should debate that issue. The Nation will be better for it. The Court will be better for it and this body will be better for it.

I yield the floor.

The **PRESIDING OFFICER**. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. **THURMOND**. Mr. President, I rise in support of President Reagan's nomination of Robert H. Bork to be an Associate Justice of the Supreme Court.

Judge Bork is one of the most eminently qualified individuals to be nominated to the Supreme Court in recent history. Mr. President, let me take just a moment to review those qualifications. Robert Bork distinguished himself in both his undergraduate studies and in law school. He received a bachelor of arts degree from the University of Chicago in 1948. He was elected to Phi Beta Kappa. He graduated from the University of Chicago Law School in 1953, receiving a J.D. Degree. While attending law school he was the managing editor of the Law Review and was elected to Order of the Coif, a national law honor society.

He volunteered for military service in the U.S. Marine Corps in 1945 and served until 1946. He served another tour of duty with the Marine Corps from 1950 to 1952, and was then honorably discharged.

Following his education and service in the Marine Corps, he was employed as a research associate with the Law and Economics project of the University of Chicago. Subsequently, he joined the New York law firm of Willkie, Owen, Farr, Gallagher & Walton. In 1955, he became associated with the firm of Kirkland, Ellis, Hodson, Chaffety & Masters. In 1962 shortly, after becoming a partner, he left that firm to teach at Yale Law School. He was nominated to be Solicitor General of the United States in 1973 and served in that position until 1977, when he again returned to teach at Yale. In 1981, he again practiced law as a partner with the firm of Kirkland & Ellis. He was nominated to the U.S. Court of Appeals for the District of Columbia Circuit in 1982, and was unanimously confirmed by the Senate. Judge Bork has rendered distinguished service on the court of appeals since that time.

Judge Bork was nominated on July 7, 1987 to be an Associate Justice of the Supreme Court. After a 70-day delay, hearings began on September 15, 1987 and the Judiciary Committee held 12 days of hearings on his nomination. These hearings were the most exhaustive and comprehensive into a judicial nominee's qualifications that I can remember in my 35 years in the Senate.

However, Mr. President, I have been disturbed over the methods used by some of Judge Bork's opponents. Adverse publicity about the nominee has been unsurpassed. Advertising on radio, television, and in the press has distorted the true character and the exceptional qualities of Judge Bork. There were those, however, who felt compelled to counter this lobbying campaign against Judge Bork. Gerald Ford, former President of the United States introduced Judge Bork and urged favorable action by the committee and confirmation by the full Senate. During the hearings we also heard testimony from former Chief Justice Warren Burger who stated:

> I was so concerned about the disinformation in some of these full-page ads—that I felt as a member of the Bar, as a citizen, I had an obligation really to say what I believe.

> There never was a nominee that I thought had better qualifications—if Judge Bork is not in the mainstream, neither am I, neither have I been.

Chief Justice Burger also stated:

> It would astonish me to think that he is an extremist any more than I am an extremist.

Mr. President, this is a former Chief Justice of the United States talking. He says if Judge Bork is an extremist he is an extremist. Everybody knows that Chief Justice Burger was no extremist. Why would he make that statement? He has no personal interest in this matter. He said it for the good of the Nation. He said it because it is the truth. He said it because he thought he ought to help set the record straight.

In this same vein, former Attorney General William French Smith in commenting about some adverse advertising said:

> The thing that is distressing to me is that it really is not just propaganda. Propaganda, you can understand. That is part of the way we do things. But in this case, I have never seen such misrepresentation, such distortion, and such outright lying. I mean, there are people in very important positions in the Government who are lying to the American public.

Who said that? Former Attorney General William French Smith, a man who no one has ever questioned his integrity, honesty, or truthfulness, and that was his statement.

Former Attorney General Smith was joined by five other former Attorneys General. Edward Levi dean of the law school, University of Chicago; Griffin Bell, from the State of Georgia, a great lawyer, a great Attorney General, appointed by President Carter, came in and testified; Elliot Richardson, another former Attorney General; William Rogers, Attorney General under President Eisenhower; and Herbert Brownell, also Attorney General under President Eisenhower. They all voiced their support for Judge Bork.

These people are just not ordinary people. They have been Attorneys General of the United States. They have been the top law enforcement officers in the whole Nation.

The former Secretary of HUD Carla Hills, fully supports Judge Bork's nomination as well as Lloyd Cutler, former counselor to President Jimmy Carter.

Nobody would accuse Carla Hills of being an ultraconservative or probably even being a conservative. She came in and testified she thought he was fair, he would make a great judge, he is not an extremist and he ought to be confirmed. That is Carla Hills.

The list of supporters does not stop there. Governor Jim Thompson of Illinois and former Governor Richard Thornburgh of Pennsylvania, former Deputy Solicitor Generals, former Assistant Attorneys General for the Antitrust Division of the Department of Justice, distinguished law school deans and representatives of eight national law enforcement organizations with a membership of over 400,000 members, all supported Judge Bork.

Mr. President, who were these organizations, the National Sheriff's Association, the National Chiefs of Police Association, and other organizations of the same caliber constituting a membership of 400,000 members in the United States? Why were they interested? Because they want a man who believes in law and order. Judge Bork believes in law and order. And they want a Supreme Court who will not reverse convictions on technicalities and allow criminals to walk the streets and again attack other innocent people.

In addition, eight former presidents of the American Bar Association as well as many other respected people came forward to support Judge Bork's nomination. These are truly impressive and respected individuals who have a great knowledge of our system of government and particularly our judicial system. I believe these people provide a strong endorsement for the President's nomination of Judge Bork to be an Associate Justice of the Supreme Court.

The American Bar Association's Standing Committee on the Federal Judiciary rated Judge Bork "exceptionally well qualified" when he was nominated to the circuit court. Mr. President, this is the American Bar Association's highest rating. This is the biggest organization of lawyers in the whole Nation, the American Bar Association, and that committee studied him. They talked to the Supreme Court Justices. They talked to other judges. They talked to law professors. They talked to law deans. They talked to practicing attorneys. They talked to every segment of justice and the bar. And they gave him the highest rating that they could give anyone.

Is that not worth something?

This is the ABA's highest rating, as I said. The ABA also gave Judge Bork its highest rating of "well qualified" on his nomination to the Supreme Court. Although a substantial majority of the committee voted "well qualified," four members voted that he was "not qualified." However, there is some evidence which suggests that these members did not evaluate the nominee on the basis of the ABA committee's own criteria which is competency, integrity, and judicial temperament. Rather, indications are that their vote may have been influenced by political and ideological considerations.

In the ABA committee report it was noted that a minority of that committee found him "not qualified", "not because of doubts as to his professional competence and integrity, but because of its concerns as to his judicial temperament, his compassion, open-mindedness, his sensitivity to the rights of women and minority persons or groups and comparatively extreme views respecting constitutional principles or their application particularly within the ambit of the 14th amendment."

Mr. President, I told the chairman of the ABA committee that this sounded like ideology to me. I then asked if he could provide any examples to support these charges. He was unable to do so. Instead, he read to me a definition from the ABA committee's booklet and indicated that this minority of the committee thought they were applying the definition of judicial temperament. It seems apparent to me that they were in fact dealing with ideological consideration. I think it was clearly established in the 12 days of hearings that there were no objections to Judge Bork's competence, integrity, or judicial temperament, although there was consideration comment on his ideology and philosophy.

Mr. President, I would like now to address some of the false and misleading statements and half-truths that have been used to detract from Judge Bork's character and record.

I will not take up all of these at this time. I will speak again later and complete the list.

I wish first to take up the allegation that it has been alleged that Judge Bork would like to turn back the clock on civil rights.

Now, what are the facts on that?

Mr. President, nothing could be further from the truth. As both Solicitor General and a judge on the appeals court, Judge Bork's civil rights record is superb. As Solicitor General he represented the United States in 19 substantive civil rights cases that did not require him to defend the Federal Government. In 17 of the 19 cases, Solicitor General Bork's argument supported the civil rights plaintiff or minority interest. The NAACP Legal Defense Fund sided with Solicitor General Bork in 9 out of the 10 civil rights cases where they both filed briefs. He argued cases such as Runyon versus McCrary which affirmed that civil rights laws applied to racially discriminatory private contracts. United Jewish Organizations versus Carey, is another case where Solicitor General Bork argued that race-conscious electoral redistricting to enhance minority voting strength was permissible under the 14th and 15th amendments. As Solicitor General, he argued many such cases supporting the civil rights of individuals.

On the circuit court, Judge Bork has always ensured full protection of the civil rights laws. He has joined or authored many opinions upholding these laws. In Emory versus Secretary of the Navy, Judge Bork reversed a district court's decision to dismiss a claim of racial discrimination against the U.S. Navy. The district court had held that the Navy's decisions on promotion were immune from judicial review. In rejecting the district court's theory Judge Bork held:

> Where it is alleged, as is here, that the Armed Forces have trenched upon constitutionally guaranteed rights through the promotion and selection process, the courts are not powerless to act. The military had not been exempt from constitutional provisions that protect the rights of individuals. It is precisely the role of the courts to determine whether those rights have been violated.

In Palmer versus Schultz, he held in favor of women foreign service officers alleging discrimination by the State Department in assignment and promotion. In another case, Laffey versus Northwest Airlines, Judge Bork voted for women who were discriminated against in pay matters where the only basis was nominal difference in duties. Mr. President, there are other cases which I will not go into here.

It should be noted however that, Judge Bork has always praised the Supreme Courts decision in Brown versus Board of Education. He has stated with regard to this case: "If the social change is mandated by a principle in the Constitution or in a statute, then the Court should go ahead and bring about social change. Brown versus Board of Education brought about enormous social change and quite properly."

Mr. President, Judge Bork's record in the area of civil rights is excellent. The allegation against him is just not true. An objective review of his comments and decisions will show that there is not even a hint—and I repeat, not even a hint—of discrimination in Judge Bork's makeup.

Mr. President, another allegation. The allegation is that Judge Bork favors discriminatory literacy tests.

Now, what are the facts?

This charge stems for Judge Bork's criticism of the case of Katzenbach versus Morgan. Judge Bork's criticism of this case actually had nothing to do with literacy tests. His objection to the case turned on the fact the Court said that Congress can define the equal protection clause. This was why Justices Harlan and Stewart dissented in Katzenbach versus Morgan.

So he was not alone in that. Justice Harlan and Justice Stewart took the same position. Nobody could accuse them of being extremists. Nobody could accuse them of being biased. Why would they accuse Judge Bork of being biased?

The Supreme Court had held that nondiscriminatory literacy tests were constitutional. Congress then passed a statute which in certain circumstances said they were outlawed.

Judge Bork's only criticism of this case is that he does not think that Congress can change the Constitution.

Well, of course, Congress cannot change the Constitution, except in the proper way, where an amendment is passed by both bodies of Congress by two-thirds vote and submitted to the States and three-fourths of the States vote for it. Every lawyer knows that.

This is precisely why he testified against the human rights bill, which would have changed the Supreme Court's rule in Roe versus Wade.

Judge Bork in testifying about literacy tests said that he had "never looked at how they operate . . . I have no view of how they operate and none of my criticisms of any of these cases implies agreement with the statute which was being discussed. None of them. That is only for a result-oriented judge, a judge who wants results."

Judge Bork also testified that, "No literacy test that is used to discriminate can stand scrutiny under the equal protection clause of the 14th amendment."

Thus Mr. President, this charge is a totally false and misleading statement. Judge Bork was merely criticizing the position that Congress should not amend the Constitution as interpreted by the Supreme Court. And everyone should agree to that position.

Mr. President, I find it extremely ironic that the same people who level this charge at Judge Bork would be very supportive of his position on the human rights bill that would overrule Roe versus Wade. This is the classic case of result-oriented reasoning rather than applying a consistent rule of law, a neutral principle.

Mr. President, another allegation against Judge Bork is that he opposes racially integrated lunch counters.

Now, what are the facts?

Mr. President, notwithstanding Judge Bork's record of expanding and enforcing civil rights statutes, much attention has focused on a 3-page article he wrote some 25 years ago. In that article, Professor Bork prefaced his remarks on the proposed Civil Rights Act of 1984 by stating, "Of the ugliness of racial discrimination there need be no argument." He went on to question the principle of Government coercion of private associational decisions. The Congress which passed the Civil Rights Act recognized the validity of Professor Bork's concerns when it exempted certain quasiprivate establishments—the so-called Mrs. Murphy's boarding houses—from coverage under the act.

Professor Bork publicly disavowed his opposition to Public Accommodations Act both in the classroom at Yale and before the Senate Judiciary Committee in 1973 during his confirmation hearing for Solicitor General. The committee heard testimony from members of Judge Bork's staff at the Solicitor General's office including that of Ms. Jewel LaFontant, the first black woman to hold the post of Deputy Solicitor General. Ms. LaFontant was unequivocal in confirming Solicitor Bork's personal commitment to vigorous enforcement of the civil rights laws. In fact, Ms. LaFontant stated:

> All of my life I have been involved in civil rights organizations having served for many years as secretary of the Chicago branch of the NAACP, on the board of directors of the American Civil Liberties Union and its legal redress committee, and as chairman of the Illinois Advisory Committee of the United States Civil Rights Commission, as well as being a commissioner of the Martin Luther King Holiday Commission. I have no hesitancy in supporting Judge Bork's nomination to the Supreme Court.

Now, here is this lady, a black lady engaged in all the civil rights fights throughout the Nation. She has been engaged in all of them. Here is what she said:

> Not only is he a supporter of equal treatment of women. I sincerely believe that he is devoid of racial prejudice, or else I would not be here.

In other words, she would not have come and testified if she would not have felt he would have been fair and just.

Moreover, Judge Bork himself stated before the committee:

> I think the 1964 Act really did an enormous amount to bring the country together and bring blacks into the mainstream.

With Judge Bork's record as appellate judge and Solicitor General, as well as the testimony of Ms. LaFontant there can be no doubt that he has a strong commitment to enforcement of civil rights legislation which should not be impugned.

Mr. President, I do not think it is fair to dredge up statements made 25 years ago, when they have been corrected many times over the years.

Another allegation that is brought against Judge Bork, and that is that he is in favor of racially biased poll taxes. What are the facts?

Mr. President again an allegation that is totally without merit, where nothing could be further from the truth. This criticism is directed at Judge Bork's comments on Harper versus Virginia Board of Elections. In Harper, the Supreme Court invalidated Virginia's $1.50 poll tax. There was no claim that the poll tax had a discriminatory purpose or effect, and the decisions expressly stated that this issue was irrelevant. Rather, the Court established a per se ban against all poll taxes in every State regardless of whether they were being used, or had been used previously, as a pretext for racial discrimination. Thus, the decision itself makes plain that the case involved classifications based on wealth, not classifications based on race.

Judge Bork's analysis of the Harper decision in 1973 and again at these recent hearings does not in any way suggest a weakened support for the voting rights of minorities. He criticized the case from the standpoint that the Court did not provide adequate reasoning for its decision. Judge Bork testified before the committee that if the tax had been "applied in a discriminatory fashion, it would have clearly been unconstitutional." But, as Judge Bork pointed out, the Harper Court simply ignored this issue. Justices Black, Stewart, and Harlan made much the same point in their dissents.

Now, why do we want to accuse this man of racial bias when Justices Black, Stewart, and Harlan, whom no one would have thought would be prejudiced, took the same position?

A number of respected commentators concurred with Judge Bork's analysis of Harper: Professors Bickel, Cox, and Kurland.

Thus, again we have an unfair comment directed at Judge Bork, since many people equate poll taxes with racial discrimination. The truth of the matter is that the Harper case had nothing to do whatsoever with racial discrimination. Mr. President, I remember when I became Governor of South Carolina. We had a poll tax of $3. It was not very much and most people felt it would not keep anybody from voting. But, as Governor I took the position we should have no impediment and I recommended to the State legislature that they repeal that poll tax. That was in 1947. And they did repeal it at the next general election in 1948.

It was years later, 10 years after I came to the Senate, that the Federal Government repealed the poll tax on a national basis. And here Judge Bork is being accused of being racially biased about the poll tax. It is perfectly ridiculous. There is no merit in it; none whatsoever.

Another allegation, Judge Bork favors racially restrictive covenants. Well, now, the facts have not been stated. You would be amazed how many untruths have been told and that is the reason there is so much misunderstanding in this matter.

This stems from Judge Bork's comments in 1971 on the case, Shelley versus Kramer. Shelley held that private racially restrictive covenants, no matter how "discriminatory or wrongful," did not themselves violate the Constitution, but that enforcement of the covenants in State court satisfied the State action requirement of the 14th amendment. It is now widely acknowledged that the case did not state a neutral principle capable of explaining when private conduct is transformed into State action.

The concept of neutral principles is designed to test whether a court will take the ruling announced in one case and apply it to future cases that cannot in good faith be distinguished. As Judge Bork explained in his 1971 article and explained again in his testimony, Shelley versus Kramer does not pass this test: "The difficulty with Shelley was not that it struck down a racial covenant, which I would be delighted to see happen, but that it adopted a principle, which if generally applied, would turn almost all private action into action to be judged by the Constitution."

This analysis is now conventional thought in this area. Judge Bork's accurate and now accepted critique of Shelley in no way endorsed racially restrictive covenants. This criticism is misplaced because Judge Bork, like Profs. Herbert Wechsler and Louis Henkin before him, criticized this application of the doctrine of State action, not the underlying decision on the merits. Such a distinction has no particular effect today, because Congress in 1968 foreclosed the use of racial covenants in the Fair Housing Act. Any criticism of Judge Bork's analysis ignores the virtual isolation of Shelley in subsequent Supreme Court case law.

Again, we have a statement designed to disparage Judge Bork. This statement is just not true. His comments on Shelley had nothing to do with his favoring racially restrictive covenants.

Mr. President, although allegations have been brought up against Judge Bork that he favors the sterilization of women, what are the facts? Can you imagine Judge Bork takes such a position? I do not believe anybody any place really believes that. It was just used to try to defeat him.

Mr. President, Judge Bork's opponents have made much of his opinion in Oil, Chemical and Atomic Workers versus America Cyanamid Co., because it is an easy case to sensationalize. This was a unanimous decision which was joined by then—Judge Scalia and Senior District Judge Williams. His opponents imply or even claim that this opinion shows that he is hostile to the protection of women, and specifically that he endorsed an employer's policy requiring women to undergo sterilization as a condition of employment. Judge Bork's testimony and his opinion fully rebut this.

In 1978, American Cyanamid determined that it could not reduce the lead levels in the lead pigment department of one of its plants to a level that would be safe for the fetuses of pregnant workers. The Occupational Safety and Health Administration had taken the position that the Occupational Safety and Health Act required employers to protect employees from harm to their fetuses, and the Court of Appeals for the District of Columbia Circuit had said that OSHA had the authority to impose this requirement. Accordingly, the employer adopted a policy that only sterile women—or women past childbearing age—would be employed in this department. The employer informed the women who worked in the department of this policy, and of the availability of surgical sterilization as a way of complying with that policy. Faced with loss of their jobs or with transfer to lower-paying jobs, five of the women in 1978 elected surgical sterilization. The employer closed the department in 1980.

Subsequently, the women and their union brought a title VII suit alleging that the sterilization policy constituted sex discrimination, and raising State law claims for intentional infliction of emotional harm and invasion of privacy. A Federal district court dismissed the State law claims as barred by the State statute of limitations and the employer eventually settled the title VII suit with the women and their union.

Prior to this litigation, OSHA issued the employer a citation seeking a fine of $10,000 on the grounds that the employer's policy exposed the women to "recognized hazards" in violation of the act. The Occupational Safety and Health Review Commission rejected OSHA's contention that the employer's policy constituted a hazard within the meaning of this particular statute. The appeal was brought by the union as an intervenor. The Secretary of Labor did not file a brief.

When the case came before Judge Bork and his colleagues in 1983, the situation was this: the women had undergone sterilization some 5 years before, and there was no prospect that any other women would be subjected to that policy. The sterilized women had obtained a settlement of their title VII suit, thus obtaining some relief for the harm they had suffered. All that was at issue, from a practical standpoint, was whether the employer would have to pay a $10,000 fine to the Federal Government. All that was at issue from a legal standpoint was whether that policy violated the OSHA Act not whether it violated other Federal or State law.

Judge Bork made plain at the outset of his unanimous opinion that the women were "faced with a distressing choice" between surgical sterilization and loss of their jobs or reduced pay. Judge Bork noted that the "option of sterilization" was "one that the women might ultimately regret choosing," and observed that the employer's policy raised "moral issues of no small complexity." But, Judge Bork explained, the court was not "free to make a legislative judgement." The issue was whether, under the circumstances presented, the employer's policy constituted a hazard within the meaning of the act, and the Court held that it did not.

In reaching that conclusion, Judge Bork acknowledged that the employer's "policy may be characterized as a hazard to female employees who opted for sterilization in order to remain in the Inorganic Pigments Department, though it requires some stretching to call the offering of a choice a hazard to the person who is given the choice." To see whether this stretching of the statutory language was consistent with congressional intent, Judge Bork looked to analogous cases interpreting similar language, and to the legislative history of the act, which indicated that Congress was concerned with protecting employees from air pollutants, industrial poisons, unsafe working conditions, and the like. Accordingly he concluded, as had the commission, that "recognized hazards" did not ordinarily include "a policy as contrasted with a physical condition of the workplace."

Judge Bork could have rested the decision solely on this basis, but instead he narrowed the employer's victory considerably. He took judicial notice of the fact that an administrative law judge had found that in a related proceeding that it was not economically feasible for the employer to lower the lead level to a certain point—a point that was well above the level that would endanger fetuses. Therefore, it was apparent that the employer could not have reduced the lead levels in the department to remove the threat to fetuses. On that basis, Judge Bork narrowed the court's ruling by stating that "This case might be different if American Cyanamid had offered the choice of sterilization in an attempt to pass on to its employees the cost of maintaining a circumambient lead concentration higher than that permitted by law."

It should be noted that the union made an important concession that reveals how narrow the dispute really was by acknowledging the fact that "there would have been no violation if the company had simply stated that only sterile women would be employed in the department because there would then have been no requirement of sterilization." As Judge Bork pointed out, this statement would have given the women the option of sterilization, but without informing them that that option existed or how to pursue it. Thus, the union's concession supplied additional support for the Court's decision, because "it cannot be that the employer is better shielded from the liability the less information it provides."

In sum, it is indisputable that Judge Bork's unanimous opinion reflects sympathy for these women rather than hostility to them. As he wrote, "The women involved in this matter were put to a most unhappy choice." As he also noted, the employer's policy might violate Federal labor law or title VII. In the case before the Court, however, OSHA and the union had used the wrong law—seeking to expand the scope of a worker safety law to encompass employer policies rather than workplace hazards.

An attempt was made to treat Judge Borks' testimony on the case as proof of a malevolent hostility to women. One of the sterilized women, Ms. Betty Riggs, was solicited by her attorney in the American Cyanamid case to send a telegram dictated by her attorney. When this telegram—in which Ms. Riggs expressed her disbelief that "Judge Bork thinks we were glad to have the choice of getting sterilized or getting fired"—was read to Judge Bork, he made it unmistakably plain that he thought no such thing:

> That was certainly a terrible thing for that lady, and it was certainly a terrible choice to have to make. Of course the only alternative was that she would have been discharged and had no choice.
>
> I think it was a wrenching case, a wrenching decision for her, a wrenching decision for us, but the entire panel agreed—the OSHA review commission agreed with us, agreed that it was not a violation of the hazardous conditions provision of the Statute.
>
> There is some thought that was approved a policy. We did not.

Mr. President, I am appalled that Judge Bork would be accused in this case of favoring the sterilization of women. I simply cannot see how anybody who took the time to find out about this case could make such a statement.

Mr. President, another allegation against Judge Bork is that he would construe the equal protection clause so as to deny the rights of women.

What are the facts?

This is just not so. I believe this allegation was made for the sole purpose of attempting to turn the women of America against Judge Bork. The charge apparently arises from Judge Bork's writings on the Supreme Court's approach to the equal protection clause.

For Judge Bork, the equal protection clause prohibits unreasonable distinctions among all persons; it does not afford special protection to certain groups. In every instance, he would ask whether the trait being used to distinguish among citizens is in fact relevant because it actually tells the legislature something about a person's needs, abilities, or merit. If it is not a relevant trait to which a reasonable legislature would attach significance, then it is invidious discrimination and would be struck down.

Judge Bork believes this method of equal protection analysis is both more objective and more faithful to the language and the intent of the equal protection clause. A judge who claims adherence to the framers' intent and to neutral principles must search for a single standard which can be applied to all laws that distinguish between individuals on any basis. The search must begin with the core concern of those who drafted the 14th amendment which is, of course, racial classifications.

The central tenet of the 14th amendment is that race is an unreasonable basis upon which to judge an individual's worth or status in the community. As Justice Stevens had indicated that race is an attribute over which the individual has no control, which cannot be altered, and which tells society nothing about the individual's moral worth or ability, it is per se unreasonable for a legislature to make distinctions between individuals based on a trait which is so utterly irrelevant to any valid legislative goal. In applying the equal protection clause to gender classifications, Judge Bork would refer to the framers' concern with race for guidance. Gender, like race, is an immutable trait. It is a status over which the individual exercises no control, and it indicates nothing about a person's moral or intellectual stature. Since gender is irrelevant to almost all human activities, virtually any statute, which limits the opportunities open to women because of their sex, would not have a reasonable basis in fact.

In a discussion, with Judiciary Committee members concerning the Goeseart case, Judge Bork indicated that there was no reasonable basis in fact for distinguishing men from women in determining who could obtain a bartender's license. The physical differences between men and women had no bearing on their relative abilities in that field. Judge Bork indicated that this test would operate to strike down any law which limited the employment opportunities open to women based on outmoded stereotypes. Since gender is irrelevant to one's ability to be a doctor, lawyer, or accountant, any restriction on women in any of these fields would, in Judge Bork's view, be as unreasonable as a law which disfavored people with blue eyes.

Mr. President, this is just another example of a misleading statement against Judge Bork which in fact has no creditable basis.

Mr. President, at a later time I will take up some other allegations. I will state the charges and then I will attempt to answer and give the facts on them. But in closing at this time, as I stated earlier, Judge Bork is one of the most eminently qualified nominees for the Supreme Court in recent history. I think Judge Bork's positions have been blatantly mischaracterized with a total disregard for the truth. We in the Senate are charged with an awesome responsibility in our advise-and-consent role. To fairly approach this responsibility we should take the time to completely analyze Judge Bork's positions rather than listen to a strident few. To do otherwise does a disservice to our form of government.

I urge my colleagues to listen to the debate on the floor and make an independent judgment as to Robert Bork's qualifications to serve as an Associate Justice on the Supreme Court. I fully support this nomination and I urge my colleagues to vote for his confirmation to the Supreme Court of the United States.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. Conrad). The Senator from Pennsylvania I think was the first to seek recognition.

Mr. SPECTER. Mr. President, we all have time problems but I have agreed with Senator Hatch to yield because of some special problems he has, saying that he would take less than 30 minutes, and I will then seek recognition at the conclusion of Mr. Hatch's presentation.

Mr. EXON. Mr. President, I object.

Mr. HATCH. Mr. President, I think I did seek recognition first and I appreciate the deferral.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Just one moment. The Chair will consult with the Parliamentarian.

In this case, the Senator from Pennsylvania, in the judgment of the Chair, was the first to seek recognition. If he yields the floor, it is then a question of who is the next to seek recognition. He cannot yield to another Senator for that purpose. And the Chair therefore, recognizes the Senator from——

Mr. HATCH. Mr. President, parliamentary inquiry. I think I was first up before the Senator from Pennsylvania.

Now, I am familiar with how the Chair is operated and I know what was told to it. I will defer to the Senator from Pennsylvania because the Chair said it recognized him first.

Now, I will be happy to do that and he can take his time now so he can catch his train. But, Mr. President, let me make a parliamentary inquiry.

Is it not true that the first one up on the floor has a right to the floor?

The PRESIDING OFFICER. That is absolutely correct.

Mr. HATCH. Then I want the right when I am first up. Let me just say this. I have seen it time after time——

The PRESIDING OFFICER. It is in the discretion of the Chair to determine who was first up.

Mr. HATCH. Mr. President, may I state my inquiry?

The PRESIDING OFFICER. The Senator certainly may state his inquiry.

Mr. HATCH. I am going to state it. I have watched this floor for a long time and I have to admit when we controlled the floor, there were some discrepanicies over the 6 years that we retained the chair. But I have seen it time after time since the Democrats have taken control of the Senate where the Chair has recognized either Democrats or somebody who has made a deal to get recognized even if they are not the first ones up.

The PRESIDING OFFICER. Does the Senator have a parliamentary inquiry?

Mr. HATCH. My question is, Is it not true that the one who seeks recognition first, and so states it, is the one entitled to be recognized by the Chair?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. Then I suggest to the Chair that Senator Specter, since the Chair recognized him first, can proceed and I will defer. And I will defer after the Senator from Nebraska. I will do that out of strict courtesy to my colleagues. But next time I seek recognition, and I am first, I do not care what deal has been made with the Chair; I want to be recognized. I know I was first because I know whose voice was first. But I am going to do it on that basis.

The PRESIDING OFFICER. The Chair will take this opportunity to respond. No. 1, there was no deal made with this Presiding Officer. I was informed that there was a gentlemen's agreement that we would attempt to rotate between those who are in favor of the Bork nomination and those opposed. It is not outside the normal business of the Senate to have a gentlemen's agreement to go back and forth between those in favor and those opposed.

Mr. HATCH. Is that the case? I do not know that that is correct.

The PRESIDING OFFICER. In the observation of the Chair, three Members sought recognition. Frankly, it would be very hard for the Chair to say which one was first. Out of deference to the gentlemen's agreement to go back and forth between those in favor and those opposed, the Chair was attempting to abide by that gentlemen's agreement. That states the case as far as the Chair is concerned.

Now, the Parliamentarian further informed the Chair that the Senator from Pennsylvania, who received recognition, was not in a position to then pass on to another Member that recognition.

Mr. HATCH. Parliamentary inquiry again. I am going to just say it one more time. I will accept the Chair's ruling but I happen to know who was up first.

I do not know of any gentleman's agreement, but I will be happy as a matter of courtesy to defer not only to the distinguished Senator from Pennsylvania, who has a lot to say on this matter, but I will wait until after the distinguished Senator from Nebraska finishes. But I expect to be up after the distinguished Senator from Nebraska. I will try to rise first at that time, I guess just like anybody else will have to do. But I happen to know who rose first on this one because I made sure that I did. I am a little disappointed when I rise first and I am not recognized in accordance with the rules of this body.

That is OK. Mistakes can happen and I am just as happy to yield to the distinguished Senator from Pennsylvania.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have not been surprised at the general actions by those who see the Bork nomination differently than this Senator, but I am surprised at the outburst by the Senator from Utah. The facts are that this Senator was on the floor at 12:30 when we were originally scheduled to start this debate. I was here when the debate actually started. At that time I inquired of the manager of the bill if there was any order for debate, trying to be courteous to others. Senator Biden indicated to me the Senator from Pennsylvania had asked to speak first, and I agreed that that was in order. Since that agreement was made, I did not want to interfere with it. I was courteous enough to go to the Senator from Pennsylvania, tell him that I had a conference with the House of Representatives on the defense authorization bill that I had to go to in 10 minutes, and could I precede him.

The Senator from Pennsylvania indicated that he wished that he could help me, but that he could not because he had pressing business of his own. I understood that. I went and disposed of that matter, Mr. President. I came back to the floor. I have patiently waited through the opening remarks of the chairman and the ranking member. Then I visited with the Senator from Pennsylvania, and the Senator from Pennsylvania told me that he was supposed to talk next, but he had decided to yield to the Senator from Utah. I thought that was not fair. I thought that is not what we generally do in this body.

There was no unfairness on the part of the Chair as far as this Senator is concerned. I believe in the matter of fairness that the Senator from Pennsylvania should be recognized next. I have no objection to that whatsoever. The reason I objected earlier was the fact that when you talk about controlling the chair against the rules of this body to the placement of the Senator from Pennsylvania, who I thought should have been recognized next, tried to yield, and put the Senator from Utah ahead of the position in which the Senator from Nebraska thought he was at least entitled to seek recognition. I objected.

I think the Chair did the right thing. I do not care to take advantage of the Senator from Pennsylvania, and I will wait until a later date to make the statement that I would like to make.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Nebraska. I thank the distinguished Senator from Utah, I thank the chairman of the committee. I think enough has been said on this subject. I shall not say further except to proceed to the issue of the nomination of Judge Bork.

Mr. BIDEN. Before the Senator from Pennsylvania proceeds, will he yield to me for 30 seconds? I ask unanimous consent that he yield 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Without losing my right to the floor, Mr. President.

Mr. BIDEN. Mr. President, I will cease attempting to allocate, not allocate time, but see to it there is some sense of comity. I want the Chair and my colleagues to understand. The Senator from South Carolina and I, at the request of the majority and minority leaders several days ago, and again today, agreed that we would try to see to it that there is an evenness to this debate. That is all we are trying to do.

I think alternating is a useful thing, but if we do not want to do that, fine, whoever seeks recognition, fine. We will go from there. But that was the intent of both the ranking member and the chairman of the committee. That is what we were attempting to do. I thank the Chair. I think he ruled correctly. My time is up.

The PRESIDING OFFICER. If the Senator will withhold for 1 minute, the Chair makes one other observation because I think it is important that the RECORD be clear. There was clearly no partisanship involved here. The Chair came to the chair with the ranking member of the committee speaking. The Chair was informed that there was a gentleman's agreement to trade off between those who favor and oppose the nomination of Judge Bork. The Chair was further informed that the Senator from Pennsylvania had been here the longest. We then had three Members seeking recognition simultaneously. Frankly, one Member asserts he was first. I find it very difficult, if not impossible, to judge when you have Members calling out from different ends of the Chamber who is first. In the interest of following the gentleman's agreement, the Chair then recognized the Senator from Pennsylvania who is of the same party, I might add, as the ranking member. So clearly no partisanship was involved.

Number 2, the Chair was attempting to keep faith with a gentleman's agreement to go back and forth between those who favor and oppose.

Again, the Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Chair.

On these matters, there is an obvious effort on the part of all Senators to accommodate other Senators to the extent that we can. That was part of my thinking and I do believe at this juncture adequate time has been spent along the recognition issue. I shall proceed now on my floor statement regarding the nomination of Judge Bork.

There is something almost surreal about the debate we are taking up today. We, the greatest deliberative body in the world, finally are moving to take up Judge Bork's nomination at a time when the nominee has conceded defeat and the principal involvement of the White House appears to be the consideration of whom to nominate next. Nevertheless, aside from the substantive basis for the Senate's decision to consent or not, there are issues of real importance to be considered at this time on the procedures which the Senate has followed.

This nomination has been unique in several respects: First, Senators asked and the nominee answered significant questions on his judicial philosophy; second, Senators announced their intended votes in advance of floor action virtually nullifying the Senate's traditional deliberative function; and third, unprecedented public relations/media campaigns were undertaken. This debate presents a valuable opportunity to deal with these important potential precedents for future Supreme Court nominations.

In my judgment, Judge Bork's hearings established a proper precedent for a meaningful evaluation of a nominee's views unlike, for example, Justice Scalia's confirmation where virtually no questions were answered. At the same time, the informal, rolling, off-the-record 51-vote total should be rejected as the way for selecting future Supreme Court Justices. The Senate's examination of the public relations/media tactics may discourage such activities for the future, recognizing such restraint must be voluntary since such activities are within first amendment rights.

THE IMPORTANCE OF "PROCESS"

Notwithstanding 200 years of confirmation experience, clear precedents have not been established on many such important procedural questions. Many are surprised to learn that Supreme Court nominees have been appearing at Judiciary Committee hearings for less than 50 years. Accordingly, this floor debate on process could have significance far beyond even the importance of the pending nomination.

Process has always had special significance in our system. "Due process of law" is the cornerstone of American justice. It is embodied in the 5th and 14th amendments of the U.S. Constitution. The phrase "the end does not justify the mean" expresses our ideal for fairness in the way we deal with issues and proceed to our decisions. Whatever the ultimate merits, everyone is entitled to procedural fairness and "a day in court."

The Senate of the United States has no more important duty than its constitutional responsibility for "advise and consent." On that role, no nomination is of greater importance than a lifetime appointment to the highest Court in our judicial system.

There are obviously important reasons why we should move with dispatch on Judge Bork's nomination because the Supreme Court is short one member and a full Court is indispensable to resolve many complex issues which will doubtless find the eight members evenly divided. This debate has started just 2 weeks after the Judiciary Committee's vote following the expedited filing of the committee's report and the brief waiting period mandated by the Senate rules.

For a few extra hours or even days, the Senate should give this nomination the process which it is due. We can conclude the Senate deliberation and vote on this nomination; and, if necessary, proceed to another nominee with committee hearings and floor action during this congressional session before the end of the year. We may miss our targeted adjournment date or be compelled to work overtime, but this important item of the Nation's business comes first and should get appropriate attention.

THE ROLLING, OFF-THE-RECORD VOTE

Meaningful floor debate on the substantive merits realistically is precluded when a majority of Senators already has announced opposition to a nominee. The sound and fury emanating from the Senate this week may be subject to many characterizations; but deliberation it is not. Our handling of Judge Bork's nomination hardly conforms to the Senate's reputation as the world's greatest deliberative body.

Every Senator obviously has the right to announce his or her views at any time in the confirmation process; I cannot and would not change that. I encourage my colleagues, however, to consider whether it would not be much wiser and fairer for Senators on the Judiciary Committee to refrain from pronouncing judgment until after the hearings have concluded, and for the other Senators to wait until the merits of the nomination have been debated on the Senate floor.

I have concluded that this would be a great improvement on the current process. Our departure from it raises questions about the relevance and significance of our most hallowed tradition: full and open debate on the floor, in which Senators listen to each other's considered arguments, ask and respond to questions, and make decisions based on the power and persuasiveness of each other's logic. Now I well recognize that the Senate often fails to conform to this ideal. On many or even most issues, there is little debate. On many days, few Senators are in the Chamber other than during rollcalls. We frequently are called upon to vote on amendments on which we have virtually no advance notice.

But this is not how we treat major issues, and the confirmation of a Supreme Court Justice is, after the declaration of war, perhaps our most significant institutional function.

In our rush to conclude, we may be oblivious to setting a new, dangerous precedent that Supreme Court nominations may be decided by a rolling, off-the-record vote which reaches 51 rather than through our traditional deliberative process. Judge Bork will receive a record vote only because of his personal and proper insistence. Calls for withdrawal, abbreviated debate, short time limits, and a tabling motion have probably already consumed more floor time than the ultimate debate. For many reasons, the pending issues, as well as the pending nomination require time for thoughtful deliberation.

While there was extensive media coverage of the Judiciary Committee hearings, it is obvious that Members could have benefited from consideration of the committee report and floor debate. Neither was available by the time that more than 50 Senators had announced their intentions to vote against Judge Bork. The history of the Senate shows that wiser, more informed decisions are made when there is an opportunity for the type of passionate, yet collegial and reasoned, dialog which floor debates provide.

While recognizing and respecting the right of each Senator to decide when to decide, I believe it is the preferable practice for individual Senators, at least those not on the Judiciary Committee, to refrain from formally declaring an intention on the vote in advance of the floor debate. At a minimum, the practice of the rolling vote should be scrutinized at this time. When Senators made their declarations, many doubtless did not focus that the cumulative effect would short-circuit the system. Senators may wish to repeat this practice which is each individual Senator's right, but at least its consequences should be understood and evaluated.

The substantive issues on Judge Bork's nomination are numerous and complex. They involve due process, privacy, equal protection of the law, civil rights, freedom of speech, executive/legislative powers, original intent, Supreme Court jurisdiction, the incorporation doctrine and many other constitutional issues plus Judge Bork's positions expressed in numerous speeches, law review articles and court opinions. Obviously, floor debate would provide helpful insights on these complex questions.

Is it fair to Judge Bork as the nominee or his supporters for individual Senators to make up their minds and state positions with finality without allowing the process to run its due course? Is it best for the institution of the Senate to decide or appear to be deciding such important issues without the traditional deliberative process and floor debate? While not necessarily free from some doubt, my sense is that these questions should receive "no" answers; but I have no doubt that these questions are worthy of our serious consideration at this time.

THE COMMITTEE VOTE

The situation is different for Judiciary Committee members who are required to vote in committee in advance of floor action. The suggestion has been made that even a committee member should announce his vote with the express qualification that it is subject to change in the light of floor debate.

Perhaps this is too much to ask in a political cauldron which rarely understands let alone rewards subtleties of judgment, even when well justified. While there may be some theoretical merit to such an express reservation, it is unrealistic to invite additional inputs and contacts after a decision made in the Judiciary Committee based on extensive deliberation following days of testimony and consideration of volumes of written materials. Under some other circumstances, however, such an express reservation might be appropriate.

It is also worth raising the issue of the desirability of Senators, especially committee members, announcing their positions in advance of the hearing although I respect the right of Senators to decide what and when to decide. With a nominee like Judge Bork, some Senators may have fixed positions which have been formulated over the years because of his public record and his involvement on matters like discharging Special Prosecutor Archibald Cox.

In general, my preference is for Senators on the Judiciary Committee not to take positions before the hearings although I recognize the legitimacy of early advocacy and the value of openness. Perhaps this matter is so clearly within the discretion and conscience of each individual Senator, that it would be better left unmentioned. At a minimum, however, the rolling vote and early declarations are worth the Senate's attention. No minds may be changed today, but longer-term evaluation may affect some Senators' future conduct.

JUDICIAL PHILOSOPHY IS RELEVANT

This floor debate on Judge Bork's nomination provides an excellent opportunity to explore the relevancy of judicial philosophy and the appropriate scope of questions for a nominee at Judiciary Committee hearings. When Judge Bork visited me in mid-July for a courtesy call, my first question was whether Judge Bork thought judicial ideology was appropriate for our discussion since I did not want to raise any subject without obtaining his preliminary thinking. Judge Bork's immediate response was that he did not like the term ideology because it had political implications, but that he did think that "judicial philosophy" was appropriate for consideration.

The precedents suggest that a nominee's philosophy and approach to legal issues are indeed germane to the confirmation process. John Rutledge, the first nominee to the Supreme Court to be rejected by the Senate, was rejected because of his views. Rutledge, who was nominated to be Chief Justice by President Washington, had served as a delegate to the Constitutional Convention, as an Associate Justice of the Supreme Court, as chief justice of the South Carolina Supreme Court, and, pursuant to a recess appointment, as Chief Justice of the United States. He was a man of acknowledged professional ability and his integrity and judicial temperament were not at issue. Nevertheless, his nomination to serve as Chief Justice of the United States was rejected by the Senate.

John Rutledge's nomination to be Chief Justice of the United States was rejected because Members of his own party strongly disagreed with the position he had taken, shortly after his nomination, in opposition to the Jay Treaty. The Jay Treaty had been negotiated by Washington to ease tensions with the British and resolve a number of trade issues. It was stongly opposed by many anti-British elements and support for the treaty was viewed by others as the litmus test of support for a strong national government. Rutledge spoke out against the treaty, and that single political position led to the rejection of his nomination after a long and acrimonious debate.

The vote to reject the Rutledge nomination was 14 to 10, and it is of particular note as we consider the constitutional advise and consent role of the Senate that among the Senators voting against the nomination were some who, like Rutledge, signed the Constitution.

Chief Justice Roger Taney, of Dred Scott infamy, originally was nominated to be an Associate Justice of the Supreme Court. Taney was not confirmed by the Senate because, as a member of the Jackson Cabinet, he had taken actions at the President's direction, that were very unpopular with certain Members of the Senate.

In particular, as part of President Jackson's crusade against the Bank of the United States, Jackson ordered his Secretary of the Treasury, Louis McLane, to remove all Federal funds from the Bank—by law, only the Secretary of the Treasury could take this action. McLane refused and was fired. Jackson's next appointee as Secretary of the Treasury, William Duane, also refused to withdraw the funds and he too was fired. Jackson then turned to Attorney General Roger Taney, Taney was appointed Secretary of the Treasury and he promptly carried out the Presidential order which his predecessor had refused.

Taney's actions so enraged many of the leaders of the Senate that they defeated his first nomination to the Supreme Court by delaying its consideration until the session of Congress was almost finished.

In this century, ideology has continued to play a role in opposition to some Supreme Court nominations. There was considerable—although ultimately unsuccessful—opposition to the nomination of Justice Brandeis. The opposition was based in substantial part on objection to Brandeis' progressive political philosophy. Similarly, the nomination of Judge John Parker to the Supreme Court was rejected in large part because of the antiunion views evidenced in his judicial decisions and his statements on race issues.

Judge Parker was nominated by President Hoover in 1930. Although his credentials and abilities were not questioned, the Senate rejected his nomination by a vote of 41 to 39. The principal issues during the debate were Judge Parker's opinion as a court of appeals judge upholding the legitimacy of a "yellow dog" contract—a contract in which, as a condition of employment, an employee promises never to join a union—and his statements that "the negro * * * does not desire to enter politics" and characterizing black participation in Government as "evil."

More recently, ideological considerations played a determining role in the Senate's failure to confirm President Johnson's nomination of Justice Abe Fortas to be Chief Justice. Many of my colleagues participated in that debate, and will recall that opposition to Justice Fortas was based in large part on his judicial philosophy as a member of the Warren Court. Nor can there be any doubt that ideology played an important part in the Senate's rejection of President Nixon's nominations of Clement Haynesworth and Harold Carswell to the Supreme Court.

Most recently it is clear, notwithstanding some protestations to the contrary at the time, that much of the opposition to Chief Justice Rehnquist's nomination last year was motivated by many of my colleagues' disapproval of his judicial philosophy.

NOMINEES SHOULD ANSWER, AT LEAST, BASIC QUESTIONS

Judge Bork's hearings established a proper precedent for a meaningful evaluation of a nominee's judicial philosophy contrasted with other hearings where virtually no questions were answered. In order for Senators to make an informed judgment, it is necessary to have some insights through the nominee's answers on, at least, some basic judicial views.

The hearing for Justice Scalia provides an example of a nominee refusing to answer even the most basic questions. For example, when asked whether he agreed with the bedrock decision in Marbury versus Madison that established the supremacy of judicial review of questions of constitutionality, Justice Scalia, while acknowledging that the decision was indeed a pillar of our jurisprudence, said: "I do not want to be in a position of saying as to any case that I would not overrule it." And this, despite his having just agreed that "I would not want to confirm anybody that I believed would destory certain decisions." What decision could be more important as a basis for not confirming?

Justice Rehnquist—now Chief Justice—was also very reluctant in his confirmation hearing for Chief Justice to state views on whether he agreed with landmark Supreme Court decisions. When asked about Marbury versus Madison, he sought to justify his refusal, saying:

> * * * the fact that the issue is fundamental, and important, does not make it any less one that could well come before the Court. And I think the approach I have to take is, in a case like that, I ought not to attempt to predict how I would vote in a situation like that.

Justice Rehnquist's position represented a reversal of his own conclusion stated in a 1959 article in the Harvard Law Record. There he had criticized the Senate for failing to obtain Justice Whitaker's views during confirmation hearings on fundamental issues, including school segregation and Communists' rights and constitutional doctrines such as equal protection and due process. Indeed, he concluded his article, saying: "The only way for the Senate to learn of these sympathies is to inquire of men on their way to the Supreme Court something of their views on these questions."

In his own hearing, however, Justice Rehnquist retreated from answering many such questions indicating that when he wrote the article, "I had no idea of the extraordinary difficulties that that approach put a nominee in."

I believe the better view, for the Court, the Senate and the country, is that expressed in Chief Justice Rehnquist's article entitled "The Making of a Supreme Court Justice," that nominees should answer questions on fundamental issues. Justice Rehnquist finally did answer on important substantive issues saying that the Supreme Court's jurisdiction could not be undercut on first amendment issues such as freedom of speech, press and assembly and that the due process clause of the 14th amendment incorporated basic rights from the Bill of Rights such as freedom of religion.

In my judgment, the Senate should be reluctant, if not unwilling, to confirm Supreme Court nominees who refuse to answer basic questions such as the supremacy of judicial review upholding the basic principle of Marbury versus Madison, the incorporation doctrine making the Bill of Rights applicable to States via the due process clause of the 14th amendment, and the unconditional jurisdiction of Federal courts on constitutional issues.

THE PUBLIC RELATIONS/MEDIA CAMPAIGNS

Amid controversy in the media and on the Senate floor over whether opponents of Judge Bork's confirmation distorted his views and his record, let us remember that the best cure for any distortions is to have the nominee's views explained by the nominee himself—in great detail and on the record, for all Senators and all citizens to see. Judge Bork's extensive testimony was a great improvement over past practices and both he and the Senate benefited by it.

Judge Bork's approach, not Justice Scalia's, should become the precedent followed in the future. The decision of each Senator whether to confirm a Supreme Court nominee should not be a gamble based on guesses, but a judgment based on answers on a nominee's views of the law. The Bork hearings permitted that, and how this Senator or another decided the ultimate issue on confirmation should not obscure the fact that full and open testimony serves everyone in the confirmation process.

Obviously, Judge Bork is not a racist, and does not favor sterilization. Equally obvious is that those Senators who oppose him do not favor criminals over victims, and are not part of a lynch mob. The responsibility of Senators is to receive all of the various inputs, exaggerated as many of them surely will be, and to distill from them our own conclusions. We do that every day, on all sorts of controversial issues; we belittle ourselves and our institution by suggesting, in the heat of battle, that we are incapable of evaluating and according proper weight to the various inputs. For my part, I gave enormous weight to Judge Bork's testimony, some weight to the outside witnesses, and none to the public relations/media campaigns.

CONSTITUENT CONTACTS

To be sure, these were not the only inputs. I received over 140,000 letters, cards and calls, and met with many groups and individuals. While constituent contacts always are relevant, their proper weight depends on the type of issue involved. It is impossible to know how many of the calls my office received were repeat calls by the same people. Many were from other States. It may be appropriate to give somewhat different weight to postcards orchestrated by groups than to individual letters.

At bottom, the issue is how, in our representative system of Government, a Senator balances the need to weigh constituent views with the obligation to make an independent judgment. In my opinion, there has not been a better analysis on this issue than Edmund Burke in 1774. Like Burke, I believe that a legislator must weigh and consider a variety of factors, including his or her constituents' opinions, but ultimately has to make an independent judgment. Were it otherwise—if constituent opinions controlled—then we would not need Senators; it would only be necessary to tabulate the letters or calls, or look to the most recent public opinion poll. We Senators have the time, perspective and means to filter all the inputs; many of our constituents do not, and may be more susceptible to being swayed by the slanted TV ads and newsletters we have heard so much about. Constituents frequently change their views after hearing more of the facts and arguments about an issue.

Since Judge Bork was nominated on July 1, I have had 11 open-house town meetings in Pennsylvania where I have heard constituent opinions on the nomination. Frequently, after discussing the matter, a constituent will change his or her opinion or decide to leave the final judgment to me after hearing some of the complex factual and legal questions involved. Constituent views are relevant and important, but when the issues are a Supreme Court nomination, I think the Constitution requires us to give greater weight to the constitutional doctrines at issue and the nominee's position on them.

Mr. President, it would appear to be too late for much good to come to Judge Bork from this floor debate. Soon the process will begin anew, with the nomination of another individual. I hope that while we are focused on the Supreme Court and this particular nominee, we will find time to discuss the process issues I have raised today. By working toward a consensus on the way we should conduct our advise and consent responsibility, perhaps we can handle the next nomination with more focus on the merits, less distraction by atmospherics, and a renewed commitment to the principle of careful, deliberative decisionmaking that is the Senate's hallmark.

Mr. President, I ask unanimous consent that the text of my floor statement on October 1 be inserted in the Record, and an article of mine in the New York Times on October 9 be inserted in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

JUDGE ROBERT BORK

Mr. Specter. Mr. President, I shall vote against Judge Bork on confirmation to the U.S. Supreme Court because I believe there is substantial doubt as to how he would apply fundamental principles of constitutional law. This is a difficult vote since I will be opposing my President, my party, and a man of powerful intellect whom I respect and like. I have spent hours discussing my concerns with Judge Bork both publicly at the hearings and privately in my office, with the last meeting for more than an hour yesterday afternoon.

This vote is especially hard since I know I will be disappointing many constituents who feel so strongly in favor of Judge Bork although there are about as many with equally strong feelings in opposition. At the end, politics and personalities must give way, for me, to my own judgment on the history and the future of the Constitution.

Constitutional separation of power is at its apex when the President nominates and the Senate consents or not for Supreme Court appointees who have the final word. The Constitution mandates that a Senator's judgment be separate and independent.

My judgment on Judge Bork is based on the totality of his record with emphasis on how he would be likely to apply traditional constitutional principles on equal protection of the law and freedom of speech.

I am troubled by his writings that unless there is adherence to original intent, there is no judicial legitimacy; and without such legitimacy, there can be no judicial review. This approach could jeopardize the most fundamental principle of U.S. constitutional law—the supremacy of judicial review—when Judge Bork concedes original intent is so hard to find and major public figures contend that the Supreme Court does not have the last word on the Constitution.

I am further concerned by his insistence on Madisonian majoritarianism in the absence of an explicit constitutional right to limit legislative action. Conservative Justices have traditionally protected individual and minority rights without a specifically enumerated right or proof of original intent when there are fundamental values rooted in the tradition of our people.

Thirty-three years after the fact, there is still not acceptable rationale for the desegregation of the schools in the District of Columbia according to Judge Bork's doctrine of original intent. It is not only that the majority in a democracy can take care of itself while individuals and minorities often cannot, but rather that our history has demonstrated the majority benefits when equality enables minorities to become a part of the ever-expanding majority.

These conceptual concerns might be brushed aside if it were not for his repeated and recent rejection of fundamental constitutional doctrines. Over the years, Judge Bork has insisted that equal protection applies only to race as originally intended by the framers. As recently as 1 month before his nomination, he said equal protection should have been kept to things like race and ethnicity. His view of the law is at sharp variance with more than a century of Supreme Court decisions which have applied equal protection to women, aliens, illegitimates, indigents, and others.

For the first time at his confirmation hearings, Judge Bork said he would apply equal protection broadly in accordance with the Court's settled doctrine under Justice Steven's reasonable basis standard. Without commenting on the various technical levels of scrutiny, I have substantial doubt about Judge Bork's application of this fundamental legal principle where he has over the years disagreed with the scope of coverage and has a settled philosophy that constitutional rights do not exist unless specified or are within original intent.

Similarly, Judge Bork had, prior to his hearings, consistently rejected the "clear and present danger" test for freedom of speech even though a unanimous Supreme Court had accepted it as an ingrained American value for years. Justice Holmes' famous dictum that "time has upset many fighting faiths," expressed the core American value to listen to others and permit the best ideas to triumph in the marketplace of free speech, short of a clear and present danger of imminent violence.

At the hearings, I asked Judge Bork about his position that Justice Holmes had a "fundamentally wrong interpretation of the First Amendment." After extended discussion, Judge Bork said for the first time he would accept the doctrine as settled and apply it although he still disagreed with the underlying philosophy. I have substantial doubt about Judge Bork's application of that standard to future cases involving different fact situations where he retains his deep-seated philosophical objections.

In raising these doubts about Judge Bork's application of settled law on equal protection and freedom of speech, it is not a matter of questioning his credibility or integrity, which I unhesitatingly accept, or his sincerity in insisting that he will not be disgraced in history by acting contrary to his sworn testimony, but rather the doubts persist as to his judicial disposition in applying principles of law which he has so long decried.

These concerns and doubts lead me, albeit with great reluctance, to vote against Judge Bork.

I thank the Chair, and I yield the floor.

[From the New York Times, Oct. 9, 1987]

WHY I VOTED AGAINST BORK

(By Arlen Specter)

Washington—From the day in mid-July when Judge Robert H. Bork stopped by for a courtesy call until I telephoned him last week to say I would oppose his nomination, my goal was to figure out what impact Judge Bork would have on the people who came to the Supreme Court in search of their constitutional rights. At the end, having come to like and respect Judge Bork, I reluctantly decided to vote against him, because I had substantial doubts about what he would do with fundamental minority rights, about equal protection of the law and freedom of speech.

From the beginning, it was evident that this nomination process would be different from most. The traditional courtesy call turned out to be much more because Judge Bork was willing—really anxious—to discuss his judicial philosophy. Unlike other nominees who had barely given name, rank and serial number, he enjoyed the exchange and doubtless figured that his extensive writings were so unusual that he would have to talk if he were to have any chance at confirmation.

Our first hour and a half meeting was interrupted by a Senate vote, so he returned a few weeks later for a similar session. In those discussions, I found a man of intellect and charm, who said, in essence, that his writings were academic and professorial and not necessarily indicative of what he would do on the Court.

During the August recess, when I had a chance to read many of his approximately 80 speeches, 30 law review articles and 145 circuit court opinions, I found a scholar and jurist whose views and opinions were vast and complex. In voting to confirm Chief Justice William H. Rehnquist and Justice Antonin Scalia last year, I had already decided that a nominee's judicial philosophy need not agree with mine. But I also believed that a nominee's views should be within the tradition of our constitutional jurisprudence. With that in mind, I compared Judge Bork's views with those of other conservative justices.

On freedom of speech, I was surprised to find that Judge Bork in his writings rejected Justice Oliver Wendell Holmes' standard of a "clear and present danger," Chief Justice Warren Burger's notion of constitutional protection for commercial speech and Justice (now Chief Justice); Rehnquist's Court opinion protecting a sexually explicit (as distinguished from an obscene) movie from censorship.

In Judge Bork's earliest views, only political speech was to be protected. He later modified that to include literature and art that involved political discussion. In the confirmation hearings, I was even more surprised to find him change his position and commit himself to apply the Holmes test even though he continued his strong philosophical disagreement.

Judge Bork's views on equal protection of the law also underwent a major change at the hearings. He committed himself to apply current case law after having long insisted that equal protection applied only to race and, more recently, to ethnicity. His narrow position had put him at odds with Chief Justice Rehnquist and Justices Sandra Day O'Connor and Scalia, as well as 101 years of Supreme Court decisions that had applied equal protection to women, aliens, indigents, illegitimates and others.

These significant shifts raised questions about Judge Bork's motives and the depth of his convictions. But I felt he should have a full opportunity to explain his new positions because a person is entitled to change.

During a long Saturday session, I had an unusual opportunity to explore at length some troubling aspects of Judge Bork's jurisprudence. I was particularly concerned with his writings on "original intent." He had maintained that judges had to base their opinions on the Framers' original intentions. Without adherence to original intent, he said, there was no legitimacy for judicial decisions. And without such legitimacy, there could be no judicial review.

But Judge Bork conceded during the hearings that original intent was often difficult, perhaps impossible, to discern. I feared that this approach could jeopardize the fundamental principle of constitutional law—the supremacy of judicial review. Although Judge Bork himself never went so far, some prominent political figures have suggested that the Supreme Court should not be the ultimate arbiter of constitutionality. Their cause—with which I deeply disagree—could be aided by a Justice who questioned the legitimacy of judicial review.

I had also been concerned by Judge Bork's insistence on "Madisonian majoritarianism," the idea that, in the absence of explicit constitutional limits, legislatures should be free to act as they please, conservative justices had traditionally protected individual and minority rights even without a specifically enumerated right or proof of original intent where there were fundamental values rooted in the tradition of our people.

Just this year, for example, Chief Justice Rehnquist and Justices O'Connor and Scalia had found a right in the Constitution for a prisoner to marry. But Judge Bork, at his confirmation hearing, could still find no acceptable rationale for the decision desegregating the District of Columbia schools 33 years ago.

I was further troubled by his writings and testimony that expanding rights to minorities reduced the rights of majorities. While perhaps arithmetically sound, it seemed morally wrong. The majority in a democracy can take care of itself, while individuals and minorities often cannot. Moreover, our history has demonstrated that the majority benefits when equality helps minorities become a part of the majority.

Despite these concerns, I was genuinely undecided—perhaps leaning a little toward Judge Bork—when he finished his impressive testimony at the end of the first week. He had conceded that there was a "powerful argument from a strong tradition" to find rights rooted in the conscience of the people, although not specified in the Constitution. He had also yielded to the "needs of the nation" on some constitutional matters that did not fall within the Framer's original intent. Perhaps his writings were only professional theorizing.

As I listened to the other witnesses during the second and third weeks, and considered the implications of Judge Bork's total approach, my doubts grew about the application of his changed positions. For example, in Judge Bork's former view, which he last expressed 20 days before his nomination, equal protection should have been kept to concerns like race and ethnicity. Considering the many subtle and discretionary judgments involved, I felt it would be unfair to people who sought equal protection in the Supreme Court to have their cases decided by someone who had so long thought their claims unprotected by the Constitution under standards that were so elusive to apply.

Similarly, the hearings showed the great difficulty, if not impossibility, of Judge Bork's applying the "clear and present danger" standard to free speech cases. If there was a critical turning point, it was Judge Bork's responses regarding two cases.

The "clear and present danger" standard was restated by the Court in 1969, in Brandenburg v. Ohio, and again in 1973, in Hess v. Indiana. When Judge Bork committed himself to accepting *Brandenburg*, I pressed as to how we could be confident that he would apply that test to the next case, which obviously would be different on the facts. He promised he would, but then promptly insisted that he was not committed to *Hess* because it was an "obscenity" case.

Judge Bork's disagreement on *Hess*, a "clear and present danger" case, cast substantial doubt on his ability to apply cases he philosophically opposed and had long decried.

The hearings brought a record 140,000 calls and letters to my office. Wherever I went, it seemed that everyone had a strong opinion. The pressure was pervasive. On the afternoon the hearings ended, I talked again with Judge Bork for more than an hour, and met later that evening with Lloyd Cutler, the former adviser to Jimmy Carter, who had been a principal supporter. My substantial doubts persisted, so I decided to vote no.

Mr. SPECTER. Mr. President, on those occasions I have spoken about the merits of the issue. Mr. President, I wonder if we might have order in the Senate.

Mr. President, as I have said, I have spoken on the substance of merits. Today, I shall speak, and I hope relatively briefly because I know others await a turn, on certain varied issues of process. In the last few minutes we have all seen an illustration of how important process is, and sometimes how process can totally consume the merits of the matter which we are looking toward.

Mr. President, there are very vital procedural issues involved in the nomination of Judge Bork which I think should be addressed in this debate. The speeches made by the distinguished chairman, Mr. BIDEN, of Delaware, and the ranking member, Mr. THURMOND, of South Carolina, have gone to the merits as to Judge Bork's qualifications for the Supreme Court in opposition thereto. But at this time, those arguments are falling pretty much on deaf ears because Senators have already made up their minds, and as of the latest count, the tabulation showed a conclusion as to 99 of the 100 U.S. Senators although not all 99 have made public announcements. I think the number is 95.

Mr. President, I submit that there is a real problem on what has occurred in this proceeding as to Judge Bork on the informal rolling total which once it reached 51 has really eliminated the traditional deliberative process of the U.S. Senate.

We have a process where we meet on this floor, we debate the issues, we exchange ideas, and formulate our judgments. And the Senate, I think, has earned its reputation, not always, but as a generalization, as the world's greatest deliberative body. But when the process occurs where there are individual announcements and the rolling total then reaches 51, it no longer becomes a matter for the deliberative process because it then becomes a foregone conclusion. And we have seen following the vote total reaching 51 requests for withdrawal requests for short time limits, requests for abbreviated—Mr. President, may we have order in the Senate, please?

That process, Mr. President, I think has short circuited the traditional approach of the Senate very much to the detriment of our tradition. There are in this nomination many, many complex issues. We have considerations of due process of law.

Mr. President, may we have order, please?

The **PRESIDING OFFICER**. Please. We have a Senator speaking. Can we please maintain order in the Chamber?

Mr. **SPECTER**. We have complex issues of due process of law, equal protection of the law, the executive, legislative conflict, the incorporation doctrine, and judicial review. We have Judge Bork's numerous articles, his speeches, his court opinions, and all of that. Those issues were so complex that obviously this body would have benefited from the committee report, and would have benefited from the floor debate. And 53 U.S. Senators had announced their positions in opposition to Judge Bork prior to the time that the committee report was prepared, and, of course, prior to the time that there could be any debate.

With respect to declarations of positions by committee members, that, of course, is a different matter because we are called upon to vote in committee.

One member of the Judiciary Committee made the expressed announcement that his vote was for the committee purposes only, and might be subject to change during the course of floor debate. While there is something to be said for that as a theoretical proposition, Mr. President, I think that the realities are that once we have gone through 12 days of hearings and examined the numerous records, and in the case of this Senator having met with Judge Bork for many hours, having reached the decision in the committee process, it is really a resolution of the issue. I respect, of course, the right of every U.S. Senator to decide when he or she will decide, as each Senator has the right to decide what he or she will decide.

I think when the individual announcements were made that there was not a real recognition of what the impact would be in this nomination process.

We have the experience now of having had a total of 51, and we have seen it eliminate the deliberative process. To the extent that arguments will be made on the merits of Judge Bork, pro or con, they really fall upon deaf ears, because we have reached the point where the debate is more pro forma than it is substantive, and our deliberative process has not reached fruition, as it should.

The second issue I would like to discuss involves the matter of the appropriateness of the consideration of judicial philosophy, and I submit that this process has established what I consider to be an important precedent.

Many may not realize that it has been less than 50 years since the first nominee for the Supreme Court testified before the Judiciary Committee. The first nominee was Mr. Justice Frankfurter, who testified in 1939. We have not really resolved many of the important procedural issues.

At the outset, when Judge Bork was nominated, there was a question as to whether ideology would be appropriate. The first time I met with Judge Bork on the so-called courtesy call, the first question I asked was whether Judge Bork thought that ideology was appropriate for consideration. I did not want to approach the subject until I had the benefit of his initial thinking on the subject.

Judge Bork said he disagreed with the term "ideology" because it had an indication of some political overtones, but he thought judicial philosophy was pertinent. In our discussions, we talked at length about Judge Bork's judicial philosophy.

Mr. President, I think that the precedents on Supreme Court nominees demonstrate that judicial philosophy is appropriate in terms of the tradition of this body.

John Rutledge was the first nominee turned down for Justice of the Supreme Court, and he was turned down because of his substantive views on the Jay Treaty. Some of those Senators who rejected John Rutledge by a vote of 14 to 10, shortly after the turn of the 19th century, were among those who signed the Constitution, showing that a person's views on substantive matters were appropriate for consideration for nomination to the Supreme Court.

The nomination of Roger Taney and the nomination of Louis Brandeis were also matters involving philosophy, as was the situation with Justice Abe Fortas when he was considered for Justice, and I have spelled that out in greater detail in the course of my statement.

Mr. President, if we contrast the proceedings on Judge Bork with the ones we had last year with Judge Scalia on his confirmation as Justice of the Supreme Court or on the confirmation proceeding of Justice Rehnquist for Chief Justice, it is apparent that the issue of philosophy and the approach of the Judge is a very relevant matter, and the precedent involving Judge Bork ought to be followed.

During the course of the confirmation proceeding of Justice Rehnquist, I had occasion to question Justice Rehnquist on a very interesting article he had written back in 1959, when he was a practicing lawyer.

For purposes of my presentation, I referred to him at that time as Mr. Rehnquist, to delineate a position he took before he was on the Supreme Court. This article was published in the Harvard Law Record, and I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Making of a Supreme Court Justice

(William H. Rehnquist possesses B.A. and LL.B degrees from Stanford University, and an M.A. from the Harvard Graduate School of Arts & Sciences (1949). He was a law clerk to the late Justice Robert H. Jackson of the United States Supreme Court in 1952 and 1953.)

(This article was written shortly before Mr. Justice Stewart was named to the Supreme Court. If was delayed by the editors, pending his confirmation by the Senate.)

(By William H. Rehnquist)

The Supreme Court of the United States is now in the midst of one of the storms of criticism which have periodically assailed it. Bills have been introduced in Congress to limit the jurisdiction of the high court, to overrule some of its controversial non-constitutional decisions, and to declare the sentiment of the Senate as to the necessity of judicial background on the part of a nominee to the Court. It has been urged that the "advice" of Senate be sought by the President before any nomination to the Court is made.

Criticism of the Supreme Court can easily become frustrating to the critics, because the individual justices are not accountable in any formal sense to even the strongest current of public opinion. Nonetheless, it ill behooves the critics of the present Court to seek imposition of new curbs on it until such controls as now exist are fully tested and found wanting. Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

If any interest in the views of Mr. Justice Whittaker on these cases was manifested by the members of the Senate, it was done either in the cloakroom or in the meeting of the Judiciary Committee. The discussion of the new Justice on the floor of the Senate succeeded in adducing ony the following facts: (a) proceeds from skunk trapping in rural Kanasas assisted him in obtaining his early education; (b) he was both fair and able in his decisions as a judge of the lower federal courts; (c) he was the first Missourian ever appointed to the Supreme Court; (d) since he had been born in Kansas but now resided in Missouri, his nomination honored two states.

Given in addition the fact that Mr. Justice Whittaker had been an eminently successful courtroom lawyer, the fact that he had been a leader in the activities of the organized bar, and the fact that he had been very highly regarded as a judge of the lower federal courts—all of which he was—the Senators could still have no indication of what Mr. Justice Whittaker thought about the Supreme Court and segregation or about the Supreme Court and Communism.

Less than thirty years before, the Senate had made no bones about its concern with the judicial philosophy of a Supreme Court nominee. Then, too, the Supreme court was nearing the vortex of a storm—but it was a storm raised by the very groups who are claimed to be the special wards of the Warren court. State and federal laws regulating minimum wages, maximum hours, and other business practices were being struck down by the Court as violative of "freedom of contract;" a freedom which, the Court said, was embodied in the phrase "due process of law." The labor injunction, the strike as a conspiracy, and the "yellow-dog" contract were in their heyday. When, in February, 1930, President Hoover sent to the Senate the name of Circuit Judge John J. Parker to be Associate Justice of the Supreme Court, he sparked one of the most remarkable battles over a judicial nomination in the history of the upper chamber.

Objections to Parker's confirmation were at once voiced by two groups: organized labor, and the National Association for the Advancement of Colored People. Labor's objection was based on Parker's opinion, as a judge of the Circuit Court of Appeals for the Fourth Circuit, in the so-called "Red-Jacket" case. His opinion for that court had upheld an injunction forbidding certain union organizers from attempting to organize a mine, and thereby induce the employees of the mine to breach their "yellow-dog" contracts. The objection of the NAACP stemmed from a campaign speech made by Parker in 1920, while running for governor of North Carolina on the Republican ticket. In this speech he had said:

> The Negro, as a class, does not desire to enter into politics. The Republican party of North Carolina does not desire him to do so. We recognize the fact that he has not yet reached the stage in his development where he can share in the burdens and responsibilities of government. This being true, and every intelligent man in North Carolina knows that it is true . . . the participation of the Negro in politics is a source of danger to both races.

No very definite issue developed as to the campaign speech. It seemed agreed by most of the participants in the debate that the statements were understandable in the context of North Carolina politics, but that from a hindsight born with Parker's nomination for national office they would much better have been left unsaid.

As to the labor injunction, though, precise battle lines were drawn and the issue was debated in editorial columns, in masses of letters and telegrams to the Senate Judiciary Committee, and finally on the floor of the Senate. The most surprising fact about this great debate of 1930 was that one of the protagonists on either side doubted that the question should be: What were Parker's views on labor injunctions and yellow dog contracts? The New York World, in opposing Parker's confirmation, probably spoke for both sides when it said editorially on April 23, 1930:

> * * * The Senate has every right, if it so chooses, to ask the President to maintain on the Supreme Court bench a balance between liberal and conservative opinion in the country as a whole, and every right on this premise to object that the presence of Judge Parker on the bench would increase, rather than lessen, the top heavily conservative bias of the Supreme Court as now constituted.

Most of the participants further agreed that the result reached by the Court of Appeals in the "Red-Jacket" case was undesirable; Parker's antagonists contended that he approved the result, or at least never batted an eye in reaching it, while his defenders claimed that he was bound by controlling decisions of the Supreme Court on the question, and as a judge of an intermediate appellate court had no choice but to follow them.

A few glittering generalities were hurled by each side, but to a remarkable degree editorial writers, members of the bar, and Senators engaged in a case-by-case analysis of the law as Parker found it when he had written the "Red-Jacket" opinion three years previously. The administration stood squarely behind its nominee, and Attorney General Mitchell even prepared a legal memorandum reaching the conclusion that Parker had no choice in writing the opinion that he did. On the Senate floor, the forces in favor of confirmation were nominally led by Senator Overman from the nominee's home state of North Carolina. But though Overman did a prodigious amount of work behind the scenes, he took little part in the debate on the law. The forces opposing confirmation were led by Senator William E. Borah of Idaho.

Senator Borah's principal speech began in the afternoon of one day and concluded the following day. The first part of it, before any requests to yield were made, occupies nine of the full, closely printed pages of the CONGRESSIONAL RECORD. Borah spoke to a question charged with emotion and public interest, and on which most of the demagogic fireworks were in the armory of his side. Yet his speech is anything but rabble rousing. Instead it is a closely reasoned, masterful exposition of the role of the Supreme Court in our system, coupled with an analysis of the precedents in an attempt to show that Parker must have reached his "Red-Jacket" result by choice, since the controlling cases did not compel it.

Almost any reply to Borah would have been anti-climactic, yet Senator Gillett of Massachusetts gave the Idahoan no quarter. He did not quarrel with the propriety of the inquiry, but he took vigorous issue with Borah's interpretation of the state of the law as Parker found it. In what appears to be an even closer reading of the cases than Borah's, Gillett ably defended the proposition that Parker was doing only what the Supreme Court decisions required him to do. After extended debate, the Senate refused to confirm Parker by a vote of 41-39.

Several times during this debate Senator Borah made clear his views as to the nature and scope of the Senate's inquiry into the philosophy of a Supreme Court nominee. In his principal speech, he mentioned that the case of *Hitchman Coal Co.* v. *Mitchell*, 245 U.S. 229, upholding the legality of "yellow-dog" contracts, had been decided thirteen years earlier by the Supreme Court. At this point he was interrupted by Senator Carter Glass of Virginia:

Glass: "And we have sat here all these years and permitted that to remain the law?"

Borah: "No; we have tried by an Act of Congress to repudiate that principle, but the Supreme Court of the United States said that our action was null and void. Mr. President, that is what makes this matter so very important. They pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions."

Again, during the debate on Parker's confirmation, Borah said:

> Upon some judicial tribunals it is enough, perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is needed, something more is called for, here the widest, broadest, deepest questions of government and governmental politics are involved.

Surely the first part of this last quotation epitomizes the Senate's attitude, as manifested in discussion on the floor, toward the confirmation of Mr. Justice Whittaker. His integrity, his learning, his success at the bar, would be the only necessary subjects of inquiry in the case of a judge appointed to a lower court. Indeed, perhaps no further inquiry would be proper in the case of a judge of a lower court. He is not there to apply his own judicial philosophy, willy-nilly, to the litigants before him, but rather to decide the case of those litigants by application of the principles laid down by higher courts. Such a process involves the use of the same ability to reason by analogy as lawyers call on constantly, and therefore the legal ability of an appointee to a trial court is of paramount importance.

Similarly, in the case of the judge who actually tries the case, we do not expect a decision between individual litigants strictly in terms of popular sentiment. The people through their legislative representatives enact what laws they will, subject to constitutional limitations. But once a law is written, neither the people nor their representatives are further consulted as to what was meant by it; the written words, together with relevant background material, are interpreted by a presumably impartial judge. Democracy ends at the courthouse door, and Joe Doaks is not to be imprisoned simply because a majority of the people sitting in the jury box or on the courthouse steps think he should be.

These reasons suggest that the primary concern with an appointee to an inferior federal court should be his ability to apply rules laid down by more authoritative sources, rather than his feeling as to whether this material is right or wrong. But in the case of the Supreme Court, the "something more" which Borah spoke of comes into play. I would prefer to interpret this phrase, not as meaning that it takes more ability to be a Justice of the Supreme Court than a judge of the lower federal courts, but rather that there are additional factors which come into play in the exercise of the function of a Supreme Court Justice.

The Supreme Court, in interpreting the constitution, is the highest authority in the land. Nor is the law of the constitution just "there," waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan the absence of stare decisus in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the constitution which have been most productive of judicial law-making—the "due process of law" and "equal protection of the laws" clauses—are about the vaguest and most general of any in the instrument. The Court in Brown versus Board of Education, supra, held in effect that the framers of the Fourteenth Amendment left it to the Court to decide what "due process" and "equal protection" meant. Whether or not the framers thought this, it is sufficient for this discussion that the present Court thinks the framers thought it.

> Given this state of things in March, 1957, what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process? It is high time that those critical of the present Court recognized with the late Charles Evans Hughes that for one hundred seventy-five years the constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to "inquire of men on their way to the Supreme Court something of their views on these questions."

Mr. SPECTER. Mr. President, I will read certain extracts from the article. I will call him Chief Justice Rehnquist, because that is his proper title, but this is something he wrote in 1959.

At that time, Chief Justice Rehnquist took the Senate to task for its failure to make inquiries in March 1957, when the Senate considered the nomination of Justice Whittaker, and Chief Justice Rehnquist wrote, "What could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process?"

Chief Justice Rehnquist wrote, further: "If greater judicial self-restraint is desired, or a different interpretation of the phrases 'due process of law' or 'equal protection of the laws,' then men sympathetic to such desires must sit upon the High Court."

Chief Justice Rehnquist had earlier noted that "Equal protection of the laws and due process are about the vaguest and most general of any instrument." Then, Chief Justice Rehnquist concluded, saying, "The only way for the Senate to learn of these sympathies is to inquire of men on their way to the Supreme Court something of their views on these questions."

Earlier, Chief Justice Rehnquist had chastised the Senate, saying:

> * * * until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

Chief Justice Rehnquist said:

> Examination of the Congressional Record for debate relating to his confirmation reveals a startling dearth of inquiry or even concern over the views of the new Justice on constitutional interpretation.

The approach that Justice Rehnquist made in writing this article, I think, goes to the core of the matter and the heart of the matter.

It would be this Senator's hope that in the future we would have at least some responses on matters which are very basic to the constitutional interpretation. Such a matter is the supremacy of Supreme Court decisions as embodied, for example, in Marbury versus Madison, which in 1803 established the principle that the Supreme Court of the United States was the final arbiter on constitutional matters.

It would seem, after 184 years, that that matter should be at rest; but, unfortunately, it is not. There are those in prominent positions today who say that the Supreme Court does not have the final word, who say that a decision of the Supreme Court binds the parties but does not bind others as a matter of application of general principles. There are those who say that the executive branch and the congressional branch, article 1 and article 2 powers—the Congress, article 1; the executive, article 2—are separate and equal but are not bound by what the Supreme Court of the United States says on constitutional interpretation at that time.

I submit that that is a real problem. When Chief Justice Rehnquist was questioned during his confirmation proceedings, he did agree with that principle. When Justice Scalia was questioned at his confirmation proceedings, Justice Scalia would not agree with that kind of proposition. This Senator had concerns during the confirmation hearings of Judge Bork, because Judge Bork had written that, absent original intent, there can be no judicial legitimacy; and, absent judicial legitimacy, Judge Bork had written, there could be no judicial review.

Judge Bork had written that it would not be unthinkable in this country that we would not have judicial review, and this Senator questioned Judge Bork about that during the course of the hearings, and Judge Bork commented and explained that those were theoretical writings, theoretical speech; and that matter was put to rest and was not among those issues which I considered of substantive concern on which I based my decision to vote against Judge Bork.

The point is, Mr. President, that when we come to matters of baseline interpretation about the supremacy of Supreme Court decisions, or when we come to very important issues about the jurisdiction of the Supreme Court, or when we come to issues about the incorporation doctrine, that the Bill of Rights was incorporated by reference to apply against the States and the due process clause, those issues are rock bound, and the Senate has an obligation to make inquiry and to satisfy itself on those matters.

If Marbury versus Madison does not govern and the Supreme Court does not have the final word, then I suggest that we become a lawless Nation.

If Congress could strip the Court of jurisdiction to decide basic questions of freedom of speech, freedom of the press, freedom of religion, all those rights guaranteed in the Bill of Rights, then, again, we are deprived of a judicial system which has a realistic opportunity to function.

It is not easy to draw a line as to what questions should be answered and what questions should not be answered. I think the realities are that Judge Bork answered more questions because his writings had been so prolific and in his comments and Law Review articles and speeches he has raised many issues which require an explanation.

During the course of the confirmation proceedings on Justice Scalia members of the Judiciary Committee expressed the view that it might be necessary at some point to deny confirmation of a Justice unless there were answers given which had an overall outline of that individual's judicial views.

So, Mr. President, and this is elaborated upon in my written statement which has been made a part of the record, I hope that the process in this nomination will establish that as we look toward future nominations.

With respect to the issue of the media campaigns, Mr. President, I would say that those of us on the Judiciary Committee and those in the Senate think, to steal fact from fiction, we are not unused to having commercials on the radio and television and that it is possible to focus on the real issues and for this Senator and I think for all Senators those issues turn on the meaning of the Constitution and where Judge Bork as a nominee fits into the continuum of the Constitution and whether he had views which were in accordance with the tradition of the U.S. Constitution.

My comments on the substance, Mr. President, are set forth in documents which have been made a part of the record in the prior floor speech, so I shall not take the time of this body. I know other Senators are waiting at this time.

Accordingly, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am very happy to have this opportunity, and I appreciate the courtesy to me and wanting to yield to me to begin with of the distinguished Senator from Pennsylvania. It is typical for him. He is a gracious and courteous person.

I am happy to be up at this time. I would be happy to yield to Senator EXON, from Nebraska, because it really is not that important which order we are in, just that when we seek recognition we ought to get it.

Senator EXON told me he had a meeting in his office and to go ahead. So I think that is what I will do.

Mr. President, there is something that is unprecedented that I want to bring to the attention of the U.S. Senate at this time. Of the 70 judges in the courts, I might add, of the second judicial circuit of the United

States, 40 have been contacted who generally agreed in principle with this particular statement; 30 were not contacted because they were either out of town or at the Hersey conference or some other matter, but for the first time in history we have judges of the Second Circuit Court of Appeals putting themselves on record with this following statement.

First, let me go into it this way: these materials have been put together by the Committee for a Fair Confirmation Process. They are directed to the honorable Members of the U.S. Senate. This is what the first page says:

> There is enclosed the first of a series of filings by the Committee for a Fair Confirmation Process. It includes:
>
> 1. A statement of the general purposes of the members of the Committee, all of whom are attorneys.
> 2. A Declaration by 23 federal judges of the Second Judicial Circuit.
> 3. The first of a series of "white papers," brief legal statements in response to the Majority Report of the Senate Judiciary Committee which recently acted on the nomination of Judge Robert H. Bork to the Supreme Court.
> 4. A copy of the original organizational telegram of the American Civil Liberties Union.
> 5. A paper, entitled "The Campaign Against Bork: How Far Is Too Far?" which highlights certain features of the advertising campaign against Judge Bork and a few features of the Majority Report, which will be discussed in detail in the seriatim white paper filings.

This is respectfully submitted by a Committee for a Fair Confirmation Process signed by Carla Hills, who, of course, was one of our Cabinet members in a prior administration and one of the impeccable people in this country, one of the nicest people I have ever met.

The second document is a statement by Leonard Garment on behalf of the Committee for a Fair Confirmation Process explaining this.

The third document in this order happens to read as follows:

> *To the Honorable Members of the U.S. Senate:*
>
> We submit herewith a Declaration by 21 federal judges of the Second Circuit on the subject of the excessive politicization of the nomination process by the introduction of extraneous forces and pressures. The position of the signatories is neither pro-Bork nor anti-Bork, but addresses what should be a central concern of all persons interested in safeguarding an independent judiciary.

I heard some of our colleagues say that process is not important here, only the issues. Process is what is involved here. I am going to get into that and I am going to get into it in some pretty strong terms before I am through here.

This is what these 23 judges have signed off on. This is unprecedented to have Federal judges so irate that they are willing to sign off on this and they are a large array of judges, appointed by different Presidents, Democrats and Republicans, to the best of my knowledge.

This is New York, October 20, 1987, and I think these words ought to be listened to by everybody in America. I do not know there is a more prestigious judicial circuit than the second judicial circuit and when judges put their names on something like this, sitting Federal judges, I think you can pretty well presume that they feel something is awry with the process. Here is what they say:

> We, the undersigned judges of the Second Judicial Circuit of the United States, are fully mindful of the fact that confirmation of Supreme Court justices is the obligation and prerogative of the Senate. However, as citizens concerned with the rule of law and the independence of the judiciary we are disturbed by the nature of the debate that has attended the nomination of Judge Robert Bork to the Court. If the process of choosing judges comes to be dominated by partisanship rather than a regard for individual learning and temperament, our courts will be left without the judicial excellence on which they vitally depend. If the process pays too much deference to outside influences, the courts will lose their integrity and Senators will become unable to perform one of their most solemn duties under the Constitution.
>
> We hope that in the last stage of the debate over Judge Bork the participants will show respect for these principles and come to the Senate floor with minds open to arguments on the merits.

Signed by 23 members of the Second Judicial Circuit.

It is a pretty important thing.

I ask unanimous consent that these matters be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

COMMITTEE FOR A FAIR CONFIRMATION PROCESS

To the Honorable Members of the U.S. Senate:

There is enclosed the first of a series of filings by the Committee for a Fair Confirmation Process. It includes:

1. A statement of the general purposes of the members of the Committee, all of whom are attorneys.
2. A Declaration by 23 federal judges of the Second Judicial Circuit.
3. The first of a series of "white papers," brief legal statements in response to the Majority Report of the Senate Judiciary Committee which recently acted on the nomination of Judge Robert H. Bork to the Supreme Court.
4. A copy of the original organizational telegram of the American Civil Liberties Union.
5. A paper, entitled "The Campaign Against Bork: How Far Is Too Far?" which highlights certain features of the advertising campaign against Judge Bork and a few features of the Majority Report, which will be discussed in detail in the *seriatim* white paper filings.

Respectfully submitted,

CARLA HILLS.

(Of Counsel, Griffin Bell, Carla Hills, Michael Armstrong, Leonard Garment.)

COMMITTEE FOR A FAIR CONFIRMATION PROCESS

OCTOBER 20, 1987.

To the Honorable Members of the U.S. Senate:

STATEMENT BY LEONARD GARMENT ON BEHALF OF THE COMMITTEE FOR A FAIR CONFIRMATION PROCESS

The Senate Judiciary Committee Majority Report on the Bork nomination, released October 13, 1987, is a truly unfortunate document. Those of us who have deplored the gutter campaign that has been waged against Judge Bork, and were looking forward to a civilized debate on the Senate floor, are dismayed by a report that is incomplete, misleading, and without the slightest effort to give serious consideration to the testimony of Judge Bork or those who spoke on his behalf.

Ninety percent of this Report could have been written before the hearings began. A great deal of it is nothing more than an ideological tract, picking at Judge Bork's philosophy of judicial restraint and pretending that his views are somehow extreme. The arguments are nothing more than the same ones you can hear at any time in any law school—lawyers debating other lawyers over the perennial questions of legal philosophy. All the majority's arguments show is that Judge Bork is not a judicial activist like the Harvard professors upon whom the Majority Report almost exclusively relies. And we have not yet gotten to the point where someone is an extremist if he happens to disagree with whatever philosophy is current among particular factions at Ivy League schools.

When it gets down to facts, the Majority Report is simply unfair. For example, the title of one section in its introduction states, "The Negative Evaluation of Judge Bork by the Academic Community is Unprecedented." In support, the Report relies on a numbers game—pointing to letters generated by a 10 million dollar publicity campaign. The Report does not even mention the testimony of the 24 professors who testified at the hearings in favor of Judge Bork. The Report, in another introductory section, pretends to get support from "professional legal groups." This section relies almost entirely on a small minority of the American Bar Association Committee and falsely states that the Association of the Bar of the City of New York's 17,000 members opposed Judge Bork. The Senators know full well that the testimony of a few members of that Association, including its current President, was given without authorization of the committee charged with responsibility in such matters and without consulting the membership. A furor has arisen in the Association among lawyers vigorously protesting that the testimony did not speak for them.

On specific topics, the Report continues the tired generalities and misstatements about Judge Bork almost as if the hearings had not taken place. For example, in discussing the 1948 Supreme Court case *Shelley* v. *Kraemer*, the Report singles out Judge Bork's criticism of the opinion when the majority Senators known full well by now that his criticisms are no different from those expressed by virtually every scholar who has considered the case, including their own witnesses. Throughout, the majority cynically continues the canard that Judge Bork is somehow to be identified with causes involved in cases that he considered on purely procedural or constitutional grounds.

I have been working with a group named the Committee for a Fair Confirmation Process. The Committee members, in addition to myself, are: Griffin Bell, Carla Hills and Michael Armstrong. Other volunteer attorneys are working with us in an attempt to focus the coming Senate debate on relevant issues and to do what we can to bring the proceedings back to the level that consideration of a Supreme Court Justice deserves. We will now focus our efforts specifically upon this document—the Committee Majority Report. Beginning today, we are issuing, *seriatim*, a series of "White Papers" addressing, topic by topic, the issues which the Majority Report purports to address and some issues, like Judge Bork's veiws on law enforcement, which the Report pointedly ignores. We will, on behalf of Judge Bork, try to help to get this debate back on a professional, responsible level. In the process, we will set the record straight.

Respectfully submitted,

LEONARD GARMENT.

(Of Counsel, Griffin Bell, Carla Hills, Michael Armstrong, and Leonard Garment.)

COMMITTEE FOR A FAIR CONFIRMATION PROCESS

OCTOBER 20, 1987.

To the Honorable Members of the U.S. Senate:

We submit herewith a Declaration by 23 federal judges of the Second Circuit on the subject of the excessive politicization of the nomination process by the introduction of extraneous forces and pressures. The position of the signatories is neither pro-Bork nor anti-Bork, but addresses what should be a central concern of all persons interested in safeguarding an independent judiciary.

MICHAEL ARMSTRONG.

(Of Counsel, Griffin Bell, Carla Hills, Michael Armstrong, and Leonard Garment.)

NEW YORK, *October 20, 1987.*

We, the undersigned judges of the Second Judicial Circuit of the United States, are fully mindful of the fact that confirmation of Supreme Court justices is the obligation and prerogative of the Senate. However, as citizens concerned with the rule of law and the independence of the judiciary we are disturbed by the nature of the debate that has attended the nomination of Judge Robert Bork to the Court. If the process of choosing judges comes to be dominated by partisanship rather than a regard for individual learning and temperament, our courts will be left without the judicial excellence on which they vitally depend. If the process pays too much deference to outside influences, the courts will lose their integrity and Senators will become unable to perform one of their most solemn duties under the Constitution.

We hope that in the last stage of the debate over Judge Bork the participants will show respect for these principles and come to the Senate floor with minds open to arguments on the merits.

Jacob Mishler, Senior DJ; Raymond Dearie, EDNY; Peter Leisure, SDNY; Lloyd MacMahon, Senior DJ; Charles L. Brieant, CJ-SDNY; Reena Raggi, EDNY; John R. Bartels, Senior DJ; Edward R. Korman, EDNY; Howard Schwartzberg, Bkrty. NY; Charles S. Haight, SDNY; Richard J. Daronco, SDNY; William C. Conner, SDNY.

John F. Keenan, SDNY; John E. Sprizzo, SDNY; John Walker, SDNY; Thomas C. Platt, EDNY; Howard B. Munson, NDNY; I. Leo Glasser, EDNY; Mark Constantino, EDNY; Thomas P. Griesa, SDNY; Milton Pollack, Senior DJ; Shirley Kram, SDNY; Thomas J. McAvoy, NDNY.

JUDGE ROBERT H. BORK AND FREE SPEECH

(Response to pages 50-57 of the Majority Report)

INTRODUCTORY MEMORANDUM FOR RELEASE WITH WHITE PAPER

The accompanying paper, "Judge Robert H. Bork and Free Speech," is the first of a series of "White Papers" to be issued under the direction of our Committee dealing with the major points at issue in the nomination of Robert H. Bork to the Supreme Court. These papers are intended to answer, in specific terms, the points raised by the majority report of the Senate Judiciary Committee regarding the Bork nomination.

The recommendation of the majority report that the nomination of Judge Bork be rejected is explicitly and exclusively based on his "judicial philosophy and approach" (Report at vii). The majority can find no fault with Judge Bork's competence, integrity or temperament. Instead, over 90 of the report's 100 pages are devoted to unfavorably comparing what the majority presents as Judge Bork's alleged philosophy with its own analysis of various legal issues.

We will not address the debate over the propriety of considering a nominee's philosophy and ideology or focus upon the obvious dangers posed by such considerations. It has been the modern consensus of the Senate—as unambiguously professed on prior occasions by Senators Kennedy, Biden and Metzenbaum—that such considerations are not relevant *at all.* (See addendum.)

Rather, we simply ask each Senator, before casting a vote on Judge Bork's philosophy, to understand the positions Judge Bork has taken, and the positions that other eminent judges and scholars have taken on the legal issues under debate. In this regard, we believe that the Senate has been presented with a seriously flawed Committee majority report.

Consistently, the majority report attacks Judge Bork for positions he never held. Again and again it purports to state Judge Bork's position, without giving any citation. Invariably, the reason no citation is given is because none exists. Before the hearings began, Judge Bork's opponents created a "straw man" of a rigid, unbending, right-wing ideologue who was hostile to minorities, women and free speech. When Judge Bork's testimony, and the other evidence, did not support this image, the critics reacted by simply ignoring the evidence in some instances and by claiming in others that Judge Bork had changed his position—from the one they had falsely represented him to have.

We hope, in the next few days, to issue "White Papers" addressing the inaccuracies, misrepresentations, and omissions in the majority report with respect to the following specific subjects: women's rights; civil rights; privacy; law enforcement; executive power; antitrust; judicial restraint; and the so-called "confirmation conversion."

We respectfully request that Senators referring to the majority report for guidance as to Judge Bork's positions on these subjects refer also to the papers prepared by our Committee.

ADDENDUM

Senator Kennedy (on the nomination of Justice O'Connor):

"It is offensive to suggest that a potential justice of the Supreme Court pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must past the litmus test of any single issue interest group."

Senator Biden (on the nomination of Abner Mikva):

"The real issue is your competence as a judge and not whether you voted right or wrongly on a particular issue . . . if we take that attitude, *we fundamentally change the basis* on which we consider the appointment of persons to the bench.

Senator Metzenbaum (to witness opposing nomination of Ruth Bader Ginsburg):

"You don't mean that every nominee up for confirmation ought to have his or her views explored as to what his or her positions are on all of the controversial issues that may come before those jurisdictions? *You don't actually mean that, do you?"*

JUDGE BORK AND FREE SPEECH

The majority report of the Senate Judiciary Committee devotes seven pages to a discussion of Judge Bork's position on the freedom of speech and press guaranteed by the First Amendment (Report, pp. 50-57) without including a single word about Judge Bork's extensive and impressive record in First Amendment cases as a Circuit Judge over the past five years. Instead of addressing that substantial body of case law, it chooses to focus on a law review article that Judge Bork wrote over fifteen years ago in 1971.

While it is entirely proper for the Senate to consider Judge Bork's extra-judicial writings and comments, the purported concern with the 1971 article to the exclusion of his judicial record is curious, particularly in light of the full consideration the article received when Judge Bork was confirmed by the Senate as Solicitor General in 1973 and again as a Circuit Court Judge in 1982. Moreover, a fair reading of the 1971 article, especially in view of Judge Bork's subsequent writings, his judicial record and his testimony before the Committee, fails to provide support for the majority report's assertion that Judge Bork is insensitive to the First Amendment.

A. JUDGE BORK'S RECORD ON THE COURT OF APPEALS

Judge Bork's record on the Court of Appeals, particularly his opinions in libel actions and in cases involving government regulation of speech, clearly reflects his determination to defend and expand the freedoms guaranteed by the First Amendment. Yet these opinions are studiously ignored by the report—not only in the section dealing with the First Amendment but also in the separate section which purports to assess Judge Bork's performance on the Court of Appeals (Report, pp. 50-51, 84-93).

1. Defamation Cases

It has been widely recognized that the greatest threat to First Amendment freedoms at the present time may lie in the vulnerability of the media to defamation actions. It is in this critical area that Judge Bork has made a major contribution to First Amendment values—a contribution that would remain unknown to anyone who read only the report.

In *McBride* v. *Merrell Dow and Pharmaceuticals,* 717 F.2d 1460, 1466 (1983), Judge Bork's opinion for a unanimous court stated: "Libel suits, if not carefully handled, can inhibit journalistic independence. Even if many actions fail, the risks and high costs of litigation may lead to undesirable forms of self-censorship."

Judge Bork's observation in *McBride* foreshadowed an even more significant opinion the following year in *Ollman* v. *Evans*, 750 F.2d 970 (1984), where the Court of Appeals, sitting *en banc*, dismissed a libel action against columnists Evans and Novak. In that case, Judge Bork wrote a concurring opinion which was joined by three other judges and which, in the view of many commentators, overshadowed the opinion of the Court. In his opinion, Judge Bork eloquently described values central to the First Amendment:

"Those who step into areas of public dispute, who choose the pleasures and distractions of controversy, must be willing to bear criticism, disparagement, and even wounding assessments. Perhaps it would be better if disputation were conducted in measures phrases and calibrated assessments, and with strict avoidance of the ad hominem; better, that is, if the opinion and editorial pages of the public press were modeled on The Federalist Papers. But that is not the world in which we live, ever have lived, or are ever likely to know, and the law of the first amendment must not try to make public dispute safe and comfortable for all the participants. That would only stifle the debate."—*Id.* at 993.

Judge Bork further stressed that the First Amendment must undergo a continuing evolution:

"In a case like this, it is the task of the judge in this generation to discern how the framers' values, defined in the context of the world they knew, apply to the world we know. The world changes in which unchanging values find their application."—*Id.* at 995.

Judge Bork concluded that the Constitutional protection afforded statements of opinion must be extended to assertions of fact which could be fairly characterized as "rhetorical hyperbole." Such a conclusion was, in his view, essential to the protection of First Amendment freedom.

Judge Bork's concurrence in *Ollman* was hailed by such advocates of press freedom as Anthony Lewis (describing the opinion as "extraordinarily thoughtful") and libel lawyer Bruce Sanford ("There hasn't been an opinion more favorable to the press in a decade.").

2. Government Regulation of Speech

Judge Bork's protection of free speech in the context of defamation actions is complemented by his opinions protecting free speech from government regulation. For example, in *Lebron* v. *Washington Metropolitan Transit Authority*, 749 F.2d 893 (1984), Judge Bork participated in the reversal of a District Court decision and held that the Transit Authority had violated the First Amendment in refusing to lease advertising space for a poster critical of President Reagan. In *Brown & Williamson Tobacco Corp.* v. *FTC*, 778 F.2d 35 (1985), Judge Bork voted to vacate as overly broad an injunction directed against commercial advertising.

Judge Bork has also emphasized the importance of First Amendment freedoms in cases involving governmental regulation of broadcasting. In this connection, it is significant that the prevailing law established by the Supreme Court gives broadcasters significantly less freedom than that afforded the print media. While scrupulously adhering to Supreme Court precedent, he has pointedly suggested the desirability of reconsideration of this distinction by the Supreme Court. See *Telecommunications Research and Action Center* v. *FCC*, 801 F.2d 501 (1986); *Branch* v. *FCC*, 824 F.2d 37 (1984); *Loveday* v. *FCC*, 707 F.2d 1443 (1983).

Only in narrowly defined circumstances has Judge Bork approved of government regulations that impinges on free speech. For example, in *CCNV* v. *Watt*, 703 F. 2d 586 (1984), Judge Bork, in dissent, supported a Park Service regulation barring demonstrators from sleeping in tents across from the White House. In *Clark* v. *CCNV*, 468 U.S. 288 (1984), the Supreme Court upheld Judge Bork's position. In *Finzer* v. *Barry*, 798 F. 2d 1450 (1986), *cert. granted*, 107 S. Ct. 1282 (1984), Judge Bork writing for the court upheld the application of a law which barred the conduct of a demonstration within 500 feet of the Nicaraguan embassy.

B. JUDGE BORK'S 1971 LAW REVIEW ARTICLE

In 1971, Judge (then Professor) Bork wrote an article entitled "Neutral Principles and Some First Amendment Problems," 71 Indiana L.J. 1, in which he set forth, on a "tentative and exploratory" basis, a broad theory of Constitutional interpretation inspired by the work of Professor Herbert Wechsler. The latter part of the article undertook to illustrate the application of such principles to First Amendment law.

The report of the majority focuses upon two aspects of the article which it purports to find troubling: the extent to which the First Amendment protects (a) speech that advocates forcible overthrow of the government or violation of the law; and (b) speech that is non-political. With respect to both points, Judge Bork has substantially changed his position since 1971, in part as a matter of simply accepting settled doctrine of the Supreme Court and in part as a matter of philosophy. It is important to understand that such changes are by no means unique to Judge Bork. The reports of the Supreme Court are full of split decisions which, once decided, have been faithfully applied by the full Court, including those who initially dissented. Moreover, there are instances in which Justices have abandoned positions which they had previously persuaded their colleagues to adopt.[1]

Nevertheless, the report insists upon viewing Judge Bork's changes of position with profound suspicion. As shown below, we are persuaded that a fair reading of the record shows that the majority's concerns, if genuine, are misplaced.

1. Speech Advocating Violence or Violation of the Law

In the 1971 article, Judge Bork criticized, on philosophical grounds, the "clear and present danger" doctrine and the decision in *Brandenburg* v. *Ohio*, 395 U.S. 447 (1969), which had reformulated, or supplanted, that test by holding that the First Amendment does not "permit a state to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to lead to produce such action." *Id.* at 447. The particular speech held in *Brandenburg* to be protected occurred at a rally of the Ku Klux Klan at which references to a march on Washington and taking "revengeance" were accompanied by a variety of vivid racial epithets.

It seems perfectly reasonable to question, as a philosophical matter, whether the type of speech illustrated by *Brandenburg* has any political value. On the other hand, Judge Bork has since acknowledged the strength of the countervailing philosophical argument reflected by *Brandenburg* as well as the fact that *Brandenburg* is firmly embedded in the law of the land. He testified, repeatedly and unequivocally, that he had no interest is seeking to overturn *Brandenburg.*

Not satisifed with Judge Bork's acceptance of *Brandenburg*, the report attacks his lack of enthusiasm for two subsequent cases, *Cohen* v. *California*, 403 U.S. 15 (1971) and *Hess* v. *Indiana*, 414 U.S. 105 (1973). Both cases reversed convictions for disorderly conduct arising out of actions that involved, *inter alia*, the expression of obscenities. Contrary to the report (p.54), the decision in *Cohen* was *not* unanimous. Unaccountably, the report overlooked the dissent by Justice Blackmun, joined by Chief Justice Burger and Justice Black, which observed that under the circumstances, "the Court's agonizing over First Amendment values seems misplaced and unnecessary." *Id.* at 27. In *Hess* v. *Indiana*, a dissent by Justice Rehnquist was joined by Justice Blackmun and Chief Justice Burger. One may agree or disagree as to the result in *Cohen* or *Hess* (or the significance of the obscenity in each), but surely neither decision is, as the report would suggest, beyond debate.

2. Non-Political Speech

In the 1971 article, Judge Bork suggested that since the First Amendment was intended to protect speech that is explicitly political, the scope of its application might be similarly limited. As he pointed out in his testimony before the committee, great scholars of the First Amendment, such as Kalven and Meicklejohn, "all start with political speech as the core of the amendment." (Tr. Sept. 16, 1987 pp. (112-113)). See also *Roth* v. *United States*, 354 U.S. 476, 484 (1956) ("The protection given speech and press was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people." Brennan, J. citing a letter of the Continental Congress).

Nevertheless, the subsequent writings of Judge Bork, as well as his testimony before the Committee, make it clear that Judge Bork has long since concluded that the First Amendment protects a full range of non-political expression. Such protected expression might be moral, scientific, literary, or artistic, so long as it did not sink to the level of obscenity. (See, *e.g.*, Tr. Sept. 16, pp. 110-114; Tr. Sept. 17, pp. 16-25). The majority, however, professes concern that Judge Bork might still leave unprotected some legitimate forms of expression. Specifically, the Committee refers to a 1985 interview in which Judge Bork expressed doubt that the Framers of the Constitution "intended to protect some forms of dancing from regulation." From this, the report leaps to the startling and unwarranted conclusion that, in Judge Bork's view:

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[1] For example, in *Miller* v. *California*, 413 U.S. 15 (1973), Chief Justice Burger pointed out that "Mr. Justice Brennan, author of the opinions of the Court, or the plurality opinions, in *Roth* v. *United States, supra; Jacobellis* v. *Ohio, supra; Ginzburg* v. *United States*, 383 U.S. 463 (1966), *Mishkin* v. *New York*, 383 U.S. 502 (1966), and *Memoirs* v. *Massachusetts, supra*, has abandoned his former position and now maintains that no formulation of this Court, the Congress or the State can adequately distinguish obscene material unprotected by the First Amendment from expression, *Paris Adult Theatre I* v. *Slayton, post*, p. 73 (Brennan, J., dissenting)." *Id.* at 26-27.

> "A Rubens painting could not be hung in a museum if the city council chose to prohibit it. The same would be true of a ban on performances by the Alvin Ailey Dance Troupe."—(Report, p. 56.)

That issue was squarely presented to Judge Bork at the hearing and squarely answered. He explained that, in his reference to "some forms of dance," he specifically had in mind a Supreme Court decision which was concerned with "whether a community could ban dancing nude in a bar." (Tr. Sept. 17, p. 19). He pointed out that the court had upheld the ban only on the basis of the Constitutional authority of the state to regulate sales of liquor. In Judge Bork's view, the same result could have been reached more directly without offense to the First Amendment. *Id.* See *California* v. *La Rue,* 409 U.S. 109 (1972).

The report simply ignores Judge Bork's explanation, however, and insists on equating his views on "nude dancing in a bar" with the view that he might take of a Rubens painting or the Alvin Ailey Dance Troupe. The attempt is, on its face, absurd. See *California* v. *La Rue, supra* at 118 ("But we would poorly serve both the interest for which the State may validly seek vindication and the interest protected by the First and Fourteenth Amendments were we to insist that the sort of bacchanalian revelries that the Department sought to prevent by these liquor regulations were the Constitutional equivalent of a performance by a scantily clad ballet troupe in a theatre").

It is Judge Bork's view—and it has long been the view of the majority of the Supreme Court—that the First Amendment does not protect obscenity. As the most casual observer of the Court is aware, the Court has had enormous difficulty in defining obscenity, and, thus, the ambit of speech protected by the First Amendment. The path of the Court in this area has been marked by twists and turns, abandonments of prior decisions and confessions of incoherence. It is entirely possible that Judge Bork would define obscenity somewhat differently than the Court has defined it from time to time in the past or may from time to time in the future. However, the difference between Judge Bork and the majority of the Court, if any, is likely to be rather modest—certainly in comparison with the wide difference between the court's position and the view of Justice Brennan (*i.e.,* that obscenity simply cannot be defined and that, therefore, at least in the case of consenting adults, it can never be prohibited). See *Pope* v. *Illinois,* 55 U.S.L.W. 4595, 4598 (May 4, 1987).

In no area do Judge Bork's opinions show a sharp divergence from the Court's current First Amendment positions. But to argue for his appointment to the Court on this basis leaves us with a sense of unease. If strict adherence to the perceived current doctrines of the Supreme Court is to be the litmus test for future nominees, what might become of a nominee who happened to subscribe to a minority position, such as that of Justice Brennan on obscenity, or to a nominee who once held such minority views?

In insisting on a rigid application of this criterion, Judge Bork's opponents are creating a dangerous precedent. Still, even if we measure Judge Bork by the standard that his critics have created, his performance in no sense justifies the unreasoned hostility that pervades the Judiciary Committee's majority report.

The same is true in other areas of First Amendment jurisprudence. Judge Bork's respect for these guarantees and their defense is profound. It is disheartening to see that the committee majority refuses to discuss his views with any seriousness.

Respectfully submitted,

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(Of Counsel, Griffin Bell, Carla Hills, Michael Armstrong, Leonard Garment, October 20, 1987.)

ACLU FOUNDATION,
New York, NY, August 31, 1987.

Late yesterday ACLU Board voted to oppose nomination of Judge Robert Bork to U.S. Supreme Court.

Are moving at once to put in motion nationwide mobilization plan to block his appointment.

Detailed research reveals Bork far more dangerous than previously believed. His stated views clearly place him outside any range of judicial philosophy acceptable in recent decades. If his views were to prevail we risk nothing short of wrecking entire Bill of Rights and Federal courts in protecting individual liberty.

ACLU's decision not premised on single issue like abortion, racial equality, sex discrimination, privacy, religious liberty, or artistic freedom—even though all these would be in grave danger. Our decision to oppose is far more basic: his confirmation would threaten our system of government.

He does not believe in Supreme Court's role as defender of liberty against government abuse. In his mind Constitution protects power of majority to impose its moral values on all citizens. Record shows he believes that Supreme Court must defer to the will of local majorities—State and local legislatures.

This is basis for destroying protective function of Federal courts and overthrowing American tradition of tolerance for minority beliefs. Church/state issue good example. Bork says "Government is inevitably entangled with religion." He believes "* * * exclusion (of religion in public schools) is an affront to democratic majority."

An preparing detailed memo for you. Time is short. Urgently need your immediate financial help to launch this mobilization. Only tough, targeted campaign will work. Press releases, single issue pleas, "shouting from rooftops" simply not enough.

ACLU in unique position to make difference because Senate knows we have special credibility where entire Bills of Rights and Federal courts concerned.

Senate vote likely to be decided by slimmest of margins. ACLU most effective civil liberties voice in Washington. Highly respected by Senate. Can make the critical difference.

Early this morning began mobilization to fucus on key Senate votes—reveal startling results of our research to Senators and editorial boards—and marshall support of opinion leaders in key States.

Requires extra staff, sophisticated materials, best legal talent available, activating our network of State affiliates. Enormously expensive.

Your special help critical. Time is short. Hearings starts soon. Urge you to rush emergency contribution at once.

THE CAMPAIGN AGAINST BORK: HOW FAR IS TOO FAR?

Every political debate has its exaggerated charges and inflated rhetoric. But the falsehoods spread in the last four months by the anti-Bork campaign have been much uglier than the usual give-and-take of American public life.

First, the campaign has told a considerable number of plain lies, using words that are either false or deliberately twisted to convey the opposite of the truth.

Here are just a few examples:

People for the American Way's main anti-Bork TV ad is narrated by Gregory Peck. Bork, says Peck in the ad, "defended poll taxes and literacy tests, which kept many Americans from voting." Anyone who actually took these positions would indeed be unfit to sit on today's Supreme Court.

But the accusation is a lie. Robert Bork has never defended any poll tax, and he has never defended any literacy test.

He has, as is well known, argued with parts of some of the Supreme Court's opinions on these matters, on the grounds that the Court reached its conclusion through wrong reasoning. That is a very long way from defending poll taxes. To say otherwise is simple falsification of the facts.

One of PFAW's big newspaper ads against Judge Bork claims he ruled that a company could force women to be sterilized or lose their jobs. Five women, the ad goes on to say, "underwent surgical sterilization."

The fact is that the women who chose sterilization were not part of the case that Judge Bork heard. No woman was coerced into sterilization as the result of any ruling Judge Bork made.

You can see why this particular lie is an especially inflammatory one.

The National Abortion Rights Action League has gone farther on the subject of sterilization. A NARAL anti-Bork newspaper ad says, "According to Bork, women can be forced to choose between being sterilized and losing their jobs." Anyone who really takes this position as NARAL states it, is of course a moral monster.

Here is what really happened: A case that Judge Bork once heard on appeal involved chemical company jobs that exposed workers to relatively high levels of lead. The lead caused birth defects. It was established, however, that the company could not get the lead out of the process. This was the awful circumstance that forced some women into their grim choice, not anything done or said by Judge Bork.

A Planned Parenthood anti-Bork ad begins, "Robert Bork's Position on Reproductive Rights: You Don't Have Any." This is, needless to say, an absurd slander even on the face of it.

This Planned Parenthood ad also says, "Bork sees the Court not as a problem-solver, guided by past decisions, but as a reckless troublemaker." Judge Bork sees no such thing. He has said the opposite at length under oath. Not one word he has written in his five years as a judge on the U.S. Court of Appeals provides evidence to the contrary.

A self-described "study" by Public Citizen accuses Judge Bork of favoring business over consumers 96 percent of the time in "controversial" cases. This "study" ignores 86 percent of Judge Bork's opinions to reach this conclusion.

It is hardly necessary to repeat the scurrilous details of Senator Kennedy's "back alley abortion" campaign opener.

Second, the anti-Bork campaign has relied on a good number of large, but no less clear, distortions of the record.

For instance, the campaign has repeatedly accused Judge Bork of having called the

1964 Civil Rights Act, or the principle of the Act, something of "unsurpassed ugliness."

The real story is this: In that 1963 New Republic article in which the controversial phrase occurred, then-Professor Bork quoted Mark DeWolf Howe, who had said that Southern resistance to civil rights advances was an effort to preserve the "ugly customs of a stubborn people."

Bork agreed with him. As Bork put it, "Of the ugliness of racial discrimination there need be no argument." He also expressed this sentiment elsewhere in the article.

What worried Bork, though, was that even the best intentioned legislation, like civil rights laws designed to prevent the oppression of a minority, could at some point turn into another form of coercion by a majority. It was coercion, according to Bork, that was the idea of "unsurpassed ugliness."

Bork chose to make his argument using the word "ugliness," of course, to emphasize that he was addressing the same set of problems originally raised by Mark DeWolfe Howe.

Bork's worries were by no means the anxieties of an extremist. In that same issue of the liberal New Republic, the editors wrote that many of the magazine's readers shared Bork's doubts.

Bork was wrong in his 1963 analysis of the pending civil rights legislation. He repudiated this early view, publicly, fourteen years ago. To attack Bork using a position that he long ago disowned is character assassination. To present that early phrase of his as evidence of racism is worse.

A final example: The anti-Bork campaign's use of the word "extremism" goes beyond the bounds of honest differences of opinion. Judge Bork has sat on a federal appeals court for five years. To take only the most dramatic of the statistics on this issue, he has never been reversed by the Supreme Court. He is the only judge of the D.C. Circuit Court with this record. Judge Bork's fellow Circuit Court judges appointed by Democratic presidents have voted with him from 75 ranging upward to 91 percent of the time.

There is simply no intelligible meaning of the word "extremist" that fits these facts.

The people campaigning against Judge Bork may have an answer to this challenge. But we do not know, because they have dealt with it by simply sweeping his judicial years under the rug and acting virtually as if they did not exist.

This is not honest. It is the sort of practice that tries to prevent difficult questions from every being discussed. It is not fitting behavior in a free society committed to settling its disputes through the open competition of conflicting positions and ideas.

Respectfully submitted,

COMMITTEE FOR A FAIR CONFIRMATION PROCESS.
By: LEONARD GARMENT.

Of Counsel: Griffin Bell, Carla Hills, Michael Armstrong, Leonard Garment.

[From the Boston Globe, Oct. 11, 1987]

KENNEDY TELLS HOW HE ROUSED OPPOSITION

(By Ethan Bronner)

Forty-five minutes after President Reagan nominated Judge Robert H. Bork to the Supreme Court on July 1, Sen. Edward M. Kennedy was on the floor of the Senate, framing the opposition to confirmation in the starkest of terms.

But unless the White House pulls off a miracle before the full Senate votes, this battle can clearly be labeled a Kennedy victory.

A startled Bork, relaxing in a West Wing office, watched on the C-Span cable network as Kennedy declared that Bork's America "is a land in which women would be forced into back alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids. . . ."

Kennedy's statement, as well as his comments during the hearings, have been the object of unabated derision, referred to repeatedly in attacks on how the nomination has been scuttled through a shameful distortion of Bork's record.

Through his statements, through hundreds of telephone calls over the summer and through the drawing power of his name, Kennedy served as a prime mover in bringing the Bork nomination to its knees.

If Sen. Arlen Specter (R-Pa.) played the role of high-minded analyst in Bork's committee defeat, Kennedy served as the rough-and-tumble politician and troop-rouser.

He has been criticized severely for it, but he makes no apology.

"I wanted to make clear what was at stake in this nomination," said Kennedy, thinking back over the past few months as he sat in his Capitol Hill office Friday.

"The statement had to be stark and direct so as to sound the alarm and hold people in their places until we could get material together," he said. "I was confident we could win this one."

The story of Kennedy's success—one shared by liberal lobbying groups and by Sen. Joseph R. Biden Jr. (D-Del.), the committee chairman—begins the day Associate Justice Lewis F. Powell Jr. announced his retirement from the high court.

Kennedy knew that Bork was the likely replacement. His staff gathered a number of Bork's now well-thumbed writings, including his 1971 Indiana Law Journal article and his 1963 piece in The New Republic attacking portions of the proposed Civil Rights Act.

Over that weekend, the anti-Bork statement was written. Although its more alarming lines are usually cited, it is instructive to look at other parts of it to see how the arguments Kennedy made against Bork at the time served opponents during the effort to defeat his nomination.

He discussed the Watergate scandal and called Bork "outside the mainstream of American constitutional jurisprudence in the 1960s, let alone the 1980s."

He highlighted Bork's modifications over the years and pointed to the theme of confirmation conversion, saying that the changes resulted from the "twin pressures of academic rejection and the prospect of Senate rejection."

"America is a better and freer nation than Robert Bork thinks," Kennedy added. He insisted that although Reagan is president, he should not be allowed "to impose his reactionary vision of the Constitution on the Supreme Court and the next generation of Americans."

Kennedy said he considered delivering the speech the day before Bork was named in the hopes of deflecting the nomination, but that he ultimately decided that such a strategy would be ineffective.

He said he met with Biden, who had not yet made up his mind on the nomination. Within a week, and following a meeting with civil rights groups, Biden was aboard.

Kennedy had led the unsuccessful fight against elevating William H. Rehnquist from associate justice to chief justice a year ago. He garnered 33 votes in that one and said that with that base as well as with more votes from a newly controlled Democratic Senate, he felt victory was within reach.

On July 8, Kennedy met with Biden and Sens. Howard M. Metzenbaum (D-Ohio) and Alan Cranston (D-Calif.) to work on strategy.

The first point was to gain time to organize against the nomination, and so a decision was reached that there be no hearings until after the August recess.

The next point was to insist on the Senate's coequal role in the nomination process. Kennedy said he had long felt that the Senate should take this role more seriously but that because this nomination seemed so likely to shift the court's balance, many others began to accept it.

Biden made a crucial statement on the Senate floor about the Senate's role, and opinion polls showed that the public was very receptive to the examination of a nominee's philosophy.

The group examined a list of several dozen undecided senators and divided them based on who knew whom best. Kennedy's staff put together an inch-thick binder of Bork's provocative writings and handed one out to about 10 senators to read over the recess. In August, Kennedy hired Anthony Podesta, the founding president of People for the American Way and a liberal lobbyist, to work on organizing opposition.

Podesta recalls going up to the Kennedy summer home in Hyannisport and watching the senator call around the South—Ernest Morial, the former New Orleans mayor, and the city's current mayor, Sidney Barthelemy. In Alabama, he reached Mayor Richard Arrington of Birmingham, Mayor Johnny Ford of Tuskegee and Joseph Reed, the Alabama Democratic Conference chief.

At one point, Kennedy woke up Rev. Joseph Lowery at the Hyatt Hotel in New Orleans before the Southern Christian Leadership Conference's annual convention.

After talking with Kennedy, Lowery turned the entire day's meeting into an anti-Bork strategy session. From that meeting, the issue made its way into black churches throughout America.

"It has a special effect when Kennedy calls," reflected Jeffrey Blattner, one of Kennedy's judiciary committee aides and a key player in the anti-Bork fight. "A lot of people in this country think of Kennedy as the leading spokesman for civil rights, and when he calls personally it sends a pretty strong message about how important something is."

It was Kennedy who signed up Mayor Andrew Young of Atlanta, one of the hearings most effective witnesses. He also called former Rep. Barbara Jordan (D-Texas), who at first hesitated for health reasons and then agreed to testify.

From Cape Cod, Kennedy, chairman of the Senate Labor Committee, called every one of the 30 executive members of the AFL-CIO and, in September, held a conference call with 40 state labor leaders around the country in which he spoke about Bork's record on organized labor.

He called the former American Bar Association president, Robert Meserve, the former secretary of health and human services, Joseph Califano, and a host of prominent lawyers who subsequently became active in the fight through op-ed pieces, testimony and local organizing.

Finally, Kennedy gathered some noted liberal legal scholars, including Laurence

Tribe, Philip Kurland and Kathleen Sullivan, all of Harvard University, to build a substantive case against Bork.

He delivered the culmination of their efforts in a widely quoted speech Sept. 11 at Georgetown University Law School.

What Kennedy was most worried about was the testimony of Bork himself. He was known to be witty, charming and penetratingly intelligent, and he had been coached carefully by White House lobbyists. But Bork, Kennedy feels, was unsuccessful.

"It was increasingly apparent after the first hour or two of his testimony that he was not going to pull this off," Kennedy said of Bork's testimony.

In fact, while Kennedy questioned Bork about privacy, the constitutional protection of women, free speech and other sensitive areas, Biden kept passing to Kennedy a football scorecard on Senate stationery that read: 12-0, then 18-0 and 24-0. Toward the end of Kennedy's turn, Biden's sheet read "30-0 if he keeps on."

"Bork displayed a cold, judicial attitude," Kennedy said. "His background is economics and antitrust and he applied that kind of thinking to privacy and civil rights. It sounded terrible."

Kennedy says what was essential in beating Bork was the host of popular concerns about the judge's stands. Civil rights may have been a prominent issue for some southerners but, not wanting to appear to be bound to special interest groups, they could also refer to privacy and women.

Podesta said the apparent success of the anti-Bork efforts has much to do with the ability of opponents to set the agenda for debate. "We tried as often as possible to talk about cases from the 1920s and 1940s that Bork had attacked to show how fundamental his disagreement was," he said.

Finally, after the major events of the hearings were over, Kennedy said he realized that instead of sitting and listening to more liberal groups testify, he and Biden and others ought to be talking to senators. As a result, he met with the groups that planned to testify and discouraged them. They agreed and the hearings ended after 12 days. They had been expected to go longer.

Mr. HATCH. Mr. President, I do know that this never has been done before. Something has to be wrong with the process for 23 Federal judges to put their names to something like that. The other 17 who were contacted did not agree to put their names on it but, as I understand, agreed in principle with that statement, basically stated so.

At the outset of this debate, I wouldlike to honor Judge Robert H. Bork, one of the most qualified and impressive individuals, it seems to me, ever nominated to the Supreme Court. In the unlikely event that he is confirmed, history is likely to remember him as one of the greatest jurists of the latter half of this century. In the event that he is not confirmed, history will remember him in two senses—first, as an individual who did more than almost any other in the latter half of this century to restore legal honesty and integrity to the interpretation of the Constitution and, second, as the unfortunate and undeserving victim of political circumstances.

SUMMARY OF QUALIFICATIONS

In all seriousness, Mr. President, I feel honored to speak on behalf of one of the most qualified jurists ever to be on the Supreme Court.

His résumé—outstanding law student, successful trial practitioner, leading law professor, esteemed author and lecturer, excellent Solicitor General, and respected judge on the District of Columbia Circuit—speaks for itself.

Nonetheless a few details might demonstrate the quality of his life's work. He was not merely one of the top law students at the University of Chicago, but the managing editor of the Law Review. He was not merely a top law professor for 15 years, but the holder of two endowed chairs. He was not merely an excellent Solicitor General, but successfully represented the United States before the Supreme Court in hundreds of cases during his 4-year tenure. He was not merely another appellate judge, but a judge who in 416 total cases was never once reversed on appeal.

I will just show this one chart here. You talk about the reversal rate of those on the Circuit Court of Appeals for the District of Columbia. It lists the judges by order of reversal from J. Skelly Wright reversed 11 times right on down to Robert Bork who was the only one never reversed.

I am not saying that it is wrong for those people to be reversed. It is sometimes important for judges to render courageous opinions and take courageous positions that may be reversed. On the other hand, I think it is significant that in his experience as one of the great circuit court judges of the country he never was reversed on appeal.

Moreover, the Supreme Court six times adopted his position when he had the courage to dissent from the majority of his judicial colleagues. This is a jurist who, in the words of President Carter's legal counsel, Lloyd Cutler, will be counted by history as belonging alongside a few select Justices, like Oliver Wendell Holmes, Louis Brandeis, Felix Frankfurter, Potter Stewart, and Lewis F. Powell, Jr.

Judge Bork was paid an even higher tribute than even that endorsement, however. That tribute is found in the witness list of those who have volunteered to testify on your behalf. That list includes a former President, a former Chief Justice, 6 former Attorneys General of both parties, 12 top leaders of law enforcement officers, numerous law schools deans, numerous leading law professors in the Nation, several top antitrust lawyers, 3 bar leaders, several of your former colleagues at the Department of Justice and in the practice of law, and other influential lawyers and organization heads. If an individual can be judged by the company he keeps, Judge Bork is indeed an honored individual.

Now, I say the process is the issue.

In light of these remarkable credentials, it is difficult to understand why Judge Bork's nomination would generate controversy. In fact, I do not know of one member of the committee who did not agree that he is a person of high ethical standards, a person of extremely fine judicial competence and lawyer competence and legal competence, and a person with good judicial demeanor and ability.

The fact is that the answer, it seems to me, is found in one word of why anybody would be against him—and I think it is tragic in this judicial context—and I believe that word to be "politics." Judge Bork is experiencing the kind of innuendo, intrigue, underhanded tactics that usually accompany a political campaign.

And I have heard the comments about the President being political in picking him. Let me tell you, every President who has ever had an opportunity to appoint a Supreme Court nominee, every President, bar none, has tried to pick somebody who was consistent with his own philosophy, whether it was F.D.R. or John F. Kennedy, or Lyndon Johnson, or Richard Nixon, or Gerald Ford, or Jimmy Carter, or, in this case, Ronald Reagan. So politics does enter into it. And the Founding Fathers understood that in the sense that the President tries to pick somebody who is consistent with his own political philosophy.

But when it becomes a matter of politics, and outside politics at that, and becomes a major political campaign in America, we have to all stop and take note and ask ourselves what has happened.

The answer is found in one word, which is tragic in this judicial context, and that word is "politics." Judge Bork is experiencing the kind of innuendo, intrigue, and underhanded tactics that usually accompany a political campaign. The sensitive constitutional process of selecting judges has been characterized by distorted newspaper advertisements, erroneous radio commercials, 30-second TV smear campaigns, misleading fundraising appeals, competing and confusing and, I might add, dishonest polls, unsubstantiated accusations, false allegations, deceptive direct mail soliciting, and the list goes on. These tactics are familiar to Senators. Many of us have been the target of this kind of political campaign. I just saw one today put out by the Democratic Senatorial Campaign Committee that mentioned me rather prominently in a very bad way. These dirty campaign strategies are distasteful in political races, but they should have no place whatsoever in a judicial nomination proceeding.

Some of those who oppose Judge Bork's confirmation have countered that Judge Bork's supporters are raising these issues of procedural fairness and propriety only to shift the issue. To that I respond that, in this instance, the process is the issue. I welcome this debate and the opportunity to discuss Judge Bork's record in open, factual, and reasonable terms, but when political dirty tricks dictate the pace and outcome of judical confirmations, the process is the issue. The process in the issue because of the danger posed to our liberties by that process.

We need to openly confront that danger. To eliminate the threat posed by this process in the future, Judge Bork has taken the courageous step of requesting this debate. Accordingly, we owe him and we owe the Nation the respect of confronting directly the real issue.

There is the danger of political inquisitions.

Federal judges are not politicians and ought not to be judged like politicians.

The great danger I see in the impending ideological inquisition is injury to the independence and integrity of the Federal judiciary. When we undertake to judge a judge according to political, rather than legal criteria, we have stripped the judicial office of all that makes it a distinct separated power. If the general public begins to measure judges by a political yardstick and if the judges themselves begin to base their decisions on politics, we will have lost the reasoning processes of the law which have served so well to check political fervor over the past 200 years. I would ask Americans if they would wish to have their life, liberty, and property resting on the decision of judges who are primarily worried about tomorrow's newspaper headlines or what might be said in some future nomination proceeding. I would ask Americans if they want their judges to decide matters of life and death, liberty and imprisonment, wealth and poverty according to the law or according to politics.

For two centuries, our liberties have been secured by a Federal judiciary that was not afraid to stick to the law and the Constitution when political winds were blowing in a contrary direction. For two centuries, judges have not had to worry that their careers might be jeopardized by carrying out the law in the face of storms of passion and public frenzy. For two centuries, judges have not had to worry that the legal merits of their decisions might become the focal point of a political smear campaign, which this one has been for two centuries, Americans have been able to trust the judiciary to govern according to the rule of law, rather than the rule of men. We cannot afford to jeopardize that tradition.

The framers of the Constitution wisely insulated judges from politics. Judges were given life tenure and a fixed salary to prevent political pressures from clouding their legal judgment. This dirty tricks political campaign against Judge Bork, however, is changing those rules. This is a new threat to the independence and integrity of the Federal judiciary. This has become the issue.

Now, what about the Constitution and Senate precedent?

Some have contended that we need not fear because this has happened before in history without endangering the independence of the judiciary. We have heard that one in five Supreme Court nominees have been rejected and that political campaigns against Court nominees is not usual. Such justifications are misleading and illusory. This is unprecedented. This is a new and devastating threat. I would like to examine this misleading set of arguments.

In the first place, we often hear that the Senate has a duty to scrutinize judicial nominees as part of its "advice and consent" power. I would agree that the Senate must scrutinize candidates, but "scrutinize" is different from "politicize."

We have also heard that the Senate has often engaged in ideological inquisitions. I would note only a few points to rebut this false notion. Recognizing the dangers of politically charged campaigns against judges, the Senate has refused to employ political litmus tests while confirming 53 justices over the past century. Senate precedent does not support subjecting judicial nominees to ideological inquisitions. Look at recent history: F.D. Roosevelt appointed nine judges in his own image. In fact, he completely reshaped the Court. During that time, a total of 20 votes were cast—out of a possible 900 votes—against F.D.R.'s nominees. Where were the politics? Eisenhower appointed five justices. A total of 28 votes—out of a possible 500—were cast against Eisenhower's nominees. President Kennedy in only 3 years appointed two justices. On one of these occasions, Kennedy replaced the conservative Frankfurter with the ultra-liberal Goldberg. Not a single vote was cast against either of Kennedy's nominees. I could go on, but the point is that since 1894, the Senate has only failed to confirm four nominees. This is significant. The Senate has confirmed 53 justices in recent history, while considering nominees from Presidents as widely diverse as Roosevelt and J.F.K. and L.B.J. to Eisenhower, Ford, and Reagan. None of these 53 suffered the political indignities characteristic of this campaign against Judge Bork.

Now, we have also heard that the "advice and consent" power justifies the Senate's political tactics. The Constitution itself does not support that practice.

Based on the commonsense observation that a diverse congressional body would have difficulty overcoming jealousies and politics to select the best candidate, the framers in 1787 unanimously voted to vest the nomination power in the President.

The Senate, however, was given a checking function. In the words of Alexander Hamilton, the advice and consent function was to prevent the appointment of "unfit characters."

The advice and consent function was a checking function, not a license to exert political influence on another branch nor a license to control the outcome of future cases by overriding the President's prerogatives.

Despite the lessons of Senate precedent and the Constitution and despite the potential damage to the independence and integrity of the judiciary, we have witnessed a bruising political campaign waged against this nomination. A final vote in the Senate. My fear, however, is that the price of a politicized judiciary is too high to pay. If judges fear to uphold the Constitution due to political pressures or sense that their judicial careers might be advanced by reading that document in the smokey backrooms of political intrigue, when the Constitution will no longer be a solid anchor holding our Nation in place during times of storm and crisis. Instead the Constitution will just become part of the political storm—blowing hot and cold whenever the wind changes. That is a price we cannot afford to pay.

At this point, Mr. President, I would like to take a little time to detail some of the abuses of this poltical campaign.

In the first place, Judge Bork has been maligned with political labels. Even though political litmus tests do not apply to judges, Judge Bork has been branded an "extremist" and "right wing." One political advertisement called him an "extremist" and "right wing" 10 times on one page. We will get to that in a moment. In reality, these labels are flat wrong. Otherwise, it would be difficult to explain why Judge Bork voted with his Carter-appointed colleague, Judge Ruth Ginzburg, in 90 percent of the cases on which they both sat, or with his Carter-appointed colleague and so-called "liberal" colleague, Judge Abner Mikva, in 83 percent of the cases on which they both sat.

Look at this chart. He voted with Judge Ginsburg 91 percent of the time; with Judge Wald, who was considered a very liberal judge, 76 percent of the time; Ed Mikva, who admits to being an unabashed liberal, 82 percent of the time; Judge Edwards, 80 percent of the time; and Judge Wright, 75 percent of the time.

When he went on the bench there was only one Reagan appointee and eight Johnson-Carter appointees to the District of Columbia Appellate Court. How could you say he was outside of the mainstream, or somebody not literally in the mainstream with his liberal colleagues?

This is a convenient time to turn to the political full-page ads that have distorted Judge Bork's record. As I mentioned, these ads enjoy name-calling. The damaging distortion of this tactic is found in the advertisement itself. At one point, in order to convince the public that Judge Bork will upset the Supreme Court, the ad states that the Supreme Court is now "fair-minded, deliberate and balanced." Yet a few lines later it states that the "Supreme Court is dominated by the right" and led by a "right-wing majority." Both cannot be true. The Supreme Court cannot be both "deliberate and balanced" and "dominated by a right-wing majority."

Both simply cannot be true. The Supreme Court cannot be both deliberate and balanced and at the same time dominated by the rightwing majority.

This kind of inconsistency has been the norm in this campaign. Time after time Judge Bork has been called both an "extremist" and, "the one vote likely to tip the balance." He cannot be both, unless those making the charge are actually saying that four other Justices are already "extremists." Frankly, it is more likely that those making the charges are extremists because the four other Justices include, I might add, one, Justice White, appointed by President John Kennedy; and two, Judges Scalia and O'Connor, who were unanimously approved by the Senate.

What about the political tactics? Let me summarize a few of them. I would like to take a little time to summarize some of the details of the political tactics against Judge Bork.

In the first place, he has been maligned with political labels and even though political litmus tests have not applied to judges before, Judge Bork has been branded an extremist and "right wing."

So you have to say consistency will not be a hallmark of this debate. This labeling distortion is evident, but it is also destructive. Justice Sandra O'Connor, the only woman Justice, and Justice White, John F. Kennedy's appointment, cannot be labeled as "rightwing" anymore than any other Justice.

Justices interpret the laws and the Constitution. At least that is what they are supposed to do. On occasion, these laws dictate so-called conservative results, but that does not make the interpreter of those laws rightwing, anymore than when the law dictates so-called liberal results. Lawmakers dictate those results and have a political label. We do, but not judges.

This labeling tactic is misleading and destructive of the basic judicial function of interpreting the laws.

The next tactic of this political free-for-all has been distortion. This occurs in several ways. One way that has been foremost in this debate has been to extract a few quotes from 15-year-old articles and to ignore Judge Bork's judicial actions. For example, we have repeatedly heard allegations that Judge Bork might not protect free speech. In fact, anyone who wants to know Judge Bork's views on censorship would merely need to read his Lebron decision where he held that the D.C. metro authorities violated Mr. Lebron's free speech rights by refusing to let him hang a poster that was extremely critical of President Reagan.

The judge was even willing to allow the embarrassment of the President who appointed him to uphold Mr. Lebron's rights, and he did.

We also continue to hear that Judge Bork might not protect all forms of speech. But only protect political speech. Once again, this is taking a comment from the professorial article that was written over 15 years ago with the express purpose of stimulating debate and provoking questions.

In fact the article was clearly labeled "Tentative and Exploratory." This concern about Judge Bork, however, is ludicrous in light of his judicial record and I think he should be judged basically on his public service record, general and judicial record and not because, as a professor, paid to be provocative, paid to look at things from all angles, he creates debate.

Look at his record. It is an eminent record, a prestigious record, a mainstream record; one that anybody would be proud of.

Well, I think that concern that he might restrict free speech in areas other than political speech is specious, especially in light of his judicial record in the Brown versus Williamson Tobacco Advertising case. He protected commercial speech.

In the McBride libel case, the judge protected scientific speech. In the Quincy Cable case involving television must-carry rules, Judge Bork protected artistic and literary speech. And above all, in the celebrated Ollman case, it was the Ollman libel case, Judge Bork protected all speech again evolving threats in our changing world.

Judge Bork's judicial record is pretty hard to distort and yet it has been. Accordingly, it has been relatively ignored, and where it has been cited it has generally been distorted.

In my mind, Judge Bork's actions as a judge and as a solicitor general speak a lot louder than his critics' words.

Another distortion tactic has been to selectively use evidence. For instance, we have already heard criticism about Judge Bork's decision in the Dronenburg case which denied homosexuals special constitutional privacy protections. In most studies of Judge Bork, this case was listed as a primary evidence that he would reduce the general privacy doctrine to exclude abortion on demand.

The evidence that these critics consistently ignore is that the Supreme Court reached precisely the same decision and the same results in the Bowers versus Hardwick case, which was decided several months after Judge Bork had reached his own decision. That denied homosexuals special constitutional privacy protections.

Still another distortion tactic which has been familiar to political campaigns but never really before in the history of judicial nominations is to accuse him of ethical violations.

In that vein we have heard too often, recently, about the Saturday night massacre. In fact, this is one of Judge Bork's finest hours.

It really was. The judge was not the cause of Watergate, but he was part of the solution. As a precondition of carrying out the President's order to fire Archibald Cox, Judge Bork gained a commitment that the investigation would go on further without interference. In sum, Judge Bork had to make a difficult decision on the spur of the moment. Even then, he had to be convinced by then Attorney General Richardson not to resign, but the evidence that his decision was correct, I think, is history. Because Judge Bork preserved the investigation, the President was later forced to resign and several others were prosecuted. This performance deserves a commendation and not criticism. So he was criticized because, they said, that it took too long for him to make the decision about getting a special prosecutor.

The fact is the most significant testimony in front of our committee was by former executive director of the American Bar Foundation, former law partner, former president of Brigham Young University, et cetera, Dallin Oaks, who himself has been considered as a potential nominee to the Court from time to time. One of the great legal minds in this country, the leading authority in the country on the exclusionary rule. He is one of the great constitutional thinkers of all times.

He said that within hours, within hours that Bork, then acting Attorney General, then Attorney General, called him from the Supreme Court itself and told him he was going to have to have a special prosecutor and that he felt it would have to be a former president of the bar association; it would have to be somebody of that status and asked him who he would suggest.

He basically said there are only two: Lewis Powell, who had just been put on the Supreme Court, and of course none other than Leon Jaworski; to which—as I recall my conversation, personal conversation with Mr. Oaks—to which Judge Bork, then Attorney General Bork, replied: "Yes, I have been getting that from a number of others." Indicating he had been calling and trying to make this decision right after the firing.

And yet it was brought up, I suppose, so that they could embarrass the judge. It is a sad commentary on this case.

We could discuss likely political tactics for a long time. Indeed, as this debate proceeds, I look forward to discussing each of the allegations and dispose of each as distortions to one degree or another.

At this point, I would like to focus on one of the most offensive examples of the distortion campaign against this great judge. That has to be the full page ads.

To test the hypothesis that these advertisements mischaracterize, misconstrue, and mislead, I found in a short time 67 falsehoods, slants, and distortions, in just one of the full-page ads. I might add that the next ad was even worse, however. I found in just a short time 84 falsehoods, distortions, flaws, and biases in the second full-page ad. There were 151 falsehoods and distortions in only two pages. I think they deserve the Guiness Book of Records.

Let us quickly examine this first ad. This is the famous People for the American Way. How could anybody who goes by the name People for the American Way do anything wrong?

Well, this is a Norman Lear organization. I might add, it is not known for honesty. Let me just say this: Let us examine this. Even the boldface title: Robert Bork versus the People. Can you believe it? That grossly misconstrues the judge's philosophy. More than any other jurist in modern history, Judge Bork would be the one who would sustain the peoples' right to govern, the peoples' right to govern themselves.

As a matter of fact, the real issue in this whole debate is the judicial restraint versus judicial activism. Judge Bork did not believe that judges who are not elected for life should make laws. He thinks only elected representatives, people sitting here in this body and in the House of Representatives and in State legislatures should make laws.

The real issue here is judicial restraint versus judicial activism.

Nevertheless, look at that title.

I might add the titles should fairly judge Judge Bork and the people versus the special interests because that is what he faces.

There are 67 distortions or outright falsehoods, and I think there are too many to catalog here in one short speech.

A few examples I think will give a flavor for the distortion techniques employed in these particular articles.

Take falsehood 12 which comes in right here on the chart. Judge Bork is accused of "billing consumers for power they never got." This allegation is flatly incorrect. Neither Judge Bork, nor the majority of the D.C. Circuit Court which joined him in this opinion, could bill or authorize any billing of any customer. Utility companies under the eye of the Federal Energy Regulatory Commission, not the courts, bill consumers. The court's opinion found merely that FERC had not adequately responded to the evidence presented by the company. Moreover, no consumer has been billed a single dime in that case. That is just one illustration.

Take falsehood 22. Judge Bork is accused of "turning back the clock on civil rights."

I think we have heard that time after time even among members of the committee. This point is wholly unfounded. Judge Bork has never, I repeat never, advocated as Solicitor General or rendered a judicial decision as a judge on the Nation's second most important court in the country that was less sympathetic to the minority or female plaintiffs than a majority of the Supreme Court.

Moreover, as Solicitor General, Judge Bork won several significant civil rights victories, including prohibition of private discriminatory contracts, and redistricting to enhance minority voting strength. He enhanced minority voting strength.

Take falsehoods 27 and 28. Judge Bork is accused of criticizing "decisions which stopped States from using poll taxes to keep minorities from voting."

What a lie. This assertion misstates the Supreme Court case in question. The Harper case involved no evidence whatsoever of racial discrimination, and so said. It also misstates Judge Bork's position. The judge repeatedly wrote, and testified, that he would not criticize Harper if it involved racial bias. In fact, as a judge, Judge Bork struck down a South Carolina voting plan that might have been discriminatory, the *Sumter County* case, and approved a discrimination case against the Navy.

Falsehoods 29 and 30: Judge Bork is accused of criticizing "decisions that stopped States from using literacy tests to keep minorities from voting."

For the same reasons as above, the claim misstates both the content of the *Katzenbach* case and Judge Bork's position. In fact, Judge Bork has punished discrimination wherever he has found it—the *Palmer* case, the *Ososky* case, the *Laffey* case.

I found this particular distortion to be most galling. In 1981, Judge Bork exhibited great moral courage by testifying in opposition to the human life bill. It was wanted by most of the people in the pro-life movement because it attempted to redefine the words of the Constitution by statute. He was joined by Archibald Cox and Larry Tribe, both liberal law professors, and others, in opposition to this bill which would define "person" in the Constitution to include "unborn children"; thus it would overturn *Roe* versus *Wade* by a mere statute.

The right-to-life community was infuriated with Judge Bork but he stuck to his guns. Yet today, that very act of courage is what has been used against him because he criticized the *literacy test* case, for the same reason.

Yet if we allowed our Constitution to be changed by a majority vote, the basic principle of judicial review would become the principle of political review with the foundation of our liberties changing with every passing political wind.

I am grateful for Judge Bork's courage and resent the distortions that contend he is against literacy tests. He has said no such thing. He has never said that. He has only said that we have to protect the Constitution from change by a mere political majority.

Look at No. 46. Judge Bork is charged with having "already made up his mind." Later in the same ad, the judge is accused of being too open to change. Both cannot be true. This is also galling.

Throughout this debate, Judge Bork has been called too rigid at one moment and too quick to change at the next. I personally wish his opponents would make up their minds.

Ironically, in a speech months before the Bork nomination, Tony Podesta, the then head of the organization that published this ad, People for the American Way, stated that he would support the nominations of Antonin Scalia, Robert Bork, or Frank Easterbrook if nominated for the Supreme Court. Evidently this organization does not care whether its word is good or not.

Let us take a quick look at the next ad. I have spent a lot of time on these, but I will mention a few. It is sickening to read them and yet millions of Americans have thought since it appeared in print it is accurate. It is not accurate.

Here is one with 84 errors and distortions, an ad put out by the National Abortion Rights Action League.

This implies that all women do or should fear Robert Bork. "What women have to fear from Robert Bork."

In fact, many women groups contacted the Judiciary Committee to indicate support for the judge. There are a number of letters from Democrats as well saying they support Judge Bork.

One of these groups was Concerned Women for America, which purports to be the Nation's largest political women's organization.

Let us take falsehood 2, just an illustration. The title also suggests that women should fear the judge. There is no such reasoning. In fact, his record as Solicitor General and a judge indicates that he has never advocated a position less protective of women's rights than that adopted by the Supreme Court itself. For instance, in the *Palmer* and *Ososky* cases, he struck down sex discrimination in the State Department. In *Laffey*, he guaranteed equal pay for equal work done by airline stewardesses. In fact, Judge Bork has advocated more protections for women's rights than accepted by the present Supreme Court. For example, in *Gilbert* versus *CE*, he argued that women should not be discriminated against because they choose to become pregnant. The Supreme Court rejected his argument and Congress later had to overcome that Supreme Court decision by statute. And I participated in helping to overcome that.

Now, Bork's argument then became the law, protecting women and allowing the pregnancy disability benefits, and I voted for that bill.

Take falsehood No. 5, right here. They say, "Every advance." The implication that Judge Bork has opposed every advance for women is flatly wrong. He is responsible for a number of those advances. For example, he contended against pregnancy discrimination, as I have said. He also made the Equal Pay Act work to grant women equal pay for equal work in the Corning Glass case.

Take falsehood No. 10. "His rulings might leave you no choice in relationships." Absolutely false. Judge Bork sustains, for example, the Loving versus Virginia case which grants to individuals the right to choose their spouses without any Government intervention.

Mr. BIDEN. Will the Senator yield? I did not understand one word the Senator said. Did he say the ad said "might" leave no choice or "would" leave no choice?

Mr. HATCH. The ad said "might" leave you no choice in relationships.

Mr. BIDEN. Might leave.

Mr. HATCH. It has the word "might." But the implication is that he is going to go against your right to chose your spouse. You would have to read it that way. And let me tell you I do not see any other implication than that. That is the only reason it is in there.

Now, falsehood 15 said, "He will be the deciding vote." Now, that is wrong. What makes Judge Bork's vote the next deciding vote? He must be joined by at least four other Justices in order to be a deciding vote. If he is extreme, he will not have the support of four other Justices on the Court. And one of those Justice who will purportedly join Bork to form a right wing majority in herself a woman. Now why is not her vote the decisive vote? No one vote counts any more than another on the Supreme Court.

Falsehood 24: "Judge Bork's record indicates a hostility to personal privacy." Now, Judge Bork has upheld every specific privacy provision in the Constitution. Likewise, he has upheld statutory privacy rights like the Privacy Act of 1974. Whenever the people through their elected representatives have spelled out privacy rights, Judge Bork has upheld that privacy right with pleasure.

I would like to comment more on this privacy question in the future and I will.

Take falsehood 35: "You wouldn't even be protected against sexual harassment at work." That is clear deception. Judge Bork would punish, and clearly said so, unwelcomed sexual harassment. He would even impose liability on an employer who was not involved in harassment but permitted it to continue. The Supreme Court in the Merritor versus Vincent case agreed with Judge Bork's analysis of that very issue. So another purely false thing.

Falsehood 53: "Women who made this profoundly private abortion decision have been singled out and denied education." Now, even if that statement were true, how can this be attributed to Judge Bork? The closest analogy to that case was the Gilbert case, the pregnancy discrimination case where Judge Bork argued for women. Falsehoods 73 and 74. Right over here. "Judge Bork is an extremist nominated by extremists." The National Abortion Rights Action League calling Judge Bork extreme speaks for itself. This group would not know a judicial mainstream from a judicial jet stream. I might add moreover extremists did not nominate Judge Bork. One man, the President alone, makes this nomination, not a group of people. And this President is not extreme. He was elected by the largest margin in electoral history. So if he is extreme, so, too, are the people out there who elected him.

Finally, I reviewed one other ad and found 99 flaws in this particular ad. And that is a Planned Parenthood of New York ad. Ninety-nine flaws. Actually, we have had 67 flaws in one ad, 84 in another, 99 in this one. This ad as well as the other ads closed with an appeal for donations. That is what all these ads do. We expect that in political campaigns and, even though it is distorted and out of place, it is probably fair game, I suppose, the way some people do it. But in any event, I think you can say that since they appeal for donations, and this is an ad against a sitting judge, no doubt you can conclude that it is profitable to create a monster and then cast yourself as the only knight to fight that monster, albeit an impecunious knight in this particular case, able to rid the land of the scourge. Readers should realize, however, that this is not the art of advertising or fundraising. This is the art of character assassination.

PRIVACY AND NATURAL LAW

As I stated earlier, I would like to discuss one issue in detail because it has been widely misread and misunderstood by my colleagues and the public. This is the question of the so-called right to privacy and the broader subject of how our rights are created and protected.

At the conclusion of the hearings, one Senator described the primary issue of the Bork debate as whether individuals have rights because they are human or whether individuals have rights because the Constitution grants them. Of course the Senator attributed the former view to himself and the latter to Judge Bork. This statement is a convenient formulation, but the issue was resolved in 1776 not 1987. The Declaration of Independence states that "all men are created equal and endowed by their creator with certain inalienable rights." America has never since questioned that rights are a citizen's natural inheritance.

The question that has divided America is how to identify those natural rights. This is where Judge Bork and some Senators differ. Because rights belong to the people, Judge Bork would let the people identify and define them. This process occurs either by constitutional amendment or by statute. The most recent right identified by the people in the Constitution came in 1971 when 18-year-olds gained voting rights. Similarly statutes, like the Equal Pay Act and title IX, are the most effective guarantors of women's rights. The people continue to identify and define rights through their elected representatives. This is the essence of self government.

The alternative advocated by some Senators is to empower unelected judges to create rights for the people. Judges are thus trusted to provide adequate protections for the people. This short changes rule by people made law in favor by judges.

The so-called right to privacy, which dominated the Bork hearings, provides an illustrative contrast to the alternative means of finding natural rights. The people have identified and defined several privacy rights in the

Constitution. These include, among others, the right to privacy against unreasonable home searches—the fourth amendment, the right to privacy in records against self incrimination—the fifth amendment, the right to privacy in speech, the right to privacy in publishing, and the right to privacy in religious practice—the first amendment. In addition, the people have identified and defined several statutory privacy rights, including, among others, the Financial Right to Privacy Act, the Privacy Act of 1974, and various restrictions on Federal surveillance activities. Judge Bork has diligently defended each of these specific rights.

On the other hand, in 1968, a sharply divided Supreme Court read the "penumbras"—as opposed to the words—of the Constitution to encompass a general "right to privacy." Other judges expanded that sweeping notion to create a privacy right to abortion on demand. Other Supreme Court judges voted to create a privacy right to homosexual conduct. Still other jurists, including some who testified against Judge Bork, desire a privacy right to use drugs in private or a privacy right to engage in prostitution in private. Others might argue for price fixing in private or, as is currently being litigated in the Supreme Court, the right to discriminate against others as long as it is done in private.

If these kinds of privacy are in fact natural rights, the people can embrace them as their own by constitutional amendment or statute. Senator KERRY, for example, has introduced legislation to guarantee homosexual rights. If these are rights the people acknowledge, they certainly will press their legislators to grant the protection. If judges are free to create rights, however, conservative judges will create a right to a balanced Federal budget and liberal judges will create these new privacy rights. Either result—conservative or liberal—would reduce our Constitution to government by men, rather than by the people's law.

In sum, the great natural rights debate was in reality settled in 1776. Today we all agree that rights are inherent in the people. The modern issue is whether the people will be free to identify their natural rights or will be subject to the rule of unelected judges. On this point, Judge Bork spoke for the people's most sacred right—the right to self Government.

CONCLUSION

The lasting consequence of the Bork confirmation debate poses a silent threat to basic constitutional protections. The threat springs from the manner in which Judge Bork was assailed. The Bork debate was characterized by all the intrigue, innuendo, and inaccuracies of a political campaign.

In that regard, let me allude to my remarks concerning the Harris Poll, the art of character assassination.

I will not comment about it but I think the questions speak for themselves. Do you wonder why after some polls everybody started to become construed against Judge Bork? You ought to read this. It is one of the most terrible examples of I think dishonesty I have ever seen in polling. This same pollster, Lou Harris, did the same thing to Justice Rehnquist. Most of the media did not carry it because it was so bad. This one was carried by almost all the major media in this country and it is absolutely dishonest in my opinion.

HARRIS POLL—THE ART OF CHARACTER ASSASSINATION

Yesterday I mentioned the Harris Poll. Overnight that poll has been given considerable attention. The only thing we hear, however, is the conclusion—57 percent would turn Bork down, only 29 percent would confirm him. We are told that that is what the American people believe should be done. Let's take a look at this poll to see if it really supports that conclusion.

This poll sets out to be the model of fairness by giving two pro-Bork questions, and two anti-Bork questions. Absolute fairness would ensure that the subject does not have a skewed view when the final question is asked. This seems to be the only attempt at fairness, from there is it downhill—fast.

Let's read the first pro-Bork question. Remember, this is supposed to favor Bork's position so that the subject will not receive a slanted view:

"Judge Bork seems to be well informed about the law. * * *" Already the poll begs the question of whether he is informed or only "seems to be." But that is nitpicking, let's continue. Remind yourself that this is the first pro-Bork question.

> Judge Bork seems to be well informed about the law and such qualifications are worth more than where he stands on giving minorities equal treatment, protecting the privacy of individuals, or other issues.

For heaven's sake, in order to favor Judge Bork on this question, you have to vote against equal treatment for minorities, protecting privacy and other issues of critical importance. The marvel is that Judge Bork only loses this count by 2 percentage points.

If that wasn't bad enough, let's look at the second pro-Bork question. If you think this is bad, wait until we get to the anti-Bork questions.

> If President Reagan says that Judge Bork is totally qualified to be on the Supreme Court, then that's enough for me to favor the Senate confirming his nomination.

That is a classic. The subject is asked to admit that the President does all their thinking for them. This is an insult to the person being polled. Anyone who answers "yes" would have to be shameless. As strongly as I support him, it is only after years of examining the record and knowing the man that I support him.

Frankly, if those two pro-Bork questions were asked of this committee, I am sure that neither question would get a single vote. Nonetheless 27 percent still blindly followed the President and said "yes" to question 2.

Now comes the anti-Bork questions. We have finished the questions that were supposed to make you like the guy.

The first anti-Bork question, clearly labelled as such, says:

> Judge Bork has said, "When a State passes a law prohibiting a married couple from using birth control devices in the privacy of their own home, there is nothing in the Constitution that says the Supreme Court should protect such married people's right to privacy."

That kind of statement worries me.

This is too much. This invokes images of bedroom searches. If someone asked anyone in this room if they are worried by police raids in their bedrooms in the middle of the night, I think I could predict the answer.

By the way, I seriously doubt if this is a Bork quote because he repeatedly said that the Connecticut law was never used and never could be used to invade the privacy of the home. Nonetheless this quote is attributed to Bork. The amazing thing about this poll is that 27 percent say again that they are not worried by this quote.

We haven't finished yet. We still have the second anti-Bork question. It is a beauty. It says:

> Judge Bork seems to be too much of an extreme conservative, and if confirmed he would do the country harm by allowing the Supreme Court to turn back the clock on rights for minorities, women, abortion, and other areas of equal justice for all people.

This is incredible. Listen to this litany: Too extreme; do the country harm; turn back the clock; harm rights of minorities; harm women; abortion; other areas of equal justice for all people.

After that litany, if anyone who actually votes for Judge Bork, we don't want him.

Now comes the big question: After the pro-Bork questions have slandered him and the anti-Bork questions have defamed him, what is left to say? What a one-two punch.

Now the big question is asked:

It starts: "All in all * * *."

Nothing to subtle here. They don't want you to miss the point. After they have called Bork a bedroom-invading bigot, they want to make sure you remember it.

> All in all, if you had to say, do you think the U.S. Senate should confirm or turn down the nomination of Judge Bork to be on the U.S. Supreme Court?

Surprise. Surprise.

The real surprise is that 29 percent actually voted to confirm the monster described in this poll.

My only question is how Harris can, with a straight face, announce his conclusion: "Public opposes Bork 57-29." The only thing this poll proves is that the public hates bedroom-invading bigots.

This is not the art of polling, it is the art of character assassination. This is the worst of everything we have talked about throughout this hearing. This is not a political circus; it is worse; it is a freak sideshow—complete with five-legged cows, bedroom invading bigots, and—oh, yes—don't forget the extreme conservatives.

At the outset, Senator SIMPSON and others warned of the consequences of making a confirmation into a cheap political sideshow. Well, it has happened and the star ringleader is Lou Harris and his tricky pollsters.

Seriously for a moment, think of what this means to the Supreme Court and the Federal judiciary. What is going to happen to our only nonpolitical branch if we keep launching these political missiles in their direction?

I ask unanimous consent that the Harris poll be printed in the RECORD.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

PUBLIC OPPOSES BORK NOMINATION BY 59-27 PERCENT

(By Louis Harris)

By a clear-cut 57-29 percent, the American people believe the U.S. Senate should turn down, not confirm, the nomination of Judge Robert Bork to the U.S. Supreme Court. While 14 percent are still undecided, nonetheless it now appears that a decisive majority have decided they would prefer Judge Bork not to become part of the high court.

These results, according to the latest Harris Survey of a cross section 1,249 adults nationwide and taken by telephone between September 17th and 23rd, reflect public reaction to Bork's own testimony on the stand, and not the subsequent comments, pro and con, after he finished his appearance before the Senate Judiciary Committee. Significantly, among those who said they saw the hearings on TV or who followed them closely in the newspapers, a higher 61-32 percent majority oppose confirmation of Bork. Thus, the evidence is that the Judge did not help himself in his testimony.

Indeed, no more than 57 percent of the adult public say they have paid close attention to the Bork hearings. This is far below the 70 percent, for example, who saw or followed the Iran-Contra hearings when Lt. Col. Oliver North testified. Most curious is the fall-off of viewing of the Bork hearings among conservatives. Only 53 percent of all conservatives say they have followed the Judiciary Committee hearings, compared with 62 percent of moderates and 66 percent of liberals. This would indicate that many conservatives have not been pleased with some of the answers which Bork has given, such as his seeming contradiction of his previous stands critical of high court decisions in cases involving abortion, privacy, and other controversial cases.

Significant as well is the fact that when asked up or down whether Judge Bork should be confirmed, conservatives opt for confirmation, but only by a narrow 44-40 percent margin, compared with opposition among moderates by 61-30 percent and by liberals by a massive 79-13 percent. Among those who voted for Ronald Reagan in 1984, only a slender 45-42 percent plurality favor confirming Bork. A slightly higher 48-38 percent plurality among Republicans feel the same way. By contrast, independents are against Bork by 60-30 percent and Democrats by 70-16 percent.

In other key divisions, all regions of the country oppose Judge Bork's confirmation: the East by 56-29 percent, the Midwest by 60-29 percent, the south by 55-31 percent, and the West by 58-28 percent. Men oppose him by 55-36 percent, but women by a higher 59-23 percent. Whites oppose his confirmation by 55-31 percent, blacks by 71-15 percent, and Hispanics by 62-27 percent. The pattern by education is interesting: those with a post graduate degree oppose Bork by a close 47-45 percent, while those with a four year college degree oppose him by a wider 52-38 percent, and those with less than a high school education oppose him by 64-17 percent.

When some of the arguments which have been made about Bork—pro and con—are tested, it is evident immediately that his supporters have not made a strong case for him, while opponents have been more convincing to the public.

By 67-27 percent, a big majority of the public disagrees with the view that "if President Reagan says that Judge Bork is totally qualified to be on the Supreme Court, then that's enough for me to favor the Senate confirming his nomination." Normally, past surveys have shown that the people are inclined to go along with most nominees selected by a president. Indeed, in the case of the elevation of Justice William Rehnquist to the post of Chief Justice last year, a clear 57-39 percent majority expressed sympathy with the view that the President's choice should be backed up. This can be taken to mean that with public confidence in President Reagan reduced, the fact that he named Bork apparently carries less weight than before.

The claim of Judge Bork's backers that he is "well-informed about the law, and such qualifications are worth more than where he stands on giving minorities equal treatment, protecting the privacy of individuals, and other issues" meets with a narrow 43-41 percent rejection by the public. This indicates that Judge Bork perhaps did not impress the public viewing him as nearly as erudite and steeped in the law as his supporters have claimed. Those who viewed the hearings deny the claim that his legal literacy should count heavily by a higher 50-37 percent.

Most damaging to Bork is his statement early on that "when a state passes a law prohibiting a married couple from using birth control devices in the privacy of their own homes, there is nothing in the Constitution that says the Supreme Court should protect such married people's right to privacy," which worries a 68-27 percent majority.

Also, even though much of his testimony vigorously denied it, a 47-41 percent plurality of the public goes along with the criticism that "Judge Bork seems to be too much of an extreme conservative, and, if confirmed, he would do the country harm by allowing the Supreme Court to turn back the clock on rights for minorities, woman, abortion, and other areas of equal justice for all people."

Taken as a whole, it is evident that Judge Bork has not made a convincing case for his nomination to the high court.

TABLES

Between September 17th and 23rd, 1987, a national cross section of 1,249 adults was asked: "As you know, the Senate is holding hearings on whether or not to confirm President Reagan's nomination of Judge Robert Bork to be a Justice on the U.S. Supreme Court. Have you seen or followed any of the hearings on TV and in the newspapers, or not?"

Followed Bork Hearings:	Percent
Seen or followed	57
Not seen or followed	42
Not sure	1

"Now let me read you some statements about the Bork nomination. For each, tell me if you agree or disagree."

STATEMENTS PRO AND CON ON BORK NOMINATION

	Agree (percent)	Disagree (percent)	Not sure (percent)
Pro-Bork:			
Judge Bork seems to be well informed about the law, and such qualifications are worth more than where he stands on giving minorities equal treatment, protecting the privacy of individuals, or other issues	41	43	16
Pro-Bork:			
If President Reagan says that Judge Bork is totally qualified to be on the Supreme Court, then that's enough for me to favor the Senate confirming his nomination	27	67	6
Anti-Bork:			
Judge Bork has said, "When a state passes a law prohibiting a married couple from using birth control devices in the privacy of their own home, there is nothing in the Constitution that says the Supreme Court should protect such married people's right to privacy." That kind of statement worries me.	68	27	5

STATEMENTS PRO AND CON ON BORK NOMINATION

	Agree (percent)	Disagree (percent)	Not sure (percent)
Anti-Bork:			
Judge Bork seems to be too much of an extreme conservative, and, if confirmed, he would do the country harm by allowing the Supreme Court to turn back the clock on rights for minorities, women, abortion, and other areas of equal justice for all people.	47	41	12

"All in all, if you had to say, do you think the U.S. Senate should confirm or turn down the nomination of Judge Robert Bork to be on the U.S. Supreme Court?"

Confirm or turn down Judge Bork?	Percent
Confirm	29
Turn down	57
Not sure	14

METHODOLOGY

This Harris Survey was conducted by telephone within the United States between September 17th and 23rd, 1987, among a cross section of 1249 adults nationwide. Figures for age, sex, race, and education were weighed where necessary to bring them into line with their actual proportions in the population.

In a sample of this size, one can say with 95 percent certainty that the results have a statistical precision of plus or minus three percentage points of what they would be if the entire adult population had been polled.

This statement conforms to the principles of disclosure of the National Council on Public Polls.

Mr. HATCH. Mr. President, I ask unanimous consent that documents entitled "84 Flaws in the NARAL Ad," "99 Flaws In the Planned Parenthood Ad," and "13 Flaws of TV People for the American Way" be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. HATCH. Despite the lessons of the Constitution and Senate precedent, the Bork nomination has become a bruising political wrestling match, ultimately decided by political muscle in the form of lobbying strength, media attacks, fundraising, and majority party solidarity. The potential damage to the independence and integrity of the judiciary is a cost yet to be fully counted.

The tragedy is that this "deft blend" of ridicule, rumor, and racism is politicizing a sensitive constitutional process, which carries implications far beyond the career of Judge Robert Bork. The seriousness of the Senate's task and the independence of the judiciary are jeopardized by this crass political trickery.

For two centuries, the Federal courts have fortunately remained as the one nonpolitical branch of Government. Judges have been expected to make decisions without worrying about their opinions appearing on the front page of a tabloid journal. If judges are impelled by the tactics of the Bork debate to worry about politics, appearance, polls, and misleading headlines, what will be the consequences for equal justice under the law?

THE REAL ROBERT H. BORK

In my final moments today, I would like to set aside for a moment the law, the politics, and the dangers of this precedent-shattering and precedent-setting event. Instead I would like to look past the distortion and ridicule to the real Judge Bork—the capable individual, the caring individual, the considerate individual. It is hard to conceive of finding another individual more qualified in terms of ability and compassion.

After all, this is the individual who, as a junior associate, stood up to senior partners to prevent anti-Semitism from claiming another victim.

This is the individual who stood up to colleagues at the Department of Justice on behalf of a black woman to prevent subtle discrimination from claiming another victim.

This is the individual who stood by his former wife and made great personal sacrifices as her health was drained by a debilitating and eventually fatal disease.

This is the individual who, after fulfilling an active-duty assignment, left school and willingly returned to his country's service as a Marine in the Korean war.

This is the individual who gave nearly half of his 60 years to teaching and public service, eschewing the enormous financial rewards his talents might have brought in favor of educating our children and assisting our Government.

This is the individual who won significant advances for civil rights as Solicitor General and never advocated a position less sympathetic than the Supreme Court to minorities or less sympathetic to minorities than that adopted by the Supreme Court itself.

This is the individual who took no position on civil rights cases in 5 years as a judge less favorable to the minorities and women than the position adopted by the Supreme Court.

This is the individual whom Congress twice confirmed unanimously to significant posts in this country within our Government.

This is the individual who served for 4 years as our Nation's leading trial attorney.

This is the individual who served for 5 years on our Nation's second most important court—without a single reversal.

This is the individual who states that Congress should be allowed to make policy and that he, as a judge, will not impose his own agenda on the Nation.

This list might go on indefinitely, but the point is evident. The most tragic final chapter does not concern politics, nor lobbying pressures, nor issues of marital privacy or homosexual privacy or abortion privacy or prostitution privacy or any of the other issues which may interest one or another Senator.

The most tragic final chapter is a chapter about an individual—one of the most qualified individuals ever nominated to the most important judicial post in the Nation. The Supreme Court and the Nation has lost the services of one of its finest individuals. That is the most tragic, and most final, chapter.

What does it mean for our Nation and our independent Federal judiciary that an individual of this caliber can suffer what he has suffered? I genuinely hope that this will never happen again in our history and that my colleagues will reconsider Judge Robert Bork, the real Judge Bork not the distorted political accounts, and vote to confirm him as an Associate Justice of the Supreme Court.

Mr. President, I have read the committee report and it is filled with inconsistencies, and I am highly disturbed by the way it is written. I think it is a very, very poor job. As I have said before, I think the Senate Judicary report is the grossly slanted and biased distortion of all that really occurred before the committee and what was really at stake in this nomination. I do not have time to list all of the flaws and the inaccuracies of the staff report and I have done it rather hurriedly. But I ask unanimous consent that my remarks concerning that, and the work that I have done concerning that chronicle of a few of the errors and inconsistencies be placed in the Record at this point.

Mr. BIDEN. Reserving the right to object, Mr. President, I would ask since we are not going to get a chance to read those in this debate, rather than read them all if the Senator would read a few of those distortions to us so the Senator from Delaware has some notion of what he is allowing to go in the Record.

Mr. HATCH. I would be glad to do it.

Mr. BIDEN. For the moment I do object.

Mr. HATCH. I am more than happy to do it but I have listed, them, chronicled them, and I will be happy to debate any one of these points any time anyplace anywhere.

Mr. BIDEN. In the meantime, I object.

Mr. HATCH. Object to what?

Mr. BIDEN. I object to the chronicle of distortions in the majority report, which the Senator from Delaware is responsible for having written.

Mr. HATCH. The Senator objects to putting my report in the Record so the American people can see it? He is going to keep it out of the Record?

Mr. BIDEN. If the Senator will listen, I object to his putting in the Record rather than listing them now. I am here all night. I would love to hear them so I know what I am going to respond to, rather than waiting until tomorrow morning to have to read the Record to find out what the distortions allegedly are.

Mr HATCH. I would be glad to do it. Does the Senator want me to read it all?

Mr. BIDEN. No. Just several, so I know how bad my report was.

Mr HATCH. Let me take the 15th objection, pages 30 through 36. I am just picking them at random. I think you can find, and anybody can pick some that they think are worse than others. The report's treatment of the privacy question is riddled with false assumptions, slanted commentary. Examples are numerous.

1. Skinner is once again read as a "fundamental rights" case rather than an equal protection case. This case consistently illustrates the report's elementary legal error of emphasizing some dicta and short-changing the holding. Regardless of the merits of this "fundamental rights" reading of Skinner,

Judge Bork only criticized the case's equal protection reasoning.

2. The pivotal fact that Judge Bork would reach the same result as in Skinner but by a more sound reasoning process is buried in a fine-print footnote.

3. Similarly, the report quickly dismisses without commentary the fact that Judge Bork might reach the same result as in Griswold by a different route.

4. The report mentions Judge Bork's Zech opinion in a disparaging context several times without explaining that Judge Bork's reasoning was adopted by the Supreme Court itself in the Hardwick case. Judge Bork is apparently more in tune with the Supreme Court on privacy than is this report.

5. Despite claims to the contrary, the Judge did not first articulate the distinction between results and reasoning in 1987. This is the heart of his 1971 article, namely that the Court must use an honest and neutral reasoning process.

6. Professor Tribe's criticism that Judge Bork seems to be playing "hide and seek" with the Constitution is disingenuous at best. In fact, the Supreme Court discovered new rights in 1973 (abortion), 1961 (exclusionary rule), 1963 (school prayer), and so forth that had not been found in nearly two hundred years. The Court is the body that has been playing "hide and seek" as a scholar of Tribe's purported dimension would be expected to understand. Moreover Judge Bork's assertions that he wants to examine the issues fully before finally asserting a legal position is appropriate judicial conduct, not "hide and seek." Professor Tribe's criticism smacks of a disposition to prejudge on political criteria which would be very inappropriate conduct to expect from any judge.

Let me go to No. 4, pages 8 through 10.

The report's approval of substantive due process is appalling in light of the use of this doctrine to reach the unprincipled and dangerous conclusions of Dred Scott (blacks are only property with no constitutional rights) and Lochner (economic rights prevent health and safety regulations) and Roe (unborn children have no constitutional protections), to name just a few.

Let me go to No. 21, which I think is a fairly decent consideration.

The Poll Tax myth is debunked by the following facts:

As Judge Bork continually noted, the Harper case contained no evidence whatsoever of racial discrimination. If it had involved racial discrimination, Judge Bork would fully agree with the decision.

The report incorporates a very deliberate and selective lie on this point. It states: "And as Vilma Martinez testified: 'Among the problems with Judge Bork's disagreement with Harper is the fact that the Supreme Court in its decision expressly recognized that the "Virginia poll tax was born of a desire to disenfranchise the Negro."'" The last quote is grossly taken out of context. In fact, the third footnote of the Harper case in full states: "While the "Virginia poll tax was born of a desire to disenfranchise the Negro" (citing an earlier case), we do not stop to determine whether on this record the Virginia Tax in its modern setting serves the same end." The Court states itself that there is no evidence of racial discrimination before the Court. Justice Black states it even more plainly:" . . . The Court's decision is to no extent based on a finding that the Virginia law as written or as applied is being used as a device or mechanism to deny Negro citizens the right to vote . . ." 383 U.S. at 672. For the report to repeat the outright falsehood that the Harper case was associated with discrimination is an outrageous breach of the Senate staff's professional responsibility.

The report does not list the Justices who found that nondiscriminatory state poll taxes are legal: Hughes, McReynolds, Brandeis, Sutherland, Butler, Stone, Roberts, Cardozo, Black, (Breedlove, 1937), Frankfurter, Jackson, Reed, Burton, Clark, Minton, Vinson, and again Black (Butler, 1951), Harlan, Stewart, and still a third time Black (Harper, 1966).

22. Page 40, The one-man, one-vote myth is debunked by the following facts and is perpetuated in the report.

Judge Bork, despite the erroneous report's insinuation, has not questioned and does not oppose the Banker versus Carr opinion. He feels that the courts should participate in the apportionment process. He would protect the "rules of the game" as former Congressman Jordan has stated.

Judge Bork's position is merely that the Constitution does not require "mathematical perfection" in adhering to a one-person, one-vote standard. Instead he would adopt the standard of Justice Stewart that would strike down any State apportionment decision that would systemically frustrate the majority will. This standard, by the way, would have remedied the situation described by former Congresswoman Jordan.

The report does not mention the Justices who share Judge Bork's views about the flaws of using a slogan as the standard for constitutional review: Harlan, White, Rehnquist, Burger, and Powell (Kirkpatrick, 1969; Karcher, 1983).

I might add that we go to No. 25, and I will not read too much longer.

Mr. BIDEN. I say to the Senator that I have a flavor of what the Senator——

Mr. HATCH. Let me continue.

Mr. BIDEN. I would like you to continue. I would like to know, now that I have a flavor, if the Senator wishes to put them in.

Mr. HATCH. I will give you a copy.

Mr. BIDEN. Good.

Mr. HATCH. Is it in the Record?

The PRESIDING OFFICER. Does the Senator renew his unanimous consent request?

Mr. HATCH. I renew my request. I would like this in the Record, and I would like the American people to read it.

There being no objection, the material was ordered to be printed in the Record, as follows:

Committee Report Inconsistencies

As I have said before, the Senate Judiciary Committee report is a grossly slanted and biased distortion of what really occurred in the Committee and what was really at stake in this nomination. I do not have enough time to list all the flaws and inaccuracies of this staff effort, but I will chronicle a few of the many glaring errors and inconsistencies.

1. Page 3 and 4. The Report states that this is the first time a minority of the ABA Standing Committee found a nominee "not qualified." The Report then continues to report that three members found Justice Rehnquist "not qualified" when he was first appointed in 1971—a toally falacious charge in light of his 16 years of exemplary service and his elevation to the Chief Justiceship. It also points out that Judge Haynesworth was also subject to several dissenting votes.

2. Page 5. The Report spends considerable time detailing the reasons for the ABA dissenting votes without pointing out that the reasons given are outside the standards for ABA assessment. None of these political objections fit within the three ABA standards for assessment, thus lending great weight to the charges that these were politically motivated votes.

3. Page 8-14. The Report's heavy reliance on the extremist view that the Constitution is a mirror of an evolving "image of human dignity" is ludicrous. This points out the major flaw of this entire attack on Judge Bork. It assumes that judges must manufacture new rights out of the "open-ended phrases of the document," rather than allowing the people to identify their own rights through constitutional amendments or statutes.

4. Page 8-10. The Report's approval of substantive Due Process is appalling in light of the use of this doctrine to reach the unprincipled and dangerous conclusions of *Dred Scott* (blacks are only properly with no constitutional rights) and *Lochner* (economic rights prevent health and safety regulations) and *Roe* (unborn children have no constitutional protections), to name just a few.

5. Page 11. The Report's comment that "expanding the liberty of any of us . . . expands the liberty of all of us" is silly. Take any case currently before the Supreme Court as an example. One litigant argues for a liberty and right to abortion on demand. The opposing litigant argues for a liberty and right of parents to counsel with their minor children before an abortion. Both liberties cannot prevail. The Court chooses between the two and its choice limits one right and grants another. It cannot do otherwise. This is true of any other case.

6. Page 12. The Report cites James Iredell for the notion that the Constitution contains vast "unennumerated rights," a euphemism for legal preferences not found anywhere in the written document. This is a gross misrepresentation of history. In fact, as a Supreme Court Justice, Iredell dissented vigorously when the Court attempted to invent such unspecified dogmas. See *Calder* v. *Bull* (1796). Iredell did not ever foresee the courts in the role of manufacturing new doctrines not included in the written Constitution. He argued instead that the State constitutions and laws should be free to protect rights beyond those found in the language of the Constitution.

7. Page 13. The Report's claim that no justice in history has had as narrow a view of liberty as that of Judge Bork is absurd. Professor McConnell disposed of that falsehood in the hearing. Numerous justices, including Chief Justice Burger who testified of his agreement with Judge Bork, share Judge Bork's view of the Constitution's clauses. Chief Justice Rehnquist and Justice Scalia (who voted with Judge Bork 98% of the time on the Circuit Court) are two living justices who are likely to share his views. After all, if no one shares his views, then he is not likely to tip the balance because no one will vote with him.

8. Pages 14-19. The Report's error in listing the views of several justices lies in citing some loose dicta in various cases as if it was

the controlling principle of that justice's jurisprudence. In other instances, the Report cites a justice's approval of the incorporation doctrine as evidence of difference with Judge Bork when Judge Bork, too, agrees with the established incorporation principle. The descriptions of the cases are often faulty at best. For instance, *Skinner* (p. 17) did not outlaw all sterilization, but instead stated that laws requiring sterilization for thieves but not for embezzlers worked an "unmistakable discrimination." The Court was not making any binding legal judgments about procreation, but merely saying that if a state refused to sterilize embezzlers then it could not presume to discriminate by sterilizing robbers.

9. Page 19. The Report hits ecstacies when discussing the "concept of fundamental rights" without ever specifying the limits of these fundamental rights. For instance, is the right to sodomy a fundamental right as the *Hardwick* minority contended?

10. Page 20. The Report reiterates that Judge Bork's definition of liberty sets him apart. This is unsubstantiated. See 7 above.

11. Pages 21-29. The Report chooses to ignore and discount Judge Bork's explanations of his view of *stare decisis.* Although Judge Bork articulates a principled theory of *stare decisis* perhaps better than any other judge to come before the Judiciary Committee, his explanations are pushed aside. It would be an interesting challenge to see if the Report writers could find a single instance in history where a nominee expressed a more principled and defined theory of precedent.

12. Page 25-26. The Report's analysis of *Brandenburg* is incorrect on several counts: 1. Judge Bork never recanted his position that Justice Holmes' reasoning for the "clear and present danger" test is inadequate. Judge Bork does not accept Justice Holmes' reasoning that "if . . . beliefs expressed in proletarian dictatorship are destined to be accepted . . ., then the only meaning of free speech is that they should be given their chance and have their way." 2. To say Judge Bork cannot fairly apply the *Brandenburg* test in light of that criticism is wrong. Judge Bork can apply the "clear and present danger" test on reasoning other than Justice Holmes' protection for subversive speech.

13. Page 27. The Report misstates Judge Bork's position on the *Hess* case. Judge Bork did not contest that the Supreme Court correctly applied the *Brandenburg* test in the *Hess* case. The Judge only went further to explain that he thought Hess could still be punished on other grounds, namely the shouting of obscenities in public.

14. Page 28. The report complains even when Judge Bork agrees with controversial Supreme Court decisions. The Report dismisses with a passing reference the Judge's commitment to abide by the Supreme Court's rulings in dozens of controversial cases. In the Report's view, these various commitments do not meet Judge Bork's *stare decisis* criteria. This is evidence that the Report writers do not understand Judge Bork's criteria and detailed theory.

15. Page 30-36. The Report's treatment of the privacy question is riddled with false assumptions and slanted commentary. The examples are numerous. A few of these are: 1. *Skinner* is once again read as a "fundamental rights" case rather than an equal protection case. This case consistently illustrates the Report's elementary legal error of emphasizing some dicta and short-changing the holding. Regardless of the merits of this "fundamental rights" reading of *Skinner*, Judge Bork only criticized the case's equal protection reasoning. 2. The pivotal fact that Judge Bork would reach the same result as in *Skinner* but by a more sound reasoning process is buried in a fine-print footnote. 3. Similarly, the Report quickly dismisses without commentary the fact that Judge Bork might reach the same result as in *Griswold* by a different route. 4. The Report mentions Judge Bork's *Zech* opinion in a disparaging context several times without explaining that Judge Bork's reasoning was adopted by the Supreme Court itself in the *Hardwick* case. Judge Bork is apparently more in tune with the Supreme Court on privacy than is this Report. 5. Despite claims to the contrary, the Judge did not first articulate the distinction between results and reasoning in 1987. This is the heart of his 1971 article, namely that the Court must use an honest and neutral reasoning process. 6. Professor Tribe's criticism that Judge Bork seems to be playing "hide and seek" with the Constitution is disingenuous at best. In fact, the Supreme Court discovered new rights in 1973 (abortion), 1961 (exclusionary rule), 1963 (school prayer), and so forth that had not been found in nearly two hundred years. The Court is the body that has been playing "hide and seek" as a scholar of Tribe's purported dimension would be expected to understand. Moreover Judge Bork's assertions that he wants to examine the issues fully before finally asserting a legal position is appropriate judicial conduct, not "hide and seek." Professor Tribe's criticism smacks of a disposition to prejudge on political criteria which would be very inappropriate conduct to expect from any judge.

16. Pages 30-36. The Report protests too much about the privacy doctrine. It even goes to the lengths of arguing that privacy has been a settled doctrine for 75 years. If privacy is this settled and is clearly part of the Constitution, then no judge could overturn it. In fact, the privacy doctrine remains very controversial and has been criticized by four current justices. This entire campaign against Judge Bork is motivated by a fear that he will be the fifth vote to reconsider a doctrine with little, if any, constitutional foundation. In sum, this Report is conclusive evidence that the privacy doctrine is a judge-made doctrine which can be changed by other judges. If it were indeed part and parcel of the Constitution, no judge could dispute or presume to change it.

17. Pages 36-45. The Report repeats much of the erroneous demagoguery about Judge Bork's record on civil rights. These errors have been often pointed out, but the corrections go unheeded. The Report begins with the false assertion that "[T]hroughout his career" Judge Bork has opposed civil rights advances. This overlooks his outstanding record as SG and Circuit Court judge. In nearly a decade of service in those capacities, he never advocated a civil rights position less favorable to minorities or women than that adopted by the Supreme Court.

18. Page 37. The Civil Rights legislation myth debunked by the following facts:

Nowhere does the report note the distinction between Judge Bork and Professor Bork. In different roles, he performed different functions. The function of a professor is to be provocative.

Professor Bork wrote in that same 3-page article that "Of the ugliness of racial discrimination there need be no argument." This fundamental premise of the article is not reported.

Professor Bork recanted his academic concerns about the 1964 Act numerous times. He recanted his opposition soon after the event in classes and formally in 1973.

19. Page 38. The Racially Restrictive Covenants myth debunked by the following facts:

As Professor Bork stated in 1971 (note that the distinction between a judge and a professor is ignored), "the difficulty with *Shelley* was not that it struck down a racially restrictive covenant, which I would be delighted to see happen, but that it adopted a principle, which if generally applied, would turn almost all private action into action to be judged by the Constitution." This compelling explanation appears nowhere in the Report.

Nowhere does the Report mention that Judge Bork was responsible for the *Runyon v. McCrary* case which outlawed racially discriminatory private contracts under 42 U.S.C. 1981. Judge Bork in no way endorsed racially discriminatory contracts, but instead he outlawed them.

Shelley made private covenants subject to the 14th Amendment solely because they were enforced in state court. This tends to ignore that the language of the Constitution only applies to "state actions," not all private endeavors.

In case after case, the Supreme Court has refused to extend the principle of *Shelley*. It has not proved to be a precedent of any significance.

20. Page 38. The School Desegregation myth debunked by the following facts:

Judge Bork has time and again enforced civil rights laws against federal government discrimination. In the *Emory* case, for example, he held that the Navy's promotion systems are subject to civil rights claims. It is ludicrous to question whether he will "challenge discrimination by the federal government." He has repeatedly done so.

None of the witnesses questioned Judge Bork's integrity. But the Senate staff Report seems intent to do so by giving no value whatsoever to his stated intention to abide by *Bolling* and other such cases.

21. Page 39. The Poll Tax myth is debunked by the following facts:

As Judge Bork continually noted, the *Harper* case contained no evidence whatsoever of racial discrimination. If it had involved racial discrimination, Judge Bork would fully agree with the decision.

The Report incorporates a very deliberate and selective lie on this point. It states: "And as Vilma Martinez testified: 'Among the problems with Judge Bork's disagreement with *Harper* is the fact that the Supreme Court in its decision expressly recognized that the "Virginia poll tax was born of a desire to disenfranchise the Negro." ' " The last quote is grossly taken out of context. In fact, the third footnote of the *Harper* case in full states: "While the Virginia poll tax was born of a desire to disenfranchise the Negro" (citing an earlier case), *we do not stop to determine whether on this record the Virginia Tax in its modern setting serves the same end.*" The Court states itself that there is no evidence of racial discrimination before the Court. Justice Black states it even more plainly: ". . . the Court's decision is to no extent based on a finding that the Virginia law as written or as applied is being used as a device or mechanism to deny Negro citizens the right to vote. . . ." 383 U.S. at 672. For the Report to repeat the outright falsehood that the *Harper* case was associated with discrimination is an outrageous breach of the Senate staff's professional responsibility.

The Report does not list the Justices who found that nondiscriminatory state poll taxes are legal: Hughes, McReynolds, Brandeis, Sutherland, Butler, Stone, Roberts, Cardozo, Black (*Breedlove*, 1937), Frankfurter, Jackson, Reed, Burton, Clark, Minton, Vinson, and again Black (*Butler*, 1951), Harlan, Stewart, and still a third time Black (*Harper* 1966).

22. On page 40. The One-man, One-vote myth is debunked by the following facts:

Judge Bork, despite the erroneous Report's insinuation, has not questioned and does not oppose the *Baker v. Carr* opinion. He feels that the courts should participate in the apportionment process. He would protect the "rules of the game" as Congresswoman Jordan has stated.

Judge Bork's position is merely that the Constitution does not require "mathematical perfection" in adhering to a one-person, one-vote standard. Instead he would adopt the standard of Justice Stewart that would strike down any state apportionment decision that would systemically frustrate the majority will. This standard, by the way, would have remedied the situation described by former Congresswoman Jordan.

The Report does not mention the Justices who share Judge Bork's views about the flaws of using a slogan as the standard for constitutional review: Harlan, White, Rehnquist, Burger, and Powell (*Kirkpatrick*, 1969; *Karcher*, 1983).

23. Page 42. The literacy test myth is debunked by the following facts:

Judge Bork has stated clearly that he would invalidate any literacy test used for discriminatory purposes. In this vein, he approves of the Court's *South Carolina v. Katzenbach* decision.

Judge Bork's sole objection to the other *Katzenbach* case is that Congress presumed to outlaw nondiscriminatory literacy tests just 7 years after the Supreme Court had declared such tests constitutional. *(Lassiter)* This amounted to the Congress overruling the Court and changing the meaning of the Constitution by majority vote. Clearly this challenged the principle of *Marbury v. Madison* that the Court is the final arbiter of the Constitution.

The Supreme Court itself rejected its *Katzenbach* rationale four years later in the *Morgan* case dealing with the 18-year-old vote.

Judge Bork's comments on this issue came in opposition to the Human Life Bill in which Congress attempted to define the word "person" in the Constitution to include "unborn children" thus overturning *Roe*. He was joined in this opinion by Professors Tribe and Cox, among others.

24. Pages 45-50. The Report once again repeats many misleading distortions of Judge Bork's statements and views of women's rights and the Equal Protection clause. Both as SG and Judge, Judge Bork has been instrumental in advancing women's rights. As SG, won victories for the principle of equal pay for equal work *(Corning Glass)* that he carried forth on the Circuit Court *(Laffey* and *Ososky)*. Moreover the hearings indicated that he defended Ms. LaFontant against subtle discrimination in the Justice Department.

25. Pages 45-46. The Report simply misreads Judge Bork's prior position on the Equal Protection clause. For example: 1. Judge Bork never questioned whether women were covered by the clause. After all the language of the Constitution covers "any person" and Judge Bork above all would adhere to the written document. All of Judge Bork's comments on women and equal protection clause dealt with the burning question of what standard should be applied. The question of coverage was too obvious for deep consideration. The Report's effort to make Judge Bork's position appear to change on this point is flat wrong. 2. Judge Bork consistently criticized the old "rational basis" test for gender discrimination. This was the basis of his criticism of the *Goesart* case (women may not generally be bartenders) in his 1971 article. 3. Judge Bork's reasonable basis test, as he so often stated, would reach the same results as the Court's current "heightened scrutiny" analysis. He agreed, for instance, with *Reed v. Reed* (men not preferred as estate administrators). He could think of only two extreme gender distinctions that MIGHT be upheld (all-male draft, segregated toilets). 4. In fact, as a judge, Judge Bork upheld an Equal Protection gender challenge to parole regulations. *Cosgrove v. Smith)*

26. Pages 50-57. The Report parrots many hallow assumptions about Judge Bork's potential votes on the First Amendment speech clause without ever acknowledging that he has already voted *on many occasions* to grant broad protections to many varieties of speech. A few of the many distortions are: 1. The Report ignores Judge Bork's actual record wherein he broadly protected the press against libel suits *(Ollman)*; he prohibited a prior restraint of distasteful ads about President Reagan *(Lebron)*; he protected scientific speech *(McBride)*; he protected commercial speech *(Brown & Williamson)*; and he protected artistic and literary speech *(Quincy Cable)*. 2. The Report ignores that Judge Bork stated well before his appointment that the 1st Amendment covers more than the mere political core of the speech clause. (See 1984 ABA Journal) 3. Judge Bork's criticism of *Cohen* is a criticism of the rationale of that case which held that "one man's vulgarity is another man's lyric". This rationale would overturn any law against obscenity and is inconsistent with later Supreme Court cases permitting the FCC to punish radio stations that broadcast profanities *(FCC v. Pacifica)* and permitting schools to discipline students for profanity in a speech to the student body *(Fraser)*. Judge Bork sees no role for protection of obscenity under the Constitution, a position shared by a majority of the Supreme Court *(Roth, Miller)*

27. Pages 52-53. The Report raises unfounded concerns about Judge Bork's willingness to permit peaceful civil demonstrations. In fact, as Judge Bork explained, "there is a large difference between advocating that things be burned down or blown up and urging a sit-in demonstration." Judge Bork drew a logical distinction between demonstrations to test the constitutionality of a law and subversive inciting to violence. The *Brandenburg* case itself is a good example. In that case, an excited speaker at a KKK rally urged his audience, many of whom were carrying firearms, to "bury the niggers" and otherwise commit acts of violence. You can imagine what might have happened if a black individual had appeared at that moment. This is far different from Dr. Martin Luther King's efforts to dramatize the faults of segregation laws with peaceful sit-ins. Judge Bork is making a very logical and time-honored distinction.

28. Pages 51-54. The Report misconstrues Judge Bork's position on the "clear and present danger test." See 12 and 13 above.

29. Pages 57-65. The Report's discussion of separation of powers issues overlooks significant evidence before the Committee and presents an otherwise incomplete picture of Judge Bork's actual views. For example, the report's charge that Judge Bork advocates an "almost limitless" view of presidential power is rebutted by Solicitor General Bork's actions on the pocket veto while an officer in the Executive branch. Solicitor General Bork advocated that the President must not employ the pocket veto in a manner that defeats Congress's right to override vetoes. His reading—that pocket vetoes should be limited to sine die adjournments—prevailed in the Ford Administration only after he threatened to refuse to defend the alternative view in court. Another example of Solicitor General Bork, while an executive officer, ruling against Executive prerogatives came when he prepared a brief arguing that Vice President Agnew (and, by analogy, President Nixon) was not immune from criminal prosecution. His brief put an end to the executive immunity argument which had been before a primary component of the Watergate debate. These are hardly the acts of an individual who advocates no limits on executive powers or who has a bias for executive power.

30. Pages 57-59. The Report's discussion of the War Powers Act overlooks several critical points: 1. At the time that Judge Bork first observed that the War Power Act is "probably unconstitutional," the Act contained a legislative veto provision. In the interim, the *Chadha* decision has established that at least this much of the War Powers Act addressed by Judge, then-Professor, Bork was indeed unconstitutional. 2. Judge Bork's further point on the War Powers Act should not be controversial. He merely notes that the Act should not be allowed to permit the Congress to "micromanage" tactical military situations, a power solely within the province of the commander-in-chief. Indeed by amending the draft Constitution to limit Congress's power from the power to "make" war to the power to "declare" war, James Madison and the 1787 Convention specifically avoided granting Congress any power to dictate tactical or strategic military policies.

31. Pages 61-62. The Report's allegations about Judge Bork's position on the special prosecutor statute also misrepresent several important facts: 1. The bill that Solicitor Bork testified against in 1973 was never enacted and, unlike the current Ethics in Government Act, would have established prosecutors wholly outside the appointment, control, or removal of the President. The Supreme Court has established that prosecuting cases is a core executive function (*Buckley, Nixon*) and Judge Bork was merely defending, as a member of the Executive branch, that executive function in 1973. 2. Subsequent administrations, including those of Presidents Carter and Reagan, have made arguments very similar to those of Judge Bork about this Act. 3. The difference between Judge Bork's Solicitor role and his role as a judge is illustrated by his rejection of the Justice Department's argument that the Ethics in Government Act in *Nathan v. Smith*. Despite the Department's argument that the Act might allow judicial control of prosecutors and prosecutions, Judge Bork ruled the Act constitutional. Moreover he upheld the Act against constitutional challenges a second time in *Banzhaf* v. *Smith*.

32. Pages 62-64. The Report's examination of congressional standing doctrines omits

the perfectly defensive reason for Judge Bork's concern about this doctrine. Specifically Judge Bork stated that he was no more "hostile to congressional standing than to . . . Presidential standing or judicial standing." His apprehension about congressional standing is that it could allow the President to sue Congress anytime he believed it passed a law abridging his constitutional powers. Or members of Congress could challenge the allocation of committee seats between the two parties as occurred in the *Vanderjagt* v. *O'Neill* case. Or Senators could challenge the legality of a filibuster in court. In short, Judge Bork is merely trying to prevent courts from umpiring every inter- or intra-branch squabble that might arise. This is not the constitutional function of the courts and would expand judicial power at the expense of executive and legislative power. Interestingly, Justice, then Judge, Scalia held the same views, but faced no criticisms during his nomination proceedings. (*Moore* v. *House of Representatives*).

33. Page 65. The Report's treatment of the executive privilege doctrine is wholly inadquate. The *Wolf* case arises under the Freedom of Information Act which includes, thanks to the wisdom of Congress, an exemption for "inter-agency and intra-agency memoranda" essential to executive deliberations. Although this exemption might in itself exempt the record from disclosure, Judge Bork nonetheless would have remanded the case for a determination of whether the records were involved in "directly" advising the President. This is a very reasonable resolution of a difficult case and hardly evinces a bias for the Executive or any other branch.

34. Pages 65-71. The Report's account of the Watergate crisis transparently attempts to create controversy where none should exist. The overwhelming fact is that Judge Bork successfully preserved the integrity of the special prosecutor's office and investigation, successfully preserved the integrity of the Justice Department, and successfully preserved the nation's integrity in a time potentially debilitating constitutional crisis. The two questions raised by the Report are easily answered. First, Judge Bork's action was in firing Prosecutor Cox was legal. The only opinion to the contrary, a decision by Judge Gesell, was vacated—in other words, expunged, erased, eliminated, dismissed. Judge Bork's account of the legality and wisdom of the difficult firing decision was corroborated completely by former Attorney General Eliott Richardson, the only other person who was present during the entire proceedings.

On the second issue, Judge Bork's account that he privately undertook a campaign immediately both to preserve the special prosecutor's investigation and to find a new prosecutor was corroborated by the most authoritative witnesses. Phil Lacovara, Cox's deputy, agreed that Judge Bork acted to protect investigation and to permit it to continue as before. Dallin Oaks, among others, testified that Judge Bork was seeking a new prosecutor "within hours" of the firing. Of course, his public affirmance of his search for a new prosecutor was delayed for a few days because the President did not immediately share his views on this subject. All in all, however, the proof is the result. Judge Bork's efforts were indispensable to the eventual resolution of the Watergate crisis. This may have been one of Judge Bork's finest hours.

35. Pages 71-78. The Report's account of Judge Bork's antitrust views as "extreme" and as advocating judicial activism are farfetched at best. As to whether Judge Bork's views are "extreme," the Report declined to mention that 15 past chairmen of the ABA Antitrust Section wrote to report that Judge Bork's views are "mainstream." They further noted that his book, which is harshly criticized by the Report, has been cited with approval in six Supreme Court decisions joined by all nine current justices.

The real agenda of those attacking Judge Bork is revealed by their alternative antitrust agenda. In their view, antitrust laws should be used as levelers of wealth and political influence. In other words, they would use antitrust law to protect inefficient producers at the expense of the consumer and let courts impose ideologies that affect competition in the marketplace. Chief Justice Burger summed it up by stating that "Congress designed the Sherman Antitrust Act as a consumer welfare prescription." For this proposition, the Chief Justice cited Judge Bork's book. (*Reiter v. Sonotone*).

The Report faults Judge Bork's *Rothery* decision as an example of judicial activism. The facts rebut that assertion. Judge Bork reached the unremarkable conclusion that a firm supplying a mere 6% of the market has no market power and hence was not restraining trade beyond reason. In fact, Professors Areeda and Turner who have written the authoritative multi-volume treatise of antitrust law suggest that a market share of less than 30% is presumptively evidence of lack of sufficient market power to produce a monopolistic result.

36. Pages 78-81. The Report's account of the allegations of Judge Gordon evince a calculated but wholly unsuccessful effort to impugn Judge Bork's professional reputation. A quick and fair review of the evidence before the Committee disposes of this aspect of the slanted Report: 1. The ABA was requested to review this matter. After hearing Judge Gordon's recollection of the events and without even taking the time to get Judge Bork's side of the story, the ABA dismissed the matter as something that "happens once in a while in any event with the best circumstances," to use the words of Judge Tyler of the ABA. 2. It is frankly preposterous to insinuate that Judge Bork would try to get his opinion adopted by the D.C. Circuit if it was not a majority opinion. In fact, Judge Bork purposely circulated the opinion to ensure that it would not escape the notice of his colleagues. As Judge Bork stated, "there is simply no possibility that any judge could change the law of the circuit surreptitiously." This allegation was not worth the time spent to explain it in the Committee Report.

37. Pages 81-92. The Report's assertion that Judge Bork's record as Solicitor General and Judge are irrelevant on the one hand and are evidence of his judicial activism on the other is ludicrous on its face. A few of many examples will suffice on this point: 1. The Report cites Judge Bork's *Dronenburg* decision that the privacy doctrine does not extend to homosexual activity as an "example of Judge Bork's activist approach." The Report conspicuously fails to mention that the Supreme Court reached the same result as Judge Bork by similar reasoning in the subsequent *Bowers v. Hardwick* case. Either the Supreme Court is also "activist" on this issue or Judge Bork is not activist.

2. The Report recites again the hackneyed allegations about the *Cyanamid* case. The facts the Report ignores are indicative of the bias of the staff authors. Accordingly, it seems to be once again necessary to recount the facts: a. Despite the claims that Judge Bork approved or endorsed a sterilization policy, he in fact merely construed a statute which did not cover the company policy before the Court. If there was a problem, it was a problem with the statute created by Congress which did not include this policy within the term "hazard." It is interesting that some Senators have acknowledged that Congress is the problem by introducing legislation to correct the legislative problem. (Metzenbaum). The term "recognized hazard" was clearly intended by Congress to cover only "physical workplace conditions," not policies such as this. b. None of the women were before the court in this case. Each of them had brought a separate suit and had been compensated for their injury under Title VII. Indeed Judge Bork in his opinion stated that this policy was very likely an unfair labor practice or a Title VII violation, but not a "hazard" as defined. c. The Court's opinion was unanimous. One of the Judges was Judge, now Justice Scalia, who was unanimously approved without any fanfare over this opinion. Moreover the entire Circuit did not undertake to review or reconsider this unanimous opinion. This is because it was correctly decided. Incidently the OSHA review commission had already made the same finding as well. The Court merely sustained that decision. d. Most important, Judge Bork did not approve of the "unhappy choice" presented the women. In fact, he deplored it.

3. The Report also stretches the *Vinson* case out of its responsible context. Judge Bork in this case wrote a dissent from denial of rehearing. This type of opinion is designed to preserve certain issues in the case for appeal. Indeed on appeal to the Supreme Court, Judge Bork's view of the primary issues was approved by the Supreme Court. This was a case where the District Court found that the sexual relationship between a superviser and employee had been "voluntary." The circuit reversed and imposed automatic liability on the employer for allowing sexual harassment in violation of Title VII. Judge Bork raised two issues and was sustained on both. First, on the evidentiary issue, he contended that a court to be able to consider evidence of "dress or behavior" to show if the sexual advances were "solicited or welcomed." The Supreme Court agreed with Judge Bork and reversed the Circuit panel. On the second issue, Judge Bork disagreed with the imposition of automatic liability on the employer for conduct "he knows nothing of and has done all he can to prevent." The Supreme Court agreed with Judge Bork and reversed the Circuit panel. Both the Supreme Court and Judge Bork were concerned with distinguishing between a consentual and voluntary office romance and unwelcomed advances by a supervisor. Judge Bork never questioned the applicability of Title VII to sexual harassment, but only called for sensivity and care in doing so. The Supreme Court agreed.

38. Pages 93-95. The notion that Judge Bork has altered his views during the hearings to appease the Committee is absurd. In fact, the three alleged instances of this shift are evidence that Judge Bork had explained on the record as early as 1984 that he felt that 1st amendment protections ought to be expanded to include broad classes of speech beyond the amendment's political speech core. In fact, in that 1984 ABA Journal article, he explained that he had fully stated this expansion in his classes years before. This charge becomes even more absurd

when Judge Bork's judicial record is examined. He upheld broad categories of speech in the *Quincy Cable* case, to name only one.

39. Pages 96-99. In light of the distortions in the body of the Report, the conclusion is likewise flawed and inaccurate. One conclusory remark is particularly revealing. The Committee staff faults Judge Bork for reading the Constitution "as if it were a rigid legal code." Leaving aside the question of whether law is or is not always "rigid," Judge Bork is faulted for reading the Constitution as if it were law. The staff writers then explain why this bothers them: "There would be no right to privacy. There would be no substantive content to the liberty clause of the 14th Amendment." This is indeed the issue: Whether the Constitution will be read as the law of the people reflecting the people's recitation of their rights or whether it will be read to manufacture privacy rights to abortion on demand, privacy rights to homosexual conduct, or the liberty rights of the *Lochner* era. The people may or may not embrace these homosexuality privacy rights or economic liberty rights, but that ought to be the people's choice, not imposed on the people by unelected judges.

This conclusion betrays far too much. It shows that Judge Bork has been faulted simply because he does not agree with certain controversial legal doctrines. This Committee Report betrays an effort to change the results of future Supreme Court cases by choosing only judges that agree with the Committee. This severely erodes the independence and integrity of the Judiciary. This Committee is attempting to remake the Supreme Court in its own image.

Mr. HATCH. Mr. President, let me go to my point number 25, pages 45 and 46 in the report.

25. Pages 45-6. The Report simply misreads Judge Bork's prior position on the Equal Protection clause. For example: 1. Judge Bork never questioned whether women were covered by the clause. After all the language of the Constitution covers "any person" and Judge Bork above all would adhere to the written document. All of Judge Bork's comments on women and equal protection clause dealt with the burning question of what standard should be applied. The question of coverage was too obvious for deep consideration. The Report's effort to make Judge Bork's position appear to change on this point is flat wrong. 2. Judge Bork consistently criticized the old "rational basis" test for gender discrimination. This was the basis of his criticism of the Goesart case (women may not generally be bartenders) in his 1971 article. 3. Judge Bork's reasonable basis test, as he so often stated, would reach the same results as the Court's current "heightened scrutiny" analysis. He agreed, for instance, with Reed v. Reed (men not preferred as estate administrators). He could think of only two extreme gender distinctions that might be upheld (all-male draft, segregated toilets). 4. In fact, as a judge, Judge Bork upheld an Equal Protection gender challenge to parole regulations. (Cosgrove v. Smith).

There is much more that needs to be said. I have done this in a cursory manner, and I think it glares at you.

37. Pages 81-92. The Report's assertion that Judge Bork's record as solicitor General and Judge are irrelevant on the one hand and are evidence of his judicial activism on the other is ludicrous on its face. A few of many examples will suffice on this point: 1. The Report cites Judge Bork's Dronenburg decision that the privacy doctrine does not extend to homosexual activity as an "example of Judge Bork's activist approach." The Report conspicuously fails to mention that the Supreme Court reached the same result as Judge Bork by similar reasoning in the subsequent Bowers v. Hardwick case. Either the Supreme Court is also "activist" on this issue or Judge Bork is not activist.

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And, I might add, made the legal suggestion as to how to remedy it, which they had already done.

3. The Report also stretches the *Vinson* case out of its responsible context. Judge Bork in this case wrote a dissent from denial of rehearing. This type of opinion is designed to preserve certain issues in the case for appeal. Indeed on appeal to the Supreme Court, Judge Bork's view of the primary issues was approved by the Supreme Court. This was a case where the District Court found that the sexual relationship between a supervisor and employee had been "voluntary." The Circuit reversed and imposed automatic liability on the employer for allowing sexual harassment in violation of Title VII. Judge Bork raised two issues and was sustained on both. First, on the evidentiary issue, he contended that a court ought to be able to consider evidence of "dress or behavior" to show if the sexual advances were "solicited or welcomed." The Supreme Court agreed with Judge Bork and reversed the Circuit panel. On the second issue, Judge Bork disagreed with the imposition of automatic liability on the employer for conduct "he knows nothing of and has done all he can to prevent." The Supreme Court agreed with Judge Bork and reversed the Circuit panel. Both the Supreme Court and Judge Bork were concerned with distinquishing between a consensual and voluntary office romance and unwelcomed advances by a supervisor. Judge Bork never questioned the applicability of Title VII to sexual harassment, but only called for sensitivity and care in doing so. The Supreme Court agreed.

I could go on and on. All I can say is that I am disturbed by the majority report in this matter. I think it is biased, one-sided, misleading, and I think in many ways has ignored not only the judge's testimony but has always resolved every issue, it seems to me, against Judge Bork, and I think not very fairly.

With that, I yield the floor.

EXHIBIT 1

84 FLAWS IN THE NARAL AD

Falsehood 1: Title ("What women have to fear . . .")—This implies that all women do or would fear Judge Bork's jurisprudence. In fact, many women's groups contacted the Judiciary Committee to indicate their support for the nomination. One of these was Concerned Woman for America which purports to be the largest women's political organization.

Falsehood 2: Title—This implies that women have some reason to fear Judge Bork. There is no such reason. In fact, his record as Solicitor General and Judge indicate that he never advocated a position less protective of women's rights than that adopted by the Supreme Court itself. On the other hand, Judge Bork has advocated more protections for women's rights than accepted by the Supreme Court. For example, in the *Gilbert v. G.E.* pregnancy discrimination case, his argument for women was rejected by the Court and later adopted by Congress.

Falsehood 3: "You wouldn't vote for a politician who threatened to wipe out every advance women have made. . ." This equates Judge Bork with a politician. Judges are not politicians and ought not be judged by political standards. If judges begin to worry about the political implications of their decisions, the judiciary's ability to guarantee women's rights as well as the rights of all citizens will be impaired and jeopardized.

Falsehood 4: "Threatened to wipe out. . ." This implies that Judge Bork threatens women's rights. To the contrary, he has been an exemplary judge in defending women's rights. In *Palmer v. Schultz* and *Ososky v. Wick*, he struck down gender discrimination in the State Department. In *Laffey v. NW Airlines*, he guaranteed equal pay for equal work done by airline stewardesses.

Falsehood 5: "every advance" The implication that Judge Bork has opposed every advance for women is flatly wrong. He is responsible for many of these advances. For example, SG Bork was responsible for the initial argument that Title VII covered pregnancy discrimination. *Gilbert*. Similarly he was responsible for the case made the Equal Pay work to grant women equal pay for equal work. *Corning Glass v. Brennan*. His judicial record is likewise excellent in advancing women's rights.

Falsehood 6: "your Senators are poised to cast a vote that could do just that." Doubly misleading. In the first place, the Senate is performing its advice and consent function, not voting on the single issue of women's rights. In the second place, the bulk of the reliable evidence indicates that Judge Bork's confirmation would aid, not hinder, women's causes.

Falsehood 7: "Senate confirmation of Robert Bork to the Supreme Court might cost you the right to make your most personal and private decisions." Empty rhetoric. Judge Bork has no intention of depriving individuals of their personal and private decisions. His record shows a willingness to give women more choices by eliminating discrimination and granting equal pay. See cases cited in 4 and 5 above. Moreover his lengthy testimony indicates a personal willingness to leave decisions to individual decisionmaking.

Falsehood 8: same as above. Judge Bork alone can make no ruling on the Supreme Court. The only way individual choice is limited by the Bork confirmation is if at least four other justices agree with his reading of the law made by Congress or the state legislatures. Moreover in that instance, it would be Congress or the state, not the majority of the Supreme Court, which limited individual choice in favor of some higher legal value.

Falsehood 9: "His rulings might leave you no choice . . ." Misleading, see 7 and 8 above. Moreover this is completely speculative.

Falsehood 10: ". . . in relationships . . ." False. Judge Bork sustains, for instance, the *Loving v. Virginia* case which grants individuals the right to choose their spouse without government intervention.

Falsehood 11: ". . . in childbearing . . ." False. Judge Bork has never commented in anything but protective and reverential terms about the decision to bear children, to become a mother. This, however, is probably a veiled allusion to the abortion decision, which created a right to abortion on demand. On that point, Judge Bork has never said that he would reverse *Roe v. Wade.* The Judge, while a law professor, criticized the reasoning of that case as have many Justices and legal scholars.

Falsehood 12: ". . . in your career . . ." Utterly false. In fact, Judge Bork has furthered women's careers by eliminating discrimination and granting equal pay. See 4 and 5 above. The hearings also indicate that he defended a black woman at the Department of Justice who might otherwise have become a victim of subtle discrimination. Moreover, Judge Bork has criticized since 1971 those Supreme Court decisions which denied women the opportunity to serve as lawyers or to receive pilot's licenses.

Falsehood 13: "He must be stopped." Stopped from doing what? Stopped from striking down gender discrimination and granting equal pay? Stopped from opposing pregnancy discrimination? He has consistently defended women's rights. Why is he to be stopped?

Falsehood 14: "Our lives depend on it." Gross exaggeration.

Falsehood 15: ". . . He'll be the deciding vote . . ." Wrong. What makes Judge Bork's vote the deciding vote? He must be joined by four other Justices at least. One of the four justices who currently question *Roe v. Wade* is a woman. Why isn't her vote the decisive vote? No one vote counts anymore than another on the Supreme Court.

Falsehood 16: "The Fair-Minded, deliberate . . . Supreme Court . . ." This same Court has been harshly criticized by NARAL for sustaining Congress's ability to cut off federal funds for abortion. *Harris v. McRae.* The Court seems to be "fair-minded" or not depending on the political circumstances.

Falsehood 17: "Balanced Supreme Court." Preserving a particular Court "Balance" is impossible and extremely unwise. If past Presidents had preserved the balance, the abominable "separate but equal" doctrine would still be the law of the land.

Falsehood 18: "A right-wing 5-4 majority . . ." False labelling. This labels Justice Sandra Day O'Connor, the only woman justice, and Justice White, John Kennedy's appointment, as "right wing." None of the justices are "right-wing" but are interpreters of laws that may, on occasion, dicate conservative results.

Falsehood 19: See Above. The justices do not vote as blocks. The votes are not consistently 5-4 even on a given set of issues.

Falsehood 20: "Will prevail for decades." Does this mean NARL has a crystal ball? Justices change positions and resign. Many things are likely to affect the next decades.

Falsehood 21: "Robert Bork's writings . . . Demonstrate a hostility to rights . . ." Judge Bork is one of the nation's most articulate defenders of rights, including among the most important, the rights of the people to govern themselves rather than having Judges govern for them.

Falsehood 22: "Robert Bork's . . . Record demonstrate a hostility to rights . . ." Flat wrong. Judge Bork has never advocated a position on minority or women's rights less protective than adopted by the Supreme Court.

Falsehood 23: "Most women." Erroneous conclusion. See 1 above.

Falsehood 24: "from personal privacy . . ." Judge Bork has upheld every specific privacy provision in the Constitution. Likewise he has upheld statutory privacy rights, like the Privacy Act and the Financial Right to Privacy Act. Wherever the people have spelled out privacy protections, Judge Bork has upheld their direction with pleasure. He has not presumed to speak for them.

Falsehood 25: "equality of women and men before the law . . ." Judge Bork would grant women and men equality before the law. In fact, he would require legislatures to justify substantially any law that treats women differently from men. He does not question this principle.

Falsehood 26: "he's threatened to overturn any Supreme Court precedent that stands in his way." Blatant misstatement. As Judge Bork consistently reiterated, he has great respect for precedent. He would only overturn precedents after the most careful and circumspect analysis.

Falsehood 27: "According to Bork . . ." This overlooks that the Circuit Court ruled unanimously. Judge Bork was only one of several judges who reached the same conclusion that the law did not include this regrettable situation as a "hazard." Congress, not Judge Bork, caused whatever problem this case presents. Judge, not Justice Scalia, was one of these other judges and indeed the rest of the Circuit refused to reverse this unanimous ruling.

Falsehood 28: same as above. This overlooks that the OSHA Review commission, the expert government agency, had already found that the company in this case could offer women a choice.

Falsehood 29: "women can be forced to choose . . ." Judge Bork did not force any women to choose, nor could he. He merely upheld the law that did not cover this "unhappy" situation.

Falsehood 30: same as above. This sounds like Judge Bork approved of the "unhappy choice" posed by this case. In fact, he deplored it.

Falsehood 31: same as above. Blatant sensationalism. In fact, the company offered the women a choice. Due to hazards, fertile women could not work in the plant. Rather than release the women outright, the company offered a choice. The women themselves made the difficult choice.

Falsehood 32: "A state can declare the use of birth control illegal . . ." Misleading. This phrase makes it sound as though Judge Bork approves of outlawing contraception when, in fact, he considered the Connecticut law to be "nutty."

Falsehood 33: same as above. Misimpression. Judge Bork only criticized the reasoning the Supreme Court used to reach its decision in the *Griswold* contraceptive case. The so-called general "right to privacy" was unknown until 1965 when some judges discovered it in the "penumbras of the emanations" of the some constitutional phrases. Several justices, including Black, Stewart, Rehnquist, White, and others, continue to question this reasoning. Professors of all backgrounds, from Bickel to Kurland, have also faulted this reasoning.

Falsehood 34: "and invade your privacy to enforce the law . . ." Error. This suggests that homes were invaded by bedroom raiders. This never happened and never could have. In fact, the "nutty" law was never used to prosecute a married couple.

Falsehood 35: "you wouldn't even be protected against sexual harassment at work . . ." Clear deception. Judge Bork would punish, and clearly said so, any unwelcomed sexual harassment. Judge Bork would even impose liability on an employer who was not involved in the harassment but permitted it to continue. The Supreme Court in *Merritor Bank v. Vinson* agreed with Judge Bork's analysis of this issue.

Falsehood 36: "Bork doesn't believe . . . is "discriminatory." Distortion. In *King v. Palmer,* one woman was granted a promotion over another due to a romantic relationship with the supervisor. The issue of whether this was discrimination under Title VII was not presented to the court, but Judge Edwards' opinion seemed to decide the issue. A majority of the Circuit Court joined to note that the Title VII issue was not decided. This is really axiomatic. Both the woman promoted and woman denied promotion were obviously female; the discrimination, if any, was not based on the sex of the one denied. That issue, however, was not decided by Judge Bork or the rest of the Circuit.

Falsehood 37: "The fact is . . . won the right to vote." False conjecture. See 2, 4, 5 above.

Falsehood 38: "He would deny women the freedom, fairness, . . . first-class citizens." Baseless prevarication. Judge Bork stood by his wife throughout her debilitating and ultimately fatal disease. He defended a black woman's prerogatives at the Department of Justice. He has never regarded women as other than equals.

Falsehood 39: "Stripped of our most basic constitutional guarantees of personal privacy . . ." This suggests that Judge Bork would strip women of privacy. This is false. See 24 above.

Falsehood 40: same as above. Misleading assumption. This seems to suggest that the Constitution contains some mystical general right to privacy. In fact, the word "privacy" appears nowhere in the Constitution. Moreover, legal scholars, like Archibald Cox and John Hart Ely, who support abortion, agree that the Supreme Court had no business basing *Roe* v. *Wade* on a flawed reasoning. This flawed reasoning was the so-called privacy doctrine.

Falsehood 41: "Stripped of . . . equal protection" Wrong. Judge Bork has repeatedly stated that the equal protection clause, by its terms, applies to "any person." Thus, it is obvious to Judge Bork and any other fair-minded observer that it applies to women. Judge Bork would not strip women of equal protection. In fact, he would require legislatures to have substantial justification for any distinctions between men and women.

Falsehood 42: "Women would have no defense" Offensively patronizing. Women are not so weak. They do not have to be "protected" but can easily defend themselves in the political, social, and economic marketplace.

Falsehood 43: "Moral Majority Extremists" Shallow attempt to create an ogre.

Falsehood 44: "First to go? Your right to make a private decision about abortion." This demonstrates the impossibility of defining the broad concept of privacy. In addition to abortion "privacy," judges have voted to created a privacy for homosexual conduct. Scholars at the Bork hearings have advocated privacy to take illegal drugs in privacy. What about prostitution privacy? Price-fixing privacy?

Falsehood 45: Same as above. Judge Bork has never said he would overturn *Roe* v. *Wade*. In fact, he has said he would hesitate to overturn an established precedent. How is it known that this would be the "First to go?"

Falsehood 46: "With Bork on the Court, your basic freedom . . . forever." This admits too much. If the right to abortion or the general right to privacy were actually in the Constitution, no judge or group of judges could remove them. They could only be removed by constitutional amendment. This argument betrays that the right to abortion on demand is a creation of judges and therefore can be changed by other judges.

Falsehood 47: "Whether and under what circumstances to bear children . . ." Poppycock. See 7, 8, 10, 11, 24, etc. above.

Falsehood 48: "A State could ban both birth control and abortion . . ." This attributes to Judge Bork a decision which would be made by the people's representatives in the State.

Falsehood 49: "Throwing women back to the age . . ." Misleading hyperbole.

Falshehood 50: ". . . Pregnancy was, in effect, compulsory. . ." Judge Bork advocates no such situation, was not responsible for the past situation, and would not be responsible for the exaggerated hypothetical situation.

Falsehood 51: " . . . women risked their lives to terminate a pregnancy." This is rash conjecture. If the Supreme Court itself did not acknowledge exceptional circumstances (rape, incest, life of the mother endangered) when abortion would be permitted, most states would surely grant such protections. In fact, it is inconceivable that this would ever result. It is impossible for Judge Bork to cause these problems.

Falsehood 52: "Attempts have been made to officially permit discrimination against women who've chosen abortion. . ." Is this too to be laid at Judge Bork's feet. No substantiation at all.

Falsehood 53: "Women who made this profoundly private decision. . . . singled out and denied education . . ." How can this be attributed to Judge Bork? The closest analogy to this case was *Gilbert v. G.E.,* where Judge Bork argued, and the Supreme Court rejected, the case that women should not be treated differently simply because they elected to become pregnant. Based on facts, Judge Bork would appear to be against this conjured evil.

Falsehood 54: "The Supreme Court nominee doesn't think vital Constitutional guarantees apply to women." False. False. False. See 25, 41.

Falsehood 55: "And a Supreme Court dominated by the right . . ." Falacious. This says that at least five justices: 1. vote as a block, 2, vote to preserve a political agenda, and 3. vote for a "right as opposed to a left" leaning agenda.

Falsehood 56: same as above. Error. This assumes that Supreme Court Justices can be defined by political labels. In fact, judges are not political, but legal, officers.

Falsehood 57: same as above. Ludicrously inconsistent. Earlier in this same ad, the Supreme Court was described as "fair-minded and deliberate." Now the same Court is described as "Dominated by the right." Both cannot be true.

Falsehood 58: "Whatever your personal feeling on abortion, the decision must be made up to you. . . ." This oversimplifies a complex issue. Who protects the rights of the unborn child? What about unborn children who are viable and able to live outside the womb? What about minor children who cannot choose to have their ears pierced without parental approval, but need not even notify their parents before an abortion?

Falsehood 59: ". . . not imposed by some political appointee." Judge Bork would not and could not impose any abortion or birth decision. This canard has been repeated now dozens of times. Even if Judge Bork did vote to overturn the right to abortion on demand (which is not sure) and four other justices joined him (which is very unlikely), the states would still be free to permit abortion on demand (which several are likely to do) or to permit liberal abortion policies (which many more are likely to do). Judge Bork would be likely to uphold those state statutes permitting abortion. This is hardly an extremist.

Falsehood 60: "that's precisely why Judge Bork was nominated . . ." Utter lies. The President has never mentioned the abortion decision in connection with this nomination and Bork states forthrightly that he was never even asked about his position on the abortion cases, which is not entirely clear.

Falsehood 61: "His expedient reading of the Constitution . . ." Wrong. If Judge Bork stands for anything, it is a fair and honest reading of the Constitution regardless of the political experiences. This criticism is so transparent as to be funny.

Falsehood 62: "allows 'moral majority' extremists . . ." With no basis in fact, Judge Bork is allied with right-wing extremists on the abortion issue. In fact, Judge Bork was hotly criticized by these "extremists" because he had the courage to oppose the Human Life Bill which attempted to overturn the abortion case by redefining the words of the Constitution by statute.

Falsehood 63: "force their dogma on the rest of us . . ." This falsity is apparent. If any force was employed, it must be traced to the Supreme Court's invalidation of the laws of all 50 states on the subject of abortion. The people had chosen by lawful processes to regulate abortion to different degrees in the interest of the unborn child and maternal safety. The people's choices were overturned without clear warrant. No one proposes to employ any force to reinstate what was forcibly taken away from the people—namely the right to govern these sensitive questions.

Falsehood 64: "extending into every aspect of women's lives . . ." Repeat a lie often enough and it may begin to sound credible. Certainly no evidence exists that Judge Bork would wish to harm women in this fashion.

Falsehood 65: "as if the Constitution simply didn't apply to women." These are the same hollow arguments that the nation did not buy when it refused to ratify the ERA. In fact, the Constitution clearly applies to women. Judge Bork would be among the first to see that it was so interpreted.

Falsehood 66: "Your Senators . . . inviting right wing extremists . . ." Extreme language without foundation. Once again this partakes of both idle conjection about the future and name-calling.

Falsehood 67: "Or they can . . . uphold the Constitution . . ." These alternatives are classically exaggerated. This alternative suggests that Judge Bork would not uphold the Constitution—an absurd assertion. It also suggests that everything this particular group advocates is in the Constitution—another absurd assertion.

Falsehood 68: "status of women in a free society . . ." This nomination is not going to change the status of women in a free society under any circumstances.

Falsehood 69: "a man you have never met will decide your future . . ." Slimey. First, Judge Bork is not going to decide anything alone. Next, Judge Bork is not seeking to deprive women of their future.

Falsehood 70: "one vote away from losing . . . rights . . ." Admits too much. If one vote on the Supreme Court can alter these so-called "rights," they must not be constitutional rights which can only be altered by constitutional amendment.

Falsehood 71: "One justice from injustice . . ." The Supreme Court was created only to give effect to the Constitution and laws of the U.S. in the resolution of cases and controversies. If injustices are done by the court, those injustices must be the product of the law or the Constitution which the judges apply. The solution is to change the law or the Constitution to remedy injustice, not to change the judges who are not supposed to be subject to political forces.

Falsehood 72: "Bork must be stopped." Stopped from doing what? His record is one of full vindication of women's rights. See above.

Falsehood 73: "Dear Senator. We cannot accept a . . ." This unfairly misrepresents Judge Bork's record. Judge Bork clearly thinks and has testified and written that the Constitution protects women. More important, as a judge, he has enforced those rights of women.

Falsehood 74: "Judge Bork is an extremist . . ." NARAL calling Judge Bork "extreme" speaks for itself. This group could not tell a judicial mainstream from a judicial jet stream.

Falsehood 75: ". . . nominated by extremists . . ." Extremists? President Reagan alone makes these nominations as empowered by the Constitution. This is one of the parts of the Constitution which NARAL must not have read recently.

Falsehood 76: same as above. Infantile name-calling. This calls President Reagan—the President elected by the largest margin in electoral history—an "extremist." This shows the vantage point from which this organization operates.

Falsehood 77: "Senate has rejected one out of five nominees." Very misleading. In nearly one hundred years and 53 nominations, the Senate has refused to employ political litmus tests and ideological inquisitions to reject nominees. In fact, in the history of the Court, only a handful of nominations were defeated on political grounds and this occurred mostly during the Civil War period.

Falsehood 78: same as 73 above.

Falsehood 79: same as 74 above.

Falsehood 80: same as 75 above.

Falsehood 81: same as 76 above.

Falsehood 82: same as 77 above.

Falsehood 83: same as 78 above. Apparently by repeated falsehoods, NARAL hopes that their case will be more believable.

Falsehood 84: "I'm able to support . . ." Fundraising. Finally the motives are clear. It can be profitable to create a "monster" and then cast yourself as the only knight—albeit an impecunious knight—able to rid the land of the scourge. This is politics at its crassest when a judicial nominee is used as an excuse to raise funds.

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99 Flaws in the Planned Parenthood Ad

Falsehood 1: Title ("Robert Bork's Position . . .")—This equates Judge Bork with a politician who takes positions on issues while running for office. Judges are not politicians and ought not be judged by political standards. If judges begin to worry about the political implications of their decisions, the judiciary's ability to guarantee reproductive rights, women's rights and all other rights citizens possess will be impaired and jeopardized.

Falsehood 2: Title—("on Reproductive Rights")—This is simply false. Judge Bork has never taken a position on reproductive rights. In fact, Judge Bork has never commented on anything but protective and reverential terms about the decision to bear children, to become a mother. He has criticized the reasoning of *Roe v. Wade*, the abortion decision, which created a right to abortion on demand. Judge Bork has never said that he would reverse *Roe v. Wade*.

Falsehood 3: ("You'll need more than a prescription to get birth control.")—Misleading and inflammatory. See 1 and 2 above. Judge Bork has never taken a position against birth control or reproductive rights.

Falsehood 4: ("It might take a constitutional amendment.")—This is simply false. Not only has Judge Bork taken no position on abortion as a political issue, but even if *Roe v. Wade* were overturned, and it would take 5 justices to do it, regulation of abortion would be a matter of state and congressional action. Statues, passed by a simple majority, not a constitutional amendment would be sufficient to permit abortion. Interestingly, it is because of the Supreme Court's action in *Roe v. Wade*, that constitutional amendments have been proposed in order to permit meaningful regulation of abortion decisions with regard to informed consent, third trimester abortions, etc. by state legislatures. Such legislation is currently being struck down under the authority of *Roe v. Wade*. Because of this Supreme Court decision, America has the most permissive abortion law in the world, other than communist China.

Falsehood 5: ("Bork is an extremist . . .")—This attempt to influence by name-calling is simply not supported by Judge Bork's admirable record. In fact, his record as Solicitor General and Judge indicate that he never advocated a position less protective of minority or women's rights than that adopted by the Supreme Court itself. On the other hand, Judge Bork has advocated more protections for minority and women's rights than accepted by the Supreme Court. For example, in the *Gilbert* v. *G.E.* pregnancy discrimination case, his argument for women was rejected by the Court and later adopted by Congress. Moreover, in *Palmer* v. *Schultz* and *Ososky* v. *Wick*, he struck down gender discrimination in the State Department. In *Laffey* v. *NW Airlines*, he guaranteed equal pay for equal work done by airline stewardesses.

Falsehood 6: ("believes you have no constitutional right to personal privacy . . .")—This is false. In fact, Judge Bork has upheld every specific privacy provision in the Constitution. Likewise he has upheld statutory privacy rights, like the Privacy Act and the Financial Right to Privacy Act. Wherever the people have spelled out privacy protections, Judge Bork has upheld their direction with pleasure. He has not presumed to speak for them.

Falsehood 7: ("He thinks the government is free to dictate what you can and can't do in highly personal and intimate matters.")—Empty rhetoric. Judge Bork has no intention of depriving individuals of their personal and private decisions. His record shows a willingness to give women more choices by eliminating discrimination and granting equal pay. See cases cited in 5 above. Moreover his lengthy testimony indicates a personal willingness to leave decisions to individual decision-making.

Falsehood 8: (". . . in marriage . . .")—False. Judge Bork sustains, for instance, the *Loving* v. *Virginia* case which grants individuals the right to choose their spouse without government intervention.

Falsehood 9: (". . . in childbearing . . .")—False. Judge Bork has never commented in anything but protective and reverential terms about the decision to bear children, to become a mother. This, however, is probably a veiled allusion to the abortion decision, which created a right to abortion on demand. On that point, Judge Bork has never said that he would reverse *Roe* v. *Wade*. The Judge, while a law professor, criticized the reasoning of that case as have many Justices and legal scholars.

Falsehood 10: (". . . parenting . . .")—same as above. Judge Bork has never advocated governmental restrictions on parenting.

Falsehood 11: ("If he wins a lifetime seat on the Supreme Court . . .")—Again, this implies that judges should be treated like politicians running for election. See 1 above.

Falsehood 12: ("Bork could radically change the way Americans live.")—False. Judge Bork alone can make no ruling on the Supreme Court. The only way individual choice is limited by the Bork confirmation is if at least four other justices agree with his reading of the law made by Congress or the state legislatures. Moreover in that instance, it would be Congress or the state, not the majority of the Supreme Court, which limited individual choice in favor of some higher legal value.

Falsehood 13: ("Here's how to stop him . . .")—Stop him from doing what? His record exemplifies respect for judicial restraint. His judicial action as to abortion is unclear. His record as judge and as solicitor general with regard to the rights of women and minorities is exemplary.

Falsehood 14: ("moral-Majority extremists")—Again, transparent name-calling. Judge Bork is not an extremist, see 5 above.

Falsehood 15: ("White House has been trying to impose their beliefs . . .")—President Reagan an extremist? This fails to recognize that President Reagan, elected by the largest margin in electoral history, nominated Judge Bork to the Supreme Court. Perhaps Planned Parenthood has forgotten that under the United States Constitution President Reagan alone makes nominations to the Supreme Court.

Falsehood 16: ("They think they have the right to tell you how to live your life")—President Reagan's exercise of his constitutional authority to nominate a brilliant jurist like Judge Bork is hardly an example of trying to tell the rest of the country how to live their lives.

Falsehood 17: ("So far, our democratic system has blocked them.")—In fact, our democratic system was blocked from the opportunity to act by the Supreme Court in *Roe* v. *Wade*. Prior to that decision, states could regulate abortion as strictly or loosely as was acceptable to the people of individual states. If any force was employed, it must be traced to the Supreme Court's invalidation of the laws of all 50 states on the subject of abortion. The people had chosen by lawful processes to regulate abortion to different degrees in the interest of the unborn child and maternal safety. The people's choices were overturned without clear warrant. No one proposes to employ any force to reinstate what was forcibly taken away from the people—namely the right to govern these sensitive questions.

Falsehood 18: (". . . they might just succeed after all . . .")—See 16 above. Judge Bork has taken no position on reproductive rights, see 1 and 2 above.

Falsehood 19: ("They've been given their very own Supreme Court nominee . . .")—Utter lies. The President has never mentioned the abortion decision in connection with this nomination and Bork states forthrightly that he was never even asked about his position on the abortion cases.

Falsehood 20: ("ultra-conservative")—Misleading, unfair. If Judge Bork stands for anything, it is a fair and honest reading of the Constitution regardless of the political expediencies.

Falsehood 21: ("judicial-extremist")—With no basis in fact, Judge Bork is allied with right-wing extremists on the abortion issue. In fact, Judge Bork was hotly criticized by these "extremists" because he had the courage to oppose the Human Life Bill which attempted to overturn the abortion case by redefining the words of the Constitution by statute.

Falsehood 22: ("interference in your most personal and private decisions") Repeat a lie often enough and it may begin to sound credible. See 7, 8, 9, 10 above.

Falsehood 23: ("Bork has long been known in legal circles")—Certainly, he has long been known in legal circles, but as a brilliant scholar and jurist, not as stated here. 7 former Attornies General, a former President, and a former Chief Justice testified on Judge Bork's behalf.

Falsehood 24: ("unusual ideas on civil rights")—In fact, Judge Bork's record as a judge and as Solicitor General has been exemplary on civil rights. See 5 above.

Falsehood 25: ("unusual ideas on . . . free speech")—This criticism is simply not supported by the record. Judge Bork's record on the first amendment is unassailable. His judicial decisions demonstrate that he is protective of freedom of the press and hostile to government censorship of the editorial process. For example, in *Lebron v. Washington Metropolitan Transit Authority*, Judge Bork ordered the Washington, D.C. subway system to display an anti-Reagan poster and in *McBride v. Merrell Dow and*

Pharmaceuticals Inc., Judge Bork held scientific speech protected under the first amendment. Moreover, in *Ollman v. Evans and Novak*, a libel case, Judge Bork extended substantially the constitutional commitment to a free and open political debate.

Falsehood 26: ("unusual ideas on . . . personal privacy")—This is false. In fact, Judge Bork has upheld every specific privacy provision in the Constitution. Likewise he has upheld statutory privacy rights, like the Privacy Act and the Financial Right to Privacy Act. Wherever the people have spelled out privacy protections, Judge Bork has upheld their direction with pleasure. He has not presumed to speak for them. Moreover, when he has criticized the legal reasoning of *Roe v. Wade* and *Griswold v. Connecticut*, such criticism was far from "unusual." He has joined a number of other legal scholars who have outlined the legal inadequacies of these opinions.

Falsehood 27: ("the only correct method for interpreting the Constitution")—Wrong. Judge Bork stands for a fair and honest reading of the Constitution. He stands for judicial restraint not judicial legislating.

Falsehood 28: ("Bork uses obscure academic theory")—Name-calling. Judge Bork is universally recognized as a brilliant legal scholar.

Falsehood 29: ("Bizarre" positions)—A shallow attempt to discredit his legal scholarship. In fact a lexis search disclosed no case or article written by Judge Bork in which he used the word "bizzare" to describe a position reached.

Falsehood 30: ("as a Supreme Court justice he would have the power to change your life")—Gross over-statement. When confirmed, his would be but one of nine votes; he would need four sitting justices to join him to constitute a majority.

Falsehood 31: ("Bork wouldn't hesitate a moment to use that power")—Totally without foundation. Bork has no agenda to change anyone's life. Nor could he do so, given that his would be only one of nine votes on the Supreme Court.

Falsehood 32: ("Require basis and unsettling changes . . . when the Constitution, fairly interpreted, demands it.")—Taken out of context. The wrong implication is that Judge Bork does not respect judicial precedent. In fact he has repeatedly demonstrated a strong respect for judicial precedent.

Falsehood 33: ("Bork . . . not . . . guided by past decisions.")—Same as above. Judge Bork has articulated a clear and persuasive theory of stare decisis.

Falsehood 34: ("reckless trouble-maker")—Shallow name-calling. Not supported by Judge Bork's record of judicial restraint.

Falsehood 35: ("aggressively seeking ways to upset past rulings.")—False. Totally unsupported by Judge Bork's record. Judge Bork has never been reversed by the Supreme Court and six of his dissents have been adopted on appeal.

Falsehood 36: ("regardless of the social havoc that may result")—This statement is inflammatory and unsupported by the record. Judge Bork has caused no havoc on the Circuit Court.

Falsehood 37: ("Or the pain and suffering of innocent people")—Same as above, inflammatory and unsupported by the record. Judge Bork, as judge and as Solicitor General, has consistenly upheld and advocated minority rights to relieve suffering.

Falsehood 38: ("What unsettling changes would Bork make in your personal life")—Misleading the statement implies that Judge Bork alone could make changes as one vote in nine. Of course Judge Bork has never indicated an interest in making "unsettling changes" or in promoting any other sort of agenda. On the contrary, Judge Bork has consistently reiterated a great respect for precedent. He would only overturn precedents after the most careful and circumspect analysis.

Falsehood 39: ("Decades of Supreme Court decisions uphold your freedom to make your own decisions about marriage and family, childbearing and parenting.")—Misleading. The statement fails to disclose the controversy on the Supreme Court as well as outside with regard to the reasoning of these "right of privacy" decisions. In fact, there has been tremendous criticism of this line of cases by respected legal scholars based on the inability to define or limit this "right" within the reasoning of these cases. Many have asked, "right of privacy to do what?" Create pornography in private; do drugs in private; commit incest in private? This seems to suggest that the Constitution contains some mystical general right to privacy. In fact, the word "privacy" appears nowhere in the Constitution. Moreover, legal scholars, like Archibald Cox and John Hart Ely, who support abortion, agree that the Supreme Court had no business basing *Roe v. Wade* on a flawed reasoning. This flawed reasoning was the so-called privacy doctrine.

Falsehood 40: ("Bork is convinced that government has the power to interfere in the most intimate areas of all")—This is totally false. Judge Bork does not define areas that government may or may not govern. That's the purpose of the Constitution.

Falsehood 41: ("He attacks as 'utterly specious' the landmark Supreme Court decision . . .")—Misleading. Judge Bork only criticized the reasoning the Supreme Court used to reach its decision in the Griswold Contraceptive case. The so-called general "right of privacy" was unknown until 1965 when some judges discovered it in the "pnumbras of the emanations" of selected constitutional phrases. Several Justices, including Black, Stewart, Rehnquist, White and others, continue to question this reasoning. Professors of all backgrounds, from Bickel to Kurland, have joined in faulting this reasoning.

Falsehood 42: ("striking down a ban by the state of Connecticut on the use of birth control")—Misleading. Judge Bork in no way condoned or supported the Connecticut statute at issue; he described it as "nutty." However, it is important to remember that the statute had never been enforced against anyone for using birth control.

Falsehood 43: ("use of birth control by married couples in the privacy of their own homes")—Misleading. The "right of privacy" whatever its limits has never been confined to "married couples," as the ad implies. In fact, it has been argued by a number of the witnesses who testified against Judge Bork at the hearing that this "right of privacy" should extend to homosexual couples, pornography, drug use, and prostitution. Not all of us are comfortable with a generalized "right of privacy" that could be interpreted by a judge, not elected by the people, to protect drug use, incest, or homosexual acts. Moreover married couples were never prosecuted under the "nutty" Connecticut law.

Falsehood 44: ("In a case involving a company which produced dangerous amounts of toxic lead, Bork")—This overlooks that the Circuit Court ruled unanimously. Judge Bork was only one of several judges who reaches the same conclusion that the law did not include this regrettable situation as a "hazard." Congress, not Judge Bork, caused whatever problem this case presents. Judge, now Justice Scalia, was one of these other judges and indeed the rest of the Circuit refused to reverse this unanimous ruling.

Falsehood 45: same as above. This overlooks that the OSHA Review Commission, the expert government agency, had already found that the company policy in this case was not a hazard.

Falsehood 46: "Women can be forced to choose . . ." Judge Bork did not force any women to choose, nor could he. This question was not before the Judge. The woman had already challenged the policy and received compensation. The only issue was whether to fine the company for a hazard. The law did not cover that policy as a hazard.

Falsehood 47: same as above. This sounds like Judge Bork approved of the "unhappy choice" posed by this case. In fact, he deplored it.

Falsehood 48: same as above. Blatant sensationalism. The fact that this is a legislative problem is clear from the bill introduced by Senator Metzenbaum to redefine hazard and cover this instance. Congress is to blame.

Falsehood 49: ("He denounces the Supreme Court decision recognizing a woman's right to choose abortion . . .")—Here we go again. One wonders how many times the same misleading threat can be repeated in a single advertisement. See 1, 2, 7, 8, 9, 10, 39, 40, 41, 42, 43.

Falsehood 50: ("private medical decision")—Same as above. Who protects the privacy and choice of the unborn child or the parents of a minor female seeking a public abortion service.

Falsehood 51: same as above.

Falsehood 52: ("right-winger Bork")—Again, Judge Bork is allied with right-wing extremists on the abortion issue. In fact, Judge Bork was hotly criticized by these "extremists" because he had the courage to oppose the Human Life Bill which attempted to overturn the abortion case by redefining the words of the Constitution by statute.

Falsehood 53: ("We couldn't even choose our own relationships")—False. See 8 above.

Falsehood 54: ("Bork would throw the Court off balance.")—The real issue here is not whether the Court would be off balance with Judge Bork confirmed, but instead whether the balance preferred by Planned Parenthood would be maintained. As stated earlier, Judge Bork has taken no position on reproductive rights. Therefore, even if one agrees with Planned Parenthood's view of the most desirable "balance," such a statement is speculative at best. Note: even the picture tends to show Judge Bork "far to the right"—an unfair characterization.

Falsehood 55: ("we couldn't even choose our own . . . living arrangements")—Absurd. Wholly unsupported by the record.

Falsehood 56: ("without fear of government intrusion")—The lie is repeated yet again. See 49 above

Falsehood 57: ("Bork upheld a local zoning board's power to prevent a grandmother from living with her grandchildren . . .")—Gross error. This phrase refers to the City of East Cleveland v. Moore case. Judge Bork had nothing to do with this case. It was a Supreme Court case that never came before the D.C. Circuit. It is at best absurd to hold Judge Bork responsible for a case neither he nor his circuit heard.

Falsehood 58: same as above:

Falsehood 59: ("Is this the sort of closed-minded extremism we want on the Supreme Court?")—Judge Bork's record as a judge speaks for itself. He is not an extremist. Of over four hundred cases in which he has been in the majority, Judge Bork has never been reversed by the Supreme Court. He has been in the majority in over 95% of the 416 cases in which he has participated. In 7 of 8 civil rights cases, Judge Bork held in favor of the claimant. This is hardly the record of an extremist jurist.

Falsehood 60: ("turn back the clock")—Misleading hyperbole. He, in fact, has advanced women's rights clock as Solicitor General and as a judge.

Falsehood 61: ("a time when moral majorities choked off almost all family planning . . .")—It is absurd to imply that Judge Bork is responsible for everything bad that has happened in past state and local legislatures. In fact, he has never advocated a return to such an environment and his opponents have no evidence that would link Judge Bork to the exaggerated hypothetical situation described in the advertisement.

Falsehood 62: ("through a welter of state and local laws")—This is rash conjecture. Even if *Roe* v. *Wade* were overturned, which is not clear, States would have the option of permitting and regulating abortion and would surely grant such protections (rape, incest, life of the mother endangered) even if abortion were restricted in some respects. In fact, it is inconceivable that this would ever result. As to family planning generally, states can regulate it now and none of these horror stories exist. In any case, as a Supreme Court justice, it would be impossible for Judge Bork to cause these problems.

Falsehood 63: ("It has happened before.")—Judge Bork is not responsible for the past situation and advocates no such situation.

Falsehood 64: ("it can happen again")—This admits the controversial nature of the "right of privacy" with regard to abortion. As the advertisement points out, four sitting justices are critical of these decisions. However, even if *Roe* v. *Wade* were overturned, see above 62, there is no reason to assume that state legislators, responsive to the people, would attempt to "turn back the clock."

Falsehood 65: ("Bork . . . will be on the Supreme Court for life")—This cuts two ways. It is because justices of the Supreme Court serve for life that judicial restraint, practiced by judges such as Judge Bork, is so critical. Legislating must be left to representatives elected and accountable to the people, not to life tenured justices.

Falsehood 66: ("right-wing extemists")—Once again, Judge Bork is inappropriately linked with a political group. See 59 above.

Falsehood 67: ("got him nominated in the first place")—False. It is the President's Constitutional role to nominate the candidate of his choice. The President has never mentioned the abortion decision in connection with this nomination and Bork states forthrightly that he was never even asked about his position on the abortion cases.

Falsehood 68: ("The Senate historically has rejected one out of every five nominations to the Supreme Court.")—Very misleading. In nearly one hundred years and 53 nominations, the Senate has refused to employ political litmus tests and ideological inquisitions to reject nominees. In fact, in the history of the Court, only a handful of nominations were defeated on political grounds and this occurred mostly during the Civil War period.

Falsehood 69: ("Would Robert Bork preserve the Court's social consensus")—"Social consensus?" The court is not the organ of social consensus. Moreover its decisions have often been divisive. Certainly, Planned Parenthood would prefer to hold on to a slim majority upholding abortion on demand. As mentioned above, Judge Bork's future action on this issue is unclear.

Falsehood 70: ("Spark disastrous conflict")—Mere hyperbole. If there is conflict, it was created by the Supreme Court's overstepping of legal bounds.

Falsehood 71: ("Safeguard our liberties")—Distortion. Judge Bork's record is exemplary in the area of safeguarding liberties and protecting our rights. See 5 above.

Falsehood 72: ("threaten their very existence")—A clear attempt to incite fear. Judge Bork's record is clear. He will not wholesale reject rights. He has not done so on the Circuit Court.

Falsehood 73: ("Balance the court")—Attempting to preserve a particular Court "balance" is impossible and extremely unwise. If past Presidents had preserved the balance, the abominable "separate but equal" doctrine would still be the law of the land.

Falsehood 74: ("Throw it out of kilter")—Same as above.

Falsehood 75: ("into the hands of extremists eager to tell us how to live our lives")—The extremist claim again. This labels Justice Sandra Day O'Connor, the only woman Justice, and Justice White, John Kennedy's appointment, as "extremist." None of the justices are extremist but are interpreters of laws that may, on occasion, dictate conservative results.

Falsehood 76: ("Bork's record")—False. Bork's record proves no such thing. See 49 above.

Falsehood 77: ("carrying Bork's position to its logical end")—Gross distortion in an attempt to incite fear. This series of horror stories has nothing whatsoever to do with "Bork's position." Moreover, it is absurd to conjecture that any legislature in the United States would ever enact laws to ban or require birth control, impose family quotas, sterilize anyone they chose. In fact, what protects us from such outrageousness is the structure of our Constitution which makes legislators accountable to the people who elect them. No state legislature in this day would ever consider proposing such laws. However, justices of the Supreme Court serve for life and are accountable to no one. For this reason it is critical that nominees be judges who are known to practice judicial restraint, such as Judge Bork. Justices of the Supreme Court must be willing to leave legislating to the legislative branch.

Falsehood 78: same as above.

Falsehood 79: same as above.

Falsehood 80: same as above.

Falsehood 81: same as above.

Falsehood 82: same as above.

Falsehood 83: ("he believes that most private and personal aspects of our lives—marriage")—False. Repeated lies. See 49 above.

Falsehood 84: ("childbearing")—False. See 49 above.

Falsehood 85: ("parenting")—False. See 49 above.

Falsehood 86: ("from government intrusion")—False. See 49 above.

Falsehood 87: ("the right to make life's most important decisions")—False. These distortions are repeated once again. See 49 above.

Falsehood 88: ("it will be too late")—Too late for what? What is there to fear from a judge who upholds the law and Constitution?

Falsehood 89: ("one of the most cherished and unique features of American life, has never been in greater danger")—This admits too much. If the right to abortion or the general right to privacy were actually in the Constitution, no judge or group of judges could remove them. They could only be removed by constitutional amendment. This argument betrays that the right to abortion on demand is a creation of judges and therefore can be changed by other judges.

Falsehood 90: ("Do the Court justice")—The Supreme Court was created only to give effect to the Constitution and laws of the U.S. in the resolution of cases and controversies. If injustices are done by the Court, those injustices must be the product of the law or the Constitution which the judges apply. The solution is to change the law or the Constitution to remedy injustice, not to change the judges who are supposed to be insulated from political forces.

Falsehood 91: ("May be your most important vote as a Senator.")—Doubly misleading. In the first place, the Senate is performing its advice and consent function, not voting on the single issue of abortion. In the second place, it is not clear how Judge Bork would rule on these cases.

Falsehood 92: ("Bork is a judicial extremist")—Unsupported by the facts. See 59 above.

Falsehood 93: ("Will throw the Supreme Court out of balance")—Misleading and dangerous. Preserving a particular Court "balance" is impossible and extremely unwise. If past Presidents had preserved the balance, the abominable "separate but equal" doctrine would still be the law of the land.

Falsehood 94: ("Who doesn't have an ideological agenda")—False. Judge Bork is not a politician. He does not have an ideological agenda. On the contrary, if his legal career can be said to embrace a theme, it would be the practice of judicial restraint.

Falsehood 95: Same as 91 above.

Falsehood 96: Same as 92 above.

Falsehood 97: Same as 93 above.

Falsehood 98: Same as 94 above.

Falsehood 99: ("I'm enclosing my contribution in support of all Planned Parenthood's activities and programs.")—Fundraising. Finally the motives are clear. It can be profitable to create a "monster" and then cast yourself as the only knight—albeit an impecunious knight—able to rid the land of the scourge. This is politics at its crassest when a judicial nominee is used as an excuse to raise funds.

13 Flaws of TV People for the American Way Ad

Mr. President, another of the advertisements that has misled the American public is the television ad that was sponsored by the People for the American Way Action Fund. Rather than analyze this ad in detail, let me point out 13 of the most misleading aspects of this television spot.

Falsehood 1: "This is Gregory Peck." The ad begins with an attempt at sales. Gregory Peck is a successful actor, not an expert on constitutional law. The sponsor of the ad hopes that the viewer will transfer the positive feelings felt toward the actor to the message of the ad.

Falsehood 2: "The record shows . . ." In fact, the record shows no such thing. An examination of the record discloses that more than any other jurist in modern history, Bork would sustain the people's right to govern themselves. He has consistently sustained every right found in the Constitution and opposed judges who tried to interpret the Constitution to fit their own views.

Falsehood 3: "Strange idea . . ." Judge Bork's judicial philosophy is hardly strange. In fact, he is eminently qualified and centrist in his views. The controversy is generated by those who do not want President Reagan to make another appointment.

Falsehood 4: "What justice is." It should be noted that Judge Bork's view of justice has placed him in the majority in 95% of the cases he has heard as a judge of the District of Columbia Circuit court. Moreover, not one of the more than 400 opinions that he has authored or joined has been reversed by the Supreme Court. This is not the record of a judge with "strange" views or the record of a judge who is "out of the mainstream."

Falsehood 5: "He defended poll taxes and literary tests . . ." Misleading. Judge Bork personally opposes poll taxes and literary tests; he criticized only the reasoning by which the Court reached its results—positions shared by Justices Harlan, Stewart, Frankfurter, Jackson, Brandeis, Cardozo, and Black, not to mention a broad array of constitutional scholars.

Falsehood 6: "Which kept many Americans from voting . . ." This is incorrect. This misstates the Supreme Court cases in question. The Court in *Katzenbach* and *Harper* pointedly mention that the cases involved no evidence of racial discrimination. Judge Bork stated that if the *Katzenbach* or *Harper* decisions had involved racial discrimination, he would not have criticized either case. He would vote to strike down any discriminatory literacy test or poll tax.

Falsehood 7: "He opposed the civil rights law . . ." Judge Bork did criticize the Civil Rights Act, as did many, including distinguished senators who still serve with us today. But that was in an article written in 1963, a position which he recanted over fourteen years ago. Judge Bork's admission of error is well-known, yet nowhere mentioned in this 30 second slot.

Falsehood 8: "That ended 'whites only' signs at lunch counters . . ." Misleading. Judge Bork criticized the effect the law would have on coercion of private accommodations owners. He in no way condoned racial discrimination but instead castigated all forms of racial discrimination as "ugliness." Professor Bork's position, even though later recanted, should not be portrayed in a light that appears insensitive to racial prejudice. In fact, Judge Bork's record in civil rights is exemplary. While serving as a judge on the D.C. Circuit, Judge Bork held in favor of the claimant in 7 of the 8 civil rights cases that came before him. Moreover, as Solicitor General, he never advocated a position less protective of minority or women's rights than that adopted by the Supreme Court itself. As S.G., Judge Bork won several significant advances for civil rights, including prohibition of private discriminatory contacts (*Runyon v. McCrary*) and redistricting to enhance minority voting strength (*United Jewish v. Cary*).

Falsehood 9: "He doesn't believe the constitution protects your right to privacy . . ." False. In fact, Judge Bork has upheld every specific privacy provision in the Constitution. Likewise, he has upheld statutory privacy rights, like the Privacy Act and the Financial Right to Privacy Act. Wherever the people have spelled out privacy protections, Judge Bork has upheld their direction with pleasure. He has not presumed to speak for them. Moreover, when he has criticized the legal reasoning of *Roe v. Wade* and *Griswold v. Connecticut*, such criticism was far from "strange." He has joined a number of other legal scholars who have outlined the legal inadequacies of these opinions.

Falsehood 10: "Freedom of speech . . ." Unfair. Judge Bork's record on the First Amendment is unassailable. His judicial decisions demonstrate that he is protective of freedom of the press and hostile to government censorship of the editorial process. For example, in *Lebron v. Washington Metropolitan Transit Authority*, Judge Bork ordered the Washington, D.C. subway system to display an anti-Reagan poster and in *McBride v. Merrell Dow and Pharmaceuticals, Inc.*, Judge Bork held scientific speech protected under the first amendment. Moreover, in *Ollman v. Evans and Novak*, a libel case, Judge Bork extended substantially the constitutional commitment to a free and open political debate.

Falsehood 11: "Bork could have the last word on your rights as citizens. . . ." This statement implies that Judge Bork alone could make changes as one vote in nine. He alone will never have the last word on citizens' rights. Only if he can convince four other sitting justices of his view can he have an impact on the Supreme Court and as the most junior justice, it is more likely that he will join four other justices in their view.

Falsehood 12: "If Robert Bork wins a seat . . ." This phrase equates Judge Bork with a politician who "wins" a seat in a political body. Judges are not politicians and ought not be judged by political standards. If judges begin to worry about the political implications of their decisions, the judiciary's ability to guarantee the rights of all citizens will be jeopardized.

Falsehood 13: "It will be for life, his life—and yours." Interestingly, given Judge Bork's record, this statement should elicit confidence from the listener instead of fear, contrary to what the ad intends. This is because Judge Bork will practice judicial restraint. Judges who serve for life have tremendous power and are totally unaccountable to the people of this country for their decisions. Some judges and justices have used this power to create "pnumbras of emanations" in the law in order to reach the result that they think best, whether of not this result is consistent with the legislation enacted by our elected representatives or found in the text of the constitution. Other judges, such as Judge Bork, believe that judicial interpretation involves a fair and honest reading of the constitution and that interpretation of statutes should reflect the legislative intent of the statute not the subjective goals of the judge.

TEXT OF TV AD BY THE PEOPLE FOR THE AMERICAN WAY ACTION FUND—OCTOBER 1987

THE LAST WORD

There's a special feeling of awe people get when they visit the Supreme Court of the United States, the ultimate guardian of our rights as Americans. That's why we set the highest standard for our highest Court Justices, and that's why we are so concerned.

This is Gregory Peck. Robert Bork wants to be a Supreme Court Justice, but the record shows that he has a strange idea of what justice is.

He defended poll taxes and literary tests, which kept many Americans from voting. He opposed the Civil Rights law that ended "Whites Only" signs at lunch counters. He doesn't believe the Constitution protects your right to privacy and he thinks that freedom of speech does not apply to literature and art and music. Robert Bork could have the last word on your rights as citizens, but the Senate has the last word on him. Please urge your Senators to vote against the Bork nomination, because if Robert Bork wins a seat on the Supreme Court, it will be for life, his life—and yours.

Several Senators addressed the Chair.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, I make no secret——

Mr. THURMOND. Mr. President, the Senator yielded to me, and I want to make some remarks.

The PRESIDING OFFICER (Mr. WIRTH). Will the Senator from Massachusetts yield?

Mr. KENNEDY. Mr. President, who has the floor?

Mr. HATCH. I believe I have the floor.

The PRESIDING OFFICER. The Senate will be in order.

Mr. THURMOND. I asked him to yield to me.

The PRESIDING OFFICER. The Senator from Utah yielded the floor. The Senator from Massachusetts then was the first Member of the Senate to ask for recognition, and the Chair recognized the Senator.

Mr. HATCH. Mr. President, a parliamentary inquiry.

I believe the Senator from Massachusetts would yield to the distinguished Senator for a question or two.

Mr. THURMOND. I just want 1 minute.

Mr. KENNEDY. First of all, who has the floor?

The PRESIDING OFFICER. The Senate will be in order.

The Chair will note the Senator from Massachusetts has the floor. The Senator from Utah had yielded the floor. The Senator from Massachusetts had been the first who asked for recognition and the Chair recognized the Senator from Massachusetts. The Senator from Massachusetts has the floor.

Mr. THURMOND. Will the Senator yield 1 minute?

Mr. KENNEDY. Without losing my right to the floor, I yield 1 minute to the Senator.

Mr. THURMOND. I want to commend the able Senator from Utah for the excellent presentation he made. He has been a member of the Judiciary Committee a number of years.

I want to ask him: Does he know of any person who was nominated to the Federal judgeship who is better qualified than Judge Bork?

Mr. HATCH. I do not know of anyone who has the overall record, the overall dignity, the overall capacity who would even compare.

Mr. THURMOND. In fact, with the experience of Judge Bork as a lawyer, teacher, Solicitor General, and member of the circuit court, can the Senator imagine anyone with better qualifications to be a member of the Supreme Court than a man like that?

Mr. HATCH. I really cannot. People looking at it I think will arrive at the same conclusion, if they listened to what he said, read what he said and, of course, look at his public record both as Solicitor General and a judge for the last 6 years.

Mr. THURMOND. I hope the Members of this body will study this record carefully. I realize there may not be any changes but there could be some, and I hope Senators will keep their minds open as this debate goes on and read this record and this entire matter could be turned around. I believe that they will do that.

I thank the Senator very much for yielding.

Mr. KENNEDY. I thank the Senator.

Mr. President, It is no secret that I oppose the nomination of Judge Bork to the Supreme Court. I stated my opposition the day the nomination was announced—and I'm proud of it.

Although I strongly oppose Judge Bork, I have often supported conservative Supreme Court nominees by conservative Republican Presidents. I voted for the nominations of Chief Justice Burger, Justice Blackmun, and Justice Powell by President Nixon. I voted for the nomination of Justice Stevens by President Ford. And I voted for the nominations of Justice O'Connor and Justice Scalia by President Reagan. In fact, President Reagan has named over 300 judges to the Federal bench during the past 7 years, and I have supported all but eight.

But from the beginning, it was clear that the nomination of Judge Bork was more than the usual nomination—which is why it has attracted more than the usual controversy and attention. Virtually everyone, no matter where they are on the issue, recognizes that the Supreme Court is at a turning point, and that whoever fills this vacancy may play a large role in setting the Court's direction for a decade or even longer to come.

Rarely have we had such a combination of circumstance. The Supreme Court is closely divided—and the President has consciously sought to bend it to his will. The Justice who resigned defied any ideological category and he held the decisive balance on many critical issues—and the Justice who was nominated tilted so consistently toward one narrow ideological point of view.

No one disputes the President's right to try to force that tilt on the Supreme Court—and no one should dispute the right of the Senate to try to stop him. That's what advice and consent means in the Constitution. That was the original intent of the Founding Fathers, as that is the meaning of the constitutional role of the Senate today.

At the outset, the advocates of the nomination implicitly conceded that they had a hard case to make. They tried to discredit Judge Bork's opposition, on the foolish ground that all the Senate can or should do on a nomination is read the résumé and FBI report—and if the nominee is smart enough, and has stayed out of trouble, the Senate is compelled to confirm him. Ideology shouldn't count, they said, and often it hasn't. But what is sauce for the goose is sauce for the gander. President Reagan obviously took Robert Bork's ideology into account in making the nomination, and the Senate has every right to take it into account in acting on the nomination.

This debate has been a timely lesson, in this bicentennial year of the Constitution, of our commitment to the rule of law, to the principle of equal justice for all Americans, and to the fundamental role of the Supreme Court in protecting the basic rights of every citizen.

In choosing Robert Bork, President Reagan selected a nominee who is unique in his fulminating opposition to fundamental constitutional principles as they are broadly understood in our society. He has expressed that opposition time and again in a long line of attacks on landmark Supreme Court decisions protecting civil rights, the rights of women, the right to privacy, and other individual rights and liberties. Judge Bork may be President Reagan's ideal ideological choice for the Supreme Court, but that ideology is not acceptable to Congress and the country, and it is not acceptable in a Justice of the Nation's highest court.

In analyzing the record of Judge Bork's long professional career, and in his testimony before the Senate Judiciary Committee, a number of themes have emerged:

Judge Bork is antagonistic to the role of the law and the courts in fundamental areas such as ensuring racial justice, protecting the rights of women, and preserving the right of privacy for individuals against oppressive intrusions by the Government.

Judge Bork is a true believer in concentrated power, whether it is big government in the form of unrestrained executive power, or big business in the form of corporations virtually unrestrained by antitrust laws and health and safety regulation.

Judge Bork is not only an enemy of the individual in confrontations with the Government, but he is equally an enemy of Congress in confrontations with the President or when the will of Congress is in conflict with his ideology.

Judge Bork has little respect for precedent. His habit of intemperate statements—some made this year, on the very eve of his nomination—suggests how eager Judge Bork is to rewrite the meaning of the Constitution. His numerous confirmation conversions, implying a newfound respect for precedent, are hardly reassuring.

Judge Bork's hostility toward individuals is nowhere clearer than in his attitude toward civil rights. People of great courage in this country endured great risks over the past three decades in the struggle against race discrimination in America. In the 1960's, while we sought to end segregated lunch counters and "Whites Only" want ads, Robert Bork stridently opposed legislation to end racial discrimination in public accommodations and employment.

Nor can Judge Bork's intemperate opposition be passed off as the understandable aberrations of a provocative professor confounded by the swiftly moving events of a quarter century ago. In 1964, a Senator or a scholar did not have to be a liberal to weigh the issue and judge it rightly. The Civil Rights Act of that year was an historic product of mainstream America, Republican as well as Democrat. It was overwhelmingly endorsed by constitutional experts and swiftly and unanimously sustained by the Supreme Court. And Judge Bork's mentor and colleague at Yale, one of the most respected advocates of conservative legal philosophy and judicial restraint, Alexander Bickel, was a forceful voice in favor of Federal action against discrimination, but Robert Bork disagreed—he said that the historic public accommodations legislation was based on a principle of "unsurpassed ugliness"—when most Americans thought that phrase better described Jim Crow.

It took 9 long years—and the pressure of his nomination to be solicitor general—for Mr. Bork to recant his opposition to that landmark measure. But that convenient retraction belies his consistent assault against other Supreme Court decisions mandating racial equality before the law.

He rejected the Supreme Court's unanimous 1948 decision outlawing court enforcement of racially restrictive clauses in deeds for the sale of property.

When voting rights were at issue, he condemned Supreme Court decisions enshrining the principle of one man, one vote, striking down poll taxes, and upholding the ban on literacy tests and other devices employed to deny the right to vote.

At the Judiciary Committee hearings, he even indicated he could find no constitutional support for the Supreme Court's 1954 decision banning segregated schools in the District of Columbia.

From the purchase of a home to the ballot box, to the job site, to the indignity of "whites only" signs in public places, to the schools of the Nation's Capital, Robert Bork has made a career of opposing simple justice, and he does not deserve a new career on the Supreme Court of the United States.

Judge Bork has been just as wrong on the rights of women. Three weeks before his nomination, he repeated his extremist view that "the equal protection clause probably should have been kept to things like race and ethnicity"—thereby reading out of the Constitution all protection against sex discrimination.

Under the pressure of these confirmation hearings, Judge Bork retreated from that indefensible position; but he rejected the notion that more vigorous scrutiny should be applied to sex discrimination. Instead, he would decide on a case-by-case basis whether sex discrimination is reasonable. But that is the very approach under which courts upheld sex discrimination in a long line of cases extending into the 1960's, before the current stricter standard of review was adopted. As in the case of civil rights, when the issue is equal rights from women, the jurisprudence of Judge Bork is an invitation to plow up settled ground and return to the injustices of the past.

In fact, Judge Bork has set himself at odds in other areas with Supreme Court decisions hardly doubted by anyone else—and broadly accepted as basic to constitutional rights.

Legal scholars differ about the degree to which the Constitution protects a general right to privacy, but few if any espouse the extreme position of Robert Bork that there is no such right to privacy at all.

He has condemned 60-year-old Supreme Court precedents upholding the right of parents to send their children to religious schools, and striking down statutes barring the teaching of foreign languages—statutes inspired by anti-Catholic bigotry and the anti-German hysteria of World War I.

He has called improper and intellectually empty a Supreme Court opinion striking down the forced sterilization of convicted criminals.

His far-out theory against privacy would reject Justice Powell's ruling that a zoning ordinance may not bar a grandmother from living in the same home as her grandchildren.

He derided as unprincipled and unsupportable the Griswold decision upholding the right of married couples to decide for themselves whether to purchase and use birth control.

He has even said, in the intemperate rhetoric that is his trademark, that a husband and wife have no greater right to privacy than a smokestack has to pollute the air.

The point is not that Robert Bork attacked any one of these holdings on privacy, but that he instinctively reacted against all of them. None of the 105 Supreme Court Justices in our history has as narrow a view of the meaning of constitutional liberty as Judge Bork.

Robert Bork's Constitution preserves precious little freedom for the individual against government interference with fundamentally personal human activities. Real judicial conservatives like John Marshall Harlan and Lewis Powell rejected the Bork view—and it is one of the most important reasons why the Senate should now reject Judge Bork.

Equally disturbing is his roll-back-the-clock record on free speech. It is true that he authored one strong opinion, upholding Evans and Novak against a libel suit by a Marxist professor. But a single first amendment flower does not make a constitutional spring. And it must be remembered that the real threat to a free press comes not from individuals, but from an all-powerful government.

Both in his 1971 law review article and in a 1979 address, he stated unequivocally that no matter what the Supreme Court has said, the first amendment does not protect literature, art or scientific discourse from official censorship.

In 1984, after strong public criticism, this became another of Judge Bork's convenient recantations. But even today, the extent to which he would protect artistic and literary expression is unclear.

In the realm of political speech, Judge Bork persists in his criticism of the landmark opinions of Justices Holmes and Brandeis establishing the clear and present danger test before speech can be restricted. Under questioning at his hearing last month, he indicated his belief that the Supreme Court's Brandenburg decision adopting that test was wrong, but that he would apply it in future cases. The problem is that Judge Bork made clear that he would not apply Brandenburg the way the Supreme Court has. He rejected as wrong the Hess decision, the leading case in which the Court applied Brandenburg to uphold a free speech claim.

On the bench, Judge Bork has been quick to sacrifice the free speech of individuals to the preferences of the President. He dissented from the decision limiting the Government's ability to exclude controversial speakers from the United States—a decision affirmed this week by a divided Supreme Court. He has also been a persistent adversary of freedom-of-information claims. Justice Brandeis wrote that sunlight is the best disinfectant of arbitrary government—but Judge Bork leans toward secrecy and suppression.

Where Judge Bork has not found a way to curtail a right, he has often tried to cut off a remedy. He constantly invokes the doctrine of standing to stand in the way of constitutional claims. In one of his most recent dissents, he suggested that it would be constitutional for Congress to cut off all judicial review of the Government's denial of Medicare benefits. Judge Bork would deny older Americans their day in court, and the Senate should deny him his day on the Supreme Court.

During his recent confirmation hearings, Judge Bork professed a new respect for recent Supreme Court precedents. But as recently as last January, he told the Federalist Society that a judge with his so-called originalist views would have no problem whatever in overruling a precedent—because, as he said, "that precedent by the very basis of his originalist philosophy has no legitimacy."

And in the notorious words that Senator Heflin has often quoted, the passage from the so-called Bork Wave speech to the Philadelphia Society last April, Judge Bork used some of the most intemperate language ever uttered by a sitting Federal judge to describe his ideological vision of the future and what he has in store for the country if he can only get his hands on the Constitution: "It may take 10 years," he said, "It may take twenty years, for the * * * wave to crest, but crest it will, and it will sweep the elegant, erudite, pretentious, and toxic detritus of nonoriginalism out to sea."

Respect for precedent—hardly. Judicial temperament—no thank you. If Robert Bork were on the Supreme Court, a vast body of fundamental Supreme Court decisions would be placed in jeopardy.

Yet another persuasive rationale for rejecting this nomination is Judge Bork's bias for concentrated power. The Bork apologists have attempted to transform his role in the Watergate scandal from obedient lackey of a current President to battling savior of the Department of Justice and staunch defender of the Watergate investigation. They say, in effect, that Robert Bork only did his duty when he fired Archibald Cox and precipitated the infamous Saturday Night Massacre of October 1973; they say that he kept the trains running on time at the Department of Justice, and that he was vigilant to ensure the integrity of the Watergate investigation.

But the only Court ever to examine the issue ruled that Robert Bork broke the law when he obeyed the President and fired Archibald Cox. Rather than doing his duty, he was a dutiful apparatchik of President Richard Nixon in his desperate bid to keep the Watergate coverup from unraveling.

And as Archibald Cox's deputies testified at the Judiciary Committee hearings, Judge Bork was no defender of the integrity of their investigation in the critical days after Cox was fired, when the rule of law in America was hanging in the balance. The investigation was saved, not because of any action by Solicitor General Robert Bork, but because of the pressure from the firestorm of public criticism that erupted across the Nation over what Richard Nixon and Robert Bork had done. As Henry Ruth testified, Judge Bork was irrelevant to the successful continuation of the Watergate investigation—and he has no right to try to rewrite that critical period of our recent history.

Judge Bork's role in the Saturday Night Massacre is the leading example of his profoundly troubling belief in virtually unrestrained Presidential power, but it is not the only example. He maintained in 1973 that the President had the inherent constitutional authority to dismiss Archibald Cox from his position as Watergate special prosecutor—despite legally binding regulations.

Under the Bork reading of Presidential power, the Constitution also forbids the enactment of legislation authorizing independent special prosecutors to be appointed by the Federal courts—such as the five court-appointed prosecutors now investigating alleged misconduct of Attorney General Ed Meese and other officials in the Reagan administration.

In the world according to Judge Bork, the checks and balances carefully structured in the Constitution are in disarray—he believes it is unconstitutional for Congress to take action to prevent a corrupt executive branch official from investigating himself.

The Bork view of unbounded Presidential power does not stop at Watergate's edge. In 1971, he expressed doubt that Congress could limit the scope of an undeclared war, and suggested that Congress could not even constitutionally exercise its power of the purse to forbid the invasion of Cambodia.

In 1978, he wrote that the War Powers Act is "probably unconstitutional." And that same year, ignoring the plain language of the fourth amendment, he contended that the Constitution prohibits Congress from limiting the President's inherent national security power to engage in wiretapping and electronic surveillance of U.S. citizens in their homes and offices.

It is bad enough that Judge Bork believes that the Constitution grants the President such vast and unrestrained authority. Even worse, he regards it as largely unreviewable. Given the chance, he would drastically restrict access to the courts by anyone, including Members of Congress, to challenge the constitutionality of Presidential action.

His extreme inclination to insulate the President from legal challenge culminated last year in his dissent in Barnes versus Kline, in which he issued a 30-page diatribe closing the courthouse door to challenges by Congress against Presidential abuse of the pocket veto power—even though the Reagan Justice Department itself conceded that Congress had standing to bring the case.

No person nominated to the Supreme Court in this century—or the last—has demonstrated a belief in so broad and unrestricted a view of Presidential power, even when it is exercised illegally. Nothing could be further from the original intent of the Founding Fathers—the last thing they intended at Philadelphia in 1787 was to create a President with the powers of George III.

Finally, the distressing pattern of Judge Bork's jurisprudence becomes complete when we examine his conception of antitrust—the field in which he has written most extensively. In the private as well as the public sector, he decisively favors concentrated power.

He would permit mergers between rival companies in situations where even the Meese Justice Department would object. He would let producers swallow up distributors and retailers, except in the rarest of circumstances. He would permit manufacturers to conspire with retail stores to fix prices and drive discount stores out of business; the Bork attitude on this latter point is so extreme and so contrary to congressional intent that Congress passed a law forbidding the Government to advance it—and Judge Bork's position was unanimously rejected by the Supreme Court in 1984.

The Bork antipathy toward antitrust demonstrates again the falsity of the claim that he is a practitioner of judicial restraint. He has urged the courts to ignore Federal statutes and expressions of legislative intent that conflict with his extremist notions of economic efficiency. And he has proposed that judges substitute their judgment for that of Congress in determining what in fact promotes competition in our society. The Senate and House of Representatives may not have the expertise of Robert Bork on antitrust, but we do have the constitutional power to write the antitrust laws—and we do not intend to cede that power to Robert Bork.

In recent days, some supporters of this nomination have tried to divert attention from the issue of Judge Bork's record by attacking the opponents of the nomination for the tactics used in this debate. Granted, we have been the messengers bringing the bad news about Judge Bork, and it is a natural, if deplorable, instinct to attack such messengers. But the Reagan administration's difficulties with this nomination are self-inflicted wounds. The administration itself invited this debate by launcing their no-holds-barred game of capture the Court. The Bork nomination was intended to be the long-anticipated millennium for the right-wing supporters of the administration, and it was widely hailed by them as such. But to the rest of us, it was the culmination of their concerted effort to wrench the Court from its moorings, out of the mainstream of its own precedents and history.

It is preposterous—and hypocritical—for the White House to complain that politics suddenly intruded to mar the confirmation process. For much of 1986, President Reagan himself barnstormed the country, calling for the election of Republican Senators who would confirm his judicial nominees. President Reagan failed in that campaign, and his failure there was a harbinger of the American people's rejection of Judge Bork.

It is ridiculous—and untrue—for the supporters of Judge Bork to suggest that politics has been confined to only one side of the current debate. From the day the nomination was announced, my Senate office was inundated by an unprecedented tidal wave of mail. I received over 29 letters of support for Judge Bork from across the country, and an even larger number of preprinted postcards expressing such support. And I was hardly a likely target of their affections. Who does President Reagan think was orchestrating that massive political campaign throughout America for Judge Bork—the tooth fairy?

It is equally ridiculous for Judge Bork and the White House to make the dire assertions we have all heard in recent days that the politics of this debate have somehow endangered the independence of the judiciary. As the constitutional scholar he is, Judge Bork himself should certainly know better. As Justice Oliver Wendell Holmes once said, the Supreme Court is a quiet place, but it is the quiet at the center of the storm. This stormy confirmation debate and the repudiation of Judge Bork may have shaken the foundations of right-wing ideology in America, but it is only a passing gentle breeze in the long and often much more turbulent history of the Supreme Court in our society. Judge Bork himself was a far greater threat to the role of the Supreme Court than anything that happened in this debate. The simple truth is his nomination collided with the Constitution and with democracy in America, and the Supreme Court and the country have emerged the stronger for it.

As the record of this nomination demonstrates, the unseemly attacks by Judge Bork's supporters are baseless—the desperate responses of the losing side searching for scapegoats for their failure. In my 25 years in the Senate as a member of the Judiciary Committee, I have not participated in a confirmation process for a Supreme Court nominee that was more thorough or more fair than the hearings on Judge Bork. I commend our committee chairman, Senator BIDEN, for his leadership in conducting the hearings and guiding the committee review of the nomination.

It also comes with special irony, pettiness, and ill grace for the White House with its vast resources and access to the media, to complain that a 1-minute television message by Gregory Peck unfairly helped to turn the tide against Judge Bork. In this year, in this debate, Gregory Peck turned out to have a better and deeper understanding of what the Constitution means in America's daily life than either Robert Bork or Ronald Reagan.

The allegations that opponents of the nomination have mounted a smear campaign against Judge Bork are particularly inappropriate to this debate, which has been remarkable for its absence of personal attacks on the nominee. The frustration of the White House and the right-wing is understandable over the loss of their dream nominee. But I am confident that the Senate will not be diverted by this sideshow of sour grapes from the issue now awaiting us—which is to fill the large vacancy on the Supreme Court left by Justice Powell with a Justice who genuinely understands the meaning of justice in America.

The question is not, and never has been, loyalty to party but to the Constitution; not special interests but the national interest; not the person who would be Justice but the future of justice itself.

At similar moments in the past, when the issue has been the future of American justice and the fate of the Supreme Court as the ultimate guardian of that justice, Senators have risen above party. In 1937, a Democratic Senate defeated President Franklin Roosevelt's attempt to pack the Supreme Court. And, just 7 years earlier, a Republican Senate defeated President Herbert Hoover's nomination to the Supreme Court of the now-forgotten John J. Parker, who had expressed bias against blacks and working men and women.

During that debate, the great Republican Senator George Norris addressed the issue in words that speak to us today:

> When we are passing on a judge . . . we ought not only to know whether he is a good lawyer, not only whether he is honest . . . but we ought to know how he approaches these great questions of human liberty.

That is the standard by which Robert Bork must be measured—the standard by which any nominee for the Supreme Court should be judged, and the standard which the American people have always set for our highest court. And by that standard, Robert Bork's record does not paint the portrait of a man who should have the last word on what justice means in America.

There is no better way in this bicentennial year to commemorate the Constitution—and to secure its blessings for future generations—than for the Senate to reject the nomination of Robert Bork. And when the President and his advisers try once more, I urge them not to make the Bork mistake again—and to nominate someone who is in the mainstream of constitutional jurisprudence, who will deserve confirmation by the Senate.

I ask unanimous consent that a compilation of quotations from Judge Bork's decisions, speeches, and articles that I prepared for the Judiciary Committee hearings be printed in the RECORD.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

BORK ON BORK—THE WORLD ACCORDING TO ROBERT BORK

On respect for precedent:

When asked whether he could identify any Supreme Court doctrines that he regarded as particularly worthy of reconsideration in the 1980's: "Yes I can, but I won't." (District Lawyer 1985.)

"The only cure for a Court which oversteps its bounds that I know of is the appointment power." (Senate Judiciary Committee 1982.)

"Well, we never really undid a lot of the New Deal, I'm afraid, did we?" (UCLA Oral History Interview with Friedrich von Hayek 1978.)

"Democratic responses to judicial excesses probably must come through the replacement of judges who die or retire with judges of different views." (Society Magazine 1986.)

"I have been as severe, as unsparing, as anyone here in my criticisms of the judiciary, and I take back not one word." (Virginia Bar Association, 1986.)

"[T]he role of precedent in constitutional law is less important than it is in a proper common law or statutory mode. . . . So if a constitutional judge comes to a firm conviction that the courts have misunderstood the intentions of the founders, he is freer than when acting in his capacity as an interpreter of the common law or of a statute to overturn a precedent. . . . [A]n originalist judge would have no problem whatever in overruling a non-originalist precedent, because that precedent by the very basis of his judicial philosophy, has no legitimacy." (Federalist Society, January 31, 1987.)

"What are the chances of restoring legitimacy to constitutional theory? I think they are excellent. My confidence is largely due to a law of nature I recently discovered. To future generations this will be known, and revered, as 'Bork's wave theory of law reform.' . . . [T]he courts addressed what they regarded as social problems after World War II and often did so without regard to any recognizable theory of constitutional interpretation. A tradition of looking to original intention was shattered. Constitutional theorists from the academies, in sympathy with the courts politically, began to construct theories to justify what was happening. So was non-originalism born. That was to become a tsunami and its intellectual and moral excesses are breathtaking. . . . [T]hese theorists exhort the courts to unprecedented imperialistic adventures. But the second wave is rising. When I first wrote on original intent in 1971, one of my colleagues at Yale told a young visiting professor not to bother with it because the position was utterly passe. And so indeed it was. But it was more than passe; it was, I think, the future as well. On the side of the issue there are now, to name but a few, Judges Ralph Winter and Frank Easterbrook, Professor Henry Monaghan, and former professor, now Chief Justice of the High Court of American Samoa, Grover Rees. There are many more younger people, often associated with the Federalist Society, who are of that philosophy and who plan to go into law teaching. It may take ten years, it may take twenty years, for the second wave to crest, but crest it will and it will sweep the elegant, erudite, pretentious, and toxic detritus of non-originalism out to sea." (Philadelphia Society, April 3, 1987.)

"Not to put too fine a point on the matter, what these [non-originalist] scholars are urging, and what an increasing number of students, lawyers, and judges are accepting, is civil disobedience by judges." (Canisius College 1985.)

"[Question] O.K. If I can follow that up. Now the relationship between the judge, the text, and precedent, what do you do about precedent?"

"Mr. BORK. I don't think that in the field of constitutional law, precedent is all that important. And I say that for two reasons. One is historical and traditional. The court has never thought constitutional precedent was all that important—the reason being that if you construe a statute incorrectly, the Congress can pass a law to correct you. If you construe the Constitution incorrectly, Congress is helpless. Everybody is helpless. You're the final word. And if you become convinced that a prior court has misread the Constitution, I think it's your duty to go back and correct it. Moreover, you will from time to time get willful courts who take an area of law and create precedents that have nothing to do with the meaning of the Constitution. And if a new court comes in and says, "Well I respect your precedent, what you have is a ratchet effect, with the Constitution getting further and further and further away from its original meaning, because some judges feel free to make up new constitutional law and other judges in the name of judicial restraint follow precedent. I don't think precedent is all that important. I think the importance is what the framers were driving at, and to go back to that." (Excerpt from Questions and Answers Session at Canisius College 1985.)

"There are some constitutional decisions around which so many other institutions and people have built that they have become part of the structure of the nation. They ought not be overturned, even if thought to be wrong. The example I usually give, because I think it's noncontroversial, is the broad interpretation of the commerce power by the courts. So many statutes, regulations, governmental institutions, private expectations, and so forth have been built up around that broad interpretation of the commerce clause that it would be too late, even if a justice or judge became certain that that broad interpretation is wrong as a matter of original intent, to tear it up and overturn it." (District Lawyer 1985.)

On his judicial philosophy:

"These remarks are intended to be tentative and exploratory. Yet at this moment I do not see how I can avoid the conclusions stated. The Supreme Court's constitutional role appears to be justified only if the court applies principles that are neutrally derived, defined and applied. And the requirement of neutrality in turn appears to indicate the results I have sketched here." (Indiana Law Journal 1971.)

"I finally worked out a philosophy which is expressed pretty much in that 1971 Indiana Law Journal piece." (Conservative Digest 1985.)

When asked whether he had "eaten" his Indiana Law Journal article, he responded: "I haven't eaten the article—one little sentence." When asked which is the sentence, he responded "I'll never tell." (Federalist Society 1986.)

"It's always embarrassing to sit here and say no, I haven't changed anything, because I suppose one should always claim growth. But the fact is no, my views have remained about what they were. After all, courts are not that mysterious, and if you deal with them enough and teach their opinions enough, you're likely to know a great deal. So when you become a judge, I don't think your viewpoint is likely to change greatly. . . . Obviously, when you're considering a man or woman for a judicial appointment, you would like to know what that man or woman thinks, you look for a track record, and that means that you read any articles they've written, any opinions they've written. That part of the selection process is inevitable, and there's no reason to be upset about it." (District Lawyer 1985.)

"Teaching is very much like being a judge and you approach the Constitution in the same way." (Pittsburgh Television Interview 1986.)

"My own philosophy is interpretivist. But I must say that this puts me in a distinct minority among law professors. . . . By my count, there were in recent years perhaps five interpretivists on the faculties of the ten best-known law schools. And now the President has put four of them on courts of appeals. That is why faculty members who don't like much else about Ronald Reagan regard him as a great reformer of legal education." (National Review 1982.)

On the public accommodations and employment provisions of the Civil Rights Act of 1964:

"There seems to be a strong disposition on the part of proponents of the legislation simply to ignore the fact that it means a loss in a vital area of personal liberty. That it does is apparent. The legislature would inform a substantial body of the citizenry that in order to continue to carry on the trades in which they are established they must deal with and serve persons with whom they do not wish to associate. . . . The principle of such legislation is . . . a principle of unsurpassed ugliness." (New Republic 1963.)

"There are serious and substantial difficulties connected with the public accommodations and employment provisions. . . . The proposed public accommodations and employment practices laws, however, would . . . compel association even where it is not desired." (Chicago Tribune 1964.)

On the Supreme Court's decision in *Katzenbach* v. *Morgan* (1966), sustaining a section of the Voting Rights Act of 1965 barring literacy tests in English, and *Oregon* v. *Mitchell* (1970), sustaining a section of the Voting Rights Act of 1970 barring all literacy tests:

"These decisions represent a very bad and, indeed, pernicious constitutional law." (Senate Judiciary Committee 1981.)

On the Supreme Court's decision in *Shelley* v. *Kraemer* (1948), striking down racially restrictive covenants:

"Starting with an attempt to justify Shelley on grounds of neutral principles, the argument rather curiously arrives at a position in which neutrality in the derivation, definition and application of principle is impossible and the wrong institution is governing society." (Indiana Law Journal 1971.)

On the Supreme Court's decision in *Harper* v. *Virginia Board of Elections* (1966), striking down the poll tax:

"[T]hat case, an equal protection case, seemed to me wrongly decided. . . . As I recall, it was a very small poll tax, it was not discriminatory and I doubt that it had much impact on the welfare of the Nation one way or the other." (Senate Judiciary Committee 1973.)

On the Supreme Court's decision in *University of California Regents* v. *Bakke* (1978) upholding affirmative action programs:

"Justice Powell's middle position—universities may not use raw racial quotas but may consider race among other factors, in the interest of diversity among the student body has been praised as a statesmanlike solution to an agonizing problem. It may be. Unfortunately, in constitutional terms, his argument is not ultimately persuasive. . . . As politics the argument may seem statesmanlike, but as constitutional argument, it leaves you hungry an hour later." (Wall Street Journal 1978.)

On the Supreme Court's decision in *Reynolds* v. *Sims* (1964), the reapportionment case establishing the one-man, one-vote standard for election districts:

"On no reputable theory of constitutional adjudication was there an excuse for the doctrine it imposed." (Fortune Magazine 1968.)

"The state legislative reapportionment cases were unsatisfactory, precisely because the Court attempted to apply a substantive equal protection approach. Chief Justice Warren's opinions in this series of cases are remarkable for their inability to muster a single respectable supporting argument." (Indiana Law Journal 1971.)

"I think one man, one vote was too much of a straight jacket. I do not think there is a theoretical basis for it." (Senate Judiciary Committee 1973.)

"I think this court stepped beyond its allowable boundaries when it imposed one man, one vote under the Equal Protection Clause." (United States Information Agency, June 10, 1987.)

On the application of the Equal Protection Clause to women:

"The equal protection clause . . . does require that government not discriminate along racial lines. But much more than that cannot properly be read into the clause. . . . [C]lases of racial discrimination aside, it is always a mistake for the court to try to construct substantive individual rights under the due process clause or the equal protection clause." (Indiana Law Journal 1971.)

"This court winds up legislating in this area with . . . entirely made-up constitutional rights. This is a process that is going on. It happens with the extension of the Equal Protection Clause to groups that were never previously protected. When they begin to protect groups that were historically not intended to be protected by that clause, what they are doing is picking out groups which current morality of a particular social class regards as groups that should not have any disabilities laid upon them." (Federalist Society 1982.)

"It speaks volumes about the deterioration of the equal protection concept that it is even possible today to take seriously a challenge to the constitutionality of the male-only draft." (Seventh Circuit 1981.)

"Well, in this country, already our experience under the American Constitution is that for many years the Supreme Court of the United States struck down laws interfering with matters within states, on the grounds that they were not interstate commerce and that federal power extended only to interstate commerce. The political attitude of the country changed, and the country demanded more regulation—or the New Deal demanded more regulation. The court gave way. And the court has now almost completely abandoned that form of protection. It has now moved on [to the point]—and I think it's significant—that the most frequently used part of the Constitution now is the equal-protection clause, by which the court is enforcing the modern passion for equality. I wonder, given that kind of institutional history, whether any institutional innovation can save us, or whether it isn't really just an intellectual/political debate that will save us?" (UCLA Oral History Interview with Friedrich von Hayek 1978.)

"I do think the Equal Protection Clause probably should have been kept to things like race and ethnicity. When the Supreme Court decided that having different drinking ages for young men and young women violated the Equal Protection Clause, I thought that . . . was to trivialize the Constitution and to spread it to areas it did not address." (United States Information Agency, June 10, 1987.)

On Sexual harrassment:

"Perhaps some of the doctrinal difficulty in this area is due to the awkwardness of classifying sexual advances as 'discrimination.' Harassment is reprehensible, but Title VII was passed to outlaw discriminatory behavior and not simply behavior of which we strongly disapprove. . . . [The court's] bizarre result suggests that Congress was not thinking of individual harassment at all but of discrimination in conditions of employment because of gender." *Vinson* v. *Taylor* 1985.)

On the Supreme Court's early decisions on the right to privacy in *Meyer* v. *Nebraska* (1922) (striking down a state law prohibiting schools from teaching foreign languages) and *Pierce* v. *Society of Sisters* (1925) (striking down an anti-Catholic law prohibiting parents from sending their children to private schools):

"[These cases] were also wrongly decided . . . perhaps Pierce's result could be reached on acceptable grounds, but there is no justification for the Court's methods." (Indiana Law Journal 1971.)

On the Supreme Court's decision in *Skinner* v. *Oklahoma* (1942) striking down a law requiring sterilization of persons convicted of robbery but not embezzlement:

"[The decision is] improper and as intellectually empty as *Griswold* v. *Connecticut.*" (Indiana Law Journal 1971.)

"Well, I don't want to pursue this too far, but I'm reminded of a Supreme Court case which raised this in extreme terms. Oklahoma passed a statute which said, in effect, that criminals convicted for the third time for a crime of violence—a felony involving violence—should be sterilized. The theory was that it was genetic. Nobody knows. But the Supreme Court looked at that law and said, 'Well, a bank robber who robs for the third time will be sterilized, but an embezzler in the bank will not be.' Those people are alike; that's discriminatory; the law failed. That's my point. Once you give this power to define discrimination, that kind of thing will be done." (UCLA Oral History Interview with Friedrich von Hayek 1978.)

On the Supreme Court's decision in Griswold v. Connecticut, striking down a state law making it a crime for a married couple to use birth control:

"Griswold, then, is an unprincipled decision, both in the way in which it derives a new constitutional right and in the way it defines that right, or rather fails to define it . . . Every clash between a minority claiming freedom and a majority claiming power to regulate involves a choice between the gratifications of the two grounds. . . . Compare the facts in Griswold with a hypothetical suit by an electric utility company and one of its customers to void a smoke pollution ordinance as unconstitutional. The cases are identical. . . . Unless we can distinguish forms of gratification, the only course for a principled court is to let the majority have its way in both cases." (Indiana Law Journal 1971.)

"The most dramatic examples of noninterpretivist review in our history are Lochner, Griswold v. Connecticut, and Roe v. Wade, which struck down, respectively, a law providing maximum hours of work for bakers, a law prohibiting the use of contraceptives, and a law severely regulating abortions. In not one of those cases could the result have been reached by interpretation of the Constitution, and these, of course, are only a very small fraction of the cases about which that could be said." (Catholic University 1982.)

"I don't think there is a supportable method of constitutional reasoning underlying the Griswold decision." (Conservative Digest 1985.)

On the Supreme Court's decision in Roe v. Wade (1973), establishing a constitutional right to abortion:

"I am convinced, as I think most legal scholars are, that Roe v. Wade is, itself, an unconstitutional decision, a serious and wholly unjustifiable judicial usurpation of State legislative authority. . . . [It] is in the running for perhaps the worst example of constitutional reasoning I have ever read." (Senate Judiciary Committee 1981.)

"The public is coming to understand that decisions like Roe v. Wade rest on no constitutional foundation." (Seventh Circuit 1981.)

On the right of a divorced father to visit his minor child:

"I cannot agree that the Constitution of its own force establishes any such right for a non-custodial parent. . . . The [Supreme] Court has never enunciated a substantive right to so tenuous a relationship as visitation by a non-custodial parent. The reason for protecting the family and the institution of marriage is not merely that they are fundamental to our society but that our entire tradition is to encourage, support, and respect them. . . . That cannot be said of broken homes and dissolved marriages. In fact to throw substantive and not simply procedural constitutional protections around dissolved families will likely have a tendency further to undermine the institution of the intact marriage and may thus partially contradict the rationale for what the Supreme Court has been doing in this area." (Franz v. United States 1983.)

On the scope of the First Amendment's protection of free speech:

"Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic." (Indiana Law Journal 1971.)

"But there is no occasion . . . to throw constitutional protection around forms of expression that do not directly feed the democratic process. It is sometimes said that works of art, or indeed any form of expression, are capable of influencing political attitudes. But in these indirect and relatively remote relationships to the political process, verbal or visual expression does not differ at all from other human activities, such as sports or business, which are capable of affecting political attitudes, but are not on that account immune from regulation. . . . I will be bold enough to suggest that any version of the First Amendment not built on the political speech core, and confined by, if not to, it will either prove intellectually incoherent or leave judges free to legislate as they will, both mortal sins in the law." (University of Michigan 1977.)

"There is much more freedom in the area of sexual permissiveness. There is much more freedom—if you want to call these things freedom—in the area of things that may be said or written or shown on film or shown on the stage. Now, I suppose the latter could be evidences of depravity rather than freedom, but I take it you think——" (UCLA Oral History Interview with Friedrich von Hayek 1978.)

"My views on the First Amendment [in the 1971 article], I think, have changed only to the extent that in an effort to find a bright line for judges to follow, I said the First Amendment really ought to protect only explicitly political speech. It now strikes me that I purchased a bright line at the expense of a rather more sensible approach. There is a lot of moral and scientific speech which feeds directly into the political process. . . . I cannot tell you much more than that there is a spectrum of, I think political speech—speech about public affairs and public officials—is the core of the amendment, but protection is going to spread out from there, as I say, in the moral speech and in the scientific speech, into fiction and so forth. There comes a point at which the speech no longer has any relation to those processes. It is purely a means for self-gratification. When it reaches that level, speech is really no different from any other human activity which produces self-gratification. Where you draw the line there, I cannot state with great precision." (United States Information Agency, June 10, 1987.)

On freedom of the press:

"[It] seems plain that the press has done quite well before the Burger Court. In Pentagon Papers the press was permitted to publish state secrets it knew to have been taken from the government without authorization. In Miami Herald Publishing Co. v. Tornillo the Court struck down a right-of-reply statute that had significant scholarly support. In Cox Broadcasting Corp. v. Cohn a statute prohibiting publication of a rape victim's name was held invalid. In Landmark Communication v. Virginia the State was held disabled from punishing publication of material wrongfully divulged to it about a secret inquiry into alleged judicial misconduct.

"In some of those cases, it is possible to believe, the press won more than perhaps it ought to have, though not many journalists are heard to express qualms. Surely, however, Pentagon Papers need not have been stampeded through to decision without either Court or counsel having time to learn what was at stake. The New York Times which had delayed publication for three months was able to convince the Court that its claims were so urgent, once it was ready to go, that the judicial process could not be given time to operate, even on an expedited basis. And one may doubt that press freedom requires permission to publish a rape victim's name or to publish the details of an investigation which the State may lawfully keep secret. These cases are instances of extreme deference to the press that is by no means essential or even important to its role." (University of Michigan 1977.)

On freedom of religion:

"One of those who spoke at Brookings in response to Bork said Bork essentially adopted Chief Justice William H. Rehnquist's dissent in an Alabama school prayer case in 1985. In that case, Rehnquist said the Founding Fathers intended only to ensure that one religious sect should not be favored over another, not that the government should be entirely neutral toward religion. Another member of the audience, the Rev. Kenneth Dean, pastor of the First Baptist Church of Rochester, N.Y., said he told Bork of his experience as a junior high school teacher in Florida where Bible reading began every school day. Dean said he told Bork of one occasion where he called upon a Jewish student to read from the New Testament but the boy declined, saying his parents did not want him to. Those who refused to read had the option of standing outside the classroom, he recalled. Dean said he felt he had treated the student badly by singling him out before his peers. Dean quoted Bork as responding, 'So what? I'm sure he got over it.' Bork, asked about Dean's account, said, 'I can't believe I would have said that.' " (Washington Post, July 28, 1987, referring to a dinner at the Brookings Institution for religious leaders in 1985.)

On the Supreme Court's decisions in Brandenburg v. Ohio (1969) and Hess v. Indiana (1973), establishing the clear and present danger test before political speech can be prohibited:

"There should, therefore, be no constitutional protection for any speech advocating the violation of law." (Indiana Law Journal 1971.)

"Hess and Brandenburg are fundamentally wrong interpretations of the First Amendment." (University of Michigan 1977.)

On the Holmes and Brandeis dissents in the Gitlow and Abrams cases, proposing the clear and present danger test:

"Actually, in those famous decisions, I thought the majority—I think it was Sanford, Justice Sanford—had a rather better logical argument than either Holmes or Brandeis. I don't think the clear and present danger test was an adequate test, no." (United States Information Agency, June 10, 1987.)

On Congress and antitrust law:

"Certain of the antitrust statutes, the Clayton Act and the Robinson-Patman Act, direct the courts' attention to specific suspect business practices. Though these practices are almost entirely beneficial, Congress has indicated its belief that they may—not always, but under circumstances deliberately left undefined—injure competition. Is a court that understands the economic theory free, in the face of such a legislative declaration, to reply that, for example, no vertical merger ever harms competition? The issue is not free from doubt, but I think the better answer is yes." (The Antitrust Paradox, p. 409-410, 1978.)

"It was, perhaps, never to be expected that Congress would create the details of a rational antitrust policy. As a body, it is capable of deciding questions that require a yes or no, of adopting correct broad general principles, or of writing codes reflecting detailed compromises; but whatever the merits of individual members, Congress as a whole is institutionally incapable of the sustained, rigorous and consistent thought that the fashioning of rational antitrust policy requires." (The Antitrust Paradox, p. 412, 1978.)

"[I]f everything said by the proponents of multiple goals, of political goals, of the antitrust laws, if all of that were true, it would not matter . . . if Congressmen explicitly said they wanted courts to weigh political values against the economic welfare of consumers, it would not matter. (Bar Association of the City of New York 1986.)

On horizontal mergers:

"[W]e are in an area of uncertainty when we ask whether mergers that would concentrate a market to only two firms of roughly equal size should be prohibited. My guess is that they should not and, therefore, that mergers up to 60 or 70 percent of the market should be permitted . . . Partly as a tactical concession to current oligopoly phobia and partly in recognition of Section 7's intended function of tightening the Sherman Act rule, I am willing to weaken that conclusion. Competititon in the sense of consumer welfare would be adequately protected and the mandate of Section 7 satisfactorily served if the statute were interpreted as making presumptively lawful all horizontal mergers up to market shares that would allow for other mergers of similar size in the industry and still leave three significant companies. In a fragmented market, this would indicate a maximum share attainable by merger of about 40 percent." (The Antitrust Paradox, pp. 221-222, 1978.)

On vertical mergers:

"These observations indicate that [v]ertical mergers are merely one means of creating a valuable form of integration and that there is no reason for the law to oppose such mergers." (The Antitrust Paradox, p. 231, 1978.)

On vertical price restraint (resale price maintenance):

"Analysis shows that every vertical restraint should be completely lawful." (The Antitrust Paradox, p. 288, 1978.)

"There is never a price discrimination that injures competition. . . . If the legislators tell a judge what to do, of course he has to do it, no matter what his personal views. But the Robinson-Patman Act does not do that. There is a theory that Congress did not mean what it said in the Robinson-Patman Act; that it said protect competition but really meant protect small business. That is the theory that Congress winked at when it enacted the statute. I do not think it is a judge's business to enforce a legislative wink." (Conference Board 1983.)

On conglomerate mergers:

"It seems quite clear that antitrust should never interfere with any conglomerate merger. Like the vertical merger, the conglomerate merger does not put together rivals, and so does not create or increase the ability to restrict output through an increase in market share. Whatever their other virtues or sins, conglomerates do not threaten competition, and they may contribute valuable efficiencies." (The Antitrust Paradox, p. 248, 1978.)

On executive power:

"I'm not sure that you would say that a system which is allowed to evolve freely will necessarily prevail over a system which operates on command and tyranny. That is, to the degree that the issue between the United States and the Soviet Union is still in doubt, a free system of law may not be conducive to the will and the military determination necessary—" (UCLA Oral History Interview with Friedrich von Hayek 1978.)

On the standing of members of Congress to bring actions in federal course to challenge unconstitutional actions by the President:

"We ought to renounce outright the whole notion of Congressional standing. . . . [W]hen federal courts approach the brink of general supervision of the government, as they do here, the eventual outcome may be even more calamitious than the loss of judicial protection of our liberties." (Barnes v. Kline 1985.)

On restrictions by Congress on the CIA:

"A substantive charter that says what will be prohibited and what will be allowed . . . would seem to be a congressional attempt to control the President's power in this respect. It verges upon unconstitutionality, and may well be unconstitutional, because the President has broad powers, as commander-in-chief and as the executive who conducts our foreign relations in this area." (American Enterprise Institute 1979.)

"[A charter is] not merely unworkable. I think such a code is indeed unconstitutional." (ABA Workshop 1979.)

On the Foreign Intelligence Surveillance Act of 1978, limiting the inherent national security power of the President by requiring court-ordered warrants for wiretapping and electronic surveillance of American citizens in the course of national security investigations:

"I believe that the plan of bringing the judiciary, a warrant requirement, and a criminal violation standard into the field of foreign intelligence is, when analyzed, a thoroughly bad idea, and almost certainly unconstitutional as well. . . . [T]he law is very probably a violation of both Articles II and III of the Constitution." (House Judiciary Committee 1978.)

On the invasion of Cambodia: "President Nixon had ample Constitutional authority to order the attack upon the sanctuaries in Cambodia seized by North Vietnamese and Viet Cong forces. . . . The real question in this situation is whether Congress has the Constitutional authority to limit the President's discretion with respect to this attack. Any detailed intervention by Congress in the conduct of the Vietnamese conflict constitutes a trespass upon powers the Constitution reposes exclusively in the President." (American Journal of International Law 1971.)

On the War Powers Resolution:

"As expiation for Vietnam, we have the War Powers Resolution, an attempt by Congress to share in detailed decisions about the deployment of U.S. armed forces in the world. It is probably unconstitutional and certainly unworkable. But politically the resolution severely handicaps the President in responding to rapidly developing threats to our national interests abroad." (Wall Street Journal 1978.)

On Watergate and the firing of Archibald Cox:

"There was a lawsuit about whether the charter should have been revoked on Saturday night before he was fired, and whether therefore the firing was illegal under the charter until it was revoked. I regard that as an argument about a 36-hour period. The reason the charter was not revoked before he was fired was that there was no staff around to do the necessary work. Monday morning the charter was revoked."

"I do not think that issue of which order it should have come in and whether the thing was illegal for 36 hours is important."

"[T]here was never any possibility that that discharge of the Special Prosecutor would in any way hamper the investigation or the prosecutions of the Special Prosecutor's office."

"The next day after the discharge there was a meeting in my office on Sunday. I brought in Henry Peterson, who was then the head of the Criminal Division of the Department of Justice, and I brought in Mr. Cox's two deputies, Henry Ruth and Philip Lacovara. At that meeting I told them that I wanted them to continue as before with their investigations and with their prosecutions, that they would have complete independence, and that I would guard that independence, including their right to go to court to get the White House tapes or any other evidence they wanted. Therefore, I authorized them to do precisely what they had been doing under Mr. Cox." (Senate Judiciary Committee 1982.)

On court-appointed special prosecutors:

"The question is whether congressional legislation appointing a Special Prosecutor outside the executive branch or empowering courts to do so would be constitutionally valid and whether it would provide significant advantages that make it worth taking a constitutionally risky course. I am persuaded that such a course would almost certainly not be valid and would, in any event, pose more problems than it would solve." (House Judiciary Committee 1973.)

On campaign financing reform:

"We have, as atonement for illegalities in fund raising in the 1972 campaign, the Federal Election Campaign Act, which limits political expression and deforms the political process. The Supreme Court held that parts of this act violate the First Amendment and probably should have held that all of it does." (Wall Street Journal 1978.)

The PRESIDING OFFICER (Mr. GRAHAM). Does the Senator yield the floor?

Mr. KENNEDY. I do.

ROBERT BORK'S AMERICA

Mr. HATCH. Mr. President, after having heard Senator KENNEDY, I must respond. Some have expressed surprise at the intensity and sophistication of the special interests' gutter campaign to demolish Robert Bork—to assassinate his personal, professional, intellectual, and philosophical reputation.

I don't know why anyone was surprised. The tone for this sorry episode—this ugly blot on the long and distinguished history of this body—was set right here within minutes after President Reagan announced the nomination. In a speech digested in this graphic (show graphic), one Senator employed extreme language to stir fears about Judge Bork's record.

That speech described a view of "Robert Bork's America"—an America of midnight police raids, back-alley abortions and segregated lunch counters; an America where school children are not taught evolution, where writers and artists are censored, where the courthouse doors are locked. In fact, these description were wholly imaginary—an absurd, bad dream. Nonetheless this speech and others planted seeds of fear that became very real.

It is time someone said a word about the real Robert Bork's America. It is our America. It is, first and foremost, an America where "We the People" make the choices that decide the future of our own neighborhoods, our communities, and—through those we elect to represent us—the future of our State and Nation.

It is not an America of fear, but it is an America in which we take the handcuffs off of our dedicated police officers and put them back on the criminals where they belong.

In Robert Bork's America, unelected Federal judges won't allow criminals to roam the streets preying on law-abiding Americans because a policeman made an innocent mistake in arresting a suspect.

In Robert Bork's America, unelected Federal judges won't tell States that the Constitution requires them to release criminals if they aren't given the amount of food, recreation, letters, and even razor blades these judges think the criminals are entitled to.

In Robert Bork's America, unelected Federal judges won't deny to the people the right to have juries consider the effect of a murderer's actions on his innocent victim's family.

It won't be an America of back-alley abortions, as Senator KENNEDY suggests, but perhaps it will be an America in which loving parents are afforded the opportunity to help their teenage children cope with the trauma of unwanted and unexpected pregnancies, rather than having such painful decisions made in lonely, court-enforced isolation.

In Robert Bork's America, the right to privacy which protects the sanctity of the home and the person against unreasonable searches and seizures will be vigorously protected, but unelected judges will not be licensed to manufacture privacy rights to use drugs or engage in prostitution or engage in homosexual conduct.

In Robert Bork's America, unelected judges won't declare a constitutional right to have an abortion at taxpayer expense.

In Robert Bork's America, unelected judges won't rule that the Constitution prohibits the Navy from firing an officer for having homosexual sex with an enlisted man or requires a high school to allow a homosexual boy to bring his male lover to the senior prom—both actual cases involving the so-called constitutional right to privacy.

I could go on and on, but the point is this: Robert Bork's America, as seen through the eyes of many fear-mongers is a fairy tale that would never come true because, in Robert Bork's America, the people would decide. In Professor Tribe's America, or special interests' America, real-life consequences of the ultraliberal agenda are, in many communities, only a court order away.

In one recent case, for example, an intruder broke into the home of an elderly couple, Irving and Rose Bronstein, bound and gagged them, and stabbed them over and over again. They suffered a horrible death. As you might expect, the brutal killings devastated the Bronstein's family—their son, daughter, and granddaughter. Under a Maryland law, the Bronstein's family told the jury the effect the crime had on them. But in the special interest groups' America, only the rights of criminals count and not the rights of the victims. The special interest groups opposed to Judge Bork argued, and successful I might add, that under the Constitution the harm caused to the victims' family was meaningless and couldn't be considered by the jury in deciding on the murderer's sentence. I wonder where they found that in the Constitution.

Another case in point: One of the groups opposing Judge Bork is now asking the Supreme Court to overturn a law passed by the people of the State of Illinois. That law merely says doctors must give parents 24 hours notice before performing abortions on their minor children. Does it make any sense for a 13-year-old girl to be able to get an abortion without her parents' consent when many States will not allow her to get her ears pierced without parental consent?

Let's look at the special interest groups' vision of America. In special interests' America, a jury could not consider evidence of illegal narcotics found in a backpack located in a suspect's car (*Colorado* v. *Bertine,* 106 S.Ct. 738; 1987).

In the special interests' America, law-abiding Americans may not own guns.

In the special interests' America, a high school student has the constitutional right to make what the Supreme Court called a "lewd and vulgar speech" to an assembly of fellow students, some as young as 14 years of age, free from disciplinary action (*Bethel School District* v. *Fraser,* 92 L.Ed. 2D 549; 1986).

In the special interests' America, a local community may not prevent a theater showing only pornography from locating next door from a church or a school (*City of Renton* v. *Playtime Theatres,* 472 U.S. 1006; 1986).

In the special interests' America, there would not be legislation forbidding the disclosure of the names of U.S. intelligence agents.

In the special interests' America, a State may not begin its legislative sessions with a prayer by a State-paid chaplain, a claim the Supreme Court rejected in *Marsh* v. *Chambers,* 103 S.Ct. 3330 (1983).

In the special interests' America, children who need some extra help will be deprived of remedial educational programs because their parents chose to send them to religious school (*Aguilar* v. *Felton,* 105 S.Ct. 3232; 1985).

In the special interests' America, we the people may not decide that children should begin their school day with a 1-minute period of silence for "meditation or voluntary prayer" (*Wallace* v. *Jaffree,* 472 U.S. 38; 1985).

In the special interests' America, unelected Federal judges determine who may or may not be the football coach of a high school (*Lee* v. *Atallah County School System,* 588 F.2D 499; 1979).

In the special interests' America, qualifications do not matter in determining promotions; racial quotas are used even where there is no prior history of discrimination (*Wygant* v. *Jackson Board of Education,* 106 S.Ct. 1842; 1986).

Some will say that this parade of horribles is a scare tactic, and that in Robert Bork's America, the Constitution does not afford sufficient protection to the American people from the government. The different is this; For the parade of horribles described by the liberal special interest groups to come true, we the people, and our democratically elected Representatives, would have to acquiesce in the repressive laws they describe. For the special interests' America to become our America, their high-priced lawyers need convince only one judge per Federal district, three judges per circuit, or five judges on the Supreme Court.

In conclusion, our future and the future of our children will be shaped by the decisions that are made in the Supreme Court on many important issues. If you believe those issues should be decided by unelected judges—appointed for life and answerable to no one—then you ought to let the special interests have their way. Cave in to their pressure. You don't want to live in Robert Bork's America.

But if you believe that free men and women should be able to decide the issues that affect their lives by electing local, State and national leaders who will faithfully reflect their values and views—if your constituents believe that—you have a duty to vote to confirm Judge Bork.

The **PRESIDING OFFICER**. The Senator from Iowa.

Mr. **GRASSLEY**. Mr. President, Judge Robert Heron Bork is one of the most qualified nominees for the Supreme Court in recent history. Many Americans—and perhaps some of my colleagues—know only an evil portrait of this man. I would like to describe the whole man, as I know him to be.

Robert Bork was born on March 1, 1927 in Pittsburgh, PA, and attended elementary and high school there. He attended the University of Pittsburgh for a short time in 1944 and volunteered to serve in the Marine Corps in 1945 and served until 1946. He reentered the Marine Corps in 1950, serving until 1952, when he was honorably discharged. In between his tours of duty, he received a bachelor of arts degree from the University of Chicago in 1948. He was elected to Phi Beta Kappa. Subsequently, he began his studies at the University of Chicago Law School. He received his J.D. in 1953, having served as the managing editor of the law review.

He was also elected to the order of the COIF, a national honor society. In 1953, he was an associate at the law and economics project of the University of Chicago Law School where he worked with Prof. Aaron Director. In 1954, he joined a prominent New York law firm as an associate. In 1955, he became an associate at Kirkland and Ellis in Chicago where he practiced law until 1962.

Shortly after becoming a partner at that firm, he left to teach at Yale Law School. He was named a professor in 1965. In 1973, he again served his country—this time as Solicitor General of the United States. He was unanimously confirmed by the Senate to this post, the third-highest in the Justice Department. He rendered distinguished service in that position until 1977, when he returned to Yale Law School, where he occupied two endowed chairs: first that of Chancellor Kent Professor of Law from 1977 through 1979, and then that of Alexander Bickel Professor of Public Law from 1979 to 1981.

Judge Bork returned to Washington, DC, and to Kirkland and Ellis in 1981, where he practiced as a partner for 1 year. In 1982, President Reagan nominated him to be a judge on the Court of Appeals for the District of Columbia. He was confirmed a second time unanimously by the full Senate and has served with distinction since that time.

As former President Gerald R. Ford stated in introducing Judge Bork:

> There are four kinds of occupations that a lawyer can have: private practitioner, law professor, Government lawyer, and judge. Robert Bork has distinguished himself in not one, but all four endeavors. A renowned Federal Appeals Court judge, former Solicitor General of the United States, professor of law at Yale University, and twice a partner in one of the nation's leading law firms.
>
> Judge Robert Bork is uniquely qualified to sit on the United States Supreme Court.

Indeed, almost everyone agrees that Judge Bork excelled with respect to all the criteria normally considered in evaluating a nominee to the Supreme Court: integrity, judicial temperament, and judicial competence.

Those who testified on his behalf include former Chief Justice Warren Burger, seven former attorneys general, many highly respected academics, and former colleagues and members of the bar.

In addition, Justice John Paul Stevens took the unusual step of publicly endorsing Judge Bork's elevation to the Supreme Court. A sample of their praise reveals the truth of former Chief Justice Burger's statement—that Judge Bork is one of the best qualified candidates for the Supreme Court in 50 years.

Former Attorney General William French Smith called Judge Bork "a highly distinguished, fair-minded jurist and scholar of the highest professional integrity," with "all the earmarks of a great Supreme Court Justice," and "there is no one better qualified to sit on the Supreme Court." Former Attorney General Edward Levi, who has known Judge Bork for almost 40 years, said:

> In my experience with him, I would say that Judge Bork is an able person of honor, kindness, and fairness, and I would say with practical wisdom, which he has shown as an outstanding solicitor general, and an outstanding and eloquent judge, and for the sake of our country, I very much hope he will be confirmed.

Former Attorney General William P. Rogers said that "certainly, he could think of no nominees during his professional life who had been better qualified."

Judge Griffin Bell, former Attorney General during the Carter administration was among a number of prominent Democrats voicing support for Judge Bork, declaring that "if he were in the Senate he would vote for Judge Bork." Former Carter administration White House Chief Counsel Lloyd Cutler testified that:

> On the whole, I think he would come much closer as a sitting justice if he is confirmed, to a justice like Justice Powell and Justice Stevens—and I remind you that that is precisely what Justice Stevens himself said, that "you will find in Judge Bork's opinions a philosophy similar to that you will see in the opinions of Justice Stewart, Justice Powell, and some of the things that I * * * have written."

As Professor Paul Bator of the University of Chicago Law School said, "the country will be better off with Robert Bork on the Supreme Court than without him because he is a person of surpassing intellectual distinction, because of his outstanding integrity and intellectual honesty, and because of his commitment to the rule of law." Or as Professor Henry Monaghan of Columbia Law School said, "in my view, no more than a score of persons has ever been nominated to the Supreme Court with such surpassing credentials."

Dallin Oaks, dean of Brigham Young Law School, said that "Judge Bork is a man of integrity who has adhered to the highest standards of the legal profession."

These are but some of the comments praising Judge Bork's qualifications.

ABA RATING

Judge Bork also received the highest rating for a Supreme Court Justice given by the American Bar Association's standing committee on Federal Judiciary, "well qualified." This rating, in the committee's words, "is reserved for those who meet the highest standards of professional competence, judicial temperament, and integrity. The persons in this category must be among the best available for appointment for the Supreme Court.

In fact, the ABA also gave Judge Bork its highest rating in 1981, when it evaluated Judge Bork for a position on the Court of Appeals for the District of Columbia. The ABA then evaluated him as "exceptionally well qualified." Only about 5 percent of all nominees to the bench are so rated. How does a nominee receive that rating? According to the ABA:

> The prospective nominee must stand at the top of the legal profession in the community involved and have outstanding legal ability, wide experience, and the highest reputation for integrity and temperament. In addition to preeminence in the law, the prospective nominee should have a reputation as an outstanding citizen, having made important community and professional contributions in order to meet the sparingly awarded "exceptionally well qualified" evaluation.

Incredibly, 4 members out of 15 on the ABA's committee this time voted that Judge Bork was "not qualified." One voted not to oppose the nomination. These votes were certainly not cast by lawyers faithfully applying the stated ABA criteria, for there is no doubt that Judge Bork has the requisite judicial competence, integrity, and judicial temperament. The only explanation for these dissenting opinions is that they ignored the requirement that their review be restricted "primarily to issues bearing on professional qualification." They did what the committee states it does not do: 'investigate the prospective nominee's political or ideological philosophy." Even the committee acknowledges that this is not a legitimate consideration for those serving on the ABA's committee. The dissenting minority report must be seen for what it is: a political gesture, pretending to be objective, but totally lacking in principle and fidelity to the ABA's stated criteria. How do we know that this is just plain old politics? Well, in contravention of its own rules, the ABA report at least four times discussed the opposition on political and ideological grounds of some of those interviewed on Judge Bork's nomination.

JUDGE BORK'S TESTIMONY

The consensus of the committee was that Judge Bork's testimony was the most candid, comprehensive of any Supreme Court nominee that had ever appeared before the Senate Judiciary Committee. All acknowledged that Judge Bork answered every question put to him by the committee.

Judge Bork testified in detail about his judicial philosophy, his views on how to interpret the Constitution; on stare decisis; on the first amendment; the equal protection clause of the fourteenth amendment; privacy rights; and the separation of powers. He explained in detail his prior criticisms of Supreme Court cases. He explained that respected jurists and scholars—including some of the greatest jurists of this century such as Black, Stewart, and Harlan—had strongly criticized each of these cases. He spoke about his views on the commerce clause, the legal tender cases, antitrust, and congressional standing. He addressed questions put to him about the War Powers Act, the Foreign Intelligence Surveillance Act, the Independent Special Prosecutor Act, and constitutionality of the pocket veto, and others.

In an unprecedented manner, Judge Bork fully explained in detail his views on these complex and difficult legal questions. Judge Bork's candid and informative testimony revealed that he is a thoughtful jurist and scholar of the highest order. He combines a rich and probing intellect with an intimate knowledge of the Constitution.

I think at this point some perspective is in order—lest the American people think the "inquisition" of Judge Bork is the normal practice in the Senate. The fact is that before 1925, no nominee for the Supreme Court ever came before the Senate to respond to questions. And it is only since the 1955 confirmation of Justice John Harlan that the Judiciary Committee began this tradition. We are a body steeped in tradition.

I make this point only to further highlight the unprecedented nature of the range of Judge Bork's testimony.

By any normal standard, Judge Bork is more than amply qualified to sit on the Supreme Court. Indeed, there was no serious question raised concerning Judge Bork's performance in those areas most relevant to assessing his fitness as a justice, namely, his record as Solicitor General of the United States and his record as Court of Appeals Judge for the District of Columbia Circuit. With little in Judge Bork's record of on-the-job performance to criticize, Judge Bork's opponents resort to scrutiny and censure of his writings as an academic and, what is worse, to distorting and mischaracterizing his record. Their goal is to scare and mislead the public. In doing so, they ignore the truth.

They ignore his undisputed record of fairness and evenhandedness as a judge. No credible witness questioned that Judge Bork in all cases sought fairly and impartially to apply the law to the facts in the case before him. Nor could any such question be raised.

Judge Bork's critics ignore his record as a vigorous defender of the right to free speech. Judge Bork has written such important opinions as Ollman versus Evans and Novak, Lebron versus Washington Metro Transit Authority, FTC versus Brown & Williamson, and Reuber versus United States. In Ollman, Judge Bork relied on the changing realities of libel litigation to conclude that it was necessary to have greater first amendment protections for the press. In Lebron, Judge Bork held that the Government had violated an artist's rights by refusing to let him display a poster extremely critical of President Reagan in space leased for advertisements on the inside of the Washington, DC subway.

They claim that Judge Bork will "reopen old wounds," will "return us to the days of segregated lunch counters," and will "turn back the clock on civil rights." His critics say he's an enemy of women. The fact is that Judge Bork's critics ignore his record in civil rights cases. He has consistently and forcefully defended the civil rights of the parties appearing before him. As a judge, he has ruled for the minority or female plaintiff in seven of eight cases involving substantive civil rights issues. This includes cases such as Emory versus Secretary of the Navy, where Judge Bork reversed a district court's decision dismissing a claim of racial discrimination against the U.S. Navy. His record includes Laffey versus Northwest Airlines where Judge Bork affirmed a lower court decision which found that Northwest Airlines had discriminated against its women employees. It includes Palmer versus Schultz, where Bork held in favor of women Foreign Service officers alleging discrimination by the State Department. It includes Ososky versus Wick, where Judge Bork voted to reverse the district court and hold that the equal pay act applies to the Foreign Service's merit system. And it includes County Council of Sumter County, South Carolina versus United States, where he held that the county had failed to prove that its new voting system had "neither the purpose nor the effect of denying or abridging the right of black South Carolinians to vote." This decision held that inferences of intentional discrimination can be made based solely on statistical evidence, that title VII's statutory limitations should be liberally construed, and that female stewardesses may not be paid less than male pursers in the job that are only nominally different.

The P.R. campaign against Judge Bork charges that he is an "extremist" and "outside the mainstream." But Judge Bork's opponents ignore his record of collegiality and agreement with his colleagues on the D.C. circuit, even those appointed by a Democratic President. For example, Judge Bork voted with Judges Ginsburg, Mikva, Edwards, Wald, and Wright, respectively, in 91, 82, 80, 76, and 75 percent of cases in which they sat together.

Judge Bork's opponents ignore—and try to demean—his perfect record of nonreversal by the Supreme Court. Not one of the more than 400 opinions Judge Bork authored or joined has ever been reversed. Some suggested that this was irrelevant because the Supreme Court had never reviewed a majority opinion he has written. But witnesses from former Chief Justice Burger to Professor Laurence Tribe testified differently. First, that the Supreme Court has let every decision he has ever made stand as settled law, binding within its circuit, is highly significant. The Supreme Court rejected petitions for certiorari to review an additional 35 cases in which Judge Bork joined majority opinions, including 11 cases in which Judge Bork authored majority opinions. Judge Bork is the only active judge on the United States Court of Appeals for the District of Columbia circuit with at least 5 years tenure who has not had any of the majority opinions he joined or authored reversed on a grant of certiorari. One judge on that court with less tenure has already had at least two majority opinions reversed by the Supreme Court. Second, the Supreme Court has agreed with positions Judge Bork articulated in dissent. The Supreme Court has reviewed three cases in which Judge Bork authored or joined a dissenting opinion and in each of these cases it adopted the holding argued by the dissent. The Supreme Court agreed with three opinions written by Judge Bork dissenting from denial of rehearing en banc, as well as one other such dissent joined by Judge Bork. Finally, the Supreme Court has reviewed decisions he has joined, and always affirmed them, demonstrating conclusively—in fact I do not know how much more conclusively it can be demonstrated—that in those cases Judge Bork's understanding of the law was correct.

Judge Bork's opponents then go on to argue that 90 percent of all cases are "non-ideological" and easy to decide, that Supreme Court precedent is controlling, and that this explains his perfect record. This argument is based on a fundamental misunderstanding of the role of the appellate judge. Appellate judges are not robots who mechanically apply the law. Judges have ample opportunity for latitude. There is, in fact, a great deal of discretion in deciding cases.

Judge Bork's critics ignore his exemplary record as a solicitor general. He forcefully led the fight against discrimination in employment, in education, in elections and in business. In 17 of 19 cases, Judge Bork supported the civil rights plaintiff or minority interest. These cases include a number of significant civil rights victories: Runyon versus McCrary, which affirmed that section 1981 applied to racially discriminatory private contracts; United Jewish Organizations versus Carey, which upheld race-conscious electoral redistricting to enhance minority voting strength; and Lau versus Nichols, which held that title VI, and possibly the fourteenth amendment, reached actions discriminatory in effect, though not in intent.

Judge Bork also demonstrated a deep personal sensitivity as a solicitor general. For example, Stewart Smith, former tax assistant to Solicitor General Bork, testified to Judge Bork's willingness to take the unusual step of confessing error to the Supreme Court. Mr. Smith had discovered that the Government's key witness had perjured himself to secure the conviction of a black man from Alabama on drug and income tax charges. Solicitor General Bork without hesitation followed Smith's recommendation. To those who contend that Solicitor General Bork was only doing the bidding of others, Mr. Smith said, "That is errant nonsense. That is not the way the Solicitor General's office behaved. I made the recommendation, but it was Robert Bork who ultimately made the decision." Former Deputy Solicitor General Jewell Lafontant testified that as the first black woman in her position, she had been excluded from many meetings, until she reported this to Solicitor General Bork, who rose in righteous anger and ended the discrimination against Ms. Lafontant.

POLITICAL CONSIDERATION

In short, Judge Bork is without question a man who possesses the intelligence, integrity, professional competence, and judicial temperament required for the job of Supreme Court Justice. He has been endorsed by a former Chief Justice, a sitting Justice of the Supreme Court, seven former Attorneys General, two top legal officers in the Carter administration, and a multitude of eminent legal scholars.

Ordinarily, this would be the end to the debate about Judge Bork's fitness to serve. However, politics and philosophical considerations were emphasized during this nomination. Some object to Judge Bork solely on the basis of political ideology.

In the words of former Carter White House Counsel Lloyd Cutler—a liberal Democrat—this amounts to a test of "rigid orthodoxy that bars the confirmation of any nominee who has sometimes been critical of one or more prevailing majority views."

Using such criteria is also mentally at odds with the Senate's role in the confirmation process. It will lead to a politicizing of the independent judiciary.

The history of the advise and consent clause in article II of the Constitution shows that the framers envisioned Senate confirmation as a tool for weighing the qualifications—not the ideology—of each candidate. As Alexander Hamilton explained in Federalist No. 76, Senate scrutiny "would be an excellent check upon a spirit of favoritism * * * and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." Hamilton made clear that merit was to be the Senate's basis for review in the confirmation process. The historical evidence reflects the framers' expectations that the President would exercise great discretion in choosing nominees, while limiting the Senate's role to rejecting nonmeritorious candidates. The recent confirmations of Chief Justice Rehnquist and Justice Scalia are illustrative. Although those nominations spawned more ideological opposition than any other Court nominees in history, each was confirmed easily.

The Senate's traditional role has been a limited one. Its recent standard of review has been a politically neutral and deferential one. The standard was aptly stated by members of the Judiciary Committee during the confirmation hearings of Sandra Day O'Connor, just 6 years ago.

As Senator—now chairman—BIDEN stated before Justice Sandra Day O'Connor:

> We are not attempting to determine whether or not the nominee agrees with all of us on each and every pressing social or legal issue of the day. Indeed, if that were the test, no one would pass by this committee, much less the full Senate.

Or, as Senator KENNEDY stated:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential Justice must pass the litmus test of any single-issue interest group.

Or, as Senator METZENBAUM stated:

> I come to this hearing with no preconceived notions. If I happen to disagree with you on any specific issues, it will in no way affect my judgment of your abilities to serve on the court.

I agree with what my colleagues said on the O'Connor nomination, just 6 years ago. I just wonder: Why have they changed their minds now?

Why do they now have a special interest group litmus test?

Why do they now ask the Senate to become an enforcer of the liberal orthodoxy?

JUDICIAL PHILOSOPHY

In my judgment, the real debate over Judge Bork ought to be on a fundamental question: Who should govern America and how? Shall the most difficult, controversial, moral, and social issues of our time be decided by unelected judges without constitutional warrant or should they be decided by democratically elected representatives of the people?

Judge Bork continues in the long tradition of eminent jurists from John Marshall to Hugo Black to the two most recent appointees to the Supreme Court. He believes that judges may override the policy choices made by democratic bodies only if that choice conflicts with a right that can be fairly discerned from the text, history, and structure of the Constitution. Where the Constitution is silent—and it is deliberately silent on some of the most fundamental issues—those choices are reserved to the people through the democratic process. Judges have no right to impose their own version of "goodness" on legislatures.

A judge's personal opinion on the wisdom of legislation is entitled to no more weight than any other person's. Only the Constitution defines individual liberties that cannot be usurped by the majority.

Unless a judge can locate a right in the Constitution, then he has no legitimate basis for concluding that his personal preferences are superior to all others, and may thus be imposed on society.

When judges look outside the Constitution to decide cases, they usurp powers not given to them by the Constitution. They transform our representative democracy into a judicial autocracy, and abandon the "rule of law" based on the "consent of the governed." Judges who enforce values not found in the Constitution share in an activist mode of judical review that cannot legitimately take place in our Madisonian, constitutional democracy.

Of course, the judiciary must be "activist" in protecting values that can be found in the Constitution. The judiciary must actively apply those values to conditions that the framers did not foresee. So there is nothing to the charge that following the original understanding of the framers would lead to a "crabbed" view of constitutional values. The Constitution can always grow to protect modern developments. Judge Bork made this point quite eloquently, in the Ollman case, involving the first amendment:

> The important thing, the ultimate consideration, is the constitutional freedom that is given into our keeping. The judge who refuses to see new threats to an established constitutional value, and hence provides a crabbed interpretation that robs the provision of a sole, fair and reasonable meaning fails in his judicial duty. That duty, I repeat, is to ensure that the powers and freedom the framers specified are made effective in today's circumstances * * *. In a case like this, is the task of the judge in this generation to discern how the framers' values, defined in the context of the world they knew, apply to the world we know [today in 1987].

Mr. President, I inserted something there, to emphasize.

He finally says: "The world changes in which unchanging values find their application."

However, the fact that a judge should give full scope to constitutional values in light of new threats to that value cannot and does not mean that judge is thereby free to invent and impose entirely new values. First, it is absurd to suggest that nine unelected, life-tenured judges are better able to decide the consensus values in a diverse, pluralistic society than people who are elected to do that. I ask my colleagues: Do you believe in representative democracy? Are you willing to assume the responsibility you were sent here to do and that obviously is to legislate?

To sanction lawmaking by the judiciary is to deprive our countrymen and women of perhaps the most fundamental right secured to them in the Constitution: the right to self government. The fact is that every time a court invents a new right, it diminishes the area of democratic choice. While some special interests may applaud this shrinking of democracy, this result can only be attained at the expense of democracy and the freedom of the American people.

Along this line I would like to quote from Hodding Carter, who was an official from the previous administration, when he candidly observed:

> The nomination of Judge Bork forces liberals like me to confront a reality we don't want to confront, which is that we are depending in large part on the least democratic institution in government to defend what we are no longer able to win out there in the electorate.

The current judicial controversy over the constitutionality of the death penalty illustrates this distinction. Some sitting Supreme Court Justices take the liberal view that convicted murderers have a constitutional right not to be subject to capital punishment. Of course, the source of this right is not anywhere in our U.S. Constitution.

To the contrary, the Constitution expressly states the availability of capital punishment in at least four different places.

But some Justices today are willing to look beyond the Constitution to create some new right out of whole cloth. To them, the death penalty is inconsistent with what they might refer to as "evolving standards of decency that mark the progress of a maturing society." This, of course, is the so-called enlightened judicial philosophy to which Judge Bork's opponents insist he must subscribe. The capital punishment controversy perfectly illustrates why this philosophy is illegitimate in a government by the people. As Judge Bork has observed "a judge who looks outside the Constitution looks inside himself—and nowhere else."

As with all invented rights, a right to be free of capital punishment is not derived from any evolving moral standard of society, but only the judges' personal moral code. As with all invented rights, it does not enhance freedom but redistributes it. During the hearings, Senator Simon argued that "when you expand the liberty of any of us, you expand the liberty of all of us." That is fine as a slogan but it is dubious as constitutional doctrine.

Inventing liberty rights for murderers denies rights to victims and, more important, the right of society to fix appropriate punishment.

Of course, inventing rights can be used to serve conservative, as well as liberal political ends. And those in this body ought to look to the future when some other appointee might come before us that some conservatives might oppose. For example, in the early part of this century, the Supreme Court used the vague language of the due process clause of the 14th amendment to strike down a host of economic and social legislation. Typical was the case of Lochner versus New York. Time after time, an activist Supreme Court used the due process clause to invalidate progressive social reform legislation. Everyone now agrees that this Supreme Court's use of so-called substantive due process, as a ruse for judicial legislating marked the worst era in Supreme Court history. Yet some of Judge Bork's strongest critics want to return to those dark ages.

Judge Bork disagrees. He has stated that the adoption of any extraconstitutional values through the due process clause is an illegitimate judicial arrogation of legislative authority. Judge Bork will not put his views ahead of the law by prohibiting States from adopting progressive social reform legislation. Nor will he not put the views of the special interests ahead of the law and recast the Constitution to accommodate their agenda.

What Judge Bork is all about is he will apply the Constitution and laws of the United States neutrally, without regard to the results. What more can we in a political branch of Government ask of a judge? What more can people who are part of the democratic process and attuned to that ask of a judge?

It is, therefore, impossible to find a principled or legitimate basis for opposing Judge Bork's confirmation. Surely, his opponents cannot be afraid of a judge who faithfully applies legislative intent. Surely, they cannot be afraid that the destruction of civil liberties will occur absent an activist judiciary. After all, if there is truly a societal consensus about a particular moral value, then legislators will act to promote that consensus. If those legislators will not act, then somehow we all know that they will soon be unemployed legislators.

But Judge Bork's critics deem fit only those judges who invent rights with which they agree. They would rather make an end run around the democratic process to produce results that the people do not want and that are rooted only in the conscience of the special interest groups. If this radical agenda becomes a litmus test for confirmation, the independent judiciary will be lost forever.

But let us be honest here. Judge Bork's critics do not care about principle or even democracy. To them, it is all a matter of what are the results. To them, law is just politics; judges some how they are just politicians in robes. To them, courts are just another political playing field for competing special interests. Those special interests then rank these judges just like politicians—according to the number of times they deliver for the special interest political agenda.

A MAINSTREAM JURIST

From June 26, when Justice Lewis Powell announced his resignation—and even before President Reagan made his choice—Judge Bork's opponents have waged a war of irrelevence and distortion. Opponents of Judge Bork's confirmation say he is an extremist and outside the mainstream of constitutional thought. Why? Because he views the Constitution as law to be applied to modern circumstances. Not an open-ended warrant to be an unelected moral philosopher-king. Judge Bork's critics also argue that he will disrupt the delicate balance of the Supreme Court. These two charges, however, are wildly inconsistent. If Judge Bork is such an extremist, how will he obtain the four votes necessary to impose his will on the Supreme Court? By the same token, if he can command the votes necessary to craft a majority, that must mean that a majority of the Supreme Court is also outside the mainstream. I think it is fair to ask my colleagues, "Are the only people who are in the mainstream those who agree with you?"

Is Justice Scalia, confirmed 98-0 just last year by this body, outside the mainstream? Is Justice O'Conner, confirmed unanimously by the Senate in 1981, outside the mainstream? Is Justice White, an appointee of President John F. Kennedy, outside the mainstream? Is Chief Justice Rehnquist, twice confirmed to the Supreme Court by this Senate, outside the mainstream? Are all these distinguished members of the Supreme Court extremists? Of course not. Judge Bork's critics can't have it both ways. And it seems to me that that is exactly what they are trying to do.

The fact is that Judge Bork's judicial philosophy of interpreting, not making, the law—is well within the mainstream of constitutional thought. For example, Justice O'Connor, in her confirmation hearings, echoed Judge Bork's long-held views when she testified:

> I do not believe it is the function of the judiciary to step in and change the law because the times have changed or the social mores have changed, but * * * I believe that on occasion the Court has reached changed results interpreting a given provision of the Constitution based on its research of what the true meaning of that provision is—based on the intent of the framers, (and) its research on the history of that provision.

Justice O'Connor has repeated this theme since her appointment to the Supreme Court. In her dissenting opinion in City of Akron versus Akron Center for Reproductive Health, a case invalidating certain abortion regulations, she wrote:

> Irrespective of what we may believe is wise or prudent policy in this difficult area, the Constitution does not constitute us as "platonic guardians" nor does it vest in this Court the authority to strike down laws because they do not meet our standards of desirable social policy, "wisdom," or "common sense."

If these views are not in the mainstream, it becomes very difficult to explain how Justice O'Connor was confirmed unanimously. It also becomes difficult to explain how she has built such an impressive record on the Supreme Court.

Justice Scalia, likewise, adheres to the philosophy that a judge's decisions must be guided by the original understanding of the Constitution. Significantly, as a circuit judge, Justice Scalia joined Judge Bork's opinion in Dronenburg versus Zech, which held that there was no privacy right to engage in homosexual conduct, and which attacked the Supreme Court's open-ended privacy decisions.

It's not surprising that Justice Scalia would share Judge Bork's view. After all, in their time together on the D.C. Circuit, they agreed in 98 percent of the cases decided by that court.

Indeed, if anything, Justice Scalia adheres to a stricter view of the degree to which a judge should follow the original meaning of the Constitution. One of the two cases in which Judges Bork and Scalia differed during their 4 years serving together on the D.C. Circuit was Ollman versus Evans and Novak. And I referred to that case several times in my remarks today. In this case, Judge Bork filed a concurring opinion stating that the increase in the number and size of libel claims required more judicial protection of libel defendants to ensure a free press. Judge Scalia sharply dissented, because he felt that Judge Bork was permitting too much evolution of the first amendment. If Judge Bork is outside the mainstream, it is difficult to understand why Judge Scalia's nomination to the Supreme Court just last year was approved.

Other sitting Justices have embraced the Bork view of judges interpreting—not making—the law. For example, in Bowers versus Hardwick, the 1986 Supreme Court case finding that there is no constitutional right to engage in homosexual conduct, Justice White, joined by Chief Justice Burger and Justices Powell, Rehnquist, and O'Connor, wrote:

> The Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the constitution.* * * There should be, therefore, great resistance to expand the substantive reach of [the due process] clauses, particularly if it requires redefining the category of rights deemed to be fundamental. Otherwise, the judiciary necessarily takes to itself further authority to govern the country without express constitutional authority.

I ask my colleagues: "Is Justice White outside the mainstream, too?"

Historically, many other Justices, from all over the ideological spectrum, have also shared the position that the original meaning of the text must control constitutional interpretation. For example, in recent times, the great Justice John Harlan said this about original intent in his separate opinion in Oregon versus Mitchell:

> When the Court disregards the express intent and understanding of the framers, it has invaded the realm of the political process to which the amending power was committed, and it has violated the constitutional structure which is its highest duty to protect.

In Reynolds versus Sims, the so-called one man, one vote case Judge Harlan reasoned that when the Supreme Court, "Ignores both the language and the history of the controlling provision of the Constitution," its "action amounts to nothing less than an exercise of the amending power." I quite agree with Justice Harlan—is he outside the mainstream?

The great civil libertarian, Justice Hugo Black—a Roosevelt appointee—also agreed. In his dissenting opinion in Griswold versus Connecticut, he articulated his belief that the Federal Courts have only the limited task of applying and interpreting the text of the Constitution, not enforcing values not found in the Constitution. He stated:

> While I completely subscribe to the holding of Marbury versus Madison, * * * that our Court has constitutional power to strike down statutes, State or Federal, that violate commands of the Federal Constitution, I do not believe that we are granted power by the due process clause or any other constitutional provision to measure constitutionality by our belief that legislation is arbitrary, capricious or unreasonable, or accomplishes no justifiable purpose, or is offensive to our own notion of "civilized standards of conduct."

Such an appraisal of the wisdom of legislation is an attribute of the power to make laws, not the power to interpret them.

Later in the same opinion, Justice Black flatly rejected the notion of an open-ended ninth amendment. He forcefully stated:

> My brother Goldberg has adopted the recent discovery that the ninth amendment as well as the due process clause can be used by this Court as authority to strike down all State legislation which this Court thinks violates "fundamental principles of liberty and justice" or is "contrary to the collective conscience of our people." He also states, without proof satisfactory to me, that in making decisions on this basis judges will not "consider their personal and private notions." One may ask how they can avoid considering them. The Court certainly has no machinery with which to take a Gallup poll. And the scientific miracles of this age have not yet produced a gadget which the Court can use to determine what traditions are [collective] conscience of our people. Moreover, one would certainly have to look far beyond the language of the ninth amendment to find that the framers vested any such awesome veto powers over lawmaking, either by the States or by Congress. Nor does anything in the history of the amendment offer any support for such a shocking doctrine.

No one, not even the special interests who oppose Judge Bork, could seriously assert that this great justice is outside the mainstream.

Justice Robert Jackson, another Roosevelt appointee to the Supreme Court, also sharply criticized judicial activism. He served during a time marked by an aggressive use of the due process clause to invalidate social and economic regulations with which the Justices did not agree. As an Assistant Attorney General in 1937, Robert Jackson decried this activist trend. He stated:

> Let us squarely face the fact that today we have two Constitutions. One was drawn and adopted by forefathers as an instrument of statesmanship and as a general guide to the distribution of powers and the organization of Government * * * year to year by the judges in their decisions * * * the due process clause has been the chief means by which the *Judges* have written a new Constitution and imposed it upon the American people.

Thus, Justices Harlan, Black, and Jackson, three of the truly outstanding Justices of our era, have decried the use of values not rooted in the constutitional text to invalidate popular legislation. Judge Bork is on "all fours" with this philosophy. If Robert Bork is outside the mainstream, so are these giants of 20th century jurisprudence.

Indeed, President Franklin Delano Roosevelt, the man who appointed Justices Black and Jackson, as well as such other great Supreme Court Justices as Stone, Frankfurter, and Douglas, himself spoke eloquently of the need for judges to look solely to the Constitution as law. In a radio address on March 9, 1937, President Roosevelt stated:

> I want—as all Americans want—an independent judiciary as proposed by the framers of the Constitution. That means a Supreme Court that will enforce the Constitution as written—that will refuse to amend the Constitution by the arbitrary exercise of judicial power—amendment by judicial say-so. It does not mean a judiciary so independent that it can deny the existence of facts universally recognized.

These words are no less true today than in 1937. Judicial restraint has long been recognized by great statesmen as essential to constitutional democracy. Judge Bork's adherence to this philosophy places him squarely within the mainstream.

This tradition of judicial restraint has deep roots—all the way back to the framers of the Constitution. For the framers, the fact that the Constitution was in writing was not incidental. They knew that a written Constitution provides the most stable basis for the rule of law—upon which justice and liberty depend. For example, James Madison, the most influential of the Constitution's framers declared:

> If the sense in which the Constitution was ratified by the Nation * * * be not the guide in expounding it, there can be no security * * * nor a faithful exercise of its powers.

Similarly, Thomas Jefferson, stated:

> Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction.

Judge Bork has spent a lifetime urging this same philosophy. Is the Senate of 1987 prepared to say that the framers of 1787—Madison and Jefferson—could not serve on the Supreme Court? Just who is outside the mainstream here?

The Bork view of judicial restraint is also shared by the Legendary Justices in American history. Chief Justice Marshall, in Marbury versus Madison, the very case establishing the power of judicial review, emphasized the constraints imposed by a written text, and the judicial duty to respect this written text.

Justice Story—who served the Court for 33 years—likewise observed:

> That this court has a plain path of duty marked out for it, and that is, to administer the law as it finds it. We *cannot enter into political considerations,* on points of national policy.

Thus, the credo of judicial restraint adhered to by Judge Bork is not only within the mainstream, it allows him to stand with the giants of constitutional thought.

Mr. President, the Senate stands on the verge of its most monumental mistake in my lifetime. I hope its not too late to look beyond the special interest politics that have derailed this nomination. If we can, I know we will find Judge Robert Bork to be just the kind of qualified, principled, individual perfectly suited for the Supreme Court.

I do not know whether we will do that, Mr. President, but I surely hope that we will. Thank you very much. I yield the floor.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, 105 or 110 days ago President Reagan submitted the name of Robert Bork to be a Justice of the Supreme Court and here we are, 3½ months later, finally getting down to the debate on the floor of the Senate on whether or not this man, who Mr. Reagan believes is the best qualified person to serve on the U.S. Supreme Court, should, in fact, be confirmed by the U.S. Senate.

The debate began 5 or 6 hours ago. The Chamber is already empty, the gallery is half-empty, the press has gone home and everybody assumes it is all over. Indeed, the distinguished Democratic leader suggested that this whole process of discussing, debating, weighing, sifting the qualifications of this nominee here on the floor of the Senate was in essence irrelevant.

I believe his suggestion, and I am not quoting directly but it is a fair and accurate paraphrase I think, his suggestion was that Judge Bork ought to withdraw his name in view of the fact that more than half of the Members of the Senate had already announced their opposition to his confirmation; that it would be convenient if Judge Bork just pulled his name down or if President Reagan took his nomination back and started over. I think he made some observation to the effect that this would put everybody out of their agony.

I would like to suggest, Mr. President, it would put everybody out of their agony if three or four Senators who had previously announced their intention to vote against Judge Bork would change their minds or take a walk or take a vacation; or if all the Senators would come back to the Chamber and begin to consider seriously issues which need to be addressed.

A number of our colleagues, those who are members of the Judiciary Committee, have really gone through an exercise on this and I compliment them for their patience and their stewardship. I disagree with the outcome of the committee vote, but at least they took the time and trouble to seriously consider the issue. For most of us, however, that debate has only begun today and I am sorry that most of my colleagues were not here to listen with the growing sense of admiration that I felt for the Senator from Iowa for his thoughful and scholarly statement, a statement which addresses in detail and in an exemplary manner, the real issues in this nomination and confirmation.

I wondered, as I listened to the statement of the Senator from Iowa, whether or not at this point it makes any difference since 53 or 54 Members of the Senate have said, "We are against him. We are going to vote him down."

Maybe we should all fold up and go home. Maybe the distinguished Democratic leader was correct, that this is an exercise in futility.

Mr. President, I do not believe that. I do not believe it is over until it is over. Every Senator has had the experience, I would expect, of winning a battle which somebody, the experts, their campaign managers, their wives, their families, said that they were going to lose. Maybe Senators have even had the experience of winning battles after they themselves thought it was already a lost cause.

I would not be surprised, Mr. President, if every Senator has had the experience somewhere along the line of fighting for a cause which in the end did not prevail, but nonetheless went home thinking it was a fight worth making.

It is in that spirit, believing that there is still a chance, though I am under no illusions, to use a phrase Judge Bork has used, I am under no illisions about the likely outcome. But I think it is a case that deserves to be made, a battle that deserves to be fought, a cause that is worth championing.

I am not referring just to the issue of confirming or denying confirmation to Judge Bork. I am referring to the issue of the honor and integrity of the U.S. Senate.

At some point in the next day or two or three I expect to seek recognition and discuss at some length the qualifications of Judge Bork to be a nominee for the U.S. Supreme Court.

But as the debate begins, I think, by gosh, somebody better step up to the plate and clear the air about this cloud of suspicion that hangs over this Chamber. I invite someone to come forward and do so.

I refer to the growing sense in this Chamber and throughout the country that Judge Bork has been the subject of a savage, unfair, vicious, personal attack.

Because of the seriousness of this matter, Mr. President, I intend to address it in a dispassionate manner. I am going to at least attempt to avoid the temptation of arm waving or extreme or florid rhetoric, and I urge other Senators to do so as well.

Mr. President, I want to say with every ounce of earnestness that I can bring to bear on this subject that what is at stake here is not just the confirmation of Judge Bork, but, as I said a moment ago, the integrity and honor of this process, the reputation of the U.S. Senate. I fully believe that not only will Senators render a verdict upon Judge Bork but upon ourselves, and the country, the people we are sworn to serve will render a verdict upon us as well.

A few days ago, the chairman of the Judiciary Committee made a point which I think deserves to be a starting point in this debate. That is that Senators do not control the action, the words, the advertisements, the television commercials of those outside this Chamber who are in favor of or opposed to the nomination and confirmation of Robert Bork.

There is, unfortunately, a great deal of evidence to the contrary to be found in the public record, and it is to the public record that I wish to refer in the next few minutes.

I do not know the truthfulness of everything I am going to cite, but I am going to draw upon reputable established sources, newspaper accounts from papers all over the country, journalists whose judgment and integrity I have reason to trust, who say that that is not the case. At the right time, Mr. President, I intend to show why that is relevant, why the fact that the outside groups and the Senators did in fact closely, carefully, skillfully, coordinate their efforts being an important consideration in this debate.

It has been reported that one of the members of the Judiciary Committee actively orchestrated the interest-group effort against Judge Bork. This activity involved extensive communications with many outside forces: civil rights groups, organized labor groups, fundraisers for the Democratic Party, and many political figures in the South. By one account, this Senator "was the key to mobilizing public opposition to Judge Bork."

A member of the Judiciary Committee hired onto his personal staff an individual who has been the past president of perhaps the most vocal, indeed, the principal lobbying organization working against Judge Bork.

A Senator held a meeting with various outside political interest groups and promised them that the fight against Judge Bork would be his top priority.

A Senator personally phoned several southern Democratic Governors to round up outside opposition to Judge Bork.

Senators frequently sought information of Judge Bork from outside political groups; the anti-Bork outside interest groups worked closely with Senators on the Judiciary Committee, feeding them questions and information at key points during the confirmation hearings, consulting with Senators during breaks. Indeed, it has been reported—and let me stress this again, Mr. President, that I do not know any of this of my firsthand knowledge.

It has been reported by the television networks, the wire services, the newspapers, the people who say they are eye witnesses to all this that has happened. I would like to explain as I bring this into focus why that is important for Senators not part of that process to understand.

It is reported that a Senator made a room available in the Capitol to outside anti-Bork lobbying groups, becoming known as the war room, from which, to quote the New York Times, liberal lawyers, professors, lobbyists and others prepared information for members of the panel, referring to members of the Judiciary Committee.

Congressional aides have been most active in orchestrating and influencing debates outside the Senate on Judge Bork. Congressional Quarterly reported that one judiciary aide specifically counselled the National Abortion Rights Action League to "cool the rhetoric." The aide said:

> We need a symphony orchestra. All the instruments have to be played. All the chords have to be struck. Not everyone likes the violins.

Just this past weekend, the New York Times had a detailed account of how one Judiciary Committee aide made an effort to advise an individual who happened to be the only black university professor who intended to testify on Judge Bork's behalf. I do not know the truthfulness of the account of the New York Times report. I do know that it raises, as do other rumors which are circulating here on Capitol Hill, disturbing questions about the fairness of that process.

To continue, I would like to call to the attention of my colleagues a report on October 11 in the Boston Globe which detailed the activities of one Senator who was orchestrating the campaign against Judge Bork, who was, if I may use this metaphor, conducting the symphony orchestra. I quote:

> Through his statements, through hundreds of telephone calls throughout the summer, through the drawing power of his name, this Senator served as a prime mover in bringing the Bork nomination to its knees. In August the Senator hired Anthony Podesta, the founding president of People for the American Way, and a liberal lobbyist, to work on organizing the opposition. Podesta recalls going to the Senator's home and watching him call around the South.

The article mentions a number of people telephoned.

> At one point the Senator woke up Reverend Lowery at a hotel in New Orleans before the Southern Christian Leadership Conference's annual convention. After talking with (the Senator) Lowery turned the entire day's meeting into an anti-Bork session.
>
> The Senator called every one of the 31 executive members of the AFL-CIO and in September held a conference call with 40 State labor leaders throughout the country in which he spoke of Bork's record on organized labor.
>
> He called the former American Bar Association president, Robert Meserve, the former Secretary of Health and Human Services, Joseph Califano, and a host of prominent lawyers who subsequently became active in the fight through op-ed pieces and local organizing.

Now the report of New York Magazine. It also detailed the activities of the same Senator in hiring this same person to "help organize the opposition."

The Washington Post reported that one Senator "in a private meeting in his office promised civil rights lobbyists that he would lead the opposition to Bork and make the fight his top priority."

The Legal Times on September 21, 1987, reported in some detail on the close interaction and support activities of opposition groups and Senators on the Judiciary Committee.

The New York Times on September 25, 1987, reported on the war room set up by anti-Bork groups in the Russell Senate Office Building in a committee room which, I believe, though I am not certain, is in fact within the jurisdiction of the Judiciary Committee. I quote:

> Two floors below the Chambers where Judge Robert Bork's nomination to the U.S. Supreme Court is being debated, is an office some Senate staff members call the war room. The office, formerly designated room 115 of the Russell Senate Office Building, serves as a meeting ground for those opposing Judge Bork. Among them are . . .

And the article goes on.

The Wall Street Journal carried a report of this organized, orchestrated interactive effort between Senators and outside groups. The Washington Post as well as the Wall Street Journal commented on this.

What emerges from the public record is a skillful, highly organized, nationwide campaign to influence, some might say manipulate, public opinion.

The question that Senators ought to ask themselves, since there has been an effort to disavow, to disclaim, this relationship between Senators and the outside interest groups, the question we ought to start to ask, the threshold issue, is this: Is this wrong? Is there something morally reprehensible or even unusual about Senators working with outside interest groups? The answer is of course not.

There is nothing wrong with that. It is the routine. It is the regular thing around here. We all do it. It is proper. It is part of the process. Then why, one might ask, are Senators so eager to disavow such an effort? Why is it that the very Senators who are widely believed to have been the leaders of this effort are so eager to disengage themselves? And why is that important to the Senate's consideration of this issue?

Mr. President, I do not claim to know for sure the answers, but there is at least two things that come to my mind. First of all, because it is widely believed—indeed, it has been reported on the front page of a Washington DC, newspaper—that it is the debate outside this Chamber that has been determinative of the outcome, not inside the Chamber, not in the Judiciary Committee but outside this Chamber. In fact, one of the papers—I do not happen to have it with me, but one of the newspapers carried an article in which one of our colleagues was reported to have sat around the dining room of the Senate pointing at Senators and saying, "I know how you are going to vote. I know how you are going to vote. I know how you are going to vote." And so the story says he made accurate predictions and the basis of his predictions had nothing to do with legal reasoning, qualifications, had nothing to do, as far as I can recall, with anything that even occurred in the Judiciary Committee, had nothing to do actually with the qualifications of Judge Bork.

According to this newspaper account, one of our colleagues was able to accurately predict the outcome of how each of several Senators would vote based upon an indication of political sentiment among a key voter group in the States represented by each of the Senators who were named in this article. In other words, it was the outside sentiment, it was the outside perception, it was television and news accounts, advertisements, commercials, letter writing, that was decisive—the very campaign from which the leaders of the anti-Bork opposition in this Chamber wish to disassociate themselves.

Now, why is it that they are so eager to run from this creature which they themselves have either created or with which they are closely associated according to the published accounts?

Mr. President, I think the reason might be because of the ugly, disfiguring, nasty nature of that public campaign, because it was outside this Chamber that things were said which no Senator, I believe, would rise to say in this Chamber, because at least in the opinion of thoughtful journalists, and I state this on the authority of their accounts, lies were told, reputations were damaged, a vicious, mean-spirited campaign was launched with which I guess no Senator would willingly associate himself. And yet, if we are to believe those who are the outside observers of this process, that is what is about to determine the outcome when the Senate votes tomorrow or the next day or the day after that.

Mr. President, as I think about this outside campaign, there are three issues which concern me very much. First of all, that this campaign has been characterized by the press perhaps unfairly, though I see no evidence that it is unfair, as a campaign of fear and political terrorism designed to do three things: First, to blacken the reputation of a distinguished jurist.

We have talked a lot in this Chamber, Mr. President, about negative advertising, but if there is one thing we have seen it is that it seems to work, that somehow if you run around saying awful things about a person, even a person of spotless reputation and decades of distinguished public and private service, pretty soon people begin to have some doubts about that person.

If you just say over and over again that somebody is a racist, that he is a bigot, that he is antihumanity, that he is antiwomen, that he is outside the mainstream, that he is an extremist, a nut, he is off the deep end, Mr. President, if you say that often enough about almost anybody, a lot of it begins to sink in, does it not? And I think of all the Senators who have trooped to the Senate to complain of how their opponents have done that to them in an election campaign and how unfair it is.

Our colleague from Massachusetts a couple of hours ago made the point that he thought it was just remarkable how little personal attack there had been on Judge Bork. Mr. President, that may be the view of some Senators, but it is not my view and it is certainly not the view of the New York Post, which wrote this in an editorial headlined "The Lies About Robert Bork," and I quote:

> Over the last several weeks Robert Bork has been the victim of one of the most extraordinary character assassination campaigns in recent history.

Some Senators may think it remarkable there had been so little personal attack against Judge Bork. That is not the view of the Wall Street Journal, which on October 4 wrote the following:

> Whether or not Judge Bork is confirmed, this shabby treatment of the Nation's most distinguished legal scholar and jurist will not soon be forgotten. Both conservatives and liberals who hold dear the ideals of rational discourse and honest scholarship will be passionate in their outrage, and that passion is likely to have lasting intellectual and political effects.

The Providence Journal on August 18 called it, "The Vilification of Robert Bork." I quote:

> Unable to lay a finger on Mr. Bork on the basis of professional competence, his opponents have organized a multimillion dollar nationwide campaign to label him an extremist who stands outside the American mainstream. It is unconscionable that a distinguished legal scholar and jurist should be subjected to such a disreputable campaign of vilification.

The Chattanooga News Free Press summed it up this way. They called what has happened to Judge Bork "a vicious smear." I quote:

> A man who is surely one of the country's most able judges, a man of clearly proven qualifications, is under smear attack. Judge Bork deserves to win. If he does, justice will triumph. If he does not, justice will have suffered a serious blow that should be of concern to every thoughtful American.

The Chicago Tribune, talking not just about Judge Bork but more about the character and quality of the opposition to him—and that, Mr. President, is what I am addressing at the moment. I do not even intend to speak tonight to the merits of Judge Bork as a jurist. I want to come back to that at the right moment. But I want to get the record straight and the air clear about why there is a growing perception in this Chamber and among thoughtful journalists and people at home that this has been a rotten process.

The New York Post, September 2, 1987:

> The anti-Bork campaign has been disgraceful. It is one thing to take issue with a Presidential appointee on ideological grounds. It is quite another to read him out of civilized society.

I started to read from the Chicago Tribune. I would not want to pass that over.

> In fact, the rhetoric of opposition is getting so extreme and misshapen that it is threatening to disfigure not only the nominee but everyone involved.

Atlanta Journal: "A Judge Gets Borked."

> Bork's opponents are in a frenzy. Frenzied mortals amplify some facts and gloss over others. Let's just hope something enduring results for the justice to be like a new verb, "Borked." Dictionaries will say it is synonymous with "maligned."

Across the country, in the San Diego Union, on September 24, columnist Raymond Price wrote:

> Pressure group politics of the crassest sort, using one of the most vicious calculated campaigns of slander since the days of Joseph McCarthy.

Chicago Sun Times, October 5:

> Bork Inquisition Poisons the Process. By the savagery of their rhetoric many Bork opponents have generated an uneasiness among Americans as reflected in public opinion polls. They have lent respectability to the pernicious notion that polls should determine the makeup of the branch of

> Government that is supposed to be the most insulated from mass pressure.

The Chattanooga News Free Press, October 1, under the headline, "Bork Hearing and Verdict," asked this question: "Why the controversy?"

It is because in the hearings and out he has been subjected to the worst inquisition, smear, and distortion campaign aimed at any judge in American history. Not only Judge Bork but the principle of government by law is under radical attack by smear, according to this newspaper in Chattanooga.

The Milwaukee Sentinel, a newspaper which so happens supports the nomination of Robert Bork, and not all of the papers that I have mentioned support confirmation of Judge Bork—it so happens that the Sentinel does—summed up their view of the handling of this nomination in the following words:

> Such expressions, during days of otherwise provocative and highly pertinent dialog between committee members and legal scholars, lowered the level of the deliberations to what former Chief Justice Warren E. Burger called "hype" and "disinformation."

Under the headline "Judge Bork Stands Up To the Lynch Mob," William Safire wrote the following, and again I quote.

> Bork has been strung up without fair process, savaged by the ACLU, AFL-CIO, NAACP, NOW powerhouse operating out of a Democratic "war room" in the Senate chamber. Campaign strategy was set, mailings made, opinion polls publicized, senators lobbied, the media manipulated to feed the bandwagon psychology.

The Wall Street Journal had it right. They headlined this "The Frankensteining of Bork."

And the list goes on, papers from Detroit to California. The Daily Breeze out in California wrote these words:

> Sensationalist Bork-baiting, the modern equivalent of Joseph McCarthy's smear campaigns against liberal minded thinkers nearly four decades ago, has fomented a new hysteria on Capitol Hill.
>
> The extreme distortions of Judge Bork's views by a battery of liberal special interests have mocked the Senate's constitutional responsibility to provide a fair hearing to the president's choice for the court.

Mr. President, this is the first point that I want to make. Among those who favor and those who are opposed in many cases to the Bork confirmation, there is a very widely and deeply held view that he has been the subject of an unfair, unprecedented, vicious, personal smear attack. Some Senators may think what has happened in the last 105 days is remarkable for its lack of personal attack. I think the thoughtful judgment of people who have watched it, who have not been members of the Judiciary Committee but who have just been other Senators or who have been observers at home or have written newspaper editorials is overwhelmingly to the contrary.

Mr. President, the second point I want to raise tonight is this: The campaign against Judge Bork has been untruthful and misleading. It would be bad enough if all of these nasty, vicious things had been said about him and they were more or less true. Of course, if they were true, it would be a great tragedy for the President of the United States to submit the nomination of a person who is of the sort of character as he has been described but the fact of the matter is there is real doubt as to the truthfulness of much of what has been said about Judge Bork.

A few days ago I shared with the Senate this newspaper advertisement sponsored by the People for the American Way, and I put into the RECORD at that time a list of 67 specific factual disagreements with this article which had been prepared by our colleague from Utah, Mr. HATCH. I think he has also spoken on this matter and it is not my purpose to rehash that since I put it in the RECORD earlier. I do not think there is any sense in going back over it. But I did not want to let it pass without at least noting again that this is the kind of thing which has set the tone for the public debate which in the opinion of many has been determinative of the outcome.

We are here in an empty Chamber almost as an afterthought because at least in the opinion of some cynical observers, and I am not one of them, the thing is already decided. It was decided when somebody sat around down in the dining room of the Senate and pointed at Senators and said I know how you are going to vote, and you and you, and you, because we have convinced or persuaded or bamboozled the voters at home with this campaign which has taken such a vicious turn.

The second point I want to make, Mr. President, is that it was an untruthful campaign. I do not want to go into this in great detail. Yet I would not be faithful to my purpose here tonight if I did not at least discuss some of the issues that have been raised against him and the response at least of some thoughtful observers. I do not know how Senators happened to see the article which appeared on Monday, October 19 by L. Gordon Crovitz, entitled "The Jim Crowing of Judge Bork." This is an article that asks the question: "Where was he, it is asked, during the recent civil rights victories?" Referring to Judge Bork. Where was he during the great civil rights victories? "Standing in front of the Supreme Court making winning arguments."

Mr. President, I would like to read briefly from this article because I found it enormously illuminating.

> Who is this man a multi-million dollar ad campaign and a senator from Massachusetts said would turn back the clock on civil rights to the days of segregated lunch counters? Who is this man who would want to reopen such old national wounds?
>
> Robert Bork was the young associate in a Chicago law firm who in 1957 demanded that the partners end their Jewish quota and hire Howard Krane. Mr. Krane is now a senior partner there, and told the Judiciary Committee that "Bob Bork is a person without prejudice against any group." U.S. Solicitor General Bork was quick to rescue Jewel Lafontant, the first black woman to be a deputy in that office, when she told him of her exclusion from meetings due to her sex. "The very next day was the beginning of my attending so many briefings," Ms. Lafontant told the senators, "I wondered to myself whether I had been wise in complaining."
>
> The deeds of Robert Bork in his personal life are matched by the words of his professional duties as appeals court judge and solicitor general. The evidence is that the distortions of Mr. Bork's civil rights record are nothing more—or less—than a grotesque lie.

So this article, Mr. President, goes on at some length to discuss his record as an appeals judge including the case of Emory versus the Secretary of the Navy, a case which I think has been discussed by others of our learned colleagues; also the case of Loffey versus Northwest Airlines. I believe I overheard the Senator from Utah discuss that issue in that case, as I recall, which had to do with discrimination on the grounds of sex. It so happened that this person who has opponents have wished to characterize in such uncomplimentary terms came down on the side of the woman in that issue, even though the people who have criticized him would indicate that would be far from his intention.

The article goes on to discuss his record as a Solicitor General, and it is at this point I would like to resume my reading from this informative article.

> When the critics ask, where was Robert Bork during the great civil-rights victories? The best answer is that he was standing in front of the Supreme Court making the winning arguments. Indeed, perhaps the best measure of Robert Bork's civil-rights record is his four years as the government's chief litigator. Solicitors general have great freedom to file briefs weighing the claims of private parties in cases where they are not required to act as the government's defense lawyer. Mr. Bork used his position to argue more pro-civil rights cases than any Supreme Court nominee since Thurgood Marshall. In 17 of the 19 cases, Solicitor General Bork argued for the civil rights . . .

You know, Mr. President, when you get bifocals, it is almost impossible to read the newspaper. Let me start that sentence again.

> In 17 of the 19 cases Solicitor General Bork argued for the civil rights plaintiff or minority interest; the NAACP Legal Defense Fund was on his side in nine of the 10 cases where both filed briefs.

Mr. President, I think I will not go on and read further, but I hope that as they reflect upon the record of this proceeding that perhaps some of my colleagues, particularly those who are deeply troubled about whether or not the confirmation of Robert Bork would mean putting on the U.S. Supreme Court a person who was less than fully committed to the ideals of racial justice and equality in this country, will read this article because it gives lie—unless this article is untrue; if it is, I hope someone will stand up and explain why it is not true—but unless there is something that is just plain dead wrong about this, it gives lie to the charge that somehow Judge Bork is antiblack or even that he has been less than vigorous in his public and private dealings with persons who are members of racial, sex, or ethnic minorities, religious minorities.

So, Mr. President, I send to the desk the article entitled "The Jim Crowing of Bork" and ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE JIM CROWING OF BORK

(By L. Gordon Crovitz)

Who is this man a multi-million dollar ad campaign and a senator from Massachusetts said would turn back the clock on civil rights to the days of segregated lunch counters? Who is this man who would want to reopen such old national wounds?

Robert Bork was the young associate in a Chicago law firm who in 1957 demanded that the partners end their Jewish quota and hire Howard Krane. Mr. Krane is now a senior partner there, and told the Judiciary Committee that "Bob Bork is a person without prejudice against any group." U.S. Solicitor General Bork was quick to rescue Jewel Lafontant, the first black woman to be a deputy in that office, when she told him of her exclusion from meetings due to her sex. "The very next day was the beginning of my attending so many briefings," Ms. Lafontant told the senators, "I wondered to myself whether I had been wise in complaining."

The deeds of Robert Bork in his personal life are matched by the words of his professional duties as appeals court judge and solicitor general. The evidence is that the distortions of Mr. Bork's civil-rights record are nothing more—or less—than a grotesque lie.

Record as Appeals Judge. Bork opponents have tried to substitute result-oriented statistics for careful analysis of his legal reasoning to impugn Judge Bork as anti-women, pro-business, etc. Yet even on the basis of the opposition's anti-intellectual methods, Judge Bork's civil-rights record is clear. In his five years on the U.S. Court of Appeals for the District of Columbia, Judge Bork has heard eight cases involving the rights of minorities or women—and ruled in their favor in seven. In no case did he render an opinion less sympathetic to minority or women's rights than the Supreme Court. Perhaps even more telling, his opinions are among the circuit's most notable civil-rights rulings.

STEWARDESSES VS. MALE PURSERS

In this year's *Emory v. Secretary of the Navy,* Judge Bork rules for a black Navy captain who wanted to sue the promotions board. The issue was whether the military branches are subject to judicial review where civil rights are at stake. Judge Bork held for the first time that federal courts can decide these cases. Also this year, in *Doe v. Weinberger,* Judge Bork held that a plaintiff fired from the National Security Agency due to his homosexuality was illegally denied a hearing.

Judge Bork has written or joined several opinions protecting women's rights, especially at work: *Laffey v. Northwest Airlines* (1984) demanded that stewardesses get paid as much as male pursers for comparable work; *Palmer v. Shultz* (1987) held for women foreign service officers alleging discrimination by the State Department in assignments and promotions; and *Ososky v. Wick* (1983) reversed the lower court to bring women in the Foreign Service under Equal Pay Act protections.

Record as Solicitor General. When the critics ask, where was Robert Bork during the great civil-rights victories? the best answer is that he was standing in front of the Supreme Court making the winning arguments. Indeed, perhaps the best measure of Robert Bork's civil-rights record is his four years as the government's chief litigator. Solicitors general have great freedom to file briefs weighing the claims of private parties in cases where they are not required to act as the government's defense lawyer. Mr. Bork used his position to argue more pro-civil rights cases than any Supreme Court nominee since Thurgood Marshall. In 17 of the 19 cases, Solicitor General Bork argued for the civil rights plaintiff or minority interest; the NAACP Legal Defense Fund was on his side in nine of the 10 cases where both filed briefs.

Indeed, perhaps the most lasting accomplishment of his solicitor generalship in the mid-1970s was building on the civil rights gains of the 1960s. He was ahead of the times in 1976 in *Runyon v. McCrary.* The issue was whether private schools can deny admission to blacks. This controversial case raised the conflict between the freedom of private groups to set their own rules and the public goal of non-discrimination. The civil-rights law, Solicitor General Bork said, "reaches the actions of private individuals not in any way facilitated by state law." The Supreme Court agreed, with Lewis Powell dissenting.

In several cases, Solicitor General Bork took the controversial position that plaintiffs do not have to prove the defendant's discriminatory intent in order to win discrimination cases. Black workers brought the 1975 case of *Albemarle Paper Co. v. Moody* against their employer and their union. They argued that they had been locked into low-paying jobs by testing policies and union rules. Mr. Bork successfully argued that even if the employer didn't mean to discriminate against black workers, the mere existence of a discriminatory effect entitled the plaintiffs to back pay. Solicitor General Bork tried to take the law even further. In the 1977 case of *Teamsters v. U.S.,* the Supreme Court refused to accept his argument that a wholly race-neutral seniority system is unlawful if it perpetuates discriminatory effects.

Despite Judge Bork's record of public service to civil rights, Sen. Joseph Biden claimed that "throughout his career, Judge Bork has opposed virtually every civil rights advance." How can this be? The critics cite Mr. Bork's speculative academic writings—yet distort even these:

Brown v. Board of Education. Whatever Sen. Biden was referring to, it couldn't have been the landmark Supreme Court case that desegregated the public schools and gave courage to a politically deadlocked Congress to act on civil rights. Judge Bork has said that by the 1954 *Brown* case, "it had become abundantly apparent through repeated litigation that separate was never equal." This isn't a recent conversion: In a 1968 Fortune article, he called the ruling "surely correct."

In his 1971 Indiana Law Review article, then-Yale Prof. Bork said that the 14th Amendment "was intended to enforce a core idea of black equality against governmental discrimination." At a Federalist Society meeting this past January, Judge Bork defended *Brown's* reasoning against critics who insisted that the 14th Amendment was not intended to prohibit segregated schools. He said, "To have chosen separation rather than equality would have been to read the equal protection clause out of the Constitution." Judge Bork calls *Brown* "perhaps the greatest moral achievement of our constitutional law."

Public Accommodations. Much has been made of Mr. Bork's three-page article in The New Republic in 1963 making the libertarian case against government-coerced desegregation of private establishments. Unlike the segregationists, he was not motivated by a desire for racial separation. Indeed, he stipulated that "of the ugliness of racial discrimination there need be no argument." Instead, his purpose was to warn against the dangers of government intervention into private relations even for a cause as noble as desegregation. "It is sad to have to defend the principle of freedom in this context," he wrote, "but the task ought not to be left to those Southern politicans who only a short while ago were defending laws that enforced racial segregation."

Robert Bork long ago rejected the extreme libertarian argument. The Civil Rights Act of 1964 "did an enormous amount to bring the country together and bring blacks into the mainstream," he said at his 1973 confirmation hearings as solicitor general. "That is the way I should have judged the statute in the first place instead of on these abstract libertarian principles." Does this sound like someone who would undo racial progress?

Voting Rights. Critics of Judge Bork make the startling claim that he favors poll taxes, the device once used to deny blacks their right to vote. Judge Bork told the Judiciary Committee that he has "no desire to bring poll taxes back into existence. I do not like them myself." He has criticized *Harper v. Virginia Board of Education,* the 1966 cases that invalidated state poll taxes. But the case had nothing to do with race. The high court in *Harper* explicitly said that there was no evidence of any racially discriminatory application of the $1.50 poll tax. Judge Bork told the committee that if the tax had been "applied in a discriminatory fashion, it would have clearly been unconstitutional."

Judge Bork's point was that if there is no racial discrimination, then there can be no equal-protection-clause justification to invalidate a state poll tax. The 24th Amendment, he noted, prohibited only federal poll taxes, intentionally leaving states free to assess such taxes if they chose. Judge Bork has said that a better ground for invalidating a poll tax would be if it were so high an amount that it interfered with the constitutional provision guaranteeing a republican form of government.

BLACK OPPRESSION BY ACTIVIST JUDGES

Apart from Judge Bork's extraordinary civil-rights record, there is a strong argument that minorities above all others should demand judicial restraint and an

> honest reading of the Constitution and its civil rights amendments. If justices of the William Brennan variety can make the Constitution mean what they like it to mean, the Supreme Court becomes another branch of government subject to buffeting by public opinion. The history of activist judges until recently is a history of black oppression; justices in *Plessey v. Ferguson* (1986) ignored the text of the 14th Amendment to create separate but equal. Judges such as Robert Bork insist that the law adhere to the Constitution, preserving a text that protects minority rights that someday could again lose popular favor.
>
> A reading of Judge Bork's voluminous civil rights record leaves the inescapable conclusion that the partisan campaign against him was one of intentional distortion. If only the special interests had shown a fraction of the compassion for the truth as Robert Bork has shown for minorities. As it is, senators who take the time to review his record will find no honest argument that minorities or women have anything to fear from a Justice Bork.

Mr. ARMSTRONG. I also ask as part of my remarks or perhaps if I may ask to have printed at the end of my remarks an article entitled "The Frankensteining of Bork." This goes to the question of whether or not Judge Bork is in fact the legal extremist which is described in the report of the Committee on the Judiciary.

I was on the floor when our friend, Orrin Hatch, put into the Record or at least attempted to put into the Record a number of his objections to the characterizations and conclusions of the Judiciary Committee. I do not know whether he got permission to do that, but I certainly hope that in due course he will be granted permission to include those in the record, because I think it is important that his view be heard.

Mr. BIDEN. Mr. President, if the Senator will yield, I can answer the question.

The views have been put in the record. After the Senator read a few of them, I did not object to them all being put in.

Mr. ARMSTRONG. I thank the Senator for that clarification.

As I understand it, the views which have been put in the record deal in various ways and in various points with the question of whether or not Judge Bork is outside the mainstream. Some pretty distinguished members of the practicing bar say he is in the mainstream. A number of people whom I have admired for their service on the bench, including the former Chief Justice, including Colorado's distinguished contribution to the Court, Justice White, and a lot of other people, say he is in the mainstream. Some have gone so far as to suggest that he is not only in the mainstream; he is perhaps the most distinguished person to be nominated for the U.S. Supreme Court in living memory. But that issue of whether or not he is somehow a judicial extremist keeps coming up, and it is addressed in this article which I will ask to have printed in the Record. I should like to read the first paragraph, because it explains, at least in part, how this notion took root:

> Last July, the 45 groups plotting strategy against Judge Bork assigned one member the task of spending $40,000 on an opinion poll. The Los Angeles Times reports that the survey by the American Federation of State, County and Municipal Employees found several issues that could be exploited. The best prospects for stoking apprehensions were civil rights, aimed at Southerners fearful of "reopening old wounds," and privacy rights, which the anti-Bork forces dubbed the Yuppie strategy. The campaign to defeat Judge Bork immediately became a campaign to distort his record to fit these public fears.

Mr. President, all of what I am now trying to point out falls under the general heading of the untruthfulness of the campaign againt Judge Bork. But I want to point it out in a context of my larger concern, which is that, as at least a reported, deliberate, calculated strategy, those who oppose the nomination of Judge Bork sought to move the focus of the debate out of this Chamber, out of the Senate, into the public arena, and in doing so, listed outside allies, which I have already acknowledged is proper. What is not proper is the vicious personal nature of that attack and the untruthfulness of it.

So, Mr. President, I ask unanimous consent to have this article printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Melcher). Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. Mr. President, under those circumstances, is it any wonder that thoughtful people, like one writer in the Washington Post, have expressed concern about the way this matter has been handled?

One of them referred to the sort of twaddle—which I find to be an entertaining word. It is not something that comes up every day, in every conversation. He referred to the sort of twaddle which Adlai Stevenson used to call "white-collar McCarthyism." I think that is exactly what it is.

Writing in the Wall Street Journal, in an editorial, on October 13, he wrote that someone should send out a call for Margaret Chase Smith. I do not know if any of our colleagues on the floor ever served with Senator Smith. Here is what appeared in the Wall Street Journal article, and I think it is apt:

> Conservatives are angry not because they believe the country wants polarization, but precisely because, a la the late Senator Joe McCarthy, the Bork opponents have created a monumental miscarriage of justice. They have done this by totally misrepresenting Judge Bork in order to create a polarizing straw man as compensation for their own inability to win presidential elections.
>
> It is perhaps not impossible that there are still Senators, a la Margaret Chase Smith in the McCarthy era, who will break with the demagogues. Failing that, Judge Bork's decision to stay until there is a bona fide vote stands as a sobering event. At the least, it may help the Beltway sort out the voice of the people from the echo of its own shouting.

In the New York Post, a columnist wrote, under the headline "Now is the Time to Expose the Ugliness Behind the Anti-Bork Campaign," this summation:

> In short, there was nothing accidental about the astonishing onslaught against Robert Bork. The lies were precise and they were deliberate and designed to promote fear.

Mr. President, let me say again that I do not know whether this is all true. I know that a lot of people who watched the process think it is true. The people who watched the process, in summation, say this: That the nomination was delayed for a very long period of time, far longer, I am told, than any other nominee for the U.S. Supreme Court, so that a massive public campaign could be mounted. Surveys were taken to determine which issues would raise the most fear and dread among crucial voter groups at home who could be counted on, in some way, to influence their Senators. A large amount of money was made to mobilize that kind of public campaign, and now it may be on the verge of succeeding.

Mr. President, this brings me to the third issue, which deeply concerns me, and I think is of concern to thoughtful people outside this Chamber; and that is that in this way we have permitted the process to become so highly polarized that we really threaten the integrity of the whole judicial system.

I do not want to overstate my argument. I do not think the country will rise or fall on whether Robert Bork joins the Supreme Court. I do not believe that. This is a great, resilient country with a great deal of strength. But when we blatantly politicize an appointment to the highest court in the land, it raises the ugly possibility that, in the future, judges will be selected for standards of electability rather than legal reasoning, precisely the point made earlier this evening by our distinguished colleague from Utah.

Is it more important, I ask, that we have on the Court outstanding scholars or those whose appearance is pleasing on television? Is it more important that we have men and women who have made a great contribution to the advance of legal thought or those who have the ability to mount, or cause to be mounted, a nationwide political campaign?

Is it more important that we have great scholars and jurists who will faithfully, in a highly focused and precise way, interpret the Constitution, or is it important that we have people whose views we agree with?

That is really the bottom line here. Do we want to put on the Court just people we think agree with us on various political issues?

I thought about that very deeply, and it goes to the heart of what we think the judiciary is all about. I thought about it not just on this occasion but also when people have come before this body for confirmation whose views were different from mine.

It might surprise some Senators to know that I do not agree with Judge Bork on some of the issues which have proven to be controversial, just as a matter of legal reasoning. I want to make it clear, before anybody jumps down my throat, that I do not even pretend to be in the same league he is in, with respect to analysis and legal reasoning. I am not a lawyer. I am entitled to my opinion.

However, a question I have asked myself is this: Is it more important to me, as a citizen and as a Senator, to have a person of outstanding legal reasoning and ability, or is it better to have somebody whose views I share? That is the essence of whether we think the judiciary should be a political office, ultimately subject to popular will through a public opinion poll, through the kind of campaign we have seen mounted against Judge Bork. Or is it more important that the judiciary be the branch which is not, at least in the short-run, responsive to the public will? This is a very dangerous thing I am saying, or a least thinking about saying.

EXHIBIT 1

[From the Wall Street Journal, October 14, 1987]

THE FRANKENSTEINING OF BORK

(By L. Gordon Crovitz)

Last July, the 45 groups plotting strategy against Judge Bork assigned one member the task of spending $40,000 on an opinion poll. The Los Angeles Times reports that the survey by the American Federation of State, County and Municipal Employees found several issues that could be exploited. The best prospects for stoking apprehensions were civil rights, aimed at Southerners fearful of "reopening old wounds," and privacy rights, which the anti-Bork forces dubbed the Yuppie strategy. The campaign to defeat Judge Bork immediately became a campaign to distort his record to fit these public fears.

The special interests may not consider themselves bound to honest debate, but the Judiciary Committee senators who echoed the group's distortions are in a bind. Judge Bork's refusal to die a death of a thousand libels means they will have to explain on the Senate floor the stark contrast between their claims and his testimony.

Civil Rights. In his summary. Sen. Edward Kennedy (D., Mass.) issued a tirade raising the specter of Jim Crow laws. Judge Bork angrily replied. "If those charges were not so serious, the discrepancy between the evidence and what you say would be highly amusing."

Judge Bork did write a magazine article in 1963 making the libertarian argument against coerced desegregation of private establishments, but he rejected this view years ago. He cited his record. "I have upheld laws that outlaw racial discrimination. I have consistently supported Brown v. Board of Education." Indeed, Judge Bork called this decision desegregating schools "perhaps the greatest moral achievement of our constitutional law."

Does Judge Bork favor forced sterilization? This shocking claim was based on his unanimous ruling in Oil, Chemical and Atomic Workers International v. American Cyanamid. The Occupational Safety and Health Administration requires employers to prevent risks to fetuses. A pigmentation plant discovered lead levels in the air that could damage fetuses, but that could not possibly be reduced to safe levels. "Everybody conceded that the company could have said women of child-bearing age are hereby fired." Judge Bork said. "What the company did was give women a choice: You can be transferred to another department at a lower paying job, or if you want to, surgical sterilization is available."

Judge Bork said, "I think that is not a pro-sterilization opinion." Instead, "it was a sad choice these women employees had to make. It was very distressing. The only question was, should they be given a choice? And is giving them a choice a hazard? We did not think it was under the act." His ruling suggested the women instead sue for unfair labor practices or sex discrimination. The case was eventually settled on these grounds.

Equal Protection. Several senators grilled Judge Bork on the 14th Amendment, which prohibits states from denying "any person within its jurisdiction the equal protection of the laws." Sens. Biden, Kennedy and Metzenbaum insisted that he did not think the equal-protection clause applied to women.

Sen. Arlen Specter (R., Penn.) engaged Judge Bork on the issue. Judge Bork said that the amendment "applies to all persons, so that I would think that no group could be excluded." Sen. Specter then asked how much protection he would give women. Judge Bork's analysis turns out to be much more helpful to women than the current court approach.

Judge Bork criticized the Supreme Court for using different levels of scrutiny depending on the plaintiff. He prefers Justice John Paul Stevens's test that simply asks whether the law makes a reasonable distinction between classes of people. He said he knew of only one situation where discrimination by race was reasonable, a case of a prison warden who after a race riot segregated the inmates by race.

Judge Bork said this reasonable-basis test would better protect women. He disparaged a 1984 opinion upholding a law denying bartender licenses to women unless they were wives or daughters of male bar owners. "Distinctions that we made between genders in the 19th century and which we assumed to be reasonable then," Judge Bork said, "no longer seem to anybody to be reasonable." The only two Judge Bork could cite as reasonable were Congress's prohibition on women in combat and the practice of public restrooms marked Gentlemen and Ladies.

What about the sex-discrimination case? The National Women's Law Center said *Vinson* v. *Taylor* made Judge Bork a sexist. The group claimed that he wrote that sexual harassment couldn't have occurred if the woman subordinate resented. Actually, Judge Bork ruled only that as a procedural matter, the employer could introduce evidence of an office romance. "While hardly determinative," Judge Bork wrote that Title VII discrimination law required introduction of such evidence. The Supreme Court agreed.

Privacy. According to Sen. Alan Cranston (D., Calif.), "When he said before the committee that he found no right to privacy in the Constitution, that did him in. In fact, Judge Bork said privacy was a major preoccupation of the Constitution and a basic requirement for a government of limited powers. "No civilized person wants to live in a society without a lot of privacy in it," he said. He cited several privacy rights. The First Amendment protects exercise of religion and free speech, the Fourth Amendment protects homes and offices from unreasonable searches and seizures; and the Fifth Amendment protects against self-incrimination.

What about *Griswold* v. *Connecticut.* Justice William Douglas reasoned from "penumbras formed by emanations" of the Bill of Rights to invalidate a law against using contraceptives. This phrase represents an imaginative reach of the Warren Court, but one entirely unhinged from constitutional text or original intent.

Judge Bork said the 1879 law against using contraceptives was "utterly silly," but pointed out that the law had never been enforced. This was a frivolous case, not because it didn't raise a philosophical issue, but because the law was not being enforced and there was no prospect of its being enforced. The case was brought by Yale law professors who wanted to give the court a chance for a wide-ranging holding. Planned Parenthood's New Haven branch conspired with a politically friendly prosecutor to get a case brought against it for "aiding and abetting."

Judge Bork denied there could be any absolute privacy right. Is there a right to incest, wife beating or price-fixing if done in private? he asked. He said there were respectable grounds for deciding the case. The Fourth Amendment means no police would ever barge into bedrooms to check if a married couple was using contraceptives because no prosecutor would ever ask for, or a judge issue, a warrant. If a prosecutor did bring a case, Judge Bork said it would be dismissed because of "desuetude." There was no fair warning of enforcement of an antique law that "is just so out of date that it has gone into limbo."

First Amendment. The critics claim Judge Bork has a crabbed view of free speech. He testified that while he thought the Founders' main purpose was to protect political speech, other speech is also covered. He said "everybody, including the Supreme Court, starts from the political speech core, and that is the most strongly protected. . . . Moral speech and scientific speech, into fiction and so forth" are also protected. "Speech or print which is purely for sexual gratification, pornography or obscenity," has less protection.

What about school prayer? The Senate opponents cited a Washington Post report about a speech he gave in 1985 at the Brookings Institution. Judge Bork denied ever endorsing school prayer and cited a letter to the editor from Rabbi Joshua Haberman. "Your reporter was not present at the meeting. I was," Rabbi Haberman wrote. "I would have been greatly alarmed if Judge Bork had expressed any tendency to move away from our constitutional guarantee of religious freedom and equality. I heard nothing of the sort."

Pro-Business Bias. Several interest groups, including Ralph Nader's Public Citizen, published studies purporting to show that Judge Bork favors business litigants. He called these studies "very strange," noting that in a case in which he upheld a labor union against the federal labor relations agency," they said, well, a labor union is really a business." That case NTEU v. FLRA, held that a union didn't have to provide lawyers to represent non-union members to the same extent it provided counsel to members. Judge Bork testified that "If you look at my decisions in race, on women, on labor unions, on individuals vs. the government, you will find no . . . political line along which these decisions line up. They line up only according to legal reasoning.

In retrospect, there was a twisted logic to the distortion campaign. Judge Bork was first called an extremist, a right-wing ideologue. Then the flaw was that he failed to meet the critics' portrayal of him. They said he changed his views too often [he was a Marxist in his youth!] and his opinions were unpredictable because they were based on legal, not political. principles. Perhaps it's the critics' inconsistency that causes Senators now to say his problem is simply that he became "divisive."

Judge Bork's alleged extremism and divisiveness are due to intentional distortions that made him appear what he is not and has never been. There is still time for Senators to reconsider whether the brazen purveyors of disinformation deserve the reward of Judge Bork's scalp.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. HATCH. Mr. President, I compliment the Senator, because I think he has done as good a job as anyone can do to point out the feelings of those around the country who are looking at this and starting to realize how serious and significant it is.

I also believe that the Senator has probably captured the kernel of the debate as well as anybody.

The fact of the matter is there is no judgeship nominee in this country with whom anybody in this body would totally agree.

There is no way that anyone is going to agree with another person in the field of law on every issue, it seems to me. It may occur, but it is very unlikely.

If we are going to stop judges from sitting on the bench because we disagree on this or that issue, I think it is going to be a deplorable day.

One of the things that I find very harmful and questionable about the majority report in this matter is that it seems to say that unless Judge Bork or anyone else agrees with them on interpretation of cases, and I think in some cases their interpretations are flawed, then they cannot sit on the Court. If that is not a form of court-packing, I do not know what that is.

When Ruth Bader Ginsburg came before this body and our Senate judiciary body, Ruth Bader Ginsburg has a reputation of being quite a liberal person. I can remember when she was brought in my office because she was held up and she was brought in by an eminent attorney from New York City who I knew and had a great deal of regard for, even though we disagree on a number of items. He said, "Orrin, I know that you are fair. Ruth Bader Ginsburg will make an excellent judge and even though you differ with her philosophically, she is an excellent person of high ethical standards, high legal capacity and would have good judicial demeanor and temperament and she would be fair."

And I did a lot of behind the scenes on that committee to make sure that she was treated fairly, and she became a member of the Circuit Court of Appeals for the District of Columbia even though I disagreed with Ruth Bader Ginsburg on a number of issues.

That is what bothered me about this particular debate and what is happening to Judge Bork. First of all, he is completely slandered and libeled by outside groups.

The Senator has indicated that some editorialists have indicated that some of the outside groups have been inspired by inside people. Whether that is true or not, I believe it to be true, and I think there is evidence that it is.

The fact of the matter is he has been vilified and libeled and badly treated and besmirched and the whole process is.

I am concerned because I do not think that we should impose upon the court system our own interpretations of cases and especially isolated cases at that, to determine whether a person is able to sit on the Federal courts, particularly the Supreme Court of the United States.

I think it smacks of court packing if you really, really do look and read some of the arguments that are made.

Finally, I would just like to say to the distinguished Senator from Colorado that I have listened to his remarks. He may not be an attorney. But he is right on as far as what is right and what is wrong, and I believe he has made as good a case for Judge Bork as could be made on this floor.

All I can say is that it is lucky for other attorneys that the Senator from Colorado is not an attorney because he would certainly have eclipsed a lot of very fine attorneys by his abilities.

Let me just say, and I am always very grateful to the kind of remarks he has expressed toward me and the views that I have expressed, I hope that this body does not come to the position of where these positions are always going to be decided on the basis of politics. If that is so, we are going to lose something very dear in this country and that is a free and independent judiciary, and it is going to mean we are not going to have the judges standing up on these tough issues like they should and taking on everybody and really what this debate comes down to is the way he has been treated and the process has been treated, and I might add the real debate over judicial restraint, over judicial activism, because this judge believes in restraint and I think there is much to commend him for that, and I believe the vast majority of people in the country would prefer to have judges interpreting the laws rather than making the laws, prefer to have them restrained rather than activists.

I mean, he has been the leading disciple of judicial restraint and really some say in the history of the country and certainly one of the leaders in the modern times.

I want to thank the Senator for his remarks and in particular for his kindness to me.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Utah for his observations.

Mr. BIDEN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ARMSTRONG. Do I have the floor?

Mr. BIDEN. I am making a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Delaware will state his parliamentary inquiry.

Mr. BIDEN. Is an act of the Senator who has the floor to yield time to another Senator one that loses him the right to the floor or does he maintain the right to the floor?

The PRESIDING OFFICER. The Senator may only yield for a question.

Mr. BIDEN. That is what I thought, Mr. President——

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I would be delighted to yield now. I would like at some point to be able to respond.

I understand the Senator from Colorado has not finished his statement and I have no intention of maintaining the floor myself at this moment.

But the Senator has raised some serious allegations that he strongly and deeply believes and I would like an opportunity to respond to them.

I just want to make sure that although I am not going to insist on maintaining the floor now when the Senator finishes I have an opportunity, if he is willing to respond to hopefully each and every point he raised before we move beyond these allegations so at least there is something for the RECORD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, the Senator from Delaware, the chairman of the Judiciary Committee, is mistaken in suggesting these are issues which I have raised. From the first moment that I took the floor, I made it clear that I was reporting what had been brought to my attention by those who have observed the process.

I have been going about my business attending the Finance Committee, Budget Committee, and the Banking Committee. I have not been a party to the Judiciary Committee proceedings. I do not recall that I have seen as much as 60 seconds of the proceedings except as they have been summarized on the evening news.

I have been doing my job.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. ARMSTRONG. What I presented here tonight are the observations of those who have written about it, have observed it, and I have suggested that if it is possible to clear the air and to show that these concerns are unfounded, then I think that is a proper and appropriate thing for the Senator to do and when he is ready to go forward on it, and I will be glad to be here, I am not trying to get the least work, although I might have another word.

Mr. BIDEN. Will the Senator yield for a question?

Mr. ARMSTRONG. Of course.

Mr. BIDEN. Does the Senator mind if at some point I respond to the assertions stated by the Senator from Colorado representing accurately statements made by the press persons and others with relationship both to hearings and the process? That is what I wish at some point to be able to respond to and hopefully, and I am not being facetious, enlighten the Senator from Colorado that there is at least another point of view both in the press and in this body and in the public at large.

Mr. ARMSTRONG. Mr. President, of course that is exactly what I am hopeful that the Senator will do and what this debate is intended to be about.

Mr. President, the Senator from Utah and I were discussing a point which I think ought not be lost. I would very much regret that this nomination had been so politicized and had been taken so far outside the normal confirmation process, even if the campaign against Judge Bork had been truthful, which many believe it was not, and indeed I am persuaded it had not been, even if it had been conducted at a high level and had not been bitterly and personally vindictive, which I believe it to be and that is the view that has been reported by those whose judgment I respect. Even if it had been conducted at a high level, I do not think making a confirmation of a Federal judge, least of all to the U.S. Supreme Court, ought to be a politicized process.

I want to come back to the point the Senator from Utah made because this is the nub of it.

We do not really need Federal judges to reflect the popular will. That is what we have Congress for. That is what we have the President for.

Every 2 years we have an opportunity to elect the whole Membership of the U.S. House of Representatives and although the Senate does not turn over that fast, there is absolutely no danger that the popular will, will lack spokesmen, advocacy, and champions and even on many occasions undeserved obsequience.

Very often people in public life who run for office use error on the side of giving in too much to popular opinion, in my judgment. Now, this is a country that believes in democracy. Popular opinion is important; finally, it is extremely important.

But part of the genius of our system is that there is a resort, a place of protection, a haven for those who are temporarily or permanently unpopular, for those persons or causes who do not enjoy popular favor, who may be even scorned and ridiculed, ideas and persons who are hated, who honestly could not win any kind of a referendum. And in our system, that place is the judiciary.

It is the protections afforded by the Bill of Rights. It is the system of jurisprudence which, at various times, has protected liberals and conservatives, Republicans and Democrats and in some places and some times blacks and whites, Protestants, Catholics, Jews. And at some time in our history almost every group and many different kinds of individuals have had to go to the Federal courts for the protection of rights which they could not protect through the ordinary political process.

Now, then, when we make judges, in effect, run for office, or at least be subject to a political process, we erode and, if we are not very careful, we will ultimately destroy that independence and that reliance on standards of legal reasoning rather than political popularity, which is the hallmark of our judicial system.

Out in Colorado, we used to have our judges run for office. That is what they did. I mean, Republicans nominated somebody to be a judge and Democrats nominated somebody to be a judge, and they went out to campaign. And I have been to a lot of chicken dinners with candidates who were running for judges. And we got some darn good judges out of the process. We really did. Some good Democrats; some good Republicans.

But, you know, we got to thinking about it maybe 20, 25 years ago and determined that this was not a good way for people to come to be judges; that, in the process of the rough and tumble of politics and of submitting themselves to an intensely political process, we compromised first the integrity of the judiciary, because we, in effect, put judges in a position of going out and at least impliedly saying how they were going to vote on things, what their attitude was toward issues, and it just put us in a bad position.

So, like a lot of other reform-minded States, Colorado took their judges out of politics. And it was a good decision. It was a decision about which I was somewhat skeptical, because I really trust the people. I think elections are a good thing. And, besides, I liked going to all of those chicken dinners for people who were running for judges. But it has worked out well.

And when we reverse the process here in the Federal judiciary, we put at risk something which is very precious and very, very important.

David Broder said it better than I can. He can say almost anything better than I can, Mr. President. In an article in the Washington Post, this distinguished journalist wrote:

> Candidates for elective office now routinely face battering by public emotions created by mass-media opinion manipulators. To subject judges and judicial appointees to the same propaganda torture test whether from the right or the left does terrible damage to the underlying values of this democracy and safeguards of our freedom. No one wins in such a game.

Well, Mr. President, before I close, I want to respond to something that came up an hour or 2 ago, when one of the Senators got up, as several have over the last few months, and said:

> By gosh, we are not against conservatives. We just don't happen to like Robert Bork. Why can't we have somebody like Lewis Powell? Now, there is a conservative's conservative. There is a man we can all trust. He is a good guy. If the President had sent us somebody like that, we would be fair minded enough, we would be open minded enough to vote for somebody like that, even though he might be a conservative and not necessarily to our liking.

In other words, there is an attempt to sort of make the case that Robert Bork is a different kind of creature; that, whereas Lewis Powell was a thoughtful, mainstream conservative, in fact, Robert Bork is something different.

Well, you know, we ought to reflect very carefully on that, because that is a significant argument. After all, Justice Powell is admired, and rightfully so, by Senators and lawyers and by people everywhere who know of his distinguished service to the U.S. Supreme Court. And when major interest groups and Senators come forward and say, "We would take another Lewis Powell, but this case is different," then I think we ought to submit that contention to the acid test of how do they act. And the truth of the matter is they were as bitterly opposed to Lewis Powell as they now are to Robert Bork.

Now, just think about that a minute. If you go back and read what they were saying nearly two decades ago when the nomination of Lewis Powell was sent up here, and then compare it with what they are now saying about Robert Bork, by gosh, you would think it was the same bunch of press releases and all they did was went through and crossed out the name Lewis Powell and wrote in Robert Bork.

Now, let me just cite that pretty exactly because Senators who are entertaining the idea that they can vote against Robert Bork and do so in somehow a tradition and a spirit that is consisent with what has happened before are really sadly mistaken. The only difference between the hue and cry that these same groups raised against Lewis Powell and what they are saying now in smearing Robert Bork is that they are on the verge of succeeding this time.

Let me take, for example, the comments of Ralph Neas, executive director of the Leadership Conference on Civil Rights. He said:

> Lewis Powell has been a fair and a distinguished Justice. He has been a true conservative, not a right-wing zealot. As a centrist on the Court he has helped reaffirm our basic civil rights laws and remedies.

That is from the New York Times, June 27, 1987.

On the other hand, Mr. Neas said that putting Judge Bork on the Supreme Court would "jeopardize the civil rights achievements of the past 30 years." That was in the Washington Post on July 6.

So, it sounds as if groups such as the Leadership Conference on Civil Rights have been long-time supporters of judges like Lewis Powell.

Well, listen to what they said in 1971. The Congressional Black Caucus commented:

> A fair examination of the evidence suggests that Lewis Powell, in this instance, certainly was no respecter of the decrees of the very Court for which his nomination is now being considered.

Does that have a familiar ring, Mr. President? Does that sound like exactly what they are saying about Judge Robert Bork?

The statement of the Congressional Black Caucus continued. The nominee's activities "are inconsistent with the kind of jurist needed for the Court" in the coming decades. "These considerations take on more weight when one considers the tremendous problems which our country will be facing during those decades."

What about the National Organization for Women? This is an organization which has bitterly opposed the nomination of Judge Robert Bork. If I recall correctly, that is the organization which allegedly, according to published accounts, was asked to mute its comments as being too shrill. As I recall what they were told—and again, according to the newspaper accounts—the National Organization for Women was told, "We've got to have a symphony orchestra here. We don't want the violins playing too loud."

Well, hear is how loud the violins were playing for the National Organization for Women when Lewis Powell's name was before the Senate:

> If the Senate confirms * * * Lewis F. Powell, Jr., for the U.S. Supreme Court, justice for women will be ignored or further delayed which means justice denied.

How about the National Lawyers Guild?

> In his political views, [the nominee]—

That means Lewis Powell—

> does not "bend" or "twist" the Constitution, to use the President's language. Rather, he totally ignores it.

Now, you talk about somebody that is outside the mainstream, somebody who ignores the Constitution, that is what they were saying about Lewis Powell.

The thing that is distressing and hauntingly familiar is it is almost the same words, certainly the cadences are the same, the idea is the same, as to what they are saying about Robert Bork here all these years later, forgetting, or at least hoping that Senators will forget, that they made the same accusations against Lewis Powell, the Justice who they now say has served with distinction and is the model for the kind of person who would be an acceptable choice if President Reagan would just send his name over.

How about the Americans For Democratic Action:

> * * * Mr. Powell claim[s] that the President is above the law, the Constitution, and the fourth amendment. * * *
>
> He has already taken sides with the executive branch. On the Court, he would be but their echo.
>
> The nominee has "been an eloquent spokesman for wiretapping and other insidious governmental techniques."

And on, and on, and on. These quotes sound as if they were taken from yesterday's newspaper. In fact, they were taken from the newspapers of nearly 20 years ago. Same tactics, same tone, same tenor as the observations that are being made about Robert Bork.

Mr. President, I have tried to make about four points according to good, solid reportorial evidence from people whose politics I do not know. I do not know whether these reporters and the authors of these editorials are Republicans or Democrats, liberals or conservatives. In most cases of the people I have quoted I do not know whether they are for or against the confirmation of Robert Bork. But based upon their evidence I have tried to make four points.

First, that Judge Bork has been the victim of a slanderous, unprincipled, vicious mean-spirited personal attack. Second, the attack in its essence has been untruthful. Third, that it is a great mistake, indeed a tragedy, if we permit the process of confirming judges to be politicized. It will be not a tragedy so much for Robert Bork, who will remain a judge of the circuit court who is not confirmed for the Supreme Court, but a tragedy for the Senate and for the country. And finally, that the arguments which are being used against Judge Bork are shopworn and tired and repetitious. They are the same arguments that have been used previously against nominees whose service on the Court is now applauded by the very groups who heavily criticized him at an earlier occasion.

Mr. President, we are going to render a verdict on Robert Bork and the people are going to render a verdict on us. If we do not find some way to put this matter back in perspective, to somehow apologize to Robert Bork for the way he has been handled, for the treatment he has been given, I believe that the verdict on the Senate will do us no honor.

At the right moment, I will be back. I hope I have another chance to comment on some other aspects that I find particularly disturbing and also to discuss as time permits Judge Bork's qualifications. But for the moment, I yield the floor and note the presence of the chairman of the Judiciary Committee who, I believe, wants to respond to the issues which have been raised and I look forward to his response.

Mr. BIDEN. Thank you, Mr. President.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Delaware.

Mr. BIDEN. I see my colleague from New Hampshire who has been extremely active in this debate and is a strong and articulate proponent of the Bork nomination is on the floor. I will try not to take too much time, because I know he is prepared to speak.

I will try at least to respond to, in part, all the points raised; all the four major points raised by my colleague from Colorado.

Mr. President, let me begin by suggesting and reiterating my point that, just as the junior Senator from New Hampshire stated yesterday in his discussion with the Senator from Arkansas, the junior Senator from Arkansas, about an ad campaign that was underway, he said, and I quote:

> I hope Senators are not going to hold this Senator responsible for every ad that is being published or every effort that is being made to support the nomination, with good taste or with bad taste, any more than this Senator would hope to hold Senators who are opponents of the nomination accountable for the ads of opponents.

That is from the CONGRESSIONAL RECORD, page S14573, October 20, 1987.

I am not suggesting that my friend from Colorado indicated that any particular Senator should be held responsible for any of the ads. But he did make the point that there was a coordinated effort. At least alleged to have been a coordinated effort, as reported by some press accounts.

Mr. ARMSTRONG. Mr. President, would the Senator yield?

Mr. BIDEN. Surely, I will.

Mr. ARMSTRONG. I gather it is the intention of the chairman to go through the points I raised and to discuss each one of them. May I inquire, would it be his desire to have a dialog on each of them or would he like to respond to all of them and then have me seek recognition to go back?

Mr. BIDEN. What I think might be the most helpful is give me about 10 minutes to try to in broad stroke respond to all the major points and then to the extent the Senator from Colorado would like to enter into a dialog about specific points, the Senator from Delaware would be delighted to do that.

Mr. ARMSTRONG. I thank the Senator and I would be happy to do so.

Mr. BIDEN. First of all, with regard to the first major point that has been made by the Senator from Colorado, that he, Judge Bork, has been a victim of slander, vicious personal attacks, et cetera; that there has been an astonishing onslaught, I think the phrase was, against Judge Bork. And why would this have happened, this astonishing onslaught; and how much a victim of personal attacks has the nominee been?

Stating at the outset that I do not defend, nor is it my responsibility nor intention to defend, every single word uttered by everyone outside this Chamber or any Senator other than the Senator from Delaware, stating that at the outset, let me say that there is a reason why there was an astonishing onslaught of opposition to Judge Bork from the outset: because Judge Bork has astonishing views about the Constitution. Astonishing.

He is, whether you call it liberal or conservative, mainstream or nonmainstream, he is different and his views as expressed for the past 20 years in his writings and many of his cases, and subsequently in the hearings, are in many ways fundamentally different than those expressed by conservative jurists as well as liberal jurists over the past 70 years.

He has been, by the acknowledgment and admission of his strongest supporters, an articulate and prolific spokesperson for a different view. He has been known for his strident attacks upon the Court and his strong disagreement with where the Supreme Court has gone over the past 30 years, as some of my colleagues are strongly opposed to, "where the Warren Court has taken us."

In a sense, the reason why there was this astonishing onslaught was that this, in a sense, was a referendum on the past 30 years of the Supreme Court's rulings.

The President of the United States, who I will quote at length in a moment, has argued straightforwardly for the last 15 years of his political life at least, and the first 6 years of his administration, that the country disagrees, fundamentally, with where the Warren Court and the Burger Court—not Burger himself, but the Court—has taken us.

I rode down in the train this morning with the most distinguished, probably the best-known conservative and best-respected conservative columnist in America, a strong supporter and personal friend of Judge Bork, who pointed out to me that not only were the Warren Court decisions not overturned by the Burger Court, there was not a single significant decision during the Warren era that was overturned by the Burger Court. And that was the issue.

Should we, in fact, repudiate that by putting someone on the Court who repudiates the previous 30 years, or a large part of the landmark rulings of the previous 30 years, nominated by a President who straightforwardly has said from the outset that he wished to change the direction of the judiciary in America? From the outset, he has made no bones about it, which is his right.

So, the reason why there was this astonishing onslaught is everybody understood what is at stake here. This, in a sense, is a referendum on: Do we like what the Court did the last 30 years? Or do we dislike it?

I would respectfully suggest the vast majority of American people, liberal and conservative alike, say: We like what the Court did. Oh, we disagree with pieces but we do not want to turn back.

The Senator from Delaware has not, on a single occasion, suggested what the Court would look like with Judge Bork as a Justice, for none of us can make that judgment. Once a woman or a man dons those robes for life on the Court, a number of things happen. Obviously, President Eisenhower did not anticipate that you would have Earl Warren turn out to be the judge that he did. Obviously, the civil rights groups quoted a moment ago from 20 years ago, did not anticipate Powell to turn out as he did. But the Senator from Delaware has not on a single occasion suggested what Judge Bork would do on the Court.

But I have suggested, based on his record, 25, 28 years of writings, and on his testimony, that had he been on the Court the last 38 years, and had his view prevailed, Ronald Reagan is implicity correct. The Warren Court decisions and the Burger Court decisions would not have occurred.

So what we are arguing about here is basic principles.

For example, the right to privacy. Why are people upset about it? It is not a yuppie issue. Let us get the record clear. Judge Bork has a perfectly respectable, intellectually defensible, but practically unworkable view of privacy as it is protected or not protected in the Constitution. Every conservative Justice, which I will go into detail on before the night is over and tomorrow, who is quoted, everyone in the last 70 years, has crossed the Rubicon on privacy, and Judge Bork not only has not crossed but he has not even put a boat in the water.

Everyone has said that our unenumerated, translated not specifically delineated, rights that individuals have are protected by the Constitution—every one of them. The only debate among the conservative and liberal jurists over the last 70 years is how far would you cross the line of saying there is an unenumerated right of privacy. How far do you extend that right? Do you extend it beyond married couples to, as is a fear among everyone in this body, to consensual acts among homosexuals? To where do you extend it? That has been the debate. The Court, in my view, has rightly concluded not to extend it to its outer parameters. But every single Justice, everyone, has said, "I, Justice" so and so "find that there is a constitutional right to privacy."

Judge Bork, to his credit, has been intellectually consistent and honest. He has said, "I can find nowhere in the Constitution a generalized right to privacy that every other Justice has found at one time or another in the last 70 years."

So you ask why the astonishing onslaught? It is an astonishing view. It is different than Frankfurter, different than Black, different than the present Chief Justice, different—and I could go down the list.

Where has the judge stood on other great issues of the day? Keep in mind his position is defensible, intellectually honest, but wrongheaded in this Senator's view. But that is what the debate is and should be about.

Those who share Judge Bork's view not only on privacy but those who share Judge Bork's view on the role and standing of the Congress before the courts, those who share Judge Bork's views on antitrust and how it applies in the court—all respectable views. But one that has not been held by and large by the Court for the last 30 years.

Do we want to say Judge Bork says? And, by the way, this Senator, the present chairman of the Judiciary Committee, for 32 hours of Bork's testimony not only gave him every opportunity to speak and uninterruptedly so, but interrupted Senators on both sides of the aisle when he thought they were not giving Judge Bork ample opportunity to answer. Judge Bork, being a man of principle, stood by his guns and he said, "Hey, there is no enumerated right to privacy; there is no generalized right to privacy." But no one, particularly the Senator from Delaware, ever suggested that Judge Bork wished the State of Oklahoma to sterilize a chicken thief. The *Skinner* case. No one in the committee suggested, and this Senator clearly did not, that Judge Bork thought it was a good law in Connecticut in the 1940's, 1950's, and 1960's, that said married couples could not, as a matter of law, seek the advice of and/or use birth control.

The Senator from Delaware believed then and now that Judge Bork thought that was a stupid law; that Judge Bork thought it would be wrong to sterilize a chicken thief under Oklahoma law. And on and on.

But what Judge Bork was honest enough to say is that the legal reasoning used in those cases to arrive at the conclusion the Supreme Court arrived at saying, "Oklahoma, you cannot sterilize a chicken thief," to Connecticut, "You cannot have a law that is going to put a doctor or a director of a clinic or a married couple or anyone in jail for using birth control not to have children," that is the reasoning with which he disagreed.

And when asked how would he arrive at a similar conclusion if he disagreed with the reasoning, could he, under the Constitution, tell us how he as a Justice or as a legal scholar could find the intellectual basis, the jurisprudential reasoning, to strike down the Connecticut law, his response was, "I have not undertaken that exercise to find such an answer and I have yet to find one."

Is that maligning Judge Bork to say that his jurisprudential view would result in a State being able to, if it wished to, prohibit birth control? The obvious answer is no. A State could not do that.

Even though I believe Judge Bork personally would not like that to happen, but, as a judge, a Justice of the Supreme Court, he would, by his testimony and his writings, be required, at least up to the point. We are not talking, by the way, about a 28-year-old law student; we are talking about a former Solicitor General, a tenured professor, a full partner in a prestigious law firm, a circuit court of appeals judge who is 60 years old, who has written more, thought more, and spoken more about the Constitution than 99.9 percent of all living Americans. Up to this point he has been unable to find a rationale protecting a couple's right in their bedroom under the Constitution to decide whether or not to have children.

That is why 40 percent of all the law professors in America who are presently teaching law—40 percent—signed letters, individually and collectively, saying, "Judge Bork is a brilliant man but do not put him on the Court." Forty percent of 2,000; 32 deans of the most prestigious law schools in America from Harvard to Georgetown, said, "Judge Bork is an honorable man but his constitutional theories do not belong on the Supreme Court."

Did they reach that conclusion because of Gregory Peck? Did they reach that conclusion—and I did not know this before the debate began. I said to go back and find all these groups you are talking about.

How much money did they all spend, radio, television, and newspaper ads? If I am not mistaken, and if my information is correct, they spent less than a total of $1 million. The ad that was most heavily criticized, the People for the American Way TV ad, narrated by Gregory Peck, ran a total of 86 times in America. It was a 60-second ad, and that means a total of 86 minutes Gregory Peck was on the air, and add to that the replay that the news organizations may have given it. Double it, triple it. Say it is 5 hours, which would be 2½ times what it was paid for to be. Are you telling me that that is going to force the dean of Harvard Law School to say Judge Bork should not be in the Court? Are you telling me that 2,000 law professors are going to sign a letter saying do not put Judge Bork on the Court? Are you telling me that 56 of the U.S. Senators are going to say, "Oh, my God, I heard from Gregory. Do not put Bork on the Court." Are you telling me that 32 law deans, are you telling me the former Secretary of Transportation, William Coleman, are you telling me that two distinguished former presidents of the ABA—as a matter of fact, three—the American Bar Association, are you telling me that Barbara Jordan, are you telling me that the 48 distinguished witnesses who testified against Judge Bork did it because Gregory Peck told them to?

Let us talk about the polls for a minute. A labor union ran a poll, spent $40,000 for it. But what everybody misses is the newspaper organizations independently ran polls. They were not paid for by any group. And what did they find? They found that prior to Judge Bork's testifying, there was doubt about whether he should be in the Court, but a clear majority of the American people said he probably should be. Then Judge Bork took the stand for 32 hours, and every one of my colleagues, I believe—let me be conservative—80 percent of my colleagues on the committee, including Judge Bork, said the hearings were totally fair, publicly unsolicited comments about how fairly they were conducted. When Judge Bork got finished testifying, guess what? The Scripps Howard ran a poll that they put in—I do not know who ran it, but it was printed in 26 newspapers. I will ask staff to tell me who ran the poll, the newspapers. The networks ran polls. And guess what? I did not have to tell anybody about the polls. Everybody in America who opened up their paper on Tuesday morning said, "Hey, guess what, the American people listened to Judge Bork." All the money spent on advertising "against Judge Bork," all of it spent could not have purchased, I am told, one-half of one-half of one-half of a day of the live television coverage that the networks gave to or CNN, and they covered everything Judge Bork did live and in color. I assume what I am told is correct. I am not a media expert, but I am told that tens of millions of people, Mr. President watched Judge Bork, unfiltered by Gregory Peck, unfiltered by NCPAC, unfiltered by any Senator, unfiltered by the news media, and drew a conclusion.

Now, I agree with the Senator from Colorado. These cameras in this Chamber probably have elongated debate on every issue that comes before this body, not this one necessarily. Obviously, what is radically different is that the networks or anyone else would come in and cover, whether it was Oliver North or Judge Bork or any other thing that happens. I can tell you from my own aborted Presidential effort television has changed things. They follow you everywhere. Everywhere. Everywhere.

Now, the Senator from Delaware did not make that happen. And I think the Senator from Colorado and the Senator from Delaware are justified in being concerned about what—as McClewen once said, the medium is the message—the medium has done to the process. But that is clearly beyond anybody's control in this Chamber, but for those cameras we voted to come into the Chamber.

Mr. President there was a Roper poll, then the Washington Post-CBS poll, Times-ABC poll, and I believe there was one which ran in 90 or 95 Southern newspapers. I thought it was Scripps Howard. The Roper poll Scripps Howard ran. To the best of my knowledge nobody left or right paid for these polls.

Now, another point I would like to make. Editorial writers are editorial writers. And God bless them all, the long, the short, and the tall. The fact is that those editorial writers had very different views. I think it will be a cold day in Heaven when the Senator from Delaware ever reads anything in an editorial page from the Wall Street Journal that is positive, which is their right. They are not known as the citadel of moderation. They are known as a conservative editorial page, just as some liberal newspapers. But let me just read from a couple since we are trading editorials here. I read from the

New York Times, a paper that in the recent past has not been my favorite paper and which I acknowledge does not all the time cover all the news and give you all the perspective, the whole story, but we live and die by what we say and do. Page 34, lead editorial, with the date cut off. October something. It is not on here. I will get the date for you.

Let me read from the end of it. It says: "Above all rose the merits of the Bork nomination as ventilated in fair, exhaustive, sometimes brilliant hearings. Far from settling the doubts of moderate Senators, these created new ones for one Senator after another. Whether or not one is comfortable with TV spots about the Supreme Court, to blame them for Judge Bork's evident fate confuses supposedly low blows with demonstrably hard ones."

In fact it was Tuesday, October 13.

I will submit for the RECORD several made editorials that I will not read at the moment.

Now, this Senator is not suggesting that we should look at the ads as a positive development. I for one have doubts about them. And quite frankly, as the Senator from Colorado knows, as well as the Senator from Delaware, it is awfully hard in 30 seconds or 60 seconds to not distort and get a point across. At some later point I will go into the ads. The fact is that the essence of what was said was accurate. I believe there were overstatements in the ads. I believe there were positions and statements made in the ads that I would not have made.

But keep it in perspective: Every single group named, every medium used to advertise, less than $1 million, and what impact did it have? Obviously, it was not helpful for Judge Bork, but I think to put it in the category of the thing that moved 56 or 54 or 50 or 47 or 20 Senators is going a little far.

So this first issue of fear and political terrorism I think is an unfounded—not an accusation by the Senator from Colorado since he is not making those statements, but a misreading by those who made those statements of what happened and what did not happen in the Bork nomination.

Let me point out several other points. At some point, I will take the time, which I will not now as I indicated, to go into it. I apologize for taking this much time, but there are some very serious issues raised by the Senator from Colorado; first is the right of privacy, his views on equal protection, the first amendment, the whole question of executive power—all of these things raised legitimate questions confirmed by the Judge's own testimony and not ethical questions.

I might point out, by the way, and I hope my colleagues will take note of the fact that unlike in many past years, this Senator, chairman of the Judiciary Committee, did not allow anyone else to see the FBI files which are generally cesspools of uncorroborated hearsay evidence—did not even allow the staff of the Judiciary Committee to follow up on several inflammatory things stated in the FBI report because I felt it was improper, and when there was leaked from somewhere an accusation about Judge Bork's person, it was the Senator from Delaware, not anyone else, who stood up and said, "I read the FBI file, and I find nothing but an honorable man in that file."

Unlike other protracted fights that occurred from the right in the past, and from the left in the past, there was not a single shred of personal attack on the Judge in the way we have traditionally used that phrase. To say it is personal, to suggest that the Judge does not believe that there is a generalized constitutional right of privacy, I find not personal. It is his view.

The whole question of the characterization of Judge Bork's record on civil rights is mentioned. So I will go back to civil rights for a moment.

It is true that as Solicitor General, and it is true as a judge that Judge Bork has not been hostile in the way his writings were on the civil rights issues. But it is also true that at the time the fights were raging Judge Bork was hostile. That does not mean that he was a bad man. There are other people in this body at the time before the Senator from Colorado and I got here, and I have been here 15 years, who were also hostile to the progress made on civil rights.

In 1963 and 1964, Judge Bork straightforwardly opposed the public accommodations bill. I will not read the quotes. You have all read them.

In 1971, he did in his neutral principles article. I will not go through it all now. I will at the time we debate the substance of this issue. Judge Bork, during the hearings seeking to undercut the significance of this criticism of Shelley, said:

> The case has never been applied again. It has not proved to be a precedent. It adopted a principle which the court has never again used. In fact, the court has applied Shelley in many later decisions.

Judge Bork conceded that he had no constitutional acceptable rationale for a decision banning school desegregation in the District of Columbia. That does not mean he is a racist. It means his constitutional view is one that he could not find a constitutional argument based on his theory of the Constitution outlawing segregation in the D.C. schools because the fifth amendment is not one that applies to the District of Columbia. I mean the 14th amendment does not apply to the District of Columbia, and the fifth amendment, the due process clause of the fifth amendment in equal protection, the argument that the fifth amendment which was used to outlaw segregation was not an appropriate application. No one is saying, this Senator is not saying he is a racist. But I want to tell you, I imagine it does worry black folks that he could not find a rationale, a constitutional rationale. I do not think they are hysterical to worry about that. And I do not think for a moment that Judge Bork has a racist bone in his body. I do not think for a moment Judge Bork is not a man of sympathy.

All you have to do is look at how he handled his personal life. All you have to do is look at how he dealt with, stood by his close friend, Alexander Bickel, when he was dying. But to say that his constitutional theories produce results that although he does not like the result, he feels obliged to reach, and that that result is one that is not acceptable in 1987 America, is that maligning the Judge?

I said I will go back to the substance of these things. Let me talk about the third point, the politicization, if I may, for a minute.

I said earlier President Reagan has indicated with great eloquence, with no little vehemence over the years that the judiciary has—many of my conservative friends believe—become sort of a seat of despotism, a world unto its own, overruling, taking legislative initiatives into their own hands. A legitimate argument; a fundamental difference that in a general sense separates these aisles, and in a specific sense, separates me from the Senator from New Hampshire. The reason I know that is he and I heard each other expound on this for 12 days in the hearings with legitimate debate. But who politicized whom in what?

The Reagan administration has for years, which is their right, politicized the selection process by screening all its judicial choices. Let me read:

> Ideology has always played a part in the judicial selecting in past administrations, but the Reagan administration has made judicial ideologies and philosophy their number one priority.

Reported USA Today. I am going to quote like the Senator did. I cannot attest to whether this is true or not. But let me tell you what the folks are saying. USA Today, November 14, 1985.

> The administration is making a greater concentrated effort to ideologically screen people considered for the judiciary than any time since Franklin Roosevelt's first term. It is not as important to them to achieve the blessing of the professional organizations on whether they are placing the very best minds on the bench.

"Reagan Transformed the Federal Judiciary," Washington Post, March 31, 1985.

> Is Reagan doing something differently? Yes. The administration is being more meticulous in its concern about judicial philosophy than other Presidents. A President

who fails to scrutinize the legal philosophy of Federal judicial nominees courts frustration of his own policy agenda.

It is thus imperative that President Reagan scrupulously examine the philosophies of his nominees to vindicate many of the pledges he made to the American people in 1980 and 1984." Bruce Fein, former Reagan Administration official, involved in Judicial Selection (now at Heritage Foundation) ("Conservatives Pressing to Reshape Judiciary," Congressional Quarterly, September 7, 1985).

B. President Reagan & conservatives see judges as vehicle for implementing their social agenda.

"The appointment of two justices to the Supreme Court could do more to advance the social agenda . . . than anything Congress can accomplish in 20 years." Patrick Buchanan, director White Houe Communications ("Conservatives' Goals Tied to Judicial Appointments," LA Times March 18, 1986).

"Asked if he agreed with a statement by Pat Buchanan, the director of White House Communications, that the Administration's court appointments, and not legislative initiatives, were the key to advancing the social agenda of conservatives, the President replied, 'yes' ". ("President Says Abortion is 'Murder'," New York Times, June 24, 1986).

"It became evident after the first term that there was no way to make legislative gains in many areas of social and civil rights. . . . The President has to do it by changing the jurisprudence." Bruce Fein ("Judging the Judges," Newsweek, October 14, 1985).

"By packing the Supreme Court, President Reagan would be acting within the mainstream of American traditions to make the federal judiciary partially answerable to contemporary political influences." Bruce Fein ("Conservatives Must Learn to Use and Influence the Power of the Media," Human Events, July 6, 1987).

C. President Reagan himself was the first to politicize the judicial appointment process by making the 1986 elections a referendum on his judicial philosophy and selections.

"The real loser [of the Bork battle] and the man who created the political challenge in the first place was Reagan, who insisted on trying to 'nationalize' the 1986 midterm election and make its outcome a test of his policies and judicial appointments. . . . In speech after speech Reagan made his judicial philosophy a litmus test of the election and said that . . . ' we don't need a bunch of sociology majors on the bench.

Ronald Reagan is right to do that, to attempt to do that, to politicize:

What we need are strong judges who will aggressively use their authority to protect our families, communities and our way of life. . . . And since coming to Washington we've been putting just such people on the bench.

Southern senators declaring opposition to the nomination were from Texas, Alabama, and North Carolina, "all states in which Reagan had given speeches denouncing judicial permissiveness and attacking by name the two Democratic senators . . .

Including this Democratic Senator, which is his right:

. . . Edward M. Kennedy (Mass.) and Joseph R. Biden Jr. (Del.), who led the fight against Bork's confirmation. Speaking in Columbus, Ga., last Oct. 28, Reagan extolled Sen. Mack Mattingly as a man who 'can make all the difference' on judicial appointments. 'Without him and the Republican majority in the Senate, we'll find liberals like Joe Biden and a certain fellow from Massachusetts deciding who our judges are.' Mattingly also lost. ("Spotlight on a Weakened President and Divided Administration," Washington Post, October 8, 1987.

II. With Powell resignation, it became obvious immediately that conservative groups and conservatives within administration would see this as opportunity to change the direction of Supreme Court.

A. Headlines said it all on day after Powell resignation (June 27):

"Powell leaves high court . . . President gains chance to shape the future of the Court" New York Times.

"White House search for a [new Supreme Court] Justice; new balance on Court is sought;" mid-text highlight read: "Ideology and politics are factors in choice," New York Times.

"Justice Powell quits, opens way for conservative Court" LA Times.

"Reagan get his chance to tilt High Court" New York Times (June 28).

B. New York Times editorial on July 2 accurately summarized the situation:

" . . . The Supreme Court remains gingerly balanced on matters of civil rights, civil liberties, church-state relations and personal liberty. . . ."

"One vote on the Court could make as big a difference as a change of President or control of Congress."

I will not take the time, but there is another——

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I urge him to put all those in the Record.

Mr. BIDEN. There are 11 pages. I ask unanimous consent to have them printed in the Record.

The PRESIDING OFFICER. If the Senator from Colorado wishes to address the Senator from Delaware, he should do so through the Chair.

There being no objection, the material was ordered to be printed in the Record, as follows:

Politicization by the Administration and Conservative Groups in the Selection of Robert Bork and the Subsequent Confirmation Struggle: A Chronology

I. This administration politicized the judicial selection process years ago. Remember context of Bork selection—an administration obsessed with political ideology in selection of judges and using judicial selection to advance its social agenda.

A. Reagan Administration has for years politicized selection process by screening all its judicial choices for ideology.

"Ideology has always played a part (in judicial selection by past administrations) . . . But the Reagan administration has made judicial ideology and philosophy their number one priority". Prof. Sheldon Goldman. Univ. of Mass. national expert on judicial selection ("Reagan plants imprint in USA courthouses," USA Today. 11/14/85)

"This administration is making a greater concerted effort to ideologically screen the people considered for the judiciary than any time since Franklin D. Roosevelt's first term. It is not as important to them to achieve the blessing of the professional organizations on whether they are placing the very best minds on the bench." Prof. Goldman ("Reagan Transforms the Federal Judiciary." Washington Post 3/31/85)

"Is Reagan doing something different? Yes, the administration is being more meticulous in its concern about judicial philosophy than other presidents." . . . "A president who fails to scrutinize the legal philosophy of federal judicial nominees courts frustration of his own policy agenda. . . . It is thus imperative that President Reagan scrupulously examine the philosophies of his nominees to vindicate many of the pledges he made to the American people in 1980 and 1984." Bruce Fein former Reagan Administration official involved in Judicial Selection (now at Heritage Foundation) ("Conservatives Pressing to Reshape Judiciary." Congressional Quarterly 9/7/85)

Research and Education Foundation, ("Judges with Their Minds Right," Time 11/4/85)

B. President Reagan & conservatives see judges as vehicle for implementing their social agenda.

"The appointment of two justices to the Supreme Court could do more to advance the social agenda . . . than anything Congress can accomplish in 20 years." Patrick Buchanan, director White House Communications ("Conservatives' Goals Tied to Judicial Appointments," LA Times 3/18/86)

"Asked if he agreed with a statement by Pat Buchanan, the director of White House communications, that the Administration's court appointments, and not legislative initiatives, were the key to advancing the social agenda of conservatives, the President replied, 'yes' ". ("President Says Abortion is 'Murder'," New York Times, 6/24/86)

"It became evident after the first term that there was no way to make legislative gains in many areas of social and civil rights. . . . The President has to do it by changing the jurisprudence." Bruce Fein ("Judging the Judges," Newsweek, 10/14/85)

"By packing the Supreme Court, President Reagan would be acting within the mainstream of American traditions to make the federal judiciary partially answerable to contemporary political influences." Bruce Fein ("Conservatives Must Learn to Use and Influence the Power of the Media," Human Events, 7/6/87)

C. President Reagan himself was the first to politicize the judicial appointment process by making the 1986 elections a referendum on his judicial philosophy and selections.

"The real loser [of the Bork battle] and the man who created the political challenge in the first place was Reagan, who insisted on trying to 'nationalize' the 1986 midterm election and make its outcome a test of his policies and judicial appointments. . . . In speech after speech Reagan made his judicial philosophy a litmut test of the election and said that . . . 'we don't need a bunch of sociology majors on the bench. What we need are strong judges who will aggressively use their authority to protect our families, communities and our way of life. . . . And since coming to Washington we've been putting just such people on the bench.' "

Southern senators declaring opposition to the nomination were from Texas, Alabama, and North Carolina, "all states in which Reagan had given speeches denouncing judicial permissiveness and attacking by name the two Democratic senators, Edward M. Kennedy (Mass.) and Joseph R. Biden Jr. (Del.), who led the fight against Bork's confirmation. Speaking in Columbus, Ga., last Oct. 28, Reagan extolled Sen. Mack Mattingly as a man who 'can make all the difference' on judicial appointments. 'Without him and the Republican majority in the Senate, we'll find liberals like Joe Biden and a certain fellow from Massachusetts deciding who our judges are.' Mattingly also lost." ("Spotlight on a Weakened President and Divided Administration," Washington Post, 10/8/87)

II. With Powell resignation, it became obvious immediately that conservative groups and conservatives within administration would see this as opportunity to change the direction of Supreme Court.

A. Headlines said it all on day after Powell resignation (June 27):

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B. New York Times editorial on July 2 accurately summarized the situation:

". . . The Supreme Court remains gingerly balanced on matters of civil rights, civil liberties, church-state relations and personal liberty . . . One vote on the Court could make as big a difference as a change of President or control of Congress."

III. Administration ignores plea by Senate leadership to avoid confrontation. Instead appears to politicize selection process by appearing to select Bork because of his views.

A. June 28 1987 Chairman Biden suggests to White House Chief of Staff Baker that there be consultations on nomination to avoid confrontation so that vacancy would be filled before Supreme Court term begins.

B. June 30, 1987 Baker and A.G. Meese meet with Republican Senate leadership and Democratic Senate leadership (Biden & majority leader Byrd). Baker & Meese present list of 15 names, among them Bork's, Biden and Byrd indicate some names could be confirmed quickly but that Bork would be the most controversial and would thus prompt a divisive fight and considerable delay.

C. July 1, 1987—less than 24 hours later—Bork nomination announced. Consultations were obviously a sham.

IV. Conservative groups are ecstatic with choice and make it clear that they will organize for Bork because of his views.

"Conservatives have waited for over 30 years for this day . . . This is the most exciting news for conservatives since President Reagan's reelection." New Right activist and fund-raiser Richard Viguerie ("Reagan Nominates Appeals Judge Bork for Supreme Court," Washington Post, 7/2/87)

"We have the opportunity now to roll back 30 years of social and political activism by the Supreme Court." Daniel Popeo, founder of conservative Washington Legal Foundation (Lou Cannon, "Bork and the True Believers," Washington Post, 7/6/87)

"Bork has a constituency that will be easy to activate. This is very exciting." Pat McGuigan of conservative Free Congress Foundation ("He's waited, campaigned for the job," USA Today 7/2/87)

V. Conservative groups begin with an aggressive campaign of organization and direct mail.

S. Groups coordinate closely among themselves and with the White House.

Patrick McGuigan of the Coalitions for America: "The meetings of conservative leaders to brainstorm and begin to start action were the very next morning." ("Lobbying Groups Gather Steam For Bork Confirmation Battle," Washington Post, 7/7/87)

"Conservative hard-liners in the Justice Department and pragmatists in the White House disagreed from the start about strategy; at one point in August, the divisions were so bad that Edwin Fuelner, president of the conservative Heritage Foundation, took it upon himself to convene a peace conference at his offices for top White House and Justice Department officials." ("How Reagan's Forces Botched the Campaign for Approval of Bork," Wall Street Journal, 10/7/87)

B. Existing groups swing into action with the rhetoric of an election campaign, promising that Judge Bork's confirmation would produce new political results on specific, litmus-test issues of the New Right, and ending with funding-raising appeals.

"The American Conservative Union sent its top 1,000 contributors what Executive Director Dan Casey described as a "here-we-go again letter," asking them to send contributions to support the Bork effort and to urge their Senators to back Bork. Casey said the group would send another 40,000 to 60,000 letters to supporters by the end of the month. Casey said "This is an issue that will fund itself because it's what they would say in the direct-mail world is a "hot button" issue.'" (Lobbying Groups Gather Steam," Washington Post, 7/7/87)

Citizens for Decency Through Law, July, 1987: "CDL has borrowed $140,000 from Peter to pay Paul for a massive counter campaign. Please help us defray our educational and media costs in this campaign to seat an upstanding individual—Judge Robert Bork—in the nation's highest court. . . . Your gift will block the efforts of the liberals who have had too much influence for too long."

Christian Voice, July 27, 1987: This is your one chance to help make history and to ensure a conservative America—even after President Reagan leaves the White House in 1988. . . . Now we have a prime opportunity to give the Supreme Court its first conservative majority since the 1930s. . . . Schoolchildren can't even say a silent prayer let alone study creationism. Bork could help correct this. . . . Your $10 or $20 gifts or whatever you can manage to Christian Voice goes entirely to the work of this organization. Please help me carry this load! In 10 years of operation this is the most critical battle we've fought and I need financial support today."

Jerry Falwell/Moral Majority, Inc.: "I am issuing the most important "call-to-arms" in the history of the Moral Majority . . . our efforts have always stalled at the door of the U.S. Supreme Court. . . . President Reagan has chosen Judge Robert Bork . . . a pivotal person in getting the Supreme Court back on course. . . . I need your gift of $50 or $25 immediately. Time is short."

American Life League, Inc.: Judge Robert Bork has been nominated. . . . This is going to be a long and bitter battle. It will be the most massive, most critical and most expensive efforts you and I have ever undertaken. . . . I need your gift of $18 or $25 or $50—or whatever you can afford to help restore the paramount right to life."

Beverly LaHaye, Concerned Women for America: "We have prayed for an opening on the Supreme Court for many years, and now it is time to commit our efforts and money to back up our prayers. It will take pressure on the Senate and it will cost money to win the Bork nomination . . . [A] plan we have developed involves the use of advertising to reach the American public. . . . With your contribution of $25 per advertising inch. . . . we can be successful. . . ."

C. New groups and others jump in.

On July 21, Bill Roberts—a long-time Reagan supporter in California—held a press conference to announce the formation of "We The People," a pro-Bork group that sought to raise $2 million in 60 days ("Nationwide committee to Support Confirmation of Judge Robert Bork to U.S. Supreme Court Announced," news release by The Dolphin Group, 7/22/87).

Jack Kemp For President sent out mailings in mid-August asking recipients to send a postcard to Judiciary Committee Chairman Joseph Biden "to help President Reagan's Supreme Court nominee be confirmed," and as "a special favor, . . . Help me replenish my campaign funds." ("Kemp's Bork Two-fer," Washington Post 8/23/87)

D. Kemp for President organizes pro-Bork, anti-Biden political rally/demonstration in New Hampshire ("Caught in the Middle," Delaware State News, 7/12/87)

VI. Right-wing groups then expanded into planning a full-scale media assault, the same of visible, election campaign-like effort that President Reagan and the Republicans now claim is dangerous and improper on judicial appointments.

A. In above direct mailings, see references to:

"media . . . campaign" (Citizens for Decency Through Law)

"Through your gift of $25 to CWA, you will enable us to purchase an average of one square inch of advertising space in a major newspaper . . . . If 16 people give $25 each, we will have enough money to purchase an eighth of a page in a newspaper which will encourage hundreds of people to voice their support for Judge Bork." (Beverly LaHaye, Concerned Women for America)

Concerned Women for America writes its "area leaders" nationwide to activate "phone banks" in support of the nomination ("Lobbying Groups Gather Steam," Washington Post, 7/7/87)

Through the "Liberty Report" newspaper, lobbying on Capital Hill and a media blitz, we can make a difference." (Jerry Falwell/Moral Majority)

B. Public statements about plans for right-wing political campaigns for Bork

"You can surmise that whatever the liberals have, we're going to have—radio, television, newspaper ads." Richard Viguerie, ("Lobbying Groups Gather Steam," Washington Post 7/7/87)

"We're going in with newspaper ads, with television ads, with radio spots." Bill Roberts, on CBS Evening News, 7/23/87

C. Public statements restating right-wing expectations about how their political interests would benefit from placing Judge Bork on the Supreme Court

"This is the transition nomination. . . . The nomination has the potential not to institutionalize Reaganism, but to institutionalize the shift in political gravity—to the right." Patrick McGuigan, Coalitions for America, Transcript of the NBC Nightly News September 14, 1987

"Conservatives have hired the New Right fundraising organization of Richard Vigerie to launch a huge direct-mail campaign. It's aimed at putting pressure on undecided senators who must vote on Bork's nomination.

For the moment the campaigning is aimed at three undecided senators of the 14 member Judiciary Committee: Republican Arlen Specter of Pennsylvania, and Democrats Howell Heflin of Alabama and Dennis DeConcini of Arizona."

(The segment included film of a fundraising letter from The Conservative Caucus, Inc. and a group of people phone banking.) ("Grass roots groups in frenzy over Bork," Christian Science Monitor, 9/2/87)

"Conservatives didn't work all these years to get a Ronald Reagan elected to have a centrist, a moderate appointed to the Supreme Court. We're interested in having someone with Ronald Reagan's views [appointed], and Bork is . . . right out of Ronald Reagan's ideology." Richard Viguerie ("Drawing Lightning," National Journal, 9/12/87)

D. Right-wing advertising starts.

Coalitions for America runs pro-Bork radio spots in Washington, D.C. ("Groups Unlimber Media Campaigns Over Bork," Washington Post, 8/4/87)

Concerned Women for America run print ads in Alabama and Pennsylvania in support of Bork nomination ("Groups Unlimber Media Campaigns Over Bork," Washington Post, 8/4/87)

Coalition for America given free air time on three radio stations under Fairness Doctrine to reply to anti-Bork radio ads ("Washington Talk, Bork and Fairness," New York Times, 8/11/87)

Free the Court (conservative group) hires airplane to fly over Iowa State Fair with "banner denouncing 'Bork Bashers' and 'liberal lap dogs'." ("Grass-root groups in frenzy over Bork," Christian Science Monitor, 9/2/87)

VII. The administration and President Reagan campaign for Bork—and participate in the attack on Judiciary Committee Chairman Biden.

White House releases lengthy, unprecedented "briefing book" in support of Bork's nomination, July 27 (see table of contents page)

President Reagan addresses National Law Enforcement Council at White House, saying "that, if you want someone with Justice Powell's detachment and statesmanship, you can't do better than Judge Bork" ("Confirm Bork, Reagan Urges," Washington Post, 7/30/87)

Nationally televised address by President Reagan on August 12 ("Democrats Agree to Drop Iran-Contra Issue," Washington Post, 8/14/87)

Talk in Nebraska by President Reagan on August 13

("Latin Peace is Priority for Reagan," Washington Post, 8/14/87)

President Reagan lobbies leaders of National Law Enforcement Council to support nomination on August 28 ("Police, Prosecutors Meet With Reagan on Bork," Washington Post, 8/29/87)

"Republican sources revealed that low- and mid-level White House officials privately distributed anti-Biden information to several GOP political consultants weeks before the Bork hearings began. The material . . . was given to the consultants to distance President Reagan and his top aides from suggestions they were orchestrating a smear campaign. . . . Among the consultants is former White House political director Mitch Daniels. He pressed reporters last week to contact former Biden political foes who told the White House they had 'files' on Biden." ("White House aides 'helped sink Biden,'" Boston Herald, 9/25/87)

Interior Secretary Donald Hodel the featured speaker at a pro-Bork rally sponsored by the conservative Coalition for America at Risk on September 10, five days before the opening of hearings ("Bork Rally," Washington Times, 9/10/87)

Speech to convention of Concerned Women for America by President Reagan on September 25 ("Reagan Reasserts Support for Contras," Washington Post, 9/26/87)

VIII. As the nomination proves unacceptable to the Senate and the American People, the administration and the right wing intensify their political campaign of advertising, phone banks, direct-mail fund raising, and distortion, continuing their summer-long view of the nomination as a political election campaign.

A. The right wing media campaign turns to fear-mongering and character assassination.

"We the People" runs a full-page ad in USA Today seeking to fill its coffers (ad includes coupon to send contributions from $25 to $100) by a personal smear of four named members of the Senate Judiciary Committee (USA Today, 10/6)

American Conservative Union runs radio ads in Alabama, Mississippi, Georgia, Louisiana, Nebraska, and Vermont, "pressuring announced opponents to switch their position," according to ACU chairman Dan Casey. ("Conservatives fighting now for next nominee," Washington Times, 10/12)

B. President Reagan uses increasingly intemperate rhetoric.

After Judiciary Committee sends nomination to full Senate with a 9-5 unfavorable recommendation, President Reagan declares, "I think it has become a disgraceful situation because I think the process of confirming a Supreme Court nominee has been reduced to a political, partisan struggle." ("President Determined to Battle On for Bork; Some Officials See Loss," Washington Post, 10/2/87)

President Reagan announces that the Bork nomination will fail in committee "over my dead body." ("Reagan spurns Call to Drop Bork as Likelihood of Defeat Grows," Washington Post, 10/6/87)

President Reagan says he will not withdraw the nomination because "it would be impossible for me to give up in the face of a lynch mob." ("President Says Decision Is Up to Bork," Washington Post. 10/9/87)

President Reagan stated that "What's at issue is that we make sure that the process of appointing and confirming judges never again is turned into such a political joke. And if I have to appoint another one, I'll try to find one that they'll object to as much as they did to this one." ("Reagan Resumes Attack on Bork's Senate Foes," Washington Post, 10/14/87)

C. Right wing phone banks and direct mail companies take advantage of the political and financial bonanza of the Bork nomination's impending defeat, and right-wing groups set up their political litmus tests for the next nominee.

"Urgent! The Bork Supreme Court nomination is now in trouble. . . . I am now committing money to a last-minute lobbying effort. . . . Your gift of $30 or $15 makes the overall outreach of Moral Majority a reality in these critical times—and could make the difference in Judge Bork's confirmation." (Jerry Falwell/Moral Majority mailgram, 9/24/87)

"New Right fund-raiser Richard A. Viguerie has eagerly drummed up support for Supreme Court nominee Robert H. Bork. But . . . . the White House recently got an urgent call seeking reassurance that Bork's nomination would not be withdrawn in the face of a negative committee vote. "I've got a million dollars' worth of "Save Bork" letters that I'm mailing out Monday morning [Oct. 5],'

Viguerie reportedly explained, inquiring, 'You're not going to pull the rug out from under him, are you?' He was told, 'Go ahead and mail them, pal.'" ("Prudent Passion," National Journal, 10/10/87)

". . . the battle over Robert Bork's nomination to the Supreme Court . . . a battle of the concerned, patriotic citizens of America versus every narrow, self-serving liberal special-interest group that's come down the pike! . . . I'm enclosing my contribution to help CMC support Robert Bork and President Reagan's goal of a healthy, strong, safe, and secure America. [check boxes for $15, $25, $50, $100]" ("In re Robert Bork," advertisement of Congressional Majority Committee in the Washington Times, 10/15/87)

"'I think the time to start the 1988 election is right now,' said conservative strategist and direct-mail executive Richard Viguerie. Within 15 minutes after Judge Bork announced Friday that he would not ask President Reagan to withdraw his nomination, conservative political action groups mailed 350,000 letters on the Supreme Court issue 'to raise money for 1988 campaign ads,' Mr. Viguerie said." ("Conservatives fighting now for next nominee," Washington Times, 10/12/87)

". . . we strongly urge that you advise the President against the nomination of Patrick Higginbotham . . . advise the President to pick from among the sizeable pool of distinguished jurists who share the philosophy of judicial restraint, rather than seizing upon a nominee who has already demonstrated a disregard for the most defenseless members of the human family, and who would engender intense opposition from the right-to-life movement." Letter to Attorney General Meese from the Directors of the National Right to Life Committee, Inc., October 4, 1987.

D. NCPAC and a United States Senator hold the Senate's vote on Bork hostage to the timing of their fund-raising campaign.

"Next week, NCPAC will generate 500,000 telephone calls to votes in states where at least one senator has not expressed a position on the Supreme Court nominee." ("Conservative ire," Washington Times, 10/9/87)

"Continued Republican delays in scheduling a vote on Robert Bork's Supreme Court nomination appear tied to a conservative group's lobbying and fund-raising effort, Senate Democrats charge. Sen. Dennis DeConcini of Arizona accused a fellow senator of using the delay to help the National Conservative Political Action Committee work computerized telephone lobbying and fund-raising tactics against him. The Republican senator was identified as Gordon Humphrey of New Hampshire, the arch-conservative honorary chairman of NCPAC, who is heard on telephone recordings along with President Reagan. . . . DeConcini spokesman Bob Maines said Humphrey had led the Republicans pushing to delay the vote to at least Tuesday, coinciding with the scheduled end of the NCPAC effort, and he called the delay a 'gross distortion of the process. If the two are connected, then the Senate is being held up by a fund-raising effort for an extremist group." ("Senate

Democrats charge NCPAC delaying Bork vote," UPI wire, 10/16/87)

Mr. BIDEN. Mr. President, I make the same point that the Senator from Colorado made. I cannot vouch for the accuracy of every one of these, but it seems to me that America and editorial writers and newspapers have spoken as loudly about the politicization of the process by this administration over the last almost 7 years as instances the Senator has referred to.

So this idea of who struck John, who politicized what—in the first speech I made on the floor of this body, engaging in debate, several months ago, on the role of the U.S. Senate, I pointed out then, and I will point out again, and be presumptuous enough to refer my colleagues to my statement at that time, on the role of the Senate.

Mr. President, I pointed out then that there has been an uneasy truce, but nonetheless a truce, over the past 3 years. When the President has chosen not to politicize the process, the Senate has, by and large, gone along with the nomination—the last 45 years. When the President has chosen to politicize, as President Roosevelt did and as this President did, the Senate has engaged on those grounds. When the President sets ideology and impact on the Court as his rationale, which is his right, for choosing a person, the Senate has done the same.

It is unfortunate, and it is not always good for the Senate to respond, and is almost always bad for a President of either party to initiate it in bold and blatant terms.

I point out to my colleagues that the White House was kind enough to come and meet with the leadership in both parties 12 or 14 hours prior to sending up Judge Bork's name. They met with Senator DOLE and with Senator THURMOND, and they walked across the hall and met with Senator BYRD and the Senator from Delaware, Senator BIDEN.

They submitted a list of 15 people and they said: "Every one of these people is under active consideration—every one. None has a greater preference at this point than any other. Would you give us your opinion?"

Not whether they should or should not sit on the Court, but what the reaction of the Senate would be if any or all of them are sent forward.

The majority leader turned to the Senator from Delaware, as chairman, and he said, "You answer that question."

One of the persons there was Senator Baker, who knows the Senate better than the Senator from Delaware does. He served here as long, was majority leader and minority leader. The other was the Attorney General of the United States of America, Mr. Meese.

"What do you think, JOE?" That is my name, "JOE."

And I said, "Well, if you want my opinion, I will give it to you."

At least a half-dozen of these 15 people, all by the way card-carrying conservatives, for whom the Senator from Colorado would be proud, at least half of these people would go through the Senate, I think the phrase they used was, "like a hot knife through butter." And I indicated which ones I thought they were, not who I approved or did not approve of. That is not my role.

I said, "There are several others who I do not know anything about, I can't even give you an opinion even though you are asking for one. And there are two or three, two or whom were colleagues in the Congress who I do not know what the outcome would be. But there are three who will generate a fire storm," I believe was my phrase, "and first among them is Judge Bork."

They asked why.

Now keep in mind, Mr. President, I did not call and say "I don't want you to send Judge Bork." That is not my role. I was asked. They said why. I said, "Because Judge Bork has such distinctive and different views on how to interpret the Constitution. He is one of the best-known jurists in America whose views are extremely controversial, evidence the fact that 40 percent of the law professors in America said, "Don't put him on the bench" and his colleagues at Yale with whom he spoke, with whom he taught, a significant portion of them said, "We love him, we taught with him; don't put him on the bench," the Supreme Court to be more precise.

Fourteen hours later, as the Senator from Delaware got off a plane in Houston, TX, I was told by a staff person, "The President has sent up Judge Bork," which is his right.

But to go back to the original point why the astonished onslaught. Everybody knew what was at stake. Everybody knew. Every major newspaper in America for and against Judge Bork had a headline the day Judge Powell resigned and the day that Bork was named that this was going to be a bruising battle. They did not say that about Scalia, for whom I voted. They did not say that about Justice O'Connor, for whom I voted. Why did they say it about Judge Bork? Was it because interest groups had spoken? Not a word, to the best of this Senator's knowledge, came from a single Senator or anyone else the day Judge Powell resigned about Judge Bork.

Without needing a single utterance or quote from any Member of this body, every major newspaper in America and not some major newspaper in America knew exactly what was at stake.

The debate had been engaged, one of principles. That is the reason why—because Judge Bork is the best at what he believes. He articulates best what he believes.

Now, one of the points made by one of my colleagues, not by the Senator from Colorado, is that you may end up having a person with the same exact views as Judge Bork slide through this place and never be questioned. I acknowledge that is possible. You may get someone we do not know anything about who has written nothing, who has spoken about nothing, but who in his head adheres to the same exact views.

So some have said to me, "Wouldn't you rather have the real, the general McCoy? At least you acknowledge, BIDEN, this guy is brilliant, this guy is honorable, this guy is principled, which he is."

My answer to that is I cannot defer or deny the debate that is in front of me because of the prospect that someone if that person goes down may be worse. I cannot do that.

There is an old expression. I am very careful to quote every source these days. There is an expression that I am not sure who is responsible for, but it goes something like this: "Better the devil you know than one you don't."

Well Judge Bork is no devil. But it is not better in this Senator's view to pick someone who has a view so totally different in my view than what I think the mainstream views on fundamental issues of privacy and other issues are because we may get someone who has the same views but who is not as principled, honorable, or decent a man as Judge Bork.

The last point I will generally respond to is this issue about Judge Bork and Judge Powell and the groups who the Senator from Colorado accurately points out spoke against Judge Powell 20-some years ago—I am not sure of the date—but several decades ago, and later were somewhat gratuitously talking about what a great man Justice Powell was who they opposed.

Well, without defending or criticizing "the groups" let me just say this: I think the example given by the Senator from Colorado of the groups who were critical of Powell, and then complimentary to Powell and now critical of Bork is evidence of the point that I have been trying to make, and that is when they were critical of Powell, of whom by their own admission they were wrong in retrospect, the Senate did not listen. It confirmed Powell. When they were critical of Bork, the Senate apparently is listening.

Now, is it listening to the groups or are they listening to Bork? Are they making their own independent judgment about Bork like they did about Powell? Or are these groups so almighty and powerful that they can dictate what happens on the floor of the U.S. Senate?

I would argue they were unable to dictate to Powell because they were wrong and the fact that the majority of the Senate appears to agree with the essence of their criticism of Bork does not make them right or wrong. It demonstrates the independence of this body.

And at some point I will speak to the selective comparisons that are being made now by my friends who support Judge Bork just as there are comparisons made by the groups. I suspect the Senator from Colorado, and I am not being facetious when I say this, understandably has been busy with his own duties on very important committees. I know myself—I quite frankly have been so preoccupied with my responsibilities on this committee and the Foreign Relations Committee I do not know enough what has been happening on the Budget Committee and the Finance Committee. So I acknowledge I do not expect the Senate to know this. But the supporters of Judge Bork have been arguing from the beginning. I will send you a copy of the White House document that was sent out in the summer, making the case that Judge Bork is a moderate just like Powell. The White House and my colleagues on the committee who support Judge Bork have been saying this is really a Judge Powell. If you look at the record, and they selectively compare—they, for example, in the minority report cite—I think it is in the report—approvingly of Justice Powell, as joining in Bower versus Hardwick, which you heard discussed on the floor, suggesting that his views on Bower were just like Judge Bork's blanket rejection at the right of privacy, minority report at page 233. The complete stories differ. Judge Powell did not join the majority in Bower. He concurred in the separate opinion that nowhere rejects the right of privacy. He simply concludes that the right does not protect individuals on the facts presented in that case. Judge Bork rejects the existence of the right of privacy.

Judge Powell wrote an opinion in Moore versus City of East Cleveland. That is one of the finest articulations of the right of privacy in modern times.

And Judge Bork does not share that view.

Later, when the minority report cites Justice O'Connor's dissent in Thornburgh versus American College of Obstetricians as demonstrative evidence of her likeness to Judge Bork, they omit to mention Justice Powell joined the majority opinion in Thornburgh. Thus, they cannot claim that Judge Bork is, at the same time, both the same as O'Connor and the same as Justice Powell.

Justice Jackson—we all hear about the conservative Justice Jackson and how he is just like Jackson.

The minority report cites criticism by Justice Jackson of decisions of the Supreme Court reached under the due process clause, concluding that Justice Jackson "decried the use of values not rooted in the constitutional text to invalidate popular legislation."

It argues that if Judge Bork is out of the mainstream, so is Justice Jackson—page 235.

Well, the complete story is—and I am not suggesting it misrepresents, I think it misunderstands—the complete story is the Jackson quotation cited is a criticism of the Lochner era due process clause, not the modern right of privacy cases.

In fact, Justice Jackson joined the unanimous court in Skinner versus Oklahoma usually cited as the first modern right-of-privacy case, on which Judge Bork criticized the reasoning. That is the sterilization case. He is not for sterilization. Let me make that clear. But he says the reasoning by which the Court outlawed the right of Oklahoma to sterilize is wrong. Justice Jackson says it was right. He is no Justice Jackson.

Justice Harlan, another revered conservative on the bench, selective comparison again. The minority report cites Justice Harlan's dissent in Oregon versus Mitchell, quoting the statement that "When the Court disregards the express intent and understanding of the Framers, it has invaded the realm of the political process to which the amending power was committed, and it has violated the constitutional structure which is its highest duty to protect." The report makes it sound as though Justice Harlan endorses Justice Bork's particular brand of original intent.

Well, from this Senator's perspective, let me give the complete story. The report omits the sentence in Justice Harlan's opinion immediately preceding the one quoted. Justice Harlan says: "It must be recognized, of course, that the judiciary has long been entrusted with the task of applying the Constitution to changing circumstances, and as conditions change the Constitution in a sense changes as well."

The report also omits mention of Justice Harlan's concurrence in Griswold—that is the case about people being able to use birth control—in Griswold and in his dissenting opinion in Poe versus Ullman, where he clearly notes the judiciary's responsibility to interpret the due process clause as part of a living tradition of constitutional interpretation. Justice Harlan is a far cry from Judge Bork on matters of constitutional interpretation.

Justice O'Connor—and I will stop with this. I can go on. The minority report cites Justice O'Connor's dissent in Thornburgh versus American College of Obstetricians, a decision dealing with a State statute directing physicians to convey specified information to women seeking abortions, and her assertion that "the Court's abortion decisions have already worked a major distortion in the Constitution."

It goes on to say "Justice O'Connor has never endorsed any application of a right of privacy in any context." Page 257 of the report.

The complete story is that this is unintentionally wrong on several counts. First, Justice O'Connor has indeed criticized Roe versus Wade, and especially its trimester scheme for determining when regulation is permissible. Almost every other conclusion the minority draws or suggest is wrong, however. The comparison between O'Connor and Bork as based on criticizing Roe, I think, is mistaken.

In Akron versus Akron Center for Reproductive Health, a 1983 case, Justice O'Connor said the problem with the majority in that case was that its opinion is "inconsistent both with the methods employed in previous cases dealing with abortion, and the Court's approach to fundamental rights in other areas." In Akron, Justice O'Connor expressly acknowledged a "fundamental right" to seek an abortion. She criticized Roe because she prefers a unitary test that would ask whether this fundamental right is being "unduly burdened."

She acknowledges the right. She doesn't say she is right, but she acknowledges the right. Comparing her to Judge Bork is not accurate, in my view.

Justice O'Connor wrote the opinion for the Court in Turner versus Safley, a 1987 case, where she said: "The decision to marry is a fundamental right." To claim Justice O'Connor has never recognized a right of privacy is, quite frankly, wrong, as is any claimed similarity in those issues between Judge Bork and Justice O'Connor.

I have, at the appropriate time, comparisons to other Justices.

Let me just give you this and ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BACKGROUND ON POSITIONS OF JUSTICES BLACK, HARLAN AND STEWART IN KEY CASES BORK HAS ATTACKED

Of the Landmark decisions that Bork has attacked.

Justice Black participated in 13, and agreed with Bork on 4.

Justice Harlan participated in 11, and agreed with Bork on 5.

Justice Stewart participated in 20, and agreed with Bork on 8.

THE CASES

Civil Rights	Agreed with the Court	Agreed with Bork
Shelley v. Kramer	Black	
Reitman v. Mulkey		Black, Harlan, Stewart.
Katzenbach v. Morgan	Black	Harlan, Stewart.

THE CASES—Continued

Civil Rights	Agreed with the Court	Agreed with Bork
Oregon v. Mitchell	Black, Harlan, Stewart	
Privacy		
Skinner v. Oklahoma	Black	
Griswold v. Connecticut	Harlan	Black, Stewart.
Roe v. Wade		Stewart.
Speech/Press		
Pentagon Papers (New York Times v. U.S.).	Black, Harlan, Stewart	
Cohen v. California	Harlan, Stewart	Black.
Brandenburg v. Ohio	Black, Harlan, Stewart	
Hess v. Indiana	Stewart	
Virginia Board of Pharmacy v. Virginia Citizens Coun..	Stewart	
Bates v. Ariz. State Bar		Stewart.
Landmark Comm. v. Virginia.	Stewart	
Cox Broadcasting v. Cohn.	Stewart	
Buckley v. Valeo	Stewart	
Religion		
Engel v. Vitale	Black, Harlan	Stewart.
Lemon v. Kurtzman	Black, Harlan, Stewart	
Aguilar v. Felton	Stewart	
Voting Rights		
Reynolds v. Sims	Black	Harlan, Stewart.
Harper v. Virginia St. Board of Elections.		Black, Harlan, Stewart.

Mr. BIDEN. These are landmark decisions that Justice Bork has attacked. You see, let me put this in context for my friend from Colorado, throughout the hearing, Justice Bork acknowledged that he attacked some very landmark decisions and he disagreed with the reasons. Again, not because he wanted to sterilize people, not because he wanted to segregate lunch counters, not because he wanted to keep black folks from voting, not because of any of these things, but because his judicial philosophy would not allow him to find the rationale in the text of the constitution the conclusion that was arrived at.

As that debate went on between Judge Bork and me and others, my friends, particularly the articulate Senator from Wyoming, Senator SIMPSON, the Senator from Utah, equally as forceful, and the Senator from New Hampshire, they all came back and said: "But Judge Bork is just like Black, Harlan, and Stewart."

We just went and took the landmark decisions that Judge Bork had attacked and looked at each of those Justices. He cites, if I am not mistaken, a total 28 cases where he attacked them.

In 28 cases that he attacked, Bork attacked—attack sounds perjorative—that he took strong disagreement with the reasoning, Justice Black participated in 13 of those 28 decisions. He agreed with Judge Bork in 4 of the 13 in which he participated.

Justice Harlan, another great conservative jurist, participated in 11 of those 28—I am sorry. I want to be precise here. It was 20. I am sorry.

Justice Black participated in 13 of the 20 decisions Judge Bork took issue with. He agreed with Bork in 4 of the 13 in which Black participated.

Justice Harlan participated in 11 of those 20 landmark decisions that Judge Bork criticized. He only agrees with Judge Bork on 5 of the 11 that he criticizes.

Justice Stewart participated in all 20 and he agreed with Judge Bork on 8.

In no instance did any of these conservative Justices cited by my colleagues as a bellweather of mainstream conservatism, in no instance did they, any one of them, ever agree with Bork as much as 50 percent of the time.

There is much, much more to say and I am sure we are going to get a chance to say it in the next day or so.

I thank my colleague from Colorado for his indulgence and I would be happy now, if he wishes, to try to respond more specifically to issues that he has raised.

Mr. ARMSTRONG. Mr. President, if the Senator would yield—

Mr. BIDEN. I yield the floor to my colleague from Colorado.

Mr. ARMSTRONG. I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado is recognized. I think it was set very straight, earlier in this legislative day, that we were going to try to keep the process as it should be and the Senator from Colorado can only ask the Senator from Delaware a question. The Senator from Delaware can answer that question. Beyond that, he will have to yield the floor.

Mr. BIDEN. The Senator from Delaware yields the floor.

The PRESIDING OFFICER. The Senator is recognized in his own right. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I listened with a growing sense of admiration for the rhetorical skill of the chairman of Judiciary Committee.

If any Senator wonders why JOE BIDEN is regarded as one of the most skillful, if not the most skillful, orators in the country, I hope they will go back and look at the videotape of tonight's presentation. I mean, he is good. Let us face it.

Mr. BIDEN. Mr. President, if the Senator would yield? I think that means I am in trouble.

The PRESIDING OFFICER. I do not know what the Senator from Colorado's answer to that question will be.

Mr. ARMSTRONG. Mr. President, the Senator from Colorado would not quarrel with the assertion of the Senator from Delaware. You see the problem, Mr. President, with what the Senator from Delaware has said is that it does not address the issues which I sought to raise. Not to say that the points he has made are unworthy but he has very skillfully changed the subject.

I made the point that thoughtful observers felt that there had been a vicious, vindictive, mean spirited, slanderous campaign of personal vilification against Judge Bork and the response which the Senator made to that was: Well, do not blame me.

Of course, no one was attempting to blame him. In fact, it is not my purpose, then or now to assess the blame. That is not the issue at all.

The point that I sought to raise, as the first issue that I wanted to bring before the Senate as we begin the consideration of the Bork nomination, is that Judge Bork has been the target of a campaign of personal vilification which is not precedented by the way we have handled previous nominess and is not a good precedent and it is not the practice that we ought to follow in this or in the future.

In response to that, I submitted a number of articles precisely because I did not want to get personal about it. I did not want to be in a position of standing up here and pointing my finger at other Senators or at interest groups and saying you said that, you said that, you said that, you said that; I think it is wrong and I am upset.

That is not the issue here. I quote quite deliberately a large number of thoughtful observers in print media, primarily, who said that this has been a rotten deal.

In response to that the Senator from Delaware says: Well, there are newspaper editorials on both sides of the question. And he quoted a bunch of editorial writers who were against Judge Bork.

I did not hear any quotes that said this has been fair. I did not hear any quotes that said the process has been dignified.

I heard a lot of quotations of one kind or another and arguments that, in fact, people disagreed with Judge Bork and that is their privilege.

The point I was making in the first instance is that the nature of the attack demeans the process and I do not think there is a darned thing that has been said that disputes that.

I did not hear anybody say that when the Gregory Peck commercials came on and directly said that Judge Bork opposed—well, favored poll taxes and literacy tests and it turned out that was not true, at least according to an article which was published subsequently in the New York Times, I did not hear anybody say that that is fair campaigning.

There was a comment to the effect that, after all, the groups involved did not spend very much money. Well, so what? That is not the point. You know, if you are repeating an untrue charge the fact that you only do it on a limited budget does not make it right and if it is an inflammatory enough charge, you do not have to spend any money. In fact, if you just whisper something which is really dreadful, something that is really scurrilous, you only have to say it once to one person and it is all over the country in an instant.

You know, the Senator from Delaware was good enough not to attack me personally, and I am not going to attack him personally, but if we really did we could make the kind of news here tonight that would spread all over the country. We would not have to spend a million dollars or even a thousand dollars.

When anybody in public life is subject to a really vicious attack, it spreads. It just does. And when black people get the idea that somebody who is up before the Supreme Court as a potential nominee or comes before the Senate as a nominee is against them—and that is exactly what black people have been told—you do not have to spend a lot of money to spread it.

I made the point, quoting those who observed the process, that some polls were taken. I never suggested and do not suggest now that that is improper. But the response of the Senator from Delaware was that: So what; a lot of people took polls.

Well, of course. The point I was making was a little different. That, according to the published accounts, the Senators and outside groups got together and took polls to determine what were the issues by which they could most inflame the public opinion; by which they could most leverage the interest groups. One of them evidently that came out of that polling—I do not know—but evidently one of them was this issue of the poll tax and literacy tests.

Let me just quote briefly from a recent article, the 15th of October, in the Los Angeles Times. "In that 60-second advertisement televised nationally at a cost of about $200,000, Peck"—referring to the actor Gregory Peck—"charged that Bork has a strange idea of what justice is. He defended poll taxes and literacy tests which kept many Americans from voting. He opposed the civil rights law that ended "Whites Only" signs at lunch counters.'"

The article points out—and I do send it to the desk in hopes it will be printed in the RECORD—that that just is not true; that Judge Bork did not do that.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 15, 1987]

SUPPORTERS TO ATTACK 3 CHARGES IN PECK'S ANTI-BORK TV AD AS BLATANT DISTORTIONS

(By David Lauter)

WASHINGTON.—When the full Senate finally debates the Supreme Court nomination of Robert H. Bork later this week or early next, senators will spend much of their time debating the words of an unlikely figure—actor Gregory Peck.

It was Peck who narrated a controversial television advertisement that was a key component of the lobbying campaign against Bork, a campaign that President Reagan on Wednesday branded as one of "distortion and disinformation."

In that 60-second advertisement televised nationally at a cost of about $200,000, Peck charged that Bork "has a strange idea of what justice is. He defended poll taxes and literacy tests which kept many Americans from voting. He opposed the civil rights law that ended 'whites only' signs at lunch counters."

CHARGES CALLED DISTORTIONS

Those three charges, according to Bork's supporters, are three of the most blatant distortions of Bork's record. Altogether, they have identified six major points on which they accuse Bork's opposition of twisting the record to suit its purpose.

On two of the points, including Bork's stand on literacy tests, his supporters appear to have a strong case. But on two others—poll taxes and the 1964 Civil Rights Act—the record appears strongly to support the charges against Bork. On two other allegations, the evidence is mixed.

Peck's advertisement is sure to receive special attention in the Senate. Officials of People for the American Way, the ad's sponsor, say they are confident it will pass scrutiny.

Their biggest problem involves Bork's position on literacy tests.

In 1965, Congress prohibited states from requiring people to pass reading and writing tests before registering to vote. The high court in 1959 had ruled that such tests did not automatically violate the Constitution, but in 1966 the court upheld Congress' power to ban the practice.

Bork said in congressional testimony in 1982 that Congress' action exceeded its power and the court decision upholding that action was "very bad, indeed pernicious, constitutional law."

Did that amount to defending literacy tests, as the ad charged? Melanne Verveer, People for the American Way's director of public policy, said it did, because Bork opposed the way Congress acted to end the tests. But, she conceded, Bork never directly spoke out in favor of the tests.

On poll taxes, however, the charge against Bork has considerably more evidence behind it.

Bork, in congressional testimony in 1973, clearly disagreed with the high court's 1966 decision eliminating poll taxes. The Virginia tax challenged in the case "was a very small poll tax," he said. "I doubt that it had much impact on the welfare of the nation one way or the other."

What upsets Bork's supporters, said Sen. Alan K. Simpson (R-Wyo.), is the suggestion in the People for the American Way ad that Bork's position constituted "racism." The Virginia case "had nothing to do with race," Simpson said.

The challenged advertisement, however, never mentioned race. It said only that the tax "kept many Americans from voting."

The advertisement's third charge—that Bork opposed the 1964 Civil Rights Act, which ended segregated public accommodations—accurately reflects a position Bork took at the time. Bork's supporters argue that the charge distorts Bork's view because he later changed his mind.

Three other issues not mentioned in the Peck advertisement have also been frequent targets for Bork's allies. On two of those questions—a controversial decision Bork wrote as a judge on the federal appeals court in Washington and his role in the Watergate scandal—the evidence remains inconclusive.

In 1984, Bork, joined by two other judges, wrote an opinion upholding the right of American Cyanamid, a chemical company, to tell female workers in one of its factories that they must either be sterilized or lose their jobs because high levels of lead in the factory air could cause birth defects. Sen. Howard M. Metzenbaum (D-Ohio), one of Bork's main opponents, said during Bork's hearings that the decision was "shocking."

Simpson and other Bork defenders say that Bork had no choice in his ruling because the company had no way to solve its lead problem. A federal safety official who reviewed the case before it reached Bork's court took the same position.

But officials at the federal Labor Department and the union representing the women argued that the court could have directed the company to spend more money on safety. Evidence exists on both sides of that question.

On Watergate, the evidence on Bork's actions is similarly inconclusive. The major question is how quickly he moved to find a new special prosecutor after firing Archibald Cox. Some witnesses, including Bork himself, say he acted "immediately." Other witnesses say Bork acted only in the face of mounting public protest.

On one final issue, Bork's supporters have a relatively clear case. Metzenbaum repeatedly challenged Bork's views of antitrust law, saying they would lead to higher prices for consumers. Bork disagrees, and most specialists accept Bork's position.

Bork's supporters insist that their emphasis on the distortions in Bork's record will pay off. Sen. John C. Danforth (R-Mo.), a Bork supporter who studied under Bork at Yale Law School, told reporters Wednesday that "the American people were frightened . . . because of the way Bork was characterized" by his opponents. Voters "will react against that," he predicted, if Bork's supporters can show he was smeared in the lobbying campaign against him.

FOES DEFEND CHARGES

Bork's opponents not only defend the charges they leveled against the nominee but insist that pro-Bork forces have themselves resorted to exaggerations and underhanded tactics.

Bork supporters concede the point. A pro-Bork ad leveling personal allegations against four anti-Bork senators "cost us three votes," Bork supporter Orrin G. Hatch (R-Utah) said Wednesday. The ad was sponsored by We the People, a Los Angeles-based pro-Bork group founded by Republican political consultant Bill Roberts, who could not be reached for comment.

In fact, midway through the article Melanne Verveer, People for the American Way's Director of Public Policy, conceded that Bork never directly spoke out in favor of the test.

I mean that is the point I was making and the reason why I thought the point relevant was not because vicious attacks are unprecedented or because in any way I think that Senators approve vicious attacks of that there is any attempt to hold them accountable, though I will return to that in just a moment.

The whole process is being transformed in a way that I think seriously threatens the integrity of the judiciary and that is to defocus from issues of the qualifications and ability and skill and scholarship of the nominees and, instead, to have a political referendum on the issues that come before the Court.

In fact, the Senator from Delaware spent most of the last hour verifying that my concern was true. He said in a very eloquent way and at length in citing many authorities, that he disagrees with Judge Bork on the issues. I want to return to that, but I did not want to focus on that without at least noting that he really did not deny the first part of my concern, which is that it was a vicious attack.

He said do not blame him. I do not blame him.

I said that it focused attention outside this Chamber and that the decisions were not reached by Senators based upon what happened in the Chamber or in the Judiciary Committee but on public opinion and the skillful manipulation of it.

That is not just an opinion I got tonight from listening to what has been said. I got that from, well, really from a lot of sources. One of them, for instance, was a Washington Post article which relates a claim by a leader of a special interest group in one State where the Senator said he was not sure how he was going to vote.

Here is what the article said:

> The special interest groups left no room for disagreement with their position. One special interest group leader said, "We must let our Senators know that a vote against Mr. Bork is a prerequisite for our vote in the next election."

Fair enough; that is their right. Is it good for the process? I do not think so.

Does it add to the quality of people that we will attract to the Supreme Court? I do not think so. Does it politicize the process in a potentially dangerous way? I think it does.

The Senator from Delaware wants to know do I think or does anybody think that 56 Senators suddenly decided to come out against Judge Bork because Gregory Peck told them? And the answer to that of course is "No." The reason that they did it, at least some of them, again according to published accounts, is because the people at home heard from Gregory Peck and others in a way which, as it turns out from this article in the L.A. Times, is not exactly truthful. In fact it is not approximately truthful.

Mr. BIDEN. Will the Senator yield for a question?

Mr. ARMSTRONG. Certainly. In fact, I do not intend to draw this out tonight. I will be happy to yield for a question, but I want to make a couple of other summary remarks. Then my thought was we might pick up tomorrow. It is almost 10 o'clock. I would plan to come back sometime during the day and respond in some detail to the points made by the Senator. But I am happy to yield.

Mr. BIDEN. My question is somewhat mooted by that reply. I will wait until I gain the floor in my own right.

Mr. ARMSTRONG. Mr. President, the hour is late and I do not intend to draw this out, but the conclusion I draw is this: I am persuaded that the process has not been fair, and that is too bad for Judge Bork and his family and so on, and if he is not confirmed it will be too bad for the country. But what is worse is that we are starting down the road from which I think we ought to retreat very promptly. That is this notion of politicizing the judiciary.

You know, the statement which the Senator has made tonight really validates and emphasizes that concern because what he said, and I am not quoting directly but I believe I am accurately paraphrasing, is this: he said Judge Bork is honorable, intellectually talented. He is just wrong on the issues.

In other words, he disagrees on certain key issues.

My question is this: Do we really want to subject our Court appointees to a detailed test of that kind, a political test, the kind of test which David Broder pointed out has momentous and undesirable consequences if we politicize these appointments?

I think not. I think what we are seeing here in this confirmation process is a radical and serious departure from past practice.

I am not saying we have never seen anything like this, and I am certainly not saying that there have never been politics in the process. But I do not think to excuse that by saying somebody else started it, President Reagan came down to Georgia and campaigned for Mack Mattingly and Mack Mattingly got defeated, that is what we were told, that there that justifies the kind of process we have seen. I just do not buy that. It does not wash. Other Senators will have to make their own decision.

The thing that I really think is significant, however, and then I am ready to rest my case for the night and pick up where we left off tomorrow, is this: It is the results test which the Senator from Delaware has emphasized. Nor does the case in point follow the precedent, nor does it follow the intent of the Constitution, nor is it based on solid legal reasoning, but do the results—his word, not mine—do the results square with somebody's idea of what the right outcome is?

If that is going to be the test of the courts, then you really have what amounts to exactly what the Senator said, a referendum on the last 30 years of the Court. I think that is a fair issue, a fair issue for us to debate. I think it would be a pity if we decide that is what we want, but that is a very different point than the one which I started out to make and which I believe stands proven or at least not very vigorously disputed at this point. That is that Judge Bork has been maligned.

When I seek recognition tomorrow, I shall attempt to go into the legal issues involved in greater detail and to explain in more detail why it appears to me that by politicizing this, by making judicial nominations the pawn of interest group politics, that we are really setting the stage for a disastrous turn in America's judiciary.

Before I yield the floor, I cannot resist one additional reference, just a footnote.

The Senator from Delaware said that when our dear friend Howard Baker came over—well, what you said was you predicted that all this was going to happen. I think that is right. In fact, I think in large measure you made it happen.

And that is your right. But it seems to me that delaying the hearing for a long period of time, according to published accounts, again, so that outside groups would have the opportunity to mount this campaign of fear and slander, is exactly what set the stage for all of this. I regret it. However, the Bork nomination turns out, and I stress I am not under any illusions, I hope this is not the start of the path and we are not going to see it again. I do not think it is good for the Senate and I do not think it is good for the country.

Mr. President, there is a lot more to be said and I may have more to say about it tomorrow and the next day. In the meantime, I thank the Chair for being patient and my colleagues for their patience.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will press just a little longer on the patience of the Chair because I would like to respond specifically to several statements recently made.

First of all, the Senator from Delaware is flattered, is flattered to realize what oratorical skills he has and what phenomenal power and effectiveness he has. In my past political incarnation I had a hard time seeking people and the press to believe that I was effective. I wish the Senator from Colorado was there to vouch for my effectiveness.

And my oratorical skills. I demure. I do not believe I have those skills attributed to me. But let us assume for the moment that I do. To suggest that one can only be either oratorically "brilliant," as the Senator from Colorado, or substantively right, I suggest it is possible to be both, and I would rather be the latter than the former I suggest that I am.

Let me talk about the delay that the Senator from Colorado referred to, and let me quote Senator Dole. By that I mean the suggestion that the Senator from Delaware orchestrated the delay.

When the hearings opened up on September 15, Senator Dole, our minority leader, said, "Now it has been some time since the nomination was made. I would say at the outset some of us were critical of that, but I would guess in retrospect that it may have taken that much time with the August recess to prepare for this very important hearing."

That is the minority leader, the leading Republican in the Senate, acknowledging the necessity because of the August recess, or at least if not the necessity the wisdom of not starting sooner.

With regard to the assertion made that the Senator from Delaware is arguing for the results test, it is the exact opposite. The Senator from Delaware obviously does not have the oratorical skills attributed to him because obviously I did not communicate my message clearly to the Senator from Colorado.

My point is that Judge Bork consistently has been an exaggeration. In a great number of cases and with great vehemence he disagrees with the rationale that conservative as well as moderate as well as liberal Justices on the Supreme Court have adopted for the past 20 years, 30 years. He argues, and I will not take the time to quote now, Judge Bork argues and says, "I agree with the result." Not Biden; Bork. "But the rationale is what I disagree with. I quite frankly do not know how to get to the result that I admit I personally like with that rationale or any other."

Skinner? He agrees with the result in Skinner, that you should not sterilize chicken thieves. He disagrees with the rationale that allows the Court to strike down the law.

In the Griswold case, a married couple's right to use birth control. He agrees with the result. He says "It is a crazy law." I forget his exact words. "A nutty law." But, he says, "The rationale is wrong." He says, "Gentlemen, I cannot think of any rationale to outlaw that nutty law."

So it is Judge Bork not Senator Biden who is looking for a rational standard, not a result standard.

Now with regard to my alleged unwillingness to quote people about whether or not the process was vicious, I will do more of it tomorrow, but let me just give you a flavor tonight.

> Judge Bork had a Judiciary Committee hearing with unprecedented care and thoughtfulness and a fair chance to answer every criticism.

The New York Times.

Well, I will not take the time now, but there are plenty of assertions which I will put into the Record, where people attest how fairly the judge was treated, where he was not vilified, where he was not the victim of slander. Although I think David Broder is a great man, sometimes even he is wrong about what happened.

Lastly, with regard to the honesty of the ads, I did not take the time but I will just take a moment now.

The Senator from Colorado says the assertion that Judge Bork has been against the civil rights laws, and I forget the exact wording that he had, he says is wrong; that he favors a poll tax and literacy test is a distortion of the highest degree.

The fact is, and the point I was trying to make earlier I will make again as clearly as I can, Judge Bork in my view does not personally favor a literacy test. He does not personally favor a poll tax. But he argues that the Congress did not have the right to pass a law outlawing literacy tests. Are you with me? Rationale. He says there is no constitutional rationale for the Congress to pass a law denying Oregon or Washington or Delaware or anywhere else the right to have a literacy test. He is not for a literacy test. He is not for a literacy test, but the action the Congress took back in the 1960's to say nobody under any circumstances in any State, in any election, can insist on a literacy test, Judge Bork says that is bad law. That is a usurpation of constitutional prerogative, authority. He says the States should be able to do that if they want to, even though he did not say he supported that. So technically the ad was wrong, saying Judge Bork supported literacy. The more accurate ad would have been to quote him. If they had more time, they should have just quoted him. It would have been more damaging to him. "Judge Bork says Congress cannot constitutionally pass laws saying there will be no literacy test." Would it make him happier if the ad said that? Maybe if they had 3 minutes, they would have said it that way. They were technically wrong. He personally did not say, "I want a literacy test." But he personally did say if a State wants to have a literacy test, I cannot figure out how to stop them and the Congress has no right to stop them.

I think that is a distinction without much of a difference.

The poll tax. Judge Bork did not say, "Poll taxes are great, I am for poll taxes." But in the famous Virginia poll tax case he said, do you know what, when the Supreme Court struck down the Virginia poll tax, they should not have done that. He said that was wrong. Their rationale, their constitutional reasoning was wrong because he said that the Virginia poll tax—and keep in mind what happened here. This was the Harper decision. The Supreme Court held that the Virginia poll tax was unconstitutional under the equal protection clause of the 14th amendment on the ground that it denied a fundamental right to vote to those "unable to pay a fee to vote."

Judge Bork said he did not say, "I'm for poll taxes." He said the Supreme Court is wrong in telling Virginia it cannot have that poll tax. And why were they wrong? He says—let me find the exact quote.

> as an equal protection case it seems wrongly decided. As I recall it was a very small poll tax. It was not discriminatory and I doubt that it had much impact on the welfare of the Nation one way or another.

He said that in 1973 as Solicitor General. Then he went on to say:

> The Court frequently reached highly controversial results which it made no attempt to justify in terms of the historic Constitution or in terms of any other preferred basis for constitutional decisionmaking. I offer a simple example. In Harper the Court struck down a poll tax used in State elections. It was clear that the poll tax had always been constitutional if not enacted in racially discriminatory ways.

In 1985 Judge Bork said that.

Judge Bork defended these views in the hearings saying:

> There is no allegation of discrimination and the court did not discuss the case in terms of keeping blacks from voting.

Now, where was Judge Bork, the 60-year-old man, during the 1940's, 1950's and 1960's when the State of Kentucky and the State of Delaware were not really crazy about black people voting, when Virginia was not real crazy about it, when the South was not? Where was he? In a cocoon? How did we stop black people from voting? We said poll taxes.

Now, admittedly the Virginia poll tax, if it were in place today, would only be $5, counting inflation, roughly. And it is arguable whether or not that is going to discourage blacks from voting. Judge Bork did not say, "I am for poll taxes." He said that a little one is not bad. So technically the ad referred to may be wrong. But he did say that the case which outlawed poll taxes of any kind was wrongly decided. So technically the ad was wrong.

Do you think they would have been happier, all the black people, in the State of Kentucky, all the black people in the State of Delaware, all the black people in the State of Alabama if there was an ad run on television saying, "It was really a very small tax. It was not discriminatory and I doubt whether it had much impact on the welfare of the Nation one way or another?"

Do you think black people listening to that would say, "Oh, that's OK. I understand that. That is a good thing.

That is great. No problem there. I'm with him."

So technically he did not say, "I'm for poll taxes." But he did say that little ones are not bad. If they are small enough, they are not discriminatory. Therefore, they are constitutional.

Now, how do you prove what is constitutional? How do you prove what is discriminatory? A 70-year-old black woman who all her life had to pay a poll tax, knows there is still one in effect, but it is a small one. Do you think that does not discourage her from going to vote? Do you think that does not discourage her from thinking maybe the people do not want me to participate?

Where has he been? Again, I do not believe that he is racist. I do not believe he wants poll taxes. But I do believe that his view to those folks who used to have to pay those taxes, which means they could not come and vote, at a minimum is discouraging.

The last point I will make and I will stop, Judge Bork in the ad allegedly—I forget what the Senator said precisely about what the ad said about lunch counters, or integrating lunch counters I think the ad mentioned or something to that effect.

Technically they are wrong. I do not think he wants segregated lunch counters.

The public accommodations bill, as the Senator presiding knows as well as the Senator from Delaware, was a bill that denied lunch counter owners, the Lester Maddoxes of the world, from being able to deny black people to sit down and have a cup of coffee at their counter, deny people the right to go in and rent a room. When they traveled from my State through Pennsylvania to get to the Senator's State of Kentucky they had to call ahead to figure out where they could stay. And this law came in and said, "Hey, unless you are Mrs. Murphy, you can't stop that black person from staying at the Holiday Inn in lower Delaware or in Maryland or in Virginia." They had to call ahead. They had to find out if there was any room in the inn at places that only allowed black people.

I do not think Judge Bork liked that. I do not think Judge Bork said that is good, that black people cannot stay where white people stay. He has a basic philosophy. He believed, as he says in his libertarian phase, that it was even worse to tell an individual who they have to rent a room to or who they have to serve a cup of coffee to because that infringed on their individual rights, just as the wrong was being done to the person who was being refused the cup of coffee, or being refused the room.

A lot of Senators in this body at that time took that position. Would Judge Bork be happier had the ads run that said "The public accommodations bill is an unsurpassed ugliness," that "serious constitutional problems exist with the Public Accommodations Act and it should be opposed because it compels association even where it is not desired"? That was what he said in the Chicago Tribune in 1964. Would they have been happier in Los Angeles if every black person in Watts turned on the TV and Gregory Peck said or the ad read "Judge Bork, when the Public Accommodations Act was being debated said"—and I quote—"to compel association even where it is not desired is a bad thing?" It would have been precisely accurate then. So true: they gave shorthand, and they were technically incorrect.

But to suggest that his is vilifying, making out of whole cloth, maligning Judge Bork belies the record. It was not inappropriate for Judge Bork to hold the view he held and other constitutional scholars held a similar view. It is not inappropriate as my friends in the committee point out, and other constitutional scholars argue that the poll tax in Virginia was constitutional. It is not inappropriate for him to have an argument that the Congress cannot outlaw illiteracy tests. Other constitutional scholars have so argued. But to suggest that he did not hold those basic views I think is misreading the record.

Mr. President, I will conclude by asking unanimous consent to insert in the RECORD, and I have not read this yet, a letter from former Member of Congress John H. Buchanan, Jr., to me, a rebuttal of the 67 flaws in the ad. You know the argument made, the 67 flaws in the ad? I ask unanimous consent that the rebuttal to that be placed in the RECORD at the request of those who wrote the ads.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PEOPLE FOR THE
AMERICAN WAY,
Washington, DC, October 19, 1987.

DEAR SENATOR: The full Senate will shortly consider the nomination of Robert Bork to the United States Supreme Court. If the discussions on the Senate Floor last week presage this week's debate, we can anticipate that Bork's supporters will devote much of their effort to attacks on groups like People For the American Way which have vigorously opposed the nomination, and they will divert attention from the issue of Judge Bork's restrictive view of constitutional rights considered at the hearings.

In fact, the attacks on Bork's opponents began during the Judiciary Committee hearings and have grown increasingly strident as it has become apparent that a majority of the Senate, reflecting the view of a majority of Americans, will vote to reject the nomination. We have been excoriated as "narrow special interest groups" out to undermine the independent judiciary. We have been accused of conducting a campaign of "distortion" and "disinformation." On the other hand, the White House has called groups supporting the nomination "grassroots supporters" and "citizen action groups."

Before the debate proceeds further, it might be well to look at the nature of these groups under attack. Civil rights organizations do have a special interest in defending the rights of significant minorities of the people who have been victims of massive and sustained injustice. Women's groups have a special interest in the rights and welfare of that majority of the population which happens to be female. Consumer groups represent consumers, which we all are. Environmental groups defend the environment, which we all share. The group which we represent has a special interest in protecting the constitutional rights and liberties of every American citizen, including those of our most strident critics.

Our critics seek to place full responsibility for Judge Bork's defeat in the hands of these "special interests." People For has been singled out as having "distorted" Bork's record in a public education campaign of print and TV ads produced by our Action Fund. These ads were part of a larger educational effort which included several lengthy analyses of Judge Bork's record published before and after the hearings.

Senator Hatch set the tone when he attacked our print ad claiming that the ad contained "67 flaws." His list of the "falsehoods" is an invective against us and contains his own false characterizations of Judge Bork's record. The accusation of distortion is itself a distortion, as we hope the enclosed materials will make plain. Since People For's public education campaign has been attacked, we have prepared documentation for the TV ad narrated by Gregory Peck and a response to Senator Hatch's charges. We hope that these materials will set the record straight.

If disinformation exists in this debate, it is in the false charge that Judge Bork is the victim of special interest groups. He is, instead, the victim of his own record, his own testimony in more than thirty hours of televised hearings, and his own misreading of the Constitution and of the role of the Court in protecting the constitutional rights of all Americans.

We are grateful to you for your defense of the constitutional rights and liberties of the American people and your opposition to this nomination. As the Senate debate goes forward, it should focus on Judge Bork's record—nothing more, nothing less.

Sincerely,

JOHN H. BUCHANAN, Jr.,
Chairman,
ARTHUR J. KROPP,
Executive Director.

[From the Atlanta Constitution, Oct. 16, 1987]

REAGAN SHOULD LOWER HIS VOICE ON BORK

Last week, as Robert Bork vowed to fight on, he made this eloquent plea: "The deliberative process must be restored. In the days remaining I ask only that voices be lowered . . . ."

Funny thing, though. The decibel level has hit new heights since then—and the sound and fury comes not from Bork's enemies but from his friends. As his Supreme Court nomination limps to a certain coup de grace in the Senate, the balderdash is flying more frantically than ever.

President Reagan lobbed a large chunk of it on Wednesday when he decried the "campaign of distortion and disinformation" that supposedly doomed the nomination. If the effort succeeds, the president warned, it will "permanently diminish the sum total of American democracy."

He needs to calm down Americans have not suddenly invented a political crucible for every Supreme Court nominee who comes along. The Bork nomination is unusual for several reasons. The court has reached an ideological crossroads. As Reagan proposes to replace the conservative Lewis Powell with a man of the far right, he seeks to turn its ideological balance sharply to the right.

Is that what the nation wants? This is a political question, and the man who posed it was Ronald Reagan. It is a proper subject for public debate. No less an authority than the U.S. Constitution instructs the Senate to sign off on judicial nominees. That the Senate is ready to reject Reagan's choice will not diminish American democracy. Such rejections—for good reasons and bad—have happened many times in our history. The republic has managed to survive.

Ah, but what about the distortions of Judge Bork's record? They are unfortunate; they are also beside the point. There are plenty of legitimate reasons to vote "no." It is highly unlikely that key senators such as Howell Heflin (D-Ala.) or Dennis DeConcini (D-Ariz.) were reacting to public hysteria when they cast thumbs-down committee votes on Bork. Rather, having scrutinized Bork's record, most were worried about the kind of court his confirmation would allow.

The system is working. And no amount of disinformation and distortion from the White House can change that pleasant fact.

HATCH'S "67 FLAWS": FLAWED

On September 29th Senator Orrin Hatch took time during the confirmation hearings of Judge Robert H. Bork to denounce an advertisement produced by the People For The American Way Action Fund. He submitted for the record a list entitled "67 Flaws of the Bork Ad." Each item was labeled a "falsehood." These so-called falsehoods included the name of our organization (#63), a direct quote from Judge Bork (#23), and a citation to a book he authored (#53).

When Senator HATCH first launched his attack, we felt it was too ludicrous to deserve a response. In the intervening weeks, the charges that we and other public interest organizations have "distorted" Judge Bork's record have multiplied in the media. Vague allegations of "distortions" often appear without specific references by Administration spokespeople or Senators to exactly what they think has been distorted. We believe that these charges are themselves deliberate distortions designed to lower the Bork nomination debate from the high level at which it has been conducted. We have prepared the following response to Senator HATCH is an effort to reveal exactly how extreme and ill-founded the attack on Judge Bork's opponents has been.

First, we quote Senator HATCH's charge and then give our response. In cases where Senator HATCH disputes our facts, we cite the documentation for our factual statements. In cases where he disputes our conclusions or opinions, we cite the basis for our conclusions. While Senator HATCH certainly is entitled to his own opinion on all of these matters, he is wrong to label people who disagree with him as engaging in distortions or, in some cases, even lies.

(1) HATCH: The title. "Bork vs. the People" grossly misleads and misconstrues his philosophy. More than any other jurist in modern history Bork would sustain the people's right to govern themselves. The title should fairly be: Bork and the People vs. The Special Interests.

Facts: Professor Philip Kurland, a leading conservative constitutional law scholar, expressed well why Bork's philosophy is "vs. the people":

Bork, although frequently prating about the Constitution and original intent as he has taken to the hustings around the country, has woefully missed what he should have learned from the Constitutional Convention of 1787 and the events surrounding it.

The watchword of the people and the constitutional ratifying conventions was "liberty." They were intent on framing a government to guarantee liberty to the individuals within the new nation's domain. The liberty of which they spoke was not Bork's liberty of a parliamentary majority to impose its will on everyone with regard to everything. No such elaborate structure as that which emerged was necessary for that.

The liberty of which they spoke and wrote and for which they fought was the liberty of the individual, in "substance," as Judge Learned Hand once put it, "the possibility of individual expression of life on the terms of him who has to live it." (*Chicago Tribune*, August 18, 1987)

(2) HATCH: Controversy based on "good reason." Judge Bork is eminently qualified and centrist in his views. The controversy is generated by those who do not want President Reagan to make another appointment.

Facts: The Raleigh News and Observer in an editorial opposing Judge Bork summarized the "good reasons" to be troubled about the Bork nomination:

. . . Rather, [the concerns rest] on the whole pattern of his professional life, as a professor, as solicitor general, as a judge.

His has been a career of constant criticism of most of the key decisions of the Supreme Court over the past generation. A man of strong moral and philosophical convictions, he has sought with great intellectual vigor to pour issues through a narrow legal funnel of his own making.

In doing so, however, he has been out of sync with history and with the legal consensus that was preserved and extended the rights Americans enjoy as a free people. (*The Raleigh News and Observer*, September 27, 1987)

(3) HATCH: "Extremist." Those calling him "extremist" would not know a judicial mainstream from a judicial jet stream. Six recent Attornies [sic] General from both parties testified. None of them considered him extreme, but endorsed him.

Facts: Bork's long written and spoken record testifies to his extremist view of the Constitution. As Professor Tribe stated:

Not one of the 105 past and present Justices of the Supreme Court has ever taken a view a consistently radical as Judge Bork's on the concept of "liberty"—or lack of it—underlying the Constitution. (Tribe testimony, p. 14, September 22, 1987)

HATCH tries to give the impression that all the former attorneys general who testified before the Committee endorsed Bork, when in fact, Nicholas deB. Katzenbach strongly opposed him.

(4) HATCH: "Consistently taken positions against constitutional rights." In fact, he has strongly defended the rights of average Americans to govern themselves. He has consistently sustained every right found in the Constitution and opposed judges who tried to interpret the Constitution to fit their own views.

Facts: The letter from the deans of 32 law schools who oppose Judge Bork's nomination provides the best answer to this charge:

Judge Bork has developed and repeatedly expressed a comprehensive and fixed view of the Constitution that is at odds with most of the pivotal decisions protecting civil rights and liberties that the Supreme Court has rendered over the past four decades. (Comm. Print Draft, Part 2, pp. 92-97)

(5) HATCH: "Sterilizing workers." Judge Bork did not force any sterilization.

Facts: Judge Bork's opinion in the *Cyanamid* case upheld the company's sterilization policy.

(6) HATCH: "Company was pumping so much lead." This creates a false impression. It is not mentioned that an administrative law judge had found that there was no way to eliminate the lead levels sufficient to eliminate the risk. Judge Bork was bound by that finding.

Facts: The Secretary of Labor issued a citation to Cyanamid alleging violation of the Occupational Health and Safety Act because Cyanamid failed to provide a workplace free of recognized health hazards. Further, an administrative law judge said it was technically feasible, although not economical, to reduce the high lead levels. (ACLU Memorandum and Analysis; Comm. Print Draft, Part 1, p. 649)

(7) HATCH: "The company ordered all women workers to be sterilized or lose their jobs." In fact, the company offered the women a choice. Due to the hazard, fertile women could not work in the plant. Rather than release the women outright, they were offered a choice. The women themselves made a very difficult decision.

Facts: Our statement stands; the choice was surgical sterilization or loss of their jobs. The Judiciary Committee received a letter from a woman who submitted to sterilization rather than lose her job. The letter emphasized Judge Bork's insensitivity to the terrible plight of the women confronted with the choice offered by the company:

I had surgery because I had to have the job and felt that I had no choice. If I lost my job I would have lost my home and also needed it to help support my parents. . . . During this time we were harassed, embarrassed and humiliated by some supervisors and some fellow workers . . . they told us we were branded for life. (Comm. Print Draft, Part 1, p. 654)

(8) HATCH: "When the union took the company to court." This is only part truth. It is never mentioned that the OSHA Review Commission, the expert government agency, had already found the company could offer the women a choice.

Facts: As previously noted, the Secretary of Labor, who enforces the OSHA Act, found the company's policy in violation of the law. Both the union and the Secretary provided evidence to the Commission that alternatives to the sterilization policy were available. In the OSHA Review Commission's proceedings, however, a factual record developing such alternatives was not made.

(9) HATCH: "Judge Bork ruled in favor of the company." This sounds like Judge Bork approved the "unhappy choice" the women had to make. In fact, he deployed it.

Facts: Judge Bork did rule in favor of the company. During his testimony, he said the company "offered a choice to the women. Some of them, I guess, did not want to have children." In later testimony, he added: "I suppose the five women who chose to stay on that job with higher pay and chose sterilization—I suppose that they were glad to have the choice—apparently they were—that the company give them." (Comm. Print Draft, Part 1, p. 450)

(10) HATCH: "Judge Bork ruled in favor of the company." This is political falsehooding at its worst. Judge Bork is solely blamed. It is not mentioned that the court was unanimous. One of the other judges voting to uphold the law as written was Judge, now Justice, Scalia. Indeed the rest of the Circuit Judges refused to overturn the unanimous court ruling.

Facts: Judge Bork wrote the opinion. He is the nominee.

(11) HATCH: "Judge Bork ruled in favor of the company." Blatant sensationalism. It is not mentioned that the law as written by Congress did not include this situation as a "hazard" within the terms of the OSHA Act. To the extent that failure to anticipate this regrettable situation is cause for blame, Congress caused it and should correct it by legislation.

Facts: Wrong. The D.C. Circuit had previously found the exclusion of fertile women from the workplace actionable under the OSHA Act. *United States Steelworkers of America v. Marshall,* 647 F.2d 1189, 1238 n.74 (D.C. Cir. 1980).

(12) HATCH: "Billing consumers." This is incorrect. Neither Bork nor the court could bill or authorize the billing of any consumer. That was FERC's responsibility.

Facts: "Judge Bork's opinion ordered FERC to hold a hearing and to promptly grant a rate increase if Jersey Central's factual contentions are borne out by the record created by the hearing." (Public Citizen Litigation Group, *The Judicial Record of Judge Robert H. Bork,* p.18)

(13) HATCH: "Bork supported an electric utility." This is incorrect. In 1984, the date cited by this account, Judge Bork specifically voted against the utility and sustained the Commission.

Facts: The case cite was mistakenly dated 1984. It should have read 1985 and 1987.

(14) HATCH: "Bork supported an electric utility." Deliberate misleading information. Even in the 1985 and 1987 rehearings of this issue, Judge Bork did not rule on the merits of whether consumers could be billed, but only determined that the FERC had not adequately responded to the evidence of the case.

Facts: The ad does not state on what grounds Bork made his ruling. (See FACTS #12)

(15) HATCH: "Thanks to Judge Bork." Hyperbole. Judge Bork is blamed for a decision of the majority of the D.C. Circuit. This overlooks that the court was unanimous in 1984 in favor of FERC, that the court voted 2-1 in 1985 against FERC, and that the court voted 5-4 in 1987 against FERC. Judge Bork was joined by at least a majority of his colleagues on the Circuit Court.

Facts: See Facts #12.

(16) HATCH: "(. . . 1984)." As noted earlier, this citation ignores that these facts were subject to three separate judicial rulings.

Facts: "When Jersey Central's challenge to FERC's decision first came before the Court, Judge Bork, writing for a unanimous court, rejected all the utility's arguments. 730 F2d. 816 (1984). After Jersey Central asked the court to reconsider its decision, however, Judge Bork switched his position and wrote two opinions siding with the utility, one on behalf of a regular panel of the D.C. Circuit, 768 F.2d 1500 (1985), and a second one on behalf of the full court, 810 F.2d 1168 (1987)." (Public Citizen Litigation Group, *The Judicial Record of Judge Robert H. Bork,* p.18)

(17) HATCH: "No privacy." Misleading. Judge Bork does not oppose "privacy," either per se or as a constitutional value. As a matter of personal preference, he expressed great respect for privacy. He states, for instance, that the 1st, 4th, and 5th Amendments, among others, specifically protect privacy interests.

Facts: While Judge Bork, for example, recognizes that the Fourth Amendment protects against unreasonable searches and seizures, one form of a right to privacy, at his confirmation hearing he reiterated his long-held view that neither the Constitution nor the Bill of Rights provides any general right to privacy: "I do not have available a constitutional theory which would support a general defined right [of privacy]." (Comm. Draft Print, Part 1, p. 266). Judge Bork's "personal preferences" are not the issue; his judicial philosophy is.

(18) HATCH: "Right to privacy in the Constitution." No one else found one either until 1965 when some judges discovered it in the "penumbras of the emanations" of some constitutional phrases. This overlooks that the word "privacy" nowhere appears in the Constitution and that the judicial creation of this undefined right was controversial in 1965 and remains controversial today.

Justices Black and Stewart found no such right at the time. Professors of all backgrounds, from Bickel to Kurland, have likewise criticized the reasoning in this case.

Facts: Wrong. For 75 years, the Supreme Court has relied on privacy rights in the Constitution to protect individuals:

Right "to marry, establish a home and bring up children." (*Meyer v. Nebraska,* 262 U.S. 390 (1923))

Government prohibited from making it a crime to send children to private school. (*Pierce v. Society of Sisters,* 268 U.S. 510 (1925))

Government prohibited from sterilizing a selected group of criminals. (*Skinner v. Oklahoma,* 316 U.S. 535 (1942))

Government cannot prohibit the use of birth control by married couples. (*Griswold v. Connecticut,* 381 U.S. 479 (1965))

Government cannot interfere with the right to raise families in an extended family fashion despite neighbor's disapproval. (*Moore v. City of East Cleveland,* 431 U.S. 494 (1977))

(19) HATCH: "Right to privacy in the Constitution." This overlooks the impossibility of defining a broad constitutional privacy right. As Judge Bork asked, Does this mean privacy to take drugs in your own home, privacy to fix prices in your own home, privacy to abuse a spouse in your own home? Of course not.

Facts: As professor Kathleen Sullivan noted in her testimony:

> . . . Justice Harlan long ago gave the most eloquent imaginable answer to Judge Bork's objection that the right of privacy is too broad, capacious, and undefined; he wrote:
>
> Due process has not been reduced to any formula; its content cannot be determined by reference to any code. . . . [Our] "liberty" is not a series of isolated points pricked out in terms of the taking of property; the freedom of speech, press, and religion; the right to bear arms; the freedom from unreasonable searches and seizures; and so on. It is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints.
>
> *Poe va. Ullman,* 367 U.S. 497, 542-43 (Harlan, J. Dissenting). And as Justice Powell echoed more recently, the right of privacy is not to be "cut[ ] off . . . at the first conventient, if arbitrary boundary"; rather judges must elaborate that right through "careful 'respect for the teaching of history [and] solid recognition of basic values that underlie our society.'" *Moore v. East Cleveland,* 431 U.S. at 503 (plurality opinion). (Comm. Print Draft, Part 3, pp. 1612-1613)

(20) HATCH: "Supreme Court was wrong," Judge Bork faults the reasoning of the Court, i.e., the invention of unwritten rights, but he called the Connecticut contraceptive law "nutty."

Facts: Judge Bork criticized the *Griswold* decision in a 1971 *Indiana Law Journal* article:

> *Griswold* . . . is an unprincipled decision. . . The truth is that the Court could not reach its result in *Griswold* through principle." (Robert Bork, "Neutral Principles and Some First Amendment Problems," 47 *Indiana Law Journal* 1, 8-9 (1971))

(21) HATCH: "Use of contraceptives by married couples a punishable crime." This leaves the impression that married couples were convicted of such a crime. As Judge Bork mentioned, the "nutty" Connecticut statute was never used to punish a married couple for use of contraceptives.

Facts: The Judiciary Committee received a letter from one of the attorneys in *Griswold* who explained that the statute at issue had indeed been enforced in the years prior to the decision in *Griswold*:

> There is a decision of the Connecticut Supreme Court of Errors, dated March 6, 1940. . . . [T]here was a prosecution of two doctors and a nurse in violation of the Connecticut statute against the use of contraceptives.
>
> . . . [A]s a result of this decision, nine Planned Parenthood clinics which had been providing contraceptive services until they were closed, remained closed until the decision of the United States Supreme Court in *Griswold* v. *Connecticut* in 1965. (Comm. Print Draft, Part 1, 572)

(22) HATCH: "Turn back the clock on civil rights." Unfounded slander. Judge Bork has advanced civil rights in all his public service capacities. He has never "turned back the clock." Robert Bork has never advocated (as Solicitor General) or rendered a judicial decision (on the D.C. Circuit) that was less sympathetic to minority or female plaintiffs than a majority of the Supreme Court. As S.G., Judge Bork won several significant advances for civil rights, including prohibition of private discriminatory contracts (*Runyon* v. *McCrary*) and redistricting to enhance minority voting strength (*United Jewish* v. *Cary*).

Facts: In writing and speeches, Bork opposed major laws and landmark Supreme Court decisions protecting civil rights. For example, he criticized the outlawing of discrimination in public accommodations and employment, decisions banning racially restrictive convenants, state poll taxes and literacy tests, and the decision mandating "one man, one vote." Bork has never written contemporaneously in support of any civil rights advance. When nominated to be Solicitor General, he testified about the constraints on his role: "I view it as a part of being the attorney for the Government, . . . I will enforce the policy of the Government." He was also asked if he "could sign a brief that was inconsistent with [his] personal views," to which he responded, "I think I can, Senator, and I know I have." (Solicitor General Hearings, January 17, 1973). As a judge on the D.C. Circuit Court, Judge Bork was constitutionally bound to uphold Supreme Court precedent.

(23) Hatch: "Ugliness." "Ugliness" was indeed the word Professor Bork used to describe coercion of private accommodations owners, but "ugliness" was also the exact word used in the same article to castigate all forms of racial discrimination. Professor Bork's position, even though later recanted, should not be portrayed in a light that appears insensitive to racial prejudice.

Facts: Former Attorney General Nicholas de B. Katzenbach said this in testifying before the Judiciary Committee on Judge Bork's opposition to legislation banning discrimination in public accommodations:

"His 1963 article in the New Republic . . . is one that I remember very well. It was then, and is now, absolutely inconceivable to me that a man of intelligence and perception and feeling could have opposed that legislation on the grounds that it deprived people of a feedom of association.

It meant and it could have only meant, that he valued the right of people in public situations to discriminate against blacks if that is what they chose to do.

What kind of judgment does that demonstrate? (Comm. Print Draft, Part 1, p. 870)

(24) Hatch: "How Professor Bork described a law." Selective quoting out of entire context. This 1963 statement was recanted over fourteen years ago. Judge Bork's admission of error is well-known, yet nowhere mentioned in this tabloid.

Facts: We said that he opposed the law, which is true, Bork publicly changed his mind on the law 10 years later. But he did so only when asked at his confirmation hearings for Solicitor General and on grounds (that the law had worked and been accepted) that fell far short of his original criticisms. Bork's supporters note that some Senators like Senator Thurmond also opposed the public accommodations law. But, as William Coleman and others pointed out, those Senators were responding to the demands of a constituency that Robert Bork did not have.

(25) Hatch: "Criticized decisions that stopped states from using poll taxes." Half truth. Judge Bork personally opposes poll taxes; he criticized only the reasoning by which the Court reached its result—position shared by Justices Harlan, Stewart, Frankfurter, Jackson, Brandeis, Cardozo, and Black, not to mention a broad array of constitutional scholars.

Facts: For decades poll taxes were used to keep poor people, mostly minorities, from voting. Judge Bork called the poll tax "a very small tax, it was not discriminatory and I doubt that it had much impact on the welfare of the nation one way or the other." (Senate Hearings to be Solicitor General, January 17, 1973, p.17)

At his recent hearing, he reiterated: "It was just a $1.50 poll tax." (Comm. Print Draft, Part 1, p.129)

(26) Hatch: "Criticized decision that stopped states from using . . . literacy tests." Half truth. Judge Bork personally opposes literacy tests; he criticized only the reasoning by which the Court reached its result—a position shared by Justices Harlan, Stewart, Burger, Black, Blackmun, and Powell, not to mention a broad array of constitutional scholars.

Facts: Bork characterized the decisions upholding Congressional authority to ban literacy tests as "very bad, indeed pernicious law." Under his theory, the courts and Congress would be prevented from taking effective action to ban literacy tests, and the only remedy would be through a constitutional amendment.

(27) Hatch: "Poll taxes . . . to keep minorities from voting." This is incorrect. This misstates the Supreme Court case in question. The Court in *Harper* pointedly mentions that the case involved no evidence of racial discrimination.

Facts: In its 1966 decision in *Harper*, the Supreme Court expressly noted that the "Virginia poll tax was born of a desire to disenfranchise the Negro." (383 U.S. at 666 n.6) The Court decided that the tax, which had a disproportionately adverse impact on black citizens, was a form of wealth discrimination that violated the Fourteenth Amendment.

(28) Hatch: "Poll taxes . . . to keep minorities from voting." This is a grossly unfair characterization. Judge Bork stated that if the *Harper* decision had involved racial discrimination, he would not have criticized it. He would vote to strike down any discriminatory poll tax.

Facts: As noted in Facts #27 above, the poll tax in the *Harper* case arose from a desire to disenfranchise blacks. But even if that were not the case, Bork's view that a $1.50 tax should be permissible demonstrates insensitivity to the impact of *any* tax on poor voters. In this country, the basic right to vote should not be conditioned on one's ability to pay a poll tax, no matter how small.

(29) Hatch: "Literacy tests . . . to keep minorities from voting." This is incorrect. This misstates the Supreme Court case in question. The Court in *Katzenbach* pointedly mentions that the case involved no evidence of racial discrimination.

Facts: The impact of the literacy tests was to keep minorities from voting, in this case U.S. citizens educated in Puerto Rico.

(30) Hatch: "Literacy tests . . . to keep minorities from voting." This is a grossly unfair characterization. Judge Bork stated that if the *Katzenbach* decision had involved racial discrimination, he would not have criticized it. He would vote to strike down any discriminatory literacy test.

Facts: The point of the Voting Rights Acts upheld in *Katzenbach* was to establish an effective means for enfranchising minorities. Racial discrimination in voting had been unlawful since adoption of the Fourteenth and Fifteenth Amendment. Judge Bork's statement that he opposed literacy tests is irrelevant to whether he would allow effective ways to eliminate unlawful practices, such as literacy tests that disenfranchised thousands of voters prior to passage of the 1965 Voting Rights Act.

(31) Hatch: "Opposed the decision that made all Americans equal at the ballot box—'one man-one vote.'" This is ambiguous and incorrect. It seems only to imply that Judge Bork opposed the outcome in *Baker* v. *Carr*, the landmark case that made reapportionment decisions justiciable. In fact, Judge Bork agrees with *Baker*.

Facts: Judge Bork called "one man-one vote" a "too much of a straightjacket" and said, "I do not think there is a theoretical basis for it." (Solicitor General Hearings, January 17, 1973, p.13). He also said that it "does not come out of anything in the Contitution." (Comm. Print Draft, part 1, p.131)

(32) Hatch: "Opposed the decision that made all Americans equal at the ballot box—'one man-one vote.'" If this language refers to Judge Bork's questions about the need for mathematical perfection in apportionment decisons, it is incorrect to refer to this concern as opposition to "the decision" because there were many such decisions (e.g., *Preisler* (1969), *Karcher* (1983)).

Facts: Our language refers to the fact that Bork opposed the landmark decision (*Reynolds v. Sims*) that established the principle of "one man, one vote." We make no reference to the many decisions implementing that principle, which Judge Bork presumably opposed as well. Bork continued to oppose the principle of "one man, one vote" at his confirmation hearings:

[I]f the people of this country accept one man, one vote, that is fine. They can enact it any time they want to. I have no desire to go running around trying to overturn that decision. But as an original matter, it does not come out of anything in the Constitution and if the people of this country want it, they can adopt that apportionment at any time they want to. (Comm. Print Draft, Part 1, p.131)

(33) Hatch: "Opposed the decision that made all Americans equal at the ballot box—'one man-one vote.'" It is unfair to suggest that Judge Bork opposes fairness "at the ballot box." Judge Bork endorses the position of Justices Stewart, White, Rehnquist, and Burger which would sustain a rational state plan that does not frustrate the majority will—a very fair alternative to mathematical perfection.

Facts: Judge Bork fails to see the impact of malapportioned legislatures on minority rights. Barbara Jordan, in her testimony before the Committee, movingly described the impact of Bork's view in real terms on her own attempts to gain political office in Texas where the legislature was malappropriated. Not until the Supreme Court decision establishing one man-one vote, was Texas required to reapportion. She says of Judge Bork's inability to find a "theoretical basis" for one man-one vote:

Maybe there is no theoretical basis for one person, one vote, but I will tell you this much. There is a common sense, natural, rational basis for all votes counting equally." (Comm. Print Draft, Part 1, p.786)

(34) Hatch: "Should America go back." If you repeat a falsehood often enough, someone will believe it. Once again this suggests that Judge Bork, who advanced nearly every significant civil right, would somehow send America back.

Facts: There is only one misstatement above—Senator Hatch's statement that Judge Bork "advanced nearly every significant civil right."

(35) Hatch: "And refight settled civil rights battles." Judge Bork would not reopen "settled civil rights battles." In fact, he approves of *Brown v. Board* and testified repeatedly that he would respect and sustain precedents in this area.

Facts: *Brown v. Board of Education* is not the issue. As Senator Lloyd Bentsen (D-Tex.) put it: "As far as I can determine, in virtually every case where he has taken a position, Judge Bork has opposed the advancement of civil rights over the past 25 years. . . . We do not need any more narrow legal debate on what is right and just for America when it comes to civil rights. We have already answered those questions."

(36) Hatch: "If Robert Bork is on the Court, we may have to." This ignores his record on the Circuit Court—the best indicator of his performance on the Supreme Court. As a judge, he sustained every civil rights law he faced. He struck down a South Carolina voting plan that might have been discriminatory (*Sumter County*), applied the Equal Pay Act to the foreign service (*Ososky, Palmer*), permitted a discrimina-

tion case against the Navy (*Emory*), and punished discrimination against stewardesses (*Laffey*).

Facts: As a judge on the Circuit Court, he was bound by precedent. On the Supreme Court he would not be so constrained. Bork himself acknowledged this in a speech to Canisius College in 1985:

I don't think that in the field of constitutional law, precedent is all that important. . . . [I]f you become convinced that a prior Court has misread the Constitution, I think it's your duty to go back and correct it. . . . I think the importance is what the Framers were driving at, and to go back to that.

See study by National Women's Law Center, "Setting the Record Straight: Judge Bork and the Future of Women's Rights," and the NAACP Legal Defense and Education Fund, Inc.'s study on Judge Bork's views on race discrimination, which document Judge Bork's troubling record regarding minority and women's rights.

(37) HATCH: "No day in Court." This creates the erroneous impression that Judge Bork will deny access to meritorious claims. To the contrary, he has granted court access to the extent possible under constitutional and statutory doctrines of justiciability.

Facts: The headline refers to a conclusion from Public Citizen Litigation Group's study analyzing cases in which Judge Bork participated and there was dissent. See *The Judicial Record of Judge Robert H. Bork*, pp. 49-60.

(38) HATCH: "Bork has long believed that courts should not hear certain kinds of cases." This falsely suggests that Judge Bork has a "hit-list" of worthy claims he will not hear. In fact, he will hear any kind of case that is justiciable. This also creates the impression that Judge Bork alone has this peculiar "hit-list" when the Supreme Court has cited his *Vander Jagt* standing opinion with approval. He agrees with the Supreme Court. It is his critics who have the false list of cases.

Facts: Judge Bork has gone to such extremes in denying access to the courts that he has evoked strong responses from his judicial colleagues. For example, when Judge Bork dissented in *Bartlett v. Bowen*, a case that allowed a constitutional challenge under the Medicare Act, Judge Harry Edwards wrote:

The dissent's sovereign immunity theory in effect concludes that the doctrine of sovereign immunity trumps every other aspect of the Constitution. . . . If we follow the reasoning of the dissent to its logical conclusion, Congress would have the power to enact a welfare law authorizing benefits to be available to white claimants only and to immunize that enactment from judicial scrutiny by including a provision precluding judicial review of benefits claims. . . . we see no evidence that *any* court, including the Supreme Court, would subscribe to the dissent's theory in such a case. (Slip opinion at 32-33, emphasis in original)

In several speeches, including an April 1987 address to the Brookings Institution, Judge Bork has called for the removal of many kinds of cases from Article III courts to Article I tribunals. The kinds of cases that Bork says do not merit the attention of Article III courts include those resulting from "a vast network of legislation and regulation about clean air, clean water, fuel, electric power, medicines, food, education, safety, health, assistance to the poor, the unemployed, the disabled, and so on." (Alternatives to Continued Growth, April 11, 1987, p. 9). Expounding on the same theme in 1976, Judge Bork wrote, "Some cases might require rigorous procedural and evidentiary rules as well as the assistance of counsel, but that degree of rigor could perhaps be dispensed with, for example in the ordinary social security case." ("Dealing with the Overload in Article III Courts," The Pound Conference, 70 F.R.D. 231, 239)

(39) HATCH: "In 14 out of 14." Selective statistics. By selecting the right 14 cases, you can get 100% for any proposition. The question this ought to raise is who selected the 14 cases, not the 100% conclusion.

Facts: The fourteen cases were all of Judge Bork's split decision cases involving standing as cited in the Public Citizen Litigation Group study.

(40) HATCH: "Controversial cases." Falsehood statistics. The only cases chosen are nonunanimous or split decision. These are less than 10% of Judge Bork's court cases. There is no support for the conclusion that clear legal outcomes are required in unanimous cases. Split decisions are coincidental because three-judge panels are chosen randomly.

Facts: Actually, 14% of the cases Judge Bork was involved in were nonunanimous. There is a consensus that nonunanimous decisions generally involve important legal principles more often than do unanimous. Most of the unanimous decisions involve relatively simple, straight-forward and noncontroversial issues.

(41) HATCH: "Controversial cases." The analysis of 14 cases is skewed to reach a particular result. Even some nonunanimous cases are left out of the sample to ensure the preconceived result. Some unanimous cases are included for the same purpose. For example, *Haitian Refugee Center*, a unanimous affirmance is included because one judge had a different rationale.

Facts: Contrary to the Hatch commentary, Judge Edwards identified his opinion in *Haitian Refugee Center*, 809 F.2d 794 (1987), as a dissent. A reading of the opinion makes it clear that Judges Bork and Edwards disagreed on the issue of standing.

(42) HATCH: "Controversial cases." Categorizing cases, regardless of legal issues, based on the characteristics of the winners and the losers is illegitimate and misleading. One example. In the *Norfolk & Western* case, Judge Bork grants a railroad access to the courts to sue, but instead this case is classified as a "pro-business" case and not included in the "no day in court" category. This categorization is skewed to serve the interests of the muckraker.

Facts: The *Norfolk & Western* case was classified as "pro-business" by Public Citizen Litigation Group because the Court was split on the regulatory issue and not on the standing issue.

(43) HATCH: "Controversial cases." This creates the false impression that Judge Bork always decides cases one way. In fact, he agreed with Carter-appointee Ginzburg [sic] 91% of the time, with Carter-appointee Mikva (an avowed liberal) 82% of the time.

Facts: In assessing the Hatch statistics, one must remember that nearly 90% of the docket in the D.C. Circuit Court involves little, if any, controversy or disagreement among the judges. However, in nonunanimous cases Judge Bork sided with the five most liberal members of the D.C. Circuit 6-19% of the time.

(44) HATCH: "Social security, military veterans, minorities, the handicapped, and the homeless." False impression. This list of sympathetic groups creates the impression that Judge Bork customarily rules against minorities and disadvantaged. In fact, Judge Bork has ruled in favor of women (*Palmer, Ososky, Laffey*), homosexuals (*Doe*), blacks, (*Emory, Sumter County*), and has never taken a position less sympathetic to these groups that [sic] the Supreme Court.

Facts: All of the examples cites in the Hatch commentary are unanimous cases. This information does not address any of the points in the ad regarding the issue of standing.

(45) HATCH: "Big business is always right." Repeat a lie often enough. Judge Bork's record is one of great sympathy for minorities and women.

Facts: Bork's record in nonunanimous cases favors business over individuals and government. See Public Citizen Litigation Group study.

(46) HATCH: "Bork has already made up his mind." Character assassination. Judge Bork is accused of having a closed mind at this point. Later in the same article, he is accused of being too open to change. Both cannot be true.

Facts: Judge Bork's judicial philosophy has led to a clear pattern of results. For example, Judge Bork voted for business in 8 out of 8 nonunanimous decisions and against environmental groups, workers, consumers or individuals in 26 out of 28 cases. See Public Citizen Litigation Group study, pp. 3-4.

(47) HATCH: "96%", "5 out of 5", "10 out of 10." Selective statistics, see 39 above. Choose right cases and you can get 100% for any result. For instance, several cases chosen, e.g., *Norfolk & Western*, feature one business suing another. No wonder that a business wins.

Facts: *Norfolk & Western* was a unanimous decision. See facts #45 and 46.

(48) HATCH: "96%", "5 out of 5", "10 out of 10." Falsehood statistics, see 40 above. For example, *Dronenburg*, one of Judge Bork's most controversial decisions, is not included because it was unanimous.

Facts: See facts #45 and 46.

(49) HATCH: "96%", "5 out of 5", "10 out of 10": Skewed analysis, see 41 above. For instance, Judge Bork rules for a small business in a suit against the federal government and it is still called a "big" business victory. (*Citizens Coordinating Committee*)

Facts: Wrong again. In *Citizen Coordinating Committee*, 765 F.2d 1169 (1985), Judge Bork ruled against the small business on a standing issue.

(50) HATCH: "96%", "5 out of 5", "10 out of 10": Miscategorizing cases, see 42 above.

Facts: Previous responses apply.

(51) HATCH: "96%", "5 out of 5", "10 out of 10": False impression, see 43 above.

Facts: Previous responses apply.

(52) HATCH: "Book on antitrust laws:" Misleading characterization of book. In fact, six of the nine Justices of the Supreme Court have cited this book and all nine have joined opinions citing it. This is the leading treatise of antitrust law in America.

Facts: If anything, we should have called it a "controversial book on antitrust laws." After all, in the book Bork called the entire body of Supreme Court precedent in the antitrust field "mindless law." (p.411). According to Dean Robert Pitofsky of Georgetown University Law Center, if Bork's writings are a fair guide, he would vote to overrule a substantial proportion of precedent in antitrust law.

(53) HATCH: "Conglomerate mergers:" Selective quoting out of context. A full exami-

nation of the book indicates that Judge Bork's entire theme is consumer welfare. He indicates that sometimes antitrust laws frustrate consumer welfare.

Facts: Bork uses "consumer welfare" as a synonym for "efficiency." Bork's view that antitrust laws should not be applied to conglomerate mergers would allow very large concentrations of economic power with serious consequences for the consumer.

As the Attorney General of West Virginia, Charles Brown testified:

We would see the institutional non-enforcement of the Federal level and the gradual erosion of this enforcement by the States. Real victims of a Bork antitrust era on the Supreme Court will be consumers, small business entrepreneurs, and mid-sized corporations. For the individual buyer and the bold business person, there will be nothing free about the market created by Judge Bork. Price fixing and exclusive dealing will rule the marketplace. Innovative industrialists will be absorbed in the great corporate giants." (Comm. Print Draft, Part 3, p.1981)

(54) Hatch: "Look past his resume:" An [sic] thinly veiled attempt to short-change the individual with the most impressive legal resume in the country.

Facts: No one has questioned Judge Bork's education and legal credentials. It is Bork's view of the Constitution that is at issue.

(55) Hatch: "Consistently ruled against the interests of the people." Outright lie. See 22 and 36 above.

Facts: See FACTS #22 and 36 above.

(56) Hatch: "Against our constitutional rights:" Outright lie. See 22 and 36 above, just for starters.

Facts: See FACTS #22 and 36 above.

(57) Hatch: "His extremist philosophy:" Hallow [sic] name calling. The real question is who is "extreme." A fair reading points more to Judge Bork's critics than to him.

Facts: See FACTS #3 above.

(58) Hatch: "Views so extreme:" Repeat a lie often enough. . .

Facts: see FACTS #3 above.

(59) Hatch: "White House image-makers:" Judge Bork's days of testimony before the Judiciary Committee had nothing to do with image-making.

Facts: Even Richard Viguerie acknowledged the White House efforts to make Judge Bork over as a moderate, "The White House has decided to package him as a moderate. . . . since when do conservatives want to fight and bleed and die to get moderates on the Supreme Court? (*Boston Globe*, September 20, 1987)

(60) Hatch: "Repackage:" Before he was too rigid, now the insinuation is that he is changing. Both cannot be correct.

Facts: The repackaging does not mesh with reality. Bork is far from the mainstream of traditional Supreme Court jurisprudence.

(61) Hatch: "Bork himself is changing his image:" This is simply false. Many of the views Judge Bork is reputed to have changed, including his views on equal protection and respect for original intention, were first articulated in 1971.

Facts: As Bruce Fein, Heritage Foundation consultant, noted: "Bork is bending his views to improve his confirmation chances and it's a shame. . . . He is trying to fold his views into the mainstream." (*Boston Globe*, September 20, 1987). Bork, in meeting with Senators and in his testimony has adopted positions that conflict with his previously stated views. Perhaps the most noteworthy aspect of Judge Bork's shift is his abrupt about-face in discussing equal protection for the rights of women under the Fourteenth Amendment. As recently as three weeks prior to his nomination in a USIA Worldnet interview, he said: "I do think the Equal Protection Clause probably should have been kept to things like race and ethnicity." However, in his confirmation hearings he shifted his view and said that the Equal Protection clause protects women.

(62) Hatch: "Bork . . . lobbying the Senate and the media:" Ironic charge. The most expensive lobbying campaign ever launched against a judicial candidate accuses the judge of lobbying. In fact, he has done nothing but appear, at the request of Senators, to answer their questions.

Facts: Judge Bork gave an unprecedented number of interviews to the press after he was nominated, he met with Senators, many at *his* own initiation, and even met with constituent groups, including meeting with representatives of Jewish organizations.

(63) Hatch: "People For The American Way:" Hypocritical. In a speech before the Federalist Society months before the nomination, Tony Podesta, Director of PFTAW, answered that he would support Antonin Scalia, Robert Bork, or Frank Easterbrook, if nominated for the Supreme Court.

Facts: The pivotal seat filled by Justice Lewis Powell was not vacant when Tony Podesta, former President of People For The American Way, spoke to the Federalist Society. At the meeting Podesta did say that Bork was more qualified to sit on the bench than Dan Manion who was under consideration at that time, which is true. He did not *endorse* Robert Bork for the Supreme Court.

(64) Hatch: "Committed to protecting American values:" How is it "protection of American values" to undermine the integrity and independence of the Judiciary with a political campaign?

Facts: The debate over the Bork nomination was an example of how our democratic system works best when the people participate. It was a debate over democratic values: from the proper role of the Court to whether free speech extends beyond political expression; and whether Supreme Court Justices should respect precedent.

(65) Hatch: "Values never faced a tougher challenge:" Judge Bork embodies American values. He is not their enemy.

Facts: *The New York Times* editorial "Against Robert Bork" said it best in describing how "His Bill of Rights is Different:"

Robert Bork's Constitution is smaller and more closed than the living document America celebrates in this its bicentennial year. His is so different from the charter produced by two centuries of Supreme Court interpretation that every moderate senator should feel justified in voting against his elevation. . . .

Even in his latest appearance he declined to revise his pinched view of civil rights. He has criticized some of the Supreme Court's landmark civil rights decisions for reasons that vary from case to case. The bottom line, however, is almost always the same—unfavorable to minorities.

. . . Repeatedly over the years, Judge Bork has taken a narrow view of the rights of expression. He declared that only the "core" value of political speech was immune from government restraint. Not until 1984 did he allow as how art and literature might be protected, and then only because they sometimes relate to politics. His conversion, late, is also limited.

Even this limited liberty, in his view, remains utterly at the mercy of the majority when speech becomes advocacy of illegal action. . . .

. . . As recently as June 10, just before his nomination, he told an interviewer that he thought the 14th Amendment, which covers all persons, "should have been kept to things like race and ethnicity" and not extended to women. . . .

. . . The Constitution does not state a right of privacy beyond freedom from unreasonable searches and the like; thus Judge Bork does not recognize its existence. Yet great judges and justices have found room for personal privacy in the concept of liberty enshrined in the Fifth and Fourteenth Amendments. (*The New York Times*, October 5, 1987)

(66) Hatch: "Support our Action Fund:" Finally the motives are clear. Fundraising. It can be profitable to create a "monster" and then cast yourself as the only knight—albeit an impecunious knight—able to rid the land of scourge.

Facts: People For would have been more than happy to forego a campaign against a mainstream conservative nominee. However, President Reagan chose instead a nominee who has a grudging, mechanistic view of the rights protected by the Constitution and the role of the courts and who for 25 years has attacked the Supreme Court's landmark decisions protecting individual rights and liberties and has repeatedly expressed a willingness to overturn those decisions. People For worked with many groups in a broad-based coalition to oppose a Supreme Court nominee whose confirmation we believe would be disastrous for the Constitution and for the country. All of the contributions receive were spent to further this effort.

As a conservative activist gloated about the Bork nomination: "We have the opportunity now to roll back 30 years of social and political activism by the Supreme Court." (*The Washington Post*, July 2, 1987). We did not believe that such a prospect was in our nation's best interest.

(67) Hatch: "Bork vs. the People:" See 1 above.

People for the American Way Action Fund's Public Education Campaign in Opposition to the Confirmation of Robert H. Bork: Explanatory Notes

When Robert Bork's nomination to the Supreme Court began to appear doomed, his supporters started attacking advertisements in opposition to the nomination produced by the People For the American Way Action Fund. We stand by the accuracy and fairness of our efforts to reiterate that their themes form the underpinnings of our broad concerns with the nomination.

The Action Fund ads distilled the case against Bork's nomination from his 25 year record of writings, speeches and judicial opinions into the available space of a newspaper page and 60 seconds of television time. While reaching only a small fraction of the audience who watched Bork's own testimony or read news coverage of the hearings, these ads enabled us to reach a wider audience than the lengthy reports we also prepared.

In light of the controversy the ads have engendered, we have prepared the following factual and contextual background. Part I discusses in depth three issues in the Gregory Peck ad that Bork's supporters have criticized. Part II documents assertions made in both the TV and print ads.

I. CONTEXT OF BORK AND PFAW STATEMENTS ON CIVIL RIGHTS ISSUES: DOCUMENTATION FOR THE TV AD NARRATED BY GREGORY PECK

A. Poll taxes

Poll taxes were one of several devices adopted by Southern states after the end of Reconstruction as a means of disenfranchising Negro citizens. Between 1890 and 1902, Tennessee, Mississippi, Alabama, North Carolina, Virginia and Texas were among the Southern states that adopted the poll tax. There was no mystery about the purpose of the poll taxes. As the Supreme Court recognized in the *Harper* case, the tax in Virginia and elsewhere was born of a specific desire to keep blacks from voting. And it was immediately effective in achieving its purpose. In Tennessee, for example, the tax was adopted in 1890, and later that year, the *Memphis Daily Avalanche* reported that the "Negro was practically disenfranchised by the law compelling every voter to show his poll tax receipt."

As the years progressed, poll taxes, while remaining a tool for excluding blacks from voting, became less important than other devices such as literacy tests. One reason was that, in order to protect poll taxes from law suits alleging that they were racially discriminatory, they had to be applied to whites as well as blacks. In contrast, literacy tests could be administered so that whites passed while blacks failed.

Nevertheless, many states were quite content to keep white, as well as black, political participation low and thus continued to apply the poll tax. In Virginia at the time the *Harper* case was brought in 1964, only 45% of voting age black citizens were registered and only 56% of voting age whites. Clearly, the tax had a disparate impact on blacks, many more of whom were poor than whites. But it was the fact that the tax hurt whites as well as blacks that led the Supreme Court to consider the issue as one of *economic* discrimination while recognizing the *racial* origin of the tax.

And it was in that context that the Court decided by a 6-3 vote that "wealth or fee paying has . . . no relation to voting qualifications" and that the poll tax violated the equal protection clause of the Fourteenth Amendment.

Bork attacked the validity of the *Harper* decision in 1971 and then argued at his 1973 confirmation hearings that "it was a very small poll tax, it was not discriminatory and I doubt that it had much impact on the welfare of the nation one way or another."

There is no question that Bork "defended poll taxes," as People For's ad stated. In addition, Bork was both wrong and callous in his remarks. As Senator Heflin pointed out, a $1.50 poll tax that had to be paid 6 months in advance, at the courthouse with all back taxes for three years, was certainly a burden on blacks and poor people. Secondly, Bork was playing with words when he said it was not discriminatory. He knew it was discriminatory in *economic* terms, but had previously expressed the opinion that the 14th Amendment does not cover economic discrimination. And he surely knew of the racial origins of the tax and that it continued to have a disproportionate effect on blacks. Finally, the "impact of the tax" had been demonstrated by a surge in black voting participation in *federal* elections after the 24th Amendment abolished use of the poll tax in *federal* elections, a surge that was not matched in state elections. In addition, after the *Harper* decision and the Voting Rights Act of 1965, black registration went from 45% to 61% in 1976 and white registration from 55% to 67%. The larger impact can be measured in the progress that race relations have made in the South since the enfranchisement of black people, progress that has benefited blacks and whites alike.

B. Literacy tests

The issue here is Judge Bork's description of Supreme Court decisions in two voting cases (*Katzenbach* v. *Morgan* and *Oregon* v. *Mitchell*) as "very bad, indeed pernicious constitutional law."

Katzenbach dealt with one provision of the historic Voting Rights Act of 1965—a provision that said that citizens who completed the 6th grade in accredited schools in Puerto Rico in which instruction was given in Spanish should not be disqualified because of inability to read or write English.

Mitchell dealt with a provision of a 1970 law which extended the ban on literacy tests contained in the 1965 Voting Rights Act (which applies mainly to Southern states) to *all* states and *all* types of elections.

In both cases and, (in *Mitchell* unanimously), the Supreme Court upheld the law as a proper exercise of Congressional authority under the 5th section of the Fourteenth Amendment. That provision says that "the Congress shall have power to enforce by appropriate legislation, the provisions of the article." In the Supreme Court's view, that provision was an affirmative grant of authority to prevent or forbid practices that would contravene the broad purpose of the Fourteenth Amendment. In Bork's view, all that Congress could do was to ban practices that the Supreme Court had said (or would say) violated the Fourteenth Amendment. So, if the lower court had said that literacy tests were unconstitutional, Congress could prescribe penalties for state officials who continued to impose them. But, because the Supreme Court had said some years earlier that literacy tests were not *per se* unconsitutional, in Bork's view, Congress could not prohibit them.

The difference between Bork's view and the Court's view of Congressional authority to protect civil rights is of great practical importance. Literacy tests were the prime device used until 1965 to keep blacks from voting. In Mississippi in 1964, largely due to the literacy test and intimidation, only 28,500 blacks were registerd to vote—6.7% of the voting age population. Yet Congress had given the Justice Department authority to attack racially discriminatory practices in the courts in 1957. The fact is that some years later, in the 46 counties of Mississippi and elsewhere in the South where suits were brought, only 37,146 Negroes of voting age were registered to vote.

It was only when Congress adopted the Voting Rights Act of 1965—striking down such tests in places where black registration was low—that things began to change significantly. Bork did not attack this particular provision of the Voting Rights Act. But his argument against Congressional authority—that Congress could not go beyond the Courts in declaring rights—would have applied. The courts had not said that literacy tests would be barred simply because black registration was low.

If his views had prevailed, literacy tests would still be valid, except where there was explicit and intentional racial discrimination, and voting participation by blacks, Puerto Ricans and other Hispanic citizens, would be much lower than it is today.

What Bork said is that, except in limited circumstances, neither Congress nor the Supreme Court could extend voting opportunities by curbing the use of literacy tests. That would have left only the difficult route of a constitutional amendment—something Bork did not advocate.

That most certainly was a defense of literacy tests as People For's ad said.

C. Public accommodations

Robert Bork wrote in the *New Republic* on August 31, 1963:

> There seems to be a strong disposition on the part of proponents of the legislation [Interstate Public Accommodations Act] simply to ignore the fact that it means a loss of a vital area of personal liberty . . . The legislature would inform a substantial body of the citizenry that in order to carry on the trades in which they are established they must deal with and serve persons with whom they do not wish to associate . . . The principle of such legislation is that if I find your behavior ugly by my standards, moral or aesthetic, and if you prove stubborn about adopting my view of the situation, I am justified in having the state coerce you into more righteous paths. That is itself a principle of unsurpassed ugliness.

He added, "They [those who sit-in] are actually part of a mob coercing and disturbing other private individuals on the exercise of their freedom."

These words appeared three days after the historic march on Washington where 200,000 people participated in a demonstration for "jobs and freedom" and where Martin Luther King, Jr. made his "I have a dream" speech. Shortly after the August 31 piece, Bork reiterated his view in the *New Republic* in a reply to his critics.

Bork's words came in the context of widespread exclusion of black people from hotels, restaurants, parks, theaters and other places of public accommodation throughout the South and Border States. Black families travelling by automobile to visit friends or relatives in other towns had to plan as if going on the most perilous foreign journey. They had to know where they could find the one restaurant (probably owned by a black person) where they could eat, where they might find a gasoline station where their children would be allowed to go to the restroom, where they could find lodgings with a black family.

It was in this context that Robert Bork defended the "freedom" of whites to discriminate and described the public accommodations law as embodying "a principle of unsurpassed ugliness."

In justification of these views, Bork supporters note that he publicly changed his mind on the law 10 years later. But he did so only when asked at his confirmation hearings for Solicitor General and on grounds (that the law had worked and been accepted) that fell far short of his original criticisms. His supporters also note that some Senators like Senator Thurmond also opposed the public accommodations law. But, as William Coleman and others pointed out, those Senators were responding to the demands of a constituency that Robert Bork did not have.

There can do no question that Bork "opposed the civil rights laws that ended 'whites only' signs at lunch counters," as People For's ad stated. Bork's position that the bill had "serious constitutional problems" was rejected by a unanimous Supreme Court in 1964.

In 1963, Nicholas deB. Katzenbach was Deputy Attorney General. At Bork's recent confirmation hearings, Katzenbach testified:

His 1963 article in *The New Republic* . . . is one that I remember very well. It was then, and is now, absolutely inconceivable to me that a man of intelligence and perception and feeling could have opposed that legislation on the grounds that it deprived people of freedom of association.

It meant, and it could only have meant, that he valued the right of people in public situations to discriminate against blacks if that is what they chose to do. What kind of judgment does that demonstrate? (Comm. Print Draft, Part 1, p. 870.)

II. DOCUMENTATION FOR TV AND PRINT ADS

Statements made in the Gregory Peck TV Ad and the "Robert Bork v. The People" print ad are based on Judge Bork's own statements and his judicial record. Each statement is repeated below, followed by the factual documentation on which we relied.

A. "The Last Word" Gregory Peck TV Ad

"He defended poll taxes . . ."

Hearings before the Committee on the Judiciary, U.S. Senate, 93rd Congress, 1st Sess., on the Nomination of Robert H. Bork to be Solicitor General, Jan. 17, 1973, p. 17:

Senator Tunney: Have you a position with respect to the correctness of the Supreme Court's decision in *Harper v. Virginia Board of Elections*, which held that the imposition of the poll tax was unconstitutional?

Robert Bork: . . . I think I have previously indicated that that case, as an equal protection case, seemed to me wrongly decided . . . As I recall, it was a very small tax, it was not discriminatory and I doubt that it had much impact on the welfare of the nation one way or the other.

Bork, "Forward," *The Constitution and Contemporary Constitutional Theory*, Center for Judicial Studies, 1985:

[T]he Court frequently reached highly controversial results which it made no attempt to justify in terms of the historic Constitution . . . I offer a single example. In *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966), the Court struck down a poll tax used in state elections. It was clear that poll taxes had always been constitutional, if not exacted in racially discriminatory ways, and it had taken a constitutional amendment to prohibit state imposition of poll taxes in federal elections. That amendment was carefully limited so as not to cover state elections. Nonetheless, the Supreme Court held that Virginia's law violated the equal protection clause, saying little more than, "[W]e have never been confined to historic notions of equality . . . Notions of what constitutes equal treatment for purposes of the Equal Protection Clause *do* change."

Nomination of Robert H. Bork to be Associate Justice of the Supreme Court of the United States, Hearings before the Committee on the Judiciary of the United States Senate, 100th Cong., 1st Sess., September 15, 16, 17, 18, 19, and 21, 1987, Comm. Print Draft, Part 1, p. 129: [1]

Senator Kennedy: [H]ave [you] changed the view that the Supreme Court was wrong in the *Harper* case to hold that poll taxes are unconstitutional?

Judge Bork: I think it was [wrong], and I will tell you why . . . . [I]f that had been a poll tax applied in a discriminatory fashion, it would have clearly been unconstitutional. It was not. I mean, there was no showing in the case. It was just a $1.50 poll tax.

[NOTE: In its 1966 decision in *Harper*, the Supreme Court expressly noted that the "Virginia poll tax was born of a desire to disenfranchise the Negro." 383 US. at 666 n. 6]

"[He defended] literacy tests which kept many Americans from voting."

Judge Bork has criticized Supreme Court decisions that upheld the power of Congress to limit or prohibit literacy tests used by states which had the effect of inhibiting minority electoral participation:

Hearings before the Committee on the Judiciary, U.S. Senate, 93rd Congress, 1st sess., on the Nomination of Robert H. Bork to be Solicitor General, Jan. 17, 1973, p. 16:

Well, insofar as Katzenbach against Morgan says, as I read it to say, that Congress controls the content of constitutional protection, I think that is incorrect because I think that it is ultimately under the tradition of judicial review we have had in this country."

Bork, Speech, 7th Circuit, undated, p.5:

Katzenbach v. Morgan is terrible constitutional law. It stands for a revolution in the constitutional roles of the judiciary and the legislature.

Hearings before the Subcommittee on the Separation of Powers of the Committee on the Judiciary, U.S. Senate, 97th Cong., 1st Sess., on S.158 (The Human Life Bill), 1982, p. 310:

[Regarding *Katzenbach v. Morgan* and *Oregon v. Mitchell*], each of these decisions represents a very bad and, indeed, pernicious constitutional law.

"He opposed the civil rights law that ended 'whites only' signs at lunch counters."

Bork, "Civil Rights—A challenge," *The New Republic*, August 31, 1963:

There seems to be a strong disposition on the part of proponents of the legislation [Interstate Public Accommodations Act] simply to ignore the fact that it means a loss in a vital area of personal liberty . . . The legislature would inform a substantial body of the citizenry that in order to continue to carry on the trades in which they are established they must deal with and serve persons with whom they do not wish to associate . . . The principle of such legislation is that if I find your behavior ugly by my standards, moral or aesthetic, and if you prove stubborn about adopting my view of the situation, I am justified in having the state coerce you into more righteous paths. That is itself a principle of unsurpassed ugliness.

"He doesn't believe the Constitution protects your right to privacy."

"An Interview with Judge Robert H. Bork," *Judicial Notice*, Vol. III, No. 4, June 1986:

Well, the so-called right to privacy was born in the case of *Griswold v. Connecticut* . . . I don't think there is a supportable method of constitutional reasoning underlying the *Griswold* decision.

Time magazine, July 13, 1987, p. 11:

Asked recently by Time if he found a right to privacy anywhere in the Constitution, Bork's reply was unequivocal: "I do not."

Supreme Court Confirmation Hearings, Comm. Print Draft, Part 1, p. 266:

I do not have available a constitutional theory which would support a general defined right of privacy.

"And he thinks that freedom of speech does not apply to literature and art and music."

Bork, "Neutral Principles and Some First Amendment Problems," 47 Indiana Law Journal 1, 1971:

Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic.

Bork, Speech, University of Michigan, February 5, 1979:

There is no occasion, on this rationale, to throw constitutional protection around forms of expression that do not directly feed the democratic process. It is sometimes said that works of art, or indeed any form of expression, are capable of influencing political attitudes. But in these indirect and relatively remote relationships to the political process, verbal or visual expression does not differ at all from other human activities, such as sports or business, which are also capable of affecting political attitudes, but are not on that account immune from regulation.

Interview, Worldnet, USIA, June 10, 1987:

Clearly as you get into art and literature, particularly as you get into forms of art—and if you want to call it literature forms of art—which are pornography and things approaching it—you are dealing with something now that is [not] in any way and form the way we govern ourselves, and in fact may be quite deleterious. I would doubt that courts ought to throw protection around that . . .

A judge given that amendment knows that he or she is supposed to protect speech but does not know how far or how much.

B. "Robert Bork v. The People" print ad

"Sterilizing workers. . ." Robert Bork ruled in favor of a chemical company that offered its women employees a choice of being surgically sterilized or losing their jobs.

A Court of Appeals decision, written by Judge Bork, held that the Occupational Safety and Health Act did not bar an employer's policy that gave fertile women working at a chemical plant with unsafe lead levels the choice of being sterilized or losing their jobs. *O.C.A.W. v. American Cyanamid*, 741 F.2d 444 (1984). In the opinion Bork wrote:

We may not, on the one hand, decide that the company is innocent because it chose to let the women decide for themselves which course was less harmful to them. Nor may we decide that the company is guilty because it offered an option of sterilization that the women might ultimately regret choosing. These are moral issues of no small complexity, but they are not for us. Congress has enacted a statute and our only task is the mundane one of interpreting its language.

He asserted that the OSHA Act "can be read, albeit with some semantic distortion to cover the sterilization exception contained in [the company's] fetus protection policy."

Supreme Court Confirmation Hearings, Comm. Print Draft, Part 1, p. 450:

[T]he five women who chose to stay on that job with higher pay and chose sterilization—I suppose that they were glad to have the choice—they apparently were—that the company gave them.

"Robert Bork supported an electric utility that wanted consumers to pay for a nuclear power plant that was never built. Thanks to

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[1] Although both ads were prepared prior to the hearings, statements made by Judge Bork during the hearings that substantiate the assertions in the ads have been included.

Judge Bork, consumers got a bill for $400 million." [2]

Public Citizen Litigation Group, *The Judicial Record of Robert H. Bork*, 1987, p. 18:

In 1982, Jersey Central, an electric utility, filed requests for rate increases with the Federal Energy Regulatory Commission which were designed to recover $397 million that the utility lost when it suspended construction of a nuclear plant at Forked River, and to obtain a return on lost investment in the plant. . . . FERC allowed an increase in rates to recover the expense of building the cancelled project, but denied the company any return on its investment. . . .

When Jersey Central's challenge to FERC's decision first came before the Court, Judge Bork, writing for a unanimous court, rejected all the utility's arguments [for a rehearing on the issue of return on investment]. After Jersey Central asked the Court to reconsider its decision, however, Judge Bork switched his position and wrote two opinions siding with the utility, one on behalf of a regular panel of the D.C. Circuit, 768 F.2d 1500 (1985), and a second one on behalf of the full Court, 810 F.2d 1168 (1987).

. . . [I]n the second panel opinion, Judge Bork . . . focused on whether FERC's order allowed Jersey Central's shareholders a "reasonable" return on their investment in the aborted nuclear power plant. 768 F.2d at 1503. In suggesting that FERC's order did not provide for sufficient profits, Judge Bork took the unprecedented step of comparing Jersey Central's rates to those charged by "neighboring utilties." Under Judge Bork's analysis, if Jersey Central's higher rates did not exceed those of other utilities, as the company had contended, it would be unfair for FERC to reject them, regardless of the impact that they might have on Jersey Central's own customers. *Id.* at 1502. Judge Bork ordered FERC to hold a hearing and to "promptly grant a rate increase" if Jersey Central's factual contentions are borne out by the record created during the hearing. *Id.* at 1505. Judge Mikva disagreed with Judge Bork's reasoning and result. He charged that Judge Bork had "profoundly misconstrue[d]" the Supreme Court's decision in *Federal Power Commission* v. *Hope Natural Gas*, 320 U.S. 591 (1944) and had departed from Judge Bork's own cardinal rules of judicial restraint. *Id.* at 1506.

"Asked by Time magazine in July if he found a right to privacy in the Constitution, he declared, "I do not."

Time magazine, July 13, 1987, p. 11:

Asked recently by Time if he found a right to privacy anywhere in the Constitution, Bork's reply was unequivocal: "I do not."

"To this day he says the Supreme Court was wrong when it stopped one state from making the use of contraceptives by married couples a punishable crime."

"An Interview with Judge Robert H. Bork," *Judicial Notice*, Vol. III, No. 4, June 1986:

Well, the so-called right to privacy was born in the case of *Griswold v. Connecticut* . . . don't think there is a supportable method of constitutional reasoning underlying the *Griswold* decision.

"Unsurpassed ugliness." That's how Professor Bork described a law that said hotels and restaurants had to serve black Americans."

Bork, "Civil Rights—A Challenge," *The New Republic*, August 31, 1963:

There seems to be a strong disposition on the part of proponents of the legislation [Interstate Public Accommodations Act] simply to ignore the fact that it means a loss in a vital area of personal liberty . . . The legislature would inform a substantial body of the citizenry that in order to continue to carry on the trades in which they are established they must deal with and serve persons with whom they do not wish to associate . . . The principle of such legislation is that if I find your behavior ugly by my standards, moral or aesthetic, and if you prove stubborn about adopting my view of the situation, I am justified in having the state coerce you into more righteous paths. That is itself a principle of unsurpassed ugliness.

"He also criticized decisions that stopped states from using poll taxes. . . ."

Hearings before the Committee on the Judiciary, U.S. Senate, 93rd Congress, 1st Sess., on the Nomination of Robert H. Bork to be Solicitor General, Jan. 17, 1973, p. 17:

Senator Tunney: Have you a position with respect to the correctness of the Supreme Court's decision in *Harper v. Virginia Board of Elections*, which held that the imposition of the poll tax was unconstitutional?

Robert Bork: . . . I think I have previously indicated that that case, as an equal protection case, seemed to me wrongly decided . . . as I recall, it was a very small tax, it was not discriminatory and I doubt that it had much impact on the welfare of the nation one way or the other.

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[T]he Court frequently reached highly controversial results which it made no attempt to justify in terms of the historic Constitution . . . I offer a single example. In *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966), the Court struck down a poll tax used in state elections. It was clear that poll taxes had always been constitutional, if not exacted in racially discriminatory ways, and it had taken a constitutional amendment to prohibit state imposition of poll taxes in federal elections. That amendment was carefully limited so as not to cover state elections. Nonetheless, the Supreme Court held that Virginia's law violated the equal protection clause, saying little more than, "[W]e have never been confined to historic notions of equality . . . Notions of what constitutes equal treatment for purposes of the Equal Protection Clause *do* change."

Supreme Court Confirmation Hearings, Comm. Print Draft, Part 1, p. 129:

Senator Kennedy: [H]ave [you] changed the view that the Supreme Court was wrong in the *Harper* case to hold that poll taxes are unconstitutional?

Judge Bork: I think it was [wrong], and I will tell you why . . . [I]f that had been a poll tax applied in a discriminatory fashion, it would have clearly been unconstitutional. It was not. I mean, there was no showing in the case. It was just a $1.50 poll tax.

"He also criticized decisions that stopped states from using . . . literacy tests to keep minorities from voting."

Judge Bork has criticized Supreme Court decisions that upheld the power of Congress to limit or prohibit literacy tests used by states which had the effect of inhibiting minority electoral participation:

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Well, insofar as Katzenhach against Morgan says, as I read it to say, that Congress controls the content of constitutional protection, I think that is incorrect because I think that it is ultimately under the tradition of judicial review we have had in this country.

Bork, Speech, 7th Circuit, undated, p. 5:

Katzenbach v. Morgan is terrible constitutional law. It stands for a revolution in the constitutional roles of the judiciary and the legislature.

Hearings before the Subcommittee on the Separation of Powers of the Committee on the Judiciary, U.S. Senate, 97th Cong., 1st Sess., on S. 158 (The Human Life Bill), 1982, p. 310:

[Regarding *Katzenback v. Morgan* and *Oregon v. Mitchell*], each of these decisions represents a very bad and, indeed, pernicious constitutional law.

—"And he opposed the decision that made all Americans equal at the ballot box—'one man, one vote.'"

Hearings on Solicitor General nomination, p. 13:

Senator Tunney: Do you continue to believe that the Supreme Court erred in establishing the "one man, one vote" principle?

Mr. Bork: I do, Senator . . . [O]ne man, one vote was too much of a straitjacket. I do not think there is a theoretical basis for it.

Interview, Worldnet, USIA, June 10, 1987, transcript p. 22:

I think this Court stepped beyond its allowable boundaries when it imposed one man, one vote under the Equal Protection Clause.

Supreme Court Confirmation Hearings, Comm. Draft Print, Part 1, p. 131:

[I]f the people of this country accept one man, one vote, that is fine. They can enact it any time they want to. I have no desire to go running around trying to overturn that decision. But as an original matter, it does not come out of anything in the Constitution and if the people of the country want it, they can adopt that apportionment any time they want to.

—"Robert Bork has long believed that courts should not hear certain kinds of cases. In 14 out of 14 controversial cases involving people on social security, military veterans, minorities, the handicapped and the homeless, Judge Bork refused to give them their day in court."

Public Citizen Litigation Group, *The Public Record of Judge Robert H. Bork*, 1987, p. 4:

[I]n the 14 split cases involving questions of access to the courts or to administrative agencies, Judge Bork voted against granting access on every occasion. He voted to dismiss cases brought by prison inmates, social security claimants, Haitian refugees, handicapped citizens, an Iranian hostage, and the homeless.

He has voted to dismiss cases brought by the United States Senate, the State of Massachusetts, veterans . . . (p. 49)

"Recent studies reveal that Judge Bork has already made up his mind that large corporations are nearly always right. One study found he favored corporations over consumers 96 percent of the time."

Public Citizens Litigation Group, *The Judicial Record of Judge Robert H. Bork*, 1987, p. 5:

Taken together, Judge Bork's decisions in the fields of administrative, constitutional, and criminal law and his rulings on access present a clear theme: where anybody but a business interest challenged executive action, Judge Bork exercised judicial restraint either by refusing to decide the case or by deferring to the executive on the merits. However, where business interests challenged executive action on statutory or constitutional grounds, Judge Bork was a judicial activist, favoring the business interest in every split decision in which he participated. In summary, when split cases in which Judge Bork participated during his five years on the D.C. Circuit are combined, on 48 out of 50 occasions (or 96 percent of the time) Judge Bork voted to deny access, voted against the claims of individuals who sued the government, or voted in favor of the claims of business which sued the government.

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[2] The case cite was mistakenly dated 1984. It should have read 1985 and 1987.

"Another showed he ruled in favor of utility companies in 5 out of 5 utility rate cases."

"Liberal Lawyers' Group Says Bork Favored Business in Court Rulings," *New York Times*, August 7, 1987:

In eight nonunanimous cases brought by business interests against Government agencies, including five challenges by regulated utilities to limitations on the rates they can charge consumers, "Judge Bork voted for business every time."

"In 10 out of 10 regulatory cases, he decided in favor of business."

Statement by the AFL-CIO Executive Council on Opposition to the Nomination of Robert H. Bork . . . August 17, 1987:

Ten cases in which Bork voted against consumers and/or in favor of regulated business: *Mississippi Industries v. FERC, Jersey Central Power and Light Co. v. FERC, Telecommunications Research v. FCC, California Assoc. of Physically Handicapped v. FCC, Norfolk & Western v. ICC, Paralyzed Veterans of America v. CAB, Middle-South Energy, Inc. v. FERC, National Soft Drink Assoc. v. Block, Black Citizens for Fair Media v. FCC, McIlwain v. Hayes.*

"And in his book on antitrust laws, he said the federal government should 'never interfere with conglomerate mergers.'"

Colman McCarthy, *The Washington Post*, July 19, 1987:

The major intellectual work of Bork is *The Anti-Trust Paradox: A Policy at War with Itself* . . . it claims that antitrust laws were ill-conceived in the past and are not much needed in the future . . . "Antitrust should never interfere with any conglomerate merger," he writes.

ROBERT BORK VS. THE PEOPLE

The nomination of Robert Bork for a vacant seat on the Supreme Court has caused a lot of controversy. And has a lot of people worried.

With good reason.

Robert Bork is a federal judge and former law school professor with extremist legal views. His views are so extreme that over the last 25 years he has consistently taken positions against the Constitutional rights of average Americans.

But don't take our word for it. You be the judge:

STERILIZING WORKERS

A major chemical company was pumping so much lead into the workplace that female employees who became pregnant were risking having babies with birth defects. Instead of cleaning up the air, the company ordered all women workers to be sterilized or lose their jobs. When the union took the company to court. Judge Bork ruled in favor of the company. Five women underwent surgical sterilization. Within months, the company closed the dangerous part of the plant. And the sterilized women lost their jobs. [OCAW v. American Cyanamid, 1984]

BILLING CONSUMERS FOR POWER THEY NEVER GOT

Judge Bork supported an electric utility that wanted consumers to pay for a nuclear power plant that was never built. Thanks to Judge Bork, consumers got a bill for $400 million. [Jersey Central Power & Light v. FERC, 1984]

NO PRIVACY

Asked by Time magazine in July if he found a right to privacy in the Constitution, he declared, "I do not." To this day he says the Supreme Court was wrong when it stopped one state from making the use of contraceptives by married couples a punishable crime. [1986 Judicial Notice, regarding Griswold v. Connecticut]

TURN BACK THE CLOCK ON CIVIL RIGHTS?

"Unsurpassed ugliness." That's how Professor Bork described a law that said hotels and restaurants had to serve black Americans. He also criticized decisions that stopped states from using poll taxes and literacy tests to keep minorities from voting. And he opposed the decision that made all Americans equal at the ballot box—"one man-one vote." Ask yourself: Should America go back and re-fight settled civil rights battles? If Robert Bork is on the Court, we may have to.

NO DAY IN COURT

Robert Bork has long believed that courts should not hear certain kinds of cases. In 14 out of 14 controversial cases involving people on social security, military veterans, minorities, the handicapped and the homeless, Judge Bork refused to give them their day in court.

BIG BUSINESS IS ALWAYS RIGHT

Recent studies reveal that Judge Bork has already made up his mind that large corporations are nearly always right. One study found he favored corporations over consumers 96% of the time. Another showed he ruled in favor of utility companies in 5 out of 5 utility rate cases, In 10 out of 10 regulatory cases, he decided in favor of business. And in his book on antitrust laws, he said the federal government should "never interfere with conglomerate mergers."

If you look past his resume, you see that Judge Bork has consistently ruled against the interests of people. Against our Constitutional rights. And in favor of his extremist philosophy.

His views are so extreme the White House image-makers have launched a national campaign to re-package him as a "moderate." Even Judge Bork himself is out changing his image, lobbying the Senate and the media.

We're fighting back. We're People For The American Way. 270,000 Americans—Democrats, Independents, and Republicans—committed to protecting American values.

Those values have never faced a tougher challenge than Robert Bork. Please help. Write your Senators. And support our Action Fund.

Robert Bork vs. The People. Don't let it reach the Supreme Court.

"THE LAST WORD"

This is Gregory Peck.

There's a special feeling of awe people get when they visit the Supreme Court of the United States.

They know our nation's highest court is the ultimate guardian of our rights as Americans.

That's why we set the highest standards for our Supreme Court Justices. And that's why we're so concerned.

Robert Bork wants to be a Supreme Court Justice. But the record shows he has a strange idea of what justice is.

He defended poll taxes and literacy tests which kept many Americans from voting. He opposed the civil rights law that ended "white only" signs at lunch counters.

He doesn't believe the Constitution protects your right to privacy. And he thinks that freedom of speech does not apply to literature and art and music.

Robert Bork could have the last word on your rights as a citizen. But, the Senate has the last word on him. Please urge your Senators to vote against the Bork nomination.

Because, if Robert Bork wins a seat on the Supreme Court, it will be for life. His life . . . and yours.

Mr. BIDEN. Mr. President, I thank the Chair for his indulgence, and I look forward to continuing this debate hopefully not as late tomorrow night as it went tonight.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEADLINE EXTENSION FOR IRAN/CONTRA COMMITTEE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that, notwithstanding the provisions of section 9(a) of Senate Resolution 23, the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition shall make its final report to the Senate on or before November 13, 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent to place on the calendar H.R. 3283 dealing with the transfer of an obsolete submarine to Dade County, FL, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, not the submarine, but the legislation.

The PRESIDING OFFICER. The Chair understands.

[Laughter.]

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. ARMSTRONG, if Calendar Order No. 295 on the calendar of business has been cleared on that side.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I will be glad to inform the majority leader that Calendar Order No. 295 has been cleared on our side.

Mr. BYRD. Mr. President, I thank the Senator.

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES

Mr. BYRD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 295.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1397) to recognize the organization known as the Non Commissioned Officer Association of the United States of America.

There being no objection, the Senate proceeded to the consideration of the bill.

S. 1397: CONGRESSIONAL CHARTER FOR NON COMMISSIONED OFFICERS ASSOCIATION

Mr. CRANSTON. Mr. President, as the chairman of the Veterans' Affairs Committee, I am pleased that the Senate is now considering S. 1397, a bill to grant a Federal charter to the Non Commissioned Officers Association of the United States of America [NCOA] which I introduced on June 19, 1987. This measure was reported by the Judiciary Committee on August 6, 1987.

I am delighted to note that this measure was cosponsored by 61 Senators, including the ranking minority member of the Veterans' Affairs Committee, Senator MURKOWSKI, committee members—Senators DECONCINI, THURMOND, MATSUNAGA, MITCHELL, STAFFORD, and SIMPSON. Later joining as cosponsors were Senators DOLE, EXON, COHEN, MCCAIN, NUNN, ADAMS, ARMSTRONG, WARNER, DIXON, BINGAMAN, HEFLIN, STEVENS, BRADLEY, MELCHER, NICKLES, PELL, INOUYE, STENNIS, PROXMIRE, CHILES, HATCH, DASCHLE, KENNEDY, CHAFEE, DODD, BURDICK, SYMMS, DURENBERGER, GRAMM, WALLOP, KASTEN, PRESSLER, KERRY, MOYNIHAN, MIKULSKI, WILSON, GARN, SHELBY, RIEGLE, SANFORD, REID, SIMON, EVANS, COCHRAN, METZENBAUM, BOREN, DOMENICI, KARNES, LAUTENBERG, BENTSEN, GRAHAM, FORD, GORE, and BAUCUS.

Since its inception in 1960, NCOA has grown to become one of the largest organizations in the United States representing current and former enlisted personnel. Included in its more than 170,000 members are active, retired, reserve, and veteran noncommissioned and petty officers of the Army, Navy, Marine Corps, Air Force, Coast Guard, and National Guard.

NCOA is a patriotic, fraternal, and benevolent association, organized into nearly 300 chapters nation and worldwide. These chapters are involved in a wide range of activities, including scholarship and national defense foundations, medical trust funds, and veterans employment assistance programs. In my home State of California, the NCOA chapters are deeply involved in a wide range of activities, including civic activities such as working with the Special Olympics.

NCOA Veterans' Service Program—which includes accredited national service officers—is one of the largest in the Nation. This program assists thousands of veterans each year as well as many thousands of dependents and survivors in applying for benefits and services from the Veteran's Administration and other Federal and State agencies.

The NCOA has an active scholarship program under which nearly $50,000 in scholarships will be awarded this year to the children of noncommissioned and petty officers.

NCOA is also active in employment matters. For example, the association will host 20 job fairs in the United States and Europe during this year to assist veterans and inservice military personnel in obtaining postservice employment. Last year NCOA held a special job fair for handicapped veterans at the U.S. Department of Labor.

Mr. President, NCOA is a worthy organization which provides support not only to its members but also provides service to the general public. I urge my colleagues to join me in unanimous support of this legislation, and I look forward to prompt favorable action in the House as it considers this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Non Commissioned Officers Association of the United States of America, Incorporated, a non-profit corporation organized under the laws of the State of Texas, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The Non Commissioned Officers Association of the United States of America, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for service members, veterans and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

NONDISCRIMINATION

SEC. 8. In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

RESTRICTIONS

SEC. 9. (a) No part of the income or assets of the corporation may insure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

LIABILITY

SEC. 10. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 11. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following new paragraph:

"(73) The Non Commissioned Officers Association of the United States of America, Incorporated.".

ANNUAL REPORT

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 14. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 15. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

EXCLUSIVE RIGHT TO NAMES

SEC. 17. The corporation shall have the sole and exclusive right to use the names "The Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association", and "NCOA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

TERMINATION

SEC. 18. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

MESSAGES FROM THE HOUSE

At 10:07 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2763) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Smith of Iowa, Mr. Alexander, Mr. Early, Mr. Dwyer of New Jersey, Mr. Carr, Mr. Mollohan, Mr. Whitten, Mr. Rogers, Mr. Regula, Mr. Kolbe, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Boland, Mr. Traxler, Mr. Stokes, Mrs. Boggs, Mr. Mollohan, Mr. Whitten, Mr. Green, Mr. Coughlin, Mr. Lewis of California, and Mr. Conte as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints, Mr. Natcher, Mr. Smith of Iowa, Mr. Obey, Mr. Roybal, Mr. Stokes, Mr. Early, Mr. Dwyer of New Jersey, Mr. Hoyer, Mr. Whitten, Mr. Conte, Mr. Pursell, Mr. Porter, Mr. Young of Florida, and Mr. Weber as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the following bill and joint resoluton:

H.R. 2893. An act to reauthorize the Fishermen's Protective Act; and

H.J. Res. 234. Joint resolution to designate the month of November in 1987 and 1988 as "National Hospice Month."

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1748) to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the entire House bill and Senate amendments, and modifications committed to conference, unless otherwise restricted: Mr. Aspin, Mr. Price of Illinois, Mr. Bennett, Mr. Stratton, Mr. Nichols, Mr. Daniel, Mr. Montgomery, Mr. Dellums, Mrs. Schroeder, Mrs. Byron, Mr. Mavroules, Mr. Hutto, Mr. Skelton, Mr. Leath of Texas, Mr. McCurdy, Mr. Dyson, Mr. Hertel, Mr. Ray, Mr. Spratt, Mr. McCloskey, Mr. Darden, Mr. Robinson, Mr. Dickinson, Mr. Spence, Mr. Badham, Mr. Stump, Mr. Courter, Mr. Hopkins, Mr. Davis of Michigan, Mr. Hunter, Mr. Martin of New York, Mr. Kasich, Mrs. Martin of Illinois, Mr. Bateman, Mr. Sweeney, and Mr. Blaz.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. Stokes, Mr. Kastenmeier, and Mr. Cheney.

As additional conferees from the Committee on Ways and Means, for consideration of sections 828, 856, 857, 858, and 2818 of the Senate amendments, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Jenkins, Mr. Downey of New York, Mr. Pease, Mr. Russo, Mr. Gephart, Mr. Guarini, Mr. Matsui, Mr. Duncan, Mr. Crane, Mr. Frenzel, Mr. Schulze, and Mr. Chandler.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 833 of the House bill, and sections 234, 801, 811, 817, 849, 852, 854, and 863 of the Senate amendments, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Berman, Mr. Broomfield, Mr. Gilman, and Mr. Lagomarsino.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 321, 331-333, 728, 820, 826, 828, 829, 831, 835, 841, 842, 850, 851, 855, and 856 of the Senate amendments, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Broomfield, and Mr. Gilman.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 827, 833, and 862 of the Senate amendments, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Mica, Mr. Broomfield, and Ms. Snowe.

As additional conferees from the Committee on the Judiciary, for consideration of section 825 of the House bill, and sections 835 and 841 of the Senate amendments, and modifications committed to conference: Mr. Rodino, Mr. Hughes, Mr. Staggers, Mr. McCollum, and Mr. Shaw.

As additional conferees from the Committee on Small Business, for consideration of section 840 of the Senate amendments, and modifications committed to conference: Mr. LaFalce and Mr. McDade.

As exclusive conferees, solely for consideration of sections 117, 206(e)(2), 206(e)(13), 221(a), 224, 247, 812, 3113(a), and 3135 of the House bill, and sections 231, 233, 235, 864, 865, and 3114 of the Senate amendments, and modifications committed to conference: Mr. Aspin, Mr. Bennett, Mr. Dellums, Mrs. Schroeder, Mr. Mavroules, Mr. McCurdy, Mr. Hertel, Mr. Spratt, Mr. McCloskey, Mr. Fascell, Mr. Solarz, Mr. Berman, Mr. Brown of California, Mr. Dicks, Mr. Downey of New York, Mr. AuCoin, Mr. Markey, Mr. Dickinson, Mr. Badham, Mr. Courter, Mr. Bateman, Mr. Kasich, Mr. Broomfield, Mr. Lagomarsino, Mr. Hyde, Mr. Solomon, and Mr. Dornan of California.

The message also announced that the House insists upon its amendments to the bill (S. 1174) to authorize appropriations for fiscal year 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the entire Senate bill and House amendments, and modifications committed to conference, unless otherwise restricted: Mr. Aspin, Mr. Price of Illinois, Mr. Bennett, Mr. Stratton, Mr. Nichols, Mr. Daniel, Mr. Montgomery, Mr. Dellums, Mrs. Schroeder, Mrs. Byron, Mr. Mavroules, Mr. Hutto, Mr. Skelton, Mr. Leath of Texas, Mr. McCurdy, Mr. Dyson, Mr. Hertel, Mr. Ray, Mr. Spratt, Mr. McCloskey, Mr. Darden, Mr. Robinson, Mr. Dickinson, Mr. Spence, Mr. Badham, Mr. Stump, Mr. Courter, Mr. Hopkins, Mr. Davis of Michigan, Mr. Hunter, Mr. Martin of New York, Mr. Kasich, Mrs. Martin of Illinois, Mr. Bateman, Mr. Sweeney, and Mr. Blaz.

Appointed as additional conferees—

From the Permanent Select Committee on Intelligence, for consideration of matter within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. Stokes, Mr. Kastenmeier, and Mr. Cheney.

From the Committee on Ways and Means, for consideration of sections 828, 856-858, and 2818 of the Senate bill, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Jenkins, Mr. Downey of New York, Mr. Pease, Mr. Russo, Mr. Gephardt, Mr. Guarini, Mr. Matsui, Mr. Duncan, Mr. Crane, Mr. Frenzel, Mr. Schulze, and Mr. Chandler.

From the Committee on Foreign Affairs, for consideration of sections 234, 801, 811, 817, 849, 852, 854, and 863 of the Senate bill, and section 833 of the House amendments, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Berman, Mr. Broomfield, Mr. Gilman, and Mr. Lagomarsino.

From the Committee on Foreign Affairs, for consideration of sections 321, 331-333, 728, 820, 826, 828, 829, 831, 835, 841, 842, 850, 851, 855, and 856 of the Senate bill, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Broomfield, and Mr. Gilman.

From the Committee on Foreign Affairs, for consideration of sections 827, 833, and 862 of the Senate bill, and modifications committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Mica, Mr. Broomfield, and Ms. Snowe.

From the Committee on Judiciary, for consideration of sections 835 and 841 of the Senate bill, and section 825 of the House amendments, and modifications committed to conference: Mr. Rodino, Mr. Hughes, Mr. Staggers, Mr. McCollum, and Mr. Shaw.

From the Committee on Small Business, for consideration of section 840 of the Senate bill, and modifications committed to conference: Mr. LaFalce and Mr. McDade.

Appointed as exclusive conferees, solely for consideration of sections 231, 233, 235, 864, 865, and 3114 of the Senate bill, and sections 117, 206(e) (2) and (13), 221(a), 224, 247, 812, 3113(a), and 3135 of the House amendments, and modifications committed to conference: Mr. Aspin, Mr. Bennett, Mr. Dellums, Mrs. Schroeder, Mr. Mavroules, Mr. McCurdy, Mr. Hertel, Mr. Spratt, Mr. McCloskey, Mr. Fascell, Mr. Solarz, Mr. Berman, Mr. Brown of California, Mr. Dicks, Mr. Downey of New York, Mr. AuCoin, Mr. Markey, Mr. Dickinson, Mr. Badham, Mr. Courter, Mr. Bateman, Mr. Kasich, Mr. Broomfield, Mr. Lagomarsino, Mr. Hyde, Mr. Solomon, and Mr. Dornan of California.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. Fascell, Mr. Mica, Mr. Yatron, Mr. Dymally, Mr. Kostmayer, Mr. Smith of Florida, Mr. Atkins, Mr. Broomfield, Ms. Snowe, Mr. Gilman, Mr. Mack, and Mr. DeWine.

Appointed as an additional conferee, solely for consideration of section 156 of the House bill, and modifications committed to conference: Mr. Solarz.

Appointed as an additional conferee, solely for consideration of section 199E of the House bill, and modifications committed to conference: Mr. Bonker. Appointed as additional conferees—

From the Committee on Post Office and Civil Service, for consideration of sections 124, 134, 139, 145, 151-154, 156-162, 179, 189-194, 196, and 403 of the House bill, and sections 111-114, 116-124, 303, 525, 551, 555-557, 559, and 606 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mrs. Schroeder, and Mr. Horton.

From the Committee on the Judiciary, for consideration of sections 132, 143, 146, 182, 199, 199B, and 212 of the House bill, and titles VII, IX, X, and XI, and sections 502-504, 506, 512, 526, 528, 531, 549, 552, 558, and 570 of the Senate amendment, and modifications committed to conference: Mr. Rodino, Mr. Mazzoli, Mr. Hughes, Mr. Frank, Mr. Fish, McCollum, and Mr. Swindall.

From the Committee on Armed Services, for consideration of section 199F of the House bill, and modifications committed to conference: Mrs. Byron, Mr. Bustamante, and Mr. Bateman.

From the Committee on Ways and Means, for consideration of sections 552, 912, and 913 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. RANGEL, Mr. DOWNEY of New York, Mr. DUNCAN, and Mr. CRANE.

From the Committee on Energy and Commerce, for consideration of sections 401-404 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. SHARP, Mr. LENT, and Mr. MADIGAN.

From the Committee on Science, Space, and Technology, for consideration of sections 401-404 of the Senate amendment, and modifications committed to conference: Mr. ROE, Mr. SCHEUER, Mr. HALL of Texas, Mr. LUJAN, and Mr. SENSENBRENNER.

From the Committee on Public Works and Transportation, for consideration of section 552 of the Senate amendments, and modifications committed to conference: Mr. MINETA, Mr. DE LUGO, and Mr. HAMMERSCHMIDT.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 163. Joint resolution to designate the month of November 1987, as "National Family Bread Baking Month";

S.J. Res. 168. Joint resolution to designate the week beginning October 25, 1987, as "National Adult Immunization Awareness Week"; and

S.J. Res. 198. Joint resolution to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week".

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3395. An act making technical corrections relating to the Federal Employees' Retirement System, and for other purposes.

At 3:58 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 526. An act for the relief of Kumari Rajlakshmi Bais;

H.R. 1112. An act for the relief of Pablo Cruz Patag;

H.R. 1390. An act for the relief of Chu Pei Yun (Zhu Bei Yun);

H.R. 1420. An act for the relief of Anthony Stanley Orloff;

H.R. 1826. An act for the relief of Natasha Susan Middelmann, Samantha Abigail Middelmann, Naomi Katrina Orloff Middelmann, and Hannah Emily Middelmann;

H.R. 1863. An act for the relief of Helen Ying-Yu Lin; and

H.J. Res. 274. Joint resolution to designate the week beginning November 22, 1987, through November 28, 1987, as "National Adoption Week."

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 199. A concurrent resolution with regard to Soviet missile firings near Hawaii; and

H. Con. Res. 200. A concurrent resolution to congratulate and commend President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize.

ENROLLED JOINT RESOLUTIONS SIGNED

At 7:29 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions;

S.J. Res. 163. Joint resolution to designate the month of November 1987, as "National Family Bread Baking Month";

S.J. Res. 168. Joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week"; and

S.J. Res. 198. Joint resolution to designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week"; and

H.J. Res. 234. Joint resolution to designate the month of November 1987 as "National Hospice Month."

The enrolled joint resolutions was subsequently signed by the Deputy President pro tempore [Mr. MITCHELL].

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 526. An act for the relief of Kumari Rajlakshmi Bais; to the Committee on the Judiciary.

H.R. 1112. An act for the relief of Pablo Cruz Patag; to the Committee on the Judiciary.

H.R. 1390. An act for the relief of Chu Pei Yun (Zhu Bei Yun); to the Committee on the Judiciary.

H.R. 1420. An act for the relief of Anthony Stanley Orloff; to the Committee on the Judiciary.

H.R. 1826. An act for the relief of Natasha Susan Middelmann, Samantha Abigail Middelmann, Naomi Katrina Orloff Middelmann, and Hannah Emily Middelmann; to the Committee on the Judiciary.

H.R. 1863. An act for the relief of Helen Ying-Yu Lin; to the Committee on the Judiciary.

H.J. Res. 274. Joint resolution to designate the week beginning November 22, 1987, through November 28, 1987, as "National Adoption Week"; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 199. A concurrent resolution with regard to Soviet missile firings near Hawaii; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 200. A concurrent resolution to congratulate and commend President Arias of Costa Rica for receiving the 1987 Nobel Peace Prize.

The following bill, previously received from the House of Representatives, was read twice by unanimous consent and placed on the calendar:

H.R. 3283. An act to allow the obsolete submarine United States ship *Turbot* to be transferred to Dade County, FL, before the expiration of the otherwise applicable 60-day congressional review period;

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs, without amendment:

S. 1801. A bill to amend title 38, United States Code, to increase the maximum Veterans' Administration home loan guaranty, reduce Veterans' Administration-guaranteed loan defaults and foreclosures, and make other improvements in the Veterans' Administration home loan program, and for other purposes (Rept. No. 100-204).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1663. A bill to reauthorize the Child Abuse Prevention and Treatment Act and other related acts dealing with adoption opportunities and family violence.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

William Henry Houston III, of Mississippi, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William H. Houston III.

Post: Washington, D.C.

Contributions, amount, date, and donee:

1. Self: William H. Houston III, $250, 1984, Thomas Loeffler; $1,000, 1984, Thad Cochran; $500, 1984, William Thomas; $250, 1984, Reagan-Bush cam.

2. Spouse: Susan Miller Houston, $200, 1984, Thad Cochran.

3. Children and Spouses names: William Henry Houston IV; Richard Cobb Miller Houston, None.

4. Parents names: William H. Houston, Jr. (Deceased); Carolyn Hall Houston (Deceased).

5. Grandparents names: William H. Houston (Deceased); James T. Hall (Deceased); Alice Harris Houston (Deceased); Terrel E. Hall, None.

6. Brothers and spouses names: None.

7. Sisters and spouses names: Mary Lowry; John Lowry, none.

Deane Roesch Hinton, of Illinois, a career member of the Senior Foreign Service, with the personal rank of Career Ambassador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Costa Rica.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Deane R. Hinton.

Post: Ambassador to Costa Rica.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and Spouses names: Deborah Hinton, Chris Hinton, Joe & Kathy Hinton, Joanna Hinton, Veronica Hinton, Mr/Mrs Pedro Arrivillaga, Mr. Guillermo Arrivillaga, Mr/Mrs Grimm, Mr/Mrs Juan Jose Arrivillaga, Sebastian Hinton, Deane Patrick Hinton.
4. Parents names: Col. Joe Hinton says he has contributed $300 to $600 a year to various GOP Committees; Mrs. Doris Hinton, deceased.
5. Grandparents names: Mr/Mrs Frank Roesch, deceased; Mr/Mrs Arthur Hinton, deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Richard C. Howland, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard C. Howland.

Post: Ambassador to Suriname.

Contributions, amount, date, and donee:

1. Self: $50, 1983, Republican Party.
2. Spouse: $50, 1983, Republican Party.
3. Children and spouses names: Stephen F.; Cynthia S.; Donna B. (all unmarried), none.
4. Parents names: George W. Howland (deceased 1969); Alice B. Howland (deceased 1986), none.
5. Grandparents names: All deceased before 1972 (Maternal grandmother's name Stellmann; other unknown).
6. Brothers and spouses names: John B. and Diane Howland, none; Thomas F. and Estelle McHenry, $25, 1982-87, Democratic Party; $100, 1982-87, League of Women Voters.
7. Sisters and spouses names: None.

Richard Noyes Viets, of Florida, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard Noyes Viets.

Post: Lisbon, Portugal.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses names: Alexandra, none; Katrina, none; Marynka, none.
4. Parents names: Natalie N. Viets, none; John B. Viets, deceased more than 5 years.
5. Grandparents names: Both sets of grandparents deceased more than 5 years.
6. Brothers and spouses names: John B. Viets, Jr., none; Breck T. Viets, none.
7. Sisters and spouses names: None.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. METZENBAUM, Mr. DURENBERGER, Mr. SIMON, and Mr. HARKIN):

S. 1804. A bill to amend the National Wildlife Refuge Administration Act; to the Committee on Environment and Public Works.

By Mr. MITCHELL:

S. 1805. A bill to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation"; to the Committee on Veterans' Affairs.

By Mr. HARKIN (for himself, Mr. WEICKER, Mr. DOLE, Mr. SIMON, Mr. MATSUNAGA, and Mr. RIEGLE):

S. 1806. A bill to amend the Internal Revenue Code of 1986 to allow the costs of property designed specifically for handicapped and elderly individuals as a trade or business deduction; to the Committee on Finance.

By Mr. HELMS:

S. 1807. A bill to temporarily suspend the duty on thiothiamine hydrochloride; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. METZENBAUM, Mr. DURENBERGER, Mr. SIMON, and Mr. HARKIN):

S. 1804. A bill to amend the National Wildlife Refuge Administration Act; to the Committee on Environment and Public Works.

NATIONAL WILDLIFE REFUGE ADMINISTRATION ACT AMENDMENTS

Mr. ROTH. Mr. President, as this distinguished body addresses the issues and challenges of good government, we often find that the process is a challenge in and of itself. It's a challenge because often the lines of distinction between what is good, better, and best for the American people are blurred by deep convictions and strong emotions from all parties concerned.

Today I rise to introduce legislation that abounds with such diverse convictions and emotions. It's a proposal to preserve and protect the coastal plain of the Arctic National Wildlife Refuge for our children and the future generations—a proposal that is as sound as it is important and valid as it is persuasive. A proposal, as Margaret Murie stated, that will force us to look back over our history and ask what we have done with our continent and realize that we cannot afford to ignore what happens.

The arguments for this bill will test the Senate and each Member in it. It will test our willingness to pay a small price to leave an invaluable, unique, and irreplaceable part of our natural heritage for the enjoyment of ourselves and for our children.

Mr. President, there are few things of value that we can leave our posterity with the confidence that they will endure beyond our lifetime. Undisturbed land is one of these. We become more certain about the importance of wilderness area as time passes on—realizing that once the land is stripped it is impossible to return it to the way it was.

However, as time passes, we also receive greater pressure from those who feel we need to develop the precious resources on that land. Frightened by the energy crush, or motivated by economic gain, either way their collective voices demand development.

Those advancing a position for the development of the area firmly believe that it is in the best interest of the American people to explore and to drill and to develop. Their argument is punctuated with the exclamation point of past energy crisis and ones to come. It maintains that short-term energy resources are more important than long-term natural resources.

Frankly, Mr. President, I don't buy this argument. Instead I believe the vision of our Nation has to exceed our grasp. We have to look to the future well-being of our fragile environs. We have to understand that our responsibility to protect the environment for the health and well-being of the American people—and for the health and well-being of generations to come—greatly outweighs the need for convenient short-term solutions to energy needs. We have to understand that the short-term gains are overshadowed by long-term consequences.

To illustrate how short-term these gains are, the mean recoverable estimates—if oil is found—would meet our Nation's oil needs for roughly 167 days. Would we want to dam the spectacular geological phenomenon of the Grand Canyon for electricity or drill Yellowstone for geothermal energy? The answer is "No." We want to save these natural resources and protect them for enjoyment by future generations. There is no difference with these decisions and the ones we have to make concerning the coastal plain, an area of such beauty and wildlife that it remains pristine wilderness.

Mr. President, the abundance and diversity of wildlife on the coastal plain is among the richest in the world. It is the productive concentration biology that makes it so important, the only undisturbed ecosystem of its kind, comparable to Africa's Serengeti Plain.

As one of the world's most extraordinary natural frontiers we must take pride that the Coastal Plain is ours. And with that pride we must assume the responsibility for its care and management. If we take this duty seriously, we will in no way be able to justify the stripping and mining and drilling that has been proposed for a temporary supply of oil.

We will not be able to justify it because the facts are that if we open the Coastal Plain to the oil industry the frontier will be lost. Instead of the majestic beauty of wilderness plain and the natural habitat for wildlife, we will have a land laced with 380 miles of roads for heavy equipment, crisscrossed with 100 miles of main pipeline and collector lines. We will have a land where seven large production facilities, four smaller ones, two ports with marine and salt water treatment facilites, four airfields scar the forest and tundra. We would have a land littered with boom communities, a land where concerns abound about adequate water supplies and drilling—concerns about the thousands of tons of gravel that would have to be mined and transported on muddy roads that will cut across this virgin territory—and concerns about the crystal clear streams that will be polluted—all to get at that small black pool beneath the north scope?

Mr. President, we can see the difficult decision faced by Congress. It might even be considered a conundrum. But we're expected to find the answer. And I believe we can. I believe that the 1-to-5 odds of finding oil, and the added fact that the oil found would not be enough to last more than a few months, demonstrate that we must leave the beauty and the natural resources of the frontier to the wildlife and to future generations. What price are we willing to pay for extracting the oil up there? If the refuge is lost now it is lost forever and the Nation as a whole will be shortchanged.

To meet our Nation's energy requirements, we must continue to proceed on two fronts. We must continue to reduce the demand for energy through conservation. As a matter of fact, 2 years ago the Department of Energy reported that conservation had done more than any other source to improve the U.S. energy situation. We must also increase domestic supplies of energy through alternate sources that will result in long-term solutions.

Mr. President, this pristine untouched ecosystem spreads out over both the United States and Canada. It is one of the last unspoiled remnants of arctic beauty and wealth that remains, and it provides us with a magnificent opportunity to work with the Canadians in legislatively designating this area as an international wilderness area. The Canadians have done much to protect their northern resources that are shared with the United States. This action will significantly strengthen the recognition of the international importance of these shared lands.

My message today is clear. Congress must act responsibly as we consider the future of the coastal plain—we must reaffirm our decision to save this area and declare it a wilderness and I urge my colleagues to join me, and Senators BRADLEY, CHAFEE, METZENBAUM, DURENBERGER, SIMON, and HARKIN in sponsoring this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of the National Wildlife Refuge Administration Act, a portion of the Arctic National Wildlife Refuge in Alaska comprising approximately 1,556,793 acres, as generally depicted on a map entitled "Arctic Coastal Plain Wilderness-Proposed", dated June, 1986, and available for inspection in the offices of the Secretary of the Interior, is hereby designated as a component of the National Wilderness Preservation System.

Mr. MURKOWSKI. Mr. President, I rise as a consequence of the remarks of my colleague, the Senator from Delaware, concerning proposed legislation to keep the Arctic National Wildlife Area closed for the purpose of national interests.

I intend to address this issue, Mr. President, in greater detail, but I think it fair to comment briefly on the statement of the Senator from Delaware.

First of all, let me state for the record that we have approximately 15,000 U.S. personnel in the Persian Gulf today. They are there for one purpose, to maintain the flow of oil to the free world.

Make no mistake about it, Mr. President. Those American military personnel are prepared to die to keep that oil flowing. We have in the Arctic National Wildlife Area probably the most promising potential for oil development under the American flag. Make no mistake about it. Yet, we do not know whether that oil is in existence in recoverable reserves. The question that this body has to ask itself appropriately: Is it in the national interest that we know whether we have substantial oil reserves, and, if so, how can those oil reserves be developed in a manner compatible with the environment and the ecology?

Mr. President, I have heard time and time again the argument that we cannot have caribou, we cannot have oil, we have to make a choice. I have heard the argument that the extraordinary ecosystem of the Coastal Plain is such that it must be maintained. Mr. President, what we are hearing are not the facts. The Coastal Plain consists of 18 million acres. The proposal in ANWR for exploration covers only 1½ million acres. The footprint left in that area, if indeed there are recoverable reserves of oil, will be infinitesimal in relationship to what it has been in Prudhoe Bay. Prudhoe Bay contributes 22 percent of the domestic oil in the United States. Prudhoe Bay was opened as a consequence of the U.S. Senate voting, and the Vice President breaking the tie. It was that close. Where would our Nation be today if we did not have Prudhoe Bay?

So make no mistake about it, Mr. President. Keep in mind the reality of technology, and what we have learned at Prudhoe Bay. We can reduce the footprint if we are lucky enough to find recoverable reserves in ANWR. We have learned a lot. We have the capability. It is in the national interest that we know whether there are recoverable reserves in ANWR. And I think it behooves this body as we reflect on the commitment we are making in the Persian Gulf, the commitment to risk American lives, that we allow exploration. And that is the legislation that has been introduced by the junior Senator from Alaska, as well as a number of my colleagues who have seen fit to cosponsor this.

So let us keep the arguments in an appropriate parameter. We are not talking about gutting the Coastal Plain. We are talking about allowing exploration on 1½ million acres. That would leave in perpetuity 8 million acres in the wilderness. It would leave another 8 million acres in a refuge. Make no mistake about it. We have 57 million acres in Alaska set aside for wilderness and wildlife refuges.

So we are not talking about decimating the Coastal Plain. We are talking about a specific exploration in a specific area. And the industry has indicated that as an example with the technology that has been developed they can develop from two well paths, Mr. President, as much as 500 million barrels. Think of the footprint in comparison to previous technology. Make no mistake about it.

A number of our colleagues went up and visited the wilderness area this last summer. Most of them had the observation that you probably could not find oil in a place where it would have less impact on the environment and the ecology. And the industry has done a noble job and an outstanding job of keeping up with the technology.

So, Mr. President, I would urge my colleagues on this particular issue to study the realities of what we are talking about, the areas involved, the technology that is available, and recognize indeed the priority of this country is to not be dependent on foreign sources of energy, but to explore our own domestic resources to determine if indeed it is in our national interest to open these areas up.

So as this issue comes to the forefront of the U.S. Senate, I would urge again that it be kept in an appropriate perspective and generalities be examined, and that the issue be narrowed down to the specifics. We can have caribou, we can have oil exploration, and we can have the uniqueness of the Arctic ecosystem, and the reality is we can do it right with the technology available.

I thank the Chair. I yield the floor.

Mr. DURENBERGER. Mr. President, I am very pleased to rise in support of the Arctic Wilderness bill, as a cosponsor with Senators ROTH, BRADLEY, CHAFEE, METZENBAUM, HARKIN, and SIMON. This bill addresses one of the most important environmental land use questions to face this body in many years.

Mr. President, as the senior Senator from the State of Minnesota, I came to the U.S. Senate in 1978 from a State with a rich heritage in preserving America's natural beauty and wisely using her natural resources. Minnesota is the home of the Boundary Waters Canoe Area Wilderness, Voyageurs National Park, the wild and scenic St. Croix River, and countless other gems of nature. In addition, I came to the Senate with more than a decade of public service in formulating a public policy consensus to protect nature's wonders and permitting the wise use of her natural resources. And I need not remind this august body, that during that time the country was on the crest of the 1970's second national energy crisis.

Thus, I bring with me to this body the values of people with a very special awareness of the value of our vanishing wilderness areas as well as a personal history of involvement and expertise in natural resources policy. And it is this awareness and expertise that leads me to join my distinguished colleagues to support this bill protecting the Arctic National Wildlife Refuge.

To review this Nation's energy policy a bit: In the heat of energy and economic crises of the late seventies and early eighties, we in the Congress laid the foundation for national energy policies. But with pressure from the current administration, those basic policy decisions were abandoned and any new efforts to formulate policy were strongly refuted. The result is that in the past 9 years, I've had many occasions to test my own and my constituents' values as they relate to this generation's consumptive needs and the special values of future generations because there is no national energy policy.

Nevertheless, while the fossil-fuel industry is in the doldrums, and both alternative energy and energy conservation initiatives are and have been stymied at every turn, there is paradoxically an effort to demonstrate a pending fossil-fuel shortage and an imperative for oil and gas exploration incentives. I am not persuaded. The energy policies and record of the last 7 years has not persuaded me that the Coastal Plain of the Arctic National Wildlife Refuge should be opened for oil exploration.

The argument will be made that my cosponsorship of this bill leaves 4 million Minnesotans, whose State is without any fossil fuel source except what is imported, without energy in a cartel-induced crisis; or that my sponsorship of this bill threatens the national security. I do not agree. It is the lack of a national energy policy that puts this Nation and my State at risk.

Like anyone from an energy-poor State, I'm keenly aware that oil, like all natural resources, is finite and must be used wisely and conservatively. Accordingly, it is my belief, and the reason I am cosponsoring this bill, that continual uncontrolled exploration and drilling for oil at the expense of all else is not the forward-looking answer to our energy needs and the Nation's long-term best interests. What is needed is a forward-looking long-range energy policy that takes into account the realities of fossil fuel use and exploration while actively exploring energy conservation and alternative renewable energy options.

But the need for a forward-looking energy policy is only part of my rationale for joining my colleagues in support of this bill and seeking a wilderness designation. My Minnesota heritage and personal involvement in preserving nature's beauty has allowed me, like many of my constituents, to recognize the intrinsic value of nature in its pristine state. On August 18, 1980, I, and 71 of my fellow Senators, voted overwhelmingly to support an amendment proposed by former Senator Tsongas and other Senators that laid the seeds for the current debate. It was this amendment that became known as the Alaska National Interest Lands Conservation Act. This act opened 95 percent of Alaskan lands that have high or favorable oil and gas potential for exploration. It also allowed the remaining 5 percent to be explored seismically. Included in this 5 percent is the now-controversial Coastal Plain of the Arctic National Wildlife Refuge.

The reason oil and gas exploration was not allowed in the Coastal Plain in 1980 is because it was recognized then, as it is now, that the Coastal Plain was unique and extraordinarily important to wildlife. And that permitting exploration, on the most isolated coast, when all the other coastal areas can be explored, made no sense when balanced against the damage to the land and interference to wildlife. I agreed in 1980 to prevent oil exploration in this sensitive tundra lands and do so again now.

Thus, when I have an opportunity to protect the last of this country's pristine tundra lands as well as bringing common sense to this Nation's energy policy, I want to be counted among those who stand in the way of the drills and the pipelines, the derricks and the earthmovers and say "conservation instead of destruction."

This is the message I hope to send to those who see the Coastal Plain as the panacea to our energy needs. It is not. It is, in fact, just a placebo; the answer to our dependency on foreign oil doesn't lie in plundering our lands in the search for more oil to feed ever-increasing national appetites. Rather, it's in curbing those appetites, conserving our resources and in searching for alternative energy sources. Particularly, when the destruction of unique and envionmentally sensitive lands are involved.

In summary, Mr. President, when balancing the need for a rational energy policy and the certainty of irreversible environmental damage against the great odds against success in finding the promised pools of oil, I cannot help but oppose the exploration and devastation of the pristine Coastal Plain of the Arctic National Wildlife Refuge.

Finally, I want to remind my colleagues that this bill does not remove oil and gas reserves in Alaska from the National Treasury. It merely preserves the resource—all of it—for my children, theirs, and future generations.

I therefore add my name to the growing list of Senators supporting this bill.

Mr. HARKIN. Mr. President, I am pleased and honored to join with my distinguished colleagues in cosponsoring this measure, which designates the Coastal Plain of the Arctic National Wildlife Refuge as a wilderness area.

In 1980, the Congress took the historic step of passing the Alaska National Interest Lands Conservation Act. This landmark legislation was a major victory for those of us who seek to preserve public lands in pristine condition for future generations.

Unfortunately, the passage of the Alaska National Interest Lands Conservation Act was one of the last major victories of the environmental movement. Certainly, there have been successes since then. But the bipartisan conservation ethic which had made our Nation the global leader in environmental preservation has been seriously eroded since 1981. Presidential appointments such as James Watt and Anne Gorsuch have made a mockery of the concept of conservation. And while the verbal excesses of former Secretary Watt may no longer be with us, the policies he espoused are, unfortunately, very much alive and well.

Despite the significant conservation successes of the Alaska National Interest Lands Conservation Act, it left undecided the fate of the Coastal Plain of the Arctic National Wildlife Refuge. The debate over the future of the Alaska National Wildlife Refuge will not be a quiet one.

As my colleagues are aware, as part of the ANILCA, the Congress directed the Secretary of the Interior to develop a report on the biological and geological resources of the Coastal Plain. Last spring, Secretary of the Interior Donald Hodel released the required report, and recommended that the entire Coastal Plain of the Arctic National Wildlife Refuge be opened for petroleum exploration and leasing. That report will, no doubt, be the focal point in the debate over the future of the Arctic National Wildlife Refuge.

While much of that debate has been, and will continue to be, of interest to me, I am not convinced that it addresses the most fundamental issue that the debate over the Alaska National Wildlife Refuge raises.

To be fair, the Congress did not direct the Secretary of the Interior address the issue I will raise. The Secretary has followed the instructions of the Congress in assessing the biological and geological resources of the 1.5-million-acre Coastal Plain. While his report has raised a number of technical questions, I will leave most of those questions to my colleagues who have far more expertise than I in these areas.

What I wish to address is the fundamental value of preserving wilderness. One cannot put a numerical value on wilderness. Its value can't be measured in dollars, or barrels, or even acres. Yet I believe—I know—that preserving wild areas is of great value.

Wild areas such as the Coastal Plain do not have much of a constituency. They are too far away for most people to visit, and very few people live in or near them. Yet, in my mind, that does not diminish their value to our Nation and our world.

Mr. President, I would like to point out a distinction I am making here between wildlife and wilderness. Secretary Hodel's report argues that wildlife and energy development are not incompatible on the Coastal Plain. The Secretary and others supporting the development of the Coastal Plain point to the experience at Prudhoe Bay to show that care can be taken to protect the wildlife resources of the arctic coast during energy development. Others have disputed that point, and I shall leave it to them to raise those questions.

What the Secretary does not, and cannot, argue is that development is incompatible with preservation of wilderness. For the very definition of wilderness precludes development.

Perhaps oil development could proceed on the Coastal Plain without forcing a reduction in the number of caribou, or grizzly bear, or musk oxen, or wildflowers, or even lichens. I doubt it, but perhaps. Yet wilderness is more than the sum of the wild animals and plants.

Wilderness means no pavement. It means no industry. It means no buildings. It means that the land and the life on it will be left unaltered by man and his "improvements."

Because of the need to develop our Nation's natural resources to meet the needs of our citizens, we should not create wilderness designations casually. Yet I remain convinced that we have a moral obligation, as well as a national interest, in preserving unique wilderness areas throughout the United States.

The Coastal Plain along the Beaufort Sea is far longer than the 104-miles within the Arctic National Wildlife Refuge. Yet only that 104 mile stretch of our Nation's Arctic coast remains closed to energy development.

Is it unreasonable to seek to protect less than 10 percent of this ecosystem, which is unique among all of our Nation's public lands?

The Secretary argues that the existence of Canada's Northern Yukon National Park to the east of the Alaska National Wildlife Refuge makes wilderness designation unnecessary. Perhaps there is no better example of how this administration has abdicated the international leadership role of the United States in wilderness preservation. The Secretary is saying, in effect, "Why should we preserve the wilderness when other countries will do it for us?"

Mr. President, I am unwilling to accept that philosophy. I want our Nation to continue to be in the forefront of the world community in conservation and wilderness protection. And protecting the Arctic National Wildlife Refuge is an essential step toward that end.

As I said earlier, I am not opposed to development. And if there were no better ways to meet our energy needs, my decision to support wilderness designation for the Alaska National Wildlife Refuge would be far more difficult.

But the fact is, the oil which is potentially recoverable from the Alaska National Wildlife Refuge—and the quantity of such oil is a matter of great controversy—is not essential to our Nation's energy security. Following the oil price shocks of the 1970's, our Nation took some long overdue steps toward energy conservation and the development of alternative, renewable sources of energy. I have consistently supported such programs, and I will continue to do so.

Yet since President Reagan came to office in 1981, he has cut the budgets for energy conservation and renewable energy by nearly 90 percent. This administration, which professes to be conservative, would rather waste energy than conserve it. It would rather exploit our public lands than conserve them. One begins to wonder what the President means by the word "conservative."

If the Reagan administration were truly serious about increasing our Nation's energy independence, it would promote, rather than block, efforts to promote energy conservation and renewable sources of energy. For no matter how much oil lies under the Coastal Plain of the Alaska National Wildlife Refuge, it is a finite amount. And if Secretary Hodel has his way, we will exploit that resource, and we will have lost the wilderness forever. In return, we will get oil supplies which cannot last for any significant length of time, especially given the distaste with which this administration approaches energy conservation.

I have never visited the Arctic National Wildlife Refuge. Some day I hope I will have the opportunity to do so. This legislation will protect that resource until I do have that opportunity. And more importantly, It will protect the Coastal Plain of the Arctic National Wildlife Refuge for my children, and their children, and all future generations of people.

Oil is replaceable. Wilderness is not. I urge my colleagues to support this crucial legislation.

Mr. SIMON. Mr. President, I am pleased to join my colleagues in introducing this legislation to designate areas of the Arctic Coastal Plain as wilderness. I have never been to this part of our great country, most Americans haven't. But I think it is important that we recognize the significance of this area. It is the last remaining Arctic Coastal Wilderness in the world. It is something to treasure, to be preserved, to be enjoyed by future generations.

We must meet our country's demand for energy. But we need not affect the pristine quality of unique wilderness areas or threaten the existence of a variety of animal and plant species that inhabit them.

We can meet our energy needs by exploring alternative energy sources and developing a renewed commitment to conservation. We can make a promise to our children that they will experience some of the wonder of our forefathers over the beauty of our country that is our natural heritage.

Mr. METZENBAUM. Mr. President, today I am joining Senator ROTH and several other colleagues to introduce legislation to preserve a unique and extraordinary piece of America's natural heritage—the Coastal Plain of the Arctic National Wildlife Refuge.

Recently, Senator JOHNSTON announced that the Energy and Natural Resources Committee would proceed toward markup of a bill to develop the Arctic Refuge.

Today's introduction of the Arctic Refuge Wilderness bill stands as a loud declaration that there is not unity on this complex issue.

To the contrary, there is strong support throughout the Nation for keeping the Coastal Plain just the way it is, so that future generations may know one last stretch of pristine Arctic coastline.

The Arctic National Wildlife Refuge is the only place in this Nation where the full range of Arctic ecosystems are protected in one long continuum.

According to the Interior Department, the Arctic Coastal Plain is the biological heart and center of wildlife activity of the entire refuge. It is the only stretch of Alaska's Arctic coastline not open to oil and gas exploration and development.

I have grave doubts that any industrial development could occur in the refuge without virtual destruction of its internationally significant and exquisite natural values.

Once again, the Reagan administration is demonstrating its complete disregard for the Nation's natural treasures in the interest of enlarging industry's bottom line.

In this case, they are running headlong toward development of this fragile wilderness area while failing to develop a cogent energy policy.

Indeed, this administration has done all it can to reverse the Nation's steady progress toward efficient energy use and conservation.

It has slashed the budget for energy conservation programs, fought energy efficiency standards for large home appliances, supported raising the speed limit, lowered fuel efficiency standards for vehicles from 27.5 to 26 mpg, and in fact supported the total repeal of the CAFE standards.

When I held hearings in July on a bill I recently introduced to encourage energy efficiency and cost savings within agencies of the Federal Government, OMB refused to support it.

They said that it imposed unnecessary regulations. In my view, requiring the Federal Government to use energy efficiently and thereby save scarce taxpayer dollars is not unnecessary regulation—it is a fundamental of good government.

The lost energy savings from all these administration actions will be far greater than the amount of oil thought to underlie the Arctic Coastal Plain, even under the most optimistic scenarios.

For example, if a 30 mpg standard were phased in by 1993, over 9 billion barrels of oil—another Prudhoe Bay—would be saved over the anticipated life of a new field in the refuge.

But this administration is pursuing a shortsighted policy to drain American first.

There has been much talk about the need to develop the refuge to ensure national security, but this argument is merely a smokescreen.

According to the Interior Department, any reserves found in the refuge would provide only about 4 percent of the Nation's demand, beginning sometime after the year 2000.

Furthermore, the administration and the industry have indicated their strong interest in exporting North Slope oil to foreign nations.

No—the energy security argument is another oil industry scare-tactic designed to enrich their coffers.

It is apparent that the Nation's energy future lies in efficient energy use, conservation, and developing both alternative technologies as well as improved recovery techniques for known reserves. Drilling every special or fragile area is not the answer.

If we decide to drill the Arctic Coastal Plain now, where will it end—with damming the Grand Canyon, or tapping old faithful for its geothermal power? Just where do we draw the line?

The protection originally bestowed on the Arctic Wildlife Refuge in 1960 was reaffirmed in 1980.

To gamble with this area now on the longshot that it will supply some meager amount of oil sometime next century would be a major step backward in the evolution of our proud conservation history, and in the development of a wise national energy policy.

Mr. CHAFEE. Mr. President, I am pleased to join my good friend and colleague from Delaware, Mr. ROTH, in introducing a bill to protect the fragile and spectacular Arctic National Wildlife Refuge in Alaska.

Those of us who were active in the 1980 debate on the Alaska Lands Act remember all too well that just about any proposal that will affect these magnificent lands is going to be controversial. The debate is also likely to be highly emotional.

Given our experience with this issue, no one should have been surprised by the outcry that followed the Department of Interior's proposal to open this fragile ecosystem to oil and gas development. Fortunately, it will take congressional action to approve this proposal. If we do nothing, the area remains protected.

In recent months, through hearings, press briefings, and numerous other avenues, those who like the Interior Department's proposal have been mounting a campaign to gain the necessary congressional approval. Several bills have already been introduced to clear the way for oil and gas exploration in the Article National Wildlife Refuge [ANWR].

Today, by introducing a bill to designate the Arctic National Wildlife Refuge as a wilderness area, we are sending a signal that there are two sides to this issue. There are many of us who do not believe the case has been made to justify the environmental risks that go with oil and gas development.

For example, an independent geological report prepared by the State of Alaska concludes that ANWR has approximately 50 percent less oil than the amount claimed by the Department of Interior report.

How important is it to exploit this area? Consider the fact that ANWR has only a 19 percent chance of producing 440 million barrels of economically recoverable oil. Compare that to the over 100 billion barrels that are projected to lie in other areas of the United States—and that figure excludes areas designated or potentially designated as wilderness.

We should also not forget that 94 percent of all the potential oil bearing land in Alaska—as well as 90 percent of the arctic coast—are already open for oil and gas development. These areas should be explored fully before we go after protected, ecologically rich and fragile areas such as ANWR.

Finally, a Congressional Research Service study has criticized the Interior Department's report citing three main problems: an obscurance of possible impacts on the Arctic ecosystem as a whole; a failure to clarify available intermediate options which Congress may wish to consider; and an ambiguity between the long-term and the short-term effects of development.

Mr. President. I understand and share some of the concerns of those who say we can not afford to lock up this potentially oil rich area forever. But, at the same time, I am not convinced that the case has been made to open it up at this time. I advise a cautious approach to this complicated problem and look forward to hearings and continuing to explore the matter with all of my colleagues.

Mr. BRADLEY. Mr. President, I rise today to add my support to this effort to protect the Artic National Wildlife Refuge. In the Energy Committee, there has been much discussion and interest in the topic of oil development in ANWR. Indeed, the committee is in the midst of a battery of hearings on legislation which would open the entire coastal region to oil leasing and development. I intend to participate fully in these and subsequent hearings. But I cannot conclude that the best future for ANWR is to mirror the industrialization of Prudhoe Bay. ANWR should be preserved intact, as wilderness, for this and future generations.

The Arctic Refuge is a unique area. The Interior Department clearly recognized this in its draft report on the region when it stated:

> The Arctic Refuge is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the various arctic ecosystems in North America.

Its remote situation and forbidding climate have made it all but inaccessible to human visitors. This is appropriate, and ANWR exists foremost for its own inhabitants. This is an area of fantastic ecological importance. At stake is far more than the fabled Porcupine caribou herd that has received so much attention. The coastal plain is also vital to polar bears, grizzly bears, wolverines, and muskoxen, the survivors of the Ice Age. Millions of swans, snow geese, northern pintail and other water fowl spend their summers on this stretch of the Artic coast.

I've heard repeatedly that oil development and wildlife can be compatible. The thriving caribou population at Prudhoe is an often-noted example of this compatibility. However, wilderness is a quality that transcends the particular habitat and statistics of any species of flora or fauna. Wilderness is the essential of ANWR and wilderness is incompatible with development. Here's what the Department of Interior feels full development would bring to this roughly 100 by 25 mile area: 100 miles of main pipeline and numerous collector lines; 380 miles of roads; 7 large production facilities and four smaller ones; 4 airfields; 2 ports with salt water treatment facilities; 40 to 50 million cubic yards of gravel to be dug up and moved; and reserve pits for toxic drilling muds, disposal wells, et cetera.

A single exploratory well would demand 15 million gallons of water—in an area properly described as desert. The question of land reclamation has yet to be addressed at Prudhoe Bay. Whether or not the land can be reclaimed will probably be open to debate for at least another lifetime.

Mr. President, we've heard about the vastness of the Arctic Refuge. Don't be fooled. Development will fundamentally and irreversibly alter the character of this unique region.

To what end do we pursue this goal of oil development in a now pristine environment? The administration states its case clearly in the dialect of energy security. Frankly, I question their arguments and their sincerity. During the Senate debate of the trade bill, we debated at length the concept of energy security and the policies that promote this goal. My opinion is well-known. Arguments of energy security cannot be distilled to a discussion of good U.S. oil versus bad foreign oil. Oil markets are worldwide. When we abandoned price controls in oil, we pledged this Nation to abide by a world market price. Developing ANWR, with its one-in-five chance of adding another 200 days of U.S. oil consumption to the reserve base, is neither the only way nor even the best way to promote national security. T. Boone Pickens, a man I don't usually quote, cut through much of the energy security smokescreen when he said:

> I just don't understand why we're rushing to drill our last remaining oil reserves in the country. At $18 a barrel, foreign oil is cheap. We should take all the oil the foreign producers have. Run our economy on it and fill up our strategic oil storage.

This administration is in a rush now to sell off the rights to drill in ANWR, for bonus bids of some $2 to $4 billion. Yet they were unable to shift priorities and fund increased purchases of oil for the strategic petroleum reserve when oil prices sank last year to below $10 per barrel.

In the Energy Committee, there are attempts being made to correct and improve legislation which would allow oil leasing throughout the refuge. This has been the focus of the recent hearings. Unfortunately, both administration and industry witnesses seem unwilling to moderate their goals or admit to any value or need for legislative stipulations. I have listened to this debate closely and reached a similar conclusion: Compromise cannot improve a fundamentally flawed action.

Mr. President, ANWR is remote. It is unknown to most of us. Yet it is home to thousands of varieties of wildlife, as well as an indigenous population which depends on this wildlife for its subsistence. This home deserves to be treated with respect and protected.

By Mr. MITCHELL:

S. 1805. A bill to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: Agent Orange Product Liability Litigation"; to the Committee on Veterans' Affairs.

PROTECTION OF CERTAIN VETERANS BENEFITS FROM AGENT ORANGE LIABILITY SETTLEMENTS

● Mr. MITCHELL. Mr. President, I am introducing legislation today that would exclude payments made to veterans or their survivors under the agent orange liability settlement fund from being counted as income when determining a veteran's eligibility for Veterans' Administration pensions or medical care.

The payments will be made to eligible individuals under a distribution plan that is part of the settlement of a class action suit against the chemical companies who manufactured and provided the U.S. military with agent orange for use as a defoliant in Vietnam.

The settlement of this class action suit, *In re: "Agent Orange" Product Liability Litigation*, case MDL No. 381 (E.D.N.Y.), filed on behalf of 16,000 Vietnam veterans and their dependents, was reached in May 1984 and approved by Judge Jack B. Weinstein in January 1985.

The court's plan for distribution of the settlement fund was adopted in May 1985. It has two principal parts.

The first is a payment program to provide cash compensation for veterans who were exposed to agent orange and who suffer from a long-term disability resulting from non traumatic causes or have died from non traumatic causes. The second part is a class assistance foundation to provide grants to organizations to help meet the service needs of the class, including the needs of children suffering from birth defects.

Both the settlement and the distribution plan were appealed to the Second Circuit Court of Appeals. On April 21, 1987, the court of appeals affirmed both the settlement and the plan to distribute cash payments from the settlement fund. The appeals court concluded that the plan to distribute funds to a foundation must be modified. Under the approved distribution plan, two classes of individuals could receive payments under the settlement.

(A) First. Veterans who can show exposure to agent orange while in or near Vietnam from 1961 to 1972 and who are presently suffering from a long-term total disability—using the same test of disability as Social Security—which occurred prior to the veteran's 60th birthday and is not caused by trauma, accident, or self-infliction.

Second. Spouses or dependent children of deceased veterans who qualify under the above criteria.

Tentatively, veterans could receive a maximum payment of $12,800 and survivors could receive up to $3,400 under the court's settlement plan.

Petition for Supreme Court review of the settlement have been filed by six parties in the litigation. It is unknown if the Court will grant cert or how long it will take the Court to rule on the petitions.

A member of the court-appointed special master's staff has informed me that if the Supreme Court denies cert, the process of making final arrangements for distribution could be completed in a fairly timely fashion. The first checks from the settlement could be in the mail by June or July 1988.

Several weeks ago, Mr. President, I met with a Maine veteran who told me that he "wouldn't get anything from the settlement because his VA pension would be offset for every dollar he got from the court." I was, frankly, taken aback by that statement.

But, after my staff has researched this question, reviewed VA, Congressional Budget Office and Congressional Research Service memorandum, I am of the opinion that the veteran was correct.

Veterans who receive VA pensions would be adversely affected by receipt of payments under the settlement fund. In addition, the settlement payments could adversely affect a limited number of veterans' eligibility for free VA medical care and their participation in a number of other Federal means-tested programs.

VA pensions are provided to wartime veterans with limited incomes who are permanently and totally disabled for reasons not traceable to service, nor due to willful misconduct or vicious habits. Annual payments to eligible veterans are based on the number of dependents—a single veteran gets $5,963—and are reduced on a dollar-for-dollar basis by the amount of the veteran's annual countable income.

Section 503 (a), title 38, requires the VA to count "all payments of any kind or from any source," subject to specified exclusions that are listed in subsections 1-10. By regulation, the VA considers personal injury damages to be countable income.

In 1986 the VA's assistant general counsel offered the opinion that payments under the distribution plan would be considered income since they result from a settlement in a lawsuit brought to obtain damages. As a result, veterans in receipt of a VA pension would have his or her benefit reduced, on a dollar-for-dollar basis, for any payment received under the agent orange settlement.

Under law, veterans with service-connected disabilities are eligible for VA hospital and nursing home care for any disability at no cost. Vietnam veterans exposed to agent orange are now eligible for VA hospital and nursing home care for any disability unless the disability clearly did not result from agent orange exposure. And the VA must provide care to any veteran whose disability clearly did not result from agent orange exposure and is not service-connected but who is unable to defray the expenses of such care.

In general, a veteran's income for purposes of eligibility for VA health care is the veteran's income as would be computed for pension purposes, although the income level at which a single veteran with no dependents is presumed able to defray the cost of care is much higher, about $15,000.

For some veterans, the $12,000 settlement payment may push their incomes over the statutory limitation. At that point, the VA would only be able to offer those veterans care on a space-available basis, subject to a co-payment.

A 1985 Congressional Budget Office memo says these programs require some means or income test for eligibility: Aid to Families With Dependent Children [AFDC] and Child Support Enforcement; Supplemental Security Income [SSI]; Food Stamps, Child Nutrition and Supplemental Food Programs; Guaranteed Student Loans; Subsidized Housing Programs; Medicaid; Earned Income Tax Credit; Refugee Assistance; and Low-Income Home Energy Assistance.

The CBO memo says that, "under current law and practices, agent orange compensation would be included as countable income—that is, income used to reduce payments of means-tested cash transfer programs. Such compensation would be considered permanent or frequent and therefore would be subtracted from maximum benefit levels. The added income from agent orange compensation could cause some veterans, or their families, to lose eligibility for any of the means-tested programs."

The legislation I am introducing today precludes settlement payments from use by the VA to determine a veteran's eligibility for a pension or to reduce a pension payment. It also precludes the VA from using settlement payments to determine a veteran's attributable income for purposes of determining the veteran's eligibility for health care.

I have not addressed the issue of the other means-tested programs at this time. But, I believe it is important for Congress to recognize that veterans and their families who receive benefits under these other Federal programs stand to have their benefits reduced unless Congress moves forward with corrective legislation that would extend the exclusion of settlement payments from computation of income for those programs.

Few issues affecting Vietnam veterans are as persistent and troubling as agent orange. Many veterans believe that their health was adversely affected by exposure to this chemical, in particular its most dangerous component, dioxin, while in Vietnam. Veterans say that if agent orange has caused their health problems than the Government which exposed them to the chemcial should treat and compensate them for their injuries.

These veterans and their families have pressed Congress for more than a decade to resolve the scientific questions about a connection between exposure and particular illnesses or disabilities. In response, Congress has directed several Federal agencies, most notably the Centers for Disease Control [CDC] and the Veterans' Administration [VA] to conduct extensive research on agent orange and the health of Vietnam veterans.

Everyone associated with this issue has hoped that scientific information generated by these studies would help to resolve the issue of adverse health effects of exposure to agent orange. Unfortunately, the recent release of several of those studies, by the CDC and the VA only serves to make it clear that an immediate resolution of this issue is doubtful.

As my colleagues know, the CDC study found no significant residual dioxin levels in the blood of a test group of Vietnam veterans regardless of whether existing military records indicated a high, intermediate, or low potential for dioxin exposure. In addition, with only one exception, CDC found that all the veterans had dioxin levels well below the upper limit for U.S. residents without known dioxin exposure.

At the same time, the VA released a study of the cause of death for 50,000 Vietnam-era veterans, roughly one-half of whom served in Vietnam and half who did not. The most disturbing finding was the number of Marine Corps Vietnam veterans who died from non-Hodgkins lymphoma. Several independent studies have indicated a relationship between herbicide exposure and this cancer.

Extensive scientific review of both studies will continue for the next few months. The Senate Veterans' Affairs Committee on which I serve will be very closely monitoring these activities and will hold a hearing on the status of agent orange research before the end of the year.

So the debate in scientific circles, the VA, and the Congress over a connection between agent orange exposure and adverse health for veterans continues. It's impossible now to say when, or how, or even if, that debate will conclude.

Mr. President, I feel strongly that it is unfair to deny or reduce a veteran's benefits because of payments that veteran may receive as a result of the agent orange settlement while Congress continues to debate whether there is a connection between agent orange exposure and a veteran's health.

I hope that the Senate, after considering this legislation, will join with me and quickly approve this legislation, so that veterans will not have their eligibility for VA benefits hurt by receipt of these settlement payments.

Mr. President, I ask that a copy of the legislation may be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Administrator of Veterans' Affairs may not take into consideration any payment referred to in subsection (b) for the purpose of determining—

(1) the eligibility of the person receiving such payment to receive a pension under chapter 15 of title 38, United States Code;

(2) the amount of any such pension to be paid to such person; or

(3) the amount of such person's attributable income under section 622 of such title.

(b) The payment referred to in subsection (a) is any payment to any person pusuant to the settlement approved on January 7, 1985, by the United States District Court, Eastern

District of New York, in the case of *In re: "Agent Orange" Product Liability Litigation*, case number MDL No. 381.●

By Mr. HARKIN (for himself, Mr. Weicker, Mr. Dole, Mr. Simon, Mr. Matsunaga, and Mr. Riegle):

S. 1806. A bill to amend the Internal Revenue Code of 1986 to allow the costs of property designed specifically for handicapped and elderly individuals as a trade or business deduction; referred to the Committee on Finance.

ENHANCEMENT OF EMPLOYMENT OPPORTUNITIES FOR ELDERLY AND HANDICAPPED WORKERS

● Mr. HARKIN. Mr. President, I rise today on behalf of myself and Mr. Weicker, Mr. Dole, Mr. Simon, Mr. Matsunaga, and Mr. Riegle, to introduce a bill which encourages businesses to use technology to increase the employability and productivity of people with disabilities and elderly persons.

The bill amends section 190 of the Internal Revenue Code to allow businesses to deduct, in the year in which they incur the expense, the full cost of acquiring or modifying any property which is specifically designed to enhance the employability and productivity of disabled or elderly people in trade or business. Now the law requires them to spread the expense over the life of the equipment.

Currently, section 190 of the code allows businesses to deduct, in the year of the expense, the costs they incur to remove architectural and transportation barriers facing disabled and elderly people. Thus, the underlying precept of this bill is consistent with current law.

Under the provisions of the bill, a business might purchase specialized equipment to keep a worker with a disability employed or to hire a new worker with a disability. This bill will allow the business to deduct the full purchase price of that special equipment in the year of purchase. By the same token, a business might spend money to modify property or equipment already owned by it, again to enable it to keep a disabled worker employed or to hire a new disabled worker. In this case, as in the case of the purchase of the equipment, the business would be entitled to deduct the full cost of modifying the property or equipment.

There are many examples of how businesses—from all corners of the spectrum of American work—can benefit by purchasing specialized equipment to enhance the employability or productivity of disabled or elderly workers. A business might purchase an Optacon print reading system for a visually impaired worker. This system converts letters and symbols into tactile form, at a price of approximately $5,000. Another business might buy an automatic page turner, at a price of approximately $500, to help a worker who can not use his or her arms. I could go on and on with examples of very expensive, moderately expensive, and inexpensive equipment that elderly or disabled workers can use, if businesses buy the equipment. This bill allows the business to deduct the purchase costs.

This bill also makes it clear that section 190 covers the costs of modifying equipment and property. There may be valid reasons why an employer modifies equipment, instead of purchasing new equipment. Often, the reasons have to do with cost. But the purpose is the same—to assist the business employ a person with a disability or elderly person. A business might modify a desk, chair, or workbench in order to accommodate a person with a physical disability. The cost of the modification—varying from $100 to over $1,000—will be deductible in full in the year of expense. A farmer who modifies tractors or other implements by adding special lifts or steering controls, for example, will benefit by this bill.

I am impressed with the power of technology to augment the inherent abilities of persons with disabilities and elderly people. And, I am determined to see how Congress—carrying out its traditional role of ensuring rights and then finding ways to make those rights become realities—can accelerate the extent to which technology is used to enhance the employability and productivity of persons with disabilities and elderly people. To this end, I plan to organize hearings on technology before the Subcommittee on the Handicapped, which I chair, to learn how Congress can help technology fulfill its promise for disabled and elderly people.

The possibilities are immense, and the cost, in most cases, is very modest. In an age when we all must pay careful attention to costs and benefits and the efficacy of intervention in the lives of people, technology indeed is a key for translating rights into realities.

Mr. President, I believe that this bill to amend the Internal Revenue Code, consistent with our present law allowing deductibility of certain costs in the year of purchase, will unite policy and technology for businesses and elderly and disabled people. We know that good tax law can encourage good business practices. By amending the Internal Revenue Code, this bill will send a signal to business that Federal policy encourages the good business practice of employing Americans with disabilities and elderly Americans.

I hope my colleagues will enact this bill and others to help people who are aged or have disabilities to be more independent, productive, and integrated into our society.●

By Mr. HELMS:

S. 1807. A bill to temporarily suspend the duty on thiothiamine hydrochloride; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY ON THIOTHIAMINE HYDROCHLORIDE

● Mr. HELMS. Mr. President, today I am introducing legislation to grant temporary duty-free status for thiothiamine hydrochloride. This is a substance used by Takeda Chemical Products USA, Inc., in the production of thiamine, commonly known as vitamin B1.

Takeda is a North Carolina corporation with long-range plans to develop its 1,500-acre site in Wilmington, NC, into a general manufacturing complex. The Wilmington plant was completed in the fall of 1985. They began to produce vitamin B1 in October of 1985. The plant represents an investment of approximately $14 million.

In July of this year, Takeda began construction of a second plant on the Wilmington site which will produce ascorbic acid—vitamin C. The second plant will be completed in early 1989 and will represent an investment of approximately $90 million.

Mr. President, approval of this temporary duty suspension will allow Takeda to provide vitamin B1 at a lower cost to the consumer, and it will place the company's North Carolina operation in a more competitive postion with foreign competitors. Consequently, they will be able to accelerate their growth and create additional jobs in the State and regional economy.

The thiothiamine hydrochloride used by Takeda is imported from Japan. To the best of my information, thiothiamine hydrochloride is not produced in the United States and there are no other intermediates or materials which could be substituted for it in the process used to make vitamin B1.

The following table reflects the amounts that Takeda imported from January 1, 1986, through June 30, 1987, and the duty paid:

Period	Quantity	Duty paid
January 1, 1986 to December 31, 1986	[1] 143,204	$54,338
January 1, 1987 to June 30, 1987	[1] 75,200	28,086

[1] Kilograms.

The following table reflects the amounts which they expect to import from July 1, 1987, to December 31, 1991, and the duty they would pay using the current price of $10.77 per kilogram and a duty rate of 3.7 percent.

Period	Quantity	Duty paid
July 1, 1987 to December 31, 1987	[1] 96,200	$38,000
January 1, 1988 to December 31, 1988	[1] 180,000	72,000
January 1, 1989 to December 31, 1989	[1] 189,000	75,000
January 1, 1990 to December 31, 1990	[1] 198,000	79,000
January 1, 1991 to December 31, 1991	[1] 208,000	83,000

[1] Kilograms.

Mr. President, I urge swift consideration and passage of this bill.●

ADDITIONAL COSPONSORS

S. 430

At the request of Mr. Metzenbaum, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 998

At the request of Mr. DeConcini, the names of the Senator from Louisiana [Mr. Breaux] and the Senator from Arkansas [Mr. Pryor] were added as cosponsors of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1188

At the request of Mr. Symms, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1201

At the request of Mr. Proxmire, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of S. 1201, a bill to prevent consumer abuses by credit repair organizations.

S. 1293

At the request of Mr. Levin, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of S. 1293, a bill to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes.

S. 1401

At the request of Mr. DeConcini, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of S. 1401, a bill to restore, on an interim basis, certain recently amended procedures for determining the maximum attorney's fees which may be charged for services performed before the Secretary of Health and Human Services under the Social Security Act and to require a report by the Secretary of Health and Human Services regarding possible improvements in such procedures.

S. 1489

At the request of Mr. Moynihan, the names of the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Dixon], the Senator from California [Mr. Cranston], the Senator from Connecticut [Mr. Dodd], the Senator from Indiana [Mr. Lugar], the Senator from Arizona [Mr. McCain], and the Senator from Maine [Mr. Cohen] were added as cosponsors of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1611

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 1611, a bill to amend the Immigration and Nationality Act to effect changes in the numerical limitation and preference system for the admission of immigrants.

S. 1673

At the request of Mr. Chafee, the name of the Senator from Florida [Mr. Chiles] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1767

At the request of Mr. Burdick, the names of the Senator from Louisiana [Mr. Breaux] and the Senator from South Carolina [Mr. Thurmond] were added as cosponsors of S. 1767, a bill to protect the environment and public health by reducing the levels of agricultural nitrogen in ground water and surface water.

S. 1774

At the request of Mr. Pryor, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 1774, a bill to promote and protect taxpayer rights, and for other purposes.

S. 1788

At the request of Mr. Trible, the names of the Senator from Virginia [Mr. Warner] and the Senator from Michigan (Mr. Riegle) were added as cosponsors of S. 1788, a bill to protect the aquatic environment from certain chemicals used in antifoulant paints, and for other purposes.

SENATE JOINT RESOLUTION 125

At the request of Mr. Roth, the names of the Senator from Missouri [Mr. Bond] the Senator from Oklahoma [Mr. Nickles], the Senator from Texas [Mr. Gramm], the Senator from Nevada [Mr. Reid], the Senator from Missouri [Mr. Danforth], the Senator from Connecticut [Mr. Dodd], the Senator from Kansas [Mr. Dole], and the Senator from Michigan [Mr. Riegle] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. Cranston, the name of the Senator from Ohio [Mr. Metzenbaum] was added as cosponsor of Senate Joint Resolution 171, a joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 203

At the request of Mr. D'Amato the names of the Senator from Nevada [Mr. Reid], the Senator from Arizona [Mr. DeConcini], the Senator from Oklahoma [Mr. Boren], the Senator from Idaho [Mr. McClure], the Senator from Missouri [Mr. Danforth], and the Senator from Maryland [Mr. Sarbanes] were added as cosponsors of Senate Joint Resolution 203, a joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States.

AMENDMENTS SUBMITTED

WAR POWERS RESOLUTION

WEICKER AMENDMENT NO. 1037

Mr. WEICKER proposed an amendment to amendment No. 952 proposed by Mr. Byrd (and Mr. Warner) to the joint resolution (S.J. Res. 194) to require compliance with the War Powers Resolution; as follows:

At the end of amendment 952 as amended, add the following: "Notwithstanding any language or title of this Resolution, nothing contained herein shall be construed as complying with, modifying or negating any provision of the War Powers Resolution of 1973, (P.L. 93-148).".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 21, 1987, to hold oversight hearings on the United States and Foreign Commercial Service of the Department of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, October 21, 1987, to markup farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet in executive session during the session of the Senate on October 21, 1987, to consider budget reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommitte on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, October 21, 1987, to continue the markup on farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration, be authorized to meet today during the session of the Senate, to receive testimony on the feasibility of providing captioning for the hearing impaired of television broadcasts from the Senate Chamber, and to consider pending administrative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, October 21, 1987, to hold a hearing on International Labor Organization Convention (No. 144) concerning tripartite consultations, treaty document 99-20; and convention (No. 147) concerning minimum standards in merchant ships, treaty document 99-21.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on October 21, 1987, to hold a hearing on competitive problems in the pharmaceutical industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, October 21, 1987, to hold hearings on the Federal Government's handling of Soviet and Communist bloc defectors.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, October 21, beginning to conduct a hearing on the Nation's infrastructure needs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet jointly with the House Armed Services Committee Subcommittees on Procurement and Military Nuclear Systems and Research and Development during the session of the Senate on Wednesday, October 21, 1987, at 4:30 p.m. in closed session to receive a briefing on the Advanced Technology Bomber [ATB] Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VISIT TO BOSTON BY HIS HOLINESS VAZKEN I

● Mr. KERRY. Mr. President, on October 26, 1987, the city of Boston will be honored by a visit from His Holiness Vazken I, Supreme Patriarch and Catholicos of All Armenians, on a pontifical visit to the United States and Canada from the holy see at Etchemiadzin, Armenia in the Soviet Union. The Supreme Patriarch's visit to New England is scheduled for October 26, 27, and 28. He will be welcomed by the Armenian community of Massachusetts and by all of us. The Supreme Patriarch's host for this visit will be Speaker George Keverian of the House of Representatives of the Commonwealth of Massachusetts.

As the spiritual leader of 6 million Armenians worldwide, Vazken I presides over the church from a cathedral and palace in Etchemiadzin, Soviet Armenia, the holy see located outside of the city of Yerevan, the capital of Armenia. On Sundays, the service at Etchemiadzin is broadcast out into a surrounding park.

Armenia, converted by St. Gregory the Illuminator in 301 A.D., was the world's first Christian nation. The Armenian Church, which dates back to the beginning of the fourth century, has through the ages been a national as well as a religious institution. It has survived through periods of massacres and repression, and has continued to flourish even under the Communist regime. The Armenian Church is said to have greater latitude than churches elsewhere in the Soviet Union, and baptisms are a common ritual. In recent years, more and more Armenians have been choosing to get married in church.

This will be the first visit by His Holiness to the United States since the consecration of St. Vartan Cathedral in New York City in 1968. The Supreme Patriarch will also visit New York City, Washington, Detroit, and Los Angeles on his visit to the United States, as well as Toronto, Canada.

We in Massachusetts are honored by the visit of His Holiness Vazken I. This visit is highly meaningful to our Armenian community, and is an honor to all of the citizens of Massachusetts. On behalf of Speaker Keverian, Governor Dukakis, and the people of Massachusetts, I welcome His Holiness Vazken I and wish him a safe journey in the United States.●

IMPORTED TOYS

● Mr. McCAIN. Mr. President, American consumers have long been concerned about the quality and safety of some imported goods that have been flooding the U.S. market in recent years. This is especially the case with low priced, imported toys and juvenile products.

As ranking minority member of the Senate Subcommittee on Consumer, I have had the opportunity recently to observe the Consumer Product Safety Commission's efforts in this area of protecting American consumers from the unreasonable risk of injury associated with consumer products.

Recently, the CPSC and the U.S. Customs Service have completed two successful operations on imported toys at the ports of Los Angeles and San Francisco. Both agencies are to be complimented for their new, innovative, and cooperative efforts in protecting the most vulnerable of all American consumers, our Nation's young children, from unsafe toys. Nearly 70 unsafe toys and children's products valued at over $2.5 million were seized in 2 weeks at both ports. These items never reached retail shelves or the hands of consumers, where the traditional recall rate in some instances is often less than 10 percent. CPSC recalled only 46 toy items in all of fiscal year 1986. With the Christmas season fast approaching, news of CPSC's and Custom's efforts to keep unsafe toys off the retail shelves is most encouraging.

I request that the Time Magazine piece of October 5, 1987, the Los Angeles Times' piece of September 19, 1987, and the front page story of the Los Angeles Herald Examiner of the same date, which report on the joint CPSC/U.S. Customs "Operation Toyland" be printed in their entirety:

The material follows:

[From Time Magazine, Oct. 5, 1987]

CRACKDOWN ON TOYS THAT KILL

The snowman doll has buttons that look like candy, and can easily be removed and swallowed by a curious child. The toy telephones shatter when dropped. Every year dozens of children die while playing with such toys, and thousands more are injured. Many of the toys are cheap imports that do not meet U.S. safety standards. In an unusual effort to keep hazardous playthings out of stores, the U.S. Customs Service has joined forces with the Consumer Product Safety Commission in what they are calling Operation Toyland. Inspectors have seized more than 157,630 toys worth some $550,000 in California during the past two weeks. As the Christmas season approaches, Operation Toyland will be expanded to other U.S. ports.

[From The Los Angeles Times, Sept. 19, 1987]

U.S. AGENCIES SIDETRACK TOYS DANGEROUS TO TOTS

(By George Stein)

A mirror inside a toy jewelry box shattered when the box was dropped three feet. With a baby-strength push, a plastic rattle fell apart into pieces small enough to fit down a tiny throat. A brightly colored set of wooden blocks contained two pieces a toddler similarly could swallow.

Operation Toyland had come to the ports of Los Angeles and Long Beach.

In a high-visibility campaign by two federal agencies, a team of investigators this week examined 150 shipments of toys imported from the Far East through the two ports.

They found 500 toy jewelry boxes, 5,000 plastic rattles and 9,000 sets of brightly colored wooden blocks that, they said, might be dangerous to toddlers.

Samples of each item were displayed Friday in U.S. Customs Service offices on Terminal Island.

"If you can save one kid's life, it is all worth it," said John Mackey, executive assistant to Chairman Terrence Scanlon of the U.S. Consumer Product Safety Commission.

Thirty-one children died from accidents involving toys in 1984, the latest year for which statistics are available, Mackey said. The number of nonfatal toy accidents was about 126,000.

Through Thursday, Operation Toyland has seized 15 shipments of toys—worth $250,000—that allegedly do not meet U.S. safety standards, and another 29 shipments worth $500,000 were set aside at the two ports for further examination.

The majority of those will probably be found too dangerous and seized as well, according to Lee Baxter, Western regional director of the Product Safety Commission.

The Los Angeles effort followed what Mackey termed a trial run in San Francisco in which officials inspected 78 shipments and made 20 seizures valued at $1.5 million.

Officials put Los Angeles next on the list because Long Beach and Los Angeles together from the largest port of entry in the country for toys. In 1986, 21.722 shipments of toys valued at $858.8 million came through the two ports—more than through all other west coast ports combined.

SNEAK TOYS THROUGH

The toy safety inspectors will move on to another port after this week, returning to Los Angeles at some undisclosed time, Mackey said. He said he could not identify the next port for fear of tipping off importers trying to sneak through toys they know do not meet U.S. standards.

The series of investigations has been timed to have maximum impact on the fall toy shopping season, when shoppers spend 60% of the $6 billion that goes for toys each year.

More than 70% of the problem toys encountered by the Product Safety Commission are typically low-priced imports. Officials report little luck in getting customers to return such toys, with less than 10% responding to announcments of recalls.

In an effort to stop the toys before they reach stores and customers, the safety officials turned to the U.S. Customs Service for help.

"Customs is going through the containers for other reasons," including possible violations of tariff, copyright and country-of-origin laws, Mackey said. "[Commission Chairman] Scanlon asked if we could piggyback on their investigation."

The result is Operation Toyland, the first formal attempt by the Product Safety Commission to join forces with Customs. The investigation has concentrated on toys that appeal to children under the age of 3.

"This new cooperative program will greatly improve our ability to prevent hazardous goods, especially those intended for young children, from ever reaching retail shelves or the hands of consumers," Scanlon said.

The seized toys with defects that cannot be fixed are destroyed. The names of the manufacturers and the importers were not released.

[From the Los Angeles Herald Examiner, Sept. 19, 1987]

THEY ALL WORK OR NO PLAY—TOY-TESTERS USE CHILDLIKE ABUSE TO FIND HAZARDOUS IMPORTS

(By Mark S. Warnick)

A bunch of adults spent this week playing with toys inside a Carson warehouse.

They dropped, pulled and twisted more than 300 items, from rattles to jewelry boxes to collections of wood blocks.

While their behavior was childlike, their intentions were mature.

The adults, all from the U.S. Consumer Products Safety Commission, tested toys imported from Asia to find those that did not meet national standards. Their weeklong examination, known as Operation Toyland, marked a joint effort by the safety commission and the U.S. Customs Service to prevent unsafe toys from reaching American consumers.

Children's playthings can cause serious problems. In 1985, the latest year for which figures are available, 22 people died and 123,000 people were treated in hospital emergency rooms across the country because of toy-related accidents.

Inspectors in Carson this week seized bulk shipments of 15 toys, with an estimated retail value of $250,000, that failed to meet safety regulations. Another 29 products strongly suspected of being unsafe have been sent to government laboratories in Washington, D.C., for further testing.

The confiscated goods included the educational, the practical and the merely amusing. Their problems of having parts too small, too sharp or too toxic added up to one thing—too dangerous.

Inspectors seized a plastic rattle that fell apart when pulled, scattering little silver bells across the floor. They snagged a child's walker when small rivets fell out of the frame.

They found two tiny crescent-shaped pieces in a collection of wood blocks, both of which fit easily into a test cylinder that represents the size of a 3-year-old's throat. And they discovered a flower-decaled plastic jewelry box, which would have been fine if a glass mirror inside hadn't shattered into sharp pieces when the toy was dropped from a height of 3 feet.

The faulty toys were uncovered in a series of tests designed to imitate the actions of infants and young children.

For instance, there's the "impact test," in which inspectors drop toys 10 times from a height of 4½ feet. That's about the height at which an infant drops things out of a crib.

Government psychologists also determine the appropriate age group for each toy, ignoring manufacturers' efforts to avoid various age regulations by claiming their products are for older children. The psychologists rely on a safety commission handbook written by experts in child psychology and education.

Of the nation's problem toys, an estimated 70 percent are imports, mostly from Asia, according to government officials. And more toys come through Los Angeles than any other U.S. port, officials note.

By looking at goods before they leave the waterfront area, the Safety Commission hopes it will reduce the number of problem products in American stores.

"We've been frustrated for years," said Lee Baxter, the commission's regional director in San Francisco. Generally, he said, a recall of dangerous toys already on the market produces "a very low return, maybe 10 percent."

Officials refused to release names of manufacturers whose products were seized this week, or identify their American distributors. The items came from China, South Korea, Hong Kong, and Taiwan.

About 6,000 new toys, domestic and imported, are introduced in the U.S. marketplace each year, according to federal estimates. But no one knows what percentage are dangerous to kids.

"I think it's a relatively small volume that have problems," Baxter said. "Nevertheless, from this effort we've seen there are problems."

CUSTOMS INTERCEPTS IMPORTED TOYS FOR SAFETY TESTS

(By Karen E. Klein)

Customs inspectors have found about 60 kinds of imported toys and other children's products coming through Los Angeles harbor this past week that could cause injury or death to small children, officials said Thursday.

Many of the toys and baby products, which were tested during the week at a warehouse in Carson, are manufactured in Asia under contract by American toymakers, said Lee Baxter, regional director for the Consumer Product Safety Commission. Some of them are potentially deadly.

"For instance, there's a rattle that's colorful, pretty, beaded with lots of bells in it. It makes a lot of noise and a child would really enjoy it. But if it broke open and those little pieces came out it could kill the child," said Celia Rydell, an import specialist with the U.S. Customs Service.

The toys that failed tests designed by the Safety Commission will be sent to the Commission's lab for further testing to see if they violate U.S. safety standards and should be seized, said Baxter. Inspectors refused to name the American manufacturers because the Commission has not determined yet that the toys are in violation of consumer safety laws.

Rydell and Baxter are part of a team of about 20 inspectors who have tested about 300 items this week as part of "Operation Toyland," a joint project of the Safety Commission and the customs service that is aimed at stopping hazardous products before they hit store shelves for the Christmas season.

The tests consist basically of either repeatedly dropping toys to see if they burst and scatter small pieces, pulling on the limbs of dolls and stuffed toys to see if they come off and expose sharp wires or hooks, and taking samples of paint to determine lead content.

This week, inspectors looked for small parts that toddlers could choke on, long scarves or ropes that could cause strangulation and high concentrations of lead paint in the toys and baby furniture they tested.

Normally, the customs inspectors concentrate on enforcing copyright or trademark violations and making sure the proper tariffs are paid when they inspect shipments coming into Los Angeles harbor, Rydell said. When they notice toys that have obvious safety flaws, like sharp hooks or pins on them, they hold the items and call CPSC inspectors in for testing.

About 70 percent of hazardous toys entering the United States through Los Angeles harbor are manufactured in Korea, Hong Kong, Taiwan and the People's Republic of China, Baxter said.

[From The News-Pilot and Daily Breeze, Sept. 19, 1987]

CUSTOMS SEIZES UNSAFE TOYS—4-DAY OPERATION AT PORT NETS SHIPMENTS WORTH $750,000

(By Norma Meyer)

As U.S. customs agents seized multi-colored rattles, cuddly stuffed dogs and wooden puzzles, Lee Baxter remembered one of the worst examples of an innocuous-looking plaything that was really a killer toy.

"It was a squeeze toy and the baby's mother happened to be a nurse," said Baxter, regional director of the U.S. Consumer Product Safety Commission. "The baby got it stuck in its throat, like a plug in a bathtub. The mother was afraid she was going to pull the baby's insides out if she yanked it but she thought it was that or he was going to suffocate."

Although that near-disaster had a happy ending, others have not. In 1985, the last full year that statistics were collected, 42 children died in toy-related accidents nationwide, Baxter said. In 1984, that figure was 31, with 126,000 injuries from toys requiring medical treatment.

Those grim statistics helped launch "Operation Toyland," a federal project aimed at stopping the importation of unsafe foreign-made playthings into this country. The four-day operation ended Friday at the Port of Los Angeles, which customs officials describe as the nation's largest port of entry for imported toys.

Representatives of the Consumer Product Safety Commission and the Customs Service, teaming up for the first time, said 15 shipments were seized at Los Angeles Harbor and another 29 detained for possible confiscation, translating into thousands of toys worth an estimated $750,000. Most came from Hong Kong, Taiwan, China and Korea.

A similar one-week operation that ended July 31 in San Francisco netted 31 referrals to agency labs and 22 seizures valued at $1.5 million, officials said.

Targeting amusements labeled for children under 3, agents have been searching for toys that contain small parts that could choke a child or lead paint that could cause brain damage through chronic ingestion.

In the past, safety officials often had to wait until hazardous items were on store shelves before the dangers were brought to their attention.

"In a recall, we found we would only have 10 percent return", said John Mackey, an executive assistant with the product safety commission. "We view this operation as a super way of shooting for 100 percent."

But that victory may be short-lived. "Operation Toyland" moves on to an undisclosed port and customs specialist Celia Ridel, who headed the Los Angeles program, conceded that foreign toy exporters will continue to ship goods that do not meet U.S. safety standards.

"It's just too much, It's tremendous," she said of the toy trade volume.

Although many of the toys are the types found at small shops and outdoor swap meets, Ridel said others were headed for a major toy retailer and a department store.

The operation began with customs inspectors reviewing 2,000 invoices and checking 150 cartons whose country of origin usually does not adhere to safety standards. Then, in a Carson warehouse containing the seized goods, consumer safety inspectors slammed toys to the floor from the height of a crib and playpen, ripped pom-pom noses off stuffed dogs and put pieces of plastic frogs and clowns in a tube that simulates a child's throat opening.

All items will be shipped to the consumer protection agency's lab in Gaithersburg, Md., where a 2-pound weight will be attached to the nipples of pacifiers and chemical tests will determine the lead content of paint on miniature cars and trains.

"We're doing use and abuse testing," Baxter said, "This is simulating a child's play."

Ridel said that manufacturers whose goods were seized—and who could be assessed a penalty equal to their toys domestic values—may be deterred when hit in their wallets. And if they try to import toys again, their shipments will automatically be flagged by a computer, she said.

However, Ridel added for the most part consumers "are on your own next week."

So with toys estimated to be an annual $6 billion industry and with Christmas around the corner, it's still buyer beware.●

UNITED STATES-JAPAN RELATIONSHIP BEFORE THE AMERICAN STOCK EXCHANGE

● Mr. BRADLEY. Mr. President, one of our most important economic and security relationships is with the Government of Japan. It will become increasingly so in the future. That relationship is fraught with tensions, in part from different cultural and political traditions, in part from misunderstandings, and in part from a lack of political will and courage in both countries to eliminate laws and regulations that impede mutually beneficial trade relations.

Recently, Senator ROCKEFELLER, offered some frank comments on the future of our relationship with Japan which I would like to share with my colleagues.

The comments follow:

THE UNITED STATES AND JAPAN: RELATIONSHIP AT A CROSSROADS

(Remarks by Senator John D. Rockefeller IV)

I had planned to speak today about the relationship between the United States and Japan. And I will, because the speech is still very relevant.

But like everyone on today's program, I am obviously not going to ignore what happened to the stock market yesterday.

I wish I could explain away the stock market's historic dive as easily as the President. He sees it as an aberration, because he sees the American economy as fundamentally healthy.

I disagree now, as I've disagreed since I came to the Senate in January 1985.

I believe now, as I have believed for several years:

That our economy is not on the right course;

That our budget deficits, growing out of the irresponsible 1981 tax cut, have unbalanced and endangered the world economy;

That our trade deficit represents both a fundamental weakness and a true measure of our competitive decline;

And that depreciating the dollar is not a quick fix for our economic problems, but a course of action that carries with it our serious consequences.

For all those reasons, the stock market boom of the past few years has seemed to be something of a house of cards.

Yesterday's debacle will have a positive effect if it focuses all of us—including the President—on just how precarious our economic situation is. The time for "make my day" rhetoric has passed; the time for facing some serious problems is upon us.

The financial markets, here and abroad, need to know:

That we in the United States are seriously engaged in an effort to reduce our budget deficit, which includes raising needed revenues;

Last week, in the Finance Committee, we struggled hard to raise $12 billion in taxes. The President promptly pronounced it "veto-bait." Jim Baker suggested darkly that yesterday's panic on Wall Street was caused in part by this tax proposal. OMB Director Jim Miller is going to the Hill today to testify that if we raise taxes, it will cause a catastrophe.

This kind of dangerous nonsense has to stop. The country needs the support of, and pressure from, the business and financial communities in shaping realistic and responsible policies. Too many people have indulged the President's fantasies far too long.

The financial markets also need to know the United States and Japan are working jointly to reduce the unacceptable trade imbalance between us;

And that the United States, Japan and others (notably Germany) will do our utmost to coordinate policies so as to avoid recession and promote growth.

Right now, we are falling short on all fronts. And it is getting late in the day for the kind of clear-sighted, far-sighted and coordinated policies that are needed.

Ambasssador Mike Mansfield is fond of describing the relationship between the United States and Japan as "the most important bilateral relationship in the world, bar none." Today I would like to talk about that relationship, which stands at a dangerous crossroads.

In many respects, the relationship has never been stronger. Japan is one of our key allies in the world and plays a vital role in the Western alliance. A strong, democratic, stable and friendly Japan forms the basis of our strategic and geo-political policy in Asia. Military cooperation has never been better.

Japan, at our urging, has started to reach out to the world politically. The number of people moving between our countries—students, tourists, businessmen, scholars—is at an all-time high. More Americans today study Japan and learn Japanese than ever before, while Japan's fascination with America continues unabated.

There is no shortage of admiration in this country for what Japan has accomplished. We buy superb Japanese products in abundance, study the Japanese education system, and try to learn from Japanese management techniques. Most Americans recognize that in a world economy, it is natural that Hitachi and Toyota would come to do business in the United States, just as IBM and Schick went to Japan decades ago. Virtually all our states see Japanese investment as a catalyst for economic growth and job creation, rather than as a threat.

Yet at the same time, tempers are rising on both sides of the Pacific. In a very real sense, the relationship faces a crisis.

Here in the United States: when Fujitsu threatened to acquire Fairchild Semiconductor, a hue and cry was heard that a major company in the critical semi-conductor industry was being taken over by foreigners—even though Fairchild was already owned by a French firm! Anger about Japan's closed market and a one-sided trading relationship is probably the principal force driving the trade legislation through Congress. The earlier drafts of the bill even contained the phrase "adversarial trade" in reference to Japan, which translates in Japanese as "tekitai", or enemy. And the number of Americans who defined US-Japan relations as friendly declined by 13 percentage points in a single year.

In Japan: there is increasing anger at what are perceived to be American "demands" on Japan: for market access; for more yen revaluation; for a restructured economy; for more defense spending—demands that frequently change, but never end. More dangerously, one finds a widespread belief that the United States is using Japan as a scapegoat for our growing economic impotence, and inability to face up to our problems. One senses the belief in some circles that the United States is a spent force, while Japan represents the future.

What is happening is no secret. The trade issue has come to dominate U.S.-Japan relations at the present time. Increasingly, both sides either ignore, or take for granted, the positive aspects of the relationship. And the trade imbalance reflects an enormous shift in relative economic power between the U.S. and Japan. That shift challenges both countries to make fundamental adjustments in both their policies and their thinking.

It is worth remembering that our trade problems with Japan are not new. We last ran a bilateral merchandise trade surplus with Japan in 1964. In 1971, our $4 billion trade deficit with Japan constituted enough of a threat to our economy to cause President Nixon to devalue the dollar and abandon the gold standard. Japan's economic system and its effect on trade have troubled us for many years. But until recently, those concerns stayed below the surface.

In my view, this was the heritage of the Cold War. After China went Communist in 1949, and the Korean War erupted in 1950, it became American policy that a strong, free Japan was absolutely vital to our national security. Through the leadership of Douglas MacArthur, we rebuilt Japan as surely as we rebuilt Europe through the Marshall Plan. If anything, what was accomplished in Japan was more miraculous: with no democratic tradition; a modern, democratic, free industrial giant emerged.

For thirty years, until the mid-1970's, our interest in Japan was driven by military and security requirements in Asia. Occasionally, economic problems would surface, but any flareups were controlled and subordinated to the foreign policy and defense concerns.

Times—and conditions—have changed radically. Japan is no longer the "weak sister" of the Western alliance; instead, it is the second largest economy in the world. The bilateral trade deficit approached $60 billion in 1986, and shows no sign of shrinking despite the significant revaluation of the yen-dollar relationship. Fueled by capital earned from trade surpluses, Japan is now the world's leader in many industries and technologies, and is making heavy investments in the science and technology needed to build future world leadership.

By any honest assessment, Japan is now the world's most dynamic economy. In contrast, economic growth in the United States now depends on Japanese willingness to lend us tens of billions of dollars yearly to finance our budget deficit and over-consumption.

What Japan has accomplished is truly an economic miracle: a tribute to what a nation can do by tapping the talents and energies of its people, driven by a sense of urgency and national commitment.

But they have been able to accomplish what they have because of an open world trading system, which they exploited, with our acquiesence. If every nation behaved as Japan has—maximizing exports, minimizing imports, practicing what amounts to mercantilism—the international system would have collapsed years ago. Moreover, the U.S.-Japan relationship has been essentially one-sided: lacking reciprocity in almost every area, from products and services to the flow of scientific and technical information.

When we were trying to rebuild the Japanese economy, we accepted these costs. But now that Japan is a great economic power, we cannot and should not. There must be fundamental changes in how the Japanese economy is structured and in how Japan relates to the rest of the world.

The truth is that Japan is still an essentially closed market. While many in Japan deny that serious barriers to trade exist, the facts suggest the contrary: the constant importuning by Prime Minister Nakasone for major companies to import more; his appearance on television to plead with the consumer to buy more foreign products; a market opening package, coupled with the claim that Japan can go no further—followed by yet another package six months later; the first and second Maekawa Commission reports with lists of actions needed to promote imports. All these demonstrate that the claim of maximum openness simply does not reflect the reality in Japan.

We are not alone in our inability to crack the Japanese market. The sale of 170,000 Hyundai Excels in the United States last year versus fewer than a dozen sold in Japan reminds us that virtually every major trading country is stymied by Japan's trade barriers. Korea, Taiwan, the ASEAN nations, and the European community all share our problems with access to the Japanese market.

As long as Japan approaches world trade in a totally unbalanced manner, the rising tempers in this country, reflected in the mood in Congress, are just the beginning. Single-minded pursuit of market share overseas and short-sighted efforts to gain every possible advantage over trading partners can lead to serious consequences.

Increased animosity toward Japan around the world is one consequence; the anti-Japan aspects of the trade bill are another. If the world falls into a spiral of protectionism and retaliation, Japan will bear a large part of the blame—for its obstinance and refusal to take a long-term and responsible approach to the world economic system. Japan will also be one of the principal victims of any protectionist wars, given its continued great dependence on the export market.

There are many in Japan who understand the changes that must take place. The Maekawa Commission, appointed by Prime Minister Nakasone, spelled out a clear and unmistakably sound blueprint for opening the Japanese economy to the products of the world, and restructuring the economy to depend more on domestic growth, and less on export-driven growth.

The Commission's recommendations included changes to promote housing construction and stabilize land prices; tax cuts to increase disposable income; a shorter work week; more money for infrastructure development; improved conditions for foreign investment in Japan; and strict enforcement of the antitrust laws. The report was embraced by many in Japan.

But the Japanese political system prevents far-sighted leaders like Nakasone from implementing the changes they know must be made. As long as the Liberal Democratic Party, which dominates Japanese politics, derives disproportionate financial support from the construction industry, Kansai Airport is likely to stay off limits to American companies that have built superb airports all over the world. As long as the LDP politicians derive disproportionate votes from agricultural districts, land around Tokyo will remain stunningly scarce and staggeringly costly, while Japanese consumers pay five or ten times the world's food prices.

An enlightened prime minister must confront other political realities that thwart strong leadership. As brilliantly described by Dutch journalist Karel G. van Wolferen in Foreign Affairs last year, the Japanese political system "has for centuries entailed the preservation of a careful balance between semi-autonomous groups that share power. Today, the most powerful components . . . are certain groups of bureaucrats, some political cliques, and clusters of industrialists . . . A hierarchy, or rather a complex of overlapping hierarchies, is maintained, but it has no top. There is no supreme institution with ultimate jurisdiction over the others. Thus there is no place where, as Harry Truman would say, the buck stops. The buck keeps circulating."

Some of the changes Japan must make require a reversal of patterns that extend back forty years; others relate to the habits and customs of a century or more. Traditionally, the Japanese have seen their country as a small, vulnerable island nation with no natural resources. That view, obviously realistic, has produced a nation of savers—wary of, and profoundly ambivalent about, outside influences. Despite Japan's great success in the world economy, that outlook lingers, acting as something of a brake on the emerging recognition that "internationalization" describes the direction in which Japan must head.

Change is in the air. MITI's power over industry is diminishing; the politicians are trying to exert more control over the bureaucracy; in certain sectors, notably transportation and telecommunications, regulation has been reduced; foreign pressure is forcing some opening in the system. Tax law changes have reduced the incentives to save; public works spending has increased. Business Week reports that the Japanese people have embarked on what for them is a virtual consumption binge, including a new willingness to sample foreign products.

But change may not spread as quickly as the fissures in our relationship. That has been the dangerous reality to date. Prime Minister Nakasone has been strongly pro-American; fully aware of the need for Japan to play a changed role in the world; as committed to restructuring and opening the Japanese economy as any prime minister could be. And yet, he leaves office this month with relations between our nations far more fragile than when he came in five years ago. The likely successors to Mr. Nakasone are generally viewed as more cautious politicians—less inclined to try and lead their countrymen decisively in new directions.

How do the United States and Japan navigate through this difficult period?

First, we must fashion an alternative approach to the trade policies of the recent past.

Slogging through issue by issue, or trying a slightly broader sectoral approach such as the MOSS (Market-Oriented, Sector-Selective) negotiations, has failed. These methods have proven counter-productive and damaging to the overall relationship. Repeatedly, in recent years, we find relatively minor trade issues being escalated to the highest level of government. What can be more absurd than Cabinet officials in both countries taking a deep interest in the sale of baseball bats to Japan? We need an approach that gets us out of the business of nickel and diming Japan, turning every trade issue into an emotional, highly-politicized "symbol."

More important, proceeding issue by issue does not face up the reality of the Japanese system. Japan has been well described by Chalmers Johnson as a "capitalist development state," the principal feature of which is a partnership between central bureaucrats and entrepreneurs. Whole books have been written on it, but the fundamental point should be clear: it is a different system than ours.

The Japanese system does not have the ambivalence about government intervention in the economy that our's does. It has nurtured industries and technologies through what John Zysman has called a combination of "promote and protect." As van Wolferen has observed, "it is a partnership that has an industrial policy and a trade strategy."

Politicians like to talk, demanding a "level playing field" in trade, but given how much our approach to trade and industrial questions differs from Japan's it is worth asking if we are even playing the same game. At the very least, as Bruce Scott from Harvard Business School has noted, they are using a T-formation, while we play the single wing.

Because the system is different, there is a real problem trying to deal with Japanese trade practices within our framework of "fair" or "unfair" trade practices. Either one gets mired for years in individual issues that are essentially minor—as we have—or one is forced to condemn the whole system as "unfair", an understandably offensive way to carry on relations between close allies.

I see no alternative than to exert sustained pressure on Japan to change. Not because their system is "unfair". But because it is inappropriate given the size of their economy, level of development, and responsibility they must assume in the international system. And because the combination of our different systems, taken together, produces results that are onesided and damaging to our country. We need true reciprocity and equivalent access to their market; if their market does not open, we really will have no choice but to deny access to ours.

Given the variety of barriers that does exist in the Japanese market, and the time involved and damage done in fighting over them one by one, I see no real alternative to measuring progress in terms of results.

Over the next few years, the bilateral trade imbalance must be substantially reduced—probably from $60 billion to something on the order of $30 billion. Given the size of our economies, that is not an impossible assignment. However, there are a number of unpleasant ways it can happen: through American import barriers; through Japanese export restraints; or through a serious recession.

It is in the interest of both countries to act cooperatively to deal with the imbalance, in a way that maximizes trade rather than minimizes it. The alternative to the dangers of unilateral action is a joint effort to accomplish the same objectives.

Second, we should recognize that not all the changes needed should occur in Japan.

I'm not going to give my whole competitiveness speech today. But the point should be clear: we in America have to be tough on ourselves, not just tough on the Japanese.

If the closed nature of the Japanese economy poses a threat to the international trading system, so does the American budget deficit. If Japan is guilty of exporting too much and importing too little, we are surely guilty of exporting too little and importing too much. If Japan has saved too much and consumed too little, we have saved too little and consumed too much. No amount of changing by Japan—or beating on Japan—will strengthen our schools, retrain our workers, or rebuild our factories.

Jim Fallows recently contrasted our nations, calling Japan a "producer society" and our country a "consumer society." Japan will, in time, become more of a consuming society; it is happening already. But unless we rebuild our greatness as a producing nation, any opening of the Japanese economy will benefit other nations, rather than ours.

Last, both countries must not lose sight of the overriding importance of the relationship, and an economic and political interdependency that makes solving problems jointly essential.

I reject totally a return to the policies of the past when our government dismissed trade problems as trivial or less important than foreign policy considerations. But I will insist—and others should as well—that we not lose sight of the political, security, and the other facets of the relationship that make our bonds with Japan so unique and vitally important to us. We are in danger of going from one extreme to the other.

Our frustration with our trading partners, particularly Japan, must always be tempered by the reality that they are indeed partners, not adversaries. The new interdependence in the world economy will not disappear—it is a permanent fixture. We need to handle our problems with Japan without tearing the fabric of an international system that is stretched to the breaking point.

The size of our economies give the United States and Japan a special opportunity and a special responsibility. Together, our nations represent 35% of the world's GNP, 32% of the exports of the industrialized countries, and fully 45% of all the foreign aid provided bilaterally to the third world. We will deal with debt crisis, avoid global recession, and accelerate world economic growth together through cooperation and coordinated action—or not at all.●

DEFICIT REDUCTION

● Mr. GARN. Mr. President: as my colleagues know, this year's budget resolution assumes an increase of nearly $20 billion in new revenues. The two congressional committees responsible for raising this money, the House Ways and Means Committee and the Senate Finance Committee, are now meeting to address this situation. Hopefully, the situation will be properly addressed before the scheduled automatic sequestration occurs in November.

I have been approached in recent weeks by several of my constituents regarding articles in Reader's Digest on ways of reducing the Federal deficit. I have read one article which presents the author's point of view on how the Federal deficit could be reduced through an elimination of some of the most "wasteful," using the author's word, Federal programs. I am not going to take issue with the author's feelings on why certain programs should be terminated, especially since I would tend to agree with the majority of his comments. However, I would indicate that his "hit list" and others I have seen do not begin, in my opinion, to address the real problem with the deficit.

The real problem with the deficit is the high percentage, almost 70 percent, of the Federal budget that consists of programs classified as entitlements. The rest of the budget falls under discretionary funding, and it is this remaining 30 or so percent that must take the full brunt of deficit measures passed by Congress and which will take the full hit of an automatic sequester. I believe it is totally inappropriate for such a small segment of the budget to suffer such a large reduction in the name of deficit reduction. I may, at a later date, address this issue in more detail.

But in light of the recent flurry now occurring behind closed doors to raise taxes, I encourage my colleagues to read the October issue of Reader's Digest that contains an article by Warren T. Brooks entitled, "Don't Raise Taxes." Mr. Brooks notes that past efforts by Congress to reduce the Federal deficit through the avenue of raising taxes has only resulted in a widening of the deficit. The temptation to Congress, according to Mr. Brooks, of having these additional revenues has forced Congress into "new spending sprees." Among the facts and figures cited in the article is a very startling figure which indicates that "since 1947 every $1 of tax increase has coincided with $1.58 in new spending." I remind my colleagues of the infamous example of TEFRA, the Tax Equity and Fiscal Responsibility Act of 1982, in which we were promised that every $1 in new taxes would result in a $3 reduction in spending. Unfortunately, the bill resulted in an increase of $1.06 in spending, indicating that Congress raised taxes and then spent more without the corresponding reduction in spending. To know that this practice is a tradition dating back to 1947 is very troublesome to me, and one which I hope will change in the future.

For the benefit of my colleagues, I am placing Mr. Brooks' recent article in the Record in the hope that we can begin to reverse this awful trend that has plagued our country for the past 40 years, and that those behind the closed doors will benefit from its contents.

The article follows:

DON'T RAISE TAXES

(By Warren T. Brooks)

Americans have a right to be confused about the issue that opinion polls show in uppermost of their minds—cutting the massive federal deficit.

On Capitol Hill, Democrats have proposed a $19.3-billion tax hike. In opposition are the Reagan Administration and lawmakers who argue that scaling back the growth of our $1-trillion-plus federal budget is the only way to bring down the deficit.

Meanwhile, there is evidence of a growing suspicion that raising taxes will only increase spending by the politicians and do little or nothing to cut the deficit. Those suspicions are well-founded. A statistical study last May for Sen. William Roth (R., Del.) by Ohio University economists Lowell Gallaway and Richard Vedder reveals that since 1947 every $1 of tax increase has coincided with $1.58 in new spending—which is to suggest that tax increases have typically resulted in higher deficits.

Vedder and Gallaway explain: "Public officials are under pressure to boost funding for constituents. Raising taxes reduces their popularity. If taxes are to be raised, lawmakers tend to anticipate and compensate for this negative action by increasing government spending, thereby enhancing their popularity."

The two economists call this the "bait and switch tactic," in which "tax increase may be justified to the public as a means of deficit reduction, whereas the actual results will be to stimulate additional spending on programs favored by influential special-interest groups."

President Reagan knows exactly how this bait-and-switch approach works because he was the direct and all-too-willing victim of it in 1982 and again in 1984. Just seven months after he had told the nation, in the January 1982 State of the Union address, that "raising taxes won't balance the budget," the President was persuaded by his own aides to accept a $98.3-billion three-year tax hike called TEFRA (Tax Equity and Fiscal Responsiblity Act of 1982).

In return for this, he was promised by Congress "three dollars in reduction of outlays for every one dollar of increased revenues." This was supposed to reduce the fiscal year 1983 deficit from a projected $137 billion to $115 billion. Instead, fueled in part by prospects of higher tax revenues to spend, the deficit soared to $208 billion—driven up by a $63-billion (8.4 percent) increase in spending, some $51 billion more than the President had asked for.

In 1984 the President approved another "deficit reduction" package known as "son of TEFRA" or DEFRA (Deficit Reduction Act of 1984). Through it was a much smaller tax increase, it appeared to have the same effect. In 1985 deficit and spending levels rose to new, all time highs.

As James Buchanan, a professor at George Mason University and winner of the 1986 Nobel Prize in economics, contends in his book Democracy in Deficit: elected politicians enjoy spending public monies for their constituents. Buchanan says this tendency was amplified by the Keynesian economic theory that deficits are beneficial during an economic downturn. But politicians made deficit budgets the norm, by ignoring the corollary theory which called for surplus budgets in times of expansion.

One problem, Buchanan writes, is motives: unlike business executives, who must make income greater than outgo to earn a profit, politicians win votes and elections by making outgo (spending) rise faster than income (taxes). And politicians will use any argument to support their spending habit.

The latest device consists of blaming the deficit on President Reagan and his 1981 tax cut (much of which was canceled by tax increases from 1982 to 1984), and suggesting that the only way out of the deficit mess is, in the words of House Speaker James Wright (D., Texas), "to bite the bullet on taxes."

Last January, in his response to President Reagan's State of the Union message, Wright told the country: "The President sometimes likes to criticize Congress for what he calls 'big spending,' but the plain truth is that for the six years of this Administration, Congress has actually appropriated less in total spending than Mr. Reagan has asked us to appropriate."

This astonishing assertion caused Rep. William Dannemeyer (R., Calif.) to ask the nonpartisan Congressional Budget Office (CBO) to compare the President's spending proposals with the actual outlays authorized by Congress. In that five-year period, CBO found that Congress had authorized $92 billion more than the President had requested. In other words, to put it in its kindest terms, Speaker Wright was simply wrong.

Over six budget years from 1982 to 1987, President Reagan asked for an average increase in spending of 3.5 percent. Congress appropriated an average increase of 5.9 percent, and actual spending annually rose an average of 7 percent.

So, even though revenues increased during this period by a very strong 43.3 percent, total spending rose by an even larger 49.5 percent, making the deficit soar from the $79-billion one inherited from President Carter in 1981 to more than $220 billion in 1986.

Small wonder that the public continues to blame Congress as much as the President for the size of the deficits—and to disbelieve the notion that higher taxes will make them come down. Unfortunately, the budget debate we have watched this past summer suggests that nothing has changed. Once again the President has been pressed to fall for the old "bait and switch."

This time, Congressional Democrats offered $19.3 billion in new taxes in return for "budget reforms" and an alleged reduction in the deficit of about $37 billion. Yet at the very moment this offer was being made, the 1987 deficit was already coming down by $65 billion, from $220 billion to $155 billion, through a combination of less than three-percent spending growth and more than 11-percent revenue growth, in an economy not trammeled, so far, by additional taxes.

What voters should understand is that the only thing Congress has to do is hold spending growth to three percent annually and the deficits will automatically come down $30 billion to $50 billion a year, because revenue in our expanding economy is growing faster than that.

But Congress has other things in mind, like a $2.4 billion highway and tunnel project in Boston, and water and sewer funds for nearly every Congressional district. Congress also wants welfare "reform," homeless relief, trade-dislocation assistance, increased farm-export subsidies, and a costly catastrophic-health-insurance plan.

A consequence of this seemingly endless list was that the final budget agreed to by Congress last June called for a total spending level (when you strip away all the fakery) of $1070 billion—or about $30 billion more than the President's proposal. This would mean a growth-of-spending rate of more than six percent. Furthermore, as usual, the new spending spree is not confined to the immediate figures for one year. For example, the House welfare-reform bill will add more than $5 billion over the next five years—but only $192 million of that would be "showing" in the 1988 budget. The trick is to "backload" the new spending into later years and keep the initial outlays relatively small so as to obscure their explosive effect on future spending.

The point is clear: the prospect of new taxes provides an irresistible temptation for Congress to go on a new spending spree—to try to reverse even the modest progress we have been making in the last couple of years toward slowing down the federal juggernaut.

Milton Friedman, another Nobel Laureate economist, has argued that it is not the deficit we should watch so much as the level of actual spending. Whether that spending is financed by taxes or borrowing, it still comes from funds available to the private economy, which pays the freight.

The good news is that since its all-time high of 24.3 percent of Gross National Product (GNP) in 1983, federal spending fell to 22.9 percent in 1987, and if the present spending trend of three-percent growth continues, this would fall to 22.1 percent in 1988, the lowest level since 1980.

One of President Reagan's accomplishments has been to reverse the traditional Washington wisdom that government spending is good for the economy. Instead, there is now a growing consensus here and abroad that too much government spending can be a bad thing. An analysis by Richard Rahn, chief economist of the U.S. Chamber of Commerce, shows that as the seven major countries in Europe's Organization for Economic Cooperation and Development have increased their spending, their economic-growth rates have plunged, in almost exact proportion. Rahn found that "for many countries economic-growth rates significantly decline and unemployment rates increase when government spending exceeds 15 to 30 percent of GNP."

The recent U.S. spending levels, at around 35 percent (including federal, state and local spending), are close to the "critical mass" that has stagnated Europe. So the key to staying competitive, particularly with the developing Pacific nations, is keeping our spending on a downward path.

This is what motivates President Reagan to call for a constitutional amendment requiring a balanced budget—such as 49 states in effect now have.

Meanwhile, the public should be suspicious of any politician who says he is going to "reduce the deficit" by raising your taxes. It simply does not happen.●

FRAUD OF THE DAY—PART 8

● **Mr. HEINZ.** Mr. President, every fraud I have discussed to date has involved some product which has a substantial domestic industry which was being harmed by the high incidence of fraud. Today I wish to address customs fraud involving a product which is found in every home and every market in the United States, but is not produced in any significant quantity in this country. This product is coffee.

Not long ago, the Customs Service investigated Saks International, an international coffee importer. The Service found that Saks International was guilty of violating the International Coffee Agreement Act. They had been misrepresenting the country of origin in their imports and were therefore evading quota restrictions. The company would illegally claim that its coffee came from a country which had no coffee quota under the agreement, or from a country which had not yet exhausted its quota limits. Saks International paid the Government a $3.3 million fine in settlement of all charges. The size of this fine clearly shows the magnitude of the fraud which had been committed.

I cannot say to Senators in this case that domestic producers of coffee were injured. Hawaii is the only State which produces coffee, and it does so at a high quality but relatively low quantity level. Rather, it is our trading partners in South and Central America and Africa that may be injured by customs fraud. This kind of fraudulent act can easily mean that a legitimate exporter could not export his coffee to the United States since the fraudulently imported coffee would register under his country's limit. Obviously, countries with no quota are not injured by such fraud. A private right of action would serve as a deterrent to this type of action, and it would allow the injured parties, if there were any, to gain some form of financial compensation.

As today's example clearly shows, customs fraud is a universal concern which does not prey solely on U.S. companies. Customs fraud has the potential to devastate all industries, both domestic and foreign. It is obvious that something must be done to stop the spread of customs fraud, and I believe that my amendment will be a major step toward accomplishing that.●

CONGRESSIONAL-JUDICIARY DIALOG NEEDED

● **Mr. MOYNIHAN.** Mr. President, I rise today to draw the Senate's attention to an op-ed which appeared in the New York Times on October 10, 1987, and written by the Brookings Institution's Robert Katzmann.

Mr. Katzmann calls for a strengthened communication between the Congress and the courts. I find myself in complete agreement with him.

Mr. President, I ask that the attached materials be inserted in the CONGRESSIONAL RECORD.

The material follows:

[From the New York Times, Oct. 10, 1987]

NEEDED: CONGRESS-JUDICIARY DIALOG

(By Robert A. Katzmann)

WASHINGTON.—The Bork hearings presented a striking paradox. Though the Senate Judiciary Committee lavished its attention on Judge Robert H. Bork, Congress remains largely oblivious of the well-being of the Federal judiciary as an institution.

Frank M. Coffin, a Federal appeals court judge and former Representative, said recently: "The judiciary and Congress not only do not communicate on their most basic concerns: They do not know how they may properly do so." He added: "The condition is that of a chronic, debilitating fever."

This state of affairs has not only had adverse effects on relations between the two branches but also on public policy. Consider these examples.

Last year, in the waning days of its session, Congress enacted a law protecting children who are vaccinated, and tacked on to it a provision that could greatly increase the judicial workload but without providing Federal courts with the necessary additional resources.

The law requires judges to determine whether claimants are eligible for compensation because of illness or death resulting from vaccination. One court official estimate that the judiciary would have to hire and train 300 or 400 specialists to handle these cases. The judiciary will still have to decide a flood of vaccine-case appeals, running perhaps into the thousands. In spite of the law's obvious impact on the courts, Congress did not consult with the judiciary when it considered the legislation.

Congress sought to deal with the deficit by mandating budget cuts throughout the Government, including the courts. To comply, the judiciary, for a time, had to suspend civil jury trials—in violation of the Seventh Amendment of the Constitution.

Congress's reluctance to raise judges' pay reflects its limited understanding of the needs of the courts. As a result, it has become increasingly difficult to attract and retain competent jurists.

Underlying Congressional hostility is a view on Capitol Hill that courts usurp the electoral process. Judges, according to this perception, are unelected, imperial individuals who twist legislation out of shape to impose personal views on society.

The reality is far more complex. Courts are confronted with the difficult task of making sense of vague and ambiguously worded statutes with often skimpy legislative histories. Often, Congress passes the buck to the courts to avoid controversial choices and then blames judges for decisions that it required.

By and large, the judiciary is not overreaching—but overworked. It must somehow manage a diverse and complex docket in the face of inadequate resources.

Tensions between the two branches of Government are inevitable, but the absence of regular communication exacerbates the problem.

The judiciary has felt constitutionally constrained from issuing opinions about proposed bills in advance of their passage. Beyond that, the Constitution provides no guidance for determining the permissable and impermissable limits of communication. Both branches are uncertain about how and under what circumstances each should deal with the other. Neither has devised effective mechanisms to do so.

This lack of communication deprives Congress of the information needed to understand the capacity and limitations of the courts. In the absence of dialogue, Congress cannot make use of judicial expertise when it revises laws.

By the same token, the communications gap has made it difficult for the judiciary to keep abreast of major changes in the legislative process.

The separation of powers cannot mean the prohibition of communication. If Congress and the executive branch ceased regular interaction, Government would break down.

Commenting upon the Iran-contra affair, President Reagan noted the need to forge closer links between Congress and the White House. The nation should be no less concerned with the widening gulf between the courts and Congress.

What sense does it make for the Senate to ponder the fitness of judicial nominees but for Congress to ignore the institutional health of the Federal judiciary? ●

INFORMED CONSENT: SOUTH DAKOTA

● **Mr. HUMPHREY.** Mr. President, every American desires accurate and complete information regarding their medical care. For example, in recent years, the second opinion has been growing in demand, as health care consumers seek the very best for their own well being.

Flying in the face of this medical "information boom" is an astounding lack of informed consent when it comes to abortion. In clinics across the country, women are consenting to abortion without first having been apprised of all the risks, effects and alternatives. The results have been devastating. Thousands and thousands of women are suffering in the aftermath of abortion with effects such as sterility, depression and drug abuse. Nobody ever warned them.

These facts are borne out in the hundreds of letters sent to my office from women across the country, detailing what can happen when women consent to abortion before they know all the facts about it. I present just such a letter today from a woman in South Dakota.

Mr. President, we can do much to end this injustice by supporting informed consent legislation. S. 272 and S. 273 would require medical personnel to provide women considering abortion with the pertinent facts regarding abortion and its alternatives. Any less is not enough.

I ask unanimous consent that the letter from South Dakota be entered into the Record.

The letter follows:

Dear Senator Humphrey: I am writing to you to testify concerning my abortion experience. Ten years ago, in November 1976, I had a suction abortion at the Hope Clinic in Granite City, IL. At the time I was 24 years old and unmarried.

My baby was approximately 9-10 weeks old. When I asked the clinic receptionist about it, she replied it was "a cluster of cells." No one gave me factual information about the baby so I could make an intelligent decision, or even a moral one. No one offered to let me hear its heartbeat, or even related that my child already has a tiny brain and other developing organs. I feel that I was lied to by their omitting facts that medical people surely know.

I was also not informed about the physical dangers to myself. No one warned me of cervical damage that could lead to later miscarriages (which I had) or cervical damage, which makes it difficult to carry subsequent babies to full term. No one told me about the high risk of infection, which could lead to hysterectomies.

My counselling consisted of sitting in a room with 3 other girls and telling a staff member why I wanted an abortion. There was not any information given or any discussion concerning alternatives to abortion, such as adoption. As I look back ten years later, I can honestly say I was exploited by an industry that was all too eager to take my money but none too eager to make sure I really knew what I was doing.

If I had been informed in 1976, I would not have had an abortion. I would never have murdered a child or sacrificed my own mental health for temporary emotional relief.

The consequences of abortion are devastating and long-lasting. Women must be told so they can avoid the mental and emotional anguish that millions of us suffer from daily. They must be spared the nightmares, the guilt, the depression and the suicidal tendencies that accompany this "safe, legal procedure."

Sincerely,

Mrs. Debbie Marshall
South Dakota●

S. 1611—AMENDING THE IMMIGRATION AND NATIONALITY ACT

● Mr. D'AMATO. Mr. President, I rise to cosponsor S. 1611, a bill introduced by Senator Kennedy to correct a very serious inequity in the present immigration system.

This inequity is revealed when we look at the dramatic decline in the number of immigrants admitted from Ireland, Italy, and Poland since 1964, the year before the present system was created.

I urge my colleagues to compare the number admitted from those three countries in 1964, and the much smaller number admitted 20 years later, in 1984:

	Admitted in 1964	Admitted in 1984
Ireland	6,307	1,223
Italy	13,245	3,130
Poland (non-refugees)	7,097	2,312

The present system emphasizes the very worthwhile goal of family reunification, which we all support. It, therefore, gives preference to the sons and daughters of U.S. citizens, and to the spouses, and unmarried sons and daughters, of permanent resident aliens.

Unfortunately, it also creates painful, and even tragic, problems for Irish, Italians, and others who are penalized simply because they do not have immediate relatives in the United States.

Through no fault of their own, but only because the years of large-scale emigration from their lands are long past, these people must watch their dreams of becoming American citizens fade and die.

Their loss is our loss. We are deprived of the extraordinary talents, energy, motivation, and educational attainments of countless thousands who yearn to come to our shores, to work, and to do their part to keep the American dream alive.

Mr. President, the three examples I have cited are only a small sample of the many countries that the present system harms.

The State Department and the Immigration and Naturalization Service report that the existing system also adversely affects 33 other countries, including: Argentina, Germany, Indonesia, Japan, and Tunisia.

As one whose grandparents came through the Great Hall of Ellis Island in 1905 and 1912, I very strongly believe that we cannot tolerate such unfairness.

S. 1611 proposes a creative solution to this problem. It does not weaken the family reunification system, and continues to assign the same 216,000 annual immigrant visas to that system.

The innovation that S. 1611 proposes is to create an additional 50,000 visas, and to assign them on a different basis. These visas are set aside for applicants who qualify on the basis of a new point system.

The maximum points available for the bill's various criteria are as follows: age, 10 points; education, 12; higher education, 15; vocational preparation, 10; desired skill, 20; experience in desired skill, 10; arranged employment, 20; adversely affected country, 30; U.S. citizen sibling, 10; and ability to speak and write English, 10 points.

Under S. 1611, an applicant must score a minimum of 70 points in order to qualify. The system provides for a maximum of 147 points.

The explicit intention underlying this new point system is to redress the inequity suffered by applicants from the 36 countries adversely affected by the Immigration Act of 1965.

In order to determine if S. 1611, as drafted, will achieve its stated objective, or if there is a better way of doing so, I have submitted questions for the record of the Senate Immigration Subcommittee hearing on the bill scheduled for October 23. I will be happy to share the responses to these questions with my colleagues.

In closing, I also want to commend Senator Simpson and Representative Brian J. Donnelly of Massachusetts for their leadership in this area. Thanks to their efforts, an experimental 2-year program, known as the NP-5 Program, allowing for an additional 10,000 nonpreference visas, was created by section 314 of the Immigration Reform and Control Act of 1986.

The overwhelming response to the NP-5 Program provides additional proof that we need to reform the present system. More than 1 million written requests were submitted from all over the world in response to that program. That is more than 100 applications for every one visa this program made available.

Mr. President, I urge my colleagues to remember that those who are being excluded by current law, seek to come to America for the same reasons our forebears did: to raise a family and to live in freedom. They may have few belongings, but they are certainly rich in their willingness to work hard, and in their faith in God, and in America's great promise.

Their unquenchable thirst for the freedom and opportunity this Nation provides is the clearest possible proof—for all the world to see—of the continuing vitality of the American dream. With this in mind, and in the interest of the most basic notions of fair play and equal opportunity, I urge my colleagues to give S. 1611 their full support.●

THE 25TH ANNIVERSARY OF THE TUNDRA TIMES

● Mr. MURKOWSKI. Mr. President, I rise today to pay tribute to my State's oldest statewide newspaper—the Tundra Times—on its 25th anniversary. This paper truly deserves recognition because it serves an important purpose in my State of Alaska. The Tundra Times reflects the interests of a significant population group in my State—the Alaska Native people. The paper's news stories, features and editorials reflect the concerns and ideals of Alaska Natives who live in approximately 200 villages scattered throughout some 580,000 square miles.

The birth of the Tundra Times is an interesting one. In the early 1960's, the Alaska Native people in northwest Alaska were concerned about the effects of proposed atomic testing near their villages, particularly how that testing would affect their subsistence lifestyle. Native leaders met to discuss how their villages could ban together to voice their objections. That unified voice became the voice of the Tundra Times. The paper started in 1962 and Howard Rock, one of the Native leaders, was chosen as its editor and publisher.

Over the years, the Tundra Times has meant a lot of things to a lot of people in my State—Native and non-Native alike. In the late 1960's and 1970's, it meant getting detailed coverage of probably the single greatest news event for Alaska Natives—the debate of the 1971 law which created the Alaska Native Claims Settlement Act. Many Alaskans followed the paper to read about what was going on back in Washington, DC, and what Natives in the State thought about enacting this legislation.

The Settlement Act established Native, regional, and village corporations as an alternative to choosing the traditional method of establishing Indian reservations, as in the lower 48. The corporations manage Native land throughout the State of Alaska, and presently prohibit the sale of Native stock in those corporations until 1991.

It's interesting to note that as we pay tribute to this great paper, Congress is now considering amendments to the Settlement Act. The Alaska Native people feel that as time rolls on and 1991 fast approaches, the Natives must be prepared to deal with that day, under current law, when their stock can be sold. The Tundra Times has been consistently covering the progress of amendments to ANCSA, and I commend them for their fair and thorough reporting.

The Tundra Times has meant education on alcoholism, a disease which is unfortunately and tragically prevalent in Alaska and among our Native population. The paper has championed the cause to combat alcoholism by carefully reporting on the problem in Alaska's Native villages, small communities and cities, and by covering events and individuals who are seeking a solution to the problem.

The paper has explored other critical social problems for Native people. It has successfully brought State attention to the need for quality education for Native youth in the villages.

Education is what the paper has also meant to non-Natives in my State. The Tundra Times has been a great resource for individuals who want to better understand where Alaska Natives are coming from on many different issues. It gives a perspective that should not be overlooked.

Since the days of Howard Rock, the Tundra Times has meant an active communications link for Native villages throughout rural Alaska. For 25 years, it has brought villages and small communities together to speak with one voice.

Alaska is currently experiencing some rough economic times, and some small businesses have fared better than others. The Tundra Times because of its dedication to the Native people has weathered a bumpy road for 25 years. That's something worth recognizing.

I salute the Times and its small staff and all the individuals who have contributed stories to the paper over the years. Although it may not be me, it is my hope that another U.S. Senator from Alaska will be standing here in the year 2012 to congratulate the paper on its 50th anniversary. The paper is that important to our State.●

TRIBUTE TO PAUL GANN

● Mr. WILSON. Mr. President, I stand before you today to offer a brief, but well deserved testimonial to a dear friend and statesman from my home State of California, Mr. Paul Gann. Mr. Gann is the founder and president of People's Advocate. He was the coauthor of the most revolutionary tax initiative in modern political history in 1978, proposition 13. The success of Mr. Gann's initiative in that year sent shock waves through the statehouses from coast to coast, and changed the way legislators approach tax policy.

Since the 1960's, Mr. Gann has been the impetus behind numerous grassroots campaign efforts aimed at making State government more responsive and responsible. He has been an outspoken opponent of the repeated attempts of the California Legislature to expand its powers and has fought individual attempts of members to increase their own salaries and benefits.

Mr. Gann has, in the truest sense of our constitutional liberties, been an active participant in the democratic process. By his word and deed, he embodies all of the principles and characteristics of a free and open society and he has demonstrated that we do indeed have a system that works and works well when people care enough to stand up and make their voices heard.

Mr. President, I know I am joined by hundreds of thousands of others in honoring Mr. Gann; he is a major leader of our time and a deeply compassionate human being.●

LOUISVILLE ORCHESTRA'S SOUND CELEBRATION

● Mr. McCONNELL. Mr. President, I rise today to draw my colleagues' attention to an article that appeared in yesterday's New York Times. The article, written by Ms. Heidi Waleson, details the unique atmosphere that marked the Louisville Orchestra's Sound Celebration Festival.

The stated policy of glasnost, the openness that the Soviet Union has attempted to infuse into its society, was evidenced at the Louisville event by the appearance of a distinguished Soviet composer, Ms. Sofia Gubaidulina. It is fitting that Ms. Gubaidulina brought glasnost to Louisville in that she was reciprocating a visit from the Louisville Orchestra's noted music director, Mr. Lawrence Leighton Smith, who recently became the first American to travel to the Soviet Union to record with the Moscow philharmonic.

Louisville has displayed its commitment to international philanthropy in many ways, including the University of Louisville's administering of the Grawemeyer Award. That honor, which is the largest cash prize for the humanities, is annually awarded to an outstanding composer for a specific composition. Charles Grawemeyer, a Louisville resident who founded the award, has announced that there will be two additional categories of awards granted this spring—improvement of the world order and education.

I have inserted this entry into the RECORD so that other Senators may learn of the remarkable cultural accomplishments of the city of Louisville and its residents.

GLASNOST IN LOUISVILLE: SOVIETS JOIN SOUND CELEBRATION

(By Heidi Waleson)

LOUISVILLE, KY.—The overwhelming images of the first two days of the Louisville Orchestra's SoundCelebration festival had to do with *glasnost* (openness), though not exclusively of the Gorbachev variety.

There was the Muir String Quartet digging into Soviet composer Sofia Gubaidulina's String Quartet No. 3, deprived of its bows by the composer for the first half of the piece, and desperate to communicate. The composer herself was there, on her first trip to the U.S. Delicate, intense, with a fringe of chin-length hair and Tartar cheekbones, she spoke like an evangelist with a passion to which no translation could have possibly done justice. And then there was Vladimir Ussachevsky, tall and solemn, like a great craggy bird, manning the tape recorder in his 1954 "Rhapsodic Variations" for tape recorder and orchestra. The piece, written with Otto Luening, generated considerable fear and loathing at its premiere by the Louisville Orchestra more than 30 years ago. This time, it provoked only cheers.

Have the shockers of the past been mellowed by time into acceptable fare? Is nothing new shocking anymore? Well, maybe "Rhapsodic Variations" isn't exactly standard repertory, and its latest Louisville audience was made up primarily of the converted. Still, the composers, performers and critics who came to Louisville recently from all over the world to compare notes and make music represented plenty of different schools and styles, and everybody seemed interested in hearing everyone else's offerings, both musical and verbal (with simultaneous translation in Spanish, Portuguese, Russian and English). Everyone was hailing diversity and tolerance. No academic hardlining was allowed.

Take the opening concert of chamber music by non-American composers, which was all different, yet all easy to take. Jenny McLeod's "For Seven" (1966) was all Darmstadt-style fragments and sonorities, pitting flute against vibraphone and piano against marimba and strings for haunting bits of sound. Jan Carlstedt, a dour Swede, brought back line and tonality with his darkly lyrical "Metamorphoser" (1974) for violin, viola, cello, flute and oboe. Then came Ms. Gubaidulina's quartet, shifting at last from desperate plucked notes into a stratospheric, bowed solo for violin, the ultimate in chamber music as theater. Finally came "Appendix" (1983) by Pawel Szymanski, a Polish post-minimalist who wittily combined a piccolo soloist with an elephantine polka and a Mahlerian trombone line.

Such music is not new to the Louisville orchestra. In the 1950s it made the corporate decision to commission works rather than pay expensive guest soloists. There was a new piece on every program, and recordings preserved these efforts. Lately, Louisville's zeal for new music has subsided somewhat. The orchestra's regular programming this season mostly reflects symphonic tradition. There are star soloists, and only one contemporary work (John Adams's "Harmonielehre") on the 10 subscription programs. Recording efforts are slow too. But the orchestra's music director, Lawrence Leighton Smith, is a new-music enthusiast, and the Grawemeyer Award for music composition, the biggest cash prize in the arts, is administered by the University of Louisville. So the orchestra's broad president, lawyer Phillip Lanier, while not a new-music enthusiast himself, decided that a good way to celebrate the orchestra's 50th birthday would be to call attention to its historical niche.

Mr. Lanier hooked up with the U.S. Information Agency, which was quite interested in bringing composers and performers over, and then hosting them for two additional weeks while they visited other new-music centers in the U.S. The festival consisted of two chamber music concerts; two concerts of American orchestral music, one "old" and one "new"; and a final benefit for the orchestra that featured a newly commissioned work by Ezra Laderman, a piece by the Grawemeyer winner, Harrison Birtwhistle, and, in a bow to box-office realism, the Beethoven Violin Concerto with Itzhak Perlman.

Ms. Gubaidulina's presence was an even bigger coup. She is one of the three most prominent composers now working in the Soviet Union (the others are Alfred Schnittke and Edison Denisov); her music has been introduced in the U.S. by violinist Gidon Kremer. The Boston Symphony will be playing and possibly recording her "Offertorium" this spring, and the Kronos Quartet will perform her String Quartet No. 2 in New York in January. so her U.S. career seems to be launched.

Glasnost has been good to Ms. Gubaidulina. She has made seven trips to the West since August 1986, when she was allowed to travel abroad for the first time, at the age of 56.

"It is an extraordinary event in the country, this openness," she explained through an interpreter. "I think that now in Moscow we have a situation beginning which is going to mean more hearing of new music, and promote creative achievement on the part of composers. New art in general has been lacking, but in Moscow there is a hunger for new music. In people's eyes, I can see how much they need people who are thinking about new things. It doesn't have to be avant-garde, it has to meet spiritual needs."

In Louisville, Ms. Gubaidulina was especially interested to hear the music of Mr. Birtwhistle (she herself was a Grawemeyer finalist). She also enjoyed sitting down with the other composers to listen to tapes, and was particularly impressed with the Szymanski piece. "Such clear seeing, and humor! It reminded me of 'Petrouchka.'"

On other recent trips abroad, she has met Luigi Nono, Peter Maxwell Davies and Gyorgy Kurtag. Stopping in New York on the way home, she visited Mr. Ussachevsky's computer studio and was most impressed. "I am sure that my travels will affect my music," she says.

Glasnost has also been good to Lawrence Leighton Smith. Last year he went to the Soviet Union to record with the Moscow Philharmonic, the first time an American conductor has done so. He says: "It can get corny to say that music is a universal language, but it really is. Musicians are musicians."

But audiences are audiences. Getting them to embrace a policy of openness may be harder than converting governments. Still, his first orchestral concert was devoted to saluting Louisville's historical commitment to the new.

Three of the works programmed for the festival were Louisville commissions. The Luening-Ussachevsky piece, hailed as the first nail in the coffin of music at its premiere, sounds gentle today. The tape soloist with his manipulated instrumental sounds provided a curious, seamless collaboration for human musicians.

Also on the program was Aaron Copland's difficult acerbic "Orchestral Variations" (1957) and William Schuman's expansive "Judith," a tone poem written for Martha Graham to dance. It got such a strong response in 1949 that it kept the orchestra from going out of business.

Current American composer notables Ellen Taaffé Zwilich, Charles Wuorinen, Gunther Schuller and Ezra Laderman were in the audience to hear their forebears' works, and ultimately that seemed to be what the festival was all about—a celebration of the new-music ghetto held for and by its own denizens. If the festival is repeated, as Messrs. Smith and Lanier intend (money permitting, of course), perhaps regular Louisvillians will be enticed to join in the fun. More people should get to hear Otto Luening and Vladmir Ussachevsky tell stories about being thrown out of artist colonies for making strange noises on tape, to say nothing of hearing their music.●

CONGREGATION BETH SHALOM'S ANNIVERSARY

● Mr. LEVIN. Mr. President, on October 23, Congregation Beth Shalom of Oak Park, MI, will honor its three spiritual leaders who have been with Beth Shalom for a combined total of 34 years.

Rabbi David Nelson has been a leader in rabbinic, Jewish, interfaith, and civic affairs in the Detroit area since coming to Beth Shalom in 1972. He epitomizes the modern rabbi.

He is a spiritual leader, a teacher, a pastor, and a scholar. He is a leader in fostering good Christian-Jewish relations and has served as the presiding officer of the Detroit Roundtable of the National Conference of Christians and Jews. In the past 15 years he has touched the lives of thousands of people in all walks of life. His warmth and his intellect have combined to make Beth Shalom the dynamic congregation it is.

Cantor Samuel Greenbaum not only performs his cantorial duties, but also works with the congregation's young people and as an adult education instructor. He brings his love of Jewish music to senior citizens in senior centers and in nursing homes throughout the metropolitan area. He is a popular speaker as well as a singer.

Samuel Semp is the congregation's ritual director. He coordinates the observance of religious rites at the synagogue. He also attends to the congregants' personal needs at times of joy and of sorrow. Like the rabbi and the cantor, he is there when he is needed.

I am pleased to salute Congregation Beth Shalom and the Oak Park community as we celebrate the leadership of these inspiring religious leaders. May they go "from strength to strength." Mazel Tov.●

ORDER OF PROCEDURE ON TOMORROW

Mr. BYRD. Mr. President, I understand that there will be two Members on the other side of the aisle who will be ready at 9 o'clock tomorrow morning to proceed with the debate on the Bork nomination.

Am I correct?

Mr. ARMSTRONG. Mr. President, I understand that the Senator from Idaho [Mr. SYMMS] will be here at 9 in the morning, and I believe he wishes to be recognized for that purpose.

Mr. BYRD. Very well.

Mr. President, that being the case, I will not order a rollcall vote tomorrow morning. The debate can continue on the Bork nomination. If a speaker on the other side who is supportive of the nomination is here at 9 o'clock and is prepared to speak and does proceed to speak, I will not ask that there be a live quorum and that the Sergeant at Arms be instructed to request the attendance of absent Senators.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that at 8:30 tomorrow morning, following the prayer, the two leaders be recognized under the standing order and that there then be a period for morning business until the hour of 9 a.m., and that Senators may speak during that period of morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION TOMORROW OF NOMINATION OF JUDGE BORK

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at 9 a.m., the Senate proceed to executive session and that the Senate resume its consideration of the Bork nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished acting Republican leader have anything further that he wishes to say for the edification of the Senate and the readers of the RECORD, or does he have any business he wishes to transact?

Mr. ARMSTRONG. Mr. President, I thank the majority leader for his courtesy. I have nothing further to offer. I appreciate his expediting the proceedings tonight.

Mr. BYRD. I thank the Senator.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8:30 a.m. tomorrow.

The motion was agreed to, and at 10:19 p.m., the Senate recessed until tomorrow, Thursday, October 22, 1987, at 8:30 a.m.

EXTENSIONS OF REMARKS

EXCHANGE ENHANCES INTERNATIONAL UNDERSTANDING

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mrs. MORELLA. Mr. Speaker, an excellent and thought-provoking article written by a 19-year-old resident of my congressional district was recently brought to my attention. The article is by Michael Langley, a Brock Scholar at the University of Tennessee at Chattanooga. Michael's father, Roger, is information officer at the Office of Information and Volunteer Services of the Montgomery County, MD, government.

Michael's article, published on July 9, 1987 in the Chattanooga News-Free Press, provides an illustration of how international understanding can be improved through exchange programs.

A JOURNEY THROUGH THE HEART OF YUGOSLAVIA

(By Michael Langley)

The little boy with the space gun peered around his father again. This time I was ready. I cocked my thumb and index finger and shot him. He darted behind his father, who remained absorbed in a magazine.

I was sitting with my friends from UTC in the airport of Zagreb, Yugoslavia, waiting for a flight to the city of Split, the first leg of our three-week stay in the fascinating country.

We'd arrived less than a half-hour before on our nine-hour flight from New York. The boy—about 5—glanced out again. I tensed, ready to defend myself against a laser attack when I realized the white plastic toy wasn't a space gun at all but a miniature bullhorn. Changing strategies I cupped my hand to my ear and leaned toward him. He put the toy to his lips and made a loud "bah" sound.

"Bah?" I asked. "Bah!" he confirmed, only this time much louder. Yugoslavia is an easy country to misinterpret on first impression.

Before leaving Chattanooga, I had heard three things from well-traveled acquaintances about Yugoslavia: It's the most lascivious country in Europe; they try to rip you off; and they all smoke. There were only faint glimmers of truth in the first two (personified in an occasional leering pedestrian or taxi driver), but a heavy, lung-filling cloud of truth in the last one.

Our group of 11 was led by Dr. Richard Jackson, noted poet and UTC English professor. He was invited to Yugoslavia on a Fulbright exchange and we joined him to see the country and work with him on a special research project.

Jackson's wife, Marg, who teaches English at Notre Dame High School, and their daughter Amy, a freshman at Notre Dame, and her classmate Erika Lubcowita were also along.

The rest of our group included Chuck Scott, also a poet and UTC faculty member; Boyd White, a senior from Hixson; Karen Christie, a junior from Oak Ridge; Katie Berotti, a sophomore from Tifton, Ga.; Angie Argabrite, a junior from West Virginia; and sophomore Millie Bentley and myself, junior Michael Langley, both from Maryland.

Our trip, through a country many of my friends could not locate on a map, would provide experiences ranging from a visit to a town where visions of the Blessed Virgin are reported daily, to a close-up look at Richard Mull, the bald-headed "Bull" of TV's "Night Court." We traveled by plane, bus, van, boat and gondola down empty rural roads, crowded city streets, calm blue seas and dark lakes.

Our first stop, Split, was founded in 305 by the Roman Emperor Diocletian, who considered himself a god and lived in extreme seclusion. Today, a family's brightly colored laundry sways over the emperor's courtyard. A toothless woman selling cheese offered us generous samples. She accepted a little hug, and we made a rare sight, she in her bubuska, bulky sweater and black skirt, me in my Kroger's baseball cap and Mickey Mouse sweatshirt.

We boarded a boat and sailed for Hvar, an idyllic island off the coast. In the airports and on the streets we'd been made a little uneasy by dour, armed soldiers. This day, though, we met a Yugoslavian sailor who gave us a friendlier view of the military.

Boris was traveling as a passenger, sitting in the corner of the lounge indifferent to the light drizzle falling on the deck. The shadow of a hanging plant above him crossed his gentle, boyish face as it swayed. A cigarette dangled loosely from the corner of his mouth. The guitar he was gently strumming rested on his crossed legs.

"Do you know any Bruce Spingsteen?" Jackson asked. He smiled and launced into the opening chords of "Downbound Train."

Soon we were all gathered around his table, trying to name a song he couldn't play. He knew top 40, Dylan, the Beatles, the Stones. He knew more of the words to our favorite songs than we did. Boris told us he learned the music from listening to the radio and his English was good because he had a brother in Australia. He was thinking about trying to get there to join him. He asked what Americans thought of Yugoslavians and he whispered that they like the Americans much more here than the Russians. Now he was on leave, going to see his parents on a tiny island beyond Hvar. The two-hour trip passed quickly.

Hvar is known as the Island of the Sun, but we were beginning to call ourselves the Tourists of the Rain. It rains so rarely on Hvar that hotels offer to pay for inclement days. Unfortunately, we were only there for an afternoon so we couldn't collect.

After seeing Split, Solona, Trogir and Hvar, we rented a van and a car and drove along the coast toward Dubrovnik. At a gas station along the way a sleepy-eyed attendant mistakenly filled our oil tank with gas.

I have come to think that a van breaking down is one of the best ways to appreciate your ineptitude at communicating in an unfamiliar language. Everyone who worked at the gas station as well as people from the little inn across the street milled about the van, looking at it thoughtfully and cautiously as if it were a wounded animal. Boyd and Dr. Jackson attempted to tell some of the newcomers what was wrong. Chuck searched for someone who spoke English. Boyd and a man who did not work at the gas station alternately slid under the van, trying to figure out how to drain the gas. At last the man succeeded. I'm not sure just how. I must have been forlornly wandering the grounds looking for a candy bar or maybe a Krystal in the distance. I came back to see everyone nodding in agreement, and Boyd extending a carton of cigarettes to the man.

We stopped that afternoon in Ston, and remarkably, it was sunny. We went to the beach. Or actually we found our own spot, walking across marshy grass to a rocky place in the sun. Predictably it was soon cloudy and cold, and people began to pile into the van. Boyd, Chuck and I, on the way to the car, discovered a basketball hoop attached to a wall on the edge of the little city on the outskirts of Ston. We'd often gotten together for pickup games at Maclellan Gym and all missed basketball. We still missed an actual basketball but we improvised with the Hotel Ston's then white towels, tying them in tight knots. We didn't do much dribbling.

Remarkable accounts for the past six years have been coming out of the nearby village of Medjugorgy—which means "place between the mountains." The reports speak of daily apparitions of the Blessed Virgin to six local children. Accounts of a strange peace pervading the village were not borne out. Instead we found the clatter of loud tourists and aggressive street vendors selling cheap souvenirs to dominate the area around the church.

More spiritual to me was the immense concrete cross atop Mount Podbrdo erected in 1933 by pious farmers to commemorate the 1,900th anniversary of the crucifixion. Boyd and I joined the few, but hardy pilgrims who climbed the rocky path to the cross. Some who made the climb left their shoes behind in tribute or sacrifice and stumbled barefoot down the rocky slope made slippery by recent rain. Boyd and I kept ours on.

The dark, gymnasium-like room was not even half-full. There was a local band playing and the crowd wandered in and out, staring at the teen-agers with drums and guitars as if they were a loud museum exhibit. We'd spent the day in Dubrovnik, "the pearl of the Adriatic," walking around the entire old city along its protective walls. Only a few people in the very front moved to the loud vibrating music. They seemed to be friends of the members of the band. The rest were absolutely stoic based on my experience of rock concert crowds. There were no police or officials of any kind keeping the kids subdued. Unsubdued, however, were Millie, Katie and Angie, who immediately began dancing and moving towards the front. Their energy spread and more of the kids in the front started moving.

By the time the band was finishing the girls had a whole row of people dancing arm

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in arm. One of the guys from the crowd jumped on stage and began singing and beating percussion on an instrument that resembled a block of wood. The band closed with the Rolling Stones' "Honky Tonk Woman," in English for the most part. Before it was over the whole first and most of the second and third rows, led by three lively Americans and their new Yugoslavian friends, were on stage dancing with the band, stoicism the furthest thing from their minds.

"Mostar is one of our most Muslim cities," the thin man told us, rubbing his gray, scraggly whiskers. We were sitting in the courtyard of the city's most prominent mosque before the fountain Muslims use to wash before praying. This man volunteered to guide us to practice his English. He learned mostly, he told us, by reading everything he could get his hands on. "In fact," he said, taking the cigarette from his mouth, "if you have anything you can spare * * *" The next day, Dr. Jackson dropped off a copy of The New York Times he'd brought with him.

Sarajevo, the site of the 1984 Winter Olympics, was where we got down to work. We interviewed several poets, went to numerous readings, and met with university students. There were language problems, to be certain.

Yugoslavia's 22 million citizens belong to six major nationalities and about a dozen other groups. They speak three official languages and have two alphabets. Poets arrived in Sarajevo from all parts of Yugoslavia, as well as from West Germany, Russia, Turkey, France, Great Britain, Cuba, Cyprus, Romania and Hungary. Our beleaguered interpreter was a pretty 25-year-old English literature student named Tanya.

She and all the other students we met were exceptionally bright. One afternoon some of us sat at a cramped table in a little cafe with a Yugoslavian student and his young instructor. We tried first for some basic conversation but ended up mostly shaking our heads, smiling or looking down at our forks. But when the student heard Boyd mention William Faulkner, a fascinating conversation began. The student and teacher would confer for a second and then offer, in thick Bosnian accents, the name of a great author or philosopher. Boyd and Chuck would look at each other and then one would recognize, "Nietzsche!" Chuck introduced the "slam of disapproval." bringing his forearm and open palm down on the table. The corner of the cafe, in a matter of minutes, grew loud with shouts of "Robert Frost!" or "Fyodor Dostoyevsky!" with competing yells of appreciation and silverware-shaking forearms of disapproval.

Our last stop was in the peaceful city of Lubijana in the North. The people here consider themselves Central Europeans and it seems almost like another country. We went to nearby Bled Lake where Millie almost capsized our gondola, by standing for a snapshot of Bled Castle. "I forgot we were on a boat!" We all laughed, except for the man rowing us, who smiled slightly and motioned for us to stay down.

Now in our third week, I was feeling disconnected. We had survived without TV or even a newspaper. We were oblivious to the struggles of Gary Hart and Jim and Tammy Bakker. In our hotel lobby our last night, Boyd and I saw a familiar face. It took us a while to realize that the man who had just strode across the lobby was "Bull," "Night Court's" hulking courtroom guard. Actor Richard Mull was there making a movie. I realized old castles, churches and mosques would soon give way to television and suburbs. It was time to head home.

UNITED NATIONS OBSERVER MISSION IN PERSIAN GULF

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. FASCELL. Mr. Speaker, what are our options in the Persian Gulf? That is a question I have been asking ever since we first heard about the United States reflagging of Kuwaiti-owned oil tankers. After every military incident in the Gulf, including most notably the United States retaliatory attack on an Iranian military platform on Monday, I wonder what are some ways to engage the international community in preserving the global interests at stake in the Persian Gulf.

My fear is that there is a limited view in the Reagan administration of what our options may be in the Persian Gulf. In just months we have witnessed a massive United States military buildup there to protect reflagged Kuwaiti oil tankers for the indefinite future. As hostilities escalate, so does the U.S.military engagement in that region of the world.

Mr. Speaker, I would hope that the Reagan administration has under constant review numerous options to protect our interests in the Persian Gulf. But how are we to know when the administration refuses to comply with the War Powers Resolution and consult with Members of Congress? There is of course a distinction here between consultation and notification. We have been notified on various occasions of U.S. policy in the Persian Gulf. Those notifications do not explain options; they merely inform us of what the Pentagon is doing in the Persian Gulf. Nor do those notifications seek our counsel, which is what consultation means.

There are options out there. One very important, and promising, option is the possibility of a U.N. presence in the Persian Gulf. That presence, which could be a U.N. naval observer mission, need not require the withdrawal of a single U.S. warship or the naval forces of any of our allies in the Persian Gulf. Its mission would be clear and unprovocative: To inspect ships on a voluntary basis as they enter the Persian Gulf to certify that they are not transporting war material, to place the U.N. flag alongside the national flag on the certified ships, and to place observers on them and on small U.N. patrol vessels to accompany the ships while they transit the gulf.

The basis for a U.N. presence in the Persian Gulf is ably examined in an op-ed article published in yesterday's New York Times by Cyrus R. Vance and Elliot L. Richardson. Their proposal for the creation of a U.N. observer mission in the Persian Gulf, one which "does not contemplate the assembling of a United Nations armada of warships" and which encourages the "parallel presence of naval contingents from major powers," demands the highest priority in the White House. For this proposal to have any chance in the U.N. Security Council, the United States must actively pursue it. I hope the administration concurs and acts on this constructive alternative to an open-ended, high-profile American presence in the Persian Gulf.

I strongly urge my colleaues to read the full text of this important article.

[From the New York Times, Oct. 20, 1987]

PUT THE U.N. INTO THE PERSIAN GULF

(By Cyrus R. Vance and Elliot L. Richardson)

We proposed on this page 104 days ago that the United Nations undertake the task of flagging, inspecting and escorting commercial vessels in the Persian Gulf. A lot has happened since then.

The United States has committed a growing portion of its Navy to escorting Kuwaiti tankers up and down the Gulf. Other Western nations have begun similar operations on a smaller scale. The United Nations Security Council, in a historic display of unity, passed Resolution 598 demanding a cease-fire in the Iran-Iraq conflict on land, sea and air. Secretary General Javier Pérez de Cuéllar has conducted face-to-face discussions in Teheran and Baghdad, and the Security Council is considering an arms embargo against any belligerents refusing to observe the cease-fire.

But one thing has not changed: the logic behind establishing a United Nations presence in the Gulf. Last week's Iranian missile attack on a United States tanker in Kuwaiti waters—and the United States' response yesterday—underline the gravity of the situation.

Neither the presence of Western and Soviet Navies nor the initiation of United Nations diplomacy has stopped the war on land or at sea. Each day, more ships are attacked, more cities are bombed and more civilians die. An equilibrium of sorts has evolved but it is neither stable nor permanent. The international community has agreed on the need to bring the carnage to an end without either side gaining a military victory. And the Western countries have demonstrated their commitment to keeping the sea lanes open and to aiding their friends in the region.

Now it is time for the next stage—for a bolder United Nations initiative before an unanticipated incident undoes these promising first steps toward concerted international action.

Our proposal for the provision of United Nations observers and lightly armed patrol boats, to be drawn from countries other than the United States and Soviet Union, does not contemplate the assembling of a United Nations armada of warships.

The parallel presence of naval contingents from major powers, however, could underline the message that attacks on unarmed commercial vessels, especially those flying the United Nations flag alongside their own, would be unacceptable.

A Security Council authorization of even a modest United Nations naval presence in the Gulf would permit important Western countries now sitting on the sidelines to assist the joint undertaking. Japan, West Germany and Norway, for example, have major interests in the Gulf but have been prevented by constitutional or political restrictions from playing an active military role in the Gulf. But they could assist and fund a United Nations mission.

Such a mission would not require the United States to abandon its commitment to Kuwait or to beat a hasty retreat from the Gulf.

Under Article 51 of the United Nations Charter, each member retains the inherent right of self-defense. But what a United Nations mission would give us is greater flexibility in selecting how it could best meet its commitments in the region as the situation evolves. In such a dangerous and unpredictable environment, it does not serve American interests to be locked into an open-ended reflagging and escort operation with no feasible options.

Moreover, the estimated annual cost of our present reflagging and escort operation, $240 million, is more than the United States' dues to the United Nations and 25 times the cost of the proposed United Nations seafaring peacekeeping force.

Furthermore, should the exchanges of fire between United States and Iranian forces continue to escalate, it is in our interest to have the international community firmly on our side, as we did in Korea.

That would be far easier to achieve if the Security Council authorized efforts to keep the sea lanes open before an incident rather than for the United States to seek international support after the fact.

By going it alone, the United States has only one sanction to impose: military escalation. By working through the United Nations, the alternatives range from diplomatic censure, economic sanctions, oil or arms embargoes to joint military action.

In recent weeks, the United States and United Kingdom have pressed for an arms embargo on Iran. If an embargo is to be effective, however, it must be backed by international inspections of merchant vessels entering the Gulf to be sure they are not carrying military contraband.

Resolution 598, moreover, called for United Nations observers to monitor the cease-fire on land, sea and air. Both monitoring and inspection would be carried out by our proposed United Nations mission.

The validity of these arguments has been generally acknowledged in the many consultations that we and our colleagues in the United Nations Association have undertaken with top officials in Washington and in the United Nations community over the past 104 days.

Two other questions are raised frequently. First, if the tanker war is ended, will Iran have sufficient incentive to stop its attacks on land, where it has gained the upper hand? By offering United Nations guarantees only to shipping of nonbelligerents, the proposal would in some ways be more advantageous to Iraq, since its Gulf allies' oil exports would be protected while Iran's oil shipments in its own tankers would not be.

The United Nations umbrella might be extended to vessels of belligerents observing Resolution 598's provisions for a cease-fire on land as well as at sea—with a monthly review by the Secretary General of the situation—so as to provide an additional incentive for respecting the cease-fire.

In the long run, the prospect of United Nations efforts to keep Persian Gulf oil flowing should benefit Iran, with its dependence on oil exports through the Gulf, making peace look more attractive than the continuation of a war the international community cannot let either side win. Iranian leaders, moreover, should find it more palatable to defer to a United Nations presence than to an American one as part of a comprehensive peace settlement package.

Second, it is asked, would United Nations involvement provide a bridge for a growing Soviet military presence in this vital region? By projecting a low military and high diplomatic profile, Moscow has already increased its influence in the area.

A United Nations observer and escort mission, on the other hand, could prevent an escalation of the Soviet-American competition in the Gulf. Soviet units—as American—would be excluded from direct participation in this as in past United Nations peacekeeping forces.

More importantly, it would be a good test of the content of Mikhail S. Gorbachev's "new look" foreign policy and of the possibility of expanding Soviet-American cooperation in an area where their interests substantially coincide. Mr. Gorbachev's sweeping Sept. 16 statement on ways to more fully use the United Nations, and Foreign Minister Eduard A. Shevardnadze's endorsement of a United Nations role in protecting Gulf shipping, may well mark a reversal in traditional Soviet reluctance to strengthen the United Nations peacemaking and peacekeeping role.

The tragedy of the Persian Gulf offers the international community a historic opportunity to prove that the United Nations vision enunciated in San Francisco in 1945 can still work. If we can begin to think imaginatively about the potential of cooperative efforts, rather than dwelling on how difficult they are to achieve, then the United Nations itself could be on the verge of a renaissance. What we are suggesting is a step in that direction.

FRANK PITTS ON THE PERSIAN GULF DILEMMA

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. BRYANT. Mr. Speaker, Frank Pitts is one of the Nation's best known oil and natural gas producers. He spends his time and money in fulfilling a personal mission to explain to the American people why the Government purposeful election to abandon American oil and gas, and replace it with Middle East supplies, may have placed America and Americans into greater jeopardy than at any other time in history.

Here are a few points made by the Dallas oil and gas export as he explained to television and radio audiences that our Persian Gulf adventures are far more expensive, far more dangerous, and far more threatening to the American lifestyle than most people have imagined. His solutions could save consumers billions.

FRANK PITTS ON THE PERSIAN GULF DILEMMA

OIL & GAS IS IMPORTANT TO EVERYDAY LIFE

Energy is the lifeblood of an industrial nation, and particularly in America where we have traditionally used so much energy that its use is taken for granted, even assumed to be a right. America, with only 6% of the world's population, uses 30% of the world's energy—and 70% of that usage is oil and natural gas! Our greater use of these resources has lifted the American economy and the American lifestyle to the top of the heap. The entire world consumes 45 million barrels of oil per day, and of that total the U.S. uses 16 million barrels, or more than one-third. Our use of oil and gas is so critical that it cannot easily be replaced with any other energy source.

THE MIDDLE EAST HAS MORE INEXPENSIVE OIL

Over the past 125 years, America has used up most of its easy-to-find-oil which came from shallow depths at minimal cost. Today the Middle East countries have at least 13 times more proven reserve supplies of oil than the United States. Their lifting cost of their present reserves is about $2.00 per barrel, whereas our supplies of such cheap oil were used up in past years to build our nation. Our present finding and lifting cost for the deeper, less-apparent reserves is about $17.60. That is so near the $18.00 world price fixed by OPEC that it is not profitable to find and produce our oil at that price. This has led some in govenment to the mistaken idea that we are "out" of American oil, and that we should stop "protecting" American production and depend on the huge foreign reserves of the Middle East.

PLENTY OF OIL AND GAS TO BE FOUND

America has plenty of oil and gas reserves yet to be discovered. Since 1950 we've produced 4 times the proved reserves of 1950, and still have more reserves than ever. The secret is finding new oil! Some 98% of America's prospective sediments are still untouched by drilling. All the oil and natural gas we've produced in this country has come from only 2% of the identified prospective sediments.

Government has locked away millions of acres of prospective lands. Only 3% of the offshore Continental Shelf has ever even been offered for lease by the Federal Government. We potentially have plenty of oil and natural gas for us and our great-grandchildren, but only if our lawmakers are encouraged to give producers the go-ahead to drill for it and produce it.

THE MIDDLE EAST CONTROLS THE WORLD PRICE OF OIL

In 1973, the Saudi Arabians stopped our oil shipments from their country in retaliation for our support of Israel. We lost only 6 or 7 percent of our supply, but the flow of oil is so delicately balanced that the sudden cutoff of that small amount caused lines in gas stations and other hardships for a few weeks. When they began selling oil to us again, they raised the price by 300%. We had to pay it because the controlled low price of American oil had brought our own industry to a standstill, much as it is today.

By 1979 our dependence on foreign oil had risen to 46% because American oil couldn't compete with cheap foreign oil. The Iranian revolution provoked another tripling of oil prices, to $30.00 per barrel, and we were helpless to do anything but pay their price even as it rose to $40.00 per barrel.

The higher price per barrel made it profitable and therefore possible for American drillers to operate again. Between 1977 and 1985 enough new production was found that we cut our imports by over four million barrels per day. New discoveries in other world areas also eroded the OPEC market. When the OPEC economy began to suffer, they schemed to recover their lost markets by breaking the high-cost producers in areas like the North Sea, Canada and the United States.

AN OPEC PLAN THAT'S WORKING

Early last year Saudi Arabia created a predatory plan to dump two million barrels per day of cheap oil into the world market. The result was exactly what they wanted. It dropped the world price by 60% in 90 days, and the world's high-cost producers were driven to the wall. Prices dropped to $9.00

per barrel before coming back to the current price of $18.00—the official price set by OPEC to avoid a price that will allow other world producers to compete.

HOORAY, SHOUTED THE MOTORISTS (BUT AMERICA IS DRIVING ON A COLLISION COURSE)

With cheap oil flooding the market, Americans have fallen back into their wasteful habits. In 1986, we used 400,000 barrels per day more than in 1985, yet the devastated American oil industry produced 800,000 barrels per day less. Our imports have climbed by one million barrels per day, and are still rising. OPEC is gorging Americans on cheap oil, and when we're fat enough, and dependent enough that we can't do anything but buy Middle East oil, there could be a new and powerful price shock that will be the worst yet.

THE APPARENT PRICE LOOKS CHEAP, THE REAL PRICE IS APPALLING

In 1986, amid the cheering for oil costing well under $20.00 and gasoline under $1.00, the tensions in the volatile Middle East caused the U.S. to gradually increase its presence in the Persian Gulf. The reasons seemed to be good ones: keeping the Russians out of the area; protecting the sea lanes for oil destined for the U.S. and our allies; being "on hand" to cool potential hostilities between various producers; and to warn against escalation of the Iran-Iraq war.

However, the presence of men and some 15 ships cost U.S. taxpayers about $40 billion in 1986. Since our imports from the Persian Gulf amounted to only 330 million barrels, each of those barrels cost $121.00 just to protect the "right" to the sea lanes. Added to the posted $19.00 price of oil, each barrel of Persian Gulf oil therefore really costs consumers at least $140.00 per barrel. But now, in the fall of 1987, with over 40 ships in the Gulf and, with over 20,000 men standing behind live ammunition, the estimated cost is $300.00 to $320.00 per barrel! If this cost were moved directly to American gas pumps, instead of lying hidden in our tax bill, Persian Gulf gasoline would be selling for $17.00 per gallon. That doesn't sound cheap to me when plenty of American oil can be produced at $24.00 to $30.00 per barrel, delivering gasoline at $1.30 to $1.70 per gallon.

MOUNTING OIL PURCHASES ARE UNNECESSARY AND ADD TO THE BALANCE OF PAYMENTS DEFICIT

For the past several years the American economy has been groaning under the growing trade deficit. Of the 16 million barrels of oil we use every day, we still produce between 9 and 10 million barrels in this country, and we import about 6 million barrels per day (40%). That's $39 billion a year added to our trade deficit! But it gets worse. I'm convinced that before the next president moves into the Oval Office, our dependence on foreign oil will be more than 50%. At that level of dependence we have no control over pricing, and OPEC will have raised the price to at least $25.00 per barrel. That means that over $75 billion per year will be added to our deficit just to pay for foreign oil! A large part of those kind of imports could be produced in this country, keeping the money circulating in America and creating thousands of jobs. The money would be used and reused by Americans, upgrading our economy, instead of sending it down the tube into indebtedness for us and more Rolls-Royces for desert sheiks.

THE REAL COST IS MORE THAN MONEY

The real concern is not price, but national security! America's foreign policy should not be shaped by the volatile events in the Middle East. But if we're dependent on their oil, they'll demand to dictate who our friends are. If we don't agree, we could have our oil cut off, and no matter how good our defense equipment may be, no ship, plane or tank can operate without fuel. We must reactivate the American oil industry!

WHAT WILL HELP?

Several free world countries have cancelled or modified many tax disincentives to new oil production. Some have offered outright cash grants to help revive new exploration and production.

Our government could also instigate tax credits for new drilling, or otherwise encourage new high-risk drilling for oil and natural gas. It's not a question of helping oil and gas producers—it's a question of reviving the American economy and regaining stature as a world leader.

To wait until the next oil crisis hits us over the head before beginning to develop additional domestic oil supplies, is like waiting until an earthquake has devastated your home; and then start looking for disaster insurance.

THE McDONALD FAMILY—A FOUNDING FAMILY OF SAN CARLOS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LANTOS. Mr. Speaker, as we celebrate the 200th anniversary of the U.S. Constitution, that master blueprint for self-governance crafted by our Founding Fathers, it is only fitting that we also recognize the great work done by the founding families of the Peninsula. So many people contributed ideas, sweat and perseverance in creating the communities here that we cannot possibly recognize each and every one, but we have selected a representative family from San Carlos for special recognition today.

The family of Andrew B. and Barbara Tolmie McDonald is honored today, not only for their work in making this a better place to live and raising four fine sons, and a daughter who achieved distinction in her own right, but for the lasting works that still remain to grace their memory and add to our own enjoyment of our surroundings.

Andrew B. McDonald from Glasgow met and married Barbara Tolmie from Edinburgh and emigrated to the United States in 1898.

Mr. McDonald had a way with flowers and plants and shrubs and trees that won him posts as the superintendent of grounds at the Fagin Estate in Hillsborough and the Coryell Estate, present site of Lloyden Park in Atherton.

The McDonalds settled in Menlo Heights, because it reminded them of their native Scotland. Their family home, now the location of Bethany Lutheran Church, was haven for the sons, John, Andrew, William, and George, all now deceased, and the youngest, Beatrice.

In 1910, McDonald developed the first completely white orchid ever in California.

In 1914, the family moved to San Carlos, then a thriving community of some 30 people, most of whom were associated with the Southern Pacific.

McDonald took over greenhouses on the block now surrounded by San Carlos Avenue, Elm, Walnut, and Magnolia Streets, then a part of the Kraeger Estate. The greenhouses were to house the flowers and plants for the 1915 National Exposition in San Francisco.

McDonald, then horticulturist for San Mateo County, had been placed in charge of growing flowers and staging the floral exhibition for the exposition work that won him the grand prize for horticulture.

McDonald next took over planning and development of landscaping at Cypress Lawn Cemetery, where examples of his work still remain today by the chapel, rockery, catacombs, and sundial.

In those days, children were taken to the nearest schools in Belmont by jitney service. The first library was located in the SP train depot and had a grand total of some 15 books. In 1918, 1 year after its construction, Beatrice McDonald was one of two graduates from San Carlos Grammar School.

Beatrice fondly remembers San Carlos when it was mostly open fields and "a great place for growing up." With four big brothers, she became a good outfielder on the baseball team. In home-grown theatricals, she always played the little lost waif, she recalls.

Beatrice McDonald met Raymond Kroeck while both were attending Sequoia Union High School, married him, and raised three children, Barbara, Louise, and Donald.

Beatrice McDonald and Raymond Kroeck lived and raised their children in the McDonald family home at 501 Walnut, which still bears the stamp of the master horticulturist from Glasgow. The Kroecks were married for 60 years until Raymond Kroeck's death in 1986.

For her lifetime of service to her community, the San Carlos Chamber of Commerce named Beatrice McDonald Kroeck its Outstanding Citizen of the Year in 1981.

It is with a deep sense of pride that I, too, join in honoring these pioneers of the spirit and deed, strong family people who stayed together and helped this country, the Peninsula, and San Carlos to flourish.

Beatrice McDonald Kroeck, for your father and mother, Andrew and Barbara McDonald, and your brothers, and yourself and your own family, we salute you as a founding family of San Carlos.

SONNY MONTGOMERY MAKES HIS MARK AT CORREGIDOR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. FLORIO. Mr. Speaker, through the years and the wars that the Nation has faced, the men and women who served in those wars have served dutifully and bravely. For that service, these men and women have found no finer voice in the House of Representatives than our colleague, G.V. "SONNY" MONTGOMERY.

As the chairman of the House Veterans' Affairs Committee, he has repeatedly exemplified the tradition of the members of the armed services, doing for the veterans of war what these individuals did for the well-being of the Nation.

That responsibility to the needs of the veterans has often taken him to places where American servicemen once fought and died for the ideals of freedom and democracy.

SONNY MONTGOMERY has been working on behalf of Corregidor, an island-fortress in the Philippines that was a focal point of cooperation between the American and Filipino forces during World War II.

As the years have passed, the age of the memorial and the neglect of the island of Corregidor have taken their toll on its appearance.

However, despite the appearance of the memorial and the island, the spirit that lies at its foundation has remained as strong as ever. Indeed, in light of current events in the Philippines, it has become an even brighter testament to the need for cooperation between the Filipino people and the fruits of success that cooperation has brought in the past.

Following up on the work of the chairman of the Veterans' Affairs Committee, I recently visited the Philippines and was able to discuss with officials the prospects for the revitalization of the fortress and the island.

SONNY MONTGOMERY has worked long and hard on behalf of the important memories that underlie the Corregidor Memorial. In that tradition of keeping the torch lit for those who served their Nation in its time of need, he has maintained a sterling leadership at the helm of the Veterans' Affairs Committee.

As a chapter in the purposeful and dedicated career of our colleague, I am including below an article reprinted from the Washington Post, describing the often monumental efforts of Mr. MONTGOMERY in gaining for the fortress of Corregidor the recognition that it deserves as a monument in the story of the American veterans.

The article follows:

[From the Washington Post, Sept. 29, 1987]

ON CAPITOL HILL, A NEW BATTLE FOR HALLOWED CORREGIDOR

(By Bill McAllister)

Rep. G.V. (Sonny) Montgomery (D-Miss.), the chairman of the House Veterans' Affairs Committee, is of the old South and the old school of congressional leaders: He hasn't seen a war that the nation should not have won nor a battle that it shouldn't commemorate.

So when Montgomery heard in February about what had happened to a joint U.S.-Philippine memorial to the hundreds who died on the island-fortress of Corregidor during World War II, he was sympathetic. This spring, when he saw what had happened to the battleground, he was outraged.

"It was like letting someone throw paint on the Iwo Jima Memorial or letting a large cross fall down in Arlington Cemetery," Montgomery said in a recent interview.

Vandals have stripped valuable metal off the big guns that had protected the fortress, first from the Japanese in 1942 and then from the returning American forces in 1945.

The jungle has overtaken the ruins of most of the buildings, many of the roads around the base have vanished and many of the tunnels in which Gen. Douglas MacArthur and his command sheltered in 1942 from an intense Japanese bombardment are "unkempt, unlighted and sometimes impassable," according to a congressional report on the visit.

"It was disgusting, a real mess," said Charles E. (Butch) Joeckel Jr., executive director of the Disabled American Veterans. "The pools of water that were supposed to flow around the memorial were stagnant and infested with bugs."

According to the congressional report, "The scenes were of almost total desecration of every aspect of Corregidor's historic sites including the vestiges of battle, the buildings around the memorial and the memorial itself."

That assessment has seemed only to spur Montgomery to action.

What he did on his return to Washington is an example of how a single congressional committee chairman can galvanize attention and force action on an issue that seems far removed from the concerns of the federal bureaucracy.

But then, Montgomery knew what many outside of the nation's capital didn't know: that the government has an agency whose principal concern is maintaining American military cemeteries and battle monuments overseas.

Montgomery turned to the American Battle Monuments Commission, a tiny, independent federal agency with a Washington staff of 11, an annual budget of $12 million and responsibility for 24 overseas cemeteries, 14 memorials and two commemorative tablets.

Actually, officials at the 64-year-old agency, nestled in a carpeted fifth-floor suite amid the Army Corps of Engineers headquarters on Massachusetts Avenue, already knew of the problem. "We got a lot of complaints in here about the American memorial over there," said Col. Frederick C. Badger, one of three retired Army officers who have been recalled to active duty to help run the commission.

But because the Corregidor memorial was established by a joint U.S.-Philippine commission and supposedly maintained by the Philippine government's department of tourism, the U.S. agency has been unable to act.

"There is no question that place is in an awful condition," said Badger, who visited the island after Montgomery. The 11-member board that oversees the commission also was sympathetic.

The problem Badger saw was twofold: money and the Philippine government.

While Montgomery quickly won the promise of $100,000 from the Disabled American Veterans, whose officials accompanied him to the Philippines in April, Badger's review saw the need for much more money.

His estimate calls for $5 million to restore a key portion of the fort and the memorial to a more presentable status, plus $500,000 a year to operate the memorial and a staff of 50 to maintain it.

Just getting the Aquino government, beset by serious economic and political troubles, to consider the issue has not been easy, according to Montgomery. The Corregidor memorial, dedicated by the United States and the Philippines in 1968, simply fell victim to the Marcos government's inability to maintain it.

Corregidor, situated strategically at the entrance to Manila harbor, had briefly been a major tourist attraction, with hydrofoil boats ferrying sightseers from Manila to the fort. But that service collapsed, as did the electric and water service needed to run the U.S.-Philippine memorial atop the 600-foot-high cliffs on the island.

Today the hydrofoils have given way to slower and less crowded tour boats that daily bring a handful of tourists, many of them Japanese, to the battlefield. The island itself is occupied only by a small group of farmers and their goats.

The State Department, at the battle commission's urging, has opened talks with the Aquino government about the memorial. "They are receptive, at least they are not throwing up any roadblocks," said Badger.

The talks thus far have focused on the government's desire to open up the island, about an hour's boat ride from Manila, to development. "We would like to develop it, but we don't want anything like Disneyland there," said the colonel.

The Philippine plan calls for opening up the east end of the island to a resort-style development with hotels, shops and other attractions and reopening an old street car service to link that area with the "Topside," the western end of the island where the memorial is.

The idea of trolleys running through that area troubles the American commission, which would like to see any tourism district clearly separated from the memorial area. The Americans would like the area restored to the condition it was during its famous four-month-long siege by the Japanese.

The battle commission, which President Jimmy Carter once targeted for abolition and then was astonished to see how many friends it had, is prepared to run the Corregidor memorial if Congress concurs.

It did the same in Europe recently, taking over a small memorial at Pointe du Hoc in Normandy after the French government declared it was unable to care for the site where American Rangers in June 1944 scaled a 100-foot-cliff overlooking Omaha Beach.

But the commission, which prides itself on maintaining its sites with "not a blade out of place," as the operations director, Col. William E. Ryan Jr., puts it, has not had much luck in obtaining tax money for new projects.

It currently lists 25 World War II battles that it proposes to commemorate, but Ryan and Badger say they have little hope of Congress providing funds for any of them because of concern over budget deficits.

The commission's current major project, a Washington memorial to veterans of the Korean war, was approved by Congress last year but with the proviso that the funds for the $5.5 million monument come from the public. The commission's first fund-raising effort has not met with much success, Ryan said.

A letter to the Washington area's top 100 firms produced $700, and one to the nation's leading unions did only slightly better, raising $2,100.

The sole major success was the Hyundai Motor Corp., a South Korean automobile maker, and its American dealers. They have pledged $1.2 million toward the memorial.

If the commission manages to raise the funds, it would become its second Washington memorial. It built the monument to the World War I leader, Gen. John J. Pershing, who was the commission's first chairman, at 14th Street and Pennsylvania Avenue NW.

When might the Corregidor battlefield join the list?

"Well," said Ryan with a deep sigh. "It isn't in our 1988 budget and it isn't in our 1989."

The answer, officials said, will probably depend, as the whole Corregidor issue has, on Montgomery's clout on Capitol Hill.

"He's the sparkplug," said Badger.

UN-HATCH FEDERAL WORKERS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. HORTON. Mr. Speaker, yesterday our colleague from Maryland, CONNIE MORELLA, wrote an op-ed article for the Washington Post expressing support for revising the Hatch Act.

The Hatch Act, written nearly half-a-century ago, has not been revised since its passage into law. The bill that will be before this body shortly, H.R. 3400, represents the first truly bipartisan attempt at addressing the flaws in the Hatch Act.

Mr. Speaker, Congresswoman MORELLA's article, "Un-Hatch Federal Workers," makes an excellent argument for reforming the Hatch Act. I urge my colleagues to read the article, which follows, and to support H.R. 3400:

UN-HATCH FEDERAL WORKERS

According to the law, a federal or postal employee may wear, on the job, a campaign button for his or her favorite presidential candidate.

But it is against the law for that same federal employee, or any other federal employee, to host a meet-the-candidate coffee at home after hours.

A federal employee may attend political rallies or meetings as a spectator, but may not participate in the rallies by carrying banners or placards.

A federal employee's family car may sport a political advertisement no larger than 15 inches by 30 inches, but a political advertisement posted on a federal worker's lawn may be no larger than 14 by 22 inches.

A federal employee may write a letter to the editor expressing an opinion on a partisan issue. But a federal employee may not seek to have copies of such a letter distributed to five or more newspapers, nor may that employee write five or more consecutive such letters to one newspaper.

The set of rules governing federal employee participation in politics is complicated, inconsistent and unduly restrictive of federal employees in their free time. Known as the Hatch Act, the law is so confusing that many federal employees find it difficult to exercise their political rights even to the extent permissible. They are confused as to what the limits are, so they play it safe by staying entirely, or almost entirely, uninvolved.

These Hatch Act restrictions, which are based on a conglomeration of more than 3,000 separate regulatory rulings issued before 1940, deprive 3 million American citizens who work for the federal government of the political voice that is their right.

In doing so, the Hatch Act deprives the rest of us of the political input of many members of our community. Federal and postal employees include some of the most knowledgeable and articulate citizens we have.

It has been a loss to the country that scientists from the National Institutes of Health, inspectors from the Department of Agriculture, and statisticians from the Census Bureau have not been permitted to participate in politics over the 48 years since the Hatch Act was passed. The loss to them and to their communities is particularly strongly felt in the Washington area, the home of some 350,000 federal employees. In Maryland's Eighth Congressional District, which I represent, there are some 60,000 federal employees, about 20 percent of registered voters, who are restricted by the Hatch Act.

The House will soon be voting on legislation to correct the Hatch Act. The Hatch Act reform bill, H.R. 3400, is a carefully crafted bipartisan compromise. It recently passed the Post Office and Civil Service Committee by a vote of 22 to 0. The more than 280 cosponsors of the bill include all eight members of Congress from Maryland.

This legislation would ban absolutely all politicking in the federal work place, including the wearing of political campaign buttons. But it would allow federal employees on their own time to engage in the full range of political activities open to other citizens.

By taking this black-and-white approach—no partisan political activities on the job, any otherwise legal activities off the job—the Hatch Act reform bill would clear up the ambiguity and vagueness surrounding partisan political involvement by federal employees.

In broadening the range of activity permitted U.S. government workers in their free time, the new bill would allow them to become active on behalf of political causes they believe in, or even to run for office themselves.

Some say that one side effect of this increased participation would be to engender new respect for the federal employee, particularly among those politicians who previously have found it all too easy to engage in federal employee "bashing."

That will be true to some extent. But I do not believe that the proposed legislation will have a revoluntary effect even on the partisan politics of the Washington area, with its many thousands of federal workers. Those who get really excited about politics, who want to get involved in stuffing envelopes, working on phone banks, knocking on doors, are a small minority of the population even in an area as politically focused as this one.

In fact, it has been argued that many federal employees like the present restrictions because the rules provide a convenient excuse for avoiding political involvement. If that is true of some federal employees, then it is particularly important to note that the reformed Hatch Act would even more effectively protect these workers' right to remain uninvolved.

It would do so through the ban on all on-the-job political activities, including those that were previously legal. It would do so through a prohibition on contributions to the campaign of a supervisor.

The new legislation would also toughen penalties for misuse of official authority or information and prohibit employees from soliciting, accepting or receiving a contribution from a person who has or is seeking a contract with the employee's agency, is regulated by the agency or has interests that may be affected by the performance of the employee's duties. Penalties for violation of these rules include fines, suspension, demotion, removal from specific job and disqualification from any federal employment for a period not to exceed five years.

These administrative penalties for actions that could be construed as involving political coercion are backed up by criminal penalties for acts of coercion themselves.

Working with the Congressional Research Service, I have determined that public employees of some 40 states, including Maryland and Virginia, are already allowed leisure-time political freedom comparable to that permitted by the Hatch Act reform bill.

I contacted the Virginia Department of Personnel and Training and the Division of Employer-Employee Relations of the Maryland Department of Personnel, both of which have been enforcing these regulations for years. Neither could remember a single complaint of political coercion involving government employees.

Our Constitution begins, "We the people . . .," not "We the people except those in federal service." The balance contained in the Hatch Act reform bill is right and is long overdue.

DEPUTY U.S. MARSHAL CLARENCE COMER RECEIVES THE ROBERT FORSYTH AWARD

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. EMERSON. Mr. Speaker, there are many men and women who serve our country in the capacity of U.S. marshal. These brave public servants protect and serve the citizens of this Nation as well as any one group of people you could hope to find. That is why it is especially pleasing to know that you are protected by someone like Deputy Clarence Comer—an especially rare and dedicated U.S. marshal. Today, Deputy Comer will receive a very high and coveted award which has been given to only a few special U.S. marshals in the history of our country.

Like the man for whom this award is named, George Washington's fourth appointed U.S. marshal, Robert Forsyth, Deputy Comer is indeed a brave and dedicated man. Robert Forsyth was the first to die in the line of duty, and there have been few since his time.

On the morning of January 29 of this year, near my hometown of Cape Girardeau, MO, a parolee—an illicit drug user with a history of burglary, forgery, and theft—hijacked a U.S. mail jeep. Armed with a 20-gauge shotgun, the felon forced the postal carrier driving the jeep to proceed to a pharmacy in Cape Girardeau. Witnesses to the abduction alerted the police, who began following the postal vehicle. When he learned of the incident over his police radio, Deputy Comer went directly to the scene and offered his assistance to the police.

At a critical juncture in the hostage crisis—the felon became aware that the police were following him and leveled his shotgun in their direction, Deputy Comer positioned his car immediately in front of the postal vehicle to force it to a stop. The jeep then struck the marshal's service vehicle, enabling the postal carrier to jump out and escape. Armed with a 12-gauge shotgun the deputy marshal approached the postal jeep and ordered the felon to surrender. Instead, the felon pointed his gun at Deputy Comer, who fired his weapon and fatally wounded the felon.

When a U.S. marshal comes along who sacrifices his or her own well being, showing unusual courage, good judgment, and competence in hostile circumstances, or performs an act or service which saved the life of another person while endangering his or her own life, then this person may be eligible for the nomination to receive the Robert Forsyth Valor Award.

Undeniably, in the face of extreme and immediate danger, Deputy Clarence Comer acted with the utmost bravery and subordinated his own personal safety to protecting the lives and safety of others—and is well deserving of this honor. U.S. Marshall Clarence Comer is a man of whom we are all proud. Indeed, America swells with pride when one of her sons shows such gallantry and bravery in the face of such adversity. All of America honors Deputy Clarence Comer.

ARIAS DESERVES NOBEL PEACE PRIZE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. VENTO. Mr. Speaker, as my colleagues know, Costa Rican President Oscar Arias has been named the winner of this year's Nobel Peace. This prestigious award has been made to President Arias for his leadership role in developing the Central American peace plan which now bears his name.

There have been some commentators who have tried to rearrange the facts to suit their own distorted fuzzy view of the world who suggest that the selection of President Arias by the Nobel Committee was a premature choice because the peace plan may not succeed, and that the selection was merely a political act by the Nobel Committee to derail support for the Contras.

I strongly disagree with both of these views. President Arias deserves the Nobel Peace Prize for having had the foresight and the courage to choose peace and reconciliation over continuing a course of war and bloodshed which would not continue to bring misery to all of the people of Central America. It is not premature to recognize the courage of those willing to take a risk of suing for peace.

President Arias now joins the very distinguished ranks of previous recipients of the Peace Prize, such as Dr. Martin Luther King, Bishop Desmond Tutu, and Amnesty International. These distinguished leaders and indeed all of those who have won the Nobel Peace Prize have won the admiration of people around the world for the example in showing all of us the way to a better future. Unfortunately, many times they were controversial, but history has judged the wisdom of the Nobel Committee's selections in a very favorable light.

It was only a few short week ago that President Arias stood in this House to share his views about the future of Central America with us. He asked us to give peace a chance. I hope that President Reagan will listen to this plea and that this administration will finally give peace a chance by enthusiastically backing the Arias plan rather than continue to push our friends in Central America to undercut this courageous effort. The United States must act before events eclipse our actions. It is time for this administration to take a positive step in Central America. We don't need a United States policy providing hundreds of millions more taxpayer dollars in military aid to continue the war and the killing within Nicaragua. We need today what we lack yesterday and will need tomorrow; an administration and a U.S. policy that is working for peace in Central America rather than anticipating and contributing mightily to the failure of the peace process.

Let America in good faith place our Nation on the side of peace. Let us honor the courage, the foresight, and the conviction of President Oscar Arias and his fellow Central American leaders who are in good faith suing for hope and peace tomorrow in the war-ravaged nations.

GOOD NEWS FOR IDA NUDEL, YEVGENIY YAKIR, AND VLADIMIR SLEPAK

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. CLARKE. Mr. Speaker, I join with many others around the world in rejoicing that Ida Nudel has finally arrived in Israel and that the Yevgeniy Yakir family and Vladimir and Marie Slepak have been told they will receive permission to emigrate from the Soviet Union. In all these cases, the welcome news comes at the end of many years of anxious waiting.

Ida Nudel was long one of the best known of the refuseniks of the Soviet Union. She richly deserves her reputation as an unselfish advocate of the right to emigrate and a defender of the many others who have been denied that right. She has not sought to call attention to herself, but her own suffering was great. For 16 years she waited since her first refusal from the Soviet authorities. In 1978 they sent her to internal exile in Siberia after she hung a protest sign from her apartment balcony. She remained in Siberia 4 years, but even then was not allowed to reside in Moscow, near her friends. She had to live hundreds of miles away in Bendery, a small city in Moldavia not far from the Romanian border. Now her isolation is over. At long last, Ida Nudel is united with her sister in Israel.

Yevgeniy and Rimma Yakir of Moscow have also been told recently that they can leave the Soviet Union after more than 14 years of waiting. Yevgeniy, like so many others, lost his job when he first applied, and has been eking out a precarious living ever since. His son Alexander refused to be drafted into the Soviet Army because he knew the authorities have used military service, even as an infantryman or cook's helper, to deny permission to emigrate on the grounds of possession of state secrets. Alexander Yakir was therefore sentenced to 2 years in a labor camp. He returned home in the summer of 1986, fortunately in better health and spirits than most survivors of Soviet labor camps. Even during their son's imprisonment, Yevgeniy and Rimma Yakir refused to submit to despair. Their conduct in the face of arbitrary injustice and possible danger is a lesson in human courage for us all.

Vladimir and Maria Slepak first applied for permission to emigrate 20 years ago. Both their professional careers were ended, but they continued to insist on their right to emigrate. Like Ida Nudel, they hung a placard outside their apartment. For that crime Vladimir was sent to a remote Siberian village for 5 years. Maria often made the arduous journey between Siberia and Moscow, keeping him in touch with the rest of the world. Despite their experience they have remained steadfast, brave, resilient, and hopeful. Vladimir and Maria Slepak have been a source of inspiration to many other refuseniks for many years. A few days ago the Soviet authorities finally told them they could emigrate.

Mr. Speaker, although we welcome the release of Ida Nudel, the Yakirs, and the Slepaks, we must not forget that thousands of other Jews still await permission to emigrate from the Soviet Union. Let me mention four individuals among those who have waited longest: Yelena Dubyanskaya, her husband Eric Khasin, and another married couple, Leonid Byaliy and Yudif Ratner. They have all been active in lending strength and encouragement to others sharing their sad fate and in maintaining contact with those on the outside, including Members of Congress, who ensure that the refuseniks are not forgotten. Let us hope that their courageous activity is not the reason the Soviet authorities still refuse to let these four and their children emigrate. I call on the Soviet Government to release them, and hope they will soon be free. Until they are, we and they can find comfort in one important fact: although physically they are restrained, morally they have already conquered. I say that because despite their bitterly disappointing experience, Lena and Eric and Leonid and Yudif have not become bitter. They are hopeful, generous, humorous people with a deep capacity for friendship. They refuse to hate their oppressors, choosing ironic laughter instead. The day they finally emigrate will be a bright one, but they have already won an even greater victory.

STATUS REPORT ON UNITED STATES-SOVIET GENEVA ARMS CONTROL TALKS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. FASCELL. Mr. Speaker, as chairman of the Foreign Affairs Committee, I periodically insert into the CONGRESSIONAL RECORD, an update on the status of the Geneva Arms Control Talks. The last such update appeared in the CONGRESSIONAL RECORD on August 6, 1987, on page E3312. The current update on the talks will follow my remarks. Highlights from the update are outlined below:

HIGHLIGHTS FROM THE GENEVA ARMS CONTROL TALKS

INF

Verification issues and the timing of U.S. and Soviet elimination of missiles remain the primary obstacles to an INF agreement.

Both the United States and the Soviet Union agree on the need for detailed exchanges of data on the location and number of missiles and on-site verification of such data. The details of such inspections and the parameters of follow-on inspections of suspect sites have yet to be resolved.

The Soviets want to retain some short-range missiles until the German Pershing 1A missiles are dismantled and they want the timetable for elimination of these missiles to be included in the INF agreement. The United States, on the other hand, does not want these missiles included in an INF agreement and views the statement by Chancellor Kohl on eliminating these missiles as sufficient. The U.S. also favors larger initial reductions by the Soviet Union because the Soviets have larger forces.

STRATEGIC

In terms of linkage, the United States does not want a strategic agreement dependent on resolution of Defense and Space issues. The Soviet view is that if, after a strategic reductions agreement is implemented, a deployment by either side of space-based defenses would release the other from complying with the offensive reductions.

Both sides agree on a total of 6,000 strategic warheads on ICBMs, SLBMs and bombers carrying ALCMs.

The United States has proposed that no more than 4,800 warheads should be on ballistic missiles and of this 4,800, no more than 3,300 warheads can be on ICBMs. Of the 3,300, no more than 1,650 warheads can be on mobile ICBMs, heavy ICBMs, or ICBMs which carry more than 6 warheads (this would include SS-18, SS-24 and MX).

The Soviet Union proposes that no leg of the triad (ICBMs, SLBMs and bombers) should have more than 60% or 3,600 warheads. The Soviets have also agreed to reduce the number of their heavy ICBM warheads (SS-18) by half to 1540.

DEFENSE AND SPACE

The United States has proposed that both sides agree not to withdraw from the ABM Treaty for 7 years and during that period both sides strictly observe the provisions of the ABM Treaty while continuing research, development and testing, which are permitted by the ABM Treaty.

It seems apparent that under this proposal, the U.S. is prepared to abandon the transitional intepretation of the ABM Treaty in favor of prodding the Soviets into accepting the broad interpretation.

The above U.S. proposal, moreover, would be contingent upon implementation of 50% reductions in stategic weapons over 7 year from entry into force of a strategic reductions agreement. Either side would be free to deploy strategic defenses after that time if it so chooses, unless the parties agreed otherwise.

The Soviets recently tabled two proposals. They want the United States to accept one of the other of these proposals which include: (1) both sides should agree to adhere to the "original" interpretation of the ABM Treaty for 10 years; or (2) both sides should agree on a list of devices and their capabilities that could be tested in space, such as brightness of lasers, speed of interceptors and size of mirrors. The Soviets have yet to explain the details of their proposals.

The Soviets reaffirm in the Defense and Space Talks that if one side deploys space-based defenses after a strategic reductions agreement has been implemented, the other side is free from complying with the offensive reductions.

UNITED STATES AND SOVIET PROPOSALS FOR AN INF TREATY,[1] OCTOBER 14, 1987

<table>
<tr><th>U.S.</th><th>U.S.S.R.</th></tr>
<tr><td colspan="2">Agreed by Both Sides:
1. Elimination of all longer-range INF (LRINF) missiles (1,000-5,500 kilometers = 600-300 miles) on a global basis.
2. Elimination of all shorter-range INF (SRINF) missiles (500-1,000 kilometers = 300-600 miles) on a global basis.
3. Destruction of all eliminated missiles, that is, none will be converted to other type missiles or transferred to other countries.
4. Ban on INF missile modernization, production and flight tests.
5. Verification, inter alia, by data exchanges, on-site monitoring of elimination of missiles and on-site inspection of remaining missiles until eliminated, including associated facilities.
6. Before a missile is destroyed, the reentry vehicle (warhead) will be removed, the nuclear explosives and guidance system will be returned to national authorities, the remaining RV will be eliminated under agreed procedures.
7. U.S.-owned reentry vehicles for the West German Pershing IA's will be eliminated promptly according to the procedure in #6 following dismantling of the West German missiles. Chancellor Kohl announced on August 26, 1987, that the German Pershings would be dismantled after the last U.S. and Soviet INF missiles are eliminated. Other official German statements have indicated that German missiles would be dismantled by the time the U.S. and Soviet missiles are eliminated.</td></tr>
<tr><td colspan="2">Proposals Not Agreed:</td></tr>
<tr><td>Elimination of all SRINF in one year[2] and all LRINF in three years.</td><td>Elimination of all SRINF in three years[2] and all LRINF in five years.[3]</td></tr>
<tr><td colspan="2">Phasing of elimination of systems has not been agreed. The U.S. prefers larger initial reductions by the U.S.S.R. because the latter has larger forces. It has not been agreed whether missiles should remain operative, as the U.S. prefers, during the transition period.</td></tr>
<tr><td>The German Pershing missiles should not be included in the United States-Soviet bilateral agreement. Chancellor Kohl's statement on eliminating them is sufficient.</td><td>Although there is agreement on dismantling the U.S. warheads for the German Pershings, the timetable for dismantling the German missiles should be included in the agreement. The Soviet Union should retain some short-range missiles until the German missiles are dismantled.</td></tr>
<tr><td>Verification should include following points:</td><td></td></tr>
<tr><td>1. Detailed, updated exchanges of data on location of support facilities, number of missiles and launchers at those facilities, and technical parameters of missile systems.</td><td>1. Exchange of initial data on INF missiles and on-site verification of such data.</td></tr>
<tr><td>2. Notification of movement of missiles and launchers between declared facilities.</td><td>2. Continuous monitoring of destruction of missiles.</td></tr>
<tr><td>3. Baseline inspection to verify number of missiles and launchers at declared facilities.</td><td>3. Verification of elimination of production base and infrastructure.</td></tr>
<tr><td>4. On-site inspection of destruction of missiles and launchers.</td><td>4. Mandatory access to U.S. and Soviet military facilities in third countries where missiles might be stationed.</td></tr>
<tr><td>5. Short notice inspection of declared facilities and certain other facilities in the U.S. and the U.S.S.R. at which illegal activity is suspected. (The right of short-notice inspection might be for a defined time period—five to ten years—and the facilities to be inspected might be limited in number and character).</td><td>5. Short-notice inspections of suspected violations should apply only to declared facilities.</td></tr>
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[1] Based on published sources.

[2] Only the U.S.S.R. has deployed SRINF missiles and it has more LRINF missiles than the U.S. The U.S. has undeployed SRINF (Pershing IA's) in storage.

[3] The Soviets have indicated they would go along with the U.S. proposal for one and three years if it is "technically and environmentally" possible.

UNITED STATES AND SOVIET PROPOSALS ON STRATEGIC ARMS REDUCTION [1] OCT. 15, 1987

Category	United States proposals	Soviet proposals
I. Strategic:		
Linkage	Agreement on strategic arms should not be dependent on a resolution of space and strategic defense issues.	Strategic arms reductions are linked to agreement on space and defensive weapons, as described below.
Strategic delivery vehicles, including ballistic missile launchers and bombers.	1,600 strategic missiles and heavy bombers	1,600 strategic missiles and heavy bombers.
Warheads:		
Total strategic missile warheads, including ALCM's.	6,000. With no more than 4,800 on ballistic missiles and no more than 3,300 on ICBM's. Of the latter, no more than 1,650 warheads on ICBM's that are not silo-based (mobile), or are heavy, or which possess more than 6 warheads (this would include SS-18, SS-24 and MX).	6,000. No leg of the Triad (ICBM's, SLBM's and bombers) should have more than 60 percent (3,600 RV's) of the total number of warheads. Has agreed to 1,540 heavy ICBM warheads (on SS-18's). This would reduce the number of SS-18's by 50 percent.
Mobile ICBM's	Banned unless agreement on verification	
Weapons other than ALCM's on strategic bombers.	All bombs and SRAM's on one bomber count as one warhead under 6,000 ceiling	All bombs and SRAM's on one bomber count as one warhead under 6000 ceiling.
Long-range SLCM's	Limits to be negotiated separately from 6,000 warheads limit	Limits to be negotiated separately. No nuclear SLCM's on surface ships. A ceiling of 400 nuclear SLCM's on submarines.

UNITED STATES AND SOVIET PROPOSALS ON STRATEGIC ARMS REDUCTION [1] OCT. 15, 1987—Continued

Category	United States proposals	Soviet proposals
Throweight	Reduced to 50 percent of current Soviet level	No direct limitation, but a reduction of 50 percent would result from cutbacks in ballistic missiles.
New systems	Mobile ICBM's banned, unless verification can be agreed. Ban on new or modernized heavy missiles.	Ban on new types of strategic delivery systems.
Phasing	The above reductions and ceilings to be made effective in seven years	The above reductions and ceilings to be made effective in five years, but will consider seven-year period.
	An earlier proposal for a second phase elimination of all offensive ballistic missiles has been deemphasized.	If U.S. wants, all strategic nuclear weapons or all offensive ballistic missiles to be eliminated in second five years.
Verification	A plan of effective inspection includes onsite monitoring and direct observation of destruction of weapons. Published details are lacking. Presumably agreed verification for an INF Treaty will serve as a model for a strategic arms reduction treaty.	Has proposed strict verification including on-site inspection. Published details are lacking.
II. Space and Strategic Defense:		
Linkage	A commitment not to withdraw from the ABM Treaty for seven years is contingent upon implementation of 50 percent reduction in strategic offensive arms over seven years from entry into force of a start agreement.	After agreed period for carrying out strategic offensive weapon reductions, "practical development" or deployment by either side of space-based defenses would release the other from complying with the offensive reductions.
ABM Treaty	In order to ensure predictability, no withdrawal from Treaty for seven years, with right to deploy strategic defense afterward.	No withdrawal from Treaty for ten years, strictly respect the ABM Treaty, and it continues to be of "unlimited duration."
Testing and development	No restrictions on SDI research, development, and testing "which is permitted by the ABM Treaty," an annual exchange of research plans, "open laboratories," and right to observe each other's tests.	Agreement should be reached on objects and their capabilities to be tested in space, such as on brightness of lasers, speed of interceptors and size of mirrors. Another option would be to adhere to the "classical" (traditional) interpretation of the ABM Treaty.

[1] Based on published sources.

DALLAS POLICE OFFICER COMMENDED FOR WORK WITH IMMIGRANTS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. BRYANT. Mr. Speaker, the work being done by members of the Dallas Police Department in its East Dallas Neighborhood Storefront is of such unusual nature and achieves such unprecedented success that I commend to your attention Dallas Police Cpl. Ronald E. Cowart.

A veteran of the Vietnam War, Corporal Cowart has been instrumental in forging one of the most successful assimilation programs for immigrants and refugees this country has ever seen.

The East Dallas Storefront, under Corporal Cowart's dedicated founding and direction, offers a wide variety of goods and services to newcomers to our shores from literally every corner of the world. Volunteers provide food and clothing to help recent immigrants from Asia, Africa, Europe. Central and South America sustain themselves while they cope with the terrifying experience of learning to survive in a totally alien culture.

Beyond that, under Corporal Cowart's tireless efforts, newcomers undergo citizenship classes, and placed in jobs, learn to trust and rely on Dallas police officers, and generally become productive members of the Dallas society in a short time.

Corporal Cowart last week was singled out as one of the finalists in Parade Magazine's annual Police Officer of the Year tribute, an honor his collegues in Dallas unanimously agree he richly deserves.

In addition to opening lines of communications by which Asian and Central American communities in Dallas have come to rely on authorities, Corporal Cowart has also introduced our newest neighbors to our ways. Dallas boasts Boy Scout and Girl Scout troops and service clubs made up of youths and business people displaced from their homelands by political and economic pressures.

And his work in soliciting and retaining volunteer workers, teachers, and friends from among native born Americans has been equally tireless and fruitful.

Mr. Speaker, we commend the attitude and dediction of our friend Ron Cowart as an example of the American Dream, and example we would all do well to emulate.

A TRIBUTE TO THE JOHN CARLSON FAMILY AND RICHARD CARLSON FOR THEIR SERVICE TO OUR NATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LANTOS. Mr. Speaker, old soldiers never die, but young ones often do. As we approach Veterans' Day, this year, I would like to call the attention of my colleagues in the Congress to the outstanding service to our Nation that has been rendered by the John Carlson family.

I am always impressed with the loyalty and dedication of our American families, who selflessly serve our Nation, when a threat arises. The John Carlsons are such a family. Without fanfare this average American family did the right thing in the finest tradition of serving our country.

John Carlson, the father, is a veteran of the U.S. Navy. The mother, Margery Carlson, served with the "WAVES" during World War II. One of their sons served in the U.S. Air Force.

Their oldest son, Richard Allen Carlson, gave his life to save another during the Vietnam conflict. He is buried at the Golden Gate National Cemetery. He is one of the many veterans who have given their lives for our country that we honor at Memorial Day services each year.

Richard enlisted in the U.S. Army on December 19, 1966, when he was 18 years old. After he was trained and qualified for the rank of medical corpsman at Fort Sam Houston, he and five others from his class of 100 were selected for advanced training at Fort Devon, MA. He was qualified for placement in a paramedic unit.

In January 1968, Richard was sent to Vietnam and attached as the medical corpsman to a platoon of 29 men. He was frequently detailed to other units who experienced a shortage of medics. He refused to carry a side arm because he believed in saving lives and not destroying them.

At the age of 20, while on a "search and destroy" mission, he was shot in the knee—a painful but not fatal wound. Another medic gave him an injection of morphine and instructed him to lie quietly until he could be picked up by his comrades, either those on the ground or by helicopter. The firing continued, and one of his comrades was shot and wounded. At great personal risk and against all advice, he covered his comrade with his own body in order to protect him from the intensifying enemy fire. His comrade's life was saved, Richard was killed. Richard was honored with the Purple Heart, the Bronze Star with Oak Leaf Cluster, and the Air Medal for his action.

Richard died as he had lived, true to his personal credo: "My mission is to restore one son to his family. If I do that, I will have succeeded." He succeeded beyond anyone's dream.

Unlike the old soldiers who just fade away, Richard died young, virile, strong and brave. Mr. Speaker, Richard Allen Carlson represents the best that we in the United States have to offer. He typifies the highest ideal of service to our fellow men, the highest ideal to which our people can aspire.

Mr. Speaker, I would like to place in the RECORD the tribute to Richard by his mother:

MY SON

I loaned a boy to Uncle Sam,
A boy God loaned to me.
My constant prayers were always this—
He would safely return to me.

But far across the ocean wide
God quickly claimed His loan;
In the arms of his Buddy by this side
He uttered his last goodbye.

His place is vacant in our home
Which never can be filled.
One of our stars He's turned to gold
And his loving voice is stilled.

JIM SNYDER RETIRES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. FLORIO. Mr. Speaker, the Congress will lose the benefit of the advice of a skilled advocate with the retirement of Jim Snyder, long time legislative director for the United Transportation Union.

Jim's skilled advocacy has served rail workers well. Over the years, Jim has played a key role in protecting the earned railroad retirement benefits of 1 million retirees, promoting much needed rail safety legislation, ensuring the continuation of viable rail service in the Northeast and Midwest, and helping to promote the financial recovery of the rail industry through his support of the passage of the Staggers Rail Act.

Rail passengers also should appreciate Jim's efforts, as it is doubtful Amtrak would still be around to provide much needed rail passenger service without Jim's support. Indeed, the entire railroad industry, both labor and management, owe Jim a debt of gratitude for his ceaseless efforts to promote railroads.

While Jim has spent much of his time working for the enactment of needed legislation to better the lot of the railroad employee, he can also be a formidable adversary of legislation which is contrary to the interests of his constituents. Just ask supporters of coal slurry pipelines, whose long time efforts to pass legislation have been continually stymied by Jim's unrelenting opposition.

Both Congress and rail workers will lose a skilled advocate with Jim's retirement. But rail workers are better off today because of Jim's efforts.

Best of luck, Jim, in your retirement.

A BILL FOR THE RELIEF OF WOODY HERMAN

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. HORTON. Mr. Speaker, today I am introducing a private bill for the relief of jazz great Woody Herman. This legislation is very similar to a bill introduced earlier by my good friend and colleague, JOHN CONYERS of Michigan.

For years I have been a fan of jazz. Those who know jazz will agree that Woody has been among the greatest jazz musicians of all time. But hard times have fallen upon Woody. Now 74 years old, Woody has had serious health problems, and has been burdened with an enormous debt that simply cannot be paid off.

During the 1960's, Woody's business manager illegally gambled away payments that were to be made to the IRS. That business manager spent some time in prison for his wrongs, but Woody's financial obligations to the government remained. Even though he has made many good-faith payments to the IRS, his tax debt, including interest and penalties, has grown to an incredible sum of $1.6 million.

Woody's home of 40 years has been sold by the IRS. He has remained in his home because he is paying rent to the Government. Sadly, he was nearly evicted from his own home when he fell behind in rent. While that was stopped thanks to a fund raising drive by a Los Angeles radio station, the financial obligation of this former jazz great are simply unbearable.

My bill relieves Woody Herman of liability to the Federal Government in the amount of $1.6 million. This amount represents the sum of Federal taxes that Woody Herman did not pay between 1962 and 1966, including all fines and penalties assessed against him. In addition, it directs the Secretary of the Treasury to reimburse Woody Herman any payments made by him as well as any amounts that were withheld from money otherwise due him. Finally, it provides that no more than 10 percent of the money paid by the Treasury Secretary can be given to agents or attorneys representing Woody.

Mr. Speaker, one of the world's greatest jazz treasures has been victimized by circumstances entirely beyond his control. I hope you will join me in urging the Judiciary Committee to consider and pass this measure as quickly as possible.

COLONIA WATER AND SEWER SERVICE ACT OF 1987

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. ORTIZ. Mr. Speaker, I rise today to inform my colleagues that I have introduced legislation that will correct a serious poverty and quality-of-life issue along the United States-Mexico border. In addition, this legislation will illustrate the willingness and desire of Congress to provide for those citizens in need of the most basic necessities of existence.

Some of you may or may not be aware of the phenomena of colonias, but they have existed in one form or another for many years at or near the United States-Mexican border. Colonias are unincorporated areas, established when a landowner divides numerous acres of land into lots, and sells these barren lots to low-income individuals. These citizens are understandably attracted by the status of owning their personal piece of property, as opposed to renting. In addition, by relocating to rural areas outside the city limits, they anticipate avoiding the annual burden of taxes assessed by city governments.

At the colonias, outside of a city's limits, residents learn to live without many of the basic necessities that we take for granted. One of the primary deficiencies at this time, and the source of the poor health conditions in the colonias, is the lack of running water and sewage service.

To obtain water, wells are dug, often within 50 feet or less of the family's outhouse. Water obtained from these wells inevitably becomes seriously contaminated, resulting in rates of dysentery and hepatitis estimated to be double the national average. For those who can avoid infection by these diseases, skin rashes, infections, diarrhea, and nausea are commonplace.

Many Federal officials claim that this is simply a local problem. Due to this neglect at the Federal level, the local and county governments have initiated programs that illustrate their unique understanding of the conditions in colonias. I commend those ambitious county officials who have utilized their limited resources to attempt to bring a decent standard of life to colonia residents. And I can promise these same officials that I stand ready to walk beside you, and lend Federal supppt and assistance to those programs that can make a difference. Just as Congress has supported efforts to improve health care and housing opportunities in poverty-stricken areas of cities across the country, we cannot and must not ignore these low-income rural residents located along the border.

As an initial Federal response directly targeted to providing basic necessities to those in colonias, I have introduced the Colonia Water and Sewage Service Act. This bill would provide section 306 of the Farmers Home Administration with an additional $25 million of project grant money, and section 504 of the Housing Act with $20 million in grants and loans.

The Farmers Home Administration would utilize these funds by providing grants to public bodies and nonprofit organizations to develop plans and construct, operate, and provide maintenance for the storage, treatment, purification, and distribution of water, and the collection, treatment, or disposal of waste. No new program would need to be established. Section 306 is a functioning component of the Farmers Home Administration. What is required is a targeted, limited component of section 306 that can address the significant needs along the border in colonias. This bill will provide for these depressed regions, an area that the Farmers Home Administration has been unable to adequately assist due to budget cutbacks in recent years.

As Members of Congress, we are keenly aware and cognizant of the substandard conditions that exist in many rural areas. And to address the broad, colossal, yet unique needs found in colonias, the Congress must indicate our willingness to provide the necessary Federal assistance.

Additional funding for section 306 of the Farmers Home Administration can provide for engineering analysis and construction of the substantial water facilities required to provide adequate water and sewage service to those citizens residing in colonias. What section 306 cannot accomplish, however, is to bring this service directly to the home of individual families.

Section 306 is generally concerned with establishing central water facilities, and this includes running service pipes along major avenues of transportation. The mission and authority of section 305 projects rarely includes hookups to individual housing units. This expensive and complicated step in providing water and sewage service to colonias consist of building a complete bathroom and running individual pipes to the nearest main water or sewage pipe.

To assist families in making these improvements to their living quarters, I have added a second authorization to the Colonia Water and Sewage Service Act. Section 504 of title V of the Housing Act of 1949 is designated for, "Very Low-Income Housing Repair Loans and Grants." In the legislation which I am introducing today, I have included a $20 million combination grant/loan program for section 504 of the Housing Act. This money will be available to residents of rural areas along the United States-Mexico border to make essential "repairs, improvements and additions to provide sanitary waste facilities and convenient and sanitary water supplies."

The $20 million appropriation includes $5 million in grants and $15 million in low-interest loans. For the purposes of this legislation only, the current requirement that section 504 funds be allocated solely to the elderly has been waived. We must offer this assistance to all residents of colonias, elderly, middle age, and young alike. These conditions must not be allowed to persist indefinitely, and by offering the benefits of this program to various age groups, we can improve the conditions for all in colonias.

In order to service the area of greatest need, all grants under this bill must be targeted to rural areas within 30 miles of the international border separating the United States and Mexico.

At this point, I would like to commend my colleague from El Paso, and chairman of the congressional border caucus, the Honorable RON COLEMAN. Later this fall, RON will lead the border caucus on field hearings to study for ourselves and hopefully, to bring national attention to the disgrace of colonias. There exists truly pitiful conditions in colonias, and leadership as exhibited by Congressman COLEMAN is required to make concerned and compassionate citizens aware of these conditions.

Another colleague and friend of mine who has dedicated himself to raising the consciousness of Americans to the plight of colonia residents is Congressman ALBERT BUSTAMANTE. In Congressman BUSTAMANTE's inaugural speech as chairman of the congressional Hispanic caucus, he made his dedication to finding solutions to this problem a priority of the Hispanic caucus during his reign.

I anticipate working closely with these two, as well as other Members in developing long-term solutions to the water, electricity, housing, and transportation needs of colonia residents near the United States-Mexico border.

Mr. Speaker, I do not claim that funds provided for in this act are adequate to solve the maze of concerns and problems which exist in colonias today. Nor do I suffer false belief that it will be easy to provide the necessary economic assistance required to offer a response to these problems. I strongly believe, however, that Congress has a responsibility to analyze and deal with the most depressed areas and living conditions, whether they exist 3 miles from the Capitol Building, or 30 miles from the United States-Mexican border.

We cannot allow these conditions to go unaddressed by denying that this is outside of the Federal Government's jurisdiction. We cannot exhibit callousness toward those less fortunate than ourselves simply because they chose to live in a border region that may not concern your constituents. My dear colleagues, we cannot declare the problems of colonias are too broad to be appropriately addressed by the Federal Government. We must make an effort to correct these problems, and this legislation I am introducing today is a moderate step in that direction.

If any of my distinguished colleagues would like further information on this legislation, or the general conditions in colonias, please do not hesitate to contact my office. Please join me in supporting the Colonia Water and Sewage Service Act of 1987.

CHILDREN AS CHATTEL IN DEVELOPING COUNTRIES

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. PEASE. Mr. Speaker, last week, the United States Trade Representative was presented with extensive testimony about the widespread use of exploited child labor in Thailand. A petition has been presented as part of this year's GSP annual review to revoke duty-free trade benefits from Thailand because of the child labor situation existing there.

Following is another installment in the six-part series entitled "Stolen Childhood" that appeared in the Cox Newspapers over the summer. It details the bleak circumstances confronting many Thai children sent to Bangkok to help support their families.

[From the Atlanta (GA) Constitution, June 23, 1987]

FOR THAI CHILDREN, TRAIN STATION OFFERS ONE-WAY TRIP TO EXPLOITATION

(My Marcia Kunstel)

BANGKOK, Thailand—For thousands of Thai children, the Hua Lampong train station has been a gateway to exploitation. Once a year, it is a gateway out.

The happy time is the Chinese New Year, when ethnic Chinese Owners of shops and factories give a holiday to their workers, many of whom are migrants from debt-ridden farms or landless families in the impoverished northeast.

Seven girls clustered on a bench were going home last January after working at a tiny Bangkok garment factory.

Not only was it their first trip back, this was their first full day off in a year.

Ladda Pimwan, 15, leaned against a girlfriend. The seven had arrived early and had yet to endure a nine-hour train ride and an hour's bus drive to their village of Baan As Kaew. It would be a wearying trip, but yes, Ladda nodded shyly before turning her face into her friend's shoulder, she couldn't wait to see her family at the end of the line.

The girls came to the city, they said, because their families need the money. Their wages were about $24 a month—a little more than 7 cents an hour for working 74-hour weeks—but one girl said she managed to send half of it home.

The outbound trains were filled with youngsters such as Ladda last Chinese New Year's. The rest of the year, especially during the dry season, when northeastern families become desperate for even meager earnings, children travel inbound to jobs that sap their strength for pennies an hour. The Hua Lampong train station often is the interchange that gets them from the farm to the factory.

That is when it becomes the gateway to exploitation. Bangkok's main train station is haunted by "fisherwomen" and "fishermen," the job brokers who cast about in streams of migrants for naive children looking for work in the city. These agents prowl the platform when the dawn train pulls in from the northeast.

CHILDREN COMMITTED TO YEAR'S WORK IN FACTORY

Fisherwomen are kind to the new arrivals, offering to help them find work. Too often, they find them jobs with 15-hour workdays. They and Bangkok employers know these kids will be cheap hires.

The brokers may be independent agents, but more likely they represent one of the dozen job agencies that line nearby streets—streets that smell of urine and rotting garbage.

Newspapers here periodically report stories such as the rescue by police last year of 18 girls working in a textile factory. The girls, most ages 12 to 14, said they worked 15 hours a day for food scraps and a few cents pay and were locked in a room to sleep.

The owner, arrested on charges of child slavery and false imprisonment, told police that he got most of the children from a job agency near the Hua Lampong station.

A year earlier, 64 children ages 13 to 15 were rescued from a mosquito-net factory where they had labored from 6 a.m. to midnight every day. The train station agencies were reported to have paid the parents $80 to $160 for each child, which committed the children to a year's work in the factory.

The few job agency bosses who agreed to talk claimed they place people 16 or older in factories, in compliance with Thai law.

Thongma Sonboonom, wife of the head of Swai Job Agency, said her biggest problems are with the girls she places, not the employers. "A lot of times girls don't keep their contracts," she complained, so the agency must replace them at no charge to the employer.

She said her agents do find young workers among the migrants at the train station, just around the corner from her second-story office at the top of a filthy, unlighted stairway.

Her agency was cited in a human rights newsletter as placing a 10-year-old girl in a factory where she worked for seven months. Then she became a domestic servant and was raped by her boss.

Asked about her age policies, Ms. Thongma said: "I never place anyone in a factory who is under 16."

EMPLOYMENT AGENCIES CHECKED ONLY FOR PERMITS

She does send younger children to domestic work, Ms. Thongma said, then volunteered that employers sometime make sexual advances toward the girls. She maintained that the bosses never do anything too serious.

"Nobody I've ever sent has ever been raped," she said.

The Center of Concern for Child Labor in Bangkok has found that independent brokers make $11 to $15 for every child they bring from rural villages to Bangkok job placement agency. Brokers who work directly for an agency get half the service charge that the agency collects for placing a child.

The center found that stricter laws regulating employment agencies have produced more agency registrations in recent years, but its 1986 study showed they continue to place children in bad jobs with long hours and little pay.

The problem, the study said, is that the Thai Labor Department checks only whether employment agencies have permits.

The center has recommended that the government set up an information booth at the train station to tell migrating children their rights to a minimum wage and limited hours and to warn them about unscrupulous job agents.

The Thai Trade Union Congress has gone further, recommending the government provide job agents at places such as the Hua Lampong train station to help children find reasonable jobs and to investigate on-the-job conditions.

Even the Thai government, which almost never admits there is exploitation of child labor in Thailand, said in a paper submitted to an international conference last fall that "unscrupulous" job agencies "have contributed to inappropriate treatment of working children."

TRIBUTE TO THE LATE HONORABLE HOWARD ROBISON

SPEECH OF

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1987

Mr. MAZZOLI. Mr. Speaker, it is with sorrow today that I join my colleagues in a special tribute to our friend and former colleague, the Honorable Howard Robison.

Howard Robison served his constituents in the Binghamton-Elmira-Ithaca area of New York well and with compassion for 17 years in the House of Representatives. My distinguished colleague served on the House Committee on Appropriations and demonstrated the understanding, consideration, and intelligence of a fine Member through his long years of dedicated public service.

I would like to extend my sincere sympathy to Howard's family. Howard's dedication to public service here in the House of Representatives will be long remembered.

BUDGET WOES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. DUNCAN. Mr. Speaker, I am submitting for the RECORD a statement made by Senator PROXMIRE on July 24, 1985. The statement was included in the CONGRESSIONAL RECORD for that day on page S9913.

MYTH OF THE DAY: THAT THE CONGRESS LACKS CHARACTER AND WISDOM

Mr. PROXMIRE. Madam President, it is a widely held belief in this country that the Congress has the character of a wimp and the intelligence of a backward, grade school dropout. That belief is wrong. It is today's myth of the day. For 200 years it has always been open season on the Congress. Will Rogers once said that this country has only one native criminal class: The Congress. More recently one observer opined referring to the Congress that half of the Members are waiting to be discovered and the other half are afraid they will be. Madam President, there have been times in the past when it has been very hard to defend the Congress. The Congress has suffered individual scandals and humiliations that have sullied the entire body. Most recently Abscam accomplished that purpose. This year the entire Congress or at least a large majority of the Congress when it comes to spending and taxing seems to lack the brains to come in out of the rain or the character to cast even one vote for responsible fiscal policy if it means the loss of a vote in the next election.

The series of immense Federal deficits represents the biggest moral and intellectual failure of our Government in this generation. Who is responsible for that failure? One institution: The Congress. The Congress and the Congress alone can authorize appropriations. The Congress and the Congress alone can raise the taxes to pay for Federal expenditures. We cannot pass the buck. The spectacular failure of our Federal Government to bring the budget under control is not the failure of the President or the pressure groups or the people of the country. They cannot spend or tax. Only the Congress can do that. The failure of fiscal policy is the failure of the Congress. So why then do I call it a myth that the Congress has the character of a wimp and the intelligence of a very dull child? I call it a myth because the Congress is in my judgment now prepared to begin to act to bring the fiscal train back on track. It will take time, maybe 15 years or more. It will take character including the will to vote to cut a large number of popular spending programs and even tougher to increase taxes on everyone. It will take the intelligence to do this in a way that can persist through the recessions that characterize any free economic system and will certainly plague the American economy before we achieve a responsible fiscal policy. This is the biggest challenge the Congress has faced in a very long time. Why do I believe that the Congress will face up to this challenge? Because I have served in this body long enough to have talked to enough of my colleagues often enough and in sufficient depth to have found that, given the opportunity to vote for fiscal responsibility, they will do so. And if they are not given that opportunity, they will create it.

Frankly, Madam President, my contention that the widespread belief that the Congress lacks character and good sense is a myth, is at this point, only a judgment. It may be a fact. But this Senator believes it is a myth and the Congress over the next several years will have the brains and the will to prove the myth was a bum rap. It will take a while. But we'll see.

DALLAS REFUGEES' "BEST FRIEND"

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. BRYANT. Mr. Speaker, retired Air Force Sgt. Walt Collins, who found a full-time job helping refugees become productive members of the Dallas community, was the winner of the Dallas Country Congressional Citizenship Award for July.

The award is judged each month by a panel of Dallas County citizens and is based on service to the community.

Collins is a fixture at the Dallas Police Department's East Dallas Storefront, where police and service officers conduct a variety of programs designed to turn refugees into productive American citizens.

Collins' involvement with the Storefront began in 1985 when the 65-year-old veteran walked through the front door with toys, food, and clothing.

Dallas Police Cpl. Ron Cowart, coordinator of the Storefront, recalled that day:

> When he came in, the Storefront was well-to-wall people and there was lots of confusion. We were used to people bringing things and dropping them off. But this man stayed and visited with everyone there and passed out everything he had brought.

It was a case of never leaving. Walt Collins has since spent from 30 to 48 hours a week at the Storefront and out in the community getting refugees and citizen volunteers into the various programs.

> He has spent thousand of dollars of his own money on food and clothes and thousands of hours opening up lines of communications between aliens and the police.

Cowart says.

> He single-handedly got us together with the Salvadoran refugees in Dallas. Many of them were here illegally and they were afraid—if they had been victimized by crime, they were afraid to go to the police.

Walt Collins downplays his role by saying, "I decided that even though I was just one old man, I could make a difference."

His work in motivating fellow church members and other Dallas citizens is as valuable as his own contributions, according to Cowart.

> I've been with him when he would go to other retired people and say, "Look how old I am and what I'm doing. You can sit in that rocking chair till you die, or you can get out and work on this." Then after they start working, he'll remind them how good they feel about it. He gets people motivated and he keeps them motivated.

The Storefornt officers and volunteers work with refugees, mainly from the Far East and Central America, in health matters, crime prevention, citizenship classes and a variety of other programs, in addition to providing food and clothing.

And Walt Collins manages to get involved in most of it.

Officers at the Storefront recall the day Collins brought in 500 pounds of rice and boasted that he had paid only $100 for it.

"We told him he shouldn't be spending his own money that way, and he told us to mind our own business," one officer reported.

In addition to recruiting volunteers to work at the Storefront, Collins uses other ploys to keep things moving smoothly. For example, he raises money through the Sunday School department at Casa View Baptist Church, then hits garage sales around town to pick up bargains that are needed by refugees.

The Asians in Dallas comprise a large segment of the Storefront's clientele, and that link has led to several firsts being rung up in the area. The Storefront has formed the first Cambodian and Laotian Lions Clubs in the United States, the first Laotian Chamber of Commerce in the country, and the first all-Asian Boy and Girl Scout troops.

Cowart says the storefront has distributed 40 tons of food. In addition to helping newly arrived refugees find food, clothing and jobs, the Storefront works with the East Dallas Health Coalition and the Dallas Multi-Cultural Alliance to provide other assistance. Officers also fingerprint about 100 people a week under the amnesty program and are now in the midst of the first citizenship classes.

The 2 classes include 35 Laotians studying for United States citizenship in 1 class and 35 Polish, Romanian, Ethiopian, Vietnamese, and Cambodian immigrants in the other.

In the meantime, Walt Collins is out and about in his pickup truck recruiting future American citizens for the classes that will follow.

THE BELTRAMO FAMILY—A FOUNDING FAMILY OF SAN BRUNO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LANTOS. Mr. Speaker, while we celebrate the 200th anniversary of the U.S. Constitution, that matchless document left us by the Founding Fathers, let us not forget the contributions of others who helped found the communities of the Peninsula with their foresight and dedication. Although we cannot possibly recognize all who contributed to making this a great place to live, we have selected one family for special recognition today.

We are recognizing the contributions of a founding family of San Bruno—the family of Natale "Nathan" and Olimpia Giachino Beltramo.

Natale Beltramo first came with his brother, Giovanni, to the United States from his native Castelnuovo D'Asti, Italy in 1880 when he was only 13 years of age. He came to work in the vineyards of the Doyle Ranch in Cupertino.

He returned to Italy in 1886 to fulfill his military service obligations. While home in Castelnuovo D'Asti, he met Olimpia Giachino, who had walked with her sister from a neighboring village to attend a St. John's Day celebration. He promised to write when he returned to the United States.

Returning to this country in 1890, taking along his 10-year-old niece, Eugenia Cafasso, he kept his promise to write. A total of 18 letters were sent over the 10-year period it took him to live up to his vow to send for Olimpia as soon as he saved enough money.

The day in 1900 when Olimpia finally arrived, Natale borrowed a team and brewery wagon from his boss to meet her at the Ferry Building in San Francisco. Taking along his brother, Giovanni, and his niece, Eugenia, Natale drove his long-patient bride-to-be directly to city hall.

There, despite her protests that she was not prepared and was still in her travel clothes, they were married in a civil ceremony. He then left his bride in the care of his niece and returned the horse and brewery wagon to his boss, where he also got her a job helping clean out a local saloon.

She was later to tell her children many times in years to come that on that first day he seemed more concerned about the borrowed horse than about his bride.

Two years later, his family securely housed on Green Street at Mason in San Francisco, Natale Beltramo bought 10 lots, all 25 feet by 100 feet, in San Bruno in an area now bounded by Mason, Kains, and Eaton Avenues.

The earthquake of 1906 forced the Beltramos to take up residence on their San Bruno lots earlier than planned. Salvaging what they could from the wreckage on Green Street, the Beltramos hauled their children, Minnie and Fred and 13-day old Mary to San Bruno. A shack at the edge of the lots was home until a house and barn could be built. The home was to become known as 677 Mason Avenue in later years.

But then there were no streets, nor sidewalks and few roads in San Bruno for the earthquake refugees. A school was soon built, officially known as Edgemont, but called the "tin barn," because of its main building material. The school has since been replaced by today's city hall.

After the move, Natale Beltramo went right to work for Holy Cross Cemetery, using a horse and wagon he was paying for with baled hay raised on his lots. He left room enough for Olimpia to raise a graden, chickens, and rabbits.

Mr. Beltramo was soon in business for himself. The peninsula growth brought him hauling and grading jobs as far south as Hillsborough. He called his firm N. Beltramo and Son, Teaming, Grading, Expressing. He added wood and coal supplies to his business. Hard work brought success and a new four-story barn replaced the first one they built in 1906.

The barn became a popular landmark, serving as a playground for neighborhood children and an exercise spot for the local fire department.

The Beltramo home became a favorite Sunday outing for relatives and friends from San Francisco, who took the number 40 street car to San Bruno. Olimpia Beltramo always prepared a large meal never knowing whether there would be 5 guests or 50 for Sunday dinner.

The displaced San Franciscans set about forming their own town government immediately, but it was Dec. 23, 1914, before incorporation was approved and formal city status was adopted.

Natale Beltramo fell ill with flu during the epidemic of 1919 and died, leaving his wife and son, Fred, to run the business. After a time, the business proved more than Mrs. Beltramo and young Fred could handle between them so the business was sold, but retained the same name into the 1930's.

Fred Beltramo spent a short time in insurance, then went to work for the U.S. Postal Service until retirement a few years before his death in 1975. His daughter, Pamela Teresa Beltramo Caryl still lives in San Carlos.

Fred's sister, Teresa Beltramo Oklobzia lives in Redwood City.

So, today, we take great pride in recognizing the lasting legacy of hard work, a caring family and deep commitment to the community left by Natale and Olimpia Beltramo.

To their daughter, Teresa Beltramo Oklobzia, and to their granddaughter, Pamela Beltramo Caryl we present this award to a founding family of the peninsula in gratitude and appreciation.

JOE LARATTA HONORED FOR COMMUNITY SERVICE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. FLORIO. Mr. Speaker, I would like to extend my warmest congratulations to Mr. Joe Laratta of Glendora, NJ, who is being honored by the Luigi Riccelli Lodge, No. 2527, of the Order Sons of Italy in America on Sunday, October 25, 1987, at the lodge's 5th anniversary dinner dance.

Mr. Laratta has been active in the leadership of his community for a long time, having moved to the southern New Jersey area in 1961.

Beginning with his participation in the civic association and coaching in little league baseball, Joe has since served on the Mayor's community development citizens advisory board and was subsequently appointed to the Gloucester Township Zoning Board of Adjustment, of which he is still an active member.

In addition, he served on active duty with the U.S. Marine Corps and is presently associated with the Marine Corps League in Wenonah, NJ.

As a charter member of Luigi Riccelli Lodge No. 2527, Mr. Laratta served as vice president until his election to president in 1985 in which he served who distinguished terms and now serves as the chairman of the New Jersey State Scholarship Commission, O.S.I.A.

On October 25, 1987, the tribute to Joe Laratta will be more than a tribute to a man who has deservedly gained the recognition and admiration of his peers, family, and friends in the community. The tribute will be to an individual, the contributions he has made to the community, and the cohesiveness that his activities have brought to the community.

For the dedication that Joe Laratta has demonstrated to his Nation and to his heritage throughout the many years of distinguished, public service, I wish him many more years in his pursuit of service to the community.

AN UPSTREAM FIGHT

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LOWRY of Washington. Mr. Speaker, on September 19, 1986, David Sohappy, Sr., began serving a 5-year Federal prison sentence for conviction under the Lacey Act

Amendments of 1981 for the illegal sale of Columbia River salmon. His prosecution and conviction in what has been called the "salmonscam" continues to draw attention and concern more than 6 years after the Federal undercover "sting" operation that led to his arrest.

In recent weeks, Senator DANIEL INOUYE, chairman of the Senate Committee on Indian Affairs wrote to the Honorable Howard Baker, chief of staff to the President, urging that President Reagan act favorably on the request for a commutation of sentences for David Sohappy, Sr., his son David Sohappy, Jr., and two other members of the Yakima Indian Nation serving Federal prison sentences for felony convictions under the Lacey Act Amendments of 1981. I understand that Senator MARK HATFIELD has also communicated his support for commutation to the Justice Department.

Editorial support for Senator INOUYE's request recently appeared in two major daily newspapers in the Pacific Northwest, the Yakima Herald Republic and the Seattle Times. In addition, the Church Council of Greater Seattle has written in support of the effort. I would like to share those editorials and the letter with my colleagues.

The editorials follow:

[From the Seattle (WA) Times, Sept. 7, 1987]

"SALMONSCAM" SENTENCE COMMUTATIONS IN ORDER

David Sohappy Sr., his son, and two other Yakima Indians in federal prisons for convictions in the "Salmonscam" illegal-fishing case are paying an inordinately heavy price for their much-publicized offenses.

The petitions for presidential commutation of the sentences of David Sohappy Sr. and Jr., Wilbur Slockish and Leroy Yocash should be granted—if for no other reason than the disproportionality of their sentences.

Consider: The younger Sohappy's five-year sentence was the result of selling 28 illegal salmon to government "sting" operatives.

Also, the senior Sohappy, 62, recently suffered a stroke in federal custody in Spokane. A petition for a medical furlough was turned down. Along with the disproportionality arguments, the commutations are sought on humanitarian grounds.

When Daniel Inouye, D-Hawaii, chairman of the Senate Select Committee on Indian Affairs, was in Seattle last week, he summed up their situation succintly: "Others in the past have been pardoned for worse offenses."

Inouye has written directly to Howard Baker, President Reagan's chief of staff, saying: "I believe that their petition for a commutation of sentence has merit, and I am sure that when you look into the matter you will agree that simple justice demands an expeditious response to the Yakima Indian Nation."

The celebrated case, which has spawned "Free David Sohappy" bumper stickers, holds many of the complexities of treaty-rights struggles between Indians and state and federal governments.

That argument also is made by Inouye in his letter to Baker:

"You should know that this cause has been followed closely by other Indian tribes who feel that the integrity of our judicial system, and the longstanding government-to-government relationship between their tribes and the U.S. government, are being tested by this case."

The four Yakima Indians, found innocent in Yakima tribal court but guilty in U.S. District Court in California, are not considered dangerous. They have paid their debt. Nothing more is being served by their imprisonment.

[From the Yakima (WA) Herald-Republic, Sept. 2, 1987]

SALMONSCAM OVER

If for no other reason than humanitarian, President Reagan should approve the request of Sen. Daniel Inouye, D-Hawaii, that the sentences of five Yakima Indians convicted in the so-called "Salmonscam" case be commuted.

The real legal issues involved in the illegal fish selling episode have long since been blurred by politics. The Yakima Indian Nation has locked horns with the federal government over who has jurisdiction—with the tribal court acquitting the five while a federal court convicted them and sentenced them to prison. That jurisdictional war has long since clouded the crimes' severity.

An executive branch decision in favor of the convicted Indian fishermen would reinforce the primal character of the relationship represented by the 1855 treaty between the Yakima Indian Nation and the United States of America.

Certainly the sorry odyssey of musical prisons, in which the men have been regularly shipped from one federal penitentiary to another, borders on cruel and unusual punishment in itself. Finally, the health of David Sohappy Sr. is now a factor after he suffered a stroke in prison.

The whole Salmonscam case has been a sad commentary on how political considerations can so greatly overshadow legal ones. Frankly, the Salmonscam five have paid their debt to society and there's nothing more to be gained by further confinement in federal prison.

CHURCH COUNCIL OF GREATER SEATTLE,
Seattle, WA, September 17, 1987.

Senator DANIEL INOUYE,
U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: The Native American Task Force of the Church Council of Greater Seattle has followed closely the tragic story of the government's dealings with David Sohappy, Sr. and his son David Sohappy, Jr.

We urge that you use your influence to have the President commute the sentences. Defense Attorney Thomas P. Keefe, Jr. has justly pointed out that the Sohappy sentences (five years for father and son) have no relation to the convictions in Federal Court: David Sohappy, Sr. was convicted of selling 317 fish and David, Jr. was convicted of selling 28 to federal buyers. By contrast, two non-Indians charged with selling about $20,000 of illegally caught fish to Seattle restaurants received 30 days in jail on one instance, and a fine with no jail time in another.

This severe disproportionality only serves to discredit our Criminal Justice system in the eyes of all the people.

We urge you to do what you can.

Sincerely,

Rev. Dr. WILLIAM B. CATE, *President-Director, Church Council of Greater Seattle;* HAROLD CULBERTSON, *Co-Chair, Native American Task Force, Church Council of Greater Seattle;* Rev. JON MAGNUSON, *Co-Chair, Native American Task Force, Church Council of Greater Seattle.*

During the year that David Sohappy has been in prison, several major newspapers from the Pacific Northwest and from cities around the country have devoted considerable coverage to this complex and troubling case. I submit the following article from the April 29 edition of the Seattle Times for my colleagues consideration and review.

The article follows:

FISHERMEN SNARED BY TRADITION AND LAW: DEFENDANTS CLAIM TREATY RIGHTS

(By Bill Dietrich)

TOPPENISH.—David Sohappy Sr. finally got his day in Tribal Court.

And a six-man Yakima Indian jury today found Sohappy and four other defendants innocent in a "salmonscam" fish-poaching trial that has drawn national attention.

Its decision may pose as many questions as it answers and perhaps will spawn a round of appeals and custody debates that defense attorney Tom Keefe Jr. expects to frag on for 30 to 45 days.

Although Sohappy, 62, has already been in tribal and federal custody for nine months, he still faces the remainder of a five-year prison sentence for a conviction in federal court of illegal fishing in 1983.

Keefe plans both a legal and political campaign to protest that sentence as too harsh. On May 21, singers Jackson Browne, Bonnie Raitt and Danny O'Keefe plan a benefit concert for Sohappy at the Seattle Opera House.

In his closing argument, Keefe turned the conventional view of salmonscam on its head by accusing the National Marine Fisheries Service of plotting to destroy the spring chinook salmon run in the Columbia River by paying Indians to poach.

Motive? To eliminate a wild fish run that was an irritant to ocean trollers, who had to stop fishing for hatchery stocks to let it pass.

"Salmonscam was an effort to destroy the upriver (wild) fish and, in effect, use the Indian people to do it," Keefe told jurors. "The federal man came to the Big River with a pocket full of money, a heart full of malice and a mouth full of lies."

Even before Keefe's assertions, federal officials mostly boycotted the tribal trial as redundant, biased and the product of reservation politics.

They had excluded the tribe from the 1981-82 undercover sting, dubbed salmonscam, that caught Sohappy selling illegal salmon and convicted him in a federal courtroom in Los Angeles.

Even as tribal jurors deliberated, there were rumors that a federal "sting" operation has been started again to prove illegal poaching.

One can only wonder at the outcome if the two trials, so different in their scope and testimony, could somehow have been combined.

But regardless of whether this second, although tribal, trial of Sohappy and four codefendants helped achieve an elusive justice, it has at least examined some of the knottiest legal issues facing reservation Indians, fishery-resource managers and any American concerned with individual freedom.

The Yakima Indian's supporters have labeled the trial of Sohappy "Tradition on Trial" in their posters.

The question is how far even an Indian tribe can go to accommodate a member's desire to live a traditional Indian life style in 1987, while also ensuring fishery conservation.

"Mr. Sohappy doesn't want to change," summed up Jack Fiander, special tribal prosecutor. "He wants his tribe to change," to approve of out-of-season subsistence fishing. "He wants to be more sovereign than the Yakima nation."

"Go through these checks (Sohappy received for illegal fish) and decide if this was a business or this was a religion," he urged the jurors. "How many fish are enough? It's like (the shark's appetite in) 'Jaws.' "

Keefe countered by reminding jurors of the 9 million acres the Yakimas signed away in return for fishing rights. He pointed to the river dams, and the huge number of Columbia River fish caught in the ocean. "When you consider what was given up, you understand the importance of what was reserved by treaty," he said. "What was reserved was the right to keep being Indian" by traditional fishing.

Sohappy and co-defendants David Sohappy Jr., Mathew McConville, Leroy Yocash and Wilbur Slockish never denied fishing out of season. But they maintain they were within their religious and treaty rights and never achieved more than a subsistence life style.

Moreover, they argue the Yakima Tribe has been playing the white man's game by agreeing to fish-management schemes that allow too few fish for Indian subsistence fishermen to live on. The way to preserve Indian rights is not to negotiate them away but to exercise them, they argue.

The federal trial focused on the narrow issue of whether the Indians fished illegally. The tribal trial broadened the debate to consider whether Sohappy's illegal fishing constitutes a serious crime in light of the damage non-Indians have done to the resource.

Among the problem posed by the trial:

After a pro-Sohappy tribal council was elected last year, the tribe pressed for legal jurisdiction over salmonscam defendants to maintain tribal sovereignty. But Fiander warned jurors that an innocent verdict could backfire by forcing the state and federal governments to police what Indians would not. "The Yakima Tribe has to regulate its own members to keep other governments out," Fiander said.

While the Yakima Tribe has pressed the sovereignty issue, its council members threatened to undercut their own authority by testifying in support of Sohappy's individualism—and even admitting they ignored their own fish-mangement laws. "We have the very men who authorized the tribal season (that) I'm trying to enforce saying its OK to ignore them," Fiander said at one point in exasperation.

Why did the federal government find it necessary to offer money for thousands of pounds of fish from a spring chinook run so small that fishing it was banned entirely? Did they uncover large-scale poaching or create it? If big-time poaching existed, why weren't Indian law-enforcement agencies aware of it, or willing to admit it? Was the federal government trying to save the last wild runs, or destroy them and remove Indians from the management loop?

Finally, who is David Sohappy Sr.—poacher or pious Yakima patriot? Fiander introduced records suggesting Sohappy had nearly $70,000 in income in 1981 from legal and illegal fish sales and savings, while Sohappy said that was gross revenue shared with eight other fishermen and up to 40 family members.

Keefe said the portrayal of Sohappy as a big-time poacher was a convenient fiction. "I believe what happened on the Columbia River back in 1981 and 1982 was the purest case of entrapment in the history of the American legal system," he summed up.

Both attorneys did agree that the federal prison sentences—a total of 16 years for five defendants for selling 345 illegal fish—were excessive.

"Their sentences were too harsh," Fiander told the jury. "Everybody agrees on that." Had Sohappy gotten only six months or a year, the prosecutor told The Times later, the tribal trial would probably never have happened.

Keefe said he will next ask Washington Sens. Brock Adams and Dan Evans to seek a review of the federal sentences and launch a Senate investigation of salmonscam. He also suggested the fish-management plans make allowances for subsistence fishingmen such as Sohappy.

PEACE PROCESS IN CENTRAL AMERICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LAGOMARSINO. Mr. Speaker, this morning, the Subcommittee on Western Hemisphere Affairs, on which I serve as vice chairman, held a hearing on the peace process in Central America. One of the witnesses before the subcommittee was Ms. Leslie Hunter, a representative of the Central American Peace and Democracy Watch, who had just returned from 3 weeks in Nicaragua. She interviewed more than 80 people, including the members of the Sandinista government, the Civic Opposition, the press, labor and professional organizations plus representatives from the church and human rights groups.

Her comments are extremely enlightening in terms of giving a cross section of Nicaraguan opinion on the prospects for Sandinista compliance with the peace process. I urge my colleagues to read carefully her testimony which follows:

TESTIMONY OF LESLIE HUNTER

Thank you for inviting me to speak before you today. My name is Leslie Hunter. I have spent the last 10 years living and traveling in Central America, I have published articles on Central America and am currently Program Officer for the Central America Fulbright Scholar Program. I have just returned from a three-week trip to Nicaragua as representative of the Central American Peace and Democracy Watch, and ad hoc group of labor, business, academic and political leaders formed to support the full implementation of the Guatemalan peace accords. Our committee plans three kinds of activity: monitoring the peace and democracy process in Central America, assisting supporters of democracy in Central America, and to offering some independent judgment on the success or failure of the process as it proceeds through its successive stages.

Appended to my testimony is a list of our sponsors, a bipartisan group which includes individuals who in the past have both supported and opposed aid to the Nicaraguan resistance. They include Governor Charles Robb, Mayor Ed Koch, six presidents of AFL-CIO international unions, Martin Peretz, editor of The New Republic, Dr. Susan Kaufman Purcell of the Council on Foreign Relations, William D. Rogers, former Assistant Secretary of State for Inter-American Affairs, and Lawrence Eagleberger, former Undersecretary of State for Political Affairs. Appended to my testimony is a full list of our sponsors.

My purpose in traveling to Nicaragua was to get a sense of how Nicaraguan citizens view the prospects for peace held out by the Guatemala accords and to find out what American citizens can do to support Nicaraguans in their quest for peace and democracy. I interviewed over 80 people from the civic opposition, the Sandinista government, the press, labor and professional organizations, intellectuals, market vendors, the church and human rights organizations, as well as a number of Nicaraguan citizens not organized in any particular grouping. I spoke to people and attended events in Managua, Masaya, Corinto, Chichigalpa and Juigalpa. I come before you today to present some of my impressions.

While the Nicaraguans with whom I spoke welcome the Esquipulas II accords signed in Guatemala on August 7, they have grave doubts about the Sandinistas' sincerity in complying with either the spirit or the letter of the accords. The Sandinista government has lost all credibility in the eyes of the Nicaraguan people. Their deep suspicions of Sandinista motives and sincerity are based both on past experience of Sandinista lies and broken promises and on the government's actions in the current period, since the signing of the accords.

Although the Sandinistas blame all their failings on the contra war, I found that the Nicaraguan people blame the government, not the contras, for the economic disaster, the shortages, the ubiquitous long lines, the state of emergency which has meant suppression of all democratic freedoms, arbitrary confiscations, arrests, and an unrelenting stream of deaths and disappearances. Furthermore, even citizens who are not involved in the political debate held that had it not been for the military pressure exerted by the armed resistance, the Sandinistas would never have signed the Esquipulas II accords. During this trip to Nicaragua—my first since 1985—I found that popular attitudes toward the resistance fighters had changed. I frequently heard them referred to as "los muchachos", a somewhat affectionate term used in years past to describe followers of the Sandinista front.

The consensus of the civic opposition and others in Nicaragua is that the Sandinistas main goals are to disarm the resistance, to remain in power with their state structures intact, and to comply in a minimal way with the peace accords while deriving the maximum propaganda benefit from it. The Sandinistas hope to bring about the disarming of the resistance in two arenas: on the international front, by attempting to influence international public opinion—principally the U.S. Congress—and internally by printing exaggerated reports of large-scale defections of resistance fighters. One recent account, in both official newspapers, was the reported defection of 400 Miskito Indian fighters on Nicaragua's Atlantic Coast, led by a man (Uriel Vanegas) who, according to

La Prensa, was in fact an agent of Sandinista State Security. They have created bodies called "local peace commissions" in the war zones whose purpose is to attempt to convince resistance fighters to surrender as individuals to Sandinista authority. These last efforts have failed, as the Church has repudiated these local commissions and has urged citizens to disregard them.

When asked about the significance of the opening of La Prensa and Radio Catolica, the opposition groups, including first and foremost the editors of La Prensa, noted that these are important beginnings, but in themselves do not constitute a return to freedom of the press and freedom of expression. A number of radio news programs, newspapers and other media remain closed. Television is still off limits to the opposition. Radio Catolica has been denied permission to broadcast news programs. Moreover, as long as the state of emergency remains in effect, the government could reverse its minimal concessions at any moment.

The government and the civic opposition remain far apart on almost every major issue contained in the accords.

On the National Dialog: the Sandinistas are attempting to divide the opposition by inviting only a few opposition parties to participate, several of which are favorable to the FSLN. The Sandinistas maintain that the purpose of the Dialog is to discuss the Esquipulas II accords. Vice President Sergio Ramirez said on a televised interview on October 13 that the Dialog should not touch on any issues that would "upset the stability" of the country. The opposition parties are united in insisting that all opposition groups, political parties, trade union and professional groups, participate in the Dialog, that it is indeed a forum to present and vote on issues of national import, such as a new constitution, the scheduling and manner of democratization, the separation of the state, the party and the army, the return to the rule of law, the depoliticization of the army, the return of arbitrarily confiscated lands and revocation of strict economic controls, a national plan for economic recovery, etc.

On amnesty: the government's concept of amnesty is surrender of the armed resistance. The Church, the civic opposition, and human rights organizations point out that amnesty, as a juridical concept, applies to prisoners, people charged with crimes and held under orders from the state authorities. The opposition argues that amnesty must not be applied to persons who have rebelled against a government which has denied them their rights. Such people are not criminals and should not accept such a designation. The government has also said that it will never grant general amnesty to political prisoners, except on a case-by-case basis. I was told by human rights workers that there are currently 9,500 political prisoners in Nicaragua who have been tried or charged with a crime or are awaiting trial. Several ex-prisoners (I met many people who had been jailed in Sandinista prisons) told me that there are many thousands more Nicaraguan men, women and even children being held in secret prisons without charge. Nicaraguan democrats say that amnesty must be granted to all—an approach being taken by Presdient Duarte of El Salvador.

On the cease-fire: the Sandinistas have declared four unilateral cease-fire zones, in areas where the fighting has not been heavy. Again, the organized opposition, the Church, the opposition daily La Prensa, the labor, youth, human rights organizations and the Nicaraguan people I spoke to were unanimous in condemning as preposterous the concept of unilateral cease-fire and insisting on a negotiated cease-fire between the government and the leaders of the armed resistance as the only way to guarantee the safety of the fighters and a lasting peace.

When asked whether the human rights climate had improved since the signing of the Esquipulas II accords, many people told me it had actually gotten worse. Several women in the 22 of January Movement of Mothers of Political Prisoners explained that not only have the tortures, transfers, disappearances and deaths of prisoners stepped up, but that they—poor, elderly women—have themselves been jailed, beaten and threatened for daring to raise their voices. While the Sandinistas allow the more prominent leaders of the opposition, the church to speak out, they are attacking and severely repressing the base of those organizations, out of the way of the cameras and publicity. While they have begun to allow a few of the opposition groups to demonstrate in the streets, Sandinista troops have sometimes forcibly removed young men from busses on their way home from those demonstrations as punishment for their participation. While they allow some prominent religious leaders in Managua to speak out, Sandinista troops repress and harass evangelical preachers and priests in the provinces of Jinotega, Matagalpa and Chontales. Party headquarters are allowed to exist, but opposition party militants and youth who work in the neighborhoods and fields are beaten or languish in prison.

Despite the fact that the FSLN claims that the contra war necessitates the maintenance of its huge military apparatus, it has made it clear that even if the contra war ended, as a result of the current peace process, the Sandinista government has no intention of reducing the size of its army. Last week, Chief of Staff Juaquin Cuadra announced that 35,000 new draftees would be called up. Vice President Sergio Ramirez stated in an interview on October 13 that "if the contra war ends, the United States will have no other option left but to invade Nicaragua, and we are preparing for it." Whether the Sandinistas truly believe that an invasion is coming or not is irrelevant, many democratic opposition figures contend. They note that the Sandinistas need to keep alive the image of invasion, because it justifies their existence and affords them a pretext for maintaining the state of emergency.

The Nicaraguans with whom I spoke repeatedly emphasized that the Peace Plan can work only with the help, both moral and material, of the international democratic community.

The civic opposition in Nicaragua is determined to take advantage of this opportunity and is making serious attempts to turn the regime's claims that it is permitting democratic freedoms into the reality of freedom. The Coordinadora Democratica Nicaraguense, the major coalition of 14 opposition parties, labor unions and professional associations, the individual opposition parties, the Centro de Formacion Juvenil, the Mothers of Political Prisoners Group, and others have begun to stage marches, publish reports, put on press conferences and other activities. Four of the opposition labor unions recently joined together to press the government to reverse its repressive practices against working people. The Church is working closely with a number of these groups to help them unite around minimal programs of reforms. However, all of these groups operate under severe material and financial constraints. Staging even a small demonstration or a press conference costs money that the opposition does not have: money to communicate with the people, to transport them, to protect them.

Despite many declarations of solidarity, *La Prensa* as of October 12 has not yet received any concrete assistance and is in danger of closing if it does not receive funds for maintenance of the presses, to purchase vehicles, newsprint and other supplies. The political parties need funds to purchase typewriters, small printing presses, copiers, paper—just about everything. The youth groups and the Mothers Group need funds to pay rent for offices and office equipment. The head of the Mothers Group, Concepcion Salazar, told me that families of political prisoners go to government offices and prisoners looking for their loved ones and have no money for food, for transportation and no place to stay. Other organizations that could be helped are apolitical groups such as the Boy Scouts, local experimental theater groups, and the Church. These groups pleaded with me to request aid for them to keep them alive, and several gave me letters outlining their basic needs. Labor unions also need funds to organize people and to provide jobs, job training, medical care, housing and other items. A Miskito Indian leader explained to me that if Indians are to come back from camps in Honduras, they must have something to come back to—thus, the Miskito unions must be able to provide for their transportation, to provide wood and construction materials for housing.

In addition to material and financial support, all the groups stressed the importance of moral support. Moral support can come in several forms. One, Americans should go to Nicaragua and find out for themselves what is happening, then publish their findings in the United States. Congressional and private delegations should go there, participate in opposition activities, and press the government to comply with the promises they made in the Peace Accords with respect to full democratization. The only way that FSLN will comply with accords is if U.S., Latin American and other western democracies insist that they will not be party to a fraud.

Like many of my generation, I remember the civil rights movement here in the United States as one of my formative experiences. I remember that respect for civil rights was the official policy of the United States government and many local govenments. But throughout the country, and especially in the South, white racist power structures prevented black people from exercising those rights in practice, even while hypocritically claiming that all such rights were being honored. It was not until black people themselves, with the support of their white allies, stood up and claimed their rights in practice that American democracy was secured to them.

The situation faced by Nicaragua's democratic opposition is much the same as the situation in this country in the early 1960s. The Sandinista government is waving the flag of freedom with one hand, while brutally and quietly repressing it with the other. This is a moment for all democrats—including members of my own big "D" Democratic Party—to follow the example of our own civil rights movement. We must join hands with Nicaraguans who are striving bravely to claim in practice the rights that have been promised them in the Guatemala accords. We—and they—can overcome.

QUESTIONNAIRE RESULTS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. BEILENSON. Mr. Speaker, I take this opportunity to share with my colleagues the results of a questionnaire I sent my constituents in August.

The results of the poll are, I think, interesting and significant. For example, although the questionnaire was sent shortly after Col. Oliver North's appearance before the Iran/Contra investigating committee, 71 percent of those who responded to the poll were opposed to additional aid for the Contras.

On other defense issues, 70 percent of the respondents disagree with the President's plan for early deployment of the strategic defense initiative, and 69 percent also oppose the President's decision to allow Kuwaiti oil tankers to sail under the protection of the United States flag in the Persian Gulf.

Regarding the domestic issue of campaign finance reform, 59 percent of those who responded favor public funding of House campaigns, and 34 percent believe a $100,000 limit should be placed on the total amount of PAC contributions a candidate may receive. Only 7 percent of the respondents prefer leaving the current system of financing congressional campaigns as it is.

Finally, when asked to indicate what steps they themselves would take to reduce the Federal budget deficit, almost 90 percent of those who responded would either freeze or cut defense spending, while only 55 percent would cut or freeze domestic programs. Regarding possible tax increases to help reduce the budget deficit, the vast majority—85 percent—favor large increases in beer and wine taxes and in cigarette taxes, and fully two-thirds of the respondents—who reside in the most affluent congressional district in the United States—would postpone reducing the top tax rate for 1 year. And, despite the fact that I represent a southern California area heavily dependent on the automobile, 52 percent of those who responded would be willing to have the Federal tax on gasoline raised substantially.

In the space provided on the questionnaire for suggesting other ways to reduce the deficit, the most common responses were: Reducing defense spending further by controlling waste and fraud and by reforming Pentagon bidding procedures; implementing the recommendations in the Grace Commission report; cutting farm subsidies, especially to tobacco growers, raising taxes for wealthy individuals and corporations; and cutting back on foreign aid.

I find these annual questionnaires to be a valuable means of learning my constituents' opinions on the major issues before us seeing the results, too.

1987 CONSTITUTENT QUESTIONNAIRE RESULTS

1. NICARAGUA

Last year, Congress approved President Reagan's request for $100 million in additional aid to the "contra" rebels who are fighting to overthrow the Sandinista government of Nicaragua. In September the President will request another $100 million or more to fund the contras during 1988.

Supporters of aid to the contras argue that Nicaragua has become a Marxist state closely allied with Cuba and the Soviet Union, and that it threatens to export communism throughout Central America. They say we should not desert the contra "freedom fighters" in their effort to overthrow a government that has become increasingly totalitarian and repressive—one that censors the press, represses religious groups, and disregards the rights of the Nicaraguan people.

Opponents argue that Nicaragua is a tiny, impoverished country that poses no threat to any vital interests of the U.S. They say the contra rebels, who have repeatedly been accused of brutalities against the Nicaraguan people, are no more disposed toward democracy than are the Sandinistas—and that the rebels have little support within the country. Instead of funding the contras, opponents claim, we would better protect our own security interests by supporting our allies in Central America, who are attempting to solve the region's problems through a negotiated political settlement rather than by military force.

[In percent]

Do you want Congress to vote additional aid for the contras?

Yes	29
No	71

2. PERSIAN GULF

In the wake of the attack on the USS Stark in the Persian Gulf, President Reagan agreed to allow Kuwait oil tankers to sail under the U.S. flag with U.S. naval escorts.

Supporters of the President's decision argue that the United States has vital economic and strategic interests in the Gulf which must be protected. By placing Kuwaiti ships under U.S. military protection, proponents argue that we can both guarantee the safety of neutral shipping in this area and increase our influence with more moderate Arab states. And, they say, failure to protect Kuwaiti tankers will allow the U.S.S.R. to gain a foothold in the Gulf region because, as the President warned, "If we don't do the job, the Soviets will."

Opponents of the reflagging decision say that since only 4 percent of U.S. oil is shipped through the Persian Gulf, and since none of our allies—who are far more dependent on this oil than the U.S.—have asked for our assistance, we should not be pursuing such a dangerous policy which places the lives of more U.S. servicemen at risk. And, they argue that by supporting Kuwait, an ally of Iraq, we are unwisely reversing our long-standing policy of neutrality in the seven-year Iran-Iraq war and illogically taking sides with Iraq, the country that started sinking ships in the Gulf in the first place.

[In percent]

Do you agree with the President's decision to allow Kuwaiti oil tankers to sail under the U.S. flag with U.S. military protection in the Persian Gulf?

Yes	31
No	69

3. THE STRATEGIC DEFENSE INITIATIVE ("STAR WARS")

The United States has long conducted research on space-based defense systems against incoming long-range nuclear missiles, and most everyone agrees that we should continue to support a robust research program for this Strategic Defense Initiative (SDI). But there is considerable disagreement over President Reagan's plan to go beyond research and actually test and deploy an early version of SDI in the next three or four years. Such early deployment would violate a long-standing interpretation of the U.S.-Soviet Anti-Ballistic Missile (ABM) Treaty, and the Soviets have made it clear that they will not reduce their offensive nuclear weapons at the same time the U.S. is going ahead with a defensive system in violation of the treaty.

Proponents of early deployment argue that the Soviets themselves have a clear pattern of violating U.S.-Soviet arms control treaties and are already pursuing SDI-like defense capabilities of their own. Proponents also say that although SDI will not be able to protect American cities from Soviet attack, it could eventually protect U.S. missile silos and thus act as a deterrent against a Soviet nuclear strike. They therefore argue that we should go forward with an accelerated timetable for SDI testing deployment even if it prevents major nuclear arms reductions.

Opponents of early SDI deployment argue that a space-based defense of U.S. missile silos is not technologically feasible and would be extremely vulnerable to Soviet attack—and, therefore, that SDI's effectiveness as a deterrent is highly questionable. They further argue that the security of the United States would be much better served if we pursued the offer—made by Mr. Gorbachev to Mr. Reagan last year in Iceland—to agree to a 50 percent reduction in the number of long-range nuclear missiles each side has targeted on the other if the U.S. limits its SDI program strictly to research for the next ten years. Since most scientists believe that, even with the expenditure of hundreds of billions of dollars, we will not be able to deploy an effective SDI system until well into the next century, opponents say that it does not make sense to allow premature deployment of a primitive version of SDI to stand in the way of a 50 percent reduction in the number of nuclear weapons.

[In percent]

Do you agree with the President's decision to go ahead with his plan for early deployment of the Strategic Defense Initiative?

Yes	30
No	70

4. CAMPAIGN FINANCE REFORM

In last November's election, U.S. House and Senate candidates spent five times more on their campaigns than they did a decade earlier. They also raised a greater proportion of their funds than ever before from special-interest political action committees (PACs), whose contributions to candidates for Congress rose sharply during the same decade from $23 million in 1976 to $132 million in 1986.

There is growing concern that candidates are relying too heavily on PAC contributions, and that lawmakers have become more responsive to special-interest contributors than to the voters they were elected to represent. As a result, public confidence in the integrity of our political system is being badly damaged.

To control the high cost of campaigns and reduce the influence of special-interest money, Congress is considering various plans for reforming the way candidates' campaigns are financed. One proposal would simply limit the total amount of PAC contributions that a candidate can accept. Another would finance congressional campaigns the same way presidential campaigns are funded, by providing public funds to candidates who agree to abide by a spending limit and who agree not to accept any PAC or individual contributions.

[In Percent]

Which of the following ways of financing campaigns for the U.S. House of Representatives do you prefer? (Choose one)

A. Provide public funding—through a voluntary $1 check-off on income tax forms just as presidential campaigns are financed now—for each major-party candidate who agrees to a spending limit and agrees not to accept any individual or special-interest PAC contributions	59
B. Don't provide any public-funds or set any spending limits, but do limit the total special-interest PAC contributions that each candidate may receive to no more than $100,000 per election	34
C. Leave things as they are, with no limit on the total amount a candidate may spend and no limit on the total amount of special-interest PAC money he or she may receive	7

5. THE FEDERAL BUDGET DEFICIT

During each of the last five years, the federal government has borrowed close to $200 billion—triple the size of any annual deficit prior to 1981. It took the U.S. more than 200 years to accumulate a total national debt of $1 trillion, but in just six years that debt has more than doubled to $2.2 trillion because of these huge deficits—and the U.S. has been transformed from the world's largest creditor nation into the world's largest debtor nation.

Although everyone wants to reduce these staggering deficits, the political obstacles to doing so remain the same as in past years: President Reagan opposes slowing the growth of defense spending and he is also against raising any new taxes; both he and many members of Congress are unwilling to slow the growth of Social Security, our largest entitlement program; and a majority in Congress of both parties do not want to cut most domestic programs any further.

Two years ago, to force a resolution of the deficit problem, Congress passed the Gramm-Rudman-Hollings law requiring each succeeding year's deficit to be $36 billion less than the previous year's. Congress is now trying to reduce next year's deficit by that amount.

Listed below are major steps that could be taken to reduce spending, and some of the most frequently discussed ideas for raising taxes. Which of them would you favor to reduce next year's deficit by at least $36 billion? (Choose as many as necessary to add up to $36 billion.)

POSSIBLE SPENDING CUTS

[Dollars in billions]

	1988 savings	
		Percent
A. Defense Spending (28 percent of the budget):		
1. Freeze (that is, no increases for inflation)	$5	29
or		
2. Cut by 3 percent	7	59
B. Entitlement programs (41 percent of the budget): Skip cost-of-living increases for one year for Social Security, Medicare, military and civilian retirement pensions, veterans benefits, etc. Programs for the poor would be exempt	7	42
C. Domestic programs (16 percent of the budget) (Includes education, job training, national parks, health research, air safety, environmental protection, housing, highways and mass transit, FBI and drug enforcement, immigration control, space programs, etc.):		
1. Freeze (that is, no increases for inflation)	4	39
or		
2. Cut by 3 percent	6	16
D. Interest payments on the National debt (the remaining 15 percent of the budget): The only way interest payments can be cut is if the deficit is reduced. If you check off at least $30 billion worth of spending reductions and revenue increases, take credit for $1 billion in reduced interest payments	1	53

POSSIBLE REVENUE INCREASES

[Dollars in billions]

	1988 revenue gain	
		Percent
E. Postpone for one year reducing the top tax rate from 38.5 to 28 percent for taxable income over $100,000 (single) and $150,000 (joint)	$6	66
F. Raise the Federal tax on beer by 32 cents a six-pack and on wine by 7 cents a bottle	3	85
G. Double the Federal tax on cigarettes from 16 to 32 cents a pack	3	85
H. Raise the Federal tax on gasoline:		
1. By 10 cents a gallon	10	40
or		
By 20 cents a gallon	20	12
I. Treat most Social Security benefits as taxable income (the way private pensions are treated for tax purposes)	5	17
J. Reduce the business tax deduction for meals and entertainment from 80 to 50 percent	1	68
K. Impose a one-half percent tax on the value of stocks and other securities when they are bought or sold	5	53

U.S. SERVICEMEN ARE DANGEROUSLY VULNERABLE TO CHEMICAL WEAPONS

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, I am enclosing for the record an article from the October 26 edition of U.S. News and World Report on Chemical Weapons.

The article discusses how verification of a chemical arms control agreement would be impossible and yet our armed services are not prepared to meet the threat.

If we cannot rid the world of these weapons, sometimes called the poor man's atomic bomb, then we at least ought to be able to defend ourselves from them. The United States Army Chemical Corp. has only 10,000 soldiers while the Soviets have 100,000. The Soviets have 20,000 vehicles equipped for chemical war while we have only 600. And most Soviet tanks could last 1 to 2 weeks under chemical attack. Most of our tanks, even our new ones, would not last a day.

Mr. Speaker, I encourage Members to read this important article and keep it in mind as we consider our Nation's defenses.

A PLAGUE OF "HELLISH POISON"

George Shultz is duty-bound to discuss chemical weapons in Moscow this week, but it is not an easy assignment. Once again Mikhail Gorbachev has applied his wonderfully simple formula for keeping the Reagan administration off balance: Saying yes where his predecessors said no. He has seized the high ground, urging elimination of what Winston Churchill called "that hellish poison" and agreeing to the detailed inspection that Washington once demanded, certain that Moscow would refuse. Since few specialists truly believe it is possible to verify destruction of chemical weapons, the U.S. eventually could be forced to back away from its own proposals.

That won't happen this week. Secretary of State Shultz goes to Moscow mainly to close a deal ridding Europe of medium-range missiles (see page 32), and neither side will force the issue on chemical weapons. Even Gorbachev might grant that a breathing spell is needed after his government's sudden conversion. The Soviets conceded only last February—after 17 years of talks heavy with platitudes—that they actually were producing such weapons. In April Gorbachev surprised the West by announcing that production had stopped and agreeing to a ban under strict verification. Earlier this month, he took the unprecedented step of inviting 110 Western experts, including Americans, to inspect the top-secret Shikhany chemical-weapons facility 550 miles southeast of Moscow.

It was spendid public relations, especially in light of U.S. plans to resume chemical-weapons production. Any day now, President Reagan will give the go-ahead for a new generation of chemical weapons to start rolling off an assembly line in Pine Bluff, Ark. These 155-mm howitzer shells are called binary weapons because they contain two chemicals that are relatively harmless when separate but combine after firing to produce nerve gas. A drop of the gas, absored through the skin or lungs can cause death in minutes. The binaries, which will be produced in multiple-launch rockets and bombs as well as artillery shells, are safer to store and to transport than the old unitary weapons, which is one reason the Pentagon has been demanding them for more than a decade.

Congress resisted until 1985, when a presidential commission found that many of the existing chemical weapons were outmoded and that the United States was lagging far behind the Soviet Union in chemical war power. Another factor that changed congressional minds was evidence that chemical weapons were becoming what Kenneth Adelman, director of the U.S. Arms Control and Disarmament Agency, has called "the poor man's atomic bomb."

Chemical weapons in superpower arsenals represent the most glaring arms imbalance since the Light Brigade charged Russian cannons at Balaclava. The Soviets have integrated chemical warfare throughout their force structure and can deliver chemical agents in virtually all their weapons systems, from shells to medium-range missiles. Soviet planning for a major European war calls for supplying 2,000 to 3,000 tons of chemical munitions every day for 60 days, in addition to the huge stockpiles it keeps in Eastern Europe. Some 100,000 specialist chemical forces would support Soviet combat units in a European war. The present strength of the U.S. Army Chemical Corps is just over 10,000.

TOO FEW, TOO FAR

The Soviet advantage is all the greater because of a deal the U.S. made with its NATO allies about the placement of chemical weapons. To win NATO's approval for breaking the production moratorium after nearly two decades, the U.S. agreed to remove its European stockpiles—now in West Germany—by 1992. After that, chemical weapons will be stored in the U.S. and ferried across the Atlantic by ship or aircraft when trouble threatens. The catch is that chemical weapons need to be fired quickly and in massive amounts to be effective. "If we can't pre-position our stocks in Europe," says Col. John Dascanio, former deputy commander of the Army Chemical Corps, "our chemical weapons are totally useless."

The object of contaminating airfields, materiel depots and strategic areas with chemical poisons is not to kill enemy troops but to force them to suit up in protective gear and thus reduce their ability to fight. The Soviets have an even bigger edge over the U.S. in protective technology. They are believed to have more than 20,000 vehicles designed for chemical reconnaissance, detection and decontamination; NATO has no more than 600. And America's chemical-clean-up equipment amounts to little more than a mop, bucket and hose brigade.

The disparities are most telling in the length of time both sides could remain on the battlefield during a chemical exchange. Most Soviet armored fighting vehicles have closed quarters with filters that allow soldiers to breathe without masks. Only a handful of America's newest M1 tanks have a similar capability. How long could U.S. units last on a chemical battlefield? Less than 24 hours, according to Maj. Gen. Gerald G. Watson, commander of the Army Chemical Corps. And the Soviets? One or two weeks, says Watson.

Even before Congress lifted its ban on chemical-weapons production, the Pentagon had started scrambling to catch up with the Soviet's. In the 1970s, it started ordering protective suits for all its European troops. Military planners now say that American soldiers will never be sent to fight without antichemical gear. The Army will soon be fielding improved gas masks, a chemical detector that can identify poisonous gases at long distance and better decontamination equipment. It is even studying ways of removing poisoned bodies from the battlefield. This fiscal year, the Pentagon wants to spend $943 million for chemical defense, $124 million for binary weapons and $87 million to destroy aging unitary weapons. The five-year chemical-warfare budget for 1983-88 is $4.6 billion.

The superpowers are not the only countries heating up the chemical crucible. In the 1960s only five countries were known to possess chemical weapons. Now, intelligence sources say, some 37 countries are full or potential members of the chemical-weapons club. Of these, all but six—North and South Korea, Laos, Angola, Albania and Nicaragua—have signed the 1925 Geneva Convention, which bans chemical warfare though not the production or stockpiling of weapons. But signing a convention is not the same as adhering to it. Iraq is one flagrant violator. Its use of mustard gas against Iran has been well-documented by European doctors who have treated badly burned and blinded victims. Several thousand Iranian soldiers are reported to have died of chemical injuries.

Other alleged offenders are Ethiopia, Angola and Mozambique in their civil wars; Libya in its invasion of Chad (last August, the U.S. shipped 2,000 gas masks to Chad); Vietnam in Laos and Cambodia; and the Soviet Union in Afghanistan. The evidence in all these cases is inconclusive. But the worry about chemical proliferation is real enough to have impelled 19 Western governments, spurred on by Australia, to monitor and attempt to control the international traffic in the ingredients of nerve and mustard gases.

The U.S. now bans five such chemicals for export anywhere; an additional half dozen may not be exported to Iran or Iraq. But the restrictions haven't stopped Third World buyers, who typically use as many as three or four intermediaries to hide the destination of the chemicals. After members of the nonproliferation group tried to stop chemicals from reaching Iraq, Baghdad used a front company to buy them from a manufacturer in Nashville, Tenn. The Soviets have not joined the group but they have brought in their own chemical-export controls and conferred on nonproliferation with the United States, most recently on October 8.

Enforcing a chemical embargo is next to impossible because the technology is so simple, so cheap and already in so many hands. Verifying a ban on chemical weapons would be harder still. For a start, the weapons look like conventional shells or bombs and the manufacturing facilities look like ordinary chemical plants. Even if there were plenty of hard-eyed guests at a disposal party, once they went home, there would be little to stop a determined weapons maker's starting the assembly lines again. And freezing stockpiles at current levels would leave the Soviets far ahead.

Diplomats do not seem to have contrived a way out of these difficulties. U.S. officials are probably right when they say that the Shultz-Shevardnadze talks this week, and a probable Gorbachev-Reagan summit later this year, will do no more than keep the subject of a chemical-weapons ban alive. A deal, says arms-control director Kenneth Adelman, "is way beyond the stretch of the Soviets." And that almost certainly goes for the U.S. as well.

WELFARE REFORM

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. DOWNEY of New York. Mr. Speaker, next week the House is going to debate welfare reform legislation as part of budget reconciliation. Misconceptions and myths about our welfare system clouded past debates. Therefore, I would like to delineate some basic points about the goals of welfare and welfare reform that we would all do well to bear in mind during the welfare debate. Below you will find remarks I made at the outset of the Committee on Ways and Means markup of H.R. 1720, the Family Welfare Reform Act. I encourage you to consider these remarks:

REMARKS ON WELFARE REFORM

(By Thomas J. Downey)

Welfare reform, as Joe Califano has said, is the Middle East of domestic politics. It is probably easier to figure out how to govern Lebanon than it is to get any consensus on what to do with our welfare system.

Attempts to reform the welfare system have been numerous. Success has eluded us. President Nixon attempted it with his family assistance plan. President Ford had a program that never saw legislative action. President Carter proposed a major welfare reform package that passed the House but never passed the Senate. President Reagan undertook what some might call welfare reform in the Omnibus Budget Reconciliation Act of 1981 and is in large measure responsible for the current debate.

In part, our past inability to reform the welfare system can be explained by the fact that it is a system shrouded in myth and misconception. There has been far more demagoguery than there has ever been light shed on the issue of welfare. The stereotypes which guide our views of the welfare system are usually wrong and lead us to draw incorrect conclusions about what needs to be done to fix the welfare system. If we are going to accomplish reform, we need to know the facts about our welfare system, how it works and who it serves.

There are five basic facts we must remember:

Fact one: One-fifth of all American children and two out of three black children are poor. In recent years, we have done nothing to change this fact.

Fact two: The term "welfare" can mean many things. The Nation's basic cash welfare program is aid to families with dependent children, known as AFDC. However, only 7 million of the roughly 12 million poor children in this country rely on AFDC for support.

Fact three: If you are a child in America, we punish you if your father deserts you. A child whose father dies or becomes disabled will have more to live on than one who is deserted. AFDC benefit levels in some States are appalling. In the State with the lowest benefits, AFDC for a family of three amounts to 16 percent of the poverty level. If you add food stamps to this, the family lives on $332 per month. That's 46 percent of poverty.

Some will argue that this is the worst case. That is true. The "best" case is equally sobering, however: In only five States does the combination of AFDC and food stamps bring a family close to a poverty level income. There is nothing to be proud of in these statistics.

Fact four: If you are going to be poor in this country, it's better to wait until you are old. One elderly person on SSI gets more in a month than a family of three on AFDC in 22 States. The Social Security system is even more generous to retirees. Poor children are no less needy or deserving than elderly adults who are poor.

Fact five: Single mothers with children—who constitute the majority of AFDC recipients—want to work and will work if you don't ask them to put their children in jeopardy to do so. This means support services like day care and health benefits as well as modest financial incentives so that families who work are better off than those who don't. It means making an investment in these families.

The aim of welfare reform, very simply, should be to take children, as many as we can, out of poverty. The philosopher John Rawls has said it best when he points out that we are all part of the American family and that there is something disquieting about the random nature of poverty.

Those are the battle lines. Debate will continue. But if we lose sight of the fact that we are here to help children, we will have lost sight of why we are here at all.

FIRST BAPTIST CHURCH OF REDLANDS, CA, CELEBRATES CENTENNIAL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LEWIS of California. Mr. Speaker, it is my immense pleasure to have this opportunity to recognize the First Baptist Church of Redlands, CA, which is affiliated with the American Baptist Churches, U.S.A., as its members celebrate its 100th year of Christian service to its membership and the community at large.

Founded in 1887, the First Baptist Church quickened with the pulse of a newly-incorporated community, expanding in times of prosperity and development, holding fast in times of war, depression, and citrus freezes.

In 1907, the First Baptist Church served as a beacon to higher education, lighting the way for the founding of a Baptist college, the University of Redlands, in this community under the inaugural presidency of then-pastor, the Rev. Jasper Newton Field.

In celebration of this centennial, the church's observances have spanned the lighthearted—pie baking contests and 1880's fashion promenade—to the sublime—an originally-scripted play by Albert Johnson especially for the centennial, exploring Christian ethics in a nuclear age. What truly marks the First Baptist Church of Redlands' centennial year is the spirit of joy and enthusiasm as a church family of remarkable diversity reflects on its first century of progress and accomplishment and looks forward with faith and commitment to its second century of service.

It is clearly evident that the members of the First Baptist Church of Redlands have great reason to celebrate and to take pride in their church's history of dedicated service. I would like to wish them continued success and prosperity for another 100 years.

SAUCE FOR THE BORK GANDER

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mrs. SCHROEDER. Mr. Speaker, 30 years ago, "Impeach Earl Warren" billboards dotted the landscape in certain "right-thinking" parts of America.

The billboards were replaced in the late 1960's and early 1970's by the impeach William O. Douglas crusade, which tramped into these Chambers on April 15, 1970, when Republican minority leader Gerald Ford introduced a resolution calling for Justice Douglas' impeachment.

The crusade was effectively thwarted by Byron Rogers, the representative from Colorado's first district. Rogers chaired the Select Judiciary Subcommittee that considered Ford's impeachment resolution and voted three to one that there were no grounds for impeachment.

President Reagan's nomination of Robert Bork is the latest outbreak of the anti-Supreme Court fevers of decades gone by. Ford's testimony, without his "Impeach William O. Douglas" placard, in favor of Bork's confirmation was a nostalgic link to those inflamed debates.

But the crusade has turned back to its perpetrators, and what was a righteous sauce for the Warren goose and for the Douglas goose—not to mention the California Chief Justice Rose Bird—is not quite so tasty now that it is drowning the Bork gander.

A TRIBUTE TO ROY A. ANDERSON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an extraordinary individual, Roy A. Anderson, who was recently honored in Los Angeles by the American Jewish Committee. He is this year's worthy recipient of the organization's annual Human Relations Award which recognizes the accomplishments of community leaders.

Roy is best known for his outstanding accomplishments as chairman of the board of directors and chief executive officer of the Lockheed Corp. He assumes the helm of this important company at a time when it was on the brink of financial disaster. Under the skillful guidance, Lockheed not only recuperated, but thrived. Today, Lockheed is one of today's corporate giants—the vibrant employer of 97,000 individuals.

In one position after another, Roy's service was invaluable. His association with Lockheed began in 1956, Lockheed Missiles and Space Co. as a staff accountant. He rapidly advanced through this division and in 1965, joined the Lockheed-Georgia Co. as director of finance. He then became treasurer of the corporation, vice president and controller, senior vice president for finance and vice chairman of the board and chief financial and administrative officer before taking the helm of the company in 1977.

Born in Ripon, CA, Roy is a certified public accountant and holds a master's degree in business administration from Stanford University. His involvement in numerous organizations includes positions as chairman of the Los Angeles World Affairs Council, co-chairman of Stanford University's centennial campaign, board member of the Greater Los Angeles United Way, trustee of Occidental College and member of the Salvation Army Advisory Board. Roy is also on the board of directors of several major corporations.

The recipient of honorary doctorate degrees from Pepperdine University and Polytechnic Institute of New York, Roy has often been cited for his achievements. In 1984 he received the James Forrestal Memorial Award for promoting business/government cooperation and he was named Manufacturer of the Year by the California Manufacturer's Association.

It is a pleasure to congratulate Roy A. Anderson on this special occasion. His contributions to the business community are matched only by his dedication to civic organizations. I am honored to join my colleagues and the American Jewish Committee in saluting him.

A TRIBUTE TO THE WRIGHTS; OVER 200 YEARS OF FARMING TRADITION

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. DYSON. Mr. Speaker, I rise today to salute the Wright family of Reliance, MD who have farmed in the First District of Maryland for over 200 years. Their 510-acre farm spans the green pastures and fertile meadows of Dorchester and Caroline County in the State of Maryland and Sussex County in Delaware. The Wright family has been running the farm since 1732, longer than the complete history of our Nation.

Over the years, the farm has played a part in, and been a witness to, the birth and growth of this great country. King George II granted a tract of over 1,500 acres, known later as "Wright's Meadows" to Edward Wright in 1732 for services rendered. The Wright family today still has this original sheepskin charter granting their family the land. Charter in hand, four Wright brothers left England and landed that same year at the Nanticoke River landing near Seaford, DE. For many years the Wrights garnered lumber as well as tilling the land for produce. In the early 1800's one of the Wrights even made apple and peach brandy for the Government. The Wrights have lived with, cultivated, and taken care of the earth around them. The results of their care are borne out year after year in their annual harvests.

Times have changed, Mr. Speaker, and, for a variety of reasons, farming is not as profitable as it used to be. But there is a continuity in the history of the Wrights' farm. The farm still grows barley, soy beans, corn, and the wheat for which the Eastern Shore was once famous. And one of the descendants of the 30 slaves who used to work on the farm still helps Mrs. Wright with the housework. This kind of dedication to the land, and furthermore, to farming, is virtually unparalleled.

The great farming heritage that the Wrights represent continues as an enduring symbol in America, Mr. Speaker. And despite the great amount of adversity that the Wrights have faced, they have been able to keep their more than 200-year farming tradition alive.

FIRST PRESBYTERIAN CHURCH OF BURBANK CELEBRATES 100TH ANNIVERSARY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. MOORHEAD. Mr. Speaker, on October 23, 24, and 25, the First Presbyterian Church of Burbank, CA, its members and their friends will enter into joyous celebration of the church's 100th anniversary.

On Friday night there will be an anniversary banquet at the Castaway Restaurant with the Reverend Bruce Larson, pastor of the University Presbyterian Church of Seattle, offering the principal address.

On Saturday, the church will conduct an open house featuring displays, memorabilia, reunions, tours and singing by the pSALTer/Young Apostles.

On Sunday, Dr. William H. Craig, pastor of the First Presbyterian, will conduct the 100th anniversary worship service.

In honoring its centennial, the church has had a year-long celebration which began on October 23, 1986, with a 99th birthday party. More than 25 special and relative events have brought thé congregation together in celebration of 10 decades of service and spiritual and social growth.

The tribute is intended to focus the vision of church members and friends on the strengths of the early church. The qualities of love, compassion, determination, and courage were abundantly evident in its early years, just as they are today. The celebration is also intended to recommit the church and its ministry as it faces its second century.

Mr. Speaker, I appreciate this opportunity to recognize the First Presbyterian Church of Burbank, its pastor, Dr. Craig, and its members before my colleagues in the U.S. House of Representatives on the special occasion of its 100th birthday. I am grateful to the church for the myriad contributions it has made to the community, the State and the Nation during the past century. I am certain those gifts of charity and concern will continue to pour out from the church and its members long into the future.

FAILURES OF CONGRESS

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. SCHAEFER. Mr. Speaker, I am deeply concerned with the massive decline in the stock market on October 19, 1987, and the wild fluctuations in the market afterwards. Many of my colleagues came to the House floor to blame the policies of President Reagan for this decline, but I would like to point out some other considerations.

Members point their fingers at the budget deficit for this collapse, and I agree this is a major culprit. However, this is the same Congress that has approved a trillion dollar budget, without eliminating even 1 of 1,500 spending programs. This is the same Congress that has failed to meet any of the budget deadlines it set for itself. Finally, this is also the same Congress where many Members have expressed their intent to raise taxes, and to pass a protectionist trade bill.

The recent bull market has ridden the wave of President Reagan's economic expansion, the longest period of peacetime prosperity since World War II. We all bare part of the blame for this recent setback, and Congress must accept its fair share. However, with economic indicators pointing toward continued prosperity, I call on my colleagues to work toward reducing the budget deficit without major tax increases, and reducing the trade deficit without protectionism. Let us abandon partisan rhetoric, and work together to ensure America's future prosperity.

RURAL DEVELOPMENT REORGANIZATION ACT OF 1987

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. WATKINS. Mr. Speaker, I have reintroduced the Rural Development Reorganization Act of 1987, H.R. 3481, to create a more effective delivery of services to the Nation's agricultural community and to the one-third of America's citizens who live in rural America.

Let me repeat, one out of three of America's 240 million citizens live in rural areas, which, by Government definition both administratively and legislatively, is defined as geographic areas of less than 50,000 population. This includes not only total rural citizens or people who do not live in a city, town, or village, but all those cities, towns, and villages of less than 50,000 population.

Since I first introduced this bill on March 5, 1984, little has been done by the Reagan administration or the Congress to recognize the need for a comprehensive plan for rural development. This year, a number of my colleagues from both the House and Senate have introduced rural development bills. It is my hope that the Congress has finally recognized the need to look to rebuilding rural areas through a "Marshall Plan for Rural America" and not an election year campaign of rhetoric.

It now has been over 3 years since this bill was first introduced. And what has happened in that time? Rural areas are dying. Rural mainstreet is being boarded up. Farmers that may have been able to stay on the farm because of an off-farm job in a rural area have been forced to move to the huge population centers where they compete with the urban unemployed. The heartbeat of rural America is ticking slower and more faint. We in the Congress should apply our legislative stethoscope to rural America before it stops and arrive at a prescription that will help the patient survive. Many have pronounced the patient dead, but as long as there is life there is hope. The diagnosis is apparent and the remedy I believe to be just as easy.

Many of the bills introduced have new initiatives and grant programs. Some would enhance already existing programs. Whatever legislation the Congress adopts should be a policy that can be controlled and directed by the Congress through the Department of Agriculture. Block grants directly to State governments will ultimately lead to a failure in accomplishing the goals set by the Congress. That's not to say that some Federal-State initiatives might be in order. But, for the most part the authority to rebuild rural America is already held by the U.S. Department of Agriculture. The problem is not as much with the programs but the emphasis needed on rural development.

Urban cities and counties are directly related to the functions of the Department of Housing and Urban Development. There is no agency within the Federal Government devoted to rural development, although the Secretary of Agriculture, under the Rural Development Act of 1972, and the following was specifically charged with rural development:

> The Secretary (of Agriculture) shall advise the President * * * and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation * * * (He) is authorized and directed to provide leadership and coordination * * * and shall assume responsibility for coordinating nation-wide rural development programs * * * in coordination with rural development programs of State and local governments * * * (He) is authorized to initiate or expand research and development efforts related to a solution of problems of rural water supply, rural sewage and solid waste management, rural housing, and rural industrialization * * *

The Rural Development Policy Act of 1980 (Public Law 96-355, September 24, 1980) called on the Secretary to develop a rural development strategy. As a result of that law, the USDA issued on February 4, 1983—2 years and 9 months later—"Better Country—A Strategy for Rural Development in the 1980's." This 29-page booklet, including the title page, recognized some of the problems inherent to rural America. But there, the agreement ends.

> Many rural areas continue to suffer poverty, isolation, and decay of facilities. On the average, rural America still lags behind urban America in measurable indicators of income, education, and housing conditions, though some argue that lower costs of living may offset part of the rural disadvantage.

Better Country reads in the Executive Summary.

To that list can be added the lack of comparable medical care, library facilities, transportation, cultural amenities, recreational opportunities, and others. Rural life cannot be compared with urban life; the very differences are reasons that the two exist. To paint life in each area with the same brush would destroy the differences and the appeal of one over the other.

Some have been advised to "vote with their feet." This is not a viable solution and such an attitude and actions in the past have helped to generate the massive problems that many urban areas now undergo. Changing times, technology, and society have caused millions of people to vote with their feet and become transplanted in the inner cities, creating these huge problems.

For rural America the Trail of Tears did not end with the trip made by Native Americans in the late 1830's. Since the Great Depression, never has the exodus to finds jobs in large population centers been greater. The highways to those centers from rural areas, are the people of rural America's Trail of Tears.

To rebuild war torn, economically depressed Europe after World II, almost 10 percent of the United States budget was spent on rebuilding many countries. Yet, we are not willing to rebuild our own country including rural America. We are not even spending that much today in urban and rural areas to better infrastructure. As a member of the House Appropriation Subcommittee for Rural Development and Agriculture, it becomes very tough to restore needed rural development program funds when the administration has sent up budgets that further gut rural America as they have with other infrastructure programs. What this country needs is a "Marshall Plan for Rural Development in America". But, our first priority is to put emphasis on the subject in the USDA.

The point is that no agency of the Federal Government, even when charged with the duty, enthusiastically engages in the development of rural America.

The Farmer's Home Administration [FmHA] has the most programs for rural growth and maintenance, but those programs are frequently subordinated to farmer programs which deal exclusively with agricultural production or marketing.

The Department of Housing and Urban Development [HUD] has a budget of billions targeted to urban development and Federal Housing Authority [FHA] housing programs but are concerned basically with geographic areas with a population in excess of 50,000 with concentration becoming more acute and attentive the higher the population figures.

The Department of Commerce is currently in control of the Economic Development Administration [EDA]. Over the past few years, proposals have emerged to kill EDA or to transfer EDA to HUD where, more than likely, it will never be seen again by rural Americans. EDA was initially passed by the Congress to address the problems of rural areas.

Of the governmental programs, the FmHA has the best delivery system. Another program, also under the USDA Soil Conservation Service is the Resource Conservation and Development [RC&D] Program. This involves local people working together with a technician of the SCS for a better life. One of the failings of RC&D has been that historically the focus has been on natural resources and over half of the appropriated funding has been utilized to offset administrative costs associated with the program. RC&D's has a large and involved constituency of volunteers who are trying to do their best to better their communties on a very limited budget.

In spite of strong vocal support of the needs of rural America, administration, including the current one, have not been that supportive of the RC&D Program.

In sum, responsibility and authority for the development of rural America is fragmented, has no concentrated constituency, and is treated as an ugly step child by agencies which do possess the unwanted authority.

The solution is to restructure the majority of programs dealing with rural development under a single agency with a direct line of responsibility and responsiveness to the people of rural America.

Finally, I would like to point out to my colleagues that it has been 15-years since the Congress has worked on a comprehensive rural development bill. It is time that we take action.

My bill, H.R. 3481, is basically simple:

First, the current Farmer's Home Administration will become the Farm Administration and will continue to have jurisdiction over the present agriculture loan programs and administer the single-family rural housing program.

Second, the bill proposes to take the ingredients for rural development from the existing Farmer's Home Administration, except single-family housing, associated measures from the Soil Conservation Service, technical assistance and planning functions of assorted areas within the USDA, formerly the Office of Rural Development Policy, and combine them to form the Rural Development Administration. FmHA with admitted failings, still has the best delivery system available to rural America. My bill would keep the delivery system and strengthen the effectiveness and efficiency of the system.

On the flip side of the coin, my farmers and ranchers tell me that when they have business at the FmHA office, frequently they find the personnel are tied up with other projects and cannot tend to farming matters. My proposal calls for redirecting the necessary personnel which are not implementing programs to the respective new agency with direct responsibility for those specific programs. Much of the rural development functions around the country have been shifted to a district level by administrative actions. However, an equal transfer of personnel should also be in place.

Programs transferred to the new RDA will include business and industry loans, community facility loans, water and waste disposal loans and grants, rural development and planning grants and loans and all other programs, except single-family housing, dealing with rural development but not pertaining to agricultural production or farms.

Third, current FmHA district offices and personnel, which usually serve from six to nine counties in each State, would be transferred to the new RDA. The RDA district offices will work directly with the people of the Resource Conservation and Development Councils and the people of rural America.

Fourth, RC&D councils will continue as volunteer groups working with local units of government and the people for the betterment of rural life. RDA district offices will have the rural development technical specialists and, as is currently the case, Soil Conservation technicians who serve as RC&D coordinators to work directly with the cities, towns, villages, and the people of rural America.

Fifth, transferred to the Soil Conservation Service would be two categories of loans currently under FmHA: resource conservation and development loans, and watershed protection and flood prevention loans. These are currently completed with technical assistance and planning by SCS and administered by FmHA.

Sixth, this reorganization renames the Department of Agriculture, the Department of Agriculture and Rural Development [DARD]. City residents have a special Cabinet level of concern in the Department of Housing and Urban Development [HUD]; surely the other one-third of America—80 million people—is entitled to be elevated and recognized at the Cabinet level with a department devoted to agriculture and rural development [DARD].

The bill also proposes the transfer of such personnel as necessary on the State and national level, plus FmHA district personnel, who are now providing these services to accomplish a smooth transition and provide an orderly continuation of services by the revised Farm Administration and the new Rural Development Administration. It is proposed that the specialists now working with specific programs continue in that specialty at their new assignment for a more orderly transition. The proposal leaves intact the Rural Electrification Administration and the Federal Crop Insurance Corporation. It is my assessment that this reorganization can be accomplished without adding a single new employee. People to whom I have talked within the Department of Agriculture assure me that SCS-RC&D coordinators can assume double duty as soil and erosion technicians and rural development specialists to provide rural development technical assistance needs.

Finally, the bill proposes to give RDA the basic authority to carry out rural development functions as envisioned in EDA, as a precautionary measure should any proposal to merge EDA with existing agencies materializes. This provision lifts basic authority from the original EDA act and proposes that the Secretary of Agriculture may make grants accordingly to the same entities, et cetera including multi-county organizations.

Adoption of this bill should provide better direction in establishing and carrying out a national rural development policy. It will then rest with the Congress and the administration to see that the programs for development of rural America are adequately funded. As Members of this great body, I hope you will support me in these endeavors.

The text of H.R. 3481 follows:

H.R. 3481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Development Reorganization Act of 1987".

TITLE I—REORGANIZATION WITHIN DEPARTMENT OF AGRICULTURE

RENAMING OF DEPARTMENT OF AGRICULTURE

SEC. 101. (a) Title XII of the Revised Statutes (7 U.S.C. 2201 et seq.) is amended by striking out "Department of Agriculture" each place it appears and inserting in lieu thereof "Department of Agriculture and Rural Development".

(b) Section 5312 of title 5, United States Code is amended by striking out the item relating to the Secretary of Agriculture and inserting in lieu thereof the following new item:

"Secretary of Agriculture and Rural Development.".

ESTABLISHMENT OF RURAL DEVELOPMENT ADMINISTRATION

SEC. 102. (a) There is hereby established, in the Department of Agriculture and Rural Development, the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary of Agriculture and Rural Development, by and with the advice and consent of the Senate.

(b) Section 5316 of title 5, United States Code, is amended by striking out the item relating to the Administrator of the Farmers Home Administration and inserting in lieu thereof the following new items:

"Administrator, Farm Administration.

"Administrator, Rural Development Administration, Department of Agriculture and Rural Development.".

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 103. (a) Section 309(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(e)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration and Rural Development Administration".

(b) Section 310 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(g) In carrying out this section, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas which the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for and development potential of projects which increase employment and improve economic growth in such areas.

"(h) The Secretary may make grants to defray not to exceed 75 percent of the administrative costs incurred by public and private organizations to carry out projects for which grants or loans are made under subsection (c) or (d). For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

"(i) Subject to the dollar limitations specified in this section, the amount of any grant or loan made under subsection (c) or (d) by the Secretary for a project to be carried out by a multicounty public organization may be 10 percent larger than the amount of the grant or loan which would have been made to an applicant which is not a multicounty organization to carry out such project.".

(c) The first sentence of section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended—

(1) by striking out "For the purposes of this title and" and inserting in lieu thereof "In accordance with section 349 of this subtitle, for purposes of this title, and",

(2) by striking out "Farmers Home Administration" each place it appears and inserting in lieu thereof "Farm Administration", and

(3) by inserting before the period "or to the Rural Development Administration or Soil Conservation Service".

(d) Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration, Rural Development Administration, and Soil Conservation Service".

(e) Section 331(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(d)) is amended—

(1) by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration",

(2) by striking out "under any of its programs" and inserting in lieu thereof ", the Rural Development Administration, or the Soil Conservation Service under any of their respective programs,", and

(3) by striking out "Administrator:" and inserting in lieu thereof "the head of the agency involved:".

(f) Section 331(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(h)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "by the Rural Development Administration or Soil Conservation Service under this title or the Farm Administration".

(g) Section 331(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(i)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(h) Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(i) Section 333A(e) of the Consolidated Farm and Rural Development Act is amended by striking out "Farmers Home Administration" each place it appears and inserting in lieu thereof "Farm Administration".

(j) Subsections (b)(1) and (c)(1)(A) of section 333B of the Consolidated Farm and Rural Development Act are each amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(k) Section 335(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(a)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(l) Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended by inserting "the provisions of this title administered by the Rural Development Administration or Soil Conservation Service or" after "consistent with".

(m) Section 335(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(d)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(n) Section 335(e)(6)(B) of the Consolidated Farm and Rural Development Act is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(o) Section 338(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988(a)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration, the Rural Development Administration, or the Soil Conservation Service".

(p) The first sentence of section 347 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1995) is amended—

(1) by inserting "or any program administered under this title by the Rural Development Administration or Soil Conservation Service" before the period, and

(2) by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(q) Subsections (c)(3)(A)(i) and (e) of section 349 of the Consolidated Farm and Rural Development Act are each amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(r) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 353. (a) The Secretary shall carry out sections 303 (in the case of loans made for purposes specified in paragraphs (1) and (3) of subsection (a)) and 312(a) (in the case of loans made for purposes specified in paragraphs (1), (2), (3), (4), and (10)) through the Farm Administration.

"(b) The Secretary shall carry out sections 304 (in the case of loans made only for purposes of land and water development, use, and conservation), 314, and 310A through the Soil Conservation Service.

"(c) Except as provided in subsection (a) and subsection (b), the Secretary shall carry out the provisions of this Act (other than section 306(a)(15)) through the Rural Development Administration.".

AMENDMENT TO RURAL DEVELOPMENT ACT OF 1972

SEC. 104. The Rural Development Act of 1972 (7 U.S.C. 1006 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 608. RURAL DEVELOPMENT ADMINISTRATION.—Title V and title VI of this Act shall be carried out through the Rural Development Administration.".

EXPANSION OF RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

SEC. 105. Section 1536 of the Agriculture and Food Act of 1981 (16 U.S.C. 3459) is amended by striking out "two hundred and twenty-five" and inserting in lieu thereof "four hundred and fifty".

CONFORMING AMENDMENTS

SEC. 106. (a)(1) Section 657 of title 18, United States Code, is amended by inserting ", Farm Administration, or the Rural Development Administration" after "Farmers' Home Administration".

(2) Section 658 of title 18, United States Code, is amended by inserting ", Farm Administration, or the Rural Development Administration" after "Farmers' Home Administration".

(3) Section 1006 of title 18, United States Code, is amended by inserting ", Farm Administration, or the Rural Development Administration" after "Farmers' Home Administration".

(4) Section 1014 of title 18, United States Code, is amended by inserting ", Farm Administration, or the Rural Development Administration" after "Farmers' Home Administration".

(b) Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(c) Section 41(a) of the Bankhead-Jones Farm Tenant Act (60 Stat. 1064; Public Law 731) is amended by striking out "Administrator of the Farmers' Home Administration" and inserting in lieu thereof "Administrator of the Farm Administration".

(d) Section 7(a) of the Federal Financing Bank Act of 1973 (12 U.S.C. 2286(a)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(e)(1) Section 601(g) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8401(g)) is amended by striking out

"Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(2) Section 746(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8456(a)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration".

(f)(1) Section 623(c)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(c)(2)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration and Rural Development Administration".

(2) Section 628 of the Community Economic Development Act of 1981 (42 U.S.C. 9817) is amended—

(1) by amending the heading to read "DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT; RURAL DEVELOPMENT ADMINISTRATION PROGRAMS", and

(2) by striking out "Farmers Home Administration" and inserting in lieu thereof "Rural Development Administration".

(g) Section 105(d) of the National Consumer Cooperative Bank Act (12 U.S.C. 3015(d)) is amended by striking out "or Farmers Home Administration" and inserting in lieu thereof ", Farm Administration, or Rural Development Administration".

TITLE II—ADMINISTRATION OF FEDERAL RURAL HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

GENERAL TRANSFERS

SEC. 201. (a) There hereby are transferred to the Administrator of the Rural Development Administration all functions of the Administrator of the Farmers Home Administration, and of the Farmers Home Administration, under—

(1) title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), except with respect to (A) loans made under section 502 of such Act; (B) loans insured under section 517(a) of such Act; and (C) assistance provided under section 521(a)(1) of such Act with respect to such loans, and

(2) section 302(c)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)(2)).

(b) There hereby are transferred to the Administrator of the Farm Administration all functions of the Administrator of the Farmers Home Administration, and of the Farmers Home Administration, with respect to (1) loans made under section 502 of the Housing Act of 1949 (42 U.S.C. 1472); (2) loans insured under section 517(a) of such Act; and (3) assistance provided under section 521(a)(1) of such Act with respect to such loans.

CONFORMING AMENDMENTS TO TITLE V OF HOUSING ACT OF 1949

SEC. 202. (a)(1) Section 501(a) of the Housing Act of 1949 (42 U.S.C. 1471(a)) is amended—

(A) by striking out "Secretary of Agriculture" and inserting in lieu thereof "Secretary of Agriculture and Rural Development", and

(B) by striking out ", through the Farmers Home Administration,".

(2) Section 501 of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall provide the financial assistance authorized in this title through—

"(1) the Farm Administration, with respect to (A) loans made under section 502; (B) loans insured under section 517(a); and (C) assistance provided under section 521(a)(1) with respect to such loans, and

"(2) the Rural Development Administration, with respect to all other financial assistance under this title.".

(b)(1) Section 506(b) of the Housing Act of 1949 (42 U.S.C. 1476(b)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Rural Development Administration".

(2) Section 506(d) of the Housing Act of 1949 (42 U.S.C. 1476(d)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Rural Development Administration".

(3) Section 506(e) of the Housing Act of 1949 (42 U.S.C. 1476(e)) is amended by striking out "of Agriculture".

(c) Section 508(a) of the Housing Act of 1949 (42 U.S.C. 1478(a)) is amended by inserting "and Rural Development" after "Agriculture".

(d) Section 510(e) of the Housing Act of 1949 (42 U.S.C. 1480(e)) is amended by striking out "Farmers Home Administration's" and inserting in lieu thereof "Farm Administration's".

(e) Section 514(b)(3) of the Housing Act of 1949 (42 U.S.C. 1484(b)(3)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Rural Development Administration".

(f) Section 517(i) of the Housing Act of 1949 (42 U.S.C. 1487(i)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Rural Development Administration".

(g) Section 523(b) of the Housing Act of 1949 (42 U.S.C. 1490c(b)) is amended by striking out "of Agriculture (in this section referred to as the 'Secretary')".

(h) Section 533(c)(1) of the Housing Act of 1949 (42 U.S.C. 1490m(c)(1)) is amended by striking out "Farmers Home Administration" and inserting in lieu thereof "Rural Development Administration".

(i) Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended by inserting "and Rural Development" after "Agriculture".

ADDITIONAL CONFORMING AMENDMENTS

SEC. 203. (a) Section 302(c)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)(2)) is amended by striking out "Farmers Home Administration of the Department of Agriculture" and inserting in lieu thereof "Rural Development Administration of the Department of Agriculture and Rural Development".

(b) Section 7(a) of the Federal Financing Bank Act of 1973 (12 U.S.C. 2286(a)), as amended in section 106(d), is amended by inserting before the period at the end thereof the following: ", or by the Rural Development Administration under title V of the Housing Act of 1949".

(c)(1) Section 512(b) of the Housing and Community Development Act of 1977 (42 U.S.C. 1490h note) is amended—

(A) by inserting "and Rural Development" after "Agriculture"; and

(B) by striking out "Farmers Home Administration" and inserting in lieu thereof "Farm Administration or Rural Development Administration".

(2) The section heading of section 512 of the Housing and Community Development Act of 1977 (42 U.S.C. 1490h note) is amended to read as follows: "TAXATION OF PROPERTY HELD BY DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT".

(d) Section 213(d)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(2)) is amended by inserting "and Rural Development" after "Agriculture".

(e) Section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) is amended—

(1) in paragraph (2), by inserting "and Rural Development" after "Agriculture"; and

(2) in paragraph (4), by inserting "and Rural Development" after "Agriculture".

TITLE III—ADMINISTRATIVE PROVISIONS

REFERENCES

SEC. 301. (a) Any reference in any law, regulation, or order in effect immediately before the effective date of this Act to the Department of Agriculture shall be deemed to be a reference to the Department of Agriculture and Rural Development.

(b) Any reference in any law, regulation, or order in effect immediately before the effective date of this Act to the Secretary of Agriculture, or any other officer or employee of the Department of Agriculture, shall be deemed to be a reference to the Secretary of Agriculture and Rural Development, or an officer or employee of the Department of Agriculture and Rural Development, as the case may be.

(c) Any reference in any law, regulation, or order in effect immediately before the effective date cf this Act to the Farmers Home Administration or Farmers' Home Administration or to the Administrator of the Farmers Home Administration or of the Farmer's Home Administration relating to any function, power, or duty which is, on or after such effective date, a function, power, or duty of the Rural Development Administration or the Administrator of the Rural Development Administration, shall be deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, as the case may be.

(d) Any reference in any law, regulation, or order in effect immediately before the effective date of this Act to the Farmers Home Administration or Farmers' Home Administration or to the Administrator of the Farmers Home Administration or of the Farmer's Home Administration relating to any function, power, or duty which is, on or after such effective date, a function, power, or duty of the Soil Conservation Service or the head of the Soil Conservation Service shall be deemed to be a reference to the Soil Conservation Service or to the head of the Soil Conservation Service, as the case may be.

(e) Except as provided in subsection (c) and subsection (d), any reference in any law, regulation, or order in effect immediately before the effective date of this Act to the Farmers Home Administration or Farmers' Home Administration or to the Administrator of the Farmers Home Administration or of the Farmer's Home Administration relating to any function, power, or duty which is, on or after such effective date, a function, power, or duty of the Farm Administration or the Administrator of the Farm Administration shall be deemed to be a reference to the Farm Administration or the Administrator of the Farm Administration, as the case may be.

INCIDENTAL TRANSFERS

SEC. 302. (a) The Secretary of Agriculture and Rural Development shall make such determinations, and shall transfer such personnel from the Office of Rural Development Policy and the Farm Administration, as may be necessary or appropriate with regard to the functions transferred by this Act to the Rural Development Administration and the Soil Conservation Service. The Secretary shall also make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the functions transferred by this Act, as the Secretary may deem necessary to accomplish the purposes of this Act.

(b) The Administrator of the Farm Administration and the Secretary of Agriculture and Rural Development shall take whatever steps are necessary to assure the effective and efficient transfer of authority as provided for in this Act and the amendments made by this Act.

ABATEMENT; SUCCESSION IN INTEREST

SEC. 303. (a)(1) No suit, action, or other proceeding commenced before the effective date of this Act by or against any officer of the Farmers Home Administration in the official capacity of such officer shall abate by reason of this Act or any amendment made by this Act.

(2) No cause of action arising before the effective date of this Act by or against the Farmers Home Administration shall abate by reason of this Act or any amendment made by this Act.

(b) If, before the effective date of this Act, the Farmers Home Administration, or any officer of the Farmers Home Administration in the official capacity of such officer, is a party to a suit, action, or other proceeding and if by reason of this Act or any amendment made by this Act the function involved, or such officer named, in such suit, action, or proceeding is transferred to the Farm Administration, the Rural Development Administration, or the Soil Conservation Service, then such suit shall be continued with the Secretary of Agriculture and Rural Development or other appropriate officer of the Department substituted or added as a party.

(c) The rights, interests, obligations, and duties of the Farmers Home Administration arising before the effective date of this Act out of any—

(1) loan made, insured, or guaranteed, or

(2) grant or contract made,

by the Farmers Home Administration in the exercise of its functions are hereby vested in the Farm Administration (except with respect to any function to be exercised after the effective date of this Act by the Rural Development Administration or the Soil Conservation Service), in the Rural Development Administration (with respect to any function to be exercised after the effective date of this Act by the Rural Development Administration), and in the Soil Conservation Service (with respect to any function to be exercised after the effective date of this Act by the Soil Conservation Service).

EFFECTIVE DATE

SEC. 304. This Act and the amendments made by this Act shall take effect on October 1, 1987.

TRIBUTE TO SELMA AND WILLIAM MORETZSKY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. GALLO. Mr. Speaker, today I rise to ask my colleagues to join me in extending congratulations to Selma and William Moretzsky of Lake Hiawatha, NJ. The Moretzskys will celebrate their 60th wedding anniversary on November 5, 1987.

Selma and William Moretzsky have been residents of Lake Hiawatha for over half of their married lives—first as summer residents in 1946, and later as year-round residents since 1951.

Throughout the years their family has grown around them. Two of their three children live in Parsippany and Lincoln Park, and five of their seven grandchildren have remained in New Jersey. Last year a fourth generation, a great granddaughter, joined the New Jersey branch of the family.

It is evident to me that the Moretzskys and their extended family provide a true illustration of the American ideal, and I encourage my colleagues to join me in wishing Selma and William Moretzsky the best on this very special day in their lives.

HOSPITAL ADMINISTRATORS DEDICATED AND EFFICIENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. DORNAN of California. Mr. Speaker, slander and distortion have become hallmarks of the Democratic left in Congress. The sickening display at the Bork confirmation hearings has left no doubt that on the left fairness and civility are dead, and that the end now justifies any means.

It is not only in the Senate that distortion is alive and well, right here in the House we have had a member of the California delegation disparage California hospital administrators, people I have always found to be extremely dedicated and efficient. I would now like to submit for the RECORD a letter I received from the Buena Park Community Hospital regarding the unfair, unwarranted, and disgraceful comments made about California hospital administrators.

BUENA PARK COMMUNITY HOSPITAL,
Buena Park, CA, September 21, 1987.

Representative ROBERT DORNAN,
Garden Grove, CA.

DEAR REPRESENTATIVE DORNAN: I am writing you to bring you up-to-date on comments made by one of your colleagues in Congress. In a recent press conference following the Ways and Means Committee, Representative Forney "Pete" Stark made the following disparaging comments about California hospital administrators: "lousy and inefficient and wanting to make others pay for their inefficiency" and "culprits of greed who know no bounds".

I find these comments appalling to say the least. It is a little disheartening when a person of Mr. Stark's position and responsibility has to stoop to these depths to make his point.

The hospital administrators I know are extremely competent, caring individuals. We work in an industry that is more regulated than almost any other and changing at a pace that would stifle the most creative of minds.

I believe Mr. Stark was way out of line in his criticism of health care administration. I hope you join with me in this concern and do whatever is in your power to straighten Mr. Stark out.

Thank you.

Sincerely,

PAUL R. SCHMIDT,
Administrator.

PROTECTING ENDANGERED SPECIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 21, 1987 into the CONGRESSIONAL RECORD:

PROTECTING ENDANGERED SPECIES

Children have spoken to me recently about the need to protect whales, bald eagles, and pandas. I think they may be on to something important. My sense is that all of us ought to be uneasy about the accelerating destruction of the earth's animals, plants, and even microbes. The resulting shrinkage of our biological richness and diversity is becoming a crucial environmental concern. Nearly 15 years after Congress enacted one of the world's toughest plant and animal preservation laws, it appears that the Endangered Species Act is unable alone to meet the challenge of protecting the thousands of threatened species.

Most of us need to be reminded of how plants and animals benefit humans. We depend on the availability of a diverse selection of animal, plant, and microbial species for new drugs, medical research, increased crop productivity, new food sources, and industrial products. One scientist has noted that about 15 species of cultivated plants stand between humans and starvation. Thousands of the earth's plants have medicinal value. Even animals like the horseshoe crab and the armadillo are important in medical research. We are far from knowing the potential benefit for people of our plant and animal resources, even as many of them are disappearing. Most importantly, diversity is the key to the continuation of life on earth. Variety within species and their environments is crucial to improving the chance of having individuals that can survive and adapt to environmental changes.

Extinction has always been a part of earth's history, with 95% of the species that have ever existed now extinct. But the rate of extinction and loss of diversity is now increasing rapidly, with species disappearing at a rate not seen since the loss of the dinosaurs 65 million years ago. Animals are even disappearing from our national parks. Parks as vast as Yosemite and Mount Rainier have lost more than one-fourth of the species originally found there. Despite the enormity of the problems facing federal and state protection agencies, the extinction rate in tropical areas far exceeds that of the temperate North America. An estimated 17,500 plant and animal species are wiped out annually in the tropics. Both at home and abroad, extinction is almost always related to intrusions by man. The primary cause is the loss of living area as wild lands are converted for farming, timber harvesting, and economic development. Habitat and species loss in the tropics is greatest in rain forests, while at home the major losses have been in wetlands. The federal government spent $29 million in 1986 to protect endangered species in the US alone. With limited resources, millions of species, rapid extinction, and the global nature of the problem, we may need to think further about the way we approach plant and animal protection.

Under the Endangered Species Act, 455 US and 490 non-US plant and animal species are currently listed as endangered or threatened with extinction. Under the law, a recovery plan for each listed species must be drawn up, specifying actions needed to bring about its recovery. There is currently a backlog of 950 species that are set for listing by the federal government as either endangered or threatened. Another 3000 species have been identified for possible listing and await further study. Meanwhile, 300 kinds of plants and animals, including certain butterflies, chipmunks, and sparrows, have become extinct in the US while awaiting protection under federal programs. New listings under the Reagan Administration have ranged between 4 and 60 species per year. At the current rate, it will take more than 70 years to review the 3900 species on the candidate list. And although recovery plans have been approved for 55% of the listed species, a smaller percentage of plans is being implemented. Sheer cost, opposition from the public, and objections by some industry groups have halted several recovery plans. It is understandable that we wonder about the worth of a snail darter compared to a dam or of a butterfly compared to a housing development. Clearly economic considerations of a project have to be weighed, but as the gray wolf, grizzly bear, and sea otter are threatened, most of us also realize the need for protection.

To improve our efforts, we need to move away from actions designed to protect individual species of animals and plants toward preserving diverse groups in a variety of habitats. This approach protects species and their habitats before they reach the critical stage where they require individual attention. Concentrating efforts on the habitat can keep healthy populations from declining, maintain an abundance of the varieties of life, and clarify the limits on altering natural habitats for human use.

Despite numerous federal laws which protect individual species and habitat types, we do not have a coordinated program which addresses the decline in biological diversity. Congress may consider comprehensive legislation to help maintain such diversity, by emphasizing a national conservation strategy, expanding scientific research, improving data collection, and increasing public education and awareness. The federal government could provide essential leadership in focusing existing federal, state, and private programs on the importance of preserving diversity.

The question of how best to preserve diversity abroad also needs to be addressed. Under pressure from Congress, the World Bank has adopted policies to elevate environmental protection within Bank priorities, financing reforestation and more environmentally-sound development projects. Congress is continuing oversight of multilateral development banks' environmental practices, and has earmarked Agency for International Development (AID) funds for diversity preservation. The US should provide greater leadership in existing international conservation efforts, and AID must show greater commitment to biological diversity.

What worries me about the disappearance of these plants and animals is the finality. The loss of plant and animal life by the destruction of natural habitats, much accelerated in recent years, is irreversible. I am inclined to think that our descendants will not look with favor on our acts of destruction.

PROPOSED MANDATED ADVANCE EMPLOYEE NOTIFICATION OF A PLANT CLOSING OR MASS LAYOFF

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. SCHULZE. Mr. Speaker, I would like to submit for the CONGRESSIONAL RECORD an editorial written by a constituent of mine, Mr. Barry H. LeCerf. The editorial directly reflects his feelings on the controversial plant closing provision of the trade bill currently in conference.

A MATTER FOR THE ENTREPRENEUR

No power on earth can provide more jobs for displaced workers than demand in the marketplace and the willingness and eagerness of risk takers who harbor an idea or vision of the future.

After weeks of back and forth across the aisle, the U.S. Senate recently passed by a 60–40 vote a provision within the trade bill that would require a company to notify its employees in advance of a plant closing or mass layoff.

As a part of the current bill, the mandatory notice provision is part of a $980 million-a-year worker assistance program authored by Senator Howard M. Metzenbaum, (D., Ohio).

The bill is in three parts:

Part A concerns services to dislocated workers and provides for comprehehensive worker adjustment programs to be developed and administered by states whose plans for delivery of services have been approved by the Secretary of Labor.

Part B requires employers to give advance notification of plant closings and mass layoffs to employees, state governments and local governments in order to permit the effective deployment of dislocation services before dislocation actually occurs.

Under part B, companies would be required to give 60 days notice to plants being closed that employ 100 or more people.

Part C creates five demonstration programs and provides for discretionary expenditures on other programs by the Secretary of Labor.

While we strongly support parts A and C of the provision we do not believe that the U.S. Congress should legislate the how, when and wherefores of plant closings.

As Senator Orrin Hatch (R-UT) rightly points out, in opposition to Part B, "Plant closing legislation would handcuff employers' efforts to maintain profitability and, ultimately would result in additional business failures with a corresponding loss of jobs."

And as is noted by Senators Dan Quayle (D-IN), Strom Thurmond (R-SC) and Thad Cochran (R-MS) in their dissenting opinion, "high employment and a stagnant economy in Europe should tell us something about why we should not emulate their laws. In 1985, Europe had two-thirds of the industrial world's unemployment. More than 19 million men and women were out of work. Youth employment was modestly estimated at over 25%. There has been no net job creation in Europe since 1975.

"The reasons for Europe's plight are many," they note, "but one is that there are powerful barriers to reducing or even moving European workforce. For example, legally mandated "consultations" to lay off workers can take up to a year. In Germany, a firm must give up to six months notice that it intends to declare bankruptcy. Costly court battles are not uncommon. Do we really want to follow down that path?"

While this provision is a noble effort to address the trauma experienced by the dislocated worker, Part B does not in fact, enhance a worker's chances of reemployment—only increased job skills, improved productivity and product quality can ultimately make a difference here. Part B does not really address the creation of more jobs—and it does not guarantee any opportunities for the dislocated worker.

What it does do is hamstring the American business community's ability to conduct its business. And in the words of Senator Hatch, "its extensive coverage provides a regulating entree into routine business decisions."

The responsibility does not rest with government to legislate these matters—the responsibility rests with the managers who make American business go. American businessmen have an obligation to make the business survive and prosper. Businesses are more than dollar and cents operations, they are part of the lifeblood of big city living and the heart of small town America. For this reason, every possible avenue, every possible approach must be exercised before the doors are closed to a factory.

No one agonizes over dismissals, layoffs or plant closings more than an executive or manager. Layoffs mean only one thing. The business is failing. And once it does, it is a burden that the businessman lives with for the rest of his life. It cannot be forgotten.

No power on earth can provide more jobs for displaced workers than demand in the marketplace and the willingness and eagerness of risk takers who harbor an idea or vision for the future. Part B could make these same risk takers stop short of implementing a plan which could spawn hundreds of opportunities in the marketplace.

Beyond all of this, the provision does not acknowledge the perceptions of people in the workplace. Generally, American workers know when the end is coming—many times well in advance of any formal notification date. They see it is the eyes and hear it in the voices of those who surround them in the workplace. They recognize it when the phones stop ringing, when orders slow to a trickle and when the lights go out at 5 o'clock.

The U.S. Congress must not legislate mandatory plant closing notification. Let American business do it without interference from government.

We do believe that American business has an obligation to its workforce to make an impending closing known as soon as possible, but it must not be legislated.

The U.S. Congress has the opportunity to write some investment incentives into the trade bill which would allow business to become more competitive in the domestic and foreign marketplace. We believe that this approach would be a constructive first step and one that must not be ignored.

SENATOR DODD'S ANALYSIS OF ARIAS PEACE PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. MILLER of California. Mr. Speaker, last week, Senator CHRISTOPHER DODD and I returned from a visit to four of the Central American nations which are signatories to the regional peace plan. We had an opportunity to meet with many of the leaders of the region, including President Arias of Costa Rica. We also were able to meet with spokespeople for the major dissenting groups within El Salvador and Nicaragua.

This was not my first visit to this troubled region, but it was, by far, my most optimistic visit because we found an overwhelming sense of resolve on the part of Central Americans that their time had finally come to resolve the regional instability themselves.

That optimism is tempered with a realization that there are many obstacles in the way of a lasting peace. No one recognizes that fact more so than the Central American leaders themselves. But there is an overwhelming consensus that the process must be given time adequate time to work, and must not be held to unrealistic standards or externally imposed deadlines.

Senator DODD, who chairs the Senate Observer Group and also the Subcommittee on Western Hemisphere and Peace Corps, has written a thoughtful article on the peace process which deserves the attention of every Member of the Congress.

[From the New York Times, Oct. 19, 1987]

GIVE THE ARIAS PEACE PLAN A CHANCE

(By Christopher J. Dodd)

WASHINGTON.—"I know of no safe depository of the ultimate powers of the society but the people themselves." Thomas Jefferson penned those words in September 1820. President Oscar Arias Sánchez of Costa Rica could have written them yesterday.

The awarding of the Nobel Peace Prize to Mr. Arias for his Central American peace plan was as timely as it was deserved. He is a man of principle dedicated to the cause of democracy.

In a very real sense, however, the prize pays tribute to all five Central American presidents who signed the accord. Mr. Arias evidently agrees, for he has indicated he will invite the presidents of El Salvador, Guatemala, Honduras and Nicaragua to the award ceremony in Oslo on Dec. 10.

The signing of the Arias plan in Guatemala City on Aug. 7 was a historic moment for all of us, but especially for the more than 25 million Central Americans. Work to fulfill the promise of that moment continues in each of the five countries.

Now, as never before, Mr. Arias and the other leaders, risking their countries' outside alliances and their personal reputations, are taking steps to negotiate with internal opposition forces and are ceasing hostilities along their national borders.

The progress of the plan remains halting and uncertain. The accord, after all, is little more than two months old; the grievances within and among these nations go back decades.

The reason five Presidents defied the odds—and Washington—and signed this agreement was simple: Peace is their only hope. Border wars and internal strife drain all chances of a better life in their countries; death squads and marauding guerrillas bind them to a destiny of despair.

Like us, Central Americans want to live a decent life. They want to work. They want to build. They want to care for their families. They want peace.

This is what brought the presidents to Guatemala City. To quote the accord, this is why they accepted "the historic challenge of forging a peaceful destiny for Central America." This is why they agreed to make "dialogue prevail over violence and reason over rancor." This is why they adopted a specific "procedure for establishing a firm and lasting peace."

This is why they set up their timetables of 90, 120 and 150 days. And this is why they required pledges concerning amnesty laws, cease-fire arrangements, democratization procedures, cessation of aid to paramilitary forces and the nonuse of national territory to attack other nations.

Peace in the region has never been closer. The peace process is making converts. Old enemies are laying down arms and talking.

For a quarter century, Guatemala has been embroiled in civil war; two week ago, Government and rebel representatives met in Madrid to seek common ground.

In El Salvador, antagonists in an eight-year-old insurgency are finally talking to each other. In Nicaragua, Miguel Cardinal Obando y Bravo, one of the Government's harshest critics, has been designated by the Sandinistas to preside over this nation's efforts to comply with the accord. Mr. Arias will be listened to more carefully than anyone else in Central America. But what he says about the prospects for peace will be determined by what his four colleagues do in coming weeks.

Making this peace plan work means that Presidents José Napoleón Duarte of El Salvador, Vinicio Cerezo of Guatemala, José Azcona Hoyo of Honduras and Daniel Ortega Saavedra of Nicaragua must take the long view. They must look beyond their next request for foreign aid and for arms, beyond the Administration's next proposal for aid to the contras and beyond the next delivery of Soviet arms.

If, as Mr. Duarte has said, the accord is as historically significant as the achievement of Central America's independence in 1821, then this opportunity must not be lost.

Its success will not depend on President Reagan, nor well-meaning Senators and Representatives, nor other Latin American nations, nor Cuba or Moscow—but on the Central Americans themselves.

If they do not succeed, then we will all be back to the same situation that has prevailed for years. External forces will again attempt to fashion their reality for them. That means continued emphasis on military factors and forces, including the risk of new life for the contra aid program.

Before the United States announces what it will do if the plan fails, let us express confidence in its prospects for success and have the patience to await the Central American presidents' decision.

In Chautauqua, N.Y., in 1936, President Franklin D. Roosevelt spoke at length about his Good Neighbor Policy. He observed, "Peace, like charity, begins at home." And so it does. In the case of Central America, it is time for our deeds to match our words.

DONALD C. TISCH TO RECEIVE OLIN E. TEAGUE AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. MONTGOMERY. Mr. Speaker, Mr. Donald C. Tisch, who is a Veterans' Administration vocational rehabilitation and counseling officer, has been awarded the ninth annual Olin E. Teague Award for his efforts on behalf of disabled veterans. He will receive the award today in a ceremony at the VA Central Office here in Washington.

Mr. Tisch, who is employed at VA's San Diego Regional Office, is being cited for establishing the first career development center in the country for disabled veterans, for developing a centralized employment referral system for Federal jobs and for his work with homeless veterans. Working with the California State Employment Service, he organized a team of employment counselors to assist disabled veterans. The center now serves more than 1,000 veterans a month and finds jobs for an average of 100 veterans a month.

Mr. Tisch worked with the California State Employment Service to establish a pilot program to centralize employment referrals to all Federal agencies in the San Diego area. The centralized referral pilot was made a permanent program by the California State Employment Service and was expanded statewide. Through the referral service, veterans are offered weekly workshops to assist them in preparing Federal job applications.

To assist homeless veterans, Tisch encourages the San Diego Vietnam Era Homeless Veterans Project to make referrals from the project to the VA career development center for employment or for counseling on Federal veterans benefits.

Mr. Tisch joined the VA as a counseling psychologist in 1970. He has a bachelor's degree from Omaha University and a master's degree from San Diego State University.

The Teague Award honors the late Congressman who served on the House Veterans' Affairs Committee for 31 years, 18 as its distinguished chairman. "Tiger" Teague set the standards by which we can best serve all veterans.

Mr. Tisch's performance day in and day out demonstrates the best in rehabilitated work. His belief is that a veteran is not rehabilitated until he or she is employed meaningfully and gainfully.

I know my colleagues will want to join me in congratulating Don Tisch for the excellence of his work and for the distinguished award he receives.

HISTORICAL PERSPECTIVE ALWAYS HELPS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. HYDE. Mr. Speaker, since the Iran Contra hearings are over, and we are struggling to write a final report, the subject of the law is ever present, and the condemnations of those alleged to have broken the law are still ringing in our ears.

However, a little historical perspective always helps, and John McClaughry has written a fine column in the Washington Times of March 12, 1987 which helps place these events in context. I commend this important column to my colleagues:

[From The Washington Times, Mar. 12, 1987]

THE CHESAPEAKE ENCOUNTER

(By John McClaughry)

June 22, in the year 1807, was a "day of infamy" for the young United States. On that day the British frigate Leopard, 50 guns, hove to alongside the U.S. frigate Chesapeake, in Atlantic waters off Norfolk, British captain S.P. Humphreys announced to American Commodore James Barron that he had reason to believe there were British navy deserters among the Chesapeake's crew, and demanded the right to board the American ship to retrieve them in the name of the king. Commodore Barron quite rightly refused to have his crew mustered by foreign officers, and claimed that he knew of no British deserters on board his ship.

Although American British relations were badly frayed, due to such matters as the British impressment of American citizens to serve in the king's navy, the United States was a declared neutral in the Napoleonic wars then rocking Europe. Thus Commodore Barron had little reason to expect hostile action. His expectations were rudely dashed when the Leopard suddenly proceeded to pour shot and shell into his unprepared ship, which was able to get off only one shot in reply. After 20 minutes of bombardment, the Chesapeake struck her colors. The British came aboard, mustered the crew, and took off four sailors, one of whom subsequently turned out to have been a British deserter who had enlisted on the Chesapeake under an assumed name. The Chesapeake, her masts and rigging in shambles and 21 of her crew dead or wounded, limped back to Norfolk in humiliation.

When news of this outrage spread throughout the United States, the cry for war was on all lips. "This country has never been in such a state of excitement since the battle of Lexington," President Thomas Jefferson noted.

With the prospect of war looming, the president took a number of actions to carry out his policy of "reparation for the past, security for the future." A declaration of war, though it would have been justified, was not among them, for the Republic was ill-prepared to enter a war against the world's greatest naval power.

Many of the steps taken were clearly within presidential prerogative and prior congressional authorization, but there was one very serious problem: Congress had declined to appropriate funds for the gunboats and munitions needed if America were to defend her rights on the high seas. And Congress had gone home, not to return for four long months.

So President Jefferson, the apostle of strict construction of the laws, deliberately increased the size of the Navy above the maximum authorized in law, and purchased materials for gunboats "in anticipation of congressional appropriation." In the Washington of today, of course, such actions would quickly lead to demands for the appointment of an "independent counsel" to ascertain what laws were violated and what charges should be brought against those responsible.

How, then, did President Jefferson defend these extra-legal acts?

"On great occasions" he subsequently wrote "every good officer must be ready to risk himself in going beyond the strict line of the law, when the public preservation requires it: his motives will be a justification. It is incumbent on those who accept of great charges, to risk themselves on great occasions, when the safety of the nation, or some of its very high interests are at stake . . . The time of discrimination between cases may be difficult; but the good officer is bound to draw it at his own peril, and throw himself on the justice of his country and the rectitude of his motives.

That is precisely what Mr. Jefferson did. When Congress returned—and the war threat had been averted by diplomatic means—Mr. Jefferson asked its retroactive blessing. "To have awaited a previous and special sanction by law would have lost occasions which might not be retrieved," he said in his ensuing annual message. "I trust that the legislature, feeling the same anxiety for the safety of our country, so materially advanced by this precaution, will approve when done, what they would have seen so important to be done if then assembled." And Congress agreed.

Now consider the matter of Lt. Col. Oliver Noth in the light of this historical experience. It is not at all clear that Col. North in fact broke any law in negotiating, with the president's approval a sale of arms to Iran, after which it is suspected that profits from the deal were transferred to aid the Contras. But assuming that some law was broken, can Mr. Jefferson's defense of his actions in the Cheapeake affair be applied to Col. North today?

There are, to be sure, significant differences. In 1807 the country was almost literally up in arms, Democrats and Federalist alike, over the Chesapeake insult. The partisan division over Contra aid is much sharper. But Congress did in fact approve appropriations to aid the Contras, not long after the Iranian arms sales. By channeling the profit on authorized arms sales to the Contras during the Boland Amendment interregnum (if that is what he did), did not Col. North draw the line between minor issues and issues of great national import and then act in his country's interest and in support of his president's declared policy?

Perhaps Col. North erred in drawing the line, but he knew full well that he drew it at his own peril, and he determined to risk his career, his reputation, and perhaps even his freedom, on the outcome. He must now "throw himself on the justice of his country and the recitude of his motives." Mr. Jefferson did so, and his actions were ratified by a grateful Congress. Col. North deserves no less.

IN MEMORY OF SAL MUDANO

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. SMITH of Florida. Mr. Speaker, I rise today to pay tribute to a great community leader, Mr. Sal Mudano who died of cancer on October 8, 1987. Mr. Mudano served as administrator of Memorial Hospital in Hollywood, FL, for over 22 years. This past June Mr. Mudano was named executive director of the South Broward Hospital District responsible for overseeing all health-care services provided by Memorial Hospital.

When Sal Mudano came to Memorial Hospital in 1960 as an assistant administrator, Memorial was a 100-bed community hospital. Today Memorial is a 737-bed facility and is one of the leading hospitals in south Florida. Mr. Mudano was a compassionate human being who always took into consideration the welfare of both the patients and employees. Throughout his life he was committed to improving the community in which he lived.

Through his planning and hard work, Sal Mudano led the hospital to the forefront of health care. Under his leadership, the hospital advanced in a number of areas including cardiac surgery, oncology, neurological and spinal cord surgery and pediatric care. As a tribute to his hard work, Memorial Hospital recently dedicated the S.A. Mudano Patient Care Tower, a new $29 million patient tower to provide the latest in equipment facilities and care.

Mr. Speaker, the city of Hollywood has lost a truly outstanding citizen whose accomplishments will not be forgotten. I extend my deepest condolences to the family of Sal Mudano.

ENVIRONMENTAL EQUITY ACT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. RAHALL. Mr. Speaker, today I am introducing legislation which seeks to prohibit the transfer of environmental degradation to foreign countries involved in the generation and transmission of electric power for sale in interstate commerce in the United States.

Over the last few years, regions of this country have become increasingly dependent upon electric power imported from Canada. For decades, the flow of electricity between the United States and Canada was fairly balanced. However, by 1984, utilities in this country imported 17 times as much electricity as they exported creating a $1 billion trade deficit in the trade.

There are several reasons for this dramatic increase in Canadian power imports to the United States. The most obvious is that in certain regions Canadian power may offer a less expensive alternative to domestic generation. In fact, utilities in the Northwest are delaying and outright canceling the construction of new generating capacity because of their contracts with Canada. While this is occurring in the United States, however, the Canadian Provencial government-owned electric utilities are constructing excess generating capacity solely for the purpose of exporting power to the United States.

"We are developing like a banana republic for electricty," Montreal economist Helene Lajambe was quoted as stating in a 1984 The New York Times article on Hydro-Quebec's massive hydroelectric project at James Bay. And it is from this provencial-owned utility project, purposely built to over-capacity, that the Canadians hope to capture an even greater share of the United States market. Using a market pitch that hydroelectric exports to the Northeastern United States do not contribute to acid rain, the Canadians have been extremely successful.

In fact, New York State now depends upon 17 percent of its electricity requirements from Canada and New England obtains approximately 7 percent. This tend of growing dependency on foreign generated power is expected to rapidly increase in the near future in New York, New England, New Jersey, and areas in the Midwest and West. "It reminds me of a decadent society that hired soldiers from other countries" commented a representative of the Atomic Industries Forum on the Northeast's eagerness to purchase this power in the 1984 Times article.

The Canadian support for acid rain controls in the United States and their campaign for additional electricity exports has been dubbed the Silent Alliance. While Canadian concern over the alleged threat acid rain poses to the environment may be genuine, the fact remains that it is a powerful sales tactic for increased power exports to the Northeast. Yet, hydroelectric power development does not come without environmental consequences. In the first of what I call the three ironies of the Canadian concern for the environment and their power sales tactics, consider the following:

> At least 9,000 caribou drowned during October 1984 in northestern Canada in flooded river crossings. Eskimo leaders blame Hydro-Quebec charging that the government owned utility had allowed too much water to spill over the dam that controls the river's flows. Later investigation by a Canadian government authority found that the drownings were due to a natural catastrophe. Native leaders disagreed stating it is no coincidence that Hydro-Quebec is owned by the provincial government which conducted the investigation. (Time, October 15, 1984, and related news articles.)
>
> Undeveloped rivers offer an energy generating capacity of 200 billion kilowatt hours per year, a power capacity equally 30,000 microwatts, close to the present energy requirements of the New York and New England power pools. The development of small rivers could add an additional 10,000 microwatts. (1986 Canadian sponsored advertising supplement to the Washington Post.

It would appear that development on this scale signals the demise of any remaining free-flowing rivers in the province.

In addition to hydropower, electricity exported to the United States is also generated from nuclear powerplants creating the second irony of Canadian power sale efforts. According to an April 1985 Scientific American insert:

> The opportunities offered by export of hydroelectric power to areas of the United States previously dependent on expensive and wasteful combustion of fossil fuels, or nuclear energy, has been an import part of the enonomic strategy of Quebec and its provincial publicly-owned utility, Hydro-Quebec.

Yet, the very same article states:

> The New Brunswick Electric Power Commission is selling more than one-third of the output from its 630 megawatt Point Lepreau nuclear reactor to Maine and Massachusetts.

The obvious question: Why is nuclear power generation in the United States wasteful while importing Canadian power generated from nuclear reactors is not?

Finally, an additional amount of Canadian power exported to the United States is generated by coal-fired powerplants. In the United States there are over 100 smokestack scrubber units in operation. In Canada there are none. This is the third, and perhaps the ultimate, irony making suspect the compatibility of Canadian plans to significantly increase electricity exports to the United States and their stated concerns over acid rain and the environment.

The cost in the United States of increased dependency on Canadian power are obvious: National security implications due to a greater dependency on foreign sources of energy and less employment as a result of delays and outright cancellation of the construction of new domestic powerplants and the subsequent loss of jobs in the fuel producing sectors of the economy.

The hidden costs are less obvious. Canadian power exported to the United States is generated from hydroelectric, nuclear and coal powerplants. On a comparative basis with this country, environmental safeguards on power generation are minimal. In effect, by increasing its dependency on imported Canadian power that is being generated solely for the United States market the Northeast and other regions are simply contributing to the environmental degradation in that country in the form of more dams constructed on free-flowing rivers, increased unregulated emissions from coal-fired powerplants and larger amounts of high-level nuclear waste.

The United States does not regulate electric power imports at the Federal level. In fact, the only constraint on Canadian power imports is how fast transmission lines can be constructed. In this regard, the United States requires that a party seeking to construct, operate, and maintain an electric transmission line crossing U.S. borders to export or import power to obtain a Presidential permit, which as currently formulated, is a perfunctory affair.

The legislation I am introducing today would require the Administrator of the Environmental Protection Agency to review all transfers of electric energy from foreign countries to the United States and determine whether the laws of the foreign country as applied to a given generating unit and transmission line provide the same degree of environmental protection as do U.S. law. If this is the case, the Administrator would issue a certificate of nondegradation. However, without such a certificate the power transaction would be prohibited.

Mr. Speaker, we have said in this country that we will pay the price for clean air and water and the restoration of our land in return for a stable supply of electric power. Taking advantage of cheap power generated in a country without similar safeguards is not only dishonest, but represents unfair competition to domestic industries. It is time that the Northeast and other regions which are becoming increasingly dependent upon Canadian power face the fact that there is no free ride in power development.

THE 1987 SENIOR CITIZEN AWARD PROGRAM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the achievements of some very special constituents of mine.

Senior citizens often go unrecognized for their many years of dedicated service and contributions made on behalf of their communities. They are the pioneers of this land and the architects of the Nation's social, moral, and technological infrastructure. The senior citizen community has laid the foundation upon which we build our future and for this reason I initiated the Fifth Congressional District Senior Citizen Award Program.

In its second year, this program has attracted many distinguished participants from throughout the Fifth District. On October 24, I will sponsor an awards breakfast to honor this year's 12 outstanding senior citizens. They were recognized for: First, improving the quality of life in their respective communities; second, going beyond normal responsibilities to help their fellow man; third, dedicating themselves to achieving success in all endeavors; and fourth, inspiring others by example to strive for success. Each recipient will receive a congressional award plaque during the breakfast.

The following senior citizens were selected as the 1987 Senior Citizens Award Winners: Joseph J. Buchta, Over the Hill Club; Cornelius (Connie) Byrne, St. Symphorosa Super Club; Edward T. Gorecki, St. Joseph's Senior Drop-In Center; Marge Hill, Clearing community leader; Rose Ann Hitney, Garfield Ridge Civic Senior Citizens Club; Vlasta Jaros, Countryside Senior Club; Father Leo J. Kinsella, pastor emeritus, Our Lady of the Snows; Albert J. Krasovec, St. Jane de Chantal Senior Club; Evelyn Rysz, Berwyn community leader; Edna Schoenbeck, St. Maurice senior group; Rev. Msgr. Wenseclaus Stanek, pastor emeritus, St. John Nepomucene parish; Richard W. Weeks, Southwest Suburban Council on Aging.

JEFFERSON PARISH SCHOOL BOARD PROCLAIMS SUBSTANCE ABUSE PREVENTION IN EDUCATION WEEK

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. TAUZIN. Mr. Speaker, to heighten the awareness of the problems of substance abuse in our schools and communities the Jefferson Parish School Board has proclaimed October 26–30 as Substance Abuse Prevention in Education Week.

This program of prevention through education, awareness, and intervention will hopefully encourage others to join in the war against alcohol and drug abuse in our Nation's schools.

During this week, public, private, and parochial schools in the community will conduct brown bag lunches and show drug awareness film and videos to the students. Guest speakers will be invited to several schools to help in awareness programs. Buttons, ribbons, and T-shirts will be used to publicize the week's activities. Through these activities students having substance abuse problems will be directed to the appropriate community resource to receive the necessary help.

I want to commend the Jefferson Parish School Board and others for being tireless soldiers in this drug war. Let us all dedicate ourselves to combat alcohol and drug abuse. Our best weapon is education.

PERSONAL STATEMENT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. MOODY. Mr. Speaker, on Tuesday, October 20, I was unavoidably detained on official business and unable to vote on seven measures. Had I been able to vote, I would have voted "aye" on House Concurrent Resolution 199, protesting the Soviet missile tests near Hawaii. I would have voted "aye" on House Concurrent Resolution 200, congratulating President Arias for the Nobel Peace Prize. I would have voted "nay" on the motion to instruct conferees on H.R. 1748 regarding United States-Soviet Embassy agreements. I would have voted "aye" on the motion to close the conference on H.R. 1748, the Defense Department authorization bill for fiscal year 1988. I would have voted "aye" on House Resolution 277, condemning Soviet human rights abuses in Afghanistan. I would have voted "aye" on H.R. 85, eliminating selected New Zealand security preferences. I would have voted "aye" on House Resolution 141, calling for the release of children detained in South Africa.

Finally, on roll No. 364, Representative Dannemeyer's motion to instruct conferees on the Labor/HHS appropriations bill, I was mistakenly paired "aye." Had I been present, I would have voted "nay."

TRIBUTE TO SECRETARY OF TRANSPORTATION ELIZABETH DOLE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. BIAGGI. Mr. Speaker, I rise today to pay tribute to Elizabeth Dole for her service to our Nation as Secretary of Transportation.

Her record of accomplishments, especially in the areas of increased safety for our highways and airways, typifies her commitment to safety and her strive for excellence in our Nation's transportation systems.

Mrs. Dole was instrumental in securing mandatory safety belt laws in States throughout the Nation, as well as increased safety provisions in new cars. She also led the effort to combat drunk driving.

I would also like to commend Mrs. Dole for her work in achieving increased airline safety. Over her years of service she wrote into regulation three bills that I had introduced into Congress. These bills required an increased number of airport security personnel, fire detection devices and fire extinguishers on aircraft, and medical kits on all airplanes.

Mrs. Dole and her family should be very proud of her achievements and her dedication to improving the safety of all Americans who rely on our Nation's various transportation systems.

GREEK INDEPENDENCE DAY

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. NEAL. Mr. Speaker, in this year of the bicentennial celebration of the American Constitution, it is particularly appropriate to recognize the role that the nation of Greece played in shaping the concept of our Constitution.

As part of that recognition, I would like to introduce again a House joint resolution to designate March 26, 1988, in the United States as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

In 1986, the House and Senate passed, and President Reagan signed, a similar resolution designating Greek Independence Day for 1987. As a result, there were observances nationwide last March 25. In Washington, Greek Orthodox Archbishop Iakovos led others to meetings with President Reagan in the White House and with Members of Congress in the Capitol as a part of the events of this special day.

The speeches, proclamations, and newspaper articles that accompanied these celebrations served to remind the people of the United States of the long-term importance of our relationship with the nation of Greece and the people of Greece. These celebrations gave us an opportunity to recount the numerous times in the histories of both our countries that each has come to the assistance of the other, whether in the formulation of our Constitution reinstitution of freedom for the people of Greece or in armed alliances to throw back efforts at worldwide tyranny.

This Greek Independence Day resolution was suggested in 1986 by John Chamis and his daughter, Eleni Chamis, who live in Winston-Salem, NC, in my congressional district.

In the year since this legislation last passed the Congress our relations with the nation of Greece have continued to improve. I have been told that the celebration of Greek Independence Day in the United States received favorable publicity in Greece and reminded the people of Greece of our mutual support over the years.

A referendum soon will be held in Greece on reauthorization of American military bases on Greek land. It is my hope that the observance of Greek Independence Day in the United States will in some small way contribute to a favorable outcome. Mr. Speaker, I look forward to the passage of this resolution, which I introduce today, and to a successful celebration of Greek Independence Day on March 25, 1988.

ENVIRONMENTAL AND ENERGY STUDY CONFERENCE ELECTIONS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. WOLPE. Mr. Speaker, I would like to congratulate two of our colleagues, Bill Green and Bob Wise, who last week were re-elected as, respectively, chairman and vice chairman of the Environmental and Energy Study Conference.

It will be the second 2-year term for both.

In the Senate, Al Gore has been elected as chairman, and Senator John McCain as vice chairman.

As a former chairman of the Study Conference, I fully appreciate the importance of its work, and the degree to which we in the House depend on its information. I would like to commend the gentlemen for their leadership of the Conference, for maintaining the high quality of its work and for expanding its services to Members.

Those services have become increasingly complex. Contamination problems in an advanced, highly technological society are pervasive. While they may seem expensive to prevent, they are extraordinarily expensive to clean up.

We are also confronted with environmental problems that are global in scale, that we alone cannot solve, that will require an unprecedented level of international cooperation.

We also face every day issues that are, in part, energy policy issues: the use of our natural resources, the protection of our environment, our foreign policy decisions and our economic independence.

These are the kinds of issues that the study conference analyzes for Members of Congress every day, ensuring that we have the information we need to make the crucial policy decisions we face. Through its weekly bulletin, its special reports and its briefings for Members and staff, the Conference makes an invaluable contribution to the level of debate in the House and Senate.

For that reason, I want to thank the gentlemen for their leadership of the Conference and congratulate them on their new term of office.

I also want to congratulate the Conference's newly elected executive committee, the governing body. As a former officer, I have remained on the executive committee. Our other colleagues who were elected are:

Representatives CHESTER ATKINS, ANTHONY BEILENSON, HAMILTON FISH, JR., GEORGE BROWN JR., JIM COOPER, PETER A. DEFAZIO, BOB LIVINGSTON, BILL LOWERY, EDWARD MADIGAN, JAN MEYERS, JOHN MILLER MIKE SYNAR, BRUCE VENTO, RON WYDEN, GREEN, and WISE.

In the Senate, Senators RUDY BOSCHWITZ, JOHN CHAFEE, CHRISTOPHER DODD, PATRICK LEAHY, CLAIBORNE PELL, WARREN RUDMAN, GORE, and MCCAIN.

SOVIET JUSTICE OUT OF WHACK

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, some months ago a young man named Mathias Rust from West Germany loaded a Cessna 172 with gasoline and flew to the Soviet Union. He apparently did some low-level passes over Red Square and then landed in Red Square, jumped out of his plane and began signing autographs.

I suppose all of us have to grin a little when we hear the news of foolish escapades like that. One can't help but admire the courage it takes for someone to pull off that kind of a stunt even if it's stupid and reckless at the same time.

A trial in the Soviet Union recently resulted in Mr. Rust being given a 4-year sentence in a Soviet labor camp. I wonder if the result of that trial doesn't spell out a pretty fundamental difference in our two countries and our value systems. If a young foreigner flew south from Canada and buzzed the United States Capitol and landed in front of the Lincoln Memorial, I have no doubt he'd be arrested. But I can't believe that if it was simply an act of an adventuresome and foolish young man, that he would be given a sentence of 4 years in incarceration in our country.

Frankly, the Soviet standard of justice is out of whack. When the right touch is required to deal with human behavior, the only touch the Soviet apparently have is the heavy hand. While it might be occasionally appropriate, it is not always appropriate and that's the difference between the Soviets and much of the rest of the world. When will they learn that the sentence they have imposed on Mathias Rust is more a statement of their lack of judgment than it is an appropriate penalty for this young man's admitted stupidity. I'm sending this statement to Secretary Gorbachev in the hope that he might understand how some of us view an action like this by the Soviets. It just lacks a sense of appropriateness.

THE FAULTLESS STARCH/BON AMI CO. OF KANSAS CITY, MO.

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 21, 1987

Mr. WHEAT. Mr. Speaker, this year the Faultless Starch/Bon Ami Co. of Kansas City, MO, celebrates its 100th birthday. The company will commemorate this event on October 23 at its annual company dinner honoring its United Way contributors. Although I will not have the privilege of attending this event, I would like to take this opportunity to congratulate the people of the Faultless Starch/Bon Ami Co. on this historic occasion.

In these days of huge conglomerates, it is comforting to know that smaller, family owned enterprises such as this one can be so successful. Faultless Starch was founded in 1887 by Maj. Thomas Beaham, and today its chairman of the board is his great-grandson, Gordon T. Beaham III. The company has sold its products worldwide in U.S. military commissaries since 1962 and became extensively involved in metal cleaning products in 1968. Faultless Starch purchased the Bon Ami line of other household cleaners in 1971 and has been a leader in household cleaning products ever since.

The Faultless Starch/Bon Ami Co.'s headquarters in Kansas City is located in the historic New England Building, built in 1887. Many of you may not be aware that this nationally registered historic landmark is the "skyscraper seven stories tall" mentioned in the song "Everything's Up-to-Date in Kansas City" from the musical "Oklahoma."

The company has been involved in a variety of community development programs throughout its history. In addition to supporting Heart of America United Way campaigns, Faultless Starch/Bon Ami has a history of making meaningful contributions to the Kansas City community. Mr. Beaham, the chairman of the board, has been an active supporter of numerous community organizations, including Kansas City United Nations Day, and currently serves as the chairman of the Boys' and Girls' Clubs of Greater Kansas City.

I wish to congratulate Mr. Beaham and the entire staff of the company for achieving this remarkable milestone. As a Member of the 100th Congress, it is my pleasure to wish the company a very happy 100th birthday and extend to all of its employees my best wishes for their continued success.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 22, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 23

9:30 a.m.

Select on Indian Affairs

Business meeting, to consider pending committee business.

SR-485

Conferees

Closed, on S. 864, S. 865, S. 866, S. 1174, and H.R. 1748, bills authorizing funds for fiscal years 1988 and 1989 for certain functions of the Department of Defense.

S-407, Capitol

10:00 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings on S. 1426, to provide tax incentives to small businesses which want to establish pension plans.

SD-215

Foreign Relations

To hold hearings on the situation in the Persian Gulf.

SD-419

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To hold oversight hearings on the management of the Abandoned Mine Land Fund of the Office of Surface Mining, Department of the Interior.

SD-342

10:30 a.m.

Judiciary

Immigration and Refugee Affairs Subcommittee

To hold hearings on S. 1611, to effect changes in the numerical limitation and preference system for the admission of immigrants.

SD-226

OCTOBER 26

10:00 a.m.

Judiciary

To hold hearings on pending nominations.

SD-226

Joint Economic

National Security Economics Subcommittee

To hold hearings to examine manage-

ment controls in the Air Force F16 aircraft program.
SD-538

OCTOBER 27

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Joint Economic
Education and Health Subcommittee
To resume hearings on the competitiveness and quality of the American work force.
2359 Rayburn Building

Conferees
On S. 825, authorizing funds for fiscal years 1988 and 1989 for housing and community development programs.
SD-538

10:00 a.m.
Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To hold joint hearings on the implications of the Fall Expedition to investigate the Antarctic ozone hole on stratospheric ozone depletion.
SD-406

2:00 p.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.
SD-406

OCTOBER 28

9:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings with the Select Committee on Indian Affairs on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.
SD-562

Select on Indian Affairs
To hold hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.
SD-562

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Small Business
Rural Economy and Family Farming Subcommittee
To hold hearings on the effect of airline deregulation on the rural economy.
SR-428A

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.
SR-253

Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 1630, to provide for retirement and survivors' annuities for bankruptcy judges and magistrates.
SD-226

OCTOBER 29

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on S. 14, S. 100, S. 1769, and S. 1770, bills to reorganize the functions of the Nuclear Regulatory Commission and to establish an office of Inspector General in the NRC.
SD-406

OCTOBER 30

10:00 a.m.
Finance
Health Subcommittee
To hold hearings to examine the affects of the current nursing shortage on health care.
SD-215

NOVEMBER 3

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the United States-Canada Free Trade Agreement.
SD-366

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest, Alaska.
SD-366

NOVEMBER 4

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the implementation of the Kamehameha School/Bishop Estate Kamehameha Elementary Education Program at Rough Rock, Arizona.
SR-485

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10 a.m.
Commerce, Science, and Transportation
To resume hearings on safety and re-regulation of the airline industry.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

NOVEMBER 5

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To resume hearings on S. 708, to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest, Alaska.
SD-366

Select on Indian Affairs
To hold oversight hearings on the implementation of Title IV, Part C of the Omnibus Drug Act (P. L. 99-570).
SR-485

NOVEMBER 6

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 639 and S. 1099, bills relating to the collection of state sales and use taxes by out of state vendors.
SD-215

NOVEMBER 10

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Child Welfare Act (P. L. 95-608).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 12

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

10:00 a.m.
Foreign Relations
To hold hearings to reexamine the War Powers Resolution with a view to possibly revising the law.
SD-419

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.
SR-485

NOVEMBER 16

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.

SR-301

NOVEMBER 18

10:00 a.m.

Commerce, Science, and Transportation

To resume hearings on safety and reregulation of the airline industry.

SR-253

NOVEMBER 19

2:00 p.m.

Select on Indian Affairs

To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations, and on proposed legislation to implement the report recommendations.

SR-485

NOVEMBER 24

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.

SR-485

DECEMBER 2

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. Con. Res. 76, to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

SR-485

DECEMBER 3

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1321, to declare that the United States holds certain lands in trust for the Camp Verde Yavapai-Apache Indian Community.

SR-485

CANCELLATIONS

OCTOBER 23

9:30 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To hold closed hearings on drugs, law enforcement, and foreign policy.

SD-419

10:00 a.m.

Foreign Relations

International Economic Policy, Trade, Oceans and Environment Subcommittee

To hold joint hearings with the Subcommittee on Terrorism, Narcotics and International Operations to review the lending practices of the Overseas Private Investment Corporation (OPIC).

SD-419